

UNIVERSITY OF CALIFORNIA, IRVINE

Commodification, Slavery, Credit and the Law in the Lower Mississippi River Valley, 1780-1830

DISSERTATION

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DOCTOR OF PHILOSOPHY

In History

By

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Curriculum Vitae

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Conferences

"Atlantic Merchants and Legal Pluralism in the Creation of the Lower Mississippi Valley, 1790-1820," Law in the History of Capitalism, American Bar Foundation and the University of Chicago, June, 2016

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ABSTRACT

Commodification, Slavery, Credit and the Law in the Lower Mississippi River Valley, 1780-1830

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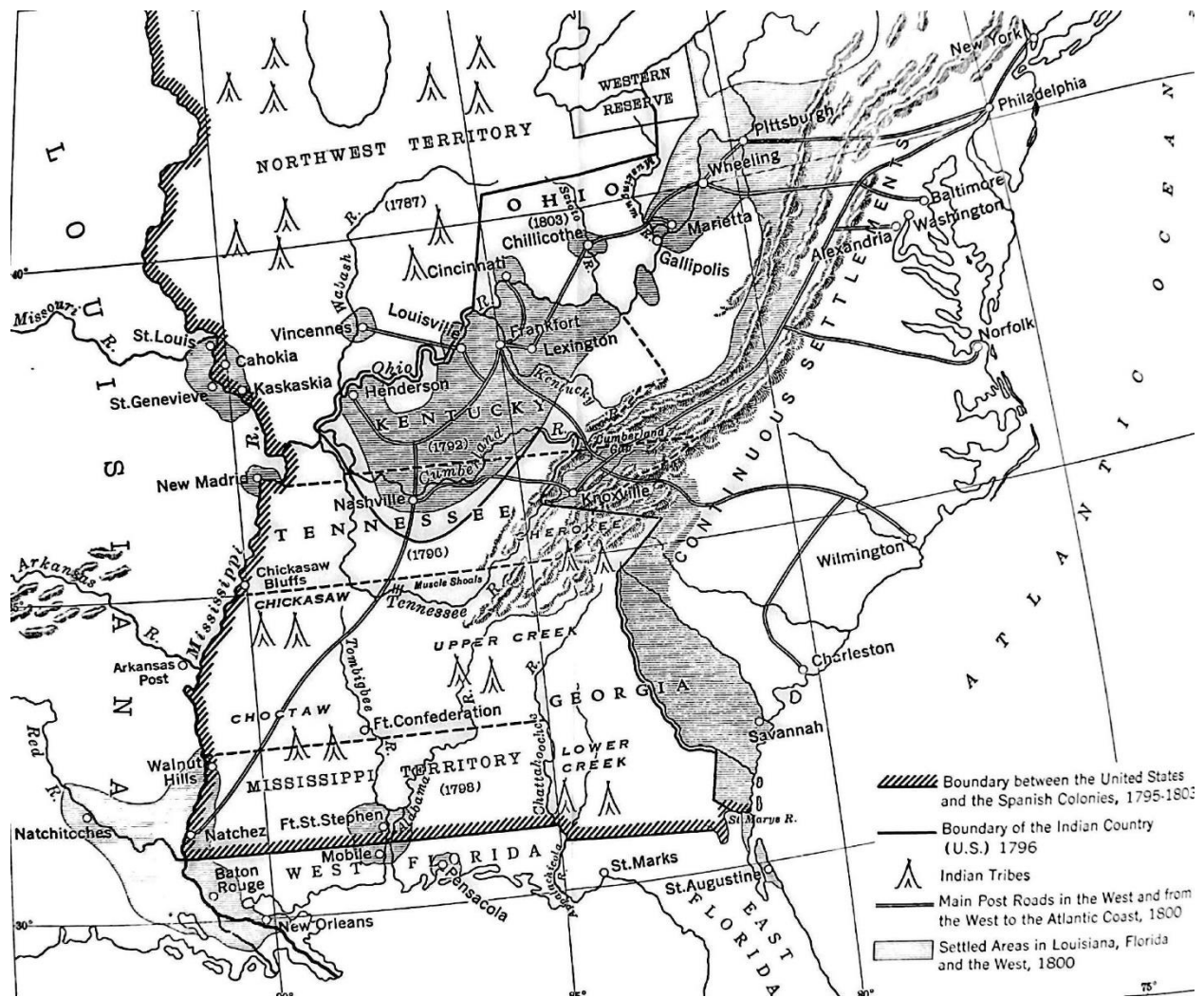
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This dissertation argues multiple processes in the Delta during the early to mid-nineteenth-century were significantly influenced by the local, national, and international community of merchants and contributed to its early integration into European markets. My central argument is that between the 1790s and 1820s the increased flow of Anglo-American credit and capital created legal issues centered on liability that in turn, made the Delta more open to foreign influence and capital, primarily metropolitan centers in Great Britain and the eastern coasts of the United States. Commercial and legal interests merged throughout the courtrooms of the early republic, and sparked a need to rid the Delta of older Spanish laws and customs. Older routines linked mercantile networks and kept frontier merchants within a tie web of obligation to distant Anglo creditors. "Insider" lending was strengthened, both locally and over great distances, obviating many of the Jeffersonian ideals that aimed for the proliferation of small farms, at least along the prime lands of the Mississippi River.

Mercantile custom and state laws concerning trade and insolvency, were used in the service of commercial republicanism, privileged Anglo-American merchants. In this context, the redeployment of slave labor in the creation of new productive spaces augmented and inflated property prices. The turn was affected by frequent experiences of economic downturns and war but also by legal struggle over issues of credit between groups that saw Americanization in different cultural and economic terms.



Map 1. Source: Arthur Preston Whitaker, *The Mississippi Question, 1795-1803: A Study of Trade, Politics, and Diplomacy* (New York: The American Historical Association, 1962).

Introduction

Cotton's Development, the Second Wave of Slavery and the Transnational Context of Credit and Debt in the Lower Mississippi Valley's Plantation Enclaves

To probe the domestic as aspects of 'comparative politics' and examine the foreign as dimensions of 'international politics' is more than arbitrary: it is downright erroneous. Domestic and foreign affairs have always formed a seamless web.
--James N. Rosenau¹

This dissertation is a study of the conflicts surrounding the provision of credit, the collection of debts that included slave seizures, and the particular ways these conflicts shaped the Lower Mississippi Valley. It approaches these contests from the perspective of the regions' earliest enclaves—the Natchez District in Mississippi and Orleans Parish in Louisiana—which during the early nineteenth-century were isolated outposts caught up in broader geo-political and economic transitions. The intrusion of European legal and economic norms occurred in a volatile geopolitical context. Dangerously competitive, the ambitions of major European empires fundamentally shaped the choices and policies which enabled local inhabitants to mobilize their resources in the creation of ever-larger, slave-based plantations—enterprises which would eventually meet the world's gargantuan appetite for raw cotton. From this geographical vantage point I study the Delta as a transnational and trans-imperial space, where the schisms between more established legal centers and the legal periphery occurred, then I

¹ James N. Rosenau, *Along the Domestic-Foreign Frontier, Exploring governance in a turbulent world*, (Cambridge, 1997).

turn to the practices of rural merchants as creditors in their engagement with local courts and in their disputes with their cotton producing colleagues and neighbors.

I ask the reader to consider these groups and their engagement with credit from the perspective of its earliest county courts—beginning with the appellate courts to the lowest level judicial forum—and break with several assumptions concerning the role of law in credit relations. First, that there exists many subtle ways in which the ‘rule of law’—codified and legislated—coexisted with unofficial law or custom. For example, merchants’ use of the term ‘customs of merchants’ referenced formal rules within a wider legal landscape that included repetitive, informal, and loosely-governed activities or behaviors.² In this sense, the application of formal legislation such as the British Debt Recovery Act of 1732 (a British Parliamentary enactment discussed later in more detail) was not explicitly or wholly adopted by the Delta’s legislative or legal bodies, though custom made the Act a decisive factor in regions that shifted to commodity production for the wider international market.³ Its regulative character was not visible and it did not itself command or proscribe an action as it was originally intended to regulate British planters in the eighteenth-century Caribbean islands.⁴ What did occur was what Lauren Benton has identified as the creation of legal and

² Lauren Benton, “Beyond Legal Pluralism: Towards a New Approach to Law in the Informal Sector,” *Social & Legal Studies* 3 (1994), 224.

³ The Act for the More Easy Recovery of Debts in His Majesty’s Plantations colonies in America (The Debt Recovery Act), 1732 (London: John Baskett, 1732).

⁴ Lauren Benton, “Empires of Exception: History, Law, and the Problem of Imperial Sovereignty,” *La sovranità nell’epoca della politica globale* 7:11 (January, 2008), 60-61. Benton goes further, adding that the normative/legal “context of the ‘rule of law’ and rules about rule” especially in imperial constitutions often exist in the familiar form of overlapping discourses rather than doctrines.

economic spaces that stretched across artificial boundaries. These were spaces 'filled-in,' so to speak, via peoples' standard norms that allowed the principles behind The Debt Act to continue to "reproduce" themselves over terrain.⁵ Second, such a process 'set-the-table' for expansion: the continual re-making of both routine and custom provided as much a basis for the creation of cross-regional economies as formal market exchange.⁶ In the parlance of today's literature, everyday practices that were perceived to be legal fell under the category of *legalities* which defined exchange as much, if not more than legislative enactments.⁷

The growing influx and the variety of newcomers with much at stake transformed the southern frontier between the 1750s and the Revolutionary War. To Indians and whites who had lived there longer and to government officials who also hoped to restore the precarious equilibrium of the deerskin trades, and later, cattle trade, such a mixture of people motivated by ambition or desperation and by often conflicting goals was a recipe for disaster.⁸ "Threats to progress" included the regional wars with the Cherokee and Creek Indians, who regarded whites as intruders. Slaves were often taken captive by Indian raiding parties, adding to the list of white settlers' grievances.⁹ And, while the United States' 'restless population' pressed

⁵ Benton, "Beyond Legal Pluralism."

⁶ Historian Joyce E. Chaplin has in common with Benton the idea of cross-societal events and shared histories with other societies in order to combat the tendencies historians have toward American exceptionalism. Joyce E. Chaplin, "Expansion and Exceptionalism in Early American History," *The Journal of American History*, (March, 2003): 1431- 1455.

⁷ Benton, "Beyond Legal Pluralism."

⁸ Daniel H. Usner, Jr., *Settlers and Slaves in a Frontier Exchange Economy*, (Chapel Hill: University of Alabama Press, 1992); Daniel H. Usner, Jr., "American Indians on the Cotton Frontier: Changing Economic Relations with Citizens and Slaves in the Mississippi Territory," *The Journal of American History* 72:2 (September, 1985); J. Russel Snapp, *John Stuart and the Struggle for Empire on the Southern Frontier* (Baton Rouge: Louisiana State University Press, 1996), 33.

⁹ Adam Rothman, *Slave Country: American Expansion and the Origins of the Deep South*, (Cambridge: Harvard University Press, 2005), 13.

toward Spanish Louisiana, a volatile international context meant that the Lower Mississippi Valley would remain at the center of multiple processes long after American Independence.¹⁰

Imperial officials consistently made and broke alliances with Indian allies in order to defend against encroachments by European enemies. Spanish Governor Baron de Carondelet in the 1790s, enlisted the aid of Choctaw, Chickasaw, Creek, and Cherokee nations when fearful of American aggression. According to the Governor, native tribes were ready “to make the most destructive war on them [Americans] whenever incited by presents and arms.”¹¹ At the same time, American General James Wilkinson paid agents to encourage “separatist tendencies.”¹² Following the outbreak of the American Revolution, an expedition under Captain James Willing landed at an undefended Natchez, raised the American flag over the fort, and agitated the population.¹³ More severe than “Willing’s Raid,” were the random outbursts of violence that flared-up at regular intervals as well.¹⁴ By the 1790s Carondelet, governor of Louisiana, continued his intrigues, believing that he was acting in the national interest, risked war in the region when he instigated numerous Choctaw, American, and Spanish incursions.¹⁵

¹⁰ Ralph Lee Woodward, “Spanish Commercial Policy in Louisiana, 1763-1803,” *The Journal of the Louisiana Historical Association* 44:2 (Spring, 2003).

¹¹ Snapp, *ibid.*

¹² *Ibid.*

¹³ Jack D. Elliott, Jr., “The Fort of Natchez and the Colonial Origins of Mississippi,” *The Journal of Mississippi* 52:3 (August, 1990): 159-197.

¹⁴ In 1787, for example, a gang of outlaws had a shootout at what was known as the Armstrong residence. William C. Davis, *A Way Through the Wilderness: the Natchez Trace and the Civilization of the Southern Frontier* (New York: Harper Collins, 1995), 259-260. The Natchez Massacre on November 29, 1729, was an attack by native people on French settlements in the Natchez area. See, Jack D. Elliott, Jr., “The Fort of Natchez and the Colonial Origins of Mississippi,” *The Journal of Mississippi History* 52: 3 (August, 1990): 159-197.

¹⁵ Lawrence and Lucia B. Kinnaid, “Nogales: Strategic Post on the Spanish Frontier,” *The Journal of Mississippi History*, 62:1 (February, 1980): 1- 16.

A dangerous geo-political landscape intertwined violence, slavery and trade. Economic exchange occurred in the Delta's early frontier economy in cooperation with Indian tribes but a rapid decline occurred by the mid-eighteenth-century.¹⁶ Early merchants who ran a business in the Indian trade do so as one means of profiting from general frontier developments. But the influx of Anglo-Americans, especially of British merchants in the 1760s, escalated frontier violence, inadvertently undermining the previously stable balance in trade between Indians and whites.¹⁷ One group which more directly destabilized Indian-white relations were not the merchants who supplied unprecedented amounts of trade goods but newcomers who had little or no interest in maintaining peaceful Indian relations. According to one British agent among the Creeks, these latter traders were "excepting a very few...composed of deserters, horse thieves, half breeds and Negroes"—the agent's fundamental racial bias reflected the notion countervailing forces threatened to undermine slavery and empire. In fact, the abuses by such "traders" were blamed for contributing for the uprisings that became the Cherokee War in the early 1760s. In spite of these problems, trade with Indian tribes was coming to a close in the wake of increased cotton and sugar production. By 1771, a British official described the trade

¹⁶ Russel Snapp, "John Stuart and the Struggle for Empire on the Southern Frontier (Baton Rouge: Louisiana State University Press, 1996), 34-35; Patricia Galloway, "Four Ages of Alibamon Mingo, 1700-1766," *The Journal of Mississippi History* 65:4 (Winter, 2003): 321-342. Greg O'Brien, "Protecting Trade Through War: Choctaw Elites and British Occupation of the Floridas," eds. Martin Dauton and Rick Halpern in *Empire and Others: British Encounters with Indigenous Peoples, 1600-1850* (Philadelphia: University of Pennsylvania Press, 1999).

¹⁷ Accounts of European merchants as early community leaders and militia members in this period of violence are instructive in this regard. See, Marika Pineda, "Preserving Good Order: John Girault of Natchez, Mississippi, 1783-1813," *The Journal of Mississippi History* 69 (Summer, 2007): 167-182; Snapp, "John Stuart."

with Indians as suffering from low prices, and British merchant Charles Strachan concluded that the Spanish trade was “the only trade I have any opinion of here.”¹⁸

Importantly, the concentration of violence in the 1760s was not restricted to Indian-white relations, but included deadly exhibitions of power by French planters against the numerous Creole and African slaves. France’s sudden cession of Louisiana to Spain weakened the foundations of power in the former colony’s legal authority; administrators and planters feared a loss of power and directed an eager, demagogic prosecutor to come down hard on any and all suspects. The Conseil Supérieur (Superior Council) in New Orleans decreed in 1763 that the provincial public prosecutor was to attack supposedly widespread disorder, especially runaway slaves, who were to be rounded up, branded, tortured or executed. New slaves had not arrived in large numbers for at least a generation or two and the existing creole society was stable. But, as historian Thomas N. Ingersoll explains, a sense of ‘abandonment’ permeated French planter society. Lacking the procedural protections of English law, operating under the norm that order was to be imposed through a top-down method that came from Crown agents, and in the absence of British ideals of consensus, the geopolitical shift in Europe had a disruptive effect on a remote society. Insecure French planters unleashed ferocious police power to convince everyone that their king’s departure did not diminish the planter’s authority.¹⁹

Given the day-to-day violence between groups of varying imperial and native loyalties and the hostile geopolitical atmosphere that pitted empires against each other long after

¹⁸ Snapp, “John Stuart,” 23.

¹⁹ Thomas N. Ingersoll, “The Law and Order Campaign in New Orleans, 1763-1765,” eds., Sally E. Hadden and Patritica Hagler Minter in *Signposts: New Directions in Southern Legal History* (Athens: University of Georgia Press, 2013).

American independence, the circumstances in which an Atlantic cotton economy were created had complex, and long-lasting legal effects.²⁰ New Orleans had become the geographic anchor for a web of economic activities sponsored first by France, Spain, and later Britain and the United States. Holding a variety of national origins and allegiances, merchants, especially, were an internally divided community. By the time of the regional cotton boom that began in the 1820s, New Orleans had for quite a while assumed a complex multinational character that it would retain for the duration of the antebellum era.²¹ In the countryside, in places such as the Natchez District, Northeastern and British settlers with strong ties to metropolitan cities created, as early as the 1770s, important nodes in a wider informational web. Individuals such as Garret Raplje, a prosperous New York merchant with connections in the colonial government of British West Florida, received 25,000 acres which he settled with fellow New Yorkers, and received a shipload of slaves from Guinea.²² By the end of the eighteenth-century, communities

²⁰ Violence was not restricted to Indian-Anglo-Spanish relations, but included deadly exhibitions of power by French planters against the numerous creole and African slaves in the area. The French Conseil Supérieur (Superior Council) in New Orleans decreed in 1763 that the provincial public prosecutor was to attack supposedly widespread disorder targeting African slaves who were to be rounded up, branded or executed. New slaves had not arrived and historian Thomas N. Ingersoll attributes the episode to the abrupt pull-back by the French Crown in the region, leaving a kind of power vacuum. Thomas N. Ingersoll, "The Law and Order Campaign in New Orleans, 1763-1765," eds., Sally E. Hadden and Patricia Hagler Minter in *Signposts: New Directions in Southern Legal History* (Athens: University of Georgia Press, 2003).

²¹ Scott P. Marler, "Merchants and the Political Economy of Nineteenth-Century Louisiana: New Orleans and Its Hinterlands," (Ph.D. dissertation, Rice University, 2007).

²² An arpent was approximately the same size as an acre. One arpent is about 85 percent of an acre, equal to .84628 of an acre. Before levees were built, there were frequent overflows on the Mississippi River side; the land bordering the river or swamp was known as "arpents de face" or arpents front. An arpent front was the width of one arpent upon the water, extending back 40 arpents in depth. A planation of "twenty arpents front" would thus have a gross area of 800 arpents, or 680 acres. A planation advertised in 1819 was "situate 21 leagues above New Orleans measuring 101 arpents front on the usual depth, opening about seven degrees." *Louisiana Courier*, advertisement, March 29, 1819. The Spanish division of land was 6 to 8 arpents on the river by 40 arpents deep. In Spanish transcripts, a note on a translation by John Girault of the testimony of Juan Ventura Moral in *Ramsey v. Forman* (1810) described it this way: it was equal to one and sixty-nine and one-fourth hundreds of an acre.

in New Orleans, Manchac, Natchez and areas further North such as the settlements between the Big Black and Yazoo rivers—Warren County—were made up of American citizens and subjects from European and the Eastern United States, and “could not have been oblivious to the ways and means of life elsewhere.”²³

During the Age of Revolutions (1770s -1820s), the political map of the Atlantic, as well as its commercial and legal cultures, underwent decisive transformations. New countries emerged where there had previously existed colonies, and European leaders viewed inter-imperial trade in more favorable terms. Slavery was increasingly questioned, so that by the 1820s several empires and emerging republics had taken steps toward its abolition. And yet, while these dramatic shifts emboldened citizens and sharpened a sense of what was possible, creating many visionary projects throughout the Atlantic’s trans-imperial economy, they also reveal, in sharp contrast, the many ways a post-mercantilist logic that sought the re-entrenchment and re-deployment of ever-increasing numbers of slaves— ratcheted-up an appetite for

Register of the District of Natchez in 1792 by Gayoso de Lemos, April 1792 in William Baskerville Hamilton, “American Beginnings in the Old Southwest: The Mississippi Phase” (Ph.D. Diss., Duke University, 1938), 22.

Spanish land grants, during the interim period between 1779 and 1783 were smaller than British grants. Its immigration policy had been liberalized between 1788 and 1789 so that only those who came with the intention to cultivate the soil were admitted. Those who brought with them four to ten African slaves received four hundred arpents of land; ten to fifteen slaves were given six hundred arpents; over fifteen slaves were given eight hundred arpents. Others could obtain grants of varying size based upon the proportion of capital or the financial ability with which to buy more lands.

By 1792, “three years prior to the Treaty of San Lorenzo, the Spanish had granted 231,533 arpents of land in the Natchez District alone to a population whose total was 4,690. The total white population of all ages was 1,491. About sixty-five persons owned one thousand or more arpents, and one held 10,000.” Clinton N. Howard, *The British Development of West Florida, 1763-1769* (Los Angeles: University of California Press, 1947); Hamilton, “American Beginnings,” 114-115; John Hebron Moore, *The Emergence of the Cotton Kingdom in the Old Southwest: Mississippi 1770-1860* (Baton Rouge: Louisiana State University Press, 1988), 6-8.

²³ Christopher Morris, *Becoming Southern: The Evolution of a Way of Life, Warren County and Vicksburg, Mississippi, 1770-1860*, (Oxford Press, 1995).

accumulation and sped-up the ecological expansion of commodities such as sugar, cotton and coffee.²⁴ The changes in the Atlantic economy during the first half of the nineteenth-century reshaped the conditions of production in peripheries such as the Lower Mississippi Valley. The relationship between European monarchs and their colonial satellites changed between 1780 and 1815 in favor of groups able to take direct control over the flow of commodities.²⁵ Under the former mercantilist point of view, colonies were the exclusive zones of productions for their home countries, furnishing them exclusively with agricultural products and precious metals, isolating colonial producers from direct competition with other New World centers by restricting colonial purchasing power to the products of their respective European monarchies which had exercised political and economic control over them. Mercantilist policies slowed down production and commerce, while post-colonial markets aggressively stimulated production. The greatest recipient of these changes was Great Britain. With the collapse of France and its colonial empire after 1815, a process of reintegration began; British capital widened and sustained agricultural and industrial development both at home and abroad. The break-away from direct political domination by a distant home country allowed post-colonial centers of production, and Anglo-American and Creole merchant-planters to take the reins of cotton, coffee, and sugar production, and by doing so, fueling new patterns in the consumption

²⁴ Dale Tomich and Michael Zeuske, "Introduction, the Second Slavery: Mass Slavery, World-Economy, and Comparative Microhistories," *Review Fernand Braudel Center*, 31:2 (2008): 91-100; James W. Moore, "Sugar and the Expansion of the Early Modern World-Economy: Commodity Frontiers, Ecological Transformation, and Industrialization," *Fernand Braudel Center* 23:3 (2000): 409-433. See especially Ada Ferrer, *Cuba and Haiti in the Age of Revolution* (New York: Cambridge University Press, 2014).

²⁵ The literature is vast, but the importance of reintegration in the context of a 'second slavery' is also well-analyzed in Dale W. Tomich, *Through the Prism of Slavery: Labor, Capital, and World Economy*, (New York: Rowman & Littlefield, 2004); Moore, "Sugar."

of these articles. The most dramatic shift was the size and scope of redistribution, from credit networks, to maritime technologies that eventually included the steam-boat, to the diminution, by degrees of the philosophical basis of slavery, what some historians have conceived of as the abandonment of paternalism.²⁶ A double-movement took place during this period that according to historian Laurent Dubois, “involved both the demolition of oppressive political hierarchies and the creation of new forms of political exclusion.”²⁷

My central argument is that between the 1790s and 1820s the increased flow of Anglo-American credit into the region raised the political and economic stakes of legal conflicts, which favored outside investors and creditors. These legal struggles strengthened what some historians have termed “insider lending”—a pattern of lending based exclusively on kinship ties or the private affiliations existing between principal stockholders—and its associated routines.²⁸ But “insider” investment was not restricted geographically. Economic actors in the Delta in fact relied on institutional regularities *between* empires (which in some cases resulted in gradual, and incremental shifts to Anglo-American laws), in the creation of a distinct and highly capitalized region.²⁹ Without discarding the idea that confusion over the multiplicity of

²⁶ The issue of master-slave paternalism has a long history in the debates between historians. Here, I agree with historians Fogel and Stanley Engerman who write, “paternalism is not intrinsically antagonistic to capitalist enterprise. Nor is it necessarily a barrier to profit maximization...patriarchal commitments may actually raise profits by inducing labor to be more efficient than it would have been under a less benevolent management.”. Robert Fogel and Stanley L. Engerman, *Time on the Cross: The Economics of American Negro Slavery*, (New York: W.W. Norton & Company, 1995), 73.

