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## "According to Their Capacities and Talents": Frontier Attorneys in Tallahassee during the Territorial Period

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THE FLORIDA STATE UNIVERSITY  
COLLEGE OF ARTS AND SCIENCES

“ACCORDING TO THEIR CAPACITIES AND TALENTS”: FRONTIER  
ATTORNEYS IN TALLAHASSEE DURING THE TERRITORIAL PERIOD

By

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A Thesis submitted to the  
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This thesis is dedicated to my family: my two 6-month-old twin girls, Grace Catherine and Carys Elizabeth, and my loving and long-suffering wife Heidi. Without your help and inspiration, this project would not have been possible.

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## ABSTRACT

The thesis identifies and describes the practice of attorneys in frontier Tallahassee during the Territorial Period. The thesis will also address dichotomies posed by past historians regarding the nature of the practice of law during the early- to mid-nineteenth centuries. The first, propounded by historian Roscoe Pound, maintains that this era was a period of decline in the legal profession, but also a “Golden Age.” The second, posed by historian Jerold Auerbach, maintains that lawyers during this period were “country lawyers” (in the model of Abraham Lincoln or Daniel Webster) or aristocrats.

The thesis argues that attorneys practicing in frontier Tallahassee during this period were professional and quite competent; their actions do not give rise to the idea that this was a period of decline for the practice of law. The thesis also maintains that lawyers during this period were more in the model of aristocrats. The thesis also contains an appendix listing all those identified as have practiced in and about Tallahassee from 1824-1845 along with some brief biographical notes.

## INTRODUCTION

The sheriff opens the court, calls over the causes, and all is silence . . . and the drama opens. The barristers plead their causes according to their capacity and talents. The judge makes his charges with as much dignity as if he were Benco Regis, in Westminster Hall, while the verdicts were given devoid of what whimsical appearance which those courts and juries present. Evening arriving, the court adjourns to the following morning. The same scene presents itself, with this addition, that the pleaders amuse the people in the different taverns by harangue or resume, on the justice of their causes, etc. – Achille Murat, America and Americans, (1849)

Murat's description of Judge Thomas Randall's Middle District Court of Florida, which in the early days of the territory of Florida met in the home of one of its townspeople, paints a picture of a justice system that served as much for popular entertainment as for resolving real legal issues. Murat knew well the scene he was painting; he was one of the pleaders and later became a local justice of the peace. Considering that only a few years before the area consisted of nothing but clustered Seminole Indian villages, it is rather amazing the scene was taking place at all. That a legal system, rudimentary as it was, could develop under such conditions is in itself a significant achievement.

The town of Tallahassee had been nothing more than a compromise between the only two population centers in the newly purchased and rapidly populated territory. The previous Spanish authority divided "The Floridas" administratively into East Florida and West Florida, with St. Augustine serving as the capital of East Florida and Pensacola the capital of West Florida. Andrew Jackson's brief and begrudging service as territorial governor in 1821, lasting only seven months, nonetheless produced two territorial courts in two new counties which followed the same geographic lines as the previous Spanish

administrative units.<sup>1</sup> By 1822, Congress described the jurisdiction of the superior courts as all capital cases and civil cases involving \$100 or more.<sup>2</sup> In that same year, county courts were established by the territorial act to resolve petty offenses and civil cases less than \$100. The territorial council, composed according to congressional provision of the “fittest persons of the Territory,” struggled to find a place to meet. They tried first in Pensacola, but the delegates from St. Augustine, attempting to travel by land and sea, were several months late. A yellow fever epidemic forced the entire body out of the city to meet at a house in the surrounding wilderness.<sup>3</sup> There they managed to enact the first statutory provision for attorneys in the territory.

Borrowing heavily from the digested Legislative Acts of Missouri, with which the local magistrate, Judge Brackenridge, was most familiar, the territorial council required attorneys to be licensed by the governor or one of the judges of the superior court.<sup>4</sup> Upon application for a license, the prospective attorney was to be examined by “two persons learned in the law.” They were to report to the court upon “his qualifications and moral character,” and if satisfactory, the court or governor would grant the applicant a license. Perhaps most important to the early development of the legal profession in Florida in terms of attracting lawyers from other parts of the country were the rather lax reciprocity rules. In fact, any attorney who could produce a certificate signed by a clerk of a court of record “in some State or Territory of the United States” could be admitted in Florida without examination. Attorneys could not be guilty of “bribery, corruption or other infamous crime” and each was required to take an oath to “honestly demean himself in his profession and execute his office to the best of his knowledge, skill, and ability.” Interestingly, the Territorial Council also created a hefty penalty of five per cent per month of any moneys due to clients that an attorney refused to give over to clients when demanded.<sup>5</sup>

Territorial attorneys thus addressed, the Council attempted to meet the following year in St. Augustine. Having witnessed the extreme difficulties of their counterparts in traveling by land and sea the previous year, the Pensacola delegation now tried a different route, but encountered similar difficulties. The party finally arrived in St. Augustine, again months late. This early difficulty in meeting can explain the serious discussions of the division of Florida into two separate territories and later, states, a discussion which

persisted right up until the state constitutional convention of 1838. Instead, the Council chose one citizen from each town, a doctor from St. Augustine, Dr. William Simmons, and a lawyer from Pensacola, John Williams, to each explore the territory between the Suwannee and Apalachicola Rivers.<sup>6</sup> In 1823, the doctor found himself waiting at St. Marks several weeks. The attorney had departed Pensacola by sail, but without any map of the coastline, and found himself shipwrecked on St. George Island. After flagging down a passing vessel, Williams met Simmons at St. Marks and they both embarked north on horseback. The attorney, whose endurance and patience had no doubt been taxed, quickly decided that the area around present day Tallahassee, with its hills and cascading stream, would be a good site for the new capital.<sup>7</sup> The more practically-minded doctor objected, desiring to explore the area along the Suwannee River to the East, and closer to St. Augustine. When the pair met the local Indian chief and apprised him of the purpose of the expedition, he vehemently objected by picking up a bit of dirt and angrily declaring that it was his land.<sup>8</sup> The attorney persisted, and is thus responsible for the location of Florida's territorial, and later, state capital.

#### Historiography

The history of Florida territorial attorneys, let alone those practicing in or near Tallahassee, appears to be a relatively novel subject among historians. Achille Murat, an eccentric exiled nephew of Napoleon Bonaparte, wrote fairly extensive essays entitled America and Americans, (1851) which provide a DeTocqueville-esque snapshot of early Tallahassee and its development. Important writings also came in the late nineteenth- and early twentieth-century memoirs of local residents, including Susan Eppes's Through Some Eventful Years (1926) and Ellen Call's Florida Breezes, (1882) in which local high society is described in some detail. The first comprehensive work on territorial Florida is Sydney Martin's Florida During the Territorial Days, published in 1944. In the 1970s and 1980s, there were a number of local histories written on the Tallahassee or Middle Florida area. Antebellum Tallahassee (1971) by Bertram Groene was the first thorough pre-Civil history of Tallahassee, followed by Clifton Paisley's From Cotton to Quail (1981) and The Red Hills of Florida (1989) which remain important general histories of the area. In 1992, William Warren Rogers published Outposts on the Gulf which traces the history of Franklin County prior to World War II. Although these local

histories mention the development of the courts and individual attorneys in passing, none of them focuses on the development of the legal profession particularly. Perhaps the greatest contribution to understanding “Middle Florida,” as it came to be known is Edward E. Baptist’s Creating An Old South: Middle Florida’s Plantation Frontier Before the Civil War (2002). In this important work, Baptist traces the development of antebellum Middle Florida and distinguishes the reality of the harshness of daily subsistence and politics from the myth of the “Old South.” The myth, he argues, was created by the planters themselves and their posterity, but does not reflect the reality of life on the Southern frontier.

Recently, there has been a great deal of scholarship on the antebellum court system in Florida. In 1991, Kermit Hall and Eric Rise published From Local Courts to National Tribunals, tracing the development of the Federal Court system in Florida. The chapter on territorial Florida describes certain judges and their decisions in some detail. Walter Manley II’s work, entitled The Supreme Court of Florida and Its Predecessor Courts 1821-1917 (1997), provides the most detailed description yet of the Florida court system. It contains fairly detailed biographies on each of the individual judges serving on the bench with special attention to the political context and climates in which they served. The same year, James Denham’s A Rogue’s Paradise: Crime and Punishment in Antebellum Florida was published. Denham provides a very thorough examination of the antebellum criminal justice system. None of these works describes the experience of the antebellum attorney in any detail, though Denham does list the District Attorneys for each of the territorial districts. Most recently, Florida Sheriffs: A History (2001) by Rogers and Denham gave a new insight into the law enforcement perspective of the criminal justice system.

#### Past Views of Antebellum Frontier Attorneys

Legal history scholars have been crying out for the last thirty years for work that studies the details of frontier legal systems within individual communities as opposed to those which previously painted with broad brushstrokes vast time periods and geographic regions. As one prominent legal historian has opined, “Perhaps the most pressing need [in American legal history studies] is for more monographs on a microcosmic level.”<sup>9</sup>

Perhaps the best known studies of the macrocosmic genre are the oft-cited histories written by Roscoe Pound and Anton-Herman Chroust. These have been criticized as inadequate by more recent historians, one of whom wrote “There is no adequate broad, general historical study of the legal profession in the United States. The most commonly cited basic works – Warren, Pound, and Chroust – are considered poor by contemporary historians.”<sup>10</sup>

Pound, a former Dean Emeritus at the Harvard School of Law, writing in the 1950’s, produced one of the first histories which attempted to describe the role of the attorney in society entitled The Lawyer From Antiquity to Modern Times (1953). The latter half of this ambitious work focused on the development of the legal profession in colonial America and then traced it post-Revolution. A strange dichotomy emerged in Pound’s explanation of the period after the revolution to the 1850’s.

On one hand, Pound was scathingly critical of the general state of the antebellum legal profession. Calling this period the “era of decadence,” Pound bemoaned the impact of Anglophobic state legislatures and what he termed “Jeffersonian democracy,” which did away with the common law and de-professionalized the legal system. Pound opined,

Unhappily, a large number of the older and stronger lawyers were loyalists and left the country or ceased to practice [after the Revolution.] Thus one result of the Revolution was to leave or put the practice of law chiefly in the hands of lawyers of a lower type and of less ability and training. Except in a few centers of legal culture, the bulk of the profession came to be made up of men who had come from the Revolutionary armies with many bitter feelings and but scanty knowledge of the law . . . Moreover the judges in many jurisdiction were often little better prepared.<sup>11</sup>

Pound further pointed out that the post-Revolutionary period was one of economic depression that contributed to professional decline. Pound wrote that “[t]hose were days of strict foreclosures and imprisonment for debt. Thus the lawyers were largely debt collectors, a type that has never been of the best.” Moreover, Pound argued that general post-Revolutionary political conditions created hostility in the former colonies towards all things English, which in popular state legislatures also included the English common law. “This period of distrust of the common law was prolonged by the rise of Jeffersonian democracy at the beginning of the nineteenth century. That large and influential party not only detested things English, but looked more favorably upon things

French. There was agitation for an American code on the French lines and a temporary cult of French law books.”<sup>12</sup> Thus, Pound put forth the concept of a post-revolutionary American legal system composed of debt collectors and designed by Anglophobes.

Pound generally lamented the effect of Jeffersonian democracy and the frontier on the legal profession. He credited the general resistance to the concept of a “profession” with a legal decline in this period calling the idea “repugnant to the Jeffersonian era. The feeling was strong that all callings should be on the same footing of a business, a money-making calling.” It was this “pioneer distrust of specialists, for versatility is a characteristic article of the pioneer’s creed,” and “false ideas of democracy,” which in Pound’s view “led to general rejection of the common-law idea of an organized, responsible self-governing profession” during this period. He noted further with contempt, that, “[s]ome states threw the practice of law open to non-lawyers with bad effects long manifest in our legal system.”<sup>13</sup>

Regarding the frontier, Pound argued this period of great expansion of the American had a corrosive effect on the legal profession. “Geographical conditions and conditions of travel completed the process of decentralization and deprofessionalization. In a country of long distances and in a time of slow communication and expensive travel it was a prime necessity to bring the administration of justice to every man’s door. The general tendency was to set up independent courts of general jurisdiction in every locality and to give each local court its own unorganized bar.”<sup>14</sup> This lethal combination of Jeffersonian ideals and an environment that emphasized self-reliance set the profession back. Pound explained:

The prime characteristic of the pioneer is versatility. When anything is to be done he must do it himself. Thus he develops faith in the ability of the man to do anything. He would leave every one free to change his occupation as and when he likes and to take up freely such occupations as he likes. A pioneer society does not believe in specialists nor in organized professions. The pioneer sees no reason to suppose that judges or parties need the help of a lawyer to argue the law or to present a case adequately form the facts. He prefers to believe he can prosecute his own suits and judge competently the law suits of others. Each new state down to the time of the Civil War repeated or at least threatened to repeat the attempts of the colonies in their earlier polities to make every man his own lawyer . . . The development of American law and even more the development of

the legal profession was retarded and warped by the frontier spirit surviving the frontier.<sup>15</sup>

Then strangely Pound significantly changed his position. Despite this “retardation” and “warping,” Pound almost schizophrenically maintained that although an era of decadence for the profession, the early to mid-nineteenth century marked a “Golden Age.” Claiming that “[t]here is another side to the picture,” Pound apparently reversed himself and maintained that the period from the Revolution to the Civil War was in fact “the golden age of American law.” Pound explained:

[t]he creative legal achievements of that period will compare favorably with those of any period of growth and adjustment in legal history. In seventy-five years at most, the English seventeenth century legal materials were made over into a common-law for America, which became controlling for every state but one and has largely affected that state. This is the work of great judges and great lawyers practicing before them, for there was a high type at the upper level of the profession throughout this period. Of ten outstanding names in the judicial history of the United States, six . . . belong to this formative era.<sup>16</sup>

Why these “great judges and great lawyers” could not have counteracted the very factors which he believed led to the decay of the legal profession, Pound does not explain. It is fair to say that he is divided in terms of whether this period was one of decline or a Golden Age. It simply cannot be both. Other historians have taken up the “decline of the legal profession” versus the “Golden Age” dichotomy.

For example, in The Rise of the Legal Profession in America, (1965) Anton-Herman Chroust was similarly critical of what he called the “discouragingly primitive” general conditions surrounding the administration of justice in the frontier states. He saw uneducated judges refusing to instruct jurors “for fear they would disclose their ignorance. . . . Sometimes trials proceeded smoothly; on other occasions they were handled in a most inefficient way. As often as not they were conducted by ignorant men in the midst of loud talking, noise, and general confusion. At times the pandemonium was such that the testimony could not be heard.” For Chroust, this period was exemplified by the image of “[u]nkempt and unwashed lawyers rolling quids of tobacco in their mouths and judges intoxicated or snoring on the bench . . . . Some lawyers and

judges displayed meanness and conduct and slovenliness in dress in order to appear ‘democratic.’”<sup>17</sup>

Despite this description, however, Chroust also states that the period was a “Golden Age,” arguing that despite these conditions, “there were also indications of an incipient growth and vigor of the legal profession . . . The creative legal accomplishments of this period – a period which was concerned with the applicability of traditional legal materials to specific American circumstances – may be favorably compared with the legal achievements of any epoch in Western history.”<sup>18</sup> Here, Chroust cites and simply echoes Pounds earlier similar observations.

However, a new perspective on the period was introduced later in the 20<sup>th</sup> century by Jerold Auerbach in Unequal Justice: Lawyers and Social Change in Modern America. (1976) Auerbach contrasts two idyllic images of the attorney during this period. The first is DeTocqueville’s socially-minded aristocrat. In a quote which was destined to be used in countless future bar association speeches, DeTocqueville addressed what he perceived to be the role of the attorney in the United States during the 1830s: “In America there are no nobles or literary men, and the people are apt to mistrust the wealthy; lawyers consequently form the highest political class and the most cultivated circle of society . . . If I were asked where I place the American Aristocracy, I should reply without hesitation, that it is not composed of the rich, who are united by no common tie, but that it occupies the bench and bar.”<sup>19</sup> Arguably, this ideal of the gentleman attorney who champions the rights of his less fortunate fellow citizens out of an almost feudal sense of *noblesse-oblige* endures to this day.

The other ideal put forward by Auerbach is that of the country lawyer in the tradition of Daniel Webster and Abraham Lincoln. These individuals rose up from humble origins and through their own hard work and dirty hands, rode the circuit, championing the causes of the common man. Auerbach explains:

But the country lawyer, a quite different professional man, touched deeper chords in American hearts. Practicing alone in a small town, he prepared for his profession by reading Blackstone and Kent and by apprenticing himself to an established practitioner for whom he opened and cleaned the office, copied documents, and delivered papers. The commercial bustle of the city was another world. Whether he rode circuit or lounged around the local courthouse, he absorbed the camaraderie of his profession and

cherished the respect of his neighbors. An independent generalist, he served all comers, with no large fees to turn his head toward a favored few. He moved easily between his casual, cluttered office, where informality (it was assumed) nurtured trust and loyalty, and the courtroom, where skill as an advocate earned him local renown. Self-reliant and persevering, he was the common man's lawyer in a pre-urban industrialized society. . . The country lawyer and the Tocquevillian aristocrat were distinct, even rival, professional types.<sup>20</sup>

Given the vast contrasts (Pound and Chroust's "Golden Age" versus "Decline," Auerbach's "American Aristocrat" versus "Country Lawyer") posed by those who have studied the legal profession during this period on a greater scale, it is no wonder that some have answered the call for microcosmic studies of the legal system in frontier communities. Those who take the trouble to study the development of the legal profession in a particular frontier community have largely been impressed with the competence of members of the bar. For example, in her study of lawyers in a frontier Michigan county (then a part of Indiana territory), Elizabeth Brown argues:

Whatever the difficulties of reading the handwritten bound volumes or papers on file, the legal historian who has sufficient familiarity with common law pleading to comprehend their meaning and significance must conclude – if he is honest – that these men [practicing law on the frontier] knew and practiced their craft as competently and advisedly, with as careful regard for forms and precedents, as their contemporaries practicing law along the Eastern seaboard.<sup>21</sup>

She continued in her defense by directly challenging past assumptions about the supposed poor effect of the frontier on the quality of legal representation.

The law practiced on the frontier in Wayne County (Michigan) was not the product of its environment . . . Examining papers of territorial lawyers and the records of the courts which sat in Wayne County during the territorial period demonstrates in a clear and unequivocal manner that the lawyers and judges of Wayne County performed their duties in a meet and proper manner. They possessed due regard for long-accepted norms of judicial and legal practice. There is no suggestion of any interest in innovation or bold experimentation. There is no evidence that either the frontier lawyer of folklore or the frontier law of a hundred Western movies was a factor in the administration of justice in Wayne County during these years. Rather, the evidence is all to the contrary.<sup>22</sup>

In a similar study of the famous (or infamous) Dodge City court system, historian Robert Haywood defended the professionalism of the attorneys practicing on the Western frontier between 1876 and 1886.

Obviously, by 1875 the United States court system and legal procedures in the settled parts of the country were mature and sophisticated. But courts are no better than the individuals who interpret the law and serve on the bench and bar. Fair and impartial trials depend upon how carefully those administering justice abide by acceptable standards. Frequently depictions of the conditions under which justice was attempted during the last quarter of the nineteenth century stress the ignorance, if not the corruption, of court officials . . . The major actors in the Dodge City court dramas between 1876 and 1886 bear slight resemblance to the untutored amateurs administering the law represented by this description. The judges and lawyers were in the main competent and generally sensitive to the requirements of preserving correct rules and form.<sup>23</sup>

Here then is a microcosmic response to some of the dour generalities espoused by previous “macrocosmic” historians. Yet as valuable as their studies are of Michigan or Dodge City, neither of these studies focuses on the Southern frontier.

This thesis will examine on a microcosmic level the Florida attorney during the territorial period. Most court histories on Florida have focused on the bench far more than the bar. Although these histories profile judges in whose courtrooms cases were decided, none discusses the experience of the frontier attorney who, in a fashion, acted as the gatekeeper in making the initial determination of what issues would even be brought before the court to decide.

The thesis will also address the greater historical questions posed by these past studies: was early to mid 19th century “The Golden Age” of lawyers or a period of decline which was remedied in later 19th century educational and organizational reforms? Were attorneys DeTocquevillian aristocrats or of the Lincoln-esque country lawyer mold? In studying the attorneys of Tallahassee during the territorial period, these answers can be found.

The thesis will divide the territorial period of Florida and settlement of the Tallahassee area into three parts. The first analyzes the period from 1824-29 tracing how the new settlers organized and began utilizing their court system. This chapter will focus on the legal training and materials available to the frontier attorney for practice. The

second, from 1830-1837 will trace the rise of the planter elite, many of whom were attorneys. This chapter will focus on the steps an attorney would need to take to resolve a legal issue through the court system. Finally, chapter three will study the effect of a series of disasters on Tallahassee society, with special attention to the effect they had on the legal system. Each of the chapters will each address the mounting problem of dueling and the increasingly violent nature of conflicts throughout this period. The conclusion chapter will address the answers to the important questions posed in this chapter.

## CHAPTER 1:

“Under the circumstances of the country . . .” (1824-29)

Under circumstances of the country, with a few settlers in it 30 miles apart, without mails, without even roads or pathways cut, if even more time than the evidence exhibited had been consumed in giving notice to the drawer of the dishonor of the bill, the Court would not have deemed it unreasonable. -- Excerpt from an opinion by Judge Augustus Woodward, Leon County Superior Court Minutes, April 15, 1826.

The territorial council designated Tallahassee as the capital of the new territory in 1823 and they created the Middle District of Florida to handle litigation. A few months later, John McIver and a party of nine slaves quickly constructed a log cabin at the site of the present-day Old Capitol in Tallahassee to serve as the meeting place for the Territorial Council later that winter. Settlers and land speculators began pouring into the area. Those wishing to practice law in the newly-created capital and Middle District Court of Florida faced the same daunting challenges as other pioneers. The Seminole Indians, already incensed at the hundreds of settlers flooding into the area, were still so thickly clustered in the Tallahassee area that their villages were referred to as “fowl towns,” because it was said a person could stand in one village and hear the roosters crowing in the next.<sup>24</sup> The Seminoles were supposed to have been removed; after all, the Treaty of Moultrie Creek, hastily signed in 1823, provided for a large reservation located in Central and South Florida where the Seminoles were supposed to be contained, but in reality it was far less populated.<sup>25</sup> But the Seminoles in and around Tallahassee had failed to move and were warily eyeing the increasing population in the little town, whose inhabitants were creating a city “as if by magic.”<sup>26</sup> As a precaution, town planners constructed a two hundred foot clearing around the original mile-square plan for the city

to deter Indian attacks.<sup>27</sup> Nevertheless, Indian raids persisted in Tallahassee in 1825 and 1826, and only gradually tapered off before the Second Seminole War from 1837-1842.<sup>28</sup>

The period from 1824-1829 was one in which the Tallahassee area first was settled. This chapter will first address what would have attracted a young ambitious person to frontier Tallahassee during this time, and why the legal profession would have been particularly attractive to him. The chapter describes what forms of legal education were available during this period, and the legal material and sources which would have been at a new attorneys disposal in frontier Tallahassee. This chapter concludes by considering how a legal practice began to take form as the legal community and system slowly developed and began to be utilized by the populace.

