

“FOR ALL SUCH, A COUNTRY IS PROVIDED”:  
CHOCTAW REMOVAL, SLAVE TRADING, AND LAW IN SOUTHWESTERN  
MISSISSIPPI, 1800-1841

A Thesis  
Presented to  
the Faculty of California Polytechnic State University,  
San Luis Obispo

In Partial Fulfillment  
of the Requirements for the Degree  
Master of Arts in History

by  
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June 2018

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## ABSTRACT

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Anthony Albey Soliman

At the beginning of the nineteenth century there were few white settlers in the Mississippi Territory. Over the course of two decades, the United States used treaties to force the indigenous inhabitants, the Choctaw, out of this area by the United States to lands west of the Mississippi River. The United States’ goal in the region was to create a plantation economy in the Mississippi Valley based on the production of short-staple cotton sustained by enslaved African American labor. Focusing on the removal of the Choctaw and the subsequent installation of a plantation regime in the Mississippi Valley, this thesis uses government removal records, treaties, correspondence, and arguments from *Groves v. Slaughter* to show how Choctaw removal and the interstate slave trade are not separate events, but part of one larger movement to incorporate Mississippi into the larger world economy.

## ACKNOWLEDGMENTS

I would like to thank Dr. Matthew Hopper for your constant encouragement and direction during this course of this project. I would also like to thank Dr. Andrew Morris for reassuring me that I do, in fact, belong in a graduate program. Special thanks to Dr. José Navarro for challenging me intellectually and mentoring me. Dr. Kate Murphy provided ideas and showed interest in this project from the beginning. I would also like to thank Alike Bourgette and Crystal Smith--your friendship is invaluable. Thank you, mom, for your never-ending love, support, and encouragement. This thesis is for you.

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CHAPTER ONE:  
INTRODUCTION

At the signing of the Treaty of Fort Adams in 1801, the Choctaw Nation ceded over two million acres of fertile land irrigated by the Mississippi River. Twenty-nine years later on September 27<sup>th</sup>, 1830, the mingo, or district chiefs of the Choctaw Nation, signed the Treaty of Dancing Rabbit Creek, ceding the entirety of their land east of the Mississippi River to the United States, being removed to the Arkansas territory, signaling the end of expansive settler colonialism into the North American continent, and the beginning of an established population of Euro-Americans in the Mississippi River Valley. The conditions of this treaty stipulated that part of the land to be given up stretched from southern to northern Mississippi, totaling about one hundred miles of the eastern bank of the Mississippi River.<sup>1</sup> The time between these concessions of land were arguably the culmination of Choctaw resistance to the expanding nation, and the end of their traditional ways of life that had sustained them for more than a thousand years in this region. During the American Revolution the Indian nations in the South, including the Choctaw, allied with the British army in hopes of preventing further encroachment on their territory including the British outpost at Natchez.<sup>2</sup> At the start of the nineteenth century, the Choctaw numbered around fifteen thousand and were settled in the areas between the Pearl River, running through present-day Jackson, Mississippi to the

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<sup>1</sup> Donna Akers, *Living in the Land of Death: The Choctaw Nation, 1830-1860* (East Lansing: Michigan State University Press, 2004), 13.

<sup>2</sup> Brandon Layton, "Indian Country to Slave Country: The Transformation of Natchez during the American Revolution," *Journal of Southern History* 82, no. 1 (2016): 28.



Tombigbee-Mobile River system in present-day Alabama.<sup>3</sup> After two decades of gradual encroachment their numbers had decreased and they were restricted to small strips of land, consisting of Adams County, and north to Vicksburg, just east of the Mississippi River.<sup>4</sup>

Eleven years later in 1841, a case was argued before the United States Supreme Court which ruled on the continuation of the domestic slave trade between the states of the Union. This case, *Groves v. Slaughter*, went to the court to decide the extent of control over the commerce in human beings destined for a life of servitude. This case involving a slave trader and the power of the states to control the interstate commerce was not brought to the court in isolation. Rather, it was the culmination of earlier actions by the states to control the domestic slave trade, and resulting from the new slave regime that was installed after Choctaw removal. This new slave regime included changes in the nature of slave labor practices, including gang labor, and this regime sought to truly commodify people and classify them by their production value. Prior to 1830 several other treaties stipulated that the Choctaw relinquish their lands to the growing American nation, but the Treaty of Dancing Rabbit Creek was an example of the type capitalism that characterized this period and region. This type of capitalism recognized the profitability of land and commodity production over indigenous livelihoods and ancient titles to land. Sven Beckert has coined the term “war capitalism” to underscore the violence inherent to secure maximum avenues for profit, particularly as it relates to cotton cultivation.<sup>5</sup> This type of capital accumulation functions only when bodily

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<sup>3</sup> Adam Rothman, *Slave Country: American Expansion and the Origins of the Deep South* (Cambridge, Mass: Harvard University Press, 2005), 41.

<sup>4</sup> Ibid.

<sup>5</sup> Sven Beckert, *Empire of Cotton: A Global History* (New York: Alfred Knopf Press, 2014), xv.

coercion, and in this context, expropriation of indigenous peoples is achieved. It is in this “war capitalism” that the United States engaged with indigenous peoples of the Mississippi Valley, in order to obtain land to cultivate cotton from the labor of enslaved Africans and African Americans.

By studying the political economy of the United States, this thesis utilizes variants of Marxist thought. One variant of Marxist thought based on planter rationality is the “planter-capitalism” thesis advocated by Robert Fogel and Stanley Engerman, who argue that plantation slavery was capitalist and that planters’ eyes were fixed toward the larger world market for profit.<sup>6</sup> Recently, Marxist historians have posited theories that attempt to explain the development of capitalism both domestically, and internationally for the burgeoning world market.<sup>7</sup> This thesis also draws from Marxist historical materialism which privileges national experiences and wage labor production to argue that the business of slave trading was a determining factor in “westward expansion.”<sup>8</sup> While studies that invoke Marxist theories do so as an attempt to categorize plantation slavery, this thesis studies the myriad ways in which the domestic slave trade expanded through legal conquest. Thus, this study is not about the political economy of plantation slavery, but how the political economy of the slave regime in western Mississippi influenced the domestic trade in the region. Absent from this argument is any debate about the degree

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<sup>6</sup> Charles Post, *The American Road to Capitalism: Studies in Class-Structure, Economic Development, and Political Conflict, 1620-1877* (Leiden and Boston: Brill Press, 2011), 104.

<sup>7</sup> Dale W. Tomich, *Through the Prism of Slavery: Labor, Capital, and World Economy* (Lanham, MD: Rowman and Littlefield Publishers, 2004), 41.

<sup>8</sup> Tomich identifies debates surrounding the historical formation of capitalism as a world economy around two broad perspectives: the transnational character of capitalist development and the importance of the market, and Marxist historical materialism which emphasizes social relations of production linked to national experiences. This thesis utilizes both of these perspectives to make a cohesive argument about the importance of both national circumstances and global influences.

to which the trade was capitalist, since the role of industrialization and urbanization in this region was miniscule.<sup>9</sup> Critiques of Fogel and Engerman's studies, notably from Gavin Wright, focus on their assumptions about the primacy of plantations over family farms and the fact that they credited production, not international demand for the productivity of southern plantations.<sup>10</sup> These critiques cannot be applied here, since the unit of analysis is not the plantation itself, but the trade, although their emphasis on production for world markets is crucial to this thesis. Thus, I seek to make a modest contribution to the literature by historicizing the political economy of the expansion of slave trading by including Choctaw removal and slave trading law into the debate.

Through treaties with Native American nations and prohibitory legislation intended to curb interstate commerce to control the price and population of enslaved people, the government on the state and federal level sought to continue and strengthen the domestic trade. This thesis focuses on the legal mechanisms through which the United States constructed a contiguous empire and the economic driver of the domestic slave trade that supported by this expansion. In contrast to other studies which explore the effects of the interstate, or domestic, slave trade on the younger plantation societies in the Lower South, this thesis argues that the continuation of the trade itself was an important factor in the process of expansion for the United States.

In the context of Mississippi, I use the term forced removal, since it captures the contingencies that were present during this period, such as the resistance to the diminishing sovereignty of the southeastern native nations in this region. Historian

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<sup>9</sup> Post, 104.

<sup>10</sup> *Ibid.*, 110.

Donna Akers contends that the term *removal* is a “euphemism that implies the native people voluntarily elected their own dispossession,” however *removal* accurately captures the military, economic, and political means that the United States used to displace the Choctaw Nation.<sup>11</sup> The only thing that made the migration to Indian Territory voluntary was first, the lack of lucrative options in Mississippi, then later the formal treaties which specifically stipulated their removal to the new territories. I will not use the term *deportation* to describe the coercive tactics that the U.S. used to displace the Choctaw Nation or other native nations, since this gives primacy to American laws and notions of the American nation-state over that of the indigenous nations. Although the expanding United States met hundreds of native nations, the policies concerning native nations were racialized and predominantly uniform in their goal of subjugation of indigenous peoples. The term *deportation* is too limited. It has a binary connotation, and it ignores the various actors in this space, and the geopolitical complexity of nation building.

The United States’ type of imperialism identified white landowning men as ideal citizens, but the maintenance of this policy was exceptional, as the original inhabitants were removed to make room for another colonized people, a twofold subjugation.<sup>12</sup> I refrain from using the terms “Indian Country” or “slave country,” because these terms reduce the people and complex societies of this region to being identified exclusively by American perspectives, and it gives primacy to the United States’ goals and methods of expansion, neither of which were forgone conclusions until 1820. Furthermore, these terms are too reductive, as neither reflects the complex web of residence in these spaces.

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<sup>11</sup> Akers, 22.

<sup>12</sup> Deborah Rosen, *American Indians and State Law: Sovereignty, Race, and Citizenship, 1790-1880* (Lincoln: University of Nebraska Press, 2007), 156.

“Indian Country” was populated by white squatters and people who were not exclusively indigenous, while “slave country” ignores the free people of color and indigenous peoples who were still a part of the social milieu of the Mississippi Valley.

By using the domestic trade as the unit of historical analysis, I use treaties, federal and state constitutions, as well as correspondence between government officials to trace the ways that the slave regime was managed. The American State Papers of the Library of Congress is a compilation of several sources regarding politics, foreign relations, and public law. Much of the source material for the treaties and minutes come from the Indian Affairs collection of the papers. The papers in the collection range in substance from property disputes to official relocation mechanisms, including treaties and Choctaw reactions to American incursions, albeit conveyed through translators. This is useful for this study since, instead of giving attention to individuals, I focus on the workings of larger institutions to argue that continuation of the trade was the impetus to removal and expansion of slavery. In this way, treaties between Native American nations and the United States can be seen as attempts to increase the demand and market for slave trading in new areas conducive to plantation slavery. In accordance with other historians who characterize American actions as imperialist, I view the actions of American officials as empire-building to expand the domain of slavery and slave trading. Thus, the slave regime in western Mississippi, be it imagined or corporeal, determined first the acquisition of plantation lands and later the volume and frequency of the domestic trade in slaves to the region. This required negotiations with powerful indigenous nations in the region and the resort to the law to produce the desired results. By analyzing the language of treaties and *Groves v. Slaughter*, I will argue that the law functioned as a

means of social control for the American imperial project in the Lower South. In this vein, this thesis explores the ways in which land was cleared for white settlement and the law protected the maintenance of slavery to serve the commerce in enslaved people. *Groves v. Slaughter* was brought to the United States Supreme Court amid a milieu in which the United States was expanding its' domain over the North American continent. Before cases like *Groves* were argued, the economic terrain of conquest had to be established.

Historians analyzing the importance of slavery to the development of the United States economy have recognized both the global circumstances that have led to local American adaptations to be incorporated into the world market. Dale Tomich's work on the connection between slavery and capitalism is a crucial theoretical component to this thesis. In *Through the Prism of Slavery: Labor, Capital, and World Economy*, Dale Tomich seeks to interpret slavery "as part of the historical formation of the capitalist world economy" by calling attention to the diversity of forms of labor which constitute the world economy.<sup>13</sup> Tomich critiques neoclassical economic theories in history which disregard the social character of slave production.<sup>14</sup> He borrows generally from Marxists such as Anibal Quijano who posit that slavery was "established and organized as a commodity to produce goods for the world market and to serve the purposes and needs of capitalism."<sup>15</sup> These works contend that slavery in the Americas was essential to the formation of a world economy, and it is in this larger world system that the Mississippi Valley interacts with through cotton exports. Tomich identifies a "second slavery" in the

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<sup>13</sup> Tomich, 11-12.

<sup>14</sup> *Ibid.*, 18.

<sup>15</sup> Anibal Quijano, "Coloniality of Power, Eurocentrism, and Latin America," *Nepantla: Views from South* 1, no. 3 (2000): 550.

nineteenth century that developed in tandem with the Industrial Revolution and was distinct from earlier forms of slavery.<sup>16</sup> The second slavery emerged in areas that had previously been peripheral to the world economy, and now the slave regimes were integrated into industrial production and later, greater wealth. While these works are important in situating Mississippi in the larger world market, their intercontinental focus does not allow for treating specific situations within national, or even state boundaries. The works of historians Edward Baptist, Walter Johnson, and Adam Rothman who study the history of capitalism in the southern United States during the nineteenth century, particularly in the Mississippi Valley add specificity to the global perspective and their ideas are central to this thesis. These works by these historians are exemplary of the “new history of capitalism” movement which places slave-produced raw cotton as essential for economic growth.<sup>17</sup> Edward Baptist focuses on the political and social realm of slavery and cotton production for the United States to analyze the expansion of the nation in the south.

In his monograph *The Half Has Never Been Told: Slavery and the Making of American Capitalism* Edward Baptist states that land-grabbing and expanding the domain of slavery was a national, not colonial, project. He argues that citizens, not colonials owned property and persons, while the interests of powerful planters dictated the course of action in the Mississippi Valley, not distant colonial bureaucrats.<sup>18</sup> Baptist focuses on the early national period to the start of the Civil War, from 1783 to 1861 to trace the

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<sup>16</sup> Tomich, 65.

<sup>17</sup> Alan L. Olmstead and Paul W. Rhode, “Cotton, slavery, and the new history of capitalism,” *Explorations in Economic History* 67 no. 1 (2018): 1.

<sup>18</sup> Edward Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (New York: Basic Books, 2014), 56.

history of the expansion of slavery. His use of the term “slave labor camp” to characterize the nature of life on plantations, describes the nature of planters’ interest in the plantation system.<sup>19</sup> As an emerging nation, the United States developed the state by the processes of Native American removal and the expansion of slavery. Furthermore, the argument that unlike in the Caribbean, the continental mass of North America provided for an unchecked expansion of slavery that led to a unique American model is a reformulation of Frederick Jackson Turner’s “frontier thesis,” and one which does not fully treat the native nations in this space as sovereign nations. Baptist’s use of personal stories within the larger context of state politics when describing the coffer route to the Mississippi Territory from the Chesapeake is especially influential to this thesis. Using the decision in *Fletcher v. Peck* in which the Supreme Court ruled that “a contract is inviolable and that property is absolute,” he posits that the “interlinked expansion of both slavery and financial capitalism was now the driving force in an emerging national economic system that benefitted elites and others up and down the Atlantic coast as well as through the backcountry.”<sup>20</sup> Using this idea as the foundation for understanding the Mississippi Valley, this thesis uses an emerging nationalist framework that came from the colonization of North America. Walter Johnson works in the same vein as Baptist, although he focuses almost exclusively on the nineteenth century as he categorizes the expansion of slavery as empire-building.

In *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom*, Walter Johnson asserts the importance of space to the imperial aspirations of the United States.

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<sup>19</sup> Ibid., 89.

<sup>20</sup> Ibid., 51.



Johnson calls on historians to analyze the role of space and selfhood in creating a contiguous empire on the North American continent. The importance of the “yeoman republic,” which referred to self-sufficient and noncommercial white men and space was used to justify expansion of slavery by proslavery ideologues.<sup>21</sup> Johnson contributes to the historiographic slavery and capitalism debate by explaining that slavery on the plantation was indeed capitalist because it measured productivity as well as profits.<sup>22</sup> He offers a perspective on the expansion of slavery that privileges space and the ideas of white supremacy that result from the growth of slavery. Johnson then distinguishes the spatial boundaries of enslavement, as he describes the “patterned ecology of agro-capitalism” made slavery a “material and spatial condition, as much as an economic and legal one.”<sup>23</sup> The focus on the spatial aspect of slavery is essential to this thesis, as land served as one of the most important prerequisites to the expansion of slavery and slave trading, and drove the motivations of those who sought Choctaw lands in Mississippi. Furthermore, I contend that the possession of Choctaw lands and subsequent installation of plantation slavery dependent on enslaved African Americans was an expression of, not a space conducive to, Anglo-American white identity. The physical space of the Mississippi Valley allowed for a place to act out the notions of racial superiority that were necessary for this empire to function. Both Johnson and Baptist acknowledge that the expansion of slavery came from equal parts financial and political concerns, but they both see expansion as a means for greater potential in the realm of slaveholding, and not always slave trading. The various ways that slave traders navigated and adapted the

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<sup>21</sup> Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, Mass: The Belknap Press of Harvard University Press, 2013), 24.

<sup>22</sup> *Ibid.*, 244.

<sup>23</sup> *Ibid.*, 210.

social landscapes of the Lower South in this period remains understudied. The political and legal character of slavery in the territory and later state of Mississippi is important to understand the context surrounding Choctaw removal and the expansion of slavery. The transformation of slavery from the eighteenth to the nineteenth century is an important theme in this thesis, and David Libby covers the alterations of slavery over time in Mississippi.

David Libby focuses on how slavery evolved in Mississippi from the early colonial settlements to well into statehood in his work *Slavery and Frontier Mississippi, 1720-1835*. Libby traces the history of slavery in Mississippi from the early colonial settlements to the 1830s. Libby situates Mississippi on the frontier of the United States, and slavery as “part of an economic system related to European colonization that created a transatlantic marketplace.”<sup>24</sup> He contends that the how and why of slavery’s development have not been seriously studied by historians, who have unquestioningly taken the two as always existing in the same space. The attention given to the growing enslaved population is essential to this study and the ways in which prospective slave buyers inspected their human merchandise. After statehood, Mississippi saw an influx of so many enslaved people that they became the majority population in the state by 1835.<sup>25</sup> There were three ways in which enslaved people entered Mississippi during this period: the interstate slave trade, whole plantation migration, and southern planters buying in eastern markets.<sup>26</sup> Libby’s treatment of these three methods of populating the lower Mississippi Valley repositions relations in this space as occurring in a frontier, or a place

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<sup>24</sup> David J. Libby, *Slavery and Frontier Mississippi, 1720-1835* (Jackson: University Press of Mississippi, 2004), 10.

<sup>25</sup> *Ibid.*, 71.

<sup>26</sup> *Ibid.*, 60.

that was as much “western” as “southern.”<sup>27</sup> Libby does use the experiences of the native people of the region in his study, albeit by showing their involvement in slavery, in their version before European arrival, and their adaptation to it afterward. By using correspondence and diaries to glean insight into the desires of individuals in the region, he, like Baptist, has given insight into the workings of transactions of the domestic slave trade.

