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## Terror in the Heart of Freedom: Citizenship, Sexual Violence, and the Meaning of Race in the Postemancipation South

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# Introduction

“Have you been a slave?” This question was put to many of the African Americans who, in the early summer of 1866, testified before a congressional committee holding hearings in the Gayoso House hotel in downtown Memphis, Tennessee. These witnesses had come to testify about a murderous riot that occurred in Memphis a few weeks before and a little over a year after the end of the Civil War. Many offered a response similar to that of Mary Wardlaw, a thirty-seven-year-old woman who, along with her husband, Matthew, had been a victim of the riot. “I have been but am free now,” Wardlaw replied. She thereby acknowledged her past enslavement while in the same breath affirming her recent acquisition of freedom, despite the fact that her current status could not have been otherwise following the ratification of the Thirteenth Amendment abolishing slavery throughout the United States five months before.<sup>1</sup> Her husband, Matthew Wardlaw, responded in similar fashion. “Yes sir,” he said, “but I have been free for four years.” A neighbor to the Wardlaws, Ann Patrick Ayr, told the committee, “I was a slave to Mr. Patrick for seventeen years. I am now free.” And James E. Donahue answered, “Yes, sir; but [I] became free 31st July, 1863. It was said the proclamation of Mr. Lincoln freed us.” While some credited the late president Abraham Lincoln, others highlighted their own role in gaining their freedom. “I belonged to J. B. Griffin & Co., of this city, until two or three years ago,” Albert Harris testified, “when I got tired of living that way, and quit.” And Cynthia Townsend explained that she had been able to acquire funds with which to purchase her

freedom or, as she put it, to purchase her “self,” ironically only moments before the wartime Union Army occupation of Memphis in June 1862 began the process of general abolition in the city: “Yes; but I worked and bought myself. I finished paying for myself a few days before they took this place.”<sup>2</sup>

These unsolicited affirmations of a present status of freedom may have been the witnesses’ way of critiquing their interrogator’s gratuitous reminder of their pasts. This reminder singled them out among the pool of witnesses, the majority of whom were white, as former slaves. Through their replies, the witnesses were, it seems, refusing such a distinction and insisting that their prior condition as slaves had been definitively superseded by their current status as citizens.

In the years immediately following the end of the Civil War in the United States, those who had been enslaved in the U.S. South were taking part in the great emancipatory project of the nineteenth century, the abolition of slavery and the creation of liberal republics based on universal manhood suffrage and promising universal civil rights. Systems of slavery, which had grown to unprecedented proportions across much of the Americas in the eighteenth century, were steadily dismantled in the nineteenth, abolished in one part of the Americas after another between 1793, in Saint Domingue, and 1888, in Brazil.<sup>3</sup> These transformations took place in, and helped to define and radicalize, an era of ascendant liberalism, when following on the heels of a spate of revolutions throwing off colonial powers in the Americas and establishing republics in the Americas and Europe, discourses of universal liberty and equality were widely broadcast and mobilized. Thus those who gained their freedom in this period believed that to be free was not only not to be enslaved but also to be a citizen, that is, to be an equal member of a political community represented by a state that bestowed the same rights and obligations upon all its (adult male) members.<sup>4</sup> The African Americans who testified about the violence they suffered during the Memphis Riot were among many escaping slavery in this era who anticipated, and sought to realize, a freedom buttressed by state recognition as universal citizens.<sup>5</sup>

The man who posed the question “Have you been a slave?” was himself a participant in the liberal discourses of the era. Congressman Elihu Washburne, a Republican from Illinois, the chair of the congressional committee investigating the riot and a close associate of the recently assassinated president Abraham Lincoln, had throughout his political career opposed slavery and endorsed measures called for in the name of advancing the civil and political rights of all men.<sup>6</sup> What Washburne intended by his question is

unclear. He may simply have meant to distinguish those African Americans who had been free people before the Civil War from those who were enslaved. More likely, though, Washburne asked the question seeking to highlight for the record that it was former slaves who had been brutalized by white southerners in this riot, and thus to demonstrate that federal force continued to be necessary to assure that they receive even a modicum of the liberties appropriate to citizens. Indeed, Washburne was among Washington's strongest advocates of federal legislation intervening into civil and political matters—matters that until this time had been the purview of state governments—in order to establish and protect the rights of freedpeople (as former slaves were then called).<sup>7</sup> Whatever his conscious intention, by suggesting a distinction among citizens—those who had once been slaves and those who had always been free—Washburne's query seems to have communicated to those asked a continuing assertion of difference and a dangerous denial of universal status. These witnesses resisted the implication of second-class citizenship, and the idea that previous condition of servitude should have any relevance to one's rights or to one's testimony, by hinting that his question was irrelevant; they were, were they not, now free?

