

## "To the Honorable": Divorce, Alimony, Slavery, and the Law in Antebellum North Carolina

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*To the Honorable the General Assembly of the State of North Carolina,*

*The memorial of Harriot [sic] Las peyre of the County of New Hanover humbly complaining, sheweth unto your honorable body, that your memorialist was married to a certain Bernard Laspeyre late of the Island Hispaniola in the year of 1795 That her friends more prudent than herself caused to be secured to her the much greater part of her little property by a marriage settlement bearing date the day of May 1795 .—*

*That not many weeks had elapsed, subsequent to their union when your Memorialist discovered to her infinite mortification that her property, trifling as it was had been the primary object of his warmest affection*

*That he would urge in the most pressing manner, for her consent to sell the Negroes secured to her by said settlement, upon her refusal he would fall in to the most violent poroxysms of rage, and abuse her in the most virulent language the vulgarity of his mind could possibly suggest in language too gross and indecent to be repeated*

*Your Memorialist at length wearied out by his reiterated importunitiesies , intimidated by his ~~violence~~ threats and fondly, hoping that a compliance with his wishes, might purchase her kinder treatment, consented three different times to his selling three of the said Negroes and joind him in making titles thereto*

*This acquiescence on the part of your Memorialist persuaded him that her consension had been only procured from a dread of his resentment; and had no other effect but that of exposing her to new and aggravated insults.—a peremptory and menacing requisition was made of a surrender of her whole property with denunciations of his vengeance in case of her non compliance— Your Memorialist was too soon made sensible of his fixed determination to compel! her by every*

*diabolical scheme the brutality of his manners and the malignity of his heart could devise to a surrender of every thing she held in her own right—*

*Your Memorialist was at length stripped of the right that every woman claims and is so very tenacious of the direction and superintendance of her house hold affairs divested of her keys, deprived of the authority of a mistress her negroes forbidden to obey her orders under penalty of the severest punishment, exposed to contumely and want and every attempt made to render her an object of detestation to her own Children.— The profits arising from the labor of her Slaves, which ought to have been appropriated, to the support and education of her fsix] Children, she had the ~~mortification~~ extreme vexation to see wantonly lavished on his black and mulatto mistresses. . . .*

*Harriet Las peyre 18 December 1816*

In both style and substance, the petition of Harriet Laspeyre was similar to many other memorials presented to the North Carolina General Assembly and, in subsequent years, to the superior courts of the state concerning divorce, alimony, and slavery during the antebellum era. Other petitioners began with salutations "To the Honorable" members of the General Assembly or "To the Honorable Judge of the Superior Court," went on to summarize or present in great detail why their marriages could not be salvaged, and "prayed" for some sort of redress. Harriet Laspeyre requested a special act allowing her to keep what was left of her estate as well as any property she might acquire in the future, either through her own efforts or by inheritance. She also requested a separation from her husband, whom she described as haughty, immoral, and tyrannical. His sexual proclivities toward black women were well known to everyone in the community, she said, and eventually he left their farm, moved to the town of Wilmington, and set up housekeeping with his "Negro wench," extending to her "all the rights and authorities of a Wife."

Most accused husbands in divorce pleas to the Assembly failed to respond to the charges, but Bernard Laspeyre felt compelled to defend himself. In 1817, now living in Sampson County, he charged his wife with "Virulent and Infamous Libel." Her petition, an "obscene Instrument," was not even written by her, he charged, but rather by a "Well Known Blasphemous abettor of Loose morals and Vulgar Intrigue," a woman "whose vices and immorality are proverbial." Furthermore, he explained, the act passed by the last session in favor of his wife caused him great hardship. By virtue of their "Marriage Settlement," he argued, their slaves were to remain under his "Sole contrroll" and could be disposed of only in her will after her death. After the Assembly granted her the rights and privileges to buy, sell, and possess property as if she "had never been Married," the sheriff confiscated those slaves. In addition, Harriet sent their children out of the state and left him, in "flagrant Violation of all civil and divine Laws." She was, he asserted, the "Proudest, haughtiest, the most Suspicious and tyrannical woman existing." He asked that the Assembly, in conformity with the spirit of a law passed in 1814 conferring to the superior courts "the right of Granting Divorces, Alimony c," to repeal the private act passed in Harriet's favor, as it was "Subversive of the most Sacred Institutions of Society."<sup>1</sup>

The bitter conflict between Harriet and Bernard Laspeyre reveals a great deal about divorce, alimony, slavery, and the law in the Old North State. At the time Harriet presented her plea, both divorce and separation of bed and board could be achieved only through a special act of the General Assembly. The 1814 law permitted complete divorce (a vinculo matrimonii) for impotence and adultery, provided only one spouse was guilty of adultery, and a divorce from bed and board (a mensa et thoro) for cruel treatment of a wife by her husband. The wife could seek alimony, the amount depending on the financial situation of her husband, but not L'ceeding one-third of his income or one-third of his estate. The cases were tried by a jury in the superior courts of the state, but divorces could not be final until ratified by a private act of the General Assembly. The anger and ill

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<sup>1</sup> . Petition of Harriet Laspeyre to the General Assembly, New Hanover County, North Carolina, December 18, 1816, in General Assembly Session Records, Divorce and Alimony Petitions, November-December 1816, Harriet Laspeyre, v Bernard Laspeyre, State Archives, North Carolina Office Archives and History, Raleigh, North Carolina. Granted. PAR 011281601. Petition of Bernard Laspeyre to the General Assembly, Sampson County, North Carolina, December 11, 1817, in General Assembly Session Records, Divorce and Alimony Petitions, November-December 1817, Bernard Laspeyre v. Harriet Laspeyre, State Archives. Rejected. PAR 011281703. Included with the citation for each petition in this essay is a Petition Analysis Record (hereinafter cited as PAR) number. The eight-digit PAR number identifies the petition by series (1=legislative, 2-county court), state (12=North Carolina), year (817-1817), and sequential number assigned to each petition within a given year. Copies of the documents cited in this essay, arranged by PAR number, can be found in Loren Schweninger, ed., *Microfilm Edition of Race, Slavery and Free Blacks, Series 1, Petitions to Southern Legislatures, 1777-1867* (Bethesda, Md.: University Publications of America, 1998), 23 reels, published with *A Guide to the Microfilm Edition of Race, Slavery and Free Blacks, Series 1, Petitions to Southern Legislatures, 1777-1867* (Bethesda, Md.: University Publications of America, 1999); and in Loren Schweninger, ed., Marguerite Howell, asst. ed., *Microfilm Edition of Race, Slavery and Free Blacks, Series 2, Petitions to Southern County Courts, 1775-1867: Parr D: North Carolina (1775-1867) and South Carolina (1784-1867)* (Bethesda, Md.: LexisNexis, 2005), 25 reels, published with *A Guide to the Microfilm Edition of Race. Slavery and Free Blacks, Series 2, Petitions to Southern County Courts, 1775-1867; Parr D: North Carolina (1775-1867) and South Carolina (1784-1867)* (Bethesda, Md.: LexisNexis, 2005). The microfilm is housed at a number of research libraries.

will between the Laspeyres also provide a glimpse of marital situations where women endured many years of abuse before seeking legal redress; where hostile and sometimes violent confrontations ripped families apart; where married women were stripped of their "cherished rights" to govern their slaves and superintend their households; and where husbands took up with black women and treated them as de facto wives.

That white women would suffer such abuse over many years points to the central role of marriage and the family, and the essential need for their stability in the social fabric of the period. Ministers, politicians, jurists, businessmen, elected officials, and community leaders heralded the family as "the cradle of morality," the "nursery of patriotism." In 1833, a member of the General Assembly declared that social relationships among family members constituted the cement that held the country together. "Indeed," he continued, "what else is it but the social ties of family connections, when rendered happy and prosperous by their own industry, that stamps a value upon society." A Supreme Court justice added that no matter what the situation, divorce was a form of "madness," bringing disgrace upon the couple and depriving the children "of the greatest earthly advantage, the nurture and admonitions of a parent." In short, most contemporaries believed that marriage and the family were vital to economic prosperity and to political stability in the state and the nation.<sup>2</sup>

Despite this, during the first quarter-century following statehood (1789— 1814), hundreds of residents deluged the state legislature with petitions to dissolve their marriages. At each session legislators received between thirty and sixty petitions, often as angry and bitter as the one presented by Harriet Laspeyre. Beginning in the 1790s, lawmakers discussed how they might relieve the burden of examining these requests, proposing various types of legislation but to no avail. One important proposal to streamline the process in 1808 was hotly debated. Supported by many in the legislature, it was opposed by ministers and religious leaders, who asserted that any divorce bill if enacted into law would "loosen the bands of Society and turn mankind upon each other like brutes." The bill failed by a vote of 25 to 32. The 1814 law did little to lessen the time spent by the Assembly discussing marital problems, and many legislators continued to complain that extended discussions of divorce petitions took time away from important issues, including taxation, political reform, internal improvements, and the control of the slave and free black populations. In 1827, the legislature finally turned divorce cases over to the superior courts and permitted the consideration of causes other than impotence and adultery, a practice the Assembly had followed in its deliberations. In 1828, a law was passed permitting a wife to claim alimony if her

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husband was a "spendthrift" or a "drunkard." With a few other minor changes, however, the 1827 law remained the principal statute throughout the period. In 1835, an amendment to the state constitution prohibited the General Assembly from granting divorces.<sup>3</sup>

A number of historians have discussed these laws or examined various aspects of the problem. In her extraordinary book *Ante-Bellum North Carolina: A Social History*, Guion Griffis Johnson noted that the legislature received 266 petitions for divorce or separation between 1789 and 1835 and granted fifty-two of these requests. She also included a lengthy discussion of extramarital relations in a chapter titled, "Courtship and Marriage Customs." In his classic study *The Free Negro in North Carolina, 1790-1860*, John Hope Franklin

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<sup>2</sup> Golan Griffis Johnson, *Ante-Bellum North Carolina: A Social History* (Chapel Hill: University of North Carolina Press, 1937), 218-219 (1814 law), 191 ("family connections"); Joseph S. Ferrell, "Early Statutory and Common Law of Divorce in North Carolina," *North Carolina Law Review* 41(1962-1963): 604 n. 1 ("greatest earthly advantage"). About nine out of ten white men and women in the United States lived in husband-wife-children-kin households. Michael Grossberg, "Guarding the Altar: Physiological Restrictions and the Rise of State Intervention in Matrimony," *American Journal of Legal History* 26 (July 1982): 197.

<sup>3</sup> Ransom McBride, "Divorces, Separations, and Security of Property Granted by Act of the NC Assembly from 1809 through 1830," *North Carolina Genealogical Society Journal* 9 (February 1983): 43 (hereinafter cited as NCGSJ); Jane Turner Censer, "'Smiling Through Her Tears': Ante-Bellum Southern Women and Divorce," *American Journal of Legal History* 25 (January 1981): 26 n. 8. The Assembly continued to enact divorce acts after the passage of the 1827 law. Ransom McBride, "Divorces and Separations from Petition to the North Carolina Assembly from 1779" (Part 24), NCGSJ 28 (November 2002): 431-444; Johnson, *Ante-Bellum North Carolina*, 202, 218-219; Elizabeth B. Warbasse, *The Changing Legal Rights of Married Women, 1800-1861* (New York: Garland Publishers, 1987), 74 (1828 law).

commented on the difficulty of securing a divorce and analyzed interracial relationships as an "interesting source" from "which the free Negro population was recruited." Looking closely at marital relations in Granville, Orange, and Montgomery counties, Victoria Bynum in *Unruly Women: The Politics of Social and Sexual Control in the Old South* wrote that, although wives were often forced to endure abusive spouses, "not a single woman received a divorce solely on the grounds of having been beaten by her husband." Bynum observed that the state supreme court, led by Chief Justice Thomas Ruffin (1833-1852), denied most cases on appeal but showed that the superior courts in the three studied counties granted far more divorces than they denied. In a study of black men charged with raping white women, Diane Miller Sommerville argues that a number of these interracial sexual relations were consensual. Other scholars, including Jane Censer, Sally McMillen, Catherine Clinton, and Cynthia Kierner, among others, have either briefly discussed divorce and separation in the Old North State or supplied examples from superior court records, while genealogists Janet and Ransom McBride, over a twelve-year period, published abstracts for every case that came before the state legislature.<sup>4</sup>

But neither historians nor genealogists have analyzed divorce, separation, alimony, and the law from the perspective of race and slavery. How, when, and why did slave owners file for divorce? Were they mostly small farmers who owned only a few slaves, or did they belong to the planter class? How often did non-slaveholders seek to end their marital unions because of interracial sexual relations? How did the laws work in practice, and how did those who sought to end their marriages fare in the legal system? And how did slaves become involved in these disputes? This essay seeks to answer these questions by analyzing 191 divorce and/or separation cases from forty-eight counties in North Carolina during the antebellum period, covering applications to both the General Assembly and the superior courts from 138 white women, 47 white men, and 6 free blacks or freed people (see Appendix). It does so with the realization that these cases include only the great majority of extant cases where slaves are mentioned either in the body of the petitions or in supporting documents. The data, however, is almost certainly representative of this group. In addition, the findings are likely suggestive of a broader perspective on marriage and family. The marital problems uncovered in this data were almost assuredly more prevalent than might be suggested by the small number of divorce cases that made their way to the assembly or superior courts. To some degree the problems—domestic violence, excessive use of alcohol, and abandonment—are universal, but at that particular time and place, the causes were connected with the reality of people living in a slave society: the vulnerability of black women to the advances of white men; the marital conflicts involving race and slavery within non-slaveholding families; the importance of slaves as property in domestic disputes; the struggles of slave families to protect themselves from the negative consequences of becoming involved in the marital conflicts of their owners; and the circumstances leading free people of color to

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<sup>4</sup> Johnson, *Ante-Belton North Carolina*, 221, 208-217. Johnson observed that ten years of records are missing. For the number of petitions granted by the General Assembly, see Ferrell, "Early Statutory and Common Law of Divorce," 607 n. 17. John Hope Franklin, *The Free Negro in North Carolina, 1790-1860* (Chapel Hill: University of North Carolina Press 1943), 37; Victoria E. Bynum, *Unruly Women: The Politics of Social and Sexual Control in the Old South* (Chapel Hill: University of North Carolina Press, 1992), 1,68-69, 72-76, 77 ("not a single woman"). In her study of the South, Jane Censer used North Carolina as an example to show how divorce verdicts could be overturned by a state supreme court. Censer, "Smiling Through Her Tears," 28. Diane Miller Sommerville, *Rape and Race in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 2004), 33-35. See also Sally G. McMillen, *Southern Women: Black and White in the Old South* (Arlington Heights, Ill.: Harlan Davidson, 1992); Haywood Roebuck, "North Carolina Divorce and Alimony Petitions: 1813," *NCGSJ* 11 (April 1975), cited in Catherine Clinton, *The Plantation Mistress: Woman's World in the Old South* (New York: Pantheon Books, 1982), 261; Cynthia A. Kierner, *Beyond the Household: Women's Place in the Early South, 1700-1835* (Ithaca, N.Y.: Cornell University Press, 1998); Cynthia A. Kierner, *Southern Women in Revolution, 1776-1800: Personal and Political Narratives* (Columbia: University of South Carolina Press, 1998); Janet and Ransom McBride, "Index to Divorces and Separations from Petitions to the North Carolina General Assembly from 1779," *NCGSJ* 17 (November 1991): 201-208; *ibid.*, "Part 2," *NCGSJ* 18 (May 1992): 101-110; *ibid.*, "Part 3," *NCGSJ* 18 (November 1992): 228-235; *ibid.*, "Part 4," *NCGSJ* 19 (May 1993): 95-108. The abstracts and results of cases sent to the General Assembly are included in subsequent issues of *NCGSJ*, ending with Ransom McBride, "Divorces and Separations from Petitions to the North Carolina General Assembly from 1779, Part 25 Session Nov.—Dec. 1835," *NCGSJ* 29 (August 2003): 310-330. See also Kirsten E. Wood, *Masterful Women: Slaveholding Widows from the American Revolution through the Civil War* (Chapel Hill: University of North Carolina Press, 2004), 4-5.

file for divorce and alimony. In fact, 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.<sup>5</sup>

Among the white women who sought to end their marriages in this study, about four out of five lived in slave-owning families or owned slaves themselves. Most of them lived on small farms with modest numbers of slaves (the average was about seven, and the median number, four); very few could be classified as members of the planter class. The women usually offered several reasons why they sought to end their marriages. The most prevalent was domestic violence, with nearly half the women saying that they were physically abused or assaulted. This ranged from kicking, hitting, and punching, to beating, whipping, and attempted murder. The violence could start and occur at any time during a marriage, from the first year to after many years. It could occur in any locale, among husbands who drank to excess or among those who were sober, God-fearing churchgoers. There was little change in the types of violent behavior in which men engaged over several generations. A number of women who told of these assaults recounted incidents similar to the one described in 1814 by Love Brady of Gates County, a young girl who married at age thirteen with a dowry of four slaves. Her husband beat and ill-treated her "without Cause," she said, slapping her in the face and hitting her with his fist. The beatings began shortly after they married and continued for more than a year.<sup>6</sup>

Other women accused their husbands of even more serious forms of domestic violence. Martha Evans of Person County said that in a fit of drunken rage, her husband seized her by the neck "& threw her with great violence to the opposite side of the room." She was more than seven months pregnant when this occurred, and she believed that the brutal act caused the death of her baby shortly after its birth.<sup>7</sup> Mary Garrett of Guilford County recounted that her husband struck her down to the ground and "beat her most cruelly & unmercifully." Her legs and hips were bruised so badly that she could not get out of bed for some time without feeling "great pain."<sup>8</sup> Elizabeth Rea, the wife of a prosperous Mecklenburg County farmer, said that her husband beat her on the head and across the face with a horse whip, despite her "advanced state of pregnancy." He then ordered her out of the house at the point of a gun. She found a place to sleep in "the bed of a negro Servant girl."<sup>9</sup>

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<sup>5</sup> The county distribution of the 191 cases in this study probably has more to do with record preservation than anything else. Despite this, there is a broad dispersal among the cases, including 18 in Mountain and foothill counties (Ashe, Buncombe, Burke, Caldwell, Haywood, Henderson, Macon, Rutherford, Surry, and Wilkes), 120 in Piedmont counties (Caswell, Chatham, Davidson, Franklin, Granville, Guilford, Lincoln, Montgomery, Orange, Person, Randolph, Rowan, Stanly, Richmond, Rockingham, Stokes, Wake, and Yadkin), and 53 in inner Coastal Plain and Tidewater counties (Beaufort, Camden, Craven, Duplin, Edgecombe, Gates, Halifax, Hyde, Nash, New Hanover, Northampton, Pasquotank, Perquimans, Pitt, Sampson, Robeson, Washington, Wayne, and Wilson). For a chronological listing, see Appendix.