Adam Rothman has written on how the competing interests of those interested in the rights of slaveholders and slave traders have manifest in legal battles over the domain of each. Rothman explains that the preference for either slaveholding or slave trading dictated the legal framework in place for the different states. In his chapter about legal precedents for the interstate slave trade, Rothman describes an 1819 Mississippi law which sought to ban the importation of slaves who were previously found guilty of murder, arson, or rape, to the knowledge of the owner.<sup>28</sup> Rothman’s analysis of the Mississippi statute as being a prime example of the reaction to larger forces is valuable to this study, and the chapter that focuses on *Groves v. Slaughter* borrows from Rothman’s methodology.

Another historian whose analysis of southern society is essential to this thesis is Ira Berlin, particularly his book *Generations of Captivity: A History of African American Slaves*. In it, Berlin does not seek to reposition his study on another subject but the enslaved person, but he does offer an explanation why native people are always relegated

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<sup>27</sup> Ibid., 75.

<sup>28</sup> Adam Rothman, “The Domestication of the Slave Trade in the United States.” In *The Chattel Principle: Internal Slave Trades in the Americas* (New Haven: Yale University Press, 2004), 43, edited by Walter Johnson.

to the margins in the historical literature. Berlin's book focuses exclusively on the experiences of enslaved African Americans, as he contends that they were central to the experiences of white nonslaveholders, free people of color, and Native Americans.<sup>29</sup> Berlin dubs the domestic slave trade the "Second Middle Passage," one that was fundamentally different from earlier slave regimes, and one that had an extensive transformation on black life.<sup>30</sup> Since enslaved African Americans are central to his study, Native Americans receive considerably less attention in his chapter on those subject to forced migration. Berlin contends that "fugitive relationships" between Native Americans and runaway African Americans were proof of the formers' marginality, and that by the fourth decade of the nineteenth century, they did not provide resistance to westward-bound planters.<sup>31</sup> Berlin explains that the internal slave trade "became the largest enterprise in the South outside of the plantation itself," one that employed contemporary transportation, finance, and advertising.<sup>32</sup> It is the conception of the "Second Middle Passage" that is most important to this thesis, as it falls in the same line of thinking as Tomich's "second slavery." This transformation in the nature of slavery in the United States is essential in understanding the demographic, social, political, and economic shifts that occurred. Although Berlin's work relegates Native Americans to the margins of the history of the domestic trade, his reasoning that this represented the brutality and displacement of the Second Middle Passage is worth noting. This thesis breaks from the traditional units of analysis that Berlin, Baptist, Johnson, and Libby have

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<sup>29</sup> Ira Berlin, *Generations of Captivity: A History of African-American Slaves* (Cambridge, Mass: Belknap Press of Harvard University Press, 2003) 4, accessed May 13, 2018, ALCS Humanities Ebook.

<sup>30</sup> *Ibid.*, 162.

<sup>31</sup> *Ibid.*, 164.

<sup>32</sup> *Ibid.*, 168.

used, namely the plantation as the focus of slavery. Berlin adds to the diversity in the historiography by exploring the changes in the plantation societies that both received enslaved persons, and those who were depopulated because of the trade. This may fall short in assessing the totality of the domestic slave trade, and it is for this reason that the sites of sale and labor are the units of analysis in this thesis. While Baptist, Johnson, Libby, Rothman and Berlin cover the processes that led to extension of African American slavery in this region, they only superficially mention Choctaw removal, an integral part of the history of the region and its political and legal character. Historian Donna Akers identifies the cursory acknowledgement of the Choctaw and challenges the historiography which relegates the Choctaw to the margins of this historiography.

Donna Akers describes the deleterious effects that European and Euro-American settlement wrought on the Choctaw, and the processes that made their dispossession possible. In her work *Living in the Land of Death: The Choctaw Nation, 1830-1860* Akers is critical of exclusionary historiography and posits using white supremacist ideology in addition to political realities as fundamental in understanding treaty interactions.<sup>33</sup> This study familiarizes the reader with Choctaw history until the nineteenth century as Akers primarily covers the events that led to the removal of the Choctaw Nation to designated land west of the Mississippi River. Akers utilizes sources from personal papers of prominent Choctaw chiefs and their family members in addition to governmental records to bolster her study. Dissatisfied with the present historiography on Choctaw removal from Mississippi, which Akers explains is focused on the Choctaw's relationship with the government and American citizens instead of being

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<sup>33</sup> Akers, 11.

Choctaw-centered, she offers a counter to these narratives.<sup>34</sup> The problems with histories that mention the Choctaw in relation to Europeans or Euro-Americans is that they only use one set of sources and perspectives, and sources written in Choctaw are ignored. Akers' conception of treaties as forms of conquest is essential to the present study.<sup>35</sup> Cognizant of the relationship between the Mississippi Valley and the rest of the world, Akers states that the "world market system, driving the European invasion and conquest of North America, made inroads into Choctaw culture in diverse and seemingly unconnected ways."<sup>36</sup> Additionally, Akers notes that Choctaw removal is treated as a "mere footnote" in historical scholarship, and that the struggles over the rights of states and the role of banks during Andrew Jackson's administration is presented as the primary subject of scholarship.<sup>37</sup> Although this thesis does not use Choctaw language sources, some perspectives of Choctaw people are expressed in correspondence or treaties, they are included in this work. As Akers has noted, scholarship on the interstate slave trade usually only offers a cursory treatment of Native Americans, despite their centrality to the history. This thesis repositions the Choctaw history of resistance and resilience to the young imperial nation to the center of the history of early American capitalism. Recognizing that the perspectives of the Choctaw are often presented as tangential in the historical literature on the history of capitalism, this thesis seeks to include Choctaw resistance and removal as crucial to capitalist development. Although this study does focus on this event in Choctaw history as it relates to American citizens, it does so by treating these two polities as equal politically and economically as reflected in the

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<sup>34</sup> Akers, xi.

<sup>35</sup> *Ibid.*, 17.

<sup>36</sup> *Ibid.*, 7.

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

sources. Akers is careful not to label the Choctaw experience destruction, preferring instead social anomie.<sup>38</sup> Social anomie is only a temporary state, and one from which societies recover eventually. In this study, however, my scope is limited to the interactions between Choctaw Nation and the United States, who sought to diminish their sovereignty, and not the period of recovery from social anomie.

Recent historical literature assessing the developments of slavery in the nineteenth century all recognize that the events of this period represented a break with the previous practices of slavery. Berlin's conception of the Second Middle Passage and Tomich's "second slavery" both recognize historical events in the nineteenth century as constituting a break from earlier forms of enslavement and production. Although already present in earlier forms of nation-building, part of the break from earlier forms of slavery included dispossession of native peoples. The conquest of the Mississippi Valley and subsequent transformation as an Anglo-American space characterized by African American enslavement was made possible through the complete removal of Native American tribes, particularly the Choctaw and Chickasaw. Thus, removal should be treated as central to the history of the interstate slave trade, for their presence in this space was something to be challenged if the Mississippi Valley was to become part of the United States. Since the scholarship on the interstate slave trade usually only offers a cursory treatment of Native Americans despite their centrality to the history, this thesis, in part, strives to make them central to the history of the lower Mississippi Valley.

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<sup>38</sup> *Ibid.*, xxiv.

The study of the systems that created and maintained the slave regime in the Mississippi Valley is novel in incorporating Native American removal and the role of global markets into the historical narrative. Previous historiography has separated the two and treated them as distinct events in American history. Furthermore, the literature on the interstate slave trade has focused on the significance the trade had on societies that were either the recipients or contributors to the influx of new enslaved people, and not the adaptations of the trade itself. Between 1800 and 1840 several changes to the spatial, political, and economic dimension of the United States transformed the character of slavery. Attempts to displace the Choctaw reflected the imperial nature of the American nation, one that made a contiguous empire on the continent that profited from violence and coercion. The shift to internal slave trading (a reaction to the closing of the transatlantic slave trade) and the nature of plantation slavery transformed slavery to meet the demands of the nascent imperial nation.

This thesis consists of three parts, each one corresponding to a chronological and thematic category over the first four decades of the nineteenth century. Chapter two deals with the importance of space in the imagination of Anglo-Americans who wish to Americanize the Mississippi Valley. Thomas Jefferson's "Yeoman Republic" full of independent white farmers could only become the reality in the Mississippi Territory if the obstacles to white settlement were cleared, namely the current residents, the Choctaw. This chapter utilizes treaties and correspondence between governing officials of the Mississippi Territory to highlight the importance of land for both native and nonnative powers. It is clear from the correspondence and official surveyors' reports that this space was conceived of as an Anglo-American space fit for slavery before the removal process



began. Specifically, the Treaty of Fort Adams (1801) demonstrates the level of political coercion in the land cession negotiations between the two powers. By studying the development of the idea of an Anglo-American Mississippi Territory, this chapter shows that there was a degree of ethnocentric thought behind the intentions of the federal government.

Chapter three focuses on the contemporary demographic changes taking place as Mississippi was becoming the twentieth state in 1817. The peopling of the lower Mississippi Valley in the second decade of the nineteenth century took place in a milieu of diminishing sovereignty for the Choctaw, while simultaneously creating a polity from a frontier society. State sovereignty and federalism acted as inhibitors of Native American national sovereignty, with implications about their claim to citizenship and rights.<sup>39</sup> Even though the actions of the state were in line with national goals, this was not seen as a threat to federal power.<sup>40</sup> A new slave regime spurred the increase in both the enslaved labor force and the white population. Dispossession of the Choctaw and the political power of the large planter class was characteristic of this new slave regime. Using more treaties and official responses to these documents, in addition to reports prior to statehood, this chapter uncovers the various political actions undertaken, including Choctaw resistance to in the creation of the slave regime. The themes of state power in opposition to federal power will continue in the following chapter, which focuses almost exclusively on *Groves v. Slaughter*.

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<sup>39</sup> Rosen, 77.

<sup>40</sup> *Ibid.*, 77.

*Groves v. Slaughter* was a case brought before the Supreme Court at the January term in 1841, a culmination of several political, economic, and societal changes that occurred in Mississippi over decades. Accordingly, the third chapter focuses on the arguments by the plaintiffs and defendants and the implications of the decision that the ban on slave importations into the state was invalid. The slave regime that facilitated the domestic trade was not separate from removal, but a continuation of earlier forms of violence and coercion based on cotton exportation. Whereas the preceding chapter described the development of the state of Mississippi, this chapter builds upon the theme of development, and covers the limits of state control of slavery. Furthermore, by including the insight of legal scholars into the historical literature surrounding *Groves*, this chapter examines the role of law and legalities in the maintenance of slave regimes and war capitalism.

By analyzing Choctaw removal and the interstate slave trade as part of one larger slave regime based on capitalist aspirations, this thesis creates a narrative of capitalist aspiration and resistance based on the structures of the world economy. Historians usually date the advent of American imperialism with the Monroe Doctrine in 1823, with its paradoxical full realization in the late nineteenth century.<sup>41</sup> While this perspective offers a useful point of reference for the beginning of imperialist tendencies, this thesis posits that American imperial aspirations began earlier, with the negotiations for Choctaw lands. The true starting point is in the early nineteenth century, then the treaties with these nations serves as a precursor to the Monroe Doctrine, which officially codified

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<sup>41</sup> Jay Sexton, "The Monroe Doctrine in the Nineteenth Century." In *Outside In: The Transnational Circuitry of US History* (Oxford: Oxford University Press, 2017), 25, edited by Andrew Preston and Doug Rossinow.

American desires for the western hemisphere. Treaties with the Choctaw and Chickasaw nations can thus be seen as the official documents which assured that the space on the North American continent was an Anglo-American space. In addition to the contribution to the literature on the interstate slave trade in the United States, this thesis also makes a case for marking the beginning of American attempts hegemony and imperialism within the first decade of the nineteenth century. Thus, the themes of imperialism, violence, and economic gain are expressed in a spatial and temporal matrix. By centering these themes on Choctaw removal and African American slavery, this thesis shows the connection between these processes and how they reflect American imperial values in the early nineteenth century.

CHAPTER TWO:  
THE EARLY NINETEENTH CENTURY MISSISSIPPI VALLEY

The smoke from the pipes quickly dissipated in the wintry December air. The cool wind coming off the Mississippi cut through the chilly air as the Indian commissioners sent to the district chiefs of the Choctaw Nation began to speak to the several chiefs. The commissioners used paternalistic language to announce plans for construction of a road through Choctaw lands to connect the existing separate settlements of Euro-Americans and to facilitate commerce. The next day, the gray clouds that hung in the sky cleared away, as Chief E-lau-tau-lau-hoo-muh addressed the commissioners: “It is my wish, with the rest of the old chiefs, that the line may be marked anew. There is a number of water courses in our land, and I wish the white people to keep no stock on them, or to build houses.”<sup>42</sup>

In the late eighteenth and early nineteenth centuries, the United States sent commissioners to the native nations in the South to negotiate land cessions and peace treaties. The commissioners appointed by Thomas Jefferson were selected to secure new alliances and lands from the southeastern native nations. Together Benjamin Hawkins, Andrew Pickens, and Brigadier General James Wilkinson negotiated land cessions with the Choctaw in December 1801. Hawkins was a former Revolutionary War soldier from a landowning North Carolina family who was promoted to “Principal Agent for Indian

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<sup>42</sup> “Minutes of a Conference Between Brigadier General James Wilkinson, Benjamin Hawkins, and Andrew Pickens, Esquires, commissioners of the United States, and the principal chiefs of the Choctaw Nation of Indians, held at fort Adams, on the Mississippi, the 12<sup>th</sup> day of December, 1801.” 2 *American State Papers* 1: 662. The author alludes to the cloudy day and their parting as the chief spoke.

Affairs South of the Ohio River” by Jefferson earlier that year.<sup>43</sup> After serving in the North Carolina state legislature in 1778 and the United States Congress in 1789, Hawkins lived primarily among the Creeks (or Muskogee) in present-day Alabama and Georgia as an Indian commissioner. Later, he worked with other nations in the region, including the Choctaw. Andrew Pickens, a Presbyterian of Scots-Irish descent with Whig sympathies did not inherit land nor slaves from his family. Of the three commissioners, Pickens had the infamous record of personally leading devastating raids against the Cherokee before being assigned to negotiate with the Choctaw.<sup>44</sup> James Wilkinson, who once served in the Continental Army was present, as he had worked closely with other imperial powers in the region. Together, these men would formulate plans and negotiate treaties that would transfer Choctaw lands to American hands, all for expanding the domain of slavery in the new United States.

The first of the major Choctaw land cessions came on December 17<sup>th</sup>, 1801. The Treaty of Fort Adams gave up 2.5 million acres of Choctaw lands to the United States, all parallel to the Mississippi River, and the rich lands that could be used to grow cotton.<sup>45</sup> This line of demarcation between the Choctaw Nation and the United States was supposed to retrace the British line that existed between the two nations, effectively racializing borders between the nations and creating separate spaces of white and native settlement. The treaty also stated that the United States planned to run a commerce route

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<sup>43</sup> Thomas Foster, introduction to *The Collected Works of Benjamin Hawkins, 1796-1810* (Tuscaloosa: University of Alabama Press, 2003), vii.

<sup>44</sup> Rod Andrew Jr., preface to *The Life and Times of General Andrew Pickens: Revolutionary War Hero, American Founder* (Chapel Hill, University of North Carolina Press, 2017), xxiii.

<sup>45</sup> U.S. Congress, *Schedule of Indian Land Cessions in the United States, 17 December 1801*. 56<sup>th</sup> Congress., 1<sup>st</sup> Session, Serial 4015.

(the Natchez Trace) through the land that formerly belonged to the Choctaw, arguing that the original inhabitants used the land ineffectively. Article I of the treaty stated that the United States “give peace to the said nation, and receive it into the protection of the United States of America; it is agreed by the parties to these presents, respectively, that the Choctaw nation, or such part of it as may reside within the limits of the United States.”<sup>46</sup> The members of the delegation sent to the mingoes (district chiefs of the Choctaw Nation) reflected American attitudes toward the seizure of indigenous property. Between the three men, James Wilkinson, Benjamin Hawkins, and Andrew Pickens, two were soldiers (Pickens and Wilkinson), while Hawkins was a North Carolina planter. The next major land cession came from the Treaty of Mount Dexter, signed in November 1805, which ceded around five million acres of land to the United States; but this would be the last of the land cessions for the next eleven years. Federal officials assigned to negotiate and manage Indian affairs felt that dispossession of the Choctaw was completed in a humane way, and that the two nations could somehow still enjoy mutual “friendship.” Donna Akers has suggested that the incorporation of the Choctaw into the larger world market system of commodity production led to the further collapse of their original ways of life, and that the cession of lands was a part of a larger economic process.<sup>47</sup> After the American War for Independence, the Southern native nations’ power in the region was diminishing, and American hegemony was gradually creeping into contested areas.

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<sup>46</sup> Ibid.

<sup>47</sup> Akers, 13.

Land ownership in the early nineteenth century southern frontier functioned as both a marker of wealth, and a means to create wealth, mainly through the cultivation of agricultural commodities. The vast expanse of the Lower South seemed to hold unlimited possibilities to both small farmers and cotton planters.<sup>48</sup> This chapter will address the significance of land for those wishing to Americanize the Mississippi Territory through plantation agriculture. Using formal treaties, correspondence between important figures, and field notes from agents assigned to survey the Mississippi Territory, I contend that this space functioned as a space to act out Anglo-American notions of civilization. Finally, this chapter will describe the conflicts which led to the peopling of the Lower South and Adams County, Mississippi.

Thomas Jefferson's ideal "Yeoman's Republic" was only possible if the barriers to Euro-American settlement were cleared. The confluence of ideas surrounding the Yeoman's Republic merged with that of the growing demand for slave-grown cotton to create a plantation mode of production underpinned by ideas that maintained an African American slave labor system. Jefferson's idea that the vast stretches of land that the North American continent held would breed virtuous farmers had to be made concrete.<sup>49</sup> The idea that small, independent farmers would populate this area and live off the land proved to be a myth as cotton became extremely profitable and the process of production proved too taxing on smaller planters. W.E.B. DuBois accurately summarized the changes in the cotton producing areas of the South: "The tendencies to a patriarchal serfdom, recognizable in the age of Washington and Jefferson, began slowly but surely to

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<sup>48</sup> William Edward Dodd, *Robert J. Walker, Imperialist* (Chicago: Chicago Literary Club, 1914).

<sup>49</sup> Stanley M. Elkins and Eric L. McKittrick, "Jefferson and the Yeoman Republic" in *The Age of Federalism* (Oxford: Oxford University Press, 1993).

disappear; and in the second quarter of the century Southern slavery was irresistibly changing from a family system to an industrial system.”<sup>50</sup> The early land cession treaties between the Choctaw Nation and the United States served to create a legal precedent for expropriation for the purpose of fulfilling the mythical yeoman republican identity that the frontier would cultivate. Similarly, Walter Johnson has argued that the “clearing” of the Mississippi Valley created a space conducive to the construction of whiteness.<sup>51</sup> As citizenship and whiteness existed in lockstep, the articulation of who had claims to citizenship had to constantly be renewed through legislation which delineated spheres of citizenship. Johnson continues this thought further by stating that whiteness was dependent upon the expansion of black slavery in the new areas of the United States.<sup>52</sup> The settler colonial policies that were designed to incorporate the southern frontier into the larger networks of global capital movement (notably through unequal treaties) were also designed to disintegrate indigenous economies and societies in this space.<sup>53</sup> Accounts by contemporary residents of the Mississippi Valley show the degree of personal benefit in cultivation of the cotton crop: “Cotton is at present the staple of the Territory, and is cultivated with singular advantage to the planter.”<sup>54</sup>

Erasure of traditional Choctaw lifeways, and the substitution of staple crop plantation agriculture was crucial to Anglo-American expansion into the southern American interior, which took place unevenly over four decades from the end of Spanish

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<sup>50</sup> W.E.B. DuBois, *The Suppression of the African Slave-Trade to the United States of America, 1638-1870* (New York: Longmans, Green, and Co., 1896), 152.

