

William Johnson's Hypothesis: A Free Black Man and the Problem of Legal Knowledge in the Antebellum United States South

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To day is the first Commencement of the Court. The Docket is a Light One. I did not do much To day for . . . I am not prepared to go to tryal yet in the Land Case.

—William T. Johnson, 1850

In recent years, scholars have paid considerable attention to African Americans' engagement with the legal system in the pre-Civil War United States South and have undermined the notion that black people (free and enslaved) were legal outsiders.¹ In particular, nineteenth-century trial court records depict a legal system closely linked to everyday life and a legal culture that included the participation of all Southerners—white and black, enslaved and free, male and female.² As Laura Edwards has shown

1. Epigraph from William Johnson's Diary (hereafter Diary), November 4, 1850, the William T. Johnson Family Papers, Louisiana and Lower Mississippi Valley Collections (LLMV), Louisiana State University Libraries, Baton Rouge, Louisiana (hereafter Johnson Papers, LLMV).

2. Laura F. Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press, 2009); Ariela J. Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom* (Princeton, NJ: Princeton University Press, 2000); and Felicity

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for North and South Carolina, because local officials sought to “keep the peace” and emphasized community welfare and social order over individual rights, everyone (including those marked as subordinate) could access—and influence—law. Black people witnessed inquests, weighed in on the reputations of others, and provided information about their household heads that could help decide a case.³ In addition, as other historians have highlighted, people of African descent participated in legal processes in a number of informal and formal ways—from spreading gossip that whites repeated in court to suing for their freedom.⁴ Recent scholarship, moreover, demonstrates that not only did free and enslaved black Americans participate behind the scenes in legal proceedings; they were also parties to civil suits and directly engaged in legal action.⁵ Thus, black people in the slave South were legal actors in their own right and, in the words of one scholar, “made savvy use of the law.”⁶

This flurry of legal participation invites a question, however, and one all too rarely asked explicitly: what does it mean when we say that free blacks

Turner, “Rights and the Ambiguities of the Law: Infanticide in the Nineteenth-Century U.S. South,” *Journal of the Civil War Era* 4 (2014): 350–72.

3. Edwards, *The People and Their Peace*.

4. Gross, *Double Character*; Keila Grinberg, “Freedom Suits and Civil Law in Brazil and the United States,” *Slavery & Abolition* 22 (2001): 66–82; Kelly M. Kennington, *In the Shadow of Dred Scott: St. Louis Freedom Suits and the Legal Culture of Slavery in Antebellum America* (Athens: University of Georgia Press, 2017); Judith Kelleher Schafer, *Becoming Free, Remaining Free: Manumission and Enslavement in New Orleans, 1846–1862* (Baton Rouge: Louisiana State University, 2003); Loren Schweninger, “Freedom Suits, African American Women, and the Genealogy of Slavery,” *The William and Mary Quarterly* 71 (2014): 35–62; Anne Twitty, *Before Dred Scott: Slavery and Legal Culture in the American Confluence, 1787–1857* (New York: Cambridge University Press, 2016); and Lea VanderVelde, *Redemption Songs: Suing for Freedom before Dred Scott* (New York: Oxford University Press, 2014).

5. Kimberly M. Welch, *Black Litigants in the Antebellum American South* (Chapel Hill: University of North Carolina Press, 2018). See also Kenneth R. Aslakson, *Making Race in the Courtroom: The Legal Construction of Three Races in Early New Orleans* (New York: New York University Press, 2014); Martha Jones, “Hughes v. Jackson: Race and Rights beyond Dred Scott,” *North Carolina Law Review* 91 (2013): 1757–84; Martha Jones, “Leave of Court: African American Claims-Making in the Era of Dred Scott v. Sanford,” in *Contested Democracy: Freedom, Race, and Power in American History*, ed. Manisha Sinha and Penny M. Von Eschen (New York: Columbia University Press, 2007), 54–74; Ted Maris-Wolf, *Family Bonds: Free Blacks and Re-Enslavement Law in Antebellum Virginia* (Chapel Hill: University of North Carolina Press, 2015); Kimberly Welch, “Black Litigiousness and White Accountability: Free Blacks and the Rhetoric of Reputation in the Antebellum Natchez District,” *The Journal of the Civil War Era* 5 (2015): 372–98; and Emily West, *Family or Freedom: People of Color in the Antebellum South* (Lexington: University Press of Kentucky, 2012).

6. Twitty, *Before Dred Scott*, 21.

and slaves knew how to use the law? As it happens, this question poses a complicated set of problems: the meaning of the verb “to know” is hardly self-evident, definitions of the “law” are famously intractable, and under some theories, the use of the article “the” may prove problematic.⁷ These theoretical and definitional matters are far too complex to settle definitively here. My goal is more limited: to reflect on the problem of “knowing the law” by bringing to bear evidence from outside of the courtroom—the diary of free black barber and Natchez, Mississippi, businessman William T. Johnson.

Although on occasion Johnson took legal action, he was not a particularly litigious man and, therefore, did not leave significant traces on the “official” legal record; that is, the trial court record. Yet his diary highlights his vast knowledge of and experience with the law. In this he was not wholly exceptional. As mentioned, other people of African descent in the antebellum South understood the mechanisms of the legal system and activated it in the service of their interests; indeed, their status in Southern society made this kind of knowledge critical. In antebellum Natchez and its environs, hundreds of free black and enslaved litigants were parties to civil suits and sued whites and blacks alike over a wide range of grievances. Many of these men and women were illiterate and living on the margins.⁸ As a skilled, propertied, and literate man of high social standing, however, Johnson had few peers among the free black population of Natchez. As a male household head, he could act at law in ways that his wife and other married women could not. As a free person, he had a legal personality that enslaved people did not. And as a slaveholder of some wealth, he stood apart from many whites as well. In other words, Johnson should not be taken as a stand-in for black people generally, just as he should not be taken as a stand-in for propertied slaveholders generally.

Johnson is interesting not because he was somehow exemplary, but because he provides an opportunity to raise a more pointed issue of method. Just as it would be incorrect to say that white, propertied slaveholders were simply passive receptacles of legal content and theory (for they were, after all, agents of its making, collectively and individually), so too would it be problematic to suggest the same things about black people more generally and about Johnson specifically. Legal actors—black and white—developed robust sets of ideas about law’s meaning. They were, in other words, engaged in a repertoire of moves in the legal

7. For distinctions between “law” and “the law,” see Edwards, *The People and Their Peace*, 27–29.

8. Welch, *Black Litigants in the Antebellum American South*.

arena, interpreting and hypothesizing about the ways that legal notions and principles could be enacted in their own lives. Understood this way, legal knowledge is not a binary or a yes or no proposition. Rather, as Johnson's diary demonstrates, "knowing the law" involved an individual's assumptions, performances, and hunches. Put differently, legal actors developed their own hypothesis (or hypotheses) about law, hypotheses that deserve to be reconstructed in their respective complexity.

The scope of the materials that Johnson left behind allows us to trace the evolution of his hypotheses about law. His personal papers consist of 1,323 items and fifty-eight volumes; few people of color in the slave South left behind such copious documentation. Johnson was a meticulous record keeper, an avid letter writer, and, especially, a prolific diarist.⁹ His diary is a fourteen volume daily record of his life, one that spans 16 years (1835–51) and several hundred pages. Little escaped Johnson's attention. He used his diary to comment on the daily events in his life and life in Natchez, including his children's births, slow business days, yellow fever epidemics, brawls between neighbors, local elections, his mother's obstinacy, and his slave's drunkenness. He also commented on affairs of a larger scale, such as the annexation of Texas, the weather in New York, and his opinion on life in England or the Bank of the United States.

But Johnson's diary is much more than a window into the everyday life of a black man in the antebellum United States South. When read as a legal history, his diary also allows us to examine his observations of and encounters with law and the judicial system and his interpretation of it. Diaries are not the first sources legal historians reach for when seeking answers to questions of law. Legal scholars look foremost to "legal" records: records of the events that transpire in courtrooms or records that document attempts to engage in the legal arena more generally, such as petitions. Narratives, newspapers, letters, and diaries tend to be cast as "extralegal," sources that might provide background on or insight into the social and cultural dynamics of a particular court case, judicial opinion, or legislative dispute. But when attempting to demystify the phrase "to know the law," as is my goal here, working from a diary is advantageous. Legal documents are designed for a specific forum, and only inadvertently do they shine light

9. In addition to Johnson's fourteen-volume diary, these materials include cashbooks, daybooks, ledgers, bills, and receipts that document the money he made and how he made it, and the money he spent and how he spent it. The collection also includes letters to and from family members, friends, and business partners and the memorabilia of his and his family's daily life: newspapers, drawings, sheet music, and more. Johnson Papers, LLMV.

on problems outside of their particular focus.¹⁰ Johnson's diary, however, was not created to describe or solve a justiciable problem. Rather it was a record that primarily buttressed his accounting papers and detailed the events of his life—both notable and mundane. It is personal, diachronic, and unmediated by the hand of a court clerk or a lawyer. Although this source presents an opportunity for legal historians, it is important to recognize that Johnson's record keeping was Johnson's construction: of his present circumstances, of his immediate past, and, equally importantly, of his prospective future. It is, in other words, a deeply interested document. Still, so far as the question of legal knowledge goes, we can nonetheless use it to reveal a set of complex attitudes toward a world of law that Johnson believed was both real and powerful.

Above all, I hope to show that when we speak of "knowing the law," we speak of a remarkably complex and uneven phenomenon. Legal knowledge cannot be treated through generalizations, but instead must be mapped on a case-to-case basis. Understanding what it meant "to know the law" sometimes requires examining an individual's personal theory or hypothesis of *what law does* for them, one that is both normative and empirical.¹¹ Johnson's theory of "knowing the law" meant striking a careful balance between what we might call rules (what formal law dictated) and the social circumstances under which his community would hear any particular person make a specific claim of right on the basis of such a rule. Although Johnson resided in a world where moral judgments and personal relationships shaped the nature of his interaction with the legal system, he also participated in a formal legal world where legislation and precedents influenced the legal actions he took.

But as a black man, Johnson was not a free actor in a society of equals, either before the law or otherwise. This gives his diary special value for the legal historian. It reveals not only Johnson's many legal entanglements and how they shaped his legal consciousness. It also helps explain, in part, Johnson's impulse for keeping a diary in the first place. Documentation

10. On methodological cautions for reading legal sources, see Welch, *Black Litigants in the Antebellum American South*, 21–22. See also Twitty, *Before Dred Scott*, 19–20; and Edwards, *The People and Their Peace*, 23–24.

11. My thinking here is influenced by Sally Engle Merry's definition of legal consciousness: as "the ways people understand and use law," an understanding that "develops through individual experience." As Merry argues, "the law consists of a complex repertoire of meanings and categories understood differently by people depending on their experience with and knowledge of the law." Consciousness, moreover, is changeable. Sally Engle Merry, *Getting Justice and Getting Even: Legal Consciousness Among Working-Class Americans* (Chicago: The University of Chicago Press, 1990), 5. For an exploration of the varieties of legal consciousness, see Patricia Ewick and Susan S. Silby, *The Common Place of Law: Stories from Everyday Life* (Chicago: The University of Chicago Press, 1998).

was important to him.¹² “To know the law” also meant putting words to paper, especially recording official documents. Much of the diary is copies: he wrote receipts, recorded debts, drew up deeds, composed letters, summarized legislation, interpreted precedents, duplicated contracts, and drafted agreements. Johnson was acutely aware of the importance of documentation, a fact that must be explained, at least in large measure, as an index of his belief that formality—especially documentary formality—backstopped success in court. Johnson’s hypothesis about the relationship between the formality of documents and the fluidity of social life would develop over the course of his life, with tragic results.