<sup>6</sup> Petition of Love Brady to the General Assembly, Gates County, North Carolina, November 22, 1814, in General Assembly Session Records, Divorce and Alimony Petitions, November—December 1814, Love Brady v. Mills Brady, State Archives; Related Documents: Depositions of Jesse Savage, William Sears (former guardian), Mills Lewis (neighbor), November 22, 1814; List of Subscribers, 118141, with *ibid.* Granted. PAR 011281401.

<sup>7</sup> 7. Petition of Martha S. Evans to the Superior Court of Person County, North Carolina, November 1834, in Person County Divorce Records, Martha S. Evans v. David Evans, State Archives. Granted. PAR #21283404,

<sup>8</sup> Petition of Mary C. Garrett and Andrew C. Caldwell to the Equity Court of Guilford County, North Carolina, March 29, 1856, in Guilford County Divorce Records, Mary C. Garrett and Andrew C. Caldwell v. Edward T. Garrett, State Archives; Related Documents: Oath, Mary C. Garrett, March 31, 1856; Order, March 31, 1856; Answer, Edward T. Garrett, April 26, 1856, with *ibid.* Partially granted. Reunited. PAR =21285626.

<sup>9</sup> Petition of Elizabeth P. Rea to the Superior Court of Mecklenburg County, North Carolina, April 29, 1864, in Mecklenburg County Divorce Records, Elizabeth P. Rea v. W. W. Rea, State Archives; Related Documents: Jury Verdict, Fall Term 1866, with *ibid.* Granted. PAR =21286403. W. W. Rea owned farm-land worth \$1,250 and six slaves valued at \$7,470. United States Manuscript Population Census (hereinafter cited as USMSPC), Mecklenburg County, North Carolina, Eastern Division, 1860, p. 28; United States Manuscript Slave Census (hereinafter cited as USMSSC), Mecklenburg County, North Carolina, Eastern Division, 1860, p. 167. In the citations below and in the Appendix, data is gathered on individuals concerning slavery. The slave schedules in 1850 and 1860 contain the names of slave owners and the ages, color (black or mulatto), and gender of their slaves. In 1840 and before, the census returns include various age and gender groupings of slaves living in a household and the name of the head of the household. Of course, some of the slaves in a household were hired, or part of a trust estate, or owned by someone not living in the household. The returns, however, indicate a high probability of slave ownership and a good estimate of the number of slaves.

Some married women feared that their lives were in jeopardy. Eliza Cooke of Granville County said that her husband, a Methodist preacher, chased her, "caught her, raised a rock at her," and dragged her "roughly and cruelly by the arm back to the house." He then got his knife and threatened to kill her. Only with the assistance of one of the preacher's female slaves and several of the couple's older children did she escape. On another occasion, he threatened her with a gun, but the same slave along with the children and some visitors disarmed him, saving her, "as she believes, from a cruel death."<sup>10</sup> Similarly, Rebecca Wood of Davidson County said that her husband, a physician and slaveholder, brandished a knife and swore he intended "to have her hearts blood." She ran into a back room, locked the door, and remained there throughout the night. Later she escaped, but her husband kept their young child, vowing that "she should not raise it, that she was not fit to bring it up and that the negro woman would raise it, & he wished she was dead and out of the way."<sup>11</sup>

While most husbands did not brandish weapons, many believed it was their right, indeed their duty and obligation, to administer corporal punishment to their wives. They did so when women asserted their independence, challenged male authority, used swear words, refused to submit, drank to excess, or became too familiar with the slaves. They believed that God gave them authority to punish their wives as He gave them the authority to discipline the children and servants. They were familiar with biblical injunctions:

"Wives, be in subjection unto your own husbands, as unto the Lord."

"For the husband is the head of the wife, and Christ also is the head of the church, being himself the savior of the body."

"But as the church is subject to Christ, so let the wives also be to their husbands in everything."<sup>12</sup>

In one suit, a judge ruled that husbands were free to beat their wives but not out of "wantonness and wickedness," and wives were free to bring assault and battery charges but only if they sustained "lasting injuries."<sup>13</sup>

Before sustaining such injuries, some women fled from their homes. Such a decision was extremely difficult, even under the worst of circumstances. Many women believed that marriage was a sacred bond and should not be broken, even under the most dreadful conditions. They also accepted the injunction that wives should obey their husbands in all things. Leaving meant abandoning the past, turning their backs on societal norms, and jeopardizing their own as well as their children's economic well-being. As a rule, women fled only after lengthy periods of cruel treatment and degradation. They often had to leave their children behind and seek refuge with parents, relatives, friends, and neighbors. Sarah Oneel wanted to obtain a divorce and alimony from her husband, William Oneel, who, she asserted, abused and mistreated her for years. After one violent episode, she fled from their home and found a safe place to stay among friends many miles distant. Her husband kept their four-year-old daughter, however, and threatened to kill Sarah if she ever returned to see her daughter.<sup>14</sup>

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<sup>10</sup> Petition of Eliza S. Cooke to the Superior Court of Granville County, North Carolina, 1845, in Granville County Divorce Records, Eliza S. Cooke v. Thomas Y. Cooke, State Archives; Related Document: Oath, Eliza S. Cooke, March 8, 1845, with *ibid.* No decree with petition. PAR 021284506.

<sup>11</sup> Petition of Rebecca Wood to the Superior Court of Davidson County, North Carolina, February 18, 1843, in Records of Slaves and Free Persons of Color, 1826-1896, Rebecca Wood v. Lorenzo D. Wood, State Archives; Related Documents: Order, February 18, 1843; Opinion, Supreme Court of North Carolina, June Term 1845, with *ibid.* Granted; appealed; reversed and dismissed. PAR 21284306. See also USMSPC, Davidson County, North Carolina, 1840, P. 269.

<sup>12</sup> The Holy Bible, Ephesians 5:22-24.

<sup>13</sup> Bynum, *Unruly Women*, 70,

<sup>14</sup> Petition of Sarah Oneel to the Superior Court of Perquimans County, North Carolina, April 1824, in Perquimans County Divorce Records, Sarah Oneel v. William C. Oneel, State Archives; Related Documents: Bond, William Fletcher, April 1824; Copy of Petition of Sarah Oneel, April 1824; Subpoena, April 10, 1824, with *ibid.* No Decree with petition. PAR #21282403. In 1820, William O'Neal (spelled O'Neal in the census), between ages sixteen and twenty-six, headed a household with one woman in the same age group, a baby under age five, and eight slaves, including a man and woman between ages twenty-six and forty-five, a male slave between fourteen and twenty-six, and five other slaves under the age of fourteen. USMSPC, Perquimans County, North Carolina, 1820, p. 152.

A few white women swore out arrest warrants against their husbands, but, as with running away from home, this response was rare and often occurred only as a final, desperate measure. Most women realized that their husbands' arrest would not change their situation; indeed, they feared it might make things worse.<sup>15</sup> They also recognized the difficulties they would face with their husbands in jail, as it would be necessary for them to maintain and manage the farm or plantation, supervise the slaves, harvest and sell the crops, and conduct financial matters (for which they often needed their husbands' signature). There was also the question of the "good behavior bond" posted by the husband, which was often equal to a significant portion of his estate. The forfeiture on such a bond could be devastating for the family. Thus, no matter how bad things got, some women were reluctant to press charges. Abigail Carpenter of Wake County testified that her husband hit and assaulted her on many occasions during their twenty-seven years of marriage. She often fled to the homes of her neighbors but always returned to him with her six children. It was only after one attack, when she was beaten in a "dreadful manner" and feared for her life, that she filed a complaint and had her husband "bound over for his peaceable and good behavior." Their adult daughter told the court that her father would have killed her mother if it had not been for the intervention of a male slave. Moreover, the daughter added, her father threatened to "kill the negro for interfering."<sup>16</sup>

But domestic violence alone—no matter how severe—was usually not enough to convince legislators or juries to grant a divorce. As a result, physical assaults often provided a backdrop for other charges, the most prevalent of which was as old as marriage itself: infidelity. White women charged their husbands with having illicit sexual relations with women of every color and description, including their own slaves as well as slaves on neighboring farms and plantations; with free women of color; or with white women who lived in rural settings or in nearby towns and cities. A Rowan County wife called her husband, who owned nine slaves, "altogether degraded & worthless" for having liaisons with his father's slaves and with various white women who were, she said, persons of ill repute.<sup>17</sup> A Lincoln County woman said that her husband gratified his "lustful disposition" with women "regardless either of the age or color" and indulged his "libidinous propensities by acts of adultery with various lewd females" until he fathered "a bastard child."<sup>18</sup>

The women who made these accusations often did not know the names of the paramours, referring to them only as the negro wench, a free black in the neighborhood, or a white woman of "loose and immoral habits." But some wives offered specifics. A Lincoln County wife testified that her husband "was in the habit of Constant adulterous intercourse" with Iby Wilson, a white woman who lived nearby, as well as with a slave owned by Dr. S. P. Simpson.<sup>19</sup> Craven County slaveholder Harriet Foy said that her husband was having an affair with the

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<sup>15</sup> Petition of Nancy P. Donnell to the County Court of Guilford County, North Carolina, 1854, in Guilford County Divorce Records, Nancy P. Donnell v. Latham Donnell, State Archives; Related Documents: Oath, Nancy P. Donnell, September 30, 1854; Order, October 4, 1854; Answer, Latham Donnell, October 23, 1855; Interlocutory Order, Spring Term 1856; Depositions, Adison F. King, C. A. Donnell, J. M. Cunningham, March 24, 1856, with *ibid.* Partially Granted. PAR #21285435. Petition of Nancy Haybarger to the Superior Court of Wilson County, North Carolina, 1859, in Wilson County Divorce Records, Nancy Haybarger v. Robert I-I. Haybarger, State Archives; Related Documents: Oath, May 8, 1860, with *ibid.* No decree with petition. PAR #21285912.

<sup>16</sup> Petition of Abigail Carpenter to the Superior Court of Wake County, North Carolina, April 13, 1855, in Wake County Divorce Records, Abigail Carpenter v James Carpenter, State Archives; Related Documents: Oath, Abigail Carpenter, April 13, 1855; Deposition of Mary Ford [daughter], ca. 1855, with *ibid.* Granted. PAR \*21285506. In 1850, James Carpenter, age forty-two, was listed in the census as a "Shingle getter" with twenty-dollars worth of real estate. He headed a household that included Abigail, age thirty-seven; Jane, age seventeen; Frances, age 15; Maresey, age twelve; John, age six; and Sally, age four. He owned no slaves. USMSPC, Wake County, North Carolina, Western Division, 1850, p. 222.

<sup>17</sup> Petition of Emeline Adderton to the Superior Court of Rowan County, North Carolina, 1842, in Rowan County Divorce Records, Emeline Adderton v. John B. Acklerton, State Archives; Related Documents: Order, Fall Term 1843, with *ibid.* Granted. PAR \*21284206.

<sup>18</sup> 18. Petition of Francis Courtney and Henry P. Courtney to the Superior Court of Lincoln County, North Carolina, August 17, 1855, in Lincoln County Divorce Records, Francis Courtney v. Henry P. Courtney, State Archives; Related Documents: Decree, Spring Term 1856, with *ibid.* Granted. PAR \*21285505.

<sup>19</sup> Petition of Elizabeth Cody to the Equity Court of Lincoln County, North Carolina, 1844, in Lincoln County Divorce Records, Elizabeth Cody v. Pearce Cody, State Archives. No decree with petition. PAR \*21284402.

slave named Hannah.<sup>20</sup> Nancy Jane Brooks of Randolph County said that her husband, a teacher, hired Gilly, a young slave girl, for the express purpose of keeping her as his concubine, engaging in "shameless adulterous intercourse" with her until she gave birth to a mulatto child.<sup>21</sup> Another wife lamented that her husband became so infatuated with his slave Polly that he took his meals with her, followed her around, slept with her, and allowed her to remain around the house while his wife worked in the fields. Later, Polly, like Gilly, gave birth to a mixed-race child.<sup>22</sup>

Perhaps no slave owner better illustrated the mind-set of married men who believed it was their right to approach not only their own slaves but black women in the neighborhood than Richmond County farmer William D. Robinson. In 1818, after two years of marriage, his wife filed for divorce, charging him with "promiscuous cohabitation with various women." Robinson had committed numerous acts of adultery with a number of black women, she said, and during the trial, a number of witnesses confirmed these charges. A slaveholding neighbor testified that Robinson acted in an improper manner toward one of his female slaves, offering her two dollars for sex and tearing at her clothes. Robinson had told him that he "had no intention of committing a rape upon the Negro, but admitted that he attempted to stroke her," noting that on prior occasions "he had had Carnal knowledge of her. The neighbor believed that Robinson "would disgrace any decent woman over whom he had the power or authority of Husband." Another neighbor said that once when he and Robinson were out on horseback, Robinson took a young black girl behind him and rode off into the woods. He came back with the girl a short time later and took her behind a pine tree. Observing the "manner in which they were standing and their action altogether," the neighbor had "no doubt about what they were about." Robinson subsequently admitted that he "Stroked her twice, that is once each time when he took her off." In a third incident, he bragged to a hired hand that he could have carnal knowledge with a young black girl walking along the road near a farmhouse. He approached her, propositioned her, and when he refused, he pressed her to the ground and "entered her" but did not "accomplish his purpose" because her owner's daughter approached them unexpectedly.<sup>23</sup>

If William Robinson was more promiscuous than most slave owners, he was not alone in thinking that the ownership of human property gave him license to do as he pleased with black women without fear of punishment. He boasted about his conquests and used the term "rape" only to suggest that the black girl he molested should have consented. He dismissed the pleading of his wife and told her that "he never would treat her as a wife, but as a slave." Robinson's case was typical in another way. Although many neighbors, friends, and slaves in the area, even outside visitors, knew about his lust for young black women, most look the other way. Many said nothing until his actions became so blatant that his wife filed court papers against him and they were compelled to testify. Also, as the owner of five slaves, Robinson fit closely the slave-ownership profile of whites who were accused of infidelity with slave women in divorce proceedings.<sup>24</sup>

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<sup>20</sup> Petition of Harriet J. Foy to the Superior Court of Craven County, North Carolina, 1850, in Craven County Divorce Records, Harriet J. Foy v. Thomas D. Foy, State Archives; Related Documents: Subpoena, October 3, 1850; Answer, Thomas D. Foy, April 3, 1851; Indenture, Thomas Foy to Harriet and Elizabeth Smith, January 6, 1844, with *ibid.* No decree with petition. PAR 021285023.

<sup>21</sup> Petition of Nancy Jane Brooks to the Superior Court of Randolph County, North Carolina, January 2, 1861, in Randolph County Divorce Records, Nancy Jane Brooks v. Josiah H. Irons, State Archives. No decree with petition. PAR 021286114.

<sup>22</sup> Petition of Elizabeth Clubb to the Superior Court of Lincoln County, North Carolina, 1843, in Lincoln County Divorce Records, Elizabeth Clubb v. David Clubb, State Archives; Related Documents: Oath, Elizabeth C. Clubb, December 9, 1841; Answer, David Clubb, September 9, 1843, with *ibid.* Both sides. 021284303. The jury found "all the Defendants issues in favor of the defendant & all the plaintiffs is ue' in favor of the plf." Minute of the Superior Court Lincoln County, June Term 1845, State Archive.

<sup>23</sup> Petition of Jane Robinson to the Superior Court of Richmond County, North Carolina, June 30, 1818, in Richmond County Divorce Records, Jane Robinson v. William Robinson, State Archives; Related Documents: Summons, September 1817; Depositions of William Powell, June 22, 1813, "no intention of Committing a rape upon the negro"; Alamander [?] Hunt, June [22], 1818 ("Stroked her twice"); James Kelly, June 23, 1818 ("entered her"). No decree with petition. PAR #2181803.

<sup>24</sup> For additional testimony, see Petition of Jane Robinson to the Superior Court of Richmond County, North Carolina, June 30, 1818, in Richmond County Divorce Records, Jane Robinson v. William Robinson, State Archives; Related Documents: Depositions of Betsy Stansill (also spelled Staical), June 25, 1818; Hannah Cole, June 1818; James Cole, June 27, 1818, with *ibid.* No decree with petition. PAR #21281803. Unfortunately, the superior court minutes for Richmond County for the year 1818 are not extant.

