Abstract

Purpose – The paper focuses on the labour contract system (LCS) established by the Freedmen’s Bureau (FB) after the American Civil War to normalise relations between freed slaves and their former masters and to uphold their rights as free citizens. In particular, it explains the lack of accountability of employers under the LCS and how this contributed to the system’s failure.

Design/methodology/approach – The paper adopts an archive-based approach to develop and illustrate the labour contracting relationship between freed persons and property owners and the role accounting played in sustaining this relationship in the immediate post bellum period.

Findings – The paper finds that the LCS was coercive compared to contemporary business practice in the U.S.; did not conform to the high ideals of contracting as portrayed by the abolition movement; and was adopted by default rather than design. In the event, the reluctance of the federal government to infringe individual autonomy by imposing an over-arching system of regulation to hold employers to account for upholding their contractual obligations prevailed over the desire to defend the freed-people’s property rights.

Research limitations/implications – This research examines the relationship between labour contracting and property rights as well as the role of accounting in sustaining racial prejudice against freed persons after the American Civil War. As in many archive-based studies, illustrations are selective and not randomised.

Originality/value – The paper examines the various accountings and accountabilities within the LCS in the context of the underlying ideological tensions and priorities in post-conflict U.S. society.

Keywords – labour contracting, property rights, accountability, Freedmen’s Bureau

Paper type – Research paper
Contracting, property rights and liberty: accountability under the Freedmen’s Bureau’s labour-contract system

“The slave went free; stood a brief moment in the sun; then moved back again toward slavery”

Introduction

The paper focuses on the labour contract system (LCS) established by the Freedmen’s Bureau after the American Civil War to normalise relations between freed slaves and their former masters and to uphold their rights as free citizens. It explains the lack of accountability of employers under the LCS in terms of the underlying ideological tensions and priorities in post-conflict U.S. society. The upshot was the creation of a LCS that was weakly regulated and under-resourced. Accounting played a key part in the system’s failure, both in terms of what was and what was not accounted for, and through the subversion by employers of the contract accounts. The consequence of employer opposition and government failures for the freed-slaves was continued servitude, and a legacy of bitter civil rights unrest.

The Bureau of Refugees, Freedmen and Abandoned Lands, more commonly known as the Freedmen’s Bureau (FB), was an agency of the U.S. War Department, established in 1865 to provide relief and facilitate the reconstruction of the former Confederate states, whose economy lay in tatters (Fleischman et al., 2014). Once the Civil War had ended, newly emancipated slaves were in need of shelter, employment and income. The dominant political ideology of mid-18th century America stressed states’ rights, individual liberty, self-reliance and a strong work ethic (ibid). Thus in 1865, a comprehensive LCS that sanctioned year-long labour contracts was implemented to maintain social order and instil a strong work ethic amongst a previously dependent population. The intention was to “establish in the South a progressive, smoothly functioning free labour system similar to the one they [FB officials] perceived as flourishing in the North” (Nieman, 1979, p. 35).

The solution that was adopted by the federal government was to impose a LCS backed by arbitration panels and the local courts to resolve disputes. The accounts themselves recorded the labour performed by the employees as well as fines for misdemeanours and non-attendance, and reconciled the workers’ contractual dues to payments, either in the form of cash or provisions. The intention was that the accounts would provide evidence of the performance of contractual obligations on the part of employees and employers alike. The key issue explored by the paper is where accountability lay within the LCS, and why the system failed to hold employers to account for upholding their contractual obligations.

Originally intended to last for one year only, the FB’s life was periodically extended until 1872 when it was finally disbanded, although in reality it had been operating under significantly reduced powers since 1868. The shortness of the FB’s tenure belies its significance in American history. At a minimum, it saved hundreds of thousands from starvation, provided health-care and clothing and promoted education for black children (e.g. Jackson, 1923; Olds, 1963; Colby, 1985; Pearson, 2002; Wakefield, 2003; Fleischman et al., 2014). Despite the continual hostility that FB officials faced from former slaveholders who loathed both to pay for labour and to refrain from physical coercion, the LCS became a tolerable solution to the majority of white
constituents (i.e. employers, FB officials, and politicians). While freed-people clearly welcomed the FB’s relief programmes, many would have opted for other alternatives to the LCS (i.e., leasing of abandoned lands, cash reparations, and/or a massive welfare outlay) that were either never advanced or quickly abandoned.

The paper describes how the lack of regulation prevented accounting from fulfilling its traditional role of providing the evidence needed to enforce the performance of contractual obligations in law in relation to labour contracts. Aside from the fact that ex-slaves were coerced into making contracts, contractual freedom of consent was compromised by the lack of information and understanding on the part of the freed-people over the terms of the contracts, which in legal terms rendered them one-sided and therefore “unconscionable” (Brilmayer, 1989; Leonhard, 2012).³ The paper illustrates how accounting was implicated in this obfuscation because far from providing the necessary legal evidence to ensure that the ex-slaves received their contractual dues, accounts were frequently manipulated to show that they had in fact been overpaid, thus locking them into a cycle of debt and binding them to employers.

The interdependence of contracting, accounting and the law in safeguarding property entitlements is a recurrent theme in the history of bookkeeping in the West over the last 2,500 years. The enforcement of property claims in court has depended on accounting evidence since at least Classical times (Oldroyd and Dobie, 2009). Indeed, this historical truism provides the main justification, whether researchers realise it or not, for the common assumption in agency theory that enforceable contracting variables are those that are capable of independent verification, usually by a “beneficent court of law” (Miller and Oldroyd, 2012). As the paper finds, the judicial process underlying the FB’s LCS could not generally be described as either beneficent or independent. Within the workings of the LCS, there was the distinct possibility of fraudulent or biased accounting. Neither was there an obligation on the part of all planters to keep uniform accounts, and certainly not for them to be audited by professional or independent parties or for the employers to be penalised in a consistent or economically meaningful way. The only auditing that took place was at the discretion of the FB’s agents who were hopelessly overstretched.

But aside from any questions concerning the FB’s overall effectiveness, the ideologies underlying its creation and the obstacles it encountered provide an insight into a fundamental dissonance in post-bellum U.S. society between the property rights of ex-slaves, which in theory contracting was meant to embody; and the reluctance of the federal government to infringe upon individual autonomy by imposing an over-arching system of regulation to hold employers to account. Thus, the ideological aim of the FB’s LCS may have been to promote freedom for ex-slaves in a free society governed by law, but the reality was that it helped maintain the status quo of slavery by limiting freed-persons’ mobility, thereby preventing them from obtaining the full rewards of citizenship.⁴ Given that the contract became the central plank of the FB’s labour initiative, the absence of effective accounting evidence for proving contractual rights and holding employers to account meant that the LCS was bound to fail irrespective of any of the other difficulties encountered, such as racial hatred or the mutual hostility subsisting in the districts between former enemies.

Previous studies relating to the FB include the work of Fleischman et al. (2011, 2014). The first of these studies compared the transition from slavery to a free economy in the American South and British West Indies, focusing on the control mechanisms established by central government to create a disciplined workforce and establish regular relations between employees and employers. The second assessed the efficacy of the FB in establishing, monitoring and enforcing social policy to aid reconstruction and uphold the civil rights of the freed-people in a
variety of respects including famine relief, employment and education. Both papers referred to the failure of the FB’s LCS to guarantee the ex-slaves’ employment rights. Fleischman et al. (2014, p. 103) acknowledged the genuine nature of the FB’s intent “to improve the lot of the freedmen”, but found an unexplained absence of evidence of “consistent and effective follow-through” of FB policy in the otherwise comprehensive archival record (Fleischman et al., p. 103). Likewise, Fleischman et al. (2011) examined the role of arbitration boards in resolving disputes over labour contracts, but again pointed to a lack of evidence in the archives relating to the enforcement of decisions.

The current study investigates whether the gap in the records between policy and enforcement reflected the reality of the situation on the ground, and if so to understand the reasons why. It builds on previous studies by analysing the antecedents and functioning of the LCS within the political machinations of the Civil War and post-war aftermath, the practice of FB agents in the field in the face of massive under-resourcing, and the accountability mechanisms imposed on FB agents and employers relating to the performance of obligations. The answer provided in this new study is that the gap in the records between policy and enforcement was not only genuine but also inevitable given the ideological tensions between property rights and liberty in the sense of freedom from government interference.

As we shall see, it was not the case that there was an absence of accountability in the system, but that it was directed towards the FB agents rather than the employers and was not focused on guaranteeing the freed-people their contractual rights, rather on getting them back to work. How to enforce decisions against recalcitrant employers was left to the discretion of the agents, some of whom did so with great tenacity at risk to their own lives while others were more lukewarm (e.g. May, 1968; Richter, 1991).

