

Elián, Iola Leroy, and Other Reluctant Citizens

R U S S C A S T R O N O V O

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CITIZENSHIP, IT WOULD SEEM, OPERATES VIA FORMAL STRICTURES OF EXCLUSION and inclusion that tally with the well-defined geopolitical borders of the nation-state.¹ Persons born on U.S. soil, for instance, fall under the purview of *jus soli* and thereby are entitled to the privileges and immunities of citizenship—although blacks in the era of the 1857 *Dred Scott* decision that exempted Africans and their descendants from political membership could have supplied a far different history.² Despite the comprehensiveness of juridical maps of citizenship, the hyphenated space between nation and state marks a zone of uncertainty, a crack in the official logic of citizenship that unveils citizens as subjects who entertain competing loyalties and cherish conflicting memories. Many people travel pathways of nations that do not line up with states, moving through spaces and histories that are displaced by diaspora and crisscrossed by psychological, cultural, and political territories not administered by the state or its institutions.

The protections of formal personhood refuse such complex maps of identity, preferring the creation of citizenship as a calculable, generic, and ultimately depoliticized terrain. In this manner, citizenship dominates both

the political horizon and foreground: at one moment, it appears as the height of politics and thus beyond the realm of the political and, at the next, it provides the fundamental ground of political identity and thus seems prior to all political processes. This essay explores and connects two figures who drift between nation and state as a means of interrogating this political category whose foundational status frequently guarantees it a “natural” identity that is immune to critique. The first figure is a five-year-old boy found on Thanksgiving Day 1999 clinging to an inner-tube in the ocean off the Florida coast. This boy, Elián González, soon became the focal point of national and international controversies that tested the meanings of naturalization and federal jurisdiction. A related set of issues had surfaced the previous century for African Americans who, in the wake of the Civil War and Emancipation, also seemed at sea, neither wholly bound up with the administrative imaginary of the American state nor with the cultural imaginary of diasporic Africa. Frances Harper’s Iola Leroy, a figure taken up in subsequent sections of this essay, represents a newly enfranchised black subject who exhibits ambivalence about belonging as a citizen to a nation that enslaved her and her people. I contend that the link between Elián and Iola illuminates their momentarily ambivalent status as reluctant citizens whose desire not to suffer amnesia conflicts with the longing to be protected by state identity.

The connections between these figures are at once literal and literary, as well as historical and historically fictive. While worlds of difference and fact still separate Elián and Iola, a deathly logic of citizenship regulates the social, political, and cultural identity of each. To achieve a formally recognizable existence graced by the sanctity of the nation-state, Elián and Iola must consent to be no more than generic persons. Elements of subjectivity that are not formally recognized—say, ties to a father back in Cuba or memories of a mother lost to slavery—are treated as if they were dead, cast away as heterogeneous scraps leftover from the process of patterning a citizen. In effect, citizens are left no option by this logic: as a supremely natural event, death makes citizenship inevitable.

BURIAL AT SEA

Elisabet Brotons, Elián's mother, was among the 11 people who drowned when a makeshift boat that left Cárdenas, Cuba, broke up and sank. Elián also lost his father at that moment, not to the sea, but to the U.S. nation-state and exile Cuban nationalism. "My life ended that day," said Juan Miguel González of the day when he realized that Brotons had left with their son to attempt the risky passage to Miami by open boat.³

At this point, the story becomes more complex and the deaths suffered more metaphoric and political, but perhaps no less tragic. An international custody battle ensued with the boy's relatives in Miami seeking his political asylum to prevent his return to Fidel Castro's Cuba. It would be unconscionable, so arguments went, to repatriate Elián to an island ruled by a dictator with a history of torture and human rights abuses. As members of the Cuban exile community, members of the U.S. Congress, and presidential candidates supported this plea, Juan Miguel disappeared under a sea of accusations, suspicion, and animosity dating back to the Cuban Revolution. Castro replaced Elián's father as parent. For those wishing to keep Elián in the United States, the issue at stake no longer concerned the legal right of a surviving parent to his child. Instead the Cuban state, personified by Castro, totally effaced Juan Miguel's parental identity. Elián, in consequence, forfeited any subjectivity as son, his life trimmed back to the narrow confines allowed by a dictatorial state identity. By the force of these arguments, it was as if Juan Miguel had also been lost at sea, and was now dead to his son.

U.S. senators soon sought to give this deathly metaphor legal standing by proposing a special bill that would have granted Elián citizenship. "His mother gave her life in her search for freedom. I don't want the decision to be made by a federal agency [the Immigration and Naturalization Service] that is subject to political pressure," said Senator Connie Mack as he filed the petition.⁴ More than two hundred years after Patrick Henry's challenge of "liberty or death," the morbid stakes of U.S. nationalism still proved effective in annihilating relationships (such as the one between a father and son) lived outside the purview of the American state. Despite backing from the likes of political heavyweights such as Senators Jesse Helms and Trent Lott,

support for the bill fizzled. However brief its life, this bill and others like it that originated in the House of Representatives reveal how citizenship restricts political identity to juridical forms, nullifying histories and memories that fail to align perfectly with the contours of a legal personhood.

The Fourteenth Amendment (section 1) made these contours coincident with U.S. boundaries by invoking *jus soli* as the determining attribute of political identity. In the aftermath of the *Dred Scott* decision, which had denied national rights and protections to blacks, the Fourteenth Amendment ordained that persons born in the United States were citizens, thereby extending political membership to freedpeople. This display of governmental power ensured that federal citizenship would trump state citizenship and, in consequence, effectively overturn Justice Taney's infamous 1857 decision. But Elián was not born on United States soil; no one could claim the principle of *jus soli* on his behalf. Elián clearly has another history, one that predates his intimacy with U.S. national culture, which in his case included trips to Disney World and baseball games, as well as the purchase of home video games and a puppy. The amendment makes provision for such circumstances by introducing naturalization as a legal imitation of birth that invests persons with an official identity that makes them formally equivalent to the native born.⁵ In Elián's case, however, this investment would function to divest the citizen of any subjectivity that had not originated in the U.S. Indeed, to a certain extent, he was already naturalized at the moment of shipwreck when his past was pronounced dead. Without a mother, Elián could be reborn by the American state.

R E B I R T H

But this is not simply Elián's case. The saga of Elián has significance because it marks a moment when the mechanisms of citizenship were laid bare and defamiliarized to reveal U.S. political membership as being complicit with a logic that kills off the past and leaves citizens, whether natural or naturalized, shorn of histories that precede their birth under federal jurisdiction. In the absence of this morbid logic, free persons of color would never escape a past that invalidated their claims to political rights and social protections.

So concluded Edward Bates, Lincoln's Attorney General, in 1862, as he entered a debate that would ultimately lead to the codification of national citizenship under the Fourteenth Amendment. Because he acknowledges that blacks "must have had *ancestors*" who passed down their degradation, Bates also sees the juridical desirability of declaring that "therefore every child must needs be a bastard, and so, by the common law, *nullius filius*, and incapable of ancestors."⁶ This alienation from familial history ensures that citizenship is not restricted to hereditary right and thus positively establishes a formal equivalence between persons. What's remarkable, however, is that such estrangement also characterizes the social death of slavery that leaves people trapped as permanent strangers in genealogical isolation.⁷

The uncanny convergence between citizenship and social death alludes to a repressed national history in which slavery underwrites an experience of political freedom rooted in birthright membership. Citizenship, like social death, is inimical to the contextual relations that sustain people with a web of particularistic associations and specific memories. Whether under the nation-state's contractual logic or the slave code, force is necessary to make a richly textured person fit the vague contours of citizenship's generic personhood or slavery's nonpersonhood. The degree of force in defining political membership is not as extreme as in upholding racial bondage, but nonetheless the deathly conjuncture of citizenship impinges upon people to eradicate elements of subjectivity remaindered by the ascription of an official state-authorized identity. When we seek a person's identity as a citizen, according to Bates, we ask, "is he a citizen or a soldier?—meaning, is he engaged in civil or military pursuits. Is he a citizen or a countryman?—meaning, does he live in the city or in the country. Is he a citizen or an alien?—meaning, is he a member of our body politic, or some other nation." But not all these questions are relevant. The first two questions set up identity as matters of avocation and place, and have no political bearing for Bates. Only the final question that sutures identity to the body politic has significance, meaning that other nonpolitical aspects of identity are divorced from the citizen. "It is only in this last sense—the political—that the word ["citizen"] is ever used in the Constitution," writes Bates.⁸ The state is all that the citizen will ever need.

