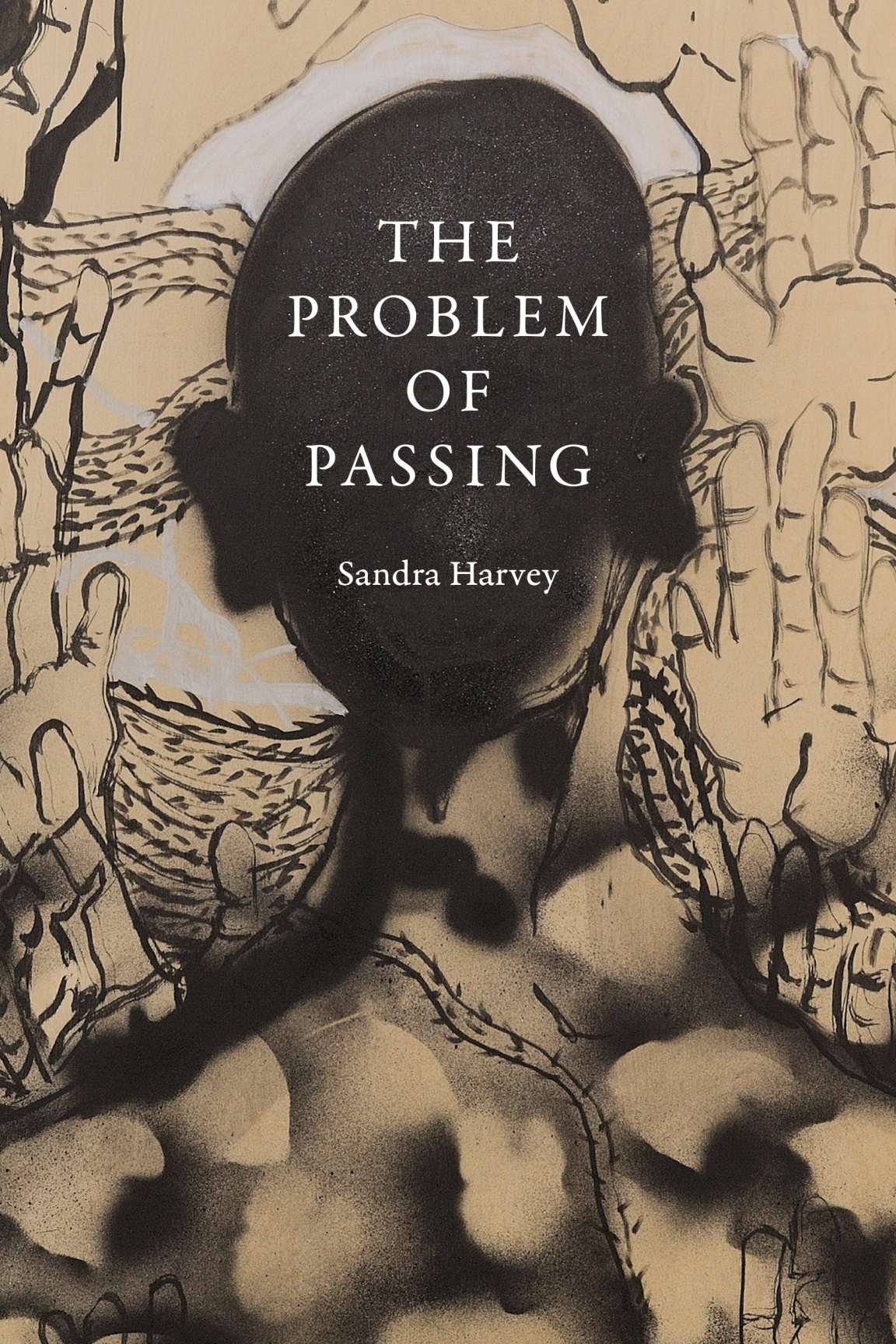


The book cover features a central, dark, oval-shaped object, possibly a stone or a piece of wood, set against a light tan background. The object is surrounded by intricate, dark, sketchy lines that resemble roots or tangled branches. The overall style is artistic and somewhat abstract, with a focus on texture and form. The title is printed in white, serif, all-caps font, centered over the dark oval. The author's name is printed in a smaller, black, serif font, centered below the title.

# THE PROBLEM OF PASSING

Sandra Harvey

# The Problem of Passing

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# The Problem of Passing

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SANDRA HARVEY

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Contents

INTRODUCTION

I

I

OF PASSING AND THE PASS

33

2

PASSING AND THE ARCHIVAL RUSE

71

3

THE SCIENCE OF PASSING

107

4

PASSING AND THE ETHICS OF KNOWING

137

CODA

169

|                 |       |              |       |
|-----------------|-------|--------------|-------|
| Acknowledgments | Notes | Bibliography | Index |
| 181             | 185   | 229          | 243   |

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## Introduction

The world is flooded with light, and everything is available to be seen. We can see people, pictures, landscapes, and whatever else we need to see, and with the help of science we can see galaxies and viruses and the insides of our own bodies. Seeing does not interfere with the world or take anything from it, and it does not hurt or damage anything. Seeing is detached and efficient and rational. Unlike the stomach or the heart, eyes are our own to command. —JAMES ELKINS, *The Object Stares Back: On the Nature of Seeing*

Poor blind fool . . . robbed by an invisible man. —RALPH ELLISON, *Invisible Man*

Black studies is generally no longer very concerned with the problem of passing. Well, much of black studies, at any rate.<sup>1</sup> In 1952, *Jet* magazine published an article titled “Why ‘Passing’ Is Passing Out,” declaring an end to the phenomenon and attributing its demise to the growth of the black middle class.

Black racial passing has generally been understood as a strategy available to the most privileged, and perhaps even bourgeois, of light-skinned black individuals, so light in appearance they are able to disappear into the normative white world. According to the article's authors, advocacy against segregation in the workplace after World War II, especially by the National Urban League, the NAACP, and some state and federal agencies, rendered passing for white a strategy no longer needed as "the thousands of Negroes who 'passed' to find decent employment 'return' to their race."<sup>2</sup> Direct collective action during the later civil rights and Black Power movements demanded visibility. They negotiated inclusion and/or reclaimed self-determination. They loudly and proudly embraced the tenets of "Black is beautiful." Given these advances, the topic—inasmuch as it referred to blacks passing for white—could be more and more put to rest. In its stead, many black studies scholars have shifted focus to the problem of hypervisibility, and they have astutely traced how general black inability to evade the scrutiny of the state or its representatives renders black subjects vulnerable to violence.

While black studies scholars, barring a few exceptions, have declared racial passing passé, other communities and scholarship have picked up interest in analyzing the phenomenon. Mixed-race studies, Jewish studies, disability studies, Latinx studies, and queer and trans studies, for example, have begun to see how passing as a trope could apply to the experiences they study. And rightly so. Today is a time in which passing—the notion that some can impersonate a normative identity to access individual benefits—is understood to apply to any subject. However, in most of these narratives, the analysis of blackness has been left behind. If mentioned at all, one of two things generally occurs within the newer analyses outside of black studies. Either black people are referred to as just one of numerous categories of people who pass, or black experience is reduced to a precursor to the specific passing problematics of other groups. The point of departure in *The Problem of Passing* is that many resolutions about passing in black studies and generalizations about passing in other areas of critical theory and cultural studies miss the mark. We have not, and so far cannot, move "beyond" this. The problem of black racial passing is critically relevant to black life today, and as I will argue, it is also central to the study of all forms of passing. Indeed, the book asserts, first, that passing—and, in particular, our assumptions about what makes passing possible or impossible—is at the very center of historical *and* present-day violence toward *all* black subjects. Second, not only is this true, but *all* narratives about passing (passing for cisgender, passing for straight, passing for able-bodied, etc.) encompass in their core assumptions about blackness—what it is and what it threatens to do. Perhaps

surprisingly, this is true even for those stories that, at face value, do not appear to have anything to do with black people. The third core argument of the book is that passing narratives, emerging as symptoms of anti-black fantasy and anxiety, lead us to question some basic epistemological assumptions we might otherwise take for granted. If we pay attention to the anxieties that passing threatens to provoke, we might begin to reexamine questions like: How do we know? How do we know what we know? And are we sure? One way people shape how they answer these most basic epistemological questions is through recourse to narratives about passing. Indeed, the book will argue that desires, fears, and anxieties rooted in anti-blackness are to be found at the center of our very practices of knowing.

I am aware that I have already moved too quickly, and perhaps for many, too far. Let us take up my initial claim first; that is, that ideas about passing are central to understanding the ongoing policing violence that black people face in the present. To consider this, permit me to ground us in a still pressing, nightmarish story. On the evening of February 26, 2012, a 911 dispatcher at the Sanford Police Department in Florida received an emergency call. The person on the other end of the line was twenty-eight-year-old George Zimmerman. According to the transcript of the six-minute call, Zimmerman reported,

Hey we've had some break-ins in my neighborhood, and there's a real suspicious guy, uh, [near] Retreat View Circle. . . . This guy looks like he's up to no good, or he's on drugs or something. It's raining and he's just walking around looking about.

DISPATCHER: OK, and this guy is he white, black, or Hispanic?

ZIMMERMAN: He looks black.

DISPATCHER: Did you see what he was wearing?

ZIMMERMAN: Yeah. A dark hoodie, like a grey hoodie, and either jeans or sweatpants and white tennis shoes. He's [unintelligible], he was just staring . . .

DISPATCHER: OK, he's just walking around the area . . .

ZIMMERMAN: . . . looking at all the houses.

DISPATCHER: OK . . .

ZIMMERMAN: Now he's just staring at me.

...

ZIMMERMAN: Yeah, now he's coming towards me.

DISPATCHER: OK.

ZIMMERMAN: He's got his hand in his waistband. And he's a black male.

...

ZIMMERMAN: Something's wrong with him. Yup, he's coming to check me out, he's got something in his hands, I don't know what his deal is.

DISPATCHER: Just let me know if he does anything OK

...

ZIMMERMAN: Okay. These assholes, they always get away . . .

...

DISPATCHER: Are you following him?

ZIMMERMAN: Yeah

DISPATCHER: Ok, we don't need you to do that.<sup>3</sup>

Nevertheless, armed with a nine-millimeter pistol, Zimmerman continued to follow his suspect. Seventeen-year-old Trayvon Martin had left his father's girlfriend's house in the neighborhood to buy some snacks and was on his way back home when he noticed that he was being followed. He called his best friend, Rachel Jeantel, and as she later told ABC News, "He said this man was watching him, so he put his hoodie on. . . . I asked Trayvon to run, and he said he was going to walk fast. I told him to run but he said he was not going to run."<sup>4</sup> Zimmerman shot Martin just seventy yards from where the teenager was residing. After his killing, Trayvon Martin's parents could not see their son's body until it was released, two days later, directly to the mortuary transport for the funeral. In the meantime, the young boy lay dead in the Volusia County medical examiner's office, listed as "John Doe. Young black male. Identity unknown."<sup>5</sup> A fellow neighborhood watchman told the media there had been eight break-ins in the area in the past year and that black men were suspects in each of the former crimes. He concluded about Zimmerman's killing of Martin, "The stage was already set. It was a perfect storm."<sup>6</sup>

It was so for various reasons but primarily because of one of the founding mythologies and correlating missions of this nation: the assumed danger that free-roaming blackness presents and the moral call to contain it for the sanctity of the body politic. From fending off threatened mutiny on the transatlantic

slave ships to cordoning off land into property and defending the traditional nuclear family, the national colonial project has *needed* a common boogeyman. And need, here, must be understood expansively: ideologically, psychically, morally, and economically. It has a spatial dimension as well. Blackness is wrong when it exists where it shouldn't; it is trespassing and fugitive. Moreover, the geographic stipulation "where it shouldn't" refers to the totality of land the nation controls. If this is the case, blackness, and those fixed under its signifier, is also wrong simply for *being* as such. The consequential imperative to track, contain, and manage blackness—and therefore black people—undergirds the national project by designating how and where black people must exist and where and when they must be killed. After Martin's murder, students walked out of classrooms to protest. They donned hoodies and held their hands in the air with Skittles and iced tea, reportedly the treats the teenager bought during his ill-fated run to the store. In the wake of Zimmerman's acquittal, the collective organizing of the Black Lives Matter movement emerged. Of course, there were and will be other victims of this national pastime of hunting black people (adults and children): Philando Castile, Michael Brown, Aiyana Jones, Eric Garner, Rekia Boyd, Sandra Bland, Monica Jones, CeCe McDonald, and George Floyd, to name just a few.<sup>7</sup> Considered mundane, most incidents remain unremarked upon. *The Problem of Passing* takes the watchman's words seriously, despite the fact that they offer an apology for murder. It does so because the matter-of-fact comment points directly to the much larger historical phenomenon that remains salient in determining the lives and deaths of black people in the United States: the surveillance and containment of blackness read as fugitivity.

I admit, given how racial passing has traditionally been conceived, it may seem peculiar to turn to racial passing as the conceptual framework to think through Trayvon Martin's killing and others like it. As I noted, much of the recent (and not so recent) analysis of and resistance to police killings has focused on the hypervisibility of blackness and the presumption that police violence is a threat to certain people almost entirely due to the assumed fact that they are unable to pass. Nevertheless, as this book will argue, turning to narratives about those we assume can pass—and, importantly, about those we assume cannot—allows us to understand how epistemological and ontological instability fuels the ritualized, everyday hunting of black people in the United States. Indeed, even as it seems contradictory, the biopolitical assumptions, desires, and anxieties around wayward blackness that underpin the suspicion of passing narratives are also what comprise the very conceptual structures of modern surveillance more broadly. They foretell Martin's killing as much

as they do the increased social mobility of a privileged class of light-skinned blacks. These two consequences are connected intricately; they are, in fact, two sides of the same coin.

We are better able to notice this dynamic, however, if we let go of, at least momentarily, the cultural obsession with conceiving passing from the perspective of the presumed individual passer—the person fraudulently occupying a supposedly forbidden and inauthentic identity. If we instead refocus our attention on the watcher rather than the watched, we can begin to take account of the suspicion or accusation of passing as part of a long history of surveillance. *The Problem of Passing* asks the reader to break with the traditional focus on the passer in order to center the work of the accuser. To begin, the book traces the origins of passing narratives to the policing of blacks as runaways during chattel slavery. It does so by tending to the prevailing logics undergirding the vigilant tracking and capture of fugitive slaves. Here, as everywhere, the success of the hunt depended on the tracker's ability to locate and identify blackness, and stories about passing narrated the challenges of doing so.<sup>8</sup> By the mid-nineteenth century, this mythology narrowed down to complexion as the primary determinant of the hunted's (in)ability to blend in. Vigilante folklore about the exceptional racial imperceptibility that privileges individual light-skinned blacks stands in opposition to its assumptions about a collective and undifferentiated black underclass that is unavoidably eye-catching, presumably unable to pass. The latter class is fixed, in short, as a beckoning target.<sup>9</sup>

Indeed, the assumption of hypervisibility renders black skin its own spotlight.<sup>10</sup> Consider that, when critiquing policing, we have often left uncontested the claim that blackness is uniquely hypervisible. In fact, we have reified it and used it as our point of departure in framing the surveillance of black people. There has been a good reason. The claim has material effects on those deemed hypervisible, and hypervisibility, in many ways, has become particular to the black experience in the West.<sup>11</sup> For example, Frantz Fanon remarked that what distinguished anti-blackness from anti-Semitism in France in the 1960s was a visual schema that overdetermined blacks based on a seemingly obvious visual phenotype. He wrote, "The Jew can go ignored in his Jewishness. It is not integrally what he is. . . . His acts, his behavior are what ultimately determine him. He is a White man, and except for some debatable traits, he is able to pass undetected. . . . The Jew is not liked from the moment he is detected. But with me, everything takes on a *new* face. I am allowed no chance. I am overdetermined from the outside. I am not a slave of 'the idea' others have of me, but of my appearance."<sup>12</sup> My purpose here is not to debate whether, where, and when it might be true that Jewish people can pass for not Jewish; there are

several layers of nuance that we will unpack later in these pages. For now, what is important is that Fanon believes that Jews can pass and he cannot. Moreover, it is not just Fanon who would think this way. Inasmuch as European Jews are considered to have white skin (or close enough) and blacks are considered the oppositional binary to whiteness, most people in the West would likely agree with Fanon, at least to a point. Thus, Fanon narrated his experience precisely in opposition to that of others who could pass. They, he observed, experience prejudicial treatment because of some supposed *interior* deficiency. That is, their inferiority can be hidden by a surface layer facsimile. In contrast, for Fanon, hypervisibility imposed a lived experience in which his body took up space where it was not supposed to be. The black body was rendered unavoidable, dense, and as existing in triple. Fanon's skin testified to his supposed inferiority, to his ancestors as a reminder of the historicity of this inferiority, and to all the horrific stories anthropology had already told about them and, consequently, about him. Through this social discourse, blackness becomes *epidermalized*, a process by which one's wretchedness is meant to be visible on the skin as a warning to all others.<sup>13</sup> Following insights such as these, it is certainly warranted that scholarship on black resistance to surveillance has often settled on how to live—at times even how to have a good life—despite the *fact* of black hypervisibility: the supposition that black people are unable to hide.

Returning to the hunt, nevertheless, there is something else, something uncanny, that occurs. It is integral to the hunt in that it serves simultaneously as its driving force and its potential foil. For, even as the hunter attempts to disavow it, in the quiet of the stakeout, a nagging doubt emerges. Will he be tricked or seduced into missing what all others have declared to be visibly obvious? Even worse, will he drop the ball and, relying on the promise of hypervisibility, forget to be vigilant at all? Permit me a second story to illustrate my point. Ralph Ellison, in the prologue of *Invisible Man*, tells of the following encounter. One evening, the novel's black protagonist (we never learn his name) walks down his street and bumps up against a white man, startling him. Musing that the unsuspecting white man must have surely believed he'd collided with a ghost, the narrator has a critical and foreshadowing insight. He had been used to being ignored by society, accustomed to not registering as a person to most. However, in this collision, it occurred to him, astonishingly, that he might not be invisible after all. How could it be that the white man could suddenly be aware of him? The protagonist concluded: "Perhaps because of the near darkness he saw me."<sup>14</sup> In this scene, paradoxically, Ellison uses the evening's darkness as the backdrop that summons the black figure to visibility. In contrast to the supposition of hypervisibility, in this example, the protagonist is only made

visible by a second anchoring signifier. There is a logic to it. For the white gaze, the dark street, as a scene where danger is likely to occur, parallels the dark man, from whom danger surely emanates. This mirroring of the street with the man renders each one perceptible. In response, the protagonist, indignant with his sudden vulnerability, demands an apology. Nothing doing. The white man proceeds to insult him, and a bloody scuffle ensues. Suddenly, in a split moment, “beneath the lamplight,” before the protagonist can enact his coup de grâce, he changes his mind. He had been mistaken. His white adversary “had not *seen* [him], actually.” In fact, he was clueless. The careless so-called hunter had dropped the ball. Surely, “as far as he knew, [he] was in the midst of a walking nightmare!”<sup>15</sup> The darkness of the evening had ultimately allowed the white man to see something, but it was not the truth of Ellison’s protagonist. It was instead the confirmation of an undifferentiated black figure as a criminal. Confirmation of this reappears the following day as a glaring headline in the newspaper, which reports the incident “beneath a caption stating that [the white man] had been ‘mugged.’”<sup>16</sup> Such is the contradiction of visibility and blackness, and the narrator concludes: “Poor blind fool . . . mugged by an invisible man.”<sup>17</sup>

Note that to quell the uneasy affect incited by this exchange, if we can call it an exchange, a certain semiotics is required. It relieves the disorienting tension by suturing additional stabilizing markers to the otherwise deceptive black body by providing a simple story about blackness and crime. These markers as stabilizing signifiers abound in stories about how to prevent passing.<sup>18</sup> For example, as we will see in chapter 1 of this book, in the antebellum South, these anchoring markers included branding, freedom papers, temporary passes, and clothing restrictions or livery. Authors of early runaway slave advertisements narrated these signifiers in a telling way. For example, they equally used the noun *pass* (as in to forge a *pass*) and the verb *to pass* (as in *to pass* for free) to explain how fugitive slaves were able to escape, evading scrutiny and arrest by patrollers. The ads, as cautionary tales, moved from the inauthenticity of *the document* (the fraudulent pass) to the inauthenticity of *the person* (the passer), transferring from the paper to the body a presumably natural capacity, even tendency, to present themselves as someone they were not. This is an example of the process of epidermalization. Escapees were not free men and women but fugitives, and this truth could be traced on their bodies. As I will show in the ensuing chapters, this truth becomes both a legal and, in many ways, an ontological claim—that is, a claim about the very meaning of blackness. Post-emancipation, the signifying anchoring continues as narratives casually attach markers to black bodies like a caption to a photograph.<sup>19</sup> In the present, the

branding is often—but not always—more subtle than that of the antebellum era. Notably, however, it is not necessarily less violent.

Returning to the case of Trayvon Martin, the additional signifier was more overt than the literary subtlety of Ellison's night sky, but it worked in a similar fashion. Rachel Jeantel, who was on the phone with Trayvon as he was hunted down, testified: "He said this man was watching him, *so he put his hoodie on*" and began quickly walking, not running, away.<sup>20</sup> The hoodie, the very tool Trayvon used to garner some invisibility, to evade the heavy handed vigilante surveillance, was one trigger of his hypervisibility. Confirming this, Zimmerman reported Martin's "dark hoodie" to the 911 dispatcher. And like the darkness in the previous example, the hoodie attaches to the body of the teen to reiterate his criminality. After Trayvon's murder, this single article of clothing, which black youth often use to evade the white gaze, became an icon. And then stories about the hoodie as fugitive attire were incorporated into the broader surveillance regime as their own cautionary tales. In essence, they emerged as anxious and salacious modern-day passing narratives. News headlines asked rhetorically, "Hoodies: Danger or Fashion?"<sup>21</sup> Adding insult to injury for victims and their families and capitalizing on right-wing enjoyment in black death, shooting ranges featured pictures of Trayvon Martin and other black boys and men wearing hoodies to be used for target practice. White youth dressed up in hoodies and blackface for Halloween. It was a form of modern-day minstrelsy, allowing hunters and hunters-in-training to inhabit the figure of the hunted, to perversely relish in the apparently tantalizing sensation of experiencing the condition of the prey too. On the other side, cultural studies scholars engaged in important semiotic analyses, like Mimi Thi Nguyen's "The Hoodie as Sign, Screen, Expectation, and Force."<sup>22</sup> And the cover of *Citizen*, Claudia Rankine's 2014 multi-award-winning book of poetry, featured a hoodie. Its filled out form gave the impression it was being worn, but the image showed no face. The full form of the hoodie is hollowed out. Within the trope of passing, the hoodie as a sign makes visible a tale of black criminality and makes invisible any sign of the passing subject's interiority.<sup>23</sup> Organizers in New York held a Million Hoodie March in protest of police violence and the criminalization of black youth.<sup>24</sup> Some ten years later, the Smithsonian's National Museum of African American History and Culture displayed the clothing Martin was wearing that night, including his hoodie, in an exhibit on vigilante violence as a response to post-Civil War Reconstruction.<sup>25</sup> As in the past with branding or other markers of blackness, what was produced in 2012 was an iconic image of black fugitivity, a necessary signifier to stabilize a body that conversely might threaten to pass out of the clutches of surveillance.

Faced with this stifling regime, *The Problem of Passing* attends to what is lying just below the surface of passing narratives in the United States. It returns to the suspicion or accusation of passing and seeks to take account of its underlying assumptions about the social, political, and even ontological limits this nation assigns to particular subjects. In doing so, one can even begin to trace the limits the Western world insists on when constituting what it means to be a subject at all, at least in opposition to those who are not—those whom the passing narrative relegates to a position somewhere between *object* and *perverse subject*. We can begin to take note of the nation's restless desire to regulate and police those limits.

Thus, the book's analysis is aimed at two interrelated registers. First, focusing on surveillance mechanisms of chattel slavery, it relates how passing narratives and the folklore surrounding them crop up as early cautionary tales about the ways fugitives evaded capture. It goes on to trace the persistence of these assumptions about black subjectivity and their corresponding libidinal investments in hunting the figurative fugitive slave. These are assumptions and investments that, as the later chapters of the book will show, persist within post-emancipation tales of passing. I argue that these narratives, now national mythology, work through capturing and managing blackness as a means toward territorial expansion and the formation of citizens as vigilantes. What drives the practice of retelling these passing stories, even in their contemporary versions, is a collective unconscious attempt to get a handle on the pervasive concern that one might not be able to identify, contain, and manage the perpetual threat that blackness on the loose poses to the ethnonational project.

The second register of the book abstracts from the historical. It explores just how the logics of passing narratives are rooted in and contribute to larger philosophical claims in which the national project—and the West more generally speaking—is invested. This broader venture is driven by a set of foundational epistemological and ethical questions guiding our critical return to the biopolitics of passing and the management of difference among the human world. Narratives on passing and a critical look at the violence they impose can lead us to ask: "How do we know?" "How do we know the other?" and "How do our ways of knowing shape our ethical engagement with the other?" As the ultimate conundrums of epistemological philosophy itself, I do not expect to provide a definitive answer, at least to the first two questions. Nevertheless, examining the folklore on passing requires us to return to them. It does so because of the ways passing narratives, suspicions, and accusations work to manage the insecurities knowing's conceits inevitably provoke. My aim in returning to passing is to rethink these questions *as* questions, ones that philosophy poses and on

which history intercedes (and vice versa). *The Problem of Passing* brings these two registers into conversation. The book will consider how our broad “practices of knowing” and our anxieties, desires, and fears attendant on that knowing rely on a historically rooted fantasy of the master hunter, which feeds into folklore on passing. So true is this, I venture, that in the West, as the book aims to explore, the master hunter and the knowing subject emerge as one and the same. And there is nothing that the knowing subject must master more than knowledge of the other. He must do so, however, by disavowing certain epistemological insecurities—those opaque and therefore threatening unknowns that the masterful subject can externalize by projecting them as something called “blackness” onto those who are, then, called “black.”

In this way, the book traces the many formulations of the idea of mastery that feed into modern surveillance regimes. In each instance of passing described in the book’s chapters, I find resonances between philosophical, psychoanalytic, and political-economic concepts of mastery. These include mastery with regard to knowing nature or the other—one’s ability to identify, define, and explain a subject. This sort of mastery inevitably requires capturing or grasping the truth about the object to be known. Take, for example, the double meaning of the word *apprehend*—both to understand and to capture. This also resonates with a sort of mastery regarding ownership—the capacity for a subject to own oneself as property.<sup>26</sup> This tenet forms the basis of liberal understandings of property ownership, and it is the requirement for another right of ownership: possessing the other as property. Finally, there is an overlap with the idea of mastery as a subject’s capacity for self-determination, autonomy, and control of their emotions or impulses. In this context, black studies scholars have often thought through mastery as a practice of individual sovereignty.<sup>27</sup> The authentic, sovereign, or masterful subject is one who is able to self-fashion, to make decisions for themselves—to be the author of their own truth or laws—without requiring external authority. One sustains this sort of mastery to the extent one is able to continue to enforce these laws or truths about the self in relation to the world around them. Sovereignty as a Western tradition, then, refers to the power to both make laws and oftentimes, importantly, to ensure those laws are followed.<sup>28</sup> We will soon see how this dual requirement for sovereignty provides its own inherent dilemma. Chapter 2 of the book will scale up from this notion of individual sovereignty to trace the ways national sovereignty claims, even anticolonial ones, are similarly invested in these broader notions of collective and self-mastery. In addition to national projects, these notions of mastery are part and parcel of the modern project of the human broadly speaking. The latter half of the book especially sorts through how this plays out within Western

regimes of knowledge production, including science and philosophy proper. The aim of this introduction is to provide some conceptual points of departure for the book's ensuing task of tracing the relationship between these two registers: the historical and the philosophical. With this in mind, let us disentangle some of the historical and conceptual threads that shape the key term of the book—passing—and its coterminous ideas: surveillance and fugitivity.

### Subject-Object Lessons in Passing

In returning attention to the murder of Trayvon Martin along with the bloody struggle in Ellison's *Invisible Man*, we have been able to tease out several important dynamics with regard to passing narratives. We could do so by focusing attention on stories about passing from the perspective of the one holding suspicion or the one accusing an other of passing. We began to trace the affective force of passing narratives alongside the policing of black peoples. With regard to these moments of tracing, capturing and managing—indeed, hunting and passing—narratives emerge in response to a nagging insecurity with which the hunter struggles: that he, in fact, may not be successful. The anxiety, so the hunter might say—if he were to admit he experienced it—is in response to a supposed black shiftiness, a black capacity to seduce the beholder; in essence, a black propensity for fugitivity. The citizen as everyday watchman tells these stories to commiserate with, to warn, and to train fellow members of the hunting class on the importance of hypervigilance. Thus, a first dynamic we glean is that stories about passing emerge as cautionary tales and stabilizing mechanisms that members of the hunting class share with each other. These narratives serve as the supportive tools and technologies of surveillance.

This leads us to a second dynamic we are able to note: If we are to consider what surveillance is and how it works, it is important to account for the surveillance regime broadly speaking. We cannot limit our perspective to formal police activity. Recall that neither most slave patrollers nor neighborhood watch members—Zimmerman included—act in an official state capacity.<sup>29</sup> Surveillance includes the policies and practices of the formal policing force and the informal vigilante. The second is indispensable, as we will see, for example, in the broad, informal practices of locating and capturing runaway slaves explored in chapter 1. In addition to the wide base of informal means of keeping watch, proper modern surveillance also requires the surveilled to keep a good eye on themselves—to master themselves by internalizing vigilantism. Finally, regimes also include less tangible components, such as sociocultural discourse. Passing narratives and additional anchoring signifiers (fraudulent passes, branding,

mug shots, hoodies) are part and parcel of US racial surveillance regimes. In fact, one can say that these stories identify passing as one of the reasons that surveillance is necessary. They remind the body politic to be vigilant. However, as witnessed in the prologue of *Invisible Man*, the claim the stories make is paradoxical. They assure the hunter-knower that blackness is most easily seen or identified as it is manifested through criminality and fraud. At the same time, however, the stories also work to remind the body politic that it is this same supposedly innate fugitivity that aids the black subject in evading the watchful eye of the state and its policing bodies. The index of criminality and fraud simultaneously makes it possible to identify or know that a subject is black and makes it a challenge to identify or contain the black subject. This paradox is what ultimately renders the *appearance* of blackness untrustworthy. And here we have begun to trace a third point: Passing narratives are stories not simply about how easy or likely it is for some to pass but also about how unlikely, even impossible, it is for others. That is, passing stories are stories that play with the notions of black hypervisibility and invisibility as cut from the same cloth. The slipperiness of what must be shown and what can be hidden is a reflection of the uneasiness that blackness—when free from the controlling gaze of the watchful citizen—presents for the integrity of the nation and for a universal humanist project. And in the white imaginary, the one that stipulates the horizons for the nation's surveillance regimes, blackness is always already threatening to be free.

At this point, the reader might, understandably, feel that there are various slippages of my own in the way I have been discussing passing. For, thus far, I have talked about it in a variety of manners. First, I mentioned it as it is usually discussed in cultural lore, as something a person does to pass themselves off as someone or something that they supposedly are not. Here, passing refers to

*an act of impersonation* one attempts in order to claim an identity, a status (legal or ontological), or a position. This desired status is one that law, normative culture, and, as we will see in the ensuing chapters, Western metaphysics has denied them. Examples of this include attempts to pass for white, pass for Native, pass for straight, pass for able-bodied, pass for free, or pass for human.

Importantly, however, I have also referred to passing as something an onlooker does. In this case, passing also refers to

*a suspicion or accusation* that one holds or makes based on one's perception of another believed to be passing. Here, importantly, passing is also a transitive verb. You can "pass" someone else by reading them in a way

that is contrary to the way they read themselves. You can pass someone anytime you read them, and you can do so without them even being aware of what has happened.

Finally, I have also referred to passing as a discursive complex including general cultural and narrative productions, or an epistemological structure. This complex both sets up the conditions for passing to occur and claims passing as a problem requiring consideration. In this sense, passing includes

*stories, narratives, cautionary tales, and folklore* that render black fugitivity and fraud common tropes in US culture. These include notions of invisibility and hypervisibility as ideological claims. They most often emerge as stabilizing and containing forces meant to return a fugitive object's presentation back to the control of the onlooker's gaze. These stories work to explain away any illegibility or threat that an uncanny representation may provoke. They draw on anchoring signifiers in the form of literary symbolism, violence on the flesh, and bureaucratic documentation, such as passes, passports, permits, and the like. Passing narratives, as cultural productions, are also transitive in nature. They pass people. And they don't only pass individuals. Rather, what chapters 1 and 2 of this book show is how passing emerges as a tool that levels suspicion and organizes and manages entire populations.

*The Problem of Passing* prioritizes the latter two transitive forms of passing as ways of reading and narrating the other. It begins with the origins of the passing narrative in the colonial United States and the hunting and capturing of runaway slaves. Here, any African in the colony is understood to be potentially passing for free and to require careful surveillance. This practice develops into narratives and folklore about black racial passing that persist well after the de jure abolition of slavery. The subsequent chapters of the book trace these post-emancipation passing narratives as they work, often undetected, in contexts where one might not generally expect to find them. We witness suspicions of passing both as the United States usurps Indigenous land in the wake of the Civil War and in some Indigenous claims to resist this theft (chapter 2). We witness passing suspicions and surveillance within science and the scientific method (chapter 3). And finally, I show how anxieties around passing animate Enlightenment philosophy itself (chapter 4).

Returning for a moment to the concern of conceptual slippage, there is a necessary malleability in how the book theorizes passing precisely because passing itself is the framework for a messy relationship. In this sense, passing is

an example of what Roland Barthes calls mythology—a semiological system in which blackness itself comes to index and overcome a whole slew of anxieties around the integrity of the modern subject and its capacity to appear both as authentic and as capable of knowledge, freedom, and citizenship. The power of mythology is that it is able to “transform history into nature.”<sup>30</sup> The myth uses a sign in the construction of a second-order discourse that conveys a critical affective message, all the while obfuscating, or displacing, a historical truth or violence. And it is this disavowed, original violence that renders the sign available for use in the first place. This obfuscation produces the dynamic that makes it possible to imagine black racial passing as passé, all the while continuing to struggle with the vestiges of chattel slavery and the overwhelming surveillance of blackness in the present. If we are to get to the heart of the mythology of passing, we must contemplate what has been done to the black subject, and more specifically, to the black body, such that it is usable as the signifier and scapegoat for modern epistemological, ontological, and existential instability.

In the ways we most often discuss it, passing serves as a—granted insufficient—attempt to resolve an irresolvable problem emergent in the act of knowing, in surveillance, and in their combination: knowing as surveillance. I am referring to the instability that has always undergirded the relationship between subjects and objects or knowing-watching subjects and their objects set to be known. The act of knowing and the assumptions we make regarding the subject who is capable of knowing retain an unstable subject-object boundary. Symptoms of this instability rear their head sometimes in strange and unruly ways, and often in the most mundane of ways. For example, one can catch a glimpse of this in the way the knowing-hunting subject plays dress-up as their own prey for Halloween, in the way surveilled subjects impose a policing gaze on themselves or their own communities at times, or, as chapter 3 describes, in the way certain subjects have felt when their object stares back at them.

When the book speaks of passing, then, it is speaking about the relationship between all the above as constituent elements of a confounded practice of knowing-surveilling. In an initial sense, at least, my view of passing mirrors the way Eve Kosofsky Sedgwick explains the dynamic of queer representation and queer existence as shaped through an epistemology of the closet. The closet, she relates, is a set of “reader relations” that designate queer identity as always already structured by the lure of a secret: *Is the subject before me queer or aren't they?* The closet epistemology is such that even if the queer subject is out, it is the specter of the secret that continues to shape the way the person is read. Like blackness, there is also always an assumption of shiftiness with regards to queer sexuality. Indeed, the seduction of the secret, similar to that of blackness,

is that it always beckons the onlooker for a reading. In the next section, I will more intricately tease out the relationship between the closet and racial passing. What is key to bring into this unpacking, however, is two points. First, following Sedgwick, for the remainder of the book, when I speak of passing, I am generally referring to a set of reader relations (cultural, discursive, aesthetic, metaphysical) that are driven by the assumption of black shiftiness, fugitivity, or fraud. Second, regarding blackness, passing developed as a set of reader relations designated by a messy, unstable boundary between subjects and objects originating in the context of the transatlantic slave trade and the antebellum surveillance of fugitive slaves. It continues post-emancipation into present-day passing narratives as an afterlife of slavery. We see the effects in the logics and horrors of modern policing and in the murder of Trayvon Martin and other victims like him.

### Passing by Resistance

*Black studies is generally no longer very concerned with the problem of passing*—the statement that opens the book—requires a significant qualification. Heteronormative black studies has largely not been preoccupied with passing in the past thirty years. To say someone is “white passing” today is to offer a simple factual description of another’s appearance, a characteristic bestowing the subject with the privileges of colorism. But with regard to black racial passing as a covert act of betrayal of one’s race, it is as if black studies has generally put the concern to rest. Genderly speaking, however, the matter has received continued attention, and black queer and trans scholarship has offered some of the most critical insights.<sup>31</sup> One salient rearticulation of the politics of passing has come from black trans scholar C. Riley Snorton in response to white trans scholar, artist, and activist Sandy Stone. In her 1990 “Posttranssexual Manifesto,” Stone issued a call for trans people to refuse to pass. She wrote:

Transsexuals who pass seem able to ignore the fact that by creating totalized, monistic identities, forging physical and subjective intertextuality, they have foreclosed the possibility of authentic relationships. Under the principle of passing, denying the destabilizing power of being ‘read,’ relationships begin as lies. . . . To deconstruct the necessity for passing implies that transsexuals must take responsibility for *all* of their history, to begin to rearticulate their lives not as a series of erasures . . . but as a political action begun by reappropriating difference and reclaiming the power of the refigured and reinscribed body.<sup>32</sup>

The refusal, Stone wagered, would allow for moments of intertextuality, opportunities to critically deconstruct the normative gender binary. Snorton, however, rightly reminds us all that passing is not so simple as to be read as an individual choice. On the contrary, he insists, trans people experience subjectivity as the product of repeated accusations or suspicions that they are passing. That is, the psychic effects of being read, reading oneself, and being misread as passing “bring one’s ‘self’ into view.”<sup>33</sup> The psychic life of passing, then, includes the affect of anticipation (*How might the other read me?*), the tension in reading the room and bracing for recognition or misrecognition and what might come as a result, and moments of recovery. Moreover, Snorton explains, a trans person does not always dread being told they pass. At times, the prospect of passing is celebrated. Successfully passing, or having a friend say, “You pass,” offers an affirmation “of one’s own reading of self.”<sup>34</sup> Passing exists within the everyday of black trans sociality. He concludes: “Through the experiences of psychic dissonance, affirmation, disavowal, and recognition, we engage in the process of passing off our daily experiences of embodiment as identifications—creating ‘fragile fictions’ of personhood . . . passing is not simply the essence of transsexualism; it is the way we make identity.”<sup>35</sup> This is the case even when or even if trans folk are not attempting to pass for cis. In other words, regardless of intentionality, trans subjects become trans subjects through passing’s reader relations. In this book, I would like to extend Snorton’s incisive argument even further. For this dynamic is not only true for queer and trans folks of any race but, because of the significance of blackness for the Western imaginary, it is also true for black subjects broadly speaking, perhaps even primordially so. That is, it is through the passing regime that black subjects come to be black subjects in the United States—as manifestations of fragile fictions of black race-genders.

Consider how Snorton’s rendition brings race and gender passing into conversation. He does so, however, in a way that does not assume these categories have integrity independently of each other. What I mean is that gender is always already a raced term and vice versa. To say that it is primordially true that blackness emerges through the passing dynamic is to say two things. First, it says that blackness is always assumed to be shift, perhaps fugitively hiding or withholding something the watcher-reader cannot quite master. And second, that assumed shiftiness fixes blackness as the sign of proper gender’s perversion. It is through the psychic life of passing’s reader relations that the existence of blackness and all its unruly gender (dis)formations come to have meaning and that this meaning is attached to people. Thus blackness, as Zakiyyah Jackson points out, is an “existential matter,” and through the violence that produces this index “gender and sexuality lose their coherence as normative categories.”<sup>36</sup>

Even if cis black subjects disavow this intersection, and even when cis black subjects accuse black trans folks of passing or attempting to pass, this original instability is there, haunting one's recuperative identification. This brings me to another point of departure for the book: passing is never simply racial passing *or* gender passing. It is always already both. This is why Snorton refers to black genders and, in his particular autoethnographic experience, to both trans and cis black masculinity as "fragile" claims. For example, what Zimmerman sought to contain in hunting Trayvon Martin was not simply his unruly blackness. It was the unruly blackness of Martin's so-called threatening masculinity made hypervisible through the hoodie's obscuring rhetorical forces. This black, fugitive masculinity—at once too much and not enough—stood challenging Zimmerman's own masculine expectations for white management and security.

In a paradigm in which everyone can, and does, pass in multiple forms because representation is never whole, the variety of ways that people experience passing differently is often flattened. Because of the prevalence of transphobia and gender policing, trans subjects specifically may come to know their own identity through passing's reader relations. The question of trans capacity or incapacity to pass has become hypervisible. Nevertheless, cisgendered readers especially must question why they might not consider gender passing a significant narrative in their own lives. If, as Che Gossett remarks, "blackness is gender trouble," cisnormative black subjects must ask themselves: What sort of gender trouble are we externalizing when we perpetuate the normative gender binary?<sup>37</sup> How, through this perpetuation, have cisnormative black folks come to inhabit the position of the watcher-master—surveilling and inflicting violence on both their queer and trans black kin and inevitably themselves?<sup>38</sup> We must take seriously the Western insistence that blackness throws gender off kilter. Having the passing narrative rest so easily and exceptionally on trans lives enables others to disavow the multiplicities of gender through which all subjects pass and which all are fixed to differently. Equally critical, it disavows the violence or ignorance that induces these passing experiences. The question here is not the binary—authenticity versus fraud—but rather that of who is always already subjected to the binary's violent overdetermination in the first place.

Given this structure that exists simultaneously with the rise of black subjectivity, the political insistence to refuse to pass does not quite accomplish what we hoped it would. In essence, as I explore in further detail in chapter 4, passing subjects are backed into an epistemological corner. Indeed, we often back ourselves into this corner. Stone argued that passing precludes true intimacy. However, this stand does not fully grasp the productive power of passing emerging through specific reader relations and couched within a specific

epistemic system. It thus individualizes responsibility. Her reproach of the passing subject borders on trafficking in the trans equivalent of the trope of the tragic mulatto, who because of their betrayal of their race becomes isolated and alone in the white world, constantly working to uphold an essential untruth. For Stone, passing is not simply a secret but a lie. I argue that she is not quite right in this conclusion, but she is similarly not completely wrong. That is, just as the regime of the closet is shaped by a secret, the passing regime *is* shaped by a lie. However, in grasping passing as an epistemological structure immersed in anti-blackness and queerphobia, we can better assess *who* is telling *what* lie and why, once we end up enveloped in these sorts of reader relations, the lie will continue to be told.

We even tell the lie in our own narratives of resistance, in our desire to, by refusing to pass, either uphold a fiction of authenticity or somewhat romantically immerse ourselves in the liminality that not passing might provoke. Take, for example, in *Epistemology of the Closet*, Sedgwick's caution about the limits of deconstruction. She warns that one might deconstruct, for example, the gender binary. However, doing so does not automatically guarantee the queer utopias that we desire. Heteronormativity, its reactionary narratives, and its psychic life are just as slick as one's resistance to them. In her explanation of this, however, the libidinally motivated project to contain and/or indulge in the unwieldiness of blackness returns to rear its head. Employing metaphor, Sedgwick cautions: "There is reason to believe that the oppressive sexual system of the past hundred years was if anything born and bred (if I may rely on the pith of a fable whose value doesn't, I must hope, stand or fall with its history of racist uses) in the briar patch of the most notorious and repeated decenterings and exposures."<sup>39</sup> While pithy, the critic's own choice of symbol here indicates a truth her intention, as she articulates it, disavows. The reference to the briar patch harkens to the old fables of supposedly African origin, reproduced by Joel Chandler Harris as told to him by enslaved black peoples in the US South. It is a strange allusion for Sedgwick to use, because while she designates the briar patch as the birthplace of the oppressive sexual system, this chaotic space is generally associated with blackness. In the traditional fables, it is the home of Br'er Rabbit, the trickster, who escaped his captor by leading him to believe that throwing him into the patch—a thorny mess from whence no safe passage out could be determined—would lead to his death rather than his freedom. Blackness, then, appears as a foil even for queer critique.

Certainly, there is no possibility of separating out the conceptual significance of the briar patch from its historical context. And to do so would actually limit the force of Sedgwick's metaphor even as she attempts to distance her argument from it. In her analysis of sexuality and identity, instability works in two ways.

First, as she asserts, the heteronormative binary of sexuality is fundamentally unstable. It subordinates and excludes queerness in order to shore itself up.<sup>40</sup> Then, as she warns, there is the instability present in the deconstructive project of queer liminality, which is subject to the symbolic and real disorder of the briar patch. While full of hopeful resistance, it therefore can offer no guarantees, no promises, that it might be put to use in any masterful way toward queer utopia. Sedgwick's narrative of the latter instability, articulated through the briar patch, is haunted by blackness as fugitivity and, more precisely, by the fugitivity of the slave. The briar patch, as a zone of opacity, becomes the foil of any mastery to be had in queer liberation. In this imaginary, blackness as slick, as the ultimate trickster, undermines all even as it beckons all. It cries: Do with me what you will, but make it the worst. It is the sadomasochistic pleasure of doing to the object and, simultaneously, unwittingly being played by the object. If the closet is the epistemology of white homosexuality, in this historical and cultural context, the briar patch might be the condition of its possibility and its failure.

What is inside the briar patch, what threatens to slip out of it, is inaccessible to the watchman, and thus it symbolizes the limit of the reader relation's ability to make meaning at all. That is, passing and other forms of reading presume a body as text, always comprising a surface and an interior. Within this reader relation, the briar patch works as a myth to obscure the fact that there is nothing to be found underneath the text's surface. Instead, this surface or veneer is nothing but the pure projection of the reader's fantasies and fears in being able to make stable meaning and thus fulfill their role. This, following Sedgwick, is true even for the sort of reader oriented toward deconstruction. The briar patch is the origin and topology of the black passing subject *and* the hypervisible black subject, both gender troubled; it inspires inappropriate desire, and it stands in for an inappropriate object of desire. Folklore, fables, and passing stories attempt to narrate it, to bring it under control, to in some way contain and master its instability. In accomplishing this, the storyteller can externalize this instability to the briar patch as a blackened space of chaos.

Returning to the scene of enslavement, the widely publicized nineteenth-century story of Ellen and William Craft illustrates the complexities of black race-gender passing well. The two escaped their enslavement by disguising themselves and taking a train north to Philadelphia. Ellen Craft, a light-skinned black woman, disguised herself as a disabled white gentleman. There was a critical obstacle to overcome in doing so, however. As a white man, Mrs. Craft would be expected to be able to read and write. To avoid detection, she wrapped her right arm in a sling, feigning injury and offering an acceptable excuse for her inability to sign her name at hotels or train stations along the

way. William Craft, with a darker complexion, accompanied her as the passing gentleman's slave and personal assistant. Contemporary scholarship has often turned to this case as an example of the importance of "moving beyond" the limits of the black-white binary to think through gender and disability with regard to passing.<sup>41</sup> And yet almost every one of the texts written on the case focuses most of its attention on the performance of Ellen Craft, perhaps because she is read as the one who disguised herself and performed the most different difference.

Tellingly, with few exceptions, much less is written about William Craft as a passing subject on this trip. Rather, it is generally assumed that William simply acted as himself, a challenging feat of escape certainly but not necessarily a misrepresentation. To understand what happened, however, one must take account of the reader relations—those between the watchful white gaze as reader and each of the protagonists—as stories or texts that relate to and confound each other. We must behold how, during the escape, William Craft passed for a slave under his "master's" control. Here, both hypervisibility and invisibility helped to obscure. It was William's supposed hypervisibility (as a dark-skinned man) that allowed his wife to pass as a slave-owning gentleman. And it was his wife's ability to pass as master that allowed onlookers to read William as contained rather than fugitive. Pushing back against how natural it was, and still is, to read the black figure as slave, we can reconsider our assumptions around the trueness of William's representation and the fidelity of its reference back to a fragile subjectivity. For example, Snorton asks, "What does it mean for a (fugitive) slave to 'pass' as a slave?"<sup>42</sup> I would add: If William was passing as a slave on that train north to Philadelphia, what is to say he was not also passing as a slave on his master's plantation in Macon, Georgia, before his escape? Further, when that master sold William to settle his gambling debts, was he not also passing William as commodity?<sup>43</sup> When William hired himself out as a carpenter to save money for his trip, did he not also pass as a slave who was passing as a free laborer, even though he did so with his master's permission? Was his so-called true master—disavowing any insecurities he might have had in "owning" another and in the other's ability to revolt—passing as master as well?

These questions point out how William's performance of enslavement was the signifier that enabled a black woman, Ellen Craft, to pass as a white man, a master, but it was also his forced performance that allowed his white owner in Georgia to pass as master. In other words, chattel slavery demands that the slave pass as slave and do it so well that the passing itself is disavowed. The spectacle of the slave's "contentment and abjection," as Saidiya Hartman refers to the slave's performativity, becomes naturalized or given.<sup>44</sup> Paradoxically, it is in

performing precisely what is demanded of him that Craft is able to pass under the nose of the slave catchers. This book explores whether it is possible at all to read William as anything except completely collapsed into the category “slave” and whether we can understand William and Ellen Craft’s race-genders as anything but fragile, anchoring signifiers of this condition.<sup>45</sup> The overdetermination of the black body as “inescapable prison house of the flesh” denies any other reading of the two.<sup>46</sup> Nonetheless, their hypervisible instability mirrors that disavowed instability of their so-imagined masterful onlookers.

Passing narratives and the mythology of passing are lies inasmuch as they come from bad faith, externalization, and disavowal. However, even if they are lies, we must also say that in their productive capacity, they tell a sort of truth that this book attempts to witness. To do so, it views the surface/depth binary—the one that assumes that the surface must faithfully represent an authentic core or depth—as misleading. This is because part of the lie of passing is that there is an authentic core to be excavated. *The Problem of Passing* attempts to read the force of passing mythology as producing something that is actually all surface.<sup>47</sup> And one might be able to grasp something of this truth of the surface by reading it in this way. That is, I attempt to read passing accusations not to discover a truth hidden below the surface but to understand the multiple meanings that are produced alongside each other, that anchor each other, animate each other, and contradict each other as a chain of signification that manages the relationship between knowing subjects and duplicitous-because-they-are-black objects.<sup>48</sup> To think of passing as producing a subject that consists of one truth alongside another or a subject consisting of one truth understood through another moves us closer to grasping the ambivalent truth of the sort of fragile subjectivity that emerges for all involved in these reader relations.

### Fugitivity’s Means

There is a last term that requires elaboration before proceeding to the book’s chapters. Thus far, I have referred to the idea of fugitivity in multiple contexts: fugitivity as trespassing, fugitivity as the characteristic of escaping containment or surveillance, fugitivity within invisibility, and fugitivity read as fraud. Each of the book’s chapters will examine these aspects of both individual and collective fugitivity. To begin, however, taking a critical look at the form and content of passing narratives, the book argues that fugitivity must be understood, at its most fundamental level, simply as *that which constantly threatens to undermine mastery*. As such, fugitivity and mastery always stand in relation to each other. In fact, it is the imagined threat of fugitivity that calls for mastery to regulate it.

It is the justification for mastery's existence. Recognizing the slipperiness of the order of the relation—*which came first?*—Stefano Harney and Fred Moten suggest that it is fugitivity or “criminality that brings the law online.”<sup>49</sup> If mastery emerges as the power to render the other transparent, fugitivity is present as that which is impenetrably obscure. If mastery emerges as the capacity to corral or contain and manage, fugitivity is the threat of ungovernability. If mastery demands total ownership of the self and the slave, fugitivity renders property, the right to determine the fate of the other, and even total self-determination impossible. If mastery requires authenticity, fugitivity is the threat of fraud.

In this sense, this book suggests that, perhaps even more than social death or dishonor, fugitivity is the fundamental state of the enslaved in relation to the master. But, I argue, one should keep in mind that each condition—mastery and fugitivity—is mutually constitutive of the other. The moment one emerges, the other is already there.<sup>50</sup> In other words, as I will explore in the chapters that follow, it is quite difficult to say which is a more “original” state than the other. Western social contract theory, for example, is only able to articulate state sovereignty by envisioning it in relation to an imaginary extreme freedom that characterizes a fantastical prior “state of nature.” In these renditions, law emerges as that which must curtail or contain extreme freedom in order to provide the grounds for a stable and moral society. Indeed, inherent to the idea of capture or containment is the ever-present threat of escape. Thus, once the concept of the captive or slave exists, the concept of the fugitive must exist. And the opposite is also true. There can be no fugitive except in relation to another person's claim to mastery over them. Once the fugitive exists, they must be managed and controlled. As I will argue in the following chapters, the threat the fugitive poses requires enslavement as the most extreme form of asserting mastery. In this paradoxical but also teleological way, if mastery is the Western subject's *raison d'être*, fugitivity is the cause of the anxious fear that one will fail to carry out their duty. Fugitivity also, by the way, offers a mischievous or masochistic enjoyment that some “masters” might feel in failing to accomplish this mission. It can also be the romanticized transgressive act in which the fugitive engages knowing full well that the transgression ultimately only confirms the original power of the master.<sup>51</sup> To use Lee Edelman's term, this economy of conservation and transgression incites “enjoyment,” the “unbearable weight of anxiety and enjoyment at once.”<sup>52</sup> Above all else, fugitivity is an affective, libidinal, and conceptual projection. It does not exist prior to mastery, but rather, in many ways, it is mastery's fiction—and vice versa. In a world of conquest and chattel slavery, it becomes fixed to blackness, demanding that it take on the role of mastery's object and foil.

Thus, it is not the aim of *The Problem of Passing* to imagine the liberatory possibilities or impossibilities of black fugitivity.<sup>53</sup> Rather, the book seeks to remain, for the moment, at the threshold of the proverbial briar patch in order to trace how its boundaries are constructed. The following chapters take as their aim a critical reading of the mastery-fugitivity binary as a seemingly irresolvable conflict that passing narratives seek to manage. The hunter-knower on the lookout for the passing suspect is engaged in a project to detect fraud in whatever form of blackness it may emerge. In driving the hunt and its narratives, passing as a mythology ends up both producing markers of assumed ontological difference and policing those boundaries. Tracing the allegations of black fraud with regard to various concepts gives us a sense of the sorts of categorical differences that passing narratives produce: The fraudulent or authentic master, the fraudulent or authentic worker, the fraudulent or true free person, and the fraudulent or authentic knowing subject are some examples the book explores. Further, given that passing narratives in the United States gain force in the management of the slave, the most foundational limit these narratives adjudicate is the limit between the free and masterful subject and the unfree other, always threatening fugitivity and fraud. Freedom as a prized and aspirational status emerges as mastery's true aim and that which must be negated in the other. Black fugitivity surfaces in the passing narratives as freedom's imposter. Tracing how this plays out historically and philosophically can give us a better understanding of the West's conceits about freedom. It is important to note, however, that just as the hunter-knower's anxieties demonstrate, these conceits are never stable. On the contrary, the mastery and fugitivity binary plays out as a set of existential and epistemological tensions that emerge and that need managing (or provocation) along the path toward aspirations of freedom for the modern subject.

### Chapter Roadmap: Four Passing Scenes

*The Problem of Passing* traces the stakes of this reader relation's political, epistemological, and ontological claims. Its chapters move among and between the historical and philosophical registers to read four scenes shaped by passing narratives. Each emerges as a mechanism to regulate the mastery-fugitivity binary. They comprise a multiplicity of geographies and time periods, including seventeenth- and eighteenth-century colonial law and discourse (chapter 1), post-Civil War US expansionism and Indigenous struggles for self-determination (chapter 2), early modern developments of the scientific method and twentieth-century implementations of it (chapter 3), and Enlightenment philosophies and

conceptual art as taken up in the twentieth century (chapter 4). At first glance, the historical periods and institutional complexes may seem to be so vast as to have little to do with each other and even less to do with narratives of passing. In most cases, because we have assumed passing to be either no longer pertinent or only pertinent in specific individual and perhaps bourgeois cases, the scenes considered in this book have not traditionally been narrated through the context of passing. However, as the book shows, each case produces a set of reader relations governed by the logics of black race-gender passing, and in turn, these reader relations produce consequences at the political-ideological and ontological levels. Indeed, passing narratives, especially where they move unacknowledged, animate the national project to maintain the power of the state and protect the body politic. They also animate the project of modern man as the central knowing and organizing subject of the world.

To trace these workings, most of the book's chapters turn attention away from the supposed intentions of so-called passing subjects. In fact, with the aim of troubling the kneejerk reaction to obsess over individual decision making with regard to passing, I have chosen to read scenes in which the accused are not always individual subjects. On the contrary, they also include populations and even cell cultures and genetic data on phenotypes. What becomes salient here are the narratives that give shape to and then are also shaped by the practice of knowing-hunting. Thus, the chapters concentrate on complexes of regulation—comprising laws, sociopolitical class interest, and ideological and epistemological claims—and the passing stories they end up telling. I trace how the stories imbue their “passing” entities with a supposed will to fraud or fugitivity, and I ask after the consequences of such projections.

Chapter 1, “Of Passing and the Pass,” takes into consideration an important original scene of racial passing narratives in the United States—the implementation of “pass laws” beginning in seventeenth-century Virginia. These laws aimed to mark out settler territory and regulate the mobility of people within and around that territory. Moreover, early in the Virginia colony, most everyone who was not a white planter or property owner was subject to legal restrictions in mobility and required to carry passes. This included Native tributaries, white indentured servants, and enslaved Africans. However, about thirty years after the first pass laws that applied to servants broadly speaking and regardless of race, Virginia leaders implemented a law directed specifically at black slaves. It required them to show passes confirming they had been given permission to venture beyond their masters' property. Moreover, by the end of the eighteenth century, it was almost exclusively black people who were required to show documentation, to any white individual who demanded it. The

manumitted needed to have proof of their status as “free,” and the enslaved were required to have a pass signed by their “owner.” This first chapter traces the consequences of this change in pass laws. It asks: How did black subjects come to be centered in pass system legislation? And how do white settlement and black captivity come together to give racialized meaning to the idea of “freedom”? Moreover, it asks how changing ideas of Nativeness come to be mediated within and outside of this oppositional binary.

A second set of questions that chapter 1 pursues has to do with the dynamic of racial epidermalization and its role in creating the mythology of passing. To trace this process, the chapter turns to eighteenth-century runaway slave advertisements written by members of the slave-owning class. They are, perhaps, one of the earliest collections of passing narratives in the United States. I read the advertisements’ rhetorical focus on the counterfeit “pass” as a key technology of black fugitivity. The workings of this bureaucratic technology ultimately come to be fixed to the body of the black subject, marking them as both fraudulent and fugitive. Here, fugitivity and fraud also come to have meaning together such that, as far as blackness is concerned, one always already threatened to be both. To unpack this process of early epidermalization, the chapter ponders how local ads often spread the word of runaways who were “passing for free” by way of “forging a pass.” The discourse on passing, fugitivity, and fraud deployed in runaway ads trafficked between the escaped blacks’ false documentation and the escaped blacks’ fraudulent selves, suturing the administrative paperwork to the body. Thus, the chapter presents the ways in which developing narratives of passing commencing in the seventeenth century began to organize what it meant to be free as mediated through colonial bureaucracy and the supposed black body. Literally and figuratively, in a world of black chattel slavery, it is white words that authorize the condition of the black body and the fate of the subject attached to it. The runaway’s criminal act comes in two parts: first, the falsification of documentation, and second, their trespassing on the position of the free. That is, by examining the legal requirements and the slave owners’ own discourse together, we can glean that any black claim to freedom that was not mediated by white authorship was necessarily understood to be fraudulent. As the rest of the book will show, the long-term consequences of the ontological claims to which the pass system gave form remain meaningful even after emancipation.

Chapter 2, “Passing and the Archival Ruse,” traces one scene of this aftermath at the turn of the twentieth century in the federal government’s attempts to expand its project into land it had previously designated Indian Territory. The narratives on black passing, originating in the pass laws and runaway slave

advertisements, shape the discourse on fraudulent black freedom and sovereignty alongside and against whiteness and indigeneity. The chapter reads transcripts of rejected petitions for enrollment in the Choctaw nation submitted by suspected black applicants between 1898 and 1914. The federal government appointed a commission to adjudicate the applications as part of a post-Civil War treaty negotiation between the United States and the Choctaw nation, which had fought alongside the Confederacy. The applications that the chapter reviews were rejected precisely because the petitioners were suspected of being black, and I read their rejection as an accusation that because of their suspected blackness, the petitioners were not Native but simply attempting to pass.

The Commissioners interrogated the applicants with the aim of pinpointing evidence of their blackness. Signs were found in various forms, including the applicant's admission that they had been a slave or were a descendant of a slave, that their mother had been black and that their parents were not married, or that their Choctaw blood quantum was insufficient. Because blackness had already been fixed to enslavement and vice versa, the assumption was that any individual found to have been a slave was necessarily black. Moreover, Nativeness and blackness were often understood as mutually exclusive political categories—if not always mutually exclusive racial categories. Thus, when an applicant was found to have been a slave or the descendant of a slave, they were necessarily understood as black and therefore not Native—or at least only inauthentically Native. In the case of the Virginia colony discussed in chapter 1, settlers had accused people of being black and passing for Native as a way to dispossess them of their land or enslave them. In turn, many Virginia Natives worked to differentiate themselves from blacks in an effort to resist white land theft. This same dynamic was at work in the case of the Choctaw, but there was even less official sympathy for black relatives because the Choctaw had also owned black people as chattel slaves. Thus, just as in Virginia, the weeding out of blacks as citizens of the nation had support among Choctaw leadership and many of its people.

This reaction fits within the racial and political logics set by the colonial and slave-owning project, given the way blackness had been rendered the index of utter dispossession. It worked as a signifier among white society but also among the leadership and many members of southeastern Indigenous communities. Because of this, black inclusion in Native nations was often seen as at odds with Native self-determination. This juxtaposition is the result of a colonial politics of recognition with anti-Native and anti-black assumptions at its core. If Nativeness was left open to some form of possible self-ownership and self-determination, however minimal, and blackness was closed off to it, passing

mythologies worked to police these boundaries and further limit opportunities for freedom. Anyone attempting to say they were Native—if they were suspected of being black, if they were recognized as obviously black, or even if there was little to no evidence of their blackness—could be subjected to the accusation they were simply attempting to pass.

There is a second register in which the libidinal economy and the conceptual framework of the passing mythology operate in this chapter. It has to do with how historians approach the colonial archive and toward what end. As part of the process of researching and writing this book, I presented my initial reading of the applicants' testimony at various conferences. Even as I discussed the power of the archive to overdetermine certain subjects as passing suspects, conferencegoers often asked me, "But did the applicants really believe that they were Native? Or were they just jerking the system?" While sympathetic to why we ask this question, I insist that we cannot answer it without falling back into the passing reader relation, this time as historians working to get to the bottom of the story on the terms the archive provides, obscuring and illuminating at the state's will.<sup>54</sup> Thus, in reading these transcripts, I have resisted the urge to render its interrogated suspects legible, and I instead trace the political meaning that is produced at the crux of settler expansion and Indigenous resistance when both traffic in and are beholden to the histories and mythologies of black racial passing.<sup>55</sup> Chapter 2 theorizes this impasse in relation to the status of legal truth and objectivity, given the fact that blackness has been constituted as their conceptual and material opposite.

Chapter 3, "The Science of Passing," picks up on the historical and epistemological genealogies of truth and objectivity. It moves to the scene of science as a space that, like law and the historical archive, is also organized through the passing reader relation and its accompanying libidinal economy. The success of science as a public good has required this same dynamic of mastery that seeks to stabilize the scientific object through rigorous methodology. In this case, mastery is understood as the ability to attain knowledge through objectivity, to limit and contain the incidental and subjective as sources of fraudulent or erroneous data.

To trace how this works, the chapter first moves to the twentieth century and considers the crisis of HeLa cell contamination—or, as scientists colloquially referred to it, the *HeLa bomb*. I read its fallout and the campaign to address cell culture contamination as tantamount to an accusation of racial passing leveled at the cells themselves. The HeLa cell line was derived from the cervical biopsy of Henrietta Lacks, an African American woman who died from cervical cancer in 1951. While the cell line became a critical material for conducting

experimental medical research, it also posed a great challenge for securing reliable and objective results. In early 1966, geneticist Stanley Gartler revealed to scientists that the HeLa cells were uniquely capable of contaminating other cell culture samples used in experiments. They consumed the available nutrient medium and reproduced, leaving no resources for other cell samples to grow. Given this contamination was likely widespread in labs across the nation, researchers who thought they were working on other cell lines were most likely working on renegade HeLa cells without their knowledge. As the story was told, HeLa cells had overtaken their lab samples and passed themselves off as something they were not. Gartler's discovery called into question the validity of all the cell culture research encumbered by the contamination, and scientists needed to discard the results they had published based on it. Notably, racial identification was the method through which Gartler had been able to detect the mix-up. Being the only sample from a black "donor," HeLa cells were distinguishable from the other samples in that they displayed phenotype markers that were statistically attributed to black individuals. The ensuing stories told among the cell culture community and popular journalism revealed the violence and underlying fear of miscegenation that fed public intrigue at the time. I read the moment that HeLa cells were "discovered" to have originated from a black body rather than a white one as the moment that opens the cells up for accusations of passing. Part of what triggered the panic in the scientific community is the narrative about how black fraud emerges to foil knowing's moral and rational or objective goals.

As a project of scientific mastery and surveillance, the campaign to curb cell contamination induced a series of confrontations between the scientist as the supposed knowing subject and HeLa cells as the duplicitous, passing black suspect-object. The chapter turns to consider this reader relation's deep epistemological roots in early modern Enlightenment thought and the emergence of the experimental method as the theatrical scene that would induce and regulate this confrontation. Even in seventeenth-century natural philosophy, knowing was theorized as a human practice that could and should produce true information about the world. Authorized to have dominion over it, if the human could know the truth God authored in His earthly kingdom, it would have to be by mastering it. This venture was plagued by fraud even then. Importantly, however, I make the case that a key epistemological shift occurred between the early modern experiment as a form of science and later-stage Enlightenment thinking: The location of expected fraud and imposture in the reader relation shifted from the first moment to the second. Early modern thinkers such as Francis Bacon believed that it was in the mind of the knowing subject, and in

particular in their blind allegiance to dogma, that imposture emanated as an impediment to true knowledge. By the nineteenth century, however, the battle with fraud focused not on the mind of the knower as much as on the object to be known as the prime location for deception to occur. This shift to externalize fraud—even though it was uneasy or perhaps precisely because of this—is significant because it sets up the epistemological and libidinal conditions for the modern passing reader relation and ensuing passing mythology.

The shift in where one is to expect fraud comes as a way modern subjects attempt to manage the tension that arises in the project of knowing. And it mirrors the hunter's anxiety I described at the beginning of this introduction—i.e., will I as the supposed knowing and masterful subject be able to access the truth? Or will I drop the ball? What the modern scientist needed was a stable, reliable object of study. What they feared they had instead was a trickster. Chapter 3 reads the writing of Francis Bacon and his work on the experimental method in order to trace this shift and its consequences. Notably, Bacon's narratives draw on fantasies of enslavement, and in particular on imagery of "making nature one's slave," to strip nature of agency, constrain it, and subsume it to the will of scientific man. Thus, I probe for what the early modern writer imagined enslavement to make possible in the name of the humanist project of knowledge production. The tension remains, of course, as mastery even over the slave is never complete. This time, it is expressed in anthropomorphic narratives, metaphors, and imagery of conspiracy or passing. By the seventeenth century, as we see in chapter 1, this fraud was also attached to blackness as its index. The merging of the two—mastery in science and in colonial nation building—animated the accusation that the HeLa cells were passing as if they were a duplicitous black subject. Given the chapter's conclusions that suspicions of passing are central to the modern act of knowing and enslavement is the condition for its possibility, I move to ask whether knowing can ever be an ethical practice or whether we are perpetually trapped at the impasse of the passing reader relation.

Chapter 4, "Passing and the Ethics of Knowing," takes on this problem directly. It does so by laying out three questions. The first is simply: Can knowing ever be an ethical act or is all modern knowing invested in the passing reader relation? The second is: Can the object make itself known? And finally, there is a third question, which responds to the chokehold of suspicion that the passing reader relation has fixed on its object at the level of ontology. I ask: Can the object of the reader relation ever be understood as a knowing subject or is it fixed as that which must be read but cannot read? The first question reflects the concern of the knower—one who may be invested in knowing but does not want to be invested in the violence of the passing reader relation. The second

and third questions, on the other hand, reflect the concerns of the passing (or by now we can also say passed) object.

This last chapter takes on these questions by examining the work of analytic philosopher and conceptual and performance artist Adrian Piper, whose art and writing often focus on racial passing. In fact, for the artist-philosopher, passing presents itself as the “founding crisis” for race as a scientific category and thus for the modern Western subject. To trace Piper’s wrestling with the metaphysical and epistemological questions opened up, the chapter considers the artist’s essays and performance installations in the form of three scenes of failure. They include an anecdote about Piper’s introduction to institutional philosophy at the new graduate student reception at Harvard in the 1970s, an installation piece Piper produced in 1988 entitled *Cornered*, and a private-public performance piece titled *Food for the Spirit* which she wrote about publicly in 1981 and presented publicly for the first time in 1989. Each of these scenes is compelling because of the way they explore the impossibilities of ethics, of knowing, and of intimacy when applied through the passing reader relation. Not only does Piper come to argue that there is no winning for the passing subject regardless of their decision to pass or to refuse to pass, but Piper’s art suggests a far graver implication. Her work ventures that the greatest fear (and desire) of the knowing subject is probably true. This fear is not what the traditional narrative ventures: that the other is a black passing suspect. Rather, more profoundly, Piper’s installation *Cornered*, for example, insists that it is the so-called knowing subject itself that is the black passing suspect. Piper’s installation piece is thus an accusation that universalizes blackness and its fugitivity as conditions that characterize the human broadly speaking and that have been disavowed and externalized onto the Afro-descendant.

Nevertheless, in addressing the questions laid out by the chapter, not only would Piper argue that there is an ethical way of knowing but further that the will to know can be the ultimate ethical act. Against the grain of some black critical theory, Piper does not reject Enlightenment thought. Instead, she doubles down on it and on the work of Immanuel Kant, who consistently privileges the promise of reason over individual indulgences, fantasies, and desires. Racism, as Piper understands it, is a dynamic that stems from “pseudorational responses,” including “mechanisms of rationalization, dissociation, and denial” of that which challenges one’s knowledge of the self and its position within the world.<sup>56</sup> The worst one can do is give in to one’s phobias, anxieties, personal pleasures, and fantasies over reason itself. In response, Piper prioritizes reason as that which must be allowed to keep individual desire in check. The chapter reads Piper, faced with this challenge and again in contrast to much

of contemporary black critical theory, as prioritizing a critical form of mastery. This is one that her art seems to imagine as emerging from the radical possibilities of reason beyond the selfish desires of the individual. However, as the chapter will show, because of this, the more Piper chooses mastery over fugitivity, the more the stability or coherence of her own condition as a subject escapes her control.

Together, the chapters that follow challenge us to see the ways in which a mythology of passing works to manage tensions within the modern, humanist projects of both nation building and world building. The mythology emerges as an outgrowth of both history and metaphysics and situates the subject as one who must hunt, surveil, and capture blackness as part of a political and epistemological duty toward mastery. As a result of chattel slavery and settler colonialism, having fixed blackness to the position of the enslaved—that is, the position of that which is always already both fugitive and fraudulent—all are called to police and contain its spread in the other and in the self. We also find ourselves enjoying its fugitivity, itself a tantalizing taboo. *The Problem of Passing* keeps us between these two racialized projections—mastery and fugitivity—as anxious mirrors of each other.

# I

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## Of Passing and the Pass

In the spring of 1835, Frederick Douglass and four conspirators embarked on an urgent plan to escape enslavement. So dangerous was the initiative that one comrade, Sandy, had backed out. Douglass recounts that in order to reduce the risks, they planned to secure a large canoe and travel just before Easter. For one, people would be distracted with holiday preparations and less likely to notice their disappearance. Also, making their way north via the waterways made them more likely to be taken for fishermen rather than fugitives. Had they traveled by land, Douglass was sure they would have been “subjected to interruptions of almost every kind.”<sup>1</sup> Referring to the laws restricting black people’s movement, he explained, “Any one having a white face, and being so disposed, could stop us, and subject us to examination.”<sup>2</sup>

One more item would increase the possibility of the group’s success. And this item was dependent on Douglass’s ability to read and write. As he recounted in his memoir,

I wrote several protections, one for each of us. As well as I can remember, they were in the following words, to wit:—

“This is to certify that I, the undersigned, have given the bearer, my servant, full liberty to go to Baltimore, and spend the Easter holidays. Written with mine own hand, &c., 1835.

