January 2015

Protectors of the Peace: Baptist Church Tribunals and the Construction of American Religious and Civil Authority, 1780-1860

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Graduate School Form 30
Updated 1/15/2015

PURDUE UNIVERSITY
GRADUATE SCHOOL
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By Jeffrey Thomas Perry

Entitled
Protectors of the Peace: Baptist Church Tribunals and the Construction of American Religious and Civil Authority, 1780-1860

For the degree of Doctor of Philosophy

Is approved by the final examining committee:

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Head of the Departmental Graduate Program Date

PROTECTORS OF THE PEACE: BAPTIST CHURCH TRIBUNALS AND THE CONSTRUCTION OF AMERICAN RELIGIOUS AND CIVIL AUTHORITY, 1780-1860

A Dissertation

Submitted to the Faculty

of

Purdue University

by

Jeffrey Thomas Perry

In Partial Fulfillment of the

Requirements for the Degree

of

Doctor of Philosophy

May 2015

Purdue University

West Lafayette, Indiana

ACKNOWLEDGEMENTS

I owe an immense debt of gratitude to two advisors who guided me through graduate school. First, this project would not exist had Professor Yvonne Pitts not infused me with her own excitement for legal history. Her support has been incredible, always pushing me to re-think or, much to my chagrin, re-write my conclusions or chapters. I will continue to be indebted long after I will be physically able to repay, so she is stuck with me in some ways whether she likes it or not. Also, Professor John Belohlavek at the University of South Florida has been a key mentor and friend since I took his class during my first undergraduate semester in 2003. As a Master's student, I took his "Age of Jefferson" reading seminar which convinced me to ditch my initial focus on the twentieth-century U.S. and to embrace the formidable and fascinating early-republican and antebellum periods. I have not looked back or regretted the switch for a moment. More recently he and his wife, Dr. Susan Turner, have opened their home to me summer after summer. This allowed me to escape back to Tampa for extended periods of time and reconnect with friends and family while transcribing court cases and plotting chapter outlines. I look forward to many more conferences on their front porch over a cold drink. Along with Yvonne, my committee-members, Professors Frank Lambert and John Larson at Purdue, and Sarah Barringer Gordon at the University of Pennsylvania, provided continued support throughout my time dissertating, and their critique and encouragement at my defense was immeasurable. Professors Caroline Janney, Darren

Dochuk, and David Atkinson all, in their own ways, have played a part in this project for which I am grateful.

I have received incredible institutional and financial support from a number of places. Purdue's Graduate School awarded me a Frederick N. Andrews Fellowship which graciously provided me two years out of the classroom to first adjust to life as a full-time graduate student and later to pursue research on this project. A Bilsland Dissertation Fellowship from the College of Liberal Arts gave me the opportunity to spend the past year focused solely on writing. Research grants from the Kentucky Historical Society, the Filson Historical Society, the Tennessee Historical Society, the Southern Baptist Library and Archives, and the Alabama Historical Association were invaluable. The staff at those institutions, as well as the archivists at the Southern Baptist Theological Seminary in Louisville, Tennessee State Library and Archives, and the Kentucky Department of Library and Archives, assisted me throughout the research process. Thank you, too, to the American Society of Church History and Cambridge University Press for allowing me to reprint various excerpts from my article, "'Courts of Conscience': The Baptists, Local Law, and Church Schism in Kentucky, 1780-1840," which appeared in *Church History* 81, no. 2 (March 2015): 124-158.

This project would not have come to fruition without the unceasing support of friends and family. Mike Benedict's assistance with my data set and his creation of the various charts and tables within this manuscript was truly awesome. I have also rehearsed arguments presented here numerous times with Trevor Burrows, Peyton Jones, Brandon Ward, Josh Jeffers, and Tim Olin. My parents, Tom and Debbie Perry, have sacrificed much more than I have for this project. Though I know they are proud of me

and my sister, Jill Bass, I continue to look at awe with what they have achieved in their lives, and hope I can accomplish half as much with such grace. Finally, my partner, Kate Sweeney, who willingly welcomed me and this project into her life: it's all for you.

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ABSTRACT

Perry, Jeffrey Thomas. Ph.D., Purdue University, May 2015. Protectors of the Peace: Baptist Church Tribunals and the Construction of American Religious and Civil Authority, 1780-1860. Major Professor: Yvonne Pitts.

This dissertation argues that Baptist churches served as important legal sites in the trans-Appalachian West from the Revolutionary period to the outbreak of the Civil War. By looking at how members and non-members approached their local churches for matters of dispute resolution over time and space, it illuminates a local legal culture transforming under the pressures of legal, economic, religious, and cultural change. Legislative enactments and new understandings of the family gradually weakened churches' authority over their members' domestic relations. An expanding market-economy necessitating predictable and presumably neutral dispute resolution led many to decry their churches' factionalist-produced decrees. Some churches refused to get involved with messy economic disputes and sanctioned members' resort to state-based law. Others emerged as sites through which whites strengthened the region's consolidating racial hierarchy, disproportionately focusing their disciplinary proceedings at their black brethren. Furthermore, religious dissension wrecked trans-Appalachian Baptist churches during the 1820s and 1830s, leading to a decline in disciplinary activities. Divided by doctrinal schism, some opposing church factions engaged in lengthy legal contests and

opened the door for state authorities to meddle in ecclesiastical affairs. In the end, this dissertation contends that the persistence of churches' law-producing operations during the post-Revolutionary period—and the practice's later diminishment during the antebellum era—shaped the contours of American religious and civil authority and held repercussions for the process of separating church from state.

INTRODUCTION

> "[O]ur only object…is to bring our difficulties to a close & to restore peace & good feelings with the members as well as with the neighbours [*sic*]."[1]

"I think it's a mistake for any country," Louisiana Governor Bobby Jindal insisted in January 2015, "to allow the development of areas within their country, whether it's neighborhoods or other areas, where the same laws, the same values, the same rules, simply don't apply." Speaking to a conservative think-tank in London, Jindal was referring to "no-go zones" purportedly set up by Muslim extremists in the United States and Britain in an effort "to colonize Western countries." Such "no-go zones," the author Steven Emerson had told Fox News nine days prior to Jindal's comments, barred non-Muslims and relied on religious authorities to enforce faith-based laws. Claiming there was "no credible information" to support Emerson's claims, Fox News ran an on-air retraction just days later. Britain's Prime Minister David Cameron simply responded by calling Emerson a "complete idiot." This did not sway Jindal. He insisted the "huge issue" was that such groups "want to come to our country but not adopt our values," that they desired "to set apart their own enclaves and hold onto their own values." Jindal's

[1] An 1834 "Remonstrance" to Pastor James Fishback signed by John Curd and his fellow dissenters from the Mt. Vernon Baptist Church in Woodford County, Kentucky. See, *Bennett et al Trustees of the Mt. Vernon Church vs. Curd et al* (1836) Folder 2, Box 69, Case 7914, Court of Justice, Woodford Circuit Case files, 1833-1837, Kentucky Department of Library and Archives, Frankfort, Kentucky.

comments only add to recent debates over sharia law's influence in American communities.[1]

Yet Jindal's remarks also echoed fears expressed over two hundred years ago by Virginia's colonial authorities as they faced the growth of the Baptists, a group whose first churches in the Old Dominion had been planted by outsiders. In the late 1750s, Regular Baptists from Pennsylvania and Separate Baptists from New England migrated south and began proselytizing in the countryside of Virginia. Over the next two decades, these preachers set up dozens of churches, religious enclaves that challenged the existing social and religious order. While extending spiritual equality to all members regardless of their race or sex, Baptists also eschewed the dancing, pre-occupation with social rank, and the ostentatious dress of the Virginia gentry. Moreover, Baptists' "bizarre" practices of full-body immersion and internal discipline stoked animosity among all ranks of their Anglican neighbors.[2] One historian notes that pockets of "rather thick Baptist dissent" appeared in areas where the preachers gained a foothold.[3] As their ministers shunned civil authority by preaching without a license, and as their churches attracted a greater number of adherents, state authorities and Anglican Church leaders often labeled the upstart Baptists as "disturbers of the peace." One irate magistrate even charged a group

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[1] For quotes see, Carlo Angerer, "Bobby Jindal Says West Allows Muslims to Set Up 'No-Go Zones'," *NBC News*, 19 January 2015, http://www.nbcnews.com/news/world/bobby-jindal-says-west-allows-muslims-set-no-go-zones-n289011. Accessed January 20, 2015; Associated Press, "Jindal: Muslims Form 'No-Go Zones' Outside Civic Control," *New York Times*, 19 January 2015, http://www.nytimes.com/aponline/2015/01/19/us/politics/ap-us-gop-2016-jindal.html?_r=0, Accessed January 20, 2015; On recent statutes against Sharia law, see, Kimberly Karseboom, "Sharia Law and America: The Constitutionality of Prohibiting the Consideration of Sharia Law in American Courts," *10 Georgetown Journal of Law & Public Policy 663* (Summer 2012).

[2] Christine Leigh Heyrman, *Southern Cross: The Beginnings of the Bible Belt* (Chapel Hill: University of North Carolina Press, 1997), 15-22.

[3] Jewel L. Spangler, *Virginians Reborn: Anglican Monopoly, Evangelical Dissent, and the Rise of the Baptists in the Late Eighteenth Century* (Charlottesville: University of Virginia Press, 2008), 77-78, 81-83, 105 (quote). There were doctrinal differences between Separate and Regular Baptists, though they were largely set aside in 1787 with the formation of the Baptist General Committee.

of Baptist preachers with "carrying on a mutiny against the authority of the land."[4] Many dissident Baptists joined other Euro-American migrants during the 1770s and 1780s and settled the region that became the states of Kentucky and Tennessee. By the time Thomas Jefferson's religious freedom bill became law in Virginia in 1786, trans-Appalachian Baptists had already begun constructing an expansive institutional network of churches and associations which sought to regulate their budding communities through the ritual of discipline.

This study examines Baptists' practice of church discipline in Kentucky and Tennessee from the Revolutionary period until the outbreak of the Civil War. Individuals used their churches as legal sites, and participated in a capacious legal culture that extended beyond state institutions to local church meetinghouses. Baptists practiced discipline at their monthly Saturday business gatherings. After prayer, the moderator enquired into the "peace" of the church, opening the door for members to air grievances or bring another's (or their own) moral transgressions to light. This transformed the assembled brethren from a worshiping community to a church tribunal, law-producing actors pursuing their neighborhoods' harmonious social relations. While churches punished moral transgressors for drunkenness, fornication, and profane swearing, they also arbitrated more serious civil disputes over slave sales, business contracts, and probate matters. Members formed investigative committees to "labor" with the involved parties or interview relevant witnesses. Churches required transgressors to make "satisfaction" for their offences or face suspension or exclusion from the church body. At times, in breach of covenant and trespass cases, churches decreed monetary awards or

[4] Quoted in, Rhys Isaac, *The Transformation of Virginia, 1740-1790* (Chapel Hill: University of North Carolina Press, 1982), 175.

commitments of future service to the offended party. They also provided authoritative recourse for groups, including women and blacks, who lacked legal standing or personhood in the eyes of state law. Although over time, such opportunities were dampened as whites used church discipline to help solidify the region's racial hierarchy, Baptist churches still served as instrumental legal sites through which members, and at times non-members, created law for their communities.

In the last two generations, legal historians, focusing largely on small New England communities, argued that during the colonial and immediate post-Revolutionary periods, the courthouse became the primary arena for dispute resolution. The professionalization and formalization of the colonial legal system—facilitated by an expanding commercial economy and an increase of disputes which stretched across town and county borders—led Americans to seek recourse through courts rather than churches.[5] Alternatively, social and religious historians, of the South and West, while disagreeing over whether or not discipline served as a social-control mechanism, have pointed to the persistence of church-based arbitration, especially among evangelical

[5]Bruce H. Mann, *Neighbors and Strangers: Law and Community in Early Connecticut* (Chapel Hill: University of North Carolina Press, 1987); William E. Nelson, *Dispute and Conflict Resolution in Plymouth County, Massachusetts, 1725-1825* (Chapel Hill: University of North Carolina Press, 1981); David Thomas Konig, *Law and Society in Puritan Massachusetts, Essex County, 1629-1692* (Chapel Hill: University of North Carolina Press, 1979); Cornelia Hughes Dayton, *Women Before the Bar: Gender, Law, & Society in Connecticut, 1639-1789* (Chapel Hill: University of North Carolina Press, 1995); Peter Charles Hoffer, *Law and People in Colonial America: Revised Edition* (Baltimore: Johns Hopkins University Press, 1998); Legal scholar Christopher Tomlins has argued that during the early-nineteenth century, law became the "modality of rule" for Americans. See, Tomlins, *Law, Labor and Ideology in the Early American Republic* (New York: Cambridge University Press, 1993); Historian Mark D. McGarvie, in his investigation of the process of disestablishment, agrees with Tomlins's assertion, arguing that law, as a modality of rule, led to the triumph of common-law contract doctrine over Christian ethics, and the judge and court replaced the minister and church tribunal as social arbiter. See Mark Douglas McGarvie, *One Nation Under Law: America's Early National Struggles to Separate Church and State* (Dekalb: Northern Illinois University Press, 2004), 69.

groups, well into the nineteenth century.[6] These studies only passingly note change over time in disciplinary procedures, and generally do not delve into church-state issues.[7] Recent scholarship has insisted that we examine the separation of church and state not as a clean break, but rather as a process rooted in law and culture. This literature contends that disestablishment was entangled with a broader, cultural re-conceptualization of churches as private institutions apart from roles of civil government. Primarily focusing

[6]Strict disciplinary practices persisted in the South and West "long after New England Congregationalists abandoned the practice in the mid-eighteenth century." See Randy Sparks, *On Jordan's Stormy Banks: Evangelicalism in Mississippi, 1773-1876* (Athens: University of Georgia Press, 1994), 146-147; Scholars disagree as to whether church tribunals were sites for social control. See, for example, Monica Najar, *Evangelizing the South: A Social History of Church and State in Early America* (New York: Oxford University Press, 2008). Najar looks at church disciplinary proceedings in the Upper South—Virginia, North Carolina, Kentucky, and Tennessee—focusing especially on how church bodies exerted their authority within individual households (thus challenging the authority of the household head) but also how church discipline "eased the progress of the market economy" for members and provided a "version of 'citizenship'" for women and free and enslaved blacks. See p. 90 for quotes; Janet Moore Lindman, in *Bodies of Belief: Baptist Community in Early America* (Philadelphia: University of Pennsylvania Press, 2008), 91, examines Baptist churches in the mid-Atlantic region, noting that "as a means of social control, the church courts set standards of conduct for all members." Lindman focuses less on the opportunities church tribunals presented to subordinate groups, and more on the top-down imposition of church rules, insisting that church elders decided upon and enforced church regulations; In *Religion and the Making Of Nat Turner's Virginia: Baptist Community and Conflict, 1740-1840* (Charlottesville: University of Virginia Press, 2008), 169, Randolph Scully contends that among southeastern Virginia Baptists during the early-nineteenth century, "despite white male control over the institution of church discipline, the process never became a straightforward application of social control," as all members fell under the church's jurisdiction; Similarly, Sparks, in *On Jordan's Stormy Banks*,164-168, devotes a full chapter to the disciplinary practices of evangelical churches in Mississippi and argues that no member, black or white, free or enslaved, was exempt from church disciplinary proceedings, although blacks were "disciplined at a rate higher than their percentage of membership in some churches." Instead of solely a matter of social control, Sparks concludes on page 148, church discipline was "an effort to foster self-control, a crucial attribute in a republican society"; Gregory A. Wills, in *Democratic Religion: Freedom, Authority, and Church Discipline in the Baptist South, 1785-1900* (New York: Oxford University Press, 1997), 9-10, 117, notes that in some areas of Georgia where his study is focused, discipline continued into the early twentieth century. He also argues that church discipline was less about social control and more about ecclesiastical control.

[7]An exception is Monica Najar's *Evangelizing the South*, which seeks to demonstrate how Baptist churches in the Upper South reshaped gender and race and "assisted in reformulating the lines between the 'religious' and 'secular' realms with significant consequences for religion, slavery, and the emerging nation-state." See p. 4. Najar's examination, however, does not move past the first decade of the nineteenth century.

on court rulings and legislative actions to highlight disestablishment's process, it does not, however, consider how churches' legal operations contributed to this development.[8]

Indeed, previous approaches confine "law" to the province of the state and ignore or depreciate the alternative legal systems rooted in church-based arbitration. They overlook how many early-nineteenth-century Americans participated in an expansive legal landscape. This study argues that for church members, and even some non-members, church discipline was the practice of law. It illuminates a broader legal culture—how, when, where, and why individuals interacted with one legal site rather than another—in the early United States, and demonstrates how transformations in law, economy, and religion led individuals' to re-conceptualize their churches' role in matters of dispute resolution and moral regulation. Thus, it shows how the cultural process of separating church from state evolved amidst the more routine disciplinary actions of local churches *and* through legislation and court decrees emanating from statehouses.[9]

Church meetinghouses served as sites of legal contestation, and records of such disputes provide glimpses of how individuals at the local level interacted with governing authority and constructed their legal culture. Historians have recently shifted the focus from "mandarin" texts of the legal elite and away from statehouses, highlighting how law arises in a variety of sites and through myriad social interactions. Legal Scholar Ariela

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[8] McGarvie, *One Nation Under Law*; Sarah Barringer Gordon, "The First Disestablishment: Limits on Church Power and Property Before the Civil War," *University of Pennsylvania Law Review* 162, no. 2 (January, 2014), 309, 311. For a recent discussion of the process of disestablishment in the nineteenth century, with a particular focus on legislative enactments, see, Steven K. Green, *The Second Disestablishment: Church and State in Nineteenth Century America* (New York: Oxford University Press, 2010); Thomas E. Buckley, *Establishing Religious Freedom: Jefferson's Statute in Virginia* (Charlottesville: University of Virginia Press, 2013).

[9] My understanding of "legal culture" derives from Lawrence M. Friedman, "Legal Culture and Social Development," *Law & Society Review*, 4 no. 1 (Aug., 1969): 34.

Gross describes this approach as "cultural-legal history."[10] Viewing trials in local courts as opposing narratives, performances that highlight underlying social or cultural tensions, this scholarship is still overwhelmingly focused on formal legal sites rather than legalities rooted in community consensus, such as church tribunals.[11] As slaves used church tribunals to punish their own for theft, they called into question the ability of chattel property to make claims *to* property. When church members charged slaves with adultery, they implicitly recognized slaves' ability to form binding contracts, but often overlooked the social realities pulling slave spouses apart, whether it was separation by sale or an intransigent master forbidding one from seeing the other. When disputing Baptists ridiculed their churches' legal procedures and turned instead to courts for resolution, they bucked one authority and embraced another. Their participation in this marketplace of authority helped construct the authoritative bounds of the religious and secular in the United States.

Church disciplinary activities constituted what historian Laura Edwards recently termed "localized law." In her study of the post-Revolutionary Carolinas, Edwards contends that despite the increased professionalization and formalization of law at the state level, the primary objective of local law was to maintain the "peace" of a

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[10] Ariela Gross, "Beyond Black and White: Cultural Approaches to Race and Slavery," *Columbia Law Review* 101 (April 2001):640-690; On "mandarin" legal texts, see, Robert Gordon, "Critical Legal Histories," *Stanford Law Review*, 36 no. ½, Critical Legal Studies Symposium (January 1984): 57-125.

[11] Yvonne Pitts, *Family, Law, and Inheritance in America: A Social and Legal history of Nineteenth-Century Kentucky* (New York: Cambridge University Press, 2013), 7-8; For examples of such an approach, see, Ariela Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom* (Athens: University of Georgia Press, 2000); Joshua Rothman, *Notorious in the Neighborhood: Sex and Families Across the Color Line in Virginia, 1787-1861* (Chapel Hill: University of North Carolina Press, 2003); Walter Johnson, *Soul by Soul: Life Inside the Antebellum Slave Market* (Cambridge: Harvard University Press, 1999); Laura F. Edwards, "Law, Domestic Violence, and the Limits of Patriarchal Authority in the Antebellum South," *The Journal of Southern History* 65, no. 4 (1999): 733-770. Edwards does briefly look to church actions, see page 739.

community. The role of the conceptual peace was to uphold the social order, the particularities of which the local populace determined. Whereas state law by the 1820s and 1830s increasingly sought to sustain liberal individual rights (for white men), local courts continued to look to the nuances of each case, at times elevating the community peace over abstract legal conceptions of individual rights. Grounded in communities' local knowledge, the quest for the "peace" relocated "the legal process into social relations, so that law both guided and emerged from the dynamics of people's lives."[12] Although subordinate groups had little access to the state-based legal system, Edwards demonstrates that women, slaves, and free blacks all influenced, albeit at times indirectly, the practice of law at the local level. Similar to the workings of localized law, church discipline served to protect the "peace" of the church fellowship and the surrounding neighborhood. [13]

Incorporating church tribunals' actions into the post-Revolutionary West's legal culture necessitates rethinking our definition of law. In the last half-century, anthropologists and socio-legal theorists have argued that all societies are legally plural.[14]

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[12] For quote see, Laura F. Edwards, "The Peace: The Meaning and Production of Law in the Post-Revolutionary South," *UC-Irvine Law Review* 1 no. 3 (Feb., 2011); For persistence of localized law in general, see, 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); Edwards, though reacting to formalist and instrumentalist tendencies of legal historiography, is also building on the work of William Novak and others who have charted the extensive reach of local governments in subverting the individual to the needs of the community. See, William Novak, *The People's Welfare: Law & Regulation in Nineteenth-Century* America (Chapel Hill: University of North Carolina Press, 1996); For various "legalities," of British North America, see in general, *The Many Legalities of Early America*, eds., Christopher Tomlins and Bruce H. Mann (Chapel Hill: University of North Carolina Press, 2001).

[13] In, *The People and Their Peace*, 83-84, Edwards does briefly examine disciplinary mechanisms of the Baptists, Presbyterians, and Methodists, but her examination is geared toward transformations of local law as practiced in courthouses, not church meetinghouses.

[14] This scholarship does not address church discipline in post-Revolutionary America. For an overview see, Leopold Pospisil, "Legal Levels and Multiplicity of Legal Systems in Human Societies," *The Journal of Conflict Resolution* 11 no. 1, (March 1967): 2-26. See also, Leopold Pospisil, *Anthropology of Law: A Comparative Theory* (New York: Harper & Row, 1971), 98-99; Legal anthropologist Sally Engle Merry

Although scholars of legal pluralism cohere around their disregard for legal centralism—arguing that law manifests itself through a variety of institutions or social interactions—there is still little agreement upon both the power and place of the state in such studies and where law ceases and social action begins.[15] For the purposes of this dissertation, however, I define law, quoting from legal scholar Brian Tamanaha, as "*whatever people identify and treat through their social practices as 'law'.*"[16] Baptists, though delineating between state-based and church-based law, often identified church discipline as a legal practice. Obtaining "legal" membership in a Baptist church also required individuals to keep "watchcare" over their fellow brethren, and to take the proper legal steps (the "gospel steps") with transgressors or those with whom they disputed. Failure to do so could itself lead to a charge from the church. The Pleasant Grove Baptist Church, for instance, resolved in 1840 that it was "the imperious duty of every member to watch over each other," and to bring unresolved conflict to the church. Those "who shall neglect to

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notes that some institutions, such as corporations, factories, civil associations, and universities "include written codes, tribunals, and security forces" which replicate "the structure and symbolic form of state law." Furthermore, in any society, various "informal systems"—from the family, labor group, or collective—establish rules and seek to gain compliance with them. A variety of legal systems are found in almost all societies—not only in the colonized—and central to the investigation of law is the relationship between official state legal regimes and all other forms of social ordering which are separate yet still dependent upon state authority. See, Merry, "Legal Pluralism," *Law & Society Review* 22 no. 5 (1988), 870-874.

[15] For instance, the critical legal pluralists decry "social-scientific conceptions" of legal pluralism, such as the one advanced by Merry above, and their continued "appeal to the primacy of the institutionalized State legal order." Instead, Critical legal Pluralists attribute more agency to the legal subject, endowing him or her "with a responsibility to participate in the multiple normative communities by which they recognize and create their own legal subjectivity." See, Martha-Marie Kleinhans and Roderick A. Macdonald, "What is a *Critical* Legal Pluralism?" *12 Can. J. L. & Soc. 25* (1997): 35, 37-38; On the pitfalls of classifying all normative ordering systems as "law", see in general, Brian Z. Tamanaha, "A Non-Essentialist Version of Legal Pluralism," *Journal of Law and Society* 27, no. 2 (June, 2000): 296-321; For a recent review on the state of legal pluralism within the field of history, albeit directed at Empires and not religious groups, see the Introduction to Lauren Benton and Richard J. Ross (eds.), *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013).

[16] This position is put forth by Tamanaha in "A Non-Essentialist Version of Legal Pluralism," 313. Italics in original. "Thus, what law is," Tamanaha continues on page 314, "is determined by the people in the social arena through their own common usages, not in advance by the social scientist or theorist."

reprove and try to reclaim" a fellow member should "be dealt with for a neglect of duty."[17]

Churches expected members to refrain from suing one another at local courts, asserting that members keep their "legal doings" within the fellowship. Though churches did not possess the ability to inflict bodily punishment, church sanctions—whether through admonishment, suspension, or excommunication—could have social ramifications, and for the true believer, eternal consequences. The state holds no monopoly upon means of coercion. As one rural church-goer remarked, "To be excluded from the only group that was really meeting and had any influence in the community was right much of a jolt to anyone."[18] Thus, by acknowledging that individuals produced law outside of state institutions, we can illuminate a more fluid trans-Appalachian legal culture, one in which individuals possessed an expansive vision of law, authority, and governance.

Both historians and contemporary observers have noted that church disciplinary practices receded during the antebellum period. Historian Donald Mathews, while acknowledging that discipline continued in southern churches through the Civil War, laments that "the meaning of these patterns of discipline, with their recurring cycles of intensity, is not yet totally clear."[19] Other scholars note a similar disciplinary declension, but have not offered a sufficient explanation for its occurrence.[20] Likewise, the Rev.

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[17] Pleasant Grove Baptist Church Records, December 1840, Filson Historical Society, Louisville, Kentucky (hereafter FHS).
[18] Quoted in, Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th-Century South* (New York: Oxford University Press, 1984), 121-122.
[19] Donald G. Mathews, *Religion in the Old South* (Chicago: University of Chicago Press, 1977), 46.
[20] Suggestions concerning the decline of church discipline vary in scope and detail. In *Southern Cross*, 159, Christine Heyrman notes decreased disciplinary activities with evangelical churches after 1830; Najar, in *Evangelizing the South*, does not specifically address the fluctuations in church disciplinary proceedings

Eleazer Savage claimed in the 1840s that "[s]ome churches are so lax in discipline, so indulgent with delinquent members and even flagrant transgressors, because of property, or standing, or connexions [*sic*] as to become a *very dunghill* in society." Indeed, he concluded, "[i]t is a day of most alarming *irresponsibility* among the members of our churches!"[21] Reverend Warham Walker, writing at the same time as Savage, sounded a comparable tune in his own exposition of church-based law, decrying that there was an "almost entire neglect of Discipline in many churches."[22] As matters of governance and discipline rested with all members, the decline in disciplinary activity disparaged by contemporary observers and noted by historians, signals individuals' changing conceptions of their churches' authoritative role, a reformulation of the broader legal culture.

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across space or time; Unlike Najar, Randy Sparks, in *On Jordan's Stormy Banks*, does note a marked decline in church disciplinary procedures after the 1820s in Mississippi. He largely attributes this to disputes between "Modernists"—who wanted disciplinary power to reside with synods, conferences, or associations—and "Traditionalists" who charged their opponents as too concerned with worldly status, prestige, and membership numbers," see p. 151; In *Religion and the Making of Nat Turner's Virginia*, esp. chapter 4, Scully addresses disciplinary patterns related to the defendants' race and sex, but not to the recurring patterns that Mathews notes; Wills, in *Democratic Religion*, 9-10, points to a steady decline of discipline in Georgia Baptist churches after 1850, connecting it to a number of factors, including generational change, the growth of urban churches, and a greater concern among evangelicals with reforming all of society; In his, *The Democratic Dilemma: Religion, Reform, and the Social Order in the Connecticut River Valley of Vermont, 1791-1850* (New York: Cambridge University Press, 1987), 282-283, Randolph Roth claims that why "discipline perished" in evangelical churches "is difficult to explain." Yet, "by 1860 evangelical churches made virtually" no use of disciplinary mechanisms; Christopher Waldrep, in "The Making of a Border State Society: James McGready, the Great Revival, and the Prosecution of Profanity in Kentucky," *The American Historical Review*, 99 no. 3 (June 1994): 781-782, argues that the religious fervor emanating from Campbell's movement led to an upswing in the number of prosecutions for profane swearing in the county courts, but does not mention how the "revival" altered patterns of discipline within church tribunals. Likewise, in his article, "'So Much Sin': The Decline of Religious Discipline and the 'Tidal Wave of Crime,'" *Journal of Social History* 23, no. 3 (Spring 1990): 535-536, Waldrep argues that the "southern church discipline declined because southern communities lost their cohesiveness" on more general grounds than simply the "growth of sentimentalism and industrialism." Focusing on Trigg County, Kentucky, Waldrep's primary goal is to show how a decline in church discipline led to a rise in vigilantism during the decades following the Civil War.

[21] Savage, *Manual of Church Discipline*, 117-118. Italics in original.

[22] Warham Walker, *Church Discipline: An Exposition of the Scripture Doctrine of Church Order and Government* (Utica, NY: Bennett, Backus and Hawley, 1844), v.

The congregational form of early Baptist churches presents challenges to making broad generalizations about change over time within the denomination.[23] But in this study I argue that a confluence of legal, economic, and cultural factors in north-central Kentucky and Middle Tennessee contributed to churches' increasing disciplinary reticence by the antebellum period. Changes in the law of the family that slowly chipped away at patriarchs' broad power within the household coincided with emerging middle-class notions of family privacy, hindering churches' regulatory influence over domestic relations by the antebellum period. Likewise, as individuals' engagement in national and international markets supplanted face-to-face transactions, and as debt transformed from a moral failing to just another risk of the new economic marketplace, contract-law doctrine assumed precedence in American legal and intellectual thought. To the detriment of the communitarian ethos stressed by churches, contract doctrine elevated the liberal individual bound only by his free-will commitments. The expanding market economy necessitated a predictable, objective legal system. Many Baptists and religious treatise writers lamented the prejudiced-produced decrees of church tribunals, and these sites' authority over their members' business lives waned. In the end, rather than overseeing members' private and public affairs, some churches directed their disciplinary focus toward black members, becoming venues through which whites strengthened the region's racial hierarchy.

These legal and economic transformations corresponded with the emergence of a competitive religious marketplace, one increasingly characterized by doctrinal dissension and church schism. Although Baptists found fertile ground in the West—witnessing

[23] Janet Moore Lindman, *Bodies of Belief*, 93.

membership growth in tune with the overall population expansion—the very religious liberty for which Baptists had so intently fought during the Revolutionary period led to increased sectarian rivalry over both adherents and access to local houses of worship. During the 1820s and 1830s the region's religious landscape scorched with dissension as Baptists argued over a variety of doctrinal matters, but especially as the teachings of Alexander Campbell and Barton Stone gained prominence and adherents. Campbell's calls for the supremacy of the individual over the collective will of the congregation, along with his denunciation of creeds, confessions of faith, and any religious body not deriving from the scriptures, found fertile ground among the region's Baptists. With member relations strained by the influence of the Stone-Campbell movement (the two joined forces in 1832), discipline rates in many Baptist churches receded. The failure of church tribunals to contain doctrinal dissension, too, propelled opposing church factions to invoke state authority to secure their temporal claims. In some cases, land grantors and donors utilized legal instruments to exclude non-Protestant and "disorderly" religious groups from public meetinghouses, or entwined property rights with adherence to specific doctrinal stances. Other groups battled in court over rights to local meetinghouses, insisting they were the "true" church. Highlighting the continuing process of separating church and state, this explicit deference of authority to local courts provided opportunities for judges to subtly meddle in ecclesiastical affairs.

Investigating the disciplinary practices of Baptist churches allows us to illuminate the workings of localized law amidst a changing religious and legal landscape. In contrast to many of their religious counterparts, Baptists' ostensible highest earthly authority was the local church, not an ecclesiastical board such as the Methodist's

Judicial Council or Presbyterian's General Assembly. Decisions on governing forms and disciplinary matters were decided by full-church members (largely defined after 1800 as white male, converted believers), by family, friends, and neighbors.[24] Furthermore, the building of permanent Euro-American settlements in Kentucky and Tennessee coincided with the separation of church and state throughout much of the Republic. Baptist churches were the first institutions of any kind on the trans-Appalachian frontier of the 1770s and 1780s, and their early arrival and continued development allowed them to entwine their values into the region's social structures. Baptist churches helped to provide order in emerging communities, assuming a variety of civil functions in the absence of strong state governments.[25] Even after statehood, however, their governing activities continued. Investigating churches' legal operations over time and space redirects the examination of disestablishment from the constitutional realm to the cultural process of separating churches from roles of civil service.

A focus on north-central Kentucky and middle Tennessee also allows us to chart changes in disciplinary practices—and thus the broader legal culture—in a region that experienced extensive economic and social transformation from 1780 through the antebellum period. Kentucky's Bluegrass Region developed from frontier-station outposts during the Revolutionary period to a vibrant center of commercialism by 1820. Surrounded by fertile agricultural lands, the greater-Lexington area greatly benefited from an explosion in the hemp trade during the 1790s. This not only helped make the

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[24] For the lessening influence of women and blacks, free and enslaved, in post-Revolutionary Kentucky Baptist churches, see, Blair A. Pogue, "'I Cannot Believe the Gospel That Is So Much Preached': Gender, Belief, and Discipline in Baptist Religious Culture," in *The Buzzel About Kentuck: Settling the Promised Land*, ed. Craig Thompson Friend (Lexington: The University Press of Kentucky, 1999).
[25] Najar, *Evangelizing the South*, 8-9.

city the leading commercial and industrial capital of the trans-Appalachian West, but catapulted Lexington's population from 1,800 at the turn of the nineteenth century to 4,300 just ten years later.[26] Such commercial growth gave rise to a middle class propagating their ideas of respectability and sensibility, family privacy and class distinction. As the century progressed, historian Craig Thompson Friend recently wrote, "refinement, capitalistic investment, and lines of distinction spread from Lexington outward," with individuals of the lower classes finding more "common ground" with a burgeoning middle class made up of entrepreneurs, merchants, and lawyers.[27]

Middle Tennessee, or the Cumberland District as it was known during the pre- and early-statehood periods, also witnessed rapid economic and social transformation from the Revolutionary era through the first decades of the nineteenth century. When Tennessee became a state in 1796 the region claimed only 11,500 residents. Twenty-five years later, the population including slaves had sky-rocketed to just under 290,000, with many focused on land speculation, agricultural production, and commerce. The Cumberland River became an important commercial highway, engendering a mercantile class that looked to farmers for cotton and tobacco to sale in distant markets.[28] In 1800, Middle Tennessee may have "stood at the fringe of white civilization," as historian Kristofer Ray has noted, but "by 1812 it had embraced a complex market economy," revolving "around land speculation and the production of short-staple cotton and

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[26] Stephen Aron, *How the West Was Lost: The Transformation of Kentucky from Daniel Boone to Henry Clay* (Baltimore: Johns Hopkins University Press, 1996), 129-130.
[27] Craig Thompson Friend, *Along the Maysville Road: The Early American Republic in the Trans-Appalachian West* (Knoxville: University of Tennessee Press, 2005), 219-222. Quote on 222.
[28] Kristofer Ray, *Middle Tennessee, 1775-1825: Progress and Popular Democracy on the Southwestern Frontier* (Knoxville: University of Tennessee Press, 2007), 39.

tobacco."[29] In both Tennessee and Kentucky, not all residents were completely integrated into the expanding market-economy, nor did all readily accept the market-driven social relations arising from such participation.[30] Nonetheless, this region proves a valuable region of study to chart changes in religious and civil authority as it transformed from fluid frontier communities to more economically and socially complex societies.

This dissertation is arranged thematically. Chapter One details the settlement of Kentucky and Tennessee. It focuses on the variety of ways that Euro-American settlers organized their growing communities, and particularly focuses on Baptists' institutional network of churches and governing associations. Following a survey of church disciplinary practices, it looks to how state governments, despite constitutional separation of church and state, buttressed churches' legal operations. Chapter Two examines churches' role in regulating their members' household affairs alongside transformations in state-based domestic relations law. Actions taken by church members in disciplining husbands and masters, unruly wives, disobedient slaves, and philandering spouses elevated the role of churches to prominent leadership positions within their communities. It argues, in contrast to previous studies, that church regulation of family life was not necessarily a radical break from the law practiced in local and state courts. Moreover, by the end of the antebellum period, trans-Appalachian churches devoted less time to mitigating domestic relations cases, especially divorce and adultery, even though divorce cases appeared to be on the rise in local courtrooms. Increasingly, scriptural views on the

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[29] Ray, *Middle Tennessee, 1775-1825*, 57-58.
[30] Cynthia Cumfer, *Separate Peoples, One Land: The Minds of Cherokees, Blacks, and Whites on the Tennessee Frontier* (Chapel Hill: University of North Carolina Press, 2007), 210.

perpetual nature of marriage came into conflict with the more liberal divorce legislation emerging from early-nineteenth century statehouses, legislation which loosened the compact's contractual obligations by providing wider legal routes through which to pursue a separation or absolute divorce, and thus, legislation which chipped away at patriarchs' broad power within their households. The "law of the land," rather than the "law of God" assumed precedence over domestic matters by the outbreak of Civil War.

The third chapter focuses on churches' handling of members' economic and property related disputes. Churches charged members with breach of contract, indebtedness, and theft. They arbitrated a variety of property disputes, including those over land and slaves. Churches also took up disputes between slaves, recognizing, and at times substantiating their claims to property. Yet, as the region transformed from backwoods outposts to complex societies during the early-nineteenth century, individuals' engagement with national and international markets increasingly supplanted face-to-face transactions. Meanwhile, a social-relations-by-contract discourse assumed precedence in American legal and intellectual thought. Elevating the individual bound only by commitments of his own free will, contract doctrine slowly chipped away at the communitarian ethos propagated by Baptists and other religious groups. Churches grew more willing to allow members' to seek recourse at local and state courts, while others elevated the objective, predictable jurisprudence of state-based law over the factionalist, prejudiced decrees emanating from their church bodies. Churches' reticence to involve themselves in their members' business affairs, in some cases, led to an increased focus on black members' actions as church tribunals emerged as venues through which to strengthen the region's hardening racial hierarchy.

Chapter Four explores how religious controversy affected individuals' conceptions of their broader legal culture. Throughout the first decades of the nineteenth century, disagreements over doctrine and form of church government pervaded trans-Appalachian Baptist churches. Though it touches on consternation engendered by the growing influence of missionary societies, as well as debates over the utility of governing associations, the examination primarily focuses on the rise of Alexander Campbell, Barton Stone, and their "Reformation" movement. Many churches simply excommunicated members who adopted the divergent doctrinal practices, while others split into opposing factions. Amidst a religious backdrop of doctrinal controversy and schism, afflicted churches witnessed a decline of disciplinary activities as individuals' ceased to envision their churches as sites for neutral dispute resolution.

The final chapter investigates how this sectarian controversy propelled religious organizations' interaction with state authority. The failure of church courts to contain internal dissension and curtail schism led to contentious court battles over rights to local meetinghouses. Although neither Kentucky nor Tennessee possessed a legacy of a church-establishment, state governments still influenced religious groups through legislative enactments and court rulings. Amidst a presumably "free" religious marketplace, one increasingly characterized by dissension and church schism, actions taken by both religious and state actors opened the door for the latter to shape ecclesiastical affairs. Local meetinghouses also served as physical manifestations of the contested religious marketplace, and individuals utilized state authority in subtle ways to promote religious orthodoxy in their communities and exclude those groups deemed dangerous to the civil and religious order from common spaces of worship. The

"democratization" of American religious culture during the post-Revolutionary period, then, begot a "jurisprudence of disestablishment" fashioned through the legal system, and significantly shaped the development of church-state relations.[31]

Issues over the relationship between church and state, of course, remain contested in the twenty-first century. Indeed, contemporary news cycles are peppered with disputes over religious symbolism in state buildings or civic ceremonies. Advocacy groups and politicians weigh the benefits and pitfalls of state-funding of religious groups' various charitable endeavors. The politics of LBGTQ and abortion have led to a new installment of church-state jurisprudence, as churches and businesses point to religious principles with hopes of side-stepping laws geared toward marriage equality, access to birth control, or the most basic rights of inclusion in the public sphere. Meanwhile, congregations divided over gay marriage or doctrinal disagreements are seeking state recourse to secure their property claims. These issues, far from novel, go back to the republic's founding. They are rooted in not only our nation's experiment with religious liberty, but Americans' divergent conceptions of law and authority. One place to begin is to look at how those once deemed "disturbers of the peace" by Virginia's authorities, soon after emerged as protectors of the peace in the new communities of the West.

[31] Nathan O. Hatch, *The Democratization of American Christianity* (New Haven, Conn.: Yale University Press, 1989); Gordon, "The First Disestablishment," 320.

CHAPTER 1."THE WANT OF DISCIPLINE": BAPTIST CHURCH TRIBUNALS AND LOCAL LAW IN POST-REVOULTIONARY KENTIUCKY AND TENNESSEE

"This little new church in the wilderness, was far from any establishment of the kind…"[1]

As Thomas Jefferson, James Madison, and Virginian Baptists celebrated the passage of the "Act for Establishing Freedom of Religion" in 1786, Baptists at Bryan's Station near present day Lexington, Kentucky, considered "their scattered state and the want of discipline among themselves," and formed a church. In July 1787, the new church debated its place within the wider community, specifically, "the expediency or inexpediency of [their] Church meetings for Discipline being in private or publick [*sic*]." The church body agreed, "that they be altogether in private," and thus, the workings of its tribunal would take place in front of members only.[2] Bryan's Station Baptist Church, and churches throughout the trans-Appalachian West, served as important sites for the production of law well into the antebellum period. Through their ritual practice of discipline, churches arbitrated member-disputes and morally regulated their communities. The members of Bryan's Station witnessed charges ranging from fighting, drunkenness, adultery, and slave insubordination, among other accusations, during the church's first six

[1] John Taylor, *A History of Ten Baptist Churches, of Which the Author has been Alternatively a Member* (Frankfort, Ky.: J.H. Holeman, 1823), 81. Taylor is referring to the Buck Run Baptist Church which he helped organize in 1794.
[2] Bryan's Station Baptist Church, Fayette Co., KY, 1786, July 1787, Kentucky Historical Society, Frankfort, Kentucky (hereafter KHS).

years of existence. Indeed, in the initial years of settlement, when local courts met infrequently or were located at great distances, church tribunals filled an authoritative vacuum for frontier communities and continued acting as governing sites even after the arrival of stronger state-based governing institutions.[3]

The prevailing scholarship on religion in post-Revolutionary Kentucky and Tennessee does not adequately address Baptists' continued legal operations or churches' persistent interaction with state authority. Most note in passing churches' role in instilling moral order during the initial settlement period.[4] Others, such as Monica Najar's recent work on Baptists in the Upper South, examine churches' civil functions, or look to how evangelicals sought to use local courts to disseminate their values.[5] None of these studies, however, incorporate churches into the broader legal culture of the region from the settlement period through the early-nineteenth century. Nor do they look to the underlying links between church and state which remained despite disestablishment.

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[3] Monica Najar, *Evangelizing the South: A Social History of Church and State in Early America* (New York: Oxford University Press, 2008), 8-9.

[4] John B. Boles, *Religion in Antebellum Kentucky* (Lexington: The University Press of Kentucky, 1976), 103; Craig Thompson Friend, *Kentucke 's Frontiers* (Bloomington: Indiana University Press, 2010), 165-170; Stephen Aron, *How the West was Lost: The Transformation of Kentucky from Daniel Boone to Henry Clay* (Baltimore: The Johns Hopkins University Press, 1996), 171-191; Malcolm J. Rohrbough, *Trans-Appalachian Frontier: People, Societies, and Institutions, 1775-1850* (Bloomington: Indiana University Press, 2008), 79; Ellen Eslinger, *Citizens of Zion: The Social Origins of Camp Meeting Revivalism* (Knoxville: University of Tennessee Press, 1999), 84-86; Kristofer Ray, *Middle Tennessee, 1775-1825: Progress and Popular Democracy on the Southwestern Frontier* (Knoxville: University of Tennessee Press, 2007), 74; Cynthia Cumfer, *Separate Peoples, One Land: The Minds of Cherokees, Blacks, and Whites on the Tennessee Frontier* (Chapel Hill: University of North Carolina Press, 2007), 162-163; John R. Finger, *Tennessee Frontiers: Three Regions in Transition* (Bloomington: Indiana University Press, 2001), 171-175.

[5] See in general, Najar, *Evangelizing the South*. Najar's work, while looking to how Baptist churches' civil functions, is primarily interested in how their actions relating to racial and gender relations in the late-eighteenth century redefined the relationship between church and state. Najar's work has been extremely influential in conceptualizing this study, but her examination ends during the first decade of the nineteenth-century. Thus she misses how changes in law, economy, and religious culture that gripped the region in the following decades continued to inform church-state relations; On evangelicals using the state-based legal system, see, Christopher Waldrep, "The Making of a Border State Society: James McGready, the Great Revival, and the Prosecution of Profanity in Kentucky," *The American Historical Review*, 99 no. 3 (June 1994): 767-784; and, Christopher Waldrep, "'So Much Sin': The Decline of Religious Discipline and the 'Tidal Wave of Crime,'" *Journal of Social History* 23, no. 3 (Spring 1990): 535-552.

Churches oversaw individuals' morality and served as legal venues for members, and at times non-members, to settle disputes. For white women and free and enslaved blacks, although their power within churches gradually dissipated by the turn of the nineteenth century, local church tribunals functioned as the most, or only, accessible venues in which to air grievances or seek resolution.[6] In an attempt to maintain harmonious member-relations, churches expected members to follow the "gospel steps" when settling disputes, and insisted such conflict be kept within the fellowship. They relied upon fear of eternal damnation and the social ostracism to enforce excommunication decrees. On the early frontier, and continuing through the antebellum period, then, multiple legal systems persisted, at times complementary, but in other instances in opposition to the prevailing cultural and legal developments of the region.[7] Rather than emanating solely from state-based institutions, law operated in a variety of locations, including church meetinghouses.

Churches' law-making activities were backed by state authority despite church-state separation. Although by 1800 constitutional enactments at the federal level and in most states provided for disestablishment, the authoritative bounds of religious and civil authority remained contested through the mid-nineteenth century and beyond. The early-republican and antebellum decades proved a foundational period for church-state relations, with state governments doing much of the heavy lifting, as one historian notes,

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[6] Friend, *Kentucke's Frontiers*, 198-200.

[7] For instance, Najar, in *Evangelizing the South*, contends that churches routinely intruded the privacy of the household, infringing upon the rights of the patriarch (Chapter 3) while churches also offered civilly unrecognized groups, such as white women and blacks, a version of citizenship (Chapter 4). Although Najar's study of Baptist church discipline in the post-Revolutionary Upper South discusses the operations of church tribunals in regulating various aspects of members' lives, she virtually ignores changes in the secular legal system. One is left with a portrait that, yes, new legislative enactments affected church bodies, but that the function or operation of the legal system remained static during the period.

"teasing apart links between religious and political institutions that were old and rusty."[8] Kentucky and Tennessee were no exception. Both states' constitutions forbade state-establishment of religion, yet their governments still implicitly buttressed churches' legal operations through both legislation and court rulings. Incorporation measures, trespass statutes, and judicial decrees against those who disturbed houses of worship, all protected church-goers as they worshiped *and* when they assembled as a church tribunal.

The Baptists' early arrival in Kentucky and Tennessee allowed them to entwine both their institutions and values into the foundation of the region's emerging societies.[9] Free from official persecution in the trans-Appalachian country, "a flood of Baptist emigrants"—perhaps one quarter of all Virginia Baptists—migrated to Kentucky, sometimes as whole congregational bodies, during the Revolutionary period.[10] They were not alone, but simply one segment of a large, trans-montane migration that began in the 1760s and only gained in numbers over the next four decades. Although preachers were active in the region from the first years of settlement (the Baptist preacher Thomas Tinsley regularly preached at the Harrodsburg station as early as 1776), not until the 1780s did Baptists turn their full attention to constructing an institutional presence in the region. By the early nineteenth-century, Baptists and other evangelical groups—benefitting greatly from revivalist fervor of the "Great Revival" at the turn of the

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[8] Sarah Barringer Gordon, *The Spirit of the Law: Religious Voices and the Constitution in Modern America* (Cambridge: Harvard University Press, 2010), 5.
[9] Najar, *Evangelizing the South*, 9.
[10] Eslinger, *Citizens of Zion*, 85.; On "flood" of emigrants, see, David Rice, *An Outline of the History of the Church in the State of Kentucky, During a Period of Forty Years Containing the Memoirs of Rev. David Rice, and Sketches of the Origin and Present State of Particular Churches, and of the Lives and Labours of a Number of Men Who Were Eminent and Useful in their Day*, Collected and Arranged by Robert H. Bishop (Lexington: Thomas T. Skillman, 1824), 288.

century—had constructed a broad institutional presence in both states, one rooted in local churches and connected through regional governing associations.[11]

Baptists' network of governing institutions did not stand alone, as a variety social ordering systems persisted in the trans-Appalachian West from the settlement period and beyond. The development of state-based governing institutions in the territory proved slow during the Revolutionary period. Virginia's authority over its western lands, though "decentralized, inexpensive, and familiar," was weak in eighteenth-century Kentucky.[12] North Carolina's authority over the Tennessee backcountry was similarly tenuous. Disgruntled settlers in the eastern district constituted the independent state of Franklin in 1784, and their Middle-Tennessean counterparts flirted with secession to Spain later in the decade.[13] Shortly after settlement, however, Euro-American migrants organized extralegal governing organizations which served a number of social functions, including dispute arbitration and regulation of local militias.[14] After Kentucky and Tennessee achieved statehood status in the 1790s, local courts emerged as essential sites of

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[11] Yet, as Eslinger notes in *Citizens of Zion*, 162, "religious institutions were actually a rarity in Kentucky's early frontier period." Bryans Station did not organize its first church until four years after initial settlement, and Strode's Station, and important settlement in the region did not constitute its first religious institution until 1791, "more than a decade after its founding." Despite this, however, once the station ceased to be the primary organizer of frontier life during the late 1780s and early 1790s, religious institutions began to crop up in greater numbers, serving as important social, economic, and spiritual sites, see Chapter 7 especially; On Tinsley's preaching see, William Warren Sweet, *Religion on the American Frontier, The Baptists, 1783-1830* (New York: Cooper Square Publishers, 1964), 19.

[12] Ellen Eslinger, *Citizens of Zion*, 95-96. As she later notes, "…government operated differently in Kentucky than elsewhere in the Old Dominion. The structures were the same, and many inhabitants were familiar with their workings, but western conditions had pried apart the gentry' tight hold on public affairs," see pp. 113-114.

[13] Finger, *Tennessee Frontiers*, 111-113, 125-126. Finger admits, however, that the "Spanish Conspiracy" came in the middle of Tennesseans' fight for cession from North Carolina, and "was mostly an attempt to inform easterners [North Carolinians] of transmontane concerns and create an impression that cession to a stronger federal authority was the only way to offset a growing Spanish menace in the West.

[14] Rohrbough, *Trans-Appalachian Frontier*, 31-32. On page 35, Rohrbough also notes that private military units as well "appeared to play a shadowy role" during the early years of settlement as these groups could operate free form the restrictions imposed on local militias by Virginia authorities.

governance in the region. Though these venues emerged as the "principle agents" of law and order in the region, they did little to enforce moral regulations, a task left largely to churches.[15]

This chapter briefly details the legal landscape of the trans-Appalachian West from the beginning of Euro-American settlement in the late eighteenth century through the opening decades of the nineteenth century. It particularly focuses on the development of local courts and the Baptists' institutional network of churches and governing associations. Then, after a discussion of Baptists' vision of law and the workings of church discipline, it takes a broad look at the various offences mitigated by church tribunals, their relationship with state-based courts, and the ways in which state authority buttressed churches' legal operations through legislation and court rulings. Although legal historians have argued that by the time of American Independence law became rooted in state institutions, multiple legal systems continued to operate on various levels, with churches providing a variety of law-making functions for their members and the surrounding church neighborhood.[16] In late 1793, Bryan's Station Church responded to a member's query related to the contours of the church's authority in the new commonwealth. "The design of a church," the clerk recorded, was not only for the "Glory of God" and advancement of his kingdom across the world, but "secondly her power extends, to make any rule for her own government consistant [*sic*] with the word

[15] Friend, *Kentucke's Frontiers*, 185; Eslinger, *Citizens of Zion*, 96-97.
[16] For the formalization of the colonial and early-national legal system see, Bruce H. Mann, *Neighbors and Strangers: Law and Community in Early Connecticut* (Chapel Hill: University of North Carolina Press, 1987); William E. Nelson, *Dispute and Conflict Resolution in Plymouth County, Massachusetts, 1725-1825* (Chapel Hill: University of North Carolina Press, 1981); Peter Charles Hoffer, *Law and People in Colonial America: Revised Edition* (Baltimore: Johns Hopkins University Press, 1998); Morton J. Horwitz, *The Transformation of American Law, 1780-1860* (Cambridge: Harvard University Press, 1977).

of God, and to exercise her power in the Discipline of her members agreeable thereto."[17] Despite the increased presence of state authority, Baptists in the early-statehood West intended that their parallel legal system would persist as an alternate, authoritative venue for their communities' needs. In so doing, they participated in a fluid legal culture, one in which local and state governments did not hold a monopoly on effective means of coercion.

On a Sunday in September 1781, a throng of men and women, including children and slaves, congregated at an isolated meetinghouse in Spotsylvania County, Virginia, their attention focused on Lewis Craig as he spoke from a temporary pulpit.[18] Craig, pastor of the Upper Spotsylvania Church, was well-known among Virginia's Baptists for his multiple arrests stemming from charges of preaching without a license. Some of those in attendance surely remembered when in 1768 colonial authorities arrested Craig while he preached in this same Spotsylvania meetinghouse. Some, too, were probably among those who followed along as the sheriff transported him to the Fredericksburg jail, and who listened as he continued to exhort from behind his cell's iron-barred window. On this day, thirteen years later, with the majority of his congregation preparing for an arduous journey to the new settlement of Kentucky, he reportedly touched on the Baptists' progress in Virginia over the previous two decades. He reminded the audience that "though already worn and weary from the long campaign" against religious persecution (a battle still being waged in Virginia), that God would lead them to the "the

[17] Bryan's Station Baptist Church Records, December 1793, KHS.
[18] George W. Ranck, *The Travelling Church": An Account of the Baptist Exodus from Virginia to Kentucky in 1781 under the Leadership of Rev. Lewis Craig and Capt. William Ellis* (Louisville: Press of the Baptist Book Concern, 1891), 5-8.

rich and illimitable acres of a western Canaan." The next day a convoy of between 500 and 600 migrants, including around 200 members of the Spotsylvania Church, their children, slaves, and about a dozen preachers, embarked with Craig for Kentucky, their Canaan in the wilderness.[19]

Had Craig and his flock stayed in Virginia much longer, they would have witnessed their counterparts' further victories over the Anglican church establishment which had pestered so many of their brethren during the late eighteenth century. From outset of Virginia's settlement in the seventeenth-century, the Church of England served as the established church of the colony. The colonial assembly sketched the boundaries of Anglican parishes, appointed lay vestries, raised funds for the church through taxation, and insisted all parish inhabitants attend Sunday services. The state also restricted other religious groups' activities—many of which had gained a foothold in the region during the Great Awakening of the 1730s through the 1750s—and, as in the case of Craig, arrested dissenters who preached without a license. Gradually over the second-half of the eighteenth century, competing sects such as the Presbyterians and Baptists obtained small measures of religious toleration from the state. Amidst the Revolutionary fervor of the 1770s and 1780s, Baptists were at the forefront of the evangelical assault on the church-state establishment. They petitioned against the state's tax support for, and incorporation of the Anglican Church, and eventually helped mobilize support for Jefferson's 1786 Statute establishing religious freedom in the Commonwealth. No longer subject to legal persecution, Virginia's Baptists were free to worship as they pleased.[20]

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[19] Ranck, *The Travelling Church*, 9-13.
[20] Thomas E. Buckley, *Establishing Religious Freedom: Jefferson's Statute in Virginia* (Charlottesville: University of Virginia Press, 2013), 1, and Chapter 4 in general. Tennessee's mother state of North

Yet for many Baptists and other Virginians, their future potential lay in the West. Craig's group, since known as "The Travelling Church," trekked nearly six hundred miles. They passed in the "shadow" of Jefferson's Monticello, crossed the Blue Ridge Mountains through Buford's Gap, and made it to Fort Chiswell in western Virginia by the end of September. There, the group dispensed with their wagons, and most of the party continued on horseback or on foot over the rough-shod trails. They passed solitary grave markers of travelers who went before them, heard news of the British surrender at Yorktown, and engaged in a skirmish with Natives. In early December they traversed through the Cumberland Gap into Kentucky, and two weeks later established "Craig's Station," where on the second Sunday in December 1781, far from Virginian authorities, the church members gathered to worship around the Bible brought with them from the Spotsylvania meetinghouse.

Over the next year and a half, members from the Travelling Church spread out through central Kentucky and organized churches. In the fall of 1783, much of the congregation relocated to South Elkhorn just miles from Lexington. The ministers Ambrose Dudley and William Waller, who had journeyed from Virginia with Craig's convoy, would go on to constitute churches in Fayette County, including the one at Bryan's Station and its arm at David's Fork. The Baptists institutional network had sprouted west of the Appalachians. They, along with an expanding number of local governing institutions, served as primary legal sites for the region's emerging Euro-American societies.

Carolina provided for church-state separation and free exercise of religion in its 1776 state constitution, though it did limit office holding privileges to Protestants. See, Thomas J. Curry, *The First Freedoms: Church and State in America to the Passage of the First Amendment* (New York: Oxford University Press, 1986), 151-152.

Craig's Travelling Church followed on the heels of over two-decades of continuous white-expedition and settlement in the trans-montane region. "Long hunters," such as Daniel Boone, began crossing into the trans-montane region in the early 1760s, continuing their expeditions throughout the decade despite Britain's Proclamation Line of 1763 forbidding colonists from traversing the Appalachian Mountains. The first settlers were typically young, white males seeking adventure, or escape from less-than-savory familial or social relations in the east. With the end of the Revolutionary War, and as the region's Natives became more dependent upon fur-traders and alcohol purveyors, thousands more Americans, including a greater number of women and children, journeyed into Kentucky, "slashing and burning" away the landscape to build homesteads.[21] During the 1790s individuals and families of the gentry class arrived with hopes of disseminating their cultural mores and wielding political and social power.[22]

Drawn west by the lure of both religious autonomy and economic opportunity, settlers of all social and religious backgrounds sought to establish orderly communities in the trans-Appalachian region. Freedom from religious persecution may have propelled some Baptists to seek refuge in Kentucky, but, as the nineteenth-century Baptist chronicler, George Ranck, admitted, "pioneer Baptists" were also "attracted by the magnificent land" of Kentucky's Bluegrass region.[23] Like so many others, Baptists had heard tales of Kentucky's expansive lands and its reputation as the best "poor man's

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[21] Aron, *How the West was Lost*, 5-28, 32, 52-56; For a more complete account on Kentucky's colonial settlement, see Friend, *Kentucke's Frontiers*, esp. Chapter 2.
[22] Craig Thompson Friend, *Along the Maysville Road: The Early American Republic in the Trans-Appalachian West* (Knoxville: University of Tennessee Press, 2005), 4.
[23] Ranck, *The Travelling Church*, 33.

country."[24] The West was the Promised Land where one could attain his own plot of "virgin" land which promised a high yield, and thus secure his agrarian independence.[25] Although overtime the demographics of settlement became increasingly diverse, historian Craig Thompson Friend notes that all migrants understood that in journeying to Kentucky, they were splitting off "the beaten path of American society," constructing societies "anew on what they considered to be the blank slate of the western wilds."[26] Most Euro-American settlers were imbued with Christian spirituality, but not all Christians actively practiced their faith. Dispersed settlement, a lack of preachers, and the continued Indian threat led to rather weak religious institutions.[27] Almost all the settlers, faithful or not, however, understood that a certain moral economy was needed in order to regulate the dispersed and often chaotic settlement of the backcountry. Mutual respect, individual responsibility to the community, and the meting out of justice to transgressors of the social peace ordered society during the first years of western settlement.[28]

Due to the persistent Native presence in the region, settler-life revolved around the frontier station through the 1780s, with little formalized legal institutions. Stations—log houses connected by a high wooden wall which acted as a fortified structure—served as whites' primary defense against Native attack. A dozen or more families would live near each station, retreating behind its walls when attacks became eminent.[29] This

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[24] Eslinger, *Citizens of Zion*, 57.
[25] Friend, *Along the Maysville Road*, 20; Finger, *Tennessee Frontiers*, 161-162.
[26] Ibid., 4-5.
[27] Ibid., 37.
[28] Ibid., *Along the Maysville Road*, 22-23.
[29] Cumfer, *Separate Peoples, One Land*, 184. Station inhabitants generally coalesced around a prominent man, but all free men expected a say in matters of defense and the formation of a government. The "frontier elite" were often land speculators who had established these stations and then capitalized on their

"search for stability" stunted the growth of the region's governing institutions, including churches.[30] Settlers at Craig's Station attended worship services with their rifles, while armed sentries stood guard outside the building.[31] The Baptist minister William Hickman recalled church-goers traveling in groups, with the men acting as an armed escort, to Sunday services in the 1780s. And small frontier congregations' very survival could be jeopardized because of an Indian attack. Cooper's Run Baptist Church in Kentucky had five of its members killed by Natives in its first year of existence.[32]

The "Kentucke" region was part of Virginia, but as population numbers swelled legislators in the east created new county governments in order to secure their authority over the sprawling backcountry settlements where residents had already turned extra-legal governing institutions in hopes of ordering their communities. In 1775, the Transylvania Land Company, led by Judge Richard Henderson and his associates, negotiated with local Natives to acquire much of present day Kentucky. A number of stations were established in the region, including Boonesborough—named after Daniel Boone who briefly worked for Henderson by clearing paths and leading settlers into central Kentucky. In May of that year, representatives from nearby stations assembled at Boonesborough and drew up a rudimentary government which, among other things,

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stature in militia elections. Later, as immigration to the region increased in 1780s and migrants pushed deeper into western Kentucky and Tennessee's Cumberland region, constructing local governments as they went, power wielded in stations and militia companies eventually translated to leadership roles in the new communities. Ray, *Middle Tennessee*, 5-9.

[30] Friend, *Kentucke Frontiers*, xx-xxi. Friend argues that "the fear spawned by frontier violence did not abate and proved influential as Americans transformed Kentucke to Kentucky [from a more fluid frontier society to a bordered state]. Once the Native presence did recede during the 1790s, "white Kentuckians found it difficult to rewrite the script of their daily lives. There had to be others who could assume the sinister roles once reserved for Indians," and Friend concludes, "African Americans became the dark, uncivilized Others."

[31] Ranck, *The Travelling Church*, 32.

[32] Rohrbough, *Trans-Appalachian Frontier*, esp. Chapter Two; Friend, *Kentucke Frontiers*, esp. Chapter Five; Eslinger, *Citizens of Zion*, 163.

established courts and set proper punishments for criminal activity. The short-lived Boonesborough government primarily focused upon issues such as courts' operations, the militia, and fees for local officials (but, among its first measures passed was "An Act to Prevent Profane Swearing and Sabbath Breaking").[33] Many settlers were not pleased with the Company's high land prices, however, and believed, rather than with the Transylvania Company, that their titles would better be secured under Virginia's authority. Virginia's General Assembly shared the settlers' discontent with Henderson's extra-legal actions, and in December 1776, sliced out the territory west of the Alleghenies, designating it Kentucky County. With governing authority now extending from Richmond, the legislature created by the Boonesborough Covenant never reconvened.[34]

Permanent white settlement in Tennessee began in 1768, and over the next two decades white settlers organized various governing institutions to maintain the social order and facilitate economic exchange. In 1772, eager to protect their land claims, settlers politically organized themselves through the Watauga Association. The "first constitutional government west of the Appalachians," the Watauga Association was a five-man court primarily responsible for adjudicating disputed land claims and upholding individual rights. It also created local offices, such as sheriff, and presided over mundane business similar to local governments in the East—legalizing marriages, punishing

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[33] Rohrbough, *Trans-Appalachian Frontier*, 58-59.

