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Marriage and the Making of Gendered Citizenship

In June 1866, “Marriage of a Colored Soldier at Vicksburg by Chaplain Warren of the Freedmen’s Bureau” appeared in *Harper’s Weekly* magazine (figure 3.1). The image depicts a young couple who stand with hands clasped and eyes cast downward as an official of the Freedmen’s Bureau performs their marriage ceremony. The chaplain, the largest figure in the picture and the only individual named, stands just to the right of the anonymous soldier. His arm is outstretched in what appears as both a blessing of the union and a transfer between the men of patriarchal authority over the many women who surround them. Invoking the nationalist trope of the soldier returning home from war to marry the woman he left behind, the image itself links military service, marriage, and gendered citizenship. The soldier, having demonstrated his masculinity in war, has earned freedom from slavery and the freedom to marry. Given the ways that slavery was rationalized through discourses that represented the enslaved as childlike, the image frames marriage as a passage into adulthood not just for the individuals involved but also for the race as a whole.

However, while marriage plays this dual role in marking a monumental event in both the lives of individuals and the collective situation of the race, the moment itself appears not as a joyous celebration of freedom but rather as a scene of great restraint. Everyone in the picture stands in his or her proper place, and in positioning himself as emancipator, the state official remains the unchallenged center of authority in the frame. The spectators who surround the wedding are formally dressed, with the men in military uniforms and the women in modest, nearly identical white dresses. Their dress and demeanor suggest a highly gendered performance of respectability



Figure 3.1 Alfred R. Waud, *Marriage of a Colored Soldier at Vicksburg by Chaplain Warren of the Freedmen's Bureau*. *Harper's Weekly*, June 10, 1866, p. 412. <https://www.loc.gov/pictures/item/2009630217/>.

and a subtle awareness that they are all in fact being watched. After all, the image is first and foremost an image for a nation of spectators whose relationship to emancipation was marked primarily by concern rather than joy. The image does not emerge from a celebratory discourse on emancipation but rather intervenes in a long-standing debate among whites about whether or not Black people were prepared for the responsibilities of freedom, whether freedom was even in their best interests. In creating a picture of emancipation that reflects white civilization, the representation assuages white anxieties that emancipation might beget chaos and unruliness. As such, it reiterates ideas about the benevolence of slavery, suggesting that the institution of slavery had civilized the enslaved and now, under the continued supervision of the state, they were ready to proceed as freedpeople.

This image quite literally places heteronormativity at the center of the emancipatory moment as the institution of marriage both marks and mediates the transition from the time of slavery to the time of freedom. The question of time is central to the image as it speaks to two prominent white anxieties about emancipation. Were freedpeople ready for citizenship? And, now that they were free, how could their time be directed back toward the essential labor they had performed while enslaved? Marriage offered an answer to these anxieties as both a step forward on the path

toward civilization and a means of settling and stabilizing a potentially transient population. In the singular moment of the wedding, the image from *Harper's Weekly* captures a relationship among the making of heteronormative families, the making of racialized and gendered citizens, and the remaking of the nation in the aftermath of the Civil War. The simultaneity of becoming free, becoming citizens, and becoming married is indicative of the vital role that marriage would play in the transition from legal property to racially subordinated citizenship—a role that would have a lingering impact on late twentieth-century debates about welfare policy.

Throughout this chapter I demonstrate how marriage functioned as a rubric through which gendered citizenship as a mode of racial stratification was constructed and institutionalized. Marriage was uniquely situated at the nexus of racial and settler colonial constructions of civilization that upheld sexual dimorphism and kinship organized through heterosexual reproduction as the pinnacle of human evolution, contractual understandings of freedom and liberal individualism, a belief that settlement and domestic responsibilities would promote self-sufficient families reliant on wage labor rather than state support, and a narrative of progress that absolved the nation of responsibility for slavery by situating it firmly in the past despite its lingering effects. Given this particularly dense locus of meaning, marriage operated as a complex and often contradictory sign of freedom. While, for white men and women, marriage functioned as the basis for privacy and the exercise of rights, for freedpeople, access to marriage enabled surveillance in the private sphere, privatized social responsibility for slavery, and criminalized or erased sexual practices and structures of kinship that exceeded the heteronormative family. This dual meaning of the private sphere complicates conventional distinctions between private and public and contributed to the development of gendered constructions of citizenship that maintained racial inequality.

I begin by focusing on the role the legal prohibition of marriage under slavery played in linking heteronormativity to ideas of freedom. I then turn to abolitionist arguments that both cast the absence of marriage as one of the primary horrors of slavery and situated marriage as key to mediating the transition from slavery to freedom. These arguments demonstrate how discourses about marriage that linked former enslavement with sexual deviance were central to the rearticulation of racial difference and the production of slavery's afterlife in the Reconstruction era. While entering into marriage contracts was an important sign of freedom, it also required the adoption of liberal forms of personhood and heterosexual structures

of kinship that sought to produce and direct freedpeople's agency in the service of state interests. As a key moment in the entry into citizenship, marriage secured the transition to wage labor, cultivated gender hierarchy within Black communities, provided new grounds for criminalization, and justified austerity toward freedpeople. The obligations of marriage were rigorously enforced on freedpeople. However, when freedpeople sought to claim rights associated with marriage, their efforts were often frustrated. Finally, turning to Civil War widows' pension claims, I explore how freedwomen resisted efforts to enforce marital norms and how this resistance reveals potentially queer conceptions of freedom, belonging, and agency.

Slavery, Freedom, and the Family

Because slavery depended on the genealogical isolation of the enslaved, the prohibition of slave marriage was fundamental to the institution. Through its prohibition, marriage was constituted as a normative marker of civilized, free life and became a vehicle through which dichotomous gender was constructed as a sign of racial progress. Abolitionist discourse frequently reiterated these same ideas about civilization, and as the federal government began to grapple with how formerly enslaved persons might be transformed into citizens, marriage and its civilizing potential took center stage. The consequent push toward marriage marginalized other ways of organizing kinship and sexuality by casting them as out of time with liberal citizenship. In this way, race, heteronormativity, and citizenship worked to simultaneously anchor racial hierarchy in gender, and freedom in marriage.

Given marriage's central role in establishing and legitimating kinship within the U.S. legal system, the denial of the right to marry was critical to the production of enslaved people as socially dead.¹ Marriage was a contract relation in a society in which "contract marked the difference between freedom and coercion."² Thus, the inability to marry was one of the distinguishing markers of slavery, and marriage was a principal sign of freedom. Even though, as considerable historical evidence demonstrates, enslaved people practiced various kinds of kinship, these relationships were not legally recognized or protected, which meant they did not carry with them the privacy, political standing, security, and stability that white families enjoyed.³ The threat of forced separation through the interstate slave trade or hiring-out practices hung over all enslaved families. Enslaved

people responded to this threat in a variety of ways, often developing more short-term or contingent forms of relationship or modifying the commitments of marriage to accommodate the precarity of their situations. As Tera Hunter argues, enslaved people “developed and articulated gradations of intimacy that were quite complex and not visible to those judging them through the conventional lenses of heterosexual marriage.”⁴

While slavery produced sometimes insurmountable barriers to family formation, slaveholders frequently used the idiom of family to rationalize slavery, and slavery alongside marriage was understood to be a domestic affair.⁵ Enslaved people were situated as dependents within the households of their white masters and mistresses. For masters in these households, having dependents verified their independence and secured their political power.⁶ For mistresses, the power they wielded over enslaved workers within the home secured their domestic status and enabled the performance of proper femininity.⁷ As dependents within their masters’ households, enslaved people could not make autonomous political demands or assert the independence of their own households. Even if they engaged in informal practices of marriage, enslaved men and women remained trapped within the private jurisdiction of their masters’ families and so could neither lay claim to a private sphere of their own nor exercise political power in the public realm.⁸

Finally, the prohibition of marriage was a cornerstone of the reproductive economy of slavery. Slave status passed matrilineally, meaning that any child born to an enslaved woman became the property of her owner.⁹ As a legal structure, marriage guaranteed the sanctity of heteropatriarchal families. Prohibiting marriage severed legal ties between enslaved parents and their children and alienated individuals from intergenerational relationships. At the same time, by rendering Black women as outside of the parameters of marriage, the prohibition of marriage contributed to the racialized construction of Black women as perpetually sexually available and thereby rendered them more vulnerable to sexual violence and abuse in ways that were foundational to the reproductive economy of slavery.¹⁰

The prohibition of marriage was not simply about exclusion from the institution. Rather, it was also an important component in the constitution of marriage and the system of heterosexual kinship it secured as normative markers of freedom and civilized life. The prohibition of marriage did not just deny slaves kinship as organized through marriage. It also erased the broad range of kinship and sexual relationships that existed among enslaved people. While the heteronormative lens that structures the ways in

which much of African American history has been written often invisibilizes queer sexualities within enslaved communities, many scholars have noted a diversity of sexualities and kinship formations within the African diaspora.¹¹ These queer relationships were also unrecognized by the state. However, they were not named in the law as a right that was denied. The prohibition of marriage alone normalized the institution as synonymous with both family and freedom. In its explicit denial, marriage was constituted as part of what it meant to be legally free. While exclusion from marriage rights was a fundamental component in producing the social death of slaves, it did not necessarily follow that the granting of those rights would negate that social death or that marriage was the only or even the preferred rubric through which freedpeople's familial relationships could have been organized. Just as Orlando Patterson argues that the meaning of freedom "emerged as a necessary consequence of the degradation of slavery and the effort to negate it," the meaning of marriage was grounded in the terms of slavery and subordination.¹² Even as it was held out as a pathway to freedom and citizenship, marriage as an institution would play a key role in securing slavery's continuing afterlife.

Discourse about marriage in the context of both slavery and emancipation linked gender and sexuality to racialized constructions of civilization. Slavery was understood by its practitioners to be part of a civilizational project, and marriage and the system of sex and gender categorization that it consolidated were key to this project. A racial construct employed to distinguish the ostensibly more advanced white population from supposedly primitive nonwhite groups, civilization asserted that the most advanced stage of human evolution was characterized by a dichotomous and hierarchical construction of sexual difference that was codified in the institution of marriage. In this way, civilization was at its core a temporal construct that relied on a linear understanding of time as defined by evolutionary progress.¹³ This construct was central to the social construction of races as synonymous with different stages of human evolution and linked settler colonialism and slavery through a gendered logic.¹⁴ As María Lugones describes, in the colonial imaginary "other human inhabitants of the planet came to be mythically conceived not as dominated through conquest, nor as inferior in terms of wealth or political power, but as an anterior stage in the history of the species, in this unidirectional path."¹⁵

Sex and gender were integral to a construction of civilization that defined movement toward a clearer division of the sexes as evolutionary progress and movement away from that division as degeneration.¹⁶ Deviation from