²⁷ Laurent Dubois, *Revolution & Slavery Emancipation in the French Caribbean, 1787-1804* (Chapel Hill: University of North Carolina Press, 2004), 7-8.

²⁸ Naomi Lamoreaux, *Insider Lending: Banks, Personal Connections, and Economic Development in Industrial New England*, (Cambridge: Cambridge University Press, 1996).

²⁹ Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (New York: Cambridge University Press, 2002), 32-79.

influences in law existed, the emphasis on legal uncertainty or American governmental or cultural weakness distorts the fact that particular groups and practices could and did flourish; these individuals collectively ‘carried’ certain aspects of law with them, taking advantage of the area’s semi-autonomy in what Ann Stoler refers to as a space or “zone of ambiguity.”³⁰

The contention that fluid borders enabled the flow of people and ideas is not new. Neither is the view that empires actively worked on multiple projects of informal and formal rule. In such contexts, legal conflicts of all kinds recombined notions of property rights and changed the ways people talked about and carried-out relationships built almost exclusively on credit in peripheral areas.³¹ Much like with the consequences of technological improvements—think of steamboats, cotton presses or the evolving proto-factory of sugar production—disputes involving credit and debt required participants to reconsider routines over long-distances. Those reconsiderations were symptomatic of the shift from mercantilism to post-mercantilist markets. The common law as shaped in the eighteenth-century did not adequately meet the demands of early industrialists and commercial men, and an important shift occurred throughout early American courts as

³⁰ Benton, *Law and Colonial Cultures*, 4-5; Benton, *A Search for Sovereignty, Law and Geography in European Empires, 1400-1900* (Cambridge University Press, 2010), 6-8; Ann Laura Stoler, “Rethinking Colonial Categories: European Communities and the Boundaries of Rule,” *Comparative Studies in Society and History*, 31: 1 (January, 1989): 134-161; The literature contextualizing British and American governmental weakness in contrast to Spanish strength includes Eliga H. Gould, “Entangled Histories, Entangled Worlds: The English-Speaking Atlantic as a Spanish Periphery,” *The American Historical Review*, 112: 3 (June 2007): 764-786 and Anthony Pagden, *Lords of All the World: Ideologies of Empire in Spain, Britain and France c. 1500-c.1800* (New Haven Conn., 1995). For statelessness as a general problem in American history, see Linda K. Kerber, “Toward a History of Statelessness in America,” *American Quarterly*, 57:3 (2005): 727-749. For the ways in which the American state expressed itself in the relationship between war and the law, see John Fabian Witt, “AHR Exchange: Law and War in American History,” *The American Historical Review* 115:3 (June 2010): 768-778.

³¹ Bruce Kercher, *Debt, Seduction & Other Disasters: The Birth of Civil Law in Convict New South Wales*, (Federation Press, 1996); Ernesto Bassi, “Turning South before Swinging East: Geopolitics and Geopolitical Imagination in the Southwestern Caribbean after the American Revolution,” *Itinerario* 36:3 (December 2012): 107-132.

judges intervened to promote more rapid development. The strengthening of the American legal profession between 1790 and 1820 unfolded as a result of the “forging of an alliance between legal and commercial interests.”³² This contributed greatly to the legal profession’s first active overthrow of eighteenth-century anti-commercial legal doctrines.³³ This included important changes in the doctrine of eminent domain, shifts in traditional views of equity and “just price” from contract doctrine, the decline in the power of juries relative to judges, a shift from the protection of small property in favor of consolidated wealth. Early national judges in the Lower Mississippi Valley kept up with the changes in the new nation fueled by the commercialization of cotton. The Delta’s judges were typically also large-planters, and many were merchants as well; an important basis for the elimination of traditional legal precepts in the nineteenth-century. Indeed, by 1839 merchants in New Orleans established their own merchant-juries in deciding mercantile issues. Legal conflict explains much about the standard-setting that moved newer regions incrementally closer to integration.

My questions seek the fundamentals of mercantile life: How did planters and merchants in far-away outposts communicate their financial position and need for credit? The go-to answer typically goes something like this: cotton merchants or “factors” had connections, or agents, throughout the Atlantic. This is fine for the period after the 1840s, but it does retroactively apply the skills associated with specialization in commodity relations that were still in formation between 1800 and 1815 in the Delta. Underlying the system put forth by Harold Woodman years

³² Morton Horwitz, *The Transformation of American Law, 1780-1860* (Cambridge: Mass., 1977), 140; Eugene Genovese, *Fruits of Merchant Capital: Slavery and Bourgeois Property in the Rise and Expansion of Capitalism* (New York: Oxford University Press, 1983), 339.

³³ Horwitz, *Transformation*.

ago is the unresolved question about how merchants who first came to the area, made sense of, and organized their surroundings.³⁴ Many of them were planters themselves and had to communicate the area's productivity to distant creditors. How did law figure into these enterprises? What did legal conflict communicate about credit? In beginning to answer these and other questions, I look to the competing laws and customs that attorneys cited and judges made their decisions about. These are discourses which are rarely acknowledged by historians of the Lower Mississippi River Valley.

The Lower Mississippi Valley's Emerging Enclaves

The story of the Louisiana Purchase (1803) is often told as a story of territorial expansionism, the need to settle more and more land. However, the key issues were trade and navigation. The eastern portion of the United States in the eighteenth-century had ready access to the Atlantic Ocean. The territory west of the Allegheny Mountains did not. In 1817, a trip from Cincinnati to New York took at least 50 days, while a trip from Liverpool to New York took forty. Overland transportation costs were correspondingly and often prohibitively high.³⁵ For the region west of the Alleghenies, river transport was essential to economic development. And for anything other than local traffic, the heart of the transportation system was the Mississippi River.

Under the 1783 Treaty of Peace with Great Britain, the Mississippi River marked the western boundary of the United States. From its source in Minnesota, the Mississippi River runs south along the present-states of Minnesota, Wisconsin, Iowa, Illinois, Missouri, Kentucky, Tennessee,

³⁴ Harold Woodman, *King Cotton and His Retainers: Financing and Marketing the Cotton Crop of the South, 1800-1925*, (University of Kentucky Press, 1968).

³⁵ Peter Smith, *The Mississippi Question, 1795-1803: A Study of Trade, Politics, and Diplomacy* (Gloucester, Massachusetts, The American Historical Association, 1962), 12-13.

Arkansas, Mississippi, and Louisiana. Along the way, it intersects numerous Midwestern and mid-eastern rivers, most notably the Ohio River, which runs from eastern Pennsylvania along the Ohio-West Virginia-Ohio-Kentucky and Indiana-Kentucky borders. Additionally, tributaries that feed these rivers are numerous as well.

The Mississippi River empties into the Gulf of Mexico in southern Louisiana. In the late eighteenth-century, Louisiana belonged to Spain, as did most of the present-day United States West of the Mississippi River. Americans, as the owners of a good portion of the east bank of the Mississippi River, had joint navigation rights with Spain over much of the river's length. But "on the last two hundred miles or so, Spain controlled both banks...No one, therefore, could navigate the Lower Mississippi any more than one could travel by land across Spanish territory, without permission from Spain."³⁶ In addition, Spain owned East and West Florida, which encompassed the present state of Florida plus a strip extending from the Florida Panhandle through present-day Alabama and Mississippi all the way to the Mississippi River. This meant that literally all the land, and therefore all of the river mouths, on the Gulf of Mexico was Spanish territory. Spain thus controlled ocean access for virtually all of the rivers in the American West and Southeast: The Pearl and Pascagoula Rivers in present-day Mississippi, the Tombigbee River in Mississippi and Alabama, the Alabama River in Alabama, the Apalachicola River system, which includes the Chatahoochee. Henry Adams described the situation: "From the mouth of the St. Mary's, southward and westward, the shores of Florida, Louisiana, Texas and Mexico were Spanish; Pensacola, Mobile, and New Orleans closed all the rivers by which the United States could reach

³⁶ Smith, *The Mississippi Question*, 16.

the Gulf. The valley of the Ohio itself, as far as Pittsburgh, was at the mercy of the King of Spain; the flour and tobacco that floated down the Mississippi, or any of the rivers that fell into the Gulf, passed under the Spanish flag, and could reach a market only by permission of Don Carlos IV.”³⁷

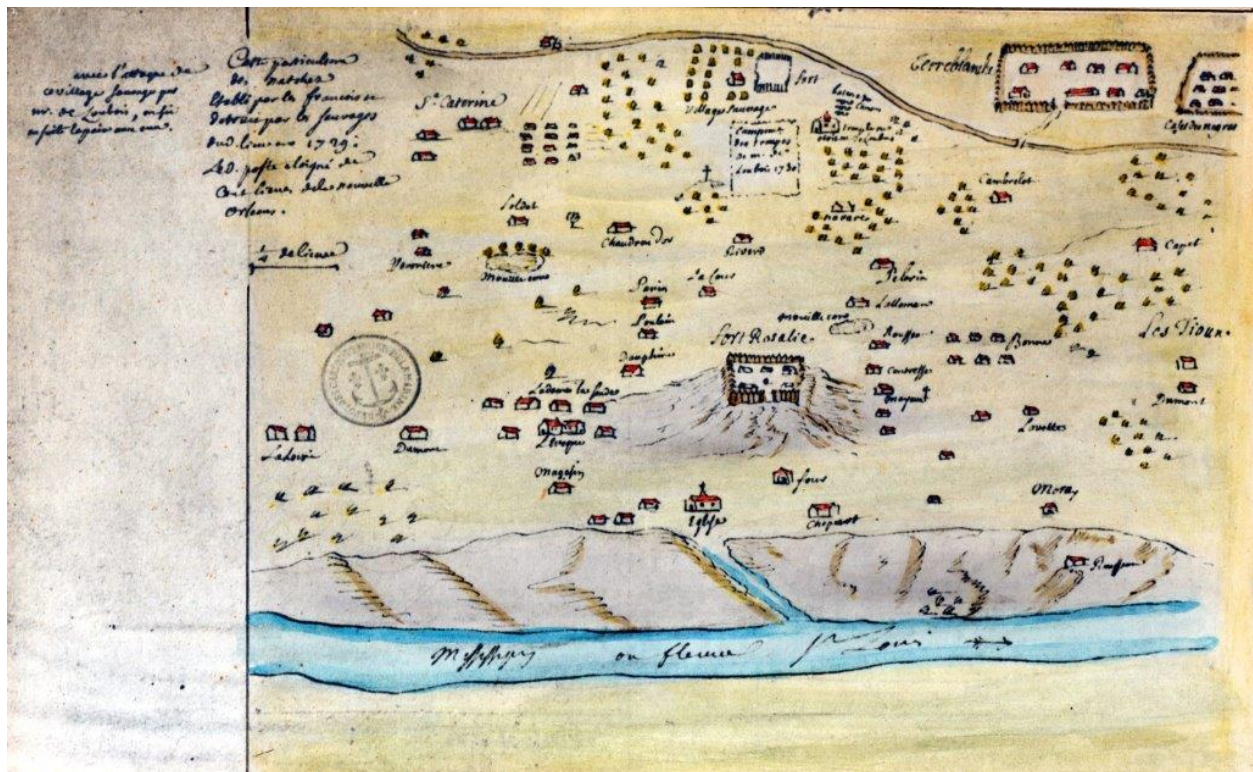


Illustration 1.0. Source: Map of Fort Rosalie in French Natchez with seal, circa 1729, 1750. Jean Francois Benjamin Dumont de Montigny, Research Laboratories of Archaeology, University of North Carolina Chapel Hill. The Natchez Fort is in the center of the image.

³⁷ Smith, *The Mississippi Question*.



Illustration 2. Source: “Vue du fort des Natchez sur le Mississippi,” Engraving published in George Henri Victor Collot, “A Journey in North America” (1826), plates 13 and 33. Bibliotheque Nationale de France. Here the same Natchez Fort appears slightly to left overlooking the bluffs, an imperial flag is visible as is the Mississippi River to the right.

Further, Spain’s restoration (1796), repeal (October, 1802), and then re-instigation (May, 1802) of the ‘right to deposit’ goods at New Orleans, intensified the pressure to acquire the port of New Orleans.³⁸

Natchez, Mississippi

New Orleans and the Natchez District emerged in slightly different ways. French occupation of Natchez was succeeded by British rule under the Treaty of Paris in 1763. British rule enabled the District to establish a permanent agricultural enclave. A series of treaties with the Choctaw Indians increased the amount of land under British rule and solidified existing claims.³⁹ The Mississippi River served as the district’s western boundary, the Yazoo River was the northern

³⁸ Smith, *The Mississippi Question*.

³⁹ Vernon Larry Walters, “Migration into Mississippi: 1798-1837,” (Master’s Thesis, Mississippi State University, 1969), 79-93.

boundary. The intersection of the Homochitto River with an ancient Indian path bounded the land on the east, and then south to the 31st parallel.⁴⁰ A tide of new settlers, predominantly British Loyalists from the eastern region, brought with them the capital needed to establish viable plantations. The lands they acquired beginning in 1776 averaged 5,000 to 25,000 acres. The new settlers added to an already established slave population by “bringing a large force of slave-laborers intending to establish plantations to be worked on by gangs of slave labor.”⁴¹

By September of 1779, Spain again controlled the Natchez District after British officials surrendered their position to the forces led by Governor Bernardo de Galvez. In 1798, then Governor Gayoso surrendered Spain’s position in Natchez to American forces under Captain Isaac Guion who immediately took command of the Natchez fort. Many took advantage of the changes. In the midst of these changes, individuals such as John Bisland, a merchant from Glasgow, Scotland was, by 1782, in a financial position that allowed him to move from frontier merchant to planter, acquiring the first of five land grants from the Spanish governor. By 1819, Bisland was positioned to take advantage of cotton’s rise: his cotton operations had grown to include 4,903 acres of land and 114 slaves.⁴²

Cotton was exported from the Natchez District of Mississippi as early as 1791. In 1792, Spanish officials counted roughly 51,972 pounds of cotton, and by 1795, with the introduction

⁴⁰ Smith, *The Mississippi Question*.

⁴¹ The so-called “Natchez District” would eventually compose the Mississippi counties of Warren, Claiborne, Jefferson, Adams (of which Natchez is the seat) and Wilkinson, and the Louisiana Parishes (the Louisiana term for county) of Madison, Tensas and Concordia. Robin F. Fabel, “An Eighteenth Colony: Dreams for Mississippi on the Eve of the Revolution,” *Journal of Southern History* LIX (1993): 672.

⁴² Thomas A.H. Scarborough, “The Bislands of Natchez: Sugar, Succession, and Strategies for Survival,” *The Journal of Mississippi* 58:1 (Spring, 1996), 23.

of the Whitney gin, American farmers processed an estimated 500 to 1,000 pounds of clean cotton a day—with each bale weighing between 250 and 300 pounds. United States production of raw cotton jumped from 34,000 bales in 1820 to 1.35 million in 1840 as Alabama, Mississippi, and Louisiana produced more than half the country's crop of cotton for export.⁴³

To this was added the utilization and improvement of existing technologies. The original Whitney gin reduced the damage to cotton fibers while Natchez planter William Dunbar made additional modifications which enabled dirt and foreign particles to be removed after the seeds were taken out.⁴⁴ Cotton gins were not the only pieces of equipment that were updated.⁴⁵ Natchez mechanics invented and improved cotton presses, adding significantly to planter incomes by reducing costs related to transportation of the crop, since shippers imposed charges based on volume rather than weight. By compressing 330 to 400 pounds of cotton into bales that carried between 150 to 200 pounds per bag, freight charges were reduced

In a decade when American cotton bags were delivered to Liverpool averaged 247 pounds in weight, Dunbar sent a shipment of fifteen bales that averaged 309 pounds to New Orleans during November of 1802. Five years later, a cargo of 166 bales shipped to Liverpool by Dunbar averaged 338 pounds.⁴⁶

⁴³ Hamilton, "American Beginnings," 195.

⁴⁴ Moore, *Emergence*, 11.

⁴⁵ For an account of cotton-gin development in the area prior to the Whitney gin see, Daniel H. Thomas, "Pre-Whitney Cotton Gins in French Louisiana," *The Journal of Southern History* 31:2 (May, 1965): 135-148.

⁴⁶ Moore, *The Emergence*, 11.

Cotton growers throughout the Southeast only gradually adopted the expensive new equipment that Natchez planters were using. Other planters continued to ship their crop in loose bags that did not compress the cotton inside.⁴⁷

New Orleans, Louisiana

About a hundred miles south of Natchez the profound transformation of New Orleans from a small if crucial frontier trading outpost occurred under American auspices during the decades after the Louisiana Purchase of 1803. The city itself gained its reputation as a staging ground for a variety of Euro-colonial adventures in Latin America and the Caribbean, becoming a center for international intrigues. Staple-crop agriculture was relatively slow to develop in the enormous but sparsely populated Louisiana territory during the colonial period. Attention focused on trading in furs, supplying naval stores, and other low capital –intensive goods. French efforts to commercialize regional tobacco culture were a minor exception to this rule. It was the cultivation of Louisiana’s sugar parishes that expanded rapidly.⁴⁸ The importance of this commodity to business culture was further influenced by the city’s infamous slave markets, the South’s largest. These markets grew in conjunction with the expansion of production and New Orleans became important also for its busy retail sector that by 1840 included 1,881 stores.⁴⁹ New Orleans merchants provided supplies, especially dry goods, hardware, and foodstuffs, to regional slave plantations. In the early national period, Crescent City merchants were progressing ever-faster

⁴⁷ Moore, *The Emergence*, 13.

⁴⁸ Philip D. Shea, “The Spatial Impact of Governmental Decisions on the Production and Distribution of Sugar Cane, 1751-1972,” (unpublished Ph.D. diss., Michigan State University, 1974).

⁴⁹ James E. Winston, “Notes on the Economic History of New Orleans, 1803-1836,” *The Mississippi Valley Historical Review* 11:2 (September, 1924); Smith, *The Mississippi Question*, 21 -41;

toward becoming full-fledged cotton factors, merchants who specialized in the sale and marketing of cotton almost exclusively, and in obtaining the luxuries and supplies planters needed from the rest of the Atlantic. Members of the mercantile community not only profited from the two- way traffic in commodities that the slave system generated, but more directly, they often acted as brokers for slave acquisitions by their rural clients, and the process, they became merchant-bankers to their planter clientele.⁵⁰

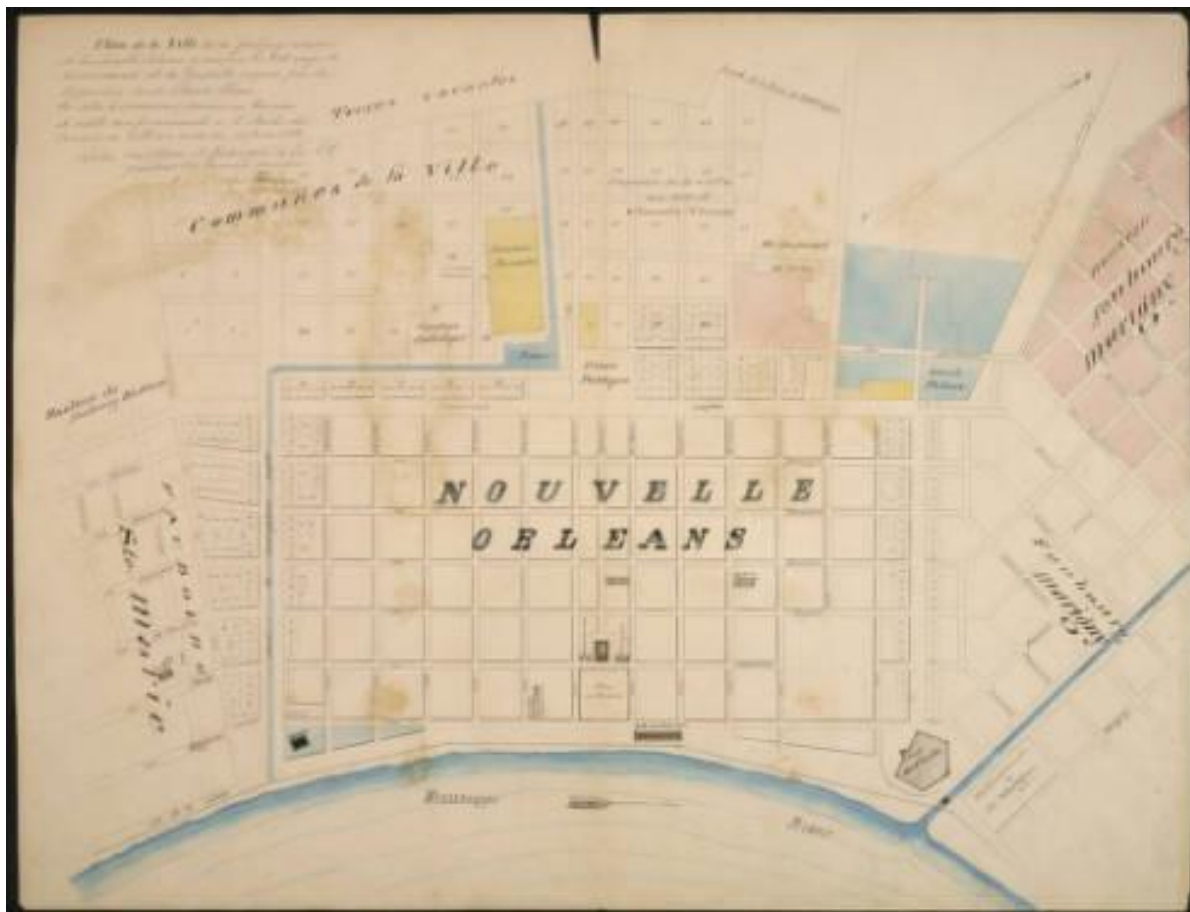


Illustration 3. Source: Plan de la Ville et des faubourgs incorpores de la Nouvelle Orleans, 1870. Historic New Orleans Collection.

⁵⁰ Richard H. Kilbourne, *Debt, Investment, Slaves: Credit Relations in East Feliciana Parish, Louisiana, 1825-1885* (Tuscaloosa: The University of Alabama Press, 1995), 16-27; Woodman, *King Cotton*.

In addition, many city merchants frequently speculated in slaves themselves. New Orleans' river-based trade with the states of the upper Mississippi and the Ohio Valley, and its significant trade in imports with New York City firms who had established branches in the Crescent City, gave rise to criticism by the 1840s that the city was overly dependent on trade. Scott P. Marler notes that a certain complacency had set-in, even by the mid-1800s, which stemmed from the notion that city's "natural advantages"; New Orleans merchants believed that its location at the mouth of the river was all that was needed. This view was evident in one Louisiana newspaper in 1817 which responded to the New York legislature's passage of the bill authorizing construction of the Erie Canal, accusing the Empire State of "a jealous eagerness to deprive us...of the advantages arising from our geographical position."⁵¹

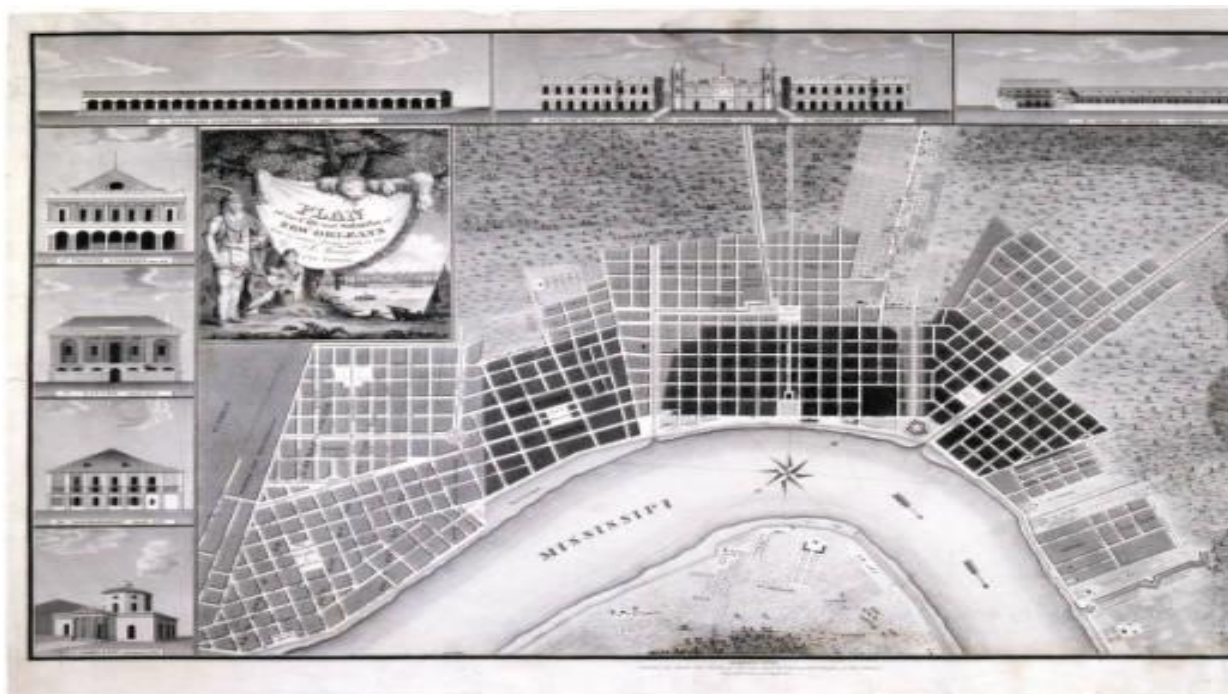


Illustration 4. Source: Plan of the City and Suburbs of New Orleans from an actual Survey made by J. Tanesse in 1815. Engraving, April 4, 1817. The Historic New Orleans Collection.