<sup>51</sup> Johnson, 31.

<sup>52</sup> Ibid.

<sup>53</sup> Vine Deloria, Jr., *Behind the Trail of Broken Treaties: An Indian Declaration of Independence* (New York: Delacorte Press, 1974), 5.

<sup>54</sup> “Printed Article: Charges Against Governor Sargent,” N. Hunter, May 28, 1800. *Territorial Papers of the United States* 5, *The Territory of Mississippi*: 101.



and French influence in the region, until well into Mississippi statehood. Adam Rothman argues that the United States' goal during this period was to impair the Choctaw reliance on hunting, and to replace it with agriculture and animal husbandry, part of the "civilizing mission" of the United States.<sup>55</sup> Rothman gives credence to the idea that the United States was autarkic, a crucial concept in understanding the nature of the expansion of the United States. A Federalist state identity dictated the course of slavery in the Mississippi Territory after 1807 and the prohibition of the Atlantic slave trade. The demographic shifts that occurred after 1815 resulted from the interstate slave trade, allowing states to enact certain laws for regulation of this trade, either prohibiting or strengthening slave trading.<sup>56</sup> The interests of planters in these states or territories merged early national and colonial ideologies about citizenship. The hybrid identity of early national and colonial spaces allowed homesteaders in the Mississippi Territory to settle on land and thus advance the spatial dimensions of the nation. The nation's early boundaries were dependent upon the limits of settlement of its people. Edward Baptists' argument that early American nationality had a colonial pastoral-metropolitan character, in the southwest this model blurred rigid distinctions and allowed for self-sustaining peripheries to exist. Adams County was a rural county, and urban Natchez was only partially connected to larger cities through the Mississippi River trade. It is in this space that the idea of the independent farmer was to be made manifest. The individual interests of planters had solidified their rugged individual identity prior to their arrival in the "frontier." It was not the frontier that was responsible for the character of the nation, it was the nation that was responsible for the character of the frontier. In this way, the

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<sup>55</sup> Rothman, *Slave Country*, 41.

<sup>56</sup> Rothman, *Slave Country*, 19.

Anglo-American settled areas adjacent to, or sometimes existing within the boundaries of native nations were outposts of American civilization, not European civilization.

## 2.1 Dispossession of the Choctaw Nation

The Choctaw subsistence economy based primarily on agriculture and hunting could not compete or be fully integrated into the fringes of the burgeoning American cotton economy in the early 1800s. Comprising a sovereign nation, the Choctaw stood in the way of American projects for territorial expansion and economic growth.

Dismantling the subsistence economy of the Choctaw nation came in two waves in the last half of the eighteenth century. First, the Choctaw became increasingly dependent on the trade in deer hides for metal European goods.<sup>57</sup> The reliance on the trade in metal tools and cookware made it such that traditional means of making tools and cookware among the Choctaw became almost nonexistent, and so these foreign luxuries became necessities. The uneven value in the labor produced from procuring hides versus trading manufactured goods was just one of many intentional imbalances meant to create Choctaw dependence on American merchants. The credit systems used and debts that the Choctaw ran were then used to justify the cession of their land, a frequent occurrence.<sup>58</sup>

The second reason for the decline of the Choctaw economy was the extreme reduction of the realm of Choctaw hunting lands, and overhunting which caused further problems for their society.<sup>59</sup> Commissioners James Wilkinson (Maryland), Benjamin Hawkins (North

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<sup>57</sup> Akers, 16

<sup>58</sup> Akers, 15.

<sup>59</sup> Akers, 7.

Carolina), and Andrew Pickens (South Carolina), the men sent to a conference with the Choctaw prior to the treaty signings with the mingoes, even noted that “the destruction of game has diminished the resorts of their ancestors, and the chase has become a precarious resource for the support of life.”<sup>60</sup> The commissioners further stated that “the bounty of the United States has been implored, and we were supplicated to for materials, tools, implements, and instructors, to aid their exertions, and direct their labors.”<sup>61</sup> The change in the subsistence hunting economy was not the only trouble that befell the Choctaw during this period of separation from their ancestral lands.

Choctaw cosmology tells of a great ancient migration that eventually led them to their home in the southeast, that when they reached their destination, a burial mound containing the bones of the dead who perished along the journey were buried, and this place of burial was to be the permanent home of the Choctaws, the Great Mother Mound, or *Nanih Waiya*.<sup>62</sup> If the Choctaw were to ever reside far away from the mound, there would be changes negatively effecting the lifestyles and well-being of the people. Proximity to the Mother Mound was of the utmost importance to the Choctaw, but it was disrupted by the intentions of Americans who favored this land for agricultural development. The material and cultural loss that the Choctaw suffered were unfortunate results of the process initiated by representatives from the United States to transform the land of the Mississippi Delta into salable, manageable, and tangible property. Akers argues that treaties were a form of conquest for the United States, as their uneven

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<sup>60</sup> “James Wilkinson, Benjamin Hawkins, and Andrew Pickens to Henry Dearborn, December 18<sup>th</sup>, 1801,” *American State Papers 2, Indian Affairs 1*: 658-9.

<sup>61</sup> *Ibid.*

<sup>62</sup> Akers, 2.

concessions created lasting imbalance.<sup>63</sup> The Land Ordinance of 1785, which stipulated that all of the public lands in the United States should follow a rectangular grid pattern, reflected the emphasis on civility and order upon the supposed wilderness of both the Mississippi Territory and its people.<sup>64</sup> An 1820 map of Mississippi from the Land Office shows the grid patterns of the existing counties denoting American settlement against the open, formless domain of the Choctaws, Chickasaws, and Creeks.<sup>65</sup> Maps like these served to cast the native residents of this territory as lacking formal claims to land, since they could not demarcate their land from those of their neighbors. The concept of private property was not a part of Choctaw life prior to the arrival of American settlers, and this again was used to justify forcible removal from their homes. Preemption laws further eroded Choctaw sovereignty, proving that ownership of land took on political as well as practical implications in the new nation.

The 1801 negotiation of treaties between delegates from the Choctaw Nation and the United States were, like any geopolitical effort, strategic and based on protocol. The rhetoric that Americans used to describe the treaties to the Choctaw chiefs were markedly different from the language used to describe the negotiations between American agents. The instructions on demeanor given to the Indian commissioners reflect the coercion necessary for interactions with the mingoes. This document was used to guide the commissioners who oversaw the conference prior to the signing of the Treaty of Fort Adams, the first large land cession between the Choctaw and the United States:

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<sup>63</sup> Akers, 12.

<sup>64</sup> See Map 1, Appendix A.

<sup>65</sup> Land Office, Map of the Mississippi Territory, 1820.  
<http://www.usgwarchives.net/maps/mississippi/statemap/ms1820.jpg>

In all of your negotiations, under these instructions, you will pay the strictest attention to the disposition manifested by the Indians on the several points to which you are to draw their assent. The ill humor, which propositions for further cessions sometimes awaken in them, may be, in a greater or lesser degree, excited by those, which you are herein charged with making. It will therefore, be incumbent on you, to introduce the desires of the Government, in such a manner, as will permit you to drop them, as you may find illy received without giving the Indians an opportunity to reply with a decided negative, or raising them unfriendly and imical dispositions.<sup>66</sup>

Instead of a plan to create real equal agreements between two nations that could coexist, the plan was, clearly, to take possession of Choctaw lands. Seven district chiefs from within the Choctaw Nation were present to dictate the exact terms of the treaty for their respective territories. The minutes of the meeting between the commissioners and the mingoes prior to the treaty signing demonstrate that previous engagements with agents did not fulfill expectations of proper compensation for the land granted to the invader nation. Chief Tuskonahopoia, of the lower towns discusses previous engagement with Americans:

There is an old boundary line between the white people and my nation, which was run before I was a chief of the nation. This line was run by the permission of the chiefs of the nation, who were chiefs at that time; they understood that when the line was run, that they were to receive pay for those lands; but they never received pay for those lands. These chiefs here, present acknowledge the lands to be the white people's land; they hold no claim on it, although they never received any pay for it; they wish the lands to be marked anew, and that it be done by some of both parties, as both should be present.<sup>67</sup>

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<sup>66</sup> "Minutes of a Conference Between Brigadier General James Wilkinson, Benjamin Hawkins, and Andrew Pickens, Esquires, commissioners of the United States, and the principal chiefs of the Choctaw Nation of Indians, held at fort Adams, on the Mississippi, on the 12<sup>th</sup> day of December 1801," *American State Papers 2, Indian Affairs* 1: 661.

<sup>67</sup> "Extracts from instructions given to James Wilkinson, Benjamin Hawkins, and Andrew Pickens, Esquires, who were appointed commissioners on the part of the United States, to hold a treaty or treaties with the several nations of Indians, on the east side of the river Mississippi, south of the Ohio, and within the territory of the United States, dated June 24, 1801," *American State Papers 2, Indian Affairs* 1: 659-660.

The language used in the minutes demonstrates that the United States never gave the Choctaw proper compensation for their land. Although the wagon route is permitted, and it will continue to be, as stipulated in Article II of the treaty, the proper recompense was not met, even though it was a meager allotment. Tuskonahoipa makes it clear that although the relationship with the United States may have been amiable, their relationship negatively changed. Another chief offered a similar rebuke to settlement and nonpayment for land, addressing the previous British settlement in the area. Chief Puck-Shum-Ubbee explains the previous and current experiences with the limits of settlement:

Where the line runs, along the Bayou Pierre, some whites are settled on this line, and some over it; those over, I wish may be removed; if there are none over, there is nothing spoiled. From the information I have received from my forefathers, this Natchez country belonged to red people; the whole of it, which is now settled by white people. But you Americans were not the first people who got this country from the red people. We sold our lands, but never got any value for it; this I speak from the information of old men. We did not sell them to you, and, as we never received any thing for it, I wish you, our friends, to think of it, and make us some compensation for it.<sup>68</sup>

Ultimately the line was retraced to reflect the same line of demarcation as the British line of settlement, though the boundary between the two nations were not as solid, and seen as permeable.

The instructions given to Wilkinson, Hawkins, and Pickens, contain seemingly amiable language that in fact intended specifically to enforce unequal and forceful tactics to sign the treaty. The friendly language was used in conversation with the mingoes, who, for the record, spoke through translators. What was communicated at the signing of the

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<sup>68</sup> Minutes, 661.

treaty combined paternalist rhetoric with an excessively amicable tone. When trying to communicate Jefferson's alleged willingness to help the Choctaw, the commissioners stated that "Your new father, Jefferson, who is the friend of all the red people, and of humanity...immediately turned his thoughts to the condition of his red children, who stand most in need of his care, and whom he regards with the affection of a good father."<sup>69</sup> Any evidence that came back to Washington from the conference with the mingoes must be read with a discerning eye, since the Choctaw words were filtered through a translator, which sometimes reads as tacit acceptances of losing their land. Joyce Chaplin describes the similar process of "ventriloquism," in which Anglo-Americans appeared to be quoting Algonquin natives, but really, they were expressing English views through the voices they allegedly recorded.<sup>70</sup> Traces of ventriloquism (and Anglo-American beliefs about Choctaw people) can be seen in the minutes of the conference of 1801, as chief Oak-Chume allegedly describes himself a "poor distressed red man; I know not how to make anything."<sup>71</sup> Instead of complete ventriloquism where every word served as propaganda for American colonization of Mississippi, the recordings of the treaty negotiations only reflect attitudes about native people in relation to Anglo-Americans, and not about Choctaw beliefs about their land. Moreover, every recorded speech of a chief during the conference addressed Wilkinson, Hawkins, and Pickens as "beloved," which is hardly understandable under the circumstances. Analyzing the conversations and interactions in these spaces needs to be read critically and methodically. In her study of the Northeast, Chaplin contends that this critical

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<sup>69</sup> Ibid.

<sup>70</sup> Joyce Chaplin, *Subject Matter: Technology, the Body, and Science on the Anglo-American Frontier, 1500-1676* (Cambridge, Mass: Harvard University Press, 2001), 26.

<sup>71</sup> Minutes, 661.

analysis must detect “patterns in English accounts of colonization in order to reinterpret the nature of that colonization without allowing the English the power to put words in native Americans’ mouths.”<sup>72</sup> Similarly, in the case of Mississippi, we must read the recordings of the conference with a critical lens, since the “poor and distressed” mingoes resisted the illegitimate seizure of Choctaw land and recognized the pattern of American perfidy.

Although the Treaty of Fort Adams (1801) was the first major land cession that the Choctaw Nation signed with the United States, it was not the end of their occupation in this region. The beginning of this era for the Choctaw people came as agents acting on behalf of the United States dealt in land negotiations with a supply of alcohol, to coerce the mingoes to making grossly imbalanced deals. The necessity of the seizure of land from the Choctaw rested on the fact that their incorporation of white and black people into their polity was incompatible with American plans for the region. The real reason for the dispossession of Choctaw from their land was that chattel slavery could not exist while the Choctaw remained on this land.

Thomas Jefferson, in his address to the Senate on January 7, 1803, asked for a convention to demarcate the boundaries for the Mississippi Territory from the most recent land cessions by the Choctaw and requests preparation for more lands to fall under the jurisdiction of the United States. Jefferson stated that he expects “to obtain, from the same nation, a new cession of lands, of considerable extent, between the Tombigby [sic] and Alabama Rivers.”<sup>73</sup> Any pretense of equitable negotiation with Choctaw leaders was

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<sup>72</sup> Chaplin, 27.

<sup>73</sup> “Thomas Jefferson to the 2<sup>nd</sup> session of the 7<sup>th</sup> Congress, January 7 1803,” *American State Papers* 2, *Indian Affairs* 1: 681.



nonexistent, as Jefferson expected land to be ceded to the United States soon. The United States government wanted to acquire Choctaw lands through treaties in the first two decades of the nineteenth century, as official correspondence makes it clear that they sought to distinguish their commissioners from nonstate actors and earlier squatters. Henry Dearborn, the Secretary of War under Jefferson, extolled Commissioners Wilkinson, Hawkins, and Pickens that “All fair and proper means should be exerted to evince to them a really friendly disposition on the part of the Government of the United States, and to fortify their minds against the artful and mischievous insinuations and practices of adventurers, who, too frequently, obtrude themselves into their and other nations.”<sup>74</sup> Even before the Choctaw were dispossessed of their lands through coercive treaties, agents acting on behalf of the federal government treated this territory as eventually white (while discussing the interests of already settled whites), painting the indigenous inhabitants as obstacles to white settlement, justifying their civilizing mission. What is clear from this correspondence is that even though native nations were viewed as obstacles, they were still taken into consideration in the of settling this territory, alluding to their continued resistance against Anglo-American incursion. Contrary to assertions by Stanley Engerman that “To a great extent, the economic and social role of Native Americans within the nineteenth-century South was quite limited,” the early correspondence surrounding the Mississippi Territory portrays power in the region as dynamic.<sup>75</sup> From this perspective, an Anglo-American Mississippi represented a new age of the American expansion of slavery and national influence.

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<sup>74</sup> Instructions, 659.

<sup>75</sup> Stanley L. Engerman, “Slavery and its Consequences for the South in the Nineteenth Century,” in the *Cambridge Economic History of the United States* vol. 2, ed. Stanley L. Engerman, Robert E. Gallman (Cambridge: Cambridge University Press, 2000), 347.

The dispossession of the Choctaw and Chickasaw did not happen with a single event, nor was it a series of skewed conflicts of force and power. Rather, the dispossession of the Native nations of this region occurred incrementally, mostly through legal means which were backed up by the threat of force. From the beginning of American residence in the Mississippi Territory, it is shown that indigenous communities resisted foreign encroachment. Timothy Pickering wrote Winthrop Sargent (the first governor of the Mississippi Territory) to declare the prompt organization of a militia “one of the important objects claiming your early attention...”<sup>76</sup> Pickering continued, writing that the defense of the Territory “cannot be effectually accomplished without a militia law to be adopted...I believe the inhabitants have been accustomed to a militia enrolment, for their defence against the Indians....”<sup>77</sup>

Before Natchez became an American possession, it was a British outpost amid competing French and Spanish settlers in the South. The Anglo settlement was then procured by the United States, which considered the Natchez district central to their regional interests. In the correspondence before 1798 this area was referred to only as the Natchez district until a territorial government was introduced, as it was renamed the Mississippi Territory.<sup>78</sup> The proximity to New Orleans and its position on the Mississippi River was an attractive site for settlement for geopolitical, and later cultural reasons. For Americans looking to attract settlement in the region, such as surveyor Andrew Ellicott, he argued that slavery should exist in this region to promote migration, even though it was “disagreeable to us northern people.”<sup>79</sup> Ellicott, a Quaker and the first provisional

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<sup>76</sup> Timothy Pickering to Winthrop Sargent, May 10, 1798, *Territorial Papers of the United States* 5: 33.

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

<sup>78</sup> Secretary of State to Andrew Ellicott, April 26, 1798, *Territorial Papers of the United States* 5: 25.

<sup>79</sup> *Ibid.*

governor of the Mississippi Territory wanted to extend the realm of slavery into Native American lands. The extension of slavery into this territory served two goals: it was to ensure that people may settle in this territory as opposed to Spanish lands, while preemptively appeasing those from slaveholding states who would want to continue slavery into new territory. Furthermore, the lands that were supposedly vacant could act as a buffer zone in case of war with Spain.<sup>80</sup> In this way, land could function as a place where whiteness, as defined by slavery, and uniquely Anglo-American, was possible through ownership of enslaved peoples. From Secretary of State James Pickering's correspondence with Ellicott concerning the United States control of the Mississippi Territory in 1798 it is clear that the production of a slave labor force was a priority for the territorial government. Immediately after informing Ellicott that a Congressional act allowed the founding of a government in the Mississippi Territory, Pickering writes that "The importation of slaves from Africa or other foreign country is now not permitted, by any state in the Union."<sup>81</sup> Pickering then references the Northwest Ordinance and the limits of slavery for the new United States. Pickering also makes a distinction between the territories and the United States,

If tensions with European powers such as the French and British was the initial impetus for encroaching into Native nations, Jeffersonian Republicanism only solidified extensive American settlement into the Mississippi Territory. Land-hungry Southern planters displaced families of the Choctaw nation, gradually disintegrating their territory and economy until they were forced to be removed west of the Mississippi, away from

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<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

*Nanah Waiya*. The climate of “Indian Territory” was not conducive to traditional lifeways for the Choctaw, who relied on hunting and agriculture in a fertile woodland. Resistance to preemption laws and treaties characterized the actions of the Choctaw nation, whose power was eventually reduced through several wars with the Creeks, economic decline, and coercive legislation.<sup>82</sup> While there were only a few white squatters in the Mississippi Valley from 1790-1810, migration began in earnest after the War of 1812.