This article, then, presents Johnson’s diary as a legal text. His diary and his associated account books and personal papers provide a remarkably rich source of material to explore the extent to which one black man in the antebellum South knew the law; how he came to know it; and what role he saw it play in his life and community. I begin by showing how Johnson learned things that we take to be “legal.” The material is organized on a sliding scale of formality: his experiences with the courts, his dealings with other institutions, his operations in a world of credit and debt, and his reflections on these processes. From there, I turn to how these bodies of “knowledge” were more accurately guesses and hypotheses, and specifically, how they were put into action in a piece of complex litigation that eventually cost Johnson his life. A careful analysis of his records points to a broader set of methodological moves that historians might adopt in order to recover the ways that others made hypotheses about the role of law in their lives and their communities.¹³

12. For an example of the power documents offered free people of color (for freedom and security, especially), see Rebecca Scott and Jean Hébrard, *Freedom Papers: An Atlantic Odyssey in the Age of Emancipation* (Cambridge, MA: Harvard University Press, 2014).

13. Several scholars have engaged William Johnson’s diary, but none have examined it as a source of legal history. For a biography of Johnson, see Edwin Adams Davis and William Ransom Hogan, *The Barber of Natchez* (Baton Rouge: Louisiana State University Press, 1954). For scholars interested in Johnson as a free black barber, see Douglas W. Bristol, *Knights of the Razor: Black Barbers in Slavery and Freedom* (Baltimore: Johns Hopkins University Press, 2009); and Quincy T. Mills, *Cutting Across the Color Line: Black Barbers and Barber Shops in America* (Philadelphia: University of Pennsylvania Press, 2013). For historians interested in the social and cultural life of free women of color in Natchez and the lives of Johnson’s mother, wife, and daughters, see Joyce L. Broussard, *Stepping Lively in Place: The Not-Married, Free Women of Civil-War-Era Natchez, Mississippi* (Athens: University of Georgia Press, 2016); and Virginia Meacham Gould, ed., *Chained to the Rock of Adversity: To Be Free, Black & Female in the Old South* (Athens: University of Georgia Press, 1998). For a legal history that examines the circumstances of Johnson’s death, see Gross, *Double Character*.

The Self-Made Man

William Johnson was a man on the make. Born a slave in 1809, Johnson was the son of his white master, also named William Johnson, and his master's slave, Amy. The elder William Johnson, a planter in Adams County, manumitted Amy in 1814, her daughter, Adelia in 1818, and young William in 1820.¹⁴ Throughout the early 1820s, Johnson apprenticed as a barber in his brother-in-law's thriving Natchez shop.¹⁵ In 1828, Johnson opened his own barbershop in Port Gibson, a town to the north of Natchez. His account books from the period demonstrate that he operated a successful business: in the 22 months that he spent in Port Gibson, he took in \$1094.50 "by Hair Cutting and Shaving alone."¹⁶ His earnings were so significant, in fact, that on October 14, 1830 he used his savings to take over his brother-in-law's lease on Main Street in Natchez.¹⁷ Although he conducted business with other free people of color (employing them, renting them rooms, lending them money, borrowing money from them), his barbershop clientele, like James Miller's before him, was exclusively white.¹⁸

Natchez offered considerable opportunities from which to build a business. It was cosmopolitan, outward facing, and busy. Located on the Mississippi River, Natchez was integrated into a dynamic commercial culture and linked to cities such as St. Louis, Missouri, to the north and New Orleans, Louisiana and the broader Atlantic world to the south. Traders and travelers came by steamboat, carrying goods, slaves, news, and ideas. Throngs of eager investors arrived almost daily, attracted by escalating cotton prices, thousands of acres of fertile land, a booming slave market, and the promise of great riches. Natchez housed some of the richest men in the

14. William Ransom Hogan and Edwin Adams Davis, eds., *William Johnson's Natchez: The Ante-Bellum Diary of a Free Negro* (Baton Rouge: Louisiana State University Press, 1993), 15–17.

15. James Miller, a free black man from Philadelphia, married Johnson's sister Adelia in 1820. He ran one of the most successful barbershops in Natchez for about a decade. The couple moved to New Orleans in 1830 but remained close to the Johnson family. By the antebellum period, skilled black barbers such as Miller and Johnson controlled the tonsorial market and offered their services to the white elite. Several owned their own shops. Many became successful entrepreneurs and leaders of their communities. On black barbers, see Bristol, *Knights of the Razor*; and Mills, *Cutting Along the Color Line*. For more on James Miller, see John N. Ingram and Lynne B. Feldman, *African-American Business Leaders: A Biographical Dictionary* (Westport, CT: Greenwood Press, 1994), 380–81.

16. Hogan and Davis, eds., *William Johnson's Natchez*, 20.

17. Daybook, Volume 11, 1830 May–April 1835, Johnson Papers, LLMV.

18. This was true for most black barbers in the antebellum South. See Bristol, *Knights of the Razor*.

United States, men who built plantations to fit their ambitions. It also housed gamblers, prostitutes, and highwaymen, people who congregated in the bawdy houses “under the hill.” As one newcomer to Natchez put it, “every cross-road and every avocation presented an opening, through which a fortune was seen by the adventurer in near perspective.”¹⁹ In antebellum Natchez, possibility appeared endless, and “commerce was king.”²⁰

Johnson swiftly established his position as Natchez’s leading barber and used the capital he acquired to diversify his enterprises. He bought the building on Main Street, as well as other real estate in Natchez. He expanded his business to a bathhouse and two smaller barbershops operated by his free black and enslaved apprentices.²¹ Johnson kept his ear to the ground for new opportunities, and his property holdings grew in the mid-1830s through both purchases and new construction. He rented rooms and storefronts to white doctors, druggists, merchants, a jeweler, a boot maker, and a fruit vendor, among others, and he made a modest but steady income as a landlord. In addition, Johnson served as a broker and moneylender, exchanging currency for a fee and extending loans that ranged from \$1 to \$1,000 to both black and white borrowers. Between 1835 and 1851, Johnson made over 250 loans totaling at least \$16,300.²² He hired out his slaves, rented his horse and buggy to various

19. Joseph G. Baldwin, *The Flush Times of Alabama and Mississippi: A Series of Sketches* (New York: Hill and Wang, 1853, 1957), 83.

20. *Ibid.*, 87. For more on nineteenth-century Natchez and its environs, see Broussard, *Stepping Lively in Place*; Gross, *Double Character*; Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, MA: Belknap Press of Harvard University Press, 2013); Anthony E. Kaye, *Joining Places: Slave Neighborhoods in the Old South* (Chapel Hill: University of North Carolina Press, 2007); John Hebron Moore, *The Emergence of the Cotton Kingdom in the Old Southwest: Mississippi, 1770–1860* (Baton Rouge: Louisiana State University Press, 1988); Adam Rothman, *Slave Country: American Expansion and the Origins of the Deep South* (Cambridge, MA: Harvard University Press, 2005); Joshua D. Rothman, *Flush Times and Fever Dreams: A Story of Capitalism and Slavery in the Age of Jackson* (Athens, GA: University of Georgia Press, 2012); and Michael Wayne, *The Reshaping of Plantation Society: The Natchez District, 1860–80* (Urbana: University of Illinois Press, 1990).

21. Johnson bought his first slave in 1832 and over the course of his life owned a total of thirty-one enslaved people. When he died in 1851, he possessed fifteen slaves valued at \$6,075 (six of whom he had recently inherited from his mother). Hogan and Davis, eds., *William Johnson’s Natchez*, 35.

22. Johnson recorded the loans he extended in both his diary and his daybooks and ledgers. These figures come from a systematic pass through the diary, daybooks, and ledgers; I made note of each time he mentioned moneylending in his diary (and entered those amounts and details into a spreadsheet) and then double-checked the totals in the daybooks and ledgers. It is possible that these numbers were even higher, as Johnson sometimes neglected to make note of an initial loan (only later noting that a borrower had paid the debt). Therefore, some loans might be missing.

persons, and even bought and sold canary birds for a minor profit. He also enjoyed gambling, betting on everything from local elections to horse races. At times these wagers augmented his income. In the mid-1840s, Johnson started to acquire acreage outside of town and spent the last few years of his life running a farming and timber venture (property he managed with the help of a white overseer and a handful of enslaved and free black laborers). His wife, Ann Battles Johnson, a free woman of color and former slave of prominent Natchez banker Gabriel Tichenor, was similarly an entrepreneur. Ann produced much of the foodstuffs required to sustain her household. She kept a garden, a chicken coop, a pigpen, and a milking cow, and she directed her slaves to sell the excess meat, vegetables, and baked goods at market. They also sold garments and accessories such as bonnets and scarves made by the women in the Johnson household. Ann's marketing ventures supplemented the family economy.²³ Johnson's barbering business, however, remained at the heart of their endeavors, and it carried his family through the lean years of the late 1830s and early 1840s. At the time of his death in 1851, he owned 2,000 acres of land and had accumulated more than \$25,000 in property. This figure included the most successful barbershop in Natchez, a small plantation, townhomes, fifteen slaves, farm tools, livestock, and personal items such as mahogany chairs, paintings, several musical instruments, and a collection of books.²⁴

Although bereft of formal schooling, Johnson was a learned man. Not only could he read and write well, he was also a shrewd accountant and kept meticulous records of all of his ventures, expenses, and profits. He wrote songs and poetry and filled his ledgers with sketches. Life in a busy port town meant that Johnson had plenty of opportunity to travel and to hear news from distant places. He was interested in the world around him and went often to New Orleans for business and pleasure. As a young man, he also had visited Philadelphia and New York. To keep himself abreast of current events, he subscribed to newspapers and periodicals from around the country, including the *Natchez Free Trader*, the *Jackson Mississippian*, the *New Orleans Crescent*, the *New Yorker*, the *New York Enquirer*, and the *Saturday Evening Post*.²⁵ He frequently commented on reports from the national news and the legislative business of the United States Congress. In particular, the annexation of Texas and the future of the Southwest Territory held his interest. "To Day Friday 13th 1850," he chronicled in his diary, "we got news in regard to the

23. Gould, *Chained to the Rock of Adversity*, xxiv–xxvi.

24. Johnson Papers, LLMV. See also Hogan and Davis, eds., *William Johnson's Natchez*, 39.

25. For example, see Diary, December 30, 1835; and July 30, 1836.

Passage of Several very Important Bills—The Texas Boundary Bill, The California admitted into the Union, the fugitive slave bill, and the death of the King of France.”²⁶

