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White, Female Adultery across the Color Line in North Carolina during Slavery and Reconstruction, c. 1800–1870

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Abstract

This article focuses on female adultery across the color line between white, married women and enslaved men or free men of color in the context of US slavery. It explores white women's sexual transgression of the societal norms and legislative structures governing the southern family and racial and gender norms of the era. The cases in North Carolina subvert our understanding of white women's place within southern marriage and in relation to slavery, to reveal a complex picture, of white women's sexual agency in their adultery with black men, set within the restraints of southern marriage, and patriarchal dominance.

Keywords

adultery, infidelity, women, divorce, slavery, interracial

Introduction

This article will examine white married women's adultery across the color line with enslaved men and free men of color in North Carolina, from 1800 to 1870. It will explore white women's sexual transgression of the societal norms and legislative structures governing the southern family and racial and gender norms of the era. The cases reveal a complicated picture, of white women's sexual agency in their adultery with black men, set within the restraints of southern marriage, and patriarchal dominance. By analyzing white men's divorce petitions submitted to the North Carolina courts that had been triggered by an alleged sexual infidelity across the color line, these cases will reveal the extraordinary crisis in white, southern marriage in nineteenth-century North Carolina. As the cases will reveal, white women's sexual misdeeds with black men, challenged the institution of marriage, and white women's roles in it. This included white women's sexual agency within the limited confines of white marriage. To date, no single study has focused exclusively on this topic, although several excellent studies have been written on divorce, race, and slavery more generally. As noted by Victoria Bynum, North Carolina provides an ideal window

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for exploring broader trends across the South, and the North Carolina Piedmont alone offers “a microcosm of the various permutations of race, class, and gender in the Old South.”¹

The main evidence used will be white married men’s divorce petitions to the North Carolina courts between 1800 and 1870. These cases are housed in the North Carolina State Archives in Raleigh, North Carolina and from the digitized *Slavery and the Law Collection*, which historian Loren Schweninger gathered “over a four year period from hundreds of courthouses and historical societies in 10 states and the District of Columbia.”² The featured cases, sit within a broader evaluation of 77 legal petitions submitted by white husbands to the county or superior courts across a 70-year period. These cases will include petitions from wealthy enslavers, middling whites, the yeoman class, and from members of poorer white society. This will enable a broader evaluation based on class, which will reveal the complexity of white women’s position in relation to marriage, sex, race, and slavery. I will argue that these divorce proceedings reveal the deep complexities in southern marital relations, by specifically examining women who demonstrated their marital discontent through freely engaging in adulterous relations with black men, enslaved and free. I will also consider the possibility that husbands sometimes made false allegations of illicit sex against their wives, as a form of patriarchal control. These allegations had the power to destroy women’s reputations, lives, and access to their children. The courts also had the power to intervene to protect white women from false allegations, which provided a protective buffer for some women falsely accused of illicit relations across the color line. False allegations of adultery therefore reflected disparities of power within families in general. These cases are inextricably tied to perceived gender roles in marriage, and inadvertently reveal a great deal about southern women’s roles in relation to marriage and slavery.

The issue of class is an important variable in relation to the divorce cases presented because it illustrates how gendered expectations in marriage varied considerably in line with poverty and wealth. In the patriarchal structure of the Old South, women of the wealthy, slave owning class were considered paragons of femininity, and with their hallowed status came a set of expectations of piety, purity, obedience, and domesticity. As women descended further down the proverbial pecking order of southern society, the rules and regulations policing their sexual behavior became less rigid. For poorer white women at the bottom of the hierarchical order, piety and purity were frequently replaced by allegations of slander, lewdness, and depravity.³ Due to poor white women’s difficult economic positions in southern society, they often found it challenging to live up to the Cult of True Womanhood that was attached to wealthier women.⁴ This is because the burgeoning nineteenth-century ideal that separated men and women into designated spheres of work and domesticity were impossible for them to live up to, or to maintain. The divorce petitions reflect this reality, as poorer white women by necessity, often labored outside of the home, or they worked alongside the enslaved or free blacks in their daily labors. It was therefore far more likely with this close physical contact between the races that potential interracial bonds could be formed, or that women’s behavior could be deemed by others, to be straying from the sexual standards of the day. This made poorer women vulnerable to accusations of unwomanly behavior, whether real or alleged.

For women of the middling or wealthier classes, alleged transgressions tended to be less frequently documented. In addition, if wealthier white women were caught in sexually compromising situations, they had the advantage of occupying the moral high ground. Middling or wealthy white women at times cried rape, to cover up a consensual encounter across the color line, which demonstrated a form of sexual domination over black men. For lower class white women, it was far more challenging to hide their sexual transgressions, or to fight allegations of sexual promiscuity due to the sexual double standard of their class and gender. Society already deemed these women as lacking in virtue, and as unworthy and deviant.⁵

The article’s geographical focus is on North Carolina. In 1939, Joseph Carlyle Sitterson noted that North Carolina “contains most of the geographic features found in the South”⁶ and “its civilization was in many respects a composite of the various elements in Southern life.”⁷ The state can be broadly

split into three (or four) key zones: the mountains in the west, the Central Piedmont, and the Coastal Plains to the west. A small pocket known as the Sandhills can be found sandwiched between the Piedmont and Coastal Plain.

In the colonial period, the eastern counties had the largest concentration of enslaved people, but “the West acquired continually more of them . . . due to extension of the area of cotton cultivation.”⁸ According to Bynum, “inhabitants from other colonies—notably Virginia, South Carolina, and Pennsylvania—had flowed into the region” in the 1750s.⁹ Yeoman farmers in particular flocked there in search of land, explaining why by the turn of the nineteenth century, the state was a diverse mix of small farmers and wealthy slave owners. According to historian John Spencer Bassett, in 1800 North Carolina was, “except [for] certain sections in the far East, in the grasp of the small farm system.”¹⁰ Sitterson remarked that the eastern section of antebellum North Carolina had a mix of “wealthy planter class” reflective of the Lower South, but that the Piedmont region displayed a variety of small self-sufficient farmers.¹¹

North Carolina was a rural state with a total population of 992,622. However, after the invention of the cotton gin, the state slowly transformed. North Carolina was long known as the Rip Van Winkle state, due to its seeming lagging behind of its more prosperous neighbors, South Carolina, and Virginia. The state was landlocked, the only access to the sea being the Cape Fear River.¹² This perhaps produced more poverty or at least less slaveholding than in Virginia and South Carolina. By 1860, western counties such as Mecklenberg, Anson, and Union metamorphosed into “great cotton counties and largely slaveholding.”¹³ Of the 34,658 families who owned slaves in North Carolina, the majority were smaller slave owners, only 4,065 families owned 20 or more [slaves] and qualified as planters. Most white families owned no slaves at all.¹⁴ Of the 331,059 slaves collectively owned, there was an average of 9.6 slaves to each owner.¹⁵ African Americans accounted for approximately one-third of the total population, and the majority were enslaved (331,059).¹⁶

Historian Guion Griffis Johnson described “the social structure of antebellum North Carolina as a six-tiered class hierarchy that resulted from the states regional and economic diversity.” The top tier included wealthy planters who owned twenty or more slaves, educated clergy, wealthy lawyers, and state officeholders. Tier two included small planters and leaders or professionals in the community. Johnson refers to tier three, as a “designated middle class” who were significant landowners, and who owed a handful of slaves. Tier four was reserved for the “non-slaveholding yeoman farmers who possessed fewer than two hundred acres of land; tier five poor whites and laborers, and tier six: the enslaved.”¹⁷ It is for these reasons that North Carolina provides an excellent case study to explore female adultery across the color line, because in one state, it reflects the diversity of the South. The cases highlighted in this article cover a broad range of white southern families, from non-slaveholders to families who owned a handful of enslaved people, to much more substantial white enslavers.

The article will be organized into three main sections. Firstly, it will discuss the shifting legal landscape regarding divorce in the South, and in North Carolina more specifically. Secondly, the article will examine gendered stereotypes, including sexual ideology, to explain why they are central to understanding the various outcomes of white men’s divorce petitions to the North Carolina courts. Class is an inextricably intertwined factor to consider when analyzing the divorce petitions, as it often aligned with perceptions of femininity that reflected white women’s social status and place within the southern hierarchy, and men’s reactions to it.¹⁸ A woman’s reputation was of paramount importance, before, during and after her marriage, which influenced the court’s decision in determining the final outcome of the case, in terms of whether to grant a divorce to the husband or not. Similarly, a husband’s plea could be aided or abetted by his own reputation, for good or for ill. For example, if a husband was “known” to be excessively cruel or to beat his wife beyond reasonable limits, or if he failed to adequately protect and provide for his wife or for their children, the court may

view him as “failing” in his “masculine” duty as a husband, and the divorce would not be granted. Husbands were expected to know their wife’s character prior to marriage, and therefore the courts did not take kindly to a husband’s divorce plea, if it could be proven that he knew of his wife’s misdemeanors when they married. Gender performativity was thus a critical element in determining the outcome of nineteenth-century divorce petitions.

The third section will turn to the court cases themselves, in ten-year increments, with each decade dedicated to two or three pertinent court cases that illustrate a key theme arranged in chronological order. This structure will show the breadth of female adultery across a 70-year period and demonstrate female infidelity across various social classes. By analyzing white men’s divorce petitions to the North Carolina courts, this article complicates our understanding of white women’s place within the southern family and in relation to race and slavery.

A key lens through which scholars have explored the intimate lives of southern men and women, is by examining legal changes and specifically divorce.¹⁹ Scholars such as Jane Turner Censer, Sally McMillen, Catherine Clinton, Cynthia Kierner and Victoria Bynum have explored race and sex in relation to divorce the South. Censer’s pathbreaking article analyzed the uneven expansion of divorce laws in the South and included North Carolina to demonstrate how divorce verdicts could be overturned by a state supreme court.²⁰ Victoria Bynum’s excellent book *Unruly Women* examines the lives of deviant white women in North Carolina, including women who “defied the rules of society by engaging in forbidden social and sexual behavior.”²¹ Bynum discusses how power and honor were inextricably intertwined in the South. By placing ordinary women, who often lived on the margins of southern society, centre stage in her study, she moves away from pigeonholing the slave owning class as “clockwork oppressors.”²² Power and honor fueled “the need to maintain racial distinctions within institutions of the family, law, politics, and the economy,” which is also pertinent to the maintenance of sexual boundaries in marriage.²³ Bynum’s disorderly women posed a threat to the stability of southern society, as they were more likely to transgress social boundaries and beliefs “that underpinned the slave order.”²⁴ This issue of class raised so eloquently in Bynum’s work is critical to understanding female adultery (whether real or alleged) in this article. This is because gender expectations varied along race, class, and gender lines, as well as by family and region.

Loren Schweninger’s work examined divorce, alimony, slavery, and the law in antebellum North Carolina from the perspective of race and slavery. His analysis of 191 divorce and/or separation cases from 48 counties in North Carolina revealed the scope of marital breakdown caused by husbands and wives’ misdemeanors in antebellum North Carolina.²⁵ He revealed a catalog of reasons that led men and women to submit divorce petitions to the General Assembly and later to the Superior Courts. This included cruelty, alcoholism, desertion, cruelty, “insanity, bigamy, financial misconduct, improvidence, slander, attempted murder having ‘Negro blood,’ and ‘personal indignity.’”²⁶ He compares men and women’s charges of adultery in North Carolina and concludes that most of the men who appealed to the court to divorce their wives did not own enslaved property and tended to be small farm owners. “They accused their wives of having affairs almost exclusively with black men.”²⁷ By contrast, white women in the state were less likely to cite their husbands’ adultery (with black women) but tended to refer to their alcoholism, cruelty, or desertion. White men with large property holdings (including enslaved people) were less likely to cite their wife’s adultery, especially if it crossed the color line. Schweninger’s work offers a tantalizing snapshot of adultery across the color line in North Carolina, as part of a much broader study on divorce. However, white married women’s adultery across the color line is not a key focus of his study, revealing a gap in the literature.