[34] The Transylvania Land Company was a speculative scheme hatched by North Carolinian Richard Henderson to secure large tracts of land leased from Natives in the trans-Appalachian West. Henderson's plans failed due to high land prices and quitrent. Instead of giving up on the West, however, Henderson redirected his efforts south the Cumberland River valley of Tennessee, see, Rohrbough, *Trans-Appalachian Frontier*, 26, 46; see also, Lowell H. Harrison, *Kentucky's Road to Statehood* (Lexington: University Press of Kentucky, 1992), 2-3; Finger, *Tennessee Frontiers*, 51-52; As James Willard Hurst notes in *Law and the Conditions of Freedom* (Madison: University of Wisconsin Press, 1956), 5, "Often unlawful in origin, settlement nevertheless quickly brought effective demand for law."

criminals, probating wills, recording land claims or sales, and overseeing militia duties. At the outbreak of the Revolutionary War, settlers in East Tennessee, believing they resided on the fringes of Virginia's claims, organized a Committee of Safety whose authority overlapped with the Watauga court, and petitioned Virginia for annexation.[35] Finally realizing they were within the boundaries of North Carolina, not Virginia, inhabitants of eastern Tennessee appealed to North Carolina for protection and representation. In response, North Carolina legislators organized their western lands into the Washington District (which became Washington County in 1777), established a court, and promised the backcountry settlers representation in the state assembly.[36]

Over the course of the 1780s, as Euro-American settlers trekked deeper into Tennessee, frontier leaders sought governing assistance from both North Carolina and the Confederation Congress. James Robertson, John Donelson, and a group of land hunters were among the first white settlers of Middle Tennessee. Following the Tennessee River nearly 150 miles west from the original towns and settlements of the eastern district, Donelson and his cohorts established a new settlement in the Cumberland region, not far from present day Nashville.[37] Upon arrival, they repeated the familiar process of setting up rudimentary governments—with what historian John Finger called "an aura of legality"—organizing in May of 1780 the Cumberland Compact. This extralegal association elected twelve men to serve as arbiters for disputes over land claims, regulators of the land office, and dispensers of local justice. Nominally part of Washington County, the closest court was still nearly two hundred miles away, and thus,

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[35] Finger, *Tennessee Frontiers*, 45-47, 58.
[36] Cumfer, *Separate Peoples, One Land*, 184;Finger, *Tennessee Frontiers*, 67.
[37] Cumfer, *Separate Peoples, One Land*, 10.

all legal authority resided in Cumberland judicatory. Men who refused to sign the compact were excluded from utilizing the court.[38]

Gradually, however, as trans-montane settlers acquired local governance through the county form, the rudimentary governments of the early settlement phase morphed into state institutions backed by a constitutionally-based government. Throughout the late 1780s, Tennessee settlers had organized compacts similar to the Watauga and Cumberland agreements, establishing quasi-governing committees for community protection and law enforcement. But, as with the case of Kentucky's Boonesborough Covenant, their authority receded with the arrival of official state authority. After fighting with Great Britain ceased, North Carolina's Assembly created Davidson County. The Assembly later designated Nashville the county seat, integrating middle-Tennessee settlements into the region's established system of courts, and further diminishing the Cumberland Compact's authority. The operations of the new, state-backed courts primarily focused on protecting property, keeping records, facilitating economic development, and creating an "orderly, moral system of control".[39]

The creation of new counties went a long way in bringing local government to the growing trans-montane populace and signaled settlers' desire for more immediate and hopefully effective governing institutions. In response to a population influx in the late 1770s, the Virginia Assembly in 1780 laid out three new counties: Fayette, Jefferson, and Lincoln.[40] County courts recorded everything from property transfers to powers of

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[38] Finger, *Tennessee Frontiers*,82- 83; Cumfer, *Separate Peoples, One Land*, 184-185.
[39] Finger, *Tennessee Frontiers*, 103, 109, 155-156.
[40] Eslinger, *Citizens of Zion*, 88. Eslinger notes on page 90, however, that Kentucky still suffered from weak governance during the 1780s. Many of the justices appointed to the new county courts during the late 1770s did not immediately move to Kentucky, and the courts often lacked a quorum to proceed with

attorney. They also regulated local roads, taverns, riparian rights, as well as probate actions involving wills, guardians, and executors. In both Kentucky and Tennessee, most legal affairs, public and private, were handled by local justices of the peace. Justices regulated ferries, taverns, and mills. They appointed road supervisors, registered livestock marks, and even created a basic public welfare program which provided assistance to orphans, the mentally incapable, and the poor.[41] Though they did little to regulate morality, in most economic matters, such as constructing market houses and roads, regulating taverns, and litigating lawsuits, local courts were largely effective.[42] Inhabitants' pleas for more responsive county governance, historian Ellen Eslinger argues, demonstrated that settlers "desired more rather than less local government."[43]

During the 1790s, amidst population growth, political animosity, market competitiveness and rising class tensions, white men in early Tennessee and Kentucky sought to quell the rising tide of disharmony and order their increasingly heterogeneous societies. This desire for stronger communal ties led many to join one of the growing number of voluntary associations, such as the Free Masons or agricultural societies. These associations became sites in which men could make business, economic, and political contacts with a wide range of individuals.[44] The faithful bound together into their own inclusive, sectarian communities in the early trans-Appalachian West.

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business (not to mention the general social instability engendered by the Revolutionary War). This problem continued after the creation of Jefferson, Fayette, and Lincoln counties. "Thus," she concludes, "the creation of smaller counties, which should have improved the quality of local government, initially had the opposite effect." Not until the mid-1780s did county courts meet on a regular monthly basis. See page, 95.

[41] Finger, *Tennessee Frontiers*, 156.

[42] Eslinger, *Citizens of Zion*, 95.

[43] By 1800, 42 more counties had been carve out of the Kentucky landscape. Eslinger, *Citizens of Zion*, 88-89.

[44] Cumfer, *Separate Peoples, One Land*, 176.

Although during the early years of settlement Anglicanism weighed heavily on Virginia's religious and social landscape, dissenting groups like the Baptists found fertile ground west of the mountains.[45] And, while the region's settlers—many church-goers included—looked to state-based governing authority for protection against the Native threats, security of property, and regulation of the social peace, Baptists sought to maintain their relations through the ritual practice of discipline—a legal system rooted in covenanted communities and free for all converted individuals regardless of sex or social status.

In June 1794, the Baptist preacher John Taylor helped organize the Bullittsburgh Church "on the margin of the Ohio River" in what was then Campbell County (later Boone). "This little new church in the wilderness," Taylor reminisced, "was far from any establishment of the kind," and none of its original eight members, or others in the small community, were "free from Indian danger." The church soon joined the Elkhorn Association of Baptists, and Taylor and his family gained membership the following year. By that time, the church had grown to thirteen members, "all of whom," the preacher claimed, "I was well acquainted with."[46] Despite its short membership roll, the little church flexed its disciplinary muscles in the fall of 1795, excluding Benjamin Bryan in October for disorder, lying, and "keeping persons out of their property."[47] Like Taylor and his brethren at the Bullittsburgh church, Baptists throughout the trans-Appalachian

[45] Eslinger, *Citizens of Zion*, 84.
[46] Taylor, *A History of Ten Baptist Churches*, 81.
[47] For select minutes from the Bullittsburgh Baptist Church see, http://baptisthistoryhomepage.com/bullittsbrg.minutes.95-00.html. Accessed January 10, 2015.

West claimed authority over their neighborhood's social peace, regulating moral transgressions and mitigating civil offenses.

His assistance in constituting the Bullittsburgh Church was not Taylor's first or last foray into church organization. Born in Fauquier County, Virginia in 1752, and baptized in the early 1770s, Taylor eventually preached at the South River Baptist Church in Virginia before removing with his family and slaves to Kentucky in 1783.[48] Prior to relocating, South River Baptists warned he "was going to a country of strangers, and Savage rage." But upon arrival Taylor quickly embarked on extending the Baptists' institutional network and converting strangers to neighbors. He briefly joined a church on Gilbert's Creek and later gained membership at the South Elkhorn Church pastored by Lewis Craig. In 1784 he moved to Woodford County where he helped organize the Clear Creek Church in 1785.[49] Over the next decade leading to founding of the Bullittsburgh Church, Taylor traveled and preached throughout Kentucky, baptized scores of converts, and delighted in any advance in the Baptists' cause. For Taylor, membership in a Baptist Church of Christ was one of the "greatest privileges on earth."[50]

Much like residents petitioning for closer, more effective state governance, as churches grew and members moved further from their house of worship, they sought a more immediate church presence in their neighborhoods. The experience at the Bullittsburgh Church demonstrates this process. Within three years from its founding, a number of the new arrivals, many of them "Baptists of the first class," joined the Bullittsburgh Church and pushed the membership total up to "about sixty members."

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[48] Spencer, *A History of Kentucky Baptists, Vol. 1*, 54-56.
[49] Ibid., 42.
[50] Taylor, *A History of Ten Baptist Churches*, 81.

Taylor praised the new members, as "many of them [were] good old peaceable disciplinarians." The church continued to attract converts through the 1790s, eventually claiming "about two hundred members," all "very compactly settled with their meeting house in a central place." Only a few members "were a little scattered off." It was not long before the twenty or so dispersed members "began to contemplate a new constitution," and petitioned the Bullittsburgh Church for assistance in organizing a new church. Soon after, Taylor reported, the new church was "perhaps equal in strength" in both "number" and "property."[51] Within both churches at Bullittsburgh, and in meetinghouses across the region, members adhered to the governing authority of the church majority. Rooted in the Scriptures and maintained by a rigorous discipline, churches exerted state-like powers in claiming jurisdiction over members' personal and public matters.

Churches claiming authority over both the secular and spiritual was nothing new in the Upper South, as prior to the late late-eighteenth century, the Anglican Church in the Chesapeake had often assumed civil functions, combining with the local courthouse to serve "as twin centers of power and authority."[52] Indeed, as Rhys Isaac notes, the Anglican Church "was an integral part of the fabric of colonial Virginia society and its systems of authority." Parish boundaries often lined with those of the county, and church leaders worked to identify disorderly behavior, assisted the government in

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[51] The Bullittsburgh Church reunited just as the new church began construction on their meetinghouse. As Taylor remembered, those "materials prepared for their meeting house" were taken to the old church's site and used to construct a larger house of worship. Ibid., 83, 95-97.

[52] Richard R. Beeman and Rhys Isaac, "Cultural Conflict and Social Change in the Revolutionary South: Lunenburg County, Virginia," *The Journal of Southern History* 46, no. 4 (Nov., 1980): 530.

providing care for the poor and orphan, and even helped settle property boundaries.[53] Beginning in the mid- to late-eighteenth century the established church's role in the Upper South slowly changed. In the 1740s and 1750s, county courts assumed authority over civil matters and grand juries replaced church leaders in presenting criminal charges to the county courts. The North Carolina Assembly placed county courts in control of orphans and their estates the following decade.[54]

The reformulation of religious and state authority over civil matters progressed on two levels and did not initially affect Baptist churches in the same way. As Monica Najar notes, legislatures instigated much of the change, but the "gradual realignment" also "occurred on the local level as parish and county governments shifted jurisdictions." Disestablishment during the Revolutionary period quickened the realignment's pace. Poor relief and the setting of property boundaries increasingly fell under the jurisdiction of local governments. County governments assumed "a more centralized civil authority" and churches sphere of influence in the now republican-states narrowed to focus upon the "religious." But this process did not occur in the same way for evangelical sects such as the Baptists.[55] Their congregations continued to relieve the poor, especially destitute women, through member contributions of food, cash, or at times, individual labor, and churches persisted in mitigating civil disputes and charging members with moral transgressions. Trans-Appalachian Baptists, like their counterparts to the east, funneled such civil functions through two institutional structures: the local church and the regional governing association.

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[53] Isaac, *The Transformation of Virginia*, 58, 157 (quote).
[54] Najar, *Evangelizing the South*, 90-92.
[55] Ibid.

For Baptists, their congregational organization provided that the local church was the highest earthly authority. Final resolutions resided with full members, not with a pastor or ecclesiastical hierarchy.[56] In most churches, majority consent or a unanimous vote directed matters of doctrine, governance, and discipline. Baptist churches—especially those of the Regular order—subscribed to a written confession of faith outlining their doctrinal principles, rules of conduct, membership obligations, and strictures of discipline.[57] Written church covenants created and maintained the fellowship's purity (for, as the Baptist Silas M. Noel exclaimed in 1825, "A nuncupative creed, is not calculated to quiet disturbances, or to exclude corruption.").[58] Converts had to accept the covenant's expressed terms, and many churches required these founding documents to be read at their monthly church gatherings in order to constantly remind members of their obligations. John Taylor recollected that prior to joining the Baptists, he heard a local church's covenant read aloud at a group baptism, and concluded, "that no man on earth could comply with it."[59] But once an individual professed adherence to a church's covenant, the baptized—white or black, slave or free—became, as Taylor noted, "legal" members of the fellowship.[60]

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[56]Albert W. Wardin, Jr., *Tennessee Baptists: A Comprehensive History, 1779-1999* (Brentwood: Tennessee Baptist Convention, 1999), 35.

[57] The Regular Baptist Association in Philadelphia adopted a confession of faith in 1742—a slightly revised version of the Second London Confession of Faith of 1677—and this doctrinal articulation became standard, with slight modifications by some, for Baptist churches throughout the southern and western states. Upon its constitution in June 1794, the Bullittsburgh Church, for instance, adopted the Philadelphia Confession of Faith "as received by the Elkhorn Association." See, Wardin, *Tennessee Baptists*, 34; http://baptisthistoryhomepage.com/bullittsbrg.minutes.95-00.html. Accessed January 10, 2015.

[58] Records of the Franklin Association of Baptists, 1825, p. 8, SBTL; Wardin, *Tennessee Baptists*, 36-37. Some churches included their confession of faith and covenant in one document. Others separated them, or adopted "rules of decorum" which governed conduct at monthly business gatherings

[59] Taylor, *A History of Ten Baptist Churches*, 7.

[60] Taylor, *A History of Ten Baptist Churches*, 5.

The differences between membership and non-membership proved more important to post-Revolutionary Baptists than did distinctions based on gender, race, or class.[61] Especially during the settlement era, Baptists extended membership privileges to those groups who generally lacked legal personhood in the eyes of state law. Taylor noted that when the Bullittsburgh Church claimed sixty members in the late 1790s, only "about twenty [were] free male[s]," meaning at least two-thirds of the church body were women or enslaved.[62] The appellations of "brother" and "sister" extended to each baptized convert, regardless of his or her status. This partly stemmed from Baptist theology which heralded the equality of all souls, but frontier conditions, coupled with the "shapelessness of slavery" in the region also infiltrated church walls, providing women, free blacks, and slaves power in matters of church governance and discipline.[63] When the Clear Creek Church called a new pastor in 1785, for instance, Lewis Craig asked "every member of the church, male or female, bound or free, who do you choose for your pastor[?]"[64] Some churches granted preaching licenses to male slaves and free black men, and even granted them votes in business matters appearing before the church. Slaves charged one another with disorderly conduct, theft, and adultery. White women charged others with drunkenness, profane swearing, and at times leveled accusations against husbands and patriarchs for mistreatment or negligence. These individuals' actions within the disciplinary sphere—as plaintiffs, defendants, witnesses, and even investigators—directly affected how law developed in the congregational community, and thus helped to define the contours of church authority in maintaining the social peace

[61] Najar, *Evangelizing the South*, 7.
[62] Taylor, *A History of Ten Baptist Churches*, 83.
[63] Friend, *Kentucke's Frontiers*, 168; Najar, *Evangelizing the South*, 7.
[64] Taylor, *A History of Ten Baptist Churches*, 51.

of a church neighborhood. By the turn of the nineteenth-century, though, Baptists churches increasingly equated full membership with the status of free white male. All members, bond or free, male or female, however, remained subject to discipline and were expected to follow strictures laid out in church covenants or rules of decorum. [65]

These autonomous churches were connected through regional governing associations. Compared to many of their denominational counterparts, Baptist churches were remarkably independent. But congregations still communicated with their "sister churches," subscribed to (and encouraged subscription of) Baptist periodicals, and sent messengers to annual association meetings. The "basic unit in Baptist polity for intercongregational relationships," associations served as information networks, sites of socialization and, at times, they connected geographically remote congregations. The association was not a permanent body. Churches were free to separate from associations as they pleased. But the fluid nature of associational affiliations should not mislead us to think that the governing body had no influence upon an individual church's practice. Questions over doctrine, ordinance, and discipline were routine at association meetings.[66] For instance, not long after the Bullittsburgh Church joined the Elkhorn Association in June, delegates to that body took up a query over the "devine [*sic*] Authority" for the

[65] Blair A. Pogue, "I Cannot Believe the Gospel That is So Much Preached": Gender, Belief, and Discipline in Baptist Religious Culture" in *The Buzzel About Kentuck: Settling the Promised Land*, ed. Craig Thompson Friend (Lexington: The University Press of Kentucky, 1999), 217; Randolph Ferguson Scully argues that in southeastern Virginia "formal institutional authority in the churches rested on masculinity and freedom." Not until the 1813 did any church in the region explicitly tie participation in church governance to white males, with most following suit in the 1830s. See, Scully, *Religion and the Making Of Nat Turner's Virginia: Baptist Community and Conflict, 1740-1840* (Charlottesville: University of Virginia Press, 2008), 148-149.

[66] Wardin, *Tennessee Baptists*, 97-101.

Association's very existence. Two years later, churches asked Elkhorn to illuminate the scriptural basis for funeral preaching and the justification for Baptists' retail in liquor.[67]

An association was expected to respect the autonomy of its member churches, yet, as Baptist historian Albert Wardin Jr. notes, "for all practical purposes" an association acted as an "ecclesiastical court." Indeed, some associational bodies accepted their role as their region's ecclesiastical-appeals court. In 1805 the Long Run Association determined that an excommunicated member of one of its affiliated churches possessed the "right to Appeal to an Association" for redress if their former brethren failed to receive their pleas. Furthermore, if the governing body deemed a church's doctrine unsound, its practices unbiblical, it possessed the power to remove the church from the fellowship. This was not a small matter, as excluding one church could lead to division not only within that particular congregation, but in the association as a whole. And in a time of increased religious competition, when the religious landscape of the trans-Appalachian West burned with schism over matters of doctrine and proper church governance (and disputes over the necessity of written church covenants), an unstable association's authority could be further weakened if one church's exclusion led to a series of congregational withdrawals. Thus, if a central responsibility of the association was to cultivate harmonious relations between isolated congregations, its failure to do so could potentially disrupt or alter the ritual of individual churches.[68]

By the mid-1780s Kentucky Baptists had already begun constructing such an institutional presence in the West. "The religion of [the early 1780s]," state historian

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[67] The Elkhorn Baptist Association, Queries from 1785-1805, http://baptisthistoryhomepage.com/elkhorn.query.const.html. Accessed January 11, 2015.
[68] Wardin, *Tennessee Baptists*, 97-100, quote 100.

Mann Butler penned in 1834, "most necessarily [had] suffered amidst the pressing privations surrounding the inhabitants," for "it could not have been greatly cultivated amidst the struggles with want, and the battles with Indians."[69] Remembering his own time in Kentucky during the mid-1780s, John Taylor agreed, noting that "there were a number of Baptists scattered about," but that "every body had so much to do that religion was scarcely talked of even on Sundays."[70] Despite these conditions, church-building picked up momentum over the course of the decade. In June 1781, eighteen Baptists gathered "in the wilderness under a green sugar-tree" and constituted Severn's Valley Church, the first in Kentucky, and according to an early church historian, the first "in the entire West."[71] They were followed later in the year by members of the Travelling Church who constituted a new church at Craig's Station. Within four years, there were eighteen Baptist churches in Kentucky. In 1790, on the eve of statehood, 3,105 Baptists and 42 churches were present in Kentucky. Ten years later, Kentucky Baptists had organized six associations, housing just over one hundred churches with a total membership of 5,110. The religious fervor emanating from the 1801 Cane Ridge revivals swelled Baptist ranks over the next three years, more than doubling the number of churches to 219, and tripling the denomination's membership in Kentucky to 15,495. The number of Baptists in the state increased to 31,689 members in 1820, when the population of Kentucky, including slaves and free blacks, was 564,135.[72]

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[69] Mann Butler, *A History of the Commonwealth of Kentucky* (Louisville: Wilcox, Dickerman and Co., 1834).
[70] Taylor, *A History of Ten Baptist Churches*, 43.
[71] B. F. Riley, *A History of the Baptists in the Southern States East of the Mississippi* (Philadelphia: American Baptist Publication Society, 1898), 35.
[72] Sweet, *Religion on the American Frontier: The Baptists*, 24-26; For the state's population see, James A. Ramage and Andrea S. Watkins, *Kentucky Rising: Democracy, Slavery, and Culture from the Early Republic to the Civil War* (Lexington: University Press of Kentucky, 2011), 238.

Kentucky Baptists' counterparts in Tennessee witnessed similar developments in the decades following their arrival in the region during the 1770s. Baptists first settled in the northeastern region of the state, migrating from Virginia and North Carolina during the 1760s. There may have been two churches established in eastern Tennessee in the early 1770s, only to be broken up during the War for Independence.[73] In any case, the first Baptist churches preceded those of their Methodist and Presbyterian counterparts, and by 1781, there were five or six Baptist churches in eastern Tennessee.[74] In 1780, Baptist settlers traveled through the Cumberland Gap and established churches in Middle Tennessee.[75] Baptists in Middle Tennessee witnessed slow growth until the early 1790s when churches appeared "in rapid succession" during the years immediately before and after statehood in 1796.[76] Continued migration and assistance from associations to the north and east furthered the Baptists' cause in Tennessee. Visiting ministers, including some from Kentucky, traveled through Middle Tennessee and successfully organized five churches, forming the Mero Association in 1796. Five years later Mero housed eighteen churches from both Kentucky and Tennessee.[77] The Mill Creek Church, a member of the Mero Association, emerged as "a center of Baptist strength in Middle Tennessee," influencing the establishment and growth of other congregations in and around

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[73] Sweet, *Religion on the American Frontier, The Baptists*, 26.
[74] Wardin, *Tennessee Baptists*, 15. The first Presbyterian church was organized in Sullivan County in 1782, with the Methodists established a church in the same county the following year; Sweet, *Religion on the American Frontier, The Baptists*, 27, notes that in 1802, the Holston Association was made up of 36 churches and somewhere between 2,000 and 3,000 members.
[75] Ibid., 17-18, 22-23.
[76] Ibid., 27.
[77] J.H. Grime, *History of Middle Tennessee Baptists: with Special Reference to Salem, New Salem, Enon and Wiseman Associations* (Nashville: Baptist and Reflector, 1902), 6; Wardin, *Tennessee Baptists*, 26-27, 30-31. It was not unusual for associations to cross state lines. For instance, the Red River Church was a member of the Elkhorn Association of Kentucky Baptists during this period.

Nashville.[78] The Mero Association dissolved in 1803, and churches in Middle Tennessee coalesced into the Cumberland Association, which by 1806, was home to thirty-nine churches and nearly 2,000 members. By 1817 the General Missionary Convention of Baptists claimed eight associations representing churches with a total population of 9,186, over 6,000 of which were in Middle Tennessee.[79]

Like the members of the Bullittsburgh Church—where a congregation of 200 "were very compactly settled with their meeting house in a central place"—many Kentuckians and Tennesseans' social, economic, and religious lives revolved around their local congregation.[80] Merchants, budding entrepreneurs, and farmers brokered deals on meetinghouse lawns as their congregations assembled for Saturday business meetings. In some areas, the church connected all the neighborhood residents. Taylor noted that in the 1790s all residents within "a circle from a center of three miles" radiating from his Clear Creek Church were members, and that one could use the appellation "brother" with everybody that you met.[81] Detailing his church's role in the Mt. Vernon Kentucky community during the 1820s, Pastor James Fishback insisted the church proved so central that "scarcly [sic] one family in the neighborhood" did not have "one or more members of the Church in it." And, thanks to the church, Fishback concluded, "no neighborhood enjoyed more uninterrupted peace, kind feelings and good order & happiness, than did the one about Mt. Vernon."[82]

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[78] Wardin, *Tennessee Baptists*, 26-27
[79] Ibid., 105.
[80] Bryan's Station Church Records, July 1786, KHS; Najar, *Evangelizing the South*, 3; Donald G. Mathews, *Religion in the Old South* (Chicago: University of Chicago Press, 1977), 3-4.
[81] Taylor, *A History of Ten Baptist Churches*, 74.
[82] "Deposition of James Fishback," *Bennett et al Trustees of the Mt. Vernon Church vs. Curd et al* (1836) Folder 1, Box 69, case no. 7914, Court of Justice, Woodford Circuit Case files, 1833-1837, (hereafter CJWCC), Kentucky Department of Library and Archives, Frankfort, Kentucky (hereafter KDLA).

A church's centrality in the neighborhood assisted members in enforcing church disciplinary decrees and ensured that legal actions taken at the meetinghouse were well-known throughout the area. Many of two-hundred-plus members of the Bullittsburgh Church, along with numerous other congregants, probably watched in September 1800 as Lewis Conner answered a charge for trespassing into a another member's orchard and stealing apples. Some served on the investigative committee, and all full members would have served as the jury which voted to maintain Conner in the fellowship. Five months later, in February 1801, the same members acquitted John Murfey for "having an afray [*sic*] with a Certain man."[83] This communal supervision of individuals' conduct was intrinsic to church discipline. Relying on the scriptures, most church covenants provided for the fellowship's discipline. When first organized in 1820, for example, members of the First Baptist Church of Nashville agreed—along with a pledged "to keep, and maintain, a regular Gospel Government—to "give ourselves to each other, in the Lord, to watch over, and perform each relative duty."[84]

As purveyors of good order, Baptists and others throughout the trans-Appalachian region envisioned churches as law-producing sites and the practice of discipline as a viable legal system. Baptists certainly perceived a difference between state-based law and church practices, but the latter's operations emerged from the immediate social relations of the congregational community, and thus, could be a more responsive, familiar legal venue. Individuals' conceptions of their churches' law making powers can be seen, especially, in how they discussed disciplinary procedures. In June 1808, the preacher

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[83] Records of the Bullittsburgh Baptist Church, September 1800/February 1801, http://baptisthistoryhomepage.com/bullittsbrg.minutes.95-00.html and http://baptisthistoryhomepage.com/bullittsbrg.minutes.01-02.html. Both accessed January 12, 2015.
[84] Records of the First Baptist Church of Nashville, Tennessee, 22 July 1820, SBLA.

Carter Tarrant explained to the Mount Gilead Baptist Church that witnesses on his behalf would not appear "without [being] legally call'd for by the Church."[85] Looking back at his time with the Buck Run Church in the early 1820s, John Taylor insisted the members were in peace as "but one legal complaint" had come before the church, and that "against a poor negro."[86] As late as 1866, in discussing a dispute between two members of his Mt. Olivet Church, the clerk noted that the complaining brother had prepared "the case legally for the church."[87] Others routinely referred to discipline as "ecclesiastical law" or "Baptist jurisprudence."[88]

The system of Baptist jurisprudence that observers often referred to stemmed from Baptists' duty of keeping "watchcare" over their fellow church members. The ritual practice of discipline derived its authority from the New Testament, especially the Gospel of Matthew and Paul's letter to the Corinthians. Baptists did not regard all transgressions as equal, and prescribed different procedures and ramifications according to the seriousness of the offence. In 1844 the Reverend Eleazer Savage broke down his various categories of offences. He admitted, however, that these categories were not absolute, as some offences overlapped the prescribed groupings. Minor offences constituted those which were inherent in some members' disposition—such as levity, irritability, an inclination to speak, act imprudently, or shirk responsibility, etc.—and, he insisted, the church should bear the burden of these, their weakest members, rather than gratify

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[85] Carter Tarrant Letter, 27 June 1808, KHS.
[86] Taylor, *A History of Ten Baptist Churches*, 144.
[87] Mt. Olivet Church Records, June 1866, SBLA.
[88] See, for example, Alexander Campbell, "A Restoration of the Ancient Order of Things, No. XXVI, On the Discipline of the Church, No. III," *The Christian Baptist*, Vol. 6, 4 August 1828, p. 471; *Reply of the Committees of the Washington & Lewisburg Baptist Churches, To the Proceedings of the Mayslick Church, and Council, held in Mayslick, December, 1845, and published in the Baptist Banner in January, 1846* (Maysville: Maysville Eagle Office, 1846), 11, in *Baptists in Kentucky: Pamphlets from the Durrett Collection*, University of Chicago.

themselves through their exclusion. If one witnessed another member's transgression, he was to follow the gospel steps as laid down in Matthew 18:15-17, speaking with the offender in private and only bringing the matter to church if reconciliation could not be forged. Baptists sought to deal with such conflict privately because, as Alexander Campbell noted in 1828, the "practice of telling all private scandals, trespasses, and offenses, to the whole congregation" was "replete with mischief" and could potentially alienate members.[89] For personal infractions, too, those "when one brother injures another in his person, reputation, or property," and sufficient evidence existed, churches encouraged members to labor in private for reconciliation before coming to the church for recourse. Public violations were treated slightly different. They were transgressions that "equally injure[d] all the members of the church," and included breach of peace, covetousness, heresy, drunkenness, railing, and profane swearing. The church membership as a whole worked with such offenders for satisfaction, resorting to exclusion if that effort failed.

No matter the type of offense, church discipline sought to uphold harmonious member-relations through the threat of excommunication. Churches tribunals did not have the authority to corporally punish their offending brethren, but their decrees carried social weight.[90] Especially on the mobile, fluid frontier of trans-Appalachia, church

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[89] For a further discussion on private and public transgressions see, Alexander Campbell, "A Restoration of the Ancient Order of Things, No. XXV, On the Discipline of the Church, No. II," *The Christian Baptist*, Vol. 6, 4 August 1828, p. 467-468.

[90] Randy Sparks in, *On Jordan's Stormy Banks: Evangelicalism in Mississippi, 1773-1876* (Athens: University of Georgia Press, 1994), 148-49, concludes that, although southern evangelical churches "could not extend [their disciplinary influence] beyond the religious community as it had in Calvin's Geneva or in Puritan New England, where no separation of church and state existed," discipline still had "a larger importance for the community and indeed for the entire nation."; Boles, in *Religion in Antebellum Kentucky*, 130, states that "religion in antebellum Kentucky extended from the churches into all aspects of life. This permeation," he continues, "constituted the religious culture, and it was religious discipline that

discipline provided an impetus for an individual to practice restraint while far removed from traditional institutions of discouragement, such as the family or local government.[91] Social ramifications arising from a tribunal's decision, one historian recently asserted, "carried enough moral suasion to change actions and attitudes."[92]

Even well after Kentucky and Tennessee achieved statehood and a more stable, less mobile society, exclusion from church fellowship could affect one's standing in the wider community. Revered Savage reminded Baptists of their duty for the strict "*avoidance of free and familiar*" intercourse with excommunicated individuals. After one's exclusion, Savage penned, "he should be made to feel the amazing weight of the solemn sentence, by a corresponding conduct, on the part of *every* member of the church," even "*every* member of *every* church."[93] News of disciplinary activities often spread through church neighborhoods and could affect one's business transactions and personal reputation beyond the confines of the church fellowship. Hemp-dealer William Collins, after being excluded from the Elizabeth Baptist Church in Bourbon County, Kentucky, found that news of his contract dispute and excommunication had dispersed into surrounding counties, well before he took the matter to the local courts.[94]

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impressed religious values throughout the culture"; See also, William Warren Sweet, *The Story of Religion in America*, (Grand Rapids: Baker Book House, 1950 Revised Edition), 217; and Durwood Dunn, *Cades Cove: The Life and Death of a Southern Appalachian Community, 1818-1937* (Knoxville: University of Tennessee Press, 1988). Dunn argues that in Cades Cove, TN, the Baptist church helped to determine "the fabric of the developing community," see p. 103

[91] Najar, *Evangelizing the South*, 86-87, 90.

[92] Friend, *Kentucke's Frontiers,* 199.

[93] Eleazer Savage, *Manual of Church Discipline* (Rochester: Sage & Brother, 1844)80. See text and note for quotations. Emphasis in original.

[94] See in general, William Collins, *Narrative: Containing a Statement of Facts in Relation to the Exclusion of William Collins and William Anderson from the Elizabeth Church of Particular Baptists in Bourbon County* (Frankfort, KY: Hodges, Todd & Pruett—Printers, 1843) in *Baptists in Kentucky*.

Although Collins eventually sought recourse with the Bourbon County Circuit Court, churches sought to contain member-disputes within the fellowship. In a way this served to protect a church's reputation within the surrounding area. Some congregations, such as Tennessee's Red River Baptist Church, insisted that no member should "divulge the infirmation [*sic*] of one another or till [*sic*] them to such as are not of our communion by any means, when it can be lawfully avoided."[95] Demanding members refrain from "going to law"—suing one's brother before infidels—was another means to maintain harmonious member-relations and avoid potential "cross swearing among the members of the church" at court.[96] Members suing each other at local and state courts not only aired members' dirty laundry in a public setting, but litigation held the potential to exacerbate the conflict, even provoke schism.[97]

Churches leveled charges against disputing members who sought out state authority without their sanction.[98] In July 1825, for example, Brother John Sturgeon of the Flat Rock Baptist Church in Shelby County, Kentucky asked, "will the church approbate a Bro. to go to law with [another] Bro. in any case or not[?]" When the church answered that it did not, that it in fact disapproved of the practice, Sturgeon entered a charge against himself for "going to law with Bro. Isaac Keller." Sturgeon insisted that he filed suit against Keller "in a friendly way," and made proper acknowledgements to the satisfaction of the church body. Sturgeon was not alone in his courthouse-actions, however, as the church then formed a committee made up of "six Brethren" to investigate

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[95] Red River Church Minute Book, "Rules of Discipline," p. 3, SBLA.
[96] Collins, *Narrative*, 25.
[97] Members of Collins's Elizabeth Church of Particular Baptists worried that if Collins took his dispute with a fellow member to law, "there would be a split in the church." See Ibid., 25.
[98] This is discussed in greater detail in Chapter 3.

"Sister Deborah Bohannon in defending a law suit against Bro. James Bartlett." In August, the committee reported that Sister Bohannon had indeed "erred in agreeing to a friendly suit" that had been "brought against her." Yet, like Sturgeon, her acknowledgements satisfied the church body. The church ruled that Bartlett, too, had "erred in going to law" with Sister Bohannon. Unfortunately, the clerk of the Flat Rock church never recorded Bartlett's fate in this particular case.[99]

Baptists' insistence of keeping "watchcare" over one another opened the door for churches to regulate nearly all aspects of their members' lives, though one's race, sex, and secular legal status may have made them likely to face certain charges. Men were overwhelmingly the targets of disciplinary procedures, garnering 73% of all charges. Intoxication charges—making up 14% of all offences—were directed almost exclusively at male members (94%). Other prominent charges, such as fighting or rioting, totaling 7% of all charges, were also primarily male-focused (81%). These numbers are rather unsurprising, as white-male recreation in the slave states often revolved around drinking and defending one's honor through physical combat.[100] Churches recognized this reality, and often retained men who fought only when provoked. For example, when the Pleasant Grove Baptist Church charged Richard Nash with fighting, they restored him to fellowship after Nash insisted he only fought because he had been "compelled to resist and defend himself."[101] For other transgressions as well, charges against men predominated. As married women generally could not agree to contract or represent

[99] For all cases see, Pleasant Grove Baptist Church Records, July-August 1825, FHS.
[100] Bertram Wyatt-Brown, *Southern Honor: Ethics & Behavior in the Old South* (New York: Oxford University Press, 1982), esp. Chapter 13.
[101] Pleasant Grove Baptist Church Records, December 1844, FHS.

themselves in court, it makes sense that 96% of breach of covenant cases and 84% of "going to law" with another Baptist charges went against males.

In other matters, however, women made up a great percentage of the accused. Twenty-four percent of falsehood, slander, and lying charges went against women. Likewise, 40% of dancing/fiddling charges were leveled against female members. One striking aspect of charges against women is that 65% of cases dealing with a member's interaction with another religious sect or denomination involved female defendants. This may be due to women's willingness to assert their religious autonomy in a competitive religious marketplace, or a sign that churches more rigorously policed women's religious activities. In any case, being charged with straying from the fellowship was a virtual guaranteed exclusion from the church, as 93% of those facing such an accusation were excommunicated. As historian Susan Juster demonstrated in her study of Separate Baptists in New England, by the post-Revolutionary period churches increasingly saw women as disorderly, disproportionately charging them for crimes of sexual nature and for holding the church in contempt.[102] But not quite same dynamic appears to have played out in trans-Appalachian churches during the early-nineteenth century, as the bulk of disorderly conduct charges went against men, as did those of slander (76%) and profane swearing (85%). This may have been due to the presence of slaves within many western and southern churches. As we will see in the next chapter, sexually-related transgressions, such as fornication and adultery, were primarily directed toward women, especially black women.

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[102] Susan Juster, *Disorderly Women: Sexual Politics and Evangelicalism in Revolutionary New England* (Ithaca: Cornell University Press, 1994).

Top Five Charges	Male (% within charge)	Female (% within charge)	Total Charges (% of total)
Drunkenness	326 (94%)	21 (6%)	347 (14%)
Disorderly Conduct	223 (71%)	91 (29%)	315 (13%)*
Meeting Non-Attendance	245 (78%)	67 (22%)	313 (13%)*
Fighting or Rioting	148 (81%)	24 (19%)	173 (7%)*
Interaction w/ other sect	47 (35%)	89 (65%)	136 (6%)

Figure 1.[103] *One unknown sex

More than simply a dispute resolution mechanism, however, church discipline helped create and maintain the church community, delineating the boundaries and privileges of membership. Even when churches were not vigorously meting out discipline or resolving disputes, members actively constructed the contours of their intra-congregational system of law, and thus the sphere of church authority. Between 1807 and 1810, the Fox Run Church in Shelby County recorded only four cases, three for drunkenness and one for "gaming." Despite this apparent lack of disputation or moral regulation, concerns about the ritual of discipline remained prominent. In June 1807 members voted that church business should "be transacted in a private manner; that is, that no persons not of our community should be present." This resolution was followed by a query on whether it was the duty of the church "to declare to the World" the exclusion of "Members for disorderly conduct." In July the church voted that they had no such duty, that disciplinary procedures should remain internal matters. A year later, in March 1808, the church agreed that "in the future all matters of private grief" between members should be "transacted in a private manner when brought before the church," while all other difficulties were to be transacted publicly. Two months later, Fox Run took up a proposition on the extent of women's authority in matters of church

[103] For the names of churches composing data set, as well as the list of offenses/disputes coded, see the Appendix.

governance, and voted in favor of the proposal, exclaiming that "in the future [female members] have a vote in all things that may come before the Church." In July, however, the church opened the floor for more debate on this resolution, finally deciding in August 1808, "after maturely considering" the matter, that women did not have a "ruling voice in the church." And finally, in October 1809, a member queried as to whether the scriptures provided any mode for bringing complaints to the church other than the "18th Chap of Matthew." The church laid over the query until July 1810, when it agreed that members could bring complaints directly to the church rather than striving to first settle the dispute in private.[104]

These resolutions dealing with the procedure of church discipline—alternate modes for bringing complaints, to what audience would matters be aired, the duties of the church, and who possessed the power to vote—signals a church body grappling with the contours of the disciplinary system itself. Many Baptists, especially white male members, may have still been uneasy about their social status amidst the changing religious and secular landscape of early Kentucky. Allowing non-members, those who had not experienced a re-birth through Christ, to watch as churches disciplined their own for various moral shortcomings surely gave many members pause, as they knew that gossip networks extended well beyond the confines of the church community and that accusations at the meetinghouse could affect their business or other social transactions. Moreover, the fact that church bodies subjected white patriarchs to the same disciplinary actions as free blacks, slaves, and women, directly challenged their civic identities as sovereign, independent heads-of-households.

[104] For all quotes see, Minute Books of Eminence, KY Baptist Church (formerly Fox Run) Vol. 1, March 1807, June/July 1807, March 1808, May 1808, July/August 1808, October 1809, July 1810, SBTL.

Their central neighborhood location, not only ensured that gossip networks carried news of their proceedings through the community, but meant that at times non-members took active roles in cases appearing before church tribunals. Some outsiders even initiated suit at the meetinghouse. In September 1808, for instance, the Red River Church of Robertson County, Tennessee heard a complaint from a non-member, William Stratton who "desired [that the Red River] church to take it into consideration & try to settle the matter of dispute between" himself and Brother Nicholas Darnall."[105] The young lawyer and future Lieutenant Governor of Kentucky, Robert McAfee, reported in 1803 that he had visited "the Holeman's [B]aptist Meeting House, to settle a dispute between two men." Although he further reported that "nothing was done," his brief mention of his intended role in the dispute does complicate our understanding of church autonomy, or rather, the role of outsiders in mitigating differences between church members. McAfee, a lawyer, saw nothing unusual in dispute resolution within the church, as he mentioned the church matter as casually as he did cases he was pleading in the local court. Other non-members testified in matters heard by local church bodies. In the mid-1840s, four individuals, "not members of any church" testified on behalf of the Reverend Gilbert Mason who had been charged with embezzlement by the Mayslick Church.[106]

Although Baptist churches were autonomous units, claiming jurisdiction over their own members, they relied upon a network of "sister" churches which provided information and often assisted in difficult disputes. Churches back east required members

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[105] Red River Church Minute Book, September 1808, June 1809, SBLA.
[106] *Reply of the Washington Church to the Proceedings of the Bracken Association held in Millersburg, Bourbon Co. KY., September 1847* (Maysville, KY: J. Sprigg Chambers, Printer, 1847), 17, in *Baptists in Kentucky.*

alert the church body of their intention to move, gain letters of dismission, and settle any standing grievances or debts. Trans-Appalachian churches examined these dismissal letters meticulously. If much time had passed since an individual's former church had vouched for their conduct, or if a new arrival claimed to be a Baptist but had no letter, their new church inquired into their recent doings. In January 1833, for instance, the clerk for Nashville' First Baptist Church was ordered "to write the church on Mill Swamp, Isle of Wight County, Virginia, concerning Anthony, a servant formerly a member of said church."[107] Some churches placed expiration dates on their dismission letters and reminded departing brethren that the letter could be revoked if they did not speedily join another church. The Franklin Association related to its affiliated churches in 1827 that dismission letters should "be considered as credentials for one year only." If more than a year lapsed, and the dismissed had not joined "some sister Church in the vicinity of their residence, they be considered as having violated covenant obligations, and become liable to censure."[108]

Others served as information networks that worked to spread the godly discipline across the mobile region. In June 1804, for example, the David's Fork Church sent a letter to the Indiana Creek Church with reports on the conduct of the latter's Sister R. Jones, "in order that it may be settled among themselves."[109] Even when a member traveled far from the bounds of the church, he or she carried the reputation of the congregation with them and were still answerable to the church body for transgressions. The Flat Rock Baptist Church of northern Kentucky excluded John Hansbrough in 1814

[107] First Baptist of Nashville Records, January 27, 1833, SBLA.
[108] Records of the Franklin Association of Baptists, 1827, p. 6, SBTL.
[109] Records of the David's Fork Baptist Church, June 1804.

after a church in Knox County, Indiana Territory "informed by Christian proof" members at Flat Rock that he "had been guilty of profane secularizing and other profane conduct."[110] This vast network of Baptists, rooted in local communities but extending across county boundaries, state lines, and mountain ranges, helped serve as an important mechanism for ordering the mobile society.

Of course, Baptists did not shun the secular legal system. Indeed, they could not if they wanted to secure title to their land or file a will. And from the beginning of Kentucky settlement, Baptists played integral roles in civil governance.[111] In 1785, for instance, James Garrard, a Baptist who settled in the western country two years previous, returned to Virginia as the new representative to the state Assembly from Fayette County. Garrard later became a justice of the peace Bourbon County, as did at least five other Baptists who had migrated with him to Kentucky.[112] Likewise, Leonard Young, a member of the Bryan's Station Church, was also Fayette County's Justice of the Peace, and thus was intimately involved in producing law in both legal venues. In 1803 he entered rape charges against Richard Tomlinson at the November church meeting, charges he had been informed of by the victim in his role as county magistrate.[113] Moreover, as will be discussed in greater length in Chapter Three, some churches sanctioned members to seek recourse at local courts.

But for much of the first decades after settlement, there remained no truce between an evangelical religious culture rooted in communitarian ethos and a burgeoning

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[110] Pleasant Grove Baptist Church Records, September 1814, FHS.
[111] On the necessity of individuals to interact with local courts, see Richard Lyman Bushman, "Farmers in Court: Orange County, North Carolina, 1750-1776," in *The Many Legalities of Early America*, eds. Christopher Tomlins and Bruce H. Mann (Chapel Hill: University of North Carolina Press, 2001).
[112] Eslinger, *Citizens of Zion*, 109.
[113] Bryan's Station Baptist Church Records, November 1803, KHS.

liberal legal regime. As historian Stephen Aron notes of Kentucky after the turn of the century, "lawyers jeered evangelicals" and "evangelicals scorned lawyers." Church discipline itself, was a way for churches to "maintain order" without the assistance of lawyers, as the accused acted as the arbitrator and the members as jurors. Indeed, church discipline served as an important venue for dispute resolution because courts were "clogged by land litigation" and seemingly governed by greed. Church tribunals, "swift, simple, and seemingly democratic," Aron notes, were "everything disheartened Kentuckians wished their legal system to be."[114] By the end of the antebellum period, many trans-Appalachian church-goers claimed just the opposite, elevating the workings of state-based courts while claiming that faction and prejudice governed their churches' legal operations.

It is also impossible to completely disentangle the legal system of the church and that of the state. Early state constitutions, including those of Tennessee and Kentucky, said little of religion or God, yet neither did they articulate notions of free thought or religious equality. Instead, they incorporated provisions which favored Protestant Christianity over other faiths, and required religious oaths for office and court testimony. Furthermore, although clergy were generally barred from holding office, most state constitutions noted the importance of organized religion for society's morality and virtue, and all states retained or enacted laws protecting the Sabbath from desecration, as well as other moral regulations pertaining to bastardy, fornication, profane swearing and blasphemy.[115] Tennessee politicians secured Christianity's place in their state, insisting

[114] Aron, *How the West was Lost*, 188.
[115] Steven K. Green, *The Second Disestablishment: Church and State in Nineteenth-Century America* (New York: Oxford University Press, 2010), 32-33. In Tennessee, for example, Gospel ministers and priests

that "no person who denies the being of God or a future State of rewards and punishments" could hold any civil office.[116] Tennessee did not successfully regulate alcohol consumption through the legislative arena, but the religiously-inclined did pass measures for regulating Sabbath observance, gambling, and dueling during the first decades of the nineteenth century. Churchgoers, particularly female members, often led the charge in passing such moral regulations.[117] In Kentucky, Baptists and other evangelicals utilized state courts as forums through which they critiqued the larger culture. Historian Christopher Waldrep has shown that during periods of revival, evangelicals tried to extend their influence over grand juries, only resorting to church tribunals when they felt their power waning alongside declining revivalist fervor.[118]

But, in the end, Baptists dispensed discipline and produced law in their communities in the shadow of state authority. State-chartered acts of incorporation empowered churches in constructing and maintaining their communities. Any number of individuals could voluntarily congregate for a common purpose, but incorporation imbued these associations with the authority to create their own laws and to hold members accountable to their strictures.[119] Kentucky's general incorporation statute only

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were barred from holding office. See, "1796 Tennessee Constitution," Article 8, Section 1, http://www.tn.gov/tsla/founding_docs/33633_Transcript.pdf, accessed 21 February 2014.

[116] "1796 Tennessee Constitution," Article 8, Section 2, http://www.tn.gov/tsla/founding_docs/33633_Transcript.pdf, accessed 21 February 2014.

[117] Cumfer, *Separate Peoples, One Land*, 201.

[118] Waldrep, "The Making of a Border State Society," 767-784. Looking specifically at profanity prosecutions, Waldrep argues that "grand juries in some jurisdictions responded closely to upswings and downturns in religious enthusiasm." Increases in profane swearing prosecutions in these areas were "closely connected to outbursts of evangelicalism such as the Campbellite crusade," yet this "did not occur elsewhere in the nineteenth century" ; Friend, *Kentucke's Frontiers*, 234.

[119] Philip J. Stern, "'Bundles of Hyphens': Corporations as Legal Communities in the Early Modern British Empire," in in Lauren Benton and Richard J. Ross (eds.), *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013), 23; William J. Novak, "The American Law of Association: The Legal-Political Construction of Civil Society," *Studies in American Political Development* 15 (Fall 2001), 180; Sarah Barringer Gordon, "The First Disestablishment: Limits on Church Power and Property Before

extended that legal privilege to Christian denominations. In an 1842 decree, too, the Kentucky Court of Appeals legitimated churches' disciplinary actions by deferring to ecclesiastical authorities in cases which involved individuals' membership status.[120] Likewise, the Tennessee legislature passed a law in 1801 to protect churches' worship services, exclaiming that "any person [who] shall interrupt a congregation assembled for the purpose of worshiping the Deity, such person shall be dealt with as a rioter at common law." Fourteen years later, in 1815, the legislature, noting that some citizens were "wickedly and fatally bent to disturb" those committed to worshiping the Deity, claimed the 1801 law was ineffective. Its strengthened reincarnation prohibited interrupting worship or violating "any rule or regulation, which may have been adopted by [the churches] for their own government, and good order." In 1824, legislators banned trading in "ardent spirits" within one mile "of any place of public worship, and forbade "offering to sell, within view of any worshiping assembly on the *Sabbath day* any article of traffic whatsoever, in such a manner as to disturb such worshiping assembly."[121] In a similar vein, the Kentucky General Assembly authorized grand jury indictments "for any trespass, damage or injury done to any church, meeting house, or encampment, erected for religious worship."[122]

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the Civil War," *University of Pennsylvania Law Review* 162, no. 2 (January, 2014), 325. Gordon argues that the corporate form channeled "religious energies, imposing structure, procedures, and privileges (as well as discipline) on religious societies."

[120] *Shannon v. Frost*, 42 Ky. 253, 254, Lexis 151, (1842).

[121]For all three laws, see, R.L. Caruthers & A.O.P. Nicholson, *A Compilation of the Statutes of Tennessee of a General and Permanent Nature from the Commencement of the Government to the Present Time. With References to Judicial Decisions, in Notes, to which is Appended a New Collection of Forms* (Nashville: Steam Press of James Smith, 1836), 557-560.

[122]See "An Act to provide for the protection of Public Buildings," in C.S. Morehead and Mason Brown, *A Digest of the Statutes Laws of Kentucky: of a Public and Permanent nature, From the Commencement of the Government to the Session of the Legislature, Ending on the 24th February, 1834. With References to Judicial Decisions, Volume 1* (Frankfort: A.G. Hodges, 1834), 275-276.

During the early days of settlement, bringing one's dispute to the local church was not abnormal. Law existed "everywhere and nowhere," as courthouses were not always available. Although local governments increasingly assumed greater responsibility for regulating the public order after statehood in the 1790s, "there was no single location for law."[123] Circuit courts met in any building that could accommodate the proceedings, locations that otherwise served a variety of purposes. This process continued throughout the trans-Appalachian West's developmental stages, as the legislature carved new counties out of older ones, and new institutional seats of judicial power were imagined, designed, and built.[124] Churches, too, often lacked official meeting places. Congregations assembled in members' homes, in shared community ("republican") meetinghouses, or, on occasion, at the local courthouse. Nonetheless, churches served such important roles in community life that as towns grew and individuals dispersed from neighborhood centers, they—as in the case of the Bullittsburgh Church—demanded their church institutions followed suit.

Even after the north-central Kentucky and Middle Tennessee emerged as a more economically and socially complex societies during the second decade of the nineteenth century, churches continued as central legal sites.[125] It was not unusual, then, for Baptists to invoke their churches' authority when settling domestic or property-related disputes.

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[123] Edwards, *The People and Their Peace*, 67.

[124] This should not mislead us to think that local courts did not exert influence in their communities. As Robert Ireland argues, "So essential were these local tribunals to Kentuckians that any group of citizens who experienced the slightest inconvenience in reaching the county seat inevitably petitioned the state legislature for the creation of a new county," see, Robert M. Ireland, *The County Courts in Antebellum Kentucky* (Lexington: University Press of Kentucky, 1972), 4.

[125] On Kentucky's economic transformation see in general, Aron, *How the West was Lost*.

In 1809 Brother Boyce asked his fellow Baptists at Bryan's Station "If a member of the Baptist order have a claim on two persons jointly bound by a written contract," and one of them was a Baptist and the other was "under no church government," but both "refuse[d] to comply with their contract, to what tribunal" should the aggrieved party seek recourse?" Boyce's query at once illuminated his expansive vision of law and a growing uncertainty over his church's legal authority amidst a changing legal, economic, and religious atmosphere.[126]

[126] Bryan's Station Baptist Church Records, May 1809, KHS.

CHAPTER 2. CHURCHES, THE STATE AND THE "PERPLEXING DIFFICULTIES OF DOMESTIC RELATIONS

"Oh that the church could be freed from such perplexing difficulties…"[1]

In 1813, members of the Big Cedar Lick Church in Wilson County, Tennessee heard thirteen separate charges against their fellow brethren. Peppered between such transgressions as profane swearing, drunkenness, and disorderly conduct, the church took up matters related to the most intimate matters of the household. A query in January asked whether it was "agreeable to the gospel for a female member who is the wife of a male member of the Church to become a witness for her husband." The church answered in the affirmative, that a husband could call his wife for testimony "in any case that he may think will be in his favor."[2] Five months later Sister Chandler charged Brother Small with telling "an untruth" for claiming she had encouraged her children to abuse Small's children and destroy his property. In October, the church excluded a slave member, Brother Reuben, for "lying and disobedience to his master." Soon thereafter, on testimony from two members, the church excluded Charles Shoemaker for being "guilty of the acct [*sic*] of Buggary [*sic*]." Big Cedar Lick members concluded their year with an Inter-church dispute between a member of the Cedar Grove Church, David Allen, and

[1] Pleasant Grove Baptist Church Records, December 1845, Filson Historical Society, Louisville, Kentucky (hereafter FHS). Written by the church clerk, John Williamson, when the church was in the midst of settling a divorce suit.

[2] Interestingly, the clerk did not note whether the church body itself could call on the wife if her testimony would be damning to her husband's case.

one of their own, Elder Moore Stephenson. Allen had accused Stephenson of drunkenness, and Stephenson's son, John, with turning "his mother out of doors" and whipping his sister. A committee visited the Stephenson women, and each insisted that Allen's allegations were "false and without foundation." Two other women and three men testified about the accusations of Stephenson's intemperance. The church eventually voted in early 1814 to charge Allen with slander, appointing a committee to visit the Cedar Grove church and support their "charges by Gospel Evidence."[3] These instances demonstrate how Baptist churches in the early-republican Trans-Appalachian region extended their authoritative reach into member homes and served as forum through which domestic relations were contested and defined.

Churches, while not shying away from crossing the threshold into the patriarchal jurisdiction of the household, saw their role in domestic regulation change over the late-eighteenth and early nineteenth-centuries as new cultural and legal understandings of the family percolated through American society. Indeed, husband-wife, parent-child, and master-slave relationships were all fair game in early church proceedings. Members' disciplining of husbands and masters, unruly wives, disobedient slaves, and philandering spouses elevated churches as prominent sites for family regulation. In some domestic relations cases that reached the courtroom, too, judges looked to actions taken by churches and the larger community, relying on observers' statements and church rulings to uncover the character of the disputing parties. By the mid-nineteenth century, trans-Appalachian churches devoted less time to mitigating domestic relations cases, especially

[3] For all charges, see Mt. Olivet Baptist Church, Mt. Juliet, Wilson County, Tennessee Records, 1801-1975, January 1813-March 1814, Southern Baptist Library and Archive, Nashville Tennessee, (hereafter SBLA). Big Cedar Lick changed its name to Mt. Olivet in the 1840s.

divorce, and adultery, even though divorce cases appeared to be on the rise in local courtrooms. This resulted partially from new Victorian notions centered upon household privacy, but also from the gradual reworking of domestic relations law as state lawmakers forged direct connections with dependents. Increasingly, scriptural views on the perpetual nature of marriage came into conflict with divorce legislation, legislation which loosened the compact's contractual obligations by providing wider legal routes through which to pursue a separation or absolute divorce, and thus, legislation which chipped away at husbands' and fathers' broad power within their households.

The prevailing scholarship fails to fully consider the often complementary roles played by both legal and religious venues in governing the household.[4] Historians of early-American religion have documented the role of evangelical churches in nurturing stable households, especially in the developing communities of the frontier.[5] Scholars have not sufficiently examined how churches interacted with members' household relations alongside the transformation of state-based domestic relations law in the post-Revolutionary period and beyond. For instance, historian Monica Najar recently claimed that through committee investigations of household matters and the punishment of patriarchs for transgressions against their dependents, "church discipline embedded

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[4] Michael Grossberg, *Governing the Hearth: Law and the Family in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1985); Peter W. Bardaglio, *Reconstructing the Household: Families, Sex, & the Law in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 1995); Holly Brewer, *By Birth or Consent: Children, Law, & the Anglo-American Revolution in Authority* (Chapel Hill: University of North Carolina Press, 2005); Yvonne Pitts, *Family, Law, and Inheritance in America: A Social and Legal History of Nineteenth-Century Kentucky* (New York: Cambridge University Press, 2013).

[5] See, for example, Monica Najar, *Evangelizing the South: A Social History of Church and State in Early America* (New York: Oxford University Press, 2008), esp. Chapter 3; Christine Leigh Heyrman, *Southern Cross: The Beginnings of the Bible Belt* (Chapel Hill: University of North Carolina Press, 1997), 136-142; Jean E. Friedman, *The Enclosed Garden: Women and Community in the Evangelical South, 1830-1900* (Chapel Hill: University of North Carolina Press, 1985).

religious authority and, more specifically, the church structure in the architecture of the evangelical family."[6] She insists that this served as a "countercurrent" to wider legal and cultural reformulations of the household, reformulations which granted male heads of household broad power over domestic affairs.[7]

Najar and others, however, do not fully account for local law's authority over the household which at times quelled the household-head's actions. Enmeshed in neighborhood- and kin-networks, the family unit was often viewed as a microcosm of American society in the late-eighteenth and early-nineteenth centuries, and state governments undoubtedly possessed an interest in promoting stable households. The white-male household head's responsibility was to ensure that domestic order did not lapse. In him state law vested broad authority over dependents—women, children, slaves, and wards. But his rule was never absolute, and the family's discipline was entwined in web of social relations spun through local and family relations, church affiliation, and business networks. All these local factors held the potential to thwart or

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[6] Najar, *Evangelizing the South*, 75. Najar clarifies on page 81, that "churches did not intend to dismantle patriarchal power; instead they intended to establish a twin authority, ideally working with heads of household, to sustain an orderly family, a charge that demanded controlling women as well as men." Najar does not mention how this differed from communitarian supervision of family life during the colonial period. As Helena M. Wall insists in *Fierce Communion: Family and Communion in Early America* (Cambridge: Harvard University Press, 1990), ix, that early-American communities operated under "the assumption that appropriate personal and familial conduct was central to community order," which "encouraged the subordination of private life to community concerns throughout the country." Wall does insist that by the second-half of the eighteenth century, where Najar's analysis of Baptist church discipline picks up, firmer boundaries between public and private had begun to be constructed, with neighbors less willing to intrude upon an individual's or family's privacy, see p. 134. Yet, neither acknowledges the continued importance of gossip-networks in regulating family life during the early nineteenth century or its influence upon the practice of law at the church or courthouse. For the continued importance of gossip networks, see, 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); 7-8.

[7] Najar, *Evangelizing the South*, 67-68. Najar points to architectural changes of the nineteenth home where private spaces emerged from the carving out of family rooms, larger entrance foyers, and the decline, particularly among the gentry, of "stranger hospitality." Landownership, too, experienced spatial redefinition as more landholders fenced off property lines and local courts granted them broad power over activity within their enclosed land.

uphold a patriarch's power within his household. Churches, in seeking to regulate members' family life, were simply one site among others that circumscribed household-heads' power within the domestic sphere.[8]

Churches went much farther than local and state courts in challenging the will of the household head over his domestic affairs and in regulating members' daily activities, yet during the first-half of the nineteenth century, state governing authority was making inroads to the American household. Local courts would probably not take up charges against a household head for "permitting his house to be used for theatrical performances" as the Cane Run Baptist Church did in 1833.[9] But courts would, if a spouse entered a divorce or alimony petition in chancery, investigate allegations of a household head's drunkenness and family abuse, just as the Red River Baptist Church did in 1814, when such accusations were entered against Brother Nathaniel Bostick.[10] Local courts, though far from the unabashed ally of household dependents, could and did punish abusive or negligent fathers and husbands.[11] Furthermore, over the course of the antebellum period, state courts and legislatures across the republic reached deeper into the domestic realm. They constructed direct legal relationships with household dependents, and in the process gradually undercut patriarchal authority. These actions

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[8] On local law's ability to thwart unlimited patriarchal authority within the household, see, Laura F. Edwards, "Law, Domestic Violence, and the Limits of Patriarchal Authority in the Antebellum South," *The Journal of Southern History* 65, no. 4 (November 1999), 741, 747; Of course, as Heyrman notes in *The Southern Cross*, 128-129, many non-evangelicals feared that evangelical teachings "undermined the integrity of white households and, at their most extreme, subverted the southern ideal of family." This fear, she continues, was "often exaggerated," but not "groundless" as Baptists and Methodists' "sometimes required neglecting temporal responsibilities to kinfolk in order to meet spiritual needs."

[9] For the Cane Run Church Minute Books, see Church Records, Minute Books, 1829-1853, 1833, FHS.

[10] A committee was formed to investigate the matter. Bostick apparently did not appreciate the church's interest in his family life, as he demanded to withdraw from the fellowship. The members of Red River voted to excommunicate him instead. See Red River Church Minute Book, Adams, TN, March 1814, SBLA.

[11] Edwards, "Law, Domestic Violence, and the Limits of Patriarchal Authority," 750.

did not completely overturn the common law marriage doctrine of coverture, and certainly did not elevate women or dependents to equitable status within the home—indeed, in many cases the state's goal was to buttress legal prescriptions by punishing those who neglected their responsibilities as patriarchs—but during the early nineteenth century, state law assumed control over domestic relations in unprecedented ways.[12]

To posit Baptist practices as "countercurrent" to state legal practice, as Najar does, not only ignores developments in domestic relations law, but misconstrues how local law—both church- and state-based—operated in society.[13] In some practices, churches diverged from state legal practices, most prominently in their institutional recognition of slave marriages.[14] By acknowledging slave marriages, churches departed from practices of the secular legal system, yes, but fell in line with the wider culture's acknowledgement of informal marriage and, in particular, the validity of slave marriages

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[12] I do not intend to imply that patriarchs ever ruled their household's free from outside restraints. See for example, Christopher Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1550-1865* (New York: Cambridge University Press, 2010), 361-362. Discussing sixteenth- and seventeenth-century England, Tomlins notes that "[b]oth legally and politically, the exercise of governance internal to the household by its patriarchal head was compromised by clear jurisdictional boundaries." He continues on page 369, stating that "the contradiction in patriarchal reasoning lay precisely in its denial of patriarchal autonomy to household heads in the interests of the greater patriarchy of the state;" Under the common law and canon law of England, much of which regulated domestic relations in the North American colonies and in the Early Republic, placed restrictions on the patriarch, forbidding him power over his dependents' lives and limbs, restricting him from bringing more than one wife into the home, selling his servants, or forcing spouses upon his children. See, Carole Shammas, *A History of Household Government in America* (Charlottesville: University of Virginia Press, 2002), 24-25. These restrictions did not herald equitable relations among household members. Although white women, for instance, gained some recourse for seeking divorce, alimony, and child-custody during the post-Revolutionary period (discussed below), Linda Kerber has argued that the first-half of the nineteenth century "was a time when it became ever harder for married women to control their own property." See Linda K. Kerber, *Women of the Republic: Intellect and Ideology in Revolutionary America* (Chapel Hill: University of North Carolina Press, 1980) 155, and Chapter 5 in general.

[13] This does not mean that Baptists and other evangelical churches in post-Revolutionary America did not diverge from cultural practice of the wider community. As Randolph Ferguson Scully points out "in certain select ways they did" diverge from "worldly" practices, "but in most ways they did not." See Scully, *Religion and the Making of Nat Turner's Virginia: Baptist Community and Conflict, 1740-1840* (Charlottesville: University of Virginia Press, 2008), 136.

[14] In *Evangelizing the South*, 84, Najar claims that if "Baptist churches occasionally departed from civil norms regarding marriage, nowhere was this more apparent than their policies toward slave unions."

through public ceremonies.[15] Moreover, law, whether practiced at the local courthouse or church meetinghouse, emerged from the community's social relations. Churches investigated the private lives of their members only when transgressions came to light, and especially so when reports thereof circulated through the surrounding neighborhood and possessed the potential to damage a congregation's reputation. Local courts, too, only examined the particulars of a household's familial dynamics when one of its members petitioned for an absolute divorce, a legal separation, alimony, or when rumors of extreme abuse reached the ears of a local justice of the peace, constable, or court official.

Examining how both religious and state venues operated in defining the marriage compact and in litigating cases of adultery and divorce, this chapter uncovers a more complete and nuanced portrait of the legalities of domestic relations of the post-Revolutionary West. It also illuminates a subtle shift from religious to civil authority in regulating the household by the outbreak of the Civil War. Early-nineteenth century legislative enactments revolving around marriage, divorce, and alimony, for instance, demonstrated that the marital contract, the core relationship of the household, "[f]ar from being an institution fixed by God," was "in the hands" of state legislatures.[16]

A member of the Clear Creek Baptist Church in Kentucky, "Old Brother Castleman," and his family gave preacher John Taylor great joy. By the early 1820s,

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[15] On slave marriage see, Margaret A. Burnham, "An Impossible Marriage: Slave Law and Family Law," *Law and Inequality* 5, no. 2 (1987): 187-225; Dylan C. Penningroth also insists that slaves "protected their claims to property by using public occasions and public spaces to display their possessions and to secure acknowledgment from their masters and fellow slaves." See, Penningroth, *Claims of Kinfolk: African American Property and Community in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 2003), 91, 106.

[16] Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge: Harvard University Press, 2000), 54-55.