⁵¹ *Louisiana Gazette and New Orleans Mercantile Advertiser*, April 29, 1817, quoted in Marler, "Merchants and the Political Economy," 36-37.

An overemphasis on ethno-cultural diversity may tend to obscure the shared economic interests that led to what one historian called a “peaceful coexistence” in Louisiana.⁵² However, in the turbulent aftermath of the American Revolution, the diverse citizens of Louisiana did not achieve lasting “peace” until at least the mid-nineteenth century, and then, maybe only among the planter class. Conflicts occurred between Anglo-Americans and French Louisianans in specific, limited circumstances in the early nineteenth century Lower Louisiana. Within the closely contested political arena of the city of New Orleans and its hinterland, the leaders of a French Louisiana planter class fought to maintain their established social position and they used their ethnic identity to unify themselves against a territorial government that undermined their political leverage.⁵³ In the rural parishes far from the capital’s political battles, the process of a planter class formation required ambitious white men of both ethnic groups to ignore cultural differences, and instead, build a community that would bring them both individual wealth and control over a burgeoning plantation society. Thus, the nature of ethnic encounters was that they were changeable and responsive to political events, and more generally, to class interests.⁵⁴ Of this period Frederic Law Olmstead later wrote, it was the myriad cultural divisions and hierarchies in New Orleans society that “injured civic enterprise” and was an obstacle to solving the many pressing concerns of rapid urban growth.⁵⁵

⁵² John G. Clark, “New Orleans and the River: A Study in Attitudes and Responses,” *Louisiana History* 8 (Winter, 1967), 121-122.

⁵³ George Dargo, *Jefferson’s Louisiana: Politics and the Clash of Legal Traditions* (Cambridge: Harvard University Press, 1975).

⁵⁴ Marler, “Merchants,” 10.

⁵⁵ Marler, *Ibid.*, 16.

Planters-as-Merchants and the Commercial World of the Early United States

The political, economic, and legal processes that were set in motion by the Delta's likeminded planters and planter-merchants, like those of other cities in the new nation, experienced dramatic shifts in the composition of their communities.⁵⁶ With the violence of the American Revolution, American political and mercantile ties ruptured. Loyalists fled eastern cities and settlements, leaving their positions of commercial privilege.



Illustration 5. The City of New Orleans, and the Mississippi River, ca. 1885. The Historic New Orleans Collection.

⁵⁶ The literature concerning early changes in the composition of mercantile communities is extensive and includes John Tyler, "Persistence and Change in the Boston Merchant Community during the American Revolution," in *Entrepreneurs: The Boston Business Community, 1700-1850*, eds., Conrad E. Wright and Katherine Viens, 97-122 (Boston: Massachusetts Historical Society, 1997); Thomas Doerflinger, *A Vigorous Spirit of Enterprise: Merchants and Economic Development in Revolutionary Philadelphia* (Chapel Hill: Published for the Institute of Early American History and Culture, Williamsburg, Virginia, by the University of North Carolina Press, 1986); Sean Wilentz, *Chants Democratic: New York City and the Rise of the American Working Class, 1788-1850* (New York: Oxford University Press, 1984); Paul Johnson, *Shopkeepers' Millenium: Society and Revivals in Rochester, New York, 1815-1837* (New York: Hill and Wang, 1978). The inner-workings of banks at this time has been examined by Lamoreaux in *Insider Lending*.

Simultaneously, a post-Constitutional financial optimism took hold in the United States. Banks and insurance companies engaged in extremely similar financial practices, but the formal differentiation between them allowed for their mutual affirmation and institutional reinforcement, thereby expanding the influence and security of both. Between 1794 and 1815, the expansion of mercantile wealth in metropolitan cities was a prominent feature of the American political economy. **[Appendix, 1.1]** By the end of the Napoleonic Wars, between \$23 and \$36 million in insurance company stock had been raised by company founders, sanctioned by state charter, and invested in government debt, banks and other corporations.⁵⁷ Formed by the polity of merchants in those regions, those early institutions managed to remain autonomous in important ways. Given the federal republic's limited infrastructure, merchant-insurers formed a potent, and highly capitalized organization through which the law of merchants was re-conceptualized.

For the larger commercial world, however, it was not an unproblematic rise. Culturally, the merchant "character" was deemed by average Americans and some politicians to be a contamination of the general citizen; merchants who "infected society by spreading the disease of paper money" were inferior morally, and trade was seen as a phony aristocracy.⁵⁸ Underlying a deep cultural division over the moral worth of a credit economy were fundamental questions about reality and illusion in which money and credit had become epistemological symbols.⁵⁹

⁵⁷ Hannah Atlee Farber, "Underwritten States: Marine Insurance and the Making of Bodies Politic in America, 1622-1815," (Ph.D. diss., University of California, Berkley, 2014).

⁵⁸ Robert Weisberg, "Commercial Morality, the Merchant Character, and the History of the Voidable Preference" *Stanford Law Review* 39:1 (November, 1986), 59-64.

⁵⁹ Weisberg, *ibid.*

Merchants and bankers were difficult to distinguish from one another, as the label “merchant-banker” suggests; the need for commercial transparency, however, was more immediate among merchants themselves. New Orleans merchants, especially, generated a vast quantity of commercial paper; marketing and financing commodities shipped through its port made them specialists of some of the century’s most important commodities: cotton, sugar, and corn. Between 1790 and 1817 and after, there was a growing call, however, for a national system of commercial law regulated by Congress. Even Louisiana’s state legislature proposed a Commercial Code in 1825 that would regulate commercial practices and make creditor-debtor relations more equitable.⁶⁰ These efforts were opposed successfully by merchants both in and out of the state. Merchants also opposed proposals for a national bankruptcy law. After the Panic of 1837, those in New Orleans established a separate Commercial Court in 1839 as a way to isolate the adjudication of mercantile issues and counter efforts to diminish judicial judgment in favor of juries with specialized merchant-juries.⁶¹

⁶⁰ Richard Holcombe Kilbourne, Jr., *Louisiana’s Commercial Law: The Antebellum Period* (The Publications Institute Paul M. Herbert Law Center, Louisiana State University Press, 1980).

⁶¹ Prior to the creation of the Commercial Court, juries consisting of merchants had been used in Louisiana courts for the trial of commercial matters. In 1807, the legislative counsel had passed an act which provided that in all cases, where, in the judge’s opinion, the matters to be submitted to the jury were ‘of such a nature as to require certain information peculiar to certain occupations or professions,’ the judge was empowered to summon juror of that occupation, profession or trade. This provision, however, was repealed in 1823, although it was still possible to have juries constituted solely of merchants when all of the parties consented to that arrangement. That 1823 provision was, in turn, repealed by the legislature in 1831 and the 1807 provision giving the judge discretionary power to summon jurors on the basis of their occupation or trade was re-instated. An Act to authorize a special jury in certain cases, 1807 Acts of the Territory of Orleans, 2d Sess. 168; An Act to repeal the Act to authorize a Special Jury in certain cases, and for other purposes, 1823 Louisiana Acts, 1st Sess. 76; Kilbourne, *Commercial Law*, 100-101.

The timing of the merchant court's establishment had to do with renewed efforts in the nation for another version of the bankruptcy bill. This came with the usual debates. Each region put forth its own best-case and worst-case scenario about the form the bill would take. Some saw it as preventing the practice among merchants of preferring certain creditors over others when it came time for payment. Others opposed it because they approved of the preferences that resulted from customary local commercial settlements and did not want to yield greater creditor right to distant creditor. Generally, Northern Federalists supported it, and Southern and Western interests opposed it, thinking it would oppress country traders and encourage, rather than curb, speculation.⁶²

The tensions produced by national versus regional interests continued throughout the nineteenth-century, with merchants themselves making efforts to curb financial abuses and make trade more transparent. Notably, Lewis Tappan imposed techniques to monitor and classify merchants via local informants. When Tappan began in 1841, no such surveillance routine existed: managing identity it helped create a climate whereby moral judgement was institutionalized and could be circulated. Tappan's scheme to centralize information later became the credit reporting agency of R.G. Dunn & Co.⁶³ The push for the nationalization of a commercial code existed alongside the internal needs of a merchant community that sought to

⁶² Kilbourne, *Louisiana's Commercial Law*, 65-71.

⁶³ Scott A. Sandage, *Born Losers: A History of Failure in America* (Cambridge: Harvard University Press, 2005); Theodore M. Porter, *The Rise of Statistical Thinking, 1820-1900* (Princeton: Princeton University Press, 1986); Arthur H. Cole, "Agricultural Crazes: A Neglected Chapter in American Economic History," *American Economic Review* 16 (December, 1926): 622-639.

regulate itself. These respective agendas were pulled apart by early-American regionalism and the already operating Atlantic commercial practices.⁶⁴

The Act for the More Easy Recovery of Debts in His Majesty's Plantations--The Debt Recovery Act of 1732

With few exceptions, merchants of all nationalities worried quite a bit about the financial transparency of their fellow merchants as well as the latter's ability to pay debts and avoid insolvency, both at home and abroad. Almost from the beginning of commodity production in Britain's early Caribbean enclaves, British slave merchants demanded from Parliament fewer impediments to the collection of debts and the seizure of plantation assets. The result was the British legislation known as The Act for the More Easy Recovery of Debts in His Majesty's Plantations (1732) that set the economic tone for trade relations between Great Britain and the fledgling United States for at least a century to come. The Debt Act was a big step toward the commodification of slave bodies and had a profound impact of slaves within the United States even after Britain abolished slavery in 1833.

Despite the myriad processes historians have identified that were at work in the Delta and Atlantic at the time, there are still understudied ties between the Lower Mississippi Valley's settlers and their British and Anglo-American creditors. One of these under-analyzed influences had to do with the way settlers and merchants used routines to garner credit and resources,

⁶⁴ The case of *Little v. Blossman*, 1 Louisiana Ann. 169 (1846) is a clear example of the existing customs of the commercial world. Thomas Baring of Baring Brothers in London answered nine interrogatories and fifteen cross-interrogatories concerning the custom of London on bills of exchange accompanied by bills of lading. In it one can clearly discern that merchants around the world were obliged to conform to metropolitan standards.

what economic historians refer to as having a “signaling function.”⁶⁵ How did the region’s merchants and planters signal their conformity with an Atlantic system, especially in a post-mercantilist world?

From the outset, planters and merchants in the Delta groped around not only for an economically viable agricultural commodity, but as historians contend, sharpened plantation slavery into a viable business model. Conformity with the Debt Act, though an overarching aspect of a planter-merchant’s enterprises, was not readily seen in any ledger, but had to do with the inherited way American citizens confronted property: chattel property and real estate were conflated, or made the same, for the purposes of creditors’ claims in the collection of debts. For this study, the choice to conflate the two were important for two reasons: First, the Delta’s territorial government had the option to adopt an alternative—what economic historians refer to as the “Latin model.” Used in Brazil under Portuguese rule, Latin American laws protected landed estates from creditors’ claims. The Latin model was plausible given the Delta’s adoption of Spanish and French laws, compiled in the Digest of 1808. Given also the early establishment of large plantations, settlers could have opted to protect assets to avoid risk. But what the territorial governments did was to follow the lead of British imperial policy

⁶⁵ For an excellent discussion on signaling functions in credit see, Philip T. Hoffman, Jean-Laurent Rosenthal, Gilles Postel-Vinay, *Priceless Markets: The Political Economy of Credit in Parish, 1660-1870* (Chicago: University of Chicago Press, 2000). ‘Signaling’ is also a significant function of the Constitution. Hulsebosch and Golove argue that despite the documents complex purposes, pledging national faith in constitutional forms was intended to send signals abroad that foreign capital was safe from political manipulation in the United States. Daniel Hulsebosch and David Golove, “A Civilized Nation: The Early American Constitution, the Law of Nations, and the Pursuit of International Recognition,” *New York University Law Review* 85:4 (August, 2010): 101-128. A related issue is taken up by Daniel A. Farber, who investigates the signaling function of nations’ human rights protections for foreign investors. Daniel A. Farber, “Rights as Signals,” *Journal of Legal Studies* 31 (2002).

instead, continuing to keep all property available to mercantile seizures for the collection of debts--maintaining one of the Atlantic's most viable imperial policies.

The adoption of an imperial law, (seen by many as anti-republican), was premised on an innovation spearheaded by merchants in the 1700s who agitated for more access to property in the debt collection process, bankruptcy and probate proceedings. Their concerns came to a head in 1732 when the British Parliament enacted a statute entitled, "The Act for the Easy Recovery of Debts in His Majesty's Plantations and Colonies in America" (The "Debt Recovery Act").⁶⁶ Its importance to this study derives from historians Jacob M. Price's and Russell M. Menard's belief that the rise of centralized plantation slavery in places such as Barbados was the outcome of the Debt Recovery Act. Its creation was meant to target a specific transaction—slave sales, and allowed British merchants to do away with property protections and exemptions available in England, cementing the commodification of enslaved African laborers. What started out as a concern over defaulted debts that arose out of slave sales on credit to West Indian merchants, carried over to post-revolutionary legislation in the United States. Early national states enacted their own laws consistent with the Debt Recovery Act, ensuring Americans could not reinstate old English protections against creditors.

Second, and of equal importance, is that the dismantling of old English property protections was explicitly tied to slavery. In enacting the Debt Recovery Act, Parliament was concerned

⁶⁶ Claire Priest, "Creating an American Property Law: Alienability and Its Limits in American History," *Harvard Law Review* 120:2 (December, 2006): 385-459.

with laws its colonies would be inclined to implement in areas dependent on English credit to import slaves. According to historian Claire Priest, the core problem was that,

English exemptions of land from debt were most threatening to creditors when slaves were present: either when wealth held in the form of slaves might be converted into landed wealth or hidden from creditors, or when a colonial legislature might enact a law defining slaves as real property and therefore exempt from creditors' claims.

Parliament's Debt Recovery Act actively encouraged the slave trade by revoking all colonial property exemptions—on land, houses, and slaves—and ordering colonial courts to efficiently administer the processes for seizing and selling these assets.⁶⁷ Procedurally, placing seizure of property in the hands of local judges who adjudicated the process which included auctions, further institutionalized the process of debt recovery through the judiciary—a remedy unavailable in England.

Commentators lauded the effects of the Act beginning with Justice Joseph Story, and later, the 'commercial republicans' for whom the effects of the Act were "the very soul of the republic." In 1833, Story, in his "Commentaries on the Constitution," described a transformation in colonial property law, the effect of which made property a substitute for money "giving it all the facilities of transfer, and all the prompt applicability of personal property."⁶⁸ The competition between states to attract credit was the compelling reason for state legislatures to enact, piece-meal, the central tenets formerly

⁶⁷ Priest, "American Property."

⁶⁸ Priest, "American Property," 390.

covered in the Debt Recovery Act.⁶⁹ But the most important aspect of this 1732 law itself, cited by historian Claire Priest, was the fact that the dismantling of English inheritance laws were tied to slavery: “Parliament was centrally concerned with the laws of colonies that had relied on English credit to import increasing numbers of slaves.”⁷⁰

The Act was also central in a movement spurred on by an ideological position that emphasized commercial expansion in the early national period. James Kent in his “Commentaries on American Law” (1826-30), wrote that execution sales of property were “agreeable to the general bent and spirit of the more modern [judicial] decisions.”⁷¹ Federalists, (commercial republicans), were dedicated to the new order of minimal property exemptions in which credit terms were improved to promote economic development. For example, James A. Bayard, a young Federalist, described state law making land immune from the payment of debts as “a remnant of the feudal system, of the principle of the ancient aristocracy of England, which was imported hither from the country by our ancestors.”⁷² To Bayard, the “principle goes to the root of commercial credit; because a merchant must know, that if he gives credit to a large amount, that the

⁶⁹ Priest, “American Property,” 441. Judicial opinion, rather than legislation made the Debt Recovery Act valid law. In New Hampshire: judicial opinion in an 1828 case concluded that the Debt Recover Act “is still the law of the land here at this day.” *Pritchard v. Brown*, 4 New Hampshire (1828); In *Suckley’s Administrator v. Rotchford*, 53 Va. (‘12 Gratt.) 60, 67 (1855), the judge declared, “It...is fully shown by numerous adjudged cases in the Court of Appeals in Maryland, that the statute 5 George 2, ch. 7, Section 4, was in force in that state February 27, 1801, when their laws were extended by act of Congress to Washington county; and was in force in Washington county June 2, 1812, when the law of that county was extended to Alexandria county.”

⁷⁰ Priest, “American Property,” 458,

⁷¹ James Kent, *Commentaries on American Law* 1826-30, in Priest, “American Property,” 443.

⁷² Priest, “American Property,” 454.

whole of that money may be vested in land by his debtor, and then he cannot touch it...Commerce, and a law like this, cannot live and flourish on the same soil.”⁷³

Critics claimed that commercial republicans, however, were narrowly focused on the belief that subjecting property, especially land, to the risks of commercial life would prevent the rule by an American aristocracy. Opponents, who supported the notion that families needed an endowment of land, exempt from creditors’ claims, believed in protections against risks that would maintain the independence of farming families; what was called the “Virginia position” clashed so ardently with the commercial view that the tension between states over property exemptions was the central reason for the repeal of the federal Bankruptcy Act of 1800 three years later.⁷⁴

Meager reforms came only after the recession of 1817-1818. Many states did put forth temporary stays on execution, as well as “appraisal laws.” The latter required that land to be sold only if the price obtained at auction provided about two-thirds of the appraised value. Overall, however, between 1732 and the 1850s, American property law offered debtors few protections from seizure of property. There is a strong sense from the available literature that rising slave prices counter-balanced any real effort toward the implementation of homestead exemption laws that would allow debtors to keep their farms and plantations. Homestead exemption did not gain traction among legislatures

⁷³ I Annals of Congress, (Joseph Gales, ed., 1851): 533-534.

⁷⁴ Priest, “American Property Law.”

until about the 1840s to the 1880s, a shift Claire Priest describes as “returning to a legal regime more closely resembling that of early modern England.”⁷⁵

The central thrust behind the Debt Recovery Act, however, became a touchstone of commercial relations. It aided greatly in commodifying land and the enslaved. It had a significant impact in that it required states, early on, to decide if they were going to play by the rules of Atlantic commerce. During the Constitutional Convention, proposals enabling the federal government to retain veto power over state legislation, including commercial policies were rejected.⁷⁶ Some states such as New York in 1829 made statutory revisions that included the right of redemption—a certain number of days after a creditor obtained a judgment in a court of law, when debtors could regain possession of their property in exchange for payment.⁷⁷ Limiting the federal government’s oversight meant that states retained control over debt recovery and exemption policies—a feature informed greatly by their involvement in slavery and cotton production.⁷⁸

By 1797, in response to abolitionist protest, the English Parliament repealed the Debt Recovery Act with respect to slaves in all the remaining British colonies. In the United

⁷⁵ Priest, “American Property,” 394.

⁷⁶ Priest, “American Property,” 439. The United State Constitution limited federal government oversight of state legislation commercial matters principally to the Contracts Clause and the Commerce Clause.

⁷⁷ Priest, “American Property,” 455.

⁷⁸ In 1997, economists Reint Gropp, John Karl, and Michelle White studied the effects of unlimited homestead exemptions on credit markets. Gropp, Karl, and White found that state legislatures face a clear trade-off when setting exemption levels. Residents of states with high or unlimited homestead exemptions get less credit, on average than resides of states with low homestead exemptions. People in high exemption states are also more likely to be turned down on average, than residents of states with low homestead exemptions. Reint Gropp, John Karl, and Michelle White, “Personal Bankruptcy and Credit Supply and Demand,” *Quarterly Journal of Economics*, 217 (1997); G. Marcus Cole, “The Federalist Cost of Bankruptcy Exemption Reform,” *American Bankruptcy Law Journal*, 74 (2000).

States, however, the Debt Recovery Act lived on and grew in tandem with the institution of slavery. Indeed, after the American Revolution, when republicanism was at its strongest, the United States was moving toward a regime of pure ‘chattel’ slavery. In England, exemptions of land from creditors’ claims were modified so that there was a division between landholders whose wealth was protected from immediate financial risk, and merchants who, by definition, were exposed to greater financial risk. In the United States, these differences never emerged: American colonies had neither discrete classes of ‘merchants’ nor a discrete landholding class.⁷⁹ All forms of wealth were subject to seizure. By 1830, then, James Kent in his treatise could assure his readers that the policy of having no right of redemption— which he traced to the Debt Recovery Act—was still in force in New Jersey, Maryland, North Carolina, Tennessee, South Carolina, Georgia, Alabama, and Mississippi.⁸⁰

Significantly, England’s Debt Act provided a basis for the calculations that treated slaves as commodities, not simply property. Nationally and regionally, Anglo-American planters and pro-commercial judges worked to make that piece of legislation more robust through a process of continued legal abstraction and ambiguity.

Cotton’s Timeline

At the core of all these early modern circuits, networks, and structures stood cotton. As early as the sixteenth century, expanded cotton manufacturing in Europe was contingent on a

⁷⁹ Priest, “American Property,” 450.

⁸⁰ Priest, *ibid*, 456.

link to the rapidly expanding markets throughout the Atlantic world.⁸¹ By 1620 British cotton manufacturers exported their wares to France, Spain, Holland, and Germany.

Table 0.1. European and North American Raw Cotton Consumption (thousands tons)

	UK	France	Germany	Belgium	United States
1781-90	8.1	4			2.2
1791-1800	13.9				3.6
1801-14	31.8	8			7.1
1815-24	54.8	18.9		1.6	14.1
1825-34	105.6	33.5	3.9	2.7	25
1835-44	191.6	54.3	11.1	6.6	46.8
1845-54	290	65	21.1	10	111
1855-64	369.4	74.1	42	12.8	126
1865-74	475.8	85.9	85.6	16.3	193.7

Source: Robert C. Allen, *The British Industrial Revolution in Global Perspective* (Cambridge: Cambridge University Press, 2009), 211.

As cotton cloth demand exploded, spinning and weaving became ever more important to smallholding peasants in England in what was known as the ‘putting-out’ system which expanded production throughout the countryside. As cotton was not grown in Europe itself, the industry’s raw cotton had to be brought from distant locations. Small quantities were procured from India and brought by the East India Company.⁸² European merchants were restricted by narrow, and well-established trade networks from a wide variety of locations.⁸³ This changed with the powerful merger between European traders and state-chartered companies. Working in tandem, they combined economic, military, and political power,

⁸¹ Though it is beyond the scope of this study, a pre-modern cotton industry in the Middle East has attracted scholarly attention as well. See Richard W. Bulliet’s, *Cotton, Climate, and Camels in Early Islamic Iran: A Moment in World History* (New York: Columbia University Press, 2009).

⁸² Beckert, *Empire*, 39-41.

⁸³ Beckert, *ibid*.

enabling European merchants to gain greater control over territories that produced cotton.⁸⁴

So, for example, Indian merchants who acted as brokers between Indian weavers and European exporters increasingly were replaced by agents who were under much greater control of the European companies already in the seventeenth-century.⁸⁵ By the 1780s, expansion of the British cotton-based textile industry that emerged in Lancashire required ever-larger amounts of raw cotton. Policy makers, colonial authorities, merchants, and entrepreneurs actively promoted cotton cultivation, North African producers joined Dutch and Portuguese colonies in South America, as well as the French Caribbean (via Jamaica and the free ports trade) in exporting their cotton to Britain.⁸⁶ Cotton cultivation required caution but was highly profitable.