Eurocentric heteropatriarchal gender norms marked both Black and Native people as uncivilized and deserving of enslavement, conquest, and violence. As Gail Bederman demonstrates, Victorian racial and gender ideologies posited that “as civilized races gradually evolved toward perfection, they naturally perfected and deepened the sexual specialization of the Victorian doctrine of spheres. ‘Savage’ (that is, nonwhite) races, on the other hand, had not yet evolved pronounced sexual differences—and, to some extent, this was precisely what made them savage.”¹⁷ Bederman’s point that it is not simply the gendered meanings ascribed to the categories of male and female that are constructed through race but the dichotomous sex categories themselves is an important one. Far from being natural, sexual and gender difference emerge as significant forms of categorization in conjunction with the delineation of racial difference. Dichotomous sex categories do not simply divide those categorized as men and those categorized as women but also produce a racial division between populations that are seen as adhering to binary gender and those that are not.¹⁸ Notably, the prohibition of marriage, the exploitation of Black women’s productive and reproductive labor, and the sexualized violence of slavery made it impossible for Black people to conform to dominant gender norms, suggesting that slavery’s civilizational mission was less invested in reforming the characters of the enslaved than in producing and naturalizing ideas of racial difference that were anchored in gender. By rendering enslaved people as perpetually in need of civilization, the institutions of slavery in the United States ensured their own continuity. In this context, race and gender developed as mutually constitutive systems—race became intelligible through naturalized ideas about gender, and gender gained new significance in its capacity to signify racial difference.¹⁹

Abolitionist discourse frequently reiterated the gendered and sexualized constructions of race and civilization that had rationalized slavery. In contrast to claims about the civilizing influence of slavery, nineteenth-century abolitionists frequently argued that slavery, and particularly the institution’s undermining of heteropatriarchal nuclear family structure, kept the enslaved trapped in a backward and uncivilized state. In this context, the lack of recognition of marriage was often cited as one of the primary horrors of slavery. Frederick Douglass argued that slavery worked “to blot out the institution of marriage,” and the African Methodist Episcopal Church equated slavery with “fornication, adultery, concubinage.”²⁰ Harriet Beecher Stowe even went so far as to argue that “the worst abuse of the system of slavery is its outrage upon the family . . . one which is more notorious and

undeniable than any other.”²¹ Indeed, as Amy Dru Stanley notes, “no abolitionist argument proved more compelling than testifying to the conflict between slavery and domesticity.”²² In their challenge to slavery, abolitionists reproduced the terms of civilization and the particular articulation of race, gender, and sexuality that had justified racial subordination in troubling ways. These terms also came to structure understandings of emancipation and the belief that marriage was an important part of cultivating freedpeople’s capacity to act as responsible, respectable, and free citizens.²³

The American Freedmen’s Inquiry Commission, a committee charged by the secretary of war to detail the condition of freedpeople in the South and the steps necessary to fold freedpeople into the nation, highlighted marriage as vital to making freedpeople into good citizen subjects in ways that reflect the discursive themes that would emerge as central in the Freedmen’s Bureau’s practices of marriage promotion. For example, in its assessment of slavery in South Carolina, the commission described the degradation of slavery as follows:

The slave was not permitted to own a family name; instances occurred in which he was flogged for presuming to use one. He did not eat with his children or with their mother; “there was no time for that.” In portions of this State, at least, a family breakfast or dinner table was a thing so little known among these people, that, ever since their enfranchisement, it has been very difficult to break them of the lifelong habit that each should clutch the dish containing his portion and skulk off into a corner, there to devour it in solitude. The entire day, until after sunset, was spent in the field; the night in huts of a single room, where all ages and both sexes herded promiscuously. Young girls of fifteen—some of an earlier age—became mothers, not only without marriage, but often without any pretense of fidelity to which even a slave could give that name.²⁴

The objective of the American Freedmen’s Inquiry Commission was to assist freedpeople but only in ways that would also protect the national interests threatened by the incorporation of this population into the polity. As the preceding passage suggests, freedpeople were viewed as unprepared for citizenship, and the primary evidence for this lack of preparation was located in the domestic sphere. This description of the households fostered by slavery suggests that because of the lack of marital relationships, enslaved people remained in a backward and uncivilized state. The descriptions of the enslaved “clutching” their food, “skulking” into corners, and “herding promiscuously” and indiscriminately liken freedpeople to animals in need

of domestication and suggest that while enslaved people had uncontrolled sexual relationships with each other, they lacked the meaningful social ties that characterized civilization. Not only does this representation erase the complex cultures of enslaved people and the reproductive labor that Black women performed under slavery, but it equates the lack of marital relationships with a lack of sociality altogether.²⁵ In other words, marriage is what distinguishes civilized humanity, what marks the difference between the slave and the citizen.

In addition, this passage must be read in the context of gendered discourses about domesticity that defined women's roles primarily in terms of caring for the home. Women were not merely seen as responsible for creating a home that was a safe haven from the cruelties of the outside world; because the home was viewed as the bastion of civilization, women's performance of domestic roles was also essential to preserving national well-being. In this context, the horrific domestic scene of slavery also marks the absence of proper gender differentiation as a problem that the state must grapple with in making freedpeople into citizens. The description situates the enslaved as backward in time in relation to white civilization, erasing the way that the material conditions of slavery were not just contemporaneous with idealized constructions of domestic space but a prerequisite for these constructions in terms of both the wealth accrued through slavery and the domestic labor performed by the enslaved. The discursive linking of racial progress to the performance of heteronormative, patriarchal gender roles enabled a complicated structure of blame in which, on the one hand, the institution of slavery itself was responsible for holding enslaved people back from civilization and, on the other hand, it became the responsibility of freedpeople themselves (under the surveillance and tutelage of the federal government) to take up their own rehabilitation.

Officials of the Freedmen's Bureau identified the absence of marriage as one of the greatest challenges to freedpeople's incorporation within the nation. Bureau officials frequently described freedpeople's choices not to comply with the institution of marriage as an evil that needed to be corrected or, as bureau officer J. P. Lee wrote, "a great stain" that ministers, teachers, and bureau officers were working to remove.²⁶ Bureau officers fixated on practices such as couples "taking up" together or "cohabiting" without marriage, the potential transience of freedpeople's relationships, sexual promiscuity, prostitution, and the bearing of children outside of marriage. As Mississippi bureau agent Thadeus Preuss observed in an 1867 report:

The Marital Relations of the Colored People generally I am sorry to have to state are in a most deplorable condition. They seem to pay but little attention to the sacred requirements of the marriage relation. In most instances living together and calling themselves man and wife as long as it conveniently suits them. In many instances they are the possessors of several wives and also several husbands. This deplorable state of morals has been permitted to exist amongst the Colored People in a State of Slavery yielding a large revenue to their owners. Now that they are free, some steps should be taken to remove this evil.²⁷

Statements such as these suggest, in contrast to the image from the opening of this chapter, that many freedpeople did not see marriage as fundamental to their freedom and often chose to opt out of the institution even after it became legally available to them.²⁸ However, these choices were not understood by bureau officials as expressions of agency but rather as a sign of moral degeneracy and a lack of preparedness for citizenship. Bureau officials cited these choices as evidence of slavery's dehumanizing effects that had to be corrected for freedpeople to take on the responsibilities of citizenship. In this way, the discourse on marriage narrowly delimited what freedom might look like by constituting alternative sexual practices and forms of kinship as remnants of slavery that could not be contemporaneous with the free subject.²⁹

The likening of nonnormative sexual practices to a "stain" or "evil" to be expunged reveals the way in which former enslavement cast a shadow across freedpeople's inclusion as citizens. Expressions of agency that did not align with bureau goals were reframed as deficiencies in the capacity to exercise agency as a free subject. Bureau officials consistently interpreted deviance from hegemonic sexual and gender norms as an inheritance from slavery that tarnished the characters of freedpeople and left them unsuited for the responsibilities of citizenship. In this way, sexuality played a central role in postemancipation efforts to reconstruct the meaning of race, as anxieties about the extension of citizenship to freedpeople were frequently expressed as anxieties about the threat their sexual immorality potentially posed to the nation. Just as sexuality had played a significant role in pre-emancipation racial formation, the articulation of racial difference and sexual nonnormativity in this moment worked to reconcile formal inclusion into the institutions of citizenship with continued racial subordination.

Significantly, Freedmen's Bureau officials, the Freedmen's Inquiry Commission, and other white reformers all saw slavery as having degraded the

characters of the enslaved. There was no comparable concern for the characters of those who had perpetuated slavery. Situating slavery's legacies as an element of the past that lived on in the behaviors of freedpeople worked to both relocate responsibility for remedying slavery's harms onto freedpeople themselves and maintain a distinction between the formerly enslaved and the rest of the citizenry. In their own claims to freedom, freedpeople frequently drew attention to the wealth their labor had produced for the nation as the basis for redistributive claims to land, holding former slaveholders and state and federal governments responsible for redressing the harms of slavery. In contrast, bureau officers and white reformers emphasized the moral, and particularly sexual, reform of freedpeople as a central concern, thereby transferring responsibility for remedying the harms of slavery from those who had profited from the institution of slavery to the formerly enslaved themselves. Notably, the writings of bureau officers demonstrate how despite emancipation freedpeople's former enslavability continued to differentiate them from other citizens. Increasingly, gender and sexuality constituted the terrain on which this racial difference was established.

Marriage Registration and the Making of Liberal Individuals

In response to these sexualized anxieties, the Freedmen's Bureau was charged with the responsibility of issuing marriage certificates. Bureau officers were authorized and encouraged to perform marriages, and some jurisdictions, such as Mississippi and North Carolina, went so far as to pass blanket statutes that legally married all cohabitating freedpeople regardless of their consent or knowledge of the law.³⁰ Although these activities are often conceptualized as legalizing already existing relationships, the bureau's emphasis on marriage registration is better understood as part of a process of bringing a population whose everyday lives had formerly been controlled by slave owners under the management of the state. Establishing one's identity in state records was a vital part of the transition from legal property to legal personhood, and the registration of marriages along with bureau-certified labor contracts simultaneously marked freedpeople's entrance into the institutions of citizenship and their entrance into the national archive as human beings. In a way, marriage certificates and labor contracts functioned like birth certificates for the formerly enslaved. They

recorded the vital information of freedpeople in state records for the first time and, in doing so, marked a symbolic birth of freedpeople as liberal individuals capable of entering into contractual relations.

Citizenship required that one define one's identity by the statistical facts that constituted legal personhood. These facts were not objective truths so much as an effect of the state's need to stabilize identities and differentiate individuals for the purpose of conferring rights and responsibilities. Citizenship entailed a commitment to a singular identity that was defined by stable characteristics such as names, family heritage, age, race, and gender that could be collected and verified by the state. Often taken for granted as natural aspects of personhood, these characteristics were constituted as facts only through state practices of record keeping that stabilized them. Upon emancipation, many freedpeople had multiple names, were uncertain of their age, or could not easily define their parentage. In a context in which freedom was defined in contractual terms, this posed a significant problem in that without stable markers of identity it would be difficult to hold people to the terms of the contracts into which they entered.

While the defining characteristics that the state uses to delineate individual identity are often taken as the truest markers of who one really is, Jacqueline Stevens demonstrates that these "facts" reflect political interests rather than natural attributes.³¹ In the practice of marriage registration, the Freedmen's Bureau was invested not just in recording facts about individual freedpeople's lives but in producing freedpeople as subjects of statistical information. Marriage registers and marriage certificates painstakingly cataloged details about each of the parties, recording the following beneath the designations male and female: age, color, color of father, color of mother, number of years lived with another woman (or man), reason for separation, number of children by previous companion, and the number of children together (see figure 3.2). These registers and certificates demonstrate the ways that marriage was about far more than legally sanctifying a couple's relationship. The records simultaneously served a census-like function, documenting and stabilizing basic information like a name, age, race, relationship history, and family composition. As there was no systematic way of verifying much of this information, its significance did not lie mainly in its factual accuracy. Rather, collecting these details was the basis for the recognition of individual personhood and the establishment of a new relationship between the state and the recently emancipated.