Schweninger’s monograph *Families in Crisis in the Old South* offers a comprehensive overview of marital dysfunction in the South in relation to race and slavery. His chapter on “Adultery and Race” compared male and female adultery. Schweninger argues that married men were more likely than women to bring charges of interracial adultery and sex across the color line, especially

with a slave devastated a man's honor.²⁸ According to Schweninger, 75 percent of white men sued their spouse for a divorce on the grounds of adultery, compared to 38 percent of wives, of whom 83 percent were nonslave owners.²⁹ He argues that lower class men were more likely to submit divorce petitions citing accusations of female adultery, than their richer counterparts, because they had far less to lose in terms of upholding familial reputations. Wealthier men, especially slaveholders, were far more reticent to air their intimate lives in the public forum of the court, as it damaged their honor and their families' reputations. He argues that propertied white men typically had far less success in the courtroom than poorer whites because of less compelling divorce petitions, compared to lower class men's. However, I would suggest that the reason judges denied divorces to wealthier men whose wives had been adulterous, had more to do with their overriding belief in the stability of marriage and its impact on southern society. In essence, however bad a marriage might be, judges were reluctant to grant wealthier men's divorce petitions, due to the status they held in southern society. Slave owning families were expected to set a social standard in a heavily stratified (or tiered) society, with slave owning women sitting at the top of that invisible hierarchy. Well-to-do married women allegedly held family, race, and slavery together. Therefore, if white men submitted a divorce claim triggered by female adultery, the court's ultimate decision was influenced not simply by the content of the case files, but on external factors. The North Carolina courts clearly understood the social and economic ramifications of divorce and the impact on the state.³⁰

David Silkenat's study of divorce in North Carolina explains that "divorces hinted at anarchy" and white women who sought divorces from their husbands before the Civil War were seen as "making a claim against white male authority."³¹ Yet, what happened when the claim was reversed, and white men sought divorces from their recalcitrant wives? Up until the Civil War at least, the courts often ruled in the wife's favor, by denying a husband's divorce, fearful that a woman on her own would be deprived of the guidance of a male protector. Silkenat's work argues that the Civil War was a watershed moment in how white and blacks "understood divorce" that led to a rise in divorce among whites, whilst conversely it became a contested topic for blacks in the post-war context.³²

An important study that explores sexual relations between white women and black men per se, is Martha Hodes' pathbreaking monograph *White Women, Black Men: Illicit Sex in the 19th Century South*.³³ Hodes' work underscores the mutability of the color line in the South, by uncovering a range of illicit sexual relations, predominantly between lower class white women and black men. Her work proved an excellent starting point for exploring the changing power dynamics in the South by tracing illicit relations that traversed the color line. Hodes' reveals the occurrence of interracial sexual relations from colonial times to the 1890s and beyond. She reveals a tacit acceptance (or at least a tacit *recognition*) that sexual liaisons co-existed during slavery. Interracial liaisons may not have been popular, but they were mostly ignored in the community, perhaps because southerners knew that any sexual relations that crossed the color line, could be policed within the institution of slavery. According to Hodes, this tolerance abruptly ended when a white woman gave birth to a child of mixed ancestry because of the progeny laws that dictated that a child followed the status of the mother. Women therefore had the ability to erode the racial distinctions that ordered southern society and maintained racial slavery.

Most recently, Thomas Foster's monograph explored the sexual violations of enslaved men by white men and women, with a dedicated chapter on slaveholding women's illicit sex with black men. Foster identifies five main areas in which enslaved men were exploited, one of which was "the challenging power dynamics of white female attention to black bodies."³⁴ Foster analyzes the "multilayered web of abuse" that included "enduring stereotypes of Black men's hypersexuality and white women's passivity" that he argues has led to a tacit acceptance that enslaved men were willing participants in sex with white women. He views the divorce and court records through "the lens of exploitation."³⁵ This point is an important one that can be further developed in reference to the divorce petitions. Foster talks about white women exerting female agency over enslaved men's bodies to gain unusual power in a patriarchal society. As Foster asserts, women who had sexual relations

with black men is of critical importance as it “stands on its head the traditional gendered view of racialized sexual assault.”³⁶ Other white women took the “initiative” in their sexual interactions, which had the potential to generate extremely grave repercussions, especially for free men of color who were not seen as worth protecting (from punishment, or even death) since they were not a valuable “asset” to the enslaver.

My article builds on these excellent studies but departs from them in significant ways. Firstly, it fills a historiographical gap in the literature by focusing solely on white married women’s adultery across the color line. Secondly, my analysis of white men’s divorce petitions in North Carolina, exposes the shifting gender dynamics within southern white marriage tied to race. These cases reveal much more than adulterous women engaging in illicit intercourse with black men. They reveal a deep malaise with the institution of marriage, and a willingness to push the boundaries of societal norms for women. These women challenged their husband’s sense of masculinity, by exerting their sexual preferences for black men in a public forum, and on occasion, we see white women’s sexual dominance over black men. In doing so, women showed a degree of sexual agency despite of the restrictions and punishments that they (or their lovers) might face. Other women hid their sexual transgressions with black men and cried rape when their secret was outed, which reveals another example of women exerting a degree of power, in this case of black men. Multiple cases are recorded of white married women giving birth to a biracial child, even when their husbands are away fighting in the American Civil War. This article therefore reveals the extraordinary crisis within white southern marriages, which enabled some white southern women to possess a limited degree of power in their illicit relations with black men.

The Mechanism of American Divorce

During the colonial era most of the American colonies did not grant an absolute divorce. Absolute divorce or *a Mensa vinculo* “was divorce with the right to remarry.” Petitions for separation and divorces were submitted to state legislatures, which were the progeny of their colonial ancestors. Although legislative divorce was relatively common in the North, this was not mirrored in the South, until the courts were granted divorce jurisdiction.³⁷ Southerners found alternative resolutions to marital disharmony and “most marital difficulties were settled privately with little or no interference from the state.”³⁸ If a couple wanted to separate, they “simply separated and dissolved their marriage by mutual consent,”³⁹ which meant desertion or mutual separation was common practice from 1797 to 1835.⁴⁰ Glenda Riley argues that divorce is only one indicator of marital dissatisfaction as “many disgruntled spouses ended their marriages by disappearing rather than by divorcing.”⁴¹ These “primitive solutions” soon became defunct, and following the Revolution the legislature was flooded by petitions for divorce.⁴² In 1808, the North Carolina Assembly passed a bill covering divorce and alimony in more detail.⁴³ This bill noted that a complete divorce was still to be obtained “for impotency or adultery” and the following provisions would apply for other than complete divorces:

If any husband shall maliciously abandon his family or turn his wife out of doors, or by cruel and barbarous treatment endanger her life or offer such indignities to her person as to render her condition intolerable or life burthensome, and therefore force her to withdraw from his house and family... a Superior Court may grant a divorce from bed and board and allow her such alimony as her husband’s circumstances will admit ... not to exceed one third of the annual profits or income of his estate, occupation or labors ... to continue until reconciliation or the husband petitions to return to her again and to use her as a good husband ought to do ... or, in case of her refusal to return and cohabit ... to discharge and annul the same accordingly to their discretion.⁴⁴

The only other option was a bed and board divorce (a separation) whereby an act was passed to “secure to the party or parties such estate or property he or she might acquire after the separation as if there had been no marriage.” This was designed to protect the more vulnerable party, usually the wife

due to her lack of economic standing.⁴⁵ It led to a gradual increase in the divorce rate, with “at least sixty-two absolute divorces . . . obtained from the legislative special act.”⁴⁶ This consumed a disproportionate amount of the General Assembly’s time and from 1830, the process changed and petitions for separation and divorces were submitted to the equity, or chancery courts. A court of equity, also known as an equity court or chancery court, is a court authorized to apply principles of equity rather than principles of law to cases brought before it.

A constitutional amendment to the Constitutional Convention of 1835 permanently ended legislative divorce in North Carolina by stipulating “The General Assembly shall have power to grant general laws regulating divorce and alimony but shall not have power to grant a divorce or secure alimony in any individual case.”⁴⁷ In these courts, plaintiffs, defendants, lawyers, and witnesses offered arguments and testimonials. Marriage was seen as a civil matter and was treated as a civil contract. Separation of bed and board was available via the chancery courts and decided by a judge. If separation was granted, neither spouse could remarry. “The legislature passed the first general divorce statute in 1814” and “the statute of 1814 authorized the Superior Courts of Law to grant either a divorce from bed and board or an absolute divorce, in their discretion, for natural impotency or adultery.”⁴⁸ Divorce remained difficult to obtain, due to the limited grounds for divorce and certain stipulations, such as the petitioner having to prove that the cause had been ongoing for a minimum of six months before they submitted their petition, which is reflected in the formulaic layout of the divorce petitions analyzed for this article.⁴⁹

Historically, the court system represented an avenue through which women sought to protect themselves from husbands who failed to protect and provide for them.⁵⁰ As the pro-slavery ideologue and social commentator George Fitzhugh enthused, “woman, like children, has but one right, and that is the right to protection. The right to protection involves the obligation to obey.”⁵¹ Men also approached the courts for a dissolution of marriage, and as validation that their wives had acted in an unladylike manner.⁵² They often focused on charges of their wife’s adultery and premarital sex, especially when it resulted in the birth of a biracial child that brought the illicit affair into the public realm.⁵³ These allegations were problematic for women, as they raised serious concerns regarding a woman’s reputation and her failure to perform as a “dutiful and obedient wife.”⁵⁴ Many more women were accused of adultery than men due the sexual double standard that existed in the Victorian era. Therefore, either women were engaging in extra marital sex more frequently than men, or their husbands were falsely accusing them of adultery as a tool of manipulation to divorce their wives, or perhaps both.⁵⁵ Rothman and Buckley in their studies of Virginia note that the state legislature granted divorce to 70 percent of men, about a fifth of which involved interracial adultery.⁵⁶ In this way, “Divorce litigation thus provided a public forum for a discussion of what was and was not appropriate family behavior; in the process the community clarified gender norms.”⁵⁷

In many respects the court cases reflect society’s stereotyping, beliefs, and judgments on men and women from different social classes. “Respectable” white society condemned the alleged sexual depravity of all poor whites but proved far more anxious over the sexual behavior of poor white women, who due to their lack of virtue and sexual depravity were more at risk of illicit sexual encounters.⁵⁸ Justice John Ryland referring to a case in Missouri in 1850 concluded that an allegation of adultery had the power to ruin a woman’s reputation, and with it, her whole life. “Convict the defendant of the charge, and the law deprives her of her property, of her children, of all that is dear to her, and turns her as an outcast upon the world, a miserable and degraded being.”⁵⁹ Allegations of adultery couched within white men’s divorce petitions therefore highlight the complicated nature of southern men’s divorce petitions.