The paper sits within the genre of critical accounting research categorised by Dillard and Vinnari (2017, p. 97) as relating to the “explicit injustice … experienced by underrepresented, oppressed and exploited groups”. Other historical studies concerning the use of accounting as a tool of oppression apart from slavery include Funnell’s (1998) study of accounting in the service of the Holocaust, Davie’s (2000) and Neu and Graham’s (2006) work on the exploitation of indigenous populations by European settlers, Pallett and Oldroyd’s (2009) paper on the utilisation of household management guides to control Indian servants and promote an ethos of British superiority, or Walker’s (2003, p. 813) study of the role Edinburgh accountants played in dispossessing crofters during the Highland Clearances “on grounds of economic rationality and the need to assimilate a backward ‘race’ into the capitalist economy”. All these studies reinforce the view that far from being value neutral, accounting is instrumental in the construction of particular realities (Vinnari and Dillard, 2016, p.25). As the paper relates, the immediate years of reconstruction following the American Civil War are a case in point. The accounting processes that were called into being reflected the underlying values of the preparers. On the one hand, the priority of the U.S. Congress was to restore social order in the former Confederacy by getting the freed slaves back to work at the minimum of cost and intervention by the federal government. On the other, the aim of many of the landowners in the South was to perpetuate the bondage of their workforce. As far as the latter is concerned, this went beyond the reflexive construction of a particular form of accountants’ reality (e.g. Hines, 1991; Tinker, 1991), but entailed the widespread perpetration of fraud. The paper follows a conventional historical narrative approach. Whilst it is not interpretive, therefore, in the sense that it draws from explicit social and sociological theories, it seeks explanations of the phenomena from examination of the competing ideologies manifest in post war U.S. politics.
FB primary materials are contained within Record Group (RG) 105 at the National Archives (NA) in Washington, DC. Our figures were obtained from a subset of RG105: the Field Office Records for Mississippi (M1907). We chose to focus on the state of Mississippi as a way of narrowing our search, given the immensity of NA’s collection (e.g. 1,067 microfilm rolls from 14 southern states and the District of Columbia). While a sample of data from every state could have been one approach, we choose one state to gain familiarity with key personages and to get a feel for policy changes over time. We randomly choose 15 microfilm rolls from Mississippi’s field office catalogue of 65 rolls, and have included examples which seem most illustrative of the conditions/transactions we discuss in our narrative. The rolls examined related to different regions and covered the FB’s full lifespan, notwithstanding that most of the data was concentrated in the period up to 1868 before its powers were curtailed by the federal government. We readily acknowledge the inherent subjectivity of this process of compiling and presenting primary source materials, although are confident that the material examined is representative, given that every state implemented a common set of FB policies that were established in Washington, D.C. and overseen by Commissioner O. O. Howard.

The paper continues by highlighting the unequal and coercive nature of the LCS compared to other U.S. labour practice at the time. This is followed by an examination of the antecedents of the LCS and the political machinations surrounding it. The efficacy of the accounting arrangements for safeguarding the contractual rights of the freed-people are then considered, leading into a discussion of the fraudulent nature of the contract accounts and their role in bolstering key vestiges of the slave era.

**Labour contracting in the U.S. during the second half of the 19th century**

The problem of creating a disciplined workforce was not peculiar to the American South. The FB’s LCS existed against a backdrop of rapid industrialisation in the wider American economy (Stanley, 1998, p. 60). The thirty years following the Civil War were the zenith of an industrial revolution that saw America outstrip its competitors in Europe. Large numbers of new workers were needed to service mushrooming industry, much of it immigrant labour. The mid-1800s marked the first great wave, the so-called “old wave of immigration” (Tyson et al., 2013). It follows that the creation of this mass of unassimilable workers in the U.S. in the mid-19th century was a wider issue than simply how to deal with the emancipated slaves. However, labour relations under the FB’s LCS appear coercive compared to the general trend in the U.S. that was towards freer and more flexible contracting arrangements as the 19th century progressed.

Contracts under the LCS followed standard formats and imposed obligations on both freed-people and employers, the performance of which was intended to be evidenced by accounts (Fleischman et al., 2014). There was manifold variety in the types of contract entered into, some of which was in response to local variations in the type and scale of cultivation. Labouring for wages or a share of the crop (sharecropping) were the most common forms of contract, but even here, there could be different permutations in the sharing out of obligations and rewards between master and servant. In some cases, the employer contracted with individuals separately, in others with families or groups of workers. Where there was consistency, however, was that each of the workers was bound individually by the terms of the contract even if they were part of a larger collective. There was also consistency in that workers were subject to penalties for contract breaches such as fines or dismissal, with severe potential consequences (Eckert, 1968; Shlomowitz, 1979; Alston and Higgs, 1982).
The system of labour control closest to the LCS was indentured labour whereby individuals bound themselves to employers for a number of years in return for economic compensation. Importing workers from Europe under indentures had been common practice in America in the 17th and 18th centuries, but had fallen into serious decline by the early years of the 19th. One of the problems of indentures was that this form of “unfree” labour became associated with slavery in the minds of abolitionists (Steinfield, 1991, pp. 5-7, 11, 144-146). According to Steinfield (ibid., pp. 147-148), the first decades of the 19th century witnessed a groundswell of opinion that workers held the property rights in their own labour and therefore should have the right to terminate employments whenever they wished, regardless of the terms of any contract.

By the time the FB was created in 1865, indentured labour was a thing of the past in the U.S., and the FB’s LCS, which prevented workers from quitting employment before the expiration of their terms was out of step with the general trend in America during the second-half of the 19th century, which was towards freer contractual arrangements. According to Harrison (2006, p. 85), urban workers in the North “rarely signed formal contracts”. The situation described by Stanley (1998, p. 65), where hiring was done on a day-to-day basis and “either party could end the contract at will”, was far from the case in the post-bellum South. Here freedpeople outside contracts could find themselves imprisoned for vagrancy (Richardson, 1963; Nieman, 1979, p. 118; Steinfield, 2001, p. 267; Fleischman et al. 2014).

Antecedents, motivation, significance of contracts

The relationship between property rights and individual liberty lay at the heart of the debate leading to the creation of the FB’s LCS. The debate played out at two levels, practical and ideological. At the practical level, there was the pressing issue of how to manage the release from bondage of a population of slaves that numbered in the millions, steer them towards gainful employment, and protect them from abuse in a hostile environment where their very liberty was seen by the white population as a potent symbol of the South’s defeat. In this regard, the garrisoning of black Union troops in Southern territory rubbed salt into the wounds (Ryan, 1977; Tunnell, 1992; Hardwick, 1993). From an ideological perspective, the fact that slavery had been tolerated in the first place in a nation founded on the Enlightenment principle that individuals enjoyed sovereign and inalienable property rights over their own persons was difficult to reconcile.

At both levels, practical and ideological, Congress had over two years to debate the issue following Lincoln’s Emancipation Proclamation in January 1863, before the law creating the FB was enacted. The commitment to emancipation did not receive universal support, and was criticised by the Democrat opposition as likely to prolong the war. Cox (1958) relates how the ensuing debates in Congress over what should be done to aid the freedpeople ebbed and flowed with the fortunes of war. The American Freedmen’s Inquiry Commission appointed in March 1863 by the Secretary of State for War to consider the matter played a key role in shaping opinion (Troost, 2008). It was this body that recommended the creation of the FB as a transitional measure and established its aims (American Freedmen’s Inquiry Commission, 1864, chapter iii).

The scope of the Commission’s final report, issued in May 1864 one year before the conclusion of hostilities, was wide-ranging and drew on evidence gathered first-hand by its members through interviews, observation and background research. The final report is
interesting because it displays an intimate knowledge of the history of slavery in the Americas as a whole, not just the U.S. For example, the commissioners referred to lessons that could be learnt from the experience of abolition in the British West Indies some thirty years previously (American Freedmen’s Inquiry Commission, 1864, chapter iii). They also showed an awareness of the various parliamentary debates and enquiries that had taken place in Britain in the lead-up to Abolition, and in the years thereafter when opposing slavery in other parts of the world had become an issue in British politics (ibid., chapter i).

The commissioners’ ideological objection to slavery was that it did not recognise the innate rights of the slaves as human beings to own property, including the property rights over their own persons (ibid., chapter 1; American Freedmen’s Inquiry Commission, 1863, section i). In this regard, the commissioners were following a line of reasoning promulgated by Enlightenment thinkers, notably John Locke, who had developed the idea in his Second Treatise on Civil Government (Stanley, 1998, p. 8; Oldroyd et al., 2008). According to the Inquiry Commission, this explained why slavery ran contrary to the spirit of the American Constitution, and why its creators had “studiously avoided” employing the word slave, preferring instead to use the term, person held to service or labour. From a legal perspective, this raised the question of whether the former slave-owners still had a residual property claim under the Constitution over their ex-slaves’ labour following emancipation, if not over the slaves themselves. Unlike the British West Indies, no compensation was on offer for their loss. The final report dealt with this objection by declaring any such “species of property” forfeit under the articles of war, which allowed for the destruction or utilisation of an enemy’s property (American Freedmen’s Inquiry Commission, 1864, chapter ii). Indeed, how to make best use of the thousands of slaves crossing Union lines in the prosecution of the war was the overriding concern of the Inquiry Commission’s preliminary report, issued in June 1863 when the outcome of the war was far from certain (American Freedmen’s Inquiry Commission, 1863, section ii-vi).