At a moment in U.S. history when the Attorney General is broaching the extension of political membership to three million slaves held as permanent outcasts of the national family, citizenship invests persons with both the broad reassurance and narrow legalism of formal state backing. As a social self, familial entity, or cultural ancestor, the formal citizen is nonexistent. The “*actual citizen of the state*,” as Marx discerned, finds existence limited to a “sheer, blank individuality” that is predicated on a withdrawal from spheres of being that are lived below governmental levels.⁹ But Marx’s criticism tells only half the story. The official recognition of blacks as citizens is not part of some secret plan to reduce citizenship to the cookie-cutter regularity of state forms. The issue is not state identity versus cultural identity, as Marx might have us suppose. Instead, what’s at stake is formal equivalence under the law—an equality that African Americans in the Civil War era embraced without any of Marx’s hesitation. The state can provide a new national culture of protection and rights for people who had once been systematically robbed of their cultural heritage. The opposition between state citizenship and cultural belonging breaks down in light of the affective ties and strong attachments that make subjects interested in both identifications.

Since the Attorney General’s commentary precedes Lincoln’s official decree of emancipation, Bates restricts his opinion to whether free men of color are citizens and thus competent to captain American ships. As will later happen with Elián, the sea becomes the uncertain terrain for marking issues of loyalty and citizenship. Rather than leave black sailors legally adrift, Bates determines that a “*free man of color . . . is a citizen of the United States*” and is qualified “to be a master of a vessel engaged in the coastal trade.”¹⁰ In this light, state citizenship can be just as meaningful as cultural citizenship. While the particular points of attachment and reasons for affiliation no doubt differ, each form of belonging provides structures of feeling and/or law that rescue the subject from isolation and abandonment.

One hundred years after Bates’ commentary, Supreme Court Justice William Brennan Jr. celebrated U.S. citizenship as an exclusive and expansive political status that “has touched the life of every American by nationalizing the fundamental constitutional standards in the federal Bill of

Rights.”¹¹ Under the sensuousness of federal oversight, the personal body of every American never jars with the national, because the personal here is, at core, generic. Viewing power as an intimate relation between nation and citizen, Brennan admires the Fourteenth Amendment’s sheer and unbridgeable power to caress “every American.” Impersonal governmental behavior, suspect for a tendency to meddle, interfere, and over-regulate, is here anthropomorphized, even humanized, by its sensory knowledge of the populace. But his centennial assessment of national citizenship and the Fourteenth Amendment raises more questions than it answers: How comfortable are specific identities with this personal touch? When do caresses become unwanted advances?

By conflating federal power with a national sphere, Brennan knots together threads of citizenship and amnesia already tangled by the Fourteenth Amendment: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” Citizenship falls under the purview of the United States, not the separate states as Taney ruled back in *Dred Scott*, and is *nationalized* because it is already *naturalized*. This conception of citizenship mandates a bland historical identity as the outcome, inevitable and gestational, of a natural course of events. “All persons” want national citizenship because the history of other civic desires seems both excessive and artificial when placed against the normative background of state apparatuses. Forged out of a constructed category of the natural, citizenship, like ideology, sidesteps history. I purposely blur meanings of naturalization as a legal process of incorporation, and naturalization as an amnesiac operation of ideology, in order to signal that the identity of citizen disavows conflictual and antagonistic processes that frame political being. As a natural identity, the citizen discards the scraps and heterogeneous leftovers that do not fit the pattern of legal personhood. What Constitutional historians call “post-Appomattox formalism” brings forth the citizen from the body of the historically alive and materially situated subject.¹² Predicated on the exclusion of everything that predates the contract of the American nation-state and the subject, citizenship works, as does ideology, to dehistoricize historical conditions as timeless processes, much like birth and death.¹³ What

citizenship dehistoricizes are the historical conditions of its own articulation, conditions laden with memories of alternative geographies and temporalities for political being.

The Fourteenth Amendment represents a radical innovation in governance as the moment when “the federal government claimed the exclusive allegiance of its citizens, in return for its commitment to protect their fundamental rights.”¹⁴ But as political membership becomes “exclusive,” what gets excluded? What aspects of subjectivity—memory, desire, regret—are remaindered by government’s claim upon its citizens? As a strictly legal entity, the citizen is born from the plenitude of historically complex, culturally textured, and materially specific subjects. This political birth, then, occasions the death of a subject who experienced political desires other than those clustered around the state. With the nation conceived as a natural and unavoidable destination for the democratic subject, that is, with citizenship articulated as unhistorical result and transcendent process, other topographies of political identity become harder to imagine.

Diaspora, fugitive corporeality, and intimate associations are the hard-to-read landmarks of alternative citizenship. Although naturalization dehistoricizes the subject and makes his or her relation to the state unremarkable, the debates over incorporation and expatriation among African American intellectuals and writers in the aftermath of the Civil War can enliven our contemporary sense of citizenship now grown static and ordinary. In her study of emancipation marred by continued unfreedom, Saidiya Hartman poses key questions about the stakes of African American citizenship: “Is an emancipatory figuration of blackness possible? Or are we to hope that the entitlements of whiteness will be democratized?”¹⁵ Her questions suggest the underlying dilemma that arises with the almost simultaneous granting and suppression of black political rights under Reconstruction: what is the color of the abstracted black citizen? Color here is not mere pigmentation, a complexity evidenced by the “whiteness” of black heroines like Harper’s Iola Leroy. Instead, color signifies in opposition to the blankness of formal citizenship by marking the incongruity of African residues in the American state. In probing this incongruity, some black commentators hoped that civic entitlements would wash over the discordance of Africa and America,

while others wondered if it was at all possible to retain cultural distinctiveness in the wake of state interpellation. I turn to a slice of this debate as a means of illuminating the national precepts that render citizenship natural.

A brief exchange conducted in the final days of the Civil War suggests that, for many blacks, American national identity was hardly natural but rather a vexed historical category that demanded scrutiny and circumspection. Less than a month before Lee's surrender at Appomattox, Reverend James Lynch in the *Christian Recorder*, an organ of the African Methodist Episcopal Church, advocated that American blacks renounce all cultural ties to Africa. So strongly did he feel, that he called for "the word African" to "be stricken" from the name of the AME Church itself: "We are not Africans," he firmly stated.¹⁶ He argued his anti-diasporic case by appealing to a narrow lexicon, rejecting the word "African" for what he viewed as its implicit acceptance of second-class status. As Lynch elaborated, "the word 'African' . . . suggests the idea of the formation of all persons of African descent into a separate nationality and is a tacit recognition of the prejudice of whites." Remembering Africa tokens acquiescence to a status quo that stigmatizes blacks as culturally different and therefore, in Lynch's reasoning, socially inferior and politically inept. A more progressive course, he implies, consists in pursuit of complete incorporation in the United States. Since "the color of skin, as an issue in this nation is fast passing away," Negroes can hope for a sameness that will domesticate their presence as unobjectionable, even ordinary. In turn, objections to the color (as a metonym for ancient memories, psychological residues, and family histories) of the abstracted black citizen become nonissues as well.

