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The Hydraulic Dimension of Reconstruction in Louisiana, 1863-1879

A Thesis

Submitted to the Graduate Faculty of the  
University of New Orleans  
in partial fulfillment of the  
requirements for the degree of

Master of Arts  
in  
History

by

Matthew Paul Carlin

B.A. Louisiana State University, 2016

B.A. Louisiana State University, 2016

May, 2019

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*For Al and Ruby*

## **Acknowledgments**

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## **Abstract**

Louisiana developed an extensive system of levees throughout the Atchafalaya Basin and along its territorial Mississippi River. This system reached its zenith on the eve of the American Civil War. It went into dramatic decline following the conflict due to the confluence of military activity, protracted irregular warfare, and neglect stemming from labor and capital revolution. These shifts intensified with the 1863 Emancipation Proclamation and finally consolidated after the ratification of Louisiana's Constitution of 1879. The shift of responsibility for the construction and maintenance of levees during the Reconstruction Era led to many significant changes in the character and function of many of the State's institutions as it struggled to adapt to the postwar order it confronted.

**Key Words:** Environmental History; American Civil War; War and the Environment; History of Water; Reconstruction

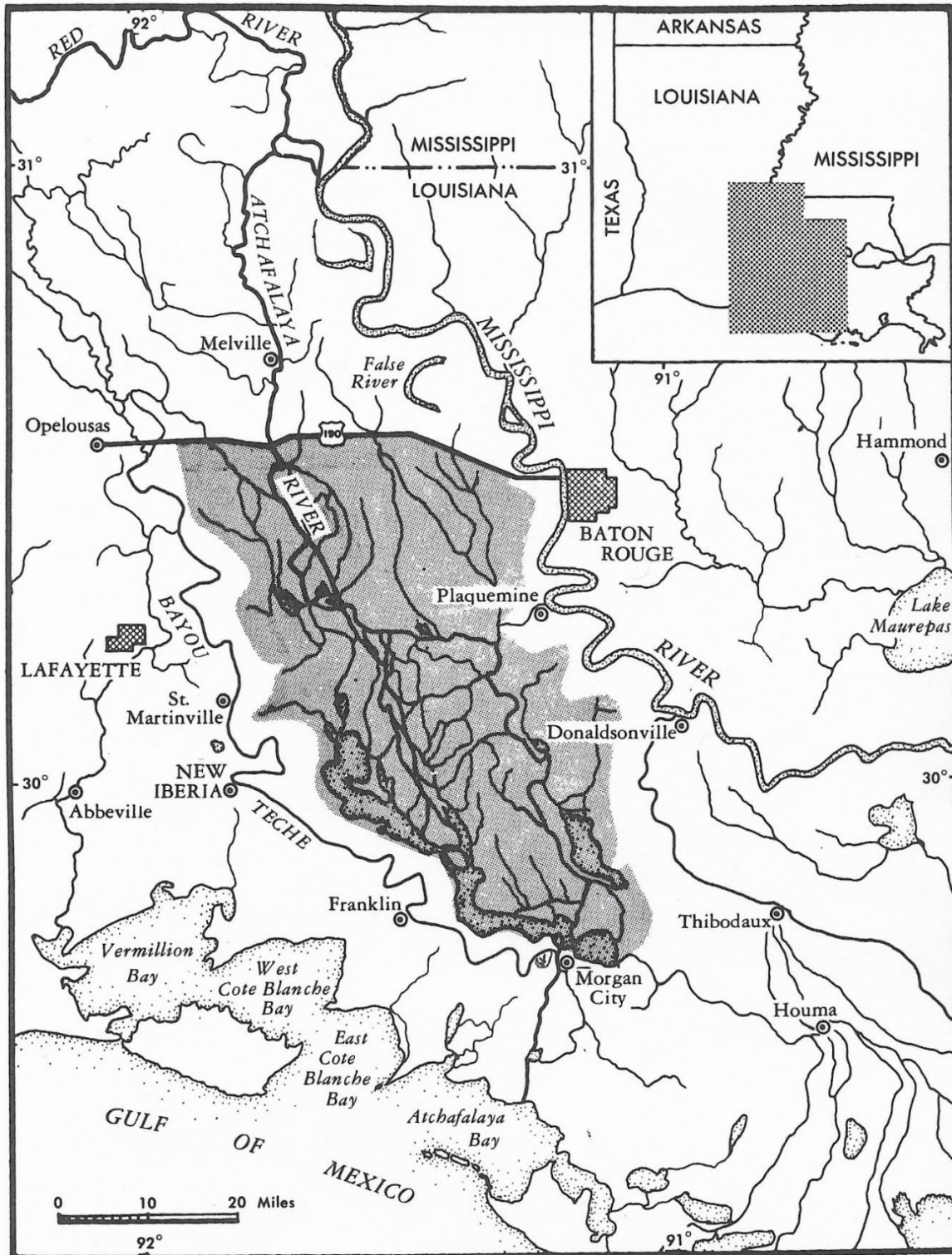


## **Introduction**

The State of Louisiana commands great power it due to its position on the delta of North America's Mississippi River, but this critical maritime feature relies upon a complex ecological system, one that has in turn influenced the course and formation of the state's administrative institutions at some decisive historical moments.

Louisiana's rich alluvial soils and unending flows of water from the upper Missouri-Mississippi-Ohio river network present significant advantages for agriculture. However, along with this opportunity, the low-lying, muddy character of the Lower Mississippi Valley necessitates heavy, sustained capital investment levee construction and maintenance if these hydrodynamic forces such as water levels and crevasses are to be contained and managed. These hydrological conditions proved within the tolerances of the Antebellum South's plantation economy. Masses of forced labor, harnessed by race and law into a system of generational slavery toiled with hydrophilic crops such as cotton and sugarcane. Farming assets essential to these endeavors further deepened non-state reserves of capital with implications for finance and banking. Both helped produce a patchwork of relatively successful flood and river control regimes leading to only intermittent flooding and steadily increasing yields.

These advantages ended with Louisiana's participation in the American Civil War, a conflict that would see the end of slavery in the United States and the transfer of responsibility for water control from private to public burden. After the war, Louisiana's successive administrations would struggle to adapt the state's institutions and methods to a new, daunting challenge of environmental engineering. However, in their practice these pre-national designs would fundamentally alter the structure and character of the state itself.



**Figure 1.** The location of the Atchafalaya Basin and lower Mississippi River in Louisiana.<sup>1</sup>

<sup>1</sup> Malcom L. Comeaux, *Atchafalaya Swamp Life: Settlement and Folk Occupations* (Baton Rouge: School of Geoscience, 1972), 2.

This paper will first chart the course of development of plantation-centric water control practices within the Atchafalaya Basin region and the parallel course of the Mississippi River from 1803 to 1858, the years marking the start of efforts to clear the raft<sup>2</sup> at the mouth of the Atchafalaya River and the final clearing of the Great Red River Raft in Central Louisiana. Next, it will provide an overview of the breakdown of management practices during the federal invasion of Louisiana in the American Civil War and subsequent damage and neglect of the levees, beginning with the First Bayou Teche Campaign and ending with the federal abandonment of levee repair efforts in 1868.<sup>3</sup> The third section presents the crucial argument, where the state's efforts to meet these challenges contrast with the Antebellum situation. The last argues that the state itself was fundamentally changed through its interaction with a dynamic, living system, and that this shift constitutes some inherent agency on both the State's and the environment's parts.

This paper will thus argue that the state's assumption of these new responsibilities in south-central Louisiana, particularly in the Atchafalaya Basin and along the Mississippi River south of its confluence with the Atchafalaya River, compelled policymakers to innovate politically and practically. In doing so, the state's administration altered existing institutions as well and began the creation of new and revolutionary initiatives.<sup>4</sup> Plantations lined many of Louisiana's Antebellum waterways, the seat of power of the planter class, an imposing constituency in the state's legal calculus. The plantation itself was more than a factory or a

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<sup>2</sup> Martin Reuss, *Designing the Bayous: The Control of Water in the Atchafalaya Basin 1800-1995* (College Station: Texas A&M University Press, 2004), 26. "Rafts" refer to the buildup of logs and organic material that can block the mouths of rivers. In Louisiana, these features were particularly significant in the Atchafalaya and Red Rivers. The Atchafalaya raft in particular reached a length spanning dozens of miles after centuries of compacting debris before being cleared.

<sup>3</sup> Walter McGhee Lowring, "The Political Career of James Madison Wells" (master's thesis, Louisiana State University, 1946), 995-1092.

<sup>4</sup> Reuss. *Designing the Bayous*, 355. "State and federal engineers also resorted to craft and imagination in lieu of other empirical knowledge and scientific theory."

building; it constituted a powerful force in the social and economic ordering of the prewar South.<sup>5</sup> In Louisiana, the issue of levee maintenance extended this relationship to a triangular association, as the maintenance of the built environment depended upon prevention of an existential threat reaching across these other divisions. After the war, the inversion of planter and state responsibilities caused reverberations resonating into various Louisiana institutions. The state's early prisoner leasing initiative, begun in the 1840s and whereby the private sector could extract basic labor from prisoners housed in the state penitentiary in Baton Rouge, suddenly transformed from a cost-saving measure to a stand-in for slavery as the administration leased the entire incarcerated population to private entrepreneurs.<sup>6</sup> Prison gangs transported across parishes and into the swamp to labor on levee projects represents only one example of state entities altered by the changed circumstances in this period. These circumstances framed the challenges of development within an alluvial water management regime.

This paper addresses another functional shift, a change in discourse. By this, I refer to the rhetoric and verbal culture of institutions, a metric which will allow for an examination of how people's attitudes and thoughts shifted along with changing circumstances. Speeches, inaugural addresses, and public statements represent avenues measuring how state thinking changed during this period. These shifts are useful to the broader argument presented here. After the war, Reconstruction in Louisiana culminated in the views reflected in the reactionary Constitution of 1879. The preceding Constitutional Convention of 1878's rhetoric, like the atmosphere surrounding the debates more generally, reflects the human element of the state through the social and personal views of the interests of those powerful in society. This paper will argue that

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<sup>5</sup> John B. Rehder, *Delta Sugar: Louisiana's Vanishing Plantation Landscape* (Baltimore: Johns Hopkins University Press, 1999), 5.

<sup>6</sup>William Ivy Hair, *Bourbonism and Agrarian Protest* (Baton Rouge: LSU Press, 1963), 129-130.

provisions found in this document reflect the legal depth of change effected on the state and its supporters. These constituencies acted in this way because of their interaction with the pressing dilemma of levee reconstruction and water control during the postwar period.

The story of Louisiana's relationship with its environment is tantamount to a history of the state itself. In the twenty-first century, coastal erosion and sea level changes cause existential threats to the population inhabiting many low-lying areas in its south. The legacy of efforts to effect centralized control across an unpredictable ecological system of such complexity merits unification into a greater narrative of the relationship of humans and the environment because it helps to frame the current situation facing this region. An environmental history approach to the case of the Pelican State during the middle of the nineteenth century will help to form methods for approaching other managed environments elsewhere in the Reconstruction Era South and provide a new way of understanding the State's history during this period.

The environmental challenges faced by residents of much of Louisiana cannot be equated with other states such as those of Virginia or Texas. A complete picture of Reconstruction cannot be painted until historians begin to place this period in its proper ecological and hydraulic context.

