12-1992

Best evidence : a social history of the County Court of Lafayette County, 1865-1870

DebbieLee Landi
University of Mississippi

BEST EVIDENCE

A SOCIAL HISTORY OF THE COUNTY COURT OF LAFAYETTE COUNTY, 1865-1870

WRITTEN BY

DEBBIELEE LANDI

B. A., Cook College, Rutgers University, 1981

A Thesis
Submitted to the Faculty of
The University of Mississippi
in Partial Fulfillment of the Requirements
for the Degree of Master of Arts
in the Department of History

The University of Mississippi

December, 1992

BEST EVIDENCE

A SOCIAL HISTORY OF THE COUNTY COURT OF LAFAYETTE COUNTY, 1865-1870

WRITTEN BY

DEBBIELEE LANDI

Robert J. Haws
Chair and Associate Professor of History
(Director of the Thesis)

Michael de Laval Landon
Professor of History

David G. Sansing
Professor of History

Michael R. Dingerson
Dean of the Graduate School

ABSTRACT

BEST EVIDENCE
A SOCIAL HISTORY OF THE COUNTY COURT OF LAFAYETTE COUNTY, 1865-1870

LANDI, DEBBIELEE. B. A., RUTGERS UNIVERSITY, 1981.
M. A., UNIVERSITY OF MISSISSIPPI, 1992.
THESIS DIRECTED BY ROBERT J. HAWS.

The study of American legal institutions and practices provides valuable information regarding American society. This analysis focuses on the County Court of Lafayette County, Mississippi from its creation in 1865 until its dissolution in 1870. In order to assess the role of this court during Reconstruction, the types of cases and participants for the five-year period were analyzed.

The County Court system was established by the Mississippi state legislature in 1865 to manage the anticipated surge of criminal activity caused by the Civil War and the emancipation of slaves. This research discovered that although there was a considerable amount of criminal and civil activity in the County Court in 1866, there was a marked decrease in criminal activity in the years following. Significantly, this analysis proves that newly freed slaves were very rarely charged with any crimes in the County Court of Lafayette County after 1866. Instead, after 1866, civil lawsuits dominated the docket. The residents of Mississippi recognized this departure from the specific purpose of the County Court and adapted the judicial institutions of the state to the new conditions.

TABLE OF CONTENTS

I. INTRODUCTION

On August 22, 1864, Major General A. J. Smith and his Union forces descended upon Oxford, Mississippi. According to a Confederate witness, the Union soldiers destroyed thirty-four businesses, including two hotels, the courthouse, the Masonic Hall, and several estates in a single day.[1] The Civil War continued for eight more months, exacting further contributions of bacon, bankrolls, and blood from the Oxonians as well as from their neighbors in Lafayette County, Mississippi. The military success of the Union Army on April 9, 1865 permitted the federal government of the United States to " reconstruct " the former states of the Confederacy. Reconstruction in Mississippi began one month later. Since state and local Confederate governments ceased to exist, there was an obvious need to revamp all levels and branches of government. The first post-bellum legislature in Mississippi convened in October of 1865. As part of its judicial restructuring, this legislature established County Courts in every county of Mississippi.

J. J. Hooker of Holmes and Sunflower counties, a member of the Joint Select Committee on Freedmen, announced to the state Senate in 1865,

> in view of the crimes, lawlessness, and demoralization, now prevalent in most localities throughout this State, resulting from the effects of war, and consequent upon sudden emancipation, . . . quiet, order and good morals can alone be restored, . . . by a speedy and rigid enforcement of the criminal laws.[2]

Hooker further explained that the current judicial system was hampered by delay, expense, and acquittals. The remedy, according to the Joint Select Committee on Freedmen, was the installation of an additional judicial institution, the County Court. Its jurisdiction included criminal cases "under the value of one hundred dollars, and all other common law and statutory offences below the grade of felony . . . ." [3] Civil suits of all kinds were also within its jurisdiction, as long as the amount involved did not exceed two hundred and fifty dollars. Assault and battery, petty larceny, violation of labor contract, recovery of property, garnishment, dissolution of marriage, and enticement are examples of the types of cases which were adjudicated. In its five-year existence, 1865-1870, this Court touched the lives of more than four

---

[1] The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies Report of Capt. Charles T. Biser, C. S. Army, August 31, 1864, Series 1 Vol. 39 Part 1, (Washington, D. C. : Government Printing Office, 1892) , 400.

[2] Journal of the Senate of the State of Mississippi, 1866 , (Jackson, Mississippi: J. J. Shannon & Co., 1866) , p. 121.

[3] Laws of the State of Mississippi, 1865 , Chapter II, Section 3, (Jackson, Mississippi: J. J. Shannon & Co., 1866).

hundred citizens of Lafayette County. This study concentrates on the individual citizens, their specific grievances and crimes to elucidate the role of the County Court in Lafayette County, Mississippi during the process of Reconstruction.

To illuminate the role of a specific court, the County Court of Lafayette County, more clearly requires an introduction to the basic principles governing American courts. Reversal of traditional patterns, strict enforcement of existing norms, and even nuances of procedure all provide clues for the dismantling of the legal system. A heuristic device, the definition, best initiates the discussion. Theodore L. Becker defines a court as follows,

> (1) A man or body of men (2) with power to decide a dispute, (3) before whom the parties or advocates or their surrogates present the facts of the dispute and cite existent, expressed, primary normative principles (in statutes, constitutions, rules, previous cases) that (4) are applied by that man or those men, (5) who believe that they should listen to the presentation of facts and apply such cited normative principles impartially, objectively, or with detachment . . . and (6) that they may so decide, and (7) as an independent body.[4]

Not all judicial observers agree regarding the definitive parameters of courts;[5] however, this definition is applicable to the American system of courts, with the addition of a caveat. Becker's concentration on exclusively masculine personnel in sections (1) and (4) introduces an inaccurate and unnecessary gender bias. The remainder of the definition, however, provides a useful framework. Throughout the history of the United States, courts have represented a gauge of the mores, dilemmas, and hopes of the citizens.[6] As early as the 1830's, Alexis de Tocqueville, an astute observer of American society and customs, asserted that "[s]carcely any question arises in the United States which does not become, sooner or later, a subject of judicial debate . . . ."[7] More recent historians and theorists have reiterated the presence of this cultural idiosyncrasy. "On a scale of aggressive pursuit of legal rights," according to Lawrence M. Friedman, the United States outranks many other modern nations.[8] Only with the dawn of administrative agencies in the twentieth century did courts cease to intrude so regularly in the lives of many Americans.[9]

---

[4] Theodore L.Becker, Comparative Judicial Politics , (Chicago: Rand McNally & Co., 1970) , p. 13.
[5] See Keith O. Boyum, "Introduction: Toward Empirical Theories About Courts," Empirical Theories About Courts , Eds. Keith O. Boyum and Lynn Mather, (New York: Longman, Inc., 1983) , pp. 1-5 for further discussion of the debate regarding the structure of courts.
[6]Sheldon Goldman and Austin Sarat, " Introduction," American Court Systems , Eds. Sheldon Goldman and Austin Sarat, (San Francisco: W. H. Freeman and Company, 1978) , p. 2.
[7]Alexis De Tocqueville, Democracy in America , II, Trans. Henry Reeve (London: Saunders and Otley, 1838) , p. 112.
[8]Lawrence M. Friedman, The Legal System , (New York: Russell Sage Foundation, 1975) , p. 212.
[9]James Willard Hurst, The Growth of American Law, The Law Makers , (Boston: Little Brown and Company, 1950) , p. 147.

Yet, American courts do not initiate action voluntarily; citizens invite the intrusion of courts. One explanation for this litigious posture may be the way in which Americans interpret the judicial system. Americans, in exceptional numbers, perceive courts "as a bastion against governmental intrusion" and not "as an instrument of the government itself." [10] An assessment of the theoretical roles of courts in society presents further clarification of this posture. The definition of a court mentioned earlier in this paper combines the fundamental role, to resolve disputes, with its judicial accouterments, an impartial, objective, detached decision based on "existent, expressed, primary normative principles (in statutes, constitutions, rules, previous cases) " by "an independent body".[11] Most historians and theorists rank dispute settlement as the primary function of courts, but there is a differentiation in emphasis regarding the effects of independence and the enforcement of norms. In addition to the primary function, Lawrence M. Friedman lists three additional functions: social control, creation of norms, and recording.[12] He does not include impartiality or independence in this schema. A sociologist, James W. Loewen, asserts that legal systems most often preserve existing institutions and norms; although, he provides a pervasive American exception.[13] Courts' "principal contribution" to the settlement of disputes, according to Marc Galanter, is the "provision of a background of norms and procedures."[14] Still others explain the relative importance of maintaining the status quo as opposed to inventing new rules and standards.[15]

The creation of new societal directives is not a role usually associated with courts. Yet, Marc Galanter relates the independence of the judicial branch to a greater potential for creativity. This same impartiality also fosters an atmosphere which is more conducive to the protection of the rights of minorities. Willard Hurst asserts that the paramount role for modern courts is the preservation of the rights of minorities and individuals. The ineffectiveness of communal and governing entities encourages individuals to seek remedies through the court system. As a result of their acceptance of additional duties and controversial topics, American courts create public policy more than any other courts. Measuring current disputes by extant case law, a process which the American judicial system utilizes, also encourages the formulation of new rules and policies.[16]

---

[10]Herbert Jacob, Justice in America, Courts, Lawyers, and the Judicial Process , (Boston: Little Brown and Company, 1972) , p. 162.
[11]Becker, p. 13.
[12]Friedman, p. 17.
[13]James W. Loewen, Social Science in the Courtroom , (Lexington, Massachusetts: Lexington Books, 1982) , p. 1.
[14]Marc Galanter, "The Radiating Effects of Courts," Empirical Theories About Courts , Eds. Keith O. Boyum and Lynn Mather, (New York: Longman, Inc., 1983) , p. 121.
[15]Austin Sarat and Joel B. Grossman, "Courts and Conflict Resolution:Problems in the Mobilization of Adjudication," American Political Science Review 69, (1975) : 1200.
[16]Marc Galanter, "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change," Law and Society Review 9, (Fall) : 150; Ralph K. Winter, Jr., "The Growth of Judicial Power," The Judiciary in a Democratic Society , Ed. Leonard J. Theberge, (Lexington, Massachusetts: D. C. Heath and

A court 's function does not cease with the formulation of new rules and policies. An ancillary role is to communicate those changes and the reinforcement of existing norms to its citizenry. Decisions rendered by courts affect the public in several ways: presentation of clues to individuals other than the disputants who are involved in a similar conflict or who, in the future, may be involved in a similar conflict; repetition of decisions confirms norms even without the benefit of formal publication; and visible and overt "demonstration of justice." [17] The announcement of a winner and a loser in a decision alerts the public to the possibility of success or failure and the price of litigation.

Conveying a ruling is not the only contact that a court has with society. Politics, finances, legislation, and societal circumstances erode a court's theoretical independence. Lawrence M. Friedman contends that "social influence on courts is constant, universal, and so obvious."[18] He adds that no significant shifts occur in society which are not paralleled by a shift in laws.[19] There is a method, called the functional mode, which evaluates a court's case load by investigating the state of affairs in the surrounding society. Litigation, according to this theory, increases when "social transactions" multiply and/or when "some serious dislocation has taken place in society." [20] The influential factors in this litigiousness are beyond the perimeters of the courthouse. Examples of external factors which may affect litigation are recent legislation, war, revolution, natural disasters, weather, a rise in crime and the general public's response, and alterations in the economy or in the standard of living.[21]

Other theorists and legal historians have commented on the impact of external influences. The methods which a society utilizes to process disputes are a conglomeration of " its values, its psychological imperatives, its history, and its economic, political and social organization."[22] Leonard P. Shaidi emphasizes the interrelatedness of stability in the legal and political spheres with economic security. Still others link the growth of the economy and society with the growth of litigation in a postulate called the social development model. According to this model, litigation escalates when

---

Company, 1979) , p. 61; Willard Hurst, "The Law in United States History," Essays in Nineteenth-Century American Legal History , (Boston: Little Brown and Company, 1950) , p. 42; Mitchell S. G. Klein, Law, Courts and Policy , (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1984) , p. 286; Donald L. Horowitz, The Courts and Social Policy , (Washington, D. C.: The Brookings Institution, 1977) , p. 3; J. Woodford Howard, Jr.,"Adjudication Considered As A Process of Conflict Resolution: A Variation on Separation of Powers," Journal of Public Law 18, (1969): 340.

[17] Keith O. Boyum and Samuel Krislov Eds., Forecasting the Impact of Legislation on Courts , Washington, D. C.: National Academy Press, 1980) , p. 31.

[18]Lawrence M. Friedman, "Courts Over Time: A Survey of Theories and Research," Empirical Theories About Courts , Eds. Keith O. Boyum and Lynn Mather, (New York: Longman, Inc., 1983) , pp. 45-46.

[19]Friedman, "Legal Culture and Social Development," Law and Society Review 4, (1969) : 29.

[20]Samuel Krislov, "Theoretical Perspectives on Case Load Studies: A Critique and a Beginning," Empirical Theories About Courts , Eds. Keith O. Boyum and Lynn Mather, (New York: Longman, Inc., 1983) , p. 181.

[21]Keith O. Boyum and Sam Krislov, pp. 32, 42, 74-75, 95-96.

[22]William L. F. Felstiner, "Influences of Social Organization on Dispute Processing," Law and Society Review 9, (Fall) : 63.

society becomes more complex, more diverse, and large enough that impersonal relationships replace personal ties. There are studies, however, which contradict the interpretation of the social development model. These studies question the strictly linear correlation between economic and industrial development and a rise in litigation.[23]

American courts contend with other influences, in addition to societal and economic conditions. The foundation of the American court systems on local interests affects legal practices. Federal and state constitutions and legislatures outline specific roles for American courts. Particular jurisdictions and acceptable participants are demarcated for each court. To repeat an earlier assertion, individual citizens initiate legal action in the United States; therefore, it is an external stimulus which ignites the judicial process. It is the very nature of this process which strains the judicial fabric. Rulings based solely on specific facts in specific cases do not always provide a complete solution to a general problem. Further augmenting the court's lack of control, the timing of law suits and decisions depends largely on chance. Even with the constant barrage of the elements, courts are forced to make informed, unbiased decisions. Yet, there is another inherent conflict. Courts are obligated to weigh the needs of the government with the needs of private citizens. Courts depend on legislatures and political representatives for their parameters and their provisions, which corrodes the autonomy of the judiciary. The systems approach concentrates on these bureaucratic details such as personnel and funding to assess the availability of the judicial system. A shortage of judges, clerks, and overburdened dockets negatively affect justice and existing and potential litigants.[24]

Since the County Court of Lafayette County was a lower level state court, a higher level court could overturn its decisions, but it could not fire, transfer or penalize the lower court's justices. This job security is provided to all judges throughout the American judicial system. American judges, therefore, have a certain amount of freedom. However, their independence is not without limitations and responsibilities. In Mississippi, beginning in 1832, all judges were popularly elected. This procedure, potentially, restricts the autonomy of the judiciary and anchors judicial positions within the community.

---

[23]Leonard P. Shaidi, "Crime, Justice and Politics in Contemporary Tanzania: State Power in an Underdeveloped Social Formation," International Journal of the Sociology of Law 17, (1989) : 247; Austin Sarat and Joel B. Grossman, "Courts and Conflict Resolution: Problems in the Mobilization of Adjudication," American Political Science Review 69, (1975) : 1207-1209. For an American study which challenges the unqualified nature of social progression, see Lawrence M. Friedman and Robert V. Percival, "A Tale of Two Courts: Litigation in Alameda and San Benito Counties," American Court Systems , Eds. Sheldon Goldman and Austin Sarat, (San Francisco: W. H. Freeman and Company, 1978), pp. 69-79; for an international version of a similar analysis, see Jose Juan Toharia , "Economic Development and Litigation: The Case of Spain," a paper presented at the Conference on the Sociology of the Judicial Process held at the Zentrum fur Interdisziplinare Forschung at the University of Bielefeld, F. R. G. , Sept. 24-29, 1973.

[24]Hurst, The Growth of American Law, The Law Makers , p. 194; Donald L. Horowitz, The Courts and Social Policy , p. 39; Sarat and Grossman, "Courts and Conflict Resolution: Problems in the Mobilization of Adjudication," p. 1207; Herbert Jacob, pp. 11-12; Samuel Krislov, "Theoretical Perspectives on Case Load Studies: A Critique and a Beginning," p. 181.

All judges are expected to adhere strictly to the established rules and to consider only those facts presented.[25] This limits the boundaries of the contested issue and the judge's decision. The final ruling in the case is purportedly based on what is legally correct, not necessarily what is right for the parties.[26] The thrust is not reconciliation of the disputants but legally proper adjudication. In all cases without a jury, the judge dictates the ultimate decision. In criminal cases, the judge also orders the punishment for the guilty party. Judges, like the courts in which they serve, are restrained by their enforcement capabilities, existing statutes, and prior decisions.

Many of the same external influences which affect courts also affect judges and prosecutors. Judges do not introduce legal proceedings; they are required to await the summons from individual citizens. Impartiality is the presumed hallmark of the American judiciary. Yet, the local nature of the organization of the American judiciary intensifies environal prompting.[27] As a result of this symbiosis, judges generally espouse the mores and beliefs of the surrounding culture.[28]

The preceding comparison is applicable to prosecutors in the criminal branch of the legal system as well. Their world view may induce filters, even when laws are stringent. A prosecutor, on behalf of the government, determines which criminal cases to adjudicate, which to settle, which to reduce and which to ignore. As a result, theorists have drawn a parallel between the role of a prosecutor in a criminal case and the role of a judge in a civil case.[29] Prosecuting attorneys also select the court in which to bring the action.[30] Prosecutors, like courts and judges, are affected by environmental variables. The attitudes of the general public and the police, and the enactment of legislation all prompt responses from the prosecutor. Any of the above-referenced factors may shift the emphasis to a particular type of crime or criminal.

A segment of the same public that exerts pressure on prosecutors also serves on juries. Their verdicts, however, are not limited to criminal cases. Juries are utilized in civil cases as well. Theoretically, a list of potential jurors represents an "ethnic, economic, and sociocultural cross section" of the constituency of the court. [31] In actual practice, there are several ways in which a jury panel may become unbalanced. According to Chapter LXXII of the Laws of Mississippi, which was approved in December of 1865, a list of potential voters was prepared by the assessors of taxes in each county.

---

[25]Sheldon Goldman and Austin Sarat, "Facts As Bases For Decisions," American Court Systems , Eds. Sheldon Goldman and Austin Sarat, (San Francisco: W. H. Freeman and Company, 1978) , p. 305.
[26]Goldman and Sarat, "Introduction," American Court Systems , p. 9.
[27]Goldman and Sarat, "Environmental Influences," American Court Systems , p. 336.
[28]Ibid .
[29]Donald Black and M. P. Baumgartner, "Toward a Theory of the Third Party," Empirical Theories About Courts , Eds. Keith O. Boyum and Lynn Mather, (New York: Longman Inc., 1983) , p. 112.
[30]George F. Cole, "The Decision to Prosecute," American Court Systems , Eds. Sheldon Goldman and Austin Sarat , (San Francisco: W. H. Freeman and Company, 1978) , p. 101.
[31]Daniel H. Swett, "Cultural Bias in the American Legal System," Law and Society Review 4, (1969): 96.

Blacks and several other ethnic minorities frequently do not vote even when they are eligible, which alters the composition of the voter list. Certain professions are excluded or excused from jury duty: public school teachers, clergymen, doctors, publicly elected officials, and most individuals whose occupation is related, even tangentially, to the law. Prosecuting attorneys and defense attorneys are permitted to excuse jurors who they feel are not suitable for their case, which introduces yet another potential bias. Each and every juror has his own prejudices and idiosyncrasies in addition to those imposed by a particular culture.[32]

Cultural attitudes include the perception of authority, laws, and members of the legal community. Lawrence M. Friedman emphasizes that it is these attitudes which determine when, where, why and to what extent people avail themselves of legal resources. The more negative the assessment of the legal system, whether it is in terms of cost, humiliation, alienation, speed, or effectiveness, the more a potential litigant will consider the alternatives and his objectives. The system of adjudication must be considered judicious and unprejudiced to foster general participation. However, there are more than just cultural factors which encourage or discourage litigation. There are social, financial and psychological components to an individual's or a group's decision to litigate. Ethnicity, or age or social standing or any combination of the three may persuade or dissuade a citizen's proclivity to seek legal redress.[33] A potential plaintiff may not have the money to hire an attorney, and/or file a law suit. In addition to a lack of liquidity, a disputant may not have the time to pursue legal remedies. An individual must understand at least the fundamental process involved in asserting a claim. Another psychological characteristic is the particular type of personality. A "litigious" personality may be more inclined to resolve disputes with the assistance of the legal system than other personality types. Others are attracted by the inclusion of public standards in private conflicts. An individual's evaluation of the incident determines the action taken. The individual most likely to process claims has (1) experienced a swift alteration of conditions and (2) related the new circumstances to the past and to existing norms in society.[34]

Assessing the restrictive influences on individual behavior reinforces the commonly-held view that very few disputes mature in a courtroom. Most people prefer to resolve their conflicts in a private, personal manner or to accept the circumstances without any overt action. Still, there are certain types of cases and certain conditions in society which are more likely to stimulate judicial intervention. Southern

---

[32]Ibid.; Klein, p. 150.

[33]Boyum and Krislov, Forecasting the Impact of Legislation on Courts, p. 90.

[34]Lawrence M. Friedman, "Legal Culture and Social Development," p. 34; Felstiner, "Influences of Social Organization on Dispute Processing," p. 80; Boyum and Krislov, Forecasting the Impact of Legislation on Courts, p. 90; Boyum, "The Etiology of Claims: Sketches for a Theoretical Mapping of the Claim-Definition Process," Empirical Theories About Courts, Eds. Keith O. Boyum and Lynn Mather, (New York: Longman Inc., 1983), p. 158; Boyum and Krislov, Forecasting, p. 91; Boyum, "The Etiology of Claims," p. 150.

society, in Peter Hoffer's estimation, compels its members to include protection of the community in their personal codes of honor. The resolution of an affront to honor is, therefore, best initiated in a courtroom, which invokes public participation and sharing. Conflicts over values, which are difficult to delineate and therefore, to negotiate, proceed to adjudication more frequently than do conflicts of interest in which the opposing parties pursue the same ends. If a society induces its citizenry to claim "rights," more conflicts are reshaped as conflicts of values. The result is more business for the legal establishment. Another category of disputes which is often litigated are disputes that involve rights given or actions taken by the government. Individuals, minorities and small groups, according to one theorist, perceive courts as the most efficient means to achieve change, since they have little political strength or access to other avenues of recourse.[35]

Historical Background

The surrender of the Confederate army on April 9, 1865 awarded political control to the Union forces. However, it was a victory gained by much bloodshed and many sacrifices. Six hundred and twenty thousand men perished in the four years of battle, which surpasses the loss of American lives in all other wars, before or since. In the antebellum South, there were approximately five million white residents; after the Civil War, more than a half of a million failed to return. Most of the battles and skirmishes occurred in the South so its landscape was marred by battle scars and bruises. Crops and livestock were consumed or destroyed in enormous quantities during the war, which rendered the South barren. The Confederate currency and bonds were worthless. The devaluation of mediums of exchange placed a greater emphasis on other assets. Unfortunately, the emancipation of the slaves eliminated at least one billion and possibly as high as four billion dollars of Southern assets.[36] Two-thirds of the region's railroads were unsalvageable or unusable, which also hampered economic recovery.[37]

Mississippi, much like the rest of the south, suffered enormous losses. By one account, there was not a single family in the entire state which was not haunted by the specter of death. Roughly one fourth of the white males above the age of fifteen succumbed to the perils of warfare. Mississippi was occupied by Federal troops during the war, which strained its limited resources even further. William C. Harris estimates that in 1865 there were several areas of the state in which severe malnutrition and/or starvation threatened a considerable amount of the population. Since the economy of Mississippi was agricultural and not industrial, its recuperation was contingent on the planting, harvesting, selling and transporting of crops. Yet, thousands of whites either could not or did not labor in the fields in 1865.

---

[35]Peter Charles Hoffer, "Honor and the Roots of American Litigiousness," The American Journal of Legal History 33, (1989) : 295-319; Sarat and Grossman, "Courts and Conflict Resolution," pp. 1211, 1216; Boyum, "The Etiology of Claims," pp. 158-159; Howard, p. 346.

[36]E. Merton Coulter, The South During Reconstruction 1865-1877 ,Vol. VIII, A History of the South , (Baton Rouge: Louisiana State University Press, 1947) , p. 5.

[37]Ibid, p. 3.

The abolition of slavery also eliminated some of the permanent agricultural labor force, hindering agricultural recovery.[38]

Citizens of Lafayette County in northern Mississippi encountered many of the same postwar economic problems. According to the 1860 Census, there were 7129 slaves in Lafayette County held by 606 individuals. Obviously, there was an economic loss with the emancipation of slaves, but, similarly to the rest of Mississippi, the abolition of slavery also dictated a revised labor arrangement with which to cope. The mercantile sphere of Lafayette County was disastrously uprooted by the Civil War. Oxford, the county seat of Lafayette County, only had one business standing in the town square after the rampage of General A. J. Smith and his Union forces.[39] The Oxford Falcon reported this loss of personal property at one hundred thousand dollars.[40] As a frame of reference, consider that in 1866, the price of establishing a new "business house" on the square in Oxford cost only one thousand dollars.[41] Construction required financial backing and laboring efforts. The death and disfigurement of many young men of Lafayette County hampered restorative efforts. Postbellum churches in the South were rarely able to aid many of their members. After the Civil War, all denominations in Lafayette County "were enfeebled by the exhaustion and embarrassed by the confusion."[42] Dwindling resources hampered the activities of the powerful and the weak, the urban and the rural congregations.[43] This was especially true of the fledgling black churches.

The federal government, however, expanded its role and even offered direct assistance to the freedmen. In the first few months of 1865, before the military exercises of the war ceased, the federal government initiated its program to assist the former slaves. A temporary agency of direct assistance, the Freedmen's Bureau, was established in the War Department in March of 1865. Although the Bureau did not intervene on behalf of the freedmen until after the conclusion of the war, the framework existed for the delivery of the basic necessities, food, clothing, and fuel. These ameliorations were all launched in Abraham Lincoln's second term of office. Tragically, Lincoln was assassinated a little over a month after the creation of the Freedmen's Bureau. Speculation abounds regarding Lincoln's role in Reconstruction policy. However, the murder of Lincoln propelled a man who had only been vice president for one month into the forefront of Reconstruction.