Castleman and his wife had been married "perhaps fifty years." The two had been baptized together not long after their matrimony, and "raised children, a number of them" professing Baptists. Their grandchildren, too, were attached to Baptist churches "in different parts of [the] Commonwealth." Indeed, Taylor reported, "[t]he family at home, is a pretty respectable church among themselves." But the family at home included more than simply Castleman's children and grandchildren. The family owned "many black people" and "a number of them" had also been baptized. In January 1823, two of Castleman's young slaves, one "about ten years old, the other about eight," were received by experience into the Clear Creek Church. Despite their age, "what they related to the church could not be objected too," and the boys followed in the path of their fourteen-year-old sister who had obtained membership in the church the previous month. Two other slaves belonging to Castleman were even licensed preachers. Castleman had also "long kept a great Tannery," where he trained "numerous" apprentices, many of whom had become "professors of religion." This extended household, Taylor concluded, "has been a great nursery to the Baptist church for near a half of century."[17]

When the recently-married Brother and Sister Castleman were baptized in the early 1770s, many of their kin and neighbors may have lamented the couple's new found religious affiliation. Unlike Taylor writing in the 1820s, during the colonial and immediate post-Revolutionary period, many southerners viewed evangelical culture as a threat to the family institution, not a nursery of piety and good order. For detractors, evangelical sects too closely resembled marginal religious groups such as the Quakers and Shakers. They seemed to lure individuals away from family connections, and

[17] John Taylor, *A History of Ten Baptist Churches, of Which the Author has been Alternatively a Member* (Frankfort, Ky.: J.H. Holeman, 1823), 176-177.

extended power within churches to women and blacks. This, along with their questioning of slavery, their cultivation of the spiritual family based upon church membership (the equality of all souls which ignored gender, racial, and social status), and intrusive disciplinary methods, convinced outsiders that evangelicals were a threat to the entire social order.[18]

By the turn of the nineteenth century, however, evangelicals were not as marginal to southern society as they appeared a generation earlier. Most Upper-South Baptists had shed their more iconoclast leanings in regards to slaveholding and gender relations by the 1810s, increasingly granting full membership rights only to white men, while restricting the power of women and blacks in directing church matters.[19] Disciplinary practices continued, but, rather than promoting doctrine and practice that seemed to subvert the orderly household, evangelicals largely fell in line with mainstream culture, heralding patriarchal authority within the home.[20] The relation between the orderly church and stable families was cemented by the character traits necessary of a preacher. Specifically, a preacher must "ruleth well his own house, having children in subjection; (for if a man know not how to rule his own house, how shall he take care of the church of God?)."[21] The contractual church, the foundation of the godly society, was contingent upon well-ordered households.

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[18] Heyrman, *Southern Cross*, esp. Chap. 3.
[19] Scully, *Religion and the Making of Nat Turner's Virginia*, 148-149; Najar, *Evangelizing the South*, esp. Chap. 6.
[20] Heyrman, *Southern Cross*, esp. Chap. 3;
[21] Scripture verse quoted from the Elkhorn Association of Baptists, 1831, 5, Archives and Special Collections, James P. Boyce Centennial Library, The Southern Baptist Theological Library, Louisville, Kentucky (hereafter SBTL). This is a reference to 1 Timothy 3, 1-6.

Evangelicals' gradual move toward the center of southern society during the post-Revolutionary period coincided with a legal and cultural re-ordering of American domestic relations. Not long after Separate Baptists began widespread proselytizing in the Upper South during the 1750s and 1760s, first stoking apprehension in the Anglican establishment, American colonists up and down the Atlantic seaboard were questioning their relationship with the mother country, a process that necessitated a reformulation of household governance as well. Eventually their questioning of political authority led to outright rebellion, as colonial militia squared off against British regulars in the spring of 1775 and colonies declared independence the following summer. Influenced by John Locke and other theorists who argued that men voluntarily consented to government, colonial leaders justified their political split through familial analogies, especially that of parent-child.[22] For many American Revolutionaries, Great Britain, "the haughty Parent Country" had provoked the colonies, and as one observer remarked, "when the nurturing season is past, the young of all kinds are left to act for themselves."[23]

This questioning of political authority, alongside increasingly shrill calls for individual liberty, engendered the need to legitimize a husband's authority within a household.[24] Thus, Locke's ideas on political consent were remolded to serve the household.[25] The white-male patriarch, though invested by the state with broad authority

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[22] Cott, *Public Vows*, 14. North American colonists had long described their relationship with Great Britain in familial terms. As Melvin Yazawa states in *From Colonies to Commonwealth: Familial Ideology and the Beginnings of the American Republic* (Baltimore: The Johns Hopkins University Press, 1985), 87, "That the parent-child analogy was no mere decorative metaphor, but rather the paradigmatic basis for, and thus preceded, an understanding of the imperial union, was made evident in the nature of the colonists' expectations and in the form of their protests."

[23] Quoted in Yazawa, *From Colonies to Commonwealth*, 94-95.

[24] Wall, *Fierce Communion*, 132-133.

[25] Locke and other Enlightenment theorists expounded a vision of society in which capable individuals departed a state of nature and consented to government, contracting with the sovereign by relinquishing

over his dependents, was expected to provide and protect those under his care. Women voluntarily consented to the governance of her husband upon marriage—her legal identity, through the common law doctrine of coverture, merged with her husband's—and, just as white men voted for leaders in the political sphere and expected protection through state laws, women, upon entering the marriage contract, could assume sanctuary under their husbands' rule. Children, slaves, and other dependents had a duty to obey the household head as well, only displaying disobedience if the father, master, or guardian proved abusive or negligent in his responsibilities.[26]

Initially, this contractually-based, "republican family" did not make as great of inroads into slaveholding states as it did in the North. Republican ideology infiltrated nearly every aspect of life during the post-Revolutionary period. Its aversion to illegitimate authority and government encroachment, its elevation of property ownership, self-governance, individual virtue, and a social-relations-by-contract vision for society, cemented the republican polity with the republican household. Republicanism served as a continuing "frame of reference" for northern domestic relations law as the competitive, atomizing effects of market capitalism infiltrated the northern household. This transformed household relations as dependents carved out their own identities and immediate relationship with the state. Although, as historian Michael Grossberg insists,

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some personal rights in exchange for protection. Although similar to biblical covenants and the feudal contracts between lords and serfs that preceded it, Enlightenment contract doctrine was founded on the ideal of individual volition, on notions that obligation arose from free will rather than compulsion from above. See, Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the age of Slave Emancipation* (New York: Cambridge University Press, 1998), 4-5.

[26] Cott, *Public Vows*, 15-16; On coverture see, Stanley, *From Bondage to Contract,* 11; As Kerber notes in *Women of the Republic*, 139, that coverture was defended for its protective, rather than restrictive, qualities. "The protective interpretation," she continues, "derived from the belief that married women, lacking independent economic power and therefore also lacking the ability to make free and independent political judgments, were vulnerable to the influence of their husbands."

"[m]ale authority remained supreme throughout the nineteenth century," law slowly and subtly re-worked power within Northern households.[27]

In the South, slavery—and the centrality of the master-slave relationship in buttressing the region's social order—proved a deterrent, though not complete obstacle, to the transforming effects of market capitalism and the contractual ethos of the liberal political- and economic-order. Prior to the Civil War, relations of hierarchy and dependence—not egalitarianism and consent—largely governed Southern households.[28] The state connected to dependents through the household-head. Slaves, women, and children, observers believed, had no other government than that of the family. By subordinating white women and slaves through this patriarchal ideology, white men in the South constructed a political realm in which they functioned as equals. "The discipline of the family," one antebellum observer noted, "is that which renders the work of the government easy. When that discipline is perfect, the reign of order and of virtue in the state is established," and when domestic governance lapsed, it threatened the stability of the entire social order.[29] Unsurprisingly, southern state-lawmakers sought to bolster white-male authority, only intervening into the domestic sphere when the household head abused his powers or failed to adequately provide for his dependents, a transgression which undermined the whole system of patriarchal domestic relations.[30]

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[27] Grossberg, *Governing the Hearth*, 6-7.
[28] Bardaglio, *Reconstructing the Household*, xi. Bardaglio does point out on page xiii, however, that the South did share with the North a "growing emphasis on affectionate love between husband and wife, as well as between parent and child," even as white Southerners "clung to traditional notions of patriarchal authority that stressed the importance of harmony, dependency, and hierarchy."
[29] "Art. III—Marriage and Divorce," *The Southwestern Quarterly Review* (New Orleans), October 1854, Issue no. 20.
[30] Bardaglio, *Reconstructing the Household*, 27-28;

Patriarchy in law and practice was not firmly entrenched during the first decades of trans-Appalachian settlement. Most settlers inherited legal traditions from the Carolinas and Virginia, but the frontier experience tested the cultural- and legal-patriarchal order. Marriage in much of the settled colonies was viewed as a contractual relationship between man and woman, with the husband serving as household head, responsible for and sovereign over, his wife, children, servants, and slaves.[31] In the newly-settled western regions, however, the reality of frontier conditions led to more tenuous kinship networks and a less solidified patriarchal order. The continued threat of Native attack spawned fluid gender identities and provided white women—as well as free- and enslaved blacks—greater opportunities than was customarily available in the more stable coastal societies. Prior to statehood, Kentucky's legal system remained weak and enforcement of and engagement with Virginia law was lax. "It was not uncommon 1780s," historian Craig Thompson Friend writes, "to see a woman filing a warrant at the land office or attending court as an administrator of her husband's estate."[32]

Such autonomy for women and other dependents increasingly retracted with the arrival of the gentry class in the region during the 1790s.[33] Although increased immigration brought gentry values regarding the proper place of women (specifically as an emotional partner of her husband), many whites welcomed some cultural prescriptions, and rejected others. Frontier Tennessee women generally accepted the morality of legal marriage, historian Cynthia Cumfer notes, yet "persisted in viewing

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[31] Cynthia Cumfer, *Separate Peoples, One Land: The Minds of Cherokees, Blacks, and Whites on the Tennessee Frontier* (Chapel Hill: University of North Carolina Press, 2007), 159-160.
[32] Craig Thompson Friend, *Kentucke 's Frontiers* (Bloomington: Indiana University Press, 2010), 120.
[33] Craig Thompson Friend, *Along the Maysville Road: The Early American Republic in the Trans-Appalachian West* (Knoxville: University of Tennessee Press, 2005), 4.

their domestic role as more akin to that of a vocal participant than a submissive helpmate." Furthermore, many white women in Tennessee continued to go against legal norms by asserting their property rights after marriage.[34] By the 1810s, a more solidified patriarchal order had hardened in the region, and with the War of 1812, Kentucky had emerged as an Old South state, Craig Thompson Friend argues, "fully controlled by and rooted in the honor-driven culture of white southern manhood" which benefitted "white men by negating opportunities for blacks, Indians, and white women."[35] At the same time, white men in Tennessee crafted a government that limited the meanings of citizenship for blacks and women.[36]

Even after the region's culture of patriarchal-hierarchy hardened during the first decades of the nineteenth-century, the household-head's rule was not an absolute monarchy in which he dispensed justice with little outside supervision or repercussion. Local courts were generally not dependents' first stop when seeking protection from an abusive patriarch. Although treatise writers and advice columnists in the turn-of-the-century trans-Appalachian West stressed the household as an autonomous unit, women especially, sought to posit their homes within a larger community, constructing "bonds of sociability, forged in communal networks, gossip, and churches."[37] In close-knit frontier communities of the trans-montane region, men and women constructed a world in which one's personal character was extremely important in maintaining economic and social relations, and, as historian Cynthia Cumfer notes, relied on gossip networks to "enforce

[34] Cumfer, *Separate Peoples, One Land*, 156-157.
[35] Friend, *Kentucke's Frontiers*, xxii.
[36] Cumfer, *Separate Peoples, One Land*, 235.
[37] Ibid., 169.

norms about sexuality and honesty."[38] When disputes arose within the household, husband and wife could seek outside assistance from churches, friends, neighbors, and kin before pursuing the authority of the secular legal system. In the more formal legal settings of local courtrooms, too, gossip networks proved important in establishing a witnesses' credibility or the disputing parties' personal character.[39] Neighborhood churches were central sites in a community's gossip network, and these churches, much like local courts, sought to enshrine their own conceptions of domestic relations within members' households.

Baptists posited a clear linkage between the household, church, and social order. Their initial understanding of family was not the traditional unit formed by bloodlines and marriage, but rather a more encompassing view which stressed acceptance of Protestant values, and one in which slaves, free blacks, and white women were included as spiritual equals. Similar to Locke's contractual theory stipulating that individuals voluntarily submitted to the state, giving up some rights in order for protection, Baptists willingly entered religious society, relinquishing some "worldly" affairs in exchange for spiritual shelter. Baptists valued church membership—a commitment to the church's communal goals—over "earthly" distinctions based on race, class, or gender.[40] Thus,

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[38] Ibid., 162. Cumfer notes that "gossip is the outcome of an implicit belief that person's conduct has communal implications and may be a matter for public censure, disapproval, or praise."
[39] Ibid., 169; Edwards, *The People and Their Peace*, 7-8.
[40] Najar, *Evangelizing the South*, 36-37. This, Najar, argues, provided both laymen and women the opportunity to shape church policy and create their own religious identities, and even provided "versions of citizenship" for women and slaves, two groups lacking legal identity under the state. These versions of citizenship, however, were increasingly circumscribed by 1800 and in the decades after as Kentucky and Tennessee embraced Old South values and Baptist denomination shed some of its more iconoclastic positions in regards to gender and social relations. See, Blair A. Pogue, "'I Cannot Believe the Gospel That Is So Much Preached': Gender, Belief, and Discipline in Baptist Religious Culture," in Craig Thompson

kinship did not need to determine familial connections. The use of "brother" and "sister" when addressing fellow church members signified the ability to construct family bonds without bloodlines, and by extending these appellations to subordinate groups, Baptists and other evangelical groups endeavored "to extend orderly moral community into both farmhouses and slave quarters."[41] Indeed, the familial relations of all members, black and white, slave and free, fell under the jurisdiction of the local church. No matter their race or gender, all Baptists were "children of the same Father," just as Jesus Christ "was the head of his family, and his apostles [members of] his household."[42]

Each contracting member—each individual who professed conversion and accepted the church's covenant—was bound to inherent obligations. Joining a Baptist church entailed individuals' submission to church authority over all matters, including those of the household. Churches sought to regulate anything that threatened domestic peace—which, if not quelled could damage the fellowship's harmonious relations. They punished instances of verbal and physical abuse, drunkenness, extravagance, and sexual deviance.[43] They encouraged mothers and fathers to avoid "sending [their children] into all the gay fashionable and often vicious scenes of amusement and dissipation."[44] Members were furthermore expected to "abstain from contributing, going to, or

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Friend, ed. *The Buzzel about Kentuck: Settling the Promised Land* (Lexington: University Press of Kentucky, 1999), 217-240.

[41] Friend, *Kentucke's Frontiers*, 170; In their 1826 circular letter, the Elkhorn Association of Baptists equated the use of "the appellation of Mr. and Mrs. instead of the scriptural style of brother and sister" with a "conformity to the world." See, Elkhorn Association of Baptists Records, 1826, 7, STBL.

[42] For "children of the same Father," see Records of the Elkhorn Association of Baptists, 1830, 5-6; and for Jesus as head-of-household, see, "The Pulpit: The Duty of Family Worship," *Tennessee Baptist*, 8 November 1851.

[43] Heyrman, *Southern Cross*, 137-138.

[44] Records of the Elkhorn Association of Baptists, 1826, 5-7, SBTL. For a similar example emanating from a local Baptist Church, see Harrod's Creek Baptist Church Records, Vol. 1, February 1820, SBTL.

countenancing public dinners or barbecues got up for political purposes."[45] This policing of family relations was extended to slave members. The David's Fork Church in the mid-1830s, for instance, excluded a slave member, Ann, "for acting the harlot," and acquitted a male slave, John, of a charge for "rangling [*sic*]" and "quarrelling with [Ann] as his wife."[46]

This communal supervision over all members' lives could impede a household-head's authority within the home. Indeed, whereas heads-of-households in the South legally possessed a great deal of authority over their dependents, in practice, many had to contend with the prying eyes of neighbors, kin, fellow church members. Household-heads, Baptists believed, should not be tyrannical in their governance; rather they were expected to be benevolent patriarchs. If they strayed from the reciprocal duties of their marriage contract, or failed to adequately provide for their dependents, then they faced admonishment or exclusion from their local church, not to mention potential punishment from the state. In 1822, the Flat Rock Church of Shelby County, Kentucky excluded Brother James Vaughan for "unmerciful treatment of an orphan child." Similarly, a year later, the church excommunicated Brother Joseph McCarly for attempting suicide and "for mistrting [*sic*] children that [were] under his care."[47] In other cases, dependents' utilized their churches to air grievances against their household head, as when Sister Frances Pride demanded either her excommunication from the Fyke's Grove Primitive

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[45] Bryan's Station Baptist Church Records, December 1828, Kentucky Historical Society, KHS.
[46] David's Fork Baptist Church Records, December 1836/January 1837, http://davidsfork.org/images/David_s_Fork_minutes_1802-1850_PDF.pdf. Accessed March 2, 2015.
[47] Pleasant Grove Baptist Church Records (formerly Flat Rock), May 1822, June/July 1823, FHS.

Baptist Church or a committee appointed to settle a difficulty she had with "her father and his wife."[48]

Baptists also at times diverged from secular prescriptions of domestic relations by insisting men as well as women were responsible for children's educational and moral development. In the decades following the Revolution, historian Linda Kerber insists, America's secular sphere relied upon "righteous mothers…to raise the virtuous male citizens on whom the health of the Republic depended."[49] Although surely Baptists expected wives and mothers to inculcate republican virtue in their young, they also articulated a vision of the household in which each spouse was dependent upon the other and created a family unit of shared responsibility. This was especially true in relation to promoting the cause of religion within the household. In 1803, the David's Fork Baptist Church in Lexington appointed three members to labor with Brother Lewis Berry "in order to shew [*sic*] him his duty in family worship night."[50] In 1831, leading Baptists in Kentucky reminded "heads of families," to bring their "children up, in the nurture and admonition of the Lord," reading them Scripture and providing them with "good advice." [51] The following year, Elkhorn Association's circular letter warned that "we fear [prayer] is too much neglected by heads of families."[52] Furthermore, at least one Baptist governing association, referred to both spouses as "'heads of households' with

[48] Fyke's Grove Primitive Baptist Church, September/October 1836, SBLA. The committee did settle the difficulty between Sister Pride and her father, but unfortunately for her, also uncovered "that she was in a state of pregnancy" and she was excluded from the church.
[49] Kerber, *Women of the Republic*, 10.
[50] David's Fork Baptist Church Records, March 1803.
[51] Records of the Elkhorn Association of Baptists, 1831, 6-7, SBTL;
[52]Records of the Elkhorn Association, 1832, 4, SBTL.

responsibility for maintaining religion within the family and household."[53] For Baptists, the patriarchs' duties included instilling religious values in the household.

But nineteenth-century Baptists' focus on constructing households of shared responsibility was tempered by the injunctions that women should be submissive to their husbands and that servants and slaves obey their masters. These prescriptions for evangelical family life largely aligned with those emanating from other cultural and legal sources during the post-Revolutionary period. A patriarch's duty to instill moral values in the household did not necessarily lead to any greater deference shown to his dependents. In 1831, for instance, the Elkhorn Association reminded area Baptists that women should be "keepers at home" who "love" and remain "obedient to their husbands." Servants, Elkhorn's circular letter continued, should "be obedient unto their own masters," not steal or talk back, and display "good fidelity" in all things. And, despite Revolutionary-era churches offering women some sliver of "citizenship," to women as Monica Najar contends, nineteenth-century churches largely upheld the proper roles of husband and wife disseminated throughout the wider legal culture. For instance, in 1828, when Sister Hannah Morton composed and sent a letter of grievances against her pastor to the Bryan's Station Baptist Church, she only did so with the "sanction" of her husband.[54] Likewise, when the Buffalo Lick Church brought up a white member for "using the rod on a black brother," members voted he had not violated any church rules.[55]

Churches also charged female members for their actions within the domestic sphere, relying upon male members to investigate and rule on such matters. The Long

[53] Najar, *Evangelizing the South*, 66, 72-73, 75.
[54] Bryan's Station Baptist Church Records, Nov. 1828-March 1829, KHS.
[55] Buffalo Lick Baptist Church Records, Nov. 1811, FHS.

Run Baptist church leveled charges against Sisters Esther Casey and her daughter Evelin for "keeping a disorderly house," appointing a committee of ten men to investigate, who, "after a short retirement" called for the women's exclusions from the fellowship.[56] In 1820 the Harrod's Creek Church charged Nancy Carder with "quarreling with a neighbour [*sic*]" and "disobedience to her husband," and four months later charged Eliza Dunnagin for "neglecting her famely [*sic*] conserns [*sic*]" and "for not being in Subjection to her own husband."[57] Two years later, the church excluded Sister Edmons "for threatening to whip her husband and after words [*sic*] puting [*sic*] her threats into circulation."[58]

Churches did, indeed, take up charges against household heads for overstepping their authoritative role, but these instances appear spottily in church record books, and did not always work out in the dependents' favor. The Elk Lick Primitive Baptist Church leveled a series of charges against Brother Farier in August 1812, including wife abuse, intoxication, and profane swearing. Farier admitted that he abused his wife and drank too much, but denied he ever used coarse language, to which the church voted satisfaction and retained him in fellowship.[59] Similarly, in 1823, J. Gardner admitted to the Red River Church that while out of town on business he had drank to excess. His wife claimed that upon his return "he abused her & one of the children, and made use of foul language." In response, Gardner claimed "he did not remember it," but "did not deny it, not knowing what he did or said" since the alcohol had "made him almost beside himself." He

[56] Church Records of the Long Run Baptist Church, Vol. 2, October 1841, SBTL.
[57] Harrod's Creek Baptist Church Records, Vol. 1, October 1820, January-February 1821, SBTL.
[58] Ibid., March 1823, SBTL.
[59] Elk Lick Primitive Baptist Church, Vol. 1, August 1812, KHS. Brother Farier was excluded for drunkenness and other disorderly conduct six months, See February 1813.

apologized for his alleged, though unrecalled, behavior and the church restored him to fellowship.[60] Neither Sister Farier nor Sister Gardner of Red River found protection from their abusive spouses at their local churches. Instead, their churches served as institutions through which patriarchal prerogatives were substantiated.

Despite these broad actions to regulate household relations, antebellum observers often lamented churches' decreased authority over familial matters. By the 1830s, church leaders in the slave states began to more enthusiastically disseminate northern ideals of domesticity. Like Castleman's nursery of piety, the home became a church, "a sanctuary tended by wives and mothers." Most importantly, it restored moral authority to the home. This, historian Christine Heyrman, notes, led to a "withering of congregational discipline" as many families sought greater privacy in domestic matters.[61] In the 1840s, one religious periodical in the region even advocated to "avoid going from house to house for the purpose of hearing news, and interfering with other people's business," a far cry from the strictures of "watchcare" advanced earlier in the century.[62] Increased notions of family privacy, however, served as only a part of the cause for receding church discipline over household matters, as these ideas merged with gradual transformations of family law that restructured the legal household in the first-half of the nineteenth century.

For some time prior to the fall of 1809, Eliza Bainbridge had taken up residence with Capt. Norborne Beall in Spring Station, her children in tow. In August, Eliza's husband, Absalom, sent a letter to their daughter, Juliet, demanding she return home

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[60] Red River Baptist Church Records, October 1823, SBLA.
[61] Heyrman, *Southern Cross*, 158-159.
[62] Unsigned, "Twelve Excellent Rules for Promoting Harmony among Church Members," *The Tennessee Baptist*, 18 May 1848.

immediately lest he had to "whip [her] home." Juliet's mother might have been satisfied with "going to hell herself," but Absalom was determined the rest of his family would not follow her. "Do not you know," he implored to Juliet, that "I am by the Laws of God & man Lord & master of my Family & that I have a right [to] Chastise every one [*sic*] in it if they do not obey me in all things reasonable?" Bainbridge noted to his daughter that he was sure Capt. Beall wished that he had never meddled with her mother.[63] Yet, the following month Absalom sent Beall a formal notice accusing him of "harbouring [*sic*] and detaining my wife Elizabeth Bainbridge contrary" to his consent. "Unless [Eliza] speedily returns home, Absalom asserted, he would "resort to legal redress" against Beall and apply for a divorce from his wife.[64] Eliza apparently did not quickly return, for in December, Absalom sent a letter to her at Spring Station, cryptically warning that he would spend all the money he could raise "& every drop of blood in my body" to attain satisfaction against Beall. "Should I die before him if God will permit me[,] I will haunt him & every white person on the plantation." Beall, Bainbridge concluded, was "a target I shall allways [*sic*] keep my eye on."[65]

Bainbridge's words and actions in regard to his wife's apparent abandonment—and perhaps adultery—signify both the hardened patriarchal ideology guiding Kentucky's culture in the early-nineteenth century, as well as the practical reality of its limitations. White-male patriarchy, as noted above, remained weak, and gender roles more fluid, in

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[63] Letter from Absalom Bainbridge to Norborne Beall, ca. August 1809 and letter from Absalom Bainbridge to Juliet [Bainbridge], ca. August 1809, Beall-Booth Family Papers, Folder 45, Norborne Beall Correspondence, 1809, FHS.
[64] Bainbridge to Beall Notice, 25 September 1809, Beall-Booth Family Papers, Folder 117, Norborne Beall Papers, Business Records: Agreements, 1803-1820, FHS.
[65] Letter from Absalom Bainbridge to Mrs. [Eliza] Bainbridge, 4 December 1809, Beall-Booth Family Papers, Folder 45, FHS.

frontier and early-statehood Kentucky. In 1809, with Kentucky arriving at the threshold southern values, however, Bainbridge interpreted his rights as a father and husband through both the laws of God and man, insisting he held broad authority, in all matters "reasonable."[66] Legally speaking, as the head of household, Bainbridge did possess the right to induce the obedience of all his dependents. Yet Eliza Bainbridge's actions demonstrated her own willingness to buck his authority and find refuge elsewhere, and perhaps force his hand in filing for a divorce, just at the time when the Kentucky legislature was tinkering with the stipulations—the reciprocal duties of husband and wife—of the legal marital contract.[67]

Religious groups in Kentucky and Tennessee often deplored the ease with which the state governments granted divorce, at times pressuring their legislatures to reform the laws. By the end of the antebellum period, despite the growing frequency of divorce cases in local courts, Baptist church record books and observers' comments demonstrate that churches were growing more reluctant to discipline their members' marital transgressions. This did not necessarily mean that trans-Appalachian Baptists became less faithful or less zealous in their interpretation of the Scriptures in regard to domestic relations, but it does signal a re-envisioning of religious and state authority, as churches' lack of such discipline implicitly deferred power to civil governance in handling such affairs.

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[66] See Friend, *Kentucke's Frontiers*, xxii.

[67] As Stephanie McCurry notes in *Master of Small Worlds: Yeoman Households, Gender Relations, & the Political Culture of the Antebellum South Carolina Low Country* (New York: Oxford University Press, 1995), 90, women who left their husbands often did so "not with the intention of permanent separation but with the express purpose of drawing public attention to their plight and forcing the intervention of kin or community to restrain their husbands."

Churches decreased role in household matters was rooted in changes in American law and culture that re-worked household relations in the decades following the Revolution. As noted above, these changes took hold in the industrializing North much quicker than in the slave states. By the 1850s, however, historian Peter Bardaglio argues, the North's individualistic, contractualist philosophy for family life began infiltrating southern culture. State governments exerted even greater influence within southern homes after the Civil War than in the decades preceding it. But the sectional strife did not mark a clear line between continuity and change, as shifts in domestic relations law during the antebellum period regarding slaves, married women's property rights, divorce, and child-custody, signaled the infiltration of liberal social relations in the prewar South.[68] Southern state legislatures, especially in newly settled in-land areas, enlarged married women's property rights over the course of the late antebellum period. These legislators were not revolutionaries seeking to establish equal gender relations; rather, they were reacting to a changing economic and cultural landscape. In 1839, for instance, amidst the financial fallout of the Panics of 1837 and 1839, Mississippi enacted measures allowing married women to hold property in their own names, and subsequent legislation in that state provided for wives to profit off such land, enter into contracts, and sign deeds, all without interference from their husbands.[69]

Other state legislators felt pressure to reform because of the widening domestic role Victorian society attributed to women, assigning them greater responsibilities within the household. Much of this stemmed from the awareness that married women needed greater legal recourse to secure their economic standing in case their husband failed to

[68] Bardaglio, *Reconstructing the Household*, xiv-xvi.
[69] Ibid., 32.

support the family or wagered all in the unstable market and lost.[70] This line of thought was not lost in the trans-Appalachian region. As early as 1843 Judge William B. Turley of the Tennessee Supreme Court, distinguishing America's system of domestic relations from the uncivilized feudal systems which preceded it—systems which looked to the wife and children as property of the husband—described such dependents "as having equal rights to all the enjoyments of life, and as safe and adequate protection for them, as the husband and father."[71]

The marriage compact was central to the colonial and post-Revolutionary American household. Its conceptualization as a private contract stretched back deep into the English legal tradition. In their efforts to define marriage in the new republican legal order, nineteenth century lawyers pulled from colonial statutes and common practice, two sources which themselves were grounded in diverse intellectual strands such as Calvinist thought, English ecclesiastical law, and the common law. Although differing in many respects, these sources agreed that marriage was a private contract with public repercussions and thus requiring communal supervision and regulation. Over the course of the colonial period, community supervision waned, but state law still emphasized the civil, or public, nature of the marital contract.[72] After the Revolution, however, many American observers and lawmakers reacted against this emphasis, envisioning marriage instead as largely a private contract among consenting parties, and one that could be terminated by the spouses. Yet, tensions between marriage's public and private nature, as

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[70] Ibid., 32.
[71] *The State on the Relation of Paine vs. Paine*, 23 Tenn. 533-34, Lexis 132, (1843).
[72] By the post-Revolutionary period, Michael Grossberg notes, law's emphasis on the civil contract of marriage shifted from "civil" to "contract," a process emanating from a new understanding of marriage's consensual nature and the larger transition in social and economic relations from patriarchalism to contractualism described above Grossberg, *Governing the Hearth*, 19-20.

well as the inherent inequality of the consenting parties, simmered over the course of the antebellum period.

Observers and legal theorists during the nineteenth century struggled to neatly define the marriage contract. United States Supreme Court Justice Joseph Story noted in 1841 that marriage was "something more than a mere contract."[73] Justice George Robertson of the Kentucky Court of Appeals waxed similarly in 1838. Marriage is, "in one sense, a contract," as it is a "concurrence of two competent minds," but, "unlike ordinary or commercial contracts, [it] is *publici juris*, because it establishes fundamental and most important domestic relations." Robertson continued that all organized societies were interested in the harmony of its member-relations, and that marriage, as the most basic and useful of social relationships was "regulated and controlled by the power of the State, and cannot, like *mere contracts*, be dissolved by the mutual consent only of the contracting parties."[74]

As something more than a mere contract, its regulation fell under the sovereign will of the state. The marital contract, Kentucky courts exclaimed on more than one occasion, was "subject to the public will, and not to that of the parties."[75] Indeed, for some lawmakers, civilization's progress depended upon policing marriage relations. As Judge Jacob Peck of the Tennessee Supreme Court exclaimed in the 1830s, the

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[73] Story quoted in Ibid., 21.

[74] *Maguire vs. Maguire*, 37 Ky. 181, 183-184, Lexis 117 (1838); For more on the unique qualities of the marriage contract, see, Cott, *Public Vows*, 10-11.

[75] In *Maguire* the Kentucky Court of Appeals claimed that legislative acts of divorce were constitutional when there was not a breach of contract by one of the parties, but, if this was the case, then it was a judicial matter, not legislative. In *Cabell vs. Cabell's Administrator, &c.* (1858) 58 Ky. 319, Judge Stites, pointing to Story's decision in *Dartmouth College v. Woodward* 17 U.S. 518, Lexis 330, (1819), as well as state cases such as *Maguire*, *Gaines vs. Gaines' Executor and Heirs*, 48 Ky. 295, Lexis 69, (1848), and *Berthelemy vs. Johnson*, 42 Ky. 90, Lexis 109, (1842) that the legislature possessed the power to dissolve a marriage, and this action did not fall under the constitutional interdiction of legislative acts impairing contracts.

"refinement of a people, and the purity of their morals, are perhaps better tested by the regard which the laws have to the enforcement" of the duties arising from the marital contract, more so "than from any other source." Taking a tongue-in-cheek jab at his state's divorce laws, Peck continued that "it may be safely said, that when a people become lost to the binding obligation of the marriage contract, they are verging to a state that threatens the social compact." When the marriage contract was looked down upon, or even with simple indifference, it was a sure sign that the community was "retrograding."[76]

In the Revolutionary-era trans-montane region, however, there was little institutional control over the marriage contract. Due to a lack of licensed preachers in the region and the sheer distance of state institutions, frontier residents often married illegitimately, without religious or state sanction.[77] Institutional control over marriage remained inchoate at best in early-statehood Kentucky, as the persistence of illegitimate marriages through the 1790s forced religious and state authorities to address the issue. In 1795, the Bryan's Station Baptist Church excluded Elizabeth Ross for living with a man as her husband and not being "lawfully" married.[78] Three years later, in 1798, Kentucky lawmakers consolidated the Commonwealth's marriage laws. The state assembly "returned marriage to local church authority" by requiring marriages to be performed by

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[76] *Richardson vs. Wilson*, 16 Tenn. 67, 79, Lexis 8 (1832).

[77] Cott, *Public Vows*, 30-31; As Brewer notes in *By Birth or Consent*, "Debate raged over the validity of informal marriages during the early decades of the nineteenth century but in a more narrow form than it had taken in the previous two centuries." Instead of focusing on the completion of informal vows, jurists, such as James Kent, looked for validity through consummation and cohabitation. The prevalence of informal marriages in Kentucky was not a new phenomenon anywhere on the North American continent, let alone in Kentucky's mother state of Virginia where during the colonial period the costliness of marriage licenses, coupled with the Anglican Church's monopolized authority on sanctifying marriages, led many couples to pursue nuptials informally. See, Steven Mintz, "Regulating the American Family," *Journal of Family History* 14, no. 4 (December, 1989): 389.

[78] Bryan's Station Baptist Church Records, July 1795, KHS.

licensed Christian ministers. Formalizing the terms of the marital contract, individuals had to navigate the religious sphere in order to attain state recognition.[79] Similar conditions existed in eighteenth-century Tennessee. The Anglican minister Charles Woodmason journeyed through the backcountry of the Carolinas during the 1760s, often making note of the marital practices of frontier inhabitants. He lamented the lack of ministers in the region, and claimed that through the "licentiousness of the People, many hundreds live in Concubinage—swopping their Wives as Cattel [*sic*], and living in a State of Nature, more irregularly and unchastely than the Indians."[80] As with Justice Peck after him, Woodmason entwined civilization with proper gender relations funneled through the marriage contract.

Although initially the fluid frontier conditions of early Tennessee, as in Kentucky, weakened state authority over marriage, by the turn of the century, government had increased its role in defining the marital terms. Judicial efforts to enforce marriage rules in the late-eighteenth century often stumbled when the matter resided with a jury of peers, and sexual relationships remained unsolidified, with little push back from either secular or religious authorities. In many cases, local courts only intervened in cases of needed support for illegitimate children.[81] State legislatures throughout the young republic, however, eventually monopolized the formal power to regulate marriage, directing who could marry whom, the procedures and validity of such nuptials, the legal responsibilities of the each party, and, the conditions for divorce, alimony, and the modes

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[79] Friend, *Kentucke's Frontiers*, 190-192.
[80] Richard J. Hooker, ed. *The Carolina Backcountry on the Eve of the Revolution: The Journal and Other Writings of Charles Woodmason, Anglican Itinerant* (Chapel Hill: University of North Carolina Press, 1953), 15.
[81] Cumfer, *Separate Peoples, One Land*, 159-160.

for pursuing these actions.[82] Each state had its own legal peculiarities when it came to policing marriage. Legislation specified the type of divorce allowed, the grounds for divorce, what constituted "abandonment," and what rights women held over property brought to the union and money made off that property during the marriage.[83]

Baptists and other evangelicals did not deny the importance of the state in regulating the marriage contract, rather, like many of their judicial counterparts, they saw it as both a religious and secular compact. "Marriage is a civil as well as a religious institution," Baptist reformer Alexander Campbell wrote in 1828. "It is, therefore, a proper subject of civil legislation."[84] As a public and private contract, evangelicals agreed marriage necessitated the backing of civil authority. The issue of property transmission certainly played a major role in this need, but so too did moral issues. One Tennessee Baptist, referring to a couple who was married by someone who was not a magistrate or a licensed minister, asked rhetorically "[c]ould their children, by the old English law, inherit the property? By no means," he gathered, for, in "the eyes of the law, no marriage existed." If such "informal marriages" were pronounced lawful, the writer concluded, then "[a]ll order would be abolished, and the greatest immorality and libertinism [would] succeed" throughout society.[85] Indeed, stable marriages were seen as so important to the social fabric that some observers and lawmakers went to great lengths

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[82] Cott, *Public Vows*, 27-28. As Cott notes, too, the federal government lacked "specific regulatory power" and had "few avenues along which to implement its fundamental commitment to monogamy." Through its Indian policy, however, the federal government did exert an impact upon marital relations. For this discussion, see pp. 24-26.

[83] Hendrik Hartog, *Man & Wife in America: A History* (Cambridge: Harvard University Press, 2000), 12.

[84] Alexander Campbell, "*Queries—Answered*," *The Christian Baptist*, Volume 6 (1828), 539; Even still, Baptists and Methodists expected members to only marry other converted believers. The latter group, especially, relied upon excommunication to enforce the stricture. Evangelicals largely gave up on this insistence by the turn of the nineteenth century. See, Heyrman, *Southern Cross*, 139-140, 156.

[85] Fidus,"No. XII--Dr. Bythewoods Opinion and J.S. Waller Contrasted," *The Tennessee Baptist*, 1 March 1849.

to promote the institution and allowed for rather extensive state regulation of marital relations. The Methodist circuit rider and editor of the *Tennessee Whig*, William Brownlow, praised Alabama lawmakers who in late 1839 proposed a bill taxing unmarried white males over the age of twenty five. "We should like to see such a law passed in Tennessee," he asserted, but with an additional clause "that all who court, or make marriage contracts" with no intention of seeing their pledges through should be imprisoned, while those "who have married one wife," yet continue "prowling about their neighbor's houses" should be sent to the penitentiary for at least one year, and no more than ten.[86] Though Tennessee and Kentucky legislators did not go as far as fining bachelors, they did implement a variety of laws centered upon the marriage institution.

Beginning in 1799 and continuing throughout the early-republican and antebellum-eras, Tennessee expanded its divorce laws and proved an easier place to seek and obtain a martial dissolution than many other southern states.[87] Imbued with Revolutionary-era ideals of individual liberty and facing the realities of a mobile pioneer

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[86] "Alabama Marriage Law," *Tennessee Whig* (Jonesborough), 16 January 1840. Section 2 of the proposed law, as printed in the *Whig*, stated that every white male who remained "unmarried after the age of twenty-five, shall for the first year after that age, pay a tax of five dollars, for the second, ten dollars, and each year thereafter increasing by five dollars until he shall marry," with the tax to be used for "procuring a homestead to those families who had none." The law apparently did not pass the Alabama Assembly, see, the acts on marriage in, C. C. Clay, *A Digest of the Laws of the State of Alabama: Containing All the Statutes of a Public and General Nature, in Force at the Close of the Session of the General Assembly, in February 1843* (Tuskaloosa [sic]: Marmaduke J. Slade, 1843), 372-374; Such a proposed measure was not without precedence, as in parts of colonial New England, local governments taxed single men and women and fined married couples who lived apart. See, Mintz, "Regulating the American Family," 389.

[87] Lawrence B. Goodheart, Neil Hanks, Elizabeth Johnson, "'An Act for the Relief of Females...':Divorce and the Changing Legal Status of Women in Tennessee, 1796-1860, Part I," *Tennessee Historical Quarterly*, 44 no. 3 (Fall 1985): 320, 322-323. North Carolina did not pass its first divorce law until 1814, Kentucky in 1809, and South Carolina in 1868. The authors note that aside from 1819 and 1822 legislation which possessed "special racial concerns," bills passed pertaining to divorce "from 1825 to 1860 progressively expanded the wife's legal prerogatives and facilitated the divorce procedures"; For a brief review of other states' divorce laws see, Norma Basch, *Framing American Divorce: From the Revolutionary Generation to the Victorians* (Los Angeles: University of California Press, 1999), esp. Chapter Two.

society, Tennessee set down rather progressive divorce laws.[88] In 1799, the Assembly passed, "one of the most liberal divorce statues in the country," allowing local courts to decree a divorce if the parties met simple statutory conditions.[89] In order to obtain an absolute divorce (*divortium a vincula*), a party had to prove their spouse's guilt relative to adultery, bigamy, desertion, or impotence.[90] A push back from religious groups led to the Act's repeal in 1807, only to see it reinstated in 1809 after a flood of divorce petitions reached the legislature. From 1796 to 1810 alone, at least eighty-eight petitions for divorce reached the state assembly, 50% of which were instigated by women.[91] In 1825 legislators passed a measure designed to relieve women whose husbands had abandoned them, setting aside any property she had attained since the separation from seizure to pay for her husband's debts. Over the following decades, the Tennessee Assembly continued to remold the contours of the household, constructing measures which, while not completely disempowering the patriarch, provided greater access for his spouse to interact with the state.

The 1830s and 1840s witnessed even more extensive legislation in Tennessee which allowed women greater autonomy when seeking to exit a marriage. In 1831, the Assembly voted to allow women to have no-cost divorces (provided their bill was successful) and dispensed with, for women at least, the required four-week successive publication of the divorce in the local press. An 1835 amended divorce bill went further,

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[88]Goodheart, Hanks, Johnson, "'An Act for the Relief of Females...'," I, 321;Hartog, *Man and Wife in America*, 33,

[89] Cumfer, *Separate Peoples, One Land*, 168.

[90] Goodheart, Hanks, Johnson, "'An Act for the Relief of Females...'," I, 320. The other option was called a "bed and board" divorce (*divortium a mensa et thoro*) and fell in line with what we know as a legal separation.

[91] Cumfer, *Separate Peoples, One Land*, 168. Cumfer claims that 41 percent of the divorce petitioners were men, while 9 percent were joint petitioners.

allowing for married women to sue for divorce in their own names and stipulated that divorced spouses could re-marry without any waiting period, as if the first marriage had never taken place. Furthermore, a wife could obtain a divorce and gain a right to alimony if, after being charged by her husband with adultery, could prove that her husband allowed her to work as a prostitute, "or exposed [her] to lewd company." Women acting as complainants in a successful divorce bill, too, were entitled to "the absolute enjoyment of such real estate and to the entire dominion and control of such goods and chattels" which they may have received from their husbands, acquired through their own industry, or inherited from a relative dying intestate. The bill did note, however, that husbands who successfully obtained a divorce, and possessed a right or interest in any of his former wife's lands or tenements or hereditaments, retained such rights of interest. Moreover, a wife found guilty of adultery could not claim a dower in her former husband's estate, was not entitled to alimony, and her husband retained rights in any property she may have held.[92] Despite these latter stipulations which sought to control female sexuality, the 1835 Act, by expanding divorced wives' rights after the dissolution, allowing them to sue in their own names, and assume sole control over any property they had acquired, certainly provided greater recourse, or at least greater incentive, for an unhappy wife to seek a legal divorce. In 1840, the legislature allowed married women of good character who had resided in Tennessee for at least two years the ability to sue for a divorce on any legal grounds, even if the offences had occurred while she lived in a another state.[93] Two

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[92] For complete text of the 1835 Act see, R.L. Caruthers & A.O.P. Nicholson, *A Compilation of the Statutes of Tennessee of a General and Permanent Nature from the Commencement of the Government to the Present Time. With References to Judicial Decisions, in Notes, to which is Appended a New Collection of Forms* (Nashville: Steam Press of James Smith, 1836), 256-262.

[93] Goodheart, Hanks, Johnson, "'An Act for the Relief of Females'," I, 325.

years later, the legislature passed an act which allowed for absolute divorce in all cases which had previously met standards for a legal separation and empowered courts to grant divorced wives "such part of the real and personal property of the husband as they shall think proper."[94]

Kentucky's divorce legislation, though not as progressive as Tennessee's, still chipped away at patriarchs' expansive power within the household. Two years after passing "An Act for the Solemnization of Marriages" in 1798—which imparted the power to officiate wedding ceremonies, among other things, to ordained Christian ministers—Kentucky passed its first alimony law. Empowering all courts of quarter sessions with jurisdiction in alimony cases, the Act provided women an opportunity to seek financial assistance from husbands who had abandoned them for more than one year in succession, had lived in open adultery with another woman for at least six months, or "in cases of cruel, inhuman and barbarous treatment." Upon a decree for alimony, the husband's power over the wife, his legal authority over her through the common-law form of coverture, ceased, and she was free to buy, sell, and transfer property without any hindrance from her husband, "in the same manner as if she was a *feme sole.*[95] This act

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[94] *Acts Passed at the First Session of the Twenty-Fourth General Assembly of the State of Tennessee, 1841-42* (Murfreesborough: D. Camerson & Co., Printers to the State, 1842), 155; See also, Goodheart, Hanks, Johnson, "'An Act for the Relief of Females'," I, 325-326.

[95] William Littell, *The Statute Law of Kentucky, 1798-1801, Volume II* (Frankfort: Johnson & Pleasants, 1810), 409-410. Italics in original. In 1812, the Kentucky Assembly broadened the conditions for a wife's gaining alimony, enacting "An Act concerning Alimony and separate maintenance of Wives and Children abandoned by their Husbands and Fathers." This measure was aimed at men who affiliated themselves with unorthodox religious sects, particularly the Shakers. "That were any man united in lawful marriage," the Act stated, "hath or hereafter shall renounce the marriage covenant, by refusing to live with his wife in the conjugal relation, by uniting himself to any sect, whose creed, rules or doctrines require a renunciation of the marriage covenant, or forbid a man and wife to dwell and cohabit together, according to the true spirit and object of marriage, the person so offending shall subject himself to recovery of alimony or separate maintenance by the wife aggrieved thereby." The Act also stipulated that any conveyance of real or personal property by the husband to the particular sect was subject to the decrees of the court in an alimony proceeding. In 1831, the Assembly did away with jury decisions in alimony cases, placing the

did not actually provide for a legal divorce, but acknowledged that circumstances arose in which it was better off for the woman to have maintenance provided her by her estranged husband, and that she should have her legal identity restored.

Nine years later, however, the Assembly did pass a law stipulating the conditions for a divorce. "An Act Regulating Divorces in this Commonwealth" granted circuit courts the authority to decree a divorce to a husband if his wife was living in open adultery, had been convicted of a felony in the United States, or if she had abandoned him for the space of three years. Similarly, women could attain a divorce if their husband was living in open adultery, had abandoned her for more than two years, had been convicted of a felony anywhere in the country, "or where his treatment of her [was] so cruel, barbarous and inhuman as actually to endanger her life." Section Six of the Act specified that, upon a decree for divorce, the offending party, say the adulterous husband, was not released from his duties as husband, and "he shall nevertheless remain subject to all the pains and penalties which the law prescribes against a marriage" while his former wife was still alive. The injured party, in this hypothetical case, the wife, was enjoined from marrying again within two years from the divorce decree.[96] Over thirty years later,

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decisions in the hands of the chancellor. See, C.S. Moreheard and Mason Brown, *A Digest of the Statute Laws of Kentucky, of a Public and Permanent nature, From the Commencement of the Government to the Session of the Legislature, Ending on the 24th February, 1834, with References to Judicial Decisions, in Two Volumes* (Frankfort: Albert G. Hodges, 1834), I, 124-126.

[96] William Littell, *The Statute Law of Kentucky, 1808-1811, Volume IV* (Frankfort: Printed For William Hunter by Robert Johnston, 1814), 19-20. Although this law granted authority to circuit courts to hear divorce petitions, the state assembly still issue divorces through this period. In 1816, the assembly passed, "An Act to amend the law concerning writs of error," which forbid the Court of Appeals from reversing "the decree of any court of equity hereafter obtained, granting a divorce from the marriage contract" if brought on a writ of error. This did not stop the Court of Appeals from taking up cases where the lower court granted a divorce and a division of the couple's estate in the same decree, though their actions were limited to judging the latter not the former issue. For example see, *Thornberry v. Thornberry* (1823), 14 Ky. 251. Nor did it stop the Court of Appeals from ruling on cases brought by a party "aggrieved by an erroneous decree" by a lower court, such as a dismissal without prejudice. See, *Boggess against Boggess*, 34 Ky. 307, Lexis 71, (1836); For the 1816 law, see, *Acts Passed at the First Session of the Twenty-Fourth*

in March 1843, the General Assembly amended the 1809 divorce act, laying out new requirements for a divorce. A husband could now attain a divorce if his wife was pregnant by another man before the marriage without the husband's knowledge, in cases in which his wife was malformed to the extent it rendered "sexual intercourse impossible," and in cases of her adultery or abandonment of one year. For married women, too, the court broadened the terms necessary for a divorce. It shortened the requisite length of a husband's abandonment from two years to one, and provided divorce for in cases of a husband's impotence, his habitual drunkenness, and his cruel treatment meant to "destroy her peace and happiness." Furthermore, sections four and five of the act released both parties from the marriage contract upon a divorce decree in favor of either party. No longer would husband or wife have to uphold the obligations of marriage despite their legal divorce.[97]

Like other states that enacted divorce statutes during the post-Revolutionary period, Kentucky and Tennessee's legislation was an effort to reassert state authority over divorce. The practice of "self-divorce"—widespread through the United States and often given local, informal sanction by communities—thwarted the ability of the state to regulate the public aspect of the marriage contract, did little to ensure that a female divorcee and her children would receive financial support, and complicated the

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General Assembly, For the Commonwealth of Kentucky, Begun and Held in the Town of Frankfort, on Monday the Fourth day of December, One Thousand Eight Hundred and Fifteen, and of the Commonwealth the Twenty-Fourth (Frankfort: Gerard & Berry--Printers for the Commonwealth, 1816), 572-573. Although Section Six of the 1809 divorce law was overturned by the 1843 Act, in 1847, Judge Breck upheld the decision of a chancery court who claimed a second marriage by the injured party, coming only months after she was granted a divorce decree, was not valid either *de jure* or *de facto*. See, *Cox and Wife, &c. vs. Combs*, 47 Ky. 231, Lexis 160, (1847)

[97] See, "An Act to amend an act, entitled, an act regulating divorces in this Commonwealth, approved 31st January, 1809," in *Acts of the General Assembly of the Commonwealth of Kentucky: Passed at the December Session, 1842* (Frankfort: A.G. Hodges, State Printer, 1843), 29.

transmission of property. In passing such divorce bills, legislators sought not to weaken the marriage institution, but to perfect it by clearing out ruptured contracts.[98] Legislators not only accepted the actuality of marital relations—that adultery, bigamy, and desertion occurred in their states—but believed that by eliminating patriarchy's worst abusers, both the marriage institution and society as a whole would be more stable.[99]

In reality, however, these enactments possessed the potential to destabilize household-heads' authority by granting more avenues for their dependents' interaction with the state. Post-Revolutionary divorce laws were unprecedented in Western society. By noting barbarous or cruel treatment as a condition for divorce, state legislatures, not only made it easier for unhappy wives to seek a divorce, but removed the legal protection for husbands' corporeal punishment of their wives.[100] Like Kentucky and Tennessee, most states gradually expanded divorce laws during the post-Revolutionary period, a sign, historians have noted, which gives "compelling evidence that the contractual ideology of the Declaration of Independence resonated through [legislators'] thinking about spousal relations."[101]

Judges still expressed misgivings when mitigating divorce suits as they tried to rectify the sanctity of the marital contract with the states' liberalizing divorce laws. Justice Robertson, in *Logan v. Logan* (1841), expounded his view of the marriage contract as well as the power of state courts to dissolve the marital relation. Both parties

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[98] Cott, *Public Vows*, 48-49.
[99] Goodheart, Hanks, Johnson, "'An Act for the Relief of Females'," I, 322.
[100] Shammas, *A History of Household Government in America*, 13; South Carolina was the only state in antebellum America that did not legally provide for a divorce in some form. For a discussion on this and domestic relations in that state in general, see, McCurry, *Masters of Small Worlds*, 85-91.
[101] Cott, *Public Vows*, 47; On the construction of the legal procedures for obtaining a divorce between the American Revolution and the Civil War, see, Basch, *Framing American Divorce*, 4.

of a matrimonial compact, he averred, needed to understand that having bound themselves together "in the most sacred and endearing of all earthly relations" both "human and divine law" required they forebear each other with kindness. "If this cannot be done," the Chief Justice continued, then both parties "'must suffer in silence.'" Courts were not forums through which individuals found the "cures for all the miseries of life," and unless there was evidence of cruelty, a Kentucky court did not have the authority to separate "those whom '*God* hath joined together.'"[102] Couples seeking a divorce in the post-Revolutionary and antebellum-United States understood that by breaking the terms of their mutual contract, they offended "the larger community, the law, and the state, as much as offending" each other.[103]

The local community, over the course of the first-half of the nineteenth century, served as the most effective disciplinary forum for regulating marriages, and neighborhood churches emerged as key institutions through which communities policed spousal relations.[104] Trans-Appalachian Baptists often dealt swiftly with charges pertaining to divorce or separation. The Flat Rock Baptist Church noted in April 1813 that Peter Young and his wife Polly had separated, "and each of them beings talked to express that they have no idea of living together again." Such expressions earned their immediate exclusions from the fellowship.[105] In other instances, churches refused individuals membership because of their domestic situation. In January 1810, George Nation attempted to join the Tick Creek Baptist Church of Shelby County, Kentucky, but

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[102] *Logan v. Logan*, 41 Ky. 142, 146-147, Lexis 113, (1841). Italics in source.
[103] Cott, *Public Vows*, 11; As Basch puts it in *Framing Divorce*, 3, as the "source of harmony and stability in a shifting, competitive world, [marriage] was the irrevocable contract that made all other contracts possible." Divorce, however, "took away marriage's irrevocability, bringing it closer to other contracts."
[104] Cott, *Public Vows*, 29; Najar, *Evangelizing the South*, 70-71.
[105] Pleasant Grove Baptist Church Records (formerly Flat Rock), April 1813, FHS.

objections arose "in consequence of his first wife's leaving him and refusing to live with him." He had subsequently married another woman, and the church body concluded that his reception into the church was not justified, and Nation remained outside of the fellowship.[106]

Churches' decisions in divorce cases did not occur in a vacuum, and state authorities often looked to members' actions when deciding such matters. For instance, when William Babb petitioned the Tennessee State Assembly for a divorce from his wife, Elizabeth, in 1822, he did so with the backing of his fellow church members, 79 of whom signed a supporting statement.[107] Some judges also reviewed churches' disciplinary activities when mitigating spouses' quarrels. In 1834, Archibald Logan and Eleanor Robb, "both nearly 70 years of age" married in Lexington, Kentucky. By 1838, "their domestic peace was disturbed by intemperate complaints and upbraidings [*sic*]" made by Eleanor. For his part, Archibald did little "to soothe the deeply moved feelings of his discontented and irritated wife." It did not take long for their marital woes to attract public attention, which, "instead of stifling" their discontent, as Justice Robertson exclaimed, "seemed only to inflame [Eleanor's] heated passions." As both were members of local Presbyterian Churches, Archibald sought the intervention from his fellow church-goers. But this too only "added fuel to the fire." Eventually, Archibald left their home, the necessity of which, he later insisted, was "the only alternative consistent with [the couple's] honor and happiness, the decorum of their neighborhood,

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[106] Tick Creek Bethel Church Records, January 1810, FHS.
[107] For reference to this petition, see, http://www.tn.gov/tsla/history/misc/petition05.pdf. Accessed January 22, 2015.

and the interests of the church."[108] Logan, by going to his neighbors and fellow church members for aid, along with Justice Robertson's apparent perplexity over the church's failure to pacify the discontented Eleanor, demonstrates that the relationship between religious authority and that of the state was envisioned as more fluid and less dichotomous than has been previously suggested.

Tennessee Supreme Court Justice Nathan Green followed a similar course in his 1844 decision in the case of *Payne vs. Payne*, turning to church members for assistance in determining the disputants' character. Eliza Payne sought a divorce from her husband, W.L. Payne, for "gross abuse" and threats of "physical violence." Green noted that both were members of the local Methodist Church. "The ministers of that church, and other members, speak of the [Eliza's] Christian character in the highest terms; but that of the defendant in equivocal language." Most disturbing to Green was witness testimony which claimed W.L. Payne, "at family devotion, prayed the Lord to deliver him from his wife, in whatever way he might think best." Although both were church members, Green concluded, Eliza surrounded "the family alter [*sic*] as a matter of duty and pious privilege," while her husband "profanely call[ed] upon God" in order to threaten his wife, and thus, her remaining in the marriage would be "intolerable."[109]

Although courts resorted to strenuous investigations of each spouses' behavior, and the overall domestic situation which led to the divorce petition, most Baptists still decried the ease of civil divorce. In 1825, the Long Run Association of Baptists, one of Kentucky's largest such bodies, received a query from a member church on whether "a man who puts away his wife" or vice versa, was an adulterer if he then married another.

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[108] *Logan*, 142-143.
[109] *Payne v. Payne*, 23 Tenn. 500-502, Lexis 150, (1844).

The Association responded that according to the Scriptures, any man who put away his wife, except for the cause of her adultery, himself committed adultery. "And we came of opinion," the body concluded, "that an act of the Legislature of the State cannot justify a course of conduct" that God condemned. Anyone, then—even with a legal divorce from the state—who married a second time was guilty of adultery and should be held to the discipline of his or her church.[110] Over two decades later, area-Baptists still lamented the law of the land regarding divorce. The *Baptist Banner* exclaimed in the late 1840s that Kentucky's law of marriages was "not a bit more binding upon the parties than jumping over the broom-stick." Virtually "any pretense," the paper insisted, could be brought up by husband or wife and the "Legislature and courts" would find it sufficient for a divorce decree. More than a blemish upon the marriage institution, such practices were "destructive to the morals and purity of society, a disgrace to the parties" and their extended families, and "a foul stain upon the escutcheons of the Commonwealth."[111]

Despite these laments, when churches did take up matters of domestic strife, they were likely to find that the interested parties did not appreciate the intrusion. Church cases revolving around domestic relations held the potential to cause a larger fissure in a church's social fabric and could signify individuals' weariness over their neighbors and fellow brethren prying into their private affairs. The Elk Lick Primitive Baptist Church in Scott County, Kentucky excluded James Neale for adultery in August 1846. Five members, however, voted against exclusion, two of which, Jacob Neale and Penelope Jones, refused to fall in line with the church majority on the matter. A committee was

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[110] Book of Records of the Long Run Association (Typescript), September 1825, p. 144, SBTL.
[111] Quotes are from "Divorces in Kentucky," *New York Evangelist*, 9 March 1848, and are attributed to the *Baptist Banner*, who claimed that "an unusual number of divorces [had] already been granted by our Legislature, and that still its time is mainly taken up with applications yet undecided upon."

formed to labor with the dissenters. They reported in September that Neale and Jones remained unreconciled with the church's actions. When a vote was taken whether to continue them in fellowship, a majority voted for their excommunication. Five more dissenters voted against this action, which led the majority to sanction their exclusions as well. In all, charges against James Neale for adultery led to eight exclusions and months of intra-church strife.[112]

Similarly, in November 1845, the Pleasant Grove Church brought up Brother and Sister Netherton for separating. The case wore on for nearly four months as the church sought explanation from the disputing couple. Brother Netherton, after being censured by the church, eventually made satisfaction to the charge and immediately thereafter requested a letter of dismission. Netherton may have requested dismissal from the church because he did not appreciate his fellow church members' prying into his private affairs. Sister Netherton, making clear her thoughts on the church's role in the case, however, "refus[ed] to hear the church" on the matter and was excluded in March 1846. The church clerk, in a rare candid moment expressed what surely many Baptists felt when such cases swept through their congregations: "Oh that the church could be freed from such perplexing difficulties." In the following years, the church did free itself of such difficulties involving its white members. Of the five cases centering on adultery, seduction, or marital separation that the Pleasant Grove Church heard from 1846 through 1860, all of the charges were directed toward black members. [113]

[112] Elk Lick Primitive Baptist Church, Vol. 1, August-September 1846, KHS.
[113] Pleasant Grove Baptist Church Records, 1846-1860, FHS.

Throughout the period, trans-Appalachian Baptist churches disproportionately disciplined the sexual and family lives of their black members, especially their enslaved brethren. Baptists and other Protestant groups of the late-eighteenth and early-nineteenth centuries encouraged slaves to marry, holding them to the same standards of martial fidelity as white church members.[114] Charges against enslaved members' fornication and adultery fill post-Revolutionary church minute books. For instance, the Harrod's Creek church quickly excluded "Sister Fanny belonging to Br. Evins for the sin of fornication" in August 1820.[115] At other times, the church court became a venue in which to punish large numbers of slaves at one time, as was the case in November 1804 when Asa Tompson, a member of the Bryan Station's Church and future sheriff of Fayette County, Kentucky, charged five "black members for the sin of adultery." Three of the accused belonged to Asa Tompson, one to Clifton Tompson, and another to a "Tandy" and it is unclear whether the last was a church member or not. Asa and Clifton Tompson insisted that they had "dealt with" the accused and that "they all confest [sic] the fact." Despite this alleged confession, not one of the accused adulterers answered the church's citation and all were excluded from church fellowship, which may signal that some slave members did not welcome church authority over their sexual lives.[116] Ultimately, however, membership in a church, and its institutional recognition of slaves' marriages was conditional, and seen as a privilege by church bodies, perhaps more so for enslaved members who had been deemed by the wider society as naturally immoral and unfit for

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[114] Najar, *Evangelizing the South,* 84.
[115] The Harrod's Creek Baptist Church, Crestwood, KY, August 1819, SBTL.
[116] Bryan's Station Baptist Church Records, November 1804, KHS. For Tompson as Sheriff see, Robert M. Ireland, *The County Courts in Antebellum Kentucky* (Lexington: The University Press of Kentucky, 1979), 31.

the marital compact. To become a church member was to fall under the jurisdiction of a higher authority. Harrod's Creek Baptist Church succinctly relayed this vision when in 1820 its brethren excluded slave-member Milly for her alleged adultery, not only from the church fellowship, but from "the privileges of the Laws of God."[117]

Free and enslaved blacks were not always passive victims of Baptists' quest to instill monogamous marriage practices, as they too stepped into the mix, utilizing the mechanism of church discipline to articulate their own visions of spousal relations. Bro. Austin, a member of the Red River Baptist Church and the property of Josiah Fork "made known to the church" a difficulty between him and a female member in October 1814. After an investigation, it appeared that Austin was dissatisfied with Sister Rachel, because he thought her "conduct toward her husband did not comport with that of a Christian." Two male slaves testified to the same, and the church body excluded Rachel in April 1815.[118] Likewise, in 1824, John, a slave and member of the David's Fork Baptist Church entered a charge against his fellow slave brethren, Polly and Condorus, the property of a non-member, for the sin of adultery. The church excluded the transgressors the following month.[119] More than simply a tool for social control, or a way of disseminating their own values of marriage upon their slaves, church discipline served as a instrument for slaves to police their own communities. John's charges against the slaves of another master and Brother Austin's accusations against Rachel show slaves taking advantage of their churches' governing authority to regulate their fellow

[117] Harrod's Creek Baptist Church Records, Vol. 1, January 1820, SBTL.
[118] Red River Church Minute Book, October 1814-April 1815, SBLA.
[119] David's Fork Baptist Church Records, July-August 1824.

bondsmen's familial relations. The slave neighborhoods' gossip networks could prove as central to instilling godly discipline as white's accusations.

Although Baptists stressed the importance of faithful marriage for their black members, and placed much weight on charges brought by slaves against their fellow bondsmen, church bodies were intimately involved in regulating slaves' marital relations and did not tolerate slave members' acting without the authority of the church body. When James, the property of a non-member, "exercised a gift contrary" to the order of the Bryan's Station Church, and had "likewise undertaken to marry Negroes," a committee was formed to investigate. The case was laid over for nearly a year until July 1792 when James confessed to holding "Publick meetings" and "marrying black people." The church acquitted him after he agreed to cease his transgressions.[120] James's actions directly challenged the authority of the church by preaching without its authorization, and the fact that he married black people compounded the situation. In a similar October 1795 case, Sam, also a slave and member of Bryan's Station Church was charged for holding "disorderly" meetings and "marrying black people."[121] The members of Bryan's Station Church were not against slaves getting married. Indeed their promotion of slave marriage can be witnessed through their continual charges of adultery leveled on their slave members. Between their constitution in 1786 and 1860, Bryans' Station Church leveled thirty-two charges of adultery upon black brethren, while in turn, only charging one white member with the same crime.[122]

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[120] Bryan's Station Baptist Church Records, September 1791, July 1792, KHS.
[121] Ibid., October 1795.
[122] Ibid., 1786-1860.

Early Baptists did not always exclude slaves convicted of adultery, and at times, implicitly recognized the difficulties the slave institution created for maintaining marital relations. In order to preserve the peace of the fellowship, some churches simply acquitted slaves in adultery cases, avoiding the necessity of rectifying slavery with notions of Christian monogamy.[123] In July 1810, the Tick Creek Church of Shelby County, Kentucky cleared "Henrey [sic] belonging to Brother Dupey and Rose belonging to Brother Hansborough" of adultery. Henrey and Rose already had spouses, but despite this, the church thought that "they had better live together as husband and wife than to part." The church clerk did not record the details of the case. Perhaps both of their spouses had been sold off to distant regions, and Tick Creek members realized that any familial stability for its enslaved members was better than isolation. Or, just as likely, Brother Dupey and Brother Hansborough worked out the particulars themselves, and encouraged the rest of the church to let the matter rest.[124] In any case, examples such as the underlying tensions inherent in a system that at held slaves accountable for fulfilling a lifelong contract while simultaneously denying their ability to voluntarily enter into any other contract.