Two weeks later, the *Christian Recorder* published a response to Lynch that backed off from the rejection of "African" and instead viewed the adjective as a positive reminder of an indelible legacy. In a critique of Lynch's wholesale immersion in the nation-state, George A. Rue reasoned, "If being born in Africa makes a man an African, then we are not Africans; but no matter where the place of our birth, we are still the descendents of Africans, and, of course, belong to that race."¹⁷ Birth is too isolated an event for the foundation of the citizen's biography. Rue approaches a subjectivity that we might define as cultural citizenship, which, unlike birthright membership, is

grounded in complex geographies of memory, descent, and psychology. Cultural citizenship, in marked contrast to the enslaved bodies of blacks themselves, is nonalienable and remains enlivened by histories of Africa. Unofficial and nonlegal, such citizenship refuses the naturalization of federal citizenship as decreed by the Fourteenth Amendment by establishing the cultural foundation of the subject as, in fact, prior to the subject. Cultural citizenship refuses the spatio-temporal coordinates of naturalized belonging; the allusiveness and richness of this identity does not comfortably fit generic patterns of national incorporation. Stretching back beyond one's always historically recent birth, identity encompasses more than self. Cultural citizenship orbits around a sphere far larger than the nation-state to touch upon genealogies of a people caught in diaspora for generations.

In terms of chronology, however, Rue's commentary itself precedes proposal of the Fourteenth Amendment by a year and its 1868 ratification by a full three years. Once naturalization and citizenship were sutured together by constitutional mandate, the *Christian Recorder* explicitly rejected any diasporic connotations of a cultural citizenship:

In the American Negro the best type of his race [is] extant. Just as we regard the Whites of America as possessing the noblest traits—traits which are to constitute them the leaders of their race, so is it with the Blacks. The Negroes of the Spanish West Indies and Brazilian America, those of the latter who are still slaves, may be regarded as the lowest of our race on the American continent. The majority of them were doubtless born in Africa, and they have never thrown off its barbaric usages. . . . As we come to write of Hayti, we feel sad. . . . The Haytian Negroes are a noble race, and their record is one of which the world will yet be proud. Yet they lack those elements of order, of cool deliberation, of submission to authority, that are ever demanded in a good government. The American Negro, unlike his brethren, has been the pupil of the cool, aspiring, all-conquering Saxon, and in no little measure he has partaken of all the greatness of his master.¹⁸

Eager to demonstrate that recently freed slaves were not about to construe liberty as license, this editorial squarely locates the nation's newest citizens

in traditions of self-governance and sober productivity. The identification of American blacks as a distinct line of the “Negro race” steadfastly abides by the nation’s borders and even participates in the postbellum logic that justifies imperial expansion of those borders. In attenuating connections to Africa, this article effectively scales back the overreaching temporal consciousness sketched by Rue. While each of these pieces in the *Christian Recorder* documents the existence of non-national territories of memory and resistance, this latter editorial invokes black diaspora only to reject that history as threateningly un-American and hence “barbaric.” As this editorial, appropriately entitled “The American Negro,” seeks to reassure Reconstruction publics that the freedpeople will exercise liberty with restraint, it retracts hemispheric consciousness to the confines of racialized respect for “Saxon” America. Insofar as the *Christian Recorder* in 1868 shared Rue’s earlier perspective that “we are still descendants of Africans,” it did so with reluctance. “The American Negro” directs readers to the safe ground of a truncated past, one disconnected from previous generations that struggled to preserve African culture in the Americas. The historiography here is the same as that underpinning the Fourteenth Amendment, which begins and stops at the thin biography of a singular formal state subject.

The diasporic lure of cultural citizenship hardly seemed practical or worthwhile to those seeking tutelage from the “all-conquering Saxon.” In the famous debate between Booker T. Washington and W. E. B. Du Bois over the virtue and value of higher education, the two leaders sparred at one point over the non-national limits of the African American political archive. While Washington pronounces the sight of a young man reading a French grammar book “one of the saddest things I saw,” Du Bois imagines this scene more optimistically. Washington experiences the same emotion as the anonymous author of “The American Negro” who writes how “we feel sad” considering Haiti, because its history of diasporic violence casts a gloom over the bright prospects of national allegiance. But in a trenchant critique, Du Bois indicts the narrow ethic of capitalist industriousness that leads Washington to deem “the picture of a lone black boy poring over a French grammar amid the weeds and dirt of a neglected home” as “the acme of absurdities.”¹⁹

Though each writer formulated more direct and sustained commentaries on black citizenship, this brief exchange helpfully condenses the argument rehearsed in the *Christian Recorder* thirty years earlier. The specific bone of contention—“a French grammar”—echoes with political significance: knowledge of the French language prepares one for engagement in a worldview that spans a history of black resistance from the Haitian Revolution to nascent anticolonial movements of Francophone Africa in Du Bois’s day. Without this memory and awareness, the “lone black boy” would be truly alone. Yet the almost inconsequential nature of this global gesture reveals the scant possibilities for non-national identification ever since Reconstruction when the African American political subject, as a naturalized entity, was exhausted by national citizenship.

S O C I A L D E A T H

Is it a bad thing to have one’s subjectivity exhausted by citizenship? Do only the paranoid fear the touch of federal rights? In our haste to deconstruct citizenship as an ideological tool of state, Brook Thomas contends, we often ignore the benefits that this formal identity provides.²⁰ According to Thomas, citizenship gets a bum rap from cultural critics who ignore its deeply embedded history. The heroine of Frances Harper’s *Iola Leroy* (1892) desperately wants the benefits of formal citizenship for herself and her people. Harper’s five decades of activism for black and women’s rights, along with her unwillingness to give up on the immunities of legal personhood, pit her against contemporary readers who critique citizenship as both an enabling and repressive mechanism of the state. As her novel offers a multi-staged history of African American life after the Civil War, it demonstrates the need for the official protections to life, liberty, and property guaranteed by citizenship. But in embedding this history in the “tragic mulatta’s” sexual body, however, *Iola Leroy* also suggests that the making of citizens fuses national incorporation to a history of intimate and violated privacy. Iola’s desires for citizenship are not unconnected to the privatizing desires of white men who treat her body as an allegorical terrain for enacting a nationalist identity. Surveying Iola’s emancipated body once traded as a “fancy girl,”

a Union general of liberal sympathies experiences a pang of uncertainty about *his* political identity:

Could it be possible that this young and beautiful girl had been a chattel, with no power to protect herself from the highest insults that lawless brutality could inflict upon innocent and defenseless womanhood? Could he ever again glory in his American citizenship, when any white man, no matter how coarse, cruel, or brutal, could buy or sell her for the basest purposes?²¹

National membership is not necessarily restricted to a formal set of fair and equitable relations but rather legitimates the exercise of political power as unprincipled sexual tyranny. Iola's womanhood is tied to citizenship insofar as black womanhood becomes a sexual target, the passive surface upon which white entitlement is enacted.

But Iola is hardly passive and barely a citizen. Citizenship is not something she can claim in the abstract public sphere but rather is something claimed (and reified) in her abjected body sold to satisfy private desire. The general's outrage at men's articulation of citizenship upon women's bodies seems overdetermined, a hyperbolic protest to disavow erotic titillation provoked by his thought of an unprotected "white" woman. His contempt for "American citizenship" sublates his indelicate interest in Iola's tragic mulatta story: this congruence marks the sexualization of national entitlement and the revamping of public privilege as private enjoyment. Via Iola's sexualization and its perpetuation in the shocked sensibilities of Union men who shudder to imagine such scenes, the novel only reproduces the circumstances of invalid marriage and actual concubinage that beset Iola's mother.²² Such speculation—whether as the traffic in women or as the general's liberal reflections—poses a problem for "American citizenship" by paralleling the formal relationship between legal person and nation-state to the nonbinding arrangement of concubinage. The sexual privatization of national narrative, embodied by Iola's brief experiences as "white" slave woman, delegitimizes citizenship by making it both abusive and "unnatural." "American citizenship" loses its purity once it creates the brutal potential of legally allowing "any white man" to practice, even by threat of force, miscegenation.