The divorce petitions filed by lower-class white men, frequently cited their wife’s sexual infidelity across the color line as a chief reason for requesting a divorce from them. Many more women were reported to have had extramarital sexual liaisons or “illicit sex” (often with black men) resulting in the birth of a biracial child. Even in these dire circumstances, the courts did not necessarily rule in the

husbands' favor, even in the face of damning evidence, if they believed the husband had been at fault by marrying a woman of known ill repute, whose character they had judged badly.⁶⁰ Men often turned to the courts to divorce their wives in order to protect financial assets, to rehabilitate personal reputations, or to try and protect them from suffering further damage. Other men wanted to remove children from lewd mothers or wanted the opportunity to remarry. No doubt, some men avoided the courts at all costs, too embarrassed to admit in public that their wives had been adulterous, let alone that it had been with a black man.⁶¹

Gendered Expectations

As the following cases in this article will demonstrate, white southern men and women were expected to adhere closely to gendered expectations in marriage throughout the nineteenth century, which often splintered along lines of race and class. The diversity of North Carolina was reflected in its people as previously stated. Wealthier female enslavers in the eastern Piedmont, and later on in the west of the state, "differed from the typical plantation mistress" of other states, as there were far fewer "huge plantations."⁶² Despite this fact, a constant remained, that wives were generally ruled by the white patriarch: their husband.

The upholding of gender roles was therefore integral to gaining a divorce in the South. From birth, well to do parents socialized their children to understand how race and class privilege fused with gendered expectations in a "lifelong process of indoctrination."⁶³ Laura Edwards argues girls "forged their identity through family relationships, as daughters, nieces, mothers, wives, aunts and cousins" seeing themselves as sharing a collective identity.⁶⁴ When girls approached their teenage years it marked a transition point when "parents began emphasizing discipline" "to prepare them for the future roles as wives, mothers and mistresses of their own households."⁶⁵ Marriage was an essential part in cementing women's place in the southern hierarchy, as it "solidified social and economic networks," and provided "respectability, social status, and financial security."⁶⁶ When a woman married, she forfeited her own legal identity as a *femme sole*, and became a *femme covert*, or a woman covered by the legal identity of her husband. In other words, in the eyes of the law, she became legally dead. A woman exchanged her legal identity for social acceptability as a married woman, a process that was reinforced in advice literature, literary journals, sermons, and novels aimed at both men and women.⁶⁷ Barbara Welter described this nineteenth-century stereotype as "The Cult of True Womanhood" that included domesticity, piety, purity, and submissiveness.⁶⁸

The development of the Cult of True Womanhood closely tied to the idea that white women exhibited passionlessness, which formed a stark contrast to the lascivious stereotype attached to black women, who were perceived as wanton and sexually available.⁶⁹ Men were "required . . . to exert their will to control their natural lust" and to protect their fragile wives, who it was assumed exhibited an "innate passionlessness."⁷⁰ The Victorian sexual ideology of passionlessness referred to women's lack of sexual aggressiveness, low sexual drive, and the absence of carnal nature.⁷¹ Men who could not control their lust, therefore had the ready outlet of sex with black women, who they claimed were sexually open and thus did not require the same protection and provision as white women. White women who transgressed their designated sphere of "passionlessness" were perceived as unnatural, and a threat to the social order, and only those women who fell into sexual disrepute were accused of displaying "passion," which had extremely negative social connotations.⁷² As Keith Thomas argues, wives were viewed as an extension of men's "property" and if women engaged in extra marital sex, their property value "diminished."⁷³ Thomas concludes, "There was vast potential for sexual exploitation in a society in which women's sexual nature was considered primary and their social autonomy was slight."⁷⁴ Lee Ann Whites referred to how planter class women recognized "the power that the ownership of slaves gave their men to create a double standard of sexual behavior within the planter class itself," which is reflected in the featured divorce petitions.⁷⁵

The female prescriptions of womanhood—and passionlessness in particular, were a way to “police” women’s sexual activity inside and outside of marriage. Victorian attitudes toward female sexuality were summed up by Dr. William Acton’s *Functions and Disorders of the Reproductive Organs*. He claimed “the majority of women (happily for them) are not very much troubled with sexual feelings of any kind. What men are habitually, women are only exceptionally.” In other words, women were by nature not supposed to show sexual desire, as “sexual appetite was a male quality. If a woman showed it, she resembled a man.”⁷⁶ However, as the case studies in this article will demonstrate, women who were “troubled with sexual feelings” were far more common than Acton acknowledged. Havelock Ellis famously stated that “women’s sexual ‘anesthesia’ was a nineteenth-century creation.”⁷⁷ It developed from an inherent fear of female promiscuity that could damage middle class virtue and erode domestic security.⁷⁸ Barbara Bush declared “white women were tolerated by white men because they gave planter society a necessary respectability. Their superiority and sexual untouchability were emphasized to reinforce the cultural and racial distinctions necessary for the preservation of slavery.”⁷⁹ There was a clear class dimension attached to it; in the words of Victoria Bynum “Poverty defeminized white women much as race defeminized black women.”⁸⁰ According to Bertram Wyatt Brown, “most examples of feminine adultery—and response to it—involved the middle and lower orders of the white South” who “were fairly casual about marital arrangements in general and adultery in particular.”⁸¹

The sexology debate is integral to this article, as the idea that women were sexless or exhibited passionlessness is clearly challenged by the cases of sexual infidelity presented by these cases. Contrary to William Acton’s argument that women rarely exhibited sexual desire, the cases of sexual infidelity across the color line reveal that women clearly had sexual desires. Furthermore, the cases span a broad chronological timeframe from c.1800–1870, and include women from all social classes, at a time when the feminine tropes were at their height. The literature tells us that women were heavily controlled and policed by their husbands in marriage, and that “passionlessness was a product of social repression and dysfunction” that they were forced to comply with.⁸² However, as these case studies will evidence, women regularly thwarted these manacles, “to exhibit their sexual desire[s].”⁸³ There were multiple cases of white, married women who demonstrated their sexual desires in nineteenth-century North Carolina (and across the South) to which this article will now turn.

The Cases

The following divorce cases explore married women’s infidelity that crossed the color line, which resulted in their husbands submitting a divorce petition to the courts in North Carolina from c.1800–1870. These will be analyzed in chronological order by decade to demonstrate the scope and breadth of female adultery in North Carolina in the nineteenth century. Each section has a distinctive theme: illegitimacy, contested power in the household, sexual agency, class, female defiance, challenging masculinity and birthing a biracial child in wartime. These examples selected from 77 cases studied in North Carolina, illustrate the complexity of cases connected to female infidelity over a 70-year-period.

1800s: Illegitimacy

Thomas White, of Northampton County in North Carolina waited for two decades, following the infidelity of his wife Ann, before he finally submitted a divorce petition to the court. Having married in 1778, and after several years together as a married couple, including sharing two children together, Thomas became suspicious about his wife’s conduct. He was mortified when Ann “delivered a black child” five months later.⁸⁴ They quickly separated and Thomas removed their two children from his wife’s care, and permanently banished her from the house. In doing so, he exercised his patriarchal

control over her, in admonishment of her illicit behavior. However, despite his rash actions, he did not submit a divorce petition to the North Carolina Assembly for a full twenty years later. Thomas was likely propelled by his desire to marry Esther Bittle, a white woman who he had been living for 15 years in “great harmony, peace and quietness.” The couple had ten children together, four of whom were still living when he submitted his petition in 1800. Noteworthy, in his petition was his request to alter his four illegitimate children’s last names, to legitimize him as their father, and to relieve him of his “wretched situation.”⁸⁵

Despite the stringent divorce laws in North Carolina in 1800, and the slim chance of success, Thomas White continued to pursue divorce proceedings, likely to confer legitimacy on his children with Esther. According to Guion Griffis Johnson’s canonical study of North Carolina, there was a “stigma” attached to illegitimacy, as it posed a threat to the stability and order of Southern life, especially from white folk. Of the petitions to legitimate children, submitted to the North Carolina General Assembly between 1800 and 1827, Johnson notes “couples sometimes had one or more children prior to marriage” and that the majority who filed legitimacy claims “belonged to the upper classes, for they had property to bequeath.”⁸⁶ This in part explains Thomas White’s divorce petition to the court, as he had a vested interest in appealing to the court to legitimize his children with Esther Bittle. He wanted to legitimate the names of his four children: Parthena, Ascha, Joseph and Agatha.⁸⁷ Thomas probably calculated that although his divorce petition would be rejected (which it was) he might have more success in his legitimization claim. The Report of Committee and Propositions and Grievances stated that “the petitioner’s prayer as related to separation and divorce should be rejected, but that the legitimization of the name of the children should be put into the bill.”⁸⁸

In effect, the court’s decision, upheld the facade of marriage in southern society, despite Ann White’s adultery with a black man, and the birth of a biracial child. Forret notes “white women of all classes understood that giving birth to a non-white child invited the contempt of the community,” but as this case shows, it did not necessarily result in the wrath of the courts.⁸⁹ This does not mean that the court sanctioned female adultery, or condoned deviant behavior, but rather that it wanted to reinforce the importance of southern marriage to the community. Grossberg describes this as a transference of power, from the male household head to the patriarchal authority of the courts. In other words, the overarching power of the legal system intervened to keep Thomas White’s marriage intact, even though it was clearly rotten to the core. In this way, it continued to uphold the centrality of marriage, whilst at the same time blotting out the thorny issue of illegitimacy with Esther Bittle. The court’s action also ensured that Ann continued to be provided for, so she would not be a drain on the state, and the court’s actions managed to anchor an otherwise sinking ship, that the Whites’ marriage represented.

In 1800, the North Carolina court was evidently reluctant to endorse the “official” breakdown of southern, white marriage by refusing to permit a complete divorce, except in the rarest of cases. By 1808, a special act was passed covering “Separation and Alimony” that permitted a complete divorce in cases of impotency and adultery to be obtained before a Superior Court. Divorce in 1800 was therefore a rare exception, and desertion or mutual separation was a common remedy for unhappy couples from up until 1835, as a way of navigating this difficult legal terrain.⁹⁰

1810s: Contested Power in the Household

In the previous case, the issue of power was raised in relation to the intervening arm of the courts. Over a decade later, the divorce case of John Heath from Craven County in the Coastal Plain, illustrated the issue of contested power in the marital household. On October 3rd, 1814, John Heath appeared before Daniel Simmons, a Justice of Peace of Jones County and provided his sworn testimony to the court regarding the alleged infidelity of his wife Rachel, with Dublin, an enslaved man,

who belonged to John Bright. On several occasions, Rachel absconded from the family home, to spend a few nights, sometimes longer at her mother's house, conveniently located less than a mile from John Bright's plantation, where Dublin was enslaved.⁹¹ One day, she absconded, but never returned. John confessed to the court, she had been absent for over two years and "there is too much reasons to believe" she "keeps up an adulterous intercourse" with a "negro fellow, a slave," presumably Dublin.⁹²

John's testimony recalled how Rachel had been recalcitrant in failing to fulfill her feminine duties, which included refusing to cook for him, speaking to him with disrespect, and by voicing her preference for Dublin, an enslaved man, over John. A witness, Polly Carmack testified that Rachel showed a lack of care and respect toward her husband. Yet, it is difficult to ascertain how trustworthy her witness statement was, as a careful reading of John's earlier testimony reveals that on the day he returned from slaughtering hogs in the backyard, he found Polly and his wife in a "dispute," although he did not know the cause. This suggests that Polly might have had an ulterior motive for providing a supporting testimony for John. In Polly's deposition, she recounted how Dublin had visited the Heath's residence one night, and Mrs. Heath invited him into the house, pulled up a chair, and offered him some food. "Mrs. Heath got up out of her Seet and went to Mr. Heath and liad hir Child in his lap. She then told Dublin to take hir chair ... [and] ast him if he was hongrey." She fed Dublin some "vittuals" but then when her own husband asked for his "supper" she served him up "a Bason with some Colde Soope in it and pored Some in the Skillet"; the cold soup a visual reflection of her icy demeanor toward him. Rachel had also handed the child to her husband, and in doing so physically removed herself from the identifying role of "the mother" by laying the child in his lap. She had also failed in her womanly duty to provide a decent meal for her husband (she only provided him with cold soup), in a clear subversion of her husband's patriarchal authority.