Affirming their new status as free and equal citizens may also have seemed important given that they were present at this hearing in order to claim one of that status's prerogatives, namely, the right to live free of violence. African American witnesses at this hearing spoke of being free in the context of testifying to terror. Specifically, they spoke of how the violence of the Memphis Riot and its consequences had made being free in this time and place a terrifying experience. Witnesses recalled their alarm at the enormous crowds of white men involved in a riot targeted at those newly emerged from slavery: "I never saw so many together," Cynthia Townsend explained; "they gathered from every direction."<sup>8</sup> They described hearing these men curse them and their neighbors and watching the men set fire to their houses, churches, and schools; shoot pistols at occupants as they fled the burning structures; and ignore others' pleas that the rioters cease shooting to allow their children to escape the flames. Witnesses also told of seeing neighbors as well as strangers shot at point-blank range in the streets with no seeming provocation and then watching them "kicking and struggling in death."<sup>9</sup> Along with describing such horrific scenes, witnesses recounted losing all of their possessions in the houses destroyed by fire. And they described how men broke into their homes and held guns to their heads while making demands, how the intruders injured family members, and how they stole their cash. Witnesses also

stressed how they had been cut off from family, as those working in the countryside dared not return until, as Townsend said, “all this fuss was over.”<sup>10</sup> Finally, witnesses reported that several women had been raped by rioters. Townsend told the committee that a group of rioters had “had connexion” with a freedwoman living near her, and to assure that the congressmen understood that what she was describing was an act of force, she added, “They drew their pistols before her and made her submit.”<sup>11</sup> Townsend found it difficult to speak about such things, telling the committee, “I do not believe that I could express what I saw.” She nonetheless felt it was her duty and so found the means to do so, adding, “I am telling you the truth and I know I have to give an account of it.”<sup>12</sup> Townsend and others seem to have believed that finding the words to narrate and record the violence of the riot and its resulting loss, dislocation, and fear, though difficult and painful to do, was a crucial step in establishing the kind of freedom they sought and in protecting the status as citizens they had just claimed.

In fact, the testimony of victims of the Memphis Riot did have powerful effect. Their words were used in Congress and the northern press to build support for federal measures enfranchising African American men in the South. And yet, the kind of violence freedpeople hoped to end through their testimony not only continued but expanded in subsequent months and years. Indeed, in the United States, the project of emancipation and the creation of a liberal republic based on the ideal of equal citizenship was shot through with racist terror. This terror ultimately brought forth the potential for exclusion inherent within a political rhetoric construing those escaping slavery as “former slaves” and thus allowing African Americans to be represented as less than, or as a lesser form of, citizens.<sup>13</sup> Thus the men and women gathered in the Gayoso House in 1866 testified about the very sort of violence that would soon exclude them from full membership in the post-Civil War nation. And Washburne’s illiberal and impertinent question, asked at the beginning of a brief era in the United States of an imperfect but nonetheless far more inclusive political community and nation, presaged a time a few decades later when those who had been slaves or whose ancestors had been slaves, and who were associated with a racial group with a past of slavery, would have their rights compromised, their testimony distrusted, and their powers and privileges as citizens denied.

*TERROR IN THE HEART OF FREEDOM* tells a story of the simultaneity of enormous hope and disillusioning terror, of extraordinary possibility and

#### [4] INTRODUCTION

overwhelming constraint, of radical openings and violent closures. It tells the story of the hope and anticipation of a meaningful freedom that brought Mary Wardlaw, Cynthia Townsend, and others to the Gayoso House to testify, and that brought former slaves from throughout the South to federal officials to speak out against violence, and of the terror of which they spoke. Both hope and terror characterized the lives of southern African Americans in the years following emancipation and the Civil War, the period of U.S. history known as Reconstruction (roughly 1861 to 1877),<sup>14</sup> when former slaves looked ahead to the opportunities and experiences made possible by their new status as free persons while many white southerners resisted those possibilities by targeting freedpeople with violence.<sup>15</sup>

At stake both in the violence of the period and in testimony about it after the fact were meanings for race, meanings that are crucial to understanding how a liberal republic that had abolished slavery and declared legal racial equality nonetheless ultimately excluded African Americans from full citizenship for nearly a century afterward.<sup>16</sup> Those living in the immediate post-emancipation years could not at first be certain that race would continue to carry the significance it had in antebellum society. The end of slavery, the massive social and economic disruption caused by war, the exacerbated class tensions among southern whites that resulted from that disruption, and the profound political changes ushered in by the legal delineation of national citizenship guaranteeing for the first time membership to all those born in the United States and suffrage to all men meant that race had come unfixed. No longer could racial meanings be anchored in the exclusivity of both slavery (black) and full citizenship (white, as well as male). Nor was it inevitable that distinctions based on European versus (any) African descent would continue to structure the postemancipation polity—its public life, family patterns, personal identity, and constructs of community and nation.<sup>17</sup>