The first, and perhaps most important, facts recorded on marriage certificates were names. To participate in marriage contracts or labor contracts,

Report of Marriages during month ending September 30th 1865. in District of Arkadelphia.

Date 1865	Name of Male	Place of Residence	Name of Female	Place of Residence	Male							Female						Name of Officer by whom solemnized		
					Age	Color	State or Territory	Education	Profession	Trade	Occupation	Religion	Age	Color	State or Territory	Education	Profession		Trade	Occupation
3	Washington Gidd	Clark Co	Ernest Brown	Clark Co.	35	Wh.	Ind.	Stud.	'48	South	1	Wh.	School	Stud.	9	white	4	7	P. M. Garrisonal, J.P.	
	John Andrews	Pike Co	Mary Bailey	Pike Co.	34	Wh.	Ind.	Stud.	None	South	1	Wh.	School	Stud.				7	J. D. Kirkham, J.P.	
	Burrell Moxley	-	Fanny Wood	-	35	Wh.	Ind.	Stud.	None	Ohio	1	Wh.						6	-	
10	John Barber	-	Jacquel Lee	-	38	-	-	-	-	2	-	5	Wh.	School	Stud.	5	White	5	6	-
11	John Brown	-	Anna Brown	-	37	-	-	-	-	1	-	5	Wh.	School	Stud.			2	-	
12	Fred Jackson	-	Mary Lane	-	25	-	-	-	-	-	-	18	Wh.						-	
13	Ernest Brown	-	Mary Brown	-	35	-	Ind.			-	-	5	Wh.	School	Stud.	4	White	11	-	
18	Walter Brown	Tulsa Co	Fanny Glen	Tulsa Co.	25	Wh.	Ind.	Stud.	None	21	South	5	Wh.	School	Stud.	6	Argentine	5	John B. Harris, J.P.	
21	Sam Houston	Clark Co	Mary Carter	Clark Co.	38	Wh.	Ind.	Stud.	None	Armed	-	5	Wh.	School	Stud.	15	Scott	7	J. M. Garrisonal, J.P.	

I certify that the above Report is correct & exhibits in exact copy of the Marriage Record of this Office.
 William A. Stewart
 Capt. 58th U. S. A. Sept. 8, 1865. Wm. Freedman.

Figure 3.2 Marriage Register from Arkadelphia, Arkansas, Sept. 30, 1865. Marriage Records of the Office of the Commissioner, Washington Headquarters of the Bureau of Freedmen, Refugees, and Abandoned Lands, 1861-69.

freedpeople were compelled to adopt dominant conventions of naming by taking both a first and last name and committing to use only a single name.³² With emancipation, standardized forms of naming became important both for supporting the integrity of state record keeping and for holding freedpeople to the terms of contracts. Therefore, in conjunction with marrying freedpeople, bureau officials required them to take a surname. As the South Carolina marriage rules outline, “Every Freedman having only one name is required to assume a ‘title’ or family name. . . . When once assumed, it must always thereafter be used and no other.”³³

This compulsion to adopt dominant conventions of naming was linked to the compulsion to adopt a patriarchal organization of the family. In *John Freeman and His Family*, an instructional text for freedpeople intended to cultivate the values of good citizenship, one of the first anecdotes about the protagonist’s life as a freedperson is about being named. When John reports for his first day of work as a freedperson, the lieutenant in charge requests his name. John replies that his name is simply John. When asked for a last name, John replies that he is “Colchester Lenox’s John” and that he has no last name. Remarking that John must have a last name, the lieutenant proceeds to name John, first offering Lenox, John’s former master’s last name. Upon John’s objection to this name on the grounds that it would always be a reminder of his enslavement, the lieutenant names him John Freeman.

This interaction concludes with the lieutenant explaining to John, “You must give your wife the same name, then, mind, and all your children. Then we shall know you all belong together. You’ll be *the Freeman family*.”³⁴

In this anecdote, the name individuates John as no longer the property of his master (Colchester Lenox’s John) but as his own person (John Freeman) in charge of his own “Freeman family.” To enter into contracts, freedpeople were required to adopt names that mirrored the structure of white naming practices. As Elizabeth Regosin notes, Black people had their own naming practices, both under slavery and after emancipation, that reflected their own understandings of kinship and belonging. The dominant structure of naming, however, organized freedpeople into easily recognizable heteropatriarchal households that “belonged together,” thereby constituting kinship in very narrow ways. Because names functioned as the legal record of kinship, standardizing freedpeople’s names was also a means of standardizing the kinds of family relationships that would be recognized by the state. In this way, naming was key to the formation of a public identity that connected belonging in a heteropatriarchal family to belonging in the nation-state.³⁵

This anecdote also illustrates the way that naming as a practice of state record keeping linked racial subordination and wage labor to the heteropatriarchal family. A prerequisite for entry into a labor contract, the conferral of a surname solidifies John’s gendered identity as an independent worker and a responsible head of household. On his way home, John reflects on his naming as follows: “He had got a *name*, and a treasure, indeed, it seemed. A new name it was, distinct, clean of slavery, savoring of the life of liberty and equal rights upon which he was entering. He was determined that he would never disgrace it by idleness or want of integrity, or by any act unworthy of freedom; and he was earnestly desirous that those who bore it with him should esteem and cherish it as he did.”³⁶ While John’s new name clearly marks the transition from being enslaved to being free, it also operates as an incitement to become a subject whose freedom is defined in opposition to idleness. Having a name and being free both require that one never falter in demonstrating one’s worthiness of those things to one’s emancipators. As Saidiya Hartman points out in her reading of various counsels for freedmen, these instructional anecdotes reinforced a conception of freedom that was defined by “the burdened individuality of the responsible and encumbered freedperson.”³⁷ Naming, in particular, was fundamental to the individuation required of the liberal, rights-bearing subject, and having a singular identity was a precondition for entering into contracts and being

held legally responsible. The name was a key signifier of independence and self-possession. However, because the state official retained the power to name and to define the normative structure and meaning of names, being named simultaneously marked John as a free man and subjected his freedom to the parameters determined by the state.³⁸

The performance of freedom compelled by the act of naming was deeply gendered. In a complementary moment of interpellation in *John Freeman and His Family*, Miss Horton, a white teacher who acts as a benevolent reformer throughout the text, addresses Clarissa, John's wife, as Mrs. Freeman during her first visit to their home. Upon hearing this, Clarissa's response is described as follows: "Clarissa hardly knew what to do when she heard herself addressed in this unexpected and respectful manner. She had never been called Mrs. Freeman before. That sounds a heap like white folks, she thought to herself, and now I must honor the name as John says."³⁹ As Hartman points out, for Clarissa, naming bears a different significance as it simultaneously defines her freedom and her civil death as John's wife.⁴⁰ In contrast to the call to masculine independence, the name Mrs. Freeman compels Clarissa to emulate the norms of white femininity in her efforts to be a good citizen. Throughout *John Freeman and His Family*, however, Clarissa is also expected to work diligently outside the home. Becoming Mrs. Freeman therefore ties Clarissa to the obligations of domesticity but does not offer her the same protections from the labor market that white women enjoyed.⁴¹ Rather, for freedwomen, marriage often meant that their labor became their husbands' to sell, as is evidenced in the widespread practice of freedmen signing labor contracts on behalf of their wives.

Read alongside the historical archive of the Freedmen's Bureau's marriage records, these anecdotes about naming reveal the political interests reflected in the listing of names on marriage certificates. Marriage as an institution was a key location for the solidification of names, and marriage certificates did not simply record names but rather produced families organized through heteropatriarchal practices of naming. While the family is often cast as prepolitical, at the moment of emancipation the state actively produced a particular family form as normative and as the precondition for political belonging through the registration of marriages. At the same time, marriage worked to constitute gender as a fundamental component of identity and as a key mechanism through which the meaning of citizenship would be defined. The compulsion to legally marry laid the foundation for holding freedpeople legally accountable for fulfilling the gendered

obligations of citizenship. In her discussion of the coconstitutive character of marriage and the state, Jacqueline Stevens notes that “to be born into a family is always to be born into a larger group that made possible the family form as such.”⁴² The case of emancipation illustrates that the reverse is also true. To enter the nation, freedpeople needed to enter heteropatriarchal families.

Marriage did not simply recognize a relationship between two individuals. It simultaneously located that relationship within an intergenerational heteropatriarchal family tree that positioned individuals in relation to both past and future.⁴³ Marriage and the heteronormative constructions of kinship it secured reproduced a specific temporality—what Jack Halberstam calls *straight time*—that both organizes daily life around domestic norms and, through the rubric of generations, “connects the family to the historical past of the nation, and glances ahead to connect the family to the future of both familial and national stability.”⁴⁴ While they were pushed to adopt the conventions of straight time, freedpeople’s relationship to the construction was complicated. Not only was there considerable resistance on the part of whites to imagining freedpeople as part of the future of the nation, but, legally, it was difficult to navigate the past of slavery, in which freedpeople’s personhood had not been recognized.

To bring the socially dead into the realm of legally recognized kinship, marriage registers had to reconstruct a genealogical past in which to locate the relationship. This process can be seen in the way that marriage certificates and registers recorded details about the parents and children of the couple, thereby constructing a heteronormative family tree within which the marriage was embedded. These registers and certificates acknowledge kinship ties between the individuals being married and their parents and children in state records for the first time. While the records themselves do not contain the names of parents and children, they ask specifically about the color of both parents of each of the individuals being married, the number of children each individual had with another companion, and the number of children the couple had together. This recording of multigenerational details about families reveals the way in which state record keeping presumed, and in doing so produced, the idea that freedpeople came to freedom already embedded in the heteronormative family, the very thing that slavery had explicitly denied access to. The recording of parental information both erases the violence of a structure that explicitly legally alienated children from their parents and makes invisible any diversity in the kinship

relations practiced under slavery. In doing so, the records function to simultaneously construct and naturalize heteronormative kinship. In this way, state efforts to anchor heteronormativity across time masquerade as the simple bureaucratic recording of facts.

Just as marriage certificates distilled a heterosexual genealogy for Black families entering into freedom, they also produced a heterosexualized past for the individuals registering their marriages. Certificates listed the number of years spent with a previous companion and the reason for separation to resolve a problem of timing. The marriages registered by the Freedmen's Bureau were unique in that they frequently constituted in the present a legally binding relationship that extended into the past. For example, the North Carolina law that declared all formerly enslaved cohabiting couples to be married commenced those marriages not at the time of the passage of the law or at emancipation but rather when the individuals began living together. As Laura Edwards notes, this was significant because had the marriages begun after emancipation, all children born earlier would have been considered illegitimate, and the state would have been financially responsible for them.⁴⁵

This retroactive recognition of marriage also posed a problem in that many freedpeople had relationships with multiple individuals who might have been legally recognized as their spouses under the law. Therefore, translating the sexual and domestic practices of enslaved people into the legally recognizable rubric of marriage required that the recognition of relationships be selective. Recording the number of years they had lived with a previous partner and the reason for separation was a means of achieving this selective recognition and preserving the monogamy of marriage. Bureau officials also recorded the number of children each spouse had with a previous partner in addition to the number of children the couple had together. This practice worked to establish parental responsibility for children from previous relationships, a primary concern for bureau officials, who sought to minimize the number of freed children who would be potentially dependent on the state. Because there was no way to record earlier relationships that did not approximate marriage, this record-keeping practice made invisible any forms of kinship that did not conform to heteronormative standards. In this way, the bureau's efforts at promoting legal marriage did not simply organize freedpeople into heteronormative family units. In doing so, these practices also actively dismantled other family forms, rendering meaningful kinship ties that did not conform to heteronormativity untraceable

within the archive and impossible as the grounds for legal claims. In this sense, marriage simultaneously produced and foreclosed legal kinship relationships among freedpeople.

