INFORMATION TO USERS

This manuscript has been reproduced from the microfilm master. UMI films the text directly from the original or copy submitted. Thus, some thesis and dissertation copies are in typewriter face, while others may be from any type of computer printer.

The quality of this reproduction is dependent upon the quality of the copy submitted. Broken or indistinct print, colored or poor quality illustrations and photographs, print bleedthrough, substandard margins, and improper alignment can adversely affect reproduction.

In the unlikely event that the author did not send UMI a complete manuscript and there are missing pages, these will be noted. Also, if unauthorized copyright material had to be removed, a note will indicate the deletion.

Oversize materials (e.g., maps, drawings, charts) are reproduced by sectioning the original, beginning at the upper left-hand corner and continuing from left to right in equal sections with small overlaps. Each original is also photographed in one exposure and is included in reduced form at the back of the book.

Photographs included in the original manuscript have been reproduced xerographically in this copy. Higher quality 6" x 9" black and white photographic prints are available for any photographs or illustrations appearing in this copy for an additional charge. Contact UMI directly to order.

UMI

A Bell & Howell Information Company
300 North Zeeb Road, Ann Arbor MI 48106-1346 USA
313/761-4700 800/521-0600

RICE UNIVERSITY

"SEPARATE AND APART": WOMEN'S PUBLIC LIVES IN A RURAL SOUTHERN COUNTY, 1837-1873

by

ANGELA BOSWELL

A THESIS SUBMITTED
IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE
DOCTOR OF PHILOSOPHY

APPROVED, THESIS COMMITTEE

John B. Boles, Professor, Director
History

Harold Hyman, Professor
History

Elizabeth Long, Associate Professor
Sociology

Jane Dailey, Assistant Professor
History

Houston, Texas

May 1998

UMI Number: 9827369

Copyright 1998 by
Boswell, Angela

All rights reserved.

UMI Microform 9827369
Copyright 1998, by UMI Company. All rights reserved.

This microform edition is protected against unauthorized
copying under Title 17, United States Code.

UMI
300 North Zeeb Road
Ann Arbor, MI 48103

Copyright

Angela Boswell

1998

ABSTRACT

"SEPARATE AND APART":
WOMEN'S PUBLIC LIVES IN A
RURAL SOUTHERN COUNTY, 1837-1873

by

Angela Boswell

Nineteenth-century American ideologies and cultural prescriptions dictated that women leave the public sphere responsibilities of business, law, and politics to men. However, statutes throughout the United States allowed and even required women at times to enter the public sphere. This dissertation examines women's actions in the public sphere in one rural southern county in Texas from its frontier era through Reconstruction.

A thorough examination of District and County Court, marriage, probate, bond, deed, brand, and Confederate Widows' Pension records, as well as a few extant Justice of the Peace record books, scattered issues of local newspapers, and letters and diaries, sheds light on the breadth of women's activity in public and private life. Cotton-producing Colorado County, Texas, on the frontier of southern society offers a portrait of the effect that cultural prescriptions, laws, and circumstances had on southern women's decisions to enter and their activities within the public sphere. This study concentrates on four major areas where women often participated in public life: work, married women's property protection, widowhood, and divorce.

Frontier conditions both forced and allowed women to take a greater role in financial and legal transactions due to the breakdown of traditional role expectations

and the lack of extended male kin to take on the roles when husbands died or deserted. As the county settled into a more typically antebellum and stable society, women withdrew from entering the public sphere, choosing to allow other men to transact their business. During the Civil War as role expectations again broke down, women increasingly performed the male duties on the farms and in the legal sphere. At the close of the war, women withdrew once again from active participation in public activities allowing men to resume their roles as much as the upheaval of Reconstruction would allow. While frontier and war conditions played the greatest role in determining women's activity in the public sphere, race, class, and ethnicity also affected women's willingness to assert their rights in legal and public matters.

ACKNOWLEDGEMENTS

Many people have assisted in the completion of this work. First and foremost I want to acknowledge the crucial role of and assistance from John Boles in the research and writing of this dissertation. As advisor of my graduate work, he encouraged my interest in the topic of Texas women, was constantly and tirelessly available for discussions in which I formulated my ideas, gave invaluable advice in the research process, and used his vast editorial skills in many readings of drafts to help me produce this final product. Above all, he encouraged me and had faith in my abilities throughout my graduate career especially at times when I lacked faith in myself.

I also want to thank the other members of my dissertation committee. In his legal history seminar, Harold Hyman assisted me in identifying important legal trends for women in the nineteenth-century South. He also helped me find an appreciation for the significance of the role of people in the legal process as he read the first and fledgling reports of my research in Colorado County, Texas. Jane Dailey and Elizabeth Long also added their encouragement of the project as well as contributed valuable insights to the final version.

After a year of intense research in Colorado County, I owe thanks to many citizens of Columbus, Texas, for accommodating me in the process. The staffs of the District Clerk's Office and the County Clerk's office at the courthouse particularly deserve praise as they allowed me and my computer to camp out in the records' vaults every day for nearly a year. Both offices' staffs were extremely cooperative and courteous in allowing me access to the county's records and helpful in finding even

those hidden ones. The extreme care that has been taken to preserve the records in Colorado County made it a historian's paradise. I especially want to thank Bobbie Elliott of the District Clerk's office for not only her assistance in accessing the records there but also for her friendship outside the courthouse during my year of residence in Colorado County. I also must acknowledge Bill Stein's enormous contribution in my research in Columbus. His great care in collecting historical documents and histories of Colorado County at the Nesbitt Memorial Library, as well as his editing of the Nesbitt Memorial Library Journal, offered a wide range of historical materials in a convenient location. Additionally, he offered continual insight into the history of the county and its residents as well as advice on further research.

Beyond research in Colorado County itself, I wish to thank the staffs of the Center for American History at the University of Texas in Austin and of the National Archives in Washington, D. C. I also want to thank Barry Crouch for helping me make the most efficient use of my time in Washington, D. C., by directing me to the records on Colorado County held by the National Archives.

On personal notes of gratitude, I wish to thank my parents, Buford and Wyma Boswell, for their encouragement and support of me as I pursued my dream of a college education and this graduate degree. They were instrumental in instilling in me a love of history from the youngest age as many a family vacation was spent traveling to visit the location of whichever historical event enamored me at the time. As I engaged in the often painful process of writing in sometimes isolated areas, many friends at even great distances prodded me along with encouragement and intellectual

stimulation. In particular, I wish to acknowledge Amy Wink's daily correspondence by electronic mail that inspired me to write every day, Vanessa Davis's emotional support and willingness to spend long hours on the phone listening to me formulate my ideas before they made it on paper, Janet Ryan's gentle discussions of the writing process, and Cathy Gurney's sometimes stern warnings of the necessity of getting back to work.

Finally, I wish to acknowledge the debt of gratitude that I owe to Tracy Harting without whom this dissertation would never have come to completion. She tirelessly supported me in my research, read every word of this project many, many times, and edited every draft, even the very bad ones. I cannot possibly thank her enough for her emotional as well as academic and intellectual support in my graduate work and particularly in the completion of this dissertation.

TABLE OF CONTENTS

CHAPTER 1: INTRODUCTION	1
CHAPTER 2: THE FRONTIER	20
CHAPTER 3: ANTEBELLUM	105
CHAPTER 4: CIVIL WAR	158
CHAPTER 5: RECONSTRUCTION	183
CHAPTER 6: CONCLUSION	226
APPENDICES	231
BIBLIOGRAPHY	234

CHAPTER 1

INTRODUCTION

"Personally appeared before me W. J. E. Heard Chief Justice and officio notary public Mrs. A. Ramsey who being examined separate and apart from her husband declared that she hereby relinquished all right and title to the land conveyed by the above deed by her husband for the consideration therein mentioned."[1]

Nineteenth-century American women adhered to an ideal of separate spheres for the sexes. Women's proper sphere encompassed the home and family. Men inhabited the public sphere that consisted of everything else: politics, law, and business. In one of the best explorations of this ideal of separate spheres, The Bonds of Womanhood: 'Woman's Sphere' in New England, 1780-1835, Nancy F. Cott described how "legally and economically the husband/father controlled the family, but rhetorically the vocation of domesticity gave women the domestic sphere for their own, to control and influence."[2] Entrusted with the responsibility for this particular sphere, women strove to live up to an ideal of true womanhood, the tenets of which were piety, purity, domesticity, and submissiveness as described in Barbara Welter's article "The Cult of True Womanhood: 1820-1860."[3] This last trait, submissiveness,

---

[1] Bond and Mortgage Records, Book A, p. 286, July 30, 1838, Colorado County, Office of the County Clerk, in the Colorado County Courthouse, Columbus, Texas (hereinafter CCCC).

[2] Nancy F. Cott, The Bonds of Womanhood: 'Woman's Sphere' in New England, 1780-1835, (New Haven and London: Yale University Press, 1977), p. 84.

[3] Barbara Welter, "The Cult of True Womanhood: 1820-1860," American Quarterly, 18 (Summer 1966): 151-74. For a historiographical discussion of the use of separate spheres and the ideal of true womanhood as an analytical tool, see Linda K. Kerber, "Separate Spheres, Female Worlds, Woman's Place: The Rhetoric

was especially helpful to describe how women should naturally defer to their husbands in all matters of the "public sphere."

Although New England in its origins, southern and Texan women also subscribed in large part to this ideal. Harriette Andreadis researched women's diaries in nineteenth-century Texas and found that Texas women brought the ideals of female behavior with them from their homes in the South or the East. Texas women accepted the prevailing ideology of separate spheres and tried to live up to the model of the cult of true womanhood.[4] In adopting the separate sphere ideology for themselves, Texas women, too, accepted that the public sphere belonged to men.

Women's more delicate and "moral" nature thus ideally remained unsullied by the rough-and-tumble world of politics and business. Women were assumed to be so trusting and unfamiliar with this public world that nineteenth-century laws throughout the United States protected them not only from the unscrupulous stranger but even from their husbands. Whenever a married woman entered the public sphere to transact business, particularly to transfer her interest in property, she had to be examined "separate and apart" from her husband in order to assure that her husband had not coerced her into a transaction that she did not understand.

Recognizing the private nature of nineteenth-century southern women's lives,

---

of Women's History," Journal of American History, LXXV (June, 1988). Kerber points to a "third stage in the development of the metaphor of separate spheres" where the "sphere was socially constructed both for and by women" (p. 18).

[4] Harriette Andreadis, "True Womanhood Revisited: Women's Private Writing in Nineteenth-Century Texas" Journal of the Southwest, 31 (Summer 1989), pp. 179-204.

most historians have concentrated on private sources, such as women's diaries and letters, to explore women's lives. Yet the existence of laws governing women's occasional forays into public life makes clear that women did not remain always and completely in their private sphere. Suzanne Lebsock's carefully researched book The Free Women of Petersburg examined public documents such as court, church, and public organization records, census schedules, council minutes, business records, newspapers, and legal statutes to learn more about women's lives in the public sphere. Lebsock shows that from a very early time in the South, women were involved in public affairs and illuminates their private lives from these public documents.[5]

Lebsock demonstrated that public records reveal much about women's lives that "we could learn in no other way."[6] They are especially useful in answering questions about the details of women's lives who are not necessarily literate, elite, or introspective enough to write a journal. Lebsock's study has been criticized most harshly for taking as its subject the urban environment of Petersburg, Virginia, the sixth-largest city in the South. Although they recognize that her book is vastly informative, historians like Elizabeth Fox-Genovese argue that the urban women's lives that Lebsock uncovered in Petersburg were atypical of women in the predominantly rural South.[7]

---

[5] Suzanne Lebsock, The Free Women of Petersburg: Status and Culture in a Southern Town, 1784-1860, (New York and London: W. W. Norton and Company, 1984).

[6] ibid., xiii.

[7] See Elizabeth Fox-Genovese, Within the Plantation Household: Black and White Women of the Old South, (Chapel Hill and London: University of North Carolina Press), p. 70.

The following study of white women's lives in Colorado County, Texas, uses the same types of public records that Lebsock used. District and County Court records from 1837 to the present are well preserved and give details of court proceedings involving women. Marriage records, probate documents, and deeds and bond records from the county courthouse are also virtually complete. Other sources, such as Confederate Widows' Pension records, marks and brands records, a few extant Justice of the Peace record books, scattered issues of local newspapers, and a few letters, diaries, and reminiscences help fill out the picture of women's lives in this nineteenth-century southern county.[8]

Unlike Lebsock's Petersburg, Colorado County's society was rural. The only town of significant size, Columbus, did not have a large enough population even to be listed in the census until after the Civil War. Although Columbus was an important port on the semi-navigable Colorado River, it had no industry, only a few merchants, and apparently no cotton factors of any consequence. The railroad had scarcely penetrated the county's border before the outbreak of the Civil War and fell short of Columbus by five miles until Reconstruction. The vast majority of the citizens farmed or raised cattle.

While Petersburg was part of the old, settled, and established South, Colorado County represented the frontier South. Located approximately seventy miles west of present-day Houston, Texas, this county sat on the very western edge of the southern,

---

[8] See Bibliography for a complete list of primary sources used and available for this study. Unfortunately, there are no extant church minutes and only a few scattered church records of any kind. Neither are there any city records.

cotton-producing, slave-holding society. Practically one of the farthest west of the "cotton counties" in the Old South, it was one of the latest to be settled. However, it existed long enough before the Civil War to develop attributes associated with the antebellum southern culture. Colorado County newspapers defended slavery, and slaves comprised 31 per cent of the population of the county in 1850, 45 per cent in 1860. Many slaveholders held twenty or more slaves, while many more held less than five. Like much of the rest of the South, cotton was the county's primary cash crop; Colorado County produced more cotton than any other Texas county in 1850.

Colorado County also presents an opportunity to contrast southern Anglo women's lives and actions with a group of women who brought a different set of values to their new home. Although very few Hispanic or Native American women lived in Colorado County in the period under study, many of the county's settlers and inhabitants came from German-speaking countries. Germans made up nearly half the county's white population in 1850, 40 percent in 1860, and 43 percent in 1870.[9] Many Germans lived in the predominantly Anglo county seat of Columbus or in other Anglo areas. Most however settled in separate areas such as Bernardo and Frelsburg. Even while maintaining much of their cultural distinctiveness in these communities, Germans in Colorado County associated more frequently with the Anglo southerners than those Germans who settled in west Texas. They quickly adopted southern agriculture and commercial practices that forced them into the matrix of southern

---

[9] Schedule 1 (Free Inhabitants), Seventh, Eighth, and Ninth Census of the United States (1850, 1860 and 1870), Texas, Colorado County.

society. A few of the wealthier Germans not only grew cotton, but also owned slaves.[10]

While understanding women's lives in a rural county on the western edge of the Old South presents an opportunity to expand on the knowledge of women's different experiences, finding a rural Texas county with adequate records is a difficult task. Urban Texas counties have been much more successful at keeping their records. The majority of rural counties' court records, however, have fallen victim to tornadoes, hurricanes, and fire. Based on the survey of extant county records, only three rural cotton-producing counties in Texas have relatively complete records for any length of time before the Civil War. While Colorado County's public courthouse records are virtually complete and invaluable, other valuable historical documents have been lost or destroyed, including church minutes, city records, women's diaries, and many women's letters. However, an exhaustive reading of every extant public document in Colorado County from 1837 to 1873 provides contours of this group of southern women's lives in a way that private letters and diaries cannot.

This study accepts the premise that despite nineteenth-century proscriptions against it, white women did have public as well as private lives. Laws constrained but did not alone completely restrict women from active agency in legal and financial matters. Ideology, especially the ideal of separate spheres, did as much or more to

---

[10] Glen E. Lich, The German Texans, (San Antonio: University of Texas Institute of Texan Cultures, 1981), 68-73; Terry G. Jordan, German Seed in Texas Soil: Immigrant Farmers in Nineteenth-Century Texas, (Austin and London: University of Texas Press, 1966), especially 8 and 194.

keep women out of the courthouse as did laws arising from that ideology. Political and economic realities of the frontier period and of war time often created an opposite tug as more and more women found themselves pulled into legal and financial public matters.

In each chapter, four main aspects of women's lives are examined: work, married women, widowhood, and divorce. The type of work that women performed in the South varied, of course, by social status. Lebsock found, for instance, that urban women as early as the post-revolutionary period had opportunities for wage-earning work and businesses such as taking in boarders, millinery, teaching, prostitution, midwifery, and even employment in factories.[11] Rural women, however, had fewer such opportunities, and as Elizabeth Fox-Genovese points out in Within the Plantation Household, most rural southern women's work was part of a farming household. Plantation mistresses' duties were immense, as they directed slaves to assist them in providing for large families. In addition to the household chores of cooking and cleaning, southern women kept and tended gardens, raised chickens and other small animals for meat and eggs, and made clothing for the family and slaves. And, of course, women raised children who would later become valuable workers on the farms and plantations.[12] Most histories of southern women, such as Fox-Genovese's Within the Plantation Household, Catherine Clinton's The Plantation Mistress, Jane Turner Censer's, North Carolina Planters and Their Children, and Sally

---

[11] Lebsock, Free Women of Petersburg, 146-94.

[12] Lebsock, Free Women of Petersburg, 146-94; Fox-Genovese, Within the Plantation Household, 100-145.

McMillen's Southern Women have concentrated on plantation women and the work that they performed.[13] Sally McMillen, however, suggests that in addition to performing the duties of the household without the assistance of slaves, farm women also performed work in the fields.[14]

Women's work also changed with circumstances. Julie Roy Jeffrey demonstrates how women on the frontier more often performed "male" jobs such as field work, plowing, and driving wagon trains, because of the shortage of hands and the necessity of building new homes and farms from scratch.[15] While antebellum social mores allowed a more distinct separation of duties, the exigencies of the Civil War again forced many women to return to jobs associated with men, from working in fields to overseeing business, farms, slaves, and plantations. Anne Firor Scott suggests that throughout the hardships of the war, most women adapted courageously to the new duties required of them. Their newfound strength caused subtle changes in southern women's self-esteem and belief in their abilities, Scott argues, leading them after the war to expand their independence. George Rable's work on southern women in the Civil War, however, better describes the apparent situation of women in

---

[13] Fox-Genovese, Within the Plantation Household, Catherine Clinton, The Plantation Mistress: Woman's World in the Old South, (New York: Pantheon Books, 1982); Jane Turner Censer, North Carolina Planters and Their Children: 1800-1860, (Baton Rouge and London: Louisiana State University Press, 1984); and Sally G. McMillen, Southern Women: Black and White in the Old South, (Arlington Heights, Illinois: Harlan Davidson, Inc., 1992).

[14] McMillen, Southern Women, 107.

[15] Julie Roy Jeffrey, Frontier Women: The Trans-Mississippi West, 1840-1880, (New York: Hill and Wang, 1979), especially 51-78; John Mack Faragher, Women and Men on the Overland Trail, (New Haven and London: Yale University Press, 1979), 66-87.

Colorado County. Forced into duties traditionally managed by men, Colorado County women took up such responsibilities unwillingly and temporarily. This attitude, compounded by the depression and ennui of poverty and physical and emotional exhaustion, caused these women to not sorrow over their loss of independence or self-assertion when men returned. Women longed for their men to come home and allow them to return to their primary duties in the household and to focus all their energies on rebuilding their prewar lives and social structures.[16]

Whatever types of work women performed as part of the family or alone, the status of married women profoundly shaped the status of all women. While nineteenth-century single women technically had and could exercise all the rights and privileges of men except for voting, serving on juries, and holding political office, the vast majority of southern women were married for at least a portion of their lives. Historians of American women have focused much attention on the expanding rights of married women during the nineteenth-century, and they have particularly heralded the passage of the married women's property acts as a step toward women's political liberation. Although the New York legislation in 1848 is often cited as the "pioneer," the first married women's property acts were passed in southern states.[17] In 1839

---

[16] Anne Firor Scott, The Southern Lady: From Pedestal to Politics, (Chicago and London: University of Chicago Press, 1970), 80-133; George C. Rable, Civil Wars: Women and the Crisis of Southern Nationalism, (Urbana and Chicago: University of Illinois Press), 1989; Drew Gilpin Faust, Mothers of Invention: Women of the Slaveholding South in the American Civil War, (Chapel Hill and London: University of North Carolina Press, 1996), 247-53.

[17] Mary P. Ryan, Womanhood in America: From Colonial Times to the Present, Third edition, (New York and other cities: Franklin Watts, 1983), 148.

Mississippi enacted the first legislation granting married women the right to own property in their own names. Texas, in 1840, was the second to allow married women such rights, although this fact is generally overlooked because Texas did not become a state until 1845.

As scholars have established for married women's property acts in other states, debtor relief played a more important role in the passage of the Texas act than an interest in expanding women's rights and privileges. Historians such as Norma Basch, Richard Chused, Sandra Moncrief, and Kathleen Lazarou all dismiss the possibility that these acts represented a change in overall attitudes toward women's legal rights. Norma Basch, however, argues that although the acts were passed for other reasons, they did represent "the first stage in a significant transition in the political culture--the integration of women into an egalitarian political ethos."[18] These acts might have represented the first step of change, and they were certainly beneficial to some individual Texas women. In general, however, allowing married women to own

---

[18] Norma Basch, "Equity vs. Equality: Emerging Concepts of Women's Political Status in the Age of Jackson," Journal of the Early Republic, 3 (Fall 1983), p. 298. Also see Norma Basch, In the Eyes of the Law: Women, Marriage, and Property in Nineteenth-Century New York, (Ithaca and London: Cornell University Press, 1982); Richard H. Chused, "Married Women's Property Law: 1800-1850," Georgetown Law Journal 71 (1983): 1359-1425; and "Late Nineteenth Century Married Women's Property Law: Reception of the Early Married Women's Property Acts by Courts and Legislatures," American Journal of Legal History, 29 (January 1985); Kathleen Elizabeth Lazarou, "Concealed Under Petticoats: Married Women's Property and the Law of Texas, 1840-1913," (Ph. D. Diss., Rice University, May 1980); Sandra Moncrief, "The Mississippi Married Women's Property Act of 1839," Journal of Mississippi History 47 (May 1985); Joseph W. McKnight, "Texas Community Property Law: Conservative Attitudes, Reluctant Change," Law & Contemporary Problems 56 (Spring 1993).

property in their own right did not necessarily give them increased power either within the family or in the public sphere.

Widows were the women most likely to entertain independence and activity in the public sphere. Having fulfilled the social expectation of marriage and often inheriting property from their husbands, widows could choose to remain single and determine their own lives. A few studies have been done on widows' activity in the public sphere, especially on their decisions to probate the estates of their husbands. Joan Gunderson and Gwen Gampel found that widows in the eighteenth century "rarely refused" their first right to administer an intestate husband's estate. Lebsock's study of antebellum Virginia also indicates that most women, given a choice, accepted the administration.[19]

Colorado County, Texas, widows were more reluctant to administer an estate than the women in either of these studies, however. Although many widows did administer, a large number of widows refused to take on the public responsibility of their deceased husbands' estates. The factors influencing women's decisions to administer varied and included their age, wealth, social status, and the era in which they had married.

Surprisingly, divorce affected more women's lives in the nineteenth century than is apparent at first glance. Petitioners for divorce increased so rapidly in the first half of that century that states such as Maryland and North Carolina had to pass laws

---

[19] Joan R. Gunderson and Gwen Victor Gampel, "Married Women's Legal Status in Eighteenth-Century New York and Virginia," William and Mary Quarterly 3d series, 39 (January 1982), 114-34, quote on 119; Lebsock, Free Women of Petersburg, 120-22.

to halt petitions to the legislature because they were consuming too much valuable legislative time, even after the courts were granted authority over divorce.[20] Because divorce statutes differed from state to state, broad historical analyses and interpretations of the evolution of American divorce laws have been difficult.[21] Some historians, such as Glenda Riley in Divorce: An American Tradition and Mary Somerville Jones in An Historical Geography of the Changing Divorce Law in the United States, have looked for trends in divorce statutes and divorces granted from state to state and have generally divided the country into three sections: the North, the South, and the West.[22]

Historians writing in the 1970s, such as Lawrence Friedman, Michael Hindus, and Lynne E. Withey, maintained that the nineteenth-century South more severely

---

[20] "By the mid-1830s, the Maryland legislature was granting slightly more than thirty divorces a year." Glenda Riley, Divorce: An American Tradition, (New York and Oxford: Oxford University Press, 1991), 35. The 1835 session of the North Carolina legislature granted fifteen divorces, considering many more. Roderick Philips, Putting Asunder: A History of Divorce in Western Society, (Cambridge and other cities: Cambridge University Press, 1988), 448.

[21] Nelson Manfred Blake, The Road to Reno: A History of Divorce in the United States, (New York: The MacMillan Company, 1962), viii. Roderick Philips confronts the problem by tracing the development of divorce law in North Carolina even though "it is not typical of the South as a whole, but it is an example of the way one southern state's legislators wrestled with the divorce question," Philips, Putting Asunder, 446.

[22] See Riley, Divorce, especially p. 34; Jane Turner Censer, "'Smiling Through Her Tears,': Ante-Bellum Southern Women and Divorce," American Journal of Legal History 25 (January 1981): 24; Phillips, Putting Asunder, 439; Michael S. Hindus and Lynne E. Withey, "The Law of Husband and Wife in Nineteenth-Century America: Changing Views of Divorce," in D. Kelly Weisberg, ed., Women and the Law: A Social Historical Perspective, Vol. II, Property, Family and the Legal Profession, (2 vols., Cambridge, Mass: Schenkman Publishing Company, 1982), 135.

restricted divorce than the North or the West.[23] More recently, historians have argued that in the first half of the nineteenth century, southern states, more than northern counterparts, liberalized divorce laws and expanded their scope.[24] Southern states that had not allowed divorce at all in the eighteenth century, or only for very limited reasons, began passing divorce statutes in the early nineteenth century. But even as they gave some power to the court, the legislature often retained control of divorce decrees. Gradually, however, the states in the South relinquished legislative participation in divorce.[25] Jane Turner Censer's article "'Smiling Through Her Tears': Ante-Bellum Southern Women and Divorce" has been the most comprehensive look at divorce statutes and divorces in the South.[26] Based upon the supreme court decisions in the southern states, Censer found a gradual and continual liberalization in the granting of divorces in the nineteenth-century. Lawrence B. Goodheart, Neil Hanks, and Elizabeth Johnson, in "'An Act for the Relief of Females . . . ': Divorce and the Changing Legal Status of Women in Tennessee, 1796-1860, Part I," push Censer's argument one step further to suggest that new and frontier southern states adopted

---

[23] Hindus and Withey, "Law of Husband and Wife," 136; South Carolina and Virginia are often used as representatives of the "South." South Carolina was the only state in the nation to make no provision for divorce until after the Civil War, and then only briefly; the divorce statute was repealed seven years later and none replaced it until the twentieth century. Virginia, "next to South Carolina the most conservative Southern state in divorce," was slow to liberalize divorce laws.

[24] Censer, "'Smiling Through Her Tears,'" 26; Riley, Divorce: An American Tradition, 42-44; Philips, Putting Asunder, 446.

[25] Phillips, Putting Asunder, 445.

[26] Jane Tuner Censer, "'Smiling Through Her Tears,'" 24. Historical research of the western world, in general, has focused increased attention on divorce. See Phillips, Putting Asunder, xiv.

more liberal laws than older southern states. Just as states like California in the western portion of the United States embraced a more liberal attitude toward divorce as they adopted new laws and constitutions, so did states in the western portion of the South.[27] Texas, the farthest west of the frontier southern states, certainly bears out this claim, having adopted one of the most liberal divorce statutes in the country at the time it was passed in 1841.

Most historians argue that the main reason southern legislators expanded the availability and the grounds for divorce was out of "sympathy for victimized women."[28] Censer concluded that divorce laws were "expanded to benefit 'wronged' wives" during the early nineteenth century and that "judges often further amplified the scope of existing laws in ways that helped women."[29] Glenda Riley agreed that the liberalization of laws benefited women by allowing them to remarry, the primary avenue to financial security for women in the antebellum United States.[30] Suzanne Lebsock's local study of Petersburg showed, however, that when courts could grant complete divorce, the number of male petitioners increased dramatically. Before 1848, wives filed the petitions for the only five divorces granted. After 1848, nearly half the successful petitioners were men (nine of nineteen), although both genders

---

[27] Lawrence B. Goodheart, Neil Hanks, and Elizabeth Johnson, "'An Act for the Relief of Females. . .': Divorce and the Changing Legal Status of Women in Tennessee, 1796-1860, Part I," Tennessee Historical Quarterly, 44 (No.3, 1985), 320.

[28] Censer, "'Smiling Through Her Tears,'" 25; Goodheart, Hanks, and Johnson, "An Act for the Relief of Females."

[29] Censer, "'Smiling Through Her Tears,'" 46.

[30] Riley, Divorce, 38-39.

increased their pursuit of divorce.[31]

Because Texas passed a divorce statute so early in its independent existence, the impact on men and women cannot be gauged. Texas legislators may have been following the southern trend of liberalizing divorce that had developed out of sympathy for wronged wives. However, the impetus and precedent for allowing local courts to grant divorces in Texas were out of sympathy for one man, in particular, the new President of the Republic Sam Houston who wanted to divorce his wife and remarry. Correspondingly, in early Colorado County men enjoyed a much higher success rate in divorce suits enabled by extremely liberal interpretations of a liberal divorce statute. Only after Texas became a more settled southern region did the Texas supreme and local courts adopt a stricter interpretation of divorce laws similar to other southern states and more favorable to women than to men.[32]

Although each of these four issues deserves a chapter of its own, this dissertation is organized chronologically, examining how women's work, married women's legal status, widows' lives, and divorce changed over time and were influenced by the political, cultural, and social conditions. Chapter Two discusses how the ambiguous ideal of separate spheres was especially difficult to maintain in frontier areas of settlement such as Colorado County. Looking at the frontier era, from 1837 to 1852, Chapter two shows how ideas of women's work, women's place,

---

31 Lebsock, Free Women of Petersburg, 70.

32 James W. Paulsen, "Remember the Alamo[ny]! The Unique Texas Ban on Permanent Alimony and the Development of Community Property Law," Law and Contemporary Problems (Spring 1993).

and women's duties were all challenged by the vicissitudes of frontier life. For example, frontier women who shared men's duties at home also sometimes performed men's roles in the public sphere. Statutory law developed in Texas with the separate spheres ideal as its basis. Courts and society were often forced to make exceptions to the ideal and to the laws spawned by that ideal to suit the conditions of women on the frontier edge of the South. Women in frontier Colorado County relied on marriage for more than a fulfillment of social expectations, as there was few places in that frontier society for single women. The economic and social realities of the frontier often required women to move beyond traditional role expectations. Wives accustomed to performing some customarily male roles and participating in private financial and legal decisions were more likely to take those abilities into the public sphere when necessary. Exigency often forced frontier women to temporarily abandon the nineteenth-century social ideals relegating them to a separate and private sphere.

Chapter 3 discusses the antebellum southern culture that developed as attributes of the Old South finally developed in Colorado County. In this period (1853-1861), Texas women faced less physical danger and toil and were increasingly freed from the harsh realities of the frontier. Women could make more choices based on traditional social and cultural ideals. Social mores, laws, and practices also changed to allow women to remain in their private sphere even when business and law required their attention. The choices that women made both in pursuing occupations and deferring to male relatives and other male authorities left women more in the private sphere and took them less often into the public.

Chapter 4 describes the new roles women both married and single played in the midst of the sectional struggle. White residents of Colorado County began the Civil War believing that men's service in the army would further define the separate roles of men and women. From the beginning, however, the Confederacy relied upon women to encourage men to enlist, to support the war effort, and to contribute by making flags and clothing. As the war required more and more men, women were forced to make contributions that challenged gender roles rather than reinforced them. Women took over the duties left on farms and in businesses. Married women who before the war relied exclusively on their husbands to take care of the financial and public duties of the family stepped into these formerly male roles. Rather than looking to other men in the county to protect them from public sphere activities, single and newly-widowed women increasingly took these burdens upon themselves in the absence of male relatives.

The new society formed after the war and emancipation is discussed in the Chapter Five. Anxious to return to prewar standards as quickly as possible, married women allowed their husbands to resume their positions as heads of household and return to their various public-sphere roles. Given the choice to marry and remarry, Colorado County women did so. White women entered wage-earning occupations at a larger rate during Reconstruction than before the war but emphasized their domestic nature as much as possible by considering themselves above all else as "keeping house." The entrance of women into moneymaking occupations did not necessarily threaten the patriarchal order of the family, as married women still deferred to their

husbands in matters of the public sphere. However, the social recognition of women's economic abilities in that sphere that occurred during the war, as well as women's increased ability to earn an income without social disapproval, led to an increase in single women's activity in the financial and legal worlds previously reserved for men.

Because all African American women in Colorado County before emancipation were slaves and had no legal rights or public persona, they are not discussed in this study until Reconstruction. Although black women rarely appeared in court documents even then, the Reconstruction era was the first time in Colorado County that they entered the public sphere and were allowed the same legal privileges--and restraints--as white women. Black women in Reconstruction also followed the precepts of the separate spheres ideology by staying at home and keeping house whenever financially able.

Political, social, and economic conditions, the ideology of separate spheres, and laws regarding women all played different parts in shaping southern women's lives in the nineteenth-century. Other historians have studied how each of these aspects changed and developed in the nineteenth-century South or how they affected individual women. This in-depth study of one small rural southern county seeks to reveal how one community of women reacted to these formative factors in their lives. By concentrating on a small community, this study is able to take into account the many facets of women's lives and show how changes occurred not only in their individual lives but in the larger ideology, conditions, and legal aspects that provided women the framework in which their actions were chosen. Women were not just

passive recipients of the defining characteristics of their lives, whether it be ideology, politics, or law, but made active decisions within the confines of the factors governing their society.

Women in Colorado County cannot typify nineteenth-century southern women, as the very diverse South never had a monolithic and completely homogeneous culture. Women in Colorado County, however, reacted to similar circumstances, events, and ideologies that occurred throughout the South. Studying one small community of women and how the influences of political and economic conditions, ideology, and law affected their lives to different degrees in different periods can illuminate the possible responses southern women had to the frameworks governing their lives and particularly demonstrate that these influences were permeable and changeable over time.

CHAPTER 2

THE FRONTIER

"I came to Texas in 1842. . . . We settled on the Colorado river, near Reels bend. The country all around was a perfect wilderness, and the people had no houses to live in. . . . We pulled through until we could clear land and raise something to eat." Cordelia Simmons[1]

"A woman's place is in the home" is a hard adage to follow when families have no homes. The ideal of separate spheres was difficult to maintain in frontier areas of settlement. Ideas of women's work, women's place, and women's duties were all stretched by the challenges of carving a new home and a new living out of wilderness on the frontier. Yet the men and women who settled Colorado County, like others who traveled west, clung to traditional gender ideals despite the day-to-day exceptions that they were forced to make to survive on the frontier. Social ideals based on the separate spheres ideology shaped women's perceptions of themselves and their abilities. It also shaped the formation of statutory and judicial law in frontier Texas. However, frontier living challenged both women's expectations of their roles and the laws that were drafted to conform to the idea of women inhabiting a separate sphere. Frontier women who shared men's duties at home also sometimes performed men's roles in the public sphere. Both society and the courts made exceptions for

---

[1] Letter of Cordelia Simmons, originally appeared in the Weimar Mercury, April 16, 1915, reprinted in "Documents, Letters, Reminiscences, Etc.," Nesbitt Memorial Library Journal 6 (January 1996): 54.

these women when conditions seemed to warrant it, but otherwise most women tried to maintain standard gender roles despite their seeming inadequacy on an untamed frontier.

Colorado County experienced an unusually long frontier period. Before Texas won its independence from Mexico in 1836, few places in Texas could have been considered anything but frontier because of the sparse population, rudimentary government, and undeveloped community structures. Nevertheless, the area that is now Colorado County had been growing in population and becoming increasingly developed. During the 1836 war for independence, Colorado County and its fledgling town, Columbus, found itself directly in the path of Sam Houston's retreating forces. In the resulting "runaway scrape," as the retreat was called, the settlers scrambled to the east fleeing Santa Anna's army. As they left, Houston's forces often burned private homes and other buildings to prevent them from falling into the hands of the Mexican troops. After the surrender and retreat of the Mexican army at San Jacinto, the inhabitants began slowly filtering back into Colorado County to find most of their homes, buildings, fences, crops, and stores of foods destroyed, and their livestock missing. Those who returned faced a virtual frontier again as they started from scratch rebuilding their homes and reestablishing their community. Despite owning land grants in the area, many could not bear to return; as a result, some of the most attractive land in the county remained inactive, unsettled, and unavailable. Colorado Countians slowly rebuilt their lives, but the momentum toward growth had been

stifled.[2]

In the painful aftermath of the Texas Revolution, population, prosperity, and other evidence of civilization in Colorado County grew very slowly. Officially organized as a county in the new Republic of Texas in 1837, a traveler through the county seat of Columbus at that time wrote that it was "a small town, consisting of two public houses, two small stores, and half dozen shanties. . . ."[3] Ten years later, another traveler found a few additional houses, but only one additional store. The number of taverns remained at two, and he recorded that there was no evidence that the place was growing.[4] In 1850 the entire county held only fifteen hundred white persons.[5] Reminiscences of frontier Colorado County residents describe the area through 1850 as "pioneer" days where "settlers lived in log cabins, on dirt floors and ground their corn at home on steel hand-mills," but not because they "were indigent and thriftless. On the contrary many of them were well to do, owning many negroes, large tracts of rich land, cattle, horses and sheep."[6]

---

[2] Bill Stein, "Consider the Lily: The Ungilded History of Colorado County, Texas, Part 2" Nesbitt Memorial Library Journal 6 (January 1996): 44-51 and "Consider the Lily: The Ungilded History of Colorado County Texas, Part 3," Nesbitt Memorial Library Journal 6 (May 1996): 63. For a discussion of what constitutes the end of a frontier and the justification for choosing 1852 as the end of the Colorado County frontier, see Chapter 3, Antebellum.

[3] Andrew F. Muir, Texas in 1837, quoted in Colorado County Historical Commission, comp., Colorado County Chronicles: From the Beginning to 1923, Vol. I, (Austin, Texas: Nortex Press, 1986), p. 52.

[4] Dr. Ferdinand Roemer, Texas, trans. by Oswald Mueller, (San Antonio: Standard Printing Company, 1935), 81.

[5] Schedule 1 (Free Inhabitants), Seventh Census of the United States (1850), Texas, Colorado County.

[6] Letter of James W. Holt, originally appeared in the Weimar Mercury, May 14, 1915, reprinted in "Documents, Letters, Reminiscences, Etc.," Nesbitt Memorial

WOMEN'S LIFE AND WORK ON THE FRONTIER

White women's first option, of course, was not to come to frontier conditions such as these. Predictably, many women were unwilling to accompany men west.[7] Most Mexican and Republic of Texas censuses enumerated only heads of household, so the total number of women and men in the county is difficult to determine. Wives, sisters, and daughters in the 1825 Mexican census were not named, but they were counted; at this time, of the ascertainable white population of 174 persons, 62 were women (36 percent) and only 25 of the 59 male heads of households had wives (42 percent).[8] As late as 1850, near the end of the frontier era in Colorado County, men still outnumbered women, with women comprising only 40 percent of the adult white population.

While this imbalance in part reflected the immigration of unmarried men to Texas, many wives chose not to come with their husbands, at least not immediately. Some wives stayed further east waiting for their husbands to make them a home before they moved.[9] Other wives never intended to join their wayward husbands, either by choice or because their husbands had deserted them. Three out of nine men

---

Library Journal 6 (January 1996): 56.

[7] For description of some southern women's reluctance to move west, see Joan Cashin, A Family Venture: Men and Women on the Southern Frontier, (New York and Oxford: Oxford University Press, 1991).

[8] Census Report, December 31, 1825, summarized and reprinted in Bill Stein, "Consider the Lily: The Ungilded History of Colorado County, Texas, Part 1" Nesbitt Memorial Library Journal 6 (January 1996): 32-33.

[9] Petition, Mary M. B. Smith v. Henderson and Tooke, December 19, 1856, Docket File No. 1221, Colorado County, Office of the District Clerk, in the Colorado County Courthouse, Columbus, Texas (hereinafter CCDC).

who filed for and received divorces in Colorado County during the frontier period had left their wives behind in another southern state.[10] For instance, John Hope's wife Rusha remained in Florida after he moved west to Texas. Either he had purposely abandoned her or she had been initially recalcitrant about the move. After he filed for divorce, she made the decision to move to Texas but was too late to save the marriage.[11]

Many women and wives, though, chose to accompany with their male family members to Texas. When women did immigrate, their labor proved extremely valuable in creating a successful farm or plantation, especially for young families. In most families, a wife was the only other adult and most likely performed traditionally "male" duties that were too numerous for one man alone.[12] Women probably directed their labor as much as possible toward the bare necessities of life and making a success out of the farm--pulling through until the family "could clear land and raise something to eat,"--without much notice as to whether it was a woman's place or not.[13] Concentrating on survival and not domestic niceties is probably what led

---

[10] Petition, John Hope vs. Rusha Hope, November 23, 1840, Docket File No. 137; Petition, James Dickson vs. Hetty Dickson, May 8, 1843, Docket File No. 227; and Petition, Richard Insall vs. Caroline Insall, January 27, 1851, Docket File No. 690, CCDC.

[11] Her husband still received the divorce but on the grounds of cruelty, not abandonment. She, however, remained in Colorado County and remarried. Jury Findings, John Hope v. Rusha Hope, March 6, 1843, Docket File No. 137, CCDC; Marriage Records, Book B, p. 52, 1844, Colorado County, Office of the County Clerk, in the Colorado County Courthouse, Columbus, Texas (hereinafter CCCC).

[12] Julie Roy Jeffrey, Frontier Women: The Trans-Mississippi West, 1840-1880 (New York: Hill and Wang, 1979), 59.

[13] Letter of Cordelia Simmons, 54.

Seaborn Trumbul Stapleton to remember that he was seven or eight years old before he got his first pair of pants. His family lived in the county for several years before taking the time to construct a hand-operated cotton gin and loom to weave cloth.[14]

Women in frontier Colorado County carried on the traditional responsibilities of caring for gardens, procuring food, preparing meals, keeping the house comfortable and clean, and bearing and raising children. However, they performed these duties in new ways under adverse conditions. They lived in primitive, difficult-to-clean homes, often built of cane or pin-oak board, with dirt floors. "There was no market for chickens, eggs, butter, honey, etc.," and so they raised or made any of that food themselves.[15] Corn had to be ground with a hand-mill, meals made without a cookstove or matches.[16] Because beef was scarce and expensive -- even in the state destined to be famous for its cattle drives -- and bread scarcer, frontier families harvested the plentiful deer of the area, and women learned the new techniques of drying it for both meat and bread.[17] Even rearing children was more difficult on the frontier. James Holt describes how his mother walked from Georgia to Alabama and from Houston to Columbus carrying a five- or six-month-old baby the entire way. Frontier stress and sickness increased the "ill nature" of children. The same baby that Holt's mother carried and nursed through the move died a few years later when the

---

[14] Stapleton received his first pair of pants in 1845 or 1846. Letter of Seaborn Trumbul Stapleton, originally appeared in the Weimar Mercury, April 30, 1915, reprinted in "Documents, Letters, Reminiscences, Etc.," Nesbitt Memorial Library Journal 6 (January 1996): 55.

[15] Letter of James W. Holt, 56.

[16] Letter of Cordelia Simmons, 54; Letter of Seaborn Trumbul Stapleton, 55.

[17] Letter of Cordelia Simmons, 54.

family settled on a stagnant creek and everyone came down with the "chills and fever."[18]

Women's labor was difficult, but invaluable, on the frontier and as part of the family project. Even a young girl could contribute much. In 1837 David Wade estimated that his fifteen-year-old daughter's services were worth $2000 when he filed a civil suit against a group of men who had stolen her away. If Wade had recovered that amount in cash in 1850, it would have put him into the top quarter of the population in terms of wealth in Colorado County. Although he undoubtedly exaggerated the harm caused by his daughter's loss for the purpose of punitive damages and recovered nothing, it still shows that even a young girl's labor was highly valued.[19]

As valuable as women were within a family, the frontier left little place for them to contribute outside the family. It was not only that women and men subscribed to the ideal of separate spheres in which women were expected to find their greatest fulfillment in marriage. More importantly, on the frontier there were very few other options for single women. Apart from the family farm, widows or other women without husbands had little way to support themselves. With few schools, little mercantilism, and few churches, there were no cultural or economic spaces for women outside the family. The very few schools that opened before 1852 had a

---

[18] "Reminiscences of James Williams Holt," Nesbitt Memorial Library Journal 6 (September 1996): 152-54.

[19] Petition, David Wade vs. John Townsend et. al, July 5, 1837, Docket File No. 1, CCDC. David Wade claimed that the men had "carried away by force" his daughter Sarah.

primarily male faculty. Taking in boarders even in Columbus could not be very profitable, because the town had only two taverns and a couple of stores.[20] Just eight adult women (of 274, 3 percent) listed occupations on the 1850 census, and all were single women. Darcas Rize made her living as both a seamstress and by boarding the merchant John Mackey and his family. Eliza Hotze was listed as a laborer, along with two other male German laborers living and working with another German family.[21]

The other six women who listed occupations in 1850 were widowed heads of household, carrying on the farms they had built with their husbands. This "occupation" for single women was severely limited. Without an adult male field worker in the family, women found it almost impossible to make a living from a farm. While grown sons could take over their father's chores and enable a woman to remain single, most frontier families did not have grown children. Grown or nearly grown children of immigrants to Texas probably often opted to stay in the previous state when the family moved. Even by 1850, most families had not been in the county or state long enough for their children to have grown to adulthood. And, the opportunities of the frontier drew young men even farther west and away from home

---

[20] "Reminiscences of James Williams Holt," 152-54.

[21] Schedule 1 (Free Inhabitants), Seventh Census of the United States (1850), Texas, Colorado County. No other woman, German or Anglo, let herself be listed on the census as a laborer until 1870 when the predominant occupation for women that year was "farm labor" and this was primarily made up of the freed black population. Even in 1870, only three German women and no Anglo women considered themselves laborers, farm or otherwise. Schedule 1 (Free Inhabitants), Eighth and Ninth Census of the United States (1860 and 1870), Texas, Colorado County.

quickly when they did. In the 1850 census only 36 families out of 295 (12 percent) had male children over the age of eighteen living at home; only 26 percent had boys over twelve. At the same time, only fourteen women were listed as heads of household (out of 283 households, 5 percent), and of those, nine (64 percent) had a son sixteen or over; four (29 percent) had sons over the age of eighteen.

