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White Manhood in Louisiana During Reconstruction, 1865-1877

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WHITE MANHOOD IN LOUISIANA DURING RECONSTRUCTION,
1865-1877

A Dissertation

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
requirements for the degree of
Doctor of Philosophy

in

The Department of History

by
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ABSTRACT

Economic, political, and social landscapes changed for white men in Louisiana after the Civil War. Suffering displacement, business interruption, property confiscation, and lower social and political standing vis-à-vis the former slaves, white men's standing in every realm seemed diminished, including their core identity as men. It was important to them and to their families for white men to regain a sense of competence as men. Using letters, diaries, and court cases involving white people with strong connections to Louisiana during the Reconstruction era, this dissertation analyzes the gendered problems that white men and their families sought to resolve. Newspaper articles, literature, and public entertainment are examined to suggest some of the ways which gendered anxieties made themselves known. While some men and women yearned for a return of the dominant, conventionally successful men who had epitomized the antebellum ideal, many white men and women were pragmatic about men's more limited potential in the postbellum environment. Some traditional concepts of masculinity remained unshaken, but weaknesses emerged in other areas where masculine vulnerabilities were uncovered.

INTRODUCTION

Between 1862 and 1877, white men and women of every social strata in Louisiana experienced anxiety about the inability of white males to maintain economic and social status. Some distress originated with white men's loss of control over the freedmen. Only one quarter of white men had ever owned slaves, but poor white men were also affected because they now competed with freedmen for jobs in a post war economy in shambles. The former Confederates were also hurt by punitive measures imposed by Louisiana's Reconstruction government. Many white men returned from war wounded, body parts amputated. At home they found changing dynamics within their own marriages that challenged their antebellum authority as head and master. In the public sector or behind closed doors, white men could not find a place to be proud of themselves. They faced a crisis of efficacy that sometimes threatened to starve their families, or at the very least cost them the respect and deference of their wives and children. Their troubles began with the war, but the circumstances of postbellum peace brought gendered challenges that threatened the very core of their identity as Southern men.¹

Antebellum men had examples of their forefathers to follow, and cultural knowledge guided by decades of experience. But the economy of the South changed so fundamentally that familiar patterns of life and employment no longer worked, or even existed. Southern women embraced their independence and abilities more openly during the war, encouraging them after the war to seek more active roles in marriage and in

¹ Manhood has meant different things over time. For the white men of the Reconstruction South it can be broadly understood as the ability of a man to defend himself and his loved ones from perceived dangers while actively advancing their interests as he understood them at home and in public. This includes a wide range of tasks from the education of boys for leadership roles to the material support of women.

public, challenging antebellum constructs of the gendered roles of men and women. If antebellum constructs were no longer useful, what new model of manhood was best? Men discovered the new contours of manhood by testing their ambitions within the alien environment of the post-bellum South. Some men pushed the limits of the possible in an effort to regain lost ground or to hold the line against what they perceived as a rising tide of government control, women's liberation, and economic irrelevancy. The most successful projected manly characteristics that inspired trust and confidence. They were flexible in trying new avenues of employment and new patterns of relationship, culminating in the new nature of Southern manhood.

Louisiana experienced disruption and destruction in the course of the Civil War. Union forces captured New Orleans in April, 1862, and occupied the city for the rest of the war. Warships sailed up the Mississippi River and captured Baton Rouge. The Confederates made one futile attempt to liberate Baton Rouge from the Union army; they never had a realistic hope of taking back New Orleans.²

The most famous incidents arising from the Union occupation of New Orleans came from the imposition of General Benjamin Butler's General Order No. 28, also known as the Woman Order. The order said that any women disrespecting Union soldiers would be treated as prostitutes and subject to arrest. Although Butler promoted the self-serving myth that the order was an instant success, evidence shows that New Orleans women possessed more bravery and political initiative than Northern authorities would admit. Though the Confederate army fled in the face of Admiral David Glasgow Farragut's fleet, the women they abandoned to their enemies sometimes braved

² James M. McPherson, *Ordeal By Fire: The Civil War and Reconstruction* (New York: McGraw Hill, 2001), 252-254.

imprisonment and the implied threat of sexual assault to express their anger. This stunning show of resistance challenged the traditional gendered wartime narrative that women in enemy occupied land needed protection from enemy soldiers. Southern women's refusal to be intimidated suggested that other relationships between men and women might shift as needs arose.³

Beyond the capture of New Orleans and the lower Mississippi, the Union army's campaign for Vicksburg laid waste to much of northeastern Louisiana in 1863. Raiding and foraging parties struck west along all of the small tributaries and roads leading to the river. Though there was never a systemic campaign of destruction like General William T. Sherman's notorious march to the sea in Georgia and South Carolina, civilians living within a day's travel of the front lines suffered constant threat of personal injury or ruin. General Nathaniel P. Banks's Red River campaign of 1864 likewise damaged much of central Louisiana, including the towns of Lafayette and Opelousas.⁴

White men and women in the northwestern corner of the state who never saw their enemy in person suffered great economic hardships because of the gulf blockade and shortage of manufactured goods. White women across the state were left to manage their family land and raise families while the bulk of white men were away fighting.

Women's frustration and men's shame at their inability to protect their families' interests

³ Alecia P. Long, "(Mis)Remembering General Order No. 28: Benjamin Butler, the Woman Order, and Historical Memory," in *Occupied Women: Gender, Military Occupation, and the American Civil War*, eds. LeeAnn Whites and Alecia P. Long (Baton Rouge: Louisiana State University Press, 2009). Some historians contend that the Woman Order largely succeeded in suppressing white women's displays of disapproval and quickly restored civility. For an approach to this narrative see Drew Gilpin Faust, *Mothers of Invention: Women of the Slaveholding South In the American Civil War* (Chapel Hill: The University of North Carolina Press, 1996), 209-213.

⁴ Laura F. Edwards, *Scarlett Doesn't Live Here Anymore: Southern Women in the Civil War* (Urbana: The University of Illinois Press, 2000), 73-77.

did not end in 1865. When white men returned to their families after the war, they struggled to replicate the security, prosperity, and sense of place in society they had enjoyed in antebellum times. The wealthy lost the most in assets; but even craftsmen, clerks, and laborers were insecure.

Historians have argued that American gendered ideals changed a great deal during the nineteenth century. Some believe change came gradually as a result of economic developments. As western lands were settled and life became less rugged, women in established households could often afford to hire help or purchase the kind of goods that they previously made for themselves. Men's success outside the home in the commercial world made that change possible. It also helped bring about the idea that the public world, dominated by men, was naturally inclined to corruption. Women's sphere became the home and family, where the wife was expected to be a dependent, moral beacon, even while she offered her labor to maintain the household. The American husband gradually became less of a despot, and more of a party to an unequal but bilateral contract.⁵

There were regional nuances to the idea of gendered spheres. Because the South was more rural than the North, and men often worked closer to home, the older idea of patriarchal dominance maintained a hold on the popular consciousness for longer. Southerners tended to promote an honor culture that distinguished them from Northern men. Southern white men's ownership of slaves undermined the sense that a father owed

⁵Nancy F. Cott, ed., *No Small Courage: A History of Women in the United States* (New York: Oxford University Press, 2000); There were two competing images of manhood in America within the model of separate gender spheres. For a description of aggressive, nationalist masculinity, see Amy S. Greenberg, *Manifest Manhood and the Antebellum American Empire* (New York: Cambridge University Press, 2005); For the way that men and women's deportment and appearance reflected on their virtue in the more refined and restrained conception of manhood, see Karen Halttunen, *Confidence Men and Painted Women: A Study of Middle Class Culture in America, 1830-1870* (New Haven: Yale University Press, 1982).

anything to the people in his household besides his leadership. These distinctions in regional culture were all either strained or ended as a result of the Civil War.⁶

Historians recognize that American gender relationships continued to change in the Reconstruction era. Much of that focus has been on trends and movements among women, but men faced new challenges as well.⁷

Concepts of what was possible and desirable for white manhood were not universal, as men and women had a range of ideas about what manhood could become. Even when Southern whites believed that prospects for men's social success and political power were bleak, their discourse about men's actions and potentialities showed the importance they placed on the restoration of that eternally shifting goal of "manhood".

Daily concerns and interactions reinforced a sense that Southern white men across the economic spectrum were defined to some extent by the consequences of their defeat. While Northern white men enjoyed the pride and benefits of victory, their Southern counterparts spent years rebuilding their lives. Although the plantation owners lost the

⁶For a general understanding of antebellum Southern home life, see Stephanie McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations, and the Political Culture of the Antebellum South Carolina Low Country* (New York: McGraw Hill, 2001); For the intersection of religion and honor culture and the ways that they inflamed race relations, see Bertram Wyatt-Brown, *The Shaping of Southern Culture: Honor, Grace, and War, 1760s-1890s* (Chapel Hill: The University of North Carolina Press, 2001).

⁷For the ways that Anglo-Americans and Afro-Americans of the late Victorian and Edwardian eras conflated ideals of manliness with racial supremacy see Gail Bederman, *Manliness and Civilization: a Cultural History of Gender and Race in the United States, 1880-1917* (Chicago: University of Chicago, 1995); For the ways that Southern men reconciled the disparate habits of carousing and faithful restraint, see Ted Ownby, *Subduing Satan: Religion, Recreation, & Manhood in the Rural South, 1865-1920* (Chapel Hill: The University of North Carolina Press, 1990); For the ways that elite white Southern women found new ways of independence through education, activism, and writing, see Jane Turner Censer, *The Reconstruction of Southern White Womanhood, 1865-1895* (Baton Rouge: Louisiana State University Press, 2003); For the ways that post-bellum fiction concerning reconciliation between the North and South was gendered, see Nina Silber, *Gender and the Sectional Conflict* (Chapel Hill: The University of North Carolina Press, 2008); For the role that Southern women played in constructing narratives of loss and renewal, see Gaines M. Foster, *Ghosts of the Confederacy: Defeat, the Lost Cause, and the Emergence of the New South, 1865 to 1913* (New York: Oxford University Press, 1987).

most relative to their antebellum prosperity, all white Southern men experienced some degree of diminution.

The white men of Louisiana chose a variety of public and private venues to strengthen their claims to masculinity. Some of their undertakings caused domestic strife and political conflict while others strengthened the bonds of family. White women expected the men in their lives to advance their interests, and complained bitterly when they were let down. This dissertation will put questions of white men's gendered duties and difficulties at the center of the postbellum experience in Louisiana.

The war tore apart the economic fabric of the South, exacerbating the economic disparity that already existed between North and South, and making the job outlook for returning Southern soldiers particularly bleak. By the 1830s, stirrings of the Industrial Revolution and changes to a modern economy had already begun in the North. The antebellum Southern economy, in contrast, relied heavily on one agricultural crop, and depended upon a system in which the planter management class owned the land and the labor. After the war, the South shuddered from the sudden separation of management and labor, which came on top of an overly abundant world wide supply of cotton that made the South's main industry unprofitable. The swiftness of this transition in the South and the scant resources of planters to handle the precipitous drop in cotton prices placed the southern economy in particularly dire straits. Acclimating to these changes in the South was a challenge, as Southern white men returning from war often found themselves in an alien environment, economically, socially, and politically. Although postbellum couples often felt more shared responsibility for the household than before the war, the predominant and assumed economic engine of the family was still the husband

and father, and succeeding in this role was his prime responsibility .

Men who had lost their jobs or suffered business interruptions because of the war had difficulty regaining their stature in the business community, but after a few years of struggle many men managed to regain stability relative to their Southern peers, even if they were not always successful in terms of their former antebellum standing. Such men sought a “situation”, described in Chapter 1, Economic Security, as employment that offered men not only an income, but important connections between themselves and other men. These men were cogs in a commercial network that relied upon trust and confidence in the competence of the players to fulfill their commitments. Enjoying the trust and confidence of one’s peers was a traditional and important aspect of manliness that southern men hoped was still attainable after the war, even when meeting other economic goals was not. A successful situation also enhanced social standing and expanded business opportunities for men, and their families by extension.

The papers of the prodigious New Orleans businessman, Dr. Joseph Slemmons Copes, are studied for their insight into Copes ambitions and the difficulties he faced operating with little capital and a broken network of production and trade. His efforts to reestablish his antebellum situation and gain the respect and trust he sought from his peers in the North were often unsuccessful and a source of constant disappointment. Besides his situation as a cotton factor, Copes delved in insurance, property management, and manufacturing, all the while continuing to see patients as a physician. While he never succeeded in restoring his antebellum networks, Copes achieved relative success by testing the contours of the new economy, and by being practical and flexible in response

to what he found.⁸

Most of the men in Dr. Copes's orbit did not enjoy his resources and skills. Some men who wrote to him had never before worked in commerce or business, but were now unable to find gainful employment in rural Louisiana. Their anxious admissions of desperation and their poignant pleas to Copes for help in finding employment seem sadder still when we recognize their abandonment of manly honor and self-discipline, which in less hopeless times would have forbid such candid disclosures of their distress. The gendered duty of these men was to find a reliable means of support; as very often they could not support themselves much less a family.

Unemployed men feared abundant competition from endless streams of displaced white men also looking for work. Lower echelon white laborers endured the further humiliation of losing jobs to freedmen, who until just recently had been legally considered as three fifths of a man for census purposes. Idleness was seen as a character defect in men and the virtue of work was exulted from the pulpit. Accepting handouts implied a lack of manly capability and was denounced by men's working organizations. Newspaper journalists alternatively encouraged white men to try harder and denounced them with judgments that shredded their manly identity to its core.

Some of the landed gentry adhered to antebellum economy and culture, citing the Southern code of honor that forbid elites to work. Some men felt tied by family obligations to an unprofitable rural farm, and many were limited in their capacity for work as a result of war injuries. Those hewing to the past limited their chances for success in the new South. As time went on employment opportunities in the evolving

⁸ "Joseph S. Copes papers", (Manuscripts Collection 733, Louisiana Research Collection, Tulane University). [Hereafter referred as Copes MSS].

southern economy made themselves known. Men who were flexible about moving to secure work and those who were willing to try new avenues of work, even if it meant temporarily lowering their expectations, were most likely to succeed. Finding employment and economic stability allowed men to rewrite their fear of failed manly duty as a story of obstacles overcome. Gainful work for husband and father restored family pride, fulfilled gendered obligations for men, and gave everyone hope that recovery from war was possible.

Men's obligation to provide economic security for the family did not end when the patriarch died. In Chapter 2, *Trust Between Husband and Wife*, the laws sanctifying men's importance to the household helped them to stay solvent while they were alive and provided a modicum of debt protection for their widows when they died. Antebellum homestead laws that protected men from losing their home if they had minor children and the policy of necessitous circumstances for widows were strengthened after the war to meet the greater need for debt protection. As the number of people seeking debt protection multiplied, the gendered question of whether these laws existed to help men fulfill their patriarchal duty as head and master or to truly help widows and children came under scrutiny. Evidence suggests that "head and master" laws were defended and upheld in court even to the detriment of the women and children they purported to help, however in the course of that defense the court described limits to men's power and recognized some rights of women. Because these laws were evoked so often during Reconstruction, even men rich in property but poor in liquidity found less shame in their use.

Men whose employment opportunities were bleak, and women who had become

more self-reliant during the war, sought expanding possibilities in marriage to be supported under the law. Antebellum paradigms of head and master, female limits, and notions that husbands and fathers always acted in the best interests of the family were increasingly acknowledged to be out of touch with real people's needs and experiences. Marriage became more of a bilateral contract in which women sometimes pursued economic ventures and men sometimes chose to live separately from their wives. This new marital landscape raised questions of male and female responsibility, duty, and obligation within a marriage. If women were treated equally to men under the law, did that imply that the courts could treat men as they did women, who were sometimes considered ill equipped to handle their own affairs without court appointed tutors? Women were often not allowed to contract without their husband's or a judge's signature, but as women became more involved in public life, they sometimes attempted to use this loophole to escape contracts that proved unwise. The gendered challenge for southern men was to understand their responsibilities vis-a-vis their wives actions, and to discover how much of their patriarchal authority remained in this emerging paradigm.

Some laws were written to punish white men during Reconstruction, but those intended to bolster patriarchal authority and duty were not changed. The public's shifting view of gendered duties and obligations preceded changes to the written law, so that attorneys challenging the old paradigms made new arguments regarding men's duties. The interpretation presented here supports historian Peter W. Bardaglio's argument that case law and evolving judicial doctrine drove much of the change favoring women in the postbellum era.⁹

⁹ Peter W. Bardaglio, *Reconstructing the Household: Families, Sex, and the Law in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 1995), 147-148.

Among issues under scrutiny that had not changed was the law's presumption that as head of household, the man determined the location of the marital domicile, and that a wife's obligation was to live with her husband. Economic difficulties, health considerations, or marital discord often meant that couples lived apart, and this could have legal bearing on survivor's benefits and rights of inheritance if the husband died. When widows not living with their husbands asked the courts to grant them survivor's benefits, the court's decisions were based in law but judicial opinion often turned with the way the widow formed a narrative to project either feminine vulnerability or relative independence. Assertive women who appeared able to take care of themselves received less judicial sympathy and less bending of the law. Men could rest easy with the legal presumption that they were still considered best suited to control the marital domicile and community assets. Court decisions also confirmed a husband's obligation to secure and defend his wife and her property. New domestic arrangements were beginning to take shape in which marriage could safely be a partnership like that of Mary and Silas Cooper, in business as well as other areas. All marriages did not have to look alike to be valid in the eyes of the law. Relaxing the rigid antebellum gendered expectations for a husband may have offered relief to some men, but may have been considered an affront to others.

In return for providing patriarchal leadership and economic security, Southern antebellum men expected a certain amount of obedience and respect if not subservience from the women in their households. The emerging bilateral nature of the marriage contract necessarily meant that women who helped run the family business or who had a business of their own would want to make decisions of their own. Wives who did not live in the same domicile as their husbands could not be bound to the same standard of

obedience as those who did. Southern men, who before the war enjoyed the presumption of authority over their wives, seemed to have less control. When the women in question were not wives, but paramours, men sometimes discovered that they enjoyed no control at all.

In Chapter 3, *Weak Men and Reckless Women*, the high profile murder trial of a Southern woman, Laura Fair, fed a national newspaper narrative that was echoed by other illicit affairs of prominent Southern gentlemen gone awry. The narrative trumpeted in Southern papers and reinforced by Mark Twain's *The Gilded Age*, suggested the gendered problem that Southern men were weaker than they ought to be, and as a result, the women of the South could take matters into their own hands and act out of control.

Marital infidelity was a societal problem in the nineteenth century. Women who engaged in extramarital affairs suffered public scorn and ruin more than men, so that men might have reasonably expected that woman would not want their affairs revealed. Some men seemed to think that a woman would quietly, if reluctantly, accept their decision to end the affair or not pay child support, particularly if the man was married with family obligations. The diary of Madeline Selima Edwards suggested that this was a reasonable antebellum assumption. Men assumed that they had the upper hand in these affairs and probably returned from war thinking that at least this aspect of life would remain unchanged. Salacious newspaper stories of Southern women who publicly brought wrath and even murder down upon their former lovers raised men's concern that even if the courts recognized men's authority in their own home, men could not control these reckless women and could not rely on the law to avenge them. Men's practical response could only be to recalculate their antebellum presumption of authority over

women, to consider their actions more carefully and to expect recriminations more often.

Nineteenth century newspaper editors embellished these stories with moral warnings and guidance so that their readers would not suffer similar fates. When the story featured prominent families, as in the case of prostitute Helen Jewett, whose suspected murderer belonged to a distinguished political family, further layers of interest and speculation were added. If prominent men's reputations were ruined by their ill advised association with reckless and immoral women, what could the average man expect? Journalists inquired into the backgrounds of the victims and perpetrators for possible explanations of their deeds. Perhaps the fault for Laura Fair's recklessness lay with her father's failure in not leaving the family with enough resources when he died. The newspaper narrative posited that Laura had become a scheming opportunist and jezebel who left her Southern husbands and decamped west when they were not rich enough. But perhaps Laura's own explanation that her first two husbands had been abusive alcoholics resonated with many Southern families. Whichever storyline readers believed, they both suggested weakness in the character of Southern men.

Women as bold and reckless as Laura were not typical, but the accounts of her actions and history revealed during her murder trial were sufficient to plant fear in the minds of men like prominent New Orleans businessman, John Stevenson, who was stalked, then sued by his former lover, Mary Hardy. The crowd who witnessed Mary Hardy yelling at Stevenson and menacing him openly in the street, might well have been reminded of Laura Fair and wondered if this behavior was a trend. In modern times, a mass shooting in a movie theater many states away is an unusual event; but it is frightening enough to keep some people from attending the movies, at least for a while.

Then when a second incident occurs at a theater closer to home, journalists ask what measures can be taken or legislation passed to prevent such tragedies. There was no legislation that could reverse the environmental factors that may have influenced reckless women like Laura Fair and Mary Hardy. Although independent and aggressive women had always existed, these stories gave the impression that such women were more common, perhaps as a result of the diminished state of Southern men.

Laura's story resonated enough in the public psyche that Mark Twain dramatized her story in *The Gilded Age*. It was titled as an "age" rather than something more generic like *The Loves of Laura* to reflect Twain's sense that American society was undergoing significant changes in the gendered patterns of life, as well as a new order of corruption in political society. The American public found enough truth in his assessments to attach the book's title to the late nineteenth century generally.

Southern men were likely flummoxed when juries excused a murderous woman like Laura Fair for reasons of female frailty, or when the prominent reputation of a man like Colonel Stevenson was not honored over the word of a woman like Mary Hardy. While some Southern men worried about their perceived weakness or their lack of control over reckless women, the men in Chapter 4, *The State Before the Family*, had no qualms about boldly asserting power over the women in their own households. Men felt secure in their skin when the laws of the land, written by men, understood by men, interpreted by men, backed them in their customary prerogatives as head of household. They cited their gendered right of patriarchal privilege to further their personal sexual desires against their family and the public's interests. The courts challenged these men in the course of their claims and demanded justification for their gendered excesses. The

state's new reach into restricting the power of men within their own family put clear limits on behavior that some men considered to be their male birthright.

Before the war, the gendered presumption of society and the state had been that men were best suited to make decisions for the family and furthermore that they would always act in the best interest of their wives and children. Most laws supported men in this capacity and gave them extensive authority within their own family. Until recently, slaveholding men had taken sexual liberties with their slaves as an unquestioned right that sometimes spilled over to include other women in their household. Men such as James Henry Hammond, former Governor of South Carolina, had children with his slaves, and practiced incest with his daughters. Southern white men were used to doing as they pleased within their homes, and some men presumed that this right included unrestricted fulfillment of their sexual desires.

Despite Louisiana's prohibition of incest since its first American code of law, no case of incest had ever been prosecuted until that of Henry Smith in *The State v. Henry Smith* in 1876. The course of Henry's initial trial suggested that both judge and jury thought incest to be so abhorrent and indefensible that the judge may have denied Henry due process in the jury's rush to convict. Henry's appeal claimed that incest was consistent with patriarchal privilege, the right of the husband and father to use the female members of his household as he saw fit. The Louisiana Supreme Court exhaustively researched the patriarchal rights of men, the definition and history of incest law, and eventually exonerated Henry. In the course of its opinion, the court determined that in some respects there was no natural limit to a man's power over his family, and that limits were a social construct imposed upon men by legislators and changed according to the

prevailing fashion in Western society. The consequences of incest carried a bigger potential threat to society than problems of poverty related to debt protection and survivor's benefit laws discussed in Chapter 2, so that soon after Henry's exoneration the legislature hurried to pass laws that more explicitly defined and prohibited incest.

Until now the government had refrained from involving itself directly in matters of the family, but escalating post war problems of unemployment and physical and mental impairments eroded public confidence in the judgment of men like Henry. Destructive behavior that had been tolerated sometimes before the war was now unacceptable. A pattern emerged in which the state interposed itself in the family as protector of women and children and restrictor of patriarchal privilege. Sometimes a charge of incest, such as that against W.W. Crane, was dismissed by the judge even when the defendant admitted the crime, seemingly because the defendant appeared contrite and willingly recognized the power of the state to limit his authority.

The new laws against incest were another example in which public and judicial opinion ran ahead the letter of the law. As the historian Bardaglio argued, changes to the statutes took longer to reflect women and children's increasing insulation from a husband's power. Ironically a substantial portion of the new laws were motivated by a sense of paternalism to protect women from wicked men, rather than a more egalitarian view of gender relations as such.¹⁰

Southern men pushed back whenever they could against new state limits on their gendered rights and prerogatives. Restricted civic and public rights imposed to punish the former Confederates would be restored by the end of Reconstruction. State imposed limits to patriarchal power and a gradual increase in the legal rights of women became

¹⁰ Ibid.

the normal pattern of change. Louisiana men could eventually take comfort in their restored civic power but were forced to accept increasing state authority and shrinking notions of patriarchal privilege.

Women who welcomed state imposed limits on their husband's bad behavior still wished for Southern men to be more effectual. Chapter 5, *The Need for Masculine Authority*, explores the perception of weak Southern men through the lens of public entertainment and literature that suggested reasons for the gendered problems plaguing Southern men, and offered some solutions.

By the 1870s, a new economy was emerging in the South for those clever enough to engage it, and Southern men could rely on debt protection in a pinch; but compared to successful Northerners, who took advantage of Reconstruction government's restrictions on the former Confederates, Southern white men still appeared incapable, foolish and frozen in place. Many in the South agreed with Mark Twain and newspaper journalists who posited that weak Southern men were a problem.

Activist and writer Elizabeth Avery Meriwether's play, *The Ku Klux Klan or the Carpetbagger in New Orleans*, and her novel, *The Master of Red Leaf*, show concern for white men in Louisiana during Reconstruction. Like many Southern whites, Meriwether laid the blame for white men's compromised condition squarely on the shoulders of corrupt Republican governance and on carpetbaggers who enjoyed advantages over southern white men. By the time the play was published in 1877, Reconstruction governments were mostly out of power, but problems with inept men lingered on, from crippled disfigurement to unemployment and alcoholism. Meriwether's male characters represent all the gendered stereotypes of weakened Southern males. Adding insult to

injury, her Northern male characters are strong, healthy, and more capable than the bedraggled Southerners. Alarming to her female character has no option but to cooperate and be grateful to the Yankees in her midst. Meriwether's pointed social commentary may well have been embarrassing to men in the audience, who may have squirmed in their seats in recognition of her unfortunate Southern men. Her argument that Southern women urgently needed capable Southern men to resume their proper role of leadership would have been warmly received by New Orleans audiences. In blaming Republican government for the woes of their men, Southern women were able to sympathize with men rather than blame them for their perceived shortcomings, and eventually to raise them up as heroes of the South.

No shrinking violet herself, Meriwether epitomized the liberated Southern women. She fought for women's suffrage; but alongside her belief in strong and capable women she expressed anger at Southern loss and anguish at the lowered state of Southern men. She and her husband employed a useful marriage arrangement in which Elizabeth pursued a career as a writer and women's rights activist who traveled and worked separately from her husband, who pursued his own political agenda and business interests. Like Mary and Silas Cooper, the Meriwethers' successful model of partnership in marriage suggested new possibilities and a shifting balance between men and women that was alluded to in the themes of New Orleans opera productions.

Since before the Louisiana Purchase, French opera occupied a revered place in the cultural heart of New Orleans. Productions of nineteenth century French opera such as Giacomo Meyerbeer's *Le Diable*, Gaetano Donizetti's comedy, *Daughter of the Regiment*, and Adolphe Adam's *Le Chalet*, were performed during Reconstruction at the

French Opera House for audiences that would have been intrigued by their gendered implications.

Between 1870 and 1877, *Le Diable* was performed often, suggesting that it resonated with New Orleans audiences. Its theme could be seen as an allegory for the growing codependency between men and women. The hero of *Le Diable*, not unlike many Confederate Veterans, is tempted into tragic misadventures of combat, but ultimately saved through the help of a faithful and strong woman. The hilarious comic opera, *Daughter of the Regiment*, features characters who adopt attitudes and privileges expected of the opposite sex. Perhaps men and women in the new South could also try at playing different roles, rather than assume a gendered role imposed by outdated custom. The comic opera, *Le Chalet*, involves a heroine who is ahead of her time in eschewing her need for a man, until she suddenly needs a strong man to defend her. This was a comforting resolution for men and women in the audience who no longer felt secure about the role of men in the South.

Shifts in gendered roles and permitted relationships between men and women were subtle. These operas did not hit audiences over the head with political commentary the way Meriwether's play attacked the shortcomings of southern white men. Their subtle messages might have encouraged audiences to ponder gendered expectations. Perhaps the rigid authoritarian antebellum male had not always made the best choices when he enjoyed every power to do so, and this model would not bring back domestic tranquility and security. Lessons learned at the opera could lead the way to a new male paradigm.

Given the new emerging economic and social patterns, the question of how best to prepare the next generation of young men and women was important for fathers, who

answered the question in different ways in Chapter Six, Rearing New Men of the South.

Confederate veterans were comfortable with a traditional pattern of gendered duties and expectations that did not always serve them well after the war, as Dr. Copes and his associates discovered. Traditional antebellum notions of patriarchal power were proving less advantageous, and sharing more responsibilities in marriage seemed a good idea. Was it really more authority that young men needed to establish their masculine bonafides? New preparation was needed so that young men of the next generation did not become the ineffectual men in Meriwether's play.

In their diaries, young Ellen and Eldon Upton wrote intimate perspectives of their father and his plans to prepare them for adulthood. Their highest wishes for formal education were impossible, dampened by practical recognition that their father was doing his best. Encouraged to live on his own, young Upton worked at different jobs from Vicksburg to New Orleans until he was happily successful enough to send money back to his sister to pursue the education he thought she deserved. Eldon and his father, Samuel, are good examples of antebellum and postbellum generations. While Samuel Upton failed to reestablish his antebellum business as a cotton factor in Vicksburg, Eldon achieved manly satisfaction in new business skills that paid him well. Mr. Upton took a risk in setting young Eldon out on unchartered waters, but the risk paid off. Other fathers chose not to take that risk, perhaps due to an outdated notion of honor, or perhaps for lack of confidence or initiative. Those fathers risked instead that their sons would languish on unprofitable farms.

For families who could afford it, or for very clever boys, higher education was the best preparation for success. Many Southern fathers believed that manly education

included military drill and arms training. Louisiana State University Superintendent, Professor David Boyd and former Superintendent of the Seminary of Learning of the State of Louisiana, General William Tecumseh Sherman, believed that military drill was important for instilling self-discipline in young men, a goal completely distinct from raising a well-trained army. In fact, rather than encouraging the gun play that was a common feature of rural southern life, responsible arms training taught respect for weapons and restraint in their use. Sherman understood the place for military drill in the education of Louisiana's elite white men and he was successful in returning arms to the school in 1870.

The allocation of limited state dollars for education was as controversial then as it is now, and not all fathers or legislators who funded LSU agreed with the importance of military drill. In fact, it was rural men, who may have owned the most guns, who objected to arms training.

An agricultural faction of rural fathers and legislators argued that military leadership dominated the school and that not enough resources were given to teaching new agricultural methods, which offered the best future for Louisiana's young men. One might expect that after having recently experienced the destruction and futility of war, fathers would value peace and may not want military training for their sons for that reason. While this may have been true for some, the farming faction also railed against the teaching of liberal arts as non essential frippery for the wealthy. Even mechanical training, which would eventually yield farm implements that could do the work of many field hands, was questioned by farmers with little imagination. These men favored an agricultural centered future for Louisiana's men, to the exclusion of other all other

pursuits.

There were few if any career paths that guaranteed economic success for young Southern men. A profession such as physician was esteemed, but after the war many patients could not pay. The fortunes of modern commerce and agriculture often depended upon unpredictable world markets. Faced with such uncertainty, LSU's Superintendent Boyd speaking at commencement, stressed the importance of character building in young men, cultivating manly virtues of order, honor, loyalty and self discipline. Fathers differed in their abilities to provide a formal education of their sons, and education did not guarantee employment. But qualities such as these were accessible and useful to all men, unchanged since antebellum times, and had stood young men in good stead for centuries. While aspects of social and economic life continued to change, longstanding virtues of character said volumes about manhood.

CHAPTER 1: ECONOMIC SECURITY

Louisiana's economy was in chaos. Many white men returned from war to find their fields in ruin, their slaves gone, and no money in their pockets. Southern antebellum economic systems no longer functioned. Familiar patterns of employment, such as joining a family business, were often not available and men found abundant competition everywhere from other displaced men. Poor white men competed with freedmen for unskilled work. Ambitious businessmen sought to reestablish commerce as quickly as possible, but faced obstacles from broken networks of trade, new market forces, lack of capital, and lack of trust and confidence from their peers outside the South. Southern women, old folks, and children, had held the homestead together as best they could while the men were away fighting and the lucky men who returned were expected to reassume the mantle of provider as quickly as possible. Providing economic security for their family was a man's most important gendered duty, an obligation that often seemed impossible to meet in the early years of Reconstruction.

Southern notions of honor made it more difficult for the former planter class to adjust to the new economy. Though antebellum merchants and tradesmen largely chose their commercial professions, some postbellum elites could not separate their personal dignity from the way that they earned a living. Some former slave owners could not bear even to oversee work that had previously been done by slaves, let alone do it themselves. Other Confederate elites tried to join the ranks of urban professionals in the fields of law, medicine, and education, only to fail in competition with men of superior skill. When men failed to hold their own in competition against their peers in such an environment, it was hard for them to understand that market forces were the cause of their

disappointment, rather than a clique of well-connected rivals. White men who could reconcile their personal pride with the need to earn a niche in the new economy were likely to recover stability sooner.¹

The men with the best chances of success were willing to move and practical in their approach to work. Successful men accepted different types of work, even if they received less in salary or commission at first. Earning the trust and confidence of other men was a gendered goal that once achieved, put men on a path to employment and business success. Within a relatively short time a new economy emerged in the South and many men were able to reestablish trust among men, and financial stability for their families, even if their standard of living was not what it had been before the war. These accomplishments allowed men to reaffirm their self worth as men and turn their fear of financial failure into a narrative of post war obstacles that had been overcome.

At the start of the Civil War Louisiana's economy was characterized by a complicated network of trade and personal relationships. However grand and valuable plantations were, these vast estates and their influential owners did not succeed in isolation. Mercantile middlemen called "factors" based in cities and towns like New Orleans and Shreveport maintained networks of clients and agents from Texas to Mississippi and all points in between. These middlemen advanced credit to planters in anticipation of future harvests, and then helped the planters market their goods to Northern and European buyers. Factors also provided necessary consumer goods to rural customers who were far from retail stores.

¹ Wyatt-Brown, *The Shaping of Southern Culture*, 100, 264-267; Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (New York: Oxford University Press, 1982), 189-198, 239-240.

Beyond the plain textual meaning of their business contracts there was an essential element of mutual respect and trust between men as peers. When business between men broke up, the confidence between them often needed repair as well. Some losses were attributed to events, but others could have been seen as lapses of character and judgment, which invited disparagement of men's masculine qualities. These bonds between men needed to be reaffirmed and rebuilt just as much as the business between them.

Selling cotton, sugar, and wool for the highest possible profit was beyond the abilities of any individual. Successful networks required expert knowledge of local soil, regional weather trends, and whether any diseases or parasites afflicted plants and livestock. Factors used their judgment to sell right away, or bear the cost of protected storage until prices rose. Trading houses portrayed themselves as being vested in their clients' wellbeing for the long run. While individual plantations often rose and fell without drastically impacting their neighbors, trading houses bound many clients' fortunes together in reliance on the wisdom and resources of a single factor. A planter near Shreveport probably had the best knowledge of crops within a day's ride of his estate, but only the factors could invest all of their energy staying current with producer clients across the Gulf South as well as the state of markets in distant lands such as Liverpool, England, and Le Havre, France.²

² Sven Beckert, *Empire of Cotton: A Global History* (New York: Alfred A. Knopf, 2015), 114, 202-222, 320. Beckert argues these complex symbiotic relationships were essential elements to the growth of global industrial capitalism. Beckert argues that the archetypical factor rose to prosperity before the Civil War because communications and transportation were not rapid enough to conquer the commodities trade from afar. The social model that factors were trying to rebuild after the war was undermined by the new economics of global capitalism; James Oakes, *Slavery and Freedom: An Interpretation of the Old South* (New York: Vintage Books, 1990), 53-57. Oakes argues strongly that the culture and economy of the antebellum South could only be understood as an outgrowth of Western capitalism. If the slave holding South had been capitalist, then the free labor South was even *more* subject to the vicissitudes of supply,

The owners of the trading house were not the only ones to enjoy the confidence these deals built. Everyone acting in a factor's name shared a portion of his prestige, just as the proprietor bore liability if any of his men wronged a client. They did not merely have jobs in the sense that they drew salary from a merchant or received a commission on sold goods. They too enjoyed transitive connections of trust and respect among clients, customers, vendors, and some public officials. When white men occupied this kind of position they often enjoyed more than a living. They benefitted from symbiotic business and social relationships with their white male peers beyond the immediate business in which they were engaged.³

White men who facilitated that network of trade often referred to their jobs as “a situation”. Attaining a desirable situation meant a degree of financial and social security through being a vital cog in a larger system. The way they used the word “situation” suggested *relationships* within society as well as the job itself. Situation suggested a sense of spatial awareness about where a man stood on the socio-economic ladder. Situations were not just a means to short-term earnings. They had the potential to be careers with some degree of advancement and greater respect among fellow white men.

Insincere or superficial codes of bourgeois conduct were commonly taught to young men and emulated in daily life, but by Reconstruction, Louisiana's white men had

demand, and conflict between the workers, land owners, and their investors. The factors were an indispensable bridge between producers and consumers, where the price of all things found its sustainable level. Because Louisiana's planters were so inflexible about the products they could offer, the factors had to be more clever in sourcing, transporting, and marketing their goods.

³ Beckert, *Empire of Cotton*, 227-232. Beckert goes so far as to compare the cultivation of business associates to the courtship of a marriagable woman by a worthy gentleman. Buyers were to be “seduced” into taking consignments on a regular basis. Character references were checked as assiduously as if a father was researching a prospective son-in-law. (Often the two tasks literally coincided.) This sense of mutual obligation mirrored the ascendant concept of marriage as a partnership rather than primarily a master and his dependent. The factors were not as interested in making a quick profit as a true commitment.

seen many vital promises broken. From small personal debts to the Confederate government's failed bonds, men's faith that agreements would be honored was shaken. To stand out from the crowd, men emphasized their manly trustworthiness and honor in addition to whatever tangible commercial capability they possessed. While many white commercial men of Louisiana retained their wartime political and racial sentiments, their central concern was to find a stable financial situation as quickly as possible. Affirming their trustworthiness and social acceptance by their fellow men was essential to achieving an enviable situation of respectable business. Men had little hope of fulfilling any subsequent ambitions or duties without first succeeding in this task.⁴

The correspondence between Dr. Joseph Slemmons Copes, his business contacts, and the men who sought to become his trusted associates reveal the ways in which many white men lost their business positions and sense of acceptance as a result of the Civil War. As they sought to regain satisfactory situations under the difficult circumstances of Reconstruction they also yearned to be treated as worthy peers by other white men. Many men grew and traded cotton after the Civil War, but they were not all deemed worthy of trust and credit. Without trust, an essential component of honor, there could be no credit.⁵

⁴ Wyatt-Brown, *The Shaping of Southern Culture*, 113-114, 131, 190. Wyatt-Brown emphasizes the importance of honor and trust in political and ethical contexts. He shows how violations of honor within communities were sometimes enforced through expulsion from congregations and dueling; Halttunen, *Confidence Men*, xiv-6. When men sought their fortunes outside their hometowns they risked being financially scammed and morally corrupted by dishonest men. Men who hoped to rise had to be wary among strangers and seek out men of character with whom to associate themselves. The immoral impression left on victims was thought to be contagious in a behavioral sense, which was just as bad as losing money. More money could be earned but honorable habits were hard to restore once lost.

⁵ "Joseph S. Copes papers", (Manuscripts Collection 733, Louisiana Research Collection, Tulane University). [Hereafter referred as Copes MSS].

Copes was one of Louisiana's most dynamic factors. He was a renaissance man who practiced medicine, studied theology, sold insurance, managed a bank, traded commodities, and sold dry goods. Because of his involvement in such diverse pursuits, his papers provide a window into the struggles of men in many fields after the war. Every facet of Copes's complex business was adversely affected by the war's destruction and the business conditions of Reconstruction. Without such a diversified portfolio he may not have retained his economic security except through these different situations.

These merchants and their support industries represented an economically and socially important population of white men in Louisiana. Copes's tribulations show how the merchant capitalists struggled to retain their careers and masculine self-respect, but men of his type were only a small portion of Louisiana's white men. More typical are the letters written to him by dozens of struggling plantation owners, youthful clerks, and men of all kinds of experience and working class labor. While Copes strove for respect and acceptance by his Northern business contacts, the people writing him for help and advice sought recognition by the more successful businessmen in their home region. As historian Brian P. Lusky notes, men in commerce did not have too many sources of mutual benefit and moral support. There was not the brotherhood that existed in craft unions. There were no pensions or disability benefits for Confederate veterans in Louisiana until 1898. The brotherhood of the Ku Klux Klan appealed to some men, but others repeatedly stressed their desire to move beyond conflict and find belonging in the

new order. For these men engagement with their peers in business made them part of a team that made each individual more effective in his masculine pursuits.⁶

While historian Sven Beckert studied the Southern cotton economy as a component of global capitalism, other historians have focused on the particular problems of postbellum business. Historian John C. Rodrigue shows that factors' problems were not confined to cotton, and financing plantations was a major problem of the sugar industry as well. Due to a general contraction of the money supply and higher long-term interest rates, planters grew to rely on frequent short term loans from their factors, who were also increasingly short of liquid capital. While the sugar economy experienced greater difficulties than the cotton economy, it was a difference of degrees. All the same problems of global supply and local labor applied to cotton growers and transporters as well. It was not possible for the cotton factors to merely shift their attention to the other established local industry and expect a quick recovery. Rodrigue argues that factors were a vital component in the success of the sugar plantation owning class, and that their decline paralleled that of the growers and associated industries.⁷

The historian Eric Foner argues that the shift from slave labor to free labor demanded changes in the cotton economy's business model. Although the total volume of Southern cotton returned to antebellum levels by the 1870s, much more of it was

⁶ Brian P. Luskey, *On the Make: Clerks and the Quest for Capital in Nineteenth-Century America* (New York: New York University Press, 2010), 21-25, 62; J. H. Mackleroy to Copes, August 24, 1865, Copes MSS.

⁷ John C. Rodrigue, *Reconstruction in the Cane Fields: From Slavery to Free Labor in Louisiana's Sugar Parishes 1862-1880* (Baton Rouge: Louisiana State University Press, 2001), 106-108. Between 1860 and 1880 the supply of European beet sugar exploded onto the world market at the same time that South American cane sugar dramatically increased. The price of sugar steadily fell throughout the period while the cost and difficulties of managing free labor rose sharply. Sugar demanded masses of labor to a greater degree than cotton, which could be grown and processed on a small scale more profitably. In a similar way the cotton market was flooded by increased production from Brazil, India, and northern Africa.

grown by whites on small, dispersed plots. Factors had to expend more energy recruiting and retaining a larger number of contacts for the same amount of business. My own research confirms this trolling for clients across Texas, Louisiana, and Mississippi. At the same time, advances in railroad construction and technology meant that a great deal of trade shifted away from the Mississippi valley and towards the eastern states.⁸

Copes's business experience between 1862 and 1866 supports the economic interpretations of Beckert, Rodrigue, Oakes, and Foner with regard to factors in Louisiana. Although Copes was born in Delaware and owned land and slaves in Mississippi, he focused the bulk of his professional attention where he resided. His New Orleans trading house was headquarters. Copes established his business with Harlow J. Phelps in the 1850s, after a period of medical service at Charity Hospital. In 1859 Copes's daughter Jane married Harlow, thus binding the family's fate more tightly to the venture's success. The trading house drummed up business by distributing advertising circulars throughout the region and by advertising in newspapers. Copes's eight siblings across the gulf coast states also referred clients. Harlow's brother, James E. Phelps, co-owned a trading house in Shreveport with J. V. Rogers, and their contacts helped spread the influence of Copes & Phelps into east Texas.

On the eve of the Civil War Copes & Phelps had an impressive client list. At first the conflict did not directly threaten his planters with confiscation or spoilation. Early battles took place far from New Orleans and Copes's satellite warehouses along the Mississippi's shipping network. However the Union's blockade of Southern ports gradually limited the availability of consumer goods to sell upstream and stifled export

⁸ Eric Foner, *Reconstruction: America's Unfinished Revolution* (New York: Harper & Row, 1988), 212-213, 392-395.

profits from Europe. These impediments seriously impacted Copes's operation. On January 18, 1862, his clients in Pigeon Hill, Arkansas requested shipments of furniture, sugar, and molasses in exchange for future cotton crop pledges. The planters of Pigeon Hill also had no money to pay taxes without the proceeds from recent export sales.⁹ A. L. Witherington earnestly explained why he could not settle his debts to Copes & Phelps. "You never saw such times in your life. We have no banks and the collection of debts by law is prohibited and you can't get a dollar unless you have some small article in the way of something to eat or ware [*sic*]." ¹⁰ Even if he had enough credit to extend for purchases, Dr. Copes could only partially accommodate his client's requests because of supply problems.

Many frustrated clients sought to conduct business with Copes & Phelps under these circumstances. In February 1862, Stanton Moore sought 50 or 60 iron ties of at least ten feet in length. He specified that he wanted "good iron" and delivery by a "fast boat."¹¹ Failing that he wanted his usual subscription to the New Orleans *Crescent* to be renewed. An illiquid client in New London hoped to barter a variety of goods and expressed exasperation that the commodities market in New Orleans was effectively frozen.¹² As the war dragged on Copes grew less able to fulfill his clients' needs or to

⁹W. H. Marks to Copes, January 4, 31 1862, Copes MSS. The business letters in this time frame detail the steady downturn in business conditions for virtually all of the firm's contacts.

¹⁰ A. L. Witherington to Copes, February 13, 1862, Copes MSS.

¹¹ Stanton Moore to Copes, February 6, 1862, Copes MSS. A lot of patriotic Southerners at this time knew that their government lacked military resources. Some tried to organize their own supply and construction operations to satisfy personal honor as well as military need.

¹² New London client to Copes, January 4, 1862, Copes MSS.

profit from those transactions. These confounding business setbacks slowly drained the family firm's finances.

A particularly unfortunate trading incident occurred in July 1862, when Harlow's brother John ordered Copes & Phelps 2,860 pounds of cotton. It was so badly damaged in transit that 43 pounds were lost to torn packaging.¹³ Another shipment lost 42 pounds as it travelled to the same destination. Low water and a scarcity of boats meant dear shipping rates and low potential profit margins. Because of the Union occupation the cotton shipment could not be sent the whole way to New Orleans immediately, and rats tore through more wool every day it sat in the Shreveport warehouse. Because of this decimation, the cost of storage and insurance, the firm was compelled to sell the cotton at a loss. Copes and Mr. Phelps had no way of predicting the extent of these difficulties when they authorized their Shreveport agents to act in their behalf. With broken communications because of the split between Union and Confederate-held Louisiana, transportation made every trade a shot in the dark. Factors like Copes and Phelps often miscalculated and suffered misfortune. Yet even while their resources eroded they remained open for business in the hope that things would turn around.¹⁴

¹³ This was shortly after the Union occupation of New Orleans began. Copes employed agents all over the state to transport goods. Not all of his goods had to travel through New Orleans and this particular shipment was damaged long before it reached occupied territory.

¹⁴ John S. Wilson to H. J. Phelps, July 24, 1862, Copes MSS. The goods may have been damaged as a result of the manpower crunch of the war. Many experienced workers were away with the army. The elevated excitement of those who remained could have caused damage through haste. The risk of smuggling goods through blockades and combat zones undoubtedly increased as the Civil War ground on. In any event, Copes thought the amount of damage was far higher than he reasonably expected. Since the amount missing from both shipments was so similar and their paths were the same, it is possible that one of the scales was simply mis-calibrated by approximately 42 pounds at the time; John Ray, ed. *Digest of the Statutes of the State of Louisiana in Two Volumes*, (New Orleans: The Republican Office, 1870), 394. According to Section 849 of the criminal code of Louisiana passed in 1855, the recovery and resale of someone else's lost cotton was a serious crime. "Any person who shall secrete, convert to his own use, or sell . . . any bale or bales of cotton . . . shall be guilty of a felony, and upon conviction thereof shall be

While the business of Copes & Phelps dwindled, the younger men of their industry interrupted their careers to join the military. A. A. Watkins performed clerical work for Copes before enlisting under the command of General P.G.T. Beauregard.¹⁵ Watkins was old enough to function comfortably as an adult, but not old enough to have established his own family. Copes sent care packages to his protégé and Mr. Watkins wrote updates about the state of the war. Watkins's brother James and other friends and relations kept abreast of his whereabouts through writing Copes.¹⁶ Watkins had to forfeit his enviable situation for the honor of risking death and dismemberment at Corinth and Shiloh. He was captured by the Union Army soon after his first taste of battle, and he was kept as a prisoner of war at Camp Douglas near Chicago. Every year he stayed away from his duties someone else honed their business skills in his place.¹⁷

Even if Watkins had been able to stay at work, it is likely that the slowing of business in wartime would have forced Copes to reduce his hours or furlough him entirely for the duration of the conflict. Clerks were often the first expense to be cut in lean times.¹⁸

Historians have debated the position of young men like Watkins in the context of Southern society and the emerging capitalist paradigm. Luskey argues that the ambitions of the growing category of clerks were increasingly out of date and unrealistic. They

fined in a sum not exceeding one thousand dollars, and shall be confined at hard labor in the pennitentiary for a term not exceeding one year.”

¹⁵ A. A. Watkins to Miss. Copes Phelps, February 22, 1862, Copes MSS. Mr. Watkins left for boot camp without telling Mr. or Mrs. Phelps where he left the keys to the safe. Watkins's letters give a strong impression that he was a much younger man than Copes. He enjoyed rowdy horseplay with his fellow soldiers.

¹⁶ A. A. Watkins' brother to Copes, April 22, 1863, Copes MSS.

¹⁷ Rev. Stephen Yerkes, D.D., to Copes, July 19, 1862, August 6 1862, Copes MSS.

¹⁸Luskey, *On the Make*, 62.

sought prosperity as white-collar merchants through diligence and study of the craft when access to capital and connections were the most important determinants of success.

Many moralists and newspaper writers urged young men to take up clerkships in imitation of Benjamin Franklin as an ideal stepping-stone to owning their own business. Though the masculinity of bookkeeping and light office work seemed slight compared to traditional trades such as coopering, the elusive situation of self-employed businessman was enviable.¹⁹

Harlow Phelps fled New Orleans with his family when the Union army captured the city in late April 1862. Mrs. Phelps and the children went to live with Harlow's brother James Phelps in Shreveport while Harlow joined a Confederate military unit that fought in the first Battle of Corinth.²⁰ The trading house of Phelps & Rogers enjoyed Confederate military protection for the duration of the war. They could export goods through Mexico, but practical and political difficulties kept it from being profitable enough for the time invested in the venture. In 1865 Harlow Phelps made it official that he would start his own trading house and dissolve his formal business ties to Copes. By that time Copes's second daughter Elizabeth had married J. T. Diboll, a man of great loyalty but little experience. Copes could not run his sprawling empire alone, so he

¹⁹Luskey, *On the Make*, 21-25, 107-114. Some clerkships offered genuine training in commercial business management, while other clerkships mostly consisted of managing and assisting porters and mindlessly logging receipts. Generally young clerks earned minimal wages and their chances for significant advancement in business were slight.

²⁰James Phelps to Copes, May 15, 1862, Copes MSS. Phelps wrote to Copes from Shreveport. "I would like to write you a long letter but fear to say what I would wish. I am at a loss to know how to proceed with our business. By this conscript law I of course will have to go to the Army or furnish a substitute and I fear that that will be a difficult matter [sic]. We are still doing half of the business in the City though our stock is running light. We are trading sugar & molasses for cotton to be retained in the country." James did not want to leave *both* his and his brother's families all alone at home. Phelps could not avoid the draft for long, but was promoted to Captain in a unit that seemed to stay in the rear, away from significant battle.

invited Diboll to be a partner in his commodities and insurance sales business. This was a demanding work situation and not a minor sinecure from a doting father-in-law.²¹

Lusky describes Diboll's career path as a common one for young clerks. The plan of marrying the boss's daughter was not seen as something particularly devious and cold-blooded. Clerks did not see themselves as lesser men for relying upon their father-in-law for advancement. It was not a sign of weakness, but respect and trust. Becoming a partner in the firm meant that Diboll was going to be welcomed as a peer among successful businessmen.²²

Copes's firm also offered their services to individuals and organizations as property managers. Some clients, like the Prytania St. Presbyterian Church, were sufficiently established in the community so that after the war they planned to retain and maintain their investments.²³ More flexible landlords, like Reverend James Saul, preferred to minimize risk by reducing their exposure to the unpredictable Southern market. Saul was not attached to any particular church, so he easily fled North where he preached a circuit between New York and Baltimore through 1865.

The war's interruption of communications and commerce put Saul in a real bind. In May 1862 Saul complained that he was "on short allowance for some time past."²⁴ He needed maximum profits from his New Orleans investments. At first Saul only ordered Copes to liquidate his New Orleans city bonds and local railroad investments, but this

²¹ Copes demanded frequent progress reports from his agents and made sure that everyone always had an assignment. The updates were not at regular intervals, but whenever opportunities and difficulties arose.