The resistance offered by the unnamed slave girls to Robinson's advances suggests that black women fought back against the advances of white men. Their responses combined anger, defiance, bitterness, and hostility. At various times, they screamed, struggled, and assaulted the white men who sought to violate them, and they were sometimes successful. But their situation was precarious. If they fought too hard they might put themselves, their children, or their husbands in jeopardy of being punished or sold; if they struggled but were unsuccessful, their relationships with their own families as well as other slaves might be endangered. Despite public professions about morality and decency, there were no criminal laws against whites—slave owners or non-slave owners—having "illicit sexual intercourse" with slaves, not even against committing rape. In fact, in the more than 2,200 pages of documentary evidence in this analysis, the words "husband" and "rape" appear so infrequently in connection with black people as to be almost nonexistent. When it appears, the word "rape" is used not to describe a criminal offense or as a matter of law but to draw a line between what white men conceived as coerced as opposed to consensual sex.<sup>25</sup>

But it was not only slave women who drew the attention of white men. A few wives complained that their partners left them for free women of color. After 1830, it was against the law in North Carolina for whites and free blacks to marry, but even during colonial times, public sentiment stood against such unions. Some men, however, ignored the law as well as community values. For a little after their marriage, New Bern residents Mary Richardson and her husband "lived together happily," and their union "promised all the felicity which ordinarily accompanies the connubial State." Although she performed "all the duties of a faithful wife," after fourteen years of marriage and one child, her husband moved out of the house and took up residence with Emeline Winsor, a free woman of color. In doing so, Mary lamented, he "entirely destroyed" their "domestic peace and happiness."<sup>26</sup> Similar mixed-racial unions appeared in several other North Carolina towns, including Wilmington and Raleigh, and in rural areas, as white men left their wives to be with free black women. The period of domestic "peace and happiness" lasted only a few months for Rebecca Chamberlain of Surry, later Yadkin County. Even though she was three months pregnant with their only son, her husband drove her out of their home and invited free black Jane Underwood to come and live with him. As was the case for most white women who submitted petitions to dissolve their marriages, Rebecca said that she had always conducted herself as "a prudent & discrete wife," and remained "faithful to her marriage vows & since her ... separation has ever conducted herself as a prudent & virtuous woman."<sup>27</sup> The period of domestic contentment was much longer for Mary Ann Williams of Franklin County. After bearing her husband ten children, eight of whom were still living, she discovered he was having an affair with Martha Fogg, a free black woman living and working on their farm. When Mary Ann protested, he told her "he didn't care" and "what of it," spending his time "frolicking and dancing and chi[ld]like" with his free black mistress, who later gave birth to a "white child."<sup>28</sup>

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25 Rape of a white woman was considered a capital offense in North Carolina after 1823. Henry W. Farnam, *Chapters in the History of Social Legislation in the United States to 1860* (Washington D.C.: Carnegie Institution, 1938), 185.

<sup>26</sup> The 1830 law, renewed in 1838-1839, declared such marriages null and void and prescribed a prison sentence for anyone performing the ceremony. Farnam, *Chapters in the History of Social Legislation*, 194; Franklin, *The Free Negro in North Carolina*, 36-37; Petition of Mary A. Richardson to the Superior Court of Craven County, North Carolina, September 10, 1853, in Craven County Divorce Records, Mary A. Richardson v. Andrew H. Richardson, State Archives; Related Documents: Oath, Mary A. Richardson, March 25, 1853; Order, M. E. Manly, March 25, 1853, with *ibid.* No decree with petition, PAR #21285319. In 1850, Andrew H. Richardson, age forty-eight and a trader by occupation, owned four thousand dollars worth of real estate. His wife, Mary, also forty-eight, was born in the West Indies. They had an eight-year-old child, Julia, who attended school during the year. Andrew Richardson owned two slaves, a forty-five-year-old black woman and a seventeen-year-old mulatto man. USMSSC, Craven County, North Carolina, New Bern, 1850, n.p.; USMSPC, Craven County, North Carolina, New Bern, 1850, p. 306.

<sup>27</sup> Petition of Rebecca Chamberlain to the Superior Court of Yadkin County, North Carolina, December 6, 1853, in Yadkin County Divorce Records, *Rebecca Chamberlain v. Alexander Chamberlain*, State Archives; Related Documents: Oaths, Rebecca Chamberlain, December 6, 1853, June 6, 1853; Order, June 6, 1854, with *ibid.* Granted. PAR #21285321. Later, Alexander Chamberlain expelled Jane Underwood from his house and was "tried & convicted of living in adultery" with a white woman.

<sup>28</sup> Petition of Mary Ann Williams to the Superior Court of Franklin County, North Carolina, 1856, in Franklin County Divorce Records, *Mary Ann Williams v. Lunsford Williams*, State Archives. No decree with petition. PAR #21285636. In 1850, Lunsford Williams (spelled Luntsford in the census), a forty-six-year-old farmer with \$282 worth of real estate, headed a household that included Mary Williams, age thirty; Cornelia, age fifteen; William, age thirteen; Lawrence, age twelve; Celestia, age nine; Emma, age seven; Lugenia, age five; Rosanna, age four; and Newton, age two. The eldest four children attended school during the year Lunsford Williams owned two slaves, a black woman, age twenty-five, and a mulatto baby boy, age two. Mary Ann's Virginia-born father, William Stokes, age fifty-seven, owned a farm and twenty black slaves. In 1850, free black Martha Fogg, age twenty-three, lived with her three children, Ruffin, age five; Ann, age three; and James, seven months. USMSPC, Franklin County, North Carolina, Davis District, 1850, p. 370 (*Mary Ann and Lunsford Williams*); *ibid.*, Louisburg District, 1850, p. 380; USMSSC, Franklin County, North Carolina, Louisburg District, 1850, p. 629 (*William Stokes*); USMSPC, Franklin County, North Carolina, Galloways District, 1850, p. 441 (*Martha Fogg*).

It was difficult to keep secrets on the farms and plantations, even in towns and cities, where whites and blacks often lived in close proximity and saw each other on a daily basis. The rumors and gossip about the sexual activities of white men spread quickly, especially when the rumors involved black women. The question facing wives was how to respond to husbands who visited the quarters at night, sought out black women on neighboring farms or plantations, brought slave or free black mistresses into their homes, moved out of the house or forced their wives to move out, or who, like William Robinson, tried to seduce every young black girl he encountered. Considering the difficulties single women faced securing a livelihood, providing food and shelter for their children, managing slaves without any assistance, and holding property in their own right, it was not surprising that most women stayed with their husbands long after discovering an infidelity.

The profile of white men who filed for divorce on charges of adultery contrasted sharply with the profile of white women who made complaints against their husbands. Most of the men did not own slaves (about five out of six were non-slaveholders); they managed small farms and possessed modest amounts of property; and they accused their wives of having affairs almost exclusively with black men. As to the latter point, the conceptual framework of this essay, dealing as it does with race and slavery, skews the results in this direction since divorce cases involving white men suing their wives for adultery with other white men would not be included, unless the woman also engaged in adultery with black men or unless the case involved slave ownership.<sup>29</sup> Some white men who owned slaves presumed they possessed a license to take advantage of slave women, deeming it neither disgraceful nor a danger to society, whereas when white women accepted the advances of black men it was considered the height of infamy, undermining the very fabric of southern civilization. Slave men took their lives in their hands when they had relationships with white women. Nonetheless, such liaisons occurred more often than most people were willing to admit. In the Davidson County case of a slave man accused of raping a teenage white woman, a juror admitted that in his neighborhood, "a greater intimacy existed between the blacks and whites than is usual or considered decent." A number of the divorce cases were similar to the one reported by Thomas Flowers, a non-slaveholding farmer in Nash County, who asked for a divorce from his wife Temperance, who "has taken up and cohabitted with people of colour, by whom she has had a child of colour & mixed blood, and with whom she has long associated." Thomas Flowers had lived with his wife for nearly nine years. "This wife of his bosom this friend of his soul," whom he had lived with in "love & confidence," had left him for a black man, he lamented. He begged her to desist, but all his efforts "proved abortive." He was "stabbed to the heart, cut to the brains."<sup>30</sup>

Other white men were devastated when their wives gave birth to mixed-race babies, ran off with free black men, or engaged in illicit sex with slaves on neighboring farms and plantations. In 1784, Alexander Smith of Ashe County married Sarah Dickson. The couple lived together for many years "in domestic peace and pleasure," raising a family of five girls. In 1801, however, Sarah ran off with "a Mullatoe man Nearly as Black as an Negro and has lived without the Bounds of this State with said man of mixt collur ever since."<sup>31</sup> In 1810, Young Utley of Wake County, describing himself as a young man "of obscure birth & condition" hut of "upright character," was saddened and dismayed when his wife of three years gave birth to "a black child" and moved to Tennessee "with a man of Colour, (the Supposed author of her shame)."<sup>32</sup> In 1829, after four years of marriage, Gabriel Goodwin, an illiterate laborer in Perquimans County, was shocked when his wife gave birth to a dark

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<sup>29</sup> Among the forty-seven white men filing for divorce, forty-four charged their wives with adultery. Among them, thirty-nine, or nearly nine out of ten, accused their wives of having sexual relations with black men, either slaves or free blacks.

<sup>30</sup> Sommerville, *Rape and Race in the Nineteenth-Century South*, 34 (Davidson County juror quotation); Petition of Thomas Flowers to the Equity Court of Nash County, North Carolina, n.d., in Nash County Divorce Records, Thomas Flowers v. Temperance Flowers, State Archives; Related Documents: Decree, n.d., with *ibid.* Granted. PAR -A'21200001.

<sup>31</sup> Petition of Alexander Smith to the General Assembly, Ashe County, North Carolina, November 27, 1809, in General Assembly Session Records, Divorce Petitions, November—December 1809, Alexander Smith v. Sarah Smith, State Archives; Granted. PAR #.(1280902.

<sup>32</sup> Petition of Young Utley to the North Carolina General Assembly, Wake County, December II, 1810, in General Assembly Session Records, Divorce Petitions, November—December 1810, State Archives. Granted. PAR #11281010.

mulatto baby "one half negro."<sup>33</sup> Other small farmers and laboring men made similar complaints. Their wives, one Stanly County resident said, had "frequent casual intercourse" with black men.<sup>34</sup> On occasion, such interracial liaisons reached the more prosperous members of society. Zachariah Smith of Wake County, who owned nine slaves and a productive farm, asserted that he and his wife were both "full white," but their last child was "obviously of mixed blood." Discovering that she was unfaithful, he whipped her with a cowhide. He had whipped her before, he explained to a superior court jury, but those whippings were "not very severe" and were "no more than was necessary to compel her obedience." This whipping, however, was extreme, he admitted, and although he had no "desire to be cruel towards her," he probably "slashed her too hard" after discovering the mulatto baby. Following the incident he told her to take the baby and leave his farm.<sup>35</sup>

It was difficult for white men to contemplate that their wives might prefer black or mulatto men. But they were forced to concede that this was the case when their wives sneaked out of the house for rendezvous with black lovers, had sex with slaves in the kitchen, and engaged in "adulterous intercourse" in the quarters or at the homes of free blacks. Long after all members of their family had gone to bed, slave owner James Larimore of Stokes County explained, his young wife Catharine arose, sneaked out of the house, and went to the kitchen building, where "a negro fellow by the name of Peter" slept, remaining there for hours with "no person being present except, her & the negro." Catharine also journeyed to neighboring plantations in the middle of the night for rendezvous with slaves. A friend, Winney Westbrook, once asked her what she was doing traveling by herself along deserted roads so late at night. She told her "She was hunting the Bull."<sup>36</sup> Nor was Catherine the only white woman who left the bed of her husband to engage in "adulterous intercourse with diverse individuals," including slaves and free blacks. Daniel Griffin of Wayne County explained that he had married when he was only twelve years old and avowed that his wife married him to disguise her yearning for black men. "He was a victim in the strongest sense to the foulest plot," his lawyer told the court, "a cover for the free and promiscuous indulgence of the basest passions of her nature." His wife allowed black men to take "indecent liberties with her person," fondle her breasts and press against her thighs, and take her into the fields on summer nights. His wife copulated with "a certain mulatto fellow named William Baker," as well as a slave named Ned, owned by William Rouse. In fact, his wife met Ned often, went with him at night, invited him into her room, and let him "put his hands upon her."<sup>37</sup> Other wives had similar liaisons, abandoned themselves to what their husbands called "vile prostitution and debauchery" or lewd and lascivious acts, and gave birth to children of "various colours and complexions."<sup>38</sup>

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<sup>33</sup> Petition of Gabriel Goodwin to the Superior Court of Perquimans County, North Carolina, October 1831, in Perquimans County Divorce Records, Gabriel Goodwin v. Mary Goodwin, State Archives; Related Documents: Oath, October 17, 1831, with *ihid.* Granted. PAR #21283105. USMSPC, Perquimans County, North Carolina, 1830, p. 116; *ibid.*, Chowan County, North Carolina, District above Edenton, 1860, p. 298.

<sup>34</sup> Petition of Andrew Troutman to the Equity Court of Stanly County, North Carolina, March 6, 1854, in Stanly County Divorce Records, Andrew Troutman u. Catharine Troutman, State Archives; Related Documents: Oath, Andrew Troutman, March 6, 1854; Decree, ca. 1854, with *ibid.* Granted. PAR #21285428. USMSPC, Stanly County, North Carolina, 1860, p. 36.

<sup>35</sup> Petition of Elizabeth Smith to the Superior Court of Wake County, North Carolina, July 29, 1833, in Wake County Divorce Records, Elizabeth Smith v. Zachariah Smith, State Archives; Related Documents: Answer, Zachariah Smith, October 3, 1833, with *ibid.* Granted. PAR 021283303. In 1830, Zachariah Smith, in his twenties, headed a household that included Elizabeth, in her twenties; a baby under five years of age; seven slaves, four under age ten; and one free black female between ten and twenty years old. USMSPC, Wake County, North Carolina, 1830, p. 438.

<sup>36</sup> Petition of James Larimore o the Superior Court of Stokes County, North Carolina, 1820, in Stokes County Divorce Records, James Larimore v. Catharine Larimore, State Archives; Related Documents: Deposition of Winney Westbrook, ca. 1820, with *ibid.* Granted. PAR 021282001. USMSPC, Stokes County, North Carolina, 1820, p. 355; USMSPC, Stokes County, North Carolina, 1840, p. 200.

<sup>37</sup> Petition of Daniel Griffin to the Superior Court of Wayne County, North Carolina, 1850, in Records of Slaves and Free Persons of Color, 1789-1869, Daniel Griffin v. Leah Griffin, State Archives; Related Documents: Decree, ca. 1850. Granted. PAR 021285022.

<sup>38</sup> See Petition of John D. Barber to the General Assembly, Washington County, North Carolina, November 17, 1824, in General Assembly Session Records, Divorce Petitions, November—December 1824, John D. Barber v. Mary Barber, State Archives; Rehired Documents: Deposition of William B. Harramond, November 6, 1824; Depositions of Ezekiel H. Potter and Ezekiel Hardison, November 3, 1824, with *ibid.* Rejected. PAR #II282402. Petition of Stephen Cole o the Superior Court of Richmond County, North Carolina, July 8, 1848, in Richmond County Divorce Records, Stephen Cole v. Mary Cole, State Archives; Related Documents: Oath, Stephen Cole, July 8, 1848; Order, July 20, 1848; Answer, Mary Cole, March 20, 1849; Oath, Mary Cole, March 20, 1849; Ruling, 1850, with *ibid.* Granted. PAR #21284802. Petition of Isaac Routh to the County Court of Randolph County, North Carolina, 1845, in Randolph County Divorce Records, Isaac Routh v. Lilly Ann Routh, State Archives; Related Documents: Decree, Spring Term 1846,

Some husbands did not discover the infidelity until after the birth of a mixed- race child. Even then, in some cases it was difficult to discern whether the child was white or of mixed-racial background. Some babies described as "white" were in fact fathered by black men, while others described as dark or swarthy were not believed to be the offspring of a person of color. When husbands became suspicious they asked friends, neighbors, family members, and physicians to inspect a child's facial features, limb formation, hair texture, and skin color. Many husbands, especially those married for a number of years with a number of children, found it impossible to believe that their wives might have had a relationship with a black man. So when a child looked different, or was darker than was considered normal, husbands did not always consider infidelity as the cause. After twenty-two years of marriage and six children, Stokes County slaveholder Henry Shouse's wife gave birth to a baby that "showed no particular mark" as to color. But as the child matured its skin grew darker and darker. Soon the neighbors began to whisper, but Henry still could not believe that his wife had been unfaithful. After some time, however, he called in a physician, "a Medical Gentleman of high reputation," who pronounced the child "of negro blood."<sup>39</sup>

In a few cases, white men unknowingly raised children fathered by slaves. After eighteen years of marriage, Granville County farmer William Hickman began to suspect that he was not the father of the two children born during his union with his wife, the first in 1820 and the second in 1823. Even after he became convinced that he was not the father, he did not file for divorce, for he wished to avoid the humiliation this would cause for his wife's family "who were numerous & respectable." Finally, in 1827, Hickman discovered that "a mulatto slave, living in the neighborhood" had fathered the children and that many people knew this, and the sight of this man walking around reminded him constantly of his wife's betrayal. In his petition for divorce he admitted that his wife "most foully dishonored him" and "was guilty of illicit intercourse with various persons before their separation."<sup>40</sup>

Although infidelity crossed gender lines, such was not the case for two other leading causes for separation and divorce, alcoholism and desertion. These charges were made almost exclusively by women. Among those petitioning the legislature or the superior courts, nearly two out of five women pointed to excessive drinking among their reasons for doing so. The charges ranged from binge drinking to uninterrupted intoxication over a period of weeks, even months. During the early decades of the nineteenth century, North Carolinians consumed prodigious amounts of alcohol, probably more per capita than either before or since. Much of it could be purchased at modest prices (twenty-five to forty cents for a gallon of whiskey). Some farmers built their own stills and made their own spirits by fermenting and distilling oats, wheat, barley, rye, and corn; they also used potatoes to make whiskey. At crossroad taverns and tippling houses, customers could choose among a host of beverages: West Indian rum, imported claret, Madeira, port, and various other wines. To "keep the fevers off" it was not uncommon to drink a tumbler of whiskey or other spirits during the day as well as before or after supper. In addition to low cost, easy availability, and the popular belief that drinking warded off disease, many North Carolinians consumed alcohol because they also believed that it relieved tension.<sup>41</sup>

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with *ibid.* Granted. PAR #21284508. Petition of Elisha Charles Dodson to the Superior Court of Guilford County, North Carolina, 1857, in Guilford County Divorce Records, Elisha C. Dodson v. Permelia Ann Dodson, State Archives. No decree with petition. PAR #21285716.

<sup>39</sup> Petition of Henry Shouse to the Superior Court of Stokes County, North Carolina, March 20, 1843, in Stokes County Divorce Records, Henry Shouse v. Ann Shouse, State Archives; Related Documents: Oath, Henry Shouse, March 20, 1843; Order, March 20, 1843, with *ibid.* Granted. PAR #21284313. USMSPC, Stokes County, North Carolina, Bethania District, 1840, p. 142.