“WILLIAM HAMILTON,  
“Near St. Michael’s, in Talbot County, Maryland.”<sup>3</sup>

Lifesaving as the forged passes could be for the men’s escape, they were also evidence of a crime. If the patrollers found the contraband passes and used them as proof of their fugitivity, it might easily cost them their lives. In fact, disastrously, the group was discovered. When three constables and the men’s so-called owner confronted them, a struggle ensued. At least one person put up resistance. “During the scuffle,” confessed Douglass, “I managed, I know not how, to get my pass out, and, without being discovered, put it into the fire.”<sup>4</sup> He advised his brethren to do the same.

This chapter offers an origin story for the narratives about passing that have become so common in the United States. It locates the genesis of contemporary racial passing accusations in the seventeenth and eighteenth centuries, in the practice of administering passes to keep track of and manage chattel slaves. In fact, one of the earliest features of the Anglo-colonial project was the bureaucratic management of black subjects via documents. And in turn, as the above anecdote by Frederick Douglass suggests, the ability to forge this paperwork allowed captive Africans a greater possibility of successful escape. Ensuing chapters will trace how, even after emancipation, the economy of containing blackness and blackness’s propensity to allude said containment persist. As part of the afterlife of slavery, passing and the assumption of fraud have come to characterize a feature of modern black identity in this country. In order to see how this unfolds, the present chapter’s aim is to lay out the origins of modern passing narratives in early colonial projects, starting more than a hundred years before Douglass forged his own pass. It was in the initial stages of colonization that the English used a pass system to manage both land and persons in the service of the Crown and its shareholders.

Curiously, however, enslaved Africans were neither the only nor the first group to require written permission to move beyond their masters’ property. In fact, in the well-known monograph *The Soft Cage*, which offers a history of surveillance and policing from enslavement to the War on Terror, journalist Christian Parenti mentions briefly the following regarding use of passes during the earliest years of the colonial project:

In Virginia the first pass laws, created in 1642, targeted poor whites, such as indentured Irish servants attempting to flee their obligations. Any white person leaving the colony required a pass from the colonial governor to ensure that they were not fugitives or debtors. By 1656 Native Americans entering the colony to trade had to carry passes, or “tickets,” issued by the colonial authorities. Earlier iterations of these regulations mentioned slaves, but it wasn’t until 1680 that an exclusive slave pass law was enacted in Virginia.<sup>5</sup>

The mention appears at the beginning of a section titled “The Slave Pass,” and, as might be expected, the rest of the section in Parenti’s book details the uses of and resistance to slave passes—how patrollers or *patty rollers* pursued fugitive slaves and how fugitive slaves were able to game the system to secure their own freedom, at least temporarily. The history of pass use to control the movement of the enslaved is generally well known. And, in fact, when it comes to the writing of passes in US history, most people, if they consider it at all, simply take for granted that this was a regime of restriction directed entirely at blacks. That is, passing and blackness now seem to have an almost natural relationship. Yet as I read these sentences in Parenti’s book, I wondered about what has yet to be explained in great detail about this legislated system that seemed to be much more ad hoc than I had anticipated. I asked: How is it that whites and Native peoples were required to use passes? Under what conditions was this broader practice phased out—if it was? That is, how did passing and carrying a pass become practices generally associated with the policing of blackness? Moreover, how does the early use of passes inform the broader history of surveillance and the surveillance of blackness and black people, in particular? Unpacking these questions is the central aim of this chapter.

To do so, I focus on a series of seventeenth- and eighteenth-century laws passed by the Virginia General Assembly and eighteenth-century runaway slave advertisements published in local Chesapeake Bay and Virginia area newspapers. The materials represent the multiple levels on which state making and policing occurred in the first 150 years of Virginia as a colony and later a state. These included power struggles among the English as the colonial sovereign, their governing representatives, local settlers, and the multiple Indigenous peoples already in the area. They also included the power struggles between English planters, traders, and their servants. Together, the laws and the runaway advertisements constitute legislative technologies that shape the visual topology of colonial security.

The ways in which these laws and advertisements were disseminated were themselves the result of political choices made with security in mind. It took a century from the founding of the colony for the English to allow the establishment of a printer in Virginia. William Berkeley, the longest-serving governor (1641–1652 and 1660–1677) and the Crown’s representative in the colony, was adamant about enforcing English prohibitions on anything other than strictly centralized printing and news distribution. This tight rein on the dissemination of information via print served to curtail any opposition to royal rule, particularly since English royalists and parliamentarians were in the middle of a series of civil wars spanning a good part of the seventeenth century. It was not until 1728 that William Parks received permission from the General Assembly and the subsequent governor, William Gooch, to print a collection of Virginia’s laws, and in 1730, he was licensed to serve as the colony’s public printer. Soon after, he founded the *Virginia Gazette*, which he funded through the sale of advertisements and subscriptions. The printing office, in addition to publishing local laws and periodicals, also served as a post office and a center for the exchange of local news.<sup>6</sup> While Parks printed some legislation, it was not until 1823 that lawyer and legal scholar William Hening compiled a centralized publication of the General Assembly’s seventeenth- and eighteenth-century laws.<sup>7</sup> In order to trace the language of surveillance of servants of all races, Native peoples, and the enslaved in early Virginia, this chapter reviews pass laws published in Hening’s *The Statutes at Large* and approximately 400 runaway advertisements published in the *Virginia Gazette* between 1745 and 1799.<sup>8</sup>

The chapter approaches the archive as a body that houses the technological artifacts of passing, a cornerstone of the bureaucratic regime of colonial surveillance. These include passes, certificates, tickets, and other administrative indicators of political status. Here, *technology* refers to something both assumed to be humanmade and that consequently produces something useful—if artificial—out of nature, whether it be tangible or not. Certainly, in an immediate sense, one sees technologies as sets of tools. However, we must also understand technologies, more broadly speaking, as material and discursive apparatuses and the tools and the narratives, discourses, and practices that surround them. It is through this technological regime that the human produces meaning. The reverse is also true. Technologies are apparatuses by which the human is produced through the act of meaning making.<sup>9</sup> The pass system emerged from and subsequently began to shape the colonial assumptions about both its objects—the Native, the debtor, and the enslaved—and its subjects—the settler-planter-overseer.

By the late eighteenth and early nineteenth centuries, as the requirement for carrying a pass began narrowing its focus to identify who was black and subject to enslavement and who was not, an early form of epidermalization occurred. That is, an assumed truth about the black subject came to be written on the body to be visible by all. In these early cases of the pass system and passing, where the black subject was required to show proof of their political and legal status in the form of a pass or certificate, we begin to see a peculiar slippage occur. No longer was there simply a suspicion that the pass a person was holding might be fraudulent. Rather, there came to be a notion that the person themselves was fraudulent. In this way, the suspicion began to merge ideas about the political and the ontological into one status anchored in the body itself. The chapter, and in particular, the analysis of the runaway slave advertisements, shows how ultimately the black body replaced the legal documentation as itself an indication of danger in the form of fraud and fugitivity. By its mere presence, blackness might present a threat to colonial mastery. Thus, the pass system and its accompanying practices and folklores formed a visual and discursive field of fugitivity and surveillance and called forth the suspected black subject as the object of surveillance par excellence.

The pass system similarly called forth the subject of surveillance and in fact an entire surveillance class. Because the enslaved emerged as the embodiment of that which required vigilance, the law came to authorize anyone with a white face—man or woman—to demand a black person's pass. Douglass's account points to this. The effect was the emergence of white colonial subjects—as a class—who *must* maintain this vigilance. Even in its decision to centralize printing in the colony, the Crown's ultimate goal was to develop a shared sense of belonging and identity among the English, as vigilant English subjects and as property owners or soon-to-be property owners.

The chapter is divided into an analysis of two genres of writing on passing, both technologies that create subjects and objects in relation to the burgeoning colony. In the first part, I examine early pass laws in Henning's *Statutes* to begin to answer the questions raised above. Tracing its mundane bureaucratic and material implementation, we see how the pass system aimed to regulate sovereign territory, the integrity of property rights, and the protection of personal debts. The use of passes, however, also gave meaning to the very concepts and items it sought to protect. That is, *sovereign territory*, *property rights*, and *debt* came to have meaning through their protection by the pass system. Here, importantly, this chapter shows how ultimately the narrowing focus of passing related to blackness meant that ideas like sovereignty and property ownership came to be defined against their threatening limit—blackness itself.

In the second part of the chapter, I read runaway slave advertisements as a genre of writing. I show how this genre sutures together the administrative and the mythological. Disgruntled slave owners, who were often the authors of these advertisements, narrated how slaves passed in slippery ways, transforming the supposed material and visual proof of the slave's fugitivity into folklore about the slaves as symbolic figures.<sup>10</sup> For example, the advertisements use equally the noun *pass* (as in to forge a *pass*) and the verb *to pass* (as in *to pass* for free) to explain how fugitive slaves were able to impersonate free people and escape enslavement, evading scrutiny and arrest by patrollers. The ads, as cautionary tales, offer narratives that slip back and forth from the inauthenticity of the rational administrative document (the fraudulent *pass*) to the inauthenticity of the slave as a figure (the *passer*). In doing so, they transfer from the paper to the slave's body a presumably natural capacity, even tendency, to present themselves as someone they are not. This is what ultimately came to be the folklore around passing—the narrative that the black was shift, fraudulent, and fugitive. The visual field—the plane on which this fraud could be detected—emerges as part of this folklore. To see how this occurs, however, we must first consider the legal structure as its administrative foundation.

### Colonial Pass Laws and Land Making

Regarding seventeenth-century Virginia, rather than a coherent and durable pass system, it is perhaps more prudent to speak of a constellation of (at times changing) legislation and official practices that imposed and regulated passes, tickets, and licenses. This shifting constellation stemmed from two parallel requirements for governance and security: the regulation of movement *between* national borders and the regulation of movement *within* national borders. We begin with the former, which emerges within a broad history of the use of passports. This involved providing official permission to foreign allies and tributaries to secure safe passage while in one's territory and, more importantly, impeding outsiders from trespassing onto one's sovereign land. In these cases, passes were important not only for protecting territory during war but also for protecting the possibilities for peace. Understandably, treaty negotiators would be hesitant to travel into enemy territory without the authenticated promise that they would incur no harm. As early as 1051, the English issued "safe conduct" documents to peace negotiators and "King's Licenses" to travelers.<sup>11</sup> In a similar fashion, in the early and mid-seventeenth century, Virginia began requiring Native peoples of various nations to hold passes to enter the territories colonized by the English. This administrative and military practice

contributed to a burgeoning topology of Anglo sovereign space separate from Native land and then policed this colonial territory for any foreign violations.

Importantly, these practices developed at a time in which white-settler political and military supremacy was not at all fixed, and Native nations were often negotiating and contesting arrangements for land use among themselves. By the time the English arrived to establish Jamestown in 1607, the Powhatan empire—whose capital was Tsenacommacah—extended from the mouth of the Powhatan River (which the English would rename the James River) up to the Potomac. Led by Chief Powhatan, the empire comprised peoples from around thirty tribes, including the Arrohatock, the Appamattuck, the Pamunkey, the Mattaponi, and the Chiskiack.<sup>12</sup> There were additional Native peoples, like the Chickahominy, who paid tribute to Chief Powhatan but maintained more political autonomy. Moreover, north of the Powhatans were the independent Piscataway, Mattawoman, and Susquehannock. The latter had been engaged in violent disputes with the Piscataway and with the Iroquois Five Nations since at least 1575.<sup>13</sup> Finally, to the south were multiple tribes including the Westo and then the Occaneechi. The political and economic relationships between these Indigenous peoples were as important to the fate of the Virginia colony as were the relationships among the various sectors of Anglo colonial society itself.<sup>14</sup>

Even though the Powhatan kept villages, they were not entirely sedentary prior to English arrival; movement throughout the waterways, marshlands, and woodlands was key to their way of life. People regularly left their villages for extended periods of time as the men fished and hunted and the women went to gather nuts and forage for plants.<sup>15</sup> The Powhatan also had a system of complex trade networks stretching south from the Chesapeake and north to the Algonquian.<sup>16</sup> Land use in the area depended on Chief Powhatan's authorization. The leader would make diplomatic or political decisions to allow or prevent tributary tribes' settlement in various territories in order to strengthen or weaken their ties and increase Powhatan resources. Early in the colonial period, from 1607 to about 1647, the English in the Virginia colony were but another group jockeying politically and militarily for territory, warring with the Powhatan, negotiating peace, and later forming alliances; for example, with the Susquehannock to the north.<sup>17</sup> Thus, it was not as if, prior to European arrival and the use of passes, Native movement around the territories was apolitical, unconstrained, or unregulated. As is often the case, land use and territorial mobility were the result of political negotiations.

Nevertheless, the English grew to believe in the power of the practical and mechanical arts—the use of the rifle, the surveyor's tools, and the pass—to

make land and property out of what they considered “the wild.” These technologies helped them fulfill what they understood as a divinely ordained duty to create order out of chaos. In this imaginary, land not under English control represented the sort of ungoverned and hostile wild that demanded civilized governance. In its descriptions of the so-called New World, travel literature of the time likened the land to the peoples on the land, who, they wrongly asserted, “lived like wild beasts without religion, nor government, nor town, nor houses, without cultivating the land, nor clothing their bodies.”<sup>18</sup> The colonial project, driven by economic interests and religious duty, would come to privilege what the English believed was rational, bureaucratic administration of the land, the evidence of which increasingly lay in the use of technology. In delineating territory, the surveyor’s chain, the fence, the fort, the map, *and* the pass grew to attribute meaning to settled land as organized, rational property subject to the Crown’s management. Beyond these borders, land over which the Crown held no sovereign oversight was designated wilderness.

Thus, in 1646, after a third Anglo-Powhatan war, Virginia’s Governor Berkeley negotiated a treaty with the Powhatan that greatly reduced Tsenacommacah territory and secured the middle peninsula as Anglo-American. It was then that the English administered passes to Native peoples for the first time in colonial Virginia, and the practice became an important technique for enforcing territorial boundaries. The agreement ceded some land to the Powhatan but prohibited them and their allies, and any other Indigenous person, from traveling south of the York River or north of the James River for any reason except as representatives of their peoples on missions of cooperation or official communication with the Virginia colony.<sup>19</sup> There was only one exception to this rule. As was to be an ongoing practice of attempting to separate Indigenous children from their families, the settlers accepted, as servants, any Native children under the age of twelve whose family supposedly wanted them to be raised by the Christians.<sup>20</sup>

For anyone else, the penalty for trespassing could be death. And similarly to the enforcement Frederick Douglass’s nineteenth-century testimony relayed, at this early time of contested colonial settlement, any white person who encountered a trespassing Native enjoyed the right to enact the punishment. To guarantee Powhatan and allied messengers safe passage after the 1646 war, the General Assembly enacted a law requiring them to either have a written pass or to don a striped coat that English officers administered at English outposts. These included Fort Henry, at the falls of the Appomattox River, and Fort Royall, on the Pamunkey River. After using the striped coat and successfully completing their business with the colonial government, the messenger was to return the

coat to the fort for others to use. The pass, in this sense, distinguished those entering into agreements with the English from others who were to be read as enemies. This visual discernment was critical for the Anglo settlers, who were often notoriously terrible at telling Native peoples apart amid oft-shifting political lines.<sup>21</sup>

In 1646, colonial legislators also aimed to consolidate loyalty among white settlers to the larger Virginian colonial project. Compliance with the pass regulations was one way that the General Assembly centralized authority over land and encouraged settler adherence to the Crown. To do so, it managed the actions of individual settlers in two ways. First, English settlers could be convicted of a felony for concealing any Native person who ventured south of the York River without an official pass, badge, or coat. Second, the treaty banned the movement of settlers into Native territory such that any English person who ventured north of the York could be convicted of a felony. There were, of course, exceptions made for settlers who trespassed while seeking refuge from bad weather and for those who held warrants to cut and collect timber, plant, or let their animals graze.<sup>22</sup> Ultimately, however, even as the colonial administration attempted to control long-term settlement trajectories by limiting rogue planter efforts, individual groups of white settlers, prompted by the economic needs of the tobacco industry for fresh soil, continued to encroach on Native land.<sup>23</sup>

In their attempt to centrally organize settlements and their agricultural industry in the Virginia colony, the English wrote additional pass laws and enacted severe sanctions that worked to vastly change the ways Native people would be allowed to interact with the land beyond diplomatic missions. About fifteen years earlier, the General Assembly had authorized local military commanders to attack Native peoples who were clearing land, hunting, or otherwise coming close to Anglo-American settlements.<sup>24</sup> After the 1646 treaty, the colonial government required tributary Natives to secure passes to move within Anglo spaces for travel, hunting, and other subsistence activities. This pass policy worked to maintain the boundaries of occupied territory and the resources within that territory for English use. At that time, colonial authorities also made an effort to regulate violence between individual settlers and Indigenous peoples. In 1656, the General Assembly ruled, for example, in cases of “trespasse or harme,” that the Indigenous offender should be “corrected” but not killed.<sup>25</sup> The legislators then reasserted the bounds of this pass law, articulating: “*Be it enacted* that no Indian come within our fenced plantations without a ticket.”<sup>26</sup> It followed that, with a locally authorized pass, the Native holder “may fowl, fish or gather the wild fruits without hindrance,” and here an important stipulation,

*“provided it be not within any fenced plantation.”*<sup>27</sup> And thus, clearing land for plantations, implementing fences, and strictly regulating mobility with passes were all practices and technologies that presented two onto-political claims as unquestionable facts: English private property in the colony and the spatialized boundaries of Native autonomy and self-determination. This expansion of Native-focused pass laws from regulating diplomatic movement *across* Native and Anglo borders to regulating movement *within* Anglo borders reflected the accumulation of power and the progression and consolidation of white land use. Conquest and settlement worked together to organize sovereign territory and make it productive for international trade of goods and persons. Toward this end, English land, as the totality of private property of individual settlers organized and defended by the Crown, would be used for planting cash and subsistence crops and grazing livestock.

Along these practical lines, the use of military action and the facilitation of trade were interrelated tasks. The pass laws illustrate just how this was so. Virginia’s government attempted to centralize control over interactions with Indigenous peoples in order to balance the twin goals of Anglo Virginian sovereignty and trade for the good of the colony as a whole and of the Crown.<sup>28</sup> It often allowed certain allied and tributary Native people to enter colonial settlements to engage in trade in stipulated markets, unarmed and, as always, carrying a pass or license. This right to enter Virginian territory to trade would become an important indicator that the particular people who had that right were to be treated as sovereigns in relation to the colony. And yet groups of settlers often took Native relations into their own hands to further their own individual or local interests. In 1663, fed up with this disorderly and insubordinate practice, Burgess Edmond Scarborough complained to the General Assembly. “Underhand dealings” with Native peoples who did not hold badges, he decried, were encouraging trespassing and off-the-books trade in great part because English enablers were not receiving punishment.<sup>29</sup> As an act of deterrence, or at least as a measure to bring these under-the-table dealings back to official benefit, Scarborough proposed that English offenders pay a fine or tax for the rogue exchanges.

The push and pull between colonial governance and individual planters and traders culminated in a pivotal military event between 1676 and 1677: Bacon’s Rebellion. While the colonial government headed by Governor William Berkeley strategized developing differing political relationships with Indigenous nations to better the chances of growing Virginian economic and territorial presence, a large group of planters and traders often undermined these efforts by appropriating land for their own private interests and engaging in,

as Burgess Scarborough denounced, oftentimes “underhand dealings” with the surrounding Indigenous tribes. Those settlers especially on the outer borders of the occupied territories and those who ventured into Native land grew increasingly angry that colonial leadership, in their view, prioritized diplomatic relations for the Crown’s benefit over the security of oftentimes unauthorized settlements. This group, led by Nathaniel Bacon, began to treat any Indigenous person as a threat to settler security and financial well-being. However, even for Bacon, exploiting relations with Native people also signified a benefit to settler finances. While much of what is written about Bacon’s Rebellion attributes its motivations to a multiraced class of disenfranchised Virginians who pushed against elite colonial actors, other scholarship has justifiably cited the economic interests of the insurgent leaders invested in the Indian slave trade as a primary impetus.<sup>30</sup> For example, Bacon owned enslaved Native peoples and stocks in traded goods with Natives, and early rebellion sympathizer William Byrd, who was a planter and surveyor and who would later be known for the founding of Richmond, Virginia, was heavily involved in the traffic of Native people.<sup>31</sup> By 1650, the falls of the Appomattox and James Rivers had become a critical intersection for all sorts of trade with Natives, including the buying and selling of Native captives of war. The competition among various Indigenous tribes and Virginian actors for the upper hand in this trade was steep.<sup>32</sup>

Against Berkeley’s direction, rebel planters, traders, servants, and freemen began an offensive against all surrounding Indigenous peoples, including the Pamunkey, the formerly officially allied Susquehannock, the Doeg, and the Occaneechi. The insurgent violence exacerbated into a genocidal war against all Natives. The rebels likewise drew themselves into war with Virginia’s central colonial leadership, as Bacon first led a siege on Jamestown to demand the leadership declare war on Natives and several months later returned and burned down the capitol. In response to the violence, Berkeley sought refuge on Virginia’s Eastern Shore, and the colonial leadership was drawn into war with the rebels and with the surrounding Indigenous tribes. Neither the colonial governor nor the insurgents’ leader would survive the Rebellion for long. Having drawn himself into battle with the Pamunkey, Bacon died of typhus and dysentery just a month after marching on Jamestown.<sup>33</sup> Virginia’s Governor Berkeley was recalled to England, which was engrossed in its own civil war. He died shortly after.

Crown loyalists eventually defeated the rebellion but the colonial government believed the political fallout required it to placate the Anglo insurgents and bring them back into the fold. This effort resulted in a rearticulation of the territory’s ethno-political topology and its oversight in order to prioritize

white appeasement. With the 1677 Treaty of Middle Plantation, which officially ended the war, the Crown's new representatives in Virginia, along with Maryland, negotiated peace with some surrounding Indigenous nations and recognized again their status as allies. These nations included the Pamunkey, the Five Nations, the Piscataway, and their tributaries. They were allotted small reservations, retained power for limited self-governance, and were required to pay tribute to the Crown annually.<sup>34</sup> They could also live in Anglo Virginian settlements and work as servants but could not be required to work any longer than their English counterparts.<sup>35</sup> After the war, however, other Native foes remained foes and if found within Anglo territory were declared enslavable for life, like the colony's trafficked Africans.<sup>36</sup> Additionally, in 1676, to appease settler militias, the assembly allowed Anglo soldiers to keep any "Indian enemies" as slaves, as well as other plundered property.<sup>37</sup> These decisions in the wake of the insurgency were meant to reinforce colonial power and foster a shared identity and interests among white Virginia settlers of almost all classes—planters, traders, and servants.

Colonial leaders would once again rely on pass laws to draw these political lines or statuses and enforce their integrity. The General Assembly approved much harsher statutes not simply to contain Native peoples to particular external territories but to punish any Native trespasser in Anglo territory with enslavement or death. With the pass law, along with the designation of trespassing enemy Indians as enslavable, finding a Native person without a pass in Virginia offered economic possibilities for the industrious. If a settler sold the fugitive trespasser into slavery, as they had the right to, they could keep the profits. Not to lose out, if a settler were to kill the trespasser, they would be entitled to one thousand pounds of tobacco as compensation. In this way, the pass became a technology to restore order upended through war, clarify territorial claims, identify friend and foe, and enforce the production and use of land and captives for profit. Pass legislation on the heels of Bacon's Rebellion also gave force to the symbolism of the trespassing Native as available for capture, and thus rendered Natives, in various cases, vulnerable to kidnapping, enslavement, or death.<sup>38</sup> After this legislation, for tributary Natives and especially those who lived within the limits of Anglo Virginia settlements, possessing a pass meant the difference between life on the one hand and, on the other, one's potential kidnapping, enslavement, and/or death. In this case, holding a pass supposedly kept one safe from capture. However, many were kidnapped regardless of the law.

Together, the legislation and practices that comprised this seventeenth-century colonial border-policing regime show how passes came to serve as a technology for the accumulation of land and the sorting of peoples. The pass

system organized sovereign land out of the so-called wilderness and distinguished proper colonial subjects from the despotic or competing outsiders. At significant moments when Anglo settlers accrued new territory, colonial governance marked the boundaries by requiring passes for outsiders. In this way, the changing constellation of pass legislation called subjects into being according to their designated relationship to the Crown and its colony. For example, Anglo Virginian settlers were interpolated as a class tasked with a duty to police external boundaries. Native tributaries emerged as those allied subjects who required passes, tickets, or a striped coat to enter white Virginian land for diplomatic purposes, trade, or work. A final category comprised Native enemies, those outsiders and fugitives requiring surveillance. If caught trespassing, they were made available for capture, enslavement, or death. Potential settler confusion about the difference between the categories made holding a pass even more critical for allied Natives. In this way, passes adjudicated international border crossings and subjects were called into being according to their legal capacity to enter white territory freely, with a pass, or not at all. As we will see in the following section, pass laws also sorted “domestic” subjects by whether they had permission to move freely within the colony’s internal borders. We might even say that subjection to internal pass laws, in fact, came to give meaning to certain subjects as domesticated.

### Servant Pass Laws and the Colonial Subject

In the years after the second Anglo-Powhatan War (1622–32), growing the tobacco economy became a greater priority for English settlers and planters, who expanded into Indigenous lands south of the York River and by 1648 officially north of the York River. Consequently, colonial planters needed both an infusion of new workers and more control over the predictability of the labor force. Pass laws served to manage and regulate the workforce and, perhaps even more importantly, the passes came to assign sociopolitical meaning to a subject’s status. One way people in Virginia were marked as politically or economically free, in debt, or enslaved was by whether and how they were subject to pass laws. Further, as the use of passes became increasingly naturalized, the very ideas of “freeman,” “debtor,” “servant,” and “slave” came to have meaning as qualities innately fixed or opposed to the supposed race of the subject holding the pass.

Between its instantiation as a colony and its emergence as a state, Virginia’s workforce comprised people from a variety of origins and with a variety of socioeconomic and political statuses. For the first half of the seventeenth century, it

included mostly indentured servants who were generally of Anglo descent but at times also from other countries in Europe, some Anglo freemen and women who were born in the colonies, and some English-born freemen and women. The need for laborers was exponential, and the colony benefited from the commerce of Anglo, Irish, and to a lesser extent, German migrant servitude.<sup>39</sup> At this time, there were very few young migrants who were able to pay their own way to the Virginia colony and become landowners or free laborers immediately on arrival. Rather, many made arrangements with more established settlers, who would pay for the boat trip and the traveler's upkeep for several years in exchange for labor. Many more young settlers, however, were not even able to enter into prior contracts to fund their migration. Not to miss an opportunity, this challenge opened yet another avenue for profit for those with capital. In these cases, shipping companies would instruct these travelers to embark under contract of the consigning merchant or shipmaster. On arrival in Virginia, the company would sell the contracts, stipulating that the servant "be completely at the disposal of the payor, or the payor's assigns" for a determined period of time in exchange for payment of travel debt and subsistence.<sup>40</sup> Most incoming settlers worked the tobacco harvests, contributed to military activities when necessary, and, in the case of women, also tended to reproductive labor.

The prioritization of the cash crop would come to depend increasingly on enslaved Africans and Native servants who were either indentured or enslaved for life. Native servitude was an important component of the Virginia colony, particularly in the mid- to late seventeenth century as European indentured servitude decreased and access to enslaved Africans could not yet meet the demand for plantation and household labor. However, depending on diplomatic priorities and strategies, changing economic conditions, and anti-Native sentiment, the political status of Native servants often shifted between servitude with a time limit and indefinite enslavement.<sup>41</sup> In 1661, the assembly fixed the parameters of Native servitude to that of white servitude, barring enslavement for life and limiting the years Natives would be required to serve their masters.<sup>42</sup> Nevertheless, this would be overturned with subsequent laws that permitted lifetime enslavement for Indigenous enemies, captives of war, and those purchased via the Indian slave trade with other tribes. In order to regulate the workforce and enforce the repayment of debt, the legal requirement to carry a pass or certificate increased in importance as a colonial surveillance technology. This time, though, the pass laws were focused on regulating movement *within* the bounds of the colony and among the servant classes.

As Parenti points out, in 1642, for the first time, the General Assembly passed two acts meant to curtail the mobility of servants who were either likely

to hire themselves out on the side for extra income or to board a vessel or skip town in some other way.<sup>43</sup> As the law identified the problem, “Complaints are at every quarter court exhibitted against divers persons who entertain and enter into covenants with runaway servants and freemen who have formerly hired themselves to others to the great prejudice if not the vtter vndoing of divers poor men, thereby also encouraging servants to runn from their masters and obscure themselves in some remote plantations.”<sup>44</sup> To protect patrons’ investments, the law required servants to carry passes when they were away from their master’s domain; it also criminalized the hiring of fugitive servants or even servants who attempted to hire themselves out during the time they were not dedicated to their master’s labor demands. Importantly, the law did not simply prohibit servants from moving about without the owner’s approval but also very sternly prohibited land owners from entering into contracts with runaway servants and “freemen.”

This phrase in the law equating runaway servants and freemen may come off as curious to twenty-first-century readers. From a modern perspective of free labor, the law’s limit on freemen appears counterintuitive. If freemen could also be designated as runaways, this early pass law begs two questions. First, what was the difference between servants and free workers or *freemen*? And second, what did “free” and “worker” mean in this historical moment? In the post-Industrial Revolution imaginary, “free” has been a primary qualifier of “worker.” Yet during most of the early modern period, the two words might be better understood as having very little relation. Although the 1642 servant pass law was the first of its kind in Virginia, it likely would not have come across as uncommonly restrictive or surprising to any of the settler inhabitants. The law simply put Virginia labor norms into alignment with the laws in England at the time. And these laws drew precedence from the fourteenth-century feudal relationships codified in the English *Ordinance of Laborers*, *Statute of Laborers*, and the *Statute of Artificers* and were continuously re-enacted in subsequent years.<sup>45</sup>

The statutes described several ways in which almost all laborers in England were subjected to their masters. For one, there was a “contract clause,” which considered it a criminal offense to run away or depart from one’s work before completing the agreed time period. The statutes also included a “compulsory-labor clause” mandating that the indigent be put to work for whoever desired to retain their services.<sup>46</sup> Finally, the statutes ordered that agricultural workers be retained for a specified extended length of time rather than work as short-term day laborers.<sup>47</sup> The worker’s retainer functioned in much the same manner as the seventeenth- and eighteenth-century indenture contracts. So, even

“free laborers” in Virginia (i.e., those who were not indentured servants or slaves) were encouraged or compelled to enter into a retainer and, thus, fulfill the required stipulations of the contract.

In this way, one can read the use of the word *servant* in Hening’s *Statutes* in a more generalized manner describing anyone under patronage of a master and required to work. There were certainly differences between retained laborers (whites), indentured servants (whites and some Natives), and the enslaved for life (Africans and some Natives). Nevertheless, at this juncture in Virginia, each of these groups fell into the broad category of servant and was bound by the 1642 law. This law was not necessarily racialized in the sense of targeting, as Parenti wrote, “poor whites” exclusively. Rather, in 1642, the law incorporated all servants broadly speaking, and at that time, most servants, though certainly not all, were Anglo or European. In all domestic cases, the pass or license became a signifier of the legal contract that fixed servants and so-called freemen under retainer to their masters. It aimed to stabilize the cash-crop labor force by preventing the servant from walking out on their debt, and it prevented even the nonindentured laborer from terminating their employment at will. In Virginia, the pass offered proof of servitude bound by patronage and an economic, social, and legal debt contractually owed to the master. Servants, in various ways, were viewed as an extension of the master’s household. What began to mark a shift among colonial forms of servitude, as we will see below, was whether or not the subject’s debt was officially recognized as finite and thus calculable or whether it was infinite. Because of this, I argue, the major division in labor was not one between freemen and servants. Rather, it was between, on the one hand, freemen and servants under retainer for a stipulated period of time in order to satisfy a quantifiable debt, and on the other, those servants who were enslaved for life. The permanence of the latter’s status proved a challenge for the sort of calculation that the indenture and retainer allowed and in fact required.<sup>48</sup>

For the former group—freemen and indentured servants—a pass provided verification that they had permission to engage in work aside from that owed their masters or that they were free of debt owed to old employers and therefore legally able to enter a new employment contract. A violation of this agreement was tantamount to theft; this was true for the offending servant, and if it could be proven, it was true for any offending employer. Thus, anyone caught poaching a servant or worker without a pass or certificate would be forced to pay restitution to the rightful “master or mistress” in the amount of twenty pounds of tobacco for every day’s worth of work lost.<sup>49</sup> A decade later, the General Assembly increased the fine to thirty pounds.<sup>50</sup> The fugitive servant

would “receive censure and punishment as shall be thought fitt by the Governor and Counsell.”<sup>51</sup> By 1657, the General Assembly required the servant to pay thirty pounds of tobacco for each day of work missed. A last punishment was reserved specifically for the act of counterfeiting a pass. The offender of such a crime was to undergo punishment, vaguely stated, in the way that colonial governance might have “thought fitt.”<sup>52</sup> Other legislation turned attention more fully to the fugitive and independently minded servant. In particular, it specified those “loytering runaways” who, perhaps even worse than entering into illegitimate contracts with another employer, simply refused to work or perhaps more likely attempted to dedicate themselves to their own livelihoods. The law determined that the fugitive, when caught, which might not be for “two or three months” and “many times even to the loose of their year’s labour,” would have double the time “neglected” tacked onto the end of their original indenture.<sup>53</sup> In this way, the pass was a document that marked the master’s authority over the servant in his or her physical absence. To be a runaway meant to assert an unauthorized will that undermined both the master’s authorship and, in the context of the growing tobacco trade’s need for predictable labor, his or her bottom line.

For the indentured servant, fugitivity could be understood in particularly gendered terms as well—especially with regard to reproductive labor. Just as in early modern England, the Virginia General Assembly required servants to postpone marriage while under contract or indentured. Seventeenth-century working people, especially women, were almost always under one of two contracts—either an indenture or marriage. To have both would have generated a conflict of interest between masters. The prohibition was justified as much in economic terms as it was in traditional patriarchal terms. It was not simply that there could be only one patriarch of the household but that the pregnancy of an indentured servant would necessarily increase costs for the master. They would be responsible for the mother’s upkeep and possibly that of her future child’s—this even while neither would be able to work. In this sense, a pregnant and nursing servant would inevitably be withholding labor promised to the master. The legal consequence followed the economic logic: her debt via indenture increased.<sup>54</sup> Indentured servants risked engaging in this sort of gendered, reproductive fugitivity that positioned one contract against another, and the punishments generally followed early modern English law.

The same, however, was not true for those enslaved for life. The legal questions that arose around who was responsible for the child’s upkeep and also how the master or mistress would be compensated for the labor due them in the case of white servants who became pregnant while under retainer of a master did

not arise in the case of enslaved Africans. This was because, first, as they were enslaved in perpetuity, there was no quantifying of the amount of labor time “owed” in terms of debt to the owner. There was no way a slave for life could continue to work past their contracted period of service to make up for labor “neglected” because the defined end of servitude for the slave was death. In contrast to indenture, here, a slave’s debt was not measurable via time. Second, while the birth of a white servant’s child did not guarantee the master anything but lost labor, the birth of a child by an enslaved African signified profit for the master. The so-called promiscuity that the Anglo world projected onto the African thus was wholly compatible with the master’s economic interests. The calculation with regard to the enslaved was in reference to their value as chattel: the value of their body, the totality of that live body in time and space, including what the body might produce in labor, when it was sold, or when it was reproducing. Each birth would be an increase in the master’s assets.<sup>55</sup>

In this way, the defining difference with regard to servitude was not a given or natural occurrence. Rather it was legislated and adjudicated as a way to protect a property owner’s investments. The question of the paternity of a servant’s child was a critical one, which, had it been left up to English common law across the board, would have certainly presented a challenge to the master’s pocket. And initially, enslaved mothers did attempt to appeal to the courts for their child’s freedom if the father was English or otherwise free.<sup>56</sup> This would not stand for long, however, as legislation quickly clarified that there would be no conflict of interests between paternity and propriety for Africans because there would be no black marriage or white paternity rights that could legally challenge white property ownership. Before even any pass laws were written specifically for black slaves, in December 1662, the Burgesses passed a *partus sequitur ventrem* law. It stipulated that “whereas some doubts have arisen whether children got by any Englishman upon a negro woman should be slave or free . . . all children born in this country shalbe held bond or free only according to the condition of the mother.”<sup>57</sup> What ruled the enslaved for life was economically determined legislation that circumvented patriarchal and traditional law on servants by fixing the status of the child to that of its mother. The black slave could not be read as engaging in sexual transgression or reproductive fugitivity like the white indentured servant. For the white servant, there would be a future time in which she could enter into another contract, one that would affirm her proper gender difference through marriage and motherhood. This patriarchal contract, which certainly subjected white women to white men’s rule, was unavailable for the enslaved due to the 1662 law. And this legislated inability to engage in proper gendered difference would come

to mark the status of Africans and Afro-descendants as presumed slaves for centuries to come.

In the seventeenth and eighteenth centuries, the legal status of Natives with regard to servitude and enslavement fluctuated. Yet there were still some differences that affected their status alongside and in contrast to the status of Africans and their descendants. Especially when Virginia lawmakers prioritized political relations with sovereign, tributary Natives, they tended to permit temporary servitude but to officially outlaw the enslavement for life of Indigenous peoples, or at least Indigenous allies. This same approach was not extended to Africans, for whom the question of sovereignty or allyship was never considered. For example, in the same year that the General Assembly passed the *partus* law, 1662, it fixed Native servitude to the same conditions as white servitude, at least in terms of time. This law stipulated that those non-Christian servants who arrived in the colony by boat (that is, the Africans) would serve a life term, while those arriving by land (Native peoples) would have a limited term.<sup>58</sup> This changed after the 1676 insurrection, when the colony once again made the enslavement of Native enemies legal. The Indian slave trade flourished at this time, and the status of Indigenous peoples with regard to legal enslavement continued to fluctuate. Tributary Natives were supposed to be able to enter into contracts of servitude but they were generally free from enslavement for life. Yet as was often the case, masters did what they could to ignore these legal protections.

Toward the end of the eighteenth century, rhetoric about allied diplomatic status was increasingly dropped from Virginia legislation on servitude in favor of a logic of racial equivalences. Even in the original 1662 *partus* law determining slave status, the language of the law moves from a question of the children of “negro women” to a deliberation on the status of “all children . . . according to the condition of the mother.” The rhetorical slippage from negro to slave—perhaps in many ways understood as synonyms—would thus come to include the fate of Natives in many cases.<sup>59</sup> That is, the law applied to all slaves *as if* they were black. Later legislation also moved to equate non-tributary Indians to blacks and to enslavement. An act in 1682 referred to “negroes and other slaves,” and several eighteenth-century laws referred to “Negroes, Moors, Mollattoes, or Indians” as available for enslavement, unable to hold public office, and unable to bear witness in court.<sup>60</sup> Again, meaning slipped from “Negro” to “Mollatto” to “slave” to “Indian” in a sort of rhetorical blackening of additional subjects within the Virginia colony.<sup>61</sup> Especially at risk for capture and trafficking were Native children and those found in Anglo territory who had no proof of their tributary status; in other words, those accused of being fugitives and

trespassers. Although this did not seem to be a requirement, if Natives were suspected of being black or mulatto, they were also more likely to be captured and enslaved for life.

There seems to be no clear consensus among present-day historians, nor was there among eighteenth-century Virginians, as to the exact statute that ultimately prohibited Native enslavement in the state once and for all. For example, eighteenth-century lawyers argued that a 1684 law overturned lifetime enslavement for Indians imported from outside the Virginia colony.<sup>62</sup> And some historians interpret a 1691 statute legalizing trade with Indigenous peoples as also repealing laws allowing for their enslavement. This is because, as mentioned above, earlier laws had banned trade with the enslaved and issued passes with allied Natives for commerce. Others cite a 1705 statute that outlawed slavery for those brought into the colony who could prove they were free in a Christian land before their trafficking.<sup>63</sup> Yet it is clear that Natives were still enslaved in Virginia after 1705. Legislation and court cases deliberating the status of enslaved Natives continued into the eighteenth century and through at least 1821.<sup>64</sup> Those that attempted to sue for their freedom often argued that because their mothers were Native and not black, they never should have been subjected to forced servitude in the first place or their terms of servitude should not have been understood as indefinite. The legal debates and court findings offered a cultural mythology for runaway slave advertisements, which accused people of attempting to “pass for” Native as a way to pass for free. As we will see, this accusation was leveled at blacks and Natives alike as a way of enslaving or re-enslaving the accused and of dispossessing them of certain concessions (most often land) that the colony and later the nation set aside for tributary Native peoples. Even as the legislation fluctuated, its tendency was toward narrowing the scope of legal enslavement to black subjects, and one’s capacity to prove they were not black was key to escaping this fate.

How then did pass laws become a legal requirement increasingly focused on identifying and capturing blackness? The question rests on an assumption that animates both the chapter and the broader argument of the book; namely, that the selective phasing out of pass laws indicates a growing early modern and modern notion of the singularity of blackness as a symbolic force for the nation. This symbolic power, with its historical link to the status of enslavement, began to shape the conceptualization of modern social categories such as the “free person,” “citizen,” and “worker.”

Thus far I have examined how pass laws initially targeted Native emissaries and a broad category of servants of various races and begun to analyze the process by which these laws narrowed in scope to focus on blackness and enslavement.

Early pass laws mandated harsher penalties for Native and black populations. However, as slavery came to be increasingly limited to those read as black, pass laws and penalties began to ease, to various degrees, for Natives. Additionally, as the colony expanded its cash crop economy, it increasingly relied on the slave trade to secure a predictable and manageable labor force, shifting away from practices such as indenture or Native enslavement. At times, the Virginia colony continued negotiations with Natives as sovereign political entities. Some held the belief that Natives might be better integrated in Anglo society (once cleansed of their Nateness). This, along with the colony's heightened reliance on enslaved Africans, contributed to a singular yet more ambiguous political-symbolic status for Native peoples within Anglo-American colonial society as well. Akin to so-called wilderness, Nateness wavered as a signifier between two scenes. On the one hand, Nateness stood in for a fantastical, despotic, anarchic state of nature and as an example of what might happen if a world had no governance and thus too much so-called primitive freedom. And on the other hand, Anglo-American settlers read this supposed lack of modern governance as a signifier for a childlike availability for erasure via inclusion into the settler community through the civilizing mission of conquest and servitude. An increasing danger for Native peoples, however, was to be accused of being black and simply faking their Native status. This long-held suspicion subjected them to a differently wretched political category.

### Passes and Property

As Parenti notes, in 1680, the Virginia General Assembly legislated much stricter pass laws directed exclusively at managing Africans and their descendants.<sup>65</sup> But locally, justices had been encouraging stronger restrictions for blacks for decades before the 1680 law passed. These policies aimed at curtailing what, according to some colonial leaders, was a major problem. Some masters were too lenient in allowing what slaves might be able to do and where they might go in their "free time," as one might qualify it. It was not enough to simply require slaves (as one required all servants) to carry a pass to leave the master's property. Leaders warned that passes for slaves should be doled out sparingly and only as necessary. Historian Kathleen Brown recounts an example of how county-level government attempted to enforce these regimes of control. In 1672, justices in Surry County fined one slave owner for "too Careless and inconsiderate Liberty given to Negroes" regarding their movements, as they had given a slave a "note to goe abroad" when no pertinent reason warranted it.<sup>66</sup> The problem was twofold according to the justices. The first, as

the justice noted, was that Africans and their descendants were afforded too much freedom to congregate on Sundays, during funerals, and for other events. Thus, black social life independent of the master was viewed as threatening to the sociopolitical and economic colonial system.

The second problem, however, was that Africans had been allowed too much sartorial freedom. This reckless lack of discipline in policing allowed for aesthetically fugitive acts that did as much to “highten [the slaves’] foolish pride as induce them to steele fine Linninge and other ornaments.”<sup>67</sup> The justices, then, in addition to the pass laws already enacted for servants, approved legislation restricting slaves’ attire, such that “no negro shall be allowed to weare any white Linninge, but shall wear blew shirts.”<sup>68</sup> This colonial requirement was in line with livery customs in early modern England. There, use of the blue coat served as a visual signal that the wearer was a servant and that both the master and servant were duty bound. In a traditional sense, the clothing was symbolic of the paternalistic relationship, as the master generally gifted the livery to his dependents. And in the same vein, livery served as a reminder or signal of the master’s favor and authorization.

The custom gave way to a belief in a natural resonance between the clothing and the supposed innate qualities of its wearer’s social class. For instance, the plot of an early seventeenth-century English comedic play, *Greene’s Tu Quoque*, centered around a gentleman who, falling on hard times, was forced to serve a man who once served him.<sup>69</sup> By an undeserved stroke of luck, this former servant had become a gentleman, trading places with his master.<sup>70</sup> The first sign of this shift appeared visually, in the actors’ dress. The former servant turned aristocrat donned rich garments and the former gentleman, now servant, wore a blue coat. Of course, this change in garb did not a nobleman make, and consequently, the comedy invited the audience to laugh at the awkward and false performance of gentility.<sup>71</sup> When applied in the context of the African and Afro-descendant slave in Virginia, the blue shirt ended up serving as what I have called an “anchoring signifier” or what Ian Smith might call an “epidermal prosthetic,” a material marker signaling the natural relationship between the bearer’s race, their clothing, and their political or even ontological status or interiority.<sup>72</sup> Because the marker is “epidermal,” akin to skin itself, it suggests a tension with regard to recognition. In one sense, the white surveillance class should be able to detect the truth of the black slave on their body. But in another sense, the law required the added prosthetic of the blue shirt to confirm the slave’s status lest their innate fugitive character misrepresent them. Simply changing clothes, then, could not—or perhaps at least *should not* be able to—confer true social mobility, as this change should be perceived as

fraudulent rather than authentic. If one were to take the runaway slave advertisements at their word, stealing clothing was, in fact, one of many common strategies whites believed that fugitive slaves used to pass for free.

Viewed through this lens, we can read the Virginia justices' complaint as an expression of anxiety about the sort of fugitivity that access to diverse clothing might allow a slave. The fugitivity was of two sorts. The first was in misrepresenting one's authentic self—fraudulently displaying a naturally undeserved level of pride and autonomy or freedom. The other, the theft of clothing, was a criminal act that facilitated the former. Like the striped coat for the Powhatan tributaries, the blue shirts in this example served as an additional technology of surveillance.<sup>73</sup> Of course, the striped coat was to be worn by Natives only while partaking in official business and taken off just after, left for use by the next emissary. In contrast, the blue shirt was likely the only clothing a slave might have. Here, a functional and symbolic difference between the slave's blue shirt and the Powhatan's striped coat seems to have emerged. For the slave, the blue shirt was confirmation of their slavishness, which might also be represented in their black skin. The shirt signaled to its viewer that the black subject was subsumed under an appropriate patronizing relationship with a master. It was not to be regularly traded out for another shirt, just as skin could not be traded out for other skin. Here, however, it was not proof of a master's authorization for the slave to move about in his absence. Rather, the shirt worked in tandem with a pass but did not replace one. It, like black skin itself, rather confirmed to the vigilante that its wearer was subject to pass laws. Anyone with a blue shirt would still have to present a valid pass showing permission if they were found loitering outside of the master's property. Uniform clothing, as an anchoring signifier consigning meaning to black skin, set the aesthetic stage for black hypervisibility and thus meant it was easier for fugitive Africans to be "discovered if they steele or weare other Linninge."<sup>74</sup> The runaway slave advertisements of the era confirm the importance of nice or varied clothing as evidence of fugitive slaves passing for free.

After Bacon's Rebellion in 1677, in contrast to the strategy of white appeasement, restrictions for slaves increased measurably. Slave laws—including pass laws—sought to single out and contain black mobility, particularly "under pretence of feasts and burials" which were "judged to be of dangerous consequence."<sup>75</sup> In a 1680 act whose purpose Hening describes as "preventing Negroes Insurrections," the General Assembly prohibited captive Africans and Afro-descendants from carrying arms of any kind—not just guns. In the same breath, they were also prohibited from leaving their master's and mistress's grounds "without a certificate," clarifying once again that slave owners should not grant these certificates

except when necessary.<sup>76</sup> The response to the rebellion was to encourage the settler landowning class to more closely associate slave mobility, slave sociality, and at times perhaps even personalized aesthetic with the possibility not just of fugitivity but of the sort of fugitivity that led to violent rebellion. And so enacting pass laws oriented toward Africans and adjudicating trespassing crimes became an even more important task of the General Assembly.

In the same act that prohibited running away, the Burgesses clarified punishments for slaves engaging more directly in rebellious activity and in particular authorizing corporal punishment and death for those who “lift up [their] hand in opposition against any christian.”<sup>77</sup> While the assembly encouraged settlers to bring the offender before the magistrate, it allowed any white to kill an African who resisted. The insistence alludes to the seriousness with which the Burgesses took the threat of black uprising, the need to centralize some of the control over the colonial project, and the related goals of consolidating solidarity under a shared Christian (English or Virginian) identity and interests and preventing black opportunities for fellowship. The centralized pass laws and their required enforcement by not just masters but any white settler began to suture individual mastery to the mastery of the Crown. Under English common law and early colonial law, physical resistance to the master was understood as a crime under the label “petit treason” that which challenged the legitimacy of one’s sovereign. Binding the various figures of sovereignty into a hierarchy sought to strengthen the power of the central colonial governance and subordinate the individual master-slave relationship under the larger relationship between the slave and the Crown as ultimate master. The latter was represented in the actions of all its white subjects. Later iterations of the laws preventing “Negroes Insurrections” allowed for more immediate responses to slaves running away and refusing to submit when hunted down.<sup>78</sup> In these cases, any lawful authority had the right and privilege to kill fugitives, and lest slave owners protest the destruction of their property, the law provided four thousand pounds of tobacco as compensation for their losses. What might otherwise be understood as private handling of slave punishment could, then, be seen as occurring under the authorizing hand of the general public and its law.

The nature of the pass system as a constellation of ad hoc laws and their consequences points to a noteworthy tension that arose in the relationship between the slave, the master, and the Crown or the emerging democratic republic. Consider, for example, how the colonial government attempted to encourage slave owners to turn to its authority for public adjudication of slave offenses rather than, as most often happened, doling out punishment themselves. For

this to be effective, it was important that the colonial government demonstrate an ability to swiftly and authoritatively respond to the threat of black fugitivity. Consequently, the authorities developed the first oyer and terminer courts held in the British colonies and passed the 1692 “Act for the more speedy prosecution of slaves committing Capitall Crimes.”<sup>79</sup> These segregated courts were established in local counties, in contrast to the centralized General Court, to more quickly address capital crimes supposedly committed by slaves. In this accelerated system, a justice of the peace, who would not be delayed by the inefficiencies of a jury, would decide the guilt of the enslaved and their punishment—be it death, amputation of limb, or something else.<sup>80</sup> This time, included in capital offenses punishable by death were also crimes of conspiracy to revolt, which was read as the assembly of five or more slaves. Crimes in general were classified as having been committed against property, against persons, or against the system. This last category included the act of running away, perjury, and, finally and interestingly enough, forging a pass.<sup>81</sup>

In general, rather than avail themselves of the court system, masters, plantation owners, and overseers did as they saw fit toward the enslaved as a form of private punishment. They did so to a much more violent degree than toward any other servants they employed. They fed and clothed slaves at the bare minimum, separated them from family members and loved ones, and denied slaves passes to visit each other. They engaged in torture, including the use of whips, stocks, plantation jails, hot boxes, hanging, shackles, and other gratuitous methods.<sup>82</sup> Nevertheless the implementation of the oyer and terminer courts codified the absolute power of masters over slaves so that engaging in such violence could be understood as occurring in the name of the colony. One might then see the figure of the master as the *petit* sovereign representing the larger colonial project and its authorities. Running away, for example, was considered a crime of “trespass”: an offense “against public authority as well as private wrongs to those damaged.” In such cases, “plaintiffs typically pleaded that defendants had departed out of their service ‘in contempt of the king.’”<sup>83</sup> While I borrow this notion of the master as the *petit* sovereign from the English common law notion of *petit* treason, the term *petit sovereign* might be understood even more concretely in the case of slaves, where the master could be read as an extension of the sovereign state. Yet, in the system of chattel slavery, where the slave for life is actual property, the master must be understood as more than an extension of the state. They were also the actual sovereign over the slave, with whom they could generally do as they pleased. Orlando Patterson insightfully underscores this characteristic of slavery in differentiating the slave from other social cleavages, classes, and

conditions. The power dynamic that affected the slave most immediately was one of “personal domination. There was an almost perverse intimacy in the bond resulting from the power the master claimed over his slave,” Patterson insists. “The slave’s only life was through and for the master.”<sup>84</sup> As opposed to the Powhatan striped coat or the Native tributary’s trading or hunting license, the slave pass was not generally issued by the courts or the assembly but through a personal note or card signed by the master or mistress. At the same time, the broader concern of the surveillance and containment of black movement was of significant interest to the colonial leadership’s capacity to maintain sovereign control of the territory. Passing was thus understood legally as a crime against the system.

Pass laws, which originated in the practices and institutions of so-called Old World servitude, were transformed within the institution of New World slavery. They came to single out the so-called Negro, eventually fixing blackness to the position of both the slave and the fugitive. After 1776, American colonists enacted several reforms that better aligned the workings of the justice system with the ideals espoused in the Declaration of Independence. The use of the term *petit treason* to describe a servant’s murder of their master was phased out in preference for *murder* and *manslaughter*, where both the defendant and the victim were equally understood as individuals. Further, capital offenses for free individuals were limited to murder, district courts were implemented to render justice within reach of more people, and a penitentiary was opened at the turn of the nineteenth century.<sup>85</sup> Nevertheless, historian Philip Schwarz makes the keen argument that rather than focusing attention on what changed after the revolution, it is equally (or even more) important to underscore what did not change or changed very little. This was the case for the oyer and terminer courts for the enslaved, which continued along with the slave codes as separate legal systems for the accused for another 170 years until de jure slavery was rendered formally illegal.<sup>86</sup> As the nature of servitude and work changed and constraints on social, political, and economic mobility decreased for white workers, the legislation that policed black people as slaves increased.<sup>87</sup> This is how the pass laws came to focus almost exclusively on those who should be treated as black and those who were exempt from said treatment.

Once colonial leadership gave approval for a public printer and William Parks began publishing the *Virginia Gazette* in 1730, individual patrons were able—and at times required by law—to more widely and consistently participate in policing by disseminating news of runaway servants and slaves to the paper’s readers. In the policing of fugitive slaves through colonial newspapers and runaway slave advertisements, one is able to trace the impact of these legislative

norms on ideas held by the planter and surveillance classes about the nature of the slave and the ideal of freedom.

### Advertising Fugitives

Runaway slave advertisements were both a reflection of and an active contributor to the development of slaveholding society and its ensuing subjects and objects. The seventeenth-century pass laws reflected developing early modern thought about the relationship between one's political status, one's outward appearance, and the idea of a true interior self. Take the limits on black sartorial freedom, for example. These tensions presented themselves even more obviously in the runaway slave advertisements. The narratives they offer work out a series of colonial anxieties and pleasures along the binary axis of authenticity and fraud. In this dichotomy, the enslaved ultimately came to be fixed as a signifier for fraud. Indeed, there are various fixings that occur in the process. Fraud is fixed to the figure of the slave, which is already fixed to the paranoia about fugitivity. And thus, fraud and fugitivity came to have significant resonances. Notably, by the end of the eighteenth century, this concern for fugitivity and fraud, which, when deployed through the black body, incited anxiety, came to provoke delight and promise for the white colonial subject seeking to reinvent himself in the so-called New World. White settlers could traffic in the duplicity of black fraud for inspiration in their own beguiling self-fashioning. In his 1791 *Autobiography*, even Benjamin Franklin attested to what became possible when a servant, freeing himself from the yokes of a master, used deception for an ultimate good. Franklin offered his own life as an example, having been set up as his brother's apprentice and thus at his sibling's broad disposal. He "did what unfree people did at last resort," explains historian David Waldstreicher. "He made up stories. He ran away. . . . A friend helped him concoct a likely story to tell the ship captain, about getting a 'naughty girl' pregnant and needing to escape marriage forced by 'her friends.' He sailed to New York. Only after failing to find work there did he turn to Philadelphia."<sup>88</sup>

Remarkably, the lesson of Franklin's eighteenth-century autobiography is different from the lesson of the seventeenth-century comedy I mentioned earlier—*Greene's Tu Quoque*. Franklin, having become successful, signified in the new American imaginary the ultimate "self-made" man, a term that implies a sort of teleological "coming into" one's full authentic potential. Waldstreicher contrasts this with the "confidence man," or con-man, a subject whose actions, and even more, whose identity, must be scrutinized.<sup>89</sup> The con-man, epitomized in the figure of the fugitive black slave, served as the definitive opposite

of the white, soon-to-be American, self-made man—an authentic master of himself and then others. And thus, it is through policing black fraud that a new form of white enjoyment in authenticity was made possible as part of the colonial venture.

Returning to the runaway slave advertisement as a discursive genre, it worked to detail the signs of black fugitivity in the form of imposture. The genre allowed whites to take inspiration from black subjects and their supposed propensity for shiftiness as a way to escape mastery. Following this logic, the fraud of the fugitive slave, passing for free, needed to be curtailed for the self-made white man to flourish. Runaway advertisements were one avenue by which this played out, not just literally but also symbolically and imaginatively.<sup>90</sup>

To trace the way this was made possible, it is helpful to lend attention to the fairly regular structure of the genre. The ad generally began with a listing of the runaway subject's name, age, gender, and height: "A Negro man, named Charles, about 35 years of age"; "A Mulatto slave belonging to Samuel Selden, jun. named Peter Deadfoot"; "A Negro fellow named Billy, otherwise Billy Pompey; he is about 23 years of age."<sup>91</sup> Following this introduction, the advertisements often provided a description of the fugitive, which included the person's injuries, skin tone, dress, and other items they might have taken with them. They beckoned readers to be on the lookout for someone with "a yellowish complexion. . . . She said she was with child" or offered descriptions like "has bushy hair or wool, which he generally combs back, large features and eyes . . . took with him a light lead coloured country cloth coat with white metal buttons" or "about 5 feet 7 inches high . . . was burnt when young, by which he has a scar on the wrist of his right hand, the thumb of his left hand burnt off, and the hand turns in." A third section of the advertisement generally related any special skills the runaway servant or slave might have that would have aided them in their escape. The author might also include a reward for the return of both the servant or slave and any other property that they may have taken with them. One fugitive was, for example, described as "an excellent waiter in a house, and a good barber." Masters might offer "five pounds reward, besides what the law allows." Finally, revealing cracks in the facade of loyalty among the slave-owning class, advertisements often ended with a caution to readers that, in accordance with the law, they must not aid, hire, or take the suspect on as a passenger. These admonitions were often severe: "Any persons harbouring or dealing with in any manner with the above mentioned negro, will be prosecuted to the extent of the law, more particularly those who have been guilty of the same before."

Tellingly, the authors of these ads used both the noun *pass* (as in she forged a *pass*) and the verb *to pass* (as in he pretends *to pass* for free) in describing the enslaved person's escape. This regime of surveillance, maintained by property owners and other whites, moved back and forth between a call for the bureaucratic inspection of documents (the pass or note) and a thorough inspection of the bodies and behavior of fugitives. Significantly, by the mid- and late eighteenth century, as white and then Native indentured servitude and enslavement decreased in importance and the plantation economy consolidated its dependence on enslaved black peoples, the pass became ever more associated with the black colonial subject. As this occurred, the slippage between the pass as object and passing as action began to index blackness itself as the mark of enslavement and the mark of fugitivity. It was a signifier of both simultaneously inasmuch as any slave, by definition, was theoretically always already threatening to run away. The mark of fugitivity, reflected in the potentially fraudulent pass, slipped back and forth between the legal document and the black body. If Fanon described epidermalization as the inscription of an assumed wretchedness on the skin of the black person, the runaway slave advertisement must be understood as one of the ways this occurred. The cultural narratives that were taking shape in the advertisements indicate how it was through "blackness" that enslavement and fraud came to be associated, on the one hand. And it was against blackness that ideas of freedom and authenticity were intertwined, on the other hand. The dichotomy was a product of the intensely administered claims about racialized categories of being.

Notably, in the eighteenth century, detecting a passing subject was not guaranteed by simply scrutinizing the suspect's complexion.<sup>92</sup> What is more, complexion itself was not yet necessarily privileged with respect to who might be most capable of passing.<sup>93</sup> Take, for example, this advertisement published in the *Virginia Gazette* in 1767:

APRIL 16, 1767. RUN AWAY from the subscriber, near Williamsburg, last Saturday night, a Negro fellow named BOB, about 5 feet 7 inches high, about 26 years of age, was burnt when young, by which he has a scar on the wrist of his right hand, the thumb of his left hand burnt off, and the hand turns in; had on a double breasted dark coloured frieze jacket and yellow cotton breeches. He was lately brought home from Hartford County in North Carolina, where he has been harboured for three years past by one Van Pelt, who lives on Chinkopin creek; he passed for a freeman, by the name of Edward or Edmund Tamar, and has got a wife there. He is an extraordinary sawer, a tolerable good carpenter and

currier, pretends to make shoes, and is a very good sailor. He has been gone for eight years, a part of which time he lived in Charleston, South Carolina. He can read and write; and, as he is a very artful fellow, will probably forge a pass. All masters of vessels are hereby cautioned from carrying him out of the colony, and any person from employing him. Whoever apprehends the said fellow, and conveys him to me, shall have 3 l. reward, if taken in this colony; if in North Carolina, 5 l. and if in any other province, 10 l. WILLIAM TREBELL.

Trebell, the author of the advertisement, cautioned that “Bob” might be able to pass because he knew a person who could harbor him, he was a skilled laborer, and he was literate and “artful.” This same trickery when describing Ben Franklin just twenty-four years later was celebrated as modern, crafty American self-fashioning. Readers could understand the difference between Franklin’s creative if fraudulent representation as a means of pursuing a noble goal and his true authentic and moral self. In contrast, when the black fugitive or con-man was in question, the narrative about duplicity and the truth of the subject were collapsed, reflecting a presumably natural fact of blackness. Literacy, black social networks, and labor skills were common factors that allowed an enslaved person to fraudulently inhabit the position of freedom.

Like almost every other advertisement of the century, this one did not claim that the suspected fugitive would “pass for white” but that he “passed for a freeman.” The construction thus focused less on whiteness as an indication of freedom than on blackness as the ever-present suspicion of the ultimate unfreedom. To pass, the ad’s subject engaged in a variety of activities permitted only to the free person. For example, he assumed his own name, “Edward or Edmund Tamar,” which, for the author of the advertisement, was itself an act of fraud—black audacity to name oneself. Usurping this right from the master and naming the self constituted a fraudulent claim to subjectivity and sutured black fugitivity to the assumption of fraud. This is because, as Hortense Spillers reminds us, the master as “captivating body” not only “earn[s] the right to dispose of the captive body as it sees fit, but gains, consequently, the right to name.”<sup>94</sup> In another ad, a subscriber noted explicitly that he was “apprehensive” that his runaway slave “passes by the name James Scott and has a pass signed by” another white man.<sup>95</sup> Here again the fraud is in the naming, which was confirmed or mediated through the document.

It is worth noting that the master’s right to name occurs at two levels of meaning making: the individual and the collective. That is, chattel slavery as an institution rendered each master or mistress a petit sovereign who had the authority

to name his or her slaves because they were his or her property. But also, the repeated assertion in advertisements of the crime of runaways renaming themselves reasserts a broader collective right of the master class to name. Slave owners as a class of sovereigns had the right to author meaning to the enslaved as a category of beings. In this more abstract collective naming, we come to see a binary set up that opposes the sovereign right to name against the black and thus fugitive act of naming the self. The latter in its slavishness, that is, in its blackness and thus in its fugitivity, could only be understood as presumptuous and fraudulent.

This binary, however, presented the owner of a fugitive slave with a conundrum when it came to be time to help others identify that subject or suspect who, because they were a slave, could not actually have an individual identity—at least in any authentic and liberal fashion. Parenti points to this important paradox. He writes, “On the one hand, Africans were officially nonpersons, just commodities to be bought and sold. . . . Slavery had to limit Black cultural and political identity. . . . But denying the slaves ‘identity’ made their physical ‘identification’ more complicated.”<sup>96</sup> One could describe a runaway but one could not attribute to that runaway an identity, not even based on what they looked like. Here, identity, at least inasmuch it relates to humans, is understood through the lens of “individuality” or personhood. It belongs to one whose first object of authentic creation and thus ownership is themselves. The slave had no such authentic right.

This significant aporia is representative of the contradictions around identity, authenticity, and morality articulated in the eighteenth century. They were beginning to emerge as deeply interrelated ideas that shaped what it meant to be a subject at the time. Jean-Jacques Rousseau, who is referred to as the first to articulate an early modern notion of authenticity, in his 1782 autobiography *Confessions*, described it as the capacity to have a deep connection to an interior true self, which offered an innate moral sense. Authenticity was one’s ability to dutifully represent that inner truth. For this to happen, however, one had to display the very characteristic of individual sovereignty that was inaccessible to blacks—self-determining freedom.<sup>97</sup> Authenticity, as an early modern ideal, was central to the projects of self-fulfillment and self-realization. As philosopher Charles Taylor explains, “Being true to myself means being true to my own originality, and that is something only I can articulate and discover. In articulating it, I am also defining myself.”<sup>98</sup> It thus does not seem coincidental that the modern idea of authenticity has origins in the eighteenth century within the genre of the autobiography as confession, as in the work of Rousseau and Franklin, and that these autobiographies were written against the backdrop of the runaway slave advertisements of the eighteenth century. The latter

narratives represented blackness as the limit to modern authentic identity formation, which could exist only for the autonomous, self-defining individual.

Accordingly, runaway advertisements faced the problem of identifying those who by definition could offer no authentic identity. To do so, I argue, they ultimately were only able to produce a narrative of a figure whose true nature was inauthenticity, and paradoxically, for whom any attempt made toward authenticity—because slaves were not free—only rendered them more inauthentic. Every move at self-fashioning was fugitive precisely because slaves had no authority over a “self.” The turn toward authenticity and the inner self, however, had everything to do with the writing of that inner self—if one were sovereign or masterful enough to have one—onto the body. Given this, I venture that this is partly what the notion of epidermalization gestures toward. Blackness must be understood as a mark that supposes a fundamental *lack* of proper subjectivity anchored on to the body. Thus, Fanon’s epidermalization is not simply the expectation that race can be read on the skin but rather the idea that the black’s status, one’s very inability to exist as an authentically free subject, was signified by their exterior. The marking becomes a process of identification that, paradoxically, claims one’s individual identity is impossible. That said, runaway advertisements reflect slave owners’ concern about black self-actualization and show the length to which slave owners went in order to prevent this by marking their property as their own. With regards to blackness, identification simply referred to an inscription of ownership and an existence in constant referral back to the master. Note, for example, that several runaway advertisements name the master of the enslaved even before naming the enslaved themselves. With these practices and technologies, naming and the pass, the black slave was rendered a mirror that could only authentically reflect the master’s identity back to the master himself.

As is evident by now, even with these efforts to curtail black fugitivity, both figuratively and literally, an anxious concern remained in the slave-holding class’s imagination. Blackness itself often proved to be insufficient evidence of enslavement. It was only adequate for instigating suspicion or assumptions of enslavement. Consequently, other markings on the body served as confirmation. As mentioned above, in seventeenth-century Virginia, any servant, even English servants, might be branded if the “incorrigible rogue,” as described by the law, repeatedly absconded from their master’s property.<sup>99</sup> Likewise, in early modern England and France, it was legally acceptable to brand runaway laborers, criminals, and so-called vagabonds.<sup>100</sup> The brand identified fugitivity, criminality, and dependence, and it was meant to prevent the dependent from moving freely without permission or mediation from the master. The phasing

out of branding for whites and the carrying over of the practice for blacks as slaves are what constituted branding's power as one powerful technology of the epidermalization of blackness. As sociologist Simone Browne argues, branding became "a measure of slavery's making, marking, and marketing of the black subject as commodity."<sup>101</sup> It worked to link blackness to enslavement and was central to the project of black surveillance.

However, it is important to note that the structure of the runaway slave advertisements suggests that branding did not necessarily stand out, in the eighteenth century, as the primary technology of epidermalization. Rather, it appeared as but one of several features of the body that indicated enslavement and fugitivity. Take, for example, the following:

RUN away from the subscriber in Halifaz [*sic*] county, North Carolina, last April, a Virginia born Negro Man named NED, about 5 feet 9 or 10 inches high, has a high forehead, a bold look, has very good sense, talks good English, one of his under fore teeth out, and as for his clothing I cannot describe them. He is branded on the inside of his right thigh B, and has been branded on the left do. and left breast IL in a piece, though I am not sure they are plain, but the first is plain. He is a good sawer and hewer, and part of a carpenter, can play on the violin, and will endeavour to impose upon the publick and pass for a freeman. As I understand he intends to leave the colony, I must therefore entreat all commanders of vessels, and others, that if such a person should offer his service they will have him secured and delivered to the subscriber, who will give a 5 l. reward. JAMES BARNES.

The mention of branding in the ad comes just after a failed description of the absconded man's clothing and just before a description of the sort of work he could carry out. The subscriber's concise description of the fugitive (for the longer the ad, the more expensive it was) rattles off the subject's name, then height, then the shape of his head, his sensibility and languages spoken, his missing teeth, the nondescript clothing, and then finally the branding.

In reading the ad too quickly or in focusing on the branding, one might miss the quick reference to violence the subject must have experienced that left him without front teeth. It is unclear, not just to the reader but to the master himself, whether this register of injury came in the form of punishment, as a result of poor health, or as a work accident. This inability to detail what actually happened to the enslaved, its very unremarkability, is partly the point. Injury as a result of gratuitous violence—gratuitous because no one knows how or why the subject was injured—served as an identifying feature of the

fugitive in much the same way as branding. A 1788 advertisement in Mettox, Virginia, described a fugitive slave as “about twenty-eight years of age, about six feet high . . . *he has several scars on his back from whipping, owing to his bad behaviour*.”<sup>102</sup> Another 1752 ad reads, “Mulatto Woman Slave, named Moll, about 22 Years of Age, and 5 feet high, with brown Hair, grey Eyes, very large Breasts and Limbs *two of her upper fore Teeth are rotten and broken off*.”<sup>103</sup> And a last reference from 1767 states that a fugitive “by accident had a *small piece taken out of one ear*, but which [the subscriber] cannot recollect.”<sup>104</sup> This owner then goes on to describe the fugitive person’s coat and pants. The everyday violence inherent to chattel slavery—whether through whipping, other forms of maiming, the dangers of the work, or simple neglect of the enslaved’s health—rendered the disfigured black body itself evidence of enslavement.

Present-day disability scholars often discuss the phenomena of passing for able-bodied, where able-bodied is understood as the capacity to be productive within a capitalist economy. However, runaway slave advertisements indicate that this has not always been the case. Indeed, given that “slavery was an inherently disabling institution,” critical theorist Cristina Visperas asks rhetorically: “What is a slave if not already a figure of disability?”<sup>105</sup> I venture that one might read the eighteenth-century ads as signifying a moment in which the black body as a referent for the disfigured body was in fact also the body through which most labor occurred. In this context, the runaway slave advertisements rendered disability a necessarily visibly detectable condition. Disfigurement was a critical feature of the slave body that enabled white vigilance and stabilized the black fugitive body for the white gaze. This foregrounding instance of passing and visibility with regards to maiming is reason enough for disability scholarship to take seriously not simply the effects of capitalism on notions of disability, but just as importantly, the history of surveillance and passing during chattel slavery. Passing narratives in runaway slave advertisements fix the body of the slave, no matter its health or mutilation, as a body that must labor over anything else.

Having noted this, it might seem counterintuitive, then, that according to the advertisements, one way that enslaved Africans could present themselves as free was by passing for free laborers. One might deduce from these accounts that a critical characteristic of being a “free person” was, at a most basic level, one’s ability to *authentically* make a claim to the position of the “free laborer.” And very few in seventeenth- and eighteenth-century Virginia were assumed to be fully free workers. Like in the case of Ben Franklin’s exit from apprenticeship and rise to independence, there was a process to one’s transformation into a “self-made” man. However, the enslaved for life could not envision ever eventually coming into themselves as free laborers with the right to offer services to anyone.