Moreover, Johnson’s personal library was vast: he acquired books frequently. For example, on October 24, 1849, he purchased seventeen volumes at auction.²⁷ He preferred titles on natural history but was well read in other areas and owned French and Spanish dictionaries, fiction, and a volume of Shakespeare.²⁸ At times he recorded his opinions of these titles in his diary. On June 9, 1850, he noted that he had spent the day reading Lewis Leonidas Allen’s *A Thrilling Sketch of the Life of the Distinguished Chief Okah Tubbee, Alias William Chubbee* and described it as a pack “of Lies from beginning to Ending.”²⁹ He also spent considerable time discussing his intellectual interests with his clients. On April 20, 1842, he mentioned that “Mr. T Rose came in the shop to night and we began and talked until after ten oclock—The Subjects, Banks & Banking—prospects of war—money Loaning—insolvent people. England and the English—Slavery—Texas and Mexico.”³⁰ His friends included other learned men such as Natchez planter and politician Adam L. Bingaman, a white slaveholder who maintained a family with his former slave, Mary Ellen Williams, and Robert McCary, a successful free black businessman from Natchez. He spent many an hour discussing current events with both men. For example, on January 31, 1836, Johnson noted that McCary came into the shop and he “read Governor McDuffee [Governor George McDuffie of South Carolina] speech to him—on Slavery and Abolition—We both got tyred of it before I had finished it.”³¹

Johnson’s easy access to print culture, including newspapers, books, and even specialized legal texts, ensured that his legal knowledge developed

26. Diary, September 13, 1850.

27. Diary, October 24, 1849.

28. Hogan and Davis, eds., *William Johnson’s Natchez*, 48–49.

29. Diary, June 9, 1850. Okah Tubbee (alias William Chubbee) was also known as Warner McCary, a man of color born enslaved in Natchez (and he later took on the name William McCary). He claimed to be the son of a Choctaw chief. Although his official lineage is murky, it appears that he was the brother of Johnson’s close friend, Robert McCary, which could explain why Johnson described this book as a “pack of lies.” See Lewis Leonidas Allen, *A Thrilling Sketch of the Life of the Distinguished Chief Okah Tubbee Alias, Wm. Chubbee, Son of the Head Chief, Mosholeh Tubbee, of the Choctaw Nation of Indians* (New York, 1848), Documenting the American South, University Library, The University of North Carolina at Chapel Hill, 2003, <http://docsouth.unc.edu/neh/tubbee1848/summary.html> (accessed November 1, 2017); and Daniel F. Littlefield, Jr., ed., *The Life of Okah Tubbee* (Lincoln: University of Nebraska Press, 1988).

30. Diary, April 20, 1842.

31. Diary, January 31, 1836.

through an engagement of legal questions playing out not just in Natchez, but also in other far-flung locations. He took advantage of several opportunities to learn local, state, and federal law. Newspapers, for example, provided him with some of this material, such as copies of the Bankruptcy Act of 1841 (a “rascally law” as he put it) or the Texas Boundary Act of 1850.³² In addition, he pursued a more formal legal education. His frequent experiences with the common law of Mississippi provided him with some of this knowledge. But he also sought to better understand the procedures of other jurisdictions. In ways similar to antebellum lawyers, he educated himself by reading the law. For example, on January 1, 1842, he purchased a copy of the Louisiana *Civil Code* for \$1.50 and soon after began taking French lessons with a private tutor.³³ His economic ventures demanded a working knowledge of both Mississippi's common-law system and the civil law practiced in Louisiana. He frequently did business in Vidalia, Louisiana (across the river from Natchez) and sent goods such as corn and potatoes to auction in New Orleans. Many Louisianans conducted business in French (even after its integration into the United States), and throughout the antebellum period, Louisiana required that all official legal documents be recorded in both English and French. Therefore, Johnson's wide-ranging commercial networks demanded an understanding of the French language and the ins and outs of the legal system writ large.

As a cosmopolitan, riverfront town, Natchez was no legal backwater. It was the Mississippi capital until 1821 and home to the state legislature. Natchez was the Adams County seat and housed the county courthouse. Mississippi's appellate court, the High Court of Errors and Appeals, first heard cases in Natchez. Lawyers moved to Natchez in droves, attracted by the “exhilarating prospects of fussing, quarrelling, murdering, violation of contracts, and the whole catalogue of *crimen falsi*—in fine, a flush tide of litigation in all of these departments, civil and criminal.”³⁴ The town had an extensive and professionalized bar, to which Johnson had considerable access.³⁵ His clients included many of Natchez's attorneys, some prominent and some less so. Johnson's barbershop was a center for gossip, including legal gossip. Indeed, one can only imagine that some of his lawyer-clients must have bragged about their wins, tactics, and sharp practices.

32. For example, see Diary, November 1, 1841.

33. Diary, January 1, 1842. The French lessons continued for at least 2 years. See Diary, March 19, 1844; and March 27, 1844.

34. Baldwin, *The Flush Times of Alabama and Mississippi*, 34.

35. For more on the Natchez bar, see Henry Stuart Foote, *The Bench and Bar of the South and Southwest* (St. Louis, MO: Soule, Thomas & Wentworth, 1876); Gross, *Double Character*; and Welch, *Black Litigants in the Antebellum American South*.

Observing Law

Much of Johnson's legal expertise came from observation and experience. This was true for many antebellum legal professionals as well. Lawyers learned their trade in ways not dissimilar to barbers, as apprentices. In the first half of the nineteenth century, when national standards for legal education were still developing, the study of law was not universally a "science" spoken in a specialized, technical language. Rather, it was pragmatic and experimental. Most prospective attorneys studied law by apprenticing in the law offices of practicing lawyers, learning local law that suited the needs of their communities. Although some students received training at the few colleges with law lectureships (the College of William and Mary established the first in 1779), most instruction took place on the job in county courtrooms and law offices. Even in a busy district such as Natchez, students read law in a local law office for a period of 2–3 years (or read it on their own) and then submitted to an oral examination, often rudimentary or perfunctory, before a local judge or committee of lawyers. Most law-office education focused on the practical skills of litigation and arguing a case before a court, rather than on legal theory. Students of the law learned on their feet.³⁶ In the antebellum South, the legal profession was reserved for white men; black lawyers only emerged in the post-emancipation era. Still, as Johnson's diary demonstrates, a legal education was not wholly unavailable to people of color.

Johnson's first observations of the workings of the courts came at a young age. His mother, Amy, provided him with an early introduction to the world of litigation. As already noted, Johnson himself was not particularly litigious, although he did not shy away from legal action when necessary. Amy, on the other hand, initiated lawsuits with some frequency. What is more, her cantankerous behavior caused her son considerable angst, as he often had to intervene. In June 1837, for example, he noted that Amy had "Commenced as usual to quarrel with Everything and Every Body," and she spent most of the summer vexing her family and neighbors.³⁷ By September, however, Johnson cautiously wrote his sister that she seemed calmer: "Mother does a great deal Better than I expected she would—She

36. On legal education in the long nineteenth century, see Hugh C. Macgill and R. Kent Newmyer, "Legal Education and Legal Thought, 1790–1920," in *The Cambridge History of Law in America*, Vol. II, ed. Michael Grossberg and Christopher Tomlins (New York: Cambridge University Press, 2008), 36–67; and Alfred S. Konefsky, "The Legal Profession: From the Revolution to the Civil War," *The Cambridge History of Law in America*, Vol. II, ed. Michael Grossberg and Christopher Tomlins (New York: Cambridge University Press, 2008), 68–105.

37. Diary, June 30, 1837.

has quit running in the streets to complete her quarrels—now she does pretty well—about 3 quarrels or three fusses a week will satisfy her very well—and before . . . she used to have the biggest kind of fuss every morning.”³⁸ His optimism had waned by November, however, and he railed, “The Old Woman is on a regular spree for quarreling to day all day—oh Lord, was any One on this Earth So perpetually tormented as I am.”³⁹ Johnson, it seems, often served as a referee: “Meshio [a white fruit vendor who rented a storefront from Johnson] and the old woman was quarreling to day,” he lamented in his diary, “Meshio was drunk and Crying Like a Child because the old woman said that he owed her 7.50 and would not pay her—What a Childish Creature he is.”⁴⁰

Amy's fusses and quarrels, moreover, often crossed over into the courtroom, and as he got older, Johnson sometimes intervened. Over the course of her life, she approached the local courts several times to fight her battles and sued whites and blacks alike to recover damages. As an unmarried woman, she was not burdened by the doctrine of coverture and therefore could sue and be sued, own property, enter into contracts, and otherwise act at law in ways similar to men. In 1814, the year of her manumission, she sued James Davis, a white man, for \$1,000 damages for whipping her with a “cowskin” and kicking her while she lay on the ground. The outcome of that case is not known.⁴¹ Two years later, in 1816, she sued Alexander Hunter, another white man, for damages after a fight, and the jury awarded her \$25 in compensation.⁴² In 1822, she sued Arthur Mitchum, a free black man, for damages for assault. Although she won that case, the court only granted her one cent in damages, perhaps viewing the lawsuit as frivolous.⁴³ Her legal tangles, however, involved more than street brawls. Sometimes she ran afoul of the law; in 1816, for example, the court found her guilty of selling liquor without a license to “diverse persons.”⁴⁴ Amy also used the courts to settle other types of disputes, such as when she sued Roger Moore in 1823 over a \$150 payment for 4,000

38. William Johnson to Adelia Miller, October 4, 1837. Quoted in Hogan and Davis, eds., *William Johnson's Natchez*, 45.

39. Diary, November 23, 1837.

40. Diary, October 26, 1841.

41. *Amey v. Davis*, Adams County, Mississippi, 1814, Records of the Circuit Court, Group 1810–19, Box 30, File 15, Courthouse Records Project, Historic Natchez Foundation, Natchez, Mississippi (hereafter CRP, HNF).

42. *Johnson v. Hunter*, Adams County, Mississippi, 1816, Records of the Circuit Court, Group 1810–19, Box 36, File 69, CRP, HNF.

43. *Johnson v. Mitchum*, Adams County, Mississippi, 1822, Records of the Circuit Court, Group 1820–29, Box 12, File 96, CRP, HNF.

44. *Territory of Mississippi v. Johnson, FWC*, Adams County, Mississippi, 1816, Records of the Circuit Court, Group 1810–19, Box 35, File 12, CRP, HNF.

oysters. Her son, although still quite a young man, offered himself as security in the suit (guaranteeing that she would pay the money if she lost), and John A. Quitman, a future governor of Mississippi who also became a barbershop client of Johnson's, served as her lawyer.⁴⁵ Indeed, Johnson aided his mother in court not only by posting security bonds but also by guaranteeing her good behavior. By her side, he experienced a variety of legal conflicts, criminal and civil.

Johnson also witnessed a great deal of law in action, not least because of Natchez's integration into a dynamic world of law and commerce. But law was omnipresent in the daily life of the antebellum South more generally, and therefore a range of Southerners had direct experiences with the legal system and expected it to serve their interests. The localized nature of antebellum government meant that the courts operated in close proximity to ordinary Southerners, and that the county represented the principal unit of government. Because there were not yet systematic or uniform bodies of state law, local jurisdictions enjoyed extensive authority over every aspect of life. The lower courts—the justices of the peace, superior, county, chancery, and circuit courts—conducted most of the region's legal business, from regulating property to punishing adulterous spouses. In particular, the circuit court (held for 1 or 2 weeks in May and November) drew large audiences. Court week—one of the antebellum South's most important social events—attracted judges, lawyers, litigants, witnesses, and prospective jurors from all over the county. It also attracted peddlers, performers, and spectators. As Johnson observed in November 1847, there were “many strangers in town at present. The Circus Company is here too.”⁴⁶ Political parties and reform and agriculture societies frequently scheduled meetings and events during court week. Those without official business also attended court merely to observe, buy goods sold at a sheriff's auction, visit with friends and neighbors, and catch up on the local gossip. As mentioned, the Mississippi High Court of Errors and Appeals also sat in Natchez, making its proceedings and rulings part of everyday life as well.⁴⁷

45. *Johnson, FWC v Moore*, Adams County, Mississippi, 1823, Records of the Circuit Court, Group 1820–29, Box 17, File 61, CRP, HNF. John A. Quitman, Governor of Mississippi, judge on the Mississippi High Court of Errors and Appeals, and Mexican War general, began his career as a lawyer in Natchez. His partner, John T. McMurran, provided William Johnson with legal services in several land acquisitions. Other local attorneys (such as John Fort Muse) provided Amy Johnson counsel on occasion.