One of the most striking elements of the bureau's marriage records is the column for reason for separation, which is predominantly listed as sale or death. Just as the records attempt to produce a linear narrative of the past that erases the social death of slavery by retroactively recognizing previous relationships that were not seen as legitimate in their own present, the indication that these relationships frequently ended in forced separation through the sale of one of the parties defies this erasure. As a visible sign of the violence of slavery, the marking of sale troubles the genealogy the records try to produce by gesturing toward the artifice at its foundation. The marking of sale challenges the clean break between slavery and freedom that marriage certificates ostensibly signified, pointing instead to slavery's lasting effects. The record keeping that solidifies the transition from being treated as property to being treated as a population remains animated by the relations of domination inscribed by slavery.

The registration of marriages was a cornerstone in the effort to make freedpeople into liberal individuals. The practice both solidified contract relations as a sign of freedom and stabilized gendered forms of individual personhood that were grounded in the heteronormative family. A key part of the process of making freedpeople into individualized subjects constituted through statistical facts, marriage registers organized kinship through heteronormative relationships while simultaneously securing a relationship between individuals and the state. Marriage certificates reveal the ways in which entry into citizenship was predicated on the production of gendered difference. The practice of marriage registration worked to construct heteronormative kinship as a natural fact and in doing so laid a foundation for the gendered enforcement of obligations in racially stratified ways.

Enforcing the Gendered Obligations of Marriage

In addition to stabilizing identities and securing liberal forms of personhood, efforts to organize freedpeople into heteronormative families through marriage were simultaneously efforts to remake the division between public and private spheres that was fundamental to the liberal political order. As noted earlier, in the antebellum South, women, children, and enslaved people were all considered dependents located within the

private sphere of the household while white male heads of households wielded political power within the public sphere. In this context, the public and private spheres were not just separate. Rather, the private sphere constituted the basis for political power in the public sphere in that having dependents secured white men's status as independent citizens.⁴⁶ The construction of the domestic sphere as a space of privacy worked to depoliticize social relations within the household. Conflicts between husbands and wives and between slave owners and the enslaved were understood as private and therefore outside of state jurisdiction, a perception that reinforced racialized patriarchy within the household. At the same time, because of their dependent status, wives, children, and enslaved people were barred from exercising political power in the public sphere.

Given this structure, the legal recognition of marriage ought to have formed the basis for political rights, privacy, and masculine entitlement for freedmen while at the same time confining freedwomen to a subordinated and protected position within the domestic sphere. However, in practice, marriage became a vehicle for exacting a different set of gendered obligations of citizenship from freedpeople and constituting the home as a site of public surveillance. While for white men and women marriage was the linchpin of a gendered system of rights and protections, for freedpeople marriage first and foremost articulated freedom to the burdens of a privatized family. Freedmen's Bureau officials strongly emphasized the need for freedpeople to form "self-sufficient" families, thereby linking masculine independence to wage labor. At the same time, while freedwomen were expected to adopt dominant norms of femininity, they were also expected to continue to work outside the home. These strategies privatized the violence of slavery, thereby absolving the federal government of responsibility for the well-being of freedpeople and justifying austerity toward them. Just as marriage situated the question of public responsibility for slavery in the private sphere, it also made a spectacle of freedpeople's private lives. Marital relations became a site of state scrutiny, intervention, and criminalization, and exacting gendered performances of citizenship in the domestic sphere was central to how the bureau envisioned addressing the legacies of slavery. While marriage established a gendered division between public and private space for freedpeople, race shaped how this boundary was drawn and what it would come to mean.

The bureau's efforts to promote marriage were part of a larger strategy to stabilize the Black labor force through the restructuring of household economies. Just as the vagrancy laws discussed in the next chapter played

a significant role in this process by criminalizing movement, marriage established settlement as the desired norm.⁴⁷ A lack of respect for marriage was frequently associated with the ills of vagrancy. As bureau agent P. Marshal noted in his inspection report on Jefferson and Orleans Parishes in Louisiana:

There are no less than seven hundred colored families living in Gretna and Algiers and the intermediate suburbs. Many of these keep groceries and boarding houses also houses of ill fame, and such places are the endeavors of the young portion of the colored people, whose ignorance and aversion to work is soon developed into vagrancy. Adultery is a prominent vice among them, during last week no less than three separate cases were brought. Many are living together as married who are bound by no other tie than the dictate of their former overseer or master.⁴⁸

Bureau officials' complaints about aversion to work, prostitution, adultery, and the persistence of informal practices of marriage among freedpeople were frequently linked in this manner, signaling the ways vagrancy as a construct extended beyond the lack of employment or a stable home. Vagrancy was instead understood as a cultural condition characterized by laziness, lack of discipline, irresponsibility, and sexual promiscuity. Much like the culture-of-poverty discourse that would emerge in the twentieth century, vagrancy was viewed as a legacy of slavery that needed to be remedied, particularly through reform of gendered and sexual behaviors.

The discourse on vagrancy substituted cultural explanations for an analysis of the material inequalities produced by slavery and suggested that it was cultural reform, not the redistribution of resources or reparations, that was most important to freedpeople's future. This was particularly apparent in references to nonnormative sexual relations as a lingering effect of slavery that held the emancipated back. An assistant commissioner in Louisiana wrote, "Their lack of regard for matrimonial alliances is one of the great drawbacks to their progressiveness. . . . This degrading evil is one of the many which slavery imparted and fostered upon them so clearly that they cannot at once become entirely free from this disgusting practice."⁴⁹ This understanding of slavery as having left a cultural legacy among freedpeople that was the primary barrier to the exercise of liberal freedom displaced an analysis of the structural inequalities that hundreds of years of stolen labor had produced, while simultaneously pathologizing nonnormative sexual practices. Vagrancy, in this context, was not just an individual crime but a sign of a larger cultural condition of unfreedom fostered by

slavery. To be vagrant was to fail to take up the responsibilities of citizenship and to continue to exist in the backward cultural conditions fostered by slavery. In this sense, the vagrant was out of step with the temporality of citizenship. Rather than moving forward toward citizenship and freedom, the vagrant remained mired in the dependency of slavery. Thus, the discourse on vagrancy functioned as a powerful technique for rewriting structural inequalities as cultural deficiencies, and it was these cultural deficiencies that needed to be overcome in order to be free. Marriage, through the ways it articulated labor and sexual discipline, offered a means of expunging these vestiges of slavery and cultivating liberal subjectivity.

In this context, marriage more than any other institution had the potential to prevent vagrancy by constituting the boundaries of a new private sphere for freedpeople. However, this private sphere was not so much a space outside the realm of public jurisdiction as it was a space in which gendered liberal subjects might be cultivated. As discussed in the previous chapter, Nayan Shah has shown how the legitimation of forms of intimacy that are linked to settlement and permanence forms “the cornerstone of the social and political order.”⁵⁰ Shah shows how forms of intimacy grounded in the heteronormative family were seen as central to the development of the possessive individualism and independence that characterized the normative masculine liberal subject. Conversely, feminist historians have argued that women’s dependent position confined them to the sanctity of the home and defined their value as citizens in terms of dependency, motherhood, and the intergenerational transmission of national values.⁵¹ Significantly, the valuation of settlement as necessary to a home life that would produce properly gendered citizens developed alongside the naturalization of settler colonialism and the occupation of Native lands. In relation to these constructions, deviant sexuality and gender transgression were frequently associated with a lack of self-determination and social disorder. Bureau officials believed that marriage could correct this by forcing freedpeople to take responsibility for themselves and transforming former slaves into citizens. As Katherine Franke shows, marriage functioned as a “domesticating technology” that linked citizenship status to specific ways of embodying gender and sexuality.⁵² This process of domestication put forward settler colonial constructions of gender and sexuality as naturalized ideals. However, in practice, these ideals worked not as a facilitator of assimilation but rather as a measure against which freedpeople would consistently be deemed undeserving. In this way, settler domesticities worked not to make freedpeople into a settler population but rather to deploy

heteronormativity in ways that linked their subordination to the ongoing process of settler colonialism.

The duties of bureau officials went well beyond encouraging freedpeople to marry and legally sanctifying heteronormative kinship relations. Officials were also expected to cultivate the specific gendered behaviors that accompanied marriage in their efforts to make the domestic sphere an anchor for citizenship. The manual for officers of the Freedmen's Bureau in Mississippi directed officials as follows on the subject of marriage:

You will require husbands to live with and support their wives and children. For this purpose apply to the officers of the civil law when you think a case requires compulsion.

Visit the families of freedpeople, for the purpose of inquiring into their domestic relations; give them all needed information; teach them that marriage has all the sanctions of the Divine Law; repress, by all means in your power, "taking up together"; and, when you find it practicable, apply the vagrant law as a check to the course of lewd women.⁵³

Bureau officials' jurisdiction went well beyond requiring legal marriage, extending into the domestic sphere to dictate what behaviors and relationships within the home should look like. For freedmen, this meant settling down and providing for their dependents. For freedwomen, this meant sexual restraint and the subordinated position of a wife within the domestic sphere. The domestic economy of marriage was defined by labor discipline and sexual restraint and worked as an economic and cultural safeguard against vagrancy by establishing male heads of households as financially responsible for themselves and their dependents and containing sexuality within the heteronormative home. Notably, just as bureau officials worked to produce a domestic sphere modeled after a white ideal of the civilized family, for freedpeople the domestic sphere was significantly different in that it did not include a claim to privacy. Rather, the home became a site of particularly intense surveillance and regulation.

While the bureau's marriage-promotion practices opened up freedpeople's domestic and sexual relations to public scrutiny, they simultaneously privatized responsibility for freedpeople's material well-being, locating it in the nuclear family. The promotion of marriage was closely linked to anxieties that freedpeople might become public charges. An important rationale for both requiring men to adopt the role of head of household and confining women's sexuality and reproduction to the nuclear family was the idea that Black families should be self-sufficient and require no public

support. While the bureau did provide limited forms of short-term material assistance to freedpeople in the immediate aftermath of the war, this assistance quickly waned, and claims to land and other forms of wealth redistribution went unrealized. Instead, as discussed in chapter 4, the bureau concentrated its efforts on securing labor contracts, under the belief that free labor was the path to both self-sufficiency and true freedom.

Marriage and the legal responsibilities it conferred on male heads of households were key to rationalizing austerity toward freedpeople. The Freedmen's Inquiry Commission argued that the marriage ceremony, "while it legitimizes these relations, imposes upon the husband and father the legal obligation to support his family."⁵⁴ Rooted in an ideal of masculine citizenship that grounded male power and independence in the capacity to care for dependents, marriage for freedpeople became interwoven with a disproportionate emphasis on obligation.⁵⁵ Marriage secured legally recognizable households with male heads responsible for dependent wives and children. However, for freedmen, dependents became the basis on which to exact discipline rather than a foundation for political power. Marriage guarded against vagrancy in that it instilled in freedmen an obligation to stay in one place and engage in wage labor. Taking on this obligation was understood as a necessary part of the transition from being a slave to being a man. As Representative William Kelley of Pennsylvania argued, freedmen would become industrious citizens once "the freedman [can] feel that he is a man with a home to call his own, and a family around him, a wife to protect, children to nurture and rear, wages to be earned and received, and a right to invest his savings in the land of the country."⁵⁶ By providing an investment and incentive to hard work, marriage and family were central to constructions of masculine independence and freedom grounded in settlement, provision for dependents, and wage labor.