Slaveholders from the Atlantic states after 1800 (and especially after 1815) wanted to establish a western empire of slavery spurred by the growing demand of cotton that would ensure a market for slaves and the granting of new lands for plantations.<sup>83</sup> The silt loam soil of the Mississippi River floodplain was thick with humus transported by the ebbs and flows of the winding river, which proved to be perfect soil for growing cotton in abundance. As soon as the land was cleared and plantations established, that is exactly what planters intended to do.<sup>84</sup> While the motivations of planters to perpetuate plantation slavery were clear, this initially occurred on the backdrop amid competing empires and nations in the borderlands of southern North America. For Americans, unclaimed land served as a space where planters had opportunities to generate wealth, helped by the southern-planter influenced federal government of the time.

For the Territorial Government of Mississippi, this space had to be advertised as an Anglo-American space for farmers, and absent of indigenous peoples. The

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<sup>82</sup> Akers, 16.

<sup>83</sup> John Craig Hammond, “Slavery, Settlement, and Empire: The Expansion and Growth of Slavery in the Interior of the North American Continent, 1770-1820,” *Journal of the Early Republic* 32, no. 2 (2012): 176.

<sup>84</sup> Baptist, 194-5.

dispossession for the indigenous nations east of the Mississippi theoretically served to present new lands that could be fertile ground for these Jeffersonian agrarian arrangements. Writing to William McGuire in 1798 (the chief judge of the Mississippi Territory), Timothy Pickering attempted to persuade McGuire by pandering to agrarian desires: “You will doubtless appreciate the cheapness of good lands in the Natchez Country, and the ease with which a family may be maintained; and notwithstanding the small Salary, find sufficient inducement, I hope to go to the Natchez, in the official character with which you are enclosed.”<sup>85</sup> Land was cheap, but not free, and the accessibility of plots of land only served those who had enough capital to take on the initial investment.<sup>86</sup> Those who could, moved to the Mississippi Delta region to establish their homes and possibly their fortunes. The dispossession and subsequent possession of lands in the Mississippi Territory were selective and strategic, not only for the arable area that could be used for agriculture, but the rivers in this region connected the hinterland to seaports, allowing cargo to flow to export centers. Steamboat technology further facilitated the movement of materiel and cargo to and from destinations along the Mississippi.

## 2.2 Global Capitalism and the Mississippi Valley

White residents of the Mississippi Delta region expected to integrate themselves in the larger world market which relied on shipments of American cotton to British textile

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<sup>85</sup> Timothy Pickering to Judge William McGuire, July 24, 1798, *Territorial Papers of the United States* 5: 41.

<sup>86</sup> Tomich, 70.

mills to make their initial investments worthwhile.<sup>87</sup> Since about only a dozen Choctaw families were growing cotton at this time, any attempt to integrate these people into the burgeoning economy was halfhearted.<sup>88</sup> This system required a sense of self that was predicated on the primacy of Anglo economic modes, lifestyles, and culture above all others. Land in the Mississippi Valley was important as a resource to be used to gain material wealth, but it was also an expression of the perceived dominance of Anglo-American culture over that of the Indian peoples. A letter from Henry Dearborn to Indian Agent Silas Dinsmoor communicated the intent of the “civilizing mission” toward the southern Native nations, including “the introduction of the Arts of husbandry, and domestic manufactures, as means of producing, and diffusing the blessings attached to a well regulated civil Society.”<sup>89</sup> Societies were supposed to progress in a teleological way, following the model of the cities in western Europe, where a system of banking, credit, and private property would rule. Since the native nations of this region were instead engaged in a hunting-subsistence economy, they did not fit into this narrative, and thus needed to make room for those who could adhere to these principles, and thus who could be deemed a citizen.<sup>90</sup>

The plantation economy and slave mode of production in the Mississippi Valley was thus the product of the ideals of Jeffersonian agrarianism and the realities of the emerging industrial capitalist world. The plantation economy allowed for enslaved peoples to be provided with their means of subsistence, although the threat of violence

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<sup>87</sup> Engerman, 342.

<sup>88</sup> “James Wilkinson, Benjamin Hawkins, Andrew Pickens to Henry Dearborn,” *American State Papers* 2, *Indian Affairs* 1: 659. Referencing only a dozen Choctaw families growing cotton.

<sup>89</sup> Henry Dearborn to Silas Dinsmoor, May 8, 1802. *Territorial Papers of the United States* 5: 146-150.

<sup>90</sup> Rosen, 162.

was ever-present when individual production decreased below the status quo.<sup>91</sup> Enslaved persons were then extensions of the bodies of white planters, as individual success was dependent on the productivity of their slaves. Although the slave mode of production does not conform to the rigid notions of wage-labor capitalism, the control of the labor power of the individual can, and was a capitalist, modern economic system.<sup>92</sup> In this modern system, coercion through the threat of bodily harm determined productivity of the laborer, not the wages which they received, since there were none, an expression of Beckert's idea of "war capitalism."<sup>93</sup> This brand of capitalism in the United States' southern frontier relied on a hierarchy of humanity and labor to function, as slavery and the justifications for white land ownership made profit possible. Landed status also gave the white citizenry of the new nation privilege concerning who has proper claim to lands in Choctaw possession, allowing them to justify squatting in certain areas.<sup>94</sup> Therefore, the enslavement of African Americans and the coercion of southern Indians was an expression of, not a prerequisite to, white supremacist colonial ideology. Indeed, as Johnson contends, the name of the area that many of the southern native civilizations were forced to resettle, "Indian Territory," designated the transformation of once-powerful nations into racialized subjects.<sup>95</sup> Ironically, the racial apocalypse that Andrew Jackson feared for the white race in fact only diminished the indigenous native nations of the Mississippi Valley, and much of the South. This system of colonialism was modern,

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<sup>91</sup> Beckert, 115-117.

<sup>92</sup> Philip McMichael, "Slavery in Capitalism: The Rise and Demise of the U.S. Ante-Bellum Cotton Culture," *Theory and Society* 20, no. 3 (1991): 325.

<sup>93</sup> Beckert, xv.

<sup>94</sup> Rothman, *Slave Country*, 45.

<sup>95</sup> Johnson, 30.

with native resistance equal to guerilla warfare.<sup>96</sup> Instead of portraying the dispossession of the Choctaw Nation as inevitably tragic, it should be viewed as continued resistance to Anglo hegemony.

### 2.3 Mapping the Empire

As early as 1785 the Land Ordinance had arranged land in Mississippi in a grid formation, able to be sold and settled with some regularity. Lots were divided into 640 acre sections, which were then further subdivided into 160 acre plots.<sup>97</sup> The rationale behind the ordering of the plots owes to the ideas about who would reside on the lands; making sure that no noncommercial farmer would be able to acquire more land than they could “improve” and settle. The selective and strategic process of making property from territory allowed for a physical space that could possibly secure ownership and means to generate wealth. Although uniformity of the parcels of land was visible and possible in theory, order was nonexistent in reality, as there were several overlapping claims from squatters on public land, or those who had the capital sufficient to dispel anyone who did not have the initial capital to invest.

The value of planters’ slave-grown cotton in the Mississippi Valley was dependent on what buyers in Liverpool or New York were willing to pay.<sup>98</sup> Therefore, the region best suited for agriculture and homesteading by noncommercial yeomen was reliant on the burgeoning industrial sectors of Great Britain and global markets. Planters did not determine the prices for their crop, they were beholden to faraway markets, but

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<sup>96</sup> Roxanne Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States* (Boston: Beacon Press, 2014), 6.

<sup>97</sup> Johnson, 35.

<sup>98</sup> Johnson, 42.



they realized that their product was in demand in the industrial centers of the North and Great Britain. The 1799 “Presentments of the Grand Jury of Adams County” maintenance of cotton production technology was prioritized: “We present a grievance that qualified persons are not appointed to visit and examine the several public and private cotton gins throughout this Territory as the success and prosperity of this Country chiefly depend on our particular care and attention to that valuable branch of agriculture...”<sup>99</sup> Changes in the banking and financial sectors of the Mississippi Valley mirrored those of the North, emerging with the boom in profitability of the crop.<sup>100</sup> Global markets for cotton contributed to the flood of capital into the Mississippi Valley during the first four decades of the nineteenth century. The rush of capital and bodies into the Mississippi Valley during this period hinged on cotton, spurring new breeding practices for the staple crop.<sup>101</sup> Capital flowed in from the wealthier areas of the new nation, namely the Chesapeake and South Carolina, whose residents were expert planters in their respective states. Enslaved persons also came from these regions, primarily the Chesapeake region, being relocated to the Deep South to satisfy the need for a labor source in these newly populated areas.

The focus on cotton cultivation gives credence to the power that this commodity had on dictating lifestyles, but without an apparatus to ensure its’ success, cotton production would cease to be profitable. The inter-state or domestic slave trade only reinforced what was a foregone conclusion to the labor question in the Mississippi

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<sup>99</sup> “Presentments of the Grand Jury of Adams County,” June 6, 1799, *Territorial Papers of the United States* 5: 64.

<sup>100</sup> Engerman, 343.

<sup>101</sup> Anthony Kaye, “The Second Slavery: Modernity in the Nineteenth-Century South and the Atlantic World,” *Journal of Southern History* 75, no. 3 (2009): 634.

Territory. From the early days of the Mississippi Territory the slavery question was already settled by looking at evidence from slaveholding states. The permanent committee assigned to Natchez offers this request to Congress:

Your memorialists beg leave to represent that great part of the labour in this Country is performed by slaves, as in the Southern States, and without which, in their present situation the farms in this District would be but of little more value to the present occupiers than equal quantity of waste land. From this consideration your Memorialists request that the system of slavery may be continued as heretofore in this territory.<sup>102</sup>

These enslaved people arrived in coffles, groups of people bound together by the hands and feet with chains, ensuring that escape was impossible for even a single person. This expression of white supremacy through dispossession of land from the Choctaw, Creek, and Chickasaw nations and the system of slavery in newly acquired lands served the goals of individuals seeking profit. With the slavery question solved in Mississippi, the transportation of enslaved peoples from the Atlantic states only had to be arranged.

#### 2.4 New Plantation Systems in the Mississippi Valley

Although the United States government helped to negotiate and secure the lands needed for expansion, they did so for the benefit of private individuals who sought to only profit personally from colonization. The number of planters and slaves in the Mississippi Territory before the War of 1812 was minimal compared to the numbers that would come afterward, once the United States seriously attempted to curb the illicit slave

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<sup>102</sup> “Memorial to Congress by Permanent Committee of the Natchez District,” October 23, 1797, *Territorial Papers of the United States* 5: 10-11.

trade.<sup>103</sup> The aspirations of planters in the United States was focused on the dispossession of land from native peoples, and the physical plotting of plantations over the land. Moon-Ho Jung has argued that New Orleans was a part of the Greater Caribbean flow of bodies and capital, but the interior Mississippi Territory was separate from this until the eve of the Civil War.<sup>104</sup> The plantation infrastructure in the Caribbean was nonexistent in the southern frontier of the new United States, until cotton became too profitable to be relegated to the Georgia and South Carolina lowlands.

The aspirations of planters in the United States were focused on the dispossession of land from native peoples, and the physical plotting of plantations over the land. Land still had to be cleared and cottonseed planted before any real return on the investments of plantation building began. Lack of plantation infrastructure was due to French failure at creating a hasty plantation economy, the low numbers of planters and slaves that originally came from outside the United States, and the relatively new demand for cotton in Europe. This contrasted with imperial aspirations for planters in the Caribbean, who believed in proslavery ideology, and the continuation of slavery in an existing plantation system. Unlike New Orleans, a global city from its inception, planters in the Mississippi Valley hinterland were connected to these networks only peripherally, until steamboat technology allowed for greater areas of transportation. The Anglo-American settlement in Natchez prior to 1815 consisted of planters and slaveholders from northern cities like Philadelphia, while the enslaved population mainly came from Caribbean islands through the illicit Gulf Coast trade.<sup>105</sup> After the War of 1812, the strength of the US Navy was

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<sup>103</sup> Hammond, 200.

<sup>104</sup> Moon Ho Jung, *Coolies and Cane: Race, Labor, and Sugar in the Age of Emancipation* (Baltimore: The Johns Hopkins University Press, 2006), 46.

<sup>105</sup> Hammond, 181.

greatly improved; they made strides to prohibit the illicit trade in on the coasts, spurring interior movement. This mass movement of bodies and capital, dubbed the “Second Middle Passage” by Ira Berlin, created the conditions for large scale cotton production to commence in the Mississippi Valley.<sup>106</sup>

Even before the territory of Mississippi officially came under American jurisdiction, independent surveyors inspected the land, gauging the value of the lands’ position in the geopolitical milieu of the late eighteenth and early nineteenth century south. The Choctaw Nation specifically as a regional power presented a challenge to Anglo-American habitation and economic strength in the Mississippi Valley. Slavery could not exist in these lands unless Americans took hold of these fertile territories, and since the covetous intention for political power in the region was attractive at the time, the Mississippi Territory represented geopolitical strength in the region. Planters were focused on clearing woodlands and preparing the soil for cotton planting. The importance of land cannot be understated, since without the large swaths of arable land in newly acquired territories, the economic model of the cotton plantation would not exist.

After 1815, Natchez and the most of Adams County ceased to be peripheral both in the geography and economy of the United States, as demand for short staple cotton proved to be the impetus for westward expansion. The debates that had taken place in Congress before the close of the eighteenth century ceased to prohibit slavery in the Mississippi Territory and its environs, but until the War of 1812 ended the number of slaves and planters did not warrant a serious investment into agriculture of the Lower

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<sup>106</sup> Berlin, 162.

South. Credit systems and mushroom banks financed planters who wanted to invest in financing a plantation. Focusing on Natchez and the rural areas surrounding allows for a greater understanding of how credit systems allowed for those in plantation lands to be connected to the greater markets for cotton in Europe and the northeast. Similar studies have been undertaken to assess the level of participation by the southern merchant class and the financial systems that facilitated their wealth-building.<sup>107</sup> It was not just Natchez that accounted for the cotton produced and exported to textile mills, but the rural areas surrounding the city that was responsible for the changes in the region. Just west of Natchez, in Louisiana, the importance of country stores as places where aspiring planters could purchase farm implements, banking and credit lending services is well documented and points to the probable preponderance of these in rural Adams County.<sup>108</sup> The planters that eventually settled in the Mississippi Valley introduced a new landscape and system of financing to the region transplanted from the eastern seaboard to create an empire based on equal parts violence and cotton.

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<sup>107</sup> Scott P. Marler, *The Merchant's Capital: New Orleans and the Political Economy of the Nineteenth-Century South* (Cambridge: Cambridge University Press, 2013).

<sup>108</sup> *Ibid.*, 89.

CHAPTER THREE:  
SLAVERY AND MIGRATION TO WESTERN MISSISSIPPI

At the southern coast of Mississippi, white sands and clear gulf water dominate the shore. With few oaks and light green grass that reaches that out of the sandy soil, southern Mississippi is a treeless coastal plain. A few miles north the landscape changes dramatically. Tall pine forests and broadleaf trees rise and create impenetrable walls of vegetation. This topography characterizes most of the state, all the way to the eastern edge bordering Alabama, save for the sparse grassy hills in the north. All along the eastern bank of the Mississippi River, dark soil characterizes the rich floodplain. As Mississippi achieved statehood, this space was populated with white planters, African Americans, and still remained the domain of many Choctaw. It is among the dark soils and tall pines that the state of Mississippi would be carved, and where the new slave regime would take hold.

The process of peopling the lower Mississippi Valley and Adams County is emblematic of the larger interstate slave trade which resulted in the large African-American and Euro-American population in a region which was previously dominated by indigenous populations. A brief overview of demographic changes in the region and debates in favor of statehood can elucidate the effects the interstate trade had on Mississippi legal culture and social relations (both intra- and interracial). In the 1820 Census the aggregate number of persons engaged in agriculture in Adams County, Mississippi numbered 4,060, while the total number of enslaved persons reached

7,299.<sup>109</sup> While the number of people engaged in agriculture in the city of Natchez itself (which lies within Adams county) counted only one person, the more than eleven thousand people in the entire county of 488 square miles is a testament to the ubiquity of agriculture in the region. More than nine percent of the population of the state consisted of enslaved people in Adams County, more than any other county in the state at the time. Contrast this number with the census for 1800, in which only 2,257 people were enslaved in Adams County.<sup>110</sup> An increase of more than five thousand people in this county over twenty years cannot be explained by natural increase alone; the role of the interstate slave trade was substantial in the peopling of the Mississippi Valley in the first two decades of the nineteenth century. This chapter describes the effects of the interstate slave trade on Mississippi, and explains the conditions in Mississippi that led the state to regulate the commerce in human beings. This chapter will also examine further land negotiations with the Choctaw Nation, and show the importance of independent slave traders in the mass migration to the Lower South.

### 3.1 Mississippi Statehood and Slavery

As mentioned in chapter two, the standards for manhood in the Mississippi Valley were influenced by Jefferson's idea of economically independent yeomen, farmers who drew their identity from land ownership, an idea that Neill Foley terms "agrarian whiteness."<sup>111</sup> Landed status meant, at least for wealthy planters, that this wild land

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<sup>109</sup>U.S. Census Bureau, *Fourth Census of the Enumeration of the Inhabitants of the United States. Census for 1820, Published by the Authority of an Act of Congress, under the direction of the Secretary of State. December 20, 1821.*

<sup>110</sup> U.S. Census Bureau, "Return on the Whole Numbers of Persons within the Several Districts of the United States," 1800.

<sup>111</sup> Neil Foley, *The White Scourge: Mexicans, Blacks, and Poor Whites in Texas Cotton Culture* (Berkeley: University of California Press, 1993), 142.

would be parceled into plantation land and be worked by enslaved persons. The independent agrarian whiteness ideal was influential in initially attracting people to the Mississippi Valley, but the planter class in Adams County were responsible for making it a site of major cotton production. Berlin explains how most of the planters rarely moved to Mississippi with their slaves, and instead they relied on traders and smugglers to transfer enslaved people.<sup>112</sup> Similarly, Engerman explains the massive demographic shifts that took place “With the geographic expansion of the slave population there was also a movement of southern whites—planters, yeomen, and others.”<sup>113</sup> The elite planter class in Adams County, were members of the early state government and therefore their interests were represented in law. Since the prohibition of the African slave trade went into effect after 1808, the relocation of enslaved persons became one of the most profitable business ventures, eclipsed only by the plantation system. Studies that measure quantitative values have concluded that the interstate slave trade accounted for fifty percent of all enslaved persons in the region between 1820 and 1860.<sup>114</sup> Baptist describes the way in which “Georgia-men,” or independent slave traders would buy “surplus” enslaved African Americans, with the intention of selling them to planters in the Southern interior.<sup>115</sup> The movement of both free and enslaved people to the Mississippi Valley was thus a concerted effort to create slaveholding settlements where previously been indigenous nations and competing European colonial outposts.

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<sup>112</sup> Berlin, 167.

<sup>113</sup> Engerman, 337.