The Inquiry commissioners were revisiting an issue discussed at the 1787 Constitutional Convention that had been left unresolved deliberately in order to avoid alienating the South. The situation was different now. The commissioners were writing in time of war and saw no need for compromise with the “rebels”. It follows that whatever arrangements the Commission recommended for securing “the future in the United States of the African race”, these would need to recognise the ex-slaves’ property rights, including their right to choose how they disposed of their labour (American Freedmen’s Inquiry Commission, 1864, chapter iii). This explained why a compulsory indentured labour scheme similar to the one adopted in the British West Indies that had euphemistically been termed Apprenticeship was out of the question.

One of the central ethical objections to slavery voiced by the abolition movement was that it contravened the law of contract, first because there was a complete lack of consent on the part of the slaves; and second because slaves received nothing in exchange for the property rights they were obliged to surrender (Stanley, 1998, pp. 2-3, 9; Oldroyd et al., 2008). Hence, contracting represented more than mere transactions. It became a “metaphor of freedom” because contracts encapsulated the constitutional right of citizens to own property and freely exchange it (Stanley, 1998, p. 2). The main emphasis of the Inquiry commissioners’ final report was on the moral and legal issues surrounding slavery and emancipation. As leading abolitionists themselves, they would have been well aware of the moral arguments surrounding contracts. It is therefore surprising that the Inquiry Commission’s final report gave only lukewarm support to the idea of a LCS. The commissioners saw some merit in “reducing agreements to writing” as this would make enforcement easier, and recommended that ex-slaves “should be subjected to no
compulsory contracts as to labor” (American Freedmen’s Inquiry Commission, 1864, chapter iii). But apart from these two references, the final report is silent on the subject.

By the time of the final report in May 1864, labour-contracting had been tried with some success in the South by U.S. military commanders. Davis (1977) describes the situation in the Mississippi Valley where the sheer numbers of black refugees pouring into Union camps threatened to undermine the military offensive. Faced with these pressures, one-year contracts supervised by the military had been employed to put the refugees back to work in the fields (Cox, 1958; Davis, 1977). However, the refugees were given no choice in the matter and idleness and vagrancy were treated as crimes (Eckert, 1968; Miller, 1999). It was the element of compulsion that the Inquiry commissioners objected to. James McKaye, one of the commissioners accurately predicted in his own separate report that this type of arrangement would be prone to abuse and risked perpetuating “serfdom” (Cox, 1958, p. 424).

In view of these misgivings, it is unsurprising that Congress chose instead to implement a more recent wartime experiment, distributing parcels of abandoned or confiscated land to ex-slaves for them to work on their own account. Again, the motivation had been to free up army lines from the “large entourage of fleeing slaves” (Miller, 1999, p. xxi). General Sherman’s special field order of 16 January 1865 designated areas of land that the freed-people were allowed to lease or buy in forty-acre plots (Cox, 1958; Cimbala, 1989; Miller, 1999). The Act of March 1865 creating the Freedmen’s Bureau followed suit. It gave the FB authority “under the direction of the President” to “set apart, for the use of loyal refugees and freedmen” the abandoned and confiscated lands in the “insurrectionary states”. “Male citizens” in this category were to be allowed to rent up to forty acres for three years, which they could also buy at any point during the term (Statutes at Large, 1866).

There were several points put forward in support of the scheme during the debates in Congress leading to the Act. Making the freed-people economically independent of their former masters would safeguard their property rights in a direct way. Giving them this level of autonomy would also reduce the need for government intervention, as while there was consensus in Congress over the immediate need for a FB to aid reconstruction, it was always regarded as a strictly temporary measure. From a practical perspective, selling and leasing the confiscated and abandoned lands would provide the FB with a source of revenue to fund its relief, health and education programmes. Finally, it was claimed that breaking up the plantation system and replacing it with smallholdings would undermine the power of the old white Southern aristocracy, as well as helping to keep northern speculators out (Alderson, 1952; Abbott, 1956; Cox, 1958; Cimbala, 1989).

If there were powerful practical motivations in favour of the land programme, ultimately it was abandoned on ideological grounds under pressure from President Johnson in the summer of 1865 when Congress was not in session to oppose him. Johnson had assumed the presidency in his capacity as vice-president following Lincoln’s assassination. A staunch supporter of the Union, his overriding political objective was the rapid restoration of civil law in the South and readmission of the Southern states to Congress. Underlying this policy was a strong ideological belief in the sanctity of property, the sanctity of states’ rights and the racial superiority of the white man. The legal title of the U.S. government to the abandoned and confiscated lands in the South had always been questionable and rested on the spoils of war. With rapprochement in sight, the situation became less certain still. The best that the Act creating the FB had been able to offer the ex-slaves was “such title” to land “as the United States can convey” (Statutes at Large, 1866). In other words, there was a legal doubt (Cox, 1958). For his part, Johnson insisted
that the claims of the original owners must be respected, and he used his executive powers to pardon the rebels, restore their lands and prevent further confiscations. He also compelled General Howard, the FB Commissioner to rescind circulars expediting the land distribution programme, leaving Howard with little choice but to turn to labour contracts as a substitute (Howard, 1907, pp. 235, 243-244; Nieman, 1978; Cimbala, 1989; Miller, 1999; Trefousse, 1999; Troost, 2008).

Johnson’s opposition to the FB went further than the land question. He opposed the bills extending the FB’s life, established definitive limits on its authority, exerted pressure to remove FB officials who were proving too assiduous in the performance of their duties, and opposed equal civil rights for black people (Howard, 1907, pp. 247, 283; Abbott, 1956; Nieman, 1978; Miller, 1999; Nash, 2006). As Howard (1907, p. 280) later reflected in his autobiography:

I had been much hampered by the instructions of the President himself, who now gradually drifted into positive opposition to the Bureau law – a law that he was bound by his oath to execute, but one that his process of reconstruction had caused to be violated in the spirit, if not in the letter, to render it nugatory.

Johnson received support from northern allies of the Democrat party as well as white southerners in regarding the FB as a tyrannical imposition on citizens’ rights. It was he, however, who was the main catalyst of the battle that ensued between himself and Congress, culminating in his impeachment. The impact on the FB of the resultant cycle of bills, vetoes and changes in policy was that its mandate always remained uncertain (Miller, 1999).

Part of Johnson’s motivation for his policy on Reconstruction was unquestionably racial. Originating from a poor white Southern background himself, he was unashamedly racist believing in the inferiority of African Americans (Trefousse, 1999, pp. 30-31). However, what seems to have influenced him more in his policies towards the FB was his cast-iron belief in the Constitutional right of states to self-govern. Despite supporting Emancipation, he never wavered from his original conviction that the prime purpose of the war had been “to maintain the supremacy of the Constitution with all the dignity, equality, and rights of the several states unimpaired” (Trefousse, 1999, p. 41). Thus, the major challenge he threw down to Congress in his message vetoing the Freedmen’s Bureau Bill in February 1866, which precipitated the “disastrous war” between President and Congress that followed, did not concern the FB’s powers or the freed-people’s civil rights, but whether Congress had the constitutional authority to set conditions for the readmission of the eleven southern states. Johnson asserted the states’ right to representation and maintained that it was “his duty”, as President to represent their “just claims” during their unlawful exclusion (Cox and Cox, 1961, pp. 470-471). This part of the veto message Johnson seems to have drafted himself contrary to the advice of his Secretary of State. Similarly, the wording of his second veto in March 1866 was framed in such a way as to object to the proposed restrictions on the right of states to pass discriminatory legislation if they so wished rather than the goal of civil equality (ibid., p. 475).

The impulse to place strict limits on the federal government’s power over the states was a manifestation of a wider “antipathy to subjugation by outside parties” that has played a defining role in American politics up to the present day (Oldroyd, et. al., 2015, p. 211). For Johnson, the interventionist policies now being promulgated by Republicans in Congress represented an unlawful and unwarranted abuse of states’ constitutional liberties. He was not alone in his belief in states’ rights and distrust of encroachment by the federal government. The wish to limit its
role was a recurrent theme in the debates leading to the creation of the FB. This explained why, for example, another wartime labour experiment, government-owned plantations, was regarded as a non-starter; and why the FB could only ever be temporary. It also explained the lack of interest on the part of Congress and the President in ensuring that the LCS was properly regulated and resourced. As Nieman (1979, p. 3) observed:

The tightfisted congressional Republicans who created the Bureau envisioned a small, temporary, inexpensive agency and therefore did not provide Bureau officials with sufficient personnel to exercise judicial authority in a thorough and effective manner.

Stanley (1998, p. 2) is only partially correct, therefore, in asserting that the idea of the contract with its connotations of the property rights of individuals “epitomized freedom” in post-bellum America. The politicking surrounding the FB reveals that attachment to the ideal of freedom in the sense of self-determination, free from government interference was an equally if not more potent force.

