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Tony Freyer, Timothy Dixon. *Democracy and Judicial Independence: A History of the Federal Courts of Alabama, 1820-1994.* Brooklyn, N.Y.: Carlson Publishing, Inc., 1995. xiii + 384 pp. $60.00 (cloth), ISBN 978-0-926019-86-7.

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Following Alabama's entrance into the Union in 1819, Congress created one federal judicial district for the state and provided for the United States District Court to exercise both district and circuit court powers. The court met alternately at Mobile and Cahawba until Cahawba was abandoned as a court site six years later. By 1824 the federal court's workload had increased to the point that two districts, Southern and Northern, were established. The Northern District met at Huntsville while the Southern eventually settled at Mobile. A third federal judicial district, the Middle District with court sessions at Tucaloosa, was added in 1839. The headquarters for the Middle District were later moved to Montgomery, where they remain today.

Early Alabama federal courts wrestled with several important issues. The courts had to define the relationships between the national and state governments, particularly in sectional controversies over slavery. Other concerns involved determining legal sources to be used in federal courts. During the antebellum period, federal law was not as voluminous as it would become after the Civil War or, certainly, as in the twentieth century. Were early federal courts to use state laws, the limited amount of federal law, legal precedents, constitutional interpretations, general democratic principles, or all of the above?

The period between the end of the Civil War and the eve of World War II brought changes for the Alabama federal courts, as it did for the federal judiciary throughout the nation. Although civil rights for freedmen would eventually be eroded by the Compromise of 1877 and southern states' Black Codes, state sovereignty also took a beating from the expansion of national law as a source for federal courts. Economic and demographic realignments within Alabama, combined with diversity of citizenship lawsuits and the creation in 1891 of a federal court of appeals leading to a more structured federal judiciary, accelerated changes within the Alabama federal judiciary. At the turn of the century, the progressive mood of Congress greatly expanded federal law by regulating railroads, enacting food and drug requirements, establishing farm credit programs, regulating large corporations through antitrust measures, and controlling currency through the Federal Reserve system.

Alabama federal courts continued to change following the end of World War II. While cases involving diversity of citizenship and removals from state courts declined, the numbers of cases involving federal laws or appeals of administrative decisions by federal agencies increased. The 1964 Civil Rights Act and 1965 Voting Rights Act further added to the cases brought before the federal bench. Procedural changes began to centralize and standardize many federal court processes. The Justice Department's administrative role over federal courts was transferred to the Administrative Office of the Courts, created by the Administrative Office Act of 1939, and to the Judicial Conference, composed of representatives from U.S. Courts of Appeal, court clerks, and federal judges. The Federal Judicial Center, which provides assistance to the federal bench, was established in 1967. External institutional factors diminished the roles played by local attorneys in their relations with the Alabama federal bench. Some federal judges, however, resisted the standardization being imposed on the Alabama courts by national organizations.

In discussing the changes that occurred within the Alabama federal judiciary over 170 years, Tony Freyer, who wrote the narrative, makes some insightful and interesting points. The analyses of factors influencing selection decisions for new federal judges within the state is particularly strong. External economic issues at both the national and state level helped to determine who would be appointed a new federal judge. Political party affiliation, over time, would prove to be less important than whether the judicial nominee belonged to the state's social and economic elite. Sectionalism, particularly during the antebellum period, was another factor in not only who would be chosen to sit on the federal court, but in

how the judge would decide in slave cases brought before the courts. Following the Civil War, national law grew as a result of federal bankruptcy laws and expanded federal criminal jurisdiction, and Alabama's federal judges began to focus more on federal precedents and statutes for guidance. Nominees for the federal bench reflected the changes occurring within the federal judiciary as it moved from the more localized legal culture found within Alabama to a more national view.

The book, however, suffers from inadequate analysis of changes occurring in the three Alabama federal districts and the resulting case loads of the district courts. As economic conditions during the antebellum period shifted between the northern and southern portions of the state, did the case load and types of cases in the northern and southern federal districts reflect the differences? Freyer states that "In Alabama as in the other [southern] states, it was the circuit rather than the district court dockets that were congested ...," but he offers no comparisons or examples. Early in the book, he indicates that the number of law and equity (chancery) orders had increased from a total of 23 in 1828 to 1,557 law orders and 27 chancery orders in 1846 with an average of 117 motions being filed annually. While motions and orders indicate levels of court activity, they are not as reliable measures of increased case loads as determining the numbers of new cases being filed each year. To conduct this level of analysis in nineteenth-century court records, a researcher would achieve better results by sampling the case documents with their filing dates stamped on endorsement backs of petitions, orders, and so forth than by using rather incomplete docket books. Unlike some southern federal courts, antebellum case files from the three Alabama districts do exist and can be sampled to determine whether the case load in 1828 had increased dramatically by 1846 and any variances in cases heard by the three Alabama federal districts. As a result of the increasing standardization found in federal courts during the twentieth century, a court's dockets provide excellent summaries about cases, because they indicate when the initial petition, complaint, or indictment was filed and when subsequent documents were filed. Twentieth-century dockets also indicate if a case was appealed to one of the United States Courts of Appeals.

It would also have been interesting to see what issues were confronting the Alabama federal bench during the early days of statehood in comparison to other periods of Alabama?s history. While the *Federal Reporter* does report all United States Courts of Appeals cases, the courts of appeals were not created until 1891. Prior to their creation, appeals from federal district courts went to circuit courts, which also had extensive original jurisdiction, particularly in equity (chancery) matters. Only a small percentage of district and circuit court cases were ever reported to the *Federal Supplement* and *Federal Reporter*, respectively.

Freyer mentions attempts by Judge Frank M. Johnson, Jr., to enforce the *Brown v. Board of Education* ruling, but cites only the Montgomery boycott decision. Were there other decisions by Johnson in desegregation matters? Was Johnson consistent in his rulings? While the Montgomery boycott was, perhaps, the most newsworthy, gems that reflect a judge's attitude can be found among cases that never get reported. In a court case from the Western District of Arkansas during the *Brown* period, a federal judge reminded the NAACP that he did not require the services of "outsiders" to determine constitutionality. The Supreme Court's decision in *Brown* was issued during the Arkansas case and provided guidance to the U.S. district court judge, who ruled in favor of the plaintiffs. The case became insignificant as to constitutional issues, but provided insights into the mind of a federal judge sitting on a school desegration case. There is no substitute for viewing a federal court's case files, dockets, and record books for obtaining a clearer view of how a court ruled and what it faced on an annual basis. Thousands of feet of records from the three Alabama federal districts, fortunately, are extant and can provide researchers with raw data to conduct analyses of federal cases and anecdotal, but not reported, information about the judges who sit on the Alabama bench.

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