<sup>114</sup> Jonathan B. Pritchett, “Quantitative Estimates of the United States Interregional Slave Trade, 1820-1860,” *Journal of Economic History* 61, no. 2 (2001): 467-475.

<sup>115</sup> Baptist, 38-9.



The Mississippi Territory on the eve of statehood stretched from western Georgia to the Mississippi River of eastern Louisiana, a huge swath of land that the Territorial government was eager to make into a state. William Lattimore, the delegate from the Mississippi Territory in 1816, appealed to Congress requesting that the entirety of the Mississippi Territory be divided into two separate states instead of one, along a north-south line, to ideally prevent possible dissention within the large territory.<sup>116</sup> Another reason for the dissection of the territory may have been greater slaveholding representation in Congress. The population of Mississippi west of the proposed line of demarcation would ensure that at least one proslavery representative would be sent to Congress from the new state.<sup>117</sup> The rhetoric of Lattimore's short report reveals this twofold goal: "The whole Mississippi Territory formed into a single state would not only be very inconvenient to a vast majority of those of its inhabitants whose duty or interests might call them to the seat of Government, but would also prove...top extensive for its Executive to suppress internal disorders..."<sup>118</sup> Lattimore further alludes to the "distinct local interests" of the people of different regions of the Territory, and the erroneousness of merging the distinct districts into one state. After noting the practical deterrent against domestic discord, Lattimore concludes his report by stating his political reasons for the division of the Territory:

As there is already west of the line of division which will be proposed a population that would be entitled to one representative in Congress, on the federal principle of representation, and according to the present apportionment, your committee respectfully recommend the immediate admission of this western part of the Territory, and the establishment of a separate Territorial Government for

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<sup>116</sup> "Admission of Mississippi into the Union, Communicated to the House of Representatives, on the 23<sup>rd</sup> of December, 1816," *American State Papers* 10, *Miscellaneous* 2: 407-8.

<sup>117</sup> *Ibid.*

<sup>118</sup> *Ibid.*

the eastern part, until it also may be entitled, on the same principle, to the rights of a State.<sup>119</sup>

Enclosed in Lattimore's report is a census of all the counties in the Mississippi Territory, provisionally including the area surrounding Mobile. Lattimore's contention to sever the Territory reflects his desire for more slaveholding representation in Congress, but this also served as a precursor to securing the rights of the state to regulate commerce in slaves within state boundaries. If slavery's expansion relied on the federal government, then it was the state governments who assured that the commerce in enslaved persons would be regulated. The federal government provided the framework for expansion through intimidating treaties, but the actual regulation of slavery's proliferation in the Territory and state came from the state government themselves. The insurance that it would continue and be a matter of the states; not the federal government.

Contemporary authors often lauded the fertile valley as the most desirable part of the territory, and eventually the state of Mississippi, for its economic and agricultural value. William Darby's preface to his 1817 *Geographical Description of the State of Louisiana and the southern part of the Mississippi and territory of Alabama* reflects the general feeling regarding this new territory: "As the valley of Mississippi will be for ages the receptacle of emigrants from the eastern slope of that chain of mountains which divides our territories, a development of its resources, so favourable to agriculture and commerce, must claim no little part of our attention."<sup>120</sup> As the Mississippi Territory was

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<sup>119</sup> Admission, 1816.

<sup>120</sup> William Darby, *A Geographical Description of the State of Louisiana and the southern part of the Mississippi, and the territory of Alabama*, (New York: James Olmstead, 1817), viii.

nearing statehood, several published works like these acted as promotions of a prosperous slaveholding state. Many acclaimed the land of the Mississippi River Valley as being fit for commodity production, with the added benefit of being in a strategic military position to defend against invasions from the Gulf of Mexico. Andrew Pickens' report to the Fourteenth Congress on the admission of Mississippi into the Union in January 1817 communicated the potential that this area had to the political and economic life of residents. Pickens stated:

It appears, from the concurrent testimony of persons acquainted with the Territory in question, that an uncommon proportion of its land is unfit for cultivation; much thereof consisting of poor pine barrens; while on the other hand, it is certain that there is much fertile soil on the margins of the rivers, and interspersed over different parts, capable to sustain a sufficient population for a respectable State. Its political strength will also be held in check by the great proportion of slaves it is destined to contain.<sup>121</sup>

Slavery and soil proved to be the incentive for people to establish their fortunes along the rich banks of the Mississippi River. William Darby even compared the Mississippi to the Nile, no doubt to create a sense of unity between the two civilizations.<sup>122</sup> Potential is the word that most describes the feelings regarding Mississippi, especially about the viability of agricultural production via slave grown commodities. Obtaining this land meant improving it by engaged in large-scale cotton production. Pickens articulates this idea as he explains that “the inquiry should be directed to a remote period, when Indian titles shall have become extinct and the country matured by improvement.”<sup>123</sup> Of course, it

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<sup>121</sup> “Admission of Mississippi into the Union, Communicated to the House of Representatives, on the 17<sup>th</sup> January, 1817,” *American State Papers* 10, *Miscellaneous* 2: 416-417.

<sup>122</sup> Darby, 39.

<sup>123</sup> Pickens, Admission, 1817.

would be about fifteen years before the Native American residents of the Territory were completely forcibly removed from Mississippi, but the presence of slavery already existed in the South.

Although some planters traveled with their slaves from the areas in Virginia to Mississippi, the most common method of transportation was in coffles, ensuring that escape for individuals was impossible. The water routes, especially the ones that sailed from Norfolk, Virginia to New Orleans were also not as widely used, as the overland coffle method was the route that promised the greatest percentage of enslaved people to reach their destination.<sup>124</sup> These men and women marched across land, and when they arrived in Mississippi they felled trees and made sure that the land would be suitable for planting cottonseed.<sup>125</sup> In this system, the rising price of slaves encouraged extralegal methods of obtaining African Americans, with the intention of taking them to plantations in the Lower South. Census records from as early as 1800 reflect the African American majority in Adams County, while the population of enslaved people only grew, a result of the interstate slave trade.

### 3.2 The Choctaw Nation and Mississippi Statehood

Over the course of ten days in November 1826, the new Commissioners designated to negotiate with the Choctaw Nation attempted to persuade the nation to cede all their lands in Mississippi to the United States with the promise of adequate compensation. Although this series of land cession conferences was not the first to occur after Mississippi earned statehood, it is exemplary in showing the type of negotiations

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<sup>124</sup> Berlin, 166-7.

<sup>125</sup> Berlin, 174.

that were practiced between the Choctaw mingoes and the citizens of the new state. All three of these commissioners were soldiers, two of them were planters and slaveholders, and they all reported to Secretary of War James Barbour on the state of the treaties.

On November 5<sup>th</sup> and 6<sup>th</sup> 1826, Commissioners William Clark, Thomas Hinds, and John Coffee arrived at the treaty grounds to begin talks with the Choctaw representatives. The meetings would not begin until the 10<sup>th</sup> of November, when the commissioners entered into a Choctaw council meeting directed by Tapeau-Home, who took control after the death of chief Pushmataha.<sup>126</sup> It was at this meeting that the commissioners made their plans for land acquisition, and where they acknowledged the false contracts that had been introduced by individuals from within the Choctaw Nation. On the November 11<sup>th</sup> translator James L. McDonald delivered the response of the Choctaw Nation, stating that these “false contracts” are not the official political stance of the Choctaw Nation, and that their arguments should be disregarded because “They have not been made by any of the chiefs or leading men.”<sup>127</sup> When the misunderstandings were cleared, the commissioners relayed the idea that the Choctaw relinquish all of their lands east of the Mississippi in exchange for land for settlement in the Arkansas Territory. From November 11 to 14 the Commissioners attempted to persuade the Choctaw Nation to extinguish their land claims in Mississippi. The Commissioners’ appeals read as paternalistic and with undisguised persuasion: “The United States have a large unsettled and unappropriated country on the west side of the great river Mississippi, into which they do not intend that their white settlements shall extend. This is the country

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<sup>126</sup> “A Journal of the Proceedings of the United States commissioners appointed to negotiate with the Choctaw nation for a cession of the whole or a part of their country east of the Mississippi river,” November 10, 1826, *American State Papers 2, Indian Affairs 2*: 709-710.

<sup>127</sup> *Ibid.*

in which our father the President intends to settle all his red children.”<sup>128</sup> This appeal was followed up by the commissioners’ claims that this plan to resettle Native Americans has already commenced, noting that several tribes that originally lived north of the Ohio River and east of the Mississippi were now relocated to this new territory.<sup>129</sup> These initial proposals by the Commissioners were rejected outright by the Choctaw Nation, citing the “welfare of their wives and children, and that of those of the Choctaw nation who are absent from this council” as one reason for their denial.<sup>130</sup> The Choctaw representatives also express an emotional connection to their land, and the impracticality of signing another unequal treaty with the United States. Reflecting a keen awareness of the impact of the depletion of game for hunting, the Choctaw representatives maintain a refusal to acquiesce to another treaty. The Choctaw representatives’ response to the Commissioners reflects the state of their economic and social life after years of sustained incursions with Americans. They responded:

Why should we sell? Why seek new homes, when we are living here in peace, and, to such are reasonably industrious, in plenty? But it us urged that the game is gone, and those that live by hunting alone are suffering. For all such, a country is provided. Sixteen years ago we sold a large scope of our country here, for lands west of the Mississippi. Let those who wish to live by hunting go there. Ample provision for all such, in the treaty of Doake’s Stand, and all are free to go who wish it; but those of us who cultivate the earth will remain here.<sup>131</sup>

The unanimous refusal to sell their lands during this time ended the current push for Choctaw lands by the United States, while the Choctaw remained in the state for another four years.

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<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid., 713.

<sup>131</sup> Ibid.

The proceedings between the Choctaw Nation and the commissioners concerning their resettlement stand in contrast to the handling of the later transactions concerning the demographics and economics of the state of Mississippi. Where the proceedings described took place under the jurisdiction of the federal government, later considerations over the presence of slave trading would go to the Supreme Court to settle whether the authority of regulation lay among the states or the federal government. The two levels of government were responsible for the colonization of the southern interior.

Commissioners chosen in Washington interacted with mingoes of the Choctaw Nation to clear the land of Native American residence, much to the benefit of the state of Mississippi. On November 15, 1826, at the conclusion of the negotiations between the Commissioners and the representatives of the Choctaw Nation, the Secretary to the Commissioners, William S. Fulton recounted the feelings that each side held of the meetings that had just occurred. Fulton recounts Hinds' reactions to Choctaw refusal to sell their lands:

They believed that it was Mississippi alone that wanted their lands. This is not the fact. It is true the State of Mississippi, of which he was a citizen, suffered very much on account of having so much of her territory still covered by the Indian title. She wanted the land, but the United States wanted it more. The United States was much more deeply interested. Her future safety required that this large country should be populated. The United States was a great nation, and the Choctaws had experienced nothing but justice and liberality from the Government.<sup>132</sup>

Hinds' words articulated the official position of the United States government toward land acquisition and the State of Mississippi's encouragement of Native American Removal. The frustration evident in Hinds' commentary is also confirmation of the

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<sup>132</sup> Ibid., 714.

contingency that characterized the social and political world of Mississippi. Although racist ideas influenced how Americans saw Native Americans, the commentary both before and after statehood shows how the Choctaw were taken into consideration when attempting to grab land.

The simple formula that equated land as space for agriculture and wealth was essential in influencing the policy that dictated the future of the Mississippi Valley. Not confined to simply Adams County, the tracts of land running perpendicular to the Mississippi River was crucial in fulfilling the dream of the independent farmer. During the push for statehood, the connection between the law and Native American affairs was transparent in the official requests. Lattimore's 1816 appeal for the bisection of the Territory included descriptions of Choctaw and Chickasaw residency in the middle of white settlements in the massive region. Lattimore explains that "From the settlement on the Tennessee to that on the Mississippi, the distance is about four hundred miles, all of which is a wilderness, excepting so far as it is settled by the Chickasaw and Choctaw Indians."<sup>133</sup> While the language here does acknowledge the settlements of the Choctaw, it does not explicitly state that the Choctaw are considered as citizens. The considerations to admit Mississippi into the Union clearly do not include the Choctaw, since they are evidently not counted in the future settlements of the Mississippi Territory. This idea was solidified in the future, when the Choctaw were relegated to territories west of the Mississippi River and out of the state. Given the official policy of the United States regarding Native American removal, the codification of this idea seemed inevitable. What was unexpected in this debate was the refusal for them to be counted as

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<sup>133</sup> Admission, 407.



residents of the Mississippi Territory by Lattimore, who wished to gain more representation for slaveholding interests in the Territory. They were counted as Choctaw, and thus subject to the same considerations in land cession treaties. Once the land was open to white settlement without contention from Native Americans, the commerce concerning enslaved persons could be dictated by state officials, as codified by the new state constitution of 1832.<sup>134</sup>

Article XIV of the Treaty of Dancing Rabbit Creek set the standards for citizenship among the Choctaw, depending on their intentions, if they choose to remain on their land in Mississippi. The article reads: “Each Choctaw head of a family being desirous to remain and become a citizen of the States, shall be permitted to do so, by signifying his intention to the Agent within six months from the ratification of this Treaty.”<sup>135</sup> The article also describes the amount of land allotted to them if they wish to achieve citizenship, about six hundred and forty acres per family. Article XIV continues:

If they reside upon said lands intending to become citizens of the States for five years after the ratification of this Treaty, in that case a grant of fee simple shall issue...Persons who claim under this Article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity.<sup>136</sup>

Fee simple secures the title of the land to the holder, in this case the Choctaw, who were supposed to remain on this land. The promise of fee simple came in addition to the assurance that they would not be forced to relocate again.<sup>137</sup>

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<sup>134</sup> Miss. Constitution. art. 8 sec. 2.

<sup>135</sup> “Treaty With The Choctaw,” in *Indian Affairs, Laws, and Treaties*, vol. 2, comp. and ed. Charles Kappler, 313.

<sup>136</sup> *Ibid.*

<sup>137</sup> Deloria, 9.

After the Treaty of Dancing Rabbit Creek, not all the Choctaw removed themselves to the lands west of the Mississippi; some refused to leave and they acquired complicated legal status.<sup>138</sup> A provision in the 1832 state constitution allowed them to enjoy the same rights as other white citizens, at least in theory. Article VII, section XVIII of the 1832 Mississippi constitution states:

The legislature shall have power to admit to all the rights and privileges of free white citizens of this state all such persons of the Choctaw and Chickasaw tribes of Indians as shall choose to remain in state, upon such terms as the legislature may from time to time deem proper.<sup>139</sup>

The practical applications and interpretations of this law were vague in determining the extent of the protections that citizenship guaranteed when applied to Choctaw people. The provision states that they will be accorded the same rights as free white citizens, identifying them with the American state, and ignoring their membership in the Choctaw Nation. This designation of the Choctaw was only used to undermine the legitimacy of the Nation, and not provide constitutional rights. After statehood, Mississippi designated the Choctaw as residents, and not citizens in the application of the law. The clause in the 1832 Mississippi Constitution declaring citizenship for the Choctaw was meant to diminish tribal sovereignty and force them to relocate to designated Indian Territory.<sup>140</sup> The inclusion of Choctaw and Chickasaw people into the polity of the state of Mississippi was thus a direct and aggressive attempt to delegitimize the Choctaw Nation as a political entity, and instead bolster the American nation as a regional power.

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<sup>138</sup> Katherine M. B. Osburn, *Choctaw Resurgence in Mississippi: Race, Class, and Nation Building in the Jim Crow South, 1830-1977* (Lincoln, NE: University of Nebraska Press, 2014), 21.

<sup>139</sup> Mississippi Constitution, art. 7, sec. 18.

<sup>140</sup> Osburn, 21.

Deborah Rosen also qualifies the distinction that states made between citizens and non-citizens. Rosen explains that certain states like Alabama and Tennessee in the 1830s and 1840s argued that the privileges and immunities clause (that safeguarded citizens) did not apply to Native Americans.<sup>141</sup> The Alabama Supreme Court's ruling cited the language in the Treaty of Dancing Rabbit Creek, stating that the term "citizens" in reference to the Choctaw was a mistake.<sup>142</sup> If citizenship is not applied equally over all of the people residing within the borders of a state, that means that they cannot be guaranteed of the security of their life and property. This means that the guaranteed rights can be applied selectively in terms of property and personal crimes. The "rights and privileges" granted to the Choctaw and Chickasaw tribes by the state legislature in Article VII section 18 were never fully enforced.<sup>143</sup> Katherine Osburn has studied the lives of the Choctaw that stayed behind in Mississippi, finding that "Many settlers ignored the allotment process and drove Choctaws out of their homes, claiming the land by right of preemption."<sup>144</sup>

This law cannot be removed from its societal context, however, as the entire state of Mississippi was affected by the demographic shifts as a result of the slave trade. The legal safeguards that come with full citizenship were denied to the Choctaw, but slaveholding was permitted among them. Slavery among the southeastern Native American nations adapted to the conditions that the market and commodity-oriented economy imposed on those wishing to be engaged in commercial endeavors. Although a few did achieve financial wealth, the extent of involvement in the actual movement of

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<sup>141</sup> Rosen, 115-16.

<sup>142</sup> Rosen, 116.

<sup>143</sup> Miss. Constitution. art. 7 sec. 18.

<sup>144</sup> Osburn, 23.

African Americans was a Euro-American enterprise in the nineteenth century. Historian Theda Perdue has extensively written on the subject of slavery among southeastern Native Americans, especially the Cherokee. In her studies, Perdue distinguishes between African American slavery and the *atsi nahsa 'i*, unfree laborers who could not properly be deemed slaves.<sup>145</sup> These people were often captives that were captured during warfare, where they were a byproduct of conflict, never the main objectives. The *atsi nahsa 'i* lived outside of the traditional clan system of kinship, deprived of their property and rights they served no economic purpose, since the Cherokee did not require a large labor force to survive and compete.<sup>146</sup> Similarly, Akers has described slavery among the Choctaw as a “traditional relationship of vassalage” more than chattel slavery as practiced by white Americans.<sup>147</sup> This type of unfree labor arrangement was apparently “more equitable” than the type of slavery that was practiced in the South by Euro-Americans. Christina Snyder also describes how the shift toward agriculture and a pastoral economy meant that the Choctaw held slaves to create a new division of labor.<sup>148</sup> Whether or not these systems of unfree labor were more or less equitable than African American chattel slavery is largely unimportant. What is important is that although slavery was widely practiced among indigenous people of the Southeast, the volume of the slave trade did not reach the numbers that they reached in the Mississippi Valley on cotton plantations. Although the enslaved persons did grow cotton for export, the interstate trade was not widely used, nor was it ever regulated by indigenous nations,

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<sup>145</sup> Theda Perdue, *Slavery and the Evolution of Cherokee Society 1540-1866* (Knoxville, University of Tennessee Press, 1979), 4.

<sup>146</sup> Perdue, 12.

<sup>147</sup> Akers, 127.

<sup>148</sup> Christina Snyder, *Slavery in Indian Country: The Changing Face of Captivity in Early America* (Cambridge, Mass: Harvard University Press, 2010), 191.

showing that it was not as much of an economic driver as it was for Euro-American planters.

