

STEPHANIE MCCURRY

War, Gender, and Emancipation in the Civil War South

There is an important pattern in the history of slave emancipation in the western hemisphere, one insufficiently specified in the historical literature and of considerable significance for the history of slave and freed women—the intimate association of war and emancipation in the modern period. From the American War of Independence to which the “first” U.S. emancipation was tied, to the Brazilian, surrender of slavery in the aftermath of the Paraguayan War; to virtually everything in between—St. Domingue, the Spanish-American Wars of Independence, the U.S. Civil War; the Ten Years War in Cuba—in every major case except the British colonies slaves fought for and won their independence in the context of war.¹ It was in the context of war that slave men became particular objects of state interest, “able bodied men of military age,” the focus of intense competition between warring states for political loyalty and military service. In this respect the American Civil War was hardly unique: In those two warring states, the United States of America and the Confederate States of America, as in so many others, military service and emancipation were linked temporally and causationally, as manhood and citizenship would be when they followed with Union victory.

But if that pattern of war and emancipation emerges so strikingly from the record, historians have not accorded it much significance. Robin Blackburn, whose magisterial survey, *The Overthrow of Colonial Slavery*, affords him a bird’s eye view of the comparative landscape (he misses only Cuba), repeatedly references the context of war in the destruction of colonial slave regimes, but declines to identify it as a causal factor. “The rise of antislavery reflected pressures at every level of the social formation,” Blackburn insists, “and significant advances were only to be made in the context of crises gripping the whole system.” In another

context he explains, “Social revolutionary overtuins are more important than the simple disruption associated with war.” While Blackburn is surely correct that it is not war itself that precipitates emancipation—“that no element of antislavery should be considered in isolation”—it is also surely the case that there is no such thing as the simple disruption of war, especially for modern slave regimes.² Indeed, Blackburn’s own combined emphasis on crises of state, the slaves’ antislavery, and the necessity of widening the conception of citizen all point to one crucial condition of war: The reaching into, and claiming of, the male slave population by various states in the competition for soldiers. The relationship of war, slave enlistment, and emancipation is a significant and underappreciated one in the history of emancipation.

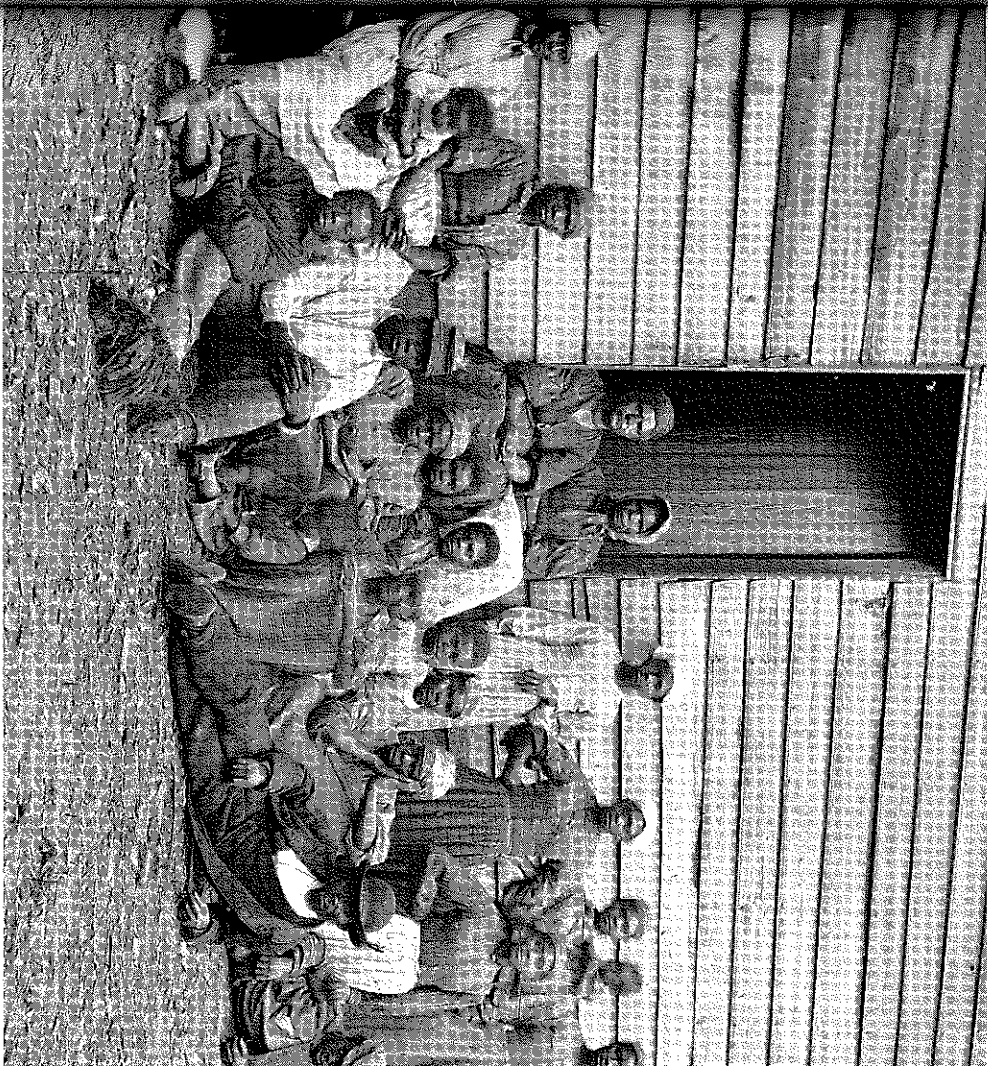
There is, moreover, one compelling reason to focus on war itself, even if, in a larger sense, Blackburn is right: Because it isolates for purposes of analysis a particular relationship between military service and the gender patterns of emancipation, fundamental—emphatically not incidental—to the way the process unfolded in the United States, as in so many other times and places before and after. What, it is fair to ask, are the implications for women of an emancipation accomplished during war? It is something of a pressing question, I would argue, given that we now so commonly think of “slaves” (a gender neutral term) as earning emancipation by military service. It is worth noting that the question has not really been posed, not in the now massive literature on emancipation in the United States or in newer literatures on gender and emancipation and on the history of arming slaves. The literature on the gender history of emancipation, which is now considerable and broadly comparative, is focused decidedly on postemancipation societies, on the differences in the meanings of freedom, rights, and citizenship that men and women were able to claim as free people. My immediate interest, however, is not on what happened after (a critical problem for sure) but more narrowly on the process by which slavery was destroyed and emancipation accomplished, changes fired all too often in the crucible of war.³

The idea that emancipation ought to be understood as a process—protracted, regionally uneven, and highly contingent—is now well understood. In the U.S. literature, especially under the influence of the editors of the Freedmen and Southern Society Project, historians have been led away, interpretively speaking, from “the apparent certitude and finality of the great documents that announced the end of chattel bond-

age” to an appreciation of the complex process so long obscured and the ways in which slaves “became the prime movers in securing their own liberty.”⁴ But the elemental contingency of a process drawn out over five years of war was, for enslaved men and women, not only a matter of administrative reluctance, regional circumstance, proximity to Union troops, or any number of other random circumstances as the literature emphasizes but, everywhere, also of gender itself. For where military service emerged as a critical route to emancipation, as it did in the United States, enslaved men’s and women’s opportunities to lay claim to the status of free people—and the means by which they did so—differed fundamentally, such that we might think of them as taking particular gendered routes to emancipation and to the citizenship that service allegedly secured.

This chapter begins to trace out those routes and their gender patterns, focusing on the relation of war and emancipation as it shaped the historical process for enslaved women. In that respect, the essay is intended as a corrective to a history of emancipation now overtly focused on the figure of the slave soldier and on the way slaves earned emancipation and citizenship through military service. Whatever the merits of that story, and they are considerable, its simplifications distort. For if “slaves” can be said to have come to freedom and citizenship by military service clearly only some (male ones) could do so, which thus implies a related story about how slave women were liberated by their men. Sometimes the argument is explicit, as in the emphasis on slave men’s flight to Union lines, their enlistment in the Union army or navy, and their daring raids back into Confederate territory to “liberate their wives and children.” More often it is just grammatically implicit in the heroic narrative of those slaves (who could only be men) who fled to Union lines, demonstrated the value of their military labor or service, and made emancipation a matter of military necessity.⁵ In that now standard account, slave men took the martial route to emancipation, and slave women, apparently, the marital one, which is to say that women got freedom at second hand, by way of marriage and in relation to their husbands’ rights.