Inventors and societies for the promotion of trade and industry were equally active in the promotion of technologies and schemes to increase cotton cultivation and manufacture. In 1788, five years before what would be Eli Whitney's registered cotton gin, Spanish inventor

⁸⁴ Beckert, *ibid.*, 41-42.

⁸⁵ Beckert, *ibid.*, 43.

⁸⁶ The literature on the expansion of the cotton industry is vast. Classic studies include Michael M. Edwards, *The Growth of the British Cotton Trade, 1780-1815* (New York: A.M. Kelley, 1967); Douglas A. Farnie, *The English Cotton Industry and the World Market, 1815-1896* (Oxford: Clarendon Press, 1979); and Bertha S. Dodge, *Cotton: the Plant that Would be King* (Austin: University of Texas Press, 1984). Recent studies include, Sven Beckert in *Empire of Cotton, A Global History*; Beverly Lemire, *Cotton* (Oxford: Berg, 2011); Douglas A Farnie and David J. Jeremy, eds., *The Fibre that Changed the World: The Cotton Industry in International Perspective 1600-1990s* (New York: Oxford University Press, 2004); Giorgio Riello and Prasanna Parthasarathi, eds., *The Spinning World: A Global History of Textiles, 1200-1850* (New York: Oxford University Press, 2009); and John F. Wilson, eds., *King cotton: A Tribute to Douglas A. Farnie* (Lancaster: Crucible Books, 2009); Robert C. Allen, *The British Industrial Revolution in Global Perspective*, (Cambridge: Cambridge University Press, 2009). For a brief overview of the emergence of Lancashire's cotton industry see John Singleton, "The Lancashire Cotton Industry, the Royal Navy, and the British Empire, c., 1700-c. 1960," in Farnie and Jeremy eds., *The Fibre that Changed the World*, 57-83.

Antonio de la Carrera asked for permission to test his “cotton ginning machine.”⁸⁷ In Philadelphia, the Pennsylvania Society for the encouragement of Manufactures and the Useful Arts offered a prize to encourage the development of technologies to optimize cotton production.⁸⁸ New technologies like James Watts’s steam engine and Samuel Crompton’s mule-spinning were rapidly adopted in cotton production resulting in what one historian accurately called “a great leap in production.”⁸⁹

The great leap in cotton production initiated in the second half of the 1780s continued during the 1790s and on into the nineteenth-century. It was characterized by four important trends easily perceived in an analysis of British imports of raw cotton. First, Britain’s thirst for cotton grew dramatically between 1781 and 1815. Second, while the amount of raw cotton exported from the British West Indies to Britain showed an upward trend, its participation in Britain’s total imports declined steadily (from over 50 percent in 1781-1785 to about 20 percent in 1806-1810).⁹⁰ Third, the United States’ exports of raw cotton to Britain skyrocketed throughout the period. Measured by both the amount exported and participation in British total imports the United States went from negligible actor to main character of the cotton world. The decline in United States cotton exports to Britain towards the end of the period is largely explained by the commercial breakdown associated with the war between Britain and the United States in 1812-1814. Fourth, while the United States grew to become Britain’s main supplier of cotton wool, the British thirst for raw cotton continued to require imports from

⁸⁷ E.J. Donnell, *Chronological and Statistical History of Cotton* (New York: James Sutton and Co., 1872), 41, 43.

⁸⁸ Donnell, *ibid.*, 52.

⁸⁹ Lemire, *Cotton*, 81-82.

⁹⁰ Michael Edwards, *The Growth of the British Cotton Trade, 1780-1815* (New York: A.M. Kelley, 1967).

Brazil, India, and northern Africa.⁹¹ Cotton, thus, connected Britain with the whole world.

While the entire world (or its tropical and temperate areas) cultivate and ginned cotton, Britain spun it before returning it to the world in the form of cotton textiles. Britain's imports of cotton wool, its transformation, and subsequent export, effectively turned the British Empire into a global empire that combined direct territorial control (formal imperialism) with a range of commercial strategies (informal imperialism) to exert its dominion throughout the globe.

Propelled by the British Industrial Revolution, cotton as an export crop solidified a greater awareness among cultivators of their regional economic standing in relation to other cotton-growing entrepôts.⁹² This was also true for the Delta's earliest cotton producers who competed with supplies of raw cotton from both illicit traffickers and well-established international producers—from New Granada, the British Caribbean, British Demerara, Egypt, India and Siam.⁹³ The following few paragraphs are a condensed view of cotton's contingent but spectacular rise from the perspective of the Lower Mississippi River Valley as one among many globally expanding cotton frontiers.

⁹¹ Lemire, *ibid.*

⁹² Concerns about the ways in which reputations circulated to secure or impair group economic fortunes flourished long before, and during cotton's increased production throughout the Atlantic. And, commodity crops testified to the accumulation of adaptive expertise that made planting fortunes possible. See, S. Max Edelson, "The Characters of Commodities: The Reputations of South Carolina Rice and Indigo in the Atlantic World," in ed., Peter A. Coclanis, *The Atlantic Economy during the Seventeenth and Eighteenth Centuries: Organization, Operation, Practice, and Personnel* (University of South Carolina Press, 2005):344-355.

⁹³ The papers of businessman, banker and slaveholder William Kenner reflect the concerns both himself and his clients about the state of cotton on the international market. On October 2, 1819 William Kenner wrote to Natchez planter John Minor concerning the downturn in the New Orleans cotton market; a downturn he ascribed to the flood of 250,000 bales of East India cotton (which equaled a three-year supply) and, wrote that 34 more ships loaded with cotton were due to arrive at English ports. In his October 18, 1819 letter, Kenner wrote Minor again cautioning his client that East India cotton took preference over New Orleans cotton in the Liverpool cotton market. William Kenner Papers, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana.

The process of trial-and-error in planting and harvesting cotton played itself out over, and over again, for two reasons: over time the genetic make-up of the seed degraded, and cross-pollination was always a possibility, requiring farmers to stay informed concerning which seeds worked best in particular climates and soils. Second, this process went hand-in-hand with crisis-induced experimentation. In cotton producing peripheries, a viable crop meant one of two things had occurred, white farmers and planters became either innovative or responsive. According to Joyce E. Chaplin in her chapter, “Crisis and Response,” the “first group always looked for ways to alter agriculture, the latter did so only if market conditions gave them little other choice.”⁹⁴ The result was not only a consistent new batch of experimenters over long periods of time, but a protracted and gradual gaining of knowledge that at least in the North American case, proved that during war and embargo, cotton was not only adaptable (in contradistinction to the failures with indigo and other crops including soil-exhaustive tobacco), but could be used to maintain planter dominance and secure control over the economy as a whole.

Cotton’s evolution as a large-scale crop coincided with British command of the West Indies and its spread geographically in the wake of rapid political shifts that came with the American Revolution, the Haitian Revolution, and the outbreak of the Anglo-Spanish War (1796).

Commercially, it emerged in conjunction with Britain’s increasing power in the Caribbean.

Between the 1620s and 1660s, Britain occupied several key islands of the West Indies. Then in

⁹⁴ Joyce E. Chaplin, *An Anxious Pursuit: Agricultural Innovation & Modernity in the Lower South, 1730-1815*, (Chapel Hill: University of North Carolina Press, 1993) 3, 187-221, 300-305. On cotton experimentation, see also Alan L. Olmstead and Paul W. Rhode, *Creating Abundance: Biological Innovation and American Agricultural Development* (Cambridge University Press, 2008), 98–116. Giorgio Riello, *Cotton: The Fabric that Made the Modern World* (Cambridge University Press, 2013), 342.

the next century the capture of Guadalupe in 1759 and the substantial territorial gains at the end of the Seven Years' War in 1763 advanced British power even further.⁹⁵ The relatively low cost of setting up a cotton plantation allowed for the crop to expand quickly when European demand increased in the last quarter of the eighteenth-century. Cargos were transported in British ships, and sold via smuggling and re-export in British ports, funneling British political control over areas of cultivation through Parliamentary measures which encouraged expansion.⁹⁶

Two important processes foreshadowed cotton's expansion in the Lower Mississippi Valley—soil erosion and immigration. Between the 1780s and the 1800s, particularly on the British West Indian islands of, St. Kitts, Dominica, Barbados and Jamaica, cotton attracted people and capital, and in doing so, constructed “backward links” by which is meant the provision of supplies, slaves, transportation facilities such as ports, and credit.⁹⁷ Population expansion, land usage, and profits from cotton accelerated growth. For example, at the end of the eighteenth-century British loyalist planters from Georgia, South Carolina and New York arrived in the Bahamas with 5,700 slaves and free blacks.⁹⁸ Likewise, between 1783 and 1797, the Spanish island of Trinidad, (which would end up under British control after 1797) welcomed several hundred French settlers thanks to the *Cedula* of Population, a 1783 edict by the representative of the King of Spain, José de Gálvez, opening Trinidad to immigration from, primarily,

⁹⁵ Riello, *Cotton*, 194.

⁹⁶ Riello, *ibid*, 194-195.

⁹⁷ Riello, *Cotton*, 200. In 1800, as a percentage of total production the British West Indies, the Bahamas produced 7 percent, St. Kitts 7 percent, Jamaica 41 percent, Dominica 7 percent, St. Vincent 3 percent, Barbados 18 percent, Grenada 7 percent and Trinidad 7 percent.

⁹⁸ *ibid*.

the French Caribbean islands. They deforested 85,000 acres of land, created 500 new plantations, most of which were cultivated with cotton.⁹⁹

Yet, British Barbados became the most productive island. Between 1768 and 1789, cotton exports increased from 240,000 pounds to 2.6 million pounds. Tobago planters who had not exported cotton in 1770, shipped 1.5 million pounds in 1780. Likewise, in 1787, in the Bahamas a full half a million pounds was sold to British merchants. Significant amounts of cotton also found their way to Britain from the French Caribbean islands.¹⁰⁰ Slavery and land expropriation on a continental scale created an expansive set of tools for feeding the Industrial Revolution, and ushered in the 'second slavery' that was linked to the intensity of profits. Soil erosion and techniques such as 'slash-and-burn' to clear the land, as well as series of harvest failures followed. In a relatively short period of time, environmental issues and the shortage of land induced Bahamian planters to migrate to Georgia. In Trinidad cotton cultivation completely disappeared. As of 1810 the British West Indies lost its lead in the cotton industry. According to Giorigo Riello, the West Indies "were a major example of land exhaustion due to global demand."¹⁰¹

Prior to the American Revolution, raw cotton in the North American colonies was cultivated in households for domestic use. It was not encouraged by Britain since it was seen as potentially competing with British woolens.¹⁰² Up to and including the American Revolution,

⁹⁹ Riello, *Cotton*, 201; A. Meredith John, *The Plantation Slaves of Trinidad, 1783-1816: a Mathematical and Demographic Inquiry* (Cambridge University Press, 1988), 18-19.

¹⁰⁰ Riello, *Cotton*, 202. Between 1730 and 1780, the island of St. Domingue went from 200 bales per year to producing 30,000 bales per year.

¹⁰¹ Riello, *ibid*, 204.

¹⁰² Riello, *Ibid*.

cotton was politicized as part of a “homes spun ideology” that called for households to actively replace British imports with American textiles.¹⁰³ In the early national period, two key elements were important to cotton’s rapid rise: the price of several competing staple commodities—tobacco, rice, and indigo, dropped suddenly and glutted the market and the invention of the Whitney gin in 1794 reversed the notion that ginning cotton—by removing the seed from the cotton fiber—was too labor-intensive to be profitable. Whitney’s cotton gin was more effective than the traditional roller system for cleaning green-seed cotton because it drew the cotton into a cylinder, then released only the fiber but not the seed. Natchez planter William Dunbar approximated that in 1794 slaves took a day to clean a pound of cotton. With the Whitney gin, one slave “could produce fifty pounds of clean cotton a day.”¹⁰⁴

Seed quality consistently changed also. When it became clear that the short-staple variety originally imported from the West Indies, was of low quality, difficult to clean, and could not tolerate frost. It was substituted by the “Upland” variety (*Gossypium hirsutum*) which was more tolerant, and its long-staple lint made mechanized cleaning easier. During the struggle for Independence, a long-staple fiber cotton with smooth black seeds was employed for domestic use. After the Revolution, the coastal crop known as Sea Island cotton—a silky, long staple hybrid of the American and Caribbean variety—was most profitable.¹⁰⁵ Because its fibers were longer than those of green seed cotton and were spiral shaped, spun sea-island cotton formed a finer and stronger thread suited to laces and luxury cloth.¹⁰⁶

¹⁰³ Riello, *Cotton*, 210; Beckert, *Empire*.

¹⁰⁴ Moore, *Emergence*, 11.

¹⁰⁵ Hamilton, “American Beginnings”; Moore, *Emergence*, 11.

¹⁰⁶ Beckert, *Empire*, 209.

By 1820, the enormous importance of cotton to planter wealth was evident in the continued experimentation of Mississippi planters with the cotton seed. That process included culling seeds from the most promising “plants, narrowing the genetic spectrum to achieve the strain known as *Gossypium hirsutum*, a blend of Georgia and Siamese cotton with a Mexican variety” —a result of cross-pollinated fields and experimentation, was named “Petit Gulf” for the bend in the Mississippi River which it was created.¹⁰⁷ The Petit Gulf seed transformed the income streams of planters in the area, but like other strains of cotton, countless other hybrid strains emerged over a thirty-year period.¹⁰⁸ Its defining qualities made it an ideal ecological and economic hybrid: it bloomed two weeks earlier than other strains; it was immune to a disease called “rot”; and it had, according to Walter Johnson, what planters referred to as “pickability,” blooming in large, wide bolls, the sharp-edges of the dried covering peeled backward, exposing the lint.¹⁰⁹

¹⁰⁷ As word spread of the Petit Gulf seed’s immunity to rot and its ability to produce crops on a much larger scale than older strains, demand for this seed grew throughout the Lower south. The product lived up to its reputation for only a short time since it gradually enervated until it resembled the older, less productive variety of Georgia green seed within three years. This feature allowed Mississippi growers to capitalize on the product since only they knew that a selective breeding process had to be applied when planting seed; planters unaware of the seed’s deterioration were forced to periodically order more planting seed every other year, thus enable Mississippi planters to exploit their informational advantage. Moore, *The Emergence of the Cotton Kingdom*, 6-8.

¹⁰⁸ Economic historians Olmstead and Rhode, in their critique of the ‘new history of capitalism,’ write that Petit Gulf is mislabeled as *G. barbadense*, a type of Sea Island cotton. “Petit Gulf was in fact a type of *G. hirsutum*, or Upland cotton. This is a significant error because Sea Island and Upland cottons were different crops, sold in different markets, grown in different areas, and produced using different techniques and labor regimes. Relatively little Sea Island cotton was grown anywhere near the Mississippi Valley, which lies at the heart of [Walter] Johnson’s steamboat story. [Johnson] falsely claims that Petit Gulf was expensive.” See Alan L. Olmstead and Paul W. Rhode, “Cotton, Slavery, and the New History of Capitalism,” (unpublished paper), October, 2016. http://www.law.columbia.edu/sites/default/files/microsites/law-economics-studies/olmstead_-_cotton_slavery_and_history_of_new_capitalism_131_nhc_28_sept_2016.pdf.

¹⁰⁹ Cotton everywhere underwent a period of experimentation before it was suitable to British buyers. The first stages produced many varieties. Lewis Du Pre explained in 1799, that although black and green seed cottons were “the extremes,” myriad strains between the poles “run into each other,” by almost imperceptible gradations. White Marsh Seabrook claimed in 1846 that there were still ten to fifteen

The other problem planters had always faced was land. The same patch could not be used for more than a few years without either planting legumes on it or applying fertilizer (i.e., guano) to it. A Putnam County, Georgia planter said it this way: “We appear to have but one rule—that is, to make as much cotton as we can, and wear out as much land as we can...lands that once produced one thousand pounds of cotton to the acre, will not now bring more than four hundred pounds.”¹¹⁰ Soil exhaustion quite literally pulled ever more planters, farmers, and merchants westward. The pace of this movement has been noted by historian Sven Beckert: “So rapid was this move westward that by the end of the 1830s, Mississippi already produced more cotton than any other southern state.”¹¹¹

The Evolution of Banking

As Mississippi and Louisiana transitioned from territories to states, stark economic demarcations were apparent early on between the well-funded, landed planters and merchants and yeomen farmers forced to seek-out cheaper lands. These developments directly impacted the development of banks in the region. In Mississippi, a growing economic and cultural divide existed and was maintained throughout the antebellum period between yeoman communities in the east and planters in the west, particularly the Natchez District. As one historian wrote, “The frontiersmen of the pine barrens were living in a totally different society and had a different

identifiable sub-varieties of Sea Island cotton alone that were the result of decades of breeding. To make matters more confusing, planters had not even settled upon sea-island cotton as low-country favorite. Peter Gaillard, for example, planted considerable quantities of both land and short staple cotton on his midlands estate in 1806, and Ralph Izard produced short staple cotton on his rice plantation in 1812. Johnson, *River of Dark Dreams*; Joyce E. Chaplin, *An Anxious Pursuit*, 194- 222.

¹¹⁰ Beckert, *Empire*, 103.

¹¹¹ Beckert, *Empire*, 104.

economic base from that of the river counties. There was 'little communication and less sympathy' between the residents of the two sections."¹¹² The growing east-west divide became even more apparent over time. In 1809, the Bank of Mississippi was headquartered in Natchez and chartered by the territorial government. Heading up this enterprise was the bank's first president, Stephen Minor. As a planter, he represented the interests and needs of a group that had an increased demand for loanable funds on the frontier. Privately owned, the bank's leading stockholders included prominent local merchant-planters in the process of becoming full-fledged merchant-bankers: Abijah Hunt and Samuel Postlethwaite were just some of the men leading the bank. When Mississippi became a state in 1817, the second charter issued by the legislature gave it a new name, the State Bank of Mississippi, and it was made a corporation, owned jointly by the state and private stockholders; the majority of these individuals were from among the planter-merchant class.¹¹³

In 1809 the Natchez bank was chartered with a capital stock of \$500,000.00. In December of 1817, when Mississippi became a state of the Union and the state became a partner of the original bank, the charter was amended; the following year and the capital stock was increased to \$3 million. The General Assembly chartered as well the Planters' Bank in 1830 and the

¹¹² Richard Stephen Lackey, "Credit Land Sales, 1811-1815: Mississippi Entries East of the Pearl," (Master's Thesis, University of Southern Mississippi, 1968). Those settlers without the necessary means to stay in the Natchez District were crowded out by planters with larger operations and joined migrants from the poorer areas of Georgia and the Carolinas, developing an economy based predominantly on cattle-raising—an activity suited for the pine barren region where the sandy soils did not support cotton production. Only a few small farmers operated on patches of fertile alluvial soil located along the riverbanks of the Tombigbee, but most settlers simply squatted the land without attempting, on the whole, to purchase it.

¹¹³ Marvin Bentley, "The State Bank of Mississippi: Monopoly Bank on the Frontier: 1809-1830," *The Journal of Mississippi History*, 40 (November, 1978): 297-318.

Agricultural Bank in 1833. Neither of these two banks survived the crash in 1837. The same year as their demise, the Mississippi Union Bank was chartered in Jackson, Mississippi, with a capital stock of \$15.5 million raised on the basis of state bonds. Speculation and ineffective management led to a deterioration of the banking system and most banks in Mississippi were insolvent by 1840. Although most financing in the state was managed by brokers and cotton factors up to the Civil War, private banks such as Britton and Koontz in Natchez, Wirt Adams & Company in Vicksburg, and both J. & T. Green and Griffith and Stuart in Jackson provided some banking services.¹¹⁴

The circulation of bank notes and the collection of bills of exchange tended to move from Natchez to New Orleans. Holders could tender Natchez banknotes at the New Orleans branch and receive immediate credit for their deposits. They could withdraw those deposits in New Orleans branch notes or obtain checks on other branches. If the 'market' did not favor Natchez banks at a particular moment in time, the branch in New Orleans debited their deposits by the amount of the market discount for those notes.¹¹⁵ As with all of the enclaves located in the Delta, merchant-planters in Natchez benefitted greatly from its proximity to the financial markets in New Orleans. Louisiana's comparatively more advanced financial sector began before the era of cotton, during the expansion of cane sugar production. The original Bank of Louisiana in New Orleans was chartered by Governor Claiborne in 1804. It was formed after the Louisiana Purchase of 1803 to provide currency for the citizens of Louisiana to replace the Spanish silver

¹¹⁴ Lewis F. Mallory, Jr., *Mississippi Bankers Association: A Century of Service* (New York: Princeton University Press, Newcomen Society of the United States, 1989).

¹¹⁵ Richard Holcombe Kilbourne, Jr., *Slave Agriculture and Financial Markets in Antebellum America: The Bank of the United States in Mississippi, 1831-1852* (New York: Taylor & Francis, 2006).

certificates used in the lower Mississippi Valley before the purchase.¹¹⁶ The ability of banks to issue their banknotes aided greatly in an economy that lacked hard currency.

In the early national period the distinction between “banking on mercantile credit,” and “banking on land and merchandise” remained important. This logic meant that “money banks” issued banknotes on the basis of obligations made by merchants (and manufacturers), while land banks which issued their notes on the basis of land and personal estates were considered preferable because they were viewed as standing on firmer ground.¹¹⁷ Banks evolved with the production of agricultural staples. Cane was first planted in what is today the state of Louisiana in 1751.¹¹⁸ Production of raw sugar in the state expanded from 5,006 tons in 1815 to 42,000 tons in 1831. By 1826 output had reached 25,873 tons.¹¹⁹ By the 1820s, state banks no longer raised capital by the sale of stock but by the sale of bonds secured by a pool of stockholders’ mortgages. Significantly these property banks had a working capital based on specie—hard currency. Stock in a property bank was obtained by an owner’s giving a mortgage on his land and slaves, or on his city real estate. Such bonds, secured by mortgages on land and slaves, were then sold for the

¹¹⁶ Richard Follett, *The Sugar Masters: Planters and Slaves in Louisiana’s Cane World, 1820-1860* (Baton Rouge: Louisiana State University Press, 2005).

¹¹⁷ Fritz Redlich, *The Molding of American Banking: Men and Ideas* (New York: Johnson Reprint Corp., 1968).

¹¹⁸ Approximately 20,000 acres of the total Louisiana cane lands lie in the Mississippi and Lafourche sub-regions which are located to the east of the Atchafalaya River in the flood plain. The cane land is distributed between West Feliciana parish in the north and St. Charles parish in the south. With the exception of Point Coupee parish, most of this acreage is confined within a ten mile wide zone which is contiguous and parallel to the Mississippi River. Shea, “The Spatial Impact,” 10.

¹¹⁹ Shea, “The Spatial Impact,” 34-40. Shea explains that planters alternated between staples; when prices for cotton improved in the 1820s, sugar planters switched to producing cotton, then again when cotton prices decreased enough in the 1840s, planters returned to sugar production. This was especially true in East and West Feliciana, Pointe Coupee, Avoyelles, and Rapides parishes. Mississippi planters produced cotton exclusively, although the planter elite did expand into cotton producing in Louisiana as well. For the heterogeneous development of labor in Louisiana’s early sugar parishes see, V. Alton Moody, “Slavery on Louisiana Sugar Plantations,” *The Louisiana Historical Quarterly* 7:2 (April, 1924).

purpose of raising capital. The first property bank was the Consolidated Association of the Planters of Louisiana chartered in 1827. Two additional property banks were founded in 1832 and 1833. Mississippi followed soon after by granting its own charters to two such institutions. Stockholders were entitled to loans up to 50 percent of the par value of their stock. And, once in operation, they were almost indistinguishable from previous stock banks: they issued banknotes, accepted deposits, and discounted commercial paper.