A church's authority over its enslaved members was subsumed by the master's authority over his bondsmen. Not only did churches often seek a master's permission for a slave to become a member, but one's marriage was subject to his will as well. At times churches also served as institutions for punishing those acting without their owner's sanction. This proved the case in May 1806 when the Red River Baptist Church

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[123] Cott, *Public Vows*, 35,

[124] Tick Creek Bethel Church Records, July 1810, FHS. Neither Hansborough or Dupey brought the initial charge, as the clerk notes that Brother John Serogin claimed that Henrey and Rose were "living in the sin of adultery."

suspended "Sister Bess for marrying a man against her master's will."[125] Despite this however, some Baptist churches sought to stabilize slave marriages. Tick Creek members resolved in September 1810—most likely in response to the case of Henrey and Rose—that "We believe it is contrary to scripture and good Order for Masters who have Servants to part them from their Husbands and wives," but also parted slave spouse should not "marry again whilst their former companion is living."[126]

Churches' quest to regulate slave marriages proved even more difficult when marriages crossed the line between slave and free. In July 1821, a report came to the Red River Church that Bro. Luke, a slave, was "married to a free woman." After forming an investigative committee for the matter, the church took up a query from a member inquiring whether it was "right for a slave member of the Baptist Church to marry a free woman?" The church voted, concluding, "that is not right." The following day, the male members present withdrew to hear the report of the committee regarding slave Luke's transgressions. Luke had not "sinned by marrying as reported," the committee stated, but he had committed fornication, "for he had copulation with a girl which we do not conceive he had any right to claim as his wife." Luke's actions, they continued, were not "even agreeable to the customs of slaves." The church subsequently excommunicated Luke from the church fellowship.[127] The church's comments do indicate that some Baptists acknowledged the difference between their visions of marriage and "slave customs" regarding family life. Yet their actions also demonstrate the peculiarity of slave marriage itself. As the husband, Luke, upon marriage, would

[125] Red River Church Minute Book, May 1806, SBLA.
[126] Tick Creek Bethel Church Records, September 1810, FHS.
[127] Red River Church Minute Book, July 1821, SBLA.

theoretically assume the duties of household head. But how could one who is a slave assume patriarchal duties of a husband? How could he provide for his household, a household he may not even be able to live in?

Churches navigated similar situations when a free black male married an enslaved woman, and these cases too illuminate the tension between the marriage contract, the slave system, and church authority. When Caleb, a free black man, was charged by the Fox Run Baptist Church with adultery in October 1824, he claimed that he had only married another woman because his first wife was "in [the] possession of Br. Oswald Thomas" and Thomas had forbidden Caleb from seeing her. "After a thorough investigation," the Fox Run Church collectively agreed "on a view of the whole circumstances of the case" to acquit him.[128] Even as a free black man, Caleb could not assume the patriarchal responsibilities of a husband, could not even visit her, as his wife already fell under the authority of Thomas. The forced separation of married black church members occurred often enough that Baptist governing Associations received queries from affiliated churches on the matter while other evangelicals took to the press in search of answers. As early as 1786, Kentucky's first Association received a query asking whether it was "lawful for a slave being an orderly member and compelled to leave his wife and move with his master about five hundred miles, then to take another wife?"[129] In1812, the Long Run Association, urged its member churches to "act prudently and tenderly toward that afflicted people" when "a black member, having his wife taken from

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[128] Minute Books of Eminence, KY Baptist Church (formerly Fox Run), Vol. 1, August-October 1824, SBTL.

[129] For queries to the Elkhorn Association see, http://baptisthistoryhomepage.com/elkhorn.query.const.html. The Association advised churches to not accept any more members affected by this circumstance, and referred the query to the next gathering, yet it does not appear they revisited the issue.

him and removed to a distant part" married another. Interestingly, the Association said nothing of how to deal with a female slave if the roles were reversed.[130]

Similar debates appeared in the religious press during the antebellum period as evangelicals sought to delineate churches' role in recognizing and maintaining slave marriages. One anonymous writer, Onesimus, insisted in 1830 that God had "placed the essential principles of marriage within [slaves'] power." Being "human" and thus "rational creatures" slaves were fully capable of understanding the "obligations of a voluntary pledge." A slave was "on equal ground with his master" in regards to marital responsibilities and was "equally bound to fulfil his engagement." The church, however, had "nothing to do with it," even when slaves were forcibly separated from their partners. "The guilt," Onesimus insisted, resided with "the man" who separated the spouses, "and the misfortune to the slaves." Churches had the right to punish masters who sold their slaves for covetousness or "cupidity." But even so, they should "sympathize with the suffering party, and encourage his submission" to his contractual obligations. Separation did not end the marital contract, Onesimus concluded, claiming there was "just cause to doubt [a slave's] religion" if he or she "violate[d] a pledge of this solemn kind for a temporary gratification."[131] Onesimus, though holding slaves accountable for marital fidelity, believed that owners were central parties in their slaves' marriage contracts and thus could also be punished by the church for separating spouses.

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[130] Book of the Records of the Long Run Association (Typescript), 1812, p. 56, SBTL; The Red River Church of Robertson County, Tennessee sent a similar query to their association in September 1801, asking "Whether a negroe [*sic*] that was sold from his wife in some of the Eastern States & brought to this country and has taken another wife can be rec'd into fellowship?" See, Red River Church Minute Book, September 1801, SBLA.

[131] Onesimus, "Marriage and Divorce," *Columbian Star and Christian Index* (Atlanta, GA), 7 August 1830, Volume 3, Issue 6.

Unsurprisingly, this was not a universal view. Corinthinus, responding to Onesimus in early 1831, disagreed, and pointed to state law's failure to recognize slave marriages. If "there be no legal marriage with our slaves, there is no marriage at all," and "consequently, [slave marriages] are not under the letter of the gospel discipline." Indeed, slaves' "orderly or disorderly" conduct should be subject to church discipline, but to insist that slave marriages were lawful was an attempt "to change the original order and design" of the marriage institution. If Onesimus desired to recognize slave marriages based upon consent or affection, that was one thing, but forbidding separated slaves to find other partners upon separation, was not within the jurisdiction of the church.[132] Too much stress had "been laid upon masters who separate slaves from their companions." Corinthinus did not proclaim such masters blameless, conceding instead that blame was "divided" amongst any number of people depending upon the situation. The importance of Corinthinus's argument, however, lies in his deference to state authority over slave relations. Workings of church tribunals in relation to slave marriages were subject to the jurisdiction of civil law. Since there was "no legal way to marry" slaves, churches could not punish slaves for adultery or masters for forced separations, because, he concluded, "there can be no true evidence of crime" in circumstances where a crime "could not be committed.[133]

Despite this view by some, churches continued to treat slaves' family life, and marriage in particular, as "under the letter of gospel discipline." For instance, like its sister church at Bryan's Station (who leveled 32 charges against black members for

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[132] One has to wonder about the underlying economic incentives in allowing slaves to remarrying after separation.

[133] Corinthinus, "Marriage and Divorce," *Christian Index* (Atlanta, GA), 1 January 1831, Volume 4, no. 1.

adultery and only 1 against white members from 1786-1860), the David's Fork Baptist Church focused its discipline toward its black members. From 1803 to 1860, church members took up 57 adultery charges. An overwhelming 55 of those were against black members. Likewise, of 10 fornication charges, 7 were leveled against blacks. In other household matters, too, the church exerted greater authority over its black relations than white. The church recorded charges of spousal separation or abandonment against 3 blacks and only 2 whites, while 7 blacks and 3 whites faced charges of mistreatment of family.[134] This churches' disproportionate focus is made even greater when we consider the timing of these charges. After 1830, 100% or adultery charges within the David's Fork Church were directed toward black members. Likewise, black members were the only ones to be accused with mistreating their family through the late-antebellum period.

Not all churches directed their disciplinary focus solely towards black members, as the churches making-up my complete data set actually saw a brief period where the percentage of adultery charges against whites grew after 1830. From 1800 to 1830, 77% of adultery charges went against black members. That number retracted to only 64% from 1831 to 1860. But this rate fell almost identically with an across-the-board decline in excommunication rates—a sign of growing tolerance, or at least hesitation over church involvement in the matter. From 1800 to 1830, 75% of those facing a single charge of adultery were excommunicated from their churches, while only 64% of accused adulterers faced the same fate from 1831 to 1860. Meanwhile, in cases of divorce, separation, or abandonment, the excommunication rate fell from 50% between 1790 and

[134] For all charges, see Records of David's Fork Church, 1803-1860. The fornication numbers include charges of "Acting a harlot."

1830, to 45% from 1831 through 1860.[135] As churches either ignored such transgressions all together or treated them more moderately, religious observers took notice, decrying the weakened state of discipline's authority over the marital contract.

In 1856, the *Tennessee Baptist* dedicated a number of columns to the issue of divorce and second marriages. Having received "several queries touching [upon] the marriage of persons divorced" editor J. R. Graves published an anonymous piece lamenting the shortcomings of churches in disciplining their members' marital relations. Referencing the gospels of Matthew, Mark, and Luke, Graves noted that any man who divorced his wife and married another, committed adultery. The same went for the wife. If she married again, then she was guilty of adultery. "Here," the writer lamented, "is one instance where the laws of our land are in open conflict with the plain word of God." The editorial did not lay out plans to change state law, but rather reminded churches that they "must exclude the brother or sister who marries after a divorce." Much more was at stake than the transgressors' eternal salvation or even the sanctity of the church body. "If men and women could marry, and upon tiring of each other, procure a divorce and marry again…without being considered guilty in the eyes of God or men," then "the marriage institution" might as well as be "at once abolished, and Free Love be the order of the day."[136]

The article provided enough stir that it was re-published in *The Western Recorder*, along with a critical response from the anonymous writer, "Z". Z exclaimed that if

[135] These rates do not include cases when a member was excommunicated for more than one crime at the same time, say adultery and drunkenness. See Appendix for church records consulted.
[136] Unsigned, "Divorce—Second Marriage," *The Tennessee Baptist* (Nashville), 25 October 1856.

churches acted upon the author's advice—to exclude members guilty of remarrying—it "would be so destructive of the peace of the churches" and "the happiness and usefulness of many of its most pious members." Z agreed that adultery was a valid cause for divorce, and that the innocent party should be able to remarry. He went further, however, proclaiming that spousal desertion—a sign of an "alienation of affection" which "defeats all the designs of marriage"—was also a valid condition for a second marriage. Anything less acted "as a restraint upon the natural liberty of the innocent."[137] Underlying this exchange (like the between Onesimus and Corinthinus) was the issue of church authority versus state law. In Tennessee, spousal desertion proved a valid condition for divorce, a fact some religious observers lamented. Replying to Z, the anonymous writer admitted that adultery was the one justifiable cause for a second marriage after a divorce, and that "[n]o earthly laws can trample down the laws of God, or make that *right* which has [been] solemnly pronounced [a] *wrong*."[138]

Bubbling tensions between legislative enactments and scriptural injunctions continue to fester in the pages of the *Tennessee Baptist* through 1856. One editorialist, Amicus, noted that the subject of divorce and remarriage was of vast importance.[139] "The fearful increase of divorce cases in our State, particularly, calls loudly for *repudiation*," he exhorted, noting that at least two hundred divorce cases, mostly over "trifling causes", had appeared "before our Court [in] the last two sessions." Amicus allowed that the "word of God" stated that only adultery was a justifiable cause for absolute divorce. But

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[137] For Z's reply, see, "Divorce—Second Marriage," 25 October 1856.
[138] Unsigned, "Divorce—Second Marriage," 25 October 1856. (italics in original). In his reply to Z, the editorialist concluded that, "however pious the parties offending may be," let the churches take action or else they may "become the home of adulterers."
[139] The writers last name is illegible.

for him that was not reason enough to dispense with the prevailing legislation. The "laws of our land"—indeed, all states with the exception of South Carolina—provided for divorce and remarriage for causes other than adultery. Although in some cases these laws conflicted with God's laws on the subject, this did not render state legislation void. "These laws are backed by no small authority," he asserted, "and are recognized as valid by the Lord Jesus Christ himself," and, as professing Christians, "we are expressly commanded to obey [state laws]." Echoing the common consensus on the institution, Amicus reasoned that marriage was both a moral and civil contract, and in cases of desertion, especially, the "moral part of the contract" had already been "nullified." The "civil part of the contract" fell "under the jurisdiction of the civil law." Individuals who sought "divorces for ample legal causes," were "legally clear and by no means chargeable for adultery" by church tribunals. And they certainly should not "be turned out of the church for marrying after a fair legal investigation and absolution by the decree of the court." Amicus made clear that the guilty party in the divorce, whether in cases of adultery or desertion, were sinners "of the deepest dye," but that some concessions had to be made. Reality demonstrated that divorces "have, do, and will forever occur," and thus, "they must be disposed of in the very best way possible," and that did not include excommunicating the innocent party for remarrying.[140]

Amicus's editorial clearly lifted the authority of the state above the laws of God in matters of divorce and second marriage. The state enacted such laws "for the wise

[140] Amicus [illegible last name], "Divorce and Second Marriage," *The Tennessee Baptist*, 13 December 1856. Amicus was no crusader for liberal divorce laws. He concluded this piece by asserting that he was hopeful "to see the day soon, when it shall be made a penitentiary offence for life, for husband or wife to depart each other—save for such causes of as are deemed all sufficient in law and equity to justify it: and, as money is so frequently the cause of such separation, I long to see the law passed that, for all lawless desertions, the property of the deserter shall be confiscated [and conveyed] to the innocent party."

regulation, the safety, and welfare" of their communities, as well as "for the protection of [Tennesseans'] individual rights and interests."[141] Upon taking up divorce cases, churches should defer to legislation and court decrees. Of course, not everyone agreed with Amicus. An "Old Fashion Baptist" lamented in 1858 that many men divorced their wives for less than Scriptural reasons, that "American legislators and learned judges justify the marriage of parties divorced," and had thus legalized adultery. It was to the "everlasting shame" of those individuals who strove to "induct [divorce and remarriage] into Baptist churches" by claiming it was "a very harmless institution."[142]

After the Civil War, some Baptist observers still lamented the state of affairs when it came to divorce, second marriage, and adultery. If anything, their comments buttress the argument presented here that church bodies had grown lax in policing their members' domestic relations, conceding the "legislation of Christ to the legislation of man."[143] In two essays published in late 1868 and early 1869, Jirah D. Cole, D.D., decried the state of marital affairs that had developed in the Western states over "the last quarter of a century." A number of groups, he insisted, had been waging war on the marriage institution, and their effects were visible through "the growing laxity of opinions regarding the sacredness of marriage" manifested not only through "legislative enactments" making divorce more easily obtained, but churches' retention of such members who were "guilty of a palpable infringement of the law of marriage" as set

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[141] Amicus, "Divorce and Second Marriage," 13 December 1856.
[142] Unsigned (Old Fashion Baptist), "For the Tennessee Baptist," 30 January 1858. This article, devoted to polygamy but touching on the marriage contract and divorce in general, was continued on 6 February 1858 with notation of Old Fashion Baptist's authorship.
[143] Jirah D. Cole, "Scriptural Law of Divorce—No. 2," *The Baptist* (Memphis, TN), 9 January 1869.

down by the Gospel.[144] "The evils of human legislation on the subject of divorce," he insisted, "have invaded the Christian churches of the present day, and entrenched themselves therein." It was widely known and discussed that there were "in very many of our Churches, in these Western States especially, members in good standing" who had separated or divorced from their spouse and married another. "They have secured the sanction of human laws to a so-called divorce," but one which "the law of Christ repudiates." In receiving, and then retaining, these transgressors' as members of their fellowship, church bodies were "continually encouraging the whole train of wrongs, from the incipient domestic disagreements to an adulterous life under the name of a second legal marriage." By raising the "legislation of man" above that of Christ's teachings, Cole concluded, the faithful had "silently submit[ted] to the usages of the times."[145]

Churches' deference to the "usages of the times" was a constant concern for preachers, editorialists, and many Baptists throughout the trans-Appalachian West and across the United States. Although many observers in the late-eighteenth century believed that the upstart Baptists threatened the southern household and the entire social order, over the course of the first-half of the nineteenth century evangelical culture moved toward the mainstream of southern society. Baptist churches still insisted upon broad authority over their member's actions. But in regards to household relations, church discipline, rather than serving as a countercurrent, largely mirrored local state-based law when taking up cases between quarreling or adulterous spouses. Even in their recognition of slave marriage, churches' authority was often overshadowed by slaveowners' prerogatives and further hindered by slaves' legal incapacity to enter

[144]Jirah D. Cole, "Scriptural Law of Divorce—No. 1," *The Baptist* (Memphis, TN), 26 December 1868.
[145] Cole, "Scriptural Law of Divorce—No. 2," 9 January 1869.

contracts. Furthermore, changes in cultural and legal understandings of the household led to a disciplinary decline after 1830. During the post-Revolutionary and antebellum periods, as state governments delved deeper into American households, they formed immediate legal relationships with many dependents and gradually undercut the household-head's power in domestic matters. Divorce legislation, especially, tinkered with the terms of the marital contract and clashed with Baptists and other evangelicals' scripturally-based views that marriage was an indissoluble endeavor. This, along with the growth of a middle-class propagating Victorian values of domesticity and family privacy, combined to weaken churches' disciplinary authority over members' domestic relations.

CHAPTER 3. PROPERTY DISPUTES AT CHURCH AND AT LAW: ECONOMIC TRANSFORMATION AND THE SEARCH FOR DISPASSIONATE ARBITRATION

"Did he sue his brother before infidels or not?" [1]

In November 1831, Jacob Creath Jr. became guardian to the infant son of the recently-deceased Sydney Bedford. He also agreed to manage Bedford's estate, which included four slaves. Henry Foster and two other men entered as securities on Creath's behalf, all agreeing to serve as such until the ward Bedford came of age in 1848. Foster belonged to the David's Fork Reformed Church outside of Lexington, where Creath regularly preached. After hearing that Creath planned to relocate with his wife, ward, and slaves to Missouri, however, Foster made clear in October 1839 that he would withdraw from the contract if Creath left Kentucky. Creath refused to release Foster from the bond, as the ward would not be of age for another nine years, and claimed that the original agreement made no stipulations about his remaining in Kentucky. Seeking release from his security—and a return of the money he put forth in the original agreement—Foster sued Creath and others at the Fayette County Circuit Court.[2] The David's Fork Church soon took up the dispute as well, deciding that Foster had

[1] Jacob Creath, Jr., *A History of Facts in Relation to the Conduct of Henry Foster, From the year 1831 to the year 1840*, in *Foster, Clark, & Talbot v. Creath, Hiske &c.*, 10-11, Fayette County Circuit Case Files, Courts of Justice (hereafter FCCJ), Box 91, Drawers 811, case 60, Kentucky Department of Library and Archives, Frankfort, Kentucky (hereafter KDLA).

[2] For background on the dispute, see, Jacob Creath, Jr., *A History of Facts*. See also Foster's declaration to the court, in *Foster et al. v Creath et al*, Box 91, Drawer 811, case 60, FCCJ, KDLA.

committed no wrong. Having already moved to Missouri, Creath exclaimed "If I was [still] in the neighborhood, I would live and die out of religious society, before I would trust my character and property with [the church] again."[3]

Creath responded to the matter with a sixteen-page pamphlet touching on his prior relationship with Foster, complete with his version of the dispute and explanations for Foster's actions. He charged Foster with gambling, speculating, and slander, insisting that the whole affair stemmed from Foster's covetousness nature. In the end, though, Foster's turn to secular law, and the subsequent failure of the David's Fork Reformed Church in resolving the dispute (at least to his liking), upset Creath just as greatly as Foster's covetousness or his slanderous utterances. "Foster put legality above morality," Creath lamented, "I put the divine laws above human laws. I complied with the spirit of the laws of man—he trampled the divine laws under his feet."[4] Indeed churches such as the one at David's Fork called upon their brethren to respect civil law when it did not conflict with Scripture. The Baptist preacher George Waller noted in 1818 that professing Christians must "strive to fulfil the law of Christ, through which we shall not dishonor the laws of our Government."[5] Creath may have "complied with the spirit" of secular law, but Foster had committed the sin of suing "his brother before infidels."[6]

Creath's accusations against Foster and the David's Fork Church reflect a broader reconceptualization of churches' roles as legal venues during the post-Revolutionary period. Throughout the early-nineteenth century Baptist churches and their counterparts

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[3] Creath, *A History of Facts*, 15.
[4] Creath, *A History of Facts*, 10.
[5] See the Circular Letter, p. 3, in Records of the Long Run Association, 1818, Archives and Special Collections, James P. Boyce Centennial Library, The Southern Baptist Theological Library, Louisville, Kentucky (hereafter SBTL).
[6] Creath, *A History of Facts*, 10-11.

across the West and South sought to contain property-related disputes within church walls. They insisted members refrain from "going to law" and assumed jurisdiction over a range of disputes typically considered matters for common law, equity, and criminal courts. Church record books are peppered with disputes over trespass, land, probate, slave-sales, and theft. More than simply sites for white members to pursue recourse, churches also took up disputes between slaves as enslaved men and women leveled charges of theft against each other and sought an authoritative, public site to secure their property claims. Of course, masters and non-slaveholders also utilized church tribunals to enforce Kentucky and Tennessee's consolidating racial order of the post-Revolutionary period. So, from the initial settlement of the trans-Appalachian region in the late eighteenth century, churches worked as important institutional-sites for legal production. By the 1830s, however, individuals looked less to their churches for dispute resolution and moral regulation. Historians such as Christine Heyrman, Randy Sparks, Christopher Waldrep, and Gregory Wills have noted the decrease in recorded disciplinary proceedings in southern evangelical churches after the 1820s, with further diminishment thereafter.[7] But none have looked to how the changing economic and legal landscape of the early-republican and antebellum-periods weakened church authority over property-related disputes.

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[7] Christine Heyrman, *Southern Cross: The Beginnings of the Bible Belt* (Chapel Hill: University of North Carolina Press, 1997), 155; Randy J. Sparks, *On Jordan's Stormy Banks: Evangelicalism in Mississippi, 1773-1876* (Athens: University of Georgia Press, 1994), 151; Christopher Waldrep,"'So Much Sin': The Decline of Religious Discipline and the 'Tidal Wave of Crime,'" *Journal of Social History* 23, no. 3 (Spring 1990): 535-536; Gregory A. Wills, in *Democratic Religion: Freedom, Authority, and Church Discipline in the Baptist South, 1785-1900* (New York: Oxford University Press, 1997), 9-10. Wills, primarily focused on Baptists in Georgia, notes on page 117 that the 1840s was the beginning of the disciplinary decline among southern Baptists, with the real diminishment taking place after the Civil War; Randolph Roth, *The Democratic Dilemma: Religion, Reform, and the Social Order in the Connecticut River Valley of Vermont, 1791-1850* (New York: Cambridge University Press, 1987), 282-283.

This chapter is concerned with those disputes in north-central Kentucky and middle Tennessee. Like many places in the United States, both areas witnessed extensive economic and social change during the first decades of the nineteenth century. Individuals' engagement with national and international markets increasingly supplanted face-to-face transactions. Debt, once considered a moral failing, developed into another condition of the marketplace. By 1840, too, when Creath penned and published the account of his dispute with Foster, a social-relations-by-contract discourse had assumed precedence in American legal and intellectual thought. Contract-law theory recognized individuals (white males) "as reasonable, rational, and equal," and served as the foundation for all social relationships. Rather than stressing communitarian ethos, such as those disseminated by some religious groups, contract doctrine elevated liberal individuals bound only by "commitments as expressions of their own wills."[8] Antebellum legal thinkers heralded law's dispassionate and predictable outcomes, and throughout the early nineteenth century, state law—with its devotion to liberal individual property rights for white men—assumed precedence over legalities rooted at the local level, such as church disciplinary practices.

These legal, economic, and social transformations—compounded by the region's growing gentry-class that propagated middle-class values and notions of family privacy—undercut churches' authority over their members' economic matters. Within this changing atmosphere, some churches, rather than insisting upon their jurisdiction, often sanctioned members' recourse to state-based legal venues in order to avoid implicating the fellowship in messy economic disputes. Moreover, when churches did

[8] Mark Douglas McGarvie, *One Nation Under Law: America's Early National Struggles to Separate Church and State* (Dekalb: Northern Illinois University Press, 2004), 11.

litigate members' property disputes, their actions were at times entangled with local courts' operations, while others directed their proceedings to restoring brotherly affections instead of decreeing an award. Like Jacob Creath, many church-goers expressed dissatisfaction with church rulings. They pointed to faction, jealousy, and covetousness as the prime movers in church-based arbitration, a far cry from that practice's central purpose of maintaining harmonious member-relations. In contrasting their churches' legal activities with those of the state, these same individuals implicitly raised the workings of courts' perceived objective, predictable jurisprudence over the particular, prejudiced rulings of their local churches.[9] Religious treatise writers lamented such passionate disciplinary actions, and like contemporary legal theorists, sought to formalize churches' legal operations by publishing tracts devoted to its authoritative scope, proper procedures, and punishments. Despite this attempt to reinforce "Baptist jurisprudence," many church bodies had already ceded authority over property-matters to local and state courts, largely reformulating their tribunals from law-producing sites to venues through which to protect member-relations and help solidify the region's hardening racial hierarchy.

Over the past two generations, legal historians, focusing largely on small New England communities, have argued that during the colonial and immediate post-Revolutionary periods, the courthouse became the primary arena for dispute resolution. The professionalization and formalization of the colonial legal system—facilitated by an

[9] That is not to say that state law was neutral in its workings. But, according to Morton Horwitz, that legal thinkers during the antebellum period saw "major advantages in creating an intellectual system which gave common law rules the appearance of being self-contained, apolitical, and inexorable…" See Horwitz, *The Transformation of American Law, 1780-1860* (Cambridge: Harvard University Press, 1977), 254.

expanding commercial economy and an increase of disputes which stretched across town and county borders—led many Americans to seek recourse through courts rather than churches. During the early republican era, legal scholar Christopher Tomlins asserted two decades ago, law, as opposed to other organizing discourses such as republicanism, evangelical Christianity, or political economy, emerged as the young nation's "modality of rule."[10] Yet as historian Laura Edwards points out, although southerners embraced law as the "modality of rule" in the early nineteenth century, "they still saw it as *their* modality of rule, a view supported and sustained by the legal system's localized institutional structure, which kept it in close proximity to most people's lives."[11] For church members and other neighborhood residents across the South and West, this local institutional structure included both courthouses and houses of worship.

Despite the strengthening of state-based legal institutions that Tomlins and others have demonstrated, Baptist churches in central Kentucky and middle Tennessee provided recourse for members disputing over a variety of offenses typically assumed to be under the jurisdiction of state authority. When moderators opened the floor at routine business gatherings, church meetinghouses transformed to church tribunals. These tribunals' operations mirrored the procedures of local courts.[12] After a member leveled an

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[10]Bruce H. Mann, *Neighbors and Strangers: Law and Community in Early* (Chapel Hill: University of North Carolina Press, 1987); William E. Nelson, *Dispute and Conflict Resolution in Plymouth County, Massachusetts, 1725-1825* (Chapel Hill: University of North Carolina Press, 1981); David Thomas Konig, *Law and Society in Puritan Massachusetts, Essex County, 1629-1692* (Chapel Hill: University of North Carolina Press, 1979); Cornelia Hughes Dayton, *Women Before the Bar: Gender, Law, & Society in Connecticut, 1639-1789* (Chapel Hill: University of North Carolina Press, 1995); Christopher L. Tomlins, *Law, Labor and Ideology in the Early American Republic* (New York: Cambridge University Press, 1993); McGarvie, *One Nation Under Law*, 69.

[11] 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), 67.

[12] Monica Najar, *Evangelizing the South: A Social History of Church and State in Early America* (New York: Oxford University Press, 2008), 103.

accusation against another individual, the church "legally" cited the latter to their next meeting.[13] Silas Evans reported that he received such a citation from his Louisville church as he walked the city's streets. The written document, dated and signed by the church clerk, notified him that "certain charges" would be "preferred" against him that night "at the regular Monthly Meeting of the Walnut Street Baptist Church." The citation encouraged him to attend, for he would "have an opportunity" to respond.[14] In cases of a difficult nature, the church appointed investigative committees to converse with the parties and witnesses before reporting back to the church body. Church records and observers statements are dotted with legal-language—"trial," "plaintiff," "defendant," "witnesses," "testimony," etc.—and signal law's discursive permeation of presumably spiritual spaces and rituals.[15]

Becoming a church member required the baptized to keep watchcare over their fellow brothers and sisters and refrain from suing one another at local courts. This insistence paved the way for church bodies to assume jurisdiction over a variety of criminal or property-related matters. In January 1806, for instance, the Mount Pleasant Baptist Church excluded Brother Davies for "killing [sic] a hog supposed to be Br. Masey's property."[16] That same year the Long Run Baptist Church heard complaints from Brother Collins against Brother Chimmith for "detaining his property from him

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[13] For an example of a church using the term "legally cited", see, Salem Church (Baptist), June 1830, New Lexington, Alabama, Box 4178, Folder 1, Hoole Special Collections Library, Tuscaloosa, Alabama (hereafter HOOLE).
[14] Silas J. Evans, *A History of Persecution for the Truth's Sake in Louisville, KY,* (Louisville:Printed for the Author, 1858) 7, in *Baptists in Kentucky: Pamphlets from the Durrett Collection*, Univ. Chicago Library.
[15] Mann, *Neighbors and Strangers*, 143.
[16] Mount Pleasant Baptist Church Records, January 1806, Kentucky Historical Society, Frankfort, Kentucky (hereafter KHS).

illegally" by "attempting to keep one of his negro girls."[17] The Cane Run Church excluded William Harris for "failing to comply with promises with respect to some land" in 1815.[18]

In the first decades after settlement, local and state courts in Kentucky, especially, were overwhelmed with land disputes. From the initial settlement period and beyond, local courts in Kentucky and Tennessee often found their dockets bogged down in land quarrels emanating from the chaotic settlement of the region. Overlapping claims and fraudulent surveying practices, combined with a lingering animosity between individual settlers and a speculating, often absentee, elite engendered large amounts of litigation, leading one historian to claim that by the mid-1780s "lawsuits entangled almost every tract in central Kentucky."[19] To sum up the land situation a decade later in 1797, Kentucky's surveyor general reported that grants for nearly twenty-four million acres had been approved. The state, however, contained only around twelve million acres. Needless to say, litigation abounded well after statehood in 1792 and into the early nineteenth century.[20] The overwhelming number of land-dispute cases in early Kentucky highlighted an uncertainty of legal authority among Kentuckians, as politicians, jurists, lawyers, and observers argued over the proper legal mode and site for resolution of such disputes. With the sheer volume of litigation increasing during the early-statehood era, individuals across the social spectrum questioned the ability of finding justice in the legal system.

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[17] Church Records of the Long Run Baptist Church, Vol. 1, November 1806, SBTL.
[18] Mss. C C, Church Records, Minute Books, 1815, Filson Historical Society, Louisville, Kentucky (hereafter FHS).
[19] Stephen Aron, *How the West was Lost: The Transformation of Kentucky from Daniel Boone to Henry Clay* (Baltimore: The Johns Hopkins University Press, 1996), 82.
[20] Ibid., 84.

The eventual triumph of a more privatized property regime backed by the rule of state law during the early-republican period did not rule out other forums for litigation. For many settlers, the rule of law "was synonymous with the misrule of lawyers."[21] This suspicion drove some to seek land-dispute mitigation elsewhere. Although legal scholars such as Morton Horwitz have argued that extra-judicial arbitration in the antebellum United States succumbed to the increasingly formal and professional legal system early in the nineteenth century, the practice persisted in Kentucky much longer.[22] After statehood, as disputed land suits inundated local and state courts, the Kentucky legislature passed measures which strengthened extra-judicial arbitration, serving as a foundation for subsequent enactments through the antebellum period.[23]

Mired in their own throng of land disputes, ordinary Tennesseans often distrusted local justices and sought alternate venues for recourse. Like Kentucky, speculators in late-eighteenth-century Tennessee often engaged in fraudulent practices, overlapping or padding property boundaries which led to confusion over land titles. In 1800, the court system had hardly changed since the state's territorial period. The county court, the most prominent symbol of government authority, registered land sales from the federal government and marked boundaries between tracts. The Justices of the Peace who made

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[21] Ibid., 82.

[22] Horwitz, *The Transformation of American Law*, 147-154: Disputing parties in Kentucky could resort to extra-judicial arbitration if they agreed upon referees, who would then be empowered by the court to subpoena witnesses, etc, and decide on the case. Their decision was sent to the court, which took it as its own decree. Furthermore, the decision could not be overturned nor appealed unless there was evidence of the arbitrators' partiality towards one party. See, "An Act Concerning Awards," C.S. Moreheard and Mason Brown, *A Digest of the Statute Laws of Kentucky, of a Public and Permanent nature, From the Commencement of the Government to the Session of the Legislature, Ending on the 24th February, 1834, with References to Judicial Decisions, in Two Volumes* (Frankfort: Albert G. Hodges, 1834), 143-148.

[23] Carli N. Conklin, "Transformed, Not Transcended: The Role of Extrajudicial Dispute Resolution in Antebellum Kentucky and New Jersey," *The American Journal of Legal History* 48, no. 1 (Jan, 2006): 48-51.

up these courts often came from the ranks of the wealthiest in the county. Even those justices not directly involved in large-scale land speculation tended to guard larger claims. Moreover, hindrances such as the distance and high-costs of initiating a suit at law, exacerbated by the use of technical legal jargon, often swayed many small-holders from seeking relief through the courts. Although these latter factors spurred on calls for legal reform during the first decade of the nineteenth century, they certainly also convinced many post-Revolutionary Tennesseans to seek recourse elsewhere for their land disputes.[24] For church members, their local congregations proved a willing arbiter of such conflicts, especially when one or both of the disputants were church members.

Kentucky and Tennessee churches mitigated a range of land disputes, including those revolving around land sales, tenancy, and trespass. Churches, of course, did not solve all land-disputes and did not possess the state's authority to enforce their decrees.[25] They relied upon the fear of eternal damnation and the social repercussions arising from excommunication from the fellowship. In 1799, for example, Brother Ashurd of the Mount Pleasant Church in Kentucky requested that body to investigate a land dispute between himself and Brother Chilton, a member of a nearby church. The church appointed two male members to go to Ashurd's land and determine whether "he did get half of the Land in Value or not." On August 24, the committee reported that Br. Chilton "had the Advantage in Quantity 196 Acres, and the quality entirely superior to that of Brother Ashurd." The church took these facts under consideration, but were unsure what

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[24] Kristofer Ray, *Middle Tennessee, 1775-1825: Progress and Popular Democracy on the Southwestern Frontier* (Knoxville: University of Tennessee Press, 2007), 94-100.

[25] In *How the West was Lost*, 86-87, Stephen Aron notes that "Baptists, and to a lesser extent members of other evangelical churches, relied on lay referees to mediate between complainants and insure that squabbles did not cause a 'breach of fellowship.'"

to do next, since Br. Chilton "had not agreed to choose his Men" to arbitrate, and further "seemed to [be] astonish'd at it, (or rather at our proceedings) and the Minds of the members were Severally [sic] divided." In September, members of Mount Pleasant admitted that "the Matter had not been rightly manag'd," and wished "to say no more about it at present, except one should take the other under *legal* dealings before either of the Churches they belong to."[26] Although the dispute had already divided the brethren, the church body still thought it best that any "legal" actions taken be done so within church walls.

Resolution through churches often proved less expensive and much quicker than litigation at local courts. Whereas legal suits at the courts could drag on for years and rack up considerable legal fees, churches generally dispensed with cases within weeks and did not charge fees. Some churches, however, did decree monetary penalties. In March 1814, Sister Humes of the Flat Rock Church charged Brother Christian Young with "trespassing on her land" and removing timber. The church appointed a two-person committee to investigate the matter and cite Young to the next business meeting. Within the month, Young appeared at the Flat Rock meetinghouse "and acknowledged the trespass which grieved Sister Hume." He apologized to the church for his transgression and agreed "to pay in three months to Sister Humes ten shillings and six pence." He also pledged "to use no more of her timber."[27] The Harrod's Creek Baptist church heard a similar case five years later. Brother Jacob Booker and his wife, Cathy, were charged with trespassing on another member's land and cutting "down a large poplar" tree. The Bookers made acknowledgement to the church at a Friday meeting the following week—

[26] Mount Pleasant Baptist Church Records, Folder 1, June-September 1799, KHS. My emphasis.
[27] Pleasant Grove Baptist Church Records (formerly Flat Rock), March 1814, FHS.

held specifically for adjusting this dispute—but may not have been content with the church's role in the matter as they immediately requested dismissal from fellowship. In any case, as the church granted Booker and his wife letters of dismission, the offended member must have been satisfied with the church's proceedings or they could have objected to the Bookers' request to exit the fellowship.[28]

Other cases, however, dragged on much longer, implicated numerous church members, and required assistance from outside the immediate church body. The Tick Creek Baptist Church of Shelby County, Kentucky spent nearly a year trying to resolve a complicated land dispute in the mid-1810s. In August 1815 Brother Roulet Rice complained against Brother Robert Tyler for his actions in a recent land purchase from a non-member. Two members of the church, Brother and Sister Neal, occupied the land bought by Tyler. According to Rice, Tyler intimated that he would let the Neals have the land outright if they paid him the purchase money and "a reasonable compensation for his trouble," which, Rice claimed, "I think [Tyler] stated that 40 or 50 dollars" would be sufficient. Tyler had also reportedly hinted that he was willing to settle the matter through negotiation between the parties. Yet when they met, he rejected the compromises previously reached. Rice reported that Tyler had done the same in another transaction as well, and also denied disparaging statements he had made in the presence of witnesses.[29] At their following meeting in September, the church voted that Tyler had been wrong, and admonished him for his actions relative to the Neals. The controversy continued through the rest of that year and into the next, leading the Tick Creek Church to request assistance from six nearby churches. In January the committee of visiting

[28] The Harrod's Creek Baptist Church, September 1819, SBTL.
[29] Tick Creek Bethel Baptist Church Records, August 1815, FHS.

brethren confirmed that Tyler had been wrong, and the church claimed they were satisfied with their previous admonishment. Rice did not let the matter rest, and in July of 1816, almost a full year after it heard the initial charges, the church formed a committee of seven to reconcile Rice and Tyler, and reported satisfaction between the two in August.[30] Tyler's quest to profit off the land, to the detriment of Brother and Sister Neal who occupied it, contradicted the communitarian ethos propagated by the church. Tyler, it seemed, placed speculation and profit above the good of the church community.

While Baptists did not denounce the pursuit of profits, they did decry members' contracting debt with little or no means to pay back money owed. Observers, noting that simple instances of debt or speculation were not necessarily illegal, wished churches would pay more attention to such matters. As early as 1792, the Bryan's Station Church resolved that it was "not agreeable" for a church member "to suffer themselves to be sued or warranted for a plain just debt while they have property enough in their hand to discharge" the matter.[31] Moreover, the editor of the *Christian Baptist* prayed that churches would take greater interest in the financial dealings of their members. If a member was sued for debt or breach of covenant, whether or not it was with another professing Baptist or not, it fell within his church's jurisdiction. "No man can be sued [in courts] justly unless he have [s*ic*] violated some law of Christ, or departed from the spirit and design of christianity [*sic*]." This proved true "under the code of laws which govern our commercial intercourse in this country," he continued, and churches possessed the

[30] Ibid., September 1815-August 1816.
[31] Bryan's Station Baptist Church Records, May 1792, KHS.

responsibility to investigate all instances of speculation, indebtedness, or covenant breaking amongst its membership.[32]

Baptist churches in Kentucky, Tennessee, and throughout the Upper South brought up members on charges of indebtedness during the post-Revolutionary period. This served to not only punish transgressors, but to resolve the matter and maintain internal member-relations and, in some cases, to provide a monetary resolution to the conflict. In 1811, Brother Rucker complained against Brother J. Shepherd at the Buffalo Lick Baptist Church "for refusing to pay a just debt." The church formed a committee which investigated the matter, ruling that Shepherd owed Rucker three barrels "& half a bushel of Corn." At the next church meeting, Shepherd expressed dissatisfaction with the committee's decision. Yet he did not push for the church to leave the matter alone, or seek to settle outside of the church fellowship. Rather, he wished "to leave the matter to Brethren chosen" by himself and Rucker. The church encouraged both members "to bring forward what testimony" applied "to their case" in order "to settle the matter to satisfaction."[33] As the church record book made no more mention of the dispute between Shepherd and Rucker, the self-chosen arbitrators must have successfully mitigated the dispute.

Other churches simply suspended indebted members until they paid their debts. A Kentucky Church ordered that Bro. Poindexter, having detained "money after several promises of payment" would be acquitted if he made "payment on or before our next

[32] Alexander Campbell, "*A Restoration of the Ancient Order of Things. No. XXVII.* On the Discipline of the Church—No. IV," *The Christian Baptist*, Volume 6 (1828), 486.
[33] Buffalo Lick Baptist Church Minutes, September-October 1811, FHS.

meeting."[34] The Garrison Fork Church of Tennessee did just so in 1816, suspending member Ransom Pruit from church privileges until he could produce payment receipts for all his creditors (including at least one who was not a church member).[35] Other churches, too, ordered debtors to pay their creditors. In the spring of 1823, the Red River Church resolved that Brother Matt Williams owed $9.12 to Bro. Betts for some bacon the latter had purchased but for which he never paid. At the church's meeting in June, the clerk recorded that Williams came forward and paid his debt.[36] In these instances, both reconciling the disputing brethren and resolving the point of contention—by decreeing a financial liability—proved equally important. Rather than pursue these debts owed at local courts, risking the admonishment of their fellow brethren, potential delay, and legal costs, individuals such as Batts, Rucker, and Pruit's creditors, relied upon church authority and successfully obtained monetary recompense.

Perhaps more prickly property disputes for Baptists were those involving slaves. As church members sparred over this peculiar form of property, their local meetinghouses transformed into venues through which slaveholders and non-slaveholders confronted slaves' "double character" as both persons and property, brothers and sisters in Christ *and* expendable commodities.[37] Historian Monica Najar has argued that by the second decade of the nineteenth century, Upper South Baptists "ceded the issue of the morality of slavery to the civil state when it proved too divisive." Churches continued to

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[34] David's Fork Baptist Church Records, September 1819. http://davidsfork.org/images/David_s_Fork_minutes_1802-1850_PDF.pdf. Accessed March 2, 2015.
[35] Najar, *Evangelizing the South*, 105.
[36] Red River Church Minute Book, , Adams, Tennessee, Robertson County, April-June 1823, Southern Baptist Library and Archive, Nashville, Tennessee (hereafter SBLA).
[37] On how slaves in the courtroom forced whites to confront slaves as persons and property, see in general, Ariela J. Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom* (Athens: University of Georgia Press, 1998).

take up disputes over slave property, however.[38] Such disputes not only highlighted the strengthening racial hierarchy within trans-Appalachian churches during the early-republican period, it reflected how masters' religious and social reputations were intimately bound up with their slaves' actions.[39]

In March 1798, for instance, the Red River Church charged Brother James Waddleton for making false representations about a slave woman he had sold to fellow member Thomas Finch. The church investigated the matter during the spring of that year, noting that the dispute between the two brethren "appears to be precarious." Initially Waddleton welcomed the church's investigation, reporting "by Bro. Brown that he was willing that the Church should take his affair into consideration." The clerk did not record specifics, but Mary Finch, Thomas's wife, testified to the church that Waddleton had claimed "that the negro girl was set for any business & to go on errands." After purchasing the girl, however, the Finches grew dissatisfied with her and apparently believed that Waddleton had swindled them. The church, "after deliberation," declared Waddleton guilty and cited him to appear. Having his character questioned in the front of the church body, he refused to attend and "expressed his intentions to withdraw from the Church."[40] The church's ruling surely percolated throughout the neighborhood, informing members and non-members alike of Waddleton's less-than-upright business practices. The fact that the case stretched on for over a year, too (Waddleton

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[38] Najar, *Evangelizing the South*, 138-139.
[39] On the region's hardening racial hierarchy, see, Craig Thompson Friend, *Kentucke 's Frontiers* (Bloomington: Indiana University Press, 2010), xxii.
[40] Red River Church Minute Book, March 1798, June 1799, SBLA. The church took up the case in March 1798, and it continued through August 1798, before being laid over until June 1799 when members voted to exclude Waddleton. His intention to withdraw from the church, of course, highlights one of the weaknesses of church-based arbitration.

continuously ignored the church's summonses), ensured that the gossip networks of Adams, Tennessee and the surrounding region caught wind of and spread the matter. Perhaps even worse, a white woman had pointed out his failings, which were further symbolized by the female slave's inability (or perhaps unwillingness) to live up to her master's representations.

Baptist churches also took up cases of conflict between their slave brethren. These cases had the potential to involve both members and non-members in church proceedings and signify the wider importance of churches as authoritative legal sites for masters to punish their slaves. In April 1825, word reached one Tennessee church that Ben, an enslaved member body, "had struck a black woman" and "hurt her very much." Ben and the unnamed victim were both property of a non-member, James Carr. An investigative committee reported that Ben acknowledged that he had "struck the woman with the helve of the axe," but that he "seemed rather to justify himself in the act." One church member claimed that he had spoken with Carr, who "informed him that the woman was badly hurt, so much so that *she had done but little service since*" the altercation. Upon deeming the evidence against him "sufficiently supported," the church excluded Ben.[41] Whether Ben faced further punishment from the non-member Carr is unknown. Yet, in providing testimony to the church, Carr clearly supported its charges against his slave. Although the church simply excluded Ben from its fellowship, such a consequence could cut off slaves from their sites of social and religious interaction. For slaves who were the property of small-holders, especially, church services afforded these often isolated bondsmen and women valuable social contact with other slaves "within

[41] Ibid., April-June 1825, SBLA. My emphasis.

their neighborhoods."[42] Whites, central actors in slave neighborhoods, understood this dynamic, leading many slaveholders and non-slaveholders alike to punish slaves' transgressions through their local church body.

More than passive subjects of discipline, however, slaves used church tribunals to punish thieves and legitimize their property claims.[43] In the eyes of state law, slaves could not own property. Yet as legal historian Dylan Penningroth demonstrated just over a decade ago, slaves, though considered by state law to be chattel property themselves, claimed rights to various forms of property, often with the tacit or outright consent of their masters.[44] Between 1800 and 1880, he contends, "an extralegal economy took shape in the South," one whose traces barely made it into statute books or local courts, but operated "in yards, cities, and back roads across the South." This economy—which whites tolerated and at times took part in it—was controlled largely by members of the black community.[45] Utilizing public ceremonies and public spaces, slaves secured acknowledgment of their property from both their masters and fellow slaves. And, in cases of theft, some slaves resorted to special committees to ferret out the culprit, while others resorted to verbal accusations and arguments over alleged thievery.

Theft cases between slaves not only legitimized slave property holdings, but could implicate multiple masters and ultimately lead the church to extend its authority beyond the bounds of the immediate neighborhood. In November 1824 a Tennessee church heard

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[42] Diane Mutti Burke, *On Slavery's Border: Missouri's Small-Slaveholding Households, 1815-1865* (Athens: University of Georgia Press, 2010), 240-241: On slave "neighborhoods" in general, see, Anthony E. Kaye, *Joining Places: Slave Neighborhoods in the Old South* (Chapel Hill: University of North Carolina Press, 2007).
[43] Penningroth, *Claims of Kinfolk*, 91, 98-99.
[44] See in general, Dylan C. Penningroth, *Claims of Kinfolk: African American Property and Community in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 2003).
[45] Ibid., 6.

charges against Bro. Luke, the property of Jethro Fork, for acting "disorderly in detaining an Old bed." Luke had been given the bed by Violet, the slave of David Smith, and had agreed to deliver it to Violet's daughter, who belonged to another man. Luke "converted [the bed] to his own use instead of delivering it agreeable to bargain," however, and had since left the neighborhood. Although Luke had "obtained a letter of dismission, and moved away," the church sought to rectify the situation. Members directed the clerk to "get his letter back." Luke was subsequently excluded in March 1825. The clerk did not record who brought the complaint to the church body, but the charges against Brother Luke most likely emanated from the wronged Violet who had trusted him to deliver the bed. Having moved, of course, too, Luke may not have had the opportunity to deliver the bed, and took it with him. In any case, the theft charge leveled at him highlights how slaves utilized their church bodies as venues to police the slave quarters, and how churches at times extended their authoritative reach to former members who had departed from the immediate watchcare of the congregation. Moreover, the church's hearing of the case demonstrates the white members' acknowledgement that Violet possessed a proper claim to the property in the first place, and that Luke had a responsibility to fulfil his agreement to deliver that property. Local churches, then, served as sites for slaves to not only claim rights to property but to punish those who ignored such claims.[46]

More often, however, church tribunals served as venues through which masters and other whites exerted their authority by regulating the behavior of their bondsmen.

[46] Penningroth mentions that churches "served as forums for settling disputes amongst enslaved people," but looks only briefly at cases taken up by an all-black church in Richmond Virginia in the 1840s, and not at cases of slaves' theft and property disputes within biracial churches. Penningroth notes, too, that churches served as sites for slaves to secure their property. Recognition of the Sabbath," he insists, "was intertwined with the informal system of display and acknowledgment that secured slaves' ownership of property." see Penningroth, *Claims of Kinfolk,* 100-101.

Throughout the antebellum period, masters took advantage of church tribunals to punish their slaves. Such charges not only illuminate whites' anxieties over what they believed were blacks' furtive natures, but also a grudging recognition that slaves worked together in accumulating property. The Tick Creek Bethel Church recorded charges against Wiggin, the property of Brother Ned Larkin in the fall of 1814, and excluded him with the apparent blessing of his master.[47] Thomas Graves charged his slave, Harry, at a central Kentucky church in 1801 for stealing his "stockings." Six months later the same church heard charges against a female slave, Letty, for "stealing from her mistress."[48] In 1826, the Beech Creek Baptist Church in Kentucky charged slave-member Adam with making a contradiction in saying that Brother Farmer had "given him a dictionary." At the same meeting, the contradiction accusation transformed to a charge of theft and the church excluded Adam for "having a book that was not his."[49] Rose, belonging to Sister Willis, was charged "for concealing stolen money" by the Little Cedar Lick Church in 1842.[50] The following year, Pastor Thomas Dudley, watched on as the Bryan's Station Church excluded his bondswoman, Cealey, for "concealing stolen property."[51] The charge of "concealing stolen property" hints at the underground economy of slave life in the trans-Appalachian West. If Cealey and Rose had been the actual perpetrators of the theft, rather than simply accomplices, the clerk would surely have made the delineation. Their actions as accomplices, however, led t0 their exclusion from the privileges of church membership and much of the social interaction that came with it.

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[47] Tick Creek Bethel Church Records, September/October 1814, FHS.
[48] Bryan's Station Baptist Church, August 1801, February 1802, KHS.
[49] Beech Creek Church Records, January 1826, FHS.
[50] Little Cedar Lick Baptist Church Records, April 1842, May 1845, SBLA.
[51] Bryan's Station Baptist Church, June 1843, KHS.

Although a slave could potentially be cut off from his or her site of religious and social community, church tribunals, without the power to corporeally punish transgressors, served perhaps a more lenient venue through which to be punished than the secular courts. Take for example the slaves Sam and Humphrey, who in April 1813 were charged at the Fayette Circuit Court of stealing four shirts, three waistcoats, one pound of sugar and "sundry other articles." A fellow slave, Dick, testified in the case, but at some point he too was implicated in the thievery. The Fayette County jury dismissed the charges against Sam, sentenced Humphrey to ten lashes at the whipping post, and Dick to twenty strikes with the whip.[52] Across town and less than a year later, the David's Fork Baptist Church charged a slave member, Ned, with theft, and excluded him from the church fellowship.[53]

Punishing their slaves in church courts also held potential monetary benefits for slaveholders. Local courts often levied court fees upon owners if their slave was found guilty of theft. A jury for Fayette County Circuit Court convicted Jim, the property of Elijah W. Craig, for the theft of "a sorrel horse" which he rode for "several days by which the horse was greatly impaired." The court decided "that Jim shall be taken to the public whiping [*sic*] post and there receive thirty-nine lashes on his bare back." Furthermore, the court ordered Craig to pay the legal costs.[54] In cases when it was an option, recourse through the church could benefit slaveholders monetarily and forgo the risk of bodily punishment—and potential lost labor—to their bondsmen.

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[52] *Commonwealth vs. Humphrey and Sam* (1813), Box 31, Drawer 271, FCCJ, KDLA.
[53] David's Fork Baptist Church Records, April/May 1814.
[54] *Commonwealth vs. Jim* (1813), Fayette County Circuit Case Files, Chancery Court Decided Cases, Box 31, Drawer 271, KDLA.

Antebellum Baptist churches in Kentucky and Tennessee disproportionately punished slave members for theft (Figure 2).[55] For the population as a whole, slaves represented one-third of the Inner Bluegrass residents in 1820.[56] In the Middle Tennessee district, from 1810 to 1830, slaves averaged about 22% of the region's population.[57] In regards to church membership, historian Christine Heyrman has estimated that in 1835, free and enslaved blacks made up about 25% of the membership of southern Baptist churches.[58] According to my data set which spans select Baptist churches of central Kentucky and Middle Tennessee, 75% of theft cases recorded involved black transgressors. Moreover, black members were 60% more likely to be excluded for theft than whites, and 400% more likely to be excluded when the theft charge was simply one transgression among others (Figure 3).[59]

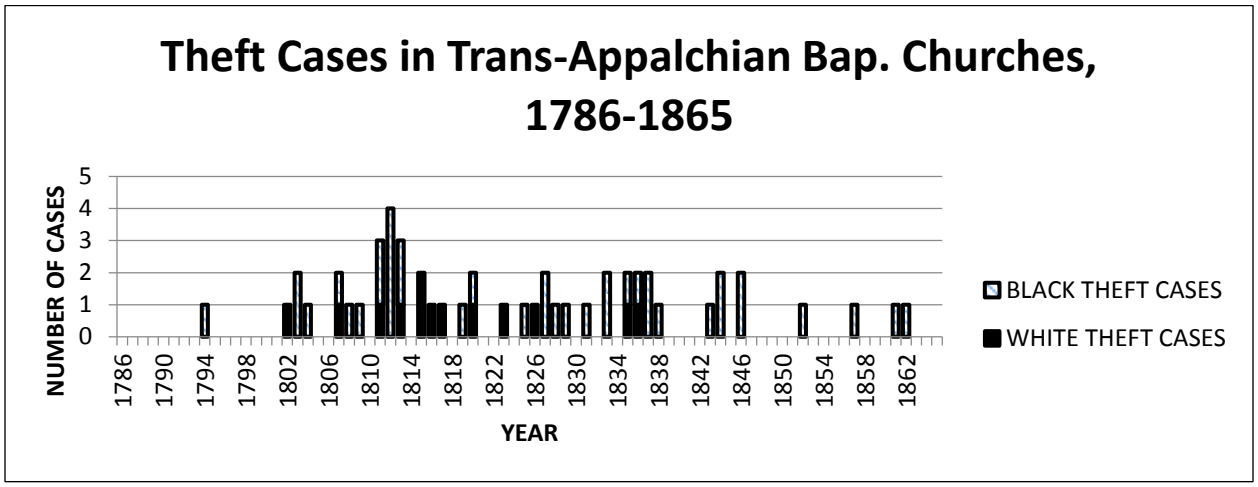

Figure 2.

[55] Edward Ayers, in his small study of Georgia churches found a similar trend, see, Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th-Century South* (New York: Oxford University Press, 1984), 124; See also *Religion and the Making Of Nat Turner's Virginia: Baptist Community and Conflict, 1740-1840* (Charlottesville: University of Virginia Press, 2008), 157.
[56] Aron, *How the West was Lost*, 143.
[57] Ray, *Middle Tennessee*, 69.
[58] See, Heyrman, *Southern Cross*, 264, Table V.
[59] For list of churches consulted, and offenses/disputes coded, see the Appendix.

Theft Charge Outcome % by Race

Outcome	Exclusion	Satisfaction	Sat./Dis.	Acquittal	Other	Unknown	Multiple Charges Exclusion
Black	48.7	13	0	3	0	0	36
White	30.8	46	8	8	0	0	8

Figure 3.

Church tribunals heard a disproportionate number of theft accusations aimed at their black and enslaved brethren for a number reasons. As a form of property themselves, slaves' claims to property were always tenuous and contested. The necessity of publicly displaying their property in order to claim rights over it may have also opened slaves to charges of theft, either from their fellow bondsmen or their masters. In some instances, too, slaves' pilfering derived from sheer necessity. One Kentucky slave noted that he and his fellow bondsmen believed it was "a kind of first principle" for those who labored had "had a right to eat." Another claimed it was his "moral right" to take small amounts from the "abundance" he had helped to produce.[60]

Such assertions echoed throughout the slaveholding region. The former slave Henry Bibb, who had worked in the cotton fields of the Deep South, insisted that "I had a just right to what I took, because it was the labor of my own hands."[61] Historian Walter Johnson has noted that food rations for some Mississippi Valley slaves proved so meager

[60] Both slaves quoted in, Aron, *How the West was Lost*, 147.
[61] Bibb quoted in Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge: Harvard University Press, 2013), 213.

that their stealing provisions became a requirement. After emancipation, former slaves asserted that white ministers focused almost exclusively on the issue of theft, reminding slaves they should not steal their "master's turkey" or their "master's chickens" or their "master's hawgs."[62] This may have been why, although accusations of theft against enslaved Baptists revolved around a variety of forms of property, provender items routinely appear in such charges. In 1811 the Red River Baptist Church charged Hannah, the property of a Mr. Langston, with "taking sugar that was not her own, [and] boiling the same away to a small quantity & secreting it."[63] The Big Cedar Lick Church charged Kate "for concealing stolen goods and money" in 1814.[64] Mr. S. Smith's Peter was charged by the Bryan's Station Church for "theft in taking his Masters Bacon."[65] Interestingly, the appellation of "Mr." rather than "Brother" signifies that Peter's master was not a member of the church, but that he, or someone directed by him, brought the complaint to the church, perhaps knowing or hoping that Peter's exclusion from the church body would be punishment enough for his transgression. The church clerk, unfortunately, did not specify who brought the initial complaint against Peter, so we do not know whether this was a case in which the master sought to punish his slave directly, or just a prying church-member—perhaps even a fellow slave—who witnessed or heard of Peter's theft and who sought out the authority of the church in order to purify its membership ranks.

Theft accusations against black members proved to be disproportionate, too, because by the antebellum period, Baptist churches in central Kentucky and middle

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[62] Quoted in Ayers, *Vengeance and Justice*, 125.
[63] Red River Church Minute Book, February 1811, SBLA.
[64] Mt. Olivet Baptist Church (formerly Big Cedar Lick), July 1814, SBLA.
[65] Bryan's Station Baptist Church, May 1836, KHS. The church excluded Peter in July 1836.

Tennessee increasingly proved unwilling to involve themselves in the property-related disputes of their white brethren. As Figure 2 shows, churches from the data set did not record any charges against white members for theft after 1836. Instead, church tribunals emerged as sites through which to police black members. This resulted from a larger reformulation of the practice of discipline within some trans-Appalachian Baptist churches which redirected the bulk of disciplinary charges against black members. David's Fork Baptist Church—not to be confused with Creath's Reformed Church—located just outside of Lexington exemplifies this process. At that church, both whites and blacks routinely faced charges through the first two decades of the nineteenth century (Figure 4). Yet, by the mid-1820s, charges against black members overtook those directed toward their white counterparts.

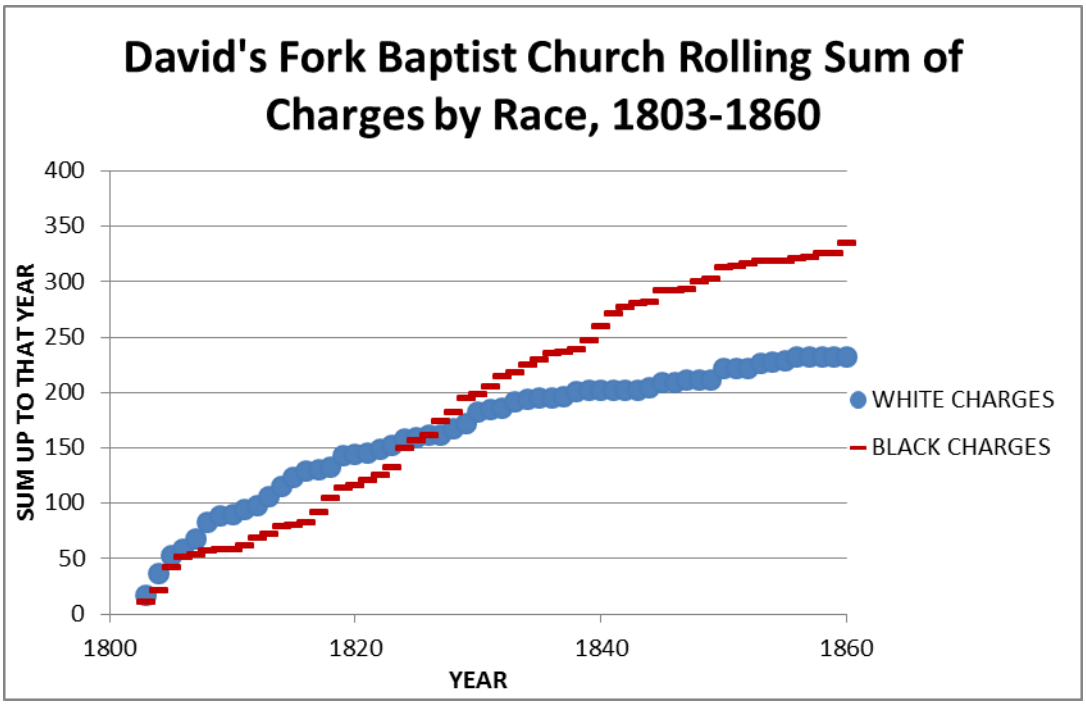

Figure 4.

From 1831 to 1860, the church recorded only 49 charges leveled against white members, and over one-third of those focused upon members' non-attendance at meetings or their interaction with another religious body: in other words, charges related directly to membership duties.[66] In contrast, in the twenty-seven years preceding 1830, the church recorded 182 charges against its white members. The slow decline of charges against whites picked up in the late 1820s, amidst the controversy emanating from Alexander Campbell's "Reformation" movement, a religious insurgency which stirred emotions and split churches across the trans-Appalachian West. As I argue in the next chapter, doctrinal strife altered how members' understood their churches' role in mitigating disputes or dispensing discipline. But this transformation also resulted from the changing economic and social landscape of Kentucky's Bluegrass Region, and Lexington in particular. The increase of charges leveled against black members emanated from the changing race-relations of the region.

By the second decade of the nineteenth century, Lexington was home to a large African American community, made up of both slave and free individuals and rooted in church institutions. Free blacks could be found peddling foodstuffs in the town square outside the markethouse, while slaves roamed the city on task from their masters. Of Fayette County's 1,484 slaves, nearly half (739) worked in ropewalks, inns, mercantile shops, and brick manufactories. Many lived in the cramped urban quarters in Lexington, socializing, worshipping, and trading with other blacks in the city. Nearby farmers also

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[66] For all charges, see David Fork's Baptist Church Minutes, 1802-1860, http://davidsfork.org/images/David_s_Fork_minutes_1802-1850_PDF.pdf and http://davidsfork.org/images/David_s_Fork_minutes_1850_-_1900_PDF.pdf. The church charged ten whites for non-attendance at meetings, and eight for joining or interacting with another religious sect or denomination.

hired out slaves to labor in the city's cotton and hemp industries. Such slaves and those of the city proper gravitated to Lexington's churches during the first decades of the nineteenth century, spurring on the growth of African American community.

Many slaves flocked to the preaching of Peter Durrett, a freed-slave known as "Old Captain". By 1810, on the heels of religious revival, Durrett served a congregation of around 500 members. Although many whites welcomed the spiritual uplift of the black population, their large numbers and general autonomy under Durrett posed a significant threat to the wider region's social and religious order.[67] Town trustees, who had long allowed Durrett's preaching in the city, fretted over the Lexington's growing black population and Durrett's influence over it. The trustees and local white religious leaders sought first to bring Durrett under the control of the Elkhorn Association of Baptists, before sanctioning another local free black, London Ferrell—who the whites believed they could more readily manipulate—to preach in the city. Ferrell established the African First Baptist Church which fell under the control of the city's white First Baptist Church. Membership numbers in the former body remained small until the late 1820s and Durrett's death, when the church reached over 300 members.[68]

White men who partook in the city's bustling commercial marketplace and elevated attitudes of economic liberalism looked at blacks' avenues for economic gain and community-building with suspicion. The white community had feared a slave rebellion since the turn of the century when reports of Gabriel Prosser's uprising crossed

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[67] Craig Thompson Friend, *Along the Maysville Road: The Early American Republic in the Trans-Appalachian West* (Knoxville: University of Tennessee Press, 2005), 208.

[68] Friend, *Along the Maysville Road*, 206-208; On black religion in post-Revolutionary Kentucky in general, see, Ellen Eslinger, "The Beginnings of Afro-American Christianity Among Kentucky Baptists," in Craig Thompson Friend, ed. *The Buzzel about Kentuck: Settling the Promised Land* (Lexington: The University Press of Kentucky, 1999).

the Appalachians. Not long after, the Kentucky Assembly passed legislation which prohibited the importation of slaves from outside the state. Rumors of a slave revolt in Lexington persisted through the subsequent decades, leading to further white surveillance of the area's black community. Lexington's board of trustees authorized the construction of watch houses, which served as reminders for whites to stay vigilant. By the War of 1812, as we will see, not only had central Kentuckians embraced a diverse market-economy, they had solidified the more fluid racial relations of the previous century.[69] This process occurred largely through the state's legal system, such as the watch house and coordinated slave patrols, but also through informal networks such as church disciplinary practices.