## **Historiography**

### **Reconstruction in Louisiana**

The foundations of historical inquiry into this period in Louisiana's history usually lies upon the work of Charles Gayarré, whose *History of Louisiana* reflected his Antebellum, patrician worldview.<sup>7</sup> The image of happily enslaved Africans and productive plantations that he

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<sup>7</sup> Frank J. Wetta, *The Louisiana Scalawags: Politics, Race and Terrorism During the Civil War and Reconstruction* (Baton Rouge: Louisiana State University, 2012), 5-8.

presents ends with the destruction experienced by Louisiana during the American Civil War. His rhetoric generally reflected the passionate emotions of the defeated. It is Gayarré who first inserted into the literature the notion of the constellation of carpetbaggers, freedmen, and scalawags.<sup>8</sup> This casual outrage resurfaced in Alcée Fortier's *Louisiana*,<sup>9</sup> a three-volume index to the state's history. In his section on Reconstruction, Fortier invoked sentiments about the freedmen as lacking in intelligence or independence, Reconstruction itself as a "farce," and attributes the blame for a violent and anarchic period squarely on Republicans and northern interlopers. These two works bookend a period of popular Southern sentiment before any modern reappraisals of this period.

The academic foundation for the second period, a reappraisal taking up the "Lost Cause" argument, began with the publication in 1910 of Ficklen's *History of Reconstruction*.<sup>10</sup> Posthumously edited and published, Ficklen (a Virginian and professor of history at Tulane University) saw his work on Reconstruction as appropriate for two reasons. First, as a non-native Louisianan he claimed a special objectivity, and second, that enough time had elapsed for passions to have died down. The anger reflected in the aftermath of the war by Gayarré and into the early 20<sup>th</sup> century by Fortier's works are evidence of this prevailing sentiment. Ficklen posited that Louisiana and the South generally won the conflict emerging from the war. He reasoned that Reconstruction should be regarded as a failure, and therefore the return of white supremacy following the end of federal management capped a final triumph over northern designs. His account ends in 1868, but Lonn's *Reconstruction in Louisiana After 1868* sought to

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<sup>8</sup> Ibid., 2-3.

<sup>9</sup> Alcée Fortier, *Louisiana: Comprising Sketches of Parishes, Towns, Events, Institutions, and Persons, Arrayed in Cyclopedic Form, Volume II* (Madison, WI: Century Historical Association, 1914), 351-357.

<sup>10</sup> John Rose Ficklen, *History of Reconstruction in Louisiana (Through 1868)* (Baltimore: Johns Hopkins Press, 1910).

complete his work.<sup>11</sup> Her work was influenced heavily by Ficklen, drawing upon his book for the setting of the Reconstruction period. She portrayed the freedmen as tools of the Republican government, advanced notions of widespread corruption by northerners and sought to place the blame for difficulties in the state upon a “loyal element” supporting Lincoln’s designs upon the South. She furthered the notion that the South somehow “won” the conflict, and there are overtones of the “Lost Cause” narrative prevalent in the country at this time. Together, Ficklen and Lonn’s works should be seen together as constituting the first complete body of historical literature framing this period.

Following the legacy of Gayarré and later Ficklen and Lonn, a third period emerged, the so-called “Dunning School” of thought about Reconstruction Period. William Archibald Dunning taught at Columbia University in the early twentieth century. Dunning advocated for Reconstruction to be viewed as a Southern victory over Northern designs aimed at a revolutionary redesign. Rejecting a comprehensive approach, he favored a state-by-state approach to its examination.<sup>12</sup> Adherents of Dunning’s ideas produced works on several states, but Louisiana stood conspicuously among those left unexplored. This exception prompted Willie Malvin Caskey’s *Secession and Restoration of Louisiana*, a history that fawned over both Ficklen and Dunning, and which took the idea of a coopted caste of freedmen further and presented them as a violent menace in need of state control.<sup>13</sup> This characterization of federal efforts further indicated the influence of this school on historical inquiry. Dunning did contribute

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<sup>11</sup> Ella Lonn, *Reconstruction in Louisiana After 1868* (1918 repr., New York: Russell & Russell, 1967).

<sup>12</sup> Wetta, *The Louisiana Scalawags*, 7.

<sup>13</sup> Willie Malvin Caskey, *Secession and Restoration of Louisiana* (1938. Reprint. New York: Da Capo Press, 1970), xi-xii. Writing in the foreword, Frank L. Owsley in the foreword describes Dunning at the initiation of his work as “young,” well studied and “destined” to bring a “renaissance” in Southern history. Caskey’s work argues for an end to ideas of “reconstruction,” to be replaced with “reorganization.” 185-186. Caskey presents newspaper reports describing many freedmen in 1864 as “destitute,” “unsettled over false hopes,” and “to have gone constantly armed.”

to textbooks used in the United States, and his narrative of Southern victory, incompetent freedmen, and northern conspirators reached a national audience. Caskey, along with such entries as Fortier's *Carpet Bag Misrule: in Louisiana: The Tragedy of the Reconstruction Era Following the War Between the States: Louisiana's Part in Maintaining White Supremacy in the South*,<sup>14</sup> served as a high-water mark of the Ficklen Thesis.

Ficklen and Dunning's framing of this era, while influential and pervasive in the United States, did not go unchallenged or ignored by their contemporaries. In fact, Henry Clay Warmoth, still living in 1929, penned an autobiographical work *War, Politics, and Reconstruction: Stormy Days in Louisiana*<sup>15</sup> to combat what he saw as flagrantly dishonest scholarship, particularly regarding his term as governor during Reconstruction. In his book he acknowledged his bias and the necessarily partisan nature of a firsthand account, but his defense of his policies and the efforts of his administration and their allies is one of the first shots across the bow of the prevailing historiography.

William Wallace Shugg's *The Origins of Class Struggle in Louisiana: A Social History of White Farmers and Laborers During Slavery and After, 1840-1875*,<sup>16</sup> while not a direct history of Reconstruction itself, challenged the understanding of this era by using the tools of history in the study of class. To Shugg, Reconstruction in Louisiana reflected social upheaval not only of black slaves emancipated from the status of chattel chattel but poor whites liberated from political bondage. Poor whites and newly liberated blacks had a common station, Shugg argued,

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<sup>14</sup> Alcée Fortier, *Carpet Bag Misrule in Louisiana: The Tragedy of the Reconstruction Era Following the War Between the States: Louisiana's Part in Maintaining White Supremacy in the South* (New Orleans: Louisiana State Museum, Press of T.J. Moran, 1938).

<sup>15</sup> Henry Clay Warmoth, *War, Politics and Reconstruction: Stormy Days in Louisiana* (New York: The McMillan Company, 1930).

<sup>16</sup>Roger Wallace Shugg, *Origins of Class Struggle in Louisiana: A Social History of White Farmers During Slavery and After, 1840-1875* (Baton Rouge: Louisiana State University Press, 1939), 210, 222, 232-233.



and while the former did not accept parity with the latter, they did work together for common goals. *The Origins of Class Struggle in Louisiana* periodized this era by constitutions (1852, 1864, 1868, 1879) and framed the remarkable progressive document of 1864, with its ostensible desegregation, universal public education, limits on working hours and mandating of minimum wages as the government of “the people.” In this view, the Constitution of 1868 represented a stumbling block in which power was dramatically transferred to a dictatorial Republican majority before finally being returned to the great agricultural interests and bankers by 1879, basically regressing the state to its Antebellum social, political, and economic situation.<sup>17</sup> Shugg saw the victory that Ficklen previously heralded, but in his mind that victory came to the upper class and not to the white southerner at large.

To Shugg, the Louisiana experiment represented a revolution, led by class interests and not one inherently racial, which is finally derailed by the merchant, banker, and planter interests of the state in 1879 in a counter-revolution, one ironic in its reactionary nature.<sup>18</sup> These analyses complicate the Ficklin-Lonn narrative. Shugg directly attacks Ficklin’s arguments at one point. Ficklin had asserted that the votes of statewide interest being cast in wartime New Orleans were representative of a small portion of the state and therefore illegitimate. Shugg countered that the votes were nearly the same in number in the state’s wartime capital of Shreveport, the government implied as legitimate by Ficklin. Shugg further criticized Ficklin for ignoring the “revolutionary” nature of the Constitution of 1864.<sup>19</sup> The changed narrative during Louisiana’s Reconstruction experience put fundamental strain on the traditional narrative.

William Ivy Hair’s book *Bourbonism and Agrarian Protest, Louisiana Politics 1877-*

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<sup>17</sup>Ibid., (X). Shugg even identifies the constitutions as 1864 favoring white labor interests, 1868 favoring black labor interests, and 1879 favoring white supremacy interests.

<sup>18</sup> Ibid., 196.

<sup>19</sup> Ibid., 201-204.

1900<sup>20</sup> boosted many of Shugg's arguments, describing the battling class interests after what Shugg saw as a white supremacist, reactionary takeover in 1879. In his detailing of this period, he frequently returns to Reconstruction to account for the state of affairs in Louisiana from the end of that period to the turn of the century. Hair is one of the first historians who linked postwar levee reconstruction to politics in the state. He does this by linking the so-called "Penitentiary Ring," which benefitted the holder of the statewide convict lease, to levee reconstruction efforts.<sup>21</sup> While the book does not firstly concern Reconstruction in Louisiana, its exploration of the origins of conditions directly tied to events during Reconstruction paints a picture of the close of this era that is fundamentally incompatible with the Ficklen-Lonn Thesis.<sup>22</sup>

Despite flaws and prejudices, Ficklen's and Lonn's works remained the sole comprehensive accounting of this era in Louisiana's history until publication of Joe Gray Taylor's *Louisiana Reconstructed*.<sup>23</sup> Taylor directly confronted the legacy of the Dunning School and the scholarship of the 1910s, seeking to forge a new and comprehensive study of this period. *Louisiana Reconstructed* provided an account of the entire period, from 1863 through 1877. The fresh examination looks at successive administrations overseeing the state, rather than using Constitutional regimes, as Shugg does. Taylor's examination of the succession of power after the fall of New Orleans in May 1862 follows military rule, Warmoth's administration, Kellogg's

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<sup>20</sup>Hair, *Bourbonism and Agrarian Protest*, 24. "[Bourbons] identified themselves with propertied interests and [...] true Southern ideals [...] rejected *noblesse oblige* implications of the Old South and unblushingly embraced Negrophobia which elsewhere was usually attributed to ignorant poor whites." Hair uses "agrarian" for all those employed in agriculture, poor whites, rich whites, and freedmen alike.

<sup>21</sup> *Ibid.*, 129-134.

<sup>22</sup> Hair, *Bourbonism and Agrarian Protest*, 278-279. Hair describes the consolidation of Bourbon Democrat power from the end of Reconstruction in 1877 to 1900, "The Negro had been removed as a direct political factor. White agrarianism had seemingly been crushed." He also quotes one observer as reporting "The people are thoroughly cowed." This epilogue differs from the image presented by Lonn in *Reconstruction in Louisiana*, 525. In her concluding chapter "Restoration of White Rule" the withdrawal of federal troops is presented as the curtain falling on the story, adding "if Louisiana had sinned, she had paid the penalty of her sins in full measure."

<sup>23</sup> Joe Gray Taylor. *Louisiana Reconstructed, 1863-1877* (Baton Rouge: Louisiana State University Press, 1974).

administration, and moved into the tenure of Governor Nicholls. Notably, Taylor included a preliminary foray into issues of culture, labor, and the economy, furthering the new avenues ventured by *Origins of Class Struggle*. Taylor agreed with Shugg's analysis that the state underwent a reactionary counterrevolution favoring prewar interests in banking and planting. He maintained the idea that Louisiana in 1900 had essentially the same power-structure as in 1860.<sup>24</sup>

The new perspective offered by *Louisiana Reconstructed* contributed to a new wave of scholarship on the subject. Joseph G. Dawson's *Army Generals and Reconstruction*<sup>25</sup> returned the Yankee to the history of this era. Told from a mostly northern perspective, *Army Generals and Reconstruction* broke with the idea of military occupation and examines the role these officers played in the state during their tenure. What emerged is a more conciliatory picture of even-handed soldiers performing a myriad of duties across many subjects and performing what Dawson terms "remarkably well" given their post.<sup>26</sup> James Peyton McCrary's *Abraham Lincoln and Reconstruction*<sup>27</sup> furthered restoration of missing federal military agency to the histories. McCrary challenged the prevailing view of Lincoln as a moderate and sought to tie Reconstruction closer to the realities of the war that preceded it.<sup>28</sup> Ted Tunnell would later highlight the lack of understanding of exactly who the "unionists" were, furthering separation of this convenient array of interests.<sup>29</sup>

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<sup>24</sup> Ibid., 508.