There was a distinct gender logic and design to Union and (less well-known) Confederate policies intently focused on the military recruitment of slave men, something this essay attempts to lay out. But wartime military policies hardly provide a reliable description of, or good basis for, a full history of slave emancipation, especially not of slave women’s



“Cumberland Landing, Va. Group of ‘contrabands’ at Foller’s House.”
 Photograph by James F. Gibson. The African Americans shown in the
 picture—mostly women and children—are sitting in front of a cabin during the
 Peninsula Campaign in May 1862. Courtesy of the Library of Congress.

experience in the Civil War, their part in the destruction of slavery, or their political self-perception. Freed women, it is true, could not be thought of as fighting for their freedom. But neither, of course, could most freed men. After all, only about 150,000 slave men fought in the Union armed services.⁶ Rather, like the rest of the slaves,—the 3.5 million trapped within Confederate lines—women waged their own kind of war against the slaveholders' state. As many freed women would say for the record, on the rare occasion they had to tell their story, freedom was no gift or attribute of marriage but something they had earned for themselves no less than had the men in their political community.

Although the essay is concerned primarily with the United States, it begins with the quintessential case of St. Domingue, where slave emancipation emerged as French Republican policy in the context of a revolutionary and imperial war that consumed the island and the whole Caribbean for more than fifteen years. It then turns to a consideration of the policies of the Union and Confederate states in the American Civil War with respect to arming slaves.

THE AMERICAN CIVIL War was a late development in the history of slave emancipation in the Americas and hardly the first emancipation to unfold in the vortex of war. The pattern emerged early and dramatically in the French colony of St. Domingue in the revolutionary struggle initiated by free colored colonists and transformed decisively in 1791 by a massive revolt of slaves on plantations in the northern part of the island. The on-rushing course of events quickly yielded a many-sided struggle—between free colored men, insurgent slaves, and planters and, after 1793, when Britain declared war, between France, Spain, and Britain, all of whom moved to arm slaves in a war of imperial competition and land grab that played out across the whole Caribbean for more than a decade.⁷ A full accounting of the arming of slave men in St. Domingue's revolutionary war would be a lengthy affair, but a few key moments, all following the slave revolt in the North in 1791, are suggestive of the central and, as it turns out, perseverant patterns involved.

As early as 1790, some parties in the revolutionary struggle in St. Domingue had moved to arm and train their own slaves, notably the wealthy *gens de couleur* emboldened in their demands for equal citizenship by events in Paris and especially by the decrees of the Constitutional Assembly in 1791 extending voting rights to qualified mulattoes. From the outset

factional conflict had led to the arming of some (still modest numbers of) slaves.⁸ But the real competition for slave soldiers was set in motion by the massive self-arming of slaves in the North in August 1791, in the historic revolt of enslaved men and women against the planters, against slavery and the French Republican state still intent on preserving it. By the end of 1791 black leaders had built substantial slave armies that continued to grow in numbers in part from alliance with already existing maroon bands. And it was from that position of strength that the self-proclaimed black generals proceeded with a war begun in 1793 to negotiate the terms of their service between contending European powers, first with the Spanish forces invading St. Domingue, and then with the beleaguered and overmatched French Republican forces scrambling to repulse and defeat the Spanish.

In the early years of the Haitian Revolution, as we now call it, universal emancipation was an unthinkable goal, liberty an issue only in the most militarily delimited way, available only to men directly under arms—and not even to all of them.⁹ In early negotiations with French Republican civil commissioners in late 1791, for example, the black generals demanded freedom for themselves and 400 of their followers.¹⁰ The deal would have obligated them to force the remainder of their own insurgents—men and women both, presumably—back into plantation labor. Even that limited deal was refused. By late 1792, facing French Republican forces allied with *gens de couleur* in the project of restoring slavery on the island, leaders of the biggest slave armies in the North had cut deals with the Spanish in exchange for supplies and official recognition of the freedom of the black soldiers. If there were any terms negotiated for women and other members of their families and kin groups historians have not noted them. A full two years after the slave insurrection in the North, then, there were massive numbers of slave men under arms (Biassou had at least 6,000, and Jean François almost as many).¹¹ But many more men and women were still on the plantations, in maroon bands in the hills, or trapped in the British occupied zone, and the only new route to emancipation—military service—was one that could only be taken by men. It was entirely closed to women.

In this highly militarized context, the terms on which slave women, including insurgent ones, would be able to negotiate freedom were soon announced. On June 21, 1793, Léger Félicité Sonthonax, one of the civil commissioners sent by the French Republic, facing a coup by the

governor-general of the colony, made a desperate bid for the loyalty and military service of the mass of slave men, offering liberty to all slave insurgents who would fight for the Republic. Only the timely arrival of reinforcements under the control of two black generals (Macaya and Pierrat) and the sack of Le Cap (the principal city) turned the tide. Emboldened, Southonax extended the offer, two weeks later issuing a proclamation in Creole and French promising freedom "to the women-folk of black warriors as long as they were prepared to go through a Republican marriage ceremony."¹²

Although mentioned only in a footnote in Blackburn's otherwise detailed account, this emancipation policy was, as historian Elizabeth Col-will has remarked, a critical reflection of the centrality of marriage and patriarchal authority in French Republican policy, as it would be fifty years later in the American Civil War. Indeed, as Colwill notes, because owners were to be compensated by the state for slave soldiers freed, the emancipation of women (such as could claim it) "took the form of a purchase (indemnity) that transferred women slaves from the hands of their masters to those of their husbands thorough the intervention of the Republic." The difficulties of access to that provision—not least because slave women did not possess the right to enter contracts, and notaries often refused to register the marriages—was only one of its limitations, although one that would come up again in the United States. Not only did whites and colored men across the political spectrum thus construct the slaves in insurrection as male, they also forged a new model of the republican citizen-soldier that would long constrain the meanings of freedom and access to it for women.¹³

For French radicals, especially Southonax, emancipation was a principled and not purely instrumental act, but it was the conditions of war and, crucially, slave insurrection that necessitated it in 1794. Shaped irreducibly by war, emancipation touched men directly and women only indirectly, by virtue of their marriage to the republic's soldiers. So when Toussaint L'Ouverture took his army over to the French following the general emancipation decree of February 1794, he preceded it with a call to his "brothers" to unite with him in the fight for liberty and equality in St. Domingue.¹⁴ It could seem sometimes as if the nation itself, born in war, was male. The differences were not short lived. Even after Southonax, backed by legislators in Paris, declared *all slaves free*, the reach of that administrative decree depended entirely (as would the Emancipation

Proclamation in the U.S. Civil War) on military victory. For years women in the British occupied zone had no route (not even marriage) to emancipation, and women in the North would struggle to document their own and their children's freedom through marriage and baptismal records, so tenuous was their hold on it.¹⁵

Notwithstanding the great document—the first universal emancipation decree in history—there was nothing final about emancipation in 1794. Until 1803, when Napoleon and the French were defeated by the black armies of St. Domingue, the restoration of slavery still threatened (indeed it was accomplished in the other French islands); emancipation was not secured, and the military service of formerly and still potentially enslaved men was required in the extended process by which St. Domingue slaves finally could call themselves free.¹⁶

As elsewhere where emancipation was secured in war—which is to say in most places in the late eighteenth and nineteenth centuries, including the United States of America in 1861–65—emancipation in St. Domingue came in stages and was tied first to the freedom of those willing to perform military service in defense of the republic. The gendering of freedom thus was no abstraction; its meanings for women were concrete and real, although in St. Domingue, as in the United States, this has not much been recognized.¹⁷ In St. Domingue and Haiti, the militarization of society meant that for years men were siphoned off to the army and women forcibly returned to the plantations as part, first of the colonial, and then of the national project of resurrecting the plantation sector of the export economy. It comes, then, as a sharp reminder of women's alternate conception of the new citizenship when, in 1796, women workers (scheduled to receive two-thirds of a male worker's share of the crop), went on strike during the harvests until promised equal pay.¹⁸ Whatever else this action means, it suggests the limits of a state view of slave women as recipients of freedom through marriage, dependent parties, or minors in the historic project of slave emancipation.

WHEN, MORE THAN half a century later, American slaves made their bid for emancipation in the context of a war that exceeded in scale even that which had convulsed the Caribbean in the 1790s, many of the same conditions and conceptions of republican freedom pertained. In the United States, despite the apparent certitude and finality of the Emancipation Proclamation, the process by which slaves reached freedom was

dangerous, uncertain, usually protracted, and, as in St. Domingue, had to be negotiated differently by men and women. For in the U.S. Civil War, southern slaves' insurrection against both slavery and the Confederate state alerted Union military men to the potential utility of their labor, loyalty, and military service and put emancipation on the agenda (as Lincoln put it in his economical way in the Emancipation Proclamation) as a "fit and necessary war measure."¹⁹ In that respect the text of the great document inscribed the process that had necessitated it.

The slave insurgency on the plantations in the Confederate South was the work of men and women both. But as in St. Domingue, the Union government and army's instrumental interest in the military-age men among them immediately construed "the slaves of persons . . . engaged in rebellion" as if they were all male. The women fugitives among them thus emerged immediately as a problem in policy terms.²⁰ The implications for women were lived in historical time and have lingering effect even in the most progressive accounts of slave emancipation written in our own time.