One option for widows without grown children was to find a trusted adult male to run the farm for her. Two farming women in the 1850 census had adult men who were not their husbands living in their households. Two other widows who lived in town also had adult males as part of their household: Darcas Rize the seamstress and Mary Ann Sapp whose relative, John Berry, lived with her and her two-year-old daughter. Elizabeth Lookup was the only widow who remained head of household as a farmer in 1850 and had neither a grown son nor an adult male household member. Lookup's husband had died late the previous year and by the end of 1850 she had remarried. The fact that she had no grown sons may have hastened her into a marriage that ended with a hostile divorce and her new husband imprisoned for assaulting her.[22]

Because adult women's labor was valuable and there were so few opportunities for women to support their families without adult male labor, almost all widows--like Elizabeth Lookup--quickly remarried. Of the widows whose husbands' estates were probated between 1837 and 1852 that can be traced at least one year, thirty-four out

---

[22] State of Texas vs. Thomas Bateman, Criminal Docket File No. 140; Elizabeth Bateman vs. Thomas Bateman and A. J. Wicker, Docket File No. 802; Elizabeth Bateman vs. G. T. Jamison, Docket File No. 962, CCDC.

of thirty-eight remarried. Seventy-nine percent married within two years of letters of administration on their deceased husbands being granted by the court; 97 percent remarried within four years.[23] Even though grown sons might enable some women to remain single, the impetus to remarry was still great. Joannah's husband John Dunlavy died one month after moving the family to Texas. She had three sons over thirteen, but she also had eight other children, the youngest less than a year old. Joannah quickly married Joe McCrabb who lived barely long enough to get Joannah pregnant with yet another child. Within a year of McCrabb's death, she remarried again to her third husband William Dunlap.[24]

Like most nineteenth-century American women, frontier women faced social pressures to marry a first time. Unlike propertied urban widows, even propertied women on the frontier were pressured to remarry by the labor and financial demands of farms. With the intense pressure to marry and remarry and the gender imbalance favoring women's opportunity to find a husband, almost all frontier women spent most of their lives legally married. As married women, their options were constrained not

---

[23] Forty-four widows, thirty-seven can be traced a year later, usually within Colorado or surrounding counties. Six married before administration, thirteen married one or less years after, eight married within two years, four within three, and two within four. One widow did not marry for seven years. Of the three widows who did not marry, one, Judith Callaway died less than two years later, while Eliza Hopson and Jane Naill remained feme sole for many years before disappearing from the records. Seven other widows were present when letters of administration were taken out on their husbands but did not reappear in court or court records again, nor can they be found anywhere in the county after that. See Probate Records, Marriage Records, County Court Minutes, CCCC; District Court Records, CCDC.

[24] Sue Dunlavy McIlveen, comp., Footprints: The Dunlavys and Related Families (n.p.: Private Distribution, 1988), 23-26; Robert L. Hunter, comp., "Hunter & Combs-Dunlavy Bible Records," Stirpes 4 (Sept 1964): 93-95.

only by the realities of frontier life but by social and legal restrictions as well. The primary legal distinction between married women and single women was their rights to own and control property. A single woman throughout the frontier period could own and control her property just as a single man. Married women, however, faced different restrictions on their ownership and especially their control of property. These restrictions were in flux as Texas made the transition from being a Mexican state to an independent nation to a state in the American republic.

MARRIED WOMEN

When the Republic of Texas declared its independence from Mexico in 1836, most of the rebellious inhabitants and the framers of the new Texas government were immigrants from the United States and had strong ties to that country. Most citizens of Texas were therefore more comfortable with many aspects of the United States than with Mexico, including political opinion and customs, law, and governmental organization. Mexican civil law had been in force until 1836, however, and certain rights had come to be taken for granted by all Texans, such as marital relations, land titles, and mineral rights.[25] Anglo-Texans clearly preferred the more familiar English common law heritage of the United States to the Spanish civil law of Mexico. In the midst of revolutionary turmoil and uncertain futures, however, the framers of the constitution of 1836 considered it expedient to declare that "all laws now in force in

---

[25] John C. Townes, "Sketch of the Development of the Judicial System of Texas. I," Quarterly of the Texas State Historical Association, II (July 1898), 29-53, especially 30.

Texas, and not inconsistent with this constitution, shall remain in full force until declared void, repealed, altered, or expire by their own limitation" so that "no inconvenience may arise from the adoption of this constitution."[26] For the future, their hopes rested in another clause:

> The congress shall, as early as practicable, introduce, by statute, the common law of England, with such modifications as our circumstances, in their judgment, may inquire; and in all criminal cases, the common law shall be the rule of decision.[27]

In most cases, the Texas congress began acting immediately to introduce common law, and Spanish civil law prevailed for only a few years after the constitution was adopted.[28] However, in the area of married women's property rights, the Texas congress vacillated, torn between three different impulses: Spanish civil law as it had been practiced in Texas under Mexican rule, common law as practiced in the United States, and equity law that offered special remedies when common law gave none.

From independence in 1836 until 1839, the Texas Congress allowed Spanish civil law as it had been practiced in Texas under Mexican rule to define married women's property. These laws considered that a husband and wife formed a partnership by their marriage, in which each accrued an equal share in the

---

[26] "The Constitution of the Republic of Texas, March 17, 1836" in Ernest Wallace, ed., Documents of Texas History (Austin, Texas: Steck Company, Publishers, 1963), 103.

[27] "The Constitution of 1836," 102.

[28] William Ransom Hogan, The Texas Republic: A Social and Economic History, (Norman: University of Oklahoma Press, 1946), 245.

"acquisitions, fruits, profits, and gains of whatever nature" during the marriage.[29] Although the wife equally owned this "community property," as the "business manager" of the partnership, the husband administered it with only slight exceptions. He could sell any or all of their community property without his wife's consent, and he was the only necessary party in suits concerning the property. However, a husband could not alienate property fraudulently or dispose of more than his half share by last will and testament.[30] Spanish civil law also allowed both spouses to hold separate property in their own names. For a wife, this separate estate included all real assets she owned at the time of marriage and legacies, inheritances, or donations made to her during the marriage. Again, although the wife owned the property, only in special instances could she control the property.[31]

---

[29] Nina Nichols Pugh, "The Spanish Community of Gains in 1803: Sociedad de Gananciales," Louisiana Law Review 30 December 1969: 3.

[30] Pugh, "The Spanish Community of Gains," 12-13; Kathleen Elizabeth Lazarou, "Concealed Under Petticoats: Married Women's Property and the Law of Texas, 1840-1913," (Ph.D. dissertation, Rice University, May 1980), 83; Williamson S. Oldham and George W. White, comps., A Digest of the General Statute Laws of the State of Texas. . . ., (Austin, Texas: John Marshall & Co., 1859), 700.

[31] Historians disagree on the amount of control a married woman wielded over her separate property under Spanish law in Texas. Nina Nichols Pugh claims that under Spanish civil law in Louisiana, the wife's ability to administer her own property was nearly complete. She could turn over administration to her husband, but even then the courts assumed that she was responsible for his mismanagement and the capacity to control it. Pugh, "The Spanish Community of Gains," 5-6, 14-15. Other historians have assumed that this was also the case in Texas. Joseph W. McKnight, "Texas Community Property Law: Conservative Attitudes, Reluctant Change," Law and Contemporary Problems, 56 (Spring, 1993): 71; Suzanne Reynolds, "Increases in Separate Property and the Evolving Marital Partnership," Wake Forest Law Review, 1989, p. 255. Jean Stuntz in a study of married women's property under Spanish, English, and Texas Republic law has found that married women had much less control over their separate property. They could control it with special permission from the court based on their husband's abandonment or rascality, but not as a general rule.

The finer points of Spanish law regarding married women's property, however, were probably lost upon the inhabitants of Colorado County. One legal historian has suggested that lawyers in Texas, some of whom had legal training in or law books from Louisiana, assumed that the civil laws of Louisiana and Mexico were "essentially the same, and in most matters of concern to them, they were correct."[32] Most frontier Texas lawyers had little training or law books of any kind. In the earliest years after independence, the laws and the legal system itself remained confusing and unsystematized. The Texas Congress set up District Courts to replace and take over the functions of the Mexican alcalde courts, including jurisdiction in pending cases.[33] The legislature gave county courts and district courts overlapping original jurisdiction in civil cases, but the district court alone could hear cases involving land. The county court served also as the probate court.[34]

The Colorado County District Court's first session exemplified the irregularity of court proceedings in the earliest years of the Republic. It was held outside, and its sole action was to fine those who had been summoned for jury duty and failed to appear.[35] With the rapid changes in laws and courts, a lack of learned lawyers, and

---

Stuntz, "Three Flags Over Texas: Marital Property Under Spanish, English, and Republic of Texas Law," Paper in possession of author, 1996. See also Bea Ann Smith, "The Partnership Theory of Marriage: A Borrowed Solution Fails," Texas Law Review, March 1990. Lazarou, "Concealed under Petticoats," 49-51, 59-62.

[32] McKnight, "Texas Community Property Law," 79.

[33] Hogan, Texas Republic, 245.

[34] Laws of the Republic of Texas, In Two Volumes, Volume I. (Houston: Office of the Telegraph, 1837), 153.

[35] Colorado County Chronicles, Vol. I, 50.

the primitive knowledge of Texas law even by judges, "arguments and decisions (even of the Supreme Court) were based more often on common sense than on citations."[36] In 1842 the Supreme Court of the Republic of Texas recognized that irregular proceedings were bound to come out of Texas' chaotic early years and allowed for them.[37]

It is not surprising that the early Colorado County courts exhibited little consistency in their approach to married women's rights. For example, on several occasions Martha Bronson sued, and was sued, in her own name for her separate property in both the county and district courts. She continued these suits with little reference to her husband in the official papers and without his express approval, despite the prenuptial marriage contract they had signed which gave him half interest in her estate and sole management of it. The judges both allowed these suits to be defended and prosecuted in her name and ultimately recognized her defense of her separate property against a debt incurred by her new husband before their marriage.[38] Spanish civil law recognized that Bronson had a premarital legal identity and allowed her to continue that identity after marriage. However, without claiming abandonment

---

[36] Hogan, Texas Republic, 251.

[37] Hogan, Texas Republic, 256.

[38] Bonds and Deeds Transcribed, Book A, p. 151, October 2, 1837, CCCC; Petition, Aldridge & Davis vs. Martha Bostick, March 5, 1839, Docket File No. 36, CCDC; Summons, Wm. B. Dewees vs. Martha Bostick, July 12, 1839, Docket File No. 63, CCDC; Petition for injunction, Martha Bronson vs. David Wade as sheriff in favor of David Smith, September 28, 1839, Docket File No. 60, CCDC; W. B. Dewees vs. Martha Bostick, October 3, 1839, Docket No. 6, County Court Minutes, Book A-1840, p. 7, CCCC; Solon and Stevenson and others vs. Martha Bostick and others, November 14, 1839, Docket No. 50, District Court Minutes, Book AB, p. 29, CCDC.

or mismanagement, even Spanish civil law would not have allowed her to prosecute and defend these suits without her husband's express authorization.[39] The chaotic frontier legal system, however, created an opportunity in which Martha Bronson's right to protect her property was recognized by the courts.

While Martha Bronson was defending her separate property as if she had a legal identity, another married woman's identity was subsumed under that of her husband. In December 1838 Nathan Barr instituted a suit in District Court on behalf of his wife's separate property. Nathan Barr had married Rachel Newman within the preceding ten months and the suit was to enforce a contract she had made with Jacob Lynch while still a widow. Although the property and the gains of the suit were clearly Rachel's separate property, the suit was prosecuted solely by her husband.[40]

Less than a year later, the Barrs were involved in another suit that led the courts to allow for yet another precedent of a married woman's involvement in court. Nathan Barr was embroiled in other lawsuits with Jacob Lynch besides the one regarding his wife's separate property. When Jacob Lynch won a judgment from the District Court, the Colorado County sheriff levied two hundred bushels of corn to satisfy the judgment. However, the corn belonged not to Nathan Barr or even Rachel Barr, but to her son Andrew Newman. While still a widow, the Probate Court had granted to Rachel the co-guardianship of her son Andrew. Along with her co-guardian Andrew Rabb, Rachel sued the sheriff on behalf of the minor son to recover

---

[39] Reynolds, "Increases in Separate Property," 249.

[40] Petition, Nathan D. Barr on behalf of Rachael Barr vs. Jacob Lynch, December 24, 1838, Docket File No. 49, CCDC.

the corn.[41] The sheriff promptly asked the judge to dismiss the suit because one of the parties to the suit "is a feme covert and incompetent to appear as above without joining her husband in the writ. . . ."[42] Under the precedents of Spanish civil law, the court could have "easily" authorized the prosecution of the suit by the wife only.[43] No law had yet been passed instituting the English common law concept of coverture, where a married woman's entire legal identity was subsumed under that of her husband's, and thus a "feme covert." The judge, however, sustained the defendant's objection and required that Rachel's husband join the suit in order for it to continue.[44]

By November 1839 the Colorado County District Court had allowed a married woman to enter the courtroom on her own behalf when defending her separate property, had allowed a husband to act on behalf of his wife without her joining or consent, and had required a married woman to have her husband join her suit. These conflicting decisions show that at least some legal confusion existed in Colorado County during the slow change from law under the Mexican government to an as yet

---

[41] Petition, Rachel Barr (late Rachel Newman) and Andrew Rabb, guardians of Andrew Newman (minor heir of Joseph Newman decd) vs. David Wade as sheriff in favor of Jacob Lynch, October 9, 1839, Docket File No. 66, CCDC.

[42] Answer, Rachel Barr (late Rachel Newman) and Andrew Rabb, guardians of Andrew Newman (minor heir of Joseph Newman decd) vs. David Wade as sheriff in favor of Jacob Lynch, October 9, 1839, Docket File No. 66, CCDC.

[43] "Even when she administered her separate assets herself, it was still necessary for her husband to authorize most of her contracts and all of her appearances in court in regard to her patrimony; but this requirement of authorization seems to have been a mere formality, easily obtained by court order, if the husband appeared reluctant to give it." Pugh, "Spanish Community of Gains," 15.

[44] Rachel Barr (late Rachel Newman) and Andrew Rabb, guardians of Andrew Newman (minor heir of Joseph Newman decd) vs. David Wade as sheriff in favor of Jacob Lynch, November 14, 1839, Docket No. 66, District Court Minutes, Book AB, p. 28, CCDC.

undefined system of Texas law. Spanish civil law contradicted English common law regarding married women's property, but as other aspects of the common law were incorporated into statute and judicial practice, judges in Colorado County followed both at will.

Then in 1839, the Congress of the Republic of Texas introduced bills to regulate married women's property rights in accordance with the common law of England. The statute that Congress enacted, however, "casually established the Anglo-American law of dower" with very little forethought as to what that establishment would mean.[45] English common law did not allow a married woman to own property separately or commonly with her husband: upon marriage all of her property became her husband's. It did, however, grant married women dower rights allowing the widow a lifetime interest in one-third of her deceased husband's estate. In United States' locales that recognized this law, married women received an interest in all property acquired by her husband during his life. Consequently, even during his lifetime, a husband's conveyance of that property was incomplete without the wife's relinquishment of her dower rights to it.[46] The January 1839 act did not specifically address the relinquishment of dower rights. However, because it indicated that a widow was entitled only to dower in her deceased husband's estate, it directly contradicted the idea of joint ownership of property and technically stripped all

---

[45] McKnight, "Texas Community Property Law," 83.

[46] Suzanne Lebsock, The Free Women of Petersburg: Status and Culture in a Southern Town, 1784-1860, (New York and London: W. W. Norton and Company), 24.

married women of any separate property that they had acquired under Spanish law.[47]

Judges and clerks in Colorado County paid no heed whatsoever to the statute granting women dower rights. Not a single widow applied for dower rights in probate court, not a single deed in 1839 relinquished a married woman's dower rights in her husband's property, and not a single district or probate court case maintained a married woman's lifetime interest in one-third of the property of the marriage. In May of that year, the estate of Robert Gray Cummings was partitioned among his heirs, a widow, and four children. Cummings left no will, and so the partition was decided by the Colorado county court. The judge distinguished between the property brought into the Republic and that acquired in Texas. Each child and the widow received one-fifth of the property brought into the Republic--a decision consistent with English common law. But of the property acquired in the Republic, the widow Isabella was given one-half in fee simple, and the children received one-eighth each -- a decision consistent with Spanish civil law and community property ownership. While the judge recognized that the property brought to Texas from the United States might be subject to the English common law, he ruled that the property in Texas should be divided according to Spanish legal precedents. The judge made no provisions at all for dower.[48]

The dower law and the swift break from the Spanish legal system of married women's property proved unpopular elsewhere in Texas. A year later, the Texas

---

[47] Oldham and White, Digest of General Statute Laws, 700.

[48] Estate of Robert Gray Cummings, May 4, 1839, Probate Minutes, Book A, p. 21, CCCC.

Congress repealed the statute and codified married women's property rights according to rules of equity. Equity law was a separate set of rules in England and the United States that had arisen to offer "special remedies when none were available at law."[49] Equity is

> Justice administered according to fairness as contrasted with the strictly formulated rules of common law. It is based on a system of rules and principles which originated in England as an alternative to the harsh rules of common law and which were based on what was fair in a particular situation. One sought relief under this system in courts of equity rather than in courts of law. The term "equity" denotes the spirit and habit of fairness, justness, and right dealing which would regulate the intercourse of men with men.[50]

From Texas' first judicial system under Mexican law and continuing during the Republic of Texas, there was an "absence of recognition of the Common law distinction between legal and equitable rights and remedies. . . ."[51] The constitution and subsequent acts never recognized separate courts of equity but endeavored instead to incorporate common law and the ideals of equity into the same court. In 1840 the legislature made it clear that "the court shall, in the first instance, endeavor to try each cause by the rules and principles of law. Should the cause more properly belong to equity jurisdiction, the court shall, without delay, proceed to try the same according

---

[49] Lebsock, Free Women of Petersburg, 56.

[50] Black's Law Dictionary, sixth edition, (St. Paul, Minn.: West Publishing Company, 1990), 540. Many states that inherited English common law also relied on this tradition of equity from England, although some states specifically repudiated it. Marylynn Salmon argues that Massachusetts, Connecticut, and Pennsylvania repudiated equity law because of its disruption to the family and its ambiguous and arbitrary nature. Marylynn Salmon, Women and the Law of Property in Early America (Chapel Hill and London: University of North Carolina Press, 1986), 11.

[51] Townes, "Development of the Texas Judicial System," 37.

to the principles of equity."[52]

Equity law as practiced in the United States offered married women an alternative to the rigidity of the common law by recognizing antenuptial contracts, premarital contracts that gave the wife control of certain property, trusts, separate estates, and mandatory contractual agreements between the husband and wife.[53] These contracts and trusts increased enormously in the United States during the first half of the nineteenth century, and by mid-century significant numbers of women used these equitable rights, although they were recognized only in chancery courts and subject to interpretation of the judge.[54] In 1839, as Texas endeavored to meld common law and married women's property rights by introducing dower rights, Mississippi began a trend in the South by codifying the laws of married women's property found in equity. Disputes over the contents of separate estates, the need for overly specific wording of trusts and deeds, untrustworthy trustees, and the expense of court proceedings worried those who wished to use equity to protect married women's interests.[55] Married Women's Property Acts in the United States, such as the first one passed in Mississippi in 1839, systematized and offered to all married women the rights and privileges wealthy women had enjoyed under equity in the courts of

---

[52] ibid.

[53] Norma Basch, In the Eyes of the Law: Women, Marriage, and Property in Nineteenth-Century New York (Ithaca and London: Cornell University Press), 20; Salmon, Women and the Law of Property, 41-57 and 81-119.

[54] Salmon, Women and the Law of Property, 11.

[55] Lebsock, Free Women of Petersburg, 79-84.

common law.[56] Neither Mississippi's act, nor the act of any other southern state, gave the wife control over her own property.[57]

Following Mississippi's example of codifying equity into statutory law, the Texas Congress passed an omnibus act in an attempt to clarify which of the three legal traditions Texas law would follow. In 1840 the Texas Congress specifically repealed all Mexican laws and adopted the English common law. However, the act made exceptions in cases of land grants, colonization, and minerals, and continued the homestead exemption, whereby a certain amount of land inhabited by a person as his or her home was protected from confiscation by creditors for debts.[58] The act further explicitly outlined new laws regulating married couples' property that incorporated ideas of all three legal traditions. Community property provisions of Spanish law were adopted, giving married women the outright ownership of one-half of all property acquired by the couple during marriage. The equity law tradition, and its codified example in the Mississippi Married Women's Property Act, contributed to a recognition of married women's right to own property separately from her husband.

---

[56] Peggy A. Rabkin, Fathers to Daughters: The Legal Foundations of Female Emancipation, (Westport, Conn., and London, 1980), 22. See also Linda E. Speth, "The Married Women's Property Acts, 1839-1865: Reform, Reaction, or Revolution?" in D. Kelly Weisberg, ed., Women and the Law: A Social Historical Perspective, Vol. II, Property, Family and the Legal Profession, (2 vols., Cambridge, Mass: Schenkman Publishing Company, 1982), 74; Lebsock, Free Women of Petersburg, 84; Bertram Wyatt-Brown, Southern Honor: Ethics and Behavior in the Old South, (New York and Oxford: Oxford University Press, 1982), 263.

[57] Speth, "Married Women's Property Acts," 74.

[58] Hogan, The Texas Republic, 245-46; Joseph W. McKnight and William A. Reppy, Jr., Texas Matrimonial Property Law (Provisional Second Edition), (Dallas, Texas: 1994), 4.

That property included all lands and slaves that a woman owned at the time of marriage and all that she might gain by gift, devise, or descent during marriage, as well as the paraphernalia that she owned before marriage.[59] Finally, English common law and Spanish law might allow her to own property, but both stripped a married woman of her right to control any of that property: "The husband shall have the sole management of such lands and slaves."[60]

Colorado County had virtually ignored the statutes on dower rights, but the new married women's property rights acts made more impact on married women in the county. Before 1840, very few deeds included a wife's name, signature, or consent to the sale. Husbands continued, as they were allowed to do under Spanish law, to sell both the community and the wife's separate estate without their wives' consent.[61] After 1840, however, married women seemingly became more involved in the public financial affairs of the couple. The number of deeds requiring a married woman's signature rose dramatically and continued to rise throughout the frontier

---

[59] Oldham and White, Digest of General Statute Laws, 729; Smith, "The Partnership Theory of Marriage," 702-703; McKnight and Reppy, Texas Matrimonial Property Law, 5. When the framers of the Texas state constitution of 1845 wrote the married women's property rights into the constitution they did so similarly to other southern states. A writer for the Louisiana Picayune even claimed that it was a copy of Louisiana's measures. See Frederic L. Paxson, "The Constitution of Texas, 1845," Southwestern Historical Quarterly 18, (April 1915), 388.

[60] Oldham and White, Digest of General Statute Laws, 729.

[61] Of fourteen deeds before 1840, one transferred community property and one transferred the separate property interest of a husband, but contained his wife's relinquishment. See Bond and Deed Records, Book A, 5, 47, 61, 89, 162, 164, 172, 205, 257, and 286; Bond and Mortgage Records, Book B, 123; Deed Records Transcribed, Book B, 144 and 413; Deed Records Transcribed, Book C, 3, all in CCCC.

era.[62]

This increase in the number of married women participating in financial transactions was most precipitous after 1841. This was the year the Texas Congress gave married women a modicum of control over their separate property. The tradition of English common law required a married woman to relinquish her dower rights to property to validate a deed. A married woman in Texas did not have dower rights, but after 1841 the transfer of any of her separate "estate or interest in any land, slave or slaves, or other effects" required a relinquishment: the wife was to be "examined privily and apart from her husband, shall declare that she did freely and willingly seal and deliver the said writing (to be then shown and explained to her,) and wishes not to retract it, and shall acknowledge the said writing so again shown to her, to be her act" before a Judge or Chief Justice of the court.[63]

Compliance with this statute in Colorado County was, as with much of the rest of law, slow and halting at first. Of the fifteen deeds conveying property in Colorado County in 1841, only one wife was examined separately from her husband.[64] In the following years, most of the deeds contained the verification of a woman's separate

---

[62] See Bond and Mortgage Records and Deed Records Transcribed, CCCC.

[63] Oldham and White, Digest of General Statute Laws, 696.

[64] Fifteen deeds conveyed a married woman's interest in property in 1841. Eight contained no judge's verification of separate exam at all. Three married women were examined by judges three and four years after the deed was enacted. Two deeds were recorded where married women were examined by judges in other counties in 1841. One deed conveyed a wife's power of attorney without her husband's signature or consent. One wife was examined by Chief Justice of Colorado County, Kidder Walker. Deed Records Transcribed, Book C, p. 151, December 27, 1841, CCCC. See also Deed Records Transcribed, Books C, D, E, and I; Bond and Mortgage Records, Book B, CCCC.

examination although in a less than systematized procedure. Sometimes her exam was conducted months or years after the sale; sometimes the examination itself seemed as if it did not follow the intent of the law. For example, Nancy Morris acknowledged the deed to be her "act and deed" in a separate paragraph, but not necessarily in a separate room, from her husband.[65]

The 1841 statute requiring a wife's relinquishment of her rights applied only to her separate property. Although Texas law seemingly liberalized a married woman's ability to own property by enacting the Spanish community property laws, it actually gave her less control than English common law. She could own separate property, and she owned one-half of the joint property, but she managed none of it and had the power to refuse to relinquish her rights in the sale of only her separate property. She had no similar power over any community property, as married women under English common law had due to their dower rights. Dower rights in the United States and during the brief year that they were recognized in Texas specifically stated that the widow's one-third life estate included the dwelling house and surrounding land and outhouses. Under Texas law, this property was usually part of the community and only rarely a married woman's separate estate. Therefore, women in Virginia might be able to block the sale or mortgaging of their home, but married women in Texas could not. In 1846, the Texas legislature sought to rectify this situation. The legislators did not require that the husband consult his wife before selling or mortgaging all community property, but it did require a married woman's consent

---

[65] Bond and Mortgage Records, Book B, p. 288, February 25, 1842, CCCC.

before the sale of the family homestead became complete.[66]

Texas's laws regarding married women's property therefore drew from a mix of legal traditions. By 1846, however, they closely resembled other southern states where equity was recognized and especially where married women's property acts had been passed. Texas law differed from other southern states by entitling a wife to one half ownership of community property. The extent of a woman's ability to manage and control property and the amount of property over which she had any power was almost identical to that of married women in the rest of the South. The heritage of Spanish law added a distinctiveness to married women's property ownership, but it did not represent a greater advancement for married women's rights than states elsewhere in the South.[67]

As a result of the 1846 statute requiring a wife's relinquishment of her rights to the homestead, married women more often left their homes to appear before a judge or justice. Less than 10 percent of the deeds involving wives in Colorado County before 1841 included a separate acknowledgment or examination of the wife; between 1841 and the end of the frontier era in 1852, 90 percent did.[68] In a conservative estimate, an average of 11 percent of married women every year were required to go to the courthouse and sanction their husbands' actions regarding their

---

[66] Oldham and White, Digest of General Statute Laws, 72.

[67] See also Lazarou, "Concealed Under Petticoats," 1-2.

[68] See Bond and Deed Records, Book A; Bond and Mortgage Records, Books B, C, and D; and Deed Records Transcribed, Books B, C, D, E, F, G, H, I, J, K, and L, all in CCCC; Oldham and White, Digest of General Statute Laws, 72.

own property during the frontier period.[69]

The importance of married women's trips to the courthouse is very difficult to measure. The separate exam was possibly a formality.[70] Every woman who was examined privately and whose deed appeared in the county clerk's record had agreed to the sale of property, of course, or the deed would not have been recorded. After the 1841 statutes, a few deeds did find their way into the record without the wife having been officially examined: 32 of the 302 deeds transferred the interest of a wife in separate or homestead property without a separate acknowledgment by the wife.[71] Nevertheless, the vast majority of the deeds that made it to the courthouse did include the wife's consent. It is hard to imagine very many married women who would or could oppose their husbands' wishes in selling their property even with the intervention of a county official. If many women did object to their husband's financial dealings, most did not make their objections known publicly. Despite the ten percent of the deeds without the wife's acknowledgment, no one filed suit to contest their validity.

---

[69] Percentage of married women in the population being examined separately per year was figured with the estimated 239 married women on the 1850 census and assuming that the number was the same every year of the frontier era (which undoubtedly it was much less in the early 1840s). In the period from January 1, 1841 to December 31, 1852, 302 deeds contained a wife's relinquishment, averaging about 25 deeds per year. Twenty-five is 10.6 percent of 239.

[70] Bertram Wyatt-Brown suggests that these types of legal protections were nearly useless as "husbands did what they liked with their wives' property regardless of the law." Wyatt-Brown, Southern Honor, 268.

[71] Bond and Mortgage Records, Books B, C, and D; Deed Records Transcribed, Books C, D, E, F, G, H, I, J, K, and L, CCCC.

The emphasis on "privily" and apart, or separate and apart, in these verifications is very important for the legitimization of the sale. As in the United States, Texas legislators and judges adopted the idea that married women might be able to make their own judgments about or question their husbands' handling of financial matters with great hesitation. The outside influence and protection of the court and, in particular, the judge was necessary to insure that the wife's small degree of control was preserved. The separate exam began with an explanation of the deed to the wife, whether or not she could read. This examination was an opportunity for the wife to "retract" her signature. Before a standard examination form was adopted, Colorado County judges' descriptions of their private exams of wives often included the words, "voluntarily," "without fear," and "without constraint."[72] The judges assumed that a married woman accustomed to her separate private sphere was unaccustomed to the public sphere of finances and therefore must receive a private, not public, opportunity apart from her husband to have the matters explained to her before she could make a decision.

Texas legislators like others in the South who passed married women's property acts did not enact these statutes because they believed married women suddenly deserved or were even capable of handling the responsibilities of property ownership. The Texas Married Women's Property Act was a way to shelter the family fortunes, by allowing some property to be held in the wife's name, free from the claims of creditors. Fathers could rest more easily knowing that the property they

---

[72] See Deed Records Transcribed, Book C, p. 200, May 21, 1842, CCCC.

transferred to their daughters would not be easily wasted or gambled away by their husbands in the uncertain financial situation of the Texas economy. Paralleling state legislatures throughout antebellum America, Texan lawmakers strove to guard a family's financial resources without elevating women's power within the home.[73]

Although a gradual change in attitudes toward married women's rights and abilities preceded these acts, the primary cause of the revisions in the law was the unstable nineteenth-century economy and particularly the panic and depression of 1837.[74] Texans understood the economic pressures all too well. Many Texans were southerners who had moved west in an attempt to remake fortunes lost in the panic or to try to avoid their debts by moving to a different country, the Republic of Texas. Legislators' concern over debtor-creditor relations and their proclivity for debt relief is evidenced by the Homestead Exemption Act passed the year before the Texas Married Women's Property Act. The homestead act protected a certain amount of a person's

---

[73] Lazarou, "Concealed Under Petticoats," 9 (first quote), 19, and 50 (second quote); Speth, "Married Women's Property Acts," 74-75.

[74] Donna Sedevie convincingly argues that the married women's property act in Mississippi came near the end in and partially as a result of a series of legal advancements for women in Mississippi. Donna Sedevie, "Women and the Law of Property in the Old Southwest: The Antecedents of the Mississippi Married Woman's Law, 1798-1839," (M.A. Thesis, University of Southern Mississippi, August 1996), 84-88. Other scholars dismiss the possibility that these acts represented a change in society's attitudes toward women's legal rights and view them primarily or solely as debtor relief acts. Norma Basch, "Equity vs. Equality: Emerging Concepts of Women's Political Status in the Age of Jackson," Journal of the Early Republic, 3 (Fall 1983): 311-18; Sandra Moncrief, "The Mississippi Married Women's Property Act of 1839," Journal of Mississippi History, 47 (May 1985): 110-16; Chused, Richard H., "Late Nineteenth Century Married Women's Property Law: Reception of the Early Married Women's Property Acts by Courts and Legislatures," American Jour. Legal Hist., 29 (January 1985): 34-35; Lazarou, "Concealed Under Petticoats," 1-7.

land from creditors even in complete bankruptcy. Like the married women's property act, the homestead protection act performed at least two purposes: it maintained the inviolability of a family unit and kept that family from becoming a burden on society.[75]

The legislators were probably pleased with the results of the balancing between protecting families by giving women property rights and retaining a husband's prerogative to make the financial decisions for the family. Women in Colorado County owned property that could provide for the family but not be seized by creditors. However, no frontier wives ever challenged their husbands in court over the transfer of that property, either their separate or their community. Nor did they ever sue a third party to recover property that they believed their husbands had improperly or wrongly conveyed.[76] With the exception of cases of divorce (to be discussed later), the slight share of control granted to married women in these series of acts was never exercised in a Colorado County courtroom by a wife against a husband.

Only one frontier-era Colorado County court case suggested that a husband and wife not involved in divorce proceedings might possibly have differed in their opinions on financial matters. This was not a case brought against a husband but a defense by the wife after her husband's death to avoid paying a debt. In 1844 a recently widowed Susan Ann Stevenson answered Alexander Brown's petition to

---

[75] McKnight and Reppy, Texas Matrimonial Property Law, 3; Smith, "The Partnership Theory of Marriage," 702.

[76] Oldham and White, Digest of General Statute Laws, 313-14.

recover a debt on a promissory note that she and her husband had jointly signed. Stevenson claimed

> that at the time of signing said promissory note [she] was a married woman incompetent to contract[,] that she derived no benefit therefrom directly or indirectly[.] [D]efendant further states that she was persuaded much against her will and desire to sign the aforementioned note for the sum specified therein.[77]

Even in this case, it is probable that had her husband not died during the trial, Susan Stevenson would not have pleaded this defense. She might have disagreed with her husband's financial decisions, or she might have seen this as a good defense after his death. Regardless, during her husband's life, she did not use the legal resources available to her to challenge his authority over matters of the public sphere.[78]

During the frontier era husbands in most cases exercised exclusive control publicly over legal and financial matters. Even though married women owned property and needed to protect or defend their legal title, they were required to do so with the consent and in joint agency with their husbands. Since she had such little control of her own property, a married woman in her own capacity could not sue, be sued, or make contracts in her own name. She could not conduct business in her own name or execute a security bond to serve as an administrator or executor of an estate,

---

[77] Answer, Alexander Brown vs. Robert Stevenson & Susan Ann Stevenson, March 4, 1844, Docket File No. 282, CCDC.

[78] The judge accepted a "judgment by default" against Susan Stevenson as administrator of Robert Stevenson's estate and allowed the question of whether Susan Stevenson's property should be held liable be submitted to the jury. The jury found in favor of Susan Ann Stevenson and her property was not subject to the debt. Alexander Brown vs. Robert Stevenson and Susan Stevenson, September 3, 1845, District Court Minutes, Book AB, p. 278-79, CCDC.

or even as guardian of her own children.[79] At least seventeen cases involving married women's property came before the frontier-period District Court after the Married Women's Property Act of 1841, and in fifteen of those cases the husbands exercised nearly exclusive control over the proceedings.[80] Two husbands in one case even acknowledged "service" of the suit for themselves and on behalf of their wives: "I Dempsey Pace hereby acknowledge service of the written petition and waive writ and copy of petition for myself and my wife Elizabeth Pace." Not only did these husbands control the proceedings, but their wives may never have even received notice that their property rights were being questioned.[81] A judge dismissed the sole case in which a married woman attempted to pursue a case in her own name for being

---

[79] Lazarou, "Concealed Under Petticoats," 195-96; Ocie Speer, A Treatise on the Law of Marital Rights in Texas, (Rochester, N. Y.: Lawyers Co-operative Publishing Co., 1916), 195. See also John Bell, "Powers of Married Woman in Texas Aside From Statutes," Texas Law Review 6 (June 1928): 516. Married women could sue in their names only if the unauthorized act of their husbands caused the necessity of suing a third party to recover the separate property of the wife. Oldham and White, Digest of General Statute Laws, 313-14.

[80] These include any case where a married woman was named in the suit because of her interest in the property whether separate or community. It does not include cases where married women were serving as the administrator of another's estate. Docket numbers for these District Court cases are 134, 183, 210, 211, 225, 226, 248, 275, 348, 366, 399, 407, 435, 436, 510, 742 and 761.

[81] The case in question involved partitioning of the estate of John H. Dabney. Elizabeth Pace and Margaret Ramsey were among the heirs, their husbands Dempsey and Martin accepted service of the suit on their behalf. The court hopefully would have been more strenuous in its notification had the married women's property involved been in jeopardy because of some action of the husbands, and not settling a question of heirship. Back of Petition, Wylie Jones, gdn of Randel Jones vs. Eliza Dabney et al heirs of Jno H. Dabney, decd., March 4, 1846, Docket File No. 436, CCDC (petition dated March 4, 1846, service waived October 8, 1846).

brought in a "wrong name."[82] In one other case, a wife whose husband was "absent" sued by a "next friend" to halt the foreclosure of their homestead.[83]

Although the District Court granted little latitude in the prosecution of suits by married women after the introduction of the Married Women's Property Act, it did recognize that in some circumstances a married woman might exercise financial rights and responsibilities. Statutes granted married women the right to contract for family "necessaries" for which the community property would be held liable. Other transactions disposing of community property or potentially transferring such property were to be contracted by the husband only.[84] The Colorado County District Court, however, upheld a married woman's right to contract in her husband's absence, whether that absence be temporary or permanent.

Joannah Tipps, discussed earlier in this chapter, married William Dunlap in 1837. As a widow with many mouths to feed, she was forced by circumstances to remarry as quickly as possible. Within three months, she discovered that Dunlap was actually married to someone else. When she refused to accede to his "several attempts to compel her . . . to deliver to him the said William her money and other articles of value," he abandoned her.[85] With the ability to remarry removed from her because

---

[82] Joannah Tipps vs. Martin D. Ramsey, October 4, 1847, District Court Minutes, Book AB, p. 362, CCDC.

[83] Petition, James M. Caller, next friend of Catherine Tinkler vs. Saml. J. Redgate and George B. Halyard, February 17, 1844, Docket File No. 275, CCDC. A "next friend" is someone who has legal standing who files suit on behalf of a person who does not, such as a minor or a feme covert.

[84] Oldham and White, Digest of General Statute Laws, 313.

[85] Petition, Joannah Dunlap vs. William Dunlap, February 10, 1840, Docket File No. 138, CCDC.

Texas still had no legal provisions for divorce, Joannah set out to provide for herself and her children however she could. In the process, she bought some property and to pay for it signed two promissory notes for $750 each in 1839.[86] Without the husband's permission, married women's "contracts, agreements, covenants, promises, and representations were regarded as void" according to English common law and Spanish legal tradition. Seemingly, Samuel B. Mixon, the person to whom the still-legally-married Joannah Dunlap promised $1500, had no hope of recovering his money if Joannah refused to pay.[87]

Nevertheless, on November 5, 1840, Mixon instituted proceedings to recover the debt Joannah owed him.[88] The wording of Mixon's petition to the court indicates the importance of Joannah's marital status, both at the signing of the note and at the filing of the suit. He pointedly, but erroneously, stated that she had been a single woman, "sole and unmarried," at the time she signed the note. Since then Joannah had "contracted marriage and united herself in the bonds of wedlock with Jacob Tipps also of the said county of Colorado, who is her present husband."[89] Joannah in the

---

[86] Petition, Samuel Mixon v. Jacob Tipps and Joanah Tipps, November 5, 1840, Docket File No. 134; Petition, Alfred Kelso v. Jacob Tipps and Joanah Tipps, November 10, 1841, Docket File No. 183, CCDC (hereinafter cited as Mixon v. Tipps and Kelso v. Tipps, respectively).

[87] Speer, Treatise on the Law of Marital Rights in Texas, 195; See also Bell, "Powers of Married Woman in Texas," 516 and D. Edward Greer, "A Legal Anachronism: The Married Woman's Separate Acknowledgement to Deeds," Texas Law Review: I (June 1923), 409.

[88] Petition, Mixon v. Tipps. The due date on one promissory note was June 9, 1841 and on the other, June 9, 1842. The timing of Mixon's suit is curious; the due dates had not yet passed. Perhaps, Joannah's marriage prompted Mixon to attempt to legally clarify his position.

[89] Petition, Kelso v. Tipps.

interval had indeed married Jacob Tipps. They were married less than one month after she had successfully sued her former husband, William Dunlap, for the first recorded divorce in Colorado County.[90]

Mixon's petition needed to describe Joannah's matrimonial state at the time of the suit to identify the legally liable parties. Mixon could not sue a married woman unless he also named her husband as a defendant, for upon marriage husbands assumed the debts of their wives.[91] Although Joannah had contracted this debt before her marriage, her new husband not only had to participate in her legal defense but was also liable for the payment of the debt if necessary. Joannah's marital status at the time of the suit, therefore, made a difference to Mixon's case.

At first, in defending their case the Tippses did not challenge the assertion of Mixon's petition that Joannah had been "sole and unmarried." The defense rested on other points, claiming that the note "was given in consider[ation] of two certain lots in the town of Columbus one of which (the most valuable one) the plaintiff has no title to nor can he possibly get a title." Jacob Tipps asked that the balance owed to Mixon be rescinded and that the money due be used toward obtaining a clear title to the lots. The judge ruled against the Tippses on the second point and declared for the plaintiff,

---

[90] Joanah Dunlap v. W. Dunlap, April 27, 1840, District Court Minutes, Book AB, pp. 40, 46, and 56, CCDC. Joanah McCrabb married Jacob Tipps on May 20, 1840. Marriage Records, Book B, CCCC. Joanah reverted to her maiden name, McCrabb, at some time in 1840 and was listed in the 1840 tax roles under this name. See Colorado County, Republic of Texas Tax lists, 1840, Nesbitt Memorial Library, Columbus, Texas (hereinafter cited as Tax lists, 1840).

[91] Basch, In the Eyes of the Law, 51; Rabkin, Fathers to Daughters, 129.

Mixon, on December 1, 1840.[92]

Jacob Tipps, in this first case, managed the defense himself. Despite Joannah's independence prior to her marriage, the Tippses apparently took seriously the laws regarding the husband's right to manage his wife's property -- and his duty to settle her debts. Whenever the documents or minutes referred to the defendant(s), it did so in the singular and as "he."[93] However, three days after losing this first case, when the Tippses filed an injunction against the execution of the judgment, Joannah clearly participated. Both she and Jacob signed the injunction, which claimed that there were two liens on the lots for which Joannah owed the money. An addendum, signed by Joannah alone, "further represents that about the fifth day of August 1839 she paid" $775 for the two lots and asked that the payment be applied to the debt.[94] From this point forward the minutes always referred to the defendants in the plural, there is evidence of Joannah's continuing presence, and the Tippses engaged a lawyer to represent them. A year later, a jury canceled the injunction and judgment was issued against the Tippses for $205.81½ (debt, interest and court costs).[95]

Both Jacob and Joannah Tipps owned land, personal property, and slaves and could have paid the judgment ordered against them.[96] However, they did not

---

[92] Filing, December 1, 1840, Mixon v. Tipps.

[93] For example, "Wherefore he prays the court . . .." Filing, December 1, 1840, Mixon v. Tipps.

[94] Injunction, December 4, 1840, Mixon v. Tipps.

[95] Injunction, December 4, 1840 and Judgement, December 2, 1841, Mixon v. Tipps.

[96] Joanah before marrying Jacob had two town lots in Columbus, four slaves, and one clock. Jacob Tipps had one town lot in 1840, had been granted 320 acres on May 15, 1839, and owned a few slaves. Tax lists 1840. The two lots were probably Lot 4

voluntarily do so.[97] Samuel Mixon, probably despairing of ever collecting on the debt, sold the promissory notes to Alfred Kelso on December 10, 1840, less than a week after the injunction was filed.[98] Kelso filed for recovery of the debt in November 1841. Unlike in the previous defense, the Tippses immediately hired a lawyer to represent them. Still, the lawyer did not at first challenge the debt on Joannah's original inability to contract due to coverture. The Tippses's attorney argued in December 1841 for a continuance "for the want of an Advertisement . . . "[99] The case received this and at least one other continuance until Kelso filed for recovery of the debt on the second promissory note as well.[100] Finally, on March 8, 1843, after almost two years of continuances, a jury heard the case. Joannah and Jacob Tipps's attorney by this time had a very well-prepared defense. He offered evidence regarding the two liens against the property Joannah Tipps supposedly received in return for the promissory notes. Samuel Mixon testified that he had sold the notes to Alfred Kelso on December 10, 1840, without telling him about the objections to the note. The Tippses testified and showed the jury an October 8, 1839, advertisement by Joannah Dunlap in the Telegraph newspaper, warning against trading for the note and of the problems associated with it. The attorney also argued that the amount of Texas

---

of block 4 and Lot 5 of block 5 in Columbus which she had bought from W. B. Dewees and David Wade in 1837 for $150 and from William J. Dunlavy in 1839 for $500, respectively. See Bond and Deed Records, Book B, pp. 197-99, CCCC.

[97] Scire facias, November 11, 1843, Mixon v. Tipps. The judgment was finally satisfied August 6, 1844, by intervention of the sheriff.

[98] Statements of Fact, Spring Term 1843, Kelso v. Tipps.

[99] Filing, December 2, 1841, Kelso v. Tipps.

[100] Petition, October 21, 1842, Kelso v. Tipps.

currency promised was worth significantly less than at the time the note was signed.[101] After the defense, the judge charged the jury that if they believed that the plaintiff was aware of the legal objections when he bought the promissory notes then they were to find for the defendants. Otherwise, the jury should award the full amount to the plaintiff with consideration of the Texas currency's worth at that time. After deliberations, the jury could not agree, and the case was continued -- again.[102]

After a well-prepared defense, two years of continuances, three total years' experience with the issues involved in the case, and one hung jury, the Tippses and their attorney finally decided to try the defense of coverture. On March 9, 1843, one day after the jury could not agree, "in this case the defendants come and answer, and say that at the time the supposed promissory was given the said Joannah was then a married woman and that her husband was Wm Dunlap - wherefore they say that she was unable to contract or bind herself and pray that said suit be dismissed."[103] The judge did not dismiss the case but instead continued it again for another year.

When finally the "case was submitted to jury on plea of coverture," in March 1844, the court's new instructions to the jury were to

> find, 1st whether at the time of the contract, Joannah Tipps was the wife of William Dunlap, 2nd whether they lived separate and apart, 3rd whether Joannah Tipps, then Dunlap, was a public merchant or trader, [and] 4th whether the contract in question was made in the regular course of such merchandize or trade. . . .[104]

---

[101] Papers, Kelso v. Tipps.
[102] Papers, Kelso v. Tipps and District Court Minutes, Book AB, p. 160, CCDC.
[103] Filing, March 9, 1843, Kelso v. Tipps.
[104] District Court Minutes, Book AB, p. 211, CCDC.