46. Diary, November 19, 1847.

47. On Natchez's legal environment, see Gross, *Double Character*, ch. 1. On the “localized” legal system of the post-Revolutionary South, see Edwards, *The People and Their Peace*. On the county as the central unit of government in the Old South and the importance

In this legal environment, black people (free and enslaved) had ample opportunity to contribute to legal processes in Natchez. After all, much of the court's technical business concerned them: at least half of the Adams County civil court trials involved the commercial law of slavery.⁴⁸ Their participation ranged from informal to formal. For example, they worked the courthouse steps as marketers and entertainers when court was in session. They also attended inquests and sometimes provided information about the crimes committed or gossip about the accused.⁴⁹ They appeared in court and testified in cases involving other people of color. When the superior court in Natchez charged Arthur Mitchum with assault, for example, Amy Johnson testified that she saw him hit Jane Sherly (alias Delia Black) with a stick. Not only did she present the court with insight into the facts of the case, she also offered a personal assessment. Mitchum, she believed, was a violent man.⁵⁰

Black people in Natchez, moreover, initiated legal actions of their own in cases ranging from debt actions and suits for back wages to lawsuits for their freedom or for divorce. Despite statutory prohibitions that denied people of African descent the ability to testify against whites in both criminal and civil cases, Mississippi granted free black people the same property rights as whites, and state law also permitted enslaved people to sue for their freedom if illegally enslaved. Both free blacks and slaves (male and female) sued whites over property and personal status with some frequency. And they often won.⁵¹ For example, "Black Ben," a free black resident of Natchez, successfully sued William Brooks (a white man) twice for substantial debts (\$870 and \$902), money that Brooks

of local courts, see Peter Bardaglio, *Reconstructing the Household: Families, Sex, and the Law in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 1995), ch. 1; Orville Vernon Burton, *In My Father's House Are Many Mansions: Family and Community in Edgefield, South Carolina* (Chapel Hill: University of North Carolina Press, 1985), 28–30; Charles Sydnor, *The Development of Southern Sectionalism, 1819–1848* (Baton Rouge: Louisiana State University Press, 1848), 33–54; and Ralph Wooster, *The People in Power: Statehouse and Courthouse in the Lower South, 1850–1860* (Knoxville: University of Tennessee, 1969), 81–107.

48. Gross, *Double Character*, 23.

49. For a discussion of African Americans' frequent observation of hearings, trials, and inquests, see Laura Edwards, "Status without Rights: African Americans and the Tangled History of Law and Governance in the Nineteenth-Century U.S. South," *The American Historical Review* 112 (2007): 365–93; and Turner, "Rights and the Ambiguities of the Law." On enslaved people providing information and gossip, see Edwards, *The People and Their Peace*; and Gross, *Double Character*.

50. *State of Mississippi v. Mitchum*, Adams County, Mississippi, 1819, Records of the Circuit Court, Group 1820–29, Box 1, File 99, CRP, HNF.

51. See Welch, *Black Litigants in the Antebellum American South*.

owed him for cotton purchases.⁵² James Andre claimed to be a free man of color from Massachusetts arrested as runaway slave and held in the Natchez jail. In 1825, he petitioned to be brought before the judge “to substantiate proof of his freedom.” The judge ordered the writ, and Andre gained his freedom after witnesses testified that he was a free man and not a slave.⁵³

Johnson observed more than just the high drama of court week. He frequented sheriffs’ auctions conducted on the courthouse steps and witnessed the selling of property seized by the court, property he sometimes purchased.⁵⁴ He attended inquests and recorded in his diary the circumstances of suspicious deaths or brazen crimes.⁵⁵ He read accounts of trials in the local newspapers and scanned legal notices nailed to the courtroom door.⁵⁶ As he had done for his mother, he posted bonds for friends with legal troubles, guaranteeing they would show up for court. He also declined others’ requests for bail money. When the sheriff arrested William Nelson for “writing a pass for a servant of Mr. Elick Henderson,” the county court judge set his bail for \$2,000. Nelson begged Johnson to post bail for him. Johnson refused, but offered to find him a lawyer to help him “prepare himself for tryal.”⁵⁷ He sought legal advice from and hired lawyers of his own as well, such as John T. McMurrin, a partner in the busiest law firm in the region. Several attorneys patronized his bar-

52. *Black Ben, FMC v. Brooks and Claiborne*, Adams County, Mississippi, 1814, Records of the Circuit Court, Group 1810–19, Box 25, File 61, CRP, HNF; and *Ben v. Brooks*, Adams County, Mississippi, 1816, Records of the Circuit Court, Group 1810–19, Box 31, File 80, CRP, HNF. For other examples of free people of color suing whites over property disputes, see *Clark v. Jones*, Adams County, Mississippi, 1825, Records of the Circuit Court, Group 1820–29, Box 36, File 56, CRP, HNF; *Hardes v. Mosby*, Adams County, Mississippi, 1835, Records of the Circuit Court, Group 1830–39, Box 23, File 11, CRP, HNF; *Bossack v. Holden*, Adams County, Mississippi, 1835, Records of the Circuit Court, Group 1830–39, Box 24, File 27, CRP, HNF; and *Bossack v. Holden*, Adams County, Mississippi, 1836, Records of the Circuit Court, Group 1830–39, Box 41, File 78, CRP, HNF.

53. *Andre v. The State of Mississippi*, Adams County, Mississippi, 1825, Records of the Circuit Court, Habeas Corpus Files, Box 2, CRP, HNF. For other examples of people of color held as runaway slaves and suing for their freedom in Adams County, Mississippi, see *State of Mississippi v. Grayson*, Adams County, Mississippi, 1821, Records of the Circuit Court, Habeas Corpus Files, Box 5, CRP, HNF; *State of Mississippi v. Kiah*, Adams County, Mississippi, 1821, Records of the Circuit Court, Habeas Corpus Files, Box 5, CRP, HNF; and *State of Mississippi v. Lewis*, Adams County, Mississippi, 1841, Records of the Circuit Court, Habeas Corpus Files, Box 3, CRP, HNF.

54. See, for example, Diary, December 20, 1849; and February 27, 1850.

55. See Diary, May 22, 1847.

56. See Diary, September 27, 1843.

57. Diary, May 1, 1850.

bershop, and he had many to choose from.⁵⁸ Some lawyers, however, were subject to his scrutiny and his judgment, such as “Lawyer Baker,” a man Johnson refused a loan. “How the mighty has fallen,” Johnson wrote of the encounter, “but a Short time ago and he was a sworn persecutor of the Poor Friendless Colord.”⁵⁹ Many lawyers in Natchez represented the interests of black clients, and Baker apparently was not one of them.⁶⁰ Johnson also intervened when he witnessed criminal activity, and his experiences taught him which legal channels to go through and which networks to activate. After he and several others inadvertently bought stolen cows, Johnson decided to investigate. He questioned the thief’s slave, as well as others, and he gathered evidence about the circumstances of the theft. Convinced a crime occurred, Johnson promptly “went to See if I could see Judge Montgomery” about the incident. When he could not find the judge or the sheriff, he approached a local magistrate and “requested him to write the Sheriff a Small note of the facts in the Case which he promised to do [im]mediately.”⁶¹ By the next day, the thief was in jail.⁶² Not only did Johnson understand the process for bringing a potential crime to the attention of the authorities, he also had enough clout among Natchez officials to be believed.

Importantly, Johnson did not just watch people settle disputes, he also learned to deploy legal vocabulary. The man who defrauded Johnson and his associates by selling them stolen cows was, in Johnson’s words, “without a shadow of a title” to such ill-gotten property. In an entry from 1839, Johnson wrote that he “went Security for the appearance of Whip at the next October term of Court in the Sum of two hundred and ten Dollars.”⁶³ Phrases such as “without a shadow of a title” and “went security” fill his diary and demonstrate his comfort with the language of law. Indeed, he did not simply parrot or mimic legal language; his diary demonstrates that such terms—and concepts—formed part of his personal lexicon. If he lacked a lawyer’s education, he nevertheless learned to speak their language.

The biannual circuit court, moreover, captured Johnson’s sustained attention, not least because his barbershop and bathhouse clientele increased when court was in session.⁶⁴ Johnson followed the proceedings

58. For example, see Diary, November 27, 1835; November 28, 1835; and April 30, 1851.

59. Diary, February 2, 1844.

60. Welch, *Black Litigants in the Antebellum American South*, ch. 3.

61. Diary, October 28, 1849.

62. Diary, October 29, 1849.

63. Diary, August 29, 1839.

64. For example, he noted in his diary that business was especially brisk during the November 1850 court session because a “Greate many Persons are in town.” Diary, November 11, 1850.

with great interest, recording noteworthy cases in his diary and discussing them with his clients. The criminal docket caught his eye most often, and it provided him with no small amount of entertainment. “Court in Cession and The tryal of Mr. Nelson was going on to day and it was quite an Exciting time, I assure you,” Johnson recalled, “and he Got Clear of the Charges.”⁶⁵ He often offered his opinion, and at times the outcomes surprised him: “The trial of Mr. Kelly came off this evening and the jury brought in a verdict of not guilty—tis strange, very strange, for this was a downright willful murder. The jury was as follows as near as I can recollect, Mr. Whitmare, John Johnson, Ira Carpenter, W. W. Wilkins, Young Leonard, Rchd. Ellwodd, & two of the Fords.”⁶⁶

The civil docket also interested Johnson, particularly when the cases had some bearing on his own economic circumstances. In the early 1840s and in the wake of a national financial crisis, for example, he was preoccupied with several bankruptcy cases involving acquaintances and neighbors, concern that reflected his anxiety about his own financial ventures. In 1837 and 1838, Johnson’s business reduced considerably, something he noted with alarm. His profits continued to slow and his clients and tenants had trouble paying their bills. “This has been a Dull week with me,” he wrote on October 9, 1841, “for I Could not Collect any money from Any One. Oh what times. Here are the names of Several that owe me that I cant get any money from—Mrs. Beltzoover, Meshino, A Kinney, & Boyd, and Patterson &c.”⁶⁷ It appears that 1842 was his worst year, however; as he wrote in January, “Business has been so very dull an unpleasant day and nothing new. Very little money made these days at any price.”⁶⁸ But his enterprises still maintained a profit, even if that profit had slowed to a trickle: “I took in Cash today 6.37 ½ and Collected \$29.50,” he noted, “Those times are very different from what they were 6 or seven years ago.”⁶⁹ In the boom years of the mid-1830s, Johnson’s daily receipts in the barbershop alone had sometimes totaled \$20–\$30, so business had dropped considerably. It got so bad that Johnson wrote in a letter to his sister “that tis hardly worth Keeping [the] shop open for what one can make.” Thankfully, he owned the building; otherwise he would have faced certain ruin. “If I had Rent to pay it would Burst me wide open,” Johnson continued.⁷⁰ “I never heard of such times in my life,” he wrote in another letter