<sup>25</sup> Joseph G. Dawson. *Army Generals and Reconstruction in Louisiana, 1862-1877* (Baton Rouge: Louisiana State University Press, 1978).

<sup>26</sup> Ibid., 1.

<sup>27</sup> Joseph Peyton McCrary. *Abraham Lincoln and Reconstruction: The Louisiana Experiment* (Princeton: Princeton University Press, 1978).

<sup>28</sup> Ibid., 18, 355-56. McCrary viewed the Civil War as a revolutionary conflict and asserts "The end of revolutionary war is not arms but ideology." He also highlighted the ongoing historiographical failure to identify and explain who the "scalawags" were, separating them from the carpetbaggers and freedmen with whom they are usually lumped.

<sup>29</sup> Ted Tunnell, *Crucible of Reconstruction: War, Radicalism and Race in Louisiana, 1862-1877* (Baton Rouge: Louisiana State University Press, 1992), 6-7.

Taylor's recasting of the history of Louisiana during Reconstruction presaged by Eric Foner's monumental work *Reconstruction: America's Unfinished Revolution, 1863-1877*.<sup>30</sup> Foner sought to focus on the "centrality of the freedman," a group Foner read as the "most effective" agent during this period, and "central to reconstruction."<sup>31</sup> Foner explicitly confronted the image of "negro incapacity" popularized by the work of the Dunning School.<sup>32</sup> This highly influential book even sought to move the date of the start of Reconstruction to the Emancipation Proclamation, rather than tying it to the Fall of New Orleans or any other military action. In a break with Taylor's "series of essays" format, Foner rejected what he saw as compartmentalization of history into political, social, or economic fields, and sought instead to produce a coherent narrative of this period.<sup>33</sup>

More recent scholarship on this subject includes works on black politicians and local support for the Union cause. Charles Vincent's *Black Legislators in Louisiana During Reconstruction*<sup>34</sup> seeks to restore agency to a group viewed before Taylor's work as agents of Republican designs at best or incompetent and violent at worst. Notably, Vincent addresses black legislators' interaction with issues impacting the environment, including the chartering of the Louisiana Levee Company,<sup>35</sup> oversight of the same along with other chartered state entities<sup>36</sup> and even proposals from black politicians for legal protections for birds in the state.<sup>37</sup> Frank J. Wetta's book, *The Louisiana Scalawags: Politics, Race, and Terrorism During the Civil War*

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<sup>30</sup> Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper & Row, 1988).

<sup>31</sup> *Ibid.*, *Reconstruction*, xvii.

<sup>32</sup> *Ibid.*, xix

<sup>33</sup> *Ibid.*, xxvii

<sup>34</sup> Charles Vincent, *Black Legislators in Louisiana During Reconstruction* (Carbondale: Southern Illinois Press, 2011).

<sup>35</sup> *Ibid.*, 78.

<sup>36</sup> *Ibid.*, 162-163.

<sup>37</sup> *Ibid.*, 203.

*and Reconstruction*,<sup>38</sup> makes headway into an accurate description of the so-called “scalawags” and “unionists,” vague monikers regularly imprecisely attached to carpetbaggers and freedmen.

Too often in the historiography of politics during Reconstruction Era Louisiana, the environmental conditions prevailing in the state are understated or ignored. For example, in Dawson’s *Army Generals and Reconstruction*, military officers reported on the rampant lawlessness of irregulars and criminal gangs in the state’s interior. These problems, Dawson argued, end with the conclusion of the war and the need for jobs for Confederate veterans.<sup>39</sup> But the failure of the Union to pacify the Atchafalaya Basin region, due in large part to its environmental challenges affecting transport and logistics, cannot be discounted as a source of irregular military activity. If these reports cited by Dawson are accurate, could the particularly violent nature of Reconstruction in Louisiana be tied to widespread flooding of riparian parishes throughout the state? In most works written about Reconstruction in Louisiana, the areas outside the major urban and political centers in the state, as well as the unique and deterministic natural world within this area, are completely absent from the historiography.

### **The Environmental History of the American Civil War**

The application of environmental history to the historical study of the Civil War can be traced to an article by Jack Temple Kirby, “The American Civil War: An Environmental View,” published online by the National Humanities Center in 2001.<sup>40</sup> Kirby argued for the importance of an “ecological” view of the conflict, given the environmental consciousness of contemporary society and the twentieth century’s lessons on industrial war as “an ecological disaster,” a

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<sup>38</sup> Wetta, *The Louisiana Scalawags*.

<sup>39</sup> Joseph G. Dawson, *Army Generals and Reconstruction in Louisiana, 1862-1877* (Baton Rouge: Louisiana State University Press, 1978), 29.

<sup>40</sup> Lisa Brady, *War Upon the Land: Military Strategy and the Transformation of Southern Landscapes During the American Civil War* (Athens, GA: University of Georgia Press, 2012).

condition and a notion absent from earlier scholarship.<sup>41</sup> Eleven years later, Lisa Brady published *War Upon the Land: Military Strategy and the Transformation of Southern Landscapes during the American Civil War*.<sup>42</sup> Brady's book became the first attempt to turn an environmental lens on a well-known conflict with a copious historiography. *War Upon the Land* examines first the Lower Mississippi River and the interaction of strategy and a large, dynamic system, paying attention to an environmental analysis of the Union's efforts to capture Vicksburg. Second, the book looks at the ordeal of Sherman's March in the Confederacy's east, framing his destruction as a show of control over nature, rather than a wanton act of terror. Throughout, she gives space to voices of soldiers, officers and civilians whose awareness of the land around them heretofore took second to the urgency of battle and maneuver.

Shortly after Brady's work appeared, Megan Kate Nelson published *Ruin Nation: Destruction and the American Civil War*.<sup>43</sup> *Ruin Nation* represented a cultural and environmental history, examining cases throughout the conflict and the effect of the war's physical destruction on American landscapes and society. Examining physical environments, Nelson traced the path of national trauma and the ways in which American society coped (or buried) the ravages of the nation's bloodiest of wars. Her examination of the "ruins" of war go beyond the standard textbook account of events, examining the ruins of cities, forests, social culture, and even bodies of casualties, both maimed and destroyed. Nelson's work expands upon Brady's earlier work and pushes forward the vast possibilities of reexamining the Civil War with new modes of research.

Kathryn Shively Meier's *Nature's Civil War: Common Soldiers and the Environment in*

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<sup>41</sup> Jack Temple Kirby, "The American Civil War: An Environmental View." National Humanities Center. <http://nationalhumanitiescenter.org/tserve/nattrans/ntuselnd/essays/amcwar.html>. (accessed November 21, 2018).

<sup>42</sup> Brady, *War Upon the Land*.

<sup>43</sup> Megan Kate Nelson, *Ruin Nation: Destruction and the American Civil War* (Athens, GA: University of Georgia Press, 2012).

*1862 Virginia*<sup>44</sup> explored the relationships and causalities between the men fighting the war and the natural world around them. Meier looked to the first-hand accounts of soldiers as in *War Upon the Land*, taking the history of the conflict to a basic level and building up a work in an environmental frame.<sup>45</sup> She expounded upon the relationships of soldiers to the land around them, particularly to forests, as in *Ruin Nation*, but introduced a case study of the Peninsular and Shenandoah Campaigns, adding to the wartime cases laid out by Brady.

A significant contribution to the environmental history of the American Civil War is the publication of a collection of essays for the University of Georgia's UnCivil War series, *The Blue, the Gray, and the Green: Toward an Environmental History of the Civil War*.<sup>46</sup> Edited by Brian Allen Drake, the volume contains ten essays from different contributors whose research spans the scope of the conflict. This provocative volume shared similarities with an edited volume by Tucker and Russell<sup>47</sup> edited by Richard Tucker and Edmund Russell that gathered articles and made a persuasive argument for the examination of the environmental history of war. Drake's collection supports the path of this scholarship, including works by Brady, Nelson and Meier, but gave voice to new scholars as well.

The environmental history of the Civil War continues to produce compelling scholarship. Erin Stewart Mauldin, a student of historian J.R. McNeill, published "The Stockman's War: Hog Cholera and the Fight for the Open Range in Reconstruction Era Alabama"<sup>48</sup> which examined epizootic events in western Alabama precipitated by the movement of animals during wartime

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<sup>44</sup> Kathryn Shively Meier, *Nature's Civil War: Common Soldiers and the Environment in 1862 Virginia* (Chapel Hill: The University of North Carolina Press, 2013).

<sup>45</sup> *Ibid.*, 13. Meier classifies her work as "an ethnographic history of soldier health."

<sup>46</sup> Brian Allan Drake, ed., *The Blue, the Gray, and the Green: Toward an Environmental History of the Civil War* (Athens, GA: University of Georgia Press, 2012).

<sup>47</sup> Richard Tucker and Edmund P. Russell, eds., *Natural Enemy, Natural Ally: Toward an Environmental History of War*. (Corvallis: Oregon State University Press, 2004).

<sup>48</sup> Erin Stewart Maulden, "The Stockman's War: Hog Cholera and the Fight for the Open Range in Reconstruction-Era Alabama," *The Alabama Review* 70, No. 2 (1990).

and charts the effects of disease on postwar political and social struggles. Her expansive view continued to develop in her book *Unredeemed Land: An Environmental History of Civil War and Emancipation in the Cotton South*,<sup>49</sup> where she further examines the changed landscapes of the postwar era and how it affected southerners, particularly sharecroppers. Mauldin made the argument that the course of the Civil War and Emancipation “tore off the mask” of underlying environmental issues surrounding the southern agrarian model.<sup>50</sup> This paper contributes to this notion through its contribution to the environmental history of slavery.

While this body of work concerning the environment and the Civil War has proven expansive and at times groundbreaking, since Brady’s *War Upon the Land* explored the relationship of strategists around the Vicksburg campaign, no significant attention has been paid to the legacies of the war in the area of controlling water. Brady stops at the Vicksburg stretch of the Mississippi River, more than a hundred miles above its intersection with the Atchafalaya. This paper will contribute to a new direction in this field as well as contribute to intersectional works like that of Lisa Brady.

Other works of particular relevance to this historiography reach into the worlds of other river systems in the world. Richard White’s *The Organic Machine: The Remaking of the Columbia River*<sup>51</sup> revealed the potential of a complete history of a river system, both organically and in its interaction with human designs upon its course, control, and management. This paper’s description of the forging of new paradigms for the maintenance of an anthropologically altered water system is in keeping with White’s fascinations. Another book of importance is Ling

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<sup>49</sup> Erin Stewart Mauldin, *Unredeemed Land: An Environmental History of Civil War and Emancipation in the Cotton South* (New York: Oxford University Press, 2018).

<sup>50</sup> *Ibid.*, 4.

<sup>51</sup> Richard White, *The Organic Machine: The Remaking of the Columbia River* (New York: Hill and Wang, 1995).