This book illuminates contests over the unstable significance of race at this critical juncture in U.S. history by exploring in particular how such battles were routinely fought on the terrain of gender.<sup>18</sup> Both the hopeful visions of former slaves and the terror that ultimately dashed their hopes were frequently expressed through discourses and practices of manhood and womanhood. We will see this in incidents of sexual violence that African American women suffered at the hands of white men during episodes of political violence—rapes similar to the one described by Cynthia Townsend in her testimony about the Memphis Riot.<sup>19</sup> And we will see this in a flood of racist rhetoric circulated in these same years that cast African American women and

men as lacking what were considered to be honorable gender norms, sexualities, and family relationships. I argue that this gendered rhetoric of race was both reflected in and reproduced through the acts of cross-racial sexual violence that occurred during this period, and I show how sexual violence and racist rhetoric worked together to produce a climate of terror in which black men and women were forced to maneuver as they sought to claim their rights as citizens.

That maneuvering began immediately following emancipation, when former slaves in the southern states, both men and women, dramatically entered public life, public spaces, and official politics. The chapters that follow trace this movement into and through public and political spaces in the post-Civil War South and explore how, through this mobility, African Americans claimed membership in a national political community that had previously excluded them from the rights and identities accorded to “citizens.”<sup>20</sup> In so doing, they challenged the erstwhile meanings and significance of whiteness and blackness as social and political identities in southern society.<sup>21</sup>

Many white southerners fervently resisted the entry into formerly white domains by African Americans, and one of the first ways they did so was by describing the new black presence as socially, sexually, and politically dangerous. Such descriptions appeared in the news stories and editorials of the conservative southern press,<sup>22</sup> in the speeches of white southern politicians demanding constitutional prohibitions on interracial marriage, and in both vigilante and police discourses alleging widespread criminal conduct among former slaves. In these discursive spaces, black women were accused of lewd public behavior, openly promiscuous sexual relations, a supposedly incurable tendency toward prostitution, and, implicitly, a refusal to be subordinated to patriarchal control within families. Complementing these representations were reports about the vagrancy and criminality that supposedly characterized African American men and their alleged neglect of the obligation to support their wives and children through honest labor. Black men, in some moments depicted as unwilling to meet their domestic obligations, in others were portrayed as seeking romantic and domestic relations that violated customs segregating social life, that is, of seeking “social equality,” a pejorative term that at the time denoted racial integration in personal relationships as well as public space.<sup>23</sup> This imagery suggested that public power in the hands of black men threatened not only white political dominance but also the patriarchal, and thus private, power of white men.<sup>24</sup>

Such imagery did not originate in the period following emancipation. It

reflected long-standing racist discourses as well as an antebellum political culture that had conflated white men's right to exclusive political authority with their roles as putatively honorable patriarchs in contrast to others.<sup>25</sup> In previous decades, and even centuries, the articulation of dishonorable and dependent genders had rationalized the exclusion of people of color, as well as all women and many white men, from public power.<sup>26</sup> In a postemancipation context, and applied to freedwomen and freedmen, these recurrent representations took on new and particular meaning. The liberal ideology embraced by most abolitionists and those guiding emancipation policy in the United States privileged self-control and voluntary submission to contractual obligations of both labor and marriage as the essence of modern freedom and the basis of a virtuous citizenry necessary to sustain a virtuous republic.<sup>27</sup> Portrayals of freedpeople as incapable of such voluntary submission to the obligations as well as norms, customs, and legal codes of a liberal society—that is, as incapable of sustaining respectable marriages and of fulfilling their responsibility to be law-abiding, self-supporting wage laborers—powerfully connoted people incapable of, and unworthy of, freedom.<sup>28</sup> This discourse contained a critique not only of freedpeople but also of northern lawmakers and the federal government—on their own terms—for the illegitimate empowerment in public life of men and women devoid of private and thus public “virtue.”<sup>29</sup>

The ideological conflation of private and public power during the antebellum era had helped to unite white southerners across class lines, offering all white men regardless of wealth membership in a select group exclusively entitled to political voice.<sup>30</sup> Their supposed unique worthiness for public influence rested in their status as “freemen,” that is, men imagined to be independent because they supposedly answered to no master and instead were the masters of the numerous dependents among whom they lived and worked—their wives, their children, and for some, their slaves.<sup>31</sup> After emancipation, representations of African Americans as the opposite of independent and masterful men were invoked by white political leaders and other influential figures, such as the editors of the region's conservative newspapers, to call war-weary and disaffected white men back into alliance with the region's elites under a banner of “white supremacy” and in opposition to black political power.