65. Diary, November 16, 1850.

66. Diary, November 19, 1847.

67. Diary, October 9, 1841.

68. Diary, January 7, 1842.

69. *Ibid.*

70. William Johnson to Adelia Miller, August 6, 1837, quoted in Hogan and Davis, eds., *William Johnson’s Natchez*, 26.

the next month, "I don't actually make my Expenses now—and have not for the last 12 days in my shop—tis the Case with all of us in the trade."⁷¹ Indeed, Johnson saw how quickly a prosperous man could lose everything when a fellow free black barber's fortunes shifted so dramatically in 1842: "Mr Boney Goins of Vicksburgh [Mississippi] passed down the River this morning with his Family," Johnson wrote in his diary; "Has taken Benefit of Bank Rupt Law and is now on his way to New Orleans and seys that business is worse than Ever Known before in Vicksburgh."⁷²

Given his own financial interests and the interests of many of his friends and clients, Johnson carefully monitored Congress's attempt to stem the economic crisis caused by the Panics of 1837 and 1839. Many Natchez residents faced insolvency and foreclosures, a pattern that repeated itself across the country. In response, Congress passed the short-lived Bankruptcy Act of 1841. The measure, repealed in 1843, allowed individual debtors to file a voluntary bankruptcy petition whereby they would surrender all their property and rights to said property to their creditors in exchange for a full discharge of their debts. For some, especially in the Northern states, this offered an opportunity for a financial rebirth and a chance to wipe the slate clean. Debt was the cost of doing business in a growing and unsteady market economy.⁷³ Others felt differently. Johnson followed the passage of this law, and the debates about it in Congress, with contempt and, on September 1, 1841, he wrote with disappointment that the "Bankrupt Bill has passed and become a law and will take effect in the month of February next, 1842. I don't expect any benefit from it myself."⁷⁴ Many white Southerners shared his disapproval. According to several Southern lawmakers, bankruptcy legislation threatened to disrupt "the organic relationships between neighbors embedded in credit obligations."⁷⁵ Credit relationships in the South involved complicated social performances of obligation and honor. Bankruptcy had a high social cost. Losing property, and watching one's land, slaves, and possessions sold at a public auction to the highest bidder, meant losing one's anchor to local personal and credit networks—and one's anchor to a system of power and privilege.⁷⁶

71. William Johnson to Adelia Miller, September 25, 1837, *ibid.*, 26–27.

72. Diary, August 3, 1842.

73. Edward J. Balleisen, *Navigating Failure Bankruptcy and Commercial Society in Antebellum America* (Chapel Hill: University of North Carolina Press, 2001).

74. Diary, September 1, 1841.

75. David Silkenat, *Moments of Despair Suicide, Divorce, & Debt in Civil War Era North Carolina* (Chapel Hill: University of North Carolina Press, 2011), 156.

76. *Ibid.*, 154–58.

Johnson's position on lending and bankruptcy provides insight into his thinking about law. For Johnson, bankruptcy embodied both a moral and a legal category: on the one hand, it reflected a relationship with one's neighbors or to one's community, and on the other, it represented a system of allocating debt based in formal law.⁷⁷ The bankruptcy law, in his mind, was an immoral law. It was nothing short of theft, and his observations of the seizure and sale of confiscated property reinforced his opinion. While the law remained in effect, Johnson followed the bankruptcy petitions intently. "To day was the greate day among the Bank Rupt Cases," Johnson wrote in his diary in 1843, "and oh what a Rascally Law this Bankrupt Law is—Here is a List of the Cases, Brown Cozens, Cooper, Gaultney, L. Robalite and Several others, which the Sale will be Continued tomorrow at 11 o'clock."⁷⁸ He also watched while the insolvent surrendered their property to creditors or saw it sold at a court-ordered public auction, something Johnson viewed as the ultimate humiliation: "Large Bank-Rubt Sale at the Court House today. It was the notes and acct's of some bank rupbt individuals. I call the Bank Rupt law nothing short of robbing a man. Bad luck to all who will take it."⁷⁹ In Johnson's mind, bankruptcy was not a fresh start. It was the end.

Johnson observations and commentary reached beyond the court docket and legislation; lawmakers themselves also captured Johnson's attention. Here too he made both personal and legal assessments. Although Johnson could not vote, he followed local, state, and national elections closely and noted the percentages by which a candidate for governor or Congress won, as well as his opinion of that person. In particular, he took an interest in members of the local and state judiciary; those elections attracted more of his attention than any other.⁸⁰ As his economic ventures diversified, and he began experiencing legal predicaments of his own, Johnson increasingly scrutinized the reputation and record of candidates for judicial posts.⁸¹

77. On debt and morality in early America, see Balleisen, *Navigating Failure*; Bruce Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Cambridge, MA: Harvard University Press, 2002); Scott Sandage, *Born Losers: A History of Failure in America* (Cambridge, MA: Harvard University Press, 2005); and Welch, *Black Litigants in the Antebellum American South*.

78. Diary, January 26, 1843.

79. Diary, September 27, 1843.

80. Mississippi made judicial offices elective in 1832. On the growth of the elected judiciary, see Kermit L. Hall, "The Judiciary on Trial: State Constitutional Reform and the Rise of an Elected Judiciary, 1846–1860," *The Historian* 45 (1983): 337–54.

81. Judge Joseph S. B. Thatcher's character, for example, captured his attention, and Johnson followed his bid for reelection. See Diary, October 24, 1849; October 25, 1849; and October 27, 1849. Thatcher lost the election and later served as Baylor Winn's attorney in his case against Johnson.

Their future decisions, after all, might have bearing on issues that affected his social and financial well-being. For example, when William Sharkey, a lawyer and circuit court judge well known in region, ran for a position on the Mississippi High Court of Errors and Appeals, Johnson supported him wholeheartedly. He knew Sharkey to be a fair and honorable man, and celebrated when he won: "Judge Sharkey is elected shure—Now I am glad of it," he wrote in late 1847, "Honesty is the best policy."⁸² Sharkey's character withstood Johnson's scrutiny.

Experiencing Law

Although Johnson disapproved of the bankruptcy law, he did not reject doing business on credit, and it was through his credit relationships that Johnson experienced the legal system most directly. Running three barber-shops and a bathhouse and serving as a landlord meant that Johnson had to engage in the world of debt and obligation. Sometimes clients paid up front, but much of his business was run on promises and notes. At any given time, Johnson maintained approximately ninety credit customers, including prominent slaveholders such as William Ferriday, Adam L. Bingaman, and John A. Quitman. Johnson charged 12 ½ ¢ for a shave, 25 ¢ for a haircut, and \$1.50–\$2.00 for a month of shaving. He ran a brisk business. He opened early, worked late, and even operated on Sundays. In the mid-1830s, before the economic crisis, he averaged approximately \$20 per day in receipts, and his average income per week (after expenses) was approximately \$68. After the economic crisis, he took in less and considered a \$13 day a success. His bathhouse, built in 1834 for \$170, housed four tubs and operated throughout the spring and summer (with occasional winter clients). He charged 50 ¢ for cold baths and 75 ¢ for hot baths. He operated the bathhouse for approximately 10 years, and in his most profitable year, he took in \$500. Credit clients paid monthly, although a handful paid for a year in advance and others lapsed for a year before paying. Clients could also purchase wigs, razors, soaps, toothbrushes, and colognes at his shop, and many did so on credit.⁸³

Johnson also served as a creditor for a broad segment of the Natchez population, lending money to white planters such as former governor George Poindexter and the construction firm Neibert & Gemmell as well as his mother, Amy. He lent money to dozens of people, white and

82. Diary, November 7, 1847. See also Diary November 6, 1847; and November 9, 1847.

83. Hogan and Davis, eds., *William Johnson's Natchez*, 24–27. See also Cash Book, Volume 7, 1828 November–1835 September; Daybook, Volume 12, 1830 October–1840 October; and Daybook, Volume 13, 1830 October–1844 October, Johnson Papers, LLMV.

black, each year, and the amounts varied. His largest loan was for \$1,000, and others ranged from \$100 to \$600. Many, however, were short-term loans for under \$100, and some were for just a few dollars: for example, Johnson noted in his diary on January 19, 1836 that, “Mr. Newman pd me \$5.00 that he borrowed from me last week.”⁸⁴ Several borrowers took multiple loans. Between October 1835 and December 1836, for example, Dr. John Hubbard borrowed a total of \$865 in amounts ranging from \$40 to \$400 and repaid all but \$242 of it by March 1837.⁸⁵ Many of Johnson’s neighbors and clients needed a quick influx of cash, including the wealthy. The configuration of the agricultural economy in the lower Mississippi Valley meant that few Southerners could avoid debt. Smallholders and planters alike faced an income gap in the months leading up to the harvest. Many came up short as they waited for payment for their crops, and loans from banks, merchants, suppliers, friends, and neighbors tided them over until the sale.⁸⁶ Over the course of his adult life, Johnson extended thousands of dollars in loans. According to his accounts, his borrowers, as well as his barbershop and bathhouse clients, rarely failed to pay him the money they borrowed or owed.

As a landlord, Johnson also entered into contracts and agreements with boarders and storefront renters. While still a renter himself (paying \$12 per month), Johnson sublet rooms in the Main Street property (where he housed his main barbershop) to other tenants for \$5–\$6 per month.⁸⁷ As he bought real estate and constructed buildings of his own, Johnson entered into additional rental agreements with various tenants, charging upwards of \$12–\$15 per month.⁸⁸ Although most paid their rent on time or made other arrangements if they could not, some gave him cause for complaint. When the sums went unpaid, Johnson appealed to the law.⁸⁹

84. Diary, January 19, 1836.

85. Ledger, Volume 34, 1835 August–1839 November, 61–62, Johnson Papers, LLMV.

86. On the pervasiveness of debt in early America, see Balleisen, *Navigating Failure*; Mann, *Republic of Debtors*; Sandage, *Born Losers*; and Silkenat, *Moments of Despair*.

87. Hogan and Davis, eds., *William Johnson’s Natchez*, 32.

88. For example, see Diary, November 10, 1835; and June 14, 1842.

89. For example, Adolph Flecheux (or Flecho), a jeweler-engraver, rented a storefront from Johnson for approximately a year and half. Johnson had trouble with Flecheux, however, as his rent went unpaid for months at a time. Eventually Johnson sued him for \$180 in back rent, but lost the case on a technicality. Diary, April 28, 1837. For examples of Northern free black businessmen and their occasional involvement in lawsuits, see Julie Winch, *A Gentleman of Color: The Life of James Forten* (New York: Oxford University Press, 2002); and Shane White, *Prince of Darkness: The Untold Story of Jeremiah G. Hamilton, Wall Street’s First Black Millionaire* (New York: St. Martin’s Press, 2015). On property-holding black women in antebellum Charleston, South Carolina, and their use of the law, see Amrita Chakrabarti Myers, *Forging Freedom: Black Women and the*

When deciding to extend credit to a barbershop patron, float a loan, or rent a storefront to a vendor, Johnson made personal judgments about his clients, neighbors, and acquaintances (white and black) and assessed their reputation and their ability to pay. Is this a man of good business habits, he asked? Was a prospective borrower a gambler with other people's money? Did the potential tenant live beyond his means? Johnson also made legal calculations: what were his chances of winning in court if the debtor did not pay?⁹⁰ Even if a person's character came up short, Johnson took the necessary precautions to make sure that payment was legally enforceable.