### 3.3 The Interstate Trade and Southwestern Mississippi

In the 1820s, Natchez was the largest city in Mississippi, and although it was no longer the capital of the state (as it had been before statehood), genteel planters still enlarged their fortunes there.<sup>149</sup> Lying around 170 miles from New Orleans, Natchez was connected to the cotton markets that connected the southern interior to the larger Atlantic economy. Prospective slave buyers in Natchez asked questions about the health and familial status of the people for sale, to ascertain the physical and emotional state of these prospective slaves.<sup>150</sup> By the 1830s planters no longer had the same political capital that they once enjoyed, but the Natchez elite remained the economic and social elites of the state. Planters continued to build large plantations that were emblems of their wealth, generated in part by their participation in the greater New Orleans markets. Historians have generally characterized the wealth of Natchez as being dependent on British and Northern textile mills, although the significant role of slave traders has been mostly overlooked. While it is true that the fortunes of Natchez planters came from the British demands for slave-grown cotton, the slave traders that were responsible for the slave labor force that worked on the plantations, that made Natchez planters wealthy. Studies

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<sup>149</sup> Libby, 77-8.

<sup>150</sup> Walter Johnson, *Soul by Soul: Life Inside the Antebellum Slave Market* (Cambridge, Mass: Harvard University Press, 1999), 173, Baptist, 214.

on the interstate slave trade mostly emphasize the volume of the trade, and the demographic shifts that took place as a result.

The interstate slave trade linked two distinct slaveholding regions of the United States: the upper south including the Chesapeake and the deep south, including the new states of Mississippi, Louisiana, and Alabama. The trade was so important that it altered the type of property that was most valuable. As a result of the trade to meet demand in the lower south, enslaved people surpassed land as the most valuable type of investment in the south.<sup>151</sup> Agricultural improvements in the upper south drove down prices of enslaved people, but the demand for them rose in the deep south, where more than one million people were eventually transported.<sup>152</sup> Thus the demand was facilitated by the interstate trade that fulfilled the demand in the Deep South generally and Mississippi specifically. The Choctaw land cessions and Treaty of Dancing Rabbit Creek (1831) opened northern Mississippi to Euro-American settlement, combined with the demand for cotton tapped a market for slaves. This valuation of people during the early part of the 1820s and 1830s would reach an apex and then eventually drop significantly, eventually culminating in a legal ruling that would determine the parameters of the interstate slave trade to Mississippi.<sup>153</sup> The Supreme Court case *Groves v. Slaughter* was then a culmination of several political, economic, and societal changes that had occurred in the lower Mississippi Valley for three decades. The Choctaw land cessions and the

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<sup>151</sup> Steven Deyle, "The Domestic Slave Trade in America: The Lifeblood of the Southern Slave System." In *The Chattel Principle: Internal Slave Trades in the Americas* (New Haven: Yale University Press, 2005), 92, edited by Walter Johnson.

<sup>152</sup> *Ibid.*, 93.

<sup>153</sup> *Groves v. Slaughter*, 40 U.S. 15 Pet. 449 (1841).

subsequent Anglo-American settlement and demand for cotton all created the circumstances that the case revolved around.

Economic historians have estimated that the price of prime male field hands in this period increased over three times, from \$500 to \$1,800 between 1800 and 1860.<sup>154</sup> Steven Deyle has contended that these estimates are probably too low, as the aggregate value of all the slaves in the lower south was around \$3 billion. Whether the price per hand was \$700 or \$750 does not matter as much as the local contingencies that dictated prices were often the main determinants for value of enslaved persons. In Natchez, for example, demand for slaves may have driven slave traders to attempt to sell in town, but the oversaturation may have altered the price for enslaved people. A twofold social change came from the new markets for slaves in the lower south: among the enslaved population, a price based on expected return on investment (quantified in pounds of cotton), and the attempts to create a more politically cohesive unit of both nonslaveholders and slaveholders to support the regime.<sup>155</sup> Johnson's extension of the idea of the chattel principle is crucial in understanding the slave markets as sites of creation of a southern political economy. In this milieu, agrarian whiteness was extended to encompass the human property of planters, while it was also vulnerable to outside forces that could suppress their earnings. As in the case of Choctaw land cessions in 1826, the discrepancies between federal and local or state interests had arisen, but the benefit of one rested on the actions of the other. In the 1830s, there may have been a distinctly Mississippian perspective emerged that challenged the power of the federal

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<sup>154</sup> Deyle, 95.

<sup>155</sup> Johnson, *Soul by Soul*, 216.

government, and questioned whether their interests curtailed economic and political power of Mississippians.<sup>156</sup>

Distrust in the government came from the policies involving the movement of government funds from large central Bank of the United States to smaller “pet banks.” This move and the subsequent economic downturn of 1837 inspired political writing against this practice. A good example of these types of articles comes from a newspaper in west central Mississippi. In 1839, articles in the *State Rights and Democratic Union*, a periodical out of Yazoo City were published by an author simply known as “A Jeffersonian,” who railed against the congressional influences that threaten the Mississippi populace.<sup>157</sup> Though maybe not entirely reflective of the feelings of the general population, these articles show the arguments against the influence of the elite in politics and their economic failures. Moreover, these articles may show the beginnings of a tide of distrust for the federal government, culminating with constitutional protections to ensure primacy of the states in regulating commerce in slaves. An overt allusion to class differences and interests drives the scope of these articles: “The first great and leading question is, whether the federal government shall be made the creature of a monied aristocracy or continue as our illustrious forefathers intended it, the guardian of the people at large.”<sup>158</sup> The author continues to describe the conditions for the current economic collapse: “The multiplication of banks—the depreciation of paper money—the derangement of the currency...may all be traced to the political ambitions of a few

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<sup>156</sup> Editorial, *State Rights and Democratic Union* (Yazoo City, MS), August 13, 1839.

<sup>157</sup> Ibid.

<sup>158</sup> Ibid.



aspirants.”<sup>159</sup> The fragility of the economic and social world is evident in this article, and reactionary measures characterized the responses to panics and crises.

The economics of the interstate slave trade and land accumulation that followed the Choctaw dispossession generated much wealth for those in Mississippi. In the early decades of the nineteenth century, Natchez was the richest city in the state, but after the state capital was moved to Jackson the economic locus moved further north and east.<sup>160</sup> Natchez’s history as a British outpost in the eighteenth century Spanish and French colonies in North America meant that it had sustained a population of slaveholders for over fifty years, while the newer arrivals tried to make out a living on cheap lands outside of urban Natchez.<sup>161</sup> What people in southern Mississippi generally, and Natchez in particular were experiencing, however was a continuation and expansion of the type of slavery that people in rural Mississippi relied on. The planter identity was made by the ownership of large numbers of enslaved people. This identity was based on agrarian whiteness, a masculine identity based on self-sufficiency. Planters’ masculine identity forged in agrarian whiteness was supported by the cult of domesticity that had been inserted into high society of the Natchez elite. Ownership of more slaves than necessary for profit was important for status and the potential of greater profits, not to mention that it supported this identity. This new masculine identity adopted by these planters was reflected in type of questions that were asked in the Natchez slave markets.<sup>162</sup> The changes that occurred in northern Mississippi years after statehood that removed the Choctaw Nation completely and allowed for greater numbers of settlers and slaves to

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<sup>159</sup> Ibid.

<sup>160</sup> Libby, 78.

<sup>161</sup> Libby, 78-9.

<sup>162</sup> Baptist, 213.

move in were felt in southern Mississippi, in Natchez especially. The interstate slave trade supplied the Natchez slave markets with the commodified objects of social status in nineteenth-century Natchez. The regional economic changes brought by the interstate trade and demand for enslaved people resulted in debates over the extent of control over the commerce in Mississippi.

Among these economic changes were the shifts in the flow of commerce in and out of the state. Individual slave traders prior to 1833 engaged their business by avoiding taxes on the enslaved people entering the state, possibly to the detriment of established merchant communities. In the 1830s, this happened across the South, from South Carolina to Louisiana, as vagrant peddlers and those who imported merchandise were distinguished from local established merchant community members.<sup>163</sup> The merchant class interacted with planters on occasions concerning importations of enslaved people, as they were not residents nor prospective residents of Mississippi. Some of these prospective residents were not merchants, but lawyers who intended to become planters and own slaves.<sup>164</sup>

The admission of Mississippi into the Union in 1817 continued the fight for Choctaw lands in the northern part of the state, but instead of a special interest territorial government, it was one governing institution acting on behalf of another. Stronger slaveholding representation in two new states would increase the political capital and strengthen planter interests in the region, as well as accommodate for the new emigrants

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<sup>163</sup> Tom Downey, *Planting A Capitalist South: Masters, Merchants, and Manufacturers in the Southern Interior* (Baton Rouge: Louisiana State University Press, 2005), 161.

<sup>164</sup> Ariella Gross, "The Law and the Culture of Slavery: Natchez, Mississippi." In *Local Matters: Race, Crime, and Justice in the Nineteenth-Century South* (Athens, GA: The University of Georgia Press, 2001), 96, edited by Donald G. Nieman and Christopher Waldrep.

coming from the northern or Atlantic southern states. In this region, slavery was extended to meet the demands of these new residents, and the southward movement of slaves helped to facilitate production in the new lands of northern and central Mississippi. Many of these people ended up in the slave markets of Natchez, where they were sold as merchandise to planters looking to capitalize on demand for cotton. The trade in enslaved people was extremely profitable, and eventually the value of people eclipsed that of land in Mississippi.

The economic incentives for states to prohibit the outflow of capital for what was a large industry needed legal protection to achieve continued growth. By the time *Groves* was argued several states had already taken steps to curb the growth of slavery in their own borders, but slavery remained a crucial part of the political economy of the United States. Dubois explains how slavery, wealth, and national policies were inseparable during this period:

By 1822 the large-plantation slave system had gained footing; in 1838-9 it was able to show its power in the cotton “corner;” by the end of the next decade it had not only gained a solid economic foundation, but it had built a closed oligarchy with a political policy. The changes in price during the next few years drove out of competition many survivors of the small-farming free-labor system, and put the slave *regime* in position to dictate the policy of the nation.<sup>165</sup>

This slave regime determined personhood and citizenship, and acted in tandem with a legal apparatus that ensured its growth and maintenance. This slave regime not only consisted of African American chattel slavery, but violence aimed at the indigenous nations in the region. In the next section, I will demonstrate how the circumstances

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<sup>165</sup> Dubois, 153.

surrounding, and outcomes of *Groves v. Slaughter* brought to the fore and challenged the legal systems that maintained the slave regime.

CHAPTER FOUR:  
GROVES V. SLAUGHTER AND CHANGES IN MISSISSIPPI

Robert Walker, originally of Pennsylvania, moved to Natchez, Mississippi, with his brother Duncan, where the two started a law firm in 1830. After Duncan's death, Robert continued to practice law, becoming a friend and associate of Joseph Davis, brother of Jefferson Davis, who would become the president of the Confederate States of America. While in Mississippi, Walker joined the group of influential men who secured their landed status through arrangements that they would not bid against each other in land auctions, and after managing the bidding, Walker would get a portion of the proceeds.<sup>166</sup> When the scandal was brought to light in 1834 by Senator George Poindexter, Henry Clay and Daniel Webster supported an investigation to have the guilty parties punished, but ultimately no justice was served. Amid this backdrop of fraud, political power plays, and land-grabbing, Robert Walker emerged as an important figure in the political and legal landscape of Mississippi. When confronted with a case that tested the limits of state government, Walker represented a defendant responsible for transporting African Americans into the state for purchase.

The interstate slave trade in the southeastern United States consisted of the depopulating of indigenous residents and subsequent repopulation of the northern and eastern slaveholding states with Anglo-Americans and African American slaves, including the new states of Louisiana, Alabama, and Mississippi. In places like southern Mississippi and eastern Louisiana (including New Orleans), the market for enslaved

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<sup>166</sup> Dodd, 13.

Africans grew due to their importation, despite the economic circumstances of the nation as a whole. Natchez planters were eager to buy more slaves, since the number of slaves owned moved planters into the upper echelon of the elite class. Eventually, the state constitution of Mississippi, the revised version of the original document after Mississippi earned statehood, included a provision to ban the importation of slaves into the state unless by a resident. In Mississippi, the landmark *Groves v. Slaughter* case settled a discrepancy between the Commerce Clause of the U.S. Constitution and the possible infringement by a provision in the Mississippi Constitution of 1832. This chapter outlines the circumstances of the case that led to the Court's decision about interstate commerce (including the one in slaves), and analyzes the arguments made by legal counsel that would determine the outcome of the case. The dispossession of the Choctaw Nation and the local manifestations of the interstate slave trade in Natchez came to the fore in the *Groves* case.

The dispossession of Native Americans and continuation of African American slavery can be seen as two parts of one large phenomenon to ensure that the United States could grow, both in influence and physical space. David Ericson contends that slavery and war promoted the creation and maintenance of the American state, and aided in state development. He acknowledges the connection between Native American removal and slavery in the Lower South, and the importance of space for this project: "As was the case in territorial Florida, European American slaveholders in Georgia, Alabama, and Mississippi sought to expand their slaveholdings onto Native American lands."<sup>167</sup>

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<sup>167</sup> David F. Ericson, *Slavery in the American Republic: Developing the Federal Government, 1791-1861* (Lawrence, KS: University Press of Kansas), 117.

Removal and allowing slaveholding in the new states were divided along racial lines. The numbers of Native Americans engaged in slaveholding was relatively small compared to the Euro-American population. Ericson gives credence to the idea that the “process removed highly diverse Native American populations out of the way of European American slaveholders and their African American slaves.”<sup>168</sup> In this way, the connection between federal Native American removal policies and the extension of slavery and slave trading can be understood as part of the same capitalist wave in the Lower South.

This thesis utilizes the interpretation of the *Groves* case as legal historians such as Anne Twitty have, by looking at “legalities” instead of law. This would mean that examining the concrete examples and manifestations of law, instead of solely focusing on the laws themselves.<sup>169</sup> Even though this alternate way of thinking about jurisprudence may be helpful in revealing the conditions that led to legal action, a synthesis of legality and law is necessary for complete historical study of law as it relates to different subjects. A study of law disassociated with the appropriate context of the historical moment in which the laws were debated is an incomplete legal history. When examining the *Groves* case as a result of imperialist actions, the legal and intellectual debates that were taking place regarding the place of slavery in the United States and Territories must be considered. The legal matters decided in *Groves* were extensions of imperialistic tendencies of the United States to continue the cotton kingdom. In these cases, empire building was accomplished through different legal means that promised to facilitate

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<sup>168</sup> Ericson, 121.

<sup>169</sup> Anne Twitty, *Before Dred Scott: Slavery and Legal Culture in the American Confluence, 1787-1857* (Cambridge: Cambridge University Press, 2016), 7.

Native American dispossession and African-American slavery. Prior to the regulation of the domestic trade in slaves in Mississippi, the American empire functioned through legal and illegal “treaties” with the Choctaw Nation.<sup>170</sup> Following the political and spatial displacement of the Choctaw Nation, the regulation of the commerce in enslaved persons such as in the *Groves* case can be used as an example of coercion

Legal scholars who have analyzed the *Groves* case have done so with the intention of identifying patterns and precedents on the state level. Often these scholars have analyzed how the constitution of the state of Mississippi or the United States could have influenced the power of states to control slavery within their borders.<sup>171</sup> Ariella Gross has posited a similar stance to Twitty, focusing on how law is interpreted and treated locally.<sup>172</sup> Gross contends that the courthouse and slave markets in Natchez should be studied together, since the daily business of the Adams County courthouse concerned matters pertaining to slavery.<sup>173</sup> Gross uses an exclusively local focus to situate her study, limiting the scope covered by her study. By only focusing on Adams County, Gross is restricted to learning about the planter class, who were the subjects of her study. The study then becomes about the social relationships between planters and enslaved people in this space. Taking a particular locality as a unit of analysis is also problematic, as it could become disassociated from other events, particularly regarding law and slavery. The social and political events in other parts of the country, including territories looking for statehood, were considered when drafting legislation for places like

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<sup>170</sup> Dodd, 12.

<sup>171</sup> Jefferey Schmitt, “Constitutional Limitations on Extraterritorial State Power: State Regulation, Choice of Law, and Slavery,” *Mississippi Law Journal* 83, no. 1 (2014): 59-115.

<sup>172</sup> Gross, 94.

<sup>173</sup> *Ibid.*



Mississippi. Instead of a strictly localized approach like Gross, I argue that evidence like demographic shifts and legislation can be used as evidence of a much larger experience.

In the early eighteenth century, the future of slavery was being debated after the abolition of the transatlantic slave trade in 1808. These debates were part of discourse in civil society that would develop the character of the new nation. Reformers in the United States then developed an ideology that was supposed to distinguish between slaveholding and slave trading.<sup>174</sup> Recognizing that one was impossible without the other, restrictions against internal slave trading were enacted in opposition to the proslavery argument of reformers who insisted that slaveholding was essential in the nation. To be able to make the interstate slave trade profitable and realistic, there needed to be systems of financing the sale of enslaved African-Americans across state lines. Calvin Schermerhorn examined the methods that slave traders and buyers used to facilitate the trade in human cargo. Schermerhorn describes how “When selling bondspersons in the Lower Mississippi Valley, traders were forced to extend credit and accept bills or promissory notes that had little interregional mobility.”<sup>175</sup> These type of credit and financing systems (promissory notes in particular) were the driving force behind the ability of traders to sell their human merchandise and for buyers to purchase people.

During the interstate slave trade, about one million African-Americans were forcibly brought into the states of the Deep South between 1812 and 1860.<sup>176</sup> Cognizant of the changes in Mississippi since 1817, lawmakers attempted to curb the importation of

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<sup>174</sup> Rothman, “The Domestication of the Slave Trade in the United States,” 32-3.

<sup>175</sup> Calvin Schermerhorn, “Slave Trading in a Republic of Credit: Financial Architecture of the US Slave Market, 1815-1840,” *Slavery and Abolition* 36, no. 4 (2015): 587.

<sup>176</sup> Baptist, 20.

slaves into Mississippi through a section in the revised constitution. The second section regarding slaves in the Mississippi constitution of 1832 declares:

The introduction of slaves into this state as merchandize or for sale, shall be prohibited from and after the first day of May eighteen hundred and thirty three provided that the actual settler or settlers shall not be prohibited from purchasing slaves in any state in this Union, and bringing them into this State for their own individual use, untill [sic] the year eighteen hundred and forty five.<sup>177</sup>

Article I, Section VIII of the United States Constitution, however, declares that Congress has the power “To regulate Commerce with foreign Nations, and among the several states, and with the Indian tribes.”<sup>178</sup> The question pertaining to Adams County is whether the state or the federal government has power over regulation of the trade in enslaved persons, and whether the domestic trade is considered commerce. Nine years later the Supreme Court would decide the outcome of a case concerning the possible conflict of this provision in the Mississippi Constitution, and the “Commerce Clause” in the United States Constitution. Legal historians have debated the significance of the court’s ruling in the *Groves* case to similar cases concerning slavery and interstate commerce, as in the *Dred Scott* case of 1857.<sup>179</sup> The circumstances of the *Groves* case allow for an examination of the extent to which federal and state powers of the United States facilitated imperial expansion and slave trading in this period. The previous chapters covered the role of government in land captures and negotiations. In this

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<sup>177</sup> Miss. Constitution. art. 8 sec. 2.