It should be noted that conditions improved for a number of freed-people after the 1865 harvest. Those not indebted could negotiate contracts with new employers or leave agricultural work entirely. Many ex-slaves moved to cities or towns, and those with particular skills were able to substantially increase their earnings. Others with capital could engage in trade or start small businesses. A number of northern Civil War veterans stayed in the South, purchased property, and hired freed-people at market rates.

Notwithstanding, year-long contracts remained the norm, “the vast majority of ex-slaves continued to live and work on plantations and farms”, and they “continued to cultivate the same crops they had tended as slaves, sometimes on the very same land” (Hayden et al., 2013, pp. 31-32). Competition between employers for labour could work to the ex-slaves’ advantage, but as Hayden et al. (2013, p. 33) noted, it also

encouraged some employers to adopt coercive measures to hold their employees in place, from refusal to pay for one year’s labour unless they agreed to remain for the next to brutal attacks on those who attempted to leave.

Setting-up in farming on their own account was not an option for most freed-people owing to the racial prejudices of the local white population (Nieman, 1979, p. 42).

In both plantation and small-farming districts, white people mobilized to prevent the sale or rental of land to ex-slaves. Using means that ranged from threats to arson, rape, and murder, they targeted freed people who dared to farm on their own (Hayden et al., 2013, p. 55).

As Hahn et al. (2008, p. 322) observed, brutality was one of the tactics used by employers to “thrust freed-people into disadvantageous labour agreements”.

A LCS that embraced contractual freedom of consent in line with the ideals of the abolition movements and the Inquiry Commission’s reports was never a possibility as working for their former masters ran so contrary to the ex-slaves’ aspirations about what freedom meant (ibid., p. 52). The LCS was always going to be coercive, and the alternative presented to most people was imprisonment and forced labour under the vagrancy laws (Farmer-Kaiser, 2004).
According to Hayden et al. (2013, pp. 14-15), “local jails became labor-hiring centers where employers secured the services of convicts at bargain rates”. In Mississippi, for example, the state’s Black Code included the provision that “failure to pay a $1.00 per year capitation tax was prima facie evidence of vagrancy”; and that “any freedman under eighteen years of age could be apprenticed even against his will” (Currie, 1980, p. 118). In essence, Mississippi’s code enabled planters to maintain near-total control over black workers by stipulating harsh penalties (deductions, fines, and imprisonment) for contract violations. The so-called Black Codes were intended by the local legislatures to deny black people their civil rights (Fleischman, et al., 2011; 2014). Although Congress declared them illegal, it nonetheless appears that the FB supported the Codes’ vagrancy requirements, at least initially, by providing military approval for the pass system which restricted freed-persons’ freedom of movement.\(^\text{13}\) In addition, Nieman (1979, p. 168) noted that “assistant commissioners instructed agents to evict freedmen who declined to enter contracts for 1866 within ten days of the expiration of their 1865 contracts”. Thus, FB official policy directly supported vagrancy requirements and effectively bound freed-people to white-owned lands. Another strategy that was employed by the FB in Florida to encourage ex-slaves back into work was to curtail the supply of rations under its relief programme after December 1865, a policy that had to be reversed in 1868 following an inferior cotton crop (Richardson, 1963).

The cancellation of the land programme once it had been set in motion undoubtedly made the task of the FB much harder. Howard (1907, p. 244), the FB Commissioner, likened it to being “constrained to undertake to make bricks out of straw”. The freed-people who had received smallholdings had to be dispossessed. The rest had to be convinced that land would not now be made available to them and that they would need to enter into labour contracts instead. The FB began a publicity campaign to persuade them of the truth of the matter, but the widespread rumour still persisted amongst the ex-slave communities that grants of land would be forthcoming at Christmas (Thompson, 1921; House, 1942; Bethel, 1948; Abbott, 1956; Eckert, 1968; Rapport, 1989; Tunnell, 1992). The change of policy also deprived the FB of its anticipated revenue stream from the sale and leasing of land. It was now wholly dependent on charitable donations and grants from Congress, with severe implications for the level of resources and in particular the level of manpower available to administer its activities on the ground (Alderson, 1952; Miller, 1999).\(^\text{14}\) More serious still from the point of view of the freed-people was that the amount of compensation they received under their contracts would now depend on accounts (Fleischman et al., 2011), which given the lack of regulation and the fact that they were prepared by the employers, meant they were inevitably prone to manipulation.

To sum up, the LCS was adopted by default as a poor second-best to the plan that had been devised by Congress after years of discussion. The fact that it was forced on the freed-people meant that it did not conform to the high ideals of contracting as portrayed by the abolition movement. In the event, the ideal of individual liberty in the form of non-intervention by the federal government in states’ affairs proved stronger. For the ex-slaves, this was a betrayal. For the FB, the agents on the ground were presented with the task of administering a system that was intrinsically weak and seriously under-resourced from the outset.

The principal-agent relationship was complex under the LCS in that both parties to the contract were accountable in theory to the federal government through the supplementary agency of the FB, which initiated the contracts and was responsible for their enforcement. The next section of the paper investigates where the direction of accountability lay within the LCS, and how successful the system proved in holding employers accountable for the protection of
workers’ rights. Because enforcement came down to individual agents, the evidence of this tends to be in the form of diaries, letters and other recollections (May, 1968).

**Protecting the rights of freed-people under the LCS, experience on the ground**

The implementation of FB policy was entrusted to the local agents, who acted as a buffer between employers and former slaves, and were responsible for implementing the contract system. This entailed negotiating contracts, adjudicating disputes, forcing employers to attend hearings, and enforcing decisions. The agents were also responsible for administering the FB’s health care, emergency-relief and education programmes.

Perhaps the most time-consuming and daunting task the agents faced was overseeing the process by which labour contracts were negotiated between the freed-persons and the planters upon whose land they toiled (Fleischman et al., 2014). The sheer mass of contracts to contend with, hundreds of thousands in fact, allied to a significantly underfunded FB agency and made policing the system extremely difficult if not impossible. A meagre total of seventy civilian and military agents was expected to cover the whole of Texas in July 1867, notwithstanding this was a near doubling of the original number. When one of these agents complained to his superiors that he was “sick, sore, and worn out riding”, he was told ironically to get a carriage (Richter, 1990, p. 310). Twenty agents covered Alabama and twenty-five Arkansas (Bethel, 1948; Richter, 1991). How successful the FB agents were overall in securing reasonable terms for the freed-people is debateable. Richardson (1963), for example, cites cases where scurrilous contracts were nodded through and others where employers were forced to make revisions, causing widespread resentment amongst the local white population.

Even more difficult for the FB agents was their role in adjudicating disputes between the parties with respect to whether the contract terms had been satisfied (Fleischman, et al., 2011, 2014). Confident that the local authorities would not intervene, “large numbers of employers denied ex-slave workers compensation for their labour at year-end settlements” (Hahn et al., 2008, p. 195). If no agreement could be reached, the FB had the judicial authority to establish its own arbitration boards that were staffed by locals, as well as to oversee cases heard before the local courts (Troost, 2008). Using local people to resolve disputes via arbitration is a long-standing tradition in the U.S. (Macneil, 1992). However, given that local arbitrators were drawn from the same population that had until recently embraced slavery, there was an increased likelihood of fraudulent justice (Bethel, 1948).

Local bias notwithstanding, the massive volume of complaints initiated by freed-people, 100,000 complaints a year by General Howard’s estimate (Bentley, 1955, p. 152), suggests that they saw arbitration-board decisions as a preferred alternative to possible remedies they might obtain from local courts where civil magistrates openly favoured white planters (Rapport, 1989). Many supporting examples could be cited, but the words of a FB official speak eloquently to the matter:

In regard to the working of the civil authorities, and the sentiment of the people here, I respectfully submit, in conclusion: First. Where the abuses of Freedmen are brought before Magistrates and the proof is positive, very light and trifling penalties are inflicted; generally so light, that the fear of them does not deter others from the same abuses. Second. It requires all the exertions of officers to induce the Magistrates to take necessary action. All the delays of the law are put into place to postpone trial...Fourth. The only way, in my opinion, to amend this state of affairs, is to give officers of the Bureau both
civil and military jurisdiction (Roll 32, February 2, 1866, letter from Major Geo. B. Reynolds).

The difficulties were compounded in 1866 with the return of adjudication to the state and local courts and the scaling down of the military presence. Arbitration boards continued to function until 1869, but their decisions were now limited to minor civil and crop-share disputes. Hayden et al., (2013, p. 45) noted that:

The shift to civil authority weakened the ability of bureau agents to redress ex-slaves’ grievances. All too often, state and local officials refused to act on freed-people’s complaints, whether they were referred by the bureau or brought by the freed-people themselves.

Thus, even though civil-rights legislation mandated equal justice for blacks and whites alike, the law was often ignored by local authorities. This was the case in Mississippi where the FB’s repudiation of the Black Codes was “simply ignored in many parts of the state” (Currie, 1980, p. 119). Also, freed people, most of whom were illiterate, lacked the resources to obtain representation, provide documentation to support their positions in the court proceedings, or receive fully competent and unbiased counsel from the attorneys they did employ. In addition, as Figure 1 illustrates, the costs of bringing lawsuits were prohibitive for most freed-people, thus depriving them of justice (Richardson, 1963). Most courts required plaintiffs to front court costs or to post bonds whenever they sought injunction attaching to employers’ property, such as harvested crops. The range of costs listed in Figure 1 is striking, as is the number of local white recipients who stood to benefit.