The law was always implicated in credit relationships; Johnson knew that it could be brought to bear when a debt (for barbering services rendered, money borrowed, or rent due) went unpaid.⁹¹ Therefore, to keep his commercial enterprise running and solvent, he had to know something about the legal mechanisms involving debt collection. For Johnson, litigation was a last resort, not least because it could delay payment while the lawsuit made its way through the courts. He first pursued other avenues—such as appealing to the debtor's sense of obligation, extending deadlines for those having financial difficulties, or accepting goods in exchange for payment—before suing in court.

Johnson began the collection process by requesting payment for outstanding debts. For example, in 1838, he lent Elisha Miller, a free black barber operating in Vicksburg, Mississippi, \$150. In January 1841, much of the loan remained unpaid, and Johnson sent him a letter “requesting him to pay me the Eighty five Dollars that I loaned him.”⁹² Johnson was persistent in his attempts to collect, as one Mr. Whiting, a white man, found when Johnson called in his loan: “I went to the Billiard Table to hunt for Mr. Whiting to try and collect one hundred dollars that he borrowed from me,” Johnson relayed in his diary, “I found him playing Back gammon—I could not get the money from him.”⁹³ But he doggedly returned the next day seeking payment: “I went to old Whitings house to Collect my money from him,” Johnson wrote, “But could not, he promised to pay me to morrow.”⁹⁴ When his requests for payment went unheeded, as

Pursuit of Liberty in Antebellum Charleston (Chapel Hill: University of North Carolina Press, 2011), ch. 4.

90. For example, see Diary, May 26, 1838.

91. In the antebellum United States, legal mechanisms involving debt collection favored lenders, and creditors nearly always won their cases. As Bruce Mann demonstrates, in debt cases throughout the United States in late the eighteenth and early nineteenth centuries “debtors almost invariably” lost. Mann, *Republic of Debtors*, 21.

92. Diary, January 8, 1841.

93. Diary, August 3, 1836.

94. Diary, August 4, 1836.

they did with Mr. Whiting, Johnson sometimes turned the debt over to others, trading a promissory note for cash.⁹⁵ More often, he sent a third party to retrieve the funds in exchange for use of the cash for a short period of time or for a commission. On August 6, 1836, he did just that: “Mr. S. M. Bon takes my account against Mr. J. Whiting for \$100. He was to have the use of the money for three weeks if he Could Collect it.”⁹⁶ Three weeks later, Bon returned the full sum to Johnson.⁹⁷ The deal worked well for both parties. Johnson received his money, and Bon temporarily used the cash to conduct business of his own. Similarly, Mr. F. Taylor, a white man who rented office space from Johnson, collected unpaid debts for Johnson for a commission.⁹⁸

When “amicable” requests for payment failed, Johnson threatened legal action, and when the threats fell on deaf ears, he sued.⁹⁹ Sometimes the threat of a lawsuit was enough to produce payment. When his white tenant, Joe Meshio, did not pay him the amount he owed for 4 months’ back rent, Johnson initiated a lawsuit against him. The two swiftly came to an agreement. Johnson agreed to dismiss the case if Meshio “would agree to pay 1 dollar every day until he shall have paid . . . the amount he owes me . . . and he called today and gave me 2 dollars.”¹⁰⁰ Meshio continued to be a troublesome tenant, however, and early the next year, Johnson threatened him with a lawsuit again: “I saw Joe Meshio yesterday and I told him that I would sue him if he did not pay me the fourteen dollars that he as good as stole from me.”¹⁰¹ This time Johnson followed through with the threat. In 1843, Johnson noted that the “Joe Meshio trial came on. I had sued him and I got a judgment against him for the 14 dollars that he was as good as stealing from me.” Johnson had ample evidence of the debt, as well as a log of his attempts to collect it, and—as he would have expected, given what he knew of the law—the court found in his favor.¹⁰²

95. On the assignability of written credit instruments in early America and the movement of promissory notes through the economy, see Mann, *Republic of Debtors*, 12–18.

96. Diary, August 6, 1836.

97. Others asked Johnson to collect their loans for them, including white men. See Diary, March 16, 1836; May 17, 1836; May 25, 1836; and July 5, 1836.

98. For example, see Diary, February 22, 1836; and March 4, 1836.

99. It appears that in debt actions, Johnson only sued white men. I have not found evidence of a lawsuit for debt recovery initiated against another person of color. He sued a free man of color in the late 1840s, but that was over a boundary dispute (discussed later). Moreover, it is not surprising that Johnson primarily sued white men, as white men made up the majority of his clientele and business associates.

100. Diary, July 7, 1842.

101. Diary, March 30, 1843.

102. Diary, April 10, 1843. Johnson sued in other cases too. In August 1838, Johnson sued Henry Woodruff and the court ordered Woodruff “to pay the money in five days.”

Paper Trails

Johnson maintained careful records of all of his enterprises, records—even in the keeping of them—that reflect his evolving legal awareness. He kept his first account book at the young age of 13, just 2 years after his manumission. In it, he noted his expenses for boarding, groceries, and various goods and services.¹⁰³ Once he began operating his own barbershop, he also kept ledgers, cashbooks, and daybooks recording his services rendered, transactions, expenses, and profits. With these records, Johnson joined an emerging culture of accounting in the nineteenth century. Ledgers and account books were widely available by the antebellum period. Slaveholders in Mississippi (and throughout the South) increasingly adapted what one scholar has termed “systematic accounting practices,” employing ledgers and account books such as Thomas Affleck’s *Plantation Record and Account Book*. Blank diaries, daybooks, and other accounting tools were readily available to Johnson.¹⁰⁴ He began keeping a daily diary in 1835, and in the very first entry, he noted that he had “loaned Mr. T. Gilbert at the auction Room \$50.” He also wrote that he had “bought at Auction 162 acres of land at \$4.12 ½ per acre Belonging to the Estate of Mr. Lewis.”¹⁰⁵ Subsequent entries include the amount he paid for the land (\$579.18 ¾), a duplicate of the deed he formally recorded at the Adams County courthouse that recognized him as owner of the legal title, and a transfer of the deed to a new owner (when he sold the land 6 weeks later and doubled his money).¹⁰⁶

Johnson’s accounting style, however, was his own, and one influenced by the legal crossroads in which he lived. Indeed, his records reflect his developing understanding of the multiple legal jurisdictions through which he moved. His writing practices, for example, involved both the tools of Mississippi’s county clerks—for example, summaries and transcriptions—as well as French-style notarial practices (particularly in the production and keeping of documents and the ways that he thought of those documents as legally binding).

Diary, August 16, 1838. He also learned about the process and rules of litigation through trial and error. Indeed, suing in court taught him valuable lessons. For example, in 1837, Johnson lost a case for back rent on a technicality because he only had “one witness and the law requires that there shall be two witnesses in such cases.” As he indicated in his diary, this was not a mistake that he intended to repeat in the future. Diary, April 28, 1837.

103. Daybook, Volume 10, 1822 February–June, Johnson Papers, LLMV.

104. Caitlin Rosenthal, “Slavery’s Scientific Management: Masters and Managers,” in *Slavery’s Capitalism: A New History of American Economic Development*, ed. Sven Beckert and Seth Rothman (Philadelphia: University of Pennsylvania Press, 2017), 62–86.

105. Diary, October 12, 1835.

106. For example, see Diary, October 15, 1835.

The practice of record keeping—of writing—had power.¹⁰⁷ It meant proof and protection, on the one hand, but it also meant the ability to shape the story, on the other. Documentation, then, generated meaning.¹⁰⁸ Johnson's careful records not only kept him on top of his financial ventures, they also provided evidence that he could produce if necessary—evidence shaped by him. Johnson kept detailed account books listing the sums of money that his acquaintances borrowed from him, the payments made on their accounts, and the dates of their final installments. He noted what he charged his clients and when they paid their accounts. He recorded his daily expenses and what he owed others for services rendered or money borrowed.¹⁰⁹ Johnson also retained copies of promissory notes for money lent. Thus, his private accounts featured copies of the public version. For example, his personal papers include a promissory note for the \$350 Noah Barlow borrowed from him in 1838. He also made note of this exchange in his diary.¹¹⁰ Johnson often recorded expenses, payments, and balances due in his diary, so that he would have more than one record of the transactions. Johnson copied deeds, deals made, partnership agreements, and letters acknowledging payment.¹¹¹ These entries functioned as receipts, and if irregularities arose, he turned to his documentation to set the record straight. For example, in September 1846, Johnson borrowed \$1,700 from his friend, mentor, and brother-in-law, James Miller, to buy 242 acres of land. He recorded that debt and his payments on it in his account books, letters to Miller, and his diary. Moreover, he paid attention to the details. When Miller sent him a receipt for payment received (which Johnson copied into his diary), Johnson responded by noting that the place of payment was incorrect: Miller had written New Orleans instead of Natchez. Johnson asked Miller if he could change this detail, and Miller agreed.¹¹² His accounting practices, both the things that he chose to record

107. As Rebecca Scott and Jean Hébrard have demonstrated, “a person could . . . make things happen by putting words to paper.” Scott and Hébrard, *Freedom Papers*, 3.

108. Fahad Bishara's and Kathryn Burns's scholarship influences my thinking here. In particular, both highlight how scribes and notaries used writing and official documentation to construct or shape truth and meaning. See Fahad Ahmad Bishara, *Law and Economic Life in the Western Indian Ocean, 1780–1950* (New York: Cambridge University Press, 2017); and Kathryn Burns, *Into the Archive: Writing and Power in Colonial Peru* (Durham, NC: Duke University Press, 2010).

109. For example, see Daybook, Volume 11, 1830 May–April 1835; and Daybook, Volume 12, 1830 October–1840 October, Johnson Papers, LLMV.

110. Legal and financial documents, Box 1, Folder 16, 1830–1839; and Diary, June 19, 1838.

111. For partnership and hiring agreements, see Diary, January 4, 1848; January 22, 1848; and January 15, 1850.

112. Diary, August 3, 1849.

and the things that he chose not to, also offered him opportunities to bend the facts in his favor or present himself in a better light. Indeed, he used his diary to chronicle his apprenticeship contracts. At times, his diary—and therefore his memory and his terms—was the only record of the arrangements he and his free black apprentices settled on.¹¹³

Much of Johnson's record keeping was done in "the shadow of the law," but the law was always implicated, as the records (letters, accounts, entries) could be brought to bear if needed.¹¹⁴ For example, promissory notes provided the amount, the due date, and the debtors' pledge of payment. They could be presented to the court as evidence of the debt.

Yet it was not just his business dealings that Johnson recorded; as a black man in a slave society, he also anticipated the oppressive nature of the Southern legal apparatus and used documentation as a means of protection. In this way, writing was a way to pre-empt and protect. In particular, he recorded and saved important legal materials involving his family, paperwork that could be also supplied to the court, this time as evidence of their free status. These records provided his family with legitimacy and security. Johnson noted his marriage to Ann Battles Johnson and the births of their children in his diary. But he and Ann also retained copies of their marriage license and their children's baptismal records. Thus, they had ready documentation for anyone questioning their free status; the right to contract (for marriage or otherwise) was reserved for free people only. In the baptismal records, they recognized their children as free and legitimate, providing them with a record of their free birth and a claim to inheritance rights. Johnson and his wife also saved copies of her manumission papers, her mother's manumission papers, and her mother's license to remain in the state of Mississippi.¹¹⁵

113. For a discussion of a case in which the mother of an apprentice had to intervene and remind Johnson that her son's service time was up, see *Diary*, May 22, 1848. It is in the telling of stories about his slaves, however, that Johnson's diary reveals the most about how he shaped the facts to favor himself. Indeed, his story of Steven, an enslaved man who frequently ran away for short periods of time, avoided work, and drank heavily as a means to escape, is a story of Steven's supposed mental and moral deficiencies, and especially Steven's alcoholism, not Steven's very obvious (in my reading anyhow) problems with enslavement, especially enslavement by a fellow black man and former slave who worked him hard and had him whipped. For some examples, see *Diary*, September 3, 1836; March 19, 1838; December 17, 1843; December 30, 1843, and January 1, 1844.