An Expanding Definition of Wealth, the South as Concept, and the Role of both in the Invisibility of Slavery

Much of the banking in the Delta took place outside such regular channels as banks, particularly in the financing of plantation agriculture. How slavery shaped the development of the South's financial system, along with planters' perceptions regarding property rights in human beings as financial assets, will continue to be explored. A core operating idea of this study is the invisibility of slavery created by such financial operations (conscious and subliminal) and the masking of slave agency, however limited it may have been.¹²⁰ The invisibility has to do with the notion of 'southernness' which is more fully articulated by a few scholars in recent years. Southern distinctiveness is a cultural and historiographic construct that operates as a

¹²⁰ The notion of "invisibility" I use here is distinct from the idea of "dehumanization" of African laborers. Dehumanization of African slaves at the hands of white owners as the alienation of enslaved people from their humanity. Instead, as Philip Morgan writes, African American slaves (always and everywhere) "strove...to preserve their humanity." Walter Johnson writes that historians "implicitly and unwittingly suggest that the case for enslaved humanity is in need of being proven again and again. By framing their 'discovery' of the enduring humanity of enslaved people as a defining feature of their work, casting their work as a proof of black humanity." Walter Johnson, "To Remake the World: Slavery, Racial Capitalism, and Justice," *Boston Review*, October 26, 2016.

useful analytical tool.¹²¹ It is a concept that isolates national issues.¹²² Southern slaveholders embedded slavery within the governing structures of the new republic, ensuring the issue would remain a national one, even after northern states abolished the institution. The dynamics of slavery and its legacy in the post-emancipation era made racial inequality inseparable from central themes in United States history.¹²³ Sectioned off geographically, “the exceptional South” is a literal and symbolic inversion of what were (and are) national problems. The nation’s most enduring problems are relegated to the region: slavery, segregation, and the most extreme forms of inequality are the first to come to mind, but the “South” also encapsulates what seems “authentic,” about American values; values that appear weaker wherever economic and social change unfolded.¹²⁴

In this vein, the broader national and Atlantic currents of the nineteenth-century, if not before, were very much part of the Lower Mississippi Valley’s success in commercial agriculture. Many outside investors had a vested stake in its slave-based enclaves, and the credit regime of the Atlantic was the operating fulcrum in the Delta; premised on older European and Roman law, French, Spanish, British and American officials were able to transfer control of these outposts and adjust to a multi-ethnic population based on the

¹²¹ Laura F. Edwards, “Southern History as U.S. History,” *The Journal of Southern History* 73:3 (August, 2009): 533-564;

¹²² Edwards, “Southern History”; See also, Larry J. Griffin, “Why Was the South a Problem to America?” in eds., Griffin and Don H. Doyle, *The South as An American Problem* (Athens, Ga., 1995), 10-32; as an established view of these dynamics see C. Vann Woodward, *The Burden of Southern History* (3rd ed.; Baton Rouge, 1993). Also, Charles Grier Sellers, Jr., *The Southerner as American* (Chapel Hill, 1960).

¹²³ Edwards, “Southern History.”

¹²⁴ Edwards, “Southern History,” 535.

complementarities between their systems. The differences were of degree, and rarely of substance.

The Delta's problems, as well the potential solutions it held out to Americans reflected, not a southern, but a national optic. For the period between 1789 and the 1830s, the post-Independence citizen looked to the south to solidify the meaning of the new republic. The earliest southern historians participated in a broader intellectual and political effort using southern states as the best representatives of national values. State histories such as the *History of the American Revolution* (1789) by David Ramsey recast southern colonists' battles over economic resources as political movements—Bacon's Rebellion in Virginia and the Regulator movements in the Carolinas were treated by historians as homegrown opposition to British rule. They were not.¹²⁵

The environment was recast to serve national purposes as well.¹²⁶ Thomas Jefferson's *Notes on the State of Virginia*, the most prominent example, created an account of political promise rooted in the land's bounty, its soil and rivers—which brings us to the expansion of the notion of wealth and slavery itself.¹²⁷ The basis of national commerce was the supposed freedom found in "unfettered movement, enterprise, [and] endless natural boundaries." These notions

¹²⁵ Edwards writes that "this stunning act of alchemy turned the backwoods settlers whom the South's colonial elite had derided as uncouth bumpkins into the nation's forebears." Edwards, "Southern History," 538; David Ramsay, *The History of the American Revolution* (2 vols.; Philadelphia, 1789). Other notable histories of the period that viewed the colonial past as a precursor to a more perfect union were Ramsay, *A Dissertation on the Manner of Acquiring the Character and Privileges of a Citizen of the United States* (Charleston, S.C., 1789); Jedidiah Morse, *Geography Made Easy*, Being an Abridgement of the American Universal Geography (Boston, 1813).

¹²⁶ Edwards, "Southern History"; Cathy D. Matson, "Capitalizing Hope: Economic Thought and the Early National Economy," *Journal of the Early Republic* 16:2 Special Issue on Capitalism in the Early Republic (Summer, 1996): 273-291.

¹²⁷ Thomas Jefferson, *Notes on the State of Virginia* (Philadelphia, 1788).

blended state and national prospects in a single vision. Land was considered the bedrock of republican values; it was also a commodity to buy and sell with farming itself becoming market-based, reliant on credit relations. Contemporaries envisioned the hinterlands less as a terrain with self-sufficient farms than as “the greatest factory of American raw materials,” offering substantial amounts of goods “for the use of other parts of the nation.”¹²⁸ Writers enlarged the definition of wealth to include not only abundance, but the potential to transform farms into businesses competing freely as producers.

Expanding notions of wealth meant that huge amounts of cash and credit were raised on the backs of African and Creole men, women, and children, both before and after American Independence. Mortgaged property in slaves throughout the South increased in the early national period giving way to growing local economies. The debt contracts that recorded them were spread-out geographically in “courthouses and commandant’s headquarters—camouflaging the power and scope of the financial engine” such mortgages created.¹²⁹ In the mundane process of recording credit contracts, African laborers were reduced to a first name (given by slave owners) and an age (sometimes not even this minimum amount of information was included). The slave as human disappeared behind promissory notes, bonds, litigation, and re-appeared in the minds of the planters and merchants as a price based on a category. Slave bodies and the language of commodification became embedded in the economic

¹²⁸ Francois-Xavier Martin, *An Account of Louisiana, Exhibiting a Compendious Sketch of Its Political and Natural History and Topography: With a Copious Appendix Containing Several Important Documents* (New Bern, N.C., 1804).

¹²⁹ Bonnie Martin, “Slavery’s Invisible Engine: Mortgaging Human Property,” *The Journal of Southern History*, 76:4 (November, 2010): 817-866.

instrumentality of debt and credit. Buried in page after page, deed books in the Delta testify to the fact that African and Creole laborers and their children existed in the mental calculations of merchants and planters (as I explain in Chapter 3); the knowledge of how many slaves a potential debtor held, how many of them were already mortgaged, as well as their physical attributes and dispositions informed debtors' definitions of money and property.

There are numerous explanations for the slave's "disappearance." First, mortgages and deeds seemed to arise as an aspect of local legal practice. Second, there was no centralized collection or compilation of mortgage statistics. For example, the census did not require counties or parishes to report totals of land, slaves, or other property mortgaged. Year in and year out, therefore, private mortgage contracts were quietly filed across the South, but no published accounting exposed the number of mortgages made or the amount of capital raised. Nor was there a calculation of the value of human collateral when slaves were liberated. In Brazil some slaves were emancipated by purchase and the majority by final decree in the years leading up to abolition in 1888. In Barbados and South Africa, where slavery was ended by a compensation scheme rather than war, public debates about the economic costs of emancipation included an accounting of the use of human collateral.¹³⁰ There were no such extended debates in the United States. After the Civil War, people could no longer be

¹³⁰ See Kathleen Mary Butler, *The Economics of Emancipation: Jamaica and Barbados, 1823-1843* (Chapel Hill: 1995); Nancy Priscilla Naro, *A Slave's Place, a Master's World: Fashioning Dependency in Rural Brazil* (New York, 2000), esp. 153-155; and Robert C. H. Shell, *Children of Bondage: A Social History of the Slave Society at the Cape of Good Hope, 1652-1838*, (Hanover, N.H., 1994), 109-110.

mortgaged, and, once the postwar litigation over outstanding mortgages ceased, it was easy as time went on, to forget an important financial strategy that was left behind after slavery.¹³¹

Historiographic Review

The slave “disappeared” from view—an elision worked into the books and ledgers of planters that occurred at a faster rate than ever on the emerging plantations of the Lower Mississippi Valley. How and why this happened includes international geopolitical pressures to eradicate slavery, on the one hand, and the need to meet a growing demand for cotton during the British Industrial Revolution on the other. Development of the area was due in part to planters’ own abilities to conform to Atlantic standards of trade, as well as the configuration of local institutions such as banks to productively meet the demands of a post-mercantilist trade. In this context, legal conflict empowered (or forced) planters and merchants to move further away from a paternalist view of slavery, in favor of one that continued a process by which slaves were seen as commodities. This study looks at how legal conflict further eroded the humanity of slaves through an Atlantic, then local calculus, with each legal case or conflict

¹³¹ For example, *Edward Groves v. K.M. Clark and R.H. Carnal*, 21 La. Ann. 567 (1869), the justices of the Supreme Court of Louisiana reversed *New Orleans Canal and Banking Co. v. Templeton* and reaffirmed the reasoning in *Wainwright v. Bridges*, only to be overruled by the Supreme Court of the United States two years later in *William White v. John R. Hart*, 80 U.S. 646 (1871). Related legal issues persist into the twenty-first century. On the links of corporate assets today to slavery and slave mortgages, see “Bank Uncovers Slavery Ties,” *Augusta (Ga.) Chronicle*, June 2, 2005. On June 1, 2005, Wachovia Corporation apologized for its links to slavery and in particular the use of human collateral. The corporation also published the findings of a study completed by the History Factory, a group of professional historical researchers, entitled *Wachovia Corporation and Its Predecessor Institutions: Findings Report* (Chantilly, Virginia, 2005). For the apologetic press release, “Wachovia Completes Research of Predecessor Companies,” go to https://www.wachovia.com/foundation/v/index.jsp?vgnextoid=f3082e3d3471f110VgnVCM200000627d6fa2RCRD&vgnnextfmt=default&key_guid=282c948df51eb110VgnVCM100000ca0d1872RCRD. On the invisibility of finance, see Gavin Wright, *Slavery and Economic Development* (Baton Rouge, 2006), 31.

inching ever closer to a more fully commodified understanding of slaves and prices—and an understanding of merchants as the primary carriers of these processes. The Lower Mississippi Valley’s relationship to credit and slavery is at the crossroads of several historiographic traditions—and reflects the multiple processes occurring at once, from nation-building to changes in the ways judges favored the protection of larger commercial enterprises, to the influx and aggrandizement of slave plantations themselves. It explores the influence of out-of-state merchant-investors on an economy and time period characterized primarily as a deerskin and cattle economy, but one that was increasingly invested in cotton and slavery.¹³² It is also a study of creditor-debtor dynamics in the context of the Lower Mississippi Valley’s legal evolution and is therefore concerned how legal routines were ‘carried,’ especially by way of early merchant communities, into a region beset by a revolving door of imperial sovereignty. How, for example, did commercial disputes situated the Delta and related to the ‘law of nations’ signal to the world that it would abide by the tenets established in Great Britain’s Debt Act? In what ways did inhabitants reflect the tensions brought by conflicts from “outside” their immediate locales? ‘Legal diffusion’ aids in this understanding. It denotes a process by which ideas are spread from one individual to a wider array of possible individuals; a characterization closest to William Twining’s idea of the diffusion of knowledge and practices as similar to the spread of language. More recently, diffusion studies have increasingly turned to the investigation of how institutions are reconstructed in new social or geographical spaces.¹³³

¹³² Morris, *Becoming Southern*; Daniel H. Usner, Jr., *Settlers and Slaves in a Frontier Exchange Economy before 1783* (University of Alabama Press, 1992).

¹³³ Jens Beckert, “Symposium: How History Matters,” *Socio-Economic Review* 6 (2008): 515-516; Marie-Laure Djelic, “Sociological studies of diffusion: is history relevant?” *Socio-Economic Review* 6 (2008): 538-557; William Twining, “Legal Pluralism 101,” *University of Miami Symposium*, May 12, 2010.

The links between diffusionist studies and other traditions of inquiry are being explored. A number of historians have studied how ‘naming, blaming, and claiming,’ are a process in which legal actors played upon tensions in crafting legal strategies in distant geographies. William L. F. Felstiner analyzes how disputes as social constructs communicated, or broadcast the patterns and experiences of the disputants.¹³⁴ Lauren Benton examines how explorers’ most tenuous (and perhaps legally questionable) practices, such as accusing someone of treason, were part of a process of physical settlement in remote areas and connected distant geographic space to sovereignty.¹³⁵ Historians and sociologists continue to weave together these more or less elusive sources of transformation within the context of state-recognition. Christopher Tomlins, focusing on colonial charters as part of the formation of early American legal culture, considers how documents—the specific documentary form and its discourses, created jurisdictions that explained the concept of colonizing to those doing the colonizing in a “pre-defined, produced English territory.” Tomlins, and other historians, have considered migration as a process of “imagining, designing, embodying” North America.¹³⁶

¹³⁴ William L.F. Felstiner, Richard L. Abel and Austin Sarat, “The Emergence and Transformation of Disputes: Naming, Blaming, Claiming...” *Law and Society Review*, 15:3-4 (1980): 631-654.

¹³⁵ Part of that process included accusations of treason as a strategy that cut across empires. Lauren Benton, *A Search for Sovereignty*.

¹³⁶ Christopher Tomlins, “The Legal Cartography of Colonization, the Legal Polyphony of Settlement: English Intrusions on the American Mainland in the Seventeenth Century,” *Law & Social Inquiry*, 26:2 (Spring, 2001): 315-372. On the emergence of legal geography as an analytical category, see Benjamin Forest, “Placing the Law in Geography,” introduction to “Legal Geographies,” special issue of *Historical Geography*, 27 (2000): 5-12; For a summary of the “farm idea” in which promissory notes and deeds produced specialized landscapes, see Richard Lyman Bushman, “Farmers in Court: Orange County, North Carolina, 1750-1776,” in Christopher L. Tomlins and Bruce H. Mann, eds., *The Many Legalities of Early America*, (Chapel Hill, 2001): 388-413; Christian J. Koot, “The Merchant, the Map, and Empire: Augustine Herrman’s Chesapeake and Inter-imperial Trade, 1644-73,” *The William and Mary Quarterly*, 67:4 (October, 2010): 603-644.

But if collective groups could imagine and form jurisdictions, they could also ‘deconstruct’ or ‘decentralize’ them as places designed for lawlessness. Mary L. Dudziak and Leti Volpp argue that legal borderlands, characterized by ambiguous legal identities, are rendered sites of “abnormal legal regulation, placing them at the edge of law” and in direct contrast to the continued belief that the “story of America is the story of the rule of law.” Put another way, Dudziak and Volpp, in line with studies of legal diffusion, work against the fallacy that real law is state law (i.e., legal centrism). They point to the more realistic notion that borderlands were envisioned as spaces or gaps, holes in the imagining of America, “where America is felt to be ‘out of place.’” In spite of American ideals of democracy and progress, “violations,” exceptions, and “abnormalities” of the law were routinized.¹³⁷

At the edge of law is exactly where scholars look for tensions between the periphery and the “center,” or metropolitan arenas, and this is matched by historians’ more nuanced consideration of the fundamental ideas, practices, norms, and conventions in which economies were rooted. Nowhere are the prospects for a reintegration of social and intellectual history more apparent than in the recent revival of the history of capitalism. The most important, though subtle shift in the storyline is the need to move away from studying proletarianization, or the point of view of the worker to, examining the process of commodification that views the world from the eyes of the capitalist. And to do this, historians are examining capital as it operated beyond public authority as the quasi-sovereign rights and responsibilities of private

¹³⁷ Mary L. Dudziak and Leti Volpp, “Introduction, Legal Borderlands: Law and the Construction of Borders,” *American Quarterly* 57:3 (September, 2005): 593-610. See also Gerald Neuman, “Anomalous Zones,” *Stanford Law Review*, 48:5 (1996): 1197-1234.

investors, and intermediaries, as Elizabeth Blackman has shown in her critical investigation of “property rights discourse.”¹³⁸

The current scholarship, whether in studies analyzing “capitalist ways of seeing,” or the way cotton and other commodities developed value chains, integrates a variety of subfields and methodologies under one capacious heading.¹³⁹ The “Paper Technologies of Capitalism” invokes historians’ epistemological exploration of what it “took to ‘mind’ one’s business.”¹⁴⁰ Some of the most exciting work involves what historian Jeff Sklansky calls “capitalist ways of seeing,” preceding the study of production, distribution and consumption are questions regarding the creation and organization of knowledge, a larger epistemology predicated on the technologies that facilitate the ways of seeing that create fact—the ledger for example—rendering the vast complexities of the world into a distilled form to promote some kind of rational, decision-making.¹⁴¹ In the broader framework of a “Second Slavery”—highlighting

¹³⁸ Jeffrey Sklansky, “The Elusive Sovereign: New Intellectual and Social Histories of Capitalism, Modern Intellectual History, 9:1 (April, 2012): 233-248; Elizabeth Blackman, “Of REITS and Rights: Absentee Ownership in the Periphery,” in Jeffery M. Defendorf and Kirk Dorsey, eds., *City, Country, Empire: Landscapes in Environmental History* (Pittsburgh, 2005), 81-98; *idem*, “Appropriating ‘the Commons’: The Tragedy of Property Rights Discourse,” in Setha Low and Neil Smith, eds., *The Politics of Public Space* (New York, 2006), 49-77.

¹³⁹ Sklansky, “The Elusive Sovereign”; Walter Johnson, “The Pedestal and the veil: Rethinking the Capitalism/Slavery Question,” *Journal of the Early Republic*, 24:2 (Summer, 2004): 299-308; Seth Rockman, “What Makes the History of Capitalism Newsworthy?” *Journal of the Early Republic*, 34:3 (Fall, 2014): 439-466; William H. Sewell, Jr., “The temporalities of capitalism,” *Socio-Economic Review*, 6 (2006): 517-537; Sven Beckert, Angus Burgin, Peter James Hudson, Louis Hyman, Naomi Lamoreaux, Scott Marler, Stephen Mihm, Julia Ott, Philip Scranton, Elizabeth Tandy Shermer, “Interchange: The History of Capitalism,” *The Journal of American History*, (September, 2014): 503-536; Walter Johnson, “Inconsistency, Contradiction, and Complete Confusion: The Everyday Life of the Law of slavery,” *Law and Social Inquiry*, 22 (1997): 405-433. For cotton as a commodity chain see, Stephen Yafa, *Cotton: The Biography of a Revolutionary Fiber*, (New York: Penguin Books, 2005); Giorgio Riello, *Cotton: The Fabric that Made the Modern World*, (New York: Cambridge University Press, 2013).

¹⁴⁰ http://www.brown.edu/Facilities/John_Carter_Brown_Library/exhibitions/business/index.html.

¹⁴¹ Sklansky, *Elusive*.

slavery's nineteenth-century resurgence in Brazil, Cuba, and the United States—historians have in the last decade at least, positioned southern slaveholders as builders of a capitalist system grounded in commodity production.¹⁴²

But national finance, still in its infancy, had to contend with older, continually developing, Atlantic customs and practices; those much longer and deeper experiences of trade and commodity production fanned-out over a larger geographic slice of the world, and had exerted their own pressure into newer areas without exception.¹⁴³

Even if we account for physical force or the inevitability of settlement, which many historians deem sufficient when explaining American sovereignty in the Valley, the use of credit enabled and furthered the outcome that a distinct social structure would emerge—with merchant and landholding elites as the primary recipients during expansionary periods.¹⁴⁴

In light of these distributional patterns and with an awareness that the “flush times” of “easy credit” in Louisiana and Mississippi still lay a few decades ahead in the post-1815 period, the

¹⁴² Tomich, *Second Slavery*; Sven Beckert, *Empire of Cotton*; Ada Ferrer, *Freedom's Mirror*; see especially Stuart B. Schwartz's chapter entitled, “Reorientation and Persistence, 1750-1835,” in *Sugar Plantations in the Formation of Brazilian Society, Bahia, 1550-1835* (New York: Cambridge University Press, 1985).

¹⁴³ The long history of experimentation is well-explained in Stuart B. Schwartz, *Sugar Plantations in the Formation of Brazilian Society, Bahia, 1550-1835*, (Cambridge University Press, 1985); Stuart B. Schwartz, *Sugar and the Making of the Atlantic World, 1450-1680*, (University of North Carolina Press, 2004); Cathy Matson, *Merchants and Empire: Trading in Colonial New York* (John Hopkins University Press, 1998); Beckert, *Empire of Cotton*; Robin Blackburn, *The Making of New World Slavery: From the Baroque to the Modern, 1492-1800*, (Verso, 1997). See especially Sven Beckert's discussion of “war capitalism” in this regard. Beckert, *Empire of Cotton*.

¹⁴⁴ Ta-Chen Wang, “Banks, Credit Markets, and Early American Development: A Case Study of Entry and Competition,” *The Journal of Economy History* 68:2 (June, 2008): 438-461; Jeremy Adelman, “Agricultural Credit in the Province of Buenos Aires, Argentina, 1890-1914,” *Journal of Latin American Studies*, 22 (69-87); Juliette Levy, *Yucatan's Arrested Development: Social Networks and Credit Markets in Mérida, 1850-1899* (unpublished Ph.D. diss, University of California, Los Angeles, 2003).

premise here is that obtaining enough credit to underwrite the beginning stages of an enterprise was still difficult for all the reasons economic historians usually cite and that individuals wrestled with at all times—asymmetric information, fraud, distance, and the variability of cottons’ quality.¹⁴⁵ In borderland areas, experiencing a fairly rapid succession of imperial owners did not automatically translate into access to the credit-grantors of those respective nations.¹⁴⁶ But the difficulties cited above also enabled credit to reproduce itself as an ever-wider system through already existing ideas and customs about how it should be distributed and collected.

To a large degree, the more subtle processes of finance and slavery coalesced in the courtrooms of the Delta. Legal communication continually segmented reality through a series of artificial distinctions that were tied to the ways people lived: Louisiana’s statutes regarded slaves as “immuevables,” and defied reality by contradicting the constant, actual “movement” of the enslaved bodies it sought to contain. Nevertheless, the fictional distinction enabled slaveholder’s to construct a planter class in which slaves were bought and sold, and *moved* every day.¹⁴⁷ Another example: despite the thousands of men who failed financially every year, the Bankruptcy Act of 1800, which gave relief from debts to insolvent debtors, was intended only as a remedy to be used by merchants—the “commercial classes” of men.¹⁴⁸ Legal actors repeatedly played-upon the tensions and ambiguities of law in crafting strategies particular to *their*

¹⁴⁵ An excellent study of the easy-credit era is Joshua D. Rothman, *Flush Times and Fever Dreams: Race in the Atlantic World, 1700-1900* (Athens: University of Georgia Press, 2012).

¹⁴⁶ Andrew McMichael, *Atlantic Loyalties: Americans in Spanish West Florida, 1785-1810*, (Athens: University of Georgia Press, 2008).

¹⁴⁷ Judith Kelleher Schaffer, *Slavery, the Civil Law, and the Supreme Court of Louisiana*, (Louisiana State University Press, 1994).

¹⁴⁸ Sandage, *Born Losers*; Bruce H. Mann, “The Transformation of Law and Economy in Early America,” in *Cambridge History of Law in America, Early America, 1580-1815, Volume 1* (Cambridge University Press, 2008): 394-395.

enterprises and *their* regional biases. And, it was during legal conflicts that these ambiguities, Lauren Benton observes, opened the door for a sharper division between ideas about “modern” and “traditional,” between “state” and “non-state” realms, especially as political contests shaped structures.¹⁴⁹

Commercial norms were self-generated in a system created by and for merchants. Once cotton’s ascendancy arrived in the form of the “boom” years of “King Cotton,” the *lex mercatoria*, or merchant’s law gained further strength through merchant-juries. These juries became more fully entrenched after 1839 in New Orleans even though their counterparts in other commercial centers of the country had died out long before. Historian Richard J. Kilbourne cites this “duality” at the core the credit system: “the maintenance of a dual system artificially preserved a legal environment which necessitated a vague form of [commercial or legal] specialization.” The city’s international orientation enabled merchant-juries to preside exclusively over mercantile disputes. Easy credit during the flush times of the 1830s, the creation of New Orleans’

¹⁴⁹ Lauren Benton, *Law and Colonial Cultures*, 6; Niklas Luhmann identifies a “binary code” in the legal system, which operates as “open-ended...requiring itself to decide how to allocate its positive or negatives values...Norms, then, are purely internal creations serving the self-generated needs of the system for decisional criteria without any corresponding ‘similar’ items in its environment.” He also notes the distinction between normative and cognitive expectations is an ongoing process made by the legal system. Niklas Luhmann, “Operational Closure and Structural Coupling: The Differentiation of the Legal System,” *Cardoso Law Review* 13 (1992): 1419-1441. For the conflation of “internal” and “external” processes see Rosenau, *Along the Domestic-foreign Frontier*. For excellent studies that analyze the role of information in trade and colonization see Philip Curtin, *Cross-Cultural Trade in World History* (Cambridge University Press, 1984); Bernard S. Cohn, *Colonialism and Its Forms of Knowledge, The British in India* (Princeton University Press, 1996). Also, for the role of non-state actors as mediators of information and state-making see, Phil Withington, “Public Discourse, Corporate Citizenship, and State Formation in Early Modern England,” *The American Historical Review* 112:4 (October, 2007): 1016-1038; Peter Linebaugh and Marcus Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston: beacon Press, 2000); Linda Rupert, “Contraband Trade and the Shaping of Colonial Societies in Curaçao and Tierra Firme,” *Itinerario* 30:3 (November, 2006):35-54.