My reading of the ads suggests a growing relationship in the eighteenth century between the concepts of labor and of freedom that is mediated by the notions of identity and selfhood. The relationship was worked out through narratives of authenticity whereby authenticity was understood as a measure of an honest or true outward representation of an autonomous interior self. It was through this notion of a true authentic self that the occupational titles *printer* or *blacksmith* could reflect one's identity—*who one truly was*. Yet, again as Patterson notes, “the slave's only life was through and for his master.”<sup>106</sup> Following this, because it was counter to prevailing custom to read blackness as reflecting a properly autonomous or actualizing self, the black slave manifested as the figurative opposite not just of autonomy but also of authenticity. Indeed, as *free* and *worker* became increasingly intertwined as a political status, black people were read as making a claim to it almost exclusively through the narratives of fraud and fugitivity.

The runaway advertisement is one place colonial slave owners seemed to manage the tensions that arose as the concept of free labor gained currency. As detailed above, some writers attested to the fugitive's skill in performing a particular craft and that, due to this skill, they might “impose upon the public” and pass for free. Other advertisements, however, warned of slaves who might be *passing for* a blacksmith or a preacher or some other skilled worker. But in these excerpts, the subscribers did not appear to mean that the fugitive would be faking the skills needed to perform these occupations. They had to admit their slaves' skill in this respect. Rather, the disgruntled owners pointed to a perhaps more insidious and threatening act of fraud. They decried a runaway who, for example, “work'd chiefly at the Shipcarpenters Business, and will endeavor to pass for one,” and one who would “endeavor to pass as a waterman.” Another was described as “a good rigger of vessels, and will want to pass for a free man as a sailor,” while others would attempt to “pass for Silversmiths” or perhaps “pass as a ropemaker.”<sup>107</sup> The problem as it arises in the advertisements was not simply that a slave who was a ship carpenter was passing as a freeman who was a ship carpenter, for example. It was, rather, that it was very difficult to understand a slave as a ship carpenter, unmediated by the authority of a master. This latter idea of “ship carpenter” indicated an identity and not simply an activity that someone performed. Before Karl Marx identified the free worker as the key identity within capitalist society and before he described a relationship between the work one produced and the nature of the self that produced it, one may trace these ideas as they emerged alongside of notions of freedom and personhood in the runaway slave advertisements of eighteenth-century English colonies and the early American state. They demonstrate how this tension played out: To say that a slave had an occupation was to undermine the

claim that as a slave one was at the complete disposal of one's owner and as such was obligated to perform in any capacity the master or mistress decreed necessary or beneficial.<sup>108</sup> As indentured servitude was phased out, these former servants came into being as new, self-fashioned, independent American workers. Nevertheless, in the Southern states, most labor continued to be carried out by those who had no legal or cultural authority to call themselves authentic laborers, and again, any move to do so further rendered blackness a marker of fraud.

### Passing Legacies: Blackness and the Blackening of the Native

To argue that the pass system became largely associated with blackness does not mean that the Natives of Virginia were immune to the political, economic, or cultural violence of this racialized system or not subject to its constant surveillance. On the contrary, the mythologies of passing became and continue to be a central organizing factor of Native politics in Virginia and in many other US contexts. The binary between authenticity and fraud, where blackness became the ultimate marker of fraud, imposed itself on Native people and their strategies for survival as well. It influenced Native claims to sovereignty, to land ownership, and to identity. In fact, one of the key tactics that settlers and their government employed to dispossess, erase, and disenfranchise Natives *and* blacks was to accuse them of being black or to associate them with blackness or black people.<sup>109</sup> One example of this strategy occurred in 1843 in King William County when white residents appealed to the General Assembly to demand that the Pamunkey sell their reservation lands, stating that the inhabitants were not Native but mostly free and runaway black people who had no right to the land.<sup>110</sup> Native peoples in Virginia often fought against these colonial moves, but in doing so, they also frequently trafficked in anti-black notions of passing and miscegenation. For example, in 1887, the Pamunkey banned intermarriage and association with blacks, and in the eighteenth and nineteenth centuries, tributary Natives often carried papers issued by trustees that distinguished them from blacks and mulattos.<sup>111</sup> This practice was especially important for the great number of Indigenous people who needed to leave their reservations for work within Virginia's borders. By 1833, the Virginia General Assembly had passed a law to instruct county courts to issue a pass to "any free person with mixed blood" certifying that they were free. The assembly clarified that the purpose of the pass was to "protect and secure such a person from and against the pains, penalties, disabilities and disqualifications, imposed by law upon free negroes and mulattoes, as free negroes and mulattoes."<sup>112</sup> Without proper identification, Natives could be accused of passing, captured, and then enslaved.<sup>113</sup>

These policies, practices, and mythologies gained strength in the twentieth century as Walter Plecker developed and enacted the 1924 Racial Integrity Act.<sup>114</sup> Known as the plan “to preserve the integrity of the white race,” the law required residents of Virginia to register at birth as either “white” or “colored,” a catch-all term for non-whites that implied an association with blackness. Indeed, Plecker, who trafficked in the longer folklore of blacks passing for Native, claimed that most Virginia Natives were “Negroes in feathers.”<sup>115</sup> As might be expected, the policy resulted in a devastating official erasure of Native history and culture, and it did so by associating Natives politically and racially with blackness rather than indigeneity.<sup>116</sup>

Faced with this erasure and to ensure federal recognition, Virginia Indians continued to need to refer back to colonial passes for evidence of their existence. For example, beginning in 1978, archeologists conducted excavations at the Pamunkey Indian Reservation as part of an effort for it to be listed on the National Register of Historic Places and the National Landmarks Register. When doing so, they uncovered evidence of the actual boundaries of the reservation and how long the Pamunkey had been residing on the land. The evidence included English archives describing their colonial-era forts and the use of the striped coats to mark Pamunkey passage into English territory.

As I have detailed, the origins of the problem of passing are part and parcel to the US settler-colonial and slave-owning project. Pass laws and runaway advertisements served as technologies of surveillance and policing that settlers used to mark out and police the bounds of their new property—in land and in persons. In the seventeenth and early eighteenth centuries, outside of the property owners or planters, most people who found themselves within (and just outside of) Virginia’s colonial boundaries were subject to pass laws and indentured or otherwise bound to a master or mistress. Yet, as this began to change, particularly after the American Revolution, ideas about the autonomy of the free individual increasingly came to be codified into law. No longer were whites, even as servants, subject to the all-encompassing command of a “master.” Even so, it is not so much what changed as what stayed the same that is noteworthy. As whiteness came to indicate the possibilities of the self-made and free individual, blackness—through the figure of the slave—came to indicate its opposite.

In this way, American notions of freedom emerged by trafficking in the language of the fugitive and fraudulent black. In the next chapter, I trace the aftermath of the surveillance of blackness and the fugitive slave post-emancipation in the federal government’s attempts to expand their project into Indian Territory. The narratives on black passing, originating in the pass laws

and runaway slave advertisements, shape the discourse on the fraud of black freedom and sovereignty alongside and against whiteness and indigeneity. Perhaps unexpectedly, these narratives have also shaped the interactions contemporary historians have had with the archive of passing suspects as we have tried to get to the truth of black and Indigenous subjectivity.

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### Passing and the Archival Ruse

In the summer of 1905, Mary Daniels stood before the US Department of the Interior's Commission to the Five Civilized Tribes. The transcripts of her hearing are some of the thousands housed in the National Archives in Washington, DC. The commission, which was formed to adjudicate the enrollment of members to the Five Tribes, was headed by Tams Bixby, a settler representative of the US federal government. He had moved down to Muscogee Creek Nation, Indian Territory, to administer US land allotment programs and enrollment efforts. Those who were recognized as members of the Choctaw Nation in Indian Territory were to have access to collective and family plots of land along with other rights of citizenship. On that June day, Bixby interrogated Mary Daniels while stenographer Frances Lane took notes. The question at hand was whether Daniels qualified as a Choctaw citizen, either by blood or as a freedman, and thus whether she was entitled to all of the rights of citizenship, including a personal plot of land. If not, she would be read as simply attempting

to pass for Native. Daniels petitioned that she should be recognized as a citizen by blood given her mother was Choctaw, stating, "At least that's what she said and what people said what knowed her." Bixby followed up:

Q Did you ever apply to the tribal authorities of the Choctaw Nation for enrollment? A No sir.

Q And you have never drawn any money from the Choctaw Nation?

A No, never drew any money at all; they wrote to me in September to come to the Dawes Commission soon. I don't know why. I am so forgetful, and I was sick at the time, and I couldn't come.<sup>1</sup>

As Daniels wavered in the details leading to her appearance that day, Bixby posed the question that would get at the heart of Daniel's eligibility for recognition:

Q Didn't you apply to this Commission in 1899 as a Choctaw Freedman? A No, I didn't at Spiro, if that was the time; all he asked me was I there in '65.

Q Didn't you state to the Commission at that time that you wanted to be enrolled as a Choctaw Freedman?

A No, I didn't state that at all. . . .

Q How did you happen to appear at Spiro before the Commission at that time? A I just went up there to ask; at least, my husband asked some of the men about it and they told him to bring me up there. I don't know what he asked him; the man asked me was I there in '65 and I told him no and he said, "I c Can't [*sic*] do nothing for you then, now"; "we will have to look further along".

Reviewing the archived transcripts, it is difficult to know what to make of Daniels's interrogation before the federal Commission to the Five Civilized Tribes. One might understand the workings of the commission as a theatrical culmination of the multiple layers of renewed settler colonialism, statecraft, and anticolonial resistance. These sociopolitical layers included white territorial expansion after the Civil War, chattel slavery, emancipation, Native struggles for sovereignty, and black struggles in the wake of a declaration of freedom. Even if we approach the archive critically and attempt to reject the conceit of white authority over Native belonging, we can become stuck at an impasse. As historians, and many times as descendants of the archive's writers and subjects, our curiosity about the applicants drives us to wonder: What prompted Daniels

or her husband to appear before the commission? Was Mary Daniels the daughter of a Choctaw woman? Who were her people? Was she recognized by them—if not by official leadership, perhaps unofficially among the communities with whom she interacted on a daily basis? Was she the daughter of a woman enslaved by the Choctaw? Or, as both Choctaw lawyers and the federal government often alluded to with regard to suspected black applicants, perhaps she was a so-called states-side woman attempting to pass for Choctaw for a chance at a land allotment. In returning to the archive and searching for its true or authentic subjects, we often end up interrogating its subjects based on the same passing logic the commission used at the time.

Indeed, the argument of this chapter is that the passing narratives that became a legacy of slave management and colonial nation building prior to emancipation in the US in 1865 continued to be a significant force in state building and the management of populations after slavery was legally abolished. The logic driving passing suspicions was key in the sorting of the nation's peoples—always policing blackness as its internal limit—and it was key in the organizing structure of the National Archives. As such, the logic of passing narratives not only animates the relationship between the nation and its subjects but also between the historian—even the critical historian—and the nation's archive.

The question of black enrollment in the Choctaw Nation has complex, entangled, and multilayered implications. White settlers referred to the Choctaw, Chickasaw, Seminole, Cherokee, and Muscogee Creek as the Five Civilized Tribes because they saw them as having adopted Anglo or US forms of governance and as having immersed themselves in the plantation market economy. Indeed, many had owned black slaves, and after the Civil War, the Choctaw, who had fought alongside the Confederacy, were forced to renegotiate treaties with the federal government of the United States. At the same time, black people formerly enslaved by both whites and Natives were also making decisions about where they might live and what they might do. They sought to reconnect with lost loved ones from whom they had been separated because of both the everyday practices of chattel slavery and the exceptional circumstances of the war. They had run away from former enslavers. Some had joined Union brigades. Others had simply sought out a safe place to ride out the violence. A large part of this process consisted of making decisions about where to live across the various national territories. This bottom-up process of black reconstruction also included the question of space and territory, for to be able to live out one's freedom, one must have a place to do so.

Having lost the war, the Choctaw worked to secure national sovereignty against renewed US efforts to encroach on their land, livelihoods, and way of life. A large part of what this entailed was identifying and recognizing tribal members. Who was kin and who belonged were then and continue to be fundamental questions at the heart of a nation's ability to enact and safeguard its sovereign status. Determining the truth of an applicant's testimony and discarding suspected fraudulent claims certainly had material consequences for each party's ability to fulfill their treaty obligations and enjoy their treaty-backed rights. This politics of recognition opened blacks and Natives up to accusations of passing for Native. The chapter reviews enrollment applications that the commission rejected precisely because the petitioners were suspected of being black. Further, it was because of their suspected blackness that the petitioners were not recognized as Native but were instead read as attempting to pass. In this context, the logic of racial passing narratives in the United States, in which blackness had become an indicator of shiftiness or fraud, shaped how Daniels and others like her were read within the workings of the commission.

The stakes were high in this decision-making process, and the logics of the suspicion of passing figured prominently precisely because by the early twentieth century the question was not simply who was Choctaw kin, although this was certainly important to the Choctaw. The question, rather, was also about who would be recognized as a citizen of the sovereign Choctaw Nation. As fragile as this status had become given US colonial efforts, Native claims to sovereignty were politically and epistemologically legible to the federal government in a way in which black claims to sovereignty were not, making little sense in relationship to the state.<sup>2</sup> In the context of the US colonial project, one's capacity to perform sovereignty was racialized. Even early modern theorists of Western state making drew from fantasies about Indigenous peoples in the Americas in order to imagine a notion of sovereignty or freedom, oftentimes in the extreme. Theorists such as John Locke and Jean-Jacques Rousseau differentiated Western governance from a state of nature in which humans, exemplified in their minds either by the biblical figures of Cain and Abel or by the Natives in the American wilderness, acted based on natural freedom, self-interest, impulse, and passions.<sup>3</sup> A century later, Alexis de Tocqueville wrote, "[The native] has never bent his will before that of his fellows; no one has taught him to distinguish a voluntary obedience from a shameful subjection, and he is ignorant of even the name of the law. For him, to be free is to escape almost all the ties of societies. He delights in this barbaric independence."<sup>4</sup> What the West had done so honorably, in the West's own estimation, was to give up this chaotic natural freedom in the name of social and political development, the defense

of property, and the construction of a social contract. It was the absolute and legitimate authority to instantiate a territory and then write and enforce law within said territory that gave the Western nation state its proper sovereign status.<sup>5</sup> This same narrative of Western governance tokenized the Five Civilized Tribes, distinguishing them from other Natives in the West's racist imaginaries because they adopted Western sociopolitical structures. In doing so, the natural, excess sovereignty of the Indigenous remained a notable mythology that drove the teleology of Western political thought. Anglo settlers may have seen Natives as naturally free, but they also saw themselves as needing to extinguish, contain, or sideline this mythical freedom to pave the way for the modern, white nation state.

If Natives generally became the signifier of a challenging, chaotic natural freedom against which the civilized world might distinguish its political society, blacks oftentimes became the signifier of the polar opposite—an utter lack of freedom. Even if this was not due specifically to their original nature, according to Tocqueville, enslavement had rendered blacks incapable of civic freedom or modern, Western sovereign politics. “The Negro,” he concluded, “enters into servitude and enters into the world at the same moment. . . . If he becomes free, independence often appears to him to be a heavier shackle than slavery itself, for in the course of his life, he has learned to submit to everything except to reason . . . liberty destroys him.”<sup>6</sup> In this way, figurations of black and Native peoples constituted the limits of Western civil society and shored up the white subject as the model citizen for the modern democratic nation. In order to maintain the myth, settler society must continuously police its boundaries, such that even as individual black or Native peoples come to be included in the nation, the anti-black, anti-Native, and settler-colonial epistemological and political underpinnings of US civil society remain intact.

Reading the applicants' claims in this context, the question posed in this chapter is not whether the applicants were telling the truth—whether they were authentically or “by blood” Choctaw—but rather how belonging came to be concretized through an intertwining of racial, political, and ontological claims. This process included at least three ideas. First was blood quantum—a notion that something called “blood” was inheritable, detectable, quantifiable, and then representative of racial, national, and familial roots. Second was the idea that blackness, and thus black blood, was the marker of enslavement, that enslavement described a person's historic condition, and that this historic condition overdetermined their present. In this fashion, as the cases in this chapter exemplify, enslavement became one of the only inheritable statuses possible for blackness. Third was the imperative to manage and surveil the barrier between

those whose inheritance was limited to enslavement and those who had access to more. Again, this surveillance was carried out in great part through narratives of black racial passing. Given these beliefs and assumptions, the present chapter asks: What sort of possibilities arise for blacks to make a claim—however unbelievable it may be—to Nativeness?

The passing mythology moves at two analytical levels in this chapter. The first level is in the history of United States-administered enrollment processes and in cases like that of Mary Daniels. The federal commission's work to identify, sort, and classify subjects as black or Native re-enforced demographic categories and then policed those categories to prevent people from passing for Native. Federal commissioners like Bixby and Choctaw lawyers leveled this accusation at many suspected black applicants. The commission's work constituted sovereign acts of law making and deliberation. They must also be understood as acts of archiving people as part and parcel to nation building. And recording and storing the interrogations and the commission's decisions in the National Archives did the work of codifying an applicant's political status in relation to the state for centuries to come. In this way, one of the central aims of the archival practice has been to establish categories and conserve their integrity—in essence, to prevent passing.

The second level at which the logics of passing move within this chapter has to do with the archival reader relation; that is, how the critical historian might be able to read the subjects of these national archives in the present. In this context, passing suspicions and accusations comprise the content and the organizing logic of the archive. Its lists of names, testimony, and rejection decisions seek to expose those whom the archive accuses of obscuring themselves. The records serve as visible evidence of black duplicity for the reader to detect and observe. If the commission at the turn of the twentieth century instituted a reader relation between itself as interrogator and its subject as suspect, our task—resisting the urge to render the interrogated legible—is to approach the archive and its captive, categorized subjects otherwise, in a way that does not replicate the original passing relationship.<sup>7</sup>

What follows is a description of the historical context for the enrollment process beginning with negotiations during the first Choctaw Removal in 1830. At this time, just as they would eighty years later, Choctaw leaders argued for recognition, annuity rights, and land rights by differentiating themselves as sovereign Native peoples and importantly, not black. This logic of negotiation persisted for the next century as Choctaws continued to resist US domination. To trace this, the chapter turns to a description of the archive holding the Dawes Commission files, including the applications for enrollment to

the Choctaw Nation between 1898 and 1914. The archive organizes a passing reader relation foundational to the settler colonial national project. Finally, the chapter examines the transcripts of the commission's interrogation of suspected black applicants at the turn of the twentieth century, tracing the ways in which the commission attempted to gather evidence of the applicants' racial heritage that would expose them as black frauds. We move now to the first Choctaw Removal effort, the suspicion of black racial passing, and the racialized claims to sovereignty that worked to identify and manage the application of treaty rights.

### Removal: Sorting, Archiving, and Obscuring

In 1829, Andrew Jackson advanced federal Indian policies that were increasingly violent and aimed at mass dispossession of Native land and forced assimilation.<sup>8</sup> The Indian Removal Act, approved by Congress a year later, provided the president with the legal backing and funds to clear Choctaw land in present-day central and eastern Mississippi and western Alabama for white development and to relocate Choctaws to land west of the Mississippi River. That this territory was already inhabited in various ways by the Plains Apaches, Comanches, Wichitas, Yuchis, and Kiowas as well as the Quapaws and Osages was of little concern. Engaging in their customary tactics of bribery, deceit, violence, encroachment, and starvation to ensure the venture's success, the Americans entered into negotiations with Choctaw leaders.<sup>9</sup> For the white settlers, the success of the project depended on the elimination of native sovereignty within its national borders and the containment of any other, minimal, sovereign Indigenous existence outside of them.

The resulting 1830 Treaty of Dancing Rabbit Creek included Article 14, an exception clause designed to appease Jackson's congressional opposition, white Mississippian land speculators, and Choctaw negotiators. The provision allowed some Choctaws to remain in Mississippi as state citizens, "protected in their persons and property," with individual rather than communal allotments once collective tribal land claims were terminated.<sup>10</sup> The clause and the subsequent 1832 Mississippi constitution imposed a substantial political and racial exchange for those Choctaw who remained. On the one hand, according to the state constitution, they would supposedly forfeit legal rights to govern themselves as an independent nation. On the other hand, they would retain "all the rights, privileges, immunities, and franchises . . . enjoyed by free white persons."<sup>11</sup> Thus, together state legislation and Article 14 ordered the remaining Choctaws to be subsumed through

a political analogy to whiteness, included as state citizens yet stripped of their political independence. Believing it would advance its interests in settling the land for white planters, the state of Mississippi favored the Article 14 exception. Negotiators reasoned that most “full-blood” Choctaws were only opposed to removal at the urging of a minority of “prosperous half-bloods” who desired to maintain their southeast fortunes.<sup>12</sup> Article 14, white negotiators believed, would permit Anglo-Choctaws to stay in Mississippi while encouraging supposedly poorer “full-bloods” to relocate to Indian Territory. The remaining whiter, “half-blood” Choctaws could be more easily integrated into Anglo society as citizens.<sup>13</sup> This notion of race and blood was commonly held by white settlers adjudicating Choctaw and Chickasaw removal and allotment policies. At this juncture, however, in the white settler imaginary, blood correlated only loosely to some early eugenic idea of racial admixture or ancestry. More importantly, blood was a metaphor that indicated how well the Native accepted integrating into white society. *Half blood* and *mixed blood*—when understood as mixed with whiteness—stood for assimilationist capacities, while *full blood* often referenced someone with a Native, “traditionalist” lifestyle.<sup>14</sup>

However, the settler state did not fully understand what was at stake for the Choctaw in these negotiations. Relocation was not just a question of economic interests and racial formations but about the relationship between their people’s fortune and their stewardship of the land on which they resided, to which they belonged, and from which they originated. Those who refused to leave did so, at least in part, because of their duty to their ancestors and the place where they were buried, which the Choctaw call Mother Mound or *Nanih Waiya*.<sup>15</sup> It was their dedication to caring for this mother and their ancestors’ remains that ensured the Choctaw’s livelihood. As one Choctaw elder described their dilemma: “Were we to cast away the bones of our fathers, mothers, brothers, sisters, for the wild dogs to gnaw in the wilderness, our hunters could kill no more meat; hunger and disease would follow; then confusion and death would come. . . . The vengeance of the offended spirits would be poured out upon this foolish nation.”<sup>16</sup> When a Choctaw died, one of their spirits held vigil over their remains to ensure that they were properly cared for. The other spirit, the *shi-lup*, traveled west to the “Land of Death.”<sup>17</sup> For the Choctaw, forced removal to the west literally meant being relegated to the land of the dead where they would potentially be unable to reach the afterworld.<sup>18</sup> Thus, as might be expected, most Choctaw abandoned negotiations for the Treaty of Dancing Rabbit Creek. A minority of the Choctaw leadership, however, signed the treaty, citing Article 14 as a key motivator. The provision would divide the Choctaw into those who moved to Indian Territory and those who struggled to stay in

Mississippi. The Choctaw who stayed were to be recognized as citizens of the state of Mississippi.

The Article 14 enrollment process was purposefully complicated. Those who remained had six months to apply to the federal agent tasked with developing a list of applicants. And, as historian Katherine Osburn reports, the federal agent and his brother, who was assisting him, “were frequently too drunk to function, and settlers periodically stole and altered the enrollment ledgers.”<sup>19</sup> The agent also destroyed records and refused to meet with concerned Choctaw leaders.<sup>20</sup> In addition to this skullduggery, which amounted to the bureaucratic disappearing of Choctaw families and homes, the agent admitted that white Mississippians ran Choctaw families off their land, burning their houses and engaging in other forms of terroristic violence. Once a Choctaw family had been forced to flee, wealthy white settlers were able to purchase their land in government auctions. The final roll of Article 14 land allotment recipients comprised only sixty-nine families, and of them, more than half included children of intermarriages with Anglo fathers. This was the case even by 1833, when between four thousand and seven thousand Choctaws had stayed in Mississippi.<sup>21</sup>

The remaining Choctaw, now state citizens, responded by hiring attorneys, suing the federal government, and demanding collective land rather than individual property. Those few who did secure land through Article 14 banded together to house the others. Additionally, some Choctaws who had initially relocated to Indian Territory returned to Mississippi and joined the struggle for land and recognition. To dismiss their legal claims, the state propagated a story to the federal overseers that white land speculators were leading campaigns of fraudulent returnee claims. The federal government was convinced by this argument, but it contextualized that well-meaning paternalism in the form of land speculation was necessary given purported Native ignorance of the administrative process. It ultimately decided, however, to halt Choctaw land allotment in Mississippi amid these concerns.<sup>22</sup>

By 1849, the increase in the white settler population and the continued harassment of Choctaw leaders forced thousands more Choctaws away from their homeland to Indian Territory. In both Mississippi and Indian Territory, Choctaw society continued to be immersed in a plantation economy and culture.<sup>23</sup> In Mississippi, many lived as small subsistence farmers or sharecroppers, but those who were able—even small farmers—enslaved black people as chattel. They did so in Indian Territory as well. Thus, US federal government records estimated roughly 17,963 Choctaws residing in Mississippi in 1831, owning about 499 enslaved people.<sup>24</sup> About thirty years later, in Indian Territory, the

1860 US census takers estimated about 13,666 Choctaws and 2,298 enslaved Afro-descendant peoples.<sup>25</sup> The legacy of black enslavement and the management of fugitives were key features in how the passing narrative would play such a prominent role in the question of Choctaw sovereignty in the coming years.

The particulars of treaty negotiation would as well. On losing the Civil War, having been allied with the Confederacy, in 1866 the Choctaws in Indian Territory were called to Fort Smith and required to renegotiate their official relationship with the US federal government.<sup>26</sup> Recognition at this time came as the treaty linked it to black emancipation and citizenship, federal appropriation of Native land, and the undermining of the Choctaw Nation's right to self-governance.<sup>27</sup> The US negotiators were pushing to consolidate power and promote the political-economic dominance of free labor in the territories.<sup>28</sup> Thus, the 1866 treaty called for the abolition of slavery and involuntary servitude, with no offer of compensation to the former owners of emancipated slaves, which the Choctaw and Chickasaw had been demanding during negotiations. Further, the US federal government demanded that freed slaves be granted equal citizenship in the Choctaw and Chickasaw nations. Of course, Native self-governance would be rendered even more fragile than before the war. The United States would designate an intertribal council in Indian Territory comprising delegates chosen by each nation. This governing body would legislate matters between tribes. However, the US superintendent of Indian affairs would preside over the council and the nations would be required to ultimately accede to US legislation with regard to the "better administration of justice and the protection of the rights of person and property within the Indian Territory."<sup>29</sup> In this way, the United States could purport to hold the moral high ground while extending its power even further into Indian Territory.

A defining feature of the 1866 treaty, as historian Barbara Krauthamer points out, is how it avoided treating black emancipation as a distinct goal. Instead, the treaty weaved it together with allotment policies, producing an economy of fungibility between black freedom and Native land and sovereignty to be mediated through white governance.<sup>30</sup> For example, by the terms of the treaty, the US federal government would designate 300,000 dollars to the Choctaw and Chickasaw nations in exchange for around 4.6 million acres of land known as the Leased District.<sup>31</sup> Yet neither the Choctaw nor Chickasaw (black or otherwise) could directly access or control those funds. Instead, the federal government would maintain control until the Choctaw and Chickasaw legally guaranteed the full inclusion of all blacks and their descendants—a task with a two-year deadline. Inclusion here meant Afro-descendants were to receive the

right to vote and the right to citizenship in Choctaw and Chickasaw nations.<sup>32</sup> They would also be able to serve as witnesses in civil and criminal proceedings in those nations' courts, and in line with the goal of promoting free labor and private property, the treaty called for Natives to enter labor contracts that offered Afro-descendants fair remuneration. Further, just as all other citizens, blacks were to have "unrestricted access" to collective tribal lands in Indian Territory in order to cultivate crops, tend to livestock, and build their homes.

The fungibility of black freedom and Native land, however, did not mean that the signing parties viewed black and non-black Natives as equal. And the former slaves of Native peoples, designated as freedmen, certainly were not recognized as equal, nor did they receive equal allotments of land. For example, in the treaty, the United States offered to allot each Choctaw and Chickasaw family 160 acres of collective land for private family use. Ceding to Choctaw and Chickasaw delegates' terms on this point, freedmen were only to receive forty acres and, as specified in the treaty, their choice of land parcels would come only after other non-black Natives had their pick. Because black Natives were pushed to be recognized as freedmen even if they were Choctaw "by blood," this effectively meant that they received one-quarter of the land their non-black relatives received, if they received land at all. Moreover, freedmen were subject to the strictest rules for recognition, and having run away could be grounds for ineligibility. Indeed, freedmen had to have been residing in Choctaw and Chickasaw territory when the treaty was signed, requiring former slaves to have immediately returned to the place of their enslavement after having fled it during the war in order to gain citizenship.<sup>33</sup> At the same time, the Choctaw outlawed the return of former slaves who had fled the territory by 1865, and they formed local bands of a "Vigilance Committee," a secret society which engaged in violent unofficial patrols to prevent loitering, theft, and other forms of criminality or fugitivity that freedmen settlements supposedly threatened.<sup>34</sup> In these ways, the US federal government placed black people's willingness to hold steadfast to the land of their enslavement despite the risk of death and terror and their claim to freedom on that land as requirements for recognition.<sup>35</sup> The official politics of recognition and the stratification of racial-political status intertwined black poverty, black exclusion, and Native sovereignty. As a result, the boundaries between blacks and Natives would need strict policing.

Certainly, Choctaw and Chickasaw negotiators viewed federally mandated black enrollment requirements as a US attempt at colonization from within Indian Territory. Even loyalist Choctaw negotiators—those few who were against black enslavement and had sided with the Union during the Civil War—argued

that blacks should not live alongside the Choctaw after their emancipation. Nevertheless, some leaders came to reason that opposing black inclusion in the nation posed a larger threat than accepting it. A practical approach would need to prevail. The Choctaw and Chickasaw would benefit from the freedmen's labor, and if the group remained small, they would not constitute a threat.<sup>36</sup> Alternatively, if blacks were excluded from citizenship but chose to remain in and around Indian Territory, they would be bound by neither the rule of the Choctaw Nation nor the US federal government. Native leaders reckoned that the threat of collective and autonomous black self-determination in the form of a large "Negro nation upon the borders of the Choctaw-Chickasaw country" would result in a more dangerous outcome than settler colonial-mediated inclusion.<sup>37</sup> There were already, in fact, several black and mixed towns in Indian Territory, and black people, including black Natives, were already organizing to advocate for their own political interests—even without federal recognition. In a public letter to encourage ratification of the treaty, Choctaw Principal Chief Peter Pitchlynn and Chickasaw Governor Winchester Colbert argued that if blacks were excluded and thus remained independent of Natives, they might develop "the first all-black colony of former slaves in the United States," and that as such, "it would 'be sustained and fostered by the government, and the friends of the negro, now so numerous and powerful.' The colony would then attract 'thousands of other negroes,' and this rapidly growing black community would be 'anything but desirable neighbors.'"<sup>38</sup> Certainly, they reasoned, "removed and established as a separate colony, they may do us and our brethren of the other adjacent tribes irreparable injury."<sup>39</sup> In contrast, inclusion offered the possibility for Choctaws to regulate the size of the black population and subsume it with the status of a minority group.

Approaching the turn of the twentieth century, the federal government increased the stakes of this double-edged policy of promising some land to Native peoples while simultaneously removing them from their collective ancestral homes. A formative example is the General Allotment Act of 1887 (also known as the Dawes Act), which required the US Office of Indian Affairs to allot Natives individual land while dissolving Native institutions of governance and usurping Native collective land in order to sell it to white settlers. Congress created the Dawes Commission to identify and enroll Native peoples, including Choctaws in both Indian Territory and Mississippi into the Choctaw Nation. Those in Mississippi who could prove they were descendants of the Choctaw enrolled under Article 14 of the 1830 Treaty of Dancing Rabbit Creek would be included in the Dawes Rolls and would receive land in Indian Territory if they promised to move

there within six months. Katherine Osburn astutely designates this period of allotment as the “second removal.”<sup>40</sup>

Even more so than the earlier removal effort, the Dawes Commission’s capacity to identify Choctaw peoples depended on codified ideas of race that had become much more pervasive toward the turn of the twentieth century. This was true even though neither the treaty of 1830 nor the General Allotment Act of 1887 included language about race. Nonetheless, the back and forth between claimants and the state during the commission hearings reflected the growing preoccupation with operationalizing race as a way of implementing the policies. Indeed, the enrollment processes themselves ultimately became race-making mechanisms that began to coalesce notions of indigeneity, whiteness, and blackness; how they may or may not interact; and the sort of sovereignty these categories could or could not access. In this light, it is noteworthy that many Choctaws used the narrative of “blood” in addition to those of language and citizenship to articulate their belonging to the Choctaw Nation. For example, as Osburn recounts, one petition for recognition submitted to Congress in 1900 began, “Your humble petitioners are full-blood Choctaw Indians, speaking the Choctaw language, citizens of the Choctaw Nation, residing in Mississippi. We are entitled to every privilege of a Choctaw citizen, except the Choctaw annuity, under the treaty of 1830.”<sup>41</sup> The language around race and blood promoted by leading American and European eugenicists surged at this time. Yet whether or to what extent the Choctaws were adopting white settler understandings of the meaning of “blood” at this particular moment is difficult to parse out here. According to some accounts, this claim to blood was not a biological consideration but rather a political pushback against policies that ceded authority to the settler state to define Choctaw belonging.<sup>42</sup> This is particularly important given the 1830 treaty attempted to strip Mississippi Choctaws of any self-determination by reducing them to Mississippi citizens or by insisting that they must move to Indian Territory to be Choctaw citizens. Significantly, claims based on blood could be understood as Choctaw insistence on belonging on their own terms. Nevertheless, they did appeal to the language of blood, perhaps rhetorically, as a means to recognition. In so doing, this petition further carved out one category of “real” or “authentic” Choctaws, to which its co-signers belonged, and a second, lesser and fraudulent, category for others who were seen as mixed blood, where *mixed* often referred to a suspicion of having black blood. In this way, these sorts of claims further delineated a class of authentic Choctaw belonging tied to the body via blood and language.

The above group of pure bloods was often contrasted with those represented by groups like the Society of Mississippi Choctaws. The latter has been described as comprising lobbyists representing inauthentic Native constituents, motivated by purely economic interests. For instance, Osburn describes the group's members as "marginalized citizens seeking the benefits of Indian identity . . . no doubt to escape poverty and discrimination, but they did not have the currency to purchase those benefits. They could not meet the government's criteria for legitimacy either by language, for none spoke Choctaw, or by ancestry."<sup>43</sup> While many decried the numbers of whites who made claims to land under Article 14, the concern about authenticity often centered the identification and containment of blackness as separate from indigeneity and reflective of fraud. Thus, periodicals such as the *Gulf Coast Progress* attempted to out the society, arguing that it included "all shades and colors, running from the real Indians to the coal-black, thick-lipped, flat-nosed, kinky-headed Negro."<sup>44</sup> Likewise, the society attempted to refute accusations of passing for Native by assuring the world that its members were not black. Its constitution declared, "No person tainted with Negro blood shall be received into membership of this Society."<sup>45</sup> As groups competed for recognition as Choctaw citizens, a primary task was the disavowal of blackness within their ranks.

In similar fashion, the Dawes Commission, the McKennon roll, and other official census efforts purported to be working to prevent fraudulent enrollment into the Choctaw Nation, wherein blackness was often an indicator of fraud. The processes reflected ideas about race, and in particular about blackness, as located on the body and subject to quantification through percentages. It was not a policy without Native influence. In 1886, the Choctaw Council in Indian Territory voted to require a minimum of one-eighth Indian blood to qualify for citizenship. To prove eligibility, one had to provide believable testimony, and as Osburn articulated, "the only acceptable racial mixture was Indian and white—those with Indian and African American ancestry were not welcomed to apply."<sup>46</sup> The enrollment records between 1898 and 1914, examined below, correspond to the final hearings the commission would hold both in Indian Territory and in Mississippi to adjudicate applications that had not been accounted for in prior efforts. The rolls produced through this commission's census remain important documents of recognition and enrollment into the present, as Native peoples continue to search for their ancestors on government lists to prove their official citizenship. The chapter turns now to the archive and to its perpetual performance of sovereignty and its organizing constitution shaped by the logics of passing and the project of containing blackness.

## What's Past Is Prologue

According to the Constitution of the Choctaw Nation of Oklahoma, in order to be recognized as a member of the nation, one must be a descendant of a Choctaw Indian by blood whose name appears on the final rolls of the Choctaw Nation approved in 1906.<sup>47</sup> One might also need a Certificate of Degree of Indian Blood (CDIB), which is issued by the United States Bureau of Indian Affairs and shows the member's name, their blood degree by tribe, their date of birth, and the date of issuance. To access this card, one must show direct lineage to a final Choctaw Dawes enrollee register with a blood quantum.<sup>48</sup> While these records are all digitized now, if one were to go in person, obtaining either of these documents outside of Oklahoma might require a visit to the National Archives in Washington, DC.

The building is immense, imposing, and stately, like most other government infrastructure in the capital. Its neoclassical architecture, which became prominent in Britain and the United States in the nineteenth century, draws on the broad logics of classic Greek and Roman architecture, an allusion to the projects of civilization and empire, overwhelming in size and restrained in aesthetic form. Construction of the National Archives began in 1931 with the eradication of Center Market in Washington, DC, the displacement of about seven hundred vendors, and the engineered "taming" of Tiber Creek into a canal.<sup>49</sup> The creation of the canal was necessary because the creek was known to flood the market, turning it into a marsh, and it would have otherwise become a flood risk for the new government building. Today, the Tiber still flows under the National Archives, present if hidden from sight.<sup>50</sup> The push for the building's construction to safeguard the nation's administrative papers was a long one, beginning in the mid-nineteenth century.<sup>51</sup> Finally finished in 1933, President Herbert Hoover remarked, "This temple of our history will appropriately be one of the most beautiful buildings in America, an expression of the American *soul*. It will be one of the most durable, an expression of the American *character*."<sup>52</sup> Hoover's words attest that the construction of the National Archives did not simply reflect the culmination of a project to store records. It was rather the successful realization of a nation. The building's erection reflected an authentic, divinely inspired national interiority to mirror that of its subjects and an exteriority able to withstand contestation.

Seventy-two Corinthian columns, each about fifty feet high, decorate the building, and the two bronze doors at the main entrance on Constitution Avenue are almost forty feet tall. Before you reach the doors, you are met with two immense sculptures titled "Future" and "Past"; two other sculptures, titled

“Heritage” and “Guardianship,” are at the opposite side of the building. On the northeast corner of the archives, inscribed on the “Future” statue, is the refrain “What Is Past Is Prologue.” Tellingly, the word *archive* derives from both the Latin *archivum* or *archium*—“residence of the magistrate”—and the Greek *arkhe*—“to command and govern.”<sup>53</sup> As Derrida reminds us, the Greek *arkhe* reflects both “the commencement” and “the commandment,” coordinating two ideas into one. The first refers to a historical or natural origin story and the second to the law as commanded by “men and gods.” Thus, the Western archive is both “where the sovereign originates and resides” and “what the sovereign does,” whereby the sovereign engages in governance by an almost naturalized original force. John Russell Pope, the building’s architect, insisted that his work was to be understood as allegorical.<sup>54</sup> We might read the refrain “The Past Is Prologue,” then, as a gesture to *arkhe*’s principle of natural and historical commencement. It underscores the teleological nature of the National Archives in modern colonial and imperial contexts, but particularly in the context of US settler colonialism. Deriving from William Shakespeare’s *The Tempest*, in one sense the phrase refers to the structure of Renaissance plays, which often included prologues to set the stage for the main acts. The placement of this refrain on the National Archives provides an uncanny allegory for the “future” that the building and its corresponding archival practices and performances offer. This future is one that supposedly emerges as fate by naturalizing and relegating the violence of displacement, enslavement, and genocide to prologue—that which must be taken as (for)given, and thus put to rest, essentially obscured, like Tiber Creek itself, in order for the federal government to assume the place of national sovereignty. The archive is both founded on and shelters this prologue in pursuit of the project of national futurity.

As for the content of this prologue, the National Archives contain the official documents of the federal Commission to the Five Civilized Tribes, including those pertaining to the enrollment between 1890 and 1914. They include rolls (lists) of recognized members of each nation, as well as applications for enrollment, organized into three formations of belonging: “By intermarriage,” “By blood,” and “Freedmen.” The archives house and organize the enrollment hearings’ applications, evidence, and proceedings. The sort of “evidence” presented, or not, in each file greatly depends on the assigned category of belonging and on the applicant’s suspected race. For example, applications for recognition via intermarriage often included family and neighbor testimony, testimony from the person who officiated the wedding ceremony, and tribal marriage licenses. Applicants by intermarriage could only be white, never black. Such applicants often had access to the materials that mattered most as

both “documentation” and “evidence,” and thus have constructed archives full of official “material.”<sup>55</sup>

In contrast, black applications are often contained in the categories of “Freedmen” and, in fewer cases, “By blood.” The freedmen category is one of the most complicated in terms of the 1890–1914 hearings, in part because of how the various treaties defined the eligibility requirements for the category. The files are filled with in-person testimony or letters from fellow blacks, Natives, and others who first attested to the applicant having been owned by an officially recognized Choctaw or being a descendant of a former slave and that the applicant or their ancestor was indeed present in Indian Territory during the signing of the treaty and had maintained the territory as their permanent residence. The files often contain very formulaic correspondence between the commissioner and the secretary of the interior citing the commissioner’s decision in the case and the secretary’s rubber stamping of it. In some cases, freedman applicants and their families hired attorneys to facilitate the process or to contest the commission’s decision. The correspondence between attorneys and advocates for the applicant and the commissioner is also sometimes present in the archives.

What is not in the US commission’s freedmen applicant archives is also telling. There are few official documents from Choctaw leaders or the Choctaw tribal council in the rejected freedmen files. The original Dawes rolls for freedmen indicated each enslaved person’s owner, yet if the former slave had not made it onto these first censuses, there was no slave ledger to refer to in order to prove enslavement. Thus, even though various scholars argue that slave ledgers have often been one of the only archives that register black life during the transatlantic slave trade, these ledgers were not easily available to the formerly enslaved to use in their pursuit of recognition.<sup>56</sup> Federal censuses, which named free people individually and included their relationship to others in their household, did not name enslaved peoples. Rather, they were listed as “slave” and described by their gender and estimated age. Again, chattel slavery as an ontological and epistemological force was staunchly at odds with the possibility for authentic, individual, or familial black identity. Thus, the possibility for black citizenship in the Choctaw nation opened up at the same time as the official truth of their supposedly former slave status was highly inaccessible to them.

The files of rejected black applicants applying for citizenship via blood are equally sparse in official documentation. These files generally contain an application card for recognition filled out by a stenographer, a notarized transcript of questioning before the commission, and a decision letter by commission officials. I saw no marriage certificates or testimony from religious figures

officiating ceremonies included. In fact, intermarriage between non-black Choctaws and blacks of any background was illegal in the Choctaw Nation of Indian Territory prior to the Civil War.<sup>57</sup> In Mississippi, there is no record of these “By blood” applicants having ever received land based on the treaty of 1830, and their names did not appear on the 1830 Choctaw census. These were two ways people were encouraged to demonstrate their status as recognized Choctaws.

Moreover, the format of the transcripts varies widely and reflects the developing understandings of how the witnesses fit or did not fit into the category of “Native.” The transcripts do not provide transparent or objective proof of what occurred during the interviews, and the historian cannot assume that they are witnessing the “authentic” voice of the applicants through the transcripts as primary texts. Rather, the transcripts provide traces of the commission’s developing ideas about race, nation, and citizenship. For example, the layout of the transcripts on the page often resembles a script in which the commission’s question is represented through the “Q” prompt and the applicant’s answer through the “A” response on the line below. Like the court audio and video recordings to come a half century later, the written transcript purports to offer a transparent record of what occurred during the testimony. However, the stenographer’s hand leaves a heavy trace, and the transcripts are not at all consistent. At times the prompts are not separated from the content of the testimony with colons. And often the commission’s questions and the applicants’ responses share the same line, bleeding into each other such that the reader finds it difficult to locate where a question ends and an answer begins—that is, the boundary between the interrogator and the applicant becomes blurred. At other times, the Q and A prompts are not present at all, and the exchange reads as a monologue. Finally, the transcripts contain editorial notes and commentary by the stenographer, including their impressions about the personal appearance of the applicant, what their hair or skin tone looked like, what languages the applicant spoke well or did not speak, and whether the applicant might be telling the truth. That is, what is most evident through the transcripts is not the unmediated voice of the applicants but instead the various ways the federal government had come to read, accuse, accept, and refuse black Choctaw citizenship. When cited in this chapter, I present the testimony spatially in the same format that it appears on the pages of the applicant archives.

The applicants highlighted in this chapter were all unable to “pass” for Choctaw. The files are overflowing with evidence that attests to this. In fact, every interrogation pointed to the fraud of the subjects-suspects, semiotically anchored in blackness itself as the primary indicator that they should not be

trusted. Yet we might consider that the evidence the transcripts provide is not precisely evidence of its suspects' fabrications at all but rather evidence of the state's reading of the archive's subjects as suspects. If this is the case, this reading certainly contains a residual trace of the actual applicants. The trace appears as the black audacity to make a claim to sovereign citizenship from the position of utter lack. Paradoxically, this trace is illuminated through the very process that obscures the black subject. The applicants would, of course, be rejected, and yet their petition for recognition required a response from two others. The first is the federal government, whose authoritative rejection amounts to a speech act through which it confirms its own sovereignty over Indigenous peoples, black and non-black. The second is the Choctaw Nation, who in its negation of black applicants reaffirms its own sovereignty as prologue of the larger US project of reconstruction and settler expansion. The present chapter reads the transcripts as a government manifesto, a projection that first and foremost exists as a performance—or as performed evidence—of the nation as a colonial, slave-owners' nation. This is true even as the process was officially supposed to be, in part, aimed at abolishing the practice of chattel slavery. We turn now to witness the ways in which the commission attempted to mediate the tension that arose between the audacity of black testimony, which remains as a trace, and the authenticity that both the US and Choctaw nations insisted the applicants lacked.

### Testimonies and Traces

In order to identify Native peoples to whom the state had offered land in return for their removal from the white settler nation, the commission drew on many of the assumptions about black racial passing that were present in the runaway slave advertisements described in chapter 1: that blacks could not be Native, that blacks could not speak a Native language as their native tongue, and that if blacks were doing so, it was fraudulent and done in order to access a form of freedom or sovereignty from which they should be excluded. While the evidence of this interior fraud was likely found on the suspect's body—their black skin—it might also need to be detected in ways that breached the surface narrative and the image the suspect presented of herself.

The commission, thus, engaged in the ritual of tracing, surveilling, and containing blackness. To do so, it undertook several discursive moves that I track in this section. First, in adjudicating the applications and in archiving the findings for posterity, the enrollment process reified the idea of blackness as tied to the position of the slave. Second, one way the commission's work did this

was by reducing black difference to a notion of race, something that might be detected in the blood. This interpretive tendency focused attention away from any possibility of considering Afro-descendants as having a nationality, peoplehood, or history that warranted a claim to political sovereignty. Finally, there was a gendered component to the formation of belonging such that the commission's steps to reject applicants suspected of passing for Choctaw looked for evidence of this fraud in the political and racial status of the applicant's mother. The rejection of blacks who claimed Choctaw heritage by blood was anchored in situating the black mother as the productive and reproductive site of nonsovereignty. Unmarried black women, almost always assumed to have been enslaved, were deemed incapable of legally birthing Native children. In taking these meaning-making procedures seriously, it becomes possible to understand US settler concepts of sovereignty and freedom as emerging from the biopolitical sorting, surveillance, and containment of blackness—in many instances through the mythology of black racial passing.

Even preceding the 1866 treaty and the enrollment and allotment processes, the status of the black Choctaw was a complex question. Prior to emancipation, children born to a black mother and her Choctaw owner were often, but not always, regarded as slaves. Moreover, as mentioned above, after emancipation, even the children of black and non-black Choctaws who applied for enrollment in the Choctaw Nation, both in Indian Territory and in Mississippi, were most often read and classified as freedmen, descending from a lineage of slavery. This was often true even when they were known by others in the community to have been Choctaw “by blood.” Once the commission categorized an applicant as a freedman, it was almost impossible for the applicant to correct the mistake legally, either through the commission or in the archives.<sup>58</sup> For example, the exchange with which this chapter begins between Mary Daniels and the federal commission reflects her inquisitors' confusion around black Native status. When combined with the applicants' confusion about the enrollment process itself, the consequences were both grave and enduring. According to the recorded testimony, the commissioner asked Daniels,

Q Have you ever been recognized in any way by the authorities of the Choctaw Nation? A No, only by them writing to me to come to the Dawes Commission; that's all.

Q You have never been enrolled on the tribal rolls, have you?

A Not as I know of.

Q And you say that you think your mother was a Choctaw?

A Yes, she was a Choctaw; at least that's what she said, and what people said what knowed her. . . .

Q And you have never drawn any money from the Choctaw Nation?

A No, never drawn any money at all; they wrote to me in September to come to the Dawes Commission soon. I don't know why. I am so forgetful, and I was sick at the time, and I couldn't come.

Q Didn't you apply to this Commission in 1899 as a Choctaw Freedman? A No, I didn't at Spiro, if that was the time; all he asked me was I there in '65.

Q Didn't you state to the Commission at that time that you wanted to be enrolled as a Choctaw Freedman?

A No, I didn't state that at all.

Q What did you state? A Why, I didn't state anything at all; he just asked me was I here in '65 and I told him no; he said he would have to look for the number.

Q How did you happen to appear at Spiro before the Commission at that time? A I just went up there to ask; at least, my husband asked some of the men about it and they told him to bring me up there. I don't know what he asked him; the man asked me was I there in '65 and I told him no and he said, "I c Can't [sic] do nothing for you then, now"; "we will have to look further along". . . .

Q Neither your father nor your mother was a slave?

A No, neither one of them was.

Q Have you ever been recognized by the Choctaw tribal authorities as being a Choctaw Indian in any way? A No, not as I know of, only just by their writing something to me to come to the Dawes Commission, is all I knew.<sup>59</sup>

The commissioner and Daniels seem to have been speaking beyond each other in this exchange. The commissioner asked Daniels whether the "authorities" recognized her, but it is not clear if Daniels knew to which authorities the commissioner was referring. Were these representatives of the federal government? Choctaw authorities? Moreover, who were the men with whom her husband discussed the matter? Fellow applicants? Neighbors? Speculators?

Lawyers? What is clear is that in 1905, when this particular exchange took place, the federal agents automatically assumed that Daniels was to be scrutinized based on the eligibility requirements of the freedman category, which is why they asked her about her residence in 1865.

They continued to assume she was claiming to be a freedman in 1899, if we are to believe the transcripts, and that she had applied for recognition as such, or that the application was submitted on her behalf. Nevertheless, when the commissioner asked after Daniels's parents, she asserted that "neither one of them was" a slave. The response interrupted the commission's work, but it also interrupts the historian's work in the present. Again, one might ask, why did they believe she was the descendant of slaves? Further, are we to take Daniels at her word? There certainly were reasons for her to be less than forthcoming with the truth. And if we are to believe the complaints, many were not telling the truth. Would the truth have mattered then anyway?

Part of the confusion for the commission when confronted with the testimony of a black applicant who did not follow the former slave script derived from the fact that the sorting of applicants had mostly already happened before interrogations even began. As Ariela Gross described it, when a caravan of the Dawes Commission arrived in a town, it set up two tents. One was "known as the 'Indian tent' and one known as the 'nigger tent' or 'darky tent.' . . . The true determination happened outside the tents. The tribal member standing at the door, along with any officials who may have been outside, directed individuals to one tent or the other on the basis of personal knowledge of an applicant's family or status in the community, or according to the applicant's appearance or performance."<sup>60</sup> Black people who were Choctaw by blood were overwhelmingly directed to the freedmen or "nigger" tent, at times under insult or by physical force.

Certainly, if Choctaws were looking to limit the number of citizens in the nation, there was an incentive to funnel blacks into the "Freedmen" category rather than the "By blood" category of applications. Nevertheless, one should not reduce this bias to only a rational calculation on the part of the federal government or the Choctaw Tribal Council to maximize resources. The testimony points to the ways the council and the Choctaw Indians worked to impose racial limits on national imaginaries. The "Freedmen" and "By blood" categories were to be made mutually exclusive, in practice at least, and this careful yet always somewhat incomplete division of status prolonged the limited place of blacks in the Choctaw Nation. There was a symbolic and political tension arising, and the looming threat of independent black communities necessitated this compromise. Blacks could remain in the territory with one stipulation:

that they inherit the legacy of the position of the slave. The commission was therefore able to reject Mary Daniels's application as a freedman given her refusal to confess to a political heritage she had been attributed due to her race. Absurdly, she had not proven her eligibility for a category that she was not claiming in the first place. The commission would also not entertain the possibility of her application through blood rights because they had already assumed she was the daughter of a slave. In the National Archives, her application is filed with the other "Refused Freedmen Applications," precluding the avenue for enrollment that would have been available to her and her children had she "proved" her slave status for posterity.

The fixing of blackness to the position of the slave was also apparent in the refused applications for Choctaw citizenship via blood. This time, because the categories were to be mutually exclusive, rather than being proof of the applicant's right to enrollment, a history of enslavement was proof of their ineligibility. In essence, identifying an applicant as a former slave or the child of a former slave implied that the applicant was attempting to pass for Choctaw by blood. So the interrogators would often ask applicants whether they or their mother or father had ever been a slave. According to the archival testimony in the application for enrollment of Mary Boughman, the commission asked her,

Q What other nationality was your mother? A Not as I know of . . .

Q Was your mother a slave? A No sir, we never was slaves. We was free born Choctaws. Never were slaves none of us.

Q You ever been a slave? A No sir, free born.

Q Your father and mother always live in Mississippi? A Free born. Free born Choctaws.<sup>61</sup>

No congressional act stipulated that one could not be recognized as Choctaw by blood if one was or had been a slave. Yet the assumption was that if an applicant had been a slave or was a descendant of a slave, they could not possibly be Choctaw. This was because slavery was overwhelmingly limited to peoples considered to be black. To assume otherwise would require one to consider the fact that some Choctaws, having been born of black mothers, were enslaved by their own people. Boughman's assertion that she was by blood Choctaw, then, was necessarily linked to her assertion that she and her family were never slaves. They had not been emancipated but instead were "free born Choctaws." In their continued questioning of supposedly black applicants about their status as slaves or as descendants of slaves, the commission perpetuated the binds

of slavery even after formal emancipation. It did so by legally codifying a notion of slave inheritance whereby black folks' access to sovereign citizenship and political recognition as part of the Choctaw Nation was dependent on their perpetual genealogical ties to slavery.

This put Boughman and other applicants in an impossible situation. The commission asked those it considered to be former slaves or descendants of slaves to offer evidence of their genealogical past, of their kinship ties, and stated that doing so would ultimately make them eligible for recognition as a citizen. Yet it is just the position of the slave, as Orlando Patterson argued, that is characterized by an absolute rupture of kinship, a sort of natal alienation. The condition resulted from "the loss of ties of birth in both ascending and descending generations. It also has the important nuance of a loss of native status, of deracination."<sup>62</sup> Key to the status of the slave, then, is the way in which law, the master class's sociopolitical world, does not recognize any kinship relationship nor any rights to be enjoyed within these impossible relationships. Revoking their native status, moreover, designated the slave as not just a being who was eternally from elsewhere. This was a condition that had nothing to do with where the slave was born and instead everything to do with the loss of *capacity to be from somewhere* in any way that authorizes recognition. Notably, with the erection of the National Archives and the Dawes Rolls, the United States was able to define its legal and natural commencement—following Derrida—on the backs of those who were rendered unable to possess either. As Nahum Chandler astutely explains, "In a conceptual sense, that which might be called origin, or identity, became such . . . only as an effect of displacement."<sup>63</sup> The slave was to have no world historical origin that must be respected and no command that could be heard. Thus, the legal and existential tension arises: How is the black applicant to demonstrate evidence of being the descendant of the very figure who cannot have a claim to descending generations?

This "afterlife of slavery" is tangible during enrollment and allotment.<sup>64</sup> And it is this presence—the fixing of blackness and black people to the position of the slave—that rendered blackness incompatible with Western conceptions of nationhood and sovereignty. This incongruence was palpable at least inasmuch as nationality and sovereignty were understood to be inheritable rights of the white settler. They were also in primordial ways understood as natural rights of Native peoples, even as these rights, and the people attached to them for that matter, existed only to be managed, conquered, or absorbed by modern, white governance and administration. Under the US settler colonial regime, the stain of slavery became the only intelligible and meaningful trait within blackness, and the freedman would be permitted recognition with a fraction

of the rights of ordinary citizens. The title *freedman*, then, is a misnomer since those in the category have become forever tethered to their inheritance as descendants of slaves—so much so that into the present, descendants of freedmen are recognized as Choctaw (when they are not actively being disenrolled) to the extent that they are able to prove the enslavement of their ancestors within the nation. The emergence of sovereign nations—in name at least—both white and Native thus required the interrogation, surveillance, and containment of blackness in order to maintain a liberal social contract among free citizens. That is, the full citizen of the Choctaw Nation emerged as that individual who was not a slave but rather who had a legible claim to free will, autonomy, and self-determination—even if that claim existed only to be relegated to prologue. If a slave could pass for free, the distinction between the two threatened to collapse.

This assumption about the condition of the enslaved was not a comfortable one, however. For how could a people be from nowhere? There were slippages in the narratives and tensions in the state's ability to uphold this claim while simultaneously needing to be able to detect who belonged to this category. These mirrored the conundrums that emerged uneasily in the runaway slave advertisements in the prior century. If one could not distinguish the enslaved with regard to a national identity—with an origin story that predates their enslavement—to what would they be able to attribute the slave's difference? This was part of the predicament that arose not just from natal alienation, or a loss of kinship recognition, but also from "loss of native status."<sup>65</sup> Drawing on the fixation of blackness to enslavement, the commission focused on detecting "blood" as an indicator of difference from those who had some claim to Nativeness (whether that be the Indigenous claim or the settler's claim). Further, while blood itself could not be directly witnessed on the body, the commission could assume that skin color, language, and behavior would necessarily reflect the truth of the subject's blood. The rhetorical move to focus on "blood" had the effect of obscuring other political claims to difference. In the case of blackness as slavishness, it had the effect of naturalizing the assumption that there were no other properly legible claims to difference with which the sovereign party must contend.

To create the sovereign nation, one must locate, quantify, and record sovereign and nonsovereign blood. This was the case with the commission even though per the treaty recognition by blood was never legally or officially dependent on a notion of quantum. The federal government, through congressional acts, stipulated that the by blood applicant must demonstrate direct "lineage" to someone listed on the 1830 roll or, later, the Dawes rolls. In the Choctaw's entanglements with settler economy, chattel slavery, and the formation of the nation, *blood* began to

take on legal-genealogical meaning that conflated it with race and both race and blood with nation. It was through performances such as those of the commission that this intersection of race, blood, and nation emerged and was policed.

The commission asked every suspected black applicant about the quantity of Choctaw blood they claimed. Yet black applicants' responses to the question of blood quantum at the turn of the century were a constant reminder of the failure of the project of national cohesion along the lines of "race." Take, for example, this exchange between the commission and Mary Boughman, applicant for Choctaw recognition by blood:

Q Through which one of your parents do you derive your Choctaw blood? A My father.

Q How much Choctaw do you claim? A I am full blood.

Q What was your mother? A My mother was mixed with Choctaw. She was half.

Q Do you think you are a full blood Choctaw? A Pretty near it.<sup>66</sup>

The commissioner deployed the purity-contamination binary in order to prevent blackness from claiming a position of sovereignty. However, Boughman's testimony subverted attempts by the commission to quantify Choctaw "blood" by applying the same power to assertions and general estimations about blood in this regard. Her lack of fidelity to the quantifiability of blood and, thus, of race was a common response in black testimony before the commission. While the commission attempted to portray these responses as the result of a lack of credibility, one might also read them as a refusal to participate transparently in this exchange, particularly since providing adequate "proof" of one's Choctaw "blood" was an impossibility.

Clearly, black people at the turn of the twentieth century understood how white supremacy, miscegenation, and freedom interacted. Nevertheless, they continued to assert their own understandings of how they fit into the political cleavages of both the US and Choctaw nations after emancipation. The testimony of Polly Brookings, an applicant for enrollment by blood as Choctaw, reflects this sort of pushback on ideas of race, peoplehood, and sovereignty produced through the commission's activities. The commissioner asked,

Q What proportion of Choctaw blood do you claim to have? A Mississippi Choctaw.

Q What proportion? A Three fourths. My father had three fourths.

- Q You have just as much Choctaw blood as your father had? A Yes. . . .
- Q He claimed to be a Choctaw? A Yes sir.
- Q What proportion of Choctaw blood did he claim to have? A About the same I reckon; a little more than I did.
- Q You think he had more than you? A Yes sir, he was older than me. I would never have known anything about the Choctaws if it had not been for him.
- Q Did he speak the Choctaw language? A Yes, he talked Choctaw and African too. It looked like he did. . . .
- Q Is your mother living? A No sir.
- Q Was she a Choctaw? A She was a Choctaw woman.
- Q What proportion did she have? A The same that her husband.
- Q Three fourths? A My father and her were near about the same.
- Q They were both about three fourths Choctaw? A Yes sir.
- Q The other fourth was what—negro? A No, white folks.
- Q You have some negro in you, have you not? A I couldn't tell you.
- Q Do you not associate with the negroes all the time? A Yes.
- Q Then you know you have negro blood. A Well, I associates with them.
- Q Were you not a slave? A No.
- Q Was not your mother a slave? A No sir.
- Q Was not your father a slave? A No sir. . . .
- Q You do not know they were Choctaw Indians? A Yes, but they never went with the Indians.
- Q They were negroes were they not? A That is what they were called by the white folks and Indians.<sup>67</sup>

This interview echoes many others in that the commissioner attempted to link the applicant to an inheritance of slavery and thereby reject her application. However, in addition to slavery, there was the issue of language; in

this case, knowledge of Choctaw. What might be read as a fair question about cultural-linguistic sovereignty and an unacceptable and even culturally ignorant response, however, might be further interrogated. This is because, in the case of the recognition of southeastern Native and Afro-descendant peoples, language is also reduced to racial difference. One might read the way language emerges through these testimonies as part of what Hortense Spillers calls a “symbolic paradigm” in which “the human body [is] a metonymic figure for an entire repertoire of human and social arrangements,” including the arrangement of language as a component of “ethnicity.”<sup>68</sup> Within this particular context of racialized belonging, even the proof of language is located on the body.<sup>69</sup>

Reading these testimonies alongside the antebellum runaway advertisements, it is clear that even slaves who spoke the Choctaw language fluently were not assumed to be Choctaw. Instead, there was a suspicion that blacks could pass for or resemble Natives but were not themselves actually Native and thus free. An advertisement from the 1834 *Vicksburg Register* demonstrates this point. It offered a twenty dollar reward for “a negro man named JOE, about 25 years old, 5 feet 8 or 9 inches, high yellow complexion, speaks pert [*sic*], very smart, and intelligent; has a natural black mark on one of his eyes resembling Indian paint; speaks the Choctaw language.”<sup>70</sup> The fugitive slave, “Joe,” has a mark “resembling Indian paint” and “speaks the Choctaw language,” but his assumed blackness meant that his ability to speak the Choctaw language was only an artificial “trait,” one whose authenticity was dependent on ideas of race. Thus, Brookings’s assertion that her father spoke “Choctaw and African too” might be read as an orientation of language focused on geopolitics rather than race. To borrow from Derrida’s writing about another dubious subject of the archive, Brookings’s testimony is “shown to be right, even and, perhaps, above all where [she] is wrong, from the point of view of ‘material truth,’” if we are to cede to the commission’s doubt.<sup>71</sup> Her response brings Africa and Africans into the realm of the Choctaw negotiations of sovereignty. It troubles historical narratives that place the origins of black people in the United States in chattel slavery and puts forth the possibility of “African” political and social determination, including rights to a land. Finally, Brookings reads the commission’s intent on reducing her difference to race, and particularly to their idea of blackness. The commissioner insists that she must be “black” because she “associates” with black people—here showing once again the ways that social arrangements, including who one spends one’s time with, are a reflection of the self and of the truth of one’s body and its difference. Brookings corrects the commissioner, replying that black “is what they were called by the white folks and Indians.” This

may be part of the lessons her father taught her not only about the Choctaw but also about US white settler colonialists and slave owners.

Moreover, blood's emergence through law rather than as a "natural" racial characteristic of humans was not lost on black subjects. This is true even if the black testimony that bears witness to this was illegible to the commission. For example, the commissioner asked Donnie Simmons, an applicant for enrollment by blood in Meridian, Mississippi, "How much Choctaw blood do you claim?" The stenographer records her reply as "1830." It is initially unclear what Simmons is referring to here: a full number, a fraction, or the year the federal government signed the removal treaty with the Choctaw. The exchange continues:

Q Is that how much blood you claim? A Yes sir.

Q That is a good deal isn't it? A Yes sir but you see it is from both sides of the family.

Q Your father was a Choctaw Indian? A Yes sir.

Q How much? A One half.

Q Was your mother a Choctaw? A Yes sir.

Q How much? A I don't know exactly how much she was.

Q How much Choctaw blood do you claim? A 1830. 18/30.<sup>72</sup>

Here, the stenographer "corrects" the record, interpreting Simmons's response first as a full number and then as a fraction, thus making it legible to the commission's own interpretation of the treaty and the obligations it stipulates toward those with calculable blood. The commission admonishes Simmons for her miscalculations, asking her, "Have you ever been to school? . . . Then you know how much Choctaw blood you would have. You haven't over half as much as your father have you?" The commission makes the argument that it is impossible for the daughter of a black woman and a Choctaw man to be "more Indigenous" than her father. Indigenous blood, and thus claims to sovereignty, according to ideas about race and blood that were emerging and being reified through these hearings, must diminish under creolization. However, we could take up the double meaning of Simmons's response to the commission's question and the commission's reading of the process itself. The response "1830" makes a poetic connection between law and the creation of blood that demands consideration. We are forced to reflect on that which neither the law nor blood can represent, perhaps because at its core, it is unrepresentable. But even at a procedural level, we could imagine that Donnie Simmons actually

knows more about the legislative bounds of the enrollment process than the commission acknowledges—that, for example, the 1830 treaty originally made no mention of blood quantum and that she only needed to demonstrate that the name of one of her ancestors was on the 1830 rolls. Here, the transcript provides traces of the ways in which applicants and the commission developed multiple understandings of inheritance and national belonging—an entanglement of the law, the body, land, kinship, and other social relations.

Another way in which the commission continued to fix blackness to the position of the slave was by extending the spirit of *partus* laws. The commission did this in part by refusing many petitions for enrollment by blood, citing a lack of evidence that the mother and father of an applicant were legally married. The result was to stabilize the figure of the black woman as the site of nonsovereignty in her incapacity to legally birth Native (or white) children. Even if the applicant could claim belonging to the Choctaw nation through their father's lineage, if their parents were not married, the child's status via the father would not be legally sanctioned, and the claim itself would be illegitimate. An example of this occurred in the 1901 exchange with Boughman, one of the applicants for Choctaw enrollment by blood via her father, John Filiyah:

Q Were your mother and father married? A Yes sir.

Q When were they married? A I don't know sir? I wasn't born when they was married. I couldn't tell you anything about that.

Q Have you any evidence of the fact that your father and mother were ever married? A Well, I believe it.

Q You do? A Yes, sir.

Q Suppose we didn't believe it? A I couldn't help that.

Q Could you prove it? A No sir I couldn't prove it by only myself.

Q Weren't there lots of other people living there at the time your father and mother were married? A Oh laws I don't know where those people is now. Lord only knows. They may be all dead for all I know but John Filiyah was my father.

Q Before that could do you any good you would have to prove that your father and mother were married? A That would be hard to prove because I don't know any of the relation but them.<sup>73</sup>

In this exchange, we see that Black recognition as Choctaw was scrutinized via blood and that blood was mediated through the settler state and its legal, political-economic sacrament—marriage. Blood itself emerges through the law; it is interpellated by the sovereign rather than passed on through biology. While there was no law against Native and black marriages in Mississippi, Choctaws risked their white civic status by doing so. And certainly there was no legitimate marriage to which a slave could enter prior to emancipation given they were incapable of entering into a legal contract. In fact, it was the case that one of the major acts taken up in the early years of Reconstruction by the US Freedmen's Bureau was to legally wed those black couples whose relationships had not been recognized by the state prior to emancipation.<sup>74</sup> Within the context of the US federal government, one of the ways in which blacks came to be included in the nation—to the extent one can say that at all—was by being passed as legal(ized) and more properly gendered subjects through the institution of marriage.<sup>75</sup> Becoming a US citizen was highly dependent on former slaves heeding the heteronormative, civilizing mission of the settler state.<sup>76</sup>

And thus, again, one is never only passing with regard to race but always also with regard to gender and its demands. Here, the source of the passing subject is the civilly and socially unmediated, because unwed, black mother. She was rendered the antithesis to citizenship in that, first, she had yet to be recognized as a legal subject under contract law, and second, her children were bound to continue the legacy of inclusion via exclusion. Hortense Spillers meditates on this conundrum in “Mama’s Baby, Papa’s Maybe.” The ideology insists this sort of impossible inheritance may be passed, as abolitionist William Goodell put it, from the mother to “all her remotest posterity.”<sup>77</sup> Spillers thus wonders about the economy of blackness marking the position of the slave and passed on via the mother. It “‘transfers’ from one generation” and, in its mythological efficiency, the mark is able to find “its various *symbolic substitutions* in an efficacy of meanings that repeat the initiating moments.”<sup>78</sup> As the testimony suggests, Spillers’s speculation is of course relevant for the condition of black people after emancipation as well. The legal and economic reduction of unwed, black mothers to a womb manifests them as that vessel that produces offspring whose primary narrative is one of “unfreedom.” Even with the ritual of marriage, after emancipation, this mark remains to present blackness as off kilter with regard to gender and sexuality. It is this primary narrative, and its disavowal, that allows for the emergence of a sovereign, white American subject. In exchange, the symbolic figuration of the black woman leaves her open to all sorts of additional narratives.

The fantasies about sovereignty's gendered vestibule animate the condition of the Native woman as well. Indeed, in this context, if it claims that the black woman is the site of nonsovereignty, white settler colonialism similarly considers the Native woman as the physical representation of a natural, pre-civic, excessive sovereignty—the sovereign that must be conquered or managed in order to incorporate it as a prologue to the settler body politic. In society of patriarchal inheritance, which is what the Choctaw Nation became under “civilization,” the Choctaw woman becomes a political-economic resource. Feminists in Native studies have returned to this dynamic in order to trace the proliferation of the heteronormative state. Audra Simpson, for example, writes: “An Indian woman’s body in settler regimes such as the U.S. and Canada is loaded with meaning—signifying land itself, the dangerous possibility of reproducing Indian life, and most dangerously, other political orders. . . . Indian women . . . transmit the clan, and with that: family, responsibility, and relatedness to territory.”<sup>79</sup> For a white settler to marry a Native woman is to accumulate land and sovereignty and to instantiate a patriarchal rather than matriarchal order. This fantasy produces new citizens—by blood and intermarriage—who are able to claim an origin story authorized by white patriarchy.<sup>80</sup> The Choctaw Nation, of course, knew this well, and because it had imposed patriarchal inheritance laws, it risked losing land and political power to white men who married into the nation. To reduce this risk, it regulated and taxed the marriages of white men with Choctaw women.<sup>81</sup>

The stop-and-go of empire moved through white imaginaries of black/Native wombs “with a protocol of search and destroy,” as Spillers calls it, but also of consumption and management, of reading and rewriting, and importantly, of white settler self-fashioning through it all.<sup>82</sup> In this reading, a black woman who supposedly passed for Native threatened a “culturally forbidden and impure” move to write herself.<sup>83</sup> The statement makes a move to attain more than individual freedom but also to stake a claim to a sovereign—and glaringly black—futura. Emerging precisely from the position of that being who has no right to make law, the words of the passing applicant make the claim without fidelity to the demands of legibility around indigeneity or blood. The testimony asserts an inarticulable and ambivalent claim. It is one that does not simply exist alongside the law of the settler state but rather, even in its illegibility and illegitimacy, presents itself as an originary threat to that law that the state attempts to maintain as hegemonic.