Zhang's *The River, the Plain, and the State: An Environmental Drama in Northern Song China, 1048-1128*.<sup>52</sup> In it, Zhang examined the course and changes brought about by state attempts to manage a catastrophic, generational shift in the course of the Yellow River. Finally, it is notable to mention the influence of James C. Scott's *Seeing Like a State*,<sup>53</sup> a work of political science relevant to the intellectual foundations of this and other inquiries. Scott's highlighting of the limitations of what a state can "see" in its interactions with both the natural and constructed worlds illuminate this and other works.

Though some of these works are far removed from the American Civil War and its legacy, they illuminate the direction of the work of this thesis going forward, just as it contributes to specific areas of environmental history. As in *The Stockman's War*, this paper seeks to expand understanding of the political and environmental effects of human interaction with a dynamic, hydrological system.

This paper will contribute to these three areas of the historical literature by arguing for the extension of an environmental lens into the examination of mid-nineteenth century Louisiana. The state's environmental challenges are reflected in the disposition and formation of its structure as it moves through history. Inclusion of the environment in analyzing some major themes running through the intricate period of Reconstruction in Louisiana provides for a fuller understanding of this era.

By examining the physical effects of war, this work will contribute to the field of environmental history, particularly to that of the American Civil War. And as in Meier's *Unredeemed Land*, it makes substantial inroads into the largely untapped well of the

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<sup>52</sup> Ling Zhang, *The River, the Plain, and the State: An Environmental Drama in Northern Song China, 1048-1128* (Cambridge, UK: Cambridge University Press, 2016).

<sup>53</sup> James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (Princeton: Princeton University Press, 1998).

environmental history of the institution of slavery in the Antebellum South.

## **The Origin of Louisiana's Levee Complex**

The colonization and settlement of colonial southern Louisiana involved not only the perennial labors of land clearing, property allotment, and demarcation. It included added layers of complexity necessary because of the alluvial and wetland character present throughout much of the region. Regular flooding by nutrient-rich systems like the Mississippi and Atchafalaya rivers fed soil to an intensely rich degree, highly suitable for agriculture, but the flooding also hindered favorable conditions needed for constant occupation and European agricultural processes. Because of this disruption, settlers in New Orleans, along the German Coast and westward into the Atchafalaya Basin region needed to not only drain and develop land, but also to regularly attend to keeping out water displaced by their activities.

French settler interests founded New Orleans upon a natural high ridge of land along a long, crescent-shaped bend running roughly parallel to Lake Pontchartrain to its north. This ridge was not the only such formation in the area, but the areas between these ridges was susceptible to flooding and soon thereafter levee construction began in order to develop the areas between the high grounds, or levee crests.<sup>54</sup> These natural areas of high ground were not unique to the New Orleans area, and similar conditions would recur throughout the alluvial and swamp regions further south and west.<sup>55</sup> The practice of constructing rigid “floodwalls” of earth to keep water channels from spilling into the surrounding areas was a well-established one and can be traced to the work in the 1600s of an Italian engineer, Domenico Guglielmini.<sup>56</sup> In Louisiana, such efforts

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<sup>54</sup> Richard Campanella, *Bienville's Dilemma: A Historical Geography of New Orleans* (Lafayette: Center for Louisiana Studies, 2008).

<sup>55</sup> Rehder. *Delta Sugar*, 15.

<sup>56</sup> Kermit L. Hebert, *The Flood Control Capabilities of the Atchafalaya Basin Floodway*. (Baton Rouge: Louisiana Water Research Institute, April 1967), p. 35. “The levee-only policy was based on the practice and theory

date from the beginning of French settlement at Natchitoches in 1714. Construction of levees to connect the ridges along flood-prone waterways allowed for land reclamation outside of these natural formations, but their variations in height complicated regulatory attempts to standardize levee dimensions.<sup>57</sup> These ridges, combined with a system of natural levees produced by alluvial forces, produced water barriers sometimes three miles inland from waterways.<sup>58</sup> These formations illustrate the patchwork of flood threats of variable danger facing European arrivals in the region, and foreshadow the complex nature of prospective flood control measures.<sup>59</sup>

The construction of levees as a precursor to European settlement was aided by the favorable conditions provided by crests and ridges that settlers found throughout the region, with the arduous task of levee maintenance. Plantation agriculture in south Louisiana needed access to the river, near the main waterways and by extension to the most proximate danger. Farmers' margins demanded access to shipping, and plantation "landings" were preferably built along levees in areas described resignedly as "first to flood, first to dry."<sup>60</sup> Vigilance along the levees proved essential, especially in confronting the issue of the dreaded levee crevasse. If the river were to break through the levee, it would begin to empty water into the lower, adjacent dry land. This flow of water, if left unchecked, tended to press the downriver earthwork head-on, rapidly eroding its height, grinding it down along its flank, with the potential to erase miles of an otherwise formidable barrier. This demonstrates the essential role that constant attention plays in

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of Domenico Guglielmini, an Italian hydraulic engineer of the Seventeenth Century." This system was not without its detractors, even in Antebellum Louisiana, see Reuss, *Designing the Bayous*, 33.

<sup>57</sup> Ibid., 175.

<sup>58</sup> Ibid., 14.

<sup>59</sup> Case, Gladys Calhoun. *The Bayou Chene Story*, (Detroit: Harlo Press, 1973), 90-91. Also of interest in conceptualizing European attitudes is the arrival of the iconic pirogue. This shallow boat allowed access to interior areas of the swamplands in south Louisiana, where its profile glides easily from shallow to deep. Rather than being an indigenous invention, it was crafted by the Spanish and adopted by the French.

<sup>60</sup> Rehder, *Delta Sugar*, 65.

levee upkeep and the potentially devastating effects of inattention to these earthworks.<sup>61</sup>

Before the American Civil War erupted in 1861, the levee system in south Louisiana, while in no way impervious to flooding, had reached some basic stability due to the realities of the plantation system. Most successful plantations abutted waterways, giving access to the markets in New Orleans and Morgan City,<sup>62</sup> which meant there would be eyes on the physical levees. Slavery meant an available force of laborers to maintain without wage costs affixed to manpower.

The falling tide of the Civil War in Louisiana meant an end to both slavery and the Antebellum plantation economy. What plantations persisted were subsumed into the burgeoning mill system, particularly those engaged in sugar cultivation,<sup>63</sup> constituting a majority of the planter interests in the Atchafalaya Basin and along the lower Mississippi River.<sup>64</sup> Before the Civil War the plantation system had provided some security from inundation, but their postwar condition meant there would be practically none.

## **The Hydraulics of the American Civil War in Louisiana**

The American Civil War would prove to be the single most decisive event in the transformation of Louisiana's levee system, and with it the politics of the state. Before the war, the plantation system had managed to reach deep into the interior of the Atchafalaya Basin and along the Mississippi River. Armies of slave laborers toiled to erect and maintain uneven—if vulnerable—mounds of earth for water control, the results of their labor was a relatively reliable

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<sup>61</sup> Donald W. Davis, "Historical Perspectives on Crevasses, Levees, and the Mississippi River," in *Transforming New Orleans and Its Environs: Centuries of Change*, ed. Craig E. Colten (Pittsburg: University of Pittsburg Press), 85. "[1750-1927] can be called the crevasse period."

<sup>62</sup> Morgan City was originally known as Tiger Island and at the time of the Civil War was known as Brashear City.

<sup>63</sup> Richard Follett, *The Sugar Masters: Planters and Slaves in Louisiana's Cane World, 1820-1860* (Baton Rouge: Louisiana State University Press, 2005); Hair, *Bourbonism and Agrarian Protest*, 35.

<sup>64</sup> Charles P. Roland, "Louisiana Sugar Planters and the Civil War," in *History Teaches Us Hope*, ed. John David Smith (University of Kentucky Press, 2007), 147.

and decidedly extensive system. By 1866 the damage resulting from the war rendered much of the Atchafalaya Basin impassable to waterborne commerce.<sup>65</sup> This situation resulted from triplet causes: regular warfighting, irregular—particularly Jayhawker—combatant activity, and neglect.

Regular warfare began in Louisiana with the Union drive to capture New Orleans. At the start of hostilities the city's defenses relied on the downriver Forts Jackson and St. Philip, whose capture in April of 1862 ended any chance of real resistance. With only a small contingent of soldiers assigned for land defense, the likely results of a siege would have been pyrrhic for Confederate defenders, at best. Though the city had already been under a blockade from the Gulf of Mexico, the reality of the Union forces' arrival shocked the city, which promptly surrendered.<sup>66</sup>

The capture of New Orleans did not deliver control of the Mississippi River to the Union by any measure. It became clear to Union war planners that control of the river would be a practical impossibility until Confederate strongholds of Port Hudson and Vicksburg above the city were captured. Until then, the river would remain contested, the Confederacy relatively whole, and the Confederate project practically viable. Both of these fortresses were located on the eastern bank, and effective encirclement would require a western bank solution. In the months following the fall of New Orleans, war planners realized that supply lines running from Texas into the greater Confederacy represented reliable sources of cattle, corn, and other staples necessary for the continuation of the rebellion in the medium term.<sup>67</sup> Gaining control of both banks of the river would place Louisiana's great rivers and bayous in the crosshairs of Union war

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<sup>65</sup> Benjamin Maygarden and Jill-Karen Yakubik. *The Bayou Chene Story: The Life Story of an Atchafalaya Basin Community*, (New Orleans: US Army Corps of Engineers, New Orleans District, 1999), 8.

<sup>66</sup> James O. Lang. "Gloom Envelops New Orleans: April 24 to May 2, 1862," *Louisiana History*, v. 1, no. 4. (Autumn 1960): 281-282.

<sup>67</sup> Donald S. Frazier, *Thunder Across the Swamp: The Fight for the Lower Mississippi, February 1863-May 1863* (Buffalo Gap, TX: State House Press, 2011), 15-16.

aims in the Department of the Gulf. The stage was set for the expansion of the war into the state's interior.<sup>68</sup>

Union forces managed to advance upriver and capture the state capital of Baton Rouge on August 5, 1862, but the "brief and violent" clash, while delivering the city to the Union, halted the Union advance upriver.<sup>69</sup> Long supply lines running from New Orleans upriver to Baton Rouge proved vulnerable to attacks by Confederate forces, further complicating security along the captured banks.<sup>70</sup> In a demonstration of the interplay of these issues, during an October 4, 1862 river skirmish, Union gunboats disrupted a Confederate attempt to drive 1,500 head of cattle across the Mississippi upriver from New Orleans, capturing the lot.<sup>71</sup> The difficulties faced by Union forces in their efforts to pacify this portion of the river would only intensify with their next move westward, deeper into the state's interior.

Union war planners' efforts to find a way to move northward effectively for an encirclement of Port Hudson and Vicksburg were consistently frustrated by the environmental difficulties of operating in Louisiana's topography. Reliable routes through the Atchafalaya Basin proved elusive, with changing water levels and natural hazards making any significant force vulnerable.<sup>72</sup> Union forces committed to an advance up the western edge of the Atchafalaya Basin, along Bayou Teche, ultimately succeeding in their efforts to encircle the stubborn Confederate holdouts. With this successful encirclement, Vicksburg fell on July 4 and Port Hudson on July 9, 1863. With that the Confederacy was bisected.<sup>73</sup>

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<sup>68</sup> Ibid., 17.