Commercial Court in 1839, the centralization of information by R.G. Dunn & Co., in July of 1841, and the push for nationalization of a commercial code, emphasized the competing tendencies of regionalism and the nationalization.¹⁵⁰

To explain the transitions, transformations, and even some of the ambiguities between 1800 and the 1820s and 1830s, historians of the early republic typically end up confirming the claims made by Morton Horwitz in *The Transformation of American Law, 1780-1860*. Horwitz argued that the economic transformation demanded drastic moves away from eighteenth-century common law and pivoted on the new role given to judges. These claims still stand, but are now qualified by critiques that accuse Horwitz of ignoring the internal changes of the merchant class, and inferring too much about the motives behind judge-made law.¹⁵¹

Legal scholar Christopher Tomlins, in particular, advocates a new agenda based on Horwitz's earlier reflections, one that emphasizes the active role of commerce and law in territorial expansion as being the larger metanarrative Horwitz doesn't get around to articulating.¹⁵² Tomlins agrees that since the 1970s, studies of race, class, and gender buoyed legal history, but

¹⁵⁰ Kilbourne notes that by the 1820s the older European practice of keeping commercial law as separate from the general law of contracts was already antiquated. He writes, "Soon commerce would no longer be distinguishable from other forms of economic activity. The modern industrial state would integrate all spheres of economic activity." Kilbourne, *Louisiana Commercial Law*, 85, 100-103, and 110-135.

¹⁵¹ Horwitz, *The Transformation of American Law*; A severe criticism of the work was that there was an attempt to infer "both motives and real effects embedded in legal decisions." See Elizabeth Fox-Genovese and Eugene Genovese, *Fruits of Merchant Capital, Slavery and Bourgeois Property in the Rise and Expansion of Capitalism* (New York: Oxford University Press, 1983) 338-345. David S. Tanenhaus, "Transforming a Field: The Critical Tradition in American Legal History," *Reviews in American History*, 38:2 (June, 2010): 247-252.

¹⁵² Christopher Tomlins, "American Legal History in Retrospect and Prospect: Reflections on the twenty-fifth Anniversary of Morton Horwitz's *Transformation of American Law*, *Law and Social Inquiry* (2003): 1135-1148; Daniel Hulsebosch, "Debating the Transformation of American Law: James Kent, Joseph Story, and the Legacy of the Revolution," *Public Law and Legal Theory Research Paper Series*, New York University School of Law, Working Paper No. 08-44 (November, 2008): 1-27.

that historians' "piecemeal pluralism" and their suspicion, as a group, of metanarrative still promoted one by default.¹⁵³ Similarly Daniel J. Hulseboch is more broadly focused on European influences, countering, Horwitz's nationally focused approach, which concealed an active European presence in the very same decades after the revolution when European law was applied to solve problems.¹⁵⁴ But if lawyers and judges were pausing to rediscover European law and reassess its applicability, there were forces that despite American Independence, were injecting alternative interpretations.

David Thomas Konig's and Bruce Mann's studies use the terrain first laid-out by Horwitz, but tie the subject of regionalism to the strengthening or weakening of equity that early on, determined the leniency extended to debtors. Konig ties Northern suspicions of proprietary government to the leeway given to creditors in states like Pennsylvania and New York; statutes that made seizure and therefore recovery easier were adopted early on. By contrast, Southern colonies and later states established equity courts putting limits on the claims of creditors where New England had shunned them. Mann's study of economic speculation looks across occupational categories and sees financial competition attracting investors from ever-widening demographic and geographic circles. Thus, irrespective of location, the Bankruptcy Act of 1800

¹⁵³ Tomlins sees colonization itself as part of the problem, which "simultaneously presented and communicated only modernism's anthropological counterpoints of progress and stasis, wilderness and improvement," that hid from view "the most strategic moment in the formation of the character of American modernity," *ibid.*, 1142-1143. In a related vein, issues of colonial history that defined sovereignty in what later became the United State of America is found in Alison LaCroix, "Drawing and Redrawing the Line: The Pre-Revolutionary Origins of Federal Ideas of Sovereignty," in *Transformations in American Legal History: Essays in Honor of Professor Morton J. Horwitz* (Harvard Law School, 2008).

¹⁵⁴ Tanenhaus, "Transforming a Field," 249-250; Walter Johnson also advocates for political economy of a single, Atlantic space in "The Pedestal and the Veil: Rethinking the Capitalism/Slavery Question." *The Journal Of the Early Republic*, 24:2 (Summer, 2004): 299-308.

marked an important fault line in the American economy. The statute, though repealed in 1803, was a statement of the “principle” that release from ones’ debts was a privilege reserved for capitalist entrepreneurs. Merchants and others in commerce supported the legislation while planters and farmers saw it as a threat.¹⁵⁵

Most fascinating in the last decade, however, are the conversations (remote as they are), that carry the issue of commodification, slavery, and the law as an analytical bundle. For legal scholars and political scientists, disputing economists’ claims that markets naturally bring money into existence as an arbitrary market of value to facilitate exchange, means arguing that currency is a product of public governance and an expression of political authority that shapes what is understood as the “market” and how it functions. Working in this vein, David Waldstreicher, Amy Dru Stanley, Stephanie Smallwood, Walter Johnson and many others position slavery, at the heart of the early republic’s capitalism. *Commodification* is a process that transforms aspects of the material world into exchangeable units and in doing so, relatively quickly directs attention to the social construction of knowledge. Standards for measuring, grading, and pricing, for example, are not automatic, but emerge in contests over authority and expertise. And all of this commodifying occurs through language—the “discursive process”—in which language and the

¹⁵⁵ David Thomas Konig, “Regionalism in Early American Law,” in *The Cambridge History of Law in America, 1580-1815*, Vol. 1 eds., Michael Grossberg and Christopher Tomlins, (Cambridge University Press, 2008), 144-177; Bruce H. Mann, “The Transformation of Law and Economy in Early America,” in in *The Cambridge History of Law in America, 1580-1815*, Vol. 1 eds, Michael Grossberg and Christopher Tomlins, (Cambridge University Press, 2008): 365-399.

means of its transmission—think here of price currents, formal contracts, IOUs—do the knowledge creating work that enables goods to be bought, sold, and counted.¹⁵⁶

Alongside commodification, what is being re-thought is the history of investment. The term “Financialization” is meant to foreground a process that started with personal and commercial credit in ledger books, and “migrated” from those books to the circulation of financial instruments, and was repackaged into investment opportunities for third parties. It implies the ultimate disassociation from material referents such as a bushel of grain or a plot of land, referred to as “credit fetishism” to denote the abstraction. The wider context of ‘financialization’ appeared out of the erosion of older “east coast paternalism.”¹⁵⁷ The withering of mercantilist-logic, with its notion of mutually-beneficial and protected exchange between motherland and colony, was being replaced by a competitive, fluid, social order that had an “appetite for accumulation [and] sped-up the ‘social-metabolism’ of cotton production.”¹⁵⁸ This literature can illuminate more than simply market relations. The marriage of “financialization” to the slave trade altered patterns of lending after the 1740s. Patterns of late eighteenth- and early nineteenth lending were a direct result of the changes in the legal environment brought on by mercantile specialization. Historians consider the increased use of the mortgages (based on land

¹⁵⁶ Seth Rockman, “What Makes the History of Capitalism Newsworthy?” *Journal of the Early Republic* 34:3 (Fall, 2014): 439-466; Johnson, “Pedestal and the Veil”; Matt Karp, “To See the World in a Bale of Cotton,” Review of *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom*, by Walter Johnson, in The Junto Blog on Early American History, June 4, 2015.

¹⁵⁷ Gordon S. Wood, *The Radicalism of the American Revolution*, (New York: Random House, 1993), 339.

¹⁵⁸ Sven Beckert, *Empire of Cotton: A Global History*, (New York: Random House, 2014), 117. Historian Gordon Wood also comments on the “pace” of transactions in general, citing political economist Laommi Baldwin in 1809: “when ‘exchange’ became the primary element of the economy, then paper money became more important. ‘The rapidity and quick succession of exchanges’ required increased quantities of money, and this paper money had democratizing effects.”—something very difficult to measure. Wood, “The Radicalism,” 401.

and slaves) during this period as a legal innovation.¹⁵⁹ In this study, the processes are intertwined: financialization as process aids in understanding the disappearance of a slave's personhood in direct contrast to the literature of African and enslaved agency.

Closely related to the omission of slave humanity was the allure of future revenue streams to planters that were predicated on past-acts of money lending spurred on by new time horizons—the fixed point of time in the future at which certain processes came to an end—like the one noted by König in which creditors in the North had diverged from the South by allowing lenders to seize property more quickly than traditional modes would allow. These, and other processes, “sped-up” a “new mathematics”—the kind of calculation Caitlin Rosenthal talks about: Instead of thinking about the evolution of modern management as “good old fashioned hard work and ingenuity—a glorious parade of inventions that goes from textile looms to the computer”—efficiency came from the detailed record-keeping of slaves’ lives (in addition to factory management), experimentation with different outputs of their labor, monitoring what they ate, and how long new mothers breastfed their babies. The fact that they were slaves made that type

¹⁵⁹ S.D. Smith, “Merchants and Planters Revisited,” *The Economic History Review*, 55:3 (August, 2002): 434-465. The literature on British overseas credit and slavery is large. See, Adam Smith, *Wealth of Nations*, II; Richard Pares, *Merchants and Planters*. *Economic History Review. Supplement* 4 (Cambridge: Cambridge University Press, 1960); Jacob Price, “Credit in the Slave Trade and Plantation Economies,” in B. Solow eds., *Slavery and the rise of the Atlantic System* (Cambridge, 1991), 324-328; Richard Sheridan, *Sugar and Slavery: An Economic History of the British West Indies, 1623-1775* (The University of the West Indies: 1994); Richard B. Sheridan, *The West India Sugar Crisis and British Slave Emancipation, 1830-1833*, *Journal of Economic History* 21:4 (December, 1961): 539-551; In the case of the Thirteen Continental Colonies between 1768 and 1772 see James F. Shepherd and Gary M. Walton, *Shipping, Maritime Trade and the Economic Development of Colonial North America* (New York: Cambridge University Press, 255-283; Peter Depuydt, “The Mortgaging of Souls: Sugar, Slaves, and Speculation,” *The Journal of the Louisiana Historical Association* 54:4 (Fall, 2013): 448.

of calculation more effective since “if you tried this with Northern laborers,” she says, “they’d just quit.”¹⁶⁰

The chains of credit, then, between large investment houses, state-chartered banks, and entrepreneurial borrowers made property ownership into a social fiction, one whose shortcomings and even shoddiness, were all too often revealed whenever the chain broke. And the fragility in the commercial world, combined with the ambiguity of the legal world presents important elements—ones I explore here.¹⁶¹ The challenge is to see how the circuits of credit are not smooth, but pooled and slowed or even potentially blocked by sets of local practices including jurisdictional politics, various forms of credit, a debtor’s flight and of course, bankruptcy.¹⁶²

Organization of the Dissertation

The dissertation is divided in two parts. Part I (chapters 1 and 2) focuses on the process through which Anglo-American creditors competed for influence in the early 1800s with French and Spanish notions of credit and property rights. Together, the two chapters document the sustained struggle over the Delta’s legal institutions. In the context of the federal government’s fragility, the “American transformation” of New Orleans was not imposed “from above.” Instead, the claims of distant creditors against debtors in the court of appeals and even in the public struggle over the law, were embedded in larger issues over the consequences of Spanish

¹⁶⁰ Wood, *Radicalism*; Katie Johnston, “The Messy Link between Slave Owners and Modern Management,” *Working Knowledge*, (January 16, 2013), 3-4; Caitlin C. Rosenthal, “From Memory to Mastery: Accounting for Control in America, 1750-1880,” (unpublished Ph.D. diss., Harvard University, 2010).

¹⁶¹ Beckert, *Empire*, 236. Beckert offers a concise overview of the law and its importance to the transformation of the countryside in the process of commercialization.

¹⁶² Conversation with Lauren Benton, March 10, 2014.

and French laws on commerce and the possible undoing of the United States' precarious hold over the area.

In **Chapter 1, "Atlantic Merchants, Asset Seizures, and Legal Disputes of the Lower Mississippi Valley, 1790-1820,"** I argue that the establishment of long-distance credits necessarily made lending a political as well as economic and legal act that moved ahead of legislatures. It reconstructs the legal conflicts that brought the claims of international and national creditors into the courtroom. The *lex mercatoria*, the law of merchants or the law-merchant, was a semi-codified cluster of routines and norms among European mercantile traders since at least the sixteenth-century. The laws' pseudo-codification in English in the seventeenth-century evidenced development of a more focused and sophisticated conversation about the status of *lex mercatoria* vis-à-vis the English state, which was itself first being formally conceived of at this very same time. In the peripheral region of the Delta, the changing status of the law-merchant in the body politic of the former British colonies-turned-states was a mechanism by which to combat Spanish influence over the region's institutions.

Using the appellate cases filed in the Superior Court of the Orleans Parish, I trace the ways in which issues of competing politics in a multi-ethnic territory intersected in cases of insolvency, liability and seizure for debts. Ultimately, I find the combination of state laws adopted by newly formed eastern states in the United States, existing mercantile custom, and the carry-over of colonial policy achieved fuller expression through the courts. I argue that the turn away from French and Spanish property rights, combined with the influx of British and east-coast capital, sped-up the commodification of slaves themselves so that even in suits that expressed a smattering of paternalism, "the languages of 'humanity' that ran though the law of property,"

Walter Johnson notes, “reflect an economy in which everything was up for sale: productive and reproductive labor, but also sex and sentiment.”¹⁶³

While Chapter 1 gets up close to the larger issues of credit and debt brought before the court for adjudication, **Chapter 2, “Entangled Worlds, Entangled Laws: The Fear of ‘Spanish Despotism’ in a Planters Market,”** takes a few steps back to look at the politics outside Louisiana’s courtrooms. Judges—the central protagonists in Morton Horwitz’s seminal thesis about the marriage between judges, law and commerce—are the main subjects. The political stance of two judges in particular are the focus of this chapter. As primary intermediaries between the law and the public, their competing public sentiments were key for advocating for or against the kind of law that would prevail. Their public pronouncements, constitute part of what was the diffusion of law and the ideas behind it. They are social actors who provide a glimpse into the ways law entered the public sphere and helped sway public sentiment about property rights. Chapter 2 considers the ways these advocates made property exemptions from seizures about more than just the law; the discourse about exemptions helped to draw a fine line between imperial and national regimes of credit. And notions about where Spanish, French and Anglo-American credit regimes began and ended were central to the Delta’s entry into a British economic system.

Part II (chapters 3 and 4) focuses more closely on merchant and merchant-planters in the District of Natchez, Mississippi just 170 miles north of New Orleans. Those choosing to operate plantations in Natchez had valuable connections to Glasgow, Liverpool and London early on.

¹⁶³ Walter Johnson, “Inconsistency, Contradiction, and Complete Confusion: The Everyday Life of the Law of Slavery,” *Law and Social Inquiry*, 22 (1997): 413.

Without discounting the effort it took to carve out plantations from these newer areas, Part II emphasizes the important role that the emergence of a secondary market in credit played in supporting planter and merchant incomes.

Chapter 3, “Natchez Merchant-Planters, Distant Creditors and the Micro-Borders of Capital,” examines the deed and mortgage registry in the Adams County Court in Natchez, Mississippi and looks closely at the types of property bought and sold and the frequency with which merchants and merchant-planters engaged the property market. Their trade connections carried an economic heft that translated into higher prices for particular merchant properties. The chapter argues that despite differences in planter versus mercantile operations, the micro-borders of acreage, plantations and urban property contributed to income streams that influenced lending. The chapter then examines the case of planter Jonathan Thompson to argue for the possibilities available from such property transactions and the role of property in patterns of lending within the region.

Chapter 4, “Credit Instruments and Changing Mercantile Practice in the Natchez District,” examines the participation of merchants through their engagement with the local court in the Natchez District of Adams County Mississippi. This view from the hundreds of collection suits filed in three different one-year periods—1809, 1820, and 1826—is meant as a way of following the thread of legal conflict over credit at its most basic level: the study began by examining legal conflict at the highest appellate level involving distant creditors, but ends by looking at the legal struggles over credit at its most mundane, with creditors who were within a few miles of their borrowing clients.

As a whole, the study of credit and debt in the configuration of the Lower Mississippi Valley's plantation enclaves proposes a view in which outside influences enabled a more precise calculus of slavery and cotton production. Merchants' "best-practices" existed in the late eighteenth- and early-nineteenth centuries as custom, routine, and even as a component in judge-made law. It was loosely-governed and at times developed on an ad hoc basis. It also intersected with broader issues concerning the direction of the regional and national political economy, and in the nuances of every-day contracts for credit.

Chapter 1

Atlantic Merchants, Asset Seizures and Legal Disputes in the Integration of the Lower

Mississippi, 1790-1820

The extreme anxiety observable in the common law of England to preserve the rights, and favor the claims, of the heir at law, has been entirely dismissed from our law...And therefore there is no reason for giving notice to the heir... before issuing execution to seize and sell the land.¹

---United States Supreme Court, Justice Marshall, 1805

Nineteenth-century American law enabled entrepreneurial and commercial groups to leverage a disproportionate share of wealth and power. The “Transformation” of the legal side of business increasingly concentrated on the politics of distribution—who got what and by what means. Its’ benefits were skewed toward the powerful, and the so-called “newness” of what legal historians identify as the liberal, modernizing tendencies of law which were put in the service of a much older European tendency—relentless territorial expansion.² Planters and merchants no doubt benefitted from the developments that reformulated judge-made law,

¹ In an 1805 decision of the United States Supreme Court, Justice Marshall decided a case relating to Georgia law, holding that the Court had “received information as to the construction given by the courts of Georgia to the statute of 5 George 2., making lands in the colonies liable for debts, and are satisfied that they are considered as chargeable without making the heir a party.” *Telfair v. Stead’s Executors*, 1805, 6 U.S. (2 Cranch), 407, 418. James Kent noted the same policy existed in Pennsylvania.

² Tomlins, “American Legal History.” A closer look at dispute resolution emphasizes Horwitz’s thesis concerning the law’s role in allocating resources in favor of societies’ newer commercial orientation, see William E. Nelson, *Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society, 1760-1830* (University of Georgia Press, 1994), 145- 164.

giving merchants and trade in general a stronger footing in the nation's courtrooms.³ As important as the role of judges had been in the move toward a more liberal, commercially oriented world, there were competing influences. Merchants established in commercial centers who imposed their own region's version or sets of legal and customary routines and those actors who would not simply adjust their standards to meet those of a newer territory challenged judges.⁴ Part of the reason was that they did not see the Lower Mississippi Valley as necessarily a space to be filled-in by older enterprises and institutions, but saw it for what it was: one of the world's most culturally and legally porous enclaves. Merchants who pursued their debtors in Louisiana and Mississippi courts pressed their advantage—they were well-

³ Horwitz, *Transformation*.

⁴ The imposition of metropolitan actors could also backfire. In what came to be a 30-year struggle, the New York court system presented the inhabitants of the Green Mountains, located in the northeastern frontier of New York, with a crisis—its inefficiency and corruption endangered their land titles and economic stability (a similar claim was made by Louisiana residents against the Spanish Empire which I explain in chapter 2). New York granted a total of 2.1 million acres in the Grants region.

Inhabitants of the Green Mountains viewed the technical manipulations of the common law by the New York courts as passing power into the hands of the few. Rather than reject courts outright, a broad-based popular movement with sufficient backing by local militia supported a local court system, established in 1770, that rejected British formalism, and allowed judges to overlook procedures in favor of local demands. In their exercise of what historians refer to as “modern choice-of-law doctrine,” which was the power to determine the rules of law by which cases were decided, judges in the Green Mountains built competing legal institutions to those in New York; they helped preserve frontier norms, sever ties with the Empire State and legitimize the state of Vermont. Michael Bellesiles writes, “the judiciary had to be run as the people desired, for these transplanted New Englanders had experience in eliminating systems of which they disapproved.” See, Michael A. Bellesiles, “The Establishment of Legal Structures on the Frontier: The Case of Revolutionary Vermont,” *The Journal of American History*, 73: 4 (March, 1987): 895-915.

For the Lower Mississippi Valley, slavery and capital were obviated these types of frictions, encouraging French, Anglo-American, and Creole planters to work with, rather than against metropolitan routines. For literature dealing with ‘modern choice-of-law doctrine’ during the American colonial period see, William E. Nelson, “The American Revolution and the Emergence of Modern Doctrines of Federalism and Conflict of Laws,” *Publications of the Colonial Society of Massachusetts*, 62 (1984): 419-67. Further insight about fragmentation of the law during this period is provided by George L. Haskins, “Reception of the Common Law in Seventeenth-Century Massachusetts: A Case Study,” in *Law and Authority in Colonial America*, ed., George Billias (Barre, Mass., 1965).

funded, had the resources to file suit and carry on perhaps a lengthy appeal, and were usually creditor-grantors to a region in need.⁵ Those instigating litigation, advocated for the routines in older regions, did so repeatedly, incrementally, over a lengthy period of time, and from cities not as directly invested in slavery *per se*. As historian Stanley Engerman suggests, while northern merchants were undoubtedly benefitting from and financing slavery, the question as to “whether or not the slave trade was necessary for northern economic development is a very different and complicated question.”⁶ Nevertheless, from the outset, the territorial courts in the Delta were already confronted with the practical problems of determining what combination of European laws would suffice: the French-based Code of 1808, the law of Spain, ‘heretofore in force,’ the territorial statutes, the English common law procedures that had been introduced, as well as national and international influences.⁷ These legal sources and treatises did not provide resolution for many of the complex issues concerning cross-regional liabilities and debt collection. And, in the course of exploiting legal ambiguity, what comes through is the tension between the Delta as a corridor of continual economic investment and a legal

⁵ The only state constitutional requirement for an appeal to be heard by the state’s highest court was that it must involve more than \$300. However, the delay caused by the appeal process (often as much as two or three years), the financial requirement, increased attorney’s fees, and court costs probably restricted litigants to the wealthy. Travel to Louisiana was difficult, costly, and time-consuming. Each year the court met at New Orleans from January through July and recessed in August.⁵ The court records include numerous powers of attorney assigning a distant creditor’s right to sue a third-party representative able to travel. Schaffer, *Slavery*, xi.

⁶ In terms of development—the institutional force and coherence of slavery—Engerman pointed out that “many other national economies thrived in this period *without* slavery.” Shaun Nichols, Notes from *Slavery’s Capitalism* Conference, April 7, 2011, Brown University, Providence, Rhode Island, H-Net Reviews.

⁷ Schaffer, *Slavery*, 92.

atmosphere in which judges tried to extend equity to local lenders while keeping the Delta open to a plurality of laws and customs.

The Louisiana Supreme Court first convened in a building called the Government House, the first Louisiana State Capitol Building. Built by the French in 1761, it was located on the northeast corner of Levee, now Decatur, and Toulouse Streets in the French Quarter. Government House was occupied by the French high court, the French Superior Council, until 1769. When the Spanish gained control of Louisiana it became the residence of the Spanish Governor-General, and after the Americans purchased Louisiana in December 1803 the legislature occupied the Government House. It was described as a “plain residence of one story with the aspect of an inn.” It fronted the river. One side was bordered by a narrow garden and contained gardens and stables.⁸

The Louisiana Constitution of 1812 created a state judiciary. The Louisiana State Supreme Court was created on February 10, 1813. Louisiana Governor William Charles Cole Claiborne signed the first Judiciary Act of Louisiana, establishing the state Supreme Court. Three judges were appointed and they were required to meet in New Orleans, convening in the Government House. Governor Claiborne appointed Dominick Augustin Hall, George Mathews and Judge Pierre Derbigny.⁹ From the creation of the Superior Court of the Territory of Orleans to the closing of the Supreme Court of Louisiana on the day of the surrender of New Orleans, it was overwhelmingly common-law-trained attorneys, most of whom were not native Louisianans, who staffed Louisiana’s highest appellate court. The judges of the Superior Court of the

⁸ Schaffer, *Slavery*.

⁹ Schaffer, *Slavery*, 12.

Territory of Orleans were men who had first become attorneys in New York, Ohio, Georgia, North Carolina, and Kentucky.¹⁰ On March 2, 1813, the Court admitted seven lawyers to practice, including Francois Xavier Martin who became a Supreme Court judge two years later in 1815, Edward Livingston and John Grymes Francois-Xavier Martin was a native of France but had been trained as a common-law attorney in North Carolina before coming to Louisiana.¹¹ Pierre Derbigny, who served on the court from 1813 to 1820, was also a native of France and subsequently a resident of St. Domingue, but had studied law in Pittsburgh before coming to Louisiana. The court's first chief justice, George Eustis, was born in Massachusetts. Only Cornelius Voorhies, was native-born and locally educated.¹²

¹⁰ Schaffer, *Slavery*, 13-14.