This black venture that threatens to be passed from one generation to the next boasts no enduring or stable archive to house it. Yet because of this condition, it is able to reveal a critical fragility in the sort of sovereignty that the

West promotes. On the one hand, Western sovereignty comes as a response (both figuratively and literally) to the fantasy of true, anarchic, natural freedom that it attributes, as its own prologue, to the Native. And on the other hand, it narrates itself as sovereign inasmuch as it is able to contain and manage the supposed epitome of nonsovereignty it has created in the figure of the black slave. If the black womb must pass its condition in perpetuity, the sovereign must also preserve itself perennially. It struggles over the desperate need to uphold its position as lawmaker indefinitely. It is as tethered to this timeline as the black womb, which at any turn might make a mark of a different sort. The applicants' incomprehensible claims are a momentary bubbling up of the black mother's marking, of a black political or ethical statement—a trace of perpetual displacement, loitering in abeyance of closure.<sup>84</sup> The passing narrative, written and repeated by the sovereign, seeks to quickly suture over this aberration.

### Archival Seduction

Passing thus operates at various nodes of this discursive circuit of nation making. There is the commission's assumption and accusation that black applicants are passing for Native. This passing begins the moment in which the men at the Dawes Commission forced suspected black applicants to the freedman or "nigger" tents to submit to interrogation. Here, the black Choctaw would be accused of passing precisely because they were assumed to have been a slave and therefore not be Choctaw by blood or, in other cases, because they denied their slave past and therefore could not be included as freedmen. The process created a paradox wherein the suspected black applicant was tethered to the status of enslavement as both the inheritance of the disinherited and the projection of the future self as a so-called citizen. In other words, the binding meant that the applicant had no authentic claim to an origin or identity and as such was identifiable and able to be included only through, as Chandler might call it, this original displacement. From this displacement, as prologue, future citizens emerge—even if only in name—and their boundaries are policed.

There is also the passing for civilized that happened when the settler nation arrogantly referred to the southeast Indigenous nations, including the Choctaw, as the Five Civilized Tribes, precisely because they came to mirror the settler's governance and political economy. This narrative also stems from an originary displacement. As the historical fantasy that undergirds the political theory goes, so-called civilized Natives, like the whites before them, are understood as such after having abandoned the state of nature in favor of modern governance. The Five Civilized Tribes, as the name would indicate, become the

exception that proved the rules of Locke, Rousseau, and Tocqueville. To insist on the qualifier *civilized* before *tribes* is to always remind both the Native and the settler of the original, authentic anarchism claimed to remain just under the surface of the Native.

Reading the Dawes Commission applicants' testimony provides a map of processes of belonging and nation building that tells as much, if not more, about the settlers and slave owners as about the applicants. This is among the archival insights that projects of poststructuralist deconstruction offer. They intervene in the historical project's call for meticulously gathered and detailed evidence, scoured archives, and objectivity. Yet, as truth-seeking historians, we understandably still demand of the archive: What about the applicants? Who were they really? What were their real intentions? It is understandable. The truth of the politics of recognition is that there are real material and epistemological fallouts. In response, we are confronted with two possibilities. There are the series of equivalences that positivist historiography asserts: Documented evidence of the object equals fact, which equals truth. The naturalization of evidence—the assumption that one must access evidence and that evidence is something called *objective* by virtue of its constitution—is the very foundation by which one is directed to ask after black existence or absence within the archive. If black historians have lamented the erasure of evidence of black people(hood) within the archive—a complaint shared with Indigenous scholars (black and non-black alike)—it is a grievance brought about, in great part, as a product of our confrontation with the demands of objectivity through evidence, or a lack thereof, what Saidiya Hartman has called an “encounter with nothing.”<sup>85</sup> The archive of the slave trade did not document its subject as subjects. That is, it did not document captive Africans as subjects of history but rather as cargo, objects of commerce, and therefore there is no objective way to identify an enslaved person as a proper subject within the archive. Our complaint? The archive provides little to no material evidence demonstrating the fact of slave subjectivity.<sup>86</sup> An allusion to the interiority of the enslaved is rare—the exception that makes the rule.

Against the objectivity claimed in positivist historiography, another possibility to follow could be something like the project of neo-slave narratives exemplified in the work of Toni Morrison, who sought to “add to the archive” by writing fiction truer than any testimony the archives might provide.<sup>87</sup> Or perhaps we could turn to something like Saidiya Hartman's critical fabulation, which attempts to disrupt both the official narrative and the “transparency of the sources” that compile the archival event as an event.<sup>88</sup> Surely my reading of the applicant testimony follows these methodological leanings. And yet, in

the attempt, one must again consider the desire of the historian—even when the desire is admittedly for an impossible object. As Hartman insists, the objective is not to “*give voice* to the slave,” but it certainly is an exercise in imagining the experience and its limits.<sup>89</sup> Here, there is a fine line between imagining and unveiling, and yet both move from an understanding that that object in question, the object of desire, is necessarily hidden. And, following the libidinal economy of the passing reader relation, perhaps it is desired precisely because it is thought to be hidden. Thus, for example, in Morrison’s attempt to add to the archive of slavery, she writes that her aim was to “rip that veil” off the narrative.<sup>90</sup> Here, though, the veil must be understood as the organizing veil of the archive, an institution that obscures as it exposes.

To move through the archive and with archival desire—to unveil or to uncover the illusive subject’s truth—is to make a demand of Eve Sedgwick’s briar patch, which serves as a safe haven as much as a thorny danger zone. Significantly, neither positivist historiography nor an embrace of fiction or fabulation in the name of justice, freedom, or even truth gets us out of this epistemic bind, whose logic is as libidinal as it is political. Its object of desire is the always already illusive, opaque, or fugitive enslaved—if not to be recovered, then to be written into being, imagined, oftentimes in the name of an otherwise future. The relationship between the archive and the justice-oriented historian or writer of critical fabulation is also regulated through the passing narrative as briar patch. This time, the suspicion is a *hoping for* rather than a *dreading*, but the passing object remains in need of uncovering in the name of a future. Indeed, what we are able to carry out is not really “derivative of the figure” of the slave or Native or settler, but rather, as Chandler insists and Hartman and Morrison would likely agree, “the ‘origin’ of figuration as such.”<sup>91</sup> And indeed, as the testimony of refused applicants indicates, “an origin is constituted as such only as an effect of displacement.”<sup>92</sup> The archive, as an institution of repetition, sediments this origin story at the same time that it sediments the necessity of origin stories broadly speaking.

The traces of the archive remain as its foundation. One finds them in the figure of the black as slave, as that figure that has no legitimate origin or belonging and who then becomes the veiled anchor of the archive. And if the archive is the place of both the commandment and commencement of the sovereign state, it is this non-origin that animates it. Following this, we can take seriously Fred Moten’s incisive rhetorical question: “What if slavery is not the systematic relegation to natal alienation in/as/and dispersion but is, rather, the response to, and the attempt to regulate, them?”<sup>93</sup> This is the political, epistemological, and methodological question that can and must drive the historian’s work in the

archive. This archival fever or *mal d'archive* is a working out of a commandment that, in its repetition—in the recording and recalling of the refused and the recognized—becomes a commandment for both the placement and displacement of the archive itself. The veil over its hidden objects is simply a reflection of its sovereign work.<sup>94</sup> The testimony of the refused applicants, in their claims to existence without recourse to legibility, without origin, and without coherence, is made to stand in for this destructive and displacing cultural, historical, and even—as we will see in chapter 4—metaphysical force.

This is key for our question of how the passing narrative is both a product of archives and a narrative force that is archive building. Here, the question is: How does one get out of a libidinal economy of passing—if it is possible—and toward what end? How does one extract oneself from the affective binds of the economy of unveiling blackness as a necessary move toward future living? In chapter 3, we move from the legal and historical archive to the laboratory to explore the ways the passing narrative organizes knowledge through a desire for objectivity, both as a balm for alienation, anarchism, or displacement and a catalyst for mastery and coherence.

# 3

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## The Science of Passing

In 1951, Henrietta Lacks, a black mother from a small tobacco-farming town in Virginia who had moved with family to Baltimore, Maryland, sought treatment for late-stage cervical cancer at Johns Hopkins Hospital. It was to little avail. The young woman's case was terminal, and after suffering excruciating pain, she passed away nine months later. Unbeknownst to Lacks or her family, during the diagnostic biopsy, Johns Hopkins collected a sample of her cervical tissue for research purposes. As the oft-repeated story goes, George Gey, the university's director of tissue culture research, discovered that Lacks's cervical cell sample divided continuously when provided with a nutrient medium and kept at room temperature, something no other cells were known to do at the time. He named the cell line HeLa, corresponding to the first two letters of Lacks's first and last names. In support of scientific advancement as a public good, the researcher shared the samples with his colleagues around the world in North America, South America, and Europe free of charge. Indeed, the

discovery exponentially opened the possibilities for conducting in vitro studies, and the cells quickly became a go-to control sample for laboratory research.

HeLa's unique capacity presented itself as an important solution to an ongoing research challenge: developing and maintaining a reliable and replicable cell culture sample on which multiple scientists could work and compare results. Previously, because scientists were unable to keep cell samples alive long enough, they could not work on the same specimens at the same time while in different labs. They coped by using different samples of what they considered to be at least comparable specimens. These shared the same category of tissue or pathology but originated from different sources. Even so, it was hard to replicate each other's work with certainty. But HeLa cells were cancerous cells, and as such were uniquely qualified to reproduce exponentially. Now, with HeLa's capacity to be distributed widely, cell culturists believed their consistent use could help stabilize the means of scientific knowledge production.<sup>1</sup> Innumerable medical breakthroughs ensued, including the research that led to the poliovirus vaccine, genome mapping, the human papillomavirus vaccine, and the COVID-19 vaccines, as well as AIDS virus research and more. Truly, scientists made their careers based, in part at least, on the use of HeLa in their research. HeLa cells were not the only cell line in the labs, and scientists continued to cultivate other samples for their research. However, among these others, HeLa continued to be a staple material with which to conduct laboratory research.

Unexpectedly, in early 1966, the accuracy of a great deal of cell culture research was put into question in one fell swoop. That year, at the Second Decennial Review Conference on Cell Tissue and Organ Culture, geneticist Stanley Gartler provided some upsetting news to the attendees. He had conducted a review of their research, including the diverse cell culture samples they reported having used: *KB*, *WISH*, *Prostate*, and *CMP*. Surprisingly, he found that the cell samples researchers said they were working with were, in fact, not what they thought they were. Instead, as Gartler's audit revealed, HeLa cells had likely unwittingly been introduced into their laboratories and, because they so easily replicated, they had contaminated the original samples with which they came into contact. They consumed the nutrient medium available, reproduced, and left no opportunity for the original cell samples to multiply. Eventually, the originals died out, and all that was left were HeLa cells. Because the lab workers had not detected the contamination, the HeLa cells had been able to pass—or unwittingly be passed—as something they were not. The culturists had likely derived conclusions from their research, published papers, and secured research grants based on erroneous cell culture data. Moreover, the implications were that HeLa passing and contamination were likely rampant in cell culture labs.

Gartler was able to identify the passing HeLa cells precisely because they were the only cell line derived from a black person in all the samples he scrutinized. Based on his findings, Gartler argued that much of the attendees' work was "open to serious question . . . [and some] would be best discarded."<sup>2</sup> As Robert Stevenson, who later became president of the American Type Culture Collection, put it, the geneticist "showed up at that meeting with no background or anything else in cell culture and proceeded to drop a turd in the punch bowl."<sup>3</sup> Scientists who attended the conference allegedly referred to this unexpected news as the "HeLa bomb."<sup>4</sup> What followed was a decades-long campaign to guard laboratory work from contamination between cell samples, and especially to guard against contamination by HeLa cells. It was met with some resistance. After this public accusation, the integrity of scientific knowledge production was on the line. To be successful, campaigners had to convince researchers to question their own work and be on the lookout for deception within their samples.

The link between HeLa contamination and the potential destruction of professional careers and scientific progress emerged through narratives of racialization and hypersexualization of the cells. The unveiling of the cells and their human source as "black" opened them up for perverse sexualization and gendering as well. Fixing the cells to the subject, the anthropomorphism drew from tropes of black hypersexuality, miscegenation, black labor, and gender instability. The contagion narratives were rampant in popular science journalism but also existed in the traffic between scientists, science journalism, and cultural studies. Continuing with the pornotropic imagery, one journalist wrote that a cell culture lab receiving a letter from Walter Nelson-Rees, a cell culturist who had attended the 1966 conference and dedicated his work to the detection of HeLa contamination, was like receiving "a note from the school nurse informing the parents that little Darlene had VD."<sup>5</sup> Even nearly thirty years later, the trope of the hypersexual and contaminated black woman persisted in narratives about HeLa. For example, in the *London Review of Books*, novelist Anne Enright recounted how she found a series of websites that explained how to detect the papillomavirus DNA in HeLa cells. She reflected, "I *think* this means that Henrietta Lacks had genital warts. I *think* this means that she slept around."<sup>6</sup> Additionally, in an article for the feminist philosophy journal *Hypatia*, cellular biologist Lisa Weasel described HeLa cells as a "laboratory workhorse" that, although unreliable, performed the role of a control group.<sup>7</sup> HeLa and Henrietta Lacks were contagious and were so together because of the discursive slippage between the narratives of the cellular material and the woman as subject-suspect. As Michael Rogers's particularly

sensationalist journalistic account of HeLa contamination argued, “In life, the HeLa source had been black and female. Even as a single layer of cells in a tissue culture laboratory, she remains so.”<sup>8</sup> In the lab, these tropes animated the discourse among scientists as well. Dr. Walter Nelson-Rees likened his lab, which was dedicated to the collection and distribution of a vast variety of cell cultures from both animals and humans, to “Noah’s Ark under Glass.”<sup>9</sup> To protect this work and the research it supported, he published a “hit list” of offending laboratories that were utilizing contaminated cell lines.<sup>10</sup> It was often a thankless job. In an interview with journalist Michael Rogers for an article in *Rolling Stone*, Dr. Nelson-Rees underscored just how toilsome the task had become, acknowledging, “I hoped I’d never have to look another HeLa in the face.”<sup>11</sup>

This chapter reads Gartner’s revelation and its description as a bomb, figuratively; as an accusation of passing leveled at the HeLa cells. Thus far I have traced the formations of modern passing narratives as a cultural phenomenon through the project of US nation building originating in seventeenth-century colonial conquest and the management of fugitive slaves. In this early example, we began to see how the activity of hunting, tracing, and watching became sutured to the act of knowing—for one had to know the fugitive in order to surveil them. Through these practices, a reader relation emerged between, one, the hunter-knower as subject, and two, the object that is always already understood to be prone to fugitivity and fraud. In the twentieth century, a very similar epistemological and libidinal dynamic emerged in the fallout of the HeLa passing accusation and the campaign to curtail cell culture contamination. This included a series of confrontations between the scientist as the supposed knowing subject and HeLa cells as the duplicitous suspect-object. The success of science as a public good required that the knowing subject recuperate and stabilize mastery through the modern scientific method. In this case, mastery is understood as the ability to attain knowledge through objectivity. The objective truth with a capital *T* is understood as the authentic reality that stands above and in contrast to various subjective truths. For objectivity to prevail, the approach to knowing must not be overcome by the psychosocial impositions so prevalent in driving subjective experience. It is no coincidence that the origins of this approach to knowing, animated by the pursuit of objectivity, only narrowly preceded the formulation of the seventeenth-century Anglo colonial surveillance regime, and the two regimes continued to develop together, mutually informing each other. Indeed, philosophers and statesmen advanced these epistemological claims and governance practices together; they were oftentimes the same individuals. Reading the HeLa bomb event with this in mind, chapter 3 moves between sixteenth- and seventeenth-century writings

on the scientific method and the twentieth-century story of HeLa cell passing to trace how these epistemological and political projects of mastery and surveillance merge in the modern laboratory. In particular, it reads how passing narratives shape projects and manifest within science as modernity's privileged genre of knowing.<sup>12</sup>

I am not the first to make a connection between the campaign to fight HeLa cell contamination and the original worldly mission of modern science. In fact, it was in reading through the science journalism archive that I was prompted to pursue this genealogical line. By happenstance, I came across journalist Michael Gold's rather salacious 1986 monograph, which contains a brief allusion to the epistemological and moral claims of the scientific revolution. Titled *A Conspiracy of Cells*, the book details the story of Henrietta Lacks, HeLa cell contamination in laboratories worldwide, and the consequences of the crisis not just for scientific research but also, strangely enough, even for Cold War international relations. The author opened his account of HeLa with the following epigraph by Francis Bacon: "If a man will begin with certainties, he shall end in doubts; But if he will be content to begin with doubts, he shall end in certainties."<sup>13</sup> Bacon (1561–1626) was a lawyer and statesman of the English empire and a natural philosopher whose work on experimentation and the interpretation of nature is viewed as the foundation for the modern scientific method. In the book, Gold places the Bacon quotation on an empty page situated opposite a photograph of Henrietta Lacks. In the picture, she is dressed in a skirt suit, hair neatly coiffed, her hands on her hips, smiling, looking down at the camera.<sup>14</sup> This image (figure 3.1) is one of the most commonly circulating photographs of Henrietta Lacks. I became captivated by Gold's pairing of the picture alongside the early modern philosopher's words.

The Baconian reference with which Michael Gold begins his conspiratorial story resonates in various ways with my reading of the stories of HeLa contamination and the attempts to prevent it as, essentially, stories about passing. In one basic sense, with Bacon's words, the author signals what ought to be the moral lesson of the HeLa contamination debacle for twentieth-century scientists. That is, if they are able to curb their arrogance and return to the original good of science as a mission, if they move with care in their observations of nature, they can avoid costly mistakes. The reference works to diffuse the tension that could arise as a result of the cells' unveiling and the subsequent confrontation between the scientists and HeLa's "true" identity. Like passing narratives, the epigraph is a cautionary tale that works to galvanize otherwise complacent hunter-knowers.



FIGURE 3.1. Henrietta Lacks,  
Baltimore, Maryland, 1940s.

In a more profound sense than perhaps Gold intended, however, the gesture to Bacon points to the passing reader relation's even deeper epistemological roots in Western thought. In particular, the dynamic is made possible through the epistemological changes Bacon's writing ushers forth, moving from the Renaissance and toward the Enlightenment. Even at this moment, knowing is a relation that claims objectivity, that is rooted in the venture of mastery, and that is plagued by the possibility of fraud. This chapter aims to track these sixteenth- and seventeenth-century epistemological changes as a catalyst of modern ways of knowing. It examines how this approach structures and animates racial passing narratives, not just on the eighteenth- and nineteenth-century plantation and its borders but also in the twentieth-century laboratory. Ultimately, I argue, it is the way knowing comes to be understood and carried out in the sixteenth and seventeenth centuries, the way it emerges as a practice of mastery over fraud, and the way in which by the nineteenth century blackness becomes fixed as the signifier of fraud and secrecy that demand that the HeLa cell contamination story be read as a panic over black race-gender passing. What triggers the panic is how fraud emerges to foil knowing's moral and rational mission. Importantly, while this did not necessarily interest Gold, the way fraud manifests in the twentieth century is different from how it did during the Renaissance. This change, I venture, has become a significant factor in animating passing's reader relation. Consequently, I will soon return to HeLa. To get there, however, I must first detail how the site of fraud was initially situated as the scientific method began to be formulated in an early modern worldview.

### The Site of Fraud

In Francis Bacon's late sixteenth- and early seventeenth-century world, what would be known as science—or natural philosophy, as it was referred to at the time—was not yet understood as the privileged site of knowledge production. There was a multiplicity of valid forms of garnering knowledge and affecting nature, including alchemy, magic, the divine, and the profane. For example, witches and sorcerers were not necessarily considered charlatans. On the contrary, they were taken seriously and considered dangerous precisely because, in certain circumstances, they had a specialized capacity to know nature and assert some control over it.<sup>15</sup> Bacon certainly acknowledged this capacity. The problem these actors presented for knowing, as he saw it, was that their approach proved to be unstable. Magic could not always provide predictable results, and it lacked the sort of systematic methodology that could, in modern parlance, control for extraneous variables. It simply was not—as we have come to conceive in the

present—an objective methodology. And so, as Pierre Hadot points out, Bacon did not necessarily call for a break “with the aspirations of magic but with its *methods*.”<sup>16</sup> Bacon’s project was to develop an approach that organized the “efforts of the human race” to the benefit of “mankind” as a whole rather than serving subjective or “individual ends.”<sup>17</sup> He ventured that a methodical and inductive approach, one that would come to be understood as the experiment, would allow anyone to be able to “verify for themselves the truths of science by the reading of nature’s book.”<sup>18</sup> This was what he hoped would distinguish rational science from the magic of witches. Thus, to reiterate, at the time, although it was not objective, magic was not automatically assumed to be fraudulent.

Neither was nature. The latter, however, was considered to be inherently secretive. Even in antiquity, for example, Heraclitus remarked, “Nature loves to hide.”<sup>19</sup> And, in line with a patriarchal cosmological order, men understood this secrecy as an effect of nature’s femininity. During the Renaissance and into the early modern period, writers and artists depicted nature through the figure of the goddess Artemis of Ephesus or the Egyptian goddess Isis and as a mother whose veil protected both her secrets and her children. They drew on the tradition of the Egyptian Isis represented in a statue as a goddess under a veil. The goddess kept the natural world close to her bosom. And as mother, nature might, in fury, do whatever necessary to keep those under her care safe. According to the account of the Greek philosopher Plutarch, the inscription of the statue of Isis before a temple in Sais attested to the inaccessibility of the goddess’s secrets protected by a covering. It read, “I am all that has been, and is, and shall be, and my robe no mortal has yet uncovered.”<sup>20</sup> Bacon also drew on this imagery as an allegory for nature and the obstacles for knowing. The integrity of nature’s “liberty,” as Bacon would argue, was protected from man’s view thanks to the veil, and with this liberty, nature was able to follow “her own course of development.”<sup>21</sup> The trope of Isis or Artemis as a representation of a secretive or veiled nature continued through the seventeenth century. One of the first published illustrations in the scientific context was the frontispiece to the 1681 *Anatome Animalium* by Gerard Blasius (figure 3.2). And eighteenth- and nineteenth-century thinkers and artists often depicted the Enlightenment allegorically as man unveiling nature in the form of a woman.<sup>22</sup>

For Bacon, what stood in the way of man’s effort to know nature was fraud. It was not necessarily to be found in magic or in nature, however. Rather, Bacon believed the key obstacle for stable forms of knowing was a propensity for fraud in the mind of the supposed scientific or philosophical knowing subject. The problem? “Sham philosophers” of the sixteenth century were beholden to prevailing dogmatism and an unquestioned reliance on the classical metaphysical



FIGURE 3.2. Frontispiece of *Anatome Animalium* by Gerard Blasius (Amsterdam, 1681). Engraving by Jan Luyken.

tradition repeated from the writings of Aristotle, among others.<sup>23</sup> Because of this, they were unable to take in the natural world for what it was—free of their own misinterpretations. For Bacon, the human mind was something akin to a mirror for nature, but unfortunately a distorted one. Its distortions came because it ceded to the senses' tendency to fall prey to idolatry.<sup>24</sup> The mind's idols included all the undisciplined presumptions people made about

the world, their propensity to assume a greater degree of natural order where there is none, their predisposition toward superstition, deceptions within their language, and their embrace of philosophical dogma. What was needed was a method that systematically controlled nature, yes, but that also, importantly, systematically controlled the mind's own tendency toward "superstition and imposture."<sup>25</sup> It was through a culmination of these misconceptions and dogmatism that his peers had inflicted fraud onto learning itself. Imposture, for Bacon, was to be found in the tendency toward fraudulent thinking.

Thus, in returning to Michael Gold's story about Henrietta Lacks, the Bacon epigraph works to mediate, to bring those scientists who resisted diligent vigilance back to a fundamental moral and tactical orientation of science itself. The photograph of Lacks stands in as the modern Artemis or Isis, unveiled, opening up the potential to know the world. The epigraph alongside the image beckons: "Keep an open mind. Be vigilant and you will reap science's promised rewards." However, importantly, the original sentiment of Bacon's words differs slightly from the way in which Gold deploys them. For Gold, the reader must be warned of a conspiracy of cells and thus of the fraud, duplicity, perhaps even fugitivity, that emanates from them. This instability as far as truth is concerned might affect the scientist, make them fall prey to or become complicit in the conspiracy if they are not careful. In contrast, as I have just relayed, in Bacon, nature is not the source of conspiracy, even as she may be secretive.

In the late Renaissance writer's account, a sort of give-and-take with nature is required if one is to know her. The knowing subject must recognize nature as not simply agential but in her most authentic state as *free*. That is, nature moves in its original condition of freedom. Because it is authentic or original, this freedom is not necessarily considered fugitive. Moreover, it is in that authentic freedom that nature's power lies. Bacon explains that it is secretive precisely because it seeks to protect this freedom. Thus, to reiterate, in the sixteenth and early seventeenth centuries, nature's freedom was not fraudulent, and nature was not fugitive. Indeed, for Bacon, nature is wholly entitled to this secretive and free state. Man, in contrast, falls victim to *his own fraud* when he refuses to recognize this true state of nature. By tending to the distinction between Gold's and Bacon's sentiments, and in particular how each understands the location of fraud, we are able to grasp an important shift and an ensuing paradox. Something happens in Gold's version of Henrietta Lacks as Artemis or Isis, a semiotics of reversal that reveals Lacks through HeLa as a potential fraud and the scientist as the moral hunter-knower. The image mirrors the very components of the passing reader relation. The lesson of Gold's *A Conspiracy of Cells* reflects an epistemological and ontological repositioning that occurs by

the twentieth century in which nature itself is disenchanted, and “knowledge, which is power, knows no limits.”<sup>26</sup>

Even though it is Bacon who viewed nature as free, it is his method of experimentation that enables changes to the condition of nature. It ultimately strips it of its agency and renders it an object that should be predictable. Later, I will detail how it is that this occurs—a key component of the story—but for now, it is worth simply noting the consequences of this shift. First, in depriving nature of agency, science is able to create an object of study out of nature. Second, as a result, the project of modern scientific mastery, as opposed to that of other forms of knowing, can allow itself to be less concerned with the idiosyncrasies of the self or metaphysics and much more preoccupied with the object set before the self—an object that science wants to boast as, finally, capable of predictability. Yet, as we will see, this tension remains. This epistemological shift that early modern science brings forth does not eliminate the anxiety around imposture and the possibility of knowing as a project of mastery. Thus, there is a third consequence. The instability of the potential for knowing is displaced onto the object rather than the subject. That is, now, rather than the knowing subject, it is the object that is fixed as always a potential suspect or source of imposture. The ultimate consequence for mastery’s project is a displacement of the origin of fraud or foil. Now it is externalized and projected onto the object, which becomes fixed as the site of imposture. And this externalization allows the knowing subject to disavow the instability at the heart of the project of knowing. In this way, even though the modern Enlightenment expectation is that knowing is possible, the anxiety around its possibility remains and continues to require management.

This shift brings us to the paradox that sets up the HeLa contamination story as a story about passing. Bacon’s move to unveil nature and make her the object of experiment renders the world “disenchanted.” After this epistemological shift, nature must no longer be understood as an agential subject. And yet, one can, even figuratively, accuse cells of passing. One must ask, then, how an object *sans* agency can also be fraudulent. This is a characteristic that assumes intention. As Horkheimer and Adorno rightly note, “Enlightenment has always regarded anthropomorphism, the projection of subjective properties onto nature, as the basis of myth.”<sup>27</sup> In stripping nature of agency and creating an object in its stead, the scientist is supposed to be the sole agent of knowledge production. One would assume, following this move, the modern scientific reader relation would be necessarily unidirectional: the knowing subject observes the object, and the knowing-experimenting subject acts on the object, causing an effect. The knower, then, observes the effect. Having rid the subject

of its freedom, Bacon assures us that knowing is guaranteed. This displacement, however, does not rid the knower of the anxiety around the instability of their mission. Rather, it bubbles to the surface again, in the Enlightenment era, through anthropomorphic narratives, metaphors, and imagery of conspiracy or passing. These narratives become, in effect, a discursive playfulness that allows the enlightened scientist to express their discomfort at the level of the sociocultural, all the while maintaining science itself free of fraud. This is exactly what happens in the wake of the HeLa cell contamination crisis.

The epistemological shift and its paradox are central to modern science's anxious struggle for mastery, and they are important for understanding the story of HeLa cell contamination as a story about passing. Science's externalization of fraud or foil onto the object of study makes way for and then is subsequently informed by the modern race-gender passing reader relation. The dynamic emerges in Gartler's HeLa bomb and the subsequent fallout for cell culturists for decades after. I return now to HeLa, the conspiracy, the bomb, and the site of fraud externalized to trace the consequences.

### The Bomb and the Veil

One might ask at this juncture what role blackness plays in the wake of this epistemological shift, or even perhaps as an ongoing catalyst of this shift. The question requires us to take a step back, however. For, contrary to the obsession with passing after Gartler's bomb, before that 1966 unveiling, blackness was not central to the HeLa narratives. In fact, the identity of the woman from whom the cells originated was unclear and often misstated. Some authors referred to her as Henrietta Lakes or Helen Lane; others named her Helen L. Even as Roland Berg from the National Foundation for Infantile Paralysis attempted to convince Gey to reveal the woman's background publicly, he mistakenly referred to her as "Mrs. Lakes."<sup>28</sup> And because Lacks was not explicitly described as black, she was assumed by most to be a white woman, as the foundation no doubt tacitly implied—the "unsung heroine of medicine."<sup>29</sup> Indeed, Berg wrote, "Here is a situation where cancer cells—potential destroyers of human life—have been channeled by medical science to a new, beneficent course, that of aiding the fight against another disease."<sup>30</sup> In the popular science literature, as historian Hannah Landecker notes, *HeLa* began to refer not to the specific cancerous cells of a black woman's cervix but to the universal or "generalized human or cellular subject."<sup>31</sup> Even Gey's argument for keeping Lacks's name and information private contributed to the fabrication of this symbolic woman. He assured Berg, "An interesting story could still be built around a

fictitious name.”<sup>32</sup> In this period, HeLa’s story was a story of how any individual woman—presumably, of course, a white woman—could contribute to scientific advancement and thus the progress of the nation. Gartler’s unveiling upended the celebration of this universal and anonymous heroine and protagonist of science.

Anonymity ended the moment the cells were publicly unveiled as black and a site of contamination. The outing called into question scientists’ mastery not simply over their objects of study but also, in true patriarchal fashion, over their own genealogical legacies. For example, one of the affected cell lines that the geneticist identified at the conference in 1966 was Leonard Hayflick’s *WISH* line.<sup>33</sup> This important cell line derived from tissue originally in the amniotic sac of his infant daughter. In an interview Hayflick gave about his career achievements, he recounted, “My wife gave birth to our third child and I purposefully arranged with the obstetrician to obtain the placenta and amnion. And because my laboratory was right across the street from University of Pennsylvania Hospital, where my wife delivered, it was very easy for me to take the tissue to my lab, which I did . . . to my wife’s disappointment in not having me by her side through her recovery.”<sup>34</sup> Harvesting afterbirth for research purposes is not an uncommon practice in the cell culture community. On the contrary, amnion is among the most common human-derived material sources with which cell culturists work. In fact, at Johns Hopkins, where Lacks’s cells were taken, George and Margaret Gey regularly trained nurses in labor and delivery on the proper methods for collecting placentas and transferring them to cell culture research labs, which were located in close proximity just for this purpose. Hayflick’s case, however, was personal. He named the cell line *WISH* following the practice promoted by the Tissue Culture Association. The first two initials were for the institution where he made his observations, the Wistar Institute, and the second two referred to the “donor,” his daughter Susan Hayflick. After weeks of culturing and observations, Hayflick concluded that, with treatment, the normal amnion cells that composed *WISH* transformed into an immortal cell population and could thus serve as an important basis for cell culture research. In the interview, he would later boast, “The cell line became very popular.”

Thus, it came as some surprise when, at the 1966 conference, Stanley Gartler, not a cell culturist but a geneticist, identified qualities of a *WISH* sample cell line that called into question Leonard Hayflick’s patrimony. Gartler explained that, in an audit of research involving cell cultures, he had compared both phenotypes and genotypes of twenty sample cell lines, including *WISH* and HeLa. Surprisingly, he had found them to share the same phenotype variations—“glucose-6-phosphate dehydrogenase (G6PD) and phosphoglucomutase (PGM)

electrophoretic polymorphisms.”<sup>35</sup> Noting these results, more detective work was needed, and so Gartler wrote to Gey to confirm the race of the woman from whom the HeLa cells were taken. Journalist Rebecca Skloot relayed, “When Gey responded that HeLa cells had come from ‘a colored woman,’ Gartler knew he’d found the source of the problem.”<sup>36</sup> He concluded, “I have not ascertained the racial origin of all the lines examined; it is known, however, that at least some were thought to have been derived from Caucasians (*KB*, *WISH*, Prostate, *CMP*) and at least one (HeLa) from a Negro.”<sup>37</sup> In his paper, in fact, he wrote that the A band had been determined to appear most frequently in the “American Negro male population.”<sup>38</sup> Presuming that some might assume the shared phenotype of the samples to be a coincidence, Gartler further clarified: “The absence of the A band in Caucasians excludes a statistically based sampling explanation of these results; however, even if all the lines are assumed to be of Negro origin the probability of all being G6PD A and PGM 1 by chance sample is absurdly low.”<sup>39</sup> Through the framework of racialized genetics and biostatistics, Gartler concluded that the sample cell lines had likely been taken over by HeLa cells marked by a phenotype most commonly held by “black men.” He made no comment about any discrepancy between the cell donor’s gender and the “maleness” of the biostatistical category.

The discussion after Gartler’s talk was contentious. Skloot explained:

Scientists knew they had to keep their cultures free from bacterial and viral contamination, and they knew it was possible for cells to contaminate one another if they got mixed up in culture. But when it came to HeLa, they had no idea what they were up against. It turned out Henrietta’s cells could float through the air on dust particles. They could travel from one culture to the next on unwashed hands or used pipettes; they could ride from lab to lab on researchers’ coats and shoes, or through ventilation systems. And they were strong: if just *one* HeLa cell landed in a culture dish, it took over, consuming all the media and filling all the space.<sup>40</sup>

Unaware of just how easily lab contamination via HeLa could occur, conference participants pushed back at Gartler’s results. According to the conference transcripts, attendees started by asking after the integrity of the sample cells the geneticist had used: Were the samples Gartler sourced directly from the American Type Culture Collection? Most had confidence that the organization would better protect the integrity or purity of the cell line compared to the for-profit and independent labs. How many passages had the cells undergone? Could the phenotype variations be derived from contamination via other microorganisms

rather than HeLa? At least two participants asked Gartler to confirm the racial characteristics of the cell lines. Hayflick, in particular, insisted that he found it “very difficult to accept the idea that all these populations could have arisen from a human contaminant.”<sup>41</sup> He asked again whether Gartler could be sure that the particular genetic phenotype found in the cell culture samples came “from Negroid donors and, conversely, not from Caucasian donors?”<sup>42</sup> Gartler confirmed he was sure. “Cell cultures from G6PD (A) individuals always exhibit G6PD (A), and Caucasian subjects with G6PD (A) have not been reported.”<sup>43</sup> His presentation concluded that all of the research with results dependent on the stable identity of the original cell strain ought to be reviewed and possibly even abandoned.<sup>44</sup>

Leonard Hayflick’s racial paranoia bubbled to the surface of his concern for contamination within his cell line. Reacting to the always haunting threat of in vivo rather than in vitro contamination, he responded in jest. Recounting the story Hayflick told her, Skloot explained, “Before beginning his talk, Hayflick stood at the podium and announced that, since WISH cells supposedly tested positive for a genetic marker found only in black people, he’d called his wife during the break to ask if he was, in fact, his daughter’s father.”<sup>45</sup> Hayflick’s punchline landed as he exclaimed in feigned relief, “She assured me that my worst fears were unfounded.”<sup>46</sup> The room reportedly “erupted in laughter, and no one said anything else publicly about Gartler’s findings.”<sup>47</sup>

This moment in Skloot’s book is short and captures an effect on two temporal registers. First, at the conference, Hayflick’s joke, like comic relief in a horror film, aimed to cut through the tension the audience might have felt at the public unveiling of the scientist’s failure in the laboratory and, perhaps still more scandalously, in the bedroom. For if the WISH line presented genetic phenotype variation most often deriving from black *men*, it meant that Hayflick’s daughter might have it as well. In fact, who is to say that she does not? Freud’s writing on dreams and denial is poignant here. He gives an example of a session he had with a patient who was describing a horrible dream to him. Freud asked the patient if he was able to identify the frightening figure in his nightmare. Without prompting, the patient vehemently insisted, “It’s *not* my mother.”<sup>48</sup> The analyst understands. Of course, it most certainly *was* his mother. In Hayflick’s case, the HeLa bomb emerging through the figure of a duplicitous and contaminating black man impregnating his wife and assuming the authentic role as head of his family and descendants (at home and in the lab) was a waking nightmare. And his comedic denial sought to cover over an overbearing psychic structure that Freud was unable to analyze—that of the black boogeyman and the negrophobia of which it is a symptom.<sup>49</sup> This

includes a paranoia stemming from an assumed threat of blackness in general and black sexuality in particular.

Before we move forward, however, we might pause to consider how the joke registered among the readers of Skloot's book. After all, it was named best book of 2010 by multiple media outlets, and college campuses nationwide featured the book as part of campus-wide reading programs. It was celebrated for raising attention to the abuses of medical research and black communities and catalyzed national conversations on the repair researchers needed to enact both with the Lacks family and black people more broadly. Perhaps the author assumed that contemporary readers, sympathetic to the plot of racial injustice in the life of Lacks and the HeLa cells, might have a more distanced or progressive perspective. Perhaps they might chuckle at the preposterous notion that the contamination occurred in the bedroom rather than in the lab. The comedic success of Skloot's tale relies on the presumption (or hope, at the very least) that sympathetic readers at this juncture have overcome negrophobia. Thus, Skloot's writing, as reliant on disavowal as Hayflick's address, assumes that we are in on the joke. In 1966, the tension had to be alleviated. In twenty-first-century progressive spaces, we deny that the tension exists at all. Skloot's insistent disavowal obfuscates the links between Hayflick's position in the bedroom and his position in the lab, scenes that have otherwise been superimposed. Achieved through a tongue-in-cheek comment, disavowal renders the lab empty of blackness (which must always be viewed) as a threat. It defuses the racialized intrusion and allows the speaker and his audience and the author and her readers to disavow their own investment in the double cover-up.

Tellingly, the anecdote that appears in Rebecca Skloot's book was not documented in the conference's official records, yet there is ample material within the panel transcript that points to the interconnection between the white patriarchal task of fathering children and the white patriarchal task of, in Hayflick's case quite literally, fathering stable cell lines. Against Gartler's "attack" on "those who initiated the cell lines," Hayflick asserted, "I think I can claim to having developed a cell population to the ultimate degree, having originated it from the ultimate point."<sup>50</sup> And thus the reproductive labor of Hayflick's wife is rendered a secondary story, if a story at all, while Hayflick's harvesting of the "by-product" of the birth produces an exchange value and an increase or profit that benefit his own career and a use value that benefits the "advancement" of cell culturing as a burgeoning scientific practice. The science did not simply metaphorically parallel the psychic and material dynamic of the family unit. They were inextricably intertwined. The uncanny racialism of the "bomb" Gartler set off became a response to the actual orienting question the conference

set as its theme: Whether and how “cultured cells bear a relationship to their *in vivo* ancestors.”<sup>51</sup> It was not just that HeLa appeared to the scientific community as a stealth or passing actant but that it had the capacity to make passing black subjects out of others—for example, Hayflick’s daughter.

The link between HeLa contamination and the potential destruction of professional careers and scientific progress emerged through the reracialization of the cells from white universal subject to black. It also emerged from the fluctuating gendering of the cells, their having originated from a white woman, then black men, and then a black woman. The unveiling of the cells and their human source as “black” opened them up for perverse sexualization as well. Fixing the cells to the subject, the anthropomorphism drew from tropes of black hypersexuality and labor. The narratives were rampant in popular science journalism but also existed in the traffic between scientists, science journalism, and cultural studies, as I detailed at the outset of the chapter. The gendered identity of HeLa jumped around, from “Negroid,” to black males, to black and female. What remained constant after their unveiling, however, was their blackness. And it was blackness that animated the discourse around the cells’ gender fluidity, or better yet—because they actively disobeyed gender norms—their fugitivity.

This brings us back to Dr. Nelson-Rees’s exasperated remark in response to leading an oft-resisted campaign against cell culture contamination: “I hoped I’d never have to look another HeLa in the face.”<sup>52</sup> How might one understand Nelson-Rees’s articulated frustration at a moment of confrontation given the obvious fact that, while Henrietta Lacks had a face, her cells certainly did not? Regardless, HeLa’s appearance where it presumably had no right to be, for Nelson-Rees, had the effect of a stare down. The passing accusation assumes a dynamic of deceit animated through blackness itself. The logic presumes that the passing subject or object, opaque and duplicitous, refuses to authentically represent themselves. The onlooker can almost never get a good look at the offender’s true face, which is a problem inasmuch as Western epistemology privileges the face as the point within the body that should reflect sincerity or true interiority.<sup>53</sup> The imagery of the unveiling of Isis or Artemis is an example of this. It is through the face that the onlooker has access to the other as a subject. As existential philosophy ventures, it is also via the other’s face that the onlooker has access to themselves as subject. But what of the face of the boogeyman? The passing narrative is in some sense a cultural lamentation that blackness, or the black subject, never truly shows its face and in fact is purposefully and naturally duplicitous. Paradoxically, for the black subject, the confrontation through the face-to-face encounter that whiteness insists is a necessary

hermeneutics—that white subjects demand of black subjects in order to know their truth—is extremely dangerous. To be black in the antebellum South meant to never look the master in the eyes. In the Jim Crow South, it meant to never look the white neighbor in the eyes.<sup>54</sup> The existentialist demand of white supremacy is simultaneously “How dare you not let me look into your face!” and “How dare you look me in the face!”<sup>55</sup> And it is so even if there is no actual face to be beheld. If the HeLa cells had at one time signified the universal human cellular subject, the unveiling of their passing resulted in a horrifying confrontation between scientists and their now black objects of study. Racial phobia and its concomitant desires manifested in the most inappropriate of acts: a black woman’s face returning the gaze. The uncanny moment of the passing object’s return puts into question the assumptions of science’s refusal to acknowledge its libidinal investment in race and, in particular, blackness.

This racialized and gendered violence, however, does not remain contained in the interpersonal. In returning to the question of how the uncovering of this cell line came into discourse through the metaphor of a “bomb,” one must ask after the biopolitical work that this metaphor enacts. To take the bellicose reference literally is to assume the HeLa passing as a warlike moment in the midst of the compiling of biomaterials for medical research. As the basis for his argument about biopolitics, Michel Foucault insisted that medicine itself is “a political intervention-technique.”<sup>56</sup> The underlying biopolitics of defending society is a matter of “destroying that [sort] of biological threat that those people over there represent to our race.”<sup>57</sup> Thus, to think of the HeLa passing as a bomb within the sociopolitical context of the time—1966—is to think of the passing threat together with other bomb threats and detonations of the time: the Cuban Missile Crisis in 1962, the escalation of the Vietnam War between 1963 and 1969, and the bomb that ripped through the 16th Street Church in Birmingham in 1963. During the period of the Cold War and black uprisings against Jim Crow, the threat of a nuclear bomb encouraged duck-and-cover practices along with hypervigilance against the communist that might be lurking in one’s own backyard—the “Reds under the Bed.” The metaphor projects onto the HeLa cells a violent image of a black woman who passes undetected and whose unveiling results in an explosion.

Following Fanon, we cannot help but take the reference to a bomb seriously, as a *phantasme réel* or an “irruption” of fantasy within real-world interactions.<sup>58</sup> Fanon critiques traditional Freudian psychoanalysis to bring attention to the way culture intervenes on the psyche. If psychoanalysis sets out to articulate how the real makes an appearance in fantasy, Fanon urges us to understand how it is fantasy, imbued by culture, that structures reality. As Vicky Lebeau

explains, Fanon offers us “a reading of the psychoanalytic concept of fantasy as a ‘real event,’ a presence, or a pressure, within and on the real.”<sup>59</sup> For example, for Fanon, a colonial subject’s dream about a Senegalese soldier’s rifle cannot be rightly read, as Freud might, as a simple reference to the phallus. Rather, the fantasy originates in racist, anti-black culture. And here is the even more critical intervention. It is that fantasy that drives and plays out in the colonial project. That is, the white fantasy of hypersexual African aggression played a part in why and how the French forces employed the Senegalese to support their colonial ventures. The Senegalese rifle becomes a psycho-political and real material weapon of French invasion.

Thus, in returning to my own argument, the story about HeLa contamination must be read as a story about black race-gender passing, as a *phantasme réel* pressing on the reality at the level of the individual and the nation. The preoccupation with mastery is not simply a generalized concern about transparency or accuracy in science. Instead, it is about the ways passing folklore, policing, and negrophobia erupt within the project of mastery through science—and importantly about the ways they inform how scientists carry out their work. Just as the symbolic Senegalese rifle in the colonial fantasy represented an actual rifle—real violent intrusion—and not just a general phallus, the unveiling of HeLa contamination was an actual bomb. And it is through the fallout of this bomb that science aims at humanistic and nationalist goals by way of a pornotropic fantasy.<sup>60</sup> The drive is to both enjoy and master nature and the world through the enjoyment and mastery of blackness.

In this frame of reference, surveillance and regulation against passing become critical techniques that bind medicine and science to larger projects of policing, national security, and geopolitics—ones that biologists see themselves as taking on. And passing HeLa cells become a weapon both to defend against and to wield. For example, in an article in *Science*, journalist Rhitu Chatterjee refers to Roland Nardone, a cell biologist at the Catholic University of America in Washington, DC, as “the Paul Revere of cell contamination.”<sup>61</sup> In other work, HeLa is described as having “slipped behind the Iron Curtain” and contaminated cell cultures in Soviet labs.<sup>62</sup> Nelson-Rees’s publication of HeLa’s passing into Russian cell lines was believed to put Cold War relations between the two powers in danger. United States officials worried that making this public was tantamount to implying that Soviet laboratory security procedures were weak. They warned that sounding the alarm that the cell culture samples were really those of a black American woman, releasing the HeLa bomb, amounted to “a gratuitous attack on the Russians.”<sup>63</sup> Indeed, the HeLa cells were a weapon, but an unstable one.

In the United States, so critical was the threat of stealth contamination that Nardone authored and widely disseminated a white paper titled “Eradication of Cross-Contaminated Cell Lines: A Call for Action” in which he characterized the 1970s as a decade full of “revelations” of cell contamination and “concealment of knowledge and manipulation [of results] through editing.”<sup>64</sup> Washington reporter David Dickson wrote that the reluctance to authenticate cell samples amounted to “corruption of scientific literature . . . forgery . . . falsifying data . . . fraud against the federal government . . . a criminal offense.”<sup>65</sup> The potential for duplicity at the core of HeLa as a bad object was contagious. Once again, it had the potential to make fraudulent subjects even out of the very scientists who sought to master it. But the *phantasme réel* also offered the scientists the opportunity to perform that mastery and to imagine their vigilant reach as having an effect well beyond the lab. In a 1994 interview, which occurred at the same time as the daily broadcast of the O. J. Simpson murder trial, Nelson-Rees drew parallels between the crisis in his work and what he saw as a crisis for the criminal justice system. He likened researcher skepticism about the work of authenticating cell lines to the skepticism defense attorneys promoted around the efficacy of DNA evidence—resistance based on misinformation and personal interest that ultimately allowed for the acquittal of O. J. Simpson. The mythology of the black boogeyman with its fluctuating gender dynamics in tow returns here to animate the cautionary tale and to set up scientists to play as criminal detectives. Stevenson, who was interviewing Nelson-Rees, agreed: “There is a parallel here. The problem with all of this type of forensic material is quite often not the end test itself but the chain of custody of the evidence . . . when you do this kind of ‘sleuthing’ . . . it is critically important that the chain of custody be well documented.”<sup>66</sup> In his call to action, Nardone recommended that government, private funding institutions, scientific journals, relevant professional societies, laboratory directors, and academic department heads contribute to the surveillance and authentication of cell samples.<sup>67</sup> In these ways, scientific practice and the practices and ideologies of policing and national security became mutually informed phenomena. Within the passing narrative, HeLa threatens the sort of categorization necessary for the biopolitics of the sovereign state and for the integrity and coherence of the individual, knowing subject. But the converse is also true. The suspicion of HeLa’s fugitivity justifies the need for the sovereignty of the state and its regimes and practices of surveillance. Within the context of war, just as with domestic crime, the threat posed by the HeLa passing constituted the possibility of not knowing who the other was, not knowing how to identify and target the other, or even worse—discovering that one is the other.<sup>68</sup>

While the HeLa passing emerges as a crisis of security and instability, the passing narrative works to contain and regulate the incalculability and unwieldiness of blackness, gender, and sexuality. The accusation of passing works to reassert the human ability, even the moral imperative, to trace and manage nature's order so that the things of the world might not ever unexpectedly "stare you in the face." Thus, Gartler's revelation of HeLa contamination was, paradoxically, a story of the stability and predictability of other, noncancerous human cells. The 1966 presentation concluded with just this argument. Where cell culturists, unaware of HeLa contamination and faced with unforeseen changes in their samples, began to assume cell culture lines might be much more volatile than they previously imagined, Gartler's research provided a different explanation. He reasserted that his findings demonstrated, in contrast to the HeLa cells, the otherwise "remarkable stability of normal human cultures, that is, the virtual absence of spontaneous cellular transformation among them."<sup>69</sup> This led him to suggest that "the incorporation of *stable* genetic markers in material to be cultured is the best guarantee against contamination."<sup>70</sup> What scientists needed to do was identify and categorize the stable cell characteristics that would also allow them to grasp the truth of the cell (and limit black female sexuality). Once this was accomplished, there would be no cases of "mistaken identity" or "identity theft," as science writer Ritu Chatterjee would later describe the HeLa phenomenon.<sup>71</sup>

The photograph of Henrietta Lacks that Michael Gold places opposite the epigraph of Francis Bacon serves as a replica of the oft-repeated image of Isis or Artemis unveiled, happily displaying for the knowing subject all her secrets. While this reference is present in the image and its captions, something else is happening here that challenges the original happy dynamic. In Gold's text, Lacks, like Artemis, is on display, but the gaze depicted here in-between the captions is uncanny. One gets the feeling that the gaze restages what Nelson-Rees came to most dread in his work—staring HeLa in the face. In the image, Lacks is staring down at her viewers. The reader now might wonder—is she smiling? Is it a forced smile? Is she smirking? Is her smirk accusatory? Is she triumphant? If we are to follow Roland Barthes, the photograph as a reference must always return us to the moment of capture.<sup>72</sup> There are many. They include the moment the picture was taken but also the moment Henrietta Lacks's biopsy was taken in 1951. Then there is the moment of the bomb when the so-called contaminating cells were caught passing. This capture occurred multiple times, in countless labs, and on multiple continents. There is also the moment Lacks's enslaved ancestors were captured. The reader is confronted with, or perhaps captured momentarily by, an accusation Lacks seems to be

making in return. One might then begin to suspect that even as Lacks's image was captured, something more profound about her and us emerges to threaten mastery. However, in just the moment that the reader might be faced with a confrontational and ground-shaking real, Gold provides the epigraph and his title—two important captions to the photo—to guide the reader back to what they hope is solid ground. If we were to resist solid ground momentarily, we might notice a critical overlay of captures that enables this particular passing narrative. It is the interaction between the original capture of Lacks's ancestors on the shore of West Africa and another original capture of Isis that Bacon makes possible. To trace this, of course, we must return to the story of Bacon's experimental methods.

### Science's Master and Slave

The positioning of Lacks's image alongside the Bacon epigraph begs a two-part reading of the HeLa cell passing. First, it calls for understanding the contamination story as, at least in part, made possible as a result of the epistemological and ontological shifts that Bacon's work on experiments provokes. Second, and equally important, it calls for an understanding of how blackness comes to have meaning within the context of these epistemological and ontological shifts. To begin with the former, recall that science as a project of unlimited knowledge production is possible only inasmuch as it is able to effect a change in the nature of nature.<sup>73</sup> For the natural philosopher-statesman, so much of experimentation is focused on one's ability to "change nature" into its more malleable and predictable form.<sup>74</sup> As promised, let us return now to how it is that Bacon's method of experiment performs this shift and then finally how this shift enables the passing dynamic broadly speaking and the HeLa passing narrative in particular. I argue that capture, as it turns out, has everything to do with it.

In a particularly snarky essay, only posthumously published, Bacon assumed the role of an old teacher or mentor. He wrote to a fictional young scholar to explain what his approach makes possible against the dogmatic "sham philosophers" of antiquity. Rather than have future scholars mindlessly repeat metaphysics and wax poetic about virtue, Bacon clarifies what experimentation accomplishes: "I come in very truth leading to you Nature with all her children to bind her to your service and make her your slave . . . so may I succeed in my only earthly wish, namely to stretch the deplorably narrow limits of man's dominion over the universe to their promised bounds."<sup>75</sup> Bacon's task for science, whether that be political science or natural science, is the experiment. And the experiment requires that the scientist be able to observe nature, not

in the wild but in a controlled setting, almost as in a courtroom, in order to witness its actions and attend to its testimony. For this to occur, nature must be captured and regulated. To explain, Bacon draws on imagery with which he and other seventeenth-century scholars were familiar, like notions of human or Christian dominion over the world and nature as an uncontrollable woman or mother. Later, Hobbes will pick up on this imagery of nature as unpredictable to argue for the need to move from the “state of nature” to centralized, sovereign political power through the state as a way to maintain peace and keep war at bay.<sup>76</sup> This view of nature’s excessive freedom became the rationale for English and continental European colonial projects, which then, as many have already astutely argued, were not simply driven by economic interest but by an epistemological claim of the project of natural philosophy or science.<sup>77</sup> Much of the critical scholarship on Bacon traces these epistemological and material investments in his writings.<sup>78</sup>

While these critiques are important, I insist, even more than colonial expansionism, capture via *enslavement* is the core symbolism that animates the epistemological shift Bacon’s method induces. While Bacon has employed the context of enslavement as metaphor here, I must note, as does Jude Welburn, that we cannot simply reduce this choice to something “merely rhetorical.”<sup>79</sup> For example, the natural philosopher-statesman held shares in both the Newfoundland Company and the Virginia Company. The latter’s charter describes him as a “most noble fautor [favorer]” of the plantation, and as part of his professional position, he advised the Crown on its colonial ventures.<sup>80</sup> I mention this not simply to underscore that Bacon’s work, his investments, benefited from colonialism. This is true even if it is not necessarily unique for someone of his stature during the time. And it is relevant to think about Bacon’s efforts to capture and unveil nature while investing in a company that allowed the first import of Africans into its colony. This colonial governance, as I’ve detailed in chapter 1, would soon be preoccupied with the same sort of reader-hunter relation: ensuring the capture of Indigenous and African subjects—slaves in many cases—and preventing them from passing for free while fugitive from their masters. As we have seen, this structure and dynamic of the reader relation closely resemble those that would govern the work of cell culturists in their effort to unveil passing HeLa cells. Each of these are animated by either an overt or latent reference to enslavement that boasts an object that should be available for surveillance, measurement, and analysis. However, at this stage, I am mentioning Bacon’s real investment in this project in order to put into relief the ways the culture and practice of conquest and enslavement served Bacon in working through and working out his notion of the experiment. This

is again a question of how fantasy ends up shaping and animating reality. These questions bring English and Latin Christian theories of slavery, femininity, the philosopher's laboratory, the soon-to-be omnipresent slave ship, and the so-called New World plantation into a deeply interrelated worldmaking milieu. It makes way for us to ask, first, how did Bacon understand enslavement to produce the necessary conditions for a scientific method?<sup>81</sup> And then, what sort of product or being does scientific enslavement produce out of nature?

To begin to address these questions, we can look, for example, at how Bacon attempts to explain the difference between his approach to the project of "knowing" and others like witchcraft and alchemy. He does so by describing how each method affects the conditions of nature, resulting either in freedom, error, or bondage. He writes, "[Nature] is either free and follows her own course of development as in the heavens, in the animal and vegetable creation, and in the general array of the universe; or she is driven out of her own course by the perverseness, insolence, and forwardness of matter and violence of impediments, as in the case of monsters; or lastly, she is put in constraint [*vincula*], molded, and made as it were new by art and the hand of man; as in things artificial."<sup>82</sup> In this way, we see that monsters, impediments, and witchcraft certainly did act on nature, but importantly, for Bacon, they were not able to capture nature. They were not able to employ a rigorous approach to analyze universally observable and measurable phenomena. What sets the experiment apart from other practices of knowing is that it exerts broad control by bringing nature to the scientist. Bacon says that the scientist puts nature *in vincula*, which has been translated as putting nature in chains or "in bonds" or imprisoning it.<sup>83</sup> As Carolyn Merchant explains, "For the experimental method to succeed, the experiment must be a closed, isolated system in which variables are controlled and extraneous influences excluded."<sup>84</sup> For this to properly occur, the scientist must make nature their slave. Thus, nature must be, as Bacon writes, "driven out of her own course . . . put in constraint . . . molded, and made as it were new by art and the hand of man; as in things artificial."<sup>85</sup> Indeed, within Bacon's early modern imaginary, enslavement is one of the required steps toward the successful experiment.

Further, there are two critical components to bondage as it appears in Bacon's thinking that have implications for understanding its legacy for the scientific method. First is that bondage is a relationship that emerges between the scientist and nature as master and slave. Second is the question of what this relationship produces. What we draw from Bacon's thinking is that slavery works to alter the ontology of nature. It changes nature's condition from free and secretive to chained and unveiled, available for manipulation. Take,

for example, the moment in Bacon's writing when he talks about the need, in experimentation, for a scientist to sometimes alter nature, like freezing water to make ice, in order to induce a particular effect. The scientist changes the material state of his object of study—from liquid to solid. But note that this experimental change is all a matter of matter. This is to say, matter is that which is able to be molded and open to produce effect. Before this can occur, however, something prior and more profound also has to happen. Man has to enslave nature. And in doing so, nature undergoes an ontological change. It is reduced to "matter." This is the onto-epistemic break that provides the conditions for science in the Enlightenment, and it begins in the early seventeenth-century thinking of Bacon and others. It is the break that Horkheimer and Adorno refer to as the disenchantment of nature and that some, like Carolyn Merchant, call the "death of nature."<sup>86</sup> Signaling the success of this transformation, just after Bacon's death, René Descartes offers the following clarification in *The Treatise on the Light*: "By Nature, I do not by any means understand here some Goddess or any other kind of imaginary power, but . . . I use this word to signify Matter itself."<sup>87</sup> Observable, pliable, measurable, and ungendered matter, then, rather than excessively free, feminine, and agential nature, is the object of science.

In Bacon's writing, it is often the metaphor of capture and enslavement that made this possible. Bondage claims the potential to change a being not just in terms of degrees or at the level of political or social status but at the level of ontology proper. By the late Enlightenment, the scientist beholds a completely different entity, an object set before them at their disposal. As Bacon says, nature in bonds can be made new by art and the hand of man. In other words, enslavement as a step within the experimental method can change a natural body into an *artificial* one available for analysis and for creation. Thus, when Bacon argues for placing nature in chains and molding it into a state beneficial to humanity, moving it from the natural to the "artificial," we might read this to garner an understanding of slavery in this early modern imaginary. Slavery has the capacity to convert life and being(s) into matter and resources. It is an enabling condition that eventually ushers in the modern world, and the ability to enslave eventually ushers in the modern knowing subject as master, creator, artist, artisan, and manager over the matter or resources of the world.

Even here, however, as much as this is perhaps the aim, we cannot yet boast a totally unidirectional reader relation. Human dominion is a formidable challenge. As I detailed at the onset of the chapter, for Bacon, mastery over nature can only come as a result of the mastery over the self. But this does not only require self-humility and suspicion with regard to the idolatries of one's own mind. It also requires humility before nature. This is a paradox whose

importance is often lost in later treatments of mastery. Humility in mastery, as Bacon relates it, is the practice of domination over nature, through *service* and *attention*, in order to be able to both enslave her and to keep her enslaved. The ever present question that provokes this is: How can man order and control nature, which is extreme in its physical power, excess freedom, and ontological and metaphysical opacity? Nature will not provide the human with her truths on the surface. Thus, Bacon reasons, “Man being the servant and interpreter of Nature, can do and understand so much and so much only as he has observed in fact or in thought of the course of nature.”<sup>88</sup> Carolyn Merchant reads Bacon as asserting that “there is thus no daylight between servant and commander.”<sup>89</sup> Indeed, the philosopher insists, “Nature to be commanded must be obeyed.”<sup>90</sup> There is a sort of delicacy, violent though it is, involved in Bacon’s mastery, in which recognition of the opponent’s innate strengths and power is required. Only a sham philosopher would assume otherwise. Because nature is much stronger, man cannot simply and directly impose himself physically on it.

Technology and mechanics, then, make an appearance as the ways in which the scientist is able to assume and maintain mastery. A passage from the second-century BCE work *Problematic Mechanica* provides insight into the place such an intervention holds for the practice of knowing and creating. It states, “When an effect contrary to nature must be produced, [humans] are at a loss because of the difficulty of producing such an effect; and the cooperation of *tekhnē* is required. This is why we call the part of *tekhnē* intended to help us in such difficulties ‘trickery’ [*mēkhanē*]. For the situation is, as the poet Antiphonal says, ‘Through *tekhnē*, we master the things in which we are vanquished by nature.’”<sup>91</sup> Thus, technology must be understood in various ways as trickery through which mastery is gained over nature. It is not separate from violence but understood as a violent force in its capacity to restrain and create. The passage continues, “For so it is when what is lesser masters what is greater, or when what is light moves what is heavy.”<sup>92</sup> The scientist thus must employ trickery through mechanics, tools, the laboratory, and other technologies in order to enslave nature and *make nature produce* a particular artificial effect. In essence, it is this relationship that compels nature to testify to her truth. The laboratory, in many senses, then, is more like a courtroom and science an investigative theater. Take again, for example, how this dynamic is depicted in Blasius’s 1681 frontispiece (see figure 3.2). Here Artemis of Ephesus stands before the viewer’s eyes, but it is another feminine figure, perhaps a servant, who disrobes the goddess. The image situates two putti in the presence of Artemis, and they are engaging in the scientific act made possible by this unveiling. One observes carefully and the other dissects one of the animals otherwise under

the dominion of the goddess, accessing internal, anatomical truths otherwise hidden from view. In later illustrations of the nineteenth and twentieth centuries, it is a male figure, personifying reason or the Enlightenment, that disrobes nature. But this is not yet the case here. In the seventeenth-century depiction—which is much more attentive to the nuances of the humility the interaction requires of the knowing subject—it is nature who testifies or cedes to her capture. Through *tekhmē* the scientist produces this artificial relation of power.<sup>93</sup>

It should be noted, however, that for Bacon, the trickery of mastery is not to be confused with the fraud of the sham philosopher as it comes from a position of humility and is armed with reason rather than dogma. It is rather a sort of creative dexterity that allows man as a physical lightweight to move with what is “heavy.” If nature keeps secrets, humans apply ruse. And it is the violence of this ruse that binds nature to man’s will. Thus, Baconian metaphysics, which drew on this symbolism, attributed trickery and fraud differently—not to nature, not to the object, but to the human or knowing subject as that tool that enables human knowledge production. Trickery makes enslavement possible, and enslavement is what obliges nature to reveal itself. This revelation produces an “artificial” object for man, as master, to shape.

### Passing Mechanics

The consequences of this push for humanist mastery are what lead the critical theorists to describe the modern world as disenchanted. This push is what makes the world into objects available for human knowledge and creativity. It is also what sets up the modern passing reader relation, an epistemological structure in which the careful and attentive subject should be able to know something about the other, even or especially when the other is innately duplicitous. Similarly, it is not by happenstance that I locate the origins of the modern passing narrative in the management of fugitive slaves. Slavery is the condition of possibility for the modern passing suspect. Reading Bacon and passing mythologies together suggests that within the Anglo and Enlightenment imaginary, enslavement was a process by which man was able to claim he could induce an ontological change, transforming that which was naturally and excessively free to an artificial object available for manipulation. Michael Gold’s representation of HeLa contamination as a conspiracy—in effect, as a story about black race-gender passing—is in debt to these shifts in how we understand the world and our place in it. It is also in debt to the creative and violent possibilities that enslavement, mastery, and fraud open up within the Western imaginary. However, much of the nuance of the late Renaissance and

early modern writing on knowing and mastery is lost in modern passing narratives. Or more precisely, these nuances become displaced and managed. For example, the modern-day passing narrative is a move to deny that something is happening and then to manage that something that one has just denied was happening in the first place. Passing mythologies claim both “I should always have access to the other’s truth by looking at the other” and “Some *others* are innately able to deceive the knowing subject.” There is a tension in the claims as they attempt to simultaneously disavow the instability of the knowing subject’s sustained mastery over objects and wrestle with that instability by displacing fraud onto certain objects as innately fugitive.

But what if we were to take seriously Nardone’s fear that HeLa was staring him in the face? That the historical force of Henrietta Lacks and her capture animates this confrontation? Taking seriously the concerns that the HeLa cells are an instantiation of Henrietta Lacks opens up a different truth. It allows one to return to the violence of the act of unveiling (the bomb) and HeLa’s confrontational “stare,” and to the radical potential of the object artificial. Thus, what if the cells are, in fact, black, in frequent gender fugitivity, uncontrollable, unreliable, and contaminating? The ease with which the public has attached different genders to the cells has not received much attention. The fungibility of blackness and the cells-as-resource allows for HeLa to move fluidly, figuratively—if that be the claim—passed through a variety of raced, gendered positions. This is the effect of a *phantasme réel*. The assumed exchangeability of blackness as an index of commodity, as Saidiya Hartman has argued, enables “the black body . . . to serve as the vehicle of white self-exploration, renunciation, and enjoyment.”<sup>94</sup> On the other hand, blackness as a contaminating agent refuses to be “containable within a given trajectory of movement and desire.”<sup>95</sup> This is a politics that stages HeLa as a “bad object.” The cells not only create a momentary crisis of paternity for Hayflick’s daughter but also threaten to make the daughter a passing actant herself. This is something black cells are still wont to do, as can be attested by Jennifer Cramblett, a white woman who filed a lawsuit against Midwest Sperm Bank in 2014 for “wrongful birth” after it unwittingly impregnated her with sperm from a black donor.<sup>96</sup>

If Isis and Artemis embody the potential of unmitigated freedom, HeLa embodies the slipperiness of a fraudulent or artificial freedom that should not exist. What turning to Bacon to reread the HeLa contamination story offers is an understanding of passing’s epistemological and ontological genealogy. Reading the two together places passing narratives within the genealogy of the scientific revolution, a project that seeks to stabilize knowing as a humanist practice. A real tension arises within our practice of knowing and creating,

which, on the one hand, depends on mastery through the *phantasme réel* of enslavement. On the other hand, enslavement occurs as the Baconian rational human must pay attention to and act in the service of the whims of an excessively free and feminine nature. Here, the Baconian master recognizes his own vulnerability in the act of knowing. The project could end in the enslavement of nature just as easily as it could result in the death of the knowing subject. Bacon, for example, ultimately died from pneumonia while experimenting with ice and snow. This violence and instability is to be found at the core of knowing the other.

If this is the case, if the suspicions of passing are central to the modern act of knowing, and if enslavement is the condition for its possibility, we must certainly ask where this leaves us. Is there an ethical practice for knowing, one that is perhaps not invested in this relationship between a master and a fugitive or a fraudulent slavish object? The final chapter directly takes on this question of ethics and knowing against passing narratives. It asks what is possible if, pushing Enlightenment philosophy to its limits and confronting the disavowal of the knower's fraudulent or bad faith orientations, we begin from the assertion of the black woman as the knowing subject.

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## Passing and the Ethics of Knowing

Throughout the previous chapters, this book has been tracing racial passing in two interrelated registers: the historical and the theoretical or philosophical. We have seen the emergence of the passing narrative beginning with the seventeenth-century issuance of passes in colonial Virginia. I have shown how this surveillance practice essentially fixed the threat of fugitivity to the black subject—both slave and free—and set up the colonial, white subject as the citizen watchman. Tasked with detecting and containing blackness as a way to maintain control, the watchman's duty was to sustain an individual and national position of mastery. We have also seen how, even post-emancipation, the passing narrative continued to fix blackness to the status of enslavement and thus fugitivity or fraud. I have argued that, in the name of the nation, which was expanding and being rebuilt after the Civil War, blackness and black people continued to stand in for that which must be managed along with and against indigeneity.

However, as we have seen, passing folklore has not been limited to the practice of containing threats to secure territory, authentic citizenship, and the properly free subject. In the previous chapter, I detailed how black race-gender passing was made possible through and has continued to animate the supposedly most fundamental component of modern human life—the practice of knowing as set out in Enlightenment philosophies. The reader relation to which science gives rise is based on the relationship of mastery and fugitivity between a knowing subject and an object to be known. This dynamic is a bed-rock of the scientific method and the procedures of the modern laboratory. To ensure a stable and predictable outcome for experiments, scientists have needed to trace and contain (or enslave) the potentially fugitive object of study, which has often been coded as queer and black. While, by the twentieth century, science came to disavow the epistemic violence undergirding its practice, early modern beliefs about knowing stressed it as a requirement of identifying, categorizing, and predicting nature—in essence, mastering it.

And yet as scholars we are committed to knowledge, the act of knowing something about the world, about ourselves, and about others. Thus, coming to terms with the violence at the core of knowing's reader relation, and assuming that we want out of its logic, this chapter ponders the question of whether there is, in fact, an ethical way of knowing. Might there be a practice that transcends passing's disavowed assumptions? Or, on the contrary, are we doomed to continue with our libidinal investment in the fantasies of mastery and fugitivity that stem from knowing's reader relations? This is the concern of the knower, the position of the subject. But, given the subject-object dynamic laid before us, there is certainly another position from which we might consider the ethics of knowing; that is, if the object were to even pose a critical question about its condition and if others were to allow themselves to hear it and consider it seriously. From the object's position, the demands to be free from this unethical dynamic go as follows: How can I make myself known? And, moreover, am I to forever be fixed to the position of the object or can I also be understood to be a knowing subject? The latter question, if we can respond affirmatively, may have the potential to radically alter the reader relation.

Up until this point in *The Problem of Passing*, I have insisted on turning our attention away from the perspective of the suspected passer. This has been intentional so that we might pay closer attention to the suspicions and accusations of passing as a regime of surveillance and, at its core, of knowing. This regime reduces the passing subject or suspect almost completely to an object to be known, traced, and contained. In fact, the only agency of the suspect that the knower-hunter acknowledges is that of fugitivity—the constant threat of

undermining knowing's core objective. By focusing on the reader relation and the aim of the onlooker, we have been able to trace these dynamics. However, in doing so, we inevitably come to the question I raised above: What is the object to do to free itself from this regime? To seriously consider this, we must now think in a more integrated fashion—not simply from the perspective of the knowing subject and the libidinal and conceptual logics that drive it but also from the vantage point or status of the object to be known, the fugitive. Through this perspective, we come to examine more closely the possibilities and impossibilities of fugitivity—that which at its most fundamental level constantly threatens to undermine or perhaps transcend the confines of mastery. The tendency in much of contemporary black critical theory has been to imagine and embrace fugitivity as an otherwise way of living, one that somehow rejects the conceits of mastery and Enlightenment epistemologies. It behooves us, nevertheless, to move cautiously or at least critically in doing so lest we fall prey to the same conceits that we are attempting to subvert.

This chapter takes on these questions by examining the work of analytic philosopher and conceptual and performance artist Adrian Piper, whose scholarship and artwork often focus on racial passing. Notably, against the grain of much black critical theory, Piper embraces Enlightenment thought. She doubles down on it and in particular on the critical work of Immanuel Kant, who consistently privileges the promise of reason over individual desire, fantasy, and feeling. The term *critique* in Kant can be understood within the Greek context of the word *kritikós*, meaning the art of judgment or the ability to discern. In keeping with our exploration of the relationship between fugitivity and mastery, we can read Kant as upholding a need for mastery over the nature of the self as the premier moral duty. He writes, “There is a certain dishonesty in human nature.”<sup>1</sup> This dishonesty, rooted in the “despotism” of dogma and the “nomadic” wasteland of compulsive skepticism, can serve humanity only so far.<sup>2</sup> In this sense, Kant had a similar disdain for what was passing as knowledge production as did Francis Bacon a century and a half earlier. His method also promoted a notion of “objective” knowledge over the subjective opinion or belief as not simply the method that provided the most correct knowledge but that which would, because of this, also be the most ethical. In fact, the philosopher's first *Critique* begins with an epigraph quoting Bacon: “As to the subject matter with which we are concerned, we ask that men think of it not as an opinion but as a work . . . as the foundation of human utility and dignity.”<sup>3</sup> Perhaps even more importantly, the epigraph continues: “Each individual equally, then, may reflect on it himself . . . for his own part . . . in the common interest . . . for in truth it prescribes only the end of infinite errors,

and this is a legitimate end.”<sup>4</sup> For Kant, it would only be when the “genuine principles” at the heart of reason itself “have finally been developed and incorporated into [man’s] thought” that “good dispositions” could grow and the true workings of knowing itself be understood.<sup>5</sup>

To explore this moral methodology, scholars have most often turned to Kant’s *Critique of Practical Reason* and *Critique of the Power of Judgment*. Piper, however, focuses on Kant’s *Critique of Pure Reason* and reads Kant’s writing critically. She does so as a true believer in reason, and as we will see, perhaps even more so than Kant. At any rate, she is willing to risk more in its service. In addressing the questions before us, not only would Piper argue that there is an ethical way of knowing but further that the will to know can be the ultimate ethical act. In her anti-racist work, she is thus able to gesture toward the radically ethical within Kantian Enlightenment thought by pushing reason to its furthest boundaries. In doing so, I read Piper as also prioritizing mastery. Paradoxically, however, as this chapter shows, the more she chooses the conditions of mastery over fugitivity or fraud, the more her own conditions become unstable and anarchic. That is, they come to slip into fugitivity, what Piper has called “the real thing strange.”<sup>6</sup> In considering Piper’s artwork, this final chapter argues that we are no longer able to understand fugitivity as something *outside* of mastery. Rather, fugitivity must be understood as emanating directly from mastery’s core.