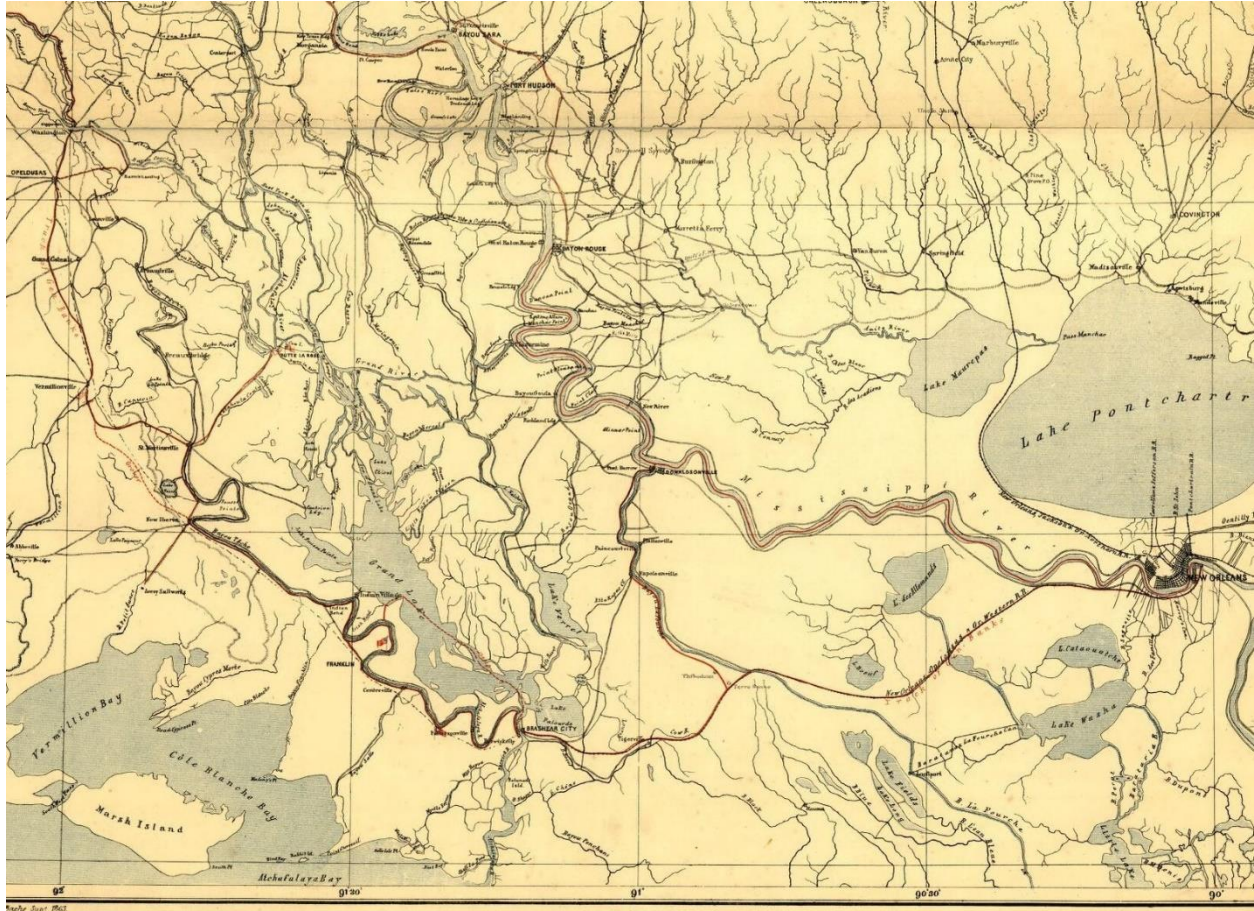
<sup>69</sup> Ibid., 7.

<sup>70</sup> Carl A. Brasseaux and Keith P. Fontenot. *Steamboats on Louisiana's Bayous: A History and Directory* (Baton Rouge: Louisiana State University Press, 2002), 86.

<sup>71</sup> Log, U.S.S. Portsmouth, October 4, 1862. U.S. Ship Portsmouth Log, MSS 8, Williams Research Center, The Historic New Orleans Collection.

<sup>72</sup> Frazier, *Thunder Across the Swamp*, 30-39.

<sup>73</sup> John D. Winters, *The Civil War in Louisiana*, 205.



**Figure 2.** The routes of the Union advance from New Orleans.<sup>74</sup> Note the westward move around the Atchafalaya Basin.

The damage inflicted by this conventional campaigning proved serious for the entire region. Physical damage to structures and improvements followed in the wake of military maneuvers without regard for property. Parts of once reliable levees were systematically destroyed along major and minor waterways in the south-eastern and central parts of the state,<sup>75</sup> which had seen most of the regular fighting. The ruination of many plantation buildings, stores of equipment, seizure of food and supplies for the war effort proved devastating to the economy

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<sup>74</sup> Henry Lindenkohl and A.D. Bache, *Military Map of Part of Louisiana* [map]. 1863. 1:390,000. United States Coast Survey. Retrieved from Library of Congress. <https://www.loc.gov/item/99447190/> (accessed April 2019).

<sup>75</sup> Reuss, *Designing the Bayous*, 54-55.

of the region.<sup>76</sup> Displacement of people, planters, poor whites and blacks alike represented the end of the plantation economy in the Atchafalaya Basin and along the Mississippi River.<sup>77</sup> The city of New Orleans evaded the destruction wrought on the countryside by the war.<sup>78</sup> However, the damaging floodwaters that struck the state in 1862 followed by worse in 1865 proved early indicators of the damage that had been sustained by the protective levee system.<sup>79</sup>

To account for the scale of the damage into the interior of the Atchafalaya Basin and along the Mississippi River, it is necessary to evaluate the impact of irregular warfare on the levee system and the conditions that such fighting imposed on efforts to maintain what systems remained. The Union Army's solicitation for contractors to repair certain levees along the Mississippi in 1865 specifically offered "protection" to workers.<sup>80</sup> This casual clause at the end of hostilities quietly echoes the real scale of insecurity endured by the central and southern parts of the state from the beginning of the Union invasion to the end of the war.

The progress of the war in south-central Louisiana greatly impacted the world of steam-powered water transportation. Disruptions in and along the waterways of the Atchafalaya Basin began before the first shots were fired. Steamboats, critical to commerce in this region, faced seizure and use in logistical and warship service by both sides,<sup>81</sup> removing them from use by inelastic commercial and civilian logistical purposes. Many slaves also fled as Union forces

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<sup>76</sup> John L. Gibson. *Archeology [sic] and Ethnology on the Edges of the Atchafalaya Basin, South Central Louisiana: A Cultural Resource Survey of the Atchafalaya Protection Levees* (New Orleans: US Army Corps of Engineers, New Orleans District, January 1982), 136.

<sup>77</sup> *Ibid.*, 54.

<sup>78</sup> Shugg, *Origins of Class Struggle in Louisiana*, 194; Frazier, *Thunder Across the Swamp*, 141. Frazier quotes a Union Captain: "The Teche Country was to the war in Louisiana what the Shenandoah Valley was to the war in Virginia."

<sup>79</sup> Reuss, *Designing the Bayous*, 54.

<sup>80</sup> *New Orleans Times*, January 8, 1865.

<sup>81</sup> Brasseaux and Fontenot, *Steamboats on Louisiana's Bayous*, 79.



arrived in the region,<sup>82</sup> scattering labor resources. Given that both sides had resorted to conscription earlier in 1862, the progress of fighting in this region might accurately be classified as total war.

The Union would spearhead every offensive it undertook along Louisiana's rivers and bayous with armed steamers, while the Confederates would utilize these vessels to form the strongest points of their defenses in the region;<sup>83</sup> this tactical environment makes the activity of the engaged steamer forces an important indicator of the prevailing environmental conditions in the Atchafalaya Basin and along its tributaries. For the activity of these large boats was inextricably linked to prevailing water levels. Before the war, the geographic reach of steamships into western Louisiana's interior and the times of year this was possible (due to water levels) and were important factors in economic and infrastructural development.<sup>84</sup> During the war, economic and infrastructural variables were replaced by military confrontation and collateral destruction. While the Union drive up the Teche was ultimately successful in encircling Vicksburg and Port Hudson, irregular activity like that dogging Union forces along the Mississippi River during the war proved intense and worsened as the war continued.<sup>85</sup> This situation is a factor in the postwar situation along Louisiana's waterways. The relationship between the long course of the First Bayou Teche Campaign and this encircling movement also stresses the scale of these geographic

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<sup>82</sup> Christopher Morris, *The Big Muddy: A Environmental History of the Mississippi and its Peoples from Hernando de Soto to Hurricane Katrina* (New York: Oxford University Press, 2012), 147-149.

<sup>83</sup> Brasseaux and Fontenot, *Steamboats on Louisiana's Bayous*, 79.

<sup>84</sup> Donald J. Millet, "The Saga of Water Transportation into Southwest Louisiana to 1900," *Louisiana History*, v. 15, no. 4 (Autumn 1974), 339-341.

<sup>85</sup> Carl A. Brasseaux, "Ozèmè Carrière and the St. Landry Jayhawkers, 1863-1865," in *The Louisiana Purchase Bicentennial History Series in Louisiana History, Part A: Military Activity*, ed. Arthur W. Bergeron (Lafayette: Center for Louisiana Studies Press, 2002), 640-646. Brasseaux's article illustrates the scale of these activities with the case of Carrière's "battalion," a group that peaked at more than one thousand jayhawkers, Confederate deserters, criminals and runaway slaves among them. Governor Allen reported that more than eight thousand deserters were believed to be sheltered behind their aegis. Their activities were not limited by political prejudice, and in May of 1864, the local Confederate Departmental Commander issued an order that member of this band of Jayhawkers be shot on sight.

challenges and the broad strategic entanglement of Louisiana's waterways.

As the Union forces advanced along the extremes of the Atchafalaya Basin, some retreating Confederates seem to have fled into the interior of the swamp, joining a growing population of displaced persons. Soon after the offensive began from New Orleans to Baton Rouge in 1862, irregular activity increased along the supply lines between those cities.<sup>86</sup> This was repeated along other waterways proximate to the area, and the situation intensified into a classical guerilla war.<sup>87</sup> Union forces were unwilling to engage in raids to clear these irregulars without gunboat support as low water was dangerous to ships traversing the bayous.<sup>88</sup> 1864 was one such year, and it saw the formation of an entire network of Confederate and Jayhawker<sup>89</sup> positions built throughout the swamps, which Union war planners classified as the "most significant military threat in South Louisiana" at that time. Rising water enabled one retaliatory raid in which Union forces destroyed a large camp in plain sight on Bayou Portage including a barracks for three hundred men, boats and supplies.<sup>90</sup>

Near Plaquemine, raiders proved adept at targeting only plantations operated by federal surrogates during Union General Nathaniel P. Banks' wartime labor scheme to the point where arming freedmen saw serious consideration. The irregular warfare was not confined to Union

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<sup>86</sup> Carl A. Brasseaux and Keith P. Fontenot. *Steamboats on Louisiana's Bayous: A History and Directory*, 86.

<sup>87</sup> John A. Negl, *Learning to Eat Soup with a Knife: Counterinsurgenc Lessons from Malaya and Vietnam* (Chicago: The University of Chicago Press, 2005), 15; Carl Brasseaux and Keith P. Fontenot, *Steamboats on Louisiana's Bayous*, 99-102.

<sup>88</sup> Adjutant General Richard B. Irwin to Commodore James S. Palmer, in *War of the Rebellion, Official Records of the Union and Confederate Armies*, Series I, Vol. 26, Part I: Reports and Union Correspondence (Washington, Government Printing Office, 1889), 490-491. In a letter to Commodore Palmer onboard the *U.S.S. Hartford*, Irwin stresses his shared conviction "urging the vital importance of coal, steamboats, and prompt movement."