One important issue to the new inhabitants was the lack of roads, especially for those attorneys wishing to ride the circuit to practice in the nearby towns springing up virtually overnight. Northwest of Tallahassee in present-day Gadsden County, the town of Quincy began to attract settlers, as did Monticello in Jefferson County to the east. The town of Apalachicola, located at the mouth of the Apalachicola River and within the Middle Judicial District of Florida, was beginning to flourish as an ideally situated trading port. A contract for a road stretching from the Ochlocknee River to the St. John's River was quickly approved by the territorial council and awarded to local planter John Bellamy. He made relatively quick progress and completed the task in 1826.<sup>29</sup>

In spite of the challenges, there were also advantages for those interested in cotton cultivation. Middle Florida, as the area between the Apalachicola River and the Suwannee River came to be known, was especially fertile. "This area of hardly 2,300 miles extended through portions of only five counties of the new territory" and included Leon, Jefferson, Madison, Jackson, and Gadsden Counties.<sup>30</sup> By 1860, Leon County, with a population of 12,343, would greatly outnumber the older and longest settled portions of the state.<sup>31</sup> The rich "Orangeburg sandy loam soils" and 109 pristine lakes and ponds<sup>32</sup> posed a stark contrast for a farmer accustomed to the gravel and coarse sand of Pensacola or the shelly sand and clay of St. Augustine.<sup>33</sup> Cotton grew beautifully in the Tallahassee area. In fact the land seemed perfectly suited for the crop. "[In 1860], Leon County's red land produced 16,686 bales of cotton . . . Leon County's production of cotton in fact exceeded all but seven of Georgia's 132 counties . . . and all but 21 of 52

counties of Alabama, these twenty-one being principally in the black prairie.”<sup>34</sup> Attorney John Williams, who was the other commissioner appointed with the doctor to explore the Tallahassee area and who was largely responsible for its selection as territorial capital wrote of Florida, generally, “More than one-fifth of the lands of this state can be profitably cultivated and most of the rest afford excellent grazing for cattle sheep and hogs.” But for Middle Florida he reserved the highest praise any prospective planter would want to hear: “This generality of land produces the sea-island cotton in its greatest perfection.”<sup>35</sup>

These lands posed an almost irresistible temptation for those living during the 1820s and 1830s on the largely played-out plantations of Southern states along the eastern seaboard, whose interest in resettling had already been piqued by the richness of the lands being settled in Alabama and Mississippi. Young men from some of the most prominent families in Virginia, North Carolina, and South Carolina began migrating to the new territories.<sup>36</sup> Middle Florida became especially attractive and well-known during the height of this migratory period. On July 4, 1825, a large land grant to the north and east of Tallahassee was awarded by the cash-poor but land-rich United States Congress to the Marquis de Lafayette in gratitude for his service during the American Revolution fifty years prior.<sup>37</sup> Publicity surrounding this transaction led to a who’s who of Southern families migrating to the nascent middle Florida society. They included family members of William Wirt, a former Attorney General for the United States, and Francis Eppes, a grandson of Thomas Jefferson. “Dr. John A. Craig migrated from Maryland. Benjamin Chaires, the wealthiest of the Middle Florida planters, moved there from North Carolina. James Gadsden came from South Carolina, . . . and Joseph White from Kentucky. . . With such personages Middle Florida became the center of aristocratic social life and the dominant region of Florida from 1821 to 1861.”<sup>38</sup>

This transition presented unique opportunities for young men of legal ability to attain the wealth and status which were harder to come by in the older, more established and pedigreed southern states. Opportunities to be involved at the very highest social levels abounded. In a frontier community, those with ambition could very soon find themselves being consulted by important men on important issues, even if the circumstances were odd. Achille Murat wrote a friend in 1828: “What would you say on

seeing me a man in a straw hat, tattered dresscoat, trousers, blue stockings, and muddy shoes on an emaciated horse coming to consult another dressed in about the same manner on the construction of a treaty to be given to a treaty made with the Indians? Yet these are the Governor and commissioner of the state for the treaty on behalf of the United States.”<sup>39</sup>

#### Legal Practice - A Means to an End

Law was widely recognized even in early nineteenth-century southern society as a means to obtain a higher social standing. James Henry Hammond’s father, a relatively poor schoolmaster in South Carolina during this period, advised him early in his career that “Law is the only road to honour if not riches.”<sup>40</sup> For other young men of ambition and ability sharing this attitude, the combination of the rich, inexpensive land and opportunities for social advancement made the brand new capital of a brand new territory an attractive place to begin a law career. This was certainly the case in other southern frontier communities. Timothy Huebner’s study of the Texas legal profession during the same period reveals similar reasons:

With its abundance of land and shortage of lawyers, Texas seemed a perfect destination for a young man of daring and ambition. . . . [L]awyers found the [Texas] Republic particularly alluring, as the insecurity of land claims arising out of the recent war for independence promised plenty of litigation. In addition, many of these eager new members of the Texas Bar, most of whom were young and inexperienced, envisioned attaining great heights of prestige and power in their new homeland.<sup>41</sup>

Similar dreams undoubtedly led young, bright, prospective attorneys to settle in Middle Florida. Another similarity exists with Texas in regard to the profusion of land claims in both recently acquired territories. The claims in Florida arising from disputed aspects of the Adams-Onis treaty which gave ownership of the territory to the United States also served as a bulwark of an attorney’s client base in early Tallahassee. From these claims, a poor attorney could begin to build a practice which would lead to riches.

In Middle Florida, this southern “rags to riches” ideal was exemplified by Richard Keith Call, a protégé of Andrew Jackson, who began reading law during Jackson’s brief territorial governorship, and eventually settled a few miles outside of Tallahassee to start a legal career and plantation. Starting with almost nothing financially, he managed to become one of the most wealthy and powerful planters in Middle Florida. Historian

Edward Baptist wrote of Call, “In 1821, he came to the territory possessing little beyond the patronage of Andrew Jackson. By 1840, tax and census records listed him as the owner of 66 slaves, 6,000 thousand [sic] prime acres in Leon (and much elsewhere in Florida), and \$20,000 in Tallahassee lots.”<sup>42</sup> His success demonstrates the possibilities which existed for young lawyers in a new territorial capital.

Another example of the possibilities offered by the legal profession is that of the eccentric Achille Murat, whose letters clearly reveal his view of law as a means to an end of wealth and influence. In 1826, writing to a friend in Europe from his newly settled plantation in Jefferson County, he spelled out his plan of attack. Explaining that he planned be admitted to the bar the following year, he declared, “I shall have an income next year, and I shall live less rustically, and in 10 years I shall be one of the wealthy planters and one of the good counselors at law of the country.”<sup>43</sup> By 1828, Murat was acknowledging in a letter to the same friend that he had passed the bar, argued his first case in court, and “[t]his winter I expect to put my plantation in to the hands of one of my fine brothers and give myself over entirely to the bar.”<sup>44</sup> In 1829, less than two years after his first letter, he wrote that he was being considered for a judgeship, but that he did not believe he would accept “because it would interfere with [his] practice without giving [him] equivalent compensation.”<sup>45</sup>

But these ambitions were clothed in higher motives. Law was more than a way to develop a stable income and become wealthy. It was the path to aristocracy. Murat clearly envisaged an aristocratic role for himself and others at the bar. In discussing the profession he wrote:

You are correct in saying that the profession of lawyer when it is fulfilled ought to be considered as a kind of priesthood. It is entirely with this point of view that I envisage it and that it is generally regarded in the U.S., or moreover it is as it is in England the calling which offers the best chance of advancement. . . It is my observation that it is better regarded here than in other countries because, enjoying the greater freedom in a country grounded entirely by law, they are not only lawyers but they combine this *métier* with that of *juris consults*, publicists, orators, statesmen, and if necessary they are the ones who have been called to command armies. Our lawyers are more of the genre of Cicero, than of Lord Koke [sic] or Littleton. You see, having entered a profession so brilliant and so broad I do not pursue it solely with the idea of drawing

from my work an additional income but with a noble ambition more literary and philosophical than political; that is what impels me.<sup>46</sup>

He later wrote: “With us the advocate is looked upon as almost the first man in the State; he forms a the true aristocracy of the country, for besides the moral and political influence which he enjoys, his life is one continued series of interesting occupations, in which he is both actor and spectator.”<sup>47</sup> This is a description that DeTocqueville would have entirely concurred with, and though it might not describe reality, it certainly provides an image that Murat and others would have wanted to project. Nearly all of the leading individuals in Middle Florida society were attorneys. Governor William P. Duval, who took over the governorship of the territory from Andrew Jackson and held on to the position from 1822-1834, had been a judge in East Florida and was now practicing law to supplement the income from his plantations. Richard Call was given charge of the Tallahassee Land Office, and through patronage formed a powerful group of planter families that were nicknamed the “Nucleus.” Joseph White, the territorial delegate to Congress and also a former judge, maintained a large plantation in Jefferson County and supplemented his income by representing clients whose land claims were granted by Spain but denied by Call.

Although more will be said about dueling during the next chapter, it is worth noting here that most of the major political feuds like that between White and Call during the 1820s and 1830s in Florida had their root in the courtroom. Attorneys hungry for clients would handle similar interests over time and would naturally frequently face off with attorneys who developed a practice with the opposite interest. In the hyper-sensitive atmosphere that marked the antebellum south when one man insulted another, it would not take long before courtroom duels fought with words and motions became real duels fought on fields with pistols and bowie knives.

#### Legal Education

But before a young man could develop a practice and a reputation worthy of a duel, he had to get admitted to the bar. As court sessions opened in 1824 before Judge Augustus Woodward, lawyers and cases were apparently in fairly short supply. The Minutes for Leon County do not indicate a single attorney was sworn in: “At a superior court held for the Middle District of Florida at Tallahassee being the seat of Government

of the Territory on Monday the fourth day of October in the year one thousand eight hundred and twenty-four was present, Augustus B. Woodward, Judge. Ambrose Crane was appointed clerk. John McIver was appointed ‘crier.’” The judge read his commission from President James Monroe, the oath of office and the text of the certificate of office. There apparently being no attorneys or court business the court adjourned until next day at “half after the ten of the clock.”<sup>48</sup> The next day’s court session ended without conducting any business. In fact no business was conducted during the entire first term of court.

The problems -- lack of attorneys and cases -- persisted to the following term. It was not until the Spring term of April 1825 that the first case appeared on the docket of the Tallahassee session of the Middle Judicial District. Before visiting Judge Henry Brackenridge, on April 8, 1825, the first lawsuit in Tallahassee appeared on the docket. “In the case of Robert Mitchell and John Carnoshon v. Peter Mitchell” was a civil case involving \$27,000. The first attorney, Benjamin D. Wright, also appeared on the record, though strangely the record notes he represented both Carnoshon and Mitchell even though they were parties on the opposite sides of the lawsuit. Possibly, the individuals brought the whole dispute to the attorney who agreed to represent both sides and collect from all the parties. It also may have been a reflection of the lack of attorneys in the district that caused a lawyer to have to represent both sides of a case, or simply an attempt to memorialize a settlement on the court record. At any rate, Wright failed to put up much of a fight against himself -- the record notes that he on behalf of his two adverse clients “[c]onfessed in their names at judgment in favor of Robert.”<sup>49</sup> Few other cases showed up on the remaining Spring docket. There was apparently no Fall term of court at all in 1825.

By spring term 1826, attorneys were clearly being formally sworn in to practice in the Middle District. For those who were being admitted for the first time to the practice of law, there were few barriers preventing them. Local courts were the institutions which regulated admission to the bar. As bar historian Roscoe Pound noted, “The regime of bar meetings, meeting of the whole bar of a court, which [began] in colonial New England survived the Revolution. Admission to its bar continued to be in the hands of each court and the bar of the court had come to think of itself as a unit and through its

recommendations, and its rules by which those recommendations were governed prescribed the educational qualification and professional training of candidates for admission.”<sup>50</sup>

Moreover, there was a national trend towards state legislative diminishment or abolition of professional qualifications. “From the first third of the nineteenth century increasingly there was legislative breaking down of requirements as to education and professional training of lawyers. In 1800, a definite period of preparation for admission to the bar was prescribed in fourteen of the nineteen states or organized territories which made up the Union. In 1840, it was required in but eleven out of thirty jurisdictions.” In Florida during the territorial period, all that was necessary to practice law was either proof of previous admission to the bar of another territory or an unspecified “examination” by two attorneys from the territorial court.<sup>51</sup>

One such examination took place in the beginning of October, 1826. At the beginning of the court term, several applicants would either be examined by attorneys to test their legal knowledge or, if already admitted in other districts, states or territories, would simply be sworn in after providing proof of their prior admission. The district attorney would be responsible for formally moving the court to appoint attorneys to examine the applicant. When the attorneys returned pronouncing the applicant satisfactorily examined, the District Attorney would also move the court for admission to the bar. On October 6, 1826 the Leon County Superior Court minutes record that “[o]n motion of R.C. Allen and C.W. Fowler, Attorney and Counsellor acting as District attorney for the United States, it was ordered that Richard C. Allen and C.W. Fowler, Attorney and Counselor, examine into and report upon the qualifications and moral character of George E. Tingle to be admitted Attorney and Counselor of this court.”<sup>52</sup> Tingle was admitted seven days later.<sup>53</sup>

The reasons for lax admission standards (especially when compared by today’s rigorous educational and examination requirements for a bar license) transcend Pound’s bemoaned Jeffersonian ideals and the “corrupting” influence of the frontier. One of the best ways to ensure access to the court system, and therefore reduce the occasions when individuals need to settle disputes among themselves, is to increase the supply of attorneys who act as gatekeepers in evaluating the legal strength of claims. Attorneys, it

is often contended, act as the grease of the wheels of civilization, helping to facilitate commerce and reduce societal conflict by giving an alternative to vigilante or mob justice. Arguably, state and territorial legislatures could have been attempting to create more attorneys to serve this role to ease the inevitable tensions and conflict that often occurred in frontier communities.

In addition to concerns about the public peace, the state legislatures may have been a more selfish or ulterior motive. All of the fines and fees associated with litigation, especially criminal fines, went to the local or territorial treasuries. If individuals have greater access to an attorney, they may be more likely to utilize the courtroom for disputes, as opposed to settlement or outright violence. If courtroom machinery is used more than self-help or private arbitration, then the local governments reap the financial benefits, as court fines and fees are collected. Fines for various infractions could add up. As Tallahassee historian Bertram Groene noted, “In 1834 the sale or use of firecrackers in the city was prohibited. The fine for violation was \$5.00. If committed by a slave, he was ‘publically [sic] whipped 10-12 stripes’ if his owner refused to pay the fine. In 1835 an ordinance decreed a fine of from \$100 to \$500 for gamblers who operated faro banks, chuck-a-luck, roulette, wheel of fortune, or other such tables.”<sup>54</sup> By the 1840s, local city ordinances were on the books which mandated a \$10-\$100 fine for “loud, profane, or obscene language.”<sup>55</sup> All of these fines went into local coffers which in turn were used for improvements such as the construction of county roads and public buildings. The legal system was an alternative revenue source for local government and attorneys played an integral part in that system. Thus, it was important to ensure that the barriers to becoming an officer of the court were not overly burdensome.

In this environment of fairly lax professional entrance standards, most new attorneys simply “read law.” “Along with the legislation in many states to do away entirely with the requirement of a definite period of professional training in the states which retained it . . . Formal apprenticeship, such as the New England Bar Rules had demanded, gave way to what was called ‘reading law’ in the office of a practitioner . . . Good natured lawyers gave certificates of ‘regular and attentive study’ liberally to the asker with little or no inquiry.”<sup>56</sup> Throughout the nation, during the early 1800s there

was almost no alternative to the model of “reading law” followed by an apprenticeship in the form of a partnership with a more experienced member of the bar.

The reason that there was no real alternative to the apprenticeship model is that law as any kind of formalized study was in its infancy. It had only begun to be taught as an academic subject in England in mid to late 1700’s. During this period, Blackstone, whose digested lectures formed perhaps the most important legal text in the United States until the twentieth-century, was the first to teach law at Oxford as holder of the Vinerian chair. The first American university to provide law classes was the College of William and Mary in 1779. However, by the Civil War the subject was no longer being taught. The College of Philadelphia (later the University of Pennsylvania) started law classes in 1790, but the professor at that institution failed to even finish out his three year contract. Columbia University had a professor of law in 1793, but he resigned after a few years to assume a seat on the bench. Classes only resumed there in 1824. Transylvania College in Lexington, Kentucky had a professorship of law in 1799. Erwin Griswold noted in Law and Lawyers in the United States- The Common law Under Stress that “[t]his was for two generations the only effort in legal education away from the eastern seaboard.”<sup>57</sup>

The best efforts to create any semblance of a “law school” were in Connecticut and Massachusetts. The Litchfield Law School in Connecticut began in 1774. After training some 1000 students, including some of the best American legal minds, it closed in 1833. Harvard Law School operated from 1817 to 1829 until the professor in charge of the program resigned in despair. The only other means of developing legal training was to go to study in the Inns of Court in London. Few aspiring attorneys had the means to do this, and for most in the frontier South, Connecticut or London might have well been on the far side of the world. The only realistic option for most was to “read law.”

Achille Murat’s experience in “reading law” demonstrates the difficulty that even a person of some means had in carving time out of the day to study. Writing about his studies at his recently established plantation near St. Augustine in 1824, Murat described his daily ritual in a letter to a friend. Apparently it involved very little actual reading of law.

Here is how I spend my time: I get up with the sun I give my orders to an overseer; I shave, and etc., I get on my horse and make my round; I have breakfast at eight or nine; I sit down and write until noon; I dine, and

digest by walking among my orange groves; I return to work; I mount my horse again to see what my people have done; at sundown I receive the report of my overseer; I have supper, I lie down, light a cigar, accompanied by several others, pick up the commentaries of Blackstone and as soon as I feel the happy influence of the common law I doze off and sleep 'til morning.<sup>58</sup>

Though it is possible that Murat was exaggerating this schedule and being somewhat facetious, the rigors of maintaining a necessarily self-sufficient frontier plantation would have demanded much in terms of time and energy which would have not left much to devote to legal studies. For those without slaves and dependent on their own daily labor to survive, these factors would present an even greater challenge.

Not surprisingly and perhaps an indication of the truth behind the previous quote, two years later, Murat was still at his studies, though his letter to the same friend indicated a greater measure of determination. "A large part of my time is taken up with the study of law and I hope to be admitted to the bar next year."<sup>59</sup> However, it took the reoccurrence of a mysterious palsy "the same illness that I had in Austria and my hands were paralyzed for eight months" to force Murat to devote sufficient time to study law.

Being deprived of the use of my hands and having nothing to do I set about the study of law and three months after having opened the first law book I made appearance at the bar in a very intricate case where I made a lengthy speech for the defense. From that time I have continued so that I am a true member of the bar, adding the profession, counselor-at-law, to my business as a planter. The study of law is extremely pleasant to me and the practice is rewarding. Besides, from it I get, or better to say I hope to get, an income.<sup>60</sup>

When taken with his other letters, it is clear he studied law longer than three months and in fact devoted his time to it on and off for a period of three years. By "three months" he may have meant three months of particularly intense study which is still about the time most students prepare for the bar exam today post graduation from law school. At any rate, the fact he immediately began handling a caseload demonstrates the demand for attorneys during this period, even if they were new to the bar.

The Superior Court Minutes reveal that on April 7, 1828, Achille Murat took his oath of attorney. The clerk recorded, "Achille Murat who has been duly licensed to practice as an attorney and Councillor at Law in the Several Courts of this Territory, on

motion of the district attorney obtained leave to practice in this Court. Whereupon he took the oath prescribed.” Two other attorneys were admitted that day, Christopher C. Greenup and Charles F. Sherman. Sherman presented evidence that he had been licensed in Alabama, and had practiced there since May 8, 1827. On that same day also two applicants were appointed attorneys to examine their qualifications. One, Leslie A. Thompson, would in 1847 complete a digest of all of Florida’s statutes.<sup>61</sup>

Though almost all attorneys admitted during this period were either examined or produced evidence of having been admitted in another jurisdiction, there apparently remained at least one other avenue one could use to become a lawyer. In 1829, the Territorial Council passed legislation mandating that John A. Campbell be admitted in Jackson County Florida.

An Act to admit John A. Campbell of Jackson County to practice as an attorney and counsellor at Law in this Territory. Be it enacted by the Governor of the Territory of Florida, That John A. Campbell of Jackson County be, and he is hereby admitted to practice as an attorney and counsellor in the Superior and Inferior Courts of Law and equity of this Territory. Provided, he shall be found sufficiently qualified by one of the judges of the Superior Courts, to whom satisfactory evidence of his good moral character shall be produced.<sup>62</sup>

Under contemporary ideas of separations of powers, it is solely within the judiciary’s province to regulate attorneys because they are considered officers of the court. The admission of attorneys to the bar would fall squarely within this power. However it is clear from the act quoted above that in the early nineteenth-century, legislatures enjoyed broader authority. It was a power rarely used, though at least in Florida, since this appears to be the only time an attorney was admitted in this fashion, and maybe more of a reflection of the influence enjoyed by Mr. John Campbell than of legislative prerogative over the regulation of attorneys.

#### Sources of Law

The reason the Territorial Council may have felt itself able to pass such an act is that prior to the late nineteenth century, when law reports became more available, there were very few sources of law other than legislative enactments. In a situation which plagued both the law student and the practicing attorney, all other sources of law were limited to relatively few texts. “By 1820 there were less than 200 volumes of law reports.