The chapter is organized around three scenes of failure in passing. They are ours as much as they are Pipers. In the essay and art pieces the chapter examines, Piper sets up her beholder to engage her ethically. They—or better yet, we—all fall short. We do what bothers her most. We disengage. We divert our gaze in order to prioritize our own sense of security rather than reason itself. Nevertheless, from each of these failed moments, we can garner ways to return critically to the questions I posed at the outset of this chapter: Is there an ethical way to know? Can the object make itself known for who it authentically is? And, finally, can the object be a knowing subject, or is it forever fixed in its objecthood? We shall begin with the second question since it wrestles with self-representation.

### Scene 1: Harvard Philosophy Department

Piper’s entrance into the professional field of philosophy was ego shattering. In “Passing for White, Passing for Black,” an essay commissioned by *Harper’s Magazine* in 1991, Piper described the scene. Coming from one of the few middle-class, “light skinned black families” left in Harlem and educated in progressive

prep schools, she was admitted in the late 1970s to a graduate program in philosophy at Harvard University.<sup>7</sup> Filled with pride at having been accepted to the best graduate department in her field, having “made the final cut, full of arrogance . . . [in her] membership among the intellectual elite,” Piper attended the new graduate student reception eager to meet a potential mentor who she described as “the most famous and highly respected member of the faculty.”<sup>8</sup> She noted that the professor—an older white man—had been observing her for a while from a distance before finally approaching. “Without introduction or preamble, he said to [her] with a triumphant smirk, ‘Miss Piper, you’re about as black as I am.’”<sup>9</sup>

In her application to Harvard, Piper’s parents had urged her to just this once decline to state her race on the admissions form. They wanted to make sure she would be accepted to the university based on merit alone. As it turns out, not disclosing her blackness, and by default allowing the admissions committee to assume she was white, would not have been entirely disingenuous. In fact, Piper could have gone even further in allowing them to presume her whiteness by referencing the lineage on her father’s side of the family. She would have been able to claim alumni legacy status since her paternal great uncle and his sons (all recognized as white men) had attended Harvard and subsequently become important donors to the university’s endowment. The institution had even named an academic building and an auditorium after them. This lean into the privilege of whiteness, eschewing one form of affirmative action for another, would have of course undermined any desire for merit-based recognition as well. This is true even as elite universities disavow the racist and classist consequences of their legacy admissions policies.

And so Piper insisted on asserting her blackness on the application; to do otherwise, from her perspective, would be to pass and thereby to become a traitor to her race, to her family, and to herself. Stories of passing triggered bitter feelings of abandonment within the Piper family’s collective memory. She recalled, “Both of my parents had watched many of their relatives disappear permanently into the white community,” hearing little to nothing from them ever again.<sup>10</sup> We can understand this first decision not to pass on her grad school application, in part, as Piper did, as an attempt at an ethical act to “be true to who she was” and to stake a claim to the body politic of the university as her authentic self.

Her decision reflected a growing political trend. As mentioned in the opening of this book, a 1952 *Jet* magazine article entitled “Why ‘Passing’ Is Passing Out” explained, “As race barriers fall, the thousands of Negroes who ‘passed’ . . . ‘return’ to their race.”<sup>11</sup> These celebratory post-passing narratives,

as Gayle Wald called them, testify to how racial identification became a site for resistance to white supremacist ideologies, particularly the call to desire to be white.<sup>12</sup> The ethicopolitical decision to not pass was one that many in Piper's family and others like her were facing in the 1960s and earlier: to live in the open as black subjects fully (if critically) engaged in the American project of democracy, social mobility, and capitalist progress—to be *seen* as black citizen-subjects.

Years later, Piper theorized her exchange with the unnamed professor during the Harvard welcome party as a moment of xenophobia—a term that is important in her philosophy of race.<sup>13</sup> The etymology of the word includes the ancient Greek terms *xenos*, or stranger or foreigner, and *phobia*, aversion, avoidance, or irrational fear. To be xenophobic is to hold an aversion to the strange, the unknown, or the queer. On the one hand, along this line of thinking, Piper's ethics of not passing—of claiming blackness while displaying all-too-white skin—could have served as a demand that the professor sit with the “strange,” reevaluating his concept of race, and in particular blackness vis-à-vis whiteness, and its implications for his own position of power. Perhaps this could be a moment to notice the intertextuality of race, to use the term activist scholar Sandy Stone employed in calling for trans people to refuse to pass. This racially queer exchange might destabilize the foundations of blackness or whiteness as authentic categories to begin with. Nevertheless, the professor refused. The phrase “You’re about as black as I am” instead pokes fun at Piper's self-representation. According to the professor's well-guarded positivist truth, black is as black looks. The mythology of the easily accessible visual truth of race—its assumed hypervisibility—works to quell any anxiety that might arise for the otherwise masterful onlooker. Since Piper's antagonist does not “appear” to be black, as far as he can tell, he cannot “be” black. There would be consequences for the professor if his tightly guarded truth of the visual promise were wrong. For example, if light-skinned, almost white Piper were to necessarily be considered black, the professor might be forced to face the related question: Could there be a possibility that he is also black? In other words, would the professor be required to recognize a black Piper within himself?

On the other hand, we might ask whether we as readers are to genuinely take Piper's interpretation of the event as the only possible reading of it. Certainly the professor's response is a prime example of the sort of microaggressive, racist hostility that makes up the day-to-day of elite academia. But is that all it is? If not, we could read the professor's comment in spite of itself, cutting through Piper's presentation and interrupting her narrative of self with a truth of its own. In this case, it is not surprising that it was at the new graduate student

cocktail party that Piper, the new graduate student, was made to feel uncomfortable as a racial fraud. If the liberal multicultural policies to blacken the Harvard philosophy department sought authentic young black scholars through whom it could be recognized, there were none to be found. The professor's comment alludes to that and troubles both the university's reification of authentic difference and Piper's performance of it. The choice Piper faced was impossible. She could respond to the university's offer and to her own desire for recognition as both black and an intellectual—a decision that rendered her a mockery. Otherwise, she could pass for white.<sup>14</sup>

In making a decision to not pass, Piper set herself up, or was set up (depending on where one's sympathy lies), to pass for black. She wrote, "My choice not to pass for white in order to gain entry to the academy, originally made out of naivete, had resulted in more punishment than I would have imagined possible."<sup>15</sup> The professor's accusation of fraud had a truth that Piper acknowledged, not rationally, at least initially, but through her affective response to it. Piper describes the moment when one is insulted unexpectedly in the midst of a social situation with particular expectations for polite and "civilized" interaction as being forced from "automatic pilot." Most readers can surely relate. She explained, "The meaning of the words simply don't register right away, particularly if the person who utters them is smiling."<sup>16</sup> Caught off guard and holding on to her naivete despite her interlocutor's sarcastic claim that he was also black, Piper retorted, "Really? I hadn't known that about you." Her desire to be taken seriously prompted her, without the benefit of distance and reflection, to take seriously the absurdly unserious. Piper's polite response belied her petrification. She confessed, "What I felt was numb, and then shocked and terrified, disoriented, as though I'd been awakened from a sweet dream of unconditional support and approval and plunged into a nightmare of jeering contempt."<sup>17</sup> It does not matter that the authenticity sought by the university did not exist or that the incompatibility was inevitable. Even as she was made aware on some level of this impossible desire for representing *real* blackness, she worked to fulfill it. The professor unwittingly gave Piper and us a read. Viewed critically, his mockery unveiled this dynamic and cut through Piper's naive conception of self. It was through the professor's read—the confrontation and the ironic rupture—that she was required to reconsider her own representation as, in great part, cruelly, out of her hands. A knowing occurs through this reader relation and yet it is not one that the beholder consciously uncovers. Piper was interpolated as a fraud, an index of a more profound fraud perpetuated in racial categorization itself.

For Piper, passing presents itself as the "founding crisis" for race as a scientific category and thus for the modern Western subject.<sup>18</sup> In both her art and

her philosophy, she repeatedly asks what sort of ethical living is possible in the face of this passing conundrum that offers no chance of winning. As her work implies, we are backed into a corner because the demands on identity render us all passing actants. Additionally, we are always already projecting our suspicions of passing onto the other. In the midst of the projections, suspicions, desires, and anticipations, Piper demands that we move to meet the other where they are, in what she calls the “indexical present.”<sup>19</sup> This is the intimate time and space of the here and now, where we are called to connect with the singularity of the other. Indeed, for Piper, the indexical present is the space and time of the ethical. It demands that the beholder see the other for who they are—whatever that might mean. We shall leave this last clause open for now.

The Harvard passing scene is a failure on two fronts. First is the failure of disavowal by the professor who refused to meet Piper in the indexical present and to take her claim seriously. The implications of who she said she was threatened his own concept of self. Second, Piper’s claim, while righteous in its political aim, could not be taken seriously. There were no authentic black subjects for Harvard to rescue. There is no mastery achievable in the politics of representation, and the artist-philosopher learned from her admitted *naïvete*. Yet, in contrast to much of the scholarship on black fugitivity, this lesson does not push her to reject the goal of mastery. Rather, she continues to choose it. However, Piper hopes that the mastery in which she invests is not like the false mastery that most desire, one that is foolishly committed to a coherent self able to manage the other. Piper’s form of mastery, if we can call it such, emanates from and is oriented elsewhere. As we shall see, this sort of mastery proceeds from the transcendence of reason itself over the desires, feelings, and fantasies of the individual subject. As Piper sees it, remaining in the indexical present, engaging reason to its radical and logical end, is the ethical act.

Piper engages Immanuel Kant as a way to think this through. For Kant, the question of ethics is always also a question about the possibilities and, importantly, the impossibilities of knowing—knowing the world’s reality, knowing the other, and then also necessarily knowing oneself. Further, for him, the conditions of possibility for knowing to occur are intricately bound to questions of reason, how it works, how it shapes our perception of the world, and how it shapes us as people—if we are to be so considered. Kant builds an argument for how reason is able to organize the human capacity to know and even the human capacity to experience—in essence, how it is that knowing is able to go right. Piper’s obsession, however, is directed slightly elsewhere. For her, the problem is that while knowing is possible and ethical, there is a lot that can and does go wrong. With this Kant agrees, but Piper is consistently interested

in what she calls the “actual-case scenario” over Kant’s best-case scenario.<sup>20</sup> In the former, knowing goes wrong and, therefore, unethically all the time. Moreover, for Piper, this occurs precisely as a result of the metaphysical relationship between reason, intuition, and the knowing subject. I will return to the details of this relation later, but for now, our aim is to understand the connection between knowing and ethics for Piper.

Racism, or xenophobia in Piper’s preferred term, at its most basic doing, is an affront to reason’s workings and thus an affront to the world and our ability to live in it and with each other. Xenophobia is a dynamic that stems from what Piper terms “pseudorational responses,” including “mechanisms of rationalization, dissociation, and denial,” to that which challenges one’s knowledge of the self and its position within the world.<sup>21</sup> Essentially, for Piper, racism is a psychic response to a cognitive error—a mistake made at the level of thinking, of applying the appropriate understanding of the concept *person* to the other. This error allows pathological sentiments about the self and others to overrun “the natural speculative interests of reason.”<sup>22</sup> It is not that Piper refuses to acknowledge the importance of the libidinal with regard to racism. Rather, she prioritizes reason as that which must be allowed to keep individual desire in check. The worst one can do is give in to one’s phobias, anxieties, personal pleasures, and fantasies over reason itself. In looking away or disavowing the other, one prioritizes self-security over truth. In Piper’s words, denying the racialized other’s personhood is “a self-protective reaction to the violation of one’s empirical concept of people, and involves a failure to apply the transcendent concept of personhood consistently across all relevant cases.”<sup>23</sup> Piper identifies racism, then, as a response to the knowing subject’s own particularly threatening “conceptual anomalies,” those the subject projects onto the other to rid themselves of the threat. In a phrase you could almost imagine as the perfect comeback to the professor’s charge had Piper had the advantage of time and reflection, she explains in her monograph on Kant, “Each one of us is the conceptual anomaly we fear to find in others.”<sup>24</sup>

Nonetheless, anomalies offer up opportunities for ethics. Piper’s art plays with racial fantasies and what she calls “vanilla nightmares,” and especially nightmares about black fugitivity, fraud, and contamination that lurk in the unconscious of her viewers.<sup>25</sup> She instigates confrontation in order to serve as a catalyst, a moment in which the knower might subject themselves, in the indexical present, to the other’s singularity. To do so would require the beholder to pay attention to their feelings, not to soothe them but to view them as a signal to reassess their “pseudorational” responses. The artist demands that the reader overcome their “failures of vision and sensitivity,” which, she argues, are

the norm.<sup>26</sup> She explains, “The point is to bring [these fantasies] up out of the unconscious—where they dominate our behavior from a hidden position of strength—and into consciousness—where we can identify, scrutinize, and finally manage them rationally.”<sup>27</sup> The performance installation I read in the next section, for example, sets up a scene of racial passing and inverts the reader relation. In many ways, one can consider it as a reformulation of Piper’s Harvard interaction. The piece beckons her audience to consider: What if the blackness of the object to be read originates within the reader? She sets up an immediate confrontation with the other, who is part of the reader’s self, perhaps even more than the reader can acknowledge. She demands, “What if *you* are the anomaly you think you see in *me*? Now what . . . ?”

### Scene 2: Welcome to the Struggle

In 1988, Piper took up the question of passing and miscegenation in an exhibit entitled *Cornered*. The project’s focal point was a single-channel video installation playing on a monitor placed in a white box in the corner of a white room in a museum. In front of the monitor was a table, overturned, with the legs pointed out toward six chairs left for the “audience.” The chairs were positioned in a triangle formation, advancing in a threatening manner toward the table and the monitor. The only other objects in the exhibit were two birth certificates; both were framed and placed above the monitor on opposite sides of two plain white walls. These were state-issued documents that belonged to Piper’s father. The one to the left stated his race as white, while the one on the right claimed he was “octoroon,” and thus black. Because Piper’s grandmother and baby were so light skinned, the hospital staff initially assumed they were white and had documented the baby as such in his paperwork. Piper’s grandmother had the mistake corrected when she noticed it later on.<sup>28</sup>

As the video begins, Piper’s image appears on the monitor. She is dressed conservatively in a blue dress, pearls around her collar and her hair away from her face, falling over her shoulders (figure 4.1). The artist has molded her image to the likes of a nonthreatening, soft-spoken, conservatively dressed woman, and she offers her viewers an endearing smile. The camera centers on her face, and Piper says directly, “I’m black.” She pauses for emphasis and begins again, “Now, let’s deal with that social fact and the fact of my stating it together.” With this statement, she imposes herself into the space of her onlookers and attempts to prevent them from averting their gaze. In introducing herself, she performs, at least momentarily, as a visible and audible object to be known.



FIGURE 4.1. Adrian Piper, *Cornered*, 1988. Museum of Contemporary Art, Chicago.

*Cornered*, I argue, works to universalize the “passing experience.” While it uses personal artifacts, it is not the personal story of Piper that matters here as much as the abstract idea of Piper as an instantiation of us all.<sup>29</sup> The image of her as an object within the exhibit narrates a logic that betrays the viewers’ expectations of the visual. The stakes of this simple violation are high as far as Piper is concerned, and she has taken precautions by barricading herself behind an overturned table. It is a bit of an overkill since she does not appear in person. It is only her image on the television in front of an audience. The point is made, and the angry public might still react. Based on receptions she has faced in past experiences, Piper then proceeds to walk her viewers through possible ways they might attempt to make sense of what they see against what they hear. One reaction the public might have, she acknowledges, is deflection. Some might accuse her of “making an unnecessary fuss about [her] identity” when there is no racial problem in the first place. Or possibly they might believe that Piper is “exploiting an advantage” by exaggerating her black identity to gain attention in the “art world” or to access benefits of affirmative action programs. Either of these reactions would help the viewer avoid the conflict of “dealing” with Piper’s claim, and both stem from the expectation, as Piper understands it, that

she should simply stay quiet and thus pass for white. Here, Piper alludes to the fundamental request of colorblindness, one that extends to sexuality as well: “Don’t ask. Don’t tell.” The audience’s desire to avoid the issue of her (or their) race confronts Piper with a choice that promises no desirable outcome. To say that she is black invites criticism that she is making a fuss. To say nothing, and therefore ease the public’s anxieties, is to tacitly pass for white. The audience refuses the indexical present. “I am cornered,” Piper explains. And it is the viewers who have put her in this place.<sup>30</sup>

However, Piper decides to throw herself into this corner full force, and in doing so, to present it as the material and conceptual condition for the observers’ subjectivity as much as for her own. If viewers refuse to acknowledge that Piper has been put in a corner, if they claim that Piper’s race is simply a “special personal fact” about her and not them, Piper attempts to disabuse them of their “self-confidence.” In the video monologue, she backs up this logic with evidence from genealogical studies that report that “most white Americans have between 5 and 20 percent black ancestry.” Given the “entrenched conventions” of the one-drop rule, Piper addresses the viewers calmly but assertively: “Think about what this means for you. The chances are quite good that you are, in fact, black. What are you going to do about it?” Piper invites the viewer to join her in the corner. And with the invitation-*cum*-passing accusation, the tables are turned. The reader relation is inverted, and the *Cornered* exhibit becomes a mirror of the racialized corners its viewers inhabit.

Before moving forward with the workings of the mirror effect of *Cornered*, it is important to address the nature of the objects of evidence that the installation employs. What work do the birth certificates and the biological studies perform in this interaction? If one took Piper’s claim of blackness into serious consideration, the birth certificates would undermine its force. The irony of the two documents together attests to the inability of law to speak the truth of racial categories into being or to contain individuals within them. Piper also cites social science’s positivist methodologies of locating and counting the racial traces of American bodies via genealogical studies. Nevertheless, the research lacks specificity. What does it mean that “most” Americans have “5 to 20 percent” black ancestry? Each of these formal objects of categorization is then explained through what Piper calls legal and scientific “entrenched conventions” of what race is and how it can be known—if only one can locate a “drop” of black blood, there too exists a black body. It is this sort of racialized illogic (because all racial logic is illogical) that has both the viewers and the artist backed into a corner.

Note that Piper's claim "I'm black" is thus not a claim about racial essence based on evidence; none of the objects of science or law referenced in her performance can speak to the truth of race, even as each purports to do so. *Cornered* demonstrates the way in which these two institutions, science and the law, are not just codependent because each is insufficient alone but also the ways in which the two institutions are co-constitutive. The law calls on science to situate the raced and gendered boundaries of the secular body politic (octoroon, white, black, man, woman, etc.) within biology or genetics, and science draws on the authority of the law to institute the political weight of those boundaries. With this sort of false mastery, science and the law exist to order the chaos they themselves create and as such justify a continued need for their existence. In true Kafkaesque form, *Cornered* displays the absurdity of this interplay, one from which the subject itself emerges.<sup>31</sup>

Nevertheless, the installation's mirror effect opens up a political imagination that could rework the categories or structural antagonisms of race and thus alter the conditions for racial politics. In a sort of sarcastic, faux optimism, Piper supposes that the viewers will want to conduct their own genealogical research to find out for themselves whether or not they are black. In doing so, they may find that their identity all along has been a mistake and that they and their family "are after all among the black majority." If her claim is true, Piper confronts the audience, "what are you going to do? Are you going to continue to pass?" Now it is the viewers' decision to make, for they are the subjects whose aesthetics belie supposed visual logic. The camera closes in on Piper's face. This is the only movement the camera makes, and the intimacy comes now that both Piper and her viewers are found to be in the same corner—she imagines that they might now be in her corner.<sup>32</sup> Piper forges an indexical present and, in solidarity, conspires with the public: "This is real . . . you are probably black. . . . It's our problem to solve. How do you propose to solve it? What are you going to do?" The screen goes to black (figure 4.2). The following words appear in capital letters: "WELCOME TO THE STRUGGLE."

As Piper imagined, viewers of the installation reacted in multiple ways. One critique published in the *New York Times* argued that Piper had been less than generous with her imagined audience and that her aggressive confrontation misjudged her viewers and their beliefs about race.<sup>33</sup> Yet she says she has gotten a rise out of many. The artist recounted one viewer who was so angry at her accusations that he kicked over the chairs and stormed out of the exhibit shouting that no one was going to tell him he was black. Piper's overturned table predicted such a violent outburst.



FIGURE 4.2. Adrian Piper, *Cornered*, 2017. Museum of Modern Art, New York.

*Cornered* indeed works to universalize the experience of being the passing suspect. But this move is quite different from more common trends in today's scholarship in which passing is understood to apply to any subject based on any identity claim. This is more nuanced than the feminist poststructuralist critique of identity, which is celebrated for questioning the notion of authenticity and its supposed loyalty to some sort of original, interior, and natural self. Likewise, it is different from scholarship from mixed-race studies, Jewish studies, disability studies, Latinx studies, and (non-black) queer and trans studies, for example, which has attested to the ways that passing or masking applies to various experiences. The ruse of analogy, to use Frank Wilderson's term, is often at work in these scholarly and activist turns, and Piper's intervention is more specific.<sup>34</sup> *Cornered's* charge is not: "You are also probably a passing subject." Rather, it is: "You are probably *black*, passing for *white*." For all Piper knows, given the way miscegenation has been historically covered over in the United States, her beholders might even be family. With this specificity around blackness, the installation brings to the fore not simply a commentary about the structure of the modern subject in general and how representation is always already a failing project. Rather, I argue, the piece brings to bear onto the construction of the modern subject the entire history of black racial passing and its

accompanying assumptions of perpetual black fugitivity and fraud. The black subject is the site of fraudulent freedom, fraudulent personhood, fraudulent gender and proper sexual desire that that abject anomaly of human subjectivity performs. Within this frame, there is no place to discuss the authenticity of blackness precisely because it does not and cannot refer authentically back to anything at all except its own propensity to be inauthentic. In this sense, blackness does not refer to simply another variation on a human identity. It is a stand-in for a more profound conceptual difference indicating a category of object that, following the passing mythology, cannot be understood to be a proper, autonomous, masterful, free subject.

Following the logic of passing, the truly free black subject is only legible as an illusion, fraudulently impersonating the real. Of course, the claim of the passing narrative is itself no more than a disavowal of the fraud at the center of the knowing, reading, hunting subject's own fantasy of self. Thus, when I say that the black cannot be understood to be a proper, autonomous, masterful, free subject, Piper would add that strictly speaking—even as this truth is sutured over—neither can anyone else. In *The Fire Next Time*, James Baldwin gets to the heart of what Piper will later explore: “The white man’s unadmitted—and apparently, to him, unspeakable—private fears and longings are projected onto the Negro.”<sup>35</sup> In this sense, blackness has been made to stand in for this terrifying anomaly so that it might instead be called fraud, and in this sense, as Stefano Harney and Fred Moten reiterate, it cannot be fully collapsed onto black people as such, even as they are “(under)privileged insofar as they are given (to) an understanding of it.”<sup>36</sup> This being the case, we must read *Cornered* as a demand that the audience take note of blackness as the index of a sort of slavishness that emanates from their own core—despite their outward-facing, presumably non-black image. Blackness is the modern, knowing subject's own founding anomaly, that which the subject prefers to see in the other. And thus we can understand Piper as saying the beholder's claim to mastery does not stand up to muster.

To universalize the passing dynamic, then, is to universalize the particularities of blackness and thus to universalize black fraud passing for what whiteness accepts as authenticity. Further, if blackness has been fixed to represent the condition of the slave, *Cornered* presents its viewers with an opportunity to consider the circumstances of this slavishness and its potential for fugitivity. The knowing subject is otherwise cornered within its own reader relation. There is an ethical dilemma Piper's beholder faces, and their (our) own freedom is on the line. Given the knowing subject's unethical projections, “the only way he can be released from the Negro's tyrannical power,” as Baldwin has said, “is to consent, in effect, to become black himself.”<sup>37</sup> Essentially, Piper is presenting

the looking subject with the opportunity to inhabit the space of the object, to sit in the immediacy of their own fraud; that is, to become black themselves.

This is not to be mistaken for the actions of those who claim a false transcendence. They are the people for whom blackness has become a fetishistic object of desire, those who would love more than anything else to find out that they have a proximity to blackness. Even with the growth in marketing of so-called ethnic or racial DNA kits, the social media fad of non-black people cat-fishing or passing for black as a sort of cosplay and, the cannibalism that drove the plot of Jordan Peele's film *Get Out*, the practice of inhabiting the black body, and in particular the black woman's body, is not a new phenomenon. For example, we might return to Piper's claim that most Americans have "5 to 20 percent" black ancestry and read it alongside biologist and feminist critical theorist Donna Haraway's celebration of companion species and the politics of inter- and intrarelationality. Haraway gleefully opens her 2008 *When Species Meet* with this romantic assertion: "I love the fact that human genomes can be found in only about 10 percent of all the cells that occupy the mundane space I call my body; the other 90 percent of the cells are filled with the genomes of bacteria, fungi, protists, and such . . . I am vastly outnumbered by my tiny companions; better put, I become an adult human being in company with these tiny messmates."<sup>38</sup> Paradoxically, contamination holds out a false promise of self-righteous fugitivity for those who feel trapped within the confines of purity as a goal of mastery. This experience of either inhabiting the other or being inhabited by the other becomes a form of play where the white subject as master might enjoy abjection or miscegenation without having to truly give up a long-term position of power.<sup>39</sup> This is often a sort of self-destruction in service of the self. In Piper's language, we might read these moves as another manifestation of looking away. Contamination, miscegenation, and consumption are all driving forces within the libidinal economy of passing, mastery, and fugitivity. It is in the hunger for the other, to incorporate the other as land and as body, that the libidinal economy of passing can be seen as an act of, as bell hooks has called it, "eating the other" but also, masochistically, of being eaten by the other.<sup>40</sup>

As one might expect, ultimately, the outcome of *Cornered* is another failed intimacy. In pushing for an ethical interaction, Piper demands to be met in good faith, in the indexical present. Instead, she is disavowed or devoured. The strength of the passing reader relation includes both its subject-object structure and, at times, the pleasurable transgression of it. No amount of urging the other to reevaluate the cognitive mistakes she believes they've made in reading blackness would suffice. It might seem that we cannot free ourselves, as Piper wishes, from the libidinal pitfalls of pseudo-mastery.

As we see in the next and final performance this chapter reads, Piper's response to this failure in knowing ethically is to move, for some paradoxically so, even more radically toward reason's formal workings. In this way, Piper leans into ethics. The move invites the possibility of self-destruction or a cognitive paralysis that, as Kant might say, "crowd[s] in upon the soul," or that, in a different context, Baldwin might call consenting to become black.<sup>41</sup> The decision to return to the force of reason may be an unexpected move given the fact that so many critical scholars dismiss this Enlightenment value as itself a ruse. There is much deserved room for a critique of Kant's critique, yet in order to understand Piper, it is necessary to open oneself up to the at times dizzying possibilities that Kant's rigorous investigation into the conditions of knowing—and its limits—offers.

The opening that Piper finds is in Kant's first *Critique* over the practical philosophy in his second *Critique*. Here, she argues, ethics is more properly addressed as a problem at the level of what is generally referred to as metaphysics. That is, the key to ethics, for Piper, is located at the level of the nature, constitution, and structure of what exists, and more precisely, in the Kantian context, what must necessarily exist for knowing to take place at all. This is what Kant calls the transcendental. The notion pushes back against empiricists who claim that at a basic level all human knowledge arises from probabilistic conclusions drawn from experience and experience alone.<sup>42</sup> Arguing against this, Kant insists on two points. First, in order for knowing to be possible, we must necessarily have a capacity to grasp concepts of objects *a priori* or before any experience of them, and second, the appearance of objects must correspond to these *a priori* concepts of understanding for us to grasp them. Thus, when Kant refers to the transcendental, he is referring to our "*a priori* concepts" of objects in general—something that is available to us independent of experience.<sup>43</sup> Piper explores the question of how we know by exploring what in the constitution of reality allows knowledge to occur. She moves to the transcendental as a dynamic that exists prior to any experience, even those violent vanilla nightmares, passing mythologies, and anti-black phobias and fetishes that stand in the way of truly meeting the other in the indexical present.

Pertinent for our driving questions on the possibility of an ethical way of knowing is the following. What impedes ethics, what must be done away with for Piper, is the subject's externalization of blackness onto the other as a way of achieving mastery. This externalization is the existential disavowal at the heart of the passing narrative and at the heart of our faculties for knowing as well. It is a hard argument to make and a harder ethicopolitical stance to envision. In the following performance piece, Piper engages in an experiment that attempts

to move conceptually upstream, in some ways, from the sociocultural realm to the metaphysical, and especially to the moment in which an appearance arises, just before (or just as) cognition occurs, and just before (or just as) the cohesion of the subject emerges. In this manner, she hopes to meditate on the possibilities for connection or intimacy and the formal workings of reason before they become sullied by subjectivity and all the pathological desires for mastery over blackness that can accompany them. We might read the following performance for the way that, even as she has been objectified, Piper wants to simply be a person, connecting with Kant's transcendental critique as other persons would do—free from the projections, presumptions, and accusations of passing. This, I venture, is the opportunity that Piper sees in Kant's insistence on the transcendental and, thus, what I trace in the next section. Through Piper, we might better understand the ethics of the object under these impossible terms. The aim of the chapter's final meditation is not to evangelize the Kantian transcendental as the answer to our question about ethics. Instead, I move to this last performance as a way to understand what it might take to even begin to imagine the object's freedom within Enlightenment thought. This will require a rethinking of the relationships between reason and experience, mastery and fugitivity, and passing and authenticity. But it also requires considering the ways Enlightenment thought emerges and evolves as a preoccupation with this very impossible freedom from the disavowed perspective of the object.

### Scene 3: Knowing's Amalgamation

Abstraction is flying. Abstracting is ascending to higher and higher levels of conceptual generalization; soaring back and forth, reflectively circling around above the specificity and immediacy of things and events in space and time . . . a dizzying object of contemplation the details of which stun one into panic by their connectedness, significance, and vividness.

Abstraction is also flight. It is freedom from the immediate spatiotemporal constraints of the moment . . . freedom to violate in imagination the constraints of public practice, to play with conventions, or to indulge them. Abstraction is a solitary journey through the conceptual universe, with no anchors, no cues, no sign posts, no maps, no foundations to cling to. Abstraction makes one love material objects all the more.

—ADRIAN PIPER, "Flying"

Blackness operates as the modality of life's constant escape and takes the form, the held and errant pattern, of flight.

—STEFANO HARNEY AND FRED MOTEN,  
*The Undercommons*

In the summer of 1971, Adrian Piper holed up in her New York City apartment, naked, and followed a regime of two months of fasting, yoga, and readings of Kant's *Critique of Pure Reason*. As Piper described it later, she indulged her desire for the transcendental by engaging in an experiment to compulsively "lose herself" in her reading and meditation. In doing so, she took on the first *Critique* as a lesson on self-transcendence. In the contemporary era, the most commonly accepted idea of the transcendental is the state or condition of "surmounting" or "rising above." It includes a notion of moving beyond the bounds of one's physical and psychological limitations, perhaps even by inhabiting a spiritual state. Transcendence, as commonly accepted, often implies a questioning of the boundaries of the self. In traditions of yoga, transcendence is often understood as a move beyond a false identification with the self or ego (*ahamkara*), beyond the material aspects of existence, and beyond an illusion of separateness from the rest of existence. Piper, in particular, has been interested in Vedanta Yoga, which emphasizes the fundamental unity of individual consciousness (*Atman*) and an ultimate, undifferentiated reality (*Brahman*). It is worthy of debate how any of these ideas of transcendence materialize—whether it is through overcoming, through flight, through mastery, or, as many yogic traditions insist, through meditation, acceptance, and release of attachments. In any case, this sort of transcendence is one that must occur as an experience.

Its draw is palpable in the performance piece, but it is hardly the only notion of transcendence animating it. Piper sat in front of the mirror, reading Kant, in order to consider the functioning and implications of his transcendental critique. For Kant, the transcendental is a metaphysical assertion about the preeminence of reason in forming the conditions of possibility for the experience of knowing. In this performance, these two notions—transcendence and the transcendental—move together, perhaps profanely, one bleeding into the other. If we were to read the piece in the vein of Bacon's experiments, Piper's seclusion in her apartment might be understood as an attempt to put herself *in vincula*, an attempt to control for extraneous variables, those that might interrupt her concentration on the message of the text. Here, Piper enacts both the position of the masterful knowing subject and the object, *in vincula*, to be known. In yogic terms, her approach might be understood as a form of meditation seeking to quell distractions and induce mental and physical focus. In the artworld, one might understand this performance as a sort of minimalism—stripping away the extraneous and focusing on the fundamental experience of encountering the object in space. Her practice emerged through the play on Kantian abstract, transcendental methods—or flight, as she described it—and the profoundly corporeal sensations of hunger, extended muscles, and the

stifling heat of her enclosed apartment that New York summer. The attempt to control for outside variables or distractions inevitably produces its own interior effects with which to contend. Even still, it was not just the given material conditions of climate, diet, or exercise that interrupted her flight into the abstract or universal. Piper found the possibility of accessing the highest faculties of reason exceptionally disturbing. In an essay she later published on the performance piece, she noted, “My involvement in [the text] was so great that I thought I was losing my mind.”<sup>44</sup> In another reflection, she added that “certain passages were so intensely affecting and deep that I would literally break out into a cold sweat.”<sup>45</sup>

In these moments of intense flight, Piper threw herself into her body, despite having lamented earlier about how prior groundings seemed to suffocate her—trap her in her skin. Filled with the pleasure, but also the terror, of moving with the transcendental, toward losing her subjective self, Piper repeatedly interrupted her reading to conduct “reality checks.” She would stand in front of a full-length mirror, take photographs of herself, and record her voice while reading those passages of the *Critique* she found most threatening to her own security of self. She noted later, “I would have to stop reading in the middle of a sentence, on the verge of hysterics, and go to my mirror to peer at myself to make sure I was still there. . . . The sight and sound of me, the physically embodied Adrian Piper, repeating passages from Kant reassured me by demarcating the visual, verbal, and aural boundaries of my individual self, and reminded me of the material conditions of my mental state.”<sup>46</sup> All of a sudden, Piper returned to the very boundaries that she had been trying to violate all along. The possibilities of thinking or existing beyond them were too much to bear.

The artifacts from this private performance of reading about Kantian transcendental reason were collected and organized into a public art exhibit titled *Food for the Spirit* (FFS) over a decade later. Since then, the artifacts have been displayed in a variety of ways and by various curators and authors. Although the audio recordings have never formed part of a public exhibit, the photographs have been displayed in a range of manners, including single stills of Piper without reference to the *Critique of Pure Reason* and the sequence in which they were initially taken. In 1981, Piper published an essay reflecting on what she called the private loft performance, and in 1987, she exhibited the images in a black scrapbook as *Food for the Spirit* at the Alternative Museum, an online open-access forum.<sup>47</sup> For this exhibit, she arranged the photos not in chronological order but in order from the sharpest image to the blurriest; the final photo of her is so dark, her body’s form is indistinguishable. Alongside each picture, Piper placed torn-out pages from the *Critique* with her own notes

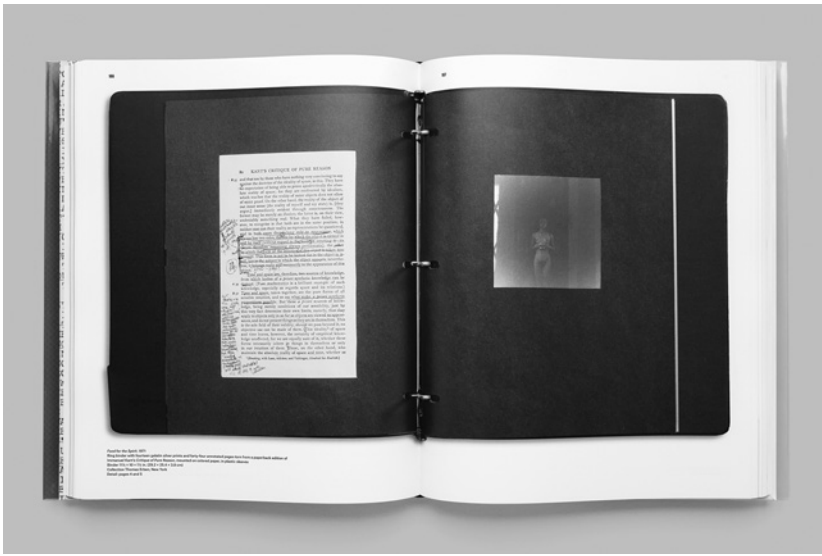


FIGURE 4.3. Adrian Piper, *Food for the Spirit*, 1971. Collection Thomas Erben, New York.

scribbled in the margins (figure 4.3). As the photos of her form became increasingly unintelligible, Piper added more torn-out pages of the first *Critique*, until there were no more images of Piper and only images of Kant's transcendental critique and Piper's marginalia.

There have been a variety of interpretations of *Food for the Spirit* influenced by the work's different materializations and in no less a way by the intellectual, political, and cultural context of its audience or readers. What is provocative for our purposes is the way the art piece returns us to the questions laid out at the start of the chapter. Piper's experiment visually displays a reader relation in which she is open to being read as both the relation's subject and its object. We too are set up as subjects alongside Piper, tasked with embracing Kantian conditions of knowing. The mirror performance emerges as a challenge that we consider Piper, in performing the first *Critique*, as a person capable of accessing and applying Kant's transcendental reason. As a presupposition to this metaphysical construct, in order for Piper to know even herself, she must consider herself as an object. And here it is possible to read *Food for the Spirit* as staging another scene of failure within the passing dynamic. This time, however, Piper has given up on any sovereign claims to authorship of her own representation. She is not standing in front of the mirror with a bold statement about her background but rather with curiosity, with a question. In the vein of Kant's critical

approach, we can read Piper as asking herself and her beholders whether she can be understood as a person with an *a priori* capacity for knowing or whether she must be read as a fraud, standing in front of the mirror reciting the *Critique of Pure Reason* attempting to “pass.” The performance turns critical attention to our question: Can the object be a knowing subject? And then, what are the implications of this reversal for an ethics in knowing?

There is a tension in Kant’s writing and, as such, two contradictory items seem to be true for him. First, based on his lectures on race and his critical philosophy, many would venture that while Kant would have insisted Piper belonged to the category of “natural person,” her capacity as a “moral person” would be murkier. The latter category would have indicated whether she could be understood as a proper knowing subject. In his critical philosophy, Kant writes that human capacity for knowing emerges through one’s access to pure reason. This is significant because, as the preeminent faculty, reason organizes what we can make out of the sensible world. This faculty, Kant would argue, can be developed or refined over time, but just who is capable of this development is questionable in his writing. In his lectures on race and in his observations that he uses to illustrate this hierarchy of access to reason, Kant points to those whom he calls the “Negroes of Africa” as an example of those beings who are “hopelessly bound-over to nature,” lacking both refined “feelings” and reason.<sup>48</sup> Written before the critiques, the comments Kant makes in his *Observations on the Feeling of the Beautiful and Sublime* come with a caveat. He acknowledges to the reader that these takeaways come through “the eyes of an observer rather than a philosopher.”<sup>49</sup> That is, they do not stand up to the latter’s rigor as critique. Yet “the one whose theorization of how to know better,” as Fred Moten laments, relies on this racial presumption to lend credence to the veracity of his critical argument and indeed as an indicator of transcendental unity.<sup>50</sup> Returning to our question about the ethical, this tension around the possibilities or impossibilities of black personhood is significant because for Kant it is through “personhood” that beings have inherent, objective value. “Persons” are driven by “will” and are thus capable of engaging in rational thought and ethical actions.<sup>51</sup> By contrast, “nonpersons,” whom Kant designates as “things,” are subject to their natural instincts, fetishes, desires, and impulses. Although the potential exists, Kant makes the argument that “things” are yet to be able to rise to the duties and capacities of personhood.<sup>52</sup>

And yet Piper invited his words into her apartment that summer to participate in her experiment, staging something we might read as a confrontation with Kant’s precritical accusation that she is a thing passing for a person. In FFS, she stood before the philosopher’s judgment and the ghosts of his observations,

arranging them against her own reading of—and, frankly, desire for—the possibilities he opens up in the first *Critique*. Here, in tension with the racist observations he makes about the so-called Negroes of Africa, is his claim that even before we can address a notion of culture, history, or race, we must admit to the workings of the transcendental character of reason.<sup>53</sup> And to this faculty, Kant insists, all natural humans have access. In the first *Critique*, Kant is working out the conditions of possibility for knowing as a faculty that does not *have to be* distorted or limited by the whims of the individual or of culture. This is part of its radical possibility for Piper. One can see how an appeal that we ignore the arguably tangential or superficial in favor of true objectivity might resonate with a certain ethical stance against the logics of racial passing narratives. From this perspective, to know the other authentically is to appeal to reason without being misled by what Piper wants to insist are incidental differences like race or gender. However, she is confronted with the specter of an accusation of passing for a knowing subject in her private loft performance and engages Kant's own critical words against him. She would likely charge Kant's racism with projecting the anomaly he sees in himself onto others, like the Negroes of Africa or even onto her.

This move through the tension in Kant in order to consider the metaphysical claims that make possible an ethics in knowing is, to use the metaphor of the briar patch and with full bearing of its racist history, thorny. For Piper, it requires transcending her individual and cultural idiosyncrasies in favor of something grander. That is, not only must she shed the desires in which her own subjectivity is invested but she must also shed the fantasies and anxieties projected onto her as the misplaced desires from the white world. FFS becomes a confrontation within the bounds of Piper's subjectivity as both constraining and reassuring. In increasing friction are the ethical promises she sees in Kantian formulations of pure reason and Piper's own desire that her blackness be understood as irrelevant with regard to her faculties of knowing.

In essence, there are two competing forms of mastery playing out in FFS. One is the sort of anxious mastery or control we have been tracing throughout the book. It is to be found in Piper's attempts at management and capture of her own body. She isolated herself, eliminating interaction with others, including other beholders. She did yoga and fasted, minimizing distractions and perhaps tangential forms of desire and enjoyment. She undressed, stripped herself of any extraneous, surface aesthetics and anchoring signifiers. She attempted to curb or overcome cold sweats and hysterics. However, in attempting to enact this sort of mastery we have come to know as false and impossible, Piper comes into confrontation with another sort of mastery or sovereign force, one that is

not wielded by an already stable subject. This force emanates from the formal power of the Kantian transcendental. And in the first *Critique*, where the workings of the transcendental are prioritized, the so-called masterful subject is not the most fundamental given. Kant reserves this significance for the transcendental nature of reason itself. I associate this with a different form of mastery or sovereignty because, existing independently of experience, the transcendental is what conditions the possibility and limits of the human's capacity to know.<sup>54</sup> A consciousness does not even emerge for Kant except through the synthesis between transcendental reason and the empirical. To grasp the significance of this and its implications for Piper's experiment, let us take a step back and take stock of the possibilities and impossibilities of knowing in Kant's first *Critique*.

Importantly, here, knowing something about anything (an object, an other, the self) comes from the interplay of two distinct sources: our ability to grasp *a priori* or transcendental concepts and our capacity to, in Kantian terms, sensibly intuit the world. The faculty of sensibility to which we are privy, Kant explains, is a generally "passive" capacity to be affected by objects or, more specifically, affectively receive representations or appearances of objects in the world. But even here, unless we are able to apply a concept to the representation affecting us, what might appear appears simply as nonsense. It is the *a priori* or transcendental concepts of understanding that correlate to these intuitions that provide us with the capacity to experience the appearance at all. However, this begs the question for Kant: How are we able to connect these pure concepts of understanding to representations correctly? He argues that we must have an innate capacity to synthesize multiple components and to do so at multiple points along the way. We must have the capacity to (1) receive a representation or appearance in space and time and (2) connect *a priori* concepts or rules to the appearances. These two first parts comprise Kant's illustration of how it is that one even has an experience. But there is another simultaneous component of the process that is key to the formation of knowing and the knowing subject. That is, in order to be able to understand that these connections are coming from one's own capacity to think and know, we must also be able to 3) tie each of our connections of concepts and representations to an "I" who experiences them and cognizes them.<sup>55</sup> Thus, the knowing subject emerges through the synthesis of each of these faculties and in the spontaneous emergence of the "I" who thinks alongside each representation. Put otherwise, the knowing subject arises as a product of the act of "knowing" itself. To understand *Food for the Spirit*, we must imagine Piper as attempting to behold Kantian conditions of knowing and, in doing so, as disappearing into the relationship between faculties, "I's," "me's," objects, sensibility, and understanding. Reflecting on the

experience, Piper explains, “It felt as though I was on the verge of abdicating my individual self on every level, becoming Kant’s analysis of the Transcendental Unity of Apperception in the Synthesis of Appearances according to the Rules given by the Understanding for Reflective Self-Consciousness.”<sup>56</sup>

Piper’s reading of the *Critique of Pure Reason* troubles the fundamental claims of false mastery in passing’s reader relation. In contrast to passing narratives that emerge as a stabilizing force, Kant’s examination of pure reason has the potential for unsettling the reader, removing the ground from under their feet. In fact, I am not convinced that one can rigorously read the first *Critique* and ponder the intricacies of the so-called transcendental without falling into the dizzying overwhelmingness that the young Piper experienced that summer. There is the challenge of meticulously tracing the specificity of the terminology Kant employs to carefully describe the workings of logic even at what Piper has called the “highest levels of abstraction.” More importantly, it is also easy to lose the self in reading the text perhaps precisely because the “self,” or consciousness, as described in this first *Critique*, is not easy to pin down.

The subject that Kant depicts here, inasmuch as one can refer to him as even examining a subject, is much more unstable, spontaneous, and puzzling than many are willing to admit. The *Critique of Pure Reason* makes it very hard to speak about any sort of desire-filled, agential subjectivity that is plagued by the pathological that challenges the moral protagonist in the *Critique of Practical Reason* or the human bound by nature of Kant’s lectures on race. The first *Critique* offers a much more bare-bones consciousness, one that Kant and Piper would like to ponder—metaphysically upstream from culture and even history. Certainly, it is not the sort of self that we are used to moving with in anthropology, sociology, cultural studies, or politics. One will find it very difficult to pontificate on identity if keeping within the bounds of pure reason as delimited in this text. This is perhaps one reason that this first *Critique* is so compelling to Piper, for whom misconstrued (racist) judgments about the other bolster the conceits of the stable knowing subject and get in the way of the subject’s ability to implement the interests of reason, to recognize the other as an instantiation of a person. To put it otherwise, for the artist-philosopher, the problem is that downstream continuously moves upstream in the form of “pseudorational” narratives muddying the waters of knowing’s possibilities and paving the way for disavowal.

Yet, returning to the first *Critique*, even as subjectivity might be understood as secondary to the formal workings of reason within knowing, it is precisely in knowing that we see the beginnings of something like a subject: the originally disjointed “I” who thinks, the “I” who senses, and the “I” who cognizes.

These each emerge through distinct faculties here and must be unified if one is to have a coherent experience or thought. And so, Kant says, it is because “I can combine a manifold of given representations in one consciousness that it is possible for me to represent the identity of the consciousness in these representations itself.”<sup>57</sup> That is to say, for an empirical judgment to occur, a more original, or transcendental, combination leading to the recognition of a consciousness needs to happen. Importantly, Kant’s account of how knowing is possible is necessarily a simultaneous account of the moment in which the unified “I” spontaneously emerges such that the knower does not experience consciousness as a combination of separate units. It emerges with each moment a possible object of experience is made available through an *a priori* concept to which we have access. It emerges over and over again and must be synthesized into a unifying coherent consciousness in connection or relationship with the object to be known. The more that Piper throws herself into tracing this dizzying dynamic, the more she must strip herself of the contextual excesses of the subject she has tried both to shed and, in a panic, to hold on to.

This activity of knowing could go wrong. It could even go so wrong as to not rise to the experience of “knowing” at all. Piper’s art, particularly when focused on racial phobia or attempts to look away, works to force us to hover at this critical moment just before or just as cognition is set to occur. For her, this is the moment of the indexical present. It is a relational or aesthetic moment in the Kantian sense, a moment capable of producing a spatiotemporal experience. It is at this junction, before the transcendental unity of apperception and the synthesis of appearances arrive, that a terrorizing intimacy may occur. It is also at this junction that cognition has not yet occurred. Perhaps here, a future knower is able to receive an intuition, and yet there is no corresponding concept from the higher faculties of understanding under which the intuition is subsumed. This is because, as Piper recounts from Kant, “objects can indeed appear to us without necessarily having to be related to functions of the understanding. . . . For appearances could after all be so constituted that the understanding would not find them in accord with the conditions of its unity, and everything would then lie in” confusion.<sup>58</sup> We may intuit something without it making sense conceptually and thus, as Piper explains, “we do not represent them *as* unified objects; and there is no unified self *to whom* we represent them.”<sup>59</sup> In this moment, she elaborates using Kant’s words, the future knower who could become a unified subject through the act of critical investigation is still composed of “as many-colored and diverse a self as I have representations.”<sup>60</sup> That is to say, it is in this indexical present that a multiplicity of entities may exist communally, prior to emerging in a proper subject-object

reader relation. The future knower might be called to move ethically in this instance. They might remain in this uncomfortable moment of disjointed multiplicity and stay the course. Or they might attempt to disavow it.<sup>61</sup>

Returning to *Food for the Spirit*, it is as if Piper attempts to use Kant's first *Critique* to move to a "zero degree of . . . conceptualization" similar to the move Hortense Spillers makes when describing her notion of "flesh." For both Piper and Spillers, this zero degree is often covered over by "the brush of discourse or the reflexes of iconography," mythological narratives, and pseudorational judgments.<sup>62</sup> In each approach there is a covering or veiling that is found to be a problem. Yet there is a distinction between the two. Spillers's zero degree is in reference to a primary narrative about the African just as captivity and enslavement have renarrativized their being into the material-discursive, captured body. That is, it is historically contingent. The zero degree that Piper seeks to access, however, is metaphysical and universal. What's more, it is not oriented to the boundaries of the subject but rather has to do with the necessary unity of the individual consciousness with formal conditions of reason itself and the world in which the two are found. To reach this zero degree, Piper must let go of those representations or identities which might be sullied by pseudorational beliefs she retains in the name of a coherent self-image. Elsewhere, Piper explains, "The task is to peel away the scrim, to gradually achieve and be able to tolerate a direct and unmediated relationship with the other" even when reality itself is the other.<sup>63</sup> What remains in Piper's mirror and in her reading is an array of "I's" and "me's"—potential subjects and objects—experiences and concepts made available through understanding, intuition, and sensing. And they must be put together by way of multiple *a priori* and *a posteriori* unifying syntheses. The reader is perhaps, by now, also dizzy.

However, what I hope is becoming clearer is that with *Food for the Spirit*, passing's anxious claim that the knowing-hunting subject is able to master objects in the world is rendered tenuous at best, unnerving when considered as Piper reads Kant. In addition to their instability as a coherent subject, as far as it concerns cognition, the knower also never actually has direct access to the "real" object to be known—the object in itself. There is the unmediated moment that Piper signals that occurs just before understanding's rules step in to provide meaning. But this is independent of experience. And so, Kant argues that "the modification of our sensibility is the only way in which objects are given to us," such that even one's capacity to intuit or sense something—that is, to have an empirical experience or make a judgment about an appearance—must be shaped by some *a priori*, rational, formal conditions.<sup>64</sup> Kant writes that this occurs by way of the imagination. Yet here imagination is not a reference

to a sort of creative narrative we might invent. Rather, it is itself a faculty that belongs to both understanding and sensibility. Even here, even in this perhaps “zero degree” moment, reason, in the form of an *a priori* law, organizes and begins to mediate relationality at least temporally. It is this *a priori* law of time that appears as an inner sense even before experience occurs that allows a future subject to receive an appearance. It is the beginning of what brings the sensible into consciousness. Thus, what we are able to sense is a representation or appearance of the object that is conditioned in some form by *a priori* rules—reason.

This is why, in the first *Critique*, Kant shies away from making many critical claims about “ontology,” if by ontology we are referring to *what* things, beings, or objects are as such. We must simply move through life with the conviction that nature is organized by reason. And because it is, we are limited to accessing the world through our capacity to grasp it rationally. Of the actual object, Kant can say nothing and neither can we.<sup>65</sup> This must be ultimately left up to the mysteries of the noumenal world. There is a limit to what we can say about how it is that we know. Kant admits, “This schematism of our understanding with regard to appearances and their mere form is a hidden art in the depths of the human soul, whose true operations we can divine from nature and lay unveiled before our eyes only with difficulty.”<sup>66</sup> Significantly, for FFS, this unnerving gap between what we are able to know of an appearance of the object in question and what the object in question actually is applies to knowledge of the self as an object as well. Kant explains that before the transcendental unity of apperception, our intuition “presents even ourselves to consciousness only as we appear to ourselves, not as we are in ourselves, since we intuit ourselves only as we are internally *affected*.”<sup>67</sup> In unifying the appearance of the object (me) with the concept (me), and the “I” who is able to represent these units, the barest of bones of a unified subject—a knowing subject—emerges as “I.”

Taking all this unraveling in, if we are to continue with the terms—mastery and fugitivity—I might say that *Food for the Spirit* loses grip on one form of mastery. This is the mastery needed to resist the accusation of passing through self-representation or authorship—it has shown itself to be false anyway. However, as the art piece loses this grip, Piper is confronted with the power of another mastery making itself known through the transcendental. Curiously, however, fugitivity appears as part and parcel to this latter mastery inasmuch as one begins to lose grip on oneself. The truth of the object—even the self as object—remains beyond the limits of the human’s capacity to know except in its unity with transcendental reason. Moreover, for Kant, knowing itself contains various opaque moments, originating from, he suggests, the “human soul”

or the spontaneity of understanding. Yet, as I have described, it is paradoxically in the spontaneity of this simultaneous knowing and not yet knowing that the beginnings of a unified subjectivity emerge. This is what Piper says is Kant's "best-case scenario" for how knowing is to occur.<sup>68</sup>

Piper leans into the breakdown that can and often does occur, not in a best-case scenario, but in a more mundane scenario. What do we do with objects that we intuit but do not understand? What do we do with the quotidian breakdown that occurs between what one intuits and one's ability to apply an appropriate pure concept to it? Through her art, she would like to explore this nonsense, to pay attention to the possibilities it offers by way of a sort of cognitive paralysis or blankness. For Piper, the nonsense opens up an opportunity in the form of a crisis, even a nightmare—if we allow it. It ends up appearing as a sort of fugitive moment arising between what we know, how we know, and how the world is organized. Our failure to immediately apply a proper pure concept to our intuition thus offers up a blank. Here, Piper insists, the moment "affords us access to the hidden reality of the strange and unfamiliar things that engender it. The things may cause the blankness, but it is the blankness that reveals the things. . . . They threaten to overtake and decompose the soul back into the unsorted mass of representations with which it began; to obliterate the distinction between subject and object."<sup>69</sup> As seen in the last several images of FFS, reflecting the nuances of this process, Piper's outward appearance dissolves into Kant's writing about the transcendental on the page, what she calls a "transcendent reality of disembodied consciousness."<sup>70</sup> The compilation of photos, a compilation of *conceptual* art, attempts to exhibit this venture, yet a pure concept is one that can never be adequately exhibited sensibly. Her body is ultimately disappeared. Only words are left. These too fall short.

For Kant, the object in itself is perhaps less important than what the representation of that object directs us to—the act of pondering the power of reason and our inability to completely represent its rules. Unwilling or unable to tolerate it, in her private performance, Piper resorts back to comfort, resisting her own dissolution by taking pictures of herself as proof of her material existence. The "reality checks" are a salve but ultimately a failure. They mirror the birth certificates of *Cornered*, the same sort of proof that proved ineffective in the previous scene. And so Piper's photographic image is each time blurrier than the last. It finally ceases to appear at all. This was too much to bear and, she admits, after that summer's performance in 1971, she could not return to the first *Critique* for two more years.

Returning to the last question I set out at the beginning of the chapter—am I forever fixed to the position of the object or may I be understood as a

knowing subject?—*Food for the Spirit* gives us something to chew on. I suggested that a response to this question might have the potential to radically alter knowing's reader relation. The implications of the art piece indeed require us to reconsider this structural dynamic, but not because Piper is successful in liberating herself from her status as object or passing suspect. If we set out to critique the passing reader relation and know differently, we cannot do so by denying the subject-object opposition or the fact that this opposition is itself an aporia. Ultimately, if we follow Piper with Kant, this move is metaphysically impossible. Yet, I would argue, the radicality of knowing is to be found in precisely this terror-filled and exhilarating unraveling or alienation. One comes to be spontaneously unified as a thinking, sensing, and cognizing subject through the act of knowing rather than prior to it. And yet, as a subject, one must stand alienated from oneself as an "object in itself" and also incapable of fully representing its totality. The paradox is that it is in what one might refer to as the transcendental's mastery that the instability, or fugitivity, of the self is ultimately palpable. To bear witness to this aporia, in the indexical present, rather than evade it as the passing narrative does—to rather sit with knowing as an alienated amalgamation of the object-subject—is the sort of radical ethics that *Food for the Spirit* opens up. Knowing is flying, and knowing is flight. That is, knowing travels through the conceptual and intuitive circuits of fugitivity and mastery, one always just around the corner from the other.

If this is the case, Piper would insist it is a terror to which we are all subject, regardless of race. One might ask then, what does blackness have to do with it? Still, in beholding FFS, one cannot but testify to the imposition blackness makes in the blurry repetitions of photographs of Piper's naked body. Here then, we must pay attention to Piper's appearance in the Kantian sense as what is made available for knowledge through understanding and intuition. But we must also pay attention to Piper's appearance in the vulgar sense of the word—how she looks—and how this historically contingent appearance imposes itself on her performance of the purely conceptual. And thus we return to perhaps the most interesting conflict in how Piper's artwork has been read against her philosophy and her artistic intentions. Piper's artwork is, at its most foundational level, an attempt at a conceptual approach. That is, conceptual art has the potential to offer the artist freedom from the tyranny of aesthetics or questions of beauty inasmuch as the artist prioritizes a precise representation of an "idea" over the question of whether what is produced is beautiful.<sup>71</sup> Piper holds a fidelity to the first *Critique* precisely because she wants to push past the "favored tags such as art vs. non-art and good art vs. bad art and art vs. craft and art vs. nature."<sup>72</sup> In particular, she wants to push past "Kant's third *Critique*

conception of the free play of the cognitive faculties in a universally communicable judgment of taste” and instead focus on the “meta-ethical” dimensions the first *Critique* lays out in reason itself.<sup>73</sup>

Nonetheless, those who have taken Piper’s work on Kant seriously alongside her art consistently end up turning to the third *Critique*. I would argue that in part this is to understand precisely how Piper’s blackness—that for which the first *Critique* leaves little to no room to ponder—drives her work. In her artwork, blackness often becomes an aesthetic imposition despite her intention that it be taken as incidental. There is an undeniable juxtaposition between Piper’s blackness—and, in particular, her black womanness—and Kant’s critical philosophy. More precisely, what is imposing is likely the *ambiguity* of her blackness and its gender and sex (dis)formations and economies as much as anything else. Perhaps her blackness only arises for the viewer of the art installation as a suspicion given Piper’s light complexion and blurry photos. It is an interesting point because, in his *Observations*, Kant turns to the question of race as a purposive factor of human disposition precisely because he is forced to make the assumption that race, specifically the color of one’s skin, might serve as an unmistakably observable index for that which is otherwise fundamentally unknown.<sup>74</sup> Even though there is a gap between what we are able to truly know through reason and the world around us, we must act as if the world is organized rationally to make sense of it. Following this argument, the blackness of the Negro, then, must not be due to chance but is a rationally purposeful indicator of difference. It is a teleological sign that the “world has arisen [with] cause.”<sup>75</sup> That is, it is how we might understand something about the reasoned objective of natural history. Blackness, again, is called on to suture together what might otherwise open up a moment of unraveling. But even here, the assertion that blackness is observable must be called into question. That Kant would resort, on the one hand, to blackness as a visible marker of nature’s necessarily rational organization and, on the other, that nature’s rational order cannot be proven point to how the ambiguity of blackness might be working as a cultural indicator of a metaphysical opening or instability. Here again, blackness toggles ambivalently between the immediately and unquestionably detectable and the desperately unknowable.

Piper’s ambiguous blackness (because all blackness indicates ambiguity and ambivalence) brings passing suspicions back into our consideration of the Kantian narrative, and it gestures toward the fugitivity at the heart of the mastery of the transcendental. From the perspective of the object or passing suspect—that is, the black as a historically, overdetermined object—there is no transcending this aesthetic condition. For the subject who believes they are not black, there

is only false transcendence through the passing narrative, which allows them to externalize this terror of ambiguity onto blackness itself and black people in particular.<sup>76</sup> There is no metaphysical upstream that escapes this alienation. There is only cultural production that assuages it for some. To act ethically, in contrast, would require that one sit intimately with the blankness that blackness, in its full ambiguity and ambivalence, offers. This is the mirror effect of the performance.<sup>77</sup>

Harney and Moten eloquently note that blackness is called to operate “as the modality of life’s constant escape and takes the form, the held and errant pattern, of flight.”<sup>78</sup> With *Food for the Spirit*, it seems to me, however, that this escape or errantry is found just as much in the tenuous yet transcendental workings of reason itself as laid out in the first *Critique* as it is in the third *Critique*. The amalgamation of mastery and fugitivity unfolding within the process of knowing, that which occurs in the indexical present and imposes itself as an uncomfortable yet thrilling intimacy, has the potential to become an ethical moment; that is, if one chooses not to turn away. The ethical is a moment in which one comes face to face with one’s own undoing or incoherence, what in other moments modern philosophy has called alienation. In this way, as Baldwin put it, one consents to become black.

## Coda

*Black studies is generally no longer very concerned with the problem of passing.* And yet, as I have ventured in this book, the problem of passing and its suspicions of lawlessness and fraud are at the heart of black existence in the United States today. To see this clearly, however, one must set out to look at passing differently, in a way that goes beyond the traditional tropes about the tragic mulatto and suppositions about the passer's strategies and loyalties. Rather than focusing on it from the perspective of the so-called passer, to understand the dynamics, we have to start our analysis from the problem of the suspicion or accusation of passing. We must ask, what is being stabilized and destabilized through the suspicion? What sort of fugitivity or fraud does the suspicion attempt to guard against? What sort does it induce? Equally important, we have to pay attention to the moments in which that suspicion is absent. In those instances, we are reckoning with the assurance that the visual—and in the case of blackness, the often hypervisible—is confirmation of the truth of the other.

These seemingly opposite assumptions—hypervisibility and invisibility—are realized as two sides of the same coin. They belong to an ideology of the surface, upon which one either has direct access to the truth or is faced with the danger of the other's supposed ingrained ability to hide the truth from detection.

Passing, as a folklore or mythology, exists in the present as part of what black studies scholars have called the afterlife of slavery, the persisting epistemological, cultural, political, and economic structures of a colonial and chattel slave society. An origin of this modern anti-black cultural regime can be read in the seventeenth- and eighteenth-century issuance of passes in colonial Virginia. This surveillance practice essentially fixed the threat of fugitivity to the figure of blackness and set up the colonial, white subject as the citizen watchperson. Tasked with detecting and containing blackness as a way to maintain control, the watchperson's duty was to sustain an individual and national position of mastery. Here, early mythologies about passing and blackness were not only pertinent for black subjects. As evidenced in the book's first two chapters, on many occasions, Native peoples were subject to suspicions of fraud and accusations that they were actually black passing for Native. In those cases, black racial passing was the narrative that settlers employed to dispossess, enslave, and erase Native communities. Through the application and enforcement of colonial pass laws, we can begin to see how the activity of hunting, tracing, and watching became sutured to the act of knowing—for one had to know the fugitive or fraudulent in order to surveil them. Through these practices, a reader relation emerged between the hunter-knower and their object, always already understood to be prone to fugitivity and fraud.

The problem of passing is animated by strong underlying psychopolitical structural assumptions about what it means to be black. And these take shape against what it might mean to be a proper, autonomous, and authentic subject. Passing narratives work on a psychic level to externalize the incoherence and alienation that confronts all modern subjects by displacing the assumed fraud onto blackness as its signifier and container. In this way, assumptions about blackness inform our conceits about what it means to be a subject broadly speaking. These understandings shape the modern black experience. They also shape the experience of all modern subjects, even so-called non-black subjects, and even as these experiences are disavowed. While the subject who is successfully recognized as "not black" is greatly protected by the projection of blackness as fraud onto the other, there always remains a chance that one day, if they are not vigilant, it might be refracted back onto them. This sliver of possibility bubbles up as anxiety and dread, but also as anticipation and pleasure. The dynamic is

psychopolitical because the political and existential claims about what it means to be black and what it means to know who black people are retain a libidinal economy. That is, they are sustained through a libidinal investment in mastery that traffics between, on the one side, shoring up the ideal, authentic, free, and stable subject, and on the other, policing (or indulging in) its fraudulent and fugitive constituent opposite. The folklore around race-gender passing regulates (and dysregulates) this affective circuit where desires, fantasies, and phobias of mastery *and* fugitivity play out. To be concerned about passing, and the assumptions about fugitive and fraudulent blackness and its gender disformations at the mythology's core, is to be concerned with Western Enlightenment assertions about the human, the modern knowing subject, and its ethical orientation. There are historical, philosophical, and libidinal questions about the instability of these claims and the invention of the figure of the fraudulent and salacious black or Negro, which works to stabilize them.

These questions are central to the labor of black study, and thus all along the practice of black study has been concerned with the fundamental assumptions underlying passing's mythology. It takes on the ethical question behind the claim to the existence of the human or the subject. Having been overdetermined by fraud and fugitivity, black study is uniquely situated to address this claim and must eschew an investment in suturing together a cohesive properly raced and gendered subject, or a cohesive nation for that matter.<sup>1</sup> As R. A. Judy recounts, the project of black study is oriented towards rethinking the question of the human without "assuming to occupy the position of the normative subject, the transcendental subject."<sup>2</sup> In a way, even in his critique of the transcendental, R. A. Judy's articulation mirrors the ethos of Adrian Piper's artistic intervention into ethics and philosophy. In what might be understood as a reading of Kant against himself, Piper's work explores the full capacity of a radical reason, one that works in excess of the limits of the cohesive subject to unsettle the coherence that whiteness demands. *The Problem of Passing* ventures that this is also the lesson in returning to contend with the folklore and mythologies of black passing. It refocuses attention on a historically informed, political, and ethical venture to "open up . . . thinking," in the words of Judy, in a way that renders any assumption of an enduringly authentic positionality questionable.<sup>3</sup>

This coda offers no promise of redemption of the self, no celebration of magic or radical black fugitivity that allows for a freedom from the violence in the folklore of passing. Rather, it seeks to open up thinking about the violent yet generative relationship between mastery and fugitivity/fraud, which are

always already bound together. I have argued that the problem of passing forces us to do this. As mentioned in the book's introduction, in spite of herself, Eve Sedgwick was correct when she argued that the epistemological and existential claims of the closet were "born and bred . . . in the briar patch." Recall for Sedgwick, the briar patch is as much a foil for gender-queering politics as it is for gender-normative politics. What turning to the mythology of passing offers is insight into how the ultimate condition of the briar patch is the creative, duplicitous, and uncapturable metaphysical wretchedness projected onto the blackness that animates it. This is what stands as passing's enabling topology. As such, one might understand that the intertextuality, resistance, and destabilization coming through multiracial self-fashioning and various non-black gendered identities are often made possible through the traffic in the mythology, reader relations, and libidinal economy of black race-gender passing.

At the same time, as I have said above, one must also understand that passing is the quintessential condition of being a modern subject; inasmuch as one is a subject, one passes. One is never fully and completely recognized. And alienation, in multiple forms, is a core condition of modern subjectivity. Indeed, it is this estrangement that often acts as a catalyst for political action in the public sphere. Confronting one's disavowal, internalizing what one has externalized, is at the heart of a Hegelian dialectic of modern becoming.<sup>4</sup> In fact, this process is what liberal multiculturalists might call personal and political "growth." Masters can and often do incorporate the fugitive within. They play with it. Decide to recognize it. Perhaps they even pronounce it publicly. Fugitives may do the same.

To give an example, when I first began research for this book, Barack Obama was in his second term in office as US president. He had campaigned on the promise to close Guantanamo prison camps. Pop songs written by white liberals were satirizing the hypocrisy that, as a Nobel Peace Prize winner, Obama had a "kill list." He was the leader of one of the most anti-black, imperial, and neocolonial states on earth.<sup>5</sup> His was not a direct road to office, of course, and it came by way of publicly rebuking and denying his relationship with, for example, Reverend Jeremiah Wright, who, as a clergyman trained in the prophetic tradition of the black church, had explicitly denounced American sovereign violence. Conservative media was outraged at what they deemed anti-American hate speech. The testimony of Rev. Wright also offended the sensibilities of liberal Democrats. In response, Obama attempted to situate himself as a palatable option for the presidency for all Americans, regardless of race. This was rightly understood to mean that he did not see himself as the president of black Americans primarily, and thus at all. Nevertheless, when

George Zimmerman was acquitted of the murder he committed, Obama remarked, "When Trayvon Martin was first shot I said that this could have been my son. Another way of saying that is Trayvon Martin could have been me 35 years ago."<sup>6</sup> *The Problem of Passing* serves as an opening to understand the historical and epistemological forces that make Obama's statement true. He was the figurehead of the so-called success of American multiculturalism and sovereign American militarized violence, *and* he was fixed as one of the nation's many primary fugitive black targets. So true is this that his election motivated the Tea Party and its subsequent anti-black populist rebellion.

Inasmuch as a coda might also serve as a springboard for further study, I will highlight two conceptual and ethicopolitical questions that emerged through the preceding chapters. First is a question about the lens through which we might better understand passing as a historical, racial, epistemological, and economic complex of ideas. As I began to discuss the problem of passing in the book's introduction, I detailed that by passing I was referring to a constellation of items including 1) the act of impersonation, 2) the act of accusing or suspecting someone of impersonation, and 3) all of the narratives, folklore, and cautionary tales about both black duplicity and its inversion, black hypervisibility. In effect, given the multiple examples discussed in the book, we might do better to understand passing as one of the United States' most important myths. Recall that a myth is a *form* of meaning making that works on pre-existing signs. It takes complex historical and social occurrences of enslavement and mastery and repackages them, working to oversimplify or distort meaning, erase contradictions, and make ideological claims (for example, black duplicity or hypervisibility) seem self-evident.

At the same time, passing, as I have claimed, is a technology. By this, I mean in one sense that it is a tool through which humans create new and "artificial" objects and in this production create themselves anew as "artificial" subjects. But also, in line with the ancient and early modern idea of *techné*, passing is a form of trickery through which the human might gain mastery over that which is greater than them. All of this, we have seen, is made possible through the violence of capture or enslavement of "nature." The runaway slave advertisements, the slave passes, and the pass laws were modernizing technologies that created the figure of the fugitive slave *and* the self-made white settler turned hunter-knower. Scholars of science and technology might do well to pay even more attention to the mythological dimension of technology itself and various technologies in particular. Certainly, Martin Heidegger has pointed out how modernity has prioritized the productive capacity of technology. Its investment in humanist mastery occludes its parallel investment in rendering the whole

world (i.e., nature, animals, and humans) no more than raw material for consumption or use.<sup>7</sup> Science reveals the world to us as “matter” and technology reveals that matter to us as a resource for fashioning and even self-fashioning. Taking a critical look at modern passing narratives brings into conversation the workings of mythology and technology. And this brings into relief the tension between the discursive and material within the projects of Enlightenment.