114. I adopt this phrase from Robert H. Mnookin and Lewis Kornhauser, "Bargaining in the Shadow of the Law: The Case of Divorce," *The Yale Law Journal* 88 (1979): 950–97.

115. Legal and financial documents, 1793–1935, Box 1, Folder 13, Baptismal records, 1842–1856; Box 1, Folder 15, 1822–1829; Box 1, Folder 16, 1830–1839, Johnson Papers, LLMV.

Although it appears that the Johnson family's freedom was never challenged, these papers and written records helped protect them from potential questions. Indeed, Mississippi law required free people of color to periodically register with their local county court and provide evidence of their free status. As white Mississippians ratcheted up their attacks on the free black population of the state in the 1840s and passed a series of removal laws (requiring free black people to leave the state), many free people of color faced scrutiny and persecution. Several had to petition the local courts or the state legislature for permission to remain in the state. In August 1841, a number of free people of color in Natchez had to appear at hearings held by the Board of Police for licenses to stay in Mississippi, including some of Johnson's free black apprentices. He helped them secure the necessary paperwork required by the "Inquisitions Court," as he called it, paperwork that included signatures from whites pledging their support.¹¹⁶ Although the Johnson family escaped these requirements, they had the necessary documentation if anyone demanded it. Johnson also kept a running list in his diary of white clients and acquaintances who offered their assistance.¹¹⁷ His material position as a successful and respected businessman helped shield his family from some of the more draconian aspects of Southern law. But other free people of color were not so lucky. On several occasions Johnson noticed instances in which the law treated black people differently than whites—and when it dealt with black people differently according to class. To that end, he noted that the Board of Police (the "Inquisitions Court") ordered several "innocent and harmless people" who had "never done a crime since they have been in the state" to leave Mississippi.¹¹⁸ "There is Something about this Law that I do not understand," he exclaimed, "Oh what a Country we Live in."¹¹⁹ It did not escape his attention, moreover, that white officials in practice selectively enforced formal law; status, reputation, and community standards of judgment also affected an individual's treatment before the law.¹²⁰ His insistence on (or perhaps obsession with) documentation may have stemmed, at least in part, from the threat of persecution that always loomed over him as a black man in a society in which blackness denoted slavery, and in which the law could only offer partial protection.

116. Diary, August 21, 1841; August 24, 1841; September 5, 1841; and September 9, 1841.

117. Diary, September 3, 1841.

118. Diary, September 9, 1841.

119. Diary, August 21, 1841; and September 9, 1841.

120. See Diary, August and September 1841.

Johnson v. Winn and Wade

For Johnson, legal knowledge involved a combination of the informal and formal ways of framing problems and transactions: the official legal rules and procedures as well as an assessment of when the community or culture allowed for the application of a rule to a particular person. His experiences provided him with an informed judgment about the interface between law and society. He put all of this knowledge to work in a final, protracted lawsuit, one he was sure he would win. But Johnson's most prolonged, direct experience with the legal system—and the experience that likely taught him the most about the functioning of the courts, gathering of evidence, and law's promises and limitations—would ultimately lead to his death. The implications of this for legal historians is important: when going to court over a debt or dealing with tenants, Johnson worked with both the rules and the meta-rules about the role of law in his society. It might, under such circumstances, be fair to say that he “knew the law.” But it would perhaps be more accurate to say that what he really had was not necessarily legal “knowledge” but rather a *hypothesis* about the relation between these two sets of rules, one that he assumed his neighbors and the members of his community shared. He was wrong. The precise way in which he was wrong, however, is significant: Southern society, as it turned out, was not as predictable or as invested in formality as he had been led to believe.

It began as a dispute over land. Johnson was neither a newcomer to the buying and selling of land, nor was he ignorant of the legal process for buying real estate. To maintain his barbering business, he needed property: a site from which to run it. He invested in real estate in town, beginning with the acquisition of the Main Street property, which he purchased in 1833 for \$2,750 (paying half in advance and signing a 12 month promissory note for the remainder).¹²¹ He continued to acquire tracts of land in town for the next two decades. In 1836, for example, he bought a city lot for \$1,300 and then sold it a few years later for \$2,000.¹²² In the process, he learned how to draw up and record deeds, transfer titles, and make improvements.¹²³ But Johnson had higher aspirations: although his businesses in town provided him a comfortable and prosperous life, plantation agriculture could bring great wealth. Therefore, in the mid-1830s, Johnson

121. William Johnson Deed of Conveyance with Jacob Eiler, 1833 October 15, Box 1, Folder 16, 1830–1839, Johnson Papers, LLMV.

122. Diary, May 17, 1839.

123. For an example of Johnson drawing up a deed and transferring title to a tract of land, see Diary, October 28, 1835.

began searching for a parcel of land on the outskirts of Natchez. In 1835, he purchased a 162 acre tract of land at auction, but 6 weeks later, he doubled his money and sold it for a remarkable \$628 profit.¹²⁴ In the 1840s, as the economic crisis abated, he began looking more seriously. He had trouble at first, as a number of the properties that interested him lacked clear titles. For example, he decided against purchasing a plot along the Mississippi River after his research into the property revealed legal problems. The land, he discovered, “was not Legally sold,” and a lawsuit was pending.¹²⁵ Eventually, he purchased the inauspiciously christened “Hard Scrabble” for \$600, a 120 acre plantation along the Mississippi River (in an area known as “the swamp”).¹²⁶ A year later, he acquired 242 additional acres adjacent to his first tract.¹²⁷ Johnson obtained this second plot, in part, through both stealth and force. The owner, William Moseby, owed him a significant debt, and rather than accept a cash payment, Johnson’s diary demonstrates that he pressured Moseby for months until he agreed to turn over the property as payment: a transaction, moreover, that favored Johnson heavily.¹²⁸ Between 1845 and his death in 1851, Johnson devoted his time to a farming and timber venture. He also spent these years protecting his property rights and his rights to the fruits of that property from the illegal intrusions of his neighbor, Baylor Winn, another free man of color.

The problem was a common one in disputes between neighbors, and one that could make enemies out of friends: a disagreement over a boundary line. Winn lived near Hard Scrabble and when Johnson visited his property, the two men sometimes hunted and fished together and took long walks through the swamp. But their relationship started to sour in early January 1847, when Johnson got word that Winn was felling trees on Johnson’s land. On investigation, he found much of his timber cut and readied for transport and sale.¹²⁹ Johnson began to watch Winn more closely, and his observations went from genial to disapproving.¹³⁰ Their

124. Diary, October 12, 1835; October 20, 1835; November 23, 1835; and November 26, 1835.

125. Diary, January 1, 1843

126. Hogan and Davis, eds., *William Johnson’s Natchez*, 36.

127. Legal and financial documents, 1793–1935, Box 1, Folder 18, 1843–1849, Johnson Papers, LLMV.

128. Johnson began to comment on Moseby’s land as early as 1843. In 1846, he applied significant pressure on Moseby to turn over his land, something Moseby was obviously reluctant to do, particularly given the terms that Johnson offered. See, for example, Diary, May 1, 1843; August 1, 1846; August 8, 1846; and September 21, 1846.

129. Diary, January 11, 1847; and January 13, 1847.

130. For example, he noted that, “B. Winns daughter just escaped from irons that her father had chained her in to keep her from getting married to a Mr. Burk the woodchopper,

friendship—however tenuous at this point—dissolved completely in early 1849, after Winn and Benjamin Wade, a Natchez businessman, purchased the land adjacent to Johnson's and, in disregard of the boundary lines between their properties, Winn began cutting Johnson's timber in earnest.¹³¹ He noted in January 1849 that "Mr. Winn's choppers are cutting wood over my land and I requested the Little Irishman [one of Winn's wood choppers] not to cut anymore, He promised not to do so" but claimed that Winn had declared the tract his own.¹³² By April, and despite Johnson's repeated requests that he desist, Winn had ramped up the cutting along the disputed boundary line. As Johnson wrote in anger, "Mr. Winn started the other day to New Orleans with a raft of timber that was cut up the creek—I am under the belief that he is cutting timber in Every Direction without any regard to Lines or anything else. So Any man that will do that kind of business is not an honorable man."¹³³ Johnson appealed to Winn's sense of obligation, however, and sought a compromise. In September 1849, he asked Winn to settle the dispute by agreeing to re-survey the boundary line between their properties. Winn refused. This rebuff proved the final straw, and Johnson decided to take legal action. Doing so meant drawing on and expanding his previous experiences with the law. In the process, however, Johnson began to privilege formal rules and processes, such that he did not pay heed to warnings that might have saved his life.

In keeping with his fastidious nature, Johnson built his case against Winn through careful evidence gathering and documentation. He began by constructing a paper trail and wrote the original surveyor for his field notes. In order to verify the boundary lines, he double checked his personal records and went to the courthouse to examine the official copy of the deed.¹³⁴ He wrote letters seeking additional information (about both the boundary line and Winn's reputation), most especially to William Moseby, the previous owner of the disputed acreage. Moseby's response confirmed Johnson's suspicions and provided him with proof, of both Winn's illegal intrusions and his immoral and deceitful character. "In regard to the Dispute about the Survey and Lines," Moseby wrote, "all I have to say is this—I never was Satisfied with Forcheys survey. But I

and the young one also tried to escape but she could not. So stands the affair." *Diary*, May 12, 1847.

131. Although Johnson made Wade party to the lawsuit, it was Winn who attracted his anger, as it was Winn who did the chopping. Very rarely did Johnson involve Wade in the negotiations or arguments.

132. *Diary*, January 16, 1849.

133. *Diary*, April 10, 1849.

134. *Diary*, August 19, 1849.