On another occasion, Rachel allegedly told John if she was prevented from giving Dublin victuals when he visited "than she would never do another thing on that plantation nor take another grain of care there and that she would not do a thing to help the hogs."⁹³ She spoke of Dublin frequently, and she even warned him to "stop interrupting her" because if she could not do as she pleased with Dublin, it "would be the death of her."⁹⁴ Rachel's defiance of sexual propriety and readiness to voluntarily cross racial boundaries are reflected in her reprimand of John for interfering in her relationship with Dublin. John declared that Rachel was "without morality and religion," but failed to do much about it.

In his divorce testimony, John recalled being taken aback when Rachel remarked: "I will let you know I will do as I have a mind to with Dublin and you shan't open your mouth your god almighty god damn hell fire son of a bitch." Nevertheless, in his petition, John stressed that he held back from physically reprimanding her, despite having the authority as her husband to do so. "I rose up and thought I would stamp her. I took her by the shoulders, but a check took place, and I only gave her a shake and went out while passion abated."⁹⁵ After his passions cooled off, he returned to the house and "asked her if she was ashamed of herself" to which she replied, "no ... that is nothing, many a woman have said as much as that to her husband."⁹⁶ Rachel's rebellious actions defy commonly held ideas regarding white, southern women's adherence to strict gendered and racialized boundaries, and it opens new questions regarding the subversive actions of some married, white women during slavery. The marital altercation is also revealing in terms of the performance of masculinity. As Bynum asserts "the law gives the husband power to use such a degree of force necessary to make the wife behave and know her place." The fact that John, "checked" himself, suggests a conscious effort on his part, to control his masculine right to reprimand his wife.

Rachel's voice looms large in the Heath's divorce case, but it is filtered through her husband's narrative of events. Rachel appears as a strong feisty woman, who pushed at the boundaries of feminine norms, by openly challenging her husband's authority and expressing her attraction to a black,

enslaved man. The night before leaving him, John remembered how his wife had confessed to him, “I had rather be Dublin’s wife than your wife and rather be called Dublin’s wife than your wife, for I am not ashamed of Dublin nor should not be ashamed to be caught with Dublin nowhere.”⁹⁷ Rachel’s seemingly open defiance toward her white husband, combined with her alleged verbal admission that she’d prefer to engage in a physically intimate relationship with a black enslaved man, underscores the subversive nature of white womanhood in the domestic context at the turn of the century. Her rejection of societal expectations that aligned with her race, class, and gender in turn provides an alternative lens into marital breakdown in southern marriage, when sex across the color line was a key factor. Rachel’s evident preference for a black man, indicates that white women had sexual desires, and experienced sexual attraction across the color line, despite the taboo reputation attached to interracial liaisons. Bertram Wyatt-Brown suggested that a woman or girl’s “lack of standing” in the community might entice her to venture across the color line to have sexual intercourse with a slave in order to see “what it was like to bed with a virile slave.” Yet, the evidence in the divorce petitions demonstrates white women from *every* social class crossed the color line in *every* state.⁹⁸ This included cases of female enslavers crossing the color line to have illicit sexual relations with black men—enslaved or free, that amplifies a unique power dynamic.⁹⁹

Another possibility here is that John Heath manipulated events in his favor, to blacklist his wife, or to punish Dublin. However, this seems unlikely considering that divorce in North Carolina “meant public embarrassment, condemnation by religious leaders, politicians and journalists, and ultimately social ostracism,” in addition to the damage to his masculinity and honor.¹⁰⁰ What is striking, is that at no point within the unfolding narrative is the voice of the enslaved man, Dublin accounted for. According to Michel Foucault, “The root source of these integral power relations was power wielded at the most basic level over the bodies of slaves” and “the body is the ultimate contact point of power.”¹⁰¹ Dublin, is in many ways representative of this fact, as his story is lost in the “labyrinth of social power” between husband and wife, which he silently sits within.¹⁰² Bush describes these “labyrinths of sexual power as a basis for social control” but also as “a social development ... explored ... through the eyes of the ‘outsiders’—the white women—for arguably it was they who were in the most paradoxical situation in terms of power wielded both by them and over them,” by their husbands.¹⁰³ These multilayered webs of power also include inversions of power relations, as “in the power white women held over black men,” reflected in female adultery across the color line.

1820s: Sexual Agency

Turner House, an enslaver from Pitt County, lived with his wife Patience Young, in the heart of the Coastal Plains in North Carolina. Even though House owned land and slaves, “there was [typically] less concentration of wealth in families or individuals’ in North Carolina. According to Olmstead, slavery was therefore ‘more of patriarchal character than in any other State.’”¹⁰⁴ Given this observation, Turner would not have expected his wife to traverse the color line to engage in sexual relations with an enslaved man, at any stage of their marriage. In theory, “planter class women were subject to control by their fathers and husbands; indeed, in many ways they were the property of these men.”¹⁰⁵ As such, upper-class women were a prized commodity, if they conformed to the patriarchal rules that governed them. However, as we have already seen in the case of Ann White and Rachel Heath, women of all social classes frequently stepped across the color line in their extra marital sexual relations, in defiance of those rules. One man remembered, “Mulattoes are not a rare article” in the South, “and wives and daughters of slaveholders are oftener mothers of them, than are poor women.”¹⁰⁶

In 1823, Turner House experienced a similar fate to the previous cases. His wife, Patience, had been a widow when they met, but the couple had married and lived in the “sunshine of connubial bliss and domestic happiness” for many years.¹⁰⁷ They had four children, including two fully

grown sons. Turner noted he had been “as happy as human nature is susceptible of” until he became suspicious of his wife’s conduct.¹⁰⁸ A woman in Patience’s position, was considered a paragon of white femininity and the feminine standard to which lower class whites looked up to. As such, she would be expected to adhere to stringent gender roles that aligned with the myth of the Southern lady. Bertram Wyatt Brown notes “how the stereotyping of Southern ladyhood had a very important social purpose” ... “the glorification of motherhood, the sanctity of virginity, and the noble self-sacrifice of the maiden ... *endured at least outward submission to male will.*” (italics author’s own).¹⁰⁹ Laura Edwards concurs, “marriage provided the cornerstone for all other social relations” and “legitimized men’s rights to protect their families and women’s demand to that protection.”¹¹⁰ Failure to adhere to these prescribed roles often disrupted into martial disputes, as men complained about their wives’ failure to act as “good” wives whereas women highlighted their husband’s failure to protect and provide for them. In this way, the divorce petitions, and subsequent divorce trials provided a unique opportunity in which men and women could offer “their moral judgments about manhood and womanhood” thus providing “a public forum for a discussion of what was and was not appropriate family behavior, in the process the community clarified gender norms.”¹¹¹

This would explain why Turner House decided to turn to the court, to divorce his wife, when he discovered his wife had engaged in illicit sex across the color line. His suspicions were peaked in January 1823 when he felt the “conduct of his wife was so strangely different and repulsive” that he knew something was wrong. Her “cold and indifferent treatment” toward him became compounded by “poignant feelings of jealousy” as he “suspected that he had been supplanted in the affection of his wife by some subject to him unknown.”¹¹²

At first, Patience made a rather weak attempt to conceal her sexual attraction with the object of her affection, an enslaved man named Hardie. However, local suspicions were soon roused when Hillary Whitehouse a neighbor, caught the pair on the marital bed “in an act of adultery” in broad daylight.¹¹³ Whitehouse was evidently embarrassed at such a lewd discovery, for he recounts in his deposition how he quickly turned away, and felt “ashamed of the sight” of a white, married woman engaged in sex with her husband’s slave. Some weeks later, Whitehouse was again confronted with the spectacle of Mrs. House “engaged in an act of adultery [with an enslaved man] in a potato patch.”¹¹⁴ The question of why Patience House was willing to openly risk her good reputation as a wife and mother, and to forego the provision and protection that marriage to a white man afforded her, by embroiling herself in the most intimate of relations with an enslaved man, warrants further exploration. Yet, she was not the only one.

What then, were the retributions for white women (and the black men who they had adulterous relations with) when they were caught in these scandalous situations? Equally, why did white men, such as Turner House, not reprimand their wives sooner when they suspected they were guilty of adultery across the color line? Turner House admitted he “concealed his suspicions” at first, perhaps hoping that they were simply “creatures of his own imagination.” He “grieve[ed] in silence” until “he was informed” with concrete evidence from Whitehouse, a white man and neighbor, that Patience had been seen “encircled in the arms of a negro slave, the property of the petitioner.” It was only then, that it resulted in the couple’s immediate separation.¹¹⁵ Turner evidently loved his wife, or at least he turned a blind eye when his suspicions were first aroused, perhaps out of pride, or out of a simple disbelief that his wife was capable of adultery, especially with an enslaved man.

This case is inextricably intertwined to the “double standard,” that upheld different sexual standards for men and women. White men’s sexual activity outside of marriage was considered a natural outlet for their heightened sexual needs, in contrast to white women, who were perceived as devoid of sexual drive and passion. White men had free license in their sexual activities, even when this involved sexual relations with black enslaved women who were branded as loose and

lascivious by white, southern society. In stark comparison, white women were considered sexually unavailable, since the embodiment of “female honor had always been the exercise of restraint and abstinence” and therefore any woman who transgressed this line was seen as unfeminine and lewd.¹¹⁶ It is within this social context, that we can better understand Turner House’s disbelief that his wife Patience could not have partaken in forbidden sex (of any kind) outside of marriage. However, even Turner House, who was reluctant to believe that his wife was an adulteress, finally petitioned the court for a divorce from his wife, after a white, male informant shared with him the evidence of her transgressions.

The case of Turner House indicates that sex across the color line was problematic when substantiated with evidence, or when the community raised concerns about it, in this case in the form of Hillary Whitehouse, the neighbor. Turner House, at this point, would have been expected to act decisively to deal with the problem: namely leaving his wife. This correlates with Hodes’ argument that sexual relations across the color line in the antebellum South were tolerated up until a point. In the case of marital infidelity, that point was when substantive evidence stacked up against the perpetrator. By leaving his wife, with immediate effect, House upheld strict prescriptions of masculinity and honor upon which the southern hierarchy rested. The court evidently agreed that he had followed protocol to ensure gender prescriptions were upheld within his marriage to Patience and as a result awarded him a complete divorce in February 1827. Therefore, in this case, Patience’s luck, eventually ran out, and she would have discovered that her sexual agency with an enslaved man, had very clear limits.