<sup>178</sup> U.S. Constitution, art. 1, sec. 8, cl. 3.

<sup>179</sup> Austin Allen, “Rethinking *Dred Scott*: New Context for an Old Case,” *Chicago-Kent Law Review* 82, no. 1 (2006): 141-176.

chapter, I explore the role of the State of Mississippi in controlling the expansion of slavery and slave trading through regulating the interstate trade for their own benefit.

#### 4.1 The Natchez Incident

The particular events of the case concern the non-payment of two promissory notes in late 1836, well after the 1833 prohibition on slave importations into Mississippi. In 1835-6 Robert Slaughter introduced slaves into Mississippi for sale, and was given a promissory note for 7,875 dollars. The first note, dated December 20<sup>th</sup>, 1836, was drawn by John Brown, endorsed by Moses Groves, R.M. Roberts, and James Graham, and was made payable at the Commercial Bank at Natchez 24 months after the date.<sup>180</sup> For this incident, the defendant (Slaughter) instituted a case against the plaintiffs (Groves, et al.) in the Circuit Court of the eastern district of Louisiana, in February 1839. In the second instance, the suit had been instituted in the Circuit Court of the United States for the Eastern District of Louisiana in April 1838, on a promissory note for seven thousand dollars, drawn and endorsed by the same persons, this one payable twelve months from the same date.<sup>181</sup> Slaughter received partial payment for the slaves who he introduced into Mississippi, but the plaintiffs (respondents) argued that the contract, being in violation of the law, was null and void. Slaughter felt that he was entitled to the full amount for the enslaved persons, despite being in possible violation of the law. The case was then brought to the Court of Appeals in 1839 where a disagreement among the judges made the case go to the Supreme Court. Among the members of the legal counsel

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<sup>180</sup> *Groves v. Slaughter*, 40 U.S. 15 Pet. 449 (1841).

<sup>181</sup> *Groves*, 451.

were Robert Walker (senator from Mississippi) and Henry Gilpin for the defendant, and Daniel Webster, Henry Clay, and Walter Jones argued for the plaintiffs. Together these men argued for their respective sides at the January 1841 Session of the Supreme Court, in which the Justice Smith Thompson delivered the majority opinion. Thompson determined that the provision did not act *proprio vigore* (by its own force), meaning that unless there were explicit penalties for the introduction of slaves into the state (this was covered under a different law in 1833), then the violation of the provision was not deemed illegal. Requiring legislation for the provision to be operative, the provision could not entirely prohibit the sale of slaves, and thus Slaughter was entitled to the remainder of the promissory notes.<sup>182</sup> Although the opinion given by Thompson does not mention the legality of slavery nor the power of either the federal or state governments to control the importation of enslaved persons, the arguments presented to the Court, and the opinions of the other Justices are important in reflecting how the effects of the domestic slave trade were interpreted and challenged by the law.

Legal historian Paul Finkelman has studied *Groves v. Slaughter* as a matter not exclusively of constitutional law, but also of the power to regulate the domestic trade in the milieu of the nineteenth-century South. Finkelman has characterized the prohibition law as an antidote for many issues, namely limiting the population of potentially subversive slaves, stopping the outflow of capital to the slave traders, and by reducing the supply of enslaved people, driving the price for slaves higher.<sup>183</sup> Though the first point is natural and understandable, given slaveholders' distrust of slaves and the use of violence

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<sup>182</sup> Paul Finkelman, introduction to *Southern Slaves in Free State Courts: The Pamphlet Literature*, ed. Paul Finkelman (Clark, NJ: Lawbook Exchange, 2007), xxiii.

<sup>183</sup> Paul Finkelman, *Supreme Injustice: Slavery in the Nation's Highest Court* (Cambridge, Mass: Harvard University Press, 2018).

to deter any revolt, the last two points are much more pertinent for state regulation. The threat of violent revolt was omnipresent in the slaveholding states, but the ability to expand or limit the volume of the slave trade to Mississippi for economic and political reasons seems much more plausible. There was no way that the premier cotton producing state in the Union was going to halt the flow of laborers just to safeguard against uprising. Austin Allen offers a different perspective. Allen points to the opinions in the Dred Scott case, and interpretations of the Taney Court (the one that ruled in *Groves*) as staunch defenders of slavery.<sup>184</sup> Allen argues that the decision in *Groves* served as a precedent for the arguments in the Dred Scott case. For Allen, Chief Justice Roger B. Taney, and perhaps most of the judges, considered slavery to be exclusively a matter of local or state control.<sup>185</sup> Unlike in 1826 with the Choctaw land negotiations, the state of Mississippi did not feel like the official U.S. federal policy was facilitating the growth of slavery in the state. If in 1826, the federal government's acquisition of Choctaw land in exchange for designated areas in the Arkansas Territory was seen as beneficial to the state and to the Union as a whole, then the *Groves* case represented the power of states to facilitate the expansion of slavery, unchecked by antislavery forces in Congress.

The language of the provision against importation also points to the frequency of this practice in Mississippi during this time. The state could not infringe upon the rights of its citizens to own and bring enslaved persons into its borders, but the language makes an implicit distinction between "settlers" and non-settlers. Where the first half of the

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<sup>184</sup> Allen, 152-3.

<sup>185</sup> Allen, 157.

clause mentions the “introduction of slaves into this state for merchandise or for sale,” there is no mention to the residency status of the people who are responsible for the importation. This by itself does not provide any clues into the directed target of this provision, but the second half of the clause which declares that “the actual settler or settlers shall not be prohibited from purchasing slaves in any state in this Union and bringing them into this state for individual use” makes a distinction between these two groups. The law rests on the belief that individual traders like Slaughter would only bring people into the state without intention of residence, so therefore his rights are not equal to those of Mississippi residents and thus not fall under the jurisdiction of the state of Mississippi. If there was a provision in the revised constitution to prohibit this practice, this is evidence of the tremendous volume and impact that the domestic trade had on the economy and society of the state. The language of the provision was clearly targeted not at settlers, then, but traders like Slaughter who remain in the state long enough to sell his “merchandise.” This inclusion of a prohibition on slave trading between states, and by nonresidents reflects the extent of individual slave trading during this period.

#### 4.2 Arguments of the *Groves* Case

The questions being asked in the *Groves* case must be properly contextualized. The issues are the difference between slave holding and slave trading in Mississippi, and again this reflects the ubiquity of slavery in this state and the relatively mixed reactions to interstate slave trading. Some of the reluctance toward the domestic trade came from the

fears generated by Nat Turner's rebellion in Virginia.<sup>186</sup> Walker, speaking on behalf of the defendant explains why the state wanted to consolidate power to control the trade through the legislature after the initial constitution was written, and especially after the slave insurrections in Virginia. Walker declares that "The legislature, during the intervening period of fifteen years between the adoption of the old and new constitution, had never fulfilled the trust confided to them by prohibiting the introduction of slaves as merchandise...."<sup>187</sup> Walker continues, stating: "Events had occurred in Southampton, Virginia, but a few months preceding the period when the convention of 1832 assembled, which had aroused the attention of the Southern States to the numbers and character of the slave population."<sup>188</sup> When describing the fears of the white population and the conditions which influenced the new state Constitution, Walker frames the case as a social issue in which the responsibility to safeguard the population against slave insurrections goes to the state legislature. Walker's argument directly addresses the fears held by the white population that they would be susceptible to violence and insurrection like in Virginia since numbers of enslaved people were disproportionately high. Walker explained:

In looking at the general census of 1830, the recently published, they saw, that whilst in Virginia the whites outnumbered the slaves 224,541, in Mississippi the preponderance of the whites was 4784, and that the slave population was increasing in an accelerated ratio over the whites, the former now greatly outnumbering the latter. In looking beyond the aggregate of the two races in the state to particular counties, they found that in an entire range of adjacent counties the preponderance over the slave over the white population was three to one; in

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<sup>186</sup> Michael P. Mills, "Slave Law in Mississippi from 1817-1861: Constitutions, Codes, and Cases," *Mississippi Law Journal* 71, no. 153 (2001): 25.

<sup>187</sup> "Argument of Robert J. Walker, esq. before the Supreme Court of the United States, on the Mississippi slave question, at January term, 1841. Involving the power of Congress and of the states to prohibit the inter-state slave trade." Philadelphia, Printed by John C. Clark. Pdf. <https://www.loc.gov/item/11012574/> 9.

<sup>188</sup> *Ibid.*

many of the contiguous patrol districts, more than ten to one, and in many plantations more than one hundred to one.<sup>189</sup>

Walker's demographic description demonstrates two important ideas. First, the population statistics in Virginia and Mississippi prove the displacing effects of the domestic trade. Most of the enslaved people in the Lower South and Mississippi came from Virginia, and this is evidence of their strong connection. Second, the number of enslaved people in Mississippi is disproportionately higher in some areas of Mississippi than others. Established plantation areas like Adams County may have a higher number of slaves even though the eastern counties surpassed them as the major cotton-producing regions. States in the lower South felt these societal changes the most, as Mississippi followed the example of Louisiana, which prohibited the introduction of slaves in 1831. The changes in the enslaved and white population led to fears about insurrection and violence against slaveholders. This fear contributed to the prohibition of importation by the state legislature in the 1832 constitution.

The reactionary response by the Mississippi legislature is understandable in the context of an extension of imperial fears. Twenty-four years before the *Groves* case was argued, Mississippi became a state. Only fifteen years had passed since statehood and the revision of the new state constitution. In this time, the imperial character of Mississippi changed internally and institutionally. The admission of Mississippi into the Union formally solidified, as in other new states, the power of citizenship and property rights to

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<sup>189</sup> Ibid.



state authorities.<sup>190</sup> In the case of Mississippi, the state replaced the federal government as the vessel of power over these subjects. The language in the 1832 Constitution solidifies this point, as the state attempted to control numbers of the enslaved population in the state. State policy was crafted in consideration to local conditions, and implicit in this (by ignoring constitutional provisions) is the primacy of state control over slavery. However, Walker's argument demonstrates the idea that Mississippi's provision is not merely an issue of interstate commerce, but the regulation of population of the state for social control. Controlling the African-American population was not exclusively about commerce, but about social relations too.<sup>191</sup>

Justice Henry Baldwin's opinion acknowledges this in the *Groves* case, and he makes a distinction between commerce and social order in the case. Baldwin distinguishes between regulations of "commerce among the several states" and the regulations of policing a state, one dealing with the articles of commerce exclusively, the other to the internal concerns of the state.<sup>192</sup> Policing of the state is a matter of internal regulation, and Baldwin extends this to "articles which have become so distributed as to form items in the common mass of property."<sup>193</sup> Baldwin's interpretation of the Commerce Clause of the Constitution was that it only involves commerce between the states, and not social order resulting from this. Policing is a state-regulated activity, and disconnected from this present case since the traffic in enslaved persons is not a matter of

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<sup>190</sup> Jeremy Adelman and Stephen Aron, "From Borderlands to Borders: Empires, Nation-States, and the Peoples in-between in North American History," *American Historical Review* 104, no. 3 (1999): 817.

<sup>191</sup> Mills, 25.

<sup>192</sup> *Groves*, 511.

<sup>193</sup> *Ibid.*

policing according to Baldwin. Baldwin explained his interpretation of the prohibition clause in the Mississippi constitution:

It was not intended to affect the conditions of the slaves, for there is no provision for their emancipation, or other disposition when introduced into the state for sale; so that the only effect which the broadest construction could give to the constitution of Mississippi, would be to prohibit the introduction into that state, of slaves from other states as articles of commerce, without the least reference to any object of internal police.<sup>194</sup>

Baldwin made this distinction from his personal feelings about slavery in relation to commerce. Baldwin's idea of enslaved persons as strictly commerce is clearly articulated in his opinion: "I feel bound to consider slaves as property, by the law of the states before the adoption of the Constitution...that this right of property exists independently of the Constitution...."<sup>195</sup> With this view of the constitution, social relations cannot be affected by the commerce in slaves, since they cannot alter the social fabric of the state. There is a contradiction in this opinion, however, as Baldwin acknowledges the humanity of the people as the subjects of commerce, and describes the language that could have been used to fulfill their intention of decreasing the African American population of the state. Baldwin explains that the language in the amended Mississippi constitution "does not purport to be a regulation of police, for any defined object connected with the internal tranquility of the state, the health, or morals of the people: it is general in its terms: it is aimed at the introduction of slaves as merchandise from other states, not with the

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<sup>194</sup> Ibid., 512.

<sup>195</sup> Ibid., 513.

intention of excluding...insurgent slaves, or such as may be otherwise dangerous to the peace or welfare of the state.”<sup>196</sup>

In contrast to this view, Justice John McLean explicitly recognized the humanity of enslaved persons in his interpretation of the constitution. McLean explained that the Constitution “treats slaves as persons,” as evident in the article responsible for assessing proper apportioning of representatives and directing taxes, as well as the laws permitting slavery across state lines.<sup>197</sup> McLean recognized that this perspective is not shared across all the states, as he explains that some states only recognize slaves as property. If states count enslaved persons as property, McLean contended, this designation must be respected.<sup>198</sup> Justice McLean recognizes that slaveholding defines the communities, like that of Mississippi, and that its’ economic and social identity are tied to slavery. From McLean’s opinion: “The power over slavery belongs to the states respectively. It is local in its character, and in its effects...the transfer of or sale of slaves cannot be separated from this power.”<sup>199</sup> McLean concludes his opinion by offering his perspectives on the effects of the interstate slave trade: “Each state has a right to protect itself against the avarice and intrusion of the slave dealer; to guard its citizens against the inconveniences and dangers of a slave population.”<sup>200</sup> This concluding remark acknowledges the role of the slave trader in the demographic and societal changes in a slaveholding state like Mississippi.

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<sup>196</sup> *Ibid.*, 511-12.

<sup>197</sup> *Groves*, 506.

<sup>198</sup> *Ibid.*, 507.

<sup>199</sup> *Ibid.*, 508.

<sup>200</sup> *Ibid.*

Chief Justice Roger B. Taney, a Southern Democrat offered his opinion on the subject, giving two ways that this case has raised questions for constitutional law. First, Taney admitted that he believed that the state has supreme control over these matters, stating: “the power-over this subject is exclusively with the several states; and each of them has a right to decide for itself, whether it will or will not allow persons of this description to be brought within its limits, from another state, either for sale, or for any other purpose....”<sup>201</sup> More similar to McLean’s argument than Baldwin’s, Taney’s opinion stresses that this is a local matter about commerce and the power of states to have supreme political control over slavery within, or between, their borders. Taney also explains how this case raises another issue of constitutional law: whether the commerce clause implicitly prohibits the states from determining the regulation of commerce, despite being in accordance with the Constitution, theoretically.<sup>202</sup> Taney does not elaborate on this position, but it reintroduces a common theme: that the language used is vague, and that the argument about state versus federal power only mentions the power one has over the other, and not whether federal law negates state provisions. Taney’s opinion and influence in this case was relatively small, as he only addressed the problems of constitutional law that this case brought forward. The importance of Taney’s opinion in this case is that some of his ideas concerning interstate commerce would resurface in a case that effected African American life, *Dred Scott v. Sanford*.

Some of the arguments for the defendant rested on the language of the constitution that did not specify which part of the trade the introduction prohibition was

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<sup>201</sup> Ibid.

<sup>202</sup> Ibid., 509.

supposed to punish.<sup>203</sup> Another part of Walker's argument acknowledged the part of the slave trader's purpose. After Walker discusses the powers in all forms of the state government of Mississippi, he switches the subject of his argument to the slave trader. Walker debates whether the prohibitory clause extends to the sale of the enslaved persons after the introduction, or simply their introduction into the state. The clause does not bar the sale of enslaved persons, simply their introduction as merchandise, but leaves the intent of the trader vague. Walker attacks this ambiguity as he states: "The introduction being thus prohibited, if the sale be sanctioned, the clause would read thus: You shall not introduce slaves into this state as merchandise or for sale, but you, the importer, may make merchandise of them, or sell them to anyone as soon as they are landed."<sup>204</sup> The ambiguous nature of the clause is made clear here, and Walker argues that without explicit allusion to intention or indication that the illegality occurs after a certain point, it cannot be confirmed that Slaughter violated the law. By having the trader be the subject of his argument in this instance, Walker emphasized the lack of specificity and intention of the prohibitory clause. Walker then contended that the clause was clearly deliberately trying to stunt the population of African Americans in the state, but fell short of communicating this through the phrasing of the clause. Walker then showed how this intention could be overshadowed by the inexplicit language. From Walker's argument: "Now the inter-state slave trade, as carried on by traders in slaves [as] merchandise, was the thing designed to be prohibited. And yet this very prohibited traffic, by a verbal criticism on the words, overlooking the object of the constitution, is in fact encouraged, if

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<sup>203</sup> Arguments, 33.

<sup>204</sup> Ibid.

the trader may sell the slaves introduced as merchandise.”<sup>205</sup> Aside from his duty to the defendant, Walker’s argument here can be read as an awareness of the political and social atmosphere of southern Mississippi.

There is a distinction made in the case between those who disagree in the value of slavery. While the question of slavery within state borders is settled and accepted, the prohibition of the trade impedes upon this right of the state.<sup>206</sup> The counsel for the defendant argues that this prohibition also is in opposition to the United States Constitution in their interpretation of the powers of regulation. The counsel for the defendant argues that “Regulation implies continued existence—life, not death; preservation not annihilation.”<sup>207</sup> For them, the right of Congress to regulate trade between states is guaranteed, and the denial of introduction of enslaved persons is in interference with this, and when they are within the state, they are subject to state laws. Henry Clay’s argument here also makes it clear that these provisions may not benefit all states equally, as slaveholding states may hold these as more important than nonslaveholding states.<sup>208</sup>

#### 4.3 Groves, Slavery, and Indigenous Citizenship

The decision of the states to decide the citizenship of the constituents in their state is also brought up in the Walker’s arguments. Just as in the case of the Choctaw citizenship provision in the 1832 state constitution of Mississippi, the language in *Groves* also mattered for granting citizenship or delineating residence. Nonexistent in the

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<sup>205</sup> *Ibid.*, 34.

<sup>206</sup> *Groves* 488.

<sup>207</sup> *Ibid.* 489.

<sup>208</sup> *Ibid.*

prohibition and vague in the interpretation of the importation prohibition, the question of the dual status of enslaved people is implicitly mentioned in the intent of the provision. The provision prohibits the importation of people into the state as “merchandize,” but does not mention any other status that they might find themselves in. Walker’s earlier argument shows how the prohibition is also a means of social control for an African-American population, implying that their status as “merchandize” is highly mutable. Just as in the inclusion of Choctaws and Chickasaws in the polity of the state of Mississippi diminished their national sovereignty by counting them as resident citizens, the prohibition clause delineated the African-American population as potential residents, if not citizens. The question of potential African-American citizenship was addressed by Walker as he recounted the debates surrounding the exclusionary power of Missouri as it was nearing statehood in 1820.<sup>209</sup> Walker pointed out that in the Missouri constitution it is stipulated that the prohibition of enslaved persons as articles of commerce or merchandise was prohibited, and this was in accordance with the constitution, but the attempted ban on free people of color was not.<sup>210</sup> This ban was deemed unconstitutional under the reciprocal rights of citizens in any of the states that they reside; if free African Americans were to settle in Missouri, they shall achieve citizenship if they were already citizens of another state.<sup>211</sup> Similarly, an 1822 law was passed in Mississippi that attempted to sustain the condition of slavery between the states by honoring those who had been slaves for life in other states retained their enslaved designation.<sup>212</sup> The state legislature in Missouri had the power to bring forth a provision aimed at curbing free

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<sup>209</sup> Arguments, 148-9.

