

Managing Emancipation: Land, Labor, and the Reconstruction of the American State

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Abstract

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This dissertation seeks to understand the impact of Emancipation on the development of the American federal state in the mid-19<sup>th</sup> century. Although political scientists and historians have identified the Emancipation Proclamation as a transformative moment in the history of the United States, there has been relatively little attention paid to the effects of Emancipation on institutional development and the expansion of state power. Drawing on a wide range of primary source archival research, I show how the federal government used land and labor policies to manage the process of Emancipation and grow the power of the central government. I argue the origins of Reconstruction and, by extension, much of the contemporary US political and economic order lies in the policies enacted to manage the process of Emancipation. My research shows how the complex interactions between freed Black workers, federal officials, and white employers fundamentally reshaped racialized labor and property relations in the aftermath of Emancipation. Lastly, I center the role of emancipated Black people in this process by showing how freedpeople contested state-building processes through non-formal avenues of political power (labor strikes, land claims, federal bureaucrats, etc.) to advance their visions of freedom. In short, this dissertation argues that the modern American state cannot be fully understood without attending to its origins in the Civil War and Emancipation.

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I first met Chip in the spring of 2012 as an undergraduate in his seminar on contemporary democratic theory. I walked away from that first seminar confident of two things – 1) I still don't really *know* what properly constitutes a democracy, and 2) that Chip is a fantastic teacher and scholar. Since then, Chip has been an indispensable and perennial mentor throughout my academic life. He has taught me to be a critical and careful scholar, a close reader of texts, and a caring teacher.

I have been exceptionally fortunate to have Sophia as my most fearless advocate. Sophia's unique combination of pragmatism, kindness, and intelligence always assisted me when I needed it the most. I will always be thankful for Sophia's singular ability to help chart a clear course through even the murkiest academic norms and expectations.

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This project, in one form or another, has been my companion for the last seven years. It has grown as I have grown. Together, we have weathered many storms, achieved great triumphs and been humbled by failures, and, in the end, we both remain incomplete. This project was born out of a deep love of history and an ambition to tell stories that have yet to be told. I do not think

that we have accomplished our task yet. But I am grateful that we, this project and myself, have taken this first step in what I expect will be a long journey.

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## **Chapter I**

# **The Crucible of Wartime Emancipation– Reconsidering the Origins of the Reconstruction State**

The abolition-democracy was the liberal movement among both laborers and small capitalists, who united in the American Assumption, but saw the danger of slavery to both capital and labor. It began its moral fight against slavery in the thirties and forties and, gradually transformed by economic elements, concluded it during the war. The object and only real object of the Civil War in its eyes was the abolition of slavery, and it was convinced that this could be thoroughly accomplished only if the emancipated Negroes became free citizens and voters. – W.E.B. Du Bois, *Black Reconstruction in America*, 1935

Few works of scholarship have been as paradigm shifting as W.E.B. Du Bois's *Black Reconstruction in America*. Du Bois's revisionist history of Emancipation and Reconstruction exposed one of the first cracks in the foundations of the prevailing white supremacist historiography of the period and inspired future generations of scholars to reassess the meanings and legacies of Reconstruction. Du Bois's work is remarkable in that it not only succeeded as a critique of white supremacist dogma but also as a generative work that produced new conceptual frameworks. An unabashedly, though unorthodox, Marxist interpretation of Emancipation and Reconstruction, Du Bois's *Black Reconstruction* framed Emancipation as a class struggle between Black workers and white planters and a federal state that alternated between a 'dictatorship of labor' and an enforcer for white capitalist interests. However, while Du Bois's more Marxist analyses have been either abandoned or muted in subsequent scholarship, one concept has risen to the level of near-orthodoxy – the 'General Strike' or self-emancipation of enslaved people. Du Bois asserted Black people's agency in their own liberation, arguing that the mass self-emancipation of enslaved people deprived the Confederacy of critical labor, bolstered

Union army ranks with laborers and soldiers, and, most significantly, forced the federal government to actively pursue Emancipation as an outcome of the war.<sup>1</sup> In the decades since Du Bois's conceptualization of self-emancipation, scholars have broadly accepted the significance of enslaved Black people's agency to the defeat of the Confederacy and the adoption of Emancipation as national policy.<sup>2</sup>

However, despite the growing acknowledgment of Black agency in the process of Emancipation and widespread acceptance of Du Bois's thesis of self-emancipation, the relationship between Emancipation, Black people, and the transformation of the American federal state has remained undertheorized and understudied. This is especially true among political scientists and scholars of American political development. Despite a growing interest in both the 19<sup>th</sup>-century state and the role of race in central state development, scholars have neglected wartime Emancipation as a key moment of state-building. Instead, APD scholars have focused on the post-Civil War Reconstruction state, with particular attention paid to party coalitions, Constitutional reforms, courts, and civil and voting rights.<sup>3</sup> To the degree that Emancipation plays a role in American political development it is through the passage of the 13<sup>th</sup> Amendment and the reintegration of the Southern states into the union. In these accounts, the

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<sup>1</sup> W. E. B. Du Bois, *Black Reconstruction in America: An Essay toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880*, The Oxford W.E.B. Du Bois (New York: Oxford University Press, 1935).

<sup>2</sup> James M. McPherson, *The Struggle for Equality: Abolitionists and the Negro in the Civil War and Reconstruction* (Princeton, N.J: Princeton University Press, 1964); Leon F. Litwack, *Been in the Storm so Long: The Aftermath of Slavery* (New York: Vintage Books, 1980); Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863 - 1877* (New York, NY: Harper Perennial, 1988).

<sup>3</sup> Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*, The Yale ISPS Series (New Haven (Conn.): Yale university press, 1997); Richard M. Valelly, *The Two Reconstructions: The Struggle for Black Enfranchisement*, American Politics and Political Economy (Chicago: University of Chicago Press, 2004); Richard Bensel, *Political Economy and American Political Development*, ed. Richard Valelly, Suzanne Mettler, and Robert Lieberman, vol. 1 (Oxford University Press, 2014); Eric Foner, *The Second Founding: How the Civil War and Reconstruction Remade the Constitution* (New York: W.W. Norton and Company, 2019).

Reconstruction state is the result of post-war political struggles, separate from wartime exigencies and the struggles of Emancipation. Wartime Emancipation required the federal government to create new bureaucratic capacities to manage the process of Emancipation and the wartime transformation of Southern society. Beyond military mobilization, financial regulation, and party coalition building, the expansion of the American wartime state was also the result of the demands of Emancipation.

Wartime Emancipation also placed demands on the federal state that were of a fundamentally different character than other military and bureaucratic challenges generated by the war. Managing the process of emancipation was not only a matter of resource mobilization and the expansion of administrative capacity. The rapid destruction of slavery during the Civil War precipitated an equally radical reconfiguration of the ideological, legal, and material infrastructure that governed the rules by which Americans understood the relationship between freedom and domination, the role of the state, and, most of all, race relations.<sup>4</sup> These factors meant that the federal state that emerged from the struggles of wartime Emancipation differed not just in size but also in character from its antebellum predecessor. The federal state, previously conscripted into policing the institution of slavery under the Fugitive Slave Act, found itself remade into an instrument of liberation during the war. The orientation of the federal state toward Black people, enslaved and free, shifted from one primarily governed by property law to an uncharted terrain in which freedpeople actively demanded civil, political, and economic rights. Understanding the evolution of the federal state during the Civil War and Emancipation, therefore, requires not just a quantitative assessment of the growth of federal bureaucracies,

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<sup>4</sup> Barbara Jeanne Fields, "Slavery, Race, and Ideology in the United States of America," *New Left Review* 181, no. 181 (1990): 95–118; Eric Foner, "The Meaning of Freedom in the Age of Emancipation," *The Journal of American History* 81, no. 2 (1994): 435–60.

regulatory regimes, and laws, but also a reassessment of the central actors and material relations driving wartime state-building. In place of the traditional state builders of American political history – the President, Congress, courts, and political parties – wartime Emancipation opened up new avenues for reformers, bureaucrats, military officers, and, most consequentially, newly emancipated Black people, to reshape the American federal state.

The confluence of wartime chaos with the emergence of new political actors created a new terrain upon which the post-slavery American federal state would be contested, reshaped, and rebuilt, both literally and ideologically. In the refugee camps through which over 500,000 enslaved people would make the transition to freedom, white reformers, and military officials conducted surveys of freedpeople, which would come to directly influence federal policy.<sup>5</sup> Along the Mississippi River, sprawling cotton plantations, once the site of the mass wealth enslaved labor created, were transformed into laboratories of government policy where Black workers, Northern bureaucrats, and Southern planters battled to enact their visions of a new political, social, and economic order. All across the liberated South, emancipated Black workers transformed refugee camps, plantations, rural homesteads, cities, churches, and schoolhouses into sites of racial and state formation.

At the same time that wartime Emancipation was creating a new political, economic, and racial geography upon which the federal state would be built, it also generated a new set of governing technologies capable of embedding state power into the process of Emancipation and Reconstruction. In 1863, the federal state had few mechanisms by which to assert its power in economic and social relations. Yet, at the same time, the chief priority of the federal state was the (re)construction of a free labor market in which freedpeople were fully integrated into wage

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<sup>5</sup> Chandra Manning, *Troubled Refuge: Struggling for Freedom in the Civil War* (New York: Vintage Books, 2017), chaps. 3–4.

labor and private property regimes as free workers. The solution, as subsequent chapters will demonstrate, was to use a system of labor, land, and debt contracts to fashion free labor capitalist relations and manage the integration of freedpeople into a post-slavery national economy. It was during wartime Emancipation that contracts made the shift from private agreements backed by state power to conduits for the exertion of state power to manage and shape racialized labor and property relations.

In short, the origins of the Reconstruction state, and indeed the foundations of a broader post-Emancipation federal state, were forged in the crucible of wartime Emancipation. From 1863 to 1865, the management of Emancipation by the federal state created new demands on the administrative capacity of the federal government, shifted its ideological and economic priorities, and produced novel governing technologies for the management of social and economic relations. Furthermore, in each of the above transformations, newly emancipated Black people would play a leading role in contesting and shaping the process of Emancipation. If wartime Emancipation is, therefore, a key driver of federal state development, freedpeople are as much its central actors as white elites.

### **Puzzles and Arguments**

The glossing over of Emancipation as a state-building process by contemporary scholarship has also resulted in the marginalization of key agents in the construction of the post-Emancipation state – freedpeople and the white federal officials charged with their supervision. I argue that the complex and tense relationship between these two groups shaped the policy and character of the Reconstruction state in ways that scholars have overlooked. Therefore, this dissertation is motivated by three interrelated puzzles facing scholars of Emancipation and Reconstruction.

First, how did the interactions between emancipated Black workers and federal officials shape the development of the Reconstruction state? Here, I aim to understand the construction of the post-Emancipation American state as a contested, contingent, and relational process which grew out of on the ground struggles over claims to state power, legitimacy, and visions of freedom. This is a perspective which the often elite-driven narratives of the Reconstruction state's origins undertheorize and understate.

Second, following Du Bois's lead in centering Black people's agency, I ask how Black people reimagined their relationship to land and labor during wartime Emancipation? That is to say, did Black people's material relations produce visions of freedom, which may have differed from both antebellum slave relations and the policy goals of federal officials? My focus on newly emancipated Black workers seeks to understand how Black people influenced federal wartime policy without access to formal avenues of political power. Closely related to this question of Black people's political agency is the relationship between emerging free Black communities and forms of state legitimation.

In this final question, I ask why some Black communities' political, economic, and social configurations are legitimated by state institutions while others are seen as illegitimate? Here, my interest is in understanding the process by which the state determines certain forms of community and social relations as recognizable and, therefore, worthy of being backed by state power. In the context of wartime Emancipation, understanding processes of legitimation is critical to understanding why the 'free labor vision' of capitalist freedom was championed by federal officials.

Aiming to address these questions, I advance three major arguments in this dissertation. First, I argue that the origins of the Reconstruction State lie primarily in the federal policies

aimed at managing wartime Emancipation. The challenges presented by Emancipation required the federal state to quickly develop new administrative and governing capacities that differed both in size and scope from its antebellum functions. Throughout the South, from the Mississippi Valley to the Carolina Sea Islands, military officials, reformers, white capitalists, and, through much effort, freedpeople themselves, would help produce policies that saw the federal state directly supervising everything from land and labor regimes to marriage contracts and schooling. The federal state, once largely an abstraction, suddenly became a manifest presence in the fields, homes, and schools of the South.

The second major argument advances a theoretical intervention into how scholars understand state power during Emancipation and Reconstruction. I developed a novel theoretical concept – managed emancipation – to describe the growth of state power through the process of reconstituting political, economic, and social structures during wartime Emancipation. As I discuss later in this chapter, managed emancipation offers an understanding of state power which aims at the management of racialized and subordinated populations, not through direct coercion, but rather through the creation and maintenance of racial and capitalist relations. Following this concept, I seek to locate the functioning of the state in the labor contracts, property relations, and market dynamics that arose in the aftermath of the destruction of slavery.

Third, I construct a new genealogy of 19<sup>th</sup>-century American political development to reveal the central role played by newly emancipated Black people in shaping the expansion and transformation of state institutions and power. As I show in the subsequent chapters, Black workers contested and negotiated the state-led management of Emancipation and, in turn, influenced federal policymakers. In other words, I argue that the story of mid-19<sup>th</sup> century state

development is a story in which the tense relationship between the federal state and Black people generated new forms of state power and institutions.

This introductory chapter consists of four sections. First, I begin with a discussion of the current scholarship on Emancipation, Reconstruction, and Black politics – identifying tensions and advancing interventions. Second, I offer an overview of my concept of managed emancipation and a theory of Emancipation state power. Third, I discuss my archival sources and explain my methodological orientation toward primary sources. Lastly, I end with an overview of the dissertation and a description of the subsequent chapters.

### **Emancipation, Race, and American Political Development**

In the past few decades, scholars of American Political Development (APD) have begun the long overdue process of accounting for the relationship between racism and the development of the American state. A reckoning with white supremacy and racism has been animating calls to recenter the role of racial violence, slavery, segregation, racist policing and incarceration, and Indigenous genocide and dispossession in the narrative of American state expansion.<sup>6</sup> Much of this literature has focused on race and American political development in the 20<sup>th</sup> century, with some notable exceptions such as Rogers Smith’s work on racial orders, Aziz Rana’s recovery of competing visions of 19<sup>th</sup> century settler freedom, Richard Valelly’s study of the long struggle for Black voting rights, and Paul Frymer’s work on 19<sup>th</sup> century land policy.<sup>7</sup> However, despite the rapid development of scholarship on the relationship between race and state power, APD

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<sup>6</sup> Megan Ming Francis, “The Strange Fruit of American Political Development,” *Politics, Groups, and Identities* 6, no. 1 (January 2, 2018): 128–37; Julie Novkov, “Rethinking Race in American Politics,” *Political Research Quarterly* 61, no. 4 (December 2008): 649–59; Joseph E. Lowndes, Julie Novkov, and Dorian Tod Warren, eds., *Race and American Political Development* (New York, NY: Routledge, 2008).

<sup>7</sup> Smith, *Civic Ideals*; Aziz Rana, *The Two Faces of American Freedom* (Cambridge, Mass: Harvard University Press, 2010); Valelly, *The Two Reconstructions*; Paul Frymer, *Building an American Empire: The Era of Territorial and Political Expansion*, Princeton Studies in American Politics: Historical, International, and Comparative Perspectives (Princeton : Oxford: Princeton University Press, 2017).

scholars have largely avoided critical discussions of the Reconstruction state. Given the singular importance of Reconstruction to the reconfiguration of American state power and race relations, the relative absence of APD scholarship during this period is notable. Part of the reason for this oversight is at least partially due to the widespread consensus on the origins, character, and outcome of Reconstruction among APD scholars. In most of the current scholarship, Reconstruction is characterized as a 'splendid failure' and an outlier in the wider trajectory of American state development. According to this view, the Reconstruction state was born out of the unique Republican Party coalition of Northern capitalists, abolitionists, and, to a certain degree, Black voters, who, however, briefly were able to consolidate state power. This coalition, in turn, pushed through a radical revision to the Constitution in the form of the Thirteenth, Fourteenth, and Fifteenth Amendments. However, white Southern resistance and the collapse of the Republican coalition led to the gradual erosion of egalitarian policies and the violent return of white supremacy.<sup>8</sup> In this standard narrative, Reconstruction has emerged as perhaps the quintessential 'progress-stagnation-backlash' model of racial and progressive political development.

Befitting its function as a cautionary tale, the destruction and dismantling of the Reconstruction state has attracted much more scholarly interest than its origins. The reemergence of white supremacist Southern political power in the late 19<sup>th</sup> century has been the subject of numerous studies, most notably V.O. Key's influential work *Southern Politics* and David A. Bateman, Ira Katznelson, and John S. Lapinski's work *Southern Nation*.<sup>9</sup> Such works tend to

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<sup>8</sup> Smith, *Civic Ideals*; Joseph E. Lowndes, ed., *Race and American Political Development* (London: Routledge, 2008).

<sup>9</sup> David A. Bateman, Ira Katznelson, and John S. Lapinski, *Southern Nation: Congress and White Supremacy after Reconstruction*, Princeton Studies in American Politics: Historical, International, and Comparative Perspectives (New York: Princeton: Russell Sage Foundation ; Princeton University Press, 2018); V. O. Key, *Southern Politics in State and Nation* (Knoxville: University of Tennessee Press, 1984).

focus on white Southern party coalitions and their efforts to continuously enforce white supremacist dominance over Southern society. However, while such classic accounts help explain the gradual destruction of the Reconstruction state, they have little to say about the origins of Reconstruction or the transformation of federal power during and after the Civil War. A notable exception to the focus on Reconstruction's collapse has been Richard Bense's work on the origins of central state power. In his book *Yankee Leviathan*, Bense musters an impressive and convincing set of data to show how federal state power grew over the course of the war but failed to develop the bureaucratic capacity necessary to secure the gains of Reconstruction.<sup>10</sup> In Bense's view, Reconstruction was a moment of truncated state-building, limited by the unwillingness of Northern capitalists to fully commit to radically redistributive economic visions of Reconstruction. Such characterization of the Reconstruction state as transient has further led to a focus on Reconstruction's Constitutional legacies rather than its institutional and material impact. That is to say, for many scholars of Reconstruction, it is the Reconstruction Amendments that have proved most durable.<sup>11</sup> However, while established scholarship has revealed the critical importance of Reconstruction as a moment of significant state-building, party politics, and socio-legal transformation, the origins of the Reconstruction state remain largely obfuscated.

A reevaluation of the Reconstruction state is therefore well overdue. I propose a three-pronged intervention into the APD literature. The first intervention concerns the relationship between the Emancipation and the origins of the Reconstruction state. For most historians of the

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<sup>10</sup> Richard Franklin Bense, *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877* (New York: Cambridge University Press, 1990).

<sup>11</sup> Valelly, *The Two Reconstructions*; Pamela Brandwein, *Rethinking the Judicial Settlement of Reconstruction*, 2014; Foner, *The Second Founding*.

Civil War and Reconstruction, the direct connections and continuities between wartime Emancipation and the institutional infrastructure of the Reconstruction state are well known.<sup>12</sup> The last half century of Reconstruction historiography has offered scholars a wealth of insights into the complex relationship between the processes of Emancipation, Reconstruction, and the emergence of a post-slavery Southern society. Indeed, this study owes much of its framing around land and labor to social histories of Emancipation, in particular collections of essays and documentary sources in *Free at Last: A Documentary History of Slavery, Freedom, and the Civil War* and *Slaves No More: Three Essays on Emancipation and Reconstruction*.<sup>13</sup> These works, part of the monumental work of the Freedmen and Southern Society Project, a decades-long project led in part by Ira Berlin, Barbara J. Fields, Thavolia Glymph, Steven F. Miller, Joseph P. Reidy, Leslie Rowland, and Julie Saville, has fundamentally reshaped scholarly understanding of Emancipation as a historical process and highlighted the central importance of labor and land relations to Reconstruction.<sup>14</sup> In addition to social historians' contributions to the study of Emancipation and Reconstruction, political historians have also shed new light on the political agency of newly emancipated Black people.<sup>15</sup> These histories have revealed that freedpeople engaged in persistent, effective, and widespread political activism through the war, pressuring

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<sup>12</sup> Foner, *Reconstruction*; Litwack, *Been in the Storm so Long*; Julie Saville, *The Work of Reconstruction: From Slave to Wage Laborer in South Carolina, 1860 - 1870* (Cambridge: Cambridge University Press, 1996); Herman Belz, *A New Birth of Freedom: The Republican Party and Freedmen's Rights, 1861 to 1866*, 2000 ed. (New York: Fordham University Press, 1976); Steven Hahn, *A Nation under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Belknap Press of Harvard University Press, 2005).

<sup>13</sup> Ira Berlin, ed., *Slaves No More: Three Essays on Emancipation and the Civil War*, 10th pr (Cambridge: Cambridge Univ. Press, 2006); Ira Berlin, ed., *Free at Last: A Documentary History of Slavery, Freedom, and the Civil War* (New York, NY: The New Press, 2007).

<sup>14</sup> Ira Berlin et al., eds., *The Wartime Genesis of Free Labor: The Lower South*, vol. 3, *Freedom, a Documentary History of Emancipation, 1861-1867* 1 (Cambridge University Press, 2012).

<sup>15</sup> Joseph P. Reidy, *Illusions of Emancipation: The Pursuit of Freedom and Equality in the Twilight of Slavery* (Chapel Hill: The University of North Carolina Press, 2019); Hahn, *A Nation under Our Feet*; McPherson, *The Struggle for Equality*.

federal authorities for protection, land redistribution, as well as political, civil, and economic rights.

However, among political scientists, Emancipation is often treated as a singular event, dated either to the Emancipation Proclamation or the Thirteenth Amendment. The reality is much more complicated. Emancipation was a process, not an event.<sup>16</sup> The wartime liberation of enslaved people, whether by fleeing to federal lines, military occupation, or white flight, was an extraordinarily contingent, complicated, and unprecedented process in American history. The movement of hundreds of thousands of enslaved people to freedom and their subsequent supervision by federal officials created enormous pressures on the federal state. Therefore, it should stand to reason that Emancipation, just like the mobilization of armies and the national economy, produced new demands on the federal government. Emancipation, therefore, was a *state-building process* that generated new state institutions and novel uses of state power. By locating the origins of the Reconstruction state in wartime Emancipation, scholars of APD will gain a clearer understanding of the transformation of state power and the expansion of federal administrative capacity.

The focus on Emancipation as a state-building process also challenges current understandings of who the primary agents of state development in the 19<sup>th</sup> century were. Once again, dominant narratives of the American state as one of ‘courts and parties’ center political and economic elites as the architects of the American state.<sup>17</sup> In terms of wartime policy and Reconstruction, it is the interests of white elites that drive party agendas and shape national

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<sup>16</sup> Chandra Manning, “Emancipation as State Building from the inside Out,” in *Beyond Freedom: Disrupting the History of Emancipation* (Athens: The University of Georgia Press, 2017); Reidy, *Illusions of Emancipation*; Saville, *The Work of Reconstruction*; Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*.

<sup>17</sup> Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877-1920* (New York: Cambridge University Press, 1982); Key, *Southern Politics in State and Nation*; Bensel, *Yankee Leviathan*; Bateman, Katznelson, and Lapinski, *Southern Nation*.

policy. However, the overwhelming focus on elite-driven, top-down understandings of state development obscures the contributions and impact of bottom-up state-building processes. More recent work in political science, especially among scholars of social movements and political mobilization, has illuminated the capacity of mass movements and mass racial attitudes to effect significant political change.<sup>18</sup> Such innovative work, focusing on the political contributions and agency of racialized and marginalized groups, provides a path forward for the inclusion and centering of subaltern groups in historical accounts of American political development. In the context of wartime Emancipation, the activities, demands, and impact of lower-level military and government officials *and* freedpeople themselves are key actors in the construction of the American state. As I show throughout this dissertation, elite policymakers often reacted to wartime events and shifting circumstances on the frontlines by enacting policies that were hatched solely in the halls of Congress. Indeed, I will argue that political elites did not have clear policy agendas for Reconstruction and that most of the bureaucratic infrastructure of Reconstruction was generated in direct relation to the need to manage wartime Emancipation.

A non-elite centered understanding of Reconstruction era state building also reveals the prominent role of newly emancipated Black people as political actors. Recent work in American political thought and intellectual history has done much to highlight the role of freedpeople and African Americans more generally in challenging the ideological boundaries of 19<sup>th</sup>-century American republicanism. For example, Jack Turner's work on Frederick Douglass reveals how Douglass's republican commitments to self-help did not reject collective commitments or

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<sup>18</sup> Christopher S. Parker, *Fighting for Democracy: Black Veterans and the Struggle against White Supremacy in the Postwar South*, Princeton Studies in American Politics (Princeton: Princeton University Press, 2009); Megan Ming Francis, *Civil Rights and the Making of the Modern American State*, 1st ed. (Cambridge University Press, 2014); Megan Ming Francis, "The Price of Civil Rights: Black Lives, White Funding, and Movement Capture: Price of Civil Rights," *Law & Society Review* 53, no. 1 (March 2019): 275–309; Sophia Jordán Wallace and Chris Zepeda-Millán, "Do Latinos Still Support Immigrant Rights Activism? Examining Latino Attitudes a Decade after the 2006 Protest Wave," *Journal of Ethnic and Migration Studies* 46, no. 4 (2020): 770–90.

economic justice.<sup>19</sup> Similarly, Shatema Threadcraft's work draws on the accounts of enslaved and newly emancipated women to recover embodied Black feminine visions of freedom and equality.<sup>20</sup> Political theorists have done much to reassert Black political agency in the history of American political thought. What is now required, I argue, is a reassessment of the role of Black people in American political development. Freedpeople, as I will show, used their limited power as newly free workers and soldiers to make demands of the federal state and shape post-Emancipation economic and social relations.

Taken together, the focus on wartime Emancipation and the centering of frontline officials, bureaucrats, and freedpeople provides one additional insight into the 19<sup>th</sup>-century American state – namely, the form and location of state power. Once again, the current scholarship focus on parties, courts, and elections has created a limited view of state power. In most studies on Reconstruction, state power is expressed primarily through laws or through legislation, which in turn are determined by party politics and courts.<sup>21</sup> While parties and courts are no doubt sites of state action and power, the turn to wartime Emancipation reveals new sites for the generation and expression of state power. In particular, it is the labor contracts, land titles, market transactions, local schools, and familial relations that constitute the principal terrain upon which Emancipation policies were shaped. Newly emancipated Black people first encounter the federal state as workers, refugees, or soldiers, not as citizens casting a vote or litigants in a court. The federal state exerted power to manage labor and property relations, and it was through these

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<sup>19</sup> Jack Turner, *Awakening to Race: Individualism and Social Consciousness in America* (Chicago: The Univ. of Chicago Press, 2012), chap. 3.

<sup>20</sup> Shatema Threadcraft, *Intimate Justice: The Black Female Body and the Body Politic* (New York, NY: Oxford University Press, 2016), chaps. 2 and 3.

<sup>21</sup> Valelly, *The Two Reconstructions*; Pamela Brandwein, *Reconstructing Reconstruction: The Supreme Court and the Production of Historical Truth*, 1999.

relations that freedpeople navigated state power and asserted their demands for freedom. Reconceptualizing the Reconstruction state as a structure of racialized management of Black labor and property complicates narratives of Reconstruction as a period of racial egalitarianism. Indeed, once state power is understood as functioning through racial and capitalist logics, the Reconstruction state can be placed within the wider continuum of race and American political development.

### **Managed Emancipation and the Emancipation State**

The contingent and conjunctural nature of wartime Emancipation produced not only the framework for the Reconstruction state but also birthed novel theories and practices of state governance through economic relations. In other words, wartime Emancipation should be understood as both a period of state-building *and* as a period of reconceptualizing state power and economic relations. In order to better explain the relationship between state power and economic relations, I argue that a new theoretical framework is required – one that is capable of explaining how the state uses economic logic to manage moments of crisis and construct new social relations. I call this process *managed emancipation*.

Broadly stated, I use the term *managed emancipation* to describe how central state bureaucracies use managerial language, regulation of labor and property regimes, and controlled forms of legitimation to direct, constrain, and discipline popular movements during periods of social, economic, and political upheaval.<sup>22</sup> State power under managed emancipation is

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<sup>22</sup> My concept of *managed emancipation* shares a theoretical affinity with other critical theories of liberal capitalist states, such as Sheldon Wolin's concept of 'managed democracy,' Foucault's articulations of governmentality, and Marx's theory of the liberal state, as presented in *On the Jewish Question*. However, unlike those concepts, managed emancipation seeks to understand the operation of liberal state power during periods of rupture and transformation rather than periods of stability and continuity. Sheldon S. Wolin, *Democracy Incorporated: Managed Democracy and the Specter of Inverted Totalitarianism*, New edition (Princeton: Princeton University Press, 2017); Sheldon S. Wolin, *Fugitive Democracy and Other Essays*, ed. Nicholas Xenos (Princeton: Princeton University Press, 2018); Karl Marx and Friedrich Engels, *The Marx-Engels Reader*, ed. Robert C. Tucker, 2d ed (New York: Norton, 1978); Michel Foucault, François Ewald, and Alessandro Fontana, *Security, Territory, Population: Lectures at the Collège*

distinguished from other forms of state power, especially repressive and carceral forms, in that it is nominally invested in a program of social transformation and liberation. That is to say, state power is not used to completely repress emancipatory movements. Rather, it attempts to direct the trajectory and character of emancipatory movements in ways that favor certain political and economic interests. In specific terms, managed emancipation operates through three interrelated dimensions – state rhetoric, public policy, and processes of legitimation.

Rhetorically, under managed emancipation, the state adopts a managerial language to articulate state values, goals, and policy proposals. In this context, managerial language refers to the substitution of a language of control, domination, and force with a language of investigation, management, and supervision. Often, this rhetorical orientation is most readily seen in descriptions of bureaucratic state functions. For example, state officials during Emancipation are often described as 'managing,' 'assisting,' or 'supervising' freed people in order to draw a contrast to the language of ownership and violent coercion associated with slavery.<sup>23</sup> The rhetorical shifts are partially a development of the rationalization and bureaucratization of the modern state, which aids in the obfuscation of state power. Additionally, state rhetoric is deployed to valorize certain behaviors while discouraging others, especially when the state is attempting to enforce certain economic relations. As I shall argue throughout this dissertation, in the case of wartime Emancipation, the federal state actively promoted wage labor, property ownership, contractual language, and profit-oriented enterprises while discouraging communal forms that focused on subsistence and non-market-oriented production.

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*de France, 1977-1978*, ed. Michel Senellart, trans. Graham Burchell, Lectures at the Collège de France (New York, NY: Picador, 2009).

<sup>23</sup> Robert Dale Owen, Samuel Gridley Howe, and James McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission* (New York: J. F. Trow, 1864).

In turn, the rhetorical character of managed emancipation aids the development of its policy agenda. In terms of a central state's policy program, managed emancipation directs state power toward producing and enforcing capitalist economic and social relations. State power is grafted onto and through labor contracts, property ownership, production, and markets. The state is oriented toward the reification of capitalist relations, especially the promotion of wage labor contracts, which enshrine the relations between employee and employer.

By using state power to regulate labor practices and land use, the state is, in turn, able to legitimize certain social and economic relations while disciplining others. The ability to render certain social and economic arrangements legible to the state is particularly useful during times of significant transformation. In the case of the Emancipation State, the destruction of slavery led to a liminal period of transition in which a number of alternative political, social, and economic configurations were possible. However, the federal state, during wartime Emancipation, intended to supervise and manage the transition from slavery to a free labor economy whose labor and property relations mirrored those of Northern capitalism. Forms of community and labor that resisted or avoided capitalist logics and state supervision were not recognized as legitimate and, therefore, left vulnerable to state and non-state violence. Therefore, a defining feature of *managed emancipation* is the legitimation of certain forms of freedom and social relations on the state's terms.

When applied to the American federal state, which developed out of the tumult of the Civil War, Emancipation, and Reconstruction, the concept of managed emancipation allows for analytical and definitional insights that might otherwise be obscured in traditional narratives of state formation. Analytically, managed emancipation draws attention to the 19<sup>th</sup>-century American federal state's complex and, at times, contradictory commitment to republican and

liberal principles. The federal state consistently framed Emancipation as a republican project grounded in the ideals of free labor and non-domination. However, as the subsequent chapters reveal, military officials, policymakers, and reformers often struggled to reconcile republican principles with their desire to manage freedpeople and the development of the Southern economy. Furthermore, freedpeople proved highly adept at articulating rights demands in republican terms. Black workers contested unfair labor contracts, low wages, employer abuse, and unwanted government intervention on the grounds that such domination robbed them of their autonomy and freedom. Similarly, Black people's claims to land were often framed as just compensation for their enslaved labor, claims which resonated with Northern republican ideals. Federal officials were, therefore, constantly searching for language and policies that allowed them to preserve the authority of the state while simultaneously fitting into a plausible interpretation of republicanism.

Managed emancipation also allows for what I argue is an important definitional distinction between the 'Emancipation State' and the 'Reconstruction State.' Political scientists often define the Reconstruction state both in terms of period and form – that is to say, the federal state as it existed from 1865 to 1877. This understanding of the Reconstruction state focuses on the federal state's expansion of Black civil rights, interventionist policies, and the dominance of the Republican Party.<sup>24</sup> However, I argue that this definition of the Reconstruction state should be accompanied by its accompanying and constitutive state-building project – the "Emancipation State." I use the term 'Emancipation State' to describe the policies, ideologies, and bureaucracies created during the Civil War and its aftermath to govern and manage Emancipation. The

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<sup>24</sup> Lowndes, Novkov, and Warren, *Race and American Political Development*, chap. Introduction.

theoretical framework of managed emancipation draws attention to the ‘Emancipation State’ as a parallel process of state formation and expansion within the broader Reconstruction project.

Furthermore, I argue that the concept of managed emancipation helps us identify three defining features of the 'Emancipation State.' First, the Emancipation state is a network of bureaucracies, regulatory regimes, and state interventions that are temporary and respond to a specific process – namely, the transition from enslaved labor to a free labor economy.<sup>25</sup> The framing of state expansion as 'temporary' and 'limited' by the Commissioners allowed for the creation of new forms of state power while also absolving the state of any long-term commitments to supporting freed people. Therefore, the burden of Emancipation's success is shifted from the state to freed people themselves.

The second defining characteristic of the Emancipation State is that it adopts the language and goals of empowerment and consent as the basis for its political, economic, and social programs. In contradistinction to the antebellum federal state, the Emancipation State redefines the relationship between the state and Black people from one of the policing of property to one of supervision of nominally free workers. However, while the language of violence is excised from most federal policies, the Emancipation State proves itself to be just as capable of using violence to discipline Black workers as the antebellum state.<sup>26</sup> The difference is that the Emancipation State justifies the management and disciplining of Black people as being in service to a greater project of racial integration and equality. Therefore, The Emancipation

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<sup>25</sup> Foner, *Reconstruction*; Litwack, *Been in the Storm so Long*; John Eaton, *Grant, Lincoln, and the Freedmen: Reminiscences of the Civil War, with Special Reference to the Work for the Contrabands and Freedmen of the Mississippi Valley*, *Voices of the Civil War* (Knoxville: The University of Tennessee Press, 2022); Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*.

<sup>26</sup> Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America*, *Race and American Culture* (New York: Oxford University Press, 1997); McPherson, *The Struggle for Equality*.

state is qualitatively different from other configurations of state power that made no claims at racial integration.

The third feature of the Emancipation state is its reliance on the free labor market, private property, and capitalist precarity to govern the process of emancipation. As we have seen, the Commissioners, in particular, noted that the transformation of the Southern economy would be accomplished primarily through the regulation of labor and land.<sup>27</sup> The Emancipation State sought to replace the system of personal domination of enslaved labor as it was practiced by Southern planters with a system of contractual obligations between employee and employer. The contractual relationship would be enforced by state power and, in turn, would subject both employee and employer to state surveillance and discipline. In subsequent chapters, I show how the Emancipation State's efforts to govern through contract relationships only reified, rather than alleviated, the development of racialized exploitation.