1830s: Class

The petitions submitted by white, married men run the gamut from isolated cases of sexual infidelity to multiple incidences with “divers’ men.” John Johnson appealed to the court for a divorce from Peggy Barracks in 1832, after a marriage that spanned over 15 years. The Johnson’s were not a wealthy family; John disclosed to the court how he was “destitute of land of his own” and this had led him to become “a partner in a farm with a free Negroe,” as a means of survival.¹¹⁷ John joined thousands of poorer whites in North Carolina, who struggled to make a living. As discussed previously, lower class whites were far more likely to live and labor alongside blacks. Therefore, it was more likely that they or their wives would form closer relationships with black laborers, enslaved and free. This is perhaps why “poor women broke taboos against interracial social and sexual intercourse more often than economically privileged women.”¹¹⁸ The divorce petitions filed by lower-class white men, frequently cited their wife’s sexual infidelity across the color line as a chief reason for requesting a divorce from them. Many more women were reported to have had extramarital sexual liaisons or “illicit sex” (often with black men) resulting in the birth of a biracial child. However, even in these dire circumstances, the courts did not necessarily rule in the husbands’ favor, even in the face of damning evidence, if they believed the husband had been at fault by marrying a woman of known ill repute, whose character they had judged badly.¹¹⁹

It is in this social and economic context, that John Johnson’s wife Peggy “formed an attachment to said Negroe,” who he had partnered with in business. John claimed her illicit affair meant he was forced to abandon her, due to her continued “criminal connection to the neglect of her husband.”¹²⁰ However, Peggy Barracks had clearly suffered a “disagreeable life” and the witness statements in the case recast the narrative in Peggy’s favor, that likely swung the court’s decision away from John Johnston, and in favor of Peggy. Whilst it was evident that Peggy had taken refuge in the arms of a free man of color, what also became apparent, was the pretext to her actions, namely the cruel treatment meted out by her white husband. Peggy confessed that she “frequently” felt in “imminent danger of her life” living with John. He was a cruel and violent man, who “very much abused her and in one instance ... he would have killed her had he not been prevented.”

In the same witness statement, Peggy Johnson was again supported by the words of William Overton, a white man, who “saw him kick her in the face, and then attempt to throw a large piece of wood at her,” before taking “most of the property” and leaving her.¹²¹

Peggy Johnson, in this instance was not a powerful woman, but what she did have in her favor was the support of a white man, and the local community, who were prepared to attest to the fact that she suffered under the lack of care and protection that her husband should have provided for her. Peggy Johnson’s sexual relations across the color line, therefore paled in consequence to the courts because of her husband’s failure to fulfill his masculine duty to protect and provide for her.

Allegations of sexual infidelity were regularly interwoven with husbands more generalized complaints regarding their wives’ changed demeanors, violent tempers, laziness, or their failure to live up to expectations of white domesticity. Richard Jernigan lived in Wayne County where cotton was a staple crop in the 1830s. He was a small slave holder, but was not part of the planter class, as he owned nine slaves. In December 1835, he petitioned for a divorce from his wife who he had been married to for over 25 years, stating that she was a drinker, had a temper and was embroiled in sexual contact with black and white men. He also claims he contracted a venereal disease from his wife thirteen years prior to his divorce petition, which resulted in medical treatment from William Wise.¹²² In other words, he claimed she had been a woman of loose morals for a protracted period. Despite portraying himself as a “dutiful and affectionate husband,” counter allegations from his wife, were equally as scathing. Lyda Jernigan might have had an immoral reputation as “a woman that will whore it with white and black,” but her husband Richard was equally “a bad man” who slept with other women across the color line. In a deposition to the court, Isaac Wise stated:

I saw him lying and sleeping with another woman at different times and him say he would treat her gentleman like if she would agree to what he said—she afterwards told me she did not wish to do so.¹²³

The divorce petitions therefore reveal the complexities of marital relations in southern society in the “grey zone” that white, married couples frequently inhabited, whereby both parties were at fault in committing adultery. Following a lengthy separation of four to five years, the couple again “united as man and wife” despite allegations from both parties of “incestuous intercourse.” In a proverbial slanging match, Richard later accused his wife of being a “neglectful” mother who had “frequent intercourse in improper places and at improper times with other men both black and white.” He said she had finally “giv[en] herself up to the habit of living in adultery sometimes with black men and sometimes with white men as petitioner has been informed.”¹²⁴ Strikingly, it is the lack of concern for “being seen” that stands out in Lyda Jernigan’s story that is replicated in similar divorce petitions in North Carolina and across the South.¹²⁵ For example, recall how in 1810, Rachel Heath boldly told husband John, “I had rather be Dublin’s wife than your wife and rather be called Dublin’s wife than your wife, for I am not ashamed of Dublin nor should not be ashamed to be caught with Dublin nowhere.”¹²⁶ The same open defiance and pattern of female power and subversion is evident in Patience House’s disregard for social propriety and sexual taboos, when she was “caught in the act” with Hardie, an enslaved man, “in the vegetable patch” in “broad daylight.”¹²⁷

1840s: Female Defiance

The theme of female defiance of nineteenth-century sexual norms is a key thread that runs through white men’s divorce petitions, as husbands used it as evidence that their wives had failed in their duty as “good” southern wives. However, their testimonies also highlight female refusal to conform to gender stereotypes in the context of a slaveholding society, in which women were the lynchpin holding together the southern family, and with it the system of slavery. Therefore, if we interpret

these cases differently, they instead reveal the power of white women's testimony, behavior, and actions regarding sex across the color line in marriage. In doing so, an alternative picture emerges of southern women subverting the martial ideals expected of them in defiance of the patriarchal order.¹²⁸ This opens an alternative narrative concerning the fractured power dynamics between white women, their husbands, and their illicit relations with black men.¹²⁹ Barbara Bush's discussion of race, sex, and class in the British Caribbean is integral to understanding the concept of power in relation to the cases in this article. Bush underlines how power networks can include inversions of power relations, such as "in the power white women held over black men, whom they could punish at will." She highlights the "root source of these integral power relations was power wielded at the most basic level over the bodies of slaves."¹³⁰ Whilst this has been a well-researched area in connection to enslaved women's sexual relations with white men, far less critical attention has been cast on the nature of white women's sexual relations with enslaved men or free men of color, and what these can tell us about marriage, womanhood, and race relations in North Carolina and across the South more broadly.

Numerous cases exist on record that detail how white, southern women were embroiled in multiple relations with different men in the neighborhood. Isaac Routh's wife was charged with "adulterous intercourse" with several men "including the slave Daniel, owned by Aaron Jones." Routh claims that his wife was physically violent "she threatened to poison him, and actually Stabbed him and gave him a severe wound" and she openly boasted about her illicit affairs, echoing the earlier cases of Patience House and Rachel Heath.¹³¹ Finally, she abandoned him and took up permanent residence with a man in another state. Overwhelming evidence perhaps of Routh's innocence and his wife's ill nature that resulted in Isaac Routh's divorce being granted.

In March 1845, Wesley Gray petitioned the Superior Court for a divorce from his wife Narcissa nee Meadows who he had wed nine years earlier. Despite "a strong affection and strong attachments," Wesley recalls a rapid downturn in his wife's behavior a few years into their marriage. This included her being "negligent of her domestic duties, prodigal and wasteful," "quarrelsome ... lewd, and lascivious" and "utterly abandoned in her principles and practices," despite his efforts to win her back with "kindness and affection."¹³² Narcissa abandoned the family home and kept "the vilest company"; she had "adulterous connection" with the "most unprincipled and abandoned characters, frequently boasting in company of the great number of her conquests not only of white but of colored paramours."¹³³ Wesley was evidently fearful that he would be left burdened with the financial responsibility of any children born of these sexual conquests, and he sought the intervention of the North Carolina Supreme Court to dissolve the marital union. The case highlights the various motivations that led men to divorce their wives, including the financial repercussions that female adultery entailed for white men.

1850s: Challenging Masculinity

Hugh Lamb was a small slaveholder, married, with two daughters, living on his 350-acre farm, in a relatively prosperous area in New Hanover County, an area bordered by the Atlantic Ocean to the east and the Cape Fear River to the west. His story began in 1824/5 when Hugh first discovered his wife's adulterous connection with an enslaved man, also owned by him. In the initial days after discovering his wife's infidelity, Hugh Lamb took their two daughters, Rebecca Ann, and Julia Maria, "certain negro slaves ... Peter, Diana, Jack, Peggy, Emily, and Dick, also a bed, and some other personal property" and moved in with his brother.¹³⁴ He made an agreement with his brother, that in exchange for their maintenance and support, Hugh would convey his brother in trust, his estate, six slaves and the 350-acre farm. They agreed, that when he died, the land, farm and slaves were to be transferred to his two daughters. Presumably, he made this decision to ensure his daughters were well cared for, in the absence of a mother, although the record isn't

forthcoming on this point. By 1829, the living arrangements changed again, and Hugh and his daughters moved in with their brother-in-law Edward Pigford, “transferring the trust” to him. When his two daughters married, they were gifted “several slaves,” and it is at this point that the maintenance and support arrangements stopped.¹³⁵

His personal circumstances quickly turned sour, and a family row erupted over the estate that resulted in Hugh Lamb turning to the court for restitution. Whilst the girls had been provided for up until their marriage, it was Hugh Lamb, as a single man, separated from his wife for over two decades, who discovered the long-term impact that his wife’s adultery had on his own financial security. According to McBride, the laws governing separation and divorce in North Carolina had gradually broadened to protect wives from their husband’s maltreatment as the nineteenth century progressed. This extended to adultery and cruelty. Yet, the case of Hugh Lamb, reveals that white men who were the victims of their wife’s adultery, also had the potential to suffer huge economic hardship.

The case of Hugh Lamb appears to be further compounded by two other interrelated factors: Hugh Lamb’s illiteracy and potentially, a learning difficulty that added to his vulnerability. The court records reveal that Hugh “possessed an understanding inferior to most of his fellow men” (which perhaps explains why his wife engaged in extramarital sex). He “was altogether ignorant as to the effects and operation of legal instruments” that disadvantaged him financially when he left his wife and took refuge with his brother, and later with his brother-in-law.¹³⁶ The power dynamics in this case, reveal how additional factors, such as illiteracy, mental ability and wider familial relations could also impact the broader web of marital relations. This again alludes to Bush’s “labyrinth of social power.”

Female adultery had a significant impact on the mental and physical health of white men, especially when infidelity traversed the color line; it eroded white men’s sense of power and altered the dynamics in southern familial relations, particularly if a biracial child was born from the infidelity. This inextricably tied to issues of “male ego, honor and purity of bloodline” that connected to issues of progeny.¹³⁷ For example, Elisha Lee shared how the desertion of his wife impacted his mental health and “disturbed his mind.” This was heightened by the fact that she had “committed adultery” and he “was informed she was delivered of a child and that it was greatly believed that the child was a mulatto.” He reports that after he’d seen the child, “I have no hesitation in saying that I believe it is a colored child.”¹³⁸

Likewise, Kennedy Williams from Yadkin County was devastated when he discovered his wife Mary Eliza was sleeping with several men, including plantation owner Samuel Speer, as well as an enslaved man owned by Speer, named Hand. Kennedy was a poor man, and immediately moved in with his father, who lived in the locality, some eight miles distant. Eliza continued with her adulterous behavior and according to Kennedy’s guardian, she moved in with Speer and continued their sexual relationship. The knowledge that his young wife had deceived him on multiple occasions, so soon after their marriage, had a significant impact on Kennedy Williams’s mental health, and life quickly unraveled for him thereafter. Although, no final decree exists for the case, it is likely that the court would have been influenced by “the higher standing of the adulterer”—in this case, a plantation owner who was of a much higher social standing than Kennedy Williams.¹³⁹ If Williams’s guardian could demonstrate that Mary Eliza had been “moved by the enticements of a rich seducer,” “the greater the sympathy for the husband.”¹⁴⁰ This again illustrates the complex nature of martial breakdown in North Carolina.