<sup>40</sup> Petition of William Hickman to the Superior Court of Granville County, North Carolina, September 1831, in Granville County Divorce Records, William Hickman v. Nancy Hickman, State Archives. No decree with petition. PAR 021283110.

<sup>41</sup> W. J. Rorabaugh, *The Alcoholic Republic: An American Tradition* (New York: Oxford University Press, 1971), ix; see also "The American Drinking Tradition," in *Reviews in American History* 8 (June 1980): 206-214; Mark Edward Lender and James Kirby Martin, *Drinking in America: A History* (New York: Free Press, 1982), 46-47; Joseph Earl Dabney, *Mountain Spirits: A Chronicle of Corn Whiskey from King James' Ulster Plantation to America's Appalachians and the Moonshine Life* (New York: Scribner, 1974); Ian R. Tyrrell, "Drink and Temperance in the Antebellum South: An Overview and Interpretation," *Journal of Southern History* 48 (November 1982): 485-510; Johnson, *Ante-Bellum North Carolina*, 96.

Thus, drinking to excess was not unusual. Married for twenty-two years to a Wayne County farmer and slave owner, Penelope Smith asserted that her husband was "constantly under the influence of liquor, & [spent] more than half his time drunk." He remained away for days at a time and returned home only to change clothes or recuperate when "broken down by excess."<sup>42</sup> Even before her marriage, Elisabeth Bright of Pasquotank County said that her husband was "too much give to liquor." He gave up the bottle before the wedding but afterward returned to his old ways, seldom leaving home "for any length of time without returning in a state of intoxication." One neighbor described him as "a very hard drinker," and when drunk, he was often violent, knocking down "negroes in the field" and threatening to "shoot different people at different times."<sup>43</sup> Unicy Martin's husband in Lincoln County not only "abandoned himself" to liquor, but also reduced his family to "poverty and want." He drank heavily, gambled, and spent his wife's savings at the grog shop.<sup>44</sup> Other women described their husbands as common drunkards, habitually intoxicated, addicted to habits of intemperance, or frequenters of coffee houses, tipping houses, saloons, grocery stores, and taverns.<sup>45</sup>

Besides heavy drinking, women cited desertion as an important reason why they filed for divorce. Both the General Assembly and later superior courts accepted petitions for divorce and/or separation "for causes other than impotence and adultery." Among the most important "other causes" was "abandonment," as it was called in the formal proceedings.<sup>46</sup> With few exceptions, such cases involved husbands who went off with other women, moved to another location in the state, or found the lure of the West too strong to resist. "The Alabama Fever rages here with great violence and has carried off vast numbers of our citizens," one North Carolina resident complained in 1836, speaking of the migration to new cotton lands in the Black Belt of Alabama and the Lower Mississippi River Valley. "I am apprehensive if it continues to spread as it has done, it will almost depopulate the country." The "Fever" often strained marital relations and made migration a normal way of life. Some men "eloped to the Louisiana country," taking along their female slaves who were the "objects of their illicit love," or deserted their wives to go to "the western country." Typically, the women involved had been married a number of years and had given birth to several children.<sup>47</sup>

Perhaps no husbands had better opportunities to desert their wives than those engaged in the domestic slave trade. Constantly on the move, buying, selling, mortgaging, trading, and transporting slaves, they journeyed from one location to another, and one state to another, and were often away from home for months at a time. They usually carried cash to buy human property along the way, money that—it is reasonable to assume—gave them a feeling of independence and power. Some wives said that buying and selling human flesh penetrated the souls of the men who engaged in that business. Among them was Piety Tisdale of Nash County, who confessed

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<sup>42</sup> Petition of Penelope Smith to the Equity Court of Wayne County, North Carolina, August 19, 1854, in Wayne County Superior Court Records, Penelope Smith v. William B. Smith, State Archives; Related Documents: Order, August 23, 1854, with *ibid.* Granted. PAR 021285434, USMSPC, Wayne County, North Carolina, Davis District, 1840, p. 250; *ibid.*, North Side of Neuse River, 1850, p. 215; USMSSC, Wayne County, North Carolina, North Side of Neuse River, 1850, p. 1075. In her petition, Penelope noted that she got married in 1822. Considering that she was listed as being thirty-five years old in 1850, she probably meant 1832.

<sup>43</sup> Petition of Elisabeth Bright to the Equity Court of Pasquotank County, North Carolina, April 23, 1849, in Pasquotank County Divorce Records, Elisabeth Bright v. Ephraim Bright, State Archives; Related Documents: Oath, Elisabeth Bright, April 23, 1849; Depositions, Dempsey Cartwright, Robert Cartwright, David Sawyer, ca. 1849, with *ibid.* No decree with petition. PAR \*21284901.

<sup>44</sup> Petition of Unicy Martin to the Superior Court of Lincoln County, North Carolina, November 26, 1838, in Lincoln County Divorce Records, Unicy Martin v. Moore Martin, State Archives; Related Documents: Order, ca. 1838, with *ibid.* Granted. PAR #21283804.

<sup>45</sup> Petition of Nancy Anne Jenkins to the Superior Court of Guilford County, North Carolina, August 28, 1836, in Guilford County Divorce Records, Nancy Anne Jenkins v. Henry Jenkins, State Archives. No decree with petition. PAR \*21283612. USMSPC, Guilford County, North Carolina, 1830, p. 123; *ibid.*, 1840, p. 239. Petition of Mary Falls to the Superior Court of Lincoln County, North Carolina, 1842, in Lincoln County Divorce Records, Mary Falls v. Andrew Falls, State Archives; Related Documents: Answer, Andrew Falls, Spring Term 1844, with *ibid.* No decree with petition. PAR #21284205. Petition of Lelia Weathers to the Superior Court of Cleveland County, North Carolina, November 29, 1848, in Cleveland County Divorce Records, Lelia Weathers v. William Weathers, State Archives; Related Documents: Oath, Lelia Weathers, November 29, 1848; Order, November 30, 1848, with *ibid.* Agreement. PAR #2128481.4.

<sup>46</sup> Among the 266 divorce cases presented to the General Assembly during the period 1800-1835 (with ten years of records missing), Guion Johnson found that 37 percent of the petitioners cited desertion as the primary reason. These cases, of course, included those with no connection to race or slavery. Johnson, *Ante-Bellum North Carolina*, 221.

<sup>47</sup> James Oakes, *The Ruling Race: A History of American Slaveholders* (New York: Vintage Books, 1982), chapter 3 ("Alabama fever"), 77; Johnson, *Ante-Bellum North Carolina*, 221 ("eloped to the Louisiana country.")

that she had been happily married for a number of years, but once her husband began to "carry on speculations in negroes" he became "brutal & ferocious." After thirty-three years of marriage, he deserted her and never returned, leaving her and their crippled adult son to face "the most deplorable & [vicious] poverty."<sup>48</sup>

Women presented a number of other causes for seeking divorce and/or separation. They charged their husbands with insanity, bigamy, financial misconduct, improvidence, slander, attempted murder, having "Negro blood," and "personal indignity," a term used during the antebellum era to describe what we now call mental cruelty, i.e., cruelty without acts of physical violence. Only a few women used the insanity argument. Women realized they might find themselves worse off divorcing a deranged husband than caring for him at home, as long as he did not pose a threat to himself or others. In 1845, Eveline B. Fort of Wayne County divorced her slaveholding husband, who was found to be non compos mentis. The court awarded her a divorce from bed and board, appointed a guardian to look after her interests, and provided her with an annuity of two hundred and fifty, later five hundred, dollars. More than a decade later, however, Eveline complained that she could not live on such a small amount. Despite her husband's huge estate, including a plantation and more than sixty slaves, the guardian refused to provide her with body servants during an illness, failed to give her money for the schooling of her three children, and neglected to adjust her income to compensate for inflation. Prior to her marriage, she explained, she was "a member of a family of considerable wealth and high standing in society," but now she could barely support herself and her children.<sup>49</sup>

Several women charged their husbands with impotence. Such suits were rare because the accusation alone brought great shame and humiliation to the families involved. Nonetheless, women did present petitions revealing, sometimes in graphic detail, the sexual inadequacy of their spouses. Slaveholder Cassandra Houston, formerly Cassandra Alexander, of Mecklenburg County, charged that her husband was unable to perform his duties "as a man in procreating his species." Various witnesses corroborated these assertions: he was not a man like other men; "he was not as complete as to genitals"; he attempted to "ride" other men "as man would with a Woman."<sup>50</sup> Winny Manning of Edgecombe County, married less than a year, likewise asserted that her husband Eli was "absolutely impotent & by nature rendered a useless man as a husband." For a "young & healthy woman," she testified, this was a most painful discovery. Even worse, because of his inadequacy he became insanely jealous and accused her of having "illicit connection with every man, both white & black that may have seen her."<sup>51</sup>

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<sup>48</sup> Petition of Piety Tisdale to the Superior Court of Nash County, North Carolina, 1832, in Nash County Divorce Records, Piety Tisdale v. William Tisdale, State Archives. Granted. PAR #21283203. For the domestic slave trade, see Frederic Bancroft, *Slave-Trading in the Old South* (Baltimore, Md.: J. H. Furst Co., 1931); Michael Tadman, *Speculators and Slaves: Masters, Traders, and Slaves in the Old South* (Madison: University of Wisconsin Press, 1989); Steven Deyle, *Carry Me Back: The Domestic Slave Trade in American Life* (New York: Oxford University Press, 2005); Loren Schweninger, ed., *From Tennessee Slave to St. Louis Entrepreneur: The Autobiography of James Thomas*, foreword by John Hope Franklin (Columbia: University of Missouri Press, 1984), 108, 117; John Hope Franklin and Loren Schweninger, *In Search of the Promised Land: A Slave Family in the Old South* (New York: Oxford University Press, 2006), 171; Phillip Thomas to William Finney, July 26, 1859, William A. J. Finney Papers, in *Records of the Southern Antebellum Plantation*, microfilm edition, Kenneth Stampp, editor, quoted in Walter Johnson, *Soul by Soul: Life Inside the Antebellum Slave Market* (New York: Oxford University Press, 1999), 113.

<sup>49</sup> Petition of Eveline Fort to the Superior Court of Wayne County, North Carolina, February 27, 1856, in Wayne County Divorce Records, Eveline Fort v. William Fort, State Archives; Related Documents: Copy of Order, Fall Term 1845, with *ibid.* No decree with petition. PAR 021285635. North Carolina was one of only four southern states (the others included Arkansas, Tennessee, and Texas) that granted divorce on the grounds of cruelty without physical violence. Censer, "'Smiling Through Her Tears,'" 28.

<sup>50</sup> Petition of Cassandra Houston to the General Assembly, Mecklenburg County, North Carolina, November 22, 1804, in General Assembly Session Records, Divorce Petitions, November—December 1804, Cassandra Houston v. James Houston, State Archives; Related Documents: Testimony, Augustus Alexander, November 10, 1804; Depositions of Cassandra Houston, George Alexander, Augustus Alexander, Marshall Alexander, A. Alexander, Francis B. Smart, John McCulloch, Jane Alexander, Paris Alexander, Thomas Greer, and George W. Smart, October 19, 1804; Deposition of George W. Smart, November 10, 1804, with *ibid.* Rejected. PAR #11280405. Perhaps part of the reason the petition was rejected was the fact that, in spite of the charge of non-fulfillment of marital duties, the couple had been married eleven years. The evidence was overwhelming, however, that the husband was indeed impotent.

<sup>51</sup> 51. Petition of Eli Manning and Winny Manning to the General Assembly, Edgecombe County, North Carolina, December 9, 1805, in General Assembly Session Records, Divorce Petitions, November—December 1805, Eli Manning and Winny Manning v. [no named defendants], State Archives. Granted. PAR \*11280516.

Most plaintiffs offered a number of reasons why they took the extreme step of seeking to end their marriages. One wife said that her husband beat her, threw her on the floor, stamped her with his feet, choked her "until she could not speak," pulled his gun, and threatened to "shoot her on the spot." He drove her out of bed and forced her "to go and lie with negro men," while taking her mother and her sister to bed with him. During the final month of a pregnancy he forced her to go into the woods with him on an icy winter day and "submit to his embraces on the rough and frozen ground." He did other things, she said, "much more indecent and atrocious," but she could not recount them "on account of their shocking indecency."<sup>52</sup> Another wife was humiliated because her husband banished her to the Negro quarter, "where she was deprived of all the conveniences as well as necessaries of life beyond a bare sufficiency to support her existence—that while at the said negro quarter her provisions were measured out to her in the same way as if she had been a field labourer." Later, her husband deserted her and took her slaves out of state, vowing never to return while she was alive.<sup>53</sup> Harriet Bouldin, wife of Edward Bouldin of Caswell County, became suspicious when her husband remained absent for months at a time, claiming that his long absences were due to his various business dealings, including "removing some Negroes from Mississippi to Virginia." When she followed him to Guilford County on one of his trips, she discovered he had another wife.<sup>54</sup> Thus, white women who brought suits were often at their wits' end, desperate and terrified about their own future and the future of their children. There is no small irony in the fact that, once they made the decision to air their private lives and describe the brutal and illicit behavior of their husbands, the narrow constraint of divorce laws forced them to provide explicit details of the charges. They were required to include lengthy descriptions of the most intimate matters and divulge their most deeply felt fears and anxieties.<sup>55</sup>

A few free blacks filed for divorce or separation. Their reasons mirrored those put forth by whites. The men charged their wives with adultery and immorality; the women told of physical abuse, excessive drinking, desertion, wasting of property, and infidelity.<sup>56</sup> Free black Henry Richardson of Craven County charged his wife with adultery with a white man and having the man's child. Henry declared that he could not be the child's father not only because of the baby's appearance, but also because he was on a sailing vessel at sea at the time of its conception. During his absence, Richardson moaned, his children were forced to witness "every species of vice, and immorality."<sup>57</sup> Among the most remarkable cases involving either whites or free blacks was the suit brought by Jane Milton of Guilford County, a free woman of color. Jane related that not only did her husband

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<sup>52</sup> Petition of Mary Jane Stuart o the Superior Court of Richmond County, North Carolina, February 22, 1856, in Richmond County Divorce Records, Mary Jane Stuari v. Malcolm B. Stuart, State Archives; Related Documents: Oath, Mary Jane Stuart, 1856; Decree, ca. 1856, with *ibid.* Granted. PAR =t21285611.

<sup>53</sup> Petition of Mary Reid o the General Assembly, Halifax County, North Carolina, 1832, in General Assembly Session Records, Divorce Petitions, Mary or Polly Reid v. Elias Reed, November—December 1832, State Archives; Related Documents: List of Subscribers, ca. 1832, with *ibid.* Granted. PAR #11283204.

<sup>54</sup> Petition of Harriet Bouldin o the Superior Court of Caswell County, North Carolina, 1842, in Caswell County Divorce Records, Harriet Bouldin v. Edward C. Bouldin, State Archives. No decree with petition. PAR #21284207.

<sup>55</sup> It should be noted that prewar petitions for divorce and alimony provide a unique opportunity to examine the private lives of North Carolinians in a manner that is not found in other sources of the period, including newspapers, magazine articles, plantation journals, diaries, reminiscences, autobiographies, political tracts, even personal correspondence. Nor did divorce records in the state after the Civil War contain this type of evidence.

<sup>56</sup> 56. Petition of Edward Karsey to the Superior Court of Robeson County, North Carolina, 1844, in Robeson County Divorce Records, Edward Karsey v. Milly Karsey, State Archives; Related Documents: Oath, Edward Karsey, October 3, 1844, with *ibid.* No decree with petition. PAR #21284403. Petition of Robert Mitchell o the Superior Court of Guilford County, North Carolina, 1857, in Guilford County Divorce Records, Robert Mitchell v. Minerva Mitchell, State Archives; Related Documents: Oath, Robert Mitchell, November 17, 1856; Orders, Fall Term 1859, with *ibid.* Granted. PAR #21285715. USMSPC, Guilford County, North Carolina, Northern Division, 1850, p. 406; *ibid.*, North Division, 1860, p. 203 (free mulatto Robert Mitchell); *ibid.*, Northern Division, 1850, p. 379 (white Robert Mitchell); *ibid.*, South Division, 1860, p. 89 (free blacks Melinda and Henry Wallace); *ibid.*, South Division, 1860, p. 102 (free black Peggy Wallace).