Insert Figure 1 about here

Local courts almost invariably took the planter’s side in contentious issues (e.g., Richardson, 1963; Nash, 2006; Fleischman et al., 2014). According to Nieman (1979, p. 98), “finding a way to shield freed-people from discriminatory administration of justice by state officials” was the “main problem” facing the FB in 1866. In the light of these difficulties, it is unsurprising that many of the ex-slaves simply “gave up” the idea of litigation, choosing instead to settle for a “fraction of what they were owed” under their contracts (Hieman, 1979, p.13; Hayden et al., 2013, p. 81).

In actuality, either resulting from arbitration boards or local civil courts, judicial mechanisms clearly favoured planter interests. Freed-people rarely served as FB field agents or participated as members of arbitration boards or jurists in civil courts. Also, despite having an opportunity to select one of three board members, they probably faced prejudicial judgments from other members, especially after 1866 as the number of white, southern FB agents increased significantly (Hayden et al., 2013, p. 66). Freed-people were likely to encounter greater prejudice from civil magistrates who were directly accountable to the local white citizenry than from the generally more dispassionate FB agents, notwithstanding that some of these certainly favoured planter interests (Richardson, 1963; Rhyne, 2008). At Macon, Mississippi, for example, FB agents “clearly used their judicial authority to help planters maintain their control over blacks” in the summer and autumn of 1865 (Nieman, 1979, p. 16). Hahn et al. (2008, p. 43)
similarly concluded that “in contests over labor time and work pace, they [freed-people] discovered FB officials were more likely to side with employers than with them”. This view is supported by Davis (1977, p. 72) who argued that “the most radical of the Assistant Commissioners found themselves generally forced out and replaced by men more favorable to the interests of the Southern planting class”.

Freed-people also faced the threat of violence and intimidation from employers as well as brigands and white-supremacist groups, which FB agents sought to counter with force of their own (Carpenter, 1962). The presence of U.S. troops in the districts held out the threat of armed intervention to recalcitrant employers. In some cases troops were needed to compel white defendants to appear before courts and tribunals, in others to enforce judgments (Richardson, 1963; Peek, 1969; Richter, 1990). Some districts were more peaceable and compliant than others. Colonel DeWitt Brown, an agent found the white planters at his first posting in Grimes County, Texas to be “generally very good” men who were interested in fair settlements with hired laborers” (Richter, 1990, p. 307). This contrasted starkly with his posting at the “veritable hellhole” of Paris where Brown reported that “the cup of bitterness is over-flowing” (ibid., p. 311). Here he was left powerless following the withdrawal of his cavalry escort in March 1868 and was eventually driven out by the locals. Brown’s experience appears extreme, but it was symptomatic of a general increase in violence against freed-people as the Army demobilised and troops were withdrawn (Nieman, 1978). The scaling down of the FB’s military support throughout the South was another example of “the lack of commitment by the federal power structure” to its work (Richter, 1990, p. 322).

What is striking about all these areas – the negotiation of contracts, the settling of disputes, the enforcement of decisions, and meeting resistance with force – is the pivotal role played by the FB’s agents on the ground. It was here that holding the employers accountable for the treatment of their workers effectively began and ended under the LCS apart from in the most extreme cases that were passed higher up the chain of command. This is evident when one considers all the tasks performed by an active field-agent such as Second Lieutenant Hiram F. Willis in Southwestern Arkansas. He visited farms to vet and negotiate contracts; audited employers’ accounts and challenged exorbitant deductions for provisions; cancelled contracts not in the freed-people’s interest; advised freed-people on how to manage their money; offered them marriage guidance; listed contractual grievances; issued orders to employers requesting settlement; fined employers who defaulted; impounded bales of cotton as security for non-payment; and used troops against employers threatening violence. In one instance he ordered troops to open fire on an armed mob supporting a farmer who was refusing to pay the $24 owing to a serving girl under the terms of her contract, and collected the sum the next day from the farmer’s wife with damages. In another, he informed the employer that he had the choice of either paying up or working the debt off “at the point of a bayonet” (Richter, 1991, p. 178).

Another agent, Marcus Sterling Hopkins, a Union officer stationed in Virginia made it his habit to attend the county courts to ensure freed-people received fair treatment. Interestingly, he was not motivated so much out of respect for black people whom he disliked, but out of a desire for revenge against the Southern slaveholding class (Mugleston and Hopkins, 1978). On the other hand, agents like W.H. Cornelius in St. Martin Parish, Louisiana adopted a more conciliatory stance. Cornelius took the view that the FB could only succeed with the support of the local white population. Therefore, he never requested the support of troops, relying instead on the local authorities to take appropriate action even when it was clear to him that they had no intention of doing so (May, 1968). Similarly, Bentley (1955, p. 132) noted that while some
officials clearly favoured freedmen, “in other localities the Bureau was little more than a re-
enslavement agency for the sake of planters”.

The point to note here is that given the weakness of the judicial system, enforcing the
contractual rights of freed-people depended on the determination and predilections of the
individual agents on the ground, who because of the lack of resources invested in the FB by
Congress, were limited in what they could achieve (Nieman, 1979, p.13). A cohort of agents that
numbered in the hundreds was responsible for protecting the interests of a population of freed-
people that numbered in the millions. In these circumstances, there was plenty of scope for
variation. Given the laxness in the system, it is unsurprising that Fleischman et al. (2014) found a
lack of evidence of the systematic follow through of tribunal decisions in favour of the freed-
people in the FB’s records.

It was not the case that the LCS lacked formal reporting mechanisms for holding
individuals to account, but that these were directed at the FB agents rather than the employers.
Furthermore, the agents’ accounts were restricted to attesting whether they had performed their
duties diligently in line with FB directives. To this end, the numbers of contracts supervised,
numbers of farms visited, numbers of complaints dealt with were recorded; and the ultimate
effectiveness of the agents was judged on the total numbers of freed-people in the districts in
work, not on their success in dealing with individual cases. General James G. Foster, the FB’s
assistant commissioner in Florida summed up the situation in a report to General Howard, which
emphasised the success of the Bureau in getting the freed-people back into work notwithstanding
the continuing abuses his agents had been unable to tackle (Eckert, 1968).

Within this remit, the accounting imposed on the agents was extremely arduous. The FB
was a military operation with a hierarchical structure and fixed lines of reporting. In Louisiana
for example, the operation was headed by an assistant commissioner who reported to General
Howard in Washington. Below the assistant commissioner were seven sub-assistant
commissioners each responsible for a district, and a group of assistant sub-assistant
commissioners and lower agents assigned to the various parishes (Smith, 2000). A South
Carolina agent complained about the contracts books, letters-sent books, letters-received books,
derendorsement books, transportation books, and orders books that had to be completed and cross-
referenced to each other (Tunnell, 1992). Cox and Cox (1953, p. 430) added copybooks of
circulars, registers and indexes of correspondence, and accounts of supplies and funds to this list.
These records provided the raw-material for a punishing regime of returns incumbent on the
agents. In pleading for an assistant, one Captain A.W Shaffer, wrote:

I am required to make 36 Reports and Returns – original duplicate and triplicate during
the month … My office is full from morning until night generally – I get nothing to eat
from Breakfast until 5 or 6 o’clock PM., and then comes camp duties – the outside duties of
the office and these interminable Reports and Returns (Cox and Cox, 1953, p. 430).

Neither was complying with FB regulations an entirely straightforward manner as can be seen
from the following extract from an orders book:

General Orders No. 19 (Arkansas Freedmen’s Bureau, Series of 1867) is not repealed by
General Orders No. 6 (Fourth Military District, Current Series 1868). General Orders No.
19 and Circular Orders No. 17 (Arkansas Freedmen’s Bureau, Series of 1867) which
convey it are still valid. Circular 19 (Fourth Military District, Series 1867) is repealed by General Orders No. 6 (Richter, 1991, p. 166).

Finally, the agents were subject to the Army regulations relating to “accountability for property” (Cox and Cox, 1953, p. 430), with accounting for government moneys given high priority. For example, Second Lieutenant Willis referred to above compiled monthly reports of supplies issued, rations dispensed, personnel employed and civilian services procured, together with a budget for the forthcoming month. Quarterly budgets were also required. When Willis transferred from the Army into civilian federal employment in December 1867, he was required to “balance his books” before he was paid off, a process that involved:

Twenty-two letters to the commissioner of the Freedmen’s Bureau, to various auditors of the Department of the Treasury, to the quartermaster General of the Army, the Adjutant General of the Army, and the Chief of Ordinance of the Army, as well as to every acting assistant adjutant, quartermaster, and distribution officer in Arkansas and Mississippi in his chain of command, testifying to his lack of indebtedness to the government (Richter, 1991, p. 195).