Taken together, the concept of managed emancipation offers scholars of Reconstruction and American political development a novel framework for understanding the post-Emancipation transformation of the American state. In particular, the theory of managed emancipation helps to clarify some of the apparent contradictions and tensions that characterize Reconstruction. One such prominent tension in Reconstruction scholarship is the challenge of defining the relationship between the federal state and the enforcement of Black people's civic, political, and economic rights.<sup>28</sup> Some scholars, such as Rogers Smith have argued that the white American's commitment to laissez-faire economics and aversion to state intervention prevented the kind of

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<sup>27</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*.

<sup>28</sup> Belz, *A New Birth of Freedom*; Foner, *Reconstruction*; Valelly, *The Two Reconstructions*; Robert C. Lieberman, *Shifting the Color Line: Race and the American Welfare State* (Cambridge, Mass.: Harvard University Press, 2001).

radical economic redistribution demanded by freedpeople.<sup>29</sup> Others, such as James McPherson and Joseph Reidy, lament the role of white paternalism in stifling Black attempts at self-government and economic independence.<sup>30</sup> This apparent contradiction between a lack of state intervention on the one hand and excessive state supervision on the other becomes less perplexing when understood through the lens of managed emancipation. I argue that state officials sought to manage Black workers by using state power to fashion capitalist relations. These relations – wage labor, property ownership, debt, and contracts – would then, in turn, discipline Black communities through economic precarity. In other words, it is precisely the laissez-faire state that allows for white management of Black life to appear simultaneously as neglect and paternalism.

In turn, understanding the function of state power through economic relations helps to clarify the actions and demands of freedpeople. Throughout the period, freedpeople consistently demand increased state intervention, especially regarding the redistribution of land and protection against white violence, while also resisting federal officials' management of Black labor and land. Once again, these seemingly contradictory demands become legible when understood as a clash between two fundamentally different understandings of state power and state responsibility. Under the concept of managed emancipation, white federal officials used state power primarily to produce the social, political, and economic relations necessary to sustain a free labor capitalist economy. Land redistribution and the protection of Black communities was prioritized only to the extent that it allowed Black people to be integrated into a functioning free labor economy. On the other hand, freedpeople broadly expressed understandings of state power

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<sup>29</sup> Smith, *Civic Ideals*, chap. 10.

<sup>30</sup> Reidy, *Illusions of Emancipation*; McPherson, *The Struggle for Equality*.

which aimed at providing the material and political space for Black communities to flourish. This was a view of freedom that was largely agnostic on the necessity of capitalist modernity. As I argue throughout the following chapters, the relationship between freedpeople and federal officials waxed and waned depending on whether their views of freedom aligned or clashed.

The embrace of contradictions and the focus on the complex interrelation of state power with racial and capitalist logics are the elements that characterize the concept of managed emancipation. Throughout the rest of the dissertation, I use managed emancipation to describe the perspective of federal officials and the orientation of federal policy. Using this concept, I reveal how wartime Emancipation gave rise to a Reconstruction state, which was attendant to freedpeople's demands only within the narrow confines of racial capitalist relations. The challenge facing freedpeople was, therefore, to navigate managed emancipation and attempt to create communities that functioned within its logics.

### **Emancipation as State-Building – Archival Method and Empirical Interventions**

While the concept of managed emancipation provides us with the theoretical framework for understanding the ideological orientation of the Reconstruction state, the material processes of state-building can only be understood through an empirical excavation of the wartime archive. As stated earlier, this dissertation reframes Emancipation as a process rather than a singular event – a process whose dynamics produced new forms of state power as well as new relations between the state and racialized subjects. In order to properly analyze that process of state-building and state-subject relationality, I adopt a novel reading of wartime archives to trace the development and contestation of state power on the ground. The dissertation is built on a critical rereading of three wartime archives. The first and most well-known are the archives of the Bureau of Refugees, Freedmen, and Abandoned Lands, more commonly known as the

Freedmen's Bureau. The second major archival site is the correspondence, reports, and surveys of the American Freedmen's Inquiry Commission (AFIC). The final major archival source is the reports, correspondence, and memoirs of mid-level military officials responsible for managing wartime Emancipation. This third archival site is drawn from a variety of sources, including official War Department and Treasury Department records. Each of these major archival sites, supplemented with more familiar Congressional records, provides a unique window into the process of state-building in the wartime South. Read together, these wartime archives help illuminate three aspects of Emancipation and the Reconstruction state, which are often obfuscated in elite-driven accounts.

First, each of these archives allows us to move anyway from an exclusive focus on national elites in Washington, D.C. and consider policymaking and state-building on the ground. In particular, the circulars, orders, and regulations issued by military officials during wartime Emancipation provide the origin-point for much of Reconstruction's national policies. Second, each of these archives helps us to reconstruct the relationship between white government officials, white capitalists, and newly emancipated Black people. As stated earlier, I argue it was out of the dialectical struggle between white managers and Black workers that key aspects of Emancipation policy emerged and provided the foundations for the Reconstruction state's labor and land regime. Furthermore, by reading these archives for these struggles, we can also find empirical grounding for Black people's agency in shaping state development. Lastly, these archives inhabit dual roles as both repositories of historical data and as artifacts of governing power. As an archive of government agencies, it is important to acknowledge that these documents are themselves what Ann Stoler calls a "technology of rule."<sup>31</sup> That is to say, that

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<sup>31</sup>Ann Laura Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton, NJ: Princeton University Press, 2009).

within the reports, orders, and policies contained within these archives are imprinted the governing logics of managed Emancipation. Therefore, I read each archive not only to mine their historical data but to further understand the process by which state power governed freedpeople's lives.

The Freedmen's Bureau archive contains extensive records of nearly every aspect of post-Emancipation Black life – demographic information, marriage licenses, labor contracts, narrative reports to state and national commissioners, and, critically for this project, records of land confiscations, distribution, and titles. The records run from 1865 to 1872 and coincide with the most turbulent period of Reconstruction. Crucially, the Field Office records, which are organized by state, contain first-hand testimonies of freedpeople. These testimonies include demands for land and accounts of Black workers organizing around land and labor issues. Among historians, the Freedmen's Bureau records are often read as social histories, on-the-ground reporting of what Reconstruction looked like in local and regional contexts. Often paired with analyses of the Congressional debates and the national party politics, historians have used the Freedmen's Bureau archive as a way to recover the stories of the federal agents, white planters, Northern philanthropists, and freedpeople who were caught up in the national drama of Reconstruction. The emphasis of whose voices to center varies depending on the focus of the study and, at times, the political goals of the authors. The most prominent histories of Reconstruction have largely focused on either the Bureau agents or freedpeople. Scholars such as Eric Foner, Leon Litwack, and Julie Saville quote much more extensively from the freedmen and women's accounts, centering the experiences of the freedpeople.<sup>32</sup> However, in nearly all cases, the central conflict in the Freedmen's Bureau records is between white planters and white Bureau agents, with the

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<sup>32</sup> Litwack, *Been in the Storm So Long*, 1980.; Foner, *Reconstruction*, 1988.; Saville, *The Work of Reconstruction*, 1994.

accounts of freedpeople being characterized more by their claimant status than their independent agency. The Freedmen's Bureau, both as a federal institution and now as an archive, has treated the accounts of free Black people with a notable racial paternalism. The purpose of the Bureau was to *manage* freedpeople and establish federal control over the Southern economy and the freedpeople themselves. Therefore, the archive retains a racial paternalistic relationship to the accounts of the freedpeople that it preserves. One goal of this dissertation is, therefore, to read against and through the white paternalism of the Bureau archives, in order to recover accounts of Black agency.

The reports, correspondence, and surveys of the American Freedmen's Inquiry Commission (AFIC) serve as the second major archival site for this study. As with the Freedmen's Bureau, I am interested in the AFIC archive both as a repository of data and as a key institutional actor in the production of the Reconstruction state. Established by the War Department in March 1863, the AFIC was tasked with investigating the status of freedpeople under federal supervision and, in turn, producing a set of recommendations for the management of wartime Emancipation. In their field studies, the Commissioners meticulously gathered hundreds of interviews and surveys from throughout the wartime South, including direct testimony from both emancipated Black people and white federal officials overseeing Emancipation. The AFIC archive, therefore, contains an invaluable and unique record of wartime Emancipation and provides insight into the evolution of federal policy in the critical years of 1863 to 1864. The Commissioners then drew on these field studies to produce two widely circulated reports, one in June 1863 and the second final report in May 1864. These reports recommended the creation of a 'bureau of emancipation' and, as I argue in Chapter 2, formed the blueprint for many of the core institutions of the Reconstruction state. As I show in Chapter 5,

the AFIC's reports are widely cited during the Congressional debates over the Freedmen's Bureau bill in the spring of 1865. In this way, the AFIC forms a key link in the chain that directly connects wartime Emancipation in the frontlines of the South to the post-Emancipation construction of the Reconstruction state in the hall of Congress.

In addition to the AFIC's value as both an interlocutor of Emancipation policymakers and architect of the Reconstruction state, the Commission's archives also provide insight into the multiple paths that the Reconstruction state could have followed. As I explore in Chapter 2, the AFIC's reports and correspondence reveal that federal policymakers studied and considered multiple policies for the management of newly emancipated Black people. In particular, the Commissioner's study of West Indian emancipation and the conditions of free Black people in Canada provided the AFIC with influential case studies from which they would develop their views on the Emancipation policy. The fact that the AFIC spent significant time and resources on studying both historical examples of emancipation and free Black communities reveals that the eventual character of Emancipation and the Reconstruction state was far from predetermined. The AFIC archive is a record of alternative possibilities and paths not taken as much as it is a simple record of what actually happened. The significance of these alternative visions of Reconstruction lends support to my argument that the particular form of managed emancipation that generated the post-slavery racial capitalist Reconstruction state was a product of a contingent and conjunctural process.

As a means of further refining my understanding of Emancipation as a state-building process, I supplement the archives of the AFIC and Freedmen's Bureau with the correspondence, reports, and testimonies of the various military and federal officials tasked with creating and implementing federal policy during the war. These officials ranged from the Superintendent of

Freedmen for the Mississippi Valley, John Eaton, to the representative of the Western Sanitary Commission, James Yeatman, to Adjutant General Lorenzo Thomas. As with the Freedmen's Inquiry Commission, the accounts of these 'wartime bureaucrats' illuminate the complex processes by which federal policy was simultaneously created and implemented on the frontlines of Emancipation. In particular, my reading of Eaton's reports and memoir in Chapter 4 shows how his interactions with newly emancipated freedpeople influenced his views on Emancipation policy and led to his advocacy of a radically free labor model of post-slavery Reconstruction. Given the dearth of Black voices in the archive, the accounts of these frontline policymakers provide a critical window into how Black freedpeople contested federal policy, asserted their visions of freedom, and influenced the direction of the Reconstruction state. Throughout their accounts, wartime bureaucrats show how Black people's struggle for freedom did not end the moment they made it to Union lines – rather, their assertion of freedom and demand for self-determination often only intensified under federal supervision. Black people's resistance to white supervision challenged federal officials' preconceived notions of white paternalism and led to federal policies that emphasized Black self-help over direct state intervention. The dynamic found in these wartime accounts thus gives managed emancipation its paradoxical nature – namely, that Black people's demands for state intervention produced policies that emphasize Black self-help. The focus on wartime bureaucracy, therefore, helps recenter the agency of Black people in the construction of the post-slavery state and, in turn, shows how white officials created policies that responded selectively to Black people's demands.

Lastly, it is important to note that throughout all of these archives, which are primarily the production of white men acting in their capacity as state agents, are permeated with racial prejudice and assumptions. The racial logics of white agents is relevant to this study in so far as

they help reveal the interpenetration of white supremacist logics into the free labor ideology which motivates federal land and labor policy. Throughout this dissertation, I draw attention to the *racial* character of managed emancipation. The Freedmen's Bureau, AFIC, and individual narratives of white officials consistently show that even as their racist assumptions were challenged by direct interaction with freedpeople, the underlying racial logics remained. That is to say, white policymakers were race-conscious even when advocating for nominally racially egalitarian policies, such as the implementation of wage labor or the sale of land. As I show in the following chapters, white officials believed that the construction of free labor capitalist relations would essentially 'tutor' Black workers in the values of white bourgeois society. In other words, managed emancipation never appears as a colorblind theory of state power but rather as a process that submerges racial logics into forms of capitalist relationality – wage labor, propertied land ownership, employment contracts, market relations, etc. A main function of my archival excavation is, therefore, to attempt to surface the racial and economic assumptions that underpin federal policy during Emancipation.

In sum, the methodological orientation of this project is firmly grounded in the discursive and material relationship between wartime federal policymakers and freedpeople. It is an attempt to produce an explanation of the origins of the Reconstruction state from the ground up, driven by the struggle over the meaning of freedom. It is also a reading of the archive that embraces contradictions and wartime exigencies as key features of the Reconstruction state rather than as confounding variables. Such an archival method aims to produce an account of the Reconstruction state, which is situated firmly within the continuum of American political development rather than as an outlier.

## Chapter Overview

In the following chapters, I trace the development of the American state through wartime Emancipation, with a particular focus on the relationship between newly emancipated Black workers and federal officials. The chapters are organized in a broadly chronological fashion, beginning with the Emancipation Proclamation in January 1863, and ending with the establishment of the Freedmen's Bureau in March 1865. The linear organization of the narrative reflects my interest in constructing a genealogy of the ideas, policies, and practices that constituted the foundations of the Reconstruction state. My aim, therefore, is to show how the Reconstruction state emerged from historically contingent and contested processes of the shifting relations around land, labor, and race in the wake of slavery's destruction.

Chapter 2 begins with a reconstruction of the federal government's efforts to create a coherent policy for the management of freedpeople in the months following the enactment of the Emancipation Proclamation. In particular, I focus on the creation of the American Freedmen's Inquiry Commission (AFIC) as a key origin point for the ideological foundations of the Reconstruction state. Through a critical reexamination of the AFIC's early reports and correspondence, I argue that the three-man commission wielded significant influence on the direction of federal policy toward Emancipation, pushing federal policy past wartime exigencies and toward the longer-term reconstruction of the entire Southern economy and society. Significantly, a focus on the AFIC reveals that multiple visions of Emancipation and Reconstruction animated federal policy in 1863, and much of the Commission's efforts were directed toward the creation of a single national policy to manage Emancipation. As a result, my excavation of the AFIC's wartime archives reveals that the implementation of Emancipation as federal policy became a crucial vehicle for the development of new federal bureaucracies and

expressions of state power. The state-building project that emerges from the reports and recommendations of the AFIC is one that sought to develop a free labor vision of the post-slavery South, implemented through the management of freedpeople's relationship to labor and land. Thus, chapter 2 frames the process of wartime Emancipation as both a state-building project and as an operationalization of managed emancipation.

Chapter 3 moves away from the reformers and bureaucrats in Washington and New York toward the heart of the Cotton Kingdom – the Mississippi River Valley. With hundreds of thousands of enslaved people and lined with the largest and wealthiest plantations, the Mississippi River Valley became the most critical site for the success or failure of wartime Emancipation. In Chapter 3, I trace the evolution of military policy governing freedpeople and the transition to a free labor economy, showing how many of these wartime policies would form the blueprint for the post-war Reconstruction state. In particular, I focus on the evolving relationship between military officials, such as the influential Superintendent of Freedmen John Eaton, and freedpeople. Through a close analysis of Eaton's reports, correspondence, and memoirs, I show that Eaton's views on freedpeople shifted as he saw increasing evidence of freedpeople's success as free laborers and independent cultivators. Eaton's ideological shift was, in turn, reflected in policy changes that favored a rapid transition to a free labor economy and the integration of Black workers into the economy as wage laborers and, in limited cases, independent landowners. In particular, I focus on a set of liberated plantations at Davis Bend, Mississippi. On these plantations, federal officials provided freed Black people with control over land and their own labor, in an experiment designed to show that large-scale plantation agriculture was profitable under wage labor and Black land ownership. Through the Davis Bend

experiment, freedpeople provided Eaton and other white officials with forms of the Black community, and freedom was legible to the federal state and the dominant Republican Party.

Chapter 4 returns the analysis to the halls of Congress to reconstruct how the lessons learned managing wartime Emancipation were transmitted into legislation and national policy. In this chapter, I show how the experiences of military officials and wartime commissions, especially the AFIC, informed the Congressional debates around the Freedmen's Bureau bill, fundamentally reshaping the institutional infrastructure of the Reconstruction state. I argue that the Freedmen's Bureau was not only the product of internal Republican Party politics – rather, it was built on the experiences of wartime Emancipation. By retracing the bill's evolution in the final months of debate and revision before its passage, I show how the Freedmen's Bureau transformed from an agency born out of wartime necessity to one that was charged with the creation of a Southern free labor economy. My examination of the Congressional records reveals that wartime experiences with freed Black wage labor and land regulations led policymakers to assume that the combination of political enfranchisement and economic integration into free market capitalism would sufficiently ameliorate the material and social subordination of newly emancipated Black people. In other words, the wartime success of freed Black wage labor and limited land ownership meant that the federal government would support Black people's economic and political integration so long as it fit within the confines of the capitalist logics of private property and subordinated labor.

In the fifth chapter, I reconstruct how freedpeople navigated the transition from wartime Emancipation to life under the newly established Freedmen's Bureau. Like its wartime predecessors, the Freedmen's Bureau sought to manage freedpeople's and white Southerners' integration into free labor society by championing limited forms of capitalist freedom rooted in

labor contracts, market access, and property ownership. Drawing on the Bureau's early records, I show how the Bureau used its limited powers to project the federal state into the everyday lives of freedpeople. I consider the spatial and relational aspects of the Bureau's administrative and bureaucratic activities and show how Bureau agents used labor and land contracts as tools of governance. In response to the Bureau's policies, I show that freedpeople sought protection from the federal state and pressed their rights claims through the Bureau's agents. At the same time, freedpeople resisted the Bureau's imposition of labor contracts, instead fighting to gain as much control over their own labor as possible. In short, chapter 5 reveals how the Freedmen's Bureau reifies the free labor lessons of wartime Emancipation while simultaneously foreclosing more radical visions of post-Emancipation freedom.

In the final chapter, I consider what this new genealogy of wartime Emancipation means for the legacies and afterlives of the Reconstruction state. Drawing together theoretical and empirical insights from throughout my dissertation, I offer interventions into three contemporary discourses – the nature of racial capitalism, the relationship between race and the state, and the future of liberatory politics. In this chapter, I offer a new interpretation of the Reconstruction state's legacy rooted in wartime contestation over the material relations of racialized labor and land regimes. This chapter challenges narratives that privilege party realignments, formal political rights, and Constitutional reform as the primary legacies of the Reconstruction state. Instead, this chapter argues that the Reconstruction state also created new avenues for state power to direct the development of capitalist relations and, in turn, to reshape and manage racialized labor relations. Wartime Emancipation and the Reconstruction state, which it gave birth to, therefore, helped lay the groundwork for a post-slavery racial capitalism backed by state power. Even given this limited and managed outcome, another legacy of wartime Emancipation

lies in the power of Black workers to shape state development without access to formal political avenues or rights. I therefore conclude that the legacies of Emancipation and Reconstruction as state-building projects cannot be fully understood without acknowledging the agency of Black workers to influence or contest state power.

## **Chapter II**

### **The American Freedmen's Inquiry Commission and the Creation of the Emancipation State**

On March 16<sup>th</sup>, 1863, two months after President Lincoln issued the Emancipation Proclamation, Secretary of War Edwin Stanton penned the following orders:

*Ordered*, That Robert Dale Owen, of Indiana; Col. James McKaye, of New York, and Samuel G. Howe, of Boston, Mass., be, and they are hereby appointed commissioners to investigate the condition of the colored population emancipated by acts of Congress and the President's proclamation of January 1, 1863, and to report what measures will best contribute to their protection and improvement, so that they may defend and support themselves; and also, how they can be most usefully employed in the service of the Government for the suppression of the rebellion.<sup>33</sup>

The three-man commission, which would come to be known as the American Freedmen's Inquiry Commission (AFIC), was an unprecedented government effort to study the needs and condition of Black people, free and enslaved, and, even more radically, to lay the foundations for a United States without slavery. Born out of both the immediate exigencies of the war and the agitations of Northern abolitionists, the AFIC prefigured the complex alliance of War Department officials, Radical Republicans, abolitionists, and, to a certain extent, freedpeople themselves, that would come to typify the fragile coalitional politics of Reconstruction. Though its fourteen-month existence left a relatively small archival footprint, the AFIC's influential reports contained the framework for the post-Emancipation state. In particular, the AFIC reports laid the foundation of the Freedmen's Bureau, encouraged Black military service, pushed for equal civil and political rights, forcefully advocated for permanent abolition and universal citizenship by Constitutional amendments, and envisioned the creation of a national free labor

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<sup>33</sup> Calvin D. Cowles et al., *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, vol. III, 3 (Washington: Govt. Print. Off, 1880), 73.

capitalist economy. The breadth and depth of the AFIC's investigation and interventions make it one of the most important commissions in American political development, earning the commission its reputation among historians as "the blueprint for Radical Reconstruction."<sup>34</sup> Beyond its bureaucratic significance, the Commission's reports and field notes were invoked in Congressional debates, distributed to military officials supervising Emancipation policy, circulated among abolitionists, and, in perhaps their greatest endorsement, favorably mentioned in Lincoln's correspondence. Far from an obscure government commission, the AFIC was at the center of developing federal policy on the management of Emancipation and the creation of the Reconstruction state.

However, despite its historical importance as the programmatic progenitor of the Reconstruction state, the AFIC remains understudied and relegated to the footnotes and marginalia of the wider sweep of Reconstruction history. This relative marginalization of the AFIC in American political development has obscured the true origins of the post-Emancipation state and distorted our understanding of the expansion of federal state power.<sup>35</sup> Therefore, this chapter aims to reassess and recenter the ideological and institutional significance of the AFIC in the creation of the post-Emancipation American state. My reassessment departs from the existing literature on the AFIC by shifting our focus from the Commission's role as the predecessor to the Freedmen's Bureau or as a site of racial and ideological development to the impact of the AFIC's reports and recommendations on the reconfiguration of labor, land, and racial relations during

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<sup>34</sup> Foner, *Reconstruction*, 70; John G. Sproat, "Blueprint for Radical Reconstruction," *The Journal of Southern History* 23, no. 1 (February 1957): 25.

<sup>35</sup> Classic American Political development accounts of the post-Emancipation state largely avoid discussing its origins in wartime Emancipation policy. Key, *Southern Politics in State and Nation*; Bateman, Katznelson, and Lapinski, *Southern Nation*; C. Vann Woodward, *Origins of the New South: 1877 - 1913* (Baton Rouge, La.: Louisiana State Univ. Press, 1997); J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910* (New Haven: Yale University Press, 1974).

Emancipation.<sup>36</sup> The AFIC's reports, as I show in this chapter, were concerned first and foremost with the reorganization of southern society and the incorporation of free Black workers into a productive national economy. My emphasis on the AFIC's preoccupation with racialized labor and property relations is not meant to dismiss the Commissioners' commitments to Black civil and political equality, nor is it meant to distract from the pervasive racism found throughout their writings. Rather, by attending to the Commission's conceptualization of racialized free labor relations, I argue that the AFIC's political commitments and racial ideology are inseparable from the more fundamental goal of creating a productive, stable, free labor capitalist society.

To understand the complex relationship between state power, racial ideology, and free labor capitalism found in the AFIC's reports, I continue developing my *managed emancipation concept*. In the previous chapter, I presented an abstract articulation of managed emancipation as a framework for understanding state power that is indirect, supervisory, paternalistic, and constraining. In this chapter, I apply the concept of managed emancipation to the AFIC's vision of emancipation and contrast it with the alternative models considered by the Commission. I argue that the AFIC imagined the creation of an Emancipation State governed not through direct intervention nor vast bureaucracies. Instead, I argue that the AFIC provided a framework for a liberal capitalist state that governed through the regulation of labor and land. The imperatives of the free labor market and the demands of capitalist competition would provide the necessary disciplining constraints on Black freedom and white racist prejudice. Managed emancipation is thus a concept that helps us understand how the nominally laissez-faire Emancipation state was

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<sup>36</sup> McPherson, *The Struggle for Equality*; Sproat, "Blueprint for Radical Reconstruction"; Oz Frankel, "The Predicament of Racial Knowledge: Government Studies of the Freedmen during the U.S. Civil War," *Social Research: An International Quarterly* 70, no. 1 (March 2003): 45–81; Matthew Furrow, "Samuel Gridley Howe, the Black Population of Canada West, and the Racial Ideology of the 'Blueprint for Radical Reconstruction,'" *Journal of American History* 97, no. 2 (September 1, 2010): 344–70.

able to exert power over freedpeoples' lives and narrow, rather than expand, the possibilities for Black freedom.

In subsequent chapters, I examine the AFIC's complex role in centralizing and rationalizing the patchwork of federal wartime labor and land policies and the Commission's influence on the overall direction of Reconstruction. However, this chapter focuses on the ideological and theoretical foundations that influenced the AFIC's vision for an Emancipation State. This chapter is organized into four sections. The first section discusses the complex relationship between the AFIC's racial ideology and its commitments to a free labor economy. In the second section, I turn to the AFIC's views on the role of the Emancipation State, focusing on shifting concepts of state responsibility and racialized dependence. In the third section, I define and discuss the multiple visions of emancipation considered by the AFIC. Here, I show how the AFIC adopted a vision of managed emancipation, which excluded both guardianship models and Black visions of freedom. In the final section, I transition from the AFIC's theoretical and ideological foundations to the real-world challenges of implementing federal policy in the wartime South.

### **Race and Labor in the AFIC's Ideology**

The scholarship on the American Freedmen's Inquiry Commission, though limited, focuses heavily on the Commission's problematic racial ideology and its impacts on the Commission's work and recommendations.<sup>37</sup> There is good reason for the focus on the Commission's racial ideology. The AFIC's reports and fieldwork are awash with racist theorizing

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<sup>37</sup> Oz Frankel, *States of Inquiry: Social Investigations and Print Culture in Nineteenth-Century Britain and the United States*, New Studies in American Intellectual and Cultural History (Baltimore: Johns Hopkins University Press, 2006); Furrow, "Samuel Gridley Howe, the Black Population of Canada West, and the Racial Ideology of the 'Blueprint for Radical Reconstruction'"; Reidy, *Illusions of Emancipation*.

about the categorization and hierarchal ordering of racial groups. Indeed, the Commissioners find ways to tie nearly every aspect of Black people's behavior and character back to some perceived racial feature. In particular, the AFIC's preoccupation with birth and death rates of mixed-race people, the effect of climate on racial groups, and sexual and familial relations of Black freedpeople have drawn particular scrutiny from scholars.<sup>38</sup> The frequency and intensity of the Commissioner's racism and racial theorizing, though dressed up in the language of Social Darwinism and white abolitionist paternalism, has led most scholars to conclude that the AFIC's racial ideology must play a significant role in shaping their reports and recommendations.

However, what was the impact and influence of the Commission's racial ideology on their vision for a post-Emancipation society? The challenge of assessing the influence of the Commissioner's racial theories on the AFIC's recommendations stems at least in part from the apparent racial egalitarianism of the AFIC's positions. Despite drawing on racist stereotypes and racial theories to conduct their investigations, the Commissioners focused much of their work on *refuting*, rather than reinforcing, white anxieties and white supremacist assertions of Black inferiority and incapacity.<sup>39</sup> The challenge of reconciling the Commissioners' simultaneous commitments to racial hierarchy and equality has led to a confused and contradictory assessment of the AFIC. The first generation of revisionist scholars argued that the AFIC's racial ideology is best understood as an expression of the white paternalism common among white abolitionists.<sup>40</sup>

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<sup>38</sup> Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge; New York, NY, USA: Cambridge University Press, 1998).

<sup>39</sup> Frankel, *States of Inquiry*; Ira Berlin et al., eds., *The Wartime Genesis of Free Labor: The Upper South*, vol. 2, *Freedom, a Documentary History of Emancipation, 1861-1867 1* (Cambridge University Press, 2012); Manning, *Troubled Refuge*; Reidy, *Illusions of Emancipation*.

<sup>40</sup> George Fredrickson, *The Black Image in the White Mind: The Debate on Afro-American Character and Destiny, 1817 - 1914* (New York: Harper & Row, 1971); McPherson, *The Struggle for Equality*; Belz, *A New Birth of Freedom*.

More recent accounts have taken a more critical view, arguing that the Commissioners' racial ideology distorted their assessment of the actual conditions and needs of Black people.<sup>41</sup>

However, in both cases, the connections between the Commissioner's racial ideologies and their policy recommendations remain tenuous. In fact, the impact of the Commissioners' racial ideology has been so difficult to pin down that in his study of the AFIC, scholar Oz Frankel argued that the Commission's racial ideology was "incidental to the commission's actual recommendations."<sup>42</sup>

In this section, I argue that the AFIC's racial ideology was neither 'incidental' to the Commission's recommendations nor did it dominate their vision for a post-Emancipation society. Instead, I argue that the Commissioners' racial ideology is best understood as a constitutive part of their broader belief in the moral and material superiority of free labor and free market capitalism. By tracing the parallel development of the AFIC's racial and economic ideology, I show that the AFIC's racial theorizing was nearly always in service of its economic vision.

The ideological origins of the American Freedmen's Inquiry Commission lay not in the expanding bureaucracy of Secretary Stanton's War Department to which it was assigned but in the meeting halls and print shops of New England abolitionists and social reformers. The movement that led to the Commission's creation started in September 1862 with the founding of the Emancipation League in response to Lincoln's Preliminary Emancipation Proclamation. The Emancipation League, headquartered in Boston, was intended to function as the lobbying arm of the various New England abolitionist societies. The League's primary goal was to ensure the

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<sup>41</sup> Furrow, "Samuel Gridley Howe, the Black Population of Canada West, and the Racial Ideology of the 'Blueprint for Radical Reconstruction.'"

<sup>42</sup> Frankel, *States of Inquiry*, 232.

universalization and permanence of emancipation and, secondly, to influence the direction of post-Emancipation federal policy.

In January 1863, the Emancipation League presented the Senate with a petition advocating the establishment of a committee of inquiry to investigate the status and condition of freedpeople under federal protection and to help guide the creation of a "Bureau of Emancipation."<sup>43</sup> Beyond the ambition of the League's policy proposals, the petition itself was a powerful and clear expression of white abolitionist thought and helped to construct the rhetorical and ideological framework that welded antebellum abolitionists' commitments of racial justice and free labor to the wartime expansion of federal state power. The petition stresses the need for an "increase in the administrative departments or the enlargement of their functions" in order to secure the "reconstruction of southern society on the basis of free labor."<sup>44</sup> The petitioners argued that the expansion of federal administrative capacity must be accompanied by the "speedy organization of the emancipated labor" under federal management. Stressing the importance of fair payment and treatment of Black workers under federal supervision, the petitioners argued that "such a system, administered in an intelligent spirit of justice and humanity, emancipation is prosperity for the south, progress to the African race, and peace to the republic."<sup>45</sup> With this tripartite formulation, the petitioners articulated a vision of Emancipation, which, at least in the white abolitionist imagination, tied Black people's liberation to their ability to succeed as free workers under a capitalist system.

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<sup>43</sup> "Memorial of the Emancipation League of Boston, Massachusetts, praying the immediate establishment of a Bureau of Emancipation" U.S. Congress. Journal of the Senate of the United States. 37th Cong., 3rd session. Misc. Doc. No. 10. January 12<sup>th</sup>, 1863

<sup>44</sup> "Memorial of the Emancipation League of Boston, Massachusetts, Praying the Immediate Establishment of a Bureau of Emancipation. 37th Congress, 3d Session. Mis. Doc. No. 10."

<sup>45</sup> "Memorial of the Emancipation League of Boston, Massachusetts, Praying the Immediate Establishment of a Bureau of Emancipation. 37th Congress, 3d Session. Mis. Doc. No. 10."

Three months later, in March 1863, the Emancipation League's lobbying bore fruit with the establishment of the American Freedmen's Inquiry Commission. The three-part program of state expansion, free labor, and racial justice would be directly incorporated into the ideological foundation of the AFIC by prominent Emancipation League member and co-author of the petition, Dr. Samuel Gridley Howe. Howe was deeply connected to the networks of Boston abolitionists, and he maintained extensive correspondences with Senator Charles Sumner and Governor John Andrews. In addition to his political connections, Howe had actively participated in the Underground Railroad, opposed the Fugitive Slave Law, and directly funded John Brown's militant actions.<sup>46</sup> However, Howe's most significant contribution to the Commission's advocacy would prove to be his insistence on grounding federal policy in systematic observation and study. In an often-quoted letter to fellow Emancipation League member F.W. Bird, Howe argues that the League must "collect facts and use them as ammunition." Howe insists that the federal government's management of Emancipation must be based on "knowledge of the actual condition of the freedmen."<sup>47</sup> Howe had attempted a trial run of his methods with a survey study he had run in support of the Emancipation League's petition. Now, backed by the War Department, Howe hoped to use surveys and field visits to bring a sober, bureaucratic rationalism and moral clarity to the process of Emancipation. Howe's commitment to a rational, systematic, and empirically driven approach to social policy stood in stark contrast to the

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<sup>46</sup> McPherson, *The Struggle for Equality*; Furrow, "Samuel Gridley Howe, the Black Population of Canada West, and the Racial Ideology of the 'Blueprint for Radical Reconstruction.'"

<sup>47</sup> Howe to F.W. Bird, Sept. 17<sup>th</sup>, 1862, found in Samuel Gridley Howe, *Letters and Journals of Samuel Gridley Howe*, ed. Laura E. Richards, vol. 2 (Boston: D. Estes and Co., 1907), 502. Also partially quoted in Furrow, "Samuel Gridley Howe, the Black Population of Canada West, and the Racial Ideology of the 'Blueprint for Radical Reconstruction,'" 347.

ephemeral and idiosyncratic nature of military commands or the mercurial character of party politics that had driven federal policy toward freedpeople until then.

Howe was joined by his fellow Commissioners, Robert Dale Owen and Col. James McKaye. Owen was selected to chair the Commission, perhaps in part because of his moderate political background. Although Owen was the son of utopian socialist Robert Owen, he rejected some of his father's radical ideas. Instead, Owen's antebellum political career as a prominent member of the Indiana legislature was notable for his position as an idiosyncratic anti-slavery Democrat and social reformer. The third Commissioner, James McKaye, is the least well-known of the three. While he appears to have engaged in antebellum abolitionist activism, his most notable accomplishment before joining the commission was the publication of a pro-Union and pro-Emancipation pamphlet.<sup>48</sup> All told, the three commissioners were representative of the kind of Northern reformers dedicated to the destruction of slavery, the reunification of the United States, and the establishment of a national free labor economy.

Within weeks of the AFIC's establishment, all three commissioners began field research. To maximize their limited budget and time, the three commissioners split up to conduct the field studies. Owen and Howe remained mostly confined to the areas of federal occupation near Washington, D.C., and the coastal areas of Virginia and North Carolina, which had been liberated early in the war. McKaye, on the other hand, traveled to the South Carolina Sea Islands and parts of Florida.<sup>49</sup> This vanguard of freedpeople, along with the white military officials charged with their supervision and care, would be the primary subjects of the AFIC's initial

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<sup>48</sup> James McKaye, *Of the Birth and Death of Nations. A Thought for the Crisis.*, 33 p. (New York: G.P. Putnam, 1862).

<sup>49</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*, 5–8.

studies. In interviewing these federal officials and refugees, the AFIC's chief objectives were to document the condition of the refugees, assess freedpeople's willingness and ability to contribute to the war effort, and, most critically in the mind of the Commission, determine whether a racially integrated free labor economy could be established in a post-slavery South.