The way bureau officials approached the problem of desertion illustrates this. The desertion of women and children was a central concern of the bureau, and holding fathers legally and financially responsible for their wives and children was frequently presented as an important reason for encouraging legal marriage among freedpeople. Bureau officials expressed anxiety that the continued practice of informal marriage would allow freedmen to shirk their responsibilities as husbands and fathers. As one official noted, legal marriage needed to be required because "while many consider sacred the marriage vows taken while slaves, others take advantage of the manner in which they were married, desert their families and contract new obligations, procuring legal license."⁵⁷ Another official, noting numerous

complaints from wives about husbands who had deserted them or failed to provide adequate support for their children, pointed out that without the strict enforcement of the legal obligations of marriage, “a man’s wife here is in a worse condition than his baker or grocer, for they can enforce the payment of the debts due them but she for the debts contracted at the altar is without remedy.”⁵⁸ Marriage was used as a tool to secure financial obligations and prevent transiency by holding men responsible for the material needs of their dependents. The bureau not only encouraged marriage but also worked to enforce marriage contracts in much the same way as it worked to enforce labor contracts. Bureau agents encouraged husbands who left their wives to return and invoked vagrancy laws against men who abandoned their families and their jobs by moving to another location.⁵⁹ The Freedmen’s Inquiry Commission even recommended that freedmen who refused to support their children be forced to contribute a portion of their wages to their care, an early precedent to late twentieth-century child support enforcement practices.⁶⁰

Bureau officials expressed similar anxieties about the fathers of children born outside of marriage. In his report on the condition of freedpeople in Alexandria and Fairfax Counties in Virginia, Captain Lee wrote, “I desire to call your attention to the necessity of compelling the fathers of illegitimate children to support them. At least three fourths of the applications for assistance come from women with children, but who have no husbands. The fathers of these children can usually be reached—but in the absence of any means of compelling them to support their children the evil continues to exist.”⁶¹ Lee’s statement demonstrates bureau officers’ concerns that federal assistance was going to women and children who should be supported by freedmen and the officers’ belief that holding fathers accountable was a necessary response to the large number of freedwomen and children who found themselves impoverished after the war. These beliefs resonated with those of local governments as well, some of which adopted strict bastardy laws designed to force fathers to support their illegitimate children and to communicate that “the state would not pick up the tab.”⁶² Part of the broad effort to criminalize Black mobility and bind freedpeople to long-term labor contracts with white planters, these laws were harshly enforced, often with little or no evidence. As even one bureau official observed of the use of bastardy laws in North Carolina, “The apparent object of the Bastardy Law is to relieve the County from the support or the liability to support the illegitimate children. . . . There had been many complaints from Freedmen who have been arrested under this law as the putative fathers of

children nearly three years of age and who, in order to give them security were obliged to sell themselves or their services for periods from one to seven years.”⁶³

These examples illustrate how the legal transition from slavery to citizenship for freedmen coincided with the emergence of the figure of the irresponsible father—what today might be called the “deadbeat dad”—as a criminalized subject. The constitution of marriage both as the normative family form and as a legally enforceable contract worked to settle potentially transient freedmen into family obligations and laid the ground for the criminalization of those who did not appear to comply. In this way, emancipation signaled an important transition in how Black families were treated by the state. Before emancipation, the law constituted the boundary between private and public in such a way as to guarantee slaveholders absolute power over the lives and social relations of the enslaved by both denying enslaved people access to their own private sphere and reinforcing the power of white male heads of households. In this context, questions about fatherhood and the legitimacy of children were largely irrelevant to the state. All children born to an enslaved mother inherited her enslaved status and were thus property, natively alienated from their parents. After emancipation, the emphasis on marriage shifted the boundaries between private and public, constituting a domestic sphere for freedpeople that was simultaneously public and private. On the one hand, gendered behaviors within the domestic sphere were the subject of much public scrutiny. On the other hand, the nuclear family became a privatized locus of responsibility for freedpeople’s material needs.

Once freedpeople could potentially claim public assistance, it became very important to tie them to heteropatriarchal families that would supplant those claims. Hence, desertion, illegitimacy, single motherhood, and other nonnormative sexual practices and forms of kinship emerged as problems to be solved. While most explicitly discussed as problems of gender and sexual normativity, these questions were fundamentally about withholding resources from freedpeople. For freedmen, particular weight was placed on the obligations that marriage produced, particularly the obligation to engage in wage labor. While emancipation marked a legal transition from natal alienation to citizenship, citizenship came to connote privatized responsibilities rather than public entitlements. As Laura Edwards argues, citing the widespread practice of apprenticing Black children to whites, marriage did not “make African American men household heads with the power to protect the interests of their dependents. It simply obligated them

to support their dependents because it was inconvenient and unprofitable for white planters to do so.”⁶⁴

Notably, the construction of the U.S. welfare state during the Progressive Era and New Deal relied heavily on discourses that naturalized and idealized the heterosexual nuclear family in very similar ways to the discourses invoked by the Freedmen’s Bureau. However, in relation to primarily white citizens, gendered conceptions of citizenship served as a vehicle for demanding that the state intervene in the conditions of labor so as to better align them with cultural constructions of masculine independence and feminine dependence.⁶⁵ While this of course reproduced and even expanded heteropatriarchal domination, it also forged a relationship between white citizens and the heteropatriarchal family that was characterized by material support from the state and redistribution through the normalization of the family wage. In contrast, for freedpeople, gendered constructions of citizenship had little impact on labor conditions. Rather, enforcing gender norms was relegated primarily to the terrain of cultural reform and did not warrant government support for creating the conditions that might actually make heteronormative family life possible. This divergence between cultural constructions of gendered citizenship and the labor demands placed on freedpeople constituted an impossible predicament. Successfully becoming a citizen required men to be independent providers, but freedmen generally did not have access to wages on which they could support a family. Successfully becoming a citizen for women required them to perform idealized femininity, but freedwomen were simultaneously required to participate in forms of labor that rendered them outside of the protections of womanhood. In this way, gender became a vehicle for constituting freedpeople as perpetually failing as citizens and therefore perpetually in need of reform.

The bureau’s efforts to promote marriage also instilled and reinforced gender hierarchy within Black families. While it is difficult to generalize about freedpeople’s own conceptions of gender roles, numerous examples indicate that the newly emancipated’s vision of freedom included forms of gender equality. For example, Edwards shows how freedpeople and working-class whites employed different conceptions of gender that allowed women greater access to the public sphere.⁶⁶ Elsa Barkley Brown documents the ways that Black communities subverted the extension of suffrage exclusively to Black men by using men’s votes as community votes over which women exercised considerable power.⁶⁷ Similarly, in her analysis of Black political discourse in Arkansas during Reconstruction,

Hannah Rosen notes that even relatively privileged Black male political leaders shied away from invoking masculinist constructions of citizenship despite the vast lexicon that grounded political rights in manhood.⁶⁸ In this context, bureau efforts to secure the heteropatriarchal family as the primary way of organizing kin and other social relationships can be seen as an effort to produce and naturalize gender hierarchy within Black communities. Bureau officials required that freedmen exert power over freedwomen in order to fulfill the gendered obligations of citizenship, and they created political and economic structures that reinforced patriarchy within the home.

The bureau's emphasis on marriage sought to replace more collective understandings of freedom and social responsibility with reliance on the nuclear family. This construction of family was both economically a locus of privatization and culturally a site of intense public surveillance. A cornerstone in the definition of citizenship through a set of impossible gendered obligations, marriage worked to both delegitimize freedpeople's claims to even minimal material support from the state and criminalize those who did not or could not comply with heteropatriarchal norms. In practice, the gendered ideals of freedom espoused by bureau officials were both limiting and contradictory. Masculine independence functioned more as a constraint than as an expression of autonomy. Not only were the terms of independence predetermined for freedpeople, but the heavy emphasis on demonstrating one's independence through labor discipline and financial support for a family transformed independence into an obligation to be fulfilled rather than a basis for autonomy. Furthermore, one of the primary attributes of masculine independence was in fact continued dependence on white employers. In contrast, the discourse on feminine dependency curtailed freedwomen's access to political power. Freedwomen were expected to engage in wage labor and provide for children in many of the same ways as freedmen. However, the construct of female dependency functioned to devalue their labor and further limit their power in shaping the terms of their work. Both masculine and feminine citizenship were defined in contrast to the vagrant, who embodied the negative consequences of improper dependencies on charity or the state.⁶⁹ Bureau officials believed that enforcing gendered norms would make the formerly enslaved into men who conformed to liberal ideals of independence and women whose dependency was contained and controlled within the household, thereby cultivating the characteristics necessary for the proper exercise of freedom.

The contradictory ways in which gendered conceptions of citizenship were invoked in relation to freedpeople have significant implications for theorizations of racialized state power in the postemancipation moment. At first glance, marriage seems to mark a key moment in this transition from state power defined primarily by violence to state power that operates through the cultivation of particular forms of life. In promoting marriage, bureau officials sought to manage the health and character of a new population of citizens and in doing so linked individual performances of gendered citizenship to the well-being of the nation as a whole. However, freedpeople's relationship to norms of gendered citizenship was markedly different from that of white citizens. For white citizens, gendered citizenship, while still confining, became a vehicle for claims to privacy, individual rights, political power, and state resources. In contrast, for freedpeople, gendered citizenship became the basis for state surveillance, labor discipline, and austerity. In constituting the privatized family as the locus of responsibility for freedpeople's well-being, marriage in fact justified the neglect of freedpeople's material needs rather than underwriting an investment in the health of the population.

Drawing on Michel Foucault's understanding of the transition from sovereign power to biopower, it is tempting to see the Freedmen's Bureau's emphasis on gendered norms of citizenship as simply an extension of biopower and consequently a sign of the inclusion of freedpeople into the national population, even if at tremendous cost.⁷⁰ However, in this historical case, racism did not just delineate the proper exercise of sovereign power but also shaped the way the extension of these norms functioned.⁷¹ Gendered citizenship was itself a racial construction, and as bureau officers sought to enforce particular constructs of masculinity and femininity, they were really demanding that freedpeople mimic the white ideals of civilization that had justified slavery in the first place.⁷² This demand not only preserved the epistemological foundations of white supremacy but, in doing so, constituted freedpeople as perpetually behind at or unnatural to citizenship. To the extent that they could not shed their Blackness, freedpeople could never truly reach the gendered ideals of whiteness. Blackness continued to signify freedpeople's backwardness and formerly enslaved condition, and the most visible manifestations of this to bureau agents were deviant genders and sexualities. While bureau officials spoke extensively about the reform of freedpeople, the language of reform was less about the potential for integration and more about situating freedpeople's citizenship as contingent on education and surveillance. In this

sense, Blackness marked a racial boundary within constructions of gendered citizenship. On one side of this boundary, gendered citizenship was characterized by rights, entitlements, and belonging, and on the other side, it was characterized by obligations, austerity, and contingency. The norms of masculine independence and feminine domesticity used to articulate these constructions were the same, but their effects varied greatly for differently racialized populations.