In this situation, whether frowned on or not, there was little or no alternative but recourse to Blackstone. The American edition of Blackstone was published in 1771, and more copies sold, it is said, than were sold of the edition published in England. Thus Blackstone was for many years the chief link with English law. It was fortunate, indeed, that his lectures were delivered just prior to the revolutionary period, so that they escaped the worst of the Anglophobic restrictions.”<sup>63</sup>

Tucker’s Blackstone, which served as a kind of explanation for American jurisprudence to Blackstone’s lectures, was also in circulation. George Tucker replaced George Wythe (Thomas Jefferson’s tutor in law) as the professor of law at William and Mary. “Tucker likewise used Blackstone as his text, but he supplemented it with extensive notes designed to make it applicable to American outlook and conditions. Tucker’s Blackstone, combining the original with these notes, was published in 1803, and was the leading law textbook in America for many years.”<sup>64</sup> Kent’s Commentaries also served an important work for the student and lawyer alike. Kent taught at Columbia University and resumed lectures in “1824, and out of this came Kent’s Commentaries on American Law, a work in the Blackstone manner, but essentially American in content and outlook. Though Kent’s work did not displace Blackstone, it assumed a place beside the older work, and was of great influence in American legal education for many years.”<sup>65</sup> It is likely that such texts were available to attorneys practicing in Middle Florida, since they enjoyed such widespread popularity and were viewed as authoritative on a multitude of common legal issues.

However, it is unclear precisely what sources of law in print form were available in Middle Florida. Achille Murat apparently had a fairly extensive collection. In describing the common law to a friend in Europe, Murat wrote in 1828, “And besides the fact that the system is extremely intricate the jargon of which is used in the most ludicrous mixture of macronic latin, Norman and Old English. Since my illness, I have read some hundred volumes of this kind. Can you believe it?”<sup>66</sup> Though “some hundred volumes” may be an exaggeration in a letter clearly designed to impress a friend with his knowledge and reading, Murat would later write that he had purchased the law library of a previous practitioner, and probably contained a fairly good collection. Murat wrote, “At the age of 26 I commenced my legal career. I purchased my professional library from

one of my neighbors retiring from practice, for a pair of oxen and a bill at long date . . .<sup>67</sup>  
Obviously, for an aspiring attorney without the means or credit, obtaining the needed books could be more difficult.

Another legal source became the court record itself. The Superior court minute book reveals an actual written opinion on a legal point as paraphrased when it was read from the bench. On April 14, 1826, Judge Augustus Woodward read an opinion that members of the bar requested to be placed on the record. The rule allowing for such an action had been issued from the bench the previous day. “By the unanimous consent of the bar, and with the assent of the Court, it is regarded as a standing rule that the opinion of a Judge, delivered from writing or any part or parts thereof shall be at the request of a majority of the bar present be entered on the record.” The judge’s opinion read in part as follows:

I think the decession [sic] of Lord Kenyon in the case of Chatfield [v.] Pauton erroneous. It is not, and ought not to be, law at this present day. I deem it to have been bad law even at the period of its rendition. The liabilities arising in these cases are now so well settled in the commercial world; and were then so, and information respecting them so readily accessible that the amount, when paid should not be recoverable back, but the subsequent promise enforced.<sup>68</sup>

This opinion actually reveals two sources. The case referred to is probably found in a local copy of Blackstone, and this demonstrates that common law texts were probably available in Middle Florida. Secondly, the written opinion as entered in the minute book became a separate source of law from which attorneys could reference in future cases or appeal.

Arguably, more important than Blackstone or court opinions were the statutes. An attorney practicing would have to decipher the procedural and substantive law from a variety of sources including: the United States Constitution, congressional laws, treaties, and territorial acts. In the December 23, 1828 edition of a Tallahassee newspaper an advertisement appeared from a Philadelphia printer selling volumes of cases decided in the Supreme Court of the United States from the date of the original organization of the court to the close of January term of 1827. The price to order copies was \$6 per volume.<sup>69</sup> Another possible source of reference material is hinted at in the September

15, 1829 Floridian & Advocate ad for Tallahassee's first library: "Wilson's Circulating Library, Tallahassee: The terms of subscription to the circulating library, are as follows, viz: 1 year – \$6.00, 6 mos. - \$4.00, 3 mos. - \$3.00, 1 mo. - \$1.50."<sup>70</sup> Though this advertisement does not list the books available at the library, there may have been some that were helpful to attorneys.

According to the statements made to grand jurors by Judge Randall on October 20, 1829, copies of the Congressional and Territorial Acts, were available for the jurors to use in the course of their deliberations:

"Your intelligence and experience will readily suggest to you, the character of these acts which come under the legal definition of crimes and misdemeanors. But for greater assurance, I refer you to an act of the Legislative Council, entitled 'an act relating to crimes and misdemeanors,' approved Nov. 28, 1828, which will give you a condensed view of all the offences which are specially created by the laws of this territory. I would also call your attention to the acts of the legislative Council related to slaves, free negroes and mulattoes, a subject always requiring the closest vigilance on the part of those, charged with the duty of securing the peace and welfare of the territory."

He continued by noting to say that they were also responsible for "violations of laws of the United States" which would seem to indicate that they would have a copy of those laws, as well.<sup>71</sup>

Newspapers served as the main vehicle for the printing of Congressional and Territorial Acts, as well as legal notices and legal advertisements. It is no surprise that editors and owners of territorial newspapers were often attorneys. Moreover, the Floridian and Advocate served as a printing office for the digested territorial acts. On November 3, 1829 the Floridian and Advocate printed a resolution voted on by Territorial Council requesting that Governor Duval expedite publication of a digest containing acts of the most recent session of the Territorial Council. The article noted that publication of the second volume of revised laws made at the previous year's session was suspended until funds could be provided.<sup>72</sup> A month later an editor cheerfully reported that the law of the previous session would be completed the next week and notified other papers that they would themselves be able to copy the digest to circulate in their own locality.<sup>73</sup> This seems to indicate the procedure by which laws were generally circulated and published

throughout the territory. One printer would gain the contract to compile and print a single digest containing all the acts of the previous session. The copy was then circulated to various printers in localities for their publication and distribution.

### Legal Practice

Once admitted, attorneys quickly began to assert their influence and attempted to improve the court system. The first reference to members of the bar in Tallahassee occurred on April 15, 1826 in an order in the court minutes. The order, made at the request of the bar, provided that upon motion by a majority of the bar, a particular opinion or parts of an opinion would be written into the court record, provided the judge assented. The first time the order was put into practice was in the case of Parham v. Collins after a motion for new trial was denied. The court, in its written opinion spelling out the grounds for the denial, was concerned with the practical effect of conducting business in the new territory and the need for the law to accommodate the realities of the frontier. “Under circumstances of the country, with a few settlers in it 30 miles apart, without mails, without even roads or pathways cut, if even more time than the evidence exhibited had been consumed in giving notice to the drawer of the dishonor of the bill, the Court would not have deemed it unreasonable.”<sup>74</sup> It is perhaps indicative of the growing sense of camaraderie among members of the bar that the request for the written recorded opinion was unanimous when only a majority was required and that it was subsequently utilized three more times in the same court term. Practically speaking, the attorneys were attempting to set up a record to appeal unfavorable rulings. In the Parham case, for example, the losing attorney made an application for appeal several days later, though Judge Woodward denied it for technical reasons.

Judge Randall’s September 22, 1829 notice further demonstrates the influence of the early bar. The notice indicates that he agreed to hold an extra term of court to accommodate the attorneys’ expanding dockets in other territorial judicial districts:

Notice: In consequence of representation made to this court that the ensuing term of this court, as fixed by the act of the Legislative Council, will be inconvenient to many citizens and members of the bar, and will interfere with certain courts in the Eastern and Western Districts: it is therefore ordered and decreed, in pursuance of the power invested in this Court, by act of Congress, that there

be an extra term of this court, to meet at Quincy on the 3d Monday of October, 1829 to which all process of this court now pending, shall be made returnable.

And it is further ordered, that all new writs recognizes and other processes, be made returnable to the same term.<sup>75</sup>

What business did attorneys do in all of these districts? How did they earn their pay? An attorney's professional life revolved around the fall and spring terms of court. Beginning in October and again in April, every couple of weeks the entire court would move to a town within the judicial circuit and resolve all of the issues pending on the dockets there. "Riding circuit," as it came to be called, was an important part of being an attorney and for all the communities involved. Historian Anton-Hermann Chroust wrote:

Court day on the frontier was a great social event and to go 'a-courting' was a favorite pastime. It brought huge crowds into the county seats and 'towns' as no other occasion could . . . People came out not because they were really interested in the course of justice, but because they considered a court session always an excuse to exchange gossip, visit friends or relatives, discuss politics, drink whisky, trade horses, listen to fiddlers, gamble, flirt with the girls, and break a few heads during the apparently unavoidable brawls. Probably each court day produced as many new cases as it settled – or tried to settle – old ones. Bellowing lawyers attracted audiences from miles around.<sup>76</sup>

Historian Ariela Gross wrote of the cultural importance of circuit riding in the frontier South.

Circuit courts were an arena not only for local culture, a meeting place and focal point for the neighborhood, but also for a broader legal culture. That is lawyers and judges who rode circuit from county to county developed their own cohesive camaraderie, romance and lore of the circuit, which instructed their membership in a distinctive sense of their profession, of what it meant to be a man of the law. Many were convinced that that it was the experience of circuit riding which forged the legal fraternity and was the single source of legal culture in the Old South . . . Circuit riding also gave lawyers an important role in cultural transmission, transporting ideas from town to town, and linking far-flung rural areas.<sup>77</sup>

This is not to say that every attorney always attended every session of court in all counties in the circuit. Most probably did in practice what James D. Westcott indicated in a November 3, 1829 Floridian and Advocate advertisement. He wrote that he would “[p]ractice in all counties of Florida that he can conveniently attend.”<sup>78</sup>

Apart from riding the circuit, the typical territorial lawyer’s duties included other, less animated tasks such as drawing up legal instruments and resolving disputes through negotiation or litigation. Another common duty, though less obvious, would be to simply conduct business for those who planned to leave the territory for a short time or even permanently. In the August 1, 1829 Floridian and Advocate the following advertisement appeared: “Take notice- that during my absence, I have constituted and appointed James G. Ringgold, Esq. as my Attorney and Agent, to transact generally my business, to whom all persons as hereby referred. - F. Weedon”<sup>79</sup> Attorneys could also assume the duties of a fellow out-of-town attorney. A legal notice in the November 18, 1829 Floridian and Advocate indicates that R.C. Allen temporarily turned over his law practice to George T. Ward.<sup>80</sup>

In the process of conducting business on behalf of clients in their absence, one attorney got a helping hand from the Territorial Council. On November 29, 1829 the Floridian and Advocate reported that the Legislative Council had passed an act which dealt with a particular attorney facing a peculiar legal position. He had been given power of attorney to make a conveyance by his client who then moved to Arkansas. Such powers of attorney normally had to be witnessed by a Justice of the Peace or notary to be valid. His local court was apparently unwilling to process the transaction simply on the written authorization from the client produced by the attorney. Rather than appeal, he simply convinced the Territorial Council to pass an act allowing him to use the handwriting of his client to prove authorization in that particular case. The act also permitted him to make the conveyance for his client.<sup>81</sup> This was an extraordinary measure, but it is another demonstration of the influence of the Legislative Council in matters typically delegated to the judiciary.

In addition to civil matters, attorneys could be called upon to represent indigent clients in very serious matters. On October 12, 1827, a group of attorneys made motions on behalf of “Ben a slave,” who was facing murder charges. Though not specifically

identified as a pro bono case, it is possible that Ben's owner did not pay the lawyers.<sup>82</sup> He eventually wound up with one attorney, was tried, and Ben was found guilty and executed, though the record reveals that his attorney made multiple motions on his behalf at sentencing. If his owner did pay for the slave's legal defense he was, in a fashion, compensated. In 1829, the Territorial Council, Ben's owner was reimbursed for his value after he was executed by hanging.<sup>83</sup>

Likewise, the attorneys John P. Duval and Edgar Macon were appointed in a "Special term of Oyer and Terminer" on October 22, 1827 to defend Albutahatchee, an Indian indicted for murder.<sup>84</sup> The attorneys were apparently diligent in their client's cause, because the defendant was eventually acquitted of the charge.

The Leon County Superior Court Minutes reveal yet another murderer who was defended likely for free as well, this time a "Yeoman." On November 18, 1828 the clerk recorded "Davis Floyd appointed attorney for John R. Watkins."<sup>85</sup> Nancy Cone, a Leon County resident, penned a poem regarding Watkins's alleged crime and directed a portion of it to attorney Floyd:

ON THE DEATH OF JESSE BUTLER who was murdered by John Watkins in Leon County in July 1827 in 3 miles south of Tallahassee at a place called Milltown. . .

Unto you lawyers that are bold, that plead for silver and for gold,  
Let virtue in full luster shine. Don't dim the spark that's so divine.  
The character of Mihallah you must set forth colors true.  
I hope that justice she may have, her desired reputation save.

But if John Watkins you can save, I've no objections. He should have  
Time to repent and see his error before his sentence he does hear.  
For the judge of all the earth I'm sure will sentence him to death.  
For you and I must meet him there, whether to glory or despair.

O my pen is bad.<sup>86</sup>

Watkins apparently had plenty of "time to repent." Though he was convicted, the judge released him on a technicality and Watkins fled. He was apparently never executed.<sup>87</sup>

Not everyone was impressed with the caliber of performance of these duties by the local bar. Achille Murat wrote contemptuously:

With the exception of three other barristers, all the rest (and we have twenty-eight of them in the superior court) are just a pack of animals

eating hay. Three or four of them always cite authority favorable to the other party. You may imagine that I lose no opportunity to ridicule them, to thank them for being so obliging, to repeat their argument in order to mimic them and etc. In general, the jury is put in good humor, the judge is kept awake and except when the deeds [crimes] are too obvious I win my case. Meanwhile, I have for the next court a constitutional question of great interest, which I expect to treat seriously.<sup>88</sup>

It may be necessary to take these criticisms with a grain of salt. Possibly Murat was merely writing to impress a European friend with his skills and having only recently been admitted to the bar, he may not have had a strong appreciation of some of the nuances of legal practice.

In fact only a year later, he had fairly high praise for attorneys generally. In 1829, he wrote: “If you knew the chief [members] of the bar in the states you would form a very high opinion of the profession in this country.” If having thus complimented the bar, Murat ironically proceeded to disparage the profession in the same letter. Because the majority of his experience with other attorneys was with members of the Middle District bar, his comments must be in some measure descriptive of them. “With some exception, the bar is [backwards] and the profession is conducted with a spirit of sordidness and chicanery into which I could never venture. The era of great fortunes is past, and besides, I would not care to acquire them as they have been.”<sup>89</sup>

However, there is some evidence to indicate that the members of the bar present in Tallahassee during the territorial period were far more than “a pack of animals eating hay.” A sample of the court minutes in 1829 reveal a variety of actions including actions in debt, trespass, assumpsit, injunctions, appeals and cases in chancery and various criminal offenses.<sup>90</sup> Though these made up the bread and butter of the legal profession, they certainly indicate a certain amount of variety as opposed to Murat’s image of rote bovine-like churning and processing of cases. Certainly there was an increase of legal activity generally as more attorneys were admitted. On November 11, 1826, the Leon County Superior Court Minutes reveal a docket with 26 cases. Almost three years later the docket rose modestly to 36 cases. By the close of the docket in 1829, the clerk recorded 85 cases of various types.

In addition to this increased legal activity, the attorney's task of determining which law was applicable was made infinitely easier when the 1829 Territorial Council passed an act making the common law of England prior to 1776 solely applicable in Florida territorial courts where other American federal law was silent. This measure patched a legal hole from one of the first territorial acts which provided for Spanish law to be in force along with the common law of England. As limited as sources of English common law were, sources of Spanish civil law were even more so. This territorial act helped to simplify future litigation, especially surrounding land claims.

In summary, the young ambitious men came to Tallahassee during the 1820's because it was rich in cotton, influential families from older established states, and presented unique opportunities to build wealth. Though legal education was limited at best throughout the United States during this period, many young attorneys were trained by the apprenticeship model of "reading law" under the tutelage of an older and more experienced attorney. Attorneys were examined by other appointed attorneys in an informal fashion, and the fines collectable by local communities from the legal system may have played a role in government encouragement of use of legal system and removal of barriers to the practice of law. Other attorneys were previously experienced and had practiced in other states.

Evidence exists in the record that attorneys had various common law texts such as Blackstone available to them, in addition to published acts of the legislature and Congress and the Supreme Court decisions. At times, the court minutes themselves were a significant source of law. The young bar quickly began to assert its influence by petitioning the court to provide written opinions in the record to aid in appeals or to add an extra term of court. Their professional lives revolved around the circuit calendar with Fall and Spring terms of court. Historians acknowledge the importance of these court days not only for outlying communities, but for the professional development of new lawyers. Attorneys also resolved disputes through negotiation or litigation and drew up common instruments. They transacted business for others while away from the Territory. They would represent criminal defendants pro bono. As a result of their efforts and the trust of the growing community in their abilities to resolve disputes, the court dockets reflect a steady increase in court activity. This foreshadowed a greater use of the court

system and the rising power of close associates of the recently inaugurated President Andrew Jackson foretold of greater conflict in the 1830s.

## CHAPTER 2:

### The Pride Before the Fall (1830-36)

The examination of witnesses begins. All are in his favor – until you cross examine. I know nothing more amusing than in the presence of a good jury to examine a witness half fool and half knave, who has already had his instructions from the opposite party. What artifice it requires to upset him, and afterwards with what facility the skillful arguments of your adversary are annihilated.- Achille Murat, America and Americans (1849)

By the 1830's it must have seemed to the new lawyers in Middle Florida that all was progressing better than their fondest hopes and dreams. New potential clients continued to flood into the territory and court dockets swelled, reflecting not only a growing number of conflicts, but also a greater willingness by citizens to utilize the court system to resolve disputes. The population by 1830 had grown to 6,494 people in Leon County, about half white and black, with a half dozen free blacks.<sup>91</sup> Many of these new inhabitants engaged in commerce, built businesses, and amassed wealth, land and slaves.

This chapter will analyze the period from 1830-1836 which represented the zenith of the power and prestige of the Territory and the attorneys who ran it. It will demonstrate how lawyers and planters organized into a powerful group, which calling themselves “the Nucleus,” to begin improvements and dominate political affairs. The chapter will then trace the steps necessary for an attorney to resolve a case through the judicial system in Florida. It will then analyze the influence of Judge Thomas Randall on the legal profession and activities of the bar. Finally, this chapter will look at how

dueling became most common among members of the bar as well as more common and violent over time.

Lawyers clearly controlled the reins of power during the Territorial period. Looking at the office of Governor alone, those with legal training took the chief position in all but one case. Governor William Duval served from 1822-1834. He had a private law practice and took cases as he was able. Political appointee John Eaton was a military officer (and non-attorney) though friends with Call and President Jackson, but served only two years. Richard Keith Call, attorney for powerful landowners in a growing numbers of cases, was appointed to serve the first of two separate tenures as governor in 1836.

It was no accident that Call found himself near the seat of power in the years leading up to his appointment as governor. He had served under Andrew Jackson and been promoted to captain. He had married his Nashville socialite wife with Jackson's blessing at the Hermitage. With the election of Jackson as President in 1828, Call and his friends had access to the highest corridors of American power. Call proceeded to form a powerful political and economic coalition of plantation owners and attorneys who banded together to protect their interests. The group ominously referred to themselves as "The Nucleus."<sup>92</sup>

The group members, many of them attorneys like Call, wielded political power and made improvements to the region. They created the Union Bank to enable planters to buy more land and slaves. Roads were laid, private residences constructed. The capital city boasted at least two hotels – one of which was owned by a previously practicing attorney. A new two-story wooden structure had been erected on capitol square for the use of the territorial government to replace the rude log cabin cut out six years before, but talk had already begun about a larger and more accommodating building.<sup>93</sup> In addition, Call formed a group to construct one of the earliest railroads. Its efforts gave rise to a mule-powered cart which ran increasing wagon loads of cotton the sixteen miles between Tallahassee and the port at St. Marks along a single wooden track.

Efforts were slowly beginning to bear fruit for construction of a building to house the machinery of justice. The first priority was the construction of an adequate jail, but as was common throughout territorial Florida, this goal proved elusive. On Mar. 14, 1825 a

contract was awarded for construction of the jail, but the facility was not constructed until 1827. Adequate windows and doors were added in 1831.<sup>94</sup> But complaints about the jail persisted, even with these renovations. As a result, the two hundred-year-old Spanish fort at St. Marks was occasionally used to secure prisoners.

Citizens in Leon County also concerned themselves with the construction of a courthouse. Prior to 1838, the “court seems to have held its session wherever a suitable room could be found; from time to time it ordered the payment of rent for a courtroom to the City Council of Tallahassee, Jackson Masonic Lodge, and the trustees of Leon Academy.”<sup>95</sup> However, the Nov. 1, 1834 edition of the Floridian proudly trumpeted the following announcement:

Court-House for Leon County: The undersigned Commissioners for the County of Leon will receive sealed proposals until the 1<sup>st</sup> of December next for the erection of a COURT-HOUSE for said county. The Contractor furnishing all the materials, which must be of good quality, and must stipulate at what time the work will commence and when the same will be completed. A plan of the building and all other necessary information, can be had by an application to either of the signed commissioners.<sup>96</sup>

For some unexplained reason, however, the courthouse itself was not completed until 1838.<sup>97</sup>

The improved conditions of life in the town resulted in greater availability of goods from the northeast and Europe. Advertisements for steamers leaving from St. Marks and Port Leon (further up the St. Marks River) were almost as numerous as the advertisements of various goods available for sale in Tallahassee stores. For attorneys, there was a marked improvement in the availability of printed laws and other legal resource texts. The Floridian and Advocate still advertised the latest edition of the Territorial Acts for sale. “Printing of the laws of the Acts of Legislative Council passed prior to 1829 are completed,” it announced on February 29, 1830. The laws had already been distributed to the clerks of the various courts. Copies were available to purchase for \$2. Newspapers also occasionally published reports of decisions of other important cases such as the “Decision of Judge Webb in case of Joaquin Gomez v. the Brig Reyna Amalia” which appeared in the Floridian and Advocate in 1830. The case involved a significant decision by the judge from the Southern Judicial District in Key West.