AFIC's priorities and objectives shaped the questions in the hundreds of interviews and surveys recorded by the Commissioners. Although it seems that the Commissioners were not following a standard set of questions for both the field interviews and the surveys, the majority of the interviews and surveys reveal the Commission's preoccupation with freedpeople's attitudes, willingness, and capacity to labor under federal supervision. The Commissioners' questions ranged from blunt inquiries about freed people's willingness to work – "Do these people [freedmen] work willingly for wages?" to attempts to assess the freed people's thrift – "Do any of these people lay up their wages?"<sup>50</sup> At other times, the questions were also framed in explicitly racial terms – "Can you tell me the comparative amount of labor done by a white man and a colored man...will he [a free Black worker] do as much as a white man?"<sup>51</sup> Specific attention was also paid to the gendered aspects of free Black workers, with many surveys and interviews asking whether Black women worked for wages or whether their labors were focused on family life. This racialized and gendered aspect of the AFIC's investigations has drawn significant scholarly attention.<sup>52</sup>

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<sup>50</sup> "Testimony of Captain E.W. Hooper before the AFIC" Record Group 94: Records of the Adjutant General, Letters Received, file O – 328; Also partially reproduced in Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*, 3:234–43.

<sup>51</sup> *Ibid.*

<sup>52</sup> Carol Faulkner, *Women's Radical Reconstruction: The Freedmen's Aid Movement* (Philadelphia: University of Pennsylvania Press, 2007); Stanley, *From Bondage to Contract*; Tera W. Hunter, *Bound in Wedlock: Slave and Free Black Marriage in the Nineteenth Century* (Cambridge, Massachusetts: The Belknap press of Harvard University press, 2017).

The interrelation and inseparability of the moral, racial, and economic presuppositions that motivated the Commissioners' focus on the nature of post-Emancipation labor relations suggest that their racial ideology cannot be disentangled from their free labor ideology. It is important to note that the Commissioners and many of the white officers they interviewed understood wage labor, accumulation of property, and general thrift in explicitly moral and racial terms. In moral terms, the Commissioners, as did many free labor advocates, associated the willingness to work for fair wages and the desire to accumulate property with the capacity to be self-supporting and self-governing.<sup>53</sup> In racial terms, free labor, accumulation, and market competition were associated with whiteness – a point that the AFIC would make explicit in their reports. Throughout the report, the abstract figure of the 'white laborer' is used as a standard against which free Black workers' value was judged. For the Commissioners, the success or failure of Emancipation rested on the ability of free Black workers to embody and enact white bourgeois ideals.

The first months of investigation in the refugee camps proved encouraging for the Commissioners' faith in the power of free labor. In one of their earliest interviews in May 1863 at Fortress Monroe, the quartermaster in charge of supervising Black laborers, Captain C. B. Wilder, testified to the role of Black workers in military camps.

Q. As a general thing, do you find them disposed to work fair wages?

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<sup>53</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*, 9–10; Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War* (Oxford; New York: Oxford University Press, 1995); James D. Schmidt, *Free to Work: Labor Law, Emancipation, and Reconstruction, 1815-1880*, Studies in the Legal History of the South (Athens, Ga.: Univ. of Georgia Press, 1998).

A. Yes Sir. If they could be reasonably paid. I would as lief have them as white laborers...<sup>54</sup>

Wilder went on to further affirm the value of Black workers and the need for timely wages – "they [Black workers] have always been driven to work, now our chief men will say that they have never known men to work better."<sup>55</sup> In another interview, the superintendent of contrabands in Norfolk gave similar testimony as to the capacity of freedpeople as laborers – "They work well. Let me have the management of them and I can unload a ship twice as quick as I can with white men."<sup>56</sup> The Commissioners found similar attitudes beyond the most well-established camps in Virginia. The military officials from across liberated parts of the South echoed Wilder's confidence in Black laborers' contributions and work ethic under government supervision. In South Carolina and the Sea Islands, McKaye's interviews with white military officials reflected beliefs in the capacity of free labor and market competition to overcome racial prejudice. In his interview with McKaye, Captain E.W. Hooper, the aide to the Military Governor of the Department of the South, asserted that "I never knew a case where a man [freedman] had reasonable security of getting wages, even moderate wages, that he was not ready to work."<sup>57</sup> In addition to questions about wage labor, McKaye asked a series of questions about the habits and character of Black workers – "Have they [freedpeople] a sense of the rights of property as white men?"; "Are they good at trading?"; "Do you think they are frugal?"<sup>58</sup> In each case, Hooper

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<sup>54</sup> "Testimony of Captain C.B Wilder before the AFIC" National Archives. Record Group 94: Records of the Adjutant General, Letters Received, file O – 328; also reproduced in Berlin et al., 2:142–47.

<sup>55</sup> Ibid; Berlin et al., *The Wartime Genesis of Free Labor: The Upper South*.

<sup>56</sup> Testimony of Dr. Orlando Brown before the AFIC" National Archives. Record Group 94: Records of the Adjutant General, Letters Received, file O – 328; also reproduced in Berlin et al., 2:147–49.

<sup>57</sup> "Testimony of Captain E.W. Hooper before the AFIC" Record Group 94: Records of the Adjutant General, Letters Received, file O – 328; Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*, 3:234–43.

<sup>58</sup> Ibid; Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*.

noted no significant differences between Black and white workers, noting that freedpeople were generally hard-working, frugal, and respected personal and communal property.

One interview with the former commander of the Department of the Gulf, General Benjamin Butler, proved particularly influential on the AFIC's preliminary report. Butler had gained prominence as the originator of the 'contraband policy' during his command of Fortress Monroe in Virginia. In 1862, he had commanded the Department of the Gulf, managing the newly liberated portions of Louisiana, including the large plantations surrounding New Orleans, and establishing systems of supervised wage labor for freedpeople. Butler's military occupation of Southern Louisiana marked the first large-scale attempt to rebuild the plantation system using wage labor. For the Commissioners, Louisiana proved to be a critical case study for Emancipation. In May 1863, Howe and Owen interviewed Butler with a particular focus on the viability of large-scale plantation agriculture using free Black workers. In general, Butler testified that the wage labor experiments in Southern Louisiana had shown that large plantations could be effectively cultivated by free Black workers under a government-supervised wage system.<sup>59</sup> Butler emphasized that he made no distinction between “poor negro labor and from white labor.”<sup>60</sup> Asked whether he believed that Black workers required special supervision or government support, Butler argued that beyond the general maintenance of peace, the federal government should focus on the management of labor relations between white employers and Black workers. In particular, Butler argued that military supervision would be needed to ensure

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<sup>59</sup> “Testimony of General Benjamin Butler before the AFIC” Record Group 94: Records of the Adjutant General, Letters Received, file O – 328; partially reproduced in Berlin et al., 3:440–46.

<sup>60</sup> Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*.

the full payment of wages from white employers while also curbing vagrancy or idleness among Black workers.<sup>61</sup>

The Commissioners believed that the experience in Southern Louisiana provided evidence that a rapid transition to a free labor system was possible. Indeed, the Commissioners were even more optimistic about the viability of wage labor than General Butler. Butler's system had relied heavily on direct federal supervision of Black workers. The Commissioners, on the other hand, were critical of the excessive state supervision of Black workers, preferring instead to pursue systems that allowed freedpeople to contract with planters of their choosing rather than being forced into wage contracts as under Butler's system.

The optimism generated by the AFIC's early findings is evident in the second paragraph of their preliminary report to Secretary Stanton, filed in June 1863.

The evidence before the Commission establishes beyond cavil the fact that these refugees are, with rare exceptions, loyal men, putting faith in the Government, looking to it for guidance and protection, willing to work for moderate wages if promptly paid, docile and easily managed, not given to quarreling among themselves, of temperate habits, cheerful and uncomplaining under hard labor whenever they are treated with justice and common humanity, and (in the Southern climate) able and willing, on the average, to work as long and as hard as white laborers, whether foreign or native-born.<sup>62</sup>

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<sup>61</sup> Berlin et al., 3:443.

<sup>62</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*, 2.

In reporting their initial findings, the commissioners repeatedly strike a tone of almost naïve enthusiasm for the ease with which the South may be transformed into a racially integrated free labor economy. However, such enthusiasm was at least partially a political and rhetorical decision aimed at countering critics of Emancipation. In June 1863, the efficacy of Emancipation as a political and wartime policy was still in doubt, and critics of Lincoln's proclamation were eager to find any potential weaknesses which could be used to undermine its permanence.<sup>63</sup> Therefore, to the extent that the Commissioners saw themselves as advocates for universal and permanent Emancipation, they aimed to use their reports to provide empirical support for their position. The commissioners understood that the more evidence they could present for the wartime success of Emancipation as both a labor policy and as a recruitment tool, the greater their influence on the construction of a post-Emancipation free labor economy.

The Commissioner's early optimism about the success of free labor experiments in the South profoundly impacted their views about the federal government's role in shaping Emancipation and supporting freedpeople. The great fear among Northern white reformers, including abolitionists, was that the destruction of slavery would leave formerly enslaved people dependent on government assistance. The fear of dependency had deep roots in American republicanism and free labor ideology, and the creation of a dependent class was seen as a direct threat to a free republican government. From the perspective of Northern free labor ideologues, like the AFIC commissioners, the success or failure of Emancipation rested on the capacity of the federal government to help freedpeople become "self-supporting and self-defending."<sup>64</sup> To

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<sup>63</sup> Foner, *Reconstruction*, 18–34.

<sup>64</sup> Cowles et al., *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, 1880, III:73

this end, federal power had to be focused on creating the conditions for Black self-help and self-reliance rather than risking the creation of a dependent class. These dual commitments – one to the creation of a racially integrated free labor economy and the other to limited government – would fundamentally shape how the AFIC envisioned the Emancipation state. The question now facing the commissioners was how to construct new institutions that could accomplish both goals.

### **Capitalist Freedom and State Power**

The transition from investigators to institution-builders seems to have been a natural one for the Commissioners. As we have seen, the connection between investigating Emancipation and the creation of institutions to manage it was present in the Emancipation League's petition. Furthermore, the Commissioners' political allies in Congress eagerly awaited the Commission's recommendations as political battles over the aftermath of Emancipation heated up throughout 1863. By June, after four months of compiling interviews, surveys, and field notes, the Commissioners issued their preliminary report. The primary focus of this initial report was to push for the aforementioned creation of a 'bureau of Emancipation' to manage the transition to a free labor economy in the South. The report championed efforts by military officers and federal officials to move freed people out of refugee camps and into wage labor arrangements. As discussed in the preceding sections, the Commissioners believed that a rapid transition to wage labor and private enterprise would fulfill the chief objectives of their orders – to place freedpeople in "a state of self-support and self-defense, with the least possible disturbance to the great industrial interests of the country."<sup>65</sup> Rhetorically, the preliminary report goes to great lengths to stress that freed people will become a valuable asset to the federal war effort and the

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<sup>65</sup> Cowles et al., III:73.

national economy under a "system of supervision not difficult to arrange or conduct."<sup>66</sup>

However, in practical terms, the Commission's reports presented a major expansion of federal administrative supervision of economic and racial relations. This tension between a commitment to limited government and demand for increasing federal power would fundamentally shape the character of the Emancipation state.

Much like the scholarship on the AFIC's ideology, the AFIC's state-building program has been the subject of much debate. Early work by James McPherson, Herman Belz, and George Fredrickson argued that the AFIC envisioned a form of limited and temporary guardianship over freedpeople.<sup>67</sup> More recently, however, historians have noted the power of the Commission's anxieties over questions of racialized dependence on government support, arguing that the AFIC's ideological commitments led directly to the Commission's advocacy for a laissez-faire post-Emancipation society with minimal direct government intervention to aid and protect free Black people.<sup>68</sup> In surveying these seemingly contradictory assessments, Eric Foner notably concluded that the AFIC's reports and recommendations "reflected the tension between laissez-faire and interventionist approaches to the aftermath of Emancipation."<sup>69</sup> Among scholars of American Political Development, the long-standing view is that despite the expansion of central state capacity during the Civil War, the federal government failed to fully exercise direct and

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<sup>66</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*, 2.

<sup>67</sup> McPherson, *The Struggle for Equality*; Fredrickson, *The Black Image in the White Mind*; Belz, *A New Birth of Freedom*; Herman Belz et al., "The New Orthodoxy in Reconstruction Historiography," *Reviews in American History* 1, no. 1 (March 1973): 106.

<sup>68</sup> Stanley, *From Bondage to Contract*; Furrow, "Samuel Gridley Howe, the Black Population of Canada West, and the Racial Ideology of the 'Blueprint for Radical Reconstruction'"; Reidy, *Illusions of Emancipation*.

<sup>69</sup> Foner, *Reconstruction*, 68.

consistent power over the remaking of Southern labor relations and the enforcement of Black civil and political rights.<sup>70</sup>

In this section, I turn to the AFIC's economic program to critique the dominant characterization of the Emancipation State as one that was ideologically and programmatically opposed to the use of state power in economic relations. In fact, I argue that the AFIC's economic recommendations reveal an innovative conceptualization of state power to direct and influence post-Emancipation labor and land relations. Despite the AFIC's rhetorical commitments to limited government intervention, their economic program shows that the Commission sought to govern through free market forces by using state power to control and monitor labor contracts, land sales, and the movement of Black workers. In doing so, I argue that the Commission aimed to shift the material burdens of Emancipation onto freedpeople while simultaneously securing control over the direction of the reconstitution of the Southern economy. Therefore, The AFIC's economic and state-building projects are mutually constitutive, helping to fundamentally redefine the relationship between the federal government and the development of a post-Emancipation racialized capitalist economy.

In their preliminary report, the Commissioners argued that Emancipation was, at its core, a clash of labor systems.

The two labor - systems - namely, that of enforced slave labor and that of free compensated labor are, in spirit and result, so thoroughly at variance that the change from the one to the other by four millions of people cannot safely be left undirected and uncared for, to work itself out...<sup>71</sup>

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<sup>70</sup> Smith, *Civic Ideals*; Valelly, *The Two Reconstructions*; Rana, *The Two Faces of American Freedom*.

<sup>71</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*, 13.

The Commissioners believed that "governmental assistance and control" would be required to guide the transformation of the Southern economy from enslaved to free labor. However, equally critical to their vision was that federal intervention needed to be limited and temporary – "all special governmental measures...must be more or less temporary."<sup>72</sup> The Commission's economic and state-building program thus had two goals. The first was the creation of a free labor Southern economy. The Commissioners believed that the long-term success of Emancipation and national reunification depended on rebuilding Southern agricultural wealth, integrating it back into the national economy, and doing so with free labor. The second goal of the Commission was to accomplish the transformation of the Southern economy while promoting the "self-support" and "self-defense" of freedpeople. Both of these goals would have to be accomplished with limited federal resources and initiated under wartime conditions.

To understand how to best allocate limited federal resources, the AFIC focused on selecting the best practices from throughout the liberated South. In selecting the tools with which to carry out the task of Emancipation, the AFIC turned to the power of the free market and the fashioning of wage labor relations. The Commissioners' initial fieldwork led them to believe that the federal state could create the conditions for a free labor economy by encouraging the creation of stable, efficient, and productive wage labor markets. As early as their preliminary report, the commissioners had already begun to identify flawed, inefficient, or otherwise undesirable practices. First, the Commissioners repeatedly noted the relationship between labor unrest among freedpeople and cases of chronic underpayment or missed payment of wages.<sup>73</sup> Furthermore, the

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<sup>72</sup> Owen, Howe, and McKaye, 14.

<sup>73</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*.

commissioners noted that wages should, to the greatest degree possible, be paid in cash rather than in the form of clothes, food, or other necessities. Indeed, for ideological and practical reasons, the commissioners noted that payment of fair, regular cash wages was the best way to secure freedpeople's labor and prevent exploitation and abuse by federal officials and white Southerners.<sup>74</sup>

From the perspective of the commissioners, the efforts to establish a system of wages throughout the South served a dual function. On the one hand, the Commissioners believed that a system of fair wages would begin to transform not just the Southern economy but Southern society as well. The Commissioners' field interviews, primarily with white officials, had led them to believe that the chief characteristic of Southern slave society had been the racialized domination of enslaved Black people by white enslavers, which, in turn, produced dependence among Black people.<sup>75</sup> In contrast, the Commissioners' unwavering faith in free labor led them to argue that the relationship between free employers and free laborers was characterized by mutual gain and independence rather than domination and dependence. By implementing and encouraging the growth of a wage labor economy, the Commission believed that the federal government would be eroding the social relations of slavery.

Secondly, the Commissioners also argued that working for wages would integrate Black workers into capitalist social relations, helping to prepare Black workers for life in a free labor economy. In the preliminary report, the AFIC's highlighted the centrality of wage labor:

It is proper for the Commission here to say that scarcely anything is more essential to the good government and improvement of these refugees than that the

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<sup>74</sup> Owen, Howe, and McKaye, 14.

<sup>75</sup> Owen, Howe, and McKaye, 15.

wages they earn should be promptly and regularly paid. Nothing so encourages their influx from rebeldom as this, and it is most desirable that a freedman should learn as speedily as possible that emancipation means neither idleness nor gratuitous work but fair labor for fair wages.<sup>76</sup>

The commissioners understood the federal oversight of a system of wages as a critical element required of a post-Emancipation bureaucracy. By taking the government out of the business of direct management and payment of labor, the commissioners sought to exert federal power while minimizing government interference in private free labor enterprise. Although the commission acknowledged that some direct federal management of Black workers would be unavoidable, they urged the transfer of labor and property to private supervision as quickly as possible. This was especially true in the case of plantations, with the commissioners recommending that private ownership is always preferred to government control.

...the working of plantations by Government should be undertaken as a temporary expedient, rendered necessary during the period of transition. But as soon as there are found loyal and respectable owners or lessees of plantations who will hire the freedmen at fair wages this is to be preferred; or when the freedmen themselves have saved a little to start upon...<sup>77</sup>

In both the case of labor and land, the AFIC envisioned an Emancipation state that focused on governing and managing capitalist relations rather than engaging in direct control. Federal control of the economy was ideologically anathema to free labor ideology and practically unsustainable. In theory, the commissioners' recommendation to focus on encouraging private

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<sup>76</sup> Owen, Howe, and McKaye, 15.

<sup>77</sup> Owen, Howe, and McKaye, 14.

ownership and wage labor, especially among freedpeople, relieved the government of the need to develop a large bureaucracy while aiding in the development of a racially integrated capitalist economy.

Initially, the commission's belief in the governing power of capitalist logics seemed well-founded, not only in the precepts of free labor ideology but also in the AFIC's fieldwork and interviews. In the months following the publication of the preliminary report, the commissioners saw many of their initial recommendations and findings supported by experience. Freedpeople continued to render critical service, both as laborers and soldiers, to the Union cause. The gradual improvement of wages and federal oversight of private enterprises seemed to confirm the Commissioner's belief that a productive capitalist economy could co-exist with Black self-help and self-defense. The notable success of the free labor experiments on the Sea Islands was perhaps one of the most promising examples of the public-private partnership between federal officials and private Northern capitalists. Edward Philbrick, a Boston businessman and abolitionist, had amassed over 8,000 acres of prime plantation land on the Sea Islands and was working that land with Black wage workers. In an interview with the commission, Philbrick argued that:

In order to "place the Colored people of the United States in a condition of self support and self Defence," I suppose it will be generally admitted that the first and best means to be taken is to bring them within the reach of private enterprise in such employment as they by nature and experience qualified to compete with other labor.<sup>78</sup>

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<sup>78</sup> "Letter of Edward Philbrick to Robert Dale Owen" August 17<sup>th</sup>, 1863, Record Group 94: Records of the Adjutant General, Letters Received, file O – 328; also partially reproduced in Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*, 3:255–59.

Philbrick's profitable wage labor enterprise suggested that the agricultural riches of the antebellum South could be preserved and perhaps enhanced under a free labor system. Furthermore, the experiences of the Sea Island also provided some evidence that wage labor could lead to the acquisition of land by freedpeople. In the same direct tax sales through which Philbrick acquired his land, a small number of Black families had purchased land for homesteading and cultivation. The importance of managing most transfers of property through the sale and purchase of land rather than through direct state redistribution was a critical distinction consistently emphasized by the Commission. As with wage labor, the Commission thought the sale of land to Black families to foster thrift, independence, and, perhaps most importantly, respect for private property, which slavery had stripped from freedpeople.

The Commission's recommendations enforcing wage labor and private land ownership with state power were not just a pragmatic policy aimed at securing wartime labor and raising funds through the sale of confiscated and abandoned lands. The Commission's program also shifted the responsibilities of Emancipation from the national government to freedpeople, both individually and collectively. Even though the Commission advocated the creation of a bureau of Emancipation, the charge of the bureau would be to manage and police freedpeople's transition from slavery to freedom rather than providing direct material support. Commissioner Howe stated this goal explicitly in an open letter to Rep. Thomas Eliot, the sponsor of the House bill for the creation of a bureau of Emancipation – "whatever plan is adopted should be founded on the principle that the negro, once emancipated, is as free as the white man; free to come or go; free to accept or reject employment; free to work or starve."<sup>79</sup> The message was clear. It was the responsibility of individual freedpeople to secure their freedom. In short, while slavery and the

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<sup>79</sup> Howe to Eliot, *Boston Commonwealth*, January 1864

Confederacy would be destroyed by the bullets and bayonets of the federal armies, the true instrument that would secure lasting racial justice was the free market backed by the Emancipation State.

### **Multiple Visions of Emancipation**

Thus far, I have argued that the Commission patched together a set of recommendations whose policies and institutions, which, when considered together, constituted a framework for what I call managed emancipation. However, it would be wrong to assume that the Commissioners were simply implementing a preconceived plan for Reconstruction. As per their original order, the Commissioners were acutely aware that there were multiple visions and proposals for the management of Emancipation and the reconstruction of Southern society and race relations. These multiple visions were themselves products of the iterative nature of federal emancipation policy up to the Emancipation Proclamation. Therefore, in order to properly appreciate the relationship between the AFIC, their ideology, and their fieldwork, it is crucial to understand these alternate visions of Reconstruction.

In broad terms, the Commission considered two plausible models for emancipation. The first was the so-called guardianship or 'West Indian' model. Based on the historical experiences of the British Empire in the West Indies, this model of emancipation would have established an 'apprenticeship' system by which freedpeople would be forced to work for their former enslavers and undergo a process of gradual emancipation.<sup>80</sup> The Commissioners had spent considerable energy studying the West Indies experience. Howe had ordered reports and books on the British

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<sup>80</sup> Report of the Secretary of War, Communicating, In compliance with a resolution of the Senate of the 26th of May, a copy of the preliminary report and also of the final report of the American Freedmen's Inquiry Commission, Senate, 38th Congress, 1st Session, Ex. Doc. No. 53, in United States. Senate Executive Documents for the First Session of the Thirty-Eighth Congress of the United States of America. 1863-'64. Wash., DC, 1864.; also see

abolition policies be made available to the Commission, and it is clear from the final reports footnotes that the West Indian model weighed heavily on the Commissioners' recommendations.<sup>81</sup> However, the Commission's assessment of programs of gradual emancipation, forced labor, and direct state supervision of Black workers, were not solely based in the West Indian experience. The Commission had only to look at the experience of the compulsive labor programs enacted by Generals Butler and later Banks in Southern Louisiana.

Without any overall federal policy for the establishment of free labor systems in the liberated territory to guide him, Butler adopted what he considered a pragmatic approach that sought to assert Federal control over Southern Louisiana by attempting to win the support and loyalty of the planter class. The planters, for their part, were primarily concerned with maintaining control over the vast sugar plantations and enslaved labor. As a result, Butler's orders attempted to reach a compromise with the planter class – the planters would swear oaths of loyalty to the Federal government, provide a fixed wage to Black workers, and stop all use of corporal punishment. In exchange, federal forces would enforce labor discipline among freedpeople, restrict the freedom of movement of freedmen, and supply plantations with workers.<sup>82</sup> Butler's attempt at a compromise proved immediately controversial. Planters resented the imposition of federal oversight and often refused to stop the use of violence to drive the extraction of labor. As the AFIC noted, Butler's rigid system of forcing freedmen to work on the plantations had led to numerous labor actions across Southern Louisiana. Black workers organized strikes, work slow-downs during the height of the sugar grinding season, and, in some

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<sup>81</sup> Cowles et al., *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, 1880, vol. IV, tit. Final Report of the American Freedmen's Inquiry Commission.

<sup>82</sup> "Major General Benjamin F. Butler to Sec. Edwin Stanton" Nov. 14<sup>th</sup>, 1862, issued as part of General Order 91, reproduced in Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*, 3:383–87.

cases even attempted to seize plantation land outright.<sup>83</sup> In response, Butler attempted to provide Black workers with greater protections under the Second Confiscation Act and the Preliminary Emancipation Proclamation. Issuing Order No. 91, Butler established a set of labor and land regulations. While these regulations continued to favor the power of the planters, Butler's orders did require planters to pay a limited wage to workers, establishing a firm precedent that from then on, all labor under federal supervision would be done for a wage or some form of compensation.<sup>84</sup> Butler's order constituted a foundation for post-Emancipation federal policy, and it effectively forced freedpeople into a condition of permanent wage labor under government supervision. Indeed, in a letter to Lincoln, Butler argued that "Black labor can be as well governed, used, and made as profitable in a state of freedom as slaves."<sup>85</sup> Under Butler, the line between slavery and freedom was very thin.

Butler's successor, Nathaniel Banks, a conservative Republican skeptical of Emancipation, doubled down on his predecessors' policies. In his first major declaration on the system of labor, Banks chose to "secure the objects of both labor and capital."<sup>86</sup> In his General Orders No. 12, Banks required "all persons...to maintain themselves by labor" and directed his forces to ensure that all "unemployed negroes...be engaged in this service under the control of suitable agents or planters."<sup>87</sup> In exchange for labor, Banks ordered that a "yearly system of negro labor, which shall provide for food, clothing, proper treatment, and just compensation" be

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<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Berlin et al., 3:396.

<sup>86</sup> General Orders No. 12, Headquarters, Department of the Gulf, Orders and Circulars, Record Group 94; reproduced in Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*, 3:414–15.

<sup>87</sup> *ibid*

established. As a result of Banks' order, freedpeople who had been seeking refuge in military camps or subsisting on abandoned plantations were forced into wage labor contracts under federal supervision, often working under the same planters who, until recently, had enslaved them. In response to Banks' labor terms, freedpeople once again engaged in widespread labor actions. As under Butler, Black workers' solidarity and labor power was often their most potent, and often the only weapon, against the combined power of the federal forces and the planters. Black workers' labor actions managed to secure some concessions from government agents and planters, including shorter workdays, more control over their labor organization, and, at times, small tracts of land where families could grow vegetables and corn to both supplement their food rations and sell some surplus on either the private market or directly to the Union army.

The various regulations and systems of labor and land management attempted by federal authorities in Southern Louisiana and the Mississippi Valley from 1862 to 1864 highlighted the tremendous challenges facing the wartime federal government. From Butler's management of plantations to Bank's fixed labor contracts, each attempt to establish a framework for the creation of a free labor, productive, agricultural economy had yielded unsatisfactory results. Nearly all of the federal officials tasked with assessing the weaknesses of the various systems pointed to the difficulty of attending to the needs and demands of all involved parties, namely, Southern planters, Northern investors, freedpeople, and the federal government. On the one hand, regulations that favored planters and investors left freedpeople open to exploitation and abuse while placing a burden on the federal government to provide close oversight of Northern and Southern employers while also supervising Black laborers. On the other hand, attempts to provide direct aid and land to freedpeople were criticized as detrimental to private enterprise, and many federal officials feared that direct federal intervention on behalf of freedpeople would

foster dependence on the government and place freedpeople in a state of 'permanent guardianship.'

In their preliminary and final reports, the Commissioners noted the unpopularity and general ineffectiveness of systems of compulsive labor.<sup>88</sup> Permanent systems of government guardianship were to be avoided. Instead, the market and capitalist precarity would discipline Black workers – “a single threat suffices, in place of all other punishment, to check laziness and other delinquency – the threat, namely, of dismissal.”<sup>89</sup> Therefore, it was the Commission’s faith in the power of the free labor capitalist relations to reshape the character of both Black workers and white planters formed the basis of their vision of Emancipation. In contrast to the compulsive labor regimes of Butler and Banks, the Commissioners would draw on the wartime policies of the upper Mississippi Valley to create a ‘free labor’ model of Emancipation that would form the foundation of the Reconstruction State’s economic policies.

Although this free labor model was partially articulated in their preliminary and final reports, its fullest expression is found in James McKaye’s supplementary report. Compared to his fellow Commissioners Owen and Howe, McKaye was a relatively obscure figure before the war and likely owed his appointment to a combination of his abolitionist connections and his involvement in running the pro-Union Loyal Publication Society.<sup>90</sup> As the decidedly junior member of the Commission, McKaye appears to have been selected to lead most of the AFICs field visits outside of the immediate Washington D.C. area. McKaye had traveled to the Carolinas in the spring of 1863 and helped record testimonies of federal officials and freedpeople

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<sup>88</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen’s Inquiry Commission*.

<sup>89</sup> Owen, Howe, and McKaye, 15.

<sup>90</sup> McKaye’s origins are obscure, and it is difficult to trace exactly how or why he was selected for the Commission.

both in the field and back at the AFIC's headquarters in New York.<sup>91</sup> These first-hand experiences appear to have provided McKaye with a more urgent and grounded understanding of wartime policies than his more detached fellow Commissioners. McKaye's idiosyncratic perspective found its fullest expression in his reporting on the Mississippi Valley and Southern Louisiana. McKaye's report draws on observations made during his fieldwork in New Orleans and Southern Louisiana in early 1864, supplemented by later testimonies and interviews of federal officials, including Generals Butler and Banks, as well as Superintendent of Freedmen John Eaton. However, in contrast to the Commission's final report, McKaye also included the testimonies of several Black people, quoting extensively from his interview with J.B. Roudanez, a member of the free mixed-race citizens of New Orleans, and Octave Johnson, a former slave who escaped to Union lines and was then serving as a corporal in the *Corps d'Afrique*.<sup>92</sup> The inclusion and relative prominence of Black voices lends McKaye's report a grounding in Black experiences which are largely missing from the AFIC's official reports.

McKaye's analysis and critique of federal policies in the Mississippi Valley focus on three aspects of economic and social reorganization - the labor question, the land question, and the role of federal state power. The first is the establishment, regulation, and oversight of wage labor systems, especially regarding the employment of formerly enslaved Black workers on plantations. The replacement of slave labor with wage labor was understood by most federal officials to be the primary metric by which to assess the success and sustainability of Emancipation. As we have seen, this meant the establishment and maintenance of labor contracts

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<sup>91</sup> Some of the testimonies were taken from interviews conducted in the field while others were done in D.C or at the AFIC's New York offices.

<sup>92</sup> James McKaye, *The Mastership and Its Fruits: The Emancipated Slave Face to Face with His Old Master: A Supplemental Report to Hon. Edwin M. Stanton, Secretary of War* (New York: W.C. Bryant & Co., 1864).

between predominantly Black workers and white employers. McKaye, in his observation of the labor relations between Black workers and white planters, is torn in his assessment of the effectiveness of federal wartime labor contracts. On the one hand, McKaye notes that through the Mississippi Valley, freedpeople willingly work for wages when paid promptly and treated fairly. Quoting directly from General Banks' testimony, McKaye notes Banks' observation that Black workers "readily accept the necessity of continuous and faithful labor at just rates of compensation" and that freedpeople will work as long as they are treated well, not separated from their families, and that their children are educated.<sup>93</sup> Banks believes that these conditions can be fully met by his system of contracts and regulations, and his testimony to McKaye argues that "there is no difficulty whatever in keeping them [freedpeople] at work, if the conditions to which I have above referred are complied with."<sup>94</sup> It is clear from Banks' testimony that he believes that a free labor regime has been successfully established in Southern Louisiana and that, with only limited government oversight, wage labor can and will replace slavery.

However, Banks' system rests on two notable assumptions that are challenged by McKaye. First, Banks assumed that the federal government's primary role would be to provide "sufficient supervision to compel the negro to labor."<sup>95</sup> Secondly, Banks confidently asserts that "I have no doubt that many of the planters within our lines, who are protected by the Government in the enjoyment of their property, honestly accept the new situation, and enter into the idea of free labor with sincerity."<sup>96</sup> McKaye challenged both of Banks' assumptions. Drawing

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<sup>93</sup> McKaye, 15.

<sup>94</sup> McKaye, 17.

<sup>95</sup> McKaye, 23.

<sup>96</sup> McKaye, 23.

on interviews with Banks' subordinates, McKaye argues that Banks' belief in the need to "compel the negro to labor" contradicts both Banks' own testimony and that of his subordinates. Col. George Hanks, a white officer of the *Corps d'Afrique*, argues that any resistance to wage work is a consequence of mistreatment at the hands of the white planters or because freedpeople often refuse to work for former enslavers. In both cases, McKaye notes that the problems lie with the white employers rather than Black workers.<sup>97</sup> The white planters, not Black workers, are the ones who require federal oversight, according to McKaye. Responding to Banks' second assumption, McKaye quotes directly from the speech of a white planter, Judge Humphrey of Huntsville, Alabama:

I believe, in case of a return to the Union, we would receive *political co-operation*, so as to secure the management of that labor by those who were slaves. *There is really no difference, in my opinion, whether we hold them as absolute slaves, or obtain their labor by some other method.*<sup>98</sup>

According to McKaye, such views show that former slave owners saw federal state power as a means to reassert their dominance over Black labor, even if it meant accepting a limited wage regime. The control of labor was the planters' first and foremost priority. The cooperation and sincerity between federal officials and white planters under Banks' regulations, McKaye argued, came at the high price of subverting Emancipation. Furthermore, McKaye argues that even the limitations placed on white planters by federal regulations are rarely observed in practice. Drawing on witness testimony, McKaye reports that whippings of free Black workers continue even under the direct supervision of federal officials since the compliance of the planters is

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<sup>97</sup> McKaye, 21.

<sup>98</sup> McKaye, 23.

valued more than the enforcement of freedpeople's rights.<sup>99</sup> In McKaye's view, the continued domination of the planter class and their usurpation of federal power reflects the tendency of Banks' system to privilege the power of the employers over that of employees. McKaye concludes that Banks' system if adopted as a template for the reconstruction of Southern society, would leave freedpeople in a "condition of perpetual subordination and subjection."<sup>100</sup>

In contrast to Banks' system, McKaye is more positive in his assessment of the Treasury Department's regulations implemented in the Natchez and Vicksburg districts of the Mississippi. Unlike Banks' system, the Treasury regulations established a higher wage rate for laborers and required employers to provide additional wages in order to care for sick and dependent workers. Furthermore, McKaye notes that Treasury regulations gave Black workers more freedom to buy their own clothes and provide for the education of their children.<sup>101</sup> However, once again, as with Banks' system, McKaye is critical of the Treasury Department's reliance on year-long labor contracts, which has the effect of locking Black workers into what are often exploitative and abusive laboring conditions. McKaye notes that while the exigencies of war might justify the temporary implementation of some restrictive measures, both Banks' system in Southern Louisiana and the Treasury Department regulations along the Mississippi "recognize the freedman's right to intervene in his own affairs, or to contemplate sufficiently the great end of education him to self-control, self-reliance, and to the exercise of rights and duties of civilized life."<sup>102</sup> In short, McKaye is arguing that federal free labor policies are denying to freedpeople the core promises of Northern free labor ideals - agency, self-ownership, and self-rule.

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<sup>99</sup> McKaye, 26.

<sup>100</sup> McKaye, 26.

<sup>101</sup> McKaye, 27.

<sup>102</sup> McKaye, 28.