The general's interest in Iola, an interest he fears as overly private and prurient, is repeated in a later scene when yet another white man, Dr. Gresham, is alternately fascinated and outraged by the mulatta's tragic history. Although this army surgeon manifests a romantic interest in Iola that outpaces the general's, Gresham attempts to take a higher, more sublimated road by nationalizing, not privatizing, his desire. Iola strikes him as fresh terrain for the rehabilitation of national narrative from the incoherence of civil war:

The fierce clashing of war had not taken all the romance out of his nature. In Iola he saw realized his ideal of the woman whom he was willing to marry. A woman, tender, strong, and courageous, and rescued only by the strong arm of his Government from a fate worse than death. (46)

Unlike the general who reads in Iola the corruption of citizenship, the doctor takes her as an allegorical body that receives the healing power of a federal balm. This is one way, the doctor's way, to read this passage. But in a suspicious reading that pauses at the catachrestic attribution of a "strong arm" to the institutional body politic, Gresham's attraction for Iola reveals itself as a protective screen for his anguished attachment to a wounded citizenship little different from the general's sullied political identity. The government's "strong arm" supplies the place of the actual arm Gresham lost earlier in the war. The trauma of his "armless sleeve" (109) is healed by the nation's prosthetic corporeality. As he thinks of a sexually harassed "white" woman who cannot escape the legal fact of her "black" body, Gresham himself becomes disembodied as a subject. Speculation about her at-risk body engenders a compensatory fantasy in which the nation-state sublimates his physical body's lost virility as the body politic's paternalism. As Michael Warner explains, despite its abstraction, the "public subject does have a body, because the public prosthetic body takes abuse for the private citizen."²² This surrogate relation between body and body politic turns on a prosthetic logic that shelters white men from political injury by forcing "others" to suffer the consequences. National feeling, in effect, rescues wounded bodies by privatizing women and slaves.

Even as the nation symbolically restores Gresham's amputated limb, conferring the safeguard of abstraction, it invasively privatizes Iola, not as political subject or even nonsubject, but as the subject of rape. The doctor's attraction, therefore, depends on the same allegorical conjunction as the general's: each man pits his impermeable governmental body against the susceptible body of the mulatta in sadistic fantasies of a "defenseless" woman alternately terrorized and saved by white male citizenship. Iola resists the doctor's sexual fantasy as well as his nationalist plea to protect her with paternalistic love. After Gresham rails against the "men by whom you were tried and tempted," Iola tersely corrects him: "Tried but not tempted" (88). His investment in American nationalism coincides with his belief that enforced sexual privacy is alluring to Iola. Privacy is thus never beyond the pale of the state. Gresham takes pleasure in imagining "a fate worse than death" because thought of her defiled womanhood displaces his own penetrability and confirms his freedom. His repulsion/longing for inviolable, disembodied citizenship brutally privatizes Iola as sexual victim.

It is not simply Iola's beauty that makes the general and doctor uncomfortable. These men fidget because they no longer can rely on a complex of repression that underwrites allegiance to the American state. Fascination with the tragic mulatta exposes their investment in the "sexual contract" that organizes fraternal alliances by stigmatizing women, relegating them to private spheres.²⁴ The fine print of the social contract (as also a sexual and racial contract) becomes much larger in *Iola Leroy* because Harper's allegory of national citizenship returns obsessively to black women. Consent to a contract with either husband or state, as the general and doctor's leers imply, is always a sexual and racial matter. Gresham and the general do not merely understand their privilege against women's lack of privilege; they also experience a certain thrill in Iola's subjection. The sensuousness of citizenship's power that Iola negatively embodies brushes up against the abstract principles of their (white male) liberal disembodiment. Excited by the friction as the racial and sexual subject meets up with a generic state identity, public enfranchisement and private dispossession, privilege and constraint, citizenship and marriage all collapse into one another. Distinctions between the social contract as "a story of freedom" and sexual contract as "a story of

subjection” no longer apply.²⁵ As erotic investments in Iola’s civic body imply, these stories are one and the same.

Privatization endangers citizenship because extramarital relations disregard the legal, formal underwriting of contractual identity that one bears to the patriarchal locus of either state or husband. Unofficial sexual arrangements ruled the day under slavery, as private (i.e., privately-owned) bodies enjoyed none of the protections spelled out in the first eight amendments to the Constitution. With emancipation, former slaves sought to validate their freed status by wrapping injured aspects of their lives around civil institutions, especially marriage. As historian Leon Litwack observes, “No sooner had emancipation been acknowledged than thousands of ‘married’ couples, with the encouragement of black preachers and northern white missionaries, hastened to secure their marital vows, both legally and spiritually.” By legitimating the marriage contract joining husband and wife, freedpeople hoped to establish foundations that would allow them to “legitimize their children, to qualify for soldiers’ pensions, to share in the rumored forthcoming division of the lands, and to exercise their newly won civil rights.”²⁶ This history explains why marriage—as a relation whose privacy receives legal immunity—so vividly allegorizes citizenship. Where intimacy is guaranteed by the state, privatization confirms citizenship by situating everyday roles and personal rituals against a backdrop of national protection. This transaction of desire that cathects persons to the state explains how in post-Reconstruction black women’s domestic novels, the “black marriage story” functions, according to Claudia Tate, “as a liberational discourse.” And in the specific case of *Iola Leroy*, the heroine’s decision to reject a white suitor, a union that uncannily would repeat her mother’s invalid marriage to a white plantation owner, illustrates “the convictions of exemplary black citizenship.”²⁷

Yet equating marriage and citizenship in this manner ignores how Harper’s allegory fails to align exactly domestic arrangements and political status in mounting a critique of ideological state identity. By design, *Iola Leroy* weaves an imperfect allegory in which the lack of correspondence between the mulatta’s cultural memory and the citizen’s ahistoricity discloses that belonging to the nation-state is not always desirable. Iola refuses

her white suitor, not to dedicate herself to “exemplary black citizenship,” but to withstand the allegorical logic of nation that obsessively reads and usurps her private body as a matter of state. This position does not commit her to uphold privacy at all costs for, as the remainder of the novel shows, Iola values her role as a public intellectual devoted to the uplift of lower-class black populations.²⁸ Her oppositional stance, then, is not a defense of domesticity as a separate sphere but is instead a challenge to the national style of allegory that simultaneously abstracts and reduces persons by making them citizens. She finds Gresham’s wooing unappealing precisely because it is allegorical, collapsing the Fourteenth Amendment’s promises of inclusion into the promises of a lover’s discourse. To meet her objection that “an insurmountable barrier” forever makes their union impossible, the doctor tells Iola, “I love you for your own sake. And with this the disadvantages of birth have nothing to do” (88). His love-struck proclamation echoes the state’s recognition of the citizen: following the Fourteenth Amendment’s truncating logic of “all persons born . . .,” Gresham’s recognition of Iola divorces her from histories antecedent to her own birth. His words owe more to federal formulas than to the language of courtship; the spell of romance he seeks to throw over Iola is not so much heteronormative as hetero-national. What he says is natural—in the sense that it is unmarked as national discourse. He loves her as the United States loves its citizens, “for [her] own sake” and to the exclusion of legacies and ancestors that preexist the citizen’s biography. In Iola’s case, the “disadvantages of birth” overlooked by Gresham and the histories not recognized by the nation are one and the same, namely, African American remainders, perhaps no more visible than Iola’s fraction of “black” blood, that identify the human subject as excessive to and more complex than the citizen. Wife and citizen each “enjoy” a single primary relationship to patriarchal authority, either husband or state, but for Iola this prospective tie is only one among many preexisting affiliations.