Four particular moments in the tangled course of emancipation in the Civil War South begin to elucidate the scale of the argument: the formulation of contraband policy at Fort Monroe, Virginia, in May 1861; the federal policy that evolved in the Union-occupied Mississippi Valley starting in mid-1862; the belated arrangement to recruit and emancipate slaves in the Union border states; and especially in Kentucky, all of which were exempt from the terms of the Emancipation Proclamation; and finally, and most surprisingly perhaps, the terms of the Confederate plan to enlist slaves in the second half of the war.

Union general Benjamin Butler had no sooner taken command of Fortress Monroe, a federal fort near Hampton Roads in coastal Virginia, when slaves began to "deliver themselves up" to his picket guards, first three men, then, three days later, a group ("squad") of men "bringing," as Butler put it, "their women and children." The "contraband policy" Butler forged justified holding those slaves on the grounds that it deprived the Confederate government of the military use of labor in support of the rebellion.²¹ From the outset, then, federal policy focused on precisely those military-age male slaves impressed from their owners by Confederate authorities to build batteries and other fortifications. But the gender problematic of that policy—"the most difficult with which we

have to deal" (as another official later put it)—was immediately apparent. As Butler acknowledged, it provided no rationale for holding women and children. For despite the obvious value of their labor, Confederate authorities never impressed women slaves. "As a military question it would seem to be a measure of necessity to deprive the masters of their services." But how, Butler asked his superiors, "can this be done? As a military question and a question of humanity can I receive the services of a Father and a Mother and not take the children?" Unwanted, still the women and children came. As late as March 1863 one federal commander in the Mississippi Valley complained about the thousands of useless negroes within his command, "two thirds to three fourths of whom are women and children incapable of army labor, a weight and incumbrance." One census of "contraband" with the Union lines at Yorktown and in Elizabeth City and Warwick Counties, Virginia, in August 1863 reported 24,000 black men and women, 15,000 of them slaves of Confederate owners; fully 11,949 were women.²²

If the problem of women in contraband policy emerged first at Fort Monroe, so too did the outlines of the solution resorted to repeatedly throughout the war: to transmute women fugitives into (contrabands) wives. Edward Pierce, the young Boston attorney who had been stationed at Fort Monroe when the first contraband arrived, took upon himself the task of publicly vindicating the policy haphazardly arrived at there, explaining in *Atlantic Monthly* in November 1861 that the Union public ought to embrace the contrabands as part of the American people. Each negro who served the cause of Union, he wrote, "had vindicated beyond all future question, for himself, his wife, and their issue, a title to citizenship and become heir to all the immunities of Magna Charta, the Declaration of Independence, and the Constitution of the United States."²³ From the earliest moments of the war, advocates of slave emancipation in the United States imagined the contraband—those fugitives subtracted from the enemy and added to the Union war effort—as male, and the women as their wives; they proposed that male slaves would earn citizenship with service to the Union (military service, that is) and pass on its benefits to their wives and children. No matter that marriage was illegal for slaves or, more immediately, that many of the women who made it to Union lines or contraband camps had come on their own or as heads of families themselves. The "woman who came through 200 Miles in men's clothes"

to Fortress Monroe had no husband, or at least none with her when she arrived.²⁴ Marriage was part of the basic template of federal emancipation policy from its earliest imaginings in the American Civil War.

The recourse to marriage, at Fort Monroe and everywhere else it cropped up, reflected deep-seated assumptions about adult women's dependency and normative position as wives. But these were also ideas animated by a host of pressing concerns, chief among them male responsibility for dependents. Worries about self-support and the specter of massive public welfare hung over all of the discussions about how to administer an ever-growing population of fugitive slaves under Union control. Would slave men assume responsibility for the support of their dependents? The very question opened up Pandora's box, and the problem of marriage (of slaves' marriages) was one of the first things to pop out. The problem was not new. Indeed, the idea of male "self-possession" and of slave marriage as a condition of emancipation—as evidence of the male slaves' willingness to embrace subjection to the patriarchal ethos—had been central to emancipation schemes from their earliest eighteenth-century versions, as Christopher Brown has recently pointed out. And it had, obviously, assumed a significant place in radical republican emancipation plans in late eighteenth-century St. Domingue. In the mid-nineteenth-century United States, too, the willingness to embrace marriage and its attendant responsibilities was always part of the assessment of slave men's fitness for freedom and citizenship. That was why slaves' sense of the marriage relation was one of such public interest. It was one of the first questions asked at the hearings conducted in March 1863 by the congressional committee appointed by Secretary of War Stanton to investigate the condition of former slaves and make recommendations about their employment and welfare. And it was why regularizing slave marriages was a sometime preoccupation of Union occupying forces, commanders of contraband camps, missionary teachers, and army chaplains. In the South Carolina Sea Islands, where Union occupation dated from November 1861 and the massive flight of planters left thousands of slaves under federal jurisdiction, Parson French took it as one of his chief tasks to get slaves to marry. In that effort he was eventually supported by an order issued by Gen. Rufus Saxton in the summer of 1862 requiring that "Negroes having more than one 'wife' were now obliged to make a choice." Marriage and monogamy were official policy.²⁵ Whatever the complications, and they were many, as the quotation

marks around "wife" suggest, marriage and the administration of slave women as wives was the solution to the problem of contraband women and of dependency most often reached for in federal policy. From the earliest moments of the war, when contraband first emerged as a population under Union governance, policy makers immediately sought to render male slaves to the jurisdiction of the state and the army, and women slaves to the jurisdiction of marriage. That instinct, so socially ingrained it appeared natural (to historians in our own time, as well), would resurface virtually everywhere the Union army came into control of large populations of slaves of rebel owners.

From its earliest formulations in coastal Virginia, Union policy touching slave property took shape as a competition with the Confederate States of America for the bodies of slave men, first for military labor and, later, military service. That position was formalized in the First Confiscation Act of August 1861, which provided access to freedom only for slaves of rebel owners who had been forced to take up arms against the United States or, as was more likely, employed at work on any "fort, navy yard, dock, armory, ship, entrenchment, or in any military or naval service whatsoever." That narrow calculation about whose labor counted meant, as historians have noted, that the First Confiscation Act provided "slight access to freedom" for any slaves, and virtually none (I would add) for women.²⁶

Early and defeated proposals to arm slaves (by Secretary of War Cameron, Union general David Hunter, and others after the occupation of the densely black South Carolina Lowcountry in the fall of 1861) only deepened the gender divide in Union military emancipation policy. As late as July 1862 the Second Confiscation Act which (in admirably expansive, gender-neutral language) declared "forever free of their servitude" all slaves of rebel owners now under the control of the government of the United States, also empowered the president to employ "as many persons of African descent as he shall deem necessary" in any capacity to suppress the rebellion. The military logic of confiscation, its gendered terms, and the implications for women were all spelled out the same day in the Militia Act. That provided for the employment of "persons of African descent" in military service and granted freedom to those so employed who were slaves, as well as their families, so long as they belonged to rebel owners. But clearly it was not all "persons of African descent" who fed-erals intended to employ; some specificity was thus in order, and the

meanings for women slaves were spelled out in brutally concrete fashion: "And be it further enacted, That when any man or boy of African descent [belonging to a rebel owner] shall render any such service as is provided for in this act, he, his mother and his wife and children, shall forever thereafter be free." Words to make the heart sing, even if they did construe women and children as entitled to freedom only as the dependents of particular soldiers. But that was not the only limiting condition of gender. For the law carefully excluded from its purview any mothers, wives, or children of black men in military service who, unlike their sons, husbands, or fathers, were slaves of loyal owners.²⁷ Thus even as military emancipation policy reached increasingly large numbers of male slaves as soldiers, it left many women with no route to claim their freedom.

Much of what the authors of these acts meant or intended about family emancipation remains obscure, and the lack of interest in the literature about the gender parameters of the statutes has not helped. It is not clear, for example, with respect to the Militia Act or any other piece of federal policy that had similar provisions, whether marriage was required as a condition of slave women's freedom or what would constitute evidence of marriage to a soldier in the absence of a legal certificate. Much of this remains to be figured out. What was clear is that, at least as officials saw it, women's freedom (although which women no one quite said) followed, as it so often had before, from the military service of their men. If slaves put themselves on the wartime political agenda, as we now commonly acknowledge, then the women slaves who kept on coming into Union lines unbidden, unwelcome, and unmarried did so in direct contravention of a federal policy that construed them as a problem and a burden, at best as dependents of the slave men whose labor the army sought.