²² Lusky, *On the Make*, 219-220.

²³ William Hinttenson to Copes, July 14, 16, 1865, Copes MSS.

²⁴ Rev. James Saul to Copes, May 21, 1862, Copes MSS.

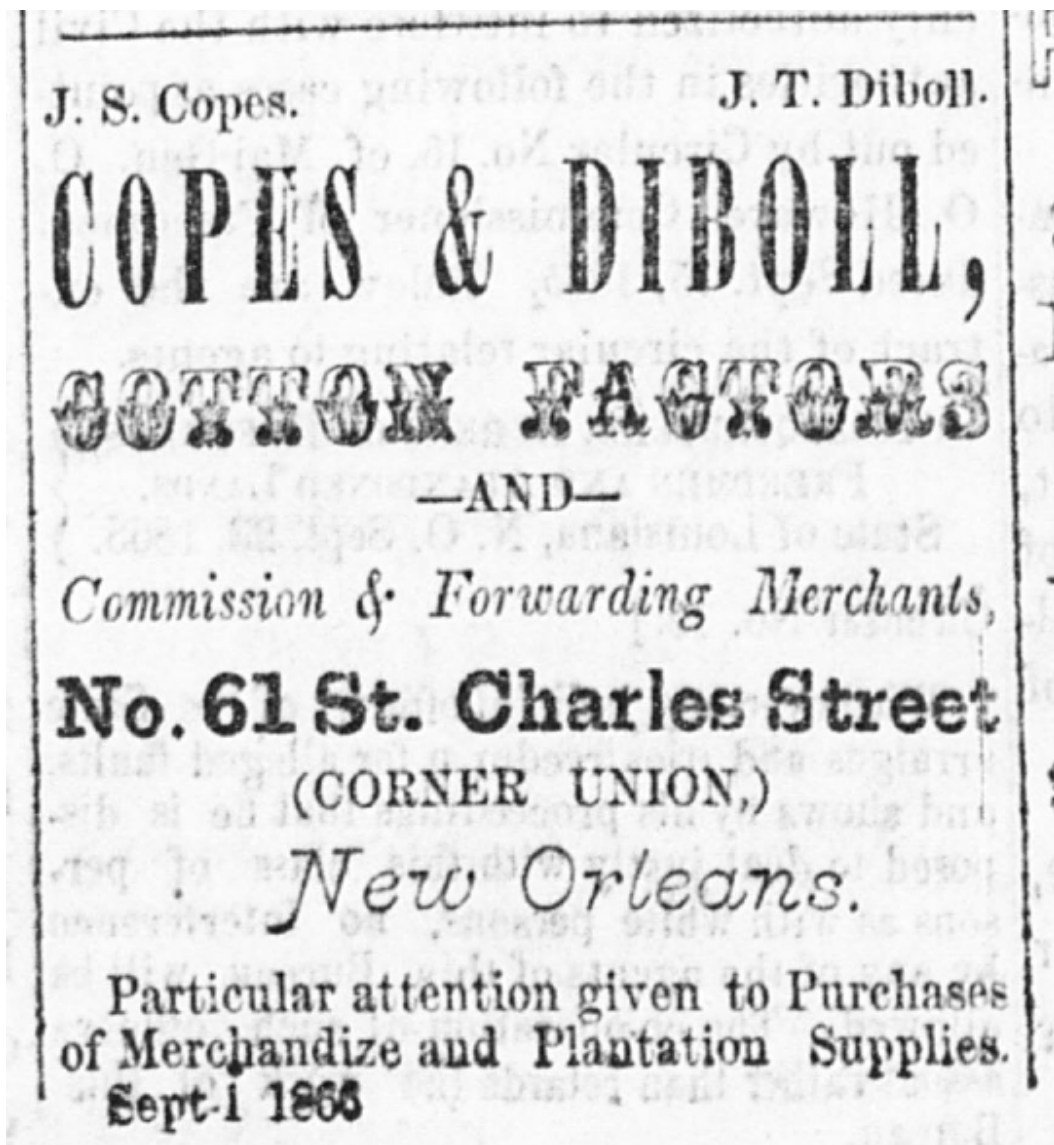


Figure 1. Copes and Diboll Advertisement. This advertisement followed Dr. Copes's choice to take his second son-in-law as a business partner. Source: *Semi Weekly Natchitoches Times*, November 3, 1866.

was not enough. Even high quality investments unconnected with the local Confederate government were too risky.

The fact that so many men like Saul were honest about their financial and family problems shows how serious conditions were. Men were generally reluctant to share their weaknesses and fears with other men for fear that it would make them seem like

lesser men. Appeals to leniency or charity seemed like appropriate pleas for dependents such as women and children.²⁵

Copes and Saul corresponded about conditions in the city and the nature of his rental tenants. Many New Orleans men withdrew with the Confederate Army and the families they left behind soon ran out of money. If there was a problem with particular clients paying rent then Copes could simply find new ones, but poverty seemed to be on the rise city-wide.²⁶ Rev. Saul's spirit of Christian compassion conflicted with his desire for profit. Initially he felt he could afford to be generous in his instructions for Copes: "Don't 'Compel' any tenant in my house to pay who is in default on account of poverty."²⁷ By selling the properties he merely left the task of eviction to the new owner. This could be seen as a kind of cowardice, when manful decisiveness would have served him better. Saul had a choice between evicting his tenant and satisfying his religiously charitable rhetoric while going broke. He found a third way, and his claims to pious charity were somewhat exaggerated. Even if Saul could subsist in New York without the rental income, Copes was responsible for paying the property tax with his local funds. These taxes outstripped whatever cash slowly trickled in from his tenants.²⁸ Saul eventually had to abandon his Louisiana investments and advisors in order to stay solvent.

²⁵ Stephen W. Berry II, *All That Makes a Man: Love and Ambition in the Civil War South* (Oxford: Oxford University Press, 2003), 39-40.

²⁶ "The Closing of the Stores," *New Orleans Daily Crescent*, May 2, 1862, <http://chroniclingamerica.loc.gov/lccn/sn82015753/1862-05-02/ed-1/seq-1/>.

²⁷ Saul to Copes, May 18, 1863, July 16, 1863, October 25, 1862, Copes MSS. "From your statement in regard to my property at the Basin and the tenant therein it seems to be a clear case for 'masterly inactivity.' When you think he can pay urge him to do so. The times call for kind consideration of tenants."

²⁸ Saul to Copes, May 6, 1863, August 5, 1863, Copes MSS.

Copes expressed bad feelings about the state of business in New Orleans as he tried to sell Saul's property. Saul was pleased that at least *some* of his properties had found interested parties before too long. He wanted to wash his hands of his New Orleans connections, and seemed resigned to losses in the process. "I am sorry to see you so easily discouraged. There was to me something encouraging in the fact that persons came forward and made offers for my vacant lots. All I expected from you was to assist."²⁹ Saul could afford to be upbeat because he could bid farewell to all the South's problems.³⁰ He tried his best to talk Copes into joining him in the North. "I should think you would do well to come to this place, Philadelphia & Baltimore and extend your business acquaintance [*sic*]. Old relations are broken up and new ones may be formed if there be [*sic*] any thing to do."³¹ Copes's vast business and family entanglements compelled him to stay and struggle for profit, rather than break free and start from scratch. Many employees with less experience and fewer resources than Copes owed their situations to him, and he felt more loyalty to them than Saul showed for his tenants. It also would have been more difficult for a man his age to physically move his family and possessions across the continent just as the war disrupted commercial travel.

Dr. Copes's efforts to preserve his business did not keep him from rendering his services as a doctor to the sick, but the war did interrupt the insurance industry, another of the ambitious physician's interests. Copes sold both life insurance and homeowner's insurance as an agent of companies from New York and Philadelphia. This part of his

²⁹ Saul to Copes, July 27, 1863, Copes MSS.

³⁰ Saul to Copes, July 13, 1865, Copes MSS. Saul firmly refuted Diboll's claim that he still owed Copes money from an old account. Saul said that his old New Orleans business had definitely been settled and suggested that Diboll was too new to be fully aware of the trading house's business.

³¹ Saul to Copes, October 8, 1862, Copes MSS.

career had been profitable, as some of his cotton clients chose him for the full range of available services. Though his skills in healing the sick were undiminished, his insurance sales did not return to normal levels until late 1866 after careful negotiations.³² The New York Life Insurance Company kept in contact to conclude the business of existing antebellum policies, but they were reluctant to issue new policies in the seceded states for the duration of the conflict. Insurance companies are by nature reluctant to make benefit payments even in normal circumstances, but they particularly dragged their feet on fulfilling *preexisting* contracts once the war began. Men had purchased those policies as a part of fulfilling their masculine duty to support and protect their families. The insured men never pleaded their case directly to the insurer, but went through Copes to explain their case and get what they were owed. The claimants made their case to Copes that they were honorable and deserving, and not trying to defraud the company because they were desperate.³³

Copes also had dealings with American Life Insurance and Trust Company of Philadelphia, whose policies were stricter than their New York colleagues. They flatly refused to underwrite any new Southern policies for the foreseeable future. This policy even extended to areas securely under Union occupation like New Orleans.³⁴ Copes

³² M. M. Cohen to Copes, A. H. White to Copes, August 6, 1862, June 24, 1865, Copes MSS. While he never officially affiliated himself with the Confederate Army, Dr. Copes tended to an army hospital in April 1862 to keep an eye on Mr. Watkins and his young friend George Yerkes. George's father Rev. Stephen Yerkes wrote a long letter of profuse thanks and spiritualism. Copes also remained available for house calls.

³³ Morris Franklin to Copes, June 30, 1865, Copes MSS. Franklin was the president of the company with an office on Broadway in downtown New York.

³⁴ John S. Wilson to Copes, January 5, 1863, Copes MSS.

remained useful to the companies primarily for exchanging Confederate notes for American currency.

In 1865 the trading house was on shaky financial ground and Copes had to do everything he could to revive the insurance business while commodities stagnated. In the face of this challenge, his inexperienced partner insulted the insurance company's ethics and business practices. The insurance company addressed its rebuke to the senior partner:

I deeply regret that the language of Mr. D. in his former letters should have been of such a character as to call for the reply to which you refer, but to be charged with falsehood direct is calculated to arouse feelings not generally amiable, for he certainly did say that he believed we had never sent the cheque [*sic*] when we had asserted over and over again that we had. However let the past sleep, as by this time probably all is satisfactory, the money having been realized. As regards the renewal of our Southern policy, the subject is now under consideration by our board, having been referred to a committee to consider and report at our next monthly meeting to be held in August: when decided will advise.³⁵

Copes wrote two subsequent letters to assure the company that the money had been received and to smooth over any lingering differences. He could not afford to lose another revenue stream.³⁶ These letters paid off in August when the insurance company expressed a willingness to continue business relations.

Insurers based in Northern cities probably did most of their business in the North, and whatever profits they earned in the South were marginal by comparison. Historian Adam Mendelsohn argues that high-class or well-established businessmen of the

³⁵ Thomas C. Campbell to Copes, July 15, 1865, Copes MSS.

³⁶ John S. Wilson to Copes, September 20, 1865, Copes MSS. While business with the New York insurance company endured the misunderstanding, Copes's Philadelphia agents were slower to return after the war. This might have been because of anxieties about Reconstruction business conditions or because they thought it was too much trouble to endure Diboll's testy personality. "We are anxious to do business, and extend in our trade, but the high price of license at New Orleans would deter us at present."

heavily done. 6-21 14

MISCELLANEOUS ADVERTISEMENTS.

THE LOUISIANA SAVINGS BANK AND SAFE DEPOSIT COMPANY,

133 Gravier street, bet. Camp and St. Charles.

President.....A. D. GRIEFF.
 Vice President.....W. VAN NORDEN.
 Treasurer.....JOHN S. WALTON.

DIRECTORS.

Henry Peychand, President Hope Ins. Co.
 W. H. Thomas, of Folger & Co.
 D. Wallace, of Wallace & Co.
 A. D. Grieff, of A. D. Grieff & Co.
 W. Van Norden, of Van Norden & Co.
 J. S. Copes, Agent New York Life Ins. Co.
 John S. Walton, late Assistant Treasurer U. S.

The Banking department of this institution will be ready for business on the **FIRST OF OCTOBER, 1869.** Deposits of **FIFTY CENTS** and upwards will be received, on which Six Per Cent interest will be paid.

We shall be ready to rent boxes and receive valuables on deposit, with guarantee, as soon as our **Mammoth Safe**, which will be absolutely burglar and fire proof, can be constructed.

JOHN S. WALTON, Treasurer.

Figure 2. Dr. Copes Insurance Advertisement, in which he is listed as an insurance agent. Source: *New Orleans Morning Star and Catholic Messenger*, February 6, 1870.

nineteenth century often ignored profitable business connections if the margins were low or the deals would have brought them into contact with people of lower status. These “marginal participants” often had to get by without contracts, financing, or any formal ties to the middle class merchants of Main Street. Impoverished rural Southerners often lacked cash to buy from conventional general stores, and had to barter with marginal

Jewish peddlers for their clothes or other goods. In an analogous way Copes and his clients were very poor in comparison to potential Northern customers and their regional sales representatives. Poor Southerners could buy secondhand clothes if they could not afford new clothes. If they preferred not to buy secondhand clothes, they could make their own rough garments. But if Northern institutions refused to insure Southerners, there were few remaining Southern companies able to provide that service.³⁷

One of Copes's most fascinating business ventures was the distribution of a patented "Hoop Iron" for bailing cotton. Its official name was "Speer's patent clasp & hoop." The iron packing system was also referred to as "cotton ties."³⁸ The majority of Copes's plantation clients grew cotton, so they had to purchase materials to package and ship the cotton to market. The traditional materials for this purpose were burlap sacking and rope, which varied in quality, availability, and durability.³⁹ When bales were handled roughly in transit or left outdoors for too long the sacking often ripped open and allowed cotton fluff to escape. Planters and shippers sought an easier and stronger way

³⁷ Adam Mendelsohn, "The Rag Race: Jewish Secondhand Clothing Dealers in England and America," in *Capitalism by Gaslight: Illuminating the Economy of Nineteenth Century America*, eds. Brian P. Luskey and Wendy A. Woloson (Philadelphia: University of Pennsylvania Press, 2015), 77-80. In this collection of essays historians study different niches of disreputable capitalism. Main Street's reluctance to do business with Jewish peddlers was multifaceted, and may have had some in common with anti-Southern business sentiments after the war. Anti-semitism was certainly a factor, but not the only consideration. The business formula of taking objects of little or no value, such as old clothes, and refashioning them into profitable goods seemed as dishonest as it was seedy. A popular view of consumerism held that objects had inherent value connected to quality or fashion, but the peddlers' "renovations" of damaged goods made apparent decency seem like a marketing sham. The distasteful origins and sunken value of cotton relative to the antebellum period caused some people to similarly question the inherent value of the cotton trade.

³⁸ E. B. Barker to Copes, June 6, 1865, July 19, 1865, Copes MSS. Barker wrote from Natchez, Mississippi and was well informed about the difficulties in obtaining newly manufactured ties. His letter strongly suggests that he had either written or spoken with Copes in detail about the ties recently.

³⁹ New London client to Copes, January 4, 1862, Copes MSS; Newspaper clipping, July 26, 1865, Copes MSS. Copes updated his partners in St. Louis on the great demand for cotton packaging. "The demand for rope has become very active and as you will perceive . . . baling stuffs are nearly beyond precedent."

of packing their cotton, so some buyers were willing to pay a small premium for the new iron technology.

In March 1860 Copes signed a long-term contract with iron manufacturers Gaylord, Son & Co. of St. Louis to mass-produce the cotton ties. Other than this there was no alternative Southern source. Copes's original stock of parts ran out near the beginning of the Civil War, but as soon as the war ended he arranged for a large manufacture order through Mr. J. G. Gaylord, who still honored the original contract.⁴⁰ The businessmen were immediately slapped with a patent infringement lawsuit that endangered a whole harvest season of sales. The legal questions of the suit threatened to reach the United States Supreme Court, and though Copes was confident of victory, he preferred to settle as quickly as possible to proceed with sales.⁴¹ Copes's clients asked for the product by name. "What is to be done about 'Speer's patent clasp & hoop' for bailing cotton? Is there any chance to get a few this fall? Cannot the questions of infringement be settled now and forever? I take it that hoops will, in another year, be in demand and those interested in the 'Speer patent' should be up and going."⁴² The recently renamed firm of Copes & Diboll was already advertising the device's availability in their promotional circular. They stood to lose sales on cotton shipments related to the iron clasp and hoop sales. The trading house essentially sought to orient

⁴⁰ Copes to William Colcord Esquire, August 28, 1865, Copes MSS.

⁴¹ Copes to Gaylord, June 18, 1865, Copes MSS. Copes addressed this letter to Gaylord's Cincinnati office. "Should you for any reason wish to change the fastening I am ready to offer for your consideration a cheaper, and I think a better one, but in my opinion our natural friend Dr. Speer has nothing to apprehend if he prosecutes his appeal to the U. S. Supreme Court. Orders are coming in upon me and I could sell from 15 to 20 tons at once if I had it here now."

⁴² E. B. Barker to Copes, June 6, 1865, Copes MSS.

their trade vertically to control as much commerce between plantations and textile mills as possible.

Copes hounded his Northern business partners to end the suit as quickly as possible and supply the ties, but Louisiana's geographic isolation from his associates was a hindrance. Gaylord and his son constantly moved between their factories and out of town investor meetings between July and September 1865.⁴³ The men were either legitimately unreachable or purposefully evasive. Copes pleaded with another investor in the plan, William Colcord, to get them to spur the factory to production.

Mr. Falsman has just recorded an invoice of bale bindings and is producing quite an excitement with them. I could have sold from \$40,000 to \$60,000 worth by this time if I had had them. Could your order have been shipped without unnecessary delay, and accounts followed up with other shipments we could have realized a rich harvest. I cannot afford to lose my part of it entirely and have so informed Mr. Gaylord.⁴⁴

Most of Copes's communications with his cotton tie suppliers consisted of laments, pleading, and indignation. He thought he saw a bright light of profit at the end of the tunnel, but it was snatched away from him in 1865 by Northern businessmen who never suffered from the war and had probably profited from war contracts. As Copes put it:

We have lost our chances for handsome results upon an article of which we had the complete monopoly; for I do not believe there has been a pound sold in this city since you were here. Had you not showed me your telegram and letter to Mr. Gaylord ordering the iron I could have had it here, on my own account, from New York three weeks ago, and sold it at 100% profit. Can you not ship some immediately from St. Louis? Mr. G. is too slow in all this business.⁴⁵

⁴³Copes to William Colcord, July 26, 1865, Gaylord to Copes, September 15, 1865, Copes MSS.

⁴⁴ Copes to William Colcord, August 28, 1865, Copes MSS. Copes heavily commented on his duplicate copy of the letter in blue pencil. Mr. Colcord promised him in June 1865 that a large shipment for sale on consignment would be sent very soon.

⁴⁵ Copes to William Colcord, July 26, 1865, Copes MSS.

By September 1865 any residual hopes for profit were dashed with a letter from the original patent holder, Dr. James R. Speer of Pittsburgh.⁴⁶ He expressed regret at the state of affairs between Copes, Gaylord, and himself. Speer believed that Southern cotton prospects would improve, but doubted that the ties could be provided any time soon. His examination of Gaylord's most recent production batch revealed the use of very poor quality metal. Gaylord agreed with that assessment and promised to fulfill the 1860 contract with as many ties as Copes could sell as soon as he could make them. Unfortunately by the time they arrived, the harvest season had ended along with Copes & Diboll's heady dreams of a hoops and ties monopoly in 1865.

One of the themes of manhood that historian Stephen W. Berry emphasizes in his work is "éclat", which is not quite the same as honor or power. It suggests the act of seizing the initiative and accomplishing something grand to establish one man's excellence over other men's deeds. In order for that catharsis to take place for Southern men, they had to have an opportunity to exhibit the traits that they believed lay dormant within themselves. Southerners despaired that without a *chance* to break out of mediocrity they could never fulfill their potential as men. The secession crisis allowed men of oratorical skill to display éclat, and the war allowed fighting men to achieve it. Copes saw the cotton tie contracts with Northern manufacturers as his golden opportunity to display éclat in his chosen field. Gaylord and his associates were not just costing him

⁴⁶ James R. Speer to Copes, September 7, 1865, Copes to William Colcord, July 26, 1865, Copes MSS. Copes added notes to the bottom of his personal copy. "The above will serve to show how I was deluded and deceived into the settlement made—paying for all the useless scraps of Mr. Gaylord's Mills that neither Copes & Phelps myself or any one else had ever ordered or expected."

money, their actions suggested doubt that Copes was *capable* of achieving the breakout success he promised as a businessman.⁴⁷

Copes's inability to reach a profitable conclusion with Gaylord and Speer represented far more than a single bungled bargain. He never intended the cotton tie business to exist tenuously from season to season based on such a disadvantaged negotiating position. The ties were not like the cotton itself, which varied greatly in value according to season and growing conditions. Copes repeatedly argued in his letters that after a single season of robust, well timed sales and rapid order fulfillment, he would have had far more leverage over the manufacturers for price and supply of individual ties. He wanted to transform a passing opportunity into a long-term situation exhibiting trust and respect between fellow capitalists of the industrial North and mercantile South. Copes failed to achieve his new situation in both senses of the expression. He missed out on a profitable, enduring commercial franchise that promised as much security as the rest of his businesses combined.

Despite the relative success he enjoyed in keeping his business solvent, Copes failed to garner the social esteem accorded men in respectable situations. The Northern factory owners, patent holders, and investors he communicated with repeatedly broke their agreements, often deliberately. They never seemed to take him very seriously or treat him as a peer because they knew he was never realistically in a position to retaliate. In 1865 Copes threatened to contest his patent's validity before the U. S. Supreme Court, which showed manly confidence and indicated that he felt like a full member of American society after years of rebellion. It had only been months since that court's jurisdiction was over a foreign nation. By holding back from joining his litigation

⁴⁷ Berry, *All That Makes a Man*, 20-21, 36.

Copes's partners denied him the chance to prove his belonging in their social strata. They may even have feared that the court *would* see him as something of an outsider. Copes's situation in the early years after the war placed him in the firmament of New Orleans commerce, but he remained a nonentity beyond the Mason-Dixon line. A true post-bellum recovery would have seen Copes at social parity with Northern businessmen, but by their actions it seemed they saw him as less worthy.⁴⁸

One of Copes's clients named P. V. O'Neill was a rare exception to the difficulties recorded in his correspondence. O'Neill was not sure how he would organize his plantation going forward, but he was sure that the government and Northern businessmen were there to help him, not impede his progress. "I am getting on swimmingly with our Yankee friends – I have found all with whom I have come in business contact very polite and yielding. I do not anticipate any trouble whatsoever. Dr., you are missed very much in our little circle of friends". Copes probably felt very jealous when he read that letter, and may have thought O'Neill was being naïve.⁴⁹

Men's reputations were almost as essential to making business connections as credit. While Copes sought to bridge the national divide with his record of honorable dealings, most other southern white men had humbler, and yet more enduring goals. Small business was often a family undertaking in the 1860s. Accepting a situation at a trading house meant becoming a virtual member of an extended family. The young clerk

⁴⁸ James R. Speer to Copes, September 7, 1865, Copes to William Colcord, July 26, 1865, Copes MSS.

⁴⁹ P. V. O'Neill to Copes, July 24, 1865, Copes MSS. O'Neill was confident that if he could not settle matters with the freedmen, it would be easy to import German peasants to replace them. It is interesting that an Irish-American wanted to import Germans when there were still so many poor Irishmen willing to come of their own accord. Perhaps he was reluctant to threaten his own ethnic brethren with discipline. Letters from the German Society of New Orleans made it seem very doubtful that any Germans would be enticed by his nebulous terms.

A. A. Watkins maintained a warm relationship with the Copes family since his own family lived far away. Diboll and Harlow Phelps initially became attached to the trading house through marriage to Copes's daughters. Because of these bonds and the continuation of old business relations, Copes stayed abreast of the Phelps brothers' activities even after they severed formal ties to Copes's trading house.

Captain Phelps reestablished his old trade in Shreveport as soon as possible after his discharge, but by the summer of 1865 business conditions had changed for the worse. Phelps's old reliable associates were no longer at his disposal. He took a chance in hiring a new employee identified only as Mr. Wheaton, who promptly bungled the bookkeeping and stormed out of the office in an alcoholic huff before his deeds had been discovered.⁵⁰ With so much human displacement it was often difficult to know who could be trusted with business affairs.⁵¹ Wheaton's abrupt departure left Phelps's associate, Captain J. C. Elstner as bookkeeper, cashier, salesman, and cotton clerk. Elstner complained of being overworked but wrote nothing of hiring new staff to ease the burden. The businessmen did not want to make the same hiring mistake twice. Compounding this disaster, Captain Phelps "failed completely" in his goal to acquire trading goods from the merchants of

⁵⁰ Captain J. C. Elstner to Copes, July 9, 1865, Copes MSS. A dipsomaniac clerk named Wheaton corrupted the firm's accounts and absconded before his detection. It is unclear whether Wheaton was an outright thief or just a poor businessman. In either case he was a poor specimen of the manhood ideals described by Bertram Wyatt-Brown and Berry. On alcoholism and manhood in the rural South, see Ownby, *Subduing Satan*, 50-54. Though most Southern men heartily approved of drinking as an activity by itself or accompaniment to other pursuits, it was clearly seen as recreation. Showing up drunk for work was not as welcome. On saloon culture and manhood, see Elaine Frantz Parsons, "Risky Business: The Uncertain Boundaries of Manhood in the Midwestern Saloon," *Journal of Social History* Vol. 34, No. 2 (Winter, 2000), 283-307.

⁵¹ Henry Beaumont to Copes, September 7, 1865, Henry C. Daniel to Copes, September 7, 1865, June 9, 1862, Copes MSS. Dr. Copes sent and received letters of introduction on a regular basis to vouch for men's character to friends and associates out of town. The letter from Henry C. Daniel included a brief, but fully formed business proposition to go with an introduction to A. Shepherd Brown, Esq. . Copes did not always keep notes of his favorability to these introductions after responding.

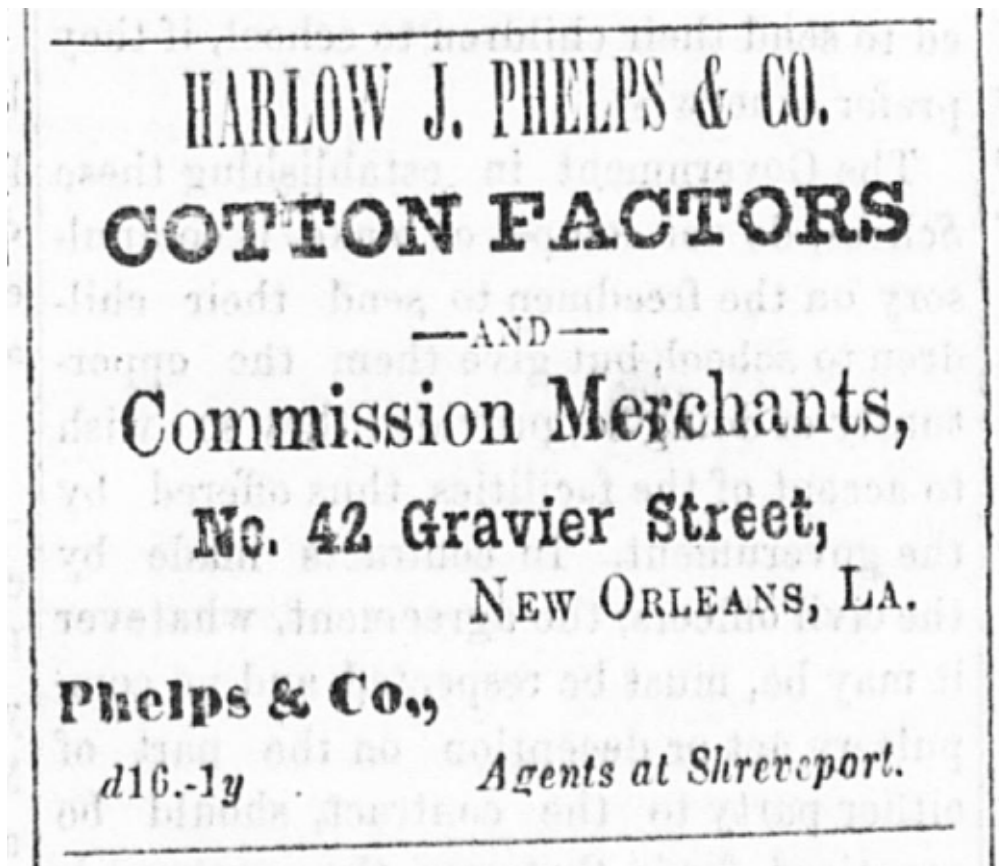


Figure 3: Harlow J. Phelps Advertisement. This advertisement reflected Harlow Phelps's choice to leave Copes & Phelps trading house and strike out on his own. Source: *Semi Weekly Natchitoches Times*, November 3, 1866.

Shreveport.⁵² Elstner regretted losing five to ten thousand dollars profit from lost opportunities. These poor business results and difficult conditions were common among Copes's old contacts, weakening their ability to see themselves as productive men.

At that time disputes involving lost cotton bales took months or years to resolve. Neither producers nor buyers were tolerant of mistakes regardless of difficult circumstances. Even after the war when transportation became less of a problem there

⁵² Ibid.



Figure 4. Phelps and Rogers Advertisement. This advertisement represents Harlow Phelps's brother James. Source: *Semi-Weekly Shreveport News*, May 20, 1862.

were misdirected bales. One such debacle was litigated all the way to the Louisiana State Supreme Court and was not resolved until 1872.⁵³

In April 1866 Copes bought 24 bales of cotton through Phelps & Company in Shreveport. Ten bales arrived from suppliers on schedule, but Phelps had instructions not to ship the order until all 24 bales were ready to go at once. While Phelps waited for the remaining 14 bales of cotton to arrive, he decided to ignore his contract and sell the first ten bales locally himself. He hoped to replace them for the New Orleans customer later.

⁵³ *J. S. Copes v. Phelps & Co.*, 24 La. Ann. 562 (Supreme Court of Louisiana. 1872) 1-5, 564; *Clapp & Co. v. Phelps & Co.—Griffen & Co. Intervenors.* 19 La. Ann. 461 (Supreme Court of Louisiana, Natchitoches, 1867).



Figure 5. *A Cotton Office in New Orleans* by Edgar Degas. Degas depicted his uncle Michael Musson's office as he saw it during a visit to New Orleans in 1872. Copes and his business associates probably conducted a great deal of business in such offices. Edgar Degas, *A Cotton Office in New Orleans*, 1873, Musée des Beaux-Arts, Pau

The independent warehouse managers in Shreveport thought it was irregular, but as they were only middlemen they simply did as their closest client demanded.⁵⁴

Copes was the closest factor to the cotton buyers in New Orleans, so he had to satisfy his customer. Phelps was unable to secure ten bales of cotton to replace the ones he sold, so Copes was forced to pay the buyer back for the bales he never received. The only way for Copes to recover his own money would have been for him to sue Phelps. Unreliable business practices like this were probably one of the reasons that Copes and

⁵⁴ Ibid.

Phelps dissolved their partnership. Copes understood that trust was an essential element to maintaining a commercial situation.

Historian Corey Goettsch describes collaborative efforts in the marginal and quasi-legal economy as it related to the sphere of mock auctions. Though those conspiracies were concocted to scam the unwitting public, they required a great deal of trust and mutual commitment between the conspirators. Mock auctions required a crowd of skill bidders to extoll the items up for bid in an enthusiastic yet plausible manner. The auctioneer's patter had to create a sense of urgency and excitement without obviously focusing on the mark. Finally, the cashier and guards had to extract exorbitant sums from the victim through intimidation without being so violent that they immediately went to prison. Historian Michael D. Thompson described similarly complex conspiracies among thieves and laborers on the Charleston waterfront. If any single member of these schemes failed in his task then the whole enterprise was ruined. Though Copes's network was far more legitimate it was just as vulnerable to breaking at the weakest link.⁵⁵

Alarm spread through the cotton planter and factor communities of East Texas and Louisiana in September 1865 when rumors circulated that the American government was planning to seize all private cotton as former Confederate government property.⁵⁶

⁵⁵ Michael D. Thompson, "Some Rascally Business," in *Capitalism By Gaslight: Illuminating the Economy of Nineteenth Century America*, eds. Brian P. Luskey and Wendy A. Woloson (Philadelphia: University of Pennsylvania Press, 2015), 152-164.

⁵⁶ Henry Beaumont to Copes, September 7, 1865, Copes MSS. Henry recommended the abandonment of cotton trading in favor of wool because the federal government was not seizing wool as former Confederate property; There was some precedent across the upland South for sheep herding and pastoral practices that went beyond the mere folk memory of Celtic heritage. Evidence of such practice suggests that businessmen may have been reasonable in considering wool as a substantial supplement to the cotton economy. On the importance and prevalence of animal herding in the rural South, see Forrest McDonald, Grady McWhiney, "The Antebellum Southern Herdsman: A Reinterpretation," *Journal of Southern History*

The United States government knew that the Confederate government regulated and controlled large amounts of cotton during the war. With the Confederacy's surrender, all Confederate States of America assets were forfeited to the United States government. Army patrols sometimes demanded proof of origin and ownership from merchants and shipping companies before they could transport and sell cotton in occupied regions. J. V. Rogers repeatedly asked Copes for legal advice about proving a cotton bale's chain of custody. The house of Phelps & Rogers had not been diligent about keeping meticulous, legally sufficient receipts. Some planter clients with bales ready for shipping destroyed their cotton based on rumor instead of waiting for advice from their factors. "I learned yesterday that we had 19 bales of cotton burned up by a Mr. Johnson who thought that the cotton was not worth hauling to this place. I shall investigate the matter, and if I find him not justifiable,[*sic*] I'll draw a few Lbs out of him when I come back."⁵⁷ Mr. Rogers's sudden loss was maddening and probably unnecessary. After incidents such as this, Phelps & Rogers expressed anxiety that these losses could prevent accounts from being positively settled. When a planter burned cotton that was owed to the firm, everybody involved in the contracts lost.

James Phelps diminished his masculine honor when he developed a reputation for leaving town with unfinished business. He often failed to instruct his colleague Rogers what to do in his absence. In September 1865 some clients from Red River arrived at the firm's home office demanding to know the fate of their cotton.⁵⁸ Rogers painted the

XLI (1975):147-165. McDonald and McWhiney emphasize the importance of hogs and cattle, but also briefly address sheep herding.

⁵⁷ J. V. Rogers to Copes, September 5, 1865, Copes MSS.

⁵⁸ *Ibid.*

rosiest picture possible without lying. The firm's goal was to buy new cotton aggressively, which would have been more difficult if they had become known for losing their clients cotton:

I politely inferred them [sic] that Mr. Phelps moved it to keep it from being destroyed, and we would account for it as soon as Mr. Phelps returned. . . . I'm expecting Mr. Phelps daily and I shall go immediately to the country after cotton. We have lost heavily by Mr. Phelps leaving without having some one posted as to the whereabouts of our cotton. I could go and attend to it, if I but knew where to go to find any of it.⁵⁹

Rogers periodically confided in Copes about the inner workings of the Phelps & Rogers trading house. Phelps's business lapses were always pointed out in a way that demonstrated how Rogers understood and appreciated what a proper situation should be. First of all Rogers' steady job was in jeopardy because of his partner's mismanagement. He realized that the company was only barely profitable, and that no junior partner or employee was too indispensable to be jettisoned if they failed to pull their weight. He had also lost the trust among clients necessary to his position. Beyond losing the trust of the clients, the business partners no longer trusted each other. His job had become a rather *bad* situation. On August 7, 1865 Rogers lamented that he returned from a business trip to find himself completely at loose ends:

I'm now at a loss to know what to do. I shall stay until he returns and then I'll write you again. There was no understanding between us, he told his brother that he would give me an interest in the house. . . . If Mr. Phelps doesn't give me satisfaction in business affairs I'll go to Texas and see what virtue there is in wool.⁶⁰

⁵⁹ Ibid.

⁶⁰ Rogers to Copes, August 7, 1865, Copes MSS. Rogers had worked for Copes in the past as well as James Phelps. He did not write if Phelps approved of his steering business to a rival house, however friendly the owner. Rogers gave a man identified only as Mr. Win the new Copes house circular. Mr. Win "has about 3000 bales cotton and confidentially he is displeased with his house in New Orleans, Stevenson & Co. I've forgotten the farm. It will pay to get his cotton." Perhaps he hoped that Copes might offer him a superior situation in New Orleans.

This kind of hurry up and wait predicament was the inevitable result of failing to take on appropriate staff and full partners. Copes expanded his business network by trusting his hires to make the most of opportunities as they arose without reporting back for every problem. The Phelps brothers decided that they did not want to share a trading house with anyone else, but they were not averse to arranging a different kind of situation for Rogers.⁶¹ James Phelps was willing to establish Rogers as their commission salesman in East Texas.

Not everyone was prepared to confront the highly leveraged and competitive cotton market. A growing number of men saw sheep's wool as the most promising alternative to the cotton industry. An individual man or a small family could tend a flock of sheep very inexpensively and with far less labor than a cotton crop would require. Sheep could thrive by foraging on land that would be marginally viable for *corn*, let alone cotton.⁶² Shepherds were free to farm a plot while the sheep more or less tended themselves. Such an arrangement was different from simple subsistence farming because it still tied a simple man into the larger social and commercial networks.

A. T. Norton in Texas was the business contact of Copes who was most excited about wool. He repeatedly asked Copes for the money to acquire wool, but Copes held

⁶¹ Rogers to Copes, October 8, 1865, Copes MSS. Copes sent Rogers a spinning machine to sell for \$125 but nobody was interested at that price; Luskey, *On the Make*, 88-96. Lusky argues that salesmen often relied on their charms as men to market goods to women. Attractiveness and charisma were consciously weighed by merchants in hiring staff who dealt with women shoppers. It is likely that a woman or her children would have *used* the spinning wheel, but there is no way to know how much sway they would have held over the decision to purchase the machine. In large stores salesmen often had some room to haggle over price, but with a single machine in a small market Rogers simply had to price the machine as directed by Copes. In doing so he diminished his agency as a salesman but reinforced his trustworthiness.

⁶² Many cotton traders informally spoke of cotton fluff as "wool", but those who aspired to the sheep's wool trade usually made a clear distinction in their business letters and advertisements.

back from fully committing himself. Copes diligently consulted his textile mill buyers as well as suppliers in Missouri, Kentucky, and northern Louisiana. Though Copes was very slow and reluctant to lend seed capital, he did his best to keep his word to his fellow Southern men, instead of stringing them along as he had been abused by his Northern industrialist partners.⁶³

The biggest problem with Southern men switching from cotton to wool was a knowledge deficit. Southerners did not commonly understand the best way to wash wool, or the different breeds of sheep. There was as much skill in grading wool as cotton, and the difference between the best and the worst grades potentially meant vast sums of money.⁶⁴

Business was very difficult for Copes and the Phelps brothers after the war, but they stayed afloat and kept their situations as factors despite the circumstances. The Phelps brothers' modest ambitions paled in comparison to Dr. Copes, but they were spared the drama of his repeated close calls and defeats at the negotiating table.

Abundant Competition

The Civil War's end meant the cessation of formal hostilities and the dispersal of the Confederate military. This permitted hundreds of thousands of white men and their families to travel freely again. Some of them were refugees who hoped to return home in an effort to rebuild their former ways of life. Others were compelled by a combination of grave necessity and ambition to take bold career risks. Many white men had a sense that

⁶³ Henry Beaumont to Copes, August 4, 1865, J. V. Rogers to Copes, August 7, 1865, Thomas H. Morris to Copes, October 14, 1865, R. N. Hall to Copes, November 9, 1865, Thomas C. Campbell to Copes, November 15, 1865, November 30, 1865, Copes MSS.

⁶⁴ "Washing Sheep," *The Louisiana Democrat*, June 1, 1870, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1870-06-01/ed-1/seq-3/>; H. Bandy, "Sheep Raising," *St. Landry Democrat*, August 3, 1878, <http://chroniclingamerica.loc.gov/lccn/sn88064537/1878-08-03/ed-1/seq-3/>.

their situations were highly vulnerable to competition and depredations of other newly uprooted white men as well as the new competition from Freedmen.

James Burke of Houston exemplified this sense of abundant competition. Occasionally men rose to the challenge but often the sense of abundant competition led to anxiety about maintaining their place or gaining an edge on others. One of Copes's agents, identified only as Mr. Morey, informed Burke of Copes & Diboll's operations as he combed Texas distributing advertisements and securing personal contacts. Burke promised to send Copes his own business and predicted many other new customers in the region. He paid \$300 for an order of books and stationary, boasting that for the moment he was "the only bookseller in Texas. Of course shall soon have abundant competition."⁶⁵ Many Louisiana refugees who fled to Texas during the war chose to stay, and Mr. Burke believed that his head start was vulnerable but worth defending.

Mr. Burke dealt with abundant competition by investing in a stronger business where he lived. Reverend John R. Hutchinson also lived in Houston with his family, but believed that his three sons' best option was to seek jobs in New Orleans. When they all came home from the army they could "get nothing to do."⁶⁶ Hutchinson believed that any kind of employment in New Orleans would be superior to any situations available locally. Mr. Hutchinson wrote effusive praise for Copes if he could only provide "a clerkship of any kind" for the most educated of his sons.⁶⁷

For some time after the war Dr. Copes received letters from New Orleans friends who fled far afield in search of steady work or profitable trade. Some of them sought

⁶⁵ James Burke to Copes, July 12, 1865, Copes MSS.

⁶⁶ Reverend John R. Hutchinson to Copes, August 3, 1865, Copes MSS.

advantageous locations speculatively and some simply hung out a shingle wherever they happened to find themselves at the conclusion of the war. W. E. Dunning moved from New Orleans to Hannibal, Missouri, but his conditions did not improve:

I am at this time residing in this city and have opened an office but I find business very dull – we have a great many sawyers here and a young man or new beginner has very few hopes of success. I am quite anxious to get away and as soon as I can hear of a place where the profit is better I shall go, I have lived so long without making any money that I feel an anxiety to do so. I should like very much to go to Texas if I could be sure of getting into a sufficient practice to pay my expenses – indeed I think it would be far better for me to go to Texas.⁶⁸

Many displaced Louisianians saw Texas as a viable alternative to Louisiana's economic problems. Despite the perception that the grass would be greener out West, some Louisiana refugees found only additional ruin and discontentment. Dr. W. J. Dupree complained of new property tax bills to his old colleague and despaired for the future in Quitman. "What can we hope for; much less expect to do in the future? We are so damned, so disbased [*sic*] we have nothing, know nothing, see nothing, and hear nothing but what adds to our deep dyed degredations [*sic*]. Our women and children, and not a few patriotic men deserve a better fate."⁶⁹ Texas was no better than Louisiana for Dr. Dupree. Indeed, Dupree must have seen no possibility of continuing a business account with the Copes firm. His desire to escape his circumstances compelled him to seek exile in Brazil. "Is there any facile way of getting there? Is there a Counsul from that Empire in your city? If so, I would like to know his opinion in regards to Exiles of the C.S. emigrating to that country? Whether it is allowable . . . Send me all the

⁶⁸ W. E. Dunning to Copes, July, 1865, Copes MSS.

⁶⁹ Dr. W. J. Dupree to Copes, July 8, 1865, Copes MSS.

information you have in regard to that country.”⁷⁰ Dr. Dupree’s discontent with conditions in Louisiana and Texas was common, but his appetite for exile was exceptional. Most desperate men simply wanted basic sustenance, preferably in their field of experience.

John H. Dunning wrote to Copes of his plight from Jackson, Mississippi. He urgently sought a position with a clothing retailer in New Orleans. Before the war he had worked in New Orleans on Magazine St. in the hat, shoe, and boot business. Dunning boasted of reputable business references in New Orleans as well as Philadelphia. Far from settling scores with the Freedmen or the Yankees, his focus was squarely on supporting his family:

I am willing to do anything, and will do my duty by any house who [*sic*] may employ me. I must do something or starve for I am now without money as the last I had was expended long since. I have been trying to get employment here but cannot do so as there is nothing for any one to do. This is the return for all that I have undergone in the Southern Cause. I have fought for the South and given her four years of the best part of my life, and in return the very men that I have tried to defend would see me and my family starve before they would send me assistance.⁷¹

Dunning was not too proud to ask for help, but there was no local assistance. Dr. Copes asked if he would like to be his cotton agent in the region, but Dunning felt confident that the planters would always return to their old agent if he stayed in business. Mr. Dunning actually succeeded in finding a job in Jackson just as Dr. Copes arranged a situation for him New Orleans.⁷² His job ginning cotton sufficed for the moment, but it only lasted a few weeks before he had to find a new job. Dunning desperately wanted the

⁷⁰ Ibid.

⁷¹ John H. Dunning to Copes, July 6, 1865, Copes MSS.

⁷² John H. Dunning to Copes, July 28, 1865, Copes MSS. There are two similar letters with this date but one of them did not arrive until after Copes had sent his positive reply.

superior situation in New Orleans, but feared for his family's health in New Orleans while it was still warm enough for mosquito swarms. He recognized that abundant competition could easily cost him the job in New Orleans if he delayed. Dunning plainly expressed his simultaneous gratitude and anxiety:

If you think there will be danger of losing the place by delay please dispatch me and I will come at once, for I am very anxious to get at something as I have to make up for the last four years. . . . If you can secure me the place the 1st of October write to me. But should my presence be required please dispatch & I will come at once⁷³

Dunning showed his gratitude for the new situation by attempting to steer his employer's cotton towards the house of Copes & Diboll. Although he doubted his ability to function as a factor's agent at large, he gained enough trust with his own boss to successfully transfer almost forty thousand pounds of cotton to Dr. Copes's control. Dunning never betrayed any suspicion that his new position owed as much to his modest cotton influence as it did to Dr. Copes's bonds of affection and sympathy.

John Dunning's mother kept informed of this predicament and thanked Dr. Copes for helping to secure her son a retail situation.⁷⁴ Mrs. Dunning described a particularly desperate predicament for a would-be clothier. "He said he had one pair of pants, one shirt, a linen coat and fifteen cents, in money, when at home. Last summer he left his clothes for protection; someone stole them; so he was without."⁷⁵ Mrs. Dunning placed the "promise of a situation" in New Orleans ahead of all other concerns. Her whole family's feelings about political entanglements were strongly negative and the Dunning

⁷³ Ibid.

⁷⁴ Mrs. E. W. Dunning to Copes, July 17, 1865, August 7, 1865, August 22, 1865, Copes MSS.

⁷⁵ Ibid.

clan just wanted John to find a respectable commercial position to move on with his career.

Copes tried to cultivate new cotton clients by recruiting unemployed friends and family as agents. The doctor's nephew Thomas C. Campbell gamely tried to drum up new business among Mississippi's functioning cotton plantations.⁷⁶ Even when planters were willing to contract with a new firm, they often had difficult demands or expectations, such as payment in specie or higher rates than the wholesale market would bear. People associated cotton factors with a certain degree of wealth and status. Factors were perceived to take their profit from cotton before money trickled down to the actual growers. The common growers perceived Campbell's situation as a buyer in the field as an advantageous and envious one, but failed to realize how his situation vis-a-vis rival merchants had declined since 1860. These troubles and rural folk's innate suspicion of *any* outsiders did not deter Campbell from trying to make deals. He found that a few minutes talk of his war service often brought planters down to more reasonable terms. Campbell noted that he could use his old Confederate uniform as a disarming bargaining tactic.⁷⁷

In July and August 1865 Mr. Campbell travelled among the remaining landed aristocracy of Mississippi and Georgia making friends in high places. Campbell understood that in order to beat the competition he had to exploit his trading house's remaining reputation in New Orleans. While the situation of an experienced factor intimidated the poor and complicated negotiations, it helped him among the rich and

⁷⁶ Thomas C. Campbell to Copes, July 15, 1865, Copes MSS.

⁷⁷ He seriously suggested wearing the uniform as a clever idea, but never specifically reported doing it. It was enough to dress well in civilian clothes while describing his service to the South.

formerly rich.⁷⁸ His experience in uniform also helped as much among the wealthy as it did with those veterans and civilians of more modest means. The clients' trust in Campbell was equally contingent on his honorable service and his connections to commerce and high finance. In a market of abundant competition these attributes set him apart from some competitors. As Campbell spent more time among the wealthy he realized that he should look more professional, so he specially requested new formal dress clothes and hats from particular shops in the French Quarter. Dr. Copes was ambitious enough to know that he could never have too many agents in the field, and others followed Campbell's lead to various degrees of success.

Historians have debated the extent to which the plantation system dissolved during Reconstruction. While many landless businessmen and the landless family of plantation owners migrated in search of work, Charles S. Aiken's writing shows that most of the deed holders remained in place to find a new way of doing business. Campbell would have encountered many men who doubted their ability to continue profitably managing estates in a wage labor regime, but ultimately a majority thought it was worth the trouble.⁷⁹

A. G. McNutt Rupell wrote Dr. Copes to ask for a job on June 28, 1865. He had been fired from his job as a telegraph operator by the company's new management in

⁷⁸ John H. Dunning, July 28, 1865, August 7, 1865, Copes MSS.

⁷⁹ Charles S. Aiken, *The Cotton Plantation South Since the Civil War* (Baltimore; The Johns Hopkins University Press, 1998), 8, 9, 15. Historians have not always stressed the distinction between legally owning the land and merely managing a large tract of it as an autonomous farm. Aiken sees the ownership of the whole plantation as more important than the relative independence of share-croppers within it. Share croppers really only had autonomy compared to slaves, and lacked the self-sufficient independence of the Jeffersonian farmer ideal. Share croppers were in thrall to the demands of credit and the commodities market to such an extent that meaningful choices were beyond their grasp. The planters Campbell courted mostly stayed involved in local agriculture and society instead of fleeing. It was Aiken's contention that the institution of slavery depended more on the plantation than the plantation depended on slavery.

Jackson, Mississippi.⁸⁰ Rupell had worked for the Copes firm in 1859 and 1860 and hoped to pick up where he left off. He admitted that his business experience had not improved in the intervening years, but hoped his personal reference from Captain James Henderson would give Copes the confidence to hire him back.

Dr. Copes obliged Rupell with a favorable reply and asked what sort of situation he was willing to accept.⁸¹ Rupell was particularly glad for any offers, since an anticipated situation in Memphis had failed to materialize. He preferred a job in commission sales but would readily accept a position with a grocer or druggist. Men willing to pick up stakes at a moment's notice and move to accept a new job were open to more possibilities of economic success than those who were tied to a particular place for land or family.

W. B. Alsworth of Canton, Mississippi shared Mr. Rupell's ideas of becoming a commission merchant.⁸² He retained his plantation but did not believe that free labor could be profitable. Alsworth's new ambition was to plunge into mercantile pursuits, but he lacked both capital and general knowledge of finance. "I am desirous to know whether a man without money can obtain credit; I am as you are aware left without money or property (save some land)."⁸³ Mr. Alsworth freely threw himself at the mercy of Dr. Copes for his influence with the New Orleans financial community.

While W. B. Alsworth awaited Dr. Copes's advice, his brother Thomas J. Alsworth began to serve Copes & Diboll as an agent. "I will do all I can to aid you

⁸⁰ A. G. McNutt Rupell to Copes, June 28, 1865, Copes MSS.

⁸¹ Rupell to Copes, July 25, 1865, August 5, 1865, August 30, 1865, Copes MSS.

⁸² W. B. Alsworth to Copes, August 17, 1865, Copes MSS.

⁸³ Ibid.

without remuneration [sic] but cannot do much. . . . Besides, there is no one that I know of shipping cotton, except the merchants and of course they all have their own houses.”⁸⁴

Thomas Alsworth complained that he had to spend all his time working the soil himself, so there was little time for marketing. He probably only agreed to distribute the house’s circulars in an effort to get the loan for his brother.

On August 29, 1865 the Alsworth family’s ambitions were crushed. Dr. Copes plainly told them that credit was impossible. Furthermore, it was impossible to provide Mr. Alsworth with any goods to sell on commission. Copes appended an argument that Alsworth’s most sensible course of action was to continue to work the soil himself. Alsworth did not welcome these judgments and lamented his family’s demoralization and hopelessness. The planter indignantly defended his credit history and his honor:

I am the only member of my family who has weathered the storm free from debt. Your remark that ‘were you (I) as well trained merchant established in character and business’ possibly I might obtain consignments of goods. . . . Thinking that you could knowingly vouch for my character I entertained the hope of being able to engage in the above business.⁸⁵

Copes offered some consolation in the form of an offer to employ Mr. Alsworth as an agent like his brother Thomas, but W. B. Alsworth declined the offer because it was not worth enough money for his time. While some men had a natural gift for wheeling and dealing, the competition for sales and distribution positions was too crowded for Alsworth. These traveling agents mostly worked on commission for the entry level positions, and only became salaried when they ran regional offices such as the one in Shreveport.

⁸⁴ Thomas J. Alsworth to Copes, September 1, 1865, Copes MSS.

⁸⁵ Alsworth to Copes, August 29, 1865, Copes MSS.