As Gresham courts a woman once sold as erotic merchandise, a national-allegorical debate ensues in which her private declaration of sentiments segues into a public reckoning of the prospects for blacks as a whole. Encouraging her to truncate her identity, Gresham’s plea hinges on a state logic, one aptly deployed by the Fourteenth Amendment, that extracts the

citizen from more complexly entailed notions of the subject. Iola refuses to become the wife of a white man who seeks to prevent, were such an operation possible, her African history from manifesting itself in the complexion of their prospective children. She repudiates his social/sexual contract because she senses how bourgeois citizenship deadens elements of her subjectivity. The citizen, allegorically rendered as wife, forfeits all connection to legacies of dispossession. According to the logic of interpellation, Iola can enter into a contract with husband or state only for her “own sake,” but not as a slave mother’s daughter. Gresham thus has no response when Iola asks him to imagine his feelings should their hypothetical child “show unmistakable signs of color” (90). To entertain this fantasy/nightmare is to remember oppressive white power and violated black bodies that exceed a “naturally” abbreviated history centered on an autonomous legal subject. Iola, in short, doesn’t mind Gresham personally—she makes this clear in an effort to spare his feelings—but she does object to him *impersonally* as a prosthetic figure who asks her to disregard history and experiences remaindered by a contractual relationship with patriarchy, either embodied as husband or disembodied as nation-state.

VIOLENCE, PRIVACY, AND THE SUPREME COURT

Harper’s melodrama of incorporation as a prospective marriage to a white man is not an asymmetrical condensation of politics into a domestic relationship. The easy interchangeability between public and private spheres depends on the contractual aspect of each union: the subject consents to naturalization much as the female partner to conjugal union rewrites her identity in accordance with patriarchal law.²⁹ At least this is how postbellum interpreters of U.S. citizenship construed the intimate relation of the individual to the state. A decade after *Iola Leroy’s* publication, Supreme Court Justice David Brewer delivered a series of lectures at Yale University entitled “American Citizenship” (1902) and suggested that his auditors could best understand their natural, already-agreed-to obligations to the state by thinking of the contract formed “when man and woman enter into the marriage relation.”³⁰

This line of reasoning, its privatizing consequences never in doubt, would continue to play a significant role in judicial review, culminating in the 1965 Supreme Court decision, *Griswold v. Connecticut*. The Court here went beyond *Iola Leroy's* ambivalent parallel of marriage and citizenship in its affirmation of the Fourteenth Amendment as not merely an impersonal echo of conjugal contract but as itself a guarantee of marital privacy. At issue in *Griswold* was a Connecticut law making it illegal to provide or use contraception. In his opinion that this law improperly allowed a state to regulate the lives of federally recognized citizens, Justice Goldberg held that “Connecticut’s birth-control law unconstitutionally intrudes upon the right of marital privacy,” in violation of the Fourteenth Amendment.³¹ Goldberg found unconvincing the state’s brief that men and women enjoy more perfect civic lives when marriage and conception are subject to state regulation. However much, as Connecticut’s argument went, it is “in accordance with the experience of all mankind that human beings are happier and are better citizens and better disposed toward the State, when married and surrounded by the ties of a family and with children,” the Supreme Court’s ruling implied that citizens instead would be more contented with equal protection to rights of privacy in the face of state intrusions.³²

How contented should Iola be with Gresham’s promise of marital privacy to the effect that a national history of black abasement need not—indeed, should not—intrude upon their marriage? Plenty, if we follow the generally positive evaluation of *Griswold* and privacy by some commentators.³³ Yet a less optimistic take emerges if we read federally-guaranteed rights of privacy back through *Iola Leroy*. By foregrounding Iola’s body and the threat of rape, Harper’s novel reveals that privacy procures contentment for white men. Privacy is a patriarchal entitlement—and not just for the Southern planters who trafficked in women. For Dr. Gresham, who hears in Iola’s story of being “sold from State to State as an article of merchandise,” a story of *her* temptation, privacy promises him the privilege of keeping her concubinage safely confined to the marital bedroom (88). As Iola insists, however, her sexual history is also national history; the private use white men would make of her body originates in the entitlements of citizenship. In *The Tempting of America*, Robert Bork sorely skews the question at stake in *Griswold* to

assert that “the right [of privacy] does not come out of the Constitution but is forced into it.”³⁴ Given Bork’s emphasis on “tempting,” there is the implication that the Constitution has asked for this violation—just as Gresham assumes that Iola at some deeper level has asked for abasement when he speaks of “the men by whom you were tried and tempted.” Privacy here figures as the unjust penetration of U.S. foundations by liberal formulas. In Bork’s sensational phrasing, the national body is somehow perceived as vulnerable to a privacy that has historically benefited white male citizens. Bork’s image of a violated Constitution, as though its integrity had been compromised by the concept of privacy, dodges the deeper question of how it is the masculine state—and not its reluctant subjects like Iola—that benefits from privacy.

Privacy is thus a privilege of full citizenship deployed against those who claim only partial citizenship. In fact, men accused of marital rape have invoked *Griswold’s* right of marital privacy as a courtroom defense. While this legal maneuver has not convinced the courts, privacy has sanctioned an experience of national citizenship that in intimate and domestic settings looks the other way at violence against women. As legal theorist Elizabeth Schneider writes, “The concept of freedom from state intrusion into the marital bedroom takes on a different meaning when it is violence that goes on in the marital bedroom. The concept of marital privacy, established as a constitutional principle in *Griswold*, historically has been the key ideological rationale for state refusal to intervene to protect battered women within ongoing intimate relationships. . . . concepts of privacy permit, encourage, and reinforce violence against women.”³⁵ Rights are used by some citizens—with the state’s inadvertent blessing—against others. In light of privacy’s underside, is Gresham’s proposal of marriage markedly different from slave-owners’ threats of rape? While it may be answered that Gresham is too much a gentleman to force himself upon Iola, he has no qualms about forcing his history upon her. In her union with him, he assumes she will adopt New England domesticity and forget the Leroy family history of *mésalliance* and miscegenation.

Looking forward a few years from the Court’s take on contraception in *Griswold*, we glimpse the staggering social implications this ruling would

have in legitimating the concept of privacy at the heart of the 1973 *Roe v. Wade* decision legalizing abortion. Looking backward to the scene of Harper's novel, we see another important set of issues also involving marriage, citizenship, and privacy. It is this last term—privacy—that *Griswold* unveils as a sticking point in Iola's decision not to accept husband/state as ultimate arbiter of her identity. She does not want a fully entitled suitor-citizen to exercise the concept of privacy over her. The "right to marital privacy" claimed by Gresham in his effort to alienate Iola from any competing claims of family, community, or heritage is a calculated juridico-domestic appeal that patterns a wife/citizen with no edges or folds to her subjectivity not covered by patriarchal governance. Privatization restricts citizenship to the static harmony of the conjugal as exemplified by Gresham's desire that Iola consent "to sharing my Northern home, [to] having my mother to be your mother" (89). As with national incorporation, Gresham would have his identity overlap completely with Iola's, and any memories that exist outside that overlap, such as devotion to a lost slave mother, are overwritten by a new set of affiliations. Citizenship, like Gresham's vision of marriage as conjugal amnesia, trims back the past; the "right to marital privacy" in its retrospective operation becomes an injunction to enshroud the citizen in a national logic of privatization that leaves her shorn of subaltern registers of cultural belonging.