<sup>89</sup> A succinct definition of "Jayhawker" is provided in Jefferson Davis Bragg, *Louisiana in the Confederacy* (repr. 1941 Baton Rouge, LA: Louisiana State University Press, 1997), 198. "[...] lawless men, commonly known as guerillas or jayhawkers. These companies were made up of usually of recusant conscripts and deserters and ranged from fifty to five hundred men in membership, although most of the bands seem to have numbered less than two hundred. They raided and plundered [houses and communities] carrying off or destroying much property."

<sup>90</sup> Brasseaux and Fontenot, *Steamboats on Louisiana's Bayous*, 104-105.

targets. Attacks emanating from the Basin struck plantations operated by both loyalists and government operatives, to the protest of their former masters.<sup>91</sup>

The damage sustained by the levee system in Louisiana during the American Civil War can therefore be said have three main, interrelated causes. First, the impact of regular warfare upon the built environments caused direct damage to many levees and water control structures during actual campaigning. Second, the same topographical and hydrological conditions that rendered the region vulnerable to flooding ante bellum exacerbated the irregular conflict. Finally, neglect of these structures during the war caused widespread failures that would require more capital for repair than would have been necessary for regular upkeep. This neglect was caused in part by the radical labor shifts brought on by invasion of a liberating force, both real and perceived, but also significantly by the contested, insecure environment brought on and sustained by prolonged irregular warfare between multiple actors.

### **Postbellum Physical, Labor, and Political Realities in Louisiana**

Even before the end of the war, Union General Nathaniel Banks found himself facing what would become the complex aftermath of the issue of labor. He vastly expanded an earlier, more limited initiative begun by his predecessor and on February 3, 1863, he issued General Order 23. In moralizing terms reminiscent of the Emancipation Proclamation of thirty-four days earlier, this directive amounted to a full reorganization of the labor system in Union-controlled Louisiana.<sup>92</sup>

Banks' 1863 order struck at the intersection of the difficult issues of emancipation and labor, what Peyton McCrary terms a "halfway house between slavery and freedom." Banks

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<sup>91</sup> McCrary, *Abraham Lincoln and Reconstruction*, 144-145.

<sup>92</sup> *War of the Rebellion*, Series I, Vol. 34, Pt. 2, 227-231.

sought to require “emancipated” slaves to work, offering them guaranteed pay and certain familial and bodily protections.<sup>93</sup> In a personal case study of what would face the reconstituted Louisiana authorities, Banks had devised a compromise between the realities of labor shortages and the end of slavery, one which did not exist before his order posted and would not emerge again after the war. As strange as this system must have seemed to freedmen, the solution seemed to alleviate the question of labor. It simultaneously served the humanitarian purpose of temporarily alleviating poor conditions in the crowded “contraband camps” of landless freedmen that had begun to grow around Union lines.<sup>94</sup> Beyond these purposes, however, there is the reality that these workers, whatever the nuance of their station, were also available for and were utilized for levee work.<sup>95</sup> Even if poor management-labor relations led to a ruined harvest, which did occur,<sup>96</sup> perhaps a semi-static labor presence might be preferable to preserve physical properties. Banks’ experience in the war at this point would undoubtedly have informed his understanding of the dangers of flooding in Louisiana, particularly his participation in the First Bayou Teche Campaign.

The issue of the newly-freed population was made central in Eric Foner’s 1988 book, *Reconstruction: America’s Unfinished Revolution*, and surely members of the Freedmen’s Bureau would have agreed. As Louisiana’s government continued in its amorphous state, shifting between occupied land, semi-self-governed state, and rebel territory, this federal organization, designed to address the condition of the emancipated in the reconsolidating South, also found itself ensnared by Louisiana’s watery topography. In 1865, the Bureau determined Louisiana possessed three million acres of available public land, under public domain of the state, that

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<sup>93</sup> Ibid., 135.

<sup>94</sup> Ibid., 136-137.

<sup>95</sup> Morris, *The Big Muddy*, 147-149.

<sup>96</sup> Gibson, *Archeology and Ethnology*, 136.

could be set aside for the (re-)settlement of Louisiana's newly freed population. Much of this land proved to be practically unsuitable: swampy, flood-prone locales that would require draining, preparation, and levee construction. The capital making the land habitable in these locations at this scale was as it was elsewhere in the state, simply unavailable.<sup>97</sup> That the levees constructed and maintained largely by enslaved blacks, sometimes for generations, were now beyond their benefit in the aftermath of the war that liberated them from bondage is a strange moment indeed.

The new realities of Emancipation provided many challenges for the states of the South and their estranged federal partner. The creation of the Freedmen's Bureau, the amending of the United States Constitution three times, and other legal measures designed, modified, and implemented throughout the South might seem similar to the changes experienced in the interaction of Louisiana's alluvial problems and its state institutions, but they were fundamentally different in an important, yet subtle way—namely, that the freedmen represented a human constituency, one that acted and reacted to conditions around it, though it had been deprived of such agency in national memory.<sup>98</sup> The natural environmental systems that Louisiana faced during this period were dynamic as well, but they were intrinsically recursive: and in that, they were specific and reactive. If studied sufficiently, they have the potential to be understood and predicted. This impulsive force is unlike an individual or a constituency, which possesses natural agency and is beyond the dynamic and into the realm of chaos.

The realities of physical damage sustained throughout the state's waterways became plain after the end of the war. Natural and man-made obstruction plagued many bayous. Collapsed

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<sup>97</sup> Howard A. White, *The Freedmen's Bureau in Louisiana* (Baton Rouge: Louisiana State University Press, 1970), 59.

<sup>98</sup> Ficklen, *History of Reconstruction in Louisiana*; Lonn, *Reconstruction in Louisiana*.

plantation structures, sunken steamships and even live mines joined the accumulating driftwood to render the Atchafalaya Basin impassable below Bayou Plaquemine.<sup>99</sup> In some areas the scale of the damage was unknown: in 1866 there were areas still inundated from the war, and it was unknown what had been left below the muddy waters.<sup>100</sup>

## **The State's Postbellum Incarceration System**

With the evaporation of slave labor for the construction and maintenance of levees, a dangerous and expensive enterprise,<sup>101</sup> the availability of human labor under the total control of state authorities now factored into calculations just as with Antebellum planters. Convicts serving sentences in state penal institutions represented a pool of captive labor. The incarcerated faced exploitation by Louisiana for *state-enterprise (CARDON)* purposes before the American Civil War,<sup>102</sup> significantly off-setting the costs of their incarceration. As tools of marginal expense reduction, the employment of these individuals in the reconstruction of levees is not a surprising postwar development. However, the scale of the *state's* commitment to the project and the mortality rates the contracted convicts faced there, especially in the face of state attempts at oversight, represent a transformation of the state-level prison system into a neo-chattel system not unlike the evolution of slaves to freedmen and finally to sharecroppers. This transition did not come as a response to market forces, but rather to the state's engagement with the unstable alluvial and swamp systems of the Lower Mississippi Valley.

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<sup>99</sup> Brasseaux and Fontenot, *Steamboats on Louisiana's Bayous*, 116-117. See for details of postwar debris; Maygarden and Yakubik, *Bayou Chene*, 9. Describes the inaccessibility of the Basin's waterways.

<sup>100</sup> Reuss, *Designing the Bayous*, 56.

<sup>101</sup> See state reports of mortality rates among convict labor gangs after the civil war, William Ivy Hair, *Agrarian Protest and Bourbon Democracy in Louisiana*, 178-188; also notable in Michael McCoy "Rough Mens" in "the Toughest Places I Ever Seen": The Construction and Ramifications of Black Masculine Identity in the Mississippi Delta's Levee Camps, 1900-1935," *International Labor and Working-Class History*, No. 69 (Spring, 2006). Mortality rates reported by the NAACP in the early 20<sup>th</sup> century delta camps with more modern equipment than in Reconstruction Louisiana.

<sup>102</sup> "Louisiana Penitentiary," in *De Bow's Review of The Southern & Western States, Volume 12, Issue 17 (1852)* 576.

The decades-old practice of using convict labor in Louisiana changed after emancipation and the coming of a (relatively) free labor system. Instances of commercializing convict labor in Louisiana date to 1844,<sup>103</sup> but the idea of using prisoners for public enterprises begins to appear in public sentiments across multiple publications in the immediate aftermath of the war. Concerns included food availability and demonstrated awareness of the changed labor and economic system in the state.<sup>104</sup> Statements by authorities likewise reflected this postwar attitude. R.T. Posey, a judge serving on the bench for the Fifth Judicial District Court in New Orleans, appealed to the jury to consider putting an accused to work, explicitly citing jail capacities and a need for labor in the public interest.<sup>105</sup> These kinds of publications and statements represent a fundamental shift in attitudes towards incarceration and the role of the penal system. It is in this environment that levee reconstruction, as an urgent issue requiring state solutions, emerged.

The scale of the challenge of controlling river flooding in Louisiana is in evidence immediately following the war. Policymakers did not initially grasp the whole view of the task they faced—the transition from plantation interest to public works mandate did not come easily, in part because no state effort on this scale had ever been attempted in Louisiana.<sup>106</sup> In a solicitation of contracts for levee construction, the headquarters of the Department of the Gulf in New Orleans' Office of the Provost Marshal under Major General Hurlburt offered some firm parameters these tasks required at the parish-level. This January 5, 1865, announcement called for the movement of 200,000 cubic feet of earth in West Baton Rouge Parish and another

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<sup>103</sup> Hair, *Bourbonism and Agrarian Protest*, 129.

<sup>104</sup> *Daily Advocate*, November 17, 1865.

<sup>105</sup> *Daily Advocate*, December 11, 1865.

<sup>106</sup> Paul F. Paskoff, *Troubled Waters: Steamboat Disasters, River Improvements, and American Public Policy, 1821-1860* (Baton Rouge: Louisiana State University Press, 2007), 190-191.

125,000 cubic feet in upriver Point Coupee Parish by March 15 of that year.<sup>107</sup> This represents a solicitation for a tremendous amount of manpower.<sup>108</sup> General Hurlburt's office offered military protection to the contractor and his workforce,<sup>109</sup> which is doubly telling. It indicates a continued insecurity along the route of the Mississippi River south of its fork with the Atchafalaya and north of Bayou Manchac. Secondly, it offers a window on what the Union military had to offer in levee building efforts. Soliciting manpower indicates an absence of earth-moving machinery or animal power at the disposal of the Gulf Department's authority. The arrival of these kinds of contracts spelled an end to the previous practice of local regulations and fines for landowners as a means of ensuring levee maintenance.

By 1865, Louisiana's state government found itself short on money and deep in both debt and new responsibilities for flood control in the Atchafalaya Basin and along the Lower Mississippi River. These conditions, coupled with a reliable pool of labor represented by a burgeoning prisoner population, were prime factors for the substitution of one system of forced labor by another, although this outcome was neither inevitable nor immediate.<sup>110</sup> However, by 1871, with the system's ultimate endurance, the sourcing of leased prisoners for levee reconstruction became a general reality. While prisoners sometimes helped with railroad construction, the vast majority of convict labor found itself assigned to flood control work.<sup>111</sup> As state efforts to contain the waters of the

Atchafalaya and Mississippi rivers intensified following seasonal flooding into the 1870s, the

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<sup>107</sup> *New Orleans Times*, January 8, 1865.

<sup>108</sup> For perspective, the average wheelbarrow holds approximately 3 cubic feet of soil, meaning that these contracts represent an agreement to transport 66,667 wheelbarrow loads in West Baton Rouge Parish and another 41,667 loads in Point Coupee Parish, the smaller of the two. The maximum timeframe for this contract is 69 days from solicitation to completion, meaning 4,710 loads would need to be transported per day, at a minimum.

<sup>109</sup> *New Orleans Times*, January 8, 1865.

<sup>110</sup> Cardon, "Less Than Mayhem," 424-425.