This charge essentially asked the jury to decide if Joannah Dunlap had in effect acted as a feme sole (a English common law term for a woman legally recognized by the law as able to conduct her own business, usually because she was single) although no Texas statute would allow such a role for a married woman until 1911.[105]

Since William Dunlap's abandonment, in 1837 and 1839 Joannah had purchased town lots in Columbus without permission or interference from her husband. "Joana" Dunlap was listed as the sole administrator for John Dunlavy of

---

[105] The 1911 statute allowed a woman to become a merchant or trader only with the permission of her husband or upon his desertion. Speer, Treatise on the Law of Marital Rights in Texas, 323. The common law in England, however, had allowed for women to contract with their husbands to achieve feme sole powers as early as 1783. Hendrik Hartog, "Marital Exits and Marital Expectations in Nineteenth Century America," Georgetown Law Journal 80 (October 1991): 99. The colonial courts and statutes sometimes allowed wives to appeal for status of femes sole, but usually after their husbands had deserted them for a number of years. Marlene Stein Wortman, ed., Women in American Law, Volume I: From Colonial Times to the New Deal, (New York and London: Holmes & Meier Publishers, Inc., 1985, 17. See also Charles O'Brien, "The Growth in Pennsylvania of the Property Rights of Married Women," University of Pennsylvania Law Review 49 (September 1901): 525-26. Throughout the nineteenth century desertion was the primary reason for granting married women this status. Basch, In the Eyes of the Law, 93. Some states began passing statutes in the early to mid-nineteenth century allowing married women, with the consent of their husbands, to apply to either the judiciary or legislature, to be a "sole trader" or "free trader." Ely and Bodenhamer claim that southern states were more progressive in granting sole trader status and encouraged women in business by eliminating imprisonment for debt. James W. Ely, Jr. & David J. Bodenhamer, "Regionalism and American Legal History: The Southern Experience," Vanderbilt Law Review 39 (April 1986): 563; Eleanor M. Boatwright, "The Political and Civil Status of Women in Georgia, 1783-1860," Georgia Historical Quarterly 25 (December 1941): 311. These women exercised legal capacities equal to single women but only if engaged in merchandising, trade, or other employment. Therefore, in Texas by 1844 English common law had prepared the courts to consider cases of married women acting as femes sole. By 1853, the Texas Supreme Court recognized the right of a wife abandoned for six years to convey her property and contract as a feme sole. Bell, "Powers of Married Woman in Texas," 517; Oldham and White, Digest of General Statute Laws, 313.

Austin County in 1840 even though law required that her husband be joined as co-administrator. Under her previous husband's name, McCrabb, the 1840 tax roles listed her as the head of household. And, of course, in 1839 she signed two promissory notes for a total of $1500. For three years at least, Joannah Dunlap acted as feme sole without statutory or judicial authority to do so.[106] Those who did business with Joannah obviously did not worry that she was a feme covert, disabled by law to enter contracts. Samuel Mixon did not even realize that she was married. It appears that Joannah faced no legal or social problems because she was a married woman; she, apparently, did not need a divorce until she wanted to remarry.

When Joannah Tipps pled "coverture" in 1844, the same community with whom she had been profitably trading for at least three years had to decide her right to do so. The jury found

> 1st That Joannah Dunlap was the wife of William Dunlap at the time of contracting 2nd They did live separate and apart at the time the contract was made 3rd She was in the habit of trading generally, 4th We believe the contract was made in the regular course of trade.[107]

Joannah had been married, but she had also been trading as if she were a single woman. The defense in pleading coverture had possibly been looking for a last-ditch attempt to avoid paying the promissory note, but failed. Fortunately for the Tippses, the judge did not make an immediate ruling in favor of either the plaintiff or the

---

[106] Bond and Deed Records, Book A, pp. 197 and 199, CCCC; Tax lists 1840; Joannah Dunlap v. W. Dunlap, District Court Minutes, Book AB, pp. 40, 46, and 55, CCDC.

[107] Kelso v. Tipps, March 7, 1844, District Court Minutes, Book AB, p. 211, CCDC.

defendant and the case was continued for another year. Eventually, on September 1, 1845, the "case was dismissed on motion of plaintiffs Attorney at the plaintiffs cost . . ." because the case had "been fully adjusted and compromised between the aforesaid named [plaintiff] and defendants."[108]

Joannah's extenuating circumstances played a role in the outcome of this case. Although the decision of the District Court went against Joannah, it was a decision favoring women's, even married women's, right to enter the public sphere when necessary. Another case also upheld that right for a woman whose husband did not abandon her but was temporarily away. While her husband Abel was in California, Dolores Beeson contracted with Charles Kesler for store goods. When Kesler won a judgment against Abel and Dolores Beeson in Justice of the Peace court, the Beesons appealed, saying "that the said Dolores being a married woman could not make a contract except for necessaries." The District Court did not recognize their defense and dismissed their appeal.[109]

Joannah Tipps had apparently grown accustomed to her role as a feme sole

---

[108] District Court Minutes, Book AB; and Agreement of Parties, August 11, 1845, Kelso v. Tipps, CCDC. According to the Bond and Deed Records, the agreement signed on August 11, 1845 was that Alfred Kelso pay $500 to Jacob and Joannah Tipps and they in turn signed over all their rights to the two pieces of property in question. Samuel Mixon and John Toliver (the holder of the lien on the property) also signed over their claims on the same lots to Kelso for the sum of $1000. The settlement for the Tippses was hardly a victory. Joanah lost all claims to title on the two lots and received only $500 reimbursement, while she had paid $775. Bond and Deed Records, Book E, CCCC; Execution in District Court, Fall Term 1844, Mixon v. Tipps.

[109] Petition, Charles Kesler vs. Abel Beeson and Doloras Beeson, December 14, 1852, Docket File No. 761; April 14, 1853, District Court Minutes, Book C, p. 738, CCDC.

even though married. Her husband Jacob was obviously a more active partner in the marriage than her previous husband William Dunlap had been, and Jacob had engineered the defense of Joannah's property in the Mixon and Kelso cases. Joannah, however, had played an active role in that defense and apparently continued her sole merchant and trading practices while married to Jacob. A year after the jury had decided that Joannah was liable for the debt on the promissory notes because she had been in the practice of trading generally, Joannah went back to court in another matter. She sued Martin D. Ramsey in the Justice of the Peace Court to recover a debt. She had traded for a promissory note that Ramsey had signed for ten cows and calves. In September 1845, she won the case and received a judgment against Ramsey for $51.80. The Justice of the Peace never questioned her right to bring the suit in her own name. However, when Ramsey appealed to the District Court in 1847, the suit was "dismissed because it is brought in a wrong name." Joannah lost her judgment from the lower court against Ramsey and was liable for all the District Court costs for failing to have her husband join her in the suit.[110]

In the frontier era, the District Court expanded the law regarding married women to better align them with the social and economic realities of frontier life. These realities included women who were abandoned by their husbands and women whose husbands left temporarily to do business abroad or fight in wars, and such women often had no other male family members nearby. The judges of the District

---

[110] Appeal Bond, Judgment, and Summons, Johanna Tipps vs. M. D. Ramsey, July 28, 1845, August 5, 1845, July 20, 1847, Docket File No. 435; October 4, 1847, District Court Minutes, Book AB, p. 362, CCDC.

Court, however, were not willing to expand married women's rights at the expense of husbands who were present and capable of fulfilling their public sphere duties. While the courts might recognize married women's ability to enter business and law, they were not willing to recognize her right to do so unless her husband abdicated that right to her. Married women in frontier Colorado County, then, did not necessarily receive expanded rights, but concessions were granted them for the actions they made under frontier conditions.

WIDOWS

Elizabeth Thatcher in an 1852 letter to her daughter Fannie wrote that "...your poor Aunt Laura is now a widow and her little children fatherless. . . . She is, I believe, almost a maniac. John tells me that she has his shot-bag swung on her shoulder, his hunting knife at her side and his gun in her hand."[111] Death in nineteenth-century Colorado County visited many at young ages. Disease, injury, and unsophisticated medical care contributed to the early demise of many men and women. While the loss of any loved one was tragic, the loss of a spouse also fractured the carefully constructed ideal of separate spheres within a marriage. A man who lost his wife no longer had the domestic counterpart to raise his children and create a warm comfortable home environment. A woman who lost her husband no longer had protection: neither physical protection from predators nor the accustomed shelter from

---

[111] Lizzie Thatcher to Fannie Thatcher, Eagle Lake, August 20th 1852, printed in Dorothy Elkins Cox, comp., Pioneer Texans: Montgomery and Thatcher Families and their Descendants, n.d, n.p., p. 172.

the distressing public world and its troubles. Fannie's aunt Laura Ann McNeill coped with the death of her husband by grieving for him: she remained "inconsolable."[112] But she also immediately took on what she perceived to be the duties of her deceased husband for her now "fatherless" children, by arming herself with knife and gun. Of course, this masculine action seemed quite maniacal to her well-educated, well-married, well-protected sister who described her.

Laura McNeill might not have been prepared to take on all the many roles left vacant by the death of her husband. In her relatively wealthy family, education was expected to make girls of her children's age the "ornament" of the "family circle," and a woman expected to be a wife, a mother, and to "alternately sew and read" to "find relief from melancholy."[113] As a minor, she inhabited the private sphere of domesticity while her father performed those duties of the public sphere. Once she married at sixteen, her new husband managed the legal, financial, and political responsibilities of the family, while Laura discharged the domestic duties of a wife and mother, including bearing four children in their eight years of marriage. John Shelby McNeill died when Laura was only twenty-four, with four children between the ages of seven and three. After the funeral her sister wrote that Laura "cannot go home to stay. She will remain with Pa and Ma for sometime and then decide for the

---

[112] Sarah Mirah Thatcher to Fannie Thatcher, Eagle Lake, August 25, 1852, in Cox, comp., Pioneer Texans, 173.

[113] Lizzie Thatcher to Fannie Thatcher, Eagle Lake, June 1852, and August 20th 1852, in Cox, comp., Pioneer Texans, 175 (first and second quote) and 177 (third and fourth quote).

future."[114]

No doubt, many factors affected her decisions in the months to follow including her and society's ideals of a woman's place and duties in that society. Although Laura's upbringing taught her that her place was to inhabit the separate sphere, she had suffered through the hardships of the frontier with her husband. Whether she believed it to be her place, when necessary she would take the gun in hand to fulfill the more masculine roles required. One of the difficult decisions she had to make was to take on the legal responsibilities of John McNeill's estate and to become her deceased husband's administrator.

Serving as an executor or administrator and untangling the business and legal interests of any deceased's estate could be daunting. It required that these widows finish both the business and legal transactions of their husbands at the same time that the ideology of separate spheres denied that women, even widows, had any place in that sphere of business and law. Texas laws and Colorado County courts denied or discouraged married women's participation in business or the courtroom unless abandoned by their husbands. Courts and laws further discouraged women from entering the courtroom at all: women of all ages regardless of marital status were not compelled to appear in court to give testimony except in criminal cases. Compelling the appearance of women in court to give testimony was as distasteful as calling a man

---

[114] Sarah Mirah Thatcher to Fannie Thatcher, Eagle Lake, August 25th 1852, in Cox, comp., Pioneer Texans, 174.

who was "old and infirm."[115] In general, the probate court seemed no more accessible to women than the District Court had been: between 1837 and 1853, only one woman administered the estate of a person other then her deceased husband. Melissa Ann Silvey's husband James had been administering her father William Watt's estate when James died, leaving Melissa Ann to finish some business on Watt's estate. However, as soon as she could present an account of her father's estate, she resigned the administration and allowed one of her sister's husbands to take over the role of administrator.[116]

With the very notable exception of widows, most women avoided the probate court, the main responsibility of which was overseeing the unfinished business of deceased persons. While the court structure and practices, statutes, and social dictates conspired to constrict the number of women involved in the probate court and its business, these same factors encouraged women of one category--widows--to become active participants in these public legal proceedings.

John McNeill left an unfinished estate--debts, claims, or court cases pending--

---

[115] Oldham and White, pp. 120, 200, 260. In order for a deposition to be accepted instead of appearance in court the only stipulation for women was "where the witness is a female." This was followed in all the courts and its practice recognized by statute for the Justice of the Peace and county courts as well as the District Courts. Quote from Petition, William J. Jones and Angus McNeill and Rebecca his wife vs. Peter Cass and Elizabeth his wife and Henry Haly and Olive E. his wife, August 28, 1849, Docket File No. 611, CCDC.

[116] Estate of William Watts, July 25, 1847, Probate Minutes, Book C, p. 66, CCCC; Amended Petition, Robert Robson vs. Isam Tooke Admr of estate of Wm Watts, decd., August 20, 1855, Docket File No. 872, CCDC. Women were not very involved in filing suits in probate court either. In only the cases involving women, 76 suits were filed: 4 were filed by women solely, sixteen more were filed by husbands on behalf of or joined by their wives.

and needed an administrator (or if he left a will, an executor) to conclude his business. Texas statute gave precedence in granting that administration to the surviving wife. It further upheld this primary right even under adverse conditions, such as the husband or wife being under twenty-one years of age or when the wife remarried and therefore lost her right to function as a feme sole. If the court appointed someone other than the husband or wife to be executor or administrator, the husband or wife could sue any time to have that person removed and take out the letters of administration themselves.[117] Of course, the appointment of the surviving spouse was not automatic. As with any other estate, the spouse had to petition the court, be considered "otherwise competent," post a bond, and take an oath.[118]

This law, although worded equally for both genders, received its use mostly from women. Because married women could not contract, conduct business, or enter

---

[117] "[A]dministration of the estate of such intestate or administration with the will annexed of the estate of such testator, shall be granted: first, to the surviving husband or surviving wife. . . ." Oldham and White, 166.

[118] Although no one ever did so successfully, the Probate court allowed for situations in which the competence of the surviving spouse could be challenged, Estate of William Earp, August 30, 1842, Probate Minutes, Book B, p. 46; Estate of Alexander Jackson, September 29, 1845, Probate Minutes, Book C, p. 17, CCCC. Only one spouse who petitioned for the administration did not receive that right. Patrick Reels submitted his petition to administer his wife's estate in January 1845, but the court did not act on it at that term. Negotiations took place between terms and in February, "by consent of parties it [was] ordered by the court that letters of administration on the estate of Polly Reels, decd. be granted to Martin D. Ramsey. . . ." Of course, this case was very unusual. Polly Reels had filed for divorce from Patrick in August 1843. Although the District Judge refused to grant the divorce, evidence suggests they lived apart and had separated their financial concerns with the approval of the District Court. Estate of Polly Reels, January 27, 1845 and February 24, 1845, Probate Minutes, Book C, pp. 5-6, CCCC; Execution of Judgment, Polly Reels v. Patrick Reels, November 6, 1844, Docket No. 245, CCDC.

into debt without the consent and joint agency of their husbands, few married women left estates that required much administration. Additionally, through custom, surviving husbands simply expanded their financial activities to cover and finish any business their wives left after their death. Separate property transactions had required the husband's joint agency and could more easily be settled by him. The surviving husband had always controlled all community and separate property transactions, with the exception of obtaining the wife's permission.[119] Any lawsuits, contracts, or debts to or against the community property, however, were almost always exclusively in the husband's name, so widows were more likely to take out administrations to finish the business. Unlike a surviving husband who simply finished the business he had assumed on behalf of himself and his wife, a widow often had to establish her right to conduct that business.

Laura McNeill's decision for the future was to assume the legal and financial responsibilities her husband had left behind. Despite other factors that might have served to intimidate her from entering the courtroom, four months after John McNeill's death, Laura McNeill applied for letters of administration on his estate and posted a $6000 bond.[120] McNeill was one of the last widows to become the administrator of her husband's estate in the frontier era of Colorado County.

---

[119] As will be discussed in the next chapter, in 1856 a statute clearly stated that "it shall not be necessary for any surviving husband to administer upon the community property of himself and his deceased wife, but he shall have the exclusive management, control and disposition of the same after her death in the same manner as during her life...." Oldham and White, p. 194.

[120] Estate of John Shelby McNeill, December 27, 1852, Probate Minutes, Book D, p. 111, and Probate Final Record, Book D, p. 590, CCCC.

Although she sat at the very edge of the transition to the antebellum era, her decision to administer her husband's estate was typical of the frontier period. Over half (53 percent) of the forty-three widows whose husbands' estates required administration in this era acted as sole administrators of the estate. Another four (9 percent) served as sole executors, and eleven (26 percent) served as co-administrators. Only five widows out of forty-three (12 percent) did not actively participate in the court settlement of the legal affairs of their deceased husbands.[121]

Of the thirty-eight widows acting in the estates of their husbands, four were appointed executors of their husbands' wills and estates. A total of twelve men left wills in this period, but only four who wrote wills had surviving wives. Three testators appointed their wives sole executors in their will, and their wives all chose to accept the position. One other testator appointed his wife co-executor, naming two men to administer with her. She chose to accept the position, but neither of her co-executors did, allowing her to act as sole executor. Frontier husbands trusted their wives with their estates, and the widows all agreed that they could handle the duties.[122]

For those widows whose husbands did not leave their last wishes in a will, twenty-three, including Laura McNeill, decided to take the sole responsibility for the business of the estate. In most cases, the responsibility that they took on was daunting. First, an administrator had to post a bond at least equal to double the

---

[121] Probate Records and Minutes, CCCC.

[122] Estates of Bernard Beimer, James Dickson, George William Brown, and James M. Caller, Probate Minutes and Probate Final Records, CCCC. James Dickson appointed two men to co-execute the will with his wife, Ellender.

estimated value of the estate. Then she had to oversee the initial appraising of the estate, submit periodic inventories, petition the court at the correct times for sale of property, sell the property at public sales, publish notice to all potential creditors, settle accounts with all claimants, answer summons to court sessions, prosecute and defend suits the deceased had been party to before death, and instigate suits based on unrecoverable debts.[123]

A few widows filed their initial report in Probate Court and never returned. Perhaps in these cases, the estates did not really need administration, but the widow merely needed court authorization to perform some duty. For instance, Sophia L. Jesse's applied for letters of administration on her deceased husband Charles Jesse, posted bond, and asked for permission to cancel a contract Charles had made before his death, all in one day. She never returned to court to further administer the estate and was never challenged by other heirs.[124]

Other widows faced difficult challenges. The widow of Robert Stevenson was determined to control the administration of her husband's estate despite encountering one difficulty after another. Susan Ann Stevenson's husband had written a bad deed that needed to be corrected, the estate was bankrupt, and creditors continued to sue the estate. Instead of resigning her post, she hired an attorney, former County Judge

---

[123] Oliver C. Hartley, A Digest of the Laws of Texas. . . (Philadelphia, Thomas, Cowperthwait and Co., 1850), 325-40. In her study of widows administering estates in Virginia, Suzanne Lebsock points out that "there was nothing inherently satisfying, after all, in chasing debtors, in instigating litigation, or in any of the other chores that came with settling an estate." Lebsock, Free Women of Petersburg, 37 and 123.

[124] Estates of Charles Jesse, Walton Harvey, Jorge Cherry, and John Mallet, Probate Minutes, CCCC.

Kidder Walker.[125]

Ellender Earp similarly administered the very complex and troublesome estate of her deceased husband, William. Family turmoil poisoned the proceedings from the beginning. The probate court granted Earp guardianship of her and William's two children. Ichabod Earp, one of William's children from a previous marriage, challenged Ellender for guardianship of the other child in the family, also William's from a previous marriage, and won that guardianship. Ichabod Earp also petitioned the court for partition of the estate and raised questions about Ellender Earp's accounting of separate and community property. He maintained that much of what Ellender Earp claimed as community property, William Earp had acquired during his first marriage and therefore should be considered separate. The controversy caused the men who had pledged securities for bond to request permission to withdraw. Ellender Earp then had to find further security, which took her more than one term of the court. After "having given new bond and approved security as required by [the] previous order," in June 1844 Ellender challenged the inventory that court-appointed commissioners had made of the property. The court favored her suit: "Therefore upon the premises of law and equity, the administratrix Ellender Earp be and she is forever discharged from all liability to said estate of more than four hundred bushels of said corn at one dollar per bushel." The original inventory had listed 800 bushels. Unlike Susan Ann Stevenson, Ellender Earp did not seek the legal assistance of a

---

[125] Estate of Robert Stevenson, January 29, 1844 and February 6, 1844, Probate Minutes, Book B; May 26, 1845 and June 30, 1845, Probate Minutes, Book C; Final Probate Record, Book B, pp. 344-46, 423, 438, and 449, CCCC.

lawyer or joint administrator. For over three years and at least eleven court appearances, Ellender served as sole administrator. Even when she remarried two years after her first husband had died, the court records show that Ellender appeared to pursue and administer the case.[126]

Fourteen of the twenty-three widows who solely administered estates also pursued or defended cases in District Court, averaging about three cases per estate. Susan P. Carter, for instance, eventually found herself involved in nine District Court cases as administrator of her husband Amsted's estate. One case had been filed before his death, she filed seven more to recover debts, and in one she defended the estate.[127] Other women, like Ellender Earp, suffered challenges from other heirs, creditors, and frequent problems with security bonds in Probate Court. Isabella Adair even found herself challenged in both courts by another woman claiming to be her husband's "true" legal wife.[128]

Despite the difficulties, the majority of widows administered estates. Some did so to save money and others to make it. Executors and administrators generally were not expected to work from duty or charitable feeling alone. It could be a profitable enterprise. Texas' 1840 Act provided that "executors, administrators, and guardians,

---

[126] Estate of William Earp, June 27, 1842, August 30, 1842, December 26, 1842, December 27, 1842, February 2, 1843, May 29, 1843, July 31, 1843, September 23, 1843, October 30, 1843, November 27, 1843, and June 24, 1844, Probate Minutes, Book B, p. 128 and Final Probate Record, Book B, 209.

[127] Docket File Nos. 633, 863, 927, 929, 930, 1332, 1436, 1437, 1524, CCDC.

[128] Estate of Joseph Adair, May 31, 1841, Probate Minutes, Book B, p. 11, CCCC; Petition, Elizabeth Adare vs. Isabella Cummins alias Adare, March 20, 1841, Docket File No. 203, CCDC.

shall, for their care, trouble, and attention in the execution of their several duties, receive or retain in their hands" about 10 percent of all the business that they transact.[129] This money no doubt was significant to widows of even small estates who were suddenly left to support themselves and their children. But the profits could not have been as large as the headaches for Ellender Earp, or especially for Susan Ann Stevenson who hired an attorney to settle the estate. Another motivating factor for administering an estate was that by efficiently settling it, more property was left to inherit. A less conscientious administrator might not collect as large a portion of the debts or track down all the debtors. In the estate of Robert Stevenson, though, efficient handling to insure a larger inheritance was not the motivating factor for his widow Susan Ann: the estate was bankrupt. From the percentage of profit allowed by law, she had to pay an attorney to sort out the tangled legal and financial mess.[130] Nancy Colwell, Isabella Adair, and Jamima Wright also administered the bankrupt estates of their husbands.[131] When the amount owed to creditors was more than the estate was worth, the homestead law provided certain protections for these widows. The Homestead Act, passed in January 1839, protected from creditors an amount of property of both those living and dead. It reserved for the insolvent, or the

---

[129] Hartley, Digest of the Laws of Texas, 337; see also Lebsock, Free Women of Petersburg, 37, 123.

[130] Estate of Robert Stevenson, January 29, 1844, Final Probate Record, Book, B, pp. 344-45, CCCC.

[131] Estate of Joseph Adair, December 12, 1840, Probate Minutes, Book B, p. 1; Estate of William Colwell, December 26, 1842, Probate Minutes, Book B, p. 75; Estate of William Wright, March 25, 1850, Probate Minutes, Book C, p. 240, CCCC.

insolvent's surviving spouse,

> fifty acres of land or one town lot, including his or her homestead, and improvements not exceeding five hundred dollars in value, all household and kitchen furniture (provided it does not exceed in value two hundred dollars), all implements of husbandry (provided they shall not exceed fifty dollars in value), all tools, apparatus, and books belonging to the trade or profession of any citizen, five milch cows, one yoke of work oxen or one horse, twenty hogs, and one year's provisions . . .[132]

The administrator arranged a sale of all other property, both personal and real, and paid the creditors a prorated portion of the debt. The widow administrators in Colorado County were often instructed to sell all property "except that portion exempt by law."[133] Susan Ann Stevenson's husband unfortunately did not leave her with any land, but the court set aside five cows and calves, "one horse called Jack," twenty head of hogs, farming material and implements, household and Victorian furniture, and one year's provisions, worth a total of $238.75.[134]

One obvious reason for widows to wish to remain in control of the administration despite the complications, was that those who avoided the burdens of administration had to worry about who would administer in their place. Widows might have been more willing to relinquish control of the estate when there were other reliable or competent men willing to take on the duties. Of the five frontier widows who chose not to execute, administer, or co-administer the estate, four of their

---

[132] Hartley, Digest of the Laws of Texas, 407.

[133] December 12, 1840, December 26, 1842, July 31, 1843, and February 6, 1844 in Minutes of the Probate Court, Book B.

[134] Estate of Robert Stevenson, January 14, 1844, Final Probate Record, Book B, 333, 344-45; June 30, 1845, Probate Minutes, Book C, p. 13, CCCC.

husband's estates did not have letters filed until after the widows had remarried. In all four cases, the new husband became the administrator. The other widow, Nancy Zumwalt, had a brother-in-law capable of and willing to administer the estate. Even in this case, two years after the final account was given and the administration closed this widow went back into court for permission to sell property to pay some debts, essentially acting as an administrator.[135] In December 1851 Rebecca Kuster officially declined the administration of her husband's estate in favor of her son. Just three weeks later, she applied for the letters of administration herself "based upon the refusal of my son to administer the same."[136] As discussed earlier, during the frontier era most families did not have grown children; and only few had other male relatives close enough to take on significant financial and legal duties. Just as women on the frontier acted in male roles by building homes and farms because they were the only adult besides their husbands, women acted in the public sphere of the courtroom because there too they were the only adult left in the family.

One option for widows who doubted their own abilities to handle all the legal and financial difficulties but were unwilling to relinquish all their authority over the estate was jointly to administer it. Eleven widows chose this option, about half the

---

[135] Estate of Noah Zumwalt, September 28, 1840 - April 24, 1843, Probate Minutes, Book A, p. 40; Probate Minutes, Book B, pp. 22, 25, and 86; Final Probate Record, Book B, p. 75, CCCC. The other estates were Naham Mixon, John McCrosky, Gabriel Strawschneider, and Robert G. Cummings. Robert H. Kuykendall also died leaving a widow, and although a partition of his estate was heard in probate court, apparently no letters of administration were granted.

[136] Estate of Francis Kuster, December 4, December 29, 1851, Final Probate Record, Book D, pp. 343-45, CCCC.

time serving with an administrator who did not claim to have any relation to the deceased. Four widows applied for letters of administration on their deceased husbands after they remarried, but instead of just allowing their husbands to serve, they served as co-administrators. The other two widows served with relatives. Even when they had a trusty alternative, not every frontier woman was willing to give up control over the estate.[137] Isabella Cummings (alias Adair, alias Izard) co-administered the estate of her first husband. When her second husband died, she administered his estate alone. By 1841, only two years after her first husband had died, she felt confident at handling both administrations alone and petitioned for the removal of the joint administrator of her first husband's estate.[138]

Age, ethnicity, and wealth did not seem to have an overwhelming influence on women's decision to administer in the frontier era. Unfortunately, very little is known about the five widows who declined to administer. But of the thirty-eight who did administer their husbands' estates, all ages, degrees of wealth, and both German and Anglo women were represented. The youngest widow to administer was fifteen

---

[137] Jamima Bartlett, Jane A. Naill, Nancy Colwell, Judith Callaway, Anna Clara Kleykamp Snider served with non-relatives; Mary Thompson Thomas, Catherine Schimmer Moeller, G. M. Damke Meier and Elizabeth Pieper served with their new husbands; Isabella Cummings served with a relative, while Susan A. Shepherd served with her son-in-law, Probate Files, Probate Minutes, and Probate Final Records, CCCC.

[138] Estate of Robert Gray Cummings, March 25, 1839, Probate Minutes, Book A, p. 17, January 25, 1841, Probate Minutes, book B, p. 5; Estate of Joseph Adair, December 12, 1840, Probate Minutes, Book B, p. 1, CCCC. Isabella's two estates were in the court minutes on twenty-two separate occasions.

while the oldest was fifty-five.[139] Of those whose ages can be determined, about half were thirty or younger. Their age did not seem to affect their decision whether to administer solely or jointly, either. As many women in the lowest half of the age range solely administered as in the top. No matter what their age, married women on the Texas frontier seemed equally willing to handle the business left behind by their husbands.

It is more difficult to determine the effect that wealth had on the decision of widows to administer. The overall population of Colorado County can be divided into roughly four quarters. Of all the cases probated in the frontier era in Colorado County in which the bond amount was recorded, 59 percent of the estates fell into the wealthiest top quarter of the population. Almost an equal percentage of estates (62 percent) administered or co-administered by widows fell into that top quarter. Not surprisingly, no estates from the lowest quarter were probated by either men or women. Widows also administered an almost proportionately even amount of those estates in the second and third quarters of wealth. Co-administering did not occur any more or less in the top quarter than in the lowest quarters.[140]

---

[139] While fifteen is technically a minor, once she married she was considered of majority and statute specifically protected a spouse's right to administer the estate of their spouse even when under twenty-one. ". . . provided, however, that such letters may be granted to a surviving husband or wife who may be under twenty-one years of age." Oldham and White, Digest of General Statute Laws, 166. Only two women served as administrator while under twenty-one.

[140] To determine the approximate wealth of estates, I have used bond amounts, inventory estimates, and/or census figures for those probated by widows. For all estates probated, I have used bond amounts only. Then I used the census to figure the estates approximate position of wealth in Colorado County. See Probate Records, CCCC and 1850 Census.

Significant differences arise, however, when looking at the top 10 percent. Twenty-six percent of all probated estates were in the top 10 percent of the population of Colorado County, while only 15 percent of the widows participated in probating cases in that population. In the second to lowest quarter of wealth, a similar discrepancy occurs: 13 percent of all estates came from this quarter, but widows only administered 6 percent. Of the widows who refused to administer their husbands' estates, the only two whose worth can be determined came, one from the top 10 percent and one from the second to lowest quarter of the population. Although most widows did not usually shy away from administering estates, large amounts of wealth might have intimidated them a little more and the smallest amounts of wealth may not have seemed worthwhile. However, the value of the estate was not the determining factor in the decision to administer since widows more often than not chose to administer even at the highest and the lowest rungs of wealth.[141]

Ethnicity affected the character of administrations, but not necessarily the decision to administer. Germans (immigrants or descendants of immigrants from German-speaking countries), in general, were less likely to have estates probated in county court than their southern and Anglo counterparts. Although approximately half the population, German decedents were roughly only a fifth of all estates probated in Colorado County. But when administrations were required, German widows were just as likely to be in court as not. Nineteen percent of the widows administering, co-administering, or executing wills were German. German widows served a public role

---

[141] See Probate Records, CCCC.

in their husband's estates in the same proportion as German estates appeared in court.[142]

The character of German widows' administrations differed somewhat. German women did not seem any more likely to decline administering their husband's estate; of the four declining widows whose ethnicity can be determined, only one was German. Many more Anglo widows served as sole administrators than co-administrators: 23 percent of all Anglo widows were co-administrators. However, German women were much more likely to choose co-administration; four of the eight German widows who probated their husbands' estate were co-administrators. During the frontier era, Germans were less likely to use the court system overall. In addition, German women who did not often venture into the public world had much less opportunity and motivation to learn English than German men. Widows who did want to serve as administrator, even if they spoke English, probably would want someone to assist them who spoke the language well and was better acquainted with the Texas courts and familiar with Texas law.[143] German women faced similar frontier situations to Anglo women and were as willing as Anglo women to take on financial, legal, and

---

[142] The rough figure is based on all identifiable German decedents whose estates required a bond. Seven of thirty-four active widows whose ethnicity can be verified were German: Rebecca Kuster, Sophia L. Jesse, Catherine Elizabeth Ketterman Beimer, Catherine Schimmer (also Moeller), G. M. Damke (also Meier), Elizabeth Simon (also Pieper), and Anna Clara Kleykamp (also Snider). See Probate Records, CCCC and 1850 Census.

[143] At least one of the widows, Catherine Schimmer Miller, did not know how to sign her own name. She marked instead of signing the required bond. Estate of Bernard Schimmer, May 26, 1850, Probate Final Record, Book D, p. 392-93, CCCC. Some eighteen years later, she still marked her legal documents. Bond and Mortgage Records, Book F, p. 440, September 9, 1868, CCCC.

other responsibilities in the public sphere when their husbands absented themselves or died.

The most striking aspect of frontier widows' administrations and choice to administer is that so many of them chose to do so. More frontier widows administered estates in Colorado County than during the antebellum, Civil War, or Reconstruction periods. Eighty-eight percent of the widows chose an active legal role in their husband's estates (as administrator, co-administrator, or executor) while only 60 percent of the widows in the other three time periods chose such a role. Most significantly, it is double the percentage of widows who took active legal roles during the antebellum era. In antebellum Colorado County, only six out of twenty-one widows solely administered the estate of their deceased husband, and only three more co-administered (43 percent). Over half, twelve, chose not to administer at all. The number of wills drastically increased in that era as well, from four written by men with widows in the frontier era (all executed by their widows) to thirteen in the antebellum--with only six executed or jointly executed by the widows (46 percent).[144]

Not only did frontier widows often not have available other male relatives to

---

[144] Colorado County widows might have been more reluctant than other southern women to administer estates. Suzanne Lebsock found in antebellum Petersburg, Virginia, that most women given a choice accepted the administration. Lebsock, Free Women of Petersburg, 120-22. In eighteenth-century Virginia, according to Gunderson and Gampel widows "rarely refused" their first right to administer an intestate husband's estate. See Joan R. Gunderson and Gwen Victor Gampel, "Married Women's Legal Status in Eighteenth-Century New York and Virginia," William and Mary Quarterly 3d series, 39 (January 1982), 119. However, in Colorado County, with the exception of the frontier period, a large number of widows refused to administer.

take on these roles, but the character of their marriages made women more responsive to taking on the task. Life on the frontier may have made women more self-reliant. Laura McNeill, for instance, had other male relatives nearby who could have taken on the responsibilities her husband left behind.[145] But just as she took up her husband's gun and hunting knife at his death, she and widows like her were less hesitant to take up other male roles as well. Even in the antebellum period as widows increasingly declined the business of administration, a marriage entered into in the earlier frontier period was more likely to produce a widow willing to actively engage in settling the estate. Of those few whose marriage dates can be ascertained, over half of the nine antebellum widows married before 1850 administered, co-administered, or executed their husbands' estates. Of those married after 1850 only one out of seven administered the estate. In other words, women widowed in the antebellum period, but married for at least two years in the frontier era, were more likely to take on a public role in their husband's business after his death.[146]

If frontier widows were so willing to take on male roles even in court after the death of their husbands, they might have been willing and able to do so before their death. The judges of the District Court did not recognize this willingness or ability, however, allowing a married woman to conduct business only in the absence of her husband and to enter the courtroom only with the consent of her husband. Widows in Probate Court, acting nearly unanimously in their own behalf, no doubt influenced the

---

[145] Sarah Mirah Thatcher to Fannie Thatcher, Eagle Lake, August 25th 1852, in Cox, comp., Pioneer Texans, 174.

[146] Marriage Records, Probate Records, CCCC.

judge of that body to have different expectations of women, even when the widows remarried. Widows of husbands whose estates required court action in Colorado County before 1853 tended to remarry more quickly than during any other period. Sixty-five percent of the widows in the frontier period remarried before the administration of their husband's estate was completed, whereas in all the other periods only 13 percent of widows did so. Administrations lasted longer during the frontier era than they did in other eras, an average of 4.1 years compared to 2.5 in the antebellum or 2.3 years during the Civil War.

Long administrations and quick remarriages presented many situations in which married women continued (or began) the administration of their previous husbands' estates. Texans may have believed that a wife should allow a husband to conduct the business of the public sphere if he competently fulfilled that role. At the same time, in the passage of the Married Women's Property Act, they also recognized married women's contributions to building a couple's wealth and that she deserved a portion and some control of it.[147]

A widow might have earned her right to possess and control property in her actions during marriage and after, but by law and custom her new husband assumed all the duties of the public sphere. Still, the statute clearly allowed a widow to be administrator of an estate: "Whenever a married woman may be appointed executrix

---

[147] According to McKnight, the Spanish law system appealed to Texans for the very reason that it allowed the wife to become co-owner of property acquired during marriage "and comported with the realities of frontier conditions under which both spouses stood together against natural and human forces." McKnight, "Texas Community Property Law," 79.

or administratrix, and shall wish to accept and qualify as such. . . ." The new husband was required to join in executing a security bond, but "such bond shall bind her estate in the same manner as if she were a feme sole. . . ." In language reminiscent of the married women's property act, it also required that "whenever an executrix or administratrix may be a married woman, she and her husband shall act jointly in all matters pertaining to her said representative capacity."[148] Allowing her to administer but requiring her husband's approval on all actions did not seem to the legislators to be a contradiction. Exactly what the joint action of the husband was to be was left up to the probate court.

Petitioners presented and judges allowed a variety of interpretations of that matter. Of the four widows who began the administration after remarriage and co-administered with their new husbands, three exhibited their own agency at some point in the proceedings. Mary Thomas petitioned for the removal of the previous administrator and was appointed in his place. Her new husband's name was later added as co-administrator.[149] Elizabeth Pieper took to heart her duties as administrator; her petitions referred to herself as the administrator who conducted the business. "Your petitioner represents that she as administratrix aforesaid proceeded to pay and has paid all debts due by deceased in his lifetime and also all debts accruing at and after his death. . . ." At the bottom of the petition was an addendum: "And Peter Pieper husband of the said Elizabeth Pieper and Saml. J. Redgate joint

---

[148] Oldham and White, Digest of General Statute Laws, 172 (emphasis added).

[149] Estate of John P. Thompson, May 4, 1839, Probate Minutes, Book A, p. 22, CCCC.

administrators of the estate aforesaid join in the above petition."[150]

Catherine Schimmer Miller did not attempt an administration of the estate of her first husband until after she had remarried, less than a year after Bernard Schimmer's death. In 1851 the judge entered the decree that

> in the matter of the petition of William Miller and Catherine Miller praying that the said Catherine be appointed admx of the estate of Bernard Schimmer, decd., it appearing to the court that the legal notice has been given and that said Catherine Miller is a suitable person to conduct said admn and legally entitled to the same it is ordered, adjudged, and decreed by the court that letters of administration shall issue to the said Catherine Miller on her and the said William Miller giving bond in the sum of fifteen hundred dollars with approved security. . . .[151]

The decree clearly indicates that Catherine Miller was considered the administrator of the estate, and her husband was not named as co-administrator or even "joined" in the suit. On the approved bond, Catherine Miller was listed alone as the principal, Casper Heimann and A. Mirator as sureties, and "William Miller as the husband of the said Catherine. . . ."[152]

Similarly, some widows who married after beginning administration of the estate continued to be actively involved in the process. Of seventeen widows who remarried before the end of their administration, at least eleven exhibited some type of individual agency in the courtroom. Isabella Izard married twice during her

---

[150] Estate of Kaspar Simon, August 27, 1849, Probate Minutes, Book C, p. 195, CCCC.

[151] Estate of Bernard Schimmer, June 30, 1851, Probate Minutes, Book D, p. 18, CCCC.

[152] Estate of Bernard Schimmer, June 30, 1851, Final Probate Record, Book D, pp. 392-93, CCCC.

administration of her first husband Robert Cumming's estate. Controversy surrounded her as she administered her second husband Joseph Adair's estate as well, and that administration was contested by his other wife. Isabella Izard, however, despite a third marriage struggled through the administration and the resulting court cases as the sole petitioner, so recognized by the court despite her legally feme covert status.[153] Court minutes never noted whether Nancy Slaughter's new husband ever appeared in court with his wife. She continued her petitions and business in the court after remarriage, and the only change was her name.[154]

Although the probate court allowed widows who remarried more liberty to conduct business and petition the court in their own behalf, it was not so lenient with other women. When Ann Elizabeth Stockton attempted to challenge the men who were executing her father's will, her most difficult obstacle was finding status in the law under which to petition. First, she was still a minor, so she sued by a "next friend," Richard Stockton. However, when only she appeared in court to sue, Richard Stockton was summoned. He appeared in court and asked the judge to dismiss the suit because he "never authorized said suit to be instituted or prosecuted in his name." When Ann Stockton married a very short time after filing the petition, she was no longer considered a minor by law, but she was then a feme covert. Her suit was then dismissed for "informality," because it was not brought also in her husband's

---

[153] Estate of Robert Gray Cummings, March 25, 1839, April 29, 1844, and other dates, Probate Final Record, Book B, p. 368, CCCC.

[154] Estate of Thomas Slaughter, September 5, 1838, August 15, 140 and other dates, Probate Minutes, Book A, pp. 11 and 38, CCCC.

name.[155]

Although judges in both county and district courts discouraged and disallowed independent activity by married women, widows, even married widows, found more room to maneuver within the law. Their abilities to conduct business and legal proceedings in their own interest and their own behalf were not questioned or challenged by the courts. The probate judges exhibited less concern in protecting them from themselves, and recognized the widows' rights and interests in their former husbands' estate.

DIVORCE

Frontier widows in Colorado County were not the only women who functioned in the public sphere. As discussed above, the District Court recognized that some married women had to conduct business and legal transactions in order to survive because of the permanent or temporary absence of their husbands. Women on the frontier who were without husbands faced special difficulties and circumstances that statutes and the courts eventually sought to alleviate.

For example, complications arose from an abandonment. In August 1837, less than a year after Joannah McCrabb's second husband died, William Dunlap "induced" her to marry yet again. The couple lived together for three months during which time "the treatment of the said William was cruel, violent, and unkind to her." William

---

[155] Estate of Benjamin F. Stockton, January 24, 1852, March 28, 1853, Probate Final Record, Book D, p. 411, Probate Minutes, Book D, p. 137, CCCC.

attempted several times to compel her "to deliver to him the said William her money and other articles of value." When she would not give her husband her money and other valuables that she had accumulated with her previous husbands, William abandoned her. Before he left, however, he confessed to Joannah that he had been married three previous times "and that his wife was still living."[156] Left again to her own devices in late 1837, Joannah confronted a problem her already difficult life had not before presented. Even though her husband had abandoned her, they were still legally married. She could, therefore, not remarry; there was no legal way to add an adult male to her family. Joannah was without a husband and unable to marry another.

Because of the lack of economic opportunities for wives, abandoned women on the frontier were especially vulnerable because they could not remarry. When Louisa Muller filed for divorce in 1843, she complained that her husband had "failed to provide the food necessary to sustain life," that he finally abandoned her, "and she is now dependent upon her own labour and charity of her friends for a support."[157] Her labor alone could not support her. Six of the thirteen women who filed for divorce in the frontier era complained that their husbands abandoned them without support.

Like many widows, Joannah's need to remarry had pressured her into a bad marriage. In 1838, however, Joannah found herself alone with her family before

---

[156] Petition, February 10, 1840, Joannah Dunlap vs. William Dunlap, Docket File No. 138, CCDC.

[157] Petition, Louisa Muller vs. Frederick Muller, August 16, 1843, Docket File No. 240, CCDC.

Texas courts had recognized any uniform divorce law. Spanish and Mexican law had forbidden divorce altogether, and in the tumultuous events of the first few years of the Texas Republic, legislators and constitution-makers did not make it clear exactly how Texans were to obtain divorces. The Texas congress granted quite a few divorces in those first few years. Sam Houston, the new president, set a precedent for district courts to grant divorces when he issued a proclaimed that a district judge could hear Houston's own case and had the power to grant his divorce.[158] The illiterate, financially strapped, and burdened-with-family Joannah had no resources to discover these possibilities for obtaining a divorce. With remarriage virtually eliminated as a possibility, Joannah struggled for three years to supplement the farm income of her very large family by becoming a "public merchant or trader."[159]

Although Texas did not pass a divorce statute until 1841, Joannah did eventually file in District Court for and obtain a divorce from William in 1840. Joannah struggled under her disability for three years before pressing the courts to stretch its judicial boundaries for her benefit. Although the documents do not indicate if anyone acted as her lawyer, she had clearly made the acquaintance of a man who was somewhat acquainted with law, a Justice of the Peace in Colorado County whom she married only a few days after being granted her divorce. Additionally, her son William Dunlavy had reached an age that allowed him to serve on the jury that

---

[158] James W. Paulsen, "Remember the Alamo[ny]! The Unique Texas Ban on Permanent Alimony and the Development of Community Property Law," Law and Contemporary Problems (Spring 1993).

[159] Alfred Kelso vs. Jacob Tipps and Joannah Tipps, March 7, 1844, District Court Minutes, Book A&B, p. 211, CCDC.

annulled his mother's marriage with William Dunlap because of bigamy.[160]

The 1841 Texas divorce statute gave many men and women in Colorado County the opportunity to follow in Joannah's footsteps and apply for divorce. In the first half of the nineteenth century legislators and lawmakers throughout the South provided greater access to divorce in order to relieve victimized and wronged wives. Changing assumptions about gender roles and the rising ideal of companionate marriage highlighted the injustice of virtuous women forever tied to deserting or otherwise degenerate husbands.[161] Southern states, which had previously required an act of the legislature to obtain a divorce, offered relief to women by moving the divorce process to the less intimidating local or judicial level, instead of the legislative level. In many states, the period of time for divorcing on the ground of desertion was shortened, which was especially helpful to women abandoned by their more mobile husbands. Furthermore, cruelty clauses were added or enlarged in scope, either by

---

[160] Petition, Joannah Dunlap vs. William Dunlap, February 10, 1840, Docket File No. 138; Joannah Dunlap vs. William Dunlap, April 27, 1840, District Court Minutes, Books A&B, p. 55, CCDC. Marriage Records, Book B, p. 18, CCCC.

[161] Jane Tuner Censer, "'Smiling Through Her Tears': Ante-Bellum Southern Women and Divorce," American Journal of Legal History XXV (January 1981), 27; Lawrence B. Goodheart, Neil Hanks, and Elizabeth Johnson, "'An Act for the Relief of Females. . .': Divorce and the Changing Legal Status of Women in Tennessee, 1796-1860, Part I," Tennessee Historical Quarterly, 44 (No.3, 1985), 322-23; Sally McMillen, Southern Women: Black and White in the Old South, (Arlington Heights, Ill.: Harlan Davidson, Inc., 1992); Robert L. Griswold, "The Evolution of the Doctrine of Mental Cruelty in Victorian American Divorce, 1790-1900," Journal of Social History 20 (Fall 1986), 127; Norma Basch, "Relief in the Premises: Divorce as a Woman's Remedy in New York and Indiana, 1815-1870," Law and History Review, 8 (Spring 1990), 1-24. For the importance of the ideal of companionate marriage in the South, see Jane Turner Censer, North Carolina Planters and Their Children: 1800-1860, (Baton Rouge and London, Louisiana State University Press, 1984), 72-73.

statute or by judicial opinion, giving typically physically weaker women opportunities to legally end abusive relationships. When Texas legislators finally addressed divorce, it did so in the midst of this liberalizing trend and as a result had one of the most liberal of the southern divorce statutes. Local district courts granted divorce, official abandonment occurred at only three years, and the cruelty clause was one of the broadest available.[162] The other grounds for divorce were adultery by the wife and adultery by the husband if he abandoned his wife to live with another woman. [163] Both parties regardless of guilt could remarry.