As a matter of total overlap, marriage between democratic person and state seemed the perfection of political subjectivity to Supreme Court Justice Brewer. His turn-of-the-century lectures updated and democratized monarchical metaphors to celebrate national citizenship: in a New World version of Louis XIV's dictum, "every American can say, 'The Nation! I am the Nation.'"³⁶ Brewer's geography of citizenship is monumental, its map of consolidated federal power oblivious to particularistic remainders of subjectivity. And, according to one legal historian writing in 1912, the bureaucratic technology that accomplished this "new paternalism" was mobilized by the Fourteenth Amendment. Lamenting the postbellum demise of states' rights that, in his opinion, had worsened "the Afro-Teutonic situation," this commentator employed the same language that Justice Brennan would use in 1965 to speak of an amendment that "nationalize[d]" rights by panoptically

bringing every person under a governmental gaze.³⁷ But what's not as obvious is that the subject's diminution accompanies federal expansion, that privatization corresponds to nationalization. This double movement of personal contraction and impersonal dilation that gives birth to citizenship is, for Chantal Mouffe, part of a larger history of liberalism that "reduced citizenship to a mere legal status."³⁸ As opposed to Brook Thomas's contention that cultural critics too readily dismiss positive aspects of national citizenship, Mouffe suggests the importance of a broader interrogation of political categories. But where does the conflict between Thomas's emphasis on the virtues of formal citizenship and Mouffe's rather mournful description of a subject attenuated to a thin legal entity leave someone like Iola Leroy?

Between restrictive marriage and exploitative concubinage: such are the only available options offered by white men to Iola and her mother. On the one hand, marriage as an allegory for formal citizenship protects Iola from abuse but represses her maternal history that legitimates abuse in the first place. She is both sheltered from and denied a family sexual history that is coincident with darker episodes of American national and legal history. On the other, to decline the "mere legal status" of wife/citizen is to court the indignities of adulterous sexual traffic. Life without citizenship becomes analogous to the late-nineteenth-century heroine's choice to reject Victorian morality and forgo the sanctity of wedlock: scandal and harassment threaten the subject who tries to exist independently of the patriarchal guarantees offered by either husband or state. In her work on this treacherous landscape where the conjugal performs the political, Claudia Tate reconsiders "the social value invested in marriage as a sign of meritorious citizenship."³⁹ Iola's story ends happily because she inherits a different fate than her mother and avoids becoming a white man's wife/concubine, and instead weds a suitor of African American ancestry. Bourgeois rituals both secure and symbolize national incorporation. Freedpeople's pursuit of a social agenda patterned after white Victorian decorum suggests to political theorist Judith Shklar "how very mainstream American the ideology and aspirations of the ex-slaves were." What the freedmen desired, she concludes, "was to be citizens like everyone else."⁴⁰

But Iola does not want to be a citizen like any other; indeed, it is questionable if she wants to be a national citizen at all. The push to homogeneity violates the specific materiality (and maternity) of memory that Iola cherishes. She does not want the same mother as Gresham despite his liberal offer to share his white heritage to the exclusion of her African American one. Iola instead searches for an alternative geography of citizenship that remaps the relationship between subject and nation with more nuance than the starkness of existing either completely within or wholly outside the nation. Her theory of citizenship utilizes a grammar that signals neither inclusion or exclusion. As she explains to Gresham,

I cannot be your wife. When the war is over I intend to search the country for my mother. . . . I have resolved never to marry until I have found my mother. The hope of finding her has colored all my life since I regained my freedom (90).

Marriage to the state will not rescue her from social death; in fact, becoming a wife/citizen only reproduces her genealogical isolation. Her refusal establishes nation or “country” as incidental to “mother”; the United States is simply the geopolitical territory for her cultural quest. Neither outside the nation nor wholly interpellated by it, Iola travels its actual and imaginary terrain, taking a course that, at times, intersects with federal routes of identity and, at others, veers off to backtrack across personal and collective tracts of memory and belonging. In contrast to a generic identity, she insists on a “colored” experience organized around reunion with a specific maternal history.⁴¹ This narrative, in its repudiation of abstraction, functions in an anti-allegorical mode: Iola’s search for her mother remains actual and does not refer beyond itself to provide a surface for national reflection. Citizenship in Harper’s reinterpretation no longer develops allegorically from the deathly logic of birth that buries the past under a national future but instead beats a backward course to people and ghosts that never became part of that future.

F L A G S , P R O T E S T S , A N D
C O U N T E R - D E M O N S T R A T I O N S

Perhaps because of this history in which the inclusive properties of formal citizenship threatened to exclude cultural memory, African Americans believed, according to polls, that the state should not intervene between Elián and his father. A majority of blacks surveyed—including 92 percent in Miami-Dade county—felt that neither the promise of some official U.S. status nor Cuban expatriate nationalism should trump cultural memories and family ties stigmatized as politically and geographically unAmerican.⁴²

This critical reading of citizenship was visibly enacted on Palm Sunday in a ritual orchestrated at a historic black meeting house in Washington, D.C. The Shiloh Baptist Church welcomed Juan Miguel González to its Sunday services when he came to the United States to assert his parental rights to his son against the Miami relatives seeking asylum and citizenship for Elián. González was greeted with a standing ovation by parishioners when he entered this church that was founded during the Civil War by former slaves and free blacks who followed the Union Army out of Virginia. The site itself seemed to preserve reminders that citizenship cannot exhaust subjects. As Shiloh's pastor explained the warm reception given to González: "Many African Americans sense this [the set of obstacles blocking the reunion of Elián and his father] as a problem with right-wing conservatives. The people we have the most difficulty with are the ones leading the charge to keep Elián from his father. There's a deep history with the black community of children being taken away from us and *the powers that be* not giving them back. That strikes deep."⁴³ The legacy of slavery's social death impacts the black subject's ambivalent relation to the state in ways that bear upon the artificial estrangement of Elián and Juan Miguel González. Although the pastor's reference point here is slavery, he might as easily have been talking about the congressional petitions for citizenship that were filed on Elián's behalf. Each process, bound up with very different state institutions and national precepts, isolates personhood and severs the subject from a history that either temporally precedes (as in Iola's case) the contractual ties to the U.S. nation-state or spatially exceeds its borders and ideology (as in Elián's

connection to communist Cuba). No birth without a death: the juridical logic that creates the citizen also annihilates the subject's memory.

Elián and Iola contest the “powers that be” by exposing national citizenship as contingent and artificial. Their histories thus introduce the possibility that the powers of the nation-state might be configured in different ways and operate by other means. Yet such alternative imaginings of the cathexis of the state and its reluctant subjects need not be utopian, liberatory, or even all that different. That is, claims to cultural citizenship are no less contingent and artificial than the legal citizenship sponsored by the nation-state. For the “tragic mulatta” of *Iola Leroy*, cultural identity is hardly natural but rather a historical effect of sexual commodification and patriarchal exchange. And, for the Cuban child saved from the ocean, the reassertion of cultural belonging does not involve some unproblematic return to the land of his birth. Instead, this return is also an historical effect of the American state. The predawn raid by Immigration and Naturalization Service agents on the Little Havana home of Elián's Miami relatives illustrated an enactment of juridical power that extended the government's influence to a private home in order to uphold the private, paternalistic rights of a father to his son. The Justice Department's resistance to legal petitions to grant a formal U.S. identity to the son of a Cuban national is graphically, but still legally, reiterated by federal agents who police U.S. borders. This irony that collapses together the processes of justice and its execution discloses the law's ability and authority to encircle all political subject positions. What legal or cultural identity is there outside the governance of citizenship?⁴⁴