The military route to emancipation has carried tremendous political and interpretive weight, in the estimation of contemporaries and historians alike. Even before the passage of the Emancipation Proclamation, but on a far larger scale after, the Union military generated plans for the systematic recruitment of black soldiers. Nowhere did this policy work to greater effect than in the Mississippi Valley, where, starting in the winter of 1862, a string of Confederate military defeats left the upper and lower parts of the river and the rich plantation territories on each side of it increasingly subject to occupation by Union troops. As Confederates tried to run off their slaves to points west, Louisiana and Texas, huge numbers

escaped their owners' control, either staying put on plantations as owners fled or running themselves into Union lines. The numbers of slaves under Union control in the Mississippi Valley reached unprecedented numbers. By the summer of 1863 when Vicksburg finally fell, the whole valley was in Union hands, and the richest plantation districts in the South were under federal occupation. Massive numbers of slaves remained on abandoned plantations; the numbers of men, women, and children in contraband camps swelled; and military recruiters went to work with a vengeance.²⁸

In Mississippi, which was not (unlike southern Louisiana) exempt from the Emancipation Proclamation, Adjutant General Lorenzo Thomas was dispatched from Washington to head up a huge campaign amongst the now-freed slaves to recruit black soldiers and to reorganize the constantly growing number of plantations in occupied territory. Plans proceeded in tandem, with Thomas and his men aggressively routing (or impressing) black men of military age into the army while assigning women, children, and elderly or unfit men to plantation labor under northern lessees.²⁹ The similarity of that federal policy to the one of Southonax, Toussaint, and Jean-Jacques Dessalines more than fifty years before is frankly unnerving.

The scale of the recruitment was huge, and freedmen's consent often irrelevant. Thomas and his men would visit abandoned plantations, announcing the Emancipation Proclamation and ordering all young men ages eighteen to forty-five to march out with the army. They sent raiding parties into Confederate-held territory, taking all of the male slaves they could get their hands on. Whatever the circumstances, slaves were all subject to the same military process of "sorting." Men of military age were siphoned off to the army; women, children, the elderly, and the unfit to the plantations. Mary Jane Clear stuck close to her husband when Union troops recruited him off their Washington County plantation. But she did not get far. "All the women were put off the boat at Hawes Harris' landing," an army friend of her husband later recalled, "and the men were carried off to Lake Providence to enlist." Clear was immediately hired out to a lessee and remanded to a plantation to labor at a wage fixed by the government (\$7 per month for the women, \$10 for the men). In one three-month period in 1864, the superintendent of freedmen sent 12,700 freedpeople, the majority of them women, from contraband camps and shantytowns around Vicksburg to work on plantations.³⁰

President Lincoln himself articulated the difference gender made even among people already ostensibly and equally free by the terms of the Emancipation Proclamation. It is surely not a good sign that, notwithstanding the proclamation, President Lincoln and Edwin Stanton, his secretary of war, persisted in referring to the freedpeople as "contrabands" and in making rigid distinctions between those capable of military labor or service and those of no use to the state, who presented a massive problem of dependency. Advising Stanton on how to respond to General Hurlbut's dilemma in the Mississippi Valley—it was Hurlbut who had complained about women as a "weight and encumbrance"—Lincoln put it bluntly: "The able bodied male contraband are already in the army. But the rest are in confusion and destitution. They had better be set to digging their subsistence out of the ground."³¹ And so they were.

It was in the Mississippi Valley that the problem of contraband women, first glimpsed at Fortress Monroe, was confronted en masse. But with military recruitment came new and harder gender distinctions between fugitive slave men and women attempting to lay claim to freedom by sticking close to the U.S. army. As in St. Domingue, women did not simply submit to the official gender division of labor. In the South Carolina and Georgia Sea Islands, where the same policy was underway, field women on one plantation resisted the forcible drafting of the men, attacking "the black soldiers [sent to take them] with their hoes." The women were fired on. In the Mississippi Valley, women remanded to plantations often refused to work on the cotton crops, or simply left, following husbands and other family members to Union army camps, contraband camps, or the freedmen's villages that cropped up wherever the Union army and its growing numbers of black soldiers made camp.³²

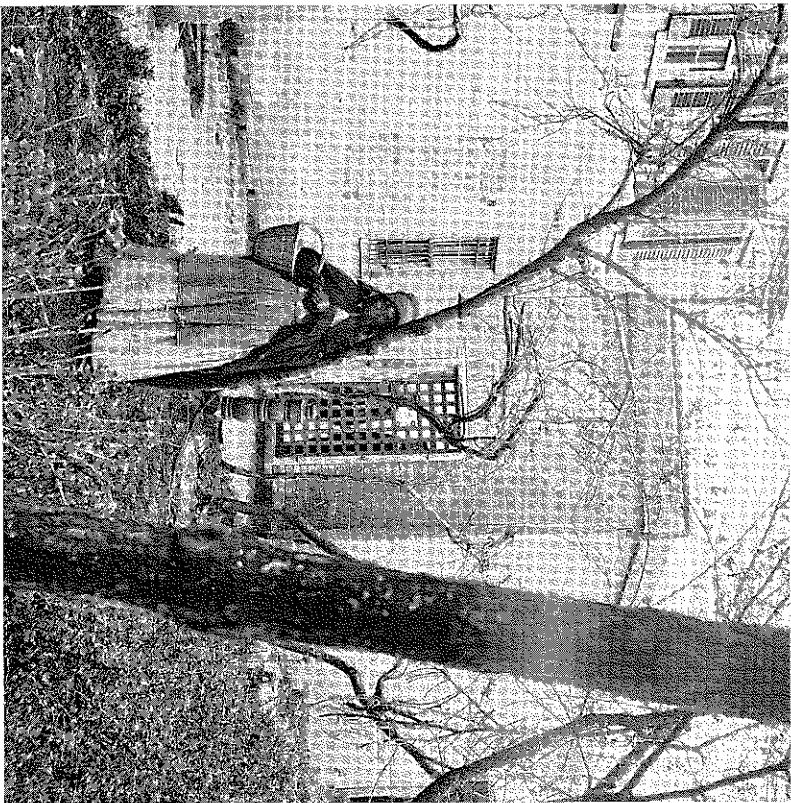
But the gender outlines of the policy were clear nonetheless. More than 17,000 black soldiers were recruited in Mississippi between 1862 and the end of the war, fully 20 percent of the military-age black male population and 18 percent of the black men recruited in the Confederate states. Only Louisiana and Tennessee raised more troops. But many more freedpeople—and virtually all of the women—made the transition to freedom not as soldiers of the republic but as laborers on Union-held plantations or as unwelcome dependents in contraband camps and freedmen's villages clinging to the authority and protection of the Union army.³³

What the experience of freedpeople in the Mississippi Valley makes clear is that even when slave women had the same access to legal eman-

ipation as men (by virtue of the Emancipation Proclamation) federal policies, especially the focus on the military recruitment of black men, established fundamentally distinct possibilities and conditions on men and women's attempts to claim and hold on to the status of freedpeople.

Some of the perseverant patterns involved in war and emancipation were evident to participants. Interestingly enough, Lorenzo Thomas cast the Union's Civil War as a black revolution in the Haitian mold. By that, he meant to direct attention to the obvious comparison—the federal government's willingness to link emancipation and black enlistment as a way to secure black men's loyalty to the Union state. In invoking Toussaint and Haiti he hardly meant to invoke the other comparison: the relegation of freed women to enforced plantation labor and the reliance on marriage to structure federal policies governing the transition of black men and women to freedom and citizenship. Yet as in Virginia in 1861 or the Sea Islands of South Carolina, federal officials in the Mississippi Valley, including Thomas, did just that, turning to marriage again and again to regulate the government's relations to, and especially their obligations to, the massive population of freedpeople they had to administer. When Thomas went down to Goodrich's Landing in southern Louisiana in 1863 and addressed the mixed group of freedpeople that gathered to hear him, welfare and the specter of dependency were foremost on his mind. And like so many others confronted with the same population—the American Freedmen's Inquiry Commission, for example—he urged marriage on the freedpeople as an integral part of the social contract they were making with the Union government. When he took up black soldiers' complaints about the conditions of their wives and the federal government's obligation to support them he did so out of a concern to secure the men's loyalty to the Union government.³⁴ Women's loyalty, as usual, was of no concern to the state.

What issued from federal officials in the Mississippi Valley for the remainder of the war were intermittent injunctions to black soldiers to legalize their marriages and a blizzard of directives and orders extending access, rights, and benefits to particular women as the wives of black soldiers. Here too, marriage and monogamy were official policy, although its workings were constantly thwarted by the complex forms black families and households had assumed under the regime of slavery and which they still took in 1863, 1864, and 1865. If some men and women simply followed orders and got married again, legally, by the Union chaplain and



"Alexandria, Virginia. Slave pen." An African American woman is standing outside a former slave pen during the Civil War. Slave pens were places slaves were held until being sold. Courtesy of the Library of Congress.

under the flag, so to speak, many others did not or could not. Women not recognized as wives but trying to reach male family members were repeatedly driven out of Union army camps, denied rations and benefits, and left in destitution.³⁵ If the Union model was that black soldiers would extend the benefits of loyalty, service, and citizenship to their wives, it proved both a bad fit and a very partial solution for the huge population of ex-slave women struggling to secure their freedom in the Mississippi Valley during the Civil War.

