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Judith Kelleher Schafer. *Becoming Free, Remaining Free: Manumission and Enslavement in New Orleans, 1846-1862.* Baton Rouge: Louisiana State University Press, 2003. xxiv + 204 pp. $49.95 (cloth), ISBN 978-0-8071-2862-6; $19.95 (paper), ISBN 978-0-8071-2880-0.

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The Dog Days of the 1850s in New Orleans

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For over two decades, Judith Kelleher Schafer has been mining Louisiana's antebellum judicial records, hauling up the golden nuggets buried in their stories, and molding them into revealing vignettes of slave society in the Old South. In the past, she has published numerous articles and a large book, *Slavery, the Civil Law, and the Supreme Court of Louisiana, in 1994*,[1] an imaginative treatment of the court records in the early antebellum period. In the present volume, she continues her history until the period of 1861, focusing on free blacks in New Orleans. She is one of a growing number of historians who believe we can understand slavery best by paying special attention to free blacks. Out of her case files, step individual slaves demanding manumission, and free blacks defending their freedom, in a period of mounting white antagonism toward them in New Orleans and throughout the slave South.

Schafer shows that free blacks doggedly used the judicial system throughout the period to gain and preserve their freedom, bravely facing all-white local trial courts. In particular, New Orleans free blacks responded enthusiastically to a brief liberalizing of slave manumission policy in 1855. They soon found themselves transformed into resisters, when the state's governing powers sharply tightened manumission rights again, beginning in 1857. The New Orleans legislature–along with that of other states–was reacting to the great slave insurrection scare that began in 1856, when the Republican Party ran its first presidential candidate. This scare would reach a pinnacle in the election of 1860. Under its shadow, many industrious free blacks experienced a white backlash in the South because of their supposed subversive ties to slaves, a bond arising from African Americans' kinship, and the common experience of prejudice. In this slim volume, Schafer dispassionately describes the growth and virulence of a campaign of white terror directed at New Orleans' free blacks in the final years before the Civil War.

The free blacks of the Crescent City play a special role in American history because of the debate about their distinctive condition there. Under a policy established by the French population's Spanish rulers (in force from 1769 to 1807), the most industrious and lucky slaves were able to buy their freedom backed up by authority. Masters also made ordinary, gratuitous manumissions of slaves, similar to the liberal practice Ira Berlin discovered in Virginia and other states at this time.[2] So a combination of the two phenomena made the town's free blacks a comparatively large urban population, constituting about one seventh of the parish at its height in 1810. This policy had been in no sense humanitarian: it was a shrewd maneuver by the Spanish to divide the black population, while the crown vigorously promoted the Atlantic slave trade to Louisiana from the 1760s to 1803. Since the self-purchase policy never had a principled basis, and since the planters had always disliked and resisted it when they could, it was easy for the combined Franco-Hispano-Anglo planter class to overturn it in 1806 after the Spanish left.

Schafer begins her story in 1806, showing that slaves and would-be emancipators suddenly faced harsh restrictions on manumissions, which slowed the development of the free black population. At the same time, given the gradual deterioration and collapse of sugar production in the parish, its slave population declined toward the vanishing point. Both slaves and free blacks were quickly submerging–even by 1830–into a sea of white immigrants from France, Ireland, Germany, and the other states. So in 1857, free blacks were the vulnerable targets of the white majority's hostility in an atmosphere of sectional bitterness.

Whatever slight advantages Louisiana free blacks may have had in the judicial system by comparison to

other states, Schafer shows that their disadvantages were much the same as existed elsewhere in the South. The "Free People of Color" were under legal injunction to show no disrespect toward any white person, and judges could reduce a free black to slavery for misbehavior. They were exposed to white kidnappers under cover of the relentless campaign by masters to recover runaway slaves. Schafer reports that even though Louisiana, like most states, had a law against kidnapping free blacks into slavery, there was not a single prosecution for that crime despite the evidence she presents that kidnapping was a serious problem. At the lowest level of race relations, the white police behaved coarsely toward free blacks, and scoffed at the principle of habeas corpus by arbitrarily keeping them locked up for months for minor infractions or just to make them prove they were free.

Their vulnerability grew as free blacks formed a smaller fraction of the whole population, reduced to about seven percent of New Orleans' 1860 population of 144,601. Moreover, they were becoming lighter in color as a group because so few manumissions of unmixed blacks occurred, and both conditions tended to set their community apart from its supportive social network among slaves. Legal restrictions reduced their contacts with other free blacks by limiting their travel outside the state, and by a new law in 1859 requiring black sailors to remain on vessels that put into the Port of New Orleans.

The reader finds nicely mapped out here the changing conditions of manumission. From the comparatively liberal slave manumission policy of the late colonial period, the rights of slaves to obtain freedom and of masters to give it to them declined drastically with the new Slave Code of 1806. Despite the many restrictions, a few slaves did continue to gain freedom in antebellum times, either by contracting for self-purchase or by the master's gratuitous manumission for service. Schafer devotes a fine chapter to testamentary manumissions.