<sup>57</sup> Petition of Henry Richardson o the Superior Court of Craven County, North Carolina, August 12, 1833, in Craven County Divorce Records, Henry Richardson v. Mary M. Richardson, State Archives; Related Documents: Subpoena, Mary Richardson, 1833, with *ibid.* No decree with petition. PAR #21283304. In 1830, Henry Richardson, between the ages of twenty-four and thirty-six, headed a household that included two boys and a girl under the age of ten, and two females between the ages of ten and twenty-four. USMSPC, Craven County, North Carolina, 1830, p. 119.

whip her, beat her with his fist, hit her with a stick, drink to excess, and leave her for months at a time, but also in 1854, he sold their oldest son George, age fourteen, as a term slave until he reached age twenty-one. A short time later, he sold their second son, Emmory, age twelve, and their third son, Seaborne, age ten, in the same manner, all to different white men. Their fourth child, five-year-old Lavinia, was apparently too young to be sold. When Jane protested, her husband "fell upon her with a walking stick, on which he had a large Buckhorn handle or head, and abused her by beating her over the head & legs & shoulders in a most shameful & disgraceful manner." She was unable to walk for nearly a month.<sup>58</sup>

White women often suffered during marital conflicts, but the slaves of those involved were affected as well. They could be sold, traded, or transferred; turned over to auctioneers or slave traders; confiscated by the sheriff to cover debts; jailed for safekeeping during trials and alimony proceedings; or taken away by husbands deserting their wives. At times the record is incomplete, but it is clear that the plantation community was often ripped asunder by such events. The husband of one wealthy widow, described as profligate, sold or traded most of her forty-one slaves during the first few years of their marriage.<sup>59</sup> In this and other similar cases, black families were destroyed as children were sold away from mothers and vice versa, and kin were taken away from loved ones. The slave Rachel, who had been given to Ann West of Rowan County as a present at the time of her wedding, lived with the West family for fifteen years, during which time she gave birth to three children (nameless in the court proceedings). As in other divorce proceedings there was no mention in the suit of the father of Rachel's children or indeed, any male kin. In her bill, Ann West complained that a few years before her husband had become "an habitual drunkard and spend thrift," and despite her opposition and Rachel's panic and terror, he had sold Rachel's eldest child at "a very reduced price" to pay for his drinking habit. After Ann filed suit for divorce, her husband sold Rachel and contracted to sell her second child to a local still owner to cover his drinking debts.<sup>60</sup>

At least Rachel, in this particular case, would be with her second child. For other slaves, an owner's excessive use of alcohol, or his antipathy toward his wife and desire to spite her, often resulted not only in the sale of black children but also in gratuitous acts of violence. Margaret Kornegay of Wayne County described a hard-drinking, brutal husband who whipped and beat her on numerous occasions. But he also relished taunting her (once taking their infant to the top of the pitch on their roof and asking her if she wanted to see him roll the baby down) and punishing her favorite slave. A neighbor who worked at their farm testified that On one occasion the "negro woman Fillis came to his House very bloody & had been beaten very badly." The next day he went to their farmhouse and saw Margaret Kornegay weeping and "considerable quantity of blood on the dwelling house floor." The husband, Alfred Kornegay, told him that the blood on the floor was from the negro woman Fillis" as a result of his beating her the previous night. The couple's daughter testified about another occurrence. Her father arose very angry one morning and refused to eat with the family. He brought an unnamed black girl into the house and whipped her, sat the girl at the table, tied her ears to a chair, and ate his

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<sup>58</sup> Petition of Jane Milton to the Superior Court of Guilford County, North Carolina, January 30, 1856, in Guilford County Divorce Records, Jane Milton v. Elisha Milton, State Archives; Related Documents: Oath, Jane Milton, January 30, 1856; Witness List, September 10, 1856; Questions to the Jury, ca. 1856; George Mendenhall to Robert P. Dick, January 30, 1856; Decree, Spring 1858, with *ibid.* Granted. PAR #21285624. In 1850, Elisha Milton, age forty-three, a mulatto laborer born in Hertford County with no real estate, headed a household with Betsey J. Milton (Jane), a mulatto age twenty-four, born in Guilford County; George, age nine; Emmory, age seven; Seaborne, age six; and Lavinia, age one. The names of the children were found in the petition for divorce, rather than the census. In 1860, Jane Milton, age thirty-five, lived with a white family headed by thirty-three-year-old white plow maker Bartlett Hiatt, who owned three hundred and fifty dollars worth of real estate and fifty dollars in personal holdings; Hiatt's household included his wife, Mary, and their four children, ages seven to two months. None of Jane's children was listed in the household. USMSPC, Guilford County, North Carolina, Southern Division, 1850, p. 308; *ibid.*, South Division, 1860, p. 15.

<sup>59</sup> Petition of Rebecca (Elizabeth) Mask to the Superior Court of Montgomery County, North Carolina, March 1, 1844, in Montgomery County Divorce Records, Rebecca Mask v. William D. Mask, State Archives; Related Documents: Answer, William Mask, August 28, 1844; Instructions to the Jury, February Term 1845; Decree, Spring Term 1845, with *ibid.* Granted. PAR #21284404. USMSPC, Montgomery County, North Carolina, Richmond County, 1840, p. 230; *ihid.*, Montgomery County, North Carolina, 1850, p. 110; Minutes of the Superior Court, Montgomery County, North Carolina, Rebecca Mask v. William D. Mask, February Term 1845, State Archives.

<sup>60</sup> Petition of Ann West to the Superior Court of Rowan County, North Carolina, 1835, in Rowan County Divorce Records, Ann West v. Thomas West, State Archives; Related Documents: Decree, Fall Term 1835, with *ibid.* Granted. PAR =-21283502.

breakfast, afterward taking the girl to the cellar and putting her in chains. The final incident was the most egregious, as related by a visitor on the farm. Alfred Kornegay came home intoxicated one night and called "for negro Charles who did not answer at the call, he then came into the house and waked up the family & directed the children to get the leading line to tie the negro, after getting the lines he brought the negro Charles into the house tied [him] then called another negro and directed him to hold Charles & hung two pistols upon the negro's arm and swore to him that if he let the negro Charles get away and did not shoot him that he the defendant would shoot him, after which he beat the negro Charles for near two hours." He then took Charles and the other slave into the room where Margaret was lying in bed; then he carried Charles upstairs to the second floor, continued to whip and heat him, resting periodically to drink some whiskey, until daybreak, bringing him down to the first floor and whipping him again before he "turned him loose & told him to run away."<sup>61</sup>

The owner's motives are dear in the first instance: he sought to punish his wife by bludgeoning his wife's favorite slave, Fillis. In the second, the unnamed woman whose ears were tied to the chair was either Fillis or another female slave he owned who was about the same age. His motives for the sadistic treatment of Charles are less clear. He did drag Charles into his wife's room to show her what he was doing, but his sarcastic command the next morning for the slave to run away could have meant that Charles was planning an escape and he was being punished for it. In any event, it is clear that part of the reason Kornegay beat and bludgeoned his slaves was to torment his wife.

A few slaves involved in such situations did attempt to run away, but most remained on the farm or plantation. Their response was to make every effort to avoid becoming involved in their owners' domestic troubles, although this was often not possible. In a few instances, slave women intervened on behalf of their mistresses, either scolding husbands, hiding the white women in the quarters,<sup>62</sup> or, in the case of one female slave, wrestling a weapon away.<sup>63</sup> Jonathan Bryan claimed that his wife "raised an Insurrection" among his slaves, and when he angrily chastised her, a black woman threw him against a bench and "dangerously wounded" his head. After another incident he called in the sheriff to have one of his slaves arrested and jailed.<sup>64</sup> During a violent confrontation between a husband and wife in Wake County, a male slave stepped in to prevent the wife from receiving a severe beating or worse.<sup>65</sup>

But such interventions on behalf of wives were rare. Far more common was a quite different response. Slave women usually sided with the male household heads, especially when they were engaged in sexual relations with them. In such cases, including the one involving Bernard Laspeyre, female slaves used their influence with art owner to exert authority over the white mistresses of the house. Haywood County slave owner Elizabeth Cline asserted that her husband "kept a Negro Woman & hath frequently been seen to bed & cohabit with the said Negro woman." The black woman not only treated her with scorn and contempt, but also on one occasion

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<sup>61</sup> Petition of Margaret Kornegay to the Equity Court of Wayne County, North Carolina, November 17, 1836, in Wayne County Divorce Records, Margaret Kornegay v. Alfred Kornegay, State Archives; Related Documents: Depositions of Daniel Parker, Simon Parker, Charles Rigby (neighbor and farmhand), and Catherine Parker, August 12, 1836; Rebecca Hardison (visitor), William Glisson, and Joseph B. Hunt, September 23, 1836; Elijah Parker, Betsey Jane Komegay (daughter), September 24, 1836, with *ibid.* No decree with petition. PAR 021283507. In 1830, Alfred Kornegay, in his thirties, headed a family of seven whites: three boys under five years of age, two girls between five and ten, and his wife, in her twenties. He possessed seven slaves, three children under ten, a male and two females between ten and twenty-four, and one man between twenty-four and thirty-six. USMSPC, Duplin County, North Carolina, 1830, p. 148. Neither Korgegay nor his wife was listed in subsequent census returns.

<sup>62</sup> Rea petition and related documents (see note 9).

<sup>63</sup> Cooke petition and related documents (see note 10).

<sup>64</sup> Petition of Jonathan Bryan to the General Assembly, New Hanover County, North Carolina, November 29, 1827, in General Assembly Session Records, Divorce Petitions, November—December 1827, Jonathan Bryan v. Ann Jane Bryan, State Archives; Related Documents: Depositions of John Larkins, Moses Larkins, Levin Messick, I. Messick, Betsy Allen, and Mary Mitchell, November 16, 1825; Deposition of John Sikes, ca. 1825; Deposition of Margret Sikes, November 17, 1825; Jonathan Bryan to Ann Jane Bryan, November 9, 1825, with *ibid.* Rejected. PAR 011282712.

<sup>65</sup> Carpenter petition and related documents (see note 16). The interfering black man was apparently hired by The Carpenters, as they owned no slaves themselves.

beat her "with great Cruelty."<sup>66</sup> Anne Wilson of Burke County charged that her husband engaged in "disgraceful intercourse with his own slave," a black woman named Silvia, in the very bed "which she [Anne Wilson] was in the habit of sleeping," Silvia treated her with disdain, as did her husband's other female slaves, who were not afraid to inflict "blows on her person."<sup>67</sup> Other white women testified that female slaves struck them while their husbands watched but did nothing, indeed even encouraged such assaults or, as one wife said, "brutally remarked in the hearing of his slave" to hit her harder.<sup>68</sup>

## PICTURE OMITTED FROM THIS FORMAT OF THE DOCUMENT

The female slaves owned by John Broughton in Caswell County were disrespectful and abusive of his wife Elizabeth for quite different reasons. The master was "greatly advanced in years," drank a good deal, and took the side of the slaves in virtually every argument they had with the mistress. As a result, Elizabeth claimed, everything about the house and plantation gave "striking evidence of an utter lack of discipline among the slaves." They were permitted to exercise their own free will, choosing to work when they wished, except on rare occasions when her husband was in a bad mood and scolded and abused them. Even then, they often "abuse[d] him back again." If she or any other member of the family attempted to order them to do anything, "the negroes and the old man" made common cause against her or the person attempting to interfere. Elizabeth explained that whenever she ordered the servants to do anything they told her flatly to do it herself; when she threatened them with chastisement, or attempted to punish them, her husband sided with the slaves and told them in her presence that she could "not strike or punish them in any way and if she wants anything done to do it herself." He encouraged "repeated acts of impudence & disobedience— until the result is they obey nobody unless they choose."<sup>69</sup>

Molly Hutcheson of Stokes County was also "greatly advanced in years," and the slaves on her husband's farm treated her with the same "impudence & disobedience," although the circumstances were quite different. After nearly fifty years of marriage, Molly's husband, William, turned her out of their house because he was eager to engage in "criminal intercourse with other women." Forced to live in an outbuilding for nearly two years, she testified that her husband instructed his slaves to ignore her orders. She suffered greatly, Molly explained, while her husband remained "in Easy circumstances," the owner of "a very valuable tract and six likely Slaves." Despite repeated requests, the slaves refused to bring her firewood during the winter, mocking her and laughing at her. She was "very old and infirm," she said, for nearly twenty-five years "a cripple." She eked out a subsistence for herself and endeavored to "bear up" in such a difficult situation and "by her labor provide herself with a scanty allowance of sugar and coffee and clothing."<sup>70</sup> Although Molly Hutcheson was an extreme example, the responses of slaves on other farms and plantations reflected the attitudes of slaves on the Hutcheson farm. If many slave women fought against the advances of white men, the actions of others,

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<sup>66</sup> Petition of Elizabeth Cline to the Superior Court of Haywood County, North Carolina, October 1823, in Haywood County Divorce Records, Elizabeth Cline v. Daniel Cline, State Archives. No decree with petition. PAR 021282301.

<sup>67</sup> Petition of Anne Wilson to the Equity Court of Burke County, North Carolina, November 19, 1840, in Burke County Divorce Records, Anne Wilson v. William Wilson, State Archives; Related Documents: Order, November 19, 1840; Answer, William Wilson, November 25, 1840; Depositions of Isabella Wilson, Martha, Nathaniel, David Cuthbertson, and Elizabeth and Elijah Browning, December 22, 1840, with *ibid.* Agreement. PAR -4.-2 I 284004.

<sup>68</sup> Clubb petition and related documents (see note 22).

<sup>69</sup> Petition of Elizabeth Broughton to the Superior Court of Caswell County, North Carolina, November 7, 1839, in Caswell County Divorce Records, Elizabeth Broughton v. John Broughton, State Archives; No decree with petition. PAR #21283901. In 1840, John Broughton, in his seventies, owned nine slaves: two boys and three girls under the age of ten, a male and female ten to twenty-four years of age, a woman age thirty-six to fifty-five, and a woman over fifty-six. There were six whites in the household, including a boy and girl in their late teens, a youngster between five and ten, a woman in her twenties, and a woman in her thirties. USMSPC, Caswell County, North Carolina, 1840, p. 130 (spelled Broughton). His daughter described John Broughton as "an imbecile man much addicted to the intemperate use of ardent spirits."

<sup>70</sup> Petition of Molly Hutcheson and Joseph Hutcheson to the Equity Court of Stokes County, North Carolina, April 1821, in Stokes County Divorce Records, Molly Hutcheson and Joseph Hutcheson v. William Hutcheson, State Archives. No decree with petition. PAR #21282101.

including those who were part of the wife's "sole and separate" estate, suggest that they believed the best avenue for protecting themselves and their children was to oppose their female owners.

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Very few divorce and/or separation petitions failed to mention property. Under the law of coverture, women in North Carolina, as in other southern states, gave up their rights to a separate estate when they married, turning their property, including land and slaves, over to their husbands. During the late eighteenth century and the first decade-and-a-half of the nineteenth, women seeking divorce could do little more than ask the General Assembly to pass private acts protecting any property they might acquire in the future.<sup>71</sup> For example, the 1797 act concerning Martha Lane, who was separated from her husband, stipulated that she was entitled to possess "in her sole right all such estate, either real or personal, as she may hereafter acquire by purchase or otherwise," in the same manner as if she had never been married, free from any claim or claims by her husband or any of his creditors. She could sue to recover this property in a court with proper jurisdiction, "any law, usage, or custom to the contrary notwithstanding."<sup>72</sup> In 1814, the Assembly granted wives the right to obtain alimony according to the size of their husbands' estate. Later, the Assembly passed a law stating that a wife could seek alimony from a husband who was a spendthrift, but unlike a number of other slave states, North Carolina failed to pass legislation protecting a married woman's property.<sup>73</sup>

Although the laws favored men, some women went to court and argued that as a matter of equity they should be permitted to keep the property they brought to their marriages or had accumulated during their coverture. In 1811, Elinor Hart of Lincoln County said that at the time of her marriage she owned "a likely negro girl a horse saddle & bridle and considerable quantity of house-hold furniture." When her husband, William Hart, abandoned her and their three children to live with another woman in Pennsylvania, Elinor sued her husband's brother, Andrew, explaining that before William left, he had sold a tract of land and turned over one thousand dollars of the profits to his brother, apparently for safekeeping. She asked that subpoenas be issued for William and Andrew to answer the charges, and that she be granted the money being held by Andrew as well as a sum "sufficient to support her & her children." Though the outcome of this case is not known, it is likely that most women realized it would be futile to argue in such a manner.<sup>74</sup>

A few women did sign prenuptial (or postnuptial) agreements to protect their holdings. These agreements required that a document creating a trust be signed, witnessed, and notarized and that a trustee or trustees be appointed by the court to manage the property and receive "the rents hires and profits thereof." The trusts

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<sup>71</sup> Abandoned by her husband, William Crockett, shortly after their marriage, Lucy Crockett explained that he had squandered her property, including several valuable slaves, and had left her pregnant and without funds. In her petition to the General Assembly, she asked that any property she might acquire in the future be free from her husband's debts, or, as she put it: "That she may be allowed some surety for that property which by her future industry she may acquire." Petition of Lucy Crockett to the General Assembly, Person County, North Carolina, November 24, 1808, in General Assembly Session Records, Petitions for Divorce, Name Change, etc., November—December 1808, Lucy Crockett v. William Crockett, State Archives; Related Documents: List of Subscribers, November 18, 1808, with *ibid.* Granted. PAR \*11280809.

<sup>72</sup> Laws of North-Carolina. At a General Assembly, Begun and Held at Raleigh, on the Twentieth Day of November, in the Year of our Lord one Thousand Seven Hundred and Ninety-Seven, and in the Twenty-Second Year of the Independence of the Said State: Being the First Session of the Said Assembly (Halifax, N.C.: Abraham Hodge, Printer for the State, 1797), 14; see also Laws of North-Carolina. At a General Assembly, Begun and Held at Raleigh, on the Seventeenth Day of November, in the Year of our Lord One Thousand Eight Hundred, and in the Twenty-Fifth Year of the Independence of the Said State (Raleigh, N.C.: J. Gales, Printer to the State, 1800), 43-44; Laws of North-Carolina. At a General Assembly, Begun and Held at Raleigh, on the Sixteenth Day of November, in the Year of Our Lord One Thousand Eight Hundred and Twelve, and in the Thirty-Seventh Year of the Independence of the Said State (Raleigh, N.C.: Thomas Henderson, 1818), 20; Johnson, *Ante-Betlum North Carolina*, 218-219; Censer, "Smiling Through Her Tears," 28 n. 12.

<sup>73</sup> In 1839, Mississippi passed a law protecting from the husband's debts or contracts the slaves and other property brought to a marriage by the wife. Most states followed suit prior to the Civil War. However, North Carolina, as well as four other states along the eastern seaboard, including Georgia, South Carolina, Virginia, and Delaware, failed to enact laws protecting married women's property. Warhasse, *The Changing Legal Rights of Married Women*, 138, 167.