The new divorce law did help a few women in Colorado County sever ties with their husbands and allow them to remarry. Six of the thirteen women who filed for divorce cited abandonment as one of their complaints against their husbands. However, three years on the frontier was still a very long time for a woman to wait for a divorce and thus have the opportunity to remarry. All six women filed for divorce before the requisite three years had elapsed since the abandonment, and

---

[162] Goodheart, Hanks, and Johnson, "An Act for the Relief of Females," 323, 404-05. Also see Christopher Lasch, "Divorce and the 'Decline of the Family'" in The World of Nations (New York, 1973), p. 39; and Censer, "Smiling Through Her Tears," 46-47; Richard H. Chused, Private Acts in Public Places: A Social History of Divorce int he Formative Era of American Family Law, (Philadelphia: University of Pennsylvania Press, 1995), 7-11. Frontier southern states such as Tennessee and North Carolina generally had more liberal divorce laws than the older established southern states. McMillen, Southern Women, 46; Goodheart, Hanks, and Johnson, "An Act for the Relief of Females," 320; Mary Somerville Jones, An Historical Geography of the Changing Divorce Law in the United States, (New York and London: Garland Publishing, Inc., 1987), 30-31. Jones shows in a later period in the western United States that the more liberal laws and frontier regions did not necessarily lead to an increase in divorce. Jones, 166-71.

[163] Hartley, [ed.], Digest of the Laws of Texas, 282.

therefore they could not be divorced on those grounds. Joannah Dunlap received an annulment on the grounds of bigamy, while Louisa Muller and Caroline Kahnd won a divorce on the grounds of cruelty. Julia Shoemaker and Virgillia Woolsey could not find other grounds for divorce and had their cases dismissed.[164]

Only one woman, Elvira Perkins, who cited abandonment in the frontier era actually won her case on that grounds. She had originally filed for divorce less than a year after her husband left and charged him with cruelty. Elvira let the case be continued until three years had elapsed since his abandonment, and then filed an amended petition to receive her divorce.[165] She probably did so on the advice of her lawyer or the judge because without a solid case the odds were against her winning on the grounds of cruelty. Despite the fact that the Texas divorce statute was modeled after laws in other states that expanded the cruelty clause to benefit women, it was men who reaped the benefits from this grounds for divorce in frontier Colorado County. The cruelty clause had no inherent gender bias; district court judges could grant either the husband or wife a divorce for "excesses, cruel treatment, or outrages towards the other, if such ill treatment is of such a nature as to render their living together insupportable."[166] Nevertheless, during the frontier period judges and juries

---

[164] Joannah Dunlap vs. William Dunlap, April 27, 1840, Caroline Kahnd vs. Jacob Kahnd, October 19, 1848, Louisa Muller vs. Frederick Muller, September 5, 1843, Julia Shoemaker vs. James Shoemaker, October 4, 1846, Virgillia Woolsey vs. Abner Woolsey, September 1, 1845, District Court Minutes, Book AB, pp. 55, 402, 194, 290 and 276 respectively, CCDC.

[165] Petitions, Elvira W. Perkins vs. Jasper Perkins, October 20, 1848 and April 2, 1850, Docket No. 546; October 20, 1848, District Court Minutes, Book AB, p. 409; April 2, 1850, District Court Minutes, Book C, p. 771, CCDC.

[166] Oldham and White, Digest of General Statute Laws, 149.

at the local level in Colorado County interpreted the cruelty clause to men's benefit.

Jesse Robinson's divorce from his wife Sally in 1843 involved a man taking advantage of the liberal interpretation of cruelty to win a divorce. Jesse did not claim that Sally threatened him or physically abused him in any way. Rather, Sally committed cruel acts against her husband by refusing to live up to the nineteenth-century ideal of true womanhood and its basic tenets: piety, purity, domesticity, and submissiveness.[167] In addition to being a "scold and termagant" (not submissive), he alleged that "she conducted herself towards other men with the most unjustifiable familiarity" and committed adultery (not pure), and abandoned her husband and one of her children (not domestic). Jesse did not have to prove that Sally committed adultery; the jury granted the divorce "on the grounds of excesses and cruel treatment on the part of the Defendant."[168] Sally was certainly no saint. Her later life became the grist for legends. Better known as Sally Skull, she became ". . . notorious for her husbands, her horse trading, freighting, and roughness." She was a sure shot, a "champion cusser," and loved poker and dancing -- definitely not a typical nineteenth-century southern lady.[169] Her cross-bill for divorce denied the allegations, but it was

---

[167] Barbara Welter, "The Cult of True Womanhood: 1820-1860," American Quarterly, 18 (Summer 1966), 151-174; Goodheart, Hanks, and Johnson, "An Act for the Relief of Females," 332.

[168] Petition, Jesse Robinson vs. Sarah alias Sally Robinson, February 1, 1843, and Jury Finding, March 8, 1843, Docket No. 220; District Court Minutes, Book AB, March 8, 1843, 161-62, CCDC.

[169] J. Frank Dobie, "A School Teacher in Alpine," Southwest Review, XLVII (Autumn, 1962), pp. 273-74, quoted in Dan Kilgore, "Two Sixshooters and a Sunbonnet: The Story of Sally Skull," in Francis Edward Abernethy, ed., Legendary Ladies of Texas, (Denton: University of North Texas Press, 1994), 70 (first quote); Texas Historical Marker dedicated to Sally Scull reprinted in Kilgore, "Two

much more concerned with the division of property and custody of the children than with protecting her reputation from the scandal of divorce.[170]

Other women less flamboyant and notorious than Sally Skull also found themselves accused of cruelty for exhibiting behavior deemed improper for a woman. John Hope at first attempted to win a divorce based on abandonment and charged that Rusha "left the house of your petitioner about three years since." Rusha, in actuality, had never left Florida where they had previously lived together. While other men successfully abandoned their wives in other states and then quietly sued for divorce in Colorado County, Rusha Hope foiled John's attempt; she hired a lawyer and came to Texas to fight the divorce.[171] John then submitted a new petition. According to John, Rusha

> invariably wreaked her incorrigible temper and disposition upon [him] whenever in her reach . . . in a manner unbecoming her sex, a wife or a mother and disgraceful to humanity. She . . . would break forth into fits of furious jealousy and conduct herself more a fiend, than a human being, or a wife.[172]

In addition to referring to the obvious torment a mean temper could cause a spouse, John also relied on gender ideals to show that his wife stepped out of the roles considered suitable for "a wife or a mother." Like Jesse Robinson, John did not cite

---

Sixshooters and a Sunbonnet," 57 (second and fourth quote); Petition, Jesse Robinson vs. Sarah alias Sally Robinson, February 1, 1843, Docket File No. 220, CCDC (third quote).

[170] Answer, March 8, 1843, Jesse Robinson vs. Sarah alias Sally Robinson, Docket File No. 220, CCDC.

[171] Petition, November 23, 1840, John Hope vs. Rusha Hope, Docket File No. 137, CCDC.

[172] Amended Petition, April 28, 1841, John Hope vs. Rusha Hope, Docket File No. 137, CCDC.

physical violence or threats, but the jury considered him a "wretched victim" and found Rusha Hope "guilty of ill-treatment, excess and outrages," thus allowing the judge to declare the bonds of matrimony dissolved.[173] John evidently was delighted; he married again just three days later.[174]

James Dickson's primary complaint against his wife Hetty was "that she was in the habit when in company of using the most obscene and vulgar language such as the rule of society forbid. . . ." He procured the depositions of two witnesses who swore that they "heard Hetty use vulgar and very unbecoming language to her husband and in fact talk more than any woman I ever did hear talk to her husband. . . ."[175] James Dickson received his divorce. James, much like John Hope, had particular reason to rejoice at the jury's finding. He remarried twenty days later.[176]

Whereas men pursued and won divorces on grounds as slight as their wives' profanity or scolding language, women in frontier Colorado County had to prove a greater degree of cruelty in their marriage to receive a divorce. Ten women, compared to only four men, cited cruelty in their petitions as the primary justification

---

[173] Petition, November 23, 1840 and Amended Petition, April 28, 1841, John Hope vs. Rusha Hope, Docket File No. 137, CCDC. Rusha Hope hired an attorney to fight the divorce, see Writ of Scira Facias, August 6, 1844, A. M. Lewis vs. Rusha Ware and Thomas Ware, Docket File No. 137. She remained in the county after the divorce was decreed and married Thomas Ware on February, 29, 1844. Marriage Record, Book B, p. 52, CCCC.

[174] Marriage Record, Book B, p. 23, CCCC.

[175] Petition, May 8, 1843, Interrogatories, May 16 and August 1, 1843, James Dickson vs. Hetty Dickson, Docket File No. 227, CCDC; James Dickson vs. Hetty Dickson, September 5, 1843, District Court Minutes, Book AB, 176, CCDC; Gammel's Laws of Texas, 483-86.

[176] Marriage Record, Book B, p. 47, CCCC.

for their suit for divorce. However, the wives enjoyed a much lower success rate than the husbands in obtaining the divorce. Two cases were voluntarily withdrawn after a year or two of protracted legal opposition. The judge dismissed two cases before they reached a jury. Another wife lost the case when her husband counter-sued, charging her with adultery. The four successful cases in this frontier period, less than half those brought on the grounds of cruelty, demonstrate what constituted "excess and outrage" against a wife by a husband.

Two of the four cases described physical abuse. According to Margaret Pinchback, her husband James "without cause or any provocation whatever, unlawfully beat and bruised" her and drove her from their home "with the marks of the rod upon her body inflicted by his cruelty and abuse."[177] Mary Dresler complained that her husband made an "attack upon her person with a drawn knife in his hand threatening to take her life and inflicted severe blows and bruises on her body with his fist and with a large club," and that he attacked and beat their daughter.[178] Significantly, both causes include rewritten petitions. After their first appearance in court, these wives submitted amended petitions placing more emphasis upon the physical and threatening nature of their relationship. Both cases received continuances, allowing the plaintiffs to amend their petitions.[179] Margaret

---

[177] Amended petition, August 24, 1844, Margaret Pinchback vs James Pinchback, Docket File No. 322, CCDC.

[178] Amended Petition, April 16, 1852, Mary Dresler vs. Henry Dresler, Docket File No. 739, CCDC.

[179] Margaret Pinchback vs. James Pinchback, September 5, 1843 and September 3, 1844, District Court Minutes, Book AB, pp. 191 and 232 and Mary Dresler vs.

Pinchback's first petition had alleged only generic "divers acts of unkindness and ill treatment," instead of the detailed amended account that described her flight from home with "the marks of the rod upon her body." While Mary Dresler's first petition did include a description of her husband striking her with a chair, her second petition added the attack with the knife.[180] Another case documented no physical cruelty but alleged that the plaintiffs had reason to fear for their lives or safety.[181] Caroline Kahnd's husband "abused and ill treated her by threats of violence and [she] was only protected by the interposition of others from beatings and injur[y]. . . ."[182]

Only one petition filed by a wife cited no instances of physical abuse, threats of physical abuse, or viable legal grounds other than cruelty. Louisa Muller lived with her husband for only three months "during which time [Frederick] Muller treated her in a harsh, cruel & unkind manner." Like the men who alleged that their wives had failed to live up to expectations of womanhood, Louisa charged that her husband had failed his expected role of providing for his family. "He failed to provide the food necessary to sustain life" leaving her "in a destitute situation," and finally abandoned Louisa altogether. Abandonment for under three years alone did not constitute grounds for divorce, but a cruel manner combined with failing to support

---

Henry Dresler, April 13, 1853, District Court Minutes, Book C, p. 934, CCDC.

[180] Petition, Margaret Pinchback vs James Pinchback, August 4, 1843, Docket File No. 322; Petition, Mary Dresler vs. Henry Dresler, October 23, 1850, Docket File No. 739, both in CCDC.

[181] Petition, Elvira Perkins vs. Jasper Perkins, October 20, 1848, Docket File No. 546, CCDC.

[182] Petition, Caroline Kahnd vs. Jacob Kahnd, October 19, 1848, Docket File No. 541, CCDC.

his family apparently earned Louisa enough sympathy from the jury for a verdict in her favor.[183]

Although this case brought by a wife on the sole basis of non-physical cruelty was granted, three other petitioners who did not demonstrate physical cruelty or threats of such cruelty did not obtain divorces. Virgillia Woolsey, whose husband had abandoned her for less than three years, claimed her husband was "guilty of great excesses, cruel treatment, and outrages," but she did not claim he was dangerous to her health. Her suit never reached the jury; the judge dismissed her case and ordered her to pay the court costs.[184] Another unhappily married woman, Susan Bostick, brought suit against her husband Sion in 1851. She charged that he "refused to recognize or speak to her" for over a month and that "he drove her from his house and home, and has repeatedly declared since that he will never speak to nor live with her again. . . ." Sion evidently wanted the divorce as much as Susan did, since he later filed actions twice to obtain it. However, a great deal of property was involved and guilt would greatly influence its distribution, so Sion fought Susan's divorce action. At the next term of the court, the judge dismissed Susan's case entirely.[185]

During the frontier period, women in Colorado County might have won as

---

[183] Petition, Louisa Muller vs. Frederick Muller, August 16, 1843, Docket File No. 240, CCDC.

[184] Petition, Virgillia Woolsey vs. Abner W. Woolsey, May 22, 1845, Docket File No. 381, CCDC.

[185] Petition, Susan Bostick vs. Sion Bostick, October 17, 1851, Docket File No. 709; District Court Minutes, Book C, March 30, 1852, p. 878, both in CCDC. The court records do not specifically state why these cases were dismissed. When a plaintiff would decide to no longer pursue case, a notation to that effect would be made. When the parties reached agreements, this would also be noted in the records.

many divorces based on cruelty as did men, but women also lost more cases on that ground. Ill treatment by a wife and ill treatment by a husband were based on gender assumptions of how men and women should behave. Husbands did not need to prove much more than that their wives used profane language, had a jealous temper, or otherwise deviated from societal expectations of women, even in contested cases. By comparison, a husband could curse his wife, drive her from the house, and vent an impossible temper upon her and still successfully block his wife's suit for divorce. Wives seemingly could not win contested cases unless the abuse was life-threatening.[186]

The double standard in cruelty cases worked against women only during the frontier era of Colorado County. Three of the four men who won divorces on the grounds of cruelty all did so before 1848, when the Texas Supreme Court handed down a decision stating that only threats to the life or health of the victim should be considered cruelty.[187] The fourth frontier male to divorce on the grounds of excesses and outrages after 1848 vaguely and unconvincingly claimed he feared physical

---

[186] Only one divorce action brought by a wife, contested by the husband, was won. In this case she charged physical abuse of herself and of her daughter. For evidence of the husband's contest of the divorce see Petition for Continuance, Mary Dresler vs. Henry Dresler, April 13, 1853, and Answer, April 14, 1853, Docket File No. 739, CCDC.

[187] Robert L. Griswold, "The Evolution of Doctrine of Mental Cruelty, 130; Censer, "Smiling Through Her Tears," 28-29 and 34-35. Griswold maintains that in the 1840s cruelty was considered by judges to mean just physical cruelty and that thereafter it gradually came under attack. In Texas, lower courts had the ability to interpret cruelty as mental suffering until the Supreme Court guided them to do so no longer, which it did in 1848. Later, cruelty was broadened by the Texas Supreme Court in a way which favored women much more than the local district court did, i.e. by allowing a false charge of adultery to be considered cruelty.

violence. His wife "did curse, swear at, and threaten to beat and maltreat your petitioner and other wrongs and outrages. . . ."[188] Only two other men received a divorce under the cruelty clause before the end of Reconstruction: both charged that their wives abused not them, but the children from the husbands' previous marriages.[189]

Cruelty offered more opportunity for men to divorce women than for women to divorce men. Yet the bias in the grounds of cruelty was not the only reason for the higher success rate among male petitioners. Twenty-two petitions in total were filed during the frontier era and fourteen divorces were granted (63 percent). Women filed more of these petitions than men (thirteen by women, nine by men), and received fewer divorces (six to women, eight to men). To an extent, the high population ratio of men to women in the county increased the number of men's petitions and also the chance of their success, as many married men in Colorado County had left their wives behind. The ground of abandonment especially worked in men's favor since they could leave their wives behind and three years later file for divorce. Four of the men who won divorces specifically stated that their marriage had actually ended elsewhere, usually in another southern state. These men had moved west, leaving a family behind, and they sought and won legal divorces even after abandoning their own

---

[188] Petition, Reuben Bonds vs. Darcas Bonds, April 1, 1850, Docket File No. 650, CCDC.

[189] Petition, Moses Townsend vs Rebecca C. Townsend, September 26, 1857, Docket File No. 1267; Petition, Thadeus W. Hunter vs. Tempie J. Hunter, September 16, 1873, Docket File No. 2995, CCDC.

wives.[190] The grounds of adultery also favored men's success since the husband had to prove only a single act of adultery. A wife on the other hand could divorce her husband for adultery only if he abandoned her and lived with another woman. As a result, no frontier wives cited adultery by their husbands in their petitions, whereas over half the men complained that their wives had committed adultery or "received the addresses of divers other men."[191]

Another possible reason for men's greater success than women in the divorce court was that some women used the divorce proceeding not because they truly wanted to be single with the limited options that position offered, but because they wanted to force their husbands to support them or behave in a financially responsible way. Polly Reels claimed that her husband "neglected to furnish her with the necessaries of life although appropriating to his own her individual estate."[192] Margaret Zimmerschitte filed for divorce because her husband Frederick ". . . has been and still is waisting [sic] away in intoxication and dissipation all the property that he can possibly so dispose of and that to no advantage to himself or family. . . ." Over half of her petition was dedicated to detailing the property that they owned and that which

---

[190] Petition, John Hope vs. Rusha Hope, November 23, 1840, Docket File No. 137; Petition, James Dickson vs. Hetty Dickson, May 8, 1843, Docket File No. 227; Petition, Joesh Otto vs. Geshe Otto, October 23, 1850, Docket File No. 666; and Petition, Richard Insall vs. Caroline Insall, January 27, 1851, Docket File No. 690, CCDC.

[191] Petition, Wingate W. Woodley vs. Elizabeth Woodley, April 22, 1842, Docket File No. 204, CCDC.

[192] Petition, Polly Reels vs. Patrick Reels, August 29, 1843, Docket File No. 245, CCDC.

he had wasted.[193] Both women also charged their husbands with cruelty and presented convincing evidence of physical abuse of the type that won divorces for other women. Zimmerschitte's husband threatened to shoot her and assaulted her with an axe, "inflicting a severe wound [on her hand] and permanently disabling her. . . ." He also threatened her with the axe "whereby she was put in fear that he would kill her."[194]

But Margaret put aside all her fears, dropped the suit, and lived with her husband again when he agreed to transfer all of their property to more reliable relatives.[195] The importance of property in these proceedings is still evident nine years later, when, after her husband's death, Margaret wrote to her daughter

> I know well if murderers had shot me, my family would shed few tears. Why--I know it and many know it unfortunately. . . . If I had let my husband do as he wanted, I would have had no quarrels and would have had none with you either. Then you would not have had a foot of land nor would I either.[196]

Because Margaret had lived through years of bad times as a German immigrant in Texas, and feared "in their old days com[ing] to want and sufferance," she chose to use the threat of a divorce action to challenge her husband's control of their

---

[193] Petition, Margaret Zimmerschitte vs. Fredrich Zimmerschitte, May 24, 1848, Docket File No. 538, CCDC.

[194] Petition, Margaret Zimmerschitte vs. Fredrich Zimmerschitte, May 24, 1848, Docket File No. 538, CCDC.

[195] Margaret Zimmerschitte vs. Frederich Zimmerschitte, District Court Minutes, Book C, April 6, 1850, p. 782, CCDC.

[196] Margaret Zimmerschitte to Josephine Leyendecker, January 1, 1857, anonymous translation, Leyendecker Family Papers, Center for American History, University of Texas (hereinafter Leyendecker Family Papers).

property.[197] Although the details are less clear, Polly Reels also came to an agreement with her husband at least part of which was financial, and he paid the costs of the suit after she dropped it.[198]

Although their concerns were clearly financial, neither Zimmerschitte nor Reels could pursue a divorce solely on the grounds of financial mismanagement or even lack of support. Failing to support one's wife was not a ground for divorce, but it was a nineteenth-century expectation of a husband's duties. Wives should be pure and submissive, and in return husbands should financially support them. Yet, there were some legal remedies for women whose husbands did not support them. A wife could contract or enter debt for family necessaries for herself and children, if she could convince someone to advance her credit or supplies, and her husband remained legally responsible. By 1848 the Texas legislature passed a law enabling wives who had separate property to complain to the county court "should the husband refuse or fail to support his wife from the proceeds of the lands or slaves she may have, or fail to educate her children as the fortune of the wife would justify. . . ."[199] For Polly Reels, this statute came too late -- she complained to the District Court in a divorce petition in 1843. Margaret Zimmerschitte, however, never would have benefitted from such a law. Her complaints were about how her husband handled their joint property, not

---

[197] Petition, Margaret Zimmerschitte vs. Fredrich Zimmerschitte, May 24, 1848, Docket File No. 538, CCDC (quote); January 1, 1857, anonymous translation, Leyendecker Family Papers.

[198] "suit dismissed by agreement" Polly Reels v. Patrick Reels, September 3, 1844, District Court Minutes, Book A & B, p. 233; Execution of Judgment, Polly Reels v. Patrick Reels, November 6, 1844, Docket File No. 245, CCDC.

[199] Oldham and White, Digest of General Statute Laws, 313.

her separate property.

Divorces occurred across lines of class and wealth. Women with wealth, like Zimmerschitte and Reels, were concerned with keeping property or wealth and having access to it. Poorer women, like Mary Dresler who took the poverty oath in order to pursue her case without posting bond, wished to have a legal option of remarrying and have assistance in making a living. The parties to divorce proceedings were distributed nearly equally among categories of wealth. Four divorces were filed by people in each of the lowest three quarters of the population in terms of wealth. Parties in the top quarter filed six suits, with two of those being in the top 10 percent. Divorce might have been an opportunity for poorer women to financially better themselves by remarrying, but it was also an opportunity for couples with wealth to settle property questions. Of the female petitioners in divorce, a much higher percentage came from the upper two classes than divorces overall. The six successful divorce suits brought by women, though, were distributed equally across lines of wealth.

Germans made up half of the Colorado County population in the frontier era, but less than half of the divorce petitions were filed by Germans. Forty-one percent, or nine of the twenty-two divorces were filed by Germans. Considering that Germans overall used the District Court less than Anglos in this period, this figure suggests that there was not much of a cultural difference in respect to divorce. However, eight of the thirteen divorces filed by women were German and half of their cases were successful. German women were more likely than German men or Anglo women to

seek divorce or take their husbands to court to gain concessions. German women were as likely to face abandonment as Anglo women in Colorado County: five of the eight cases claimed abandonment or failure to provide.

Polly Reels and Margaret Zimmerschitte--both Germans--believed that once their husbands agreed to their financial demands, they were better situated financially and personally to remain married women. Of the six women who filed for and received a divorce in frontier Colorado County, four of their husbands had already abandoned them, and a fifth complained that her husband did not provide for her. Married women, whether Anglo or German, sought and received divorces not because their marriage failed to live up to some ideal of companionate marriage, but because their husbands left them on the frontier and they needed the option to remarry. At least four of these women remarried in the county shortly after receiving the divorce.

In divorce, women of both ethnicities and all classes were most concerned with financial matters. Whether forced into the public sphere because of the abandonment of their husbands or frustrated at their attempts to privately influence their husbands' financial decisions, married women in divorce proceedings exhibited a knowledge of and desire to change the financial and legal exigencies of their marriage.

CONCLUSION

Like most of the nineteenth-century South, marriage defined a woman's identity and shaped her destiny in Colorado County. A poor marriage could bring unhappiness, suffering, even destitution. A good marriage might bring happiness and

prosperity but even then was likely to end suddenly with the death of one of the spouses. Women in frontier Colorado County relied on marriage for more than a fulfillment of social expectations. In a society in which there was virtually no place for single women and in which eligible men outnumbered marriageable women, marriage was a financial transaction and a partnership. It was usually not, however, the partnership described by the nineteenth-century ideal of separate spheres. Immigrants to frontier Colorado County asserted this ideal and attempted to establish its reality in society and in law. However, a couple standing in partnership against the conditions of an uncivilized frontier did not always have the luxury of protecting the wife from men's duties. Frontier realities often required women to move beyond the traditional role expectations. Wives accustomed to performing some normally male roles and participating in private financial and legal decisions were more likely to take those abilities into the public sphere when necessary. Women, with a few exceptions, did not exert independence from or attempt to gain authority over their husbands. However, they expected and received, both from society and the courts, a certain amount of influence over their own public lives in and out of marriage. Exigency often forced frontier women to temporarily abandon the nineteenth-century social ideals relegating them to a separate and private sphere. Laws and rules founded on traditional ideals often resisted the women who pushed the boundaries of their sphere, but both the local courts and the legislature recognized and accommodated many of these frontier realities.

CHAPTER 3

ANTEBELLUM

"'Is man superior, intellectually, to woman?' We would propose . . . that woman is superior, morally, to man. If the question was which is the greatest we would answer, if greatness consists in goodness, woman is by far the superior."[1]

It is difficult to establish a definitive conclusion to the frontier era, but sometime between 1850 and 1860 a dramatic population increase finally occurred in Colorado County. The population of the county, as of Texas as a whole, nearly tripled. Based on contemporary observations, 1852 to 1853 were the years of the most unprecedented growth for the county. Reminiscences in the Weimar Mercury from 1915 and 1916 describe the period through 1850 as "pioneer" days.[2] Lizzie Thatcher described Eagle Lake, a community in the eastern portion of the county, in August 1852 as "being almost depopulated."[3]

Around 1852 or 1853 "the country was beginning to settle up," and a growth

---

[1] Colorado Citizen, March 27, 1858, p. 2.

[2] The population grew from 1534 white persons in 1850 to over 4325 in 1860. Schedule 1 (Free Inhabitants), Seventh and Eighth Census of the United States (1850 and 1860), Texas, Colorado County; Terry G. Jordan, German Seed in Texas Soil: Immigrant Farmers in Nineteenth-Century Texas, (Austin and London: University of Texas Press, 1966, 26-27; Letter of James W. Holt, originally appeared in the Weimar Mercury, May 14, 1915, reprinted in "Documents, Letters, Reminiscences, Etc.," Nesbitt Memorial Library Journal 6 (January 1996): 56.

[3] Lizzie Lookup Thatcher to Fanny Thatcher, Eagle Lake, August 15, 1852, printed in Dorothy Elkins Cox, comp., Pioneer Texans: Montgomery and Thatcher Families and their Descendants, n.d, n.p., pp. 169-70.

spurt occurred in Colorado County.[4] According to tax records, land values were increasing rapidly during this period, up nearly 40 percent in 1851, and almost 25 percent the next two years. The number of cleared acres was gradually increasing as well. Cheap frontier land was giving way to more valuable cleared land. But the tax records show other significant attributes of population growth and settlement, too. The number of town lots increased in 1852 by 70 percent and their overall value by 125 percent. Property not as affected by its location, such as slaves and cattle, only increased slightly in value (13 percent and 23 percent respectively).[5]

The La Grange Texas Monument, published in adjacent Fayette County, reported rapid growth in Colorado County in 1852, whereas neither the Texas Monument nor the Texas Telegraph ran such stories in 1851. The February issue of Texas Monument related that

> within the last year the number of buildings has been doubled [in Columbus], and built of substantial materials. The surrounding country is also improving, and with the tide of immigration locating everywhere, this rich county is receiving a fair proportion of wealthy and enterprising settlers.

---

[4] Letter of Seaborn Trumbul Stapleton, originally appeared in the Weimar Mercury, April 30, 1915, reprinted in "Documents, Letters, Reminiscences, Etc.," Nesbitt Memorial Library Journal 6 (January 1996): 55.

[5] Tax Rolls, 1849-1854, Colorado County, Texas, on microfilm at Nesbitt Memorial Library, Columbus, Texas. The number of deeds involving women increased from 1852 to 1853. While the number of deeds per year in my database of deeds involving women remained at about 80 in 1850-52, in 1853, 104 deeds were recorded and the number remained at about 100 deeds per year for 1853-1855 and climbed steadily thereafter. See Bond and Mortgage Records, Books D and E; Deed Records Transcribed, Books G-O.

Again in March, the Texas Monument reprinted a travel account that claimed that "not less than $100,000 worth of property had been brought into [Colorado County], within the last three months! and that within the same time lands had almost doubled in value. . . ." In 1852 Columbus and Colorado County showed "evidence of great prosperity" worthy of mention.[6]

The increase in population and prosperity meant much to Colorado County women. The greater number of citizens provided greater safety. While isolated women on widely separated farms might have made easy targets for both Indians and desperadoes, the greater density of population and increased number of households discouraged plundering. Other potential dangers also decreased with the increase in human population. Charles William Tait wrote in 1854 that "the bears are so scarce now that I do not have much use for hounds." In 1853 he was unable to shoot a single bear.[7]

More residents also meant broadened markets. As additional families settled their land and began to raise food besides the essentials, women could diversify the family's meals by trading among neighbors for eggs, vegetables, butter, and other garden surplus. Bread could even be bought. The demand for merchandise of other kinds also grew in the early 1850s. The population and prosperity of the county could

---

[6] La Grange Texas Monument, February 11, 1852, "The Town of Columbus," p. 2 and March 17, 1852, "Sketches of Travel in Western Texas," p. 2.

[7] The number of households increased from 273 in 1850 to 801 in 1860. Schedule 1 (Free Inhabitants), Seventh Census of the United States (1850) and Eighth Census of the United States (1860), Texas, Colorado County. Charles William Tait to Brother Robt. Tait, May 14, 1854, Columbus, Charles William Tait Papers, Center for American History, University of Texas (hereinafter Tait Papers).

finally support merchants' costly transportation of an expanded variety of goods. In 1852 merchandise in stores increased by nearly 70 percent. Women could buy cloth instead of weaving it themselves, cooking utensils to decrease the difficulty of preparing meals, and luxuries such as bows and pins. Even timesaving novelties like matches became available.[8]

The crude housing and buildings of the frontier gradually gave way to more substantial and comfortable homes. Once the land was cleared and crops planted regularly, both men and women could devote more time to improving housing. Additionally, greater availability of labor, capital, and materials in the county provided the wherewithal to build new homes and public buildings. In 1852 Colorado County outgrew its "wood frame courthouse" completed only three years earlier. The county commissioners met to commission a new two-story concrete and rock courthouse with a jail -- a vast improvement over the small wood frame structure.[9]

The most significant improvement for frontier women that came with increased population was an amelioration of their isolation. Time allowed daughters and sons to grow to maturity and become adult company for their parents. Although many

---

[8] Tax Rolls, 1849-1854, Colorado County, Texas, on microfilm at Nesbitt Memorial Library, Columbus, Texas. Letter of Seaborn Trumbul Stapleton, originally appeared in the Weimar Mercury, April 30, 1915, reprinted in "Documents, Letters, Reminiscences, Etc.," 55. Julie Roy Jeffrey enumerates the common threads of life for frontier women: crude living conditions and housing with little privacy, shortage of capital and labor, small diversified farming, the arduous preparation of food, threat of violence particularly from Indians, isolation from other white women, and a sexual imbalance. Julie Roy Jeffrey, Frontier Women: The Trans-Mississippi West, 1840-1880, (New York: Hill and Wang, 1979), 53-58.

[9] Colorado County Historical Commission, comp., Colorado County Chronicles: From the Beginning to 1923, Vol. I, (Austin, Texas: Nortex Press, 1986), 78.

frontier settlers came as individuals or as individual families, later settlers often came together with people they knew. One large group of settlers, mostly from Tennessee, formed the new community of Osage in the eastern portion of the county in the early 1850s.[10] Those individual families who planted roots in the county during the frontier era encouraged family members from their previous home to join them. After writing to his family for six years about his success in Colorado County, Charles Tait's brother James finally in 1854 decided to bring his family to live in the county. Charles arranged for James to buy the land adjacent to his so that they might share resources. He suggested that "if James gets out time enough to let his women pick cotton for me, I can put my men to building for him." Charles also hoped that James would acquire "a suitable woman for a wife for [Charles' slave] King . . . as we shall be so close together that an arrangement of that sort would do very well."[11]

Charles Tait considered the financial benefits of having family nearby, but his wife Louisa probably looked forward to the social benefits of having other white women, especially family, nearby. In 1854, Louisa was a twenty-five-year-old mother of two. She had given birth to her two children in Texas far away from her family in Alabama and was destined to have more children. Although the Taits owned slaves, no other white women lived in the Tait household. From the description of the adjoining landholders, few other white women lived very close by. Louisa's isolation was broken in the early 1850s as other female family members came

---

[10] Colorado County Chronicles, 74.

[11] Charles William Tait to father, August 24, 1854, Tait Papers.

to Colorado County, and as other families with adult white women finally settled on the surrounding lands.[12] Women like Louisa depended less upon their husbands as their sole support and adult company as other family members began arriving. Antebellum women who lost their husbands to death or desertion had family and friends on whom to depend and thus had options available to them besides quick remarriage.

The lives of white women eased somewhat, at least for those who could afford to buy timesaving conveniences and manufactured goods. As the initial labors of clearing land and building a farm out of the wilderness gave way to routine crops, women performed fewer male chores on the farm. Their lives remained far from leisured, but the decreased amount of work to achieve the bare necessities coupled with the increased number of women in the county led to more organized efforts by women to build communities.

Religious services had long been held in Colorado County, but in the mid to early fifties, many churches began erecting buildings and securing ministers. Both Frelsburg and Columbus formed at least two congregations each between 1848 and 1856.[13] The Methodists, who had devoted members in Colorado County as early as

---

[12] Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County. Charles William Tait letters, Tait Papers.

[13] St. Peter and Paul Catholic Church, Frelsburg, February 1854, although Fr. F. A. Jacobs was first resident pastor who baptized child in April 1847; Trinity Lutheran Church, Frelsburg, June 5, 1855; First Methodist Church, Columbus, 1848; St. John's Episcopal Church, Columbus, April 14, 1856.

1822, finally built their church in 1850.[14] In 1853 Reverend G. Scherer moved to Columbus, Texas, as the first English Lutheran minister in Texas.[15]

Religious services and institutions served an important role in taming the frontier for white women. Churches gave women an opportunity to meet with and form a community with other people. Primarily a plantation and farming community, Colorado County neighbors necessarily lived far from one another. Social functions centered around work had always brought people together. The greater density of population in antebellum years allowed for barn raisings, hog butcherings, and even canning and quilting to become larger social events for women. Frontier men, however, had much more opportunity to interact with one another as they conducted business in their public sphere. The rise of antebellum churches gave women a reason to congregate socially on a regular basis with other people in the area.[16] Fannie Darden moved to Columbus in 1853 and became actively involved in St. John's Episcopal Church in Columbus. The first women's meeting shortly after her arrival ". . . consisted in the meeting of three ladies, Mrs. Mackey, Mrs. Foshey and myself for a sewing society. We met in faith and love, had nothing to work with but a few hands full of scraps. But the Lord blessed our efforts."[17]

---

[14] Bill Stein, "Consider the Lily: The Ungilded History of Colorado County, Texas, Part 5," Nesbitt Memorial Library Journal 7 (January 1997): 130.

[15] The Record Book of Luther Chapel, Columbus, Center for American History, University of Texas.

[16] Colorado County Chronicles, 72.

[17] Excerpt from the diary of Fannie Darden, reprinted in History of St. John's Episcopal Church Columbus, Texas, April 14, 1856-April 14, 1956, p. 4. Fannie Darden's original diary has unfortunately been lost.

Women became involved in other social institutions about this time, too. The "Sons of Temperance" formed in 1849 voted itself out of existence in August 1854, transferring its "assets and liabilities" to the Lone Star Circle of the Order of Social Circles No. 2 of Texas in Columbus. While the Sons of Temperance allowed only male members, the new temperance society also had female members. Of the twenty charter members, half were women.[18]

After 1852, the more settled social and economic conditions of Colorado County eased life for white women there, allowing them to make more choices. Instead of being driven by financial necessity, the need for male protection, and limited opportunities, women made their decisions in this new era based on social and cultural ideals. The culture that shaped their decisions was primarily that of the antebellum South. In the frontier era, the German-born and southern-born population had been roughly equal and exerted influence over the development of law, customs, and culture in the county. The new surge of immigration beginning in 1852 brought many more Germans and southerners to Colorado County than immigrants from any other regions of the world. Most Germans settled in distinct locations, such as Frelsburg and San Bernardo. Germans attempted to replicate as much of their traditions and ways as possible, establishing German schools and churches to serve as the centers of those communities.[19]

---

[18] Bond and Mortgage Records, Book D, p. 518, July 4, 1854, Colorado County, Office of the County Clerk, in the Colorado County Courthouse, Columbus, Texas (hereinafter CCCC); Stein, "Consider the Lily, Part 5," 131.

[19] Glen E. Lich, The German Texans, (San Antonio: University of Texas Institute of Texan Cultures, 1981), 124-25; Jordan, German Seed in Texas Soil, 194-

Try as they would, Germans could not duplicate their homeland cultures completely. As historian Terry G. Jordan pointed out, the numerically dominant "southerners provided the matrix into which all other Texas settlers were placed. . . ."[20] Between 1850 and 1860, the German population in Colorado County increased by 146 percent. The population increase due to births significantly outpaced the increase due to immigration from German-speaking countries. There were nearly twice as many Germans born abroad in the county in 1860 as there had been in 1850. But there were four and a half times as many Germans born in Texas. A second generation of Germans that knew nothing of the old homelands came of age in Colorado County, contributing to a distinctly German-Texan culture.[21]

At the same time, the number of southerners in the county increased almost twice as fast as Germans. This southern growth was distributed more evenly between birth and immigration. Overall, southerners increased in Colorado County by 226 percent between 1850 and 1860. The number of these southerners born in other southern states increased by 231 percent, while southerners born in Texas increased 216 percent. Significantly more adult or older children were immigrating to Colorado

---

95; Rudolph Leopold Biesele, The History of the German Settlements in Texas, 1831-1861, (Austin, Texas: Press of Von Boeckmann-Jones, Col, 1930), 51-55 and 211. Glen E. Lich, "Rural Hill Country: Man, Nature, and the Ecological Perspective," 38; Dona Reeves-Marquardt, "Tales of the Grandmothers: Women as Purveyors of German-Texan Culture," 202; and Ingeborg Ruberg McCoy, "Tales of the Grandmothers, II," 212-20, all in Theodore Gish and Richard Spuler, ed., Eagle in the New World: German Immigration to Texas and America (College Station: Texas Committee for the Humanities by Texas A&M University Press, 1986).

[20] Jordan, German Seed in Texas Soil, 8.

[21] Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County.

County from other southern states than from Germanic countries, or from any other region in the world. These southerners brought with them the ideals, culture, and social expectations that dominated the county. German immigrants may have continued to foster a distinct cultural identity, but that identity borrowed from and was influenced by their southern neighbors.

German and Southern Population Increase[22]

	Germans			Southerners		
	Total	Abroad	Texas	Total	Other states	Texas
1850	710	567	143	732	478	254
1860	1745	1094	651	2385	1582	803
increase	145%	93%	355%	225%	231%	216%

Southerners and their culture increasingly guided the development of law, commerce, and social standards in Colorado County after the population boom in the early 1850s. From 1852 until the beginning of the Civil War, Colorado County most resembled the antebellum South of which it was a part, and women in the county reacted to their familiar situations in ways familiar to women throughout the the antebellum South. The antebellum era brought with it increased financial opportunities for women and allowed more women to choose to maintain their independence for longer periods of time. However, women in antebellum Colorado County did not utilize these new opportunities to become independent agents in the

[22] Schedule 1 (Free Inhabitants), Seventh and Eighth Census of the United States (1850 and 1860), Texas, Colorado County.

public sphere. In fact, antebellum women retreated more and more to the private sphere and left their business in the public sphere to the men.

WOMEN AND WORK

As the frontier came to an end in Colorado County, women's opportunities expanded financially as well as socially. By 1860, 6 percent of adult women listed occupations in the census, twice as high as the 3 percent who listed occupations in 1850.[23] As in the frontier period many were head-of-household farmers, but the county's growth enabled some women to find other opportunities to earn a living. One seamstress and nine servants all provided for themselves through their work. In 1851 the Columbus Masonic Lodge founded the Columbus Female Seminary - "the first educational institution in Columbus." Other schools opened in the county around 1852 and after. The larger schools employed primarily male faculty, but smaller ones consisting of only a few pupils in a woman's home, provided at least four women on the 1860 census with the profession of School Teacher or Music Teacher.[24]

The census, though, gives only a small glimpse of the women who entered moneymaking occupations. Neither E. C. Crawford nor C. A. Connelly, who ran the most advertised female-headed schools in the county, had an occupation listed in the 1860 or 1870 census. Advertisements for other schools also indicated the employment

---

[23] Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County.

[24] Colorado County Chronicles, 95. Letter of Seaborn Trumbul Stapleton, originally appeared in the Weimar Mercury, April 30, 1915, reprinted in "Documents, Letters, Reminiscences, Etc.," 55.

of other women who claimed no occupation on the 1860 census.[25] Fannie Darden was a locally renowned poet.[26] Emaretta C. Kimball combined her writing talents with the tales of one Colorado County pioneer to produce the first known literary effort in the county.[27] Earning income was possible in ways only hinted at in public documents. The county court reimbursed Mrs. E. Gilbert for washing clothes and attending to prisoners' wounds in 1856, while in 1858 testimony in a court case showed that Miss Cate Mooney was hired for one dollar per day to wash for a family.[28] Although Mary Ward listed no occupation, she most likely took in boarders. Her husband was a blacksmith, not a hotel keeper, but their household in 1860 contained seven adult men with various occupations from assorted birth places with different last names. One seventeen-year-old female student also lived in the house.[29]

---

[25] In addition to teaching herself, Mrs. E. C. Crawford's school employed Judge Cooper for "the instruction of the youth hereabout. . . ." Colorado Citizen, January 9, 1858, pp. 2 and 3. Mrs. C. A. Connelly, who had thirty years teaching experience elsewhere, opened a school in 1860 "in the new School-room near her dwelling." Colorado Citizen, July 21, 1860, p. 2. Nannie and Carrie Martin were the Assistant Teacher in the Literary Department and the Music Teacher at the Columbus Female Seminary in February 1860. Colorado Citizen, February 18, 1860, p. 4. Mrs. Blackshear was a music teacher at the Eaton Institute. Colorado Citizen, September 18, 1858, p. 2. Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County.

[26] Colorado County Chronicles, 159.

[27] Bill Stein, "Consider the Lily: The Ungilded History of Colorado County Texas, Part 4," Nesbitt Memorial Library Journal 6 (September 1996), 134.

[28] County Court Minutes, Book 2, p. 183, February 10, 1856, CCCC; Deposition, Goode and Sons vs. Josiah Kuykendahl, April 30, 1858, Docket File No. 1348, Colorado County, Office of the District Clerk, in the Colorado County Courthouse, Columbus, Texas (hereinafter CCDC).

[29] Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County. Arthur and Mary Sherrill ran a Hotel. Petition, John Hope and A. J. Bonds vs. Arthur Sherrill, March 21, 1856, Docket File No. 1136, CCDC. Mr. G. Good ran a boarding house in 1858, had a wife named Julia in 1860 census,

More women had more opportunities to remain financially independent in the antebellum era. However, they did not look upon their independence as an opportunity to take on male roles or enter the public sphere. Unlike Laura McNeill in the frontier who took up a gun and other male duties when her husband died, antebellum women used their expertise in the private sphere to provide for themselves and left male roles to men. The occupations that supported them were easily pursued from their home or were thought to be appropriate to women's domestic nature: washing, boarding, serving, or teaching children.

The majority (63 percent) of women who listed an occupation, however, were head-of-household farmers. Most women, married or single, in 1860 Colorado County remained part of a farming household.[30] Yet most antebellum farmers had a different life than had frontier farmers in the county. Families had more and older children to help work the farms. Fifteen percent of the families in 1860 had a son

---

and four boarders. Deposition, Goode and Sons vs. Josiah Kuykendahl, April 30, 1858, Docket File No. 1348, CCDC. These women might or might not have been intimately acquainted with their husband's business, but they certainly worked for it. Suzanne Lebsock found systematic analysis of women's gainful employment in Petersburg nearly impossible. Women's money-making ventures were rarely recorded, although in Petersburg, as in Colorado County, in addition to census returns, the "odd deed, will, letter, diary entry, legislative petition, and court report," gives clues to women's active employment. Petersburg women who took in boarders particularly eluded notice unless they advertised. No Colorado County women advertised in the Columbus newspaper. Suzanne Lebsock, The Free Women of Petersburg: Status and Culture in a southern Town, 1784-1860, (New York and London: W. W. Norton and Company, 1984), 167-69.

[30] Seventy-one percent of heads of households (male and female) in 1860 listed an occupation directly relating to farming, including farmer, farm renter, farming, and farm manager. Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County.

eighteen or older living at home, while 30 percent had a son thirteen or older.[31] The increased population also provided more labor for hire. As the county became increasingly populated, land became both more scarce and more expensive, delaying a farm purchase for many. These new immigrants to the area, or sons of poorer farmers, worked on others' farms and plantations. Combined and larger families contributed labor to many farms.[32] The number of slaves working on farms also increased in the antebellum era: nearly five times as many slaves lived in Colorado County in 1860 (3559 slaves) as did in 1850 (723 slaves).[33] Wives were much less often the only other adult on the farm and were no longer required to perform whatever function necessary. With more labor available, duties could more easily be divided by gender.

Women antebellum farmers, even when single, did much less of the actual farm work than frontier women farmers had. The assistance of these additional laborers is what allowed so many to continue farming at all. Of the twenty-five women who carried on farming after being widowed or divorced in 1860, all but two

---

[31] Of 764 families, 117 had sons eighteen or older, 233 had sons thirteen or older. This was an increase of three per cent and four per cent over 1850. Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County.

[32] In 1860, there were 156 farm laborers and 55 farm managers out of 1250 people listing occupations (17 percent). In 1850, only 23 people listed laborer as their occupation out of 453 listing occupations (five percent). Schedule 1 (Free Inhabitants), Seventh Census of the United States (1850), Texas, Colorado County; Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County.

[33] Randolph Campbell, An Empire for Slavery: The Peculiar Institution in Texas, (Baton Rouge: Louisiana State University Press, 1989), 264.

either had adult sons (eighteen or older) or slaves. Twenty had sons thirteen or older, and sixteen had sons eighteen or older. In 1850, only one woman out of seven who listed farming as an occupation had owned slaves. In 1860, thirteen out of twenty-four (54 percent) farming female heads of households had the assistance of slave labor. Four of these women held planter status with more than twenty slaves. Another five had five or more.[34]

Women, especially those with large labor forces, usually turned over the management and overseeing of slaves to their sons or hired farm managers. H. B. Burford's "farm manager" Woodson Coffee lived in her household, while Clarissa Ann Eason's farm manager lived in the house next door with his family.[35] Even the business of farming, hiring overseers, choosing crops, and buying and paying for supplies could be turned over to male relatives. Rebecca Grace's son-in-law lived with her, assisted her on the farm, and probated the will of her deceased husband.