Restitution had been ordered for the owners of a captured vessel since the captor had illegally purchased cannon shot at Key West.<sup>98</sup>

But in addition to regular printings in the newspapers of statutes and occasionally case decisions, local lawyers could increase their own personal legal libraries by buying them from attorneys who had quit the practice or passed away. An advertisement in the Floridian and Advocate somberly notified readers of a “Law Library for sale. The Administrators on the Estate of James A Dunlap, deceased, will offer in Quincy, on the first Monday in May (being court day) the LAW and MISCELLANEOUS Library of the deceased, at Public auction. The terms, which shall be liberal, will be made known on the day of sale.”<sup>99</sup>

The steamers going to and from St. Marks also provided attorneys chances to add brand new legal tomes to their offices directly. In 1832, John Baldwin advertised a long list of other novels and academic texts for sale in which he made certain to include an impressive number of “Law Books,” including:

Chitty on Contracts, Wheaton’s Selwyn, 2 vols., Toller on Executions, Tidd’s practice, 2 vols., Chitty’s Blackstone, 2 vols, Wentworth Executors, Hory’s Law of Bailments, Rutherford’s Institutes, Condensed Reports of the Supreme Court, Condensed English Chancery Reports, 3 vols., Monlefier’s Synopsis, Gould’s Pleadings, Hovenden on Frauds, 2 in one, Stackie on Evidence, 3 vols.,” and “Roscoe on Evidence.”<sup>100</sup>

Kent’s Commentaries are listed in an advertisement Floridian, on November 2, 1833 and Robinson’s Forms were offered for sale in 1834.<sup>101</sup>

#### The “Pleasure” of Practice

All legal resources are merely tools to use in the real world practice of law. A territorial attorney would need to go through a lengthy process to resolve a client’s case. The first step, however, was to attract clients with cases. This could be done much as it is today with local newspaper advertisements, and virtually every edition from the period is replete with solicitations of various attorneys offering their legal services. Word of mouth would also gain one clientele, especially as various attorneys gained reputations for expertise with certain types of cases.

Specialization in law was more a twentieth-century phenomenon – attorneys today mainly handle specific cases in areas of law. In the nineteenth century attorneys

were generalists in that they were expected to address the needs of all clients who walked through their doors, no matter how varied. However, attorneys in territorial Florida clearly began to appear in certain types of cases more frequently. Richard Keith Call, for example, tended to represent the landed interests, while often facing off with Congressional delegate and political rival Joseph White. Achille Murat, according to his writings, often handled criminal defense cases. Though a far cry from specialization, a good reputation for handling certain types of cases then, as now, could net as many clients as an advertisement.

However, before a reputation could be gained, an attorney needed clients. According to Murat, clients were often solicited on the courthouse steps.

Here are found a host of little pettifoggers – who enter the discussion, and get up quarrels among the poor ignorant people – drag them into the law courts, and accomplish their end by pocketing thirty dollars or so. Nothing, however, can be more respectable or honorable than the bar of the several old States, as nothing can be more despicable and miserable than the illegal pollution surrounding the courthouse of a new-State in its infancy.<sup>102</sup>

Clearly, Murat had a negative view of various elements of the legal community in Tallahassee. There may have been a divide in ethics though between the more experienced attorneys of the “old States” and the newer attorneys trying to scratch out a practice.

However they found them, attorneys in Tallahassee had no lack of clients. In part this was due to a general litigiousness among the local population. A church historian for Trinity Methodist noted one parishioner whose frequent lawsuits brought him under the church disciplinary system.

During Thomas C. Benning’s pastorate, one of the stewards caused a controversy in the society. Accordingly, the Quarterly Conference brought the following charges against Parson O. Hayes: ‘First commencing a law suit against West 27th March 1835. When Bro. Hay(e)s had solemnly promised brother Mitchell [the former pastor] on his joining church that he would commence no new law suits, without consulting church. Second, mistaking the conversation of Bro. Flake in my presence [Rev. Benning] in reference to a settlement of said case. Third, talking too publicly and unadvisedly in reference to said conversation.’ Hayes must have had a reputation with lawyers of the city.

He had previously entered fourteen law suits in six years against various individuals over a variety of subjects including trespassing by a pig.<sup>103</sup>

Whether due to greater conflict in a society that was emerging from the wilderness with goods and land suddenly worth fighting over, or a reflection of great confidence in the legal system in resolving disputes, records evince a growing litigiousness of the general society by the 1830's. The March 2, 1830, Floridian and Advocate listed eighteen sheriff's sales of property or marshal's sales to enforce legal judgments. The January 2, 1830 court minutes reflect a suit between George Fisher and others versus George Fisher, Jr.. Although the case was dismissed, from the style of the case it is clear that a father was joining with others in suing his own son.

After hearing a client's explanation of his particular problem, the attorney then acted in the manner of a pharmacist, deciding the appropriate cause of action or defense from the statutes and the common law depending upon the facts. This was more art than science. A general cursory list of common law actions and defenses provided by Achille Murat in his book, America and Americans, reveals a laundry list of civil actions which are somewhat familiar to attorneys today including: actions in debt, assumpsit, trover, trespass quare clauseum fregit, trespass vi et armis, trespass on the case, libel, calumny, and seduction. The attorney, in addition to deciding the proper remedy for his client, could also decide the proper procedural course for the case.

One procedural option was arbitration. Though forms of alternative dispute resolution are thought of as more modern jurisprudential devices, arbitration was clearly one form in use in the 1830s. On May 12, 1830, the Court minutes note a case "submitted to arbitration: Gradison I. Glover v. Samuel A. Spencer." In 1832 the record also notes that there was an arbitration agreement between the executors of William Richie's estate. James P. Westcott and William Williams served as arbitrators in that case.<sup>104</sup>

Although most litigation was rather straightforward and uncomplicated, such as an action in debt or a criminal assault and battery charge, some clients came forward with more unusual or complicated legal problems. Another simple duty was to help clients file formal legal documentation to receive government benefits. On April 12, 1832, the Leon County Superior Court record reveals a recorded written statement filed with the

court on behalf of Issac Hayes, an illiterate cooper. Hayes, a Revolutionary War veteran, was applying for a pension and required an attorney to assist him.

The litigation surrounding the Forbes Purchase and the estate of the Croom family, though unusual, was anything but simple. These cases demonstrate a high level of legal expertise by members of the Tallahassee bar. The Floridian and Advocate announced the commencement of litigation in the Forbes Case. “The trial of the case of the Representatives of Forbes and Co vs. : the United States, commenced on Thursday last. On Saturday Col. White opened the cause on behalf of his clients and be followed by Messrs. Ringgold, Allen, and Call on the part of the United States.”<sup>105</sup> The case involved tens of thousand of acres in northern Florida on the Apalachicola River and was complicated by an entanglement of Spanish and American law. It took on political dimensions as Richard Keith Call and Joseph White faced off in the courtroom. The case and issues surrounding it were litigated until the early twentieth century.<sup>106</sup>

White’s propriety in representing the title holders given his political office was questioned by Call. A local newspaper attempted to put an end to the dispute:

In the progress of the trial people have seen that it was conducted on strictly legal principals; that petitioners were allowed to claim no new rights under this law- not withstanding what was said to the contrary during the last election. The objection formerly urged against the employment of Col. White as counsel case [is] entirely [inappropriate] when the nature of the law for the adjudication of the case is understood. The provisions were of a general nature, like those for the adjudication of similar cases . . . Why should we deny any benefit of such talents as they can procure?<sup>107</sup>

The litigation surrounding the Croom family estate similarly took decades to resolve and was intensely complicated. Hardy Bryan Croom was a plantation owner who had gone to North Carolina to bring his family down to his newly finished home at Goodwood plantation in Leon County. After a shopping trip in New York the family boarded a steamship to travel to Florida and begin their lives in the territory. In one of the worst maritime disasters of the era, the steamship sank off the coast of North Carolina in a storm. The Croom family perished. The family owned property both in the Territory of Florida and the state of North Carolina. In determining which intestacy laws should apply (since Croom apparently never left a valid will) the court had to address the

issue of Croom's residency which turned on the issue of which member of the family likely drowned first. The case took twenty years to resolve and was litigated all the way to the Florida Supreme Court, and, with the Forbes case, represents a fairly sophisticated and nuanced understanding of the law to the credit of the attorneys.<sup>108</sup>

Overall, most suits of the period involved litigation of a simpler sort. After the initial determination of the proper form of action, the lawyer then filed suit in a particular court. The county courts, which met once a month, served as a venue for the resolution of minor cases and the probating of wills, as well as more administrative functions such as licensing marriages. The individual justices of the peace, or JPs, had specific parts of a county that their jurisdiction extended to. Together they met as a de facto county commission and were able to assess taxes and collect them for county improvements. There was no requirement that a JP be an attorney or have any legal training, though the appointment of a citizen as Justice of the Peace would entitle them to add the title, "Esquire" to their names.

The lack of legal acumen of justices became an issue which would plague attorneys. In 1830, JP Ede Evour found himself under the scrutiny of Governor Duval. He had collected and held funds in dispute in a case he was hearing instead of giving them to the constable as the law provided. Duval was forced to grapple with the question of whether this constituted a breach of duty severe enough to remove Evour from office. The governor eventually determined that Evour's actions were not impeachable, though Duval noted that it was hard to determine "the true line of distinction between an error of judgment and a design to pervert justice."<sup>109</sup>

In 1830, the Floridian and Advocate printed a scathing editorial decrying the problems of using JPs to resolve minor disputes. Acknowledging that their use of powers as a proto-county commission was effective, the editor pointed out that:

it is pretended that these county courts are necessary to the administration of justice, for the probate of wills and granting of letters of administration, and the appointment of guardians. Alas! How totally deficient they are as tribunals of justice, we have had the melancholy and painful experience ever since their organization. They have really done more harm to the cause of justice by their ignorance, incapacity, and negligence, than would the most capricious and despotic tyrant would have inflicted upon a tame and credulous people. They are in no respects necessary to the present state of this territory.

The article also noted the limited nature of their jurisdiction. The JPs had no criminal jurisdiction except where a superior court judge was implicated in a crime, and no civil jurisdiction beyond \$100. While some judges were “intelligent and diligent,” the editor conceded that “there are some notorious blockheads among them.”<sup>110</sup>

The real workhorses of the territorial court system were the Superior Courts. Attorneys with clients involved in civil disputes over \$100, any criminal matters, or who wished to appeal a judgment of the county courts, would turn to this forum. The impressive capability of these courts to resolve many cases quickly was in part due to the high caliber of judges. Though much more has been written about the bench than the bar in Territorial Florida, the experience of the judges did have a direct bearing on the practice of attorneys. It is important to note a few points of interest about two territorial judges in particular, since their impact was felt by those bringing cases before them.

The first judge to sit on the bench of the Superior Court of the Middle District of the Territory of Florida was Judge Augustus Woodward, who served from 1824-1827. A well-respected judge, before assuming the bench in Florida, he practiced as an attorney with distinction in the new District of Columbia and was eventually tapped for a territorial judgeship in Michigan. There he developed what came to be known as Woodward’s Code and even helped to design the city of Detroit. He was against slavery personally and while serving on the Michigan Supreme Court in one case he called it “one of the greatest of enormities which have been perpetrated by the human race.”<sup>111</sup> Nevertheless, he applied the law as it was written in that case in favor of the slaveholder. As was noted in the previous chapter, he opened the first term of court in Tallahassee soon after his appointment to the newly created Middle District bench. Although not reflected in court record, his attitude about slavery and his health affected his interest and ability to serve. He was only on the bench for three years, and died shortly after leaving office in 1827. Though he never handled an exceptionally large caseload in Florida, he was instrumental in organizing the Territorial Court of Appeals.<sup>112</sup>

His replacement, Thomas Randall (1827-1840), was similarly well-educated and politically connected, hailing from a prominent Virginia family. He lacked, however, his predecessor’s “sensitivities” to slavery. Randall moved to the territory shortly after

marrying the daughter of William Wirt, attorney general of the United States. In a letter from Wirt to his daughter after she settled in Jefferson County, the barrister expressed a great deal of enthusiasm about the new territory.

I think you will do well, - and I am so much delighted with every report that reaches me of the country, that I do count sanguinely myself on settling a plantation and coming out to live. I have none of the horrors of a country life in a new country. Florida bids fair to be a perfect Arcadia. Such a climate! - Such a soil! Such production and such society as you will have in a few years! Can any thing be more delightful! How dull and monotonous Washington is compared with the new objects that are continually meeting your eye!- the fine forests, the fine lands, the balmy genial air, the tropical-tinted birds, the alligators, the barking frogs, and all the other elegancies of nature's drawing room.<sup>113</sup>

Judge Randall lived on a plantation in Jefferson County with his wife until her death after childbirth in 1833.

Randall's long standing tenure on the bench is probably a tribute to his ability to stay above the turmoil and tense political climate that engulfed the territory. He took particular care to appear to be fair-minded. The court record from April 1, 1833 reveals a possible example of his evenhandedness during a ceremony where he officiated when swearing in at the same time the protégés of two rivals in Florida, Oscar White, who was the nephew of Joseph White, and Leigh Read, who had studied law under Richard Keith Call. Though possibly only a coincidence, it could have been that the judge was demonstrating his impartiality by swearing them both on the same day, and thereby staying out of the political conflict by not showing favoritism.<sup>114</sup> Despite his pains to prevent conflict between the rivals, the two attorneys would fight each other in a duel a short time later.

The judge also was able to maintain respect by disciplining attorneys who did not demonstrate proper decorum. On April 11, 1831, court records reveal prominent attorney Thomas Baltzell argued for the readmission of Charles Sherman to the practice of law.<sup>115</sup> The next day the judge denied the motion.<sup>116</sup> Though the reason for the suspension is not given, it is hinted at in the April 20 record in which Charles E. Sherman moved Judge Randall to rescind his suspension order and filed an affidavit indicating that he meant no disrespect at trial or "at any other time." While the judge granted the obviously contrite

and humbled attorney's motion this time, the entry appears at the very end of docket of last day of term. It is likely that the judge made the attorney wait in court all day until court business for the term was fully concluded before hearing his plea. This action would have had the effect of depriving Charles Sherman of clients for the entire time he was disciplined, and demonstrated the power the court had in ensuring proper respect.

In evaluating how an attorney walked a client's case through the judicial process, each superior court was largely autonomous with regard to procedural rules until 1833. In that year, the Territorial Court of Appeals created new rules for use in practice in each of the four districts. The court undertook a measure of procedural rule-making authority and on April Fool's Day in 1833 instituted a more standardized approach to various aspects of court administration. These rules provide an interesting insight into what it was like for lawyers to practice in Superior Courts once a client's case had ripened into litigation.

One of the procedural changes permitted the judge himself to examine an applicant to the bar as opposed to appointing local attorneys. Rule 6 provided that:

[p]ersons making application for admission to the bar shall apply by petition to one of the judges of the Superior Court, presenting with the said petition evidence of having attained the age of 21, and of good moral character, if the application be made in vacation the judge shall at a convenient season thoroughly examine at his chamber the said applicant and if found qualified the judge shall cause him to be duly sworn in and shall issue to him a license . . .<sup>117</sup>

If the application was in term the court was to appoint two members of the Bar, and an oath required examiners to "truly examine" the applicant. Examinations could take place in open court or in private at the election of the examining committee. A judge, however, could still examine the applicant alone. A license or certificate from clerk of another circuit court of the United States would constitute sufficient proof of a previous admission to the bar of another state or territory.<sup>118</sup>

There were also important reforms intended to formalize the exchanges in the courtroom. One rule provided that "[i]t shall be the duty of every attorney to address the court from his place at the bar."<sup>119</sup> Another made it illegal to enforce consent between counsels, unless "reduced to writing and signed by the parties to the consent."<sup>120</sup> This

would help to prevent misunderstandings in the court due to unwritten “gentlemen’s agreements.” Yet another rule provided that “[t]here shall be but one attorney on record for each party in a cause (except in the case of a Law Partnership) but there may be as many associate counsel as either party may see fit to employ, and the attorney on record shall in all the pleadings and proceedings sign his name or authorize some person.”<sup>121</sup>

In terms of organizing the docket, the rule provided a specific list of dockets and identified who was to have access to them. The bar was responsible for furnishing the clerk bar dockets. There was also a bench docket which was not subject to inspection by the bar. A common law appearance docket listed all cases standing for trials. The motion docket detailed all cases with motions pending to be argued, and the Sheriff’s report docket with all illegalities and claims. Other dockets, which demonstrate the varied jurisdictional areas which superior courts adjudicated, included a criminal docket, docket of appeals and writs of certiorari, an equity docket, docket of land claims, subpoena docket, and a judgment and execution docket. The rule also provided for an obviously practical “Dead Docket” – “on which shall be placed all wherein the Plaintiff or Defendant are dead.”<sup>122</sup>

The rules also provided specific edicts regarding motions practice. Motions were to be in writing and an affidavit of service was required. Motions arising on the appearance docket were to be argued when called, but the judge could set them on the motion docket. The first hour of every court day was devoted to motions. A motion for a new trial would be granted if 1.) the verdict was against law of evidence or manifest weight of evidence, 2.) where material mistake of misconduct of jury, 3.) if damages grossly excessive, or 4.) in the event of the discovery of new and material evidence of which the attorney or client was unaware. This is not far removed from the current standard used for motions for new trials in Florida.<sup>123</sup>

Once an attorney got a case on the trial docket, he needed to be prepared. Causes set for trial were to be called two times each term. Parties had to be ready to litigate within minutes of the case being called or the judge could dismiss the case. No continuance was granted unless there was a “sudden and unexpected emergency.” All amendments of mere form to the pleading were to be “ordered instanter” or in other words argued on the spot without delay so long as there was no prejudice to either party.

With regard to examination of witnesses, the attorneys from each side got to examine, cross, re-examine. Special permission was required to continue exam after a witness was dismissed. The defendant could argue “commencement” and “conclusion” (first and last arguments) during what is now called “closing arguments,” if he did not introduce evidence during the trial, while prosecutor’s argument was sandwiched between.<sup>124</sup> If the defendant introduced evidence, the prosecutor had a chance at rebuttal during closing argument.

It is clear that in trial many attorneys, themselves new to the profession, grew to love the battles in the courtroom. Achille Murat certainly did, as evinced by this quote:

I speak of the parties and their witnesses. You must yourself have practiced to know the pleasure one feels in following up an idea, and unnestling an idea, which seemed to have escaped you after toiling through the intricate mazes of twenty musty volumes. And when you find it; after having verified a thousand citations, what triumph! Very different to running over a twenty mile course in a fox hunt! You now address the court; with what pleasure you enjoy the perplexity and surprise of your opponent at your fortunate discovery! He wishes to put off the cause- you oppose it – he must plead instanter. The examination of witnesses begins. All are in his favor – until you cross examine. I know nothing more amusing than in the presence of a good jury to examine a witness half fool and half knave, who has already had his instructions from the opposite party. What artifice it requires to upset him, and afterwards with what facility the skillful arguments of your adversary are annihilated. Then follow the pleadings; in which an actor is developed, and in which he deploys all his energy and most brilliant efforts; and whether we come off triumphant, whether we win or lose the cause, we at least have the satisfaction of knowing that in conscience we did all in our power in behalf of our client, who, even should his counsel lose a well-conducted suit, cannot but unite with the bar and audience in their flattering encomiums on his eloquent and laudable efforts to gain it. So whatever may be the state of the cause, it always affords a barrister some degree of triumph . . . Whenever I speak of this profession it is always *con amore*. The hours I spent therein were the happiest of my life.<sup>125</sup>

Should a client not receive justice from county or superior court and if he had the means to continue the battle, there was one more stop in the territorial court system. The territorial court of appeals handled appeals originating in the superior courts. Unless a litigant wished to take his case to Washington, D.C. before the United States Supreme Court, this would be the final word in the litigation. Three of the four justices met in

Tallahassee to hear appeals from the lower courts. The court was comprised of the judges from the four superior courts, and the judge from whose district the appeal originated would not be on the panel to hear that case.

In addition to shepherding their clients' cases through the process described above, local bar members participated in organized activities, including: special memorials following the death of a member, influencing court policy in matters such as scheduling, planning, and speaking at civic events. The only purpose for which they met with any regularity was to pass resolutions following the death of one of the bar's members. On November 22, 1831,

General Call on behalf of the bar presented the following proceedings and resolutions had by the bar on the death of James Ringgold, Esqr. which he moved to have inserted in the minutes of the court . . . The resolutions are as follows: 1<sup>st</sup> Resolution – That in testimony of the estimation which members of the bar entertain for the character and virtues of the deceased, They do wear crape [sic] on the left arm for the space of 30 days. 2<sup>nd</sup> Resolution – That members of the bar do attend in precision the funeral of their late brother, That a copy of these resolutions be sent to the family of the deceased, and that they be published in each of the newspapers of the place.<sup>126</sup>

That same day General Call offered the same resolutions for the deceased James R. Dunlap.

In 1835, the members of the bar convened again “for the purpose of paying a tribute to the memory of Oscar White, Esq.” L.A. Thompson served as chairman, and Thomas Baltzell drafted a resolution which read: “WHEREAS, it has pleased Divine Providence to take from us our respected brother, Oscar White, Esq., who has been cut off by an early death in commencement of a career giving high promise of usefulness as a man and talent as a lawyer.” The resolution provided that they wear “the usual badge of mourning for 40 days.” A signed copy of the proceeding was sent to White's family.<sup>127</sup> Oscar White's obituary recorded that he died from an attack of bilious (yellow) fever at the age of 25. “At the Bar his efforts were highly creditable, and had he been spared, we have no doubt, would have attained eminence and honorable distinction in his profession.”<sup>128</sup>

The bar acted as a group in a less formal fashion. They continued to influence the court with regard to the scheduling of terms of court. In the Floridian and Advocate in 1835, the following notice was published:

WHEREAS, it has been represented to me by the members of the Bar, the Officers of Court, by many citizens of this County, that owing to the sickness of the season; to the absence of many citizens from the Territory; and to other causes; it would greatly promote the convenience of the public to adjourn the next session of the Superior Court of Leon County to a later time than that now appointed by the Acts of the Legislative Council.

The Notice announced that court term would be changed from the first Monday of October to the second Monday of November.<sup>129</sup> Another “unofficial bar event” was the annual Fourth of July Celebration in which the vast majority of toasters at the dinner were local attorneys.<sup>130</sup>

“I have not the least objection. Your convenience will be my pleasure.” :

#### Dueling as an Occupational Hazard of the Legal Profession

Despite these improvements and the relative sophistication of the legal system, the 1830s in Tallahassee were a very violent period. Street fights between citizens in which even their slaves jumped in were commonplace. Although much has been written about the societal reasons for violence in the antebellum South, the possibility that there may have been legal reasons behind the violence prominent in this period has been largely ignored. The violence may have in fact escalated because of a lack of willingness of the prosecuting authority to prosecute criminal offenders.

In 1830, upon being sworn in as the new United States attorney, James G. Ringgold promptly dropped a large number of pending cases on the docket including cases for libel, eight assault and batteries, a disturbance of a religious worship, “detering [sic] the mask of a hog,” obstructing a public road, and trading with a slave.<sup>131</sup> While these may not have been the most serious cases on the criminal docket, Ringgold’s decision to drop these cases does evince a reluctance to prosecute.

A United States attorney would have even less incentive to prosecute offenses after the passage of an act by the Territorial Council in 1832, decried by a Leon County grand jury, which made prosecutors liable for court costs in cases when the defendant

was acquitted. The grand jury's pronouncement was published in the local paper and may give light to a cause of the violence which permeated the town.