In 1852, a more unstable and dangerous period for free blacks began, when the state legislature enacted a law requiring any emancipated slave to leave the state. Manumitters and the manumitted pressured the state to grant exceptions, which led to a new law in 1855 ordering district courts to hear all suits for emancipation, and decide on both manumission and the question of exile for each applicant. Schafer looks at the 159 suits to free 289 slaves in the sixteen months the policy was in force. Most of the evidence shows a free black community under full siege, by contrast with the situation in 1806. The majority were self-supporting individuals, a few were rich (free blacks made up almost half of the 159 manumitters who sought the courts' permission to free their slaves), and they maintained strong solidarity in their metropolitan sub community. Despite the signs of their success, however, they now faced strong job competition from recent Irish and German immigrants, and they faced a white upper class fearful they would respond to the supposed radical ideological message of the Republican Party by conspiring to rebel.

As a result, early in 1857 the lawmakers in Baton Rouge put an end to the brief window of opportunity, voting to prohibit manumission altogether. They later went to the logical extreme in 1859. Although Louisiana's government had adopted various laws to discourage non-Louisiana free blacks from settling in the state, authorities now actively expelled those who had settled there anyway. More drastically, in 1857 the governor urged the legislature to expel all free blacks, in imitation of states like Arkansas. The Louisiana legislature did not go that far, but in 1859 they enacted a law strongly encouraging all free blacks to choose masters and voluntarily reenslave themselves.

Some free blacks reacted to the politically-charged white racial campaign by flight, if they could afford it, fearing that white violence might break out against them. Contemporaries estimated that five hundred people went to the Republic of Haiti, up to five hundred families went to the Republic of Mexico (where the revolutionaries had abolished slavery in the 1820s), and some went to other states. Only seventeen applied for reenslavement before the arrival of the US Army closed the local courts in 1862.

An apt epilogue comments on the fact that many able-bodied free black men in New Orleans volunteered to fight for the Confederacy in 1861. (Louisiana declined their services but bragged to the rest of the country that they had offered.) Since one might wonder how an oppressed minority could serve with the oppressor, Schafer explains that most of the volunteers were property-owners seeking to protect the city from destructive foreign invasion like other householders. They were also in false hopes that their service could reduce the persecution. As it happened, only when the US Army arrived were they enabled to begin the next, long phase of their struggle, which would lead to bloody battles in the streets of New Orleans after the war, and-after the US Army left-a century of Jim Crow and white lynching to keep all African Americans hemmed in by law.

This tragic tale Schafer chooses to relate in her usual restrained tone, which in this case comes off very effec-

tively as hushed horror. The reader becomes increasingly breathless with indignant surprise as the long catalog of abusive laws and legal abuses rumbles off her pages. She tells the story in a highly economical 165 pages of text.

It is possible to take issue with a few aspects of this book. As is typical of Schafer's other work, she shows a slight inclination to fit her arguments into the historiography of slavery in Louisiana. She cites some scholars working in the field, others not. That imbalance reflects a weak enunciation of the thesis. Here and there, she alludes to the debate about whether Louisiana represents a genuine anomaly in the Deep South because of supposed white liberalism on race. From the evidence of scattered remarks, one might almost think she agrees with that view, except that everything about her story contradicts it so thoroughly.

New Orleans had always been a typical Deep South slave society concerning race relations, although its urban character made it increasingly atypical after 1803. In that regard, it is worth noting that Schafer makes no attempt to suggest that the state's Anglophone authorities were more reactionary and Francophone authorities more liberal on the question of free blacks. It appears that slaveholders were in nearly perfect sync with other white southerners in degrading, scapegoating and persecuting free blacks, but Schafer does not attempt to make that argument, nor to place what happened in the mid-1850s within the context of national events. She does suggest briefly that the anti-free black campaign began when northern abolitionists "whipped up antislavery sentiment in the North" (p. 8) but that unfortunately seems to imply that the northern radicals must share the blame for the backlash in New Orleans, without assisting a more general argument. Finally, Chapter Two concerns an attorney, Jean Charles David, who seems to have tried to specialize in suits for freedom by blacks, whose practice may have been unscrupulous. The purpose of this chapter is unclear. It seems to suggest that he worked cheaply, indicating yet another problem for free blacks: many of them could afford only the worst representation.

The strengths much outweigh the flaws, and one might consider this book for classroom use in a variety of legal history courses or upper division surveys about slavery. The author is deeply committed to allowing her case files to speak for themselves, and has looked at all the cases she could find concerning free blacks in this period. Her constant effort to keep contemporary individual free blacks and slaves in the forefront makes Schafer's book about people rather than about vague forces or concepts. The story line has a chronological sensibility that is sweeping yet sure-footed. Her careful distinction between law and judicial practice is a model worthy of emulation by any legal historian. This volume deserves a wide audience

Notes:

[1]. *Slavery, the Civil Law, and the Supreme Court of Louisiana* (Baton Rouge, La.: Louisiana State University Press, 1994).

[2]. Ira Berlin, *Slaves Without Masters: The Free Negro in the Antebellum South.* (New York: Oxford University Press, 1974), 51-78.

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