The gendered imagery that recurred throughout this conservative political discourse also functioned as what historian Mary Renda might call a “cultural vehicle” for the perpetuation of violence, facilitating and excusing individual acts of white-on-black rape.<sup>32</sup> Indeed, such imagery can be found in the



utterances and gestures of assailants leading up to sexual attacks. The pages that follow explore rapes that occurred in the midst of political violence, namely, during the Memphis Riot in 1866 and night rides of vigilante gangs known as “regulators” and the Ku Klux Klan and other Klan-like groups between 1866 and 1871.<sup>33</sup> Victims and other witnesses recounted these attacks to federal officials, detailing what were often wrenching and prolonged scenes surrounding sexual assault. Through this testimony, we will see how the language assailants used and the roles they imposed during these attacks scripted events that represented as normative and unexceptional white men soliciting black women in their own homes for sex, that repudiated the possibility of black women in chaste and respectable marriage relations, that portrayed all black women as sexually available and subservient to all white men, that erased or denied the coercion and violence necessary on the part of assailants to enact sex in various forms, and that portrayed black men as uninterested in preventing their wives’ and daughters’ denigration. White-on-black rape in this context simultaneously embodied and dramatized a larger gendered discourse of race. White men forcing black women to engage in sex and creating circumstances under which black fathers and husbands could not prevent the violence against their family members enacted white fantasies of racial difference and inferiority. Black men and women were forced to perform gendered roles revealing a putative unsuitability for citizenship. This book thus highlights the discursive dimensions of violence—the power of violence to articulate (racist) meanings—as well as the material, even violent, effects of discourse—that is, how discursive technologies enable acts of (racist) violence.<sup>34</sup> Rape emerges not as the product of unrestrained sexual impulses or simply as the conscious pursuit of power but, rather, as a performance of social and political inequality whose very possibility is conditioned upon a broader discourse investing gendered identities and sexual practices with other, and in this case racist, meanings, and whose effect is not only physical pain and emotional suffering but also a rearticulation and reproduction of the very gendered discourse of race that made it possible.<sup>35</sup>

Throughout this book, I investigate not only the climate of terror that emerged from physical violence and racist rhetoric but also African Americans’ resistance to it. That resistance is evident in the lengths to which freedwomen and freedmen went to document to federal officials the sexual violence they and their communities suffered. Their efforts created a unique historical record of black women speaking about their experiences of rape in the records of congressional investigating committees and the Bureau of

Refugees, Freedmen, and Abandoned Lands.<sup>36</sup> Testimony found in these sources offers a window both onto the details of actual white-on-black rape attacks and onto how former slaves claimed citizenship by demanding protection from violence and affirming their rights and identities as individuals with the same bodily integrity and “honor” as others. Indeed, freedwomen seized the opportunity granted to them by federal forums not only to testify about postemancipation rape but also to document coerced sexual relationships with white men prior to the end of slavery. Their testimony reveals how new rights to refuse the demands of white men for sex, and thus to control their bodies and sexual relationships, were for African American women a central part of the meaning of freedom. Freedwomen’s testimony also showed their readiness to confront sexist as well as racist constructs of womanhood in dominant understandings of rape. Disregarding the fact that their sexual histories and their responses to sexual assault often did not fit within patriarchal definitions of who was a legitimate victim of rape (i.e., a woman whose “virtue” had been demonstrated by prior chaste behavior as well as a willingness to risk even death to prevent coerced sex), freedwomen called on federal authorities to recognize them as willful subjects capable of refusal or consent and as honorable women worthy of state protection from sexual abuse. Thus as they testified about rape and claimed the right to be protected by the state against sexual assault, they both demanded equality without regard to race and offered a progressive vision of a woman’s citizenship. This book, then, brings together histories of rape and histories of citizenship, seeking to tell the story of the rise and fall of Reconstruction—and of the possibility of a genuine, legal racial equality being established after the Civil War—by demonstrating how race and racism were resisted, reformulated, and ultimately reconsolidated through gendered discourses and violence.

## Rape, Race, and the Law

To understand the history of rape during Reconstruction, and specifically how profound it was for black women to protest in official state arenas rape that they had suffered at the hands of white men, it is necessary to consider the particular history of white men’s sexual exploitation of enslaved women that followed both white and black southerners into the postwar era. This history involved widespread coerced sex between white men and enslaved women and the exclusion of this form of coerced sex from legal understand-

ings of the term “rape.”<sup>37</sup> Antebellum southern state law depicted enslaved women as both incapable of consent—because, as slaves, they had no will or honor of their own—and simultaneously as always consenting to sex; in other words, the law represented enslaved women as lacking the will and honor to refuse consent.<sup>38</sup> This image was supported by allegations of black women’s lascivious character as well as by the refusal of the state to acknowledge marital relations, and thus domestic identities, of slaves.<sup>39</sup> In the 1859 Mississippi state supreme court decision in *George (a Slave) v. the State*, a conviction of an enslaved man for rape upon an enslaved child was overturned, the court accepting the argument of the defense that “our laws recognize no marital rights as between slaves; their sexual intercourse is left to be regulated by their owners. The regulations of law, as to the white race, on the subject of sexual intercourse, do not and cannot, for obvious reasons, apply to slaves; their intercourse is promiscuous, and the violation of a female slave by a male slave would be mere assault and battery.”<sup>40</sup> Thus, within this legal logic, state-sanctioned marriage was necessary to constitute the specifically sexual injury indicated by the term “rape,” as opposed to simple battery, rape being understood to be the violation of another man’s “marriage bed” (as it was termed by a defense attorney in another state supreme court case involving an enslaved couple and sexual violence).<sup>41</sup> By “recognizing no marital rights as between slaves,” then, the state effectively placed slaves outside the community of citizens who, in theory at least, shared equally in protection under the law. Thus white men’s ability to coerce black women under their control into sex and either to represent these relations as consensual or to simply sidestep the question of consent in both social and legal contexts served not only as a demonstration of white male mastery or only as a means of instilling terror in slave communities or even of reproducing an enslaved labor force. It also served to exclude enslaved women from legal personhood and to subject them to the public identity and position of will-less subject, of noncitizen to whom the protective powers of the state did not apply, and simultaneously to the position of a woman who was unchaste (by definition, since she could not be legally married) and thus undeserving of state protection against sexual abuse. These subject positions imposed through the operation of the law legitimated the violence all black women suffered and reinforced hierarchical racial distinctions.<sup>42</sup>