Tennessee witnessed similar developments in race-relations as did north-central Kentucky during the early-republican and antebellum periods. Despite local efforts to restrict their economic and social autonomy, slaves in and around post-Revolutionary Nashville still found degrees of independence. In 1802, town leaders in Nashville passed measures which restricted slaves from hiring themselves out (with or without their owners' permission) and leveled fines against merchants who did business with slaves and upon whites who countenanced slave gatherings after dark. The city also passed a slave curfew, and five years later appointed a slave patrol and enacted a prohibition against liquor sales to slaves. These restrictions proved easy to get around, however, as masters continued to hire-out their slaves. For their part, slaves persisted in selling goods at local religious revivals or the city market. Such urban experiences allowed slaves a broader autonomy than their field-laboring counterparts. Yet, as the greater-Nashville

[69] Friend, *Along the Maysville Road*, 229-232.

region "civilized," Ray argues, "slaves' relative autonomy faced increasing public contestation." Free-blacks in Nashville faced also saw a restriction in their autonomy during the period. Although they had never attained the same rights as their white neighbors, free blacks had mingled with white society during the 1790s and early 1800s. Taking advantage of a loophole in the state's 1796 Constitution, some black freeholders were able to vote, participate in the militia, and gain a prominent position in regional affairs. As late as 1825, for instance, "ninety-six militiamen from Rutherford County complained that the free black population had excessive influence over the county's [militia] company elections."[70]

Slaves and free blacks had also found slivers of equal recognition in the region's churches during the early-republican period. Some churches, such as the Big Cedar Lick Baptist Church, allowed all members a vote on matters of fellowship. The Mill Creek Baptist Church likewise granted blacks the liberty to preach.[71] But this slight recognition was dampened by the disproportionate excommunication of free- and enslaved-blacks for theft, especially after 1830. So, while in some instances slaves could benefit from church tribunals—using them to secure property claims and punish thieves amongst their own—as Baptists across the Upper South largely set aside their emancipationist impulses during the first decade of the nineteenth century, and as Kentucky's Bluegrass Region and Middle Tennessee cracked down on black autonomy in general, churches followed suit, singling out black brethren for crimes seldom enforced against white members.

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[70] Ray, *Middle Tennessee*, 71-74, quotes 73-74.
[71] Ibid., 74. Ray misidentifies the Big Cedar Lick Church as the Mount Olivet Church, a name that church did not assume until 1843.

When churches did take up their white members' criminal transgressions, their decisions often hinged upon decrees leveled by local courts. In matters of a criminal nature, church bodies had little choice but to acknowledge their shared jurisdiction with state-based courts. Church members accepted this legal reality. In the summer of 1836, the First Baptist Church of Nashville resolved that every member "shall be subject alike to her jurisdiction," but further that no member, "inconsequence of connection with [the church]" shall "be deprived of any right, of any kind," whether "social, domestic, political, &c, which as a man and a citizen he may lawfully and innocently exercise." Although this statement—Article VIII of the church's constitution—may have been meant to assure slaveholding members that the church would not interfere with their property rights, it was also a recognition by the church body that it shared jurisdiction over each member with the wider world, and specifically the state. Five years later, the church deferred authority to the state in a matter of discipline. Having taken up charges against a member for fraud, the church postponed their own decision and suspended the offending brother "until a judicial decision shall be had in his case."[72]

A member's transgression of state law itself could garner charges from the church body. In August 1818, the Red River Church admonished Brother John Johnston for disorderly conduct. Although they initially continued him in fellowship, the church concluded at their following meeting, "from satisfactory evidence," that he continued "to walk disorderly in breaking the peace or violating the laws of the State," and should be excluded.[73] Throughout the period, however, members of Red River disagreed on how a member's violation of state law impacted his or her standing in religious society. In the

[72] Records of the First Baptist Church of Nashville, June 1841, SBLA.
[73] Red River Church Minute Book, August/September 1818, SBLA.

early 1840s, disagreements within the church became so divisive that the clerk wrote a nearby church at Fyke's Grove, asking whether they should continue fellowship with a member "that stands convicted by the laws of his country for [a] certain offence." Members of Fyke's Grove insisted "that it was wrong to privilege [the offending member] to the immunitys [*sic*] of the church" after he had been "convicted by the laws of the land." Agreement between the churches remained elusive, and nearly two years went by before the Fyke's Grove church reported that "despite the difficulty," they desired "to live together in union and peace" with the Red River Church.[74]

In other cases, churches revisited previous rulings in member-disputes after the matter had moved to the secular legal arena, uplifting actions taken by local courts over rulings of church majorities. In the summer of 1816, the Red River Church voted that Brother Bell was not guilty of taking "unlawful interest" while conducting a slave sale. Over a year later, however, in November 1817, the church reconsidered the case "on the matter of [Bell] taking Usury." It seemed Bell's fate at the hands of his fellow church members was bound up with a recent decision of the Robertson County Circuit Court, where a jury had found him guilty of usurious practices. Because of his conviction, the clerk noted the church believed "the cause of religion or the Religious causes suffer[ed] in [Bell's] hands." In January 1818, the church again revisited Bell's case, exclaiming that "we cannot clearly say that Bro. Bell was guilty of taking Usury," yet "for the veneration we have for the Court & Law of our Country, we publickly [*sic*] reprobate the idea of any of our members violating the stated laws of our Country." Considerable debate between the members revealed that a majority did not agree with the court's

[74] Fyke's Grove Primitive Baptist Church Records, Robertson County, Tennessee, Volume I, March 1844-June 1844, June 1846, SBLA.

decision. Nonetheless, after further debate, and Bell's testimony, when asked if they were satisfied with Bell's actions, members emphatically answered "NO," and excommunicated him from the fellowship.[75]

Indeed, such cases demonstrate the interconnections between state-based and church-based legalities during the early nineteenth century. Church decrees were influenced by outside factors, such as actions taken at the local courthouses, even if, as in Bell's case, the church did not entirely agree with the court's decision. This forces us to re-think the autonomous claims that churches claimed over their internal actions. The bounds of authority were never fully delineated, but remained murky. In these cases, courts did not direct the church to take any action against the convicted member, but outcomes at court could and did inform member's actions within the church.

This process also worked in reverse, as actions taken at the church meetinghouses had the potential to effect cases pleading at courts of law. For instance, in September 1803, Hiram Mitchell, a member of the South Elkhorn Church of Fayette County, visited the Bryan's Station Church meetinghouse and complained of Bro. John Pickett "for entering a suit against him in Law contrary to gospel rule." The previous April, Pickett had filed suit against Mitchell, claiming that Mitchell's wife, Nancy, made slanderous remarks which significantly injured his character and good standing in the community. Pickett sought five hundred pounds in damages, and the Fayette Circuit Court summoned the Mitchells to its June session. The case was laid over until September, but before a decision could be put down, Mitchell spoke up at the Bryan's Station Church meeting. A church appointed committee conversed with Mitchell and Pickett and satisfied both

[75] Red River Church Minute Book, July 1816, November 1817-January 1818, SBLA.

parties. The case pending in the circuit court was apparently withdrawn, as the September declaration is the last record in the existing case file.[76]

It is unclear why Pickett initially entered the suit in the Fayette Circuit Court rather than immediately approaching the church body. Since Mitchell was a member of a neighboring congregation, Pickett may not have known that Mitchell was even a Baptist. Or perhaps Pickett did not think that his church could successfully mitigate the dispute. Whatever the reason, the resolution of their case demonstrates the ability of church courts to influence the outcome of a case which began in the secular legal system. Scholars have investigated the importance of "setting" in the resolution of disputes. When a dispute moves from one arena to another, say the church to the courthouse, or vice-versa, this has the potential to alter the outcome of the case.[77] Furthermore, it can alter the very nature of the dispute itself. Pickett and Mitchell's dispute began with Nancy Mitchell's alleged slander of Pickett, but it transformed from a simple slander to a dispute between two Baptists, members of two separate congregations, with apparently different visions of how or where the matter should be resolved. In this case, at least, the boundaries of church and secular authority were blurred, as both parties utilized available resolution outlets which best met their immediate needs.

Church tribunals, rather than autonomous judicatories, were entwined with larger social and cultural transformations, transformations which by the 1830s had significantly weakened their authority over white members' property-related matters. Though

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[76] Bryan's Station Baptist Church, Fayette County, Kentucky, September 1803, KHS. For the court records, see, *Pickett v. Mitchell* (1803), Box 6, Drawers 51-53, case no. 746, FCCJ, KDLA.

[77] Jeffrey Fitzgerald and Richard Dickens, "Disputing in Legal and Nonlegal Contexts: Some Questions for Sociologists of Law," *Law & Society Review* 15, no. 3/4, Special Issue on Dispute Processing and Civil Litigation (1980-1981): 687-691.

providing some recourse for blacks, churches emerged as institutions that upheld the region's profoundly unequal race-relations. And, as we have seen, in many cases, churches deferred to actions taken within state institutions. Historian Christine Heyrman has noted that by the 1830s, Baptist church clerks across the South "inscribed ever fewer pages of church books with the details of their members' waywardness." This, she avers, proved an acknowledgment that a "meddling" church "was more likely to alienate than reform the laity."[78] Heyrman's contention is primarily focused upon matters of familial relations, and not property relations, but her timing holds true for the latter as well.

Churches increased reticence to mitigate their members' property-related disputes, however, resulted from the changing economic and social backdrop of the region, and not solely from an effort to retain member-allegiances. By the antebellum period, a dynamic market-economy had taken hold in the Kentucky- Bluegrass and Middle-Tennessee regions. As a political economy founded upon notions of liberal individuals eclipsed the moral economy centered upon communitarian ethics, churches' role in mitigating the property-related disputes of their brethren receded. Not only did members' civil disputes hold the potential to drive wedges in the church fellowship—the opposite goal of church discipline's focus upon the protecting the peace—but the sin of covetousness, denounced by Baptists and other religious groups, became harder to identify amidst the speculative, acquisitive cultural milieu. Debt was reconfigured from a moral failing to a near requisite of doing business in the expanding capitalist system, and sinful economic behavior became harder to identify. Refinement and gentry values radiated from the urban centers of Lexington and Nashville, heralding both acquisition

[78] Heyrman, *Southern Cross*, 159.

and family privacy. In turn, churches slowly lost power—and in some cases deferred it—over their members' economic matters.

As in many areas of the republic, north-central Kentucky and Middle Tennessee witnessed rapid economic and social change in the half-century after the Revolutionary War. During the 1770s and 1780s, Euro-Americans had settled the greater-Lexington area in hopes of taking advantage of the "best poor man's country." Their expectations for finding agrarian independence through landownership were significantly curtailed by the arrival of the gentry in the 1790s. Although many of these latter newcomers added to their substantial wealth by taking advantage of the chaos arising from disputed land titles, they also established churches, courthouses, and helped integrate transportation and market networks. This in turn transformed Lexington into an economic hub for the surrounding region.[79] By the second decade of the nineteenth century, the Inner Bluegrass region had transitioned from an agricultural-oriented society to one in which entrepreneurs, manufacturers, lawyers, and merchants dominated the political and social landscape. Textile manufacturers had made inroads on the household production of many goods, while other budding industries and technologies pushed aside the independent artisan.

Lexington by 1810, historian Craig Thompson Friend notes, had developed into "the most urban of western towns."[80] A population influx of lawyers, merchants, artisans, and free blacks helped make up the city's 4,279 residents. A vibrant manufacturing industry, mainly revolving around hemp production, strengthened the

[79] Friend, *Along the Maysville Road*, 220.
[80] Ibid., 193.

city's budding economy. Over the course of the first two decades of the nineteenth century, a new-money gentry emerged from the ranks of manufacturers and other entrepreneurs. "As the nineteenth century proceeded," Friend continues, "refinement, capitalistic investment, and lines of distinction spread from Lexington outward."[81] Along the way, individuals' relationship to the wider community transformed. As the previous chapter demonstrated, family households became increasingly atomistic. In the more refined areas of Lexington, a burgeoning middle-class subscribed to and propagated divisions between public and private. This weakened sources of communal regulation over familial matters, and freed the "self-made" men of Kentucky to pursue economic advance with less moral responsibility. Indeed, by the mid-1830s, the "extra-moral workings of capitalism seemed more rewarding" for central Kentuckians "than traditional patterns of familial and communal obligation."[82]

The Middle Tennessee area witnessed comparable economic transformations during the first decades of the nineteenth century. At the turn of the century, the region stood at the edge of white civilization, virtually inaccessible to many of the major trade outlets and beset by recent skirmishes with Natives. As Nashville served as the primary port along the Cumberland River, early on in the nineteenth century, city boosters—made up of planters, lawyers, and merchants—pushed for farmers in the surrounding area to plant more cotton. Once picked, the cotton was filtered through Nashville's flourishing manufacturing sector or through its port, eventually making its way to the international market. By the 1810s, Nashville and the surrounding countryside had shed a self-contained, "economy of necessity" and embraced the new commercial world. As

[81] Ibid., 223.
[82] Ibid., 248-249, 281.

historian Kristofer Ray argues, the commercial boosters who led this charge "ultimately dragged all of the region's residents into a faceless economic system."[83] Historian John Larson notes that amidst the social transformation wrought by the market revolution of the early-nineteenth century, "Individual identity dissolved into anonymity, commitment into contract, vocation into work, a living into a wage."[84] Baptists and other church goers were not exempt from these experiences. Whereas since the Revolutionary period churches had sought to mitigate their property-related disputes, the emergence of contract relations between individuals weakened churches ability to effectively mitigate their members' economic disputes.

The new market economy of the nineteenth century, with its inducements toward speculation and deceit, opposed the harmonious communitarian ethos that Baptists, prescriptively anyways, sought to establish in their church bodies. The Elkhorn Association of Baptists declared in 1826 that too many Christians resorted to "unwarrantable and criminal means" in their pursuit "to mass wealth."[85] Five years later, preacher James Black exclaimed that worldliness was infiltrating church meetinghouse walls throughout the state. He lamented that only a fraction of members routinely attended church business meetings, and those who did were often distracted by outside concerns. "How discouraging to a minister," Black concluded, "after he has travelled several miles, in order to meet his appointment at the court of the Lord; to find probably

[83] Ray, *Middle Tennessee*, 80-81.
[84] John Lauritz Larson, *The Market Revolution in America: Liberty, Ambition, and the Eclipse of the Common Good* (New York: Cambridge University Press, 2010), 9.
[85] Records of the Elkhorn Association of Baptists, 1826,SBTL.

not more than twelve or fifteen members collected, and they probably conversing on politics, agriculture, or commerce."[86]

For Baptists, amassing great wealth, or covetousness, served as a gateway to economic risk, which, though increasingly necessary to succeed in the new economic marketplace, "alienates the affection of Christians" and "strengthens the bands of infidelity." Greed and unfair business practices were bad enough for nineteenth-century Baptists, but their potential to lead to adversarial legal contests further disrupted religious society.[87] Alexander Campbell, writing in 1828, two years before his split with the Baptists, agreed. Breach of covenant, assuming debt beyond one's means, and speculating were as serious offences as "theft, lying, and slander." For, when "we hear of a [C]hristian compelled to pay his debts by law, or to atone for the breach of covenants by fines; when we see one asking securities to obtain money on which to speculate, or see him eagerly engaged in the pursuit of wealth or any earthly distinctions," Campbell averred, we must consider such conduct as a great "libel on [C]hristianity."[88]

Although Baptists sought to avoid this "libel" by containing such matters within their meetinghouse walls, from the early nineteenth century on, many churches sanctioned members' recourse to local courts for their contract and property disputes. As in criminal cases, churches' permission for members to sue in court highlights the integrated relationship of church authority and that of the state. Moreover, this deference to state-based courts implicitly constructed the bounds of religious and civil authority,

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[86] See Black's circular letter in Records of the Elkhorn Association of Baptists, 1831, SBTL.
[87] "A Few Remarks on the Sin of Covetousness," in Records of the Long Run Association, 1823, p. 3, SBTL.
[88] Alexander Campbell, "*A Restoration of the Ancient Order of Things. No. XXVII.* On the Discipline of the Church—No. IV," *The Christian Baptist,* Volume 6 (1828), 485-486.

with churches' gradually relinquishing control over members' economic matters. For instance, a Tennessee Baptist Church summoned Brother Levi Powell in July 1821 to answer for a debt he owed Brother Wheles. If Powell refused to hear his fellow brethren, then the church encouraged Wheles to "pursue the ordinary maner [*sic*] to recover" the money owed to him.[89] Other churches, too, proved unwilling to get involved in messy civil disputes of the brethren. Members of the Little Cedar Lick Church in Tennessee agreed with their brethren from Alabama. In 1828, they granted Brother William White "liberty to commence suit against Sister Stevenson and others."[90] Similarly, in June 1809, the Red River Baptist Church liberated "Bro. Darnell from the injunctions of brotherhood" with a former member, paving the way for him to seek recourse at the local courthouse.[91]

In contrast, other members displayed their uneasiness over their churches' role as arbiter for their economic disputes. In January 1815 Brother Drake reported to the Big Cedar Lick Baptist Church in Tennessee that Bro. Brinson "had failed to comply with a contract between the two men." Brinson and Drake agreed to submit the matter to an arbitration committee, whose decision would be final. The committee, however, found no damages, decreeing that "each of them [should] endeavor to bear his own burthen."[92] Nearly two years later, in December 1816, the church charged Drake with three transgressions. Not only did he commit an "assault and battry [*sic*] on the boddy [*sic*] of Josiah Brinson," he also took "out a peace warrant" against him. The church's final charge arose form Drake's questioning of its authority, specifically by his declaration that

[89] Mt. Olivet Baptist Church Records, Mt. Juliet, Tennessee, Vol. 1, July 1821, SBLA.
[90] Little Cedar Lick Baptist Church Records, November 1828, SBLA.
[91] Red River Church Minute Book, June 1809, SBLA.
[92] Mt. Olivet Baptist Church Records (formerly Big Cedar Lick), Vol. 1, January 1815, SBLA.

"the Church never should settle any thing for him again." Drake's wishes came true, as the church excluded him from the fellowship, and thus placed him out of its authoritative jurisdiction.[93] Yet his actions after the initial contract dispute with Brinson in early 1815 demonstrate that he did not agree with the arbitrators' decision that no damages were present, or that he should "bear his own burthen." Instead, he sought the protection of secular authorities, securing a peace warrant before taking the matter into his own hands by apparently assaulting Brinson.

The expanding market-economy of post-Revolutionary America held repercussions for churches' disciplinary efforts. Across the republic, Americans' engagement in regional and international commercial exchange increasingly supplanted local, face-to-face transactions. The assignability—a creditor's ability to transfer one's debt to a third party—of notes and bonds undercut the social relations which had previously formed the exchange, the immediate relations necessary for effective church-based arbitration. Moreover, debt was redefined from a moral failing to an economic risk, the price of doing business in a capitalist economy.[94] Alongside, law, especially at the state level, emerged as a more formal and professional enterprise, devoted to protecting individuals' property rights and facilitating this dynamic economic marketplace through predictable and objective decrees. Church bodies, prone to faction, lacking legal formalism, and undercut by the very contractual membership ushered in by constitutional guarantees of religious freedom, often found themselves unable to authoritatively resolve their members' civil disputes.

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[93] Ibid., December 1816, SBLA.
[94] Bruce H. Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Cambridge: Harvard University Press, 2002), 3-5.

Church tribunals only served as effective legal sites when members dispassionately judged each other's disputes. Witnesses, committeemen, and voting members, when "called upon to testify, judge, and advise," had to be objective or risk their prejudices tainting the proceedings. Even a slight "defect, in their temper, testimony, judgment or advice, may turn the scales against success."[95] As Jacob Creath Jr. would certainly agree, individuals possessed a right to due process in both church-based and state-based courts. By the 1830s and early 1840s, many disputants, however, decried the unfair, factionalist-produced decrees emanating from their local meetinghouses. Church leaders throughout the country, too, witnessing a decline in disciplinary activity, set out to strengthen churches' law-making functions by formalizing their procedures, stressing the importance of predictable and dispassionate mitigation. The very stability and continued progress of their respective organizations were at stake. Their efforts fell in line with leading legal thinkers of the antebellum period who, as Morton Horwitz writes, "sought to depoliticize the law" by insisting "upon its objective, neutral, and facilitative character."[96]

As early as the 1820s, trans-Appalachian Baptists began calling for a more uniformed system of discipline, though not until the 1840s did church leaders take serious steps to formalize its procedures. The First Baptist Church of Frankfort composed a letter in 1823 to the Franklin Association asserting "that every society should have a compendium of discipline under which offenders of every grade might be easily arraign'd

[95] Eleazer Savage, *Manual of Church Discipline* (Rochester: Sage & Brother, 1844) 50-51.
[96] Horwitz, *Transformation of American Law*, 255.

[*sic*], reclaim'd [*sic*] or sencured [*sic*]."[97] Two decades later members would get their wish. In the 1840s, a number of ministers devoted tracts to church government and church discipline. Eleazer Savage gave two reasons for publishing his *Manual of Church Discipline* in 1844. "Disciplinary measures, as they exist," he contended, "are more frequently the offspring of *passion*, than principle." Moreover, church members possessed no guide "to scripturally instruct church members, as to the *different kinds* of offences" and "the *proper methods* of treating them."[98]

The Reverend Warham Walker concluded his own treatise, *Church Discipline*—also published in 1844—claiming that an adherence to the principles elucidated within his text, "by any church, would be found highly conducive to its true prosperity." He continued: "The discipline of a church, if it be conducted according to the law of Christ, will be characterized by harmony, simplicity, and regularity. The law leaves nothing doubtful, in respect either to the mode of disciplinary actions, or the spirit in which it should be performed." Walker further warned those churches that governed discipline "by no rule, save their own discretion," that their path could be "fraught with peril."[99] Those churches risked "introducing corruption, disorder, and dissension" into their ranks, maladies which eventually would render them "incapable of united, vigorous, and well directed action" towards their secular or regular enemies.[100]

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[97] Letter to the Franklin Association, August 1823, Frankfort Baptist Church Records, p. 7, KHS.
[98] Savage, *Manual of Church Discipline,* v. Many Baptists, however, probably would have claimed that all they needed to guide them in dispensing discipline were the scriptures.
[99] Warham Walker, *Church Discipline: An Exposition of the Scripture Doctrine of Church Order and Government* (Boston: Gould, Kendall and Lincoln, 1844), 153-154. Highlighting the importance of dispassionate mitigation, Walker also notes on page 90, that "The indulgence of a rash, impetuous, hasty spirit, in the performance of disciplinary action is in all respects unfavorable to a happy result."
[100] Walker, *Church Discipline,* 156.

William Crowell's *The Church Member's Manual*, appearing in 1847, proved so popular that three years later, he published a condensed version as a handbook. In 1873, a new revised version was issued.[101] Like Savage and Walker, Crowell stressed the importance of discipline. "The course of the church should always be uniform and consistent in the its treatment of offences," he wrote, lamenting that some churches "notice some offences and pass by others." He then elaborated a number of procedural requisites for proper administration of church-based justice, including sections devoted to ruling according evidence, the various punishments available for churches, and the treatment of excluded persons.[102] In sum, Crowell devoted over sixty pages to the various procedures, attributes, causes for, and types of church discipline.

These religious-treatise writers' quest for a formalized church disciplinary system fell in line with contemporary legal thinkers who heralded the necessity for law's objective, formal nature. The treatise writers focused on formalizing the practice of discipline, elevating universal practice over particulars. By the 1830s, the American legal profession had developed a treatise tradition which sought to present law as scientific, emanating "not from will but from reason." Law, prominent legal intellectuals insisted, was "an objective, neutral, and apolitical system."[103] As the jurist James Kent stressed in his *Commentaries on American Law*, it would be "extremely inconvenient to the public if precedents were not duly regarded, and pretty implicitly followed. It is by the notoriety

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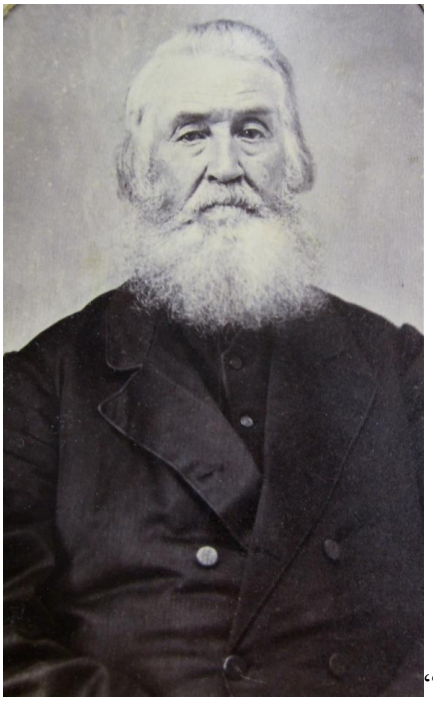
[101] See the Preface in William Crowell, *The Church Member's Manual, of Ecclesiastical Principles, Doctrine, and Discipline: Presenting a Systematic View of the Structure, Polity, Doctrines, and Practices of Christian Churches, as Taught in the Scriptures* (Cinncinati: Geo. S. Blanchard, 1873). Published also in New York and Boston; William Crowell, *The Church Member's Hand-book: A Guide to the Doctrines and Practice of Baptist Churches* (Boston: Gould, Kendall and Lincoln: 1850). He notes that this latter publication's chapter on discipline "is substantially from" the 1847 *Manual*.
[102] Crowell, *The Church Member's Hand-book*, 109, 110-115.
[103] Horwitz, *Transformation of American Law*, 258.

and stability of such rules, that professional men can give safe advice to those who consult them; and people in general can venture with confidence to buy, and to trust, and to deal with each other." If judicial decisions were ignored, he continued, "we should disturb and unsettle the great landmarks of property."[104] Indeed, by the late antebellum period, state legal reformers in the South increasingly infringed upon local authority over property matters, claiming the state's protection of property was in the public interest.[105] Local legal venues persisted throughout the period, with legal reformers deriding localized law's inherent flexibility and unpredictable nature. Parties in property disputes at church meetinghouses made similar arguments, and their indictments of churches' juridical proceedings and decrees hint at a larger reconceptualization of law, its location, and sources of governing authority during the first-half of the nineteenth century.

In his quarrel with Henry Foster, Jacob Creath Jr. insisted that the David's Fork Reformed Church had failed in is scriptural duty to mitigate member-disputes. The church's decision, in his view, was compromised well before its official decree. Creath charged that from the beginning of its proceedings the church had erred in handling the case. At one point during the trial, Foster reportedly ""flew into a violent rage." For that action alone, Creath exclaimed, Foster should have been *marked* and turned out of the society of good men."[106] The church instead pronounced Foster innocent "on his own bare word," without evidence, and "contrary to all the laws of all civilized countries…contrary to all Protestant Christendom." Only after declaring Foster innocent, for example, did the church encourage Creath to send any evidence he

[104] James Kent, *Commentaries on American Law, Vol. 1* (New York: G.F. Hopkins & Son, 1826), 443.
[105] Edwards, *The People and Their Peace*, 289-290.
[106] Creath, *A History of Facts*, 8. Emphasis in original.

possessed. The timing of this request unnerved the preacher. "Can such a church be called a habitation of justice?" he asked. What if a secular court "should give a verdict first, on the accuser's word and then seven months afterwards call for evidence? What would the community say of such a court?" And, furthermore, "whose character or property would be safe in such hands?" The church, rather than upholding the Scriptures and fairly resolving her members' disputes, had failed to properly pursue justice. "I have begged this church to settle this matter," Creath exclaimed, but "she would not."[107]


"An Older Jacob Creath, Jr."[108]

The church's decree reflected larger problems within the church body at David's Fork, complications that hindered its ability to dispense discipline and resolve disputes. Covetousness and speculation proved one of the central charges that Creath had leveled against Foster, but he extended the charge to include the entire church, exclaiming that

[107] Creath, *A History of Facts*, 12-14.
[108] Photo taken from http://www.therestorationmovement.com/creath,jr.htm. Accessed November 5, 2014.

the church had become "a *nest* of traders and Southern speculators."[109] With its character in question, Creath believed the church could no longer objectively serve as a site for dispute resolution. By contrasting its operations to the workings of secular courts—asking what if "the courts of the country" operated in such a way so as to give a verdict before receiving all the evidence—and declaring that he could no longer trust his character and property with the church—Creath hinted that the David's Fork Reformed Church had lost credibility as an effective law-producing site. Insisting it had departed from all "Protestant Christendom," he implicitly raised the "civilized" operations of the Commonwealth's courts above those of the church body. As his former brethren at David's Fork seemed reluctant to sufficiently investigate the matter, the feeling may have been widespread throughout the church community and beyond.[110]

Witnesses, observers, and participants across the trans-Appalachian West echoed Creath in accusations against their local churches. William Collins expressed as much not long after Creath's dispute with Henry Foster. In the spring of 1841, Collins, a member of the Elizabeth Church of Particular Baptists in Bourbon County, Kentucky, had in hand thirteen tons of hemp. William Anderson, a life-long acquaintance of

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[109] Creath, *A History of Facts*, 15.

[110] Following the church's ruling in 1839, and Creath's pamphlet of 1840, Henry Foster and other church members responded with a publication accusing Creath of slander. Both parties agreed to submit the case to Alexander Campbell—the leader of the Reformed movement—for mitigation. In an 1845 letter to Creath's uncle, Jacob Creath Sr., Campbell denounced both pamphlets, lamenting the damage done to the cause of religion and brotherly affection in the area. Four months later, in the spring of 1846, Campbell again wrote to Creath Sr. about the matter. Having considered "all the evidence in the case, printed, and written, and oral," he insisted that the David's Fork Church should "recall the libel" published against Creath Jr. and release "his land, as well as his character" from all liability. The church, as both individuals and communities were wont to do, had erred "in judgment and in heart." Other churches, too, had gone similarly astray, as Campbell noted that he had numerous cases "on my immense file of documents, which, indeed, is now like the docket of the court of chancery, some ten years behind the age." Peter Donan, *Memoir of Jacob Creath, Jr.* (Cinncinnati: R. W. Carroll & Co., 1872), 122. For the full text of both letters see, pp. 116-123. Creath remarked that meddling with Campbell's decision "would seem to me a little like tampering with a judgment of the Supreme Court." See p. 125.

Collins's and fellow member of the Elizabeth Church, expressed interest in buying the crop, but needed to do so on credit. Following a church meeting in April, Anderson and a handful of other church members assembled at Collins's home to broker the deal. There, according to Collins, the two drew up contract terms, eventually agreeing to those stipulations two days later. Upon receiving payment of up to $300 on May 1, Collins contracted to deliver that quantity of hemp to Anderson, with the rest to follow at his discretion over the summer and fall of 1841. Anderson further agreed to make payment in whole with ten percent interest by June 1842. In late April, amidst a wet spring, Collins called upon Anderson to ensure he still wanted the first part of the hemp delivered. Not having completed his hemp-house, Anderson declined receiving delivery at that time. Collins ultimately delivered over two tons in June, but received no money from Anderson. Despite Collins's agreement to deliver the remaining eleven tons of hemp at his discretion, Anderson—still having not paid his initial installment due on May 1—wrote Collins, insisting he send no more until Anderson directed him to do so. "After waiting several days and receiving no money," Collins later wrote, "I concluded that he had violated the contract, and that therefore I was absolved or released from any further obligation according to law." Collins did not trust his personal judgment, however, and called in help from "some eight to ten persons, all of whom coincided with [his] own opinion."[111]

Collins's appeal for substantiation of his position proved simply the first step of a long mitigation process that navigated from informal arbitration with church members

[111] William Collins, *Narrative: Containing a Statement of Facts in Relation to the Exclusion of William Collins and William Anderson form the Elizabeth Church of Particular Baptists in Bourbon County* (Frankfort: Hodges, Todd & Pruett, 1843), 3-5, in *Baptists in Kentucky*.

serving as referees, to a church vote, and eventually to the Bourbon County Court. After hearing testimony from a female church member who had been present when Collins and Anderson had agreed to the contract, the two arbitrators ruled that Anderson had indeed violated the contract, and owed Collins for the two tons already delivered. Both parties agreed with the ruling, but Anderson did not immediately hand over the note. At the August church meeting, two members agreed to enter as Anderson's security for his debt to Collins. "I then felt that I was perfectly safe," Collins insisted, "having three Particular Baptists bound by honor," and Anderson agreed to draw up a note for Collins. A few days later, however, he demanded that Collins "make confession to him or [they] could not live together in [the] Elizabeth Church[.]" Collins refused, and Anderson "lodged a complaint" against him at the July church meeting, claiming injury done "in purse and feelings."[112]

The dispute continued for months, with Collins, Anderson, and numerous other church members leveling accusations at one another. Part of the problem, according to Collins, was Anderson's refusal to turn over a promissory note for the hemp. At one point, Collins told Anderson that he "had proved the contract by testimony sufficient to indict any man in Bourbon county for murder," and further that his actions justified an exclusion from the church.[113] Anderson responded by accusing Collins of usurious practices, fraud, disorderly conduct, and Collins's son, with false swearing. After numerous failed attempts, the Elizabeth Church eventually called a special meeting to settle the difference. By this time, Collins had grown tired of Anderson's stalling, and

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[112] Collins, *Narrative*, 8-12.

[113] Ibid., 14. "I told him," Collins reported, "that of all men I ever had any dealings with, he was the most difficult; and if I ever got clear of him I would keep so, so help me God. (And if I lie in these expressions, then let civil and religious society renounce me forever.)"

believed the church was hardly in a position to settle the matter effectively, as "all the members had taken sides," hindering the potential that they could reach and objective decisions in the case.[114] Instead of tackling the facts of the dispute, however, the church voted they were distressed with both Anderson and Collins. Collins stood and expressed his confusion on the vote, and left the meetinghouse. The church eventually resolved that Collins had erred in so quickly absolving the contract and that Anderson was at fault for not adhering to the decision of the previous arbitration committees. At one point, as Collins tried to explain himself to the church, the moderator cut him off, claiming his words reflected badly upon the church body. "It then seemed to me," Collins later wrote, "that I could say nothing but what was deemed out of order or unnecessary." He relented, and upon request from the moderator, Anderson again refused to turn over the note. A motion and second for both men's exclusions from the church passed.[115]

Unsurprisingly, Collins believed the church had made a mockery of the whole affair, and, like Creath, hinted that the local court proved more effective than the congregation for such a contract dispute. The moderator had even reportedly "remarked that it had been the worst managed case he ever knew." Following his exclusion, Collins asked one member why the church did not allow him and Anderson to settle the matter at law. The brother replied because a law suit would engender "cross swearing among the members of the church, and a jury might decide differently from a committee, which would place the church in an awkward position." Another member admitted that the two men's exclusions were handled as one vote—a rather rare occurrence—because

[114] Ibid., 17-20. Indeed, one female church member claimed the church would never exclude Anderson, as "there were forty members in the church who would support him." See p. 19.
[115] Ibid., 21-24.

"otherwise, there would have been a split in the church." The church's actions may have protected the coherence of the membership body, but its failure to protect its members' individual rights upset Collins, convincing him of the necessity of state law. "I conclude from it that if professors of the religion of Christ can act as here stated," he exclaimed, "I have lost little in being excluded from their fellowship and communion."[116] After the exclusions, Collins eventually initiated suit against Anderson, "and there was cross-swearing, sure enough." Collins prevailed, though the court only awarded him a little over $100, some $300 less than the amount he claimed Anderson owed.[117]

Collins insisted on multiple occasions, however, "that is was not the money [he] was contending for," when he sought arbitration from the church.[118] Soon after the dispute began, one neighbor told Collins that word had circulated about his backing out of the contract.[119] Surely the awareness of rumors spreading throughout the neighborhood and the surrounding area of his alleged failure to live up to his contract with Anderson drove Collins's actions during the church proceedings. Once that legal venue buttressed the rumors by excluding Collins—labeling him as both a less-than-straightforward-businessman and unrepentant moral transgressor—he first found solace at the local court before making "public in pamphlet form the causes that led" to the degradation of his civil and religious identities.[120] He claimed to be perfectly satisfied "that all who heard the trial," and, he noted, "they were a good many," were "satisfied" that he deported himself throughout the endeavor "above board," taking "no ungentlemanly advantages"

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[116] Ibid., 24-26.
[117] Ibid., 26-27.
[118] Ibid., 16, 20.
[119] Ibid., 7.
[120] Ibid., 3.

of Anderson.[121] His account—though describing primarily the church's handling of the case—ends with him triumphant in a court of law, and that arena's ruling eclipsing actions taken by the church, his rightful property and reputation restored.

Not far from the Elizabeth Church, members of the Washington Baptist Church were embroiled in their own disagreements over church discipline and the "exercise of arbitrary and lawless power" during the mid-1840s.[122] More so than the charges of Collins and Creath, however, the consternation aroused within the Washington Church centered upon actions taken by their sister churches and governing association. In 1845, the printed minutes of the Bracken Association noted rumors of Elder Gilbert Mason's (minister for the Washington and Lewisburg Churches) past transgressions. The accusations stemmed from alleged actions taken by Mason when he served as preacher at the nearby Mayslick Baptist Church during the early 1840s. Along with five other charges, Mason was accused of "serious impropriety as to the disposition" of monies collected for Georgetown College.[123] The Washington Church took up four of the six charges against their pastor immediately after the conclusion of the association meeting

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[121] Ibid., 27.

[122] *Reply of the Washington Church, to the Proceedings of the Bracken Association, Held in Millersburg, Bourbon Co. KY., September 1847* (Maysville, KY: J. Sprigg Chambers, 1847), 3, *Baptists in Kentucky*.

[123] Ibid., 8. It appears confusion arose when in December 1841, Mason intimated that he had preached for the Mayslick Church for many years and had not received a Christmas gift. He requested members who were able to bring one dollar to the next meeting, and there he would tell them what he planned to do with the donations. Depending on the witness, Mason either claimed in December or at the next meeting that the money was for Georgetown College. He donated the money to that institution, but it may have been to fulfill a personal pledge he had previously made. See Judge A. Beatty's 1846 letter on the subject in *Reply of the Washington Church*, 19-22. Beatty claimed that Mason's error was unintentional, not criminal, and it should have been judged as such.

in September 1845, and "[Mason] was unanimously acquitted." The church decided they had no jurisdiction over the two other charges.[124]

Three months after the association's meeting, however, the Mayslick Church held a council—attended my members of churches in both the Bracken and Elkhorn Associations—which touched upon the charges against Elder Mason. Having already been dismissed from the Mayslick Church on good terms in 1843, and accepted as the pastor of the Washington Church soon after, members of the latter charged the Mayslick proceedings were illegal, "altogether unauthorized, and unprecedented in Baptist jurisprudence."[125] Any effort "to arraign, try, or even prefer charges against any individual member, out of his own immediate church," Washington Church members asserted, "is an act of usurpation; and is wholly *unauthorized* by Baptist Law, or scripture teachings." Not only did the "Mayslick Council" overstep its authority hearing charges against a member of another church—who was not present and had already made satisfaction for the offenses in 1842—but the council ignored overwhelming witness testimony in favor of Mason.[126]

The Washington Church disregarded the decision of the Mayslick Council, and the controversy continued throughout 1846. In January, the Washington and Lewisburg Churches published a reply to the Mayslick Council, which further stoked the controversy and led to another gathering of an advisory council in July. After hearing

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[124] Ibid., 10. The Washington church claimed that Mason had already answered and made satisfaction for the other two charges while still under the jurisdiction of the Mayslick Church, and therefore no more investigation was needed.

[125] *Reply of the Committees of the Washington & Lewisburg Baptist Churches, To the Proceedings of the Mayslick Church, and Council, held in Mayslick, December, 1845, and published in the Baptist Banner in January, 1846* (Maysville: Maysville Eagle Office, 1846), 11, *Baptists in Kentucky*.

[126] Ibid., 12-14. Emphasis in the original.

testimony and examining evidence, the Lewisburg Council—as the July meeting came to be known—ruled that Elder Mason deserved "expulsion from [his] church."[127] The Washington Church retorted that the Council's proceedings against Mason were tainted by prejudice and illegality, and refused to follow its recommendations. Similar to the cases of Creath and Collins, Washington Church members believed their pastor's reputation was being trampled by extra-legal procedures propelled by passion and faction.

In defending their position to the Bracken Association, the church called upon Judge Adam Beatty, a circuit court judge in Mason County who had participated in the Lewisburg proceedings. Beatty submitted a long letter in Mason's defense, claiming that after Mason defended his actions to the Council, the delegates changed the charge—in relation to the Georgetown donation— from embezzlement to breach of trust. Thus, he continued, the council made "it a crime in Elder Mason to have defended himself against" the embezzlement accusation, "by the production of evidence showing that he was not guilty of the charge!!" Its procedural tactics shocked the judge. "Was such an anomaly ever before witnessed in a judicial tribunal?" he asked. "Could any thing [sic] else but a judgment of condemnation be expected from a tribunal, which was of opinion that *an endeavor*, on the part of the accused, to defend himself, served only to aggravate his offences." Moreover, the council had found Mason guilty of slander based upon evidence of confession. This evidence, the judge continued—pointing to a ruling made by the Kentucky Court of Appeals—holds "'very little weight'" in state-based courts. As twenty-seven individuals corroborated the preacher, in contrast to the confessions of a

[127] *Reply of the Washington Church*, 28.

few, "this species of testimony ought not to have the weight of a feather in deciding the facts of [Mason's] case."[128] On another charge related to a debt owed to a Mr. Kirk, Beatty claimed there was ample evidence to disprove the accusation, yet the council voted the charge sustained.[129] Despite Beatty's defense of both Mason and the Washington Church, delegates to the Bracken Association cut ties with the Washington Church in 1846 for its refusal "'to abide by and perform the decision of the [Lewisburg] Council in Elder Mason's case.'"[130]

The Bracken Association's actions particularly incensed members of the Washington Church. Not only had the Association severed ties with the Washington Church, but it had adopted a resolution calling for Mason's retirement.[131] In turn, Washington Church members invoked a number of Baptist authorities—including John Taylor and Warham Walker—who highlighted the danger of power-usurping associations. For Mason's congregants, in dissolving ties with their church and casting aspersions against their pastor, delegates to the Bracken Association had acted from passionate malice, wielding "lawless power" against the church's scriptural rights:

> We are greatly deceived if what we have set forth does not convince all candid and *dispassionate* men, whose minds have not been warped by preconceived opinions, that the action of the Association at its present meeting…has been a violation of the first principles of justice, and inconsistent with Baptist law and usage, in cutting off the Washington Church from its association with its sister churches, and thus attempting to degrade and dishonor the said church for doing what it had a clear legal right to do.[132]

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[128] Ibid., 25.
[129] Ibid., 28.
[130] Ibid., 3.
[131] Ibid., 9-11.
[132] Ibid., 11. For "lawless power" reference see p. 3. My emphasis.

Although Creath, Collins, and members of the Washington Church disagreed on doctrinal principles—Creath a Reformer, Collins a Particular Baptist, and the Washington Church of the Regular Baptist Order—each could agree that they had been wronged by the workings of prejudiced tribunals. And as Judge Beatty pointed out, Mason's reputation had been castigated by a Council that paid no heed to the rigors of law. For them, and surely other church-goers throughout the region, their churches lacked the attributes of state law's professional, formal, and objective procedures and outcomes. The fact that each of the above disputes centered upon white men's property and reputations compounded the matter, and impelled the respective parties to detail their disputes' particulars in published form.

Yet a central theme in each account was the contrast between church-based and state-based legal venues. For Creath, no "civilized" tribunal of a secular nature would proceed as did the David's Fork Church. The Washington Church and her supporters, too, denounced the "arbitrary" rulings of the association's councils. Not only did they lack authority, but had acted contrary to both state and Baptist law. Collins also relished finding recourse at the local court, noting that he had become "perfectly satisfied lawing such men as Anderson." He concluded his pamphlet noting the subsequent disciplinary paralysis which infiltrated the Elizabeth Church following his exclusion. Pointing to one case under consideration, he exclaimed, "having been, I think, for five months before the church," without movement, "I really fear the church is almost afraid to make an attempt to regulate her own business."[133]

[133] Collins, *Narrative*, 27-28.

Such outcomes were exactly what writers like Savage, Walker, and Crowell hoped to avoid when they published their treatises devoted to church discipline in the 1840s. In each case the deciding tribunal strayed from procedural corrections and fell into the pit of passionate resolution. This is not to say that passion or faction was absent from churches prior to the late-antebellum period. But, amidst the expanding, integrated marketplace of the early nineteenth century, as debt transformed from a moral to economic failing, and as refinement spread outward from urban centers such as Lexington and Nashville, individuals, church-members and not, sought more formal, unprejudiced, and predictable mitigation for their property disputes. This led to a weakening of church authority over white members' property-related matters and a disproportionate focus on black members' transgressions. In other instances, as we will see over the next two chapters, doctrinal disagreements which pervaded early-nineteenth century Baptist churches often implicated property. The factionalism and schism produced by the period's transforming religious culture also helped transform how individuals envisioned their churches as sites for legal realization. As law-makers and church-goers engaged in the cultural process of separating church from state, such controversy further constructed the boundaries of religious and civil authority in the nineteenth-century United States.

CHAPTER 4. "THE PUTRID [*SIC*] CARMAGE OF CONTENTION": RELIGIOUS INSURGENCY AND DISCIPLINARY DECLENSION

"It is [Alexander Campbell's] interest to scatter the Baptists awhile, that he may rake up all he can."[1]

In April 1831 the Fox Run Baptist Church of Shelby County, Kentucky gathered for their monthly meeting. Following prayer and reception of new members, the moderator opened the floor for the airing of grievances. Brother John Ford claimed that fellow-member James Drane had failed to comply with a contract to which the two men had previously agreed. The church clerk initially recorded little detail, but did note that a committee was formed "to examine into the merits of the case, and their Decision [was] to be final." The committee subsequently ordered that Drane pay Ford "a reasonable rent for the use of the 35 acres of land" or otherwise let Ford retain the land until he thought it proper to give full possession of the tract to Drane. At the following meeting in May, the church admonished Brother Jeptha Brite "for opening his doors to disorderly preaching." The two cases appear to have little in common, and are actually rare in that the church body did not level any exclusions from the church fellowship, nor is there record of either man making acknowledgement to any wrong doing in order to remain a full member of

[1] John Taylor, *History of Clear Creek Church and Campbellism Exposed* (Frankfort: A.G. Hodges, Commentator Office, 2nd edition, 1830), 26.

the Fox Run Church.[2] A closer look reveals that the two men were in-laws; Brite's wife, Elizabeth, was a Drane by birth. And the "disorderly preaching" that took place at the Brite home was the handiwork of one or both of the Creaths, a family whose affinities with the dissenting views of Alexander Campbell were well known throughout the region.[3] The defendants' collective action over the next weeks—with the apparent aid and support of their wives—speaks to the changing nature of church authority over matters of dispute resolution during the 1830s, as well as to how insurgent religious movements altered how individuals envisioned and engaged with law in post-Revolutionary Kentucky.

Fox Run's charges against James Drane and Jeptha Brite encapsulate Baptists' efforts to regulate their members' household relations and their business matters. Following the charges, Drane and Brite, along with their wives, submitted a remonstrance to the church. Both couples asserted that a factionalist spirit had pervaded the church body. The Dranes resented the civil award levied in favor of John Ford and against them, while the Brites claimed that the church held no authority over who they invited into their own home. Their grievances hint at individuals' reconceptualization of church authority discussed in the preceding two chapters: that changing understandings of the household (in this case family privacy) led to a decline in disciplinary efforts aimed at household

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[2] Minute Books of Eminence, KY Baptist Church (formerly Fox Run), April/May 1831. Archives and Special Collections, James P. Boyce Centennial Library, The Southern Baptist Theological Library, Louisville, Kentucky (hereafter SBTL).

[3] For the marriage of Elizabeth Drane and Jeptha Brite, see http://search.ancestry.com/cgi-bin/sse.dll?ti=0&indiv=try&db=eamky&h=63158. Accessed 18 March 2013. Ancestry.com cites, Dodd, Jordan *Kentucky Marriages, 1802-1850* [database online] Provo, UT, USA. In the June 1831 records of Fox Run Church, a letter from the Dranes and Brites mentions that a "Creath" preached in the Brite home. Jacob Creath, Jr., "was the most active and turbulent advocate of Campbellism in the state," while his uncle, Jacob Creath, Sr. "was among the first converts to Campbellism." See, John H. Spencer, *A History of Kentucky Baptists From 1769 to 1885, Including more than 1800 Biographical Sketches, Vol. 1* (Cincinnati: J.R. Baumes, 1886), 204, 312.

regulation, and that for many, economic transformation necessitated a passionless, predictable legal system for resolving property- or business-related disputes. The cases against Drane and Brite, however, were complicated by the trans-Appalachian West's changing religious culture. Baptists throughout Kentucky and Tennessee, after nearly fifty years of institutional growth and membership expansion in the region, witnessed a prolonged period of internal dissension and church schism during the 1820s and 1830s. The religious insurgency associated with Alexander Campbell and Barton Stone's "Reformation" movement, while siphoning members from Baptist churches (and as we'll see in Chapter 5, producing heated litigation over church property), also subtly altered the ritual of church discipline.

During the 1820s and 1830s the region's religious landscape scorched with dissension as Baptists argued over a variety of doctrinal matters, but especially as the teachings of Campbell and Stone gained prominence and adherents. Campbell's calls for the supremacy of the individual over the collective will of the congregation, along with his denunciation of creeds, confessions of faith, and any religious body not deriving from the scriptures, found fertile ground among the region's Baptists. By the time the Fox Run Church admonished Brite for allowing a Campbellite to preach in his home in 1831, area Baptists had experienced years of schism within their churches, governing associations, and "neighbourhoods." Notions of church and community did not completely erode, of course, but for some individuals, internal dissension and church schism transformed how they understood their church's role in enforcing discipline and maintaining the social

peace of the community.[4] Motivating factors for a seeming reluctance, on the part of some churches, to enforce hitherto common disciplinary practices are difficult to ascertain, but this chapter contends that as member relations became strained by the influence of the Stone-Campbell movement, church discipline receded and church bodies grew less willing to enforce their law-making powers. The practice of church discipline did not completely cease amidst the Campbellite schisms of the period. It continued, especially in rural areas, throughout the nineteenth century.[5] Bogged down with internal dissension and schism, however, many afflicted churches recorded fewer or no charges during the controversy. This examination, then, illuminates how changes in the religious culture affected individuals' vision of the wider legal culture.

Despite slow growth from the end of the Revolutionary War through the 1790s, Baptists and Methodists kept up with the region's overall population growth during the first decades of the nineteenth century, constructing both an institutional infrastructure and welcoming a large number of members. Their Presbyterian counterparts did not fare as well. From the statehood period on, doctrinal disputes and divisions wrecked Kentucky's Presbyterian churches. By 1820, the denomination in the state, including those aligned with the Cumberland group (a more revivalist faction which had broken off from mainline Presbyterians during the first decade of the nineteenth century) numbered only about 3,700. Ten years later that number more than doubled to 7,610 members

[4] On community see the introduction in Bruce H. Mann, *Neighbors and Strangers: Law and Community in Early Connecticut* (Chapel Hill: University of North Carolina Press, 1987).
[5]See in general, Gregory A. Wills, *Democratic Religion: Freedom, Authority, and Church Discipline in the Baptist South, 1785-1900* (New York: Oxford University Press, 1997).

worshipping as 120 church bodies.[6] Presbyterianism in Tennessee progressed even slower.[7] Methodists proved more successful than Presbyterians. By 1830 Kentucky Methodists numbered just over 28,000 members affiliated with 51 circuits and stations, and 93 ministers.[8] Methodist regional conferences based in Tennessee (but including members from parts of Georgia, Mississippi, and northern Alabama) grew from just under 3,000 in 1803 to nearly 70,000 in 1840.[9] Like the Methodists, Baptists in Kentucky expanded throughout the first decades of the nineteenth century. Boasting 574 churches affiliated with 34 associations and just under 40,000 members in 1830, the Baptists, though divided due to various doctrinal disagreements, were the largest denomination in the state.[10] Their Tennessee brethren by the mid-1830s claimed over 27,000 members worshipping in five hundred congregations.[11]

Despite the steady growth, trans-Appalachian Baptists—and their Protestant cohorts in general—constantly worried about the progress of religion in the region. Indeed fears of irreligion and deism's progress haunted religiously-minded Americans during the post-Revolutionary period.[12] In 1798 Lexington resident Robert Stuart

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[6] William Warren Sweet, *Religion on the Frontier, 1783-1840, Vol. II, The Presbyterians* (New York: Cooper Square Publishers, 1964), 33; William Warren Sweet, *The Story of Religion in America* (Grand Rapids: Baker Book House, 4th Printing, 1983 [original 1930]), 232-233.
[7] Walter Brownlow Posey, *The Presbyterian Church in the Old Southwest, 1778-1838* (Richmond: John Knox Press, 1952), 113. Posey notes that as of 1814, the Presbyterians had only 79 churches and 26 ministers in the entire state.
[8] Spencer, *A History of Kentucky Baptists, Vol. 1*, 642-643.
[9] John B. McFerrin, *History of Methodism in Tennessee, Vol. 1. From the Year 1783 to the Year 1804* (Nashville: Publishing House of the M.E. Church, South, 1888), 419-420; McFerrin, *History of Methodism in Tennessee, Vol. 3, From the Year 1818 to the Year 1840* (Nashville: Southern Methodist Publishing House, 1873), 515-517.
[10] Spencer, *A History of Kentucky Baptists, Vol. 1*, 642.
[11] Albert W. Wardin Jr., *Tennessee Baptists: A Comprehensive History, 1779-1999* (Brentwood: Tennessee Baptist Convention, 1999), 117.
[12] John B. Boles, *Religion in Antebellum Kentucky* (Lexington: The University Press of Kentucky, 1976), 16-20; See also, Amanda Porterfield, *Conceived in Doubt: Religion and Politics in the New American*

lamented that "[p]erhaps there never was a day when men of virtue were so few. The Infidelity; the Profanity; the dissipation & almost universal depravation of morals which at present pervade every part of our country, is truly alarming." Christianity, Stuart continued, "is now banished from our polite circles" and had "become the sneer of ridicule."[13] Stuart and other's fears were surely pacified over the next few years as a Great Revival swept through the western frontier. Historian John B. Boles asserts that following the revival, "religion for a time came to monopolize the popular mind in Kentucky."[14]

The give-and-take between religious fervor and spiritual drought was a constant theme during the first three decades of the nineteenth century. Nineteenth-century Baptist historian John Spencer claimed that in just a matter of a few years after the revival, deism and infidelity, which had been "almost silenced" during the period of religious fervor, "began to vaunt itself again." The Elkhorn Association reported only 9 new baptisms, and across Kentucky, 1808 proved "the gloomiest year" of the young century. By 1810, however, Spencer insisted, "some light showers began to relive the thirsty land, and more fruitful seasons followed."[15] This ebb and flow of spiritual success and dearth was encapsulated in a letter received by Kentucky resident Capt. Thomas Buckner in 1819. "Religion and Atheism take their turns in this town," the correspondent wrote, "but at this present writeing [*sic*] religion weighs predominant. Three mile sermons and half a mile

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Nation (Chicago: University of Chicago Press, 2012); Eric R. Schlereth, *An Age of Infidels: The Politics of Religious Controversy in the Early United States* (Philadelphia: University of Pennsylvania Press, 2013).
[13] Robert Stuart to Mrs. Fleming, 19 March 1798, Fleming-Edmonds Family Papers, Folder 7: Correspondence, 1793-1798, Filson Historical Society, Louisville, Kentucky (hereafter FHS).
[14] Boles, *Religion in Antebellum Kentucky*, 28.
[15] Spencer, *A History of Kentucky Baptists, Vol. 1*, 553-554.

prayers are all the rage at this time."[16] Yet nearby in Shelby County just four years later, Martin Baskett lamented that even professors of religion "in our country have gotten proud and love the world better than the Cross."[17] Soon after in 1825, Baskett changed his tune, noting that he had recently received "some pleasing accounts from different parts" of Kentucky about revivals.[18]

Despite this relentless anxiety over religion's progress or regress, sectarian strife and doctrinal dissension proved a perhaps greater concern. The Great Revival not only helped to push evangelicalism towards the mainstream, it ensured a large amount of religious diversity, which in turn, placed stress on the existing church institutions in the trans-Appalachian West.[19] For the Baptists, their greatest threat emerged with Alexander Campbell's increased critiques of their doctrine and form of church governance during the 1820s. But Campbell, Stone, and their teachings were not the only divisive influence circulating among the region's Baptists in the 1820s and 1830s. The Rev. R.B.C. Howell, upon becoming editor at *The Baptist* (later the *Tennessee Baptist*) in 1838, assured his readers that the newspaper's theological positions would not change. "I have, from the beginning, still am, and ever expect to remain," Howell asserted, "a *Baptist* of the 'Old School.'" This certainly did not mean, however, that he was caught up with any of the "*mummeries*" recently propagated, and then "so rife in Tennessee." Howell repudiated "Parkerism, Campbellism, Mormonism, anti-effortism, antinomianism, and

[16] W. [Th.?] Henry to Capt. Thomas Buckner, 20 February 1819, Buckner Family Papers, Folder 3, Correspondence: 1819, FHS.
[17] Martin Baskett to Robert Lilley, Sarah and Mary Shepherd, 10 & 27 July 1823, Martin Baskett Letters, FHS.
[18] Martin Baskett to Martin B. Shepherd, 20 April 1825, Martin Baskett Letters, FHS.
[19] Boles, *Religion in Antebellum Kentucky*, 32.

every other similar fantasy."[20] His assurances touched on some of the largest divisions within the Baptist denomination as well as the rise of competing doctrines and sects that wrecked the religious landscape during the antebellum period.

Other than Mormonism and antinomianism, the "mummeries" which Howell referred to stemmed from opposition to the Mission movement. The mission movement's roots were in the east, where evangelical Congregationalists and Presbyterians feared for the West's presumed moral laxity. With hopes of establishing a Christian Commonwealth that included the Trans-Appalachian region, eastern evangelicals organized a number of benevolent and missionary societies during the 1810s and 1820s—including the American Sunday School Union (1814), American Bible Society (1816), American Tract Society (1826), and the American Home Missionary Society (1826). Many Baptists not only supported these establishments, but went on to organize their own foreign missionary organizations, including the Triennial Convention (1814), the American Baptist Home Missionary Society (1832), and the Baptist General Tract Society (1824).[21]

The missionary cause reached the West with Luther Rice's itineration throughout Kentucky and parts of Tennessee in 1815-1816. Through Rice's efforts, along with the dissemination of mission circulars, a number of western churches and associations were brought into the missionary fold. Unlike their more theologically liberal opponents, anti-missionists (often labeled "anti-effort" or "Primitive") did not wish to construct expansive denominational apparatuses that stretched beyond the local level. Instead,

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[20] R.B.C. Howell, "To the Patrons of the Baptist," *The Baptist*, Vol. IV, no. 1, January 1838. Baptists opposed to missionary efforts, tract and Bible societies, etc., were often labeled, "anti-effort" by their detractors.

-[21] Wardin, *Tennessee Baptists*, 107-108.

anti-missionists clung to a traditional, Calvinistic understanding of God's sovereignty.[22] Fragmented by doctrinal disagreements themselves, however, anti-missionists never coalesced as a denomination. Their opposition to the missionary cause and the clamorous reaction they engendered among pro-mission Baptists linked these disparate religious groups. And although some anti-missionary churches took part in regional governing associations, their critique of unscriptural religious institutions such as bible and tract societies bled into other Baptists' critiques of associations and their potentially dangerous ability to usurp congregations' powers. Campbell's denunciation of all ecclesiastical structures other than the local congregation echoed those of anti-missionists, but for most Baptists, his anti-mission impulses may have been the least worrisome aspect of his doctrine. Even still, anti-missionists' message proved popular throughout the trans-Appalachian region.

Daniel Parker emerged as one of the most vociferous critics of the missionary system during the 1810s. Living in Tennessee, not far from the Kentucky line, when the mission cause first gained popularity in the West, Parker soon moved to southeastern Illinois and began more actively propagating his anti-mission views. In 1820 he published *A Public Address to the Baptists Society* in which he castigated missionary societies—and specifically the "Baptist Board of Foreign Missions"—as not only unscriptural but dangerous to Baptists' democratic form of church governance.[23] Later in the decade, Parker advanced the "Two-seed" doctrine, his theological basis for anti-missionism. God, Parker claimed, created Adam and Eve in his likeness (the good seed),

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[22] Jeffrey Wayne Taylor, *The Formation of the Primitive Baptist Movement* (Ontario: Pandora Press, 2004), 7-8,

[23] William Warren Sweet, *Religion on the American Frontier: The Baptists, 1783-1830* (New York: Cooper Square Publishers, Inc. 1964), 69.

and after the fall of man, he planted in Eve, and all the daughters of Eve, the "seed of the serpent." Thus, those born of the former seed were the children of God; the latter, the children of the devil. In bringing the Gospel to foreign lands, to the descendants of the devil's seed, Missionary societies embarked on a worthless endeavor.[24]

In some ways, Parker's anti-missionary views echoed those of the popular Baptist preacher, John Taylor, whose message gained traction among many trans-Appalachian Baptists in the opening-decades of the nineteenth century. Taylor would later deride Parker in 1830, claiming that both he and Campbell were "distracting the Baptists in the Western country" (he also claimed it was possible that neither man was religious at all).[25] In 1819, however, Taylor published his *Thoughts on Missions* in which he infamously claimed that missions smelled of "the *New England Rat*." He compared the missionary system with the Catholic Church's selling of indulgences during the pre-Reformation period, denounced theological schools devoted to educating ministers, and decried the "artful measures of those great men [missionary agents]" in pilfering money from common church members. "How is it," Taylor exclaimed, "these white-handed gentry, always stretched out for money, and like the horse-leech, ever crying *give, give!!*" Similar to Parker, Taylor warned that the missionary effort was really an aristocratic plot, one contrary to the Baptists' highest authority: the local congregation.[26]

Baptists' fears of governing associations consolidating power over autonomous churches compounded divisions over the mission question. One of Taylor's chief

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[24] Sweet, *Religion on the American Frontier: The Baptists*, 75.
[25] John Taylor, *History of Clear Creek Church*, 8-9.
[26] John Taylor, *Thoughts on Missions* (1819), http://baptisthistoryhomepage.com/j.taylor.miss.html. Emphasis in source. Accessed December 5, 2014; Sweet, *Religion on the American Frontier: The Baptists*, 67-68; See also, See in general, Bertram Wyatt-Brown, "The Antimission Movement in the Jacksonian South: A Study in Regional Folk Culture," *The Journal of Southern History* 36 no. 4 (Nov. 1970): 501-529.

objectives in publishing *Thoughts on Missions*, had been "to drive [missionaries] our of Baptist associations," organizations whose existence Taylor supported but whose powers he always believed should be limited.[27] Particularly of concern to Taylor and other critics was the ability of associations to usurp the disciplinary powers of autonomous congregations. As Taylor noted in 1823, "a number of poor Baptists," especially, were in the habit of using Associations "as a kind of appellate court."[28] Pastor Peter Gayle of Tennessee likewise lamented in 1835 that there appeared to be certain groups who were "anxious to introduce the system of making Associations Ecclesiastical Courts to regulate and bind the consciences" of the individual. Yet he held out hope that the "good old spirit of independence" was advancing in the state, which would never imbue associations with "supreme jurisdiction in ecclesiastical government."[29]

Debates over the mission question and the utility of governing associations pervaded trans-Appalachian Baptist churches, at times provoking schism. The Buffalo Lick Baptist Church in Shelby County, Kentucky resolved in 1832 that it had no "legal authority" to participate "in the new theorys [sic] of the day, such as the Bible Society, Missionary, Tract, Temperance, [and] Sunday School." Together "with the Baptist Convention Scheme" Buffalo Lick members continued are "but man made at best, & consequently, [have] more of the love of money, and self, than the Glory of God."[30] In Fayette County, Kentucky the South Elkhorn Baptist Church divided in the early 1820s,

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[27] Taylor, *Thoughts on Missions*.
[28] For Taylor on Associations, see, *Reply of the Washington Church, to the Proceedings of the Bracken Association, Held in Millersburg, Bourbon Co. KY., September 1847* (Maysville, KY: J. Sprigg Chambers, 1847), 4-5, in Durrett, *Baptists in Kentucky*, University of Chicago Library.
[29] Peter S. Gayle, "Communication—For the Baptist," *The Baptist*, Vol. 1, no. 1, January 1835, 3-4.
[30] Buffalo Lick Baptist Church Minutes, November 1832, FHS.

and the church's majority faction withdrew from the Elkhorn Association.[31] After a brief account of the division, the clerk recorded the proper form of church governance. Most importantly, the majority ruled that the church "is a worshipping congregation & is the highest Court Christ has fix'd on earth." Church bodies were free to leave associations at their will, as they "may be in one association today & tomorrow in another." An Association's only purpose was as an advisory council, the clerk recorded, "not as some would have it, a legislative one."[32]

The contention and schisms such disagreements engendered held the potential to alter how churches practiced discipline, and thus, how church members envisioned their communities' broader legal culture. During the mid-1830s, debates over the pro-mission Tennessee Baptist Convention erupted in the Little Cedar Lick Baptist Church. After initially deferring the missionary question to their association in August 1834, the church clerk recorded only one disciplinary charge (for an unspecified offence) during the next nineteen months. Nearly three years later a similar dearth in discipline occurred as the church experienced a division due to the majority's vote to join the missionary cause. In June 1837, Elder Thompkins petitioned the church for "dismission for himself and as many others of the Brethren and Sisters as wished to be dismissed." To its credit, the majority acquiesced, dismissing on good terms at least twenty-nine individuals (Thompkins included) over the next two months. They even allowed that any member with similar misgivings could leave the church through September without facing

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[31] John Spencer claimed this division arose from "the buddings of Campbellism." See, Spencer, *A History of Kentucky Baptists, Vol. 1*, 43.