<sup>74</sup> Petition of Elinor Hart and John Beaty to the County Court of Lincoln County, North Carolina, August 10, 1811, in Lincoln County Divorce Records, Elinor Hart and John Beaty v. William Hart and Andrew Hart, State Archives. No decree with petition. PAR \*21281101.

usually stipulated that the husband could not sell, trade, mortgage, or transfer the wife's property, nor could the property he confiscated and sold to satisfy his debts. In most jurisdictions, these agreements needed to be registered at the county courthouse to have the force of law.<sup>75</sup> In a typical agreement, signed in 1844, Harriet Smith, of Craven County, age fifteen, and her future husband, Thomas Foy, age twenty-five, signed an agreement concerning Harriet's twelve slaves, named Bright, Dick, Edward, Ellie, Titus, Caroline, Dinah, Lettice, and Liddy and her three children. Harriet was granted the authority to "continue to hold exercise and enjoy all the beneficial rights of ownership in and over the said slaves notwithstanding her intended coverture." The slaves were exempt from the "control and dominion" of her intended husband and were not liable for any of his current or future debts. Even with such agreements in place, many women were unable to protect their property if their husbands ignored the contents of the prenuptial and treated the property as if it were their own. In fact, although trust documents established a woman's legal ownership of property, the husband's right to manage the property was never relinquished, thus creating the opportunity for him to sell, mortgage, or trade his wife's holdings without much recourse after the fact.<sup>76</sup>

Those without a prenuptial who filed for divorce or separation faced many obstacles in their efforts to secure a portion of the estate they had spent years building up. They also confronted many difficulties reclaiming property they had brought to their marriages as well as obtaining an adequate alimony settlement. In her petition, Mary Fulton of Buncombe County accused her husband of confiscating her portion of her father's thirty-thousand-dollar estate (divided among nine siblings) and investing the money in slaves. Charging him with "neglect & abuse," she asked the court for a divorce and alimony and requested that the portion of her father's estate "be Secured to her."<sup>77</sup> Other wives told how their husbands took the slaves and left the state, sold farmland and town property, and disposed of bondsmen and bondswomen with slave traders. In 1841, a few months after her marriage, Fanny Sowers of Davidson County asked the court to stop her husband from selling "one valuable negro Slave named Sam about 15 or 16 years old, worth 6 or 8 hundred Dollars, to which she was entitled from her fathers Estate." Without the slave, she would be "helpless and without any means of Support."<sup>78</sup>

Economic prospects were also bleak for women left behind in cases of desertion. This was especially true when the husbands took the moveable property, including slaves, along with them. After four years of marriage, Milly Farrar of Chatham County told an all-too-familiar story. At the time of her marriage she anticipated a happy future, "But So it was," she explained, that her husband soon put aside "all paternal affections, and the more

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<sup>75</sup> Marylynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill: University of North Carolina Press, 1986), 88-89.

<sup>76</sup> 76. Foy petition and related documents (see note 22). In Harriet's case, signing a prenuptial agreement had been a wise precaution, for six years later, Harriet filed for divorce, charging her husband with "living in general, habitual and indiscriminate adulterous intercourse with slaves and other abandoned women." Later, he was convicted of forgery and went into hiding. In 1850, Harriet Foy, age twenty-one, lived with her mother, forty-four-year-old E. Smith, who had twelve hundred dollars worth of real estate. Thomas Foy, age thirty-one and propertyless, was listed as living in Jones County. USMSPC, Craven County, North Carolina, New Bern, 1850, p. 279; *ibid.*, Jones County, North Carolina, Beaver Dam District, 1850, p. 120.

<sup>77</sup> Petition of Mary Fulton to the Equity Court of Buncombe County, North Carolina, March I, 1853, in Buncombe County Divorce Records, *Mary Fulton v. William H. Fulton*, State Archives; Related Documents: Oath, Mary Fulton, March 1, 1853; Order, March 3, 1853, with *ibid.* No decree with petition. PAR #21285317. In 1840, William Fulton, in his forties, headed a household that included a boy and a girl between ten and fifteen years of age, a man in his twenties, and a woman in her forties. In 1850, he owned three slaves: a mulatto man, age twenty nine; a mulatto toddler; and a black woman, age twenty-nine. It appears that, despite the petition for divorce, Mary and William reunited. In 1860, at age sixty-two, South Carolina-born William H. Fulon, a farmer with two thousand dollars worth of real estate and twenty-two hundred dollars in personal holdings, headed a household that included his wife, Mary Fulton, age forty-six, and Adolphus Brown, a twenty-year-old white farm laborer. He owned two slaves. USMSPC, Buncombe County, North Carolina, 1840, p. 59; USMSSC, Buncombe County, North Carolina, 1850, p. 799; USMSPC, Buncombe County, North Carolina, 1860, p. 321; USMSSC, Buncombe County, North Carolina, 1860, p. 4.

<sup>78</sup> Petition of Fanny Sowers o the Superior Court of Davidson County, North Carolina, 1841, in Davidson County Divorce Records, *Fanny Sowers v. Samuel Sowers*, State Archives; Related Documents: Decree, Spring Term 1842, with *ibid.* Granted. PAR #21284101. By 1850, Samuel Sowers, age thirty- two, was remarried. His wife was a young woman named Amelia, age twenty-five, and they had three children, William, age eight; James, age four; and Susanna, age one. William attended school during the year, and Samuel, a farmer, owned five hundred dollars worth of land. USMSPC, Davidson County, North Carolina, North Subdivision, 1850, p. 308.

engaging ties of a husband, [and] Went off to the Western Country, and Carried with him four Negroes" given to her by her father. She and her child were left destitute.<sup>79</sup> Sarah Johnson was also left without resources. Her husband of nearly a decade made off with the principal part of the estate she had brought to their marriage, including "nine slaves and other property and Cash to a considerable amount." She attempted to find him, traveling to Camden and Columbia, South Carolina, Augusta, Georgia, and finally Charleston, South Carolina, where, she learned, he had only a short time before boarded a ship for Ireland, his native land.<sup>80</sup> Polly Pearson of Macon County complained that her husband, who once owned "three likely negroes and other property," deserted her and their five children to wander about the countryside. She asked the court to protect the small amount of property she had acquired after he left.<sup>81</sup> Other wives complained that their husbands permitted creditors to seize portions of their estates, sold slaves in "pretended sales" to avoid paying alimony, and fled for "parts unknown," leaving them without any means of support.<sup>82</sup>

## PICTURE OMITTED FROM THIS FORMAT OF THE DOCUMENT

Women with substantial wealth were forced to seek court orders to protect their holdings. They listed, among other things, wagons, carriages, stocks, bonds, cash, machinery, bedding, furniture, livestock, and crops, along with land and slaves. Nancy Donnell of Guilford County explained that her husband was "a man of substance" who owned two tracts of land, hank stock, and thirteen slaves. She told the court that he sold "a negro girl" and two other slaves to put them out of her reach. She asked for an injunction to prevent him from selling any more of their mutual property.<sup>83</sup> After twenty-nine years of marriage, Jane Brown said that her husband was similarly "a man of large Estate," owning valuable lands, stock, horses, mules, cash, notes, bonds, and slaves. She too sought a court order to sequester their mutual holdings after learning that he planned to move to Texas.<sup>84</sup> Even with court orders, however, many wives were left, as one woman said, "wholly destitute of the means of support." Sarah Davis of Wake County brought to her union a "large and valuable Estate Real and Personal to

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<sup>79</sup> Petition of Milly Farrar o the General Assembly, Chatham County, North Caolina, December 14, 1808, in General Assembly Session Records, Joint Committee Reports, Divorce and Alimony Petitions, November—December 1808, Milly Farrar v. John Farrar, State Archives. Granted. PAR 51 1280804.

<sup>80</sup> Petition of Sarah Johnson to the General Assembly, Mecklenburg County, North Carolina, November 29, 1805, in General Assembly Session Records, Divorce Petitions, November—December 1805, Sarah Johnson v. John L. D. Johnson, State Archives. Rejected. PAR \*11280504.

<sup>81</sup> Petition of Polly Pearson to the Superior Court of Macon County, North Caolina, April 10, 1835, in Macon County Divorce Records, Polly Pearson v. Noah Pearson, State Archives. No decree with petition. PAR #21283511.. In 1830, Polly Pearson and her husband, Noah Pearson, in their twenties, had three girls under five years of age and three slaves—a boy under ten and two males between ten and twenty- four. USMSPC, Macon County, North Carolina, 1830, p. 16.

<sup>82</sup> Petition of Betsy Caldwell to the County Court of Rowan County, North Carolina, September 27, 1803, in Rowan County Divorce Records, Betsy Caldtvell v. Thomas Caldwell, State Archives; Related Documents: Depositions of Archibald Cathey, Andrew Hannah, Henry Conner, Adam Brevard, July 29, 1805, with *ibid.* No decree with petition. PAR \*21280.301. Petition of Elizabeth Bently o the Superior Court of Wilkes County, North Carolina, April 12, 1837, in Miscellaneous Dockets, 1807-1855, Wilkes County Superior Court Records, Elizabeth Bendy v. James Bendy, State Archives; Related Documents: Affidavit, Elizabeth Bendy, April 12, 1837, with *ibid.* Granted. PAR #21283706. Petition of Mary Ann Shackelford to the Superior Court of Guilford County, North Carolina, September 15, 1859, in County Court Divorce Records, Mary Ann Shackelford v Armsted Shackelford, State Archives; Related Documents: Order, Fall Term 1860, with *ibid.* Granted. PAR #21285918. Petition of Mary E. Moore to the Superior Court of Nash County, North Carolina, July 18, 1861, in Nash County Divorce Records, Mary E. Moore tf. Richard Moore, State Archives; Related Documents: Order, July 24, 1861; Oath, Mary E. Moore, July 18, 1861; Writ of Sequestration, August 2, 1861, with *ibid.* Partially granted. PAR #21286117.

<sup>83</sup> Donnell petition and related documents (see note 15). In 1850, Latham Donnell, a thirty-four-year-old farmer born in Guilford County, headed a household that included twenty-three-year-old Nancy, born in Rockingham County, and Sarah C., their two-year-old daughter, born in Guilford County. He owned fifteen hundred dollars worth of real estate. In 1860, Latham and Nancy lived in separate counties. Nancy owned two slaves, including a thirty-year-old black man and a fourteen-year-old black girl. USMSPC, Guilford County, North Carolina, Northern Division, 1850, p. 388; *ibid.*, North Division, p. 422 (Latham Donnell); USMSSC, Rockingham County, North Carolina, Southern Division, 1860, p. 102 (Latham Donnell); USMSSC, Rockingham County, North Carolina, Southern Division, 1860, p. 27 (Latham Donnell).

<sup>84</sup> Petition of Jane E. Brown to the Common Pleas Court of Guilford County, North Carolina, December 13, 1862, in Guilford County Divorce Records, Jane E. Brown v. Haley Brown, State Archives; Related Documents: Answer, Haley Brown, Fall Term, 1863; Deposition of William Raper, David F. Brown, P. N. Wheeler, January 8, 1864; Decree, Fall Term 1864, with *ibid.* Partially granted. PAR #21286205.

wit Land Negroes and Household furniture as well as stock of various kinds amounting in all to the value of several thousand Dollars." After seven years of marriage, her husband forced her to flee from their home. She became "shelterless, Houseless, comfortless," and would not have survived except for the support of her father. She asked for alimony "commensurate with the supplying of her wants."<sup>85</sup>

Given their economic dependency, it is not surprising that many women endured years of abuse before filing for divorce. They realized that they had no legal right to the "community property." In addition, by law, husbands acquired custody of the children. As a consequence, even after bitter and violent confrontations, incidents of adultery, and being forced to flee from their homes, some of the women returned to live with their husbands. The mother of five children and married for fourteen years to a farmer with four thousand dollars worth of property and a single slave, Margaret Gray of Randolph County charged her husband with infidelity. For many years he engaged in illicit sex with Irene Hodgkin, "a base and lewd" white woman. In fact, he built a house for her on their farm not a quarter-mile from their house, "where he remains and spends the greater portion of his time." Margaret filed for divorce, but a short time later she withdrew her complaint and reunited with her husband.<sup>86</sup> Married exactly the same number of years and the mother of six children, Elizabeth Page of Wake County accused her slaveholding husband of whipping her with a cowhide and kicking her in the stomach. On one occasion, she was bedridden for several weeks. On another occasion, a blow over her right eye left her nearly blind. After she left him, her husband brought in another woman to live in their home "as his bedfellow." Despite such circumstances, when he asked her to return she did so and withdrew her suit. He too owned a handsome estate worth seven thousand dollars.<sup>87</sup> A number of other women, including Mary Garrett of Guilford County, Nancy Hunt of Granville County, Charlotte Allen of Rockingham County, Pearley Farrow of Hyde County, and Sarah Edwards of Ashe County, told similar stories of abuse, betrayal, and reconciliation with propertied husbands.<sup>88</sup>

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<sup>85</sup> Petition of Sarah Davis to the Superior Court of Wake County, North Carolina, March 1819, in Wake County Divorce Records, Sarah Davis v. John Davis, State Archives. No decree with petition. PAR #21281902. There were a few instances in which future husbands required their brides to sign a prenuptial agreement. Stephen Cole, the owner of a plantation and about forty slaves, required Mary Smith to sign an agreement whereby she agreed to relinquish "all right title claim & interest in and to any property either real or personal either by dower or right of dower which by virtue of the marriage she may have acquired." Her only rights were to a trust estate established for her benefit, which she could exercise after his death, should she survive him. The terms of the trust provided her with their dwelling house, a "Negro Girl by the name of Louisa age eighteen years with her future increase," fifty acres of land "so run off so as not to include the stables." The other property Stephen owned would be distributed as part of his estate. Petition of Mary Cole to the Superior Court of Richmond County, North Carolina, September 15, 1856, in Richmond County Divorce Records, Mary Cole v. Stephen Cole, State Archives; Related Documents: Copy of Marriage Contract, Stephen Cole and Mary Cole, September 15, 1852; Answer, Stephen Cole, March 19, 1857, with *ibid.* Partially granted. PAR #21285634. Docket Minutes of the Superior Court, Richmond County, Mary Cole v. Stephen Cole and State v. Stephen Cole, Spring Term 1857, Fall Term 1858, Spring Term 1859, Fall Term 1862, Fall Term 1863, State Archives.

<sup>86</sup> Petition of Margaret Gray to the Superior Court of Randolph County, North Carolina, 1861, in Randolph County Divorce Records, Margaret Gray v. Alexander Gray, State Archives; Related Documents: Oath, Margaret Gray, March 28, 1861; Order, Spring Term 1861, with *ibid.* No decree with petition. PAR #212861 15.

<sup>87</sup> Petition of Elizabeth Frances Page to the Superior Court of Wake County, North Carolina, 1856, in Wake County Divorce Records, Elizabeth Frances Page v. Obadiah Page Jr., State Archives; Related Documents: Bond, William George and Calvin Page to the County, May 13, 1856, with *ibid.* No decree with petition. PAR #21285610. In 1850, Obadiah Page Jr., age twenty-eight, a farmer with \$780 worth of land, headed a household that included Elizabeth Page, age twenty-six, and their three children. Medial) owned five slaves. In 1860, Obadiah headed a household that included Elizabeth Page, age thirty-seven, and their seven children. He possessed farmland worth four thousand dollars and personal property, including four slaves, worth three thousand dollars. Obadiah's father, who lived nearby, was also a prosperous, slave-owning farmer. USMSPC, Wake County, North Carolina, Western Division, 1850, p. 224; USMSSC, Wake County, North Carolina, Western Division, 1850, n.p. (both Obadiah Page Jr. and Sr.); USMSPC, Wake County, North Carolina, North Western District, 1860, p. 81 (Obadiah [Obadiah] Page Jr. and Sr. on same page); USMSSC, Wake County, North Carolina, North Western Division, 1860, p. 288 (both Page Jr. and Sr.).

<sup>88</sup> Garrett and Coldwell petition and related documents (see note 8). The census shows the couple living in the same household four years after Mary filed for divorce. USMSPC, Guilford County, North Carolina, 1840, p. 279; USMSPC, Guilford County, North Carolina, North Division, 1860, p. 207; USMSSC, Guilford County, North Carolina, North Division, 1860, p. 379. Petition of Nancy Hunt to the Equity Court of Granville County, North Carolina, July 24, 1851, in Granville County Divorce Records, Nancy Hunt v. James M. Hunt, State Archives; Related Documents: Order, July 31, 1851, with *ibid.* No decree with petition. Reunited. PAR #21285105. The census shows the couple living in the same household nine years after Nancy filed for divorce. USMSPC, Granville County, North Carolina, Epping Forest District, 1850, p. 76; USMSSC, Granville County, North Carolina, Epping Forest District,

Young girls from property-owning families needed to be cautious about choosing future husbands. Rachel Hamlet, the daughter of a well-to-do Chatham County slave owner, claimed that she was "tenderly brought up and carefully educated in the principles of Strict morality and virtue." She believed her fiancé was a gentleman, a man of honor, honesty, and respectability, but she soon discovered he was engaged in the most "degrading and disgraceful pleasures."<sup>89</sup> Seventeen-year-old Mary Rice of Nash County remained betrothed for a year. Her suitor, Richard Daniel, was "very assiduous in his attentions" and "warm in his protestations of love." She believed he was a man of dignity and rectitude, but after they were married she discovered that he drank to excess, engaged in "adulterous intercourse," and was a spendthrift.<sup>90</sup> Christina Walters of Ashe County owned a three-hundred-acre farm, a comfortable cabin, farming tools, furniture, a horse, cattle, sheep, and hogs, and "two likely young negro Slaves, to wit one boy about fifteen years of age, and a girl about thirteen." Smitten by a charming suitor, she accepted his professions of eternal love and devotion, but soon after their marriage he convinced her to sell her land and sold the remainder of her property except for a single slave. His sole motive, she believed, was "to get possession of what property She was possessed of and then to desert her and leave her entirely dependent upon charity for the means of Subsistence."<sup>91</sup>

Despite marital problems, some women went to great lengths to maintain their marriages. There were economic motives for this, of course, since men controlled the family wealth and alimony was seldom forthcoming. There was also the determination to hide from public view a family's personal problems, or at least to make an attempt to do so. Some thought they could reform their husband's behavior with patience and kindness; others thought it was their duty to put up with their husbands' abuse; still others endured their fate because they thought it was God's will. Many women who returned to their husbands did so to be with, or protect, their children. Eliza Cooke married Thomas Cooke, a circuit-riding Methodist preacher, in Georgia, in 1811, when she was about fourteen years old. Two years later, in 1813, they moved to North Carolina, where he continued preaching.<sup>92</sup> To all outward appearances, he was kind, considerate, and gentle, but when they were alone he was harsh, cruel, and abusive. Eliza related how he drank to excess, flew into fits of anger, and forced her out of the house. In one instance he brandished a knife and threatened to kill her. Only the quick intervention of a slave woman and their teenage children, she asserted, prevented him from doing so. For many years she lived "in a state of slavish fear, without one week or day of peace and quietude." Despite many years of abuse, fleeing on a number of

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1850, p. 857; USMSPC, Granville County, North Carolina, Epping Forest District, 1860, p. 186. Petition of Charlotte Allen to the Equity Court of Rockingham County, North Carolina, April 2, 1860, in Rockingham County Divorce Records, Charlotte Allen v. Nathaniel Allen, State Archives. No decree with petition. Reunited. PAR #21286025. The census shows the couple living in the same household several months after Charlotte filed for divorce. USMSPC, Rockingham County, North Carolina, Northern Division, 1850, p. 108; USMSSC, Rockingham County, North Carolina, Western Division, 1850, p. 885; USMSPC, Surry County, North Carolina, Blevens District, 1860, p. 202; USMSSC, Surry County, North Carolina, Dobson District, 1860, p. 227. Petition of Pearley Farrow to the Equity Court of Hyde County, North Carolina, 1860, in Hyde County Divorce Records, Pearley Farrow v. Abram C. Farrow, State Archives; Related Documents: Order, May 29, 1860, with *ibid.* No decree with petition. Reunited. PAR #21286026. The census shows the couple living in the same household several months after Pearley filed for divorce. USMSPC, Hyde County, North Carolina, 1860, p. 109. Census taken July 28, 1860. Petition of Sarah Edwards to the Equity Court of Ashe County, North Carolina, May 25, 1857, in Ashe County Divorce Records, Sarah Edwards v. Archibald Edwards, State Archives; Related Documents: Oath, Sarah Edwards, May 25, 1857; Order, May 30, 1857, with *ibid.* Granted. Reunited. PAR #21285712. The census shows the couple living in the same household more than three years after Sarah filed for divorce. USMSPC, Ashe County, North Carolina, 1850, p. 254; *ibid.*, Allegheny County, North Carolina, 1860, p. 212; USMSSC, Allegheny County, North Carolina, 1860, p. 28; USMSPC, Allegheny County, North Carolina, Glade Creek Township, 1880, p. 243.