---

[38]James Wilford Garner, Reconstruction in Mississippi, (Baton Rouge: Louisiana State University Press, 1968), p. 123; William C. Harris, Presidential Reconstruction in Mississippi, (Baton Rouge: Louisiana State University Press, 1967), pp. 27, 8, 36.
[39]C. John Sobotka, Jr., A History of Lafayette County, Mississippi, (Oxford, Mississippi: Rebel Press, Inc., 1976), p. 42.
[40]Oxford (Mississippi) Falcon, 23 Nov. 1865.
[41]Ibid., 6 Sept. 1866.
[42]Julia Lestine Kendel, "Reconstruction in Lafayette County," Publications of the Mississippi Historical Society XIII, (1913): 261.
[43]Ibid.

Andrew Johnson, an opinionated Democrat from Tennessee, controlled Reconstruction policy for approximately eight months before the United States Congress reconvened. In May of 1865, Johnson proffered executive clemency to all former Confederates who would swear an oath of allegiance, except military and civilian officers of high rank and those who owned twenty thousand dollars worth of property. The excepted individuals were to apply directly to Johnson for their amnesty. He granted nearly thirteen thousand pardons in the remainder of 1865. The President also appointed temporary military governors in seven states including Mississippi. In order to be readmitted to the union, Johnson issued the following requirements for the former states of the Confederacy: ratification of the Thirteenth Amendment, repudiation of the Confederate war debt, and adoption of a new constitution which rejected slavery and secession.[44]

Johnson appointed former Chief Justice of the Mississippi High Court of Errors and Appeals and Unionist, William L. Sharkey, provisional governor of Mississippi. On July 1, 1865, Sharkey called for state-wide elections for candidates to a constitutional convention. The convention met in August and amended the existing constitution. The amended Constitution, as required by Johnson, outlawed slavery and involuntary servitude. Not unsurprisingly, there was debate at the convention regarding the abolition of slavery; one group insisted that the federal government's ultimatum be included to indicate that it was not a voluntary action and another suggested that they abandon all action in favor of the federal courts.[45] The inhabitants of Mississippi were not the only individuals to debate the nature of abolition. In his travels throughout the South in 1865 and 1866, a reporter discovered that more than one Southerner believed "that slavery is in some way to be restored, or at any rate, uncompensated emancipation will not be permitted by the judiciary, nor by Congress . . . ."[46] Slavery and involuntary servitude were abolished in the Mississippi constitution but, in the estimation of some, not in the most unequivocal terms.[47] The freedmen were not granted any political privileges in this constitution; although, they were granted a few civil rights, for example, the right to bring suit in a court of law.[48] Another declaration of the Constitutional Convention established the first Monday in October as the day for the election of state officers, county officials, and members of the United States Congress.

B. G. Humphreys, a former brigadier general in the Confederate army, was elected governor of Mississippi in this October election. At the time of the election, Humphreys, a Conservative Whig, was not yet pardoned by Johnson. The pardon arrived before the end of October, 1865. All but one justice elected to the High Court of Errors and Appeals had served the Confederate courts and were "original

---

[44]Harris, pp. 42-56.
[45]Ibid., pp. 53-54; Garner, pp. 86-90.
[46]John Richard Dennett, The South As It Is 1865-1866, Ed. Henry M. Christman, (Athens, Georgia: The University of Georgia Press, 1986), p. 91.
[47]Ibid., p. 58.
[48]Garner, p. 94.

secessionist[s]."[49] In the legislative branch, old Whigs captured a majority of both houses, as they had in the Constitutional Convention in August; the tone of the legislature was more conservative than radical.[50]

The new legislature refused to ratify the Thirteenth Amendment and enacted the Black Codes which consigned the freedmen to a state little removed from slavery. Black Codes were a set of laws which applied specifically to the freedmen. The Mississippi Code, for example, prohibited ownership of firearms by freedmen, permitted blacks to marry, to litigate and to own property. It also required " that every freedman, free negro and mulatto," have written evidence of "a lawful home or employment" by January 1, 1866 and every year thereafter.[51] If a freedman did not exhibit the proper documentation, he was considered a vagrant. Failure of a freedman to pay an annual tax into the Freedmen's Pauper Fund also branded him a vagrant. The punishment for vagrancy of a freedman was a fine of no more than fifty dollars. A wage for a first class freedman laboring in Attala County, Mississippi in 1865 was one hundred and fifty dollars a year for daily hours from sunrise to sunset.[52] Most freedmen could not afford the exorbitant penalty for vagrancy. The Black Code provided for that eventuality. If the freedman was not able to pay the fine within five days, the sheriff employed him with any person who did pay the fine and the costs. The most overtly prejudicial section of the Black Codes of Mississippi restored the prior criminal and penal laws governing slaves, free negroes and mulattoes verbatim.

In addition to establishing laws governing the freedmen, the Mississippi legislature of October, 1865 also established courts to regulate the behavior of the freedmen and freedwomen. The members of the Mississippi legislature and undoubtedly, many ordinary citizens of Mississippi anticipated a staggering surge in criminal activity as a result of emancipation. County Courts were established in every county in Mississippi to control this inundation. The act specifically listed the following criminal offenses over which the County Court had jurisdiction,

> petit larceny, assaults, assaults and batteries, riots, affrays, routes, unlawful assemblies, words of insult made indictable by our statute, violations of the Sabbath of every kind against law, disturbances of religious worship or persons assembled for that purpose, whether engaged in worship at the time or not, defaulting road overseers and all offences concerning public roads made indictable by law, unlawful exhibition of deadly weapons, gaming, racing or shooting upon any public road, street or square, obtaining goods, money or other property by false pretences . . . .[53]

---

[49]John Ray Skates, Jr., A History of the Mississippi Supreme Court, 1817-1948 , (Jackson, Mississippi: Mississippi Bar Foundation, Inc., 1973) , p. 27.
[50]Harris, pp. 113, 123.
[51]Laws of the State of Mississippi , 1865 , Chapter IV Section 5.
[52]Oxford Falcon , 21 Dec 1865.
[53]Laws of the State of Mississippi, 1865 , Chapter II Section 3.

The County Court's monetary ceiling for the crimes cited above was one hundred dollars. In a different section of the same chapter, the legislature delineated exclusive jurisdiction for the County Courts in all cases involving forcible entry and unlawful detainer, but there was no monetary amount included. The legislature also assigned traditional common law actions of "debt, contract, accounts, assumpsit, trover, detinue, replevin, trespass, ejectment" to the court.[54] The common law jurisdiction for most actions was limited to matters of two hundred and fifty dollars or less. There was no ceiling for replevin.

The machinery of the County Courts was not entirely original. Mississippi's legislators utilized the established framework for procedures and personnel. The clerk of the Circuit Court was assigned as the ex-officio clerk of the county tribunal. The sheriff of the county assumed the duties of the sheriff of the County Court. The Probate Court judge adopted another bench and served as the County Court judge. Two justices of the peace in each county, elected by their fellow justices, served as the associate judges for the County Court. The County Court responsibility augmented their judicial workload, since each justice of the peace had his own court. The term, duration and location of the County Court, like the existing courts, was mandated by statute. The term stipulated was once every month, beginning in January, 1866, for a maximum of "six judicial days" and the proceedings were assigned to the county courthouse.

The bill to establish County Courts was approved on November 24, 1865 and J. J. Hooker's method to quell societal unrest and curtail criminal activity was in position. The conditions in Mississippi in the fall and winter of 1865 were unbalanced and uncertain. The recovery of Mississippi's agricultural economy required money, land, and labor and the average planter only possessed land. William C. Harris considers October, 1865 to January, 1866 the most unstable period for labor provisions in Mississippi. Many newly emancipated slaves longed to experience freedom, literally and strode hastily away from the fields and traces of their servile past. They journeyed in search of family members and experimented with education, religion,and recreation which were not dictated by their owners. Enough blacks ventured into towns or travelled the highways to unnerve planters, but most settled permanently closer to home. In 1865, throughout the South, freedmen hoped to receive tracts of land from the federal government. If these grants did not materialize by Christmas of 1865, the blacks allegedly threatened to revolt.[55]

The prevailing southern attitudes regarding the nature of freedmen intensified the unrest. In the postbellum South, the preservation of a caste system based on racial supremacy engrossed legal

---

[54]Ibid., Section 24.

[55]Harris, p. 97; James L. Roark, Masters Without Slaves, (New York: W. W. Norton & Company, 1977), p. 136; Michael Wayne, The Reshaping of Plantation Society, (Baton Rouge: Louisiana State University Press, 1983), pp. 15, 132-133; Harris, pp. 30, 81; Theodore Brantner Wilson, The Black Codes of the South, (University, Alabama: University of Alabama Press, 1965), pp. 55-56.

personnel.[56] A contemporary chronicler travelling through the South asserted that in the summer and fall of 1865, the southern opinion of blacks plummeted to its lowest level.[57] The paternalistic attitudes of the antebellum planter class often changed to acrimonious malevolence.[58] A planter in Virginia asserted, " [s]ince mine were freed, they [slaves] have become lazy, stubborn and impudent. They know that they have escaped from all government; that we cannot chastise them."[59] This attitude was espoused by Southerners in all states of the former Confederacy. Other pervasive beliefs were that blacks did not labor without verbal and physical "encouragement" and freedom was contrary to their natural state.[60] One planter's son insisted that after giving a freedman in his employ "one of the best frailings [beatings] he ever got in his life," the freedman thereafter was his "very best hand."[61]

The majority of mid-nineteenth century white Americans regarded themselves as inherently superior to the nonwhite races of the world.[62] Racism and prejudice were obviously not confined to the South; however, in late 1865, the North was not particularly sympathetic to the southern world view. Radicals and Moderates alike were appalled at the actions of the new southern governments. When Congress resumed in December, 1865, it reviewed the events of the previous eight months. The return of former Confederate officials and officers to the state and national legislatures infuriated many Congressmen. Mississippi was the first to enact Black Codes, but it was certainly not the only state to do so. The decision to legally relegate freedmen to slavery "in everything but the name" incited animosity in the North.[63] Additionally, Mississippi's failure to ratify the Thirteenth Amendment did not endear its citizens and their representatives to the federal government. Congress also disapproved of Johnson's selections for provisional governors in the southern states. Its disgust with all that had occurred was evidenced by its refusal to seat the elected representatives and senators from Mississippi and the other former Confederate states as well. As a supplementary measure, Congress created a Joint Committee on Reconstruction from its members to investigate the state of affairs in the South.

Conditions in Oxford, Mississippi in January of 1866 were similar to the rest of the South. The first step in reestablishing government for Oxford and the surrounding towns in Lafayette County was the election of local officials. A. Peterson defeated William Thompson for the dual position of Probate Court judge/County Court judge and received five dollars a day on the days in which court was held plus ten

---

[56]James W. Ely, Jr. and David J. Bodenhamer, "Regionalism and the Legal History of the South," Ambivalent Legacy : A Legal History of the South , Eds. James W. Ely, Jr. and David J. Bodenhamer, (Jackson, Mississippi: University Press of Mississippi, 1984) , p. 5.
[57]Dennett, p. 366.
[58]Joel Williamson, A Rage for Order , (New York: Oxford University Press, 1986) , p. 40.
[59]Dennett, p. 78.
[60] W. E. B. Du Bois, Black Reconstruction in America 1860-1880 , (New York: Atheneum, 1969) , p. 166.
[61]Dennett, pp. 262-263.
[62]Forrest G. Wood, Black Scare The Racist Response to Emancipation and Reconstruction , (Berkeley: University of California Press, 1968) , p. 2.
[63]Du Bois, p. 167.

cents a mile for travel expenses. William Thompson resided in Oxford for years after his loss, but he never ran again as a candidate for public office. He did, however, return to community service in 1870 when he was a member of the committee which persuaded the Selma to Memphis railroad line to travel through Lafayette County. Undoubtedly, his personal and real property, which included more than eleven hundred acres in Lafayette County, encouraged Thompson to remain in the county. In addition to his career as an attorney, Thompson also served as a cotton factor and general commission merchant in Oxford. Peterson, in contrast, appeared to have only one vocation. He served in this judicial position until his death at the end of March, 1867.[64]

The two justices of the peace from Lafayette County who were elected associate judges for the County Court were W. H. Smither and Isaac M. Dooley. Both of these men as well as the other justices of the peace were more substantial members of the community. Smither's holdings almost equaled William Thompson's one hundred thousand dollar estate. Similarly to Thompson, Smither campaigned for the Selma to Memphis railroad line to travel through Lafayette County. He was a merchant and served on the Masons' committee to honor the Civil War dead. In March of 1870, his, and numerous other Mississippians', "political disabilities" were erased by an act of Congress and later that year, he was appointed a commissioner by the reconstituted Board of Police. Dooley's holdings as a farmer were only three thousand dollars, but he certainly surpassed the poverty level and Judge Peterson's assets.[65]

Smither and Dooley appointed the first Monday of each month for the regular meetings of the County Court in Lafayette County as the act passed in the legislature recommended. They also appointed R. W. Phipps as the prosecuting attorney for the Court. The sheriff for Lafayette County and thus, the sheriff for the County Court was W. S. McKee. Although certainly a man of some means, W. S. McKee's total assets in 1860 were twelve thousand five hundred dollars, he appeared to take little interest in community projects. He did, however, perform dutifully as sheriff of Lafayette County until March 23, 1869. Another reassigned officer, W. G. Vaughan, clerk of the Circuit Court, assumed the duties of the clerk of the County Court. Vaughan was considerably more active than W. S. McKee in politics and community affairs. He performed as the secretary for the Bar of Lafayette County, as a committee member to honor the lost Confederate soldiers and as an alderman for the town of Oxford in 1867. Vaughan's later affiliation with the Republican party tarnished his reputation with some residents of Lafayette County.[66]

R. W. Phipps' career never had to weather any reversal of political affiliations. He represented Lafayette County as a Democrat in the Constitutional Convention of 1865 and continued in that party for the remaining years of Reconstruction. For the first twelve months of the County Court's tenure, he

---

[64]Oxford Falcon, 17 Oct. 1868-04 Jun 1870;
[65]Ibid. 04 Jun. 1870, 26 Mar. 1870, 09 Apr. 1870; U. S. Bureau of the Census, Population Schedules of the Eighth Census, 1860.
[66]Census of 1860; Oxford Falcon, 08 Feb 1868, 24 Jul 1869.

prosecuted cases on behalf of the state. R. W. Phipps did not list any personal holdings or real estate in the 1860 Census, but he was the oldest son of Major C. M. Phipps whose worth in 1860 was eighty-seven thousand dollars. Richard Wright Phipps still lived at home in 1860 at the age of twenty-seven. His pecuniary award as a prosecutor was five dollars "on each conviction or plea of guilty" which was calculated as part of the court costs and "no other compensation, save that he might accept an additional fee from any private person to prosecute the same . . . ."[67] In later years of the County Court, he practiced actively both as a plaintiff's and a defendant's lawyer in civil cases and occasionally, as a defense attorney in criminal cases. His prosecutorial duties did not overrule his participation in other activities. In fact, beginning in February of 1866, he advertised in the Oxford Falcon , "prompt attention given to the claims of every description."[68] Since he had risen to the position of colonel in the Confederate army and at the end of the war, commanded all the troops of Mississippi in the Army of Northern Virginia, his enthusiastic participation in organizations and ceremonies honoring the Confederate dead is not surprising. As a dutiful son of Lafayette County, he was its representative to the state capital from 1866-1868. The University of Mississippi Alumni Association also received the benefits of his expertise from 1859 until 1876.

---

[67]Laws of the State of Mississippi, 1865 , Chapter II Section 16.
[68]Oxford Falcon , 08 Feb 1866.

II. CHAOS AND CONFLICT: 1866

With all the mandated personnel of the County Court of Lafayette County in place, the court was ready for business. On their first day, "[t]he three judges seated in the rostrum presented quite a dignified appearance and commanded great respect," in the estimation of one onlooker.[69] Unfortunately, no records survive regarding the judges' or other court employees' thoughts, impressions, feelings or the impetus for the decisions on the first day or any day thereafter. In fact, few records of the court's activities and procedures remain today. This investigation of the court is based on the docket book for the years 1866-1870 and the Final Record for the corresponding years. Neither source is complete and other supporting documents no longer exist. The docket contains areas to indicate the terms of the court, case numbers, plaintiffs, defendants, type of case, attorneys, and judges' notes. The clerk of the court was required to transcribe the data onto each section of the docket. Every case filed in the County Court had a case number and a parallel cite on the docket. In the plaintiff and defendant category, the clerk indicated when a party was a freedman or a freedwoman. Most often, the judges' notes section was used by the clerk to track the progress of the case, but it was sometimes left blank. Some of the other categories of information are also omitted, on occasion. The civil case docket, if there was one, was destroyed or lost in the intervening years. The criminal portion of the docket has survived. The Final Record , also prepared by the clerk, included all of the above information plus a more detailed description of the case and the outcome. The involvement of other judicial personnel were also frequently listed on the Final Record. Again, freedmen were identified. The same case number from the docket was usually transferred to the final record. In some instances, the docket numbers were forgotten, changed or are illegible, but it remains largely accurate.

The docket for 1866 in the County Court for Lafayette County listed a total of eighty-eight cases, forty-four criminal and forty-four civil cases. The constitutional and legal right to a jury was exercised in only twenty-three of the eighty-eight cases. Nine criminal cases utilized a jury. There were special provisions of the act which established the County Courts which probably decreased the desirability of juries in criminal cases. Section 19 of the law provided in all criminal cases that "no such appeal shall be granted from said county court, where the same has been tried therein by a jury."[70] The right to bring a case to a higher court for review was automatically denied, unless the defendant waived the right to a jury. There were no jury-related limitations for appeals in civil cases so the waiver of jury

---

[69]Ibid. , 08 Feb 1866.

[70]Laws of the State of Mississippi, 1865 , Chapter II Section 19.

involvement in those cases is less clear. Since fees of the prosecutor and other judicial employees were included in court costs, jurors' salaries may also have been included in the costs. Litigants may have attempted to minimize their expenses by waiving their right to a jury. The Oxford Falcon mentioned a jury tax in the costs of judgments in at least one instance.[71] There is also the possibility that the plaintiff in a civil case and the defendant in a criminal case preferred to risk the decision of only Judge Peterson and not twelve men. Further evaluation of the jury's actual decisions does not substantiate this idea. The verdict in eight of the nine criminal cases was not guilty; the jury found for the plaintiff in ten of the fourteen civil cases.

Violence, according to Southern historians, pervaded activities in the South and provided a distinctive characteristic for the entire region.[72] Assault and battery crimes dominated court time in the antebellum South and in 1866, the trend continued.[73] It is not surprising then that assault and battery cases were the most prevalent type of case on the entire docket in 1866. There were nineteen charges of assault and battery in 1866. Racially, the cases were not evenly distributed. Thirteen charges were filed against white men, five charges were filed against black men and one against a black woman. There were only two racially mixed cases. The verdict of a jury determined the outcome of only five assault and battery cases in the first twelve months of the County Court's operations. The defendants in these five cases were all white and they were all exonerated. The chart which follows outlines the results of these nineteen cases.

ASSAULT AND BATTERY 1866

	GUILTY	NOT GUILTY	DISMISSED
FREEDMEN	5	0	0
FREEDWOMEN	1	0	0
WHITE MEN	4	4	5
WHITE WOMEN	0	0	0
TOTAL	10	4	5

[71]Oxford Falcon , 26 Jan 1867.
[72]Bertram Wyatt-Brown, Southern Honor , (Oxford, England: Oxford University Press, 1982) , p. 366; W. J. Cash, The Mind of the South , (New York: Vintage Books, 1941) , pp. 44-45.
[73]Wyatt-Brown, p. 393.

Bob Morton, a freedman, supposedly angrily drew an axe on William Ward and said that he would "stick it in him."[74] Ward was a fifty-six year old white farmer, who in 1860, was unmarried or perhaps widowed. Little other information is known regarding Ward, except that in 1860 , his personal holdings and real estate were valued at approximately four thousand dollars.[75] Even less is known about Bob Morton, since he apparently fled from the county. The case was dismissed, since the sheriff was unable to locate Morton. The second racially-mixed case also did not proceed to trial. J. C. Stephens was arrested for assaulting Mary Buckner, a freedwoman. This case was settled with the aid of Mary's husband, Alexander, but no details of the settlement were provided. Twelve of the remaining cases of assault and battery were against members of the same race and eleven of the twelve were battles between the same sex. The last five cases were only enumerated on the docket which supplied scanty information.

The conviction rate for freedmen was considerably higher than the conviction rate for whites charged with the same crime. Again, all of the freedmen and the freedwoman waived their right to a jury. Five out of six blacks were convicted of their assault and battery charges and only four whites (two men were co-defendants in the same case) were judged guilty. The trials of three of the six blacks charged with assault and battery occurred in July. The same white benefactor, J. E. Markett, paid the assessed fines for all three. Whenever an individual was unable to pay his/her fine, a benefactor or security paid the outstanding amount. In repayment of the debt, the guilty individual labored for the security until the fine and court costs were paid. Markett may have made financial restitution for Millie Markett and Sam to employ them in his fields. July was a "chopping" month and agricultural assistance was coveted. He employed at least one of the defendants, Sam McFadden, for whom he paid the fines, but his monetary support apparently did not eliminate some punishment.[76] McFadden hung by his thumbs for five minutes on several days in the square of Oxford.[77] He was the only freedman charged with assault and battery who suffered such punishment. The differentiation in McFadden's case was that he assaulted a freedwoman.

There was only one case detailed in which a white person assaulted a person of the opposite sex and this case was settled, as was previously discussed. Nearly half, five out of thirteen, of the assault charges against white males were dismissed. Of the eight remaining cases, the jury proclaimed the innocence of four. The dispatching of criminal offenses required a legal report of the crime and conviction. In the South, acts of violence including fighting and duels were "less likely" to be reported to legal officials than in the North, and the rate of convictions was also lower.[78] There is no way to assess

---

[74]Final Record, State vs. Bob Morton.
[75]Census of 1860.
[76]Oxford Falcon , 05 Jul 1866.
[77]Final Record, State vs. Sam McFadden; Oxford Falcon , 05 Jul 1866.
[78]Wyatt-Brown, p. 368.

how many cases went unfiled, but the conviction rate in 1866 for whites in Lafayette County was less than thirty-two per cent.

The conviction rate in the first case on the criminal docket reinforced the same percentage. The charge against each of the three men in State vs. W. G. Beanland, W. L. Buford,and G. B. Bowles was affray or fighting. This, however, was no ordinary fist fight. These men abused each other "to the terror of the people" in the city of Oxford.[79] The next two cases on the docket appeared to have their origins in this same altercation; however, the charges in the related cases were for assault and battery, not simply fighting. The charges for fighting were dropped against W. L. Buford. G. B. Bowles readily admitted his guilt and paid a fine of ten dollars plus court costs. Beanland was the only defendant to take his chances with twelve of his peers. Strategically, it was a wise move, for he was acquitted. The Final Record usually provided the name of only one member of the jury in those cases in which there was an assembly of jurors. In this case, A. T. Owens was the jury member listed. He and the other jurors supported Beanland's plea of not guilty. Evidently, Beanland and Buford publicly and physically displayed their animosity for each other in an even more vehement way. R. W. Phipps, the prosecutor, pressed charges for assault and battery against both of them. Apparently, the prosecutor and Bowles' fellow pugilists absolved him of further crimes and he was not saddled with the defense of assault and battery allegations. W. G. Beanland was acquitted of all charges, again by A. T. Owens and company. Buford 's assault and battery case was also dismissed.

Bertram Wyatt-Brown insists that violence in the South was not limited to a particular class. In the first three cases of 1866, the economic standing of the defendants was more similar than dissimilar. Beanland, at age twenty-three, was certainly a member of a privileged class, when his holdings totaled eighteen thousand dollars. Buford, whose holdings were even more noteworthy, was evidently also a member of more exclusive society. Green B. Bowles was twenty-one at the time of his arrest and the son of the one of the wealthiest people in the entire county. He lived at home with his mother, which was probably why there was no individual data regarding his possessions in the Census of 1860. The personal holdings of his mother, Mary B. Bowles, were worth eighty-five thousand dollars in 1860. Evidently, Green suffered a change in circumstance, since in 1865, he applied for relief through the Mississippi state legislature.[80]

The Final Record offered no clues why these three "gentlemen" resorted to brutish behavior. Bowles was the only single man so the quarrel probably did not involve a woman's affections. Forty-three years separated the youngest contender from the oldest. Beanland was a merchant, Buford was a farmer and Bowles was a son, which intrinsically did not seem to provoke conflict. The additional struggle between Buford and Beanland was also inexplicable. Why Beanland would battle with a farmer

---

[79]Final Record, State vs. Beanland, Buford, Bowles.

[80]Wyatt-Brown, pp. 353-354; Census of 1860; Journal of the Senate of the State of Mississippi, 1866, p. 85.

thirty-four years older and twenty-five thousand dollars wealthier, or the reverse for Buford, will probably never be known. Beanland found another outlet for his pugnacious energies in January of 1866, when he was elected a colonel in the Mississippi Militia. The following month, he served, along with W. H. Smither, an associate judge of the County Court, on a committee of the Masons to honor the fallen Confederate soldiers. Beanland reappears in the narrative but less is known of Buford. In fact, the only other reference to him was a compliment and thanks for a nine and 5/8 pound turnip.[81]

A jury, with T. E. B. Pegues as a member, acquitted B. E. Law of the charges of assault and battery. His first trial in April of 1866 resulted in a hung jury so a mistrial was declared. In the following month, the second jury unanimously agreed on his innocence. There is more information available regarding T. E. B. Pegues than either B. E. Law or his victim, William Laudermilk. Laudermilk was not counted in the Census of 1860. The related case of State vs. William Laudermilk was dismissed. Law and Pegues were both employed agriculturally, as was most of Lafayette County; although, Pegues considered himself a planter and Law described himself as a farmer. The fifty-six thousand dollar difference in worth probably explains the nomenclature.[82]

J. D. Fletcher and John Walker were both acquitted of the charges of assault and battery by twenty-four property owners of Lafayette County. Neither case was covered in the Final Record. Fletcher was a thirty-six year old railroad operator whose holdings in 1860 were greater than five thousand dollars. He was one of the few railroad employees in Oxford in 1860 who was not originally from Ireland. There were two John Walkers listed in the Census of 1860 and without any additional information, it was impossible to determine if the charges were brought against a twenty-one year old or a sixty-nine year old farmer with personal holdings in excess of nineteen thousand dollars.[83]

The next two cases of assault and battery may be related, but again, without the benefit of the Final Record, any conclusions are largely speculative. In March, James Bowen was arrested for physically abusing William Tyre. The charges were dropped against Bowen. Three months later, William and a relative, S. S. Tyre, were arrested for assault and battery on an unknown victim. William's father, Shade, a farmer of moderate wealth in 1860, may have been William's co-defendant.[84] Did William retaliate against Bowen, this time with assistance, or did William simply possess a penchant for violent behavior? At the time of these incidences, William was twenty-seven. He was murdered before he reached thirty.[85] Reviewing all the assault and battery defendants for 1866, confirms Wyatt-Brown's assertion regarding the pervasiveness of violence in southern society. The

---

[81]Oxford Falcon , 22 Dec 1866.
[82]Census of 1860.
[83]Ibid.
[84]Ibid.
[85]Oxford Falcon , 25 July 1868.

individuals involved were various ages, incomes and professions but all with a desire for brawny reconciliations.