Benjamin Millican also raised the theme of contested power when he appealed to the North Carolina court for a divorce in 1858, after disclosing to the court that he was “decoyed off by the defendant Elizabeth” at 15-years-of-age. The couple “were married and lived together 2 to 8 months as man and wife,” but Millican’s job was a wagon trader that meant he worked away to make a living. During this time, his wife “had been guilty of acts of adultery with one Nelson Sumner, a young man of the

neighborhood,” during his absence. The couple immediately separated, but his wife’s adulterous behavior continued with various men, including Frank Lythe, a free black man in the neighborhood. Finally, after months of “rambling across the county, living at different places for short periods and continuing her adulterous intercourse with different persons,” she is said to

live with said [Jesse] Wright, indulging in a constant course of adultery with him and has by him become pregnant. During the summer of 1858 [she] was delivered of a child the fruits of said adultery, and ... is now living in adultery with said Jesse Wright.¹⁴¹

Millican’s case therefore reveals a reversal in power relations, linking back to Bush’s earlier observation regarding the possible inversion of sexual power, which in this case was wielded by Elizabeth Millican over her husband.

Each of these examples, illustrates a challenge to masculinity that frequently arises in the divorce petitions of white men, seeking the courts intervention to divorce their wives. These cases therefore complicate the traditional understanding of gender roles and power within white, southern marriage during slavery. Each case exposes the culpability, and to a degree, the sexual agency and fracturing of power relations in the southern, white household.

Conversely, in the “labyrinth of social power” men could also exercise their patriarchal authority over their wives in a display of male domination. Take the example of William Thomas from Davidson County in the Piedmont area of North Carolina. William evidently knew of his wife’s sexual relationship with the enslaved man that he owned, yet it was only when his wife sued him for a divorce that he acknowledged this slanderous fact. When his wife Sarah moved out of the family home, taking their children with her, to reside under the protective wing of her father, William retaliated, threatening to sell the enslaved man that he inferred his wife was sleeping with. William claimed that Sarah “too well knew the cause” for the pending sale. He said that he was “resolved on selling the negro ... for previously on two occasions [the] defendant had found said negro too near Petitioner’s bed in the nighttime and slipping away from her bed privately.”¹⁴² This of course, may well have been an example of “slander” and defamation of character to sully his wife’s good name, but it also reveals how husbands could threaten and manipulate adulterous wives, who overstepped racial and societal boundaries.

William Thomas knew of his wife’s illicit sexual encounters with their slave, and he was willing to gloss over the transgression, so long as she stepped back into line. Ultimately the price black men could pay for sexual relations with white married women, could result in them being sold or transported away from their own families. In the case of Sarah, she eventually went back to her husband, and “bedded and cohabited” with him once more, which *he* readily agreed to, despite his accusations of sex across the color line. This case therefore reveals the complicated nature of white southern marriage, and the fractured nature of contested power relationships across lines of race and gender.¹⁴³

1860s: Birthing a Biracial Child in Wartime

Amid the escalating tensions of secession that led to armed conflict between the Northern and Southern states in April 1861 on the issue of slavery, it is particularly pertinent to trace similar cases of white, married women’s infidelity with black men in the 1860s. North Carolina seceded from the Union on May 20, 1861, the penultimate state besides Tennessee that followed it. Forret notes, “Roughly 75 percent of all southern white men of military age served in the Confederate army. Over the four-year course of the Civil War, a majority of non-slaveholding southern white men fought for the Confederacy at some point, willingly or not.”¹⁴⁴ Given the commitment of white southerners to protect their way of life, of which slavery was a key part, white women’s sexual relations with black men during wartime, must be viewed as particularly transgressive in nature.

The impact of the Civil War on southern households has been well documented by historians, in terms of the dislocations of race, gender and class.¹⁴⁵ Drew Gilpin Faust discusses how power and privilege can be challenged by social crisis and in the reshaping of gender roles, in relation to women's war time roles and to their sense of identity. With so many southern households affected by war, with one third of southern men away fighting for the Confederacy, many southern women were left alone without a physical male head of household which presented them with new challenges and freedom as their men folk were absent for months, years or for others, permanently.¹⁴⁶ One such woman, was Jane Green from Wake County, North Carolina. John and Jane Green had wed in 1860, a year or so prior to the outbreak of the Civil War. Not long after, John signed up to fight for the confederacy as a volunteer soldier in the 7th North Carolina Regiment in the summer of 1861. Apart from a month's furlough from the Army in April 1864, John had not been home, but when he returned in the summer of 1865, he was shocked to discover that his wife was "heavy with child" and soon gave birth to "a negro girl child" that was the result of her "unlawful and adulterous connection" with "one Jesse Hopson a negro [who] was the father of the said child."¹⁴⁷ The shocking revelation that Jane had engaged in transgressive sexual relations with a black man, whilst he had been fighting in a civil war waged for the preservation of slavery, that was built on a system of racial inequality and white supremacy from which he benefited, must have been a particularly devastating personal moment for John. He had faced death and defeat on the battlefield, only to suffer a second blow to his manhood, when his wife gave birth to a biracial child. A child conceived whilst he was fighting for the protection of his way of life, and for the protection of southern womanhood that was clearly crumbling in front of him. John's plea for a divorce was quickly endorsed by the court. As Hodes argues, the tacit acceptance of interracial relations that had earmarked the antebellum period, gave way to a new alarm in the 1860s, and even more so after Confederate defeat on the battlefield, that set the enslaved free.¹⁴⁸

In new post-war context, sex across the color line was considered a dangerous threat to white supremacy, in a world in which slavery had now been extinguished by the thirteenth amendment. It read: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."¹⁴⁹ That same year, in April 1866, 69-year-old James (Jacob) Bostian sought a divorce from his wife Mary, who he reported had given birth to a biracial "or negro child." Despite his wife's earlier good character, of late he reported her fall from grace, and her taste for illicit sexual relations with men both black and white.¹⁵⁰ In his deposition he stressed that he tried to set a "good Christian example before her, he [has] been for a great many years a member of a Christian church and never having countenanced or tolerated fornication and adultery." He stressed that although she has been permitted in their house to see their white born children, she has not been permitted to stay for long. He added

He has never had anything to do with her *as his wife* since the birth of said negro child, and states further that she, the said Mary, has now a general bad character for virtue, and it being generally reported that she is unchaste as well as with white men and negroes.¹⁵¹

At the time of his deposition, the biracial child would have been one-years-old, but had subsequently died. What is again striking about this case, is the fact that the couple had been contentedly married for several years, and it was not until the turbulence of war and confederate defeat, that Mary's scandalous actions came to light, when she birthed a biracial child. It raises the question of whether the disruptions of race, class and gender in wartime significantly accelerated white men's anxieties concerning their wives' sexual infidelities across the color line, or if rather whether white women felt in some way emboldened by the newfound freedoms that the cloak or wartime provided for them?

The multiplicity of divorce cases in the court records for North Carolina alone covers a broad spectrum in terms of geographical location, chronology, and longevity. The nature of mixed-race relations varies enormously, covering the gamut from married women who were accused of having a one-off encounter with a “colored paramour”—either a free man of color or an enslaved man—through to much more permanent living arrangements, whereby wives left their white husbands and lived with their black lover. Mothers at times left their white children behind (or were prevented from taking them with them) and built new lives with their black lover and their children of mixed ancestry born from their union. Other women were threatened by their husbands, to stop their sexual relations with an enslaved men or to have him sold away. Clearly, some of the alleged adulteresses in this study were embroiled in multiple relations with different men in the neighborhood, whereas others may have been accused of infidelity that they had never committed.

In summary, the collective nature of these individual cases illuminates the deep fractures in southern white marriage in relation to sexual infidelity across the color line involving white women. It sheds light on the breadth and depth of white women’s infidelity, and of the extraordinary complexities it exposed in southern white marriage. As the nineteenth century unfolded, the labyrinth of social power remained in flux, in a reflection of the changing gender roles in relation to marital relations. White men’s divorce petition reveals that power within the southern household was often fractured, and the gender balance could easily shift. What is clear from the divorce petitions under scrutiny, and in the illicit affairs between white women and black men, is that women were willing to challenge the institution of marriage, and white women’s roles in it. This included an expression of sexual agency with black men, who they had an element of control over, which they could exploit if they got caught out. White husbands also flexed their power and privilege over their wives at times, by making false allegations of female infidelity, or by threatening to sell a slave, who they suspected was their wife’s lover. The courts also had the power to intervene to protect white women from false allegations, which provided a protective buffer for some women who were falsely accused of illicit relations across the color line. These cases therefore reveal the extraordinary complexities of southern white marriage, and the threat that female adultery across the color line posed in southern society.


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Notes

1. Victoria Bynum, *Unruly Women: The Politics of Social and Sexual Control in the Old South* (Chapel Hill: University of North Carolina Press, 1992), 1.
2. Slavery and the Law (1775–1867) is a collection within *Southern Life, Slavery, and the Civil War* provided by a subscription to ProQuest: History Vault that was possible due to a successful British Academy Grant. History Vault – ProQuest (oclc.org).
3. Jeff Forret, *Race Relations at the Margins: Slaves and Poor Whites in the Antebellum Countryside* (Baton Rouge, LA: Louisiana State University Press), 193.

4. Bynum, *Unruly Women*, 7. Bynum notes that in the North Carolina Piedmont “newspapers celebrated ‘a Cult of True Womanhood,’” 8. According to Bynum, slaveholding women in this region was atypical compared to traditional versions of the plantation mistress described by early historians of southern, white women. See Anne Firor Scott’s, *The Southern Lady: From Pedestal to Politics, 1830–1930* (Chicago: University of Chicago Press, 1970); Catherine Clinton, *The Plantation Mistress: Woman’s World in the Old South* (New York: Pantheon, 1983), Elizabeth Fox-Genovese, *Within the Plantation Household: Black and White Women of the Old South* (Chapel Hill: University of North Carolina Press, 1988).
5. Forret, *Race Relations at the Margins*, chapter 5, esp. 184. Forret notes, “Race, class and gender collided in different ways for poor white men and women, confirming the double standard in southern white society that permitted sexual contact between white men and slave women, but not white women and slave men.” 184.
6. Bynum, *Unruly Women*, 15.
7. Ibid.
8. John Spencer Bassett, *Slavery in North Carolina* (Baltimore: John Hopkins Press, 1899), 79. Also see Guion Griffiths Johnson’s canonical work on *North Carolina, Ante-Bellum North Carolina: A Social History* (1937), Chapter III ‘Social Classes’: 52–79.
9. Bynum, *Unruly Women*, 21.
10. Bassett, *Slavery in North Carolina*, 8.
11. Sitterson in Bynum, *Unruly Women*, 15.
12. Guion Griffis Johnson, *Ante-Bellum North Carolina: A Social History* (Electronic Edition Documenting the American South. University Library: The University of North Carolina at Chapel Hill, 2002). <https://docsouth.unc.edu/nc/johnson/johnson.html>. In the newspaper, the *Raleigh Register* it notes: “the State was merely a land-locked, agricultural province exhibiting the usual characteristics of such a region: provincialism, sectionalism, conservatism, individualism, and superstition.” February 20, 1829.
13. Bassett, *Slavery in North Carolina*, 79.
14. North Carolina Museum of History (hereafter NCMH), accessed July 9, 2024, <https://www.ncmuseumofhistory.org/visit-nc-museum-history>. According to the NCMH, 72 percent of white families owned no slaves at all.
15. John Spencer Bassett, *Slavery in North Carolina*, 78–79.
16. Ibid., According to the NCMH, 72 percent of white families owned no slaves at all.
17. Guion Griffis Johnson in Bynum, *Unruly Women*, 15–16.
18. See Lee Ann Whites, *Gender Matters: Civil War, Reconstruction, and the Making of the New South* (New York: Palgrave Macmillan, 2005), 3–4. Whites argues, “The 19th century South was marked by the visibility of race” but “just as all people are raced and classed, so too are they also gendered.” The interlocking of these collective factors means that by mid-century the South “presents the picture of a society teething on the edge of a critical and gender imbalance, pushed to the brink by changes in the sectional, social and economic structure.” 15.
19. For more on this topic, see Catherine Clinton and Michelle Gillespie, eds., *The Devil’s Lane: Sex and Race in the Early South* (Oxford: Oxford University Press, 1997); Thomas Buckley, “Unfixing Race: Class, Power, and Identity in an Interracial Family,” *The Virginia Magazine of History and Biography* 102 (1994): 349–380; Victoria Bynum, *Unruly Women: The Politics of Social and Sexual Control in the Old South* (Chapel Hill: University of North Carolina Press, 1992); Sharon Block, *Rape and Sexual Power in Early America* (Chapel Hill: University of North Carolina Press, 2006); Martha Hodes, ed., *Sex, Love, Race: Crossing Boundaries in North American History* (New York: New York University Press, 1999); Annette Gordon Reid, *The Hemingses of Monticello: An American Family* (New York: Cambridge University Press, 1999); Sally Hemings and Thomas Jefferson: *History, Memory and Civic Culture* (Charlottesville: University of Virginia Press, 1999), 52–84; P. Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2009); Timothy J. Lockley, “Race Relations in Slave Society,” in *The Routledge History of Slavery*, eds., Gad Heuman and Trevor Burnard (Routledge, 2010), 243–264; W. Sollors, ed., *Interracialism: Black-White Inter marriage in American History, Literature, and Law* (New York: Oxford University Press, 2000); Daniel Livesay, “Emerging from the Shadows: New Developments in the History of Interracial Sex