In this legal context, it was exceedingly difficult to represent in an official judicial or other government arena the sexual coercion that black women suffered under slavery. And it was exceedingly difficult for black women to

speak of this coercion outside their own communities and families.<sup>43</sup> Further hindering the representation of this violence was the requirement in nineteenth-century law that utmost physical resistance on the part of a woman was necessary to prove that an act of intercourse was rape. The rape that enslaved women suffered may have involved their utmost physical resistance. But perhaps more often it involved a kind of forced submission, or a negotiated or calculated submission under enormous constraints, in exchange for benefits or protection for self and loved ones. Historian Sharon Block, studying numerous cases of sexual abuse in early America, has described how a slaveowner rarely had to resort to pure physical force in order to have sexual intercourse with his slaves but, rather, was able “to use his position to create opportunities for sexual coercion, backing a woman into a corner where capitulation was her best option.”<sup>44</sup> Many enslaved women were forced into a calculated submission based on an assessment of relative harm, often leading to experiences of long-term sexual exploitation by the same white man that were difficult within dominant legal discourses to represent as “rape.”<sup>45</sup>

Freedom promised African American women options other than submission and also limited white men’s opportunities to back them into that corner. It offered other means of securing subsistence and security. And it offered access to the protective power of the federal state, however limited that power ultimately may have been. These new resources allowed black women to realize a construction of self and its embodied experience that had been denied to them under slavery. We will see that for black women one important aspect of being free and becoming persons recognized under the law as possessing rights—that is, of being citizens—was to assert their will and bodily integrity before white men.

## Reconstruction’s Politics of Citizenship and Suffrage

Freedwomen testifying in official state forums that they had been raped offer striking examples of how African American women who had once been slaves now acted and identified as citizens.<sup>46</sup> By doing so, they became participants in the broad revolution in American citizenship that defined the period of Reconstruction. As its name suggests, this was an era of rebuilding and redefinition. Specifically, this was an era in which African Americans and their sometimes reluctant white allies—primarily from the North but also some southerners—engineered profound transformations in the boundaries

of American citizenship and the contours of the American nation.<sup>47</sup> These transformations included the first federal legislation defining national citizenship (the law had been silent on this subject, even though such citizenship was presumed to exist), laws guaranteeing civil rights to all persons born in the United States (with the major exception of Native Americans) and, eventually, suffrage to all adult male citizens. This expansion of the right to vote represented what historian Eric Foner has termed “a massive experiment in interracial democracy,”<sup>48</sup> in which white and black communities shared for the first time a common relationship to the state along with the spaces and practices of public life. This formed a potential foundation for white and black Americans to develop a shared identity as members of the same nation, as a single “people,” in contrast to their profoundly different and unequal experiences prior to this time in relationship to the law.

Such shared nationhood was indeed inconceivable before Reconstruction, when citizenship distinguished not only the condition of “freemen” from that of slaves but also in many ways that of white from black people.<sup>49</sup> Citizenship as legal status had been clearly intertwined with matters of race since the early moments of U.S. history, as in 1790 when federal legislation permitted only “free white persons” to become naturalized citizens.<sup>50</sup> The citizenship of native-born free African Americans had also been explicitly limited and was increasingly so into the antebellum period. In the early decades of the nineteenth century, free African Americans in many northern states, and even in some slave states of the Upper South, had been recognized by state law as “citizens.”<sup>51</sup> And in these states, black men meeting the same property requirements imposed on white men for suffrage were eligible to vote.<sup>52</sup> However, the “democratizing” trend of the Jacksonian era that expanded and consolidated white male suffrage by lifting erstwhile property requirements for voting in the 1820s and 1830s was accompanied by growing restrictions on the franchise for black men, often imposed in the same constitutional or legislative act.<sup>53</sup> For instance, black men with property who had had the right to vote in Tennessee and North Carolina lost those rights in 1834 and 1835, respectively, in new state constitutions that simultaneously extended the franchise to all white men.<sup>54</sup> By midcentury, most southern state courts concurred in the necessity of actively excluding free black men and women from the status of citizen altogether.<sup>55</sup> And in 1857 the majority opinion of the U.S. Supreme Court in the case of *Dred Scott v. Sandford* stated explicitly that no African Americans were, or ever had been, citizens of the United States.<sup>56</sup> On the eve

of the Civil War, citizenship had become increasingly the domain, privilege, and identity of white men.