It is important to acknowledge that McKaye's criticism of federal wartime wage labor policies is not unique. Many Northern abolitionists and Radical Republicans echoed McKaye's concerns about the leniency of federal policies toward the planter class and the lack of federal action to curb the abuse of Black workers by employers. However, McKaye's criticism does stand out in regard to his skepticism of fixed labor contracts and his belief in the capacity of recently emancipated workers to effectively navigate a free labor market. By the 1860s, the wage labor contract was seen by many Northern elites as the keystone concept in 19th-century free labor ideology. Historian Amy Dru Stanley argues that the wage labor contract constituted a "worldview" that "idealized ownership of self and voluntary exchange between individuals who were formally equal and free."<sup>103</sup> Many in the North saw the introduction of wage labor contracts to the South as proof that free labor relations could and would replace slavery. Idealized notions of contractual obligations led Northerners to argue that wage labor contracts would instruct freedpeople in the need to work for their livelihood and teach white planters to respect labor. Furthermore, the enforcement of fixed-term contracts was justified with arguments that such restrictions would offer wage security to Black workers and labor security to white employers.<sup>104</sup> In contrast to the prevailing view among Northern elites, McKaye argued that such notions of mutual obligation and benefit were simply not possible given the massive disparity in power between newly emancipated workers and white employers. Instead of providing mutual security, fixed labor contracts robbed Black workers of one of their most powerful weapons to resist white planters' abuses - the ability to withdraw their labor or contract with another employer for higher

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<sup>103</sup> Stanley, *From Bondage to Contract*, x.

<sup>104</sup> McKaye, *The Mastership and Its Fruits*, 27.

wages. McKaye argued that while it was important for emancipated workers to respect “the nature and obligations of a contract” such obligations were only valid when contracts were entered into *voluntarily* rather than as a result of being compelled by federal regulations.<sup>105</sup> The solution then, McKaye argued, was to allow the free market to discipline labor and capitalists with federal supervision limited to the enforcement of civil and legal rights to prevent abuses. McKaye’s criticism of fixed wage labor contracts and his suggestions that wages and contracts be largely left up to market forces were both incorporated into the last section of the AFIC’s recommendations.<sup>106</sup> However, McKaye’s concerns about the power of the planter class and his proposal to seize and break up large plantations were left out of the recommendations. In general, the Commissioners avoided the question of land reform, focusing instead on pressing for civil, political, and legal rights for freedpeople. The question of economic security for the newly emancipated was to be “left to the natural laws of supply and demand to regulate the rates of compensation and places of residence.”<sup>107</sup> Federal intervention on behalf of Black laborers was eschewed in favor of market freedom.

In addition to the guardianship model and the free labor model, there was a third vision, or rather visions, which were largely ignored by the Commissioners – freedpeople’s visions of freedom. Freedpeople across the South consistently expressed visions of freedom that were resistant to both white paternalism and capitalist precarity. Instead, freedpeople grounded their view of freedom in control over their labor and independent land ownership. Freedpeople articulated sustained demands for the redistribution of land and for federal protection from white

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<sup>105</sup> McKaye, 28.

<sup>106</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen’s Inquiry Commission*, 108.

<sup>107</sup> Owen, Howe, and McKaye, 110.

violence. In place of the precarity of the market and the exploitation of wage labor, many Black communities engaged in practices of mutual aid, subsistence agriculture, and cooperative labor.<sup>108</sup> In contrast to the preeminence of the contract in both free labor and guardianship models, Black workers often resisted the imposition of fixed-term contracts, preferring task-based wage labor contracts, which offered greater flexibility and autonomy. Furthermore, in ways that mirror emerging labor demands of working classes throughout the industrialized world, Black workers often emphasized control over one's time as a primary labor concern. White planters, accustomed to being able to demand labor from 'dawn to dusk,' quickly found out that emancipated workers demanded control over the laboring hours.<sup>109</sup> In their constant assertion of their labor power, even in the face of tremendous white violence, Black workers expressed a vision of freedom rooted in control of one's labor, time, and subsistence.

In the AFIC's reports, Black resistance to white management is either unacknowledged or dismissed as idleness, feeding into the Commissioners' racial assumptions. However, as I show in the following chapters, the Commission's willful marginalization of Black people's freedom dreams did not mean that freedpeople's demands had no impact on the development of the Reconstruction state. Indeed, throughout wartime Emancipation freedpeople's actions would help shape the character and implementation of free labor policies.

### **The Emancipation State on the Ground**

In this chapter, I have argued that the American Freedmen's Inquiry Commission provided a framework for the Emancipation State and its Reconstruction-era successor. The

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<sup>108</sup> Foner, "The Meaning of Freedom in the Age of Emancipation"; Litwack, *Been in the Storm so Long*; Edward Magdol, *A Right to the Land: Essays on the Freedmen's Community*, Contributions in American History, no. 61 (Westport, Conn: Greenwood Press, 1977).

<sup>109</sup> Magdol, *A Right to the Land*, chap. 4.

Commission synthesized and rationalized disparate aspects of abolitionist politics, free labor ideology, white paternalism, and classical liberalism to construct a coherent and clear plan for managing Emancipation and transforming the national economy. In doing so, the Commissioners helped to reimagine American state power by expanding its bureaucratic capacity and regulatory functions while remaining committed to the principles of limited government. Perhaps most significantly, the Commissioners orient the federal state toward a project of racial integration and social transformation – albeit one defined by the values and standards of white Northern elites.

However, to understand the creation and construction of the Emancipation State, it is necessary to move beyond the New York offices of the AFIC and understand the functions of the Emancipation State from the ground up. After all, the Commissioner's recommendations were the products of hundreds of testimonies, field reports, and several trips to the frontlines of Emancipation. The component parts of the Emancipation State, which are synthesized in the pages of the AFIC's reports, were first developed by the military officers, War Department bureaucrats, social reformers, and capitalists who oversaw the destruction of slavery in the South. These 'bureaucrats on horseback' developed a patchwork of federal policies and provided first-hand experiences that informed the AFIC's state-building program.

Given the central importance of these officials, the following chapters will consider a key site of wartime Reconstruction – the Mississippi River Valley. In the following chapter, I trace how the abstract recommendations in the Commission's reports were reified in the policies and practices of federal officials in charge of managing newly emancipated Black people. Federal officials, along with white capitalists and social reformers, implemented wage labor regimes, confiscated land, directly managed plantations, and supervised the transition to a free labor economy.

However, the following chapters aim to center not only the activities of white officials but also the agency of Black people. As can be seen in this chapter, the AFIC considered newly emancipated Black people to be subjects of state power and white paternalism rather than as co-equal participants in the struggle for Emancipation. Yet, throughout the South, freed people were at the forefront of liberation – resisting enslavement, liberating themselves to federal lines, building self-sufficient communities, and imagining new configurations of freedom. While such accounts of Black agency are largely absent in the AFIC's reports, on the ground, freed people consistently contested federal officials' efforts to constrain and discipline their labor and communities. Instead of the top-down program of social and economic transformation, which the AFIC envisioned, the reality was that the creation of the Emancipation State was a dialectical process in which federal officials, Southern whites, Northern capitalists, and Black communities would contest the meaning of freedom and state power. The proceeding chapters will focus on this dialectical process of on-the-ground state formation.

**Table 1 - Multiple Visions of Emancipation**

<b>Features</b>	<b>Guardianship Model (White Supremacist)</b>	<b>Guardianship Model (White Abolitionist)</b>	<b>Free Labor Model</b>	<b>Freedpeople's Visions of Emancipation</b>
<b>Ideology</b>	White Supremacy	White paternalism	Free labor Republicanism	Eclectic – focus on community, independence, and control of labor and land
<b>Status of Freedpeople</b>	Free but subject to state- enforced restriction on movement, labor status, property ownership etc.	Free but under an 'advisory guardianship'	Free to labor and access land	Free and independent – freedom of movement, association, and community
<b>Role of Federal State</b>	Enforce labor contracts and white supremacy	Significant federal intervention and distribution of land	Supervise labor and land relations; limited direct assistance	Protection against white violence; redistribution of land
<b>Labor Regime (Freedpeople)</b>	Contracted wage labor, debt bondage, apprenticeships	Supervised wage labor	Wage labor contracts, market-oriented production	Control over one's own labor; limits on employer power
<b>Land Regime (Freedpeople)</b>	Limited access to land; primarily under white ownership	Federal management of land; some distribution of land to freedmen	Federal supervision of land sales; leasing, and renting encouraged	Direct demands for land; land as a form of reparation or justice
<b>Proponents</b>	White Southern planters, some military officers	Prominent Radical Republicans and some Freedmen's Aid societies	Broad coalition – Radical Republicans, military officials, business elites	Expressions throughout the South

### **Chapter III**

#### **The Mississippi Valley, Davis Bend, and the (II) Legibility of Black Freedom**

For four years, amid war and reconstruction, the federal government tried to build a utopia on a narrow strip of land thirty miles downriver from Vicksburg, Mississippi. The project aimed to build a model community of self-sustaining and self-governing freed people under federal supervision and protection. The location of the project was nearly as unique as its goals. The site for this model community was a large peninsula known as Davis Bend, formed by a prominent bend in the course of the Mississippi. Davis Bend was named after Joseph Davis, the older brother of Confederate President Jefferson Davis, and contained a complex of five large plantations situated on some of the most productive cotton-producing soil in the entire South.<sup>110</sup> The symbolic significance of Davis Bend was immense. The federal government had chosen the home of the Confederate President as the birthplace of a new South and the crucible in which Black freedom and independence would be forged.

The story of the Davis Bend experiment, as historians have come to call it, has received limited attention from Reconstruction scholars.<sup>111</sup> This is partly due to its extraordinary nature. The federal project at Davis Bend is seen as an anomaly within the wider story of wartime Reconstruction. As Eric Foner notes, the experiences of Black workers at Davis Bend, like those in similar federal projects in the Sea Islands, are not representative of the vast majority of freed people. For most freed people, the transition from slavery to freedom was marked not by federal support for their own uplift but by the imposition of wage labor contracts and limitations on their movement and freedoms.<sup>112</sup> Since Davis Bend cannot be said to be representative of wartime

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<sup>110</sup> Janet Sharp Hermann, *The Pursuit of a Dream* (Jackson: University Press of Mississippi, 1999), 22–26.

<sup>111</sup> Notable exceptions are Steven Joseph Ross, “Freed Soil, Freed Labor, Freed Men: John Eaton and the Davis Bend Experiment,” *The Journal of Southern History* 44, no. 2 (May 1978): 213, <https://doi.org/10.2307/2208302>; Hermann, *The Pursuit of a Dream*; John C. Rodrigue, *Freedom’s Crescent: The Civil War and the Destruction of Slavery in the Lower Mississippi Valley*, Cambridge Studies on the American South (Cambridge, United Kingdom ; New York, NY: Cambridge University Press, 2023).

<sup>112</sup> Foner, *Reconstruction*, 58–60.

Reconstruction, scholars have instead focused on those elements that made Davis Bend exceptional.<sup>113</sup> In this sense, existing studies of Davis Bend highlight and center the federal commitment to ideas of Black self-help, cooperative production, and communal independence and lament that such commitments were not extended to the entire Reconstruction project.<sup>114</sup> Davis Bend, coupled with the limited land redistribution in the Sea Islands, has become a byword for the ‘lost promise’ of Reconstruction.

In this chapter, I aim to move past the narrative of Davis Bend's exceptionalism and reevaluate the project's significance to the development of the post-Emancipation state. Such a shift of focus draws out three important aspects of the Davis Bend experiment, both of which have been understudied and underappreciated. First, I argue that, despite the project's limited scale and scope, the relative success of the Davis Bend community inspired key federal officials to rethink their visions of the post-Emancipation state. Davis Bend loomed large in the minds of policymakers. It was reported on by Northern war correspondents, visited by influential aid societies, and highlighted in official reports. For Northern policymakers, the Davis Bend community showed that the transformation of the Southern economy could be accomplished through the regulation of land and labor and, more importantly, in their minds, that freed people could integrate into a free labor market as wage laborers and as independent cultivators – all with a minimum degree of direct federal aid. Davis Bend, therefore, became a convenient example for those federal officials who wished to assuage white fears of freed people's dependence and massive government expenditure.

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<sup>113</sup> Hermann, *The Pursuit of a Dream*, chap. preface.

<sup>114</sup> Katherine Franke, *Repair: Redeeming the Promise of Abolition* (Chicago, Illinois: Haymarket Books, 2019); Litwack, *Been in the Storm so Long*; Hermann, *The Pursuit of a Dream*; Magdol, *A Right to the Land*.

Secondly, while federal efforts at Davis Bend may strike us as exceptional in hindsight, the project was, in fact, but one part of a larger network of refugee camps, government-supervised plantations, and freedmen's colonies that dotted the entire Mississippi Valley. Indeed, federal reports made no real distinction between Davis Bend and other freedpeople's communities. All of the key policies implemented at Davis Bend – the leasing of land to freedmen, the establishment of schools, and the creation of a communal farm for the care of dependents – were part of the greater federal policies for the management of freedpeople. Therefore, in this chapter, I reintegrate the story of Davis Bend into the broader development of Emancipation policy in the Mississippi Valley.

Third, I argue that Davis Bend and the wider Mississippi Valley provide an important example of how Black people were able to influence federal policy despite having no formal political power or rights. I develop this argument by showing how key federal policies were developed in response to Black workers contesting the various forms of white domination and economic exploitation that plagued wartime Emancipation policy. I trace how freedpeople's agitation and resistance informed federal officials who, in turn, became influential policymakers in the development of the post-Emancipation state. By developing this new genealogy of federal policy, I show that freed people's actions did inform American state development, albeit in a diluted form.

This chapter is organized as follows. In the first section, I discuss the ways in which emancipation came to the Mississippi Valley and the various configurations of freedom that freed people experienced and enacted – with specific attention to the Davis Bend community. In the second section, I center the work of John Eaton, the Superintendent of Freedmen for Grant's Army of the Tennessee, to discuss how Eaton worked to transform Davis Bend into a model self-

sustaining, productive, and self-governing freedpeople's community. In discussing Eaton's reports, I argue that Eaton's perspectives were influenced by freed people's efforts to reshape their relationship with labor and the land. In the third section, I discuss how Eaton's experiences at Davis Bend and the Mississippi Valley inform his critical lobbying efforts to shape the creation of the Freedmen's Bureau. In the final section, I conclude by considering the questions of the legibility and legitimacy of Black claims to freedom in the eyes of the American federal state. Here, I consider why certain aspects of Davis Bend's success were valorized while other Black communities were marginalized or suppressed.

### **Slavery and Emancipation in the Mississippi Valley**

In 1818, Joseph Davis finalized his purchase of nearly 11,000 acres of prime agricultural land on the peninsula, which would soon come to be known as Davis Bend. Davis divided the peninsula into smaller plots, distributing and selling these to his family members and friends, including his brother Jefferson. However, the richest, most productive 5,000 acres on the tip of the peninsula christened the Hurricane Plantation, Davis kept for himself.<sup>115</sup> The Hurricane Plantation was owned by Joseph Davis, but its fields, livestock, gardens, and cotton gin were worked by the 355 Black people enslaved on the plantation.<sup>116</sup> Before the war, the Hurricane Plantation was notable not only for being enormously profitable but also for Joseph Davis's idiosyncratic vision for the management of the plantation. Before investing in cotton planting and enslaved labor, Davis had run a lucrative law practice and imagined himself as a modernizer and reformer of the South. Inspired by the labor management ideas of the Utopian socialist Robert Owen, Davis aimed to turn his plantation into a 'model community,' albeit one in which

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<sup>115</sup> Hermann, *The Pursuit of a Dream*, 6.

<sup>116</sup> 1860 Census, Warren County, Mississippi.

workers were still enslaved.<sup>117</sup> On the Hurricane Plantation, Davis limited the use of corporal punishment, allowed enslaved workers to earn their own money, preserved families, allowed for limited education, and encouraged the construction of relatively comfortable housing.<sup>118</sup> In order to run the complex plantation operations, Davis relied on an extraordinary enslaved man named Benjamin Montgomery. A polymath and autodidact, Benjamin was trusted by Davis to run all the plantation operations.<sup>119</sup> The relationship between Davis and Montgomery has attracted some scholarly attention, aided no doubt by their extensive correspondence before, during, and after the war. However, despite their unique and complicated relationship with Joseph Davis, Montgomery and the rest of the enslaved people at the Davis Bend plantations would seize their freedom at the first chance. That chance would come in early 1863.

On the night of February 24<sup>th</sup>, 1863, Benjamin Montgomery's fifteen-year-old Isaiah watched from the shore of Davis Bend as two Confederate warships ambushed and sank the Union ironclad *USS Indianola*.<sup>120</sup> While the forty-minute nighttime clash between the warships was dramatic, for young Isaiah, the sights and sounds of war had become increasingly familiar over the past few months. Thirty miles upriver from Davis Bend, Union forces under Major General Ulysses S. Grant were slowly grinding down Confederate defenses around the fortress town of Vicksburg. Joseph Davis and his family, along with all the white overseers, had long since left the Davis Bend plantations, fleeing to the Confederate interior. In their absence, some enslaved people seized their freedom, fleeing North to Union lines. Others, like the

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<sup>117</sup> Hermann, *The Pursuit of a Dream*, 4–5; Ross, “Freed Soil, Freed Labor, Freed Men.”

<sup>118</sup> Hermann, *The Pursuit of a Dream*, 11–33.

<sup>119</sup> Hermann, 17–20.

<sup>120</sup> Cowles et al., *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, 1880.

Montgomerys, remained on the plantations and continued normal operations. This limbo between freedom and slavery was a common state for many enslaved people in the Mississippi Valley. Most white planters and overseers had fled their plantations at the first sign of Union forces, even small patrols. This meant that thousands of enslaved families remained on plantations, nominally still enslaved yet free from direct white domination for the first time in their lives. Furthermore, free from white surveillance, many enslaved people moved openly between plantations, seeking out their separated families and forming new communities.<sup>121</sup> For many enslaved people, self-emancipation did not exclusively require an escape to Union lines. For many, emancipation came the moment that the whites left.

It is difficult to reconstruct exactly what this time was like, given that there are limited accounts of the freedpeople's self-management on these plantations abandoned by white enslavers and overseers. What can be said is that emancipation did not solely mean escape to Union lines or encounters with Union soldiers. Indeed, many freedpeople along the Mississippi were often as suspicious of Union troops as they were of Southern whites. Union armies often supplied themselves by foraging off the land – that is to say, forcibly confiscating food, clothing, and animals from nearby plantations and communities. Many freedpeople found themselves caught between enslavement by roaming Confederate forces or the confiscation of what little food they had at the hands of Union foraging parties.<sup>122</sup> The intensity of the antebellum slave regime, coupled with the intensity of wartime violence, seems to have engendered a general suspicion of white people, which seems to have been more common among freedpeople in the Mississippi Valley. As such, the various configurations of freedom that freedpeople enacted in

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<sup>121</sup> Foner, *Reconstruction*, chap. 3; Rodrigue, *Freedom's Crescent*, chap. 2.

<sup>122</sup> Hermann, *The Pursuit of a Dream*; Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*.

the chaos of late 1862 and early 1863 took on a uniquely independent character, perhaps resembling maroon and quilombo communities more so than the familiar refugee camps of border states. One of the few direct accounts of these independent Black communities comes from a Black soldier in the *Corps d'Afrique*, Corporal Octave Johnson. In his interview for the AFIC, Johnson recounts how he lived in the Louisiana Delta with other fugitive freedpeople before eventually enlisting in the Union Army.

I ran away to the woods, where I remained for a year and a half; I had to steal my food; took turkeys, chickens and pigs; before I left our number had increased to thirty, of whom ten were women; we were four miles in the rear of the plantation house; sometimes we would rope beef cattle and drag them out to our hiding place; we obtained matches from our friends on the plantation; we slept on logs and burned cypress leaves to make a smoke and keep away mosquitoes.<sup>123</sup>

Johnson's account illuminates several often-underreported aspects of the day-to-day realities of wartime Emancipation. On the one hand, his account reflects the extraordinary hardship and deprivation that enslaved people endured in order to escape their enslavers. On the other hand, Johnson's account also speaks to network of mutual support that developed between fugitive freedpeople and those still nominally enslaved on plantations. If nothing else, accounts like Johnson's draw attention to the complexity of emancipation along the Mississippi.

Another glimpse of what these ad-hoc communities may have looked like comes from Union Admiral David Porter's account of his first encounter with self-organized Black communities at Davis Bend. In the spring of 1863, Porter led a squadron of Union warships toward Davis Bend in an effort to recover the wreck of the ironclad young *Isaiah* had seen sink in

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<sup>123</sup> Testimony of Corporal Octave Johnson before the AFIC, Feb. 1864, Record Group 94: Records of the Adjutant General, Letters Received, file O – 328.

shallow water a few months earlier. In a letter to General Lorenzo Thomas, Porter describes the freed people at Davis Bend as "intelligent" and "very well educated," noting that "the majority of them concluded that it was best to stay on the plantation and go to work for themselves."<sup>124</sup> Porter goes on to describe how the self-organized Black communities along the shore "maintain themselves" while earning money by cutting wood for the Union steamers and providing meat and dairy products.<sup>125</sup> Porter concludes his letter by reflecting on the self-reliance and independence of freed people, stating simply, "They get a piece of land and go to work building houses."<sup>126</sup> The self-confidence, productivity, health, and organization of Black communities on liberated plantations stood in marked contrast to the disease, violence, and overcrowding that characterized Union refugee camps. This contrast between the federal mismanagement of refugee camps and the relative stability of self-organized Black communities became even more pronounced as the federal government struggled to put in place uniform policies to manage hundreds of thousands of newly emancipated people.

On the Fourth of July 1863, Confederate forces at Vicksburg surrendered to Grant. The fall of Vicksburg brought the entire Mississippi River under federal control and, along with it, hundreds of thousands of newly emancipated freedpeople.<sup>127</sup> With thousands of freedpeople already making their way to the Union lines and hundreds of thousands more expected, Grant turned to his General Superintendent of Freedmen, Col. John Eaton, to develop a plan for the management of freedpeople in Vicksburg and the surrounding area. Both Grant and Eaton shared

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<sup>124</sup> Rear Admiral David Porter to General Lorenzo Thomas, 21 October, 1863, Letter Received by Adjutant General Thomas, Colored Troops Division, Record Group 94; reproduced in Berlin et al., 3:746–49.

<sup>125</sup> Ibid.

<sup>126</sup> Ibid.

<sup>127</sup> Eaton, *Grant, Lincoln, and the Freedmen*, chap. IX.

a vision of wartime reconstruction that aimed to establish the conditions for freed people's self-sufficiency and freedom, all at a minimal cost to the federal government. Eaton, however, was unhappy with many of the existing systems and policies for the management of Emancipation. In a report to the AFIC in April 1863, Eaton had argued that of the over 22,000 freedpeople under his supervision in various refugee camps, the conditions were "very poor," lacking in the proper shelter, medical care, and clothing, and the proximity of the camps to the frontlines left them vulnerable to Confederate raids.<sup>128</sup> At best, Eaton believed that refugee camps should only serve to process freedpeople who fled to Union lines or had been liberated by Union forces. Instead, a more permanent solution should be found.

Eaton's concerns with the refugee camps were not wholly humanitarian. In his report to the Commissioners, Eaton argued that freedpeople required "instruction" in the correct notions of liberty, free labor, and the accumulation of property. In particular, Eaton argued that slavery had destroyed freedpeople's "innate love of possession, on which is based the acquisition of wealth, and all the relations of property."<sup>129</sup> Therefore, Eaton believed that any successful management of Emancipation required the federal government to instruct freedpeople on the value of private property, compensated labor, accumulation, and the "sacredness of contracts" in order to encourage the formation of "correct notions of liberty."<sup>130</sup> Eaton believed that any amount of charity – providing food, clothing, house, and especially land – free of any charge would only foster dependence and idleness among freed people.<sup>131</sup> Informed by this zealous

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<sup>128</sup> Eaton, John, 1829-1906. Letter to the Commission, Vicksburg, Mississippi, 1863 Aug. 27 and Sept. 11., 1863. United States American Freedmen's Inquiry Commission records, MS Am 702, (37), Box: 1. Houghton Library.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

commitment to free labor ideology, Eaton aimed to create a system of labor and land management that would simultaneously address the three major issues facing the federal government: 1) to provide a more permanent system for the management of refugee freedpeople, 2) to provide a reliable and profitable revenue stream for the federal government, especially through the cultivation of cotton on the confiscated plantations, and 3) to begin the transformation of the Southern economy from one of slave labor to free labor.

The task facing Eaton was daunting and reflected the same challenges and tensions that haunted federal officials struggling to manage emancipation across the South. However, unlike his counterparts in other parts of the liberated South, Eaton had a clear vision of how to accomplish these tasks. In a letter to a wartime correspondent, Levi Coffin, Eaton advocated for the creation of both a system of wage labor and a system of cultivation of abandoned plantations, both of which would be supervised by the military.<sup>132</sup> As Eaton wrote to Coffin –

“Cannot the coming season see springing up here and there all along this river a system of free labor not merely where these people work as formerly in large numbers on a plantation, but in which families are set apart and each has its 10, 15, 20, 40, 60, 80, or 100 acres for independent cultivation...”<sup>133</sup>

Eaton's plan for a wage labor system was similar to the general practice of providing some kind of wage for any labor done by a Black worker under federal supervision. However, Eaton's plan for the creation and supervision of independent Black homesteads and plantation cultivation

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<sup>132</sup> Letter from Eaton to Coffin, November 10<sup>th</sup>, 1863; quoted by Ross, 216.

<sup>133</sup> Ibid, also quoted Ross, 216.

represented a significant departure from previous policies.<sup>134</sup> This experiment in federally supervised independent Black landholding requires what Eaton described as "exceptional" Black farmers capable of self-directed work and enterprise.<sup>135</sup> Eaton believed that model Black communities, closely supervised by federal officials, would be the best way to rapidly transition to a free labor economy. Such a transition, Eaton believed, could not be accomplished in the overcrowded and poorly organized refugee camps. Rather, freedpeople would have to be moved out of the camps and placed on secure and liberated plantations, which they could then either work as wage laborers or be parceled out to families.

However, in the spring of 1863, it was unclear to Eaton where the best locations for these experimental free labor communities would be. For his part, Grant believed that he had found the perfect place for Eaton's experiment in free labor and Black self-management – the 11,000 acres of fertile land at Davis Bend. In a meeting with Eaton shortly before the fall of Vicksburg on July 4<sup>th</sup>, 1863, Grant instructed him to turn Davis Bend into a "negro paradise."<sup>136</sup>

### **Managing Emancipation at Davis Bend**

While Grant and Eaton discussed the plans for the transformation of Davis Bend into a 'negro paradise,' the freed people at Davis Bend continued to manage the plantations and maintain themselves. However, as fighting up and down the Mississippi Valley intensified over the summer of 1863, the relative safe havens of the Davis Bend plantations became overwhelmed with war refugees. The liberated plantation communities began to suffer from the same shortages of food and shelter, which affected the military refugee camps. To make matters

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<sup>134</sup> United States Army. Department of the Tennessee. General Superintendent of Freedmen. (1865). John Eaton, *Report of the General Superintendent of Freedmen: Department of the Tennessee and State of Arkansas for 1864*. Memphis, Tenn.

<sup>135</sup> Ross, "Freed Soil, Freed Labor, Freed Men," 218.

<sup>136</sup> Eaton, *Grant, Lincoln, and the Freedmen*, 83.

worse, Confederate raiders began to attack isolated Black communities – re-enslaving or killing hundreds. At Davis Bend, Admiral Porter had provided freed people with a limited number of rifles and ammunition. Self-organized militias of freedmen fought running battles with Confederate raiders.<sup>137</sup> Compounding the growing challenges facing the Davis Bend freedpeople, their nominal leader, Benjamin Montgomery, went north to Ohio.<sup>138</sup> The circumstances and reasoning for Montgomery's departure from Davis Bend are unclear, although it seems that he found work in the North and maintained a correspondence with Joseph Davis. In any case, Montgomery's absence from Davis Bend means that there are few sources to provide a reliable account of the events at Davis Bend over the summer and fall of 1863. What is certain is that the summer and fall of 1863 were probably some of the hardest endured by the Davis Bend community, and federal protection would be required in order to restore some kind of stability.

By November, the military situation around Vicksburg had sufficiently stabilized for Eaton to begin to enact his plan for the establishment of an independent Black colony on Davis Bend. Eaton's first plan involved enlisting the help of the Philadelphia Quakers to set up and manage the freedmen's colony. This plan which closely resembled the cooperation between the federal government and the so-called 'Gideonites' in the Sea Islands.<sup>139</sup> However, before Eaton could contract with the Quakers, a separate military-led mission was authorized to create and supervise the colony. Eaton, who had always preferred to maintain military authority over the management of freedmen, immediately assigned a reliable subordinate to direct the efforts at

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<sup>137</sup> Hermann, *The Pursuit of a Dream*, 40–43.

<sup>138</sup> Hermann, 42.

<sup>139</sup> Friends' Association Of Philadelphia And Its Vicinity, For The Relief Of Colored Freedmen. Executive Board, Samuel R Shipley, and African American Pamphlet Collection. *Report of the Executive Board of the Friends' Association of Philadelphia and Its Vicinity, for the Relief of Colored Freedmen: read at the annual meeting of the contributors, held at Arch Street Meeting-house, Philadelphia, 4th month 18th*. Philadelphia: C. Sherman, Son & Co., Printers, 1864.

Davis Bend. Col. Samuel Thomas was a twenty-three-year-old Ohioan whom Eaton described as a man who would "devote himself with willingness to the Negro cause."<sup>140</sup>

In mid-December 1863, Thomas led two companies of Black soldiers to secure Davis Bend and begin to resettle Black families on the land. Upon arriving, Thomas and the soldiers found around a thousand freedpeople already occupying the plantation, cultivating small plots of vegetables and tending to a few remaining livestock.<sup>141</sup> At first, Thomas and the soldiers focused on distributing rations and fortifying the neck of the peninsula to provide protection against Confederate raiders. With relative security reestablished at Davis Bend, the peninsula became a safe haven for refugee freedpeople. In a letter to Eaton in March 1864, Thomas states that nearly three thousand freedpeople had been settled on the five plantations.<sup>142</sup> The rapid increase in the number of freedpeople led Eaton and Thomas to begin providing leases to plots of land in order to encourage the planting and cultivation of both cotton and subsistence crops. Of course, both Eaton and Thomas recognized that many freed people had already been cultivating the land for many months without federal supervision or military protection. However, the purpose of the leases was not simply to prompt freedpeople to cultivate the land. Rather, the leases provided the formalized relationship between the federal government and freedmen as independent cultivators. As official leaseholders, freedmen were subject to the system of land and labor regulations that governed free property holders. By incorporating Black farmers into these formal regulatory frameworks, the federal government could claim a significant amount of authority over Black workers and cultivators. Of course, in exchange for increased federal

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<sup>140</sup> Hermann, *The Pursuit of a Dream*, 45.

<sup>141</sup> Hermann, 45.

<sup>142</sup> Samuel Thomas to Eaton, *Report 1864*, 35 - 36.

control over land and labor, freed people would now have a secure claim to the land – at least, theoretically.

Almost immediately after the first distribution of leases to freedmen was made, Eaton and the military Freedmen's Department became embroiled in an interagency battle with the Treasury Department. A year earlier, in March 1863, in order to curb abuses and corruption around the confiscation of land, the Lincoln administration had placed the management of abandoned land under the authority of the Treasury Department.<sup>143</sup> The Treasury Department had then begun to lease abandoned and confiscated plantations to Northern investors and land speculators. On Davis Bend, the Treasury Department had returned one of the five plantations, the Quitman-Turner estate, to its previous owners in exchange for a loyalty oath. Northern investors had also been allowed to purchase land on the Hurricane plantation.<sup>144</sup> Desperate to maintain control over some of the land, Eaton eventually persuaded General Lorenzo Thomas to reserve the remaining land on Davis Bend for the exclusive use and leasing of freedmen.<sup>145</sup>

With the land now secured for the use of freedmen, Eaton began to fully implement his plan of the development of a free labor community at Davis Bend. In keeping with his vision of wage labor existing alongside independent cultivators, Eaton issued a series of orders regulating labor and land at Davis Bend and the wider Mississippi Valley under his jurisdiction. In a Circular issued on March 26<sup>th</sup>, 1864, Eaton ordered that “All able bodied freed people must labor.”<sup>146</sup> The Circular goes on to state that the federal government will supervise freedpeople’s

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<sup>143</sup> Foner, *Reconstruction*; Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*.

<sup>144</sup> Hermann, *The Pursuit of a Dream*; Ross, “Freed Soil, Freed Labor, Freed Men.”

<sup>145</sup> Eaton, *Report 1864*, 39.

<sup>146</sup> Circular with Reference to Requiring Freedmen to Labor on Plantations. March 26<sup>th</sup>, 1864. Office of the General Superintendent of Freedmen, Orders and Circulars Received, Pre-Bureau Records, NMAAHC.FB.M1914

labor, both to ensure their safety and proper treatment but also to discourage idleness. Eaton's orders were clear – freedom under federal supervision would mean a continuation of compulsory, albeit paid labor. In addition to his orders mandating labor, Eaton also instructed Samuel Thomas to begin the process of subdividing and leasing of land to companies of freedmen was carried out. There were three kinds of land subdivisions in the initial round of leases to freedmen. The largest tract of land, about 1,000 acres of the Hurricane Plantation, was leased out to twenty-five freedmen who were selected by Thomas on the basis of their perceived skill for cultivation. These twenty-five freedmen leased plots between 10 to 150 acres. They would work the land either on their own, with their families, or with other Black workers hired for a wage or a share of the crop. A further 900 acres of the Woods plantation was distributed to forty-five farmers in equal plots of twenty acres. Together, these seventy Black lessees constituted the first free Black property owners on Davis Bend.<sup>147</sup> The last and most experimental subdivision of land was the allocation of 500 acres of the Jefferson Davis plantation for the creation of a “Home Farm.” The ‘Home Farm’ functioned as a communal center for the care of disabled, elderly, and infirm freedpeople who were unable to work on the plantation land. At the home farm, Black families cultivated small garden plots that raised enough food to sustain them, while a collective 'Freedmen's Fund' was established to pool a percentage of the wages of Black farmers to help pay for those who could no longer work.<sup>148</sup> Eaton noted that federal officials were concerned that Black workers would resist making payments to the collective fund for the care of the disabled, elderly, and otherwise dependent. However, to the contrary, Eaton noted that “they freely acknowledged that they ought to bear the

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<sup>147</sup> Thomas to Eaton, *Report 1864*, April 1864. 49 – 51.

<sup>148</sup> Eaton, *Report 1864*, 69.

burden of assisting the poor.”<sup>149</sup> The persistent willingness of Black communities to provide support for disabled and dependent freed people provided a powerful rebuke to white fears of a dependent class.

Over the course of the first full season of self-directed, independent cultivation, Black farmers consistently exceeded the expectations of federal supervisors. Samuel Thomas reported to Eaton that "The people have entered the work earnestly, laboring early and late, with an energy, industry, and close calculation of results that was hardly expected of them." Thomas would go on to report that despite a devastating loss of crop to armyworm, the first season of planting yielded 130 bales of cotton and provided each Black lessee with a profit of \$500 to \$2500 after rents and other expenses.<sup>150</sup> The free Black farmers at Davis Bend had proved that freed people were more than capable of independent economic success and self-support.

The success of the Davis Bend lessees in 1864 led to the expansion of land leases for the 1865 planting season. This new round of leases would be offered to so-called companies of Black workers in an effort to expand access to land to a greater number of freed people. Thomas's subordinate, Provost Marshal Gaylord Norton, drafted a set of "Rules and Regulations" for the establishment of cooperative companies to work the land. In order to apply for a land lease, freedmen were expected to form companies of three to twenty-five workers, with each member of the company receiving a share of the profit. To some extent, these companies encouraged cooperation and an equitable distribution of profits. However, the new rules and regulations for the 1865 season also increased the power of federal supervisors to regulate Black worker's labor and land use. Rule number 5, for example, required Black cultivators on Davis

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<sup>149</sup> Eaton, *Report 1864*, 21.

<sup>150</sup> Thomas to Eaton, *Report 1864*, 40.