<sup>89</sup> Petition of Rachel Hamlet to the Superior Court of Chatham County, North Carolina, February 12, 1829, in Chatham County Divorce Records, Rachel Hamlet v. William Hamlet, State Archives. No decree with petition. PAR #21282904. Rachel's father, George Dismukes, owned twenty slaves. USMSPC, Chatham County, North Carolina, 1820, n.p.

<sup>90</sup> Petition of Mary Daniel to the Superior Court of Nash County, North Carolina, 1844, in Nash County Divorce Records, Mary Daniel v. Richard Daniel, State Archives; Related Documents: PARs #21284211, #21284503; Depositions of Mourning Williamson, March 16, 1844, March 8, 1845; Opinion, ca. 1845, with *ibid.* Rejected. PAR #21284405.

<sup>91</sup> Petition of Christina Walters to the Equity Court of Ashe County, North Carolina, April 3, 1840, in Ashe County Divorce Records, Christina Walters v. George Walters, State Archives; Related Documents: Order, April 3, 1840, with *ibid.* Partially Granted. PAR #21284005.

<sup>92</sup> 92. As illustrated here, many petitioners traced the histories of their relationships in some detail, reciting when they were married, gave birth to children, moved to different locations, and accumulated property, including slaves.

occasions, and filing a suit for divorce in 1845, Eliza remained with her husband. Indeed, as revealed in the 1870 census, they were still living in the same household after nearly sixty years of marriage.<sup>93</sup>

Whatever the reasons, there were a number of cases similar to those presented by Nancy Swift of Caswell County and Sarah Bell of Camden County. Married in 1822, slaveholder Nancy W. Swift accused her husband of cruelty, abuse, drunkenness, and assault. He "managed to squander by imprudence and Dissipation a very handsome fortune," she declared, "as he himself had eight negros at the time of their marriage." Even so, in 1826, when he promised to stop drinking and asked her to move to Alabama, she acceded to his wishes, disregarding the advice of family and friends. After they settled in Tuscaloosa, however, he returned to his old ways. Ignoring "every principle of decency & morality," she said, he "placed her in the very lowest class of society." In "a distant land," deprived of friends, relations, and with no food on the table, she became a "miserable wretch" and eventually returned to her home county.<sup>94</sup> Sarah Bell also accused her husband of squandering their property, including slaves, and treating her "in a very harsh unmanly and Cruel manner." She was the mother of ten children (eight living) and was "far advanced in years," but even so, her husband attacked her with what she called "Cruel and Barbarous Weapons." She fled from their farmhouse on a number of occasions, only to return following his entreaties. She became a member of a Baptist Society and joined the Baptist Church in order "to live and die as became a Christian fully impressed with the belief that love and harmony particularly at home is absolutely necessary to accomplish this end." But he continued his assaults, which became increasingly severe. Only after many years, over the course of which she left and returned on numerous occasions, did she finally leave for good and file for divorce.<sup>95</sup>

Perhaps because most of those who filed for divorce and alimony, like Nancy Swift and Sarah Bell, could make powerful arguments about the struggles they endured in their marriages and the many indignities and abuses they suffered, the great majority of petitioners won their cases. As derived from the appendix below, among the thirteen white women who submitted petitions to the General Assembly, ten (or 77 percent) received private acts granting their requests. The women in fact did better than the men, who obtained slightly more than half of their requests. In a typical case, Lucy Crockett of Person County petitioned the General Assembly in 1808, explaining that a short time after her marriage her husband deserted her and she was forced to "depend altogether on the generosity of her friends for support." At the time of her marriage she possessed several valuable slaves and other property, all of which her husband squandered and sold. The Assembly's Committee on Divorce and Alimony found the evidence compelling and "recommended the Bill herewith presented be passed into law." Lucy was from a reputable family, the Committee reported, and her husband had left her "disconsolate and poor to wander about." The Assembly granted her request to keep any property she might acquire in the future.<sup>96</sup>

Among the men who filed complaints, those who supplied weak arguments often had their petitions rejected. Wilmington resident Jonathan Bryan, for example, told the Assembly that his wife left his "bed and board without just cause or his leave or consent," and remained absent for several weeks while he was confined in bed with a "bilious fever" in a "dangerous situation." The Committee on Divorce and Alimony found it difficult to accept this as a reason for divorce. The Committee members further noted that the superior courts were in a better position to determine the facts of such a case. Disputes over marital relations should take place in the "the

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<sup>93</sup> Cooke petition and related documents (see notes 10 and 63). To follow their lives decade by decade, see USMSPC, Granville County, North Carolina, 1820, p. 12; *ibid.*, 1840, p. 190; USMSPC, Granville County, North Carolina, Beaver Dam District, 1850, p. 133; USMSSC, Granville County, North Carolina, Beaver Dam District, 1850, p. 875; USMSSC, Granville County, North Carolina, Fort Creek District, 1860, p. 81; USMSPC, Granville County, North Carolina, Brassfield Township, 1870, p. 125.

<sup>94</sup> Petition of Nancy W. Swift to the Superior Court of Caswell County, North Carolina, May 9, 1833, in Caswell County Divorce Records, Nancy W. Swift v. William B. Swift, State Archives; Related Documents: Decree, Spring 1835, with *ibid.* Granted. PAR \*21283302.

<sup>95</sup> 95. Petition of Sarah Bell to the General Assembly, Camden County, North Carolina, November 26, 1813, in General Assembly Session Records, Divorce Petitions, November—December 1813, Sarah Belle. Samuel Bell, State Archives; Related Documents: List of Subscribers, 11813], with *ibid.* Rejected. PAR \*11281302.

<sup>96</sup> Crockett petition and related documents (see note 71); Janet and Ransom McBride, "Divorces and Separations from Petition to the North Carolina General Assembly from 1779 (Part 7)," NCGSJ 21 (February 1995): 51-52.

bosom of the community" where the couple lived and "where the characters of the parties are well known and the credibility of the testimony may be accurately estimated." The Committee rejected Bryan's appeal as well as the prayers of other men, in part because of this and in part because their arguments were without foundation in law.<sup>97</sup> By the time Bryan submitted his petition in 1827, the law requiring that divorce cases be heard first in the superior courts had been in place for thirteen years and a new law transferring sole jurisdiction to the courts was about to go into effect. In the future, the judiciary branch would be vested with the power to allow husbands and wives to be "fully and absolutely divorced from the bonds of matrimony in the same manner in all intents and purposes, as if the marriage ... had never been solemnised."<sup>98</sup>

White women were even more successful in the superior courts than they had been in the General Assembly. Among those cases where an outcome is available, in only two instances did the women lose their cases entirely. In one of these the judge felt obliged to write an extended opinion: "I am satisfied from the allegations & proof in this case that Richard Daniel is an habitual drunkard & when drunk acts like a brute," he wrote. From the outset, Mary Daniel "acted like a descent & prudent woman & gave no excuse for his brutal outrages." But when the General Assembly turned divorce cases over to the superior courts, he continued, it did so for the precise reason that judgments should not be made on "impulse of feeling" but rather "the dictates of principle." Decisions should be made with regard to "definite rules & not by mere caprice." If he were to follow his heart he would readily grant the divorce, but as a judge guided by the law he could not do so.<sup>99</sup> Apparently, in the judge's opinion, drunken outrages were not enough to warrant the extreme action of granting a divorce.

The judge's view was in a decided minority, however. In fifteen cases, the women had their requests partially granted by the superior courts, and in nearly two-thirds (fifty of seventy-three) they obtained a divorce, separation from bed and board, or alimony.<sup>100</sup> Most of the cases followed the procedures and decision of the Granville County superior court case of Amanda Walker, who asked for a divorce because her husband, among other charges, "lived in adultery with a negro woman," a slave belonging to his grandfather. Following the filing of her petition, a jury was impaneled, sworn, and charged; at trial, the jury received instructions from the judge concerning the law: had the plaintiff been a resident of the state for three years immediately prior to her filing? Had the plaintiff been lawfully married? Did the defendant live in adultery as charged? Did the plaintiff contract a venereal disease from the defendant? Did the defendant desert his wife? Hearing the evidence presented in each instance, the jury found the defendant guilty. The court decreed that "Amanda J. Walker be divorced from the said William A Walker and henceforth free and discharged from the bonds of said marriage." Although other cases were not resolved so easily, the legal process—charges, instructions, depositions, testimony, and jury deliberations—seemed to favor female complainants, especially since the evidence was often so overwhelming.<sup>101</sup>

## **PICTURE OMITTED FROM THIS FORMAT OF THE DOCUMENT**

Of course, winning a superior court verdict did not mean that wives would improve their condition. Among the most remarkable divorce cases in this regard was the one involving Elizabeth McRae, the wealthy widow of Richmond County planter Kenneth McRae and the mother of eleven children, who in July 1840 married

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<sup>97</sup> Ransom McBride, "Divorces and Separations from Petition of the North Carolina General Assembly from 1779 (Part 22)," NCGSJ 27 (November 2001): 411-412,433.

<sup>98</sup> The Laws of the State of North-Carolina, Enacted in the Year, 1818 (Raleigh, N.C.: Thomas Henderson, State Printer, 1819), chapter 38 (Robinson); The Laws of the State of North-Carolina, Enacted in the Year, 1813 (Raleigh, N.C.: Thomas Henderson, State Printer, 1814), chapter 41 ("absolutely divorced").

<sup>99</sup> Petition of Mary Daniel to the Superior Court of Nash County, North Carolina, 1844, in Nash County Divorce Records, Mary Daniel v. Richard Daniel, State Archives; Related Documents: Depositions of Mourning Williamson, March 16, 1844, March 8, 1845; Opinion, ca. 1845, with *ibid.* Rejected. PAR #21284405.

<sup>100</sup> In her study of Granville, Orange, and Montgomery counties, Victoria Bynum found similar results. Between 1830 and 1861, among the fifty-seven petitions filed for divorce in superior courts, thirty-nine were filed by women, eighteen were by men. The outcomes of some were not known because of the lack of available sources. Among the cases filed by women, seventeen were granted divorces and four denied; among those filed by men, eleven were granted and one denied. Bynum, *Unruly Women*, 73.

<sup>101</sup> Minutes of the Superior Court, Granville County, *Amanda Walker v. William A. Walker*, September 6, 1853, State Archives.

William D. Mask, who had returned from the "Western Country" after an absence of more than twenty years. At the time of her marriage to Mask, Elizabeth possessed a cotton plantation and forty-one slaves. After their first Christmas together, however, her new husband became "ill-natured, cross, & cruel," went on rampages through the house that resulted in the destruction of "many articles of valuable property," knocked her down, kicked her "most brutally," and repeatedly threatened to kill her. They had signed a prenuptial agreement, Elizabeth remarked, complete with witnesses and notarized, but her husband had destroyed it before it could be registered. In March 1844, Elizabeth [Rebecca] Mask, through her lawyers, presented a petition for divorce and alimony "To the Honorable Judge of the Superior Court of Law in & for said County" of Montgomery. Nearly a full year later, the jury rendered its decision: the husband had maliciously turned Elizabeth out of doors, demeaned, degraded, and abused her, and was guilty of adultery with four women, including one of his own relatives. The court granted a separation of bed and board and stipulated the payment of alimony, but by this time Elizabeth had moved with only five slaves to a different county. In subsequent years she never regained her economic standing, and in 1850, five years after her divorce, she and two of her sons, Irvin and Kenneth McRae, ages twenty-one and nineteen, lived on a small farm in Montgomery County valued at one hundred and fifty dollars. She was fifty-five years old.<sup>102</sup>

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What does an analysis of divorce and/or separation as they relate to race and slavery tell us about the Old North State during the antebellum era? One thing is certain. The reticent tone of some of the bills of complaint filed by the petitioners, as well as the mostly anguished, forceful, and unrestrained language used in many others to describe instances of violent domestic life, attests to the fact that filing for divorce was not an easy undertaking in a society that placed a premium on the economic and cultural value of marriage. For the most part, the documents clearly show that it was a step of last resort, taken in untenable situations after years of misery. As such, it can be argued that the family conflicts observed in these pleadings were not confined to the homes of those who had no other recourse but to file for divorce, and that domestic violence, infidelity, excessive use of alcohol, and desertion were almost certainly far more prevalent than reflected in the filings to the General Assembly and superior courts, as were instances of men demanding absolute obedience and submission from their spouses, children, and servants.

Indeed, we can safely assume that despite the few who dared or were forced to violate society's taboo against the dissolution of marriage, there were many who did not or could not. Although the language used by the men and women who testified in divorce cases often expressed a sense of reprobation or outrage toward the conduct of a wife beater, an adulterer, or a drunk, the documents do not convey the sense that such cases were exceptional or unheard of in the community. Similarly, the graphic depiction of instances where slave women chose or had no choice but to side with the head of household in domestic conflicts provides direct insight into the broad and complex web of personal interactions among men, women, bondsmen, and masters across the tiered levels of authority and submission in the tightly hierarchical slave-owning household. Slave men and women were forced to make difficult choices of allegiance for their protection, not only when they were drawn into the center of domestic conflicts, but also in a myriad of other daily domestic interactions with both their male and female owners.

Thus, divorce proceedings offer a window into North Carolina society during the antebellum era that lays bare marital tensions, conflicts, and violence as well as the poorly disguised role of interracial mixing and relationships that were found in most communities. The suits also show how difficult it was for white women to extricate themselves from bad marriages and protect their children; how women, for a variety of reasons, were forced to remain with husbands who were violent and oppressive; how interracial liaisons between white

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<sup>102</sup> Mask petition and related documents (see note 59). Among the forty-one slaves Elizabeth owned at the time of her marriage, nearly half were under the age of ten, and six had reached old age (between ages thirty-six and fifty-five or over age fifty-six). USMSPC, Montgomery County, North Carolina, Richmond County, 1840, p. 230; *ibid*, Montgomery County, North Carolina, 1850, p. 110; see also Minutes of the Superior Court, Montgomery County, North Carolina, Rebecca Mask v. William D. Mask, February Term 1845, State Archives.

women and black men were probably more common that most people wanted to admit; and how slaves had to take on the added burden of negotiating their way through the minefields of their owners' domestic conflicts.