In short, not only was the system of accountability that was imposed on the FB agents not focused on protecting the freed-people from exploitation, but the deluge of Army paperwork crossing their desks impeded rather than assisted them in their task. Evidently, a boundary existed between upholding the property rights of ex-slaves and intervening in the affairs of white planters and farmers that the politicians in Washington were unwilling to cross. For the President, this was unambiguously a question of ideology, the rights of states to self-determination that “flew in the face of the obvious fact that he [the Negro] was receiving anything but equal, fair, and humane treatment” (Carpenter, 1962, p. 246). But for Congress also, the amount of regulation needed to guarantee the contractual rights of the freed-people following the abandonment of the land programme would have constituted an unprecedented level of interference by the U.S. government in the lives of American citizens in peacetime, which consequently was never an option. The need for more government intervention was recognised by Major Geo. D. Reynolds, Acting Assistant Commissioner of the Southern District, Mississippi in his October, 1865 monthly report:

The Mississippians fear, hate, and distrust the negroes, and the negroes have not a particle of confidence in the disposition of their former masters to do them justice. I have tried to look at the matter unbiased by prejudice and uninfluenced by any personal considerations. It is my firm conviction that the labor question of this country, and the settlement of the large class of Freedmen into industrious, law abiding, and profitable citizens, can only be effected by the interposition of the United States Authority. Any code that may be adopted by the people of Mississippi in their present state of mind will only be a form of peonage, as bad, if not worse than slavery (Roll 32, Field Office Records for Mississippi, M1907).

The upshot of the lack of effective regulation was that the freed-people were tied into a contract system with no guarantees that the employers would honour their side of the contract. The next
section considers the implications of this imbalance in relation to the accounts used by employers to contest their workers’ claims.

Contract accounts: examples from the archives

The archives are replete with examples showing how accounting helped sustain white control of the black population. This section of the paper includes some of the most noteworthy examples among them.

First, accounting data were essential in theory to ensure that contract terms were fulfilled. Figure 2 shows the reconciliation of Hannah Jones’ account and illustrates how a final balance was tabulated and carried forward. The account shows that she was entitled to receive pay of $142.80 for the 17 month period to August 1867, but was only paid $57.85 in cash and tobacco. The balance owing to her of $84.95 was wiped out by two large deductions totalling $127.45 relating to rations issued to her three children during absences from work. This left her owing $42.50 to the employer at the end of the period, which equated to five months work at her average rate of pay. The account indicates the employer’s willingness to support the young family, but the price exacted was that they remained indebted to him in terms of labour service, all of which smacks of the former slave system.

Insert Figure 2 about here

Figure 3 is a more extreme example. In this case, the freed-person exceeded his wages by over 100% after these were netted against provisions and deductions. Hence, it would have taken him another full year to work off the debt at his current rate of pay of $15 per month. Again the provision of “ground to cultivate [on] Saturday evenings” is redolent of the system under slavery.

Insert Figure 3 about here

The pricing of deductions was not usually detailed in the contract and was therefore prone to manipulation by the employer. The FB deliberately chose not to stipulate fixed rates of pay, preferring instead to leave wages to market forces. According to Bentley (1955, p. 86), not stipulating a minimum wage was a serious error in the fight against re-enslavement. Again it fell to the agents to ensure that the rates of pay were reasonable (Howard, 1907, pp. 304-305). However, whatever the rate adopted, it was at least set down in writing in the contract, which was not generally the case for deductions. Figure 4 is a typical example. The pre-printed contract allowed space to insert the rate of pay, in this case $15 a month plus rations, but no space for specifying payments in kind and other deductions.

Insert Figure 4 about here
Returning to the account showing large indebtedness in Figure 3, the $15 that was deducted for a coat and a pair of boots represented a full month’s wages. At current day prices, the $5 for the boots equates to $75.70 using the CPI, $615 using the unskilled wage index, or $1,220.00 using the production worker compensation index (http://www.measuringworth.com/uscompare/), illustrating the extortionate nature of the deduction.

The dubious nature of the pricing of deductions is also emphasised in Figure 5 which is a reconciliation of Rosetta Taylor’s contractual dues. The account reveals seemingly arbitrary dollarized deductions for work done by others during her unexcused absences. The account also shows that she was required to forfeit a major portion of her contract because of absences. Rent and clothing were deducted from her pay, leaving a net balance owing to the employer of $45. Perhaps what is most interesting about this account is that contract breaches allowed the employer to eject Rosetta and Ben, presumably her son, without wages. In this case, the decision appears to have been challenged by her but upheld in court.

Insert Figure 5 about here

Accounting thus quantified actions/events that were inherently qualitative, such as the value of deficient work, surly demeanour, lost time, unexcused absences, and work done by the planter or extra hands. Nieman (1979, pp. 87-88) illustrated the way qualitative judgments were translated into accounting numbers:

If an employer felt that one of his workers failed to work according to the terms of his contract or was impudent or disobedient, he could impose a fine of one dollar for each offense and deduct it from the worker’s wages at the end of the year.

In the case of the account in Figure 5, the employer was at pains to point out that he had the right under the contract “to send them away without compensation for any insolence or disobedience”. This particular contract was typical in that the majority of the wages were deferred to the year end (Fleischman, et. al, 2011). By enforcing such contracts, the FB upheld the doctrine of entirety,

which held that a contract was an indivisible whole and that a laborer must complete all contractual obligations before he was entitled to be paid. A worker who quit or otherwise violated an “entire” contract forfeited any claim to wages, no matter how petty the violation or how long he had worked (Hahn et al., 2008, p. 311).

Hence, “the slightest breach” could be “seized on by employers” as an excuse to dismiss workers before it was necessary to pay them (ibid., 2008, p. 44; Nieman, 1979, p. 181). Many employers appear not to have bargained in good faith, never intending to honour the terms of the contract at harvest. Perhaps most troubling, failure to fulfil a contract in its entirety often resulted in large arbitrary deductions or even termination. Since the vast majority of freed people had contracted for crop shares and did not receive regular cash wages or advances, termination was especially onerous and could leave them prone to the anti-vagrancy laws.
Figures 6 and 7 illustrate one of the more egregious examples of accounting and lack of arbitration board oversight we have seen. Figure 6 describes how the freedmen’s share of crop values was computed. Figure 7 is a portion of a page which summarized the account balances of 14 family units that worked on the Shippey and Robinson farm. In total, 27 “equivalent” hands were to receive equal distributions/allocations of the $1,122.66 total crop value computed in Figure 6. The three-person arbitration board discussed the figures presented in the exhibits and included the following summary statement:

That in the said Settlement, your referees have charged the said Freedmen with no lost time. That the charge for Extra Rations, as the same appears on Exhibit “B”, is where half hands drew full Rations, the same being provided for by the contract – would further report that on an examination of the accounts of W.W. Robinson, for Supplies furnished the said Freedmen, an account of the non-producing population on the place, and for clothing furnished at their request, the entire crop will not be sufficient to liquidate their indebtedness to him, and have awarded the same to him, and the said Shippey entire, except where the balance appears in favor of the Freedmen, as appears on exhibit “B” hereof.

Digging deeper into the numbers reveals several noteworthy concerns about the accounting. Had there been no deduction for provisions, distributing the $1,122.66 over the 27 “equivalent” working hands translates into $41.58 per hand for a year’s work (or 11.4 cents per hand per day). Twelve of the 14 family units ended the year $609.83 in total indebtedness ($50.82 per family). The two that showed a profit were entitled to the munificent total cash settlement of $6.01. The absence of a deduction for lost time is understandable, given that freed people contracted for crop shares, and they did not receive any cash advances or wages. However, two charges appear especially troublesome. For one, the large store-account charges were not supported by any documentation in the case file, and the total charges exceeded the crop share allocations for 11 of 14 families. The uniform charge of $20.05 per family unit for extra rations, regardless of the size or composition of the family, seems capricious at best. Similarly, the equal distribution of crop shares, regardless of the productivity of individual workers, reflected an arbitrary allocation procedure that disregarded individual accomplishment and a stifling of individual initiative. Altogether, this case reveals how accounting, in conjunction with the year-long labour contracts, could effectively bind freed people to an endless cycle of impoverishment. Thus, other than physical coercion, working on the Shippey and Robinson farm appears to have been little changed from the slave era, and it produced the same result of a life of continual farm labour with little or no opportunity to increase capital.

Insert Figure 6 about here

Insert Figure 7 about here

As these examples illustrate, accounting data were consistently used to maintain the power and control of planters over their freed employees. Both qualitative and quantitative
features of work life on planter lands were expressed in financial terms through accounting. It also seems reasonable to conclude that accounting was consistently biased in favour of planter interests. Accounts were typically maintained by the planters themselves or by clerks/bookkeepers under their employ. There were no required uniform accounting practices, and auditing procedures were informal at best. The majority of freed people were illiterate and could not fully appreciate the terms of their contracts or assess the fairness of arbitrary and unreasonable prices associated with fines, absences, and provisions charged to their accounts. In this respect, the principle of freedom of consent that underpins contract law was not only compromised by the fact that freed-people were forced into contracts in the first place, but by the lack of information available to them at the point of signing about the true nature of the benefits they were likely to receive. Such contracts would be judged one-sided and therefore “unconscionable” according to legal theory as consent implies not just having all relevant information prior to signing an agreement, but also being able to understand it (Brilmayer, 1989, p. 21; Leonhard, 2012, p. 60).