<sup>210</sup> Arguments, 148.

<sup>211</sup> Ibid.

<sup>212</sup> *Groves*, 453.

African American settlement, and while Mississippi's provision is only aimed at those introduced into the state for sale, the mutable nature of their citizenship designation is taken into account.

If the intent of the state of Mississippi was to deter African American population growth within the borders of the state, it did so to stop the protections that citizenship guaranteed across all of the states.<sup>213</sup> Although the Mississippi provision stated that the target of the prohibition were enslaved African Americans, their application of the law could extend beyond those who were enslaved. In the case of indigenous people, the granting of citizenship was not intended to grant citizenship long term, as the Choctaw were expected to voluntarily remove themselves to lands west of the Mississippi river.<sup>214</sup> Recognition of tribal sovereignty and the subsequent legal erasure of sovereignty acted in tandem with the ban on the importation of enslaved African Americans to bolster the state of Mississippi, if not the entire United States as a "white man's republic." With the supreme authority over slavery and Native American citizenship resting with the states, the *Groves* case and the admission of Choctaws and Chickasaws into the category of citizen can be interpreted as methods of empire building by state officials.

The debates surrounding who could be awarded citizenship also reflects the nature of the slave trade to the region during this period. Walker's argument points to several instances of citizenship granted to African Americans by several states, and the problem of the continuation of this designation between the states. If the prevention of a free and possibly dissident African American population was the intention of the ban,

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<sup>213</sup> Rosen, 156.

<sup>214</sup> Rosen, 157.



then this means that the designation This means that the interstate slave trade was taking people that were in the United States, and not people coming from the coasts of Africa, which was formally stopped in 1808 but continued only as a small percentage of its original state.

#### 4.4 Implications of *Groves*

The disparate opinions of the justices reflect the contradictory ways that slavery was viewed in this region. Justice Baldwin's comments that enslaved persons were merely transported as articles of commerce and that social control should not be a consideration showed his belief in the chattel principle. Chief Justice Taney's opinion lacks any consideration of the social implications that this decision may have. Instead, Taney reduces the argument to slave trading as commerce and constitutional law. His interpretation of this issue as purely a legal matter can be read as an acknowledgement that slaveholding was a quotidian practice. The arguments for the defendant rest on the ambiguity of the Mississippi provision and to whom the law targeted. Walker also adds additional context to the social and demographic changes in the region. These varied responses to the issues presented in the *Groves* case reveal the effects of the capitalist system in the commodification of people and the slave trade that bolstered this commodification.

*Groves v. Slaughter* was a landmark case which represented the development of the United States into a slave society, rather than a society with slaves.<sup>215</sup> This case essentially argued if the nation could be a slaveholding society without slave trading.

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<sup>215</sup> Ira Berlin, *Many Thousands Gone: The First Two Centuries of Slavery in North America* (Cambridge, Mass: Harvard University Press, 1998), 325.

The arguments presented by either side implicitly defined the nation as binary black and white by their omission of Native Americans. The issues in the *Groves* case can then be seen as the realization of forces which earlier sought to create a white slaveholding empire in the Lower South based on African American slavery. It is then that the connection between federal treaties and the interstate slave trade can be seen as two forms of conquest with one goal.

## CHAPTER FIVE: CONCLUSION

Over the course of the first four decades of the nineteenth century, the lower Mississippi Valley was transformed from the domain of the Choctaw, Chickasaw, and Natchez to the home of wealthy slave owners and African Americans who worked to produce cotton for textile mills in Great Britain. Forests of tall pines interspersed with grassy fields disappeared, now the distinctive feature on the landscape were the rows of cotton, planted so closely that they appeared to be a white lake on the horizon. The processes that remade this region into plantation zones dedicated to a single crop were covered in this thesis. By tracing the political development of the state of Mississippi and the United States this thesis has shown how essential domination was to this process. In this context, state development is synonymous with Native American removal, the extension of slavery, and the forced separation of families, making these people into “hands” to measure productivity and their value. The cultural erasure and violence perpetrated against African Americans were state-sanctioned and encouraged, all at the highest levels of government.

The themes of imperialism, violence, and economic gain are expressed through the conquest of space over time. By centering Choctaw removal and African American slavery in the larger context of American imperialism, this thesis has shown that the during this period, state development was made possible through violence and coercion. Economic motivations combined with ethnocentrism proved to be essential to the character of this region. Since this space was built upon the synthesis of white supremacist ideology and violent capitalistic tendencies, hegemony had to be continually reinforced if it was challenged. Hegemony was reinforced through privileging the United

States as the only valid polity in the region, ensuring that African Americans and Choctaw residents were not guaranteed rights and privileges of citizens. The legal apparatus which guaranteed that this system would remain in place is then a function of the American imperial state. This thesis utilized variants of Marxist theory to study the myriad ways in which the domestic slave trade expanded through legal conquest.

Movement and displacement characterized the first four decades of the nineteenth century, as the Choctaw were pushed west out of their homelands (and out of the American consciousness) and into “Indian Territory.” Anglo-Americans and African Americans moved south and west, occupying a central place on what was the periphery of the new nation, in the service of the cotton crop. This displacement was facilitated ideologically, politically, and legally, by the federal government, and the state government of Mississippi. By analyzing the language of treaties, laws, and correspondence between government officials, this thesis has shown how this space was remade in the image of American aspirations. Jefferson’s Yeoman Republic was made through the Choctaw land cessions, effectively turning this space into a white domain. Territoriality is not synonymous with statehood, however, as the solidification of the Mississippi Territory into a white domain had to be continually reinforced. Similarly, this thesis argued that the treaties between the Choctaw Nation and the United States served as the evidence of American imperialism, decades before the Monroe Doctrine. These documents reflected desire to make an Anglo-American space and the justification of territorial expansion.

By analyzing the treaties and legislation aimed at curbing importations of an enslaved population, this thesis argued that the slave regime was made possible through

political and legal action. The ideas conveyed in correspondence and the language of treaties make it clear that this space needed to be created through politico-legal mechanisms. After Mississippi achieved statehood their state constitution delineated who counted as a citizen and who did not, effecting the rights and privileges of the Choctaw who remained. Resistance to the dismantlement of the Choctaw polity is evident through the official records, as mingoes battled to retain their land. The power of the state was evident in this context, as it eventually determined who was a citizen, effectively ending Choctaw challenges to American power. State power to determine the internal affairs was clearly displayed, but not the infringement on the rights of other states.

This thesis uses the *Groves* case as a text that served as a reflection of the contemporary understanding of Mississippi as an Anglo-American space. This does not mean, however, that it was exclusively populated by Anglo-Americans, but rather it was characterized by their social and economic domination in the region. Ensuring that the African American population of Mississippi was regulated is an expression of this conception and serves my contention of the maintenance of hegemony. More than a study of slavery, this thesis analyzed slave trading systems, as the movement of people in the service of cotton production is an example of the totality of the slave regime. This thesis is then not a study about the political economy of plantation slavery, but how the political economy of the slave regime in western Mississippi influenced the domestic trade in the region.

*Groves v. Slaughter* challenged the efficacy of the state, and its control over interstate commerce in enslaved African Americans. Thus, the same hegemonic forces that were responsible for Choctaw removal were also determining the nature of the

domestic slave trade to Mississippi. Legal challenges to state sovereignty reflect the importance of the interstate slave trade to the region. The decision that the enforcement of the ban must be present in the language of the law is not as important as the social implications of the case. The arguments for either side in the case reveal the contemporary discourse surrounding the interstate trade. By treating Choctaw removal and the development of the domestic slave trade as one phenomenon in the nineteenth-century slave regime, this thesis has documented this process of incorporating Mississippi into the larger burgeoning world economy.

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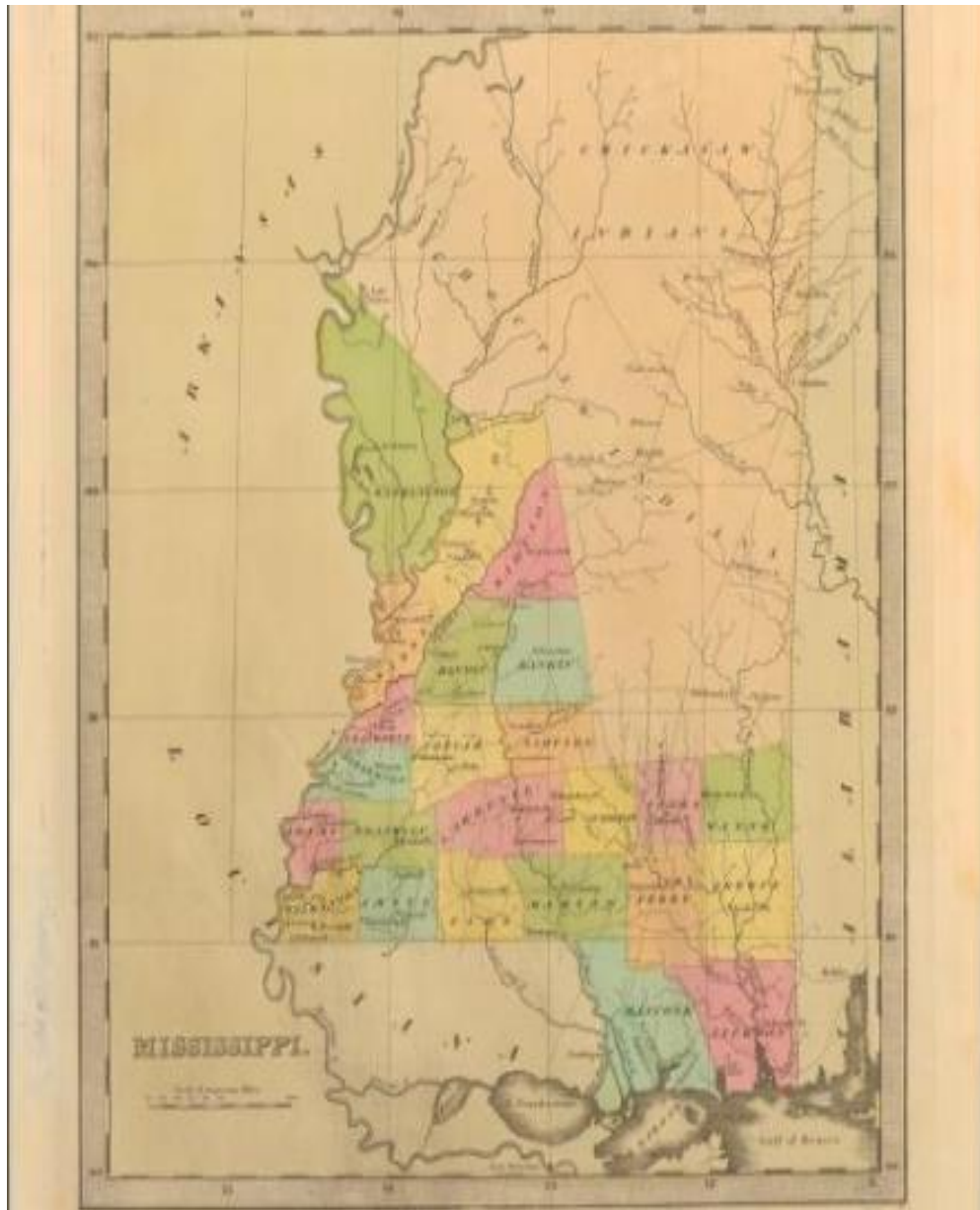
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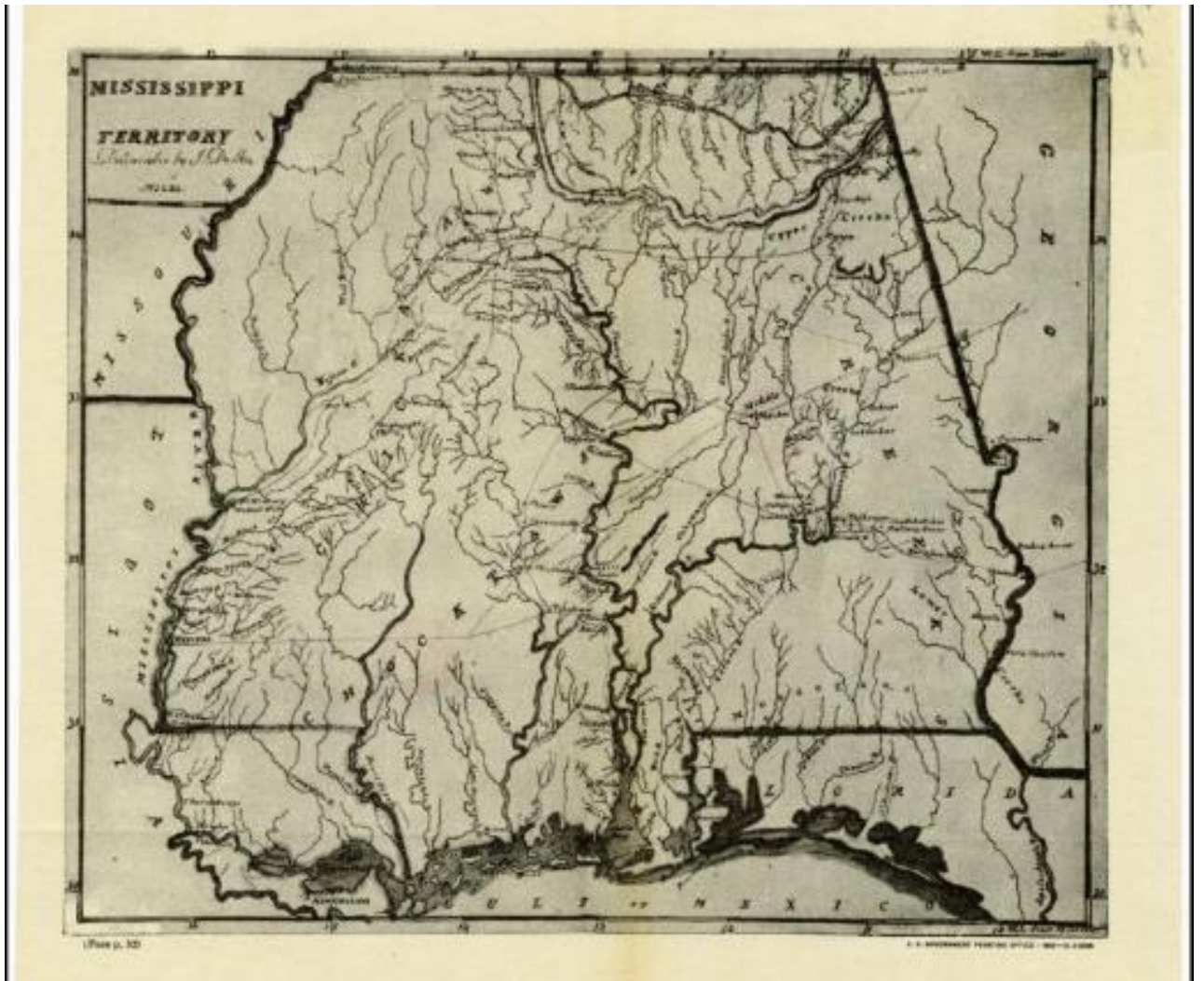
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## APPENDIX

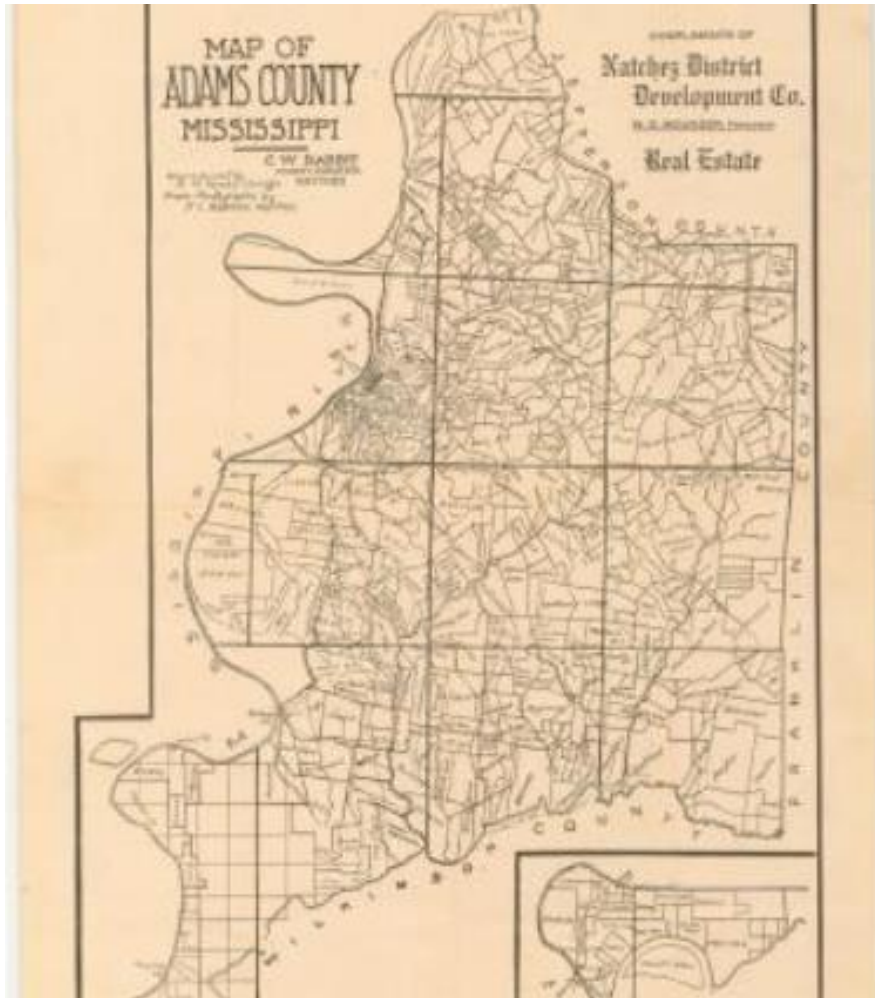
### A. MAPS



Map 1: Mississippi [map] 1835. The large formless northern portions of the map refer to Choctaw and Chickasaw lands in contrast to the settled Anglo-American counties. "Mississippi Department of Archives and History-Historical Maps" <[www.mdah.ms.gov/arrec/digital\\_archives/series/maps/detail/191204](http://www.mdah.ms.gov/arrec/digital_archives/series/maps/detail/191204)> (13 May 2018)



Map 2: Mississippi Territory 1805. John Dutton. "Mississippi Department of Archives and History-Historical Maps" <  
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Map 3: Map of Adams County, Mississippi. 1890. C.W. Babbit. The western boundary of the county is delineated by the Mississippi River. "Mississippi Department of Archives and History-Historical Maps." <  
[http://www.mdah.ms.gov/arrec/digital\\_archives/series/maps/detail/191324](http://www.mdah.ms.gov/arrec/digital_archives/series/maps/detail/191324)>