Following the raid, protesters took to Calle Ocho and other streets in Little Havana. They waved Cuban flags, shouted slogans in support of Elián's Miami relatives, and expressed their despair over a government that had failed to support the cause of Cuban exiles as surely as it had decades earlier when it refused to provide air support at the Bay of Pigs. Elsewhere, several miles to the south in the suburbs of Dade, rallies sprang up where people gathered to voice their support for the legal machinery that had forced an end to one phase of the crisis. On the street corners of South Dixie Highway, counterdemonstrators waved U.S. flags, and motorists honked horns to

signal shared political sentiments over the return of law that had never been absent. As much as marchers called these rallies “pro-American,” they served as anti-Cuban protests, especially among groups who felt marginalized by Cuban political and economic successes. In the crowds of counterdemonstrators, crowds that included white and black residents of Miami, Confederate flags also appeared. Just as the INS raid had collapsed the law upon itself to leave no space outside of the law, now history imploded to cloud the exercise of cultural citizenship with the symbol of slavery and dehumanization. In this temporal *mise-en-abîme*, critical perspectives on “the powers that be” also seemed to memorialize and even make present a regime that *was*.

The protests and counterdemonstrations died down in the weeks that followed, but clip-on miniature flags still fluttered from car windows as an afterimage. More nuance was present in these quotidian expressions than at first might be expected. In addition to the Miamians who drove with either a pair of Cuban or U.S. flags, some motorists opted to display both banners. For those with a Cuban flag on the driver’s side and a U.S. flag on the passenger’s side, the message seemed to be that the belief that Elián should stay in Florida and condemnation of the INS raid need not conflict with a citizen’s allegiance to the U.S. But many who drove with both symbols did so with the U.S. flag upside down as if to indicate that the two loyalties were mutually exclusive and could not overlap. Yet the same implosion was in effect as these drivers, critical of the official governmental response, also believed that Elián’s sole hope for freedom lay under a government represented by the American flag. The positions available under this political symbology remained resolutely nationalist in ways that slid into a vortex of Americanism. Of course, a third option exists, and most motorists took this route: flying no flag at all. How better to mark tacit consent to citizenship?

Ultimately, then, these options do not present different paths, but rather a convergence around Americanism. Whether the attachment is legalistic and formal or affective and informal, the citizen does not necessarily experience an opposition between state and cultural identity. Legal citizenship can represent a form of cultural attachment as powerful and as meaningful as any gesture to ethnic memory and heritage. In *Iola Leroy*, for instance, the

heroine's search for her Africanist past is matched by the narrator's nationalist rhapsody to Grant's determination, Fighting Joe Hooker's "victory in the palace chamber of the clouds," and Sherman's "famous march to the sea" (104). These points of national attachment also serve as entries in a cultural archive of freedom for the newly emancipated. Similarly, the plea for Elián's legal citizenship was proclaimed as a strategy to secure for this young Cuban exile a new cultural archive—one whose entries would include Nintendo, Disneyland, and freedom. Like other reluctant citizens, Elián and Iola Leroy have more than one loyalty: so strong can each of these multiple attachments be, however, that it can ask the subject to exclude any other affiliation from consciousness.



N O T E S

1. The middle sections of this essay draw on and rework material from my forthcoming *Necro Citizenship: Death and the Public Sphere in the Nineteenth-Century United States* (Durham: Duke University Press, 2001).
2. Paired with *jus soli* is the doctrine of *jus sanguinis* that traces membership back to parental citizenship. Here again, African Americans could have told a far different history, especially a history of miscegenation in which motherhood was the only parentage of legal standing.
3. Gabriel García Márquez, "Shipwrecked on Dry Land," *New York Times* (March 29, 2000) A29.
4. "Citizenship bill filed in a divided Congress," *Miami Herald* (January 25, 2000), 6A. Mack may be more right than he suspects. The Elián controversy demonstrated to many how the INS is subject to "political pressure." In contrast to Elián and other Cuban rafters who can claim political asylum once they reach U.S. territory, Haitian refugees are summarily denied entry and the chance of asylum. For a different comparison that reveals the privileged status of Cuban immigrants, see the case of two-year-old Khalil Shanti. Khalil's mother said that she brought her son to the United States after his father abused her. The judge at a family court hearing ruled that the United States had no jurisdiction in the case and that the boy be returned to his father

- in Jordan, where he was born. See “Custody Case Like Elián’s Gets a Much Faster Ruling” *New York Times* (March 6, 2000).
5. But could a five-year-old affirm an oath of citizenship and become naturalized? The Senate bill was designed to meet this objection by skirting the thorny issues of consent and making Elián a citizen without taking the oath.
 6. Edward Bates, “Citizenship” in *Official Opinions of the Attorneys General of the United States, Advising the President and Heads of Departments in Relation to Their Official Duties, and Expounding the Constitution, Treaties with Foreign Governments and Indian Tribes, and the Public Laws of the Country*, vol. 10, ed. J. Hubley Ashton (Washington, D.C.: W. H. and O. H. Morrison, 1868), 412. Bates wrote his commentary in 1862, which was published in 1868, the year of the Fourteenth Amendment’s ratification.
 7. See Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, Mass.: Harvard University Press, 1982).
 8. Bates 388–89.
 9. Karl Marx, “Contribution to the Critique of Hegel’s Philosophy of Law” in *Karl Marx, Frederick Engels: Collected Works*, trans. Richard Dixon et al., 50 vols. (New York: International Publishers, 1975), 3:77.
 10. Bates 413.
 11. William J. Brennan, Jr., “Landmarks of Legal Liberty” in *The 14th Amendment: Centennial Volume*, ed. Bernard Schwartz (New York: New York University Press, 1970), 1. See also Herman Belz’s reading of Reconstruction as a period in which “civil rights became nationalized,” *Emancipation and Equal Rights: Politics and Constitutionalism in the Civil War Era* (New York: Norton, 1978), 110. Eric Foner describes the broader political history of this consolidation of federal authority and expansion of national power, *A Short History of Reconstruction, 1863–1877* (New York: Harper and Row, 1990), 13, 105. While legal scholars and historians have often pointed to the 14th Amendment as legitimizing the consolidation of federal over state power, the Thirteenth Amendment abolishing slavery also made important steps in altering the relationship of the nation to the states. On this point, see Harold M. Hyman and William M. Wiecek, *Equal Justice Under Law: Constitutional Development, 1835–1870* (New York: Harper and Row, 1982), 386–403.
 12. Hyman and Wiecek, 415. For an overview that touches on naturalization’s connections to Jim Crow and the status of African Americans, see Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge: Harvard University Press, 1998), 223–45.