The problem of war, gender, and emancipation—the nexus of issues that everywhere proceeds from military emancipation policies—was posed nowhere with more clarity than in the Union border states, those four slave states in the Upper South that had thrown in their hand with

the Union in 1861 and that remained exempt, as a result, from the reach of the Emancipation Proclamation. In those states, Maryland, Missouri, Kentucky, and tiny Delaware, and in the other Confederate areas exempted from the proclamation, the only route to emancipation was military service. It was not until October 1863 that the federal government laid the official basis of military recruiting of enslaved men of loyal owners, and even then the general order only pertained to Maryland, Missouri, Delaware, and Tennessee. In Kentucky, where loyal slave owners regarded emancipation as a betrayal of their political trust and where they fought it, with great success, to the bitter end, slavery was legal until December 1865, and slave men were not actively recruited into the army until the spring of 1864. With enlistment the only way to secure the title of freedman, it is little wonder that the Union border states and exempted Tennessee racked up the highest numbers of black soldiers contributed to the Union army. Kentucky, where conditions were worst and slave men crossed the mountains secretly to enlist in recruitment camps in Tennessee before official recruiting began in 1864, contributed more men proportionately than any other state, more than 23,000 slave men, fully 57 percent of the male slave population of military age enlisted.³⁶

In Kentucky the modern relationship between enlistment and emancipation reached its purest form. For those in the Union border states or exempted states unable to offer military service to the Union army there simply was no way to lay claim to status as a free person. And for many who could claim no tie to particular black soldiers that would remain the case until the individual states enacted emancipation in late December 1864 (Louisiana) or January 1865 (Maryland, Missouri, Tennessee), or, as in Kentucky, until December 1865 when the Thirteenth Amendment was finally ratified. In the Union border states, and especially in Kentucky, even the usual recourse to marriage as a way to secure black men's loyalty and military service was slow to take effect. About the wives, elderly parents, and children of all of those border state recruits, still held as slaves by loyal owners, the general orders of October 1863 and 1864 said nothing. As late as March 1865, women whose spouses had enlisted in the Union army still had no legal claim to freedom, no route by which to exit slavery, none, that is, until Congress and the president finally adopted a joint resolution "liberating the wives and children of black soldiers regardless of their owners' loyalty."³⁷

Until the ratification of the Thirteenth Amendment, military enlist-

ment remained the only means to freedom for slaves in Kentucky. There, quite literally, slave men came to freedom (if they did so) by military service, slave women (if they did so) by marriage—if they had the patience to wait, if they could survive their masters' retribution, and if, presumably, they could prove marriage to a soldier and get officials to recognize it as legitimate. How "marriage," a right of contract denied slaves, could be grounds for freedom remains unclear, but for many enslaved women in the Civil War South that was the only official route open. The complicated and ambivalent responses with which freedmen and -women greeted injunctions to marry both during the war and in the immediate postwar period caution us against any facile use of federal policy as a historical blueprint for slaves' own strategies.

MOST OF THE literature on the process of emancipation in the Civil War South focuses on the North, the Union, and the federal army, which is reasonable enough given the origins of emancipation as a Union war goal and its final passage as a result of the decisive military defeat of the Confederacy. But the majority of slaves, men and women both—3.5 million by most estimates—ended the war as they had begun it, deep in Confederate territory, far from Union lines and their legions of record keepers. Ironically, perhaps the strongest measure of the relation of war and military service in the destruction of slavery comes there, in the Confederate States of America, where, against all imaginable odds, enslaved men and women forced an avowedly proslavery state to contend with their own political aspirations. For notwithstanding the foundational purpose of that new nation to extend the institution of slavery into the indefinite future, the Confederate States of America was nonetheless driven by "the stern logic of events" (as one congressman put it) along its own halting path to a slave enlistment and emancipation policy, as Confederates tried everything possible to make slaves "an element of strength in the war."³⁸

In the Confederate States of America, where policies emerged out of purely instrumental considerations, the now-predictable gender patterns of military emancipations were, if anything, more starkly evident. For there the decision was always, in the first instance, about slave enlistment; and emancipation, if it was considered at all, was always incidental to the main issue. Indeed, the debate over slave emancipation (such as it was) did not begin de novo in 1864, as most historians assume, but was

part of a much longer struggle, concurrent with the war itself, to make slaves material to the cause. From Confederates' voluntary impressment policies of 1861, to mandatory impressment imposed in 1863, to military orders permitting impressed slaves to do military labor, to the open debate over slave enlistment in 1864 and 1865, it was *slave men of military age* who were the relentless focus of state interest. Although planters did periodically try to send women slaves to fulfill their quotas, impressment orders invariably specified males: "one half of their male force of slaves to finish the works around Gloucester Point," was General Magruder's levy on citizens of three Virginia counties in July 1861. Even military orders for the forcible removal of slaves on approach of the enemy specified adult males, formalizing into policy again and again the Confederate state's view of slave "women's uselessness to the enemy."³⁹

Private citizens floated the idea of using slave men as military laborers and as soldiers periodically from the beginning of the war as part of ongoing public debate about how to harness slaves' labor to the service of the state.⁴⁰ In that respect the constant innovations in impressment policy, and the endless struggles with planters to comply with them, were simply the prologue to what historians still mistakenly call "the Confederate debate over emancipation."⁴¹ The enlistment debate, as it might better be called, emerged directly out of the exigencies of war in a slave republic and out of Confederate military men's constant calculus about how to field enough men. The CSA had access, in point of fact, to only 60 percent of its adult military-age population; the other 40 percent were enslaved and ineligible for service, as one assistant secretary of war put it. With enlistment rates among draft-age white men reaching saturation point (an estimated 75 to 85 percent) by 1864, and with the Union army putting under arms all black men they could get their hands on—including large numbers of Confederates' fugitive slaves—the competition for slave soldiers became overt and Confederate military calculations desperate.⁴² Little wonder, then, that the most radical proposals for arming slave men came out of the military itself and, first, out of the beleaguered armies in the western theater.

In the Confederate States of America the usual terms of military emancipations were coldly exposed; even the most progressive version—subsequently rejected—rehearsed the manpower numbers in cold detail. And like the better known plans of Lincoln's government, both rejected plans and the Davis government's belated scheme to enlist slave men also

figured slave women as marital recipients of freedom earned by men's military service, thus showing the perseverant pattern in the official view across time and national divisions.

The earliest and most expansive Confederate plan was Maj. Gen. Patrick Cleburne's, composed in December 1863 after the humiliating series of defeats suffered by the Army of Tennessee under the command of Gen. Braxton Bragg. Written while in winter quarters in northern Georgia, Cleburne's plan identified the "three great causes operating to destroy us": the numerical inferiority of southern armies, the poverty of their supply sources and "the fact that slavery . . . has now become, in a military point of view, one of our chief sources of weakness." His unflinching analysis of the military weakness of the slave state touched on every vulnerable point—the defection of slaveholders to save their property; the "scattering of forces to prevent slave escape," slave espionage and military service to the enemy—but Cleburne's core contention was that the Confederacy had to win slaves' loyalty with the promise of freedom.⁴³

The logic was military, the goal more men in uniform, but the political vision was a radical one indeed for a slaveholding republic. For Cleburne, unlike his peers, looked slaves' anti-Confederate politics squarely in the face. It was the "chronic irritation of hope deferred," that alienated "the sympathies of his whole race" from the South, raised "insurrection in the rear," and filled the ranks of Union armies, he insisted. There was only one rational response in his view: the CSA had to harness "the slave's 'dream of freedom.'" "We must bind him to our cause by no doubtful bond," he declared, gendering slaves' emancipationist hopes and anti-Confederate politics male. "When we make soldiers of them we must make free men of them beyond all question," he said, and "thus enlist their sympathies also."⁴⁴

Like republican commissioners in St. Domingue, and his counterparts in the Union proposing male enlistment and emancipation, Cleburne recognized the correlative gender imperative and, like them, he turned to marriage. To deliver a freedom more meaningful than that offered in the North, Cleburne said, we must be prepared to "give the negro not only his freedom but that of his wife and child." To that end, Cleburne proposed to make "his [the slaves'] marriage and parental relations sacred in the eyes of the law" (something Confederate states had refused to do even under intense pressure from ministers), that is, to create marriage and then free women into it as a gift to their soldier husbands.⁴⁵ In his scheme, as in so

many others, slave women would be delivered directly from the regime of property into the regime of coverture. For Cleburne, as later for Gen. Robert E. Lee, President Davis, and the Confederate War Department, the slave who dreamt of freedom was male, and it was the black man as husband and father who was to earn emancipation for his wife and children. Men would take the military route to emancipation; through the war and its devastation, slave women, somehow, the marital one.