[32] South Elkhorn Baptist Church Records, May 1821, Kentucky Historical Society, Frankfort, Kentucky (hereafter KHS).

excommunication proceedings. After that month, "the order made allowing the Brethren and Sisters to join the dismistion [*sic*]" would "be nul [*sic*] and void and of no affect."[33]

This allowed the Little Cedar Lick Church to break apart without any potentially tumultuous disciplinary proceedings. Yet it did not stop doctrinal disagreement or division from affecting how members interacted with their church as a legal site. For a year preceding the formal withdraw of Elder Thompkins and his followers, the church did not record any disciplinary activity. That silence continued until July 1838, a full twenty-four months with no record of the church fellowship meeting as church tribunal. Moreover, from the time the church initially took up the mission question in August 1834 until years after the 1837 division, church discipline ebbed. From 1830 through 1833 the clerk recorded one charge per every 5.03% of the church membership. In contrast, over the next four year period (1834-1837)—from the church's first recorded mention of the Tennessee Baptist Convention through the division—that same number fell to just 1.79%. That rate remained a low 2.65% over the next four year period (1838-1841), before finally surpassing its pre-division level between 1842 and 1845 by rising to 5.83%.[34] Little Cedar Lick's experience during the 1830s is simply one example of how church schism and doctrinal dissension altered individuals' conceptions of their churches as law-producing sites. But the same process played out in other churches entangled in various doctrinal disagreements or in disputes with competing sects.

The Bryan's Station Baptist Church near Lexington was one Kentucky's first such organizations. Constituted in 1786, Bryan's Station Baptists met regularly for the next

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[33] Little Cedar Lick Baptist Church Records, June-July 1837, Southern Baptists Library and Archive, Nashville, Tennessee (hereafter SBLA).

[34] For all charges see, Little Cedar Lick Baptist Church Records, 1830-1845, SBLA; For membership numbers see, the Concord Association, 1830-1845 in the Tennessee Baptist Association Annuals, SBLA.

twenty-five years. By 1801 the church had grown to 421 members. That year the church dismissed 267 members to organize the David's Fork Baptist Church. Prior to 1802, the church recorded 76 charges against its white members and 34 charges against its black brethren during its fifteen-year history. From the start of 1802 through the first two months of 1811, the church clerk made note of an additional 88 charges against whites and 66 against blacks, a total of 164 charges against whites and 100 against black members in the church's first twenty-five years of existence. By 1811, however, the church found itself on the brink of schism. The difficulties stemmed from an inter-church dispute between members of the Bryan's Station Church and a nearby congregation at Town's Fork, and implicated numerous other churches in the area as well as the Elkhorn Association.

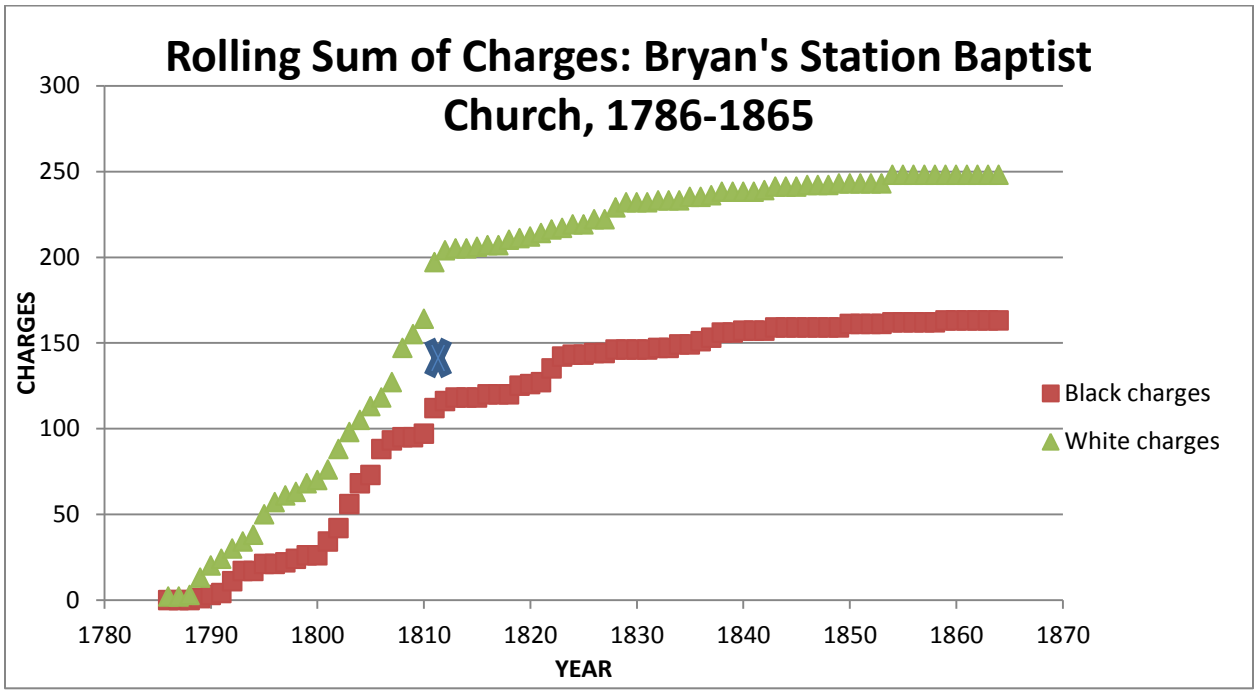

Figure 5.

In 1810, the majority of Bryan's Station met with other disgruntled church-factions and formed the Licking Association of Particular Baptists. The minority, dissatisfied with the majority's doctrinal stances and desiring to remain with the Elkhorn Association, declared in January 1811 "that they were no longer under the jurisdiction of the church" at Bryan's Station. Two months later, the majority excluded the 35 member-minority (including 9 black members, at least 8 of whom were slaves) for disorderly conduct in relation to fomenting division within the church or withdrawing from membership without letters of dismission.[35] Over the course of the next year (April 1811-February 1812), the church excluded another 10 members for joining the schismatic group. In contrast to its first twenty-five years of existence, the decades following the 1811 schism witnessed a drastic decline in the church's disciplinary activities. From 1812 through 1860 the church only recorded 102 charges against its white and black members (51 each).[36] Though the majority remained largely intact after the 1811 purge of recusants, those who stayed behind pursued discipline with less rigor.

For many Baptists, however, Campbell and Stone's divisive influence throughout the region—and in Kentucky especially—proved the greatest threat to their institutional stability.[37] The "Reformation" (or "Restoration") that many Baptists derided so intently during the antebellum period resulted from the convergence of two religious movements.

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[35] Bryan's Station Baptist Church Records, March 1811, KHS.
[36] For all charges see, Bryan's Station Baptist Church Records, 1786-1860, KHS; For background on the dispute see, Spencer, *A History of Kentucky Baptists, Vol. 1*, 112-113; and Basil Manly Jr., *Sketches of the History of the Elkhorn Association* (1878), 32-34, http://baptisthistoryhomepage.com/elkhorn.licking.division.html. Accessed January 23, 2015.
[37] John G. Crowley, "'Written that Ye May Believe': Primitive Baptist Historiography" in *Through A Glass Darkly: Contested Notions of Baptist Identity*, ed. Keith Harper (Tuscaloosa: University of Alabama Press, 2012), 212.

In 1832, after nearly a decade of critique, Alexander Campbell and his fellow "reformers" joined with Barton W. Stone, and the adherents of his Christian Church. Unable to agree upon a name for the united movement, members of the new sect were known as Christians, Disciples of Christ, or Reformers. Their churches were identified alternatively as Christian Churches or Churches of Christ. During the 1820s, Baptists primarily referred to them as Campbellites or, sarcastically, as "reformers," their ministers "proclaimers," and their influential doctrine, derogatorily, as "Campbellism." Historians have since referred to the coalition as the "Stone-Campbell" movement.[38]

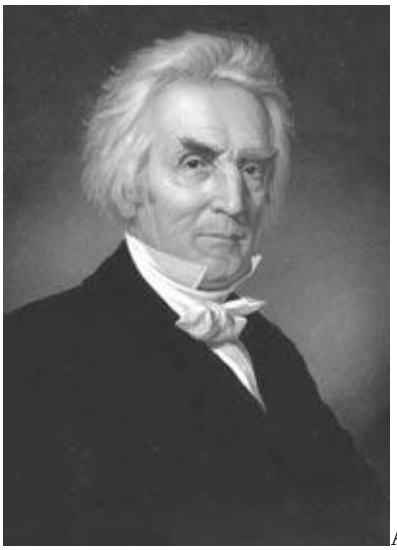
Barton Stone, born on Christmas Eve 1772 in Charles County, Maryland, was baptized in the Church of England, but converted to Presbyterianism in the early 1790s. In 1796 he became an ordained minister licensed by North Carolina's Orange Presbytery. Stone itinerated briefly through West Virginia, Tennessee, and Kentucky, before finally settling in 1797 with Presbyterians at Cane Ridge and Concord in northern Kentucky. Despite his ordination and travels, he harbored uncertainty over some aspects Calvinism, including doctrines of the Trinity, predestination, and reprobation. He was called in 1798 to become pastor of the united congregations at Cane Ridge and Concord, but upon extensive examination of the Westminster Confession of Faith, he initially declined ordination by the Transylvania Presbytery because of his doubt over some of the Confession's doctrinal points. The Presbytery, thinking his uneasiness extended solely to

[38] By the end of the nineteenth century, the united movement divided into two streams, one going by the name Churches of Christ, and the other Disciples of Christ and Christian Churches. By the 1820s, divisions within the latter group "eventually gave rise to the groups known today as the Christian Church (Disciples of Christ), often referred to as the Disciples, and the Christian Churches/Churches of Christ, sometimes known as independent Christian Churches." See, Douglas A. Foster, et al. eds. *The Encyclopedia of the Stone-Campbell Movement* (Grand Rapids: William B. Eerdmans Publishing Company, 2004), xxi.

the Trinity, and not to predestination, election, and reprobation, deemed him sufficient and subsequently ordained him.

After attending revivals in southern Kentucky during the summer of 1800, Stone led a five-day camp meeting back at the Concord Meetinghouse. Thousands reportedly attended those services, but it was overshadowed by the Cane Ridge Revival in August of the following year, which drew an estimated 10,000 to 20,000 individuals to hear preaching from Baptist, Presbyterian, and Methodist ministers. The revivals confirmed Stone's discomfort with the doctrines of predestination and reprobation. Soon thereafter, he began insisting that all sinners could be saved simply by coming to and believing in Christ. Some of his fellow Presbyterians accepted Stone's new theological stances, but others in northern Kentucky derided his unorthodoxy. In September 1803, Stone, along with four other ministers facing charges from the Kentucky Synod, withdrew from that body. Shunning sectarian designations, they insisted that the only appellation a true believer needed was that of "Christian." Over the next seven years, internal divisions among the Christians (and continued doctrinal arguments with prominent Presbyterians such as David Rice) resulted in Stone's lone leadership of the sect by 1811. Over the next decade Stone established churches in Ohio, Tennessee, and Kentucky. By 1830 the Christian Church numbered more than 16,000 members dispersed through the Trans-Appalachian West from Alabama to Indiana, as well as along the east coast in Virginia and North Carolina. That year, Stone, for a second time, proposed a union between his Christians and Alexander Campbell's reformers.[39]

[39] Foster et al (eds.), *The Encyclopedia of the Stone-Campbell Movement*, 700-715. In this chapter, I focus primarily upon Campbell. The Baptists I have studied discussed his divisive influence much more than Stone's. Stone's place and importance to the movement has been a prominent theme in the historiography


Alexander Campbell[40]


Barton Stone[41]

Alexander Campbell was born in the Broughshane Parish of Ireland on September 12, 1788. The son of a Seceder Presbyterian minister, Campbell grew up in a devout family and joined his father's church as a teenager. At the age of twenty Campbell set out to join his father, Thomas, who had earlier immigrated to the United States. A ship-wreck derailed Campbell's first attempted voyage—while confirming his life calling as a minister—and redirected him to Glasgow for a year of study. There, Campbell imbibed the Scottish Common Sense philosophy which would inform his Scriptural interpretations throughout his life. Moreover, church leaders in Glasgow influenced his thinking on everything from congregational autonomy, weekly communion, the exclusion of creeds, and the restoration of primitive Christianity. He grew disgusted with the sectarian bickering that pervaded his own church as well as the Scottish reform movement in

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of the Disciples of Christ and Churches of Christ. For a review of divisions within that movement, and differing interpretations regarding Campbell and Stone's respective legacies, see, "Stone-Campbell History Over Three Centuries: A Survey and Analysis," ibid., xxi-xxxv.

[40] http://www.wheaton.edu/ISAE/Hall-of-Biography/Alexander-Campbell. Accessed December 2, 2014.

[41] http://www.wheaton.edu/ISAE/Hall-of-Biography/Barton-Stone. Accessed December 2, 2014.

general. In 1809, Campbell and the rest of his family migrated to the United States, re-united with Thomas Campbell, and settled in Washington, Pennsylvania. Alexander and Thomas quickly set their sights on promoting Christian unity, forming the Christian Association of Washington which later became the Brush Run Church. Campbell married in 1811 and took up a farm in what is now Bethany, West Virginia.[42]

In 1812, both Campbell men repudiated infant baptism and aligned with the Baptists' doctrine on full immersion for converted believers, the beginning of a nearly two-decade tumultuous relationship between the younger Campbell and that group. Through the 1810s, Campbell tended his farm, taught school, and itinerated for the Baptists. He never officially joined the denomination, but remained connected with that group until the late 1820s. Two of Campbell's early churches belonged to Baptist associations, and in 1823, he started publishing the *Christian Baptist*. He germinated some controversy in 1816 when in a presentation known as the "Sermon on the Law" he insisted that rather than being bound by Mosaic Law, Christians were "under grace," thus elevating the New Testament above the Old. Some at the time and since have pointed to this moment, and subsequent debates that followed, as the beginning of his reformation movement. But controversy took hold in the 1820s, as Campbell used the pages of the *Christian Baptist* to herald a "reformation of the apostolic order based upon the New Testament."[43] Critics seized on Campbell's doctrine, forming an opposition periodical known as the *Baptist Recorder*. Amidst this controversy, Campbell and Stone aligned

[42] Foster et al (eds), *The Encyclopedia of the Stone-Campbell Movement*, 116-119.
[43] Ibid., 119.

into one movement in 1832, and Stone's *Christian Messenger* announced "the union of Christians in fact in our country."[44]

To an outsider, the main theological differences between the Stone-Campbell movement and mainline Baptists—the former's heralding the authority of the New Testament over the Old,[45] its adherence to baptism for the remission of sins, and especially its renunciation of creeds, confessions of faith, and other human instruments of church government which were central to many Baptist churches—may appear slight. Yet individuals involved in the schisms took the divergences seriously, and distinguished the distinctiveness of each group (as historian Edmund S. Morgan once noted, "the most hotly contested religious differences among Christians have often been differences of degree; the shift from orthodoxy to heresy may be no more than a shift of emphasis.").[46] Jasper Morris remembered in the 1840s a schism that took place in the Mason County Baptist Church the previous decade. He insisted that the two churches had since "been two distinct and separate sects having…different rules of church government."[47] Another observer, James Ingels, echoed Morris's assertions, noting that Baptists and Reformers "entertain[ed] different principles of religious faith both in theory and practice." Ingels departed the Bethlehem Baptist Church soon "after the Campbellites commenced preaching there," because, he claimed, "their doctrines didn't suite me."[48] Even when

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[44] Quoted in ibid, 716.
[45] Most Baptists in the region considered both of equal authority. See, Foster et al (eds.), *The Encyclopedia of the Stone-Campbell Movement*, 67.
[46] Edmund S. Morgan, *Roger Williams: The Church and the State* (New York: W.W. Norton, 2006 reissue), 11.
[47] "Deposition of Jasper J. Morris," in *Cahill v. Bigger* (1844), Nicholas County Circuit Court, Civil Case Files (hereafter NCCCF), Box 24, Bundle 240, Kentucky Department of Library and Archives (hereafter KDLA).
[48] "Deposition of James Ingels," in *Trustees of Church of Bethlehem vs Benjamin Howe & John Curle* (1847), Bourbon County Case Files, Court of Justice (hereafter BCCCJ), Box 142, Case # 21645, KDLA.

church-goers were not educated on the nuanced doctrinal subtleties between Reformers and Baptists, they insisted upon the two groups' separateness. One Baptist claimed "I don't know [the Reformers'] rules, but I do know they do not hold the same faith and doctrine that we do."[49]

From the late 1820s on, Baptists obsessed over the influence of Campbell and his followers. The editors of the *Baptist Banner* devoted column after column of their regular periodical to anecdotes of Campbellite hypocrisy, charges of blasphemy, and details of the doctrine's continued advancement amongst Baptist ranks. In some instances, Baptist writers sought to convince readers that Campbellite leaders deceived their followers. An 1836 article noted that one reformed church in Kentucky met every week (opposed to Baptists who generally communed monthly) for service and solicitation of donations for the poor. Yet, "there arose much confusion and debating in this congregation of the reformation," the editorialist insisted, "when it appeared that the greater portion and nearly all of this *fund for the poor* (we think that is what they call it) had been paid to the 'proclaimers!!!'"[50] At times, the reports veered toward a McCarthy-like obsession with rooting out the dissenters, and editors admitted as much. The Franklin Association of Baptists charged its member churches to "make no compromise with error; mark them who cause divisions; [and] divest yourselves of the last vestige of Campbellism" in your midst. Likewise, the *Banner* proclaimed "Some of our readers may suppose that we devote too much of our paper in noticing the Campbellites, but we think the state of things in Kentucky imperiously demands it." Kentucky was "doomed to be a battle ground," as the reformers "are organizing and have already commenced a

[49] "Deposition of Nancy Pierce," in ibid.
[50] No Author, "The Ancient Order of Things," *The Baptist Banner*, 28 May 1836.

systematic attack upon" the Baptists of the state. They traveled in all directions, the editor continued, bringing their false doctrine to the populace, "it therefore becomes us to be on the alert and to repel the various slanders and misrepresentations that are afloat."[51]

John L. Waller, the editor of the *Baptist Banner* from 1835 to 1841, probably genuinely feared the Campbellite influence in his state.[52] Yet he was also reared with the stories of his ancestors' religious persecution during the late eighteenth century. The editor's great uncle, also named John, was well-known among early Baptists. The elder John Waller had been rumored to be an "exceedingly wicked man" in the 1760s, but found Christ during the latter part of that decade and became a renowned preacher of the Baptist faith. He was one of three arrested in 1768 when authorities seized Lewis Craig at the Spotsylvania meetinghouse. Six years later, in March of 1774, Virginian authorities again arrested Waller for preaching without a license. He continued to pray and preach from his jail cell, before being brought to trial. Waller refused to post bond as two other of his persecuted cell-mates had, and remained in jail for two more weeks until he was finally released. Early-American Baptists prided themselves—and many still do—on their persecuted past, and it is not inconceivable that Waller, the editor, employed hyperbole when warning his brethren of the Campbellite phalanx advancing through his state. Even so, the Stone-Campbell movement represented a genuine threat to many trans-Appalachian Baptists. It reminded them, though they did not face the same state-

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[51] Unsigned, untitled article, *The Baptist Banner*, 12 December 1835.
[52] For information on Waller see, J.E. Farnam, "John Lightfoot Waller: Kentucky Baptist Minister and Editor," *Annals of the American Pulpit: Baptists* (1860), http://baptisthistoryhomepage.com/waller.john.l.by.farnam.html. Accessed December 1, 2014.

sanctioned persecution as their colonial-era predecessors, that they had their own battles to fight, their own reasons to stay vigilante.[53]

Like Waller, Baptists throughout Kentucky equated their encounter with Campbell's rising influence with war. Leaders of the Baptist Church in Washington, Kentucky charged in 1844 that the "tenants, doctrines, & views preached" by the Reformation Church "are at war with the principals & doctrines of the Baptist Church."[54] Indeed, Baptist historian John Spencer insisted that in Kentucky, the Campbellite-Baptist struggle "was a civil war," as "strife pervaded every department of society."[55] Though Spencer wrote over a half-century after the schism, antebellum-Baptists shared his sentiments, worrying that Campbell's views were hazardous to both religious and civil society. James Fishback, a prominent Baptist minister in the Lexington area, admitted in 1834 that there were "<u>many good men & women</u> among those who call themselves Reformers," but he insisted "that the principles by which they are distinguished from other Protestant Christians" were "of a dangerous tendency" both to the individual morality and more "generally upon the good order & piety of society."[56]

To others the Campbellite plague appeared to affect all of Kentucky. After receiving news of Campbell's popularity from his brother, an observer in Elizabethtown replied that "from what you say about the principles and Doctrine of A. Campbell I infered [*sic*] that you tho't all Kentucky was in a distressing state." He admitted that "in some parts the Baptists have been witchedly [*sic*] mangled," but that the day was coming

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[53] For information on the Waller family see, John H. Spencer, *A History of Kentucky Baptists Vol. 1*, 28-29, 43, 445.
[54] "Complainants Bill" in *Cahill v. Bigger* (1844), NCCCF, KDLA.
[55] Spencer, *A History of Kentucky Baptists, Vol. 1*, 617.
[56] "Deposition of James Fishback," in *Bennett et al v. Curd et al*, Folder 1, WCCCJ, KDLA.

when the Lord would lift up his "true followers."[57] Likewise, M.A. Crute wrote her aunt in 1844, lamenting that the "Campbellites appear to be carrying the day" in her Kentucky neighborhood. "There has been considerable excitement about them and much controversy," she continued. "They receive new members almost every week. I have less faith than ever in religious controversies," as "nothing is better calculated to make infidels than angry religious disputes."[58]

To Tennessee Baptists, the situation appeared just as dire. The Reformation movement gained ground in Tennessee after 1827, the year in which a major split of Tennessee Baptists occurred over an increased Arminian influence in the state. Church-historian J.H. Grime noted a number of ministers and churches that broke from their Calvinist counterparts in the 1820s as Campbell's "new-fangled notions" waged "war against the Articles of Faith" of Tennessee Baptists. Although he exclaimed that the region had "been a battle ground between Baptists and Campbellites," he continued boastfully in the early-twentieth century, "to-day, as then, the Baptists hold sway."[59] The state of affairs seemed more contested in the late 1820s and early 1830s. R.B.C. Howell, editor of the *Tennessee Baptist* and pastor of Nashville's First Baptist Church, noted that, since Nashville served as "Headquarters of the Reformation" in the region, the movement's "ablest exponents" resided in its immediate vicinity, "and the influence they exerted, both in the city, and throughout the country, was of immense magnitude."[60]

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[57] Unsigned letter, 1 September 1830, Bush-Beauchamp Family Papers, Folder 44, James E. Stone Sermons, Religious Writings, and Prayers, 1820-1866, FHS.
[58] M.A. Crute to Sarah G. Woodfin, 1844, Bodley Family Papers, Folder 31: Correspondence, 19 January 1844-31 November 1844, FHS.
[59] J.H. Grime, *History of Middle Tennessee Baptists: with Special Reference to Salem, New Salem, Enon and Wiseman Associations* (Nashville: Baptist and Reflector, 1902), 9-10, 15-16.
[60] Howell, *A Memorial of the First Baptist Church*, 75.

Though "destruction reigned supreme" in the region's Baptist churches, the struggle developed the group's preachers and laity into "theological combatants," Howell exclaimed, "ever ready to meet an enemy, and strike him down."[61] Tennessee Baptist minister John Bond likewise averred that during the 1820s "all the churches (more or less) of the Concord Association" as well as churches throughout the region, "were in perfect ferment by the leaven of Campbellism."[62]

Although annual association meetings, as we will see below, witnessed their fair share of turmoil revolving around Campbell's influence, dissension and church schism pervaded local congregations and church neighborhoods, bringing the doctrinal disputes to bear on church goers across the region. The Clear Creek Baptist Church of Woodford County, Kentucky suffered prolonged controversy during the 1820s. John Taylor exclaimed that "the church had been so overwhelmed with sorrow and confusion with those contentions [debates over creeds, charges of heresy, etc.]" in the late 1820s, that "a number among [the church's] best members had taken [dismission] letters and gone elsewhere." The neighboring congregation of nearly 300 members at Shawnee Run, a "once happy church," also split over doctrine with "one part falling in with the fooleries of Campbell." After faction and "bitter conflict" began spreading through the South Benson Baptist Church, Taylor exclaimed, "those buzzard-men [leaders of the "Reformation"] smelled the putred [*sic*] carnage of contention, and flew with speed, perhaps 20 miles," to effectuate a division.[63] Describing the Mt. Vernon Baptist Church following its 1834 schism, Roadham Rout claimed it "has been toarn [*sic*] asunder by

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[61] Ibid., 76.
[62] *History of the Baptist Concord Association of Middle Tennessee and North Alabama*, ed. John Bond (Nashville: Graves, Marks & Company, Printers, 1860), 32.
[63] Taylor, *History of Clear Creek Church*, 13, 50, 49.

internal decentions [*sic*]."[64] Reverend James Black remembered that in the 1830s, "the majority of the Bethlehem [Baptist] Church went off into the doctrine of the Reformation or Cambelites [*sic*] as they were called."[65]

Rev. Howell likewise insisted that "Campbell's doctrines were gaining ground throughout Middle Tennessee. Ministers and congregations were failing into them on every hand," including Nashville's First Baptist Church.[66] Under the preaching of Phillip Fall—whose pastorate, according to Howell, "produced continued dissatisfaction, excitement, and discussion"—the church fully aligned with the Reformation by 1828.[67] In 1826-27, factions from the Buffalo Ridge and Sinking Creek Baptist Churches in East Tennessee aligned with Stone's teachings. By 1835, just three years after its formation, forty-seven churches throughout Tennessee were affiliated with the Stone-Campbell movement.[68] More than controversies involving only church members, such schisms implicated residents throughout the wider church neighborhood. As Spencer Anderson, unaffiliated with any church, reported after the local Baptist congregation split over Campbell's influence: "the peace of the neighbourhood is broken and as I consider on account of the division in the Church."[69]

During the 1820s and 1830s, rather than experiencing harmonious relations between and within congregations, Kentucky Baptists experienced a period of prolonged

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[64] "Deposition of Roadham Rout," in *Bennett et al v. Wallace et al*, Folder 2, CJWCCC, KDLA.
[65] "Deposition of James Black," in *Trustees of Church of Bethlehem vs Benjamin Howe & John Curle* (1847) BCCCJ, KDLA.
[66] Howell, *A Memorial of the First Baptist Church*, 50, SBLA.
[67] Ibid., 49-60, quote p. 50.
[68] Wardin, *Tennessee Baptists*, 115-116.
[69] Deposition of Spencer Anderson," *Bennett et al v Wallace et al*, Folder 1, CJWCCC, KDLA.

dissension and schism. The Elkhorn, Long Run, and Franklin Baptist Associations, made up of churches largely from north-central Kentucky, serve as useful case studies through which to uncover how an increase in internal disputes over doctrine affected the workings of Baptist church tribunals. Kentucky Baptists organized the Elkhorn Association in 1785, the first such body west of the Appalachians. Initially constituted with only five affiliated churches, within ten years the Elkhorn Association housed thirty churches with just under 2,000 members.[70] By the turn of the century, membership in Elkhorn's affiliated churches more than doubled to 4,853.[71] Between 1826 and 1840—from the first rumblings of Campbellism through the next decade—the Elkhorn Association averaged 3,742 members, and continued to be a leading governing organization for Kentucky Baptists.[72] Elkhorn's counterpart, the Long Run Association, resulted from the "Great Revival" of religious sentiment that swept through frontier regions at the turn of the nineteenth century. Responding to the rise in membership, twenty-six churches from seven different counties (including one in the Indiana territory) came together in 1803 and formed the Long Run Association. By 1810, Long Run had added thirteen more churches, bringing its total membership to 2,851 and making it the largest association in the state at that time. For the next thirty years, the association averaged nearly 3,200 members and remained one of the principal governing bodies amongst Kentucky

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[70] Numbers from Basil Manly Jr.'s *Sketches of the History of the Elkhorn Association, Kentucky* (1876), which is available at the Baptist History Homepage. http://baptisthistoryhomepage.com/elkhorn.assoc.his1.manly.html. Accessed July 23, 2014.

[71] See Manly, Jr., *Sketches of the Elkhorn Association*, http://baptisthistoryhomepage.com/elkhorn.assoc.his2.manly.html. Accessed July 23, 1814.

[72] For average, see, Records of the Elkhorn Association of Baptists, 1826-1840, SBTL; On the history of the association in general, see, Ira V. Birdwhistell, *The Baptists of the Bluegrass: A History of the Elkhorn Baptist Association, 1785-1985* (Berea, KY: Berea College Press, 1986).

Baptists.[73] Constituted by eight churches formerly connected to the Elkhorn, Long Run, and North District Associations, the Franklin Association held its first meeting in September 1815. Fifteen years later, it boasted 19 affiliated churches claiming a membership of 1,728. Though never as large as Long Run or Elkhorn during this period, the Franklin Association averaged nearly 1700 members during the 1820s, and was made up of churches from in and around the state capitol of Frankfort, and thus served as an important organization for the Baptists' institutional network.[74]

Campbell's rising popularity in the West infiltrated and challenged the growth of churches composing the Long Run Association during the early 1820s. Two years after he preached to the congregation in 1823, the Church of Louisville queried the Long Run Association about the justification of various organizations. "Is there any authority in the New Testament for a Religious body to make human Onsets, and confessions of faith[?]," she asked. And what of associations themselves, does the New Testament authorize such bodies, "if so what is it?" Following Louisville's lead, the Shelbyville Church asked "Are our associations as annually attended of general utility?"[75] Delegates referred the queries to the member-churches for a vote, and requested each to send a reply in their 1826 letter. The queries stirred up some consternation in member churches, as the exclusion-per-member rate for all of Long Run's reporting churches jumped from just 1.04% in 1825 to 4.56% the following year, its highest level in over two decades.[76]

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[73] Ira V. Birdwhistell, *Gathered at the River: A Narrative History of the Long Run Baptist Association* (Louisville, KY: Long Run Baptist Association, 1978), 9-11; Spencer, *A History of Kentucky Baptists, Vol. 1*, 566. For averages see, Book of the Records of Long Run Association (Typescript) Vol. 1, SBTL.
[74] Records of the Franklin Association of Baptists, 1815-1830, SBTL.
[75] Book of Records of the Long Run Association (Typescript), September 1825, p. 145, SBTL.
[76] The exclusionary rate is based upon Long Run's affiliated churches' membership totals and their reported exclusions for the previous year. In 1805 the exclusionary rate was 4.68%. To place the 1826

The Elkhorn Association also witnessed disorder among member-churches due to Campbell's teachings. In 1827, two sets of delegates arrived from Lexington's First Baptist Church, each claiming to be the true representatives of that body. The minority faction, which sought to change the church's appellation from "Baptist" to "Church of Christ," had excluded seven "of the most prominent members opposed to them." The majority in turn excluded forty-two members associated with the dissenting faction. Elkhorn's delegates stated their hesitance over interfering "in the internal government of the Churches composing her body," but were convinced that the majority formed the true First Baptist Church of Lexington. They also warned the minority group "of the awful danger and alarming tendency of causing divisions in society by [the] introduction of a system of things by which the name and character of the Baptist denomination would be essentially changed."[77]

As early as 1825 the Franklin Association noted that the subject of "*heresy* and *unsound doctrine*" was "a very frequent subject of conversation" and questioned the efficacy of "Christian *union*."[78] The association similarly denounced Campbell and other reformers in 1827. Their attack—insisting that Campbell and Stone were "puissant pugilists"—was brought on by Campbell and Stone's refutation of Franklin's 1826

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percentage in closer context, from 1814 to 1825, it never reached 2% and averaged only 1.47%. The query to the churches, then, ignited dissension and led to a drastic increase in excommunications.

[77] Records of the Elkhorn Association of Baptists, 1827, SBTL. Though the Elkhorn Association did not mention Campbell in 1827, the "Church of Christ" appellation is rooted in the Stone-Campbell movement. The leader of the dissenting faction was Dr. James Fishback, who, as discussed below, was throughout his life central to many church schisms. His denominational loyalties, if any, are difficult to pin down. During the controversy over the Mt. Vernon meetinghouse in the mid-1830s he stridently insisted that he remained a Baptist preacher. In 1841, however, he attended a meeting for the union of churches of Disciples of Christ. Alonzo Willard Fortune, a historian of Kentucky's Disciples, notes that Fishback at this time "was wavering between the Baptists and Disciples." See, Fortune, *The Disciples in Kentucky* (Kentucky: Convention of Christian Churches, 1932), 152. John Spencer notes in his second volume of *History of Kentucky Baptists*, 29-30, that Fishback, though a "fine scholar" and "excellent speaker," "was unstable in all his ways, ever learning, and never able to come to a knowledge of the truth."

[78] Records of the Franklin Association, 1825, SBTL. Emphasis in original.

Circular letter which had stressed the importance of creeds and questioned the ability of anti-creedists to maintain the "unity, purity, and harmony" of their churches. For, "without respect to a Creed," the letter read, a church "is reduced to the cruel necessity, of harboring under her wings, the vilest heresies that now disgrace the Christian name."[79]

Though proclaiming to be under attack by heretics and their false doctrine, Kentucky Baptists witnessed a revival that lasted from 1827-1830. From 1827 to 1828 alone, Elkhorn's churches reported an increase of 1,500 members.[80] Across the state during the three-year revival, Baptist churches received over 15,000 new members.[81] The religious fervor that prevailed, however, owed a great deal to the growing popularity of Campbell's teachings, and for the rest of the 1820s, discord pervaded the region's Baptist churches. Nineteenth-century Baptist historian John Spencer, noting that the revival "probably suspended" many of the schisms bubbling during 1825 and 1826, admitted that it "greatly favored [Campbell's] reformation," and insisted that the revival had left Baptist churches in Kentucky "proportionately weakened in moral power."[82]

Associations throughout the state, continued to deal with doctrinal dissension engendered by Campbell's movement during the last years of the decade. Elkhorn's 1829 circular letter noted the "great agitation" spreading through the region's religious society, but reminded brethren "that in all cases of difficulty and grievance, there are proper tribunals to which we may resort for satisfaction, to which each individual member is accountable for his sentiments."[83] At the following meeting in 1830, Elkhorn

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[79] Records of the Franklin Association, 1826, p. 7, 1827, SBTL.
[80] Records of the Elkhorn Association, 1827-1828, SBTL.
[81] Spencer, *A History of Kentucky Baptists, Vol. 1*, 599.
[82] Ibid., 598-599.
[83] Records of the Elkhorn Association of Baptists, 1829, SBTL.

dropped communication with the Church at Versailles for "receiving into her membership" Jacob Creath, Jr. who had "in faith and practice, departed from [Elkhorn's] constitution" and who had been active in "constituting minorities." After appointing a committee to investigate the standing of another member-church, and its rumored departure from Elkhorn's constitution, the delegates voted to cease "further correspondence with churches and Associations that hold to certain doctrines of Mr. Alexander Campbell."[84] In 1829, delegates to the Franklin Association, along with their sister Associations, ended correspondence with the Mahoning Association for adhering to doctrines of "A. Campbell." A letter from the association in 1830 reminded its affiliated churches that "[b]efore Alexander Campbell visited Kentucky, you were in harmony and peace." But amidst his scourge, instead of "preaching, you now may hear your church covenants ridiculed" as the "fell spirit of discord stalk in open day through families, neighborhoods, and churches." The printed minutes for that year also included thirty-nine excerpts taken from Campbell's publications which the Franklin Baptists claimed were fallacies.[85] At the same time, the Long Run Association sought to shore up their stance on creeds, making clear in 1830 that it was "constituted on a Baptist Philadelphia Confession of faith" and that the Campbellite doctrine stood "in direct opposition to the existence and general dictates of our constitution." The report concluded by urging the transgressors to "discontinue their writings" and cease their "rebellion against the principles of our associational existence."[86]

[84] Records of the Elkhorn Association of Baptists, 1830, SBTL.
[85] Records of the Franklin Association of Baptists, 1828-1830, SBTL.
[86] Book of Records of the Long Run Association (Typescript), September 1830, p. 176-177, SBTL.

The doctrinal dissension wreaked havoc in Kentucky's Baptist churches, siphoning off members and affecting ritual practices. At times, whole church bodies departed from the Baptist faith and adopted Campbell's doctrinal views. For instance, Benjamin Allen, pastor of the Harrod's Creek Baptist Church, "carried about seven-eighths of [that] church into the heresy of Campbellism" in 1831.[87] Others, like Lexington's First Baptist noted above, split into opposing factions. The Long Run Association reported a loss of just over 1,100 between 1829 and 1831. Likewise, Elkhorn churches noted a decline of 892.[88] In just one year, 1829 to 1830, Kentucky Baptist churches suffered a loss of over 5,500 members.[89] "All the intelligent of the denomination saw [by 1830] that the cause of Christ was languishing," Spencer wrote, "that the churches were diminishing in numbers, and still more in piety, intelligence and the enforcement of discipline."[90] Throughout his multi-volume work on Kentucky Baptists, Spencer reverted to harsh language, especially when discussing anti-missionists and anyone associated with Alexander Campbell. Yet a closer look at the disciplinary practices within individual churches bears out his insistence. The dissension, coupled with the revivalist-induced influx followed by a schism-induced withdrawal of individuals strained member relations and altered how Baptists envisioned their churches as legal sites.

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[87] Spencer, *A History of Kentucky Baptists, Vol. 1*, 348.
[88] For numbers see, Records of the Long Run and Elkhorn Associations, 1829-1831, SBTL. The Franklin Association's membership losses were less severe. Between 1829 and 1833, for instance, their membership totals only dropped 268 persons, from 1,860 to 1,592. Even still, their reaction to Campbell was as vociferous as their Long Run and Elkhorn counterparts.
[89] Birdwhistell, *Gathered at the River*, 29-31.
[90] Spencer, *A History of Kentucky Baptists, Vol. 1*, 646.

The Flat Rock Baptist Church of northwest-Shelby County divided over Campbell's teachings in August 1831.[91] At that month's business meeting, twenty-one church members, a minority, met and composed the letter to the Long Run Association requesting recognition as the true church of Flat Rock. "[A] majority of the church," they claimed, had, "*for some time passed* [*sic*]" departed from "not only the Faith but also the Rules and Regulations of the Baptists." In the decade previous the split, the church clerk recorded charges ranging from "going with vain company," to intoxication, fighting, adultery, mistreatment of children, "joining the Methodist Society," and "going to law" with a fellow member.[92] From 1815 through 1825 (the year the Long Run Association referred the queries over Campbellite doctrine to the churches), the church averaged one-charge-recorded per every 5.5% of the church membership.[93] For the last five years of that period (1820-5), that same average reached 7.34%. In contrast, over the subsequent decade (1826-36) that rate collapsed to a mere 0.85%, including no recorded charges for nearly seven years, from October 1829 to July 1836 (See Figure 6).[94] From the first signs of doctrinal disturbance within the Long Run Association in 1825, the Flat Rock church witnessed a decade of declining disciplinary activity, including a complete lack of discipline in the years immediately prior to and following the 1831 schism. The church body, no longer a site for impartial resolution from one's religious peers, instead became a site of distrust and doctrinal contestation.

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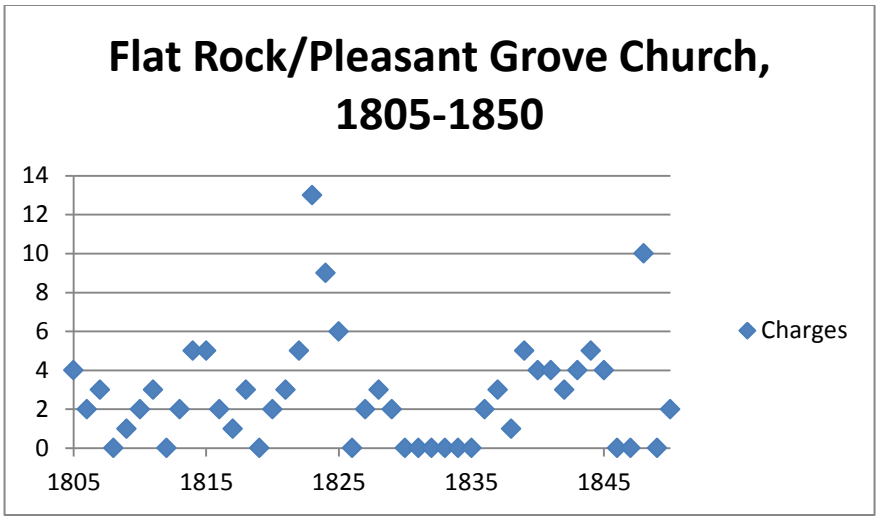
[91] Today the church, now the Pleasant Grove Church, is in the greater-Louisville metropolitan area.
[92] For quotes from church letter see, Pleasant Grove Baptist Church Records (formerly Flat Rock), August 1831, FHS. My emphasis; For range of charges over the decade, see, ibid.,1821-1831.
[93] This does not necessarily mean that the church charged 5.5% of the membership with a transgression, as one individual could have multiple charges leveled against them.
[94] For all charges see, Pleasant Grove Baptist Church Records, 1815-1836, FHS.

Figure 6.



Deeper in the Bluegrass, the David's Fork Church of Fayette County also experienced internal dissension and schism due to Campbell's movement, upheaval that by the end of 1820s helped transform how white members approached their church for dispute resolution or moral regulation. From 1824 through 1829 the David's Fork Church recorded one charge per every 3.49% of its membership. In 1830, the year a Campbellite minority seceded from the church, that average unsurprisingly skyrocketed to 8.71%, the highest such figure between 1824 and 1840, and nearly three points higher than the next closest year, 1824, which averaged one charge per every 5.88% of the membership. Over the course of the rest of the 1830s, in contrast, the church documented only one charge per every 1.52% of the church membership.[95] This significant drop in disciplinary activity is made even greater when we split the charges down by race, and consider—as we did in the previous chapter—that after 1825, the David's Fork Church focused its disciplinary practices almost exclusively at its black members. From 1831 (the year following the schism) to 1860, the church recorded 186 charges, only 49 of them leveled

[95] Membership numbers taken from Records of the Elkhorn Association of Baptists, 1824, 1826-1840, SBTL.

against white members, and over one-third of those focused upon members' non-attendance at meetings or interaction with another religious body.[96] Clearly, by 1830 white members of David's Fork had re-imagined the ritual of discipline. The church's disciplinary mechanism had transformed into a forum through which to police the ranks of black members, both free and enslaved, while white members showed increased reticence during the 1830s to discipline one another or utilize the church body for dispute resolution.[97]

Member churches of the Franklin Association suffered similar disciplinary reticence amidst doctrinal discord. The Mount Pleasant Baptist Church of Franklin County, Kentucky, for a time considered "one of the most prosperous churches in the Franklin Association," divided when a visiting preacher, who had been granted usage of the Mt. Pleasant meetinghouse, began siphoning members from the Baptist Church.[98] In July 1825, only seven months after the Baptist church opened their house to Rev. Thomas Smith, "and as many other as may choose to join him for the purpose of worshiping Almighty God in the way that to them seems right," the church rescinded the order. Though it is unclear what specific doctrine Smith preached, in 1827 the Franklin Association coupled him with Campbell and Stone as opponents of the creed system of church governance, and at the time of this resolution, Mt. Pleasant members were

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[96] For all charges, see David's Fork Baptist Church Minutes, 1802-1860, http://davidsfork.org/images/David_s_Fork_minutes_1802-1850_PDF.pdf and http://davidsfork.org/images/David_s_Fork_minutes_1850_-_1900_PDF.pdf. The church charged ten whites for non-attendance at meetings, and eight for joining or interacting with another religious sect or denomination. Accessed June 11, 2014.

[97] White members did not completely cease utilizing the church for dispute resolution. For instance, in 1853, the church took up a case over a disputed will between four brothers. See David's Fork Baptist Church Minutes, December 1853.

[98] Spencer, *History of Kentucky Baptists, Vol. 1*, 209.

engaged in debates over their church constitution.[99] During the ten months after Mt. Pleasant Baptists barred Smith's congregation from using the meetinghouse, they excluded seven individuals for joining Smith's church. From about the time of Smith's request to use the house in late 1824 through at least 1828, the church did not record any disciplinary activity—other than those excommunications related to joining Smith's church.[100] Prior to the Smith's appearance and the subsequent exclusions, members had consistently turned to the practice of discipline to regulate their community—the charge-per-member rate from 1820-1824 was 5.9%—citing members, for among other offences, failure to attend business meetings, disorderly conduct, and joining the Masons.[101] From 1825 to 1828, when the church record book abruptly ends, that rate fell to 3.66%. If we remove the charges revolving around members interacting with an outside religious group, the disciplinary rate for those years is zero.

Likewise, Mt. Pleasant's sister church of Buffalo Lick, though never explicitly dividing over the Stone-Campbell movement, saw drastic cuts in their disciplinary rates during the 1820s as dissension pervaded the Franklin Association. From 1815 to 1825, the church leveled one charge per every 5.64% of the membership body. During the next decade (1826-1836), that rate fell to just 1.86%. Narrowing the period to 1826—from the time the Franklin Association disseminated its letter against the anti-creedists—through

[99] Records of the Franklin Association of Baptists, 1827, SBTL.
[100] Mount Pleasant's Record Book abruptly ends in December 1828. Numerous pages, perhaps as many as 60, are ripped out after that date. See Mount Pleasant Baptist Church Records, 1824-1828, KHS.
[101] Ibid., 1819-1824.

the Association's exclusion of the Hopewell Church for adhering to Reformation doctrine in 1833, Buffalo Lick's disciplinary rate was only 1.49%.[102]

Numerous churches, then, witnessed disciplinary declines that correlated with dissension germinated by the Stone-Campbell movement.[103] The practice of discipline did not completely cease of course. The Flat Rock church largely resumed its disciplinary activities again in the early 1840s. The David's Fork Church, too, continued to charge members, especially black members, through the antebellum period. Yet churches throughout the region faced a dearth of disputation and moral regulation during the 1830s due to the changing religious landscape. As historian Nathan Hatch has noted, increased competition from both the secular and religious spheres—from civic associations and other religious groups—for allegiance during this time period meant that "many denominations maintained their authority only by seldom exercising it."[104] Perhaps Campbell's elevation of the individual's interpretation of the scriptures for salvation undercut attempts at maintaining a communal order. The continued controversy, too,

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[102] For averages see membership numbers reported to the Long Run Association, 1815-1817 and the Franklin Association, 1820-1836, SBTL; and Buffalo Lick Baptist Church Records, FHS. Buffalo Lick's membership totals for 1818-1819 are not known. However, in 1816 the church reported 61 members, 60 in 1817, and 60 in 1820. Thus, I substituted 60 for both 1818 and 1819. Similarly, the number for 1836 is unknown. But in 1835 the church reported 83, and in 1837, it noted 85 members, which led me to postulate 84 members for the intervening year.

[103] There is evidence that churches other than those noted here witnessed similar disciplinary declines. For instance, Harrod's Creek Church divided over Campbell's doctrine in 1831. From 1819 through 1824, the church recorded on charge per every 3.8% of the membership body. In contrast, from 1825 through 1830, the same average was only 2.3%. Unfortunately, in 1831, after most of the church party joined the Campbellites, the church book becomes very sloppy, and jumps over most of 1832 before picking back up in 1837. Yet even from that point, with a complete record book, the church documented no charges for three years until recording one in May 1840. See, The Harrod's Creek Baptist Church, Crestwood, KY., 1819-1840, Vol. 1, SBTL. For information on the schism see, Spencer, *A History of Kentucky Baptists, Vol. 1*, 348-349.

[104] Nathan O. Hatch, *The Democratization of American Christianity* (New Haven, Conn.: Yale University Press, 1989), 63.

would have instilled distrust amongst the brethren, causing some individuals to look elsewhere for dispute settlement.

Moreover, churches of the Long Run, Franklin, and Elkhorn Associations, as well as with Baptist churches across Kentucky, witnessed a period of expansion and retraction during the late 1820s and early 1830s. Congregants certainly took notice of both neighbors and strangers moving in and out of their church, and this may very well have altered their sense of community and the role of the church in fostering or maintaining social relations. An individual would be far less likely to bring a dispute to his local church if his familiarity with or trust in those deciding the case—one of the chief advantages of church-based arbitration—had receded due to heightened internal tensions. There is also evidence that the Campbellite insurgency affected other aspects of church ritual. John Taylor noted that amidst the dissension at the Clear Creek Baptist Church in 1829, "the church had no communion at the Lord's table during the whole year; indeed they were not in circumstances so to do, and scarcely any have been baptized."[105] In any case, the declining disciplinary rates during the doctrinal controversy demonstrate how changes in the region's religious culture transformed individuals' conceptions of the broader legal culture with which they interacted.

For Shelby County Baptists in 1831, the Campbellites were simply one scourge among others that had recently swept through the area. During the previous year, the county had experienced a smallpox epidemic, a scarcity of drinking water, and an

[105] Taylor, *History of Clear Creek Church*, A2.

increase of "mad dogs" roaming its towns and villages.[106] In the eyes of some area Baptists, the rabid dogs proved a perfect metaphor for the Campbellites, or as Taylor described them, those "hairbrained [sic] reformers," who "in all their extravagant folly, and wicked disorder," were "tearing churches to pieces."[107] Hair-brained or not, as we have seen, Campbell's movement divided churches, families, and neighborhoods along religious lines. Within the Long Run Association, at least four churches broke apart, including those of Flat Rock, Harrod's Creek, and Floyd's Fork. In the Elkhorn Association, a number of churches—First Baptist of Lexington, David's Fork, and Clear Creek—divided along doctrinal lines. The Elkhorn Association also ceased correspondence with other congregations, such as the churches of South Elkhorn, Versailles, and Providence for departing "from the faith and constitution of the Association."[108] Elkhorn's central-Kentucky counterpart, the Bracken Association, went through a similar experience. In 1830 Bracken's churches suffered a "thorough and Radical" division as "that association cut off or excluded" all those associated with Campbell's movement.[109] To the south, the Campbellite influence reduced the Concord Association of Middle Tennessee and North Alabama Baptists from 49 churches and 3,399 members in 1822 to only 11 churches and 805 members five years later.[110]

Similar to their sister churches throughout the trans-Appalachian West, the 1820s proved a period of decreased disciplinary activity for the Fox Run Church. From 1820 to 1824, the church recorded one charge per every 2.59% of the membership. In 1825, the

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[106] Geo. L. Willis, Sr., *History of Shelby County, Kentucky* (Shelby County Genealogical-Historical Society's Committee on Printing, 1929), 59-60.
[107] Taylor, *History of Clear Creek Church*, 35.
[108] See Records of the Elkhorn Association, 1827-1831, quote from 1830, STBL.
[109] "Deposition of Jasper J. Morris," in *Cahill v. Bigger*, NCCCF, KDLA.
[110] *History of the Baptist Concord Association*, 32.

church witnessed a rash of disciplinary cases, leveling one charge per every 12.94% of the church membership, up from only 2.22% the previous year. This drastic increase can partly be attributed to the church's organization of a Sunday morning session in order for its enslaved members to take part in church discipline (over half of that year's charges were against slaves for disorderly conduct). Yet the record book demonstrates that Campbell's teachings had also crept into members' doctrinal leanings. In August 1825, the church excluded Brother Thomas for making "a public declaration" against "some doctrines held and believed by this Church (and the Baptists, generally)," that fell in line with the then strengthening Campbellite movement. From 1826 to 1830, the charge per member average dropped to only 1.18%, the bulk of these charges directed at black members. In the five years previous to its accusations against the Dranes and Brites, the Fox Run Church only leveled charges against one white man, in 1829, for intoxication and "whipping his two sisters."[111]

Within this context of doctrinal discord and disciplinary declension, the Fox Run church took up the respective cases of Brethren Drane and Brite. In each, the church failed to dispense a traditional punishment, requiring party to make "satisfaction" for their actions. The church simply "disapprobated Brother Brite's proceedings" for allowing such "disorderly preaching"—that of one of the Creaths—in his home. And Drane, it seemed, was only ordered to pay rent on land in his use, but which belonged to Brother John Ford. Presumably, Fox Run members came to these decisions in order to

[111]For all charges and those against Bro. Thomas, see Minute Books of Eminence, KY Baptist Church (formerly Fox Run), 1820-1830, August 1829, SBTL; Membership totals taken from Book of Records of the Long Run Association, 1820-1830, SBTL.

avert disorder, uphold church authority, and maintain peaceful social relations amongst the fellowship.[112]

In June 1831, however, the Brites and Dranes submitted a letter of grievances to the church and demanded it be recorded in the minute book. Their remonstrance made clear that tensions had been bubbling within Fox Run for at least a year. "We are dissatisfied with [B]rother Wm. Ford," the letter began, "for his unwarranted insinuations and reflections which he cast upon us in the church letter of 1830 to the Association." William Ford had, at the very least, made accusations in this letter that the Dranes and Brites were involved with the Campbellites, and perhaps under the influence of one of the Creaths. His subsequent apology, the Dranes and Brites claimed, did "not prove satisfactory." Furthermore, Ford had not only failed to truly account for the doings of the Fox Run church. He had, along with others, "held a Council—we do not mean a Church Council—just before [the 1830 Association meeting] for the purpose of sending Brother Woods and Basket, to try [the Drane's and the Brite's] Faith by the Creed." Apparently, the doctrinal leanings of the two families had been under suspicion for some time. Having been presented to the Long Run Association in 1830, and spoken of in an unsanctioned Council by their fellow church members, the two families believed that they had fallen victim to a "spirit of intolerance and persecution" which had arisen within the Fox Run Church.[113]

The letter to the association and the investigation into their doctrinal leanings were merely fragments of the Drane's and Brite's overall set of complaints against the "leading members" of Fox Run. The church had further refused "to Record the

[112]Minute Books of Eminence, April/May 1831, SBTL.
[113] Minute Books of Eminence, June 1831, SBTL.

accusation" against James Drane "as it was acted upon." The committee formed to investigate the dispute between Drane and John Ford determined the matter to be a "misunderstanding" and not a willful breach of contract by either party. Yet the church ruled that Drane should "pay fifty dollars for misunderstanding Bro. Ford." The money seemed to be a secondary concern as the Dranes insisted that the church erred in handling the case. For their part, the Brites felt they too had been wronged by the charges laid in against Jeptha. Yes, he had allowed the Creaths to preach in his home, but he did not appreciate the course pursued by "those that took an active part against" him. He and his wife Elizabeth had simply invited neighbors and the Creaths into their home "so that they could be accommodated with seats." The church had no authority in the matter, they claimed, because there had been no church resolution prohibiting a member "from inviting who he pleases [into] his own private house." "Now Brethren," the accused concluded, "if this is the way you dispose of business in your courts of Conscience; we do not wish to have any more cases in the Court." [114]

If anything the remonstrance demonstrates how the changing religious landscape could infiltrate the workings of a church's disciplinary system. According to both defendants, the fellowship of the Fox Run church had been broken, and it manifested in unfair disciplinary procedures. The initial charges against each, the Dranes and Brites insisted, resulted primarily from a persecutory spirit which pervaded the minds of some of Fox Run's "leading members." No longer, with the increase in doctrinal disagreement and strained relations (in this case dating back at least a year, and perhaps all the way back to 1825 with Brother Thomas's exclusion), could their church body be expected to

[114] Minute Books of Eminence, June 1831, SBTL.

serve as a neutral arbitrator, a familiar venue through which to seek resolution. Once the church's "courts of Conscience" and its ritual practice of discipline (one that both created and maintained the fellowship) could no longer be trusted to justly uphold the peace of the congregational body, then the church community was fractured. The Brites and Dranes did not attack the church because they necessarily ceased to believe in its doctrine, but rather because of how the church practiced law.

In 1834, three years after the Dranes and Brites demanded exit from the church, they joined other Baptist dissenters, many from Fox Run, and constituted the Clear Creek Church, a body affiliated with the Disciples of Christ.[115] Not all Baptists who left the denomination under the influence of the Campbellites directly attacked the church's disciplinary procedures. But few who withdrew from Baptist churches, left a letter of remonstrance like the Dranes and Brites. Their accusations of unfair treatment and their contention that the Fox Run Church had been overwhelmed by a "spirit of intolerance and persecution" found a receptive audience. Similar schisms are apparent in church record books of 1830s Kentucky. Churches often excluded members for "discipling," joining the "Campbellites," or departing from the "faith and order" of the Baptist denomination.

Baptist apprehension for Campbell and his followers persisted through the antebellum period. The Rev. Eleazer Savage claimed in 1844 that both Campbellites and Mormons were "heretics," deserving of swift punishment from church tribunals. As late as 1855, rumors swirled through Louisville that the city's Baptists might reunite with area

[115] Willis, *History of Shelby County*, 79. Not to be confused with the Clear Creek Baptist Church of Woodford County.

Campbellites, much to the chagrin of some local Baptist preachers.[116] Campbell and his early followers were immensely successful during the antebellum period. By the eve of Civil War, the Disciples of Christ were no longer an insurgent sect; rather, with a membership of over 200,000, they were the fifth largest Protestant denomination in the nation. Campbell's calls for the supremacy of the individual over the collective will of the congregation, along with his denunciation of any religious body not found in the scriptures, certainly struck a nerve amongst many early Baptists.[117] Not only did it lead to a significant exodus from churches affiliated with the Baptist Society, but, as we've seen, also affected the internal workings of the church for those who remained within the Baptist fellowship.

John Taylor insisted that the best way to stop the Campbellites advance upon Baptist society was to "give them no place in our meeting houses; and should they complain, let them use the common rules of society for redress."[118] Some on both sides sought out society's "common rules" when negotiating access to meetinghouses, as the schisms of the 1820s and 1830s propelled church factions and trustees into secular courtrooms in order to secure their rights to church property. In Kentucky, Pastor James Fishback claimed that many reformers, especially those who violated others "religious rights in seizing upon their meeting houses," threatened the "peace, concord and

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[116] Silas J. Evans, *A History of Persecution for Truth's Sake in Louisville, Ky.*, (Louisville: Printed for the Author, 1858), in *Baptists in Kentucky*, University of Chicago Library.
[117] Hatch, *The Democratization of American Christianity*, 71; Boles notes in *Religion in Antebellum Kentucky*, 46, that the Disciples of Christ claimed 45,000 members in Kentucky alone in 1860.
[118] Taylor, *History of Clear Creek*, 51.

happiness" of the state. This, he concluded, required churches "to resort to the laws of the land for her protection and defence [*sic*]."[119]

[119] James Fishback, "For the Baptist Banner, No. 1," *Baptist Banner,* 30 July 1836.

CHAPTER 5. "A GREAT CURSE TO THE NABOURHOOD [*SIC*]": CHURCH SCHISM, TEMPORAL COURTS AND THE LEGAL CONSTRUCTION OF RELIGIOUS SPACE

"I do not undertake to say which party is in the wrong but there is conciderable [*sic*] hostility in the nabourhood [*sic*] between the parties."[1]

In May 1834 the members of the Mt. Vernon Church of Christ in Woodford County, Kentucky drafted a resolution detailing their property claim to the local meeting house. The resolution asserted that the church considered "herself as occupying [the] house agreeab[le] to the design of the original builders" and donors of the land. According to the deed, church members had no authority to use the property "in any other way or manner than as a constituted part of the Baptist Society of Kentucky." If they allowed a preacher of "another sect or denomination" to use the building then they might "forfeit" their own rights to the house. Members unanimously approved the resolution. Immediately thereafter, member John Curd produced a remonstrance signed by twenty-one church members criticizing past actions taken by their pastor, Doctor James Fishback.[2] Curd insisted that he and his followers "must withdraw" from the church body, and since they possessed "equal rights" to the meeting house, they intended to

[1] "Deposition of Roadham Rout," *Bennett et al Trustees of the Mt. Vernon Church vs. Curd et al* (1836) Folder 1, Box 69, Case 7914, Court of Justice, Woodford Circuit Case files, 1833-1837, (hereafter CJWCC), Kentucky Department of Library and Archives, Frankfort, Kentucky (hereafter KDLA).
[2] "Deposition of James Fishback," pp. 23-26, in *Bennett et al v. Curd et al* (1836), Folder 1, CJWCC, KDLA.

continue using the building for worship.[3] Fishback retorted that Curd had ignored church rules and sought to organize a new church "consisting of the disciples" of Alexander Campbell and Barton Stone. Although twelve of the dissenters accepted dismissal on good terms from the church, Curd and a number of others refused, and the church excluded them for, among other things, breach of covenant and fomenting division within the church. Days later, Curd, his fellow dissenters, and a new pastor, "forcibly entered" the meetinghouse and declared that they had formed a new church.[4] Over the summer of 1834, the two factions fought for control of the meetinghouse and eventually engaged in a lengthy legal contest. Rather than rejecting the authority of secular legal institutions, Mt. Vernon church members, along with their brethren throughout the region, resorted to local and state courts to mediate messy doctrinal disputes that implicated rights to church property.

Legal scholars and historians have examined church property disputes and their effect on church-state relations in the United States. For the most part these studies focus on United States Supreme Court decisions. In particular they have looked to the Court's application of the deference principle in *Watson v. Jones* (1872),[5] and its clarification of the neural-principles approach a century later in *Jones v. Wolf* (1979).[6] These examinations are overwhelmingly fixated upon schisms in hierarchically-organized denominations, such as the Presbyterian, Methodist, and Episcopalian churches, from the immediate post-Civil War period through the early twenty-first century. They do not fully

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[3] "Remonstrance," *Bennett et al v. Curd et al* (1836), Folder 2, CJWCC, KDLA.
[4] "Deposition of James Fishback," pp. 23, 30-32, *Bennett et al v. Curd et al* (1836), Folder 1, CJWCC, KDLA; On the new church, see, the complainants' declaration to the Court, p. 9, ibid.
[5] 80 U.S. 679, Lexis 1383.
[6] 443 U.S. 595, Lexis 16

consider disputes within congregationally-based religious groups such as the Baptists or church-property conflicts in the antebellum era.[7] Until very recently, scholars who study pre-war property disputes have primarily focused on schisms emanating from the sectional-split of the major Protestant denominations between 1837 and 1845.[8] Prior to and amidst these divisions over racial ideology, however, Baptists across the trans-Appalachian region found themselves entrenched in a competitive religious marketplace characterized by doctrinal dissension, church schism, and litigation.

The experience of the Mt. Vernon church is a clear example of how the pluralistic post-Revolutionary religious landscape propelled religious groups to interact with the state. Chapter Four demonstrated how the controversy and schism surrounding Campbell's "Reformation" altered members' visions of their churches' as law-producing arenas. Many such schisms engendered property disputation between opposing doctrinal

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[7]The deference rule, "prohibited inquiry into doctrine because civil courts were required to defer to the determination of the ecclesiastical court" whenever matters of discipline, faith, or church rules or custom came before the courts. See, Brian Schmalzbach, "Confusion and Coercion in Church Property Litigation," *Virginia Law Review*, 96 no. 2 (April 2010): 446-447. In 1979, without overturning this approach, the Supreme Court put forth the neutral principles framework, indicating "that civil courts need not defer to higher church authorities if they instead rely on authoritative documents," such as express trusts, deeds, or corporate charters, "that can be interpreted without invoking religious understandings." See, Kent Greenwalt, "Hands off! Civil Court Involvement in Conflicts over Religious Property," *Columbia Law Review*, 98, no. 8 (Dec., 1998):1859. See also, Kathleen E. Reeder, "Whose Church Is It, Anyway? Property Disputes and Episcopal Church Splits," 40 *Columbia Journal of Law and Social Problems* 125 (Winter, 2006); Justin M. Gardner, "Ecclesiastical Divorce in Hierarchical Denominations and the Resulting Custody Battle Over Church Property: How the Supreme Court Has Needlessly Rendered Church Property Trusts Ineffectual," 6 *Ave Maria Law Review* 235, (Fall, 2007); Lucas P. Volkman, in "Church Property Disputes, Religious Freedom, and the Ordeal of African Methodists in Antebellum St. Louis: *Farrar v. Finney* (1855*)," Journal of Law & Religion* 27, no. 1 (2011-12), does look at church schism in antebellum St. Louis, but deals primarily with church property disputes arising out of the period's sectional tensions, not battles over church property emanating from doctrinal dissension.

[8]For a recent investigation early-republic antebellum-era church-property issues, see Gordon, "The First Disestablishment"; and Sarah Barringer Gordon, "The Landscape of Faith: Religious Property and Confiscation in the Early Republic," in Daniel J. Hulsebosch and R. B. Bernstein, *Making Legal History: Essays in Honor of William E. Nelson* (New York: New York University, 2013); For a particular focus upon property issues in Virginia, see, Thomas E. Buckley, *Establishing Religious Freedom: Jefferson's Statute in Virginia* (Charlottesville: University of Virginia Press, 2013), esp. Chaps. 4 and 5; For disputes resulting from the sectional crisis, see, Lucas P. Volkman, "Houses Divided: Evangelical Schisms, Society, and Law and the Crisis of the Union in Missouri, 1837-1876," (Ph.D. Dissertation, University of Missouri, 2012).

factions. Mt. Vernon members' inability to contain the doctrinal dissension led to a nearly four year struggle for control over the local meetinghouse. The contest navigated through extra-judicial arbitration, the local chancery court, and culminated with an 1838 decree by the Kentucky Court of Appeals, the state's highest judicatory. *Curd v. Wallace*, as the case came to be known, like numerous similar cases in antebellum Kentucky, exhibits how church and state were linked during the post-establishment era. Neither Kentucky nor Tennessee possessed a legacy of church establishment. Yet state governments still influenced religious groups through legislative enactments and court rulings. Amidst a presumably "free" religious marketplace, one increasingly characterized by dissension and church schism, actions taken by both religious and state actors opened the door for the latter to shape ecclesiastical affairs.