<sup>111</sup> *Ibid.*, 419.





**Figure 3.** Convict labor at work on a levee along the Atchafalaya River, circa 1899.<sup>112</sup>

prisoner population saw steady increases. Between 1867 and 1877, the number of convicts under the state's custody nearly tripled,<sup>113</sup> and the prewar demographic saw a reversal, from a 3:1 white-to-black ratio immediately before the war to a 1:3 ratio reported by the holder of the largest prison contract. This deepening nexus of interests between the state, contractors and the prison system is only further tightened by contemporary accounts that the prisoner leasing "ring" in final form proved a second only to the infamous Louisiana Lottery Ring by observers.<sup>114</sup> The prisoner lease became another example of how Louisiana's institutions found public projects intertwined with their relationship with water.

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<sup>112</sup> Andrew David Lytle. "Convicts Building a Levee, Atchafalaya River, 1901." Andrew D. Lytle Collection, Mss. 893, 1254, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, LA.

<sup>113</sup> *Ibid.*, 425.

<sup>114</sup> Hair, *Bourbonism and Agrarian Protest*, 132.

## Centralization by Monopoly: The Louisiana Levee Company

In 1871, the availability of convict labor and the poor finances of the state produced conditions ideal for state chartering out of its responsibilities. The same day it advanced bills establishing the Crescent City Waterworks in New Orleans, the Louisiana House of Representatives moved forward with a new act authorizing the establishment of a “Louisiana Levee Company.” This new entity would constitute a “body politic and corporate, with certain powers, privileges and franchises,” according to the act, and be a vehicle for state contracts aimed at levee maintenance and repair.<sup>115</sup> The disparity between the waterworks bill and the levee bill is striking due to the potential revenues a monopolized levee contract company with such a broad mandate might expect in Louisiana’s postwar environment. While investors in the new waterworks initiative might expect handsome returns on a public works entity in the largest city in the state, the Levee Company’s “market” dwarfed even it.<sup>116</sup> Upon the company’s chartering and the appointment of its board, the firm’s obligations included the regulatory mandate to move three million cubic feet of soil per year “until said levees shall be completed according to the standard required.”<sup>117</sup> This ambition, especially in light of Major General Hurlburt’s 1865 solicitation for raising 325,000 cubic feet in two parishes,<sup>118</sup> represents an massive project.

The debate on the constitutionality of the Louisiana Levee Company represents the scale of innovation provoked by contemporary extraordinary environmental conditions and the motivation for its creation ties together two important, interrelated threads—those of legality and

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<sup>115</sup> *Weekly Louisianan*, March 16, 1871.

<sup>116</sup> Donald W. Davis. “Historical Perspectives on Crevasses, Levees and the Mississippi River,” 92. In the 8-year period comprising 1866-1874 more than 100 cumulative miles of levees along the Louisiana’s Mississippi river banks collapsed.

<sup>117</sup> *Daily Advocate*, February 27, 1871.

<sup>118</sup> *New Orleans Times*, January 8, 1865.

flood control. The influence of this organization is underscored by litigation between the company and the state treasury which reached the Louisiana Supreme Court in April of 1873. In seeking to meet its regulatory obligations, the company reportedly had executed \$707,000 worth of repair and maintenance work during the two years following the passage of the Levee Act on February 20, 1871, yet report compensation of only \$400,000. When the company filed with the state auditor's office for a treasury warrant to withdraw some \$18,000 held by the state designated for levee work, State Auditor Charles Clinton refused on constitutional grounds. The company faced the state attorney general in the state supreme court shortly thereafter.<sup>119</sup>

The court case of the auditor's clash with the Louisiana Levee Company brings to light possible motivations behind the state's chartering of this entity, emphasized fractures within the divided state's ruling factions, and highlights the kind of plots that the waters flowing over the banks of the state brought to Reconstruction Louisiana. Charles Clinton bolstered his stand against the company by virtue of the elected nature of his office, and was helped by the strength of his counterpart, the similarly elected treasurer.<sup>120</sup> With the Attorney General, Clinton levelled a constitutional case against payouts to the company. His arguments before the court were threefold. First, he cited constitutional amendments limiting state debt and, citing Articles 110, 114, and 115 of the Louisiana Constitution of March 1868, he argued that the act's payout provisions constituted an effort to sideline provisions on debt, including general articles of the basic law. Second, he argued that the payments requested represent an unallowable request by a private entity to gain access to state funds. Third, Clinton asserted that neither the legislature nor the governor had the ability to authorize the present situation in the first place, as the property

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<sup>119</sup> *Times Picayune*, May 5, 1873.

<sup>120</sup> Charles Vincent, "Aspects of the Family and Public Life of Antoine Dubuclet: Louisiana's Black State Treasurer, 1868-1878," *The Journal of Negro History* 66, no. 1 (1981), 26-36. Dubuclet engaged in a public court battle with the Warmouth administration in 1869 over issues related to levee contracts.

owners had already assumed obligations vis-à-vis flood control when they acquired the threatened land parcels.<sup>121</sup> These three arguments threatened the whole architecture of the company-state system and the 21-year contract now in force.

The constitutional argument of the resulting case<sup>122</sup> is particularly relevant to Louisiana's ongoing attempts to find solutions to the dogged problems continued flooding events presented in the context of a relatively democratic system feeling the constraints of a basic law like the Constitution of 1868. While Article 114 and 115 citations are largely technical,<sup>123</sup> Article 110 explicitly calls into question the notion of a public utility and whether the company represented one:

“ART 110.--No *ex post facto* or retroactive law, nor any law impairing the obligation of contracts shall be passed; nor vested rights be divested, unless for purposes of public utility and for adequate compensation made.”<sup>124</sup>

This article, combined with amended limits setting state debt loads at \$25 million emphasize the stresses brought by the company to the structure of the state's legal and lawmaking institutions. If one accepts Clinton's arguments, the state's chartering of the Louisiana Levee Company would then represent an establishment of contracts for private utility, and critically, represent a scheme to sideline debt ceilings by transferring public obligations to a private obligation feeding from public taxes. This would be contrary to the law in spirit if not in practice.

On May 21, 1873, the Louisiana Supreme Court ruled in favor of the company,

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<sup>121</sup> *Times Picayune*, May 5, 1873.

<sup>122</sup> *State of Louisiana, Ex Rel. Louisiana Levee Company, vs. Charles Clinton*, Auditor of the State of Louisiana, No. 4617, Appeal from the Superior District Court, Parish of Orleans.

<sup>123</sup> Constitution adopted by the state of Louisiana, March 7, 1868, 15-16. While all three articles fall under Title VI. General Provisions, 114 (“Every law shall express its object or objects in its title”) and 115 (“No law shall be revived or amended by reference to its title; but in such case the revived or amended section shall be re-enacted and published at length”) are procedural, while 110 does not have a clear, legislatively amendable remedy.

<sup>124</sup> *Ibid.*, 15.

settling the issue as one of constitutionality, finding that the debts incurred by the company were not debts entered into by the state legislature.<sup>125</sup> This ruling is significant because the state's obligation to the company represented a *de facto* role for the state as guarantor for the company's debts in this arrangement. The legislature, facing urgent needs to fund its efforts in this area, essentially invented a solution by which it end-ran constitutional restraints and reaped new debt instruments, a clear indication of institutional innovation under pressure from an environmental system. Additionally, the precedent set by this case represented an immediate reality for litigants, both private and civil, before Louisiana's courts.

This 1873 case would linger not only in precedent, but instead entered into the text Louisiana's fundamental law six years later. The Louisiana Constitution of 1879's authors specifically cite this case in carrying over bond issues from the previous regime. Leaving no room for argument, it specifically authorizes both the State Treasurer and State Auditor to endorse warrants to reimburse the outstanding expenses incurred by the Company.<sup>126</sup>

### **The “Levee Cases”**

The court's decision in *Clinton* would not be the end of litigation surrounding the Louisiana Levee Company, nor was it the first such example. The power of precedent in the formation of the contours of a governmental system framed around the idea of separation of powers are inescapable. In pressing its case in *Clinton*, the company established its financial arrangements as constitutional and the state would be able to use the company's access to the bond market to generate capital that it could not take up itself. The later institutionalization of the

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<sup>125</sup> *Times-Picayune*, May 21, 1873. The court sidelines the other arguments before the constitutional issue.

<sup>126</sup> Louisiana Constitution of 1879, Miscellaneous Ordinances, Article I, No. 3. This part authorizes treasury warrants to repay the Levee Company for financials from 1871-1876.

repayment of these debts under the terms of the later Constitution of 1879<sup>127</sup> would complete the life cycle of this arrangement. An examination of the relevant case law surrounding this company reveals the reach of this arrangement's impact upon Louisiana and in some cases beyond its borders.

The first of these "Levee Cases" was *Police Jury v. Tardos* (1870). Heard the year before the Levee Company was established, it concerned a landowner who contested the Jefferson Parish Police Jury's authority to demand remuneration for a levee it constructed on his land. The Louisiana Supreme Court found that the laws requiring landowners to maintain their own levees were voided by both legislative action and the orders of General Sheridan years prior.<sup>128</sup> This case would be cited in the company's defense against Clinton's assertion that landowners were still legally obligated to maintain their own property's levees. The courts were asked to intervene again in *State ex rel. Bach v. Louisiana Levee Co.* (1873) involving internal affairs of the levee boards' administration and Governor Warmoth's role in it,<sup>129</sup> so by the time *Clinton* came before the justices they were aware of some of the issues surrounding the company.

*State v. Maginnis* (1874) is an example of the reach and significance of the precedent set by the Levee Cases. A landowner disputed the ability of an assessor to fix the rate of taxation on his property. This is significant first because the question of whether these rates can be set absent a law and secondly because the plaintiff argued again the issue of debt creation. The court used *Clinton* to settle this matter, ruling for the state. This ruling would be cited by no less than six other cases in subsequent years,<sup>130</sup> including cases as far away as Muskogee Michigan (*Fay v.*

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<sup>127</sup> Louisiana Constitution of 1879, Miscellaneous Ordinances, Article I, No. 3.

<sup>128</sup> *Police Jury, Parish of Jefferson, Right Bank, v. J.J. Tardos.*, 22 La. Ann. 58, 1870 La. Lexis 39.

<sup>129</sup> *State ex. rel. Bach v. Louisiana Levee Co.*, 25 La. Ann. 228. Lexis 88.

<sup>130</sup> *State v. Maginnis*, 26 La. Ann. 558. Lexis 286.

*Wood* (1887))<sup>131</sup> and *Seattle, Washington, (Smith v. Seattle* (1901)). The case in *Seattle* itself would be cited by some eighteen other cases as precedent in the prevailing years.<sup>132</sup>

The company found itself a defendant in significant cases with the potential to threaten its survival as the 1870s went on. In *Louque v. Louisiana Levee Co.* (1875), the company narrowly avoided a court ruling on its liability to damages incurred by landowners by crevasses through an administrative technicality,<sup>133</sup> and in *White v. Louisiana Levee Co.* (1875) it successfully navigated the complicated legal areas of contracts and succession.<sup>134</sup> *Choppin & Beard v. Louisiana Levee Co.* (1878) would tie up the loose ends in the *Louque* decision, affirming the company's responsibility to be to the state and not any private property interests or owners.<sup>135</sup>

In a case foreshadowing the coming legal battle with the rise of the corporation in the late nineteenth century, *Montgomery v. Louisiana Levee Co.* (1878) requested that the court determine where the company lived. Given that a person had to the right to utilize courts where the offender was domiciled, it was argued successfully that the company, headquartered as it was, along with its president, in New Orleans, was a resident within that jurisdiction. Court proceedings cited this case eighteen times in the coming years.<sup>136</sup> It was even critical to the outcome of a surprisingly lengthy court decision fifty-seven years later concerning a man bitten by a dog in *Tripiani v. Meraux* (1935).<sup>137</sup>

The state found its position from the *Clinton* case reversed in the company's final years as *Louisiana Levee Co. v. State* (1878) saw the company suing Louisiana after it tried to limit by

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<sup>131</sup> *Eliza T. Fay v. Abel Delos Wood and Seth Lee.*, 65 Mich. 390, 32 N.W. 614, 1887 Mich. LEXIS 611.