The freed-people were not insensible to the fact they were being cheated. For example, Shlomowitz (1979, p. 559) noted that:

> The most frequent complaint related to inaccurate planter accounts. They [freed-people] alleged being charged for goods which they had not bought from the planter and having deducted from their earnings forfeitures for lost time during the year which they had not incurred.

As Figure 8 indicates, freed-people sought redress from FB officials, but it was difficult for them to dispute their employers’ claims given that it was not they, but their employers who kept the records of wages paid, time lost and goods advanced that were produced as evidence in court of the performance of contractual obligations (Nieman, 1979, p. 182).

**Insert Figure 8 about here**

Although we have discussed examples of abuses suffered by freed-persons and have not presented a commensurate number of complaints by planters, it appears that the majority of violations and abuses were charged against planters, and the assistance freed people received from the FB and the federal government was rarely sufficient to improve their condition significantly.

**Conclusion**

How societies deal with war and reconstruction is highly significant to researchers, not least because of the insights systems under stress yield with respect to the fundamental attitudes and beliefs of the persons affected. In the case of the U.S. in 1865, the post-war aftermath was not the only systematic stress, but the emancipation of some four million slaves. Thus, the FB’s LCS constitutes a natural experiment enabling historians to garner understanding about the wider aspirations and limitations of American society at this time. The seismic nature of the shift was bound to throw up fundamental issues in a nation founded on the principles of freedom from
government interference and individual property rights; slaves having been excluded from the latter. It follows that the debate leading to the FB’s creation centred as much on questions of ideology as practical matters. Furthermore, there was plenty of time for the issues to be carefully thought through given that Lincoln’s emancipation proclamation anticipated the end of the war by over two years.

From an ideological perspective, the notion of contracting was hugely significant because it encapsulated the right of individuals to own private property and to exchange it voluntarily, including the property rights over their own labour. However, a LCS was not Congress’ preferred option because it was anticipated that take-up would be low absent compulsion. The abandonment of the alternative land programme under pressure from President Johnson was a watershed as it pushed Congress beyond the limits of where it was prepared to go in terms of intervention. The sad truth of the matter is that the scale of action required to make the LCS effective in terms of regulation, resourcing and time commitment would have necessitated a greater level of intervention by the U.S. government in the affairs of the former Confederate states than it was willing to provide. Generations of race relations in the South bear witness to the racial hatred that hampered the FB’s efforts on many levels – the legislatures that passed the Black Codes, the planters who were used to dealing with their former slaves as property, the courts packed with jurors and judges who shared the racial sentiments of the general white population.

In a contest between the two guiding principles of limiting the role of the U.S. government versus upholding the property rights of freed-people, the former proved noticeably stronger. The result was a seriously under-resourced FB and an absence of effective mechanisms for holding employers to account for honouring their contractual obligations to the freed-people. This explains the gap in the official records between the decisions of tribunals and their enforcement. Enforcement was left to the discretion of the agents in the field, who were far too few in number to be effective. It was not that the system lacked accountability altogether – agents laboured under a mountain of official paperwork – but that accountability was directed primarily towards the agents’ success in getting former slaves back to work rather than protecting their contractual entitlements.

Without question, life in the immediate post-bellum period was harrowing, for both white black populations. However, unlike whites, freed-people had very few options to improve their condition. Black-Code apprenticeship and FB-endorsed labour contract provisions tied them to their former plantation lands as waged workers. Vagrancy provisions resulted in fines or imprisonment, often leading to many years ofpeonage labour. In addition, freed-people could not bargain collectively, they could not leave employers who mistreated or overcharged them, they could not look for better jobs, they faced blatant discrimination in local courts, and they were brutally treated by the local population whenever they acted “out-of-place” or attempted to claim their recently granted civil rights. Furthermore, they rarely received equitable remedies from prejudicial state/local courts and juries even when verdicts were rendered in their favour.

Tying the freed-people into contracts was especially significant from an accounting perspective because it meant that monitoring the performance of contracts and proving contractual claims would depend on accounting evidence prepared by the employers. For good as well as for bad, accounting has always been aligned with contracting to gauge if both parties have fulfilled their obligations under the contract. Considering the lack of regulation, manipulation was unsurprisingly common. Although the archives do contain signed affidavits by arbitrators purporting unbiased treatment, there is no evidence of uniform accounting, systematic
auditing, or follow-up to ensure that the prices charged to freedmen for provisions, deductions, or other non-financial items were reasonable or consistent. In fact, charges for necessities like food, hats, shoes and other clothing were excessive. The lack of specificity in the contracts over deductions and penalties allowed the employers to present a picture of perpetual indebtedness on the part of the freed-people and so bind them to future work. Accounts were also used to justify driving workers away after the harvest before they had been paid. Given that the contract had become the mainstay of the FB’s labour policy, the absence of effective accounting evidence for holding employers to account guaranteed that the system would be inequitable.

The picture is not entirely negative. Many FB officials appear highly principled and well-intentioned, and genuinely sought to better the freed-person’s living conditions, work environment, and economic prospects, notwithstanding the exceptions. FB officials distributed rations to impoverished blacks and whites alike, provided relief, legalised marriages, and steered freed people towards becoming productive members of society through an acceptance of wage-based labour contracts. Labour contracts also led to greater food production and “helped restore order to the South and gave blacks at least some minimal protection against maltreatment by white landowners” (Nieman, 1979, p. 65). However, the price paid for the economic stability offered by the LCS was foregoing the newly won freedom of the black population.

In essence, therefore, the LCS maintained significant vestiges of the bygone slave era. The majority of freed-people were tied to planter-owned lands and remained economically dependent on white planters; they were denied full mobility to obtain a market value for their labour; they did not receive equal justice under the law; and they continued to be treated as second-class citizens. The LCS essentially maintained the white-owned plantation labour system. Thus, looking back at the FB’s failure to protect workers’ rights and the pivotal part that accounting deficiencies played in their continued oppression, we concur with W.E.B Du Bois’ (1935, p. 30) conclusion that “the slave went free, stood a brief moment in the sun; then moved back again toward slavery.”
References


Primary sources

National Archives, Record Group (RG) 105, M1907, Records of the Field Offices for the State of Mississippi, Bureau of Refugees, Freedmen, and Abandoned Lands, 1865-1872.
Statutes at Large, Treaties and Proclamations of the United States of America (1866), An Act to Establish a Bureau for the Relief of Freedmen and Refugees, Vol. 13, Boston, pp. 507-509.
STATE OF MISSISSIPPI,

Noxubee County.

In the Circuit Court

October Term, A. D., 1867:

The State of Mississippi

Jno. Wesley Harlow

Amount of fine

Jury Tax

Solicitor's fee

Clerk Yates's cost.

Filing and marking papers, 25c Entering App. Dft 10c
Motion and order, 15c Entering non-unit or discontinuance, 25c
Swearing 2 witness 5c Entering Continuance, 15c Seire facias 12
Swear. and Emp. Jury, 25c Entering verdict or judgment, 25c
Recording Judgment in Court, 25c Subpœna for witness, 25c
Additional names, 5c Taking Recognizance, 5c Taxing Costs, 25c
Administering Oath and Certificate 90c Certificate to witnesses, 75c
Certificate of Cost 25c Filing Indictment or Ind 25c Capias 50c
Arraigning prisoner, 75c Final Record 3 65

Sheriff Thomas's cost

Serving Capias 81 50 Ent. Writ 25c Returning Writ 25c
Bail bond or recognizance 50c Summoning 75 witness 50c
Emp. jury 20c Serv. do. 5c Co. Commitment 81 Release 81

MAGISTRATE'S FEES,
CONSTABLE'S FEES,
Jail Fees

Board days at 65 cents Turnkey

WITNESS FEES,

A True Bill of Cost.