---

[34] Schedules 1 and 2 (Free Inhabitants and Slaves), Seventh and Eighth Census of the United States (1850 and 1860), Texas, Colorado County; Stein, "Consider the Lily, Part 5," 51-59. Thirty-one percent of women slaveholders and thirty-one percent of slaveholders overall owned twenty or more slaves.

[35] Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County. Teresa E. Ivey's participation in farming is a great mystery. She listed her occupation as farming and owned 21 slaves, but controlled virtually no land of her own. Her brother's widow remarried, and E. B. and Caroline Fowlkes lived in the household next to Ivey on the census with about 700 improved acres in two different plantations. The next household listed a "farm manager" and his family who might have taken care of Ivey's and the Fowlkes's property and slaves. That they transacted business with one another is clear. In 1861, E. B. Fowlkes loaned Ivey over $1300. Stein, "Consider the Lily, Part 5," 51-53; Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County; Petition, E. B. Fowlkes vs. Teresa Ivey, August 22, 1865, Docket File No. 1809, CCDC.

Thirty-six-year-old George Turner and his wife lived with his mother and ran the farm.[36]

A few single women did run the business of their farm or other businesses. Like men who entered into financial dealings, when financial difficulties or differences of opinion arose, women sued or were sued. Women appeared six times as plaintiffs and four times as defendants. While at least half of these cases involved the title to land or partitioning property among family members, a few cases demonstrate that women were involved in financial transactions in the community. Widow Susan A. Shepherd in particular had loaned money to a merchant before he left for a buying trip in the North. When the note came due, she sued for the $135 and the lawsuit that ensued focused on whether her accounts at the store should or should not be a separate matter.[37] Eliza Y. Hopson had rented her plantation for which she wanted repayment, and Ann Upton had hired out her slave.[38]

Despite the evidence that some women were active in financial transactions, antebellum single women were parties to lawsuits less often in relation to their

---

[36] Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County; Estate of William R. Turner, December 12, 1857, Final Probate Record, Book E, p. 632 and August 19, 1859, Probate Minutes, Book E, p. 94; Estate of Abel Grace, May 30, 1859, Probate Minutes, Book E, p. 77, CCCC.

[37] Petition, Amended Answer and Replication, Deposition, and Charge of the Court, Susan A. Shepherd vs. G. G. Loomis, October 24, 1859, May 7, 1860, and October 30, 1860, and October 31, 1860, Docket File No. 1484, CCDC.

[38] Petition, Ann Upton vs. J. J. and M. M. Sherer, October 10, 1860, Docket File No. 1568; Petition, E. Y. Hopson vs. D. B. Rhodes, March 13, 1856, Docket File No. 1124, CCDC.

population than frontier women had been.[39] Even when they were named as parties to the suit, they were not necessarily involved in the business that brought the suit to court or in the particular business of the court case. While some women like Susan Shepherd obviously took care of business themselves, giving the money and negotiating for its repayment, others like Eliza Hopson and Elvira Earl had agents taking care of this business on their behalf. Earl's brother, Marvel McFarlane, acted as a "voluntary agent" for his sister (and not as a legally appointed attorney). He in turn hired an attorney, Vincent Allen, to collect the money. The case was so far removed from Elvira Earl that when it was filed, she, the plaintiff, was erroneously listed as Elizabeth Earl.[40]

Antebellum Colorado County courtrooms were commonly all-male chambers, but women's knowledge was sometimes necessary. During the antebellum period, women's evidence in cases became more crucial as the number of women in the county increased, sometimes outliving husbands and other men who would otherwise have presented the testimony themselves. Antebellum women also began presenting testimonies related to cases in which they were not personally involved, whereas frontier women had nearly always presented evidence only in their own personal

---

[39] Single women were plaintiffs or defendants eight times in sixteen years of the frontier. Ten antebellum cases in eight and a half years had single women in their own behalf. Considering the vast differences in the number of single women in the population (40 in 1850, 142 in 1860), this represented a decrease in the percentage of single women suing or being sued (1.3 percent of single population in frontier might file a suit in court, while in antebellum .83 percent would).

[40] Papers, Elizabeth Earl vs. Asa Smith, Shff. and Securities on his official bond, January 9, 1855 through December 1, 1858, Docket File No. 958, CCDC.

lawsuits. Yet antebellum women, at the same time that their testimonies became more sought after, began avoiding public sphere places such as the courtroom. As a result, lawyers served more women with "interrogatories" during the antebellum period in order to record their testimony.

The party desiring the testimony of an aged and infirm man, an out-of-county resident, or a woman would submit a list of questions, or interrogatories. The opposing party would then have the opportunity to submit cross-interrogatories. The questions would then be sent to a commissioner who would ask the questions, record the answers, and return the deposition to the court. Although available during the frontier, taking the depositions of women increased in the antebellum years, allowing women to add necessary information to court cases without necessarily leaving their private sphere.

Sometimes the questions of plaintiffs and defendants would assume women knew much about the business affairs around them: Mary E. Garrett was asked about a horse her husband had bought, Mary F. Ward about the worth and payment given for slaves one of her house guests had sold, and Wilhelmina Kessler about whether her grandfather alone had paid the purchase price for a contested piece of property.[41]

Often women were asked about their own transactions or financial deals made on their behalf. Emelia Gilbert answered with certainty questions about horses she

---

[41] Deposition, George Turner vs. Gabriel Abrams, December 4, 1860, Docket File No. 1481; Deposition, Nelson P. Smith vs. Alfred Smith and A. B. Wooldridge, November 7, 1857, Docket File No. 1126; Deposition, C. Mitterzwei vs. J. G. Mackel, May 6, 1857, Docket File No. 1226, CCDC.

claimed to own, what their ages were, and where she got the money to buy them. The bill of sale, however, was not in her name because her son A. J. Shannon "had done the trading for me about the ferry and executed the bill of sale . . . to prevent me from being troubled about the horses."[42] Mrs. R. L. Davidson "did intrust the care of her negroes to her step-son" and did not have any knowledge about the doctor's care provided to her property.[43]

These interrogatories and answers show that women, married and single, did understand the world of business around them but that they chose to defer their interests in that business to men and remain in their private female sphere. The judges and lawyers of the District Court honored and protected that private sphere. Many interrogatories recognized this by asking women questions on subjects that they, of course, would know best: domestic situations. Women were much more likely to be asked the dates of births, marriages, and deaths than the dates of property conveyances.[44] Women's depositions appear most often in divorce cases where they can report on the occurrences taking place in the private sphere: letters between illicit lovers, if a husband was violent, or if a wife had refused to live with her husband.[45]

---

[42] Deposition, Isam Tooke vs. A. Smith, shff and his securities, May 4, 1857, District Court Docket File No. 1182, CCDC.

[43] Deposition, Weissberg and Hoffmann vs. A. H. and R. L. Davidson, April 9, 1861, Docket File No. 1618, CCDC.

[44] For instance see Depositions, Ann Fisher et al vs. Wm. J. Jones, September 9, 1859, Docket File No. 1259; and Deposition, Goode and Sons vs. Josiah Kuykendall, April 30, 1858, Docket File No. 1348, CCDC.

[45] Deposition, William Bauer vs. Julia Bauer, May 4, 1860, Docket File No. 1472; Deposition, Jacob Illg vs. Sophia Illg, October 26, 1859, Docket File No. 1466; Deposition, Elizabeth Hahn vs. Jacob Hahn, April 23, 1860, Docket File No. 1459, CCDC.

When one party asked women to comment on public sphere activities, cross-interrogatories filed by the opposing party often expressed concern that women were being somehow manipulated. In cross-interrogatories to Susan Shepherd, the defense asked if she knew whether anyone had ever resided on a certain lot, and if she knew the lot number and blocks. The follow-up question tried to ascertain who might be coaching her, "If so who told you so?"[46] Many cross-interrogatories ended with the question, "who has been present during the taking of this interrogatory?" The question was a prelude to claiming in court that a particular woman was unreliable because an interested party had coaxed her. The answer to that question sometimes elicited the desired response. Elizabeth Steward and Pamilia R. Lynch, both witnesses to their stepfather's deed, gave their depositions together and gave the same answers. This saved time for the commissioner asking the questions but allowed no opportunity for them to contradict one another's testimony.[47]

Other answers to the question who was present during the deposition did not produce the response desired by the interrogator but do illuminate the nature of these depositions. Mary Garrett answered that "there has been no person present while my testimony has been taken, except the commissioner and his family occasionally passing about the house." Isabella Bagwell answered that Mrs. Bonds and Miss Mary Silvey

---

[46] Interrogatories, John C. Baker vs. Wm. M. Byars, April 28, 1860, Docket File No. 429, CCDC.

[47] Depositions, Watkins L. Smith vs. Wm H. Strahan and others, October 18, 1854, Docket File No. 806, CCDC.

had been present "nearly all the time and some of Mrs. Bondses little girls."[48]

Antebellum women had opportunities to work for money, were expected to know about business and financial transactions, and were even essential to establishing facts in lawsuits. Yet, even when these women had to stray into the public sphere of law and business, customs and practices allowed them to remain surrounded by their private sphere of domesticity. Their depositions were taken in private and domestic places, and their occupations performed most often in the home.

MARRIED WOMEN

State statutes allowed married women to own separate property but never allowed them much control over it. During the frontier era, the small amount of control wives exercised often took them into the public sphere of the courtroom or of business. While laws regarding married women's property changed very little during the antebellum era, wives exercised their legal rights in the public sphere much less often.

Antebellum laws still required that before any transfer of a wife's property or interest in property occurred, she be examined by a representative of the court and sign a relinquishment of her rights. Nor could a husband alienate the family's homestead without his wife's consent. From the frontier through the antebellum period, married women were examined and signed their relinquishments at essentially

---

[48] Deposition, George Turner vs. Gabriel Abrams, December 4, 1860, Docket File No. 1481; Deposition, Goode and Sons vs. Josiah Kuykendall, April 30, 1858, Docket File No. 1348, CCDC.

the same rate. About 10 percent of married women every year signed such a document transferring their interest in separate or homestead property.[49] The laws requiring the relinquishment of a married woman's right to her property became more strictly enforced and more systematized in the antebellum period. Only 3 percent of the deeds requiring a wife's examination did not record it having been performed, much lower than during the frontier era.[50] Increased awareness of the necessity of a married woman's examination, more alert county clerks, and the increase in the numbers of lawyers assisting in drafting conveyances of property all contributed to married women's property rights being more strictly observed.

While her legal ownership of property was recognized more often, subtle changes took place in the modicum of control a married woman exercised over her property. During most of the frontier period, a married woman had to appear before a judge of the District Court or the chief justice of the County Court whenever a deed conveyed her property. In 1846 the state legislature changed the law, easing the

---

[49] Five hundred and eighty married women executed deeds in the 8.5 years of the antebellum period, averaging about 10 per cent of married women every year. See Bond and Mortgage Records and Deeds Transcribed Records, CCCC. About 11 per cent of frontier married women executed deeds every year in the frontier period.

[50] Five hundred and eighty married women executed deeds or mortgages in the antebellum years. It was unnecessary to examine 14 (9 were executed by couples acting as co-administrators, 5 were signed by husbands who had their wives power of attorney). Of the 566 that required examination, 551 were examined apart. Four of those fifteen incomplete deeds were record by James and Francis Montgomery conveying property to their children. By law, Francis Montgomery should have been examined, but she was unlikely to challenge gifts to her children. Three other conveyances involved bonds or mortgages and another three involved out of state couples. Again, these six wives were unlikely to mount challenges and the county clerks probably overlooked their deficiencies.

requirement so that justices of the peace and notaries public could take the wife's acknowledgment. Before 1847, conveying her separate property required a married woman to go into the courthouse and see a judge. In the antebellum era, the use of notaries public to comply with this law increased considerably. Notaries public advertised their availability to "take the examination and acknowledgment of married women to all deeds and instruments of writing, conveying their separate property and their interest in the homestead."[51] Notaries public, and justices of the peace, did not force a married woman out of her private sphere. These men, especially in rural areas, usually had offices in their homes and would on occasion go to the home of the wife to take the acknowledgment. One of the simple acts of ownership that had required married women to specifically state her understanding and agreement with a sale had become less formal and less public.

Married women had rarely appeared in District Court during the frontier era, but even those rare appearances virtually disappeared in the antebellum era. Husbands made the necessary appearances for their wives when their property came into dispute. The exception in frontier years had been wives left by their husbands, either temporarily or permanently, who conducted their own business in the community and pursued cases in court when absolutely necessary. The settling of the county led to a settling of the men of the county as well. Although permanent abandonment still occurred, it was much less prevalent, especially among those with property. Much more business occurred in Colorado County, so fewer men had reason to travel abroad

---

[51] Colorado Citizen, Aug. 17, 1860, p. 4.

often. Men who still traveled and left their wives now more often had business partners or male relatives with whom to leave their financial affairs.

In the antebellum District Courtroom, lawyers, judges, and husbands articulated a new rationale for removing their wives even farther from the public sphere of law and farther from control of their separate property. As the husband had "the sole management" of his wife's property, lawyers argued that he acted as the "legal manager" of his wife's property and as such was "legally authorized" to act as her "general agent" even when binding her separate estate.[52] In other words, if a husband was managing his wife's property, any money he borrowed or any contract he made on behalf of her property bound her property for payment, even though she may never have been consulted or agreed to the acts.

This argument was most frequently used in cases against William J. Darden, a prominent attorney in Columbus, and his wife Fannie Darden, an artist and poet.[53] William Darden's law practice did not support the family; his wife's separate property did. While Fannie Darden owned eighteen slaves in 1853 and twenty-two by 1860, William Darden was described by plaintiffs in lawsuits as wholly insolvent.[54] When

---

[52] Williamson S. Oldham and George W. White, comps., A Digest of the General Statute Laws of the State of Texas. . ., (Austin, Texas: John Marshall & Co., 1859), 729 (first quote); Petition, John Williams vs. Darden and wife, February 18, 1858, Docket File No. 1307, CCDC (other quotes). According to law, the husband and wife could be jointly sued for debts "contracted by the wife, for necessaries furnished herself or children, and for all expenses which may have been incurred by the wife for the benefit of her separate property." Oldham and White, Digest of General Statute Laws, 313 (emphasis added).

[53] Stein, "Consider the Lily, Part 5," 17.

[54] Bond and Mortgage Records, Book D, p. 212, May 24, 1853, CCCC; Amended Petition, L. M. Newsom, vs. William J. Darden and wife, November 5,

William Darden was unable to pay debts, his creditors sued hoping to win a judgment against Fannie Darden's separate property. In seven suits filed between October 10, 1856, and March 14, 1861, William fended off attempts by lawyers to levy and sell his wife's slaves at a sheriff's auction. The five petitions of various merchants alleged that although William Darden had made the purchases or signed the promissory notes, the articles "were necessaries suitable to her position and proper for the support of her family and separate property."[55] An 1848 statute clearly stated that debts for necessaries or expenses benefitting her separate property contracted "by the wife" bound her separate estate. According to the merchants' attorneys, William had acted as his wife's agent because he was the general manager of her, her family, and her separate property. Therefore, the expenses were contracted by her, the wife, and her property should be bound for the debt.[56]

1856, Docket File No. 1173; Petition, Thomas J. Neavitt vs. W. J. Darden and wife, April 18, 1857, Docket File No. 1224; Petition, John Williams vs. Darden and wife, February 18, 1858, Docket File No. 1307; Petition, Woodson Coffee vs. W. J. Darden, April 19, 1858, Docket File No. 1356; Petition, Charles Schmidt vs. W. J. Darden and F. A. Darden, March 14, 1861, Docket File No. 1645, CCDC. Stein, "Consider the Lily, Part 5," 42.

[55] Amended Petition, L. M. Newsom vs. William J. Darden and wife, November 12, 1857, Docket File No. 1173, CCDC. See also Petition, Thomas J. Neavitt vs. W. J. Darden and wife, April 18, 1857, Docket File No. 1224, CCDC. "Necessaries consist of food, drink, clothing, medical attention, and a suitable place of residence, and they are regarded as necessaries in the absolute sense of the word. However, liability for necessaries is not limited to articles required to sustain life; it extends to articles which would ordinarily be necessary and suitable, in view of the rank, position, fortune, earning capacity, and mode of living of the individual involved." Black's Law Dictionary, sixth edition, (St. Paul, Minn.: West Publishing Company, 1990), 1029.

[56] Oldham and White, Digest of General Statute Laws, 313.

William Darden used his skills as a lawyer to protect most of his wife's property from the merchants. He came to an out-of-court agreement with the merchants in three cases, and the merchants dropped their suits. When the agreement in one case failed, the merchants, Blum and Mayblum, filed suit again. While other suits had been filed against William and Fannie Darden, Blum and Mayblum had sued just against William Darden, and only in a belated amendment to their petition did they argue that Fannie Darden's property should be held liable. William submitted an answer that maintained that her separate property was "in no way liable for the payment of individual debts of the said W. J. Darden."[57] In this case, the judge ruled that Fannie Darden was not liable for the debt and that William's property be levied for its satisfaction. William's property that was sold to cover the debt was six bales of cotton. These bales of cotton, of course, were the results of the labor of Fannie's slaves, but the bales were considered community, not separate property.[58] The fifth merchant's case did not come to trial until after the Civil War. Because Fannie Darden's most valuable "property" had finally gained their freedom, the merchant's lawyers dropped the case against her and pursued William Darden as having some

---

[57] Blum and Mayblum vs. W. J. Darden, et al, May 6, 1859, District Court Minutes, Book C, p. 53; Answer, Blum and Mayblum vs. W. J. Darden, et al, May 6, 1859, Docket File No. 1425; Petition, Answer, and Amended Petition, Blum and Mayblum vs. W. J. Darden, et al, January 28, 1860, November 2, 1860 (quote), and November 10, 1860, Docket File No. 1493, CCDC. For the two settled cases, Amended Petition, L. M. Newsom, vs. William J. Darden and wife, November 5, 1856, Docket File No. 1173; Petition, Thomas J. Neavitt vs. W. J. Darden and wife, April 18, 1857, Docket File No. 1224, CCDC.

[58] Blum and Mayblum vs. W. J. Darden, et al, November 10, 1860, District Court Minutes, Book C2, p. 245, CCDC.

potential to eventually pay the judgment.[59]

William Darden's success at protecting his wife's property against merchants failed against the prosecution of two overseers. John Williams served as overseer for part of 1856 and part of 1857, while Woodson Coffee finished out 1857 as the overseer. In 1858 both sued William and Fannie Darden to recover their wages. William Darden had hired both overseers to work on a plantation that Fannie Darden did not own. John Williams, however, demanded that because his duties had been to oversee Fannie's slaves, her separate property should be sold to pay his bill: "his services as overseer were rendered for the benefit of her negroes and were beneficial to her separate property."[60] Both overseers argued that "William J. Darden as husband was legally authorized to contract for the management and preservation of his wife's property. . . ."[61] In May 1858 the district judge agreed and awarded $64.33 to John Williams and $149.20 to Woodson Coffee, the writ of execution be served on both Fannie and William Darden, allowing the sheriff to levy her separate property.[62]

Other wives also lost some separate property in cases such as these. Charles

---

[59] Petition and Application for Writ of Garnishment, Charles Schmidt vs. W. J. Darden and F. A. Darden, March 14, 1861 and July 9, 1870, Docket File No. 1645; November 3, 1865, District Court Minutes, Book C2, p. 442, CCDC.

[60] Petition, John Williams vs. Darden and wife, February 18, 1858, Docket File No. 1307, CCDC. Neither Fannie nor William Darden owned land or a plantation. They owned town lots. Most likely the plantation was rented.

[61] Petition, Woodson Coffee vs. W. J. Darden, April 19, 1858, District Court Docket No. 1356; Petition, John Williams vs. Darden and wife, February 18, 1858, Docket File No. 1307, CCDC.

[62] Writ of Execution, John Williams vs. Darden and wife, September 13, 1860, Docket File No. 1307; Woodson Coffee vs. W. J. Darden, District Court Minutes, Book C, p. 1359, CCDC.

Harrison won an 1856 judgment against George and Mary Hatch, and particularly against Mary's separate property, for "work and labor" and "articles furnished . . . for the use and benefit of the said separate property the said Mary. . . ." On the motion for new trial, the Hatches argued that there was no evidence proving that there was any benefit to Mary Hatch, her children, or her separate property. Nor did the plaintiff show that Mary Hatch had requested the work or articles furnished. The motion was denied.[63]

Agnes Hawkins's attorney successfully prevented a judgment against her separate property. But the detailed arguments of both attorneys are worth noting. Logue and Whitfield charged that the debt should be paid for out of Agnes's separate property because

> M. T. Hawkins, acting by the authority and as the general agent of his said wife and in the judicious exercise of his trust, as the legal manager of his wife's separate estate, did at various times purchase . . . merchandise necessary for family supplies, and for the use and benefit of his wife, her children, and separate property. . . .[64]

Agnes's attorney on her behalf filed a lengthy answer, maintaining that among other things, she had no separate property. And "for further answer she denies that M. T. Hawkins is her general or special agent or that she has any general or special agent."[65]

---

[63] Petition and Motion for New Trial, Charles Harrison vs. George C. Hatch and Mary Hatch, June 21, 1854 and April 2, 1856, Docket File No. 878, CCDC.

[64] Petition, Logue and Whitfield vs. M. T. Hawkins and Agnes Hawkins, April 22, 1859, Docket No. 1454, CCDC.

[65] Amended Answer, Logue and Whitfield vs. M. T. Hawkins and Agnes Hawkins, May 11, 1859, Docket No. 1454, CCDC.

Logue and Whitfield filed an amended petition describing more specifically how a husband could become a wife's general or special agent.

> And said plaintiffs further say that by the custom of said Agnes, she conceded to her said husband for five years past the power and authority to purchase for her and her family, not including her said husband, such articles as named in said Exhibit and without objection on her part, he from year to year for five years past did purchase for her and her family articles of necessaries, such as named in said Exhibit. . . .[66]

According to Logue and Whitfield's argument, if a husband bought merchandise, claiming it to be "necessaries and family supplies furnished to my wife Agnes Hawkins and her family," no notification or authorization of the wife was necessary to bind her property. By not objecting to the transactions, whether she knew the nature of them or not, she conceded that her husband was her "special agent" to bind her property.[67]

Based on other rulings of the court, Agnes Hawkins might very well have lost the case. However, when both Agnes and M. T. Hawkins did not show up for the trial, Logue and Whitfield chose to take a default judgment against M. T. Hawkins rather than prove the liability of Agnes. They dismissed their case against her.[68]

Husbands, by law, had always had the legal right to sue alone on behalf of the assets of the wife, or take any other necessary legal action. Only in transferring real

---

[66] Amended Petition, Logue and Whitfield vs. M. T. Hawkins and Agnes Hawkins, May 11, 1859, Docket No. 1454, CCDC.

[67] Petition, Logue and Whitfield vs. M. T. Hawkins and Agnes Hawkins, April 22, 1859, Docket No. 1454, CCDC.

[68] Logue and Whitfield vs. M. T. Hawkins and Agnes Hawkins, May 12, 1859, District Court Minutes, Book C2, p. 63, CCDC.

property were married women required to sign their relinquishment. However, when a married woman was forced to sue a third party to recover her separate assets because of the failure of or unauthorized act of her husband, she necessarily had to become a participant, while his taking part was optional. If a married woman's separate property was improperly levied for execution by the sheriff, she could sign an affidavit and give bond "to try the right of property." Even in this case, the antebellum District Court allowed a husband to act as agent for his wife. When the sheriff levied Jamima McNeill's slave to satisfy a judgment rendered against her husband only, Archibald McNeill made the oath and signed the affidavit as her agent. The merchant W. H. Secrest must have been maddened by the action since Secrest's original case had argued that Archibald as Jamima's agent had contracted for the debt. As in the Hawkins's case, rather than try to prove their case against Jamima, when the McNeills defaulted W. H. Secrest's attorneys took judgment against Archibald only.[69]

The trial for the right of property, when the property was the separate estate of a married woman, could be conducted by the wife alone.[70] However, as in the case of the McNeills above, it was much more likely that the suit be conducted by the husband on behalf of the wife. Even in a case entitled "Mahala Smith vs. C. R. Perry and J. Kauffmann," Mahala signed the bond and affidavit, but her husband Asa was the one who went into court and "made oath that he cannot safely go into trial of the

---

[69] Petition and Writ of Execution, W. H. Secrest vs. A. McNeill and wife, October 8, 1853 and January 22, 1855, Docket File No. 824; October 27, 1854, District Court Minutes, Book C, p. 1046, CCDC.

[70] Oldham and White, Digest of General Statute Laws, 313.

above suit for the want of evidence. . . ."[71]

Married women rarely, if ever, conducted the business of a lawsuit, much less appeared in court. Throughout the antebellum years and seven lawsuits, Fannie Darden never appeared in court, nor did any paper, bond, or petition suggest that she was in any way involved in the case, other than being a named party. William Darden, like most antebellum husbands, conducted all the legal business in the District Court on behalf of his wife. Antebellum courts were much more careful than frontier courts had been to insure that a wife at least knew about the cases pending against her: husbands and wives in all cases after 1852 received separate summons. Yet, of the fifty-one cases in the antebellum era that named a married woman as a defendant or a plaintiff (not including divorce cases), only a very few cases (six) indicated that the wife participated in any way in the suit. Four women signed bonds or affidavits in trials for right of property. One wife gave testimony in her own behalf but did so by deposition and did not appear in court. Only one very complicated case, in which the husband was accused of fraudulently conveying property to his wife to avoid his creditors, induced a married woman to actually appear in court one day.[72] Married women eschewed the public sphere of business and law, allowing their husbands to sue, defend, and even sign necessary legal documents as their agent.

Even Agnes Hawkins, who successfully defended her property against Logue

---

[71] Affidavit, Mahala Smith vs. C. R. Perry and J. Kauffmann, April 3, 1855, District Court Docket No. 907, CCDC.

[72] Joseph C. Megginson vs. George Fisher and wife, November 5, 1856, District Court Minutes, Book C, p. 1221, CCDC.

and Whitfield, might not have been an active participant in the suit. Her answers were signed by her attorneys, which was not unusual for men or women. Although she at least seemed to be involved, her case might have been orchestrated by her husband and attorney. Only once was there any complaint over the absence of a married woman or her consent. A plaintiff objected to the affidavit of T. S. and Mary Anderson "because it [was] only sworn to by one of the defendants."[73] The judge never ruled on the objection.

This argument that husbands could bind their wives' separate property by acting as their wives' agents greatly diminished the small power that married women had over any property. Antebellum married women found less and less to draw them into the public sphere. The general acceptance of husbands as their agents excused them from attending to any legal business. Increasingly, it also transferred the simple act of buying family necessaries with her own money and property. Even transferring their interest in their own property became less public, as the public officials could examine married women privately in a less public sphere. Men as husbands and as legal officers acted upon laws in the antebellum era in such a way as to reinforce women's ability to remain out of the public sphere. Married women chose to remain in their private sphere, to which social proscriptions deemed them more suitable. Men and women alike assumed that men's greater intellectual abilities provided women with better protection in the public sphere than would women looking out for

---

[73] Exceptions, Richard Putney vs. T. S. Anderson and wife, November 3, 1860, Docket File No. 1570, CCDC.

their own concerns.[74]

WIDOWS

Increased occupational opportunities during the antebellum period allowed many women to remain single after their husband's death. Of the twenty-eight widows whose husbands' estates were probated between 1853 and 1861 that can be traced at least a year, only 46 percent remarried, a vast drop from the 89 percent who remarried during the frontier era. Only 32 percent married within two years of the Probate Court's granting of letters of administration on their deceased husbands' estates; nearly 60 percent never remarried or remarried only after five or more years.[75]

---

[74] Articles in the Colorado Citizen often discussed the natural intellectual superiority of males and the moral superiority of females. The Columbus Debating Society at one meeting in 1858 took up the question, "Is man superior, intellectually, to woman?" although the conclusion, according the Citizen editors, was foregone. The debaters decided that men indeed were women's intellectual superiors, and women were men's moral superiors. The debate spawned several public addresses by attorney R. V. Cook in the area in which he explained the importance of maintaining these "natural" distinctions to the happiness of married couples. Even at a young age, boys were considered superior intellectually to girls. One article argued for the education of boys and girls together because of these biologically determined attributes. "It is impossible to raise the girls as high, intellectually, without the boys as with them; and it is impossible to raise boys morally as high without girls. The girls morally elevate the boys, and the boys intellectually elevate the girls." Colorado Citizen, April 17, 1858, p. 1; March 27, 1858, p. 2; March 26, 1859, p. 2.

[75] Dianah Miller Obenhaus, Anna Margaretha Botard, Caroline F. Wooldridge, Elizabeth Moller, Barbara Heimann all remarried within a year of the probate of their husband's estate. Sarah E. Berry, Elizabeth Brandt Suhr, Louisa Ficken, and Matilda McDonald Volkey remarried within two years. Anna Kaiser, Sarah Lee, and Mary Robson remarried within three to five years. Martha Logue waited for fourteen years. Sarah Mercer, Maria Hallenberg, Martha Hersperger, Elizabeth Simon Pieper, Margaret M. McMillan, Louisa Townsend, Rebecca Beeson, Eliza Secrest, Lucinda Miller, Susan E. Rivers, P. A. E. Bonds, Sophie Ernest, Rebecca C. Grace, and Maria Leipscher did not remarry or remarried outside the county after a significant

Widows, however, did not remain single in order to assert their independence in the public sphere. Even as more widows from all ranks of wealth declined to remarry, they also declined to enter the public sphere that had been most open to them: the probate court. Only six out of twenty-one antebellum widows solely administered the estate of their deceased husband, and only three more co-administered (43 percent). Over half, twelve, chose not to administer at all.[76]

The number of wills probated also dramatically increased during the antebellum years. While only four frontier men with widows left wills, thirteen were probated during the antebellum era. The four frontier widows all probated their deceased husband's estates, while of the thirteen in the antebellum only six executed or jointly executed the will of their deceased husband (46 percent). The increase in the use of wills gave husbands opportunity to express their beliefs about whether their wives were capable of administering their estate. In the antebellum era, eleven of the thirteen male testators named their executor, and five of those named parties other than their wives. One of the six wives named executor or co-executor chose not to accept her role. Men and women alike believed that widows' place was not in the public business of settling an estate or that they were not capable of conducting that business, and when given an option, chose unrelated men to widows.[77]

---

period of time. See Probate Records, Marriage Records, County Court Records, Deed Records, CCCC; District Court Records, CCDC.

[76] See Probate Records, CCCC.

[77] Barbara Heimann, Anna Margaretha Botard, and Sophia Ernst were appointed sole executors in their husbands' wills and chose to serve. Virginia D. Moore, and Elizabeth K. Turner were appointed co-executors and chose to serve. Elvira Walker was appointed by her husband but declined to act as executor. The husbands of

Men showed less distrust, however, of their wives' abilities than the wives themselves showed in declining administrations: 45 percent of husbands named parties other than wives, while 57 percent of widows chose not to be administrator of an estate or executor of a will. Widows, therefore, chose to defer to other men the business of finishing their husbands' estates more often in the antebellum era than they had in the frontier period. And they did not just passively allow others to take over -- they actively declined their right to serve that duty. After the frontier period passed, law became more formalized and lawyers more meticulous in addressing all legal details. Most widows (nine of twelve who declined) signed a statement specifically declining to administer the estate of their husbands, appeared in court to waive their rights, or never challenged the petitioner's claim that she had specifically waived her right. Because law still gave widows the first right to administer, the person who agreed to administer probably insisted upon this safeguard. After a declination was signed, challenging the administrator would be more difficult and would have to be mounted on the basis of negligence or fraud.[78]

These statements declining to administer give some hints of why a widow would not want to do so. Antebellum widows frequently mentioned the difficulty of

---

Rebecca Beeson and Elizabeth Brandt named no executor in their wills. Beeson chose to serve as executor, while Elizabeth Brandt declined. See Estate of Casper Heimann, January 28, 1856, p. 214; Estate of William H. Moore, October 3, 1856, pp. 312-13; Estate of William R. Turner, July 27, 1857, pp. 401-02; Estate of Leander Beeson, January 25, 1858, pp. 679-80; Estate of John B. Botard, May 30, 1859, pp. 99-100, Probate Final Record, Book E. Estate of Ferdinand Brandt, October 13, 1859, pp. 375-79; Estate of F. K. Walker, January 13, 1860, p. 275, Estate of Max Ernst, April 4, 1860, pp. 365-66, Probate Final Record, Book F, CCCC.

[78] Probate Records, CCCC.

the estate or their ignorance of business because of their gender. In 1856 even Mary Smith, who eventually became sole executor, pleaded with the judge to allow her brother-in-law to co-administer with her "that being a female and in feeble health she would be greatly benefited by [his] services. . . ."[79] After initially applying for letters, Martha Logue realized that she was "entirely unacquainted with business."[80]

The antebellum era with its denser population did provide widows with more relatives in the county to whom they could turn over the administration of their husbands' estates. However, this alone does not account for all the declinations. Seven out of the nine who specifically declined the administration, did so in favor of a specific male. Yet, less than half of those declined in favor of a male relative. Of all the antebellum estates not administered by the surviving wife, only half were administered by a male relative instead.[81]

Antebellum widows believed that even unrelated men would take better care of an estate than themselves. Married women had deferred the public sphere duties of business and the District Court to their husbands. Antebellum single and widowed women acted in these spheres through agents as well, even in the probate court.

As during the frontier, the age of the widow did not seem to affect her willingness to administer or her decision to decline. Of those widows whose ages can

---

[79] Estate of Alfred Smith, May 14, 1857, Final Probate Record, Book F, p. 119, CCCC.

[80] Estate of John G. Logue, January 5, 1861, Final Probate Record, Book F, p. 437, CCCC.

[81] The petitions often stated the relation of the person applying for letters. Other times, relations can be ascertained from other sources.

be determined, the average age of those who took an active role in their husbands estates was 36, while the average age of those who declined was 37. The youngest to accept administration or execution of her husband's will was 22 years old, the oldest 54. The youngest to decline was 23, the oldest 65. Likewise, ethnicity played little role in accepting or declining. Four German widows accepted while six declined. Eleven Anglo women accepted, while fourteen declined. Whether German or Anglo, more widows declined than accepted.[82]

A complex estate probably discouraged widows from taking on its responsibility as much as any other factor. The affidavits declining administration often cited the complexity of an estate as the reason for not wishing to take it on. Martha Logue petitioned to become co-administrator of her husband's estate, but a month later officially declined to have any part of it, citing its "complicated condition."[83] Logue's estate was indeed complicated. He owned twenty-two separate tracts, most of them containing more than one hundred acres, thirteen sets of town lots, slaves, sheep, goats, mules, cattle and other livestock. Additionally, he held extensive lists of claims, accounts, and collectable debts, most of which were out of date, bad, or already paid. The administration required extensive work collecting, paying debts, and other business transactions. It also required frequent visits to the courtroom, Justice of the Peace, and District Courts to recover debts, Probate Court

---

[82] Twenty-six per cent of those accepting were German, 30 per cent of those declining. Of the eleven Anglo widows who accepted, nine were southern, of the fourteen who declined, twelve were southern.

[83] Estate of John G. Logue, January 5, 1861, Final Probate Record, Book F, p. 437, CCCC.

for frequent reporting and requesting permission to settle court cases or sell property. Martha Logue was wealthy enough that the 10 percent commission she would have received straightening out this mess was not worth the trouble. In her stead she chose to administer the estate the experienced Cleveland Windrow, who served as the county clerk and therefore was already familiar at the courthouse.[84]

Some planters had even more complicated estates than merchants. The most involved estate in the antebellum probate court was that of planter Alfred Smith, administered by his widow Mary M. B. Smith. Mary did not initially wish to administer, but when forced to choose between administering or allowing one of her husband's creditors to do so, she preferred to co-administer. However, the court frowned on her choice of co-administrator and so Mary administered the estate solely for eleven years, through eighteen suits in the District Court as both defendant and plaintiff.[85] Although in her unique case, circumstances pressed Mary Smith to administer a very complicated estate, a few other widows administered difficult ones without such pressure. Susan E. Rivers administered the estate of her deceased attorney husband completing, defending, or suing fourteen separate cases.[86] Four of

---

[84] Estate of John G. Logue, December 21, 1860 and other dates, Probate Final Record, Book F, p. 437, July 28, 1867 and other dates, Probate Final Record, Book G, pp. 740-97, CCCC.

[85] Estate of Alfred Smith, July 14, 1856, Final Probate Record, Book E, pp. 346-57, CCCC. See Docket File Nos. 1126, 1144, 1190, 1221, 1222, 1242, 1258, 1260, 1274, 1276, 1305, 1313, 1314, 1315, 1316, 1317, 1358, and 1374, CCDC.

[86] Estate of Robert Jones Rivers, January 29, 1855, Probate Minutes, Book D, p. 281, CCCC. See Docket File Nos. 865, 1062, 1259, 1354, 1657, 1658, 1722, 1952, 1962, 1963, 2059, 2117, 2124, and 2125, CCDC.

the six women who administered handled multiple District Court lawsuits.[87]

Complexity may have affected the decision of some widows in choosing or declining to administer, but a high-valued estate did not necessarily intimidate women. Widows were more likely to choose to administer estates in the top half of the wealth bracket than in the lower half. Widows of two estates in the lower half of the population according to wealth administered an estate, while eight declined. In the upper half, thirteen widows acted on the estate, while eleven did not. Both husbands leaving wills and widows choosing to administer had greater faith in women's ability and willingness to complete the husband's affairs when the widows had lived in the top two quarters of wealth. However, even among the top half, the wealthiest of men had reservations. Men in five wills appointed their wives executor and one will appointed no executor -- none of these estates were in the top 10 percent of wealth. Four men appointed a person other than their wife, but three of these were in the top 10 percent of wealth. Widows given a choice, however, to administer even the wealthiest top 10 percent of estates chose to do so in even numbers (two in each case).

---

[87] In addition to Robert Jones Rivers' estate, the estates of Augustus B. Wooldridge, John H. Moller, and John F. Berry, had District Court suits.

Widows Administering Estates or Executing the Provisions of a Will, by Wealth[88]

Quarter of Wealth:	4	3	2	1		Total
					top 10%	
Administrator	1	1	1	2	1	6
Co-Administrator			2		1	3
Executor			3	1		4
Co-executor				2		2
Declined Administration		5	5		2	12
Declined or not appointed executor		3	1		3	7
Total	1	9	12	5	7	34

The most striking predictor of whether a widow would choose to administer the estate of her husband or execute his will, as mentioned in the previous chapter, was whether she had been married in the frontier era. Of those whose marriage dates can be ascertained, over half of the nine widows married before 1850 administered, co-administered, or executed their husbands' estates. Of those married after 1850 only one out of seven administered the estate. Women widowed in the antebellum period but married for at least two years in the frontier era were more likely to take on a public role in their husband's business after his death.[89] These widows were less accustomed to having their husbands or any other male act as their agent in business or in court. Having carved out a home with their husbands on the wilderness in the

---

[88] See Probate Records, CCCC; Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County.

[89] Marriage Records, Probate Records, CCCC.

frontier era both forced them into male roles and gave them more opportunity to be intimately acquainted with their husband's business. As the antebellum era allowed more women to remain solely in their private sphere during marriage, they chose less often to venture out of that sphere as a widow.

DIVORCE

Certain antebellum women found that they could no longer rely on their husbands as their agents or their spouses. Antebellum women, however, sought divorces for different reasons than frontier women had. Frontier women had looked to divorce as an opportunity to force husbands to be more financially responsible or to enable them to remarry when their husbands were not, as when they abandoned their wives. Seventy-one percent of divorced women in the frontier can be ascertained to have remarried, while only 30 percent in the antebellum did so.[90]

The legal grounds for women obtaining divorce did not change from the frontier to the antebellum, although their motives may have. Abandonment might have been the prime motivation for almost half the women who filed during the frontier era (six of thirteen), but it served as legal grounds for only one. A woman in the frontier could not wait three years for legal abandonment before she remarried. In the antebellum era, women much more often had other relatives, grown male sons, or

---

[90] Of 14 divorces granted in the frontier, 10 wives can be ascertained to have married again. The other four cannot be accounted for. In the antebellum, 4 of 13 were found to have remarried, while at least four were definitely found single at a later date and did not remarry in the county.

increased occupational opportunities to support themselves when abandoned. Five antebellum women were able to wait the requisite period of time before petitioning for divorce on the grounds of abandonment.[91] Even then the abandonment was usually local; most petitioners knew where their husbands were. Women did not necessarily need to remarry, and several tried to work out terms of separations, instead of divorcing. Sophia Illg after the divorce stated that "Illg and myself had agreed to divide our property and separate without any law suit and I left and went to [William Byar's] house to board." Sophia and William Byar both expected that even though separated, Jacob Illg would remain responsible for Sophia's boarding expenses.[92]

Charlotte Cherry waited three years before claiming that her husband had abandoned her. Charlotte, like most of the women who claimed abandonment, knew where her husband was. When he was notified, Thomas answered the petition claiming he had left Colorado County to make a living

> . . . and that he endeavored to induce and persuade his wife the sd Charlotte to come and live with him so that he might more fully protect and care for their children, but that she has wholly disregarded his earnest desires in this respect and refused to live with him and discharge her duties as a wife or mother.[93]

---

[91] Petition, Mary Ann Sapp vs. Basil G. Sapp, February 4, 1853, Docket File No. 766; Petition, Charlotte Cherry vs. Thomas E. Cherry, March 26, 1857, Docket File No. 1203; Petition, Margaret Miller vs. Theodore Miller, March 10, 1859, Docket File No. 1410; Petition, Odeliah Besch vs. Charles Besch, April 2, 1859, Docket File No. 1424; Petition, William Bauer vs. Julia Bauer, September 30, 1859, Docket File No. 1472, CCDC.

[92] Deposition, Wm. Byars vs. Jacob Illg, April 24, 1861, Docket File No. 1589, CCDC; Bond and Mortgage Records, Book E, p. 359, September 14, 1859, CCCC.

[93] Petition and Answer, Charlotte Cherry vs. Thomas E. Cherry, March 26, 1857, and November 4, 1857, Docket No. 1203, CCDC.

In his answer, Thomas effectively denied neglecting the expectations of him as a husband and shifted the blame to Charlotte, who refused to submit to her husband's requests to move to Houston. By mutual agreement, the case was withdrawn.[94]

Two other wives who claimed desertion but obtained no divorce had the unfortunate timing to file during 1859, the first year of George W. Smith's tenure as District Judge. Smith stated very clearly in his charges to the court that he opposed divorce. He allowed it to occur, of course, when the parties met all the rules of law, but he granted absolutely no leeway. Margaret Miller alleged a series of verbal abuses and lies and abandonment by her husband for more than three years. When she went to court, Judge Smith heard her evidence apparently with little sympathy, and she chose to "prosecute no further."[95] Odelia Besch proceeded with her suit against her husband who had over three years before told her "'she might go to Hell and he was going to California'."[96] She produced witnesses that "stated she was a faithful and affection [sic] wife to deft." She even called the county sheriff who testified that he had four-year-old writs of execution against the property of Charles Besch that he had never been able to serve.[97] Despite this evidence, the judge's instructions to the jury were simple "You are charged to find a verdict agst [sic] the

---

[94] Charlotte Cherry vs. Thomas E. Cherry, November 10, 1857, District Court Minutes, Book C, p. 1299, CCDC.

[95] Margaret Miller vs. Theodore Miller, May 10, 1859, District Court Minutes, Book C2, p. 56, CCDC.

[96] Amended Petition, Odeliah Besch vs. Charles Besch, November 8, 1859, Docket No. 1424, CCDC.

[97] Statement of Facts, Odeliah Besch vs. Charles Besch, November 12, 1859, Docket No. 1424, CCDC.

plff. she having failed to make out her case in proof." The jury complied by finding the allegations in the petition not proven.[98]

In the antebellum era, women had mixed results alleging desertion (only 33 percent granted), but their prospects when alleging cruelty improved. Cruelty, the ground on which most frontier women won their cases, was expanded and utilized by women in the antebellum era. In frontier-era divorces, the ground of cruelty had greatly favored men, requiring a lesser degree of physical cruelty to win a divorce for men than women. In antebellum divorces, the cruelty clause began to resemble what contemporaries and historians assumed it was meant to be: a modification "favoring women."[99]

Eleven women petitioned for a divorce on the grounds of cruelty, and six won their divorce. All but two cited physical cruelty, and only one was dismissed by the judge before reaching the jury. The two nonphysical cruelty suits filed by women, surprisingly, won divorces -- even in the courtroom of the difficult Judge George W. Smith. This action heralded the beginning of a new pattern in divorce for Colorado County: slander against a wife's reputation by the husband could constitute cruelty.[100]

---

[98] Charge, Odeliah Besch vs. Charles Besch, November 8, 1859, Docket No. 1424; November 8, 1859, District Court Minutes, Book C2, p. 120, CCDC.

[99] Jane Turner Censer, "'Smiling Through Her Tears,': Ante-Bellum Southern Women and Divorce," American Journal of Legal History 25 (January 1981), 46; Robert L. Griswold, "Law, Sex, Cruelty, and Divorce in Victorian America, 1840-1900," American Quarterly 38 (Winter 1986), 730-31.

[100] Two divorce cases filed by women during the antebellum era are not taken into account here, because one case was dropped, dismissed, or forgotten when war began and the District Court ceased holding court and hearing cases. In the other case the defendant died before trial. Petition, Sylvania Olds vs. Jno T. Olds, October 4, 1860, Docket File No. 1563; Petition, Catherine Peltzer vs. Adam Peltzer, September 24,

Elizabeth and Jacob Hahn had been married for ten years and had four children at the institution of the suit for divorce. Elizabeth's petition very carefully painted herself as "a true and faithful wife" who received "in return for her affection, and the faithful discharge of all the duties of a good wife," cruel and unnatural treatment. Specifically,

> at the birth of each and all of said children the Deft charged your petitioner with infidelity to his bed, and in the presence of company charged her with adulterous intercourse with divers persons. These charges and accusations were often made and repeated from the time of the birth of their first child up to Friday the 26th day of August 1859. That a day or two after the birth of their last child which was on the 25th Dec 1858, the Deft in the presence of company charged her with adultery and that the child just born was not his, and that he would not have anything to do with it.[101]

Historian Robert L. Griswold's study of matrimonial cruelty claims that in the United States ". . . false allegations of adultery began to carry increasing weight in divorce suits . . ." after the 1840s.[102] The antebellum Texas Supreme court made no clear ruling on whether false allegations against a wife should be considered cruelty. According to Jane Turner Censer, however, by 1857 Chief Justice Hemphill had "indicated a belief that groundless accusations made outside judicial proceedings constituted an indignity to a wife."[103]

By 1859 the Colorado County court saw a fraudulent charge against a woman's

---

1860, Docket File No. 1554, CCDC.

[101] Petition, Elizabeth Hahn vs. Jacob Hahn, August 30, 1859, Docket No. 1459, CCDC.

[102] Griswold, "Law, Sex, Cruelty, and Divorce," 725; Censer, "Smiling Through Her Tears," 30-31.