- and Inter marriage in Colonial North America and the Caribbean,” *History Compass* 12, no. 3 (2015): 122–133; Diane Sommerville, *Race and Rape in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 2004) and Timothy J. Lockley, “Crossing the race divide: Interracial sex in antebellum Savannah,” *Slavery & Abolition: A Journal of Slave and Post-Slave Studies* 18, no. 3 (1997): 159–173.
20. Jane Turner Censer, “‘Smiling Through Her Tears’: Ante-Bellum Southern Women and Divorce,” *American Journal of Legal History* 25 (1981): 24–47. <https://doi.org/10.2307/844996>. Also see, Catherine Clinton, *The Plantation Mistress: Woman’s World in the Old South* (New York: Pantheon Books, 1982); Cynthia A. Kierner, *Beyond the Household: Women’s Place in the Early South, 1700–1835* (Ithaca, NY: Cornell University Press, 1998).
 21. Bynum, *Unruly Women*, introduction, 1.
 22. *Ibid.*, 4.
 23. *Ibid.*
 24. *Ibid.*, 14.
 25. Loren Schwenger, “‘To the Honorable’: Divorce, Alimony, Slavery, and the Law in Antebellum North Carolina,” *The North Carolina Historical Review* 86, no. 2 (April 2009). Schwenger notes “in every section of the state, from the Mountains to the Piedmont to the Coastal Plain, racial issues lurked under the surface or rose to become the primary cause of divorce.” 134.
 26. Loren Schwenger, “‘To the Honorable’: Divorce, Alimony, Slavery, and the Law,” 147 and 149.
 27. *Ibid.*, 143. The most relevant section of the article that focused on adultery across the color line is 143–147.
 28. Loren Schwenger, *Families in Crisis in the Old South: Divorce, Slavery, and the Law* (Chapel Hill: University of North Carolina Press, 2004), 23.
 29. *Ibid.*, 23.
 30. Loren Schwenger, *Families in Crisis in the Old South: Divorce, Slavery, and the Law* (Chapel Hill: University of North Carolina Press, 2004). For more on the state as patriarch, refer to Bynum, *Unruly Women*, chapter four; Griswold, *Divorce and the Legal Redefinition of Victorian Manhood* in *Meanings for Manhood* ed. By Marc Carnes and Clyde Griffin (Chicago: University of Chicago Press, 1990). Griswold notes, “The judiciary’s patriarchal, protective role stemmed from an awareness of women’s economic and social vulnerability and, perhaps more significant, from an awareness of the basic asymmetry of power relationship within families.”
 31. David Silkenat, *Moments of Despair: Suicide, Divorce, and Debt in Civil War Era North Carolina* (Chapel Hill: University of North Carolina Press, 2011). ProQuest eBook Central, Silkenat, *Moments of Despair*, 26.
 32. Silkenat, *Moments of Despair*, 76. Also see Thomas Buckley’s excellent monograph that scrutinizes divorce in Virginia. He and argues that petitioners who wanted to leave unhappy marriages, faced a “cumbersome process” as legislators believed “divorce was an unmitigated evil” that damaged family, society and slavery.^[32] For a discussion on interracial adultery and divorce in Virginia, see Joshua D. Rothman, “‘To Be Freed from Thate Curs and Let at Liberty’: Interracial Adultery and Divorce in Antebellum Virginia,” *The Virginia Magazine of History and Biography* 106, no. 4 (1998): 443–81. <http://www.jstor.org/stable/4249738>. In the case of Virginia, Joshua Rothman points to a steady growth of divorce in the decades after 1830 when it involved male and female adultery across the color line in Virginia.
 33. Martha Hodes, *White Women, Black Men: Illicit Sex in the Nineteenth-Century South* (New Haven: Yale University Press, 1997).
 34. E.R. Crowther, “Foster, Thomas A.: Rethinking Rufus: sexual violations of enslaved men,” *CHOICE: Current Reviews for Academic Libraries* 57, no. 10 (2020): 1133.
 35. Thomas A. Foster, *Rethinking Rufus: Sexual Violations of Enslaved Men* (Athens: University of Georgia Press, 2019), 69.
 36. Thomas Foster, “The Sexual Assault of Black Men,” 459.
 37. Joseph S. Ferrell, “Early Statutory and Common Law of Divorce in North Carolina,” *N.C. Law Review Rev.* 41, 604 (1963): 604–621.
 38. *Ibid.*, 606.
 39. *Ibid.*
 40. *Ibid.*, 610–611.

41. Glenda Riley, *Divorce: An American Tradition* (Oxford: Oxford University Press, 1991), 89.
42. *Ibid.* Also see: Guion Griffis Johnson, *Ante-bellum North Carolina; A Social History* (Chapel Hill: University of North Carolina Press, 1937), 217.
43. For more information see Johnson, *Antebellum North Carolina*, 218–219.
44. Janet and Ransom McBride, *Divorces and Separations from Petitions to the North Carolina General Assembly 1779-1837* (Raleigh, North Carolina: Heritage Books, 2019), introduction, i.
45. McBride, *Divorces and Separations*, introduction, i.
46. Joseph S. Ferrell, “Early Statutory and Common Law of Divorce in North Carolina,” *N.C. L. Rev.* 41, 604 (1963), 608.
47. *Ibid.*
48. *Ibid.* Also, Silkenat, *Moments of Despair*, 77–78.
49. *Ibid.*, 612.
50. For further discussion of this point, see Marie. S. Molloy, “Class, Color and Conflict: Separation and Divorce in Southern White Marriage in the Civil War Era,” in *The Civil War and Slavery Reconsidered: Negotiating the Peripheries*, eds., Laura S. Sandy and Marie S. Molloy (Routledge, 2020); Marie S. Molloy, “‘An illicit and criminal intercourse’: adultery and marital breakdown in the slave-holding South.” *American Nineteenth Century History* 22, no. 3 (2022): 253–269.
51. George Fitzhugh, *Sociology for The South or the Failure of Free Society* (Chapel Hill, NC: University of North Carolina Press, 1998) Documenting the American South: Digitized Library of Southern Literature, Beginnings to 1920 (unc.edu), 215.
52. Silkenat, *Moments of Despair*, 82–83.
53. Ferrell, “Early Statutory and Common Law of Divorce,” 612.
54. Divorce Petition of Eliza Patterson to the Honorable Legislative Counsel of Territory of Florida, *History Vault: Slavery and the Law 1775–1867*. Legislative Petition Analysis Record (hereafter PAR) # 10583901 in which she stated to the court that she was “a dutiful and obedient wife.”
55. Griswold, *Divorce, and the Legal Redefinition of Victorian Manhood*, 104.
56. Forret, *Race Relations at the Margins*, 215.
57. *Ibid.*
58. *Ibid.*
59. Griswold, *Divorce and the Legal Redefinition of Victorian Manhood*, 106.
60. See Bertram Wyatt Brown, *Honor and Violence in the Old South* (Oxford: Oxford University Press, 1986). Brown argues that in the event of female adultery, it was paramount that a husband demonstrated his “manliness” in how he responded to the situation at hand. This included remonstrating his wife, ceasing martial relations, and showing violence towards the man she had conducted adultery with (depending on if he was Black or white, free, or enslaved). Brown suggests this was bound up with the “protection of male ego, honor and purity of bloodline,” 100.
61. Murray notes that men may have preferred to stay married rather than “suffer the humiliation of publicly admitting that his wife slept with a black man, only to have his divorce petition denied.” Genna K. Murray, *The Inheritance of Lawless Passion: An Examination of Interracial Relationships through Slave Narratives* (University of Richmond Honors Theses, May 2009).
62. Bynum, *Unruly Women*, 9.
63. Stephanie E. Jones-Rogers, *They Were Her Property*, <https://www.youtube.com/watch?v=XcGBC4K8NnA> and “They Were Her Property White Women as Slave Owners in the American South” <https://www.youtube.com/watch?v=BTOv3uitsh0>. Jones-Rogers emphasized how racial and gendered indoctrination began as soon as a southern child was born, as southern parents gifted slaves to sons and daughters. Also refer to Stephanie E. Jones-Rogers, *They Were Her Property: White Women as Slave Owners in the American South* (New Haven and London: Yale University Press, 2019), especially chapter one, “Mistresses in the Making,” 1–24.
64. Laura F. Edwards, *Scarlett Doesn’t Live Here Anymore: Southern Women in the Civil War Era* (Urbana: University of Illinois Press, 1997), 19.
65. *Ibid.*, 18.