Bend to use at least two-thirds of their land for the cultivation of cotton.<sup>151</sup> On the one hand, wartime cotton prices meant that even a modest yield could result in windfall profits for Black and white planters. On the other hand, Black cultivators felt increasingly constrained by federal regulations and supervision.<sup>152</sup>

Despite some concerns over the new regulations, a total of 181 companies were formed comprising 1,400 adults and 450 children, and 5,000 acres of plantation land were leased. Unlike in 1864, the 1865 season proved to be free of interference from white planters and crop failure. At the end of the season, the 181 companies plus the workers on the Home Farm produced approximately 12,000 bushels of corn and wheat and 1,736 bales of cotton. Together, this yield resulted in \$159,200 in profit for the lessees and a further \$26,000 for the Home Farm.<sup>153</sup> The economic viability of the Davis Bend experiment in independent Black cultivation and landownership was beyond doubt. Even outside of Davis Bend, Black lessees had proven their success as independent landholders and workers. Around Vicksburg, 180 Black lessees had worked nearly 6,000 acres of land and provided for the care and employment of almost 2,000 fellow freed people. Similar success in independent Black cultivation of land was noted in Arkansas, Alabama, and the Carolinas. Eaton reported that of all the forms of free labor and land management currently under federal supervision, “the independent Negro cultivator was without a doubt the most successful.”<sup>154</sup>

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<sup>151</sup> Gaylord Norton, *Rules and Regulations for the Government of the Freedmen at Davis Bend*, early 1865; reproduced in Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*, 3:867–69.

<sup>152</sup> Hermann, *The Pursuit of a Dream*, 67–87.

<sup>153</sup> Thomas, Report to the Senate, 1865

<sup>154</sup> Eaton, *Report 1864*

The success of the 1864 planting season at Davis Bend, coupled with the general success of Home Farms and leasing programs throughout the Mississippi Valley, encouraged Eaton and his War Department superiors that the combination of wage labor contracts, land leases to loyal whites, and land leases to freedpeople were proving successful. Eaton's 1864 report to the War Department argued that the primary challenge facing freedpeople was not a lack of capacity for hard work but the continuing threat of white violence and exploitation by Northern speculators.<sup>155</sup> Drawing on a report from Colonel Thomas, Eaton highlights that "If labor is paid well, it will work well, if it is paid poorly, the result will be the reverse."<sup>156</sup> Throughout the report, freedpeople's steadfast labor is praised, especially when it is independent of direct white supervision. In another letter to Levi Coffin on July 5<sup>th</sup>, 1864, Eaton writes of his astonishment at the success of freedpeople as self-supporting workers and cultivators - "in cities, on plantations, and in freedmen's villages and cared for; [there are] 72,500. Of these 62,300 are entirely self-supporting – the same as any industrial class anywhere else."<sup>157</sup> In the same letter, Eaton estimates that 7,000 acres of land had been leased and were being cultivated by Black lessees. In contrast to his criticism of white planters, Eaton argues that freedpeople are productive, hardworking, and committed to long term success.

In this sense, Eaton seems to have evolved in his own views over the course of 1863 to 1864. While Eaton continues to stress the need for military protection of freedpeople and the free land system, he appears much more committed to policies that encourage Black workers' autonomy and independence. Indeed, in this way, Eaton shifts from policies that stress federal

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<sup>155</sup> Ibid. 30-37

<sup>156</sup> Ibid. 34

<sup>157</sup> Eaton, *Grant, Lincoln, and the Freedmen*, 131.

guardianship over freedpeople to policies that provide protection and regulation of labor and land contracts. This shift is particularly noticeable in Eaton's emphasis on the dramatic reduction in the amount of rations the federal government provided to freedpeople in 1864. Again, in his report, Eaton notes that instead of a "Government burdened by Negro paupers," his superintendence has provided white refugees with twice as many rations without any form of repayment.<sup>158</sup> White Southerners, not freedpeople, emerge as the dependent class in Eaton's reports.

Despite all of his evolution, Eaton's transformation from a paternalistic Northerner overwhelmed by his prejudices against freedpeople's capacity for free labor to a champion of Black independence and self-support should not be overstated. Eaton's praise and support of the freedmen's colonies at Davis Bend and along the Mississippi River continued to be predicated on the orientation of Black cultivators toward commercial production. In other words, Eaton does not express federal support for Black people's autonomy outside of free labor relations. Black workers' resistance to wage labor, demands for direct redistribution of land, and, most of all, refusal to work continue to be harshly condemned by Eaton. Eaton and his subordinates would eagerly support Black people's freedom so long as it was aligned with *their* vision of freedom.

### **Nationalizing the Mississippi Valley Model**

Eaton's supervision of the Davis Bend project, along with his observations and interactions with freedpeople throughout the Mississippi Valley, had convinced him that a rapid transition to a free labor economy was possible under federal supervision. What was required, Eaton believed, was that national policy mimicked the successes of Davis Bend and the rest of the Mississippi Valley. Namely, that freedpeople be integrated into a system of large-scale

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<sup>158</sup> Eaton, 136.

plantation wage labor *alongside* independent commercial landownership. This land and labor system, coupled with federal oversight of labor contracts, leases, and education programs, would constitute the core of the post-Emancipation state.<sup>159</sup> By early 1865, with Confederate defeat imminent, Eaton turned his attention from the management of wartime Emancipation to the growing national debate on the creation of the post-war state. In this section, I show how Eaton successfully transmits key elements of the Davis Bend model into national policy, thereby influencing the development of the Reconstruction state. In particular, I argue that Eaton's lobbying efforts during a critical juncture of the Freedmen's Bureau bill shaped the Reconstruction state's land and labor policy. In short, Eaton would attempt to nationalize the Davis Bend model.

Throughout his tenure as the Superintendent of Freedmen for the Department of the Tennessee, Eaton carefully cultivated a reputation as one of the leading authorities of wartime emancipation policy and freedmen's affairs. In particular, Eaton became a keen observer of national policy and made several visits to Washington, D.C., to influence the Lincoln Administration and Congress directly. His first trip, in the summer of 1863, had led to a personal meeting with President Lincoln and an extended interview with the AFIC commissioners. In both these meetings, Eaton was able to impress upon Lincoln and the AFIC that the labor and land policies employed in the Mississippi Valley showed great promise. In particular, Eaton had emphasized the need to place freedpeople on the path to self-sufficiency either through wage labor, enlistment in the Army, or through the leasing of small plots of land to selected freedmen.<sup>160</sup> Eaton's second trip, made in the summer of 1864, led to another personal meeting

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<sup>159</sup> Ross, "Freed Soil, Freed Labor, Freed Men," 216.

<sup>160</sup> Eaton to the AFIC, Sept. 1863, AFIC records; Eaton, *Grant, Lincoln, and the Freedmen*, chap. VII.

with Lincoln in order to persuade him to restore the War Department's authority over confiscated lands, including Davis Bend. It was this trip, along with the efforts of Adjutant General Lorenzo Thomas, that arguably allowed Davis Bend freedmen to continue independent cultivation.<sup>161</sup>

However, while Eaton's first two trips to Washington had helped secure both his own authority and the continued support for the War Department's policies in the Mississippi Valley, it would be Eaton's third trip to the capital that would have the greatest impact on the development of the post-Emancipation state. In early 1865, Republicans in Congress were embroiled in a difficult legislative fight to pass a Freedmen's Bureau bill. Various versions of a bill establishing a freedmen's bureau had been debated since late 1863, and although the House narrowly passed a version of the bill in March 1864, the House bill ended the legislative session stalled in the Senate Select Committee on Slavery and Freedom.<sup>162</sup> When the debate reopened the following year, controversy immediately developed about whether the new agency would be located in the War Department or the Treasury Department. The conference bill, which emerged from Senator Charles Sumner's Committee on Slavery and Freedom, placed the Freedmen's Bureau under the Treasury Department. Sumner believed that the success of emancipation required 1) a more permanent federal guardianship of freedpeople and 2) the redistribution of land to freedmen. According to Sumner's reasoning, the Treasury Department's control of confiscated land and its well-developed civil bureaucracy made it the best home for the Freedmen's Bureau.<sup>163</sup>

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<sup>161</sup> Eaton, chap. VII; Hermann, *The Pursuit of a Dream*, 49.

<sup>162</sup> Belz, *A New Birth of Freedom*, chap. 5.

<sup>163</sup> Eaton, *Grant, Lincoln, and the Freedmen*, 209–11.

In an interesting convergence of opinions, Sumner's conference bill elicited strong reactions from both radical abolitionists and more moderate Republicans and Democrats. For differing reasons, both radicals and moderates argued that Sumner's bill would turn all Black people into a 'protected class' subject to permanent federal oversight. For anti-slavery advocates who wished to see full civil, political, and legal equality for freedpeople, the Sumner bill robbed Black people of individual agency and placed them in a state of dependency on the federal government. In a speech before the Massachusetts Anti-Slavery Society, the preeminent abolitionist Frederick Douglass reflected elite abolitionist suspicion of federal oversight - "What shall we do with the Negro?" I have had but one answer from the beginning. Do nothing with us!... if the Negro cannot stand on his own legs, let him fall also. All I ask is, give him a chance to stand on his own legs! Let him alone!"<sup>164</sup> Similarly, the Black-led newspaper, *The New Orleans Tribune*, advised, "Give him up at once to all the dangers of the horrid competitive system of modern commerce and civilization."<sup>165</sup> The harsh reaction from abolitionist circles no doubt reflected both a long-standing distrust of federal policy and, perhaps more significantly, the overwhelming influence of laissez-faire liberal capitalism. With both radicals and moderates arrayed against Sumner's proposal, a deadlock ensued.

Into this deadlock, Eaton arrived in Washington to lobby Congress to adopt a Freedmen's Bureau bill based on his experiences in the Mississippi Valley. Eaton, together with his subordinate Asa Fiske, began a concerted lobbying campaign with two goals in mind. First, Eaton hoped to persuade Congress to place the Freedmen's Bureau under the War Department rather than Sumner's preference for the Treasury. Secondly, Eaton aimed to enshrine both his

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<sup>164</sup> Douglass, "What the Black Man Wants," April 1865, Massachusetts Anti-Slavery Society

<sup>165</sup> Belz, *A New Birth of Freedom*, 99.

system of large-scale wage labor and Black independent landownership in the final version of the bill. According to Eaton's memoir, he focused on personally lobbying key members of Congress while Fiske conducted a public opinion campaign through the newspapers.<sup>166</sup> Eaton's arguments are recorded in a memorandum which he circulated among Congressmen. In the memorandum, Eaton outlines his position for favoring War Department oversight of the Freedmen's Bureau, claiming that the War Department has both the "power" and "instrumentalities" required to manage emancipation and assist freedpeople. Furthermore, Eaton argues that, unlike a civil department, the War Department will function as a temporary and transitional agency that will "[leave] the freedman a free man, with no invidious distinction between him and the white."<sup>167</sup> Thus, Eaton argues, any concerns of a 'permanent guardianship' can be assuaged, and all that is needed is the temporary management of freedpeople's transition from slavery to freedom.

While Eaton's arguments in favor of War Department oversight mirrored prevailing opinion among many military officers and politicians, his views on land and labor regimes reflect his unique perspective on the economic conditions in the South. In the second half of the memorandum, Eaton warns against "legislating the man [freedmen] underneath the plantation."<sup>168</sup> In what is arguably Eaton's clearest invocation of his experiences managing Emancipation, he emphatically writes, "Insofar as the plantations have influenced the policy pursued toward the black hitherto, that influence has been a disaster for him and the nation."<sup>169</sup> Eaton's forceful lobbying against the influence of plantation interests is mostly likely a reflection of his experience responding to the abuses of freedmen by Northern and Southern planters.

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<sup>166</sup> Eaton, *Grant, Lincoln, and the Freedmen*, 225–29.

<sup>167</sup> Eaton, 226.

<sup>168</sup> Eaton, 227.

<sup>169</sup> Eaton, 227.

Instead of acting exclusively in the interests of the planter class, Eaton argued that the Freedmen's Bureau should balance the needs of labor and capital while encouraging the creation of an independent Black landholding class.<sup>170</sup> A key aspect of Eaton's appeal was his emphasis on minimizing direct federal aid while maximizing the role of market forces in shaping the development of freedpeople as wage workers and landowners. In sharp contrast with earlier versions of the Freedmen's Bureau, Eaton did not support direct land redistribution to Black families. Instead, Eaton argued for the *sale* of confiscated land. As at Davis Bend, Eaton believed that the sale of land to freedmen accomplished the task of providing land to freedpeople while also encouraging freedmen to value private property.<sup>171</sup> For the Congressmen looking for a middle ground between outright confiscation and redistribution on the one hand and the prospect of a propertyless Black underclass on the other, Eaton's championing of land sales to freedmen was tremendously appealing.

Eaton and Fiske's lobbying efforts against Sumner's conference bill began to bear fruit in February 1865. That month, Rep. Robert Schenck, a Radical Republican in the House, brought an alternative bill to the floor. Schenck's bill reflected many of the policies which Eaton had been advocating. The most prominent difference from Sumner's bill was the placement of the Freedmen's Bureau under the War Department. However, it was the land provision that suggested a distinct influence by Eaton and the policies of the Mississippi Valley. Section 4 of the bill made clear provisions for the sale or rental of forty-acre plots of land to "every male citizen, whether refugee or freedmen."<sup>172</sup> It is notable that the land provision emphasized the sale

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<sup>170</sup> Eaton, 195–97.

<sup>171</sup> Eaton, Report 1864, 37 – 39.

<sup>172</sup> U.S., *Statutes at Large, Treaties, and Proclamations of the United States of America*, vol. 13 (Boston, 1866), pp. 507–9.

of land rather than direct redistribution – unlike General Sherman's famous Special Field Order No. 15. The bill's provision much more closely resembled the kinds of land sales and leasing that were being carried out in the Mississippi Valley. Indeed, while Eaton himself makes no such claims to have been the inspiration for the bill's land provision, his supporters would argue as much while campaigning for his appointment as the Commissioner of the Bureau.<sup>173</sup> Whatever the case of Eaton's direct influence on Schenck's alternative bill may have been, once introduced, Eaton and his supporters threw their full weight behind the bill.<sup>174</sup>

On March 3<sup>rd</sup>, 1865, the alternative bill passed through a second conference and was approved by both the House and Senate. President Lincoln signed it into law the very same day. The Freedmen's Bureau had been established as the first major institution governing Reconstruction. Given the creation of the Freedmen's Bureau and its particular orientation toward land and labor policy, it is now possible to consider the influence of Eaton and, through him, the freedpeople of Davis Bend on the trajectory of the Reconstruction state.

Eaton's influence on the development of the Freedmen's Bureau and the resulting character of post-war land and labor policy continued past his initial lobbying efforts. In the months following the establishment of the Bureau, Eaton was appointed as the assistant commissioner for the District of Columbia while his protégé Samuel Thomas was appointed as the assistant commissioner of Mississippi. For Thomas, the elevation to his new post brought only minor change since he was already supervising much of the area, including the continuing

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<sup>173</sup> For notable, albeit dated accounts that support the view that Eaton inspired the Freedmen's Bureau bills land provision, see LaWanda Cox, "The Promise of Land for the Freedmen," *The Mississippi Valley Historical Review* 45, no. 3 (1958); George R. Bentley, *A History of the Freedmen's Bureau*, Reprint 2016 (Philadelphia, Pa.: University of Pennsylvania Press, 1948). For more recent accounts that acknowledge Eaton's critical role in the Freedmen's Bureau debates, see Belz, *A New Birth of Freedom*; Foner, *Reconstruction*; Paul A. Cimbala and Randall M. Miller, eds., *The Freedmen's Bureau and Reconstruction: Reconsiderations*, 1st ed, *Reconstructing America*, no. 4 (New York: Fordham University Press, 1999).

<sup>174</sup> Eaton, *Grant, Lincoln, and the Freedmen*, 227.

project at Davis Bend. In their new positions, Eaton and Thomas worked to institutionalize many of the practices and policies from Davis Bend and the Mississippi Valley into the Bureau's post-war activities. Thomas, in particular, consistently cited the success of the Davis Bend community as evidence that free Black workers, under limited federal supervision, could maintain a productive enterprise both as wage laborers and as commercial landowners.<sup>175</sup> Davis Bend became a symbol of the Freedmen's Bureau's success, and the accomplishments of the Davis Bend freedpeople were noted by the national press.<sup>176</sup> One account in the *New York Times* described the success of the Davis Bend colony as follows:

The success of the plan of colonization, as adopted and practically carried out on the Bend, realizes all that could be expected. The freedmen have had a home, the Army relieved of their presence, they have been encouraged to do and act for themselves and learn the rudiments at least of self-responsible life and the whole plan, so far as possible, made self-sustaining.<sup>177</sup>

The Davis Bend community came to represent, at least in the minds of many Northern whites, the promise of Reconstruction. The freedpeople at Davis Bend had proved that the creation of a self-supporting, profitable, and self-governing society was possible in the immediate aftermath of Emancipation.

However, as a symbol, the Davis Bend community's impact on national policy often distorted as much as it clarified. On the one hand, the success of the Davis Bend colony was used

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<sup>175</sup> Samuel Thomas to Brig. General Lorenzo Thomas, June 15<sup>th</sup>, 1864, Letter Received of the Adjutant General, Colored Troops Division, Record Group 94. Reproduced in part in Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*, 3:834–41.

<sup>176</sup> Hermann, *The Pursuit of a Dream*, chap. 3.

<sup>177</sup> “The Freedmen’s Home Farm.; JEFF. DAVIS’ OLD PLANTATION.,” *The New York Times*, August 22, 1865, sec. Archives, <https://www.nytimes.com/1865/08/22/archives/the-freedmens-home-farm-jeff-davis-old-plantation.html>.

by Freedmen's Bureau officials to advocate for the sale of land to freedmen, bolstering hopes for the creation of a Black yeomanry. On the other hand, many of the elements that created the conditions for Davis Bend's success were either impractical or not implemented on a broader scale. In particular, Davis Bend's relative isolation, coupled with a strong military presence, protected the community from white violence, both during the war and its immediate aftermath. Throughout the South, even moderate Black economic success and assertions of independence were met with brutal violence. The Davis Bend community was largely spared such exposure to white terrorism. As a result, white Northerners could point to Davis Bend's economic success while avoiding discussion about white violence and federal inaction. As a symbol, Davis Bend aided the Reconstruction state in shifting the responsibility of Black uplift and racial justice from the state to individual freedpeople. The nationalization of the Mississippi Valley model, as transmitted first through Eaton and then to the Freedmen's Bureau, meant that the Reconstruction state could largely unburden itself from the long-term project of supporting Black people's material freedom.

## **(II) Legitimacy of Black Freedom**

In the context of the violence and challenges of wartime Emancipation, the success of communities like Davis Bend appears all the more remarkable. The relative stability of Black cultivators along the Mississippi River, coupled with their consistent economic success throughout the 1864 and 1865 planting seasons, is a testament to the capacity of freedpeople to thrive away from white domination. Additionally, the success of Black wartime cultivators and self-governing communities is likewise reflective of the significant federal resources that were mobilized in support of Emancipation. At Davis Bend, Vicksburg, Natchez, and other riverside communities, federal troops, often Black regiments, were deployed to protect freedpeople from

Confederate raiders.<sup>178</sup> Federal officials, like Eaton and Thomas, assigned to supervise and manage Black communities, advocated for additional protections for Black workers and encouraged further federal investment in integrating Black workers into wage contracts and land ownership. For the most part, the demands of Black workers for the full and timely payment of wages became a priority for military officials. Similarly, cases of fraud and extortion of Black cultivators' cotton sales were subject to federal oversight. And while federal resources were never sufficient to fully stamp out all wartime corruption, exploitation, and violence against Black workers, cultivators, and communities, state power was at least in principle oriented to ensuring Black people's integration into free labor capitalist relations. This extraordinary wartime reorientation of federal power begs the question – why? Why did the federal state spend significant resources to support some forms of Black integration?

The federal management of wartime Emancipation in the Mississippi Valley offers some clues to why communities like Davis Bend were championed while other configurations of Black community were neglected. I argue that Davis Bend, along with Black wage labor and independent, market-oriented Black cultivation, were supported because they engaged with economic and social relations that were legible to white officials and, by extension, to the federal state. The freedpeople at Davis Bend readily fit into the free labor imaginary of white Northerners. In particular, as shown in the chapter, freedpeople at Davis Bend were particularly praised for their orientation toward cotton production and property ownership.<sup>179</sup> In both cases, the sale of cotton and the leasing of land could be overseen and taxed by the state. These were

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<sup>178</sup> Manning, *Troubled Refuge*; “From Contraband to Freedmen: General Grant, Chaplain Eaton, and Grand Junction, Tennessee,” 2023; Amy Murrell Taylor, *Embattled Freedom: Journeys through the Civil War’s Slave Refugee Camps*, Civil War America (Chapel Hill: The University of North Carolina Press, 2018).

<sup>179</sup> Eaton, *Grant, Lincoln, and the Freedmen*, 131–36.

market and property relations that were legible to the state and could be legitimated through state power. For Black workers and cultivators, it was equally clear that their demands for fair wages and the sale of land would receive more positive responses from state officials than resistance to wage labor and demands for direct redistribution. Thus, as at Davis Bend, freedpeople used the language of self-support, free labor, and production to gain concessions from white officials like Eaton. For example, demands for land to lease and cultivate were framed as ways to absolve the state of its responsibilities to provide for Black communities.<sup>180</sup> Furthermore, Black people's labor, whether in the form of wage labor or leases on land, could be taxed as a form of revenue. The federal state, especially in its wartime form, sought to make Emancipation a profitable process, one which added to the central state's coffers rather than drain it of resources. In this way, Eaton's consistent championing of the productive and self-supporting nature of emancipated Black labor provided a pragmatic justification for continued federal support of free labor systems.

However, if, as I have argued in this chapter, the overwhelming focus of wartime Emancipation policy was on the creation and management of a free, self-supporting, and productive Black working class, what other forms or visions of freedom did it displace? After all, Emancipation produced a number of different configurations of freedom. Throughout the South, Black people created communities, worked the land, resisted exploitation, and negotiated concessions from white supervisors. To the limited extent that these communities and actions appear in government reports, correspondence, and federal policies, it is to suppress or reorient them toward legitimate forms of labor and community. For example, federal officials like Eaton consistently advocated for increased federal enforcement of fair and timely payment of wages to

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<sup>180</sup> Eaton, 150–56.

freedpeople by white employers. They note, throughout their reports, that the payment of wages is a central pillar of a free labor system and critical to the success of the Southern economy's transformation.<sup>181</sup> In turn, freedpeople relied on federal agents to press their claims for the full, fair, and prompt payment of wages for labor. For this particular relation, the federal government's regulation and oversight of labor contracts was welcomed by freedpeople. However, federal supervision of labor contracts could also reinforce the authority of employers over Black workers. Federal state power was thus channeled through the labor contract to maintain and reify the relationship between worker and employer. Alternate forms of Black labor relations – communal, subsistence, familial – were largely excluded from federal supervision and thus vulnerable to white violence and exploitation.

Even through the limited lens of federal archives, the selective legitimation of certain economic relations seems to have presented many freedpeople with a stark choice. On the one hand, they could risk living and laboring outside of the purview of federal power. Like the story of Octave Johnson's life with fugitive slaves or the woodcutting communities along the Mississippi River, such freedpeople's communities could maintain themselves through subsistence, mutual aid and communalist networks, and periodic wage work or production of cash crops.<sup>182</sup> However, in exchange for autonomy, these communities were exposed to white violence and re-enslavement, especially during the war. Alternatively, freedpeople could accept federal supervision and nominal protection in exchange for their labor, either as workers or soldiers. However, even under federal protection, freedpeople were still subject to violence and exploitation, albeit with some access to recourse through the federal state. For freedpeople, the

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<sup>181</sup> Eaton, Report 1864; also see discussion of wages in Saville, *The Work of Reconstruction*, chap. 2.

<sup>182</sup> Magdol, *A Right to the Land*, chap. 2.

navigation of these difficult choices between autonomy or safety and self-governance or supervision mediated their relationship to the federal state.

The federal state's management of Emancipation may have led to the narrowing of the possibilities of post-slavery freedom, but freedpeople nevertheless adapted and negotiated within the confines of racial and capitalist logics. As the advocacy of Eaton shows, freedpeople's successful navigation of wartime Emancipation produced a Reconstruction state that was more open to Black property ownership than it was at the outset of the war. Certainly, the persistence of freedpeople's demands for access to land ownership did motivate the federal state to support the sale of land to freedpeople over white Southern opposition. In the following chapter, I turn to the impact of freedpeople's wartime land and labor demands on the Freedmen's Bureau debates and the creation of the institutional infrastructure of the Reconstruction state. In the same way that freedpeople organized to resist and reshape wartime policy in Mississippi Valley so too would Black workers push the limits of white capitalist visions of Reconstruction in the post-Emancipation period.

## **Chapter IV**

### **Legislating Managed Emancipation – The Creation of Freedmen’s Bureau**

In January 1865, the death rattle of the Confederacy echoed across the South. Triumphant Federal armies relentlessly pursued the last remaining Confederate armies. In Virginia, Grant had finally been able to pin down Lee's once-unstoppable Army of Northern Virginia in a grinding battle of attrition around Petersburg. In Georgia and the Carolinas, Sherman's armies had torn the heart out of the Confederate economy – destroying supply and transportation hubs, seizing plantations, and liberating thousands of enslaved people. In all of these actions, Black workers and soldiers played a decisive role. Black workers supplied the Union armies with critical labor power, building supply networks, field hospitals, and siege works. Black soldiers, over 180,000 strong, fought in Union armies from Mississippi to Virginia. The military destruction of the Confederacy and the impending reunification of the United States meant that in the spring of 1865, the 38th Congress's attention was fixated on the aftermath of the war. On January 31<sup>st</sup>, the House took the first step in remaking the United States by passing the 13<sup>th</sup> Amendment and abolishing slavery permanently. Emancipation was no longer just a wartime policy – it was now a constitutional feature of the new United States.

As with any transitional period, the concomitant ratification of the 13<sup>th</sup> Amendment and the bloody conclusion of the war in the winter and spring of 1865 produced as many new problems as it resolved. On the one hand, the 13<sup>th</sup> Amendment marked the definitive nationalization of Emancipation as federal policy. Slavery was to be abolished throughout the United States, rebellious and loyal states. On the other hand, the federal policies that governed the transition from slavery to freedom throughout the war relied on wartime measures and wartime military power to function. The various wartime systems managed by military officers to supervise hundreds of thousands of freedpeople, Northern capitalists, Southern white planters, and white refugees risked collapse with the ending of the war. Congress and the rest of the

federal government needed to create an administrative and bureaucratic institution capable of managing Emancipation beyond the confines of wartime exigencies.

In the spring of 1865, Congress believed that it had created exactly such an institution – the Bureau of Refugees, Freedmen, and Abandoned Lands. The Freedmen's Bureau, as it would be popularly known, was charged with two herculean tasks. First, it was to provide immediate relief to the millions of war refugees, Black and white, in the South. The Bureau's second and most important task was managing the transformation of Southern society and the fashioning of non-slave labor and property relations between newly emancipated Black people and Southern whites.<sup>183</sup> Both of these tasks were direct continuations of the policies implemented during wartime Emancipation, albeit now governed by a centralized bureaucracy with nominally uniform policies. The Bureau was therefore meant to be a centralization and rationalization of wartime efforts, as well as the primary bureaucratic institution charged with the transformation of the postwar South.

Due to the particularly transitional nature of the Freedmen's Bureau, it has become something of an inflection point in story of Emancipation and Reconstruction – the point at which wartime Emancipation ended and postwar Reconstruction started.<sup>184</sup> Its legislative architects designed a Bureau that was meant to appropriate much of the state capacity gained during wartime federal state expansion while allowing for significant military demobilization. The Bureau would inherit the military's networks for the distribution of aid to refugees, regulatory regimes, and control over confiscated land. Unlike the military, however, the Bureau

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<sup>183</sup> Foner, *Reconstruction*, 68–69.

<sup>184</sup> Jeffery A. Jenkins and Justin Peck, *Congress and the First Civil Rights Era, 1861-1918* (Chicago London: University of Chicago Press, 2021); Belz, *A New Birth of Freedom*; Bentley, *A History of the Freedmen's Bureau*; Cimbala and Miller, *The Freedmen's Bureau and Reconstruction*; Robert C. Lieberman, "The Freedmen's Bureau and the Politics of Institutional Structure," *Social Science History* 18, no. 3 (1994): 405–37.

would use these aid networks and regulatory regimes to implement social policy aimed at transforming the Southern economy. This redirection of state capacity, usually reserved for times of war, to peacetime social policy has become one of the Bureau's most novel features. The dominant scholarly narrative of the Bureau has, therefore, tended to stress both the novelty of its mission and its administrative structure.<sup>185</sup> The focus on the Bureau as a unique and innovative federal bureaucracy, while important, obfuscates the *process* by which the Bureau was actually created. By refocusing attention on the long legislative process which provided the Bureau with its unique character, mission, and powers a new understanding of the relationship between the Freedmen's Bureau and its wartime origins emerges.

In this chapter, I focus on the legislative activities of the late 38<sup>th</sup> Congress to show how the lessons and policies of wartime emancipation structured the institutional and administrative framework of the Freedmen's Bureau. In particular, this chapter traces how the concerns governing wartime emancipation shaped the boundaries, priorities, and possibilities of the Congressional debates on the Freedmen's Bureau. Crucially, such an analysis shows that the Freedmen's Bureau, which was eventually legislated into existence in 1865, was of a fundamentally different character than the 'Bureau of Emancipation' that was first proposed in 1863. The two years of legislative debate were deeply informed by the realities of Emancipation throughout the South. Legislators on both sides of the debate eagerly appropriated wartime reports on the management of Emancipation to further their visions of the Freedmen's Bureau. The final result, as I argue in this chapter, is that the Freedmen's Bureau, which came into

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<sup>185</sup> W. E. B. Du Bois, "The Freedmen's Bureau," *The Atlantic Monthly*, March 1901; Lieberman, "The Freedmen's Bureau and the Politics of Institutional Structure"; Paul A. Cimbala, *Under the Guardianship of the Nation: The Freedmen's Bureau and the Reconstruction of Georgia, 1865-1870* (Athens: University of Georgia Press, 1997); Mary Farmer-Kaiser, *Freedwomen and the Freedmen's Bureau: Race, Gender, and Public Policy in the Age of Emancipation*, 1st ed, *Reconstructing America* (New York: Fordham University Press, 2010).

existence in March 1865, was just one of many visions of a post-Emancipation federal bureaucracy.

This chapter is organized into three sections. In the first section, I reconstruct ideological, political, and economic concerns that framed the two years of Congressional debate over the creation of the Freedmen's Bureau. In this section, I argue that the legislative evolution of the Freedmen's Bureau is only comprehensible in the context of wartime Emancipation. Recalling the reports of the AFIC and the activities of military officials, I show how disagreements over the role of the federal state and fears of the 'dependency' of emancipated Black people became the primary points of contention driving Congressional action. In particular, I argue that Congressional debates continued to mirror wartime concerns with an emphasis on short-term relief and economic reconstruction rather than the long-term welfare and empowerment of emancipated Black people. In other words, the Congressional battles over the purpose, structure, and scope of the Freedmen's Bureau were waged on the discursive and material terrain produced by wartime Emancipation.

In the second section, I turn directly to the Congressional debates themselves. Through a careful reading of the Congressional debates, I reconstruct a genealogy of the Bureau's legislative history and the numerous variations of the Freedmen's Bureau bills. Key to this reconstruction is the focus on the use of wartime reports by legislators to press for different administrative configurations and ideological orientations of the Bureau. The understanding of the Bureau that emerges from these Congressional debates is one that stresses the continuities of wartime priorities and policies, that is to say, that the Bureau was not just a product of wartime Emancipation but a reification of wartime concerns into the framework of the Reconstruction state.

In the third and final section, I discuss how the Bureau's contested legislative history and its wartime origins fundamentally informed the relationship of the federal state toward emancipated Black Americans. The Freedmen's Bureau debates transferred, abstracted and distilled the complexities of wartime Emancipation into the legislative language of the post-Emancipation federal state. The central tensions and priorities of the Freedmen's Bureau debates – the limits of state power, white fears of racialized dependency, and the supremacy of capitalist relationality – all become touchstones for the development of the postwar federal state.

### **Dependence, Vulnerability, and the Demands of the War**

As with any legislative process, the debates over the Freedmen's Bureau in the 38<sup>th</sup> Congress did not unfold in abstraction isolated from contemporaneous events. In preceding chapters, I have argued that wartime Emancipation was a complex process rather than a singular event – a process that was led primarily by military officials, reformers, aid societies, and freedpeople themselves, as they experimented with numerous policies and regulations to manage the transformation of the Southern society. From the beginning of the war, Congress had been largely playing catch-up to the fast-moving events on the frontlines. The movement of Union armies into the South and the appearance of self-emancipated and liberated freedpeople within Union lines *preceded* the passage of the Confiscation Acts in 1862.<sup>186</sup> Throughout the war, Congress was more often reacting to the actions of military officers and freedpeople than they were prefiguring or anticipating the demands of the war. The administrative and institutional infrastructure of the wartime federal state was being built in the contraband camps, liberated cities, and confiscated plantations of the South, not in the halls of Congress. And it was military

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<sup>186</sup> James Oakes, *Freedom National: The Destruction of Slavery in the United States, 1861-1865*, 1st ed (New York: W.W. Norton & Co, 2013), 107–10.

orders, regulations, and policies rather than Congressional legislation that constituted the framework of this new federal state. This was a process of state-building from the bottom up.

Nowhere was the lack of a Congressional framework more acutely felt than in the management of Emancipation. As I have shown in previous chapters, the process of Emancipation was initially governed by a patchwork of idiosyncratic policies and regulations enacted by military officials across the liberated South. Even the American Freedmen's Inquiry Commission was an attempt by the federal government to create a coherent and centralized framework for the management of freedpeople after the Emancipation Proclamation had already taken effect. From 1863 to 1865, the central government, whether the federal bureaucracy or Congress, was largely working within a framework not of its own making. The discursive, material, and political terrain upon which Congress legislated was fundamentally shaped by wartime forces unaffected by Congressional mandate.

The wartime context is, therefore, essential to laying the groundwork for the Freedmen's Bureau debates. In preceding chapters, I have shown how the American Freedmen's Inquiry Commission and military officials in the Mississippi Valley understood and responded to wartime demands of Emancipation.<sup>187</sup> In this section, I argue that the wartime activities of the AFIC, military officials, and aid societies, in turn, framed the debates in the 38<sup>th</sup> Congress around the creation of the Freedmen's Bureau. In particular, wartime Emancipation focused the attention of Congress on three questions that caused tensions in frontline policy. First was the question of the placement and jurisdiction of the Freedmen's Bureau – under which federal bureaucracy would the Freedmen's Bureau operate and derive its power? Second, the nature of the relationship between the Bureau and freedpeople. And third, was the duration of the Bureau's

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<sup>187</sup> See Chapters 2 and 3

existence beyond the war and the extent of the Bureau's power. Each of these questions would become flashpoints in the Congressional debates and delineate the character of the resulting Bureau. Therefore, it is critical to first understand each of the three tensions as the locus of the Congressional debates.

At first glance, the placement of the Freedmen's Bureau in the federal bureaucracy may seem like petty interagency rivalry and politicking. Certainly, some of the tensions between the War Department and the Department of the Treasury resulted from the political allegiances of their respective heads. The Secretary of War, Edwin Stanton, was originally a War Democrat and was seen as a conservative force on the question of Emancipation by Radical Republicans. On the other hand, Salmon Chase, the Secretary of the Treasury, was a stalwart abolitionist with strong connections to leading Radical Republicans like Senator Charles Sumner.<sup>188</sup> However, personalities and political allegiances aside, the placement of the Bureau had much more material consequences for the implementation of Reconstruction policy. The key difference between the two departments lay in their jurisdiction over the management of labor and land. The Treasury Department controlled much of the confiscated and abandoned lands in the South. The War Department, on the other hand, was charged with the supervision of freedpeople and, by extension, their labor.<sup>189</sup> Thus, a key problem arose when the War Department set the labor standards and wages and supervised Black workers yet had limited control over the confiscated lands upon which most of those workers labored. This untenable division between labor and land regulations came to a head in 1863 when the Lincoln Administration allowed the Treasury Department to establish its own labor regulations and lease land to Northern speculators. In the

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<sup>188</sup> Belz, *A New Birth of Freedom*, 79; Jenkins and Peck, *Congress and the First Civil Rights Era, 1861-1918*, 65.