Contemporary Southerners believed that stealing was an example of an intrinsic behavior but almost exclusively of African-Americans.[86] Larceny ranked second on the scale of criminal cases on the docket. Arrests for this crime occurred more often in the ranks of freedmen than in whites in Lafayette County in 1866. Seven of the eleven cases charged freedmen with thievery. Blacks stole two items exclusively, food and weapons. When faced with a dearth of even the most basic provisions and with extremely limited resources in 1865 and 1866, freedmen stealing food was not unexpected. Newly freed slaves rarely possessed any cash or material items with which to acquire food. The unrest and disorder in the community aroused thoughts of self-preservation in both races, but newly freed slaves stealing weapons petrified the white citizens of Lafayette County. Possession of any firearm by a freedman, a crime punishable under the Black Codes, reflected the pervasive fear of armed uprisings by former slaves. Afro-Mississippians certainly experienced the turmoil and disruption of postwar society and the need to protect themselves. Government was inefficient and inadequate and members of both races fortified their domains. The tabulation of criminal arrests for larceny presents a quandary difficult to unravel. There were almost twice as many arrests of freedmen for stealing in Lafayette County. Was the white law enforcement officer convinced that blacks were thieves and thus, located more to arrest? Was thievery a crime particularly distasteful to the Lafayette County community so its citizens encouraged more intense police action for this particular crime? Did the arrest depend upon the victim? Were freedmen, for some reason, easier to apprehend? Perhaps hunger and self-preservation overcame their obedience.

Three of the cases for petit larceny against freedmen in Lafayette County were thefts of food. These incidents occurred approximately in the first half of the new year, when sustenance was still scarce. Dave, Cary and Noah were the defendants found guilty of pilfering the pantries of white citizens. Dave helped himself to meat in Mrs. B. W. Butler's smokehouse. Prior to Union General A. J. Smith's destructive visit to Oxford on August 22, 1864, Mrs. Butler owned a two-story brick hotel on the square in Oxford. She and her husband, the first sheriff of Lafayette County, purchased their land very early in the county's history. She was one of the founding members of the First Baptist Church in Oxford and there is some evidence that the initial meetings of the congregation were in her hotel. Charles G. Butler, her husband, was a forefather of Maud Butler, William Faulkner's mother. In 1860, her husband had died, but she was still worth fifty thousand dollars. Dave pleaded guilty to the charges and was fined five dollars plus the costs. William B. Bowen, Charles Butler's brother-in-law, paid the costs incurred by Dave's arrest and conviction.[87]

---

[86]Dennett, pp. 78, 119, 146, 171, 176, 183-184, 191.

[87]Sobotka, p. 24; Skipwith Historical and Genealogical Society, Inc., The Heritage of Lafayette County, Mississippi, (Dallas: Curtis Media Corp., 1986), pp. 61, 29, 239.

James Waters financed Carey's release, since Carey admitted that he stole less than a hundred dollars of corn (no more precise amount was given) from W. S. Bunch, a farmer. Carey's guilty plea eliminated much of the judicial process and he was fined one dollar plus costs. James E. Markett emerged again as the security for the next freedman, Noah. Noah pled guilty to petit larceny: one hog stolen from Markett. He endured a punishment which none of the other freedman convicted of petit larceny suffered. He was "suspended on the Public Square in the town of Oxford [presumably by his thumbs] for five minutes each day for two days and confined in chains during this time . . . ."[88] Noah's fine was one dollar plus costs. Perhaps Markett required an extra amount of discipline in exchange for his security. The only other freedmen who was hung by his thumbs was also secured by Markett. Undoubtedly, the timing of both of these cases in July, during a labor-intensive segment of the season, influenced the determination of punishment and perhaps even the arrests. Judge Peterson or R. W. Phipps or even Markett may have urged the additional public degradation. Public humiliation, one theorist concludes, is effective in a tightly knit, immutable society in which consensus spreads to morals and values.[89]

The following larceny cases in which freedmen were the defendants spotlighted a more threatening theft. The first was filed in February, the second in June of 1866. Both Sherman and John Harris were accused of stealing a pistol. Sherman pleaded not guilty to the theft of a pistol from Green B. Bowles, an assault and battery defendant mentioned earlier in this paper. Eleven men and D. W. Porter declared Sherman guilty and Judge Peterson fined him ten dollars plus costs. In 1866, this was the largest fine imposed on a freedman. Judge Peterson reinforced community standards by dictating such a weighty sum. Porter, the lead juror, was a substantial farmer and at age thirty-five he was worth forty-five thousand dollars. He served on an Agricultural Fair committee to determine location and construction of the Fair with T. E. B. Pegues, an assault and battery juror. Porter was not beyond executing the law himself. In the inhospitable weather of February in 1869, he personally chased some thieves almost fifty miles until he recovered his two mules in Senatobia, Mississippi.[90]

State vs. John Harris was dismissed, since the sheriff was not able to locate John Harris, a freedman, in Lafayette county. Harris allegedly purloined a pistol from J. D. Delbridge, a leading citizen of Oxford. Delbridge was elected alderman of the city of Oxford on several occasions and also assumed the duties of the secretary for the city. Throughout the existence of the court, he operated a plantation supply store or a confectionery and family grocery.[91] There were no crimes perpetrated by freedmen against mercantile establishments in Lafayette County in 1866 or at least, no formal charges

---

[88]Final Record, State vs. Noah.
[89]Steven A. Hatfield, "Criminal Punishment in America: From the Colonial to the Modern Era," USAFA Journal of Legal Studies 1, (1990) : 154.
[90]Oxford Falcon , 27 Feb 1869.
[91]Oxford Falcon , 04 Jan 1866, 15 Feb 1868.

were brought in the County Court. In all the cases of petit larceny involving freedmen which were filed in the County Court, the victims were white and individuals. There were no reported cases of blacks robbing blacks in 1866.

In the fall, there were two more arrests for larceny committed by freedmen. State vs. Samul Price was dismissed and Dick Stevenson settled his case. Stevenson's settlement was not provided. These cases were only revealed on the docket so there is no further information available regarding the nature of the crime. There were no more arrests of freedmen for larceny during that year so perhaps, the freedmen chose to endure the pangs of hunger and fear as opposed to the burns of rope. Alternatively, maybe an improved harvest and more settled conditions altered the perspective of all involved.

Two of the cases of white petit larceny were also thefts from whites. The other two cases were recorded only on the docket which did not list the victim. Jesse Parker, Edmund Nearing, and Willey McFadden were charged in February of 1866 with stealing and killing hogs which belonged to William F. Howell. They pled not guilty, and the jury, including A. T. Owens confirmed their plea. This case was tried during the same term as Beanland's assault and battery trial, which resulted in the same verdict by Owens and the eleven other men assembled for the occasion. Owens was an influential merchant in Oxford whose return and construction of a grocery business on the square in Oxford in January, 1866 brightened the lives of many Oxonians.[92] Later that year, he was appointed Major and Quarter Master of the Mississippi Militia. Howell's life as a farmer of adequate resources, two thousand dollars in 1860, appeared to limit his outside activities.[93] A. J. Parker failed to enter a written response or appear in court after being presented with the service of process in his petit larceny case. Parker was accused of appropriating two pipes belonging to W. J. Wilkinson. His case ended in default with a judgment entered against him and against his security, E. A. Williams, in the amount of fifty dollars each.

Although Markett and others may have periodically encouraged larceny and assault and battery arrests to augment their work force, the next criminal charge related directly to labor practices. Enticement was the criminal term used to describe an individual who persuaded or "enticed" another individual, usually a freedman or freedwoman, from a binding employment contract. It was a widespread practice in the South and Mississippi planters travelled as far as Louisiana to lure freedmen into the cotton fields.[94] All three of the enticement cases filed in Lafayette County in 1866 were filed before the end of March, which was during the labor shortage. The conviction rate for these cases was zero. The apparent inattention of Judge Peterson, R. W. Phipps, and a jury of twelve citizens to a crime with serious ramifications for the economic recovery of the area was surprising. A closer study of the occupations and personnel encompassed supplied potential illumination. Although all the people

---

[92]Ibid., 18 Jan 1866.
[93]Census of 1860.
[94]Roark, pp. 135-136.

arrested for enticement were men, two freedmen and one white man, all those allegedly enticed were freedwomen. No citizen of Lafayette County sought legal redress for enticement of a male employee during 1866 or any other session of the County Court of Lafayette County. None of the accounts delineated what the women's actual jobs were or how the enticement proceeded. Therefore, it was difficult to discover if the employer overreacted as a result of the labor shortage or decided that the case was not worth litigating further. There is always the possibility that the employers filed the suit as a threat, without any serious plans to adjudicate.

The state arrested three people for enticement and two of the people were freedmen. The charges against Lafayette Tidwell, a white man, and Sandy, a freedman, were dropped. The third case and the only enticement case to utilize a jury, State vs Jack Barr , exculpated the freedman. This was a unique case for another reason, it was the only case in 1866 which was appealed from a Justice of the Peace Court. These courts were prevalent throughout the United States to direct legal intervention in uncomplicated, local issues with a minimal cost to the populace.[95] James Willard Hurst concludes that the most prominent features of the Justice of the Peace Courts were their availability and the ability to instill confidence in legal institutions.[96] Since Jack Barr's case was the only criminal case that was appealed in 1866, there was certainly a degree of confidence in the decisions made by the Justice of the Peace Courts in Lafayette County, but the Mississippi legislature provided for extenuating circumstances. The act which established the County Courts permitted individuals to appeal the decisions promulgated by judicial officials in Justice Courts, Justice of the Peace Courts and Mayors' Courts to the County Courts. Jack Barr appealed his conviction from W. H. Smither's Justice of the Peace Court and enlisted the aid of H. A. Barr. In addition to their antebellum relationship and familiarity, Jack Barr probably considered H. A. Barr's reputation as a trustworthy and stable lawyer.[97]

H. A. Barr successfully defended Jack Barr against the enticement charges and the conviction was overturned. Supposedly, Barr induced Caroline, a freedwoman, to "desert Dr. L. E. Warrington's employ before her contract expired."[98] A. T. Owens was the jury member designated in the Final Record. Judge Peterson's instructions to the jury in this case provided a possible clue. His charges included the comment that a woman was not permitted to form a contract without the consent of her husband.[99] Jack Barr's marriage to Caroline shifted the context of the lawsuit. H. A. Barr quite shrewdly focused on a mitigating aspect of the case, which all twelve men on the jury understood and sanctioned with their verdict.

---

[95]Hurst, The Growth of American Law , pp. 147-148.
[96]Ibid . , p. 194.
[97]Kendel, p. 231.
[98]Final Record , State vs. Jack Barr.
[99]Oxford Falcon , 08 Feb 1866.

In State vs. Sandy , similar charges for enticement were brought for the attempted interference with Sarah's contract with Mrs. M. Brown. The language in the case summary also mentioned that Sarah was an employee of Mrs. Brown's husband, James Brown. He was, without a doubt, the wealthiest participant in the County Court docket for the entire year of 1866. His personal and real estate holdings, in 1860, were worth more than $674,000. Brown, like Charles Butler, was one of the first purchasers of land in Lafayette County.[100] Politically, he also held weighty positions. He was the representative for Lafayette County to the state legislature in 1865. One of the committees on which he served was the Joint Select Committee on Freedmen, which drafted the County Courts' parameters. He voted aye to the following resolution in the Mississippi Senate,

> will support no man for U. S. Senator who is or shall be in favor of giving to the slaves thus manumitted, any right civil political or social, further than was vouchsafed unto the person and property of the domicilated "free negro" by the statutes of the state prior to the late revolution.[101]

Brown did not utilize the County Court again for the rest of its existence, which is a bit surprising given his sentiments regarding the freedmen. Perhaps his position as trustee of the Cumberland Presbyterian Church and his position as one of three directors of the Mississippi Central Railroad in Lafayette County controlled his schedule.[102] Thomas Holmes, the complainant in the last enticement case, also never again employed the scales of justice in the County Court, after his initial experience. The charges in the case of State vs. Lafayette Tidwell were dropped by R. W. Phipps, the prosecutor. Lafayette Tidwell and Thomas Holmes owned adjacent farms and neither had very substantial holdings.[103] Both of these conditions may have increased their hostilities and the contention regarding the duties of Elizabeth Olivar. The case was filed in March, which was often a time for planting, but Elizabeth Olivar's occupation was not provided by the records.

The remainder of the criminal docket for 1866 contained a variety of different charges and no more than three examples of each category; however, there was a precept linking these cases. The arrests for malicious mischief, adultery, exhibition of a deadly weapon, charging excessive tolls, and retailing all sought to control the behavior of the residents of Lafayette County. Morality was enforced in some instances, such as retailing and exhibiting a deadly weapon, with enormous fines. In other cases, such as charging excessive tolls, public announcement of the crime deterred future encroachments. In 1866 in the County Court, freedpersons were the only individuals arrested for adultery and exhibition of a deadly

---

[100]Sobotka, pp. 24-25.
[101]Journal of the Senate of the State of Mississippi, 1866 , p. 29.
[102]Skipwith Historical and Genealogical Society, Inc., p. 60; Oxford Falcon , 19 Oct 1867.
[103]Census of 1860.

weapon. The white criminals who discharged weapons and even killed animals were simply charged with malicious mischief. No white citizens of Lafayette County were arrested for adultery or fornication.

Malicious mischief claimed three white defendants and none opted for a jury. State vs. Robert T. Cook, Jr. was docketed in February of 1866. Cook murdered James M. Teas' dog while practicing his marksmanship on a public highway. Apparently, being the only son of a livery keeper inspired no love for dogs in Robert Cook, Jr. Teas agreed to dismiss the case, since Robert Cook Sr. paid the dog owner for the loss. In the Census of 1860, Teas dictated his occupation as a saddler. Robert T. Cook, Sr. probably did business with Teas so the financial settlement and dismissal of the grievance benefitted all parties. James W. Tomlinson also unlawfully shot a pistol on the public highway, destroyed a dog, and was charged in February of 1866. This dog belonged to John W. Jones, a farmer and grocer. Evidently, Jones was also fond of his produce, and he distributed it to people who would publicize their appreciation.[104] Tomlinson pleaded guilty and was fined one dollar plus costs. The experience, however, did not eliminate all charitable feelings; for a few years later, he was appointed to a position as an overseer of the poor by the Board of Supervisors in Oxford.

The third account of malicious mischief involved not only the unlawful discharge of a pistol in town but also the destruction of a portion of J. M. Cook's fence with vulgar graffiti. The text of the graffiti was not provided in the record. W. Daniel Midyette's defacement of J. M. Cook's property occurred more than half a year after Cook's election to the office of Mayor of Oxford so it probably was not a political statement. Cook decided cases in the Mayor's Court and Midyette may have been a disgruntled litigant. Serving as a dry goods merchant in the town of Oxford, Cook may have angered the customer, W. Daniel Midyette. In March of 1866, Midyette or a relative owned a confectionery on the southwest corner of the square.[105] Perhaps, there was some commercial rivalry. Cook's financial standing, thirty-eight thousand five hundred dollars in 1860, may have aroused jealousy. The curious nature of the case encourages speculation. The County Court prosecutor, R. W. Phipps, dismissed the charges against W. Daniel Midyette without any further justifications or explanations.

Thomas Wade's exhibition of a deadly weapon earned him criminal penalties without even firing a single shot. The prosecution of unlawful display of a weapon was expressly given to the County Courts by the legislature. In 1866, Wade was the only person the County Court of Lafayette County pursued for this violation. The only other information gleaned from the docket was that Wade, a freedman, displayed his possession sometime between the second week in July and the first week in August in 1866. There was no description of the type of weapon, the way in which it was exhibited, to whom it was exhibited or even the result of State vs Thomas Wade on the docket. The case was not included in the Final Record. The Oxford Falcon identified the weapon as a gun and indicated that Wade's punishment

---

[104]Oxford Falcon , 07 June 1866

[105]Ibid . , 15 Mar 1866.

was a ten dollar fine plus twenty-four hours of imprisonment in the county jail.[106] The large amount of the fine, again, indicated the severity of the threat to the Lafayette County white community.

The public's interest in the next two cases was not one of fear for its safety but fear for its purse. State vs Elijah Cantwell and State vs Lee Campbell involved excessive tolls on a public ferry. Both cases were filed in June of 1866. The two major waterways in the county, the Yocona River and the Tallahatchie River, were the two waterways in question. In February of 1866, Campbell and his partner rented the Toby Tubby ferry and built a new ferry boat.[107] J. W. McLeod questioned the rates on this five month old ferry boat and N. A. Isom and his fellow jurists substantiated Campbell's prices. McLeod accepted Isom's verdict without any long-lasting bitterness, since they formed a partnership in the grocery business several years later.[108] Cantwell's case did not proceed to adjudication; Phipps dismissed the charges.

According to Southern historians, close attention to adultery and fornication decreased before the second half of the nineteenth century.[109] In 1866, there were four people accused of adultery in the County Court; all four were freedpersons. In State vs Moses , Moses was not located in Lafayette County so R. W. Phipps was unable to prosecute him for adultery. The three remaining freedpersons were co-defendants in a case filed in February of 1866. Luckily for Charles, Fanassee, and Tink, A. T. Owens was one of the designated jurors for most of the February term. He never convicted, regardless of race, and this case was no exception. No other freedpersons were arrested for this offense during the rest of the year. The chaotic nature of Lafayette County during the beginning of Reconstruction and the moralistic prejudices of the whites accounted for the effort to institute strict moral codes in that crucial first year. Thad K. Preuss, a Freedmen's Bureau agent in Oxford, noted many cases of polygamy between freedmen and freedwomen in 1867, and he concluded that they had little regard for "the sacred requirements of the marriage relation."[110] Yet, after 1866, no freedpersons were arrested for this offense. Another indication of the racial motivation was the fact that no white person was ever charged with adultery during the five-year term of the County Court.

Retailing, another type of criminal charge designed to regulate morality, occurred twice on the docket in 1866. A more descriptive explanation of the offense was the sale of "spiritous liquors in a less quantity than one gallon without first having obtained a license."[111] One white man and one freedman were charged with this offense in June of 1866. There was no evidence that these men were creative

---

[106]Ibid . , 12 Jan 1867.
[107]Ibid . , 08 Feb 1866.
[108]Ibid . , 03 Sep 1870.
[109]Ely and Bodenhamer, p. 38.
[110]Records of the Assistant Commissioner for the State of Mississippi, Freedmen's Bureau, RG 105 Entry 2307 Vol 239, Mississippi, Report of Thad K. Preuss, August 1867, Report of Thad K. Preuss, October, 1867.
[111]Final Record, State vs. A. L. Fortune.

partners. A. L. Fortune pleaded guilty to the charge of retailing and received a twenty-five dollar fine plus costs. Considering that most fines were one or five or occasionally ten dollars, twenty-five dollars was certainly expensive. If the fine is any indication, Judge Peterson and R. W. Phipps certainly wanted to discourage any further unlicensed sales of liquor. Social legislation regulating the sale of liquor was passed during the 1850's and the 1860's, which may partially explain Peterson's and Phipps' vehemence.[112] The freedman, whose name was Dock, prudently, at least for his budget, vanished from the county and his case was eventually dismissed.

The final case on the criminal docket, County Court vs. Kendel et al. Officers of the County, fits within the present category of behavior modification but more for administrative purposes. The Final Record omitted this case, for some unknown reason. The nature of offense section of the criminal docket outlined the following, "for not reporting as per act establishing county courts."[113] The Mississippi legislators of 1865 supplied explicit instructions for the apprehension of criminals. The act which created the County Courts inculcated a duty for every civil servant to report all criminal infractions to the County Court. There was no question about the pervasiveness of the responsibility to report criminal activities and the enforcement of community standards. Following the traditional procedure, in April of 1866, R. W. Phipps filed the charges against the officers of the county. The docket, unfortunately, did not specify who the complainant was. Did R. W. Phipps initiate the suit himself, since his income depended on convictions in the court? Was the sheriff lax in his duties? Were the other officers of the county irresponsible? There were thirteen criminal cases filed before April and nine additional criminal cases filed in that month. Even after this suit was filed, there were never more than eight criminal cases on a monthly calendar. J. L. Kendel, the treasurer in 1866, was named specifically in the suit. It was unclear whether the charges were applicable to his position as treasurer or for some other reason. There was also no indication whether this contention referred to one particularly egregious incident or to many omissions by Kendel, or the others or both. A few months after this suit was filed, the Attorney General for the State of Mississippi issued a directive to all county officers to report all legal violations or accept a pecuniary assessment.[114] Since the Attorney General issued a formal, state-wide warning, other jurisdictions must have also neglected their duties to the County Court system. Perhaps, the Lafayette County received notification of the Attorney General's warning prior to his official reprimand.

The county officers did not hire an attorney to defend their reputations, but there were ten other criminal defendants who did. Seven of the ten were white men. All of the white men's cases were dismissed or they were found not guilty, except one. The one case in which a lawyer was not beneficial was A. L. Fortune's arrest for retailing. The costly fine presented evidence of the severity of the case so

---

[112]Rowland Berthoff, An Unsettled People, (New York: Harper & Row Publisher's Inc., 1971), p. 170.

[113]Docket, County Court vs. J. L. Kindel et. al. Officers of the County.

[114]Oxford Falcon, 09 Aug 1866.

it was not surprising that Barr & Barringer was not able to secure the acquittal of its client. H. A. Barr and his partner, Barringer, were the most utilized criminal attorneys in 1866. In the Census of 1860, Barr's legal occupation was recorded, but Paul Barringer chose to describe himself as a planter. Barr handled four cases solely; the partnership processed three cases. In fact, Barr and his firm were the only attorneys to represent the three freedmen. The decisions did not follow any pattern: Jack Barr was acquitted of the enticement charges; Sherman was found guilty of petit larceny; the petit larceny case against Samul Price was dismissed.

The other defense attorneys included on the criminal docket were C. B. Howry, E. R. Belcher and J. M. Phipps. Each of these attorneys achieved a dismissal or a not guilty verdict for his clients. All of the lawyers who represented defendants in the criminal sector except, E. R. Belcher were wealthy, or sons of wealthy men. This, too, followed an existing pattern. Professional families in the South controlled the membership of the bar until long after the turn of the century. There was only one law firms listed, which was not unusual for the time and place. The antebellum legal community usually consisted of a sole practitioner and one or two law clerks. The growth of larger firms and legal associations did not occur until the 1870's in many places in the United States, and even later in Mississippi.[115]

Judge Peterson was not a typical southern lawyer. In 1860, he owned less than fifteen hundred dollars in real estate and personal holdings combined.[116] He was fifty-seven years old, when he donned his robes for the Probate Court and County Court. Although he operated two courts, the County Court on the first Monday of the month and the Probate Court on the fourth Monday of the month, there were mitigating factors in the operation of the criminal docket of the County Court in 1866. Since there were eighteen dismissals of criminal cases, nine jury verdicts, ten guilty pleas, two settlements and one default, Judge Peterson issued a decision in four potential cases. The outcome of two of those cases was not indicated and it is certainly possible that they were settled or dismissed without his input. He was obligated to preside over the proceedings in his courtroom, but his major task for the criminal cases was sentencing or punishing the guilty defendants. All those convicted received a monetary fine. Noah, and Sam McFadden, both freedmen, suffered the additional punishment of hanging by their thumbs. Robert McGlown, a freedman guilty of assault and battery, and A. L. Fortune, the retailing defendant, were the only defendants assigned to the sheriff's care. Since no one offered to secure their fees, both men remained in custody of the sheriff until their fees were paid.

---

[115]Kermit Hall L., The Magic Mirror, Law in American History, (New York: Oxford University Press, 1989), pp. 216, 212-215.
[116]Census of 1860.

Civil Docket

Although this analysis divides the criminal and civil cases, in actuality, they were handled simultaneously in each monthly term of the County Court. The civil docket for the County Court included complaints for collection of debts, accounts, and promissory notes, as well as cases for the recovery and seizure of property and violation of labor contracts. The Final Record exists for thirty-one of the forty-four civil cases from 1866. No civil docket has survived to illuminate any facts pertaining to the thirteen missing lawsuits. There were only three freedmen involved in any of the civil cases for the entire year of 1866. These three former slaves were plaintiffs with three different claims against whites, but all three cases were dismissed. There was only one other civil case dismissed during 1866. As with the criminal docket, one type of case dominated the civil contentions. Recovery of property, and recovery of debt including promissory notes, accounted for more than half of the cases. There were eight cases for the recovery of property alone.

The total valuation of property in Lafayette county dropped by more than ten and a half million dollars between 1860 and 1870.[117] Retention and acquisition of property were bound to provoke conflict in such a depressed economy. People were impoverished enough to cling firmly to their belongings. Seven of the eight recovery of property cases were decided by a jury. The remaining case, which was filed by the only freedman in this category, was not even litigated. These seven plaintiffs, scattered throughout 1866, expected more favorable results from twelve citizens of the county than from Judge Peterson. Since Judge Peterson possessed very little in terms of real estate and personal holdings, perhaps they thought that he would not comprehend their needs. The jurors listed in 1866 did own more of the community than Judge Peterson; however, it was his ethical duty to keep the scales of justice blindfolded. The verdict of the jury disappointed only two plaintiffs, Catherine Schulz and her husband, who were parties in the same case.

Catherine Schulz's suit against Dr. L. E. Warrington concerned a piece of property in the town of Oxford. Married women in Mississippi were granted legal rights independent of their husbands as early as 1839. The impetus for this practice, according to Suzanne D. Lebsock, was not an early demonstration of feminism by exclusively male legislatures but an insulation for debtors.[118] Reconstruction continued the reforms governing married women's ownership of property, but these statutes and constitutional rights merely unintentionally increased women's independence.[119] In 1866, land was an unusual asset over which to litigate. Most of the other cases involve farm animals, horses, mules, and a cow. These disappearances occurred not coincidentally in the spring, summer and fall. The timing presented another

---

[117]Kendel, p. 256.
[118]Suzanne D. Lebsock, " Radical Reconstruction and the Property Rights of Southern Women," The Journal of Southern History XLIII, (May 1977): 197-198, 203, 207.
[119]Ibid., pp. 196-8, 215.

differentiation with the Schulz complaint, which was filed in January. Evidently, since the case was filed in the first term of the first meeting of the County Court, Catherine Schulz desired immediate action. Undoubtedly, she and her husband were disappointed with the decision for the defendant issued by D. W. Porter and his eleven fellow jurors.