The Grand Jury also considers the effect of the 77<sup>th</sup> section of the act for the punishment of crimes and misdemeanors, 1832, requiring prosecutors to be placed to certain indictments, and making them liable to costs in case of failure of the prosecution, as deleterious and demoralizing. Unless a person is to be found to volunteer under such penalty to prosecute the most outrageous breaches of the peace go unpunished; and on the other hand, the strongest temptation, to a malicious prosecutor is given to commit perjury in the necessity of sustaining the prosecution to avoid payment of the costs.<sup>132</sup>

One of the most flagrant and oft-violated breaches of the peace in Leon County during this period were duels. Perhaps one of the most studied aspects of the phenomenon of Southern violence is that of dueling. The Code Duello had a unique place within the context of legal battles. Ariela Gross in her study of the antebellum legal system in the South observed:

Some scholars have suggested that because of its honor culture, the South was relatively unbound by law, that 'honor and legalism . . . are incompatible.' Their arguments surely have merit with regard to the criminal law: Southerners frequently commented on the necessity to avenge insults and assaults directly, rather than through legal prosecution. Yet even studies of the Southern criminal justice system note the extent of litigiousness in Southern civil courts. These commercial/legal battles became the occasion for slights to a man's honor, slights that required defense, and legal disputation created an important area for the display of honor. Among white men, mechanisms of honor and of law lived side by side. Many of the extralegal honor rituals historians have seen as evidence of the diminished importance of law took place literally in the shadow of the courthouse, and they spilled in and out of the courtroom. On the courthouse steps, in the courthouse square, it was not unusual to see men coming to blows in affairs of honor. While duels generally took place in the early morning hours in secluded spots, other violent confrontations involving the defense of honor often occurred in public, and often among men of the law.<sup>133</sup>

There was an escalating method to the madness that was dueling. Historian Michael Denham in his study of dueling in Territorial Middle Florida noted that a gentleman never engaged in a duel with a man of a lesser station. "Only a gentleman, one's peer, was challenged to a duel. Men of lesser standing were caned or

horsewhipped.”<sup>134</sup> However, a challenge to a man’s honor from those of the same social tier required a different response. Historian Ariela Gross explained, “Bringing a man to law was one device in an arsenal of tactics among honorable men: posting a man a liar in a ‘Card’ in a newspaper, suing him, and challenging him to a duel (or threatening him with a beating if he were considered a social inferior) all were escalating steps on the ladder of honorable gambits.”<sup>135</sup>

Though Denham does not specifically note one, there appears to have been a connection between dueling and the practice of law. During the territorial period duels were most frequently fought between members of the bench and bar. Of the thirteen duels in Territorial Middle Florida identified by Denham, all but two involved at least one party who was a member of the bar. In five of the thirteen, both parties were attorneys.<sup>136</sup>

There appears also to be a shift in the intensity of violence of the conflicts. Prior to 1830, the duels appeared to be more ritual than violence, often either being prevented or not resulting in serious injury or even bad feelings on the part of the participants. These duels seemed to be more about creating reputations and attaining higher position in society than resolving levels of animosity. For example, in the fall of 1826, Achille Murat was involved in a dispute with Judge David B. Macomb. The two had long been quarreling over a host of incidents that included an alleged theft of Macomb’s hogs by some of Murat’s slaves. The primary argument began when Murat leaped on stage after a speech given by Macomb at a political meeting and called the judge a “turncoat.” Macomb responded. The two dueled at Mannington, which became the traditional dueling ground for Middle Florida, two miles from the Georgia line between Thomasville Road and Lake Iamonia. Choosing Mannington as a dueling ground reflected a degree of legal sophistication, in that it was an area in which the boundary was disputed with Georgia. Therefore, any attempt at prosecution for dueling was subject to dismissal on the grounds that jurisdiction could not be proved beyond a reasonable doubt.<sup>137</sup>

Regardless of where they met, the duel as described by Denham was almost comical. “While waiting for Macomb and his second to arrive, Murat admitted to Willis that he was at fault in the matter and would not fire at his opponent. Soon Macomb arrived and instructions were given to both men. At the command of ‘fire’ Murat drew

his pistol and gave it a grand flourish. This act prompted the judge's fire which wounded Murat's right hand by severing his little finger. At that instant Murat brought his pistol down and fired, "the ball passing through his adversaries pants, shirt, and drawers without wounding him.' Years later Murat would brag that his shot ripped through Macomb's clothes and 'scared the lice out of them.'" Denham noted that the duel succeeded in increasing Murat's prominence and professional advancement in the territory. He formed a partnership with William Nuttal, and in 1834 Duval appointed him a justice of the peace for Jefferson County.<sup>138</sup>

An encounter with more significant political ramifications though was the near-duel between Richard Keith Call and Joseph White. As has been mentioned previously, Call was on an important territorial land commission, and White was an experienced attorney from Kentucky. They both faced off in court frequently and were political rivals in a number of elections. By 1826, disagreements had turned personal and reached the boiling point and Call issued a challenge to duel in Gadsden County. White's second was John McCarty. However, friends intervened and the group met at McCall's Tavern near Quincy, and after discussion resolved the conflict, at least temporarily.<sup>139</sup> While the two would continue to have heated debates in the local newspapers, never again would they challenge each other to a duel.

Similarly innocuous was the duel between Allison McRea and Algernon S. Thurston. Both were prominent attorneys. They fought a duel in 1828 in Capitol Square in which several shots were fired before friends stopped the shooting. McRea was wounded in the leg and Thurston had been left unhurt. McRea served as United States attorney and Thurston was admitted to the bar only two years earlier on October 5, 1826. The fight, though certainly about honor and reputation, was ostensibly over the affections of the daughter of the Governor, Elizabeth Duval. Denham notes: "Romantic rivalry plus frequent battles in the courtroom caused animosity between both men."<sup>140</sup> Again, the purpose of the duel was more about defending a personal position in society than any larger political context. The duels were largely bloodless and often the participants made amends and even continued friendships afterwards.

After 1830, duels took on a larger significance. First, there was more to fight over as the wealth of the area increased. Second, the dueling participants were fighting less

for particular individualized glory for themselves and more symbolically to express greater conflicts between their respective rival groups. As battles they were analogous to conflicts between mafia underlings of different crime families; these conflicts were as much about scoring points for the team as resolving disputes between individuals. Perhaps because the stakes were higher, they also became more violent. In 1832, two attorneys faced off on the dueling ground. Thomas Baltzell was distinguished at the bar and James D. Westcott was Secretary of the territory. The precise reason for the duel was not recorded in the three sentences about it appearing in the local newspaper: “Thomas Baltzell met James D. Westcott, Secretary of the Territory at Harper’s Ferry near the Alabama line. The duel took place on the 25<sup>th</sup> of September, 1832. Westcott was slightly injured.”<sup>141</sup> However, with knowledge that Baltzell was a Democrat while Westcott was a pro-bank Nucleus member, one of the reasons for the duel can be divined. Denham noted that dueling aided the careers of both men: Baltzell became constitutional delegate in 1838 for Jackson County, and in 1843 he became the first chief justice of Florida. Westcott later became the United States attorney for the middle district (1834-1836) and one of the first United States senators for the new state in 1845.<sup>142</sup>

At times, attorneys could be forced to duel because of their official duties. John K. Campbell was a member of the bar in 1828 and became a very prominent attorney who owned land and lent money. He married Governor Duval’s daughter (to the probable chagrin of McRae and Thurston, duelists mentioned above). As United States attorney, Campbell sent the local sheriff to enforce a judgment by closing the business of merchant George Hamlin. Hamlin’s proprietorship had been affected by a series of bank failures. As a result, Hamlin and his brothers challenged Campbell to a duel. Denham noted: “Campbell’s standing in the community meant that he could not refuse a challenge. To do so would have ended his effectiveness as a lawyer and public servant.”<sup>143</sup> The duel took place in Mannington on August 28, 1833. Campbell was shot and killed. Tragically, his own wife did not find out the cause of death until months later, having been told he had fallen off his horse.<sup>144</sup>

That year also saw a duel between two more attorneys, Leigh Read and Oscar White. This time, however, the duel took on a greater political significance. Leigh Read had studied law under Richard Call, while White was the nephew of Joseph White. Both

were admitted to the bar same day--April Fool's Day, 1833. The duel took place in the months preceding the election race between Call and White. In 1833, they met at the local race track which reportedly ran around present-day Lake Ella. In front of a large crowd assembled for the occasion, the rules were announced that the participants would use pistols and then close in with bowie knives. This duel was noted for its viciousness. Both attacked until exhausted, and White was shot in thigh and Read was slashed along his side. Denham notes that both men also became more prominent as result of the duel.<sup>145</sup>

Years later, another duel was fought by a prominent attorney, again with political overtones. Abram (sometimes spelled Abraham) Bellamy was the son of road builder John Bellamy and a wealthy Jefferson County attorney and planter. His opponent was Everett White, the brother of attorney and Congressional delegate Joseph White, and father of attorney Oscar White. The reason for their duel remains unknown, though the political associations of both men give the impression that it was again related to the heated political controversies of the time. Both met at the two acre strip of land near Florida-Georgia line in November of 1835. Several shots were exchanged and Bellamy killed Everett.<sup>146</sup>

Evidently, Abram Bellamy was not completely occupied with his legal profession nor his plantation in 1835, because that same year he was challenged to yet another duel. His competitor was Augustus Alston, who was a part of a prominent pro-bank Whig planter family. Their conflict arose from the statement that Territorial council leader Bellamy had supposedly made indicating he would run any Leon County pro-bank person out of Jefferson County. Bellamy denied making the statement, but when his denials were rebuffed, he wrote Alston that if called upon to defend his character: "I have not the least objection. Your convenience will be my pleasure."<sup>147</sup> Subsequently, friends intervened to prevent the duel.<sup>148</sup> Though an actual duel never took place, other duels were happening with enough frequency and usually among members of the bar to constitute almost a unique form of "occupational hazard."

In summary, a powerful group of attorneys formed to organize political power within the territory. They would have fit comfortably within DeTocqueville's aristocratic ideal. They built courthouses and railroads and saw their little town rise to become an

important center of a growing-cotton producing region. The practice of law involved the solicitation of clients, sometimes on the courthouse steps, and the shepherding of their cases through the court system. Often the litigation was of a simple nature, though the Forbes Purchase case and the Croom estate case demonstrate that local attorneys possessed a great deal of legal acumen for they could tackle complex legal issues. Although the quality of the Justices of the Peace was somewhat suspect, principally because they were often laymen, the judges on the Superior Court were of great quality. This period saw a more litigious citizenry, and attorneys willing and ready to meet each other on the dueling ground as well as in the courtroom.

As Richard Keith Call surveyed the state of things in 1836, it must have appeared that the future could not have been rosier. That year represented the zenith of power for the Nucleus. Call was appointed as Governor, and the Nucleus-aligned bank was still lending vast amounts of capital to already wealthy plantation owners. The lands in the area were rapidly becoming some of the most productive for cotton in the South. The Seminole War, begun in 1835, was fought on distant battlefields in East Florida, and provided excellent opportunities for members of the gentry to play soldier for a time and win glory that could translate to more political advantage. Statehood seemed certain in the near future, and already there was talk of a convention to draw up Florida's constitution. The reality was that it all was a house of cards that simply needed a stiff breeze to come tumbling down.

## CHAPTER 3

### Weathering the Storms on the Path to Statehood (1837-1845)

*“Judge Randall arrived in town on Thursday evening last, and will commence the April term of the Leon superior court on Monday next. We regret to observe that Apalachicola has been annexed to his judicial district. Previous to this addition, his duties were sufficiently laborious, as his district contained more than ½ the wealth, population, and business of the Territory.”* Floridian, April 2, 1836.

The pride of Middle Florida soared in the early months of 1837. As the quote above indicates, half the region’s wealth and population were located between the Apalachicola and Suwannee Rivers. Ox-carts on red clay canopy roads carried full loads of cotton into town picked by an ever-increasing population of slaves. The Second Seminole War, as it later came to be known, was contained in East and South Florida, regions analogized in editorials as faraway “Africa.” However, within a very short time a series of disasters, financial and natural, would affect Florida and bring the proud populace to its knees. It would seem as though the biblical horsemen of the apocalypse were raining God’s judgment down upon them for their sinful ways. Yet the legal profession seemed to remain relatively insulated. It managed not only to survive the storms, but even to prosper from them.

#### War, Famine, Plague, and Death

In 1837, lawyers were either leading military units, or figuring out ways to profit professionally from the Second Seminole War. General Leigh Read, protégé of Richard Keith Call, served as a military officer and won renown in South Florida battles. John P.

Duval, meanwhile, stayed home but took out an ad in the Floridian and Advocate which announced his practice would be prosecuting claims “for Negroes and other property destroyed or taken away by the Indians, and for horses and c. [sic] killed in service of or taken for the army.”<sup>149</sup>

Beginning in 1838, the Seminole War ceased to be fought on the frontier to the south. Reports cropped up weekly of small Indian forays into the heart of Middle Florida. In April of 1838 alone, two such attacks were recorded. The safety of transportation became a concern to local residents as they read of an attack in neighboring Jefferson County. “On Saturday last about 12 o’clock two of the troops from Camp Wacissa, on their return from St. Marks were fired upon by Indians on the Monticello Road about 5 miles from Magnolia. The Indians hailed them . . . which induced them to stop, and fired upon them in this situation.”<sup>150</sup> Another attack followed two weeks later on a house on the Monticello Road in Jefferson County.<sup>151</sup>

The lives and property of local attorneys and other residents were at stake that year and through the next. The Floridian and Advocate reported an attack on the home of John Adams in Leon County, a member of the local bar: “ANOTHER ATTACK- We stop the press to give notice of another Indian attack made on the dwelling of Mr. John Adams, about two miles southeast of the plantation of Tom Peter Chaires. Mr. Adams and his family escaped, but the dwelling was plundered.”<sup>152</sup> The newspaper sadly reported a devastating attack on another attorney, Edmund Gray, Esq., and his family within nine miles of Monticello. The lawyer and two of his children were killed. The paper noted that one of the children had been shot while trying to escape. “We predict this is not the last of many of the outrages to be perpetrated in Middle Florida. The stock in East Florida is all destroyed . . . The theatre of war is changed. Middle Florida is hereafter for several months destined to be the scene of outrage, of families murdered and scalped, of burning houses and devastated plantations.”<sup>153</sup> The attacks also wreaked havoc on and exacerbated an already turbulent local economy reeling from the Panic of 1837.

The Panic of 1837, which was a national fiscal collapse, was felt more intensely in the south because the cotton-producing regions depended on an intricate system of credit to finance agricultural endeavors. Plantation owners bet the next year’s crop

against the credit necessary for the tools and slaves to clear and cultivate land this year, and local merchants in turn were indebted to larger businesses and financial institutions in the north for their stock. When the price of cotton floundered and a national recession set in, the entire system crumbled. Institutions like the Union Bank lent money to friends and family of the bank chairmen as opposed to evaluating the credit worthiness of potential lendees. The banks sold stock, and then found that they were unable to collect from their debtors. As a result, they were unable to pay off bond or stockholders. The lack of cash in the area meant that even when the bank would force a sheriff's sale, the property would go for a fraction of its worth.

Dire financial straits followed. By March of 1840, The Floridian reported that the books and financial records of the Union Bank were being reviewed by officials.<sup>154</sup> By the following year, the Union Bank was overwhelmed with lawsuits. The bank became a political hot potato, as former members of the Nucleus coalesced into the pro-bank Whig party and Democrats strove to harness the growing resentment of poor whites towards the banks and translate it into political power. The rising unpopularity of the Bank was reflected in the advertisement for former Governor Duval's law practice which appeared in the Floridian and Advocate: "The Union Bank of Florida, having transferred its business to other gentlemen of the bar, we can now be employed to defend those who have been or may be sued by the bank, in all cases in which the original summons or writ is made returnable to the April or May terms of the approaching courts in Florida.-- Wm. P. Duval and Thos. Duval Attorneys at Law."<sup>155</sup> The former politician's ad was as much to distance himself from his previous client as it was to attract new business.

The single most important topic to resolve at the state's Constitutional Convention was the power and favoritism wielded by state-sponsored banks. The Constitutional Convention met in 1838 at the northern gulf coast town of St. Joseph. Middle Florida's contingent of representatives was made up almost exclusively of members or former members of the local bar, and included George T. Ward, James D. Westcott, Gen. Leigh Read, L.A. Thompson, and Col. William Wyatt.<sup>156</sup> As heated debates continued, the Union Bank in Tallahassee floundered and became mired in the legal system.

Another factor plaguing the citizens of Tallahassee continued to be the general lawlessness of the region. In 1840, a grand jury presentment decried the “grievous facility by which licenses for the retailing of spirituous liquors can be procured in this Territory. . .”, and also noted frequent breaches of the peace at night, the shooting of firearms within the city, and the neglect of law enforcement officers in collecting fines and penalties imposed by the courts.<sup>157</sup> Dueling also remained a serious problem and members of the bar continued to play a role as participants.

Duels took on more political connotations than previous simple affairs of honor over small slights. They also grew to be more violent and extreme affairs. For example, the 1837 duel between George Ward, a prominent attorney and Democrat, and Augustus Alston, of the Whig party, was both political and violent. Ward was avenging the death of his nephew. The nephew, while in the Army during the Second Seminole War, had confronted Alston regarding some decisions he had made during his command, and Alston had ordered the nephew’s arrest. The younger Ward responded by pulling pistols and Alston reportedly ordered a subordinate to “shoot the damned dog!” The subordinate complied.

Local attorney George Ward, enraged at the treatment of his nephew, showed up at a Union Bank meeting and horsewhipped Alston. Horsewhipping was an incredible insult for the day in that it implied the receiver of the whipping was not a gentleman but a social inferior. In the formal challenge which inevitably followed, Ward and Alston met near a lake about a mile and half east of town and shot at each other wounding each other several times until Ward fainted from lack of blood. While Alston would meet a different end, Ward continued to have a respected political career, which historian Michael Denham noted was hampered more by the fact he was a Whig than by his participation in the duel.<sup>158</sup>

Perhaps the most famous duel was between Leigh Read and Augustus Alston. Leigh Reid was a rising political star and local attorney who had ironically had taken a stand against dueling as a delegate to the state constitutional convention. He was hailed as a hero for his leadership in the Second Seminole War, and in 1839 became a favored Democrat candidate for the territorial council. Read was placarded through the public posting of sign calling him a coward after he insulted the Whig candidate whom he had

also sued on behalf of a client four years earlier. Alston, who was a leader in the Whig party, also issued a challenge, and Read accepted. The pair met at Mannington on December 12, 1839, where Read shot and killed Augustus Alston in front of an assembled crowd.<sup>159</sup>

The matter culminated in a shocking act of violence in downtown Tallahassee. According to tradition, Alston's sisters sent the bullet from his chest to his brother, Willis Alston, to use on Read. For several months, tensions built between the two. One night in April, 1841, Read was walking down Monroe Street near Park Avenue toward the courthouse when Willis stepped out and unloaded a double barreled shot gun into his back. This murder outraged the community and was apparently the last time a duel (or rather violence resulting from a duel) ever occurred in Tallahassee.<sup>160</sup>

Adding to the problems of violence and financial problems in Middle Florida was a series of natural disasters. Hurricanes struck the area in two consecutive years: 1841 and 1842. The second one was more severe and sent a storm surge into Wakulla County, a surge so large it completely wiped out the previously busy towns of Newport and Magnolia. A yellow fever epidemic ravaged the Tallahassee area in 1841, literally decimating the population. And finally in the summer of 1843 a fire struck the town's business district and wiped out nine city blocks. All of these disasters occurred against the backdrop of a national financial panic and a war which had dragged on for over half a decade. These disasters clearly had an impact on the legal system as well as all other aspects of residents' lives.

The court minutes of 1841 reveal the growing turmoil enveloping society at the time as one tragedy unfolded after another. In November of that year, Judge Randall noted that it would be impractical for the court to conduct its business in the time allotted by statute, so the court added an extra term in December.<sup>161</sup> On December 16, 1841 court minutes record that thirty-seven lawsuits had been filed "in assumpsit."<sup>162</sup> "Assumpsit" is a basic cause of action for default of a contract. This number was significantly higher than the number of cases filed "in assumpsit" in previous years. In fact, so many law suits were being filed that concern developed over the capacity of the clerk to keep up with it all. Later that month, the court appointed a panel of four prominent attorneys -- Leslie A. Thompson, D.P. Hague, D.S. Walker, and James D. Westcott, Jr. -- and they

were given the task to “examine and report to the court the condition in which they do find the papers and records.”<sup>163</sup> A few days later, Baltzell, on behalf of the panel, announced that the papers were in order, though he recommended that the clerk could use an assistant.<sup>164</sup>

There is no wonder why the clerk would have needed some help. Litigation proved difficult to keep track of during the ravages of the yellow fever epidemic in 1841. In December alone six cases were dismissed because the plaintiff was dead, and eighteen cases were dismissed because the defendant was deceased.<sup>165</sup> The sheer volume of litigation also overwhelmed the poor clerk. On January 12, 1842, the clerk logged in case number one thousand seven hundred and forty-two from the special term of court in December.

The year 1842 saw the end of hostilities with the Seminoles (at least until the Third Seminole War the following decade), but the living attempted to sort through the affairs of those who had been victims of yellow fever the previous year. Probate proceedings were so common that a pre-printed court summons was utilized by court personnel so that the clerk would not have to repeatedly write out the same language.<sup>166</sup> Bankruptcies were also so common that the Florida Sentinel printed a new section headed “In Bankruptcy” to accommodate the burgeoning legal notices for this category. On a single day, October 14, 1842, twenty notices for bankruptcy were advertised.<sup>167</sup>

While business had clearly increased for attorneys, there remained risks for the profession in that collecting fees was difficult due to the lack of money in the territory. Judgments were difficult to enforce for clients, because even if a sale was forced, few had the means to even bid on the auctioned property, so little was collected. There also existed the problem of “Tall Walking” described by historian Edward E. Baptist’s in his book Creating an Old South. Baptist related the phenomenon of many planters who had grown hopelessly in debt during this period simply pulling up stakes and secretly leaving for another state, such as Texas. It certainly could be difficult to litigate against a defendant who no longer resided in the area and whose whereabouts were unknown.

#### Partnerships, Wealth, and “Moral Improvements”

Lawyers responded to these challenges principally by consolidating their practices and obtaining a partner. This period saw a spike in the number of law partnerships,

although usually no more than two attorneys paired at a time. For example, in a listing of twelve advertisements for attorneys in the Florida Sentinel in September of 1842, over half were partnerships including: George T. Ward and Robert White, James Bertholet and James T. Archer, Leonidas W. Spratt and Bolling Baker, Samuel Stephens and Issac Ferguson, George S. Hawkins and William Brockenbrough, and Henry F. Yonge and John Taylor.<sup>168</sup> The formation of partnerships helped individuals share a workload which was undoubtedly increasing, but also reduces the financial risk for cases in which collection of fees became difficult.