<sup>189</sup> Belz, *A New Birth of Freedom*, 79.

Mississippi Valley, the transfer of authority over land leases and labor regulations had upset military officials like John Eaton and Lorenzo Thomas. As I argued in Chapter III, Eaton and Thomas argued that the Treasury Department's land leasing program had attracted Northern investors and speculators who cared little for Black workers and were looking solely to turn a quick profit.<sup>190</sup> Indeed, it was the Treasury's leasing program that temporarily jeopardized War Department freedmen's colonies like that at Davis Bend. However, while the Treasury's control over the management of freedmen and land was eventually rescinded by the Lincoln administration under pressure from military officials, there were some notable advantages to the Treasury-led Emancipation policy. Most notably, the Treasury regulations offered higher fixed wages to Black workers, and land leases were made available to a small number of independent Black cultivators.<sup>191</sup> In the Congressional debates, the tensions between the War Department and Treasury Department control of the Freedmen's Bureau would largely come down to whether Republican supporters believed that supervision of Black labor or the distribution of land would be the critical factor in producing a free labor Southern economy.

The second point of contestation in the Bureau debates would be the nature of the relationship between the federal government and emancipated Black people. As the reports of the American Freedmen's Inquiry Commission and federal officials in the Mississippi Valley demonstrate, it is difficult to overstate the resources and time that white officials invested in trying to understand emancipated peoples' orientation toward all aspects of freedom.<sup>192</sup> Surveys, testimonies, anecdotal evidence, and pure speculation would be constantly deployed by white

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<sup>190</sup> Eaton, *Grant, Lincoln, and the Freedmen*, 164–65.

<sup>191</sup> Regulations of the Secretary of the Treasury, Jul 29<sup>th</sup>, 1864; Letters Received by the Division, Record Group 56; reproduced in Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*, 3:539–43.

<sup>192</sup> See Chapter 2 and Chapter 3

Northerners in their attempts to understand and then manage Black peoples' desires and demands. Indeed, as both the AFIC's reports and Eaton's efforts in the Mississippi Valley show, much of the contestation driving wartime policies was a result of white Northern assumptions about Black peoples' needs, desires, and capacities colliding with the realities of emancipated Black peoples' actions. White officials' fears, misunderstandings, and prejudices drove much of the earliest federal actions and would continue to dictate federal policy throughout the Bureau debates. Chief among these concerns was an overwhelming fear of idleness among emancipated workers. This fear, as the debates show, was common on both sides of the aisle, with radical Republicans expressing fears of Black dependence just as often as openly white supremacist Democrats. The point of contention was not on whether Black dependence and idleness constituted a primary challenge for Reconstruction but on *how* it was to be avoided. For some champions of the Bureau, like Representative Thomas Eliot (R-MA) and Senator Charles Sumner (R-MA), federal superintendence of the freedpeople would have to take the form of an 'advisory guardianship' in order to inculcate free labor values in the emerging Black working class. For others, especially military officials like Eaton, wartime experiences had shown that Black workers succeeded as independent cultivators and workers under federally supervised labor contracts and land leases. For opponents of the model of benevolent guardianship, Black workers were to be treated the same as free white workers – free to work or starve, in the words of AFIC Commissioner Samuel Howe.<sup>193</sup> Throughout the Bureau debates, these two models of federal management of free Black workers would battle for dominance. Much of the compromise which forged the eventual Freedmen's Bureau would be determined by this division and the relationship of the federal government to the fashioning of free labor relations.

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<sup>193</sup> Howe to Eliot, January 1863, Howe, *Letters and Journals of Samuel Gridley Howe*.

Closely related to the Congressional fears of Black dependency was the battle over the duration and extent of the Bureau's power. Wartime Emancipation had revealed the tenuousness of the legal and indeed Constitutional basis of Emancipation as a federal policy.<sup>194</sup> The Lincoln Administration had justified the Emancipation Proclamation by reference to the President's wartime powers and it was military authority which had governed the management of Emancipation throughout the war.<sup>195</sup> Although the Freedmen's Bureau debates would occur during the wartime years of 1863 to 1865, the agency itself was always intended to govern freedpeople and Southern economic relations beyond the conclusion of the war. The problem of authority was thus clear to all legislators and military officials – how could they continue wartime policies without the authority provided by the war? For opponents of the Bureau, the constitutionality of both the Bureau's powers and, by extension, Emancipation itself were obvious targets of criticism. Accusations of federal tyranny and the usurpation of state's rights to govern their citizens drove much of the opposition to the Bureau.<sup>196</sup> Furthermore, the initial proposals for the Bureau, as the next section shows, did not include any limitations on the duration of the agency. In Sumner's bill, the Bureau was intended to be a permanent federal bureaucracy akin to the Bureau of Indian Affairs. Even among supporters of Emancipation, the idea of a permanent agency governing all aspects of Southern race, labor, and land relations proved difficult to justify. As a result, the temporality of the Bureau would become another point of contestation and compromise. Following similar patterns to wartime experiences, the push and

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<sup>194</sup> Robert Dale Owen, *The Policy of Emancipation: In Three Letters to the Secretary of War, the President of the United States, and the Secretary of the Treasury* (Philadelphia: J.B. Lippincott & Co, 1863).

<sup>195</sup> Gregory P. Downs, *After Appomattox: Military Occupation and the Ends of War* (Cambridge (Mass.): Harvard University press, 2019), chap. 2.

<sup>196</sup> Belz, *A New Birth of Freedom*, 80–83.

pull between short-lived government intervention versus longer-term guardianship shaped the temporal dimensions of the proposed policies.

Taken together, these wartime challenges provided the wrestling grounds for the Congressional debates over the Freedmen's Bureau. In January of 1863, the same month that the Emancipation Proclamation was enacted, the creation of a Freedmen's Bureau to manage the transition to a free society was far from pre-ordained. The conditions that would shape the Bureau were contingent on the antinomies produced by wartime Emancipation. Throughout the war, from the Mississippi Valley to the Sea Islands, military officials struggled to resolve the tensions between the creation of a productive capitalist economy and the demands of freedpeople for autonomy, security, and self-government. The fashioning of capitalist relations, as the actions of military officials throughout the South had shown, often required the federal government to push Black workers into labor contracts, which curtailed their control over their labor and reproduced forms of white domination over Black labor. And yet, the absence of federal supervision of land and labor relations also left freedpeople vulnerable to exploitation and white terrorist violence. To many federal officials and freedpeople alike, the space between too much federal intervention and not enough was an extraordinarily thin and treacherous one to navigate. The great challenge facing the legislators of the 38<sup>th</sup> Congress was whether they would be able to overcome the contradictions and challenges through the centralization of the management of Emancipation and its aftermath.

**Table 2 - Legislative History of the Freedmen's Bureau**

<b>Date Introduced</b>	<b>Bill Version</b>	<b>Primary Author</b>	<b>Location of the Bureau</b>	<b>Notable Features</b>	<b>Vote History</b>	<b>Result</b>
<b>December 22<sup>nd</sup>, 1863</b>	HR 51 - A Bill To establish a Bureau of Emancipation (House)	Rep. Thomas Eliot (R-MA)	War Dept.	Commissioners act as 'advisory guardians'; focus on wage labor	House Passed (Y- 69, N - 67) Senate Amended in Committee	FAILED
<b>May 25<sup>th</sup>, 1864</b>	HR 51 - A Bill To establish a Bureau of Emancipation (Senate)	Sen. Charles Sumner (R-MA)	Dept. of the Treasury	Maintains guardianship language; focus on distribution of confiscated land	Senate Passed (Y- 21, N - 9) House Failed (Y- 51, N - 71)	FAILED
<b>February 9<sup>th</sup>, 1865</b>	HR 51 - A Bill To establish a Bureau of Freedmen's Affairs (Conference)	Conference Committee - Eliot and Sumner	Independent Agency	Focus on the rights and civil protections of freedmen	House Passed (Y- 64, N - 62) Senate Failed (Y- 14, N - 24)	FAILED
<b>February 20<sup>th</sup>, 1865</b>	HR 698 - A Bill To establish, in the War Department, a Bureau for the Relief of Freedmen and Refugees	Rep. Robert Schenck (R-OH)	War Dept.	Applies to freedpeople and white refugees; Focus on labor contracts and the management of land	Senate Passed (Y - 21, N - 9) House Passed (Y - 89, N - 35)	Signed into law March 3rd, 1865

## The Creation of the Freedmen's Bureau

The legislative history of the various iterations of the Freedmen's Bureau bill coincided with the evolution of wartime emancipation policy. Depending on how they are counted, there were at least four major versions of the bill considered by Congress between January 1863 and its final passage in March 1865.<sup>197</sup> The Bureau's long and hotly contested legislative history speaks at least in part to its importance and its controversial nature. Though complex, the details of the Bureau debates shed critical light on the evolution of the Reconstruction state and, significantly, on how changes on the frontlines of emancipation shaped Congressional debates. Therefore, it is important to turn to the debates themselves to understand the reasoning and justification for the administrative and institutional architecture of the Freedmen's Bureau. In the following analysis of the Congressional debates, I argue that as the war progressed and conditions governing emancipation shifted, the vision of a Freedmen's Bureau focused on long-term guardianship and supervision of freedpeople became increasingly untenable. As I show, Radical Republican hopes for a permanent and wide-reaching Freedmen's Bureau were stifled by concerns of federal overreach and fears of the creation of a Black pauper class dependent on federal aid. In this section, I aim to trace the genealogy of the Freedmen's Bureau through its various evolutions, revealing how the debates produced a Freedmen's Bureau whose mission and powers were racked by contradictions.

### *A Bureau of Emancipation – House Debates in the Spring of 1864*

The idea for a 'bureau of emancipation' had its origins not in Congress but in the debate halls and meeting rooms of Northern abolitionist societies. As discussed in Chapter 2, the initial lobby efforts of a coalition of freedmen's aid societies from Boston, Philadelphia, New York, and

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<sup>197</sup> See Table 2

Cincinnati had already yielded significant federal action in the immediate wake of the Emancipation Proclamation. In March 1863, the American Freedmen's Inquiry Commission was established by the War Department to develop a comprehensive plan to manage wartime Emancipation and the transition to a free labor society in the South.<sup>198</sup> However, even though the creation of the AFIC was a major win for Northern reformers, aid societies wanted to secure a parallel process in Congress. All they required was a member of Congress capable of championing their vision of a 'bureau of emancipation.'<sup>199</sup>

Abolitionists and Northern reformers found their Congressional champion in Rep. Thomas Eliot, a staunch antislavery Republican from Massachusetts and chair of the House Committee on Emancipation. Responding to the lobbying of aid societies, Eliot first proposed a 'bureau of emancipation' in a bill on January 19<sup>th</sup>, 1863 – immediately following the enactment of the Emancipation Proclamation. Beyond being the first legislative action taken on the establishment of a bureau to manage Emancipation, Eliot's bill is also notable in its delineating the key features that would come to define the debate over the Freedmen's Bureau. The first version of the bill sought to establish a 'Bureau of Emancipation,' which would be led by a commissioner who would report directly to the Secretary of War. The commissioner was empowered with near total authority over all issues "touching the general superintendence, disposition, and direction of all persons, being freedmen of African descent."<sup>200</sup> The broad mandate given to the 'Commissioner of Emancipation' was itself a reflection of the uncertainty and lack of precedent that followed the immediate aftermath of the Emancipation Proclamation.

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<sup>198</sup> See Chapter 2

<sup>199</sup> Belz, *A New Birth of Freedom*; McPherson, *The Struggle for Equality*.

<sup>200</sup> "A Bill To Establish, in the War Department, a Bureau for the Relief of Freedmen and Refugees," Pub. L. No. H.R. 698 (1865).

Eliot's initial bill likewise did not mention any specific authority the Bureau was to have over labor relations, confiscated land, or the civil and political rights of newly emancipated persons. The ambiguity of the first bill, coupled with the uncertainty of wartime emancipation's success, meant that this first attempt at establishing the Bureau was sent to the Committee on Emancipation without a vote.

As Eliot's bill languished in committee, developments on the frontlines over the course of 1863 dramatically accelerated the national conversation on Emancipation. The liberation of the Mississippi Valley during Grant's Vicksburg campaign in the summer of 1863 had seen tens of thousands of freedpeople placed under federal supervision. Perhaps more importantly, initial efforts by military officials to implement wage labor and supervise the transition to a free labor economy had also begun to yield results at scale. By June 1863, the initial report of the AFIC had provided compelling evidence for the potential success of these various federal efforts. The Commissioners also reached two initial conclusions. First, that freedpeople were eager to exercise their freedom, work for themselves, and aid in the war effort. Second, that a 'bureau of emancipation' would be required to manage the transition from slavery to freedom.<sup>201</sup> However, in contrast to the paternalistic concerns of the aid societies, the AFIC's preliminary report warned against the creation of a "permanent guardianship," instead emphasizing the temporary nature of any federal supervision of freedpeople.<sup>202</sup> The AFIC's desire to balance, on the one hand, the clear need for significant federal action to manage Emancipation and reshape labor relations, with, on the other hand, fears of federal overreach would also come to define the terms of the Congressional debate.

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<sup>201</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*.

<sup>202</sup> Owen, Howe, and McKaye, 13–14.

The pivotal year of 1863 made it clear to Congress that some kind of central government response to the challenges of Emancipation was needed. Armed now with a clearer sense of purpose, Eliot introduced a second version of the bill, H.R. 51, on February 10<sup>th</sup>, 1864. As with the initial version of the bill, H.R. 51 specified that the bureau should be located in the War Department under the direction of a commissioner appointed by the President. In turn, the Commissioner would supervise the establishment of several superintendents and assistant commissioners to oversee operations in rebellious states. Similarly, the language of the broad and general supervision and management of freedpeople was maintained from the early drafts. However, in an additional section, H.R. 51 empowers the bureau and the Commissioner to set rules and regulations for land and labor relations – including the setting of wages, supervision of freedpeople's labor, the establishment of federally-managed plantations, and the limited distribution of confiscated land.<sup>203</sup> Unlike the broad and ambiguous language of the first bill, the second version outlines specific yet expansive powers to the Bureau of Emancipation. In particular, Section 3 and Section 5 of the bill called for the direct redistribution of confiscated and abandoned lands to freedmen. The language in Section 6 was particularly explicit in its vision of a federally managed land redistribution and labor supervision program – "superintendents shall have the power to assign lands to freedmen for cultivation, and to aid and advise them...to organize and direct their labor and adjust with them their wages."<sup>204</sup> Such a policy, if implemented, would effectively place the federal government in the role of benevolent guardian and labor supervisor. In each case, the additional powers of the bureau reflected the contemporaneous policies of military officials in the South.

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<sup>203</sup> "A Bill To Establish a Bureau of Emancipation.," Pub. L. No. H.R. 51 (1864).

<sup>204</sup> A Bill To establish a Bureau of Emancipation.

In his speech introducing the bill, Eliot articulated a vision of the Freedmen's Bureau deeply informed by the experiences of the reformers, bureaucrats, and military officers directly engaged in the management of newly emancipated freedpeople. At the beginning of his remarks, Eliot cites the findings of the American Freedmen's Inquiry Commission, noting that their preliminary report advocates for the creation of a central agency for the supervisor, care, and support of freedpeople.<sup>205</sup> He argues that unlike the gradual emancipations of the West Indies or the French colonies, the rapid emancipation of enslaved people in the United States during wartime has left freedpeople nominally free but without support or guidance. In Eliot's view, the exigencies of war did not absolve the federal government of the responsibility to care for freedpeople –

But it was not so, and upon the facts of history, it would be an act of meanness which no language can fitly describe and for which no national suffering could fitly atone, if we should leave those men, freshly freed after a life of servitude, children of the nation as they are, to grope their way into the light with parent, guardian or friend.<sup>206</sup>

The explicit calls for a direct guardianship of freedpeople by the federal government were, at least in Eliot's view, justified by the reports from the liberated parts of the South on the condition and needs of freedpeople. Drawing on the reports of the Western Sanitary Commission's tour of the contraband camps along the Mississippi Valley, Eliot notes that "hunger and neglect" are claiming the lives of thousands of freedpeople. He then goes on to argue that relief and aid are not enough since, once out of the immediate dangers of starvation and disease, the question of

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<sup>205</sup> Eliot, *Congressional Globe*, Feb. 10<sup>th</sup>, 1864, p. 569

<sup>206</sup> *Ibid.*

long-term care and support becomes essential.<sup>207</sup> Shifting from an appeal to common humanity to one of mutual profit, Eliot favorably cites the efforts of military officers in the Mississippi Valley to settle freedpeople on confiscated land and place them in government-supervised labor contracts.<sup>208</sup> What is notable about Eliot's speech is the emphasis he places on the need to not only provide immediate relief for emancipated freedpeople, but to also provide supervision, instruction, paid labor, and land where possible. Eliot, following his interpretation of wartime reports, presses for a bureau which is not only a relief organization but one focus on the direct guardianship and material support of Black freedpeople.

The bill and Eliot's speech provide insight into the challenges of transmitting wartime lessons into Congressional legislation. Like the AFIC, Eliot also believed that the flood of reports, circular orders, testimonies, and regulations coming from the field pointed to the need for a centralizing agency with considerable powers over freedpeople *and* white Southerners. However, unlike the AFIC, Eliot's bill continued to reflect the earlier demands of Northern aid societies, which emphasized the need for benevolent guardianship over freedpeople. Wartime policies, some directly influenced by the aid societies themselves, had already produced similar relations between federal officials and freedpeople as the ones that Eliot proposes in the bill. However, these policies also attracted significant criticism, not only from white supremacists but from military officials, reformers, and freedpeople themselves, all of whom were committed to Emancipation. Furthermore, unlike the bill, the most successful policies for the distribution of land to freedmen and the supervision of labor in the liberated South more often took the form of the supervision of private contracts and the leasing, rather than the direct distribution, of

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<sup>207</sup> Ibid. 570

<sup>208</sup> Ibid.

confiscated lands or the direct federal management of labor. Eliot and his fellow Radical Republicans soon learned that the bureau would have to tread a fine line between providing sufficient supervision, material support, and protection for freedpeople on one side and reducing freedpeople to the status of wards of the state with little autonomy on the other.

The guardianship provisions in the bill proved controversial even among members of the Committee on Emancipation. A minority report was issued by Rep. Martin Kalbfleisch (D – N.Y.) and Rep. Anthony Knapp (D – I.L.), two Democrats who were Unionists but opposed general emancipation. In their influential minority report, Kalbfleisch and Knapp's criticism rested on two general arguments. First, they questioned whether the establishment of such a bureau was within the legal power of Congress. Like many Democrats and moderate Republicans, they viewed the kind of broad expansion of federal power demanded by the bill as a gross infringement on both state's rights and individual rights. Secondly, their report charges that instead of providing protection, support, and aid to freedmen, the proposed Bureau would create "a new system of vassalage" in which the federal government simply replaced slave owners in the "hitherto existing relationship between slave and master."<sup>209</sup> However, it is critical to note that Kalbfleisch and Knapp's concerns about federal guardianship of newly emancipated freedpeople did not stem from a concern for freedpeople's independence and autonomy. As Kalbfleisch would argue in a subsequent debate on the bill, "a wholesome guardianship should be placed over [freedpeople]" but that it should be run by "philanthropists and charities."<sup>210</sup> The opposition to the bill rested almost entirely on the fears that such a bureau would turn freedpeople into a simultaneously privilege yet dependent class, entirely reliant on federal power

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<sup>209</sup> Minority Report of the Select Committee on Emancipation, 38<sup>th</sup> Congress, 2<sup>nd</sup> Session, January 20<sup>th</sup>, 1864, p. 2

<sup>210</sup> "Congressional Globe," 1864, 760.

for their status. Speaking in his bill's defense, Eliot argued that the Confiscation Acts gave the federal government complete authority over abandoned and confiscated lands and that the care of freedpeople also fell under federal rather than state authority. As to the fears of "a new system of vassalage," Eliot and fellow radical Republicans denounced such charges as unserious and insincere. For Eliot and the bill's backers, federal assistance was required in order to establish the material conditions for the creation of a self-sustaining and independent free Black community.

As the debates continued in the weeks after its initial introduction, Republican supporters of the bill shifted their rhetoric from Eliot's calls to common humanity and civic responsibility to the more practical aspects of the bill. The rhetorical shift from idealism to pragmatism is perhaps best represented by Rep. William Kelley's emphasis on the need to begin the transformation of the Southern economy from slave labor to free labor. In a speech in support of the bill, Kelley, a Republican from Pennsylvania, argued that the bill's land and labor provisions were simply a means by which the government could generate millions of taxable revenues while also providing freedmen with lessons in free labor.

The future welfare of the freedmen demands such action. They must not be permitted to contract habits of idleness, indolence, and vagrancy. The welfare of the people of the North demands it. They need the commodities yielded by this territory. Their industry is paralyzed by the want of cotton which will be produced on these fields and by the labor of these people. The world at large demands it. The absence of the well-directed toil of these very people upon the neglected lands now and soon to be within our lines has caused gaunt want and starvation to stalk through the manufacturing districts of Great Britain and the continent. And it is our duty, by prompt legislation, to stanch these wounds, as we can do by the

coming autumn. The provisions of this bill are well directed to that end.

Humanity, the spirit of the nineteenth century, and Christian civilization demand its immediate passage.<sup>211</sup>

Unlike Eliot, Kelley appealed to white Northerners' fears of economic crisis and racist beliefs that Black people lacked a strong work ethic. By reframing the Bureau as an institution aimed at managing Black labor rather than one that was concerned solely with Black people's welfare, Kelley made the bill much more tolerable to Republicans concerned with federal oversight of labor and property relations.<sup>212</sup> As the debate on the bill continued throughout February 1864, Kelley's rhetorical emphasis on the bill's pragmatic approach toward the management of Black emancipated workers and the creation of a productive free labor economy effectively shifted the terms of the debate. Republican supporters of the bill increasingly echoed Kelley's emphasis on the need to control Black labor. One Republican supporter, Rep. Hiram Price of Iowa, stated plainly that the bill was required to "direct in a proper channel the physical, and bone-and sinew energy of the black race..."<sup>213</sup> The appeals to racialized capitalist production quickly bore fruit.

Kelley's re-articulation of the bureau as an agency aimed primarily at managing and directing free Black labor power also helped close the ideological gap between republican free labor ideology and Eliot's paternalistic moralism. Kelley presented a vision for the Bureau that saw it engaging in the kind of moral uplift and tutelage that Eliot had advocated, except instead of a benevolent federal agent acting as teacher, free labor itself would be the process by which moral and economic uplift would be inculcated. In this sense, Kelley's vision of the Bureau

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<sup>211</sup> "Congressional Globe," 773.

<sup>212</sup> "Congressional Globe," 773.

<sup>213</sup> Belz, *A New Birth of Freedom*, 77.

reflected it? as a *republican* and *free labor* institution dedicated primarily to the creation of a productive and racially integrated economy rather than the guardianship of freedpeople. Such a Bureau would also represent a continuation of wartime policies such as those of John Eaton in the Mississippi Valley. Like Eaton's efforts in Mississippi, Kelley envisioned the Bureau pursuing a free labor policy based both on the supervision of labor contracts and the leasing of small tracts of land to freedmen.<sup>214</sup> Federal agents would thus be employed not as plantation managers but as regulators, managers, and arbiters of labor and land regimes. This pragmatic approach to the Bureau's mission also provided some comfort to Northern aid societies whose primary concern was the welfare and protection of freedpeople. While Kelley's republicanism may not have echoed their rhetoric as closely as Eliot's, the regulation of labor and land would mean that federal agents would be in direct contact with freedpeople – ensuring fair payment of wages, providing access to land, providing relief, and arbitrating disputes between freedpeople and white employers. The expansion of federal power and the promise of direct oversight of private labor and land contracts placated many reformers' fears of rapid descent back into slavery.

After nearly two months of debate, H.R. 51 passed the House with a vote of 69 to 67 on March 1<sup>st</sup>, 1864.<sup>215</sup> The bill passed without any Democratic support and with four Republicans also dissenting. Joining the majority of Republicans were the Unionists from the border states. The House bill was in content similar to the bill first proposed by Eliot in January 1863 and mirrored the broad recommendations found in the AFIC's preliminary report. However, what had shifted was the rhetorical and ideological orientation of the Freedmen's Bureau. The House

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<sup>214</sup>“Congressional Globe,” 1864, 773.

<sup>215</sup> “Congressional Globe,” 895.

debates had revealed that wartime pragmatism rooted more in production than paternalism swayed recalcitrant legislators to support federal intervention.

*Sumner's Vision – Senate Bills in Spring 1864*

The ideological and rhetorical fault lines that had been drawn in the House debates persisted as the bill made its way to the Senate in the spring of 1864. In the Senate debates, concerns over federal overreach and management of freedpeople continued to dominate the discussion. However, whereas the House vote had closely adhered to party lines, the debate in the Senate produced a more complicated set of divisions. In particular, some Senate Republicans wanted greater clarity on the exact relationship between the federal government and freedpeople. The rhetorical distinction that had evolved in the House between the federal government as guardian versus the federal government as labor manager became more pronounced in the Senate debates. This struggle over the precise relationship of the federal government toward Black workers forced major changes to the character of the bill itself. Understanding how the Senate debates reshaped the bill further illuminates the process by which short-term relief, economic reconstruction, and the management of Black workers supplanted the bill's earlier goals of material redistribution and federal protection of freedpeople.

To begin with, the bill that was introduced to the Senate had already gone through significant revisions while in committee. Sen. Charles Sumner had led the revision effort as the head of the Senate Select Committee on Slavery and Freedom. Sumner, a long-time critic of the War Department leadership, moved the placement of the Bureau from the War Department to the Treasury. Conflicting and overlapping labor and land policies in the Mississippi Valley and the Sea Islands had produced many partisans for both the War Department and the Treasury Department. While much of the tension between the two departments can be explained by simple

interagency rivalry, each department offered different approaches to the management of freedpeople. The War Department, favored as I've shown by military officials like Eaton, provided continuity between wartime policies and the expected postwar Reconstruction. Furthermore, the War Department could draw on military resources to provide protection for freedpeople. The Treasury Department, on the other hand, had nominal control over abandoned and confiscated lands and, in theory, could lease these lands to freedmen or establish government-run plantations.<sup>216</sup> This jurisdictional battle between the War Department and the Treasury seemed to have been at the forefront of Sumner's thinking during the redrafting of H.R. 51 in the Senate Select Committee on Slavery and Freedom. Unlike his House allies, Sumner, keen to wrestle away as much influence from the War Department as possible, dismissed the advice of military officials. In his memoirs, Eaton recalls a conversation between Dr. Asa Fiske and Sumner during the crucial months that the bill was being redrafted in committee. After hearing Fiske's concerns regarding the sidelining of the military, Sumner responded – "You gentlemen, are away off there on a little section of the perimeter of wheel. I am here at the center, sir, and sweep the whole circumference."<sup>217</sup> Between March and May 1864, the Freedmen's Bureau bill would be redrafted in Sumner's committee to Sumner's standards.

In addition to Sumner's revision of the bureaucratic placement of the Bureau, Sumner's version of the bill essentially doubled down on the language of guardianship, which had proved contentious in the House debates. In the version introduced in May 1864, five additional sections were added, each emphasizing the preeminent role of the Bureau as maintaining a "general

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<sup>216</sup> See Chapter 3

<sup>217</sup> Eaton, *Grant, Lincoln, and the Freedmen*, 210.

superintendence" over all freedpeople.<sup>218</sup> Furthermore, unlike the House version, the Senate version included explicit reference to the rights of freedmen – stating that it was the responsibility of the Bureau to “protect these persons in the enjoyment of their rights, to promote their welfare, and to secure to them and their posterity the blessings of liberty.”<sup>219</sup> The explicit invocation of rights language upset the earlier narrative that the bill was primarily aimed at providing practical supervision and management of emancipated Black workers. With the addition of the rights language, the Senate bill implicated the federal government in guaranteeing the civil rights of freedpeople. This provision immediately raised many questions for both supporters and opponents of the bill. What rights did freedpeople have? Would the federal government now be responsible for the protection of freedpeople’s rights but not the rights of non-Black people? What role, if any, would state governments play in governing newly emancipated populations?

After a brief delay, Sumner introduced the revised Freedmen’s Bureau bill in a speech on June 8<sup>th</sup>. In his opening speech, Sumner attempted to strike a balance between pragmatism and paternalism while also justifying his modifications of the House bill. Following a reading of the bill’s text, Sumner immediately turns to quoting directly from frontline reports including Eaton’s reports from the Mississippi Valley and the preliminary report of the AFIC. These reports, Sumner argues, reveal that “the freedmen are not idlers. They desire work.”<sup>220</sup> However, Sumner goes on – “But in their helpless condition, they have not the ability to obtain it [work] without assistance. They are alone, friendless, and uninformed. The curse of slavery is still upon them.

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<sup>218</sup> A Bill To establish a Bureau of Emancipation.

<sup>219</sup> A Bill To establish a Bureau of Emancipation.

<sup>220</sup> “Congressional Globe,” 1864, 2799.

Somebody must take them by the hand; not to support them, but simply to help them to that work which will support them.”<sup>221</sup> Sumner's framing of the challenges of emancipation reveals the complexities that the supporters of the Freedmen's Bureau struggled to articulate. As in the House debates, Sumner recognized that a pragmatic focus on free labor, production, and limited federal intervention were winning arguments among moderates. At the same time, Sumner, like Eliot, believes that the fashioning of a free labor economy will require the federal government to act as a guardian and tutor of freedpeople. As such, despite his suspicion of military officials, Sumner was eager to claim the successes of wage labor policies to support the bill while at the same time advocating for even greater federal intervention in the lives of freedpeople. In Sumner's view, the Emancipation Proclamation declared enslaved people free but did not provide a clear vision of what this freedom would look like. Wartime experiences, Sumner argues, have revealed one vision of freedom – "Faithful labor and reasonable wages!" However, he continues, it remained unclear how "these shall be secured?"<sup>222</sup> In short, Sumner argued that the question before the Senate was not about the nature of freedom but about the mechanisms by which that freedom would be secured for emancipated Black people.

Turning to this question of the mechanism by which freedpeople's liberty was to be secured, Sumner spends the rest of his opening remarks explaining the critical relationship between freedpeople's liberty and their connection to the land. In contrast to the House debates, in which freedpeople are envisioned as emancipated workers primarily engaged in wage labor, Sumner argued that freedpeople whose labor was inextricably tied to the land. In Sumner's words, Southern agricultural land is "natural and congenial" to freedpeople, and therefore, the

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<sup>221</sup> "Congressional Globe," 2799.

<sup>222</sup> "Congressional Globe," 2799.

superintendence of freedmen and the superintendence of land must be under the same jurisdiction, hence the placement under the Treasury.<sup>223</sup> In making his argument, Sumner was keenly aware that by tying the 'labor question' to the 'land question,' he risked being accused of advocating the creation of a serf class among the freedmen. For Sumner, this concern was misplaced – "Thus far in the sad history of this people Labor has been compelled by Slavery. But the case at last will be reversed. It will be Liberty that will conduct the freedman to the fields, protect him in his toil, and secure to him all its fruits."<sup>224</sup> In other words, Sumner envisions a Freedmen's Bureau tasked with the creation of a free and independent class of emancipated agricultural workers, guarded in their rights by the federal government, and tutored in the habits of freedom by federal agents.<sup>225</sup>

Sumner's opening remarks had, to his mind, balanced the need for a pragmatic system of labor and land supervision with a humanitarian concern for the guardianship of freedpeople. However, as with the House debates, the Senate debates in June 1864 would once again focus on the questions of the role of the federal government, the nature of superintendence over freedpeople, and the regulation of labor and land. Initial criticism of the bill came from the Democratic opposition. Senator William Richardson, a Democrat from Illinois, argued that the bill engendered preferential treatment for Black people and established freedmen as a protected class.<sup>226</sup> Another Democrat, Senator Thomas Hendricks of Indiana, questioned the placement of the Bureau in the Department of the Treasury, preferring instead its placement in the Department

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<sup>223</sup> "Congressional Globe," 2800.

<sup>224</sup> "Congressional Globe," 2800.

<sup>225</sup> Despite their animosity, it is interesting to note the broad similarities between Sumner's vision and Eaton's support for independent Black cultivators at Davis Bend.

<sup>226</sup> "Congressional Globe," 1864, 2800–2805.

of the Interior.<sup>227</sup> On the whole, the criticisms from Democrats could be dismissed by Sumner and his colleagues. For one, Sumner knew that he did not need Democratic support to pass the bill. Secondly, the Democrats had largely opposed wartime Emancipation at every turn, meaning that their amendments and critiques were aimed primarily at obstructing the creation of the Freedmen's Bureau.

However, to Sumner's astonishment, the most significant critiques of his revised bill came not from Democrats but from fellow abolitionist Republicans. Senator James Grimes, an antislavery Republican from Iowa, emerged as the leader of the opposition to the bill. Grimes accused Sumner and his fellow Republicans of treating freedmen not as free men but as wards of the state. Sparring directly with Sumner during the June 15<sup>th</sup> debate, Grimes attacked nearly every aspect of the bill, which gave Bureau agents direct control over freedpeople. Grimes questioned the bill's use of the term 'superintendence,' suggesting that such language implies that freedpeople will be unable to exercise their own agency over their lives and labor. Echoing similar criticism from the House debate, Grimes argued that by empowering the Bureau to establish year-long labor contracts for freedpeople, the Bureau agents would "confer the right to hold this man for twelve months as a slave."<sup>228</sup> What made Grimes' argument a particularly powerful critique of Sumner's bill was its invocation of freedom in contrast to Sumner's guardianship of freedpeople. In Grimes's words, "if they are free men, why not let them stand as free men?"<sup>229</sup> Sumner, in his responses to Grimes' challenges, argued that a superintendence over freedpeople was necessary precisely because their newly won freedom was vulnerable. In his

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<sup>227</sup> "Congressional Globe," 2933.

<sup>228</sup> "Congressional Globe," 2972.

<sup>229</sup> "Congressional Globe," 2972.

rebuttal of Grimes, Sumner argued that the destruction of slavery was being accomplished through the power of the federal government, and, therefore, the consequences of Emancipation were also the responsibility of that same federal government.<sup>230</sup> A federal superintendence over freedpeople, as the bill established, would be focused on securing the rights of freedpeople, not the limiting of their rights.

Over the course of their back-and-forth debate, Grimes made one argument that seems to have been difficult for Sumner and his allies to counter. Grimes drew particular attention to what he considered a paradox in the bill. On the one hand, the bill empowered the Bureau to set wages, regulate working conditions, collect revenue, and enter into contracts with freedpeople – powers which, in principle, would allow Bureau agents to protect Black workers. On the other hand, the Bureau was to be self-sustaining, and its operating budget was to be drawn from taxes on the labor and land it controlled. Grimes thought that these produced perverse and contradictory incentives since Bureau agents would be just as likely to use their control of labor and land to increase their revenue rather than empower Black workers.<sup>231</sup> Grimes's critique struck a chord among many Republicans. The provisions for such intense federal control of labor and land ran against the free labor and laissez-faire principles of republican ideology. The effectiveness of Grimes's critique shocked Sumner, who continued to argue that the language in the bill made it clear that the Bureau agents and the freedmen under their supervision would work together to enter into contracts, lease and cultivate land, and build communities. However, by the end of June, the combination of suspicions of federal power, concerns for excessive

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<sup>230</sup> “Congressional Globe,” 2973.

<sup>231</sup> “Congressional Globe,” 2971–73.

guardianship of freedpeople, and fears of the establishment of a "grand almshouse" for freedpeople continued to plague support for Sumner's version of the bill.