Rec'd the above fine and bill of cost this day of ——— 1867.
**Figure 2.** Reconciliation of Hannah Jones’ account (NA, RG 105, M1907, roll 26)

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1866</td>
<td>Month pay</td>
<td>$10.00</td>
</tr>
<tr>
<td></td>
<td>April do</td>
<td>$10.00</td>
</tr>
<tr>
<td></td>
<td>May do</td>
<td>$9.50</td>
</tr>
<tr>
<td></td>
<td>June do</td>
<td>$3.30</td>
</tr>
<tr>
<td></td>
<td>July do</td>
<td>$3.83</td>
</tr>
<tr>
<td></td>
<td>Aug do</td>
<td>$6.70</td>
</tr>
<tr>
<td></td>
<td>Sep do</td>
<td>$10.00</td>
</tr>
<tr>
<td></td>
<td>Oct do</td>
<td>$10.00</td>
</tr>
<tr>
<td></td>
<td>Nov do</td>
<td>$7.36</td>
</tr>
<tr>
<td></td>
<td>Dec do</td>
<td>$50.49</td>
</tr>
</tbody>
</table>

**1867**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance from 1866</td>
<td>$12.59</td>
</tr>
<tr>
<td>Jan pay</td>
<td>$10.00</td>
</tr>
<tr>
<td>5th of Feb pay</td>
<td>$8.35</td>
</tr>
<tr>
<td>Mar do</td>
<td>$10.00</td>
</tr>
<tr>
<td>Apr do</td>
<td>$10.00</td>
</tr>
<tr>
<td>May do</td>
<td>$4.67</td>
</tr>
<tr>
<td>June do</td>
<td>$5.00</td>
</tr>
<tr>
<td>July do</td>
<td>$10.00</td>
</tr>
<tr>
<td>Aug do</td>
<td>$4.29</td>
</tr>
<tr>
<td>Total</td>
<td>$42.50</td>
</tr>
</tbody>
</table>

**Balance due, Hannah** $117.70
Figure 3. Reconciliation showing large indebtedness (NA, RG 105, M1907, roll 26)
Figure 4. Labour contract (NA, RG 105, M1907, roll 47)
Figure 5. Reconciliation of Rosetta Taylor’s account (NA, RG 105, M1907, roll 26)

Rosetta Taylor in act with S.C. Fontaine, Guardian of the Estate of her late husband S.M. Brillon de.

1866:
April 26th  Cash advanced $5.00
June 1st  Clothing purchased $13.50
June 9th-25th July 13 days absence from work 6.50
Aug. 26th Neglect of washing — compelling the hire of another woman 5.20

Neglect as milkman — compelling the hire of others at 10¢ per month 30.00

Use of house from Jan. 1st to Oct. 1st at 5¢ per month 15.00

Or for half work done 8 months at 15¢ per month full work 60.00

The S.C. Fontaine 45.00

Under the contract of the hiring left the place without permission. The contract was forfeit without wages. I had a right to send them away without compensation for any advance ordered.

In Rosetta Taylor’s case the Court has already decided against her claim.
Figure 6. Shippey & Robinson Case Exhibit A (NA, RG 105, M1907, roll 15)

Exhibit A

Statement of crops belonging to Freedman in the employ of Means W.H. Shippey & W.W. Robinson in the County of Escambia, State of Mississippi for the year 1867

Jenkin

8 Bbl 500 lbs. of cotton Shipped by Company, Oct 15, 1867, 102.91
150 b. 500 lbs. of peas, 1 bbl. Pea meal, 352.70
172 bu Corn in crib 60" 281.20
487 lbs. Cotton Seed 88.00
547 lbs. Hodder, in stacks 76.00 1122.60

Total debt Freedman's crops $1122.60

West Point, Miss Dec 21st 1867
Figure 7. Shippey & Robinson Case Exhibit B (NA, RG 105, M1907, roll 15)

<table>
<thead>
<tr>
<th>Name</th>
<th>After</th>
<th>Deduct for</th>
<th>Amount of Rent for Year (Simple) as per Agreement</th>
<th>Assembled Amount</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jack Hillis &amp; 2 Sons</td>
<td>$15</td>
<td>3.00</td>
<td>20.00</td>
<td>1.17 158.96</td>
<td>72.36</td>
</tr>
<tr>
<td>Henry W. Sr.</td>
<td>0.50</td>
<td>0.62</td>
<td>20.00</td>
<td>1.67 158.18</td>
<td>32.37</td>
</tr>
<tr>
<td>Jack Bastian &amp; 3 Children</td>
<td></td>
<td></td>
<td>20.00</td>
<td>1.67 158.18</td>
<td>32.37</td>
</tr>
<tr>
<td>Lou W. &amp; Melissa</td>
<td>0.50</td>
<td>0.62</td>
<td>20.00</td>
<td>1.67 158.18</td>
<td>32.37</td>
</tr>
<tr>
<td>Spencer Brane</td>
<td></td>
<td></td>
<td>20.00</td>
<td>1.67 158.18</td>
<td>32.37</td>
</tr>
<tr>
<td>Zilla Nickbrook</td>
<td>0.50</td>
<td>0.62</td>
<td>20.00</td>
<td>1.67 158.18</td>
<td>32.37</td>
</tr>
</tbody>
</table>
Figure 8. Request for FB assistance in wage dispute (NA, RG 105, M1907, roll 15)

To the Honorable Officers of the Prudens

Beaus, Columbus miss

We the undersigned, availing ourselves of the benefit of the order of the 3rd of August 30th, 1869. We appear before you praying justice between A.P. Morrow and your humble petitioners.

We were employed by A.P. Morrow to work on his farm during the year 1869. At money wages as our several contracts will show. For the term of twelve months. We also affirm that said wages have not been paid, only in part, and the said A.P. Morrow refuses to settle with any of us, and we now come before you praying you will have an investigation. That justice may be done us,

Harrison Jerning
Cpt. Jerning
Dallas Jerning
John Muldown
Bob Muldown
Miles Hamilton
Nathan Erwin
Morris Jerning
Joe Brandy
Harrie Brooks
Ouzts (1996) graphically describes the degradation in Leon County, Florida resulting from the war even though the region had been barely touched by the fighting.

Further to this point, Nieman (1979, p. 54) concluded that, “They [FB officials] believed that if freedmen were helped too much, their self-reliance would be destroyed rather than cultivated and that they would be hopelessly out of place in the individualistic universe of mid-nineteenth century America.”

Literally meaning “against conscience” and therefore invalid.

We have decided to use the terms “freed-persons”, “freed-people” or “ex-slaves” rather than “freedmen” since both men and women worked on planter lands after emancipation and were equally impacted by the LCS.

The other themes they identified from their analysis of critical accounting research from 1990 to 2014 comprised accounting, accountants and the public interest; hegemonic ideologies; critique of the accounting academy; and corporate responsibility to make injustices visible.

This first wave of immigrants tended to come from western and northern Europe I contrast to the surge in arrivals from eastern and southern Europe in late 19th early 20th centuries.

In order to find an example of indentured labour in operation in an American context in the1860s, one must turn to Hawaii. Although still a native monarchy until 1898, the islands were dominated economically by the “Big Five” sugar companies that had close ties to the U.S. Like the FB’s LCS, the purpose of the accounts was to verify the performance of contractual obligations rather than to promote efficiency. In the case of the Hawaiian sugar plantations, the focus was on tracking and enforcing labour turnout (Fleischman and Tyson, 2000).

Steinfield (2001, pp. 10-11, 17, 31, 290, 315) maintained that “free” labour in the sense of employers not being able to penalise employees if they terminated labour agreements only came into being in the U.S. in the last quarter of the 19th century. However, the only penalties that were available to employers up to that time in the North had been financial, typically the forfeiture of back pay.

Stanley (1998, p. 63) cites an 1886 treatise, A Plain Statement of the Laws relating to Labor, concurring that “contracts of hiring are generally made verbally”.

The American Freedmen’s Inquiry Commission (1864) variously estimated the figure at three or four million.

Compensation had been granted to slave-owners under the terms of an act that abolished slavery in Washington DC some 9 months before Lincoln’s Emancipation Proclamation, but this was a one-off.

Johnson was not alone in his opposition to the two bills. For example, Cox and Cox’s (1961) textual analysis of Johnson’s two veto messages reveals the hand of six leading politicians in drafting the text: William H. Seward (Secretary of State), Gideon Welles (Secretary of the Navy), Senators James R. Doolittle and Edgar Cowan (Republican supporters), Senator Lyman Trumble (the author of the two bills), and Henry Stanbery (soon to become Attorney General).

In this regard, Nieman (1979, p. 62) stated, “Thus agents frequently required all town-dwelling freedmen to obtain passes from the Bureau and threatened to arrest those they caught in town without passes. When these agents arrested blacks who did not have passes, they forced them to labor on the public works and subsequently hired them out to planters who came to town looking for additional laborers”. Unsurprisingly, “to black Southerners, pass requirements enforced by armed white men smacked of slavery” (Hahn et al., 2008, p. 187),

According to Bentley (1955, p. 1514), these could take the form of “single-judge courts with local agents in charge, single-judge courts with officers especially appointed to act as judges, single-judge courts presided over by civilian magistrates; and there were three-judge courts”.

That Negro voters were considered 3/5 of a white voter as a result of the Three-Fifths Compromise of 1787 at the Constitutional Convention seriously questions the impartiality of the white citizenry who adjudicated disputes brought by freed persons.

Local residents were not precluded from serving as agents. However, the vast majority were serving US army officers, some of whom carried on in the role as civilians as the army demobilised following the Civil War.

Once such case occurred in 1867 where it was HQ rather than Hiram Willis, the agent, who ordered the seizure and leasing of a plantation in order to obtain settlement for the workers (Richter, 1991).

It is worth noting that nearly 40% of the relief provided by the FB in the summer and fall of 1865 was to whites (Hahn et al., 2008, p.183).