This is of course not a new point of conversation; we have debated the relationship precisely because of the metaphysical claims of Enlightenment thought itself. However, I am not convinced that we have yet reckoned with the ways in which discursive or epistemological violence and physical violence are impossible to disentangle. Nor have we been able to fully reckon with how the incomprehensibility of this entanglement comes to bear on us as beings in the world. We do not have the language for this. Nevertheless, given Bacon’s work on experiments and the growth of this thought alongside the transatlantic slave trade, it seems that enslavement as a fantasy, a practice, and an ideology belongs as much to the origin story of modern technology as it does to the modern “human.” It is the effects of enslavement as a material and mythological power that I believe Hortense Spillers was attempting to articulate in her return to the moment of the Middle Passage and her contemplation of a notion of *flesh* in relationship to the body. The captive African, in her assessment, is physically broken down during this passage into enslavement, and its consequences build an existential, ontological, and material “something new” and artificial in their place. What is produced is *flesh*, Spillers figures, as the being’s primary narrative. It is wide open to the world—highly vulnerable. What does it mean to call flesh a narrative? This historical-material moment in which the African is captured and in transport is broken down and apart is covered over by a secondary discourse called the “captive body.” I would argue that the mythology of passing is part of this secondary discourse. This is a moment of violent becoming that is immediately also a moment of covering over and displacement. In considering this, Spillers puts together what can only be received as a baffling combination of words that testify precisely to the incomprehensibility of the event. She writes, “If we think of the ‘flesh’ as a primary narrative, then we mean its seared, divided, ripped-apartness,” which will ultimately allow only for a reading of its hieroglyphics.<sup>8</sup> Flesh is what we might think of as a primary substance, perhaps organic matter, one that feels pain. Yet here flesh is deployed as a narrative. It is a paradox because pain has often been described as ineffable. How are we to understand a narrative of becoming seared, divided, and ripped apart? How might searing, dividing, and ripping apart be a narrative that paradoxically can no longer be narrativized? We must resist the

urge to interact with this statement in only symbolic or discursive means and instead return to the stupor that this literal material and existential becoming invokes. The branding, the blue shirts, the lost teeth and tangled limbs, the pass, the myth of hypervisibility, the hoodie, the queer, the artificial, the hyper-masculine or hypersexualized, the sexless, and all the other anchoring signifiers of blackness are part of this material and discursive intersection to which the problem of passing bears witness.

The second and last question that emerges over and again in the preceding chapters is the question of the status of and relationship between mastery, sovereignty, and fugitivity. The literature on mastery and on sovereignty is oftentimes not in conversation. Generally, sovereignty has been relegated to the political, the national, and the collective while mastery has been applied to interpersonal relations. Yet, as the preceding chapters demonstrate, there is a strong historical and conceptual link between the two notions. The Enlightenment ideal of the rational subject treats individual sovereignty as the highest form of mastery; to master the self is the project of the human. The seventeenth-century Peace of Westphalia, to which is attributed modern notions of political sovereignty and the nation state, emerges within this epistemological context. Intra- and interstate relations, in this framework, follow the logic of the relationship between masters and their servants and masters and each other. As such, both sovereignty and mastery depend upon the fantasy of self-sufficient agents who are able to create and maintain conceptual and physical boundaries through law, the social contract, and disciplinary violence.

The trend among critical scholars and activists has been to reject the fantasies of sovereignty—at least as authorized through the state—and embrace something else. Indigenous studies scholars have gestured towards Indigenous ideas about sovereignty that espouse interconnectedness with other peoples, creatures, and the land.<sup>9</sup> Black studies scholars have made a similar move that aims to refuse the conceits of mastery in order to explore abolition in the lived experience of fugitivity, including slave resistance, maroon communities, creative improvisations, and self-fashioning. In this sense, fugitivity might be understood as a rejection of the sovereignty of the white master or anti-black symbolic order, but it could also be understood itself as a striving for self or collective black sovereignty within a fugitive community. Nevertheless, it is often described in opposition to sovereignty or as a form of “nonsovereignty.” For Moten, for example, the true ontological, existential, and political fault line is not between Western and non-Western forms of sovereignty but rather between sovereignty (via the state) and the “fugitive” social lives of the stateless to which he attributes the black experience throughout the diaspora.<sup>10</sup> My

concern, however, is that neither of these moves fully extricates us from the rather fantastical and libidinal relationship between sovereignty, on the one hand, and nonsovereignty, illegibility, or fugitivity, on the other—that which threatens at every moment to undermine the master or sovereign. In *The Problem of Passing*, I have argued for always reading the two together.

Black study allows us to do so. But we can also begin to see that sovereignty, mastery, and fugitivity are not solely a question of the politics of recognition or misrecognition. There is something else that is or at least can happen as we consider them together. Permit me a final example that takes in a question Hortense Spillers poses. It has to do with what it might mean—symbolically, libidinally, perhaps even existentially—to take in the scene of a black woman's speech. In "Interstices: A Small Drama of Words," Spillers centers her question specifically around sexuality, saying matter-of-factly that within the sexual universe black women are "unvoiced, misseen, not doing, awaiting *their* verb."<sup>11</sup> This is not simply a condition of subalternity but rather the specific condition that results from slavery's negation of the black woman's very being or existence and their capacity for pleasure or desire outside the purview of white mastery. Spillers thus asks what this liminal condition of non-being for the slave woman might produce by way of "knowledge." If it does not allow speech or narrative, then perhaps at least one can attest to a "mark."<sup>12</sup> What sort of meaning might this mark produce?

With this question in mind, we can return to the case of Trayvon Martin, not to the president's words but to the words of Rachel Jeantel, the young friend of black American and Haitian descent who had been on the phone with Martin, who witnessed with him the moments just prior to his murder. She was later asked to testify against Zimmerman. The professional media and social media response at the time proclaimed that because of "how" she spoke (an anchoring signifier, most certainly, for *who* she was), Jeantel was not a "credible" witness. A wave of cultural and linguistic specialists followed the trial to explain, to pick apart, the sociolinguistic bias within the courtroom. Jeantel seemed ambivalent about appearing in court. She was certainly over the defense lawyer's badgering of her and replied to his harassing interrogations with hollow "yes, misters" and "no, misters." Jeantel went unheard for the most part. This was not because of her speech impediment. Nor was it due to a lack of cultural competency on the part of a jury unable to comprehend "African American vernacular English." Her testimony went unheard because of the workings of the "myth of the black woman," as Spillers would call it, as both asexual and hypersexual, fraudulent and superficial. Even with the sociocultural force of this mythology, however,

both the prosecution and the defense worked hard at rendering Jeantel's testimony illegible. The lawyers and the stenographer constantly interrupted her. They complained that they couldn't understand her. They patronized her and asked her to better articulate. They complained that they could not see her in the witness stand. They fiddled with the microphone. And, most importantly, they acted appalled when she, having been asked, repeated verbatim the language that Trayvon and she used to describe his stalker and soon-to-be killer—the *creepy ass cracka*. Having violated all the expectations of respectability politics, Martin's and Jeantel's read of Zimmerman mirrored the sexual and racialized vulgarity espoused by the hunter and the hunt.<sup>13</sup> Disavowed and undetermined, Jeantel gave witness to the hunting-knowing-murder of her friend.

For those who witnessed Jeantel's witnessing in its entirety, what we received was a mark or an enunciation. Because it came from Jeantel and because of her blackness and her black, improper womanness and her black woman underclassness, her mark was not necessarily the sort of enunciation that brings with it official recognition or authority. Yet it did seem to blur an unmediated moment alongside an emergence of the various, discombobulated "I's" that Kant needed to accompany intuition, cognition, and thinking. It was only a moment. Yet, with this enunciation, a meaning or an order was imposed. Certainly, it was almost simultaneously covered over and disavowed. Nevertheless, I would like to propose that this too might be understood in some ways as a sovereign act.

This enunciation or mark is to be found, as Spillers would argue, in the interstices. Yet the interstices are not completely fugitive; that is to say, they are not invested in nonsovereignty, but rather propelled towards something else. The marks Jeantel made emerged from within a gap—that is, a liminal or in-between space that imposed itself upon the main narrative. Here we might be more specific and say that perhaps the marks were not simply what were able to be heard in this gap but rather *what actually instantiated* the gap, and they did so even as others refused to inhabit it. This certainly might be understood in the ways I have discussed fugitivity thus far, yet it must be clear that this sort of enunciation is independent of any assurance of futurity or duration. Spillers finds a similar circumstance in the poetic performance of the black female vocalist in which "agent, agency, act, scene, and purpose . . . is compressed in the singer into a living body, insinuating itself through a material scene . . . a precise demonstration of the subject turning in fully conscious knowledge of her own resources toward her object."<sup>14</sup> The "instance of being-for-self" emerges as "an unalterable and discrete moment of self-knowledge."<sup>15</sup> We might read the

case of Jeantel as a becoming in relation to the real in which an “I” emerges. It emerges as a force of invention. As we will see, it must also be understood as a force of destruction.

I read this moment in Spillers less through the dialectics of Hegel than through a provocation from David Marriott theorizing Fanonian “invention.”<sup>16</sup> This sort of invention is not quite the same as deconstruction or as uncovering the authentic self just below the surface. Indeed, Marriott writes that invention cannot be mistaken for an unveiling: The latter follows the logic of the mythology of passing. On the contrary, “Invention follows a completely different path of disclosure, and is less the promise of an adequation between meaning and authenticity, than a disintegrative moment.”<sup>17</sup> The mark to which Spillers alludes and that Jeantel made in her court testimony manifests as a brief interruption of prevailing law. Such an invention may occur as a failure. It often does. It may be misread or covered over by dominant (and even not-so-dominant) symbolic orders. Yet it is made and available for those stopped by its interruption, and at times there is no option but to *become* (undone) through it.

Because of this, I hesitate to reduce this invention or enunciation to the space of fugitivity or locate it outside of the notion of sovereignty. The testimonial mark breaks through the myths and symbolic order that render the black woman silent, but as an enunciation, it offers a direction—the instantiation of a new order. And within this new order, it can no longer be understood only as fugitive. The interrupting invention or enunciation makes a statement that might be a proposal or a demand for another order, a sort of order yet to be seen but that renders passing’s reader relation itself incomprehensible, at least momentarily. Indeed, Marriott describes this as the “blackest leap of all,” one that “shuttles between what could be traditionally distinguished as sovereignty and enslavement [or what I’d refer to as fugitivity], asserting the priority of neither and the subordination of both to a wider movement that neither is in a position to understand.”<sup>18</sup>

What the problem of passing allows us to see, if we are attentive to the mythologies that bring it into being, is that within the bounds of its reader relation, the distinction between law making and law breaking can be nebulous. The reading that occurs as a result of passing makes attempts to conserve the prevailing presumptions about blackness as an ideology. It calls upon all subjects—including and especially the black subject—to also conserve this prevailing order of things. One might lean into fugitivity as an everyday form of existence. In doing so, one might slip from a project of imitation, playing with the projections of passing mythologies and desires, phobias, and anxieties

that animate the project of false mastery. Through this action, one might also slip into invention in a way that bears witness to mastery's fantastical ambitions and closely defended fictions. And yet this requires infinite invention, a constant undoing of the sort of coherent subject or history or memory that orders our world and the making of something new. Fugitivity offers fictions and fantasies of its own. The moment one feels that in fugitivity one is able to rest on solid ground, to create a space of prolonged stability, one falls prey once again to the conceits mastery seeks to uphold. It is thus towards a project that moves between critique and study and that hopefully propels us into invention that we must aspire.

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## Notes

### INTRODUCTION

*Elkins epigraph*: Elkins makes this comment with a tone of sarcasm as part of an argument about the very productive and political activity of “seeing” that I will build on in this text. Elkins, *Object Stares Back*, 11.

1. There are a few notable exceptions, and by far, black queer and trans studies has taken the lead in critical scholarship around passing. I will discuss several of these interventions in the introduction and throughout the book.

2. Wald, *Crossing the Line*, 119; “Why ‘Passing’ Is Passing Out,” 13.

3. “Transcript of George Zimmerman’s Call to the Police,” *Mother Jones*, 2012, accessed March 3, 2017, <http://www.motherjones.com/documents/326700-full-transcript-zimmerman>.

4. Adam Weinstein, “The Trayvon Martin Killing, Explained,” *Mother Jones*, March 18, 2012, <https://www.motherjones.com/politics/2012/03/what-happened-trayvon-martin-explained/>.

5. The Volusia County medical examiner’s office is located thirty-three miles from Sanford. The Sanford Police Department offered no explanation for holding Martin’s body there rather than in the Sanford medical examiner’s office. Neither Martin’s father nor mother was allowed to view their son’s body until it was released two days later directly to the mortuary transport for the funeral. See Fulton and Martin, *Rest in Power*, 38.

6. Weinstein, “Trayvon Martin Killing, Explained.”

7. Even this list is so woefully inadequate, not simply because there are numerous unnamed who are hunted as part of the banal workings of state violence and policing (stop and frisk, for example) and who, because they are not recorded (and even sometimes when they are), are not among the record of public discourse. They remain unremarkable with regard to the national “conversation.” Moreover, more work could be done to link today’s resistance to lynchings to that of earlier periods of US history. In contemporary times, we point to the camera phone and dashcam as technologies that provide (insufficient) evidence supplied by critical witnesses. Yet in the nineteenth and early twentieth

centuries, those who enacted the lynchings were the very ones documenting their crimes and distributing them for the enjoyment of others.

8. Simone Browne ties modern day surveillance practices and fantasies to the antebellum practice of tracking fugitive slaves in her book *Dark Matters*. In the article “Everybody’s Got a Little Light Under the Sun,” she opens her discussion of migration and surveillance with a reference to a contemporary Canadian reality show titled *Mantracker*. One particular episode stars the protagonist Terry Grant, “an accomplished rider” who must find and arrest two young black men from “hard knocks hood of Toronto’s Jane and Finch.” The aim of the episode is to harken back to Canada’s historic relationship to the Underground Railroad. In this program, the words *hunter* and *prey* are used specifically to refer to the protagonist and those who are to be tracked. I am also using these words *hunter* and *prey* and connecting them to a long history of surveillance in the United States. However, as I will demonstrate in the following chapters, there is more going on than the development of surveillance. That is, as I argue, surveillance itself becomes the central form of knowing as it emerges collectively within Enlightenment thought and the simultaneous projects of colonial expansion dependent on slave labor. See Browne, *Dark Matters*; Browne, “Everybody’s Got a Little Light,” 543.

9. Juliana Huxtable makes a similar point regarding passing and the trans experience. Huxtable notes, “Those whom the media deem to be relatively ‘passable’ in one sense or another—end up being used as examples to police trans people generally.” Gosset and Huxtable, “Existing in the World,” 42.

10. Simone Browne referred to this phenomenon as “black luminosity” in her treatment of colonial New York’s lantern laws requiring blacks who were on the street after sundown to carry a lantern to make them visible to policing. Browne writes, “I use the term ‘black luminosity’ to refer to a form of boundary maintenance occurring at the site of the racial body, whether by candlelight, flaming torch or the camera flashbulb that documents the ritualized terror of a lynch mob. Black luminosity, then, is an exercise of panoptic power.” Citing Foucault, she explains that this panoptic power “belongs to ‘the realm of the sun, of never ending light; it is the non-material illumination that falls equally on all those on whom it is exercised,” Browne, “Everybody’s Got a Little Light,” 545–46.

11. See, for example, Daphne Brooks and Nicole Fleetwood. Their work highlights the impact of this hypervisibility on black experience and traces the response of black artists, particularly female artists, in accentuating the dynamic of *excess flesh* so as to bring attention to the violent history of tracking blackness. Brooks, *Bodies in Dissent*; Fleetwood, *Troubling Vision*.

12. Fanon, *Peau noire, masques blancs*, 93. My translation.

13. So striking is the effect of epidermalization that Fanon derides well-meaning European scientists who attempt to redeem *le noir* through the invention of a de-blackening serum that could, they hoped, alleviate them of this “corporal malediction.” Fanon, *Peau noire, masques blancs*, 89–90.

14. Ellison, *Invisible Man*, 21.

15. Ellison, *Invisible Man*, 22.

16. Ellison, *Invisible Man*, 22.

17. Ellison, *Invisible Man*, 22.

18. Simone Browne offers the example of branding as a violent technique that served to enact black hypervisibility and ensure effective surveillance of enslaved peoples. Browne, *Dark Matters*, esp. 90–128.

19. Another anchoring signifier to consider is the yellow Star of David that the Nazi regime required Jews to have displayed on their clothes at all times. Drawing on histories of racist policy in the United States, Nazi Germany's anti-Semitic assumptions were contradictory (as are all racist assumptions). Nazis believed Jews were so obviously not Aryan and that this was not simply detectable in their appearance but that their appearance and all that it signified ontologically and culturally were so intrusive into German society that they could not "turn a blind eye." At the same time, the anxious fear that Aryan Germans would not be able to detect Jews, or that Jews might be able to appear so Aryan that they did not display their difference, was the basis for requiring the visual marker and policing adherence to this law so sternly.

20. "Transcript of George Zimmerman's Call," emphasis added.

21. Quoted in Nguyen, "Hoodie as Sign," 791.

22. Nguyen, "Hoodie as Sign."

23. Rankine, *Citizen*.

24. This event harkens back to the first Million Man March called by Louis Farrakhan to gather black men in Washington, DC, in 1995. The stated goal was to represent black men in a different way from what was depicted in the media, to foster mutual support and independence, and to raise awareness of socioeconomic issues affecting black people.

25. Manuel Roig-Franzia, "What Became of Trayvon Martin's Hoodie," *Washington Post*, March 17, 2022, <https://www.washingtonpost.com/lifestyle/2022/03/17/trayvon-hoodie-in-smithsonian/>.

26. Take, for example, the notions of identity theft, which is at the heart of the problem of passing, and the theft of intellectual property. Both include the legal fictions that one's abstract sense of self and any abstract or spoken thought, idea, or talent that the self produces can be understood as property of the self. Stephen Best argues that it is slavery that lends a historical and legal framework to what he calls the "subordination . . . of personality to the property relation." In *The Fugitive's Properties*, Best details this direct relationship between denouncing "fugitive personhood" in the context of intellectual property law and denouncing "fugitive persons" in the context of runaways during antebellum chattel slavery. Best, *Fugitive's Properties*, 38.

27. Saidiya Hartman, for example, elaborates on the connection between sovereignty and subjection within the context of emancipation. She writes, "The nascent mantle of sovereign individuality conferred rights and entitlements . . . it also served to obscure the coercion of 'free labor,' the transmutation of bonded labor, the invasive forms of discipline that fashioned individuality, and the regulatory production of blackness." Hartman, *Scenes of Subjection*, 120.

28. One particular dilemma is temporal in nature. For example, Jean Bodin argued that if sovereignty is to be absolute, it must be *unbound* by time, existing *perpetually*, and self-sufficient. What becomes difficult inherently in the concept of sovereignty and in the practical implementation of sovereignty is the relationship between being both

“unbound” and “perpetual.” Certainly, in the instant that the sovereign makes a promise, they demonstrate pure will unconstrained by past obligations or future projections. But, if the sovereign is to change their mind or break the promise, his sovereignty must be called into question. Bodin writes, “It is impossible to bind oneself in any matter which is the subject of one’s own free exercise of will . . . the king cannot be subject to his own laws . . . so the sovereign prince cannot bind himself even if he wishes.” Bodin, *On Sovereignty*, 69. And yet, this is precisely what the sovereign must do. As Geoffrey Bennington points out, the sovereign is such precisely because they must simultaneously make and break law.

Even “breaking” the laws, the sovereign makes the law, cannot but make the law: the sovereign is even more obliged to the law than his subjects, more subject than his subjects as to the law of the law, i.e., faith in the promise. Simple derogation of laws renders the sovereign less than sovereign: sovereign is only he who makes the law itself at every instant, absolutely, while breaking the existing law in the same blow. . . . Like it or not, the sovereign, breaking the law each time, makes the law each time, cannot prevent himself from making the law, and thus promising, on pain of not being sovereign. A law that did not promise would not be law: every word of the sovereign is law and therefore promise. (Bennington, “Fall of Sovereignty,” 399)

29. It should be noted that Zimmerman was a member of a neighborhood watch organization that, like most others, holds special relationships with local police departments, which offer training and consultation for its members and maintain open lines of communication for members to report suspected crime. It was an officer that provided specific training for what to look out for in terms of usual suspects—dark clothing, dark hoodies. What is significant is that surveillance includes the formal sort organized in government agencies; the kind that is formalized but not officially managed by the state, such as neighborhood watches; and the informal and “unorganized” sort of surveillance for which every citizen is responsible. After September 11, 2001, this informal vigilantism oriented toward local neighborhoods was widened to so-called national security on the world stage. The refrain became, “If you see something, say something.” The latest example of individual citizen vigilantism in which citizens feel “deputized” to police suspects has been the trope of the “Karen.” Parodies of this trope, which became popular after the 2020 Black Lives Matter uprising, highlighted the ways surveillance and vigilantism are not limited to masculinity. White women as “Karens” take on the duty of the citizen police in just as committed a fashion. Interestingly, white men have seemed to enjoy “jumping on the bandwagon” of critiquing white women, suturing the misogynist trope of the nosey woman with the duty of policing. In this way, many men have disavowed their own participation in these regimes. The male hunter/surveillant is not generally accused of being nosey in the same way.

This web of formal state surveillance, formalized civilian organizing, and informal citizen watchers is an integral component of contemporary surveillance regimes. However, we should not assume that this dynamic is a natural or given occurrence. Chapter 1 of this book will lay out the policies and procedures colonial governance implemented in order to foment buy-in and personal investment, first from the planter class, then white settlers,

and finally all whites as a surveilling class in relation to the fugitive slave and the resistant natives.

30. Barthes writes that myth “transforms history into nature.” It is in this move that myth is most powerful. He elaborates: “Myth is constituted by the loss of the historical quality of things: in it, things lose the memory that they once were made. The world enters language as a dialectical relation between activities . . . it comes out of myth as a harmonious display of essences. A conjuring trick has taken place; [myth] has turned reality inside out, it has emptied it of history and has filled it with nature.” It is this labor of myth that both displaces history, rendering its narrative “depoliticized” or natural, and yet retains that history as its disavowed animating signifier that prompts me to make the argument that all passing narratives in the United States have at their core the history of managing blackness as potential fugitive essence. Barthes, *Mythologies*, 128, 142.

31. See, for example, Snorton, *Nobody Is Supposed to Know*; McCune, *Sexual Discretion*; Ross, “Beyond the Closet”; and Nyong’o, “Passing as Politics,” “Unforgivable Transgression,” and *Afro-Fabulations*. These works are a sample of a much larger body of black trans and queer scholarship on the topic. Some of the texts speak directly to passing. Others can be read within the context of passing. None are limited to the topic of passing as theorization of black trans and queer life.

32. Stone, “‘Empire’ Strikes Back,” 298.

33. Snorton, “New Hope,” 87.

34. Snorton, “New Hope,” 89.

35. Snorton, “New Hope,” 87.

36. Jackson, “Waking Nightmares,” 359.

37. Che Gossett in Yancy, “Black Trans Feminist Thought.”

38. Tiffany Willoughby-Herard offers a significant political critique here when she argues that “tumble dried between shame and loss and confusion and moments of complete ecstasy, there is some truth to the notion that Blackness is a signifier for queerness.” She rightly insists, however, that “*that is not the only truth about Black queerness. . . .*” Because there are in fact people who are Black and queer and Black and trans who each year are disappeared by and slain by other humans who know them, use them for rent payments and babysitting, and plagiarize from them.” Indeed, it is to this I refer when I ask about how cis and cishetero black people themselves take on the role of the hunter-knower, fixing as objects among objects queer and trans folks who are otherwise “too costly to mourn,” at least publicly, and for whose phobic trauma we are unwilling to take accountability. Willoughby-Herard, “Black Sexualities as Self-Defense,” 40–41.

39. Sedgwick, *Epistemology of the Closet*, 10.

40. Sedgwick writes, “The analytic move is to demonstrate that categories presented in a culture as symmetrical binary oppositions—heterosexual/homosexual, in this case—actually subsist in a more unsettled and dynamic tacit relationship according to which first, term B is not symmetrical with but subordinated to term A; But second, the ontologically valorized term A depends for its meaning on the simultaneous subsumption and exclusion of term B; hence, third, the question of priority between the supposed central and the supposed marginal category of each dyad is irresolvably unstable.” Sedgwick, *Epistemology of the Closet*, 10.

41. For further discussion of the Ellen and William Craft story, see Samuels, “‘Compilation of Complaints’”; Foreman, “Who’s Your Mama?”; Marshall, “‘They Will Endeavor to Pass’”; McCaskill, “‘Yours Very Truly.’”

42. Snorton, *Black on Both Sides*, 78.

43. One could say something similar about Henry Box Brown, who mailed himself to freedom, arriving by courier in Philadelphia in the nineteenth century. In this uncanny moment of escape, Brown was successful by performing the ontological status that slavery demanded of him. Brown *passed* as cargo, which is what he—or at least his ancestors—was considered crossing the Atlantic or having been sold down South by steamboat. For an insightful account of this passage, see Brooks, *Bodies in Dissent*, 66–131.

44. Hartman, *Scenes of Subjection*, 57.

45. Snorton offers an interesting analysis of the role of disability as an anchoring signifier here as well. He picks up on Ellen Samuels’s “A Compilation of Complaints” to underscore the symbolic work of Ellen Craft’s performance of disability. Samuels, cited by Snorton, writes, “If we understand the invalid as ‘one who is served,’ it is clear that William’s presence as the servant of ‘Mr. Johnson’ is as fundamental to Ellen’s successful performance of invalidism as are the sling, poultice, and green spectacles she wears.” Snorton then concludes: “Samuels’s formulation opens a way for thinking about how William Craft’s (fugitive) slave status engendered him as another disability ‘prop’ in a polysemous supplementarity.” This is significant, and yet I might add a caveat. As I argue in chapter 1 of this book, what is considered “invalid,” “disabled,” or “maimed” is not in and of itself what calls for the benefit of service. In the antebellum South, the black slave was paradoxically both the figure of disfigurement and the figure of labor. The runaway slave advertisements referred to disfigurement as one visible way in which one could identify a fugitive: their missing eye, broken arm, shattered tooth, etc. The maiming of the enslaved was not an appendage to an otherwise healthy and free body. Rather, it was naturalized as part of the wretched appearance of those who labored for life. Thus, one could equally argue the following: The disfigurement that Ellen performed alongside Bill’s copformance of service enabled her to be read as a white man and master. In contrast, the same injury on William might have been a hypervisible indicator of the runaway or fugitive black slave. In other words, disability alone is not a symbol of one who cannot work or must benefit from service. Depending on the body to which it is anchored, it might invoke a completely different meaning. Snorton, *Black on Both Sides*, 84.

46. Hartman, *Scenes of Subjection*, 57.

47. Barthes argues that “however paradoxical it may seem, *myth hides nothing*: its function is to distort, not to make disappear.” This is how passing as a myth becomes animated by the compulsion to manage fugitive blackness or fugitive slaves even as it disavows this original urge. At the same time, decoding the myth or refusing to pass, even as it might attempt to deconstruct the myth, does not get us out of the problem. That problem is the ideological structure of surface versus depth or authenticity versus fraud. Myth, like the briar patch, is dynamic. One must, in Barthes’s words, become a reader of myths or a *mythologist*, which is to say one must read for the truth within the deception of myth. Barthes explains that “myth is neither a lie nor a confession: it is an inflexion. Placed before the dilemma [of being deconstructed], myth finds a third way out. . . .

Driven to having either to unveil or to liquidate the concept [narrative], it will naturalize it." Refusing to pass is almost always read by the hunter-knower as a confirmation of passing's twin mythology—black hypervisibility. Barthes, *Mythologies*, 120, 128. For surface reading as a methodology, see also Best and Marcus, "Surface Reading."

48. Comparative literature scholars have made an argument for the promise of surface reading that I am drawing on here, although perhaps not in the most faithful way. Mary Thomas Crane makes an interesting point about the reading of allegory as requiring a surface reading. *Allos agoreuein*, the Greek root of the word *allegory*, means literally to speak (*allos*) otherwise (*agoreuein*) or to say other things. Crane explains that allegory does not indicate a truth below or hidden by a surface but rather an alternative meaning "alongside a primary meaning." Crane, "Surface, Depth," 84.

49. Harney and Moten, *Undercommons*.

50. Scholars have made similar arguments in different ways. For example, Nahum Chandler writes: "Control, especially 'absolute' control, over someone else's intention requires recognition of that intention: There is no need to control that intention which has no force. This force, the force of an intention other than that of the slave owner's, is signified practically by the risk of flight or escape: The slave can always choose to escape or attempt to escape, including by way of death or suicide." He ventures in a footnote that this "suggests that the apparent possibility of absolute control is a kind of transcendental illusion." Chandler, "Originary Displacement," 281–82, 281n43.

51. This is precisely what occurs when one fails to understand the truth in the "lie" the myth upholds. See my discussion of invisibility and hypervisibility above.

52. Edelman, *Bad Education*, 11.

53. Much of black studies has invested greatly in the radical possibilities of fugitivity. The critical question is, however, whether one can do this without recourse to the false promises emanating from mastery, which often sneaks back in through the side door. These projects often end up either "recovering" a stable subject or throwing themselves into a fetishization of illegibility and liminality as a reactionary inversion of mastery, in essence the perversion mastery both enjoys and seeks to control. I am willing to accept that this may not always be the case. Yet I am ever suspicious. Fred Moten's work, for example, walks this tightrope carefully. It looks toward the aesthetic imagination of black fugitivity, which he views as both a force counter to the law but also a productive *anoriginary* force. It manifests as a sort of creative or poetic fugitivity, provoked in response to the projection of a white imaginary yet not reducible to it. Emanating from this latter excess, he argues, is a power more originary than law that also has the power to rearrange the very concept of law. See Moten, *Stolen Life*.

To think with Moten and to think of this spatially, one might say that while mastery might proclaim to be well-landscaped and orderly gardens, fugitivity—thanks to the projection of the white imaginary—is of the briar patch. The laws of the latter are written improvisationally, at a moment's notice. However, what is unforgettable here is that the only promise of the briar patch is that there is no promise. There is no claim to stability and no security in liminality. Anyone subjected to its space, even if they were born and raised in it, has as good a chance to thrive as they have to die among its thorns. Again, if this sort of fugitivity harkens to an anoriginary force, it emerges and is mastered, one might say, only momentarily.

54. For, in attempting to carve out a critical historical account of Native dispossession and erasure, even the anticolonial historian can easily fall into an anti-black politics of recognition. It likewise emerges through the dynamic of the hunter-knower searching for the truth of their archival subjects. Nevertheless, because the colonial archive can only offer up as subjects those that it has made legible and only in the manner in which it has made them legible, the rejected applicants appear to the historian through the suspicion of passing. They have already been categorized. Even without the intention of reproducing the accusation, the critical historian's approach can often mirror it. We come to an impasse if we engage the archive through a politics of recognition that remains obedient to the political and epistemological terms it sets out—that black and Native are mutually exclusive political categories, that Native self-determination depends on rooting out the other, and that *Native* signifies a sort of authenticity that when sullied by blackness is rendered fraudulent. The very structure of the archive is governed by the logics of the passing reader relation. It pulls its readers into the chore of mining it for the authentic that comes as a result of Indigenous erasure and black capture. Amongst many others, Lisa Lowe on this front has gestured toward the suspicion we must all carry in equating “the retrieval of archival evidence” with the “restoration of historical presence.” Lowe, “History Hesitant,” 85.

55. I am further convinced that this is the only way to read this archive—as structured through the logics and libidinal economy of black passing narratives—when reading the words of Stephen Best. He argues,

We create ideals of hiddenness against which we then aggress “in order . . . to dwell on concerns about how the subject can become more ‘authentic.’” These ideas of the hidden motivate my concern for one of the recovery imperative’s implicit maxims: the notion *that what is hidden is more authentic than what is visible for all to see*; that the most significant truths are not immediately apprehensible and may be veiled or invisible. It is not hard (or even wrong) to feel the encroachment of this “buried essence” model of authenticity in discussions of slavery, where it has come to mean, at base, that slave culture is cunning, always shrouded in a cloak of secrecy. . . . The presumption of hiddenness forces me as a scholar to hold the same suspicious relation to slave knowledge as did the inquisitors, planters, and colonial administrators who left most of the evidence of it—a kind of historical “transference,” as Dominick LaCapra has termed it, in which we preproduce in our own work the dynamics about which we write. One need only consider here Vincent Carretta’s work on Olaudah Equiano, which asks the same question as contemporaries of the man who believed him to be a fraud: Who are you? (Best, *None Like Us*, 86)

56. Piper, “Xenophobia and Kantian Rationalism,” 190.

#### CHAPTER I. OF PASSING AND THE PASS

1. Douglass, *Life and Times*, 79.
2. Douglass, *Life and Times*, 79.
3. Douglass, *Life and Times*, 79.

4. Douglass, *Life and Times*, 81.
5. Parenti, *Soft Cage*, 18.
6. Ford and Rouse, *Eighteenth-Century Williamsburg*.
7. According to the Library of Virginia's description in the Index of Virginia Printing, Hening took fifteen years to assemble all the colonial-era legislation into a published collection. Notes for the archive explain that in February 1808, the assembly finally authorized publication of the statutes, which ultimately comprised thirteen volumes. However, since Hening was only able to charge the state of Virginia for one volume a year, it took over a decade and a half to publish everything. The first volume came out in January 1810 and the thirteenth volume in 1823. In addition to the financial restraints, Hening's printer, Samuel Pleasant, died in 1814. As such, printing did not pick up again until 1818. For more details, see Library of Virginia, "Imprint Record."
8. Almost all advertisements I review in this chapter were published in the *Virginia Gazette* and compiled in the "Geography of Slavery in Virginia" database by Tom Costa, which includes notices from 1736 to 1803. The *Virginia Gazette* was published in Williamsburg until 1780, at which time it moved to Richmond. As was common for the era, there were, at times, several newspapers in the area published by different printers but all under the title *Virginia Gazette*. Online copies of the periodicals can also be found on the Rockefeller Library Digital Collections platform, "Virginia Gazettes," accessed December 31, 2023, <https://research.colonialwilliamsburg.org/DigitalLibrary/va-gazettes/>.
9. And, as I will detail in chapter 3, humans are produced in the very belief that they are the privileged source of this meaning.
10. The authors of these advertisement were not always the slave holder. Some were helped or written by newspaper editors, and at other times, when the advertisement was for a found slave, the author might have been the slave catcher or other individual, including officials. See Hodges and Brown, "*Pretends to Be Free*"; Block, *Colonial Complexions*.
11. See, for example, Lloyd, *Passport*; Torpey, *Invention of the Passport*.
12. There has been some debate as to how one should refer to this political relationship. Many have used the word *confederacy*. Others have argued that it was rather a centralized monarchy or chiefdom. Helen Rountree argues that the organization was a "paramount chiefdom" and not a confederacy. However, it should be noted that Chief Powhatan and subsequently Chief Opechancanough were politically savvy leaders faced with challenges of maintaining political cohesion and obedience among the tribes they ruled. See Rountree and Turner, *Before and After Jamestown*; Rountree, "Change Came Slowly"; Gleach, *Powhatan's World and Colonial Virginia*.
13. Rice, "Bacon's Rebellion in Indian Country."
14. For a detailed analysis of the significance of considering the political landscape of regional Indigenous peoples in its own right and in order to better understand the settler project of history and race writing, see Rice, "Bacon's Rebellion in Indian Country"; Bruyneel, *Settler Memory*.
15. In particular, fishing was popular for men in the spring during the fish runs, and foraging for plants was common among the women. In the fall, men hunted and women gathered nuts, thus leaving their villages for extended periods of time. See, for example, Rountree and Turner, *Before and After Jamestown*, 87.

16. Their trade networks extended all the way to present-day Chicago. Williamson, *Powhatan Lords of Life and Death*.

17. The Susquehannock had been at war with the Piscataway and the Five Nations Iroquois to the north of them. They moved further south as a result, ultimately to the upper Potomac basin in 1575, and then back up to the lower Susquehanna River by 1610, where they ran into conflict with the Piscataway. Virginia initially entered into alliances with the Susquehannock and Maryland with the Piscataway. The Susquehannock periodically attacked Maryland settlers until they agreed to a 1652 peace treaty along with the Piscataway. See Rice, "Bacon's Rebellion in Indian Country," 731–32.

18. Merchant, *Death of Nature*, 131–32.

19. Hening, *Statutes at Large*, 1:324–26.

20. The English actively encouraged this exception to foster, as they characterized it, Native children. There was an effort made to make clear that officially, these youth could not be enslaved. For example, in 1655, the Virginia Assembly passed a law that clarified that Native children brought to be raised with the colonists should not be used as slaves but should be brought up by the families they served in "Christian, civility and the knowledge of necessary trades." Hening, *Statutes at Large*, 1:396. The Anglo families who held Native children would receive some funding from the colonial government. This law was one beginning of a longer tradition of colonization to be understood by the English as a civilizing mission. It was a project that the Powhatans and other Native peoples in contact with the English often resisted. By 1620, private funds had been set aside to provide Native children with a Western education, and in 1693, the College of William and Mary was founded along with its "Indian School." For more information, see, for example, Rountree, "Change Came Slowly," 9. As the 1655 law and subsequent others signal, the fostering of Native children as students, apprentices, and/or servants was often entangled in the practice of enslavement. It was so much so that by the end of the seventeenth century, enslavement of Native children was a common practice in the Virginia colony. In many counties at this particular time, there were more enslaved Natives than Africans. For example, historian James Rice writes that "between 1670 and 1700 on the upper James River 40 percent of the slaves were Indians. Enslaved children in particular were disproportionately Indians. . . . In Henrico County, the center of the Indian slave trade, the court recorded [in 1680] thirty-three Indian children and no 'Negros.' In other counties, between one-half and one-third of those recorded were Indians." Rice, "Bacon's Rebellion in Indian Country," 745.

21. In fact, one of the initial incidents leading to Bacon's Rebellion in 1676 occurred after Potomac Valley settler Thomas Mathew's herdsman was killed by Doeg Indians because his master owed the Doeg a debt from trading. The planters who intended on retaliating against the Doeg, not being able to identify the various peoples of the area they were colonizing, raided and killed fourteen Susquehannocks who were also residing in the valley instead. This was a mistake that was bound to occur, however, because the local planters had little interest in understanding the political and ethnic differences among the peoples whose land they were taking. Rather, they sought to clear the land of all Native peoples. Bacon thus purposefully attacked Indigenous peoples, regardless of alliances.

After Bacon's rebellion, settlers were of different minds about how to proceed regarding their relations with Indigenous peoples. While Bacon called for all Indigenous peoples to be either killed or enslaved, other colonial counties reached back to the earlier use of passes, badges, and passports as a possible way of managing strained relations among friendly Native peoples and settlers. Thus, Nansemond County petitioned the commission to the assembly to kill all Indigenous peoples, and in contrast, the settlers of James City County—following the strategy Berkeley set forth previously—wanted to return to earlier agreements distinguishing allied Natives from enemy peoples by authorizing tributary Natives passes, or “badges,” as identity passes.

22. Hening, *Statutes at Large*, 1:324–25.

23. The intricacies of planting tobacco and the growth of the industry were important factors here. Tobacco plants were hard on the soil and planters could not simply grow on the same plot season after season. Thus they often felt the need to venture into new territory. For an in-depth treatment of the tobacco industry, see Kulikoff, *Tobacco and Slaves*, 47.

24. Hening, *Statutes at Large*, 1:140, 176.

25. Hening, *Statutes at Large*, 1:415.

26. Hening, *Statutes at Large*, 1:415.

27. Hening, *Statutes at Large*, 1:415.

28. A 1631 assembly law ordered “that no person or persons shall dare to speake or parlie with any Indians either in the woods or in any plantation, yf he can possibly avoyd it my any meanes, but as soone as he can, to bringe them to the commander, or give the commander notice thereof uppon penalty of a mounthes service for any free man offendinge and twenty stripes to any servant. But for the planters of the Easterne Shoare, the commanders are required to observe all good termes of amitie; but that they cause the planters to stand uppon their guard, and not to suffer the Indians especially the Mattawombes to make any ordinarie resort or aboade in their houses, and yf any English without leave resort unto their townse, the commanders to bynd them over to the next quarter cort.” Hening, *Statutes at Large*, 1:167.

29. These debates stemmed from efforts by the assembly to curb planters' efforts to settle, hunt, and engage in trade beyond the official bounds of the English occupied territories. Virginia, General Assembly, House of Burgesses, *Journals of the House of Burgesses*.

30. Ray, “Constructing a Discourse”; Rice, “Bacon's Rebellion in Indian Country”; Lauber, *Indian Slavery in Colonial Times*; Everett, “‘They Shalbe Slaves’”; Morgan, *American Slavery, American Freedom*. See also Bruyneel, *Settler Memory*.

31. This does not mean that Berkeley was against profiting from the Indian slave trade. As historian C. S. Everett points out, even a decade before the 1676 rebellion, the governor ordered the enslavement and sale of certain groups of Indigenous peoples to curb the cost of military offenses in cases where he deemed Native peoples were the aggressors, as retribution, as an incentive for Virginians to volunteer for military efforts, and also as a threat with potential diplomatic benefits for the Crown. These policies particularly affected the Rappahannock River tribes in the mid-seventeenth century. Everett writes of William Byrd that he “inherited from his uncle a fine house at the falls of James River, as well as a rather lucrative burgeoning Indian trade enterprise,” which had been licensed by

Governor Berkeley. "By the winter of 1671, Byrd was personally leading expeditions to the southwest of Virginia along the upper Roanoke River. Two years later Byrd was selling Indians to his neighbors. Byrd's own son, William Byrd II, still held several Indian slaves more than a quarter of a century later." Everett, "'They Shalbe Slaves,'" 79–87.

32. Rice, "Bacon's Rebellion in Indian Country," 738; Everett, "'They Shalbe Slaves'"; Ray, "Constructing a Discourse."

33. Rice, "Bacon's Rebellion in Indian Country," 740.

34. "Articles of Peace," May 29, 1677, 82.

35. Ray, "Constructing a Discourse," 25.

36. Ray, "Constructing a Discourse," 25.

37. Hening, *Statutes at Large*, 2:404.

38. Hening, *Statutes at Large*, 4:105–6.

39. Companies would often organize the travel of poor English settlers, mostly young men and slowly increasing numbers of women. Over eighty percent were younger than twenty-four years old and a third of the servants were younger than nineteen. Tomlins writes,

Chesapeake migrants were strikingly young . . . single males were predominant among migrants (the male: female ratio among indentured migrants varying from an extreme of 6:1 in the late 1630s to 3:1–2:1 during the second half of the century). Male predominance was also a characteristic of the c. 15–25% of migrants who paid their own way, although less pronouncedly so (approximately 2.4:1) than among the indentured. Self-supporting migrants tended to be single, like the indentured, but on average somewhat older, three-quarters of them falling below age 35 but most in the 20–34 age range. Indentured migrants in contrast were substantially more youthful, numbering consistently around 30% younger than age 19 and 80% younger than 24. (Tomlins, "Reconsidering Indentured Servitude," 26)

40. These conditions were set depending on the servant's age by the General Assembly and were adjudicated through county courts. See Tomlins, "Reconsidering Indentured Servitude," 6–7.

41. By the end of the seventeenth century, white indentured servitude diminished as the English civil war ended and economic conditions improved in England. See Morgan, *American Slavery, American Freedom*.

42. "And be it further enacted that what Englishman, trader, or other shall bring in any Indians as servants and shall assigne them over to any other, shall not sell them for slaves nor for any longer time than English of the like ages should serve by act of assembly." Hening, *Statutes at Large*, 2:143.

43. Parenti, *Soft Cage*, 18.

44. Hening, *Statutes at Large*, 1:253.

45. Steinfeld, *Invention of Free Labor*.

46. As late as the mid-sixteenth century, England attempted to enforce these sorts of laws. For example, the 1547 Vagrancy Act authorized punishment for those found idle on a master's land and refusing to enter into service. The refusal in and of itself was considered a form of running away or breach of contract (even if that contract was

simply an offer). Having been brought to a judge and found guilty, the “vagrant” was to be enslaved for a designated period of time and branded on the chest. This law, however, only lasted two years before it was revoked. The tradition continued in colonial law and one can even trace its influence on the vagrancy laws implemented in the nineteenth century and during Jim Crow in the United States. For a discussion of the Vagrancy Act, see Chakravarty, *Fictions of Consent*, 4–9. For a discussion of its racialized form in the late nineteenth and early twentieth centuries, see Haley, *No Mercy Here*.

47. Steinfeld, *Invention of Free Labor*, 22–24.

48. As should become clear in this chapter, this was true even as masters often attempted through legal and illegal means to extend the period of a servant’s indenture, at times eventually effectively extending it through their lifetime. By law, a white servant could not be rendered to the status of “enslaved for life.”

49. Hening, *Statutes at Large*, 1:254.

50. Hening, *Statutes at Large*, 1:439.

51. Hening, *Statutes at Large*, 1:439.

52. Protecting landowners’ and merchants’ investments and the larger economic interests of the colony remained such a concern that the assembly also passed laws warning shipmasters against allowing seamen to board vessels “without certificate, under the hand and seal of the master or commander of the ship or vessel to which such seaman last belonged, that such seaman hath been by him discharged.” Hening, *Statutes at Large*, 1:436–37. The waterways made the Chesapeake region a prime place for trade because they facilitated the movement of goods between North America, the Caribbean, and Europe. However, they were also a liability because they facilitated the movement of workers, not just into the Virginia colony, which was desired, but also around the colony and abroad, often leaving landowners and ship captains with goods but no stable workforce. Colonial governance attempted to use the pass as a way to shore up this territory and the profits it otherwise promised. As Christian Parenti points out, the phenomenon of slaves passing as free laborers, especially in the coastal cities of Charleston and New Orleans, as well as several Mississippi river towns, was understood to be as threatening as the phenomenon of undocumented workers is in contemporary times. Employers at shipyards and riverboats benefited from the cheap and precarious labor of fugitive slaves who did not have passes or who had fraudulent passes (or free papers) in the same way that employers today benefit from undocumented labor. Therefore, runaway advertisements often warned readers that hiring fugitive slaves, those who did not have the authentic right to sell their own labor, was a criminal offense. Parenti, *Soft Cage*, 25.

53. Hening, *Statutes at Large*, 1:440. There were convicts and prisoners, some 54,500 people, who were forcibly migrated to the British colonial holdings in North America. Not all but most of them were subjected to indentured servitude for some period of time. Tomlins argues that where convict indentured servants were present in higher numbers, more severe legislation was passed to control the servant class. See Tomlins, “Reconsidering Indentured Servitude”; Ekirch, *Bound for America*; Grubb, “Transatlantic Market.”

54. The cost of child rearing, in cases where a father could not be determined, might also fall onto the parish, who might place the child in the household of a third party to be raised and work as a servant. The child would then be under the rule of this master

until they were eighteen years old or were married, if the child was a girl, and until age twenty-one or twenty-two, if a boy. According to historian Kathleen Brown, legislation limiting servants' freedom to marry while in servitude was also meant to reduce patriarchal conflict between the masters and husbands (or the fathers of resulting children) regarding who was owed the servant's reproductive labor and who would be financially responsible. Brown, *Good Wives*, 131.

55. For a thorough analysis of this dynamic, see Berry, *Price*, 10–33.

56. As has been thoroughly documented, in these early years, the enslaved attempted to protect their children from the threat of inheriting their bonded status by appealing to religious traditions, such as baptizing the child and arguing that as a Christian they should not be born enslaved. They also appealed to English patriarchal family law if the child was fathered by an Englishman since the English inherited status via the line of the father and, by virtue of being English, could not be born enslaved. Some of these individual attempts to sue for freedom were successful, and in response, the General Assembly acted to shore up the property rights of slave owners as a class by decisively closing off these avenues to freedom once and for all for the enslaved. See Brown, *Good Wives*; Morgan, "Partus sequitur ventrem."

57. Hening, *Statutes at Large*, 2:170.

58. "WHEREAS some dispute have arisen whither Indians taken in warr by any other nation, and by that nation that taketh them sold to the English, are servants for life or terme of yeares, It is resolved and enacted that all servants not being christians imported into this colony by shipping shalbe slaves for their lives; but what shall come by land shall serve, if boyes or girles, untill thirty yeares of age, if men or women twelve yeares and no longer." Hening, *Statutes at Large*, 2:283.

59. Everett, "'They Shalbe Slaves,'" 76.

60. Hening, *Statutes at Large*, 3:333–35.

61. Changing racial logics did allow for some distinction to be made, however. Following historian C.S. Everett, slave owners, colonial authorities, and religious leaders of the time seemed to recognize the existence of "'white' Indians, 'mulatto' Indians, and 'Negro' Indians as well as just plain 'Indians.'" Everett, "'They Shalbe Slaves,'" 68–69.

62. The lawyers for the plaintiffs in the *Robyn v. Hardaway* case (1772) argued this but the court ruled against them. People continued to sue for their freedom on the basis of their status as Natives well into the early nineteenth century. This included the cases of *Hudgins v. Wrights* in 1806, *Cooks v. Ivy* in 1819, *Rachel v. John Draper* in 1820, and *Charles Evans, etc. v. Lewis B. Allen* in 1821. See Tarter, "Hundreds of the Descendants."

63. Ray, "Constructing a Discourse," 27.

64. Historian Almon Lauber assessed the situation as follows: "In 1777, the assembly, when called to pass upon the matter, decided that no Indians brought into Virginia since the passage of the act of 1705 [a re-enactment of the 1691 act], or their descendants, could be slaves in the commonwealth. At that time knowledge of the existence of the act of 1691 seems to have disappeared. Even after the decision of the assembly in 1777, the settlement of the matter was so far uncertain as to give rise to certain cases in law in 1792 and 1793, appealed from the County Court to the Court of Appeals to maintain the right to the services of the descendants of Indians enslaved after the passing of the act of 1705. In

both these cases the higher court affirmed the decision of the lower courts which granted freedom to the Indians thus held as slaves, and which interpreted the act of 1705 as repealing all former acts permitting the existence of Indian slavery in the colony.” Lauber, *Indian Slavery in Colonial Times*, 312–13.

65. Parenti, *Soft Cage*, 18.

66. Brown, *Good Wives*, 153–54.

67. Brown, *Good Wives*, 154; “Historical and Genealogical Notes,” 314.

68. Brown, *Good Wives*, 154.

69. Cooke, *Greene’s Tu Quoque*.

70. Chakravarty, *Fictions of Consent*, 28–31. Along with the example of *Greene’s Tu Quoque*, Chakravarty offers an insightful analysis of the symbolic work of livery employed in the Middle Ages and in early modern systems of servitude to regulate social class and indicate relations of dependence and patronage.

71. The play was performed before Queen Anne and Prince Henry by the Queen’s players in 1611. Chambers, *Elizabethan Stage*.

72. Ian Smith argues that, in Shakespeare’s play, Othello’s black handkerchief serves as a sort of epidermal prosthetic to simulate the appearance of black skin. The handkerchief covers the actor’s body to create an imagined identity that reflects the racial stereotypes of blackness within the early modern cultural context. It becomes a material marker that reinforces societal notions of race. Urvashi Chakravarty likens Ian Smith’s analysis of the epidermal prosthetic to the custom of livery in early modern England. Smith, “Othello’s Black Handkerchief,” 4; Chakravarty, *Fictions of Consent*, 19.

73. Other colonies and US states also passed laws regulating slave dress. For example, South Carolina passed a law in 1740 that stated that owners were to ensure that no slave “have or wear any sort of apparel whatsoever, finer, other, or of greater value than negro cloth.” An Act for the Better Ordering and Governing of Negroes, §40, South Carolina, 1740. See also Arabindan-Kesson, “Dressed Up and Laying Bare”; DuPlessis, “What Did Slaves Wear?”

74. “Historical and Genealogical Notes,” 314. One sees parallels here between the blue slave shirt and what Simone Browne called black luminosity resulting from New York’s lantern laws. Browne, *Dark Matters*.

75. Hening, *Statutes at Large*, 2:481–82.

76. Hening, *Statutes at Large*, 2:481.

77. In such cases, the said Christian was to bring the enslaved before a magistrate to receive thirty lashes on their bare back. However, if the enslaved were to resist capture, the assembly authorized the injured Christian party to kill them. Hening, *Statutes at Large*, 2:481.

78. The enslaved, in fact, engaged in various acts of rebellion, insurrection, and escape. For example, in 1687 a plot was uncovered on a plantation in Middlesex County and another on the Northern Neck. Governor Howard Effingham issued a proclamation in response to ensure that black pass laws and prohibitions against congregating were enforced. McIlwaine, *Executive Journals*, 1:86–87; Parent, *Foul Means*, 148–49.

79. Hening, *Statutes at Large*, 3:102–3.

80. Capital offenses included burglary, theft, rape, arson, murder, and manslaughter. See Schwarz, *Twice Condemned*, 17–18.

81. In historian Philip Schwarz's seminal work *Twice Condemned: Slaves and the Criminal Laws of Virginia*, the author reviewed eighteenth-century county court records. He found only seven cases of slaves convicted of crimes against the system who were hanged on the authority of the court as punishment. There may be several reasons so few slaves who forged passes were convicted for their crime in the oyer and terminer courts of the eighteenth century. First, as noted in the legislation, one was almost never convicted simply of forging a pass. Rather, running away, depending on the motive, most certainly also included a need for theft of food or arms and resisting capture. These were seen as capital offenses against property and persons that would possibly take priority in oyer and terminer courts. Second, slave owners continued to enact justice directly, particularly since any one of these so-called crimes was grounds for any "Christian" to kill a fugitive, and the owners were already guaranteed compensation. Schwarz, *Twice Condemned*, 15.

82. Schwarz details these abuses carried out in seventeenth- and eighteenth-century colonial Virginia. The hot box, he explains, was an iron box in which the enslaved would be enclosed alone and which would then be placed in the sun for the victim to suffer heat exhaustion, dehydration, and possibly death. Schwarz, *Twice Condemned*, 10–11.

83. Steinfeld, *Invention of Free Labor*, 29, with quotation from Milsom, *Historical Foundations*, 318.

84. Patterson, *Slavery and Social Death*, 50.

85. Schwarz, *Twice Condemned*, 25.

86. Schwarz, *Twice Condemned*, 17. One should note that de jure slavery became illegal in all cases except as punishment for a crime; that is, except for the fugitive when caught and imprisoned.

87. By 1820 indentured servitude was limited and almost completely out of practice. European immigrants were mostly no longer being imported for service, and in many states the practice was limited to American-born minors. For example, in 1795 in Massachusetts and in 1827 in Delaware, indentured servitude was restricted to minors. As indentured servitude came to be viewed as degraded and nonconsensual, restrictions increased. In 1793 and in 1827 Pennsylvania and Delaware, respectively, allowed American-born minors to bind themselves through apprenticeship but not indentured servitude. Steinfeld, *Invention of Free Labor*, 173.

88. Waldstreicher, *Runaway America*, 18.

89. Waldstreicher, *Runaway America*, 37.

90. It should be noted that even more than subscriptions, advertisements in general, and especially runaway advertisements, were perhaps the most important source of revenue for colonial newspapers. In fact, newspapers encouraged the practice by allowing, for example, each subscriber one free advertisement per year. Waldstreicher, *Runaway America*, 48.

91. Unless otherwise specified, all runaway slave ad excerpts in this chapter are cited from the *Virginia Gazette* and multiple other local Virginia newspapers of the same name. They are to be found in Costa, "Geography of Slavery."

92. This began to change in the nineteenth century when Virginia created a legal procedure for blacks who could claim to be (pass for) white. In 1832, legislators permitted

blacks who were light enough to be read as white to apply to county courts with “evidence” that they were not black. Berlin, *Slaves Without Masters*, 162.

93. It is not that this did not happen but rather that it happened much less frequently than might be expected given the post-emancipation notions of passing that are regularly tied to passing “for white.” I found no more advertisements in the eighteenth century Virginia database that explicitly mention this possibility versus other ways a fugitive might pass. One 1770 ad describes “a light mulatto man (who may easily pass for a white man).” This advertisement, further, does not mention the possibility that the fugitive also held a fraudulent pass. Another 1796 ad describes “a very bright mulatto, so near white, that he generally passes for a white boy.” This description, however, associates less agency with the boy’s use of his whiteness and places more emphasis on the way in which he was *generally read*. The boy needed to wear “a wig when he went off” to further attempt to present the physical appearance of a white youth. When the ad details other active attempts at passing, it refers to the fugitive’s fraudulent attempt to assert himself as a free worker and as having a different trade than the one the boy learned. Thus, “he is by trade a barber, but will endeavor to pass for some other trade or a cabin boy.”

94. Spillers, “Mama’s Baby, Papa’s Maybe,” 69.

95. *Virginia Gazette*, January 3, 1784; Costa, “Geography of Slavery.”

96. Parenti, *Soft Cage*, 14.

97. Taylor, *Ethics of Authenticity*, 27.

98. Taylor, *Ethics of Authenticity*, 29.

99. Hening, *Statutes at Large*, 1:401.

100. More popular than in England, branding in France was only abolished in 1791. It is important to note, however, that in England, there was an animated debate about the cruelty of such a punishment on the face as a “divine image,” both because of the physical pain it imposed and the social stigma for the bearer. Practices in early modern England gravitated from visible brands on the face or shoulder readily available for the public to witness to more discreet brandings on the back or hand that could be available for inspection only when required by law. See Koslofsky, “Branding on the Face.”

101. Browne, *Dark Matters*, 91.

102. Costa, “Geography of Slavery.” Emphasis added.

103. Costa, “Geography of Slavery.”

104. Costa, “Geography of Slavery.”

105. Visperas, “Able-Bodied Slave,” 93.

106. Patterson, *Slavery and Social Death*, 50.

107. Costa, “Geography of Slavery.”

108. Orlando Patterson makes a similar argument with regard to occupation, caste, and slavery. When he argues that the slave is at the total disposal of the master, it is in this context and in the context of social death. The slave could not be a worker, or representative of a particular working caste, precisely because of their condition as natally alienated. He wrote, “It is not difficult to understand why slaves were never assimilated to the status of outcastes. Slavery, we have seen, was primarily a relation of personal domination. There was an almost perverse intimacy in the bond resulting from the power the master claimed over his slave. The slave’s only life was through and for his master . . . the assimilation of

the slave to the status of an occupationally specialized caste would undermine one of his major advantages—that fact that he was a natally alienated person who could be employed in any capacity precisely because he had no claims at birth.” Patterson, *Slavery and Social Death*, 50. There are two points to be made here. First, the worker has a particular direct and authentic position or relationship within the social world. The slave’s position or relation, in contrast, is recognized only as authorized or mediated through their master/mistress. The slave is unrecognizable within the social world without this mediation, and they are unrecognizable because they have no legible claim to modern, legitimate “identity” as such.

109. This passing accusation drew on French and English romanticization of the Native’s natural excessive freedom to be found in a supposed state of nature, which was to be curtailed in civilized society in exchange for the benefits of a social contract. Later, Thomas Jefferson, for example, would infamously and cynically lament that most authentic or original Native peoples no longer existed in Virginia. Few of any who remained, according to Jefferson’s racist and erroneous report, spoke their Native languages. The prevailing and insidious claim in the colony and later in the state was that Virginia Natives had, to their own detriment, mixed so much with the fugitive blacks that they no longer could be considered Native. The Mattaponi, Jefferson noted, remained “in name only” and had “more negro than Indian blood in them.” Jefferson, *State of Virginia*, 102.

110. Spivey and Kiel, “Legal Status and Classification.”

111. Historian Jack Forbes noted that Natives living on the Pamunkey reservation were allowed to have a blood quantum of up to one thirty-second black and still qualify as “Indian.” Forbes, “Manipulation of Race,” 43; Coleman, *That the Blood Stay Pure*, 9.

112. Virginia, General Assembly, “Act Concerning the Descendants of Indians,” 51.

113. Spivey and Kiel, “Legal Status and Classification.”

114. Coleman, *That the Blood Stay Pure*, 91.

115. Coleman, *That the Blood Stay Pure*, 93.

116. The act further called for marriage between whites and coloreds to be designated a felony and implemented a civil registry, including birth certificates, that attested to the subject’s racial category. Those who were to marry were required to take an oath certifying their racial identity. In turn, Natives in Virginia resisted Plecker’s campaign by striving to differentiate themselves from blacks. For example, the Chickahomy tribe used passes or identity papers to distinguish themselves from their black counterparts. Others agreed to send soldiers to fight alongside the United States in the First World War as long as the brigade was officially recognized as Pamunkey and not colored.

Plecker argued that it was right, for example, for the Pamunkey to ban intermarriage with blacks. Nevertheless, in his assessment, “They began about two hundred years too late.” Coleman, *That the Blood Stay Pure*, 110. See also Spivey and Kiel, “Legal Status and Classification.”

## CHAPTER 2. PASSING AND THE ARCHIVAL RUSE

An earlier version of parts of chapter 2 was published in *Otherwise Worlds: Against Settler Colonialism and Anti-Blackness* (Duke University Press, 2020).

1. Mary Daniels Examination by the Commission, Department of the Interior Commission to the Five Civilized Tribes, Muskogee, Indian Territory, June 15, 1905, Dawes Enrollment Jacket for Choctaw Mississippi, Choctaw Freedmen Card #R4, Applications for Enrollment in the Five Civilized Tribes, Records of the Bureau of Indian Affairs, Record Group 75, NARA—Central Plains Regions, Kansas City.

2. This claim is true for federal politics stemming from Anglo-American colonial governance. On the West Coast of what would become the United States, Spanish and later Mexican understandings of the relationship between the empire (state) and Indigenous people differed. The legacy of these practices, and in particular the prominence of the Catholic Church and the missionary system, prompted a different logic, which would later come to sit uncomfortably with the system inherited by the rest of the United States. The sixteenth-century Spanish missionaries were influenced by their Franciscan and Dominican orientations and Catholic interpretations (especially those of Thomas Aquinas) of Aristotelian writing on slavery (particularly the notion of the natural slave). The Spanish often used the leaders or chiefs of the various Native nations or peoples as *alcaldes* or other middlemen by which they would be able to better govern the Natives as their tributaries. By the eighteenth century, the relationship between the Franciscan missionaries and Spanish military, on the one hand, and Native peoples, on the other, was characterized by an entanglement of aggressive paternalism for both the neophyte Natives and non-converts (“heathens” as the Spanish referred to those Natives), enmity for the Indigenous who resisted or could resist, and the demand of forced labor as a form of both Catholic stewardship and a method for extraction and control. The missionaries viewed Natives as childlike people. They were human but not of Christ’s empire, and they required guidance and protection (from others but also importantly from themselves). Later colonial interpretations of this difference used the rhetorical terms *gente de razón* for the Spanish, but also for those understood as members of the Spanish empire, like Christian mestizos, mulattos, etc., and *gente sin razón* for Natives in general, but in particular non-Christian Natives. While in theory this term seemed to signify a changeable relationship to reason, in practice, people often inherited this label based on being read as “Indian,” and Indian and *gente sin razón* were commonly used interchangeably.

Notably, contrary to what most of the scholarship might lead one to believe, the Castilian Spanish and the Natives were not the only peoples present in the colonial “West Coast” in the eighteenth and early nineteenth centuries. In fact, as historian Jack Forbes noted, by 1781, about twenty percent of the inhabitants of Alta California recorded in the census were black or of African descent. Yet some of the best scholarship on the era either completely erases this critical component of colonialism or moves too hastily over it. Take, for example, Steven Hackel’s important *Children of Coyote, Missionaries of Saint Francis*, which treats Californian colonial relations between 1769 and 1850. Part one of the book focuses on “People and Institutions of Colonial California.” It includes a chapter on “Indians” and another on “Spaniards” but no chapter on Afro-descendant presence. Discussion of blacks could perhaps have been included in the chapter on the Spanish since blacks were most often working as part of the Spanish colonial military, but there is little to nothing. Lisbeth Haas’s extraordinary book on Mission San Juan Capistrano draws on Jack Forbes’s reading of the 1781 census, but it does not elaborate much on

the role blackness might have played in the complex grid of social identity and intelligibility, aside from a paragraph noting that, given their role in the military and as freemen, blacks were more fully incorporated into Spanish society, economically at least. Forbes's piece, published thirty to fifty years prior to this more contemporary scholarship, notes not simply the black presence in Alta California in the last two decades of the eighteenth century but how once these black settlers and soldiers gained some social mobility, they were identified less as black. Between 1781 and 1790, the percentage of blacks in the area diminished, but not completely because there were fewer of them. Forbes cited numerous persons who had first identified as Negro and then nine years later reported they were "Mulatto." This of course points to a response to the general disdain for blackness within Spanish colonial society. However, Forbes's analysis also included many other persons who had first identified as mulatto and then later as mestizo or Coyote, which meant Native and white. Certainly, many began to identify as "whiter" or more Spanish as they moved up the social ladder. But as the formerly mulatto began identifying as mixed with Indigenous rather than black, this also suggests that even as Natives were considered most often "*gente sin razón*" and even as blacks performed roles in the Spanish colonial military, it might have still been more respectable to be read as Native than as black in Spanish colonial spaces. These logics changed over time according to the political structures and relations. It is possible that this preference to be read as Native or mixed with Native rather than black was not prevalent at the height of Mission forced labor, became much more common after Spanish secularization and emancipation, and then took on a different logic once Anglo-Americans took control of California. Moreover, I do not necessarily read these instances of *blanqueamiento* as examples of "passing" precisely because it is well known that the Spanish administration of race allowed for subjects to apply to change their official race if they acquired sufficient status and riches. There seemed to be little to no notion that this constituted "fraud." And thus I agree with Forbes's 1966 recommendation that more needs to be written about black presence in colonial Spanish spaces. I would add that, in particular, we might ask in a more nuanced fashion what epistemological role "blackness" held alongside and against Nateness for the Spanish and Mexican colonial projects. See the following for critical studies on ideas of nativeness in Spanish colonial ventures: McCormack, "Marriage, Ethnic Identity"; Hackel, *Children of Coyote*; Haas, *Conquests and Historical Identities*; Jackson and Castillo, *Indians, Franciscans, and Spanish Colonization*; Castillo, "Indian Account." For more on black presence in Alta California and in Spanish colonial spaces, see Forbes, "Black Pioneers." And for scholarship on black participation in Spanish colonial efforts, see Vinson, *Bearing Arms for His Majesty*.

3. For example, Locke wrote, "Those who have Supream Power of making Laws in *England, France or Holland*, are to an *Indian*, but like the rest of the World, Men without Authority: And therefore if by the Law of Nature, every Man hath not a Power to punish Offenses against it . . . I see not how the Magistrates of any Community, can punish an *Alien* of another Country, since in reference to him, they can have no more Power, than what every Man naturally may have over another." Locke, *Two Treatises*, 273. For Locke, the state of nature could exist among peoples (as it did among the Natives of America), but it also could exist among different sovereign powers who were not subject

to common governance (as in international relations). In the latter case, each nation acted in relation to the others bound only by laws of nature or the state of war. And thus it is in this context—"just war"—that Locke found it lawful to enslave captives of war such as the Natives. Theoretically, Locke did not believe it was justified to enslave those who, while belonging to a warring nation, had not participated in aggressive war making. This would include nonparticipants of war, women, and children. Nevertheless, as the Indian slave trade grew, most of the enslaved were children and women. For a thorough treatment of how John Locke developed his theories of natural law, slavery, and property alongside the active work governing the new colony of Carolina and the Indian slave trade, see Hinshelwood, "Carolinian Context"; Armitage, "John Locke."

4. Tocqueville, *Democracy in America*, 148.

5. This notion of sovereignty is traditionally understood as the outcome of the Westphalian treaty, and securing territorial boundaries was a critical piece to this development. Political theorist Kevin Olson writes that it offered "the phenomenon of thinking about popular politics as spatial, bounded, and localized in a particular territory . . . [it] allegedly replaced the permeable and overlapping boundaries of medieval regimes with defined territories, delineated borders, and mutual recognition of sovereignty." Olson, *Imagined Sovereignities*, 11.

6. Tocqueville, *Democracy in America*, 148.

7. I take this phrase *resisting the urge to render legible*, pertaining to the subject of the archive, from Stephen Best and his discussion of the dangers of the desire for recuperation of "absent" archival subjects and thus the danger in the desire to recuperate history itself from a projected absence. Best, *None Like Us*, 88.

8. This was the case even as the Choctaw, resisting an attempt by the Shawnee to form a confederation of Indigenous nations to resist US expansion, instead allied with the United States during the War of 1812. This was not a decision based on support of the US settler project. Rather, in defense of Choctaw interests, leaders like Pushmataha sided with the party they believed would win. The Choctaw played a large part in the defeat of the British and their Indigenous allies, and they refer to this war as the Creek War.

9. Cave, "Abuse of Power"; Akers, "Removing the Heart," 133–34.

10. Cave, "Abuse of Power," 1334.

11. Osburn, *Choctaw Resurgence in Mississippi*, 22.

12. Osburn, *Choctaw Resurgence in Mississippi*, 23.

13. Osburn, *Choctaw Resurgence in Mississippi*, 23n9.

14. Gross, *What Blood Won't Tell*, 160.

15. Osburn, *Choctaw Resurgence in Mississippi*, 12.

16. Akers, "Removing the Heart," 133.

17. Akers, "Removing the Heart," 136.

18. Akers, "Removing the Heart," 135.

19. Osburn, *Choctaw Resurgence in Mississippi*, 13. The agent's, Colonel William Ward's, mistreatment of his duties and of the Choctaw people was well known among Congress members who discussed the events as part of the adjudication of Choctaw citizenship for Mississippi Choctaws. See, for example, "Report and Statement of the Subcommittee of

the Committee on Indian Affairs,” in Choctaw Nation and Hurley, *Choctaw Citizenship Litigation*, 5–30.

20. Cave, “Abuse of Power,” 1343.

21. Osburn, *Choctaw Resurgence in Mississippi*, 12.

22. This dismissive narrative about land speculators that aimed to depose the Choctaw from their land during the mid-nineteenth century would be put to use again by both the federal government and Choctaw lawyers at the turn of the twentieth century to deprive black claimants of the land owed them.

23. Like most Southern Native nations, the Choctaw had a practice of enslavement prior to the adoption of the chattel slavery introduced by colonial forces. However, it must be noted that nineteenth-century chattel slavery among the Choctaw cannot easily be understood as a continuation of the earlier system. Rather, slavery in Southern Native society until the turn of the nineteenth century was embedded in a relationship of warring clans, captive warriors, and kinship. Interaction with European settlers instigated changes to this practice of enslavement in multiple ways. In the eighteenth century, increased contact with the settler exchange economy prompted the Choctaws to engage in warfare specifically in order to accumulate other Native captives for trade—a practice that was not consistent with tradition. Captives could be traded for supplies or to improve military alliances with European settlers. Additionally, in the eighteenth century, some Choctaw were enslaved by Native peoples allied with the English. The Choctaw allied with the French to secure protection from these northern raids.

24. US Office of Indian Affairs, Armstrong Roll, Microfilm Roll A-39, Census Roll Concerning Choctaw Removal, 1831, Records of Bureau of Indian Affairs, Group 75, National Archives, Washington, DC.

25. Fortney, “Slaves and Slaveholders,” 31; US Census Bureau, *Eighth Census of the United States*.

26. Barbara Krauthamer’s 2015 *Black Slaves, Indian Masters: Slavery, Emancipation, and Citizenship in the Native American South* provides a thorough rendition of the 1865 Fort Smith treaty negotiations and the broader process. Importantly, although the treaty signees were officially the Choctaw Principal Chief Peter Pitchlynn, Chickasaw Governor Winchester Colbert, and the US federal government, there were multiple interests and factions that asserted agency during the process—and with varying degrees of success. For example, although a vast majority of the Choctaws sided with the Confederacy during the war, there were some Choctaws and Chickasaws called “loyalists” who sided with the Union. This faction was, perhaps not surprisingly, the first to show up at Fort Smith but insisted that they did not speak as official leadership. The Chickasaw loyalists’ interpreter, Macharda Colbert, was a black woman, Krauthamer reports. The majority of the Choctaws initially met separately at Armstrong Academy, their capital, to discuss their plans. Blacks who were in Indian Territory—many of whom in the Chickasaw Nation were still enslaved because the Emancipation Proclamation had no jurisdiction there—met to discuss their lot. Even after a treaty was signed by the nations to free the enslaved, black Choctaw communicated with the federal military officials and the Freedman’s Bureau to relay their ongoing status as slaves and the racial terror, including murder, that they experienced during this time. An 1894 report of the Commission to

the Five Civilized Tribes described the conditions of blacks in Choctaw and Chickasaw territory as “anomalous,” stating that they had “no abiding place” because “what [a former slave] is enabled to get from the soil for his support, he is compelled to gather either furtively or by the most absolute subserviency to the will, caprices, or exactions of his former master.” When freedmen attempted to meet directly with government officials in this instance, the officials added, they were “warned by a prominent Indian citizen that if they called upon [the federal representatives] they would be killed, which warning they heeded.” Krauthamer, *Black Slaves, Indian Masters*, 105–13; Dawes Commission, *Report of Commission*, 12.