Grimes's critiques, however, were not aimed at sinking the bill entirely. Grimes supported the creation of the bureau and the securing of full and equal rights for freedmen. After their initial disagreements, Grimes, along with other Republicans like Senator Timothy Howe of Wisconsin, sought to amend Sumner's bill to remove the language of guardianship.<sup>232</sup> In a series of amendments, Sumner generally agreed to adopt Grimes' and Howe's revisions. For example, Sumner's original version included the phrase "held in service" to describe labor contracts, which was amended to "employed." Likewise, Republican critics pushed Sumner to add a clear statement of freedpeople status as *freemen* to the end of section 4 – "And every such freemen shall be treated in every respect as a freeman, with all proper remedies in courts of justice; and no power or control shall be exercised over him except in conformity with law."<sup>233</sup> The erosion of the Sumner's guardianship language shifted the nature of the Freedmen's Bureau from a federal bureaucracy aimed at directly assisting freedpeople to one which aimed to protect their rights and integrate them into free labor relations. As in the House debates, it was the belief in free labor's transformative power which won over arguments for temporary guardianship.

Despite his displeasure with the amendments, Sumner was successful in preserving both the language of 'general superintendence over freedmen' and the proposed Bureau's authority over both land and freedpeople. In defense of his views on the critical linkages between the distribution and regulation of land and the regulation of labor, Sumner continued to draw on the AFIC's recommendations and wartime reports. On this point, Sumner and his fellow Republicans

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<sup>232</sup> "Congressional Globe," 3299–3330.

<sup>233</sup> "Congressional Globe," 3299.

largely agreed – that labor and land must be regulated under the same jurisdiction.<sup>234</sup> Under this consensus and the bill's free labor makeover courtesy of Sumner's Republican critics, Sumner's version of H.R. 51 was put to a vote on June 28<sup>th</sup>, 1864. It passed along party lines 21 to 9, with a lone Republican joining the Democrats in a no-vote.<sup>235</sup>

### **Compromise and Passage**

For Sumner, the passage of his version of the Freedmen's Bureau in the Senate promised a rapid conclusion to the question of Emancipation's governance. However, the Senate debates had radically transformed the original House bill, and it would have to return to the House for a second vote. In the House, Sumner's revisions, in particular the placement of the Bureau under the Treasury doomed the passage of the bill, and the House tabled the vote until December 1864. Upon introducing the Senate version to a vote on December 20<sup>th</sup>, Eliot noted the significant revisions from the Senate and argued for a conference committee to be formed. In response, the House voted to reject the Senate version of the bill in a vote of 52 to 71, with Republicans forming the majority of no votes.<sup>236</sup> Unlike the Senate Republicans, the House Republicans aimed to maintain War Department authority over freedpeople and the economic reconstruction of the South.

The failure of the bill in 1864 led to a complicated interlude before the next version of the bill was presented in early 1865. Eliot and Sumner led a conference committee to reconcile the differences between the House and Senate versions. Among the chief concerns of the committee was the need to resolve the division over the placement and jurisdiction of the

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<sup>234</sup> "Congressional Globe," 3333.

<sup>235</sup> Congressional Globe, 3350.

<sup>236</sup> "Congressional Globe," 1864, 79–80.

Bureau. Eliot had expressed a preference for the War Department with a focus on the supervision of labor contracts. Sumner, of course, maintained a clear preference for the Treasury and a focus on land. Unable to break this impasse, the conference committee decided to sidestep the question altogether. Instead of placing the Bureau under the control of either the Treasury or War Departments, the conference bill instead sought to establish the Bureau of Freedmen's Affairs as an independent federal bureaucracy.<sup>237</sup> Additionally, the conference bill combined much of the language around the supervision of labor in the House version and the supervision of land in the Senate version. In his introductory remarks on the conference bill on February 2<sup>nd</sup>, 1865, Eliot argued that the conference bill had resolved the tensions around the placement of the Bureau and reconciled the competing concerns around the separation of labor and land regulations.<sup>238</sup>

Perhaps predictably, the conference bill failed to fully satisfy anyone, and criticisms similar to those from the 1864 debates were once again hurled at the bill. Critics in the House once again charged that the bill would create permanent federal supervision over freedpeople, sealing their fate as a protected class of dependents. Eliot, for his part, countered that the compromised conference bill, while not perfect, was absolutely necessary. Eliot once again drew on the petitions of freedmen's aid societies and wartime reports to emphasize the dire need for the creation of a Freedmen's Bureau.<sup>239</sup> Representative William Kelley (R – P.A.) also reemerged as a defender of the conference bill during the February 9<sup>th</sup> debates. Kelley, again taking a pragmatic approach, argued that the bill simply "elevate into independent, self-

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<sup>237</sup> Belz, *A New Birth of Freedom*; Jenkins and Peck, *Congress and the First Civil Rights Era, 1861-1918*, 67; "Congressional Globe," 1865, 562–64.

<sup>238</sup> "Congressional Globe," 1865, 563–64.

<sup>239</sup> "Congressional Globe," 690–92.

sustaining, self-governing, men and women the freedmen of the country."<sup>240</sup> However, even in Kelley's speech, the language of guardianship remained pervasive, with Kelley declaring that "we [federal government] are to guide him [freedpeople], as a guardian guides his ward."<sup>241</sup> The persistence of the language of guardianship, even in the conference bill, seems to have unnerved Republican critics much in the same way as during the 1864 debates. In the House, Eliot and his allies were able to maintain enough unity among the Republicans to narrowly pass the conference bill 64 to 62.<sup>242</sup> However, in the Senate, the conference bill failed with a vote of 14 to 24 only nine days later after Republican Senators from the western states, led by Grimes, withdrew their support.<sup>243</sup>

By late February 1865, a coalition of military officials, abolitionists, and moderate Republicans had formed to lobby for the passage of *some version* of the Freedmen's Bureau. Given the failure of the conference bill, supporters of the Bureau turned to yet another version of the bill – Representative Robert Schenck's proposal for the creation of a Bureau of Freedmen and Refugees (H.R. 698). Schenck, a Republican from Ohio, had originally proposed his bill as a way to include white refugees under the Freedmen's Bureau jurisdiction. With the failure of the conference bill, Schenck's broader and colorblind bill seemed to be the only viable option. A version of Schenck's bill was advanced as a second conference bill, this time aiming to avoid the perceived extremes of the previous bills. Schenck's compromised bill replaced the language of guardianship and general superintendence with the language of "supervision and

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<sup>240</sup> "Congressional Globe," 692.

<sup>241</sup> "Congressional Globe," 693.

<sup>242</sup> Congressional Globe, 694.

<sup>243</sup> Congressional Globe, 990.

management."<sup>244</sup> The broad powers to redistribute land, direct labor contracts, and enforce civil rights were likewise replaced with language that governed the sale and leasing of land and oversight of contracts. Gone were any remnants of Eliot and Sumner's language of advisory guardianship or an exclusive focus on freedmen. In its place, the Freedmen's Bureau would advance a colorblind vision of a free labor society. It was this compromise bill that eventually passed both the House and Senate – establishing the Freedmen's Bureau on March 3<sup>rd</sup>, 1865.

The nearly two years of wartime debate and compromise ultimately created a Freedmen's Bureau that reproduced, rather than remedied, the same challenges facing federal officials and freedpeople during wartime. As with the challenges facing Eaton and his subordinates in the Mississippi Valley, the Freedmen's Bureau would struggle to balance the requirements of building a free labor, capitalist economy with the demands of freedpeople for greater independence and control over their lives. To address this challenge, the Bureau attempted to use its limited powers to channel Black rights claims into areas under its jurisdiction, especially labor contracts. In turn, Black workers quickly learned to work within the confines of the contract to push for greater autonomy and rights. This dialectical relationship, like the contested relationships between wartime officials and emancipated freedpeople, would be the engine that powered the development of the Reconstruction state.

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<sup>244</sup> Congress.gov. "Text - H.R.698 - 38th Congress (1863-1865): A Bill To establish, in the War Department, a Bureau for the Relief of Freedmen and Refugees." <https://www.congress.gov/bill/38th-congress/house-bill/698/text>.

## **Chapter V**

### **Governing through Contracts – The Freedmen’s Bureau, Rights Claims, and Administrative Capacity**

On May 30<sup>th</sup>, 1865, the newly appointed Commissioner of the Freedmen's Bureau, Major General Oliver Otis Howard, issued a set of "Rules and Regulations for Assistant Commissioners."<sup>245</sup> The circular acted as one of the founding documents for the Bureau and aimed at directing its efforts during the crucial first year of its existence. Throughout its twelve sections the circular lays out a vision of the Bureau as an extension of the federal government, empowered by the President and laws of Congress to ignore or overturn local courts, local statutes, and other "old codes" which do not comply with the laws of the United States.<sup>246</sup> In a single circular, Howard dismissed any notion of federalism or divided sovereignty – the former slave states were now subordinated to the Freedmen's Bureau whose jurisdiction effectively covered all economic, political, and civil activities involving freedpeople and white refugees.

At the same time that Howard's circular asserted the Bureau's authority over Southern states, so too did it reaffirm its authority over the lives of freedpeople. Howard directed his Assistant Commissioners to "do all in their power to quicken and direct the industry of refugees and freedmen" and to "render the people self-supporting."<sup>247</sup> Any government relief or aid given to freedpeople was to be temporary, and "exact accounts" were to be kept so as to ensure the repayment of relief debts by freedpeople. Freedpeople would be expected to labor for their support and security. The Bureau was to encourage freedmen to enter into labor contracts, oversee the enforcement of the terms of the contract on both parties and guard against a return to "compulsory unpaid labor and acts of cruelty and oppression."<sup>248</sup> In other words, the labor

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<sup>245</sup> O.O. Howard, Circular 5, May 30<sup>th</sup>, 1865, War Department, Bureau of Refugees, Freedmen, and Abandoned Lands, Headquarters Records, Circulars Issued, NMAAHC.FB.M742.

<sup>246</sup> Ibid.

<sup>247</sup> Ibid.

<sup>248</sup> Ibid.

contract would become the Bureau's primary tool with which they would eradicate the "old system" of slavery *and* initiate freedpeople into free labor relations.

The Freedmen's Bureau's early circulars evidence a clear continuation of the familiar rhetoric and concerns of wartime Emancipation. Like its various wartime predecessors, the Freedmen's Bureau aimed to remake the South in the image of Northern free labor ideals. Such a task required the Bureau to wield unprecedented federal power over workers, employers, and property owners. As political scientist Robert Lieberman argues in his study of the Freedmen's Bureau, "The bureau constituted an experiment in social policy as well as in institutional development...the first federal antipoverty program, the first attempt to impose broad federal authority over individual citizens through bureaucratic means."<sup>249</sup> Lieberman's appraisal of the Bureau reflects the dominant view of the Bureau in most scholarly literature, namely, that the Bureau was an expansion of federal bureaucratic power and an early expression of the welfare state.<sup>250</sup> However, while the Bureau's reputation as an "experiment in social policy" is well-established, the particular means by which this experiment was actually conducted remains understudied among scholars of institutional development. To better understand how the Bureau actually implemented policy, built an administrative capacity, and managed the development of a free labor economy, the focus must shift from its institutional structure to the *tools* it used to exert federal authority. For this, the work of historians like Amy Dru Stanley and Tera Hunter provides critical insight into the Bureau's channeling of state power through contracts.<sup>251</sup> Both

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<sup>249</sup> Lieberman, "The Freedmen's Bureau and the Politics of Institutional Structure," 406.

<sup>250</sup> Du Bois, "The Freedmen's Bureau"; Foner, *Reconstruction*; Cimbala and Miller, *The Freedmen's Bureau and Reconstruction*; Bentley, *A History of the Freedmen's Bureau*; Daniel Backman, "'A Vast Labor Bureau': The Freedmen's Bureau and the Administration of Countervailing Black Labor Power," *Yale Journal on Regulation* 40, no. 2 (2023): 837–74.

<sup>251</sup> Stanley, *From Bondage to Contract*; Tera W. Hunter, *To 'joy My Freedom: Southern Black Women's Lives and Labors after the Civil War* (Cambridge, Mass.: Harvard Univ. Press, 1998).

Stanley and Hunter, along with others shed light on the central importance of the contract as governing tool that was used to reshape labor, land, and, in their respective studies, gendered relations.

In this chapter, I redeploy the insights of social historians around the importance of contract regimes to better understand the particular nature of the Bureau's reinvention of federal power. Specifically, I aim to describe two aspects of the Bureau that are often overlooked by scholars of state development - 1) the spatial and relational dimensions of the Bureau's application of federal power and 2) the Bureau's channeling of Black rights claims into contract processes. In both cases, the Bureau continued to develop practices first implemented during wartime Emancipation, especially with regard to the management of racialized labor relations. However, the Bureau, unable to fully rely on wartime federal powers, had to use a more limited administrative capacity to address the demands of Reconstruction. As a result of this limitation, I argue that the Bureau pursued governing strategies that emphasized oversight and arbitration rather than direct intervention. Such a strategy, I argue, resulted in a form of state power that governed through labor and property relations, which, in turn, limited the possibilities of Black rights claims. This 'contract governmentality' would come to define post-Emancipation state power.

This chapter is organized into three sections. The first section describes the spatial and relations aspects of the Freedmen's Bureau's deployment of federal power. Drawing on accounts from the first encounters between Freedmen's Bureau agents and freedpeople, I show how, despite their limited numbers, Bureau agents came to represent the authority of the federal state for freedpeople. Field offices became outposts of the federal state – sites of state building and the contestation of state power. In turn, I argue that the physical presence of Bureau agents also

transformed the relationship of freedpeople and white Southerners to the federal state.

Freedpeople and white planters alike would try to appropriate the federal state in the form of the Bureau to press their claims and shape the development of the post-Emancipation South.

In the second section, I turn from the spatial and relational aspects of the Bureau's state-building program and focus on the Bureau's use of the contract as a tool of governance. The significance of the contract as the primary tool of management can be seen in the circulars of the Assistant Commissioners and their reports. Contracts came to represent a quantifiable metric by which the Bureau could demonstrate its progress in reshaping the Southern economy. Additionally, in this section, I draw on freedpeoples' testimonies to show how the form and language of the contract was used to press rights claims over labor and land.

In the final section, I conclude with a discussion on how the Bureau's use of federal power and its focus on contract relations remade the post-Emancipation federal state. In particular, I draw attention to the ways the Freedmen's Bureau complicates binary assessments of the 19<sup>th</sup> American state as either laissez-faire or interventionist. Indeed, I argue that the Freedmen's Bureau actually represents the rise of the managerial type of American state, which is characterized more by the management of racial, economic, and political relations than it is in either direct intervention or nonintervention.

### **Administrative Capacity and the Geography of Federal Power**

Just as the Congressional debates had prefigured, the Freedmen's Bureau was immediately plagued by seemingly insurmountable contradictions between its mission and its powers. The Bureau was charged with not one but two monumental tasks – the provision of aid and relief to the hundreds of thousands of war refugees, Black and white, and the construction of a free labor economy. Both tasks were unprecedented in American history, and the agents of the

Bureau often found themselves pioneers in social welfare and social engineering policy. Despite these imposing tasks, the Bureau lacked clear powers to actually implement its policies. The fears of federal tyranny and Black dependency, which dominated the opposition to the Bureau in the Congressional debates, had resulted in a Bureau without a secure source of funding and unclear executive powers. As with its various wartime predecessors, the Bureau would have to be largely self-sustaining and innovative in its exercise of federal authority.

These two challenges – the need for self-sustaining funding and the need for administrative capacity – have long shaped scholarly assessments of the Bureau. A general consensus among scholars of Reconstruction agrees that the lack of secure funding and limited administrative capacity hampered the Bureau’s effectiveness.<sup>252</sup> The focus of most studies is, therefore, on the extent to which the Bureau was a 'weak' or a 'strong' expression of federal power. Some scholars, notably Du Bois and later Foner, argue that the Bureau was a relatively strong and successful bureaucracy, pointing to its successful distribution of food, clothing, and shelter, its management of thousands of labor contracts, and its adjudication of labor and civil disputes among freedpeople and white employers.<sup>253</sup> In contrast, other scholars argue that the Bureau largely failed in one of its central tasks – the protection of emancipated Black people – noting the Bureau's inability to police white violence and to extend federal power.<sup>254</sup> Interestingly, such dissimilar assessments of the Bureau often rely on similar measures of the Bureau’s administrative capacity. Most commonly cited are the number of active Bureau agents and the number of field offices. At the end of 1865, only 470 agents were assigned to the

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<sup>252</sup> Foner, *Reconstruction*; Bentley, *A History of the Freedmen’s Bureau*; Cimbala and Miller, *The Freedmen’s Bureau and Reconstruction*.

<sup>253</sup> Foner, *Reconstruction*; Du Bois, *Black Reconstruction in America*; Lieberman, “The Freedmen’s Bureau and the Politics of Institutional Structure.”

<sup>254</sup> Downs, *After Appomattox*; Manning, *Troubled Refuge*.

Bureau. Even at its peak, the Bureau never had more than 900 agents managing its offices spread out across fourteen Southern states and Washington, D.C.<sup>255</sup> Adherents to the ‘weak’ Bureau argument point to such numbers to show the Bureau’s small footprint in the South. But for advocates of the ‘strong’ Bureau view, such numbers must be placed in the context of the 19<sup>th</sup> century federal state. In this context, even the Bureau’s limited size constituted a significant expansion of federal administrative capacity.<sup>256</sup>

However, the debates over the Bureau’s effectiveness have largely glossed over the ways in which Bureau agents actually performed their tasks and attempted to implement policy. Historians have long drawn on the field office records for on-the-ground accounts of Reconstruction as a social process.<sup>257</sup> In such accounts, it is clear that for many freedpeople, the scattered Bureau field offices, schoolhouses, and hospitals were manifestations of the federal state. The traveling Bureau agent touring plantations and adjudicating labor disputes was the embodiment of the state. These accounts offer a different perspective by which to assess the role of the Freedmen's Bureau in the evolution of federal power and administrative capacity. In particular, I argue that Bureau agents leveraged their jurisdiction over Black people's lives to grow federal power and generate revenue. In this way, the Freedmen's Bureau was not only an expansion of federal administrative capacity but a reorientation of the relationship of the federal state to those it sought to govern. The construction of federal administrative capacity through the management of freedpeople's lives is, therefore, a key aspect of understanding the nature of

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<sup>255</sup> Steven Hahn et al., *Freedom: A Documentary History of Emancipation, 1861-1867: Series 3, Volume 1: Land and Labor, 1865*, vol. 1, 3 (University of North Carolina Press, 2017).

<sup>256</sup> Bensel, *Yankee Leviathan*.

<sup>257</sup> Stanley, *From Bondage to Contract*; Hunter, *To 'joy My Freedom*; Saville, *The Work of Reconstruction*.

Reconstruction-era state-building. In this section, I focus on two aspects of the Freedmen's Bureau reconstitution of administrative capacity, which I argue are both novel and significant.

First, I consider the *spatial* aspects of the Freedmen's Bureau activities. Unlike other agents of the 19th-century state - such as judges - Bureau agents exercised their authority in locations where federal presence had been rarely felt during the war. Agents traveled directly to freedpeople's communities - entering into their homes and overseeing them at their workplaces. In addition to the novelty of the physical spaces in which agents exercised power, the Bureau extended its power through the management and oversight of labor and property relations. While the federal, state, and local governments had, to varying degrees, enforced labor and property contracts, the Freedmen's Bureau's use of labor and property contracts to fashion free labor relations was a dramatic departure from previous federal involvement in labor relations.<sup>258</sup>

Of course, in both its spatial and relational character, the blueprint for the Bureau's reinvention of federal power lay in wartime Emancipation. The AFIC's reports and the experiences of military officials like Eaton had demonstrated that the extension of federal administrative capacity through the management of freedpeople's lives was both desirable and possible. It is important to remember that the AFIC's surveys had assumed that federal agents would have to have access to nearly every aspect of Black people's lives in order to aid in the transition to freedom.<sup>259</sup> The theoretical management of emancipated Black people was quickly given its practical form in the refugee camps, federally managed plantations, and freedmen's colonies established during the war. Upon its establishment, the Freedmen's Bureau inherited many of the personnel and practices of wartime Emancipation. Chief among these practices was

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<sup>258</sup> Schmidt, *Free to Work*.

<sup>259</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*.

the close management of the movement and location of freedpeople. In his first annual report, the newly assigned Commissioner of the Freedmen's Bureau, O.O. Howard cites the success of his General Order No. 138, an order which "enable[d] the Assistant Commissioner to reduce the surplus population of the cities, villages, and other places where refugees and freedmen have gathered during the war."<sup>260</sup> Bureau records show that such transportation of war refugees and freedpeople often did reflect the wishes of those being transported. Freedpeople who had been separated from their families or driven from their homes looked to the Bureau to help them locate their families and return home. However, the Bureau was also concerned with the increasing concentration of Black workers in cities and the resultant labor shortages on plantations and agricultural areas. Again, Howard notes these practices in his annual report,

Finding the plantation negroes inclined to leave their homes and go to the cities, villages, and military posts, with no good prospect of work or support, I deemed it best to have the agents at those places adopt a system like the ordinary intelligence office, and use every effort in their power to procure good places, where they could find support...<sup>261</sup>

Like many federal officials, Howard was suspicious of concentrations of idle freedpeople, especially in cities and towns. One of the first tasks of the Bureau was, therefore, to gain control over the physical distribution of freedpeople. However, with limited manpower, the Bureau could not effectively manage large communities. Instead, freedpeople were encouraged to return to plantations and agricultural work. Broken up into smaller communities and families, the

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<sup>260</sup> Oliver Howard to Edwin Stanton, Annual Report of the Bureau of Refugees, Freedmen, and Abandoned Land, Dec. 4<sup>th</sup> 1865; reproduced in full by the New York Times, December 20<sup>th</sup> 1865

<sup>261</sup> Ibid.

Bureau agents believe that a combination of labor and familial bonds would limit freedpeople's desire to move and allow the Bureau to manage larger populations with fewer agents.

The Bureau's preoccupation with fears of Black workers becoming idle or not engaging in regular wage labor drove much of the Bureau agents' daily activities. Throughout the summer of 1865, newly assigned Bureau agents were ordered to tour local plantations and communities to report on the status of labor relations in their jurisdiction. Field agents were expected to regularly undertake tours of plantations, freedmen's communities, and independent farms within their jurisdiction. Reports from these tours again reveal the agents' preoccupation with the productivity and work ethic of Black workers. In Orangeburg, South Carolina, the chairman of the Commission on Contracts wrote to Commissioner Howard that a recent tour of plantations had shown that it was "very difficult to disabuse the negroes of the false and exaggerated ideas of freedom..."<sup>262</sup> He goes on to add that freedmen refuse to work for whites and that Black soldiers have told them that the property of their former masters is now theirs. Likewise, in Virginia, Union officers reported to Bureau agents that freedpeople were expecting land redistribution and had been encouraged in these ideas by Black soldiers.<sup>263</sup> Throughout the South, Bureau agents find that freedpeople are unwilling to contract with former slaveholders and willing to only work on land that they can own.

Nevertheless, the effect of federal agents' presence on plantations and work sites elicited complex reactions from both Black workers and white employers. Some Black workers enthusiastically welcomed the Bureau's presence on plantations. Bureau supervision of a labor contract could result in timely and full payment of wages, better working conditions, and lower

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<sup>262</sup> Hahn et al., *Freedom*, 1:216.

<sup>263</sup> Hahn et al., 1:198.

incidents of white violence. For example, in a letter to the Assistant Commissioner for Kentucky, Tennessee, and Northern Alabama, a group of freedmen appealed to the "United States Authority" to act as a "refuge of the oppressed" and to "securing us redress."<sup>264</sup> In Louisiana, a freedmen emphatically told a Bureau agent that "Before the war we looked upon the United States government as a government of oppression...but we are now satisfied after a four year war that we live under a free and just government."<sup>265</sup> As a protector against white violence and a guarantor of their freedom, the Freedmen's Bureau was embraced by freedpeople.

However, for other freedpeople, the Freedmen's Bureau could be seen as an enforcer of the economic interests of the planters. In the same way that Bureau agents fielded the petitions of freedpeople, so too did they listen to hundreds of appeals from white planters. In the testimonies of planters, the Bureau was either seen as an obstacle to the reimposition of white control of Black labor or as an ally to limit Black economic independence. Planter routinely complained to Bureau agents about Black workers breaching their contracts, refusing to work, or general disobedience. The cases that seem to have elicited Bureau intervention most often were those that showed evidence of a breach of contract by freedpeople. In the case of one Arkansas planter, claims were made that a freedman assaulted a white manager and then instigated a "revolt" against the plantation owner. In this case, the Bureau sentenced the freedman to three months of confinement.<sup>266</sup> In another case, a Georgia planter appealed to the Bureau to remove several families of freedpeople from his plantation. The planter had originally provided these families

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<sup>264</sup> Hahn et al., 1:262–63.

<sup>265</sup> Hahn et al., 1:235.

<sup>266</sup> Hahn et al., 1:564.

with small parcels of land in exchange for their contracted labor. According to the planter, the families then refused to work his plantation, preferring to only work their small plots.<sup>267</sup>

Regardless of the orientation of the Bureau agent's sympathies, the Bureau's direct engagement with workers and employers at labor sites transformed the relationship between the federal state and the workplace. Federal power had been largely absent from labor relations before Emancipation. Labor laws, including laws governing slavery, were impersonal and rarely conscripted the involvement of a federal agent.<sup>268</sup> The almost absolute personal power of the Southern planter over enslaved people was broken by the creation of the Bureau. Wherever a Bureau agent was present, the relationship between employer and worker became mediated by the central state. However, the mediating power of the Bureau agents did not always enforce a top-down vision of employer-worker relations. Rather, the Bureau's inconsistent commitment to enforcing 'mutually beneficial' arrangements between labor and capital, as well as Black and white communities, meant that Bureau agents often lacked clear guidance when enforcing claims. If a Bureau agent consistently enforced the claims of freedpeople over white planters, they would be accused of favoring the rights of freedpeople over white Southerners. Likewise, conspicuous capitulation to the demands of planters could undermine the rights of freedpeople. Thus, the Bureau agents themselves became contested figures, relentlessly pulled into the local struggles over labor, land, and the meaning of freedom. The Bureau's involvement in labor relations and the agents' physical presence at worksites was significant in that both Black workers and white employers gained access to federal power to enforce their competing visions of a post-emancipation economy.

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<sup>267</sup> Hahn et al., 1:571.

<sup>268</sup> Schmidt, *Free to Work*, chap. 3.

In addition to the Bureau agents' physical presence among Black workers and white planters, the Bureau's field offices themselves became sites where federal power was contested. The report of an Assistant Superintendent at Shreveport, Louisiana, dramatically illustrates how field offices were overwhelmed by the petitions of freedpeople and planters alike –

My office was visited by large numbers daily – The planters came to ascertain what was the policy of the government in regard to the negro, and to acquaint me with...the impossibility of cultivating the country without some means of “controlling” the persons of laborers...The Freedmen came to see me to know whether they were or were not free, and to obtain advice in regard to what it was necessary for them to do...<sup>269</sup>

The agent, W.B. Stickney, goes on to write that his counsel to both planters and freedpeople was that fair labor contracts would resolve both their concerns. Contracts, supervised by the government would provide planters with labor under binding terms and provide freedmen with employment. Similar interactions played out in field offices across the South. Planters would petition the Bureau to secure laborers for their plantations and discipline Black workers. Freedpeople would petition the Bureau to enforce the payment of their wages and protect them from abuse. In response, Bureau agents would often fall back on the terms of the contract as the primary means of arbitration disputes.

The Bureau's expansion of the spatial and relational dimensions of federal administrative capacity had created new avenues and sites for Black workers to make rights demands and enlist federal power in the struggle against white supremacist domination. However, at the same time

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<sup>269</sup> Hahn et al., *Freedom*, 1:233–35.

that the Bureau's interpolation of the state into previously private spaces and relations opened up new terrains of contestation, it also narrowed the language by which rights demands could be made.

### **Governing by Contract**

Throughout the summer of 1865, as the Bureau agents slowly took up their positions in the small offices and military outposts spread throughout the South, the challenge of continuing wartime emancipation policies in peacetime became increasingly apparent. The war, for all its horrors, did have the virtue of producing clear lines between rebels and freedpeople. The boundaries of wartime Emancipation were largely defined by the frontlines of the war, and, in turn, the federal government justified assistance to freedpeople as wartime measures. In the summer of 1865, with the war ended and the Confederacy destroyed, the ambiguities of peace meant that lines between freedpeople, white Southerners, and the state had once again become blurred. Stepping into this peacetime uncertainty, the Freedmen's Bureau was tasked with adjudicating and managing the relations between freedpeople and white Southerners without any undue partiality on the basis of race or class. Indeed, it was the colorblind nature of the final version of the Freedmen's Bureau bill that was perhaps most responsible for its passage.<sup>270</sup> The ostensibly race and class-neutral aspects of the Bureau's framework meant that it faced a great paradox at the heart of its chief objective – the Bureau was expected to reconstruct race and economic relations in the South without the use of race and class specific policies. This challenge led Bureau agents to find policies and language that would allow them to sidestep racial and economic moralizing in favor of bureaucratic detachment and neutral arbitration. Encouraged by wartime experiences and the central tenets of free labor ideology, the Bureau

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<sup>270</sup> Belz, *A New Birth of Freedom*, 106–7.

believed that the language of the contract was their best tool with which to govern Reconstruction.

The transition from wartime labor relations to dominance of the contract is exemplified in the early circulars and orders produced by Bureau Assistant Commissioners in the summer of 1865. In some districts, the transition from wartime policies to peacetime regulations could be traced through a single officer. Colonel Samuel Thomas, the wartime manager of Davis Bend and successor to John Eaton, transitioned to become the Assistant Commissioner for the State of Mississippi in May 1865. Thomas was an enthusiastic advocate for free Black workers during the war, having grown increasingly confident that freedpeople could succeed as wage laborers and independent cultivators. In his report on Mississippi Valley plantations in July 1864, Thomas wrote that "They [freedpeople] as a body, industrious, economical and determined in their efforts to sustain themselves."<sup>271</sup> Thomas also supported the leasing of land to freedmen and the fair treatment of Black workers.<sup>272</sup> That being said, one of Thomas's wartime laments was the lack of proper contracts between white planters and Black workers, stating in the same 1864 report that "I find that the planters have not executed the form of contract between themselves and their hands prescribed by this office..."<sup>273</sup> According to Thomas, the dislocations caused by Confederate raids and the movement of freedpeople in search of family, safety, or better work meant that any consistent contract system was nearly impossible to supervise. However, one year later, the end of the war and the establishment of the Freedmen's Bureau provided Thomas with the authority and capacity to establish such a system of supervised labor

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<sup>271</sup> Berlin et al., *The Wartime Genesis of Free Labor: The Lower South*, 3:836.

<sup>272</sup> Berlin et al., 3:836.

<sup>273</sup> Berlin et al., 3:839.

contracts. In a circular order sent out by Thomas in August 1865, Thomas emphasized the centrality of the contracts to the new system of economic and racial relations.

Contracts are of great importance to all parties concerned. Planter employing Freedmen must make a contract in writing with them as soon as practicable, and deposit a copy in the nearest office of the Freedmen's Bureau. Contracts are not only useful to educate the Freedmen, to secure them justice, and to teach them to deal with men; they also protect the Planters by holding the people to steady work, and by preventing disappointment to employers when labor is most needed. They are also useful to Officers; because, if Freedmen are lazy, or dishonest, it is easier to hold them to a contract intelligently made, than to enforce on them their duty in any other way.<sup>274</sup>

Thomas's circular is particularly illuminating because it casts the contract as a tool for racial and economic governance. The contract is a concrete way by which the federal government can both "secure justice" for freedpeople while also disciplining Black labor, all in an ostensibly race and class-neutral way. Additionally, the contract also provides a clear framework for Bureau agents, binding the power of the Bureau agents to the terms of the contract. For Thomas, the contract resolves many of the challenges faced during wartime Emancipation. It is a tool to constrain and discipline Black labor, to break the arbitrary power of white planters, and, most importantly, to provide the federal government with the means by which to fashion free labor relations.

Thomas's evangelical belief in the contract as the panacea for most of post-Emancipations challenges was, to varying degrees, shared by most Bureau agents. Commissioner

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<sup>274</sup> Hahn et al., *Freedom*, 1:153.

Howard had taken a similar stance to Thomas in Circular No. 5.<sup>275</sup> Across the South, Bureau Assistant Commissioners and their subordinates turned to the contract as the primary form of establishing and enforcing the creation of free labor relations. However, the Bureau agents' confidence in the power of contracts to contain racial and economic tensions proved unfounded. Both white planters and Black workers resisted entering into contracts. White planters found the terms of formal contracts overly constraining. Planters complained that they could not maintain discipline among their workers without the use of violence or some other means of coercion. One subordinate of Samuel Thomas, Chaplain James Hawley, reported that the planters he spoke to "could not endure the thought of giving up the blessed privilege of "licking a n\*\*\*\*r."<sup>276</sup> Hawley added that he believed that, in time, planters would learn that "violence is bad economy" and that "the control of *law* rather than of violence is better for all parties."<sup>277</sup> On the other hand, freedpeople resisted contracts that bound them to former enslavers. Even contracts that promised wages or a share of land were regarded with suspicion. The lengths to which Black workers were willing to go to reject contract labor is illustrated in a dramatic report from a white officer of the famed 54<sup>th</sup> Massachusetts Regiment touring plantations along the South Carolina coast in June 1865. Arriving at a plantation, the officer reported that "a state of hostilities exist between the owner of the estate and the freedmen thereon...some were disposed to allow no white men on the place, and rather than work under their old overseer they would leave the place. They looked upon the land and crops as wholly their own."<sup>278</sup> In other words, for freedpeople the contract seemed to reify their position as a laborer and white planters' positions as landholders. In the

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<sup>275</sup> Howard, Circular No. 5, May 30<sup>th</sup>, 1865

<sup>276</sup> Hahn et al., *Freedom*, 1:113.

<sup>277</sup> Hahn et al., 1:113.

<sup>278</sup> Hahn et al., 1:347.

early years after Emancipation, it seemed to many freedpeople that the difference between the power of the enslaver and the power of the employer was very thin.

In response to the Bureau's use of contracts to mediate and manage labor, land, and race relations, both freedpeople and planters learned to use the language of contracts to press their rights claims and interests. From the very beginning of the Bureau's administration of Reconstruction, thousands of claims of abuse, labor violations, and breaches of contract flooded Bureau offices.<sup>279</sup> Planters filed complaints against Black workers for a wide variety of reasons, but many combined a perceived insult with resistance to work. Writing to the Freedmen's Bureau Superintendent at Memphis, Tennessee, one Arkansas planter complains that freedmen in his employ "grossly insulted" his brother and then "instigated a revolt and brought most of the employees with him, stating that if he was discharged they would all leave..."<sup>280</sup> In order to enforce his claims, the planter enclosed the contract between himself and the freedmen. Contracts did not only contain provisions about work duties and wages, but they also included language that regulated Black workers' behavior and family life and empowered white employers to handle 'disputes' on the plantation. A contract between a Mississippi planter and 58 workers, most of whom were formally enslaved by him, stated that "indolence, insolence, disobedience of orders and crime will be suppressed by forfeiture of pay."<sup>281</sup> In the hands of white planters, contracts became tools for the subordination of Black workers to white authority. However, in this case, the federal government was charged with protecting and enforcing white supremacy under the guise of enforcing the contract.

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<sup>279</sup> Foner, *Reconstruction*, 153–70.

<sup>280</sup> Hahn et al., *Freedom*, 1:564.

<sup>281</sup> Hahn et al., 1:346.