13. Yet the “natural” process of conception and birth can be interrupted with measures that many persons cast as “unnatural,” as contravening still higher laws and capacious ideologies of morality, ethics, and religion. The metaphor that compares the naturalization of citizenship to the naturalness of birth becomes an issue in light of judicial, political, and social debates provoked by decisions such as *Roe v. Wade* and *Griswold v. Connecticut* (see below) that recognize birth as no longer inevitable. It is no coincidence that Supreme Court arguments involving contraception and abortion—that is, legal acknowledgements that birth is not inevitable—make strong appeal to the Fourteenth Amendment as foundational precedent.
14. Daniel Farber and John E. Meunch, “The Ideological Origins of the Fourteenth Amendment,” *Constitutional Commentary* 1 (1984) 276.
15. Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in 19th-Century America* (New York: Oxford University Press, 1997), 118.
16. Rev. James Lynch, “Let the Word African Be Stricken from the Discipline of the Church,” *Christian Recorder*, March 25, 1865. Leon Litwack has been instrumental in drawing my attention to this and other sources from the *Christian Recorder* that concern debates over African American national identity [*Been in the Storm So Long: The Aftermath of Slavery* (New York: Knopf, 1979), 540].
17. George A. Rue, *Christian Recorder*, April 8, 1865.
18. Anonymous, “The American Negro,” *Christian Recorder*, November 21, 1868. The rhetoric of this editorial echoes Harriet Beecher Stowe’s confusion over the issue of blacks and nationalism. George Harris in *Uncle Tom’s Cabin* speaks of his soul’s “yearning . . . for an African *nationality*” but refuses to consider Haiti as an alternative geography: “The race that formed the character of the Haytiens was a worn-out, effeminate one; and, of course, the subject race will be centuries in rising to anything” [*Uncle Tom’s Cabin, or Life among the Lowly* (New York: Penguin, 1981), 608–9].
19. Booker T. Washington, “Up from Slavery” in *Three Negro Classics* (New York: Avon, 1965), 94; Du Bois, “The Souls of Black Folk” in *Three Negro Classics*, 241.
20. “To demystify the notion of citizenship is to risk losing as a possible political weapon a concept that imagines self-fulfillment through commitment to the public good,” writes Thomas (“*China Men, United States v. Wong Kim Ark, and the Question of Citizenship*,” *American Quarterly* 50 [December 1998], 694).
21. Frances E. W. Harper, “Iola Leroy, or Shadows Uplifted” in *The African-American Novel in the Age of Reaction*, ed. William L. Andrews (Mentor: New York, 1992), 31. All further references to this edition will be cited parenthetically in the text.

22. The intertwining of the General's sympathy and potentially lurid erotic interest in Iola repeats the earlier history of a young slaveowner's liberal fascination with Iola's mother: "I thought of this beautiful and defenceless girl adrift in the power of a reckless man, who, with all the advantages of wealth and education, had trailed his manhood in the dust" (54). After this proclamation, the slaveowner takes steps to educate and refine his slave so that she can become his wife, who, unrecognized by law, exists as his concubine. For Iola, then, postbellum history comes problematically close to reenacting antebellum history, as each episode locates male sentimentality at the origin of sexual interest and possessiveness.
23. Michael Warner, "The Mass Public and the Mass Subject" in *The Phantom Public Sphere*, ed. Bruce Robbins (Minneapolis and London: University of Minnesota Press, 1993), 238.
24. The social contract is built on a complex of repression and Pateman describes its sexual workings as "a repressed dimension of contract theory" (*The Sexual Contract* [Stanford: Stanford University Press, 1988], ix). I am modifying Pateman's thesis to show how it is a *white* "man who makes use of woman's body (sexual property)" (185).
25. Pateman, 2. In fact, as James Kettner demonstrates, the uncertain legal status of free persons and later freedpeople as neither naturalizable nor consenting to citizenship necessitated contractual definitions of the relation between self and state (*The Development of American Citizenship, 1608–1870* [Chapel Hill: University of North Carolina Press, 1978], 287–351).
26. Litwack, 240. And on the importance of marriage as confirmation of civil rights for freed slaves, see Claudia Tate, *Domestic Allegories of Political Desire: The Black Heroine's Text at the Turn of the Century* (New York: Oxford University Press, 1992), 71, 90–92.
27. Tate 90, 125.
28. And, according to Saidiya Hartman and Kevin Gaines, the cost of upholding privacy is immense where political and civic freedom are concerned. Both these critics implicitly contend with Tate's thesis that domestic allegories of bourgeois private life have emancipatory significance. The "articulation of black politics at the site of the family is often consistent with the regulatory effects of the state," argues Hartman (157). She explains that under the jurisdiction of spheres identified as private, emphasis on the social displaces civil rights, with the result that claims for political freedom lose their urgency (199–200). Likewise, Gaines sees that "preoccupation with the status of the patriarchal family among blacks" confuses bourgeois advancement with political progress (6). For

her part, Harper refuses to ignore the paramount importance of family in national rhetoric: the domestic, she suggests, functions both as a site of interpellation and a site of critique, because the American nation-state so heavily depends on the image of nation as family [*Uplifting the Race: Black Leadership, Politics, and Culture in the Twentieth Century* (Chapel Hill: University of North Carolina Press, 1996), 6].

29. Not that Iola, in her identity as daughter (or slave daughter), isn't already living in accordance to patriarchal law. As a prospective wife, however, she enjoys the illusion of consent, symbolized by acceptance of a husband. It is only as a "white" daughter that Iola doesn't feel the force of this law as keenly as when she is legally redefined as merchandise.
30. David Brewer, *American Citizenship: Yale Lectures* (New York: Charles Scribner's Sons, 1902), 3.
31. *Griswold v. Connecticut* 381 U.S. 479 (1965). Given that attorneys for Griswold did not draw attention to the fact that the Planned Parenthood clinic in question was open to single as well as married women, it is important to remember that the Court's ruling protected only marital privacy; on this point see Hugh C. Macgill, "Introduction: Observations on Teaching *Griswold*" *Connecticut Law Review* 23 (Summer 1991) 858 no. 10. In *Eisenstadt v. Baird* (1972) the Court was not swayed by arguments that access to contraception should be denied to unmarried persons. Again in this case, the Fourteenth Amendment's equal protection clause was cited as the ground of "fundamental human rights" including privacy (*Eisenstadt v. Baird*, 405 U.S. 438 [1972]).
32. Connecticut's argument is quoted in Macgill 859.
33. See, for instance, Jean L. Cohen, "Democracy, Difference, and the Right of Privacy" in *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib (Princeton: Princeton University Press, 1996), 187–217.
34. Robert H. Bork, *The Tempting of America: The Political Seduction of the Law* (New York: Touchstone, 1990), 114.
35. Elizabeth M. Schneider, "The Violence of Privacy," *Connecticut Law Review* 23 (Summer 1991), 974.
36. Brewer, 19.
37. Charles Wallace Collins, *The Fourteenth Amendment and the States: A Study of the Operation of the Restraint Clauses of Section One of the Fourteenth Amendment to the Constitution of the United States* (Boston: Little, Brown, 1912), 34, 63, 10.
38. Chantal Mouffe, "Democratic Citizenship and the Political Community" in *Dimensions*

of *Radical Democracy: Pluralism, Citizenship, Community*, ed. Chantal Mouffe (London and New York: Verso, 1992), 227.

39. Tate 91.
40. Judith N. Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge, Mass.: Harvard University Press, 1991), 52. For a reading of *Iola Leroy* that counters Shklar's account of the freedmen's goals, see John Ernest on the effort "to locate a specifically African-American mode of understanding" (*Resistance and Reformation in 19th-Century African-American Literature: Brown, Wilson, Jacobs, Delany, Douglass, and Harper* [Jackson: University of Mississippi Press, 1995], 184).
41. Her brother Harry similarly sets up federal incorporation as ancillary to his desire to reintegrate his family. He enlists in the Union army "not so much for the sake of fighting for the Government, as with the hope of finding my mother and sister, and avenging their wrongs" (96).
42. "Church Opens Door, Heart to Dad" *Miami Herald* (April 17, 2000), 6A.
43. "Church Opens Door, Heart to Dad" *Miami Herald* (April 17, 2000), 6A (my emphasis). For historical information on the Shiloh Baptist Church, see http://www.shilohbaptist.org/ded_week/history.htm (June 19, 2000).
44. While I intend this as a rhetorical question, one answer is that in Elián's case the identity of the child is outside the governance of citizenship. As a minor, he is unable to consent to governance, making the ability to represent his interests the subject of legal battle between Juan Miguel González and the Miami relatives. But this effect serves to echo the United States's historic willingness to infantilize persons and populations excluded from citizenship.