¹¹ Schaffer, *ibid.*

¹² Schaffer, *ibid.*, 15-16; Willian Kernan Dart, "Justices of the Supreme Court," *Louisiana Reports*, 133 (1913), 60-63.

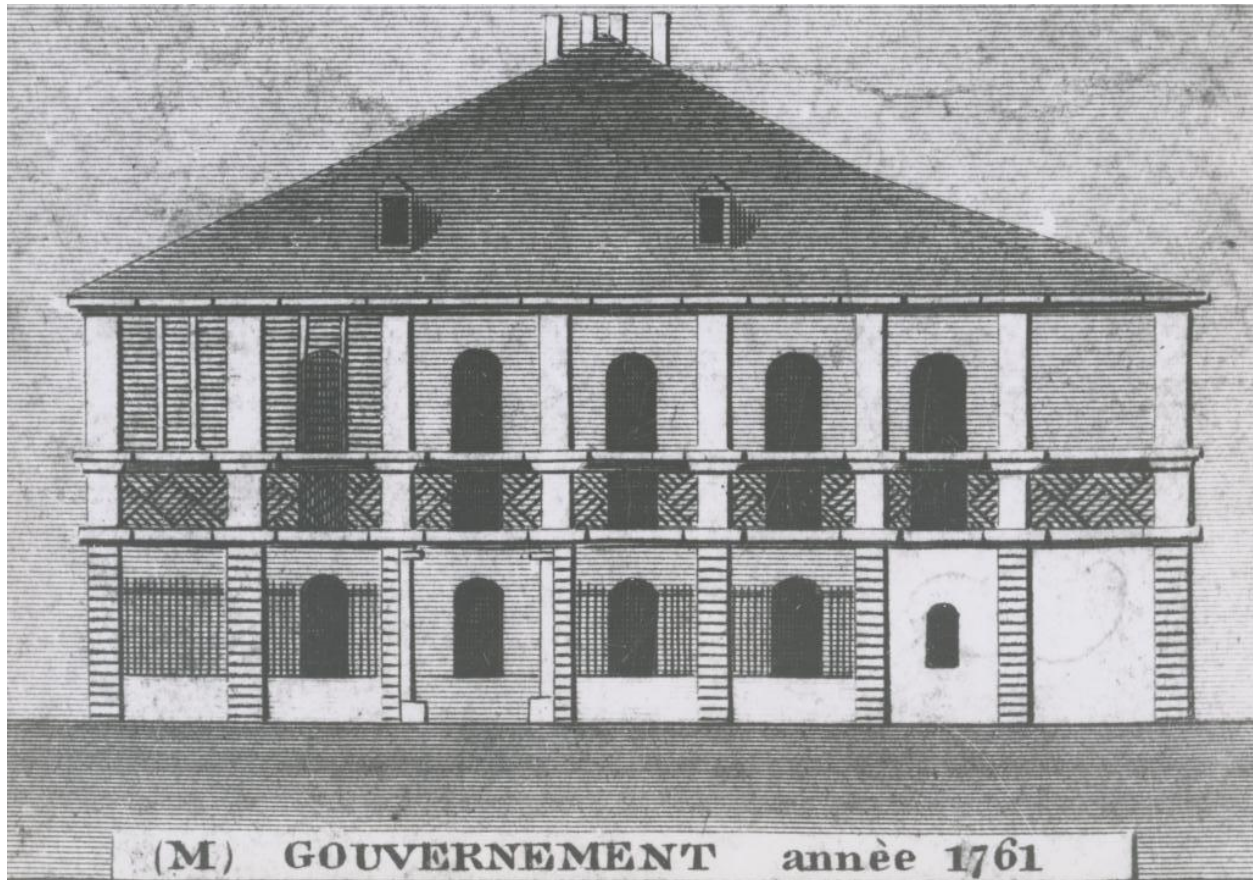


Illustration 6. Source: French Government House (1815). Louisiana State Museum. The building opened in 1761 as the French Government House in the French Quarter of New Orleans.

The area encompassing present-day Alabama and Mississippi began as the Mississippi Territory in April of 1798. Congress had authorized three territorial judges to hold court.¹³ The provisional legislature provided that the judges would sit as a territorial Supreme Court with

¹³ Act of May 8, 1792, Section Iv, printed in Statutes of the Mississippi Territory: The Constitution of the United States. With the Several Amendments Thereto: The Ordinance of the Government of the Territory of the United States. North-West of the river Ohio: The Articles of Agreement and cession. Between the United States and the State of Georgia: and Such Acts of Congress as Relate to the Mississippi Territory 40 (Digested by the authority of the General Assembly 1816) (hereinafter cited as Statutes of the Mississippi Territory). Such judges were “supreme or superior judges of said territories.

trial jurisdiction. Throughout the territorial period, the chief legal distinction was that between superior courts and inferior courts. These various judges sat as different “courts” depending on the kind of case. The explicit influence of the writing of English Jurist William Blackstone brought the common law into Mississippi’s courts. Territorial judges also sat as federal court justices and by the act of Congress in 1805, the Supreme Court was given appellate jurisdiction over territorial courts. Judges sat in slightly different capacities. For example the territorial judge who sat as trial judge in parts of the territory not yet made a county was referred to as the district or district superior court judge, while the same man at trial in various other counties was referred to as being part of the circuit court. Territorial legislation granted each territorial judge broad powers and it was the same judges who sat as the “supreme court” as the “circuit court.”¹⁴

As more of the territory was organized into counties, disputes fell increasingly under the jurisdiction of superior judges sitting as “circuit” rather than “supreme court” judges. By act of Congress, a single judge could always have sat as the Supreme Court when needed. And by allowing a judge to sit in the county as a circuit court, the law minimized the serious inconvenience that parties and jurors would have undertaken in traveling to the Natchez. By an act of January 20, 1814, the court began meeting at the courthouse in the city of Natchez located Adams County twice yearly.¹⁵ Unfortunately, no images exist of this early building. What is clear is that the Greek Revival building that became the courthouse (and still stands on a hill overlooking the Mississippi River), with its imposing architecture, and its centrality in the

¹⁴ Act of February 10, 1807, Section 1, Statutes of the Mississippi Territory, 134.

¹⁵ Act of January 20, 1814, Note 22, Section 1, Statutes of the Mississippi Territory, 200.

town, importantly, was located less than a mile from the District's largest slave market known as 'The Forks of the Road.' That market occupied a prominent knoll, straddling what was then the city's eastern corporate line.¹⁶ The high level of slaveholding among lawyers and judges and their connections to a growing planter-class, the location of the courthouse and the primary slave market suggest the degree to which slavery helped to shape both legal culture and legal practice in Natchez and its hinterlands.

Exploitation of Louisiana's and Mississippi's legal grey zones was evident early on in the seizure and transfer of property to pay debts; these themes reappeared again and again before the courts. In *Debon, Curator of Morgan v. Bache, et al.*, (1810) the court relied on Spanish sources deciding that an insolvent could not transfer property "if it benefitted one creditor over others."¹⁷ An evolution, however, was occurring, and in *Marr v. Lartique* (1811), the debtor transferred all his property to only one creditor, excluding all other claims. Though it was argued as justifiable on the basis of Roman law—the *praetorium pignus*—the court instead qualified the practice, explaining that Spain's tribunals made the law contingent upon the debtor's security given for the debt.¹⁸ Increasingly, these types of property transfers—what

¹⁶ Ariela J. Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom* (New Jersey: Princeton University Press, 2000), 22-24

¹⁷ *Debon, Curator of Morgan v. Bache, et al.*, (1810), *Orleans Term Reports or Cases Argued and Determined in the Superior Court of the Territory of Orleans*, Francois-Xavier Martin, Volume 1, (New Orleans: 1811). The Defendant was a New Orleans merchant and the creditors New York merchants.

¹⁸ *Marr v. Lartique* (1811), *Orleans Term Reports or Cases Argued and Determined in the Superior Court of the Territory of Orleans*, Francois-Xavier Martin, Volume 1, (New Orleans: 1811). The judges clarified the Roman law stating, the security given for the debt must be "in the same [action] as the *praetorian prenda* before goods could be seized."

were known in legal terms as the practice of ‘preferences’ —involved the claims of out-of-state Anglo-American merchants, shifting the judicial basis of such practices towards the English variety. With this shift came the exposure of Louisiana and Mississippi debtors to merchant-claimants who pressed for standards that aligned with older regions, sparking a national debate about financial insolvency, merchant character, and the problem of long-distance transactions.¹⁹

Establishing relations that would ultimately extend mercantile procedure to other areas meant that merchants made lending not only an economic and legal act, but a political one that moved ahead of legislatures. Scholars have rightly pointed to the fact that immediately in the post-revolutionary period, each state sought to define creditor rights for itself. Yet, each state’s particular legislation had the effect (intended or not) of separating issues related to credit which was extended to other regions from that which was advanced within their respective state. This often resulted in disparate rules for enforcing debt contracts. Anyone wanting to engage in far-flung ventures, whether maritime trade, back country commerce, land speculation, or buying and selling across state lines generally kept in mind these differences when collecting a debt.

In arguing for the importance of conflict between diverse states and legal systems, I examine the printed appellate reports filed in the Superior Court of the Territory of Orleans, and later, the Louisiana Supreme Court, as well as the Superior Court of Mississippi. Especially in the case of the Orleans court, these tribunals were, in effect, a zone of contact in the schisms

¹⁹ Benton, *Law and Colonial Cultures*, 5

between more established legal centers and the legal periphery.²⁰ My interpretation is largely based on the increased value of Anglo-American investment—a type of border crossing made by armchair investors located outside the region, and that raised the political and economic stakes in the Delta. First, disputes involving credit, its nature and terms, brought in elements of national and international mercantile practices. Ever-larger dollar values claimed between 1800 and 1817 and as well as seizures of physical property—slaves, cotton, and land—created conditions enabling the reformulation and reproduction (i.e., autopoeisis) of loosely-governed mercantile practices (*Lex Mercatoria*). Mercantile law remained, however, a cluster of state and non-state practices.²¹ Second, I argue that in this period known as the “second slavery”—an expansive “redeployment of slave labor in the creation of new productive spaces”—credit disputes enabled a mode of boundary making, which differed from centralized forms of mapping.²²

Credit, slaves, and commerce were a powerful legal combination in this context. Slaves were turned into prices (i.e., commodity fetishism). As the primary ingredient in the monetary system, the price equivalent for a human slave regularized a structure for making loans; where the slave’s value was in cash equivalents, land was considered illiquid. Lenders who held plantation debt in their portfolios (and all of them did), were ultimately looking for income

²⁰ Andreas Fischer-Lescano, Gunther Teubner, “Regime-Collisions: The Vain Search for Legal Unity in the Fragmentation of Global Law,” *Michigan Journal of International Law*, 25 (2003-2004): 999-1046.

²¹ Fischer-Lescano, “Regime Collisions.”

²² Tomich and Zeuske, “The Second Slavery.”

streams backed up by slave property; a fact that made the private debt market many times larger than banknotes issued by state chartered banks.²³

Slaves, credit, and by extension the law itself were thus moving parts in the mechanics of westward expansion, and served, through legal conflict, to solidify borders. Lenders who extended credit from metropolitan centers, far from the plantations and farms of the Delta, did so on the basis of slaves and land as assets. By establishing relations that would ultimately extend their procedures and terms, merchants' use of the courts made lending not only a legal and economic act, but paradoxically a way of enacting, day-to-day, the divide between regions.²⁴

What this chapter proposes, and which becomes more apparent through the analysis of case law, is that eastern and Atlantic merchants used the courts to actively impose broader practices in a peripheral area. Which legal strategies, commercial customs, and scenarios led to suits in the Supreme Courts of Louisiana and Mississippi and summoned-up the attention and influence of out-of-state actors? What types of conflicts furthered the goal (tacit or not) of commodifying slave bodies? In short, what was the content of debates between lenders and borrowers that helped 'bring in' Anglo-American creditors into new territories? Did it shape the

²³ Johnson, *Soul by Soul*, 46-47; *Kilbourne, Debt, Investment, Slaves*, 26, 29, 47-49; Johnson, *River*, 264-266.

²⁴ Peter J. Coleman, *Debtors and Creditors in America: Insolvency, Imprisonment for Debt, and Bankruptcy, 1607-1900* (The State Historical Society of Wisconsin, 1974). Paul Finkelman, *An Imperfect Union: Slavery, Federalism, and Comity* (New Jersey, The Lawbook Exchange, 2000). Finkelman's example is the Fugitive Slave Act about which he writes, "It was northern distaste for returning fugitive slaves, rather than the wording of the clause that led to a breakdown of interstate relations. Full faith and credit were not always given to out-of-state judicial decrees. Such denials of comity, by both North and South, were partially responsible for the dissolution of the Union." This chapter suggests that conflicts between states over slave property that solidified southern borders over time, allowed Northern investors in plantation slavery to remain almost invisible to historians of slavery.

ways producers sought out credit in general? Recovering the conflicts that brought different regional groups in conversation with one another is a first step in answering these questions.²⁵

In the first section of this chapter I examine the larger early national context within which ‘preference’ and ‘seizure’ of property were practiced. The second section examines several appellate cases brought before the courts in the Delta and the nature of those legal conflicts.

***Lex Mercatoria* and ‘Preference’ Laws: Preferring ‘Friends,’ and Hiding Assets.**

Early nineteenth-century legal pundits were concerned about the absence of a national uniform bankruptcy law, and a large part of those worries had to do with the merchant’s practice of ‘preference.’²⁶ They viewed bankruptcy law as a type of “scientific rationalism” meant to “fix” the practice of preferring individual creditors’ claims. Contemporary observers saw ‘preference’ as a symbol of the elusive side of credit, and merchant business itself,

This evil of [preferential] assignments is really the natural fruit of our present laws [which have] given birth to assignments in a thousand different shapes. Instead of one uniform, unbending rule for dividing the estate of an insolvent among his creditors, it is left to be disposed of by accident or caprice. One man prefers his father, brothers, uncles; another prefers his endorsers and custom-house sureties, because that is the general practice...²⁷

²⁵ On the reconstruction of private law in the face of fragmentation, and contract as a multiplicity of diverse discourses within different worlds of meaning, see Gunther Teubner, “Contracting Worlds: The Many Autonomies of Private Law,” *Social and Legal Studies* 9:3 (2000): 399-417.

²⁶ Robert Weisberg, “Commercial Morality, the Merchant Character, and the history of the Voidable Preference,” *Stanford Law Review* 39:1 (November, 1986): 1-138.

²⁷ Weisberg, *ibid.*, 69.

Whether viewed as a fraudulent act with intent to hide assets or as a sober, conscientious understanding between a debtor and his endorsers, 'preference' emerged with regularity at a critical time when the new nation was forming, when courts had to resolve issues of trans-national and intra-state liability.²⁸ In the absence of a national law for bankruptcy, merchants carried-on with pre-existing practices that fit their view of an Atlantic that operated as a single space.²⁹

Meanwhile, already by 1800 a growing financial commitment of Mississippi and Louisiana planters and merchants toward large-scale cotton production grew in tandem with concerns about greater exposure to asset seizures. Nothing encapsulates the way day-to-day issues of liability could sour than the following letter written by Natchez, Mississippi planter William Dunbar regarding the sale of his cotton to his Liverpool commission merchants in 1809:

...tho' I believe them better than what is now passing here as merchantable, for it appears to me that our Planters are growing more negligent, which is the fault of our merchants who do not make the due distinction giving the same price for the bad as the good. This Cotton will be sent to you under the name of Postlethwait & Shipp for the following reason: I had the misfortune to join in a bond as one of three sureties; which bond being forfeited, my third part of it amounts to about 2,000 dollars which I have given orders to be paid by Chew & Relf to the holders of the bond at New Orleans, the other two parties to the bond here decline paying & a suit is carrying on. The laws & practice of our Courts are but too favorable for the delay of Justice, & notwithstanding the good understanding between the holder of the bond & myself I am afraid to trust property in my own name at N. Orleans because he would have it in his power to pay himself the *full* amount of his bond out

²⁸ Weisberg, *ibid.*; Daniel J. Hulsebosch, "Magna Carta for the World? The Merchants' Chapter and Foreign Capital in the Early American Republic," *North Carolina Law Review* 94 (July, 2016): 1599-1634; David M. Golove and Daniel J. Hulsebosch, "A Civilized Nation: The Early American Constitution, the Law of Nations, and the Pursuit of International Recognition," *New York University Law Review* 85 (October, 2010): 964, 969.

²⁹ An important work that addresses cross-border movement and compatibility between legal regimes is Lauren Benton's *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (Cambridge University Press, 2002).

of my property, and I might probably be some years of recovering from the parties here. This however will make no difference as Chew & Relf think it expedient that bills should be drawn by P. & S. Mr. Postlethwait the Chief of this house is my son in law & settled as a merchant in Natchez, he will also be a considerable Cotton planter, being upon the purchase of valuable plantation with 50 slaves.³⁰

Dunbar's reasoning interweaves the problem of his personal liability with concerns that his good quality cotton would be exposed to seizure—finding a resolution entailed relying on a preferred merchant-creditor, who also happened to be a family member, to hide this asset. His less than stellar opinion of the court is clear, suggesting that the system was inefficient, and that the entire debt would all be paid out with his cotton. Dunbar places his liability, the law (i.e., seizure), the customs of merchants (i.e., the 'preference'), and their connection to slavery and cotton (i.e., Postlethwaite as preferred creditor) in the same frame.

Regardless of their caliber though, frontier merchants even more than planters, tried to maintain their good standing with east-coast merchant-creditors not only for the obvious reasons such as access to credit, but for reasons not fully examined.³¹ Extreme scenarios forced insolvent merchants to rely on preferred creditors to help them avoid all-out bankruptcy—

³⁰ William Dunbar to Green & Wainwright (Liverpool), Natchez, July 17, 1809 in *Dunbar Rowland Life, Letters and Papers of William Dunbar, 1749-1810* (Mississippi Historical Society Press, 1930), 364; Morton Rothstein, "The Changing Social Networks and Investment Behavior of a Slaveholding Elite in the ante Bellum South: Some Natchez 'Nabobs,' 1800-1860" in *Entrepreneurs in Cultural Context*, ed., Sidney M. Greenfield, et al. (Albuquerque: University of New Mexico Press, 1979), 72. Samuel Postlethwaite had migrated to Natchez about 1800, traveling by river from Pittsburgh on his own flatboats and setting up shop as a merchant. In 1805 he married Ann Dunbar, daughter of "Sir" William Dunbar, one of the area's most prominent men. After Dunbar's death, Postlethwaite rapidly increased his personal fortune as merchant and enhanced his role among the cadre of founders of the Bank of Mississippi, which he served as president from 1815 to his death in 1825.

³¹ For an excellent study of these early frontier merchants and their struggle to balance the needs of eastern creditors and western clientele-farmers see, Craig T. Friend, "Merchants and Markethouses: Reflections on Moral Economy in Early Kentucky," *Journal of the Early Republic* 17:4 (Winter, 1997): 553-574.

these 'preferred' men of trade helped protect and allocate a debtor's assets. The Anglo-American legal system had not decided what to do about this loosely-governed concept, whose general outlines mirrored that of English merchant custom.³²

In the most general terms, a preference had a few basic elements: It was a transfer of money or of some interest in property by a debtor to a creditor to settle a prior debt; it occurred (usually) when the debtor faced insolvency or imminent bankruptcy, and it benefitted that particular creditor to the prejudice of other creditors by granting him a greater share of the assets than he (or the firm) would enjoy under the system of bankruptcy distribution.³³ Timing was a central part of preferences (an issue that preference laws sought to combat with little success). Bankruptcy law enforced its principle of distributing assets in a fair way among all creditors at the technical point when the petition was filed. But preference law was set by an earlier moment when the debtor's estate faced a risk of being taken apart.³⁴ On the one hand, creditors agreed to this arrangement before they lent money but faced the usual problems of policing a deal after it was struck. On the other hand, each creditor had incentives to advance his own interests, even though doing so would work against the larger pool of creditors to whom the debtor owed money. Once the debtor became insolvent, and without collective enforcement of the creditors' bargain, each creditor had to race for assets, not necessarily just to grab more than his share but simply to avoid being left with nothing.³⁵ In the context of an impending insolvency, a planter-merchant would be able to retain, if not the entirety of his

³² Weisberg, "Commercial Morality."

³³ Weisberg, *ibid.*

³⁴ Weisberg, *ibid.*

³⁵ Weisberg, *ibid.*

property, than a good chunk of it by working with a preferred lender. This need to keep properties in tact worked not only to avoid fragmentation of assets, and thus maintain on some level one's credit worthiness, but to maintain ties, and thus receive loans, from a preferred lender(s) even after insolvency, wherever they might be located the country.

Moreover, the moment a person became insolvent could almost never be identified with precision. In a local setting, a creditor could sense a debtor's insolvency coming, some before others. Some creditors who knew bankruptcy was imminent would attempt to satisfy their claims and thereby to opt out of any subsequent collection proceeding. Such "eve-of-bankruptcy" asset grabbing was detrimental to creditors as a group (often times without the debtor never intending to file bankruptcy). Preference law was aimed at preventing a creditor from changing, alone or with the debtor's help, his existing position vis-à-vis other creditors in anticipation of a bankruptcy proceeding, and aimed to equitably distribute assets prioritizing those debts that were older as well as those which were secured or collateralized.

During the national battle over federal bankruptcy legislation, states had the power to regulate preferences under their insolvency laws. In older Atlantic regions, states had already experimented with highly complex relief laws both before and after the American Revolution. Despite the sparse case law on preferences, judges held a flexible tolerance in cases of favorable arrangements that ran counter to the statutory restrictions on preferences. But,

overall, courts and legislatures relegated the statutes that defined principles consistent with “inter-creditor equity” to the geographic boundaries of their own states.³⁶

Delaware is perhaps the best example. It had a statutory restriction against preferences. But throughout the nineteenth-century, the courts and legislature of Delaware, as in other states, wavered over the subtler question of whether a preference could be avoided, and also over complex issues related to the intention of defrauding creditors (i.e., voluntariness, diligence, and pressure), and how to decide when a payment was indeed an illegal preference. The Delaware courts relied on the English principle that it was possible to define a category of transfer from a debtor to favored creditors that were in some sense “voluntary,” and coherently distinguish them from transfers that legitimately resulted from creditor diligence.³⁷

The Lower Mississippi Valley’s commitment to land and slaves, as well as the timing of cotton’s commercialization, and its involvement in the Atlantic’s emerging cotton market, inevitably exposed creditors and debtors to these issues. Occurring intermittently and with questionable legal methods, lone creditors seized assets and forced judges to evaluate the what, in fact, counted as fraud; problems such as the validity of claims by a “third possessor” of a mortgage (i.e., someone who held an automatic lien or claim on the property seized and who

³⁶ Weisberg, *ibid.*; Thomas H. Jackson, “Avoiding Powers in Bankruptcy,” *Stanford Law Review* 36 (1981): 725-787.

³⁷ Weisberg, “Commercial Morality,” 53-61. In *Waters v. Comly*, 3 Del. (3 Harr.) 117 (1840) the debtor committed illegal preference when he arranged to pay off a group of creditors without communicating with them, and without diligence on their part. But in *Tunell v. Jefferson* (1849) the court introduced the issue of the creditor’s—rather than the debtor’s—mental state, an issue essentially irrelevant to English law, but one that became dominant in nineteenth-century American law. The favored creditor acted aggressively because he recognized that the debtor’s ‘affairs were becoming embarrassed.’ But his concern for his money fell short of any actual recognition that the debtor was insolvent. *Tunnel v. Jefferson*, 5 Del. (5 Harr.), 216-217.

was not part of the original transaction) were weighed against the status of a “privileged” mortgage creditor. Tied into this was the question of what should be allowed as evidence when creditors accused a debtor of committing fraud after he sold his plantation and slaves to a brother-in-law? To this were added the procedures not yet in place, and the inefficiencies that dealt with the genuineness of documents, as well as who was, or was not, accountable for the quality of cotton or sugar at different points in the sale and marketing of those commodities. In their legal rulings judges sought to adapt to the needs of commercial men while attempting to define the metrics law and commerce: what counted as transparency, how did an individual’s indebtedness influence his actions, what were the ways business people observed and characterized the intent of debtors or their sureties?³⁸ Though similar questions arose in every courtroom of the budding republic, the flood of slaves into the Delta, an area new to commercial law, affected individuals even beyond the region.³⁹

The 1800 National Bankruptcy Act, a close imitation of the English version, related to traders only.⁴⁰ It did not mention preferences, but the courts did infer, from simply its passage, an aggressive principle of equitable distribution of assets. Its preference doctrine firmly

³⁸ *Decuir v. Packwood*, 1818, *Mouchon v. Delor*, March 1818, *Peytavin v. Hopkins*, 1818, *Highlander v. Fluke & Vernon*, 1818, *Dreux, executors, etc. v. Ducournau*, Cases Argued and Determined in the Supreme Court of Louisiana, Volume 3. As late as 1874, *Stockley v. Horsey*, the court had to scrutinize an extremely complex surety, which the general creditors tried to re-characterize as a fraud. Under the state’s insolvency scheme, the “pre-assignment” period (taking place before bankruptcy), would not invalidate payments unless it found something like blatant fraud. State preference law thus maintained a keen sense of the subtle manifestations of fraud, and of the limited ability of legal authorities to draw relevant moral distinctions in the elusive world of credit.