Reverend R. S. McAlister of Canton, Mississippi initially wrote to Copes for help in collecting an old debt from a mutual acquaintance in Shreveport. McAlister's antebellum wealth consisted almost entirely of slaves, so the \$118 balance was his last hope.⁸⁶ Over a month later the money arrived and the Reverend was so grateful that he extolled the house of Copes & Diboll to all his friends.⁸⁷ McAlister reluctantly accepted the necessity of finding a commercial position:

I am at present unsettled, if you happen to know of any place where you think I might be useful, you will oblige me by any information relating thereto. It now seems to me most probable that I will be obliged to resort to some secular employment in order to make a living. But I do not desire to do so if it can be helped.⁸⁸

These individual men's experiences demonstrate the tremendous upheaval and struggle for position among displaced and dispossessed white men. Many abandoned familiar careers for the hypercompetitive world of trade. Where there was much dislocation it was helpful to have connections or some foreknowledge of the destination. People tended to travel along more familiar routes, which made them more likely to encounter people they knew for support. It was much more comfortable for men to repeat the circuit between Shreveport, New Orleans, and Natchez than to blaze a new trail to a place they had never been before.⁸⁹ This meant that even though there was a great deal of displacement, there was also a great deal of familiarity. Men were competing against

⁸⁶ Reverend R. S. McAlister to Copes, June 28, 1865, Copes MSS. McAlister was "in distress, or at any rate in perfect penury."

⁸⁷ McAlister to Copes, August 2, 1865, Copes MSS.

⁸⁸ Ibid.

⁸⁹ S. Finch to Copes, June 18, 1865, Henry Beaumont to Copes, August 4, 1865, L. D. Arick to Copes, August 15, 1865, J. M. Durham to Copes, August 17, 1865, A. Sepums to Copes, August 23, 1865, Copes MSS.

LOUISIANA SAVINGS BANK
AND
SAFE DEPOSIT COMPANY,
No. 51.....Camp Street....., No. 51
JOSEPH S. COPES, W. VAN NORDEN,
President. Vice-President
JOHN S. WALTON, Treasurer.

DIRECTORS:

W. H. Thomas, David Wallace,
Henry Peychaud, Dr. W. H. Holcombe.

Six per cent paid on savings deposits.
Safes rented, and valuables received.
Interest on bonds collected and remitted.
Persons living in the country will find this Com-
pany a safe depository for valuables, papers, etc.,
at a small expense. noll ly

Figure 6: Dr. Copes Bank President Advertisement. This advertisement from 1871 shows that Joseph Copes has risen to the presidency of the bank since he was last listed as one of the directors in 1870 advertisements. It demonstrated that his expertise within the company was not limited to insurance sales, and he was fully qualified to give credit advice. Source: *New Orleans Republican*, April 4, 1871.

others who were very much like the neighbors they left at home. The competition never thinned with distance from home.

White men's dogged pursuit of good situations in the new economy did not go unnoticed by Louisiana's press. Thousands of unskilled or low skilled white laborers often found themselves in direct competition with freedmen for work. The state's economy as a whole experienced highs and lows during the 1860s and 1870s, so this conflict ebbed and flowed with the job market. *The Morning Star and Catholic Messenger* castigated the planter class for causing that state of affairs by preferring

cheaper black labor to the support of their own kind. Editorials called for firing black workers in a show of social and economic unity. “Let him go to his own race or his carpetbag friends for employment. Let no man hinder him in carrying on such avocations as may suit him, but certainly no one is bound to patronize or encourage him with employment.”⁹⁰ The newspaper argued that the economic success and solidarity of white men must come before serious political gains could be made against freedmen and Republicans. The *Catholic Messenger*’s efforts on behalf of lower class white workers mirrored the National Labor Union and the Bureau of Labor’s efforts to unionize black workers in previous years.⁹¹ The Bureau of Labor concerned itself with blacks’ poor collective working conditions as well as wages, but writers for the *Catholic Messenger* concerned themselves more with increasing opportunity for whites in general than with securing specific terms.

The Morning Star and Catholic Messenger also encouraged ways of employing desperate white men without incurring direct confrontation with blacks. A group called the Louisiana Relief Association offered rural plots of land for farming.⁹² The paper advocated this as an honorable escape for white men who tired of constant struggle with black rivals for menial jobs. “It behooves our laboring white population to think seriously of the generous offer thus made. They are now fighting an unequal battle. The negroes can underbid them both here and in the country as day laborers, and the cheapest

⁹⁰ “The White League,” *New Orleans Morning Star and Catholic Messenger*, June 14, 1874, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1874-06-14/ed-1/seq-4/>.

⁹¹ “Prospects of the National Labor Union and Bureau of Labor,” *Louisianian*, December 25, 1870, <http://chroniclingamerica.loc.gov/lccn/sn83016630/1870-12-25/ed-1/seq-4/>.

⁹²“Louisiana Relief Association,” *New Orleans Morning Star and Catholic Messenger*, May 9, 1875, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1875-05-09/ed-1/seq-4/>.

labor will certainly obtain the employment.”⁹³ The *Catholic Messenger* did not explore the apparent paradox of how white men were naturally superior in their estimation, yet unable to compete in a free labor market.

St. Patrick’s Hall and other Catholic venues sometimes hosted groups like The Workingmen to discuss the concerns of blue collar Catholics in New Orleans.⁹⁴ In June 1876, 1500 men petitioned the city and state government to undertake public works for greater employment. They specifically rejected the collection of alms for distribution in their organization on the theory that it would promote idleness. The Workingmen resolved that any new public works jobs should go to men who “have been out of work from one to three months, and are unable to pay their house rent.”⁹⁵ Regular employment of any type suggested something about a man’s character and habits, which is why “The Workingmen” eschewed the irony of soliciting unemployment assistance.⁹⁶

Sometimes when the job market weighed on people’s minds, newspapers published pep talks and moralized about personal initiative. *The Louisiana Democrat* published some particularly strong examples. In an article titled “Hoe Your Own Row,”⁹⁷ the Alexandria paper argued that parents should teach young men to rely on themselves. This emotional resourcefulness would serve them professionally as well as spiritually. An article called “The Loafer” abhorred any kind of idleness. “The most

⁹³ “The Farm,” *New Orleans Morning Star and Catholic Messenger*, May 9, 1875, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1875-05-09/ed-1/seq-4/>.

⁹⁴ Untitled, *New Orleans Morning Star and Catholic Messenger*, June 4, 1876, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1876-06-04/ed-1/seq-1/>.

⁹⁵ Ibid.

⁹⁶ After all, they were called “The Workingmen”, and not the “Nonworking men”.

⁹⁷ “Hoe Your Own Row,” *The Louisiana Democrat*, June 1, 1870, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1870-06-01/ed-1/seq-3/>.

miserable, hopeless scrap of humanity is an idle man—a man whose chief aim in life is to loaf—to waste in the listless longing, and menial and physical inaction the years of this short life.”⁹⁸ It is significant that the article describes *inaction* as menial, as this implies that any kind of work is more honorable and manly than the total lack of work.

Freedmen’s work was often described as menial, but the key distinction here is between labor and sloth, not high paying jobs versus low paying jobs. In this way even white ditch diggers might save some of their masculine pride in the pages of a broadly conservative paper. An article on June 8, 1870 praised “The Self-Made Men of Our Times.”⁹⁹ The article celebrated the life of a prominent Michigan resident, but the story of humble, blue collar beginnings could have resonated with Louisiana’s readership.

The Semi-Weekly Louisianian published a piece in December 1871 titled “The World Owes Me a Living.”¹⁰⁰ The article strongly scolded young men who felt entitled to some kind of job. The piece asserted that if men have debts to repay, then they must have been living too well in the first place. “It’s *you* who are in debt; *you* who owe the world, and because you have allowed the debt to accumulate from day to day, year to year, while you have been attending to your own selfish pleasures, you say now that the world owes you a living.” It also conflated the concept of financial debts with the idea of men’s spiritual debt to fellow Christians and the Lord. “It’s not too late to commence the

⁹⁸ “The Loafer,” *The Louisiana Democrat*, May 18, 1870, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1870-05-18/ed-1/seq-3/>.

⁹⁹ Untitled, *The Louisiana Democrat*, June 8, 1870, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1870-06-08/ed-1/seq-2/>.

¹⁰⁰ “The World Owes Me a Living,” *Semi-Weekly Louisianian*, December 17, 1871, <http://chroniclingamerica.loc.gov/lccn/sn83016631/1871-12-17/ed-1/seq-4/>.

payment of your debt. Seek out the poor and relieve their wants.”¹⁰¹ These rhetorical and spiritual exhortations for men to stay hopeful in the job market were necessary because the job market remained miserable in many areas throughout Reconstruction. Commerce was the slowest in rural areas, but even in New Orleans where this article was published, idle hands seemed to need direction and motivation. The article tells men to “redeem your character”, which mixes terms used to describe spiritual existence and words most often used to describe secular manhood. Christianity typically described the *soul’s* redemption, while guides for young men in business emphasized character.

Papers also published more broadly philosophical advice on moderation, but the emphasis remained on a working man’s purported virtues. In a society of abundant economic competition, it was important to refrain from the costly diversions of pride or envy. *The Semi-weekly Natchitoches Times* philosophized on this theme. “Pride is as cruel a beggar as want, and a great deal more saucy. When you have bought one fine thing you must buy ten more that your appearance may be of a piece. It is easier to suppress the first desire than to satisfy all that follows [*sic*] it.”¹⁰² Though having a nice situation implied social standing, respect flowed from disciplined interactions among men in the work place and not through fripperies.

Another piece argued that “self-study” provided far more value and satisfaction than comparing your own success to others.¹⁰³ It was important that the individual judge himself on his own merits when competition was abundant. Someone like Rogers might

¹⁰¹ Ibid.

¹⁰² “To Our Correspondents,” *The Semi-weekly Natchitoches Times*, May 30, 1866, <http://chroniclingamerica.loc.gov/lccn/sn86053712/1866-05-30/ed-1/seq-2/>.

¹⁰³ “Self Study,” *The Louisiana Democrat*, June 1, 1870, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1870-06-01/ed-1/seq-3/>.

have read that message and reflected that it was respectable to sell goods on commission in East Texas instead of hustling cotton in Shreveport with the Phelps brothers. After all, Mr. Alsworth could not even achieve a situation in commission sales despite his clear credit history and honorable temperament.

White men from all parts of the economic spectrum and all career paths were threatened with losing their livelihoods in the turmoil of Reconstruction. Some of them could blame their troubles on freedmen and others could not, but they all experienced reasonable anxiety over losing their positions as the region's economic system fundamentally changed. Many white men groused about politics, but their first priority was to obtain or retain decent pay in a socially respectable situation. As the new economy took shape, practical Southern men settled into employment that often looked different from their antebellum pursuits. In finding economic security for their families, white men regained pride in fulfilling their manly obligation.

CHAPTER 2: TRUST BETWEEN HUSBAND AND WIFE

No sphere of post war life was spared revision. After efforts to reestablish work and career, white men might have enjoyed returning home to a marriage in which they were in control and their authority and duties were supported by law. But antebellum models of marriage were changing and laws written to help men in their gendered role of family provider were being challenged. These shifts questioned the validity of “Head and Master” rationale and questioned men’s gendered responsibilities as husbands.

More men out of work meant that more families called upon antebellum laws that provided debt protection for men’s families. These homestead laws were challenged in court by women and by creditors when they felt that the laws denied them justice. The cases reviewed suggest that after the war, Louisiana courts continued to support the antebellum gendered model of head and master, but that judicial opinion bent the law to help widows when they appeared vulnerable. Public and judicial opinion ran ahead of changing legislation, pushing the law to support women not as equals of men, but as vulnerable women who needed some empowerment to protect them from men.

Before the war there were generally rigid demarcations between husbands’ and wives’ sphere of duties and allowing wives to work outside the home raised questions of husbands’ judgment. Although antebellum women sometimes worked or helped their husbands in business, this pattern became more frequent after the war. Marriage was becoming a bilateral contract in which wives sometimes shared in providing economic security for the family. Some men might have viewed this as a threat to their most important duty. Women were often not allowed to contract without the signature of their husband or a judge. The notion that a women could make business decisions on their

own gave rise to questions regarding her husband's responsibility for decisions she might make. After the war, the court upheld the right of a man to make different arrangements within marriage, as well as his obligation to protect and defend his wife and her property. New possibilities for sharing duties in marriage gave men options without abrogating their authority and responsibilities as husbands.

During Reconstruction, men in Louisiana enjoyed legal rights denied to married women. While the legal advantages of white men over people of color were curtailed somewhat by new state laws and the 14th Amendment to the Constitution, the legal authority of white men over women remained largely intact. White men claimed this authority over women for two main reasons. First, they believed that men's superior knowledge of the law and civic affairs usually made them better suited to exercise authority over the household in its relation to society. Second, the legal system espoused that men were the best providers and defenders of the household's material interests. Laws were written and interpreted for the benefit of men as individuals, though also conceived for the benefit of men as heads of the marital community and family. Although men retained extensive statutory authority over the lives of women, they did not always get the result they desired or expected.

Ideas about appropriate gender roles and the relationships between family members changed over the course of the nineteenth century. These attitudes caused legislators to gradually change the ways that husbands and wives handled financial concerns. In the beginning of the nineteenth century, the dominant model of the family was for the father to be master of the wife and children. Bonds of affection and women's personal preferences were seen as secondary in importance, as obedience to the

patriarch's rule was thought to bring about the greatest possible order. In this paradigm women were thought to be too emotional to make rational choices by themselves, and they required guidance. Part of this way of thinking came from church doctrine that women were naturally sinful like biblical Eve. These important assumptions conflicted with the egalitarian principles of the American Revolution, which sometimes likened the unpopular King George III to an overbearing father oppressing capable family members.¹

Over time people's understanding of marriage became more contractual, giving somewhat more autonomy to the wife, provided that she remained within her sphere of influence. Women were encouraged to manage the household according to their supposedly moral instincts, and within that realm they could take some initiative for reform. Principled and gentle women were supposed to soothe the husband after his work and guide the family towards virtue when the outside world tended towards wickedness.²

There were different reasons that the gradual liberalization of household relationships proceeded less smoothly in the South than the North. For some Southern families, the men were accustomed to control over the slaves in the household, and this

¹ Elizabeth H. Pleck, Joseph H. Pleck, eds. *The American Man*, (Englewood Cliffs: Prentice Hall, 1980), 7-15, 220-230. Pleck argues that economic circumstances had just as much influence over the role of women as political or religious ideology. Frontier farming was so difficult that it really needed to be a collaborative effort for couples. Rising affluence in more established areas meant that more successful families could encourage wives to eschew household labor to cultivate bourgeois refinement. Lower class wives, daughters, and single women often found factory employment necessary to make ends meet, despite the typically low pay scales. ; Cott, *No Small Courage*, 180-190. American changes in attitude about gender roles were primarily about notions of building Christian character. Good Christian character was founded on the strict control of natural urges and emotion. According to changes in fashion about the proper roles of men and women came from new ideas to restrict self-destructive or anti-social behavior.

² Bardaglio, *Reconstructing the Household*, xii-xiv, 137-144; Annegret Ogden, *The Great American Housewife: From Helpmate to Wage Earner*, (Westport: Greenwood Press, 1986), 72-73. Because of their separate sphere, women did not usually write in terms of personal ambition. Women's work was typically discussed in terms of "usefulness and "unselfishness". Ogden argues that the prevailing belief until the 1850s was that excessive education spoiled women for anything other than essential domestic work.

attitude spilled over to other household members as well. For other Southern families, it was a matter of limited employment opportunities. Manufacturing jobs that existed in the North were much rarer or non-existent in the rural South, so that there were fewer opportunities for Southern women to get a paycheck from factory work. It was also much easier to separate men's world of work from women's realm in cities than in the country, where the home was collocated with the farm. White women experienced a sudden surge in domestic authority and independence when the men in their families left to fight in the war. When the men came home and economic malaise took hold it meant that some white women were again mostly yoked to serving the household under the guidance of their husbands.³

The power of married men as "Head and Master" of the household gave them control over all community property as well as the right to handle legal actions in its interest. All property was presumed to be part of the community unless legal documents explicitly defined something as the wife's alone. Married women had to show that they actively managed their own property rather than allow their husband to administer it as

³ Ownby, *Subduing Satan*, 6-18. Ownby contrasts two strong themes of Southern manhood and explains how strong religiosity coexisted with wild and uncouth recreation culture. In spite of the South's difficulties in separating the social worlds of men and women, men did find ways of exercising their urges apart from the home; For the different ways that Southern women experienced autonomy during the Civil War and early Reconstruction, see Laura F. Edwards, *Scarlett Doesn't Live Here Anymore: Southern Women in the Civil War Era* (Urbana: University of Illinois Press, 2000), 33-40, 174-177. Edwards argues that rich and poor white women had different ideas about their appropriate roles. Poor white women were used to serving the family either through household labor or wage labor because they saw the *family's* independence as vital. Wealthier white women could often afford to refrain from labor or be ignorant of business matters, and their sudden introduction to personal labor and management matters often came as quite a shock; For the experience of elite white women in reduced circumstances, see Jane Turner Censer, *The Reconstruction of White Southern Womanhood: 1865-1895* (Baton Rouge: Louisiana State University Press, 2003), 18-33. Censer argues that some elite white women used absentee or dead husbands as a pleasant excuse to live independently. While some upperclass women saw education as a possible path to independence from men and household labor, others saw education as a path to attracting a rich husband and enjoying an idle lifestyle. The women who chose those paths had very different concerns than women who married working class men with debt concerns who needed a wife's labor to manage the household.

community property. This property could have come from the woman's family or she could have acquired it herself; as long as she could prove a record of active control it could remain hers instead of a community asset. In addition to legal hegemony over household assets, husbands had the privilege of determining the family's domicile, and the wife's legally appropriate place was in the husband's domicile. When a husband and wife lived apart for any reason it complicated their rights and duties under state law.⁴

The laws and theories about who controlled property in a marriage were complex and difficult to understand outside the context of real cases in court. Most civil and criminal cases in Louisiana were resolved in trial courts. Trial courts interpret the facts of the individual case before them as well as the meaning of the law through jurisprudence. Trial courts also decide the admissibility of evidence and permit opposing counsel to attack the credibility of witnesses, among other things. When the losing side wants to appeal the ruling, they must argue that there has been a mistake of law *interpretation*, since the first trial had the best access to the facts. Cases involving the misinterpretation or misapplication of the law were heard at the Louisiana Supreme Court. The opinions in these cases were very important because they set precedents for future rulings in the lower courts. The justices of the high court explicitly clarified the meaning and intent of state laws in the context of post-bellum society. Sometimes the court seemed to bend the letter of the law in pursuit of equitable social outcomes, but it never called the premises of its patriarchal mandates into question.

⁴ *Succession of John C. Norton on the Opposition of J. A. Lum.*, 18La. Ann. 36 (Supreme Court of Louisiana. 1866) (No. 507) at 4. The husband had no need to justify his choice of domicile if the issue arose at trial. If a wife could not convince him to live elsewhere she would either forfeit some rights by living separately or try to get a legal separation of bed and board as a prelude to divorce, which might cost her the custody of any children as well as community assets.

The case of *Mary D. Cooper Et Al. v. Samuel C. Cappel Et Al.* was heard by the state supreme court in 1877, but the events that gave rise to the case took place in 1875 and 1876. The case is an example of how the legislature's marriage paradigm dealt with external threats to the household. In it we learn the usefulness of a man's presence to defend his wife's interests. Both the trial and the appeals court rulings suggest the way the state's highest court thought the head and master laws ought to work.⁵ The justices did not typically reference the legislative debates that informed state law, but they often explored the way that the relevant state laws changed over time, and the reasons for those changes. The historic trends of legal thought and the legislature's historic social priorities were a strong influence on the court's judgment, though the laws themselves were ostensibly the primary factor in the court's reasoning.

Mary Cooper owned and operated her own cotton plantation in Rapides Parish when she married Silas Cooper. Her father gave her the plantation with the understanding that it was to remain hers. Silas Cooper was a traveling Methodist preacher who spent long periods of time away from home. Mary managed the plantation in his absence, just as she had before she was married. Mary leased her land to a number of tenant cotton farmers and allowed them the use of her cotton gin. One of her tenants, J. D. Bass, was more than \$500 behind in the rent. In late 1875, Mary notified Bass that she had taken possession of his last seven bales of cotton as compensation.⁶ Mr. Bass seemed to accept his lessor's demand at the time despite the fact that she was a woman.

⁵ *Mary D. Cooper et al. v. Samuel C. Cappel et al.*, 29 La. Ann. 213 (Supreme Court of Louisiana. 1877) (No.6548).

⁶ *Petition for Writ of Certiorari* at 1, *Mary D. Cooper*, 29 La. Ann. 213 (No.6548) Trial records do not provide the date that Mary's father gave her the plantation or the date that she was married to Silas. The language suggests that those events took place years previously, and not recently.

While Mary managed her tenant problems, Silas was promoted by the Methodist Conference as presiding Elder for the Alexandria District of the Methodist Church.⁷ This promotion prompted Silas to come home and help process the last of the cotton harvest so he could attend to his new duties without concern for unfinished business at the plantation.

Meanwhile Mr. Bass conspired with a malicious cotton factor named Samuel C. Cappel to “sell” him the seven bales of cotton legally seized by Mary in lieu of rent. Cappel organized two wagons to take several armed men to the gin house to effectively take the cotton by force.⁸ A heated argument ensued during which Cooper and Cappel both drew guns and each brandished a pair of brass knuckles. At the last second one of Cappel’s henchmen struck Cappel’s arm, causing the pistol to shoot the ground at Silas’s feet instead of killing him. The gang disarmed Cooper and assaulted him before leaving with the cotton.

Silas and Mary brought a civil suit against everyone in the armed gang. They demanded compensation for Mary’s stolen cotton as well as “vindictive damages” to compensate Silas for his pain and emotional suffering. Their combined claims for damages exceeded the \$500 necessary to qualify for a jury trial.⁹

⁷Testimony at 60, *Mary D. Cooper*, 29 La. Ann. 213 (No. 6548).

⁸ Testimony at 39, 56-58 *Mary D. Cooper*, 29 La. Ann. 213 (No.6548) Henry Odum casually hopped on the wagon for a ride and testified how Cappel described the plan along the way to the gin house. One of the Freedmen at the gin house was also named Henry Odum. “I suppose Mr. Cooper has eight or nine negroes up here armed and [Cappel] says that we shall have that cotton. He [Cappel] draws out his pistol and says ‘by God if I get among them with this I’ll make them scatter and handed his pistol to me to take a look at it.’”

⁹ Federal Reserve Bank of Minneapolis, http://www.minneapolisfed.org/community_education/teacher/calc/hist1800.cfm Five hundred dollars in 1875 is the equivalent of \$10,756.06 in 2014.

During the argument and physical struggle Silas repeatedly referred to the cotton and gin house as his wife's. Everyone present at the gin house understood unequivocally that he defended his wife's interests by protecting her property lien against Bass. "Sammy if you take this cotton, you are taking it by force you are robbing *my wife* and [he] repeated a third time you are robbing *my wife*. You are robbing an innocent *woman*" (emphasis mine).¹⁰ Mr. Cooper repeatedly referred to "Mrs. Cooper's place" in his own testimony in depositions before trial.¹¹ Warren Griffin and Henry Odum, who had arrived at the gin house together in the wagon, both agreed that Mr. Cooper had emphasized his wife's ownership.¹² A freedman named Wash Franklin working the gin at the time of the struggle corroborated Odum's account. "Mr. Cooper told Mr. Cappel that he could not get the cotton as it was his wife's."¹³ Counsel for the defense seized on these gendered possessive terms and had them confirmed in cross-examination. None of the witnesses remarked that it was unusual or confusing for Mr. Cooper to speak in those terms.

The defense had a very difficult task on the merits as all the witnesses agreed about the results of the confrontation.¹⁴ The court wholly rejected Cappel and Bass's legal claims to the cotton. The defense's best hope was to deny the court jurisdiction in

¹⁰ Testimony at 36 *Mary D. Cooper*, 29 La. Ann. 213 (No.6548). Henry Odum provided the most extensive testimony about the incident. As soon as the argument began he hid behind a wood pile for safety. Counsel for the defense mockingly referred to him as "the Hero of the woodpile."

¹¹ *Ibid.*, at 51.

¹² *Ibid.*, at 48.

¹³ *Ibid.*, at 49.

¹⁴ Testimony at 21, *Mary D. Cooper*, 29 La. Ann. 213 (No.6548). There was disagreement about the fight's beginning. The Defense claimed that Mr. Cooper drew his gun first as a provocation, but the court said he had a *right* to do so, while Cappel's mere unwanted presence was a trespass. Cooper could have legally killed Cappel, but if Cappel's aim had not been changed by a third party, he would have been guilty of murder or assault and physical harm at the very least.

the first place by dividing Mr. and Mrs. Cooper's causes of action. If the Coopers' torts arose from separate causes that could not be joined, Mr. Cooper's from battery and Mrs. Cooper's from theft, then perhaps the court would value the individual damages below the threshold of \$500 as a result.

If either or both of them have any cause of action at all, they are separate and distinct and cannot be cumulated in one suit. Mrs. Cooper was not present or in hearing of the difficulty and her only cause of action must be for the value of the seven bales of cotton, worth, as she says, fifty dollars per bale. Her husband, S. H. Cooper, is a Methodist preacher, and had no interest in the cotton nor in the plantation which was hers when he married her. His cause of action, if he has any, must be for the assault which he provoked himself.¹⁵

The supreme court found no merit whatsoever in any of the defense's arguments based on property rights generally, lessee rights, physical provocation, or the management of assets between a husband and wife. The court found the suggestion that a man's interest was distinct from the wife to be as surprising and spurious as Cappel's diaphanous defense for assault and theft.

It may be true that the plantation leased to Bass belonged to the wife as alleged, but it is not alleged that the wife was separate in property, nor that she administered her paraphernal property separately and alone. We can not assume that to be true which is not necessarily so, and which is neither alleged nor proven. Most wives rely upon their husbands to manage their affairs, and this is so consonant with the trust and confidence which should ever exist between husband and wife that we would presume it to be true in every case in the absence of allegation and proof to the contrary. C. C., article 2385 (2362).¹⁶

¹⁵Appellant's Brief at 4, *Mary D. Cooper*, 29 La. Ann. 213 (No.6548)

¹⁶ "Actions for personal wrongs to the wife or for injury to the paraphernal property not administered separately and alone by her should be brought in the name of the husband alone, because the damages recovered would fall into the community, of which he is head and master and sole administrator. C. C. 2404 (2373)." *Mary D. Cooper*, 29 La. Ann. 213 (No.6548) at 4, 5; Ray, *Digest of the Statutes*, 230. C. C. 2386 (2363) "When the paraphernal property is administered by the husband, or by him and the wife indifferently, the fruits of the property, whether natural, civil, or the result of labor, belong to the conjugal partnership, if there exists a community of gains. If there do not, each party enjoys, as he chooses, that which comes to his hands; but the fruits and revenues, which are existing at the dissolution of the marriage, belong to the owner of the things which produce them." The wording of many code articles reflected the increasingly contractual nature of marriage as a partnership, as opposed to a purely husband dominated institution.

In this case the court saw that the letter *and* spirit of head and master jurisprudence aligned perfectly with an equitable outcome for Silas and Mary Cooper. Justice was served and laws giving men legal authority over wife and household were vindicated.

There were also many cases where laws intended to help men as head of household complicated the plight of women at court. In many cases the women prevailed, but not in all of them. Some appeals processes took years to complete, during which time widows and their minor children endured without full use of their family assets.

To bolster men's powers as Head and Master, and to aid them in providing for their families, state laws afforded special debt protection under a few related statutes, often informally referred to as homestead acts and the policy of necessitous circumstances. Louisiana's main debt protection act, article 3686 of Successions, was passed in 1852. When the state constitution and civil statutes were rewritten in 1864 and 1868 the popular provision was preserved intact. "Our Code has been revised, and, of the law which confers that extraordinary privilege, not a syllable has been changed."¹⁷ There were two main articles that protected families in debt, one that fortified a man's family after his death and one that only applied while he lived.

The most frequently appealed debt protection law was article 3686, which defended wife and children from financial misfortune literally beyond their control and ensured that even the most indebted of men could potentially leave a legacy.¹⁸ If a

¹⁷ *Succession of H. T. Cottingham. Opposition of the Widow.*, 29 La. Ann. 669 (Supreme Court of Louisiana, 1877) (No. 726) at 4.

¹⁸ The majority of records from Louisiana trial courts in the Reconstruction era have been lost. Louisiana's Supreme Court records were better preserved, though many cases were lost.

widow and children had less than \$1,000 in assets at the death of the husband, they could claim up to \$1,000 from the succession before any creditors were paid.¹⁹ Widows who applied for this protection claimed necessitous circumstances. The executor took account of the widow's claims while cataloging assets and debts for the official tableau.²⁰ When the court privileged the widow above her husband's creditors they had to write-off the debt as a loss or try to find a reason why the widow was really undeserving of the protection. Sometimes these hearings provided the spectacle of creditors viciously attacking pitiable widows, but the arguments used in the service of greed were rooted in widely held sensibilities of the patriarchy. The law itself tacitly acknowledged that in life men capsized the household through arrogance or folly, but in death they might have floated the survivors.²¹

A different article of the civil code, number 1691, exempted from "seizure and sale under execution one hundred and sixty acres of ground and the buildings and improvements thereon, occupied as a residence and bona fide owned by the debtor,

¹⁹ Ray, *Digest of the Statutes*, 562, 716. C. C. Sec. 3686. This law is listed under the heading Successions, but there is an identical law numbered 2885 under the Privileges portion of the code. Privilege is a term used to describe why some creditors get paid sooner than others. One thousand dollars was a great deal of money in the 1860s, but it was not enough to maintain a family for very long by itself. Widows still typically had to find a regular source of earned income or remarry if their children were too young to earn a decent wage in their own right.

²⁰ Bryan A. Garner ed., *Black's Law Dictionary*, 7th Edition (St. Paul, Minn. : West Group, 1999), 1465. Under Civil law a tableau lists the creditors of an estate and states what they are owed. When the administrator of the succession produces a tableau, parties with an interest in the succession have the opportunity to challenge his findings in court before any money is distributed. Creditors and debtors could challenge the validity of a debt or the priority of a debt. The decedent's survivors could also use the inventory to prove their necessitous circumstances and priority at the tableau.

²¹ Federal Reserve Bank of Minneapolis, http://www.minneapolisfed.org/community_education/teacher/calc/hist1800.cfm \$1,000 in 1865 would be worth \$15,432.61 in 2014 when adjusted for the consumer price index. This provision of the Homestead Act seems to have been the most popular because of the number of cases appearing in Louisiana's Supreme Court.

having a family . . . dependent upon him for support.”²² This provision was specifically written in consideration of men in their role as head of household, as it was unavailable to men without minor children. Property owning men without dependents were completely exposed to creditors. This part of the homestead laws was exercised less frequently than the first because most poor men did not own their own land, they rented. Despite this general class distinction there were still established landowning families in dire financial straits. Because of society’s close link of manliness with business and property, this law was specifically targeted to the head of the family as an individual. The law assumed that the moment he died, the best qualified person to manage the land was gone. Without his knowledge and abilities to make the land productive, the legislature and courts believed that it was best to let the land reach the more capable hands of creditors and let the surviving family simply plead benefit of necessitous circumstances.²³

In 1873 Paul E. Briant mortgaged a 417-acre sugar plantation in Terrebonne Parish for the unexplained sum of \$8,888.88.²⁴ In 1874 he defaulted on the debt and the firm of Nalle & Cammack began the executory process to sell the whole property. Mr. Briant enjoined the sale of 158 acres of the land, including the plantation house where his family lived. As this challenge wound its way through the court system Mr. Briant died.

²² *P. E. Briant v. G. Lyons, Sheriff, et al.*, 29 La Ann. 64 (Supreme Court of Louisiana. 1877) (No.6114] At 3; Ray, *Digest of the Statutes*, 701. Article 1691 was passed in 1865 and survived subsequent revisions of the state laws intact.

²³ *P. E. Briant*, 29 La Ann.64 (No.6114] at 64-66; Ray, *Digest of the Statutes*, 701, There was also a provision of C. C. Sec. 1691 that applied to male heads of household who may not have owned their own land or buildings. It allowed them to keep “one work horse, one wagon or cart, one yoke of oxen, two cows and calves, twenty-five head of hogs or one thousand pounds of bacon, or equivalent of pork, and, if a farmer, the necessary quantity of corn and fodder for the current year; provided, that the property herein declared to be exempt from seizure and sale does not exceed in value two thousand dollars.” This law is listed under the heading “Homestead and Exempted Property” instead of “Successions” or “Privilege”, where other nuanced connections between family law and the settlement of debts can be found in the code.

²⁴ *P. E. Briant*, 29 La Ann.64 (No.6114] at 64.

Mrs. Briant tried to continue the process in his stead, but the opinion of the court was that this aspect of the homestead law was a *personal* right of the indebted patriarch. Even though he qualified when the paperwork was originally filed, and the statute was expressly for the benefit of the debtor's family, the right could not be extended to his survivors. The court's ruling opinion explained that sympathy for the family could not compensate for the man whose duty and ability to support his family justified the law:

The family will thus be left homeless when a home is most needed, and the fruit offered by the lawgiver to the poor debtor will be turned into bitter ashes before his poorer family. Such an appeal would be addressed to our compassion and benevolence. It is our judgment that is invoked in legal contestations.²⁵

There are ways that this ruling can be understood in light of gendered politics that help explain what seems like a cruel revocation of benevolence. The law benefiting women and children in the event of a patriarch's death only defended a limited value of unspecified assets because women, occupying their sphere of the household, were fully qualified to use it for family needs. For example a cotton press could be sold and the proceeds divided between creditors and the heirs. The law protecting *living* men and their family specifies land and agricultural assets to be preserved because the husband was thought to be dominant in *that* sphere of labor, and would be able to make the best use of it. That the *house* was specified as protected for the father and not for a widow seems to have been an oversight, which is why the judge singled it out in his opinion. The fact that the court refused to bend the rules shows how highly the judges valued the husband's position in law and family.

Historian Laura F. Edwards argues that legislating the distinction so rigidly was much more in keeping with the patriarchal ideal and policy of separate spheres than the

²⁵ Ibid. at 65.

reality of women's burden. A large proportion of poor white women provided agricultural labor as well as household labor or wage work outside the home. It was embarrassing for men to admit that they could not sustain a family without help, so the law supported the myth at a time when men's struggles were harder than ever to conceal or explain away.²⁶

In the case of *Calvit vs. Hoy* in 1874 a widow with minor children was granted property protection from debt collectors, but only because she had a long and unquestioned record of owning and managing the property in her *own* name, and there was no question about her husband managing it on her behalf. The opinion in *P. E. Briant* strongly distinguishes that precedent because the un-rebutted presumption of the court was that the Briant family land had always been the husband's bailiwick.²⁷

The legislature's intent with the other provision of the homestead laws, that of necessitous circumstances, was to assist women and children after the death of a breadwinning father. Other states had adopted or were in the process of adopting similar laws. The specifics of the statutes varied, but they shared the cultural expectation that a husband was indispensable to the proper function of a household, and in his absence the widow and children probably required assistance to get by.

A combination of difficult economic times and the widespread revision of state laws in the South made this type of protection well known and popular across the region. When General Butler proposed the reorganization of Mississippi as a regular state in

²⁶ Edwards, *Scarlett Doesn't Live Here Anymore*, 33-40.

²⁷ Ibid. Judge DeBlanc recused himself from the case because of affinity with the Briant family. Even in the 1870s upwardly mobile planter families connected with the state supreme court struggled to make ends meet, almost ten years after the war.

1869, he suggested that the Provisional Governor of the Military District of the Mississippi ought to enact a homestead law of its own. This law protected just as much value as Louisiana's statute.²⁸ In Louisiana there were enough homestead act cases that some creditors began to include contract clauses for the debtor to preemptively renounce his family's claim to the benefit of debt protection. In this way businessmen sought to limit the high risk of loss in dealing with Louisiana's preponderance of struggling families. To counteract this, the court struck down the power of parties to contractually waive their benefits.²⁹

The case of Mrs. Mary L. Hardin wonderfully illustrates both the legal importance of the husband in managing family assets and the public interest in protecting their struggling families from creditors. Two Louisiana Supreme Court judges took the opportunity of their opinions to explicitly link the economic difficulties of Reconstruction to men's need for homestead protections. Mary was married to a man who was both deaf and dumb. She brought paraphernal property with her to the marriage, and her husband never owned or managed anything.³⁰ Despite Mr. Hardin's difficulties participating in

²⁸ "Butler's Mississippi Bill," *The Louisiana Democrat*, March 31, 1869, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1869-03-31/ed-1/seq-3/>; For a comparison of a different way that Southern white men conceived of public and private debts, see Amy Feely Morsman, *The Big House After Slavery: Virginia Plantation Families and their Postbellum Domestic Experiment* (Charlottesville: University of Virginia Press, 2010), 130-144. Morsman argues that the public debate over honoring Virginia state debts during Reconstruction was very strongly gendered in its rhetoric. Conservatives argued that it would reflect poorly on Virginia men's honor to avoid repaying the face value of state bonds. It was a very difficult argument to make when individual Virginia households were struggling to repay their own bills and sought to avoid higher taxes. Louisiana's newspapers and court documents did not cast such aspersions on the poor men seeking debt relief under the homestead act.

²⁹ Untitled, *The People's Vindicator*, June 2, 1877, <http://chroniclingamerica.loc.gov/lccn/sn85038558/1877-06-02/ed-1/seq-2/>. This was an extremely reactionary paper for asserting white supremacy. There were enough destitute whites for them to see the ruling as broadly beneficial rather than a favor to the freedmen.

³⁰ The word paraphernal is a term of civil law derived from the Greek parapherna, meaning "apart from a dowry".

public life, in the eyes of the legislature and the court system he was technically the head of the household.³¹ The justice system had a strong motive to succor this particularly disadvantaged household.

In 1873 Mary Hardin mortgaged her farm to Osyka, Mississippi merchants Wolf & Cerf in order to pay for supplies. The merchants required her husband's approval to ensure that the debt was legally valid, but they also required Mary and Mr. Hardin to waive their right to claim any benefit of existing homestead acts, or any additions to the homestead acts passed after the signing of the contract. This included waiving the protection of necessitous circumstances.³²

When the debts came due Mary confessed that they could not pay and begged for the creditors to let them go. Her defense at court was that she suffered a legal incapacity to contract the mortgage. Although her husband consented to the contract, she did not also get approval from a judge. The Louisiana Supreme Court disagreed with her theory and said that a judge's approval was an alternative to a husband's approval intended for unmarried women. In Mary's case a judge's approval would have been superfluous. Her husband's handicaps did not prevent him from legalizing the documents with his approval. On the other hand the court rejected the aspects of the contract that waived the Hardins' protections under the homestead laws. It was against public morals to coerce desperate men to surrender the benefits of laws specifically written for them. By the act

³¹ Sign languages began developing in the 18th century, and it is probable that Mr. Hardin could communicate reasonably well with interpreters, but his interaction with the court system in this case was minimal. Gallaudet University for the deaf in Washington, D.C. had just begun operations in the 1860s, but by and large the deaf of the Victorian age were poorly educated. A concurring opinion in this case referred to him as an imbecile.

³²*Mrs. Mary L. Hardin*, 29 La. Ann. 333 (Supreme Court of Louisiana. 1868) (No.6570) 333-335.

of co-signing the mortgage, Mr. Hardin took an active interest in managing his wife's property, and they could claim full eligibility for the benefits of homestead protection.³³

There was nothing in particular about the Hardin family's problems that could be blamed squarely on the Civil War, but the judges hearing their appeal saw the family as an exemplar of the desperate situation of the common people during Reconstruction. The principles used to protect the Hardins were essential to helping all heads of household through the crisis.

The rich and prosperous condition of Louisiana before the war, when every one was independent, as a rule, and the contrary exception rendered homestead exemptions unnecessary. No sooner had the war ended, however, than, owing to the prostrate and impoverished condition of the people, both here and in several of our sister States of the South, the protection of the debtor's family against absolute beggary through his fault or misfortune began to be guarded against by the passage of homestead exemption laws. Ours was immediately and earnestly pressed to its passage at the extra session of the legislature in the fall of 1865, thus evincing the public policy and demand.³⁴

Judge Egan was mistaken that the homestead protection laws first appeared in 1865, as the first version was passed in 1852. Egan was corrected by Judge Marr's concurrence, which also explained that the law was expanded somewhat in 1872, 1874, and 1876 to include items such as kitchen furniture, sewing machines, and pianos. Their strong association of these laws with the economic problems of Reconstruction broadened the social acceptance of what used to be strictly for the lower class.³⁵ The truly destitute did not have *pianos* to repossess. The homestead protection laws were

³³ Ibid. According to the precedent set in *Calvit vs. Hoy* in 1874, Mary could have qualified for some aspects of debt protection by herself, but not for others. She could have protected 160 acres of property, but she would not have qualified for the separate \$1,000 asset protection limit after her husband's death.

³⁴Ibid., At 337.

³⁵Ibid., at 337, 338.

tools to be used by all families. Most of the envisioned beneficiaries were self-employed men, but the rules also benefitted imbeciles and women in a pinch.

Louisiana's homestead law was written so that the husband's legal domicile determined the eligibility of family who could prove necessitous circumstances. This had the twofold effect of incentivizing Louisiana women to stay in difficult marriages and protecting Louisiana creditors from out of state debtors defaulting with greater ease. Factors in New Orleans maintained far-flung business connections, so it was in the state's interest to forgive local debts before debtors in other states. Firms like Copes & Diboll did not want their clients in east Texas and Mississippi to wipe out their profits by suddenly claiming Louisiana residency and debt protection.

These entitlements for women and children were most popular when the docks stayed full of cotton and commerce flowed. Businesses became likelier to litigate debts just as the poor sought debt protection when times became more difficult after the war. Although the homestead laws were primarily written with family and patriarchal needs in mind, lawmakers also had to consider the needs of business to be paid.

The *Succession of Daniel Christie* demonstrated necessitous circumstances credibly proven, but the couple's *de facto* separation of twenty years brought the widow's morals and status as a wife into question. The attorneys' arguments elucidate the conflict between the belief that paternal control of the family was necessary, and the possibility that sympathy for a wronged and vulnerable woman could alter legal judgment.³⁶

Paradoxically, the state empowered husbands in order to protect purportedly weak and

³⁶ *Succession of Daniel Christie*, 20 La. Ann. 383 (Supreme Court of Louisiana. 1868) (No. 1759).

unsophisticated women, yet creditors in this case argued that the widow should be denied protection in the face of vindictive abandonment by the husband.

Daniel Christie and Eleanor Bowles were married in their home state of New York in 1845. They lived together for three years and produced two children named Benjamin and Eleanor. Around the time of Eleanor's birth Daniel moved to California, leaving his wife and children behind. It was the last time he communicated with them. Sometime after that Daniel moved to New Orleans, where he died in 1867.³⁷ Christie's widow and two children never left the state of New York during the entire period of Daniel's absence. Eleanor made a very meager living as a seamstress after her abandonment, and by 1867 received some support from her 21-year-old son. Mrs. Christie immediately declared necessitous circumstances in Louisiana when she learned that Daniel had died in New Orleans.

The succession's administrator aggressively fought the widow's claims to residency for debt protection. The lawyer went beyond proving that Eleanor had never set foot in Louisiana and cast her own purportedly poor performance as a wife as the root of all her ills.

Would she have been in necessitous circumstances if she had lived with her husband in New Orleans, as she ought to have done? And can she claim the benefits of the marital relation when she has declined to perform the duties thereof by coming to and living with her husband here? And finally, was it not the duty of the widow to show that it was with the express will and wish of her late husband that she lived 2000 miles away from him for more than twenty years? Ought not the court to require of her to show the cause of this long

³⁷Testimony at 20-22, *Daniel Christie*, 20 La. Ann. 383 (No. 1759); Marion S. Goldman, *Gold Diggers and Silver Miners: Prostitution and Social Life on the Comstock Lode* (Ann Arbor: The University of Michigan Press, 1981), 48-50. This kind of abandonment was a common alternative to divorce throughout the Reconstruction era in all regions.

separation? Should not some proof have been adduced by the widow to show that she was without fault or blame in this matter?³⁸

Mrs. Christie never personally appeared in court to endure the administrator's character assassination. The administrator went further to question whether such a wife could even be trusted with the management of her children's assets. Louisiana had no authority to appoint an assistant tutor to oversee their inheritance in another state.³⁹

The supreme court was not moved by these harsh accusations. The judges had read a long series of depositions about how the widow raised her husband's children alone under difficult conditions. Rather than wade into the family's sad history, the court agreed that the widow was necessitous and ruled that the husband's residence at the time of death determined the wife's legal domicile for the purposes of necessitous circumstances.

De facto divorce by abandonment was very common throughout the nineteenth century, and it was a phenomenon the courts frequently encountered. Under section 1190 of Louisiana law an uninterrupted abandonment of five years was sufficient ground for a judge to grant either a husband or wife a divorce if they sought it. Historian Peter W.

³⁸*Daniel Christie*, 20 La. Ann. 383 (No. 1759) accessed 4 March 2013; available from http://libweb.uno.edu/jspui/bitstream/123456789/17177/62/lsc001759_i_0003.jpg

³⁹ Ibid. accessed 4 March 2013; available from http://libweb.uno.edu/jspui/bitstream/123456789/17177/62/lsc001759_i_0002.jpg In certain circumstances the court could appoint a tutor to manage the affairs of a minor where the legal or mental capacity of the widow was in question; Garner, *Black's Law Dictionary*, 713, 1521. A tutor is the civil law equivalent of a guardian under common law. Parents are natural tutors of children, but tutors could also be appointed for children by the parents' will or a judicial order. The terms of these laws continued to treat adult women as children even as the terms of marriage were becoming more equitable; Bardaglio, *Reconstructing the Household*, 100. If a mother died and the father survived the children were not orphans because the father was thought to be more vital to their support. Antebellum Southern law in many states considered children to be orphans if the father died, even if the mother was still alive. The courts often appointed tutors in this scenario. A widow or divorced woman's rights were likely to be restricted even if she was granted custody. These rules began to change after the Civil War as society came to appreciate the value of mothers as full guardians of their children, or even as single parents.

Bardaglio argues that the trend of granting women increased property rights and protections was more about protecting them from bad men like Daniel than empowering them in the cause of women's liberation.⁴⁰

Daniel Christie was an example of the way courts treated informal separation of married couples. In the *Succession of Charles Liddell* the Louisiana justices clarified and emphasized the distinction between a mere separation and divorce.⁴¹ In 1866 Louise Liddell obtained a legal separation of bed and board from her husband. Such a separation was sometimes seen as a prelude or alternative to divorce, but divorce was neither inevitable nor necessarily desirable as a social outcome from a public policy perspective. The legislature and the courts wanted to give men every chance to rebuild their families before permanently splitting them.

On New Year's Eve in 1867 Charles Liddell died and his widow Louise asked the court for the benefits of necessitous circumstances. The creditors argued that the year in between the separation of bed and board and her husband's death meant that she was no longer properly married, and was undeserving of the benefits bestowed upon loyal widows by the state. The creditors provided a number of character witnesses to testify that Louise remained bitter to the last, and that they had in no way reconciled since the legal separation. Louise argued that these witnesses were ignorant of her late

⁴⁰ Ray, *Digest of the Statutes*, 236, 286. Other causes for divorce were habitual intemperance, cruelty, a spouse being charged with an infamous crime, or a spouse becoming a fugitive from justice. The 1855 version of the law was amended and broadened in 1870 to include "any such misconduct repugnant to the marriage covenant as permanently destroys the happiness of the petitioner," so it was becoming somewhat easier to obtain a divorce; Bardaglio, *Reconstructing the Household*, 33. One of the biggest innovations of divorce law was for the courts to specifically treat mental cruelty as a comparable offense to physical abuse. In the common law tradition as it was received from England one could only obtain a separation because of mental cruelty, never a divorce.

⁴¹ *Succession of Charles Liddell – On the Opposition of Mrs. Louise Liddell*, 22 La. Ann. 9 (Supreme Court of Louisiana. 1870) (No. 2108) 9-11.

reconciliation with her husband, and they had resolved to live together again without bothering to have the legal separation annulled.⁴²

The state supreme court sided with Louise and granted her the benefits of necessitous circumstances accruing to a widow. Charles Liddell had been free to pursue the finality of divorce at any time during their official separation. The fact that neither Charles nor Louise chose to do so implied that they chose to remain married. The court's belief in their reconciliation was not as relevant as their apparent decision not to divorce. Whatever their idiosyncratic living arrangements may have been, a separation was certainly not the same thing as a divorce. Witnesses for the creditors saw this as an exploitation of the system by a disloyal wife. It could also be seen as a gesture by the courts to make it easier for men to hold families together under discord and duress. If women knew that there were benefits to delaying or calling off a final split, then they were more likely to try and work things out with their spouse. It is worth noting that when the Liddells were separated in 1866 many families were still particularly roiled from the effects of the Civil War, and these stresses may have subsided considerably by December 1867.⁴³

In the *Succession of George Rawls*, the state supreme court gave the benefit of doubt to a widow applying for Homestead Act protection, despite the husband's death in Missouri and apparent desire to live out of state. Mr. and Mrs. Rawls lived together in Webster Parish, Louisiana. He moved to St. Louis three months before he died, "probably with the intention of abandoning his wife."⁴⁴ The creditors argued that he

⁴² Ibid.

⁴³ Ibid.

established an out of state domicile and the wife's presence in Louisiana at the time of death was irrelevant to her legal domicile. The court ruled that Mr. Rawls had not been absent long enough to truly establish his intent to leave the state and put down roots somewhere else.

Daniel Christie intended to abandon his wife and children, but the Louisiana Supreme Court did not permit his abuse of marital trust to further harm his family and thwart the charitable intentions of the legislature. As a Louisiana native, George Rawls may well have known that removing his domicile from the state could deprive his wife of his legacy. Mrs. Rawls portrayed herself to the court as an "abandoned" woman, implying a sort of feminine helplessness. This appeal to the court's sympathetic instincts may have swayed them when a more self-reliant woman's assertive tone could fail.

The Succession of John C. Norton in 1866 was similar to *Daniel Christie* and *George Rawls* in some respects. Mr. Norton died in another state after living there for months, like Mr. Rawls. Mrs. Norton lived out of state at the time of her husband's death, like Mrs. Christie. Despite these facts Mrs. Norton was ultimately denied Homestead Act debt protection. The most striking distinction among Mrs. Norton, Mrs. Christie, and Mrs. Rawls, was Mrs. Norton's persistent and novel attempts to argue for her Louisiana residency.⁴⁵ Mrs. Christie and Mrs. Rawls both played the role of meek feminine supplicants, while Mrs. Norton seemed independent enough for the court to draw particular lines around the law's patriarchal roots. While Mrs. Norton proved

⁴⁴ *Succession of George Rawls—Opposition to Tableau of Debts*, 27 La. Ann. 560 (Supreme Court of Louisiana. 1875) (No. 540). The Supreme Court of Louisiana travelled a circuit around the state. Most case files for appeals heard outside New Orleans have been lost, but the legally significant opinions were preserved as good law. The Succession of George Rawls was heard in Monroe.

⁴⁵ *John C. Norton*, 18La. Ann. 36 (No. 507).

sufficient poverty to apply for the benefit of the Homestead Act, she also established herself as a self-reliant woman in the course of attempting to prove residency.

Unfortunately for her, these efforts did not elicit the sympathy of the judges.

Mr. and Mrs. Norton lived together in New Orleans for many years. They owned and operated a dry goods store on Poydras Street. Mr. Norton suffered ill health for several years and took long trips out of town every summer to avoid the worst of Louisiana's infamous climate. The Nortons' friends and neighbors knew he regularly left, but also that he always returned when his condition improved.⁴⁶

Finally, Mr. Norton's health declined further than usual, so in 1861 he sold his store on Poydras Street to purchase a small store near his small summer home in Magnolia, Mississippi. Mr. Norton subsequently died in Magnolia, and Mrs. Norton immediately opened a small millinery store of her own on Camp Street in New Orleans.

Mrs. Norton's counsel proved that Mr. Norton had a history of leaving for months at a time with the intention of returning when he felt better. He argued that Mr. Norton's last sojourn in Mississippi was no different. As a backup plan, Mrs. Norton definitively re-established a home and business interest in New Orleans at the time that she filed for Homestead Act protection.

Initially the trial court had ruled in favor of Mrs. Norton, opining, "it is not at the date of the death, but of the settlement of the succession, by which the question must be governed."⁴⁷ Furthermore the judge cited the plaintiff's social capital and business skills

⁴⁶Testimony at 38-42, *John C. Norton*, 18La. Ann. 36 (No. 507). Lawyers deposed neighbors in both Magnolia and New Orleans to establish Mr. Norton's comings and goings.

⁴⁷ *John C. Norton*, 18La. Ann. 36 (No. 507) at 60. The interruption of the Civil War explains the time between John's death in 1861 and his widow's final appeal of the estate's disposition with creditors in 1866. Mrs. Norton returned to New Orleans *during* the Union military occupation in late 1863, which might have made her seem disloyal to people whose family stayed behind Confederate lines and suffered

as a credit to the state. “Her former industry and good character alone induced some friends to aid her in obtaining credit for the goods she sells.”⁴⁸ The trial court’s opinion suggests that Mrs. Norton’s ties to the New Orleans community influenced the judge as much as a new theory about *when* a widow became vested in her rights.

If the trial court had merely extended Mrs. Norton the good faith that her husband intended to return or had not sufficiently established a permanent domicile in Magnolia, then the supreme court could have let the case slide as a confluence of tragic, unforeseen events that the judges could fit within the law. But, instead of generously interpreting the facts of Mr. Norton’s death in Mrs. Norton’s favor as in the Rawls case, the trial judge promulgated a new theory that the wife’s residency and business in the state after her husband’s death was a determinative factor in establishing a domicile for the purpose of acquiring or retaining marital benefits.