Cleburne's proposal—brilliant but impolitic—was immediately suppressed by Davis.⁴⁶ But one can hardly help thinking about how its harsh truths and radical recommendations played on the Confederate president's mind between January (when he received it) and November 1864 when, facing the failure of impressment policy and an even more desperate manpower situation, he made his own proposal for the radical modification of slavery, as he put it. Virtually no one else, with the telling exception of Lee (who said little and wrote less) came as close as Cleburne to calling for general slave emancipation. A great many serious proposals to arm the slaves, including that of Davis, contemplated emancipation *only* of those who served, and there were many people in and outside the government who thought it possible to arm slaves as slaves. But sometime between November 1864 and February 1865 President Davis accepted the necessity of arming slave men, and accepted as well Lee's insistence that such men be emancipated. Davis abhorred the idea of arming slaves not least because of the political implications in a republic where the nexus of manhood, military service, and citizenship was inescapably tight.⁴⁷

In March of 1865 Davis did the unthinkable. Backed by Lee, some of his cabinet, and a handful of governors, he pushed for legislation that would enlist and emancipate a potentially large number of slave men (Davis's first call was for 40,000). Congress, kicking and screaming the whole way, finally passed "An Act to Increase the Military forces of the Confederate States," a piece of legislation that made no provision for emancipation of the slave men in question. The Confederate Congress, that is to say, proposed to enlist still-enslaved men as soldiers. But Lee would have no part of that. For him, as for Cleburne, slave men's loyalty was the paramount concern and, as he knew, only emancipation could secure it. Davis and his War Department accepted Lee's stated assumption that "freedom" was the sine qua non of effective military service in a republic; what is not clear is whether they also accepted his assumption

that such freedom had to be extended not just to soldiers but to their families and, gradually, as Lee had said quietly, to everyone else. With Congress refusing to take that step, it was left to the War Department to turn congressional enlistment into an emancipation policy. In General Orders, No. 14, officials in the department wrote the revolutionary clause that provided that "no slave will be accepted as a recruit unless with his own consent and with the approbation of his master by a written instrument conferring, as far as he may, the rights of a freedman."⁴⁸

The Confederate States of America had been envisioned as the perfected republic of white men, a racial and patriarchal state for the modern age. Yet like so many other slave regimes in the late eighteenth and nineteenth centuries, it had been brought by war to bid for the political loyalty of slave men, to the necessity of a policy of slave enlistment, and with it the necessity of emancipating (beginning, partially) some slaves. The historical significance of the Confederate experience lies not in the fact that what they undertook was so radical, for comparatively speaking it was not, but rather that they were forced to undertake it at all. Confederate military enlistment policy showed not only the instrumental logic of emancipations that emerged in the conditions of war, but also the gendered assumptions and patterns—including the figuring of women as problem dependents and the governance of women through marriage—that were such fundamental parts of those policies wherever they appeared.

BUT IF THAT was the view of state officials, Union and Confederate, it hardly serves as a description of the process, self-perception, or history of slave women and their struggle for freedom during the American Civil War. Indeed one of the seductions of the archives, and especially the rich federal records, appears to be the transference of an official story about the importance of male slaves as soldiers to the history of emancipation itself. Bringing that story up into the light, subjecting it to analysis, is to show it both as a formative dimension of slave women's experience of Civil War and emancipation (their bruising encounter with official policy), and as a specifically official story that bears only limited resemblance to slave men and women's struggle for emancipation in U.S. history.

The power of the heroic narrative of black soldiers and the struggle for freedom is difficult to gainsay. But that, I would argue, makes it all the more important to recognize that much of what constituted federal

emancipation policy during the Civil War were specifically *military* policies, and as such, carried a weight of assumptions about the differential capacities of slave men and women: about their abilities to support and advance the goals of the state and about the role and status that would have to be extended to them as citizens of that state. To put it bluntly, slave women's loyalty simply never assumed the strategic significance of men's loyalty. In 1862 and 1863 when the issue was joined, and indeed for a long time after, women's exclusion from the highest obligation of the American citizen—to provide military service in defense of the state—told decisively in estimations of their value and of their civil and political rights. Itself tied up with marriage and the rights of husbands to the labor and service of their wives, that exclusion fundamentally shaped slave women's relationship to the Union state in the Civil War and thus shaped the conditions and severely constrained the options open to them as they struggled to lay claim to the status of free people. Military emancipations and the policies they engendered powerfully shaped the terms of emancipation for slave women in the United States, as they had in other places where enslaved men and women also made the treacherous passage through war to freedom.

The view from the state is only one vantage point, albeit a crucial one. This essay, largely diagnostic as it is, thus serves only as an introduction into a much fuller history of slave women and emancipation. That history unfolded in many places outside the purview of federal officials: deep inside Confederate territory, most importantly, where the plantation emerged as a crucial site of local politics, where women figured prominently among the rank and file and the leadership cadre of slaves in plantation battles; and where, notwithstanding official views of women's uselessness to the enemy, planters struggled constantly with the evidence of slave women's betrayal and leadership in revolt. One could say planters developed a ground zero view of slave women's capacity entirely at odds with the official view. When Charles Manigault removed eighteen slaves "beyond the reach of gunboats" in February 1862, the list included surprisingly large numbers of women slaves: "Bess and her infant," "Betty and infant," "Catherine," "Betty," "Arney," etc., fully ten of the eighteen identified as "rebels and leaders" were women, two with infant children. "I can see a great deal of obstinacy in some of the people," one South Carolina overseer reported, "Mostly among the Woman." In the long civil war on Confederate plantations women proved to be formidable enemies,

and unlike officials, planters frankly acknowledged it.⁴⁹ If the state (Confederate and Union) could affect a studied disinterest in slave women's politics, that was a luxury planters could not afford.

Like the *cultivateurs* and *citoyennes* on plantations in St. Domingue after emancipation, slave and freedwomen in the Civil War and post-emancipation South hardly cast themselves as recipients of a gift of freedom as a boon of marriage. The struggles to survive slavery had been theirs, and so too, as they told it, were the struggles to destroy the institution and the planters' state during the Civil War. Their own rarely recorded accounts of their part in that revolutionary process are surely worth recovering if only because they would likely illuminate much that remains unclear about how freedwomen approached the struggles over the meaning of freedom in the post-Civil War South.⁵⁰

Like the moment in St. Domingue in 1796 when women plantation workers went on strike for equal pay, one (probably often repeated) moment on a southern plantation at the end of the Civil War illuminates a great deal about freedwomen's sense of their own recent history and about what the future would require by way of further militancy. When the exiled Louis Manigault Jr. made a brief return visit to Gowrie, his old Savannah River plantation, in 1867, he found many of his former slaves still there. The slaves had outlasted the master. But Manigault's moment of truth came with the freedwomen, not the men. The men approached him, he reported, calling him "Mausa . . . still showing respect by taking off their caps." But the women would not even get to their feet. These were "young Women to whom I frequently presented Ear-rings . . . etc," he recalled with bitterness, "formerly pleased to meet me but now not even lifting the head as I passed."

Finding themselves on plantations at the end of the war, sometimes in larger numbers than the men, freedwomen were on the front lines of the new labor struggles of the postwar world.⁵¹ Like the women on the Manigault place, they were vigilant, making common cause with male kin and allies, but trusting, as in the past, to no one as much as themselves to protect and extend the freedom they had so recently earned. When interviewed by the commissioners of the Southern Claims Commission in the 1870s freedwomen told a strikingly consistent story about their role in the war and emancipation, one drawn from deep within the female slave experience. They had not fought for freedom, they said, they had worked

for it. Nobody had bequeathed it to them, or given it to them as a gift. No, they said again and again. It was theirs. They had earned it.⁵²

Notes

1. For an overview of most cases see Robin Blackburn, *The Overthrow of Colonial Slavery, 1776-1848* (London: Verso, 1988). On the American Revolution see Benjamin Quarles, *The Negro in the American Revolution* (Chapel Hill: University of North Carolina Press, 1961); Sylvia Frey, *Water from the Rock: Black Resistance in a Revolutionary Age* (Princeton, N.J.: Princeton University Press, 1991); Gary Nash, *Forgotten Fifth: African Americans in the Age of Revolution* (Cambridge, Mass.: Harvard University Press, 2006); Phillip D. Morgan and Andrew Jackson O'Shaughnessy, "Arming Slaves in the American Revolution," in *Arming Slaves From Classical Times to the Modern Age*, ed. Christopher Leslie Brown and Philip D. Morgan (New Haven, Conn.: Yale University Press, 2006), 180-208. On Haiti, see Carolyn Fick, *The Making of Haiti: The Saint Domingue Revolution from Below* (Knoxville: University of Tennessee Press, 1990); Laurent Dubois, *A Colony of Citizens: Revolution and Slave Emancipation in the French Caribbean, 1787-1804* (Chapel Hill: University of North Carolina Press, 2004); David Geggus, "The Arming of Slaves in the Haitian Revolution," in Brown and Morgan, *Arming Slaves*, 209-302. On Cuba, see Rebecca J. Scott, *Slave Emancipation in Cuba: The Transition to Free Labor, 1860-1899* (Princeton, N.J.: Princeton University Press, 1985); Ada Ferrer, *Insurgent Cuba: Race, Nation, and Revolution: 1868-1898* (Chapel Hill: University of North Carolina Press, 1999). On Brazil, see Hendrik Kraay, "Slavery, Citizenship and Military Service in Brazil's Mobilization for the Paraguayan War," *Slavery and Abolition* 18, no. 3 (December 1997): 228-56.