Attorneys, however, continued to prosper in territorial Florida. The reins of power remained firmly in their hands. From 1836 to 1845, all of the Governors of Florida were attorneys or former judges. Richard Keith Call served from 1836-1839 and then again from 1841-1844. Robert Reid had been a judge in East Florida until his selection as Governor in 1839. Former Governor of North Carolina, John Branch, who had close family members who were local members of the Tallahassee bar, served as Governor from 1844-1845. Attorneys maintained control over the highest position in the territorial government.

As attorneys began to die, their estates testified to the wealth they were able to acquire. When Abram Bellamy died he had more than the respect of the local bar who met on July 22, 1839, to mourn him; he also left behind an estate rich in lands and slaves in Jefferson County.<sup>169</sup> The death of Joseph White later that year also revealed an estate left to his widow which included a large plantation home in Jefferson County. Apparently old enmities were put aside as the court minutes recorded a very generous eulogy “[C]alled as he was from his widely extended fame as a lawyer, to a more enlarged sphere of action . . . and the control and management of the most important concerns of the this whole Union, for which from his varied and splendid endowments he was so admirably fitted.”<sup>170</sup> He died admired and very wealthy.

Leon County resident and attorney, William Nuttal, left a similarly large estate on his passing in 1840 including two plantations. El Destino plantation measured 7,638 acres and Chemonie plantation encompassed 7,638 acres. Historian Clifton Paisley noted, “[s]o far as Leon County agriculture is concerned, Chemonie was the larger producer, with a cotton crop of two hundred bales on the thousand acres which were

improved.”<sup>171</sup> George Ward, attorney, married into the wealthy Chaires family who owned over twenty thousand acres in Leon and Jefferson counties. He also maintained his plantation Southwood, in addition to Waverly Plantation and the Clifford Place. His holdings contained “a total of 4,200 acres of which 2,500 were cultivated. Ward’s plantations were worked by a slaves force of 160, produced a 500-bale cotton crop and a 7,500-bushel corn crop in 1859-60.”<sup>172</sup> Richard Keith Call owned 8,754 acres including a large plantation near Lake Jackson and another north of Tallahassee.<sup>173</sup> Lawyers in Tallahassee represented collectively one of the largest groups of land holders and slave owners, the chief measures of wealth in the antebellum South.

Despite the tumult of the former period, the years immediately preceding statehood in 1845 were ones of relative societal stabilization. Court minutes in 1842 contain an interesting entry regarding public accusations of professional incompetence which in previous decades would have undoubtedly resulted in a challenge to a duel. The two accused attorneys opted instead to ask the judge for his evaluation of their conduct.

“In the matter of L.A. Thompson and D.S Walker, attorneys and counselors. L.A. Thompson, having on the first day of the term submitted to the Court that a certain newspaper printed and published in this place on the [blank] day of June last past called the “Floridian” had made charges of gross professional misconduct against himself and David S. Walker, Esq. asked leave to submit that publication to the Court together with their defense and answer thereto, contained in the copy of the same paper printed on the \_\_\_ day of June in the Star of the \_\_\_\_\_ and requested the Court to examine the same and take such action thereon as the Court should seem requisite and necessary. . . The Court having examined the same can find nothing in which the professional conduct of the gentlemen should be liable to censure.”<sup>174</sup>

The fact that two prominent members of the Bar chose to have a judge’s opinion settle a controversy which clearly implicated their own reputations and honor marked a significant change in terms of the acceptability of violence as a means to resolve disputes.

Violence seems to have become less common in society in general. An 1843 grand jury in its presentment at the end of the term praised the change in “general improvement of morals” and noted that fewer indictments were being handed down for criminal acts than in “many terms past.” Perhaps most indicative of the improvement of

conditions in society is that after praising the reduction in criminality among the populace the grand jury proceeded to complain about roads. Life was returning to normal.<sup>175</sup>

This period also saw a significant reduction in the number of cases filed. As the writer of this letter to the editor indicated, citizens became less litigious, perhaps in part reflecting the problematic nature of collecting in a cash poor frontier environment:

Mr. Editor: The Court is now in session in the County, and principally occupied I believe with old business. Few suits have been brought at his term. The people have become satisfied that a little patience and forbearance is the wisest policy. The good effects of the relief law passed at last session of the Legislature will be felt not only in the stay of sales, but also in the diminution of new suits. I believe that the great mass of the people are honest, and will in time, if let alone pay to utmost of their ability. If the aggregate amount of all the money which has been expended in useless litigation was now in the hands of the people, it would wipe off much of their indebtedness. . . . But as I set merely to inform you that the Court was at work in righting public and private wrongs. Here, I will now close by saying that his Honor is gaining popularity at his bar.<sup>176</sup>

Patience and forbearance appear to have become watch words during this particularly trying period. It is no surprise that individuals sought means of resolving disputes other than the courts.

However, the lingering Union Bank cases still brought forth the ire of Tallahasseeans. In a scathing presentment, the grand jury castigated those who had defrauded citizens of Florida through its shady banking practices:

The prosecution of some of the persons concerned in the recent fraud perpetrated on the people of this Territory, by means of the Bank of Florida, has engaged the attention of the grand jury for several days. They have deemed it their duty to present indictments against several as participants in the fraud. Others suspected, have been (owing to the difficulty of procuring all the evidence believed to be existing) omitted at the time. The Grand Jury believes by next term this may be had, and they request in order that public justice may be done, that this subject be specifically placed in charge of the next Grand Jury with that view.<sup>177</sup>

The presentment reflected a general anger of local citizens toward the bank's proprietors.

Attorneys thus saw their power slip as the territory was ravaged by war, economic panics, disease, hurricanes, floods and fires. Duels reached a peak of violence until the murder of a prominent and popular attorney shocked the community out of its

comfortable acceptance of dueling, and the ritual lost some of its romantic appeal. These events served to create turmoil for court dockets as individuals sought to have judgments enforced in a cash poor region where the leading local bank had failed. Despite these challenges, the legal system slowly stabilized. Attorneys formed small partnerships to weather the financial storms and spread the risks associated with practice. They pursued settlements more and encouraged negotiation, which is reflected in the decreasing dockets. The few attorneys who died during this time left large landed estates and wealth which demonstrated the success which was attainable in the profession.

On March 3, 1845, Congress voted to admit Iowa and Florida as states to the Union. However, due to poor communication and transportation word did not reach Middle Florida until several days later. Court minutes on March 5 were still listing the Territory of Florida as a party to court actions.<sup>178</sup> Finally, the Florida Sentinel reported on the 11<sup>th</sup> that “Saturday Morning’s mail brought intelligence of the passage of the bill for the admission of Iowa and Florida. . . Florida has passed her nonage and now is a sovereign and independent State.”<sup>179</sup> The rider who brought news from Washington came by horseback down the long and winding Thomasville Road and went straight to the Live Oak Plantation home of Governor John Branch who happened to be holding a ball. In addition to being a plantation owner and maintaining the highest office in the territory, Branch had two relatives with law practices in town who were both likely attending to hear the announcement. Lawyers were thus present when Tallahassee was selected as the capital of the Territory and at its beginning as capital of a new state.

## CONCLUSION

Governor Branch and the other members of his party, many of whom were undoubtedly members of the local bar, likely marveled at how much their little corner of the new Union had changed since they had settled it. It was still very much the frontier, as the upcoming decade's revival of the Seminole War would demonstrate. Yet in this rough environment, the one hundred and twenty attorneys practicing in and about Tallahassee during the territorial period managed to fashion a legal system that adapted and then saw their community through very difficult times.

In the introduction questions were posed which sought to clarify the role that the antebellum attorney played on the frontier. The first question dealt with the "Golden Age" versus "period of decline" dichotomy first proposed by Roscoe Pound. The second issue was the question of whether attorneys during this period were "country lawyers" or "aristocrats" in the DeToquevillian vein. Finally, a major purpose of the thesis was simply to describe the persons practicing law and their profession and describe any change over time.

Did the first half of the nineteenth century constitute a decline or a "Golden Age" in the legal profession? The evidence indicates that the practice of attorneys in Tallahassee during this period would not have been indicative of a decline in the practice of law. They appear to have been competent, and even well-educated for the period. Abraham Bellamy studied at the academy of Dr. Waddel at Willington, S.C.. Richard Keith Call studied formally at Mt. Pleasant Academy in Tennessee.

In addition to formal education, experience also was important. Many of the early attorneys such as Charles Sherman, Abraham Bellamy, Joseph White, or William P.

Duval had previously established legal careers before settling in Tallahassee. Moreover the judges were also very experienced. Augustus Woodward had already logged several years on the bench and written the Michigan statutes (or “Woodward Code” as it came to be known) before taking up his duties in Tallahassee. These attorneys and judges in turn trained the new legal talent. This combination of a very educated and experienced bench and bar worked to create a higher level of practice in Tallahassee, which may not have been present in other similarly situated communities.

The competence of early attorneys is also reflected in the dockets from the time. Although certain types of cases became more common in certain periods as the community dealt with financial and criminal issues, by and large there appears to have been a variety of causes of action on the docket. The litigation, while usually simple, could become very complex, as it did in the litigation surrounding the Forbes purchase or the Croom family probate case. This implies that the attorneys were not simply “cows mulling grass” as Murat complained, but were conscientiously attempting to file the proper suit or compose the correct defense for each client’s particular predicament. When appointed by the court to represent an indigent client charged with a serious offense, representation appears to have been vigorous with multiple motions and appeals filed in most cases, and even an occasional acquittal. Moreover, the record reveals the use of forms of alternative dispute resolution such as arbitration, which further points to a sophistication among members of the legal system.

The historical record is also replete with evidence that lawyers had access to multiple sources of law. Far from simply arguing “common sense” or “natural law,” the attorneys consulted Blackstone, various legal tomes, volumes of United States Supreme Court opinions, and their copies of the Territorial Acts. At times the court minutes themselves were a significant source of law. Lawyers were trying to ascertain the law. They were doing their jobs. Any criticism of the legal system could accurately be directed at the justices of the peace who were laymen and often unfamiliar with the law. However, the relatively small jurisdiction of the county courts and the largely administrative role that JPs played helped to curtail their jurisdiction and influence upon the general populace. The attorneys in Tallahassee and Middle Florida were most definitely aristocrats who DeTocqueville would have had no problem recognizing. They

also were not hacks or backwoods yokels who happened to know how to read and be good at spinning yarns. The men who served as attorneys in frontier Florida were by and large well educated and competent in their chosen field.

What we do not see is the stereotyped description by Chroust of the backwoods-type of frontier justice. They may have been holding court in a store or in the home of a local resident, but they were quoting Blackstone and utilizing appropriate Latin phrases while they were doing it. This seems to agree with the other “microcosmic” studies of lawyers in frontier Michigan and Dodge City. Arguably, whenever a scholar takes the time to look at the records of those setting up a legal system on the frontier, as opposed to stereotypical generalizations, that person comes away with a sense of respect for lawyer’s efforts more than a sense of damage done to the institution during that period. This is not to say it was a Golden Age, either. There do not appear from the record any particularly novel interpretations of the law. The fact is that it is difficult to know, however, since widespread reporting of decisions would not exist until the late nineteenth and early twentieth centuries. But at the very least, the period as manifested in frontier Florida did not mark any particular decline.

With regard to the Jerold Auerbach “country lawyer” versus “aristocrat” dichotomy, attorneys in frontier antebellum Tallahassee would certainly fit into the aristocratic mold. DeTocqueville’s earlier description of lawyers as “America’s aristocracy” is accurate with regard to those practicing in Tallahassee. They owned and maintained large tracts of land, populated by slaves whom they idealized as “vassals.”

Through intermarriage, they established bloodlines to maintain their wealth. Richard Keith Call, for example, married a Nashville socialite at a ceremony performed at the Hermitage. Achille Murat married a descendant of George Washington. Leigh Read married the daughter of the wealthy Branch family. Judge Thomas Randal married the daughter of United States Attorney General William Wirt. Two attorneys, Algernon Thurston and William McRea, fought a duel in front of the new log cabin capitol for the affections of Governor Duval’s daughter, whom another attorney John K. Campbell eventually married. These marriages were designed to promote both parties socially as much as to evince love.

Law became to some extent a hereditary practice. Oscar White practiced law following in his prominent uncle's footsteps, and Richard Keith Call developed his protégé Leigh Read and enabled him to marry into the Branch family. Oscar White practiced for a time with his uncle, Joseph White. Two attorneys named Branch, Joseph and Lawrence, practiced together and were related. Thomas Duval practice for a short time with his relative William P. Duval. Lawyers without a doubt constituted the power base of the Territory.

The legal profession was a means to reach positions of power. Attorneys served in all but one of the territorial governorships, as well as serving as territorial and congressional legislators and as state constitutional delegates. They were involved in the leadership of the banks. In addition, DeTocqueville probably would have also recognized the rising association of political parties with particular families, as opposed to any particular fixed ideology, as more in line with the historical alliances of aristocratic families jockeying for position and power in Europe. Finally, the prevalence of dueling among members of the bar further reinforced the idea that attorneys served as the American aristocracy. Time after time, careers were enhanced by those who participated in this ritualized violence.

The practice of attorneys clearly changed over time. The period from 1824-1830 brought young ambitious men to Tallahassee. Influential families from older established states came because it was rich in cotton and presented unique opportunities to build wealth. Many young attorneys were trained by the apprenticeship model of "reading law" under the tutelage of an older and more experienced attorney. It can be argued that the fines collectable by local communities from the legal system may have played a role in government encouragement to use the courts and easing admission standards to the practice of law. Other attorneys were previously experienced and had practiced in other states.

The young bar quickly began to assert its influence by petitioning the court to provide written opinions in the record to aid in appeals or to add an extra term of court. Their professional lives revolved around the circuit calendar with Fall and Spring terms of court. Historians acknowledge the importance of these court days not only for outlying communities, but for the professional development of new lawyers. Attorneys

also resolved disputes through negotiation or litigation and drew up common instruments. They also transacted business for others while away from the territory. They represented criminal defendants pro bono. As a result of their efforts and the trust of the growing community in their abilities to resolve disputes, the court dockets reflected a steady increase in court activity. This foreshadowed a greater use of the court system, and the rising power of close associates of the recently inaugurated President Andrew Jackson foretold of greater conflict in the 1830s.

From 1830-1837, a powerful group of attorneys formed to organize political power within the territory. This group built courthouses and railroads and saw their little town rise to become an important center of a growing cotton producing region. The practice of law involved the solicitation of clients, sometimes on the courthouse steps, and the shepherding of their cases through the court system. This period saw a more litigious citizenry, and attorneys willing and ready to meet each other on the dueling ground as well as in the courtroom.

From 1837-1845, attorneys saw their power slip as the territory was ravaged by a series of natural and manmade disasters including: war, economic panics, disease, hurricanes, floods and fires. Duels continued to increase in intensity of violence until finally, the murder of a prominent and popular attorney shocked the community out of its idealistic notions of dueling, and it lost some of its romantic appeal. These events served to create turmoil for court dockets as individuals sought to have judgments enforced in a cash poor region where the bank had failed. Yet, despite these challenges, the legal system slowly returned to normal. Attorneys formed small partnerships to assist in weathering the storms and to spread the risks associated with practice. They pursued settlement more and encouraged negotiation, which is reflected in the decreasing dockets. The few attorneys who died during this time left large landed estates and wealth which demonstrated the success which was attainable in the profession.

It is tempting to compare the legal practice then with that of today.

The practice of territorial attorneys would be in many ways familiar to present day lawyers. Certainly the overall structure and much of the terminology of the common law court system, borrowed from England and unchanged for centuries, remains largely intact. The pressures of attracting clients and collecting fees remain. One need look no

further than the latest John Grisham novel to recognize that the lure of the law as a means to attain power and wealth still remains alive and well today. Lawyers continue today to form a kind of American aristocracy through which a person may attain access to corridors of power. The procedures and motions of legal practice, though updated in terminology, still remain. Attorneys today still file writs of habeas corpus and the procedures for resolving a dispute through the legal system are still largely untouched.

However, significant differences exist between law in the present day and law as it was practiced in territorial Florida. For example, the hardships faced by those practicing law on the frontier were significant. To attempt to maintain a practice while enduring regular Indian attacks on neighbors, yellow fever epidemics, and financial collapses would have been difficult to say the least. The rise of the large law firms in the 20<sup>th</sup> century so decried by Auerbach also would have stood in stark contrast to the small two person partnership which became more common during this period. The territorial attorneys would have been lost in a large law firm of today. They would have no doubt found the practice in which specialization is more common too confining.

In addition, the role of the local bar association as a loose organization whose only regular purpose for meeting appears to have been to honor deceased members has also greatly changed. State bar associations actively regulate the professional conduct of their members, while in the territorial period this task appears to have been largely left to local courts. Finally, perhaps the largest difference could be found in that few attorneys or judges today have professional disputes of sufficient intensity to result in bloodshed on a dueling ground. Dueling, as has already been pointed out, was common enough in the territorial period to constitute a professional hazard of sorts.

Aristocratic and brash, competent and professional, the differences personified in the lawyers who struggled to practice on the frontier in Middle Florida disclose the strange ironies inherent in this period. One can not help but hate the incredible cruelty, and by modern standards the ridiculousness, inherent in a society that condoned slavery or dueling. At the same time, one can not help but admire those who did so much with so little in the face of such adversity.

**Appendix: List of Attorneys Practicing in Tallahassee from 1824-1845**

<b>NAME</b>	<b>INFORMATION</b>
John J. Adams	-Admitted to the bar April 14, 1832 <sup>180</sup> -Advertised law practice in 1834 <sup>181</sup> -Home attacked and “plundered” by Seminoles during the Second Seminole War in 1838, but he escaped with his family <sup>182</sup>
Benjamin Allen	-Formed partnership with William P. Duval in 1841 <sup>183</sup>
Richard C. Allen	-U.S. Attorney in 1826 <sup>184</sup> -Became law partners with William Duval in 1836 <sup>185</sup> -Partnership dissolved when Allen became appointed to judge in 1838 <sup>186</sup>
A. Kurkindolle Allison	-Advertised law practice in 1842 <sup>187</sup>
Walker Anderson	-Partnership formed with Thomas Baltzell in 1840 <sup>188</sup>
James T. Archer	-Born in South Carolina in 1819 -Moved with his parents to Tallahassee in 1835 where he worked in a mercantile store and for a local newspaper -Read law in the office of Territorial Secretary James D. Westcott, Jr. -Formed partnership with James A. Bertholette in 1842 <sup>189</sup> -Participated in the local debating society -Served as Attorney General and Secretary of State under Governor Mosely -In 1848 resigned as comptroller due to ill health -Served as advisor to governors -Prospered in private practice -Had “a large round head, broad face, straight nose, flaring nostrils, protruding lip” and gave the appearance of having a “perpetual smile.” -Law partner was Mariano Papy <sup>190</sup>
Elihue Atwater	-Admitted to the bar April 10, 1828 <sup>191</sup>
Bolling Baker	-Advertised as partner with Leonida Spratt <sup>192</sup> -Advertised as law partner with Samuel Stephens in 1844 <sup>193</sup>
John M. Berrien	-Admitted to the bar October 6, 1828 <sup>194</sup>
Hector W. Braden	-Listed as attorney for plaintiff in legal

	notice <sup>195</sup>
William F. Braden	-Admitted to the bar April 5, 1831 <sup>196</sup>
John Beal	-Admitted to the bar October 5, 1830 <sup>197</sup>
Samuel Beal	-Admitted to the bar October 6, 1828 <sup>198</sup>
John H. Beale	-Advertised practice of law in 1835 <sup>199</sup>
Abram (Abraham) Bellamy	-Son of road builder and plantation owner John Bellamy -Born in Waccamaw, Georgetown District of South Carolina, August 10, 1800. -Attended the Academy of Doctor Waddel at Willington, Abbeville District, S.C. -Commenced the study of law under Joseph Alsten, former Governor -Admitted to the bar in 1821 -Practiced in Charleston, South Carolina, and moved to East Florida to practice -Served as chief clerk of the territory <sup>200</sup> -Lawyer, planter and member of the territorial council -Killed Everett White of a rival family in a duel in 1835 -Almost got in another duel another prominent planter before his death in 1839 <sup>201</sup>
James A. Berthelotte (Bertholet)	-Friend of Baltzell and Samuel Duval, nephew of the governor, indicted for “being in a duel” -Partners with James T. Archer in 1842 <sup>202</sup>
John P. Booth	-Advertised partnership with J.D. Westcott in 1830 <sup>203</sup> -Partnership dissolved in 1834 <sup>204</sup>
William F. Braden	-Admitted to the bar April 5, 1831 <sup>205</sup>
Joseph Branch	-Had a law office in April, 1841 -Cousin of Eliza Branch, who was the daughter of John Branch, territorial governor of Florida in 1845 <sup>206</sup>
Lawrence O.B. Branch	- Partnership with likely relative Joseph Branch advertised in 1841 <sup>207</sup>
Samuel Brents	-Admitted to the bar October 6, 1828 <sup>208</sup>
William H. Brockenborough	-Judge in West Florida -Practiced with William P. Duval beginning in 1838. -Turned down another judgeship in 1841. <sup>209</sup> -Formed partnership with G. H. Hawkins in 1842 <sup>210</sup>

J.B. Brown	-Advertised law practice in 1844 <sup>211</sup>
E. Carrington (E.C.) Cabell	-Advertised as attorney in 1841 <sup>212</sup> -Formed partnership in 1841 with Peachy R. Grattan, with an office under the Union Bank <sup>213</sup>
George W. Call, Jr.	-Advertised law practice in 1845 <sup>214</sup>
Richard Keith Call	-Born in Prince George County, VA, in 1791 -Moved to Logan County, KY -Educated in parents large library -Episcopal -Attended school at the Mt. Pleasant Academy, in Montgomery Co. Tennessee <sup>215</sup> -Elected 3 <sup>rd</sup> Lieutenant for a volunteer company formed under Andrew Jackson in the Creek War -Became a staff officer under Jackson -Became a captain in the 1 <sup>st</sup> Seminole War -Studied law -Became a delegate to congress from 1823-1825 <sup>216</sup> -Set up two plantations one out on Lake Jackson and one just a mile north of Tallahassee <sup>217</sup> -Admitted to the bar April 3, 1826 <sup>218</sup> -Governor of Florida 1841-44 and 1836-39 <sup>219</sup> -Leigh Read became his protégé -Ran the Tallahassee Land Office -Frequently spared in the courtroom with Joseph White and almost fought a duel with him -His wife died in 1836 -Involved in brick making, a saw mill and a grist mill -Fought Indians 1837-1841 <sup>220</sup> -President of Tallahassee RR Co. <sup>221</sup>
James H. Campbell	-Advertised as partners with A.G. Semmes in 1842 <sup>222</sup>
John K. Campbell	-Arrived in Tallahassee, 1828 -Admitted to the Bar in West Florida by Act of the Territorial Council <sup>223</sup> -Admitted in to the bar April 8, 1828 <sup>224</sup> -Married Elizabeth Duval -Killed Aug. 28, 1833 in a duel with