Unfortunately the supreme court of Louisiana could not let that misinterpretation of Louisiana’s paternalistic institutions stand. “The fact that Mrs. Norton did, after her husband’s death, fix her residence in Louisiana, does not, unfortunately for her, vest in her any right to claim the bounty.”⁴⁹ There was already enough latitude within the law and jurisprudence for the judges to rule benevolently in the cause of charity when they saw fit. Attempts to change the law’s patriarchal premise suggested unforeseen consequences, as feared by the appellants in the *Succession of Mrs. Mary Coleman*.⁵⁰

privations for the duration. Her millinery store probably sold goods that were sought after behind the blockade. Mrs. Norton first appeared in Louisiana court against the creditors in January 1864.

⁴⁸ *John C. Norton*, 18La. Ann. 36 (No. 507) at 60.

⁴⁹ *John C. Norton*, 18La. Ann. 36 (No. 507) at 3.

⁵⁰ *Succession of Mrs. Mary Coleman—Opposition of I. W. Arthur & Co. et al. to final account*, 27 La. Ann. 289 (Supreme Court of Louisiana. 1875) (No.5649).

Mrs. Norton never had very much to gain by protection under the rules of necessitous circumstances. The final disposition of the estate's tableau showed property worth \$2,470. This was diminished by debts totaling \$1,547.12, which left Mrs. Norton \$922.88. Either she thought that \$77.12 was worth the cost of hiring a lawyer and fighting through the appeals process or she fought out of pure principle.⁵¹

The *Succession of J. G. White* in 1877 showed how some lawyers went out of their way to disempower women in the succession process through similar geographic concerns. J. G. White died in Bossier parish in July 1876, leaving his wife as administratrix to his will.⁵² She immediately sold his property and moved to Texas with their minor children. The creditors conceded that Mrs. White was poor enough to qualify for the benefit of necessitous circumstances, but tried to block it on the grounds that she was taking the money to Texas and no longer qualified as a Louisiana resident. The lower courts rejected this theory because her rights vested at the time her husband died in his Louisiana domicile.

At this point there was not a very good chance of the creditors getting their money from the widow, but they vindictively tried their best to prevent Mrs. White from exercising power over the assets that the court granted her. Having lost their own rights to the money, the creditors argued that Mrs. White should not be allowed to take the money to Texas because she could not be trusted to spend it on behalf of her children from the marriage. Louisiana courts only had the power to appoint a tutor to oversee the children's family assets if they remained in the state. The creditors tried to reduce her

⁵¹*John C. Norton*, 18La. Ann. 36 (No. 507) at 29.

⁵²*Succession of J. G. White*. 29 La. Ann. 702 (Supreme Court of Louisiana. 1877) (No. 744). 702-704. Only the case's opinion remains, which fails to provide first names for Mr. and Mrs. White.

unfettered control of the money to a mere usufruct of her children's assets under the authority of a court appointed administrator.⁵³ The supreme court found this demand unreasonable because the creditors had no interest in the money that was denied them since the probate court accepted the widow administratrix's tableau. Beyond this, Mrs. White seems to have left a positive impression of her feminine nature on the court. "She is the mother of the minors and hence their *natural* tutrix." (emphasis mine).⁵⁴ White assuaged the court's concern for the family by emphasizing her maternal traits instead of her independence and ability to successfully raise the children in Texas.

Concerns of gender were frequently the only tool available for lawyers with otherwise weak cases. In the *Succession of Mrs. Mary Coleman* some newly orphaned children applied for the benefits of article 3686 for necessitous circumstances, which was intended to benefit a *living* widow and children after the death of the husband. Mary was a very poor widow with minor children when she died in 1874. Her husband preceded her in death by some years, which meant that whatever he had left his family in his own tableau had been spent long ago. Mary left a tableau with few assets and much debt. She had property worth \$1,732.30 against privileged creditor claims amounting to \$1915.60. Her succession's administrator and the children's legal tutor sought debt protection as though the children's legal tutor could exercise the widow's rights. The trial court granted their request, and the creditors appealed to the supreme court.⁵⁵

⁵³ Ibid.

⁵⁴ Ibid. Judge Manning's opinion notes that he disagrees with the dictum in the *Christie* case precedent. He does not opine that it was *wrong* for the New York widow to get the benefit of debt protection, but he finds her total absence from the state troubling.

⁵⁵ *Opposition to the Final Account at 1-3, Succession of Mrs. Mary Coleman* 27 La. Ann. 289 (No. 5649).

In an effort to overturn the verdict, counselors for the creditors argued that the language of the statute only mentioned a “deceased father” instead of a broader term like “parent.” Generally speaking, powerful defenses at law are interpreted narrowly so that exceptional remedies do not become too commonplace. The trial court ruled that “father” was a generic term with “mother” or “parent” in the context of the bill. Applying this logic *consistently* to other aspects of law regarding successions, debt privileges, contracts, and divorce led to objectionable conclusions for the lawyers. “Is husband also generic? And if the husband survived, would this act give to the widower the usufruct of the amount received from the deceased wife’s succession?”⁵⁶ Mothers of minor children often had assistant tutors appointed to oversee their usufruct of the children’s inheritance.⁵⁷ Men at court could not countenance subjecting themselves to the oversight endured by women as a matter of course. Men expected full control over inherited property as well as community property, and this bold new interpretation of the gendered statute seemed to endanger that power.

Besides this feigned terror of being treated like women in succession law, the creditors argued that men were strong enough and responsible enough that they did not require the special considerations enjoyed by women and children in Section 3686. Such a social policy might even induce wastrels to spend more than they could afford in the expectation of a dead wife’s succession clearing away the debt in their favor.

The husband and father are presumed to be at the head of the family, with sufficient capacity and energy to maintain his children, the mother being of the

⁵⁶ Appellant’s Brief at 3, *Succession of Mrs. Mary Coleman* 27 La. Ann. 289 (No. 5649).

⁵⁷ Garner, *Black’s Law Dictionary*, 1542. A usufruct is a civil law term that means the right to use and enjoy the fruits of another person’s property for a time without damaging or diminishing it. A mother of minor children could manage their property, but not give it away or intentionally reduce its value. The word refers to enjoying the fruit of the tree *without* harming the tree itself. A full owner has the right to abuse as well as usufruct.

weaker sex, and not possessing the advantages or capacity of the father or husband, the law has wisely provided for their dependent condition; but certainly with no intention to offer a reward to indolent men.⁵⁸

The supreme court was not worried about consistently interpreting father and mother interchangeably throughout the civil code. The justices were content to construe this particular statute charitably, and ruled that a strict “construction would be at war with the plain meaning of the law, as well as with the obvious purposes for which it was enacted.”⁵⁹ The law was originally intended to protect the children of the family, as much as the mother. Denying the children protection in the second succession after awarding it in the first would have been counterproductive to defending the patrimony. The widow had already received the benefit of the Homestead Act when her husband died. All of the husband’s power to determine the domicile within Louisiana and manage community property had been exercised in full. Permitting the widow’s children to retain something after her death could be seen as consonant with patriarchal privilege.

Mrs. Coleman’s children were allowed to benefit slightly from her death because of poverty. In contrast, Mrs. Melancon was prevented from financially benefitting from her husband’s death by her step-children’s wealth. In the *Succession of Alexander Melancon, Opposition of Eulalie Latiolais*, Mrs. Melancon pleaded necessitous circumstances on her own behalf, but her six step children collectively possessed over \$1,000, so as a household they could not plead poverty.⁶⁰ The statute made no allowance for the number of children, only for the total value of their assets. No distinction was

⁵⁸ Appellant’s Brief at 3, *Succession of Mrs. Mary Coleman* 27 La. Ann. 289 (No. 5649).

⁵⁹ *Succession of Mrs. Mary Coleman* 27 La. Ann. 289 (No. 5649) at 2.

⁶⁰ *Succession of Alexander Melancon—Opposition of Eulalie Latiolais* (Supreme Court of Louisiana. 1873) (No. 809).

made in the statute between a mother and a stepmother because the right originated with the father for the benefit of his own kin. Mrs. Melancon had to endure the awkward situation of being beholden to her own stepchildren, who may or may not have viewed her a welcome addition to the family.

Mrs. Melancon had the small consolation that she was free to remarry without incurring a financial penalty at the succession. Since her stepchildren were wealthy enough to disallow the benefit, adding a new breadwinner to the household would have probably improved her financial position. None of the women in the previous cases remarried while their deceased husband's succession remained open.

The case of *Cornelia McCoy and Husband v. Neely McCoy, Administrator* reveals how such a course of events adversely affected a woman's standing at the tableau.⁶¹ Cornelia McCoy found herself in necessitous circumstances when her husband L. F. McCoy died in 1873. Cornelia could keep the entire \$1,000 benefit allowance for herself, since there were no children from the marriage. If Cornelia had waited for the succession to close before remarrying, she could have kept the full allowance as paraphernal property. The justices accepted that at the time of her husband's death she was in necessitous circumstances, but her second marriage suggested that her situation had improved, or at least changed:

We understand the law which she invokes to be a charity, to be entitled to which it is necessary that the party claiming it should be an object of charity, or as the law itself has it, in necessitous circumstances, and that these necessitous circumstances should exist at the time the charity is applied for.⁶²

⁶¹ *Cornelia McCoy and Husband v. Neely McCoy, Administrator*, 26 La. Ann. 686 (Supreme Court of Louisiana. 1874) (No. 441).

⁶² *Ibid.* at 3.

The homestead law was founded on the idea that widowed women required extra support, or even charity. When a new breadwinner entered her life, men questioned how much extra help she should expect from the community. There was a social expectation that marriage and a husband's income generally improved women's standard of living. At the very least, the new husband's personal wealth reduced the amount a widow could expect from Homestead Act protection. If the new husband owned a \$900 house free of mortgage, the widow could only ask for \$100 to be protected from creditors. As it happened, the new Mrs. Hamilton failed to detail such a scenario, so her claim was rejected.

The women in the previously cited cases had a reasonable chance for victory in court because they enjoyed competent and loyal legal counsel. They also conducted their lives and consciously expressed themselves in such a way that they flattered patriarchal vanities. Their counselors guarded every penny and answered every argument. Not all women enjoyed such advisors.

The case of *Nicholas Claudel v. Catherine Palao*⁶³ shows how easily a woman's meager legal recourses could be squandered. Catherine Palao was a married "illiterate colored woman."⁶⁴ Catherine's husband Hypolite mortgaged his property for \$1,500 in 1870. He died in 1871 without making the necessary payments or explaining the debt's structure to Catherine. When the estate's succession was carried out in 1871 Catherine relied entirely on Nicholas Claudel for advice about accepting the result instead of trying

⁶³ *Nicholas Claudel v. Catherine Palao*, 28 La. Ann. 0872 (Supreme Court of Louisiana, 1876) (No. 4855).

⁶⁴ Appellant Brief at 2, *Nicholas Claudel v. Catherine Palao*, 28 La. Ann. 0872 (No. 4855).

for a better settlement. Mr. Claudel was among the tableau's creditors, therefore he had a clear conflict of interest in advising the widow of her rights. Claudel talked her into using *his* lawyer, who convinced her to accept the tableau as it was presented to her by the administrator, thus waiving her right to become a privileged creditor to her husband's succession under necessitous circumstances in the Homestead Act. When the succession was finished Catherine learned that she had missed an important opportunity, so she sued Nicholas Claudel to recover her money.⁶⁵

The case turned on the question of whether the homestead laws were a public or a private right. Laws of public order "would either command or prohibit; it does neither."⁶⁶ As the law only entitled Catherine to demand the right, she was free to renounce the right or fail to exercise it. Mrs. Palao could not prove to the court's satisfaction that she was tricked by creditors, so the consent was not vitiated by fraud or duress. The supreme court disallowed her claim because the succession was already closed.

The Succession of S. Marx showed how even a middle class white widow could fall afoul of the system by accepting bad advice and remaining ignorant of the law.⁶⁷ When Mr. Marx died in December 1868 he left a functional surplus to his wife and family. The estate was appraised at \$4,245 against debts amounting to \$1,200. The widow was the natural and legal tutrix for her minor children, and empowered to manage the family wealth as she saw fit. Instead of paying the debts by refinancing or selling some of the assets, Mrs. Marx immediately mortgaged her land to pay the debt. She did

⁶⁵ *Nicholas Claudel*, at 11, 32.

⁶⁶ Appellee Brief at 8, *Nicholas Claudel v. Catherine Palao*, 28 La. Ann. 0872 (No. 4855).

⁶⁷ Succession of S. Marx, 27 La. Ann. 99 (Supreme Court of Louisiana. 1875) (No. 5390) at 99, 100.

this on the advice of “family meetings” rather than consulting financial or legal professionals.⁶⁸ When the mortgage payments came due there was no cash left, so she had to sell the land to make the payments. Mrs. Marx then tried to plead the benefit of necessitous circumstances after almost all the proceeds from the land sale had been spent.

The court rejected Marx’s claims because she was arguably the author of her own ruin, having inherited a solvent state of affairs and reduced it to nothing. Her husband had fulfilled his duty as provider by successfully leaving her and the children a nest egg. The whole point of the homestead act and the policy of necessitous circumstances was to rescue families whose patriarch fell short in this goal. Asking the state to bail her out after the conclusion of a successful succession process was basically demanding two bites at the apple. The case was a strong argument for the state’s right to appoint male tutors to help widows manage their affairs in the absence of the natural patriarch.

Most husbands and wives died of natural causes, and their survivors faced a fairly common struggle with creditors over the estate’s debts. Some men died violently, whether by suicide or misadventure. In cases of that type the court had to discern men’s intent in order to determine if their surviving kin were eligible for insurance payouts or vindictive damages.

The case of *Mrs. Regina Phillips v. The Louisiana Equitable Life Insurance Co.*⁶⁹ describes such a situation. Mr. H. F. Morse went on a business trip to Texas in March 1870, where he performed his business duties flawlessly. Lawyers for the insurance company constructed a consistent and convincing narrative of his homecoming based on

⁶⁸Ibid.

⁶⁹ *Mrs. Regina Phillips v. The Louisiana Equitable Life Insurance Company*, 26 La. Ann. 404 (Supreme Court of Louisiana. 1874) (No. 3388).

testimony from people in his house on that fateful night.⁷⁰ Shortly after his return, after an ordinary night chatting with friends, he quietly paced the room and hung up his hat before he carefully shot himself in the mouth with a pistol. When his houseguests rushed in the door, they found powder burns on his hand and his freshly fired pistol next to him. The window by his chair remained open. Mr. Morse's widow asked for an insurance policy payout, but was denied because "he took his life by his own hand." There was an explicit anti-suicide clause in his policy.⁷¹ Doctors and friends told conflicting stories about ill health, difficult socialization, and a nervous temper.

The trial court stunned the insurance company with its judgment for the widow. They took the fact of the open window as a possibility that the seemingly obvious circumstances could have been a cover up for murder. The insurance company attorney's spittle practically soaked his appeal documents when he repeated the judge's theory that "an enemy might have found him *sleeping with his mouth open, and shot him in the mouth to avert suspicion!*"⁷² The insurance company argued that the policyholder's family had to *prove* it was murder to rule out suicide.

At the supreme court the widow's attorney's argued that Mr. Morse must have committed suicide because he was mad, and if he was mad, then madness was the true cause of death. According to the plaintiff's attorney and Dr. White, an insane person was technically incapable of suicide because he could not form clear intent. It was just as if

⁷⁰ Ibid. at 36. The people in the house that night provided very detailed recollections of his behavior, such as the pace and style of his walking and the amount of liquor he drank compared to other nights with company. Everyone made a point of saying goodnight to him, but he oddly declined to return the gesture and just walked away.

⁷¹ Ibid. at 12. Mr. Morse only bought the policy in the Spring of 1869.

⁷² Petition for Re-Hearing on behalf of Defendant, at 4, *Mrs. Regina Phillips v. The Louisiana Equitable Life Insurance Company*, 26 La. Ann. 404 (No. 3388).

Mr. Morse accidentally shot himself while cleaning the pistol. During the trial's expert testimony, a doctor opined that no sane man would commit suicide. Other testimony argued that rational men are keenly aware of life's ills, such as shame, physical pain, and the other daily battles men such as Mr. Morse fight and lose.⁷³ For those reasons a mediocre man like Mr. Morse may have rationally chosen to end his burdens late in life.

As it turned out, Mr. Morse's greatest professional success *did* lie in death. The supreme court upheld judgment for the plaintiff because madness *was* covered by the insurance policy, even if suicide was not. The judges said it was the insurance company's duty to *prove* suicide as opposed to insanity or murder, and could not deduce it from the situation. Mr. Morse left his heirs far richer because his wife argued in favor of society's expectation for him to act rationally in the interests of his family.

All of the cases of widowed women and impoverished children elicited sympathy for their plight. In losing their fathers and husbands, these dependents were deprived of the leadership and material support that the legal system and society believed was necessary for their wellbeing. Despite survivors' necessitous circumstances, the courts were unwilling to dismantle or simplify patriarchal eligibility requirements. In some cases judges were willing to overlook evidence or bend the letter of the law to achieve fairness as they saw it, but on no account did they newly empower wives in relation to their husbands, or even their step children as a matter of jurisprudence.

⁷³ Ibid., at 16.

CHAPTER 3: WEAK MEN AND RECKLESS WOMEN

While shared responsibilities between men and women were becoming more common in postbellum marriage, dynamics between men and women were changing outside of marriage as well. Marital infidelity was a problem in society throughout the nineteenth century. The pursuit of sexual adventure was thought by some to be a man's tendency. Some men considered it a basic right of manhood. The repercussions for having an affair were generally worse for women than men, so it was assumed by many men that women would prefer to keep their affairs secret. By this reasoning, men were more at liberty to end the affair or even to stop paying child support without serious fear of reprisal from the women they discarded. The actions of postbellum Southern women appeared to be more reckless and unpredictable, so that cautious men may have to reconfigure their behavior accordingly.¹

Newspaper stories, diaries, court cases, and a novel by Mark Twain, illustrate the perception that women were becoming more reckless in their behavior, and suggested that weak Southern men may be to blame.

Prostitute Helen Jewett's life ended with her murder in 1836. It is significant for illustrating a common pattern employed by nineteenth century journalists in which sensational stories, often involving the downfall of prominent men, were used to moralize

¹ Ogden, *Great American Housewife*, 83. One of the great difficulties of American housewives was family planning, which had an impact on couples' romantic lives. Birth control was dependent to a great extent on couples avoiding sex, but birth control was seen as men's responsibility or choice. Wives who already had as many children as they wanted (or could survive birthing, in the case of sickly women) would avoid sex, thus offending their partner's sense of patriarchal entitlement, and providing a rationale to stray. This was probably one of the most common marital problems related to infidelity. The production of slave children was a feature, not a flaw in masters' lust; Martha Hodes, *White Women, Black Men: Illicit Sex in the 19th Century South*, (New Haven: Yale University Press, 1997), 68-96. Hodes argues that before the Civil War inter-racial sex was not nearly the issue of conflict that it became in the Reconstruction era. Though white men and women disliked their spouses finding lovers in the slave house, it was just a distasteful feature of life with which they learned to live.

and to warn readers not to fall victim to the same mistakes. Journalists delved into the backgrounds of the people involved to uncover possible explanations for their actions. Madeline Selima Edwards' antebellum diary, portions written after her separation from her husband in 1837, was chosen to provide a dramatic contrast between Madeline's approach to her antebellum affair with a married man, and that of Laura Fair and Mary Hardy's post-bellum affairs. Certainly not all antebellum and postbellum women shared their attitudes, but perception was shifting after the war that more women were willing to be aggressive in defending themselves against the actions of their lovers. Laura Fair's murder trial received national newspaper coverage in 1871. Although she offered an extreme example of a postbellum liberated woman with unbridled reckless behavior, Laura's story was chosen because her history was that of a Southern woman who had been disappointed by Southern men, causing her to take matters into her own hands and calling into question the changing dynamics between Southern men and women. From 1869 to 1873, coinciding with and continuing after Laura Fair's trial, Mary Hardy stalked and harassed her former lover, prominent Louisiana businessman John Stevenson in public. Their story was chosen because Stevenson, perhaps having read about Laura Fair, also feared for his life, causing him to have Hardy arrested on multiple occasions. When Hardy retaliated by suing Stevenson for having her arrested under false pretenses, the courts believed her word over Stevenson's. The story of Hardy and Stevenson is evidence that postbellum women were indeed growing more willing to challenge men, both publicly and in court.²

The nascent women's rights and suffrage movement made women across the country feel more entitled to the liberties that men enjoyed and less likely to tolerate their

² Cott, *No Small Courage*, 239-247.

abuse. This was especially true, perhaps, when the man in question did not possess even the presumed authority of a husband or father. Southern white women in particular had grown more confident because of the responsibilities they had shouldered at home while men were away fighting. During the war, New Orleans women famously showed their willingness to challenge the authority of men by openly flaunting General Butler's Order No. 28 rather than submitting to a show of deference for the Yankees in their midst, so that their willingness to retaliate publicly against former lovers might have come as less of a surprise.

Madaline Selima Edwards

Madaline was born in Tennessee in 1816, but, like Laura Fair and Mary Hardy, some of the most significant influences of her life occurred in Mississippi and New Orleans. Her home life as a child was fairly unusual. Her parents bitterly separated when she was young and abandoned her to be raised in the care of aunts and uncles who discontinued the schooling she loved so much.³ She had a brother roughly the same age as she, but they never met until he was over 20 years old because he was raised by a different set of relatives. This meant that like Mary Hardy, she really did not have close family members to support her in hard times. Madaline literally wept for the love of parents she barely knew. Whatever privilege she enjoyed as the child of a prominent family did not last for very long, and she soon suffered the same general concerns as Laura Fair and Mary Hardy. The disruptions and literal dislocations of an especially unpleasant divorce rivaled the effects of war on a later generation. Despite such tales of woe she coped very differently than some of her postwar counterparts because of the

³Dell Upton, ed., *Madaline: Love and Survival in Antebellum New Orleans* (Athens: University of Georgia Press, 1996), 4-9.

cultural influences in her antebellum life.

Madaline was married at the age of fourteen to a man of low education and few accomplishments named Dempsey Elliot. Whether she married because of pressure from her extended family, out of pity for a fool, or as a strategy to escape her Uncle, she soon realized that he was unworthy of her and the match was not endurable as a long-term proposition. During their marriage she bore three children who all died very young. A fourth child was born soon after the couple moved to New Orleans.⁴ Madaline and Dempsey separated in 1837 because he failed to provide sufficient support and he was unfaithful.

After her relationship with Dempsey ended, Madaline fell deeply in love with Charles William Bradbury. Madaline learned that he was already married, but she carried on as his lover anyway. She hoped in her writings that one day he might choose her and truly change his loyalties, but her religiosity made her respect that his first duty was to his wife and any legitimate children while they were married.⁵ Even as Madaline accepted that they could never realistically hope to be together, she frequently pined for his attention.

He forgets, or neglects me without a cause and one is as painful as the other. It has led me to look farther in the future than I ever have since I have known him, and I tremble for my own peace of mind. I fear there is a cup of sorrow preparing for my life more bitter than they have ever yet pressed but he shall not know that such are my fears. I wish he were near me now for I feel that nothing in life but his presence can dissipate my gloom.⁶

⁴ Ibid., 2-27. Madaline claimed in her diary that she was not forced into marriage, but Upton argues that her husband had more connections with her father's family than she admits. It is possible that she believed it was her own choice, naively unaware of arrangements behind the scenes at the age of fourteen. When the couple separated neither sought a legal divorce, which was probably too costly.

⁵ Ibid., 27-30, 34-35, 64-65, 96-98.

⁶ Ibid., 138.

Madaline endured a great deal of self-loathing for her sinfulness, which equaled the bitterness she felt towards Bradbury for seducing her in the first place. Madaline always gave her love the benefit of extraordinary patience, when there was virtually no chance of that patience being rewarded. Her frustration always turned inward before she was provoked to take action against the source of her misery. Madaline never recorded a sense of her own self-worth that was strong enough to make demands of others in pursuit of happiness. “I see his purity and feel my shame. I realize his unblemished character and feel that I am not worthy of his kind feelings, and I turn within for the cause.”⁷ Madaline’s diaries and stories exhorted heaven to censure men for their wickedness, and wished God’s blessings on those men who might be her saviors.

Helen Jewett

Historian Patricia Cline Cohen described one of the first highly publicized murders between lovers in American journalism. Helen Jewett was a 23 year-old upscale prostitute who was brutally killed and set on fire by a regular customer in New York City in 1836. Newspapers across the region seized on the story to attract readers with descriptions of adventurous sexuality, but they also shaped their presentations of Jewett’s life to form competing moral narratives. These narratives were not limited to warning about the immediate dangers of the sex trade. The social guidance offered by newspapers in connection with Jewett’s story encompassed everything from appropriate reading

⁷ Ibid., 144.

material for young women to what images and styles were proper for decorating a middle-class parlor.⁸

Editorialists did not entirely attribute Jewett's death to her lifestyle and surroundings in New York City, because they thought that events from her youth in Maine may have been relevant to her joining the sex trade. Helen Jewett was born Dorcas Doyen in Maine in 1813. Around the age of 12 she began working as a servant for the Weston family. Nathan Weston was chief justice of the Maine Supreme Judicial Court. There were four children in the Weston family, one of whom was ambitious and precocious enough to have corresponded with Ralph Waldo Emerson for two years and had written her first novel by the time she was 19. With employers and mentors as wholesome and accomplished as this, it was a mystery how Helen came to such a sordid end.

If the Weston family was exceptionally virtuous and genteel, then how did the example they set for their servant cause her to choose a life of sin? If the more rural communities of America were where the most wholesome citizens lived, why were girls like Jewett leaving in droves for debauched cities like New York? Some editorialists speculated that the Weston family may have corrupted her with their hidden vices, such as inappropriate reading choices. The newspaper coverage of Jewett's murder story showed that writers and publishers thought that people wanted to read narratives of her origins, not just her downfall. New Yorkers were interested in what caused women to walk on the wild side, even if it was only to judge their deficient influences.

⁸ Patricia Cline Cohen, *The Murder of Helen Jewett: The Life and Death of a Prostitute in Nineteenth Century New York* (New York: Alfred A. Knopf, 1998), 10-25.

The prime suspect in Jewett's murder, Richard P. Robinson, also had a persona and background beyond New York that featured in the newspaper coverage of Jewett's life and murder trial. His father served eight terms in the Connecticut state legislature, one of which followed his son's acquittal for murder. Was there some hidden wickedness among the foremost families of *all* the New England states? Was Richard raised as an axe murderer, or did he become one after moving to New York? Perhaps the replete availability of urban sex was too much temptation for a bumpkin to resist.⁹

The questions and aspersions raised over the origins of the victim and the prime suspect set a pattern that was repeated in moralistic reporting for decades to come. According to the interstate press coverage of the Jewett case, none of the principal figures were solely responsible for their behavior and choices. Jewett and Robinson were products of their social environments, and the key to understanding Jewett's destruction lay with ferreting out the bad influences that lay far beyond her final resting place.

Laura Fair

Laura Fair's nationally infamous murder trial arose from shooting her lover Alex P. Crittenden in front of his family on a crowded ferry in San Francisco in 1871; but her long path to misery and infamy began in Louisiana and the limiting circumstances of southern womanhood after secession.

Louisiana papers suggested vile intrigue at every stage of her story, and often embellished her alleged misdeeds against a series of weak or foolish men. News reports

⁹ Cohen, *Murder of Helen Jewett*, 21-22; Alecia P. Long, *The Great Southern Babylon: Sex, Race, and Respectability in New Orleans 1865-1920* (Baton Rouge: Louisiana State University Press, 2004), 148-190. Long's study of Storyville's development shows that the owners of successful brothels and concert saloons desired and sometimes achieved a measure of respectability. Some brothels specifically catered to higher class men, so it is possible that Richard's father also frequented prostitutes despite his reputation. Social mixing of this kind may have been more frequent than elite editorialists wanted to admit.

and editorials are an imperfect, yet effective proxy for the opinions of the media-managing intelligentsia, but also for the readers who constituted their market. Such sources have been used to great effect by Catherine Lee to understand competing social arguments about combatting prostitution in Victorian England. In much of Lee's source material, as in the articles about Laura Fair, the subject matter was the role of women's frailty and vice in causing chaos and ruin. These articles also often saw men's failures as important contributory factors to the social catastrophe in question. Usually these men's failings were essentially moral, but Lord Acton saw men's periodic failure to provide for women as an essentially amoral motivation for unsanctioned behavior. Louisiana's papers frequently returned to this narrative to account for aspects of Laura's unorthodox life. Though Louisiana's ideologically differing newspapers came to different conclusions about the motives and culpability of Laura and Crittenden, they all agreed that the story signaled grave problems and decline in the affairs of white men since the war.¹⁰

The papers argued that Fair's brand of feminine deceit was not readily susceptible to legal constraint, and when it finally came to murder, the law failed to protect men from women's depredations. For months Louisiana's readers got periodic updates about the perceived dangers of unfettered womanhood. There were competing social narratives that women were either prone to irrational emotional fits by virtue of their biology and weak intellect, or scheming jezebels who used their charms to fleece and disgrace willing

¹⁰ Catherine Lee, *Policing Prostitution, 1856-1886* (London: Pickering & Chatto, 2013), 2-5, 60-63; Greenberg, *Manifest Manhood*, 5-12. Greenberg makes good use of newspaper sources to understand the gendered nature of American attitudes towards filibustering in Latin America. She describes a strong southern gendered social trend that she calls "primitive masculinity." In the wake of national suffering in the Civil War this philosophy was somewhat discredited, and in my own research one can find regret that this ideal was slipping from Southern men's grasp.

marks. Her life story became a part of the popular culture, inspiring those disposed towards greater women's rights and striking fear into the hearts of men everywhere.¹¹

Laura Fair's recent misadventures were probably familiar to people who read newspapers for the gossip columns as well as those who were interested in moral matters and current affairs.

Laura Fair was born into poverty in Holly Springs, Mississippi in 1837. Her family moved to New Orleans when she was sixteen years old. Shortly after their arrival in 1853 her dying father arranged a marriage to a 36-year-old man named William H. Stone.¹² Laura was a reluctant bride but obeyed her father's wishes. Stone owned a marginally profitable wholesale liquor store and commission house. The marriage was unhappy, and within a matter of months Laura began divorce proceedings because of Stone's alleged cruelty. Stone was an unhealthy alcoholic and died before the divorce could be legally concluded. Much of his money was invested in a Texas land scheme that took years to fully unravel, so Laura was forced to return to her family for whom she was a financial burden.¹³

¹¹ 15th District Court, California. *Official Report of the Trial of Laura D. Fair, For the Murder of Alex P. Crittenden*. 1871. Andrew J. Marsh, Samuel Osbourne. San Francisco: San Francisco Co-Operative Printing Co.; "Mrs. Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>; "Laura Fair, the Murderess," *Louisiana Democrat*, July 12, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-07-12/ed-1/seq-2/>; Untitled, *Lafayette Advertiser*, December 31, 1870, <http://chroniclingamerica.loc.gov/lccn/sn86079068/1870-12-31/ed-1/seq-2/>; "Miscellaneous Items," *Opelousas Courier*, July 15, 1871, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1871-07-15/ed-2/seq-2/>. The *Courier* suggested that dull witted men's only salvation was for their wives to be more manipulative than their mistresses.

¹² Carole Haber, *The Trials of Laura Fair: Sex, Murder, and Insanity in the Victorian West*, (Chapel Hill: The University of North Carolina Press, 2013), 12. Laura's father died soon after the wedding.

¹³ "Mrs. Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>.

Laura had few options as a poor, uneducated widow, so she entered a school operated by the Convent of the Visitation in Mobile, Alabama to continue her studies. Laura's widowed mother used their meager family wealth to pay her way at the school for as long as she could. Her studies were brief, and Laura returned to New Orleans in June 1856. By August, Fair married New Orleans resident Thomas J. Grayson. In retrospect, Fair called him "a very bad man" and it was another unhappy marriage. Laura specifically blamed the failure of her second marriage on her husband's alcoholism. She claimed that he was a particularly angry and abusive drunk. In January 1857 Fair left her second husband to live in California. As soon as she left, Grayson began divorce proceedings claiming abandonment, and the divorce was finalized in February 1859.¹⁴

The Louisiana press attributed Laura's first marriage to her own greed instead of her father's desire to see her financially supported. "Bright in mind and exceedingly comely in person, she soon found full investment for her capital. She caught a rich husband. She was eighteen and he was eighty."¹⁵ In reality Laura was "a young and thoughtless girl, only 16 years of age."¹⁶ Stone was 36 at the time of their marriage, at

¹⁴ Ibid. The law required one full year to elapse between the granting of a divorce decree and the final divorce. In this case desertion was the sole legal ground for divorce; Ogden, *Great American Housewife*, 53-57, Basic literacy among girls was widespread by the 1850s. Further education for Southern girls was primarily a sign of class status rather than a preparation for employment. Laura's time at the convent was probably intended to make her more marketable to potential second husbands.

¹⁵ "Laura Fair, the Murderess," *Louisiana Democrat*, July 12, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-07-12/ed-1/seq-2/>; Mrs. Laura S. Webb, "Laura D. Fair," *Louisiana Democrat*, August 14, 1872, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1872-08-14/ed-1/seq-2/>; "Acquittal of Laura D. Fair," *Donaldsonville Chief*, October 19, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-10-19/ed-1/seq-1/>. *Louisiana Democrat's* August 14, 1872 issue wrongly identifies Laura's first husband as Mr. Hunt. A classmate of Laura's from the convent incorrectly affirmed the mistake in an interview. The *Donaldsonville Chief's* October 19, 1872 issue made the same mistake. William Hunt was the New Orleans attorney who handled Laura's divorce proceedings with Mr. Stone. Other issues of *The Louisiana Democrat* correctly identify Laura's husbands.

¹⁶ "Mrs. Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>.

which age most Victorian men retained their mental faculties and general health. Had the prevailing wisdom been to acknowledge the vulnerability of the young woman compared to a businessman in his prime of life, the account would have read differently. Instead, the newspapers exaggerated the age difference to make the woman seem more experienced and the man more feeble than a typical middle aged business man. The newspaper declined to blame Laura's father for his inability to supply an attractive dowry. According to the prevailing antebellum honor culture, women without the prospect of a dowry or family land were unappealing to gentlemen. If Laura had ever hoped for an upwardly mobile husband, it greatly diminished her chances of success. Family money would have given Laura more opportunity to marry the man of her choice instead of accepting a poor man out of her father's desperation to cast off a dependent. The newspapers declined to point out the patriarch's failure to prepare his daughter because they wanted to portray her as a villainess instead of a pitiable subject.¹⁷

After casting Laura as a predatory gold digger in their misogynistic narrative, the Louisiana press implied that she played a role in Stone's early death. *The Louisiana Democrat* directly blamed Laura for her first husband's alcoholism, absolving him of any responsibility for his own premature demise. "The dotard died in delirium tremens, and the adventuress found herself the mistress of an ample fortune. She married within a month, and in less than three was the widow of a suicide."¹⁸ Truthfully there was no fortune. One of the reasons she abandoned Louisiana after her second marriage was because she had nothing to lose. Stone died with few assets and Fair only received her

¹⁷ Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South*, 239-242.

¹⁸ "Laura Fair, the Murderess," *Louisiana Democrat*, July 12, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-07-12/ed-1/seq-2/>.

\$100 share of the estate in 1871.¹⁹ Although Laura enjoyed debt protections as a widow, there simply was not much of an estate left to protect from creditors. The patriarchal press wanted to establish Laura as an ambitious “black widow” from the beginning of her adult life in New Orleans. Laura’s first two failed marriages could have easily fit into other common narratives of the Victorian era. Substance abuse was widely acknowledged as a scourge of family life, but that etiology would have absolved Laura of blame for her other perceived offenses.

Laura emphasized Grayson’s brutality as the cause of her second marriage’s failure. In contrast, the *Donaldsonville Chief* argued that Grayson really walked out on Laura as a result of notorious infidelity on her part.²⁰ In this alternative narrative, Grayson originally kept his true reasons for divorce to himself to escape the embarrassment of being publicly cuckolded. When placed in the context of Laura’s string of husbands and lovers, Grayson almost seemed a winner for having survived the experience, let alone quitting the marriage with some residual pride. Louisiana’s newspapers sought exculpatory reasons to defend Laura’s drunken, impoverished husbands. Laura was depicted at every turn as the author of her own social miseries. She was not molded into the killer she became by men’s cruelty; she was cold and rapacious by nature.

Because newspapers reflected public opinion, and wrote about issues of interest to the public, it is interesting to note the length to which journalists invented and played

¹⁹ “Mrs. Fair Appeals to the Public,” *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>. Laura implied that most of Stone’s assets went to his blood relatives and business partners.

²⁰ “Acquittal of Laura D. Fair,” *Donaldsonville Chief*, October 19, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-10-19/ed-1/seq-1/>.

loose with the facts in order to write the story they wanted to tell. They put most of the blame on Laura and overlooked faults of her husbands, suggesting that the public was more interested in an uncontrolled woman than a young woman who had been abused by her husbands.

Laura moved to California with her mother and sought legal advice while her divorce from Grayson passed through Louisiana's legal system. Initially she was counseled by former Governor of Mississippi Henry S. Foote, who had moved to California in 1854 after his only term as governor of Mississippi.²¹ Laura had no legal obligation to engage with the intrusive press, but she may have tried to manipulate them by mentioning her powerful connection. The strategy of aligning herself with a pillar of the Southern establishment may have had the opposite effect. By 1859 Foote was 55 years old and prosperous, just the sort of man an accused gold-digger would have pursued. Laura did not explain why their business relationship ended, which left the reader to speculate whether it was because he charged her too much or spurned her advances.

When Laura released Foote, she hired Colonel William D. Fair as her attorney. In a matter of weeks after his professional engagement she was legally divorced and they were married. Laura's only child was born soon after the wedding, in August 1860.²² In

²¹ McPherson, *Ordeal By Fire*, 71, 392; David M. Potter, *The Impending Crisis: 1848-1861* (New York: Harper & Row, 1976), 103, 303; William J. Cooper, Jr., *Jefferson Davis, American* (New York: Random House, 2000), 225-234, 259, 497, 500. In 1859 Foote was best known for drawing a pistol on the Senate floor while negotiating the Compromise of 1850. Foote quit Mississippi politics at the end of his term as Governor when Jefferson Davis's secessionist faction eclipsed his moderate unionist faction of the Democrat Party. In 1861 he moved back to the South and was elected to two terms in the Confederate House from Tennessee. After the Civil War Foote became a Republican.

²² Laura gave birth close enough to the wedding that it was mildly implied by some newspapers to be a contributory factor to the wedding. As this behavior pattern fit a traditional model for Southern white men, it was not particularly subject to scorn in the newspapers. In some men's view Colonel Fair lived up to his

October 1861 the Fair household moved from Yreka, California to San Francisco. Colonel Fair sent his family ahead while he concluded his business. While Laura, her child, and mother were settling in their new home out of town William committed suicide by shooting himself in the head. A brief police investigation concluded that there was no criminality suspected in his death, but conspiracy theories proliferated in the press.²³

Laura claimed that her husband left a suicide note that only said that his wife and family had nothing to do with his death. When the press sought access to the original note in 1871 neither Laura nor the police could provide it. Beyond the note she could not explain his motivations. When this story failed to mollify the press, she sometimes made vague claims that he had been the victim of a Freemason assassination plot. Her husband was a prominent member of the society, and Laura had specific rivals in mind as suspects.²⁴

One theory of Mr. Fair's death agreed that he had committed suicide, but blamed Laura for provoking it by either spending all of his money or by cheating on him. Others suggested that Laura killed him when she knew he was out of money. Those who ascribed bad intent to Laura inferred that her plans to move really indicated a separation

masculine responsibility by marrying the mother of his child. Louisiana newspapers were willing to damn Laura for manipulating men, but they did not explicitly accuse her of leveraging a pregnancy to bring about marriage.

²³ "Mrs. Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>; "Acquittal of Laura D. Fair," *Donaldsonville Chief*, October 19, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-10-19/ed-1/seq-1/>. The Donaldsonville Chief claimed that Fair killed himself after learning the Louisiana divorce was never official and his California marriage was null. This was certainly wrong because the California courts recognized the marriage as valid in Laura's 1871 murder trial.

²⁴ "Sentencing Laura Fair," *Louisiana Democrat*, June 28, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-06-28/ed-1/seq-3/>; "Mrs. Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>.

of domicile from her husband. Laura had moved with her daughter and mother in October 1861, but Mr. Fair did not shoot himself until December of that year. Louisiana's succession and marriage laws habituated its readers to expect a securely married couple to move their household together rather than separately.²⁵

The fact that Laura could have obtained a divorce in another state without bothering with the rules in Louisiana shows how obsessed Southern men were with their own rules being obeyed. Newspapers in Louisiana printed stories that tried to explain how she passed through the system specifically designed to frustrate the urges of erratic individuals through questioning and delay. Investigators attacked her lifestyle choices, as though her deviances from the wifely ideal were *prima facie* evidence of malevolence. Laura strenuously denied the charge that they lived apart by design, and claimed that their separation was merely a consequence of planning the move. She dealt with these allegations as though her best defense was the apparent quality of her marriage and loyalty to her husband.

After Colonel Fair's death, Laura bought a boarding house called "Tahoe House" in the mining boomtown of Virginia City, Nevada. Virginia City was home to the infamously rough-hewn community that worked the Comstock Lode silver mine.²⁶ There

²⁵ "Mrs. Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>; "Acquittal of Laura D. Fair," *Donaldsonville Chief*, October 19, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-10-19/ed-1/seq-1/>.

²⁶ Marion S. Goldman, *Gold Diggers and Silver Miners: Prostitution and Social Life on the Comstock Lode* (Ann Arbor: The University of Michigan Press, 1981), 2-8, 12; "The Root of All Evil," *Donaldsonville Chief*, July 20, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-07-20/ed-1/seq-1/>; "Editorial and Other Items," *Morning Star and Catholic Messenger*, March 27, 1870, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1870-03-27/ed-1/seq-8/>; "Editorial and Other Items," *Morning Star and Catholic Messenger*, October 9, 1870, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1870-10-09/ed-1/seq-5/>; Untitled, *Opelousas Courier*, June 3, 1871, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1871-06-03/ed-2/seq-2/>; "Editorial Paragraphs, Etc.," *New Orleans Crescent*, May 9, 1868,

was a high amount of resident turnover in Virginia City, and its inhabitants came from all over the world. It was a common destination for Southerners fleeing the Civil War or the economic desolation that followed it. As a town with an unusually high ratio of men to women, Virginia City was nationally known as a center of many vices, including drunkenness, infidelity, and prostitution. Most men arrived alone but many of the women arrived with husbands in middle class management positions.²⁷ A large proportion of the unmarried women were affiliated in some way with brothels or informal liaisons.

Scandal and misunderstandings dogged Laura Fair's Virginia City business and reinforced her infamy as a woman of the South who would not subordinate herself to men. During the winter of 1863, a shopkeeper who rented her ground floor owned a toy business. The man constructed a Christmas display outside her window that included American flags. Laura ordered it removed because it blocked the window, but onlookers believed that she objected to the Union flag's display.²⁸ Laura told the bystanders that *they* were free to hoist a flag when they raised patriotic concerns. However, when the shopkeeper tried to raise his *own* Union flag on her building again, Laura objected. When he refused to haul it down on his own she climbed the façade and cut it down with her own knife because he had disrespected her wishes. During the altercation Laura cut

<http://chroniclingamerica.loc.gov/lccn/sn82015775/1868-05-09/ed-1/seq-2/>; "Items by Last Night's Mail," *New Orleans Crescent*, May 12, 1868, <http://chroniclingamerica.loc.gov/lccn/sn82015775/1868-05-12/ed-1/seq-1/>. The *Crescent* noted approvingly that Virginia City elected the full slate of Democratic candidates.

²⁷ Goldman, *Gold Diggers and Silver*, 16-17. Goldman argues that most of the miners and workers lived alone because it was simply impossible to support dependents on their meager salaries and commissions. Women were in high enough demand to sell themselves, but metaphorically speaking the men could only afford to rent.

²⁸ "Mrs. Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>. Laura's brother O. D. Hunt worked for her at the house. He was only employed for light bookkeeping and menial tasks. Laura made clear that her brother played no role in management. Louisiana's press never reported interviews with Laura's brother.



Figure 7. Portrait of Laura Fair. This is the way she appeared in 1871.
http://contentdm.library.unr.edu/cdm4/item_viewer.php?CISOROOT=/spp_hotos&CISOPTR=600&CISOBX=1&REC=4
(Accessed September 1, 2013)

his hand with the knife, which she said was an accident. The prosecution accused her of cutting him to carry out a threat, but she was acquitted of the charge. Newspapers spread rumors that she shot him as well even though it was not alleged in court. During the altercation Laura threatened the man with violence, and he was allegedly shot in the exchange.²⁹

The man sued Laura and lost because the court ruled that she had the right to control her own house free of *his* aggression. Laura denied that she shot anyone, but she made no apologies for exercising total control over her own business, men's opinions be damned. Laura also took pride that she was the sole owner of her business, and the shopkeeper merely rented the bottom floor. The press embellished Laura's incident. The *Louisiana Democrat* reported that she marched through the town with a rebel flag while brandishing a pistol as a proponent of the Southern cause. Solidifying her ungovernable reputation.³⁰ It is particularly revealing that in Louisiana, a state much given to sympathy for the "lost cause", the Tahoe House flag incident was seen as further cause for alarm at rebellious women rather than as an example of bold patriotism. While the story may have been concocted to damn Laura with a western jury, it did nothing to endear her to the men of the South. The Southern patriarchy was far more comfortable with their

²⁹ Ibid; Haber, *The Trials of Laura*, 27.

³⁰ 15th District Court, California, *Official Report*, 1; "Laura Fair, the Murderess," *Louisiana Democrat*, July 12, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-07-12/ed-1/seq-2/>; "Mrs. Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>; "Acquittal of Laura D. Fair," *Donaldsonville Chief*, October 19, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-10-19/ed-1/seq-1/>.

women fulfilling a ceremonial and emotional support role than presenting a martial front.³¹

The Virginia City justice system was so hopelessly corrupt that many business owners could buy a judge or jury to escape trouble. Historian Marion S. Goldman's research suggests that this was especially true of brothel managers who had large amounts of cash for bribes and protection rackets among local criminal toughs.³² Laura's surprisingly quick and reasoned acquittal for assault with a deadly weapon lends some credence to the idea that she might have been involved in some way with bribery through the management of her boarding house.

Goldman found such tales of explicitly nationalistic feminine violence in Virginia City perfectly plausible. A prostitute known as "The German Muscle Woman" brutally whipped a patron during the Franco-Prussian War because he supported the French. Successful brothels easily bribed officials to escape trouble for such offenses³³ Although Laura's personal independence and rejection of specific Southern men seemed to repudiate her Southern heritage, she may have remained genuinely sentimental about her homeland as a whole.

In this example of Laura's alleged allegiance to her Southern homeland there is an apparent disconnect with the way she treated actual Southern men in her life. It seems inconsistent for a woman to denigrate Southern men as deeply flawed or prey on them, yet exhibit extravagant patriotism for their cause. Certainly women's opinions about the

³¹ Gaines M. Foster, *Ghosts of the Confederacy: Defeat, the Lost Cause, and the Emergence of the New South, 1865 to 1913* (New York: Oxford University Press, 1987), 25-33.

³² Goldman, *Gold Diggers*, 107.

³³ *Ibid.*, 116.

value and meaning of men's honor varied. There was undoubtedly a tension between Laura's rugged individualism and the general acceptance of patriarchy that characterized wartime patriotism, and later the lost cause. Indeed, it is possible that this dichotomy doubly concerned and offended Southern men, since it represented rejection from someone who should have been most predisposed to support them. Laura could have been a true Southern patriot and still felt contempt for the particular weak and foolish Southern men she knew.

The "Tahoe House" in Virginia City was a financial success for Laura, but Louisiana's press found her prosperity literally incredible. Controversy over the true source of Laura's money colored her newspaper coverage in Louisiana. Many men were incredulous that a woman could succeed on her own in such wild business circumstances. They speculated that she must have stolen money from the men in her life. Such men disregarded the fact that the silver boom allowed common western laborers to pay high rents. There were 37 rooms at the house. Thirty-one of them were typically rented, which provided over \$50 income in rent every night.³⁴ Laura invested her profits in stocks, which helped fund her move back to California.³⁵ Laura explained her success

³⁴ "Personal and Literary," *Opelousas Courier*, March 15, 1873, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1873-03-15/ed-1/seq-2/>. Mrs. Crittenden began operating a boarding house in San Francisco after she was widowed in order to support herself and her children. They may have been competitors in commerce as well as romance.

³⁵ "Facts and Fancies," *Opelousas Courier*, May 19, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1877-05-19/ed-1/seq-2/>. Laura Fair successfully continued "gambling" in stocks through at least 1877. Laura was a member of a rapidly growing group of investors at the Woman's Mining Bureau. Her long success in this field supports her claims that she was less reliant on Crittenden and others than was claimed by the prosecution.

and expenses to the court and reporters in a way that proved her business acumen and disavowed her reliance on men.³⁶

In 1867 Laura sold Tahoe House and moved back to California, where she was briefly married to a Mr. Snyder. During this marriage she purchased a new boarding house and began an affair with Colonel Alex. P. Crittenden, the lawyer who had defended her from assault charges in Virginia City. Crittenden was just as much a product of Southern culture as Laura. Although Laura left the South she continued to surround herself with people of the South.

Colonel Alex P. Crittenden was a nephew of the famous Senator John J. Crittenden, best known for proposing a legislative compromise to avert the Civil War. He was born in Kentucky, but moved to California in the 1840s. Alex Crittenden seemed destined to follow in his Uncle's footsteps, and served two terms in the California state legislature between 1849 and 1852. Crittenden was a Democrat and a true believer in the Southern cause in the Civil War, so he went back East to fight at a time when many draft dodgers fled West to avoid service.³⁷ He went out of his way to prove his manly fortitude. One of his cousins was also in the Confederate army, two were in the Union army, and his family in general subscribed to the paradigm of masculine martial values. Crittenden returned to California after his service to the Confederacy to resume his political career. At the time his affair with Laura concluded, he was a court reporter for the California Supreme Court. Louisiana's newspapers seldom mentioned Crittenden's

³⁶ 15th District Court, California, *Official Report*, 1; "Mrs Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>.

³⁷ "Alexander P. Crittenden," accessed November 5, 2015, <http://www.joincalifornia.com/candidate/9931>; Alexander C. Vassar, *The Legislators of California* (Sacramento: California State Senate, 2011) 98-99.

former rank of Colonel, despite the fact that they almost always referred to Laura's third husband as Colonel. The newspapers that circulated in his family's home region referred to Crittenden as Colonel for the simple reason that the clan was more familiar to the readers, and it would have been conspicuous to omit mention of his military service. Newspapers of Pennsylvania and West Virginia more frequently referred to him by his military title in their coverage of Crittenden and Laura's affair.³⁸ Louisiana's papers may have minimized Crittenden's ties to a core institution of the Southern patriarchy because they were ashamed of how it reflected on them. In Pennsylvania and West Virginia they might have gloated over the way Southern leaders made a mess of things again.

For many months Crittenden lied to Laura about being unmarried, and concealed information about his wife and children living in another town. When Laura learned of their existence Crittenden swore that there was no love between them. He said that he planned on acquiring a divorce in the near future. Meanwhile, Mr. Snyder arranged to be seen with a prostitute to give Laura grounds for divorce and willingly took his leave. Snyder later testified that Laura considered herself *engaged* to Crittenden, even though he

³⁸ "Acquittal of Laura D. Fair," *Donaldsonville Chief*, October 19, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-10-19/ed-1/seq-1/>; "Acquitted," *Morristown Gazette*, October 9, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85033681/1872-10-09/ed-1/seq-3/>; "Summary of News," *The Democrat*, May 15, 1871, <http://chroniclingamerica.loc.gov/lccn/sn84026840/1871-05-15/ed-1/seq-4/>; Untitled, *Spirit of Jefferson*, October 8, 1872, <http://chroniclingamerica.loc.gov/lccn/sn84026788/1872-10-08/ed-1/seq-3/>; "Domestic Affairs," *Evening Telegraph*, June 5, 1871, <http://chroniclingamerica.loc.gov/lccn/sn83025925/1871-06-05/ed-1/seq-3/>; "The Conviction of Mrs. Fair," *Evening Telegraph*, April 28, 1871, <http://chroniclingamerica.loc.gov/lccn/sn83025925/1871-04-28/ed-1/seq-4/>; "Mrs. Fair to be Hanged," *Jeffersonian*, June 22, 1871, <http://chroniclingamerica.loc.gov/lccn/sn84026399/1871-06-22/ed-1/seq-1/>; "Political and News Items," *Cambria Freeman*, June 10, 1871, <http://chroniclingamerica.loc.gov/lccn/sn83032041/1871-06-10/ed-1/seq-2/>; Untitled, *Petroleum Centre Daily Record*, November 23, 1872, <http://chroniclingamerica.loc.gov/lccn/sn84026005/1872-11-23/ed-1/seq-2/>. Crittenden was occasionally erroneously referred to as a judge, but this mistake only served to reinforce the common notion that Crittenden was shaped by the Southern patriarchal ruling ethos. There were many generic "Colonels" among the Southern gentry but fewer sitting judges. His actual status as appointed court reporter surely augured well for his chances to actually sit on the bench one day.

was still married to his first wife.³⁹ The Louisiana press exaggerated Laura's motivation to get a divorce as pure ambition rather than romance:

She looked upon Snyder's money, as it was good; she looked upon Snyder, and thought that Crittenden was better. Tired of the sanguinary method, she gave Snyder the choice of a divorce, and the amiable man, furnished a situation which, when brought into court achieved a legal separation within a month.⁴⁰

Laura seemed to have no problem bending Snyder to her will. In that respect she may have represented a substantial threat to men as a master manipulator. Laura convinced Snyder to do what she wanted, when she wanted. If it was not her powers of persuasion that handled Snyder, perhaps he sensed she was dangerous and sought a peaceful exit. Laura and Crittenden's romance waxed and waned for years in these circumstances before Laura issued an ultimatum for Crittenden to *choose her* or be exposed to his wife as a philanderer. In response Crittenden ended the affair for good, but it was not to be the last of their interactions.⁴¹ Laura bought a new gun before confronting Crittenden and his family. She waited until the family was on a ferry together in the middle of San Francisco Bay before she attacked. Crittenden begged for his life, but Laura shot him in the chest as he sat next to his wife and children. At first

³⁹ 15th District Court, California, *Official Report*, 210-212.