Knew well that if I got into a Contention with B. Winn about it he would by false witness prove the corner to be not cut down but which I knew to be the fact. So on the whole I concluded to Leave the State and have nothing to do with him—Every honest man Knows B. Winn to be a Black Hearted wretch and those in Co with him no better.”¹³⁵ Johnson shared this opinion: “Old man Winn is an overbearing old Colord Gentleman,” he observed, “and it will be found out so before long if he fools much with me, for I know him too well.”¹³⁶ Johnson kept Moseby’s letter as evidence and, as he had done with other important documents, recorded a copy of it in his diary.¹³⁷ In the meantime, Winn continued cutting timber from the disputed area, and Johnson carefully monitored Winn’s actions, questioned witnesses, and kept a detailed log in his diary of Winn’s encroachments. He noted in mid-November 1849, for example, that Winn continued to cut “away on the timber with a lot of hands perfectly regardless of lines.”¹³⁸ A month later he wrote that, “I saw Mr Burke up this morning and he came to inform me that Mr B Winn had commenced to haul the wood away, Is at the foot of my field and he knows that he do not own a foot of it. I went to see Mr. North who told me that my only course was to sue him.”¹³⁹

Johnson understood when he had reached the limits of his knowledge. When it became clear that compromise would not solve the problem, Johnson hired two experienced attorneys to represent him and provide him with legal advice. Johnson had sought the assistance of other Natchez lawyers in the past. When selling a plot of land in 1835, for example, Johnson paid John T. McMurren (law partner of John A. Quitman) \$5 for drawing up the new deed and facilitating the transfer to the new owner.¹⁴⁰ McMurren continued to offer him legal advice when he required it. Several of the region’s attorneys frequented his barbershop, and some even borrowed money from him. These connections came in handy when Johnson—and Johnson’s acquaintances—needed the guidance of a lawyer. But his legal battle against Winn meant that, for the first time, he would enter into a prolonged relationship with his legal counsel. He

135. William Moseby to William T. Johnson, 1849 November 28, Box 1, Folder 1, Correspondence, 1829–1853, Johnson Papers, LLMV. Given the way that Johnson bullied Moseby into selling his land, it is possible that Moseby might have wished to wash his hands of Johnson too. It is also possible that he sold the land to Johnson knowing that a dispute could arise.

136. Diary, December 27, 1849.

137. Diary, December 25, 1849.

138. Diary, November 22, 1849.

139. Diary, December 27, 1849.

140. Diary, November 27, 1835; and November 28, 1835.

chose prominent attorneys William T. Martin, a man he had long admired, and Ralph North, and he sought their advice frequently.¹⁴¹

With the help of his attorneys, Johnson devised a legal strategy to deal with Winn's infringements of his property rights. His lawyers "thought it strange" that Winn objected to the survey and advised him to proceed through the courts instead.¹⁴² Therefore, Johnson sought a court-ordered survey of the land and an injunction to keep Winn from cutting and selling the timber.¹⁴³ On May 12, 1850, at the request of Johnson's attorneys, the court appointed Thomas Kenney, a white man whom Johnson believed would "do Justice to both Parties," as surveyor.¹⁴⁴ This strategy failed, however, as Winn made Kenney's work difficult by brandishing a shotgun whenever the surveyor appeared. Winn's recalcitrance and intimidations continued for several months, and after discovering that Winn continued to cut timber on his land, Johnson finally sued Winn for trespassing.

Meanwhile, Winn had his own strategy. He began with adverse possession and hired lawyers to protect him. But he also openly threatened Johnson, threats that Johnson did not take seriously. In early January 1850, Johnson got word that Winn claimed that if Johnson "came to the swamp to survey or attempt to run the lines on land, that we are now in dispute about that he would shoot me." Johnson viewed these as empty threats, however: this was just Winn's "way of talking and that I did not think he would do it."¹⁴⁵ The next day, Winn threatened Johnson with violence and vowed to stop the survey. Johnson gathered witnesses who had heard Winn's rants and noted that, "It was outrageous conduct on the part of the old man Winn."¹⁴⁶ His lawyers, moreover, implored Johnson to protect himself and "take an officer down with me if I apprehended any interference from Mr. Winn so as to take charge of him."¹⁴⁷ In this instance, Johnson did not follow their advice and continued to view Winn as a mere windbag.

While Johnson waited for his civil suit to come before the court, he continued to conduct research, build his case, and amass evidence against

141. For an example of expressing admiration for Martin, see Diary, October 18, 1843. For some examples of seeking their advice in the lawsuit, see Diary, September 26, 1849; December 27, 1849; January 1, 1850; January 25, 1850; and February 2, 1850.

142. Diary, September 26, 1849.

143. Diary, January 25, 1850.

144. Diary, May 12, 1850; William Johnson Notice of Survey in the Suit of *William Johnson v. Benjamin Wade and Baylor Winn*, 1850, Box 1, Folder 19, 1850–1854, Johnson Papers, LLMV.

145. Diary, January 9, 1850.

146. Diary, January 23, 1850.

147. Diary, January 25, 1850.

Winn. He found several witnesses willing to testify on his behalf, including “Mr. James Gregory, Mr William Walcott, and Mr Stump [his overseer at Hard Scrabble].”¹⁴⁸ He counted the tree stumps in the disputed area in order to include their value in his claim for damages.¹⁴⁹ He attended the fall and spring sessions of the circuit court, searching for other land disputes that might provide insight into his own chances before the bar. One lawsuit in particular led Johnson to believe that the court might sympathize with him, and in May 1850, he summarized the verdict in his diary. Indeed, the case had some bearing on his own: in this instance, a man named “Congo” received a judgment for \$1,200 from a Mr. Fisk for cutting timber from Congo’s land. This lawsuit, he believed, could serve as precedent.¹⁵⁰

As the case dragged on, Johnson’s frustration grew; he learned that the wheels of justice turn slowly, and litigation has many phases. This was perhaps a novel (and unwelcome) lesson. Johnson’s previous experiences with civil litigation involved debt recovery—simple cases that were resolved quickly, sometimes even the same day he filed suit. This was his first prolonged legal battle, and by the fall of 1850, he started to lose his patience. Winn continued to create obstacles in an effort to bring the case to a standstill, this time contesting the survey results and demanding a second one, which the surveyor refused. Johnson wrote of his frustration in his diary: “I was to see Mr. North this afternoon and I told him about the survey—and I am now in this mood at present. I am not very willing to come to a compromise at all—but Let it Rip.”¹⁵¹ His irritation grew even more pronounced when he found the dispute to be a subject of considerable gossip in town.¹⁵²

The case finally made it to the docket during the November term of the circuit court. However, the judge postponed it until the following session in May. Winn’s lawyer, Johnson wrote, “made a strong effort to postpone the trial, which he succeeded in. The judge granted the request and it was laid over to the next may term, I would have been glad to have the case gone off.”¹⁵³ In the wake of the postponement, Johnson increasingly put his faith in the official legal process. Throughout early 1851, many diary entries involved the dispute in some capacity, and his documentation and evidence gathering continued apace.

148. Diary, November 4, 1850.

149. *Ibid.*

150. Diary, May 9, 1850.

151. Diary, September 12, 1850.

152. Diary, November 11, 1850.

153. Diary, November 19, 1850.

In May 1851, before the case went to trial, Johnson proposed another compromise: he would drop the lawsuit as well as his claim to damages if Winn would agree to Kenney's survey. Each side would pay their witnesses, and the defendant would pay the costs. This time Winn agreed, and Johnson dismissed the suit.¹⁵⁴ He was relieved. The controversy was finally over. Although he settled the case at "less than his legal rights," he calculated that compromise offered the quickest path forward.¹⁵⁵ He paid his attorneys \$35 each for their services and moved on.¹⁵⁶ Soon after, he and his wife celebrated the birth of another baby boy.¹⁵⁷ But in mid-June 1851, in his final diary entry, Johnson wrote that he could not find two of his horses and felt that "something is wrong."¹⁵⁸ A few days later he was dead.

Winn had made good on his threat. As Johnson was returning to his farm, Winn ambushed him and fatally shot him in the presence of three black witnesses, including Johnson's eldest son. Johnson died the next morning after implicating Winn as the shooter. Local authorities arrested Winn and jailed him, but after three trials, Winn was released from custody.¹⁵⁹ Because black men and not white men had witnessed the crime, Johnson's murderer went unpunished; Mississippi law banned people of African descent (free or enslaved) from testifying against whites in criminal trials. While many in Natchez knew Winn as a free black man, at trial Winn claimed "to be a white man, and [had] voted and given testimony as such."¹⁶⁰ The legal issue in Winn's first two trials involved his racial status. Although Johnson's family obtained evidence to the contrary, Winn's attorney produced two witnesses who claimed Winn to be of European and Indian descent. That evidence, coupled with his performance of civic acts reserved for white men (voting, providing testimony in court as a white man, and serving as road overseer), gave Winn a claim to whiteness.¹⁶¹ Despite hours of testimony, and a 3 hour closing statement by the prosecutor (William T. Martin, one of Johnson's attorneys in the boundary dispute),

154. Diary, May 2, 1851; and May 3, 1851.

155. Natchez *Courier*, June 20, 1851

156. Diary, May 9, 1851; May 13, 1851; and May 15, 1851.

157. Diary, May 16, 1851.

158. Diary, June 14, 1851.

159. Davis and Hogan, *The Barber of Natchez*, ch. 22; Hogan and Davis, eds., *William Johnson's Natchez*; and Gross, *Double Character*, 63.

160. Quoted in Hogan and Davis, eds., *William Johnson's Natchez*, 59. See also Davis and Hogan, *The Barber of Natchez*, 265-66; and Gross, *Double Character*, 63.

161. Hogan and Davis, *William Johnson's Natchez*, 60-62. On men of color "performing" whiteness by voting and performing similar activities reserved for whites and then deploying these actions to their benefit in court, see Ariela J. Gross, *What Blood Won't Tell: A History of Race on Trial in America* (Cambridge, MA: Harvard University Press, 2008).

the state could not prove Winn's "negro blood."¹⁶² The eyewitness testimony would not suffice. The prosecution reluctantly dismissed the third trial because of the lack of admissible evidence. Despite Winn's reputation as "black hearted wretch" and the certainty throughout Natchez of his guilt, Winn escaped conviction by declaring himself white.¹⁶³

Winn was perhaps a more sophisticated legal actor than Johnson had allowed for. Indeed, he too had a hypothesis about the nature of law, and it was ruthlessly instrumental. He protected his land with force; when that failed he hired lawyers to keep him out of court and to push the costs of litigation, both of money and time, onto Johnson. His murder of Johnson was utterly premeditated and publically announced beforehand. It would be most surprising if Winn had not thought of his defense—whiteness—in advance. For Winn, judgments, agreements, and rulings were provisional, temporary setbacks in attaining what he actually desired. In this, his theory of law differed from Johnson's: instead of law's potential for predictable outcomes contingent upon supporting formal documentation, Winn privileged force, and law was useful insofar as it provided cover for force. This is certainly not a romantic hypothesis about the law, but it is a hypothesis nonetheless.

I began this article with an empirical question: what can we infer from William Johnson's diary about how black people in the antebellum South came to know the law? The answer involved looking to multiple ways of "knowing" the law, as they emerged from Johnson's diary. Johnson blended a faith in formal knowledge of the rules with a theory about how they were or should be applied in his community. I end, however, with a different problem: black Americans had an idea of how law ought to work, and how it did work. Both Johnson and Winn were black men with theories—hypotheses—about the workings of law. Yet their theories were diametrically opposed. This very opposition, however, is less a problem than an opportunity for rethinking some of our questions: rather than asking how much or how little law black people—or for that matter, white people—in the antebellum South "knew," we might instead begin asking about their hypotheses and their theories and seek to reconstruct them in all of their complexity and diversity.

162. Hogan and Davis, *William Johnson's Natchez*, 60–62; Legal and financial documents, 1793–1935, Box 1, Folder 19, 1850–1854; and Johnson Papers, LLMV.

163. In a letter to Johnson in late 1849, William Moseby wrote that "[e]very honest man knows B. Winn to be a black hearted wretch and those in co. with him no better." Moseby to Johnson, November 28, 1849. Newspaper accounts of Winn's trials echoed Moseley's opinion of Winn. The *Natchez Courier* also implicated Winn as Johnson's murderer and said that he "repeatedly . . . threaten[ed] Johnson's life." Quoted in Hogan and Davis, eds., *William Johnson's Natchez*, 59.