27. Krauthamer, *Black Slaves, Indian Masters*, 101–18.

28. Krauthamer, *Black Slaves, Indian Masters*, 101–18.

29. Krauthamer, *Black Slaves, Indian Masters*, 113.

30. Krauthamer, *Black Slaves, Indian Masters*, 114.

31. Krauthamer, *Black Slaves, Indian Masters*, 114.

32. Krauthamer, *Black Slaves, Indian Masters*, 114.

33. Krauthamer, *Black Slaves, Indian Masters*, 114. This stipulation that the Choctaw’s slaves be present at the time the treaty was signed was stricter than the similar stipulation in the Cherokee post–Civil War treaty, which allowed freedmen six months to return after the treaty had been signed. The Creeks gave allowances for up to a year, and the Seminoles had no requirements.

34. Debo, *Rise and Fall*, 99.

35. It should be noted that the treaty negotiations officially took place between the Choctaw and Chickasaw nations and the United States. Black people living in Indian Territory had no legal recognition to be signees. Nevertheless, they organized and met with federal officials. They formed organizations such as the Choctaw Colored Citizens’ Association, advocated for equal rights in the treaty, hired lawyers to report to the Commission to the Five Civilized Tribes, questioned the idea of ethnicity and citizenship promoted by the treaty, demanded rights to communal lands as opposed to only private property/allotments, and asserted their ties to place. See, for example, their 1894 Statement of Grievances, where they argued the following: “Upon every principle of justice the recognition of the right of the Choctaw freedmen to a proportionate share in all that belonged to or was claimed by the Choctaw Nation should have been secured to them when the treaty relations between the United States and the Choctaw Indians, broken during the war of the rebellion, were reconstructed.” Regarding the classification of freedmen, the association clarified it represented “those persons who were formerly held in slavery by the Choctaw Indians, and their descendants, including those persons who have intermarried with Choctaw freedwomen, and those Choctaw Indian women by blood who have intermarried with persons of African descent, and all other persons of African and Choctaw blood and descent, residing in the Choctaw Nation.” Regarding their connection to place, they stated, “The Choctaw freedmen had no choice in the establishment of the relation of slaves to the Choctaw Indians which previously existed. Their lot, like that of all slaves doomed to unrequited toil and the privations, sufferings, and sorrows of involuntary bondage and servitude, was a hard one. But when their freedom was secured their great love and attachment for home, kindred, and the associations

of their youth induced them rather to remain in the place of their birth, among familiar scenes, customs, and habits, notwithstanding all the surrounding embarrassments, hindrances, etc., than to adventure forth to new fields and occupations amid untried and unfamiliar environments.” E. D. Colbert, D. Barrows, and Wesley McKenny, “Statement of the Choctaw Freedmen, Setting Forth Their Wrongs, Grievances, Claims, and Wants, August 1894,” in Dawes Commission, *Report of Commission*, 15–16. This group insisted that the freedmen should have been afforded equal rights as citizens in the Choctaw Nation, regardless of their status as freedmen.

36. Debo, *Rise and Fall*, 101.

37. Debo, *Rise and Fall*, 101.

38. Krauthamer, *Black Slaves, Indian Masters*, 116. Certainly, part of the concern had to do with the growing recolonization plans drawn up by white Americans, including, for example, sending freed blacks in the Americas to Liberia. However, black towns based on self-reliance and protection and not within this colonial framework also emerged in “the West.” Black migrants fleeing white terror formed towns from Arkansas to Wyoming, including Oklahoma, until US white settler expansion and terrorism rendered both black and Native sovereignty impossible. It is interesting to consider this comment as a foreshadowing of the fate of Tulsa’s Black Wall Street.

39. Pitchlynn and Colbert, “Address.”

40. Osburn, *Choctaw Resurgence in Mississippi*, 37.

41. Osburn, *Choctaw Resurgence in Mississippi*, 40.

42. Osburn, *Choctaw Resurgence in Mississippi*, 52–55.

43. Osburn, *Choctaw Resurgence in Mississippi*, 43.

44. Osburn, *Choctaw Resurgence in Mississippi*, 45.

45. Osburn, *Choctaw Resurgence in Mississippi*, 43–45. As Osburn documents, aside from the prohibition of “Negro blood,” the society’s constitution simply asserted that the applications for membership must be able to prove their lineage to the “Choctaw Tribe of Indians as it existed” in 1830.

46. Osburn, “Any Sane Person,” 457. Here, Osburn is drawing from the Sixth Annual Report of the Commission to the Five Civilized Tribes for 1899.

47. This is true for the Choctaw Nation of Oklahoma. See Choctaw Nation of Oklahoma, *Constitution and By-Laws of the Choctaw Nation of Oklahoma*, adopted 1983, National Indian Law Library, art. II, sec. 1, <https://narl.org/nill/constitutions/choctaw/index.html>: “Choctaw Indians by blood whose names appear on the final rolls of the Choctaw Nation . . . and their lineal descendants.” For the Mississippi Band of Choctaw Indians, the rules for membership are stricter. As stated in their constitution, “The membership of the Mississippi Band of Choctaw Indians shall consist of: (a) All Choctaw Indians of one-half (1/2) or more Choctaw blood, resident in Mississippi, January 1, 1940, as shown by the census roll maintained by the Bureau of Indian Affairs at the Choctaw Agency, provided that the tribal council shall have the power to revise said rolls, with the approval of the Secretary of the Interior at any time.” Mississippi Band of Choctaw Indians, *Constitution and Bylaws: As Approved by the Commissioner of Indian Affairs March 28, 1975, as Amended and Approved, March 8, 2013*, art. III, sec. 1, p. 1, <https://www.choctaw.org/documents/>.

48. Choctaw Nation of Oklahoma, *Constitution and By-Laws*.
49. US National Archives and Records Administration, "National Archives Building."
50. The National Archives once used the Tiber as a system of heating and cooling for the building, an interesting relationality developed between neoclassical design and the land and water below it. This relationship, no longer enduring, stood in stark contrast to the way the architecture imposed itself otherwise. One would be hard pressed to notice land among the federal buildings in Washington, DC. See Viola, *National Archives*, 46.
51. For example, Andrew Jackson pushed Congress for a fireproof building given the repeated fire damage to files. See Viola, *National Archives*, 40.
52. Viola, *National Archives*, 46.
53. Stoler, "Colonial Archives," 97; Derrida, "Archive Fever," 10.
54. Viola, *National Archives*, 47.
55. The Choctaw Nation in Indian Territory attempted to more strictly regulate the intermarriage of white men and Choctaw women in order to better control access to Choctaw land and resources. A November 9, 1875, law of the Nation required white men to acquire a license from a county official and a certificate of moral character signed by ten Choctaw citizens. See Marriage Act, requiring that whites desiring to marry Choctaw women must obtain a license, November 17, 1875, box C-39, folder 9, Coleman Cole Collection, WHC-M-117, Western History Collections, University of Oklahoma, Norman; Debo, *Rise and Fall*, 179–80.
56. Hartman, "Venus in Two Acts"; Morgan, "Archives and Histories."
57. "Be it enacted, &c., That from and after the passage of this act, that if any person or persons, citizens of this Nation shall take up with a negro slave, he or she so offending shall be liable to pay a fine not less than ten dollars nor exceeding twenty-five dollars, and shall be separated." Choctaw Nation of Oklahoma, *Constitution and Laws*, 27–28. Free blacks unconnected to the Choctaw were not allowed in the territory.
58. In 1906–7, the Dawes Commission held a special transfer application process specifically for those Choctaw and Chickasaws who were inappropriately placed on the "Freedmen" lists instead of the "By blood" lists. Very few transfer motions were successful. This was partially because of a legal technicality in which a transfer or correction could only be made within a short time. If the applicant could not offer evidence that they attempted to apply by blood initially, their case for transfer would be refused. For a review of this process, see Gross, *What Blood Won't Tell*, 160–65; Osburn, "Any Sane Person"; Carter, *Dawes Commission*. For the primary source, see Committee on Indian Affairs, "Choctaw and Chickasaw Indians."
59. Mary Daniels Examination by the Commission, June 15, 1905, NARA—Central Plains Regions, Kansas City.
60. Gross, *What Blood Won't Tell*, 155.
61. Mary Boughman Examination by the Commission, Department of the Interior Commission to the Five Civilized Tribes, Meridian, Mississippi, April 10, 1901, Dawes Enrollment Jacket for Choctaw Mississippi, Choctaw, Card #MCR1767, Applications for Enrollment in the Five Civilized Tribes, Records of the Bureau of Indian Affairs, Record Group 75, NARA—Central Plains Region, Kansas City.
62. Patterson, *Slavery and Social Death*, 7–8.

63. Chandler, "Originary Displacement," 258.
64. Hartman, *Scenes of Subjection*.
65. Patterson, *Slavery and Social Death*, 8.
66. Mary Boughman Examination by the Commission, April 10, 1901, NARA—Central Plains Region, Kansas City.
67. Polly Brookings Examination by the Commission, Department of the Interior Commission to the Five Civilized Tribes, Meridian, Mississippi, April 10, 1901, Dawes Enrollment Jacket for Choctaw, Mississippi Choctaw, Card #MCR1769, Applications for Enrollment in the Five Civilized Tribes, Records of the Bureau of Indian Affairs, Record Group 75, NARA—Central Plains Region, Kansas City.
68. Spillers, "Mama's Baby, Papa's Maybe," 66.
69. Think about the way in which it becomes hard for people to register someone speaking a language fluently if they don't "look like" what one supposes a person who speaks that language should look like. Anyone who is black or Asian and speaks Spanish on the West Coast of the United States can attest to this phenomenon. Even so, the accusation of passing for another identity by speaking a language is not equally applied across peoples. Here, the accusation is grounded in historical mythologies of passing.
70. Chambers and Grivno, *Runaway Slaves in Mississippi*, 160.
71. Here, Derrida is referring to Yosef Hayim Yerushalmi's fifth chapter, "Monologue with Freud," in his book *Freud's Moses*. This final chapter, an intimate imagined first-person conversation with Freud's specter, differs in methods from the prior "objective," historical chapters written in the third person. Of this last chapter, Derrida writes, "The last chapter, the most fictive, is certainly not the least true. In its own way, even if it does not say it, it *makes* the truth. . . . It inspires something else in us about the truth of the truth: about the history of the truth, as about the truth of the enigmatic difference Freud wanted to mark between 'material truth' and 'historical truth.'" Derrida, "Archive Fever," 40. In *Moses and Monotheism*, Freud argues for the importance of understanding the so-called repression of the historical truth of Moses's Egyptian origin by the obscuring logics of what he called material truth. For more, see Freud, *Moses and Monotheism*; Yerushalmi, *Freud's Moses*.
72. Donnie Simons Examination by the Commission, Department of the Interior, Commission to the Five Civilized Tribes, Meridian, Mississippi, April 10, 1901, Dawes Enrollment Jacket for Choctaw, Mississippi Choctaw, Card #MCR1768, Applications for Enrollment in the Five Civilized Tribes, Records of the Bureau of Indian Affairs, Record Group 75, NARA—Central Plains Region, Kansas City.
73. Mary Boughman Examination by the Commission, April 10, 1901, NARA—Central Plains, Kansas City.
74. Franke, "Becoming a Citizen," 276.
75. Franke, "Becoming a Citizen," 277.
76. During the 1901–2 enrollment proceedings at Muskogee, freedmen and their advocates argued that many applicants were descendants of Choctaw men and black women and that the children should thus be entitled to recognition as Choctaw by blood. The congressional argument against this claim, mirroring the seventeenth-century Virginia partus law, was that "illegitimate children should take the status of their mother." Debo,

*Rise and Fall*, 275. Freedmen continued to push the issue through 1906 and 1907, when Congress finally ruled that children born out of wedlock would take the status of the mother. This same ruling ordered that tribal self-governance should be overwhelmingly terminated; that the US president had the power to appoint the Choctaw Principal Chief and to remove him; and that the federal government had the right to rule on acts of tribal council, run tribal schools, and handle tribal revenues. Debo, *Rise and Fall*, 288–89. Again, Native recognition, black negation via the unwed mother, and US sovereignty come into being together, the former two working as prologues to the latter.

77. Spillers, “Mama’s Baby, Papa’s Maybe,” 79. What is outstanding for Spillers here is not just that the inheritance exists in posterity but that it is an inheritance that is passed through the mother rather than the father. This distinction is what opens the way for a slew of narratives, the Moynihan Report being one of the most notorious examples, of the pathological black family. Here, she calls the enslaved black woman the cultural vestibular.

78. Spillers, “Mama’s Baby, Papa’s Maybe,” 67.

79. Simpson, “The State Is a Man,” 15.

80. See, for example, the case in Virginia of those so-called original Virginian families who demanded an exception in the racial purity laws of the state. The laws sought to categorize and thus demote Native subjects while allowing for certain families who claimed ancestry via Pocahontas to continue to be recognized as white. Maillard, “Pocahontas Exception,” 351.

81. Osburn reports that in 1875, the Choctaw Council ordered that white men marrying Choctaw women pay a \$25 and later a \$100 fee for their marriage license. Additionally, for citizenship, they needed ten Choctaw men to be character witnesses, to swear allegiance to the Choctaw Nation, and to relinquish any assets if they left the marriage. Osburn, “Any Sane Person,” 457; Debo, *Rise and Fall*, 179–83.

82. Spillers, “Mama’s Baby, Papa’s Maybe,” 67.

83. Spillers, “Mama’s Baby, Papa’s Maybe,” 79.

84. Nahum Chandler refers to Hortense Spillers’s phrase “abeyance of closure” to describe the sort of ambivalence that a black response to subjection might entail. Spillers writes, “If by ambivalence we might mean that abeyance of closure, or *break* in the passage of syntagmatic movement from one more or less stable property to another . . . [it becomes] a strategy that names the new cultural situation as a wounding.” Spillers, “Moving on Down the Line,” 92–93, quoted in Chandler, “Originary Displacement,” 270.

85. See Hartman, “Seduction.” For a summary of these discussions, see the special issues Helton et al., “Question of Recovery”; and Adams-Campbell et al., “Indigeneity and the Work of Settler Archives.”

86. There is one caveat to this which Saidiya Hartman and other scholars have underscored. This is the case of enslaved peoples accused of a crime (but not as witnesses). See, for example, Hartman, “Seduction.”

87. Morrison, *What Moves at the Margin*, 67.

88. Hartman, “Venus in Two Acts,” 11.

89. Hartman, “Venus in Two Acts,” 12.

90. Morrison, “The Site of Memory,” 67.

91. Chandler, "Originary Displacement," 257.
92. Chandler, "Originary Displacement," 258.
93. Moten, "Notes on Passage," 55.
94. This anarchivistic drive does not come from outside the archive but from its own foundational sovereign impetus. Derrida, "Archive Fever," 14.

### CHAPTER 3. THE SCIENCE OF PASSING

An earlier version of parts of chapter 3 was published in *Catalyst: Feminism, Theory, Technoscience* 2, no. 2 (2016).

1. Landecker, *Culturing Life*, 140.
2. Gartler, "Apparent HeLa Cell Contamination," 175.
3. Robert Stevenson quoted in Skloot, *Immortal Life of Henrietta Lacks*, 154.
4. According to Rebecca Skloot, this term was used by "scientists who were at the conference where Gartler made his initial presentation, and others who were active in the field at the time." Personal correspondence, March 27, 2015.
5. Landecker, *Culturing Life*, 172.
6. Enright, "What's Left of Henrietta Lacks?," 9.
7. Weasel, "Feminist Intersections in Science," 185.
8. Rogers, "Double-Edged Helix," 50.
9. The lab functioned as a repository for cells and a hub for the detection of cell contamination. Nelson-Rees explained to Dr. Robert Stevenson in an interview, "When I was talking then about a 'variety' of cells, we used to refer to it as 'Noah's Ark under Glass.'" Nelson-Rees, "Interview with Dr. Walter Nelson-Rees."
10. Most of the time, researchers dreaded the hit list, but Nelson-Rees believed this work was one of the most significant accomplishments of his lab. He gave Stevenson an example of its impact: "It was good to hear a man at Fordham University (I believe it was Dr. Fritz Herz) once say that before he ever had students work with cell cultures, that he sent them to see the lists that had been published in *Science* magazine that indicated, if not that they were contaminated . . . that cells with that name might be contaminated and should be checked." Nelson-Rees, "Interview with Dr. Walter Nelson-Rees."
11. Rogers, "Double-Edged Helix," 51.
12. I came to the idea of reading HeLa cell contamination through the lens of passing following Paul Gilroy. In *Against Race*, Gilroy gestured to the ways the cells were read as "race defying," rapidly proliferating, and "invading adjacent cultures and combining unexpectedly with other organisms in the labs." The moment the cells and "Mrs. Lacks's 'blackness' revealed themselves," Gilroy explained, produced a crisis "over the limit and character of species life." Gilroy, *Against Race*, 19–20.
13. The original appears in Bacon, *Advancement of Learning*, 43. The full quotation is as follows: "Another error is an impatience of doubt, and haste to assertion without due and mature suspension of judgement. For the two ways of contemplation are not unlike the two ways of action commonly spoken of by the ancients: the one plain and smooth in the beginning, and in the end impassable; the other rough and troublesome in the entrance, but after a while fair and even; so it is in contemplation; if a man will begin

with certainties, he shall end in doubts; but if he will be content to begin with doubts, he shall end in certainties.”

14. Gold’s was one of the first full book-length publications of the story of Henrietta Lacks and the HeLa cell line. It came a whole two and a half decades before another science journalist, Rebecca Skloot, published her widely read *Immortal Life of Henrietta Lacks* and three decades before Oprah Winfrey produced and starred in the feature film of the same name.

15. See, for example, Gibson, *Rediscovering Renaissance Witchcraft*; Greenblatt, *Marvelous Possessions*; Davies, *Renaissance Ethnography*; Seth, *Europe’s Indians*. King James I of England, for example, “believed that witches had powers over people and nature, knew secrets, and could be forced to confess those secrets if interrogated under torture.” Merchant, “Scientific Revolution,” 519. The King led an effort to identify potential witches, especially those who had wielded their power to undermine the sovereignty of the Crown, and by torture force them to admit their illicit allegiances. As a member of Parliament, Bacon did not condone the torture of witches, but he did acknowledge their ability to, at least at times, access knowledge of nature not available to others. Bacon argued that, rather than aiming for a confession, it was much more important to force these personalities to share their trade. He wanted to assess the extent to which their approach could be replicated and improved on. That is, Bacon did not consider magic and alchemy fraud.

16. Hadot, *Veil of Isis*, 123. Emphasis added.

17. Paolo Rossi quoted in Merchant, “Scientific Revolution,” 519.

18. Merchant, *Death of Nature*, 164. For more on the trope of nature as a book, especially in order to trace the emergence of Renaissance to early modern practices of knowing, see Eisenstein, *Printing Revolution*.

19. Heraclitus, *Fragments*, 123.

20. Plutarch, *Isis and Osiris*, 9:354. Also in Pierre Hadot quoted in Merchant, “Violence of Impediments,” 752.

21. Francis Bacon quoted in Merchant, “Violence of Impediments,” 741. The understanding of nature as veiled or secretive foreshadows a shift in modern epistemology in which the face becomes a privileged portal to an interior truth about the human subject.

22. Merchant, “Violence of Impediments.” In fact, a statue of Isis named *Goddess of Life* created after World War I by the Belgian sculptor Auguste Puttemans and gifted to Herbert Hoover is displayed at the former president’s National Historic Site. The inscription reads, “I am that which was and is and / Will ever be, and no mortal has yet / Lifted the veil which covers me.” See Auguste Puttemans, *Isis, Goddess of Life*, 1922, in National Park Service, “Statue of Isis.”

23. In an address to young scholars, Bacon wrote, “We must find a way of clearing sham philosophers out of our path. Your philosophers are more fabulous than poets. They debauch our minds. They substitute a false coinage for the true. And worse still are the satellites and parasites of the great ones, the whole mob of professorial teachers. Will not someone recite the formula by which I may devote them all to oblivion? How shall truth be heard, if they maintain the din of their grovelling and inconsequent ratiocinations?” Francis Bacon quoted in Farrington, *Philosophy of Francis Bacon*, 63.

24. For example, Bacon writes, “The doctrine concerning the Intellect (most excellent King), and the doctrine concerning the Will of man, are as it were twins by birth. For purity of illumination and freedom of will began and fell together; and nowhere in the universal nature of things is there so intimate a sympathy as between truth and goodness. The more should learned men be ashamed if in knowledge they be as the winged angels, but in their desires as crawling serpents; carrying about with the minds like a mirror indeed, but *a mirror polluted and false*.” Bacon, *Advancement of Learning*, in *Works*, 3:405. Emphasis added.

25. Bacon, *Advancement of Learning*, in *Works*, 3:395. Emphasis added.

26. Horkheimer and Adorno, *Dialectic of Enlightenment*, 2.

27. They explain that “the mind, conquering superstition, is to rule over disenchanted nature.” And then: “According to enlightened thinking, the multiplicity of mythical figures can be reduced to a single common denominator, the subject.” Horkheimer and Adorno, *Dialectic of Enlightenment*, 3–4.

28. Roland Berg to George Gey, 1953, George O. Gey Collection, Alan Mason Chesney Medical Archives of the Johns Hopkins Medical Institutions, Baltimore.

29. Landecker, *Culturing Life*, 164.

30. Roland Berg to George Gey, 1953.

31. Landecker, *Culturing Life*, 165.

32. George Gey to Roland Berg, 1953, George O. Gey Collection, Alan Mason Chesney Medical Archives of the Johns Hopkins Medical Institutions, Baltimore.

33. Hayflick, a friend of George Gey, had become well known in the cell culture community by 1962. As opposed to cancer cells and later embryonic cell cultures, Hayflick argued in a paper that cultured normal cells, both human and animal, did not replicate indefinitely. This critical observation became known as the “Hayflick limit,” or the notion that normal human cells only divide and replicate forty to sixty times before cell death. The term became a fundamental principle in understanding aging, and the scientist went on to write the bestselling *How and Why We Age* (1994) for the general public.

34. Web of Stories—Life Stories of Remarkable People, “Leonard Hayflick.”

35. Gartler, “Apparent HeLa Cell Contamination,” 750.

36. Skloot, *Immortal Life of Henrietta Lacks*, 153.

37. George Gey to Stanley Gartler, April 1, 1966, George O. Gey Collection, Alan Mason Chesney Medical Archives of the Johns Hopkins Medical Institutions, Baltimore.

38. Gartler, “Apparent HeLa Cell Contamination,” 750.

39. Gartler, “Apparent HeLa Cell Contamination,” 750.

40. Skloot, *Immortal Life of Henrietta Lacks*, 153.

41. Westfall, *Decennial Review Conference*, 191.

42. Westfall, *Decennial Review Conference*, 191.

43. Westfall, *Decennial Review Conference*, 191.

44. Westfall, *Decennial Review Conference*, 191.

45. Skloot, *Immortal Life of Henrietta Lacks*, 156.

46. Skloot, *Immortal Life of Henrietta Lacks*, 156.

47. Skloot, *Immortal Life of Henrietta Lacks*, 156.

48. Sigmund Freud quoted in Lebeau, “Psychopolitics,” 115.

49. Similarly, David Marriott refers to the figure as the “black spook.” Marriott, *Haunted Life*, 1–33.

50. Westfall, *Decennial Review Conference*, 190–91.

51. Westfall, *Decennial Review Conference*, 356.

52. Rogers, “Double-Edged Helix,” 51.

53. Seth, “Faces of the Self.”

54. Note, for example, that in 1951 a black tenant farmer in North Carolina was accused of attempted rape of a white girl for having engaged in “reckless eyeballing,” or in other words for having looked at her from 75 feet away. He underwent over two years of court proceedings to fight his conviction of assault. Berry, “Reckless Eyeballing.”

55. It is perhaps telling to consider that beginning in the seventeenth century at least, the culture of enslavement emerging from colonial ventures condemned the right of the captive African to look. Charles Ford notes that Johan Picardt’s 1660 text *Korte beschryvinge* detailed a hierarchical division of classes of people that attributed the black skin of Africans to a punishment doled out by God in response to Ham having *looked* at a naked Noah. Ford, “People as Property,” 14. Drawing on this, Nicholas Mirzoeff makes an insightful point that this infamous racist story emerged at the same time that an epistemological shift was occurring that privileged the visual over other senses as the exceptional vehicle for knowing. In his analysis, both the “crime” and the “punishment” were leveled at the visual register. Mirzoeff explains, “Here illicit looking was punished by a visible distinction.” Moreover, Mirzoeff pushes back on the notion that the tale of the curse of Ham had existed since time immemorial. Rather, it emerged as a result of Picardt’s work. Thus, in “properly genealogical fashion it can be concluded that rather than modern visualized racism taking its cue from the story of Ham’s punishment, the story was used to justify a shift that had already taken place.” Mirzoeff, *Right to Look*, 63.

56. Foucault, “*Society Must Be Defended*,” 252.

57. Foucault, “*Society Must Be Defended*,” 257.

58. Fanon, *Black Skin, White Masks*, 86.

59. Lebeau, “Psychopolitics,” 108. In *Black Skin, White Masks*, Fanon thus argues, “The Senegalese soldier’s rifle” in the Malagasy’s dream “is not a penis but really a rifle.” Fanon, *Black Skin, White Masks*, 86. Fanon’s intervention into Freudian dream analysis in *Black Skin, White Masks* points to the limits of psychoanalysis inasmuch as it individualizes psychic structures and consequently is only able to read the ways the psyche, in a dream state, allows for a repressed image to “make its way into consciousness, on the condition it is negated.” Sigmund Freud quoted in Lebeau, “Psychopolitics,” 115. For Freud, the dream allows for a subject’s transformation through “condensation, distortion, displacement.” Lebeau, “Psychopolitics,” 114. For an in-depth analysis of the psychopolitical in Fanon’s writing, see Lebeau, “Psychopolitics.”

60. Historian Sara Haley describes the connection between the racial and gendered fantasies and US statecraft. She writes about how, in the late nineteenth century, “Old South romanticism was a key frame through which subjects in the Caribbean and Pacific Islands were rendered in order to justify U.S. militarism and undermine claims to self-governance in the zone of American imperial conquest. Journalists and cartoonists circulated depictions of Cuban, Filipino, Puerto Rican, and Hawaiian darkies, even rendering

Cuba as mammy, whose renowned patience and docility was expended under the horror of Spanish colonial rule. . . . The proliferation of familiar slavery archetypes and interweaving of the antebellum and colonial was a crucial framing of militarism in a dramatically shifting moment in U.S. foreign policy.” Haley, *No Mercy Here*, 39. Nineteenth-century colonial mastery then becomes, in part, an expansion and a reenactment at the level of a collective libidinal drive of the fear, enjoyment, and domination of blackness.

61. Chatterjee, “Cases of Mistaken Identity,” 929.

62. Dailey, “Immortal Life of Henrietta Lacks.”

63. Gold, *Conspiracy of Cells*, 47.

64. Nardone, “Eradication of Cross-Contaminated Cell Lines,” 2.

65. David Dickson quoted in Nardone, “Eradication of Cross-Contaminated Cell Lines,” 2.

66. Nelson-Rees, “Interview.”

67. Nardone, “Eradication of Cross-Contaminated Cell Lines,” 4.

68. One key component of theories of sovereignty from Bodin, Hobbes, Locke, and Rousseau to Kant is that of identifying who is a member of the body politic held together through the social contract. The making of the sovereign is a constant delineating practice of identification. See, for example, Bodin, *On Sovereignty*; Kant, *Perpetual Peace*; Rousseau, *Social Contract*.

69. Westfall, *Decennial Review Conference*, 175.

70. Gartler, “Apparent HeLa Cell Contamination,” 751. Emphasis added.

71. Chatterjee, “Cases of Mistaken Identity,” 931.

72. Barthes, *Camera Lucida*, 6.

73. To give one example, Bacon writes, “For it would be no small advantage, if bodies could be endued with fixed and constant natures by violence. Air could then be converted into water by condensation, with other similar effects; for man is more the master of violent motions than of any other means.” Bacon, *Novum Organum*, in *Library of Universal Literature*, 275.

74. Bacon, *Novum Organum*, in *Library of Universal Literature*, 116.

75. Francis Bacon quoted in Farrington, *Philosophy of Francis Bacon*, 62.

76. In fact, Hobbes was following in Bacon’s footsteps in many respects because of the way Bacon understood natural science and politics to both be subject to the methodological and experimental approach of “knowing.” Hobbes insisted he was conducting a science of the state in accordance with geometrical reasoning. The natural world and the political world were parallels. Even so, Hobbes saw natural philosophy and political philosophy as differing in one important aspect. Political knowledge was to be understood as part of the artificial world. Levi Strauss writes, “The whole body of knowledge is divided into natural science on the one hand, and political philosophy on the other. . . . Hobbes’s classification of the sciences is based on a classification of existing things into natural and artificial. . . . It is not so much the artificially produced things that are basically different from all natural things as the production, the human activity itself, i.e. man as an essentially productive being, especially as the being who by his art produces from his own nature the citizen or the State, who, by working on himself, makes himself into a citizen.” Strauss, *Political Philosophy of Hobbes*, 7–8.

77. One of the most important accounts of this is given in Wynter, “1492: A New World View.”

78. For a thorough analysis of colonialism as both a material and metaphorical force in Bacon’s thinking, see Welburn, “Empire and Utopia.”

79. Welburn, “Empire and Utopia,” 168. Welburn continues, “In the Second Charter of the Virginia Company, William Strachey addresses Bacon as the ‘most noble fautor [favorer] of the Virginian Plantation, being from the beginning (with other lords and earles) of the principall counsell applied to propagate and guide yt.’”

80. Welburn, “Empire and Utopia,” 168.

81. Here I am not referring to what we will come to understand as chattel slavery, which would be codified into Virginia law in the seventeenth and eighteenth centuries. Nor am I arguing that Bacon supported slavery as a practice in the “New World.” In fact, there is evidence that he viewed an antislavery policy as a practical political stance that would distinguish England from Spain and allow colonized peoples to side with England over Spain in their competition for acquiring territories in the Americas. Nevertheless, slavery was an important part of sixteenth- and seventeenth-century social, political, and religious imaginaries and was also, to an extent, a practice that occurred in the English world. See, for example, Rustici, “Great Sophism.” As a thinker trained in the Greek tradition, in Latin, and during the Renaissance, Bacon would have been well versed in the Christian notion of bondage and the Aristotelian notion of the natural slave. Bacon’s thinking on bondage, however, falls more in line with Saint Augustine’s, for whom slavery was a natural occurrence in an unnatural or manmade world. That is, it was the “consequence of a fallen world.” Guasco, *Slaves and Englishmen*, 238n10. For Augustine, slavery was brought about as a condition of a world led by man after the fall of Eden, a world no longer ruled by God’s original design. Guasco, *Slaves and Englishmen*, 15; Garnsey, *Ideas of Slavery*, 217–18. Bacon’s notion of slavery as a requisite for man’s pursuit of knowledge holds both moral and epistemological investments that are inextricable. Given man’s inheritance of the fallen world, it is imperative that he have dominion over it by knowing it, making it new as in things artificial, and know it by having dominion over it. Bacon’s notion departs from the Aristotelian notion of the natural slave in that it does not automatically assume nature as naturally slavish at all; rather, its enslavement is a response to the supposed *secrecy* nature upholds, which maintains exceptional freedom. Bondage, constraint, and slavery thus are remedies for secrecy and the power secrecy might hold in the refusal to be readily known and thus controlled for the productive good of man.

82. Francis Bacon quoted and translated in Merchant, ““Violence of Impediments,”” 741. Merchant follows the translations in the *Aphorisms on the Construction of a Primary History*. The original Latin *Aphorismi de Conficienda Historia Prima*, 1620, uses the word *vincula*. See Merchant, ““Violence of Impediments,”” 741–44.

83. Merchant, ““Violence of Impediments,”” 742. See full article for treatment of various translations. For Latin, see Bacon, *De Dignitate et Augmentis Scientiarum*, in *Works*, 1:496.

84. Merchant, “Scientific Revolution,” 524.

85. Francis Bacon, *Advancement of Learning*, quoted in Merchant, ““Violence of Impediments,”” 742.

86. Merchant, *Death of Nature*.

87. Descartes, "Traité du monde et de la lumière," 1:349, quoted in Hadot, *Veil of Isis*, 136.

88. Bacon, *Novum Organum*, in *Works*, 4:47. In the Devey edition, the translation is "Man, as the minister and interpreter of nature, does and understands as much as his observations on the order of nature, either with regard to things or the mind, permit him, and neither knows nor is capable of more." Bacon, *Novum Organum*, in *Library of Universal Literature*, 11.

89. Merchant, "Violence of Impediments," 738. There is an interesting nuance here that again troubles both the notion of a natural slave or a natural master and the notion that these positions are guaranteed or reflective of the moral character of each position. It mirrors early Christian theology and theories of slavery. Garnsey quotes Augustine:

A time will come, when Christ in his glory will appear to assemble before him all peoples, and divide them up, as a shepherd divides the goats from the sheep; he will put the sheep to the right and the goats to the left. *And you will then see many slaves among the sheep and many masters among the goats*. It is not the case that because we have given consolation to slaves, all slaves are good; or that because we have checked the pride of masters, all masters are evil. There are good, faithful masters, and also bad ones; there are good faithful slaves, and also bad ones. But in so far as good slaves serve bad masters, they will only do this for a time.

*Ideas of Slavery*, 211, emphasis added. The sentiment is similar to Bacon's nuance, which often clarifies the difference between mastery (which for him is about service) and tyranny, warning the sham philosophers not to fall into the traps of their own imposture.

90. Bacon, *Novum Organum*, in *Library of Universal Literature*, 12.

91. Quoted in Hadot, *Veil of Isis*, 102. Hadot notes that this work likely came out of the Peripatetic school at the end of the third or beginning of the second century BCE. The philosophical institution based its study on the teachings of Aristotle and was relevant during the Middle Ages and the Renaissance before losing relevance in Western thought.

92. Quoted in Hadot, *Veil of Isis*, 102.

93. Frederika Tevebring notes that Blasius's frontispiece depicts a feminine figure unveiling Artemis and likens this figure directly to "a female personification of knowledge or science." Tevebring, "Unveiling the Goddess," 156. She adds that a contemporary of Blasius, Anton van Leeuwenhoek, also uses a female figure in his frontispiece to uncover Artemis. She again notes that this figure is "probably a personification of science" (157). While it is true that these two illustrations submit nature as an entity that "can be controlled and pacified," reading these feminine images alongside Bacon's depiction of mastery as an act of service precisely because of nature's physical strength puts the nuance of this relationship into relief. In these illustrations, like Bacon's natural philosophy, service, mastery, bondage, and will are entangled still.

94. Hartman, *Scenes of Subjection*, 26.

95. Chen, *Animacies*, 178.

96. See Cuevas, "Ohio Woman Sues."

#### CHAPTER 4. PASSING AND THE ETHICS OF KNOWING

1. Kant, *Critique of Pure Reason*, A748/B776.
2. Kant, *Critique of Pure Reason*, Axi.
3. Kant, *Critique of Pure Reason*, Bii.
4. Kant, *Critique of Pure Reason*, Bii. Kant even borrows the metaphor of the courtroom that Bacon also used to illustrate the workings of his critical method. In the Preface to the first edition of the first *Critique*, for example, he argues that this new orientation toward science “will no longer be put off with illusory knowledge, and . . . demands that reason should take on anew the most difficult of all its tasks, namely, that of self-knowledge, and to institute a *court of justice*, by which reason may secure its rightful claims . . . and this not by mere decrees but according to its own eternal and unchangeable laws.” Kant, *Critique of Pure Reason*, Axi–Axi, emphasis added. After providing the inventory of the human faculties of knowing, he then calls on his readers to serve with the “patience and impartiality of a *judge*.” Kant, *Critique of Pure Reason*, Axxi.
5. Kant, *Critique of Pure Reason*, A748/B776.
6. Piper, “Real Thing Strange,” 72–93.
7. Piper, “Passing for White,” 276.
8. Piper, “Passing for White,” 275.
9. Piper, “Passing for White,” 275.
10. Piper, “Passing for White,” 280. This theme of disappearance is one that is common in narratives of passing. In *Caucasia*, the protagonist, a young woman passing for white, explains, “A long time ago I disappeared. One day I was here, the next I was gone. . . . And when I stopped being nobody, I would become white—white as my skin, hair, bones allowed. My body would fill in the blanks, tell me who I should become, and I would let it speak for me.” Senna, *Caucasia*, 1. In *Black Skin, White Masks*, Fanon writes that passing or wearing the white mask is a form of recognition that Hegel had not envisioned. This form of passing allows for a pseudorecognition for which the black “slave” must “turn White or disappear.” Fanon, *Black Skin, White Masks*, 191–97. The notion of disappearance may refer to another desire, which is for “black appearance” and its recognition. To disappear (to pass into the white world) signifies being made invisible racially (in that white is supposed to be the absence of color or race, the universal subject) and, therefore, visible as a universal subject or also as human/person. One becomes visible and recognized as a white subject yet remains invisible as a black subject. Yet Fanon characterizes these moments of invisibility as vehicles for resistance to colonial powers (even as they are made possible through them). See his description of the Algerian women in the resistance in *A Dying Colonialism*, 130. Ellison agrees and underscores that this move is a violent one: “It is sometimes advantageous to be unseen, although it is most often rather wearing on the nerves.” Ellison, *Invisible Man*, 3.
11. Wald, *Crossing the Line*, 119; “Why ‘Passing’ Is Passing Out,” 13.
12. John Johnson of *Ebony* magazine explained: “We wanted to emphasize the positive aspects of Black life. We wanted to highlight achievements and make Blacks proud of themselves. We wanted to create a windbreak that would let them get away from ‘the problem’ for a few moments and say, ‘Here are some Blacks who are making it. And if they can make it, I can make it, too.’” Quoted in Wald, *Crossing the Line*, 122–23.

13. Hortense Spillers might call the moment a “reified image can be imposed” on someone “an act of mugging that catches the agent not only off guard but also, most effectively, in the dark.” Spillers, “Interstices,” 174. Ellison in his prologue for *Invisible Man* described it as “constantly being bumped against by those of poor vision.” It happened to his protagonist one night when “perhaps because of the *darkness* he saw [him] and called [him] an insulting name.” Ellison, *Invisible Man*, 4. Emphasis added.

14. For a description of liberal multicultural policies and the reification of difference, see Povinelli, *Cunning of Recognition*.

15. Piper, “Passing for White,” 280.

16. Piper, “Passing for White,” 275.

17. Piper, “Passing for White,” 275.

18. Bowles, *Adrian Piper*, 14.

19. Piper, “Xenophobia and the Indexical Present,” 248.

20. Piper, “Real Thing Strange,” 86.

21. Piper, “Xenophobia and Kantian Rationalism,” 3.

22. Deleuze, *Kant’s Critical Philosophy*, 5.

23. Piper, “Xenophobia and Kantian Rationalism,” 4.

24. Piper, *Rationality and the Structure of the Self*, 413. Piper’s word choice here is purposeful. She had read Thomas Kuhn and was drawing on his concept of anomalies as the impetus for paradigm shifts in scientific thinking. Here, an anomaly occurs when the outcome of what one has otherwise considered a well-tested scientific law is other than what one expects. If this occurs often enough, it may provoke scientists to reconsider their previous beliefs. Other thinkers have touted the scientific method as one that facilitates progress through the testing of theories and regular consideration of anomalies. However, Kuhn’s intervention underscored the conservative tendencies of the scientific method. For him, truly confronting anomalies is not something that easily occurs. In fact, quite the contrary, when confronted with anomalies, scientists most often attempt to explain the exceptions as the consequence of faulty tools, processes, or some other mistake. Defenders of a particular philosophical theory, Kuhn insisted, “will do what we have already seen scientists doing when confronted by anomaly. They will devise numerous articulations and *ad hoc* modifications of their theory in order to eliminate any apparent conflict.” Most often, the anomaly becomes illegible as anything other than an uncanny glitch, disavowed as a “minor irritant” to be overcome. For a paradigm shift to occur—that is, for scientists to truly confront longstanding beliefs with a new one—the anomaly must result in an epistemic crisis that prevents scientific work from being carried out without first solving the puzzle at hand. Kuhn, *Structure of Scientific Revolutions*, 78.

25. Piper, “Vanilla Nightmares,” 252–54.

26. Piper, “Ways of Averting One’s Gaze,” 248.

27. Piper, “Vanilla Nightmares,” 253.

28. When Piper’s father was born, the hospital filled out a birth certificate for him. When Piper’s grandmother noticed the “mistake” on the certificate—it stated that Piper’s father was white—she returned to the hospital and asked the administrators to correct it. Because Piper’s grandmother and her son were so light skinned, the hospital staff had

assumed both were white. They provided Piper's grandmother with a second birth certificate, which stated her son's race as "octoroon."

29. This is a technique that Piper uses often. For example, she has used a cutout of an Ethiopian woman holding a child and imposed it onto various scenes. There are an infinite number of ways the image can be used as a stand-in for the universal.

30. In *Cornered*, Piper argues that much of the expectation that she should simply tacitly pass has to do with what she calls a false presumption that "it is inherently better to be white" and with her beholders' "inability to recognize the intrinsic value of being black." To declare that one is black is a sort of rejection of the desire to be white and accordingly of recognition of the inherent goodness of whiteness. Piper, "Cornered," 182.

31. Thirty-four years after *Cornered* was first displayed, Piper created another work in the form of a public announcement titled *Thwarted Projects, Dashed Hopes, A Moment of Embarrassment*. In it, she announces, "Dear Friends, For my 64th birthday, I have decided to change my racial and nationality designations. Henceforth, my new racial designation will be neither black nor white but rather 6.25% grey, honoring my 1/16th African heritage. And my new nationality designation will be not African American but rather Anglo-German American, reflecting my preponderantly English and German ancestry. Please join me in celebrating this exciting new adventure in pointless administrative precision and futile institutional control!" The image accompanying this message to "friends" is a digital portrait of the artist in which the contrast between colors has been altered to resemble a film negative. The piece harnesses irony to negate Piper's attempts at being any sort of ethical person—at making any sort of ethical choice to pass or not—within the limits of the state as a race-making apparatus. Cherix et al., *Adrian Piper*, 306.

32. The possibility of transpersonal intimacy is one that is significant for Piper. It is perhaps because of this that she finds the aversion of the gaze so damaging: It is also a refusal of intimacy.

33. Another review in the *New York Times* argued that Piper did not employ a particularly subtle or finessed artistic approach and thus was not effective in leading people to reconsider any preconceptions. The critic rather dismissively proclaimed, "Ms. Piper is nothing if not intelligent. (She supports herself by teaching philosophy at Wellesley College.) But as an artist she has the touch of a sledgehammer." Johnson, "Adrian Piper."

34. Wilderson, *Red, White and Black*, 35.

35. Baldwin, *Fire Next Time*, 103.

36. Harney and Moten, *Undercommons*, 47.

37. Baldwin, *Fire Next Time*, 103.

38. Haraway, *When Species Meet*, 4.

39. I draw this term, "eating the other," from bell hooks's essay of the same title. See hooks, "Eating the Other."

40. hooks, "Eating the Other." In *The Delectable Negro*, Vincent Woodard introduces this dynamic through a Belgian cartoon depicting three Belgian colonists with knives in their hands preparing to carve up a naked African man labeled "Congo." Woodard's use of the terms *consumption* and *cannibalism* provides significant insight into the colonial act at the level of desire. They thread together the acts of knowing, containing, and integrating the other as being, body, and territory. If the African is to be consumed among the hungry

victors, knowing their body, the territory that it covers, is crucial to imposing the boundaries of that territory, of that colonial property. In reading that body as a map, we might understand colonial knowing, just as owning and producing, as an erotic act of mastery. Woodard reformulates Du Bois's question: "How does it feel to be an edible, consumed object?" In other words, how does it feel to be an energy source and foodstuff, to be consumed on the levels of body, sex, psyche, and soul?" Woodard, *Delectable Negro*, 14.

41. Adrian Piper cites this passage on the crowding of the soul as inspiration for her dive into the possibilities that are opened up when the knowing process breaks down. Her translation of the passage from German is as follows: "It would be possible for appearances to crowd in upon the soul, and yet to be such as would never allow of experience." Immanuel Kant quoted in Piper, "Real Thing Strange," 85. It provides a different affective interpretation of the failure to comprehend a presence that one receives through intuition. Paul Guyer translates the same line as "It would be possible for a swarm of appearances to fill up our soul without experience ever being able to arise from it." Kant, *Critique of Pure Reason*, A111.

42. This is Hume's basic argument to which Kant's rationalist philosophy responds. For Hume, we must have a mitigated skepticism about empirical knowledge and especially about the relationship between cause and effect. But one must also be skeptical about one's own continuity of identity over time—how do we know that the "I" that had one experience is the same "I" that had another? We simply must hold the belief out of habit, custom, or probability, but there is no possible *a priori* rational justification for it.

43. In the first *Critique*, he explains, "I call all cognition *transcendental* that is occupied not so much with objects but rather with our *a priori* concepts of objects in general." Kant, *Critique of Pure Reason*, A11.

44. Piper, "Food for the Spirit," 55.

45. Piper, "Food for the Spirit," 55.

46. Piper, "Food for the Spirit," 55.

47. Piper, "Food for the Spirit"; Bowles, *Adrian Piper*, 207.

48. Judy, *(Dis)Forming the American Canon*, 109.

49. Kant, *Observations*, 2:207.

50. Moten, *Stolen Life*, 3.

51. In *Groundwork*, Kant writes, "Beings whose existence rests not indeed on our will but on nature, if they are non-rational beings, still have only a relative worth, as means, and are therefore called *things*, whereas rational beings are called *persons*, because their nature already marks them out as ends in themselves, i.e. as something that may not be used merely as a means." Kant, *Groundwork*, 4:428.

52. In fact, it is the sure will of reason and its categorical imperative that drive the ethical person. Furthermore, it is not just that persons are capable of ethical action but that they are also deserving of ethical treatment specifically because they are able to reason. Kant writes that a "*rational nature exists as an end in itself*." Kant, *Groundwork*, 4:429. He writes elsewhere that "*ends* have a direct relationship to *reason*." This is true for the ends of nature as much as it is for the ends of freedom, and we must presuppose this even if we do not yet see empirical proof of this. He turns, then, to analogy as a method to infer causes and effects in nature as a means to access this ultimate end in freedom. It is here

that he brings up the question of race. He argues that while Africans might have originated just as other natural humans, a point that demonstrates his take-up of monogenesis, this origin is the result of a prior causal relationship that God instantiated between the human's "original predisposition" and transcendental unity. It merely represents, one might argue, a still "undivided" moment of the human's "future deviate forms." Thus Kant can point to an original purpose from which there have been subsequent deviations. These deviations themselves point to the existence of the original. Kant, "Use of Teleological Principles," 8:182, 172.

53. Kant uses the word *variety*, of which race as skin color is simply an indication.

54. Thus, for example, transcendental cognition "is occupied not so much with objects [to be known] but rather with our *a priori* concepts of objects in general." Kant, *Critique of Pure Reason*, A11.

55. There are various combinations that must occur in Kant's view, and the knowing subject will not be conscious of them. For the subject to have any experience, an original synthesis must occur. He writes in the first *Critique*, "The *I think* must be able to accompany all my representations; for otherwise something would be represented in me that could not be thought at all, which is as much as to say that the representation would either be impossible or else at least would be nothing for me. That representation that can be given prior to all thinking is called *intuition*. Thus all manifold of intuition has a necessary relation to the *I think* in the same subject in which this manifold is to be encountered. But this representation is an act of *spontaneity*, i.e., it cannot be regarded as belonging to sensibility . . . I also call its unity the *transcendental* unity of self-consciousness in order to designate the possibility of *a priori* cognition from it." Kant, *Critique of Pure Reason*, B132.

56. Piper, "Food for the Spirit," 55.

57. Kant, *Critique of Pure Reason*, B134.

58. Kant, *Critique of Pure Reason*, A89/B122–A90/B123.

59. Piper, "Real Thing Strange," 80.

60. Kant, *Critique of Pure Reason*, B134, cited in Piper, "Real Thing Strange," 82.

61. Kant also notes that this juncture is one in which the "soon to be knower" must have faith. The moment incites "suspicion about the objective validity and limits" offered through the transcendental unity of apperception. *Critique of Pure Reason*, B121. He continues,

Thus the reader must be convinced of the unavoidable necessity of such a transcendental deduction before he has taken a single step in the field of pure reason; for he would otherwise proceed blindly, and after much wandering around would still have to return to the ignorance from which he had begun. But he must also clearly understand from the outset its inevitable difficulty, so that he will not complain of obscurity where the subject-matter itself is deeply veiled or become annoyed too soon over the removal of hindrances, since we must surrender completely all claims to insights of pure reason in its favorite field, namely that beyond the boundaries of all possible experience, or else perfect this critical investigation.

62. Spillers, "Mama's Baby, Papa's Maybe," 67.

63. Osborne and Piper, *Philosophies of Conceptual Art*, 46.

64. Kant, *Critique of Pure Reason*, A140/B179. Having said this, Kant would argue that although we cannot know the object in itself and we do not fully know the interests of reason, we must assume reason itself orders the natural world. He writes, for example, "Reality [*Realität*] is in the pure concept of the understanding that to which a sensation in general corresponds, that, therefore, the concept of which in itself indicates a being (in time)." Kant, *Critique of Pure Reason*, A143. It is the schematism of understanding that allows for knowledge. Through it, the categories subject appearances to general rules. Their synthesis, he argues, comes through an *a priori necessary* unity. See Kant, *Critique of Pure Reason*, A146.

65. Kant writes,

We have said above that appearances themselves are nothing but sensible representations, which must not be regarded in themselves, in the same way, as objects (outside of the power of representation). What does one mean, then, if one speaks of an object corresponding to and therefore also distinct from the cognition? It is easy to see that this object must be thought of only as something in general = x, since outside of our cognition we have nothing that we could set over against this cognition as corresponding to it. We find, however, that our thought of the relation of all cognition to its object carries something of necessity with it . . . since insofar as they are to relate to an object our cognitions must also necessarily agree with each other in relation to it, i.e., they must have that unity that constitutes the concept of an object. (Kant, *Critique of Pure Reason*, A104–5)

66. Kant, *Critique of Pure Reason*, B181.

67. Kant, *Critique of Pure Reason*, B153.

68. Piper, "Real Thing Strange," 82.

69. Piper, "Real Thing Strange," 89–91.

70. Piper, "Food for the Spirit," 55.

71. In fact, in *Cornered*, Piper attempted to hire an actor to appear on the screen—including a white actress. Only after having attempted to cast several who simply did not get the tone of the narrative correct did she decide to carry out the performance herself. She was not initially looking to have her own aesthetic features drive the work.

72. Piper, "Real Thing Strange," 91.

73. Piper, "Real Thing Strange," 91.

74. See Bernasconi, "Concept of Race," 94. He writes, "In Kant's first essay on race the purposive nature of racial (which meant for him color) differences was assumed but not argued on the basis that because neither chance nor mechanical laws could have brought about the developments that enabled organic bodies to adapt to the climates into which they first moved, those developments must be construed as preformed. He was more direct in the 1785 essay when he wrote that the purposive nature of color was visible in the Negro race." Bernasconi is referring to Kant, "Of the Different Human Races," and Kant, "Determination of the Concept of a Human Race." The problem of course is that the visible has no meaning if not made possible through a concept. Kant worked between the terms *variety*, which he argued could be used for natural description, and *race*, which,

while it could not be used for natural description, was *necessary* for the objective of natural history. Natural history's objective, he believed, was driven by reason and as such had a unifying purpose.

75. Bernasconi, "Concept of Race," 98.

76. And thus, as Fred Moten writes, "the unnameable comes to bear the imposition of a name." Moten, *Stolen Life*, 3.

77. What David Marriott calls a ghostly simulacrum. Marriott, "On Racial Etiquette," 12.

78. Harney and Moten, *Undercommons*, 51.

#### CODA

1. For a thorough discussion of the possibilities of black study in the world and not simply dependent upon the university, see Harney and Moten, *Undercommons*.

2. In a published conversation with Fred Moten, R. A. Judy articulates the practice of black study as an attempt to "think about the individual in ways that were more complicated and more adequate than the theory of the subject that people were rallying against." Moten, "Of Human Flesh," 7. Both scholars compared and contrasted the practice of black study with the institutionalized projects of black studies. Judy continues:

All of those [San Francisco State black studies, new humanism, black American philosophers in the 1980s, etc.] were efforts that came out of Fanon and were expressly thinking about the question of, what you and I call Black Study, as an instantiation of the question of the human, in which the particularities of the style of response of black people to certain things, the forms of thinking that those we call "black" were engaging in, said something, or had resonances, broad resonances. Without, then, just simply assuming to occupy the position of the normative subject, the transcendental subject, into which the hypostatized bourgeois had been place in the philosophical discourse of the Enlightenment: the convergence of the subject of science with that historical bourgeois subject, or the subject of knowledge with that historical bourgeois subject, or even the subject of the spectacle, the subject who is seeing as Merleau-Ponty tries to problematize. That Black Study attends to those particularities of style and thinking without trying to simply have the "black" occupy that subject position. The aim, instead, is to open up the project of thinking so that there isn't that positionality at all. (Moten, "Of Human Flesh," 7)

3. Moten, "Of Human Flesh," 7.

4. Rei Terada, for example, makes an argument about the enabling contradictions that comprise Hegel's master-slave dialectic. It is against the backdrop of the unnamed and unidentified laborers—in effect, those that might exist prior to world history—that Hegel's bondsman protagonist comes into being as a radical political subject. This subject engages in negation or contradiction that is not properly negative or annihilating. Terada writes, "In Hegel, these [prehistorical] beings must be there if the slave is to develop. . . . A long practice of *making a resource*—not the inevitable result of any creativity, as Hegel points out—begins to consolidate Hegel's slave protagonist into *homo politicus* out of the

innumerable cuts it makes between its work and its resources. Directing destruction to self-realization, which for Hegel just is realization of contradiction and one's own object status in the real movement, rather than *no particular reason* such as need to eat, creates a prop for the slave protagonist." Terada, *Metaracial*, 56.

5. Certainly, the road to his election was complex. The question was raised as to whether Obama could truly be recognized as an African American man given his black ancestry derived from his father, a Kenyan citizen. An article was published after Ancestry.com-backed research affirmed Obama did in fact have an ancestral tie not simply to enslaved blacks in the United States but to the first enslaved Africans of the early Virginia colony. Holpuch, "Barack Obama." This black version of the Pocahontas narrative is only more interesting in that his "black American" ancestry derives from his white mother. I read this report alongside Adrian Piper's *Cornered* with a group of political science undergraduate students who, once they grasped the seemingly impossible racial genealogy, found it remarkable and wondered about their own possible African ancestry. It was much harder for them in 2012 to grasp the gravity of the possibility of black blood and the paranoia about racial purity. This was the case for all but one student, who vocally rejected the possibility that he "might be black" and assured me of his own European heritage. The story harkens to James Baldwin's argument that the racial problem in the United States is a *family* dispute such that, I would argue, even with the myth of hypervisibility and even as dark-skinned black people overwhelmingly suffer the worst of anti-black violence, the borders between the fantasies of mastery and fugitivity are always blurred. The family, of course, is the space in which one is most likely to experience violence. Baldwin said of white Americans, "One watches these lonely people denying the only kin they have." See Baldwin and Buckley, "Debate in Union Hall."

6. White House, "Remarks."

7. Heidegger, *Question Concerning Technology, and Other Essays*.

8. Spillers, "Mama's Baby, Papa's Maybe," 68.

9. For example, Glen Coulthard draws on a reading of Fanon and an analysis of present-day Indigenous insurgencies and politics to argue against the false promises of sovereignty as mediated through a politics of official colonial nation-state recognition. Audra Simpson, Leanne Simpson, Joanne Barker, and Maile Arvin have all made arguments about the patriarchal nature of state sovereignty regimes emanating from Western political philosophical traditions. Maile Arvin, Eve Tuck, and Angie Morrill argue that feminist understandings of Indigenous sovereignty insist that we account for the relationality and "interconnectedness" of not simply humans but also human and nonhuman entities. The fact is that sovereignty continues to be a prioritized meaning-making logic within Indigenous studies scholarship. See Coulthard, *Red Skin, White Masks*; Simpson, "State Is a Man"; Simpson, "Place Where"; Barker, *Sovereignty Matters*; Arvin et al., "Decolonizing Feminism."

10. Moten, "Notes on Passage," 59. Likewise, Saidiya Hartman explores the possibilities of waywardness, which, like fugitivity, insists on the act of being ungovernable. She writes, "Waywardness is the practice of the social otherwise, the insurgent ground that enables another kind of relation, the refusal of the bounded and the discrete." Hartman, *Wayward Lives, Beautiful Experiments*, 228.

11. Spillers, "Interstices," 153.

12. Spillers, "Mama's Baby, Papa's Maybe," 67.

13. Here I refer to the sort of read that Dorian Corey described in *Paris Is Burning*. Corey explained, "Reading is the real art form of insult. You get in a smart crack and everyone laughs and kiks because you found a flaw and exaggerated it. Then you've got a good read going." Livingston, *Paris Is Burning*. Not every read can be understood as what I will describe as a sovereign moment of invention or becoming. But many reads offer a cut that allows the real to emerge. For example, the professor who, as I recounted in chapter 4, told Adrian Piper, "You are about as black as I am," offered a read—in spite of himself and his intentions of disavowal. Jeantel's read, however, against the background of the sovereignty of the court and the expectation for black subservience and even silence in the face of white, homicidal civility, closely resembles the sort of becoming that Spillers describes in the black female vocalist's solo in "Interstices," 165.

14. Spillers, "Interstices," 165.

15. Spillers, "Interstices," 165.

16. Within this interstice, however, there is a question of the place or status of history. Spillers insists, "We must be careful not to romanticize the singer . . . I do not intend to take the vocalist out of history, but to try to see her firmly within it." Spillers, "Interstices," 165. I believe this has everything to do with confronting the work that myths carry out to draw on the meaning of historical occurrences but without tending to the consequences. They empty out or disavow history. Marriott, however, writes of Fanonian invention that "despite the primary role that history plays in the meaning of . . . subjection, clinging to its truth or whatever happens to be regarded as its truth can only be imprisoning, or backward-looking, for the leaper"; that is, for they who insist on invention. I do not see these stances as necessarily oppositional. I read the leap, rather, as a cut through the myth, propelled or provoked by history but moving necessarily towards a "something new." Marriott, *Whither Fanon?*, 237.

17. Marriott, *Whither Fanon?*, 237.

18. Marriott, *Whither Fanon?*, 237, 241.

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## Bibliography

- An Act for the Better Ordering and Governing of Negroes, §40. South Carolina, 1740.
- Adams-Campbell, Melissa, Ashley Glassburn Falzetti, and Courtney Rivard, eds. "Indigeneity and the Work of Settler Archives." Special issue, *Settler Colonial Studies* 5, no. 2 (2015).
- Akers, Donna L. *Living in the Land of Death: The Choctaw Nation, 1830–1860*. Michigan State University Press, 2004.
- Akers, Donna L. "Removing the Heart of the Choctaw People." In *The American Indian: Past and Present*, edited by Roger L. Nichols. University of Oklahoma Press, 2008.
- "Applications for Enrollment in the Five Civilized Tribes." Records of the Bureau of Indian Affairs, Record Group 75. National Archives (NARA)—Central Plains Regions, Kansas City.
- Arabindan-Kesson, Anna. "Dressed Up and Laying Bare: Fashion in the Shadow of the Market." *Vestoj* (London College of Fashion), July 2012.
- Armitage, David. "John Locke, Carolina, and the 'Two Treatises of Government.'" *Political Theory* 32, no. 5 (2004): 602–27.
- "Articles of Peace Between the Most Serene and Mighty Prince Charles II and Several Indian Kings and Queens." May 29, 1677. In *Early American Indian Documents: Treaties and Laws, 1607–1789*, edited by Alden T. Vaughan and W. Sitt Robinson, vol. 4. University Publications of America, 1983.
- Arvin, Maile, Eve Tuck, and Angie Morrill. "Decolonizing Feminism: Challenging Connections Between Settler Colonialism and Heteropatriarchy." *Feminist Formations* 25, no. 1 (2013): 8–34.
- Bacon, Francis. *The Advancement of Learning*. Bk. 1. Cambridge University Press, 1922.
- Bacon, Francis. *Novum Organum*. In *A Library of Universal Literature in Four Parts Comprising Science, Biography, Fiction and the Great Orations: Part One—Science*. Edited by Joseph Devey. P. F. Collier, 1902.
- Bacon, Francis. *The Works of Francis Bacon*. Edited by James Spedding, Robert Leslie Ellis, and Douglas Denon Heath. 14 vols. Longman, 1857–74.
- Baldwin, James. *The Fire Next Time*. Michael Joseph Ltd, 1963.

- Baldwin, James, and William F. Buckley. "Debate in Union Hall, Cambridge University (1965)." National Constitution Center. Accessed February 12, 2025. <https://constitutioncenter.org/the-constitution/historic-document-library/detail/debate-in-union-hall-cambridge-university-1965>.
- Barker, Joanne. *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles for Self-Determination*. University of Nebraska Press, 2005.
- Barthes, Roland. *Camera Lucida: Reflections on Photography*. Macmillan, 1981.
- Barthes, Roland. *Mythologies: The Complete Edition, in a New Translation*. Macmillan, 1972.
- Benjamin, Walter. *Selected Writings*. Harvard University Press, 2004.
- Bennington, Geoffrey. "The Fall of Sovereignty." *Epoché* 10, no. 2 (2006): 395–406.
- Berg, Roland. Letter to George Gey, 1953. George O. Gey Collection, Alan Mason Chesney Medical Archives of the Johns Hopkins Medical Institutions, Baltimore.
- Berlin, Ira. *Slaves Without Masters: The Free Negro in the Antebellum South*. Pantheon Books, 1974.
- Bernasconi, Robert. "Who Invented the Concept of Race?" In *Theories of Race and Racism: A Reader*, edited by Les Back and John Solomos. 2nd ed. Routledge, 2009.
- Berry, Daina Ramey. *The Price for Their Pound of Flesh: The Value of the Enslaved, from Womb to Grave, in the Building of a Nation*. Beacon Press, 2017.
- Berry, Mary Frances. "'Reckless Eyeballing': The Matt Ingram Case and the Denial of African American Sexual Freedom." *Journal of African American History* 93, no. 2 (2008): 223–24.
- Best, Stephen. *The Fugitive's Properties: Law and the Poetics of Possession*. 1st ed. University of Chicago Press, 2004.
- Best, Stephen. *None Like Us: Blackness, Belonging, Aesthetic Life*. Duke University Press, 2019.
- Best, Stephen, and Sharon Marcus. "Surface Reading: An Introduction." *Representations* 108, no. 1 (2009): 1–21.
- Block, Sharon. *Colonial Complexions: Race and Bodies in Eighteenth-Century America*. University of Pennsylvania Press, 2018.
- Bodin, Jean. *Bodin: On Sovereignty*. Edited by Julian H. Franklin. Cambridge University Press, 1992.
- Bowles, John P. *Adrian Piper: Race, Gender, and Embodiment*. Duke University Press, 2011.
- Brooks, Daphne. *Bodies in Dissent: Spectacular Performances of Race and Freedom, 1850–1910*. Duke University Press, 2006.
- Brown, Kathleen M. *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia*. Omohundro Institute of Early American History and Culture and University of North Carolina Press, 1996.
- Browne, Simone. *Dark Matters: On the Surveillance of Blackness*. Duke University Press, 2015.
- Browne, Simone. "Everybody's Got a Little Light Under the Sun." *Cultural Studies* 26, no. 4 (2012): 542–64.
- Bruyneel, Kevin. *Settler Memory: The Disavowal of Indigeneity and the Politics of Race in the United States*. University of North Carolina Press, 2021.

- Carter, Kent. *The Dawes Commission and the Allotment of the Five Civilized Tribes, 1893–1914*. Ancestry Publishing, 1999.
- Castillo, Edward D. “An Indian Account of the Decline and Collapse of Mexico’s Hegemony over the Missionized Indians of California.” *American Indian Quarterly* 13, no. 4 (1989): 391–408.
- Cave, Alfred A. “Abuse of Power: Andrew Jackson and the Indian Removal Act of 1830.” *The Historian* 65, no. 6 (2003): 1330–53.
- Chakravarty, Urvashi. *Fictions of Consent: Slavery, Servitude, and Free Service in Early Modern England*. University of Pennsylvania Press, 2022.
- Chambers, Douglas B., and Max Grivno, eds. *Runaway Slaves in Mississippi (1800–1860): Series 1*. University of Southern Mississippi, 2013. Aquila Digital Community. Accessed May 2014. <http://aquila.usm.edu/drs/>.
- Chambers, E. K. *The Elizabethan Stage*. 4 vols. Clarendon, 1923.
- Chandler, Nahum Dimitri. “Originary Displacement.” *Boundary 2* 27, no. 3 (2000): 249–86.
- Chatterjee, Rhitu. “Cases of Mistaken Identity.” *Science* 315, no. 5814 (2007): 928–31.
- Chen, Mel Y. *Animacies: Biopolitics, Racial Mattering, and Queer Affect*. Duke University Press, 2012.
- Cherix, Christophe, Cornelia H. Butler, and David Platzker, eds. *Adrian Piper: A Synthesis of Intuitions, 1965–2016*. Museum of Modern Art, 2018.
- Choctaw Nation and Patrick J. Hurley. *Choctaw Citizenship Litigation*. 1916. <https://www.loc.gov/item/16014670/>.
- Choctaw Nation of Oklahoma. *Constitution and By-Laws of the Choctaw Nation of Oklahoma*. Adopted 1983. National Indian Law Library. <https://narl.org/nill/constitutions/choctaw/index.html>.
- Choctaw Nation of Oklahoma. *The Constitution and Laws of the Choctaw Nation, 1838*. Frederick W. Beinecke, 1970.
- Colber, E. D., D. Barrows, and Wesley McKenney. “Statement of the Choctaw Freedmen, Setting Forth Their Wrongs, Grievances, Claims, and Wants, August 1894.” In *Report of the Commission to the Five Civilized Tribes*, S. Misc. Doc. No. 24, 53rd Cong., 3rd Sess., 1894.
- Coleman, Arica L. *That the Blood Stay Pure: African Americans, Native Americans, and the Predicament of Race and Identity in Virginia*. Indiana University Press, 2013.
- Committee on Indian Affairs. “Choctaw and Chickasaw Indians.” S. Doc. No. 257, 59th Cong., 2nd Sess., 1907.
- Cooke, John. *Greene’s Tu Quoque, or, The Citty Gallant*. Routledge, 1984.
- Costa, Tom. “The Geography of Slavery in Virginia.” University of Virginia, 2005. <https://www2.vcdh.virginia.edu/gos/index.html>.
- Coulthard, Glen Sean. *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. University of Minnesota Press, 2014.
- Crane, Mary Thomas. “Surface, Depth, and the Spatial Imaginary: A Cognitive Reading of *The Political Unconscious*.” *Representations* 108, no. 1 (2009): 76–97.
- Cuevas, Mayra. “Ohio Woman Sues Sperm Bank After Racial Mix-Up.” CNN, October 2, 2014. <https://www.cnn.com/2014/10/02/us/sperm-bank-race-lawsuit/>.

- Dailey, Jane. "The Immortal Life of Henrietta Lacks' by Rebecca Skloot." *Chicago Tribune*, November 17, 2010. <https://www.chicagotribune.com/entertainment/books/chi-the-immortal-life-of-henrietta-111710-story.html>.
- Davies, Surekha. *Renaissance Ethnography and the Invention of the Human: New Worlds, Maps and Monsters*. Cambridge University Press, 2016.
- Dawes Commission. *Report of Commission to the Five Civilized Tribes*. S. Misc. Doc. No. 24, 53rd Cong., 3rd Sess., 1894.
- Debo, Angie. *The Rise and Fall of the Choctaw Republic*. University of Oklahoma Press, 1961.
- Deleuze, Gilles. *Kant's Critical Philosophy*. University of Minnesota Press, 1985.
- Derrida, Jacques. "Archive Fever: A Freudian Impression." Translated by Eric Prenowitz. *Diacritics* 25, no. 2 (1995): 9–63.
- Descartes, René. "Traité du monde et de la lumière." In *Oeuvres philosophiques*. Classiques Garnier, 1834.
- Douglass, Frederick. *Life and Times of Frederick Douglass*. 6th ed. H. G. Collins, 1851.
- DuPlessis, Robert S. "What Did Slaves Wear? Textile Regimes in the French Caribbean." *Monde(s)*, no. 1 (2012): 175–91.
- Edelman, Lee. *Bad Education: Why Queer Theory Teaches Us Nothing*. Duke University Press, 2022.
- Eisenstein, Elizabeth. *The Printing Revolution in Early Modern Europe*. Cambridge University Press, 1993.
- Ekirch, A. Roger. *Bound for America: The Transportation of British Convicts to the Colonies, 1718–1775*. Oxford University Press, 1987; reissued 1990.
- Elkins, James. *The Object Stares Back: On the Nature of Seeing*. 1st Harvest ed. Harcourt Brace, 1996.
- Ellison, Ralph. *Invisible Man*. 2nd ed. Random House, 1995.
- Enright, Anne. "What's Left of Henrietta Lacks?" *London Review of Books* 22, no. 8 (2000). <https://www.lrb.co.uk/the-paper/v22/n08/anne-enright/what-s-left-of-henrietta-lacks>.
- Everett, C. S. "'They Shalbe Slaves for Their Lives': Indian Slavery in Colonial Virginia." In *Indian Slavery in Colonial America*, edited by Alan Galloway. University of Nebraska Press, 2009.
- Fanon, Frantz. *Black Skin, White Masks*. Grove Press, 2008.
- Fanon, Frantz. *A Dying Colonialism*. Grove Atlantic, 2022.
- Fanon, Frantz. *Peau noire, masques blancs*. Éditions du Seuil, 1971.
- Farrington, Benjamin. *Philosophy of Francis Bacon*. Liverpool University Press, 1964.
- Fleetwood, Nicole R. *Troubling Vision: Performance, Visuality, and Blackness*. University of Chicago Press, 2011.
- Forbes, Jack D. "Black Pioneers: The Spanish-Speaking Afroamericans of the Southwest." *Phylon* (1960–) 27, no. 3 (1966): 233–46.
- Forbes, Jack D. "The Manipulation of Race, Caste, and Identity: Classifying Afro-Americans, Native Americans and Red-Black People." *Journal of Ethnic Studies* 17, no. 4 (1990): 1–51.
- Ford, Charles. "People as Property." *Oxford Art Journal* 25, no. 1 (2002): 1–16.

- Ford, Thomas K., and Parke Rouse Jr. *The Printer in Eighteenth-Century Williamsburg: An Account of His Life and Times, and of His Craft*. Colonial Williamsburg Foundation, 1964.
- Foreman, P. Gabrielle. "Who's Your Mama? 'White' Mulatta Genealogies, Early Photography, and Anti-Passing Narratives of Slavery and Freedom." *American Literary History* 14, no. 3 (2002): 505–39.
- Fortney, Jeffrey L., Jr. "Slaves and Slaveholders in the Choctaw Nation: 1830–1866." MA thesis, University of North Texas, 2009.
- Foucault, Michel. *"Society Must Be Defended": Lectures at the Collège de France, 1975–1976*. Translated by David Macey. Picador, 2003.
- Franke, Katherine M. "Becoming a Citizen: Reconstruction Era Regulation of African American Marriages." *Yale Journal of Law and the Humanities* 11, no. 2 (1999): 251–310.
- Freud, Sigmund. *Moses and Monotheism*. Later printing ed. Vintage, 1955.
- Fulton, Sybrina, and Tracy Martin. *Rest in Power: The Enduring Life of Trayvon Martin*. Random House, 2017.
- Garnsey, Peter. *Ideas of Slavery from Aristotle to Augustine*. Cambridge University Press, 1996.
- Gartler, Stanley M. "Apparent HeLa Cell Contamination of Human Heteroploid Cell Lines." *Nature* 217, no. 5130 (1968): 750–51.
- Gey, George. Letter to Roland Berg, 1953. George O. Gey Collection, Alan Mason Chesney Medical Archives of the Johns Hopkins Medical Institutions, Baltimore.
- Gey, George. Letter to Stanley Gartler, April 1, 1966. George O. Gey Collection, Alan Mason Chesney Medical Archives of the Johns Hopkins Medical Institutions, Baltimore.
- Gibson, Marion. *Rediscovering Renaissance Witchcraft*. Routledge, 2017.
- Gilroy, Paul. *Against Race: Imagining Political Culture Beyond the Color Line*. Harvard University Press, 2000.
- Gleach, Frederic W. *Powhatan's World and Colonial Virginia: A Conflict of Cultures*. University of Nebraska Press, 2000.
- Gold, Michael. *A Conspiracy of Cells: One Woman's Immortal Legacy and the Medical Scandal It Caused*. State University of New York Press, 1986.
- Gossett, Che, and Juliana Huxtable. "Existing in the World: Blackness at the Edge of Trans Visibility." In *Trap Door: Trans Cultural Production and the Politics of Visibility*, edited by Reina Gossett, Eric A. Stanley, and Johanna Burton, 39–55. MIT Press and The New Museum, 2017.
- Greenblatt, Stephen. *Marvelous Possessions: The Wonder of the New World*. University of Chicago Press, 2017.
- Gross, Ariela J. *What Blood Won't Tell: A History of Race on Trial in America*. Harvard University Press, 2010.
- Grubb, Farley. "The Transatlantic Market for British Convict Labor." *Journal of Economic History* 60, no. 1 (2000): 94–22.
- Guasco, Michael. *Slaves and Englishmen: Human Bondage in the Early Modern Atlantic World*. University of Pennsylvania Press, 2014.
- Haas, Lisbeth. *Conquests and Historical Identities in California, 1769–1936*. University of California Press, 1995.