⁴⁰ "Laura Fair the Murderess," *Louisiana Democrat*, July 12, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-07-12/ed-1/seq-2/>.

⁴¹ "Laura Fair's Letters," *Louisiana Democrat*, May 17, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-05-17/ed-1/seq-3/>; "Mrs. Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>. Laura inconsistently argued that the only reason she married Snyder in the first place was to dissuade Crittenden from pursuing her romantically. Rather than dissuade Crittenden it seemed to make him jealous and crave her attention even more.

Laura tried to blend into the mingling crowd, but when confronted she readily confessed to the shooting. She justified herself on the spot by saying he ruined her and her child.⁴²

Laura's trial for murder raised many questions about relationships between men and women. If women were naturally weaker and more dependent on men, how did men expect women like Laura to sustain themselves without adding new men to their lives? If Laura was cold-blooded enough to successfully mastermind a series of marriages and murders for profit, why did she impulsively execute her wealthiest mark? Expert witnesses for the defense argued that women's nature was inherently unstable to such an extent that *all* women were vulnerable to fits of irrational violence during menstruation. For their part, the Louisiana press reported the story in a way that argued Laura was in full possession of her faculties at the time of the killing, and therefore was guilty of murdering Crittenden intentionally. Skeptical of the vulnerable and irrational woman theory, the *Opelousas Courier* quoted a Cincinnati physician and correspondent who judged that Laura drew from the example of genuinely deranged female followers to imitate their display with "very bad acting."⁴³

⁴² 15th District Court, California, *Official Report*, 1; "Acquittal of Laura D. Fair," *Donaldsonville Chief*, October 19, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-10-19/ed-1/seq-1/>; "Laura Fair the Murderess," *Louisiana Democrat*, July 12, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-07-12/ed-1/seq-2/>. Ironically, Crittenden and Laura practiced shooting pistols together for fun. Laura was knowledgeable enough about guns to choose a concealable derringer instead of the larger revolver he had given her. It also demonstrated a rational ability to plan the murder in advance and provide a cause to doubt her insanity defense later.

⁴³ "Miscellaneous Items," *Opelousas Courier*, August 19, 1871, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1871-08-19/ed-2/seq-2/>; "Incidents and Accidents," *Opelousas Courier*, March 22, 1873, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1873-03-22/ed-1/seq-2/>. These outlandish claims about menstruation were mostly made late in the trial process after more conventional strategies were employed. The criminal trial was heard in San Francisco's criminal court. One fan of Laura Fair with the same surname named her daughter Laura D. Fair, which seemed remarkably foolish to the editor.

At Laura's trial for murder, prosecutors and press primarily fixated on the financial aspects of Laura's apparently extractive schemes. Laura tried to suppress this line of inquiry with a sympathetic anecdote. Before Laura asked Crittenden for financial help she had tried asking the late Mr. Fair's Freemason lodge brothers. They had confirmed her need for men's assistance but rebuffed her entreaties by casting aspersions on her sexual integrity: "Well, Mrs. Fair, a woman with such a pretty face ought to be able to support herself without applying to the Masons."⁴⁴ Laura had responded by doubling her efforts to succeed in the boarding house business, rather than by borrowing from Crittenden. San Francisco prosecutors and the media ignored Laura's professed revulsion to the Masons' statement and essentially agreed with the lodge's conclusion. They identified blackmail and extortion as the key motives in Laura and Crittenden's affair. Some estimates of his payments to Laura were as high as \$70,000.⁴⁵ Laura did admit to some financial difficulties during her affair with Crittenden, but denied taking anything more than small, short-term loans and reasonable gifts. She documented many of her investments and expenses in an attempt to show that Crittenden's gifts never amounted to a vast sum of money.

Laura was criticized at every turn by the Louisiana media no matter how she acquired her money. Southern men respected neither independent businesswomen nor

⁴⁴ "Mrs. Fair Appeals to the Public," *Louisiana Democrat*, August 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-08-09/ed-1/seq-3/>; "Acquittal of Laura D. Fair," *Donaldsonville Chief*, October 19, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-10-19/ed-1/seq-1/>.

⁴⁵ "Laura Fair the Murderess," *Louisiana Democrat*, July 12, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-07-12/ed-1/seq-2/>; "Sentencing Laura Fair," *Louisiana Democrat*, June 28, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-06-28/ed-1/seq-3/>; Untitled, *Lafayette Advertiser*, December 31, 1870, <http://chroniclingamerica.loc.gov/lccn/sn86079068/1870-12-31/ed-1/seq-2/>. For some, the essential problem was the appearance that defendants with money seemed to get preferential treatment regardless of the nature of their crimes. Laura reportedly enjoyed a plush cell and deference from the guards.

women of easy virtue. According to the prevailing wisdom, Laura was intended to share the economic fate of the Southern men she escaped by moving west.

Editorial positions towards Crittenden were more complex. If Laura was a formidable temptress and Borgia, then Crittenden was weak willed to fall blindly into her trap.⁴⁶ Editors did not typically promote this image of manhood. The *Louisiana Democrat* went so far as to say that “the deep damnation of his taking off was not much of a loss to the world.”⁴⁷ Crittenden was a successful professional with an enviable nuclear family and status as a member of a national political clan. His ensnarement represented a far greater prize to Laura than a struggling liquor merchant. Men like Crittenden with wealth and influence probably enjoyed some reputational insulation from the harshest censure of the press in terms of minor crimes and adultery, but affluence in this environment did not necessarily protect men’s *lives* from women’s fury. The press consciously framed him as weak.

Cynics condemned Crittenden’s stupidity while social conservatives and Laura’s defenders emphasized his lust and adultery. Many of Crittenden’s florid love letters to Laura were published, proving that her interest in him was not unrequited. There were

⁴⁶ “Personal,” *Memphis Daily Appeal*, November 18, 1872, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1872-11-18/ed-1/seq-2/>; “From the Private Life of Mrs. Wharton,” *Sumter Watchman*, August 2, 1871, <http://chroniclingamerica.loc.gov/lccn/sn84026917/1871-08-02/ed-1/seq-1/>; “Mrs. Laura D. Fair’s Story,” *Sumter Watchman*, August 2, 1871, <http://chroniclingamerica.loc.gov/lccn/sn84026917/1871-08-02/ed-1/seq-1/>; “Test of Affection,” *People’s Vindicator*, November 14, 1874, <http://chroniclingamerica.loc.gov/lccn/sn85038558/1874-11-14/ed-1/seq-1/>; Untitled, *Public Ledger*, October 4, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85033673/1872-10-04/ed-1/seq-2/>; “Miscellaneous,” *Opelousas Courier*, November 25, 1876, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1876-11-25/ed-1/seq-2/>. There were a few terms used to describe immoral and dangerous women. “Borgia” was a reference to Lucrezia Borgia of the northern Italian Renaissance dynasty. They were infamous for political and social ruthlessness. Jezebel was another popular term to describe manipulative women. The *Public Ledger* intriguingly noted that “In Italy all aristocratic homicides are found to be insane” as a matter of tradition.

⁴⁷ Untitled, *Louisiana Democrat*, May 31, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-05-31/ed-1/seq-2/>.

letters to support a number of theories explaining Crittenden's sordid affair. Evidence of the naïvely smitten older man appeared early in the relationship.⁴⁸ Whether this letter truly represented a lover's beneficence or something more sinister, the gravy train was certainly flowing. In a letter to Laura he wrote, "My Darling – Don't be angry with me for what I have done. I paid the rent for a whole month. I did this because I wanted you to have ample time and was determined you should not be hurried again."⁴⁹ Crittenden subsidized his mistress and her household for years even though her daughter was definitely not his. His ongoing generosity may only have tempted her to extortiate ambitions.

There are also letters where Crittenden clearly betrayed anxiety about getting caught in his affair. He counterproductively wrote her love letters and demanded that she destroy them after reading. These letters' appearance at trial and in the media brought home to men that public sympathy often went with the perpetrator of a murder, rather than the victim, a fabricator of superficial affection.

I have thought of you always, and every day have spent hours propped up in bed, looking out into the street, in the hope I might see you pass on the opposite side.
Punctually at 11 o'clock and 4 I shall be looking--.
Destroy this the moment 'tis read.⁵⁰

Some columns defended Crittenden on the theory that his belated cessation of adultery exonerated him of wrongdoing and blunted whatever justification there may

⁴⁸ Untitled, *Donaldsonville Chief*, April 12, 1873, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1873-04-12/ed-1/seq-3/>. Men who pursued women for lust *without* an exchange of money were referred to as Lotharios. This name originated in an 18th century morality play called *The Fair Penitent*. Men satisfying their lust through deceptive charm were viewed differently than those who paid mistresses cash maintenance.

⁴⁹ "Laura Fair's Letters," *Louisiana Democrat*, May 17, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-05-17/ed-1/seq-3/>.

⁵⁰ *Ibid.*

have been for his murder. This argument implied that the man had the moral authority and power to determine the duration and nature of the relationship without considering Laura. Under this conception Crittenden simultaneously proved his moral reformation and basic intelligence without having to reach any accommodation with Laura. In a sense, Laura's choice to kill him after he ended the relationship made her violence even less forgivable. This backhanded absolution for leading her on was slight comfort to active philanderers.⁵¹

There was also much sympathy for Crittenden's wife and daughter, the only wholly innocent parties to the tragic event.⁵² Mrs. Crittenden and her adult daughter trusted Mr. Crittenden with great latitude as the head of the household. As evidence for this they tolerated his extended absences from home for business and agreed to move house when and where he approved it. He offered only vague justifications for these trips and the family naively believed them. They were rewarded with betrayal and mortal danger. People whose relatives suffered similarly from men's intemperate whims fantasized about exacting similar revenge. The *Louisiana Democrat* published a poem titled *Un Cri Du Sein* that specifically referenced Laura's crime:

Oh father, dear father, come home to my *Ma*,
The clock on the mantel strikes four;
You said you were coming straight home to her arms,

⁵¹ Andrew J. Marsh, Samuel Osbourne, 48-69; "Laura Fair the Murderess," *Louisiana Democrat*, July 12, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-07-12/ed-1/seq-2/>; "Laura Fair's Letters," *Louisiana Democrat*, May 17, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-05-17/ed-1/seq-3/>; Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge: Harvard University Press, 2000), 50, 104-111. Cott argues that monogamy was the law of social life in mainstream America. Besides worries about marital infidelity, moral leaders feared that the loosening of divorce laws could lead to serial marriages, which in some people's estimation was just another form of polygamy. Newspaper magnate Horace Greely and other avant guard thinkers saw this liberation as a potential boon to sexual freedom, and supported a "free love" movement.

⁵² Untitled, *Donaldsonville Chief*, April 12, 1873, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1873-04-12/ed-1/seq-3/>.

When that trip with your sister was o'er.
Oh, why have this gossip, this scandal, this scorn,
You know how you swore to be true,
Now, see how you're acting before I am born,
Poor *Mama* is weeping for you.
Come home, come home—
Oh, dear loving papa, come home!

Oh father, dear father, come home to my *Ma*,
The clock on the mantel strikes five;
The mischief's all done and the secret's all out,
To hide it in vain you will strive.
With anguish and sorrow *Ma's* bosom is torn,
Oh, why upon her vent your spleen?
You know how she loves you—but will take a horn.
Come home and pass me for a *Dean*.
Come home, come home—
Oh, sweet, loving Papa, come home!

Oh, father, dear father, come home to my *Ma*
The clock on the mantel strikes six;
The old man is blind, and can't do any harm,
Or discover your long concealed tricks.
So quit all this fussing, the cowardly scare,
This anger, this panting, this flout,
For *Ma* will do with you as did Laura Fair,
So Papa, mind what you [*sic*] about.
Come home, come home—
Oh, dear, loving Papa, come home!⁵³

The clear message was that Louisiana's women had limited tolerance for men's transgression of their trust and dignity. Wives suffered, but so did the children, and mothers are often motivated to action by thoughts of their children's wellbeing. The idea of women taking vengeance into their own hands for romantic slights was titillating for some and terrifying for others. What made the presentation of these letters and poems especially significant to the people of Louisiana was their use to justify women killing men. Laura's supporters argued that these emotional provocations directly caused

⁵³ "Un Cri Du Sein," *Louisiana Democrat*, June 14, 1871,
<http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-06-14/ed-1/seq-3/>.

Crittenden's murder. These letters reflected at least some sympathy for Laura among the public and may have influenced others to think similarly. Certainly the publisher thought it would strike a chord.

Laura admitted to the murder at trial, so her only legal defense was to plead insanity. The prosecution argued that the love letters and Laura's purchase of a new gun for the murder showed motive and rational premeditation. The defense argued that Laura was clearly insane for three reasons. First, she chose a location for the murder where escape was impossible. She also killed the man she ostensibly loved instead of her *rival* for his affections, Mrs. Crittenden. Finally, the defense provided doctors who gave expert testimony that women behaved irrationally during their periods, and could not realistically be expected to control themselves. The first trial jury seemed to disregard these arguments and focused on the crime of murder, so Laura was convicted. Laura was subsequently sentenced to death. This result was greeted with wide acclaim in the Louisiana media:⁵⁴

It is not to be expected that she will deport herself upon her entrance to eternity in any other than the style of theatrical bravado which has marked her progress through time, or will cease to solicit the wandering admiration of the males of her species, even when that admiration can no longer be made fruitful of furniture and productive of stocks. . . . Certainly if capital punishment is ever justifiable, there are good reasons for inflicting it in a case of which the atrocity has overcome the sentimental disinclination of American juries to hang anybody, and the hyperchivalric refusal of Americans to mete out to women even the measure of justice which it accords to men.⁵⁵

⁵⁴ "Horace Greely on Woman Suffrage," *Ouachita Telegraph*, August 26, 1871, <http://chroniclingamerica.loc.gov/lccn/sn85034336/1871-08-26/ed-1/seq-1/>; Untitled, *Louisiana Democrat*, May 31, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-05-31/ed-1/seq-2/>.

⁵⁵ "Sentencing Laura Fair," *Louisiana Democrat*, June 28, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-06-28/ed-1/seq-3/>.

Newspapers strongly contrasted the ways that men and women coped with guilt and death. The *Louisiana Democrat* reported a great deal of weeping and hysteria among the women of the gallery in the courtroom when the verdict was read. Laura's reaction was more subdued. Whether these reactions demonstrated an inability of the women in the courtroom to recognize guilt or a refusal to accept punishment, women appeared badly out of step with their ability to accept men's system of justice.⁵⁶ The *Morning Star and Catholic Messenger* directly juxtaposed news of her conviction and the hysterical women in the gallery with the relatively dignified ways in which one man accepted a felon's death. The condemned man was not even a full-blooded white, but part native-american:

Boyer, a half-breed, was executed at Cheyenne, Wyoming Territory, on Friday week, for the murder of McClusky and Lowry. Upon the scaffold he said, "Look at me! I no cry! I no woman, I man! I die brave!" He said he loved the Great Spirit, and was going to see him.⁵⁷

Men did not believe that the justice system effectively deterred Laura's type of crimes because women denied the justice of the guilty verdict. To emphasize the difference between guilty men and women in the same column, the *Morning Star* also reported on a man whose sense of shame spared the state the cost of a trial. "A San Francisco grocer, named Peterson, recently killed his wife and then committed suicide."⁵⁸ The implication was that if Laura Fair had the moral calculus of a man, she would have either killed herself with the remaining bullets or accepted the verdict.

⁵⁶ Ibid.

⁵⁷ "Editorial and Other Items," *Morning Star and Catholic Messenger*, May 7, 1871, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1871-05-07/ed-1/seq-5/>.

⁵⁸ Ibid.

This piling on of journalists, scornful even of the way Laura accepted the verdict suggests the extent of the resentment against her.

The celebration of Laura's conviction was short lived. There were procedural irregularities in the presentation of evidence and final arguments of Laura's trial. These were used as grounds to grant Laura a re-trial. The second murder trial resulted in an acquittal on the grounds of temporary insanity. Although the defense argued that Crittenden's particular abuses provoked Laura's rage, she was also naturally susceptible to derangement by virtue of her menstruation. This "out" seemed to be an easy potential justification for women in Louisiana and other states to pursue their own imitative reprisals:⁵⁹

It is now, we suppose, established beyond cavil that no woman can in any circumstances be punished, except by a temporary detention, for taking the life of any man who may have pretended at any time to be in love with her. We say in any circumstances.⁶⁰

Newspaper reports of the second jury tried to rationalize how a group composed wholly of men spared Laura from execution. These reports tended to focus on Laura's beauty to the exclusion of evidence relevant to the crime. "In the name of the homely

⁵⁹ "The End of Laura Fair," *Louisiana Democrat*, October 23, 1872, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1872-10-23/ed-1/seq-1/>; "Personal and Literary," *Opelousas Courier*, February 15, 1873, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1873-02-15/ed-1/seq-2/>; "Items of Interest," *Opelousas Courier*, February 7, 1874, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1874-02-07/ed-1/seq-2/>. The *Courier* mused that Laura could begin marksmanship classes to go with her planned public speaking tour to Chicago.

⁶⁰ *Ibid.*

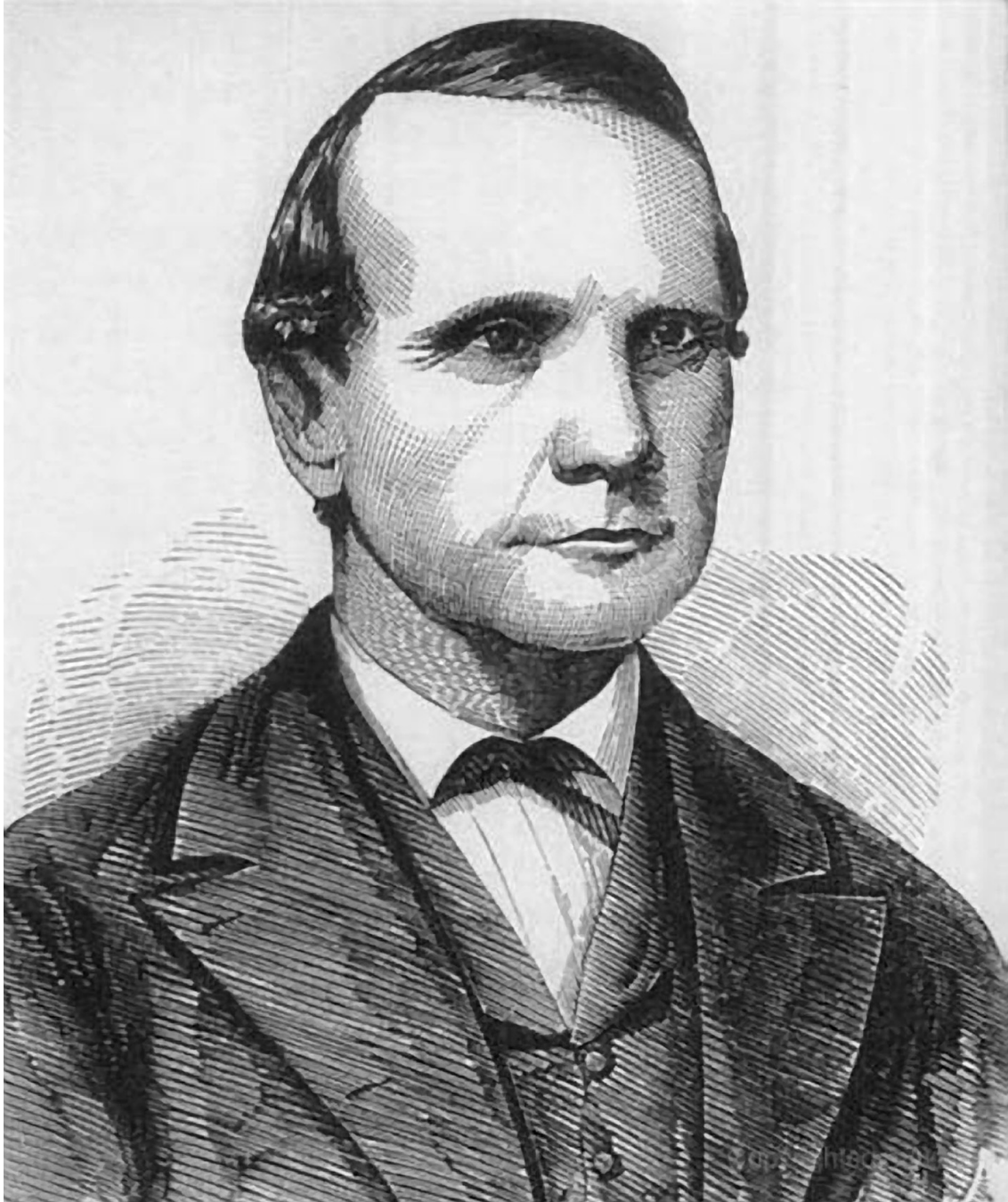


Figure 8. Portrait of Alexander Crittenden

<http://2.bp.blogspot.com/-y6OUaVI2VwM/UVcrYUwL89I/AAAAAAAAABk4/WN2OCiGidvs/s1600/Alexander-P-Chittenden.jpg>

law-abiding portion of the fair sex, we protest against the attempt to adjust the standard of guilt by the contour of the face and the color of the eye.”⁶¹ Men conceived of women as jezebels governed primarily by their attractive yet mercurial anatomy, immune to reason or shame. Men also conceded their own inability to analyze such complex relationships dispassionately.⁶² Laura’s triumph over men and the justice system was likely to recur.

“ . . . [I]nsane people do not murder in that methodical and business-like manner. . . yet the jury, not being troubled with too much sanity, thought different, and she is now at liberty to kill another victim, after bleeding him of a fortune, as she did her last. . . .”⁶³

There was nothing about Laura’s victory to tie the verdict to California’s particular circumstances, though there were certainly connections to Reconstruction. Laura was raised entirely in the South and began her supposed career as a serial wife in New Orleans. Her wartime reputation was of a literally rebellious nature. Her insanity defense was tied to the essential nature of womanhood through her period as well as society’s changing understanding of what that meant in the 1870s.⁶⁴ Most important features of Crittenden’s life were tied to the South and the Civil War caused a serious interruption to his political career. Laura’s physical distance from the actions of the Civil

⁶¹ “Laura D. Fair,” *Louisiana Democrat*, August 14, 1872, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1872-08-14/ed-1/seq-2/>; “Laura Fair,” *Louisiana Democrat*, October 4, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-10-04/ed-1/seq-1/>; Untitled, *Opelousas Courier*, August 19, 1871, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1871-08-19/ed-2/seq-2/>. Those who thought Laura was far uglier than her reputation thought it was likely that the jury would see through her façade and convict her.

⁶² Untitled, *Opelousas Courier*, July 29, 1871, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1871-07-29/ed-2/seq-3/>. “Few men or women, possessed of heart and feeling, can look into the clear eyes of this picture, or upon the perfect features, revealing a sensitive nature and a woman’s soul, without being both merciful and charitable.”

⁶³ “Acquittal of Laura D. Fair,” *Donaldsonville Chief*, October 19, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-10-19/ed-1/seq-1/>.

⁶⁴ Haber, *The Trials of Laura*, 224-226. The medical avant guard could not agree about how dangerous women could be because of hormones, but they agreed that the risk was real. Laura was prescribed the drug Chloral Hydrate for its soothing effect and she developed a dependency that was not fully understood at the time.



Figure 9. Pepperbox Pistol. This is a concealable "pepperbox" pistol like the one Laura specifically bought before killing Crittenden.

http://casguns.homestead.com/files/Pocket_Pistols/Sharps_Pepperbox/C_1_.Sharps_pepperbox_pistol.jpg

War did not prevent her from retaining a close association with her Southern origin. These narratives as reported by the press made the threat of unhinged, unfettered womanhood a clear danger to men whose command over society seemed to dwindle daily.⁶⁵ The jury's motivations to acquit Laura however, could well have been the weaknesses common to men; a combination of lust and pity for the supposedly weaker

⁶⁵ "General Paragraphs," *Opelousas Courier*, January 4, 1873, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1873-01-04/ed-1/seq-2/>. The moment Laura Fair was set free, her cell was filled by notorious arsonist and counterfeiter Fanny Price.

sex. The men of Louisiana following the story in the press plausibly understood that it could happen to them too if they were not careful.

The Gilded Age

Laura Fair's case caused such intense national interest that Samuel Clemens incorporated her story into his social satire *The Gilded Age* in 1873. This fictionalization served to strengthen and propagate ideas about Southern men's receding authority over women. Co-written with Charles Dudley Warner, *The Gilded Age* entwined the tragic saga of Laura Van Brunt Hawkins with a comic view of Washington, D.C.'s social and political life.⁶⁶ While Twain became famous late in life for his progressive view of women's rights, his earlier opinions were generally more conservative and patriarchal.⁶⁷ Twain's columns and reports of his social exploits were a regular feature of Louisiana newspapers, so people had a common understanding of his world view at the time. The *Lafayette Advertiser* dryly summarized his reputed position on women's liberation. "Mark Twain sympathises [sic] with the woman movement, when the movement is around the washtub."⁶⁸ Through the early 1870s Twain saw women taking power in public life as foolish or dangerous, comparing them to biblical Eve, Desdemona from the play *Othello*, and Lucretia Borgia. Twain mockingly included the noted feminist Elizabeth Cady Stanton in their company. The eccentric transportation magnate Georges

⁶⁶ Mark Twain and Charles Dudley Warner. *The Gilded Age: A Tale of To-Day* (New York: Harper & Brothers Publishers, 1873).

⁶⁷ Speeches on Social Justice, accessed November 5, 2015, http://www.edchange.org/multicultural/speeches/twain_votes.html. Twain's views on women's rights only began to change after the birth of his first daughter in 1872. By 1901 he was making routine public speeches in favor of full women's suffrage. While his private views may have been liberal for longer, his public persona was firmly in the patriarchal mainstream for gender issues during Reconstruction.

⁶⁸ "Miscellaneous," *Lafayette Advertiser*, February 14, 1874, <http://chroniclingamerica.loc.gov/lccn/sn86079068/1874-02-14/ed-1/seq-1/>.

Francis Train was sarcastically included for his public sympathy for women's rights.⁶⁹ Even before the reader got underway, he had some understanding of the author's skeptical view of liberated women and their exercise of authority over weak men.

At least two newspapers that reported the trials of Laura Fair also regularly reported on the thoughts and activities of Mark Twain. The *Opelousas Courier* praised Twain's witticisms even as it conceded that *The Gilded Age* was not as well written or received as his other works. The *Lafayette Advertiser* reported on the activities of Mark Twain, Laura Fair, and John Stevenson. *Le Meschacebe* printed business news and anecdotes about John Stevenson in the front section and marketed Twain's latest works in the classified advertisements. The trials of Laura, the composition and publication of *The Gilded Age*, and the scandalous affair and trial of John Stevenson did not merely take place at the same time. By the early 1870s readers and publishers in Louisiana were accustomed to the themes of white men's decline vis-à-vis women in overlapping examples from different sources. *The Gilded Age's* ambivalent reception as a work of entertaining literature is secondary to the fact that its main plotline confirmed people's common concerns about the consequences of Southern men's decline after the war.⁷⁰

The story began with a dramatic riverboat race culminating in a boiler explosion. Laura, the heroine of Twain's story, was saved from the wreckage by the Hawkins family. The Hawkins clan adopted Laura when her parents could not be found among the survivors. The Hawkins family owned much land but had fallen on hard times. When Laura Hawkins tried to make a new life for herself she had an affair with a married liar

⁶⁹ "Mark Twain Tribute to Women," *Lafayette Advertiser*, May 17, 1873, <http://chroniclingamerica.loc.gov/lccn/sn86079068/1873-05-17/ed-1/seq-1/>.

⁷⁰ "The President and the Civil Rights Bill," *Lafayette Advertiser*, September 26, 1874, <http://chroniclingamerica.loc.gov/lccn/sn86079068/1874-09-26/ed-1/seq-2/>.

and shot him dead. The novel's jury set her free out of the same sympathies that worked in Laura Fair's favor. Laura's fictional family background incorporated many cultural conflicts that were closely identified with post-bellum southern whites as well as Laura Fair in particular.

Like the real Laura, Twain's Laura came from a family that thought women should occupy themselves with family pursuits instead of a job outside the home. In spite of his faith in that paternalistic paradigm, her father could not provide her with an adequate allowance. Without her family's financial backing Laura Hawkins was compelled to either marry into wealthier society or embark upon a career. Laura Fair freely engaged in both of these pursuits. Twain's Laura was unable to secure a suitable provider through a society marriage, so she was compelled to strike out on her own instead of getting married for support right away. Still, Laura's father delayed her employment as long as he was able.

The girls would not have been permitted to work for a living under any circumstances whatever. It was a southern family, and of good blood; and for any person except Laura, either within or without the household to have suggested such an idea would have brought upon the suggester [*sic*] the suspicion of being a lunatic.⁷¹

Only after Mr. Hawkins's death could Laura find a niche for herself as a United States Senate aide and lobbyist. This association between dangerously liberated women and devious politicians echoed Laura Fair's relationships with Governor Foote, Alex Crittenden, and other leading men in California. In the novel Mr. Hawkins took it as a personal failing that he was unable to provide a middle class living for the women of his family. This was a realistic anxiety he shared with many businessmen of post-bellum

⁷¹ Twain, *The Gilded Age*, 74.

Louisiana, including Laura Fair's own father. Certainly Laura Fair's first two husbands and Mary Hardy's deceased husband experienced that shortcoming.

Although Twain's Laura loved her adoptive family, she never fully accepted her natural father's death.⁷² During the trial at the end of the novel she claimed to have searched for her father her entire life. If Laura's father had survived the boiler explosion at the start of the novel only to get lost in the confusion, then he probably would have sustained serious injuries. For that reason Twain's Laura always focused her attention on weak and crippled men in the course of her travels. Tragically, the number of crippled southern men vastly increased in the wake of the Civil War, which gave her constant reminders of her father's absence and false hope at every cripple sighting. The theme of weak and broken Southern men ran through much of the novel, as in real life. These straightened circumstances set the stage for impressionable, vulnerable southern girls to grow into dangerously independent women like Laura Fair.

Laura Hawkins also shared Laura Fair's great beauty. Though her visual appeal was considerable, Twain often suggested that her remarkable intelligence made the threat to malleable men much greater. When Laura Hawkins was not compromising the lives of married men she schemed to get the federal government to buy her family's worthless land in a program to better the lives of freedmen.⁷³ In this way Twain combined corrupt federal authority, the advancement of freedmen, and unrestrained women as a triple threat against the leadership and independence of southern white manhood. Laura Hawkins's

⁷² Ibid., 50-55, 270-271.

⁷³ Ibid., 117-119. Besides revealing Laura's plot to get rich through friends in Congress, this part of the story emphasizes the idiocy of her brother Washington. When he suddenly starts making friends he assumes that they have just discovered his wit. He never considers that his *sister* has built up their name in influential circles far out of proportion to their actual substance.

defense attorney presented her as a *victim* of these talents and associations. The social forces of the post-bellum South steered her natural abilities toward perverse ends.

She had the fatal gift of beauty, and that more fatal gift which does not always accompany mere beauty, the power of fascination, a power that may, indeed, exist without beauty. She had will, and pride and courage and ambition, and she was left to be very much her own guide at the age when romance comes to the aid of passion, and when the awakening powers of her vigorous mind had little object on which to discipline themselves.⁷⁴

If Laura Hawkins' adoptive father had been a proficient provider for his family she would not have been forced to pursue wealth in her own reckless way. If her father had wielded appropriate moral authority and powers of coercion than she would not have encouraged the forces of Reconstruction that seemed to be prolonging Southern men's political and social difficulties. If she had been raised as a more deferential and chaste woman she would not have and ended a married man's life. If Laura had been a traditional family woman in the sphere of the home, she never would have been involved in politics and sexually adventurous political figures.

In addition to his accomplishments in fiction and public speaking, Mark Twain had some personal experience editing and managing newspapers. On his visit to Virginia City to see the Comstock Lode he got to know the editor of their local newspaper, and told stories of what it was like to work there. He was part owner of a newspaper in Buffalo, New York, and tried his hand at daily management before he decided the job was not to his taste.⁷⁵ Twain put his journalism experience to use in the novel by letting

⁷⁴ Ibid., 169.

⁷⁵ "Personal Gossip About Mark Twain," *Opelousas Courier*, December 6, 1873, <http://chroniclingamerica.loc.gov/lccn/sn83026389/1873-12-06/ed-1/seq-2/>.

fictional newspapers express opinions about the story as it unfolded. They sensationalized the basic facts and drew broad, dire conclusions about social decline.

The story's newspapers sided with the prosecution and interpreted Laura Hawkins's intellectual motivations and convictions much less charitably than her defense attorney. They explicitly linked the murder to the political forces at work against traditional patriarchal culture. The details of the relationship between Laura Hawkins and her victim Colonel George Selby were irrelevant. The murder was a consequence of Laura's contempt for Selby as a weak man and her belief in her own right to defend her feminine dignity. "This morning occurred another of those shocking murders which have become the almost daily food of the newspapers, the direct result of the socialistic doctrines and woman's rights agitations, which have made every woman the avenger of her own wrongs, and all society the hunting ground for her victims."⁷⁶ Certainly newspaper headlines and text were written to be as exciting as possible to boost sales and readership, but the content of stories about the real Laura and Twain's Laura consistently cited social and political conditions in addition to providing the salacious details of the cases at hand. If the papers never strayed from the facts as presented in court, the printed stories would have been as shocking and exciting as any work of Twain's fiction. Newspapers evidently believed that their readers were just as interested in the big picture of white men's fading status relative to their power before the Civil War. Twain's fictional newspapers simply distilled these public sentiments for his novel. Most white men were of modest means and could not identify with the loss of a plantation and slaves.

⁷⁶Twain, *Gilded Age*, 420.

Even the poorest of Southern white men had relationships with women and could relate to romantic discord.

In Twain's novel Laura shot her married lover Colonel Selby in the lobby of The Southern Hotel. The newspapers of the novel prominently mentioned Selby's origins in New Orleans and his service with the Confederate military. His war wound had left him with a permanent limp, and he used a cane to move around at the time he was shot.⁷⁷ By making the Southern victim a cripple, Twain simultaneously identifies Selby with real Confederate veterans in general and with Laura Hawkins's own biological father, whose death or disappearance in the river boat explosion was responsible for her poor Southern upbringing at the very beginning of the story.

Although the real trial of Laura Fair took place in the west, in the press Laura Fair's dangerous behavior began in the South generally, and New Orleans in particular. These aspects of the plot connected the *victim* of the literary murder with the conditions of the postbellum south just as surely as the perpetrator. Elements of women's liberation were present across America, but Southern white men were at a unique disadvantage to resist it if women like Laura chose to pursue their own agenda.

Mary Hardy

Louisiana native and plantation owner John A. Stevenson willfully failed to keep faith with the women in his romantic life after the Civil War. Stevenson was a very wealthy public figure who owned a vast sugar plantation, a trading house in New Orleans, and occupied a seat on the Board of Directors of the Louisiana State Bank. His business took him all over south Louisiana, and between 1857 and 1869 his stays in New Orleans included a secret affair. Although the affair began on the eve of the Civil War,

⁷⁷ Ibid., 420.

its dénouement was thoroughly influenced by the tensions of Reconstruction society. In the course of his visits to New Orleans, Stevenson claimed to be unmarried and wooed a poor Irish widow with assurances of love and future marriage.⁷⁸ In 1858 his lover, Mary Hardy, gave birth to his out of wedlock daughter, Minnie. Between Minnie's birth and 1869 Stevenson refused marriage but remained affectionate and financially supportive. He never took on official legal obligations of support and he did not recognize the girl as his own to anyone besides Mary. During that time he kept their romance a secret from his friends.

In spring 1869 Stevenson ceased his relationship with Mary. After being spurned, Hardy began following and harassing Stevenson in public places, beseeching him to keep supporting their daughter. Stevenson ignored her pleas and, instead, had her arrested four times in New Orleans between 1869 and 1873. She could not have served any significant time in prison for these arrests as she remained Minnie's guardian throughout the period. By the time of Hardy's final arrest Stevenson publicly professed great anxiety about his stalker, saying that he was worried about being physically assaulted or shot by Hardy. For years his reputation was his main concern, but by pressing criminal charges he showed that he had become less afraid of public opprobrium than of assassination. When Stevenson lied to the police he said that she said she would physically attack him. Stevenson made an unsubstantiated claim to the court that Hardy's demands for support included specific threats of violence. Orleans Parish prison only held Hardy for a few

⁷⁸ Petition for Writ of Certiorari at 1-3, *Mary Hardy v. John A. Stevenson*, 29 La. Ann. 172 (Supreme Court of Louisiana. 1877) (No. 6204); "New Orleans Money Market," *Daily Crescent*, February 12, 1861, <http://chroniclingamerica.loc.gov/lccn/sn82015753/1861-02-12/ed-1/seq-7/>; Advertisement, *Daily Crescent*, February 3, 1866, <http://chroniclingamerica.loc.gov/lccn/sn82015753/1866-02-03/ed-1/seq-8/>; "Louisiana Items," *Daily Crescent*, December 23, 1868, <http://chroniclingamerica.loc.gov/lccn/sn82015775/1868-12-23/ed-1/seq-3/>.

hours after her fourth arrest, but it was long enough to generate enduringly traumatic experiences for her and fifteen year old Minnie.⁷⁹

As soon as she was released, Hardy sued Stevenson for the defamation and perjury that got her locked up as well as emotional damage to their illegitimate daughter, Minnie. Mary was awarded \$5,000 in the trial court. When Stevenson appealed the judgment, the state supreme court still ruled in her favor but it greatly reduced the amount of damages to reflect the amount of reputational damage and humiliation someone of her social station could expect.⁸⁰ Although Stevenson was certainly in the wrong for causing Hardy's financial distress and imprisonment he got off with a wrist slapping for someone of his vast wealth, only \$1,500. Stevenson may have saved himself some money, but his former mistress retained her liberty and remained an increasingly enraged threat to his existence. In the course of her vindication in courts, much of the testimony at trial and an ambivalently worded opinion showed how men's superior treatment by law was not wholly invulnerable to challenge.⁸¹ Specifically, Stevenson's original affidavit that Hardy verbally threatened him bodily harm in public was challenged until he recanted. In a case of "he said, she said", the court believed what she said despite the trial court's sworn testimony. Women were becoming more able to publicly confront men for their wrongdoings, but more importantly, some white men believed their women were more willing to use violence to settle scores.

⁷⁹ *Mary Hardy*, 29 La. Ann. 172 (Supreme Court of Louisiana. 1877) (No. 6204) at 172-176.

⁸⁰ Frank L. Maraist and Thomas C. Galligan, *Louisiana Tort Law* (Charlottesville: Michie, 1996), 428, 429. Falsely accusing someone of a crime such as threatening physical violence is traditionally considered "slanderous per se". Despite an ironclad case that Stevenson criminally perjured himself by providing a false affidavit, the civil damages were traditionally weighed against the defamation's causation of "adverse feelings" among "respectable" people. Where the plaintiff was already disreputable this change of feelings would be less.

⁸¹ *Mary Hardy*, 29 La. Ann. 172 (Supreme Court of Louisiana. 1877) (No. 6204) at 172-176.

Stevenson's word as a Confederate veteran and patriot was unpersuasive to the court. Whatever honor he accrued as a result of that service was not decisive in his confrontation with Mary. His standing as a man possessing both landed interests and liquid wealth did not immunize him from suspicion that he would take advantage of a vulnerable and trusting women. Both the trial court and the supreme court believed Mary's testimony, despite the legal system's general tendency to disbelieve women's accusations. Though her reward was reduced on appeal, it was not reduced to \$1,000 as the dissenting judge suggested.

Like Laura Fair, Mary Hardy's tale began in a respectable but working class family. Hardy married a reliable man in 1852 but her husband died in 1856. The Hardys had one child together who died a few months after birth. Mrs. Hardy had no surviving family and Mr. Hardy's only American relation was an alcoholic brother who died in the Mexican War. There were no family connections of any kind to support her in her time of need. Mary Hardy had a good reputation and friends within the working class when her husband died, but no savings or source of income. Mr. Hardy was a British immigrant with few skills and left very little for Mary in his will.⁸² These circumstances left Hardy particularly vulnerable to manipulative men, but as her next lover Colonel John A. Stevenson discovered, she was not prepared to be rejected.

Mary Hardy and John Stevenson met soon after she was widowed. He began to woo her "with artful words and actions, and with letters"⁸³ based on the lie that he was unmarried. She believed that he was successful because he had to be out of town for

⁸² *Mary Hardy*, 29 La. Ann. 172 (Supreme Court of Louisiana, 1877) (No. 6204) at 78.

⁸³ *Ibid.*, at 1.

business travel. She accepted that their courtship had to accommodate his professional obligations, and believed that his frequent absences were unrelated to his loyalty or ardor.

Stevenson was a prominent businessman in New Orleans with commercial interests all along the Mississippi river. He kept a house in the city staffed with slaves for his convenience when he was not living on his 1,037 acre sugar plantation.⁸⁴ In the 1860s he co-owned a steamboat agency with John F. Douglas, which was based in New Orleans, but also operated in Baton Rouge, Natchez, Memphis, St. Louis, and other destinations.⁸⁵ Stevenson was generous enough to be listed as major donor at an orphan's charity banquet hosted by the Odd Fellows Hall in 1869.⁸⁶ Stevenson had been wealthy before the Civil War, and although the occupation interrupted most of his businesses, he firmly remained a member of the upper class. All this is to say that he had been accustomed to all the rights, privileges, and presumptions of the most dynamic part of the patriarchy. It is striking that he came to the Louisiana Supreme Court against a poor, middle aged widow with far fewer assets than he.

⁸⁴ "Local Intelligence," *Daily Crescent*, May 12, 1859, <http://chroniclingamerica.loc.gov/lccn/sn82015753/1859-05-12/ed-1/seq-1/>; "Louisiana Items," *Daily Crescent*, December 23, 1868, <http://chroniclingamerica.loc.gov/lccn/sn82015775/1868-12-23/ed-1/seq-3/>; "Weather and Crops," *Donaldsonville Chief*, July 26, 1873, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1873-07-26/ed-1/seq-3/>. Stevenson's frequent absences from the city may have allowed his slaves some liberty to indulge their vices. He sued a tavern keeper for serving his slave girl Betty alcohol.

⁸⁵ Advertisement, *Daily Crescent*, February 23, 1866, <http://chroniclingamerica.loc.gov/lccn/sn82015753/1866-02-23/ed-1/seq-8/>; "Dissolution," *Daily Crescent*, August 18, 1866, <http://chroniclingamerica.loc.gov/lccn/sn82015753/1866-08-18/ed-1/seq-5/>; "River Intelligence," *Daily Crescent*, November 21, 1866, <http://chroniclingamerica.loc.gov/lccn/sn82015753/1866-11-21/ed-1/seq-9/>; Advertisement, *Daily Crescent*, October 30, 1866, <http://chroniclingamerica.loc.gov/lccn/sn82015753/1866-10-30/ed-1/seq-7/>; After Stevenson dissolved his partnership with Douglas, he continued to use his commercial contacts as a cotton factor with A. H. May.

⁸⁶ "The Fair at Odd Fellows Hall," *Daily Crescent*, April 15, 1869, <http://chroniclingamerica.loc.gov/lccn/sn82015775/1869-04-15/ed-1/seq-1/>.

This is not to say that he was above dishonesty in maintaining his fortune. In 1869 he was sued by a man who bought a plantation from him for \$20,000 at auction. The buyer claimed that the “*couleur de rose*” description was entirely misleading and the plantation was far less desirable than advertised. The judge agreed that Stevenson should compensate for the difference. This certainly diminished Stevenson’s resources, but he could absorb the loss and it suggests that he fancied himself to be a smooth operator. He lied about his property to raise the price because he thought he could get away with it. The episode exhibited the same sort of arrogance that led him to mislead and abandon his mistress of more than ten years.⁸⁷

Colonel Stevenson had a war record. He rallied to the same flag as Colonel Crittenden. In 1861 Stevenson did what he could as a public figure to bolster the defense of New Orleans by trying to acquire a new fighting ship for the Confederate Navy. As Confederate lines withdrew from Union forces he followed them into the interior of Louisiana. The end of the war found him serving the Confederate army in their smuggling of cotton through Union lines. He was caught in the course of this mission and confined in a military prison in 1865. Whether Stevenson stayed with the Confederacy purely for business purposes or for patriotism, he did make personal sacrifices and put his life and property at risk. After the Civil War some newspapers still referred to him as Colonel in recognition of his service to the Lost Cause.⁸⁸

⁸⁷ “The Courts,” *The South-Western*, July 7, 1869, <http://chroniclingamerica.loc.gov/lccn/sn83016483/1869-07-07/ed-1/seq-2/>.

⁸⁸ “Petitions,” *Daily Crescent*, November 16, 1861, <http://chroniclingamerica.loc.gov/lccn/sn82015753/1861-11-16/ed-1/seq-4/>; “Murder in Iberville,” *Donaldsonville Chief*, June 19, 1875, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1875-06-19/ed-1/seq-3/>. The *Donaldsonville Chief* called Stevenson Colonel, but *Le Meschacebe* referred to him as Captain. They certainly refer to the same individual.

Like Colonel Selby's character in *The Gilded Age*, Stevenson was actively involved in state and national politics. His patriotic impulses gained him a great deal of respect from his fellow planters and the merchants in New Orleans, but he enjoyed little influence with the authorities in Iberville or Orleans Parish. Stevenson was a leading tax resister who constantly challenged the state's expanding balance sheet. His illegal tax avoidance kept him in criminal court and political controversy for most of Reconstruction.⁸⁹

Stevenson attempted to fulfill what he saw as his patriarchal duty to maintain public order after the emancipation of his slaves. On at least one occasion he was thwarted by hostile state authorities in an effort to arrest an uncooperative freedman who killed a loyal freedman employee. The fracas began as the perpetrator "was engaged in the manly occupation of beating his wife".⁹⁰ When another freedman tried to intervene, The husband killed his kindly neighbor. Stevenson tried to control the situation with the assistance of the Reconstruction justice system. "Col. Stevenson captured and with his own hands securely bound the murderer, subsequently turning him over to two constables for removal to the parish jail in Plaquemine."⁹¹ When the suspect arrived at the jail he was released by the authorities without charge. Serious problems of order like murder

⁸⁹ "Limitations of Parochial Taxes," *West Feliciana Sentinel*, May 5, 1877, <http://chroniclingamerica.loc.gov/lccn/sn88064554/1877-05-05/ed-1/seq-2/>; Untitled, *Donaldsonville Chief*, August 31, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-08-31/ed-1/seq-3/>; Untitled, *Donaldsonville Chief*, November 23, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1872-11-23/ed-1/seq-3/>.

⁹⁰ "Murder In Iberville," *Donaldsonville Chief*, June 19, 1875, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1875-06-19/ed-1/seq-3/>. According to the account Stevenson acted primarily out of compassion for the black victims of outlawry who worked on his land.

⁹¹ *Ibid.*

and assault coexisted with the possible sabotage of his sugar cane refinery.⁹² One day in 1877 the main boiler began leaking dangerous and destructive steam, which forced the whole sugar house to shut down. A very similar accident occurred at a neighbor's sugar mill at the same time, which suggested the possibility of a conspiracy among the discontented freedmen to disrupt the ventures' profitability. These incidents suggest a record, or at least a reputation of personal courage that make his later fear of frail Mary Hardy remarkable.

Stevenson's personal wealth and willingness to continue his struggle for success in the face of competition and difficulties made him appealing to Mary Hardy as a provider. His record of compassionate public service and private overtures of affection to Hardy made him appealing as a possible husband. Stevenson's side of the relationship is more nuanced and a little surprising. Stevenson had political enemies in the court system and had lost judgments to personal enemies before. The consequences of law did not seem to have greatly concerned him. It was not until very late in the relationship that he became viscerally *afraid* of Hardy's personal wrath and vengeance as a wronged woman. The path of their relationship parallels many elements from the stories of Laura Fair and Laura Hawkins.

Mary Hardy certainly realized Stevenson could support her, but her interest in him was far from purely mercenary. If Mary only wanted a man to pay her bills their

⁹² "The Negro and the Beaver," *Le Meschacebe*, June 23, 1877, <http://chroniclingamerica.loc.gov/lccn/sn86079080/1877-06-23/ed-2/seq-1/>; "Local Jottings," *Donaldsonville Chief*, December 1, 1877, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1877-12-01/ed-1/seq-3/>. *The Meschachebe* tells an amusing story about Stevenson trying to bring order to his plantation. He goes to a remote portion and is amazed to find a useless swamp has been drained, and is therefore ready for cultivation. He thanks the freedmen for doing extra work but they explain that beavers damned the stream. The freedmen are carrying guns to shoot the beavers for ruining their fishing hole, but Stevenson intervenes to save his "best workers". Though the story is meant to be funny, it uses the image of personally confronting armed black men in a very casual way.

relationship would have been very different. Stevenson wooed Mary with gifts, poetry, and vague promises of marriage, just as Crittenden had offered to Laura Fair and Colonel Selby had offered to Laura Hawkins. He pledged his love and loyalty to her, even as he worked to keep her at a distance from his social circle. Hardy treasured every scrap of his devotion and presented them to the court at the first opportunity. The first poem was written before the birth of their daughter Minnie.

Upon thy heart Mary I dream of thee when sleeping and think thee with me.
I am not happy Mary.
Oh! Had I now while waking
the liberty of taking
this heart which aches to breaking
to lean on thee Mary.
I would on thy breast reclining
leave all its sad refining
in ecstasy [*sic*] resigning
Itself to thee Mary
What joy it would be to me
If I not bound but free
could give this heart to thee
to thee alone Mary.⁹³

For a time Stevenson's visits and notes overflowed with warm sentiments, but when Hardy became pregnant he became paranoid about being discovered as an adulterer. He repeatedly demanded that she destroy his previous and future notes after reading. He stopped signing his notes with his own name, and began signing them as her fictional brother, as if envisioning their interception by his wife, or presentation to a court. Before the pregnancy was too far along he even suggested that she might visit a particular abortionist woman he knew.⁹⁴ Despite these abrupt changes in attitude he

⁹³ *Mary Hardy*, 29 La. Ann. 172 (Supreme Court of Louisiana. 1877) (No. 6204) at 82.

⁹⁴ *Ibid.*, at 82-92. Stevenson did not explicitly call the woman an abortionist, but suggested in a roundabout way that she would know how to take care of Hardy's worries and he would cover any expenses incurred.

insisted that he still loved her, and for a while she believed him.

Circumstances will prevent me from seeing you today. I fear to call again to see you at your boarding-house I fear I am watched. If you have not already mentioned my name to your land lady or any one in the house do not do so. I have much to tell you and to propose for your comfort but it seems I am always debarred from having an opportunity. I will write you more fully soon until then believe me ever yours true.

Destroy this as soon as you read it, do not despair but sleep in good spirits. You will yet be happy.⁹⁵

Hardy decided not to see the abortionist, and unlike her first daughter the baby girl survived infancy. Stevenson kept visiting them and periodically payed support money, but his mood became increasingly intransigent. She knew that his businesses did well in spite of higher taxes, but he insulted her intelligence by pleading poverty anyway. At first he only blandly demurred, "I cannot go this evening. I cannot spare the money to give to go away this week but will make arrangements for you to go soon. I am so perplexed with the present state of things here in the causes."⁹⁶ Finally he stopped seeing them and sending money of his own volition. At first Hardy's entreaties for help were humble, but she became increasingly desperate and insistent. Stevenson's final note was a rude command that made no reference to their prior love and the little girl he sired. "Be at home at 7 ½ o'clock tonight I will expect you to do as I direct."⁹⁷ After that Hardy gave up on appealing to his sense of love and honor. Their relationship became a long series of public confrontations in which she tried to shame him into paying her, even if she had to do it in court.

Hardy took Stevenson to court for child support in the 4th District of New Orleans.

⁹⁵ Ibid., at 82, 83, 92; Stevenson became very angry when Hardy began leaving notes at his office in person. He was sure that his staff knew why she was intent on contacting him.

⁹⁶ Ibid., at 91, 92.

⁹⁷ Ibid., at 95.