<sup>132</sup> *Lyman C. Smith, Appellant, v. City of Seattle, et al.*, Respondents, 25 Wash. 300, 65 P. 612, 1901 Wash. LEXIS 393.

<sup>133</sup> *Louque v. Louisiana Levee Co.*, 27 La. Ann. 134. The court found that a vacancy in the company's administration prevented it from legally operating until ten days after the crevasse had formed.

<sup>134</sup> *White v. Louisiana Levee Co.*, 27 La. Ann. 295.

<sup>135</sup> *Choppin & Beard v. Louisiana Levee Company.*, 30 La. Ann. 345, 1878.

<sup>136</sup> *Montgomery v. Louisiana Levee Co.*, 30 La. Ann. 607.

<sup>137</sup> *Tripiani v. Meraux*, So. 72.

statute how much of the money owed it by the public could be extracted from the treasury.<sup>138</sup>

The court declined to reverse its earlier ruling and the company prevailed.

Whenever governments enact innovative policies, they are in a sense testing what their powers are. In systems such as those in the United States, the courts' interpretation of these powers is critical to defining their scope and durability. The disposition and action of a state such as Louisiana in this period is inextricably informed by the nature of its powers. The Levee Cases stem mostly from the innovative nature of the Louisiana Levee Company and the legacies of its years in operation, but they are important in not only understanding the state's abilities but also in demonstrating another vector by which the environment shaped a state exercising control over it. The waters flowing into the Gulf of Mexico are essentially an unlisted amicus curiae in many of these cases before Louisiana's courts. Finally, the legal history helps in understanding what kinds of issues dogged the company during its existence, and provide a fuller accounting of its legal life.

### **The Constitutional Legacies of Reconstruction Era Flooding**

The legacy of *Louisiana Levee Company vs. the State of Louisiana* and its importance in Louisiana's legal history is evidenced by the specific, explicit inclusion of its central concerns in the body of the Constitution of 1879. The case is identified by name, even by case number, in a section devoted to miscellaneous ordinances. The constitution dedicates a portion of levee taxes for the repayment of debts owed the company, and specifically implicates both the state auditor and the treasurer in the servicing of these warrants.<sup>139</sup>

While responsibility for the maintenance and upkeep of levees had originally been the

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<sup>138</sup> *Louisiana Levee Co. v. State*, 31 La. Ann 250.

<sup>139</sup> *Ibid.*, 68.



responsibility of the landowner, the gradual devolution of these responsibilities into the public domain not only follows the gradual planter counterrevolution into the 1870s after the reconstitution of a federally-aligned regime in 1864,<sup>140</sup> but also tracks the issues facing the state at the time of the respective conventions.

Louisiana entered the Civil War with its new Constitution of 1861 in place, but this document largely reflected the status quo after secession, seeking to incorporate the work of the Constitution of 1852 with Louisiana's newly independent, perpetually slaveholding, status. This document did little to alter the previous document beyond the cosmetic angle.<sup>141</sup> The document contained no revisiting of issues of flood management or land management beyond what had been decided in 1852. That year's basic law had specifically provided support for Congress' efforts under the Swamp Lands Acts,<sup>142</sup> codifying them in that law<sup>143</sup> and reflecting the antebellum era's existing plantation and slaveholding system.

The constitutions of 1864 and 1868 both reflected a lack of understanding of the scale of the problem confronting Louisiana's radically changed flood control system. Martin Reuss in his authoritative *Designing the Bayous*, posits that policymakers simply did not grasp the scale of the problem they would soon face.<sup>144</sup> General Banks' dramatic invocation of levee and flood imagery during the debates of the convention that year aside, the convention yielded no movement towards a constitutional approach to the looming crisis. The official proceedings of the convention mention nothing more about levees or flooding. The 1868 Constitution makes

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<sup>140</sup> Taylor, *Louisiana Reconstructed*, 52.

<sup>141</sup> Official Journal of the Proceedings of the Convention of the State of Louisiana, 4-18.

<sup>142</sup> Reuss, *Designing the Bayous*, 40-47.

<sup>143</sup> Constitution of the State of Louisiana. Adopted in Convention, July 31, 1852. New Orleans: Crescent Office, 1852. Art. 128 provided that "None of the lands granted [...] aiding it in constructing the necessary levees and drains to reclaim swamp and overflowed lands [...] be diverted." Art. 132 instructed the Commissioners of Public Works to make recommendation to the LA General Assembly, among other things, "swamp and overflowed lands."

<sup>144</sup> Reuss, *Designing the Bayous*, 56-62.

new mention of levees only in removing authority of two minor levee boards to enforce taxation in their respective jurisdictions.<sup>145</sup>

While the Constitution of 1868 did little to address the flooding in the state, it actually owes the timing of its proceedings and perhaps its very existence to the environmental challenges plaguing much of Postbellum Louisiana. On October 5, 1865, a group of delegates met in New Orleans' iconic St. Charles Hotel on Canal Street. They had been selected and sent from fourteen parishes along the Mississippi River and several from the Atchafalaya Basin. They met with hopes of pressuring the state, then under the administration of Governor James Madison Wells, to finally confront the widespread failure of the state's levee system.<sup>146</sup> Agriculture would not totally cease in the Atchafalaya Basin until 1873, after that year's destructive floods, and this meeting is an indication that these planters were active agents in their early efforts at securing political remedy. The meeting did succeed at attracting the attention of Governor Wells, who appointed a levee board to investigate the problem and it ultimately proved instrumental as the impetus for the special legislative session of November 29, 1865, the session which would call for a vote on convening a constitutional convention. This vote would later succeed, and the convention would produce the next Constitution.<sup>147</sup>

This session's ostensible goal was to confront these serious flood control issues. It did not, and an observer to the debates, unaware of their origins, would not have been able to deduce them. The session proved centrally motivated with the issue of a new constitution, and Wells himself, addressing the convened legislators at the session's opening, made no mention of levees

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<sup>145</sup> Constitution adopted by the State Constitutional Convention of the State of Louisiana, Title XI, Art. 159.

<sup>146</sup> *New Orleans Times*, October 5, 1865. The represented parishes were: Assumption, Ascension, Concordia, Iberville, Jefferson, Lafourche, Madison, St. Martin, St. Mary, Point Coupee, Orleans, Terrebonne, West Baton Rouge, and West Feliciana.

<sup>147</sup> Lowry, 302-303.

at all. Issues ranged from labor to secret organizations operating in the state, but ultimately only the conclusions and recommendations of the governor's pre-session levee board were approved.<sup>148</sup> Wells did however manage to get himself considered as the new Senator from Louisiana in Washington, a vote he narrowly lost.<sup>149</sup> It is possible that Wells' motivation behind the session was to have himself elevated to national office, and it is possible that the delegates who pressed for a new constitution, hardly a speedy proposal, were motivated by their own special interests from the outset. Taking advantage of a period of crisis for the expedition of political aims is not surprising, but its role in garnering support, as it did during a special session of the legislature, for revising the Constitution of 1864 helps to underscore the impact of flooding on the political institutions of Postbellum Louisiana.

This episode also illuminates the changed role of planters in the political economy of the state during this chaotic period. While the representatives of agricultural interests were able to force the administration's attention from the opulent cupola of the St. Charles Hotel, they were markedly powerless in the conduct of the session itself. It is striking that this "sugar bowl" parish elite, previously architects of the state's 1852 basic law were now relegated to a marginal constituency in the conduct of legislative practice.

Louisiana under the Constitution of 1868 saw many experiments to legislate away the flooding woes that dogged Postbellum economic stability. The state's experiments with the Levee Company, convict leasing, levee taxation and other politically innovative initiatives would help to create the atmosphere and political reality that finally raised the issue of levee construction and maintenance with the Constitution of 1879.

The Constitution of 1879 provided specific provisions regarding taxation for levee works,

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<sup>148</sup> *Ibid.*, 301-303.

<sup>149</sup> *Ibid.*, 303.



**Figure 4.** The Ames Crevasse, March 1891, is representative of the speed and scale of levee breaches.<sup>150</sup>

the empanelment of levee boards with local taxing power, and a seemingly final appeal to relinquishment of these efforts to the Federal government. Levee “purposes” appear under the short list of enumerated legitimate taxing purposes allowed to the state legislature.<sup>151</sup> It tasked the state government with the mission of levee maintenance and construction explicitly, tied to constitutionally mandated taxation.<sup>152</sup> This may be a reflection of the status quo, but also

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<sup>150</sup> George Francois Mugnier, “Crevasse in Levee,” Louisiana State Museum, George Francois Mugnier Collection. < <http://www.louisianadigitallibrary.org/islandora/object/lsm-gfm%3A274>> (Accessed April 2019). (The Ames Crevasse, named after Amesville, Louisiana, is today known as Marrero., located on New Orleans’ “West Bank.”

<sup>151</sup> Constitution of the State of Louisiana, Adopted in Convention, at the City of New Orleans, the Twenty-Third Day of July, A.D. 1879, Art. 204.

<sup>152</sup> *Ibid.*, Art. 213.

provides a constitutional check against arguments for landowner responsibility (culpability) in these matters, as surfaced in *Louisiana Levee Company vs. the State of Louisiana*.

### **Conclusion: Towards an Environmental History of Reconstruction**

This paper argues for the need to consider the history of Louisiana in the mid-19<sup>th</sup> century with a consciousness of the decisive role environmental forces and the state's ecology have played in the course of some of its most important events. While the arguments presented here are largely focused on the widespread failures of the levees during the American Civil War and its aftermath and the progress of the state through Reconstruction, the role played by these natural forces in the state's story are not limited to this temporality. That caveat aside, the role that the challenges of flood control faced by the state, particularly in the Atchafalaya Basin and along the lower course of the Mississippi River is underrepresented in the historiography for the powerful effect these natural systems had upon Reconstruction in the state.

Louisiana's place in the history of the Reconstruction Era is well represented in works on the period. The beginnings of federal efforts to reincorporate the Confederacy into the Union originate with the Louisiana project begun in federally-occupied New Orleans in 1863. Events proceeding from the state including the ratification of the Louisiana Constitution of 1864, the violence surrounding the Constitutional Convention of 1868 (and subsequent effects upon the Johnson administration), the Battle of Liberty Place in 1874, and perceptions in the north of a state in chaos were all undeniably relevant to the progress of the period and cannot be ignored in the history of this era. However, the role played by the state's environmental realities were not a minor element to the larger mosaic of actors and events<sup>153</sup> and are best understood in the context

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<sup>153</sup> T. Harry Williams, *The Selected Essays of T. Harry Williams* (Baton Rouge: Louisiana State University Press, 1983). Williams states that Reconstruction in Louisiana is one of the most complex periods in the history of the United States.

of these larger contemporary issues. The historiography of Reconstruction in Louisiana initially found little outside of New Orleans proper and the imposing plantation house to describe the events that transpired. Subsequent analyses have broadened our attention to the general store, the small farm, and the slave quarters. An attentive exploration of the role of the natural world in these events has the potential to fill in many of the gaps between these points and to unify the trials of Reconstruction across an ecological, geospatial canvass.

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### **Vita**

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