Civil War Pensions and the Construction of the Deserving Subject

The effects of these racially stratified constructions of gendered citizenship can be clearly seen in the Civil War pension system. As the image this chapter opened with suggests, military service and marriage were linked together as quintessential markers of the transition into citizenship. Nowhere is this more evident than in the ways that marriage and heteronormative ideas of the family emerged as the foundation for the first broad-scale system of federal welfare provision, Civil War pensions. In July 1862 the federal government expanded military pensions to include extended support for the families of Union soldiers killed in the war. Originally designed as a recruitment tool, the law addressed a significant barrier to enlistment for many men in the North, the fear that their families would be left destitute.⁷³ The new law made the widows and dependent children of deceased soldiers eligible for pensions from the federal government. The rationale behind this extension of the pension system was that it would stave off the economic threat that the war posed to Union families by having the state step in as a provider for women and children in the event a soldier was not able to play that role. In doing this, the law grounded the first extensive system of social welfare provision at the federal scale in maintaining the heteronormative family and the male-breadwinner ideal.⁷⁴ By making membership in a family the basis for claims to state support, the pension system linked the performance of gendered roles within the family to citizenship in a way that resonated strongly with the practices of the Freedmen's Bureau.

Within the pension system, the heteronormative family worked as the basis for constructing an individualized idea of deservingness as the measure of one's entitlement to state assistance. For widows especially, deservingness had both an administrative and a moral connotation. In the administrative sense, assessing a widow's deservingness entailed assessing

whether a woman had actually been married to a soldier and whether she was in fact legally entitled to a pension. In the moral sense, a widow's deservingness was tied to how well she conformed to gendered ideals of citizenship as a wife and mother, the strongest measure of which was whether her sexuality was constrained within the boundaries of marriage. In practice, administrative and moral concerns overlapped a great deal. Administrative qualification was easily conflated with good character, while a lack of such qualification became read as evidence of poor morality.

The first administrative challenge many freedwomen faced in filing pension claims was establishing that their partner had in fact been a soldier in the war. Inconsistencies in the names used by freedmen in official records often complicated these claims. It was common practice for freedmen to take new surnames upon emancipation, and many had joined the military using one name and then changed that name after the war. In addition, men who had escaped slavery often enlisted under different names to minimize the possibility of recapture.⁷⁵ As in the case of marriage registration, names were key to establishing identity. When the names of freedpeople did not adhere to standardized conventions, pension officers often argued that there was insufficient proof that the claimant's husband had served in the war and therefore denied her pension.

The second administrative challenge freedwomen faced was verifying the legitimacy of their marriages. Because the practice of legally registering marriages was not yet widespread, many working-class white women also found this to be a challenge. However, pension officers' perceptions that Black women were more likely to make fraudulent claims meant that, for Black women, the absence of an official marriage record warranted a much more rigorous investigation.⁷⁶ In addition, the heteronormative kinship structure that pensions were grounded in and the standards of evidence required to claim pensions presented serious challenges for those who had previously been enslaved. Because kinship relationships under slavery were not legally recognized, it was difficult, if not impossible, for many freedwomen to provide the documentation required to establish their marriage to a soldier and legitimate their pension claim. An 1864 revision of the pension law attempted to address this problem by allowing freedwomen to collect pensions without a marriage certificate if they could prove that they had lived with a soldier as man and wife for at least two years before the soldier's enlistment through the testimony of credible witnesses. In lieu of a marriage certificate, freedwomen could provide affidavits from the person who had performed the marriage ceremony or from witnesses to

the ceremony that verified the legitimacy of the marriage. However, freedwomen still remained at a disadvantage because pension officers tended to view individual testimonies as less reliable and favored cases in which a claimant could provide official records as evidence.⁷⁷ When individual testimonies were the only proof available, pension officers preferred the testimonies of whites. Because the officers perceived the testimonies of other Black people to be unreliable, freedwomen were often put in the difficult position of having to secure testimonies from their former owners in order to make their claim.⁷⁸ To access pension benefits, freedwomen often had to endure processes that reiterated the racial hierarchies of slavery.

Despite these challenges, many freedwomen went to great lengths to prove the validity of their marriages. For example, Adeline Mozee filed for a pension in 1891 on behalf of herself and her five children as the widow of Washington Simms, a soldier to whom she had been married before emancipation and who had died in the war. Because Mozee was unable to provide a marriage certificate and the dates of birth of her children, who were born while she was enslaved, a special investigation into her claim was launched. As Mozee herself testified, she was unable to provide this evidence because “at the time of said marriage there was no record kept of marriage of colored persons” and “the person to whom I belonged kept no family records of said births.”⁷⁹ The investigators interviewed numerous people in an effort to verify Mozee’s claim, including her former owner, her former owner’s daughter-in-law, and the son of the reverend who had performed their marriage ceremony nearly forty years earlier, as the reverend himself had passed away. While all of these individuals testified that Mozee had been Simms’s wife and that Simms was the father of her children, the investigators still determined that there was insufficient evidence to substantiate Mozee’s and her children’s pension claim. Like Mozee, many freedwomen found the problem of demonstrating the legitimacy of their past relationships to be an insurmountable obstacle, even with supporting testimony.

In investigating claims, pension officers were empowered to define what constituted a legitimate marriage. Like the Freedmen’s Bureau, the Pension Bureau employed a singular standard of marriage to assess a heterogeneous field of social relationships and, in doing so, not only normalized marriage but also linked federal assistance to a very specific narrative of what marital relationships should look like. Not only was marriage grounded in the gendered roles of an independent male breadwinner and a dependent wife, but the Pension Bureau’s conception of marriage was linked to ideas

of settlement, permanence, and exclusivity that had not necessarily been relevant or practicable within enslaved communities. Many freedwomen, while enslaved, had created families with men who went on to serve in the Union military. However, these kin relationships did not always look like the Pension Bureau's ideal of a marriage and therefore were regarded with a great deal of suspicion.⁸⁰ Freedwomen often struggled to demonstrate that their relationships met the requirements prescribed by the Pension Bureau. Designed to prevent fraud, these evidentiary requirements sought to secure the pension system from women claiming pensions for soldiers to whom they were not actually married, multiple women claiming pensions for the same soldiers, or pension claims for illegitimate children and children whom the soldier had not fathered, thereby grounding ideas of deservingness in the heteronormative family. Importantly, the heavy emphasis on assessing individual deservingness joined the prevention of fraud and the protection of the heteronormative family as twin objectives of the Pension Bureau.

The Pension Bureau's narrow understanding of kinship posed serious challenges for freedwomen. For example, one challenge emerged in cases where multiple women could lay claim to being a deceased soldier's wife. For example, the sisters Mary Boaz and Lucretia Boaz both filed a pension claim as the widow of John Boaz, a Black soldier who was killed during the war. Mary testified that John had been her husband when they were both enslaved and that they had lived together as husband and wife on the same plantation until John enlisted. About fifteen years later, in 1890, Mary's sister, Lucretia, also filed a claim. Lucretia's attorney argued that Lucretia had in fact been John's first wife and that it was only after Lucretia had been sold away from the plantation on which they lived that John married her sister, Mary. While both women had valid claims, the Pension Bureau's understanding of marriage as defined by the colonial dictates of monogamy, permanence, and settlement meant that only one woman could legitimately be entitled to a pension as John's widow. As a result, the Pension Bureau decided that Lucretia was not truly John's widow since he had later had a relationship with her sister, even though Lucretia and John had been forcibly separated. While the Pension Bureau recognized Mary as John's widow, her pension claim was also denied on the grounds that after John's death she had begun living with another man. In the end, neither woman was able to claim a pension—one was denied on the grounds that she had never legally been John's wife, and the other on the grounds that she had not lived up to the gendered expectations of widowhood. In both cases, the transiency of

the Boaz sisters' relationships (as a result of force, death, and/or their own choices) made them undeserving of a pension in the eyes of the bureau.⁸¹

In a similar case, two women also filed for pensions as the widows of the soldier Joseph Valley. The first, Fannie Valley, had legally married Joseph Valley in 1870 and had lived with him until his death in 1897. Fannie and Joseph Valley's marriage had been legally registered, and, therefore, Fannie's claim seemed uncontested. However, investigators found that Fannie had been living with another man since her husband's death and therefore denied her pension.⁸² Eight years later, Harriet Valley also filed for a pension as the widow of Joseph Valley. Harriet testified:

I was married under the American flag. I never was married until I married Joe Valley. . . . I lived with the soldier, Joseph Valley, near 20 years as his wife and was the mother of four of his children, all dead but one, Rosey Valley. She lives with me. The soldier Joseph Valley left me and went to live with this claimant, Fannie Valley. They claimed they were married, but I do not know whether or not they were married. I never was divorced from Joseph Valley, he just left me and went in the same house with this Fannie.⁸³

According to Harriet, she had been deserted by her husband. While no official record existed of the marriage, investigators discovered that Harriet and Joseph Valley were most likely living together on December 1, 1869, when the Mississippi state constitution was adopted. In an effort to normalize freedpeople's relationships in law, Mississippi's constitution declared that "all persons who have not been married, but are now living together, cohabiting as husband and wife, shall be taken and held for all purposes in law as married, and their children, whether born before or after the ratification of this Constitution, shall be legitimate."⁸⁴ Under Mississippi law, Harriet and Joseph Valley would have been considered married. However, the Pension Bureau argued that the "Constitution of 1869 did not operate to 'sanctify the marital relation between a man and woman' simply because they happened on December 1, 1869, to be living together."⁸⁵ Rather, it was necessary to demonstrate an intent to be married, which they determined in this case to be absent because both parties had gone on to marry other people. Whereas the Freedmen's Bureau was quick to recognize cohabitation as marriage in cases of desertion, the Pension Bureau, when faced with a similar situation, decided that cohabitation did not constitute marriage for the purposes of pension allocation, even in a case when Mississippi state law would have recognized the individuals as married. While the Freedmen's Bureau strongly asserted that individual freedmen should be held

financially responsible for their deserted wives and children, in this case the Pension Bureau decided that a deserted freedwoman was not entitled to government assistance because the fact of desertion invalidated her marriage. In contrast to the Freedmen's Bureau's efforts to secure marriage so as to hold men financially responsible for their families, those same families were often seen as illegitimate when the government might be asked to step into this same position of financial accountability.

In contrast, the Pension Bureau treated desertion quite differently in the case of Sally Christy. Having been married to the former Union soldier Samuel Christy, Sally filed an application for a pension after his death. After investigating Sally, the Pension Bureau denied her application for a pension because she had married Samuel without having received a divorce from her previous husband. Sally's attorney explained that she had believed her first husband, James Puckett, to be dead and that "James Puckett was a wild, quarrelsome and drinking man and that over twenty-five years ago said Puckett quit work, while on a spree, left home and that she has never since seen him or heard of him."⁸⁶ Comparing these cases reveals a great deal about how the bureau determined which marriages counted as legitimate and which did not among freedpeople. For Harriet Valley, the second marriages of both Joseph Valley and herself invalidated their first marriage and thereby also invalidated Harriet's claim to a pension. In contrast, Sally Christy's first marriage actually invalidated her second marriage, thereby also invalidating her claim to a pension. In the first case, the lack of a divorce was seen as irrelevant when it might have supported Harriet Valley's case, whereas, in Sally Christy's case, the lack of a divorce was the primary grounds for denial. In illustrating the inconsistencies that marked Pension Bureau's decisions, these examples suggest that rather than making determinations based on a consistent set of principles, the Pension Bureau used the ambiguity around what constituted a legitimate marriage to deny freedwomen's claims.