2. Blackburn, *Overthrow of Colonial Slavery*, 58; Robin Blackburn, "Explaining the Rise and Demise of Colonial Slavery in the Americas" (paper presented at the Center for the Humanities, Northwestern University, October 2, 2000), 28. Also see Dubois, *A Colony of Citizens*, 225.

3. That idea that slaves earned emancipation by military service is as old as Frederick Douglass and has taken hold in popular culture (one thinks immediately of the movie *Glory*), but for modern scholarly versions see B. Quarles, *The Negro in the Civil War* (Boston: Little, Brown, 1969); James M. McPherson, *The Negro's Civil War* (1965; new ed., New York: Ballantine Books, 1991); Ira Berlin et al., *Slaves No More: Three Essays on Emancipation and the Civil War* (New York: Cambridge University Press, 1992), 187-233. On gender and emancipation, one indication of the state of the field is the recent anthology, Pamela Scully and Diana Paton, eds., *Gender and Slave Emancipation in the Atlantic World* (Durham, N.C.: Duke University Press, 2005). Gendered histories of emancipation in the United States include Leslie A. Schwalm, "A Hard Fight for We": *Women's Transition from Slavery to Freedom in South Carolina* (Urbana: University of Illinois Press, 1998); Elsa Barley Brown, "Negotiating and Transforming the Black Public Sphere: African American Political Life in the Transition from Slavery

- to Freedom," in *The Black Public Sphere: A Public Culture Book*, ed. Black Public Sphere Collective (Chicago: University of Chicago Press, 1995), 111–50; Nora Lee Frankel, *Freedom's Women: Black Women and Families in Civil War Era Mississippi* (Bloomington: University of Indiana Press, 1999); Nancy Bereaw, *Gendered Freedoms: Race, Rights and the Politics of Household in the Delta, 1861–1875* (Gainesville: University of Florida Press, 2003); Susan E. O'Donovan, *Becoming Free in the Cotton South* (Cambridge, Mass.: Harvard University Press, 2007); Thavolia Glymph, *Out of the House of Bondage* (New York: Cambridge University Press, forthcoming).
4. Berlin et al., *Slaves No More*, 5–6.
 5. See, for example, the chapter "A War for Freedom," in Ira Berlin et al., eds., *Free At Last: A Documentary History of Slavery, Freedom, and the Civil War* (New York: New Press, 1992), 95–166. For what, it is fair to say, is the standard view, see Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863–1878* (New York: Harper & Row, 1988), 7–8.
 6. The figures (of the number who served) are from Berlin et al., *Slaves No More*, 203. Estimates of the percentage of slaves who made it into Union lines are from McPherson, *The Negro's Civil War*, ix.
 7. The still-classic account is C. L. R. James, *The Black Jacobins: Toussaint Louverture and the San Domingo Revolution* (1938; reprint, New York: Vintage Books, 1963); and more recently, Fick, *The Making of Haiti, Blackburn, Overthrow of Colonial Slavery*, David Geggus, *Slavery, War and Revolution* (New York: Oxford University Press, 1982), and *Haitian Revolutionary Studies* (Bloomington: Indiana University Press, 2002); Laurent Dubois, *Avengers of the New World: The Story of the Haitian Revolution* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2004); John D. Garrigus, *Before Haiti: Race and Citizenship in French San-Dominique* (New York: Palgrave Macmillan, 2006). My own thinking has been shaped most directly by Elizabeth Colwell, "Fêtes de l'hyemen, fêtes de la liberté: Marriage, Manhood and Emancipation in Revolutionary Saint-Domingue," in *The World of the Haitian Revolution*, ed. David Patrick Geggus and Norman Fiering (Bloomington: Indiana University Press, 2009), 125–55.
 8. Geggus, *Haitian Revolutionary Studies*, 99–118, and "Arming of Slaves," 209–32.
 9. Fick, *The Making of Haiti*, 115–16.
 10. Blackburn, *Overthrow of Colonial Slavery*, 194.
 11. For the numbers see Geggus, "Arming of Slaves," 222–23.
 12. Blackburn, *Overthrow of Colonial Slavery*, 218; Colwell, "Fêtes de l'hyemen"; Fick, *The Making of Haiti*, 161.
 13. Colwell, "Fêtes de l'hyemen," 12, 23.
 14. Blackburn, *Overthrow of Colonial Slavery*, 218.
 15. A process painstakingly reconstructed by Colwell, "Fêtes de l'hyemen"; and Dubois, *A Colony of Citizens*, 249–76.
 16. See Fick, *The Making of Haiti*; Colwell, "Fêtes de l'hyemen"; Geggus, "Arming of Slaves"; and Dubois, *A Colony of Citizens*.
 17. Elizabeth Colwell is the only one of the historians cited above to analyze directly

- the role of marriage in republican emancipation policy in St. Domingue. But see also Fick, *The Making of Haiti*, 163.
18. Fick, *The Making of Haiti*, 170; Blackburn, *Overthrow of Colonial Slavery*, 235.
 19. Emancipation Proclamation, January 1, 1863, accessed at <http://avalon.law.yale.edu/19th_century/emancipa.asp> (February 5, 2009).
 20. Second Confiscation Act, July 17, 1862, *Statutes at Large, Treaties, and Proclamations of the United States of America*, vol. 12 (Boston: Little, Brown, 1863), 589–92.
 21. Ira Berlin et al., eds., *The Destruction of Slavery*, ser. 1, vol. 1 of *Freedom: A Documentary History of Emancipation, 1861–1865* (New York: Cambridge University Press, 1985), 72, 70–72. See also testimony of Harry Jarvis in John Blassingame, ed., *Slave Testimony: Two Centuries of Letters, Speeches, Interviews and Autobiographies* (Baton Rouge: Louisiana State University Press, 1977), 606–11; Robert F. Engs, *Freedom's First Generation: Black Hampton, Virginia, 1861–1890* (Philadelphia: University of Pennsylvania Press, 1979).
 22. Berlin et al., *The Destruction of Slavery*, 70–72, 304–6; numbers on p. 91. Leslie Schwalm was the first to notice the problem. See Schwalm, *A Hard Fight for We*, 90. Also see Thavolia Glymph, "'This Species of Property': Female Slave Contrabands in the Civil War" in *A Woman's War: Southern Women, Civil War, and the Confederate Legacy*, ed. Edward D. C. Campbell Jr. and Kym S. Rice (Richmond, Va.: Museum of the Confederacy, 1996), 55–71.
 23. Willie Lee Rose, *Rehearsal for Reconstruction: The Port Royal Experiment* (1964; reprint, Athens: University of Georgia Press, 1999), 21–22 [emphasis mine].
 24. Berlin et al., *The Destruction of Slavery*, 88–90.
 25. Christopher Leslie Brown, *Moral Capital: Foundations of British Abolitionism* (Chapel Hill: University of North Carolina Press, 2007), 206, 236; American Freedmen's Inquiry Commission, Preliminary Report, *Senate Executive Document No. 53*, 38th Cong., 1st sess., 1–24; Rose, *Rehearsal for Reconstruction*, 236. On the problem of marriage and welfare in federal policy see especially Amy Stanley, *From Bondage to Contract: Wage Labor, Marriage and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998). On the problem of freedwomen and dependency see Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York: Hill & Wang, 1998), 47–80. For a review essay that lays out my views of marriage and citizenship in the Civil War era, see Signs: *Journal of Women in Culture and Society* 30, no. 2 (Winter 2005): 1659–71.
 26. *Statutes at Large*, 12:319; Berlin et al., *Slaves No More*, 23.
 27. Second Confiscation Act, July 17, 1862; and Militia Act, July 17, 1862, *Statutes at Large*, 12:589–92, 597–600.
 28. On military developments in the Mississippi Valley see Armistead L. Robinson, *Bitter Fruits of Bondage: The Demise of Slavery and the Collapse of the Confederacy, 1861–1865* (Charlottesville: University of Virginia Press, 2005); Berlin et al., *Slaves No More*; Bereaw, *Gendered Freedoms*.
 29. Berlin et al., *Slaves No More*, 53. On the plantations under northern lessees, see Lawrence N. Powell, *New Masters: Northern Planters during the Civil War and Re-*