W. D. McFarland, Alfred Barger, J. W. Johnston, J. M. Dooly and their respective attorneys disputed items more tangible than women's independence. These four men convinced the juries that the farm animals in question belonged to them. McFarland had no compunction suing a single or widowed woman for the ownership of a bay mare. The twelve men of the jury, including T. E. B. Pegues concurred with McFarland's petition for detainer. Alfred Barger's limited income and agricultural occupation probably encouraged him to seek legal redress against J. B. Abbott for a twelve year old mare.[120] Abbott was forced to relinquish the animal upon the decision of T. E. B. Pegues and his eleven fellow jurists. Barger declared farming as his occupation in the Census of 1860, but in 1868, he had enough familiarity with either the law or collection techniques to assist the Oxford Falcon with its past due accounts.[121] Perhaps his success in his case with Abbott or the need for supplemental income buoyed him into a career change or addition.

Wilson Martin, a freedman, hired J. M. and R. W. Phipps to recover his equine property from Jane Cofer in July, 1866. Mr and Mrs. Cofer reputedly retained a bay mare and an eight month old colt, which belonged to Martin. Mrs. Cofer's attorney, E. R. Belcher, pursued a legal technicality that probably resulted in the dismissal of the suit. In order to prosecute a suit in the County Court, a plaintiff had to furnish a guaranty in the amount of twice the value of the suit. Belcher mentioned this requirement, and the next notation in the file was a dismissal of the case by Martin. This was the sole case described in the Final Record in which an attorney highlighted the financial guaranty.

George Taylor, a freedman, also dismissed his case against a white defendant. Taylor's complaint alleged a breach of warranty by J. W. Johnston, who had sold to Taylor a mule. The same attorneys from the Martin case conducted these proceedings. Belcher neglected to interject the fiduciary requirement in this case, but the result did not change. Taylor, the freedman, dismissed his case and in an unusual arrangement, shared the court costs equally with J. W. Johnston. The case which followed George Taylor v. J.W. Johnston numerically, although in a different term, was J. W. Johnston v. W. J. Coleman. A mule was the focus of this litigation as well and it may have been the identical creature. A jury delivered the mule to J. W. Johnston, which appeared to conclude the legal proceedings. The juror listed in the Final record was James M. Dooly, who was a justice of the peace, one of the founders of the Cumberland Presbyterian Church, and the first Grand Master of the Masonic Lodge in Lafayette County.[122]

---

[120]Census of 1860.
[121]Oxford Falcon, 18 Jan 1868.
[122]Skipwith Historical and Genealogical Society, Inc., p. 288.

Two months later, James M. Dooly was the plaintiff in a civil suit against A. J. Isom. In addition to his other responsibilities, Dooly was also a dairyman. Isom allegedly shot and killed one of Dooly's "milk cows." The other two incidents in the county which involved the shooting and killing of animals, State vs. Robert T. Cook, Jr. and State vs. James Tomlinson were both criminal indictments. Unfortunately, the Final Record did not divulge Dooly's reason for the civil approach. The previous two cases referenced shooting within the city limits and the instant case omitted any reference to location. Perhaps Dooly lived beyond the perimeter of Oxford and was not able to capitalize on that angle. There was also the possibility that Dooly did not want to press criminal charges against A. J. Isom. If, for example, the shooting was strictly an accident, Dooly could chose not to involve the prosecutor. The one hundred dollar value of his cow might have persuaded him to select an alternate route, since the largest judgment in the criminal venue was fifty dollars. This amount was entered as a result of a default judgment and the Court may have inflated the amount to encourage defendants to respond. In the previous canine actions, Cook's father settled his undisclosed costs and Tomlinson received a one dollar fine plus costs. Even if Dooly exaggerated the worth of his cow, it certainly was worth more than the one dollar award in the Tomlinson case.

Not only did the value of real estate and personal holdings decrease by seventy-one per cent in Lafayette County, the ability to earn a living dwindled as well. The majority of people living in the county tended the fields for their personal sustenance and for a source of income. Comparing agricultural statistics from 1860 to those of 1870, the only category which improved was the value of livestock. The number of cotton bales harvested plummeted by more than ten thousand bales; bushels of sweet potatoes and Irish potatoes were diminished by almost two thirds. The prevalence of the next few categories of civil suits is predictable given the dire economic conditions. The circulation of federal currency in 1866 in New England and New York was $33.30 per capita while in Mississippi in that same year, the ratio was $.38. There were five suits for the recovery of debts beginning in the spring of 1866. In May of 1866, the Falcon noted the commencement of suits against debtors in Lafayette County, which followed the pattern existing in other counties. The editor chastised the creditors and suggested a moratorium for a year or two to allow people to harvest several crops.[123]

Mary A. McCain v. S. M. Fudge and S. M. Fudge et al v. Mary A. McCain Administrator were two related recovery of debt cases which were appealed from a Justice of the Peace Court. W. H. Smither's decisions in that Court apparently did not satisfy either party. The decision of T. E. B. Pegues and his eleven colleagues in the County Court fared much better. Neither litigant appealed the County Court verdicts. Mrs. McCain served as the representative of her husband's estate in this civil action as well as in the Probate Court's inquiry.[124] It was unclear from the Final Record whether her role as

---

[123]Kendel, p. 268; Ibid.; Harris, p. 159; Oxford Falcon, 24 May 1866.
[124]Oxford Falcon, 19 Dec 1868.

plaintiff duplicated her position as administrator. No amplification of the nature of these suits or Mary C. Montgomery v. Sam W. Montgomery was included in the record. Mrs. Montgomery filed recovery proceedings against her husband and Judge Peterson granted her legal redress.

J.L. Thomas fortuitously settled his debt and his lawsuit with A. J. Tidwell, which promptly ended another recovery of debt case on the County Court docket. However, Thomas's troubles did not conclude with the resolution of his indebtedness to Tidwell. In May, which was the following month, he had two attachment cases pending against him by different plaintiffs. The notice in the Oxford Falcon announcing these suits stated that Thomas was no longer a resident of the state.[125] He obviously fled to avoid the legal and financial entanglements. In contrast, William Sutherland, the defendant in the next case, solidified his roots in Lafayette County. Elijah Cantwell sued Sutherland for two hundred dollars owed to Cantwell's father's estate. Alderman, wealthy merchant, and juryman, W.S. Neilson, assessed the facts and reached an entirely different conclusion. The jury found for the defendant. Two hundred dollars was a considerable sum to William Sutherland whose entire personal holdings were only worth two hundred dollars in 1860.[126] How did Sutherland the farmer accumulate such an enormous tab with Cantwell? The Final Record did not specify. Since Elijah Cantwell operated a ferry across the Yocona River, there was the possibility that Sutherland utilized Cantwell's ferry to transport his produce or livestock. If this was the origin of the debt, perhaps the twelve-member panel recalled Cantwell's arrest for charging excessive tolls six months previously. The judicial process against Cantwell was dismissed, but people's recollections did not fade as easily.

Attachment, legal seizure of property, was an action that was only occasionally dismissed in 1866. There were four summonses issued for attachment in the first five months in 1866 and one in the end of the year. The last case in 1866 was dismissed, since the defendants were without any assets to seize. Three defendants, James Goulden, John Shankland and J. L. Thomas, a defendant in a previously discussed recovery of debt action, did not answer their attachment summonses. Default judgments were entered against these men. J. L. Thomas's finances received another disheartening notice as a result of an attachment action by L. W. Moore. In this case, Thomas had a co-defendant with whom he shared the one hundred dollar claim plus court costs.

Jane L. Robinson's plea for attachment and garnishment of B. F. Hall's property was advanced by Judge Peterson. Jane L. Robinson v. B. F. Hall finally concluded in January of 1869, when the sheriff sold B.F. Hall's property in Lafayette County to satisfy Robinson's judgment.[127] She was one of four female plaintiffs in 1866 who filed their cases without a masculine co-plaintiff. All four of these women won their cases in the County Court and two may have achieved their victory without the assistance of an attorney. Nancy Mary D. Spencer and Mary A. McCain employed attorneys to promote their lawsuits.

---

[125]Ibid . , 10 May 1866.
[126]Census of 1860.
[127]Oxford Falcon , 16 Jan 1869.

Jane L. Robinson and Mary Montgomery may have utilized a lawyer, but the Final Record did not include that information in their cases.

Dr. L. E. Warrington, the defendant in the next case, always hired a lawyer. The plaintiff in this promissory note suit, McLeod & Vaughan, a dry goods and grocery store, received a transfer of a promissory note signed by Dr. Warrington. It seemed odd that a grocery store would accept the transfer of a promissory note from another individual, but monetary relationships were different in the years immediately following the Civil War. A local doctor publicized his acceptance of corn, pork and fodder to repay antebellum debts.[128] McLeod & Vaughan advertised that they would accept greenbacks and "money of all the states at the market value."[129] The McLeod partnership initiated suit against Dr. Warrington based on the promissory note. This suit was filed in the same term as Warrington's recovery of property contest with Catherine Schulz. Warrington and his attorney successfully defended both suits.

Two other suits based on indebtedness supported by a promissory note were appealed from the Justice of the Peace Courts. W. H. Smither's decision in a dispute between A. H. Saunders and W. J. Douglas and George Goodwin's ruling in a similar conflict between J. S. Hill and J. D. Tatum were appealed to the County Court in the spring of 1866. Criticisms of the corruption, ineptitude, and partiality of justices of the peace originated in the early 1800's and continued throughout their existence.[130] Smither and Goodwin were elected to their positions in 1865 and again in 1866 so the citizens of their respective areas were not too disappointed by their performance.

A. H. Sanders defaulted in the County Court proceedings initiated by W. J. Douglas. J. D. Tatum was a justice of the peace in 1866, which may have encouraged him to seek redress in a judicial setting. His familiarity with the system and with his fellow judges may have bolstered his pleadings. J. S. Hill v. J. D. Tatum was adjudicated before W. S. Neilson and eleven other jurors. They confirmed Goodwin's decision from the Justice of the Peace Court and found for J. D. Tatum. The final promissory note dispute was litigated in December of 1866. Nancy Mary D. Spencer instituted legal action against J. C. Stephens. He answered her complaint but later, withdrew his response. Ms. Spencer was awarded the amount of the note plus court costs. In a follow-up suit, Spencer charged Stephens with attempting to remove property before his judgment to her was completely paid. The Final Record lacked the disposition of this case.

In the first week of May in 1866 there were eight dry goods stores, five grocery establishments, one drug store and one confectionery in the city of Oxford.[131] Only two of those merchants invoked legal intervention for account indebtedness in 1866. W. H. Smither, who was a merchant in the city of Oxford for almost twenty years at the time of this suit, filed a complaint against William Thompson in

---

[128]Ibid. , 07 Dec 1865.
[129]Ibid.
[130]Hurst, The Growth of American Law , p. 99.
[131]Oxford Falcon , 03 May 1866.

April of 1866. In the financially uncertain atmosphere of Lafayette County in 1866, Smither's action may appear stringent and unyielding; however, Thompson was not an ordinary, struggling farmer strapped for cash. Although the Civil War and its aftermath reduced Thompson's worth by sixty thousand dollars, he still retained forty thousand dollars of material goods in 1870.[132] Thompson also had a predictable source of income through his cotton and grocery business on the square in Oxford. Smither's holdings were decimated. In 1870, he controlled only twelve thousand dollars in real estate and personal holdings, nearly an eighty per cent decrease from his 1860 holdings.[133] In 1870, T. E. B. Pegues, the recorded juror in this case, was worth exactly the same as William Thompson, but his economic status ten years earlier was more than twice as large as Thompson's.[134] T. E. B. Pegues' message to Thompson, the former candidate for Probate and County Court judge, was pronounced in the verdict for Smither. Not only was Thompson required to pay the full amount of the merchandise, but he was also required to pay the court costs and damages.

McLeod & Vaughan was the other mercantile establishment that utilized the County Court to collect its debts. A. J. Waters neglected to respond to this suit. McLeod & Vaughan received a judgment for the amount requested plus costs. Since McLeod & Vaughan sold dry goods, groceries, and crockery and the record did not indicate what the purchases on account were, there was no way to gauge the reason for the legal proceedings. A. J. Waters was not listed in the Census of 1860 so there is the possibility that he was a newcomer to Lafayette County. Perhaps, McLeod & Vaughan were hesitant to extend any more credit to an individual with whom they were not previously acquainted. In the case of McLeod & Vaughan v. L. E. Warrington, discussed previously, this partnership called in the note executed by Dr. Warrington. McLeod & Vaughan's postbellum policy might have been cash only. Another factor which might have inclined W. G. Vaughan, a partner in the business, to seek remedies in court, he was re-elected as the Circuit Court clerk in 1866. The Circuit Court clerk also assumed the duties of the County Court clerk, which gave Vaughan two advantages, access and experience.

Lafayette County's economic recovery depended upon a stable work force and the law provided both civil and criminal inducements to ensure that stability. Therefore, the rare appearance of labor conflicts on both civil and criminal dockets was startling. In the entire year of 1866, there was only one civil suit for violation of a labor contract filed by a disgruntled white employer. The only other case of this type was filed by a freedman. Enticement was a cause of criminal action in three cases in the Court's first year of existence. After January, 1866, there were no further suits for violation of labor contracts.

The entire nineteenth century, in Lawrence M. Friedman's opinion, was the "century of contract."[135] Legal modernity was symbolized by the evolution of the contract and damages for its

---

[132]Skipwith Historical and Genealogical Society, Inc. , p. 33.
[133]Ibid.
[134]Ibid.
[135]Friedman, A History of American Law, p. 464.

breach.[136] In the first term of the County Court, George Richmond, a freedmen, sued John C. Richmond, his employer, for violation of a labor contract. John C. Richmond had signed a written contract with George Richmond establishing the conditions. In 1865 and 1866, most planters in Mississippi paid cash to their employees but in 1865, usually only after the crops were harvested and sold.[137] According to George Richmond's calculations, his employer owed him approximately one hundred dollars for labor performed in 1865, and clothing, which was not furnished. George's case was dismissed so the resolution of the case was not recorded. There was a notation that George Richmond paid the court costs, which might have been part of a settlement agreement. Since George Richmond was not paid any wages for 1865, court costs were probably beyond his meager or nonexistent savings. There was always the possibility that George Richmond was intimidated into withdrawing his suit and punished with the repayment of court costs, but there is no surviving evidence to corroborate that theory.

The second and last case for violation of a labor contract was also filed in the first term of 1866. John Gist alleged that Reuben Allen interfered with the contract between Gist and Mary Barringer, a freedwomen. This example of violation of a labor contract was the civil equivalent of enticement charges. Another similarity to the enticement cases processed in 1866 was the gender of the employee involved. Mary, similarly to those reputedly enticed individuals, was a freedwoman. Why Gist avoided criminal penalties for Allen was not indicated. Prior to the Civil War, Allen earned his living as an overseer, constantly instructing slaves. His adjustment to the new world order may have lagged or he may have used his familiarity with his former minions to his advantage. The justice of the peace who heard the case, W. H. Smither, disagreed with Gist's allegations. Gist appealed his case to the County Court and received a favorable decision. Mary resumed her responsibilities with Gist and was obligated to repay the court costs. Allen's fines or punishment were not indicated in the Final Record.

March of 1866 concluded all civil and criminal cases regarding labor issues in the County Court. There were only two violation of labor contract cases and three enticement cases in the entire year. There are several possible explanations for this revelation: Whites, in 1865, had overestimated the potential difficulties in securing labor; whites resolved their labor-related problems in another court or without legal action; or blacks adjusted to their new roles more quickly and efficiently than the whites had anticipated. In an informal poll of planters throughout the county in February of 1866, the majority professed the success of the contract labor system.[138] These men attributed the industriousness and contentment of the former slaves to the absence of black military forces in the area.[139]

At least three freedmen in Lafayette County were not entirely contented. These three men who filed civil claims against whites, similarly to black litigants in other locations, risked verbal and physical

---

[136]Ibid. , pp. 464, 467.
[137]Harris, p. 182.
[138]Oxford Falcon , 15 Feb 1866.
[139]Ibid .

abuse.[140] Not one of these men entered the courthouse unrepresented. Sixteen other white plaintiffs adopted the same strategy. The defendants in seventeen of these proceedings were also represented by lawyers. R. W. Phipps, his brother, J. M. Phipps, H. A. Barr, P. B. Barringer and E. R. Belcher litigated the civil suits in 1866. All these men also represented defendants in the criminal sector of the calendar in 1866. None of these legal counselors appeared to prefer a particular type of law or client. In this regard, they were typical lawyers of the nineteenth century.[141] The presence of the University of Mississippi and its law school in Oxford contributed to the education of the legal community and distinguished the area. Even as late as 1900, neither a college nor a law degree were obligatory in the practice of law.[142] Several of the lawyers who practiced in the County Court in Lafayette County, however, were educated in a university and law school.

Legal Agenda, 1866

At the conclusion of its first year, the County Court of Lafayette County, as well as the other County Courts in Mississippi, had adapted to changes in circumstance. On October 16, 1866, Governor Humphreys addressed the members of the Mississippi state legislature in Jackson, Mississippi in a special session. The legislature had not met since December of 1865. Humphreys had requested this assembly to mitigate the legal restrictions governing Afro-Mississippians.[143] He justified the legal concessions to the former slaves as a reward for their stellar behavior during the year, but the legislature waited until January and February of 1867 to abolish the Black Codes and other restrictive legislation.[144] Humphreys also called attention to the "numerous and varied complaints" directed towards the County Courts.[145] He assumed the legislators were aware of the specific grievances, so he did not elaborate on these shortcomings. In response to the Governor's request, the Judiciary Committee was instructed to propose a less costly and more efficient County Court system. The recommended alterations included an elimination of the associate judgeships and a reduction of the terms to every other month or every three months. During these discussions, there was a bill introduced to repeal all the County Courts. The legislature voted to amend the system rather than to abolish it, but the inclination to dismiss the state-wide judicial system was significant. The County Courts were barely in place for one year and five of the twelve legislators who voted on this motion wanted the courts disbanded. The justification for continuation was the high rate of crime and the demand for prompt adjudication.[146]

---

[140]Leon F. Litwack, Been in the Storm So Long , (New York: Alfred A. Knopf, 1979) , p. 285.
[141]Hall, The Magic Mirror , p. 212.
[142] Friedman, A History of American Law , p. 525.
[143]Harris, p. 151.
[144]Ibid . , pp. 151-152.
[145]Journal of the Senate of the State of Mississippi, 1866 , p. 16.
[146]Ibid . , p. 76.

The term of the County Court survived without any changes in six counties. The positions for associate justices, however, were discontinued in every county. The County Court of Lafayette County continued to meet on a monthly basis. A little over thirty days after this amendment was passed, the Oxford Falcon campaigned against the monthly sessions of the County Court. These sessions, according to the newspaper, " entail too much expense and are apt to become a source of annoyance and vexation."[147] Every month thereafter, until March, 1867 when the newspaper received notification of the legislature's institution of the quarterly sessions for Lafayette County, the Falcon reprinted articles condemning the unnecessary expenditures associated with a monthly calendar.

Mississippi was not the only state to shift its judicial resources. Other states in the South experimented with county and other courts' composition throughout the nineteenth century.[148] There was always the desire to perfect the judicial machinery.[149] In Mississippi that desire included adjustments of the federal courts and Mississippi's highest court, in addition to the trial courts. The same legislators who altered the County Court sessions for Lafayette County, passed a bill to allow one session of the High Court of Errors and Appeals, Mississippi's highest court, to assemble in Oxford; although, this event was not scheduled to occur until February, 1868. Oxford benefitted financially, intellectually and legally as a result of the establishment of the federal court for the Northern District of Mississippi within its city limits. The term of this court began on June 1, 1866. Lawyers from the entire state ventured into Oxford to litigate federal claims. Federal issues, legal intricacies, and politics were undoubtedly discussed by these members of the Mississippi bar.[150]

The Oxford Falcon described one such meeting, which occurred after the recess of the federal court session in June of 1866. A conference among most of the "planting interests" of northern Mississippi met in the temporary federal courtroom to remonstrate against the federal tax of five cents on every pound of cotton produced.[151] By June 30, 1866, which was the conclusion of the fiscal year, the federal government collected $756,629 in cotton taxes from farmers in Mississippi.[152] The demonstration in Oxford did not influence the federal government's position and the tax continued until 1868. In three years, more than eight and a half million dollars was extracted from Mississippi farmers, which William C. Harris concluded, severely obstructed "economic, if not political and social reconstruction."[153]

The delegation of funds to the federal government diverted vital cash resources from local causes. The absence of a courthouse complicated legal proceedings in the city of Oxford and in the

---

[147]Oxford Falcon , 15 Dec 1866.
[148]Ely and Bodenhamer, p. 16.
[149]Ibid .
[150]Oxford Falcon , 31 May 1866, 07 June 1866, 15 June 1867.
[151]Ibid . , 07 Jun 1866.
[152]Harris, p. 160.
[153]Ibid .

county. In August of 1866, the Falcon announced that possible locations and reconstruction of the courthouse were often discussed in Lafayette County. The following month, the governing body of the county contracted with a local firm to furnish five rooms for judicial quarters on the second story of an existing building . Within a few months, the Probate and Circuit Court clerks relocated to their new offices on the south side of the public square. There was also a new courtroom in this building, but financial considerations prohibited the massive county expenditure necessary for a courthouse complex. The funds were not available until after 1870, when the County Court was no longer in existence. The new courtroom benefitted legal personnel and it also fostered community revitalization. In December of 1866 and January of 1867, the courtroom hosted a splendid dance, a tableaux vivants and charade. The admittance fees from the last two events were applied to the protection and decoration of the graves of Confederate soldiers buried in Oxford.[154]

[154]Oxford Falcon , 23 Aug 1866; Lafayette County, Mississippi Board of Police Record III Sept. Term 1866, pp. 466-467 quoted in Sobotka, p. 47; Oxford Falcon , 15 Aug 1866, 22 Dec 1866.

III. REACTION AND REORGANIZATION: 1867-1870

Andrew Johnson inadvertently diminished government spending in the spring of 1866 when he vetoed the bill which financed the continuation of the Freedmen's Bureau. This bill enhanced the supervisory capacity of the Bureau to include review of labor contracts and the institution of special courts. These were two blatant sources of discrimination against the freedmen in the South. Johnson's veto focused on the usurpation of the states' constitutional rights, however, not the extension of the Bureau's powers or the increased expenditures.[155] In 1866 and 1867, Congress proposed other bills and even a constitutional amendment to further the rebuilding of the South and to safeguard the rights of African-Americans. Johnson vehemently protected his plan for reconstruction and was frequently hostile to congressional interpretations. He again exercised his presidential prerogative and vetoed the Civil Rights Act of 1866 in March of that year. Congress rallied to protect its plan of reconstruction with no less vehemence than Johnson. The Fourteenth Amendment, which defined the terms of citizenship for all men regardless of race, passed both houses of Congress in June of 1866. The following month, the legislature overrode Johnson's veto of the Freedmen's Bureau bill. The veto of the Civil Rights Act of 1866 was also overturned by Congress. The governmental structure outlined in the first Reconstruction Act did not suit Johnson. The veto pattern continued and Congress, expectedly, set it aside. Less than two weeks later, in March, 1867, the Reconstruction Acts divided the former Confederacy into five military districts controlled by martial law.

Mississippi and Arkansas were linked as the fourth military district under the command of Major General Edward O. C. Ord in March of 1867. New requirements for readmittance to the union were substituted under the military governments. Ratification of the Fourteenth Amendment and the redrafting of state constitutions by representatives elected by universal male suffrage returned a star to the United States flag. Registrars were appointed in all counties of the southern states to enter and tabulate the names of black and white male voters. On September 14, 1867, the final count in Lafayette County was 1,464 whites and 949 blacks.[156] Once again, the existing southern governments were dismantled. General Ord's announcement of the involuntary resignation of all civil officers was not enforced in Lafayette County until August of 1869; therefore, Conservative government survived in Lafayette County even during a segment of Radical Reconstruction.

---

[155]Kenneth M. Stampp, The Era of Reconstruction, 1865-1877, (New York: Alfred A. Knopf, 1966), p. 132.
[156]Oxford Falcon, 14 Sep 1867.

Traditional means of controlling blacks resurfaced in 1867 with the organization of chapters of the Klu Klux Klan in Oxford and neighboring cities. The failure of the conventional crop, cotton, in 1866 and 1867, intensified the torment of most farmers and Afro-Mississippians. Cotton, which was priced as high as forty-five cents a pound in 1865, tumbled as low as fourteen in 1867. Streaming rains, unexpected chills, sleet and ice storms, lice and cotton worms all hindered agricultural production. Thousands of Mississippians mortgaged their assets in 1866 to plant cotton and by February of the following year, they had no money and no assets. The number of destitute residents in Lafayette County in May of 1867 was estimated at five hundred people. On May 22, 1867, Captain Rossiter of the Freedmen's Bureau recorded the receipt of twenty-eight thousand pounds of corn and four thousand pounds of pork for donations to the impoverished families of Oxford. There were residents of Lafayette County who speculated that the economic conditions and political atmosphere were more depressing, more bleak, and more hopeless in December of 1867, than they were at the conclusion of the Civil War.[157]

The structure of the County Court during its second year reflected the legally mandated changes and unforeseen changes as well. The Court met in January, but Judge Peterson continued the February term, due to a lack of urgent concerns. The shift to quarterly sessions instituted by the legislature eliminated the March term. Judge Peterson's health deteriorated in February and he died in late March, 1867. Both the Probate Court and the County Court were without a justice until the end of May, 1867. J. M. Phipps was elected to the judgeships and reopened the Probate Court on the fourth Monday in May, and the County Court on the first Monday in June. J. M. Phipps was the older brother of R. W. Phipps, the County Court prosecutor for the first year. J. M. was an Adjunct Professor of Mathematics at the University of Mississippi until he resigned to join the Confederate forces. After the war, he did not resume his professorial duties but established a legal partnership with his brother in the city of Oxford.Phipps & Phipps continued to litigate cases for the duration of the County Court's existence, even while J. M. Phipps was on the bench. He served as the County Court and Probate Court judge until 1869, when the martial government appointed new personnel. J. M. Phipps, like W. H. Smither, and W. G. Vaughan, received a Congressional dispensation in 1870 to remove his political disabilities. Although he did not hold any positions during military reconstruction, he was elected mayor of Oxford in 1872. [158]

In contrast, Charles B. Howry, the new prosecutor for the County Court, was nominated for the position of District Attorney in 1870 and refused the appointment.[159] His civil career began in 1867, when he was elected by the governing board of the county for a two year term as County Attorney. His,

---

[157]Harris, p. 66; Ibid. , pp. 160, 166; Oxford Falcon , 09 Mar 1867- 23 Mar 1867, 13 Apr 1867, 18 May 1867, 01 June 1867, 17 Aug 1867, 28 Sep 1867, 02 Feb 1867; RG 105, Entry 2307 Vol 239; Oxford Falcon , 01 June 1867, 21 Dec 1867.