- Hackel, Steven W. *Children of Coyote, Missionaries of Saint Francis: Indian-Spanish Relations in Colonial California, 1769–1850*. University of North Carolina Press, 2017.
- Hadot, Pierre. *The Veil of Isis: An Essay on the History of the Idea of Nature*. Translated by Michael Chase. Belknap Press of Harvard University Press, 2006.
- Haley, Sarah. *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity*. University of North Carolina Press, 2016.
- Haraway, Donna J. *When Species Meet*. Illustrated ed. University of Minnesota Press, 2007.
- Harney, Stefano, and Fred Moten. *The Undercommons: Fugitive Planning and Black Study*. Minor Compositions, 2013.
- Hartman, Saidiya. *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America*. Oxford University Press, 1997.
- Hartman, Saidiya. “Seduction and the Ruses of Power.” *Callaloo* 19, no. 2 (1996): 537–60.
- Hartman, Saidiya. “Venus in Two Acts.” *Small Axe: A Caribbean Journal of Criticism* 12, no. 2 (2008): 1–14.
- Hartman, Saidiya. *Wayward Lives, Beautiful Experiments: Intimate Histories of Riotous Black Girls, Troublesome Women, and Queer Radicals*. W. W. Norton and Company, 2019.
- Hayflick, Leonard. *How and Why We Age*. Ballantine Books, 1994.
- Heidegger, Martin. *The Question Concerning Technology, and Other Essays*. Harper Collins, 1982.
- Helton, Laura, Justin Leroy, Max A. Mishler, Samantha Seeley, and Shauna Sweeney, eds. “The Question of Recovery: Slavery, Freedom, and the Archive.” Special issue, *Social Text* 33, no. 4 (125) (2015).
- Hening, William Waller, ed. *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619*. 2nd ed. 14 vols. William W. Gray for the editor, 1820.
- Heraclitus. *Fragments*. Translated by T. M. Robinson. University of Toronto Press, 1987.
- Hinshelwood, Brad. “The Carolinian Context of John Locke’s Theory of Slavery.” *Political Theory* 41, no. 4 (2013): 562–90.
- “Historical and Genealogical Notes and Queries.” *Virginia Magazine of History and Biography* 7, no. 3 (1900): 303–16. <http://www.jstor.org/stable/4242267>.
- Hodges, Graham Russell Gao, and Alan Edward Brown. *“Pretends to Be Free”: Runaway Slave Advertisements from Colonial and Revolutionary New York and New Jersey*. 25th anniversary ed. Fordham University Press, 2019.
- Holpuch, Amanda. “Barack Obama May Be Descendant of First African Slave in Colonial America.” *Guardian*, July 30, 2012. <https://www.theguardian.com/world/us-news-blog/2012/jul/30/barack-obama-descendant-first-african>.
- hooks, bell. “Eating the Other: Desire and Resistance.” In *Black Looks: Race and Representation*. South End Press, 1992.
- Horkheimer, Max, and Theodor W. Adorno. *Dialectic of Enlightenment*. Stanford University Press, 2002.

- Jackson, Robert H., and Edward Castillo. *Indians, Franciscans, and Spanish Colonization: The Impact of the Mission System on California Indians*. University of New Mexico Press, 1996.
- Jackson, Zakiyyah Iman. "Waking Nightmares—on David Marriott." *GLQ* 17, no. 2–3 (2011): 357–63.
- Jefferson, Thomas. *Notes on the State of Virginia*. London: printed for J. Stockdale, 1787.
- Johnson, Ken. "Adrian Piper." *New York Times*, November 17, 2000. Late (East Coast) edition.
- Judy, R. A. *(Dis)Forming the American Canon: African-Arabic Slave Narratives and the Vernacular*. University of Minnesota Press, 1993.
- Kant, Immanuel. *Critique of Pure Reason*. Translated by Paul Guyer. Cambridge University Press, 1998.
- Kant, Immanuel. "Determination of the Concept of a Human Race." In *Gesammelte Schriften*, Akademie Ausgabe, vol. 2, 435. Berlin: Walter de Gruyter, 1905–.
- Kant, Immanuel. *Groundwork of the Metaphysics of Morals*. Translated by Mary Gregor. Cambridge University Press, 1997.
- Kant, Immanuel. "Observations on the Feelings of the Beautiful and Sublime." In *Anthropology, History and Education*, edited by Günter Zöller and Robert B. Loudon. Translated by Marty Gregor et al. Cambridge University Press, 2007.
- Kant, Immanuel. "On the Use of Teleological Principles in Philosophy." In *Anthropology, History and Education*, edited by Günter Zöller and Robert B. Loudon. Translated by Marty Gregor et al. Cambridge University Press, 2007.
- Kant, Immanuel. "Of the Different Human Races." In *Kant and the Concept of Race*, translated and edited by Jon M. Mikkelsen, 41–54. SUNY Press, 2013.
- Kant, Immanuel. *Perpetual Peace*. Translated by William Hastie. Filiquarian Publishing, 2007.
- Koslofsky, Craig. "Branding on the Face in Early Modern Europe." In *Stigma: Marking Skin in the Early Modern World*, edited by Katherine Dauge-Roth and Craig Koslofsky. Pennsylvania State University Press, 2023.
- Krauthamer, Barbara. *Black Slaves, Indian Masters: Slavery, Emancipation, and Citizenship in the Native American South*. University of North Carolina Press, 2015.
- Kuhn, Thomas S. *The Structure of Scientific Revolutions*. University of Chicago Press, 2009.
- Kulikoff, Allan. *Tobacco and Slaves: The Development of Southern Cultures in the Chesapeake, 1680–1800*. University of North Carolina Press, 1986.
- Landecker, Hannah. *Culturing Life: How Cells Became Technologies*. Harvard University Press, 2007.
- Lauber, Almon Wheeler. *Indian Slavery in Colonial Times Within the Present Limits of the United States*. Columbia University, 1913.
- Lebeau, Vicky. "Psychopolitics: Frantz Fanon's *Black Skin, White Masks*." In *Psychopolitics and Cultural Desires*, edited by Jan Campbell and Janet Harbord. Routledge, 2005.
- Library of Virginia. "Imprint Record: Henning's *Statutes at Large*, Volume 4, 2nd Edition." Index of Virginia Printing. Accessed November 5, 2024. <https://www.lva.virginia.gov/collections/virginia-print/imprints/1820.042>.

- Livingston, Jennie, dir. *Paris Is Burning*. Miramax Films, 1990.
- Lloyd, Martin. *The Passport: The History of Man's Most Travelled Document*. Queen Anne's Fan, 2008.
- Locke, John. *Two Treatises of Government*. Edited by Peter Laslett. Cambridge University Press, 1988.
- Lowe, Lisa. "History Hesitant." *Social Text* 33, no. 4 (125) (2015): 85–107.
- Maillard, Kevin Noble. "The Pocahontas Exception: The Exemption of American Indian Ancestry from Racial Purity Law." *Michigan Journal of Race and Law* 12, no. 2 (2006): 351–86.
- Marriage Act, requiring that whites desiring to marry Choctaw women must obtain a license. November 17, 1875. Box C-39, folder 9. Coleman Cole Collection, WHC-M-117. Western History Collections, University of Oklahoma, Norman.
- Marriott, David. *Haunted Life: Visual Culture and Black Modernity*. Rutgers University Press, 2007.
- Marriott, David. "On Racial Etiquette: Adrian Piper's My Calling (Cards)." *Postmodern Culture* 24, no. 1 (2013). <https://dx.doi.org/10.1353/pmc.2013.0056>.
- Marriott, David. *Whither Fanon? Studies in the Blackness of Being*. Stanford University Press, 2018.
- Marshall, Amani. "'They Will Endeavor to Pass for Free': Enslaved Runaways' Performances of Freedom in Antebellum South Carolina." *Slavery and Abolition* 31, no. 2 (2010): 161–80.
- McCaskill, Barbara. "'Yours Very Truly': Ellen Craft—The Fugitive as Text and Artifact." *African American Review* 28, no. 4 (1994): 509–29.
- McCormack, Brian Timothy. "Marriage, Ethnic Identity, and the Politics of Conversion in Alta California, 1769–1834." PhD diss., University of California, San Diego, 2000.
- McCune, Jeffrey Q. *Sexual Discretion: Black Masculinity and the Politics of Passing*. University of Chicago Press, 2014.
- McIlwaine, H. R., ed. *Executive Journals of the Council of Colonial Virginia*. Vol. 1. Virginia State Library, 1925.
- Merchant, Carolyn. *The Death of Nature: Women, Ecology, and the Scientific Revolution*. Harper Collins, 2019.
- Merchant, Carolyn. "The Scientific Revolution and the Death of Nature." *Isis* 97, no. 3 (2006): 513–33.
- Merchant, Carolyn. "'The Violence of Impediments': Francis Bacon and the Origins of Experimentation." *Isis* 99, no. 4 (2008): 731–60.
- Milsom, S. F. C. *Historical Foundations of the Common Law*. 2nd ed. Butterworths, 1981.
- Mirzoeff, Nicholas. *The Right to Look: A Counterhistory of Visuality*. Duke University Press, 2011.
- Mississippi Band of Choctaw Indians. *Constitution and Bylaws: As Approved by the Commissioner of Indian Affairs March 28, 1975, As Amended and Approved, March 8, 2013*. <https://www.choctaw.org/documents/>.
- Morgan, Edmund S. *American Slavery, American Freedom: The Ordeal of Colonial Virginia*. W. W. Norton, 1975.

- Morgan, Jennifer L. "Archives and Histories of Racial Capitalism: An Afterword." *Social Text* 33, no. 4 (125) (2015): 153–61.
- Morgan, Jennifer L. "Partus sequitur ventrem: Law, Race, and Reproduction in Colonial Slavery." *Small Axe: A Caribbean Journal of Criticism* 22, no. 1 (2018): 1–17.
- Morrison, Toni. "The Site of Memory." In *Inventing the Truth: The Art and Craft of Memoir*, 2nd ed., edited by William Zinsser. Houghton Mifflin, 1995.
- Morrison, Toni. *What Moves at the Margin: Selected Nonfiction*. Edited by Carolyn C. Denard. Illustrated ed. University Press of Mississippi, 2008.
- Moten, Fred. "Notes on Passage (The New International of Sovereign Feelings)." *Palimpsest: A Journal on Women, Gender, and the Black International* 3, no. 1 (2014): 51–74.
- Moten, Fred. "Of Human Flesh: An Interview with R. A. Judy." *Boundary 2* 47, no. 2 (2020): 227–62.
- Moten, Fred. *Stolen Life*. Duke University Press, 2018.
- Nardone, Roland M. "Eradication of Cross-Contaminated Cell Lines: A Call for Action." *Cell Biology and Toxicology* 23, no. 6 (2007): 367–72.
- National Park Service. "Statue of Isis." Accessed September 18, 2024. <https://www.nps.gov/places/statue-of-isis.htm>.
- Nelson-Rees, Walter. "Interview with Dr. Walter Nelson-Rees Oral History 1994." By Dr. Robert Stevenson. National Institutes of Health Office of NIH History and Stetten Museum. April 12, 1994. Accessed October 5, 2024. <https://history.nih.gov/display/history/Nelson-Rees%2C+Walter+1994>.
- Nyong'o, Tavia. *Afro-Fabulations: The Queer Drama of Black Life*. NYU Press, 2018.
- Nyong'o, Tavia. "Passing as Politics: Framing Black Political Performance." *Women and Performance: A Journal of Feminist Theory* 15, no. 1 (2005): 53–78.
- Nyong'o, Tavia. "The Unforgivable Transgression of Being Caster Semenya." *Women and Performance: A Journal of Feminist Theory* 20, no. 1 (2010): 95–100.
- Nguyen, Mimi Thi. "The Hoodie as Sign, Screen, Expectation, and Force." *Signs: Journal of Women in Culture and Society* 40, no. 4 (2015): 791–816.
- Olson, Kevin. *Imagined Sovereignities: The Power of the People and Other Myths of the Modern Age*. Cambridge University Press, 2016.
- Osborne, Peter, and Adrian Piper. *Philosophies of Conceptual Art: Peter Osborne and Adrian Piper in Conversation*. A.R.T. Press, 2024.
- Osburn, Katherine. "'Any Sane Person': Race, Rights, and Tribal Sovereignty in the Construction of the Dawes Rolls for the Choctaw Nation." *Journal of the Gilded Age and Progressive Era* 9, no. 4 (2010): 451–71.
- Osburn, Katherine. *Choctaw Resurgence in Mississippi: Race, Class, and Nation Building in the Jim Crow South, 1830–1977*. University of Nebraska Press, 2014.
- Parent, Anthony S. *Foul Means: The Formation of a Slave Society in Virginia, 1660–1740*. University of North Carolina Press, 2003.
- Parenti, Christian. *The Soft Cage: Surveillance in America from Slavery to the War on Terror*. Basic Books, 2004.
- Patterson, Orlando. *Slavery and Social Death: A Comparative Study*. Harvard University Press, 1982.

- Picardt, Johan. *Korte beschryvinge van eenige vergentene en verborgene antiquiteten der provintien en landen gelegen tusschen de Noord-Zee, de Yssel, Emse en Lippe*. Amsterdam, 1660.
- Piper, Adrian. "Cornered: A Video Installation Project." In *Theory in Contemporary Art Since 1985*, edited by Simon Leung and Zoya Kocur. Blackwell, 2005.
- Piper, Adrian. "Flying." In *Out of Order, Out of Sight*. Vol. 1, *Selected Writings in Meta-Art 1968–1992*. MIT Press, 1996.
- Piper, Adrian. "Food for the Spirit." In *Out of Order, Out of Sight*. Vol. 1, *Selected Writings in Meta-Art 1968–1992*. MIT Press, 1996.
- Piper, Adrian. "Passing for White, Passing for Black." In *Out of Order, Out of Sight*. Vol. 1, *Selected Writings in Meta-Art 1968–1992*. MIT Press, 1996.
- Piper, Adrian. *Rationality and the Structure of the Self*. Vol. 2, *A Kantian Conception*. 2nd ed. APRA Foundation Berlin, 2013.
- Piper, Adrian. "The Real Thing Strange." In *Adrian Piper: A Synthesis of Intuitions, 1965–2016*, edited by Christophe Cherix, Cornelia Butler, and David Platzker. Museum of Modern Art, 2018.
- Piper, Adrian. "Vanilla Nightmares." In *Out of Order, Out of Sight*. Vol. 1, *Selected Writings in Meta-Art 1968–1992*. MIT Press, 1996.
- Piper, Adrian. "Ways of Averting One's Gaze." In *Out of Order, Out of Sight*. Vol. 2, *Selected Writings in Art Criticism, 1967–1992*. MIT Press, 1996.
- Piper, Adrian. "Xenophobia and Kantian Rationalism." *Philosophical Forum* 24, nos. 1–3 (1993): 188–232.
- Piper, Adrian. "Xenophobia and the Indexical Present." In *Out of Order, Out of Sight*. Vol. 1, *Selected Writings in Meta-Art, 1968–1992*. MIT Press, 1996.
- Pitchlynn, P. P., and Winchester Colbert. "Typescript of: An Address of P.P. Pitchlynn and Winchester Colbert." *Vindicator* (New Boggy, Choctaw Nation IT) 2, no. 11—whole no. 63 ed., August 27, 1873.
- Plutarch. *Isis and Osiris*. In *Moralia V*. Translated by Frank Cole Babbitt. Harvard University Press, 1936.
- Povinelli, Elizabeth A. *The Cunning of Recognition: Indigenous Alterities and the Making of Australian Multiculturalism*. Duke University Press, 2002.
- Rankine, Claudia. *Citizen: An American Lyric*. Graywolf Press, 2014.
- Ray, Kristofer. "Constructing a Discourse of Indigenous Slavery, Freedom, and Sovereignty in Anglo-Virginia, 1600–1750." *Native South* 10 (2017): 19–39.
- Rice, James D. "Bacon's Rebellion in Indian Country." *Journal of American History* 101, no. 3 (2014): 726–50.
- Roberts, Alaina E. *I've Been Here All the While: Black Freedom on Native Land*. University of Pennsylvania Press, 2021.
- Rogers, Michael. "The Double-Edged Helix." *Rolling Stone*, March 25, 1976. <https://www.rollingstone.com/culture/features/the-double-edged-helix-19760325>.
- Roig-Franzia, Manuel. "Trayvon Martin's Hoodie Becomes a Civil Rights Icon." *Washington Post*, March 17, 2022. <https://www.washingtonpost.com/lifestyle/2022/03/17/trayvon-hoodie-in-smithsonian/>.

- Ross, Marlon. "Beyond the Closet as Raceless Paradigm." In *Black Queer Studies: A Critical Anthology*, edited by E. Patrick Johnson and Mae G. Henderson, 161–90. Duke University Press, 2005.
- Rountree, Helen C. "Change Came Slowly: The Case of the Powhatan Indians of Virginia." *Journal of Ethnic Studies* 3, no. 3 (1975): 1–20.
- Rountree, Helen C., and E. Randolph Turner III. *Before and After Jamestown: Virginia's Powhatans and Their Predecessors*. University Press of Florida, 2002.
- Rousseau, Jean-Jacques. *The Social Contract and Other Political Writings*. Edited and translated by Victor Gourevitch. Cambridge University Press, 1997.
- Rustici, Craig M. "'The Great Sophism of All Sophisms': Colonialist Redefinition in Bacon's 'Holy War.'" *Renaissance and Reformation/Renaissance et Réforme* 16, no. 4 (1992): 49–72.
- Samuels, Ellen. "'A Complication of Complaints': Untangling Disability, Race, and Gender in William and Ellen Craft's *Running a Thousand Miles for Freedom*." *MELUS* 31, no. 1 (2006): 15–47.
- Schatzberg, Eric. *Technology: A Critical History of a Concept*. University of Chicago Press, 2019.
- Schwarz, Philip J. *Twice Condemned: Slaves and the Criminal Laws of Virginia, 1705–1865*. Louisiana State University Press, 1988.
- Sedgwick, Eve Kosofsky. *Epistemology of the Closet*. University of California Press, 1990.
- Senna, Danzy. *Caucasia*. Riverhead Books, 1999.
- Seth, Vanita. *Europe's Indians: Producing Racial Difference, 1500–1900*. Duke University Press, 2010.
- Seth, Vanita. "Faces of the Self." *Journal of Race, Ethnicity, and Politics* 5, no. 2 (2020): 249–74.
- Simpson, Audra. "The State Is a Man: Theresa Spence, Loretta Saunders and the Gender of Settler Sovereignty." *Theory and Event* 19, no. 4 (2016).
- Simpson, Leanne. "The Place Where We All Live and Work Together: A Gendered Analysis of 'Sovereignty.'" In *Native Studies Keywords*, edited by Stephanie Nohelani Teves, Andrea Smith, and Michelle Raheja. University of Arizona Press, 2015.
- Skloot, Rebecca. *The Immortal Life of Henrietta Lacks*. Broadway Paperbacks, 2011.
- Smith, Ian. "Othello's Black Handkerchief." *Shakespeare Quarterly* 64, no. 1 (2013): 1–25.
- Snorton, C. Riley. *Black on Both Sides: A Racial History of Trans Identity*. University of Minnesota Press, 2017.
- Snorton, C. Riley. "'A New Hope': The Psychic Life of Passing." *Hypatia* 24, no. 3 (2008): 77–92.
- Snorton, C. Riley. *Nobody Is Supposed to Know: Black Sexuality on the Down Low*. University of Minnesota Press, 2014.
- Spillers, Hortense J. "Interstices: A Small Drama of Words." In *Black, White, and in Color: Essays on American Literature and Culture*. University of Chicago Press, 2003.
- Spillers, Hortense J. "Mama's Baby, Papa's Maybe: An American Grammar Book." *Dia-critics* 17, no. 2 (1987): 65–81.

- Spillers, Hortense J. "Moving on Down the Line: Variations of the African-American Sermon." *American Quarterly* 40, no. 1 (1988): 83–109.
- Spivey, Ashley, and Michelle Kiel. "Legal Status and Classification of Virginia Indians." *Encyclopedia Virginia*, June 20, 2024.
- Steinfeld, Robert J. *The Invention of Free Labor: The Employment Relation in English and American Law and Culture, 1350–1870*. University of North Carolina Press, 1991.
- Stoler, Ann Laura. "Colonial Archives and the Arts of Governance." *Archival Science* 2, no. 1 (2002): 87–109.
- Stone, Sandy. "The 'Empire' Strikes Back: A Posttranssexual Manifesto." In *Body Guards: Cultural Politics of Gender Ambiguity*, edited by Julia Epstein. Routledge, 1991.
- Strauss, Leo. *Political Philosophy of Hobbes: Its Basis and Its Genesis*. University of Chicago Press, 1963.
- Tarter, Brent. "'Hundreds of the Descendants of Indians Have Obtained Their Freedom': Freedom Suits in 18th and 19th-Century Virginia." *The UncommonWealth: Voices from the Library of Virginia* (blog), September 26, 2012. <https://uncommonwealth.lva.virginia.gov/blog/2012/09/26/hundreds-of-the-descendants-of-indians-have-obtained-their-freedom-freedom-suits-in-18th-19th-century-virginia/>.
- Taylor, Charles. *The Ethics of Authenticity*. Harvard University Press, 1991.
- Terada, Rei. *Metaracial: Hegel, Antiblackness, and Political Identity*. University of Chicago Press, 2023.
- Tevebring, Frederika. "Unveiling the Goddess: Artemis of Ephesus as a Symbol of Nature at the Turn of the Nineteenth Century." *Lynchnos: Årsbok för idé-och lärdomshistoria*. 2012.
- Tocqueville, Alexis de. *Democracy in America: The Complete and Unabridged Volumes I and II*. Translated by Henry Reeve. Unabridged ed. Bantam Classics, 2000.
- Tomlins, Christopher L. "Reconsidering Indentured Servitude: European Migration and the Early American Labor Force, 1600–1775." *Labor History* 42, no. 1 (2001): 5–43.
- Torpey, John C. *The Invention of the Passport: Surveillance, Citizenship and the State*. 2nd ed. Cambridge University Press, 2018.
- "Transcript of George Zimmerman's Call to the Police." *Mother Jones*, 2012. Accessed March 3, 2017. <https://www.motherjones.com/documents/326700-full-transcript-zimmerman>.
- US Census Bureau. Eighth Census of the United States, 1860, Schedule 2, Choctaw Nation, Indian Territory, Arkansas. Ancestry.com. Accessed November 21, 2025. [https://www.ancestry.com/imageviewer/collections/7668/images/arm653\\_54-0784](https://www.ancestry.com/imageviewer/collections/7668/images/arm653_54-0784).
- US National Archives and Records Administration. "A History of the National Archives Building, Washington, DC." National Archives website, August 15, 2016. <https://www.archives.gov/about/history/building.html>.
- US Office of Indian Affairs. Armstrong Roll. Census Roll Concerning Choctaw Removal, 1831. Microfilm Roll A-39. Records of the Bureau of Indian Affairs, Record Group 75. National Archives, Washington, DC.
- Vinson, Ben, III. *Bearing Arms for His Majesty: The Free-Colored Militia in Colonial Mexico*. Stanford University Press, 2002.
- Viola, Herman J. *The National Archives of the United States*. Harry N. Abrams, 1984.

- Virginia, General Assembly. "An Act Concerning the Descendants of Indians and Other Persons of Mixed Blood, Not Being Free Negroes or Mulattoes." February 25, 1833. In *Acts Passed at a General Assembly of the Commonwealth of Virginia, 1833*. Thomas Ritchie, 1833.
- Virginia, General Assembly, House of Burgesses. *Journals of the House of Burgesses of Virginia, 1659/60–1693*. Colonial Press, El. Waddey, 1914.
- Visperas, Cristina. "The Able-Bodied Slave." *Journal of Literary and Cultural Disability Studies* 13, no. 1 (2019): 93–110.
- Wald, Gayle. *Crossing the Line: Racial Passing in Twentieth-Century U.S. Literature and Culture*. Duke University Press, 2000.
- Waldstreicher, David. *Runaway America: Benjamin Franklin, Slavery, and the American Revolution*. Hill and Wang, 2004.
- Weasel, Lisa H. "Feminist Intersections in Science: Race, Gender and Sexuality Through the Microscope." *Hypatia* 19, no. 1 (2004): 183–93.
- Web of Stories—Life Stories of Remarkable People. "Leonard Hayflick—The WISH Cell Line (55/187)." YouTube video, 3:27. August 7, 2017. [https://www.youtube.com/watch?v=0YpAnF98\\_0M](https://www.youtube.com/watch?v=0YpAnF98_0M).
- Weinstein, Adam. "The Trayvon Martin Killing, Explained." *Mother Jones*, March 18, 2012.
- Welburn, Jude. "Empire and Utopia: Images of the New World in Francis Bacon's Works." *English Literary Renaissance* 48, no. 2 (2018): 160–90.
- Westfall, Benton B., ed. *Second Decennial Review Conference on Cell Tissue and Organ Culture: Proceedings of Symposium Held at Bedford Springs Hotel, Bedford, Pennsylvania, September 11–15, 1966*. US Department of Health, Education, and Welfare, 1967.
- White House. "Remarks by the President on Trayvon Martin." Office of the Press Secretary, July 19, 2013. <https://obamawhitehouse.archives.gov/the-press-office/2013/07/19/remarks-PRESIDENT-TRAYVON-MARTIN>.
- "Why 'Passing' Is Passing Out." *Jet*, July 17, 1952, 12–16.
- Wilderson, Frank B. *Red, White and Black: Cinema and the Structure of U.S. Antagonisms*. Duke University Press, 2010.
- Williamson, Margaret Holmes. *Powhatan Lords of Life and Death: Command and Consent in Seventeenth-Century Virginia*. University of Nebraska Press, 2008.
- Willoughby-Herard, Tiffany. "'I Guess I Have to Just Put My Dick on the Table': Rough Trade, Tenure, and Black Sexualities as Self-Defense." *differences* 35, no. 2 (2024): 32–54.
- Woodard, Vincent. *The Delectable Negro: Human Consumption and Homoeroticism Within US Slave Culture*. New York University Press, 2014.
- Wynter, Sylvia. "1492: A New World View." In *Race, Discourse, and the Origin of the Americas: A New World View*, edited by Vera Lawrence Hyatt and Rex Nettleford. Smithsonian Press, 1995.
- Yancy, George. "Black Trans Feminist Thought Can Set Us Free." *Truthout*, March 13, 2023. <https://truthout.org/articles/black-trans-feminist-thought-can-set-us-free/>.
- Yerushalmi, Yosef Hayim. *Freud's Moses: Judaism Terminable and Interminable*. Yale University Press, 1993.

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## Index

*Page numbers followed by f indicate figures.*

- accusations of passing, 6, 10, 13, 17, 22, 27–30, 34, 169, 210n69; HeLa cells and, 110, 123, 127; for Native, 52, 74, 76, 84, 103, 170, 202n109; Piper and, 148, 154, 158–59, 164; as regime of surveillance, 138
- Adorno, Theodor, 117, 131
- Alabama, 77
- alienation, 166–68, 170, 172; natal, 94–95, 105–6
- allegory, 86, 114, 191n48
- anchoring signifiers, 8, 22, 159, 176, 187n18; of blackness, 175; clothing and, 54–55; disability and, 190n45; passing narratives and, 14; surveillance regimes and, 12–13
- Anglo-Powhatan war, 40, 45
- anthropomorphism, 30, 109, 117, 123
- anti-blackness, 3, 6, 19
- Appamattuck, 39
- Appomattox River, 40, 43
- a priori* concepts, 153, 158, 160, 162–64, 222n43
- archive, 28, 36, 70–73, 77, 84–89, 98, 102–6, 192nn54–55, 205n7; anarchivistic drive and, 212n94; colonial, 28, 192n54; Dawes Commission files and, 76–77; of passing subjects, 69; science journalism, 111
- Aristotle, 115, 218n91
- Arrohateck, 39
- art: conceptual, 25, 165–66; nature and, 130–31; Piper's, 31–32, 140, 143, 145, 156–57, 162, 164–65, 167 (see also *Cornered; Food for the Spirit*); world, 147
- Artemis of Ephesus, 114, 116, 123, 127, 132, 134, 218n93
- Arvin, Maile, 226n9
- authenticity, 67, 89, 150, 192n55; blackness and, 61, 84, 143, 151; fiction of, 19; fraud and, 18, 59, 68, 190n47; mastery and, 23; meaning and, 178; modern, 63–64; Native, 192n54; passing and, 154; race and, 98
- autonomy, 11, 42, 55, 67, 69, 95; political, 39
- Bacon, Francis, 111, 113–16, 118, 213–14nn23–24, 216n73; apologists for, 217nn78–79; Enlightenment and, 131; on enslavement, 131; experimental method and, 29–30, 128–29, 155, 174; Hobbes and, 216n76; Kant and, 219n4; on knowing subject, 29–30, 135; on knowledge production, 139; on magic, 113–14, 213n15; on mastery, 131–34, 218n93; on nature, 111, 113–17, 128–33, 135; on slavery, 130, 217n81
- Bacon, Nathaniel, 43, 194–95n21
- Bacon's Rebellion, 42–44, 55, 194–95n21, 195–96n31
- Baldwin, James, 153, 168, 226n5; *The Fire Next Time*, 151
- Barker, Joanne, 226n9
- Barthes, Roland, 15, 127, 189n29, 190–91n47
- Berg, Roland, 118

- Berkeley, William, 36, 40, 42–43, 194–95n21, 195–96n31
- Bernasconi, Robert, 224–25n74
- Best, Stephen, 187n26, 190–91n47, 192n53, 205n7
- biopolitics, 10, 124, 126
- Bixby, Tams, 71–72, 76
- black blood, 75, 83, 148, 226n5
- black fugitivity, 14, 16, 24, 64; aesthetic imagination of, 191n53; counterfeit pass and, 26; disability and, 190n45; fraud and, 62, 151; hoodie and, 9; imposture and, 60; Piper's art and, 145; radical, 171; scholarship on, 144; threat of, 57
- black hypersexuality, 109, 123
- Black Lives Matter movement, 5, 188–89n29
- blackness, 2, 5–6, 8–11, 13, 16–18, 27–28, 34, 66, 167–68, 170, 172, 203–4n2, 215–16n60; anchoring signifiers of, 175; Dawes Commission enrollment processes and, 82–84, 90–92, 95–97, 103, 209n58; economy of, 102, 106; enslavement and, 27, 51–52, 61, 64–66, 75–76, 93–95, 103, 137; epidermalization and, 8, 61, 64–65; fraud and, 13–14, 16, 24, 26, 29–30, 34, 60–62, 67–68, 70, 74, 84, 88–90, 113, 137, 150–52, 170–72; free-roaming, 4; as fugitivity, 5, 20, 23, 26, 31, 62, 137, 190–91n47, 191n53; fungibility of, 134; HeLa and, 118, 123–24, 127–28, 134, 212n12; as ideology, 178; Jeantel's, 177; lack of subjectivity and, 64; mastery and, 32, 37, 125, 153–54; pass and, 61; passing and, 35, 37, 73–74; pass laws and, 52–53, 57; pass system and, 68; Piper's, 141–43, 146, 148–53, 159, 166–68; production of, 187n27; queer critique and, 19; queerness and, 20, 189n38; stereotypes of, 199n72; surveillance of, 15, 35, 69, 89–90, 95; threat of, 121–22; tracking, 186n11; visibility and, 8
- Black Power movement, 2
- black studies, 170, 225n2; fugitivity and, 191n53; mastery and, 11; passing and, 1–2, 16, 169–70; scholars, 175
- black study, 171, 176, 225nn1–2
- Bland, Sandra, 5
- Blasius, Gerard, 114, 115f, 218n93
- blood, 101; black, 75, 83, 97, 148, 202n109, 208n45, 226n5; Choctaw, 27, 71–72, 75, 78, 81, 83–84, 86–87, 89–90, 92–93, 95–97, 99–104, 207–8n35, 208n47, 209n58; half, 78; indigeneity and, 102; mixed, 68, 78, 83; Nativeness and, 95
- blood quantum, 27, 75, 85, 96, 100, 202n111
- blue shirts, 55, 175
- Bodin, Jean, 187–88n28, 216n68
- Boughman, Mary, 93–94, 96, 100
- Boyd, Rekia, 5
- branding, 8–9, 12, 65–66, 175, 187n18, 201n100
- briar patch, 19–20, 24, 105, 159, 172, 190–91n47, 191n53
- Brookings, Polly, 96, 98
- Brooks, Daphne, 186n11, 190n43
- Brown, Henry Box, 190n43
- Brown, Kathleen, 53, 197–98n54
- Brown, Michael, 5
- Browne, Simone, 65, 186n8, 186n10, 187n18, 199n74
- Byrd, William, 43, 195–96n31
- cannibalism, 152, 221–22n40
- captive body, 62, 174
- capture, 11, 23, 32, 127–31, 133–34, 159, 173; black, 192n54; fugitive slaves and, 6, 10; Natives and, 44–45, 51–52; resisting, 199n77, 200n81. *See also* enslavement
- Castile, Philando, 5
- cautionary tales, 9, 14, 111, 126, 173; passing narratives and, 10, 12; runaway slave advertisements as, 8, 38
- Certificate of Degree of Indian Blood (CDIB), 85
- Chakravarty, Urvashi, 196–97n46, 199n70, 199n72
- Chandler, Nahum Dimitri, 94, 103, 105, 191n50, 211n84
- chattel slavery, 23, 72, 89, 98, 217n81; antebellum, 187n26; black, 26; blackness and, 32; Choctaw and, 95, 206n23; Commission to the Five Civilized Tribes and, 87; everyday practices of, 73; master/mistress and, 57, 62; passing and, 21–22, 66; passing narratives and, 6; surveillance and, 10, 66; vestiges of, 15; violence of, 66
- Chatterjee, Rhitu, 125, 127

- Cherokee, 73, 207n33. *See also* Five Civilized Tribes
- Chickahominy, 39
- Chickasaw, 73, 81–82, 209n58; nations, 80, 206–7n26, 207–8n35; removal, 78. *See also* Colbert, Winchester; Five Civilized Tribes
- Chiskiack, 39
- Choctaw, 27, 71–84, 87–103, 205n8, 205–6n19, 206nn22–23, 206–7n26, 207–8n35, 208n47, 209nn57–58, 210–11n76; enslavement and, 73, 79, 81, 89, 92–94, 104, 206n23, 207n33; Council, 84, 211n81; Removal, 76–77; War of 1812 and, 205n8. *See also* blood: Choctaw
- Choctaw Nation, 71–74, 82, 89, 92, 94–95, 102, 207–8n35, 209n57; citizenship, 83; enrollment in, 77, 84–85, 90; intermarriage and, 88, 209n55, 211n81; of Oklahoma, 208n47
- citizenship, 207–8n35; authentic, 138; black, 80–82, 87–89, 93–94; blackness and, 15; blood and, 83–84; Choctaw, 88, 93, 205–6n19, 211n81; rights of, 71; sovereign, 94; unwed black mother and, 101
- civilizing mission, 53, 101, 194n20
- Civil War, 14, 72–73, 80–81, 87, 137
- clothing, 9, 39–40, 188–89n29; fugitivity and, 54–55, 65; restrictions for slaves, 8, 54–55. *See also* hoodie; livery
- Colbert, Winchester, 82, 206–7n26
- colonialism, 129, 203–4n2; settler, 32, 72, 86, 102
- conceptual art, 25, 165–66
- Confederacy, 27, 73, 80, 206–7n26
- consumption, 102, 152, 174, 221–22n40
- contamination, 96, 119, 145, 152; cell culture, 28–29, 108–10, 120–23, 125–26, 212n9. *See also* HeLa contamination
- Cornered* (Piper), 31, 146–52, 165, 221n30–31, 224n71, 226n5
- Costa, Tom, 193n8, 200n91
- Coulthard, Glen, 226n9
- Craft, Ellen, 20–22, 190n41, 190n45
- Craft, William, 20–22, 190n41, 190n45
- Cramblett, Jennifer, 134
- Crane, Mary Thomas, 191n48
- crime, 8, 34, 49, 211n86, 215n55 de jure slavery as punishment for, 200n81, 200n86; domestic, 126; resistance to the master as, 56; running away as, 58; suspected, 188–89n29
- criminality, 9, 13, 23, 64, 81
- critical theory, 2; black, 31–32, 139
- cultural studies, 2, 109, 123, 161; scholars, 9
- Daniels, Mary, 71–74, 76, 89–93
- Dawes Commission, 72, 76, 84, 90–91, 103–4, 209n58; rolls, 82, 87, 92
- death, 19, 78; black, 5, 9, 81; cell, 214n33; of the knowing subject, 135; of nature, 131; penalty, 40, 44–45, 56–57; slavery and, 50, 56–57, 191n50, 200n82; social, 23, 201–2n108
- debt, 37, 45–46, 48–50, 133, 194–50n21; gambling, 21
- Derrida, Jacques, 86, 94, 210n71
- Descartes, René, 131
- De Tocqueville, Alexis, 74–75, 104
- Dickson, David, 126
- disability, 66, 190n45; passing and, 21
- disability studies, 2, 150
- disfigurement, 66, 190n45
- dispossession, 27, 77, 192n54
- Doeg, 43, 194–95n21
- Douglass, Frederick, 33–34, 37, 40
- Du Bois, W. E. B., 221–22n40
- Edelman, Lee, 23
- Ellison, Ralph, 7–8, 12, 219n10; *Invisible Man*, 7, 12–13, 220n13
- emancipation, 72, 206–7n26; black, 80, 82; black Choctaw and, 90, 93–94, 96; blackness after, 34, 69; marriage prior to, 101; passing after, 201n93; passing narratives after, 8, 10, 14, 16, 137; passing narratives before, 73; pass system after, 26; sovereignty and subjection and, 187n27; Spanish, 203–4n2
- Enlightenment, 114, 133, 171, 174, 225n2; anthropomorphism and, 117–18; Bacon and, 113, 131; fugitivity and, 139; imaginary, 133; knowing and, 117; philosophies, 14, 24, 135, 138; Piper on, 31, 139–40, 153; rational subject of, 175; surveillance and, 186n8; thought, 29, 31, 154
- Enright, Anne, 109

- enslaved Africans, 25, 34, 46, 50, 53, 66, 226n5
- enslavement, 20–21, 23, 30, 34, 87, 103, 163, 174, 178; Bacon on, 129–31, 217n81; black, 80–81; blackness and, 27, 52, 61, 64–66, 75–76, 92, 95, 137; culture of, 215n55; disability and, 65; escaping, 33, 38; history of, 93; myth and, 173; Native, 44–46, 51–53, 61, 194n20, 195–96n31, 206n23; of nature, 135, 173; *phantasme réel* of, 134–35; trickery and, 133; violence of, 86
- epidermalization, 8, 26, 37, 61, 64, 186n13
- epistemology: of the closet, 15, 19–20; modern, 213n21; Western, 123
- ethics, 31, 135, 144–45, 153–54, 171; of knowing, 138, 158–59; of not passing, 142; radical, 166
- experimental method, 29–30, 128, 130–31
- Fanon, Frantz, 6–7, 219n10, 225n2, 226n9; epidermalization and, 61, 186n13; on fantasy, 124–25, 215n59
- Filiyah, John, 100
- Five Civilized Tribes, 71–73, 75, 86, 103, 206–7n26, 207–8n35
- Fleetwood, Nicole, 186n11
- flesh, 163, 174; excess, 186n11; prison house of, 22; violence on, 14
- Floyd, George, 5
- folklore: of black duplicity, 173; of black passing, 171; of black hypervisibility, 173; of blacks passing for Native, 68–68; on passing, 10–11, 38, 125, 138, 170; of passing narratives, 10, 14; of pass system, 37; race-gender passing, 171; runaway slave advertisements and, 38; vigilante, 6
- Food for the Spirit* (FFS; Piper), 31, 156–57, 163–64, 166, 168
- Forbes, Jack D., 202n111, 203–4n2
- Ford, Charles, 215n55
- Fort Smith, 80, 206–7n26
- Foucault, Michel, 124, 186n10
- Franklin, Benjamin, 59, 62–63, 66
- fraud, 13–14, 29–30, 34, 110, 117, 190n47, 192n55; Bacon on, 113–14, 116; black, 26, 29–30, 59–60, 133–34, 151; of black freedom and sovereignty, 70; blackness and, 24, 26, 30, 34, 61, 67–68, 74, 84, 113, 137, 151, 170; black study and, 171; Dawes enrollment process and, 88; fugitivity as, 22–23, 26, 37, 62; HeLa and, 116, 118, 126; knowing and, 113–18, 126; mastery, 171–72; passing and, 18, 38, 89, 169, 203–4n2; passing subject and, 24–25; Piper and, 140, 143, 145, 151, 158; racial, 143; reader relations and, 16; runaway slave advertisements and, 26, 37, 59, 61–62, 67; threat of, 23–24; trickery and, 133; in US culture, 14; will to, 25
- freedmen, 81, 86–87, 90, 92–93, 103, 206–7n26, 209n58; Choctaw, 71, 207n33, 207–8n35, 210–11n76; descendants of, 95
- freedom, 19, 24, 59, 96, 105, 190n43, 207–8n35, 222–23n52; African slaves and, 54, 62, 198n56; American notions of, 69; Bacon on, 116–18, 129–30, 132, 214n24, 217n81; black, 27, 69–70, 75, 80–81; black claim to, 26, 81; blackness and, 61–62; black sartorial, 54–55, 59; black struggles and, 72–73; conceptual art and, 166; in Enlightenment thought, 154; enslaved children and, 50; enslaved Natives and, 52–53; excess/excessive, 132, 202n109; fraudulent, 151; fugitive slaves and, 35; fugitivity and, 54–55; HeLa and, 134; Indian slavery and, 198–99n64; individual, 102; labor and, 67; mythology and, 15, 28; Native status and, 198n62; natural, 74–75, 103, 202n109; nature's, 116–18, 129; papers, 8; passing and, 89, 171; Piper and, 151; reconstruction and, 73; self-determining, 63; servants', 198n58; state sovereignty and, 23, 74–75; US settler concept of, 89–90; whiteness and, 62
- freemen, 47–48, 203–4n2; Anglo, 46; contracts with, 46–47; Indigenous peoples and, 43
- Freud, Sigmund, 121, 125, 210n71, 215n59
- fugitivity, 34, 37–38, 55–56, 59–60, 67, 81, 110, 177, 179, 191n53; blackness and, 26, 31–32, 62–63, 123, 137, 170; blackness as, 5, 20, 60–61; branding and, 64–65; contamination and, 152; gender, 134; HeLa and, 116, 123, 126; indentured servants and, 49; mastery and, 22–24, 138–40, 154, 164, 166–68, 171–72, 175–76, 226n5; passing and, 12, 25; Piper and, 140, 151; reproductive, 49–50; sovereignty and, 175–76, 178; surveillance and, 12, 22,

- 137, 170; trespassing and, 22; waywardness, 226n10. *See also* black fugitivity
- futurity, 177; black, 102; national, 86
- Garner, Eric, 5
- Gartler, Stanley, 29, 108–10, 118–22, 127, 212n4. *See also* HeLa bomb
- gender, 60, 87, 120, 127, 159; binary, 17–19; blackness and, 101, 167, 171; difference, 50; dynamics, 126; fluidity, 123; fraudulent, 151; fugitivity, 134; instability, 109; passing, 17–18, 21, 101 (*see also* race-gender passing)
- Gey, George, 107, 118–20, 214n33
- Gey, Margaret, 119
- Gilroy, Paul, 212n12
- glucose-6-phosphate dehydrogenase (G6PD), 119–21
- Gold, Michael, 111, 113, 116, 127–28, 133, 213n14
- Gooch, William, 36
- Goodell, William, 101
- Gossett, Che, 18
- Greene's Tu Quoque*, 54, 59, 199n70
- Gross, Ariela, 92, 209n58
- Haas, Lisbeth, 203–4n2
- Hackel, Steven W., 203–4n2
- Hadot, Pierre, 114, 218n91
- Haley, Sarah, 196–97n46, 215–16n60
- Haraway, Donna, 152
- Harney, Stefano, 23, 151, 168, 225n1
- Harris, Joel Chandler, 19
- Hartman, Saidiya, 21, 104–5, 134, 187n27, 211n86, 226n10
- Hayflick, Leonard, 119, 121–22, 214n33. *See also* WISH line
- Hayflick, Susan, 119, 121, 123, 134
- Heidegger, Martin, 173
- HeLa bomb, 28, 109–10, 118, 121–22, 124–25, 127, 134
- HeLa cells, 29–30, 120, 122, 124–25, 127, 129, 134; sexualization and gendering of, 109, 123
- HeLa contamination, 28–29, 108–11, 119–20, 123, 127; as a conspiracy, 133; passing and, 212n12; story, 113, 117, 125, 128, 134
- HeLa passing, 108, 110, 124, 126–28
- Hening, William, 36–37, 48, 55, 193n7
- Heraclitus, 114
- Hobbes, Thomas, 129, 216n68, 216n76
- hoodie, 3–5, 9, 13, 18, 175, 188–89n29
- hooks, bell, 152, 221n39
- Hoover, Herbert, 85, 213n22
- Horkheimer, Max, 117, 131
- human papillomavirus, 108–9
- Hume, David, 222n42
- hypervisibility, 14, 21, 170, 191n51; black, 13, 55, 173, 186n11, 187n18, 190–91n47; of blackness, 2, 5–7, 9 (*see also* Martin, Trayvon); myth of, 175, 226n5; race and, 142
- identity, 67, 94–95, 103, 161; black, 34, 87, 147; blackness and, 151; Christian, 56; con-men and, 59; of consciousness, 162; continuity of, 222n42; English, 37, 56; HeLa's, 111, 118, 121, 123, 127; imagined, 199n72; impersonation and, 13; Indian, 84; individual, 63–64; modern, 201–2n108; national, 95; Native claims to, 68; normative, 2; passes, 194–95n21; passing and, 6, 17, 210n69; Piper and, 144, 147, 149–50; racial, 202n116; queer, 15; slaves and, 63–64, 95; social, 203–4n2; theft, 127, 187n26; trans subjects and, 17–18; white settlers and, 44
- impersonation, 13, 173
- inauthenticity, 8, 38, 64
- indenture, 48–50, 53, 197n48; contracts, 47
- indexical present, 144–45, 148–49, 152–53, 162, 166, 168
- Indian Removal Act, 77
- Indian Territory, 26, 69, 71, 78–79, 83–84, 87–90, 209n55; blacks in, 80–82, 87, 206–7n26, 207–8n35
- indigeneity, 27, 69–70, 83–84, 102, 137
- invention, 171, 186n13, 227n13; Fanonian, 178–79, 227n13, 227n16
- invisibility, 9, 13–14, 21–22, 170, 191n51, 219n10
- Iroquois Five Nations, 39, 44, 194n17
- Isis, 114, 116, 123, 127–28, 134, 213n22
- Jackson, Andrew, 77, 209n51
- Jackson, Zakiyyah, 17
- James River, 39–40, 194n20, 195–96n31
- Jeanetel, Rachel, 4, 9, 176–78, 227n13
- Jefferson, Thomas, 202n109
- Jet* magazine, 1, 141
- Jewish studies, 2, 150
- Jim Crow, 124, 196–97n46

- Johnson, John, 219n12
- Jones, Aiyana, 5
- Jones, Monica, 5
- journalism: popular, 29; popular science, 109, 123; science, 109, 111, 123
- Judy, R. A., 171, 225n2
- Kant, Immanuel, 31, 139–40, 177, 216n68, 219n4, 223n53, 224n64, 224n65; Bernasconi on, 224–25n74; *Critique of the Power of Judgment*, 140, 166–68; *Critique of Practical Reason*, 140, 153, 161; *Critique of Pure Reason*, 139–40, 153, 155–68, 219n4, 222n43, 223n55; *Groundwork of the Metaphysics of Morals*, 222–23nn51–52; *Observations on the Feelings of the Beautiful and Sublime*, 158, 167; Piper and, 144–45, 153–67, 171, 222n41; rationalist philosophy of, 222n42; transcendental critique, 154–55, 157; transcendental reason, 156–57, 160, 164; transcendental unity of apperception, 161–62, 164, 223n61
- knowing, 15, 22–25, 29–31, 110, 111, 113, 114, 116–18, 126, 127, 130–35, 137–40, 143–45, 151, 153, 155, 157–66, 168, 170, 171, 177, 186n8, 213n18, 215n55, 216n76, 217n81, 219n4, 221–22n40, 222n41, 223n55; practices of, 3, 11; ways of, 10
- knowing subject, 24, 30, 133–35, 138–40, 223n55; Bacon on, 29, 116–17, 114, 127; black woman as, 135; HeLa and, 126; master and, 11; modern, 171; Piper and, 31, 145, 151, 155, 158–61, 164, 166; scientist as supposed, 29, 110, 114; slavery and, 131
- knowledge, 138, 153, 166, 176–77, 214n24; Artemis and, 218n93; concealment of, 126; empirical, 222n42; of nature, 213n15; objectivity and, 28, 106, 110; of the other, 11; personal, 92; political, 216n76; production, 12, 30, 108–9, 113, 117, 128, 133, 139; schematism of understanding and, 224n64; of the self, 31, 145, 164, 177, 219n4; slave, 192n55; slavery and, 217n81; subject of, 225n2; of trades, 194n20
- Krauthamer, Barbara, 80, 206–7n26, 208n38
- Kuhn, Thomas, 220n24
- labor, 46–50, 66–67, 190n45; black, 109, 123; of black study, 171; force, 45, 48, 52; forced, 203–4n2; free, 48, 66, 80, 187n27; freedmen's, 81–82; reproductive, 46, 49–50, 122, 197–98n54; skills, 62; slave, 186n8, 197n52
- Lacks, Henrietta, 28, 107, 109, 112f, 118–19, 122–23, 134; blackness of, 212n12; Gold on, 111, 116, 127–28, 213n14. *See also* HeLa cells
- land, 5, 41–45, 88–89, 100, 102, 152, 175, 196n46, 209n50; allotment, 71, 73, 79; Indigenous/Native, 14, 26–27, 39–40, 53, 69, 74–84, 194–95n21; Native claims to, 68; owners, 47; pass system, 34; rights, 76, 98; sovereign, 38, 44–45; speculation, 77, 79, 206n22
- Lane, Frances, 71
- Latinx studies, 2, 150
- Lauber, Almon Wheeler, 198–99n64
- Lebeau, Vicky, 124, 215n59
- libidinal economy, 28, 105–6, 152, 171–72, 192n55
- livery, 8, 54, 199n70, 199n72
- Locke, John, 74, 104, 204–5n3, 216n68
- Lowe, Lisa, 192n54
- manslaughter, 58, 199n80
- Marriott, David, 178, 215n49, 225n77, 227n16
- Martin, Trayvon, 4–5, 9, 12, 16, 18, 173, 176–77, 185n5
- Marx, Karl, 67
- mastery, 11, 56, 110–11, 113, 125–26, 128, 133–35, 137, 139–40, 160, 170–75, 179, 191n53; Bacon on, 131–33, 218n89, 218n93; briar patch and, 20; colonial, 37, 215–16n60; colonial knowing and, 221–22n40; false, 144, 149, 161, 179; fugitivity and, 22–24, 32, 138–39, 154, 164, 166–68, 171–72, 175–76, 226n5; humanist, 133, 174; passing narrative and, 106; Piper and, 140, 144, 151–55, 159, 161, 164, 166–68; scientific, 28–30, 117–19; shiftiness and, 60; white, 176
- Mattaponi, 39, 202n109
- Mattawoman, 39
- McDonald, CeCe, 5
- Merchant, Carolyn, 130–32, 217n82
- metaphysics, 32, 117, 128, 153; Baconian, 133; Western, 13
- Middle Passage, 174
- miscegenation, 68, 96, 109, 146, 150, 152; fear of, 29

- Mississippi, 77–79, 82–84, 88, 90, 93, 197n52;  
marriage in, 101; Meridian, 99
- Mississippi River, 77, 197n52
- mixed-race studies, 2, 150
- modernity, 111, 173
- Morrison, Toni, 104–5
- Moten, Fred, 105, 151, 158, 225n76; on black-  
ness, 168; on black study, 225nn1–2; on  
fugitivity, 23, 175, 191n53
- mulatto, 52, 60, 66, 68, 198n61, 201n93,  
204n2; tragic, 19, 169
- murder, 58, 126, 199n80; 206n26. *See also*  
Martin, Trayvon; Zimmerman, George
- Muscogee Creek Nation, 71, 73. *See also* Five  
Civilized Tribes
- mythology, 176, 178; of black boogeyman,  
126; of black hypervisibility, 190–91n47;  
of black woman, 177; of Indigenous sover-  
eignty, 75; national, 10; passing, 22, 28, 30,  
76, 151; passing as, 170; of passing, 6, 15, 24,  
26, 32, 90, 171–72, 174, 178; passing nar-  
ratives and, 174; of race, 142; for runaway  
slave advertisements, 52
- Nardone, Roland M., 125–26, 134
- National Archives, 71, 73, 76, 85–86, 93–94,  
209n50
- Native nations, 39; black inclusion in, 27;  
leaders of, 203–4n2; Southern, 206n23.  
*See also* Choctaw; Choctaw Nation;  
Iroquois Five Nations; Muscogee Creek  
Nation
- Nativeness, 26–27, 53, 76, 95, 203–4n2
- nature, 75, 111, 113–17, 125, 127–33, 138, 158,  
174, 213n15, 213n21, 214n27, 216n76;  
218n88, 218n93; art and, 166; as book,  
213n18; enslavement of, 30, 130–32, 135,  
173, 217n81; history and, 15, 187–88n28;  
189n30; law of, 204–5n3; mastery and,  
11; rational, 222–23n52; reason and, 161,  
164, 167; state of, 23, 53, 74, 103, 116, 129,  
202n109, 204–5n3; technology and, 36.  
*See also* Bacon, Francis
- negrophobia, 121, 122, 125
- Nelson-Rees, Walter, 109–10, 123, 125–27,  
212n9–10
- Nguyen, Mimi Thi, 9
- nonsovereignty, 90, 100, 102–3, 175–77
- Obama, Barack, 172–73, 226n5
- objectivity, 28, 104–6, 110, 113, 159
- Occaneechi, 39, 43
- octeroon, 146, 149, 220–21n28
- Oklahoma, 85, 208n38
- Osage, 77
- Osburn, Katherine, 79, 83–84, 205–6n19,  
208n46, 211n81
- oyer and terminer courts, 57–58, 200n81
- Pamunkey, 39, 43, 68–69, 202n111, 202n116
- Pamunkey Indian Reservation, 69, 202n111
- Pamunkey River, 40
- Parenti, Christian, 34–35, 46, 48, 53, 63, 197n52
- Parks, William, 36, 58. *See also* *Virginia  
Gazette*
- partus sequitur ventrem* laws, 50–51, 100
- passing narratives, 3, 10, 12–14, 22, 24–26,  
73–74, 106, 137, 151, 153, 166; as afterlife of  
slavery, 16; black, 192nn54–55; blackness  
and, 123, 167, 170, 188–89n30; Choctaw  
sovereignty and, 79; ethics and, 135; HeLa  
and, 111, 126–28; knowing and, 135; modern,  
9, 34, 110, 134, 174; origins of, 6; racial, 113,  
159; in runaway slave advertisements, 66;  
science and, 110–11, 134; sovereign and, 103;  
as stabilizing force, 161; surveillance and, 5;  
trans lives and, 18
- passing subjects, 9, 18–21, 25, 31, 61, 101, 123,  
138, 150
- passing suspect, 24, 28, 31, 69, 133, 150, 166–67
- pass laws, 25–26, 35–37, 40–42, 44–50, 52–53,  
55–56, 58, 69; knowing and, 170; as modern-  
izing technology, 173
- pass legislation, 44–45
- pass system, 26, 34, 36–38, 44–45, 56, 68
- patrollers, 8, 12, 34–35, 38
- patronage, 48, 199n70
- Patterson, Orlando, 57–58, 67, 94, 201–2n108
- Peele, Jordan, 152
- phantasme réel*, 124–26, 134–35
- philosophy, 10, 12, 213n23; critical, 158, 167;  
Enlightenment, 14, 135; existential, 123;  
feminist, 109; institutional, 31; modern, 168;  
natural, 29, 113, 129, 216n76, 218n93; Piper's,  
144, 166, 171; political, 216n76; practical,  
153; professional field of, 140–41, 221n33; of  
race, 142; rationalist, 222n42. *See also*

philosophy (*continued*)

Aristotle; Bacon, Francis; Descartes, René;  
Heidegger, Martin; Hobbes, Thomas;  
Hume, David; Kant, Immanuel; Locke,  
John; Rousseau, Jean Jacques  
phobias, 31, 142, 145, 178; anti-black, 153; of  
mastery and fugitivity, 171; queerphobia,  
19; racial, 124, 162; transphobia, 18. *See also*  
negrophobia; xenophobia  
phosphoglucomutase (PMG), 119–20  
Picardt, Johan, 215n55  
Piper, Adrian, 31–32, 139–67, 171, 220n24,  
220–21nn28–33, 224n71, 227n13.  
*See also* *Cornered; Food for the Spirit*;  
Kant, Immanuel  
Piscataway, 39, 44; Susquehannock and,  
194n17  
Pitchlynn, Peter, 82, 206–7n26  
Plecker, William, 69, 202n116  
police, 12; neighborhood watch organizations  
and, 188n28; violence, 5, 9  
policing, 24, 125–26, 186n10, 187n19l,  
188–89n29; of black fraud, 60; of blackness,  
35, 73; of black people, 6, 12; border, 44; of  
boundaries between blacks and Natives, 81;  
gender, 18; history of, 34; lack of discipline  
in, 54; mastery and, 125, 171; modern, 16;  
slavery and, 58; state, 13, 35, 185–86n7;  
surveilled subjects and, 15; technologies of,  
69; of trans people, 186n9; violence, 3  
Pope, John Russell, 86  
Povinelli, Elizabeth A., 220n14  
Powhatan, 39–40, 55, 58, 194n16, 194n20  
Powhatan, Chief, 39, 193n12  
*Problematic Mechanical*, 132  
property rights, 37, 198n56  
pseudorationality, 31, 145, 161, 163  
punishment, 42, 56–57, 143; black skin as,  
215n55; branding as, 201n100; for counter-  
feit pass, 49; of fugitive servants, 49; slave,  
56–57, 65, 200n81; slavery as, 200n86;  
of trespassing Natives, 40; for vagrancy,  
196–97n46  
pure reason, 158–59, 161, 223n61  
  
Quapaw, 77  
queerness, 20, 189n38  
queer studies, 2, 150; black, 185n1  
queer utopias, 19–20

race, 98; betrayal of one's, 16, 19; blackness  
and, 17, 199n72; blood and, 78, 83, 90,  
96, 98–99; blue shirts and, 54–55; Dawes  
Commission and, 83–84, 86, 88, 90, 93,  
96, 98–99; epidermalization and, 64;  
HeLa and, 120, 124, 212n12; invisibility  
and, 219n10; Kant on, 158–59, 161, 167,  
222–23nn52–53, 224–25n74; Obama and,  
172; passes and, 45; passing and, 17, 31,  
101, 141, 143; pass laws and, 25; Piper and,  
141–43, 146, 148–49, 159, 166, 219n10;  
Spanish administration of, 203–4n2; state  
and, 221n31; writing, 193n14  
race-gender, 17, 22  
race-gender passing, 20, 25, 113, 118, 125, 133,  
138, 171–72  
racial purity, 226n5; laws, 211n80  
Racial Purity Act, 68  
racism, 31, 145, 215n55; Kant's, 159  
Rankine, Claudia, 9  
reader relations, 15–22, 24–25, 29, 110, 129, 139,  
143, 157, 161, 170, 172; archival, 76; inverted,  
146, 148; knowing's, 138, 166; of knowing  
subject, 151; modern scientific, 117; passing,  
28, 30–31, 77, 105, 113, 116, 118, 133, 152,  
166, 178, 192n54; subject-object, 162–63;  
unidirectional, 131  
reason, 75, 167–68; Kant and, 139–40,  
144–45, 155–61, 164–65, 219n4, 222–23n52,  
224n64; mastery and, 133, 144; natural  
history and, 224–25n74; non-Christian  
Natives and, 203–4n2; personification of,  
132–33; Piper and, 31–32, 139–40, 144–45,  
153–54, 156–61, 163, 171; pure, 158–59, 161,  
223n61; radical, 171; transcendental, 156–57,  
159–60, 164, 168  
recognition, 17, 54, 77, 191n50, 219n10;  
Choctaw, 72, 76, 79–81, 83–84, 87–89,  
92, 94–96, 98, 101, 210–11n76; colonial  
politics of, 27, 226n9; federal, 69, 82; inter-  
marriage and, 86; legal, 207–8n35; merit-  
based, 141; Piper and, 141, 143; political,  
94; politics of, 74, 81, 104, 176, 192n54; of  
sovereignty, 205n5  
Renaissance, 218n91; Bacon and, 113, 217n81;  
fraud and, 113; nature and, 114, 116; plays,  
86; practices of knowing in, 133, 213n18  
Rice, James D., 193n14, 194n20  
Rogers, Michael, 109–10

- Rountree, Helen C., 193n12, 193n15, 194n20
- Rousseau, Jean-Jacques, 63, 74, 104, 216n68
- runaway slave advertisements, 26–27, 37–38, 55, 58–67, 95, 98; branding and, 8, 65; clothing and, 8, 55; colonial newspapers and, 35–36, 200nn90–91; cultural mythology for, 52; Dawes Commission and, 89; disability and, 65–66, 190n45; epidermalization and, 61; identity and, 63; labor and, 66, 197n52; passing narratives in, 66; surveillance and, 60, 69, 173; as technologies, 70, 173
- Samuels, Ellen, 190n41, 190n45
- Scarburgh, Edmond, 42
- Schwarz, Philip, 58, 200n81–82
- science, 28–30, 111, 113–14, 116–19, 122, 124, 125, 129, 132, 174; Artemis and, 218n93; in the Enlightenment, 131; Hobbes and, 216n76; journalism, 109, 123, 213n14; Kant on, 219n4; knowledge production, 12, 128; law and, 148–49; natural, 216n76; passing and, 14; popular, 109, 118, 123; as public good, 28, 110; reader relation of, 138; scholars of, 173; subject of, 225n2; surveillance in, 14
- Sedgwick, Eve Kosofsky, 15–16, 19–20, 105, 172, 189n40
- self-determination, 2, 11, 23; black, 82; Choctaw, 83, 95; Indigenous struggles for, 24; Native, 27, 42, 192n54
- self-fashioning, 11, 59, 62, 64, 68, 102, 174–75; multiracial, 172
- Seminole, 73, 207n33. *See also* Five Civilized Tribes
- servants, 43–44, 57, 64, 69, 175, 198n58; former, 68; fugitive/runaway, 46–47, 58; indentured, 25, 35, 46, 47–49, 196n41, 197n53; Indigenous/Native, 40, 46, 194n20, 196n42; marriage and, 49–51, 197–98n54; pass laws and, 25, 35, 47–48, 52–54; surveillance of, 36
- servitude, 48, 53, 58, 75, 198n55, 207–8n35; early modern, 199n70 (*see also* livery); end of, 49–50; indentured, 46, 61, 68, 80, 196n41, 197n54, 200n87; migrant, 45; Native, 46, 50–52, 60; white, 46, 51
- Shakespeare, William, 85, 199n72
- signifier: anchoring, 8, 12, 14, 22, 54–55, 159, 176, 187n19, 190n45; black body as, 15, 59; blackness as, 21, 27, 61, 113, 170, 189n30, 189n38; of blackness, 5; blue shirt as, 54–55; disability as, 190n45; hoodie as, 9; Native-ness as, 53; pass as, 48; of slavery, 22; yellow Star of David as, 187n19
- Simmons, Donnie, 99
- Simpson, Audra, 102, 226n9
- Simpson, Leanne, 226n9
- Simpson, O. J., 126
- Skloot, Rebecca, 120–22, 212n4, 213n14
- slave owners, 53, 55–56, 89, 99, 104, 191n50; discourse of, 26; fugitives and, 200n81; naming and, 63; property rights of, 198n56; racial logics of, 198n61; runaway slave advertisements and, 38, 64, 67
- slave pass, 21, 34–35, 57–58, 173
- slavery, 44, 52–53, 57, 75, 89–90, 93, 97–98, 105, 201n108, 218n89; abolition of, 14, 73, 80; afterlife of, 16, 34, 94, 170; archetypes, 215–16n60; archive of, 105; Aristotelian writing on, 203–4n2; authenticity and, 192n55; Bacon on, 130–31, 217n81; branding and, 64–65; de jure, 58, 200n86; disability and, 66; identity and, 62–63; Indian, 198–99n64; Locke on, 204–5n3; modern passing suspect and, 133; Native, 206n23, 207–8n35; negation of black women and, 176; ontological status demanded by, 190n43; personal domination and, 201–2n108; property and, 187n26. *See also* chattel slavery
- slaves, 38, 44, 48, 51, 56–58, 63–65, 73, 91–95, 200n81, 201–2n108, 206–7n26; black, 25, 50; black Choctaws as, 90, 98; chattel, 27, 34; of the Choctaw, 207n33; emancipated, 80; former, 81–82, 86, 93, 101; fugitive, 6, 8, 16, 35, 54–56, 110, 133, 186n8, 190n47, 197n52; Native, 194n20, 195–96n31, 196n42, 198n58, 198–99n64; passes for, 53–56; passing and, 67, 129, 197n52; runaway, 6, 12, 14, 58, 63, 187n26
- Smith, Ian, 54, 199n72
- Snorton, C. Riley, 16–18, 21, 190n45
- Society of Mississippi Choctaws, 84
- sovereign territory, 37, 42
- sovereignty, 56, 83–84, 89, 94–96, 102–3, 160, 175–76, 178, 187n28, 205n5, 210–11n76, 216n68; for Africans, 51; Anglo Virginian, 42; black, 27, 70, 175, 208n38; black claims

sovereignty (*continued*)

to, 74; blackness and, 37; Choctaw, 79, 98; of the court, 227n13; of the Crown, 213n15; Indigenous/Native, 75, 77, 80–81, 208n38, 226n9; individual, 11, 63; national, 11, 74, 86; Native/Indigenous claims to, 68, 74, 99; Native struggles for, 72; nonsovereignty, 89, 100, 102–3, 175–77; political, 89, 175; racialized claims to, 77; state, 23, 126, 226n9; subjection and, 187n27

Spillers, Hortense J., 62, 98, 101–2, 174,

176–78, 211n77, 220n13, 227n13; abeyance of closure and, 211n84; zero degree and, 163

Stevenson, Robert, 109, 126, 212n9

Stone, Sandy, 16–19, 142

subjectivity, 17, 21–22, 62–64, 148, 154, 159,

161; black, 10, 18; human, 151; Indigenous, 69; modern, 172; slave, 104; unified, 165

surveillance, 36, 45, 61, 111, 188n29; black, 65; of black movement, 58–59; of blackness, 5, 15, 35, 68, 69, 76, 90, 95; of black people, 6; black resistance to, 7; branding and, 187n18; chattel slavery and, 10; colonial, 46, 110; of fugitive slaves, 16; fugitivity and, 22, 37, 137; HeLa and, 29, 126, 129; history of, 34–35, 66, 186n8; knowing as, 15; modern, 5, 11, 186n8; passing and, 6, 12–14, 125, 138, 170; racial, 13; regimes, 9, 11–13, 110, 138, 188–89n29; technologies of, 12, 54–55, 69; vigilante, 9

suspicion of passing, 6, 10, 12–14, 17, 76–77, 135, 144, 167, 169–70, 192n54; knowing and, 30; logics of, 73–74; narratives, 5; for Native, 83, 98; as regime of surveillance, 138

Susquehannock, 39, 43; Bacon's Rebellion and, 194–95n21; Piscataway and, 194n17

symbolism, 133; capture via enslavement as, 129; literary, 14; of trespassing Native, 44

Taylor, Charles, 63

technologies, 36–37, 40, 42, 64, 132, 173, 185–86n7; legislative, 35; of surveillance, 12, 69

technology, 36, 173–74; blue shirts as, 54–55; branding as, 65; counterfeit pass as, 26; English and, 40; mastery and, 132; pass as, 44, 46; passing as, 173; surveillance, 46

*tekbne*, 132–33, 173

Tvebring, Frederika, 218n93

Tiber Creek, 85–86, 209n50

tobacco, 41, 44–46, 48–49, 56, 107, 195n23

Tomlins, Christopher L., 196n39, 197n53

transcendental, the, 153–56, 160, 164–67

trans studies, 2, 150; black, 185n1

Treaty of Dancing Rabbit Creek, 77–78, 82

Treaty of Middle Plantation, 44

trespassing, 26, 38, 40, 42, 44–45, 56–57;

blackness as, 5; fugitivity as, 22

Tsenacommacah, 39–40

vanilla nightmares, 145, 153

vigilantism, 12, 188–89n29

violence, 10, 14–15, 17, 29, 41, 57, 77, 86, 135, 174, 216n73; American sovereign, 172–73; anti-black, 226n5; toward black subjects, 2; cisnormative, 18; of the Civil War, 73; disciplinary, 175; epistemic, 138; of impediments, 130; insurgent, 43; against nature, 173; of passing, 171; of passing reader relation, 30; of pass system, 68; police, 5, 9; policing, 3; racialized and gendered, 124; of slavery, 65–66; state, 185n7; technology and, 132; terroristic, 79; of trickery, 133; of unveiling, 134; vigilante, 9

Virginia, 36, 41, 66, 107, 193n7, 195–96n31, 197n52, 200n82; blue shirts in, 54; Indigenous/Native peoples and, 39, 51–53, 52, 67–68, 194n17, 194n20, 195–96n31, 198–99n64, 202n109, 202n116, 211n80; Mettox, 65; passing for Native in, 27; pass laws in, 25, 35, 42, 45, 47, 69; pass system in, 38, 40, 44, 137, 170, 200–201n92; Richmond, 43, 193n8; runaway slave advertisements in, 201n93; servitude in, 46, 48, 51, 64; slavery in, 217n81, 226n5

*Virginia Gazette*, 36, 58, 61, 193n8, 200n91

Virginia General Assembly, 51; Burgesses, 50, 55–56; laws passed by, 35–36; pass laws, 40–42, 44, 53, 55, 68; property rights of slave owners and, 198n56; servant laws, 46, 48–49, 196n41. See also *partus sequitur ventrem* laws

visibility, 2, 7–8, 66. See also hypervisibility; invisibility

Visperas, Cristina, 66

Wald, Gayle, 142

Waldstreicher, David, 59

- watchman, 4–5, 20; citizen as, 12, 137  
 Weasel, Lisa, 109  
 Welburn, Jude, 129, 217nn78–80  
 Westo, 39  
 white gaze, 8–9, 21, 66  
 whiteness, 221n30; blackness and, 69–70;  
     blood and, 78; Choctaws and, 78; face-to-  
     face encounter and, 123; Five Civilized  
     Tribes enrollment process and, 83; freedom  
     and, 62; passing and, 7, 27, 69, 151, 201n93;  
     Piper and, 141–42, 171  
 Wichita, 77  
 Wilderson, Frank, 150  
 Willoughby-Herard, Tiffany, 189n38  
 WISH line, 108, 119–21  
 Woodard, Vincent, 221–22n40  
 workers, 45, 52–53; colonial planters' need  
     for, 25; fraudulent and authentic, 24; free,  
     47, 66–68, 201n93; lab, 108; movement,  
     197n52; poaching of, 48; slaves and, 67,  
     201–2n108; white, 58  
 Wright, Jeremiah, 172  
 Wynter, Sylvia, 217n77  
 xenophobia, 142, 145  
 Yerushalmi, Yosef Hayim, 210n71  
 yoga, 155, 159  
 York River, 40–41, 45  
 Zimmerman, George, 3–5, 9, 12, 18, 173,  
     176–77, 188–89n29

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