Another means of denying or terminating pension claims was through the 1882 revision to the pension statute that declared that "the open and notorious adulterous cohabitation of a widow who is a pensioner shall operate to terminate her pension from the commencement of such cohabitation."⁸⁷ Because widows lost their pensions upon remarriage, many feared that the pension system encouraged women to have sexual relationships with men without marrying them. By allowing widows a certain measure of economic independence from marriage, pensions potentially fostered sexual immorality. The "adulterous cohabitation" provision addressed this

concern by linking pension receipt to the containment of women's sexuality within marriage. As in the cases of Mary Boaz and Fannie Valley, many Black women were denied pensions because they were found to be living with another man. For example, Anna Hayden's pension claim was denied on the grounds that she had lived with two men after the death of her husband. While Hayden maintained that she had simply served as a housekeeper for these two men, the Pension Bureau determined that she was guilty of "open and notorious adulterous cohabitation."⁸⁸ Similarly, Maria Bohannan testified that she lived with an elderly man in order to care for him in his old age and was not having a sexual relationship with him. However, the Pension Bureau again considered the fact that she was living with a man enough to deny her a pension.⁸⁹ These examples illustrate how far the Pension Bureau went to enforce the provision about cohabitation on freedwomen. The cohabitation law functioned much like an early version of the twentieth-century man-in-the-house rules that were used to deny women welfare assistance. Both linked the receipt of government assistance to the surveillance of women's intimate lives and were grounded in the belief that if a woman was having a sexual relationship with a man, he, not the government, should be providing for her financially.

As these examples illustrate, the concept of deservingness linked the performance of gendered norms of citizenship, particularly the containment of women's sexuality within marriage, to the allocation of federal benefits. Pension officers worked simultaneously as executors of the law and moral safeguards of national resources. The vigilant concern with morality reflected a belief that providing public assistance to undeserving women posed a threat to the nation because it potentially undermined the heteronormative family by providing women with the economic means to live outside of it. Therefore, in the transfer from economic dependence on a husband to dependence on the state, it was particularly important to ensure that the women receiving pensions would continue to properly act out normative femininity. This proved particularly challenging for Black claimants. Normative femininity was a white construction, and therefore it was far more difficult for Black women to convince pension officers of their good moral character. Black women's pension claims were haunted by the racialized perception that they lacked morality either owing to inherent racial characteristics or owing to their previous condition of enslavement. In addition, the Pension Bureau's singular definition of marriage often clashed with the more complex sexual and kinship relations that freedpeople had practiced both before and after slavery.⁹⁰ For these reasons, pension

officers tended to hold Black women to a higher standard of evidence and were particularly rigorous in investigating whether Black claimants had taken up with another man after their husband's death.⁹¹ These suspicions are also reflected in the files of Black applicants, who often went to extra lengths to demonstrate their respectability in their applications.⁹²

Despite these obstacles, some freedwomen did successfully collect the pensions to which they were entitled, and these pensions undoubtedly played an important role in ameliorating some of the financial hardships they faced. However, the level of administrative and moral scrutiny that Black women were forced to undergo is significant in that it reveals the extent to which race and gender structured how marriage and domesticity were constituted for freedpeople. Black women who applied for pensions were treated in much the same way as welfare recipients who are assumed to be cheating the system are treated today. They were subject to special investigations and expected to reveal intimate details of their lives to state officials in exchange for the possibility of public benefits. Sometimes these investigations turned up affairs or other moral transgressions that were used as reasons to deny women pensions. However, even when they did not, these processes were still invasive and demeaning in that they tied collecting one's entitlement to a sacrifice of privacy and the scrutiny of pension officers. While some white women were also subject to these humiliating practices, adherence to the norms of white femininity offered a veil of protection that was never available to Black women.

Although Black women were not excluded from collecting pensions per se, the administration of pensions was structured through a racialized logic. At the root of pension officers' actions was a belief that while providing assistance to some individuals was in the national interest, providing assistance to others posed a threat to the nation. The line between valuable and dangerous investments of state resources might shift and change given the specific context of the case, but the underlying premise of the pension system was that there was a clear and determinable distinction between the two. This premise fundamentally tied federal social welfare provision to reinvented forms of state racism that articulated racialized forms of austerity to individualized constructions of deservingness.

The construct of deservingness was an inherently individualizing and privatizing rubric for the allocation of resources. Not only was deservingness a measure of one's individual behavior devoid of consideration of the context surrounding it, but deservingness as a construct rested on the same conception of the liberal individual that was used to define freedpeople's

citizenship through the rubric of responsibility. The questions pension officers asked of freedwomen fixated on their individual behaviors, and this had the effect of mitigating freedwomen's entitlement to these benefits. In practice, freedwomen were presumed undeserving, and the burden of demonstrating their worth was placed on them. As opposed to a system of aid that might have emphasized redistribution or even reparation for the harms of slavery and war, the pension system reinforced the idea that rights were in fact contingent on the fulfillment of gendered responsibilities, particularly in the case of freedwomen because their capacity to fulfill those obligations was so suspect. Postemancipation, administrative decisions about legal and moral deservingness displaced more political questions about access to citizenship. In this way, the rubric of deservingness worked to embed social stratification within purportedly equalizing policies by shifting the scale of analysis from that of policy to that of individual behavior.

The policing of the boundary between who should receive support and who should be denied support also required expanded administrative record keeping that further grounded individual citizenship in a racialized conception of the heteronormative family. Stabilizing and standardizing names and family relationships was crucial to determining who was entitled to a pension. As Megan McClintock observes, the emergence of the pension system fueled efforts to do away with common-law marriage and promote greater state regulation of marriage.⁹³ Because the allocation of benefits depended on determining the veracity of a marriage, it was increasingly important to systematize and formalize marriage records so as to prevent fraud. The bureaucratic processes that developed for administering pensions necessitated the refinement of state record keeping of marital ties, excluding other kinship relations. In this way, the making of the heteropatriarchal family as the hegemonic structure of kinship was an important function of emergent state bureaucracies. Significantly, the expansion of social welfare provision rested on and reinforced the constitution of the domestic sphere as a primary means of organizing citizenship. Economically, while the pension system expanded federal responsibility for the economic well-being of some of its citizens, it did so in a way that shored up rather than contested the idea that, for freedpeople, economic self-sufficiency was the responsibility of families.

Despite these efforts to confine sexuality and reorganize kinship through the heteronormative family, many freedwomen remained skeptical of the heteropatriarchal family systems that were being pushed on

them and exercised their agency in different ways. The pension application of a Louisiana woman by the name of Anne Ross illustrates the critical and complex approaches to marriage that many freedwomen took. Anne Ross (also known as Anne Madison) applied for a widow's pension after the death of her husband, the former soldier Jackson Ross, in 1902. The special investigation launched into Anne's claim focused on evaluating the legitimacy of her marriage and her moral character. The voyeuristic nature of Anne's pension file is striking. The investigation fixates on intimate details of Anne and Jackson Ross's private lives and, in doing so, places a great deal of weight on other people's interpretations of their behavior and relationships as the key evidence in determining her eligibility for a pension. The testimonies collected in the file are highly mediated accounts of Anne and Jackson Ross's lives. They not only reflect the perceptions and personal interests of the persons being interviewed but also are shaped both by the interviewer's preconceptions and by the ways individuals might have tailored their stories in response to an interviewer's expectations. While the special investigator in the case sought to piece together an incontrovertible truth about Anne's deservingness as a pension recipient from these testimonies, they actually reveal complexities and contradictions that challenge the very notion of deservingness that was at the heart of the investigation.

In her deposition Anne Ross gives her own personal history. Born Anne Williams, she was enslaved by a man named Charlie Percy in Louisiana until she was about ten years old. After emancipation, she took a boat south on the Mississippi River with her parents to Donaldsonville, Louisiana, where they settled and she continued to reside. At the age of sixteen, she married her first husband, Nathan Madison. While they never divorced, Nathan eventually left her and had passed away about twelve years before Anne's testimony in her pension case. While Anne had not married again until her marriage to Jackson Ross, she admitted to having a brief affair with Pier Butler, a married man from a nearby town. She began her relationship with Jackson Ross about a year and a half after Nathan Madison had left her and lived with him for approximately seventeen years. Anne and Jackson Ross had two children, both of whom died at a young age. Despite the length of their relationship, Anne and Jackson did not legally marry until the day of Jackson's death. Anne explained that while they had lived as man and wife for many years, she legally married him only to fulfill his dying wish.⁹⁴ When asked why she did not marry Jackson sooner, she responded:

Well, he had some very mean ways about him, and I had never decided to marry him until the day he died. I wanted to be free to leave him at any time in the event that he made it too disagreeable for me, and I would not have married him at all if he had not been on his death bed and begged me to do so. Yes, I always treated the soldier as a husband and recognized him as such—and he regarded me as his wife—and we were regarded as man and wife by the people generally. The soldier used to run around with other women a good deal after he and I began living together, and we used to have some words at times because of these other women and I would frequently tell him, “now Jack, I am not married to you, and if you don’t stop running after these other women I will quit you.”⁹⁵

Anne Ross was not naive and had a clear understanding that her late husband had slept with many other women both before and while they were together. In response to the investigator’s questions about her husband’s sexual activities, she remarked, “I could not begin to tell you the number of women the soldier cohabited with after he began living with me—let alone those he lived with before he took up with me. It would take you six months to trace up all the women he ever lived with. He claimed to be 96 years old when he died—and he had many women during his time, or at least he had that reputation.”⁹⁶ However, despite Jackson Ross’s unfaithfulness, Anne consciously chose to remain living with him. At one point in the deposition, she explained this choice in terms of prioritizing her own sexual pleasure. She told the investigator quite directly, “I lived with the soldier because he could perform the sexual duties to suit me; if he had not been able to do that I would have quit him because he had bad habits that I did not like.”⁹⁷ In his report the investigator cited this statement in particular as evidence of Anne’s poor character and lack of “matrimonial intent.”⁹⁸

Anne Ross’s approach to marriage was distinctly different from that of government officials. In contrast to an idealized narrative about marriage, Anne’s understanding of marriage emerged from the material conditions that shaped her life. Like many freedpeople, both Anne and Jackson Ross had multiple relationships both inside and outside of marriage. While government agents regarded this as a sign of promiscuity and immorality, for freedpeople these kinds of relationships most likely resonated with the transiency that often characterized their own circumstances. Not only did people move around a great deal after emancipation, but illness, death, and economic hardship took a toll on relationships. Freedpeople moved between different relationships for a broad range of reasons that reflected

the intersections of these circumstances and individual desires. Pension officers often judged or blamed freedwomen for having had multiple relationships, even when their relationships ended because of events beyond their control, such as the death or desertion of a partner. At the same time, freedwomen's actions were also informed by their own desires and an understanding of marriage that recognized it both as one of many kinds of relationships and as not necessarily a permanent relationship. Perhaps this understanding made it easier for them to act on and realize their desires even when they did not align neatly with hegemonic constructions of heteronormative marriage. While government officials read these actions as a sign of moral failure, freedwomen themselves did not seem to hold that having been with multiple partners diminished their personal or moral value or that of their partners. For example, Anne Ross is quite straightforward in her description of Jackson Ross's infidelities. While critical of the impact this had on her, she also does not appear to view his sexual activities as a source of shame or as reflecting poorly on her own character or capacities as a potential wife. Rather, given her decision to continue living with Jackson, it appears that she might have thought of his sexual transgressions as simply an element of his character (albeit a challenging one) rather than as a definitive sign of his moral failures as a partner.