[158]Oxford Falcon , 09 Feb 1867, 09 Mar 1867, 06 Apr 1867; Skipwith Historical and Genealogical Society, Inc., p. 515; Oxford Falcon , 11 Jan 1866, 26 Mar 1870.

[159]Oxford Falcon , 18 June 1870.

election by the board and the term of office were state-wide revisions adopted by the Mississippi legislature on October 30, 1866. The previous prosecutors were appointed by the justices of the County Court for a one year term. Howry was twenty-three at the time of his election and graduated from the University of Mississippi law school in June of the same year. His father was a Circuit Court judge, state Senator, leader of the Presbyterian church and worth almost one hundred and thirty thousand dollars.[160] Similarly to R. W. and J. M. Phipps, Howry was raised in a prominent, wealthy family. In February of 1867, he accepted the position of Prosecuting Attorney for the County Court in Lafayette County. There were only three criminal cases filed after his election, and before Howry completed his formal legal training.

There was a marked decrease in the number of criminal cases filed in the County Court in 1867, which conspicuously reduced the total number of cases. There are several possible explanations for this reduction. Beginning in January and February of 1867, the Board of Police, the governing entity for Lafayette County, expanded the number of criminal offenses within the jurisdiction of the Mayor's Court. This may have reduced the criminal case load of the County Court.[161] However, a significant number of the offenses within the broadened jurisdiction of the Mayor's Court were not usually litigated in the County Court. The remaining crimes were not enough to explain a reduction in the criminal case load of almost seventy per cent. The elimination of the monthly terms of the County Court did not occur until March of 1867 so the lack of speedy judicial service was not a factor in the beginning of the year. Since a Prosecutor was selected exclusively for the County Court , it was unlikely that he would chose another venue. Also, the more convictions he obtained, the larger his salary. The most lucrative posture for the Prosecutor would certainly not be a reduction in the number of criminal cases. The Oxford Falcon commented on the Circuit Court's reduced docket, especially for criminal cases, in several months during 1867. The only plausible explanation was that crime and/or the arrests for criminal activity decreased in Lafayette County in 1867.

Violence, according to William C. Harris, was an intrinsic characteristic of the pioneer society which appeared in postbellum Mississippi.[162] The overwhelming number of accused were white males; the most prevalent crime was, again, assault and battery. Nine summonses out of fifteen were issued for assault and battery charges; however, seven of these charges were dismissed. Larceny also received a considerable amount of court time in 1867. There were no charges for malicious mischief, adultery, retailing or enticement in the County Court during the entire year. Even though a new moralistic crime, slander, appeared on the criminal docket for the first time in 1867, the overwhelming need to control behavior had subsided. The slander case was filed in July of 1867, an eventful month for criminal

---

[160]Census of 1860; Kendel, p. 262.
[161]Oxford Falcon , 26 Jan 1867, 09 Feb 1867.
[162]Harris, p. 152.

processing. There were four men prosecuted for assault and battery and one for exhibition of a deadly weapon in that month.

July and February recorded the most arrests for physical violence, seven between the two months. The summer heat or "chopping" must have enraged or frustrated men, since more than half of all the crimes in 1867 were filed in July. None of the assault & battery defendants were judged by twelve of their peers. Two submitted to guilty charges and the remainder were dismissed by the Prosecutor. The background and ages of those arrested for assault were varied. Half of the accused men were twenty-six years old or younger; although, two pugilists were over fifty. Several of the younger men did not list any holdings in 1860 or any occupation, and their fathers' total worth was under one thousand dollars.[163]

The two individuals who were over fifty possessed at least thirty thousand dollars worth of real estate and personal holdings in 1860.[164] J. M. Cook, the oldest man accused, was the Mayor of Oxford at the time of the incident. The docket, unfortunately, did not provide any information on which to speculate regarding this case. It was approximately a year since Midyette destroyed a section of Cook's fence, but maybe there was continued animosity between these men. The citizens of Oxford either ignored or were unconcerned with the 1867 assault incident for Cook was not only reelected as mayor but also won other elected positions. Since the charges were dropped, there was always the chance that Cook was arrested in error.

Larceny accounted for three criminal cases during 1867 in the County Court of Lafayette County, and none were filed after the July term. Two of the five defendants were freedmen and only one was convicted. George Shaw, a freedman without a defense attorney, still managed to secure his liberty; Peter [Wilkins] was not as fortunate. The first case on the criminal docket for 1867 involved three men charged with larceny. The docket listed all three names under the same heading so they were apparently co-defendants. The last name for all three men was not included in the result section of the docket so the family name for all three was probably Wilkins. None of these individuals was counted in the Census of 1860. The jury confirmed the plea of Nelson and Foster and convicted Peter. There was no description of the pilfered item or the circumstances in the docket; however, the Oxford Falcon reported additional information. According to the newspaper account, Peter, a freedman, borrowed money from someone without, first, asking permission. His punishment was a one dollar fine and suspension by his thumbs for one hour for ten days. Peter was the only individual penalized in this fashion during the 1867 term of the County Court. All the white defendants were acquitted.[165]

Slander is the oral communication of defamatory remarks pertaining to another individual. Considering the southern emphasis on deference, personal status and the enforcement of behavioral

---

[163]Census of 1860.
[164]Ibid .
[165]Oxford Falon 12 Jan 1867, 07 Dec 1867.

norms, it was surprising that this crime rarely appeared on the County Court calendar;[166] although, these affronts may have been settled by more direct means. In the five-year existence of the County Court of Lafayette County, Jesse Hale was the only man against whom slander proceedings were initiated. The docket, again, provided no enlightenment. It was not indicated what was said, or to whom. The case against Jesse Hale, like his relative James Hale's case, was dismissed for failure to locate the defendant within the borders of Lafayette County.

Stephen Henry resided within Lafayette County and was tried by its County Court. E. R. Belcher, Henry's defense attorney, was not able to convince the twelve-member panel that Henry was innocent. Henry's fine for exhibiting a deadly weapon was five dollars, the highest criminal penalty for the year 1867. Judge Phipps determined the punishment in this case and one other in 1867. Judge Peterson outlined the penalties in three cases in the beginning of the term. He did not issue a single criminal ruling in 1867. Judge Phipps was also denied the ultimate responsibility for his all of his 1867 criminal cases but one.

The summary of the criminal calendar for 1867 was eight dismissals, four jury verdicts, two guilty pleas and one default. The prosecutor arrested only two freedmen in 1867 and one case was dismissed. The parallel ratio in 1866 was twenty-one Afro-Mississippian criminal defendants. All individuals who were convicted in 1867 received a monetary penalty. Peter [Wilkins ?] was the sole individual hung by his thumbs in 1867. In 1866, freedmen convicted of petit larceny and assault and battery were occasionally suspended by their thumbs. No freedmen was arrested for assault and battery in 1867 and therefore, no punishment was metered to any freedman for that crime. The docket did not list the individual who proffered the security in the 1867 cases involving freedmen. James Markett, the security for the two Afro-Mississippians who were hung by their thumbs in 1866, may not have assumed that role for any freedmen in 1867, or maybe only for Peter Wilkins. Without the more detailed entries of the Final Record, it was impossible to discern if any of the criminal cases in 1867 were biracial, or bifurcated by gender, or to discover many other crucial facts.

Civil disputes accounted for thirty-nine of the fifty-four cases in 1867; although, the Final Record survived for only twenty of those enumerated. In 1866, there were forty-four cases on each of the dockets. Three different types of civil disputes were filed by Afro-Mississippian males in 1867. Only one freedmen in 1867 was completely disappointed by the County Court legal system; all three freedmen in 1866 dismissed their civil suits. No women were arraigned and only one woman litigated a civil issue in the twelve months of 1867 in the County Court of Lafayette County.

F ive of the twenty civil suits described in the Final Record for 1867 were for the recovery of debt. All but one concluded without adjudication. Jerry Boon and R. F. Cook defaulted in January and Charles Riley defaulted in July. J. A. Boyle, a tanner born in Prussia, exchanged one year of work from

---

[166]Ely and Bodenhamer, p. 9.

his horse for three hundred pounds of Jerry Boon's lint cotton. Boon failed to provide the cotton at the conclusion of the year so Boyle sued him for its ninety dollar value. Boon allowed a judgment to be entered against his assets without protesting in person or in writing. By April, 1869, J. M. Butler was a successful, patented inventor, but in 1867, he was willing to litigate with B. F. Cook in order to retrieve his one hundred dollar loan.[167] Cook did not protest Butler's account in any manner and, in fact, did not respond at all. Since Charles Riley was born in France, he may have been unfamiliar with the American legal process and was not aware of the proper procedure.[168] Riley was also not represented by legal counsel and he defaulted. Aaron Smith, a freedman, who was represented by an attorney, recovered a judgment against Riley in the amount of seventy-five dollars plus the costs of the suit. Judge Peterson's last civil decision in the County Court was S. S. Means v. N. D. Gray. Mrs. Means' complaint alleged that N. D. Gray owed her more than one hundred and fifty dollars. Gray denied these allegations. Judge Peterson awarded Mrs. Means one hundred and twenty dollars in debt plus damages, and the cost of the suit.

Postbellum economic conditions adversely affected more than just a few individuals in Lafayette County, which resulted in more, and diverse participants. Debts on account and past due accounts represented five cases on the civil docket. None of these cases was filed after April of 1867 and no two suits contained the same plaintiffs or duplicated the plaintiffs from similar cases in 1866. None of the defendants in 1867 were repeat offenders from 1866. Henwood, Roberts & Doyle dismissed its suit against R. J. Martin and Blevens, Kendall & Kyle. Since Martin did not reside in the county and did not own any property in the county which could be seized, the Henwood firm lost over a hundred dollars. Charles Roberts, a partner in the above-referenced business, was the first to construct a store in Oxford after the Civil War.[169] This same establishment continued in the dry goods business for the entire duration of the County Court. In 1870, it adopted a novel mercantile technique, special privileges to cash

The remaining suits for indebtedness on account were not adjudicated in the County Court. One defendant defaulted and the second dispute was dismissed by the defendant. There was another link between these cases. John Cullen, the defendant in the dispute which was dismissed, was the plaintiff in the case which was won by default. Cullen, who won John Bryant v. John Cullen in the Justice of the Peace Court, convinced the County Court to dismiss Bryant's complaint. Bryan, again, appealed his lawsuit and this time, proceeded before a Circuit Court judge. Since George. W. Smith never defended his case, Cullen was awarded a judgment in the full amount. Smith had reduced the amount of indebtedness by nearly forty per cent but never totally repaid the account. J. W. Smith's assets as a doctor were markedly larger than Cullen's as a dentist, so his refusal to completely repay the debt ,and

---

[167]Oxford Falcon, 17 Apr 1869.
[168]Census of 1860.
[169]Kendel, p. 263.

his acceptance of a judgment seemed unreasonable.[170] Perhaps, the inability of his patients to compensate him with cash hindered Smith's repayment of his own debts.

In Mississippi, the treatment of antebellum debt animated discussions within the legislative halls and on the streets. In June, 1867, General Ord proclaimed a six-month stay on the forced sale of land, tools, stock or other agricultural necessities for debts which occurred prior to January 1. 1866. S. B. Bowles' purchases from Fee and Slate, however, were not required for agricultural pursuits. In other locations in the South, he would have fared better. In 1867, the second military district pursued a more liberal policy toward debts incurred before the war. Judgments or requests for monetary payment resulting from any actions taken between December 19, 1860 and May 15, 1865 were suspended indefinitely. Fee and Slate sued S. B. Bowles for $ 24.85, the value of his purchases such as sugar, cheese, flour, pepper, etc. plus interest from January 12, 1861. Bowles appealed his loss from the Justice of the Peace Court and Jeff Cook and the other eleven members of the County Court panel accepted Bowles' explanation. Fee and Slate refused to succumb to the County Court's decision and appealed to the Circuit Court.

Appeals and retrials were a factor in the next case of indebtedness as well. The justice of the peace ruled in favor of the defendant in B. Clark v. Lewis Wimberly et al. Clark and his attorney brought his grievance to a higher court, the County Court. The defendants, Lewis Wimberly and W. W. Wimberly, requested a new trial in County Court after the unfavorable verdict was released. This was only the second case in the five year history of the County Court in which a second trial was granted. In the second trial, the Wimberlys' attorney successfully defended them. Clark apparently had litigated the fifty dollar account enough and he did not appeal to the Circuit Court. A year later, the parties actively sought to confront each other without the guidance of legal personnel. Burwell Clark, the original plaintiff, Lewis Wimberly and Warren Wimberly, the original defendants, and John Clark and James Wimberly savagely settled their perceived injustices. This struggle resulted in the death of Burwell Clark. Lewis Wimberly was arrested for this murder and tried, not in the County Court but in the Mayor's Court. Legal redress was evidently not sufficient for these parties. The physical means by which these men reconciled their views was typical for southern males.[171]

In the recovery of property cases filed in the County Court in 1866, the type of property most often sued for was farm animals. Livestock was crucial to the agrarian society, which existed in Lafayette County during Reconstruction. The next case, although demarcated as an open account, focused on repayment of the value of a mule. The defendant, William Hallowell, was a farmer who, in 1866, required a mule to complete his agricultural tasks. Henry Hallowell presented a mule to William in exchange for future payment. Henry Hallowell, who may have been related to William, did not forgive

---

[170]Census of 1860.

[171]Oxford Falcon , 21 Aug 1869, 28 Aug 1869; Ely and Bodenhamer, p. 21.

the one hundred dollar debt, which still remained the following year. The case was fully adjudicated and familial bonds notwithstanding, Henry received the jury's confirmation.

None of the suits for the recovery of promissory notes from 1866 through 1870 originated among family members. Additionally, none of the 1867 lawsuits based on promissory notes were adjudicated in the presence of a jury. In 1867, half of these proceedings ended in default. The defendants did not contest any aspect of the cases against them. The third case which concluded without a trial was dismissed by the defendant. John Cullen, an active participant in the account indebtedness category, defaulted in his promissory note defense. Even though the plaintiff, A. D. Denton, and Cullen were dentists, the note was the written obligation for the purchase of a horse. Cullen's inability to pay his debts in early 1867 presented a potential solution, which had not existed since 1841. The federal Congress passed a law in 1867 that permitted debtors to file bankruptcy. If Cullen was not able to handle his accounts payable with his routine business, he could declare bankruptcy or his creditors could insist that he file bankruptcy.[172] The sole promissory note case which was tried also combined a written note with patronage for merchandise. Judge Phipps awarded L. D. Viser the full amount of the note, the account and damages.

All the suits for recovery of property, for attachment, and for replevin in 1867 sought to recover bales of cotton. Aaron Smith, a freedman, and Rascoe Black & Co., a business in Oxford, filed legal proceedings to recover a total of three bales of cotton. Beau Mays attached three thousand pounds of seed cotton and Drury Couch attached one bale weighing two hundred and ninety-five pounds. John Mullins questioned Henwood, Roberts & Doyle's right to one bale of his cotton. Smith's request was related to his default judgment against Charles Riley approximately five months previously. Judge Phipps denied Smith's claim and the proceedings were dismissed. H. E. Rascoe, a merchant and partner in Rascoe Black & Co., initiated the proceedings against E. D. Sinclair. Rascoe dismissed the claim even before it was litigated. The Final Record provided no clues to his action, but there was no indication that the case was settled.

Drury Couch, a farmer, knew the amount of seed cotton to require as collateral for his loan to J. Campbell. When the loan was not repaid and Campbell allegedly removed property to defraud creditors, Couch insisted that the sheriff seize the bale of cotton. W. S. Neilson and eleven other men decided that the attachment was improper and the verdict absolved Campbell. Gill Mathis owed over two hundred dollars to Beau Mays and Mathis was also allegedly trying to defraud creditors. As a result of Mathis's default, three thousand pounds of seed cotton, two stacks of fodder and two bushels of corn were sold to discharge the debt. Henwood, Roberts & Doyle, the defendants in a replevin action by John Mullins, attempted to legally outmaneuver the plaintiff. The firm's attorney requested that the Court enforce the

---

[172]Hall, The Magic Mirror, p. 207.

statutory requirement of a cash deposit by the plaintiff for bond and security. Judge Phipps overruled this request and Mullins dismissed his action.

Randle Davidson preferred not to dismiss his claim for violation of a labor contract. In February of 1867, Davidson alleged in his pleadings that Allen Shire had not paid Davidson his contracted wages for twelve months work in the steam mill. Davidson earned fifteen dollars a month, which totaled one hundred and eighty dollars for the year. His case was powerful, since Shire failed to pay a single month's wage. The jury supported Davidson and granted him $ 26.50 plus court costs. Although Davidson won the legal victory, he forfeited his labor for almost an entire year and suffered financially. Jacob Sharp, the juror listed in the record, was a thirty-year old farmer who believed in justice on a budget.[173]

Davidson was the only freedman who litigated a case in the entire year of 1867. Aaron Smith, the only other freedman on the civil docket, filed two cases but neither proceeded to trial. The Mississippi legislature, in early 1867, had removed a potential obstruction to the processing of freedmen's claims. An act was adopted which allowed freedmen to testify in all cases in court. Yet, only 0.2 % of the registered freedmen sought legal assistance in the County Court of Lafayette County in 1867. Randal Davidson v. Allen Shire was also the sole case to address contractual labor in 1867.

In 1866, there were five cases which related directly to labor issues. Most freedmen in Lafayette County in mid-January, 1867 had signed contracts and returned to work.[174] The opinion of the freedmen's ability and willingness to labor was very much improved in early 1867; although, disparaging comments were made regarding the brevity of the study.[175] Evaluations later in the year complimented the freedmen of Oxford for their diligence and the uncommon appearance of unemployment in their race.[176] The costs of labor had increased in 1867, which subsequently, reduced the number of acres planted. Even with a shortage of productive laborers, no white men or women utilized the County Court in Lafayette County to secure a work force. [177] One possible explanation was that there was a change in the nature of the contractual arrangements. In 1867 in Mississippi, sharecropping was substituted for salaries as the basis for remuneration.[178] In the Oxford area in 1867, the majority of freedmen labored for one half of the crop.[179] The following is an example of an earlier Virginia contract with similar provisions,

> The undersigned bind themselves to stay on the plantation from Nov. 15th, year of 1865, to Nov. 15th, year of 1866. We agree to

---

[173]Census of 1860.
[174]Oxford Falcon , 19 Jan 1867.
[175]Ibid .
[176]RG 105, ENTRY 2307 Vol 239 Report of Edward Rossiter May 1867, Letter13, Report of Thad K. Preuss July 1867.
[177]Oxford Falcon , 19 Jan 1867.
[178]Harris, p. 183; Wayne, p. 119.
[179]RG 105, ENTRY 2307 Vol 239 Letter 13, Report of Thad K.Preuss July 1867.

> work on said plantation for Mr. . He is to pay the rent of the plantation, and he is to pay all the expense of the crops. Mr. agrees to give us payment for labor by sharing equally with the Negroes---one half the crop to be his, one half to be ours, one half the wheat, one half the oats, one half the corn, one half of every crop on the place, excepting that all the fodder and straw is to belong to Mr. . Mr. is to give us rations and clothing, and the expense is to be paid back out of our half of the crop. We are to act polite to him, and to be obedient and industrious, and make no disturbance in the place.[180]

There was a contractual foundation to the agreement, but since the payment was based on a portion of the harvest, uncertainty replaced a definitive wage. Planters and farmers saved their scarce funds and controlled the shares allotted. This format also bound freedmen more closely to the actual yield.[181] The removal of direct pecuniary pressure and the instillation of authority reduced the proclivity to litigate. The diligence of the freedmen and the arrival of the Klu Klux Klan both influenced the decision to invoke legal remedies.

Although Judge Phipps and Judge Peterson had the capacity to influence markedly the outcome of many cases, in actuality, they determined the verdicts in very few cases in 1867. Judge Peterson ruled in favor of the plaintiff in one case in 1867. Judge Phipps divided his decisions in the two suits which he considered. Six civil cases were dismissed and seven were default judgments. The remaining cases in the Final Record were adjudicated by a jury. All but two plaintiffs hired an attorney to assist in their legal endeavors. There were several new representatives at the bar in 1867, H. L. Duncan, J. M. Stemmons, and W. T. McCarty. None of these men were listed as attorneys in the Census of 1860. Stemmons, a native of Missouri, arrived in Oxford in February of 1867 and established a law practice.[182] Stemmons was also a principal of Oxford Institute and tutored university students during the summer vacation.[183] Although a native of Virginia, W. T. McCarty participated actively in the Democratic party of Lafayette county, the Oxford Bar and married an Oxford woman.[184] Neither Stemmons nor W. T. McCarty resided in Oxford for the duration of the county court. In mid-1868, Stemmons relocated to Texas; a year later, McCarty also moved westward to Kansas. [185] The lure of the West continued to entice Americans throughout the nineteenth century and claimed these two attorneys from Oxford. Few other residents of Lafayette County traversed the Mississippi River to secure prosperity.[186]

---

[180]Dennett, p. 83.
[181]Wayne, p. 119.
[182]Oxford Falcon, 02 Feb 1867.
[183]Ibid., 13 July 1867, 31 Aug 1867
[184]Ibid., 26 Oct 1867, 22 Feb 1868, 25 Apr 1868, 30 May, 1868.
[185]Ibid., 02 May 1868, 05 June 1869.
[186]Ibid., 06 Nov 1869.

1868

Although only one of the two individuals elected to serve Lafayette County in the Reconstruction Convention in Mississippi in January, 1868 was an attorney (and also a judge), the other was the circuit and county court clerk, W. G. Vaughan. Lawyers were frequently elected to southern conventions and legislatures so the personnel selected from Lafayette county was not a digression from the past.[187] The election of seventeen blacks from other counties, however, was a prodigious circumstance in Mississippi history. As a result of their participation, this assembly was the first official institution of the state of Mississippi to become integrated.[188] Another political substitution occurred for Mississippians in 1868. General Alvan C. Gillem was installed as the new military governor for the Fourth Military District on January 9, 1868. The most significant event in Gillem's administration transpired in the first six months. From June 22,1868 through June 27, 1868, the citizens of Mississippi voted contemporaneously regarding the ratification or rejection of the new constitution and for members of the state legislature. The following month, the state-wide election results were announced: 63,860 votes rejecting the constitution and 56,231 approving votes.[189] The recently elected representatives, without a constitution, were denied their positions and Mississippi regressed to military rule. By the conclusion of the summer of 1868, all but four states of the former Confederacy were readmitted to the union. Mississippi was one of the unreconciled.

In 1868, military reconstruction intruded on the square in Oxford and into the surrounding areas of Lafayette County. In order to guarantee a fair and peaceful determination of the constitutional and congressional elections, a garrison of soldiers arrived in Lafayette County on June 23, 1868. The description of the voting conditions in Lafayette County vary substantially according to the source. A Commissioner of Elections for Lafayette County described the following voting deterrents, threats from the Ku Klux Klan, loss of employment, and refusal of medical care.[190] According to another source, the United States soldiers and the Union registrars and election officials ensured an unbiased election.[191] The Oxford Falcon threatened to publish the name of any individual who voted to support the revised constitution to hinder future employment and a few weeks after the election, the names were printed in bold type. Organized disapproval of the revised constitution began in Lafayette County in February, 1868. The announcement of an early meeting urged white men to defeat the Radical party or suffer the degradation and ruin of the white race.[192] The courtroom, which was designated as the meeting place,

---

[187]Lawrence M. Friedman, A History of American Law , (New York: Simon and Schuster, 1973) , p. 560.
[188]David Gaffney Sansing, "The Role of the Scalawag in Mississippi Reconstruction," (Ph. D. diss . , University of Southern Mississippi, 1969) , p. 16.
[189]Garner, p. 216.
[190]Mississippi Pilot quoted in Oxford Falcon , 11 July 1868.
[191]Kendel, p. 248.
[192]Oxford Falcon , 01 Feb 1868.

harbored the white males determined to protect their community.[193] The Ku Klux Klan advertised its arrival and its purposes in a March issue of the Oxford Falcon. The final count defeated the constitution and the Radical party in Lafayette County by five hundred votes.[194]

Although the election dominated the energies of many in Lafayette County in 1868, the civil government, including the judicial system, continued its banal functions. The County Court followed its appointed schedule of quarterly sessions with most of the same personnel. Judge Phipps remained on the bench; Charles B. Howry prosecuted through January; W. G. Vaughan transcribed the details and W. S. McKee arrested and executed for twelve more months. W. T. McCarty succeeded Howry for the three quarters of 1868. McCarty, in addition to his county position, served as a delegate to the Conservative Democratic State Convention in Jackson along with the former county prosecutors, R. W. Phipps and Charles B. Howry.[195] In 1868, McCarty was also a delegate to the Democratic convention in Holly Springs, the representative for Carolina Life Insurance Company of Memphis and a speaker at several political meetings.[196] McCarty certainly had an impressive resume for an individual who had only resided in Oxford since March, 1867. His marriage to Olivia West, daughter of General A. M. West, president of the Mississippi Central Railroad and a potential Democratic gubernatorial candidate, undoubtedly advanced his personal life as well.[197]

Continuing the decreasing trend, the 1868 criminal calendar enumerated eight proceedings, half of which were initiated by McCarty. The prosecutors of the County Court from 1868 through 1870 did not file a cause of action against any freedmen. There was a female criminal defendant in 1868, but her race conformed to the existing pattern. Civil suits were filed by four women plaintiffs, but every woman had a masculine co-plaintiff. The civil docket returned to its 1866 level of activity. There were forty-four cases filed in the four sessions of court. None of the litigants were former bondservants. Dismissals and defaults crowded the civil docket, which eliminated most of the demand for trials and juries.

The mood of despair, gloom and depression, which permeated the Christmas season of 1867 transferred to the new year.[198] Perhaps, there was a correlation between the increased filings and the mood of the inhabitants of Lafayette County. January was the term in which half of all the cases, including the assault and battery were conducted. Rape appeared for the first time on the County Court docket in January. The most prevalent crime was yet again, assault and battery. Fifty per cent of the cases were related to this particular activity. One case of each of the following, larceny, rape, exhibiting a deadly weapon and a misdemeanor completed the criminal docket for 1868. Since the right to a jury was waived by all the criminal defendants in 1868, one avenue for adjudication was discarded. Although

---

[193]Ibid.
[194]Kendel, p. 247.
[195]Oxford Falcon, 22 Feb 1868.
[196]Ibid., 30 May 1868, 20 June 1868.
[197]Ibid., 21 Oct 1867, 31 Oct 1868, 04 Apr 1868.
[198]Ibid., 04 Jan 1868.

there were several other options remaining, the charges were either admitted or dismissed in all eight cases. The only conviction was Edward Howard's guilty plea for his assault and battery arrest.