66. *Ibid.*, 20.
67. Estelle B. Freedman, "Sexuality in Nineteenth Century America: Behaviour, Ideology, and Politics," *Reviews in American History* 10, no. 4, *The Promise of American History: Progress and Prospects* (Dec. 1982), 196–215. Freedman discusses how this advice literature was "aimed at an audience of white, middle-class women and men."
68. Linda Kerber, "Separate Spheres, Female Worlds, Woman's Place: The Rhetoric of Women's History," *Journal of American History* 75 (1988): 9–39, 11.
69. Barbara Welter, "Cult of True Womanhood, 1820-1860," *American Quarterly* 18, no. 2 (1966): 151–74.
70. Freedman, "Sexuality in Nineteenth Century America," 200. Freedman discusses the place of the medical profession in regulating female sexuality and highlights the gap between "proper sexual conduct versus actual sexual practises. Also refer to Wyatt-Brown, *Honor and Violence in the Old South*, chapter five "Honor, Expectation and Shame," esp. 96. Brown notes that attitudes to male fornication were permissive. "Male lust was simply a recognised fact of life. To repress natural impulse was to defy nature itself, leading to prissiness and effeminacy...a healthy sex life without regard to marriage was in order." 96.
71. Nancy Cott, "Passionlessness: An Interpretation of Victorian Sexual Ideology, 1790-1850," *Signs* 4, no. 2 (Winter, 1978): 219–236. See 220.
72. Lee Ann Whites, *Gender Matters: Civil War, Reconstruction, and the Making of the New South* (New York: Palgrave Macmillan, 2005), 14.
73. Keith Thomas, "The Double Standard," *The Journal of the History of Ideas* 20, no. 2 (1959): 195–216, 210.
74. Cott, "Passionlessness," 223–224.
75. Lee Ann Whites, *Gender Matters*, 14.
76. Carl Degler, "What Ought to be and What was: Women's Sexuality in the Nineteenth Century," *American Historical Review* 29 (1974): 1467–1490. See 1467.
77. Cott, "Passionlessness," 219.
78. *Ibid.*, 223.
79. Bush, "'White 'Ladies,' Coloured 'Favourites' and Black 'Wenches,'" 257.
80. Bynum, *Unruly Women*, 7.
81. Wyatt- Brown, *Honor and Violence*, 99.
82. Cott, "Passionlessness," 219.
83. Carl Degler, quoted in Freedman, "Sexuality in Nineteenth Century America," 199. Linda Gordon argues the opposite that women "experienced aversion to sex, not only because of the power prescriptions of female passion but because women had good reason to fear the physical consequences of pregnancy and childbirth," 199.
84. Petition of Thomas White, General Assembly Session Records (hereafter GASR), Nov.-Dec. 1800, Box.1: House Bills (Dec.4 1800), North Carolina Division of Archives and History (hereafter NCDHAH), Raleigh, North Carolina. Includes: deposition of Henry Gotten, 5 Dec. 1800; Bill to divorce Thomas White of Northampton County from his wife Ann, and to alter the names of the illegitimate children, and Report of Propositions and Grievances which rejected White's divorce, but that legitimized the names of his illegitimate children.
85. Petition of Thomas White, GASR records, Nov.- Dec.1800, Box.1: House Bills (Dec.4 1800), NCDHAH Nov-Dec. 1800, Box 1: House Bills (Dec. 4).
86. Johnson, *Ante-bellum North Carolina*, 209.
87. Petition of Thomas White GASR records, Nov.- Dec.1800, Box.1: House Bills (Dec.4 1800), NCDHAH Nov-Dec. 1800, Box 1: House Bills (Dec. 4).
88. Report of Committee of Propositions and Grievances. Concurred with in House and Senate, 11 and 9 Dec. 1800, GASR Nov.–Dec. 1800, Box. 1, Folder HB 29.)
89. Forret, *Race Relations at the Margins*, 189.
90. *North Carolina Law Review*, Vol. 41. 611.
91. Petition of John Heath, 10 November 1814, GASR, NCDSA, in Nov.–Dec. 1814, Box 2: folder "Petitions -Divorce and Alimony."
92. *Ibid.*

93. Petition of John Heath, Craven County, North Carolina, 10 November 1814, GASR, NCDSA, Nov–Dec. 1814, Box. 2: folder “Petitions – Divorce and Alimony.”
94. Ibid.
95. Ibid.
96. Ibid.
97. Petition of John Heath, 10 November 1814, GASR, NCDSA, in Nov–Dec. 1814, Box 2: folder “Petitions -Divorce and Alimony.”
98. Wyatt-Brown, *Honor and Violence in the Old South*, 109.
99. As Wyatt-Brown argues, “A second and much more serious issue of sexual misbehavior [was] the infidelity of married women,” 98. According to Wyatt-Brown, “By and large women of planter rank were too strictly supervised to have much experience with infidelity.” The cases in this chapter suggest otherwise.
100. Silkenat, *Moments of Despair*, 73.
101. Michel Foucault quoted in Bush, “‘White ‘Ladies,’ Coloured ‘Favourites’ and Black ‘Wenches,’” 246.
102. Bush, “‘White ‘Ladies,’ Coloured ‘Favourites’ and Black ‘Wenches,’” 247.
103. Ibid., 247.
104. Frederick Law Olmstead, *A Journey in the Seaboard States; With Remarks on Their Economy* (New York: Mason Brothers, 1863), 366–67.
105. Martha Hodes, *White Women, Black Men*, 51.
106. Ibid., 50.
107. Petition of Turner House, 28 Dec. 1826, GASR, NCDSA, Box. 1 – folder “HB 23 Jan.” Also refer to, 10 Feb 1827, Box. 1 – folder “HB 23 Jan.” Includes deposition of a neighbor Hillary Whitehurst of Pitt County (20 January 1827).
108. Petition of Turner House, 28 Dec. 1826, GASR, NCDSA, Box. 1 – folder “HB 23 Jan.” Also refer to, 10 Feb 1827, Box. 1 – folder “HB 23 Jan.” Includes deposition of a neighbor Hillary Whitehurst of Pitt County (20 January 1827).
109. Wyatt-Brown, *Honor and Violence in the Old South*, 91.
110. Laura F. Edwards, *Gendered Strife, and Confusion: The Political Culture of Reconstruction* (Urbana and Chicago: University of Illinois Press, 1997), 18.
111. Griswold, *Divorce and the Legal Redefinition of Victorian Manhood*, 105.
112. Turner House testimony, sworn to and subscribed before J.J. Brickell, J.P., 4 December 1826, GASR, NCDSA, Box. 1.
113. Ibid.
114. Includes deposition of a neighbor Hillary Whitehurst of Pitt County, 20 January 1827. Sworn at Raleigh, 20 January 1827, before Wm. Peace, J. P, of Wake County, GASR, NCDSA.
115. Petition of Turner House of Pitt County, Dec. 1826 and Deposition of Hillary Whitehurst of Pitt County, Dec. 1826-Feb. 1827, GASR, NCDSA.
116. Wyatt-Brown, *Honor & Violence in the Old South*, 86. For wider context, see chapter 5 *Sexual Honor, Expectation, and Shame*.
117. Petition of John Johnson, Nov 1832–Jan 1833, GASR, NCDSA.
118. Bynum, *Unruly Women*, 90.
119. See Bertram Wyatt Brown, *Honor and Violence in the Old South* (Oxford: Oxford University Press, 1986). Brown argues that in the event of female adultery, it was paramount that a husband demonstrated his “manliness” in how he responded to the situation at hand. This included remonstrating his wife, ceasing martial relations, and showing violence towards the man she had conducted adultery with (depending on if he was Black or white, free, or enslaved). Brown suggests this was bound up with the “protection of male ego, honor and purity of bloodline,” 100.
120. Petition of John Johnson, November 1832–January 1833, GASR, NCDSA, Box 5. Also refer to Oath of William Overman, October 6, 1832.
121. Ibid. See the testimony of William Overton.
122. Petition of Richard Jernigan, Wayne County, North Carolina, 1834, RSPP, PAR # 21283408. Also, see Depositions, William and Isaac Wise, Polly Sasser, 21 August 1835.

123. Deposition of Isaac Wise, 21 August 1835, RSPP, PAR # 21283408.
124. Petition of Richard Jernigan, Wayne County, North Carolina, RSPP, PAR # 21283408.
125. Samuel Jameson from Burke County, North Carolina also discovered that his wife Fatima, who he had been married to for two years, was engaged in sexual intercourse with men outside of their marriage, including a free man of color, who he caught in the act of adultery in 1839. No petition result / no decree. RSPP, PAR # 21283905.
126. Petition of John Heath, 10 November 1814, GASR, NCDSA, in Nov.–Dec. 1814, Box 2: folder “Petitions – Divorce and Alimony.”
127. Petition of Turner House of Pitt County, Dec. 1826 and Deposition of Hillary Whitehurst of Pitt County, Dec. 1826–Feb. 1827, GASR, NCDSA. Petition of John Heath, 10 November 1814, GASR, Nov.–Dec. 1814, Box 2: folder “Petitions-Divorce and Alimony.”
128. This contradicts Wyatt-Brown who said that “Honor and interest combined to repress feminine lustfulness, but basically the sanction was external: fear of social ostracism,” 95. “As proprietors and protectors of female virtue, fathers, brothers, and husbands were brought to public shame by the tarnished woman. This linked to the idea of “Womanly sin” versus “male vice,” 95.
129. On the topic of female power, refer to, Fay A. Yarbrough, “Power, Perception, and Interracial Sex: Former Slaves Recall a Multiracial South.” *The Journal of Southern History* 71, no. 3 (2005): 559–588; Loren Schweninger, *Families in Crisis in the Old South: Divorce, Slavery, and the Law* (Chapel Hill: University of North Carolina Press, 2004); Rachel A. Feinstein, *When Rape Was Legal: The Untold History of Sexual Violence during Slavery* (New York: Routledge, 2018); Thomas Foster, *Rethinking Rufus: Sexual Violations of Enslaved Men* (Athens: University of Georgia Press, 2019).
130. Barbara Bush, “White ‘Ladies,’ Coloured ‘Favourites’ and Black ‘Wenches’”; Some Considerations on Sex, Race and Class Factors in Social Relations in White Creole Society in the British Caribbean. *Slavery and Abolition*, 245–246., esp. 247
131. Petition of Isaac Routh, Randolph County, North Carolina, Spring Term 1845, RSPP, PAR # 21284508. The divorce petition was granted.
132. Ibid.
133. Ibid.
134. Petition of Hugh Lamb, New Hanover County, North Carolina, 22 March 1851, RSPP, PAR # 21285120.
135. Ibid.
136. Ibid.
137. Wyatt-Brown, *Honor and Violence in the Old South*, 100. Also see Hodes, *White Women: Black Men*, 4.
138. Petition of Elisha Lee, Wake County, North Carolina, 4 April 1833, RSPP, PAR # 21283301.
139. Petition of Kennedy M. Williams, Yadkin County, North Carolina, RSPP, PAR #21285609.
140. Wyatt-Brown, *Honor and Violence in the Old South*, 103.
141. Petition of Benjamin Millican, Randolph County, North Carolina, RSPP, PAR # 21285815. This includes the response of Elizabeth Milliken [sic], 20 September 1857; Final Decree. c.1859 (granted).
142. Sarah Jane Thomas v William M Thomas, 1859, Davidson County Court Records, 1831–1944, NCDAH.
143. Sarah Jane Thomas v William M Thomas, 1859, Davidson County Court Records, 1831–1944, NCDAH. Also see Foster, *Rethinking Rufus*, 75–76.
144. Forret, *Race Relations at the Margins*, 223.
145. Drew Gilpin Faust, “‘Altars of Sacrifice’: Confederate Women and the Narratives of War,” in *Divided Houses: Gender and the Civil War*, eds., Catherine Clinton and Nina Sibling (New York and Oxford: Oxford University Press, 1992).
146. Drew Gilpin Faust, *Mothers of Invention: Women of the Slaveholding South in the American Civil War* (Chapel Hill and London: The University of North Carolina Press 1996), xii.
147. John H. Green v Jane Green, Wake County, North Carolina, RSPP, PAR #21286602. Petition granted.
148. See Hodes, *White Women, Black Men*.
149. U.S. Congress. *U.S. Statutes at Large, Volume 13 – 1865, 38th Congress*. United States, – 1865, 1864. Periodical, <https://www.loc.gov/item/lsl-v13/>.

150. James Bastian (also referred to as Jacob), Rowan County, North Carolina, Apr 20, 1866–Dec 31, 1866, RSPP, PAR # 21286603. No recorded result.
151. Ibid.

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Marie S. Molloy is a senior lecturer in American History at Manchester Metropolitan University. Her research examines race, class, and gender in the nineteenth-century American South. Her first monograph examined *Single, White Slaveholding Women in the Nineteenth-Century American South* (University of South Carolina Press, 2018). She is currently working on a book length project on adultery across the color line in the slaveholding south.