## APPENDIX

### Divorce, Separation, and Alimony Petitions Concerning Race and Slavery

\* = to state legislature

Year	County	Surname	Given Name	Gender	Color	Slave Owner	No. of slaves	Result
1803	Beaufort	Rhodes*	Euphan	F	W	Y		granted
1803	Rowan	Caldwell	Betsy	F	W	Y	1	no decree
1804	Mecklenburg	Houston*	Cassandra	F	W	Y	3	rejected
1805		Johnson*	Sarah	F	W	Y	9	rejected
1805	Edgecombe	Manning*	Eli	M	W			granted
1805	Rowan	Limbaugh*	Christian	M	W			rejected
1808	Chatham	Farrar*	Milly	F	W	Y	4	granted
1808	Person	Crockett*	Lucy	F	W	Y		granted
1809	Ashe	Smith*	Alexander	M	W			granted
1809	Franklin	Murdin*	Frances	F	W	Y	8	granted
1810	Duplin	Wilkinson*	Barbara	F	W	Y		granted
1810	Edgecombe	Bracewell*	Isaac	M	W			rejected
1810	Wake	Utley*	Young	M	W			granted
1811	Lincoln	Hart	Elinor	F	W	Y	1	no decree
1813	Camden	Bell*	Sarah	F	W	Y		rejected
1813	Gates	Hoffler*	James	M	W			granted
1813	Wake	Hancock*	Joseph	M	W			rejected
1814	Gates	Brady*	Love	F	W	Y	4	granted
1815	Stokes	Hussey	Hannah	F	W	Y	2	no decree
1816	New Hanover	Laspeyre*	Harriet	F	W	Y	10	granted
1817	Sampson	Laspeyre*	Bernard	M	W	Y		rejected
1818	Richmond	Robinson	Jane	F	W	Y	5	no decree
1819	Wake	Davis	Sarah	F	W	Y		no decree
1820	Stokes	Larimore	James	M	W	Y	1	granted
1821	Stokes	Hutcheson	Molly	F	W	Y		no decree
1822	Orange	Gappins	Ellenor	F	W	Y		pg
1823	Haywood	Cline	Elizabeth	F	W	Y	1	no decree

1823	Nash	Wells	Jonathan	M	W			no decree
1823	Randolph	Welborn*	Jane	F	W	Y	5	granted
1824	Perquimans	Oneel	Sarah	F	W	Y	8	no decree
1824	Wake	Tombereau*	Lewis	M	W			granted
1824	Washington	Barber*	John	M	W			rejected
1825	Granville	Chandler	Sarah	F	W	Y	5	granted
1825	Haywood	Chambers*	John	M	W			granted
1826	Lincoln	Rhyne	Catharine	F	W	Y	4	granted
1827	New Hanover	Bryan*	Jonathan	M	W	Y		rejected
1827	Wayne	Barden*	Jesse	M	W			granted
1828	Craven	Bishop	Graham	M	W			no decree
1829	Caswell	Womack	Frances	F	W	Y	10	granted
1829	Chatham	Hamlet	Rachel	F	W			no decree
1829	Granville	Wheeler	Elizabeth	F	W	Y		granted
1829	Lincoln	Goble	Catharine	F	W	Y	1	granted
1829	Wayne	Edwards	Lydia	F	W	Y	16	granted
1830	Guilford	Whittington	Andrew	M	W			no decree
1830	Nash	Westray	Charity	F	W	Y	3	granted
1831	Buncombe	Osborne	Phebe	F	W	Y	6	granted
1831	Granville	Mitchell	Charles	M	W			no decree
1831	Granville	Hickman	William	M	W			no decree
1831	Perquimans	Goodwin	Gabriel	M	W			granted
1832	Halifax	Reid*	Mary	F	W	Y		granted
1832	Nash	Tisdale	Piety	F	W			granted
1833	Caswell	Swift	Nancy	F	W	Y	8	granted
1833	Caswell	Whittington	Andrew	M	W			granted
1833	Craven	Richardson	Henry	M	B			no decree
1833	Guilford	Fields	Olivia	F	W			granted
1833	Wake	Lee	Elisha	M	W			no decree
1833	Wake	Smith	Elizabeth	F	W	Y	9	granted
1834	Burke	Cobb*	Ellena	F	W			granted
1834	Northampton	Moore	Margaret	F	W	Y	25	no decree
1834	Person	Evans	Martha	F	W	Y	5	granted

1834	Wayne	Jemigan	Richard	M				no decree
1835	Macon	Pearson	Polly	F	W	Y	3	no decree
1835	Pasquotank	Wilson	Nancy	F	W	Y	7	no decree
1835	Pasquotank	Sawyer	Ann	F	W	Y		granted
1835	Rockingham	Orrin	Polly	F	W	Y	5	granted

1835	Rowan	West	Ann	F	W	Y	4	granted
1836	Granville	Strother	Margaret	F	W	Y	1	granted
1836	Granville	Phillips	Susan	F	W	Y	1	granted
1836	Guilford	Jenkins	Nancy	F	W	Y	2	no decree
1836	Pasquotank	Brozier	Elizabeth	F	W	Y	5	granted
1836	Wayne	Komegay	Margaret	F	W	Y	7	no decree
1837	Wilkes	Bendy	Elizabeth	F	W	Y	1	granted
1838	Lincoln	Martin	Unicy	F	W	Y	1	granted
1838	Nash	Flowers	Thomas	M	W			granted
1838	Orange	Clark	Mary	F	W	Y		dbp
1839	Burke	Jimeson	Samuel	M	W			no decree
1839	Caswell	Broughton	Elizabeth	F	W	Y	9	no decree
1839	Davidson	Bringle	Juliana	F	W			granted
1839	Guilford	Brannock	Martha	F	W			no decree
1840	Ashe	Walters	Christina	F	W	Y	2	pg
1840	Burke	Wilson	Anne	F	W	Y	4	agreement
1840	Guilford	King	William	M	W			no decree
1840	Lincoln	Ramsay	Sarah	F	W	Y	3	granted
1840	Rutherford	Hamrick	Elizabeth	F	W			granted
1841	Davidson	Sowers	Fanny	F	W	Y	1	granted
1841	Orange	Whitsell	Mary	F	W	Y	4	no decree
1841	Randolph	Moffitt	Mary	F	W	Y	3	no decree
1841	Surry	Steelman	Ruth	F	W			rejected
1841	Wake	Hunter	Sarah	F	W	Y	9	no decree
1842	Caswell	Bouldin	Harriet	F	W			no decree
1842	Chatham	Buckner	Milly	F	W	Y		no decree
1842	Lincoln	Falls	Mary	F	W	Y	6	no decree
1842	Rowan	Adderton	Emeline	F	W			granted

1843	Davidson	Wood	Rebecca	F	W	Y	3	gard
1843	Guilford	Vanstore	Laura	F	W	Y	3	granted
1843	Lincoln	Clubb	Elizabeth	F	W	Y	5	both sides
1843	Randolph	Johnston	Margaret	F	W	Y		no decree
1843	Stokes	Shouse	Henry	M	W	Y	7	granted
1844	Hyde	Mason	Rebecca	F	W	Y	2	no decree
1844	Lincoln	Cody	Elizabeth	F	W			no decree
1844	Montgomery	Mask	Rebecca	F	W	Y	5	granted
1844	Nash	Daniel	Mary	F	W	Y	2	rejected
1844	Robeson	Karsey	Edward	M	B			dismissed

1844	Wake	Oliver	Thomas	M	W	Y	3	no decree
1845	Craven	Gray	Wesley	M	W			no decree
1845	Granville	Cooke	Eliza	F	W	Y	6	no <i>decree</i>
1845	Northampton	Vasser	Nancy	F	W	Y	4	no decree
1845	Pitt	Moore	Margaret	F	W	Y	5	no decree
1845	Randolph	Routh	Isaac	M	W			granted
1845	Wayne	Eveline	Fort	F	W	Y	33	granted
1846	Wake	Strickland	Sarah	F	W			no decree
1847	Granville	Wilson	William	M	W			pg
1847	Granville	Walker	Amanda	F	W			granted
1848	Cleveland	Weathers	Lelia	F	W	Y	9	agreement
1848	Richmond	Cole	Stephen	M	W	Y	27	granted
1849	Pasquotank	Bright	Elisabeth	F	W	Y	4	no decree
1850	Ashe	Schoat	Sarah	F	W	Y	6	granted
1850	Craven	Foy	Harriet	F	W	Y	12	no decree
1850	Perquimans	Foster	Parthena	F	W	Y	I	no decree
1850	Randolph	Amick	Andrew	M	W	Y	8	mistrial
1850	Wayne	Sykes	John	M	W			granted
1850	Wayne	Griffin	Daniel	M	W			granted
1851	Granville	Hunt	Nancy	F	W	Y	2	no decree
1851	Guilford	Huzza	Beulah	F	W	Y	2	no decree
1852	Northampton	Outland	Susan	F	W	Y	2	no decree

1852	Person	Brooks	Matilda	F	W			granted
1853	Buncombe	Fulton	Mary	F	W	Y	3	no decree
1853	Chatham	Williams	Mary	F	W	Y	1	no decree
1853	Craven	Richardson	Mary	F	W	Y	2	no decree
1853	Granville	Ellis	Eliza	F	W			no decree
1853	Nash	Williamson	Sarah	F	W	Y	12	pg
1853	Yadkin	Chamberlain	Rebecca	F	W			granted
1854	Guilford	Peters	Sidney	F	W	Y	2	granted
1854	Guilford	Donnell	Nancy	F	W	Y	13	pg
1854	Montgomery	Davis	Nancy	F	W	Y	4	no decree
1854	Nash	Bailey	Harriett	F	W	Y	I	granted
1854	Stanly	Troutman	Andrew	M	W			granted
1854	Wayne	Smith	Penelope	F	W	Y	4	granted
1855	Duplin	Williams	Blany	M	W	Y	7	granted
1855	Guilford	Rainey	Martha	F	W	Y	1	granted
1855	Lincoln	Courtney	Francis	F	W			granted

1855	Wake	Carpenter	Abigail	F	W			granted
1855	Yadkin	Speer	Nancy	F	W	Y	4	granted
1856	Davidson	Thomas	Sarah	F	W	Y	1	granted
1856	Franklin	Williams	Mary	F	W	Y	2	no decree
1856	Guilford	Milton	Jane	F	B			granted
1856	Guilford	Gilchrist	Anne	F	W	Y	8	pg
1856	Guilford	Garrett	Mary	F	W	Y	7	pg
1856	Guilford	Dean	Lydia	F	W			granted
1856	Mecklenburg	Wallace	Caroline	F	W	Y	20	no decree
1856	Montgomery	Graves	Nancy	F	W			rejected
1856	Richmond	Stuart	Mary	F	W			granted
1856	Richmond	Cole	Mary	F	W	Y	37	pg
1856	Wake	Page	Elizabeth	F	W	Y	5	no decree
1856	Yadkin	Williams	Kennedy	M	W			no decree
1857	Ashe	Edwards	Sarah	F	W	Y	4	granted
1857	Chatham	Watson	Ruth	F	W	Y	2	granted
1857	Guilford	Mitchell	Robert	M	B			granted

1857	Guilford	Dodson	Elisha	M	W			no decree
1857	Guilford	Hanner	William	M	W			no decree
1857	Perquimans	Everton	Matilda	F	W	Y	10	pg
1857	Stokes	Joyce	Martha	F	W	Y	5	granted
1857	Yadkin	Matthews	Antionette	F	W	Y	16	pg
1858	Guilford	Caffey	Mary	F	W	Y	4	pg
1858	Guilford	Brady	Henry	M	W			no decree
1858	Randolph	Riley	Rhodias	M	W			agreement
1858	Randolph	Millican	Benjamin	M	W			granted
1859	Cleveland	McCombs	Sarah	F	W	Y	15	agreement
1859	Davidson	Hanes	Nancy	F	W	Y	2	granted
1859	Guilford	Shackleford	Mary	F	W			granted
1859	New Hanover	Hansley	Hannah	F	W			pg
1859	Rowan	Hyde	Jane	F	W	Y	8	pg
1859	Wake	Smith	Emeline	F	W			no decree
1859	Wilson	Hayharger	Nancy	F	W			no decree
1860	Craven	Jones	Graham	M	W			no decree
1860	Henderson	Rucker	Sarah	F	W	Y	1	agreement
1860	Hyde	Farrow	Pearley	F	W			no decree

1860	Rockingham	Allen	Charlotte	F	W	Y	<b>21</b>	no decree
1861	Caldwell	Hood	Elizabeth	F	W	Y	1	no decree
1861	Nash	Moore	Mary	F	W	Y	8	pg
1861	Randolph	Brooks	Nancy	F	W			no decree
1861	Randolph	Gray	Margaret	F	W	Y	1	agreement
1862	Guilford	Brown	Jane	F	W	Y	18	pg
1864	Mecklenburg	Rea	Elizabeth	F	W	Y	6	granted
1866	Buncombe	Lytle	Mary	F	W			no decree
1866	Buncombe	Miller	Nathan	M	W			granted
1866	Davidson	Miller	Rachel	F	W	Y	8	pg
1866	Guilford	Hubbard	Mary	F	B			no decree
1866	Guilford	Goings	Zilphire	F	B			no decree
1866	Rowan	Bostian	Jacob	M	W			no decree
1866	Wake	Green	John	M	W			granted

SOURCE: The petitions and related documents are found in the Race and Slavery Petitions Project microfilm edition (see note 1) gathered from the General Assembly Session Records and Records of the Superior Courts at the State Archives, North Carolina Office of Archives and History, Raleigh. The results for legislative petitions are found in the Acts of the General Assembly (1803 through 1834); Ransom McBride, "Divorce, Separation and Security of Property Granted by Act of the North Carolina Assembly, 1809 through 1830," *North Carolina Genealogical Society Journal* 9 (February 1983): 43-46; and Janet and Ransom McBride, "Divorces and Separations from Petitions to the North Carolina General Assembly from 1779," *North Carolina Genealogical Society Journal* 17 (November 1991): 201-208. In subsequent issues of *The Journal* through 2003, there are twenty-four additional "Parts" abstracting various legislative petitions and indicating results. The final outcomes for the superior court cases can be found in the minutes of the superior courts, docket minutes of the superior courts, or in some cases, the docket pages of the original documents. Some of the superior court records are not extant. In a few cases, the search of the extant records did not reveal outcomes. In these cases, "no decree" is entered. Other petitions were rejected; partially granted [pg] (e.g. the granting of alimony without divorce or granting an order requiring a husband to appear in court but no further information regarding the resolution of the case); resolved by the parties (agreement); granted-appealed-reversed-dismissed (gard); or resulted in a compromise as required by the court (both sides). Information on the number of slaves owned comes from the petition itself, related documents, or, if cited in bold italic, from the U.S. Manuscript Population Census Returns. Sometimes there is a clear indication that the petitioner was a slave owner, but the exact number of slaves is not indicated. A few divorce cases during and immediately following the Civil War have been included if they provide information about race and slavery. Despite the imperfect nature of the data, North Carolina contains one of the best prewar collections of divorce/alimony petitions in the South.

The following cases are housed at the State Archives and arranged by county: Minutes of the Superior Court, Cleveland County, Lelia Weathers v. William Weathers, Fall Term 1849; *ibid.*, Granville County, Eliza Ellis v. Philemon Ellis, March 7, 1856, p. 33, jury impaneled but no verdict; *ibid.*, Guilford County, Lydia Dean v. Emanuel Dean, Spring Term 1858, pp. 233-234; *ibid.*, Jane Milton v. Elisha Milton, Spring Term 1858 (in the petition there was no indication that Jane was a free woman of color); *ibid.*, New Hanover County, Hannah A. Hanstey v. William M. Hansley, ca. 1860, court order requiring husband to appear; *ibid.*, Guilford County, Mary Shackelford v. Armstcad Shackelford, October 25, 1860; *ibid.*, Lincoln County, Sarah Ramsey v. James Ramsey, Spring Term 1842; *ibid.*, Elizabeth Clubb v. David Clubb, June Term 1845; *ibid.*, Montgomery County, Rebecca Mask v. William D. Mask, February Term 1845, separation of bed and board and alimony granted; *ibid.*, Nancy Graves v. Benjamin Graves, Fall Term 1858, dismissed; *ibid.*, Nash County, Charity Westray v. Wilson Westray, ca. 1831; *ibid.*, Piety Tisdale v. William Tisdale, September 1834; *ibid.*, Sarah

Williamson v. Isaac Williamson, March 22, 1855, alimony granted; *ibid.*, Orange County, Eflinor Gappins v. William Gappins, September 17, 1825, order for defendant, who was "beyond the limits of this State," to appear (publication of the summons was made in the Hillsborough Recorder for three successive weeks); *ibid.*, Man Clarke v. Stephen Clarke, March 1844, dismissed by plaintiff; *ibid.*, Perquimans County, Minutes Docket of the Superior Court, Gabriel Goodwin v. Mary Goodwin, September 1832; *ibid.*, Matilda Everton v. Major Everton, September 1857, order to pay alimony; *ibid.*, Person County, Minutes of the Superior Court, Martha Evans v. David Evans, Fall Term 1834; *ibid.*, Randolph County, Docket Minutes of the Superior Court, Andrew Amick v. Susannah Amick, Spring 1851, jury sworn and impaneled; *ibid.*, Randolph County, Docket Minutes of the Superior Court, Rhodias Riley v. Nancy Riley, Spring 1860; *ibid.*, Nano J. Brooks v. Josiah H. Brooks, Fall 1863; Randolph County, Docket Minutes of the Superior Court, Margaret Gray v. Alexander Gray, Fall 1863; *ibid.*, Richmond County, Docket Minutes of the Superior Court, Mary Cole v. Stephen Cole and State v. Stephen Cole, Spring Term 1857, Fall Term 1858, Spring Term 1859, Fall Term 1862, Fall Term 1863; *ibid.*, Robeson County, Minutes of the Superior Court, Edward Kearsey v. Maly Kearsey, Fall Term 1847; *ibid.*, Rockingham County, Polly Orrin v. William Orrin, November 2, 1835, p. 142; *ibid.* Stokes County, James Larimore v. Catherine Larimore, April 1823; *ibid.*, Stokes County, Henry Shouse v. Ann Shouse, April Term 1844; *ibid.*, Surry County, Minute Docket of the Superior Court, Ruth Steelman v. Joseph Steelman, April 3, 1844; *ibid.*, Wake County, Minute Docket of the Superior Court, Elizabeth Smith v. Zack Smith, April 3, 1834; *ibid.*, Wake County, Docket Minutes of the Superior Court, Abigail Carpenter v. James Carpenter, Spring 1857; *ibid.*, Wilkes County, Elizabeth Bently v. James Bently, October 7, 1840; *ibid.*, Yadkin County, Samuel Speer v. Nancy Speer, March 1854; *ibid.*, Yadkin County, Rebecca Chamberlain v. Alexander Chamberlain, Fall 1855; *ibid.*, Yadkin County, Sarah Jackson v. Peyton Jackson, August 1856. About two-fifths of the results for women and more than half the results for men could not be discovered, primarily because of non-extant superior court records, but it seems doubtful that the unknown results would differ significantly from those that are known.

*Dr. Schweninger is Elizabeth Rosenthal Excellence Professor at the University of North Carolina at Greensboro. He wishes to thank the audience at the meeting of the Historical Society of North Carolina in Greensboro in October 2007 for their probing questions following an early and abbreviated version of this paper, delivered as the presidential address. Doug Bristol and Katie Knight contributed to the collection of documents as members of the staff at the Race and Slavery Petitions Project at the University of North Carolina at Greensboro. The current assistant editors at the Project, Marguerite Howell and Nicole Mazgaj, copy-edited and proofread the manuscript. Nicole also suggested a number of important revisions. Thanks to the anonymous reader for the North Carolina Historical Review, who suggested an expansion of the historiographical context and made a number of stylistic suggestions.*