W. T. McCarty's conviction record for the rest of the year duplicated Howry's. Johnson Harwell, who was arrested for assault and battery in July, admitted his guilt. Even with the legal expertise offered by R. W. Phipps, Harwell was assessed a five dollar fine, which was the highest monetary penalty for assault and battery in 1867 and 1868. Cinday Malone, the only white female prosecuted by County Court personnel, escaped punishment. McCarty was not able to convict Malone and her unnamed cohorts for exhibiting a deadly weapon. She was the second of two defendants represented by counsel in 1868. J. C. Shoup, her attorney, was not counted in the Census of 1860, but in October of 1868, he opened a dry goods store with Mr. Henwood.[199] Shoup's most publicized activities occurred a few years later. In December, 1869, he was elected to the state Senate as a Radical candidate, which fastened the scalawag sobriquet to his name.[200] He resigned the Senatorial position the following August to accept an appointment as prosecuting attorney.

McCarty and Howry, the prosecuting attorneys for the County Court in 1868 diminished Judge Phipps' responsibilities in the criminal sector enormously. Six of the filings were dismissed and the other two defendants pled guilty. Judge Phipps awarded the punishments in those two cases and both received fines for their misbehavior. Conventionally, Howard's remuneration for his assault and battery conviction was one dollar plus court costs. Harwell's fee was five times that amount plus the court costs. The docket did not distinguish between these two cases, but Judge Phipps unmistakably did. There were no clues to the victims or the extent of the abuse which might have prompted a higher fine for Harwell. Reviewing the 1866 assault and battery cases involving freedmen, Judge Peterson's most costly fine was one dollar; the lowest fee was one cent. Several guilty white assault and battery defendants in the same year were required to pay ten dollar fines. Judge Peterson plainly discriminated depending upon the defendant's ability to pay. Judge Phipps may have adopted the same discretionary posture in the fees assessed to Howard and Harwell.

The nature of the civil calendar in 1868 also prevented Judge Phipps' domination of the results. There were forty-four suits initiated in the four terms. Fourteen cases were dismissed and eighteen defendants defaulted or withdrew their responses. A study of trial courts in Chippewa County, Wisconsin exhibits a similar trend; although, Laurent's analysis covers one hundred years and the concentration falls later in the nineteenth century.[201] The parties in one action settled their disputes on their own and four relied on a jury. Three defendants admitted their guilt on the courthouse steps. Four cases were omitted from the Final Record. Judge Phipps did not compose the final decision in any

---

[199]Ibid. , 10 Oct 1868.

[200]For a further explanation of this term and the other individuals to whom it was applied, see Sansing.

[201]Francis W. Laurent, The Business of a Trial Court , (Madison, Wisconsin: The University of Wisconsin Press, 1959) , pp. 20-100.

proceeding during 1868. In November, 1865, the Mississippi legislature passed a law which outlined a moratorium for the collection of personal indebtedness until January 1, 1868.[202] Since every single case on the 1868 civil docket related to the recovery of money or property, the expiration of the stay prompted many individuals to seek legal redress. Why more than thirty per cent of the plaintiffs dismissed their legal actions without further litigation is puzzling. The dismissals occurred in all types of actions and in all four terms of court. Undoubtedly, the permissibility of legal action for private debts after a three year delay, hastened individuals to the clerk's office, but the recovery of the defendants' financial stability was not guaranteed.

Actions based on promissory note indebtedness accounted for twenty-one of the forty-four suits in 1868. Sixteen note defendants in 1868 either did not respond at all to the claims filed against them or withdrew their responses prior to trial. 1868 was the first year in which defendants answered complaints and later, repealed their responses. If a defendant did not file any response, the plaintiff was entitled to whatever remedies he claimed in his complaint. If a defendant filed an answer, he prohibited capitulation and strategically, was in a more advantageous bargaining position. There were no settlements in any of the suits for negotiable instruments. The amount of indebtedness was reduced in two cases of nine but the percentage was inconclusive.[203] There did not appear to be any other pattern to this particular legal maneuver. In the nine cases in which defendants withdrew their answers, five of the defendants' pleadings were drafted by R. W. Phipps, but two other attorneys followed the same procedure. Judge Phipps accepted two confessions in 1868 regarding promissory note obligations. W. F. Hollowell confessed to the amount due a few days before the County Court session commenced, which undeniably, removed Judge Phipps' intervention. A. P. Maddox confessed his indebtedness during the same term in which the suit was filed. Predictably, Judge Phipps allowed the admission to conclude this dispute too.

Although none of its law suits to recover a debenture were litigated, M. S. Bernheim & Co. was the most victorious and the most litigious plaintiff for 1868. M. S. Bernheim & Co., during the five year existence of the County Court, filed more lawsuits in a single year than any other plaintiff. In the April and July terms, M. S. Bernheim & Co. pled four different promissory note cases against four different defendants. Morris S. Bernheim owned a dry goods store in Oxford and in September of 1867, he advertised his final sale.[204] His enthusiastic use of the court in one year was probably a result of his impending relocation to Holly Springs and the desire to finalize his business in Oxford.[205]

A. J. Isom, W.B. Sims, W. T Ivy, and P. H. Moore all executed notes to the Bernheim firm. W. T. Ivey defaulted in July, 1868 and with all his political involvements, his carelessness or forgetfulness regarding this suit was understandable. In June, 1868 he was elected president of the Caswell

---

[202]Laws of the State of Mississippi, 1865 , Chapter 84.
[203]S. E. Sevel, Assignee vs. R. R. Chilton and J. W. McPherson ;John McFarland vs. Anthony Sispinger.
[204]Oxford Falcon , 28 Sep 1867.
[205]Ibid . , 08 Jan 1870.

Democratic Club, which challenged the new Mississippi constitution and the Radical candidates for Congress.[206] The resolutions he drafted, which were adopted at a later meeting, denounced not only the Radical party but also the Loyal Leagues.[207] The membership of the Loyal Leagues in Lafayette County consisted largely of freedmen with a few white carpetbag and scalawag supporters.[208] Ivy's energetic leadership of the Klu Klux Klan in the neighboring town of Caswell concurred with the aims of the Democratic Club.[209] As the Caswell Democratic resolutions stated, Ivy and his fellow members such as Allen Shire (who failed to pay a black employee his wages for an entire year) were protecting the liberty and prosperity of the South. There was little time to respond to petty promissory note cases.

Most of the litigants in the account indebtedness category also failed to negate or negotiate in 1868. Three of the four complainants were merchants in Oxford. Betsy Ann Mitchell and her husband were the independent plaintiffs. They failed to receive payment for a wagon. Evidently, the wagon carried its purchaser, C. C. Collins, beyond the confines of Lafayette County. The city of Oxford appeared as a defendant on the docket again in 1868. John Dean and Co. sued the mayor and aldermen of Oxford in a Justice of the Peace Court for a past due account. When the proceedings in the Justice of the Peace Court revealed that the town was without sufficient funds to repay the fifteen dollar cost, John Dean and Co. appealed to the County Court for further remedies. A summons was personally served on the mayor, the treasurer, the marshal, and the aldermen and all refused to acknowledge the proceedings. John Dean and Co. acquired a judgment against each one of these men. John M. Stemmons, one of the new attorneys in Oxford in 1867, initiated legal proceedings against M. J. McGuire for nonpayment of scholarly instruction fees for McGuire's three sons. Approximately six months after this case was filed, McGuire resumed his architectural business and in all probability, the restitution for his debt.[210] In April, 1869, he received the contract to design C. M. Thompson's new hotel , which was the first postbellum hotel in Oxford.[211]

The five recovery of debt cases in 1868 were all concluded differently. One defendant defaulted, one defendant confessed, one was settled, one plaintiff dismissed, and in the last case, the jury awarded the verdict to the plaintiff. The two lawsuits which were filed in January were related to agrarian pursuits. F. H. Rueff acquired his debt by the purchase of oxen, cattle and cows. Rueff was a prosperous confectioner in Oxford as was evidenced by the addition to his residence and his personal worth.[212] He also entertained lavishly, including a performance by the Oxford Brass and String

---

[206]Ibid . , 13 Jun 1868.
[207]Ibid . , 11 Jul 1868.
[208]Kendel, pp. 237-238.
[209]Ibid . , p. 239.
[210]Ibid . , 23 Jan 1869.
[211]Ibid . , 10 Apr 1869.
[212]Ibid . , 14 Aug 1869, Census of 1860.

Bands.[213] Yet, he still planted and harvested unusually large produce, raised fifty head of hogs, countless sheep, goats, and cows.[214] He contested the suit brought by W. W. McMahen, but the twelve-member panel enforced McMahen's claim. The repayment of S. Hamilton's debt in the second agricultural case was achieved through the seizure of two hundred bushels of corn and three thousand pounds of seed cotton.

Although W. L. Lyles confessed to a debt to Isaac A. Duncan in July of 1868, his confession did not adversely affect his many careers in Oxford. He was still able to solicit donations from the Oxford community to purchase instruments for the Oxford Brass Band, which he managed.[215] The following year, he was appointed as a delegate to the Commercial Convention in Memphis, the Conservative County Convention for Lafayette County, was selected as a committee member for solicitations to the Oxford fair, and constructed a warehouse for his business in Oxford.[216] In 1870, he was unanimously nominated by the Conservative Convention as a candidate for the state Senate.[217] G. W. Pool, with the legal assistance of Charles B. Howry, filed his recovery of debt case in the County Court to establish a mechanic's lien on a mill owned by Henry Ivy and A. W. Parks. Pool was not paid for his construction of the mill, but the lien guaranteed his reimbursement.

In 1868, none of the four recovery-of-property plaintiffs filed suit for the same type of property. Sam B. Wright, a farmer whose total holdings in 1860 were twenty-eight thousand dollars, was so enraged by the activities of Pat Neagal, Lewis Herod and John Blakely that he hired an attorney to institute legal proceedings.[218] The defendants allegedly cut up and removed two hundred and fifty dollars worth of trees from his property. Wright's calculations of damages were considerable, but Moses Powell and eleven other men granted the full amount. The three remaining suits for recovery of property were dismissed without a ruling by Judge Phipps. It was unclear whether W. H. Grayham recovered his "cotton in the seed," or Azlin retrieved his sixty bushels of corn or J. W. Jones and his wife, Eliza, regained their rented property. In October, 1868, both replevin suits were also dismissed.

In 1868, similarly to 1867, very few, if any, cases were filed without calling on the expertise of an attorney in the County Court of Lafayette County. The three civil lawsuits for which there were admissions of guilt by the defendants were the only cases not to list any attorneys. Since there were pleadings drafted and filed, there were probably lawyers involved in those cases but, with a confession recorded shortly after the filing, the clerk omitted the attorneys' names. R. W. Phipps, Charles Howry, E. R. Belcher, and H. A. Barr controlled most of the legal business in the County Court for Lafayette County in 1868. Barr's partner, Paul Barringer handled three cases and H. L. Duncan represented one

---

[213]Oxford Falcon, 09 Oct 1869.
[214]Ibid., 02 Oct 1869, 06 Nov 1869.
[215]Ibid., 20 June 1868.
[216]Ibid., 15 May 1869, 12 June 1869, 18 Sept 1869, 09 Oct 1869.
[217]Ibid., 10 Dec 1870.
[218]Census of 1860.

client. J. H. McKie appeared on the civil docket as an attorney for the first time in 1868. His earliest advertisement for legal business appeared in the Oxford Falcon on Mar 23, 1867 and he was not counted in the Census of 1860 in Lafayette County, Mississippi. McKie, however, was not unknown to the people of Oxford for references were made to his courageous participation in a Mississippi regiment during the Civil War.[219] Not only his combat experience but also his loyal affiliation to the Conservative Party linked him with other prominent Oxonians. McKie, like R. W. Phipps and juror W. S. Neilson, served on the Executive Committee of the Conservative Party to nominate candidates for the state legislature in 1868.[220] He was nominated as the secretary for the County Convention in October, 1867 and again in June, 1868.[221]

Politics was still a conspicuous issue in Lafayette County and the entire state, even after the conventions and the elections concluded in June of 1868. The investigations of the Democratic Party's reputed threats, fraud, intimidation and illegal voting procedures proceeded for several months under the guidance of a Committee of Five. Democrats were not permitted to supply evidence, testify or rebut the information gathered by the state officials.[222] The chairman of the committee declared in November, 1868 that there were indeed threats, fraud, and intimidation during the election in seven counties; Lafayette County was one of the designated counties.[223] Dissension and harassment between the parties continued without resolution. Since Mississippi remained under martial law, the United States Congress ultimately determined its status. A Committee of Sixteen appointed by the Mississippi Republican Party travelled to Washington D. C. in December to enlighten Congress. Democratic representatives followed shortly thereafter to incorporate their versions in the congressional report. Congress resolved the contentions by allowing those men franchised in Mississippi to reenact the elections on a date decided by President Grant.

Grant 's date for the repeated election was not until November, 1869. Mississippi and Lafayette County's budget for 1868 welcomed the relief. The editor of the Oxford Falcon noted an increased money supply in late 1868 in Lafayette County and as a direct result, the gloominess of the past year faded slightly. In his own business, he observed fewer delinquencies and an expanded circulation of his paper, which reinforced his prior observation. Part of the recovery was a direct result of the unanticipated rise of cotton prices by at least, ten cents a pound. Mississippi cotton planters earned a profit for their crop in 1868, which had not occurred since prior to the Civil War. Despite the boomlet in cotton, pecuniary uncertainties persisted. Notices of bankruptcy sales appeared in the county paper for the first time in August, 1868 and two months later, bankruptcy pleas discharged most of the suits in the

---

[219]Oxford Falcon , 23 Mar 1867.
[220]Oxford Falcon , 16 May 1868.
[221]Ibid . , 26 Oct 1867 , 06 Jun 1868.
[222]Garner, p. 218.
[223]Ibid . , p. 219.

Circuit Court of Lafayette County. The entire state of Mississippi was just beginning to revive. In Jackson, Mississippi, in one week in 1868, two thousand petitions for bankruptcy were mailed to affected creditors.[224]

In contrast, and in some instances, concomitantly, the number of cases filed in the County Court in Lafayette County diminished while the number of bankruptcies flourished. In January and April of 1868, the civil and criminal dockets in the County Court were limited and the docket was cleared in two days. The sessions for the next two terms were each completed in a single day. The Mississippi legislature had allotted up to six business days, when the court was established. The corresponding terms in the Circuit Court duplicated the pattern of a reduced case load. Not only did the volume of litigation dwindle, but lawyers' fees were meager as well. According to the Assessment Roll of Lafayette County, the gross annual earnings for attorneys, physicians and dentists in 1868 was fourteen thousand and forty dollars. In 1860, eighteen men identified themselves as lawyers or law students in Lafayette County. J. M. Phipps, H. L. Duncan, John M. Stemmons, W. T. McCarty, J. H. McKie, Charles B. Howry, J. C. Shoup and Paul Barringer were not included in the 1860 tabulation of attorneys, which augmented the potential number of individuals dividing these fees to twenty-six. This number did not count doctors or dentists and there were at least two dentists in Lafayette County in 1868, John Cullen and A. D. Denton. There were also at least two doctors, Dr. L. E. Warrington and Dr. T. D. Isom. Fourteen thousand dollars was not a princely sum, when the number of individuals earning it probably exceeded thirty.[225]

1869

In January, 1869, cotton prices rose to twenty-six and twenty-seven cents a pound in Oxford. The profitable harvest of the previous year rewarded all those involved with cotton, even the laborers. Six months into the new year, a significant number of planters and farmers in Mississippi cleared their outstanding debts. Very few freedmen failed to contract in 1869 in Lafayette County and they commenced their chores with spirits buoyed by the proceeds of the most recent cotton crop. Land values ascended with the rising market. In early 1868, a parcel of land outside of Oxford was offered for two dollars an acre and no one bid on the property. In 1869, the same parcel was sold for eleven dollars an acre at a public auction. The square in Oxford, rebuilt mainly of brick, recaptured most of its original splendor by June of 1869. Music and dancing enlivened the second half of the year for numerous citizens in Lafayette County. In August, there was a Cotillion Party, in September a Calico Ball and in December, there were two additional socials. All of these festivities were held in the courtroom.[226]

---

[224]Oxford Falcon, 14 Nov 1868, 16 Jan 1869; Harris, pp. 181-182; Oxford Falcon, 22 Aug 1868, 31 Oct 1868, 21 Nov 1868.

[225]Oxford Falcon, 04 Jan 1868, 11 Apr 1868, 11 July 1868, 10 Oct 1868, 18 Apr 1868, 10 Oct 1868, 02 May 1868, 10 Oct 1868, 20 Feb 1869; Census of 1860.

[226]Oxford Falcon, 05 June 1869, 30 Jan 1869, 27 Mar 1869, 16 Jan 1869, 19 June 1869, 14 Aug 1869, 25 Sept 1869, 25 Dec 1869, 08 Jan 1870.

Political uncertainty lurked in the halls of the courtroom in daylight, while frivolity and sociability reigned in the evenings. Mississippi was still not a member of the union and contentious discussions continued regarding its status, and the elections of the previous year. In March, 1869, General Adelbert Ames, replaced General Gillem as provisional governor of the state. During his first month in office, Ames demanded the removal of all personnel who were unable to swear uninterrupted loyalty to the United States government and the removal of all those who remained with unexcused political disabilities. Three-fourths of the county offices were vacated in Lafayette County as a result of this order.[227] In May, 1869, General Ames had not appointed any officers to Lafayette County. The four officers who retained their offices were the probate clerk, the mayor, one magistrate and constable.[228] No appointments were made until June 21, 1869. Obviously, this dissolved the County Court , the Probate Court, the Circuit Court, and most other courts, in addition to the government for the county.

Meanwhile, the County Court met in January, 1869 with J. M. Phipps, W. T. McCarty, W. S. McKee, and W. G. Vaughan fulfilling their respective roles. There were no criminal cases filed in January, which allowed W. T. McCarty to foment his relocation plans. The County Court's next term, with its officers appointed by General Ames, was not until October. Thirteen of the fifteen cases were completed without any formal adjudication. Dismissals and withdrawals of responses diminished the work of the court. Eight of the fifteen suits were filed in January; the remaining seven were filed in October. The sole criminal case for 1869 was filed in October. Freedmen and freedwomen did not participate in any case during 1869.

All four recovery of property disputes were filed in January and all four were eventually dismissed. The emphasis on retrieval of farm animals which appeared in 1866 was repeated in 1869. Two pairs of oxen, a mule and a horse were the animals discussed. Daniel Holcomb included one hundred and thirty bushels of corn and a silver watch in his action for the recovery of his dark, sorrel mule. In the Assessment Roll of Lafayette County for 1868, the value of watches, $10, 434.90 almost equaled the value of pleasure carriages and exceeded the value of clocks by five times.[229] Since there was only seven hundred dollars of diamonds and jewelry in the county,[230] men in Lafayette County either treasured their watches or found them more difficult to pawn. The fourth lawsuit was distinguished not only for the goods litigated, but also for its settlement prior to the dismissal of the suit. J. R. Markett, the security for four freedpersons in 1866, began his new year by filing suit against A. B. Walton in the County Court. In January, Markett also had a suit pending in the Chancery Court. Both of these suits pertained to property within the city limits of Oxford. Markett forced a sheriff's sale of the

---

[227]Ibid . , 27 Mar 1869.
[228]Ibid . , 29 May 1869.
[229]Ibid . , 20 Feb 1869.
[230]Ibid .

land in the Chancery Court suit, but somehow, compromised with Walton regarding the possession of the one hundred sixty acres in question.

Viser and Gant and Samuel M. Thompson, the editor of the Oxford Falcon, legally pursued two customers for their account indebtedness in January, 1869. Viser and Gant's and Thompson's descriptions of the goods were negligible. Viser had a one-year partnership in the grocery business beginning in September, 1868 with Colonel M. D. Vance, but Gant was never mentioned. Viser served as the Assessor of Internal Revenue for the Third District of Mississippi until his removal in April of 1869 so he evidently had at least one other occupation.[231] Samuel M. Thompson's suit against W. G. Vaughan originated in November, 1868 for "goods sold and delivered."[232] Thompson frequently complained about past due accounts in his paper, but until Vaughan's debt, he never sought legal redress in the County Court. Thompson was an active Conservative Democrat who participated politically with R. W. Phipps, Charles Howry, E. R. Belcher, J. H. McKie, and H. A. Barr. Reputedly, he was also a member of the Ku Klux Klan in Lafayette County.[233] As early as 1868, Thompson tracked Vaughan's political career and often bemoaned his association with the Republicans. In July, 1869, Vaughan edited a Radical newspaper, the Weekly Oxonian , which in 1870, replaced the Falcon as the official newspaper of the county. The explanation for this particular lawsuit may have more to do with partisanship than a balance of payments.

Viney Hanna sued James West for his faulty calculation of wages and for the clothing due to her minor son, Carrol. Carrol, probably due to his age, was not protected by a labor contract with James West. Hanna's case was documented with written computations, which included deductions for shoes, cash and tobacco. Her attorney, John H. McKie dismissed the suit without adjudication. Hanna was not only the only woman to initiate a lawsuit in 1869, but she was also the only parent to sue on behalf of a minor child in the County Court of Lafayette County. The distinction for this next dispute was also its uniqueness. J. Alexander v. John Bryant , Daniel McCoy was the only case decided by a jury in 1869. The promissory note, which was the basis of the suit was not stamped at the time of its execution. The plaintiff swore its legitimacy and the defendants disagreed. Alexander requested a jury and Moses Powell was one of the twelve candidates. Powell was familiar with the proceedings in the County Court, since he served as a juror in October of 1868. The evidence, unfortunately for Alexander, prompted a decision for the defendants. A few months later, the Falcon published an expose regarding a J. Alexander. Alexander was a young man with "fascinating airs and winning ways" who allegedly stole four hundred dollars and other valuable items before he departed from Oxford.[234] Perhaps, the assembly of twelve men was more astute than the inhabitants of Oxford realized. The January term of the County

---

[231]Ibid . , 10 Apr 1869.
[232]Samuel M. Thompson vs. Word G. Vaughan.
[233]Kendel, p. 231.
[234]Oxford Falcon , 27 Mar 1869.

Court concluded and with it the era of Conservative control of the County Court. At the end of March, 1869, Judge Phipps, W. T. McCarty, W. S. McKee, and W. G. Vaughan were unemployed.

Several months passed before General Ames choose replacements for the County Court positions. On June 21, 1869, he appointed De Witte Stearns judge of the Probate and County Courts, C. N. Wilson, clerk of the Circuit Court, and E. M. Main, sheriff. Ames did not select a county attorney at this time. One bond which Stearns, Wilson, and Main shared was that they had never been residents of Lafayette County.[235] This particular quality did not endear these individuals to the citizens of the county. Stearns was originally from Iowa and had recently been defeated for the position of prosecuting attorney for the Municipal Court of Memphis. He was elected permanent president of the Radical Party and was nominated as a delegate to the state convention.[236] His choice of political parties and his activities branded Stearns a carpetbagger. The same label was affixed to Main and Wilson. In addition to his duties as Circuit clerk, Wilson was appointed Mayor of Oxford in July, 1869. J. M. Cook was now unemployed. Wilson's next few months were filled with the acquisition of supplemental offices, and he served as President of the Board of Registrars, and editor of the Weekly Oxonian. E. M. Main's company purchased a share of the paper in July, 1869 and he directed its shift to Radicalism.[237] Beginning in August and for the remainder of his residence in Oxford, he served as Tax Collector for the county.

The residents of Oxford, or at least those whom the Oxford Falcon represented, complained less vehemently regarding the garrison of soldiers residing in their city than they did the recently appointed county officials. These armed forces were not installed just for registration and the upcoming election but "until the state was reconstructed." [238] The soldiers arrived in August, 1869 and remained in the vicinity until 1875. Months before the garrison was established, political meetings and rallies reminded the citizens of the November 30 election. Beginning in June, Oxford hosted a partisan assembly in every month until the election. The Radicals met in churches, the public square, and outdoors while the National Union Party occupied the courthouse.[239] As the months progressed, more attention was directed towards the political future of Mississippi. In mid-September, the Falcon announced that the November campaign would be the preeminent election in the state's history.

Two weeks later, the County Court resumed its duties with an outsider in each of the leading posts. This term of the County Court was characterized by absences. General Ames had still not appointed a county attorney, but there was one criminal case on the docket. There was no prosecuting attorney listed for this case and no final result listed either. There were no freedmen, no female

---

[235]Ibid . , 26 June 1869.
[236]Ibid . , 25 Sept. 1869, 09 Oct 1869.
[237]Ibid . , 24 July 1869.
[238]Ibid . , 04 Sept. 1869.
[239]Ibid . , 26 June 1869, 24 July 1869, 04 Sept. 1869.

plaintiffs, and no juries. The only case which was not dismissed or finalized by the withdrawal of a response was a divorce action. Economics, again, dominated this session of the civil cases. Six of the seven lawsuits related to indebtedness. In this regard, Judge Stearns and his fellow Radicals were presented with a pattern familiar to the members of the county. Most civil cases in 1868 and 1867 were financially oriented and concluded without formal litigation.

Dr. A. G. Denton, one of Lafayette County's litigious dentists, filed suit against Eli McConnell for board, lodging and merchandise. Dr. Denton's specialized training did not appear to be involved and he dismissed the suit without adjudication. Wiley Wilson followed the same procedure in his recovery of debt case against Leonidas Lee. H. W. Barry proposed to attach a cotton crop harvested by Samuel Foster and J. W. Humphreys to repay their debt to him, but he, too, dismissed his suit. The fourth recovery of debt lawsuit was also dismissed.

James O'Grady won a judgment against James Penick , but Penick owned no seizable property in Lafayette County. In order to execute his judgment, O'Grady filed a garnishment against Dr. Thomas D. Isom and A. M. West, who were allegedly indebted to Penick. Strategically and financially, O'Grady's selection of individuals was expedient. Dr. Isom's worth was eighty-five thousand dollars in 1860, and in 1870, his fortunes were secure enough to construct a two-story brick Drug Store on the square in Oxford.[240] As was mentioned earlier, A. M. West was elected president of the Mississippi Central Railroad on several occasions and his term of office continued through 1869.[241] The litigants in this case settled their dispute and the plaintiff dismissed the garnishment procedure.