[103] Censer, "Smiling through Her Tears," 30-31.

virtue even in the southern state of Texas as "an act of cruelty justifying a divorce." Presiding Judge George Smith took this occasion to impart at great length his views on divorce, giving seven pages of instruction to the jury. He charged the jury that "the marriage relation is the most important that can be formed and that it should not be broken up and dissolved easily." His charge quoted Texas Supreme Court decisions and Lord Stowall's writings that discouraged divorce, admonishing couples to recognize the indissolubility of marriage so as not to "foment the most frivolous quarrels and disgusts into animosities." Elizabeth's petition detailed other abuses including the exact day that Jacob took a gun and threatened to kill her, but Judge Smith informed the jury that Jacob's charge of adultery "in an insulting and slanderous manner" was the only action on which she could sue.[104] Despite his prejudicial opening, Smith did instruct the jury that

> if you find from the evidence that the deft did maliciously and with intent to injure the plff did falsely charge her with adultery publicly and in a manner calculated to injure her character and destroy her happiness then you will find the allegations in the plffs petition setting forth that the deft charged her with adultery is true.[105]

The jury did find in Elizabeth's favor, and the judge pronounced the bonds of matrimony dissolved.[106]

Nancy Jane Cundiff also claimed her husband had begun "to treat her in a

---

[104] Charge, Elizabeth Hahn vs. Jacob Hahn, May 4, 1860, Docket No. 1459, CCDC.

[105] Charge, Elizabeth Hahn vs. Jacob Hahn, May 4, 1860, Docket No. 1459, CCDC.

[106] Elizabeth Hahn vs. Jacob Hahn, May 8, 1860, District Court Minutes, Book C2, p. 185, CCDC.

cruel and outrageous manner" by accusing her of criminal intercourse and publicly calling her a "lewd strumpet." She carefully stated that the allegations were false and "further says that she has been delicately and respectably raised, that she has always been known as a virtuous and pure woman. . . ."[107] Although Chief Justice of the Texas Supreme Court John Hemphill had allowed that false charges of adultery might constitute cruelty, he continued to maintain that "no exact definition of legal cruelty can be given. . . ." Even "mere blows. . . among persons of coarse habits may pass for little more than rudeness. . . ."[108] By stressing her delicate, respectable raising and position in society, Jane Cundiff claimed that allegations of adultery were as cruel to her as physical cruelty was to any woman of a lower station. The District Court judge charged the jury that if the allegations of adultery were publicly made and the jury considered them to be false then Jane Cundiff was entitled to a divorce. Cundiff did receive her divorce.[109] Two other women also cited slander by their husbands. One received her divorce because of physical abuse, and the other woman's husband obtained a divorce in another county before her case came to trial.[110]

Although not overwhelmingly successful, the charge of slander in the antebellum signified the shift in social attitudes toward marriage and divorce. Women were no longer satisfied with husbands who might act financially responsible but

---

[107] Petition, Nancy Jane Cundiff vs. Calvin S. Cundiff, August 29, 1860, Docket File No. 1546, CCDC.

[108] Quoted in Censer, "Smiling through Her Tears," 35.

[109] Charge of the Court and verdict, Nancy Jane Cundiff vs. Calvin S. Cundiff, May 3, 1861, Docket File No. 1546, CCDC.

[110] Griswold, "Law, Sex, Cruelty, and Divorce in Victorian America," 721-24.

otherwise treat them poorly. Elizabeth Bateman, or the lawyer who wrote her petition, found it important to note in the first section that her husband

> has not performed the duties of a kind husband . . . rendering himself very disagreeable in his family and especially to your petitioner, that he has for more than two years shown feeling of dislike to your petitioner and a total disregard for her comfort and happiness.[111]

Many other antebellum women seeking divorces made similar complaints about their husband's "total want of affection and regard for her," and "utterly disregarding [her] feelings." Petitions also frequently referred to the spouse's failure to uphold wedding vows, specifically "to love honor and protect her."[112]

Men also complained of their wives' disregard of their wedding vows, or of their duties as mothers. The most frequent infraction of their roles as wives, according to petitions, was adultery. Men in the antebellum period, as they had during the frontier, relied heavily on adultery to receive divorces from their wives. Of the fourteen petitions filed by men between 1853 and 1861, ten charged their wives with adultery. Sion Bostick and Jacob Illg both filed a second divorce petition when the jury found their allegations against their wives to not be proven. Jacob's second suit found more favor from the jury, and he was divorced by the court in Colorado County. Sion's second suit received a change of venue, and his divorce was

---

[111] Petition, Elizabeth Bateman vs. Thomas Bateman, August 24, 1853, Docket File No. 802, CCDC.

[112] Petition, Mary Ann Sapp vs. Basil Sapp, February 4, 1853, Docket No. 766; Petition, Marie Albrecht vs. Hubert Albrecht, September 8, 1855, Docket File No. 1065; Petition, Sarah Dunford vs. William Dunford, June 13, 1857, Docket File No. 1240, CCDC. See also Petition, Nancy Hope vs. John Hope, September 2, 1854, Docket File No. 905, CCDC, and others.

granted in another county. Therefore, out of the eight husbands who petitioned for relief because of their wives' "criminal intercourse," five eventually received their divorce.[113] The other three husbands could not really complain that their cases never went to court: Antone Rickis never had process served on his wife, and Fletcher Bridges and Horace B. Pendleton both withdrew their suits after it was alleged they each had another wife still alive.[114]

The eventual success rate for men charging their wives with adultery was quite high, but it was also the most contested type of case. Divorced women did not necessarily die a social death, but society believed that women found guilty of adultery had only a small hope of a respectable life again. Judge Smith thus charged the jury in the Jacob Illg vs. Sophia Illg trial,

> You must be aware of the serious consequence that will result to the deft from a verdict finding her guilty of adultery. It may work blight upon her character that will seriously effect her to the close of her life, hence for this reason the law makes it your duty to be satisfied beyond a reasonable doubt that she did commit the alleged act of adultery before you find the charge to be true . . . for though the husband is let free as he wishes yet in the very act that this liberates him she is sunk to the depths of infamy. . . .[115]

---

[113] Petition, Jacob Illg vs. Sophia Illg, September 15, 1859, Docket No. 1466, CCDC.

[114] Petition, Antone Rickis vs. Martha A. M. Rickis, January 13, 1858, Docket No 1304; Petition, Horace B. Pendleton vs Susan Cass now Susan Pendleton, March 30, 1857, Docket No. 1206; Petition and Answer, A. Fletcher Bridges vs. Rachel A. F. Bridges, August 8, 1857, and September 1, 1857, Docket No. 1252, CCDC.

[115] Charge, Jacob Illg vs. Sophia Illg, May 7, 1860, Docket No. 1512, CCDC. Despite his stunning charge to the jury, Sophia was found to have committed adultery with "one August Enke." Chances are good that the charge was true: Sophia married August Enke within the year. Marriage Records, Book D, CCCC.

Understandably, therefore most wives fought these charges with all available resources. As mentioned above, Sion Bostick and Jacob Illg had to try more than once to prove their wives committed adultery. Susan Pendleton and Rachel Bridges defended their honor by impugning their husbands' reputations and accusing them of bigamy. Half the adultery divorces granted in this period were to a husband whose wife after committing adultery had also abandoned him and "gone to parts unknown," therefore putting up no defense.[116]

Men and women both used petitions to highlight alleged facts that would get them divorces, but that did not necessarily describe the true state of their marriages. Petitions exaggerated in order to place the petitioner in the best possible light compared to their spouse, especially when the innocence of one and the guilt of the other was necessary to successfully sue for divorce. From the frontier era through Reconstruction, husbands and wives alike described themselves in a gendered vocabulary that exaggerated their blamelessness. Sion Bostick claimed his wife Susan "wholly disregarded all the duties and obligations of a wife" even though the petition itself showed that she somehow had conceived at least four children.[117] Every petitioner and respondent described him or herself as living up to the ideal of their gender, and described the spouse as failing in this attempt. Women who filed state

---

[116] Petition, Andrew Cryer vs. Lydia Cryer, September 30, 1857, Docket No. 1269, CCDC.

[117] Petition, Sion Bostick vs. Susan Bostick, September 6, 1855, Docket No. 1064, CCDC. (emphasis added)

that they had always acted "as a kind and faithful wife."[118] Nancy Hope, for instance, maintained that "since the period of her marriage [she] has ever endeavored according to the best of her knowledge and ability to fulfill all the duties of a faithful wife . . . [exercising] diligence and assiduity in household affairs, in ministering to the wishes and wants of her husband and his three children by a former marriage and in conforming to all the requisitions of the marriage relation. . . ."[119]

Antebellum petitions whether filed by men or women increasingly used the rhetoric of gendered expectations of husbands and wives to gain a divorce. The overall success rate for antebellum women petitioning for divorce did not improve from frontier days. Only seven out of seventeen divorce suits filed by women were granted (41 percent), compared to seven out of thirteen in the frontier (54 percent). Men's success rate dropped drastically from the frontier to the antebellum era, from seven out of nine (78 percent) to seven out of fourteen (50 percent). Women's changing expectations of marriage, however, did affect both their legal reasons and motivations for seeking divorces. Very few women used divorce in the antebellum years as an opportunity to wield financial power in the marriage or to disengage themselves from abandoning husbands in order to remarry.

---

[118] Petition, Mary Ann Sapp vs. Basil G. Sapp, February 4, 1853, Docket No. 766, CCDC.

[119] Petition, Mary Ann Sapp vs. Basil G. Sapp, February 4, 1853, Docket No. 766; Petition, Nancy Hope vs John Hope, September 2, 1854, Docket No. 905, CCDC.

CONCLUSION

Women found many opportunities in antebellum Colorado County that they did not have during the frontier. Women pursued an increased number of profitable occupations. They enjoyed more leisure and a greater concentration of people that led to a greater participation in organized community activities, such as churches and social organizations. Almost all women still married, but they exercised a greater freedom to not remarry when widowed or divorced.

The opportunities that women chose to pursue, however, left them more in the private sphere and took them less often into the public. The occupations that they held could be performed in their homes or were extensions of their domestic sphere. In the public sphere of business and law, they could and did choose to defer more frequently to male family members and respected male citizens. Yet, women's greater options allowed them to expect more from the men in their lives. Women divorced men for reasons other than abandonment and failure to provide. Widows chose to rely on their own sons, sons-in-law, or other nearby kin rather than remarry.

Social customs, laws, and practices also changed to allow business and law to be transacted within a woman's private sphere. Social institutions evolved that allowed women to avoid the public sphere. Women increasingly made their own choices not to enter the public sphere even in cases where frontier women had overwhelmingly chose to participate, such as in probate court. As labor and capital increased, and a general settling of the county occurred, duties on and off the farm could be more easily divided by gender. Women's choices showed that they

participated in or agreed with the divisions between their duties and men's, both at home and in the public sphere.

CHAPTER 4

CIVIL WAR

"If my sphere permitted me to go to the wars, I should have taken delight in going some time ago, and nothing could have prevented me from going." Helen[1]

In February 1861 Texas became the last of the deep South states to secede from the Union. The Colorado Citizen headlines eight months earlier had proclaimed "Secessionists Rebuked!" in an extra edition covering a Columbus town meeting.[2] After the election of Abraham Lincoln, the editors changed their tune: "May it be the proud boast of Texas, that she got out of the Union before Lincoln got into power!"[3] In the election of secession convention delegates and in the secession referendum, Colorado County citizens supported immediate secession. Only the predominantly German portions of the county opposed secession, but even these regions were not unanimous in their vote and were in any case too small numerically to affect the

---

[1] "Helen," Colorado County Citizen, September 21, 1861, p. 2.

[2] Colorado Citizen, May 30, 1860, p. 1. In the same issue, a short snippet asked "Why is the Union of these States like a marriage vow? Because it was entered in to never to be broken."

[3] Colorado Citizen, February 16, 1861, p. 1. Bill Stein points out that the editors did not necessarily react to Lincoln's election with calls for immediate secession. In the election of delegates to the Secession Convention, the Citizen endorsed A. H. Davidson and John Shropshire; the former supported secession while the latter opposed it. After Davidson and another secession supporter, T. Scott Anderson, were elected, the Citizen's editors "joined the chorus." Bill Stein, "Consider the Lily: The Ungilded History of Colorado County, Texas, Part 5," Nesbitt Memorial Library Journal 7 (January 1997): 47-50.

county's decision.[4]

Convention candidates, those who voted for them, and the editors of the newspaper that endorsed them were, of course, all men. Women's support from the very beginning, however, was crucial to the cause of the Confederacy: "That cause can never perish which is sustained by the smiles and approval of our noble Southern women!"[5] The Citizen consistently applauded the "powerful influence" of women at home, in the market, and with their decision-making husbands. The editors delighted in a story about the Williamson County delegate who had voted against secession but asked permission to change his vote after he went home and "his wife wouldn't let him in at the front door!"[6]

"Ladies" responded to the earnest requests of the Citizen to use their powerful influence to support all things Southern, forming at least two organizations to support the war effort. The "Ladies Military Association" created committees to raise funds "for the purpose of equipping a company of volunteers from Colorado County, for the war." Another group of women made and presented a flag to the departing Company A, Fifth Regiment Texas Mounted Volunteers. Other women made or raised money for clothing and supplies for the "men." R. V. Cook in supplying Captain Upton's

---

[4] Ten other Texas counties with a majority German population did vote against secession. John B. Boles, The South Through Time: A History of an American Region, (Englewood Cliffs, New Jersey: Prentice Hall, 1995), 295.

[5] R. V. Cook in Colorado Citizen, October 12, 1861, p. 2.

[6] Colorado Citizen, March 2, 1861, p. 2. The editors response to the story was "Pretty good." See also July 6, 1861, p. 1, "Duty of the Women of the South," August 3, 1861, p. 2, August 10, 1861, p. 1, "A Great Feat," and September 14, 1861, p. 1.

company "found the ladies everywhere filled with ardor and zeal and the cause of their country. None were unwilling to contribute."[7]

When women's support for the troops did not suffice to enlist all the young able-bodied men in the county, women used other powers of influence. At least one woman resorted to shame. "Helen" suggested that "all the young men that won't go to the wars, ought to put on hoops and long gowns. . . ." If these men thought that they might "stay at home and marry while the choice young men are gone to the wars . . . they are much mistaken! A man that won't protect his country won't protect his wife."[8] John Shropshire asked his wife to "tell Georgia that if she had the pluck of our ancient mothers that she would hen peck Ben like the _____ if he did not leave soon for the wars."[9]

In the first year or so, the war served to further define and separate the male and female spheres. As Helen bemoaned, her sphere would not allow her to "go to the wars" -- this public honor was reserved for men only. Men and women at first did not believe that the additional duties of "soldiering" available to men would affect the carefully separated spheres as formed in antebellum Colorado County. John

---

[7] Colorado Citizen, July 6, 1861, p. 2, "Ladies Meeting," August 3, 1861, p. 2, August 24, 1861, p. 2, "Banner Presentation," and October 12, 1861, p. 2. For examples in other parts of the South, see Drew Gilpin Faust, Mothers of Invention: Women of the Slaveholding South in the American Civil War, (Chapel Hill and London: University of North Carolina Press, 1996), 11-27.

[8] Colorado Citizen, September 7, 1861, p. 2, "Hoops for the 'Braveboys'."

[9] John Samuel Shropshire to Caroline Tait Shropshire, September 28, 1861, in "Civil War Letters of John Samuel Shropshire," Nesbitt Memorial Library Journal, 7 (January 1997): 62. Women were expected to repress their concern for relatives and kin for the good of the South and not only allow them, but encourage them to go to war. Faust, Mothers of Invention, 17-18.

Shropshire in letters in 1861 and early 1862 sent instructions to his wife Caroline about business, but with the expectation she would forward them to her father. In January 1862, Caroline was to "ask the Dr to have some cotton baled for you and send it to Messrs Vance & Bro San Ant. and have it sold." John also included in his letter details of accounts that he held, debts that he owed, and those he wished to have paid first. All of which he expected her to relay to her father because, as John wrote, "I rely upon him entirely and feel satisfied that he will act entirely for the best. . . ."[10]

As the war wore on, however, fewer and fewer men were available to take over the duties left behind by the soldiers. The patriotic zeal of the county's men and women led to the formation of at least four volunteer companies during the war. These companies enlisted a total of 424 men, an equivalent to 35 percent the county's adult male population. It is impossible to know precisely how many troops Colorado County supplied for the war, but evidence shows that many more of the county's men enlisted in other companies, and at least a handful of German men fought for the Union army.[11] By 1863, according to one man, "almost all the men in the county

---

[10] John Samuel Shropshire to Caroline Tait Shropshire, January 26, 1862, in "Civil War Letters," 69. At least in the beginning the Civil War made it even clearer to women their helplessness and dependence when they felt they had no role to play in the conflict. Faust, Mothers of Invention, 22.

[11] For instance, Beverly M. Lacy is described as having been a soldier at home on furlough in his wife's divorce petition, but he was not one of the soldiers in the four Colorado County volunteer companies. Petition, Ellen Lacy vs. Beverly M. Lacy, September 7, 1865, Docket File No. 1813, Colorado County, Office of the District Clerk, in the Colorado County Courthouse, Columbus, Texas (hereinafter CCDC). Forty-one more soldiers from Colorado County but not listed in these companies can be found in the Widow's Confederate Pension Records. These were men who served in the army and had widows who survived until at least 1899, but never remarried, remained in Colorado County, and were in destitute enough

were drafted to the military service."[12]

As men left Colorado County in ever-increasing numbers, many public-sphere activities ceased altogether. The three brothers and editors of the Colorado Citizen complained in October 1861 that "Columbus is now the dullest place perhaps, on the map. . . ." By the end of the year, the editors Ben M., J. D., and A. Hicks Baker all joined the army leaving the county without a newspaper.[13] The District Judge for Colorado County, George W. Smith, did not enlist. However, with the large number of men enrolled and unavailable to answer suits and the legislative enactment of stay laws suspending the collection of debts, Smith suspended District Court completely for the duration of the war.[14]

Although they might try, the citizens of Colorado County could not indefinitely postpone life in the public sphere until the men returned. Food and cotton crops still had to be raised and sold for the support of the family, as well as for the support of the Confederacy. Other legal matters such as probating the estates of the men who died in and during the war could not wait. Although the men who remained guided

---

circumstances to warrant a Confederate widow's pension. Undoubtedly, there were many more who served but did not meet all of those criteria. Confederate Pensions, Colorado County, Texas, Texas State Archives, Austin, Texas. One-hundred and fifty-six of the men buried in existing Colorado County cemeteries were Confederate veterans, and at least four fought in the Union army.

[12] Petition, B. T. Ingram vs. E. K. Turner, August 31, 1865, Docket File No. 1810, CCDC.

[13] Colorado Citizen, Oct 12, 1861, p. 2; Colorado County Chronicles, 79.

[14] District Court Minutes, 1861-65; Colorado County Historical Commission, comp., Colorado County Chronicles: From the Beginning to 1923, Vol. I, (Austin, Texas: Nortex Press, 1986), 904; Rupert Norval Richardson, Ernest Wallace, and Adrian N. Anderson, Texas: The Lone Star State, Fourth Edition, (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1981) 234.

both business and law in the county, women increasingly became actors in these public matters.

Most notably, married women actively participated in financial transactions in much larger numbers than before the war. The antebellum laws of coverture had declared married women's business actions invalid without their husbands' express permission and signatures. However, as husbands went to war and left their wives in charge of the family plantations and companies, merchants and other men in the county abandoned their usual reluctance to conduct business with women.[15]

Although it is uncertain if Helen LeTulle's husband Victor joined the army, he was absent during 1862 and 1863. During his absence, Helen "acted in the capacity of agent for Le Tulle and Co.," her husband's business. When James Darby called on her with the intention of repaying a note LeTulle and Co. held against him, she "examined the claims left with me by LeTulle and Co. and failed to find any note. . . ." She then "received an amt [sic] of money in Confederate notes from James A. Darby and receipted to him for it. . . ." When her husband came home Helen gave him the money and the accounts, and although the company no longer held the note, she said that never "did her husband express any sorrow at my having received the money from Mr. Darby."[16]

Although a married woman, unable in normal circumstances to conduct her

---

[15] Women elsewhere in the South also moved into taking care of businesses and working for wages during the war. "Ladies keep the stores here now.... their husband having joined the army." Faust, Mothers of Invention, 80-90.

[16] Deposition, J. G. Walker vs. James A. Darby et al, April 17, 1866, Docket File No. 2032, CCDC.

own business much less that of her husband, Helen acted as her husband's agent in this and presumably other financial transactions in his absence during the Civil War. James Darby showed no reluctance at conducting business with this married woman and, in fact, insisted upon paying her money despite her reluctance to take it when Helen could not find the note the company held against him. Her husband did not regret, nor challenge, Helen's actions. Nor did anyone challenge her ability to act as her husband's agent during the court case that finally went to trial in 1868. The case against James Darby centered not on Helen's marital status, but on the fact that LeTulle and Company had previously traded the note to another party.[17]

Victor Le Tulle never recorded any legal document giving his wife express permission to conduct his or her own business. He assumed that in the midst of the war Helen, although a married woman under the confines of coverture, naturally should serve as his agent. Other husbands, however, did attempt to leave legal documents giving their wives power to conduct business.

Fanny Darden had spent her antebellum years protected from the public sphere even in the seven district court cases before the war that disputed her separate property. William Darden in his capacity as manager of her estate had completely handled the legal and financial aspects of protecting her property, never requiring her to sign a document in its defense or ever appear in court. However, when William

---

[17] J. G. Walker vs. James A. Darby et al, April 17, 1866 through March 2, 1869, Docket File No. 2032, CCDC. Although originally named as defendants, the plaintiff dismissed the case "as to V. D. Le Tulle and endorsers" before proceeding to a jury. March 2, 1869, District Court Minutes, Book D, p. 212, CCDC.

Darden entered the Confederate army, he appointed W. S. Delaney as his agent "in order to enable my wife Mrs. Fanny A. Darden . . . the better to manage and transact business during my absence in the wars. . . ." William Darden's intention was not to give Delaney control over his financial affairs, but to serve in Darden's stead whenever Fanny needed her husband's permission to enter a contract. Darden instructed Delaney to sign his name "to any and all instruments of writing which my wife may think or deem necessary. . . ."[18]

At least one other husband attempted to enable his wife to legally take care of the family's financial matters. Michael McLemore registered a power of attorney in 1863. In this document duly recorded in the Colorado County Clerk's office, McLemore appointed his wife Mary McLemore

> to be my true and lawful attorney in fact to act for me and in my name, place and stead as agent to sell and convey any lands, houses and lots in the Town of Columbus or else where, or any negro slaves now belonging to either of us individually or owned by us as community property in as full and complete a manner as the same could be done if I were personally present and joined with her in making said conveyance. . . .[19]

---

[18] Bond and Mortgage Records, Book E, p. 622, April 3, 1862, Colorado County, Office of the County Clerk, in the Colorado County Courthouse, Columbus, Texas (hereinafter CCCC). For seven cases see Amended Petition, L. M. Newsom, vs. William J. Darden and wife, November 5, 1856, Docket File No. 1173; Petition, Thomas J. Neavitt vs. W. J. Darden and wife, April 18, 1857, Docket File No. 1224; Petition, John Williams vs. Darden and wife, February 18, 1858, Docket File No. 1307; Petition, Woodson Coffee vs. W. J. Darden, April 19, 1858, Docket File No. 1356; Petition, Charles Schmidt vs. W. J. Darden and F. A. Darden, March 14, 1861, Docket File No. 1645; Answer, Blum and Mayblum vs. W. J. Darden, et al, May 6, 1859, Docket File No. 1425; Petition, Blum and Mayblum vs. W. J. Darden, et al, January 28, 1860, Docket File No. 1493, CCDC.

[19] Bond and Mortgage Records, Book E, p. 658, March 1, 1863, CCCC.

Mary McLemore had already begun conducting business in her own name before Michael left this power of attorney. In January 1862 she had sold the family's piano to W. B. Dewees, taking a promissory note for $187.00. The power of attorney made it easier for Mary to conduct business of all kinds, but she did not use it for a major land transaction until nearly two years later. On March 20, 1865, she sold a plot of land for $1200 to A. J. Folts. Ironically, even though she signed both her own and her husband's names, the county clerk conducted the married woman's separate examination to assure that her husband had not coerced her to sign the deed.[20]

Few husbands had the foresight or the knowledge gained from experience of William Darden or Michael McLemore to provide their wives the legal ability to conduct business in their absence. Many wives continued to do so anyway, but when land titles were in question, some had to resort to legal maneuvering to assuage the fears of purchasers that wives alone could not convey good titles. When Martha Pankey wished to sell one hundred and sixty acres of land to Robert Stafford in 1864, she enlisted John Hope to sign the deed on behalf of her husband Joseph Pankey. Hope, however, held no recorded power of attorney, and after the war, Robert Stafford instituted a friendly court case in District Court to clear the title of any cloud.[21]

Married women conducted business other than conveying land titles without

---

[20] Deed Records Transcribed, Book L, p. 518, March 20, 1865, CCCC.

[21] Petition, Robert E. Stafford vs. Martha Pankey et al, October 19, 1866, Docket File No. 2099, CCDC.

legal documentation or express permission from their husbands. Victor LeTulle never signed any documents allowing his wife to conduct business for him or his company. During the war, other married women contracted with merchants for farm supplies and other goods, though the law allowed them to contract only for "family necessaries."[22] In 1865, merchant and farmer Samuel J. Redgate left his wife Mary in "control" of his goods and merchandise.[23] Mrs. Frances S. Chesley ran a hotel in 1865, signing leases and contracts without her husband.[24]

Merchants and other business people in Colorado County bent the rules to allow many married women whose husbands were away during the war to take on the responsibilities of the public sphere for their families. Although the District Court did not hold a session for the duration of the war, the exceptions made to laws during the war were upheld later in the Reconstruction era.

The notes that Helen LeTulle signed on behalf of her husband's company were accepted as valid by the courts, judges, and attorneys. The accounts, debts, and promissory notes signed by married women without their husbands also remained legally valid whenever they became aspects of litigation. No litigant during or after the war questioned the legality of a married woman's business transaction made during the Civil War. The citizens of Colorado County accepted that women were forced

---

[22] Williamson S. Oldham and George W. White, comps., A Digest of the General Statute Laws of the State of Texas. . ., (Austin, Texas: John Marshall & Co., 1859), 313.

[23] Indictment, State of Texas vs. William Thompson, et al, May 5, 1866, Docket File No. 594, CCDC.

[24] Petition and Deposition, C. W. Nelson vs. William Alley, April 2, 1866 and February 25, 1867, Docket File No. 2040, CCDC.

into the public sphere during the war, and they also accepted that married women were capable of making the decisions to buy, sell, and contract debts.

One other married woman also showed evidence of her financial independence. Women, married and single, left very few wills (fourteen) between 1837 and 1873. The drafting of wills by women did not necessarily increase during the Civil War either. Only two women wrote a will dated during the war, and only one of those wills was probated during the war itself. This will, however, was unique in that for the first time a married woman took the opportunity provided by statute to leave her separate estate to someone other than her husband. During the frontier, the three married women who left wills gave everything they owned to their husbands, as did the three married women who wrote wills during the Reconstruction era. No married women left wills at all during the antebellum years.[25]

Shortly before she died in 1862, however, Eliza Grace chose to bequeath all of her separate property to her children and none to her husband. Most likely, her husband Thomas consented to the provisions of the will before her death, or she believed he would after her death. She requested that he hold the property in trust for her minor children until they came of age, paying 10 percent interest on the proceeds to her children. Her husband's acceptance of the situation was probably crucial in Eliza's decision. However, the war years produced this unique instance in which a married woman chose to leave her property to someone other than her husband.

---

[25] Estate of Eliza Grace, April 28, 1862, Probate Final Record, Book F, p. 550, CCCC. See also Estate of Elvy Ann Carson, August 27, 1866, Probate Final Record, Book G, pp. 41-45, CCCC.

Between 1837 and 1873, no other married woman in Colorado County made this kind of financial decision about how her property should be divided after her death.[26]

Married women were not the only ones to exhibit increased agency in the public sphere during the war. Most notably, the percentage of women taking active roles in probating the estates of deceased family members greatly increased. The percentage of widows acting as the sole executor or administrator of their husband's estate, in fact, reached nearly the same level as during the frontier period and doubled that of the antebellum years. Of the twenty-four married men whose estates were probated during the Civil War, only 33 percent of the widows declined to administer compared to nearly 59 percent who declined to administer during the antebellum years.

The most obvious reason that more women administered estates during the war than before was a shortage of men left in the county to conduct such business. The number of men absent in the war or on war-related business caused public-sphere activities such as the District Court and the county's newspaper to cease functioning altogether. However, the administration of estates in Probate Court, like the raising of food and cash crops, could not wait for men to return to take their public responsibilities. Women, therefore, stepped into these male roles.

However, seven widows did find and choose to allow men to conduct the business of their deceased husbands' estates. Of the seven estates where the widow

---

[26] Estate of Eliza Grace, April, 28, 1862, Probate Final Record, Book F, p. 550, CCCC.

chose not to administer their deceased husband's estates, five were administered by male relatives. One widow, Mary Bullington, apparently hired attorney John D. Gillmore to probate the estate on her behalf. Gillmore served as administrator for several estates in Colorado County throughout his career. In J. C. Bullington's estate, only one action was necessary: to ask the court to set aside all the property to his widow Mary.[27] In both cases where a widow chose to co-administer an estate, a male relative helped with the administration. Sallie Windrow later complained that although the Probate court appointed her co-administrator, her brother

> Josiah F. Payne took the entire management of the said Estate collected and disbursed the moneys of said Estate according to his own judgement in the matters brought before the admr and admx. That the said Sallie A. as Admx entrusted the entire business to the care and management of the said J. F. Payne.[28]

From August 25, 1862, until September 25, 1865, when Josiah Payne resigned as administrator, all petitions and actions in the Probate Court included Sallie's name but not her signature. In late 1865 Sallie became sole administrator She discovered that she should have taken a greater role in the affairs of the estate from the beginning, as she did not approve of his handling of the estate.[29] Elvy Ann Carson co-administered

---

[27] Estate of O. P. Kimbrough, April 29, 1861, Probate Minutes, Book E, p. 199; Estate of William J. Wright, October 16, 1861, Final Probate Record, Book F, pp. 555-56; Estate of Abraham Alley, June 16, 1862, Final Probate Record, Book G, pp. 189-90; Estate of D. A. Hubbard, November 24, 1862, Probate Minutes, Book E, p. 253; Estate of James Cone, January 26, 1864, Probate Minutes, Book E, p. 300; Estate of J. C. Bullington, June 27, 1864 and October 31, 1864, Probate Minutes, Book E, pp. 320 and 328, CCCC.

[28] Petition, H. F. Dunson et al vs. Josiah F. Payne, September 16, 1872, Docket File No. 2882, CCDC.

[29] Estate of C. Windrow, August 25, 1862 through October 30, 1865, Probate Minutes, Book E, pp. 11, 244, 263, 264, 276, 334, 342 and 348, CCCC; Petition,

her husband's estate with her son, and apparently took a greater role than Sallie Windrow. She appeared in court and signed petitions and documents herself.[30]

The women who chose not to administer or to co-administer had a male relative on which to rely, even if the relative did not always prove reliable. It is not possible to determine with any certainty whether the widows who chose to administer had the option of allowing a male relative to do so in their stead. In several cases, there clearly was no grown son to take the responsibility.[31] Yet wealth seemed to be the greatest determinant in whether or not a widow would administer an estate herself. Of those eight widows who acted as neither executor nor administrator, half the deceased husbands had estates valued in the top quarter of the population. All but one estate was valued in the top half or higher. The two widows who co-administered the estate with male relatives dealt with estates in the top tenth of the population in terms of wealth. The widows who served as sole executors or administrators, on the other hand, administered less valuable estates. Of those fourteen estates, the value of ten can be determined. Four of those fell in the bottom half of the population in terms of wealth, while only one fell into the top quarter and none in the top tenth.

H. F. Dunson et al vs. Josiah F. Payne, September 16, 1872, Docket File No. 2882, CCDC.

[30] Estate of Estate of James W. Carson, January 27, 1862 through October 20, 1865, Probate Minutes, Book E, pp. 220, 239, 316, 317, and 343-46, CCCC.

[31] Estate of Jesse W. Tanner, April 28, 1862, Probate Minutes, Book E, p. 231; Estate of Allen Kuykendall, April 27, 1863, Probate Minutes, Book E, p. 277, CCCC.

Widows Administering Estates or Executing the Provisions of a Will, by Wealth[32]

Quarter of Wealth*	3	2	1		Total
				top 10%	
Administrator or Executor	4	5	1	0	10
Co-Administrator	0	0	0	2	2
Declined Administration	1	3	2	2	8
Total	5	8	3	4	20

*No estates were valued in the bottom quarter of wealth. The value of four estates of those widows who administered cannot be determined.

These choices by widows not to administer the wealthiest estates contrasted starkly with the antebellum management of estates. Before the war, widows were more likely to administer or at least co-administer a high-valued estate themselves. During the war, wealthy families, for a variety of reasons, had more men stay home from the war than did those less wealthy.[33] Women of the wealthiest population bracket were more likely to have male relatives help them run their farms, plantations, and businesses than those in lower brackets. Therefore when estates were to be administered, these male relatives could take up those duties as well. Those less wealthy were more likely to have male relatives in the war, especially sons, and already to be in the position of taking care of the family's business. When their

---

[32] See Probate Records, CCCC; Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County.

[33] George C. Rable, Civil Wars: Women and Crisis of Southern Nationalism, (Urbana and Chicago: University of Illinois Press, 1989), pp. 83-84. Conscription favored exemptions for the wealthy by automatically excluding those who owned twenty or more slaves and by allowing the wealthy to hire substitutes. Older families were often wealthier as well, so some husbands in this wealth bracket were too old to fight in the army or be conscripted, but not necessarily all.

husbands died, they continued the business, even if great difficulties were involved. Marie Dungan complained to the District Court after the war that she was unable to enforce a lease because she was "old and female," and the lessor declared "his intention of maintaining the property with the strong hand."[34] Yet she continued the administration, neither remarrying nor turning it over to another male even after the war.

Regardless of class, age, or ability, widows chose to rely on male relatives or their own efforts when it came to the administration of estates.[35] This also contrasted starkly with the antebellum years when half of the estates leaving a widow had an unrelated male administrator or executor. Antebellum women were less willing to enter the public sphere than to entrust their family estate to a creditor or other man. Women in the Civil War years, however, had begun to take a more active role in their family's financial affairs. As more husbands left their wives to conduct business for them in their absence, the social prohibitions against women taking an active public role eased, making it not only possible but likely that women would exhibit more agency outside their private sphere.

As the number of single women in the county increased so did their activity in the public sphere. Women whose husbands had died in and during the war, as well as

---

[34] Petition, Maria Dungan admx. of Frank Dungan, decd. vs. Conrad Shupp, June 4, 1867, Docket File No. 2151, CCDC.

[35] The average age of those who chose to administer (35) was higher than those who chose not to administer (28), with the largest difference coming from those who chose to co-administer versus any other option (average age 48 for co-administrators, 32 for administrators, 28 for no administrators).

a few young unmarried women, often did not have the option to marry or remarry. Some, like "Helen" in the Colorado Citizen editorial, perhaps really did choose not to marry a man who would not "protect his country."[36] However, by 1862 the war had required so many men to leave for army duty that fewer women could find single men to marry. The number of marriages in 1861 reached an all-time high of fifty-two. The next year, the number of marriages in Colorado County dropped to less than half of that, with only twenty-one marriages taking place. In 1863 and 1864 the number of marriages barely increased to thirty and twenty-seven respectively.[37]

As a result, single and widowed women often already accustomed to taking care of their family's business in their husbands' absence increasingly entered into business transactions. Mary Toland and Louisa Odom signed promissory notes to merchants for goods and farming supplies.[38] Sarah E. Kuykendall, Elizabeth McAshan, and Julia Curry all loaned money or traded for notes during the war.[39] Most frequently in order to make money, single women and married women alike

---

[36] Colorado Citizen, September 7, 1861, p. 2, "Hoops for the 'Braveboys'."

[37] Marriage Record Index, Book D, 1861-1865, CCCC. Although 1861 witnessed a record number of marriages, the number was not significantly higher than during the antebellum years. Between 1853 and 1860, the number of marriages per year averaged forty-two. 1853 (44), 1854 (39), 1855 (42), 1856 (32), 1857 (45), 1858 (50), 1859 (38), 1860 (43). See Marriage Record Index, Books B, C, and D, 1853-1860, CCCC.

[38] Petition, S. T. and J. Harbert vs. Mary Toland, May 4, 1865, Docket File No. 1803; Petition, M. Reichmann and Co. vs. H. L. Lackey and Louisa Odom, September 22, 1865, Docket File No. 1821, CCDC.

[39] Petition, Julia A. Curry vs. A. Cryer, et al, September 22, 1865, Docket File 1819; Petition, Elizabeth McAshan vs. J. S. Hancock, March 19, 1866, Docket File No. 1978; S. E. Kuykendall vs. T. G. Schultz, July 22, 1870, Justice of the Peace Docket Book, p. 104, CCDC.

rented slaves, sometimes taking promissory notes for payment.[40] The estates of deceased women also indicated an increased amount of financial activity. Sarah Mason's estate showed that not only had she contracted debts during the war, but she had also lent money to merchants.[41]

Leonora Miller, barely twenty-one years old in 1864 and never married, became intricately involved in business dealings. William Harbert owed her $250 and had no money to pay. Instead of cash he offered her cotton, which at the time was not easily turned into currency because of Union blockades. Leonora accepted the cotton and hired John Taylor to use her wagon to take the load to Brownsville to be sold presumably through the Mexican port city of Matamoros.[42]

The elderly widow Elizabeth K. Turner saw her sons leave for war and so entered into an agreement with Benjamin T. Ingram to jointly farm a portion of her land and split the proceeds. She furnished five of her slaves, "sufficient teams and farming tools," and food for the slaves and animals as well as the land. Benjamin furnished two slaves, teams, and farming supplies as well, and agreed to personally oversee raising cotton, corn, and potatoes. The agreement did not work out as smoothly as planned. In addition to other problems, Benjamin was drafted into the

---

[40] Petition, Noah Bonds and wife vs. J. W. E. Wallace, October 12, 1865, Docket File No. 1846; Petition, Lucy Byars vs. B. M. Lacey et al, October 17, 1865, Docket File No. 1862; Petition, Mary A. Taylor vs. Jno C. Slaton et al, October 8, 1866, Docket File No. 2081, CCDC.

[41] Estate of Sarah A. Mason, decd, March 31, 1862, Probate Minutes, Book E, p. 230, CCCC.

[42] Petition, Leonora Miller vs. John D. Taylor, August 22, 1865, Docket File No. 1808, CCDC.

army at the height of cotton picking season. "[B]eing unable to have a man to take charge of the farm in his absence," the cotton in the field was lost.[43]

Elizabeth Turner had other lands under cultivation at the time of her agreement with Benjamin Ingram. She decided that it would be in her best interest to remove her slaves to other projects than to allow them to work under only "such general supervision" as two male neighbors could provide.[44] Women throughout the South had to make such decisions as they were left with the supervision of slaves. Some undertook the job, but others chose to rent or sell their slaves rather than deal with overseeing and disciplining slaves when they could find no white men to help.[45] Benjamin Ingram expected that only a man could properly take charge of the farms and hands. Yet obviously women, after nearly all the men in the county were drafted, provided at least on occasions some such supervision.

Even poorer women who had no slaves at all continued to raise some crops, without the assistance of their husbands and sons. Raising crops, entering contracts, making financial decisions, and relying on the few remaining men less and less, women increasingly stepped out of their private sphere and took on male roles during the war.[46]

As the war loosened the restrictions placed on women to remain in their

---

[43] Petition, B. T. Ingram vs. E. K. Turner, August 31, 1865, Docket File No. 1810, CCDC.

[44] Petition, B. T. Ingram vs. E. K. Turner, August 31, 1865, Docket File No. 1810, CCDC.

[45] Faust, Mothers of Invention, 51-71.

[46] Faust, Mothers of Invention, 32.

sphere, it caused tensions between husbands and wives as well. Many of these tensions related directly to the nature of war. Some young couples married hastily in the excitement of war before young men went off to combat, and then found they had made a mistake.[47]

Martha Ivey at the age of thirteen had married Stephen Conner in 1860. When he joined the army, she lived with his mother where "she was treated with much unkindness." She appealed to her new husband to provide her with a new home, but "he disregarded her appeal."[48] Martha Conner could not disengage herself from the marriage since the District Court did not meet to hear divorce cases. Stephen's absence in the army surely complicated the possible success of this very young marriage. More than his mother's cruel treatment of her that tested the bonds of matrimony, Martha apparently had fallen in love with another man in his absence. After the war, Stephen countersued and won a divorce when he produced a document proving that not only had Martha committed adultery, but also bigamy, by marrying another man.[49]

George Metz also returned from two years in the army to find that his significantly younger wife had "formed a guilty and adulterous intimacy." Sarah

---

[47] As men were removed to battlefields, husbands and wives were made strangers to each other and to each other's lives. Faust, Mothers of Invention, 10.

[48] Petition, Martha A. Conner vs. Stephen Conner, September 30, 1864, Docket File No. 1788, CCDC.

[49] Copy of marriage certificate, Martha A. Conner vs. Stephen Conner, April 30, 1866 (entered into evidence), Docket File No. 1788, CCDC. Drew Faust also found examples of conflict between the mothers and wives of absent soldiers as families combined without the presence of the one person that held them in common. Faust, Mothers of Invention, 37.

"manifested no affection or welcome" to George when he returned home, and shortly after that, George discovered the reason.[50] Mike Scherer had lived in the Metz household after George joined the army to raise crops and tend the homestead. Mike, however, took more than just the business role of the husband in George's absence.

> [Sarah Metz's] general conduct with Mike Scherer became so notorious for illicit conduct between the said Sarah and Scherer that the ladies of the neighborhood dropped her. They neither visited her nor encouraged her to visit them on account of her familiarity with said Mike Scherer and her indecent conduct towards the said Scherer unbecoming a married woman.[51]

Even after George's return home, Mike Scherer refused to leave the house. He allegedly claimed "that he was bound to have communication with her, that there was 'a cord of love'(!) between him and the said Sarah which could not be severed until death."[52] Before the war, this relatively wealthy couple had been upstanding members of their community. George Metz had served as an elder in the Lutheran Church, while Sarah had been received in the company of some of the community's most elite ladies. Mike Scherer's reputation before the war is unknown; however, his brother served as the minister of the same congregation to which George Metz had been elected elder.[53] The young Sarah, who otherwise would have remained under the

---

[50] Petition, George Metz vs. Sarah Metz, August 29, 1865, Docket File No. 1807, CCDC. They had married in 1849. In 1865, George was sixty years old, Sarah was thirty-two. Marriage Records, Book B, CCCC; Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County.

[51] Deposition of Peninah Daniel wife of Wm. Daniel, October 24, 1865, Docket File No. 1807, CCDC.

[52] Petition, George Metz vs. Sarah Metz, August 19, 1865, Docket File No. 1807, CCDC.

[53] Bond and Mortgage Records, Book E, p. 96, December 8, 1856, CCCC. Rumors abounded in the South about illicit affairs. See Faust, Mothers of Invention,

constant and watchful eye of her older husband, found an opportunity in the war to form an illicit relationship with a man closer to her age and apparently more to her liking.

Although not a soldier, the war caused E. H. Blum to leave his home in 1861-1862 to conduct business in Mexico. According to his petition, his wife "Emma taking advantage of his absence did . . . commit adultery with one John Duffy."[54] Husbands had sued wives for adultery before the war as well, but the extended absences of husbands offered new opportunities for wives not only to exercise financial independence but affectionate independence as well.

Other marriages as well, clearly unhappy before the war were strained by the tensions of the time. H. A. Tatum complained that his wife Jane had treated him cruelly before the war. After he returned from military duty, she "was incapable of returning his affection or of performing any of the duties of an affectionate wife." In his 1864 petition, H. A. stressed his loyalty: "he entered in the military service of our country and remained with our army in Virginia until he was broken down in health and discharged from the service." Jane, on the other hand, "instead of contributing to the comfort and wants" of a patriotic and returning soldier, "was constantly leaving him alone, and engaging in frivolous amusements with noisy company."[55]

Jane Tatum countersued, producing reams of evidence that H. A. had been

---

126.

[54] Petition, E. H. Blum vs. Emma Blum, March 12, 1862, Docket No. 1764, CCDC.

[55] Petition, H. A. Tatum vs. Jane Tatum, October 7, 1864, Docket File No. 1790, CCDC.

cruel and abusive even before the war. Like Martha Conner and Sarah Metz, Jane Tatum was significantly younger than her husband. At the time of the marriage Jane

> was quite young, much younger than [H. A.] . . . so that [she] naturally looked up to [him] and instead of meeting with that reciprocity of affection which is due from one conjugal consort to the other, said advance and manifestations of affection were always repelled with sneers, or rebuffed with sarcasm, and often accompanied with oaths. . . .[56]

Jane had separated from her husband before he joined the army; but on his return in 1863 he promised to reform his habits, so she agreed to return to him "in consideration of [his] just having returned from the war. . . ."[57] Jane, like H. A., stressed her loyalty by forgiving the patriotic soldier. His service in the army, however, according to Jane, had merely increased his habits of drunkenness and cruelty, and she soon wanted a final divorce.

Ellen Lacy's husband had also been cruel, drunken, and abusive since their marriage in 1858. While serving in the army, Beverly Lacy would come home on furlough "reeling drunk, and wholly inebriated . . . cursing and abusing" Ellen. When Beverly returned to their home after the war, Ellen made her first attempt to end their marriage through divorce.[58]

The District Court did not meet during the war to hear divorce cases. Two

---

[56] Answer, H. A. Tatum vs. Jane Tatum, May 3, 1865, Docket File No. 1790, CCDC.

[57] Answer, H. A. Tatum vs. Jane Tatum, May 3, 1865, Docket File No. 1790, CCDC.

[58] Ellen Lacy sued for divorce three times before finally pursuing the case to a jury. The first two cases were dismissed when Ellen chose to believe Beverly's protestations of reform.

men and four women, submitted petitions for divorce anyway between April 1861 and April 1865. The first four filed, after sometimes years of not having their cases heard, consented to the dismissal when court resumed in 1866. Even for those who filed their petitions before the war, if they did not have a hearing before 1861 they could not extricate themselves from their marriage, and at least two dismissed their cases after waiting years for a hearing.[59] Only two cases filed during the war were continued to a final hearing when the District Court resumed functioning, and several more cases were filed after the war although the separation and difficulties between the spouses had occurred during the war years.[60]

Although wartime traumas undoubtedly were not the only cause of difficulty between these couples, the absence of men did exacerbate these marital relations. Some young women left alone for the first time exerted their new-found independence to find new lovers, while some older women discovered that they would rather live without their husbands, in peace as in wartime, than continue in an unhappy and abusive marriage.[61]

Colorado County citizens began the Civil War believing that militaristic

---

[59] Petition, Sylvania Olds vs. Jno T. Olds, October 4, 1860, Docket File No. 1563; Petition, Martha Richard vs. Benjamin F. Richardson, April 5, 1861, Docket File No. 1710, CCDC.