She made an honest effort to play by the rules of the system that generally favored moneyed, married men over poor single women. Before the civil trial could get underway, Stevenson took her to his lawyer's office and convinced her that if she dropped the case, he would pay her support to keep it out of the public eye. She followed through with the agreement and withdrew the suit, telling her witnesses from the boarding house to go home. Rather than comply with his part of the bargain, Stevenson simply refused to pay.⁹⁸ This final betrayal transformed serious, but common heartache and desperation into a higher order of apparent anger, and possibly even derangement. Certainly Stevenson believed she had become a physical threat to his existence.

On September 17, 1873, when Hardy found Stevenson conducting business in the pub near his office, she addressed him with a florid visage but an even voice. She repeatedly asked him "Are you not going to do something for me? When are you going to do something for me?"⁹⁹ He attempted to leave her behind, and went from building to building down the street in the hope that even if she did not give up, she would not actually attack him in the presence of others. She unnerved him so much he went to the police station and lied that she had repeatedly threatened him physical harm as she pursued him through New Orleans. Thus Hardy was arrested and jailed based on a false affidavit.

When 15-year-old Minnie came to bail her mother out of Orleans Parish prison, her mother tripped over a filthy, flea ridden mattress, dumped the "nuisance box" onto the floor and splashed into the puddle of filth. Both Minnie and her mother erupted into

⁹⁸ *Mary Hardy*, 29 La. Ann. 172 (Supreme Court of Louisiana. 1877) (No. 6204) at 29, 30.

⁹⁹ *Ibid.*, at 8.

paroxysms of wild weeping.¹⁰⁰ For this reason Hardy sued for “vindictive damages” as well as the initial wrong of false imprisonment. Hardy claimed that the trauma of a single evening in prison left her in permanently weakened state.

The judgment of the lower court was originally for \$5,000. Hardy won her case because witnesses told the truth about her behavior and Stevenson was embarrassed into confessing that he lied about receiving verbal threats of physical violence.¹⁰¹ The supreme court agreed with Hardy that his perjury deserved punishment and her suffering should be compensated.¹⁰² Having said that, they disagreed with the degree of harm to her reputation, which they said was questionable to begin with. The justices also thought that ten hours of jail time could not possibly be worth \$5,000, and reduced the award to \$1,500 plus court costs. However all three justices agreed that the fear Hardy “would do him (the defendant) some great bodily harm”¹⁰³ was not sufficient for the police to imprison her. The peace of his family was not worth the injustice to a free citizen’s right to express her displeasure.

We may judge the size of Hardy’s verdict by comparing it to another case

¹⁰⁰ Ibid., at 10, 27. Minnie was 19 years old at the time the State Supreme Court ruled in her mother’s favor.

¹⁰¹ Ibid; *Robert W. Rayne V. David Taylor*, 18 La. Ann. 26 (Supreme Court of Louisiana. 1866) In Robert Rayne’s libel suit the original verdict was for \$11, 820. After appeal the verdict was reduced to \$7,500, which the Supreme Court did not find excessive. In Rayne’s opinion the court stressed the jury’s discretion to find a number that *they* thought was reasonable.

¹⁰² *J. Randall Terry v. J. Q. A. Fellows and others*, 21 La. Ann. 375 (Supreme Court of Louisiana. 1869). The defendants in Terry’s case were called to testify before Congress about disloyalty and terrorism during and after the Civil War. Terry thought they slandered him before the committee. The Court cited Article 2294 of the Civil Code, which declared that “Every act whatever of man, that causes damage to another, obliges him by whose fault it happened to repair it.” Despite this principal, providing testimony to Congress conferred immunity on public policy grounds, which extended to the newspaper which published an excerpt of such remarks. The truth of the testimony was not addressed in the opinion.

¹⁰³ Ibid., at 3, 4. Pauline Rose’s original libel case files have been lost, but they were referred to as precedent in *J. Randall Terry v. J. Q. A. Fellows and others*.

involving a damaged reputation. Pauline Rose was libeled by a man who would not stop harassing her and won a judgment against him in court. The incident that gave rise to Pauline's case involved a far shorter duration of suffering but put an otherwise successful marriage at real risk.¹⁰⁴ In 1872 Mr. Willers wrote a letter to a man identified only as Mr. Rose that his wife was unfaithful. If Mr. Rose had believed the letter he might have sought a divorce. That would have left Pauline with a tarnished reputation that would have made remarriage more difficult. Pauline did not seek damages for emotional suffering because her husband did not believe the letter. She also did not need the money, since her husband had a good job. Pauline *did* want the court to punish the man, which they did. The defendant was permitted to choose between a \$350 fine or six months in jail.

Without television or radio to entertain and inform, nineteenth century newspapers enjoyed wide readership. In journalistic style common for its day, Helen Jewett's story was written not only for factual content, but to moralize, preach, and to warn readers about evils in society. Intrigue was amplified when the stories featured political families like the Weston's of Maine and the Robinson's of Connecticut. Readers were treated to journalistic speculation about how these prominent people became involved in sordid events. Journalists asked what caused bad behavior and how it might be prevented.

Laura Fair's story also featured men from prominent Southern families like Col. Crittenden and former Mississippi Governor Foote. Journalistic fascination with Laura's past, questions about environmental factors that might have caused her reckless behavior, and the debate over whether she was victim or villain took readers from her deprived upbringing, to her early disappointments in marriage, to her liberated and wild behavior

¹⁰⁴ *State of Louisiana v. H. H. Willers*, 27 La. Ann. 246 (Supreme Court of Louisiana. 1875) 246-248.

out west. The final question over whether she was a fragile female who had been abandoned, subject to poor judgment and fits of emotion, or a vindictive pre-meditated murderer was for the reader to decide. These stories gave men a lot to ponder regarding illicit liaisons, and the possible ramifications of their actions.

Laura Fair, Laura Hawkins, and Mary Hardy were examples of dangerous women of the South during Reconstruction. While parts of their stories began before the war, the men in their lives did not fear for their safety until much later. With the exception of enduring the death of children, Laura Fair's first two marriages were very similar.

Laura Fair, Laura Hawkins, and Mary Hardy all exhibited patterns of uncontrollable independence, at least from the perspective of Southern white men. Laura's early acts of independence occurred before the Civil War, so that the postbellum rising women's movement was not a factor in influencing her early behavior. It was more likely that her acts, reported by an eager press and read by an interested and fascinated public, influenced other women and convinced men as to the growing independent nature of women. The men in the lives of Laura Fair and Mary Hardy did not fear for their lives until Reconstruction was well underway. Even if men's fears were not raised, at the very least there was a new national dialogue in the press that raised awareness about the appropriate extent of women's autonomy from men and influence on the nature of public interactions.

Charles Bradbury took advantage of Madeline's affections in a similar style to Colonel Crittenden, but instead of lashing out at him, like Mary and Laura did when their lovers rejected them, Madeline turned her turmoil inward. Madeline's Christian faith was far stronger than Laura's or Mary's, and the Reverend Theodore Clapp played a strong

role in her diaries and other writings. Laura, Mary, and Madeline all had strong feelings about moral rectitude and public honor, but Laura and Mary had no compunctions about acting in a radical way. Between the Civil War and Virginia City they had seen more than their fair share of riots and personal violence. While Laura and Mary built up arrest records and body counts, Madeline understood her own life story as a kind of literary morality play that excused and explained her actions.

Another big difference between Madeline's antebellum experience and the three postbellum women was the way they expressed themselves. Madeline only enjoyed a brief formal education, but her love of reading and writing in the 1840s took a strong hold on the way she interacted with the world. She wrote in the same style and patterns as the moral tales that were so popular among the lightly educated. Madeline read serious works as well as morality tales, but even the non-fiction was geared towards ideas of social or political justice. She wrote in her diary that she agreed with abolitionist literature, yet instead of acting or speaking radically about it in the manner of Laura and Mary, she mostly kept that crucial moral argument within her mind. When she expected a fifth child she thought nothing of hiring slaves, and would have bought one if she could have afforded it. Laura Fair attempted a public speaking tour after her acquittal, but even after the protests at her public appearances faded away, it seemed that her heart was not really invested in the venture for its intellectual and moral qualities. For Laura, public speaking was a sudden fancy to capitalize on her newfound fame, but it also satisfied her urge to confront people. It cast Laura against the misogynistic masses. Madeline's need to react to the vicissitudes of feminine life were often satisfied by the carefully

considered arguments and righteous judgments of the written word.¹⁰⁵

The three examples of Laura Fair, Laura Hawkins, and Mary Hardy showed how postbellum white men were increasingly vulnerable to both physical and legal attacks from liberated women compared to the experience of antebellum women such as Madaline Edwards. It was unsafe to make assumptions about the standards of public conduct formerly accorded to gentlemen of means. Women had become accustomed to greater self-reliance and independence because of incapable and unhelpful men. People had become more dulled to displays of violence from years of increased public disorder of one kind or another. Crittenden, Selby, and Stevenson all tried to justify or excuse their behavior, but the courts and the media deemed them fools. In a region where men used to duel each other on behalf of women's honor as well as their own, men could now envision women taking that prerogative for themselves. Men may have wondered what would characterize masculinity in a culture where women fought for their own honor instead of finding a man to do it for them. Besides physical combat, men could not even bully their way through the courts as self-assuredly as they did before the war. The courts were listening more to women's needs, and taking account of their capacity as adults instead of treating them like passive subjects for appointed tutors. Observers could not be relied upon to corroborate men's lies, and had to look at the wronged women in the eye from a seat in the witness box. Courts would not abridge women's right to pursue and harangue the objects of their scorn, and men were on notice.

¹⁰⁵ Upton, *Madeline: Love and Survival*, 26-28, 38-47, 96-98.

CHAPTER 4: THE STATE BEFORE THE FAMILY

Given the perceived recklessness of some women to confront their ex-lovers publicly or retaliate in court, some men may have exercised more caution or limited their romantic ambitions. But some of these same men may have had completely different considerations when considering sexual relations with members of their own household.

The antebellum concept of patriarchal privilege gave men almost unlimited authority over their own household members based upon the assumption that men would always act in the best interest of their family. Although incest was prohibited in Louisiana law since it became American territory, no cases had ever been prosecuted in court until that of Henry Smith in 1878. The court's opinion that incest was not defined by law allowed Henry to go free, but was followed quickly by laws explicitly defining and prohibiting this behavior.

With these laws, the state interposed its authority between a man and his family behind the previously sacrosanct doors of his home. The law was necessary because men did not always act in the best interest of family, dealing a mighty blow to the concept of patriarchal privilege. Men were forced to accept this new limit to their authority and to acknowledge the state's right to impose it.

The story of antebellum South Carolina Governor James Henry Hammond's lust was chosen to illustrate the willingness of some men to have sexual relations with his slaves, and also with female members of his family. The case of Henry Smith was important to understand the attitudes of men like Henry, societies' attitude, and the court's deliberations regarding incest; and the case of W.W. Crane illustrates that the court not only had issues of consanguinity to consider, but was concerned that defendants acknowledge the right of the state to limit men's behavior. In these cases and others, the

state put new limits on the power of white men.

White men's paternalistic authority in the reconstructed South was disrupted in many ways. Society's presumption that men usually acted to protect and benefit their wives and children had eroded. Some were dismayed by this erosion of honor and the diminution in their capacity to earnestly fulfill the expectations of family. Other men were blighted by a naturally malevolent temperament, and sought remaining technicalities in the law and public policy to maximize what remained of their arbitrary power and advantage over women, children, and government restraint. Regardless of society's understanding of their motives, white men were not as free to make the kind of judgments and adopt the attitudes that used to be more common in the antebellum era. Both society and the legal system challenged these men in the course of their schemes and demanded justifications for their excesses.

The frequency of incest is debatable. Men and women were, and are, reluctant to admit this ultimate taboo. More often than not this crime is never confessed. Not debatable is the fact that although the crime of incest had existed in Louisiana since its first American code of laws, there had never been a prosecution, much less a conviction for the offense in Louisiana history.¹ Henry Smith was the first to test a jury's opinions on the matter in 1876. The case shed light on a practice that Henry's attorney claimed to be consistent with patriarchal privilege. Although traditionally condemned by society as well as in law, it was finally put before a jury who found Henry guilty. The jury's verdict reflected current social opinion: that a father did not have the patriarchal right to sex with

¹ *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana. 1878) (No. 6715) at 1. The court's opinion expresses surprise that Henry Smith is the first "prosecution", but the surprise may really stem from the fact that the trial was pursued to *completion* and conviction. There were a hand full of incest accusations reported in the papers in 1877 and 1878, but Henry Smith's was the only reported verdict, and conviction. The rest of the cases were dropped and faded from the public view.

his daughter; and that incest by a father with his daughter must be punished. Henry's appeal to the Louisiana Supreme Court resulted in a thorough judicial review of incest law and a final reversal judgment of "not guilty".²

Henry Smith's strange trial for incest demonstrates how the law was reigning in the presumptions and loopholes that had benefitted men in Louisiana in the antebellum period. The case of *Lisida Cure v. Jean Porte* in 1866 shows how the state supreme court went out of its way to help a divorced woman and her children recover assets in spite of a crafty plot and poor legal counsel. The case of *Robert O. Hebert et al v. John H. Jackson, Sheriff, et al* in 1876 shows how one Confederate army veteran creatively used his wartime legal *incapacity* to financial advantage during Reconstruction. Both of these cases turned on aspects of white men's selective application of the law to extend or restore their paternalistic power just when it seemed to be slipping. The men involved did not all succeed in their schemes, but they made their belief known in the wisdom, propriety, and power of men as masters, despite pressures to the contrary.

Between September 30, 1874 and September 13, 1876, Henry Smith cohabited with his underage daughter Mary Ann for the specific purpose of sex. Mary Ann was Henry's legitimate biological daughter through marriage to his wife Mary. This violation of social norms likely would have continued if not for the fact that Henry explicitly bragged of his exploits to his neighbor, identified only as Mrs. Chauder on at least two

² Bardaglio, *Reconstructing the Household*, 233-234. Bardaglio surveyed the types of incest cases that were heard before Southern high courts in the years 1866-1900. There were 16 between father and daughter and 10 between stepfather and stepdaughter. Together these comprise 65% of all 40 incest cases heard by high courts. Not all of those cases resulted in convictions. The rest of the cases were between uncle and niece, brother and sister, brother and sister-in-law, and first cousins. Only 17 incest convictions were reversed on appeal. Five out of fourteen fathers and six out of nine stepfathers escaped punishment. Bardaglio concedes that it is difficult to make generalizations about the southern legal system based on the appeals process because the cases "are, by their very nature, inherently unrepresentative." Very few charity workers kept comprehensive records.

occasions. After some deliberation Chauder chose to inform the authorities and agreed to testify about Henry's confessions to her.³

In 1876 Henry was charged in Orleans Parish for having incestuous sex with his daughter Mary.⁴ Henry was specifically indicted with the statutory crime of incest.⁵ He pled "not guilty" and bail was set for \$3,000.⁶ Henry and his lawyer never disputed the fact that he had carnal knowledge of his daughter, but he denied that he had done anything wrong according to a reasonable man's judgment.

Henry hired S. S. Carlisle to conduct his trial court defense. Carlisle's first strategy was to convince the jury that Henry was insane at the time of the crime, and had always been insane. To support this claim he formed a list of 20 witnesses to Henry's

³ Indictment at 2,3, *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana, 1878) (No. 6715); Extract from Minutes at 11, *The State v. Henry Smith*; Hill, *Their Sisters' Keepers*, 72, 77. In William Sanger's 1858 study of 2,000 New York City prostitutes, 1.5% were "violated" and 8% were "ill-treated by family, husband" as a prelude to prostitution. At least one of them admitted to being violated by an uncle, but the incest rate was likely under-reported.

⁴ Extract from Minutes at 4, 11, *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana, 1878) (No. 6715). Henry was only charged with incest which was a distinct crime from having carnal knowledge of a minor. As the age of consent was specified as 12 by state law and "incestuous relationships" were not, a conviction for ordinary statutory rape would have avoided the maelstrom of nuanced legal and social interpretation that followed at the Supreme Court of Louisiana; Robert H. Marr, *The Criminal Jurisprudence of Louisiana, Second Edition*, (New Orleans: F. F. Hansell & Bro., LTD, 1923), 224. The question of consent was immaterial concerning female victims below the age of 12, "the sole disputing issue being carnal knowledge"; Bardaglio, *Reconstructing the Household*, 198-199, 296. The age of consent in Texas, Mississippi, Florida, North Carolina, and South Carolina was 10. In Alabama it was 14 and in Arkansas it was 16. That was the age at which state legislatures believed girls understood consent. Once victims reached the age of consent, the use of threats or violence for coercion became an issue.

⁵ "City Affairs," *New Orleans Daily Democrat*, February 24, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-02-24/ed-1/seq-8/>.

⁶ "Whosoever Toucheth Pitch," *New Orleans Daily Democrat*, August 14, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-08-14/ed-1/seq-6/>. When Louisa Pitch of 138 Camp Street was charged with incest her bond was fixed at \$10,000. Her "accomplice" was named Augustin Persig but their relationship was not given; Bardaglio, *Reconstructing the Household*, 203, "Southern jurists continued to emphasize that incest was not a joint offense and mutual consent of the parties was not necessary for an incest conviction." Augustin was probably not related to Louisa, but helped her assault one of her relatives.

previous behavior. Henry had supposedly been in a doctor's care for madness on a number of occasions since 1868 and had few friends for moral support in the intervals. Most people on the witness list were mere acquaintances or business partners who had been frightened away by his eccentric manner. Carlisle's star witnesses, Dr. Foot and Dr. Carter, were to testify that their former patient's irrational condition was constant and not merely episodic. Their expert opinion was that his mind was "badly shattered".⁷ In their experienced medical judgment his insanity left him unable to distinguish right from wrong during the time of the alleged offense.⁸

However, both physicians failed to appear on the appointed day to provide their anticipated testimony about Henry's insanity. Besides the loss of his experts, Carlisle also failed to produce the other 18 witnesses on the list he provided to the court. The names were read aloud one after the other as the judge's patience dwindled. The judge was frustrated because he prolonged his session in the expectation that they would arrive late. Carlisle provided written statements from his witnesses that summarized what they were going to say in person, but the jury was unable to evaluate the missing men as credible witnesses. Peter Stoulig claimed in writing to have known the defendant for years, and insisted that his disordered condition had never improved. Amos Callius

⁷ Ibid., at 6-9.

⁸ There is no surviving transcript of testimony from the original trial. All that remains from the appeal are thorough briefs from the prosecution and defense as well as the judges' written opinions. There is no reason to believe that Henry disagreed with his lawyer's strategy at trial. There is no record of Henry's desire to represent himself or fire Carlisle in order to present a different narrative. As in most cases at trial the defense attorney claimed to speak for his client, on his behalf. There is no way of proving how much of the defense narrative was coherently articulated by Henry.; George E. Dix and M. Michael Sharlot, *Criminal Law: Cases and Materials*, Fifth Edition (St. Paul: West Group, 2002), 849-854. Even in the nineteenth century American jurisprudence distinguished between a defendant's sanity at the time of the alleged crime, and his sanity at the time of the trial. The doctors who promised to testify on Henry's behalf before the trial court believed that it was *inherently* irrational for a father to have sex with his daughter. This addresses a different issue than the one the court's doctors were later asked to answer: whether Henry was rational enough to understand the charges against him *at trial*.

concluded his business with Henry very quickly after getting to know him closely. A number of other people provided similar affidavits, but the court did not take their laymen's written opinions very seriously, as evidenced by the court reporter's failure to record their names and specific stories in the minutes.⁹ The prosecution was unable to cross-examine them, and could easily cast doubt on their worth in absentia. It is entirely possible that a number of witnesses for the defense never really existed, since they were *never* produced.

Carlisle was probably guilty of legal malpractice in his failure to produce any of his 20 witnesses, but the court did share fault in refusing to grant further delays to produce them.¹⁰ If an individual had been officially subpoenaed to testify, then the judge had the power to compel attendance through the police.¹¹ Instead of exercising his prerogative for the benefit of the defense the judge almost assured Henry's conviction by declining to compel the attendance of crucial witnesses. Doctors actively practicing at Charity Hospital should have been particularly easy to track down during their clinic hours. The court's general faith in the judgment of doctors was later confirmed when the court's own medical expert certified the defendant competent for trial.

The doctors' failure to appear cast doubt on Henry's claim to a history of insanity for another reason. Surely a genuinely insane man would have been dangerous enough to

⁹ Extract from the Minutes at 6-10, *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana. 1878) (No. 6715).

¹⁰ It is not necessarily a lawyer's fault if a witness fails to appear, but it is a part of his job to select witnesses who are most likely to help his client win the case. Choosing 20 bad witnesses in a row suggests he was either a terrible lawyer or bad judge of character.

¹¹ Bryan A. Garner ed., *Black's Law Dictionary*, 7th Edition (St. Paul, Minn. : West Group, 1999), 1440. Federal courts and the U.S. Congress made some use of this rule in their investigations and prosecutions of terrorists and rioters in the South during Reconstruction. It is not uncommon to compel the attendance of witnesses in criminal cases where there might be fear of retribution. Congress and the courts sometimes offer immunity in exchange for waiving their Fifth Amendment rights against self-incrimination.

warrant greater diligence on the part of the *doctors*. Carlisle poorly served his client by failing to present the best defense possible, but the doctors of Charity Hospital endangered the whole city's safety if they knowingly allowed a madman to go free or endanger sane common criminals if convicted.¹² On the other hand, they might have been unimpressed with the risk in the knowledge that this kind of incest was more common than the public realized.

The trial was complicated by the fact that the prosecution's star witness, Mrs. Chauder, refused to speak plainly to the jury. When she first reported her knowledge of Henry's deeds to the police, she had been relatively explicit about the sex. Henry had confessed to her in plain and unambiguous terms, as though bragging, without a hint of remorse.¹³ When it was time for Mrs. Chauder to repeat her disclosures to a packed courthouse, her sense of propriety and feminine modesty prevailed, and she flatly refused to speak in graphic terms. The intimate nature of the crime of incest disadvantaged women in a society where a very high premium was placed on their modesty in thought as well as action. Though Mrs. Chauder was not involved in the affair herself, the mere acknowledgement of her conversation with the vulgar man suggested a taint of scandal that she clearly wanted to avoid.

¹² "Brutality in the Baton Rouge Jail," *New Orleans Democrat*, February 2, 1876, <http://chroniclingamerica.loc.gov/lccn/sn88064616/1876-02-02/ed-1/seq-3/>. Even though the Louisiana prison and asylum systems of the 1860s were deplorable, white people did care about the fate of the white inmates who could be victimized. Nobody wanted to imperil pickpockets by shutting them in with someone who truly did not know the difference between right and wrong; it would arguably have been "cruel and unusual punishment" under the Eighth Amendment to the Bill of Rights. White men were particularly worried about the state of prisons and the prevalence of physical brutality between inmates because they feared confinement in the same rooms as black felons. *The New Orleans Democrat's* call for humane prison reform is primarily racial but also expresses concern for the drug addled and mentally ill.

¹³ Extract from the Minutes at 11, *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana, 1878) (No. 6715).

There were traditionally three elements to legally satisfying the charge of rape in 19th century jurisprudence: carnal knowledge, the use of force, and the violation of a woman's consent.¹⁴ In practical terms these were typically reduced to the visibility of harm to the victim. If there were signs of a struggle or injury the prosecution could argue it provided evidence of all three. Without those three elements the defense could suggest the relationship was something other than rape. There is no evidence in the trial minutes that Henry's daughter testified, or that she was even examined by the prosecution's medical experts.¹⁵ Mrs. Smith's degree of involvement in the prosecution is also unrecorded in the minutes. She might have pled spousal privilege to avoid testifying against her husband, to conceal the shame of allowing the abuse to continue unreported for so long, or out of fear of retribution. She might have been cowed by all three. It is unclear from surviving court records whether Mrs. Smith was living apart from her husband at the time, or intimidated into complete passivity within the family home. In either case she was not a significant factor in the trial. Whatever the prosecution and defense lawyers knew from their pretrial discovery process, they brought very little in the way of material evidence or testimony to the confines of the courthouse. The trial and appeals came to revolve around Henry's attitudes, motives, and state of mind as well as

¹⁴ Diane Miller Sommerville, "I Was Very Much Wounded": Rape Law, Children, and the Antebellum South", In *Sex Without Consent: Rape and Sexual Coercion in America*, ed. Merril D. Smith (New York: New York University Press, 2001), 137-139. Sommerville that there was a different standard for proving the rape of a child in the nineteenth century. Jurists believed that children were incapable of properly understanding the meaning of consent and the importance of personal boundaries. The age of consent across the South was very low but statutory rape was acknowledged as a crime. In Mississippi in 1860 that age was 10. Henry was only charged with incest, he was not charged with statutory rape. While the girl's age was certainly a factor in the case, the court dwelled far more on the consanguinity than her youth.

¹⁵ Dix, *Criminal Law*, 573-575. Modern American prosecutors no longer seek evidence of physical injury to the victim as proof that he or she offered resistance to the defendant's use of force. Before widespread reforms of the 1970s some states required signs of struggle was to prove that a "reasonable" amount of opposition had taken place before the victim was overcome. During the 1800s American jurists expected to see something tangible like blood, bruising, or broken bones in the case of a raped adult.

the state constitution. Everyone agreed that Henry had sex with his daughter. The question was whether or not he should go to jail for it.

Carlisle then asked for a new trial to *properly* argue Henry's innocence based on his insanity *at the time of the alleged crime*. The judge denied Carlisle's request for a new trial because it was not the job of the legal system to provide retrials to every defendant who merely suffered from bad representation. There had to be some other basis for a new trial or appeal.¹⁶

The judge requested an independent professional mental evaluation of Henry. Doctor Scott reported that although Henry was no great intellect, he could tell right from wrong and his physical state was sound enough for trial.¹⁷ With plenty of written testimony regarding his insanity and Carlisle's statement of accusation, but no one to testify in person on either side, the trial jury convicted Henry of the crime of incest and he was sentenced to hard labor in state prison for life.¹⁸

From the beginning to the end of his legal saga, Henry never admitted that what he did was wrong or irrational.¹⁹ Despite the clarity of his own conscience and the lack

¹⁶ Extract from the Minutes at 11, *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana. 1878) (No. 6715).

¹⁷ *Ibid.*, at 15-16.

¹⁸ "In Carrollton," *New Orleans Daily Democrat*, June 28, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-06-28/ed-1/seq-6/>; "Grand Jury," *New Orleans Daily Democrat*, June 29, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-06-29/ed-1/seq-8/>. The jury deliberated for less than ten minutes before reaching a verdict; Bardaglio, *Reconstructing the Household*, 207-211. The uncorroborated testimony of women was often insufficient to bring about a conviction in rape trials. Bardaglio focuses on women as the victims of crime who accused their attackers, but the same sexist skepticism probably applied to Chauder for intervening on behalf of the girl. White men's cultural reluctance to believe white women's rape accusations was such that judges sometimes suggested leniency to black male defendants.

¹⁹ Extract from the Minutes at 17, *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana. 1878) (No. 6715).

of evidence from his daughter, Henry found himself seriously punished for his unrestrained exercise of paternal authority.

Carlisle failed to gain a retrial or appeal based on Henry's insanity, but he found a far more legally compelling argument on which to base his appeal. The Louisiana state constitution never *specifically* defined the crime of incest. All criminal offenses in the United States must be clearly defined so that citizens may know and obey the law. While many words could be understood by their plain English meaning, "incest" was not one of them. If the offense was never defined in the constitution then Henry was free to exercise his own understandings of paternal authority and sexuality in the context of family.²⁰ On appeal the Louisiana Supreme Court examined the nature of the crime of incest and the South's understanding of family generally. Across the United States men enjoyed a surprising amount of latitude in their sexual relationships with family members.²¹

It has not like murder, a fixed and definite meaning everywhere. An act that is incest in one country is not criminal at all in another country. Nay more, an act that is incest in one of our sister states is not so in all. No man may marry his brother's widow, or his wife's daughter in Virginia, (Code, p.470) nor within the Levitical degrees of consanguinity or affinity in Georgia (Stat. Law p.742), nor his son's widow or uncle's widow in Mississippi (Code, p. 494), but none of the marriages would be incestuous in our state, except as to some of the Levitical degrees.²²

²⁰Ibid., at 20; *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana. 1878) (No. 6715) at 4.

²¹*The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana. 1878) (No. 6715) at 1, 2.

²² Ibid., at 3.

The justices agreed with the defense that, “Incest is *mala prohibita*.”²³ This legal term literally means that the crime is a “prohibited evil” only because the legislature has said so. Such acts are not necessarily immoral by themselves.²⁴ Murder is considered *malum in se*, which means that it is an “evil in itself”. On several occasions the counselors and judges referenced “Levitical degrees”. These are references to Leviticus 18:6-23 in the Third Book of Moses, which limits marriage and sexual relations. While some states had adopted all of the Levitical degrees as rules constraining marriage or incest, Louisiana did not.²⁵ Though Biblical tradition played no role in the interpretation of Louisiana law, the language of Christian culture was common in talk of family and morality generally. Though Southern churches had been divided on the issue of slavery’s morality, there was never a great faction arguing for this kind of Old Testament family values. It would have been difficult to find a sympathetic priest, minister or rabbi to sanction Henry’s incest. The Southern judicial system and society at large had employed tortured logic for decades to defend slavery and the prerogatives of the patriarchy, but the Leviticus defense of incest was too much to tolerate.

Henry and his lawyer Carlisle had a choice between two very different narratives in their use of the constitutional argument. Although ignorance of the law is never

²³ Defense Brief at 3, *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana. 1878) (No. 6715).

²⁴ Garner, *Black’s Law*, 971. A more obvious example of *mala prohibita* is the act of killing a bald eagle within the United States. It is uniquely protected by law while most other birds enjoy little or no protection. The vast majority of American law falls into this category. While the distinction was under academic attack in the 19th century, it remained a relevant subject of discussion in the United States Supreme Court through the twentieth century.

²⁵ Moses had not been born yet when Lot was intoxicated and lay with his daughters in Genesis 19:31-36. Although Lot’s wife was destroyed along with Gomorrah, Lot himself was never directly punished for his own intemperate act. Moses only communicated the Lord’s laws to humanity long after Lot’s unfortunate liaisons. Scripture emphasizes that Lot was too drunk to understand what his daughters were doing with him. The fact that they needed to get him drunk before they proceeded suggests that all three of them believed the sex was wrong in some sense, though it was not against the Lord’s law per se.

accepted as a defense in a legal sense, it certainly would have offered a more palatable social argument. Carlisle could have begged that it was logically *impossible* for Henry to know that his sexual preferences were incest because the law was not written down. That would have cast his client as a slightly more sympathetic figure. In that narrative he would still seem perverted to most people, but at least it offered a fig leaf.

Instead of pleading ignorance of an unwritten law, Henry's lawyer doubled down on his initial audacity. Regardless of the flawed criminal code's intention or popular conceptions of appropriate family relationships, Henry's defense team argued it was his *right* as father to treat his children *however* he pleased, even entertaining notions of homosexual incest. "...nothing therein forbids him in the exercise of the paternal power over his daughter as well as his son."²⁶ The Biblical figure Lot was literally insensible to his own wicked deeds, but Henry and his lawyer's defense briefs exulted in what Henry understood as his natural freedom as a father to control and indulge in his own kin.

In cases where Louisiana law left a lacuna in the criminal code, the policy was to consult the British common law practice as it existed in 1805.²⁷ At that time the British common law had acknowledged incest as a crime for hundreds of years, but the ecclesiastical courts of the Church of England were still responsible for its prosecution. The British legal scholar Blackstone noted that during the royal Interregnum in 1650 the common law made incest punishable by beheading. With the Restoration of King Charles II to the English and Scottish thrones there was a general loosening of public morality, and the power of enforcing incest strictures was removed from the government

²⁶ Defense Brief at 3, 4, *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana. 1878) (No. 6715).

²⁷ *The State v. Henry Smith*, 30La. Ann 846 (Supreme Court of Louisiana. 1878) (No. 6715) at 3,5.

to the church. At the same time the penalty was greatly reduced.²⁸ As the United States never adopted laws enforced by Church of England, that law's tradition was not legally binding.

The Louisiana Supreme Court's investigation of incest law emphasized the way that high political drama impacted the rights of ordinary men. The limit of men's power was subject to the subjective fashion of the times as much as any attachment to transcendental justice or wisdom. It was not clear that the Roundheads were different from the Yankees in their arbitrary and radical changes in society after winning their respective wars.²⁹ If Louisiana only intended to punish incest with life at hard labor instead of the death penalty, did that make it *less* just than seventeenth century England, or did it suggest that America had grown too accustomed to vice? The United States began by eschewing the power of kings, and eventually destroyed lesser men's power as slave owners. Henry's defense brief argued that the egalitarian spirit of the times had gone too far in curtailing his prerogatives as a father.

The supreme court's opinion was that Henry was literally "not guilty" because the Louisiana legislature had never properly specified sexual limits on Henry's interests in this area, thus he had never truly broken the law. It was also an acknowledgement that the limits on men's power over family were socially constructed and variable throughout the Western tradition, and that there really was no naturally defined limit to men's authority to rear his children as he saw fit. In the wake of this case the legislature was compelled

²⁸ Ibid. Charles II was the monarch of Ireland, England, and Scotland as separate countries. The Act of Union to unite Great Britain was signed in 1707.

²⁹ The Roundheads were the followers of Oliver Cromwell who fought against the royalist Cavaliers. The Cavaliers supported King Charles I in the English Civil War.

to rewrite the law to reflect its true intentions in order to prevent such abuses from passing unpunished again. Henry's lawyer seized upon a shocking loophole in the law to exercise an extreme amount of paternal authority.³⁰

In 1877 there was another case of incest that never reached a jury, but played out in the judgmental pages of Louisiana newspapers. On August 5, 1877 the New Orleans City Coroner and City Physician were called to the corner of White and Thalia streets to view the body of a male baby.³¹ They could tell that the baby had been born alive, but just before they began an investigation of infanticide the doctor who attended the birth told them that the death had been an honest accident. The doctor had brought a bucket of warm water for washing and in the commotion of the room someone pushed the baby off the table into the bucket and it drowned before anyone noticed. Based on the word of Dr. W. H. Watkins the coroner's jury initially reported the death as accidental.

Days after the infant was buried the police investigated a spreading rumor that the mother of the child, Miss Katie R. Crane, had drowned the bastard child intentionally out of shame for its illegitimacy. Katie was still in a frail and incoherent state when the police questioned her, but they soon learned that the father of the child was her half-brother W.

³⁰ "Grand Jury," *New Orleans Daily Democrat*, October 25, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-10-25/ed-1/seq-8/>; "Discharged," *New Orleans Daily Democrat*, August 22, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-08-22/ed-1/seq-8/>. Toward the end of Henry's journey through the criminal justice system there was a definite spike in newspaper reports of incest accusations. Margaret Roesenthal was charged with perjury for her incest accusation in the case of *State v. Augustine Persico*. Austin and Louisa Pich were briefly charged with incest before prosecutors discovered "malice all the way through" the allegations. Sergeant Galvin of the Second Precinct was involved in most of these investigations, and he might have developed a reputation for credulity regarding sexual offenses. Henry's case presented no more evidence than similar written accusations, but the state had no interest in questioning Mrs. Chauder's motives because of Henry's attitudes. Ordinarily prosecutors do not permit people to confess to crimes without at least some evidence that they are guilty. Henry's aggressive version of paternal authority needed to be quashed to preserve public decency.

³¹ "Very Vicious," *New Orleans Daily Democrat*, August 8, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-08-08/ed-1/seq-8/>.

W. Crane. Katie was charged with infanticide and her half-brother was charged with incest. Katie was so feeble that the police permitted her to stay under house arrest until she could survive Orleans Parish Prison. The infant's body was exhumed for further examination, though it is unclear what the coroner hoped to learn from the exercise.³²

As soon as court proceedings in the case began Katie became the focus of attention. The *New Orleans Daily Democrat* portrayed a woman attractive enough to arouse the caring of men, yet not so attractive that she seemed like a habitually sexualized temptress. Katie cut an abject, yet sympathetic and perhaps even winsome figure. Her appearance in the dock was described as a moving display of contrition.

The prisoner is a young woman apparently twenty-five years of age. Though not pretty she has a pleasant face, and regardless of the terrible charges against her she won the sympathy of all that gazed upon her. There was a hectic flush upon her cheeks, her eyes appeared glazed, and all depicted the agony she had enduring during the past nineteen days. The prisoner has a mother and several brothers and sisters, but none of her family came to comfort her, and she stood in the courtroom forsaken and alone. She appeared to be a woman of strong nerve, for she never gave up entirely until she reached the Parish Prison and was about to pass through the massive door, when she read the device printed in large white letters, "Who enters here leaves hope behind." She had no sooner read the few words when she reeled and fell upon a bench near by.³³

³² Ibid.; "Katie Crane's Crimes," *New Orleans Daily Democrat*, August 25, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-08-25/ed-1/seq-8/>; "Katie Crane's Crimes," *Richland Beacon*, September 8, 1877, <http://chroniclingamerica.loc.gov/lccn/sn86079088/1877-09-08/ed-1/seq-2/>. Even within a single article the newspapers were inconsistent about spelling the name as Craine or Crane; Ray, *Digest of the Statutes*, 388. It is possible that the district attorney contemplated prosecuting the doctor under Section 807 of the criminal code, which referred to procuring abortions and premature deliveries. "Whoever shall feloniously administer or cause to be administered any drug, potion, or any other thing to any woman, for the purpose of procuring a premature delivery, and whoever shall administer or cause to be administered to any woman, pregnant with child, any drug, potion, or any other thing, for this purpose of procuring abortion, or a premature delivery, shall be imprisoned at hard labor for not less than one nor more than ten years." There was no mention of the doctor's potential culpability for this offense in the newspaper coverage of the trial.

³³"Katie Crane's Crimes," *New Orleans Daily Democrat*, August 25, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-08-25/ed-1/seq-8/>.

After repeated public displays of woeful remorse and suffering Judge Holmes began reigning in the state's determination to prosecute the couple.³⁴ Holmes heard a number of witnesses for the prosecution, but not a single witness on behalf of Katie and W. W. Crane. Despite the imbalance of evidence Holmes determined that the prosecution failed to prove the charges and dismissed the case.

There is a strong impression from the newspaper coverage of the trial that Katie and her half-brother literally got away with murder and incest because they sufficiently debased and disempowered themselves before the public and the justice system. W. W. Crane never defended his actions or denied that the state had the right to deny his particular masculine pleasure, even though they were both consenting adults. Katie never admitted to killing the baby even though it was obvious to all three investigating doctors that the baby was born alive but killed. Because the defendants conceded the principles of state authority and appeared contrite, the state was willing to ignore all real evidence of their guilt in the exercise of arbitrary mercy.

There was nothing in particular about the circumstances of the Reconstruction era that increased incidences of incest. These cases do reveal common threads of patriarchal thought that were newly jeopardized by social change in the 1860s. The arguments presented suggest an increased willingness of judges and jurors to impose clear limits on acceptable behavior for men. Men from every level of society justified their appetites on the basis of what they saw as their masculine birthright alone. The antebellum politician James Henry Hammond indulged in similar sexual perversions. Hammond was a

³⁴ "Katie R. Crane," *New Orleans Daily Democrat*, September 18, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-09-18/ed-1/seq-8/>; "Honorably Discharged," *New Orleans Daily Democrat*, September 26, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-09-26/ed-1/seq-8/>.

successful plantation owner and Governor of South Carolina between 1842 and 1844. In his diary and other writings he recorded the results of many sexual exploits and scandals, some of which cut against the grain of contemporary society.³⁵

While it is believed that many slave owners pursued sexual relationships with their slaves, few of these relationships were as plainly confessed as the one between Hammond and Sally Johnson. Hammond bought Sally in 1839 when she was 18 years old and her daughter Louisa was still an infant³⁶ He immediately took Sally as his sexual partner, and when Louisa was twelve years old he began having sex with her as well. Hammond sired many children between the two of them and kept them apart from the rest of his slaves. Hammond left instructions for the care of his favorite slaves in a letter to his son.

Take care of her and her children who are both of *your* blood if not of mine and of Henderson. The services of the rest will I think compensate for an indulgence to these. I cannot free these people and send them North. It would be cruelty to them. Nor would I like that any but my own blood should own as Slaves my own blood or Louisa. I leave them to your charge, believing that you will best appreciate and most independently carry out my wishes in regard to them. Do not let Louisa or any of my children or possible children be slaves of Strangers. Slavery *in the family* will be their happiest earthly condition.³⁷

³⁵ Bardaglio, *Reconstructing the Household*, 137-138. In E. D. E. N. Southworth's 1863 novel *Ishmael*, an abusive father loses custody of his children because he abused them. The character is outraged because he believes that he literally owns them, and has the right to treat his possessions as he pleases. That understanding was displaced by the postbellum policy that the government could interpose itself between family members to ensure the welfare of the children or the wife as the facts of the case required.

³⁶ Drew Gilpin Faust, *James Henry Hammond and the Old South: A Design For Mastery* (Baton Rouge: Louisiana State University Press, 1982), 84-89. Hammond may well have bought Sally with her daughter in mind as a future plaything. Hammond's plantation activities suggest that he planned at least some of his endeavors years in advance. If he could wait years to drain a swamp for cotton crops, he could wait for the child to grow; Carol Bleser, *Secret and Sacred: The Diaries of James Henry Hammond, a Southern Slaveholder* (New York: Oxford University Press, 1988), 17-19, 231.

³⁷ James Henry Hammond Papers, SCL, February 19, 1856.

Hammond thought of black slaves as property, but he also thought of them as family. He was paternalistic towards them in multiple senses of the word. In the antebellum South, society *permitted* masters to make these arbitrary and depraved judgments for the living arrangements of people within their household. After emancipation Henry Smith could not purchase additional family to exploit, so he chose to sexually dominate his legitimate child. For all his domineering tendencies Hammond understood a distinction between his family and slavery *within* the family. Henry Smith simply thought himself empowered and suited to treat his family like slaves.

Besides Hammond's sexual relationship with Sally and Louisa, he embroiled himself in a major political and social scandal by molesting four teenage nieces. Harriet, Catherine, Ann, and Caroline were the teenaged daughters of Hammond's brother-in-law Wade Hampton II. Hampton was one of the richest men in South Carolina and led one of the most powerful factions in the South Carolina Democrat Party.³⁸

Hammond claimed in his diary that all four of his nieces spontaneously decided to begin groping and suggestively teasing him as an informal game of some sort. His justification was that they were sexually adventurous of their own accord, and that no normal man could resist such temptations for long. On one occasion Hammond went too far in returning these supposed sexual overtures, and one of the young women complained to her father. At a single stroke Hammond irreversibly alienated half of his family and half the politicians in the state.

³⁸ Faust, *James Henry Hammond*, 241-243, 288-290; Bleser, *Secret and Sacred*, 164-177.



Figure 10. Portrait of James Henry Hammond. This photograph was taken a few years after his sexual relationship with his nieces became known to the South Carolina political class.
<http://docsouth.unc.edu/fpn/clay/clay212.jpg> [access September 22, 2014]

Though Hampton never officially made the episode of molestation public, he commenced a campaign of rumor and innuendo that made the incidents an open secret. Despite Hammond's protestations to friends and his diary that he was *not* the creature advertised by Hampton's partisans, he grudgingly admitted to his diary that "I have been wrong in this manner."³⁹ Hammond was near the apex of Southern political power as the governor of South Carolina and a celebrated slavery propagandist. His wealth allowed him to buy as many black women as he desired to satisfy his lust, and some men feared him for his willingness to duel in pursuit of public honor. Perhaps because of all these triumphs his sense of masculinity was not diminished by his nieces' rejection. As a father and master of white and mixed race children himself, Hammond was forced to abide by his brother-in-law's paternal mastery over his *own* daughters.

Having explored a few tragic cases of gendered excess and victimization, it is interesting to compare the way that their trials were conducted. It was unfortunate for Henry that all twenty of his witnesses failed to arrive in court at the appointed time, but it is striking that the sworn affidavits about his insanity were mostly ignored. This casual disregard of ordinary witnesses' experience with the defendant was in contrast to the credence given to the witnesses of Laura Fair's actions. The jury gave serious consideration to the salesman who sold her the murder weapon and the woman who faked an affair with her fourth husband to furnish grounds for divorce, in spite of the fact they were only passing acquaintances. In the case of *Mary Hardy v. John A. Stevenson* the statements of everyone from random bystanders to the jailer's assistant were heard in court.

³⁹ Faust, *James Henry Hammond*, 242.

Part of the reason may have been that men were more accustomed to doing as they pleased without having to explain their actions. The use of the homestead laws alone showed that men could live wherever they wanted without regard for their wife's wishes. When women wanted to separate there were immediate legal consequences. If Henry's missing witnesses had sworn that they saw his wife frequently flee the house in hysterics, then the burden would have been on his wife to explain why she abandoned the domicile and prove her whereabouts in the meantime. Witnesses in court judged and criticized Laura because she lived according to her own desires with a series of men instead of following the prescriptions of marriage. It was less common for men to castigate each other for activities within their own household.

The question of Henry's sanity was also addressed differently than the women who faced trial. While it was easy to convince Laura Fair's second jury that she was not guilty by reason of insanity, there was a stronger cultural presumption of level headedness in men. There were no mysterious mood cycles to account for in men's decision making. Men were seen as constant in their judgment unless there were drugs or alcohol involved. The presumption was that if Henry knew right from wrong on the day that he was questioned by the court-appointed physician, he probably understood morality without hormonal cycles playing a role. Henry may have been a fool, but he was consistently conscious of morality in the midst of his foolishness.

In another comparison of the assessment of men's mental state in court, when Colonel John A. Stevenson was confronted with his lies about Mary Hardy's behavior, he admitted to conscious deception of the police. He preferred to be seen as a premeditated liar than flighty and fearful of a woman's wrath. Mary ambushed him and he did not

know what else to do about it. Henry Smith never offered his own testimony to convince the jury of his insanity. Perhaps he shared Stevenson's preference to be known as a blackguard than a man of poor sensibility. These Southern men chose narratives of strength and cruelty to explain their actions when mortal fear and mental fragility could possibly have absolved them or mitigated their guilt. Meanwhile, amidst the social upheaval of Reconstruction the subjects of their cruelty were slowly learning to fight back against their schemes.

There was more than one way for women to survive the justice system. Katie Crane had been charged with murder like Laura Fair. Unlike Laura Fair there was no narrative of prolonged mistreatment by the victim. While many observers believed that Crittenden "had it coming to him" there was no similar catharsis in the death of an infant. Katie could have cast her half-brother as a villain to make her a more sympathetic victim, but she stayed loyal and risked the wrath of the state as the sole perpetrator of the infanticide. It seemed heroic for a wronged woman like Laura to destroy a womanizer, but absolutely no one wanted to be associated with Katie's ill-fated choices. Laura's volatile defiance was a winning strategy, but so was Katie's contrition and submission.

Though men's sexual adventurism made for family drama, there were more cases at law where masculine strategies provided a unique advantage against women and children in the financial realm. The case of *Lisida Cure v. Jean Porte et al* shows how a bitterly divorced man tried to deprive his minor children and his ex-wife of his estate. Though the events that gave rise to the case took place before the Civil War, the Louisiana Supreme Court ruling and rationale that provided Lisida's victory was handed down in 1866.

When Jacques Gallay divorced Lisida Cure he began living with a concubine named Henriette Maldry.⁴⁰ Regardless of their divorce she retained an interest in his estate as the natural tutrix of their minor children, who were Jacques' biological heirs. On Jacques's death-bed he signed a document that purportedly sold his dairy to Jean Porte for \$1,200. Jean was married to Henriette's sister, and Lisida claimed that the "sale" was really only a "simulated contract", which was not respected under Louisiana law.⁴¹ Lisida understood the simulated sale as a disguised gift to Jean's sister-in-law Henriette. Jacques's estate administrator failed to account for the missing \$1,200 that should have appeared in Jacques's tableau of assets and liabilities. The administrator also flatly refused to challenge the legality of the dairy's sale. Jacques intentionally appointed executors in his will who would defend his effort to donate assets to his concubine free of interference from creditors or his ex-wife as natural tutrix of his children.

Jacques's executor and administrator knew that his estate was in debt and that Lisida would claim the benefit of necessitous circumstances to maximize her statutory protected payout.⁴² Because Lisida took advantage of her status as a woman and tutrix of minor children under the homestead acts, Jacques's estate tried to deny her the right to challenge the dairy's sale. They reasoned that if she already enjoyed the maximum benefit, then she no longer had an interest to challenge the balance of the estate.

⁴⁰*Lisida Cure v. Jean Porte et al*, 18 La. Ann. 456 (Supreme Court of Louisiana. 1866) (No number in original) at 11-13.

⁴¹ Garner, *Black's Law*, 325. A "simulated contract" is a civil law concept that applies when either nothing of value is exchanged for the thing "sold", or the cost is simply returned to the buyer. A simulated sale is tantamount to a donation, which has different burdens under Louisiana law.

⁴²*Lisida Cure v. Jean Porte et al*, 18 La. Ann. 456 (Supreme Court of Louisiana. 1866) (No number in original) at 11-14.

The court disagreed with Jacques's executor and defended Lisida's right to try and increase the value of the estate whether she stood to gain from it or not. The state had a strong interest in fighting fraud in any form, and in principle supported Gally's heirs' interest in keeping their estate aboveboard even if other creditors besides themselves reaped the reward. Lisida's status as a mother of minor children in necessitous circumstances was no bar to her challenging the legality of the sale. Jacques's desire to leave his mistress with something was thwarted by his ex-wife's efforts, suggesting that even with a well laid plan, a dead man, who had abandoned his wife and children, did not retain the upper hand by virtue of manhood.⁴³

The case of *Robert O. Hebert et al v. John H. Jackson, Sheriff, et al.* shows how one former Confederate officer used his status as a former rebel to his legal *advantage*. Most Confederate veterans complained about losing the right to vote or the seizure of their property as a result of serving the rebellion or refusing to take the oaths of loyalty that were offered during the war and Reconstruction. General Hebert managed to at least temporarily save his family plantation by *claiming* his legal incapacity to act as an estate administrator.⁴⁴

In 1861 a woman identified by court records as Mrs. Vaughn died and left Robert O. Hebert as executor of her will. The will was successfully probated, and Louisiana recognized Hebert in his capacity as executor. His primary duty as the executor was to manage the affairs of the White Castle Plantation for the benefit of his children, who were the beneficiaries of Mrs. Vaughn's will. Just after that event Hebert chose to refuse

⁴³ *Ibid.*, at 13, 14.

⁴⁴ *Robert O. Hebert et al v. John H. Jackson, Sheriff, et al*, 28 La. Ann. 377 (Supreme Court of Louisiana. 1876) (No. 6221).

the oath of allegiance to the United States and joined the Confederate army.⁴⁵ In this capacity he left the jurisdiction of American authority and left White Castle under the management of Wade H. Gilbert in his absence. Hebert neglected to settle the succession before he left, so the task of executing the will and managing the estate in the heirs' behalf never went away.

Between 1861 and 1867 Gilbert served as manager of White Castle without pay in the expectation that Hebert would settle the arrears as soon as normalcy returned to Louisiana. In 1868 Gilbert died and his widow and children sued for his back pay. In 1869 Hebert confessed judgment, in effect admitting that Mrs. Vaughn's estate owed Gilbert's estate the money. The estate still neglected to pay Gilbert, so in 1874 the court ordered the sale of the plantation to pay the wage arrears. Mrs. Vaughn's heirs (Hebert's family) sued to block the sale on the basis that General Hebert lacked any authority to bargain with Gilbert for wages in the first place.

Justice Ludeling's majority opinion for the state supreme court held that the moment Hebert joined the rebellion in 1861, he automatically lost the capacity to act as executor of Mrs. Vaughn's will and administrator of her estate.⁴⁶ As *functus officio* Hebert had no more right to manage White Castle than a total stranger, and Gilbert's original management contract was unenforceable. In addition to this, the judgment of 1869 was unenforceable, so the court could not force White Castle's sale to pay Gilbert's widow. The Gilbert family had been cruelly used and essentially ruined.

⁴⁵ Ibid., At 377, 378. Surviving court records in this case do not provide Mrs. Vaughn's first name.

⁴⁶ Ibid., at 378; Garner, *Black's Law*, 682. *Functus Officio* is a Latin legal expression that means "having performed his or her office." It applies for any reason a person or entity has no further authority or legal competence.

Justice Wyly's extensive dissenting opinion argued that Hebert's management of White Castle should have been respected for a number of practical reasons, but he exhibits his strongest outrage pointing out that Hebert was never prosecuted for his treason against the United States. Hebert managed to gain the benefits of rebellion without any significant legal consequences.⁴⁷

White men like General Hebert in Louisiana attempted a variety of creative legal stratagems to expand and preserve their power amidst their limited resources during Reconstruction. We might suspect that after the war, Robert Hebert retained some political or social connection with members of the supreme court that enabled him to squirm his way out of paying the Gilbert family on a technicality. Most men, like Jacques Gallay, seemed to be treated without favoritism and their cases rested on a combination of law and sympathy of the court. Juries were most likely to reflect changed attitudes during Reconstruction and their decisions were more likely to run ahead of the law. Men were being challenged more often now, in their exercise of patriarchal power. Women seemed increasingly likely to challenge them.⁴⁸

⁴⁷*Robert O. Hebert et al v. John H. Jackson, Sheriff, et al*, 28 La. Ann. 377 (Supreme Court of Louisiana. 1876) (No. 6221). at 4-8, 379-382.

⁴⁸ Bardaglio, *Reconstructing the Household*, 147-148. Bardaglio argues that case law and evolving judicial doctrine drove much of the change favoring women in the postbellum era. Changes to the statutes took longer to reflect women and children's increasing insulation from a husband's power. Ironically a substantial portion of it was motivated by a sense of paternalism to protect women from wicked men, rather than a more egalitarian view of gender relations as such.