This was not a top-down imposition of state authority. Lawmakers, state judges especially, strived to avoid meddling with ecclesiastical discipline, polity, or doctrine, claiming that to do so would be to violate "the spirit and policy of the constitution."[9] Instead, reacting to the changing religious culture, individuals and church bodies *sought out* state authority to secure their temporal holdings. Local and state courts emerged as venues through which individuals debated religious doctrine, claimed religious identities, and secured property. By looking at doctrinally-driven church-property disputes among antebellum Baptists—disputes often overshadowed by similar contests arising from the sectional controversy—we can uncover how the "democratization" of America's religious culture not only begot "a jurisprudence of disestablishment" fashioned through the legal system, but also how it allowed local and state courts to review matters of

[9] Quoting Kentucky Court of Appeals Judge Underwood in his dissent in *Gass v. Wilhite* 32 Ky. 170, 203, Lexis 55 (1834).

church discipline and doctrine, and thus, how religious controversy significantly shaped church-state relations at the local and state levels.[10]

Doctrinal schisms and church property contests reveal the role of the state in defining sacred space and determining religious identity. Religious experience, scholar Belden Lane writes, "is invariably [a] 'placed' experience," occurring in familiar or ordinary places and legitimated as sacred through ritual practice.[11] Lane is particularly concerned with how humans come to interpret certain landscapes as sacred, not necessarily with the importance of property—meetinghouses, land, etc.—to religious groups. Antebellum church property disputes in secular courts, however, highlight not only the continued importance of set-aside religious space (that is, many congregations' identification with specific structures), but the state's part in legitimizing, circumscribing, or defining that space. Indeed, as scholars have noted, sacred space is often more than a site imbued with meaning. It is a nexus of politics, power, and property. The "sacred character of a place can be asserted and maintained through claims and counter-claims on its ownership." For many, a space assumes sacred attributes through appropriation and possession.[12] To secure ownership, to legitimize a group's appropriation of real property, or, in many cases, to protect their meetinghouses from insurgent religious groups,

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[10] Nathan O. Hatch, *The Democratization of American Christianity* (New Haven, Conn.: Yale University Press, 1989); Sarah Barringer Gordon, "The First Disestablishment: Limits on Church Power and Property Before the Civil War," *University of Pennsylvania Law Review*, 162 no. 2 (January, 2014), 320. For a recent discussions on the process of disestablishment in the nineteenth century, with a particular focus on legislative enactments, see, Steven K. Green, *The Second Disestablishment: Church and State in Nineteenth Century America* (New York: Oxford University Press, 2010); See also, in general, Mark D. McGarvie, *One Nation Under Law: America's Early National Struggles to Separate Church and State* (DeKalb: Northern Illinois University Press).

[11] Belden C. Lane, *Landscapes of the Sacred: Geography and Narrative in American Spirituality* (Baltimore: Johns Hopkins University Press, 2001), 32, Chapter 1 in general.

[12] See, David Chidester and Edward T. Linenthal's "Introduction" to their edited volume, *American Sacred Space* (Bloomington: Indiana University Press, 1995), 8.

churches had to turn to state authority. State law operated in different, at times subtle ways to determine the boundaries of religious space by identifying what religious doctrine or denomination could legitimately occupy that space or what group vying for a particular place constituted the "true" church. The state was able to exert authority over religious groups precisely because individuals sought to spatially claim certain tracts of land, meetinghouses, and other church buildings for professors of specific creeds.

Local meetinghouses, too, served as physical manifestations of the contested religious marketplace. Antebellum-era disputes over these spaces highlight how access to public meetinghouses demarcated the spatial contours of religious tolerance. Indeed, the very act of excluding a sect or denomination from public meetinghouses assisted others in defining that space as sacred.[13] In order to spatially-claim a meetinghouse, however, groups had to utilize state authority. Through church incorporation, land-deed reversionary clauses, and specifications in subscription bonds, church members, land grantors, and entire communities inscribed religious orthodoxy with rights to church property. In so doing, they assured the state a place in religious life despite the professed separation of church and state, in spite of the supposed inability of civil authority to "penetrate the veil of the Church."[14]

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[13] Chidester and Linenthal, "Introduction," 8. For a look at how property and religious pluralism interact in contemporary American culture, see, Bret E. Carroll, "Worlds in Space: American Religious Pluralism in Geographic Perspective," in *Gods in America: Religious Pluralism in the United States*, eds. Charles L. Cohen and Ronald L. Numbers (New York: Oxford University Press, 2013), 56-102. Carroll insists on page 60 that any attempt to understand the "complex dynamic" that is American religious pluralism "must begin by recognizing that it is fundamentally spatial."

[14] *Shannon v. Frost*, 42 Ky. 253, 259, Lexis 151, (1842).

The preceding chapters have demonstrated that law emanated from a variety of locations and social interactions during the post-Revolutionary period. This chapter, focused primarily upon church meetinghouses, should not be misconstrued as arguing that religious experience was beholden to church edifices. The landscape of religious community extended beyond meetinghouse walls to a range of settings. Many, like the Brites and Dranes whom we encountered in the previous chapter, gathered in private homes to pray, discuss doctrine, and worship with local preachers. The well-known camp meeting revivals of the period also shifted the experience of religious community from permanent structures to riversides and clearings in the woods. The 1801 revival at Cane Run, about twenty miles from Lexington—simply the most notable instance of camp-meeting revivalism—drew some ten thousand individuals for four days of preaching.[15] In a letter to his brother about his attendance at an association meeting in Davis County, Kentucky, Frank Stone expressed awe over "the greatest concourse of people I believe I ever saw. The woods and the church was almost alive with men, women, children, horses, [and] buggies."[16] Some congregations assembled in schoolhouses, courthouses, and other civic buildings ordinarily utilized for a variety of purposes.[17] Soon after its organization in early 1816, for instance, the First Baptist Church of Frankfort, Kentucky met in the statehouse and courthouse before securing

[15] Craig Thompson Friend, *Kentucke's Frontiers* (Bloomington: Indiana University Press, 2010), 231.
[16] Frank Stone to James E. Stone, Jr., 8 October 1863, Stone and Lewis Families Correspondence, 1832-1887, in Bush Beauchamp Family Papers, 1835-1982, Filson Historical Society, Louisville, Kentucky (hereafter FHS).
[17] Anne C. Loveland and Otis B. Wheeler, *From Meetinghouse to Megachurch: A Material and Cultural History* (Columbia: University of Missouri Press, 2003), 14-15, 20-21. On the laity's role in crafting a region's religious geography, see, Shelby M. Balik, *Rally the Scattered Believers: Northern New England's Religious Geography* (Bloomington: Indiana University Press, 2014), esp. Chapter 4.

worship time at the city's public house of worship.[18] Nashville's First Baptist Church spent much of the early 1830s holding services in a rented yet "commodious room in the Masonic Hall."[19] The religious landscape of the early nineteenth century, like the legal landscape, was fluid.

Still, meetinghouses remained central sites for religious gatherings. Historians have noted that during the early-nineteenth century, Baptists and other evangelicals defined the church not as the physical space of worship, but as the covenanted group of believers. Evangelicals may have had "no qualms about using secular structures," as scholars Anne Loveland and Otis Wheeler note, but access to local meetinghouses proved important to both church officers and the laity.[20] In 1846, Nancy Pierce, noting her age to be "some where [*sic*] in Eighty," insisted she wanted a Baptist church to worship at her neighborhood meetinghouse in Bethlehem, Kentucky (as it had done prior to a church schism brought on by Campbell's Reformation). She claimed she could walk to the meetinghouse, "but not there & back in the same day." Yet, "when ever [*sic*] the weather was suitable" she wished to attend services, and there was no other nearby meetinghouse.[21] Local Baptists so intently desired access to the space that members of a church in close-by Paris left that body and joined the Bethlehem Baptists with hopes of

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[18] Frankfort Baptist Church Records, March-May 1816, Kentucky Historical Society, Frankfort, Kentucky (hereafter KHS); Remembering his time with the Frankfort Church in the late 1810s, soon after its organization, John Taylor claimed that when he set out from home for the monthly meeting, "it was often unknown where it would be held, till we got to Frankfort—sometimes in the Assembly Hall, Senate Chamber, or Courthouse; and sometimes neither of the places could be gotten. Then we had to seek a bye-corner somewhere else." See, John Taylor, *A History of Ten Baptist Churches, of Which the Author has been Alternatively a Member* (Frankfort, Ky.: J.H. Holeman, 1823), 134.

[19] R.B.C. Howell, *A Memorial of the First Baptist Church at Nashville, Tennessee from 1820 to 1863 by a Member of the Church* (1863), 67. Typescript available at the Southern Baptist Library and Archive, Nashville, Tennessee (hereafter SBLA).

[20] Loveland and Wheeler, *From Meetinghouse to Megachurch*, 21, quote on 22.

[21] "Deposition of Nancy Pierce," in *Trustees of Church of Bethlehem vs Benjamin Howe & John Curle* (1847) Bourbon County Case Files, Court of Justice, (hereafter BCCFCJ) Box 142, Case # 21645, KDLA.

securing rights to the building.[22] In their dispute with Fishback and the Baptists, too, Curd and his followers based their "equal rights" to the Mt. Vernon meetinghouse on its proximity to their residences.[23]

The post-Revolutionary religious marketplace not only witnessed competition over adherents but engendered new understandings of religious space. For seventeenth-century Puritans, the meetinghouse inferred "a neutral public space," often marking the center of town and utilized for a variety of spiritual and secular activities.[24] Over the course of the eighteenth century, however, the religious purposes of New England meetinghouses increasingly eclipsed their civil functions. By 1850, more refined church buildings devoted solely to religious community replaced the traditional public meetinghouse.[25] In the Anglican-Chesapeake of the colonial era, too, churches were built in central community locations and used for both secular and religious undertakings.[26] From the early days of settlement, trans-Appalachian inhabitants also purposed meetinghouses as both civil and religious spaces. In 1799, for example, political leaders in Kentucky held a public rally at the Bryan's Station Baptist meetinghouse to propagate a platform for the state's upcoming constitutional convention.[27] The line between the secular and sacred is further blurred when we take into account churches' legal operations throughout this period, as members sought out authoritative dispute resolution at their local meetinghouses.

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[22] "Deposition of John Kenny," ibid.
[23] "Remonstrance," *Bennett et al v. Curd et al*, Folder 2, CJWCCC, KDLA.
[24] Quoted in Loveland and Wheeler, *From the Meetinghouse to Megachurch*, 7.
[25] Kevin M. Sweeney, "Meetinghouses, Town Houses, and Churches: Changing Perceptions of Sacred and Secular Space in Southern New England, 1720-1850," *Winterthur Portfolio*, 28 no. 1 (Spring, 1993): 59-60.
[26] Rhys Isaac, *The Transformation of Virginia, 1740-1790* (Chapel Hill: University of North Carolina Press, 1982), 58-61.
[27] Ellen Eslinger, *Citizens of Zion: The Social Origins of Camp Meeting Revivalism* (Knoxville: University of Tennessee Press, 1999), 132-133.

Moreover, a variety of denominations held services at shared public meetinghouses. At the Lancaster, Kentucky meetinghouse, the Methodist, Baptist, Presbyterian, and Reformation churches all "had their different days" for worship.[28] In 1822, the clerk for the Frankfort Baptist Church recorded that a committee had been appointed to converse with the local Methodist and Presbyterian churches in order "to afford [the Baptist] Church an opportunity of worshiping" in the public meetinghouse an additional two Sabbaths a month.[29] Before the two churches found themselves entrenched in litigation in the 1840s, Newton Clift remembered that the meetinghouse in Washington, Kentucky had been "for some part passed [*sic*] used in common by [the Baptists] and the society of Reformers."[30] This spatial ecumenicalism extended to urban areas with denomination-specific (private) church buildings. The 1829 meeting of the Elkhorn Association of Baptists, for example, relied upon Lexington-area Methodists and Presbyterians who opened their meetinghouse doors for the association's delegates and other attendees to hear preaching.[31]

In many smaller towns during the post-Revolutionary period, however, religious groups often shared common worship space. A recurring sentiment expressed by church-goers and other observers in church-property disputes was that the buildings or grounds in question were "republican" in nature. Pastor Fishback claimed that many such structures in Kentucky—though not the house at Mt. Vernon—had been "built as

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[28] "Deposition of Bee Salter," in *Baptist Church of Lancaster v. Presbyterian Church of Lancaster* (1855), Garrard County Circuit Court, Chancery/Equity Case Files, (hereafter GCCCE) Box 76, Bundle 308, case # 24-28, KDLA.
[29] Frankfort Baptist Church Records, Volume 1, September 1822, KHS.
[30] "Exhibit A," in *Cahill v. Bigger* (1844), Nicholas County Circuit Court, Civil Case Files (hereafter NCCCF), Box 24, Bundle 240, KDLA.
[31] Record of the Elkhorn Association of Baptists, 1829, Archives and Special Collections, James P. Boyce Centennial Library, The Southern Baptist Theological Library, Louisville, Kentucky (hereafter SBTL).

Republican Meeting houses free for every body [*sic*] or for preachers of all the religious sects to preach in."[32] In the dispute over the Bethlehem meetinghouse, the respondent insisted that "[a]ll denominations of Christian Baptists as well as others were permitted to use the house until the exclusive use of it was claimed by members" of the complainants' church. Likewise, referring to the "old meetinghouse" in Lancaster, Jacob Robinson insisted in 1855 "that a sufficient amount [of money] could [not] have been obtained to have built any other than a republican church," for "at that time [referring to the late 1810s] there was a strong feeling in favour [*sic*] of Republican Meetinghouses." Others claimed "the church was used as common property."[33] William Huffman, Sr. testified that he "never heard of any special claim set up by any denomination" to the Lancaster meetinghouse until the day of his deposition.[34] The notion of a "republican church" or "republican meetinghouse" denotes the underlying entanglement of politics and religion. The shared community space nurtured one's civil and religious identity, his political virtue and private morality.

Whether seeking to build a republican meetinghouse such as the one in Lancaster, or a private structure for a particular congregation, churches relied upon public donation. Once churches had secured a tract of land for the "purpose of erecting a meetinghouse

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[32] Deposition of James Fishback," 5, in *Bennett et al v. Curd et al* (1836), CJWCC, KDLA. Underlining in original. For an example of property deeded specifically for a "Republican Meetinghouse" see the 1830 deed from Michael Mitchel to trustees of the Glenns Creek Republican Meeting house, Woodford County Deed Book M, 279-280, KDLA.

[33] "Deposition of JC Bryant," in *Baptist Church of Lancaster v. Presbyterian Church of Lancaster* (1855), GCCCE, KDLA.

[34] "Separate Answer of John Curle to the Amended Bill," *Trustees of Church of Bethlehem vs Benjamin Howe & John Curle* (1847) BCCFCJ, KDLA; "Deposition of Jacob Robinson," and the "Deposition of William Huffman, Sr." in *Baptist Church of Lancaster v. Presbyterian Church of Lancaster* (1855), GCCCE, KDLA; Despite their apparent ecumenical foundations, individuals and communities restricted access to these "republican meetinghouses" to mainline religious groups. For instance, Col. Thomas Buford, along with numerous other deponents, insisted that the Lancaster meetinghouse was "free to all sects except Roman Catholics and Shakeing [*sic*] Quakers."

upon"—usually donated by one or two local residents—they turned to raising funds for construction. Member-appointed building committees circulated subscription bonds through the surrounding neighborhood, surely hailing the positive effects that a new worship space would have on the community. And many were successful. A Baptist in Tennessee noted that several of his brethren, along with a number of Presbyterians, Methodists, and individuals "of no particular church, subscribed liberally" for the construction of a Nashville Church.[35] Another church member who was central in raising the money to build the Lancaster meetinghouse felt "clear to say without fear of contradiction that two thirds of the money was subscribed by persons who belonged to no church."[36] After Tavner Branham and David Harris each donated a half-acre of land for the Mt. Vernon house, other local residents chipped in what they could. Subscribers agreed to pay "the sum annexed to [their] respective names," one-third "in money, the other two thirds in corn, wheat, whiskey, pork, bacon, beef, cattle or materials…all at market price."[37] Such meetinghouses, whether claimed by a specific congregation or not, could help cultivate "[u]niversal peace, good morals, kind feelings, & happiness…throughout the neighbourhood."[38]

When disputes subsequently arose over access to meetinghouses, church factions pointed to their members' monetary donations in order to claim rights to the disputed

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[35] James Whitsitt, "Article 3--No Title," *Nashville Republican*, 25 July 1835.
[36] "Deposition of Thomas Buford," in *Baptist Church of Lancaster v. Presbyterian Church of Lancaster*, GCCCE, KDLA.
[37] "Exhibit [x]: Original Article for Building Meeting House," in *Bennett et al. v. Curd et al*, Folder 2, CJWCC, KDLA. They further agreed to pay half the sum "when the bricks are made or stone, at the building and the foundation above the ground." The other half "when the house shall be completed [*sic*]."
[38] "Respondent's Bill," 5, Folder 1, in *Bennett et al v. Curd et al*, CJWCC, KDLA. Moreover, Fishback claimed that when Mt. Vernon church was constituted in June 1822, "there were it is believed fewer professors of religion immediately in the neighborhood, of any denomination of Christians, in proportion to the actual population of it than in any a neighborhood" that he knew of in the state, see "Deposition of James Fishback," 13, ibid.

property. At Mt. Vernon, Curd and his co-defendants adopted this strategy after Fishback's church secured an injunction against them at the Woodford County Circuit Court. Those who contributed to the meetinghouse, they insisted, did not intend for one pastor (Fishback) and his followers to have exclusive possession of the house. With particular attention to female donors, they noted a handful of original subscribers to the meeting house who now communed with their church. Mrs. Branham, the widow of Tabner Branham "gave one half acre of the ground" and fifty dollars. Mrs. Caldwell, also a widow, donated "$70 or $80," and "Mrs. Price[,] a widow whose husband gave $100" had all joined the new church and were now, because of the injunction against them, "prevented from worshipping their maker in the house they aided to build."[39] The Woodford Circuit Court agreed, ruling that original subscribers could not be barred from the meetinghouse.[40] Similarly, a member of Nashville's Reformation Church, which had retained property deeded to the Baptist Church after a schism, claimed the Baptists possessed no right to the house, for only one member of the Baptist Church had donated a mere "ten dollars." It was unreasonable to assume that a large majority of members, "embracing in their number those who had given the lot, and had been most liberal and active in getting the house built," the writer insisted, should hand over the house "to a few persons" who had donated so little.[41] In other cases, residents insisted that their

[39] The trustees of the meetinghouse filed an injunction and restraining order against the opposition church on December 7, 1835, see, "Wallace &c. to Curd, injunction bond," *Bennett et al v. Curd et al*, Folder 2, CJWCC, KDLA; and "Summons and restraining order," Folder 2, ibid.. On January 30th, 1836, the defendants filed a demurrer with the court, which was overruled. See, "Curd &c. v. Wallace &c. Demurrer," in ibid., Folder 2.

[40] See the Court's decree in ibid., Folder 2.

[41] "Article 2—No Title," *Nashville Republican* 16 July 1835, p. 2; Even prior to the Campbellite divisions in the region, opposing factions often shared meetinghouses following schism. After a number of members left the Versailles Baptist Church in the early 1820s to join a newly-constituted Particular Baptist church, each body worshipped the Regular Baptists' meetinghouse. "The reason I understood for using this

meetinghouse could not be sold or repurposed "without a concurrence of all the subscribers," no matter their religious affiliation, or lack thereof.[42]

Though often shared by various religious groups and nominally available to all denominations, this spatial ecumenicalism had its limits. Land deeds, subscription papers, and common understanding indicated the bounds of religious tolerance in the post-Revolutionary United States. By the turn of the nineteenth century, the federal government and most states had outlawed religious establishments. The legal practice of toleration, which had developed in most of the colonies during the eighteenth century, historian Chris Beneke recently argued, was replaced by a common commitment to religious liberty. Religious-based prejudice and persecution persisted throughout American culture, of course, but, Beneke continues, this was largely unaided by a legal system devoted to liberal religious beliefs. I agree with Beneke that not only was post-Revolutionary America a much more religiously tolerant place than previous, and that the cultural process of implementing religious liberty "established important precedents for the future" of pluralism, religious and otherwise, in the United States.[43] Yet this also obscure's how early Americans utilized the legal system to exclude those considered dangerous or unorthodox from common meetinghouses. Many individuals claimed openness alongside exclusion with little apparent qualms. For instance, observers could claim, as JC Bryant did, that local meetinghouses were built as "republican church[es],

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freedom is," John Taylor wrote, "some of the members with [the new church], have paid very liberally for building the meeting house…and it is more to be lamented that this is not the only case in Kentucky." Taylor, *A History of Ten Baptist Churches*, 184.

[42] "Deposition of James McKee," in *Baptist Church of Lancaster v. Presbyterian Church of Lancaster*, GCCCE, KDLA.

[43] See in general, Chris Beneke, *Beyond Toleration: The Religious Origins of American Pluralism* (New York: Oxford University Press, 2006). Quote p. 7.

free for every body [*sic*]," but these spaces were usually restricted to mainstream Protestant denominations.[44] As Bee Salter remembered, the Lancaster meetinghouse "was built for all denominations except the Roman Catholics and Shakering [*sic*] Quakers." Yet she continued, insisting, "It was built by the public and was always a republican house."[45] Others echoed her sentiments.[46] Even Judge Duvall of the Kentucky Court of Appeals allowed that the land in controversy had been donated to the public "for the use of all religious denominations professing the Christian faith—Roman Catholics and Shakers excepted."[47]

This exclusion through legal instruments was common in denominational-specific devises as well. John Davis donated an acre of land to the Particular Baptists Society in Davidson County, Tennessee, but noted that "other *orderly* gospel ministers shall have privilege to preach" in the meetinghouse when not in use by the Baptists.[48] Though not specific, "orderly gospel ministers" connoted Protestant Christian, and more likely, Methodist, Presbyterian, or Baptist. Later, Campbell, Stone, and their Disciples of Christ would be considered as more aligned with the Christian mainline, but in the 1820s and 1830s, detractors often labeled them as "disorderly" and "disturbers of the peace."[49] The subscription paper for the Mt. Vernon house noted the property and meetinghouse was

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[44] "Deposition of JC Bryant," in *Baptist Church of Lancaster v. Presbyterian Church of Lancaster*, GCCCE, KDLA. Bryant's deposition was in 1855, but he spoke about the subscribing to the meetinghouse in controversy in 1815.
[45] "Deposition of Bee Salter," ibid.
[46] See for example, "Deposition of Polly Wilmot," ibid; "Deposition of Thomas Buford," ibid.; "Deposition of James McKee," ibid.;
[47] *The Baptist Church at Lancaster v. The Presbyterian Church*, 57 Ky. 635, 639, Lexis 76, (1857).
[48] Particular Baptist Society Deed, Davidson County Deed Books, Volume F, 53, Tennessee State Library and Archives, Nashville, Tennessee (hereafter TSLA). My emphasis.
[49] For instance, in June 1834, not long after a split with a Campbellite faction, Nashville's First Baptist Church clarified that the phrase "The Lord's supper is to be administered to orderly Christians only" that appeared in their Church Constitution, referred to only "Christians of our denomination." See Records of First Baptist Church of Nashville, 7 June 1834, SBLA.

"for the benefit of the Baptist Society, & when not occupied by them," it was open for any "Gospel Preacher invited by a subscriber."[50] After the 1834 schism, members of Fishback's church claimed that the reference to the "gospell [*sic*] preachers" was "placed in said article for the purpose of excluding Barton Stone and his followers," that the latter and his followers were not preachers of the gospel.[51] Daniel Williams likewise testified that "the words gospel preacher" were inserted into the paper because "all the Baptists in the nabourhood [*sic*] refused to subscribe" to the building of the house "unless the above exclusion was made."[52] Without legislation, then, without meddling judges or overt institutional collusion, individuals and communities encoded religious orthodoxy in legal instruments and claimed local common property for a general set of religious principles.

Beyond subscription bonds and land deeds, however, individuals and churches utilized legal mechanisms and state authority to secure their property. Church incorporation, though controversial during the late-eighteenth century, provided religious groups a variety of legal powers, not the least of which was the ability pass property in succession. Each state handled church incorporation differently. In New England, as parishes were considered public, municipal corporations, individuals residing within their geographic boundaries constituted the membership. Residents were subject to parish taxes and liable for its debts. In an arrangement which persisted until disestablishment during the post-Revolutionary period, the parish minister acted as trustee, holding fee-

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[50] "Exhibit #1," in *Bennett et al v. Curd et al* (1836), Folder 2, CJWCC, KDLA. Underlining in original.
[51] "Deposition of Robert Adams," ibid.
[52] "Deposition of Daniel J. Williams," ibid. Others disagreed, contending that the subscription paper was never "designed to exclude…as it was built on Republican principals [*sic*]." See, "Deposition of Alexander Dunlaps," ibid.

simple title to any donated or granted lands. Other colonies and states continued to rely on the charter system developed in the mother country—which meant petitioning the legislature for corporate status—well into the nineteenth century, only ceasing that practice when states adopted general incorporation laws.[53]

Baptists had an uneasy relationship with church incorporation during and after the Revolutionary Era. In 1784, the Virginia General Assembly passed an act incorporating the Episcopalian Church in the Commonwealth. Baptists claimed the Incorporation Act smacked of state preference for one religious body.[54] To compound matters, the Assembly had awarded the Episcopalian Church all the church buildings, land, and other property located throughout the Commonwealth. Led by their governing associations, Virginian Baptists flooded the legislature with petitions attacking church incorporation. One petition submitted by preachers Reuben Ford and John Leland—representing the thoughts of the state's four Separate Baptist associations—described church incorporation as "pregnant with evil, and dangerous to religious liberty." Memorials that had been circulated at court days and church meetings called for a repeal of the Incorporation Act and the sale of the "public property" held by the Episcopalians.[55] Virginians' taxes had paid for the glebe lands, and thus, Baptists argued, it should be returned to the people. Episcopalians, in turn, asserted that ownership of the land was part and parcel with their acceptance of disestablishment and the end of state financial support. If the legislature dissolved the church's claim to the land, then it threatened the very sanctity of private property. Though the legislature repealed the Incorporation Act

[53] Paul G. Kauper and Stephen C. Ellis, "Religious Corporations and the Law," *Michigan Law Review*, 71 no. 8 (Aug., 1973): 1504-1507.
[54] Buckley, *Establishing Religious Freedom*, 67-68.
[55] Quoted in Buckley, *Establishing Religious Freedom*, 83.

in 1785, it initially left the glebe lands intact, not providing for their dissolution until 1802.[56]

The advantages of church incorporation continued to be debated by both religious and state actors well into the nineteenth century. Old-School Presbyterians and Anti-Mission Baptists, in particular, believed that incorporation for religious groups held potential dangers for both church and state.[57] Their experience fighting against Virginia's religious establishment did not sour all evangelical groups on the necessity or idea of religious corporations, however. Into the antebellum era, many church groups engaged in heated public debates in Virginia over the issue, often arguing in favor of church incorporation as the best way to protect their interests. The state legislature proved more reluctant and consistently turned down churches' requests for incorporation. Such an act would be, the legislators exclaimed, "inconsistent with the principles of the constitution, and of religious freedom, and manifestly tends to the establishment of a national church."[58] Relying primarily on interpretations of the 1786 Statute of Religious Freedom, and its implications for the relationship between church and state, historian Thomas Buckley notes that the General Assembly left Virginia's churches "in a legal

[56] Buckley, *Establishing Religious Freedom*, 82-85. For a complete account of Virginia Baptists' quest against glebe lands see, ibid, 92-115 and Buckley, "Evangelicals Triumphant: The Baptists Assault on Virginia Glebes, 1786-1801," *William and Mary Quarterly* 45, no. 1 (Jan., 1988): 33-69, in which he argues that victory in the glebe contest imparted the Baptists with the political tools and outside support that was necessary to pursue later legislative goals and laid the groundwork for them to push their cultural values upon the wider American society. Baptists were also instrumental in crafting church-state relations in New England. In his article, "The Elusive Common Good: Religion and Civil Society in Massachusetts, 1780-1833," *Journal of the Early Republic* 24 no. 3 (Autumn, 2004): 390, Johann N. Neem claims that Baptists, in their effort against state interference in their religious matters, used arguments that proved "invaluable to defending the rights of associations, thus creating an ideological foundation for an autonomous civil society."

[57] Buckley, *Establishing Religious Freedom*, 132-134.

[58] Quoted in Buckley, *Establishing Religious Freedom*, 128.

limbo [and] without secure title to property or a recognized status in civil society."[59] Acts of incorporation were certainly important for religious societies' claims to property and the ability to pass such property in succession. Yet incorporation from the state legislature also legitimated the internal workings of the church itself: the ability to enforce group rules, bylaws, and member obligations.[60]

In Kentucky, state legislators, perhaps learning from the struggle to the east, but also reacting to conditions of the local religious backdrop, sought to better define the power and place of churches in civil society. Property disputes such as the one at Mt. Vernon can be traced back to the final days of 1813, when an unspecified religious congregation from Concord sent a petition to the Kentucky Assembly. Apparently, some years after a tract of land was donated to the members of the Concord congregation, "several of the trustees to whom the deed was made" were removed from their position. The petitioners, unsure "as to their power to do any thing [*sic*] relative to said land" and "the mode of appointing successors" to the removed trustees, prayed that the Assembly would pass a law "appointing certain trustees" and "vesting them with certain powers."[61] After investigating the matter, the courts-of-justice committee reported "that other religious societies" had found themselves in similar circumstances and advised that even

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[59] See, in general, Thomas E. Buckley, "After Disestablishment: Thomas Jefferson's Wall of Separation in Antebellum Virginia," *The Journal of Southern History* 61 no. 3 (Aug., 1995): 445-480," and for quote see, p. 452. On page 454 Buckley notes that titles to church property remained "precarious" until 1842 when "the assembly passed a general bill that granted trustees and their successors title to church buildings, burial grounds, and parsonages." The law, however, "did not mention bequests or grant corporate status."

[60] William J. Novak, "The American Law of Association: The Legal-Political Construction of Civil Society," *Studies in American Political Development* 15 (Fall 2001): 180. On religious groups seeking incorporation in the post-Revolutionary period see also, Chris Beneke, "The Free Market and the Founders' Approach to Church-State Relations," *Journal of Church and State* 52 no. 2 (July 2010): 332; McGarvie, *One Nation Under Law*, 3.

[61] *Journal of the House of Representatives of the Commonwealth of Kentucky*, 1813 (Frankfort: Gerrard and Berry Printers, 1813), 105.

though the government should never seek "to control or interfere with the rights of conscience," it was "equally bound" to protect "each man" in his religious practices and enable "every [religious] society to hold a small portion of land" for erecting a meetinghouse. The House, therefore, should adopt a resolution in order to protect religious societies "from the inroads of the lawless." Moreover, the committee recommended that a law should be passed pointing "out a mode in which trustees of the property can be appointed, changed, or renewed."[62] The state Senate initially rejected the bill, before reconsidering it with amendments proposed by a joint committee. The Assembly eventually passed the measure, and the governor signed "An Act for the Benefit of Religious Societies of this Commonwealth" on February 1, 1814.[63]

The first section of the act constructed a framework for Christian groups to elect or appoint trustees according the society's internal rules, provided they record those elected with the county courts. The trustees were invested "with the legal title" of the land, and possessed the "power to do any legal act" that may be necessary for "the safe keeping and preservation" of the church's property. Yet, the bill continued, if a "schism or division" occurred in the church, the act should not be interpreted as an authorization for the trustees to "prevent either of the parties so divided, from using the house or houses of worship, for the purpose of devotion, a part of the time, proportioned to the numbers" of each party. Furthermore, the act was not to be understood as authorizing "the minority of any church having seceded from, or been expelled or excommunicated

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[62] *Journal of House of Representatives, KY,* 141-142.
[63] See *Journal of the House of Representatives, KY,* 239-241. For actions taken by the joint committee and amendments, see *Journal of the Senate of the Commonwealth of Kentucky, 1813* (Frankfort, KY, 1814), 142, 149-150, 172, 205.

from the church" to interfere with the majority church's appointment of preachers or designated time of worship.[64]

Two decades later, amidst congregational schisms due to the Stone-Campbell movement and dissension over the role of missionary societies, the Kentucky Assembly provided an even easier method for religious groups, specifically Christian organizations, to acquire and maintain a legal identity. In 1835, the Assembly passed "An act to provide a remedy for religious societies and communities," granting churches the power to appoint "one or more suitable persons upon their record book" to act as a committee or trustees on behalf of the congregation to bring suit to prosecute or recover "any claim, right or title" the church had in real or personal property.[65] Kentucky's Revised Statutes which took effect in 1852, moreover, strengthened the 1814 Act by forbidding all church trustees, (not simply those appointed as successors to the original trustees) from barring schismatic factions from meetinghouses. The latters' rights could not be impaired unless they were excommunicated "*bona fide*, on the grounds of immorality."[66]

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[64] *Acts Passed at the First Session of the Twenty Second General Assembly, for the Commonwealth of Kentucky: Begun and Held in the Town of Frankfort, on Monday the Sixth Day of December, One Thousand Eight Hundred and Thirteen, and of the Commonwealth the Twenty-Second* (Frankfort, KY: Gerard & Berry--Printers for the Commonwealth, March 2d, 1814), 211-212. The Act also stipulated that "the quantity of real estate hereafter acquired by any religious society and vested in trustees and their successors…shall not exceed four acres of land." Two decades later, the Kentucky Court of Appeals ruled in *Gass*,184, that the 1814 Act does not limit religious groups from acquiring more than four acres, rather "it only restrains the application of the benefit of its own provisions, to an acquisition not exceeding four acres." Section 3 of the 1852 Revised Statutes provided that religious societies could acquire up to fifty acres of land "for the purpose of erecting thereon houses of public worship, public instruction, a parsonage, a grave yard, and a horse pound." See, *KY. Rev. Stat. of 1852*, Chap. 14, Sec. 3.

[65] Preston S. Loughborough, *A Digest of the Statute Laws of Kentucky, of A Public and Permanent Nature, Passed Since 1834, With References to Judicial Decisions. Together with an Appendix Containing Certain Laws of the United States, A List of Claims Payable at the Treasury of the State, With Instructions and Forms for the Authentication Thereof, and for the Accounts and Reports of the Jury Fund; and Forms of Certain Proceedings in County Courts and Before Justices of the Peace* (Frankfort, Ky: Printed by Albert G. Hodges, 1842), 499.

[66] *KY. Rev. Stat. of 1852*, Chap. 14, Sec. 3, Proviso 5.

Even before the Baptist-Campbellite schisms of the late 1820s and early 1830s, opposing church factions understood the importance of acquiring corporate form to claim property. The Bryan's Station Baptist Church near Lexington fractured in early 1811, as one body embraced Particularistic Baptist principles. Just a year later the schismatic group appointed a committee "for adjusting and securing" their rights to the meetinghouse. Bryan's Station's sister church, South Elkhorn Baptist, witnessed a similar division in 1822. After being excluded from the church by the main body, the minority faction, led by none other than James Fishback, constituted a new church (also called South Elkhorn Baptist) and appointed trustees "to maintain the title of S.E. meeting house ground." Upon learning of their opposition's legal maneuverings, the majority church acted in kind, appointing two men as trustees to secure their rights to the church property. Ironically, Fishback's actions in this dispute were turned against him a decade later when his detractors at Mount Vernon selected their own trustees to the contested meetinghouse and registered their names with the county clerk.[67]

The ability of religious groups to appoint trustees and incorporate provided them a necessary legal identity to pursue debts, enforce member obligations, and receive or convey property. For instance, Thomas Berryman pledged in August 1839 to donate $125 to the Kentucky Baptist Education Society.[68] Berryman subsequently refused to pay his debt, claiming that the funds collected "were being used contrary" to the Society's originally-stated intentions. An Owen County jury disagreed with Berryman and ordered

[67] Bryan's Station Baptist Church Records, March 1811, September 1812, KHS; South Elkhorn Baptist Church Records, 1822-1857, March 1822, KHS. For the appointment of trustees to the Mount Vernon meetinghouse by Curd's faction, see "Copy Order & Record," *Bennett et al v. Curd et al*, Folder 2, CJWCC, KDLA.

[68] See Berryman's note in *Baptist Education Society v. Berryman* (1846) Owen Circuit Court Case Files, Courts of Justice (hereafter OCCCF), Box 31, Bundle 74, KDLA.

he pay "the debt in the petition mentioned & one cent in damages."[69] Incorporated religious groups could also rely upon state authority to enforce their by-laws. Recognized Christian societies, then, could expect that, as Justice George Robertson of the Kentucky Court of Appeals declared in 1842, that "civil courts" would protect churches "in the proper and undisturbed enjoyment of their religious exercises, the rightful enforcement of their ecclesiastical discipline, and the peaceful occupancy and use of their property."[70] Control of lands and meetinghouses was particularly important for religious groups, affording congregations the ability to receive and transfer real property. In the 1840s, the Methodist church in Harrodsburg, Kentucky sold their interest in the local meetinghouse to a Baptist church. Soon after, however a committee representing the Baptist church filed a bill against the Methodists arguing the latter lacked title to the property. The Baptists requested the contract be rescinded. Writing for the Court, however, Judge Simpson, ruled that, since the property in question had been vested in trustees, "to hold for certain purposes, their deed to the trustees of the Baptist Church certainly conveys the legal title." In receiving the property, moreover, the Baptists were "secure against any proceedings in the common law Courts to disturb their possession, or to deprive them of the use thus acquired."[71]

During the post-Revolutionary period, Tennessee lawmakers did not enact as extensive legislation concerning church property and schisms as did Kentucky. In 1817, however, they did pass a bill that secured church property for groups receiving up to ten

[69] "Bill of Exceptions" and "Jury Decision," ibid.
[70] *Shannon*, 254, Lexis 151.
[71] *Alexander v. Slavens*, 46 Ky. 351, 353, Lexis 34, (1847).

acres of land deeded to either trustees or directly to the congregation.[72] The measure failed to provide property rights for schismatic factions. Nor did it take into account what should happen if a church changed doctrine and assumed a religious identity different than the one specified in the deed. In a way, this provided for natural doctrinal evolution in congregationally-based churches. Some contended, however, that church property should remain with the group affiliated with the denomination specified in the legal instrument.

The case of Nashville's First Baptist Church illuminates how religious controversy propelled church bodies to seek out state authority with the hopes of ensuring subsequent doctrinal stasis. In 1821 the church received a grant of land on Spring Street. The donor deeded the property to the "United Baptist Church of Nashville," but over the course of the 1820s, the church adopted views associated with Campbell's Reformation.[73] By the end of the decade, a minority had broken away from the church and re-constituted a body based upon Baptist principles. For six years the new church battled their former brethren, now the Reformation Church, for the Spring Street meetinghouse. First Baptists' longtime pastor, R.B.C. Howell later claimed that the "house of worship belonged justly, without a doubt, to the "United Baptist Church,' according to the terms of the deed, and not to the church of 'the Reformation'." Unfortunately for the new church, Howell wrote, the original Baptist church had never incorporated and "was a body unknown to law. It was neither a person, nor a corporation, and therefore incapable

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[72] For the 1817 Act see, R.L. Caruthers and A.O.P. Nicholson, *A Compilation of the Statutes of Tennessee, of a General and Permanent Nature, From the Commencement of Government to the Present Time* (Nashville: 1836), 559.

[73] United Baptist Church of Nashville, Davidson County Deed Books, Volume O, 193, TSLA; For actions taken by the church, see Howell, *A Memorial of the First Baptist Church,* esp. Chapter 3, SBLA.

of holding property." Even if a judge ruled to dispossess the house from the Reformation Church, the property would revert to the original owner, who remained with the church majority. "The legal resort to obtain [the Spring Street building] which had been talked of," Howell concluded, "was therefore abandoned."[74] In 1836, after having worshipped in the city's courthouse, a local schoolhouse, and the Masonic Hall, Nashville's First Baptist Church acquired a tract of land for a new house of worship.[75] Members had learned a harsh lesson. This time they ordered the trustees to insert the church's majority-approved confession of faith and constitution into the title papers. "If at any time a majority of the Church should depart" from the expressed doctrine, the order declared, "the property of the church shall belong to the minority, however small, who adhere to [the present] principles." If all the members departed from the "present doctrines", the trustees were directed to hold the property for any group who "may now profess or hereafter embrace the present principles of the Church."[76]

Land grantors took similar actions to ensure their bequests remained associated with their religious preferences. Some made no stipulation of particular principles. Jonas Bradley donated one acre to the Cedar Creek Baptist Church in Wilson County, Tennessee for them to hold "so long as the Baptist Church shall continue a regular

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[74] Howell, *A Memorial of the First Baptist Church*, 68.
[75] Records of the First Baptist Church of Nashville, Volume 1, p.1, SBLA; Howell, *A Memorial of the First Baptist Church*, 67, SBLA.
[76] Records of the First Baptist Church of Nashville, Volume 1, 13 February 1836, SBLA. Article X of the church constitution states, "If at any time a majority of the Church should depart from the principles embodied in the annexed Declaration of Faith, the property of the Church shall belong to the minority, however small, who adhere to those principles. Or, should at any time, even all the members depart from the present doctrines, the property shall still be held by the Trustees subject to the use and occupancy for religious worship, if any others in this city, or Davidson County, or both, or, if there be none here, any from any part of the Country who may come here to reside, and may now profess or hereafter embrace, the present principles of the Church."

constituted body at said place or meeting house."[77] Others, like John Bond, who donated land to the Union Baptist Church, noted the property was for "the benefit of said Church now constituted at said meeting house & there [*sic*] successors in principle & practice forever."[78] Yet some donors took no chances. Charles Hays donated a half-acre in 1820 to the Antioch Baptist Church "holding and maintaining the communion of Baptized believers, the impotency of fallen man, the imputed righteousness of Jesus Christ, [and] the election of grace and eternal judgment."[79] Likewise, in 1817, Emmanuel Skinner conveyed two acres to the Spring Creek Baptist Church. He also included eleven principles adhered to by that fellowship (and which he presumably believed were the tenets of the true Baptist), noting more than once that the land was for the "use and benefit of said Baptist Church and their successors of the same faith and order in religious worship." If the church deviated from their doctrinal path, then the land would be returned to Skinner and his heirs.[80]

Doctrinal disagreement and congregational schisms over a variety of issues played out in county clerks' record books and local meetinghouses. In 1808, amidst efforts of anti-slavery Baptists to abolish the peculiar institution in Kentucky, Elijah and Winnifred Hanks conveyed a tract of land to trustees of the Newhope Church in Woodford County. They insisted, however, that the church could hold the property only so long as it adhered to the belief "that perpetual[,] hereditary[,] involuntary[,] & unmerited Slavery is contrary to the gospel of Jesus Christ." If the church strayed from that position, or the property was put to any other use, then it would revert back to the

[77] Cedar Creek Baptist Church Deed, Wilson County Deed Books, Volume I, 471, TSLA.
[78] Union Baptist Church Deed, Wilson County Deed Books, Volume P, 158, TSLA.
[79] Antioch Baptist Church Deed, Davidson County Deed Books, Volume O, 32-33, TSLA.
[80] Spring Creek Church Deed, Robertson County Deed Books, Volume M, 261-265, TSLA.

Hanks.[81] The mission controversy, one of the largest and most significant divisions to emerge within Baptist churches prior to the sectional crisis, began rupturing congregations in the region as early as the 1810s.[82] By the mid-1830s, many Tennessee Baptists witnessed internal turmoil or schism over the question of the Baptist State Convention, a pro-mission body established in 1834. As "New School" or "Missionary" Baptists in Tennessee engaged in a broad movement to spread the gospel through Bible Societies, Foreign Missions, and Educational Associations, they faced a conservative counteroffensive made up of "Old School," "Hard Shell," or "Anti-Missionary" Baptists who denounced the man-made, the movement's unscriptural institutions.[83]

Divisions over the missionary question led to religious doctrine being encoded in subscription papers and land deeds. Members of the Little Cedar Lick Church agreed in 1838, not long after a schism over the Mission question, "to build a meeting house by subscription…for the use of the United Baptists and free for the Methodist an Presbyterian" churches. By deeding it to the "United Baptists", the church explicitly barred their former brethren who denounced the Tennessee Baptist Convention the previous year.[84] In 1837 Thomas Bradshaw granted over four acres of land to the Spencer's Creek Baptist Church for their "exclusive use and benefit" provided "always that [the church] shall be wholly distinct from the Baptist State Convention of

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[81] Hanks to the Trustees of the Newhope Church, Woodford County Deed Book D, 343-345, KDLA. On the emancipation movement among Kentucky Baptists see, Monica Najar, "Meddling with Emancipation": Baptists, Authority, and the Rift over Slavery in the Upper South," *Journal of the Early Republic* 25, no. 2 (Summer, 2005):157-186.

[82] See in general, Bertram Wyatt-Brown, "The Antimission Movement in the Jacksonian South: A Study in Regional Folk Culture," *The Journal of Southern History* 36 no. 4 (Nov., 1970): 501-529. See also, Jeffrey Wayne Taylor, *The Formation of the Primitive Baptist Movement* (Ontario: Pandora Press, 2004).

[83] Albert W. Wardin, Jr., *Tennessee Baptists: A Comprehensive History, 1779-1999* (Brentwood: Tennessee Baptist Convention, 1999), esp. Chapters 8 and 9.

[84] Little Cedar Lick Baptist Church Records, June-July 1837, June 1838, SBLA.

Tennessee."[85] The following year, Philip Smart and William Mary donated just over an acre to the Ridge Church of United Baptists, a body "disconnected from the Baptist State Convention and all other institutions contrary to the order of the old united Baptists."[86] For donors such as Bradshaw, Smart, and Mary, Middle Tennessee's changing religious backdrop of the 1830s necessitated a legal bulwark against their property being swept away with opposing doctrine. These actions may seem like benign, ordinary efforts to secure property. And sometimes they were. Yet by tying property to specific doctrinal principles, such stipulations hindered the ability of the church majority to direct their own theological course. If a church, whose property was deeded to a body unaffiliated with the Missionary movement, for example, decided to embrace the Missionary cause, it could engender years of consternation and negotiation between factions for rights to, or control over, the deeded property.

Land Deed stipulations, then, could at times empower seceded or excluded minorities to the detriment of the Baptists' highest earthly authority: the will of the church majority. Such was the case of the Concord Baptist Church of Brentwood, Tennessee, not far south of Nashville. The church divided over the mission question in the fall of 1835. The pro-mission majority, in support of the church's long-time preacher, founder, and one of the "strongest promoters" of the missionary cause in the state, James Whitsitt, ordered the details of the split recorded in the opening pages of their new church book. In 1834, church members had voted overwhelmingly to continue Whitsitt as their pastor. Three dissenters "succeeded in agitating the church painfully on this subject," however, charging that Whitsitt, in pursuing the Missionary cause, had

[85] Spencer's Creek Baptist Church Deed, Wilson County Deed Books, Volume R, 369, TSLA.
[86] Ridge Church of United Baptists Deed, Wilson County Deed Books, Volume R, 454, TSLA.

departed from the "original principles" of the church. Members investigated the charges, but acquitted Whitsitt "by a unanimous vote with the exception of his accusers." The church gave the three dissenters a month to re-think their position and fall in line with the authority of the church majority, demanding also that William Nance, one of the Whitsitt's accusers and the church clerk, turn over the record book. Nance refused and members charged him with, among other things, "a breach of trust in illegally retaining [the church's] property." Nance and his two cohorts withdrew from the fellowship, and the majority excommunicated them for good measure. The controversy continued through that year, with the majority excluding three other members who had "withdrew from the church for reasons of the same kind." Nance and his fellow dissenters claimed they were excluded simply because of their opposition to the workings of the Baptist State Convention. Though only totaling five in number, the group insisted upon recognition as the true Baptist church of Concord. The pro-mission majority, of course, also claimed to be the true Baptist church, even if—as the dissenters asserted—they had drifted from the fundamental principles on which the body was founded.[87]

Negotiations between the two parties turned on the wording of the church's land deed, and provided the minority faction with the exclusive right to the meetinghouse. Numbering near forty members, the majority had successfully retained Whitsitt as their pastor, but their embrace of the Baptist State Convention's more liberal theological principles hindered their access to the meetinghouse. Over the next several years, the clerk recorded meetings that took place in members' homes and at a local school. It appears that in the early 1840s, the majority still had at least partial access to their

[87] Concord Baptist Church Records, Brentwood, Tennessee, 1804-1901, September 1835-May 1836, SBLA.

original meetinghouse, for in December 1843 "the subject of repairing the old meetinghouse or building a new one was agitated." After investigating the matter, the church learned that their former brethren had claimed the meetinghouse and were "determin[ed] on hostile movements" if the majority pursued any further claims to the property. Rights to the "old meeting house and particularly the ground upon which it is built," the clerk recorded, was "connected with the old confession of faith or the fundamental doctrinal principals upon which the Concord Church was first constituted," and no longer ascribed to by their body. A discussion ensued whether the church should adopt their former constitution and confession of faith, which "was rejected by a very large majority." Realizing that by refusing to adopt their former principles, they relinquished their claims to the meetinghouse, the church voted to raise a subscription paper and begin looking "out for a new situation [to] build another."[88]

The Concord Church's lack of a written constitution or articulation of faith inhibited their ability to acquire a sound title to land for a new meetinghouse. In June 1844, the committee appointed to oversee the subscription paper and the erection of a new house of worship reported they had indeed secured a tract of land from one Lafayette Ezell, yet continued that "it will be very difficult for us to obtain a valid deed" to the lot unless "we have some articles or confession of faith in order to tell who we are." Nearly ten years had passed since the first rumblings of dissension had appeared over the mission question, and almost nine since the minority seceded from the main body—claiming recognition as the true church of Concord and rights to the original meetinghouse—and the majority pro-mission body had yet to declare their theological

[88] Concord Baptist Church Records, December 1843, February 1844, SBLA.

principles in constitutional form.[89] On New Year's Day 1845, Ezell conveyed over four acres to the "Missionary or United Baptist Church at Concord."[90] The necessity of securing legal title propelled the Concord Church to profess their faith in writing, to articulate their religious identity in order to gain legal recognition. Their newly acquired property would thereafter be entwined with their liberal, pro-mission standards of faith, and would presumably protect the church from reliving the material uncertainties of the prior decade.

This is not to say that property matters wholly constructed individuals' religious beliefs. Concord Church members signified as much when they voted down the resolution to adopt their old principles—the church constitution and confession of faith associated with their former meetinghouse. But conflict over property certainly exacerbated church schisms and may have informed many individuals' denominational affiliation. In the case of Nashville's First Baptist, for instance, only five members, along with their families, and a "few friends," took part in the reorganization of the Baptist Church in 1830. "Not a few [individuals] were held back by social and family influences which were brought to bear upon them with great power," Rev. Howell insisted, while others, "were down and utterly disgusted with the endless agitations" and ceased attending either of the churches. Yet the small number was also due to the fact that their original meetinghouse on Spring Street—the one deeded to the Baptists but retained by the Reformation Church—was "very handsome." All the members were "very proud" of it, and would have been "obliged to abandon" their "spacious house of worship" and assemble instead "in an unsightly hovel." Moreover, Howell continued,

[89] Concord Baptist Church Records, June 1844, SBLA.
[90] Concord Baptist Church Deed, Williamson County Deed Books, Volume S, 7, TSLA.

"many of the most liberal and wealthy" members of the church "were satisfied to remain" with the Reformation Church. In contrast, the re-organized Baptist body was made up of only a "handful of members, comparatively poor [and] without a house of worship, or the means to build one." Thus, those who remained with the Reformation "saw no prospect for success."[91]

Across the trans-Appalachian West during the post-Revolutionary period, local meetinghouses emerged as sites of contestation over religious doctrine. Churches and land grantors entwined rights to property with specific theological principles—at times hindering the ability of the church authority to adopt new doctrine—and, through state-based law, spatially constructed the bounds of religious tolerance in the new republic. Doctrinal specification in land deeds and subscription papers were only the most subtle ways in which religious groups' utilized state authority to secure their temporal holdings. By the early 1830s, the region's Baptists had witnessed nearly a decade of discord emanating from Alexander Campbell's growing popularity. The schisms emanating from this sectarian insurgency led some churches to seek recourse for their property disputes at local and state courts. Their actions illuminate how the changing religious culture—engendered itself by constitutional enactments separating church and state—necessitated churches' interaction with state authority.

By the time the Kentucky Court of Appeals decided *Curd v. Wallace* (1838), its first dispute over church property arising from doctrinal schism, courts across the United States had experienced decades of litigation between disputing religious factions. In

[91] Howell, *A Memorial of the First Baptist Church*, 33, 66. SBLA.

1790s Vermont, clashes between Congregationalists and Baptists over property erupted. Baptists demanded partial ownership in existing meetinghouses or recompense for fees paid to build and maintain them. Congregationalists also found themselves in heated, sometimes violent, conflict with Methodists and Universalists who they tried to bar from town meetinghouses.[92] A decade later, litigation ensued when Vermont's legislature re-granted all lands which had previously been allotted for religious purposes for the support or education. This litigation continued for decades and germinated two U.S. Supreme Court Cases.[93] More than eighty cases in Massachusetts alone involved Unitarian factions battling their Trinitarian Congregationalist counterparts.[94] And in Virginia, the Assembly's 1802 Glebe Act did not end controversy over churches' property.[95] Nor did it, as historian Thomas Buckley notes, "separate church and state or prevent government's involvement with religious issues or the churches."[96] Indeed, he continues, the "Virginian glebe fight demonstrated the possibilities for the entanglement of church and state, religion and politics that would follow throughout the nation's history."[97]

Although *Curd* proved the first case over a disputed meetinghouse to reach the state's Court of Appeals, Kentucky courts had not been entirely free of conflict over religious groups' property. After two members withdrew from Pleasant Hill Shaker

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[92] Randolph A. Roth, *The Democratic Dilemma: Religion, Reform, and the Social Order in the Connecticut River Valley of Vermont* (New York: Cambridge University Press, 1987), 72-73.
[93] Gordon, "The Landscape of Faith," 30. For the two cases, see, *Town of Pawlet v. Clark*, 13 U.S. 292, Lexis 392, (1815) and *Society for the Propagation of the Gospel v. New Haven*, 21 U.S. 464, Lexis 291, (1823).
[94] Gordon, "The First Disestablishment," 358, footnote 261.
[95] In *Terrett v. Taylor*, 13 U.S. 43, Lexis 366, (1815)—a case involving Alexandria glebe lands which Virginia had ceded to the District of Columbia—Supreme Court Justice Joseph Story claimed the 1802 Glebe Act was unconstitutional. Though, as historian Sarah Barringer Gordon writes, "the case had little practical value outside the District of Columbia, because the Supreme Court's writ did not extend to land law outside the bounds of federal territories." See, Gordon, "The Landscape of Faith," 27.
[96] Buckley, *Establishing Religious Freedom*, 114.
[97] Buckley, *Establishing Religious Freedom*, 115.

community in the 1830s, they initiated suit against the Shakers for the property they had brought into the society. In *Gass v. Wilhite* (1834), the Kentucky Court of Appeals affirmed the lower court's ruling in favor of the Shakers.[98] Writing for the Court, Judge Nicholas pointed to the Shakers' articles of association which clearly stated that new members "bring and devote to the joint interest of the church, all such property as they justly hold &c." If a court ordered the seceding members' property returned, Nicholas claimed, "it must be in direct contravention of their express agreement" made upon entering the Shaker community.[99] The material benefits of membership extended only to those who remained within the fellowship.

Local courts also witnessed disputes involving land and meetinghouses following schism. In 1832, the Fayette Circuit Court heard a case concerning property belonging to Lexington's African Baptist Church. In the early 1820s, church trustees, all free blacks, acquired two separate tracts of land. The first lot had no meetinghouse, while the second had a "suitable house of worship." The church began worshipping at that house, and thus never pursued construction of a house on the first lot. By the end of that decade, "several members" of the church "were expelled therefrom upon charges of immorality" and "united as a separate congregation." The expelled members, acting as a new church, erected a house of worship on the empty lot, and proceeded to use that building for services. The original African Baptist Church denied the new church's claim and sued

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[98] *Gass*, 32 Ky. 170, Lexis 55. Judge Underwood filed a dissent.

[99] *Gass*, 32 Ky. 170-172, Lexis 55. In contrast, Underwood's dissent warned of tying property rights to religious creeds. "Under such convictions, they brought their property…into the society. But an individual member changes his faith; new views and opinions are embraced, and he now believes, that it is as inconsistent with the will of God to continue in the society, as he formerly thought it was his duty. Under such a change, he abandons the society, and claims a share of the property. I think it out to be decreed to him; because, as to him, all the purposes for which the partnership was entered into have ceased; and because, it was entered into for an indefinite period." See, ibid, 199-200.

for "a reasonable compensation for the use and occupation of said property." The case dragged on until the Fayette Court dismissed it with costs in June 1837.[100]

Both these cases foreshadowed litigation appearing in local and state courts over the next four decades. From the 1850s through the early 1870s, Kentucky courts arbitrated property claims in schisms over racial ideology. In the 1830s and early 1840s, however, courts litigated property disputes arising from doctrinal schisms, splits resulting primarily from Campbell and Stone's insurgency. In Kentucky, with schismatic sects relying on the strictures of the 1814 Act, many churches found themselves entrenched in litigation—alongside and against their friends, family, and former brethren—over local meetinghouses. In these cases, doctrine and religious identity often took center stage, availing the state a role in reviewing and determining each.

Thanks to the efforts of John Taylor, the 1828 schism within the Clear Creek Baptist Church of Woodford County was probably the most infamous example of Campbell's influence in Kentucky. The "intruders [had] pushed in," Taylor reported in his 1830 pamphlet, *A History of Clear Creek Church; and Campbellism Exposed*, and through their preaching "divided and distracted the church." After the division, the Baptists of Clear Creek, "like many other distressed places in Kentucky," had to share their house and "forbear to commune together at the Lord's table" with those "vulgarly called Campbellites." Campbell's adherents, Taylor remarked, "seem to be very church hungry; if they cannot get a whole one, they will put up with a scrap."[101] Taylor's comments can be read in two ways. Hungry for new followers and converts to their

[100] "Bill," in *Trustees of African Church v. Welcher Breckinridge*, Fayette Circuit Case Files, Courts of Justice (hereafter FCCCJ), Box 100, Drawer no. 894 (no case number), KDLA.
[101] John Taylor, *History of Clear Creek Church and Campbellism Exposed* (Frankfort: A.G. Hodges, Commentator Office, 2nd edition, 1830), 5-6, 36.

doctrine, Taylor believed that the Campbellites endeavored to sway whole church bodies, or at least a minority faction, to their doctrinal position. His lamentations also point to the material realities of doctrinal dissension and church schism, as church meetinghouses throughout Kentucky emerged as sites of negotiation and controversy for competing religious groups.

Not all disputes over church property emanating from Campbell's Reformation revolved around legal title or even access to the grounds and meetinghouses. At times, the opposing parties had to work out more mundane matters such as building maintenance. The Floyd's Fork Church in Fishersville, Kentucky split over Campbellism in the early 1830s. Both parties retained some access to the meetinghouse, though relations continued to be strained between the two groups. In December 1834, the Baptist body appointed a committee "to see the party claiming a part of this house" to inquire over "putting in a floor of plank" and installing a pulpit. The Reformation Church at Floyd's Fork did not agree to help with the repairs, primarily because Baptist church had not assisted them in building the church benches. Instead of voting internally to pursue construction, the Baptist church's actions were curtailed, and they agreed to dispense with the matter for the time being. Similarly, in the early 1840s, the Harrod's Creek Baptist Church appointed a committee to correspond with the Reformation Church which shared their meetinghouse "to take in consideration the necessity of repairing the meting [*sic*] house." Four years later, the Reformation Church asked the Baptist Church whether "they will give or take one hundred dollars for their interest in the meeting

house."[102] Such negotiations were certainly more common occurrences for churches then litigation in the secular courts, but these more routine parleys demonstrate the pervasive nature of church-property concerns, during and after schisms.

Participants on both sides of the religious controversy understood the importance meetinghouse-access for the continued growth and success of their respective body. John Curd claimed that "the occupancy of meeting houses by opposing parties" was "a great drawback to the progress of the reformation, in Kentucky at least." Yet the actions taken by Curd and his party in their effort to retain proportional usage of the Mount Vernon meetinghouse clearly demonstrated that they believed their expulsions were unjust, and even though they were the minority faction, that they retained rights to the neighborhood's house of worship. Similarly, writing from Lexington in 1834, James Challen informed Alexander Campbell and the subscribers of the latter's *Millennial Harbinger* newspaper—Campbell's successor to the *Christian Baptist*—that the "reformation" was suffering, and he believed it was due primarily to "our having an interest in so many Baptist meeting houses, which precludes the probability of meeting at the same place" and at the same time each week. "I have been almost tempted to pray," Challen continued, "that the disciples may be entirely excluded from every Baptist house in the land." Only then would they be "obliged" to construct their own dwellings. Not

[102] Minutes of the Floyd's Fork Baptist Church (Fishersville, KY), December 1834-January 1835, SBTL. For a similar example see, The Harrod's Creek Baptist Church Records, Crestwood, KY, Volume 1, January/August 1841, December 1845, SBTL.

all the followers of Campbell and his "reformation" agreed on the necessity of expulsion from Baptist bodies or construction of new meeting houses.[103]

The "law of the land" to which Challen referred was, of course, Kentucky's 1814 Act. In many disputes over meetinghouses which entered Kentucky courts the 1814 statute became an issue. Indeed, although legislators had passed the bill with hopes of avoiding the disputation that had arisen in New England and elsewhere, the statute may have propelled disputing factions to pursue recourse through the state legal system.[104] Prior to the Civil War, the Kentucky Court of Appeals ruled on at least six cases in which the 1814 Act became an issue.[105] In Tennessee, where the legislature failed to pass a nearly identical law in 1827, and where churches were similarly divided over doctrine and form of church government, I have yet to discover any state Supreme Court cases.[106]

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[103] James Challen, "Lexington, Ky, June 14, 1834," *The Millennial Harbinger*, 1st series, Volume 5, pp. 333-334; John Curd, "Lexington, Ky., Oct. 4,1834," *The Millennial Harbinger*, 1st series, Volume 5, pp. 573-574.

[104] Note, "Judicial Intervention in Disputes over the Use of Church Property," *Harvard Law Review* 75 no. 6 (April, 1962): 1152, note 57.

[105] See, for example, *Curd et al v. Wallace et al* (1838) 37 Ky. 190; *Shannon et al v. Frost et al* (1842) 42 Ky. 253; *Gibson et al v. Armstrong* (1847) 46 Ky. 481; *Hadden et al v. Chorn &c.* (1847) 47 Ky. 70; *Scott &c. v. Curle &c.* (1848) 48 Ky. 17; *Berryman v. Reese &c.* (1850) 50 Ky. 287.

[106] For the failed bill in Tennessee, see, "A Bill to secure religious society's [sic] & congregations in the peaceable & uninterrupted enjoyment & possession of their houses and tenements appropriated to the purposes of worship & devotion," 17th General Assembly, Box 100, Folder 9,TSLA. It does not appear that any other state during the antebellum period passed a similar statute. See, William Henry Roberts, *Laws Relating to Religious Corporations: being a collection of the general statutes of the several states and territories for the incorporation and management of churches, religious societies, presbyteries, synods, etc.* (Philadelphia, Presbyterian Board of Publican and Sabbath-School Word, 1896); See also, RH Tyler, *American Ecclesiastical Law: The Law of Religious Societies, Church Government and Creeds, Disturbing Religious Meetings, and the Law of Burial Grounds in the United States with Practical Forms* (Albany: William Gould, Law Bookseller and Publisher, 1866). One problem with Tyler's work, however, is that he does not even mention the 1814 Act nor the similar measure retained in the 1852 Revised Statutes. Some state courts in the region did address church property and schism. The Ohio Supreme Court ruled in *Methodist Episcopal Church of Cincinnati v. John Wood*, 5 Ohio 283, Lexis 159, (1831) that seceding members from an organized church did not retain rights to the property of the church from which they departed. Likewise, three years later, that Court ruled in *Keyser v. Stansifer*, 6 Ohio 363, Lexis 86, (1834) that a church majority that held property in fee simple could not be deprived of its control because of their supposed adoption of doctrinal error. Neither, however, could the church expel the minority, their "fellow-corporators" from the property's use. The minority's claim for sole usage was denied. Judge Lane, writing for the Court declared that Baptists, as independent bodies, had control over their theological course. "The

In the conflict over the Mt. Vernon meetinghouse, the 1814 Act centered prominently, even before the case reached the Woodford County Circuit Court or the state appeals court. Pastor Fishback testified that Curd and his fellow dissenters were well aware of the 1814 Act, and specifically that the dissenters believed the law provided them a right to the meetinghouse. For his part, Fishback read the statute from the pulpit in an effort to convince the dissenters that Curd had misunderstood the legislators' intent in passing the measure.[107]

No matter how disputants interpreted the law, however, the 1814 Act paved the way for judges to review or revise actions taken by church majorities. In his opinion in *Curd v. Wallace* (1838), Justice George Robertson of Kentucky's Court of Appeals lamented that the case file exhibited "a large mass of polemical theology" which "was probably abstract and unessential" and certainly not "the province nor the inclination of this Court to consider." Civil courts had no business determining whether "the Church of Christ" under Fishback was "essentially" a Baptist Church or part of the Baptist Society as understood by Harris and Branham, the grantors of the land. Nor was it necessary or proper to determine whether the "reformers" led by Curd were part of the Baptist society or not. Instead, Robertson insisted, the court could only consider the controversy so far as

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opinions of such a body can not [*sic*] but change," he wrote. "To fix their fleeting wherries [*sic*]; to anchor them immovably in the stream of time is beyond human power; for the mind, at least, is free; ranging by its inherent strength through the boundless fields of knowledge, molding its belief according to its apprehension of the trust, and incapable of fixedness until the day when all truth shall be made known. And if it were possible, it were wrong; to limit activity of mind is to set boundaries to human knowledge." See, ibid., 365-366. The Illinois Supreme Court, in *Ferraria v. Vasconcelles*, 23 Ill. 403, Lexis 246, (1860), pointing to a number of Kentucky cases—including, *Shannon*, *Curd*, *Gibson*, and *Hadden*—ruled that in case of schism, the property should remain with the church that adheres to the tenets of discipline and organization to which was the property was originally dedicated.