Yet, the decision in the *Dred Scott* case did not represent legal consensus or clarity. It inspired a strong dissent by Justice Benjamin R. Curtis and was opposed and criticized by the new Republican Party that emerged in the 1850s.<sup>57</sup> The divide over this ruling reflected, in fact, continued disagreement and confusion over the definition of U.S. citizenship. Such was suggested by Attorney General Edward Bates, serving under Republican president Abraham Lincoln, when in 1862 he rejected the legal basis of Justice Roger Taney's decision. Bates, who responded to a query from the secretary of the treasury as to "whether or not colored men can be citizens of the United States" by searching for definitions of citizenship in the nation's legal history, concluded that, in fact, nothing precluded men of color from citizenship. But he also found that what rights exactly accompanied their or anyone else's status as "citizen" was unclear. Citizenship, he wrote, was "now as little understood in its details and elements, and the question as open to argument and speculative criticism as it was at the beginning of the Government. Eighty years of practical enjoyment of citizenship, under the constitution, have not sufficed to teach us either the exact meaning of the word, or the constituent elements of the thing we prize so highly."<sup>58</sup>

White Republican politicians formulating Reconstruction policy in Washington attempted to specify those elements for the first time. Their initial effort, the Civil Rights Act of 1866, passed on April 9 of that year, recognized those born in the United States as "citizens" of the nation and granted to citizens the right to enter contracts, to sue and to testify, to inherit and in all other ways exchange property, and to enjoy "full and equal benefit of all laws and proceedings for the security of person and property." Though the wording of the statute appeared to make basic civil rights universal among those born within U.S. territory, it was in actuality far more limited. The act explicitly excluded Native Americans and others "subject to any foreign power." And although it clearly stipulated otherwise, lawmakers agreed in Congress that the act would not undermine existing restrictions on women's rights (for instance, to sign contracts).<sup>59</sup> Furthermore, this statute laid out the terms of a new American citizenship without including the right to vote. Both this act and the Fourteenth Amendment, proposed later that month and approved in its final form by Congress in June 1866, reflected a consensus at the center of the Republican Party that citizenship entailed certain civil protections but it

did not guarantee political rights. The division between civil and political rights that defined the latter as a privilege was expressed by Attorney General Bates in his opinion on citizenship from 1862. Bates wrote that “as to voting and holding office, as that privilege is not essential to citizenship, so the deprivation of it by law is not a deprivation of citizenship. No more so in the case of a negro than in the case of a white woman or child.”<sup>60</sup>

This position contradicted the expectations and demands of many black leaders of the period who sought in addition to basic civil rights the right of suffrage for at least all black men, what a gathering of prominent black men in Arkansas in 1865 termed a “*bona fide*” citizenship.<sup>61</sup> Many African American political figures argued for the need also to enfranchise women, while women’s right to suffrage remained a matter of lively debate among other African Americans in this period.<sup>62</sup> Freedwomen and freedmen themselves rarely envisaged suffrage as the right or possession of an individual man but, rather, as an opportunity for a community to express its political consensus, a consensus that was shaped by and reflected the voices of women as well as men.<sup>63</sup> However, the demands of black leaders and former slaves for political equality—either for suffrage rights for individual black men or for broad community representation through suffrage—as a necessary component of a universal citizenship and as the only means of protecting their newly won freedom were not yet embraced by white Republican leaders.<sup>64</sup> Suffrage was not, it appeared, to be guaranteed by citizenship.

However, several dramatic violent incidents in these immediate postemancipation years—one of which was the Memphis Riot—contributed to a new openness among white northern lawmakers to heeding the warnings of black leaders that without suffrage for black men there would be no protection of life and property for former slaves in the South. This riot and another murderous attack on African Americans in New Orleans three months later seemed to many northerners to be clear evidence of the unwillingness of former Confederates to accept the terms of their military defeat and the even limited forms of citizenship proposed by Republican leaders for former slaves. This pushed many of those leaders into supporting a broader vision of citizenship and its attendant rights and into backing what were then perceived as radical measures, including suffrage for former slaves.<sup>65</sup>

Coming on the heels of the widely publicized riots, refusal by ten former Confederate state legislatures to ratify the Fourteenth Amendment in 1866 and 1867 was the final straw that prompted an angry Republican majority in Congress to shift course and pass the Reconstruction Acts. These acts per-

mitted seceded states to regain their rights in the Union only after enfranchising African American men. The first act, passed March 2, 1867, imposed military control over former Confederate state governments and predicated their readmittance into the Union on new state constitutions granting the right to vote to all of “the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, . . . except such as may be disfranchised for participation in the rebellion or for felony at common law.” A supplement to the Reconstruction Act, passed on March 23, 1867, authorized military commanders to administer voter registration for the election of delegates to conventions to design these new state constitutions, thereby creating the first official opportunity for African American men, since the early antebellum years, to participate as voters in an election in the South.<sup>66</sup> Freed communities reacted quickly, mobilizing throughout the region both for initial referenda on whether or not to call constitutional conventions and elections of delegates to those conventions and for subsequent elections to ratify the new constitutions and to fill elective offices within the new state governments.