[60] Petition, Martha Conner vs. Stephen Conner, September 30, 1864, Docket File No. 1788; Petition, H. A. Tatum vs. Jane Tatum, October 7, 1864, Docket File No. 1790, CCDC.

[61] A "breakdown in expectations about men's and women's roles" within marriage occurred during the war. When men were no longer there to perform their function of protection, relationships were often strained as women and men sought new foundations for their marriages. Faust, Mothers of Invention, 136.

adventures available only to men would further define separate spheres. They initially relied upon women merely to use their influence at home to encourage men to enlist, to support the war efforts, and to contribute domestically by making flags and clothing. However, as the war required more and more men, women were forced to make contributions that challenged separate spheres rather than enhanced them.

Women had to take over the duties left on farms and in businesses. Married women who before the war had relied exclusively on their husbands to take care of the financial and public duties of the family stepped into these formerly male roles. Single women, and newly widowed women, instead of looking to other men in the county to protect them from public sphere activities, increasingly took the burdens upon themselves when they could not find male relatives to do so. Some of these women alone and acting independently for the first time made choices that their husbands would not have approved, such as taking new lovers. Others decided that they were willing to make their own choices even when men returned. Overall, women in Colorado County, whether married or single, entered the public sphere in large numbers during the Civil War and acted more independently of the men in their lives than ever before.

CHAPTER 5

RECONSTRUCTION

"Ellen Lacy was cooking breakfast at the said house . . . where Ellen and [husband] Beverly M. Lacy were residing (the negro servant hitherto on the place having left), said Ellen though neither accustomed, nor used to it, was forced to servile labor, and while cheerfully going through the servile toil . . . Beverly M. Lacy came into the kitchen very drunk and commenced cursing and abusing said Ellen Lacy, 'calling her a God damn bitch,' and ridiculed her effort at cooking."[1]

"That so long awaited for 'Peace'" that came in 1865 brought joy to Colorado County women like Helen Ruhmann who were happy "to have the chance to see all my children again." In the midst of her rejoicing, Helen also knew that "what the future will bring, time shall tell."[2] The Civil War, southern defeat, and the consequences of both shook the county's political, economic, and social structures to the core. In the eight and a half years following the Confederate surrender until Texas returned to southern Democratic rule, Colorado County and Texas sought to reestablish their society based on the new realities caused by the war and defeat.

The most public upheaval in the county, the state, and the South as a whole was the reorganization of the governments and politics in the defeated Confederate

---

[1] Petition, Ellen Lacy vs. Beverly Lacy, September 7, 1865, Docket File No. 1813, Colorado County, Office of the District Clerk, in the Colorado County Courthouse, Columbus, Texas (hereinafter CCDC).

[2] Translation of letter from Helen Maas Ruhmann to Emma Jungbecker Ruhmann, Frelsburg, June 5, 1865, printed in Dorothy Beasley Ruhmann, Ruhmann and Beasley Family Roots, (Portland, Texas: published by author, 1994), p. 2.55.

states. Like other southern counties, the Confederate-era leaders that Colorado County reelected to office under Presidential Reconstruction were replaced in 1867 by military appointees, and in 1868 by officials elected only by those (white and black) who could take the "Iron-Clad" loyalty oath.[3] The large German population and their predilection to Unionism gave Colorado County a larger base of white voters who could take the loyalty oath, as well as a larger pool of men not completely lacking in political experience who could be elected to office.[4] Nonetheless, the disestablishment of the slaveholding planter aristocracy brought anger and frustration. Unreconstructed Colorado Citizen editors in 1869 expressed sympathy and admiration for the county officers "who have fallen under the political guillotine." In 1871 they expressed outrage that the governor had reappointed Charles Schmidt as sheriff despite his failure to post bond for office, "in utter defiance of law and decency, his only qualification being father-in-law to a Senator, so-called."[5]

Women exercised little power in the unfolding events. During the war women had been encouraged to influence their husbands to support the Confederacy politically and militarily. During Reconstruction no such appeals for political activism went out to women in the Colorado County press. A Colorado Citizen front page reprint of a

---

[3] Colorado County Historical Commission, comp., Colorado County Chronicles: From the Beginning to 1923, Vol. I, (Austin, Texas: Nortex Press, 1986), 126-60. Rupert Norval Richardson, Ernest Wallace and Adrian N. Anderson, Texas: The Lone Star State, 4th edition (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1981), pp. 244-65.

[4] Randolph B. Campbell, "Reconstruction in Colorado County, Texas, 1865-1876," Nesbitt Memorial Library Journal, 5 (January 1995): 3-30.

[5] Colorado Citizen, May 6, 1869, p. 2; October 12, 1871, p. 3.

story from the Woman's Health Journal suggested that women should "be made active and fruitful by interests and associations beyond the home." The suggestion was not that a woman enter politics, but that "she needs to care for her neighbors and for the welfare of the community. . . ." Other editorials ridiculed the attempts of northern women to gain suffrage.[6]

Women in Colorado County most likely were much too involved in the other urgent matters brought about by the war and defeat to be worried about gaining a voice in politics. Texas escaped the large-scale physical devastation of buildings, animals, and crops that other southern states experienced. However, Colorado County had faced its share of scarcity and poverty during the war because depleted labor forces could not raise enough food for families at home and soldiers at the front. Additionally, the collapse of the Confederate monetary system bankrupted many in the county, even some of the wealthiest. Yeoman women especially, with their families, focused all their time and energy on merely rebuilding their livelihoods, trying to raise crops, and hold onto their land, as agricultural output decreased and land values declined.[7]

The most dramatic change in postwar Colorado County came with the emancipation of the slaves. For the slave-holding families this meant a drastic decrease in the amount of valuable assets and sometimes a complete bankrupting of

---

[6] Colorado Citizen, March 16, 1871, p. 1; May 11, 1871, p. 2.

[7] Eric Foner, A Short History of Reconstruction, 1863-1877 (New York and other places: Harper & Row, Publishers, 1990), 56; Richardson, et al., Texas, 263-65; Colorado County Chronicles, 134-36.

their resources. In addition to the capital loss, former masters had to adapt to new labor relations with a free population. Formerly elite women, like Ellen Lacy, could no longer depend completely on the service of slaves in their homes to perform the "servile toil" of the household.[8]

Of course, emancipation brought the greatest change for the former slaves. On June 19, 1865, Union commander Brevet Major General Gordon Granger landed at Galveston, Texas, and declared all slaves free.[9] Shortly thereafter, word of their freedom reached most of the slaves in Texas, in different fashions in different locations. John Pinchback announced to his 125 slaves nearly a week later that "all you niggers is free, just as damn free as I am." After the announcement, he gave all the former slaves names and offered them wages to stay on his farm and work. As in many other places, once they had freedom to form their own, destiny half of Pinchback's slaves chose to leave while the others remained.[10]

African-American women for the first time in Colorado County history were governed by virtually the same laws as the Anglo and German women. Although "Black Codes" for a time abridged the rights of many, and racism continued to prejudice the treatment they received in lawsuits and hearings, many former slave women did have opportunity to enter the court as freed women for the first time. At

---

[8] Petition, Ellen Lacy vs. Beverly Lacy, September 7, 1865, Docket File No. 1813, CCDC.

[9] Barry A. Crouch, "The Freedmen's Bureau in Colorado County, Texas, 1865-1868," Nesbitt Memorial Library Journal 5 (May 1995): 71.

[10] Narrative of James Green, February 8, 1938, George P. Rawick, ed, The American Slave: A Composite Autobiography, (Westport, Conn.: Greenwood Press, 1977), reprinted in the Nesbitt Memorial Library Journal 3 (January 1992), 13.

first, African American women took their cases primarily to the Freedmen's Bureau, but as the bureau was discontinued and the Reconstruction era wore on, a few found themselves in the county's District Court. All too often they were the targets of criminal prosecutions, but some were also plaintiffs, suing and being sued on matters of property, wages, rents, and divorce. Like most white women of the county, the primary focus of black women in the Reconstruction era was economic necessity. White women helped their families rebuild lost fortunes; black women helped their families build new lives from nothing.

WOMEN AND WORK

"It is undeniable," editorialized the local Colorado County newspaper, "that a large proportion of the wives and mothers in our country are so absorbed in their daily round of duties that they cannot possibly give much attention to outside affairs."[11] For southern white women, the daily round of duties encompassed much more than before the war, especially so for elite women. The pressures of rebuilding economic and financial security in these families, without the coerced help of slave labor, forced women to work much harder at their traditional domestic duties. The wealthiest, of course, could still hire domestic servants. The labor shortage caused by emancipation, as African American families withdrew as much of their families' labor from the fields and other work as possible, made the hiring of domestic servants for the household much more difficult and a much lower priority. Fewer black women,

---

[11] Colorado Citizen, March 16, 1871, p. 1.

however, sought positions outside their homes and so finding willing servants became more difficult for white families.[12]

In both elite and less-than-elite white families, working--even the earning of wages--became necessary in the economic struggles during Reconstruction. Women became increasingly visible in vocations only a few had performed during the war. Women increased the ranks of teachers, a traditionally acceptable position even for a lady, as the availability of education increased in the county and the South as a whole. "Mrs. Kate Oakes, one of our most estimable and worthy ladies, is now teaching a private school at the Seminary in our town. We understand she has a good school, and we know there is no lady in our State better qualified to teach than Mrs. Oakes." This occupation allowed both married and single women to make their own living or contribute to a family's income.[13]

Teaching in freedmen's schools also provided a source of income. Probably most freedmen's school teachers in Colorado County came from outside the county,

---

[12] The labor shortage increased calls for immigration into the county. Colorado Citizen, February 27, 1873, p. 1. For a discussion of the reasons for labor shortage, also see Roger L. Ransom and Richard Sutch, One Kind of Freedom: The Economic Consequences of Emancipation, (Cambridge, London, New York and Melbourne: Cambridge University Press, 1977). For changing duties in the household, see Anne Firor Scott, The Southern Lady: From Pedestal to Politics, 1830-1930, (Chicago and London: the University of Chicago Press, 1970), 107; and Drew Gilpin Faust, Mothers of Invention: Women of the Slaveholding South in the American Civil War, (Chapel Hill and London: University of North Carolina Press, 1996), 249-50.

[13] Colorado Citizen, October 12, 1871. p. 3. See also Colorado Citizen, November 2, 1871, p. 2 for Mrs. Withers who taught as Professor of Music until her husband died. Ellen Lacy was teaching school to "support" herself in 1869 at least. Petition, Ellenora Lacy vs. Beverly Lacy, September 13, 1869, District Court Docket File No. 2374, CCDC. See also Scott, Southern Lady, 107-110.

but a few women already residing in the county chose to pursue this occupation, whether out of charity or economic necessity. Mrs. Eliza A. Grace, from Georgia, had "resided in the county for sometime and . . . [was] very well calculated to teach primary branches." Mrs. Mary Matthews taught freedmen in the county for several months before being officially appointed as a teacher by the Freedmen's Bureau.[14]

Several other women ran boarding houses. A widow, Mrs. Arnold, provided "good board, good rooms, pleasantly situated, and in a quiet delightful portion of our city, with a pleasant, and, affable family."[15] Another widow, Mrs. B. Foote, kept "a hotel in the town of Columbus for the support of herself and family."[16] Other women who did not advertise hotels or run boarding houses might take in boarders for extra money. Ann Guy received $10 from the county treasury "for one month board of Blind Woman." Mrs. E. Haskell, "a widow, with three little children to support," wrote that she was "entirely dependent upon my boarders for a support for myself and children."[17] Even women who did not run boarding houses or hotels of their own

---

[14] Office Sub Assistant Commander, Columbus, to Superintendent of Education, Galveston, January 18, 1867, Letters Sent; Office Sub Assistant Commander, Columbus, to Superintendent of Education, Galveston, June 14, 1867, Letters Sent; Office Sub Assistant Commander, Columbus, to Superintendent of Education, Galveston, April, 24, 1868, Letters Sent; Office Superintendent of Education, Galveston, to E. M. Harris Esquire Sub Assistant Commander, Columbus, July 11 and 18, 1867, Letters Received; Record Group 105, Bureau Refugees Freedmen & Abandoned Lands, National Archives, Washington, D. C. (all subsequent citations, hereinafter referred to as BRFAL, refer to Record Group 105).

[15] Colorado Citizen, February 22, 1872, p. 3; February 27, 1873, p. 3.

[16] Petition, Mrs. B. Foote vs. J. W. Johnson and J. P. Harris, January 22, 1872, Docket File No. 2779, CCDC.

[17] Police Court Minutes, 1862-1876, p. 103, October 14, 1867, Colorado County, Office of the County Clerk, in the Colorado County Courthouse, Columbus, Texas (hereinafter CCCC); Mrs. E. Haskell to Major E. M. Harris, Sub Assistant

contributed valuable work to the families that did. "The nicest dinner" that the editors of the Colorado Citizen attributed to "Mr. N. Bonds of the Colorado House, upon reopening" was undoubtedly cooked by his wife, Malissa.[18]

Two widows took over the management of their deceased husbands' stores. Beetha Bryan ran the grocery store her husband John had begun in Columbus. Elizabeth Rhode "managed" the dry goods store in Frelsburg where her husband Adolph had previously been a merchant. A. Doregan apparently sold some dry good items on account, perhaps also running a store.[19] Even single women who did not engage in any obvious occupation left evidence of conducting business for their support. Jane Greer engaged in some type of financial enterprise that earned her promissory notes and allowed her to trade those notes in the community. S. E. Kuykendall went to the Justice of the Peace Court ten times regarding notes and accounts dues her.[20]

Of course, single white women during Reconstruction--as during previous periods--farmed or otherwise made livings off their land. Mary Taylor and Samuel B.

Commander, Columbus, August 29, 1867, Letters Received, BRFAL.

[18] Colorado Citizen, February 22, 1872, p. 3.

[19] Estate of John Bryan, August 13, 1867 and November 15, 1867, Probate Final Record, Book G, pp. 516-17 and 520-21; Estate of Adolph Rhode, December 5, 1867, Probate Final Record, Book G, pp. 707-09; December 27, 1869, Probate Minutes, Book F, p. 80, CCCC. Schedule 1, Ninth Census of the United States (1870), Texas, Colorado County. A. Doregan won her case in Justice of the Peace and the District Court against William Fondren "brought on open a/c for goods." Petition, A. Doregan vs. Wm. Fondren, June 28, 1872, Docket File 2860, CCDC.

[20] Petition, Citations, and Answers, C. & R Traylor vs. W. C. Crebbs and others, January 19, February 10, February 27, and February 29, 1871, Docket File No. 2615, CCDC; Criminal Execution Docket, 1867-1871, Justice of the Peace notes, pp. 62, 63, 66, 81, 97, 104, 116, 117, 118, 229, and 267, CCDC.

Dehart entered a partnership to farm thirty-two and a half acres together. Julia A. Currie listed her occupation as a farmer, making agreements with workers black and white alike to raise her crops.[21] The Freedmen's Bureau frequently cited women farmers to answer complaints of their workers. According to Sarah Hartfield, Elizabeth Turner had agreed to pay her $8 per month, but after three months Turner "drove her away and have not paid her the wages due her." N. C. Eason was summoned to answer a complaint that the final settlement of the freedmen in [her] employ AD 1866 had not been made."[22]

White single women who continued to farm were aided usually by older sons still at home. Thirty-eight percent of the white female-headed households had a son eighteen or older still living and working at home. Sixty-four percent had a son thirteen or older. Depressed economic conditions most likely contributed to a rise in the number of sons who stayed at home during the Reconstruction era, enabling so many women to continue as heads of households, as a higher percentage of all white families had sons eighteen or older living at home than in 1860.[23] All but three white

---

[21] Petition, T. P. Hubbard vs. Mary Taylor and Saml. B. Dehart, April 10, 1866, Docket File No. 1998; Petition, Julia A. Currie vs. Gui Carlton (freedman), November 23, 1866, Docket File No. 2102; Agreement to Arbitrate, Julia A. Currie Vs. John Hester, November 18, 1867, Docket File No. 2204; Petition, Julia A. Currie vs. David H. Crisp, May 11, 1871, Docket File No. 2659, CCDC; Schedule 1, Ninth Census of the United States (1870), Texas, Colorado County.

[22] J. Ernest Goodman, Sub Assistant Commander, Columbus, to Mrs. Elizabeth Turner, May 17th 1866, Letters Sent; Office Sub Assistant Commander, to N. C. Eason, Prairie Point, June 3, 1867. See also Sub Assistant Commander, Columbus, to Mrs. C. A. Eason, August 20, 1867, Letters Sent; Sub Assistant Commander, Columbus, to Mrs. S. Haskell, Columbus, July 7, 1867, Letters Sent; BRFAL.

[23] Fifteen percent of families had sons 18 or older in 1860, eighteen percent in 1870. Families with sons 13 or older at home increased from 30 percent to 51

women heading households who listed farmer or farming as their occupation (twenty-four total) had a son at least thirteen years old at home. The three women who continued farming without older sons were all German women who had financial resources placing them within the top quarter of the population in terms of wealth. These women could afford to hire labor if they could find it. One of these women's daughter, eighteen-year-old Verona Wessch, listed her occupation as farm laborer, the only white woman to do so in the entire 1870 census.[24]

Women became more involved in moneymaking ventures in the Reconstruction era. The 1870 census, however, did not reflect this reality. No matter what other moneymaking enterprise they were engaged in, row after row of women had their occupations listed as "keeping house" or "at home." Only six white women listed occupations other than farming or keeping house: two school teachers, one "keeping hotel," one domestic servant, one farm laborer, and one who listed her occupation as "pedler" as did her son.[25] All six of these women were single, two were heads of households, two still lived with their parents, and two others lived in the household of another family. Only 3 percent of the adult white women in the county listed an occupation other than keeping house or at home, whereas 6 percent of antebellum

---

percent in 1870. Schedule 1, Eight and Ninth Census of the United States (1860 and 1870), Texas, Colorado County.

[24] Schedule 1, Ninth Census of the United States (1870), Texas, Colorado County.

[25] Schedule 1, Ninth Census of the United States (1870), Texas, Colorado County.

white women had listed an occupation.[26]

The 1870 census in Colorado County, as in the rest of the South, was the first to recognize "keeping house" as an "occupation."[27] A few single women might have listed occupations in 1850 and 1860, but the occupation category next to married women remained always blank. In the 1870 census, white married women listed occupations but all either kept house or were at home. Forty-seven single white female heads of household also claimed keeping house or at home as their occupations. Even of the twenty-four white women who listed "farmer" or "farming" as their occupation, seven added "and keeping house."[28] This recognition of white women's occupations came as a result of women entering wage-earning and work more often during Reconstruction. White women, however, listed keeping house above all else they might be engaged in for several reasons. It probably fulfilled the expectation of the census taker, who would make that assumption first of white women and ask about other work later.[29] White women and men alike also wanted to return to and maintain the ideal of separate spheres that had been threatened by the war and by women's increased need to engage in moneymaking enterprises in the

---

[26] Out of 938 adult white women, 30 listed occupations other than keeping house, attending school, or at home. Schedule 1, Ninth Census of the United States (1870), Texas, Colorado County.

[27] Scott, Southern Lady, 107.

[28] Schedule 1, Ninth Census of the United States (1870), Texas, Colorado County.

[29] Scott, Southern Lady, 107. Roan, or Ann, Guy listed "keeping house" and Mrs. Sarah Arnold listed "at home" as their occupations although both made money by taking in boarders. Jane D. Greer listed her occupation as "keeping house" although conducting some type of trading.

financially troubled era.

Perhaps most likely, however, white Colorado Countians wanted to emphasize the domestic nature of white women's occupations in contrast to African American women. In the struggle to declare their independence and capitalize on their freed status, African American families after emancipation had withdrawn women as much as possible from the work force, so that they, like white women, could concentrate on the family's domestic duties. Whites, however, motivated both by racism and the labor shortage, continued to see black women's proper place not as inhabitants of a separate sphere but as workers.[30]

Economic necessity, contracts that bound the entire family's labor, and the rise of sharecropping all increased the pressure on African American women to perform occupations besides keeping house. By 1870, these tensions were reflected in the occupations listed for black women in the census. While 538 black women indicated keeping house as their occupation (and two other female heads of household over seventy years old were "at home"), almost as many African American women (503) listed another occupation. Only one black woman listed the skilled occupation of teacher, while others were domestic servants, washers, or cooks. The vast majority (356) of those who listed occupations were farm laborers or day laborers. Despite the hopes of black families that women might be mothers and wives first, 150 married

---

[30] Jacqueline Jones, Labor of Love, Labor of Sorrow: Black Women, Work and the Family from Slavery to the Present, (New York, Basic Books, Inc., 1985), p. 46.

women with children had an occupation outside the home.[31]

The war, economic devastation, and especially the emancipation of slaves all contributed to changing the types of work women in Colorado County performed during the era of Reconstruction. Elite white women had to take on many chores formerly performed by their slaves. Many white women from all classes, but especially the poorest, found themselves seeking new ways to contribute to a family's income through teaching, taking in boarders, washing, farming, running businesses, or even laboring, in order to hold onto their land and recoup the losses of the war. Many African American women continued to labor on farms and in homes, but under a new social structure that allowed them a certain amount of freedom in what jobs they chose. And most African American women chose a position denied to them before the war: housekeeper.

Whatever the changing realities of women's work, the ideals of women's proper place in society did not change. White women still expected their place in the home to be of the foremost importance. White southerners still expected that black women would not adhere to this ideal and thus sought ways to put them back to work in fields and white-owned homes.

---

[31] Schedule 1, Ninth Census of the United States (1870), Texas, Colorado County. See Jones, Labor of Love, Labor of Sorrow, 46; Ruthe Winegarten, Black Texas Women: 150 Years of Trial and Triumph, (Austin: University of Texas Press, 1995), p. 43.

MARRIED WOMEN

Women, married and single, had learned during the Civil War that they were capable of performing those duties of the public sphere for which antebellum ideals had deemed them unsuitable. Anne Firor Scott, in her now classic The Southern Lady: From Pedestal to Politics, argued that the new opportunities and hardships of the war had caused "subtle changes . . . in the self-image of southern women" and a "thoroughgoing social change."[32] Whether subtle changes developed in their self-esteem, any social change in the status and accepted roles of married women in Colorado County was also subtle and far from thoroughgoing.

Throughout the South, the most drastic social change occurred because of the gender imbalance created by the large number of men killed and maimed. Women had fewer chances to marry and remarry in the years immediately following the war. Colorado County differed from many other places in the South because fewer men died during the war, and by 1870, adult white men still outnumbered adult white women (1114 men, 933 women). Whatever changes the war wrought in the self-esteem of women, after the war most women given the chance to marry did not choose to remain single. While the number of adult white women in the county became seven percentage points more of the adult population between 1860 and 1870, the percentage of single white women rose not even two percentage points.[33]

---

[32] Scott, Southern Lady, pp. 98 and 102.

[33] In 1860, females made up 39 percent of the adult white population, while in 1870 they were 46 percent. In 1860, adult single white women were 19.1 percent of the adult white population, and in 1870 they were 21.0 percent.

Colorado County did not experience the "generation of women without men" that Scott found in the rest of the South.[34] The white women of Colorado County were able to return much more quickly to marriage and given the opportunity to do so, they also returned to their private sphere.

Like the new constitutions and laws of other readmitted Confederate States, Texas' 1869 constitution and laws did not recognize women's wartime roles and abilities in the public sphere.[35] Only one Texas law in all of Reconstruction expanded married women's rights. This November 1871 law gave married women appointed administrators of estates the right to post a bond using their separate property as

---

[34] Scott, Southern Lady, 106. Schedule 1 (Free Inhabitants), Eighth and Ninth Census of the United States (1860 and 1870), Texas, Colorado County. Other historians have also questioned Scott's assertion that there was a generation of women without men. See Jacquelyn Dowd Hall and Anne Firor Scott, "Women in the South," in John B. Boles and Evelyn Thomas Nolen, eds., Interpreting Southern History: Historiographical Essays in Honor of Sanford W. Higginbotham, (Baton Rouge and London: Louisiana State University Press, 1987), 476. Hall and Scott refer, in particular, to Jonathan M. Wiener, "Female Planters and Planters' Wives in Civil War and Reconstruction: Alabama, 1850-1870," Alabama Review 30 (April 1977): 135-49.

[35] Suzanne Lebsock's study found that despite the "radical" promise of reconstruction, despite women's relative "independence" during the war, and despite the rare opportunity of drafting new constitutions, "few additional powers were granted to women during the entire period of Republican rule." Some historians had found legal progress for women in the married women's property provisions included in the Reconstruction constitutions. Lebsock argues that in these states "the Reconstruction period . . . but one phase of an ongoing process of reform that had begun in Mississippi in 1839." Suzanne Lebsock, "Radical Reconstruction and the Property Rights of Southern Women," Journal of Southern History 43 (May 1977): 196-97; see also Kathleen Elizabeth Lazarou, "Concealed Under Petticoats: Married Women's Property and the Law of Texas, 1840-1913," (Ph. D. Diss., Rice University, May 1980), 42. Texas had enacted married women's property provisions in 1840 and therefore the Reconstruction laws on the matter were no advancement for Texas women.

security even when their husbands refused to join. No married women in Colorado County availed themselves of this new provision in the Reconstruction era.[36] Otherwise, the laws of Texas remained firmly committed to the patriarchal order that required a married woman's property, and therefore her business interests, to be controlled by her husband.

The cases that came before the District Court in Colorado County showed that the community experienced some confusion about the role married women were to play after the war. A few married women still sought to carry on business independent of their husbands. Mrs. N. B. Murray signed a five-year contract in 1868 renting a cotton plantation from Joel Shrewsbury, without her husband's signature or permission. When Shrewsbury sold the land to W. J. Jones a few months later, Jones sued in the Justice of the Peace court to eject Mrs. Murray from the plantation. The court, however, ignoring the fact that Mrs. Murray had signed the lease, subpoenaed James H. Murray, and not his wife, to answer the suit. A jury decided to evict Mrs. Murray, and she appealed to the District Court but had to be joined pro forma with her husband to pursue her case.[37]

Another married woman in 1869 signed her husband's name to a promissory note, an act common enough during the war. However, the complainant suing to

---

[36] A November 1871 law gave married women appointed administrators of estates the right to post a bond using their separate property as security even their husbands refused to join. H. P. N. Gammel, compiled and arranged by, The Laws of Texas, 1822-1897, vol. 7, Austin: The Gammel Book Company, 1898, p. 24.

[37] Bond and Mortgage Records, Book F, p. 201, February 7, 1868, CCCC; Petition for Injunction, J. H. Murray and wife vs. Jones McWilliams et al, October 26, 1868, Docket File No. 2305, CCDC.

recover the amount of the note was forced to drop his case when Mary Kussatz's husband answered that "he did not make or deliver the promissory note mentioned in the plaintiff's petition and that the name thereunto signed is not his signature but was written wholly without his knowledge consent or authority . . . "[38] While upholding the business transactions women had made during the Civil War, the court nevertheless resisted attempts to hold married women, or their husbands, accountable for the acts married women made after the war.

Most married women, however, did not attempt to act independently of their husbands in the public sphere. Most often, married women's property came into dispute when husbands or others tried to shelter the family by keeping some property in their wives' names. In the uncertain and financially troubled postwar years, the number of gifts or nominal sales to married women increased substantially. Nine husbands recorded deeds of gift to their wives during Reconstruction, and twenty-two other deeds granted separate property to married women from other friends or relatives. Of these thirty-one deeds, only two gave the wife any ability to control her own property. John Prude transferred all his work animals and an ambulance to his wife Amanda. Although the animals and ambulance were items John probably used every day in pursuing his livelihood, the deed purportedly gave them to Amanda "free from any claim or control" by him.[39] Charles Schultz's deed of property to his wife Charlotte, however, seemed much more sincere in its protestations that she have "full

---

[38] Petition and Answer, James Courtney vs. H. Kussatz, February 28, 1870 and March 11, 1870, Docket File No. 2422, CCDC.

[39] Deed Records Transcribed, Book N, p. 4, June 20, 1868, CCCC.

power to sell and convey the same for valuable consideration." He signed the deed just before he left the county to work on frontier forts so that his wife could conduct the business necessary for family survival.[40]

These gifts and deeds to wives and other relatives often resulted in lawsuits alleging fraud. The District Court found that Sion Bostick had transferred his only property to his children in fraud of his creditors and vacated the deeds. D. D. Claiborne and Thomas Garner sued to keep P. E. Waddell from transferring any more of his property after Waddell gave his married daughter a "gift" of one town lot against which Claiborne had a lien. Garner's petition outlined the problems that such a gift caused: Waddell's daughter and son-in-law moved onto the lot and claimed the "same as their homestead exempt from execution or forced sale" operating as "a cloud upon the vendor's lien."[41] In all but one of the nine cases instituted for transferring property to a married woman, the gift was found to defraud the creditors or the defendant offered cash value to the plaintiff in settlement.

Except for the one deed from Charles Schultz to his wife Charlotte, most grants of property to married women were not intended to give married women more financial power or abilities to enter the public sphere. Instead, husbands retained the right to control their wives' property, while placing it beyond the reach of their or their family's creditors. The vast majority of District Court cases involving married

---

[40] Deed Records Transcribed, Book N, p. 187, November 13, 1868, CCCC.

[41] Petition, Thomas H. Garner vs. Philip E. Waddell, et al, February 27, 1868, Docket File No. 2243; Petition, D. D. Claiborne vs. P. E. Waddell and L. A. Claiborne, January 4, 1868, Docket File No. 2216; Petition and Decree, Noah Bonds and wife vs. Sion Bostick, March 16, 1866, Docket File No. 1975, CCDC.

women in actuality only involved their separate property that their husbands controlled. Husbands overwhelmingly acted as the sole agent in the public sphere for both their own and their wives' property. In ninety-nine of the cases involving married women, husbands' actions only were found in the court records of eighty-nine.

Yet the Colorado County District Court recognized some leeway. Since 1848, a married woman could sue in her name alone on behalf of her separate property if her husband refused to join the suit. No married woman ever chose to do so until Emeline Cherry sued to recover two bales of cotton that she had raised in 1872. In her petition, she stated that her husband Albert had abandoned her earlier in the year "and now fails and neglects to join her in this suit."[42]

Only one other Colorado County married woman attempted to sue in her name alone before the end of the Reconstruction era. Ernestine Illg claimed that her husband had sold part of their homestead without her consent. Texas law still required that whenever a married woman's separate property or the homestead was sold, she was required to sign the deed and be examined "separate and apart" from her husband. This law, passed in 1840, had become so well known by Reconstruction that very few deeds made it into records without the wife's acknowledgment; and most buyers knew that without it, their title was virtually invalid.[43] In the case of Ernestine

---

[42] Petition, Emeline Cherry vs. C. Burger and F. Otell, December 9, 1872, Docket File No. 2902, CCDC.

[43] Williamson S. Oldham and George W. White, comps., A Digest of the General Statute Laws of the State of Texas. . ., (Austin, Texas: John Marshall & Co., 1859), 696.

Illg vs. William Burford, however, the purchaser was a freedman misled by Ernestine's husband into believing his title was legitimate.

Ernestine Illg first complained in September 1870 that William Burford had taken possession of part of her homestead over three years earlier. According to Ernestine, Burford claimed the property "under some pretended conveyance from her said husband Jacob Illg and . . . that if such conveyance exists it was made without her consent and is in violation of her rights. . . ."[44] Assuming that the property was indeed part of the homestead, the law was in Ernestine's favor, but only if she publicly declared that her husband had fraudulently conveyed the property. She had to state in her petition or in court that she disagreed with her husband's managing of their property and that she was asserting her own rights against the wishes of her husband. Ernestine would not declare that her husband refused to join her in the suit. The court sustained William Burford's demurrer that Ernestine did not "show any legal reasons entitling her to sue alone" and dismissed the case.[45]

A few months later, Ernestine Illg again sued William Burford for the property, in her name alone. Although this seemed to be quite a defiant act of independence by a married woman, again she would not say that her husband refused to join her in the suit. In the defendant's answer, William Burford doubted that the suit was Ernestine's idea at all. He claimed that it was an attempt to defraud him of

---

[44] Petition, Ernestine Illig vs. Wm. Burford, F. M. C., September 9, 1870, Docket File No. 2521, CCDC.

[45] Answer, Ernestine Illg vs. William Burford, F. M. C., October 7, 1870, Docket File No. 2521; February 27, 1871, District Court Minutes, Book D, p. 530, CCDC.

the property, "instigated thereby by her husband who lays back and induces his wife to do what he is ashamed to do himself . . . whilst it is well known that her husband is the real mover and inciter in the whole business."[46] Events seemed to bear out his claim. According to Burford, Jacob Illg had assured him that he had the right to sell the property without his wife's permission. If Jacob Illg joined the suit, he would be required to testify and lie about his representations to Burford. The case remained unresolved on the dockets for almost two years. Then Burford died.[47] At the next term of the court, Jacob Illg made himself a party to the suit, claiming he had told Burford that the "deed would be of no value without the signature of [his] wife."[48] When the case finally went to trial in October 1874, the jury found that the deed was null and void without Ernestine Illg's signature, thus upholding a married woman's right to be consulted before her husband transferred a family's homestead. William Burford's widow and two sons thus were evicted from the home they had built and lived in for seven years. The jury did not require that the Illgs reimburse the Burfords for the improvements made upon the property, but did render a judgment against Jacob Illg for the $200 plus interest that William Burford had paid him for the land. Of course, Jacob Illg was insolvent, and at least two years later the judgment

---

[46] Petition and Answer, Ernestine Illig vs. Wm Burford et al, May 16, 1871 and June 9, 1871, Docket File No. 2667, CCDC.

[47] Ernestine Illig vs. Wm Burford et al, February 3, 1873, District Court Minutes, Book E, p. 440, CCDC.

[48] Amended Answer, Ernestine Illig vs. Wm Burford et al, October 9, 1873, Docket File No. 2667, CCDC.

still had not been paid.[49]

Ernestine Illg had not filed her suit bolstered by a new-found confidence in her abilities fostered during the war. Instead, like the vast majority of white married women in Colorado County, Ernestine allowed her husband to manage and control the public sphere aspects of their lives, even while using her name. Jacob Illg took advantage of laws that seemed liberating to Texas women to control not only his own family's affairs, but to cheat a family of freedpersons of their home and financial assets.

Very few freedpeople in Colorado County were able to acquire land or property. Some like the Burfords were cheated of what land they could acquire; most were unable to raise enough money to purchase any land at all. A few former slaveholders did offer those who had worked for them land. From his home in New York City, Swante M. Swenson divided an entire league of land among his nineteen former slaves who had "worked" for him in Fort Bend County. He dictated that six women and thirteen men receive forty acres each. A portion of the league was designated as a common area for the building of schools, churches, and other public buildings. In this idealistic act, Swenson paid $50 to survey the land he had acquired many years ago and never cultivated. The Sub Assistant Commander of the Freedmen's Bureau in Columbus "advised the colored people not to take the land because of its being so poor." These freedmen, like many others who saw true

---

[49] Writ of garnishment, Ernestine Illg vs. Wm Burford et al, May 31, 1876, Docket File No. 2667, CCDC.

freedom in the chance to own their own land, were "however determined to have it."[50]

Most former slaveholders were not generous enough to give even poor land away. Most former slaves never could raise enough money to buy property, especially as sharecropping established itself in the county and African Americans became embroiled in a web of debt. Only thirty-one registered deeds before 1874 reflected sales made to freedpeople, and all the purchasers were men. As a result, neither black married women nor their husbands on their behalf ever appear in District Court to protect "separate" property. What little property a married African American woman might have in Colorado County was almost exclusively community property, or not high enough in value to place it in the District Court.[51]

Economic considerations and not the dictates of society therefore kept married African American women away from the public sphere of the District Court. In the cases before the Freedmen's Bureau, the marital status of African American women was rarely noted. When it was noted, as with white married women, very often black married women appeared only as a name under which their husbands sued. "George Williams f. m. c. and wife et al" filed a complaint against George Thatcher of Eagle Lake "for arrearages of wages due wife." Records listed other married women only

---

[50] Office of Sub Assistant Commander, Columbus, to S. M. Swenson, April 11, 1868, Letters Sent; Swante M. Swenson, New York, to Edwin W. Stevenston, Sub Assistant Commander, April 24, 1868, Letters Received, BRFAL. There is no evidence that Swenson ever lived in Colorado County.

[51] Bond and Mortgage Records, Book F; Deed Records Transcribed, Books L, M, N, and O, CCCC.

as "and wife" in complaints.[52] Other men listed formal complaints on behalf of themselves "and family."[53] Only one married women noted in the records as such, however, took her complaint to the Bureau herself. Jane Wright "wife of Robert Wright" sued W. E. Wall for her 1867 wages.[54]

Married African American women had little opportunity to demonstrate what steps they might have taken in the public sphere given the opportunity. White married women, however, had opportunities and choices, and most chose to defer to their husbands' control over matters of the public sphere. White married women in Colorado County during the Civil War had conducted business and financial affairs, run plantations and businesses, and found themselves capable of handling matters of the public sphere. However, after the war, they did not choose to capitalize on these experiences by remaining single and financially independent. Nor did the women who married challenge their husbands' resumption of the public-sphere roles. Instead, supported by law and custom, women in Colorado County returned to the antebellum ideal of marriage and separate spheres.

---

[52] Office of Sub Assistant Commander, Columbus, to George Thatcher, August 20, 1867, Letters Sent, BRFAL. See also Office of Sub Assistant Commander, Reuben Blackburn and wife et al vs A. J. Smith, and George Williams and wife et al vs. George Thatcher, p. 15, Docket Criminal and Civil, 14th Sub District of Texas, August 20, 1867, BRFAL.

[53] Office of Sub Assistant Commander, Columbus, to D. Draub, March 5, 1868; to George Turner, April 24, 1868, Letters Sent; Office of Sub Assistant Commander, Calvin Currey, c, vs. George Turner, Docket Criminal and Civil, 14th Sub District of Texas, BRFAL.

[54] Liz Stevens to Office of Sub Assistant Commander, December 28, 1867, Letters Received; Sub Assistant Commissioner, Docket Criminal and Civil, 14th Sub District of Texas, BRFAL.

WIDOWS

Married women and single women alike had exercised great agency in the public sphere during the Civil War. Both at home and at the courthouse, white women had taken over traditional male public roles. They had taken care of farms, businesses, and the legal aspects of each in the absence of their husbands and other male relatives. As men returned home after the war, women continued to work harder inside and outside the home than they had in the antebellum period, earning wages and contributing to the family's income. The vast majority of married women, whatever work they may have pursued during wartime, however, retired from the public sphere aspects of controlling the family's financial and legal business. Husbands quickly resumed their roles as the head of the household, and wives who remained with their husbands deferred to them in matters of business and law throughout the Reconstruction period. Women, it would seem, continued to choose marriage and a return to their designated private sphere of keeping house and domestic responsibilities, much as they had during the antebellum years. Given the opportunity, wives seemingly wished to return the heavy responsibilities they had shouldered during the war to their husbands and to reestablish the patriarchal order of the household.[55]

---

[55] Drew Faust argues that southern women wished to shift some of their burdens back to the men in their lives after the war. Additionally, the attempt to form new relations with ex-slaves where the hierarchy of race was preserved undermined women's willingness to challenge the familial patriarchy. "In the face of the frightening reality of black emancipation, however, white women came to regard the rehabilitation of patriarchy as a bargain they were compelled to accept." Faust, Mothers of Invention, 247-53 (quote on 247).

The independence women achieved during the Civil War seemingly had little lasting impact on the lives of married women during Reconstruction. However, when husbands died, deserted, or were otherwise absent, single white women acted much differently than they had during the antebellum years. Forced in many circumstances to work both during marriage and after, widows and a few young single women learned during the war and in the troubled era of Reconstruction to rely upon themselves in matters associated with the public sphere.

The number of single women involved in lawsuits as plaintiff or defendant during the Reconstruction era rose to thirty-six, compared to only ten during the antebellum era (a 260 percent increase). This number, of course, reflected a slightly increased number of white women in the population (295, or 15 percent more in 1870 than in 1860) as well as a greater litigiousness in the county as many defaulted on loans and forfeited mortgages in the financial devastation and reorganization following the war (an approximately 28 percent increase in cases). However, these factors alone do not account for women's greater appearance in court. Single women simply became more involved in financial matters and acted more on their own behalf in the public sphere after the war than they had during the antebellum era.[56]

Widows, in particular, took an active role in the public sphere in the

---

[56] Schedule 1 (Free Inhabitants), Eighth and Ninth Census of the United States (1860 and 1870), Texas, Colorado County. The numbers of single women involved in lawsuits do not include women acting as administrators of estates or minors. Overall, there were roughly 942 total cases filed in District Court in the eight and a half years of the antebellum period; 1208 cases in the eight and a half years of Reconstruction, a 28 percent increase. District Court Docket Files, CCDC.

Reconstruction era. Of the twenty-six estates of men leaving a widow and requiring administration, nineteen widows (73 percent) chose to administer or co-administer. Of the twelve wills left by men, eight widows (67 percent) executed the provisions. Not only did this represent a vast increase in participation by widows in estates over the antebellum period, it was also an increase from the Civil War era probating of estates by widows (See Appendix A).

Even the widows who chose not to administer their husbands estates themselves took a more active role in the activities than in previous eras. For instance, Martha Tobin "declined to administer" in May 1866 but requested the court appoint her father and another man in her stead. A few months later, Martha Tobin again appeared in court to request that the court set aside property to her in lieu of a homestead as she had "a very large and helpless family some eight children who have to be educated, clothed, and fed." A suit filed much later in the District Court alleged that Martha Tobin had connived to "appropriate and absorb all the valuable property of the estate," aided and assisted by the administrators.[57] Julia Anna Stalle appeared in court to request that M. Malsch, the attorney she had hired, be granted letters "as your Petitioner is not able herself to attend to the administration."[58] Both Julia Ann Stalle and Martha Tobin explained that they could not administer their husbands' estates

---

[57] Estate of Robert H. Tobin, May 12, 1866, and August 28, 1866, Probate Final Record, Book G, pp. 281 and 287, CCCC; Petition, A. V. Worthy vs. Martha C. Tobin et al., August 21, 1873, Docket File No. 2981, CCDC.

[58] Julia Ann Stalle also filed an application for property to be set aside to her the next January. Estate of F. Stalle, February 10, 1866 and January 28, 1867, Probate Final Record, Book G, pp. 496 and 499, CCCC.

because of the pressures of a large family. Another widow, Agnes Roever insisted that "the affairs of said Est. are in a confused condition requiring the service of a business man."[59]

Susan B. Harbert did not administer her husband's estate, but at the public sale of the estate's furniture, she appeared and purchased several important personal items.[60] Of the seven widows who declined to administer estates, five widows chose who would execute in their stead. Two hired people to do so. These five also appealed to the court at least on one other occasion. Only one widow who declined to administer did not show some active involvement in the estate. Elizabeth Summerlatte was "absent or had already abandoned the homestead," and even she wrote the court agreeing to the sale.[61]

Two of the four widows who co-administered estates were actively involved in the business and legal matters of the estate, unlike at least one co-administrator during the Civil War. Mary Ann Crenshaw after her initial petition allowed her co-administrator, Don Payne, to handle all the matters before the probate court until 1871 when Payne died. Thereafter, Mary Crenshaw acted as the sole administrator. While Virginia Patterson supposedly administered jointly with W. Daniels, only she

---

[59] Estate of W. B. Roever, April 9, 1869, Probate Minutes, Book E, p. 236, CCCC.

[60] Estate of William J. Harbert, June 15, 1867, Probate Final Record, Book G, p. 705, CCCC.

[61] Estate of August Summerlatte, February 12, 1872, Probate Final Record, Book H, pp. 278-81, CCCC.

transacted the small amount of business on the estate before the court.[62] The two other widows to co-administer estates both did so with their new husbands, and, in both cases, the husbands assumed full responsibility for the legal transactions in probate court. While the probate court provided the opportunity for many single women to act for themselves, and an 1871 law allowed married women more freedom to act as administrators with or without their husbands, married women in Colorado County still chose to turn over the public sphere responsibilities to new husbands.

Wealth did not play the largest role in widows' decisions whether or not to administer an estate. Widows were just as likely to administer estates valued in the bottom half of the population as those in the top 10 percent (86 percent in the bottom half administered, 83 percent in the top decile did so). In the top quarter (but not the top decile) and the second quarter of wealth, widows were a little more likely to decline to administer. In these wealth brackets, men who left wills were also less likely to appoint their wives executor than in the other wealth brackets. Husbands leaving wills, especially in the top two quarters of wealth, but not including the top decile, were less likely to trust their wives to take care of business after their death than wives in this bracket given a choice trusted themselves.

---

[62] Estate of O. B. Crenshaw, September 6, 1865 through June 13, 1873, Probate Final Record, Book G, p. 67 and Book H, pp. 356-78; Probate Minutes, Book E, pp. 342, 353-55, 368, 369, and 410; Estate of W. L. Patterson, December 25, 1865, February 26, 1866, and August 27, 1866, Probate Minutes, Book E, pp. 360, 371, and 392, CCCC. For date of Don F. Payne's death see Cemetery Records compiled from gravestones in Colorado County, Nesbitt Memorial Library.

Widows Administering Estates or Executing the Provisions of a Will, by Wealth[63]

Quarter of Wealth*:	3	2	1		Total
				top 10%	
Administrator	4	5	3	2	14
Co-Administrator		1	1	2	4
Executor	2	1	3	1	7
Declined Administration	1	2	3	1	7
Declined or not appointed executor		1	3		4
Total	7	10	13	6	36

*no estates probated fell into the bottom quarter of wealth.

Age also played little role in a widow's decision to administer. Widows from sixteen to fifty-five years old did take on the administration, while widows from twenty-four to fifty-three chose not to. The average age of widows administering, co-administering, or executing the provisions of a will in an estate was 40 years old. The average age of widows not taking the legal roles was only slightly less at 36 years old.

German and Anglo women, however, did make different choices about probating their deceased husbands' estates. Ten of the eighteen German widows chose to solely administer the estate, while only three Anglo women made that choice. Overall, German widows took some responsibility for the estate 78 percent of the time, while Anglo women only 56 percent. German men were also more likely to

---

[63] See Probate Records, CCCC; Schedule 1 (Free Inhabitants), Eighth Census of the United States (1860), Texas, Colorado County.

appoint their wives executor of their estates. In the three wills left by German husbands, they appointed their wives executor, and the widows chose to act on the appointment in every case. Anglo widows were appointed sole executors by their husbands' wills only four out of nine times and co-executors twice. One Anglo widow appointed executor of her husband's will declined to act.

This difference between German and Anglo women's involvement in administration did not necessarily reflect wealth or class differences. The Germans and Anglos who left estates did so roughly in the same categories of wealth, and overall, wealth did not seem to encourage or deter widows of either ethnicity from conducting the business. Of course, considerations of wealth played the largest role in African American widows lives. Because blacks in Colorado County remained property-poor, before 1873, not one black man leaving a widow had an estate probated in Colorado County's court. African American widows did not have to choose whether to take on legal and financial responsibilities left behind by their husbands in courts.