[107] "Deposition of James Fishback," p. 25, 28-29, *Bennett et al v. Curd et al*, Folder 1, CJWCC, KDLA.

it "involves the right of property or use" between the two groups.[108] Though clearly striving to avoid meddling in church affairs, the court's decree, relying upon the 1814 Act, did just that. Robertson granted Curd's schismatic church proportional usage based upon its seceding members, despite the fact that many of those seceding members had been excommunicated by a regular vote of their former church. This, of course, touches on one of the Act's potential problems, specifically its first proviso mentioning "immorality." For who defines "immorality?" The judges? The church body itself? The legislators, in both the 1814 measure and the 1852 Revised Statutes, failed to define the term. Fishback claimed the dissenters *had* acted immorally when they fomented division within the church. "By immorality is ment [sic]," he wrote, "'<u>any act, conduct, or practice, which contravenes the divine commands or the social duties of the members of the Church</u>'."[109] For Fishback, and surely other members of his church, the court's allowing of members deemed immoral by the church to continue using their meetinghouse, smacked of state interference.

Indeed, during the 1830s, some observers denounced the 1814 Act as a threat to religious liberty. In 1835, "A Spectator" called upon state legislators to repeal the law. During the previous five years, he lamented, it was "believed that at least fifty adverse claims to the use of meetings houses" in Kentucky had been taken up "by a new sect that call themselves Reformers, composed of the followers of A. Campbell and B.W. Stone." These individuals may not have been pushed out of the Baptist ranks for traditional immoralities, but they had "created schisms and divisions in churches" and failing in both

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[108] *Curd*, 191-192, Lexis 118.
[109] *Curd*, Ky. 190-198, Lexis 118; "Deposition of James Fishback," 3, *Bennett et al v. Curd et al* (1836), Folder 1, CJWCC, KDLA. Fishback quotes the "Webster Dict." Underlining in original.

their religious and civil duties. Their actions constituted immorality, Spectator insisted, because immorality was anything that went against the commands of God or "'*violate[d] social duties.*'" It was fine if individuals changed their religious viewpoints and left their former church in peace. But the Reformers, and especially those who sought to retain the use of Baptist meetinghouses, brought only "disorder and strife." By facilitating the Reformers, the 1814 Act had brought "the destruction of the comfort, peace, and happiness of churches," as well as "neighborhoods and families," and needed to be immediately repealed. If not, then the legislature would continue to reward "disorderly and licentious men" for violating "the rights and good order of religious society" and corrupting "the good morals of the state."[110]

The Act, too, held the potential to encourage dangerous religious ideas to gain influence and adherents. On the same page of the *Baptist Banner* as Spectator's editorial, an anonymous article warned readers that the Act enabled more than simply Campbellites or other Reformers. "For should some two or three members of a church become Mormonites [*sic*], or followers of Matthias; or even Deists or Atheists…what is there [in the 1814 Act] discussed by [Spectator], to debar them from using the meeting house to propagate their dangerous and demoralizing sentiments?" Already, the writer continued, he knew of meeting houses in Kentucky where "as many as three parties" claimed the same space to worship.[111] In Nashville, Tennessee, where no law provided proportional usage for schismatic groups, observers echoed this sentiment in public arguments over

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[110] "A Spectator", "To the friends of good order," *The Baptist Banner*, 12 December 1835. "A Spectator" was probably Pastor James Fishback, and if not, then someone closely connected with Fishback's church, since some of the language mirrors Fishback's own writings and the article's appearance coincided with the trustees filing suit at the circuit court.

[111] Unsigned, Untitled article, *The Baptist Banner*, 12 December 1835.

access to houses of worship. One writer asked his opponents (who had retained the use of the church building after a schism) what they would do if a majority of their body suddenly became "Mormons, or Jumpers." Would they give up their meetinghouse and "walk off content with the result[?]"[112] This may have been a back-handed insult at the supporters and congregants of the Campbellite Church. Yet statements such as these display the growing cultural anxiety over the prevalence of non-belief and the rise of marginal religious movements. As communities' central social and spiritual sites, meetinghouses were too important to allow them to fall in the hands of professors of unorthodox, disorderly, or dangerous religious principles.

In its decree, Robertson and the Court addressed the possibility of marginal religious groups gaining access to property. Noting the "anomalous, and somewhat perplexing" provisos of the 1814 Act, Robertson sought to calm Fishback and others who feared the law availed their local meetinghouses to religious outsiders. Robertson insisted the legislature did not intend to secure meetinghouses to those who "renounce the christian [*sic*] religion and become infidels or Mahometans."[113] Rather, the Act was intended as a check on trustees' authority in doctrinal disputes. It sought to leave disputing parties "to ecclesiastical discipline and authority, to the protection of their own christian armor, and to the guidance of their own christian charity and prudence."[114] Yet to Fishback and his church, the Act appeared to do exactly the opposite. It rewarded those excluded by a regular vote of the church, deferring church authority to that of the state. Throughout his decision, Robertson appeared uncomfortable applying the Act.

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[112] James Whitsitt, "Article 3--No Title," *Nashville Republican,* 25 July 1835, p. 3.
[113] *Curd*, 196.
[114] Ibid., 197.

Subsequently, although a number of schismatic factions initiated suits based upon the 1814 Act, after its ruling in *Curd*, the Court interpreted the statute rigidly, applying it only in cases in which the trustees had been appointed according to its strictures, and dispensing with the Act when the property in question remained in the hands of the original trustees.[115]

But even cases in which Kentucky courts ruled the 1814 Act inapplicable, some jurists meddled with actions taken by church authorities. Frankfort's First Baptist Church divided over Campbell's doctrine in 1841. The majority excluded a number of members who then formed a new church a right to worship the meetinghouse. Seeking exclusive control over the property, the Baptist majority faction "invoked the intervention of the civil power by filing a bill" at the Franklin Circuit Court. That court ordered the Baptist Church to hold a new election for its board of trustees and directed that members recently excluded could vote in the matter. Upon hearing the case in 1842, the Court of Appeals, rejected the Reformation Church's invocation of the 1814 Act. Secular courts, "having no ecclesiastical jurisdiction," said the justices, "cannot revise or question ordinary acts of church discipline or excision." The exclusions, the court continued, meant that they are no longer members of that society, and thus no longer "entitled to any rights or privileges incidental or resulting from membership therein."[116] The Court's deference to actions taken by the church body, a tactic it again utilized five years later in *Gibson v. Armstrong* (1847) and in *Berryman v. Reese* (1850), would eventually be sanctioned by the United States Supreme Court in its first church-property case, *Watson*

[115] Some of these case, such as *Scott &c. v. Curle &c.* (1848) 48 Ky. 17, involved the 1835 Act.
[116] *Shannon et al v. Frost et al* (1842), 42 Ky. 253.

v. Jones (1872), which involved the Walnut Street Presbyterian Church of Louisville.[117] These cases and others highlight the continuing process of constructing the boundaries of civil and religious authority after disestablishment, a process which continued throughout the period at local, state, and federal levels.

The Kentucky Court of Appeals increasingly relied upon the deference principle in its decrees, yet church property cases still provided avenues for state authority to determine a group's religious identity. At the center of many church-property cases was a congregation's denominational affiliation, especially when the land had been deeded to a specific group. The subscription paper for the Mt. Vernon meetinghouse indicated that the house was to be "For the benefit of the Baptist Society," and both sides jockeyed for recognition as a Baptist body while insisting that their opponents were heretical in their doctrine. Curd and his co-defendants denied that they or their pastor, F. Palmer, held any heretical beliefs, expressing their willingness "to submit to the most rigid scrutiny on these points." When asked if Fishback's church was "any part of the Baptist Society," member Robert Risk asserted that "I did not join it on such & joined believing it to be the Church of Christ." Risk's sentiments were echoed by former member, Robert Adams, who averred that "so fare [*sic*] as I know they are not recognized by the Regular Baptist Society as a Regular Baptist church." Adams had heard from current members, too, that Fishback's church had changed their name, established open communion, and asked to be dismissed from the Elkhorn Association. Witness William Poindexter testified that he had personally heard Fishback declare that "the name Baptist was a sectarian tag & the

[117] *Watson v. Jones* 80 U.S. 679 (1871). In that case, the Supreme Court points to *Gibson v. Armstrong* (1847) 46 Ky. 481, among other cases, when discussing the deference rule; *Berryman v. Reese &c.* (1850) 50 Ky. 287.

association a biding place for the devil[.]"[118] One witness even insisted that he heard Fishback claim that "if the house was not awarded to them he would advise [his] church" to rejoin the Elkhorn Association or General Union of Baptists, "by which means [his church] would be able to get the house."[119] Fishback, of course, claimed his church was of the regular Baptist order, yet it went by the appellation of "Church of Christ" and had voluntarily departed from the Baptists' regional governing association. Indeed, prior to the court case, an arbitration committee ruled that neither Fishback's nor Curd's church were Baptist organizations.[120] Despite the land-deed strictures and the testimony, however, the court of appeals awarded control—though not exclusive usage—of the house to Fishback's church.

In other cases, too, the Court strayed from the original land deed's doctrinal or denominational specifications. In 1847 it awarded a meetinghouse to the *United* Baptist Church of Washington despite the original deed's stipulation that the property was for the use of the town's *Particular* Baptist Church. Observers testified that the United Baptist Church was not a Particular Baptist Church, that it adhered to a different doctrine of salvation, and that the Particular Baptist governing Association in Kentucky did not recognize or correspond with that body as a Particular Baptist Church.[121] The court

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[118] See "Deposition of Robert Risk," *Bennett et al v. Wallace et al*, Folder 1, CJWCC, KDLA There was much debate over whether changing the name of the church body from "Baptist" to "Church of Christ" in some way lessened that body's affiliation with the Baptist denomination which would then weaken their potential to the sole use of the meetinghouse. See deposition of William Poindexter, Folder 1, ibid. The quote about Baptist being a sectarian term, is pulled from a question by the defendants to Poindexter as to whether he had heard Fishback making such statements, to which Poindexter answered, "I have."

[119] "Deposition of James McConnell," Folder 2, ibid.

[120] For Fishback's doctrinal leanings, see, Curd Steele & Redd "Answers," 4-5, Folder 1, ibid.; James McConnell, one of the arbitrators testified that Fishback claimed he would return to the General Union of Baptists in order to get the house if necessary. See, "Deposition of James McConnell," Folder 2, ibid.

[121] See, for example, ""Deposition of Thomas P Dudley," in *Garland Biggers & others v. Oliver Cahill & others* (1846) NCCCF, KDLA.

insisted that a change in name did not entail a change in religious identity. Throughout the early nineteenth century, however, "United" Baptists and "Particular" Baptists did distinguish themselves from one another, and at times the differences caused schisms in both individual churches and their regional governing associations.[122]

The following year, in *Scott v. Curle*, the Court again deviated from the strictures of the land deed—which had clearly directed the property to the Regular Baptists—and awarded the meetinghouse to the schismatic Reformation Church, even after acknowledging that the latter had "dissolved all connection with the Baptist order."[123] Over twenty-years later, the United States Supreme Court insisted that civil courts could not deviate from property donors' express terms, claiming, "it is not in the power of the majority of [a] congregation, however preponderant, by reason of a change of views on religious subjects to carry the property…to the support of a new and conflicting doctrine."[124] This ruling, surely, would have gratified numerous Kentucky and Tennessee Baptists who watched as their property was swept away by Campbellite factions during the antebellum period.

The Kentucky Court of Appeal's rulings in these cases were certainly not the last word on matters of church property in that state or, of course, throughout the nation. Indeed, from the 1850s through the early 1870s, disputes over church-property percolated

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[122] For an example of a church schism resulting from one faction adopting Particular Baptist principles, see, Bryan's Station Church Record Book, March 1811/December 1812, KHS; See also the opening pages of the South Elkhorn Baptist Church Records, 1822-1857, KHS; For division in a governing association, see, Minutes of the Elkhorn Baptist Association, 1812, http://baptisthistoryhomepage.com/1812.ky.elkhn.lick.bry.st.html. Accessed 7 October 2014.

[123] *Scott, &c. vs Curle, &c*. (1848) 48 Ky. 17. In some instances, courts had good reason to disregard clauses in land deeds. In *Curle*, for instance, the Reformed Church had sole use of the building for nearly a decade until a group of nearby Baptists, knowing that the house had been deeded for that denomination's use, organized a new church and pushed to gain control over the property. In that case, the court looked to continued use rather than the doctrinal stipulations of the land deed.

[124] *Watson v. Jones*, 723.

through Kentucky's courts. In cases such as *Harper v. Straws* (1853)[125] and *Gartin v. Penick* (1868)[126], the Court continued crafting its jurisprudence of disestablishment. This process came to a head in Kentucky with the dispute over the Walnut Street Presbyterian Church in Louisville, a congregation divided between allegiances to the denomination's Northern and Southern branches. That case eventually reached the U.S. Supreme Court in 1871, and served as precedent for subsequent church-property conflicts for nearly a century.

But rather than a beginning, the cases over racial ideology serve as bridge between antebellum disputes arising from doctrinal controversy and those of the twentieth century.[127] The pre-war cases in Kentucky illuminate not only the connection of church and state—despite no legacy of establishment in the state—through the first-half of the nineteenth century and beyond, but how the democratizing religious culture propelled churches' to seek out state authority to protect their property. In his answer to the original bill at the Woodford County Court, John Curd lamented his "mortification and pain" in arguing "spiritual matters in a tempiral [*sic*] court." Yet it did not stop him or his co-defendants from attacking Fishback's doctrinal inconsistency and herald their own orthodoxy in testimony, or, when the lower court's ruling went against them, seek further recourse at the Court of Appeals. Like their counterparts throughout the region

[125] 53 Ky. 39, Lexis 14.
[126] 68 Ky. 110, Lexis 236.
[127] Recently, church property disputes have found new life due to the cultural politics of gay marriage. See, for example, Michelle Boorstein, "After Prolonged Legal Battle, Virginia Episcopalians Prepare to Reclaim Property," *The Washington Post*, February 11, 2012, accessed August 26, 2014, http://www.washingtonpost.com/local/after-prolonged-legal-battle-virginia-episcopalians-prepare-to-reclaim-property/2012/02/08/gIQAhfJI7Q_story.html.

(and across the young nation), they appealed to state authority to settle disputes that their church tribunals could not successfully mitigate.

It is a mistake, however, to center the examination solely upon cases which reached local and state courts. Neighborhood meetinghouses served as important sites for individuals' spiritual and social interaction, and from the earliest days of settlement, churches looked to the state in order to claim and maintain their property. State authority worked in subtle ways to shape religious matters. Whether through incorporation or stipulations in land deeds and subscription bonds, legal authority protected churches' temporal property and implicitly constructed the boundaries of sacred space, upholding communities' understandings of religious orthodoxy while barring others from "republican" meetinghouses. Rather than moving in "clearly defined" and "separate spheres," as Judge Robertson claimed in *Gartin*, church and state—religious and civil authority—often crisscrossed during the early-republican and antebellum-periods. Baptists, especially, but other religious groups as well, often pride themselves on their autonomous natures. Yet, as disputes over church property clearly demonstrate, churches are "artifacts of the state," reliant on its protection, and subject to its authority. By seeking out state assistance, Baptists, who had fought so passionately for the separation of church and state during the Revolutionary era, inadvertently opened the door for civil authority to shape ecclesiastical affairs.

EPILOGUE

> "I desire to see…that every disorderly person and church may be made to feel the authority of Christ's laws, and every good member of society inspired with growing confidence in their protection."[1]

In January 2012, Fairfax County Circuit Court Judge Randy Bellows ordered nearly $40 million worth of church property returned to Virginia's Episcopal Church. Five years earlier, a number of conservative congregations—upset with, among other things, the Church's celebration of same-sex relationships and ordination of gay clergy—broke away from the Episcopal Church and joined the Anglican Church of Nigeria.[2] The schismatics, according to Michelle Boorstein of the *Washington Post*, took with them some of the "largest, most prominent churches in the region," leaving those who stayed behind worshiping in "borrowed basements and empty houses."[3] Applying the "neutral

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[1] James Fishback, *Defence of the Elkhorn Association and the Terms of General Union Among the Baptists in Sixteen Letters; Addressed to Elder Henry Toler, Pastor of the Grier Creek Particular Baptist Church; in Answer to his Publication Entitled "Union--No Union*." (Lexington: Printed for the Author by Thomas T. Skillman, 1822), 50, Filson Historical Society, Louisville, Kentucky.

[2] The Anglican Church of Nigeria, or the Convocation of Anglican Nigerians in North America, was initially established in to oversee expatriate Nigerian congregations in the United States. It began accepting congregations that had broken away from the Episcopal Church, and by 2007 had grown to 60 congregations in 18 states with a total membership of 12,000 (10,000 of which worshiped in congregations previously affiliated with the Episcopalians). See, Randy I. Bellows, *LETTER OPINON OF THE COURT REGARDING THE COMPLAINTS FILED BY THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA AND THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF VIRGINIA AND THE AMENDED COUNTERCLAIMS FILED BY THE CANA CONGREGATIONS*, 10.

[3] Michelle Boorstein, "After Prolonged Legal Battle, Virginia Episcopalians Prepare to Reclaim Property," *The Washington Post*, February 11, 2012, Accessed August 26, 2014,

principles of law," Bellows insisted that upon examining Virginia statute law, land deeds, and the Constitution and Canons of [the Episcopal Church] and the Diocese," that it was "overwhelmingly evident" that the Episcopal Church had "contractual and proprietary interests" in the property of seven disputed churches. He ordered the congregations recently affiliated with the Anglican Church of Nigeria to "promptly relinquish control over the properties to the Diocese."[4]

On the heels of the court's decree, those who remained with the Episcopal Church expressed an eagerness to return to their former churches. Deborah Miller claimed the Falls Church where she had worshiped from 1982 until the schisms was "within the fabric of who we are. It's a holy place."[5] Similar frustrations had been evoked in the 1840s by Nancy Pierce when she testified about her desire for the nearby Bethlehem meetinghouse to be re-opened for her Baptist congregation. John Curd and his fellow recusants conjured the same emotions in their battle with James Fishback and his followers at Mt. Vernon, arguing that the dissenters had not only helped construct the meetinghouse, but were settled in a "convenient distance" from the property, and thus entitled to its use.[6] In each case, the dispossessed congregation sought out state authority in hopes of regaining access to their local church buildings. The state's role in settling each dispute illuminates the continued linkage between church and state throughout American history.

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http://www.washingtonpost.com/local/after-prolonged-legal-battle-virginia-episcopalians-prepare-to-reclaim-property/2012/02/08/gIQAhfJI7Q_story.html.

[4] *Letter Opinion*,104, 110.

[5] Boorstein, "After a Prolonged Legal Battle."

[6] "Deposition of Nancy Pierce," in *Trustees of Church of Bethlehem vs Benjamin Howe & John Curle* (1847) Bourbon County Case Files, Court of Justice, (hereafter BCCFCJ) Box 142, Case # 21645, Kentucky Department of Library and Archives, Frankfort, Kentucky (hereafter KDLA); "Remonstrance," *Bennett et al Trustees of the Mt. Vernon Church vs. Curd et al* (1836) Folder 2, Box 69, Case 7914, Court of Justice, Woodford Circuit Case files, 1833-1837, (hereafter CJWCC), KDLA.

Disestablishment at the state and federal levels during the post-Revolutionary period repositioned churches as private institutions, presumably removed from asserting state-like governing powers. Yet as we have seen, Baptist churches in Kentucky, Tennessee, and across the South and West, claimed broad jurisdiction over their members' personal and public affairs. They encouraged members to refrain from "going to law" with another, and served as important law-making sites for all members regardless of their sex, race, or social status. Churches litigated disputes over contract, land-sales, and slave warranty cases. They policed household relations—at times serving as sites of authoritative recourse for abused dependents—and protected the purity of their own covenanted communities by expelling unrepentant transgressors as well as those who bucked church authority by propagating doctrinal dissension. Baptists insisted, as Reverend Eleazer Savage did in 1844, that church tribunals served as "the only *proper judicatory*, before which matters of difficulty can be brought; and the only *proper court*, wielding the power of ultimate decision."[7]

Church tribunals' operations—and their potential effectiveness—however, were entangled with the legal, economic, and cultural transformations that gripped much of the nation in the first-half of the nineteenth century. By 1830, middle Tennessee and north-central Kentucky were no longer outpost societies far from governing authority and isolated from national and international markets. Rather, both areas had developed into vibrant commercial centers with their residents fully engaged in the expanding market economy. The region's overall growth gave rise to a class of wealthy planters, lawyers, merchants, and manufacturers who disseminated middle-class values of domesticity and

[7] Eleazer Savage, *Manual of Church Discipline* (Rochester: Sage & Brother, 1844), 55. Italics in original.

family-privacy. The more fluid gender- and racial-relations of the immediate post-Revolutionary period dissipated, and the churches' opportunities for authoritative recourse for women and blacks were tempered.

Alongside these economic and social transformations—and in some cases facilitating them—a social relations by contract vision for society assumed precedence in American legal and intellectual thought. While middle-class families insisted upon domestic privacy, state-law makers gradually reformulated the law of the household. In Tennessee and Kentucky, progressive divorce measures not only provided women greater leeway in separating from an abusive or neglectful husband, but also clashed with Baptists' scriptural vision for marriage as a lifelong contract. The increasingly liberal economic order embraced by so many Americans during the period, too, led to calls for a legal system based upon predictability, free from subjectivity or passion. For many antebellum Baptists, the decrees emanating from their church meetinghouses were riddled with factionalism and prejudice. So, while individuals such as Jacob Creath insisted he would never trust the church with his "character and property" again, religious treatise writers engaged in a broad effort to formalize Baptist jurisprudence.[8] It was too little too late, as the antebellum period proved the beginning of discipline's slow marginalization in Baptist church life.[9]

As Creath and others heralded the operations of state-based law above legalities rooted in local churches, American religious groups were still dealing with the profound

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[8] Jacob Creath, Jr., *A History of Facts in Relation to the Conduct of Henry Foster, From the year 1831 to the year 1840*, in *Foster, Clark, & Talbot v. Creath, Hiske &c.*, 15, Fayette County Circuit Case Files, Courts of Justice (hereafter FCCJ), Box 91, Drawers 811, case 60, Kentucky Department of Library and Archives, Frankfort, Kentucky (hereafter KDLA).

[9] Gregory A. Wills, in *Democratic Religion: Freedom, Authority, and Church Discipline in the Baptist South, 1785-1900* (New York: Oxford University Press, 1997), 117.

changes unleashed by disestablishment and the process of reconfiguring their roles in society and their relationship with the state. The very free-religious marketplace that Baptists and other evangelicals fought for in late-eighteenth-century Virginia, while instituting religious liberty and removing tax support for the Anglican Church, also gave rise to a competitive denominational-landscape which required many churches to resort to state authority to secure their property rights. Churches' experience with dissension and schism added to, and in some cases produced, the factionalist spirit Creath and others derided during the early nineteenth-century. In the trans-Appalachian region, divisions in the Baptist-ranks over missions, the utility of associations, and, especially, the Stone-Campbell movement, hindered churches' effective practice of discipline and led many individuals to re-think their churches as legal sites, and thus re-conceptualize a central aspect of church ritual. Moreover, by entwining property rights with doctrinal principles in land deeds and subscription bonds, grantors of land or money, and at times whole communities, turned to state authority to secure public spaces of worship for professors of particular creeds. Their actions implicated state-based law in excluding unorthodox religious groups and held the potential—especially in congregationally-based groups like the Baptists—to hinder the church majority in directing their theological evolution. When this failed, when church tribunals could not contain internal disputes, and when schismatic groups ignored or contested land-deed stipulations, opposing groups found themselves in local and state courtrooms debating religious doctrine alongside the legal and opening the door for judges to review ecclesiastical affairs.

In some ways this whole story is one of security. Moving across the mountains and away from family and friends, Baptists constructed their own disciplined

communities to thwart disorder and find refuge from a rather chaotic frontier experience. As Baptists and Americans of all religious backgrounds encountered the expanding market-economy of the post-Revolutionary period, they sought more rigorous, more objective legal sites to secure their property claims and uphold their contractual obligations. Rooted in churches' member-relations, Baptist jurisprudence appeared mired in faction and prejudice, an atmosphere exacerbated by the religious controversy that gripped so many churches during the 1820s and 1830s. Campbell and Stones' questioning of creeds, covenants, and articles of faith that had served to secure churches' doctrinal boundaries upended many of these inclusive communities of believers, engendering dissension, schism, and competition for both members and adherents. The quest to secure land, to buttress a church's claim to specific property, led some individuals to inscribe their theological principles in state-backed legal instruments. Others, of course, sought their property's security through direct recourse to local and state courts.

This is more than a story about Kentucky and Tennessee Baptists and their quest to maintain their neighborhoods' peace. It certainly demonstrates how religious men and women adapt aspects of their doctrine and ritual to better fit the "usages of the times." But it is also about communities' social-relations in flux under the pressures of legal, economic, and cultural diversification, and how local authorities, whether they be within churches, within homes, or among empaneled jurors, lost, and in some cases ceded authority, to more expansive governing institutions. It is about individuals' confronting, reinforcing, and at times destabilizing traditional forms of regulation or social ordering.

In the end, it shows how individuals at once crafted and participated in a fluid marketplace of authority.

BIBLIOGRAPHY

BIBLIOGRAPHY

Published Primary Sources:

Reply of the Committees of the Washington & Lewisburg Baptist Churches, To the Proceedings of the Mayslick Church, and Council, held in Mayslick, December, 1845, and published in the Baptist Banner in January, 1846. Maysville: Maysville Eagle Office, 1846. In *Baptists in Kentucky: Pamphlets from the Durrett Collection*.

Reply of the Washington Church to the Proceedings of the Bracken Association held in Millersburg, Bourbon Co. KY., September 1847. Maysville, KY: J. Sprigg Chambers, Printer, 1847. In *Baptists in Kentucky*.

Butler, Mann. *A History of the Commonwealth of Kentucky*. Louisville: Wilcox, Dickerman and Co., 1834.

Collins, William. *Narrative: Containing a Statement of Facts in Relation to the Exclusion of William Collins and William Anderson from the Elizabeth Church of Particular Baptists in Bourbon County*. Frankfort, KY: Hodges, Todd & Pruett—Printers, 1843. In *Baptists in Kentucky*.

Crowell, William. *The Church Member's Manual, of Ecclesiastical Principles, Doctrine, and Discipline: Presenting a Systematic View of the Structure, Polity, Doctrines, and Practices of Christian Churches, as Taught in the Scriptures*. Cincinnati: Geo. S. Blanchard, 1873.

_____. *The Church Member's Hand-book: A Guide to the Doctrines and Practice of Baptist Churches*. Boston: Gould, Kendall and Lincoln: 1850.

Evans, Silas J. *A History of Persecution for the Truth's Sake in Louisville, KY*. Louisville: Printed for the Author, 1858. In *Baptists in Kentucky*.

Fishback, James. *Defence of the Elkhorn Association and the Terms of General Union Among the Baptists in Sixteen Letters; Addressed to Elder Henry Toler, Pastor of the Grier Creek Particular Baptist Church; in Answer to his Publication Entitled "Union--No Union*." (Lexington: Printed for the Author by Thomas T. Skillman, 1822).

Howell, R.B.C. *A Memorial of the First Baptist Church at Nashville, Tennessee from 1820 to 1863 by a Member of the Church* (1863).

Rice, David. *An Outline of the History of the Church in the State of Kentucky, During a Period of Forty Years Containing the Memoirs of Rev. David Rice, and Sketches of the Origin and Present State of Particular Churches, and of the Lives and Labours of a Number of Men Who were Eminent and Useful in their Day*. Lexington: Thomas T. Skillman, 1824.

Savage, Eleazer. *Manual of Church Discipline*. Rochester: Sage & Brother, 1844.

Taylor, John. *A History of Ten Baptist Churches, of which the Author has been Alternatively a Member*. Frankfort, Ky.: J.H. Holeman, 1823.

_____. *History of Clear Creek Church and Campbellism Exposed* (Frankfort: A.G. Hodges, Commentator Office, 2nd edition, 1830),

Walker, Warham. *Church Discipline: An Exposition of the Scripture Doctrine of Church Order and Government.* Utica, NY: Bennett, Backus and Hawley, 1844.

Published Legal Digests:

Acts Passed at the First Session of the Twenty Second General Assembly, for the Commonwealth of Kentucky: Begun and Held in the Town of Frankfort, on Monday the Sixth Day of December, One Thousand Eight Hundred and Thirteen, and of the Commonwealth the Twenty-Second. Frankfort, KY: Gerard & Berry--Printers for the Commonwealth, March 2d, 1814.

Acts Passed at the First Session of the Twenty-Fourth General Assembly, For the Commonwealth of Kentucky, Begun and Held in the Town of Frankfort, on Monday the Fourth day of December, One Thousand Eight Hundred and Fifteen, and of the Commonwealth the Twenty-Fourth. Frankfort: Gerard & Berry--Printers for the Commonwealth, 1816.

Acts Passed at the First Session of the Twenty-Fourth General Assembly of the State of Tennessee, 1841-42. Murfreesborough [*sic*]: D. Camerson & Co., Printers to the State, 1842.

*Acts of the General Assembly of the Commonwealth of Kentucky: Passed at the December Session, 1842*Frankfort: A.G. Hodges, State Printer, 1843.

Caruthers, R. L. and Nicholson, A.O.P., eds. *A Compilation of the Statutes of Tennessee of a General and Permanent Nature from the Commencement of the Government to the Present Time. With References to Judicial Decisions, in Notes, to which is Appended a New Collection of Forms*. Nashville: Steam Press of James Smith, 1836.

Clay, C. C., ed. *A Digest of the Laws of the State of Alabama: Containing All the Statutes of a Public and General Nature, in Force at the Close of the Session of the General Assembly, in February 1843*. Tuskaloosa [*sic*]: Marmaduke J. Slade, 1843.

Kent, James. *Commentaries on American Law, Vol. 1*. New York: G.F. Hopkins & Son, 1826.

Littell, William, ed. *The Statute Law of Kentucky, 1798-1801, Volume II.* Frankfort: Johnson & Pleasants, 1810.

_____. *The Statute Law of Kentucky, 1808-1811, Volume IV*. Frankfort: Printed For William Hunter by Robert Johnston, 1814.

Loughborough, Preston S. *A Digest of the Statute Laws of Kentucky, of A Public and Permanent Nature, Passed Since 1834, With References to Judicial Decisions. Together with an Appendix Containing Certain Laws of the United States, A List of Claims Payable at the Treasury of the State, With Instructions and Forms for the Authentication Thereof, and for the Accounts andReports of the Jury Fund; and Forms of Certain Proceedings in County Courts and Before Justices of the Peace*. Frankfort, Ky: Printed by Albert G. Hodges, 1842.

Morehead, C. S. and Brown, Mason., eds. *A Digest of the Statutes Laws of Kentucky: of a Public and Permanent nature, From the Commencement of the Government to the Session of the Legislature, Ending on the 24th February, 1834. With References to Judicial Decisions, Volume 1*. Frankfort: A.G. Hodges, 1834.

Roberts, William Henry. *Laws Relating to Religious Corporations: being a collection of the general statutes of the several states and territories for the incorporation and management of churches, religious societies, presbyteries, synods, etc.* Philadelphia, Presbyterian Board of Publican and Sabbath-School Word, 1896.

Tyler, R.H. *American Ecclesiastical Law: The Law of Religious Societies, Church Government and Creeds, Disturbing Religious Meetings, and the Law of Burial Grounds in the United States with Practical Forms*. Albany: William Gould, Law Bookseller and Publisher, 1866.

Secondary Sources:

Aron, Stephen. "Lessons in Conquest: Towards a Greater Western History," *Pacific Historical Review* 63, no. 2 (1994): 125-47.

_____. "The Significance of the Kentucky Frontier," *The Register of the Kentucky Historical Society* 91, no. 3 (Summer, 1993): 298-323.

_____. *How the West was Lost: The Transformation of Kentucky from Daniel Boone to Henry Clay*. Baltimore: Johns Hopkins University Press, 1996.

Ayers, Edward L. *Vengeance and Justice: Crime and Punishment in the 19th-Century South*. New York: Oxford University Press, 1984.

Balik, Shelby M. *Rally the Scattered Believers: Northern New England's Religious Geography*. Bloomington: Indiana University Press, 2014.

Basch, Norma. *Framing American Divorce: From the Revolutionary Generation to the Victorians*. Berkeley: University of California Press, 1999.

Bardaglio, Peter F. *Reconstructing the Household: Families, Sex, & the Law in the Nineteenth-Century South*. Chapel Hill: University of North Carolina Press, 1995.

Benton, Lauren and Ross, Richard J., eds. *Legal Pluralism and Empires, 1500-1850*. New York: New York University Press, 2013.

Beeman, Richard R. and Isaac, Rhys. "Cultural Conflict and Social Change in the Revolutionary South: Lunenburg County, Virginia," *The Journal of Southern History* 46, no. 4 (Nov., 1980): 525-550.

Beneke, Chris. *Beyond Toleration: The Religious Origins of American Pluralism*. New York: Oxford University Press, 2006.

_____. "The Free Market and the Founders' Approach to Church-State Relations," *Journal of Church and State* 52 no. 2 (July 2010): 323-352.

Birdwhistell, Ira V. *The Baptists of the Bluegrass: A History of the Elkhorn Baptist Association, 1785-1985*. Berea: Berea College Press, 1986.

_____. *Gathered at the River: A Narrative History of the Long Run Baptist Association*. Louisville, KY: Long Run Baptist Association, 1978.

Boles, John B. *Religion in Antebellum Kentucky*. Lexington: The University Press of Kentucky, 1976.

Brewer, Holly. *By Birth or Consent: Children, Law, and the Anglo-American Revolution in Authority*. Chapel Hill: University of North Carolina Press, 2005.

Buckley, Thomas E. *Establishing Religious Freedom: Jefferson's Statute in Virginia*. Charlottesville: University of Virginia Press, 2013.

_____. "After Disestablishment: Thomas Jefferson's Wall of Separation in Antebellum Virginia," *The Journal of Southern History* 61 no. 3 (Aug., 1995): 445-480.

_____. "Evangelicals Triumphant: The Baptists Assault on Virginia Glebes, 1786-1801," *William and Mary Quarterly* 45, no. 1 (Jan., 1988): 33-69.

Burke, Diane Mutti. *On Slavery's Border: Missouri's Small-Slaveholding Households, 1815-1865*. Athens: University of Georgia Press, 2010.

Burnham, Margaret A. "An Impossible Marriage: Slave Law and Family Law," *Law and Inequality* 5, no. 2 (1987): 187-225.

Carr, John. *Early Times in Middle Tennessee*. Nashville: E. Stevenson & F.A. Owen, 1857.

Carwardine, Richard. *Evangelicals and Politics in the Antebellum Republic*. New Haven: Yale University Press, 1993.

Cashin, Joan. *A Family Venture: Men and Women on the Southern Frontier*. Baltimore: John Hopkins University Press, 1991.

Chidester, David and Linenthal, Edward T., eds. *American Sacred Space.* Bloomington: Indiana University Press, 1995.

Chused, Richard H. *Private Acts in Public Places: A Social History of Divorce in the Formative Era of American Family Law*. Philadelphia: University of Pennsylvania Press, 1994.

Cohen, Charles L. and Numbers, Ronald L., eds. *Gods in America: Religious Pluralism in the United States*. New York: Oxford University Press, 2013.

Conklin, Carli N. "Transformed, Not Transcended: The Role of Extrajudicial Dispute Resolution in Antebellum Kentucky and New Jersey," *The American Journal of Legal History* 48, no. 1 (Jan, 2006): 39-98.

Cott, Nancy F. *Public Vows: A History of Marriage and the Nation*. Cambridge: Harvard University Press, 2000.

Coward, Joan Wells. *Kentucky in the New Republic: The Process of Constitution Making*. Lexington: University Press of Kentucky, 1979.

Cumfer, Cynthia. *Separate Peoples, One Land: The Minds of Cherokees, Blacks, and Whites on the Tennessee Frontier*. Chapel Hill: University of North Carolina Press, 2007.

Curry, Thomas J. *The First Freedoms: Church and State in America to the Passage of the First Amendment*. New York: Oxford University Press, 1986.

Dayton, Cornelia Hughes. *Women Before the Bar: Gender, Law, & Society in Connecticut, 1639-1789*. Chapel Hill: University of North Carolina Press, 1995.

Dunn, Durwood. *Cades Cove: The Life and Death of a Southern Appalachian Community, 1818-1937*. Knoxville: University of Tennessee Press, 1988.

Edwards, Laura F. "Law, Domestic Violence, and the Limits of Patriarchal Authority in the Antebellum South," *The Journal of Southern History* 65, no. 4 (1999): 733-770.

_____. *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.

_____. "The Peace: The Meaning and Production of Law in the Post-Revolutionary South," *UC-Irvine Law Review* 1 no. 3 (Feb., 2011): 565-585.

Eslinger, Ellen. *Citizens of Zion: The Social Origins of Camp Meeting Revivalism*. Knoxville: University of Tennessee Press, 1999.

Finger, John R. *Tennessee Frontiers: Three Regions in Transition*. Bloomington: Indiana University Press, 2001.

Fitzgerald, Jeffrey and Dickens, Richard. "Disputing in Legal and Nonlegal Contexts: Some Questions for Sociologists of Law," *Law & Society Review* 15, no. 3/4, Special Issue on Dispute Processing and Civil Litigation (1980-1981): 681-706.

Fortune, Alonzo Willard. *The Disciples in Kentucky*. Kentucky: Convention of Christian Churches, 1932.

Friedman, Jean E. *The Enclosed Garden: Women and Community in the Evangelical South, 1830-1900*. Chapel Hill: University of North Carolina Press, 1985.

Friedman, Lawrence M. "Legal Culture and Social Development," *Law & Society Review*, 4 no. 1 (Aug., 1969): 29-44.

Friend, Craig Thompson, ed. *The Buzzel About Kentuck: Settling the Promised Land*. Lexington: The University Press of Kentucky, 1999.

_____. *Along the Maysville Road: The Early American Republic in the Trans-Appalachian West*. Knoxville: University of Tennessee Press, 2005.

_____. *Kentucke's Frontiers*. Bloomington: Indiana University Press, 2010.

Fliegelman, Jay. *Prodigals and Pilgrims: The American Revolution against Patriarchal Authority*. New York: Cambridge University Press, 1982.

Foster, Douglas A. et al. eds. *The Encyclopedia of the Stone-Campbell Movement*. Grand Rapids: William B. Eerdmans Publishing Company, 2004.

Goodheart, Lawrence B., Hanks, Neil, and Johnson, Elizabeth. "'An Act for the Relief of Females...':Divorce and the Changing Legal Status of Women in Tennessee, 1796-1860, Part I," *Tennessee Historical Quarterly*, 44 no. 3 (Fall 1985): 318-339.

Gordon, Robert. "Critical Legal Histories," *Stanford Law Review*, 36 no. ½, Critical Legal Studies Symposium (January 1984): 57-125.

Gordon, Sarah Barringer. "The First Disestablishment: Limits on Church Power and Property Before the Civil War," *University of Pennsylvania Law Review* 162, no. 2 (January, 2014): 307-372.

_____. *The Spirit of the Law: Religious Voices and the Constitution in Modern America*. Cambridge: Harvard University Press, 2010.

Green, Steven K. *The Second Disestablishment: Church and State in Nineteenth-Century America*. New York: Oxford University Press, 2010.

Greenwalt, Kent. "Hands off! Civil Court Involvement in Conflicts over Religious Property," *Columbia Law Review*, 98, no. 8 (Dec., 1998): 1843-1907.

Gross, Ariela J. *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom*. Athens: The University of Georgia Press, 2000.

_____. "Beyond Black and White: Cultural Approaches to Race and Slavery," *Columbia Law Review* 101 (April 2001):640-690.

Grossberg, Michael. *Governing the Hearth: Law and Family in Nineteenth-Century America*. Chapel Hill: University of North Carolina Press, 1985.

_____. "Citizens and Families: A Jeffersonian Vision of Domestic Relations and Generational Change," in James Gilreath, ed. *Thomas Jefferson and the Education of a Citizen* (Washington: Library of Congress, 1999).

Grime, J.H. *History of Middle Tennessee Baptists: with Special Reference to Salem, New Salem, Enon and Wiseman Associations*. Nashville: Baptist and Reflector, 1902.

Harrison, Lowell H. *Kentucky's Road to Statehood*. Lexington: University Press of Kentucky, 1992.

Harper, Keith. ed. *Through A Glass Darkly: Contested Notions of Baptist Identity*. Tuscaloosa: University of Alabama Press, 2012.

Hartog, Hendrik. *Man & Wife in American: A History*. Cambridge: Harvard University Press, 2000.

Hatch, Nathan O. *The Democratization of American Christianity*. New Haven, Conn.: Yale University Press, 1989.

Hawes, Joseph M. and Elizabeth I. Nybakken, eds. *Family and Society in American History*. Urbana: University of Illinois Press, 2001.

Heyrman, Christine Leigh. *Southern Cross: The Beginnings of the Bible Belt*. Chapel Hill: University of North Carolina Press, 1997.

Hoffer, Peter Charles. *Law and People in Colonial America: Revised Edition*. Baltimore: Johns Hopkins University Press, 1998.

Hooker, Richard J,. ed. *The Carolina Backcountry on the Eve of the Revolution: The Journal and Other Writings of Charles Woodmason, Anglican Itinerant.* Chapel Hill: University of North Carolina Press, 1953.

Horwitz, Morton J. *The Transformation of American Law, 1780-1860*. Cambridge: Harvard University Press, 1977.

Hulsebosch, Daniel J. and Bernstein, R. B., eds. *Making Legal History: Essays in Honor of William E. Nelson* (New York: New York University, 2013.

Hurst, James Willard. *Law and the Conditions of Freedom in the Nineteenth-Century United States*. Madison: University of Wisconsin Press, 1956.

Isaac, Rhys. *The Transformation of Virginia, 1740-1790*. Chapel Hill: University of North Carolina Press, 1982.

Ireland, Robert M. *The County Courts in Antebellum Kentucky*. Lexington: University Press of Kentucky, 1972.

Johnson, Walter. *Soul by Soul: Life Inside the Antebellum Slave Market*. Cambridge: Harvard University Press, 1999.

_____. *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom*. Cambridge: Harvard University Press, 2013.

Juster, Susan. *Disorderly Women: Sexual Politics and Evangelicalism in Revolutionary New England*. Ithaca: Cornell University Press, 1994.

Kaye, Anthony E. *Joining Places: Slave Neighborhoods in the Old South.* Chapel Hill: University of North Carolina Press, 2007.

Kauper, Paul G. and Ellis, Stephen C. "Religious Corporations and the Law," *Michigan Law Review* 71, no. 8 (Aug., 1973): 1499-1574.

Kerber, Linda K. *Women of the Republic: Intellect & Ideology in Revolutionary America*. Chapel Hill: University of North Carolina Press, 1980.

Kleinhans, Martha-Marie and Macdonald, Roderick A. "What is a *Critical* Legal Pluralism?" *12 Can. J. L. & Soc. 25* (1997): 25-46.

Konig, David Thomas. *Law and Society in Puritan Massachusetts, Essex County, 1629-1692*. Chapel Hill: University of North Carolina Press, 1979.

Lambert, Frank. *Religion in American Politics: A Short History*. Princeton: Princeton University Press, 2008.

_____. *Separation of Church and State: Founding Principle of Religious Liberty*. Macon: Mercer University Press, 2014.

Lane, Belden C. *Landscapes of the Sacred: Geography and Narrative in American Spirituality*. Baltimore: Johns Hopkins University Press, 2001.

Larson, John Lauritz. *The Market Revolution in America: Liberty, Ambition, and the Eclipse of the Common Good*. New York: Cambridge University Press, 2010.

_____. *Internal Improvement: National Public Works and the Promise of Popular Government in the Early United* . Chapel Hill: University of North Carolina Press, 2001.

Lindman, Janet Moore. *Bodies of Belief: Baptist Community in Early America*. Philadelphia: University of Pennsylvania Press, 2008.

Loveland, Anne C. and Wheeler, Otis B. *From Meetinghouse to Megachurch: A Material and Cultural History*. Columbia: University of Missouri Press, 2003.

McCurry, Stephanie. *Master of Small Worlds: Yeoman Households, Gender Relations, & the Political Culture of the Antebellum South Carolina Low Country*. New York: Oxford University Press, 1995.

McFerrin, John B. *History of Methodism in Tennessee, Vol. 1. From the Year 1783 to the Year 1804*. Nashville: Publishing House of the M.E. Church, South, 1888.

_____. *History of Methodism in Tennessee, Vol. 3, From the Year 1818 to the Year 1840*. Nashville: Southern Methodist Publishing House, 1873.

McGarvie, Mark Douglas. *One Nation Under Law: American Early National Struggles to Separate Church and State*. DeKalb: Northern Illinois University Press, 2004.

Mann, Bruce H. *Neighbors and Strangers: Law and Community in Early Connecticut*. Chapel Hill: University of North Carolina Press, 1987.

_____. *Republic of Debtors: Bankruptcy in the Age of American Independence*.

Cambridge: Harvard University Press, 2002.

Mathews, Donald G. *Religion in the Old South*. Chicago: University of Chicago Press, 1977.

Merry, Sally Engle. "Legal Pluralism," *Law & Society Review* 22 no. 5 (1988): 869-896.

Mintz, Steven. "Regulating the American Family," *Journal of Family History* 14, no. 4 (December, 1989): 387-408.

Morgan, Edmund S. *Roger Williams: The Church and the State*. New York: W.W. Norton, 2006 reissue.

Najar, Monica. *Evangelizing the South: A Social History of Church and State in Early America*. New York: Oxford University Press, 2008.

_____. "Meddling with Emancipation": Baptists, Authority, and the Rift over Slavery in the Upper South," *Journal of the Early Republic* 25, no. 2 (Summer, 2005):157-186.

Nation, Richard F. *At Home in the Hoosier Hills: Agriculture, Politics, and Religion in Southern Indiana, 1810-1870*. Bloomington: Indiana University Press, 2005.

Neem, Johann N. "The Elusive Common Good: Religion and Civil Society in Massachusetts, 1780-1833," *Journal of the Early Republic* 24 no. 3 (Autumn, 2004): 381-417.

Nelson, William E. *Dispute and Conflict Resolution in Plymouth County, Massachusetts, 1725-1825*. Chapel Hill: University of North Carolina Press, 1981.

Nobles, Gregory H. "Breaking into the Backcountry: New Approaches to the Early American Frontier, 1750-1800," *The William and Mary Quarterly*, 46 no. 4 (Oct., 1989): 641-670.

Noll, Mark. *One Nation Under God: Christian Faith and Political Action in America*. New York: Harper Collins, 1988.

Novak, William J. *The People's Welfare: Law & Regulation in Nineteenth-Century America*. Chapel Hill: University of North Carolina Press, 1996.

_____. "The American Law of Association: The Legal-Political Construction of Civil Society," *Studies in American Political Development* 15 (Fall 2001): 163-188.

Penningroth, Dylan C. *Claims of Kinfolk: African American Property and Community in the Nineteenth-Century South*. Chapel Hill: University of North Carolina Press, 2003.

Pitts, Yvonne. *Family, Law, and Inheritance in America: A Social and Legal History of Nineteenth-Century Kentucky*. New York: Cambridge University Press, 2013.

Porterfield, Amanda. *Conceived in Doubt: Religion and Politics in the New American Nation*. Chicago: University of Chicago Press, 2012.

Posey, Walter Brownlow. *The Presbyterian Church in the Old Southwest, 1778-1838*. Richmond: John Knox Press, 1952.

Pospisil, Leopold. "Legal Levels and Multiplicity of Legal Systems in Human Societies," *The Journal of Conflict Resolution* 11 no. 1, (March 1967): 2-26.

_____. *Anthropology of Law: A Comparative Theory*. New York: Harper & Row, 1971.

Ramage, James A. and Watkins, Andrea S. *Kentucky Rising: Democracy, Slavery, and Culture from the Early Republic to the Civil War*. Lexington: University Press of Kentucky, 2011.

Ranck, George W. "The Travelling Church": An Account of the Baptist Exodus from Virginia to Kentucky in 1781 under the Leadership of Rev. Lewis Craig and Capt. William Ellis," Louisville: Press of the Baptist Book Concern, 1891. Found in *Baptists in Kentucky: Pamphlets from the Durrett Collection*.

Ray, Kristofer. *Middle Tennessee, 1775-1825: Progress and Popular Democracy on the Southwestern Frontier*. Knoxville: University of Tennessee Press, 2007.

Rohrbough, Malcolm J. *The Land Office Business: The Settlement and Administration of American Public Lands, 1789-1837*. New York: Oxford University Press, 1968.

_____. *Trans-Appalachian Frontier: People, Societies, and Institutions, 1775-1850*. Bloomington: Indiana University Press, 3rd Edition, 2008).

Roth, Randolph. *The Democratic Dilemma: Religion, Reform, and the Social Order in the Connecticut River Valley of Vermont, 1791-1850*. New York: Cambridge University Press, 1987.

Rothman, Joshua. *Notorious in the Neighborhood: Sex and Families Across the Color Line in Virginia, 1787-1861*. Chapel Hill: University of North Carolina Press, 2003.

Ryan, Mary P. *Cradle of the Middle Class: The Family in Oneida County, New York, 1790-1865*. New York: Cambridge University Press, 1981.

Schlereth, Eric R. *An Age of Infidels: The Politics of Religious Controversy in the Early United States*. Philadelphia: University of Pennsylvania Press, 2013.

Schmalzbach, Brian "Confusion and Coercion in Church Property Litigation," *Virginia Law Review*, 96 no. 2 (April 2010): 443-494.

Scully, Randolph Ferguson. *Religion and the Making of Nat Turner's Virginia: Baptist Community and Conflict, 1740-1840*. Charlottesville: University of Virginia Press, 2008.

Shammas, Carole. "Anglo-American Household Government in Comparative Perspective," *The William and Mary Quarterly* 52, no. 1 (Jan., 1995): 104-144

_____. *A History of Household Government in America*. Charlottesville: University of Virginia Press, 2002.

Spangler, Jewel L. *Virginians Reborn: Anglican Monopoly, Evangelical Dissent, and the Rise of the Baptists in the Late Eighteenth Century*. Charlottesville: University of Virginia Press, 2008.

Sparks, Randy. *On Jordan's Stormy Banks: Evangelicalism in Mississippi, 1773-1876*. Athens: University of Georgia Press, 1994.

Spencer, John H. *A History of Kentucky Baptists From 1769 to 1885, including more than 1800 Biographical Sketches, Vol. 1*. Cincinnati: J.R. Baumes, 1886.

Stanley, Amy Dru. *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation*. New York: Cambridge University Press, 1998.

Steinfeld, Robert J. *Coercion, Contract, and Free Labor in the Nineteenth Century*. New York: Cambridge University Press, 2001.

Sweeney, Kevin M. "Meetinghouses, Town Houses, and Churches: Changing Perceptions of Sacred and Secular Space in Southern New England, 1720-1850," *Winterthur Portfolio*, 28 no. 1 (Spring, 1993): 59-93.

Sweet, William Warren. *Religion on the American Frontier, The Baptists, 1783-1830*. New York: Cooper Square Publishers, 1964.

_____. *Religion on the Frontier, 1783-1840, Vol. II, The Presbyterians*. New York: Cooper Square Publishers, 1964.

_____. *The Story of Religion in America*. Grand Rapids: Baker Book House, 4th Printing, 1983 [original 1930].

Tachau, Mary K. Bonsteel. *Federal Courts in the Early Republic: Kentucky 1789-1816*. Princeton: Princeton University Press, 1978.

Tamanaha, Brian Z. "A Non-Essentialist Version of Legal Pluralism," *Journal of Law and Society* 27, no. 2 (June, 2000): 296-321

Taylor, Jeffrey Wayne. *The Formation of the Primitive Baptist Movement*. Ontario: Pandora Press, 2004.

Tomlins, Christopher and Mann, Bruce H., eds. *The Many Legalities of Early America*. Chapel Hill: University of North Carolina Press, 2001.

Tomlins, Christopher. *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America*. New York: Cambridge University Press, 2010.

_____. *Law, Labor, and Ideology in the Early American Republic*. New York: Cambridge University Press, 1993.

Turner, Frederick Jackson. *The Frontier in American History*. New York: Holt, Rinehart and Winston, 1920.

Volkman, Lucas P. "Church Property Disputes, Religious Freedom, and the Ordeal of African Methodists in Antebellum St. Louis: *Farrar v. Finney* (1855*)," Journal of Law & Religion* 27, no. 1 (2011-12): 83-139.

Waldrep, Christopher. "The Making of a Border State Society: James McGready, the Great Revival, and the Prosecution of Profanity in Kentucky," *The American Historical Review* 99, no. 3 (June 1994): 767-784.

_____. "'So Much Sin': The Decline of Religious Discipline and the 'Tidal Wave of Crime,'" *Journal of Social History* 23, no. 3 (Spring 1990): 535-552.

Wall, Helena M. *Fierce Communion: Family and Community in Early America*. Cambridge: Harvard University Press, 1990.

Wardin, Jr. Albert W. *Tennessee Baptists: A Comprehensive History, 1779-1999*. Brentwood: Tennessee Baptist Convention, 1999.

Wills, Gregory A. *Democratic Religion: Freedom, Authority, and Church Discipline in the Baptist South, 1785-1900*. New York: Oxford University Press, 1997.

Wyatt-Brown, Bertram. *Southern Honor: Ethics & Behavior in the Old South*. New York: Oxford University Press, 1982.

_____. "The Antimission Movement in the Jacksonian South: A Study in Regional Folk Culture," *The Journal of Southern History* 36 no. 4 (Nov. 1970): 501-529.

Yazawa, Melvin. *From Colonies to Commonwealth: Familial Ideology and the Beginnings of the American Republic*. Baltimore: The Johns Hopkins University Press, 1985.

Zagarri, Rosemarie. "The Rights of Man and Woman in Post-Revolutionary America," *The William and Mary Quarterly* 55, no. 2 (April, 1998): 203-230.

APPENDIX

APPENDIX

Churches Records Composing Data Set (unless otherwise noted):

Kentucky:
Cane Run Church, 1813-1853, Filson Historical Society, Louisville, Kentucky (FHS).
Flat Rock/Pleasant Grove Baptist Church, 1805-1865, FHS.
Pleasant Run Church on McFarland Creek, 1827-1844, FHS.
Tick Creek Bethel Baptist Church, 1809-1816, FHS.
Buffalo Lick Baptist Church 1805-1838, FHS.
Beech Creek Church, 1825-1840, FHS.
Floyd's Fork, 1834-1837, Southern Baptist Theological Seminary Archive, Louisville, Kentucky (SBTL).
Harrod's Creek Baptist Church, 1819-1832, 1837-1865, SBTL.
Long Run Baptist Church, Dec. 1803-May 1817, June 1832-Oct. 1858, SBTL.
Fox Run Baptist Church, Oct. 1803-June 1837, SBTL.
Frankfort Baptist Church, 1816-1834, Kentucky Historical Society, Frankfort, Kentucky (KHS).
Bryan's Station Baptist Church, 1786-1860, KHS.
South Elkhorn Baptist Church, 1822-1834, sporadic entries through 1857, KHS.
Mount Pleasant Baptist Church, 1790-1828, KHS.
Elk Lick Primitive Baptist Church, 1809-1818, 1823-1865, KHS.

Tennessee:
Nashville First Baptist, 1831-1845, Southern Baptist Library and Archives, Nashville, Tennessee (SBLA).
Red River Baptist Church, 1791-1826, SBLA.
Fyke's Grove Primitive Baptist Church, 1814-1850, SBLA.
Little Cedar Lick Baptist Church, 1815-1865, SBLA.
Big Cedar Lick/Mt. Olivet Baptist Church, 1801-1835, 1841-1865, SBLA.
Concord Baptist Church (Mill Creek), 1835-1865, SBLA.
Fall Creek Baptist Church Minutes, 1822-1865, Tennessee State Library and Archives, Nashville, Tennessee.

Types of Offenses/Disputes Coded:

1. FORNICATION
2. FIGHTING OR "RIOTING"
3. BREACH OF CONTRACT
4. GOING TO LAW W/BAPTIST
5. INTERACTION/JOINING WITH OTHER SECT/DENOM
6. INTOXICATION
7. DEBT
8. THEFT
9. SWEARING/PROFANE LANGUAGE
10. DISORDERLY CONDUCT/ MISCONDUCT
11. LYING/FALSE STATEMENT/Slander/FALSEHOOD
12. DANCING/FIDDLING (or permitting either)
13. THEATER ATTENDANCE or SECULARIZING
14. FRAUD
15. BREAKING THE SABBATH
16. NON-ATTENDANCE AT MEETINGS
17. ADULTERY
18. DIVORCE/ SEPARATION/ ABANDONMENT
19. TRESPASSING
20. OTHER
21. UNKNOWN

Church Records Not Included in Data Set:

David's Fork Baptist Church, http://davidsfork.org/history.html. Accessed March 27, 2015.

BullittsBurg Baptist Church, http://baptisthistoryhomepage.com/bullittsbrg.minutes.index.html. Accessed March 27, 2015.

VITA

VITA

Education

2015 Ph.D. (American History) Purdue University
2009 M.A. (History) University of South Florida
2007 B.A. (History) University of South Florida, *cum laude*

Dissertation Project

"Protectors of the Peace: Baptist Church Tribunals and the Construction of American Religious and Civil Authority, 1780-1860"

Committee: Yvonne M. Pitts, Franklin T. Lambert, John L. Larson, Sarah Barringer Gordon

Research/Teaching Fields

Revolutionary-Civil War Period, Church and State, American Religious History, American Legal History, Frontier/Borderlands, Old South, the Trans-Appalachian West, Law and Society in Early Modern Europe

2014 Outstanding Teaching Award, Purdue's Center for Instructional Excellence

Publications

Articles

"'Courts of Conscience': Local Law, the Baptists, and Church Schism in Early Kentucky, 1780-1840" Church History 84, no. 1 (March 2015): 124-158.

- Awarded the 2014 *Sidney E. Mead Prize*, American Society of Church History

"'Looks Like Acquittal': Sex, Murder, and the *Tampa Morning Tribune*, 1895" Florida Historical Quarterly 88, no. 3 (Winter 2010): 348-367

Reviews and Essays

Review, *Tyrannicide: Forging an American Law of Slavery in Revolutionary South Carolina and Massachusetts*. Louisiana State University Libraries: Civil War Book Review, forthcoming

Review, *Government by Dissent: Radical Democratic Thought in the Early American Republic*. Register of the Kentucky Historical Society 113, no. 1 (Winter 2015)

Review, *States of Union: Family and Change in the American Constitutional Order*. Ohio Valley History (Fall 2014)

Double Review, *Conceived in Doubt: Religion and Politics in the New American Nation* and *An Age of Infidels: The Politics of Religious Controversy in the Early United States*. Register of the Kentucky Historical Society 112, no. 4 (Autumn 2014): 663-666

Review, *Military Education and the Emerging Middle Class in the Old South*. H-Education, H-Net Reviews July, 2011

Review, *Looking South: The Evolution of Latin Americanist Scholarship in the United States, 1850-1975.* H-Education, H-Net Reviews. October, 2011

Review, *The Civil War of 1812: American Citizens, British Subjects, Irish Rebels, & Indian Allies*. Essays in History (2011)

Teaching Experience

Courses Taught

Adjunct Instructor, HIST 101, American History I, Ivy Tech State College, Lafayette Campus, Spring 2015

Adjunct Instructor, HIST 102, American History II, Ivy Tech State College, Lafayette Campus, Spring 2015

Instructor, HIST 151-1: American History to 1877, Purdue University, Summer 2013 (Online Course)

Instructor, HIST 151-2: American History to 1877, Purdue University, Fall 2012

Guest Lectures

World Civilizations I, Ivy Tech Community College, February 2015

American History Survey, Purdue University, October 2014

American History Survey, Purdue University, April 2012

Teaching Assistantships

HIST 383, Recent American Constitutional History, Purdue University, Spring 2013

HIST 151, American History to 1877, Purdue University, Spring 2012

HIST 371, Society, Culture, and Rock and Roll, Purdue University, Fall 2011

Academic Fellowships, Grants, Prizes and Awards

Fellow, J. Willard Hurst Summer Institute in Legal History, University of Wisconsin-Madison, 2015

Andrew W. Mellon Research Fellowship, Virginia Historical Society, 2015

Sydney E. Mead Prize for best article Submitted to Church History by a graduate student, American Society of Church History, 2014

Bilsland Dissertation Completion Fellowship, Purdue Graduate School, 2014-2015

Woodman Travel Grant from the Purdue History Department, 2014

Frederick N. Andrews Fellowship, Purdue Graduate School, 2013-2014

Biannual Clinton Jackson and Evelyn Coley Research Grant, Alabama Historical Association, 2013

Lynn E. May Study Grant from the Southern Baptist Library and Archive, 2013

Woodman Travel Grant from the Purdue History Department, 2013

Wills Research Fellowship from the Tennessee Historical Society, 2013

Kentucky Historical Society's Scholarly Research Fellowship, Fall 2012

Filson Historical Society's Scholarly Research Fellowship, Fall 2012

Filson Historical Society's Scholarly Research Fellowship, Spring 2012

Teaching Assistantship, Purdue History Department, 2012-2013

Teaching Assistantship, Purdue History Department, 2011-2012

Frederick N. Andrews Fellowship, Purdue Graduate School, 2010-2011

Conference Papers and Presentations

"Free For All Sects and Denominations?: Local Meetinghouses, Law, and the Spatial Boundaries of Religious Liberty in Antebellum America" American Society of Church History, Minneapolis, MN, 17 April 2015

"Doctrinal Dissension, Congregational Schism and Church Property Disputes in the Antebellum Trans-Appalachian West" American Society for Legal Historians Annual Conference, Denver, CO, 7 November 2014

"The Historical Study of Law and Religion in the Post-Revolutionary United States: Ethnohistorical Methodology, Past, Present, and Future" American Society of Ethnohistory Annual Conference, Indianapolis, IN, 10 October 2014

"Church Schisms, Property, and the Legal Underpinnings of Religious Culture in the Antebellum Trans-Appalachian West" Final Symposium of the 5th International Osnabrück Summer Institute on the Cultural Study of the Law, Osnabrück, Germany, 14 August 2014

"From 'Disturbers' to Protectors of the Peace: Baptist Church Discipline and Legalities on the Trans-Appalachian Frontier" Boston Area Early American History Seminar, Massachusetts Historical Society, 1 April 2014

"'For the Peace of Society': Baptist Church Discipline and the Secular World in Early Kentucky" Society for Historians of the Early American Republic, St. Louis, MO, 19 July 2013

"'For the Peace of Society': Baptist Church Discipline and Legalities in Early Kentucky" New World(s) of Faith: Religion and Law in Historical Perspective, 1500-2000 Conference, University of Pennsylvania Law School, Philadelphia, PA, 13 June 2013

"From 'Disturbers' to Protectors of the Peace: Baptist Church Discipline and Legalities of the Trans-Appalachian West, 1780-1860" Kentucky Historical Society Fellows Lecture, Frankfort, KY, 22 May 2013

"'For the Peace of Society': Baptist Church Discipline, Fracture Associations, and the Secular World in Early Kentucky" Conference on Religion and Law in American History, Florida State University, Tallahassee, FL, 22 March 2013

"Panic of the Frontier: Paper Money, Female Luxury, and Indiana Manhood, 1818-1824" Society for Historians of the Early American Republic Annual Meeting, Philadelphia, PA, 16 July 2011

"Female Influence Gone Awry: Indiana and the Economic Panics, 1819-1840" Purdue University History Department Graduate Conference, West Lafayette, IN, 7 April 2011

"'Looks Like Acquittal': Sex, Murder, and the Media in Tampa, 1895" Florida Historical Society Annual Conference, Pensacola, FL, 23 May 2009

Professional Development

Interviewed for Select Learning's forthcoming documentary on Protestants in America, April 2015.
Currently co-organizing Conference devoted to Law, Church Property, and Politics in American History, Tentatively Scheduled for 2016
Participant, J. Willard Hurst Summer Institute in Legal History, University of Wisconsin-Madison, 14-27 June 2015
Guest Blogger, Legal History Blog, http://legalhistoryblog.blogspot.com/, 13 November 2014
Participant, "Contested Properties: Culture, Rights, and the Humanities," 5th International Summer Institute on the Cultural Study of the Law, Osnabrück, Germany, 4-16 August 2014
Participant, "Negotiating Power in the Classroom: How to Build and Maintain a Positive Learning Environment," Symposium, Purdue College of Liberal Arts, 19 November 2013
Certified Reader for the Educational Testing Service's Advanced Placement Exams, American History, June 2013, June 2014
Completed the Sloan Consortium's "New to Online Teaching: The Essentials" workshop, May 2013

Professional Affiliations

American Historical Association
Society for Historians of the Early American Republic
American Society for Legal Historians
American Society of Church History