It was in the period of Reconstruction, then, that citizenship became the right of all persons born in the United States other than Native Americans and that suffrage was deemed an inherent feature of citizenship for all men. The Civil War and the radical opening that followed in its wake made these reforms possible. Yet in this promising revolutionary moment the seeds of potential failure were already present in the specifically gendered patterns of racism that developed during Reconstruction. These gendered forms of racism would be echoed over the next several decades and beyond and would play a key role in the creation and evolution of Jim Crow-era segregation and disfranchisement.<sup>67</sup> Indeed, historian Jane Dailey has argued that gendered logics would become “the cornerstone of racist politics in the New South.”<sup>68</sup> The highly gendered character of southern racist discourse and practice into the twentieth century was in many ways first consolidated during Reconstruction.

Yet the conservative forces that produced this form of racism did not succeed in their primary aim—the exclusion of African Americans from the rights of citizenship—during Reconstruction. Their triumph was kept at bay by the alliance between African Americans and northern white political leaders that had made the period’s rapid and dramatic changes possible. This biracial and cross-regional coalition would, though, prove fragile and would begin to unravel already by the mid-1870s.<sup>69</sup> Without strong federal backing for the full inclusion of African Americans in the postemancipation polity,



conservative political movements that variously participated in and condoned racist rhetoric and terror were eventually able to triumph, drawing most southern white male voters together in opposition to black citizenship and in support of “white supremacy.” The legal scaffolding for a biracial democracy would remain in place, but it could no longer be sustained in practice. After Reconstruction’s ephemeral moment of incorporation, southern whites would use violence, intimidation, and manipulation of new property and literacy requirements for voting to exclude once again African Americans from the “*bona fide*” citizenship they sought after emancipation.<sup>70</sup> Despite continuing political mobilization and struggle on the part of southern African Americans over the next several generations, the promise of universal suffrage and legal equality without regard to race would lay dormant for another hundred years.

THIS BOOK MOVES through increasingly broad geographic frames in order to explore the critical role of gender and sexuality in the tragedy of Reconstruction. Part I (Chapters 1 and 2) examines the city of Memphis. A key Union Army base during and after the war, Memphis was also the site of a major “race riot” in the immediate postwar years. This riot, moreover, was instrumental to congressional approval of the Reconstruction Acts making male suffrage without regard to race a requirement for Confederate states’ readmission to the Union. The extension of voting rights had to be implemented through the writing of new state constitutions, a process that is at the heart of Part II (Chapters 3 and 4). This section of the book takes the story across the Mississippi River to Arkansas to explore that state’s heated debates both before and during its constitutional convention over extending the franchise to African American men and over issues rhetorically linked to the extension of suffrage, such as interracial marriage and “social equality.” These debates led ultimately to acceptance of a new constitution that established universal male suffrage, as did similar contests in nine other former Confederate states. But as African Americans gained political power in the South, many white southerners responded with violence. Part III (Chapters 5 and 6) analyzes this white-on-black terror in the South at large. Thus, as the book moves forward in time it also broadens in scope—from city to state to region—as histories of smaller areas were folded into larger ones after the events and dynamics in the former helped trigger those in the latter. In this progression, the book combines narrative detail at the local level with a broader picture of the particular ways sex and gender were mobilized—both in discourse

and in action—in battles over the meaning of race and citizenship during Reconstruction.

The shifting sites of the book's narrative—the city of Memphis, the state of Arkansas, and then various states and counties across the South—were selected because they lend themselves particularly well to research of the book's central themes and questions. The story commences in Memphis both because of the historical importance of the Memphis Riot and because of the wealth of sources that riot produced, above all testimony recorded by the congressional committee investigating it. This testimony sheds much light on the bloody local conflicts that followed emancipation, including on the forms of sexual assault within those conflicts. The narrative then moves to the state of Arkansas both because there the battles in and around the constitutional convention that ultimately enfranchised black men were particularly dramatic and because they left a rich historical record. These struggles, and specifically arguments over whether black male suffrage would lead to what some white delegates posited as undesirable “social equality” that demanded new prohibitions on interracial marriage, are evident in the editorials of the state's conservative press, but above all in the exceptionally detailed transcription of the 1868 constitutional convention. Few other state conventions kept, as Arkansas did, a verbatim record of their debates.<sup>71</sup>