Black workers also learned to use the language of the contract to enforce their rights claims and protect against abuses. In particular, contracts became a means to secure two of their most important demands – access to land and protection from white violence. By 1865, hopes for widespread land redistribution by the federal government were fading, even among the most hopeful freedpeople. Under the provisions of the Freedmen's Bureau, land had to be made available to freedpeople but only through sales, leasing, or renting agreements. With most of the best agricultural land still in the hands of white planters, Black workers often negotiated for plots of land in their labor contracts.<sup>282</sup> Even contracts that highly favored the employer, such as the above-mentioned contract of a Mississippi planter, Black workers contracted for anywhere between one-quarter an acre to one acre of arable land.<sup>283</sup> While not as significant as the 40 acre plots promised by various federal orders, these land agreements in contracts did provide some access to land ownership for freedpeople. Contracts were also seen as forms of protection against arbitrary white violence. The federal regulations established during wartime Emancipation had outlawed the use of physical coercion and violence in the enforcement of labor contracts, and these regulations were, in turn, formalized under the Bureau. Freedmen and freedwomen alike relied on federal supervision of contracts as a source of federal protection.<sup>284</sup>

The channeling of the struggle over the meaning of freedom into the language of the contract fundamentally changed the trajectory of Reconstruction. The contract system meant that the rights claims and political imaginaries of freedpeople had to conform, first and foremost, to a free labor economic system. The position of freedpeople as wage laborers with limited autonomy

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<sup>282</sup> Claude F. Oubre, *Forty Acres and a Mule: The Freedman's Bureau and Black Land Ownership* (Baton Rouge: Louisiana State University Press, 2012).

<sup>283</sup> Hahn et al., *Freedom*, 1:346.

<sup>284</sup> Foner, *Reconstruction*, 168–69.

was reinforced by the very contract system some Northerners had hoped would provide a path out of economic immiseration and subordination. Even in cases where contracts resulted in freedpeople gaining access to their own land, property ownership came with entanglements in debt obligations and the fluctuations of agricultural markets. Freedpeople remained largely constrained in their autonomy, if not by the particulars of the contracts themselves, then by the precarity produced by the capitalist relations that contracts generated. As a tool of liberation then, the contract succeeded primarily in liberating the federal state from providing for the material needs of freedpeople.

### **The State is Dead, Long Live the State**

At the end of 1865, after a little more than six months of existence, the future of the Freedmen's Bureau and the post-Emancipation state it represented stood at a crossroads. President Johnson's order to restore confiscated lands, coupled with his lenient approach to Reconstruction, had swept away any chance of meaningful land redistribution under the Bureau's authority. The new year would bring with it the first year without war and yet another fight in Congress over the Bureau and its vision for Reconstruction. That fight would result in another seven years of life for the agency, albeit to varying degrees of power and influence. However, even in its relatively short existence, the legacy of the Freedmen's Bureau was secured in the memories of its champions and detractors alike. In his 1901 *Atlantic* article, W.E.B Du Bois eulogized the Bureau as “one of the most singular and interesting attempts made by a great nation to grapple with the vast problems of race and social condition.”<sup>285</sup> Critics of the Bureau, especially white supremacists looking to discredit Reconstruction, recast the agency as federal tyranny, attempting to destroy white Southern society and usurp the rights of Southern states.

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<sup>285</sup> Du Bois, “The Freedmen’s Bureau.”

Among the few things its champions and critics could agree on was that the Freedmen's Bureau had transformed the relationship between the federal state and the American people, Black and white. The Freedmen's Bureau provided Americans with a dramatic example of what federal power looked like when applied to the most foundational relations in society.

Perhaps it is only natural then that the Freedmen's Bureau and its legacy have become a kind of Rorschach test of the role and character of the federal government. For those who wish to see an interventionist federal state, eager and able to reshape society and address great injustices, the Freedmen's Bureau merely lacked the power to accomplish its goals. For those who believe in fundamentally limited federal government, the Freedmen's Bureau's failure simply confirms the challenges and dangers in state-led social engineering. The Bureau's story is, therefore, an almost perfect analog for the debate between those who wish for an interventionist state and those who stress the limits of state power. However, as the Freedmen's Bureau has become ever more divorced from its historical context in service of abstract arguments, the material, relational, and institutional legacies of the Bureau and the state it built have been marginalized. In this chapter, I have argued that the policies and actions of the Bureau do not fit neatly into categories of 'interventionist' or 'laissez-faire.' Rather, the agents of the Bureau wielded state power in order to create social and economic relations whose functioning would free the central state from long-term responsibilities. It is important to recognize that the Bureau measured its own success by how *few* resources it was using, how little *relief* it was providing, and how many labor contracts it was managing. For Howard and the Assistant Commissioners, the *less* the Bureau did, the more successful its efforts. And yet, the Bureau's conscious self-limiting did not mean that the Bureau did not intervene in the lives of freedpeople and white Southerners. The power of the Bureau was keenly felt in every contract it supervised, whether it be a labor,

marriage, or land contract. By governing through contracts, the Freedmen's Bureau was able to manage and direct the transformation of Southern society while shifting most of its burdens onto individuals, especially freedpeople. The decision to intervene or withdraw depended less on state capacity and more on whether the situation threatened to disrupt free labor relations. Instead of a purely interventionist or non-interventionist federal state, the Bureau focused on establishing and then managing the boundaries of post-Emancipation life.

The Freedmen's Bureau is, therefore, better understood as an inheritor of the challenges that emerged from wartime Emancipation. The federal state had been ideologically and administratively unequipped to process the tremendous release of various visions of freedom, demands for economic and political transformation, and the self-assertion of freedpeople as a result of Emancipation. Like their wartime predecessors, the agents of the Freedmen's Bureau were tasked with attempting to manage a revolutionary process while maintaining the authority of the central state and implementing a vision of freedom that corresponded to the economic interests of the country. As with the wartime experiments, the Freedmen's Bureau struggled to find a solution when the needs, desires, and demands of freedpeople clashed with the Bureau's vision of free labor. For freedpeople, appeals to the Freedmen's Bureau for aid and support risked generating similar paradoxical situations to the ones that typified wartime Emancipation. If they requested aid from the Bureau, they would be seen as dependent. If they rejected aid but also refused legitimate forms of labor, they would be considered idle or rebellious. Even if they agreed to contract labor, they would then be bound both by the state and their employer to fulfill the terms of that contract. In all situations, any deviation from accepted forms of labor or community risked being outside of the Bureau's purview and, therefore, open to white violence. For these reasons, freedpeople learned to navigate within the limits of the Freedmen's Bureau's

vision of freedom. Freedpeople inherited a world not of their making, and yet it, within its confines, still managed to claim agency over their lives. This is perhaps one of the most durable legacies of the Freedmen's Bureau and the post-Emancipation state it represented – that it witnessed the creation and maintenance of Black people's various freedom dreams within the limited boundaries of the American state.

## **Chapter VI**

### **Reconstructing Racial Capitalism in the Age of Emancipation**

It must be remembered and never forgotten that the civil war in the South which overthrew Reconstruction was a determined effort to reduce Black labor as nearly as possible to condition of unlimited exploitation and build a new class of capitalist on this foundation. The wage of the Negro worker, despite the war amendments, was to be reduced the level of bare subsistence by taxation, peonage, caste, and every method of discrimination. – W.E.B Du Bois, *Black Reconstruction in America*, Ch. XVI, “Back Toward Slavery”<sup>286</sup>

In the penultimate chapter of *Black Reconstruction*, Du Bois declares that the Civil War did not end with the collapse of the Confederacy in 1865. The nature of the war may have changed, but the intensity and violence of the struggle persisted. The titanic clashes of vast armies of blue and grey had given way to a war of night raids, lynching, pogroms, and massacres – a war carried out by white supremacist terrorists against Black people attempting to fully secure their newly won freedom. In Du Bois's account, the federal state, at one time a ready and willing ally to Black freedom, had withered and retreated by the 1870s and 1880s, beaten back by what he called the "counter-revolution of property." Du Bois's tragic cycle of the triumph and ultimate defeat of Reconstruction has been canonized in historical and political literatures as one of the archetypal accounts of the progress-backlash model of Black politics. There are, as I have argued throughout this dissertation, many reasons to maintain Du Bois's canonical status. The story of Emancipation and Reconstruction is, in many ways, a story of a moment when African Americans seized freedom in the midst of a civil war and compelled a reluctant federal government to embrace the cause of Emancipation. Likewise, Du Bois's Marxist reading of

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<sup>286</sup> Du Bois, *Black Reconstruction in America*, 549.

Emancipation and Reconstruction, which cast freedmen as heroic proletarians, the Freedmen's Bureau as a dictatorship of labor, and white planters as capitalists in league with Northern financiers, has also maintained its relevance – albeit with some terminological modifications. However, perhaps the most influential aspect of Du Bois's account, at least among political scientists, has been his valorization of the Reconstruction state. In Du Bois's account, it is the intervention of the federal state, guided by an alliance of Black workers and Radical Republicans, which opens up the possibility for a multiracial democracy, and the subsequent retreat of the federal state from this ideal is, in turn, responsible for the destruction of the Reconstruction dream. Du Bois's positive account of federal state intervention has shaped much of the way contemporary political scientists and Black politics scholars have interpreted subsequent moments of progress and backlash, from the New Deal to the Civil Rights movement.

In this dissertation, I have endeavored to reexamine the relationship between Emancipation and federal state development and, by extension, the relationship between freedpeople and the federal state. I have shown, theoretically and empirically, that federal state intervention in Black people's lives repeatedly produced contradictory results. On the one hand, the federal government, both in wartime and throughout Reconstruction, created and exercised new forms of military and bureaucratic power to destroy slavery and lay the foundations for an integrated free labor economy. On the other hand, the federal government implemented a rigid vision of a post-Emancipation political economy, which confined visions of Black freedom to the freedom of the contract. I have suggested that this process of the state management of Black people's visions of freedom constitutes a form of *managed emancipation* rather than an attempt to fully incorporate Black people into the American political community. Furthermore, I have

argued that the federal government's dual goals of supporting Black communal self-support and the creation of a free labor capitalist economy produced too many contradictions and rendered federal management of Emancipation incoherent. Viewed from this perspective, wartime Emancipation and the Freedmen's Bureau emerge from the archive not as Du Bois's 'dictatorship of labor' but as vehicles for the interpenetration of central state power and capitalist logics. In turn, freedpeople, understanding the vital importance of securing federal support and protections, increasingly adopt languages of freedom and contestation that are compatible with capitalist freedom of wage labor, contracts, and property ownership.

These arguments, while primarily intended to intervene in the American Political Development literature on 19<sup>th</sup>-century state development, I argue that this new account of wartime Emancipation and federal state building also has broader implications for understanding the relationship between state power, Black politics, and capitalism. In this final chapter, I enlist the central findings of this study to reflect on three contemporary discourses.

First, I consider the meaning of racial capitalism in the context of federal management of wartime Emancipation. Contrasting a number of different definitions of racial capitalism, I argue that the process of Emancipation and the construction of a free labor capitalist economy by the federal government does not neatly fit the typical formulation of a system of racial differentiation and racial violence in service of dispossession, capital accumulation, and commodification. Rather, I argue that the federal state management of Emancipation instead reveals a variation of racial capitalism, which relies on the language of inclusion, racial uplift, and freedom to integrate racialized peoples into capitalist relations.

Second, I turn to the relationship between state power and racialization. Drawing on Barbara and Karen Field's concept of 'racecraft,' I argue that the post-Emancipation

(re)racialization of freedpeople by federal bureaucracies contributed to freedpeople's status as subjects requiring 'management' rather than as free and equal members of the political community.<sup>287</sup> In this sense, I suggest that 'racecraft' and 'statecraft' are mutually reinforcing processes, at least in the context of wartime Emancipation and the construction of the Reconstruction state.

Lastly, I conclude with a discussion of the relationship between state power and emancipatory politics, in particular, the political imaginaries of Black politics. In this section, I show how the legacies of Emancipation and Reconstruction suggest that there are limitations to state-led programs of inclusion and integration.

### **Racial Capitalism, the State, and Emancipation**

In recent years, the discourse over the various definitions, histories, and theoretical purposes of the term racial capitalism has generated a tremendous amount of scholarly activity.<sup>288</sup> For some, such as Cedric Robinson, the term *racial capitalism* referred primarily to a historical process and was meant as a corrective to deracialized Marxist accounts of the development of capitalist modernity.<sup>289</sup> Robinson, in his book *Black Marxism: The Making of the Black Radical Tradition*, argues that the Marxist developmentalist account of capitalism mistakenly assumes that globalization and proletarianization will rationalize and universalize class distinctions. Instead, Robinson argues, capitalism is in fact a product of, and infused with, European racialism – that is to say that the spread of capitalism also spread the logics of racial

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<sup>287</sup> Karen E. Fields and Barbara Jeanne Fields, *Racecraft: The Soul of Inequality in American Life*, Paperback edition (London ; New York: Verso, 2022).

<sup>288</sup> Destin Jenkins and Justin Leroy, eds., *Histories of Racial Capitalism*, Columbia Studies in the History of U.S. Capitalism (New York: Columbia University Press, 2021).

<sup>289</sup> Cedric J. Robinson, *Black Marxism: The Making of the Black Radical Tradition*, Revised and updated third edition (Chapel Hill: The University of North Carolina Press, 2020).

differentiation.<sup>290</sup> Therefore, in Robinson's framework, the African slave trade and the racialization of enslaved people was a logical evolution of European racial capitalism. Though Robinson's particular historical account is contested, the broad view that racist logics aid in the production of capitalist relations has become influential.

In contrast to the limitations of Robinson's conceptualization, the more recent invocations of racial capitalism have sought transform the term into a general conceptual framework. One of the most fully developed theoretical articulations of racial capitalism is found in Jodi Melamed's article "Racial Capitalism."<sup>291</sup> Melamed draws on the work of David Harvey, Ruth Wilson Gilmore, and Chandan Reddy to build out a complex theoretical framework for racial capitalism.<sup>292</sup> Distilled into its constitutive parts, Melamed's conceptualization of racial capitalism centers on the interplay of three processes – 1) the accumulation of capital by dispossession, exploitation, and commodification, 2) the production of social separateness and the destruction of non-capitalist relationality, and 3) the production and maintenance of racial difference. All three processes are, in turn, maintained by state power and racial violence.<sup>293</sup> Understandings of racial capitalism as the production of capitalist relationality through the use of state-sponsored racial violence has generated rich analyses of historical and contemporary processes, Most notably, racial capitalist (or race and capitalism) frameworks have been applied to studies of settler-colonialism, the prison-industrial system, financial markets and instruments,

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<sup>290</sup> Robinson, chap. 1.

<sup>291</sup> Jodi Melamed, "Racial Capitalism," *Critical Ethnic Studies* 1, no. 1 (2015): 76–85.

<sup>292</sup> Chandan Reddy, *Freedom with Violence: Race, Sexuality, and the US State, Perverse Modernities* (Durham: Duke University Press, 2011); David Harvey, *The Enigma of Capital: And the Crises of Capitalism* (Oxford ; New York: Oxford University Press, 2011); Ruth Wilson Gilmore, *Abolition Geography: Essays towards Liberation*, ed. Brenna Bhandar and Alberto Toscano (London New York: Verso, 2023).

<sup>293</sup> Jodi Melamed, "Racial Capitalism," 77–79.

and, of course, American slavery.<sup>294</sup> In each case, the close relationship between racialized violence and capital accumulation carried out by the state is clear to see. As Marx notes in *Capital*, the origins of capital accumulation lie not in the thrift and hard work of free laborers but in "conquest, enslavement, robbery, murder," all backed by the organized power of the state.<sup>295</sup>

However, if the relationship between racial violence, dispossession, and state power is so central to contemporary definitions of racial capitalism, what lessons can be learned from the application of a racial capitalist framework to wartime Emancipation? At first glance, the process of wartime Emancipation appears to be the exact reversal of racial capitalism in several aspects. The process of Emancipation mobilized state power to destroy rather than accumulate capital, and it expropriated the land of capitalists rather than peasant landholders. State violence was substantially directed toward the destruction of chattel slavery and, both during wartime and Reconstruction, the protection of emancipated workers. In this context, wartime Emancipation may appear as a successful mobilization of state power toward the dismantling of racial capitalism in the form of antebellum American slavery. However, as I have argued, a more accurate understanding of wartime Emancipation is that it destroyed one variation of racial capitalism (chattel slavery) only to replace it with a new set of racialized capitalist relations. Thinking about wartime Emancipation and Reconstruction as moments during which racial capitalism was reconfigured rather than momentarily defeated yields several important insights that can modify contemporary definitions of racial capitalism.

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<sup>294</sup> Smallwood, "Reflections on Settler Colonialism, the Hemispheric Americas, and Chattel Slavery," *The William and Mary Quarterly* 76, no. 3 (2019): 407; Siddhant Issar, "Theorising 'Racial/Colonial Primitive Accumulation': Settler Colonialism, Slavery and Racial Capitalism," *Race & Class* 63, no. 1 (July 2021): 23–50; K-Sue Park, "The History Wars and Property Law: Conquest and Slavery as Foundational to the Field," *Yale Law Journal*, February 2022.

<sup>295</sup> Karl Marx, *Capital: A Critique of Political Economy*, V. 1: Penguin Classics (London ; New York, N.Y: Penguin Books in association with New Left Review, 1981).

First, as I have shown throughout this dissertation, the federal state created and maintained capitalist relations not through the overt application of violence toward freedpeople but through the careful management and leveraging of freedpeople's material precarity and vulnerability to extralegal white violence. In purely economic terms, Emancipation had effectively de commodified the personhood of enslaved people but commodified their labor. Thus, freedpeople had to either sell their labor or gain property in order to survive. Federal officials, from the AFIC Commissioners to Freedmen's Bureau agents, broadly understood and enforced the logic of "free to work or starve."<sup>296</sup> Unlike in the case of Marx's English peasants or Indigenous victims of settler-colonialism, the federal government seeking to push freedpeople into wage labor contracts and capitalist property did not have to engage in any significant acts of violence. Rather, the state simply had to foreclose opportunities for the majority of Black workers to access economic security outside of wage labor or market-oriented property ownership. For example, the distribution of land, the chief demand of many emancipated Black families, was largely ignored. Instead of direct redistribution, the limited federal efforts to protect freedpeople's access to land relied heavily on systems of rents and leases. Landed independence could often only be achieved through the taking on of debt or engaging in wage labor. Similarly, efforts on the part of freedpeople to exit federally sanctioned labor and land relations, such as through rural homesteading, itinerant work in cities, and subsistence farming, risked exposure to extralegal white violence. By entering into labor and land tenancy contracts, freedpeople gained access to federal protections at the expense of autonomy.

Understanding the power of 'governing through neglect' complicates contemporary analysis of the state's use of police powers and other coercive means to reinforce racial

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<sup>296</sup> Howe, *Letters and Journals of Samuel Gridley Howe*.

capitalism relations. In particular, political scientists have noted the function of the state as the enforcer of racialized dispossession and exploitation. Historical examples include convict leasing and school and housing segregation, while more contemporary studies highlight ongoing processes of gentrification, police violence, the prison-industrial complex, and border enforcement.<sup>297</sup> In each of these processes, the state is a purveyor of violence, which directs its police powers toward the violent enforcement and maintenance of particular economic, racial, and political relations. However, these analyses, while instructive of the phenomenon they focus on, do not capture the full scope of the state's role in producing and maintaining racialized capitalist structures. In the case of wartime Emancipation, I argue that the central state used neglect just as much force to manage and direct the creation of wage labor relations. On the one hand, force and the threat of force were always a part of Emancipation policies, especially during its wartime phase. Federal agents used police powers to control the movement of Black workers, enforce labor contracts, and ensure the payment of wages. But just as crucial to the construction of a free labor system in the South was the state's neglect of freedpeople's needs and demands outside of sites of production or state supervision. On the individual level, it is this kind of state neglect that produces the "burdened individuality," which Saidiya Hartman brilliantly describes as "the double bind of freedom: freed from slavery and free of resources, emancipated and subordinated, self-possessed and indebted, equal and inferior, liberated and encumbered, sovereign and dominated, citizen and subject."<sup>298</sup> My contribution to Hartman's articulation of

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<sup>297</sup> Alexander C. Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South*, The Haymarket Series (London ; New York: Verso, 1996); Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*, American Crossroads 21 (Berkeley: University of California Press, 2007); Keeanga-Yamahtta Taylor, *From #BlackLivesMatter to Black Liberation* (Chicago, Illinois: Haymarket Books, 2016); Keeanga-Yamahtta Taylor, *Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership*, Justice, Power, and Politics (Chapel Hill (N.C.): the University of North Carolina press, 2019).

<sup>298</sup> Hartman, *Scenes of Subjection*, 205.

the transformation of Black subjectivity after Emancipation is to say that the creation of said subject was at least in part a *state-building process*. In other words, managed emancipation produced ‘burdened individuality’ in order to aid in the construction of federal regulated capitalism economy.

A third insight gained from wartime Emancipation into the function of racial capitalism, is in the federal states attempts to erode and delegitimize forms of collective life outside of the vision of free labor capitalism. In the Mississippi Valley, I have shown that the wartime state valorized and supported forms of Black labor and property ownership which was oriented toward capitalist production.<sup>299</sup> Federally managed projects, such as Davis Bend, simultaneously enforced notions of group racialized difference while also atomizing Black people's social and labor relations. At the group level, federal officials claimed a certain degree of authority over freedpeople's lives by reference to racist logics of dependence and incapacity.<sup>300</sup> At the individual level, federal management of Black family life emphasized the importance of nuclear families rather than the maintenance of multigenerational collectives of families. Although some federal officials, like John Eaton, were encouraged by the self-generated mutual aid practices of freedpeople and the pooling of funds to purchase land, no major effort was made to support these practices with federal power. The absence of federal acknowledgment and protection of Black communities outside of sites of capitalist production like plantations, urban centers, and major commercial linkages reinforced the notion that federal power was oriented toward the protection of productive labor and property, not freedpeople independent of those sites. Such a concentration of state power around sites of production also generated a kind of path dependency

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<sup>299</sup> See Chapter 3

<sup>300</sup> Owen, Howe, and McKaye, *Preliminary Report Touching the Condition and Management of Emancipated Refugees; Made to the Secretary of War; and Final Report of the American Freedmen's Inquiry Commission*.

when it came to how emancipated Black people accessed the federal state. In order to press rights claims, secure land titles, access education, legitimize marriages, and secure fair payment, freedpeople had to enter into the kinds of capitalist relations that the federal government was committed to supervising. To refuse participation in wage labor or state-back land ownership was to effectively forfeit the possibility of state protection. In this way, the federal state curtailed the number of different economic and social forms that were possible in the wake of slavery's destruction.

Through the lens of these insights, wartime Emancipation, perhaps surprisingly for some, forms as a key process in the historical transformation of race and capitalism in the 19<sup>th</sup> century United States. To understand the contemporary relationship between race, capitalism, and the central state processes of liberation such as wartime Emancipation must be analyzed as carefully as processes of racial subjugation.

### **Racecraft as Statecraft**

A central argument of this project has been that the federal state's wartime acquisition of control over broad aspects of emancipated Black people's lives enabled it to expand its administrative capacity and fashion new racial, labor, and property relations.<sup>301</sup> Put another way, I argue that Emancipation enabled a process of state-building through and over racialized subjects, i.e., freedpeople. Such a formulation implies that the state must first produce, or at least appropriate, racial logics that allow for the legitimate exercise of state power over a group of people. In Chapter II, I argued that the American Freedmen's Inquiry Commission engaged in a project of racialization and subject formation as a means of legitimating the federal management of freedpeople. Through their investigations, reports, and interviews, the AFIC

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<sup>301</sup> See Chapter 4

presented their racist beliefs about the capacities, habits, and desires of freedpeople as objective assessments of the material realities of Emancipation. Racial categories were, in turn, used to justify governing authority and practices. In this section, I use Barbara and Karen Fields' concept of *racecraft* to rearticulate the transformation of racist beliefs into governing logics during wartime emancipation. Put succinctly, the racialized dimensions of wartime Emancipation involved the application of racecraft to the art of statecraft.

In their collection of essays on the production, reification, and persistence of racism in American history, Barbara and Karen Fields argue that the concept of 'race' is a fiction, the product of racist ideologies, which in turn produce racist institutions.<sup>302</sup> In place of the fiction of 'race' and as a supplement to racism, the Fields sisters offer a third concept: racecraft. Unlike racism, which they describe "the theory and the practice of applying a social, civic, or legal double standard based on ancestry, and to the ideology surrounding such a double standard", the concept of racecraft instead refers to a "mental terrain and a pervasive belief" in the governing authority of racial fictions.<sup>303</sup> Racecraft, as they later argue, is the art of transforming racism into the function of 'race.' In their example, racecraft in the Jim Crow South is what allowed ordinary white people to conclude that "segregation seemed to be a property of black people, not something white people imposed on them."<sup>304</sup> Similarly, for the AFIC Commissioners and many Northerner military officials, the condition of newly emancipated Black workers often appeared to them as essentially racial characteristics rather than consequences of either their present material conditions or past enslavement. Like the white Southerners noted by the Fields sisters,

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<sup>302</sup> Fields and Fields, *Racecraft*, 18–23.

<sup>303</sup> Fields and Fields, 18.

<sup>304</sup> Fields and Fields, 26.

federal officials struggled to overcome the "mental terrain and pervasive belief" that burdened their interactions with freedpeople with racist preconceptions. However, unlike the purely private navigation of racecraft described by the Fields sisters, the racecraft of federal officials often directly informed government policy and practice. Racial thinking justified various kinds of federal intervention, management, and oversight of Black people's lives. Race, as a category increasingly present in government reports and documents, became an anchorage point for the application of state power. During wartime Emancipation, white officials' application of new forms of racial categorization and organization generated new bureaucracies to manage these categories. As such, it can be said that the relationship between racecraft and statecraft was mutually reinforcing.

My pairing of racecraft alongside statecraft aims to draw attention to the role of social fictions and preconceptions in shaping state development. Throughout this dissertation, I have shown that the contestation of state policies and actions often resulted from the clash of social fictions and material realities. Take, for example, Eaton's management of and interactions with freedpeople at Davis Bend and along the Mississippi Valley. Eaton's initial policies were shaped as much by his belief in social fictions – his commitment to racecraft – as they were by the material realities of Emancipation. The initial labor policies established by Eaton were constructed under his assumption that free Black people would not labor without direct supervision and instruction. Yet, even as Eaton was crafting these policies, reports and his own experiences were revealing that the same incentives that motivated white workers to labor – wages, fair treatment, and control over their work – also incentivized free Black workers. In other words, Eaton created a policy based on racist fiction that clashed with material reality. The tensions between the racist fictions and the material realities rendered Eaton's initial policies

untenable. Eaton, like many other wartime officials, found himself either having to modify his racial beliefs to account for the agency and capability of freedpeople or continue to reinforce policies based on racial fictions. In the case of Eaton, this dynamic between racist fictions and material realities generated policies that supported greater integration of Black workers into free labor relations, even if that integration was based on a narrow and constrained concept of freedom.

Just as the navigation of racial fictions functions to shape policymakers' decisions, so too can racial fictions be mobilized by racialized groups to gain access to state power. For example, the racially specific policies implemented during wartime Emancipation, even when based on racist beliefs, did often have the effect of focusing federal power on freedpeople. For many freedpeople, access to the federal state, even if it was imperfect, was often better than no access at all. For example, federal oversight of labor contracts between Black workers and white planters was partially justified by the racist idea that free Black workers were prone to idleness and the breaking of contracts. However, for Black workers, the presence of a federal agent on plantations and worksites placed pressure on white employers to honor contracts, pay wages, and limit the use of violence.<sup>305</sup> Black workers enlisted the racial biases of federal agents to help mobilize state power in service of their protection and economic demands. Federal agents, both during wartime Emancipation and Reconstruction, used explicitly racial reasoning to justify their actions in support of Black rights claims and demands. Black people's demands and rights claims, on the other hand, were often characterized by material, ethical, or moral reasoning. Racial logics were, therefore, not the basis of rights-claims but rather the means by which to access federal power.

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<sup>305</sup> Ch. 4, section II

## **Liberatory Politics and the State**

On April 16<sup>th</sup>, 1888, the greatest abolitionist of his generation, Frederick Douglass, rose to deliver a speech honoring the anniversary of emancipation in Washington, D.C. Twenty-six years early, almost a year before the enactment of the Emancipation Proclamation, Lincoln had signed the District of Columbia Emancipation Act officially ending slavery in the nation's capital. Unlike the later Emancipation Proclamation and the 13<sup>th</sup> Amendment, the emancipation of the enslaved people in Washington D.C. involved direct compensation – compensation to former slave owners. Douglass, now 70 years old, seized the moment to reflect on the state of race relations in the two decades since the end of the Civil War. In his trademark fashion, Douglass began his speech with a quiet lament – “The temptation on anniversary occasions like this is to prophesy smooth things, to be joyful and glad, to indulge in the illusions of hope...”<sup>306</sup> However, Douglass warned the condition of Black people two decades after emancipation is not one that inspires or merits celebration. Instead of enjoying freedom, equal citizenship, and economic prosperity, Douglass meticulously and furiously lists the outrages suffered by Black Southerners. Black workers are denied fair wages and subject to exploitative working conditions. Black women and families impoverished and harassed. And all under a reign of terror of white violence. What, Douglass asked his audience, was his assessment of the legacies of emancipation? That "so-called emancipation as a stupendous fraud—a fraud upon [freedpeople], a fraud upon the world."<sup>307</sup> Douglass, once among the most optimistic champions of Reconstruction, believed that the federal government and white Americans had abandoned and betrayed the promise of universal freedom.

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<sup>306</sup> Douglass, “In Law Free; In Fact, A Slave” Washington, DC 16 April 1888 *FDPI* Vol. 5, 357-373

<sup>307</sup> *Ibid.*

Douglass's disillusionment with the collapse of Reconstruction and the white backlash, which violently rolled back many hard-won victories, was shared by many Black Americans in the late 19<sup>th</sup> century. However, the lessons and responses to such defeats varied widely. Some, like Douglass, held out hope that perhaps a reinvigorated Republican Party would once again champion Black people's rights and freedom. Others, such as Booker T. Washington, encouraged a shift away from public political struggles in favor of a focus on economic self-help. Later, with the establishment of the NAACP in 1909, increased attention was paid to national struggles and, in particular, to the passage of federal legislation.<sup>308</sup> Over the course of the 20<sup>th</sup> century, Black civil rights organizations and social movements increasingly focused advocacy efforts on pressuring the federal government through the courts, Congress, and the Presidency. Indeed, beyond the Reconstruction Amendments, perhaps the most durable legacy of Emancipation and Reconstruction is the orientation of Black politics toward the federal state. As I have argued here, wartime Emancipation forged a direct connection between Black communities and the federal state. Though fraught with challenges and rarely as benevolent as it is often remembered, the relationship between the federal state and newly emancipated Black people prefigured the promise of federally enforced civil, political, and labor rights.

However, the legacies of Emancipation and Reconstruction also reveal the dangers of tying social movement demands to federal frameworks. The demands of marginalized and racialized groups are managed and constrained by the very same mechanisms of federal power, which they often attempt to enlist to their cause. In this dissertation, I have shown how federal management of labor and land relations limited and disciplined non-capitalist expressions of Black freedom even while that same federal power prevented a complete reimposition of slavery.

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<sup>308</sup> Francis, *Civil Rights and the Making of the Modern American State*.

In short, the story of the relationship between federal power and Black politics is, as so often is the case, a story of heroic efforts and lost promises. The heroism of enslaved Black people compelled the federal government to first adopt a policy of Emancipation and then, through their contestation of labor and property policies, secured a rapid transition to a free labor economy. And yet, the strength of racial capitalist logics among federal agents, white employers, and even many prominent reforms led to the foreclosure of Emancipation's most promising visions of communal solidarity, control over one's own labor, and the redistribution of land.

What, then, are the lessons that may be learned from the study of wartime Emancipation and its role in the development of the American state? How might the struggles of freedpeople inform contemporary movements that seek to shape the development of the state? In this conclusion, what I argue are two key lessons from wartime Emancipation and its legacy.

***First lesson: Contest the functioning of the state in everyday processes.***

In 1863, few people in the United States wielded less formal political power than a newly emancipated Black worker laboring under federal supervision. Freedpeople had no formal political rights, no meaningful access to legal or civil arbitration, and virtually no control over capital. What they did have was the ability to labor and an understanding of their indispensable role in the production of cotton. Freedpeople used their critical place in the Southern economy to resist the exploitation of their labor and secure state protections. Black workers proved adept at using a variety of tactics to enforce their demands, including strikes, slowdowns, the shorting of hours, pooling of limited resources, and, at times, direct confrontation. The plantation, workhouse, contraband camp, and even military depots became sites of contestation. In other words, freedpeople sought out and confronted the state wherever they could. The impact that freedpeople had on the construction of the American state happened primarily on the frontlines

of Emancipation and through the mobilization of their labor power to gain material and symbolic victories. In this study of wartime Emancipation, I have attempted to show that Black workers did as much to advance the cause of Emancipation as Black soldiers. Both as workers and soldiers, freedpeople challenged the racial ideologies of white Northerners. To be clear, the result was not a full embrace of Black people's visions of freedom by the federal state. However, Emancipation could very well have resulted in significantly more curtailed and limited forms of freedom had it not been for freedpeople's persistent contestation of the federal state at sites of production.

***Second lesson: As much as possible, do not let the state define the terms of freedom.***

A common theme of wartime Emancipation – indeed, perhaps its central theme – is the struggle over the various visions and meanings of freedom. The free labor ideals championed by Northerners did not always match the visions of freedom of freedpeople. The terms of Emancipation were set by the federal state at first presumed and then required freedpeople to accept the state's notions of liberty. For their part, freedpeople throughout the South rarely passively accepted the federal state's vision of freedom as simply the freedom to work for wages or lease land. Instead, freedpeople pursued their own visions of freedom, whether those centered on the ownership of land, communal independence, or simply the freedom of movement. Even given its limited expression in the archives, it is clear that freedpeople challenged and stretched the limitations placed on them by the state's narrow interpretation of freedom. Even when constrained by the bureaucratic tools meant to manage and govern them, such as labor contracts, freedpeople found creative ways to repurpose the tools of the state to resist white domination and assert their rights claims. In this way, freedpeople enlisted the federal state as an, at times, reluctant ally in their fight for freedom, autonomy, and equal rights. Perhaps this is the great

state-building lesson of Emancipation – that even when the state imposes a framework and language for social transformation, the *meaning* and *material* outcomes of that framework can nevertheless be shifted by bottom-up struggles. Every demand for the redistribution of land, every challenge to an unfair labor contract, and every assertion of rights not yet given pressured the federal state to either enforce its vision of freedom or reconfigure to accommodate new claims.

Taken together, the lessons of wartime Emancipation point to an understanding of American political development in which processes of ideological and material contestation shape not only the expansion of the federal state but its political character as well. Emancipation was itself a process forced upon the federal state by a confluence of wartime exigencies and the self-assertion of enslaved people. The federal state, which attempted, with varying degrees of success, to manage the process of Emancipation, was not born fully formed out of the mind of political elites or party politics. Rather, the Emancipation State and the Reconstruction State that followed were imperfect reflections and reactions to the highly contingent and contested processes that they aimed to manage and direct. Throughout this study, events on the ground driven by ordinary people almost always outpaced the ability of the federal state to create an administrative capacity to direct those events. Freedpeople emancipated themselves, built communities, enacted visions of freedom, and resisted white violence months and even years before the federal state developed the bureaucratic and administrative capacity to manage Emancipation. The Reconstruction state was therefore built not only on the remnants and legacies of slavery but on the nascent forms of emancipated Black society that it aimed to simultaneously protect and reshape in its own image. The aim of this project has been to strip away the built-up mythology surrounding the Reconstruction state in order to excavate its origins

in wartime Emancipation and provide a richer and more historically grounded account of American state development. But as is so often the case in historical work, the real findings of this archival excavation have been the questions generated by the empty spaces, the omissions, and the lost stories that were never recorded. What theories of freedom have been lost to time? What kinds of community were overwhelmed by either state power or white violence? What are the names and ideas of the freedpeople who resisted the imposition of somebody else's visions of emancipation? These freedpeople, who exist only at the margins of the archive, can only be imperfectly remembered by the impacts they had on military officials, policymakers, and reformers who imperfectly transmitted their struggles to the framework of a post-Emancipation United States. But remember, they should be. Because that first generation of free people are among the greatest state builders in American history.

## Archival Appendix

Records of the Adjutant General's Office, 1780s – 1917. Record Group 94. National Archives and Records Administration (Washington, D.C.)

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