	<p>George Hamlin in 1833<sup>225</sup></p> <ul style="list-style-type: none"> <li>-Purchased lots of land and loaned money</li> <li>-Had a thriving law practice</li> <li>-“Nullifier and Calhoun man”</li> <li>-US Attorney for Western District (1831)</li> <li>-US Attorney for the Middle District (1831)</li> <li>-Clerk to legislative council</li> <li>-Called a “sensible and accomplished gentleman” by Judge Reid</li> </ul>
S.W. Carmack	Advertised as an attorney in 1840 <sup>226</sup>
Edward Chandler	-Listed as an attorney in a legal notice in 1834 <sup>227</sup>
Cheo. F. Chew	-Advertised as attorney and concellor [sic] at law in 1828 <sup>228</sup>
Francis A. Cash	-Admitted to the bar Oct. 1, 1827 <sup>229</sup>
Paul Colson	-Admitted to the bar Oct. 8, 1827 <sup>230</sup>
Benjamin E. Cooper	<ul style="list-style-type: none"> <li>-Advertised law practice and had office on the N.E. corner of the public square<sup>231</sup></li> <li>-Formed partnership with Joseph White in 1830<sup>232</sup></li> </ul>
William George Mackey Davis	<ul style="list-style-type: none"> <li>-Born in Portsmouth, VA</li> <li>-Father served in US Navy and died when Davis was very young</li> <li>-Provided a good education by mother</li> <li>-Did not want to be an Episcopal minister and ran to sea</li> <li>-Worked in printing house in Georgia</li> <li>-Published 1<sup>st</sup> newspaper in Eufaula, AL</li> <li>-Davis moved to Franklin Co., FL</li> <li>-Practiced law in Apalachicola</li> <li>-Moved to Tallahassee and became a leading lawyer<sup>233</sup></li> </ul>
R.H. M. Davidson	-Advertised law practice in 1833 <sup>234</sup>
James Dunlap	<ul style="list-style-type: none"> <li>-Admitted to the bar April 10, 1828<sup>235</sup></li> <li>-Advertised as partner with Richard Keith Call in 1830<sup>236</sup></li> <li>-Died in 1831 or early 1832 and the advertisement for his estate sale mentioned his personal law library<sup>237</sup></li> </ul>
Charles Dupont	<ul style="list-style-type: none"> <li>-Admitted to bar Oct. 6, 1828<sup>238</sup></li> <li>-Noted as “Atty for Plaintiff, Gadsden County, FL” in Dec. 1, 1829 ad<sup>239</sup></li> <li>-Still advertising law practice in 1842<sup>240</sup></li> </ul>
John P. Duval	<ul style="list-style-type: none"> <li>-Admitted to the bar Oct. 1, 1827<sup>241</sup></li> <li>-Advertised in 1829<sup>242</sup></li> </ul>

	<ul style="list-style-type: none"> <li>-Partnership formed with William Randolph in 1837<sup>243</sup></li> <li>-Represented George Proctor (free black) in law suit in 1842<sup>244</sup></li> </ul>
Thomas H. Duval	<ul style="list-style-type: none"> <li>-Advertised law practice in 1838<sup>245</sup></li> <li>-formed partnership with relative William P. Duval, but lasted less than a year.<sup>246</sup></li> </ul>
William P. Duval	<ul style="list-style-type: none"> <li>-Governor of Territory from 1822-34<sup>247</sup></li> <li>-Originally Judge Eastern District of Florida<sup>248</sup></li> <li>-In 1836, became law partners with R.C. Allen<sup>249</sup></li> <li>-Partnership was dissolved in 1838 when Allen appointed federal judgeship in Florida. Duval then formed partnership with a former judge William H. Brockenbrough<sup>250</sup></li> <li>-Formed short-lived partnership in 1840 with relative Thomas Duval but it was dissolved within a year.<sup>251</sup></li> <li>-Formed new partnership with Benjamin Allen<sup>252</sup></li> </ul>
Issac Ferguson	<ul style="list-style-type: none"> <li>-Advertised as a partner with Samuel Stephens in 1842<sup>253</sup></li> </ul>
Joseph M. Fields	<ul style="list-style-type: none"> <li>-Admitted to the bar Oct. 9, 1827<sup>254</sup></li> </ul>
Davis Floyd	<ul style="list-style-type: none"> <li>-Reported as Treasurer of the City of Tallahassee<sup>255</sup></li> <li>-Admitted to the Bar Oct. 1, 1827<sup>256</sup></li> </ul>
Henry W. Fontane	<ul style="list-style-type: none"> <li>-Admitted to the Bar as “Henry W. Fountain [sic]” on Oct. 1, 1827<sup>257</sup></li> <li>-Advertised in 1828, offices in Leon and Gadsden Counties<sup>258</sup></li> </ul>
Chauncy W. Fowler	<ul style="list-style-type: none"> <li>-admitted to the bar April 3, 1826<sup>259</sup></li> </ul>
Henry Fuller	<ul style="list-style-type: none"> <li>-Advertised practice in Mariana and Magnolia in 1831<sup>260</sup></li> </ul>
Ambrose Gane	<ul style="list-style-type: none"> <li>-County judge</li> </ul>
William Palm Gibson	<ul style="list-style-type: none"> <li>-Admitted to the bar October 1, 1827<sup>261</sup></li> </ul>
Peachy R. Grattan	<ul style="list-style-type: none"> <li>-Formed partnership with E.C. Cabell in 1841<sup>262</sup></li> </ul>
Christopher C. Greenup	<ul style="list-style-type: none"> <li>-Admitted to the bar April 7, 1828<sup>263</sup></li> </ul>
William R. Hackley	<ul style="list-style-type: none"> <li>-Admitted to the bar Oct. 1, 1827<sup>264</sup></li> <li>-Advertised practice in 1839<sup>265</sup></li> </ul>
Thomas H. Hagner	<ul style="list-style-type: none"> <li>-Advertised law practice in 1838<sup>266</sup></li> </ul>
D. P. Hague	<ul style="list-style-type: none"> <li>-In attendance at bar meeting honoring the death of East Florida judge<sup>267</sup></li> </ul>
George H. Hawkins	<ul style="list-style-type: none"> <li>-Formed partnership with William H.</li> </ul>

	Brockenborough in 1842 <sup>268</sup>
Benjamin B. Hawks	-Advertised law practice in 1833 <sup>269</sup>
Thomas J. Heir	-Formed partnership in 1841 with J. McCants -Practiced in Monticello <sup>270</sup>
Michael G. Hewian	-Admitted to the bar Oct. 3, 1827 <sup>271</sup>
Fleming Hixon	-Admitted to the Bar October 12, 1832 <sup>272</sup> -Advertised partnership with William Nuttal in 1832 with an office near the Planter's hotel <sup>273</sup>
Edward Houston	-Advertised practice of law in 1836 <sup>274</sup> -Office located on Jefferson Street next door to E.B. Perkins, druggist
Medicus Long	-Wife Ellen Call (daughter of Richard Keith Call -Came to Tallahassee in 1843 to practice law -Walker a cousin of Call's -Entered politics as a Democrat and elected to the state legislature <sup>275</sup>
Richard M. Long	-Admitted May 5, 1830 -Had previously been admitted in Lincoln Co. Georgia
Thomas T. Long	-Advertised law practice in 1842 <sup>276</sup>
John C. Love	-Advertised in 1829 <sup>277</sup>
Samuel F. Love	-Admitted to bar in Middle Florida April 3, 1826 <sup>278</sup> -Died October 25, 1832 at the age of 38 <sup>279</sup>
David B. Macomb	-JP -Fought duel with Achille Murat in which Murat "scared out the lice." <sup>280</sup>
Edgar Macon	-Admitted to the bar April 2, 1827 <sup>281</sup>
Robert Maddison	-Admitted to the bar April 4, 1826 <sup>282</sup>
Addison Mandel	-Admitted to the bar Oct. 6, 1828 <sup>283</sup>
J.P. May	-Listed as an attorney in an advertisement in 1838 <sup>284</sup>
Hector McNeil	-Advertised as practicing in Quincy <sup>285</sup>
J. McCants	-Advertised as lawyer in 1840 <sup>286</sup>
Rodney McDonald	-Admitted to the Middle District of Florida on Nov. 18, 1842, and provided proof of law license from Georgia <sup>287</sup>
William Allison McRea	-Fought duel over daughter of William Duval with Algernon Thurston -US attorney for Middle District of Florida January 22, 1827 <sup>288</sup> -Ordered the next day by Judge to assist in

	<p>examination of Atwater with Thomas Baltzell</p> <ul style="list-style-type: none"> <li>-McRea had a thriving practice with land interests in Key West</li> <li>-Represented Indian agents</li> <li>-Indicted for assault with intent to kill and fighting in public place (probably for dueling)</li> <li>-Transferred to Key West</li> <li>-Killed in duel there<sup>289</sup></li> </ul>
Athamasius Mudd	-Admitted to the bar April 8, 1828 <sup>290</sup>
Prince Achille Murat	<ul style="list-style-type: none"> <li>-JP<sup>291</sup></li> <li>-Fought duel in early 1830's with David B. Macomb in which his shot "scared out lice."</li> <li>-1825 moved from Portenope near St. Augustine to Wacissa with slaves, an owl, 100 head of cattle, and "a compass as [his] guide."</li> <li>-Admitted to the bar April 7, 1828<sup>292</sup></li> <li>-Married Catherine Willis – descendant of George Washington</li> <li>-Described self as esquire of Florida spoke several languages<sup>293</sup></li> <li>-Uncle was Napoleon Bonaparte<sup>294</sup></li> <li>-Was law partner with W. B. Nuttal<sup>295</sup></li> </ul>
William B. Nuttal	<ul style="list-style-type: none"> <li>-Law partner with Achille Murat<sup>296</sup></li> <li>-Law partner with Fleming Hixon in 1832<sup>297</sup></li> <li>-Died in 1843 a wealthy landowner<sup>298</sup></li> </ul>
Charles Parkhill	-Admitted to the bar December 18, 1841 <sup>299</sup>
Mariano D. Papy	<ul style="list-style-type: none"> <li>-Partner with James T. Archer</li> <li>-38 year old native of Florida</li> <li>-Born poor in St. Augustine</li> <li>-Self taught<sup>300</sup></li> </ul>
Henry Pullen	<ul style="list-style-type: none"> <li>-Admitted to the bar April 5, 1831</li> <li>-Had previously practiced in Maine.<sup>301</sup></li> </ul>
William Randolph	-Formed partnership with John P. Duval in 1837 <sup>302</sup>
Leigh Reid	<ul style="list-style-type: none"> <li>-Born in Sumner Co., TN in 1809</li> <li>-Migrated to Florida in 1830</li> <li>-"Frequent observer at Leon County courthouse"</li> <li>-Studied law under Call</li> <li>Admitted to bar April 1, 1833</li> <li>-1<sup>st</sup> wife Sarah Bellamy (sister of Abram</li> </ul>

	<p>Bellamy)</p> <ul style="list-style-type: none"> <li>- Married Eliza Branch, daughter of John Branch ex-governor of NC and territory Governor of FL in 1845</li> <li>-Fought duel with Oscar White in summer of 1833 at Thomas Brown's Marion Race Track</li> <li>-Gashed in his side</li> <li>-Leading planter-lawyer<sup>303</sup></li> <li>-Fought in second Seminole war and some won some fame</li> <li>-Represented Leon County at constitutional convention, 1838</li> <li>-When candidate for legislature council traded insults with Whig candidate</li> <li>-Placarded by candidate when ignored challenge to duel</li> <li>-Agreed to meet Augustus Alston for duel</li> <li>-Met at Mannington</li> <li>-Shot and killed Alston</li> <li>-Subsequently elected as Representative to Council</li> <li>-Killed by Alston's brother April 26, 1841<sup>304</sup></li> </ul>
James G. Ringgold	<ul style="list-style-type: none"> <li>-Admitted to the bar the same day appointed District Attorney of Middle Florida, Oct. 6, 1828</li> <li>-Same day dropped most of criminal prosecutions on docket<sup>305</sup></li> <li>-Law partner with Leslie Thompson<sup>306</sup></li> </ul>
James M. Scott	<ul style="list-style-type: none"> <li>-Advertised law practice in 1835<sup>307</sup></li> </ul>
A.G. Semmes	<ul style="list-style-type: none"> <li>-Advertised as partners with James H. Campbell in 1842<sup>308</sup></li> </ul>
Joseph M. Shellman	<ul style="list-style-type: none"> <li>-Admitted to the bar same day as examined on October 10, 1828<sup>309</sup></li> </ul>
Horace W. Shepard	<ul style="list-style-type: none"> <li>-Admitted to the bar in Middle Florida on November 15, 1842, and provided proof that he was licensed to practice law in Georgia<sup>310</sup></li> </ul>
Charles Sherman	<ul style="list-style-type: none"> <li>-Admitted to the bar April 7, 1828 when he presented evidence of having practiced in Alabama<sup>311</sup></li> <li>-Advertised law practice in 1828</li> <li>-Office was located on the north side of governor square<sup>312</sup></li> </ul>
C.S. Sibley	<ul style="list-style-type: none"> <li>-Listed as attorney for plaintiff in legal</li> </ul>

	notice with J.D. Westcott in 1836 <sup>313</sup> -Served as U.S. attorney in 1837 <sup>314</sup>
William M. Smith	-Admitted to the bar May 5, 1832 <sup>315</sup>
Hamlin Snell	-Listed as attorney for plaintiff in 1834 <sup>316</sup>
Leonida W. Spratt	-Listed as a partner with Bolling Baker <sup>317</sup>
Samuel B. Stephens	-Advertised law practice in 1835 <sup>318</sup> -Still advertising in 1842 <sup>319</sup> -Advertised law partnership with Bolling Baker in 1844 <sup>320</sup> -Advertised as partners with Issac Ferguson in 1842 <sup>321</sup>
L. M. Stone	-Admitted to the bar Oct. 3, 1827 <sup>322</sup>
John Tanner	-Advertised law practice in 1844 <sup>323</sup>
David Thomas	-Admitted to bar April 3, 1826 <sup>324</sup>
John Taylor	-Admitted to the Bar November 12, 1831 <sup>325</sup> -Advertised as attorney at law in 1831 <sup>326</sup>
Leslie Thompson	-Admitted to the bar April 8, 1828 <sup>327</sup> -JP <sup>328</sup> -Editor of Florida Advocate, 1829 -Partner with James Ringgold, 1829 <sup>329</sup> -In 1830, elected City Intendant of Tallahassee -In 1847, published Thompson's Digest which codified laws of the state of Florida <sup>330</sup>
Algernon Thurston	-Admitted to bar Oct. 5, 1826 -Fought duel with McRea -In frequent courtroom battles as well -Had property in Key West <sup>331</sup>
George E. Tingle	-Admitted to the bar October 13, 1826 <sup>332</sup>
Robert B. Towers	-Advertised law practice in 1842 <sup>333</sup>
Simon Towle	-Mentioned in legal notice as handling the affairs of local merchant Jabez Bull in his absence in 1842 <sup>334</sup>
David S. Walker	-Advertised as an attorney in 1838 <sup>335</sup>
George Washington Ward, Sr.	-Father of George T. Ward -lawyer <sup>336</sup>
George T. Ward	-Admitted to the bar Oct. 1, 1827 <sup>337</sup> -Born in KY moved to Tallahassee at early age <sup>338</sup> -In 1825, George Washington Ward (his father also an attorney) came to Tallahassee -Married Sara Jane Chaires, daughter of wealthy landowner -Formed partnership with Robert White in 1842 <sup>339</sup>

	<ul style="list-style-type: none"> <li>- Served on the 1834 Territorial Council</li> <li>-Member of Constitutional Convention</li> <li>-State legislature</li> <li>-Secession convention 1860</li> <li>-Whig candidate for governor in 1852<sup>340</sup></li> <li>-Born in Fayette County, KY</li> <li>-Graduated from Transylvania Univ. in 1824</li> <li>-Registrar of the US Land Office</li> <li>father and son Whigs and attorneys</li> <li>-Planters</li> <li>-1833 and 1834 representing Leon County</li> <li>-1833 confronted Augustus Alston over death of brother in bloody duel, and Ward passed out from lack of blood.<sup>341</sup></li> <li>-Recovered from wounds</li> <li>-Continued as director Union Bank</li> <li>-1838 St. Constitutional Convention</li> <li>-Narrowly lost bid to become territorial delegate</li> <li>-1844 married Sarah Chaires daughter of millionaire Benjamin Chaires</li> <li>-Lost Senate race in 1848</li> <li>-Governor, 1852</li> <li>-Moderate at secession convention in 1861</li> <li>-Died commanding Florida regiment in battle at Williamsburg, VA died May 5, 1862.<sup>342</sup></li> </ul>
Horace R. Ward	-Admitted to the bar October 3, 1830
James Webb	-Admitted to bar in Middle Florida April 3, 1826 <sup>343</sup>
Richard Wellford	-Advertised as attorney at law in 1838, office listed as on the NE corner of McCarty (now Park Ave.) and Monroe Sts. <sup>344</sup>
James D. (J.D.) Westcott, Jr.	<ul style="list-style-type: none"> <li>-Admitted to the bar May, 3, 1830<sup>345</sup></li> <li>-Advertised partnership with John P. Booth in 1830<sup>346</sup></li> <li>-In duel in 1832 with other attorney Thomas Baltzell</li> <li>-Partnership with Booth dissolved in 1834<sup>347</sup></li> <li>-Taught James T. Archer law</li> <li>-Secretary of Territory<sup>348</sup></li> <li>-Came to FL from NJ in 1830</li> <li>-Appointed territorial secretary by Andrew</li> </ul>

	Jackson
Oscar White	<ul style="list-style-type: none"> <li>-Came from Franklin Co., Kentucky 1826</li> <li>-Admitted to the bar April 1, 1833</li> <li>-Partner with Thomas Baltzell</li> <li>-Nephew of Joseph White and law partner in 1833<sup>349</sup></li> <li>-Fought duel with Leigh Read in back drop of Call-White election</li> <li>-Wounded by bullet in thigh</li> <li>-In 1834 planned 4<sup>th</sup> of July festivities</li> <li>-Agricultural society chose him as secretary</li> <li>-Married Rebecca McMullen on June 26, 1835 three months before his death</li> <li>-Died September of 1835 of an attack of “bilious fever” at the age of 25. It was said of him in his obituary that “At the Bar his efforts were highly creditable, and had he been spared we have no doubt, would have attained eminence and honorable distinction in his profession.”<sup>350</sup></li> <li>-Son of Everett White, planter, and nephew of Joseph White<sup>351</sup></li> </ul>
Joseph White	<ul style="list-style-type: none"> <li>-Attorney and congressional delegate for Florida for most of territorial period</li> <li>-Advertised in 1829 as practicing in superior courts of Jefferson, Leon, Gadsden, and Jackson counties<sup>352</sup></li> <li>-Arch rival with Richard Keith Call and “Nucleas”</li> <li>-Represented small landowners in suit in the Forbes purchase</li> <li>-Formed partnership with Benjamin White in 1830<sup>353</sup></li> <li>-In 1833, advertised a partnership with his nephew, Oscar White<sup>354</sup></li> <li>-Died in 1839<sup>355</sup></li> </ul>
Philip White	-Admitted to the bar October 5, 1830 <sup>356</sup>
Robert W. White	<ul style="list-style-type: none"> <li>-Advertised as attorney in 1839<sup>357</sup></li> <li>-Partnership formed with George T. Ward in 1842<sup>358</sup></li> </ul>
John Lee Williams	<ul style="list-style-type: none"> <li>- East Florida attorney responsible for the selection of the site in present-day Tallahassee as the Territorial capital</li> <li>-Admitted to the bar Oct. 3, 1826<sup>359</sup></li> <li>-Wrote a history of Florida which he</li> </ul>

	offered for sale in 1830 <sup>360</sup>
Joseph T. Williams	-Applied to the bar May 3, 1830 -unclear if he passed
David C. Wilson	-Listed as attorneys in advertisement 1838 <sup>361</sup>
Dabney C. Wirt	-Advertised as attorney in 1841 <sup>362</sup>
Benjamin Wright	-Attorney on first recorded case in Tallahassee and apparently represented both sides <sup>363</sup>
Henry F. Younge	-Advertised practice in Quincy, Florida in 1833 <sup>364</sup>

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- <sup>1</sup> Kermit Hall, and Eric Rise, *From Local Courts to National Tribunals: Federal District Courts of Florida, 1821-1990*. (Brooklyn, N.Y.: Carlson Publishing, Co. 1991), 6.
- <sup>2</sup> *Ibid.*, 7.
- <sup>3</sup> Michael Gannon, *The New History of Florida* (Gainesville: University Press of Florida, 1996), 210.
- <sup>4</sup> Walter Manley, II and E. Canter Brown, Jr., *The Supreme Court of Florida and Its Predecessor Courts*, (Gainesville: University Press of Florida, 1997), 23.
- <sup>5</sup> *An Act for the submission of Attorneys at Law into the Territory*, Territorial Acts of Florida (1822).
- <sup>6</sup> Gannon, *The New History of Florida*, 210.
- <sup>7</sup> Sydney Walter Martin, *Florida During the Territorial Days* (Athens: University of Georgia Press, 1944), 60-61.
- <sup>8</sup> Bertram Groene, *Antebellum Tallahassee* (Tallahassee: The Florida Heritage Foundation, 1981), 15.
- <sup>9</sup> Wythe Holt, "Now and Then: The Uncertain State of Nineteenth-Century American Legal History" *Indiana Law Journal*, Vol. VII, (1974) 638.
- <sup>10</sup> Maru Olavi, *Research On the Legal Profession: A Review of Work Done* (Chicago: American Bar Foundation, 1986), 1.
- <sup>11</sup> Roscoe Pound, *The Lawyer From Antiquity to Modern Times* (St. Paul: West Publishing, 1953), 178-179.
- <sup>12</sup> *Ibid.*, 180-181.
- <sup>13</sup> *Ibid.*, 182.
- <sup>14</sup> *Ibid.*, 183.
- <sup>15</sup> *Ibid.*, 235-237.
- <sup>16</sup> *Ibid.*, 185-186.
- <sup>17</sup> Anton- Hermann Chroust, *The Revolutionary and Post Revolutionary Era, Vol. 2* (Norman: University of Oklahoma Press, 1965), 92-94.
- <sup>18</sup> Chroust, *The Revolutionary and Post Revolutionary Era, Vol. 2*, 283.
- <sup>19</sup> Alexis De Toqueville, *Democracy in America Vol. 2, 2d. edition*, (Indianapolis, Ind.: Hackett Pub., 2000) 184-85.
- <sup>20</sup> Jerold Auerbach, *Unequal Justice Lawyer and Social Change in Modern America* (New York: Oxford University Press, 1976), 14-16.
- <sup>21</sup> Elizabeth Gaspar Brown, "The Bar on a Frontier: Wayne County, 1796-1836" *The American Journal of Legal History*, Vol. XIV, 1964, 155-156.
- <sup>22</sup> *Ibid.*
- <sup>23</sup> Robert C. Haywood, *Cowtown Lawyers – Dodge City and Its Attorneys 1876-1886* (Norman and London: University of Oklahoma Press, 1988), 20-21.
- <sup>24</sup> Sydney Walter Martin, *Florida During the Territorial Days* (Athens: University of Georgia Press, 1944), 227-228.
- <sup>25</sup> Bertram Groene, *Antebellum Tallahassee* (Tallahassee: The Florida Heritage Foundation, 1981), 18.
- <sup>26</sup> Achille Murat, *America and the Americans* (New York: William H. Graham, 1849), 38.
- <sup>27</sup> Martin, *Florida During Territorial Days*, 67.
- <sup>28</sup> Lula Appleyard, "Plantation Life in Middle Florida" (master's thesis, Florida State University, 1940), 11.
- <sup>29</sup> *Ibid.*
- <sup>30</sup> Clifton Paisley, *From Cotton to Quail* (Gainesville: University Press of Florida, 1981), 2.