Anne Ross's testimony contains a strong critique of the institution of marriage, one that was likely held by many freedwomen. Anne never talks about marriage in terms of heteronormative gender roles or the creation of economically self-sufficient independent families. In fact, the question of receiving financial support from her husband does not even surface in her discussion of her relationship. Anne never says that financial support factored into her decision to stay with Jackson, and she never attempts to occupy the position of dependent wife in her testimony. Rather, she states very clearly that she remained in the relationship to fulfill her own sexual desires. In the eyes of pension officers, this invalidated her marriage because sexual pleasure was not conceived as the proper basis for matrimonial commitment. A relationship grounded in sexual pleasure ran contrary to the emphasis on work, austerity, and permanence that state officials sought to cultivate through marriage. Pleasure was what needed to be contained through marriage, so it is not surprising that Anne and Jackson Ross's relationship would have been unintelligible as a marriage to state officials.

Anne Ross's testimony highlights the ways in which the ideas of settlement associated with the institution of marriage worked to her disadvantage.

Anne understood not getting married as a way to retain her power and agency in the relationship. As she says in her deposition, her primary reason for not marrying Jackson Ross earlier was that she wanted to be able to leave him if necessary. Her testimony implicitly acknowledges how marriage as an institution worked to undermine women and place them in a dependent position. However, Anne herself made choices that maximized her own independence. She recognized that the permanence of marriage was not in her self-interest and that keeping her relationship informal actually allowed her greater freedom. For her, the legally binding contract of marriage obligated women to stay in a relationship while offering few benefits or protections. Significantly, when Anne did choose to marry, it was at a moment in which it was evident that the marriage would end quickly and therefore would not compromise her independence.

From her testimony, it appears that Anne Ross chose pleasure and transiency over settlement and domesticity, recognizing that for women like her, marriage held few benefits and many sacrifices. However, even though she clearly did not meet the Pension Bureau's definition of a deserving widow, Anne still asserted her right to compensation. As Michelle Krowl notes, filing for a pension was an important way that Black women asserted their newfound claims to citizenship.⁹⁹ Anne endured a complicated application process and a long and degrading special investigation of her claim even though she clearly did not aspire to the standards of heteronormativity that the pension system was based on. Her sense that she should be entitled to a pension regardless of how well she conformed to the Pension Bureau's standards of deservingness reflects a vastly different understanding of what citizenship ought to have meant in the lives of freedwomen and foreshadows the claims welfare rights activists would make in the latter half of the twentieth century.

Pension officers went to great lengths to discredit Anne Ross's claim. In addition to arguing that her marriage was illegitimate because of her lack of matrimonial intent, disputes around key facts in the case, such as whether the name she used was Anne Ross or Anne Madison and the number of years she lived with Jackson Ross, were interpreted as evidence that Anne was a liar. The investigation also focused on discrediting Anne's moral character by highlighting her associations with sex workers. The special investigator's report stated that since Jackson's death, Anne had been keeping a house of prostitution and that even before the death of the soldier, she had run an assignation house under the guise of a restaurant.¹⁰⁰ In her deposition Anne explained that while she had sublet a room in her house to a

prostitute who did do business in the house, she herself had never engaged in prostitution. She declared that she made her living by washing, ironing, and subletting the room in her house. While her tenant corroborated Anne's story, her neighbor, Annie Russell, portrayed the situation very differently. Russell told the investigator:

I have been knowing the above named claimant since last February and ever since that time she has kept a house of prostitution here in this district. During all of said time she has kept a house right next to mine and has had as high as five women at one time whose business it was to entertain men for money by cohabiting with them. . . . I have seen the claimant talking and laughing with the girls and men in her house here and have seen the "drinks" carried into her house and have heard carousing and great noise there, but I don't know whether claimant was doing part of the carousing or not.¹⁰¹

The evidence collected in Anne Ross's pension file is open to many different interpretations. It is clear that constructing an association with prostitution was a key way of discrediting Anne and establishing that she was not deserving of state support. However, it is impossible to know with any certainty whether Anne engaged in sex work herself and what her relationship with the women she lived with was actually like. Pension officials constructed a story about Anne in which she was a conniving, deceitful, and immoral woman who had married a dying soldier solely to claim his pension. Another interpretation of the evidence might emphasize how the harsh financial circumstances that freedwomen faced and the lack of other viable economic options might have led Anne to engage in sex work. This version of Anne's story might conclude that the pension process actually contributed to the problem; had Anne received her pension, she might not have needed sex work, either directly or indirectly, as a source of income. In this way, policies that assumed that freedwomen were immoral produced the economic circumstances in which freedwomen were compelled to make choices that were deemed immoral. A third interpretation might foreground Anne's agency and the way in which her words and actions actively defied dominant norms around race and gender. This story might highlight the elements of a feminist consciousness that informed her choice to prioritize her own independence and claim ownership over her body and her sexuality.

All of these narratives offer explanations for Anne Ross's actions—some more plausible than others. They also make visible the ways in which, despite

the range of interpretations available, the archive is structured to elicit a story that centers on Anne's motivations in order to evaluate her deservingness as an individual citizen subject. The very nature of the information collected by pension officers constituted Anne's relationship to the state in terms of this singular question. Devoid of a larger context of the aftermath of slavery, Anne's presence in the national archive is defined by the question of her deservingness as an individual subject. The prominence of this question displaces the consideration of her in any other terms. For example, how did she understand herself and her actions? What did she and other freedwomen want for their freedom? What role did pleasure play in these desires, and what circumstances would have made it possible for those visions of freedom to be actualized?

Within the narratives that the archive enables, it is striking that any sign of Black female pleasure must be either rationalized as evidence of undeservingness or recuperated as an expression of necessity or resistance. This tendency to explain pleasure in terms of something else speaks to its irreconcilability with racialized and gendered constructions of citizenship grounded in the liberal individual and the heteronormative family. For example, what if the scene that Annie Russell describes is simply a scene of pleasure or what Tera Hunter might call the enjoyment of one's freedom?¹⁰² It appears that pleasure is the very thing that must be contained in the transition from slavery to citizenship, and it is the specter of pleasure that both undermines Anne Ross's claim and in the bigger picture motivates pension officers' scrutiny and regulation of widows' lives. Deservingness ultimately required a denial of the possibility of pleasure, thereby tying economic assistance to sexual austerity. Anne's refusal to subscribe to this vision of citizenship marks her as a queer figure within the archive. Because she lays claim to her right to pleasure and her entitlement as a citizen at the same time, her narrative points to an alternative vision of belonging, one that the bureaucratization of social welfare provision and expanded systems of surveillance sought to erase.

Conclusion

Marriage and the gendered ideas of citizenship it secured played a central role in the transition from slavery to racially stratified citizenship. While enslaved people had a broad range of kinship and sexual relationships, the denial of marriage rights in particular worked to constitute marriage as

a primary sign of freedom. However, just as it held the promise of undoing the social death of slavery, participation in marriage simultaneously erased other possible ways of organizing kinship and reinforced racialized constructions of civilization that upheld binary gender as a key marker of racial progress. Marriage articulated family and nation to contractual ideas of freedom, thereby replacing the natal alienation of slavery with a conception of the liberal individual that was embedded in the alienating conditions of wage labor. In the aftermath of the Civil War, a primary charge of the Freedmen's Bureau was the "domestication" of freedpeople through the cultivation, registration, and enforcement of marriage. Bureau officials educated freedpeople about the virtues of marriage, issued marriage certificates, and criminalized behavior that did not conform to the gendered norms established by marriage, thereby constituting heteronormativity as a prerequisite to Black citizenship.

The marriage-promotion practices of the Freedmen's Bureau represent an important moment in the production of gender as a foundational element of citizenship and as a rubric through which racial difference was given meaning. While the tendency is to think of formerly enslaved men and women getting married upon emancipation, it was frequently the act of marriage that legally constituted the formerly enslaved as men and women. As the image described at the opening of this chapter depicts, for those who had legally been property, the act of entering into marriage was simultaneously the moment at which they were first recognized as persons in state records. The performance of normative gender and sexuality was key to the establishment of this personhood, and the Freedmen's Bureau compelled these performances through practices of marriage promotion, which stabilized formerly enslaved people's identities as clearly differentiated men and women who as citizens became obligated to exist in heteronormative relationships with each other. Sexual practices and forms of kinship that deviated from these norms were understood as a lingering cultural effect of slavery, as a failure to fully shed one's former condition and take up the responsibilities of liberal personhood. In this way, gender and sexuality were increasingly invoked as a means of reproducing racial hierarchy. The transgressive genders and sexualities of freedpeople became a sign of the threat that Blackness posed to the nation, and in an effort to contain that threat, bureau officials cultivated an idea of freedom rooted in settlement, domesticity, and wage labor.

The marriage-promotion practices of the Freedmen's Bureau and the ways in which the heteronormative family grounded the Civil War pension system

offer important insights into the history of the U.S. welfare state. Feminist histories that locate the origins of welfare programs in the Progressive Era have correctly highlighted the role that gendered ideas of citizenship played in the production of a stratified system of benefits. However, in emphasizing the role that ideas of motherhood, domesticity, and feminine dependency, on the one hand and masculine independence and wage labor, on the other, played in the allocation of social benefits, they have been less attentive to the racialized contradictions that inhered within gendered constructions of citizenship. Situating Reconstruction as a key moment in the reconstruction of the heteropatriarchal family makes visible the central role that race played in defining gendered citizenship and the ways in which gender became a terrain on which the struggle to maintain racial inequality was waged. Marriage and the language of gendered citizenship that accompanied it developed a double meaning. On the one hand, it was the basis for both privacy and the exercise of rights in the public sphere. On the other hand, it could be used to privatize economic obligations in a way that tied people to wage labor, rationalized state austerity, and enabled surveillance within the home. While for whites the emphasis was clearly on the former, for freedpeople marriage was primarily seen as a vehicle for the latter. Even when racial equality was a formal principle of resource allocation, as in the case of Civil War pensions, these multiple meanings of marriage enabled racial stratification to continue. In this way, gendered citizenship became not only a vehicle for producing hierarchy between men and women but also a key language through which racial inequality could be secured within the welfare state.

Assessing individual deservingness emerged as a central function of nascent welfare bureaucracies such as the Freedmen's Bureau and the Pension Bureau. Deservingness as a construct was an effect of liberal constructions of personhood and reflected the contradictions that liberal ideas of freedom presented for freedpeople. Deservingness had both a legal and a moral connotation, and one had to fulfill the obligations of gendered citizenship to be considered deserving of state assistance. However, the ideals of gendered citizenship were defined in ways that were frequently unattainable for freedpeople. For freedwomen, the ideals of domesticity were incompatible with the economic mandate that they work outside the home. Even though this produced an impossible position for freedwomen, the rubric of deservingness focused exclusively on the individual, to the exclusion of the larger context that surrounded her. In this way, state austerity toward freedwomen was cast as the outcome of their own failure to become

normative women. In particular, the idea of deservingness reflected state investments in containing Black women's pleasure, particularly sexual pleasure. Sexual pleasure became a sign of the dangers that indiscriminate state assistance posed to the nation, of what investment in the wrong people might unleash.