- construction (New Haven, Conn.: Yale University Press, 1980); for military sorting, see Bercaw, *Gendered Freedoms*, 31–50; on Lorenzo Thomas and his policy see Erik Mathisen, “The Strange Career of Lorenzo Thomas” (Ph.D. diss., University of Pennsylvania, in progress), chap. 4.
30. Bercaw, *Gendered Freedoms*, 44, 36. Bercaw estimates that 69 percent of the laborers on leased plantations were women.
31. Berlin et al., *The Destruction of Slavery*, 304–6.
32. Rose, *Rehearsal for Reconstruction*, 247, 265–66; Bercaw, *Gendered Freedoms*, 36–47.
33. For the numbers see Berlin et al., *Slaves No More*, 203.
34. Mathisen, “The Strange Career of Lorenzo Thomas,” chap. 4, 33.
35. On marriage and federal policy in the Civil War see Nancy F. Colt, *Public Vows: A History of Marriage and the Nation* (Cambridge, Mass.: Harvard University Press, 2000), 77–104, Bercaw, *Gendered Freedoms*; Mathisen, “Lorenzo Thomas.” On the marriage of slaves and freedpeople during the war and for the debate over how common legal marriage was, see Herbert Gutman, *The Black Family in Slavery and Freedom, 1750–1925* (New York: Pantheon Books, 1976), 363–431; Noralee Frankel, *Freedom’s Women: Black Women and Families in Civil War Era Mississippi* (Bloomington: Indiana University Press, 1999); Glynn, “This Species of Property”; Laura Edwards, “The Marriage Covenant Is at the Foundation of All Our Rights: The Politics of Slave Marriages in North Carolina after Emancipation,” *Law and History Review* 14 (Spring 1996): 81–124; Bercaw, *Gendered Freedoms*, 19–50.
36. Berlin et al., *Slaves No More*, numbers on p. 203; Aaron Astor, “Belated Confederates: The Union Border States in the Civil War” (Ph.D. diss., Northwestern University, 2006).
37. Berlin et al., *Slaves No More*, 70, 73.
38. Congressman Ethelbert Barksdale of Mississippi used the phrase in a speech reported in the *Richmond Sentinel*, March 6, 1865, and reprinted in Robert F. Durden, *The Gray and The Black: The Confederate Debate on Emancipation* (Baton Rouge: Louisiana State University Press, 1972), 242–49 (quotation on 248); *Richmond Dispatch*, April 12, 1861, quoted in Durden, *The Gray and the Black*, 14.
39. For Magruder’s order see Berlin et al., *The Destruction of Slavery*, 686; for impressment of women slaves see Ervin L. Jordan Jr., *Black Confederates and Afro-Yankees in Civil War Virginia* (Charlottesville: University of Virginia Press, 1995), 63. The term “uselessness to the enemy” is from Louis Manigault, Marshland, December 29, 1864, Manigault Family Papers, ser. 1, folder 5, Southern Historical Collection, University of North Carolina, Chapel Hill. On Confederate impressment see, in addition to Jordan, Bernard H. Nelson, “Confederate Slave Impressment Legislation, 1861–1865,” *Journal of Negro History* 31 (October 1946): 392–410. On exclusively male impressment see Schwalm, *A Hard Fight for We*, 81–82; and the explanation of how the quotas worked, counting in the women but taking only the men, by Alabama planters in Berlin et al., *The Destruction of Slavery*, 756–58.
40. For one early example see W. S. Turner to Honorable L. P. Walker, July 17, 1861, in *The War of the Rebellion: The Official Records of the Union and Confederate Armies*, 128 vols. (Washington: GPO, 1881–1901), ser. IV, 1:482; and Walker’s response, 529 (hereafter cited as OR).
41. On the miscasting of the debate as “the Confederate debate on emancipation,” see Durden, *The Gray and the Black*; Bruce Levine, *Confederate Emancipation: Southern Plans to Free and Arm Slaves during the Civil War* (New York: Oxford University Press, 2006). Phillip Dillard does not use the term in his title but he casts the debate as a binary choice for Confederates between independence and slavery, missing the primacy of the enlistment issue. See Phillip D. Dillard, “Independence or Slavery: The Confederate Debate Over Arming the Slaves” (Ph.D. diss., Rice University, 1999). One exception is N. W. Stephenson, “The Question of Arming the Slaves,” *American Historical Review* 18 (January 1913): 295–308. The argument that enlistment ought to be understood in the context of Confederate impressment of slaves is developed more thoroughly in my book, “Confederate Crucible: The Political Transformation of the Civil War South” (Cambridge, Mass.: Harvard University Press, forthcoming), chapters 6 and 7.
42. For estimates of the percentage of the male population serving in the army see Gary W. Gallagher, *The Confederate War: How Popular Will, Nationalism, and Military Strategy Could Not Save Off Defeat* (Cambridge, Mass.: Harvard University Press, 1997), 28–30. In the spring of 1864 the Bureau of Conscription reported to the secretary of war that no more men were to be had. Gallagher, *The Confederate War*, 35.
43. Major-General Patrick R. Cleburne et al. to Commanding General, the Corps, Division, Brigade, and Regimental Commanders of the Army of Tennessee, January 2, 1864, OR, ser. 1, 52(2):586–92 (quotations on 587).
44. *Ibid.*, 590, 590–91.
45. *Ibid.*, 591.
46. James A. Seddon to General Joseph E. Johnston, War Department, C.S.A., Richmond, Virginia, January 24, 1864, OR, ser. 1, 52(2):606–7; J. E. Johnston, General, Circular, Lieutenant-General Hardee, Major-Generals Cheatham, Hindman, Cleburne, Stewart, Walker, Brigadier-General Bates and P. Anderson, Dalton, Georgia, January 31, 1864, OR, ser. 1, 52(2):608; J. E. Johnston to Honorable James A. Seddon, Secretary of War, Dalton, Georgia, February 2, 1864, OR, ser. 1, 52(2): 608–9.
47. Jefferson Davis, “Address to the Senate and House of Representatives of the Confederate States of America,” Richmond, November 7, 1864, OR, ser. 4, 3:790–800.
48. For the congressional act and the War Department legislation see General Orders, No. 14, Adjutant and Inspector General’s Office, Richmond, Virginia, March 23, 1865, OR, series 4, 3:1161–62 (quotation on 1161). For Lee’s position, see R. E. Lee to Hon. Andrew Hunter, Headquarters, Army of Northern Virginia, January 11, 1865, OR, ser. 4, 3:1012–13. Secretary of State Judah P. Benjamin proved a key ally, as did Governor William Smith of Virginia. [emphasis mine]
49. “List of Negroes who were sent from Gowrie to Silk Hope 21st February 1862 and are there to remain for the present,” Louis Manigault Papers, “Slave List,” Perkins Library, Duke University, Durham, N.C.; J. H. Easterby, ed., *The South Carolina Rice Plantation as Revealed in the Papers of R. W. Alston* (Chicago, 1945), 291.
50. The literature on women and emancipation is now considerable. For many of the main contributions see the books cited in note 3 above.

51. "Visit to 'Gowrie' and 'East Hermitage' Plantations," March 22, 1867, Manigault Family Papers, ser. 1, folder 5, Southern Historical Collection.

52. On women on plantations at the end of the war see especially Schwalm, *A Hard Fight for We: Women, Gendered Freedoms*; and O'Donovan, *Becoming Free in the Cotton South*. For testimonies offered to the Southern Claims Commission, see, for example, Claim of Silvy Baker, December 4, 1876, Liberty County, Georgia, Southern Claims Commission Records, RG 217, National Archives. There are many other such statements in the Claims Commission Records. See also Kate Drumgold, *A Slave Girl's Story: Being an Autobiography of Kate Drumgold* (Brooklyn, NY, 1898), accessed at <http://docsouth.unc.edu/neh/drumgold/menu.html> (February 5, 2009).



Abraham Lincoln's "Fellow Citizens"— Before and After Emancipation

Did Abraham Lincoln's Emancipation Proclamation, which promised freedom to almost 4 million enslaved African Americans, also assure them citizenship? The question seems so basic—what did Lincoln assume to be the citizenship status of those freed by the war?—but it evades an easy answer. When Lincoln used the expression "fellow citizens," which he did in almost one hundred of his speeches (and that is just the published ones), did he imagine free African Americans in that group? He did not use the expression during the two times that he addressed an audience of African Americans—in August 1862, when he touted a plan of colonization to free black leaders, and in October 1864, when he responded to a group of newly free Maryland African Americans who had come to serenade him. But had he nonetheless come to regard free people of color as his "fellow citizens"? Or were they something less than that?

The question is as important for our own day as it was for Lincoln's. We remain perplexed by how and when people gain citizenship, and how and when they can lose it. The subject was arguably more critical in Lincoln's time, but the definition of citizenship during the era was hazy, and the vocabulary consisted of fewer terms than we have today for those caught between personhood and citizenship. Today people in the middle might be neatly categorized as "guest workers" or "resident aliens," but in the Civil War era, newly freed African Americans were formless shadows on the spectrum from person to citizen.¹

Making the matter of citizenship more complicated, the commonly held definitions of the concept at the time, and the terms associated with it, do not neatly correspond to current definitions and nomenclature. Regardless of the words that nineteenth-century Americans used to describe citizenship, their understanding of the term tended to fall into three