CHAPTER 5: THE NEED FOR MASCULINE AUTHORITY

Perhaps some white men abused their authority over their wives and children to compensate, at least in their own minds, for their lack of success and control elsewhere. Certainly some women who appreciated laws protecting their family from men's bad behavior at home, wished that Southern men had bounced back stronger in more timely fashion in other areas of life. A growing number of Southern women, like women's rights activist and author, Elizabeth Avery Meriwether, blamed a corrupt Reconstruction government at least in part, for Southern white men's weakness. Meriwether's play, *The Ku Klux Klan, or The Carpetbagger in New Orleans*, is a political cry for weak white men to resume their rightful roles as men in politics and society. More cultured entertainment of French operas, performed at the New Orleans French Opera House during Reconstruction, featured themes that offered lessons for weak men and independent women.

Meriwether's play does not offer solutions for diminished Southern men, but in blaming Northerners, the audience could begin to excuse their weaknesses, and despite their problems, honor Southern men as heroes of the Lost Cause. The operas featured in this chapter offer other gendered solutions, suggesting that flexibility in gendered roles may result in stronger men and happier women.

The theater, opera, and literature were good indicators of men and women's attitudes about politics and society. Some of these works were written by Southerners who sympathized with former Confederates' difficulties during Reconstruction. Other performances, intended for audiences and causes removed from the South, resonated with familiar concerns. There were, of course, other novels, plays, and operas with different

themes and different stories than those featured here. In order to be successful, each needed a compelling character or story that people either desired, feared, or identified with. The chosen examples are representative of entertainment whose themes touched on gendered issues of interest to Southern men and women.

In 1877 Elizabeth Avery Meriwether published the play *The Ku Klux Klan or the Carpet Bagger in New Orleans* and followed two years later with a novel, called *The Master of Red Leaf*. Both dramatized the weaknesses of white southern men at the end of Reconstruction. Elizabeth's family background and personal ideology made her loyalty to the South very strong. She lived with her husband Minor in Memphis at the beginning of the Civil War. In 1861 Minor was made a Major in the Confederate army, where he served as an engineer. During the war he helped to maintain earthworks, levees, bridges, and railroads. After the war he helped General Nathan Bedford Forrest as they organized the Ku Klux Klan; but they became rivals when Minor pursued his own political ambitions. Minor maintained a local high profile as a leader of the activist group The Working Men in Memphis.¹ Although Minor and Elizabeth's interests often coincided they did not explicitly work as a team. They pursued their own careers.

Elizabeth shared Minor's Southern loyalty to the Democratic Party and the overthrow of Reconstruction Republican government, but she also had an exceptional

¹“The Fair Grounds,” *Memphis Public Ledger*, July 6, 1875, <http://chroniclingamerica.loc.gov/lccn/sn85033673/1875-07-06/ed-1/seq-3/>; “Ledger Lines,” *Memphis Public Ledger*, July 16, 1875, <http://chroniclingamerica.loc.gov/lccn/sn85033673/1875-07-16/ed-1/seq-3/>; “Public School Investigation,” *Memphis Public Ledger*, December 23, 1874, <http://chroniclingamerica.loc.gov/lccn/sn85033673/1874-12-23/ed-1/seq-3/>; Untitled, *Memphis Public Ledger*, October 29, 1883, <http://chroniclingamerica.loc.gov/lccn/sn85033673/1883-10-29/ed-1/seq-1/>; Untitled, *Knoxville Daily Chronicle*, April 5, 1879, <http://chroniclingamerica.loc.gov/lccn/sn85033437/1879-04-05/ed-1/seq-4/>; “The Working Men,” *Memphis Daily Appeal*, February 14, 1875, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1875-02-14/ed-1/seq-1/>; Confederate Railroads website by David Bright, http://www.csa-railroads.com/Essays/Biography_of_Minor_Meriwether.htm. Minor served as tax collector and public school auditor for Memphis. He was a delegate to the Democratic state party convention in 1876. He also considered running for mayor; unsuccessful, he and his family moved to St. Louis in 1883.

passion for women's rights. While Minor challenged taxation and budgetary policies in the traditional ways, Elizabeth fought to give women landholders the right to vote in Tennessee so that they could have a serious voice in public policy. In December 1871 she became the first woman voter to register in Memphis where there were special rules of residency that allowed women property owners to vote.² During the 1870s and 1880s Elizabeth's campaign for women's suffrage and legal capacity intensified. She launched her own weekly journal, the *Tablet*, devoted to the "interests of the strong minded."³ The *Tablet* was distributed as far as Oregon, where *The New Northwest* described it as "spicy."⁴ As editor of her own newspaper, Elizabeth engaged in lively editorial duels with opposition papers over philosophy and legislation.⁵ She conducted independent public speaking tours through the South where she spoke about women and the law.⁶ Of

² "Woman's Rights," *Memphis Public Ledger*, December 9, 1871, <http://chroniclingamerica.loc.gov/lccn/sn85033673/1871-12-09/ed-1/seq-2/>. Though Elizabeth did not actually live within the city limits, she was free to register there as a property owner.

³ "Woman's Rights at Memphis," *Nashville Union and American*, January 31, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85033699/1872-01-31/ed-1/seq-4/>. Subscription terms were "\$3 a year to men; \$1.50 to unmarried working women; 75 cents to women who have lazy or drunken husbands to support."

⁴ "Baltimore Warned," *The New Northwest*, July 5, 1872, <http://chroniclingamerica.loc.gov/lccn/sn84022673/1872-07-05/ed-1/seq-2/>. The editorial position of the two papers was aligned.

⁵ Untitled, *Jackson Whig and Tribune*, June 22, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85033435/1872-06-22/ed-1/seq-1/>; "News of the Week," *Bolivar Bulletin*, January 31, 1873, <http://chroniclingamerica.loc.gov/lccn/sn85033306/1873-01-31/ed-1/seq-1/>; Untitled, *Knoxville Weekly Chronicle*, March 12, 1873, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1873-03-12/ed-1/seq-4/>; "The Divorce Question," *Memphis Public Ledger*, January 28, 1873, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1873-01-28/ed-1/seq-4/>. An unmarried Tennessee state legislator named Colonel Kerr wrote a bill that would have precluded the courts from granting divorce for any reason other than adultery. Kerr's argument was that the rules for legal separation would not change, so the practical effect would be to preclude second marriages in the absence of infidelity.

⁶ "Mrs. Meriwether's Lecture at Holly Springs," *Memphis Daily Appeal*, March 13, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1877-03-13/ed-1/seq-4/>; "Local Paragraphs," *Memphis Daily Appeal*, April 11, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1877-04-11/ed-1/seq-4/>.

all her activities Elizabeth may have gained the most national attention as a Vice-President of the National Woman Suffrage Association.⁷

In spite of Elizabeth's strong positions on women's rights, she took great pains to distance herself from what she saw as a wave of Yankee radicalism that happened to coincide with one part of her ideology. Elizabeth strongly distinguished the Woman's Rights party from the "Human Rights" party in the *Memphis Daily Appeal*:

I cannot affiliate with a party that wants a negro President or Vice-President. In common with all Southerners who know the negro, my belief in the superiority of the white race is too rooted and grounded and ineradicable to admit the idea of social equality. . . . The Steinway Hall and the Apollo Hall party are as different as the Democrats and Black Republicans. The Steinway party simply aim to elevate woman. The Apollo party are extremists in all things.⁸

In many journalistic activities Elizabeth and her sons Avery and M. L. Meriwether sought to roll back what they saw as the excesses of Reconstruction government and restore strength and stability to the families of Confederate veterans.⁹ If they could do that and lobby for women's autonomy at the same time, so much the better for Elizabeth. When

⁷ "Officers of the SWSA for 1877 and 78," *The New Northwest*, July 12, 1878, <http://chroniclingamerica.loc.gov/lccn/sn84022673/1878-07-12/ed-1/seq-3/>; "The Public Sessions," *Evening Star* (Washington, D. C.) February 17, 1886, <http://chroniclingamerica.loc.gov/lccn/sn83045462/1886-02-17/ed-1/seq-3/>; Untitled, *The Washington Critic*, February 13, 1886, <http://chroniclingamerica.loc.gov/lccn/sn82000205/1886-02-13/ed-1/seq-4/>; "Rights of the Senate," *Memphis Daily Appeal*, February 18, 1886, <http://chroniclingamerica.loc.gov/lccn/sn84024448/1886-02-18/ed-1/seq-1/>. There were over forty "Vice-Presidents" and a similarly high number on the "Advisory Committee."

⁸ "The Women," *Memphis Daily Appeal*, May 18, 1872, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1872-05-18/ed-1/seq-4/>.

⁹ "Personal," *Memphis Daily Appeal*, November 17, 1872, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1872-11-17/ed-1/seq-4/>; "Decoration Day," *Memphis Daily Appeal*, May 6, 1880, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1880-05-06/ed-1/seq-4/>; Untitled, *Memphis Daily Appeal*, November 26, 1881, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1881-11-26/ed-1/seq-4/>; "The Memphis Debt Bill," *Memphis Public Ledger*, March 6, 1883, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1883-03-06/ed-1/seq-1/>. Avery and M. L. Meriwether edited a weekly called the *Free Trader*. The family's activities included the commemoration of Confederate cemeteries as well as advocacy.

those two goals came into conflict Elizabeth chose to emphasize her loyalty to sectionalism over the advancement of her gender.

Elizabeth's anxiety about the South's domination by the North did not wane as Southern white men clawed back their civic power in the 1870s.¹⁰ Though she shared ideas of women's rights with outspoken Northerner Wendell Phillips, his statements about southern Bourbon misrule and race relations drove her to distraction. Elizabeth wrote a comprehensive defense of white southern leadership against the perceived oppression of federal oversight. For the Meriwether clan the problems of Reconstruction were not simply political and economic, there was deep-seated regional animus to overcome:

I do not say every northern man thinks himself our superior, but I know many do. It is very easy for conquerors to fancy themselves better and wiser than the people they have conquered. . . . Wendell Phillips recent lecture in Philadelphia shows that the desire to crush the south, to deprive it of every vestige of freedom, is as strong in many northern hearts as it was when a million men were in arms to subdue us. Phillips lecture is saturated with the gall and wormwood of hate.¹¹

Fears of this kind spurred Meriwether to write works of romantic fiction with a pro-southern political slant that featured Louisiana as the epitome of Reconstruction misrule. Though her work could be presented in the genre of political propaganda as blatant as *Uncle Tom's Cabin*, it also fit well into the form of sentimental potboilers that filled middle-American theaters in between Shakespeare revivals.

Melodramatic plays were a staple of American life for much of the 19th century. Although the melodrama as a popular art form was in decline by the 1860s, its offshoots

¹⁰ "Local Paragraphs," *Memphis Daily Appeal*, April 11, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1877-04-11/ed-1/seq-4/>.

¹¹ Ibid. Right next to Elizabeth's lengthy defense of the South against Northern men there is an equally long column about building an elaborate new Confederate monument and community center.



ELIZABETH AVERY.
58 years.
Wife of Minor Meriwether^s [51].

Figure 11. Portrait of Elizabeth Avery Meriwether, Born 1824, Died 1916.
<http://www.findagrave.com/cgi-bin/fg.cgi?page=pv&GRid=13479724&PIpi=2681423>

the “domestic drama” and morality plays were still promoted by civic groups and temperance organizations.¹² Such shows were often explicitly constructed to espouse particular personal and civic virtues. Advertising sometimes promised a farce at the end, but a message of moral living and honorable public conduct commanded top billing. *The Fate of the Smuggler* was a three-act play performed for the benefit of the Order of the Knights of Temperance. It associated alcoholism with other crimes committed to fund that disorder. It was performed in February, 1878 in Alexandria, Louisiana. A serious exhortation to attend for the betterment of the mind coincides with claims to entertainment value:

We are sure that we speak the true and fervid sentiments of this community, when we announce beforehand that they will receive, as they most assuredly merit, a real and solid benefit at the hands of our people, who are honestly and gradually enrolling themselves under the sacred folds of their banner to fight with them, as members and volunteers, that arch-enemy of the human race!¹³

That is fiery language against a mere inanimate object, even if it is alcohol. The writers of these morality plays were not typically endowed with great literary skill, but they did understand how to coerce an audience toward their point of view.

In 1877 Elizabeth published the romantic drama *The Ku Klux Klan or the Carpet-Bagger in New Orleans*, which provided catharsis for a Southern audience.¹⁴ It is

¹²Robert C. Allen, *Horrible Prettiness: Burlesque and American Culture* (Chapel Hill: University of North Carolina Press, 1991), 62-65, 84.

¹³ Advertisement, *The Louisiana Democrat*, February 6, 1878, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1878-02-06/ed-1/seq-3/>. This “Domestic Drama” was *The Fate of the Smuggler* in three acts. It was performed for the benefit of the Order Knights of Temperance.

¹⁴ Elizabeth Avery Meriwether, *The Ku Klux Klan or The Carpet-Bagger in New Orleans* (Memphis: Southern Baptist Publication Society, 1877); Amelia Howe Kritzer. *Plays by Early American Women, 1775-1850* (University of Michigan Press, 1995), 413. The first and the last pages of the play contain slogans and drawings against the evils of alcohol in keeping with this genre of drama. Robert C. Allen argues that the authorship of the script and control of the theater are important determinants of the

another play in the morally assertive vein that addresses itself to the concerns of white men and women going through Reconstruction. Although alcohol plays a role in the story, the true “arch-enemy” of the plot is Republican government’s oppressive effect on white men. The plot revolved around a carpetbagger’s lust for a Southern belle and the desire of his former fiancé to marry him in spite of his disinterest, deceptions, and hideous teeth. While an entertaining tale of lasciviousness and unrequited love drove the plot, the characters were immersed in an overtly political setting that infused male and female characters with symbolic meaning particular to the South during Reconstruction. The play provides strong evidence of how Southern white women like Meriwether wanted the white men in their lives to man up and strengthen their own economic and social standing in order to benefit their families.

The setting is the tragic household of Peter Plucky, a Confederate veteran who lost *both* of his arms in the course of the Civil War and had a pronounced limp in one of his legs. Although nominally and legally the head of his household, he was incapable of providing for his family.¹⁵ Peter’s daughter Polly helped Mrs. Plucky earn money by taking in washing and sewing, but these efforts were not nearly enough to provide for the household. Mrs. Plucky worried to her daughter that there were so many women looking for work to support their families that they could even lose their own inadequate income to the competition. Peter’s son Charley was always whining for bread, but he was too little to help his older brother Johnny earn money by collecting rags and loose cotton

performance’s social meaning. Meriwether is a woman presenting a situation in which women require the protection of capable men.

¹⁵ The word “capable” originates from the Latin *capere*, meaning “take or hold”. Peter was literally unable to hold anything.

from the New Orleans wharf. So Peter, the armless war hero and devoted father, helped in the only way he could. His eldest son Johnny hung sacks around his father's neck for holding the rags and loose cotton fluff that they found as they wandered around town.¹⁶

The play described Peter as being dressed in a tattered Confederate uniform in a graphic display of humiliation. The sacks of rags hung around his neck served as constant reminders of the shame of defeat and of his inability to support his family in a more dignified way. Peter could not for a moment forget his failure as head of household and father because he could only serve as an assistant to his able-bodied rag picking son. The patriarch was a tragic victim of circumstance. Once upon a time his loyalty to his state propelled him to serve the Confederacy, but during Reconstruction his loyalty shifted to solving problems within the domestic realm of his household. Initially, Peter's goal was to become owner of a small store and regain financial stability.¹⁷ Peter could never be made whole again because of his severe war wounds, but with a decent occupation and lowered expectations he could regain some of his manly pride and provide for his family.

By the time the play was published, Republican Reconstruction governments were mostly out of power. Most of the occupation troops had gone home and white men were in the process of regaining their dominance. For these reasons the play served as a sort of explanation for the excesses and weaknesses of defeated white men during the recent occupation as much as a plea to complete their return to supremacy. This fictional depiction of a Southern white man's fall from affluence helps to explain a growing postbellum trend of Southern white women who memorialized the Confederacy. The

¹⁶ Meriwether, *The Ku Klux Klan*, act 1, scene 1.

¹⁷ Meriwether, *The Ku Klux Klan*, act 1, scene 1, act 2, scene 1.

narrative partially excuses the resulting condition of white men and women who endured the conflict. Jane Turner Censer describes how Southern white women's literature evolved from formulaic antebellum romances and morality tales to works endowed with stronger social arguments and political meaning.¹⁸ The themes of Southern turmoil offered a vehicle for women to display their literary talents and express genuine frustration about their own wartime and Reconstruction experiences. The Southern characters of such works often contrasted with Northern characters to personify perceived virtues and vices of their respective regions.¹⁹ Meriwether likely wrote in the belief that she had something important to say about the state of Southern society, or that there was a receptive market for such a message. The play's array of dramatic personae suggested a number of arguments about white manhood and its proper role in the Reconstruction South.

While Peter lamented his inability to provide for his family, he was not wholly aware of his daughter Polly's plight. In addition to their pecuniary problem, Polly was the object of a lustful plot. The carpetbagger Oily Unctuous raised Peter's property taxes so high that they could not be paid, so the Plucky home was sold at auction. Unctuous bought the house for a fraction of its worth and allowed the Plucky clan to remain as tenants. Plucky was powerless, finding his household at the mercy of Oily. He sought, but could not find any pluck in restoring his family pride and security. Peter thought that Unctuous was renting him the house for profit, but Unctuous really wanted to control the

¹⁸ Jane Turner Censer, *The Reconstruction of Southern White Womanhood, 1865-1895* (Baton Rouge: Louisiana State University Press, 2003), 207-213, 219-221.

¹⁹ Censer, *The Reconstruction of Southern White Womanhood*, 244-251.

family so that he could marry Polly.²⁰ Meriwether's female characters had great difficulty defending themselves without the help of a capable assertive patriarch. In better times Polly's father would have defended his daughter, but until she found a capable man to protect her, daily life was a struggle. Before the war a more agreeable marriage could have been arranged by her father as patriarch, but there were no honorably self-sufficient Southern men from whom Polly could choose. Instead, Polly, a representative of vulnerable Southern white womanhood, fended off Oily's extortionate advances:

POLLY [Aside] Oh, my poor father! Shall I sell myself to help you? [Weeping]

OILY. I see relenting in my Polly's soul – is it a bargain? Will you come to me sweet Polly? One kiss – one – [Oily attempts to kiss her. She screams and struggles against him.]²¹

The trope of the Southern white woman as virtuous victim had many implications. Historian Nina Silber studies this phenomenon in postbellum fiction concerning reconciliation between the North and South.²² Silber believes that in postbellum Northern works of literature female characters often symbolized a submissive and vulnerable South, making it easier for Northerners to accept the normalization of relations. The South was proven to be the weaker section through defeat, just as women were seen by men as the weaker sex. It was easier for the North to take metaphorical guardianship over the South's feminized interests than to maintain a firm posture against a defiant male rebel. Through this model the South also gained some sympathy for its

²⁰ Meriwether, *The Ku Klux Klan*, act 1, scene 2.

²¹ Meriwether, *The Ku Klux Klan*, act 1, scene 2.

²² Nina Silber, *Gender and the Sectional Conflict* (Chapel Hill: University of North Carolina Press, 2008), 79-84, 94-95.

plight by appealing to traditionally feminine virtues such as mercy and patience. One could argue that Silber's analysis often had parallels in real life. Women recognized the power of Northern white men filling the patriarchal vacuum in which Southern white men were absent, silent, or simply incapable. When women publicly criticized this imbalance of power they expressed a self-confident resolve that they found lacking in unsteady white men.

For a women's rights activist like Meriwether to write such weak female characters suggests how low she thought southern white society had fallen. In her political columns, Meriwether explicitly wrote that men should not completely dominate women; yet she felt so endangered by Northern political power that she still urged for their protection in her drama. Meriwether may have recognized that her situation of relative privilege gave her a different perspective than most poor white women. The character Polly did not have a choice between independence and domination by Oily, her only alternative to reluctant marital servitude was homeless destitution. Meriwether acknowledges as much with the tiered pricing scheme for her newspaper *The Tablet*, which offered cheaper rates for women in broken homes. The fact that her sons had become independent men by 1877 may also have given her more confidence that the new generation of men could be trusted to be more liberal towards the women in their lives.

It is unlikely that Meriwether's play could have been viewed in 1877 without an audience making connections between armless, lame Confederate Peter Plucky and the real life famous amputees in their midst. One of these Confederate war heroes was one-armed, lame, Louisiana Governor Francis Nicholls.²³ Nicholls certainly believed in the

²³ Evans J. Casso, *Francis T. Nicholls: A Biographical Tribute* (Thibodaux: Nicholls

restoration of the Democratic Party to power and the enforcement of traditional white supremacy in general.²⁴ Yet Nicholls' particular electoral appeal lay with his attributes as an exemplary man and the last living male leader of his family.²⁵

A number of Confederate and antebellum leaders had political profiles that appealed to white men in Louisiana, but few other men reappeared so consistently in the news.²⁶ There was sympathy for Nicholls' wounds and admiration for his wartime suffering. Many Louisiana veterans and their families identified to some degree with his experience and the trials of his family. State Senator F. W. Goode of Terrebone Parish famously nominated "all that is left of General Nicholls" for governor in 1876²⁷ in pointed recognition of his impairment. Nicholls tried to avoid complaining about his disability but he used it rhetorically to symbolize his personal virtue and the losses of white Confederate men as a whole.

Meriwether's sympathetic rendering of Peter may have suggested that if Francis Nicholls was worthy of guiding the white men of the state toward redemption, then Peter deserved more resources to take care of his own family's needs. Perhaps that could come

College Foundation, 1987), 88-89; Clarence Howard Nichols, "Francis Tillou Nicholls, Bourbon Democrat," Master's Thesis, Louisiana State University, 1959, 26-29, 32-38.

²⁴Nichols, "Francis Tillou Nicholls", 30-40. Nicholls conducted himself in a moderate tone in the context of Reconstruction Louisiana. He held a sense of "noblesse oblige" that prodded him to discourage the violence and overt dominance against blacks that characterized more reactionary Bourbons. This relative moderation did not preclude major changes in the conduct of state government from the preceding administration.

²⁵ Casso, *Francis T. Nicholls*, 88-89. Francis Nicholls was the sole survivor of six brothers. It was his responsibility to care for his sisters, sisters-in-law, and nephews as well as his own immediate family.

²⁶John Smith Kendall, *History of New Orleans*, Volume 1 (Chicago: The Lewis Publishing Company, 1922), 213-224. General P. G. T. Beauregard lost a mayoral election in New Orleans by a very narrow margin in 1858, but chose to join the corporate world instead of returning to electoral politics after the war. Beauregard remained a hero in the white community for his wartime exploits.

²⁷ Casso, *Francis T. Nicholls*, 107.

in the form of a public pension or charity, but Peter had not sunk that low; and preferred to acquire capital to run his own business. At the very least, Meriwether's characters suggested that prevailing social conditions of Reconstruction rule made it more difficult for white men to maintain their desired lifestyle and status.

Besides Francis Nicholls, New Orleans enjoyed the presence of celebrity Confederate veteran General John Bell Hood. Hood lost the use of an arm at the Battle of Gettysburg and had a leg amputated after the Battle of Chickamauga. His failures as a commander were hotly debated during his lifetime, but he enjoyed more sympathy for his wounds and winning personality than criticism as to his shortcomings as a military strategist.²⁸ Hood took a different path from Nicholls in civilian life and chose to pursue business instead of politics. Hood opened a General Commission Merchant office in New Orleans and bought regular advertisements in newspapers.²⁹ Although not a Louisiana native he was warmly accepted as a transplant and incorporated into the local folklore.³⁰ The white public held General Hood in such universally high regard that both the strongly anti-Catholic *Louisiana Democrat* and the *Morning Star and Catholic*

²⁸ "General Hood," *Louisiana Democrat*, February 14, 1866, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1866-02-14/ed-1/seq-2/>; "Mere Substitutes for Stronger Men," *Louisiana Democrat*, July 5, 1876, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1876-07-05/ed-1/seq-1/>; "An English Opinion of a General in the Army," *Morning Star and Catholic Messenger*, July 25, 1875, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1875-07-25/ed-1/seq-3/>. The *Morning Star* reprints a scathing review of Hood's tactics in opposition to General Sherman that originally appeared in *The London Standard*; Richard O' Connor, *Hood: Cavalier General* (New York: Prentice-Hall, Inc., 1949), 169-171, 266. Hood was rumored to have been engaged to four women at once during the war. During his amputation convalescence he sent his personal physician to Paris for three cork legs and a diamond ring.

²⁹ Advertisement, *Shreveport Semi-Weekly News*, May 1, 1866, <http://chroniclingamerica.loc.gov/lccn/sn83016484/1866-05-01/ed-1/seq-19/>.

³⁰ "A Letter from New Orleans," *The Louisiana Democrat*, February 22, 1871, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1871-02-22/ed-1/seq-2/>. Conmen impersonating Hood used his honorable reputation to take bumpkins' money on behalf of the committee to build a monument to General Lee at Tivoli Circle, which was later renamed Lee Circle.

Messenger praised him in equal measure. In the *Morning Star and Catholic Messenger's* review of the book *Why a Catholic in the Nineteenth Century?*, Hood's personal glory is related to the veneration of the Roman Catholic Church itself:

We once heard a soldier-boy say that only to look at General Hood, made him feel sixteen inches taller! . . . The sight of General Hood, with his grave, sad face, his tall, crippled form, made the boy realize all the struggles of the past, its heroism, its grandeur, its depths of earnestness, its heights of glory; so in reading Mr. Dix's work, there steals over our Catholic heart a fuller realization of the power, the endurance, the might, the beauty, the grandeur, the glory of the old, unchanging Church which has battled for nineteen hundred years in the cause of truth and justice!³¹

These terms of affection typified Hood's reputation among white Southerners during Reconstruction. Soon after his death these panegyrics were reaffirmed by reams of publicity for the Hood Relief Fund. Hood left a *very* small inheritance to his ten surviving children after his death. Some would have looked to Hood hopefully, as a role model. One whose postbellum popularity suggested that the measure of a father and a man was found in his character, as well as in the economic security he may or may not have been able to provide for his family. All of his children were born after the war so they were too young to take care of themselves. The family's main source of income came from sales of his war memoir *Advance and Retreat*, which was published

³¹ "The Memorial Ceremony," *Morning Star and Catholic Messenger*, February 17, 1878, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1878-02-17/ed-1/seq-4/>. In the same issue the local Catholic clergy honor General Beauregard by placing him in charge of official ceremonies commemorating the reign of Pope Pius IX.



Figure 12. John Bell Hood is pictured here with his weakened left arm and the crutches he sometimes used, after the amputation of his right leg.
<http://cheddarbay.com/CivilWar/Confederate/John%20Bell%20Hood.html>

posthumously.³² General P. G. T. Beauregard took charge of promoting the book, which attempted to justify Hood's tactical decisions during the war. Whether Peter Plucky's character was modeled after Nicholls, or Hood, or some other esteemed injured veteran, it was very likely that a reader of the play or an audience member could have made easy connections between the play's tragic patriarch and the familiar sight of seriously diminished Confederate men and their families.³³

The men in Meriwether's play represented more than just helpless southern victims and villainous Yankees. The male hero, Captain Tommy Truegrit, was an active American soldier who wore his blue uniform. Tommy lost his arm in the middle of the same battle where he met Peter Plucky, and they respected each other as gentleman veterans. Despite Tommy's disability he remained able to perform his duty as an officer of the U. S. Army in New Orleans. Tommy bore former Confederates no ill will and was stunned to learn that his old friend was "pretty low down."³⁴ Tommy immediately gave Peter enough cash to buy the corner grocery of his dreams to restore his manly dignity.

Tommy was the only adult white male who was able to stand up for Polly's interests because the youthful Southern white men of the play were afraid to contest Reconstruction authorities publicly. In the early years of Reconstruction there was often a lack of organized leadership to channel discontent into productive action. Even after

³² "Hood Relief Fund," *Feliciano Sentinel*, September 20, 1879, <http://chroniclingamerica.loc.gov/lccn/sn88064555/1879-09-20/ed-1/seq-2/>; "Advance and Retreat," *Feliciano Sentinel*, May 15, 1880, <http://chroniclingamerica.loc.gov/lccn/sn88064555/1880-05-15/ed-1/seq-2/>; "Hood Relief Fund," *Louisiana Democrat*, February 4, 1880, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1880-02-04/ed-1/seq-3/>; "Hood Memorial Fund," *Richland Beacon*, March 27, 1880, <http://chroniclingamerica.loc.gov/lccn/sn86079088/1880-03-27/ed-1/seq-3/>.

³³ Brian Craig Miller, *Empty Sleeves: Amputation in the Civil War South* (Athens, Georgia: University of Georgia Press, 2015).

³⁴ Meriwether, *Ku Klux Klan*, act 2, scene 1.

the development of Ku Klux Klan dens, most would-be standard bearers for the movement to reestablish Southern white men's rule did not publicly take credit for their personal activities, even if the organization as a whole staked its claim to dominance. There was a common perception among whites that it was risky to defend their interests against Republicans and blacks.³⁵

The range of possible saviors in Meriwether's literary world was limited. The only other young white men in the play besides Oily and Tommy were the five sons of Widow Secesh, Generl, Kernel, Major, and Cappen, who always wore tattered Confederate uniforms like Peter. Widow Secesh's youngest and most troublesome son was KuKlux, who appeared "grotesque in dress and behavior."³⁶ The Widow's four good sons never considered involving themselves in disputes because they were afraid of giving Oily Unctuous a cause to call out the army or to put them in jail. Widow Secesh was unable to restrain her son KuKlux, who often committed crimes behind her back. KuKlux lashed out at a crowd of black Republicans at election time despite the whole Secesh family's efforts to hold him back. When Republican authorities arrived they put the four *good* brothers on trial while KuKlux escaped.³⁷ At the trial the four brothers honestly denied that they were Klan members. Generl gave a somber speech where he swore that they had personally upheld their oaths to cease hostilities. While Generl spoke

³⁵ Samuel C. Hyde, Jr., *Pistols and Politics: The Dilemma of Democracy in Louisiana's Florida Parishes* (Baton Rouge: Louisiana State University Press, 1996), 149-163. Mulatto farmer Thomas Turner's band of armed freedmen was certainly exceptional, but it embodied the anxieties of whites in all parts of the state that black Republican government might be able to sustain itself; *Louisiana Democrat* March 3, 1875.

³⁶ Meriwether, *Ku Klux Klan*, Costumes of Characters.

³⁷ Meriwether, *Ku Klux Klan*, act III, scenes 1-2.

to the courtroom KuKlux wildly yanked the hats from women's heads and silently threatened the judge and jury.

By the time Meriwether published the play in 1877 her husband Minor had parted ways with General Forrest, and arguably Forrest had put some distance between himself and the KKK organization he had founded.³⁸ Meriwether's experience with the nuances of radicalism between women's rights organizations may also have given her a different understanding of the differences in reactionary tone between different groups of southern Democrats.

The contrast between KuKlux and his family makes Meriwether's argument that Southern white manhood both needed and deserved a stronger place in postbellum society in order to safeguard the interests of white women and mitigate the danger of violent hooliganism. The Reconstruction government had created a crisis of manhood by preventing Southern men from assuming traditional roles in society. Like Widow Secesh's sons, Southern men often thought it more prudent to knuckle under than to fight what seemed at many times, a losing battle against an occupation government that sought to punish rather than help. The author's characterization suggested that the bulk of white men in Louisiana were essentially just and trustworthy custodians of the public good. The genuine KuKlux in the real world made trouble out of proportion to their number, but the Republican government liked using them as propaganda at election time just as much as imprisoning them. Tommy Truegrit's heroic gestures would not have been

³⁸ James Michael Martinez, *Carpetbaggers, Cavalry, and the Ku Klux Klan: Exposing the Invisible Empire During Reconstruction* (New York: Rowman & Littlefield, 2007), 21-23. Forrest seemed uncomfortable with congressional investigations into the Klan's violent activities. He tried to avoid getting sued or prosecuted for their terrorism. He was initially under the impression that the bulk of their membership was composed of Confederate veterans who would obey a retired General's order. Forrest thought much less of the group when he learned that there were a lot of deserters and draft dodgers involved.

exceptional in a society where the good sons of Widow Secesh were free to act in white women's interest. Though it may not have been objectively true, these were the sentiments of a politically perceptive Southern author catering to an audience sympathetic to such views.

Two years after *The Ku Klux Klan or the Carpet Bagger in New Orleans*, Meriwether published a three-part novel called *The Master of Red Leaf: a Tale*. Set in the rural South before and during the Civil War, the novel depicts New Orleans as a center of Republican corruption, oppression, and black power. *The Master of Red Leaf* was far better publicized than the previous play and received promotions and reviews in newspapers from Memphis to London.³⁹

The story centers on a romance, but this one between a Northern woman and a Southern plantation owner. When the heroine arrives in the South she intends to educate the negroes and influence them towards rebellion. When she gets to know the owner of

³⁹ "New Books," *Evening Star*, April 16, 1880, <http://chroniclingamerica.loc.gov/lccn/sn83045462/1880-04-16/ed-1/seq-1/>; "Popular Novels," *Memphis Public Ledger*, June 21, 1872, <http://chroniclingamerica.loc.gov/lccn/sn85033673/1872-06-21/ed-1/seq-3/>; "Mrs. Meriwether's Book," *Memphis Public Ledger*, March 6, 1880, <http://chroniclingamerica.loc.gov/lccn/sn85033673/1880-03-06/ed-1/seq-4/>; "What the Southern Press Say of the Master of Red Leaf," *Memphis Public Ledger*, March 23, 1880, <http://chroniclingamerica.loc.gov/lccn/sn85033673/1880-03-23/ed-1/seq-3/>; "New Books," *Memphis Daily Appeal*, February 13, 1880, <http://chroniclingamerica.loc.gov/lccn/sn83045160/1880-02-13/ed-1/seq-1/>; Untitled, *The Charlotte Democrat*, February 13, 1880, <http://chroniclingamerica.loc.gov/lccn/sn84020713/1880-02-13/ed-1/seq-3/>; "The Master of Red Leaf," *The Spectator*, August 16, 1879, accessed November 5, 2015, <https://books.google.com/books?id=QNc9AQAIAAJ&lpg=PA1053&ots=NdN7Cgr4zr&dq=The%20Spectator%20August%2016%201879%20Master%20Red%20Leaf&pg=PA1053#v=onepage&q=The%20Spectator%20August%2016,%201879%20Master%20Red%20Leaf&f=false>. *The Spectator* of London strongly disparaged the literary style of the love story but found the political themes compelling. *The Atlanta Constitution* could not decide if it was intended to be read as a satire, or if it was primarily intended to grow sectional hatred; either way they heartily recommended the book for local boys. The *Ku Klux Klan* play was published without any press coverage at all in Meriwether's usual outlets, but it does seem to have been performed judging by the existence of a used theater program.

Red Leaf plantation she finds that she loves him and changes her plan just in time to see the Civil War destroy her love's world.⁴⁰

Because of the time in which it takes place, *The Master of Red Leaf* avoids the narrative complexity of distinguishing the Ku Klux Klan from more moderate white Southern Democrats. It unabashedly promotes the common stereotypes of violent freedmen and corrupt, vindictive carpetbaggers without the mitigating sentimentality of the relationship between Tommy Truegrit and Peter Plucky. In *The Master of Red Leaf* there are no true brothers in arms across the old Mason Dixon line, only rulers and subjects. While the Ku Klux Klan play could be interpreted as conventional reconciliation literature, *The Master of Red Leaf* leaves less hope for lasting peace.

A close reading of Meriwether's play, journalism, and novels can tell us something of the author's political intent. Her husband was a veteran of the Civil War and her children became adults during Reconstruction, so her family had intimate knowledge of Southern social turmoil. She produced all of her significant works as the postbellum South evolved, and her preferences for social reform were freshly formed as her work was produced. She clearly wrote as an advocate for her favorite causes, but it is also likely that Meriwether and her publishers marketed with an understanding that her readers appreciated work that complemented their own sentiments. Despite Meriwether's passion for campaigning, she still put a price on her work and sought as many sales as possible.

Other arts that provide insight on the social consciousness of New Orleans were not created as a direct result of particularly Southern influences. Operas that originated

⁴⁰ Elizabeth Avery Meriwether, *The Master of Red Leaf: A Novel* (Memphis: Clapp & Taylor, 1880).

in western Europe could not be read as though the content was intended as a commentary on particularly American circumstances. Despite these important distinctions, postbellum New Orleans audiences may have appreciated aspects of the stories that particularly suited Southerners struggle to regain familial stability and prosperity.

New Orleans Opera

New Orleans had a special relationship to European opera since before the Louisiana Purchase. The first documented opera performance in New Orleans took place in 1796 with a showing of André Grétry's *Sylvain*. The orchestral scores of early productions were re-arranged to accommodate a smaller building with fewer musicians, but the city's cultural leaders had grand ambitions. By the 1830s New Orleans boasted two rival opera theaters and orchestras of sufficient size and skill to limit the amount of alterations necessary to perform complex operas.⁴¹

Although the operas of New Orleans were primarily intended for a middle and upper class audience, the production companies needed to sell tickets to the working class as well. Less affluent patrons broadened their cultural horizons, but they brought novel problems to the theater owners. In 1803 the new American authorities shut the theaters down because they were becoming too chaotic. One of the government's requirements to permit the theaters to reopen was for patrons to refrain from "throwing oranges or other food."⁴² There had also been excessive hissing and booing during performances, and ticket scalping outside the venue. When the operas resumed in 1804 the patrons had to

⁴¹ Henry Arnold Kmen, "Singing and Dancing in New Orleans; A Social History of the Birth and Growth of Balls and Opera, 1791-1841" (PhD Thesis, Tulane, 1961), 92-98, 195-204. The Baroness Pontalba took her four year old son to see *Sylvain* at least twice in 1796. He liked one of the songs enough to sing parts of it at home afterwards.

⁴² Kmen, "Singing and Dancing", 103.

purchase their own tickets in advance and respect the performers with silence or applause. Requirements of this sort show that the tradition of opera in New Orleans was not strictly an activity for the wealthy or elderly, as is often the case in the twenty-first century. The number of prosperous opera patrons grew as the city's size and prosperity increased throughout the nineteenth century, but the opera was never so financially secure that it could dispense with ticketholders of ordinary means.

There was at least some tradition of New Orleans opera audiences attributing political significance to opera performances. Before performances began, and during intermissions, the orchestra played popular and patriotic tunes. After the Louisiana Purchase, an increasing number of Anglo-American patrons demanded to hear Yankee Doodle Dandy instead of La Marseillaise. Conflict between factions of the audience and the orchestra led to a ban on playing audience requests, and an understanding that everyone's anthem would have its turn to be played.⁴³

In 1805 and 1806 the opera *Les Visitandines* by François Devienne was performed before packed houses. The theme of the opera is strongly anti-clerical, and prompted the abbess of the Ursuline nuns to write letters of complaint to Governor Claiborne. She demanded that he use his political authority to shut down the theater, seemingly not aware of her new nation's freedom of speech. Claiborne ignored her request during both seasons that the opera was performed. The abbess was concerned that the audience would change its attitude towards the church because of the messages in

⁴³ Ibid., 104-105.

the opera. It was possible that the public could have absorbed other ideas about society, depending on the content of the opera in question.⁴⁴

The New Orleans opera community was established and relatively healthy on the eve of the Civil War, but the conflict interrupted regular performances. After the war, just as the city began returning to its traditional winter merriments, tragedy struck one of the opera troupes scheduled to entertain the city. The company of singers and musicians was embarked on the *Evening Star* on a voyage from New York when it sank in a storm off the coast of Georgia. None of the performers survived. In spite of this setback, other talented performers were found to continue the New Orleans seasonal opera tradition.⁴⁵

One of the operas that may have addressed the gendered concerns of postbellum white men in New Orleans was *Robert, Le Diable*, by Giacomo Meyerbeer. The opera premiered in Paris in 1831, but is set in 13th century Italy. It was performed in New Orleans on multiple occasions between 1870 and 1877, suggesting continuing audience interest.⁴⁶

Robert is not actually the Devil but the son of the Devil, and named that way because *both* seemed to act badly. The Devil tries to entice his son into doing foolish or wicked things because he is compelled to do so by nature. When Robert wrongs others,

⁴⁴ Ibid.

⁴⁵ “Further Particulars About the *Evening Star*,” *New Orleans Daily Crescent*, October 10, 1866, <http://chroniclingamerica.loc.gov/lccn/sn82015753/1866-10-10/ed-1/seq-1/>. There were no more than four life boats for all the passengers and crew. Only 17 out of 270 people survived.

⁴⁶ Broadrides, February 11 1860, January 23 1860, PN2277 .N492 Williams Research Center, Historic New Orleans Collection. [Hereafter cited as Broadrides]; “The Varieties,” *New Orleans Daily Democrat*, September 16, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-09-16/ed-1/seq-8/>; “Amusements,” *New Orleans Daily Democrat*, December 3, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-12-03/ed-1/seq-1/>; “Amusements,” *New Orleans Daily Democrat*, December 5, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-12-05/ed-1/seq-8/>; “Letter From Pass Christian, Miss.,” *Morning Star and Catholic Messenger*, May 12, 1872, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1872-05-12/ed-1/seq-8/>.

he becomes the devilish one. The Devil disguises himself and fools Robert into losing his suit of armor in a game of chance. Without his armor, Robert is unable to fight for the honor of the maiden Isabel at the tournament. Isabel believes it is essential for her love to fight for her honor, so she finds Robert a new suit of armor. Just as Robert prepares to enter the tournament, the Devil returns in another disguise. The Devil tricks Robert into abandoning the tournament in order to fight his rival, the Prince of Grenada, in a different place. While Robert is away, looking for the Prince, the real Prince went to the tournament and won by default.⁴⁷

After his victory, the Prince is betrothed to Isabelle. In the final act, Robert resists the Devil's entreaty to surrender his soul, and is reunited with his love, Isabel.

Initially, Robert is the most passive of heroes, allowing himself to be manipulated by the Devil in many different disguises. This is not unlike Confederate men who were unsure whom to trust, hoping for a quick fix to the economic and social disasters that greeted them after the war. At every turn, Robert is tempted into choosing less virtuous alternatives. In this sense he could be called Robert the Fool, but Isabel does not love him for his stupidity; she thinks he is noble.⁴⁸

The narrative can also be viewed as a contest between love and violence, as Robert initially makes a poor choice to seek combat under his own terms instead of fulfilling his love's wishes for him to attend the tournament. This interpretation may have resonated with many families of Confederate veterans who missed their loved ones because of an ill-fated quest gone awry.

⁴⁷ Robert Ignatius Letelier, *An Introduction to the Dramatic Works of Giacomo Meyerbeer* (Cambridge: University of Cambridge, 2008), 95-99.

⁴⁸ Ibid.



Figure 13. French Opera House in New Orleans.

<https://commons.wikimedia.org/wiki/File:FrenchOperaHousePhotoPostcardNYPLRose.jpg> [Access August 30, 2015]

The more persuasive interpretation sees Robert as one part of a *dynamic relationship* with the woman he loves rather than an individual torn between the temptations of the Devil and his natural affection for Isabel. The patriarchal thinking that understood Robert as the sole decider had been roundly discredited by the South's experience of the war. The Southern men in the audience understood that they did not fight the war alone, and that the women on the home front and those trapped in occupied territory struggled. Isabel requires Robert to fight for her honor, but he can not do it alone. She has to support him by supplying his arms when he loses them, and in return

she deserves his loyalty. If he had proved his loyalty at the tournament then they might have been spared the subsequent drama.⁴⁹

Instead, Isabel makes a choice of her own to be faithful to Robert even when he is unable to fight for her. She does not simply allow him to skip the tournament, but helps make it possible for him to achieve his own goal at the tournament, and thus fulfill her own expectations of a nobleman. The lesson is that loyalty and support in a marriage go both ways, and that Robert only faces real jeopardy when he tries to go his own way without considering his love.

The relationship between Robert and his father, the Devil, could be viewed as analogous to Meriwether's KuKlux character and his influence over easily led white male discontents in New Orleans. Male characters who fought on both sides of the war exhibited levels of malevolence and stupidity in Meriwether's play. KuKlux was cast as an evil influence on a par with the carpetbagger Oily. Black Republicans supporting Oily's schemes were portrayed as foolish rather than overtly evil. Men generally had become undependable and could not be trusted to make good choices, which put manhood into a state of crisis.

Meyerbeer's intention with the opera may have been simply to create conflict by thwarting the hero's progress toward the figure of his desire, but as the French deconstructionist Roland Barthes argues, a work of art has a life and evolution beyond the death of its author.⁵⁰ Every work of art enjoys (or suffers) a disconnection of understanding and intentions between the original creator and the audience. With live

⁴⁹ Ibid.

⁵⁰ Fabrizio Della Seta, *Not Without Madness: Perspectives on Opera* (Chicago: University of Chicago Press, 2013), 226, 229.

performances there is another chance to experience the performance differently, as the performers and conductor interpret their roles in unique ways. What French audiences saw, heard, and understood in 1831 was different from the meaning New Orleans audiences found in 1870. New Orleanians may have been less than consciously aware of parallels between Robert's conflicted choices and those of diminished former Confederate men. It was easier to recognize the strength of Isabel in her role of support, desperately seeking a champion who would fight for her as in days gone by.⁵¹

Gaetano Donizetti's comedy, *Daughter of the Regiment* was written in Paris in 1840 and performed in New Orleans in 1857, 1868 and 1875. It concerned the story of an orphan girl Marie in the Swiss Tyrol, adopted by a local military unit. She is raised by the soldiers and adopted their dress and habits. The troops come to love her like a daughter and will not let her marry a man not a fellow grenadier. Just as Marie is about to marry her young grenadier, the Marquise of Birkenfeld spirits her away, insisting that Marie should instead marry a nobleman. At the last moment, the noblewoman relents and permits Marie to marry her beloved regimental man.⁵²

The opera opens with a scene familiar to the people of New Orleans. A French army invades the Tyrol and women wait for their soldiers to defend them. The Marquise worries that women will be endangered by the conquerors. "My nerves are in a dreadful

⁵¹ Ibid., 7-8, 229-230.

⁵² Gaetano Donizetti, *La Fille Du Régiment (The Daughter of the Regiment): Opera in Two Acts*, Libretto by Jean François Bayard and J. H. Vernoy de Saint-Georges, trans. Humphrey Proctor-Gregg (New York: International Music Co., 1972); Seattle Opera, Spotlight On: Daughter of the Regiment, <http://www.seattleoperablog.com/p/spotlight-on-opera-1.html>, (accessed November 4, 2015); BroadSides, February 17, 1857; "Amusements," *New Orleans Crescent*, May 12, 1868, <http://chroniclingamerica.loc.gov/lccn/sn82015775/1868-05-12/ed-1/seq-1/>. The article said "it would seem, and justly so, that our people will never tire of the great success of the season. The artists came up fully to the expectation of the spectators, who frequently manifested their approbation by genuine applause." That night's performance of *Daughter of the Regiment* had already sold out when the newspaper went to press that morning.

state! ... these terrible French soldiers! ...specially [sic] when one has been a war-victim oneself . . .”⁵³ The peasants are shocked to learn that even women of the nobility can be the victims of invaders’ lust. The Marquise vaguely explains that it happened “in the panic after the Meran battle ... when all the village was evacuated – mine was a terrible misfortune.”⁵⁴ Thankfully, the Marquise does not relive her previous experience. The invaders are driven back by the heroics of the local regiment, bringing much relief to the people, who hold no malice toward the invaders, only a desire for peace.⁵⁵

In the wake of the locals’ victory, the soldier Sulpice encapsulates the sentiments of many veterans. “And just tell all the tremblers round here that they can show their faces. We want to get peace in these parts.”⁵⁶ Sulpice explains that “those who skulk in their mountain holes”⁵⁷ only have to become Frenchmen to avoid fighting in the future. In other words by hiding from the enemy they might as well have surrendered the women to the invaders. With that final taunt the regiment begins to enjoy the peace they achieve.

Although the Confederacy lost, and New Orleans suffered the indignities of occupation, everyone welcomed the cessation of hostilities. By beginning with such excitement, the opera immediately put the Reconstruction New Orleans audience on familiar ground, despite the opera’s setting in the Tyrolean Alps.

⁵³ Donizetti, *La Fille Du Régiment*, 38; Seattle Opera, glossary, <http://www.seattleopera.org/inside-look/glossary/>. Recitative is defined as “connective tissue music, good for speedy plot exposition or warming up for a big aria. In earlier opera, accompanied by harpsichord or continuo, not orchestra.”

⁵⁴ *Ibid.*, 39.

⁵⁵ *Ibid.*, 1-5, 38-40.

⁵⁶ *Ibid.*, 56-58.

⁵⁷ *Ibid.*

Daughter of the Regiment challenges gendered assumptions. Marie initially would not marry without the men of the regiment's consent, yet the men approve of her adopting attributes of men's dress to make her strong like themselves. Although the men initially seek to control Marie's fate, they immediately cede control to the Marquise when she demands it. In assuming this responsibility, the Marquise usurps the father's traditional right to approve of a daughter's marriage. In this manner, the Marquise exhibits capricious feminine independence more than Marie. Although Marie sings ribald army songs, she bows to traditional female expectations to do as she is told. The Marquise refuses to take suggestions from the men who raised Marie and served as her de facto father.

With the supply of marriageable young white men greatly diminished, many Southern parents were happy for any match, let alone an enviable one. The father's prerogative of approving a match for his daughters diminished along with his financial clout and the range of options.⁵⁸

Le Chalet, (1834) a short comic opera by Adolphe Adam, was performed in New Orleans in 1875 and in Donaldsonville in 1874.⁵⁹ Set in a chalet in the Swiss Alps, a young farmer, Daniel sings of his love for Bettly. The village plays a trick on Daniel and writes him a fake love letter. Daniel treats it as real and writes a marriage contract, but Bettly refuses to sign it and argues that she will never marry and does not need a man.

⁵⁸ Cott, *Public Vows*, 78. Although the Northern army suffered more casualties than the Confederate army, the South lost three times more men as a percentage of the population; Morsman, *Big House*, 177-178. Even the healthy, unmarried men who remained were more reluctant to marry because they knew they could not hope to support a family in a desirable style.

⁵⁹ "Local Jottings," *The Donaldsonville Chief*, July 4, 1874, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1874-07-04/ed-1/seq-3/>; "Amateur Dramatics," *The Donaldsonville Chief*, July 11, 1874, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1874-07-11/ed-1/seq-3/>; Broadides, April 3, 1875.

Daniel forsakes love and vows to join the army at the next opportunity. Betly's brother Max returns from the army with a squad of his friends and plots to get Betly to marry Daniel. Max disguises himself as another soldier and acts boorish towards Betly so that Daniel will challenge him to a duel for Betly's honor. Betly is impressed by Daniel's heroic gesture and signs the marriage contract as a pretext to get the boorish soldier to back down. She believes that it is invalid because her brother has not co-signed it, but her brother *has* signed it while in disguise, and the marriage that Daniel originally sought and Betly rejected becomes legal.

Le Chalet supports the construct that women need men, particularly a husband, for their personal protection and support. Despite her assertion that she needs no man, Betly is helpless to handle the abusive soldiers when she thinks that her brother is absent. She thinks that she no longer has a man to defend her. When Max personally threatens her in the guise of a stranger, she draws out the chivalrous impulses she expected of a true gentleman. Betly is surprised, but Max has a man's understanding that men will rise to the occasion to defend a woman because they see it as their duty. When Daniel challenges disguised Max to a duel, he has no expectation that Betly will reciprocate his sacrifice and bravery with her loyalty. She does because it seems the safest thing to do under the circumstances.

The public enjoyed entertainment that reassured men such as Copes and his associates that they were not alone in their troubles or in their understanding of social decay. Although fewer men returned from the war than had ventured forth, the women in their lives did not demand any less of them. They desired a return to the manly power and security men had offered before the war. This return is nowhere in sight in

Meriwether's play, which delineates aspects of the crisis that white men, and their families by extension, faced and the resulting vulnerability of white women. The names of Widow Secesh's emasculated sons suggest the weakened state of most former Confederate officers. With the help of a Yankee, the very diminished head of the Plucky household pulled together all that was left of his manhood and opened a grocery.

The Operas that addressed gendered issues probably did not affect general attitudes toward masculinity in Louisiana, but social problems in New Orleans made operas with those themes attractive to city audiences who did attend. The audience laughed because the plot and characters related to issues in their own lives or the lives of others they knew. These were matters they could identify with.

Robert, Le Diable, is a man who makes poor choices until rescued by the woman who loves him. Isabel wants a strong man who will fight for her, but reality often offers men who are crippled either physically or emotionally. The new normal in the Reconstruction South found it necessary for women to look beyond men's weaknesses to honor their character and their struggles to protect family, as typified by former Generals Nicholls and Hood. In the absence of worthy men, Southern women sometimes took the initiative as the Marquise did in *Daughter of the Regiment*. Although she has no inheritance to fight over, there is a dispute about who is better suited to control Marie's marital fate. *Le Chalet* offered a cautionary tale, encouraging Southern women to think twice before deciding that men were unnecessary. Perhaps an imperfect man was better than none at all.