Part III ranges across the southern region as a whole in order to gather material sufficient and broad enough to allow us to discern patterns in the triggers and contours of vigilante violence involving sexual assault. By examining these patterns, I hope to reveal larger forces at work than simply the aberrant actions of “a few bad men” in each locale. So here, again, the narrative travels to where ample sources could be found. Although the era of Reconstruction was extraordinary for the degree to which black women secured the means to overcome long-standing obstacles to their publicly denouncing rape by white men, such testimony still remained limited, inhibited no doubt by the difficulty of speaking about rape in public forums of often unsympathetic white officials. However, in contexts where federal bodies interviewed hundreds of witnesses—as did the joint congressional committee charged with investigating “the Condition of Affairs of the Late Insurrectionary States”—a surprising and relatively ample number of African American women were willing to come forward to denounce acts of rape by white men. Some of the material documenting sexual violence in Part III comes from the Freedmen's Bureau records in Tennessee. Most, though, derives from the

testimony taken by this joint congressional investigation, which concentrated on the Carolinas, Georgia, Alabama, Mississippi, and Florida (it held no hearings in Tennessee and Arkansas). Impelled by the need for a substantial body of evidence, then, I have followed the sources across state lines and to increasingly wider domains.

As the book moves geographically, it also takes us through diverse spaces in the immediate, still tense and violent, postwar and postemancipation South—spaces urban and rural, public and private, official and criminal, white and black, revolutionary and reactionary. We pass through city neighborhoods, streets, and shanties; small farms and large plantations; freedpeople’s cabins; and state convention halls. We witness informal political gatherings and a constitutional convention and the violence of a “race riot” and night rides of the Ku Klux Klan. As we move across each of these spaces, we will hear a cacophony of opposing voices drawing on sex and gender to debate—or to impose by force—the deeply contested meaning of race in a postemancipation world.

White southern women appear only infrequently in this book. The sources I have pursued to illuminate the histories I am telling rarely contain information about their ideas and actions. Certainly, the social and economic upheaval caused by the Civil War and emancipation disrupted relations between white women and men as well as between blacks and whites. For instance, white women often took on novel roles and responsibilities with the wartime death or disability of white men and new economic hardships. But, as far as we know from the existing literature, for the most part these disruptions did not lead to a divide between white women and men on matters of race.<sup>72</sup> It appears likely that white southern women generally joined with the men of their families, and the overall politics of their class, in either opposing or, in rarer instances, supporting the exercise of citizenship and suffrage by African Americans.<sup>73</sup> Where I have found evidence of white women as agents in the frequent everyday and often violent battles between white and black southerners in this period, I have included it. But I have found no evidence of white women’s participation in, for instance, the violence of night riders. I presume, nonetheless, that they often supported at least the goals of vigilante actions. (This is suggested perhaps by the fact that men disguised as “Ku Klux” often wore robes sewn by their wives or sisters or even wore their wives’ dresses as robes.)<sup>74</sup> I hope that scholars focused on white women’s history of this period will investigate these questions in the future. The specific roles of white

women in the racist terror of the Reconstruction period, though, within the confines of this study at least, remain a matter of speculation.

THIRTY YEARS AFTER the destruction of slavery in the wake of the American Civil War, rapidly expanding realms of legal racial segregation would be enshrined into law in *Plessy v. Ferguson*, African American men would be effectively disfranchised across the southern states, and former slaves and their descendants would confront violence, economic exploitation, and systematic exclusion from public space and dominant public spheres. All of this might appear as merely an uninterrupted line of racial domination across the divide of slavery and freedom, what cultural critic Saidiya Hartman has called “the tragic continuities in antebellum and postbellum conditions of blackness.”<sup>75</sup> Yet the articulation of such continuity elides what was for those who lived through emancipation a very real and dramatic rupture in the certainties of white supremacy and black subjection after the Civil War.<sup>76</sup> At this time, the future meaning of race in a society without slavery seemed far from obvious or inevitable to both those resisting and those reasserting racial hierarchy—hence, the terror as well as the hope and excitement of the period. As African Americans crafted new visions for American citizenship in the immediate postemancipation years, and as former slaves visibly entered public life, public spaces, and official politics, the rigid and legally enforced racial segregation and political disfranchisement that would ultimately be consolidated in southern society at the end of the nineteenth century might indeed have seemed unimaginable to many, even probably most, white and black southerners.<sup>77</sup> Through an exploration of both violence and rhetoric, and of the rhetorical power of violence and the violent power of rhetoric, *Terror in the Heart of Freedom* seeks to illuminate the uncertainty and volatility surrounding race during the immediate postemancipation years, the hopes and visions of citizenship developed by former slaves, the violent contests over these visions between former slaves and white southerners, and, most of all, the central role of gender and sexuality in the contestation and reconstitution of racial difference and inequality in the postemancipation United States.

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