Widows' decisions to become involved in matters before the Probate Court, therefore, seemed to be influenced by individual and private concerns. Overall, Reconstruction-era women did choose to be much more active in the financial and legal affairs after their husbands died than widows had since the frontier era. Like the frontier era, the financial difficulties of Reconstruction led many wives to become more involved in contributing not just to the work of the family, but to the income of the family. Although married women, even in Probate Court, overwhelmingly

allowed their husbands to act for them in the public sphere, most single women acted for themselves. The Civil War had loosened the expectations that women remain in their private sphere at all times. After the war, while married women attempted to return to the prewar separation of the spheres, single women--knowing their abilities to operate in the public sphere when necessary--often chose to do so.

DIVORCE

Women in Colorado County after the Civil War did not face a dearth of men and had the option to marry and remarry. Most of these women chose to do so, the percentage of single white women increasing only slightly during the years of Reconstruction. Even as widows increased their active participation in the public sphere and financial matters at this time, 39 percent chose to remarry and turn over the public sphere responsibilities to their husbands. Marriage and the private sphere remained the ideal for women in Colorado County during Reconstruction. However, many more women than in any previous period decided that although marriage in the abstract might be the ideal, their particular marriage was not. Twenty-three white women filed for divorce before the end of 1873, exceeding the nineteen filed by women in the antebellum period and the thirteen during the frontier period (See Appendix B).

Wives' grounds for divorce also expanded suing for and receiving divorces on all the grounds available to them: cruelty, adultery, and abandonment. The disruptions of the war and the economic uncertainty of Reconstruction made it

somewhat easier and even desirable for husbands to leave their wives. Six white women charged their husbands with desertion in divorce petitions. Four of these husbands had left their wives either during the Civil War or shortly afterwards. Three of these four marriages had taken place right before or during the war. At least some men upon returning home from fighting apparently regretted the commitment that they had made in the midst of the excitement. Of course, long separations during the war made it possible for husbands and wives to simply grow apart and find one another intolerable upon their return.[64]

Abandonment during Reconstruction did not occur locally as it had during the antebellum years. The war expanded the geographical horizons of many men who went to war, and the social upheavals and dislocations made it as easy in some cases to relocate as to rebuild lives. While many antebellum wives who charged abandonment knew where their husbands were, most Reconstruction wives clearly indicated that they did not. Elizabeth Jackson had "not heard one word" from her husband in over four years when she filed for divorce. Daniel C. Holliday "left the State of Texas with a common prostitute," had "been gone 3 years and . . . never been heard from." Anna Bridge's husband Augustus never returned nor communicated with her after November 9, 1863 when "he secretly left the house

---

[64] Petition, Elizabeth Jackson vs. Stephen Jackson, August 31, 1868, Docket File No. 2295; Petition, Ilione C. Maynard vs. Mendoza B. Maynard, September 24, 1868, Docket File No. 2301; Petition, Mary Meddick vs. Edward D. Meddick, February 28, 1870, Docket File No. 2418; Petition, Anna E. Bridge vs. Augustus Bridge, May 30, 1870, Docket File No. 2465, CCDC. See also Faust, Mothers of Invention, 249.

where they were residing. . . ."[65] Three of the six women who filed for divorce on the grounds of abandonment dropped their cases before going to trial, but the three who pursued the case won their divorce.[66]

Social disruptions and wartime dislocation may have made it easier for men to leave their wives, but it also increased the opportunities for women to leave their husbands. Two husbands sued for and received divorces for abandonment by their wives during Reconstruction. While Henry Boone knew where his wife had gone, Henry Nelson claimed that his wife "took up with Strangers and shamefully abandoned Petitioner and left to parts unknown."[67] Other husbands who filed for divorce on different grounds also lost track of their wives' whereabouts. George Metz, discussed in the previous chapter, came home from the Civil War to find his wife engaged in an adulterous relationship with another man. By the time his suit for divorce reached a jury, Sarah Metz had abandoned the county making George fear that his "children will be clandestinely abducted and carried beyond jurisdiction. . . ."[68] Whether or not women had left for parts unknown, most of the Reconstruction-era

---

[65] Petition, Elizabeth Jackson vs. Stephen Jackson, August 31, 1868, Docket File No. 2295; Petition, Virginia Holliday vs. Daniel C. Holliday, February 9, 1870, Docket File No. 2404; Petition, Anna E. Bridge vs. Augustus Bridge, May 30, 1870, Docket File No. 2465, CCDC.

[66] Petition, Elizabeth Jackson vs. Stephen Jackson, August 31, 1868, Docket File No. 2295; Petition, Virginia Holliday vs. Daniel C. Holliday, February 9, 1870, Docket File No. 2404; Petition, Wilhelmina Lach vs. Rudolph Lach, August 13, 1872, Docket File No. 2872, CCDC.

[67] Petition, Henry Boone vs. Emily Boone, September 24, 1872, Docket File No. 2889; Petition, Henry Nelson vs. Annie Nelson, December 11, 1873, Docket File No. 3011, CCDC.

[68] Petition for Temporary Orders, George Metz vs. Sarah Metz, November 10, 1865, Docket File No. 1807, CCDC.

adultery divorces filed by men went unchallenged in court -- five of the seven accused wives defaulted.

Men continued successfully to sue their wives for abandonment and adultery, as they had in earlier periods of Colorado County. Women, however, for the first time began successfully suing their husbands for adultery as well. While adultery served as a popular grounds for divorce for men from the frontier-era through Reconstruction, no woman received a divorce for the adultery of her husband until the November term of the court in 1870.[69] Only four other women before the Reconstruction era ever filed a petition alleging that their husbands committed adultery, and none of those four received a divorce.[70] After the Civil War, however, the court granted divorces to four white women on the grounds of adultery, nearly as many as those granted to men (five). Wives during Reconstruction exerted their prerogative to file for divorce on the grounds of adultery and pursued it in court even when their husbands fought the action (three of the five husbands filed answers).

Perhaps with the disruptions of the war more men abandoned their wives to live in adultery with other women. More likely, it was the women who became more willing to risk scandal and publicly charge their husbands.[71] After the war, women

---

[69] "It was not only in the south that the majority of adultery cases were granted to husbands." Mary Somerville Jones, An Historical Geography of the Changing Divorce Law in the United States, (New York and London: Garland Publishing, Inc., 1987), 52.

[70] One wife in the frontier era did receive a divorce for bigamy.

[71] "A wife who charged cruelty rather than adultery may have been protecting herself from scandal rather than reporting the actual causes that drove her to seek a divorce." Glenda Riley, Divorce: An American Tradition, (New York and Oxford: Oxford University Press, 1991), 124.

availed themselves of all the grounds for divorce: physical cruelty, slander, adultery, and abandonment. However, most petitions filed by women (12 of 23) still cited cruelty as the primary reason for wanting to end the marriage. Wives wanting divorces on the grounds of cruelty, though, had much more difficulty pursuing their cases, but not necessarily because the court discouraged them. Eight of the twelve suits were dropped by the wife before going to trial. Ellen Lacy filed two of those eight suits that were dismissed by agreement of the parties. Lacy filed for divorce three times before finally pursuing it to the jury. She filed first in September 1865 but less than two months later agreed that the suit be dropped when her husband Beverly "had apparently reformed his habits [and] made such protestations of affection for petitioner and their two children . . . ." Ellen "soon found to her sorrow that the intentions of the Defendant [Beverly] were still of the most base character and that his object was only to deceive [her] and if possible more deeply to degrade her." Four years later she filed for divorce again, and again when Beverly "pretending to be penitent and promising [her] to reform his life and do better in the future," asked for a reconciliation, "she was induced for the sake of her children to withdraw her suit and try still to live with him in the marital state." Two years later, Ellen sued for divorce one last time. The jury found her allegations of abuse to be true and the judge granted her divorce, more than seven years after her initial filing.[72]

---

[72] Petition, Ellen Lacy vs. Beverly M. Lacy, September 7, 1865, Docket File No. 1813; November 3, 1865, District Court Minutes, Book C2, p. 452; Petition, Ellenora Lacey vs. Beverly M. Lacey, September 13, 1869, Docket File No. 2374; October 11, 1870, District Court Minutes, Book D, p. 346; Petition, Ellen Lacy vs. Beverly M. Lacy, December 20, 1872, Docket File No. 2906; February 24, 1873,

As Ellen Lacy's case shows, wives in the economic uncertainties of Reconstruction might attempt to endure a certain amount of cruelty, even physical abuse, in order to remain in their marriage. Cases of adultery and abandonment--when husbands had already essentially ended the marriage--made easier women's decisions to become legally single again. The increase in women's petitions for divorce in the Reconstruction era, however, still indicates that at least some married women were not afraid to become self-sufficient.

Divorces in District Court were one of the few places that African American women appeared with any frequency in the legal aspect of the public sphere. African American women and men could file for and receive divorces on the same grounds as white men and women. In the Reconstruction era, eight blacks did file for divorce and six were granted. However, in stark contrast to white divorces, where men filed at least as third as many cases as women did, no African American men whatsoever filed for divorce from their wives. All eight divorce suits were brought by African American women.

African American women faced several obstacles in obtaining a divorce. Like white women, black women had to prove that their husbands had committed adultery, abandoned them, or treated them cruelly enough to warrant a divorce. Unlike white women, many African American women also had to prove that they were indeed married to the men they sought to divorce. Marriages under slavery had been informal matters and never legally recognized. After emancipation, as former slaves

---

District Court Minutes, Book E, p. 509, CCDC.

throughout the South sought to have their marriages recognized, different states enacted different procedures to deal with the problem. In Texas, the 1869 state constitution declared that

> all persons who, at any time heretofore, lived together as husband and wife, and both of whom, by the law of bondage, were precluded from the rites of matrimony, and . . . may now be living together in such relation shall be considered as having been legally married.[73]

While some petitioners for divorce had married after emancipation, those involved in slave marriages averred that they had been married using the language of the constitution or citing it directly. Cornelia Johnson claimed that in 1864 "she was living with the said Jack Johnson as his wife and continued so to live until the 1st day of March A. D. 1871." Alcey Holmes and Isaac Holmes, according to the divorce petition, were legally married "by section twenty-seven article twelfth of the Constitution of this state."[74] Hiram Harris in answering the petition for divorce "specially denies that he was ever married to the defendant or that he ever lived with or recognized her as his wife."[75]

Overwhelmingly, African American women went to the trouble of proving that they were married in order to obtain a divorce for economic reasons. Although they were freed in 1865, began to legally marry in Colorado County in 1869, and their previous marriages were recognized by the Constitution in 1869, the first suit for

---

[73] Gammel, comp., Laws of Texas, Vol. 7, 424.

[74] Petition, Alcey Thomas vs. John Thomas, May 9, 1871, Docket File No. 2657; Petition, Alcey Holmes vs. Isaac Holmes, February 9, 1872, Docket File No. 2799, CCDC.

[75] Answer, Martha Harris vs. Hiram Harris, February 9, 1872, Docket File No. 2762, CCDC.

divorce by an African American woman was not filed in the Colorado County District Court until 1871.[76] While the Freedmen's Bureau had operated in the county, some freedwomen took their marital problems there. The Sub Assistant Commander heard Fanny Walker's case against David Walker not for divorce but for "the support of child." However, when Louisa Davis complained to the bureau that her husband had "taken up with another woman," the bureau agent "directed her to go before the grand jury." If she did so, the Grand Jury never indicted Tate Davis, nor did Louisa ever bring a civil suit against him for divorce.[77]

Most African Americans immediately after emancipation probably continued informal dissolutions of their marriages. Only after a period of time had elapsed in which marriages legally performed had a chance to go sour, and a few families had accumulated enough wealth over which to argue, were the first divorces filed. Of the eight divorces filed in the Reconstruction era, Alcey Thomas and John Thomas were legally married in 1869, Charity Whitley and Dennis Whitley in 1871, Mary Susan Tatum and Frank Tatum in 1869. Martha Harris filed for divorce when Hiram Harris by "some pretended legal proceedings" before the Justice of the Peace tried to evict her from their homestead. Alcey Holmes sought division of community property she held with her husband Isaac Holmes including oxen, wagons, mules, cows, furniture, and a set of blacksmith's tools. Fanny Smith wanted to finish paying for the fraction of the town lot her husband had bought and take the title in her name. Rachel

---

[76] Marriage Records, CCCC.

[77] Sub Assistant Commander, Docket Criminal and Civil, 14th Sub District of Texas, pp. 33 and 36, BRFAL.

Virginia did not even originally seek a divorce; she just sought to divest her husband of his interest in a promissory note so that she could buy a homestead. Only one petition out of eight sought to dissolve a marriage formed during slavery without mention of property.[78]

While property considerations played a larger role in inducing African American women to seek legal divorces than it did white women, the grounds for divorce charged by African American women were similar to those of white women. Although the total numbers are small for comparison purposes, it is illuminating that the percentage of African American women charging adultery, abandonment, and cruelty was very close to the same as the percentage of white women on each grounds (see chart below).

Percentage of Grounds Alleged in Petitions by Women

	White	African American
Abandonment	26%	13%
Adultery	22%	25%
Cruelty	52%	62%

African American women were much more likely to pursue their divorce cases

---

[78] Petitions, Alcey Thomas vs. John Thomas, May 9, 1871, Docket File No. 2657; Cornelia Johnson vs. Jack Johnson, May 18, 1871, Docket File No. 2668; Charity Whitley vs. Dennis Whitley, September 28, 1872, Docket File No. 2746; Martha Harris vs. Hiram Harris, December 6, 1871, Docket File No. 2762; Alcey Holmes vs. Isaac Holmes, February 9, 1872, Docket File No. 2799; Fanny Smith vs. James Smith and J. N. Binkley, August 13, 1872, Docket File No. 2871; Mary Susan Tatum vs. Frank Tatum, January 21, 1873, Docket File No. 2917; Rachel Virginia vs. Charles Virginia et al, April 24, 1873, Docket File No. 2939, CCDC.

and win than were white women, however. Only one black woman dropped her case after reaching an agreement with her husband compared to twelve white women's cases that were either dropped or reached an agreement (13 percent black women, 52 percent white women). One African American pursued her case to have the jury find her allegations of abuse not true.[79] The other six black wives who filed, however, received a divorce.

Divorce granted by a jury in the District Court was an opportunity for women, black and white, to legally end marriages that had often already ended in actuality. Three of the six African American women granted divorces can be determined to have remarried, while only two of the white women who filed and received a divorce can be determined to have done so.[80] The higher number of petitions filed by women in the Reconstruction era and the much larger number successfully pursued, and the smaller percentage of divorcees remarrying, reflects some confidence by women that they could support themselves. Marriage remained the ideal for black and white women. And white women had a more difficult time pursuing divorces against husbands who were still around but less than ideal mates. However, some wives increasingly believed that no marriage was a better option than a bad one.

---

[79] Verdict, Rachel Virginia vs. Charles Virginia et al, October 8, 1873, Docket File No. 2939, CCDC.

[80] Marriage Records, CCCC; Schedule 1, Ninth Census of the United States (1870), Texas, Colorado County.

CONCLUSION

The Civil War in Colorado County did not leave a generation of women without men who began asserting their independence and enjoying their liberty. The statistical impact on the county was such that women still had ample ability to find husbands or new husbands after being widowed. Given the choice to marry and remarry, Colorado County women did so. Married women, active in the public sphere in their husbands' absence during the war, returned quickly to their private sphere when their husbands returned home. Social expectations, court actions, and even the census takers reinforced a return to the antebellum ideal of separate spheres for men and women. A husband's proper place in the family--it was assumed--was to take care of his family financially, politically, and legally. A wife's proper role was to take care of the family's domestic concerns, including "keeping house."

While whites assumed this arrangement accommodated the "natural" abilities of white men and women, they refused to recognize black women's attempts also to adhere to this ideal. Whites tried to force as many black women as possible back to laboring for them through the development of share cropping and labor contracts. Black women resisted the effort somewhat successfully, as over half of the married women were somehow able to stay "at home" and "keep house."

Even as husbands insisted on resuming their proper place at the head of the household, they relied on the labor and skills of their wives during Reconstruction much more than ever. White women, married and single, increased the amount of work they did and, even in this rural southern county, increasingly entered into wage-

earning situations in order to help support the family. Black women, although retiring from the fields whenever they could, also contributed income and work to their families, and much more often than white women did.

The entrance of women into money-making occupations did not necessarily threaten the patriarchal order of the family, as married women still deferred to their husbands in matters of the public sphere. However, the social recognition of women's abilities in that sphere that occurred during the war, as well as women's increased ability to earn an income without social disapproval, led to an increase in single women's activity in the financial and legal worlds previously reserved for men.

The emotional and physical toll of the war, economic devastation, and the emancipation of slaves required Colorado County men and women to rebuild their society, community, and social relations. As men returned, women shifted the burdens they had undertaken in the war back to their husbands. Although undertaking many new responsibilities during the Reconstruction era, women willingly relinquished control of the public sphere to their husbands whenever possible. In their efforts to rebuild their society, and reassert white supremacy in race relations, women were willing to resume the patriarchal order of the household that had existed before the war, despite their demonstrated capabilities and new found talents.

CHAPTER 6

CONCLUSION

Nineteenth-century ideologies dictated that women leave the public sphere responsibilities of business, law, and politics to men. In Colorado County, Texas, most women accepted this separate sphere ideology and sought men to perform these roles in their lives. However, both law and circumstances often required or encouraged women to make forays into the public world. The records of women who entered the public sphere for whatever reason illuminate the limits of this ideology and how women who upheld this ideal adjusted it to the circumstances of frontier living, antebellum stability, the chaos of war, and the reestablishment of southern society after the war.

Throughout the period 1837 to 1873, marriage defined a woman's identity and shaped her destiny in Colorado County. In frontier Colorado County women relied on marriage for more than a fulfillment of social expectations. Frontier Colorado County provided almost no place for single women and abundant opportunities for marriage because of the high ratio of men to women. With limited extensive kinship ties in this newly settled area, husbands and wives relied more exclusively on one another to form a partnership in the uncivilized frontier. As a result women often moved beyond traditional role expectations to perform some normally male roles. Women's participation in private financial and legal decisions increased the likelihood that they would take those abilities into the public sphere when necessary. High mortality and the ease of abandonment forced women to take on the roles of their former husbands

temporarily. The ability and willingness to perform these duties often carried over into new marriages, further increasing even married women's participation in financial and legal decisions. Women, with a few exceptions, did not exert independence from or attempt to gain authority over their husbands. However, women expected and received, both from society and the courts, a certain amount of influence over their own public lives in and out of marriage.

In antebellum Colorado County, women found many opportunities that they did not have during the frontier. Women pursued an increased number of profitable occupations, providing more opportunities in society for single and widowed women. They enjoyed more leisure and a greater concentration of people that led to a greater participation in organized community activities, such as churches and social organizations. Almost all women still married, but they exercised a greater freedom to not remarry when widowed or divorced.

Although women had more marriage options in antebellum Texas, women forayed even less into the public sphere. Women performed their new occupations in their homes or as extensions of their domestic sphere. As kin networks grew, women relied less upon their husbands as the only male protector from the public world. They could and did choose to defer more frequently to male family members and respected male citizens. Women's greater options allowed them to expect more from the men in their lives. Women divorced men for reasons other than abandonment and failure to provide. Widows chose to rely on their own sons, sons-in-law, or other nearby kin rather than remarry, increasingly making their own choices not to enter the

public sphere even in cases where frontier women had overwhelmingly chose to participate, such as in probate court. Colorado County expected the Civil War to reinforce the differences between men's and women's roles as militaristic adventures available only to men would further define separate spheres. Women initially used their private domestic sphere merely to support the war efforts from the private confines of their homes. However, as more and more men left Colorado County to join the war, women took over the duties of the men left behind including the responsibilities of the public sphere. Women assumed the duties left on farms and in businesses. Married women who before the war had relied exclusively on their husbands to take care of the financial and public duties of the family stepped into these formerly male roles. Single women, and newly widowed women, instead of looking to other men in the county to protect them from public sphere activities, increasingly took the burdens upon themselves when they could not find male relatives to do so, much as they had done during the frontier era. Some of these women alone and acting independently for the first time made very independent choices, even to the extreme of taking new lovers. Women in Colorado County, whether married or single, entered the public sphere in large numbers during the Civil War and acted more independently of the men in their lives than ever before.

When men returned home from the Civil War, both women and men sought to reestablish the society as much as they had known it before the war. Unlike other places in the South, men still outnumbered women in this rural county providing women ample opportunities to find husbands or new husbands after being widowed.

Given the choice to marry and remarry, Colorado County women did so. Married women, active in the public sphere in their husbands' absence during the war, returned these responsibilities to their husbands and other men. A husband's proper place in the family--it was assumed--was to take care of his family financially, politically, and legally. Social expectations, court actions, and even the census takers reinforced a return to the antebellum ideal of separate spheres for men and women.

While whites assumed this arrangement accommodated the "natural" abilities of white men and women, they refused to recognize black women's attempts also to adhere to this ideal. Whites tried to force as many black women as possible back to laboring for them through the development of share cropping and labor contracts. Black women resisted the effort somewhat successfully, as over half of the married women were somehow able to stay "at home" and "keep house."

Even as husbands insisted on resuming their proper place at the head of the household, they relied on the labor and skills of their wives during Reconstruction much more than ever. White women, married and single, increased the amount of work they did and, even in this rural southern county, increasingly entered wage-earning situations in order to help support the family. Yet women's increased capacity for wage-earning during Reconstruction did not necessarily threaten the patriarchal order of the family. Married women still deferred to their husbands in matters of the public sphere and most often performed their wage-earning work as part of a family.

From the founding of Colorado County to the end of Reconstruction, women made choices based on their beliefs that men naturally were responsible for and more suited to activities of the public sphere. This ideology, however, could not remain stagnant in the face of the extenuating circumstances of frontier life, the Civil War, and even Reconstruction. Women and men continued to uphold that it was men's place to perform the legal, political, and financial responsibilities of society and their families. At the same time, women made choices in the public sphere whenever necessary belying their inability to do so.

APPENDIX A

WIDOWS AND ADMINISTRATION

Numbers of estates

	Frontier	Antebellum	Civil War	Reconstruc-tion	Total
Sole Admr	23	6	11	15	55
Co Admr	11	3	2	4	20
Sole Extr	4	4	3	8	19
Co Extr	0	2	0	0	2
Declined Admr	5	12	7	7	31
Declined or not appointed Extr	0	7	1	4	12
Total	43	34	24	38	139

Percentages of estates in each era

	Frontier	Antbellum	Civil War	Reconstruc-tion	Total
Sole Admr	54%	18%	46%	40%	40%
Co Admr	26%	9%	8%	11%	14%
Sole Extr	9%	12%	13%	21%	14%
Co Extr	0%	6%	0%	0%	1%
Declined Admn	12%	35%	29%	18%	22%
Declined or not appointed Extr	0%	21%	4%	11%	9%
	101%*	101%*	100%	101%*	100%

*Totals do not add to 100 because of rounding.

APPENDIX B

Divorces Filed and Granted by Gender and Era

	Frontier	Antebellum	Civil War	Reconstruc-tion	Totals
Filed by men	9	14	2	12	37
Filed by women	13	19	4	31	67
Granted to men	8	7	1	8	24
Granted to women	6	8	1	18	33
Success of men	89%	50%	50%	67%	65%
Success of women	46%	42%	25%	58%	49%

APPENDIX C

Grounds for Divorce by Era and Gender

		Frontier	Antebellum	Civil War	Reconstruction
Abandonment	H	3/2	3/2[1]		2/2
	W	3/1	5/1		7/4
Adultery	H	2/1	10/4[2]	1/0	7/5
	W	1/1[3]	2/0	2/0	7/6
Cruelty	H	4/4	1/1	1/0[4]	3/1[5]
	W	9/4[6]	12/6	1/0[7]	17/7[8]
Total	H	9/7	14/7	2/0	12/8
	W	13/6	19/7	3/0	31/17

(9/5 where 9 is the number of divorces filed and 5 is the number granted)

---

1 One other divorce granted to wife on cross-suit.
2 Includes two suits by same two petitioners.
3 Actually marriage annulled for bigamy, not adultery.
4 One divorce granted to wife on cross suit.
5 One other divorce granted to wife on cross suit.
6 One other divorce granted to husband on cross suit.
7 One divorce granted to husband on cross suit.
8 Includes three suits filed by same petitioner.

BIBLIOGRAPHY

PRIMARY SOURCES

Office of the Colorado County Clerk, Colorado County Courthouse, Columbus, Texas:

Bond and Deed Records, Book A, 1836-1838.

Bond and Mortgage Records, Books B-I, 1838-1873.

Deed Records Transcribed, Books B-X, 1837-1873.

Marriage Records, Books B-G, 1837-1880.

Probate Record Files, 1837-1873.

Probate Minutes, Books A-F, 1837-1876.

Final Probate Record, Books A-I, 1837-1874.

County Court Minutes, Book A-1840, 1839-1841; Books 1-2, 1846-1862; and Book A, 1867-1870.

Police Court Minutes, 1862-1876.

Transcribed Marks and Brand Record, Book 1, 1837-1885.

Office of the District Clerk, Colorado County Courthouse, Columbus, Texas:

Docket Files, 1837-1873.

District Court Minutes, Books AB-G, 1837-1881.

Criminal Docket Files, 1837-1873.

District Court Criminal Minutes, Book D, 1866-1870.

District Court Criminal Docket Record, Book 1866-1873.

Criminal Execution Docket Record, Justice of Peace Records, 1866-1871.

PUBLISHED PRIMARY SOURCES:

Columbus (Texas) Colorado Citizen, 1857-1861; 1865-66; 1869-1873.

Columbus (Texas) Times, 1868.

La Grange Texas Monument, 1852.

Texas Public Records:

"The Constitution of the Republic of Texas, March 17, 1836" in Ernest Wallace, ed., Documents of Texas History (Austin, Tex.: Steck Company, Publishers, 1963)

Gammel, H. P. N., comp., The Laws of Texas, 1822-1897. Vol. 7. Austin: The Gammel Book Company, 1898.

Hartley, Oliver C. A Digest of the Laws of Texas. . . Philadelphia: Thomas, Cowperthwait and Co., 1850.

Laws of the Republic of Texas. 2 vols. Houston: Office of the Telegraph, 1837.

Oldham, Williamson S., and George W. White, comps. A Digest of the General Statute Laws of the State of Texas. . . Austin, Texas: John Marshall & Co., 1859.

Private Records:

"Civil War Letters of John Samuel Shropshire," Nesbitt Memorial Library Journal 7 (January 1997): 61-70.

"Documents, Letters, Reminiscences, Etc.," Nesbitt Memorial Library Journal 6 (January 1996): 53-57.

Hunter, Robert L., comp. "Hunter & Combs-Dunlavy Bible Records." Stirpes 4 (Sept 1964): 93-96.

Letters. Reprinted in Pioneer Texans: Montgomery and Thatcher Families and their Descendants. Comp. by Dorothy Elkins Cox. n.d, n.p.

Letters. Translated and reprinted in Ruhmann and Beasley Family Roots, by Dorothy Beasley Ruhmann. Portland, Texas: published by author, 1994.

Narrative of James Green, February 8, 1938, George P. Rawick, ed, The American Slave: A Composite Autobiography. Westport, Conn.: Greenwood Press, 1977. Reprinted in "The Slave Narratives of Colorado County," edited by Bill Stein, Nesbitt Memorial Library Journal 3 (January 1993): 3-32.

"Reminiscences of James Williams Holt," Nesbitt Memorial Library Journal 6 (September 1996): 151-60.

Roemer, Ferdinand. Texas. Trans. by Oswald Mueller. San Antonio: Standard Printing Company, 1935.

OTHER PRIMARY SOURCES:

Charles William Tait Papers, Center for American History, University of Texas, Austin.

Colorado County, Texas, Cemetery Records compiled from gravestones. Nesbitt Memorial Library, Columbus, Texas.

Colorado County, Texas, Confederate Pensions. Texas State Archives, Austin.

Colorado County, Republic of Texas, Tax lists, 1840. Nesbitt Memorial Library, Columbus, Texas.

Colorado County, Texas, Tax Rolls, 1849-1854. On microfilm at Nesbitt Memorial Library, Columubus, Texas.

Leyendecker Family Papers. Center for American History, University of Texas, Austin.

Record Book of Luther Chapel, Columbus, Texas. Center for American History, University of Texas, Austin.

Records of the Bureau of Refugees Freedmen and Abandoned Lands. Record Group 105. National Archives, Washington, D. C.

Schedule 1 (Free Inhabitants), Seventh, Eight, and Ninth Census of the United States (1850, 1860 and 1870), Texas, Colorado County.

SECONDARY SOURCES

Andreadis, Harriete. "True Womanhood Revisited: Women's Private Writing in Nineteenth-Century Texas." Journal of the Southwest 31 (Summer 1989): 179-204.

Basch, Norma. "Equity vs. Equality: Emerging Concepts of Women's Political Status in the Age of Jackson." Journal of the Early Republic 3 (Fall 1983): 297-318.

------. In the Eyes of the Law: Women, Marriage, and Property in Nineteenth-Century New York. Ithaca and London: Cornell University Press, 1982.

------. "Relief in the Premises: Divorce as a Woman's Remedy in New York and Indiana, 1815-1870." Law and History Review 8 (Spring 1990): 1-24.

Bell, John. "Powers of Married Woman in Texas Aside From Statutes." Texas Law Review 6 (June 1928): 516-18.

Biesele, Rudolph Leopold. The History of the German Settlements in Texas, 1831-1861. Austin, Texas: Press of Von Boeckmann-Jones, Co., 1930.

Black's Law Dictionary. 6th ed. St. Paul, Minn.: West Publishing Company, 1990.

Blake, Nelson Manfred. The Road to Reno: A History of Divorce in the United States. New York: The Macmillan Company, 1962.

Boatwright, Eleanor M. "The Political and Civil Status of Women in Georgia, 1783-1860." Georgia Historical Quarterly 25 (December 1941): 301-24.

Boles, John B. The South Through Time: A History of an American Region. Englewood Cliffs, New Jersey: Prentice Hall, 1995.

Campbell, Randolph. An Empire for Slavery: The Peculiar Institution in Texas. Baton Rouge: Louisiana State University Press, 1989.

Cashin, Joan. A Family Venture: Men and Women on the Southern Frontier. New York and Oxford: Oxford University Press, 1991.

------. "Reconstruction in Colorado County, Texas, 1865-1876." Nesbitt Memorial Library Journal 5 (January 1995): 3-30.

Censer, Jane Turner. North Carolina Planters and their Children: 1800-1860. Baton Rouge and London: Louisiana State University Press, 1984.

------. "'Smiling Through Her Tears,': Ante-Bellum Southern Women and Divorce." American Journal of Legal History 25 (January 1981): 24-47.

Chused, Richard H. "Married Women's Property Law: 1800-1850." Georgetown Law Journal 71 (1983): 1359-1425.

------. "Late Nineteenth Century Married Women's Property Law: Reception of the Early Married Women's Property Acts by Courts and Legislatures." American Journal of Legal History 29 (January 1985): 3-35.

------. Private Acts in Public Places: A Social Hisotry of Divorce in the Formative Era of American Family Law. Philadelphia: University of Pennsylvania Press, 1995.

Clinton, Catherine. The Plantation Mistress: Woman's World in the Old South. New York: Pantheon Books, 1982.

Colorado County Historical Commission, comp. Colorado County Chronicles: From the Beginning to 1923, 2 vols. Austin, Texas: Nortex Press, 1986.

Cott, Nancy F. The Bonds of Womanhood: 'Woman's Sphere' in New England, 1780-1835. New Haven and London: Yale University Press, 1977.

Crouch, Barry A. "The Freedmen's Bureau in Colorado County, Texas, 1865-1868." Nesbitt Memorial Library Journal 5 (May 1995): 71-106.

Ely, James W., Jr., and David J. Bodenhamer. "Regionalism and American Legal History: The Southern Experience," Vanderbilt Law Review 39 (April 1986): 539-67.

Faragher, John Mack. Women and Men on the Overland Trail. New Haven and London: Yale University Press, 1979.

Faust, Drew Gilpin. Mothers of Invention: Women of the Slaveholding South in the AMerican Civil War. Chapel Hill and London: University of North Carolina Press, 1996.

Foner, Eric. A Short History of Reconstruction, 1863-1877. New York and other places: Harper & Row, Publishers, 1990.

Fox-Genovese, Elizabeth. Within the Plantation Household: Black and White Women of the Old South. Chapel Hill and London: University of North Carolina Press, 1988.

Goodheart, Lawrence B., Neil Hanks, and Elizabeth Johnson. "'An Act for the Relief of Females. . .': Divorce and the Changing Legal Status of Women in Tennessee, 1796-1860, Part I." Tennessee Historical Quarterly 44 (1985): 318-39.

Greer, D. Edward. "A Legal Anachronism: The Married Woman's Separate Acknowledgement to Deeds." Texas Law Review 1 (June 1923): 407-22.

Griswold, Robert L. "The Evolution of the Doctrine of Mental Cruelty in Victorian American Divorce, 1790- 1900." Journal of Social History 20 (Fall 1986): 127-48.

------. "Law, Sex, Cruelty, and Divorce in Victorian America, 1840-1900." American Quarterly 38 (Winter 1986): 721-45.

Gunderson, Joan R., and Gwen Victor Gampel. "Married Women's Legal Status in Eighteenth-Century New York and Virginia." William and Mary Quarterly 3d series, 39 (January 1982): 114-134.

Hall, Jacquelyn Dowd, and Anne Firor Scott. "Women in the South." In Interpreting Southern History: Historiographical Essays in Honor of Sanford W. Higginbotham, edited by John B. Boles and Evelyn Thomas Nolen. Baton Rouge and London: Louisiana State University Press, 1987.

Hartog, Hendrik. "Marital Exits and Marital Expectations in Nineteenth Century America." Georgetown Law Journal 80 (October 1991): 95-129.

Hindus, Michael S., and Lynne E. Withey. "The Law of Husband and Wife in Nineteenth-Century America: Changing Views of Divorce." In Women and the Law: A Social Historical Perspective, Vol. 2, Property, Family and the Legal Profession, edited by D. Kelly Weisberg. Cambridge, Mass.: Schenkman Publishing Company, 1982.

"History of St. John's Episcopal Church Columbus, Texas, April 14, 1856-April 14, 1956" researched and compiled by Mrs. Elizabeth Hudson. N.p., 1956.

Hogan, William Ransom. The Texas Republic: A Social and Economic History. Norman: University of Oklahoma Press, 1946.

Jeffrey, Julie Roy. Frontier Women: The Trans-Mississippi West, 1840-1880. New York: Hill and Wang, 1979.

Jones, Jacqueline. Labor of Love, Labor of Sorrow: Black Women, Work and the Family from Slavery to the Present. New York, Basic Books, Inc., 1985.

Jones, Mary Somerville. An Historical Geography of the Changing Divorce Law in the United States. New York and London: Garland Publishing, Inc., 1987.

Jordan, Terry G. German Seed in Texas Soil: Immigrant Farmers in Nineteenth-Century Texas. Austin and London: University of Texas Press, 1966.

Kerber, Linda K. "Separate Spheres, Female Worlds, Woman's Place: The Rhetoric of Women's History." Journal of American History 65 (June 1988): 9-39.

Kilgore, Dan. "Two Sixshooters and a Sunbonnet: The Story of Sally Skull." In Legendary Ladies of Texas, edited by Francis Edward Abernethy. Denton: University of North Texas Press, 1994.

Lasch, Christopher. "Divorce and the 'Decline of the Family'" in The World of Nations: Reflections on American History, Politics, and Culture. New York: Alfred A. Knopf, 1973.

Lazarou, Kathleen Elizabeth. "Concealed Under Petticoats: Married Women's Property and the Law of Texas, 1840-1913." Ph.D. diss., Rice University, 1980.

Lebsock, Suzanne. The Free Women of Petersburg: Status and Culture in a Southern Town, 1784-1860, New York and London: W. W. Norton and Company, 1984.

------. "Radical Reconstruction and the Property Rights of Southern Women." Journal of Southern History 43 (May 1977): 196-97.

Lich, Glen E. The German Texans. San Antonio: University of Texas Institute of Texan Cultures, 1981.

------. "Rural Hill Country: Man, Nature, and the Ecological Perspective." In Eagle in the New World: German Immigration to Texas and America, edited by Theodore Gish and Richard Spuler. College Station: Texas Committee for the Humanities by Texas A&M University Press, 1986.

McCoy, Ingeborg Ruberg. "Tales of the Grandmothers, II." In Eagle in the New World: German Immigration to Texas and America, edited by Theodore Gish and Richard Spuler. College Station: Texas Committee for the Humanities by Texas A&M University Press, 1986.

McIlveen, Sue Dunlavy, comp. Footprints: The Dunlavys and Related Families n.p.: Private Distribution, 1988.

McKnight, Joseph W. "Texas Community Property Law: Conservative Attitudes, Reluctant Change," Law and Contemporary Problems 56 (Spring 1993): 71-104.

McKnight, Joseph W., and William A. Reppy, Jr. Texas Matrimonial Property Law (Provisional Second Edition). Dallas, Texas: n.p., 1994.

McMillen, Sally G. Southern Women: Black and White in the Old South. Arlington Heights, Illinois: Harland Davidson, Inc., 1992.

Moncrief, Sandra. "The Mississippi Married Women's Property Act of 1839." Journal of Mississippi History 47 (May 1985): 11-25.

O'Brien, Charles. "The Growth in Pennsylvania of the Property Rights of Married Women." University of Pennsylvania Law Review 49 (September 1901): 524-30.

Paulsen, James W. "Remember the Alamo[ny]! The Unique Texas Ban on Permanent Alimony and the Development of Community Property Law." Law and Contemporary Problems 56 (Spring 1993): 7-70.

Paxson, Frederic L. "The Constitution of Texas, 1845." Southwestern Historical Quarterly 18 (April 1915): 386-98.

Philips, Roderick. Putting Asunder: A History of Divorce in Western Society. Cambridge and other cities: Cambridge University Press, 1988.

Pugh, Nina Nichols, "The Spanish Community of Gains in 1803: Sociedad de Gananciales." Louisiana Law Review 30 (December 1969): 1-43.

Rable, George C. Civil Wars: Women and the Crisis of Southern Nationalism. Urbana and Chicago: University of Illinois Press, 1989.

Rabkin, Peggy A. Fathers to Daughters: The Legal Foundations of Female Emancipation. Westport, Conn., and London, 1980.

Rable, George C. Civil Wars: Women and Crisis of Southern Nationalism. Urbana and Chicago: University of Illinois Press, 1989.

Ransom, Roger L., and Richard Sutch. One Kind of Freedom: The Economic Consequences of Emancipation. Cambridge, London, New York and Melbourne: Cambridge University Press, 1977.

Reeves-Marquardt, Dona. "Tales of the Grandmothers: Women as Purveyors of German-Texan Culture." In Eagle in the New World: German Immigration to Texas and America, edited by Theodore Gish and Richard Spuler. College Station: Texas Committee for the Humanities by Texas A&M University Press, 1986.

Reynolds, Suzanne. "Increases in Separate Property and the Evolving Marital Partnership." Wake Forest Law Review (1989): 240-33.

Richardson, Rupert Norval, Ernest Wallace, and Adrian N. Anderson. Texas: The Lone Star State. 4th ed. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1981.

Riley, Glenda. Divorce: An American Tradition. New York and Oxford: Oxford University Press, 1991.

Ryan, Mary P. Womanhood in America: From Colonial Times to the Present. 3rd ed. New York and other cities: Franklin Watts, 1983.

Salmon, Marylynn. Women and the Law of Property in Early America. Chapel Hill and London: University of North Carolina Press, 1986.

Scott, Anne Firor. The Southern Lady: From Pedestal to Politics. Chicago and London: University of Chicago Press, 1970.

Sedevie, Donna. "Women and the Law of Property in the Old Southwest: The Antecedents of the Mississippi Married Woman's Law, 1798-1839." Masters Thesis, University of Southern Mississippi, August 1996.

Smith, Bea Ann. "The Partnership Theory of Marriage: A Borrowed Solution Fails." Texas Law Review 68 (March 1990): 689-735.

Speer, Ocie. A Treatise on the Law of Marital Rights in Texas. Rochester, N. Y.: Lawyers Co-operative Publishing Co., 1916.

Speth, Linda E. "The Married Women's Property Acts, 1839-1865: Reform, Reaction, or Revolution?" In Women and the Law: A Social Historical Perspective, Vol. 2, Property, Family and the Legal Profession, edited by D. Kelly Weisberg. Cambridge, Mass.: Schenkman Publishing Company, 1982.

Stein, Bill. "Consider the Lily: The Ungilded History of Colorado County, Texas, Part 1." Nesbitt Memorial Library Journal 6 (January 1996): 3-34.

------. "Consider the Lily: The Ungilded History of Colorado County, Texas, Part 2." Nesbitt Memorial Library Journal 6 (January 1996): 35-51.

------. "Consider the Lily: The Ungilded History of Colorado County Texas, Part 3." Nesbitt Memorial Library Journal 6 (May 1996): 63-94.

------. "Consider the Lily: The Ungilded History of Colorado County Texas, Part 4." Nesbitt Memorial Library Journal 6 (September 1996): 115-49.

------. "Consider the Lily: The Ungilded History of Colorado County, Texas, Part 5." Nesbitt Memorial Library Journal 7 (January 1997): 3-59.

Stuntz, Jean. "Three Flags Over Texas: Marital Property Under Spanish, English, and Republic of Texas Law." Department of History, University of North Texas. Paper in possession of author, 1996.

Townes, John C. "Sketch of the Development of the Judicial System of Texas. I." Quarterly of the Texas State Historical Association 2 (July 1898): 29-53.

Welter, Barbara. "The Cult of True Womanhood: 1820-1860." American Quarterly 18 (Summer 1966): 151-74.

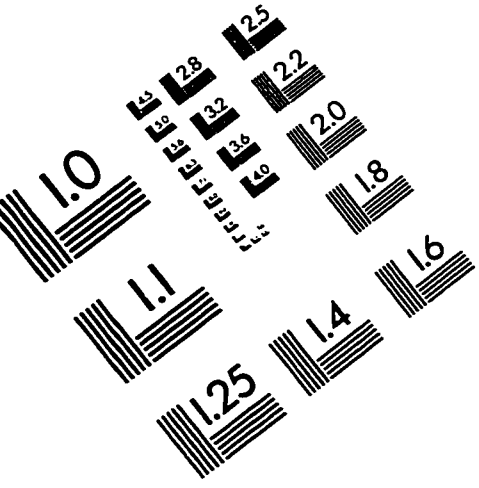
Wiener, Jonathan M. "Female Planters and Planters' Wives in Civil War and Reconstruction: Alabama, 1850-1870." Alabama Review 30 (April 1977): 135-49.

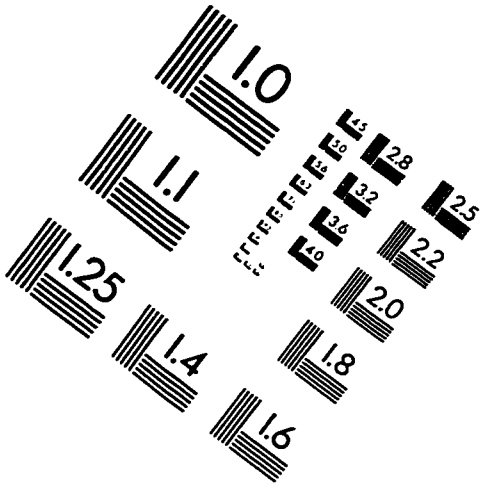
Winegarten, Ruthe. Black Texas Women: 150 Years of Trial and Triumph. Austin: University of Texas Press, 1995.

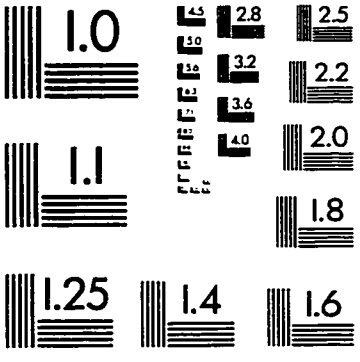
Wortman, Marlene Stein, ed. Women in American Law, Volume I: From Colonial Times to the New Deal. New York and London: Holmes & Meier Publishers, Inc., 1985.

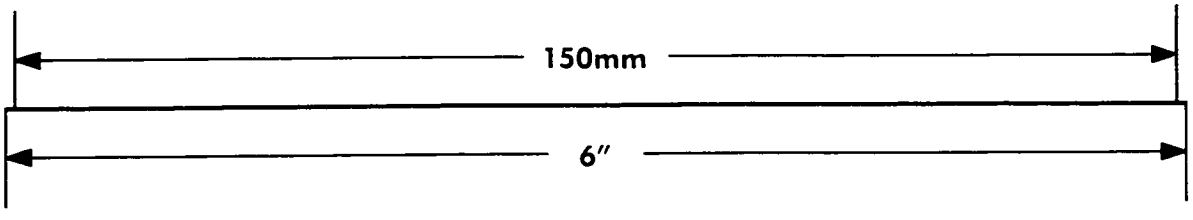
Wyatt-Brown, Bertram. Southern Honor: Ethics and Behavior in the Old South. New York and Oxford: Oxford University Press, 1982.

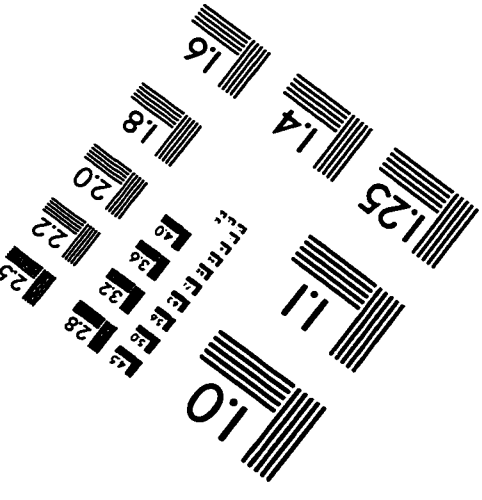
IMAGE EVALUATION
TEST TARGET (QA-3)

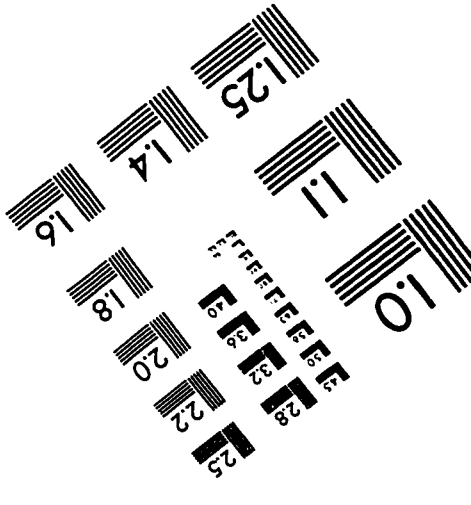












APPLIED IMAGE, Inc
1653 East Main Street
Rochester, NY 14609 USA
Phone: 716/482-0300
Fax: 716/288-5989

© 1993, Applied Image, Inc., All Rights Reserved