CHAPTER 6: REARING NEW MEN OF THE SOUTH

How best to prepare the next generation, so that Southern sons did not become the ineffectual characters in Meriwether's play or Meyerbeer's opera? Fathers mired in rural areas weighed the risk of sending sons away to seek their fortunes versus keeping them at home to help on a flagging farm. Some former landed gentry, who struggled with antebellum notions of honor, may have hunkered down in denial rather than accept the real, if diminished, possibilities for their children. Those fathers and legislators involved with higher education, debated which sort of education would prove most valuable in the new South, one focused solely on agriculture, or a broader education that included mechanical science and liberal arts. Which antebellum values were worth preserving in the new evolving model of manhood?

The story of Eldon Upton suggested that men with enough confidence in their sons to send them forth, and sons who were flexible in their search for employment, were sometimes rewarded. Military drill was reinstated at LSU for its value to instill self discipline and order amongst men, although the argument raged over which courses of study were best. Young men who had not grown up believing that men deserved unlimited authority over the women in their household, were probably less likely to question their new limits under the law. New models of economic success and more equitable sharing of responsibility in marriage became a part of Southern men's tool box, making them better equipped to be men in the new South.

Fatherhood, that pillar of masculinity, obliged men to provide guidance and support to their children. Although mothers typically saw to the needs of small children, fathers took an increasing interest as boys and girls transitioned into adulthood. The

changed economic and social environment of Reconstruction Louisiana meant that antebellum paths to adult prosperity and marital success were more difficult to achieve. It was unclear that traditional career choices were the best to pursue. Fathers understood the hierarchy and career trajectories of antebellum plantation economics, but postbellum fathers now varied in the career preparation they provided for their sons. Some still hewed with determination to the family farm, but others cast their nets in pursuit of other possibilities.¹

The patriarchal authority of men served more than just a boost to men's egos. They used their unquestioned authority to inculcate discipline in their children that would serve them well throughout life's difficulties no matter what career they pursued. Men also wished their children to develop self-assurance that would put them in command of their own destiny. As part of this strategy men thought that formal schooling could impart mastery of self as well as academic knowledge. The diminished financial and human resources of Louisiana after the war made quality formal education a difficult goal to achieve. Some fathers would sacrifice to send their sons to school, and some particularly worthy boys might gain state scholarships.

The Louisiana State Seminary had been a nascent antebellum school for combining education with military drill. At the same time the state had an agricultural and mechanical college that taught current trends in farming and animal husbandry.

Historians of the Civil War and postbellum eras have taken varying approaches to defining an age range of children. Historian James Marten took an open-ended approach

¹Victoria E. Ott, *Confederate Daughters: Coming of Age During the Civil War* (Carbondale: Southern Illinois University Press, 2008), 8. In some households the father participated in pre-teen education as much as the mother. This varied according to the skills and temperament of the man, but generally speaking they were less concerned about serious career planning until the teenage years.

and considered his subjects to be children as long as they “acted like children.”²

Certainly many boys and girls were called upon to serve the family in grown-up capacities during the war and postbellum distress, but when the need subsided they returned to their previous roles.

In the South’s patriarchal culture young white men experienced the most obvious shift in prospects with military defeat, but their sisters were not exempt from similar parental concern for their future. Victoria E. Ott argues that girls who came of age during the Civil War understandably conflated their long-term social success as white women with the success of the Confederacy.³ In some ways the war was a liberating experience for young women, as it allowed them to participate in vital public matters that were formerly the exclusive province of men. Although they may have derived satisfaction from materially and emotionally supporting the Confederate cause, their prospects for a conventionally respectable and prosperous marriage after defeat were diminished.⁴ Young women’s fathers and brothers were well aware of the limited options in their lives, and sought to improve their chances of either finding a job, or sometimes entering society through greater cultural education.

Louisiana’s newspapers sometimes published articles that reflected on the need for tutelage from the clear perspective of parents. Besides academic knowledge and physical strength, youths lacked the benefit of hard experience

At seventeen years of age I was more of a man than I ever have been since. I wore a long-tailed coat and boots . . . a moustache was quite visible on my upper lip, and a consciousness of ripe maturity never left my mind. . . . Though so manly,

² James Marten, *The Children’s Civil War* (Chapel Hill: University of North Carolina Press, 1998), 244.

³ Ott, *Confederate Daughters*, 4-7, 120.

⁴ *Ibid.*, 35-37.

(almost soldier-like in appearance), my *inner* was by no means as stern as my *outer* man.⁵

Some of the writing about naïve boys and girls was tinted with rose-colored nostalgia for the innocence of youth. Other articles served as a warning to those who might have believed that boys could raise themselves into manhood by their own initiative. A fair amount of supervision and guidance was prudent for those who would spare their heirs the school of hard experience.⁶

The children of the Upton family recorded many of their experiences from the Civil War through Reconstruction in Louisiana and the Vicksburg area. Ellen Upton was the eldest child in the family and recorded their experiences through 1865. Ellen's younger brother Eldon began his own diary and family newsletter soon after Ellen's diary ended. Their two other younger sisters were old enough to understand what was going on in the world around them, but not inclined to keep diaries of their own. Between the two literary siblings we have a male and a female perspective on a Confederate father's difficulties in trying to raise a mainstream, middle class family at this time.⁷

⁵ "I Know it," *Carrollton Sun*, May 11, 1861, <http://chroniclingamerica.loc.gov/lccn/sn88064165/1861-05-11/ed-1/seq-1/>.

⁶ "Sowing Wild Oats," *Carrollton Sun*, June 30, 1860, <http://chroniclingamerica.loc.gov/lccn/sn88064165/1860-06-30/ed-1/seq-1/>; "The State Seminary," *Louisiana Democrat* May 25, 1870, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1870-05-25/ed-1/seq-2/>; "A Drunkard's Will," *Louisiana Democrat*, May 25, 1870, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1870-05-25/ed-1/seq-2/>; "A Good Word for Good Humor," *Louisiana Democrat*, May 25, 1870, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1870-05-25/ed-1/seq-2/>. Some of the writing in this style is religiously themed against youthful sin and "sewing wild oats", but as much as can be described as secular. Newspapers offered ample preventive advice for those without the benefit of parents. Many mothers died through childbirth and fathers through war, illness, and misadventure so there were many orphans and broken families to contemplate.

⁷ Ellen Upton, Diary, March 16 1865, April 22 1865, June 2 1865, (Manuscripts Collection 336, LRC, Tulane University). [Hereafter referred as Upton MSS].

Samuel G. Upton was Ellen's father, and a reasonably successful cotton agent in Vicksburg before the war.⁸ Samuel was 53 years old in 1860 and suffered from a number of health problems that made him ill suited to military life.⁹ They were never near the highest echelon of society but Samuel's career meant that their economic fate was tied to the success of the Confederacy.

The Upton family stayed in Vicksburg until it fell to Union forces. In July 1863 Mr. Upton took his family back inside Confederate lines in an attempt to reenter the cotton trade in northwestern Louisiana.¹⁰ Trying to conduct business through a blockade, and under the restrictions of the Confederate government proved extremely difficult. In 1865 at the very end of the war Samuel decided he had to take his family back East to Union lines so that he could sell the cotton he had acquired over many months of furtive dealing.

Ellen tried to keep her mind engaged during their time away from home, but it was difficult given the poor quarters and company Samuel was compelled to keep. She believed that it was important for girls to have some knowledge of culture and the world, but her own progress was stunted by the need to keep moving and her father's inability to maintain the influences she enjoyed before they were forced to move.

In Arcadia, Louisiana Ellen was appalled and embarrassed by the ignorance of two local girls who had difficulty understanding their genealogy chart. When the girls

⁸ Permission to Travel to Monroe, July 1863, Upton MSS. A permission slip from July 1863 revealed that the family retained a servant at the time they passed through Union lines on their way to northwestern Louisiana.

⁹ Ellen Upton, Diary, April 22 1865, May 21 1865, Upton MSS. Ellen's diary described Samuel having a number of dizzy spells and episodes of fatigue in their travels across Louisiana. She wrote *One Hundred Days* to record their horribly difficult journey back to Vicksburg near the close of the war.

¹⁰ *Ibid.*, March 22 1865, March 27 1865, April 3 1865.

eventually found some information about their ancestors they were unable to read the text in French.¹¹ At other points in their journeys during the war Ellen was only able to scrounge occasional used novels from kind strangers and distant relatives. Ellen was a critical reader who considered the philosophical content and class-consciousness of her literature. She fancied “chaste and precise” language that did not stoop to overtly religious themes.¹² She agreed with her favorite author Maria Edgeworth’s judgment that “the middle and higher classes” did not need such instruction.¹³

Ellen believed that her future worth as a woman was affected by her mind as much as her father’s ability to provide a dowry. This was true for prospects of an advantageous marriage as well as any prospective career in education or writing. Unfortunately Samuel’s war-induced poverty also diminished his ability to provide her an education. Newspapers sometimes published stories that reinforced her impressions about educated women. The story *A True Wife* described the life of an orphan girl who received a good education and hoped that it might have a greater impact on her ability to enchant a husband than her uncle’s wealth. Ellen’s concern for her circumstances and future put her in a state of constant discontent.¹⁴

When the war ended everyone who had evacuated as refugees could return home to find out what was left for them. Samuel Upton took his family back to Vicksburg in

¹¹ Ibid., March 27 1865.

¹² Ibid., April 3 1865, May 16 1865.

¹³ Ibid., May 16, 1865.

¹⁴ Ibid., May 24 1865. Ellen describes the story in brief without providing publication data. After days of being lost on a raft in a swamp without food, in a cloud of mosquitos, Ellen had a full-blown hysterical nervous breakdown and tried to swim away from everyone on a loose piece of wood. The entire Spring of 1865 was too much for her to endure.

1865, and tried to restore his business to its pre-war prosperity. He thought he could conduct his old-fashioned cotton trade and supplement this middleman's profit with some home grown cotton of his own. His meager income prevented him from employing any tutors for his four children. As debts mounted Samuel became unable to pay the rent on their modest home in the town proper.¹⁵ He struck a last minute deal to sell *all* of the family's furniture to pay for back rent and provide board for the landlord. Samuel then bought his family a farm on the outskirts of town, leaving his second child and only son Eldon to support himself independently. Samuel's hand was forced by his inability to sustain his family in the urban setting they clearly preferred.¹⁶

Samuel's news that they were about to be turned out of their house seemingly came out of the blue to his four children. According to Eldon's diaries Samuel rarely troubled his children with the truth about their precarious situation, and never asked them to put their meager pocket money towards the family's rent. Eldon recorded every minute expense in his diary, and much of it went to hobbies that improved his mind, such as writing equipment and literature subscriptions. In any particular month these costs were small, but if all four children had devoted similar resources toward the rent instead of the usual beneficial childhood pursuits it might have gone some way toward placating the creditors. Samuel was humiliated in the eyes of his friends, neighbors, and family for failing to secure the family home. His choice to continue giving his children pocket change suggested compassion as well as the possibility that books were just as important as stable housing. The fact that he never totally deprived his children of allowance

¹⁵ Eldon Upton, Diary, November 5-7 1868, Upton MSS.

¹⁶ *Ibid.*, March 15 1865.

money also suggested that he may have been confident, at first, that he could revive his business to antebellum prosperity.¹⁷

The fact that these failures had become ordinary in the South did not make them any less embarrassing or difficult for the people involved. The *Louisiana Democrat* attempted some wry humor in imagining how a boy like Eldon might respond to questions about his family's dilemma. When asked what his father was doing, the boy answered "well, I s'pose [*sic*] he's failing. I heard him tell mother yesterday to go round [*sic*] to shops and get trusted all she could, and do it right off too, for he'd got everything ready to fail 'ceptin [*sic*] that."¹⁸ The boy in that imagined exchange is aware of his parents' dilemma, and clearly understands it as his father's fault. Despite his failures as a businessman, Samuel Upton sought a more honest solution than the fictional father.

Eldon could not keep his job at the town telegraph office and move out of town with his family at the same time. His father decided that it was more important for Eldon to absorb the work ethos of the office than to spend time with his family in a rural area that offered few opportunities. Samuel could not afford to send Eldon to a fancy boarding school, but Eldon could absorb something of adult life in other ways. It may have been with a heavy heart that Samuel cast Eldon out into the world. Surely the confidence he felt in his son's resourcefulness was mixed with regret that he could not have offered his son more. Young Eldon was left to sleep in the battery room of the

¹⁷ Ibid., July 31 1868, November 5-7 1868, June 20 1871. Eldon illustrated bold titles for some diary sections, one of which read "Good Words for Moral and Intellectual Development". It is clear that Eldon's diaries were important to his life memories and experience because he returned to them on January 22, 1923 to annotate some pages and compare how his handwriting had changed.

¹⁸ Untitled, *Louisiana Democrat*, June 8, 1870, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1870-06-08/ed-1/seq-2/>.

telegraph office where he worked and took meals from his landlady.¹⁹ Eldon found the time to earn a living, take part in Sunday School, and attended church around three times a week. He also trudged out to the country to plow for his father and attend regular school at the same time.²⁰

Although Eldon helped plow and harvest for his father, it was never the plan for him to “take over” the family farm. It was never Eldon’s personal ambition to become a planter, and that he was probably too young to remember when his father had been a successful factor., Samuel’s own experience evidently led him to believe there were better ways to direct his son’s attention in the new economy. Samuel originally moved to the South from New York, so it might have been easier for him than for native-born southerners to turn his son away from the land.²¹

The industrious habits inculcated by Eldon’s life between the office and the farm later propelled him to success in commerce in New Orleans in the early 1870s.²² Eldon was part of a growing national trend of country boys engaging in commerce instead of struggling to support a family farm or learning a rural trade.²³ Eldon became a

¹⁹ Eldon Upton, Diary, January 4 1869, Upton MSS. Eldon diligently records his low but steady income as a telegraph delivery boy and some of the business dealings he overhears while he carries messages around town.

²⁰ Ibid. Between August and November 1868 Eldon wonders when a new textbook will become available to study the Romans, and it simply cannot be acquired through his usual sources. The public school the Upton children attended offered only the most basic instruction. Most of their assigned readings were religious texts from Sunday School.

²¹ Oath of Amnesty, June 1865, Upton MSS.

²² Eldon Upton to sisters, February 2 1873, Upton MSS.

²³ Morsman, *The Big House*, 180-192, 195-197. Morsman’s study of Virginia planters during Reconstruction shows that a large proportion of planters’ children left agriculture for city professions and commerce. There was not enough profit in crops and the standard of living was lower in more isolated areas. When farm life finally revived it was due to the grange movement, which did not become a strong organizing cultural force until the very end of Reconstruction.

commission salesman, marketing a clothes washer that operated with steam on the stovetop. This business was unrelated to his work experience in Vicksburg and it demonstrated an adaptability that could serve white men well in Reconstruction.²⁴

Eldon's boss in New Orleans enjoyed his job demonstrating the washing machine so much that he did not mind when women teased him for being a wash-woman. He did not think of his job as washing clothes because he delighted in success as a businessman. Businessmen were judged by profits as much as the business itself. Eldon likely understood from his experience in Vicksburg that there were a lot of "high status", yet effectively bankrupt planters.²⁵ Eldon had more options as a commission salesman in New Orleans than his father had at the farm in Vicksburg. Samuel's strategy for educating Eldon on the cheap was a success that exceeded their expectations. When Samuel let Eldon leave the household he did not expect Eldon to be successful enough to send money home so soon.

Once he had achieved some modest security and comfort in New Orleans, Eldon used his newly honed cosmopolitan savvy and economic progress to look out for the interests of his sisters. By dint of hard work Eldon sought to educate his two younger sisters and introduce them to worldly society in New Orleans.²⁶ Eldon explicitly lamented his father's inability to provide the clothes and schooling that he felt they truly

²⁴ "Shirking Work," *New Orleans Crescent*, November 7, 1868, <http://chroniclingamerica.loc.gov/lccn/sn82015775/1868-11-07/ed-1/seq-1/>; "Wanted Him," *Louisiana Democrat*, March 17, 1886, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1886-03-17/ed-1/seq-1/>; Advertisement, *Louisiana Democrat*, March 17, 1886, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1886-03-17/ed-1/seq-1/>; "Washing Machines," *Carrollton Sun*, December 12, 1860, <http://chroniclingamerica.loc.gov/lccn/sn88064165/1860-12-12/ed-1/seq-4/>. There is an advertisement for a washing machine in this Carrollton Sun issue that sounds exactly like Eldon's product description several years later.

²⁵ Eldon Upton, Diary, July 31 1868, November 5-7 1868, June 20 1871, Upton MSS.

²⁶ Eldon Upton to sisters, January 18 1873, Upton MSS.

required and deserved. The loyal and responsible son, now a young man, felt a duty to send money back home regardless of his own circumstances.²⁷ Eldon Upton's life and his ability to assist his family exemplified the kind of sufficiency to which many Southern men aspired. Eldon's support for his family echoed General Nicholls' famously responsible conduct in conscientiously watching over his female relations as a reliable white male. Also interesting to note is the contrast between Eldon, who succeeded as a man in supporting his sisters and assisting his parents, and men like General Hood, who despite his public adulation, had been left so damaged by the war and his inability to adjust that he was never able to provide adequately for his family. Meriwether's play suggests that there were more General Hoods than Eldon Uptons in Reconstruction Louisiana.²⁸

Many fathers still believed that an ideal order of Southern white manhood included military drill and arms training and that there was no replacement for instilling confidence and discipline. Since 1860 the state government had intended for this to be an option for boys through the Louisiana State Seminary of Learning. Taking military drill away from the main state school during Reconstruction was seen by some as akin to emasculating the boys who attended. Imagine the desolation of fathers learning that military discipline, a staple of Southern manhood that may have saved their lives during the war, had been stripped from the school's curricula. This in itself was enough to

²⁷ Eldon Upton to sisters, December 20 1872, Upton MSS.

²⁸ Casso, *Francis T. Nicholls*, 51-62 95-115. Francis was only 13 when his father suddenly died. While Francis studied at West Point older brother died by getting thrown from his horse. Shortly thereafter his mother and another brother died. By the time he graduated at age 18 he assumed a leadership role in the family by default. Though the family enjoyed wealth before the war, Francis and his remaining relatives suffered very poor health and needed his emotional fortitude.

create a new area of crisis within Southern manhood. Fathers and professors at the college wanted it back.

The leadership of Louisiana's foremost educational institution enjoyed a unique link to Reconstruction authorities that offered some hope in this regard. In 1860 William Tecumseh Sherman had been hired as Superintendent of the Seminary of Learning of the State of Louisiana. Sherman was a graduate of West Point and an army veteran of campaigns against native americans, but he was not a general at the time of his service to the school. He became friends with Professor David Boyd; the two men maintained a lively correspondence for the next twenty years. General Sherman shared President Boyd's interest in seeing that young men in Louisiana received the best possible education to virtue as white male citizens.²⁹

Before the Civil War the white male student body drilled with muskets to instill a sense of discipline and prepare them for the defense of the state. During the war all of the school's weapons were deployed with the Confederate army or seized by Union occupation forces. After the cessation of hostilities Professor Boyd lobbied General Sherman persistently for firearms to be reissued to LSU. Professor Boyd wanted his college to return to orderly normality as quickly as possible.

In October 1865 General Sherman thought it was too soon to re-arm the student body.³⁰ Immediately after the war there was still a great deal of racial and political violence and Republican authorities were afraid that arms for LSU might fall into the

²⁹ William T. Sherman to David French Boyd, October 29 1865, David French Boyd Papers, William T. Sherman Letters, Mss. 890, 893, 3362, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. [Hereafter referred as Boyd MSS]

³⁰ Ibid.

wrong hands. Professor Boyd gradually convinced Sherman that the arms he requested were vital in the training of Louisiana's elite white men, and they ought to be supplied. Sherman responded, "In a year or so I will undertake to get your arms and guns, and all you need to resume the military character of your seminary. I have promised to come down on some anniversary occasion and will keep the promise, and I will always try to be your friend."³¹ It was essential to have Sherman's support. A number of exchanges between the friends concerned other aspects of accommodations and pedagogy at the college, indicating that Sherman also considered military drill to be an important component in the well-rounded education of Louisiana's white elite men. This was no brazen ploy to arm the Klan or other resistance factions at public expense or to encourage young men to dangerous behavior, but an altruistic expression of Southern white men's need to experience and enforce order among themselves.

Months passed without progress in supplying arms to LSU. Professor Boyd continued to lobby Sherman for the guns and received a more detailed response. Sherman agreed with the view that physical or martial strength was an important aspect of a man's public persona and academics alone were insufficient for a robust pupil. Even as delays mounted in providing arms, Sherman reassured Boyd that this was not to impugn their honor. Boyd's persistence in arguing for an armed student body paid off with Sherman's help in navigating the government bureaucracy:

Your letter about the army was so direct and sensible that I sent it to General Grant and asked him if true that other like institutions had been allowed to retain their military equipment that he would endorse it to Sheridan and send it back to me to be sent by me to Sheridan with a note that your college be planned on a footing of the most favored.

³¹ Sherman to Boyd, January 25, 1867, Boyd MSS.

Of course neither Grant or I have any fears that you will again turn your army against us but, in popular government we have to pay some attention to the food—materials for an outing. I surely wish you to regain full prosperity and think a good crop and the ability to educate their sons by parents will accomplish this as surely as the sun shines, but as you attach a value to the military exercises and drill as part of the discipline I am anxious to aid you.³²

Sherman had lived in the South long enough to internalize that the ownership and use of guns had long been a normal part of manhood in Louisiana. As Ted Ownby describes in his studies of Southern recreation, shooting clubs were a way for men to compete with each other in displays of skill without hurting anyone. Whether hunting or simply target shooting, the use of firearms had a non-political context, even during Reconstruction.³³ Ownby may go too far in stressing shooting as a hobby that contradicts the ethos of hard work and discipline.³⁴ He links American shooting and hunting clubs to their counterparts in Britain, where festive firepower found a balance with public order and a level of discipline appropriate to the members' social standing.³⁵

The Upton family recorded several encounters with the kind of armed and organized men that Reconstruction authorities rightly feared. They endured close brushes with bandits, paramilitary patrols, and dangerous escaped slaves on their way back to

³² Sherman to Boyd, August 9 1868, Boyd MSS. The letter continues with Sherman's thoughts about white men's destiny to dominate the American West: "The whole is (in a nut shell) Indians and white men cannot use in common the Buffalo plains. Though not fit for cultivation our people must cross them, and Indians claim them as their exclusive hunting grounds. In the end they must be moved to small and clearly defined reservations and must be killed."

³³ Ownby, *Subduing Satan*, 13-16, 37; "Louisiana Items," *Carrollton Sun*, September 26, 1860, <http://chroniclingamerica.loc.gov/lccn/sn88064165/1860-09-26/ed-1/seq-2/>.

³⁴ Ownby, *Subduing Satan*, 48.

³⁵ "Louisiana Items," *Carrollton Sun*, September 26, 1860, <http://chroniclingamerica.loc.gov/lccn/sn88064165/1860-09-26/ed-1/seq-2/>. A report of a young man's death hints at the danger of recreational gun use described by Ownby. He shot himself in the neck because he "was careless in the act of unloading his gun." Sometimes deaths of this kind are really suicides that are misidentified to spare the feelings of loved ones. If he really did accidentally shoot himself dead while carelessly cleaning his gun then Sherman and Boyd were correct; he would have benefitted from a stricter training regimen.

Vicksburg. Ellen took note of their white male companions' initiative and expressed admiration for those who could skillfully wield firearms in her defense.³⁶ When Bandits approached their party, everyone ran to the armed young men for protection. The men who were competent with any aspect of security earned praise, while Ellen's own father exhibited only mediocre skills.³⁷ Ellen's admiration for men's mastery of surroundings and the trappings of militarism extended to Union men, even though she disapproved of their goals.³⁸ Like Meriwether's fictional character Polly Plucky, Ellen Upton esteemed a white man with the authority to enforce social order. She simply preferred that Southern men enforce a different type of order.³⁹

I am seeing strange sights continually. Altho [sic] the war lasted four years and is now terminated. I conversed with a Yankee soldier for the first, this morning. He seemed very intelligent, was attired in a beautiful uniform – worn somewhat carelessly – carried a handsome sword and was mounted on a large, handsome horse. I don't believe we got on together very well, for he rode away without saying "good bye". A passer-by saluted him "Lieutenant". I was a secessionist in 1864. Have continued so. And cannot disguise my feelings. As to politics as a study or as an interest I am done. Shall never trouble myself upon that subject more.⁴⁰

Ellen Upton mostly described armed men as preservers of discipline and order. The Yankees they encountered *did* prevent them from profiting by selling contraband cotton, but that obstruction was the impersonal, rational execution of policy. Her encounters with southern bandits were more hypothetical than actual, as they were

³⁶ Ellen Upton, Diary May 21-22 1865, Upton MSS.

³⁷ Ibid., March 15-17 1865. Ellen often commented on her father's clumsiness with horses, oxen, and every kind of water craft, but admired the smooth handling skills of their fellow travellers.

³⁸ Ibid., April 22 1865, May 13-18 1865.

³⁹ Ibid., May 31 1865. Ellen said that she did not object to negro soldiers and thought it could have saved the Confederacy, *as long as* white men commanded them as officers. The teeming negroes of Natchez were happy and polite in their freedom, so Ellen mused that if they could be kept on plantations with labor contracts the new arrangement might have been superior to slavery.

⁴⁰ Ibid., June 2 1865.

always able to slip away in time to avoid violent confrontations. Other women including Confederate diarist Kate Stone were personally and viciously threatened with lethal force by Union soldiers as well as by runaway slaves, and her attitude of cynicism and suppressed anger differed tremendously from Ellen's admiration.⁴¹

When the University finally received its guns in 1870 it accepted more than just muskets. Four cannons were donated for ceremonial purposes and artillery drills. The school was very proud of this feature of student life and advertised it in newspapers.⁴² A lot of teenaged boys owned and used small arms, but very few of them were trusted with artillery. It was a feature that definitely set them apart from competing boarding schools across the region.⁴³

When Superintendent D. F. Boyd delivered the graduation speech for the college's class of 1869 he emphasized the University's commitment to discipline and hard work in the context of postbellum society. Because of the war's interruptions it was the first class to graduate after a full four-year program of study. The superintendent's speech was published in its entirety on the front page of the *Louisiana Democrat*. Boyd

⁴¹John Q. Anderson, ed., *Brokenburn: The Journal of Kate Stone, 1861-1868* (Baton Rouge: Louisiana State University Press, 1995), xx. Ellen was often just as angry with ineffectual Confederates as she was with northern marauders.

⁴² "Louisiana State University," *Daily Telegraph*, December 31, 1870, <http://chroniclingamerica.loc.gov/lccn/sn88064499/1870-12-31/ed-1/seq-4/>; "Louisiana State University," *New Orleans Daily Democrat*, November 14, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-11-14/ed-1/seq-2/>; Untitled, *Opelousas Journal*, September 19, 1873, <http://chroniclingamerica.loc.gov/lccn/sn86079077/1873-09-19/ed-1/seq-2/>.

⁴³ "Educational," *Morning Star and Catholic Messenger*, February 6, 1870, <http://chroniclingamerica.loc.gov/lccn/sn86086284/1870-02-06/ed-1/seq-1/>.

acknowledged that many aspects of the war and Reconstruction uniquely hindered the boys' studies and the school's very existence.⁴⁴

Boyd mused that boys at comparable schools of the North may have enjoyed an excellent education, but by missing the hardships of war they would never really appreciate how good they had it, and they would never have the discipline and resourcefulness of boys accustomed to spartan existence by years of privation. The completion of their studies was primarily useful for the construction of inner strength, and the diploma was almost incidental. Boyd admonished his boys to retain the healthy humility of their origins even though their potential was boundless. "Remember then, that at present you are but promising young men. I know you feel proud and glorious today, as you should do... but really each one of you is simply, as yet, *nobody*, and the great world cares not a straw for you!"⁴⁵ That is exactly the kind of tough love that military academies were specifically intended to provide.

We may be confident that Col. Boyd meant every word of his speech because of the way he dealt with the school's first major public scandal in December 1871. In the dead of night a group of students loudly removed the school's main bell from its tower and hid it. Col. Boyd immediately woke up another officer of the faculty to search the campus, but the bell was not found. Boyd interrogated the students individually, and

⁴⁴ "Address of D. F. Boyd, Superintendent La. State Seminary," *Louisiana Democrat*, September 15, 1869, <http://chroniclingamerica.loc.gov/lccn/sn82003389/1869-09-15/ed-1/seq-1/>.

⁴⁵ *Ibid.* It is difficult to tell whether Boyd's speech suffers from a significant typo in the next paragraph or he simply expressed a commonly held racial sentiment in his era as it makes sense both ways. "I tell you the secret of success is *labor!* White intellect, of course, is indispensable, yet let me impress on you that the elements most necessary to make up a great man, are *energy, activity, and will.*" Boyd might have said "while" instead of "white", as the "t" is easily mistaken for a lowercase "l" in linotype. Boyd's private letters to Sherman did not touch on white and black racial issues and his other statements in the press were typically free of racial rhetoric.

twenty-four of them refused to cooperate. The Superintendent unhesitatingly expelled them all that night. The *Donaldsonville Chief* reported that:

Among them was a son of Col. Boyd, and several members of the graduating class, some of the best scholars of the University... when it is considered how necessary to the welfare of such an institution is a rigid enforcement of its regulations, the prompt dismissal of the refractory students seems to have been perfectly necessary and justifiable.⁴⁶

Boyd's track record for intolerance of insubordination was reinforced by a state law mandating a vice-free zone around the University's new Baton Rouge campus. No gambling or saloons were allowed to operate within two miles of the college. As the new campus was supposed to be erected in the middle of Baton Rouge, this caused some speculation over whether it would be easier to move downtown Baton Rouge or build a new campus outside the city limits.⁴⁷

Although Col. Boyd was justifiably proud of his new school's achievements, LSU had a long way to go before it could really be considered an institution of national significance. In October 1873 LSU sent its top graduate to West Point for further study with a scholarship from his congressman. Mr. Hill failed his entrance examination and was sent back home to Louisiana soon after he arrived. The *Donaldsonville Chief* solicited other ambitious boys to write their congressman to replace him.⁴⁸

A major turning point came to Louisiana's preeminent military school when much of the campus burned in October 1869. Although the cadets saved the library and most

⁴⁶ "Trouble at the State University," *Donaldsonville Chief*, December 2, 1871, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1871-12-02/ed-1/seq-2/>.

⁴⁷ "Brevities," *New Orleans Daily Democrat*, November 26, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-11-26/ed-1/seq-1/>.

⁴⁸ "Local Jottings," *Donaldsonville Chief*, October 11, 1873, <http://chroniclingamerica.loc.gov/lccn/sn85034248/1873-10-11/ed-1/seq-3/>. The Louisiana State Seminary of Learning & Military Academy officially changed its name to Louisiana State University in 1870.

of the furniture, the majority of the buildings were lost. This tragedy forced the cadets to leave Alexandria to share the campus of the Institution for the Deaf and Dumb and the Blind until the state legislature could appropriate funding for a new permanent campus.⁴⁹

Due to the cost of rebuilding and the lower number of families able to pay tuition, the school was in serious financial trouble at the end of the 1870s. In search of savings the state legislature killed two birds with one stone in 1877 by merging the then separate entities of the Louisiana State University and the Agricultural and Mechanical College.⁵⁰ Congress had appropriated money for agricultural and mechanical colleges through land grants and it made sense to share the funding.

A serious coalition formed to oppose the merger. One faction of state legislators simply opposed the continuation of a school that seemed to bleed money, arguing that it would only drain the agricultural and mechanical educational resources. State Representative T. B. Lyons believed that the language of the original funding bills had expired and the merger of the colleges was unconstitutional.⁵¹ Representatives from New Orleans reliably protested on the grounds that the new school was to be in Baton Rouge instead of New Orleans.

⁴⁹ “Destruction of the State Seminary by Fire,” *Opelousas Journal*, October 23, 1869, <http://chroniclingamerica.loc.gov/lccn/sn86079077/1869-10-23/ed-1/seq-2/>; “Acts of the General Assembly of Louisiana,” *Ouachita Telegraph*, April 22, 1871, <http://chroniclingamerica.loc.gov/lccn/sn85034336/1871-04-22/ed-1/seq-1/>. Faculty and investigators believed that the fire was the result of arson because it originated in a place where fire is never permitted.

⁵⁰ “The State University and the Agricultural and Mechanical College,” *New Orleans Daily Democrat*, March 13, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-03-13/ed-1/seq-8/>; “Agricultural School Matters,” *New Orleans Daily Democrat*, August 1, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-08-01/ed-1/seq-8/>; “State University and Agricultural and Mechanical College,” *Feliciano Sentinel*, November 10, 1877, <http://chroniclingamerica.loc.gov/lccn/sn88064555/1877-11-10/ed-1/seq-4/>.

⁵¹ “The State University and the Agricultural and Mechanical College,” *New Orleans Daily Democrat*, March 13, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-03-13/ed-1/seq-8/>.

Most interestingly the representatives of rural districts were deeply upset that the newly formed school seemed to be dominated by the leadership of the old military school instead of the agricultural school.⁵² They argued that the legislation made no provision for a model farm, and offered amendments to reconstitute the agricultural school's original board of directors or forbid the use of agricultural education funds to extinguish University debt.⁵³ The agricultural faction believed that the state's future prosperity was dependent on agriculture, and disagreed that military discipline was as important. "The chief business of her people will be the cultivation of the soil. Then why should not her state college be so organized and conducted as to fit her people for that employment which must be their life work?" The farming interest never bothered to disparage the school's supposed "mechanical" program and it enjoyed no advocates in the newspapers.

The agricultural faction also opposed the teaching of liberal arts on the basis that "a finished literary education" was really just a frivolous affectation of the wealthy, and they ought to seek such services privately, and probably in other states.⁵⁴ These farmers acknowledged that it was more difficult than ever to establish young men in the kind of prosperous agricultural career that they had enjoyed in their own youth. Instead of preparing their sons for other paths by broadening their horizons they wanted to chase the dream that planters with better skills could overcome the loss of slave labor and the collapse of the global cotton market. R. H. Ryland, M. D. complained that more land

⁵² "State University and Agricultural and Mechanical College," *Feliciano Sentinel*, November 10, 1877, <http://chroniclingamerica.loc.gov/lccn/sn88064555/1877-11-10/ed-1/seq-4/>.

⁵³ "Agricultural School Matters," *New Orleans Daily Democrat*, August 1, 1877, <http://chroniclingamerica.loc.gov/lccn/sn83026413/1877-08-01/ed-1/seq-8/>.

⁵⁴ "What Sort of School," *Feliciano Sentinel*, September 8, 1877, <http://chroniclingamerica.loc.gov/lccn/sn88064555/1877-09-08/ed-1/seq-4/>.

THE NEW ORLEANS
MILITARY HIGH SCHOOL,
188..... Race Street188
(Between Coliseum and Camp),
Conducted by T. B. EDWARDS and SAM. H. LEWIS
graduates of the Louisiana Military University;
Will prepare pupils to enter the Sophomore or
Junior Class of the Louisiana State Military Uni-
versity, or any other college in the United States.
An Elementary Department is attached. Discipline
military, with daily drill. nos 5m

LOUISIANA STATE UNIVERSITY,
(NAME CHANGED FROM LOUISIANA STATE
SEMINARY),
BATON ROUGE, LOUISIANA,
Founded and Supported by the State
of Louisiana.
NINTH SESSION,

Figure 14. New Orleans Military School advertisements. *The New Orleans Republican*, April 4, 1871.

than ever lay waste and unproductive, but never explained why it should be brought into production when the land then sewn with cash crops was barely breaking even.⁵⁵

By the end of 1877's legislative session the bill to combine the colleges was passed over the objections of change-averse farmers. The public debate over the merits

⁵⁵ Ibid.

of different types of education mirrored the dilemmas faced by families across the state. Some farming families wished to see their sons follow in their footsteps, while others more magnanimously wished their children the most success possible.

The children of the Stone family experienced a somewhat different Reconstruction than those of the Upton family because they lacked a commanding father figure to guide them through the new social landscape. Mr. Stone died before the war, leaving the family and estate in his wife's capable hands. Kate Stone recorded her family's experience in a diary that began in 1861 and ended in 1868. The family owned a plantation in northern Louisiana named Brokenburn near Vicksburg. Rather than leave the family without men about the house, Kate's Uncle Bo sold his own estate and gave all the proceeds to his sister to manage along with her own.⁵⁶ Then he could move in with them as a regular part of the household. Giving them the proceeds of the land sale was less like charity and more like paying his share of the estate expenses as a resident. It was a way for everyone to feel good about themselves as well as provide a little more protection for the women.

For much of the war the family endured looting before temporarily fleeing west to escape the Northern army's advance.⁵⁷ The Stone children experienced an interruption of schooling similar to the Uptons, different only in that they initially hoped to retain a decent tutor throughout the conflict. Kate was a young woman but her brothers were in their early teens. Though they were getting close to the age when they should be on their own, they still lacked the necessary schooling to succeed. When the unusual easterner

⁵⁶ Anderson, *Brokenburn: The Journal*, i-xxi.

⁵⁷ *Ibid.*, 3,4.

finally arrived he stayed for less than two months of lessons. “Looking for the new teacher to arrive every day – he should have been here by now. The boys are impatient over the delay. They realize the importance of this year’s study.”⁵⁸ Mrs. Stone advertised widely and corresponded with applicants, but as the war intensified it became virtually impossible for tutors to travel or for Mrs. Stone to pay their fees.⁵⁹

The Stone children participated in adult jobs as necessary to run the short-staffed plantation. In this respect they were like Eldon Upton. Unlike Eldon, they lacked a parent with the vision and authority to recognize talent and opportunity for non-farm business and kindle the flame of youthful interest. Mothers and other significant women in the boy’s life could certainly provide guidance, but the boys were culturally primed to receive it better from their father. Kate’s younger brother Jimmy was once tasked with obtaining leather to make the slaves new shoes. “Jimmy came back this evening and to Mamma’s agreeable surprise succeeded in getting the leather. Jimmy is developing into a ‘cute little trader’, now that he is the only man about the house and must be Mamma’s right hand.”⁶⁰ The moment of triumph came and went, and Jimmy soon returned to the mundane traditional chores of running the plantation.

Before the war Jimmy had just begun formally studying medicine in a hospital under a doctor’s tutelage. He had to put those plans on hold in order to assist his family near the front lines. When the war ended his mother urged him to return to his original course, but Jimmy felt free to ignore his mother’s entreaties. Instead of accepting that it

⁵⁸ Ibid., 70.

⁵⁹ Ibid., 56, 61.

⁶⁰ Anderson, *Brokenburn: The Journal*, 153.

was impossible to return Blackburn to its antebellum prosperity, or at the very least broadening his horizons, he doubled his bets on farming. With the help of his brother it seemed to work in the short run, but to the rest of the family it seemed like a clear waste of human potential.

They have succeeded well as they will clear several hundred dollars. We all regret so much Jimmy's refusal to go back to the hospital. He seems cut out for a doctor, and the physicians at the hospital say he has a decided touch for it. All urge him to go back, but because he will have to be dependent on my brother for a while he will not study medicine any longer. We fear he is throwing away the best chance of his life. The boys are so hot and tired when they come in from the fields.⁶¹

Soon after this decent harvest the Mississippi River burst its long neglected levees and badly flooded Brokenburn plantation. Jimmy went on to marry a widower with a plantation of her own and gamely tried to keep it afloat before selling it and buying a drugstore.⁶² We cannot know whether he married her for her land, love, or some combination of the two. Perhaps if he had a commanding father figure instead of a mother whom he could ignore he would have gone back to medicine as his family desired before wasting fruitless time (and perhaps romantic affection) in farming.

White fathers were unsure how to best prepare their children for the new Southern economy, so rather than solely emphasize traditional antebellum career paths, many of them simply chose to prioritize basic institutional discipline and the value of consistent effort. Character traits apply everywhere while specific knowledge is often irrelevant. The attainment of a liberal education alone was sufficient for girls to realize their potential because their social roles were limited to wives, mothers, and teachers. Just as

⁶¹ Ibid., 375.

⁶² Anderson, *Brokenburn: The Journal*, xi, xii.

flexibility was an asset in finding work in the new economy, fathers who were more flexible and creative in guiding their children into adulthood probably succeeded best.

CONCLUSION

Fulfilling the gendered duties of men by providing their families with economic security, protection, and dependable guidance, was difficult and sometimes impossible for Southern white men after the war. Many men were disabled from war-inflicted wounds on body and psyche, so that finding suitable employment was a permanent post war challenge. Men's civic participation had been curtailed by Reconstruction government. Southern men found their reputations tarnished in other parts of the country and around the world, as evidenced by the reluctance of northern businessmen to resume business on antebellum terms. They had lost power over slaves, and perceived growing loss of authority even within their own households. Bilateral marriage contracts helped ease their burden in some respects, but raised other doubts about their duties as men. Louisiana law generally supported men in their gendered role of family provider and decider, but challenges to inheritance and debt protection laws from widows led to judicial decisions that sometimes sided with women, particularly if they appeared vulnerable rather than independent and assertive. New legislation that defined and prohibited incest brought state authority into the home, limiting men's behavior and challenging the enshrined antebellum gendered construct that men always acted in the best interest of their wives and children. A crisis of manhood was afoot.

Those men fortunate enough to return from war were welcomed back by wives and mothers who struggled to hold the household together in men's absence. Men were expected to reassume the mantle of provider, their most important duty as men. As evidenced in the admonitions of newspaper journalists and in the diaries of the Ellen and Eldon Upton, white southerners eagerly hoped for men to reestablish themselves as

quickly as possible as leaders of society and trusted patriarchs of their families. The landed gentry often became their own worst enemy, disabling themselves with notions of honor that forbid them from seeking work in the new economy. Many men found the family farm failing and familiar patterns of antebellum commerce unprofitable. Men like Jimmy Stone remained stuck in antebellum thinking, hopeful that familiar patterns of antebellum life would return if they just kept the family farm going for one more year. Others, like those who wrote to prominent New Orleans cotton factor, Dr. Joseph S. Copes for help, abandoned attempts to revive their old occupations. Many adventurous or desperate men moved from rural areas to urban centers like New Orleans or to the North or West in search of work. Some despaired of ever reestablishing themselves anywhere in the United States, such as Dr. W. J. Dupree, who in 1865 considered decamping for Brazil. Southern white men who were more flexible gave themselves more opportunity for success. Men were most successful when they pragmatically accepted the irrevocable changes that had occurred in the South and bided their time to reassume their expected roles as men in civic life.

Despite the considerable skills of Dr. Copes, his efforts to reestablish a network of agents who could supply cotton, and his attempts to reestablish business ties with northern merchants were met with but a smattering of success. Other unemployed men envied Dr. Copes' "situation", that relied upon relationships of trust between men and confidence that each man could fulfill his business promises. In seeking to reestablish themselves as men, both in their own minds and in the view of society, men continued to view trust and confidence between men as a desirable but sometimes elusive component of manliness.

The gendered problem of men reestablishing themselves as family providers was answered in part by men becoming more flexible in their acceptance of the modernizing economy. Samuel Upton may well have ended the war believing that he could reestablish his former business in Vicksburg, but he was forced to accept defeat and move his family to a rural farm where he and his wife and daughters eked out a living as best they could. His son, Eldon, in contrast, embraced new career paths in sales that were economically rewarding and enabled him to help shoulder the mantle of male responsibility for his family. Eldon's story suggested that flexibility equaled strength in the new South, and that the rigid patterns prized in elite antebellum men as a sign of strength were no longer useful.

Given the challenge of finding secure employment after the war, men were relieved to find that antebellum laws providing a modicum of debt protection for their family were kept by the Reconstruction government and strengthened to meet men's increasing need for these provisions. The gendered question revolved around the intent and interpretation of these laws, ostensibly written to protect widows and children, but often worded and interpreted as personal privileges specifically for men in their gendered role as head and master of the family. It is hard to give credence to the stated intent of these laws because the gendered antebellum concept of head and master seems so incredulous to today's reader.

A father could claim homestead protection from creditors while he was alive and keep his family from going homeless, but widows and children did not enjoy the same protection once he died. This only makes sense if we understand the laws assumption that men were better trustees of family resources than women, and by extension that

women often needed either their husband or the court's consent before entering into contracts. The provision of necessitous circumstances protected widows and minor children with a small monetary inheritance after their husband and father's death. Judicial decisions to grant debt protection sometimes hinged upon questions of marital domicile, supported by the patriarchal right of the husband to determine family living arrangements. Sometimes judges showed sympathy for widows who appeared vulnerable and virtuous, like Louise Liddell and Mrs. George Rawls, but were unsympathetic to an assertive and capable widow like Mrs. John C. Norton, supporting historian Bardaglio's argument that the growing body of legislation giving women rights vis-a-vis their husbands were intended to protect women from wicked men rather than to acknowledge the rights of women. In *Calvit vs. Hoy*, a woman was granted homestead protection on property that she owned and managed by herself, but this was an exception to a law that was almost always viewed as a personal privilege for men. Increasingly the courts bent the word of the law to allow a just outcome even while they worded opinions to uphold the antebellum construct of patriarchal privilege.

The spurious but firmly entrenched gendered construct that only men were capable of making business decisions was slowly eroding. Some American women had always held jobs and many owned separate property and provided essential services within the antebellum household. It was not unusual for couples like Mr. and Mrs. John Norton to jointly own and operate antebellum retail businesses. Post war conditions necessitated an increased number of working widows and unmarried women, and wives helping their husbands, which flew in the face of antebellum dictums that emotional and physical frailties made women unsuited to making business decisions. Mary D. Cooper and her

husband Silas exemplified an emerging pattern of bilateral marriage contracts in which it was sometimes acceptable for women to manage family business as an equal partner.

The marital arrangement of women's suffrage activist Elizabeth Avery Meriwether and her husband, Confederate Colonel Minor Meriwether allowed Elizabeth to travel on speaking tours and publish a weekly journal while her husband pursued his own political and business duties. A wife who participated in civic life may have been seen as a threat to the masculinity of some men, but not to others. Bilateral relationships like these allowed men options in marriage without the implication that they were derelict in their roles as husband.

On other fronts, men found their manly duties and expectations unchanged. The court decreed that Silas Cooper had done nothing wrong in exercising his duty to protect his wife and her property. Despite their sympathy for the arguments of women, the courts were not inclined to treat men and women equally under the law, so that men did not have to fear the humiliation of being treated like women. Most post war Southern men continued to enjoy at least tacit authority over members of their own household, even if it involved a more modern partnership between themselves and their wives. When it came to illicit affairs of the heart, however, men feared that southern women had abandoned antebellum discretion for reckless behavior with no regard for men's authority.

Certainly there had always been reckless women whose outbursts could not be prevented, but Madeline S. Edwards' diary suggests that some antebellum southern women suffered in silence and guilt, and actually respected their married lovers all the more for ending the affair. This was the pattern that men hoped for, but newspaper

accounts of liberated southern women after the war suggested that it was risky for men to assume women's compliance in ending an affair. Mary Hardy's suit against Colonel John Stevenson, and Laura Fair's trial for the murder of Colonel Alex P. Crittenden suggested that even prominent southern men like Col. Crittenden, and Col. Stevenson could not rely on the courts to protect them from the threats and deeds of reckless women. Laura Fair was certainly not typical, but men may have feared that she and others like her were indicative of a trend in Southern women. For some men, this was a reality check that suggested caution and limits to their power to initiate and end extramarital affairs without fear of reprisal.

Nineteenth century journalists such as those who reported the murder of prostitute Helen Jewett, used salacious stories not only to sell papers, but also to moralize and to warn readers not to fall into similar predicaments. Journalists questioned the environment in which women like Helen Jewett had been raised, and postulated reasons for her fall into prostitution. Mark Twain's *The Gilded Age*, suggested that weak southern white men needed improvement, and that their diminished condition may have given rise to liberated and reckless southern women. These suggestions may have caused frustration and soul searching for men, but there was nothing they could do about women's increasing willingness to contest their actions other than to weigh their own choices and behavior more carefully.

Activist Elizabeth Meriwether also believed that southern men needed improvement, depicting them in her play, *The Ku Klux Klan or The Carpetbagger in New Orleans*, as weak, foolish, and dominated by a punitive government and northern interlopers who exploited the South during Reconstruction. The play reflected

Meriwether's political views and the sentiments of many southern women who found comfort in blaming the problems of white men on the corruption and excesses of Reconstruction government.

Operas performed in New Orleans during Reconstruction sometimes featured stories with gendered themes that suggested a shifting balance between men and women. It may have been comforting for New Orleans audiences to ponder that these operas had been written in France, at different times, yet suggested gendered questions of current interest. *Le Diable* suggested that men should heed and rely on the help of a loyal woman rather than be tempted into foolhardy adventures. *Daughter of the Regiment* played with gendered roles and featured situations in which men and women adopted traits of the opposite sex, and *Le Chalet* allowed men and women to breathe a sigh of relief when its' independent heroine admits the usefulness of men. These French operas were a beloved feature of cultured society in New Orleans and offered catharsis and comic relief to their audiences.

Some men proved their strength, at least in their own mind, by abusing the female members of their own household. Men's prerogative to satisfy their sexual desires with the women and girls in their household was reigned in by the Louisiana legislature after a case of incest was prosecuted for the first time in Louisiana's history in 1878. The significance of these laws, that explicitly defined and prohibited incest, was not only in stopping men's wicked behavior, but in bringing the power of the state directly into the home. State regulation of acts that transpired between a man and his family challenged and weakened the antebellum construct of patriarchal privilege, which rested on the belief that a man would always act in the best interests of his family, and therefore his

power to do what he wanted was absolute.

Some southern men who were slave holders indulged in sexual liaisons with their slaves as a right of ownership. After the war, privileges of masters over slaves were gone, but patriarchal privilege, that gave all men, not just former slave holders, absolute authority over the women in their households, was still an honored prerogative. The Louisiana Supreme Court's judicial opinion that incest had never been clearly defined by law in Louisiana, and that men's authority over the women in their household was historically limited only by fashion or legislation, supported Henry Smith's defense in claiming that he had done nothing wrong in having sex with his daughter. Although subsequent legislation defined and prohibited incest, the court declined to prosecute W.W. Crane's affair with his half sister when the defendant appeared contrite and acknowledged the state's right to limit his behavior. Antebellum patriarchal privilege in this regard was so firmly ingrained that the courts also had to weigh degrees of consanguinity. Louisiana men were put on notice that this particular gendered privilege was no longer acceptable and would not be allowed.

Besides reestablishing themselves as productive men, fathers had to consider how best to prepare the next generation. Preparing children for adulthood, through formal education, an apprenticeship, or even an upwardly mobile marriage, was a vital obligation for antebellum white men. Ellen Upton lamented that her father did not have the resources to further her education nor to provide a good dowry, both of which might help her to secure a good husband. Perhaps if Laura Fair's widowed mother had been able to keep her at the seminary for longer, she would have remarried more happily. The casualties of war meant that the chances of young women finding suitable husbands were

diminished, making more possibilities for female employment welcome and sometimes necessary. Fewer men also offered young women more opportunity to be independent of men by choice.

Before the war, Eldon Upton may have expected to attend school, then become a cotton agent like his father, entering into a network created by his father and his associates in the style of Dr. Copes. But Samuel Upton had been unable to restart his business, so that was no longer a practical way to think. As a young adult, Eldon looked beyond his father for other male role models and found one in his boss, who shrugged off teasing women and found manly satisfaction in his pay-check to compensate for his skills as a salesman. Finding a way forward by embracing a new occupation enabled Eldon to succeed where his father was incapable, so that Eldon willingly shouldered the mantle of male responsibility for his family by helping with his sister's education. Fathers like Samuel Upton had to choose between encouraging their sons to venture forth to find their own opportunities, or to stay on the farm where there were none.

Many Southern men believed that military drill and arms training instilled self-discipline and personal order in young men, so that obtaining federal permission for LSU to resume military drill was the first order of business. Some rural men disagreed, arguing that an education that included liberal arts and military drill was neither necessary nor practical for young men in Louisiana, whose futures lay exclusively in learning the newest agricultural methods and mechanical devices for farming, that would help farmers to create efficiency without the labor of slaves. LSU's Superintendent D. F. Boyd touted the importance of instilling personal order and self-discipline, manly characteristics that would stand all men in good stead.

The next generation would be more practical, more flexible, and more successful in becoming new southern men.

The older men were, the more difficult it may have been for them to adjust their behavior and attitudes to fit the new emerging paradigm of manhood. It had taken several years of war to ruin the South, and during the conflagration, men may have thought that the land would right itself and life would return to familiar patterns when war was over. After fighting heroically, they never expected to face challenges to their core identity as men or to established tenants of honor and patriarchal privilege. They may not have consciously perceived the changes taking place. More likely, they experienced consternation and confusion about what was expected of them and how to fulfill their manly duties.

Useful qualities like confidence, self-discipline, dependability, and courage, continued as important manly attributes. In most families, men continued to be the foremost provider of economic security, protection, and guidance. Antebellum constructs of patriarchal privilege and elite honor gradually gave way to more partnerships in marriage and modern economic models of employment, trade and commerce. The transition was easier for young men like Eldon Upton, who were not already entrenched in antebellum absolutes. The authority of the state continued to grow, incrementally limiting the authority of men.

Many former Confederates never did recover from their problems, but possibly gained some pride as white women placed the blame for their weakness on Reconstruction and began to construct monuments to the heroes of the Lost Cause. After Reconstruction, women would continue to find their voice and advance themselves in the

public arena, as men resumed their role as leaders in society and politics, even reasserting their race's dominance over the freedmen with the introduction of Jim Crow laws. White Southern men reestablished their power wherever they could, but their antebellum model of gendered authority over slaves, women, and their families was forever altered.

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