J. B. Surprise executed a promissory note to "Fat" [sic] Crosby in August of 1867 for over one hundred and eighty dollars. The amount was reduced in 1868, but Surprise never completely paid the note. Surprise, through his attorney, J. H. McKie, filed a response and during the October session, he withdrew it. Surprise later admitted the entire amount of the debt. J. B. Surprise and A. F. Woods were partners in a carpentry business until July of 1867.[242] There is the possibility that Surprise originally denied the responsibility for the promissory note, since it was acquired as a debt of the partnership.

The final case for 1869 was a dissolution of marriage. Divorces in the nineteenth century were awarded on the basis of egregious offenses; irreconcilable differences did not warrant the invalidation of the marriage contract.[243] Due to the South's traditional nature, divorce was infrequently granted until the next century.[244] S. A. Hughes explained to Judge Stearns that three months after he wed Frances M. Thompson, she delivered a child. He did not know who was the father of the child. Hughes asserted that when he discovered Frances's condition, he refused conjugal relations with her and departed from

---

[240]Census of 1860; Oxford Falcon , 11 June 1870
[241]Oxford Falcon , 31 Oct 1868.
[242]Ibid . , 13 July 1867.
[243]Hall, The Magic Mirror , p. 165.
[244]Ely and Bodenhamer, p. 10.

their home. Judge Stearns believed Hughes and awarded a divorce to him. This was the first dissolution of marriage which was heard in the County Court. Clearly, Judge Stearns determined that Frances Hughes's behavior destroyed the sanctity of marriage.

Although the October 1869 term introduced the first divorce case for the County Court, few other details changed as a result of the new officers. Judge Stearns decided the marital dispute and the remainder of the lawsuits were completed without adjudication. This confirmed the pattern which existed for Judge Phipps. Criminal cases had decreased each year and 1869 only registered one crime on the criminal docket. Neither the result of the charge nor any punishment meted by Judge Stearns was included on the docket. Most of the same lawyers, J. H. McKie, Charles Howry, H. A. Barr, and E. R. Belcher, practiced in the Republican version of the County Court. A notable exception, the Phipps brothers were not specifically indicated in any case in the Final Record for 1869.

In January, 1869, the firm of Lamar & Clark made its debut in the County Court. L. Q. C. Lamar, a partner in the firm, was probably the most renowned resident of nineteenth-century Oxford. In addition to the practice of law, he taught math at the University of Mississippi. Lamar also instructed young men in the law and Charles Howry was one of his pupils.[245] He served as a member of the federal Congress and was appointed to the United States Supreme Court in 1887. His arrival in the County Court in 1869 was probably encouraged for political reasons. Samuel Thompson, the Democratic editor, hired Lamar's firm to represent him in his suit against W. G. Vaughan, the scalawag. Not coincidentally, Lamar was an active member of the Democratic Party.[246] Vaughan accepted the challenge but later, withdrew his response and admitted the debt. Unfortunately, none of the political and procedural discussions for that particular case have survived.

The political atmosphere outside of the courtroom was churning as the November election approached. Registration drives in November augmented the number of white voters by two hundred and nine men and four hundred and two Afro-Mississippians.[247] Freedmen, after this increase, held approximately 41% of the total electorate in Lafayette County. The Republicans carried the election in Lafayette County by less than one hundred votes. The composition of the state legislature also reflected the Republican ideology. One hundred and eighteen of the one hundred and fifty members of the legislature were Republicans. J. L. Alcorn, a Republican, was elected governor. Concurrently with the election of legislators and a governor, the electorate voted to ratify or reject the 1868 Constitution. Less than 1% of the voters in the state of Mississippi cast their ballot against ratification of the 1868 Constitution.[248]

---

[245]Kendel, p. 232.
[246]Ibid . , p. 229.
[247]Oxford Falcon , 27 Nov 1869.
[248]Garner, p. 245 footnote.

1870

When the Mississippi legislature met in January, 1870, it immediately ratified the Fourteenth and Fifteenth Amendments. With the new Constitution implemented and the two outstanding amendments adopted, Mississippi was "reconstructed" and prepared to reenter the union. In February, 1870, Congress voted to readmit the state of Mississippi. The state legislature next focused on the reshaping and reorganization of the government of Mississippi. Similarly to the legislature of 1865, the 1870 legislature restructured the judicial system. Probate Courts were replaced by Chancery Courts, fifteen Circuit Courts were established and required to hold court three times a year in each county, and the Justice of the Peace Courts received additional responsibilities.[249] The County Court system was completely demolished. Any cases pending in the County Courts were transferred to the Circuit Courts or the Justice of the Peace Courts. The movement to abolish the County Courts which began in 1866 finally materialized four years later.

Judge Stearns held the County Court one last time in January, 1870. E. M. Main and C. N. Wilson participated for their last time as well. The single criminal arraignment was filed by Charles Howry, but he was not officially appointed to the position of County Attorney. The criminal defendant, Robert Cain, vanished from the county so Howry was not able to prosecute him for rape. Although there were only three civil cases listed on the Final Record, two were filed by minority participants. Both of these individuals were assisted by legal counsel.

Fred Pegues, a freedman, alleged that Sted Wimble owed him money for Pegues' bay mule. Pegues, through his attorney, E. R. Belcher, dismissed the suit without litigation. The second minority plaintiff was Sarah Wadlington. She, however, did not dismiss her case. Her petition for marital dissolution, which was drafted by J. C. Shoup, asserted that she was forced into marriage by fraudulent means, including bribes to her acquaintances. Ben, her husband, was "most brutally cruel", and on several occasions, threatened her life with a loaded revolver and other deadly weapons.[250] Sarah chose to endure the significant social disgrace attached to divorced women in the South rather than the beatings and bruises inflicted by her husband.[251] Judge Stearns, in his second divorce ruling, dissolved the matrimonial bonds linking Sarah and Ben Wadlington. In his estimation, her profession of faithfulness and obedience and the evidence of physical and mental cruelty warranted a divorce. This was Judge Stearns' only ruling for 1870 and his final decision as the judge of the County Court of Lafayette County.

---

[249] Laws of the State of Mississippi, 1870 , (Jackson, Mississippi: Kimball, Raymond & Co., 1870).
[250] Final Record, Sarah Wadlington vs. Ben Wadlington.
[251] Hall, The Magic Mirror , p. 165.

IV. SUMMARY

The primary function of a court is to resolve disputes and the County Court of Lafayette County upheld its duties. In its five-year existence, it monitored two hundred and thirty cases, seventy criminal and one hundred and sixty civil cases. One hundred and seven of those proceedings, however, were not adjudicated. Defaults, dismissals, and withdrawals of pleadings accounted for ninety-nine of the total number and the remaining eight disputes were settled. There were sixty-six examples of defaults, dismissals, and withdrawals on the civil docket and thirty-three on the criminal docket. Peter Hoffer surmises that the prevalence of defaults and dismissals indicates the litigants use of the courtroom for more than factual disputes.[252] Given the paucity of responses to summonses and pleadings, defendants did not, in these ninety-nine cases, contest the plaintiffs' accounts. Hoffer concludes that these plaintiffs needed a public defense of their honor and chose the judicial system.[253] In some instances that may have been the rationale, but Hoffer neglects to consider the other party. He implies that the honor-protecting plaintiffs filed lawsuits knowing that the defendant would not appear in person or in writing. His assumption omits other possibilities. Defendants may not respond due to improper service or notification, admittance of guilt without the expense and /or embarrassment of formal proceedings, ignorance of the law, and even apathy. Cases may also be listed as dismissals, when, in fact, an out-of-court settlement transpired. There were several lawsuits in the County Court of Lafayette County, which, without the notation of the settlement discussions in the Final Record, would have been considered dismissals. Criminal proceedings were often dismissed in the County Court of Lafayette County as a result of the timely disappearance of the defendant. Both arraignments for rape, one for retailing, one for slander, etc. were dismissed for failure to locate the defendant. Once a charge is filed, the prosecutor is responsible for securing its service. His inability to locate the fugitive becomes evident only after service of process is unsuccessfully attempted. There does not appear to be a simple, inclusive explanation for the overwhelming number of defaults, dismissals and withdrawals of pleadings in the County Court of Lafayette County but a combination of factors reflective of the various plaintiffs and defendants involved.

Juries in the County Court of Lafayette County were derived from the same population as the plaintiffs and defendants but with a few restrictions. Jurists in Mississippi were white, male and property holders. In Lafayette County, 50 % had assets from one thousand to four thousand dollars and

---

[252]Hoffer, p. 317.
[253]Ibid.

12% held between four thousand and thirty thousand dollars.[254] They were also middle-aged, 68.9 % were at least forty years old.[255] The Lafayette County panels for the County Court confirm the age and class standing of most jurors in America.[256] Thirty-eight of the two hundred and thirty cases were decided by a jury verdict in the County Court. Thirteen criminal actions were evaluated by jurists and sixteen defendants were adjudged not guilty. Five of those acquitted were freedpersons; although, three of those individuals were part of the same proceeding. Two of the five cases in which a freedman selected trial by jury resulted in convictions. There were only three convicting verdicts during the entire five year existence of the County Court and two of those were freedmen. The civil record for the jury is also unbalanced. Nine juries found for the defendants and sixteen found for the plaintiffs. Only one Afro-Mississippian requested a jury in a civil proceeding and he was awarded the verdict.

Judge Peterson, Judge Phipps and Judge Stearns also ruled on civil and criminal cases. In all five years combined, these justices did not decide 10% of the final outcomes. However, it is impossible to evaluate the judges' potential influence in settling cases, dismissing cases and instructing the jury. Their impact may have been considerably more than the figures indicate. Similarly to the jury members, the judges conformed to existing patterns regarding previous occupation and age. Frequently, judges are lawyers and they are usually older individuals.[257] Two of the three, J. M. Phipps and DeWitt Stearns, were attorneys. Judge Peterson was also probably an attorney, but the surviving commentaries did not list his previous occupation. Peterson died in office and his successor, J. M. Phipps was nearly forty when he assumed the bench. Stearns had an established career before he was appointed to the Probate and County Courts in Lafayette County so he, too, was probably an older man.

The prosecutor in the criminal sector often functions as a judge. R. W. Phipps, Charles B. Howry, and W. T. McCarty served in that position during the County Court's tenure. All three were relatively young, unmarried or newly wed and graduates of a university. R. W. Phipps was probably the oldest to prosecute in the County Court. In 1866, when he was selected for the position, he was thirty-three. McCarty's age was not available, but the Falcon describes him as a young fellow. These men dismissed thirty-two out of seventy actions against criminal defendants. The charges were dropped against six freedmen. These offenses included assault and battery, enticement, adultery, retailing, and petty larceny. The case for exhibiting a deadly weapon filed against Cinday Malone, the only white woman to be criminally charged, was dismissed. Thirteen of the remaining twenty-five cases which were not prosecuted against white males were arrests for assault and battery. The next most frequently

---

[254]Robert J. Haws and Michael V. Namorato, "Race, Property Rights, and the Economic Consequences of Reconstruction: A Case Study 32 Vand. L. Rev. 318.
[255]Ibid.
[256]Swett, p. 96.
[257]Becker, p. 84.

dismissed case was petty larceny; there were three cases dismissed. Rape and malicious mischief claimed two dismissals each and the remaining dismissals were single examples of various crimes.

Crimes highlight societal conditions and provide clues to the character of the residents therein. The multitude of offenses in Lafayette County fall into two categories, assault and battery and larceny. Including one charge for affray, there were thirty-one cases for assault and battery. Almost half of all the arrests for the five-year duration of the County Court were related to cruel, physical abuse of a fellow human being. This tabulation disputes Lawrence M. Friedman's assertion that "theft and other property crimes moved to center stage."[258] His analysis, however, concentrated on the entire country. In Lafayette County, like the region encircling it, violent, brutish quarrels predominated. White males nearly monopolized this category, twenty-five of the thirty-one cases. These men preferred to grapple with members of their own sex and race. There was only one instance in which a white male assaulted a freedperson and he was convicted. This freedwoman was the only Afro-Mississippian to accuse a white male of assault and battery. There is always the possibility that there were additional racially mixed cases which were filed in other courts or not filed at all. The only other confrontation between members of a different gender was between a freedman and freedwoman. He plead guilty to the charges and was punished by hanging by his thumbs.

Larceny, with sixteen cases, ranked second on the docket of the County Court of Lafayette County. Nine Freedmen were charged with this crime and the remaining cases were attributable to white males. After 1867, and there were only two instances in this year, no more freedmen were prosecuted for larceny in the County Court. In 1866, freedmen purloined only rations and weapons; in 1867, one freedmen appropriated cash and the second was not listed in the docket or the Final Record. In 1868 and 1869, white males were still found on the criminal docket accused of theft. In 1866, white defendants stole varied objects, from hogs to pipes. Dismissals accounted for almost half of the larceny cases, which was approximately the same ratio for assault and battery cases. Three malicious mischief, three exhibiting a deadly weapon, two adultery, two retailing, two excessive tolls, and two rape cases, plus one slander, and one unexplained misdemeanor case completed the entire criminal docket.

The County Court was utilized more often to collect property and assets than to discipline criminals, its original purpose. Judging from the sum of cases, one hundred and sixty civil cases and seventy criminal cases, the ascendancy of monetary woes in Lafayette County during 1865-1870 was obvious. There were thirty-one suits based on promissory notes, twenty-one of which were filed in 1868. Recovery of debt cases totaled twenty-one; recovery of property, sixteen; account indebtedness thirteen. Nine cases were for attachment and garnishment and the residual cases accounted for three or less in each category. Violation of labor contract, for example, was only claimed in three cases during

---

[258]Friedman, "Courts Over Time: A Survey of Theories and Research," p. 42.

five years. Two of those cases were in the first term of the first year. Excluding the two divorce petitions, the civil dockets for five years adjudicated economic and financial concerns.

The figures for the criminal and civil dockets illuminate another function of courts: the protection of the rights of minorities. Former slaves and women were the most significant minorities represented in Lafayette County. There were twenty-three freedpersons summoned by the prosecuting attorneys during the existence of the County Court. All but two cases were filed in 1866. The dismissal rate for these cases was 26%, while the comparable percentage for whites was 55%. Five cases involving freedpersons were decided by a jury and three of the defendants were convicted. In contrast, eleven whites were acquitted by their peers and one was convicted.

Paralleling the trend in the complete docket, freedpersons were charged most frequently with assault and battery, and larceny. There were six cases of assault and battery and nine cases of larceny. The adjudication of these actions identifies potential discrimination. Only one freedman was granted a dismissal of his assault and battery arraignment, which was approximately 17% of the total number of individuals charged. Thirteen of the charges for the same crime were dropped against white defendants, which was 43%. Surprisingly, the rest of the freedpersons, except one freedwomen, pled guilty to assault and battery charges and refused a jury. Even though her plea was not guilty, the freedwoman was also convicted. Three former slaves charged with larceny protested their innocence and chose trial by jury. Two of those three men were convicted. The verdicts of three juries in three different cases involving white defendants absolved all involved. The percentage of dismissals again favored white defendants, 43% to 22%. Four freedmen plead guilty to thievery, which was more than half of the cases (two cases were dismissed). Combining the total number of guilty pleas in these two categories indicates that 80% of the freedpersons arrested for these crimes pled guilty. Either the freedmen were guilty and preferred not to contest the arrest or they were innocent and chose not to dispute the charges for other reasons. Punishments were also racially biased. Freedmen were the only individuals to be hung by their thumbs on the square in Oxford. Two freedmen, one guilty of assault and battery and one of larceny were tortured with this penalty.

Criminal cases involving women occurred much less frequently. The sole white woman on the criminal docket was not convicted, since her case was dismissed. Two of the three freedwomen who were charged with a crime were co-defendants in an adultery case. They were both exculpated by the jury. The final freedwomen was convicted of assault and battery. Prejudicial treatment refers not only to treatment of defendants but the availability of the judicial system as well. There was not a single complaint filed in the criminal sector of the County Court for an injury to a white woman . There is the possibility that the two rape victims were white females, but neither their race nor their names were listed. Freedwomen were the victims in three different cases and two of the assailants were men. One brave freedwoman charged a white male with assault and battery. This was the only example of an

Afro-Mississippian accusing a white of a crime during the five years in which the County Court operated. In this case, litigation was forestalled by settlement.

No freedwoman ever filed a civil suit in the County Court. The solitary freedwoman who was a defendant in a civil suit lost her violation of labor contract case. Single white women who filed civil suits or women who filed independently of their husbands or families were much more fortunate. Judge Peterson ruled in favor of four of these women, a jury decided for the fifth, one case was dismissed, and the outcome of the seventh was not included in the Final Record. There were five female defendants on the civil docket and 80 % lost their cases. No freedmen were sued in the civil section of the County Court during its operation. Seven freedmen did pursue civil remedies for their grievances. Four freedmen, however, dismissed their proceedings, which may indicate intimidation. Half of the civil suits initiated by minorities were filed in 1866. There were nearly five thousand freedpersons in Lafayette County in 1866. Even if only half of those individuals were eligible to file civil claims, the percentage of individuals who used the County Court over the five year period was less than 0.5%. A similar ratio for women also derives a percentage of less than 0.5%.

Courthouses and courtrooms also serve as assembling places for their citizens, but in Lafayette County, the social aspects of the judicial locales reinforced the segregation of minorities, especially the freedpersons. Beginning in 1866, there were meetings, parties, and fund raising activities, which were held in the courtrooms of Lafayette County. The planters organized a protest to the cotton tax in the federal courtroom, a "grand hop" was held a few months later in the new courtroom, as was a benefit to raise money for the glorification of the graves of the Confederate soldiers.[259] These activities all occurred in 1866. In 1868, political meetings for the Conservatives were held in the courtrooms and their announcements stated explicitly who was invited. "[L]et every decent white man attend" and other similar comments refused admittance to African-Americans and women.[260]

The only event in the courtroom which included freedpersons was held in 1868. A group of whites, including the mayor, J. M. Cook, met with several freedmen to establish a school for the African-American children in Oxford.[261] The Oxford Falcon mentioned this biracial educational venture and meeting in July, 1868 and never again. Even during 1869 and 1870 when the Republicans controlled the county government, including the judges and clerks in the judicial system, the courtrooms did not host any minority events. The first exclusively black party which was mentioned in the Falcon was held in January, 1870 in the new hotel, not the courtroom. The Circuit Clerk's office was the pinnacle for a minority political or social engagement. Mayor Wilson, a Republican, announced a meeting in the Circuit Clerk's office to nominate a replacement candidate for a position in the state

---

[259]Oxford Falcon , 07 June 1866, 22 Dec 1866.
[260]Ibid . , 01 Feb 1868; 16 May 1868.
[261]Ibid . , 11 July 1868.

Senate in December of 1870.[262] Whites used the courtrooms for the following events: a ball in August, 1869, a cotillion in September of the same year, Agricultural Association meetings throughout 1868 and 1869, a Calico Ball in December, 1869, assemblies of gentlemen including William Thompson, Charles Roberts, and W. H. Smither to discuss the possibility of the Selma to Memphis railroad line travelling through Oxford, and a commemorative meeting in October, 1870 to honor Robert E. Lee.

[262]Ibid. , 03 Dec 1870.

V. CONCLUSIONS

Tabulations of the numbers and types of cases highlight utilitarian conclusions, but a study of the annual trends of the civil and criminal dockets of the County Court provides further enlightenment regarding the societal conditions. Although the outcome of the Civil War shattered the southern economy, political tenets, and social stratification based upon slavery, there were southern attributes which were more resistant to change. Historians and journalists have emphasized the intransigence of southern attitudes. W. J. Cash insists that instead of weakening the disposition and inclinations of Southerners, the Civil War cemented their antebellum ideals.[263] During 1865, John Richard Dennett discovered the same pattern.[264] W. E. B. DuBois confirms the solidification of negative perceptions of African-Americans in 1865, which he perceived as even more damaging to reconstruction in the South than the economic losses and the chaos.[265] "Inherent black improvidence," in Michael Wayne's estimation, was the "ideological cornerstone of the defense of slavery," and an attitude which was not reconsidered in the immediate aftermath of emancipation.[266] The Black Codes and other legislative innovations in 1865, including the County Courts of Mississippi, were rooted in archaic, prejudicial principles. Initially, Southerners reacted to African-Americans' freedom and independence by looking backward to prior, servile institutions for guidance. These whites transferred protocol and attitudes formulated during the antebellum years with free blacks to all freedpersons after the Civil War.[267] The governing Mississippians exhibited the characteristics common to their brethren in the South in 1865. Lafayette County personnel, too, were consistent with the state and regional establishments.

The County Court of Lafayette County was a part of the state and local government designed to contain the freed masses. Mississippians expected the newly freed slaves to act immorally, frenziedly, and unlawfully. J. J. Hooker's explanation to the Mississippi Senate in 1865 documents the sentiments of many Mississippians and the purpose for the County Court: strict enforcement of criminal laws and rapid conviction of defendants. These applications managed by the County Courts would then restore morality and tranquility throughout the state. The criminal docket for 1866, the first year of the County Court in Lafayette County, documented forty-four criminal cases. Certainly, there were too many cases for adjudication in the Circuit Court's schedule. The legislators predicted flourishing criminal activities

---

[263]Cash, pp. 105-106,109.
[264]Dennett, pp. 353, 363, 368.
[265]DuBois, p. 166.
[266]Wayne, p. 39.
[267]Ira Berlin, Slaves Without Masters, (New York: Pantheon Books, 1974), p. xiv; John Hope Franklin, Racial Equality in America, (Chicago: The University of Chicago Press, 1976), pp. 58-60.

and there were quite a few arraignments. Nineteen of the forty-four cases filed in 1866 accused freedpersons of criminal activities. The crimes in descending order of occurrence were larceny, assault and battery, adultery, enticement, retailing and exhibition of a deadly weapon. Whites intended to supervise the morals of Afro-Mississippians through the adultery and retailing charges, protect their own assets by larceny and enticement convictions, insure a peaceful environment with arrests for assault and battery and exhibition of a deadly weapon.

The criminal docket in 1867 highlights a dramatic shift, which continues until the demolition of the County Court. There were only two freedmen charged with criminal offenses during the entire year of 1867 and none in any year thereafter. The crimes in 1867 were petty larceny. There were no complaints of adultery, enticement, assault and battery, retailing and exhibition of a deadly weapon pursued against the former slaves in 1867 through 1870. Adultery and retailing did not appear on the docket at all in 1867 or in any other year after 1866. This finding in the County Court of Lafayette County contradicts the assertion that sexual immorality and alcohol-related complaints were heard often by southern trial courts.[268] All four cases were filed in 1866 and three of the four were filed against freedpersons. Enticement also did not appear on the criminal docket after 1866. Two of the three cases filed in 1866 charged freedmen with tempting contracted labor. These examples in the County Court of Lafayette County disprove Jonathan M. Weiner's assertion that enticement laws were instituted to control the planters.[269] The single white defendant charged with enticement possessed meager holdings and was certainly not classified as a planter.[270] Again, no arrests were made for enticement after 1866.

What do these figures explain regarding the conditions in Lafayette County in 1866 and the following years? Over 90% of all charges filed against the freedpersons were filed in the first year of the County Court. In 1866, whites attempted to bridle the former slaves through legislative and judicial controls. The following year, 1867, represents a change in strategies and attitudes for some whites and African-Americans of Lafayette County, and the entire state. In October, 1866, Governor Humphreys' address praised the freedmen's performance during the past year. His comments were an example of this adjustment in attitude. Five of the twelve legislators on the Judicial Committee in the state Senate voted to abolish the County Courts in 1866, seeing them as unnecessary. A few months later, the entire legislature repealed the Black Codes and other legal restrictions for the freedmen. Beginning in January, 1866 in Georgia, Alabama, Mississippi and Louisiana, John Richard Dennett witnessed the emergence of a planter sentiment which was "practical and humaner."[271] Communities throughout the lower South were surprised at the substantial progress and improved conditions in 1866.[272] These adjustments,

---

[268]Ely and Bodenhamer, p. 20.
[269]Jonathan M. Weiner, Social Origins of the New South , (Baton Rouge: Louisiana State University Press, 1978) , p. 60.
[270]State vs. Lafayette Tidwell; Census of 1860.
[271]Dennett, p. 367.
[272]Ibid .

however, were not formulated in a political vacuum. Hostile responses to the southern governments and institutions were overtly expressed by the members of the federal Congress and the general public in the North, which indubitably, hastened the alterations.

Southern whites in Lafayette County modified their assessments and appraisals of Afro-Mississippians as a result of the changing conditions in the environment. After the first year, there was not an overpowering desire to quash and regulate the former slaves under the auspices of the County Court; although, there were conditions within the judicial system which may have affected the utilization of the County Court. The citizens of Lafayette County had a choice of several courts to adjudicate their complaints. There were Circuit Courts, Justice of the Peace Courts, Chancery Courts, Mayor's Court and Magistrate's Courts available at least, on a monthly basis. Potential litigants were permitted access to these courts on the same basis as the County Court. After using the County Court for the first year, why would the residents of the county switch courts? Perhaps, the complainants were not satisfied with the results of the County Court. If the purpose was to convict guilty freedmen, the County Court obtained an exceptional ratio. Approximately, 87% of the freedmen arrested for the two most prevalent crimes were convicted and punished. The white citizens of Lafayette County certainly were not disappointed with these results. Perhaps, the elimination of monthly sessions in late February, 1867 hinted at potential delays which discouraged potential complainants. This theory, also, is without much substantiation in the County Court. The criminal docket for January and February of 1867, prior to the institution of quarterly sessions, showed a marked decrease in the number of criminal filings. Five criminal proceedings were begun in January and February of 1867, while the previous year's tally was fourteen. The downward trend commenced before the schedule changes were instituted. Repeatedly, the explanation is a shift in attitudes and approaches by the white population in Lafayette County.

This explanation, however, does not concede that whites unequivocally accepted their former slaves. The organization of chapters of the Ku Klux Klan in Oxford and neighboring towns in 1867 indicates an attempt by some whites to dominate African-Americans through extralegal activities. Obviously, not all whites accepted the new economic and political status of blacks. Furthermore, although whites, after March, 1866, no longer filed lawsuits for enticement or breach of labor contract, this does not prove that these individuals tolerated and submitted to the whims of the free market. A review of the reports filed by an officer of the Freedmen's Bureau stationed in Oxford denies the submissiveness of white employers. Many freedmen charged that whites purposely abused and threatened them to induce the freedmen to violate their labor contracts and lose their benefits.[273] Numerous whites also miscalculated settlements and crop shares to victimize and cheat the freedmen.[274] Lafayette County's white residents, in 1867 and afterwards, may have substituted extralegal actions for

---

[273]RG 105, Entry 2307 Vol 239 Mississippi, Report of Thad K. Preuss July 1867.
[274]Ibid . , Report of Thad K. Preuss Oct 1867.

legal institutions, particularly in labor-related issues. Jonathan M. Weiner asserts that existing analyses of the Ku Klux Klan underestimate its participation in the formulation and continuation of the suffocating plantation labor system.[275] Even during 1866, an uncertain and tumultuous year, the majority of criminal and civil cases filed in the County Court were not disputes pertaining to employment. Whites in Lafayette County preferred to resolve this type of claim in some other fashion.