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- <sup>31</sup> Mary Ellis, *Favored Land, Tallahassee: A History of Tallahassee and Leon County* (Virginia Beach: The Donning Company, 1999), 25.
- <sup>32</sup> Paisley, *From Cotton to Quail*, 3.
- <sup>33</sup> Edward Fernald, *Atlas of Florida* (Gainesville: University Press of Florida, 1992), 25.
- <sup>34</sup> Paisley, *From Cotton to Quail*, 6-7.
- <sup>35</sup> John Lee Williams, unpublished handwritten notes for a manuscript entitled “*The Territory of Florida; or Sketches of the Topography, civil and natural history, of the country, the climate, and the Indian tribes, from the first discovery to the present time, with a map, views, etc.*” 1837, Box 47, John Lee Williams Papers, University of Florida Special Collections Library.
- <sup>36</sup> Joan Cashin, *A Family Venture, Men and Women on the Southern Frontier* (New York: Oxford University Press, 1991), 119-121.
- <sup>37</sup> Appleyard, *Plantation Life in Middle Florida*, 11.
- <sup>38</sup> Michael Gannon, *The New History of Florida* (Gainesville: University Press of Florida, 1996), 213.
- <sup>39</sup> Achille Murat to A. Thome, 12 January 1826. Letter #5 Department of Special and Area Studies Collections, University of Florida Library.
- <sup>40</sup> Faust, Drew *James Henry Hammond and the Old South, A Design for Mastery*, (Baton Rouge and London: Louisiana State University Press, 1982) 31.
- <sup>41</sup> Timothy Heubner, *The Southern Judicial Tradition* (Athens: University of Georgia Press, 1999), 218-20.
- <sup>42</sup> Edward Baptist, *Creating An Old South, Middle Florida’s Plantation Frontier Before the Civil War* (Chapel Hill: The University of North Carolina Press, 2002), 93.
- <sup>43</sup> Achille Murat to A. Thome, 12 January 1826. Letter #5 Department of Special and Area Studies Collections, University of Florida Library.
- <sup>44</sup> Achille Murat to “My Dear Friend” (unnamed recipient) 26 September 1828. Letter #14, Department of Special and Area Studies Collections, University of Florida Library.
- <sup>45</sup> Achille Murat to Aime Thome, 29 July 1829. Letter #15, Department of Special and Area Studies Collections, University of Florida Library.
- <sup>46</sup> Ibid.
- <sup>47</sup> Murat, *America and the Americans*, 112.
- <sup>48</sup> October 4, 1824, *Leon County, Minutes of the Superior Court, Book 1*, Special Collections, R.A. Gray Building, Florida Department of State Archives.
- <sup>49</sup> Ibid., April 8, 1825.
- <sup>50</sup> Pound, *The Lawyer From Antiquity to Modern Times*, 187.
- <sup>51</sup> *An Act for the Submission of Attorneys at Law into the Territory*, Territorial Acts of Florida (1822).
- <sup>52</sup> October 6, 1824, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>53</sup> Ibid., October 13, 1826.
- <sup>54</sup> Groene, *Antebellum Tallahassee*, 102.
- <sup>55</sup> Ibid.
- <sup>56</sup> Pound, *The Lawyer From Antiquity to Modern Times*, 229-230.
- <sup>57</sup> Erwin Griswold, *Law and Lawyers in the United States: The Common Law Under Stress* (Cambridge: Harvard University Press, 1965), 38-40.
- <sup>58</sup> Achille Murat to Antone Thibideaudau, 12 December 1824. Letter # 3 Department of Special and Area Studies Collections, University of Florida Library.
- <sup>59</sup> Achille Murat to A. Thome, 12 January 1826. Letter #5 Department of Special and Area Studies Collections, University of Florida Library.
- <sup>60</sup> Achille Murat to “My Dear Friend” (unnamed recipient) 26 September 1828. Letter #14, Department of Special and Area Studies Collections, University of Florida Library.
- <sup>61</sup> April 7, 1828, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>62</sup> *Floridian and Advocate*, November 10, 1829.
- <sup>63</sup> Griswold, *Law and Lawyers in the United States: The Common Law Under Stress*, 14.
- <sup>64</sup> Ibid., 39.
- <sup>65</sup> Ibid., 40.
- <sup>66</sup> Achille Murat to “My Dear Friend” (unnamed recipient) 26 September 1828. Letter #14, Department of Special and Area Studies Collections, University of Florida Library.
- <sup>67</sup> Murat, *America and the Americans*, 111-112.
- <sup>68</sup> April 14, 1826, *Leon County, Minutes of the Superior Court, Book 1*.

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- <sup>69</sup> *Florida Advocate*, December 23, 1828.
- <sup>70</sup> *Floridian & Advocate*, September 15, 1829.
- <sup>71</sup> *Ibid.*, October 20, 1829.
- <sup>72</sup> *Ibid.*, November 3, 1829.
- <sup>73</sup> *Ibid.*, December 1, 1829.
- <sup>74</sup> April 15, 1826, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>75</sup> *Floridian and Advocate*, September 22, 1829.
- <sup>76</sup> Anton-Hermann Chroust, *The Rise of the Legal Profession in America, Vol. 2* (Norman: University of Oklahoma Press, 1965), 101.
- <sup>77</sup> Ariela Gross, *Double Character: Slavery and Mastery in the Antebellum Courtroom* (Princeton: Princeton University Press, 2000), 26-27.
- <sup>78</sup> *Floridian and Advocate*, Nov. 3, 1829.
- <sup>79</sup> *Ibid.*, August 1, 1829.
- <sup>80</sup> *Ibid.*, November 18, 1829.
- <sup>81</sup> *Ibid.*, November 29, 1829.
- <sup>82</sup> October 12, 1827, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>83</sup> *Floridian and Advocate*, December 1, 1829.
- <sup>84</sup> October 22, 1827, *Leon County, Minutes of the Superior Court Minutes, Book 1*.
- <sup>85</sup> *Ibid.*, November 18, 1828.
- <sup>86</sup> Nancy Cone Hagan, "ON THE DEATH OF JESSE BUTLER: who was murdered by JOHN WATKINS in Leon County in July 1827 in 3 miles of Tallahassee at a place called Milltown" 1827, Box 149, Nancy Cone Hagan Papers, Florida State University Special Collections Library.
- <sup>87</sup> October 20, 1829, *Leon County, Minutes of the Superior Court Minutes, Book 1*.
- <sup>88</sup> Achille Murat to "My Dear Friend" (unnamed recipient) 26 September 1828. Letter #14, Department of Special and Area Studies Collections, University of Florida Library.
- <sup>89</sup> Achille Murat to Aime Thome, 29 July 1829. Letter #15, Department of Special and Area Studies Collections, University of Florida Library.
- <sup>90</sup> October 17, 1829, *Leon County, Minutes of the Superior Court Minutes, Book 1*.
- <sup>91</sup> Baptist, *Creating an Old South*, 286-287.
- <sup>92</sup> Gannon, *A New History of Florida*, 220.
- <sup>93</sup> *Ibid.*, 210-211.
- <sup>94</sup> Daisy May Parker, "The Leon County Court 1825-1833," *The Apalachee* (1950): 33-34.
- <sup>95</sup> *Ibid.*, 34-35.
- <sup>96</sup> *Floridian*, November 1, 1834.
- <sup>97</sup> Parker, "The Leon County Court 1825-1833," 35.
- <sup>98</sup> *Floridian and Advocate*, January 5, 1830.
- <sup>99</sup> *Ibid.*, May 26, 1831.
- <sup>100</sup> *Floridian*, May 22, 1832.
- <sup>101</sup> *Ibid.*, December 6, 1834.
- <sup>102</sup> Achille Murat, *America and Americans*, 59.
- <sup>103</sup> Norman Booth, *Trinity United Methodist Church Tallahassee's First Church 1824-1999* (Tallahassee, Trinity United Methodist Church, 1999), 13.
- <sup>104</sup> April 2, 1832, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>105</sup> *Floridian and Advocate*, July 27, 1830.
- <sup>106</sup> *Apalachicola Land & Development Co. v. McRae*, 86 Fla. 393, 98 So. 505 (Fla. Nov 08, 1923)
- <sup>107</sup> *Floridian and Advocate*, November 19, 1830.
- <sup>108</sup> William Warren Rogers, *The Croom Family and Goodwood Plantation* (Athens: The University Georgia Press, 1999), 80-167.
- <sup>109</sup> *Floridian and Advocate*, March 16, 1830.
- <sup>110</sup> *Ibid.*, August 17, 1830.
- <sup>111</sup> Walter W. Manley, II and E. Canter Brown, *The Supreme Court of Florida and Its Predecessor Courts* (Gainesville: University Press of Florida, 1997), 41.
- <sup>112</sup> *Ibid.*, 41-43.
- <sup>113</sup> J.P. Kennedy, *Classics in Legal History Vol. 20 The Life of William Wirt* (Philadelphia: Lea and Blanchard, 1849), 237-238.

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- <sup>114</sup> April 1, 1833, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>115</sup> *Floridian and Advocate*, April 11, 1831.
- <sup>116</sup> *Ibid.*, April 12, 1831.
- <sup>117</sup> April 1, 1833, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>118</sup> *Ibid.*
- <sup>119</sup> *Ibid.*
- <sup>120</sup> *Ibid.*
- <sup>121</sup> *Ibid.*
- <sup>122</sup> *Ibid.*
- <sup>123</sup> *Ibid.* See Florida Criminal Rules of Procedure 3.600 (2004) for current grounds for granting new trial. A new trial may be granted if: 1.) the jurors decided their verdict by lot. 2.) the verdict was contrary to law or the weight of the evidence, or 3.) new and material evidence, which if introduced at trial probably would have changed the verdict or finding of the court, which the defendant could not have with reasonable diligence have discovered and produced at trial has been discovered.
- <sup>124</sup> April 1, 1833, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>125</sup> Murat, *America and Americans*, 113-114.
- <sup>126</sup> November 22, 1835, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>127</sup> *Floridian*, October 24, 1835.
- <sup>128</sup> *Floridian*, October 24, 1835.
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- <sup>130</sup> *Floridian and Advocate*, July 13, 1830.
- <sup>131</sup> May 12, 1830, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>132</sup> *Floridian and Advocate*, November 22, 1834.
- <sup>133</sup> Ariela Gross, *Double Character, Slavery and Mastery in the Antebellum Courtroom* (Princeton: Princeton University Press, 2000), 53.
- <sup>134</sup> Michael Denham, "Dueling in Territorial Middle Florida," (master's thesis, Florida State University, 1983), 3.
- <sup>135</sup> Gross, *Double Character, Slavery and Mastery in the Antebellum Courtroom*, 53.
- <sup>136</sup> Denham, "Dueling in Territorial Middle Florida," 1-118.
- <sup>137</sup> *Ibid.*, 14-16.
- <sup>138</sup> *Ibid.*, 14-16.
- <sup>139</sup> *Ibid.*, 5-12.
- <sup>140</sup> *Ibid.*, 18.
- <sup>141</sup> *Floridian and Advocate*, October 25, 1832.
- <sup>142</sup> Denham, "Dueling in Territorial Middle Florida," 26-28.
- <sup>143</sup> *Ibid.*, 33.
- <sup>144</sup> *Ibid.*, 30-34.
- <sup>145</sup> *Ibid.*, 38-42.
- <sup>146</sup> *Ibid.*, 42-47.
- <sup>147</sup> Abram Bellamy to Augustus Alston, 28 August 1835, *Bellamy/Baily Papers*, Department of Special and Area Studies Collections, University of Florida Library.
- <sup>148</sup> Denham, "Dueling in Territorial Middle Florida," 46-49.
- <sup>149</sup> *Floridian*, March 25, 1837.
- <sup>150</sup> *Ibid.*, April 7, 1838.
- <sup>151</sup> *Ibid.*, April 21, 1838.
- <sup>152</sup> *Ibid.*, September 1, 1838.
- <sup>153</sup> *Floridian and Advocate*, March 16, 1839.
- <sup>154</sup> *Floridian*, March 14, 1840.
- <sup>155</sup> *Ibid.*, May 15, 1845.
- <sup>156</sup> *Ibid.*, October 13, 1838.
- <sup>157</sup> *Ibid.*, Nov. 21, 1840.
- <sup>158</sup> Denham, "Dueling in Territorial Middle Florida," 54-58.
- <sup>159</sup> *Ibid.*, 58-71.
- <sup>160</sup> *Ibid.*, 66-93.

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- <sup>161</sup> November 25, 1841, *Leon County, Minutes of the Superior Court, Book 3*, Special Collections, R.A. Gray Building, Florida Department of State Archives.
- <sup>162</sup> December 16, 1843, *Leon County, Minutes of the Superior Court, Book 4*, Special Collections, R.A. Gray Building, Florida Department of State Archives.
- <sup>163</sup> *Ibid.*, December 28, 1843.
- <sup>164</sup> January 1, 1842, *Leon County, Minutes of the Superior Court, Book 3*.
- <sup>165</sup> *Ibid.*, December 30, 1841.
- <sup>166</sup> *Ibid.*, Nov. 17, 1842.
- <sup>167</sup> *Florida Sentinel*, October 14, 1842.
- <sup>168</sup> *Ibid.*, September 2, 1842.
- <sup>169</sup> Undated newspaper clipping, n.d., Box 77, Bellamy/Baily Papers, University of Florida Special Collections Library.
- <sup>170</sup> November 16, 1839, *Leon County, Minutes of the Superior Court, Book 3*.
- <sup>171</sup> Clifton Paisley *From Cotton to Quail* (Tallahassee: University Presses of Florida, 1981) 12.
- <sup>172</sup> *Ibid.*, 8-9.
- <sup>173</sup> *Ibid.*, 3.
- <sup>174</sup> March 9, 1842, *Leon County, Minutes of the Superior Court, Book 3*.
- <sup>175</sup> November 25, 1843, *Leon County, Minutes of the Superior Court, Book 4*.
- <sup>176</sup> *Florida Sentinel*, May 16, 1843.
- <sup>177</sup> May 3, 1844, *Leon County, Minutes of the Superior Court, Book 4*.
- <sup>178</sup> *Ibid.*, March 5, 1845.
- <sup>179</sup> *Florida Sentinel*, March 11, 1845.
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- <sup>181</sup> *Floridian*, April 5, 1834.
- <sup>182</sup> *Ibid.*, September 1, 1838.
- <sup>183</sup> *Floridian*, September 4, 1841.
- <sup>184</sup> October 2, 1826, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>185</sup> *Floridian*, March 26, 1836.
- <sup>186</sup> *Ibid.*, March 2, 1839.
- <sup>187</sup> *Florida Sentinel*, September 2, 1842.
- <sup>188</sup> *Floridian*, April 11, 1840.
- <sup>189</sup> *Ibid.*, September 2, 1842.
- <sup>190</sup> William Warren Rogers, *The Croom Family and Goodwood Plantation* (Athens: University of Georgia Press, 1999), 185.
- <sup>191</sup> April 10, 1828, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>192</sup> *Floridian*, September 2, 1842.
- <sup>193</sup> *The Florida Sentinel*, October 22, 1844.
- <sup>194</sup> October 8, 1828, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>195</sup> *Floridian*, May 5, 1834.
- <sup>196</sup> April 5, 1831, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>197</sup> *Ibid.*, October 5, 1830.
- <sup>198</sup> *Ibid.*, October 6, 1828.
- <sup>199</sup> *Floridian*, November 28, 1835.
- <sup>200</sup> *Ibid.*, November 9, 1839.
- <sup>201</sup> Denham, "Dueling in Territorial Middle Florida," 45-49.
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- <sup>204</sup> *Ibid.*, May 4, 1834.
- <sup>205</sup> April 5, 1831, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>206</sup> Denham, "Dueling In Territorial Middle Florida," 94.
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- <sup>208</sup> October 6, 1828, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>209</sup> *Floridian*, October 23, 1841.
- <sup>210</sup> *Ibid.*, September 23, 1842.
- <sup>211</sup> *The Florida Sentinel*, October 24, 1844.

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- <sup>212</sup> *Floridian*, March 6, 1841.
- <sup>213</sup> *Ibid.*, May 15, 1841.
- <sup>214</sup> *The Florida Sentinel*, March 11, 1845.
- <sup>215</sup> Appleyard, "Plantation Life in Middle Florida," 54.
- <sup>216</sup> *Ibid.*, 55.
- <sup>217</sup> *Ibid.*
- <sup>218</sup> April 3, 1826, *Leon County, Minutes of the Superior Court, Book 1.*
- <sup>219</sup> Gannon, *The New History of Florida* 30
- <sup>220</sup> Appleyard, "Plantation Life in Middle Florida," 31.
- <sup>221</sup> *Ibid.*
- <sup>222</sup> *The Florida Sentinel*, September 23, 1842.
- <sup>223</sup> "An Act to Admit John A. Campbell of Jackson County to the Practice of Law," *Floridian and Advocate* Nov. 11, 1829.
- <sup>224</sup> April 8, 1828, *Leon County, Minutes of the Superior Court, Book 1.*
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- <sup>228</sup> *Florida Advocate*, November 11, 1828.
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- <sup>231</sup> *Floridian and Advocate*, January 26, 1830.
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- <sup>233</sup> Rogers, *The Croom Family and Goodwood Plantation*, 166.
- <sup>234</sup> *Floridian*, November 2, 1833.
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- <sup>245</sup> *Floridian*, December 1, 1838.
- <sup>246</sup> *Ibid.*, September 4, 1841.
- <sup>247</sup> Gannon, *A New History of Florida*, 209.
- <sup>248</sup> Denham, *A Rogue's Paradise*, 215.
- <sup>249</sup> *Floridian and Advocate*, March 26, 1836.
- <sup>250</sup> *Floridian*, March 2, 1839.
- <sup>251</sup> *Ibid.*, September 4, 1841.
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- <sup>254</sup> October 9, 1827, *Leon County, Minutes of the Superior Court, Book 1.*
- <sup>255</sup> *Florida Advocate*, November 11, 1828.
- <sup>256</sup> October 1, 1827, *Leon County, Minutes of the Superior Court, Book 1.*
- <sup>257</sup> *Ibid.*
- <sup>258</sup> November 11, 1828, *Floridian and Advocate.*
- <sup>259</sup> April 3, 1826, *Leon County, Minutes of the Superior Court, Book 1.*
- <sup>260</sup> *Floridian and Advocate*, March 10, 1831.
- <sup>261</sup> October 1, 1827, *Leon County, Minutes of the Superior Court, Book 1.*
- <sup>262</sup> *The Floridian*, May 15, 1841.
- <sup>263</sup> April 7, 1828, *Leon County, Minutes of the Superior Court, Book 1.*
- <sup>264</sup> *Ibid.*, October 1, 1827.
- <sup>265</sup> *The Floridian*, November 2, 1839.

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- <sup>266</sup> Ibid., November 3, 1838.
- <sup>267</sup> December 13, 1841, *Leon County, Minutes of the Superior Court, Book 3.*
- <sup>268</sup> *The Floridian*, April 2, 1843.
- <sup>269</sup> *Floridian and Advocate*, November 9, 1833.
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- <sup>287</sup> November 18, 1842, *Leon County, Minutes of the Superior Court, Book 1.*
- <sup>288</sup> Denham, "Dueling in Territorial Middle Florida," 18-19.
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- <sup>299</sup> December 18, 1841, *Leon County, Minutes of the Superior Court, Book 1.*
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- <sup>303</sup> Denham, "Dueling in Territorial Middle Florida," 38-42.
- <sup>304</sup> Ibid., 66-93.
- <sup>305</sup> Oct. 6, 1828, *Leon County, Minutes of the Superior Court, Book 1.*
- <sup>306</sup> *Floridian and Advocate*, February 7, 1829.
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- <sup>308</sup> *The Florida Sentinel*, September 23, 1842.
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- <sup>310</sup> Ibid., November 18, 1842.
- <sup>311</sup> Ibid., April 7, 1828.
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- <sup>337</sup> October 1, 1827, *Leon County, Minutes of the Superior Court, Book 1*.
- <sup>338</sup> Appleyard, "Plantation Life in Middle Florida," 59.
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- <sup>352</sup> *Floridian and Advocate*, June 13, 1829.
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## BIOGRAPHICAL SKETCH

Jackson Wilder Maynard, Jr. was born in Tallahassee, FL on November 1, 1974 and has lived there for most of his life. He graduated from Leon High School in 1993 and began attending college at Florida State University. After completing an internship at the United States Embassy in London in 1996, he graduated in December of that year with a Bachelor of Science in International Affairs with a concentration in History. He began a small tour business, Historic Tallahassee Tours, and was awarded the Tallahassee Chamber of Commerce Small Business of the Year Award in 1998. He currently conducts tours from time to time.

Jackson began his Master's degree at Florida State in the fall of 1997, and was accepted to law school, also at Florida State, the following year. He served as an Assistant State Attorney upon graduation in 2001 until February of 2003, and has since worked as a Committee Attorney in the Florida House of Representatives. Jackson is married to a beautiful wife, Heidi, who he met in law school. He has recently acquired two daughters, Grace and Carys, born September 5, 2003 who both love law and history as well.