Labor contentions were not an exhaustive portion of the business in the County Court in 1866 or any of the years following. The case load of the County Court of Lafayette County was largely influenced by contentions in other areas. A review of the three theories pertaining to case loads which were explicated in the introduction clarifies the relationship of the County Court of Lafayette County to its constituents. The functional mode, which relates external influences such as legislation, war and an increase in crimes to a rise in the number of cases, best explains the situation present in the County Court. The political, social and economic upheaval of the Civil War, the emancipation of the slaves, and the legislation governing the status of the newly freed individuals dictated an entirely new set of rules. The citizens of Lafayette County were unsure of their responsibilities and their relationships to their former bondsmen. The freedpersons, too, had to negotiate their novel positions in society. Dislocation and shifts and the concomitant uncertainty in political and governmental institutions have, in the American past, created a surge in litigiousness.[276] The Reconstruction era was no exception. People utilized the judicial system to establish the parameters of their existence and to reinforce their version of societal rules.

The systems approach to case loads, which focuses on internal, organizational aspects of the judicial system was partially confirmed by the evidence in the County Court. Although the County Court shared most of its personnel, its performance was not hampered by this arrangement. There were not less cases filed due to an overburdened judge or hasty adjudication of the docket. Bureaucratic concerns typical of the systems approach did contribute, however, to the demise of the County Court. The Oxford Falcon dwelled on the expense involved with a monthly court, but the lack of judicial business was always mentioned in conjunction with this statement. Governor Alcorn, in a speech to the state House of Representatives in March of 1870, urged that "every branch of the Government . . . be cut down to the lowest limit of expenditure."[277] The combination of the paucity of criminal cases involving freedpersons and the budgetary restraints eliminated the need for the County Court. The

---

[275]Weiner, pp. 61-62.

[276]For a further explanation of these American bursts of legal activity, see David Thomas Konig, Law and Society in Puritan Massachusetts Essex County, 1629-1692 , (Chapel Hill: University of North Carolina Press, 1979) and William E. Nelson, Dispute and Conflict Resolution in Plymouth County, Massachusetts, 1725-1825 , (Chapel Hill: University of North Carolina Press, 1981).

[277]Journal of the House of Representatives of the State of Mississippi, 1870 , (Jackson, Mississippi: Kimball, Raymond & Co., 1870) , p. 118.

former was the more substantive, influential reason for the dismantling but the latter was, indeed, a secondary concern.

The social development model was not applicable to the County Court of Lafayette County. This theory plots a linear relationship between the growth of the economy and the growth of litigation. In contrast, the more stable the economy and the political conditions became in Lafayette County, the fewer cases there were on the criminal docket. The same trend was present on the civil docket, if the exceptional number of cases filed in 1868 are excluded. A significant number of these legal proceedings resulted from the expiration of the moratorium in 1868. The civil decrease was not as dramatic as the criminal, but it still does not support the correlation required in the social development model.

The County Court of Lafayette County in its first year of operation enforced the standards of the white population of Lafayette County. A fledgling government's protection and maintenance of the status quo through its legal and judicial institutions is not an uncommon experience, even beyond the American borders.[278] The types of crimes for which Afro-Mississippians were arrested and convicted were fully expected by the whites. Their preconceived notions and antebellum ideals predicted the former slaves' reactions to emancipation. The paramount concern for whites was enforcing their versions of behavioral norms. What the whites did not expect was the rapid adaptation of the freedpersons to the recent innovations in society. After September, 1866, a newly freed slave appeared on the criminal docket only one more time. The freedpersons adjustments are significant, but no less significant is the white population's awareness of and attention to this racial adjustment. The Mississippi legislature altered the schedule of the County Court of Lafayette County in February, 1867, while the legislature was still controlled by the Conservatives. When the legislature finally resumed in 1870, the act creating the County Court system was repealed. White residents of Lafayette County and other counties in Mississippi reacted and adapted to the changing conditions in their communities. The specific purpose for which the County Courts were established did not materialize and the residents of Mississippi reacted by demonstrating judicial flexibility. Grant Gilmore asserts that the preeminent trait of the American legal system is "its sensitivity to changing conditions, its fluidity."[279] With the County Court adaptation, Mississippians, including the residents of Lafayette County, demonstrated their interpretation and confirmation of that American legal trait.

---

[278]Shaidi, p. 268; Horowitz, pp. 57-58.

[279]Gilmore, The Ages of American Law, (New Haven: Yale University Press, 1977), p. 48.

SELECTED BIBLIOGRAPHY

Primary Sources

Docket, County Court of Lafayette County, Mississippi (1866-1870). Chancery Clerk's Office, Oxford, Mississippi.

Final Record, County Court of Lafayette County, Mississippi (1866-1870). Department of Archives and Special Collections, University of Mississippi.

Journal of the House of Representatives of the State of Mississippi, 1866-1867. Jackson, Mississippi: J. J. Shannon & Co., 1867.

Journal of the House of Representatives of the State of Mississippi, 1870. Jackson, Mississippi: Kimball, Raymond & Co., 1870.

Laws of the State of Mississippi, 1865. Jackson, Mississippi: J. J. Shannon & Co., 1866.

Laws of the State of Mississippi, 1866-1867. Jackson, Mississippi: J. J. Shannon & Co., 1867.

Laws of the State of Mississippi, 1870. Jackson, Mississippi: Kimball, Raymond & Co., 1870.

Records of the Assistant Commissioner for the State of Mississippi, Freedmen's Bureau. Record Group 105 Washington, D. C. National Archives.

Journal of the Senate of the State of Mississippi 1865-1866. Jackson, Mississippi: J. J. Shannon & Co., 1866.

Journal of the Senate of the State of Mississippi, 1870. Jackson, Mississippi: Kimball, Raymond & Co., 1870.

U. S. Bureau of the Census, Population Schedules of the Eighth Census of the United States, 1860.

The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies. Series 1 Volume 39. Washington, D. C.: Government Printing Office, 1892.

Secondary Sources

Atkins, Burton M., and Henry R. Glick. "Environmental and Structural Variables as Determinants of Issues in State Courts of Last Resort." American Court Systems, pp. 80-91. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.

Baldwin, Simeon E. The American Judiciary. New York: Century Co., 1905.

Becker, Theodore L. Comparative Judicial Politics. Chicago: Rand McNally & Co., 1970.

Bellardo, Lewis J. Jr. "A Social and Economic History of Fairfield County, South Carolina 1865-1871" Ph. D. diss., University of Kentucky, 1979.

Bentley, George R. A History of the Freedmen's Bureau. Philadelphia: The American Historical Association, 1955.

Berlin, Ira. Slaves Without Masters, the Free Negro in the Antebellum South. New York: Pantheon Books, 1974.

Berns, Walter. "The Least Dangerous Branch, But Only If . . . ." The Judiciary in a Democratic Society, pp. 1-17. Ed. Leonard J. Theberge. Lexington, Massachusetts: D. C. Heath and Company, 1979.

Berthoff, Rowland. An Unsettled People. New York: Harper & Row Publisher's, Inc., 1971.

Black, Donald, and M. P. Baumgartner. "Toward a Theory of the Third Party." Empirical Theories About Courts, pp. 84-114. Eds. Keith O. Boyum and Lynn Mather. New York: Longman Inc., 1983.

Bloomfield, Maxwell. American Lawyers in a Changing Society, 1776-1876. Cambridge, Massachusetts: Harvard University Press, 1976.

Bonn, Robert L. "Arbitration: An Alternative System for Handling Contract Related Disputes." Administrative Science Quarterly 17 (1972) : 254-264.

Bonner, Kathryn Rose. Mississippi 1860 Census Index. Vol. I-III. Marianna, Arkansas: Bonner, 1983.

Boyum, Keith O. "The Etiology of Claims: Sketches for a Theoretical Mapping of the Claim-Definition Process." Empirical Theories About Courts, pp. 143-160. Eds. Keith O. Boyum and Lynn Mather. New York: Longman Inc., 1983.

--------. "Introduction: Toward Empirical Theories About Courts." Empirical Theories About Courts, pp. 1-5. Eds. Keith O. Boyum and Lynn Mather. New York: Longman Inc., 1983.

Boyum, Keith O. and Sam Krislov, Eds. Forecasting the Impact of Legislation on Courts . Washington, D. C.: National Academy Press, 1980.

Brigham, John and Christine B. Harrington. "Realism and its Consequences: An Inquiry into Contemporary Sociological Research." International Journal of the Sociology of Law 17 (1989): 41- 62.

Callender, Clarence N. American Courts Their Organization and Procedure . New York: McGraw-Hill Book Company, Inc. , 1927.

Cartwright, Bliss; Marc Galanter; and Robert Kidder. "Introduction: Litigation and Dispute Processing." Law and Society Review 9 (Fall): 5-7.

Cash, W. J. The Mind of the South . New York: Vintage Books, 1941.

Cole, George F. "The Decision to Prosecute." American Court Systems , pp. 97-102. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.

Cook, Beverly Blair. "Sentencing Behavior of Federal Judges: Draft Cases--1972." American Court Systems , pp. 354-371 . Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.

Coulter, E. Merton. The South During Reconstruction 1865-1877 . Vol. VIII: A History of the South . Baton Rouge: Louisiana State University Press, 1947.

Cox, La Wanda, and John H. Cox, Eds. Reconstruction, the Negro, and the New South. Columbia, South Carolina: University of South Carolina Press, 1973.

Dahrendorf, Ralf. Class and Class Conflict in Industrial Society . Stanford, California: Stanford University Press, 1959.

Dennett, John Richard. The South As It Is 1865-1866 . Ed. Henry M. Christman. Athens, Georgia: The University of Georgia Press, 1986.

Dixon, Robert G. "Comments to Chapters 2 and 3." The Judiciary in a Democratic Society , pp. 81-85. Ed. Leonard J. Theberge. Lexington, Massachusetts: D. C. Heath and Company, 1979.

Downie, Leonard Jr. Justice Denied The Case for Reform of the Courts . New York: Praeger Publishers, 1971.

DuBois, W. E. B. Black Reconstruction in America 1860-1880 . New York: Atheneum, 1969.

Ely, James W. Jr. and David J. Bodenhamer. "Regionlism and the Legal History of the South." Ambivalent Legacy: A Legal History of the South , pp. 3-29. Eds. James W. Ely, Jr. and David J. Bodenhamer. Jackson, Mississippi: University Press of Mississippi, 1984.

Ezell, John Samuel. The South Since 1865 . 2nd. ed. New York: Macmillan Publishing Co., Inc. , 1975.

Feeley, Malcolm M. "The Effects of Heavy Caseloads." American Court Systems , pp. 110-118. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.

Felstiner, William L. F. "Influences of Social Organization on Dispute Processing." Law and Society Review 9 (Fall) : 63-94.

Forbath, William E. "Courts, Constitutions, and Labor Politics in England and America: A Study of the Constitutive Power of Law." Law and Social Inquiry . 16 (Winter 1991) : 1-34.

Franklin, John Hope. Racial Equality in America . Chicago: The University of Chicago Press, 1976.

Friedman, Lawrence M. "Courts Over Time: A Survey of Theories and Research." Empirical Theories About Courts , pp. 9-50. Eds. Keith O. Boyum and Lynn Mather. New York: Longman Inc., 1983.

--------. A History of American Law . New York: Simon and Schuster, 1973.

--------. "The Law Between the States: Some Thoughts on Southern Legal History." Ambivalent Legacy: A Legal History of the South , pp. 30-46. Eds. James W. Ely, Jr. and David J. Bodenhamer. Jackson, Mississippi: University Press of Mississippi, 1984.

--------. "Legal Culture and Social Development." Law and Society Review 4 (1969) : 29-44.

--------. The Legal System . New York: Russell Sage Foundation, 1975.

Friedman, Lawrence M. and Robert V. Percival. "A Tale Of Two Cities: Litigation in Alameda and San Benito Counties." American Court Systems , pp. 69-79. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.

Galanter, Marc . "The Radiating Effects of Courts." Empirical Theories About Courts , pp. 117-142. Eds. Keith O. Boyum and Lynn Mather. New York: Longman Inc., 1983.

-------- . "Why the 'Haves' Come Out Ahead" Speculations on the Limits of Legal Change." Law and Society Review 9 (Fall) : 95-160.
Garner, James Wilford. Reconstruction in Mississippi . Baton Rouge: Louisiana State University Press, 1968.
Gilmore, Grant. The Ages of American Law . New Haven: Yale University Press, 1977.
Glazer, Nathan. "The Judiciary and Social Policy. " The Judiciary in a Democratic Society , pp. 67-80. Ed. Leonard J. Theberge. Lexington, Massachusetts: D. C. Heath and Company, 1979.
Goldman, Sheldon and Thomas P. Jahinge. The Federal Courts As A Political System. New York: Harper & Row, Publishers, Inc., 1985.
Goldman, Sheldon and Austin Sarat. "Courts and Their Alternatives." American Court Systems , pp. 15-21. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.
Goldman, Sheldon and Austin Sarat. "Demand Regulation: Trial Courts." American Court Systems , pp. 92-96. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.
Goldman, Sheldon and Austin Sarat. "Demands Made on Court Systems." American Court Systems , pp. 54-57. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.
Goldman, Sheldon and Austin Sarat. "Environmental Influences." American Court Systems , pp. 335-337. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.
Goldman, Sheldon and Austin Sarat. "Facts As Bases For Decisions." American Court Systems , pp. 305-309. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.
Goldman, Sheldon and Austin Sarat. "Introduction." American Court Systems , pp. 1-11. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.
Goldman, Sheldon and Austin Sarat. "Litigants and Lawyers." American Court Systems , pp. 205-208. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.
Goldman, Sheldon and Austin Sarat. "Support for the Courts." American Court Systems , pp. 155-158. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company, 1978.
Goldwin, Robert A. "Comments to Chapter One." The Judiciary in a Democratic Society , pp. 18-20. Ed. Leonard J. Theberge. Lexington, Massachusetts: D. C. Heath and Company, 1979.
Greenawalt, Kent, "Comments to Chapters Two and Three." The Judiciary in a Democratic Society , pp. 86-90. Ed. Leonard J. Theberge. Lexington, Massachusetts: D. C. Heath and Company, 1979.
Grossman, Joel B. and Austin Sarat. "Litigation in the Federal Courts: A Comparative Perspective." Law and Society Review 9 (Winter) : 321-346.
Hall, Kermit L. "Introduction." The Judiciary in American Life , pp. ix-xii. Ed. Kermit L. Hall. New York: Garland Publishing, Inc. , 1987.
--------. The Magic Mirror Law In American History . New York: Oxford University Press, 1989.
--------. The Politics of Justice . Lincoln, Nebraska: University of Nebraska Press, 1979.
Harris, William C. Presidential Reconstruction in Mississippi . Baton Rouge: Louisiana State University Press, 1967.
Hatfield, Steven A. "Criminal Punishment in America: From the Colonial to the Modern Era." USAFA Journal of Legal Studies 1 (1990) : 139-155.
Haws, Robert J. and Michael V. Namorato. "Race, Property Rights, and the Economic Consequences of Reconstruction: A Case Study" 32 Vand L. Rev. (1974) : 305-326.
Henderson, Dwight F. Courts For A New Nation . Washington ,D. C. :Affairs Press, 1971.
Hoffer, Peter Charles. "Honor and the Roots of American Litigiousness." The American Journal of Legal History 33 (1989) : 295-319.
Holt, Wythe. "Now and Then: The Uncertain State of Nineteenth-Century American Legal History." Essays in Nineteenth-Century American Legal History , pp. 4-32. Westport, Connecticut: Greenwood Press, 1976.
Horowitz, Donald L. The Courts and Social Policy . Washington, D. C. : The Brookings Institution, 1977.

Howard, J. Woodford, Jr. "Adjudication Considered As A Process of Conflict Resolution: A Variation on Separation of Powers." Journal of Public Law 18 (1969) : 339-370.
Hurst , James Willard. The Growth of American Law The Law Makers . Boston: Little, Brown and Company, 1950.
--------. Law and the Conditions of Freedom in the Nineteenth-Century United States . Madison, Wisconsin: The University of Wisconsin Press, 1956.
--------. Law and Social Order in the United States . Ithaca, New York: Cornell University Press, 1977.
--------. Law and Social Process in United States History . New York: Da Capo Press, 1972.
--------. "The Law in United States History." Essays in Nineteenth-Century American Legal History , pp. 36-44. Westport, Connecticut: Greenwood Press, 1976.
Jacob, Herbert. "Courts as Organizations." Empirical Theories About Courts , pp. 191-215. Eds. Keith O. Boyum and Lynn Mather. New York: Longman Inc., 1983.
--------. Debtors in Court . Chicago: Rand McNally & Company, 1969.
--------. Justice in America Courts, Lawyers, and the Judicial Process . 2nd. ed. Boston: Little Brown and Company, 1972.
Johnson, Charles A. and Bradley C. Canon. Judicial Policies Implementation and Impact . Washington, D. C. : Congressional Quarterly Inc., 1984.
Karlen, Delmar. Judicial Administration The American Experience . London: Butterworths, 1970.
Kidder, Robert L. "Courts and Conflict in An Indian City: A Study in Legal Impact ." Journal of Commonwealth Political Studies 11 (1973) : 121-139.
Klein, Mitchell S. G. Law, Courts and Policy . Englewood Cliffs, New Jersey: Prentice-Hall, Inc. , 1984.
Krislov, Samuel. "Theoretical Perspectives on Case Load Studies: A Critique and a Beginning." Empirical Theories About Courts , pp. 161-187. Eds. Keith O. Boyum and Lynn Mather. New York: Longman Inc., 1983.
Kurland, Philip B. "Comments to Chapter One." The Judiciary in a Democratic Society , pp. 21-24. Ed. Leonard J. Theberge. Lexington, Massachusetts: D. C. Heath and Company, 1979.
Kutler, Stanley I. Judicial Power and Reconstruction Politics . Chicago: The University of Chicago Press, 1968.
Lasser, William. The Limits of Judicial Power . Chapel Hill, North Carolina: The University of North Carolina Press, 1988.
Laurent, Francis W. The Business of a Trial Court . Madison, Wisconsin: The University of Wisconsin Press, 1959.
Lebsock, Suzanne D. "Radical Reconstruction and the Property Rights of Southern Women." The Journal of Southern History XLIII (May 1977) : 195-216.
Lempert, Richard. "Strategies of Research Design in the Legal Impact Study, the Control of Plausible Rival Hypotheses." Law and Society Review 1 (1966) : 111-132.
Litwack, Leon F. Been in the Storm So Long . New York: Alfred A. Knopf, 1979.
Loewen, James W. Social Science in the Courtroom . Lexington, Massachusetts: Lexington Books, 1982.
Massell, Gregory J. "Law as an Instrument of Revolutionary Change in a Traditional Milieu The Case of Soviet Central Asia." Law and Society Review 2 (1967) : 179-228.
Mather, Lynn. "Epilogue: Ways to Organize the Study of Courts." Empirical Theories About Courts , pp. 244-249. Eds. Keith O. Boyum and Lynn Mather. New York: Longman Inc., 1983.
Mayhew, Leon H. "Institutions of Representation: Civil Justice and the Public." Law and Society Review 9 (Spring): 401-429.
McCain, Paul M. The County Court in North Carolina Before 1750 . New York: AMS Press, 1970.
Nash, A. E. "Fairness and Formalism in the Trials of Blacks in the State Supreme Courts of the Old South." Essays in Nineteenth-Century American Legal History , pp. 500-536. Westport, Connecticut: Greenwood Press, 1976.
Nieman, Donald G. To Set the Law in Motion . Millwood, New York: KTO Press, 1979.
Oxford Falcon (Oxford, Mississippi) 23 Nov. 1865-24 Dec. 1870.
Ownby, Ted. Subduing Satan .Chapel Hill, North Carolina: The University of North Carolina Press, 1990.

Paludan, Phillip S. "Law and the Failure of Reconstruction: The Case of Thomas Cooley." Essays in Nineteenth-Century American Legal History , pp. 560-577. Westport, Connecticut: Greenwood Press, 1976.

Pospisil, Leopold. "Legal Levels and Multiplicity of Legal Systems in Human Societies." Journal of Conflict Resolution 11 (1967) : 2-26.

Renfrew, Charles Honorable. "Comments to Chapter One." The Judiciary in a Democratic Society , pp.25-28. Ed. Leonard J. Theberge. Lexington, Massachusetts: D. C. Heath and Company, 1979.

Riddleberger, Patrick W. 1866 The Critical Year Revisited . Carbondale, Illinois: Southern Illinois University Press, 1979.

Roark, James L. Masters Without Slaves . New York: W. W. Norton & Company, 1977.

Rowland, Dunbar . Courts, Judges and Lawyers of Mississippi 1798-1935 . Jackson, Mississippi: Hederman Brothers, 1935.

Sansing, David Gaffney. "The Role of the Scalawag in Mississippi Reconstruction." Ph. D. diss., University of Southern Mississippi, 1969.

Sarat, Austin and Joel B. Grossman. "Courts and Conflict Resolution: Problems in the Mobilization of Adjudication." American Political Science Review 69 (1975) : 1200-1217.

Schmidhauser, John R. "The Social and Political Backgrounds of the Justices of the Supreme Court: 1789-1959." American Court Systems , pp. 280-289. Eds. Sheldon Goldman and Austin Sarat. San Francisco: W. H. Freeman and Company. 1978.

Selznick, Philip. "Legal Institutions and Social Controls. " 17 Vand. L. Rev. (1963) : 79-90.

Shaidi, Leonard P. "Crime, Justice and Politics in Contemporary Tanzania: State Power in an Underdeveloped Social Formation." International Journal of the Sociology of Law 17 (1989) : 247-271.

Silverman, Robert A. Law and Urban Growth Princeton: Princeton University Press, 1981.

Singletary, Otis A. Negro Militia and Reconstruction . Austin, Texas: University of Texas Press, 1957.

Skates, John Ray, Jr. A History of the Mississippi Supreme Court, 1817-1948 . Jackson, Mississippi: Mississippi Bar Foundation Inc., 1973.

Skipwith Historical and Genealogical Society, Inc. The Heritage of Lafayette County, Mississippi . Dallas: Curtis Media Corp., 1986.

Smith, Jordan Marshall. "The Federal Courts and the Black Man in America, 1800-1883: A Study of Judicial Policymaking." Ph. D. diss., University of North Carolina, 1977.

Sobotka, C. John, Jr., A History of Lafayette County Mississippi . Oxford, Mississippi: Rebel Press, Inc. , 1976.

Stampp, Kenneth M. The Era of Reconstruction, 1865-1877 . New York: Alfred A. Knopf, 1966.

Swett, Daniel H. "Cultural Bias in the American Legal System." Law and Society Review 4 (1969) : 79-110.

Theberge, Leonard J. "Introduction." The Judiciary in a Democratic Society , pp. xi-xiv. Ed. Leonard J. Theberge. Lexington, Massachusetts: D. C. Heath and Company, 1979.

Tocqueville, Alexis De. Democracy in America Vol. I, II. Trans. Henry Reeve. London: Saunders and Otley, 1838.

Truett, Earl A. , Jr. and Catherine E. Eatmon, Eds. 1860 U. S. Federal Census Lafayette County, Mississippi . Oxford, Mississippi: 1982.

Vines, Kenneth N. "Federal District Judges and Race Relations Cases in the South." American Court Systems , pp. 376-385. Eds. Sheldon Goldman and Austin Sarat. San Francisco : W. H. Freeman and Company, 1978.

Wayne, Michael. The Reshaping of Plantation Society . Baton Rouge: Louisiana State University Press, 1983.

White, G. Edward. History of the Supreme Court of the United States . Vol. III-IV, The Marshall Court and Cultural Change 1815-1835 . New York: Macmillan Publishing Co., 1988.

Wiecek, William M. "The Reconstruction of Federal Judicial Power, 1863-1875." American Journal of Legal History 13 (1969) : 333-359.

Wiener, Jonathan M. Social Origins of the New South . Baton Rouge: Louisiana State University Press, 1978.

Williamson, Joel. A Rage for Order . New York: Oxford University Press, 1986.

Wilson, Theodore Brantner. The Black Codes of the South. University, Alabama: University of Alabama Press, 1965.

Winter, Ralph K. Jr. "The Growth of Judicial Power." The Judiciary in a Democratic Society , pp. 29-66. Ed. Leonard J. Theberge. Lexington, Massachusetts: D. C. Heath and Company, 1979.

Wood, Forrest G. Black Scare The Racist Response to Emancipation and Reconstruction . Berkeley: University of California Press, 1968.

Woodard, Calvin. "Reality and Social Reform: The Transition from Laissez-faire to the Welfare State." Essays in Nineteenth-Century American Legal History , pp. 60-102. Westport, Connecticut: Greenwood Press, 1976.

Wunder, John R. Inferior Courts, Superior Justice . Westport, Connecticut: Greenwood Press, 1979.

Wyatt-Brown, Bertram. Southern Honor . Oxford, England: Oxford University Press, 1982.

--------. Yankee Saints and Southern Sinners . Baton Rouge: Louisiana State University Press, 1985.

Yngvesson, Barbara and Lynn Mather. "Courts, Moots, and the Disputing Process." Empirical Theories About Courts , pp. 51-83. Eds. Keith O. Boyum and Lynn Mather. New York: Longman Inc., 1983.

BIOGRAPHICAL SKETCH OF THE AUTHOR

DebbieLee Landi was born on September 15, 1959 in Hackensack, New Jersey to Robert C. and Melinda Lou Landi. She attended Hixson High School in Hixson, Tennessee and was Co-Valedictorian in May, 1977. From September, 1977 through May, 1981, she attended Cook College, Rutgers University. After receiving her B. A. degree from Cook College, she enrolled in The Lawyer's Assistant Program of the National Center for Paralegal Training in Atlanta, Georgia. She received her certification with a litigation emphasis in December, 1981.

She was employed as a Litigation Assistant for Alston & Bird in Atlanta, Georgia and later, for Bedell, Dittmar, DeVault and Pillans in Jacksonville, Florida. In May of 1990, she relocated to Coldwater, Mississippi and enrolled in the graduate program in the History Department of the University of Mississippi. She hopes to continue her employment in the Department of Archives and Special Collections at the University of Mississippi.

Her permanent address is 654 Woods St. Coldwater, Mississippi 38618.