³⁹ *Ibid.*

⁴⁰ James Monroe Olmstead, “Bankruptcy a Commercial Regulation,” *Harvard Law Review*, 15:10 (June, 1902): 829-843; Bruce Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Cambridge, MA: Harvard University Press, 2009), esp. 168-172.

condemned eve-of-bankruptcy transfers that constituted bona fide payments of bona fide debts. The 1800 law lasted only three years, so the spirit of equitable distribution remained in limbo for decades as Congress fought over a new bankruptcy bill.⁴¹

Chroniclers-in-the-know, like Philadelphia Congressman and lawyer Joseph Hopkinson, voiced the deep moral confusion in the early nineteenth-century over a legal regime that intermixed credit and preferences, with merchant character. Hopkinson asserted that the merchant class played a central moral role in society: “There is no class of our citizens on whose conduct the reputation of our country, for probity and honor, so immediately depends as our merchants.” For him, preference law made the dishonest, preferring debtor a law unto himself: “...he summons his creditors [to] meet him and not for consultation, not to ask them what he shall do, but to tell them what he had done, to pronounce his judgment upon them.” The merchant, holding the “character of his country...” should be subject to a national bankruptcy law to counteract the existing law’s bias in favor of willful debtors, one that can draw moral distinctions among debts where the state laws have failed.⁴² The moral confusion about merchant character ran deep though the discourse failed to account for the fact that many well-capitalized merchants were also among the nation’s leading cotton producers as well.

To the opponents of a national bankruptcy law—one that could potentially restrict the practice of preferences—insolvency laws were still a means by which to accommodate debtor payments to favored creditors as a socially favorable attribute of local custom. To them, the

⁴¹ Olmstead, “Bankruptcy,” *ibid.*

⁴² Weisberg, “Commercial Morality,” 261.

avored creditor was in fact a creditor who generously carried the seasonally insolvent debtor.⁴³

In a slave society, where the steady rise in the volume of individual debt was tied to slave prices, creditors faced growing difficulties when securing a debtor's assets from a distance, especially in older slave-based areas where a mercantilist-logic predominated: Counties in Virginia or South Carolina and up and down the Eastern coast showed a typical early nineteenth-century ambivalence about agreements measured only in abstract expectations, who were suspicious about speculative profits, and who strongly opposed the idea that a court should provide damages for them. For example, by the 1840s, South Carolina's courts allowed what was called a "confession of judgment," to be obtained at the same time the lender extended money and credit to a debtor; it effectively bound all of the defendant's property within the state. A mortgage, by contrast, bound only the particular property specified in the mortgage. Under a confession of judgment, the lender was able to seize the defendant-debtor's remaining slaves, it did not require the administrative procedure of recording required in mortgages. More important, the closeness in time between the credit transaction and recording of the confession in many instances gave local creditors (essentially fellow-planters) the upper-hand over merchant-bankers and commission merchants at a distance, when it came time to prioritize an insolvent's debts.⁴⁴ This clearly kept property in the hands of residents who could be counted on politically reinforced local norms.

⁴³ Gordon S. Wood, *The Radicalism of the American Revolution*, (New York: Vintage Books, 1993). This is evidence again of the tension Wood writes about between social relationships as "paternalistic," that allowed hierarchical, personal attachments to shape private webs of credit, and the view by the late eighteenth-century which saw ideas of such dependency as repugnant among free-men of the English-speaking world.

⁴⁴ Thomas D. Russell, "The Antebellum Courthouse as Creditors' Domain: Trial-Court Activity in South Carolina," *The American Journal of Legal History* 40:3 (July, 1996):331-364.

Though the practice of ‘honorable preference’ pointed to the relationship between farmer and factor, customer and storekeeper, and small tradesman and banker, the honorable preference was also a feature of international trade. In the latter context, factors, correspondents and supercargoes served as agents of the preference. The counter-scenario, put forward by the supporters of a national bankruptcy bill showed that the preferring debtor was often a conniving, colluding criminal making shady side deals. And just as the image of the preferring debtor differed drastically, so did the image of the social significance of preference. Where the older ‘local’ view saw the preference as a flexible instrument of social bonding, the view of those who sought national regulation of preferences saw it as a chronic dysfunction within the economy.⁴⁵

The Law of Nations and Lex Mercatoria.

Streams of credit and the flow of cotton firmly embedded the United States in the Atlantic world, thereby exposing it to changes in scale and scope in relation to Atlantic-wide political and economic activities. Except in the intimate and localized locales of petty retailing, distance increasingly intervened between lenders and borrowers, as did the ideology of free trade that exacerbated the legal problem of choosing between firm statutory rules or open standards for regulation. To observers and commentators commercial society consisted of “scattered and secret securities, a few warehouses, and passive and active debts, whose true owners were to

⁴⁵ Weisberg, “Commercial Morality,” 73-74.

some extent unknown, since no one knows which one of them are paid and which of them all owing.”⁴⁶

Accountability hinged, in its most capacious sense, on the relationship between foreign nations, and this theme appeared most regularly in debt cases. Drawing upon the earliest writings of the “Merchants’ Chapter” in the Magna Carta (1215), lawyers, judges, and government officeholders invoked issues of liability in the new American federal courts, debating their meaning, and agreeing that for the most part, the merchants’ chapter stood for the “proposition that the faith of commercial intercourse ought not to be violated.”⁴⁷ What was at stake was not just past promises. The vindication of old debt contracts would, in attorney William Bradford’s argument, also ensure ‘the prospect of future Credit.’⁴⁸ In the earliest cases over the collection of private debts by a belligerent nation, the Magna Carta, though alone, not binding law, did give credence and provided persuasive authority for the early modern law of nations as a pro-commercial interpretation, and the right of a British creditor to retain the right to collect a debt.

Leaving aside for the moment interpretations of the Merchants’ Chapter and the law of nations as sources by which to limit asset seizures, the upshot for liberals and free trade thinkers was that they gave federal judges authority to bend the law away from an individual states’ immediate fiscal interest toward what Federalists saw as international credit for the whole nation over the long term. Two aspects of these 1790s interpretations are important.

⁴⁶ Quesnay & Mirabeau, *Extract from ‘Rural Philosophy,’* quoted in Albert Hirschman, *The Passions and the Interests* (1977), 94-95.

⁴⁷ Hulsebosch, “Magna Carta.”

⁴⁸ Hulsebosch, *ibid.*

First, as a fundamental basis for debt seizures, the Merchants' chapter became an Atlantic-wide practice, "escaping not only England but the British Empires."⁴⁹ Second, and more interesting, the Magna Carta was never solely concerned with the rights of Englishmen, imperial subjects, or even Anglo-American subjects. It contained rights for foreign merchants—for "strangers and aliens."⁵⁰ Historian David J. Hulsebosch writes, the fact that a "document often portrayed as the 'birthright' of native Englishmen, actually protected the rights of foreigners is significant."⁵¹

Post-colonial Americans did not have access to the actual copy of the Magna Carta, nor any part of it. They also did not have access to the bulk of legal writings about it. Instead, they had ready access to the printed texts of English law, such as Sir Edward Coke's seventeenth-century "Institutes of the Law of England," and Sir William Blackstone's "Commentaries on the Laws of England." In these, and many other texts, they found superb legal authority for connecting international commerce to everyday law. For Coke, "merchant strangers" were not just a private interest group, but were analogized as public servants who later would help protect English interests abroad. As he saw it, liberal trade was what built state power. Blackstone's emphasis on 'sociability' reflected this stated meaning of the text.⁵²

There was a dichotomy, however. If creditors of foreign nations were to have rights, however vague, under the law of nations, with state judges willing to uphold treaties, individual states were not so ready to honor sister-state judgments, another issue that caused congressional debate. In January of 1818, Thomas Cobb of Georgia argued that sister-state

⁴⁹ Hulsebosch, "Magna Carta," 1606.

⁵⁰ Hulsebosch, *ibid.*, 1609-1610.

⁵¹ Hulsebosch, *ibid.*

⁵² Hulsebosch, *ibid.*, 1611-1626.

judgments should be “regarded as foreign judgments” since “the different effects of judgments in the different States...would produce involvement, and frequently injustice,” if they were given effect.⁵³ He also noted that the “formality of proceedings” found in eastern commercial centers “did not prevail to any extent in southern and western states” which would make the judgments of the latter less enforceable than those of the former. In opposition to Cobb, John Spencer argued that the principal benefit would be to provide confidence to the commercial credit of the country, a lack of which “was a great impediment to the increase of the trade between the Atlantic cities and the western country, the merchant fearing difficulty in the recovery of his debts.”⁵⁴ By 1820, Louisiana, Mississippi and New Hampshire reached the same conclusion as New York that a sister-state judgment would not be upheld against a person who was not within the jurisdiction of the local court. The effect of this was that when both parties to a debt suit resided in another state, the creditor with a judgment in-hand would not be able to seize the debtor’s property in Mississippi or Louisiana without instigating a separate action.

The confluence of these issues appears in *Rutgers v. Waddington*, which aside from simply not honoring sister-state documents epitomized the struggles of state judges to reconcile state legislation with the protections afforded British creditors specified in the Treaty of Peace of 1783; it provided that both sides would place “no lawful impediment[s]” in the way of debt collection.”⁵⁵ When British creditors in the 1790s complained that the states were still not

⁵³ Stephen E. Sachs, “Full Faith and Credit in the Early Congress,” *Virginia Law Review* 95:5 (September, 2009): 1271.

⁵⁴ Sachs, “Full Faith,” 1271-1272.

⁵⁵ Definitive Treaty of Peace, Great Britain-U.S., article IV, September 3, 1783, 8 Statutes 80, 82. For a discussion of debt and credit in colonial America, see Jacob M. Price, *Capital and Credit in British Overseas Trade: The View from the Chesapeake, 1700-1776*, (Harvard University Press, 1981), esp., 13-17. For issues regarding the collection of debts in the making of the Constitution and the early federal

adhering to the peace treaty but continued to hinder debt collection, Secretary of State Thomas Jefferson cited *Rutgers* as “proof that the courts consider the Treaty as paramount [over] the laws of the states.”⁵⁶ Part of what was argued by Alexander Hamilton was that the state constitutions incorporated the ‘law of nations’ when they adopted the common law even if New York’s state constitution did not explicitly refer to the ‘law of nations.’⁵⁷

What was the ‘law of nations’? It was a series of principles such as, “the spirit of sociability out to be universal....that we should preserve a benevolence even towards our enemies.’ People were sociable, so were nations. Sociability promoted peace and early Americans sharply distinguished commercial relations from ‘political alliances,’ by which they meant alliances for mutual defense. The “Business of America with Europe was commerce,” wrote John Adams in 1783 while negotiating the Treat of Peace in Paris, “not politics or war.” There were parts of the American citizenry, however, that were not as enamored with those principles, doubting at least whether a court had the power to use them to nullify a clear state statute. The legislators were especially upset with the source of authority claimed by the court: “the vague and doubtful custom of nations,” as against “clear and positive statute.”⁵⁸ The logic was that in playing by the rules of the Atlantic world, the emigration of loyalists would slow down, it would

courts, see Charles F. Hobson, “The Recovery of British Debts in the Federal Circuit Court of Virginia, 1790 to 1791,” 92 *Virginia Magazine History & Biography* 176 (1984): 180-183; Brent Tarter & Wythe Holt, “The Apparent Political Selection of Federal Grand Juries in Virginia, 1789-1809,” *American Journal of Legal History* 49 (2007): 259-60.

⁵⁶ Golove and Hulsebosch, “A Civilized Nation,” 964, 969.

⁵⁷ Ibid.

⁵⁸ Golove and Hulsebosch, 967.

reopen trade networks, and attract international investment. It would, therefore, enable the circulation of people, ideas, and credit.⁵⁹

Putting aside the question of whether the merchants' chapter or its early modern version in the form of a "general reciprocity principle" in the law of nations ever had a direct role in Anglo-American international affairs, it did play a supporting role in the debates over the degree to which society should be open to foreigners and their money. The laws these earlier courts drew from were vague: Louisiana's Act of 1805 provided that "in matters of commerce the Spanish *Ordinance of Bilboa* had full authority." Beyond the Ordinance parties had "recourse to the Roman Laws, to (W.) Beawe's *Lex Mercatoria*, to "Park on insurance," and a variety of other treatises. Louisiana's Superior Court was not given the 'right of refusal'—the ability to refuse to hear a case. In consequence, appeals were not landmark cases, and claims over \$300 could be appealed, making recurring issues over the nature of credit, its geographic jurisdiction, and issues of preference, a series of iterations around sometimes identical issues.⁶⁰

American rule condensed Louisiana's regional European laws—France, Spain, and England— in the Digest of the Civil Code of 1808. Regarding mercantile law, Section 470 provided that, "nothing therein shall alter or affect the established laws and usages of commerce." What exactly were those usages that amounted to "purely" mercantile practice was unclear. A Louisiana judge in 1812 ruled that, "lex mercatoria exists entirely distinct and

⁵⁹ Golove and Hulsebosch, 977.

⁶⁰ Schaffer, *ibid.*, 1-27; Elizabeth Gaspar Brown, "Legal Systems in Conflict: Orleans Territory, 1804-1812," *The American Journal of Legal History*, 1:1 (January, 1957): 35-75; Rodolfo Batiza, "The Louisiana Civil Code of 1808: Its Actual Sources and Present Relevance," *Tulane Law Review*, 46:4; Kilbourne, *Louisiana Commercial Law*.

independent of the code.”⁶¹ It did not. Historians always remained skeptical of the autonomy of mercantile law finally concluding that it was a mix, or layer of custom and the rule of law.⁶² In all other contexts, merchants understood the merchant law as a composite of rules and contradictions, and had no hesitation departing from the norm: “custom, or general mercantile practice might mean nothing more than the policy of a particular firm.”⁶³ What did occur was a process by which attorneys for out-of-state clients argued for the validity of “foreign” or metropolitan mercantile norms. Appellate cases repeated these themes (over and over), and in this way they served to condense and confirm an enduring legal discourse that transferred knowledge, competencies, and political decisions.⁶⁴

Second, mercantile custom depended on early courts as a kind of collective “institutional memory.” Judges selectively upheld merchant norms (i.e., substantive law) and, over time, applied procedures governing, for example, such issues as what counted as evidence in such cases (i.e., secondary laws). The basic notion here is that *Lex Mercatoria* became a legal *system* in the courts that adjudicated on it. More important, as a system it needed a multitude of

⁶¹ *Talcott v. McKibben*, Orleans Term Reports, 305.

⁶² Emily Kadens, “Order within Law, Variety within Custom: The Character of the Medieval Merchant Law,” *Chicago Journal of International Law* 5:1 (Summer, 2004): 39-65; Richard A. Epstein, “Reflections on the Historical Origins and Economic Structure of the Law Merchant,” *Chicago Journal of International Law*, 5 (2004-2005): 1-20. I do not consider, as some historians have, the law merchant as fully autonomous. He came closest to operating independently only within a specific industry such as marine insurance. See, Farber, “Underwritten States: Marine Insurance.”

⁶³ Ralph W. Haskins, “Planter and Cotton Factor of the Old South: Some Areas of Friction,” *Agricultural History*, 29:1 (January, 1955): 1-14.

⁶⁴ Fischer-Lescano, “Regime-Collisions.”

disputes brought by the international commercial community for decision under the code of law merchant. It flourished everywhere quasi-automatically.”⁶⁵

Lastly, free trade, and the open-endedness of reciprocity as a principle combined with commercial expansion, were not just about jurisprudence or moral philosophy, but were a constant, repetitive way of interweaving slavery, debt, and the politics of geography.

Newcombe v. Skipwith (1810), an early Louisiana case over a seizure of a slave is the most explicit example of how these three concerns were not distinct realms of experience existing in isolation. Many historians mine the legal disputes under French, English, American and Spanish administrations of the area looking for the degree of freedom slaves wrung from different regimes, or the basis of slave warranty laws. They separate out those cases from the litigation over creditor preference and liability. Slave bodies in the market and on ledgers were reduced to the value of a debt, their physical movements as “assets” complicated, sharpened and refined further the border politics of the time. In litigation, however they appear fleetingly, momentarily. In Table 1.1 it’s clear that the Supreme Court in Louisiana heard only a few cases in the beginning that involved slaves. But appellate cases such as *Newcombe v. Skipwith* (1810)

⁶⁵ Epstein, “Reflections,” 1-20. Graf-Peter Calliess, “Lex Mercatoria: A Reflexive Law Guide to An Autonomous Legal System,” 2 *German Law Journal* available at <http://www.germanlawjournal.com/index.php??pageID=11&artID=109>; Kadens, “Order within Law,” 39-65; Ralph A. Michaels, “The True Lex Mercatoria: Law Beyond the State,” *Indiana Journal of Global Studies* 14:2 (Summer, 2007): 447-468; Robert D. Cooter, “Structural Adjudication and the New Law Merchant: A Model for Decentralized Law,” *International Review of Law and Economics* 14 (1994): 215-231; Lauren Benton and Richard J. Ross, eds., *Legal Pluralism and Empires, 1500-1850*, (New York University, 2013), 4. In Louisiana, a separate tribunal of law known as the Commercial Court did not begin until 1839, when pressure mounted for a national commercial system. Kilbourne, *Louisiana Commercial Law*.

were significant because they submerged slavery underneath the connections and liabilities characterized by words such as “surety,” “cotton,” “property” and dollar values.

Table 1.1. Percentage of Louisiana Supreme Court Cases Involving Slaves, 1809 - 1820			
Year	All Cases	Cases Involving Slaves	Percent
1809	24	3	12.5
1810	32	8	12
1811	55	7	12.7
1812	77	7	9
1813	27	1	3.7
1814	62	7	11.2
1815	41	3	7.3
1816	64	13	20.3
1817	67	9	13.4
1818	58	15	25.9
1819	96	16	16.7
1820	114	22	19.3

Table 1.1. Source: Judith Kelleher Schafer, *Slavery, The Civil Law, and the Supreme Court of Louisiana*, (Baton Rouge: Louisiana State University Press, 1994), 14-15.

Slaves’ bodies disappeared for a while behind promissory notes, and bonds, the wrangling over insolvency and litigation, in moments when merchants’ and planters’ minds abstracted slave bodies and the language of commodification became nested in the language of financial instrumentality, liabilities, and ledgers. It is not simply a question of race or labor, but also of how American borders were re-defined by the very act of seizure, and how distant creditors could influence (tacitly or not) the way merchants and planters set up and maintained their slave-based business enterprises.⁶⁶ Historian Walter Johnson encapsulates this idea, stating, that “everyday all over the antebellum South slaveholders’ [and merchants’] relations to one

⁶⁶ For slavery as seen strictly from an accounting perspective with calculative practices that were ahead of northern merchants, see Caitlin Rosenthal, “From Memory to Mastery: Accounting for Control in America, 1750-1880,” *Enterprise and Society* 14:4 (December, 2014): 732-748.

another—their promises, obligations, and settlements—were backed by the idea of a market in slaves, the idea that people had a value that could be abstracted from their bodies and cashed in when the occasion arose.”⁶⁷ His analysis could be extended further to the issue of territorial expansion. “The body,” as French historian Dorinda Outram has written, “is at once the most personal, intimate thing that people possess and the most public.” In this public sense, slave bodies provided a “basic political resource” in struggles over geography.⁶⁸

A central claim, then, of this study, is that one of the consequences arising from legal conflicts over debt was that merchants came to understand and use plantations as strategic geographic units, as commodities, with an enslaved labor force that was also a bundled commodity, and whose properties created micro-borders through which capital was siphoned—(not unlike modern-day casinos pitched in the middle of cash-poor southern towns, making a windfall and then dismantled).⁶⁹ Along these lines, and in contradistinction to the paternalistic plantation of later years, *Newcombe v. Skipwith* assembles in miniature (and perhaps crudely) the Delta’s plantations, and all those within them, as political units exposed to imperial conflicts over jurisdictions and the conflicts over credit and debt.⁷⁰

⁶⁷ Walter Johnson, *Soul by Soul*, (Cambridge, Massachusetts, Harvard University Press, 1999), 26.

⁶⁸ Stephanie M.H. Camp, *Closer to Freedom: Enslaved Women & Everyday Resistance in the Plantation South* (University of North Carolina Press, 2004), 4-10.

⁶⁹ Chico Harlan, “An Opportunity Gamed Away,” *The Washington Post* (July 11, 2015).

⁷⁰ Benton, *Law and Colonial Cultures*.

Part II

Newcombe v. Skipwith, 1810⁷¹

The Lower Mississippi Valley shared with other riverine regions in the Atlantic world the experience of indeterminate rule—rapid and incomplete rule by imperial governments. Control in the region changed frequently, and territories (i.e., British Natchez or U.S.-controlled Natchez), were surrounded by regions of direct military rule (i.e., Spanish Louisiana).⁷² The result was what historian Michael McMillian calls a “surrounded borderlands.” An example of this was West Florida which when a Spanish colony was bordered on all sides by United States Territory after the Louisiana Purchase of 1803.⁷³ When ill-defined borders intersected with issues of credit, jurisdictional conflicts raised the political stakes. The case of *Newcombe v. Skipwith, 1810*, was a relatively mundane dispute that required officials to define a situation that had no clear precedent.⁷⁴

Just two years after the American territorial government of Louisiana adopted the Digest of 1808, in a case that alleged unlawful seizure of a slave, litigants took advantage of the built-in ambiguities of imperial jurisdictions, decisively shaping the long-simmering imperial dispute between Spain and the United States. Here, debt recovery mixes easily with lessons about the

⁷¹ *Newcombe v. Skipwith, 1810*, Orleans Term Reports or Cases Argued and Determined in the Superior Court of the Territory of Orleans, Volume 1.

⁷² Another example was Demerara. Officially incorporated into the British Empire at the beginning of the nineteenth-century, Demerara changed hands six times between 1780 and 1803. In 1780, the British seized the colony, in 1782, it fell under French control, and two years later was given back to the Dutch. Emilia Viotti da Costa, *Crowns of Glory, Tears of Blood: The Demerara Slave Rebellion of 1823* (New York: Oxford University Press, 1994).

⁷³ McMillian, *Atlantic Loyalties*.

⁷⁴ Benton, *A Search for Sovereignty*,” 276.

The property seized to pay an overdue debt was a slave woman owned by planter Fulwar Skipwith at his residence in Montesano, a place described as a “village” located just South of Baton Rouge. Importantly, Skipwith’s appeal to the Louisiana Superior Court in 1810 seeking to set aside the attachment of his property did not take issue with the morality or even legality of claiming a bound woman as payment, but only who could do so. His attorney argued that the seizure took place within United States territory, and requested the levy to be set aside. The creditor’s attorney argued that the seizure occurred in part of Spanish West Florida and lawfully as part of Louisiana’s Act of 1805, under section 11 that authorized the issue of that process “for the recovery of a debt due from a person residing out of the territory.”⁷⁶

Newcombe’s attorney, in making a case for the fact that the seizure took place on Spanish lands, rightly pointed out that President Madison lacked the constitutional power to annex territory, especially given Spain’s day-to-day governance which explicitly distinguished between its territories in the Delta (a worry that was echoed in Jefferson’s letters to friends).⁷⁷ President Madison’s proclamation and the authority of the United States’ Governor were unauthorized by law—despite the right of the United States to complete a title by possession, the national character of the people had remained Spanish, and the Spanish Governor-General’s administrative documents supported Spanish claims that the possessions were considered distinct and separate provinces. It was true that prior to the 1763 Treaty all the land from the east bank of the Mississippi River to the Perdido River were united as the “Province” of

⁷⁶ Benton and Ross, *ibid.*; Henry Edward Chambers, “West Florida and its Relation to the Historical Cartography of the United States” (1898); Gary Lawson and Guy Seidman, *The Constitution of Empire: Territorial Expansion and American Legal History* (New Haven: Yale University Press, 2004), 87-90.

⁷⁷ Frederic Austin Ogg, *The Opening of the Mississippi, A Struggle for Supremacy in the American Interior*, (New York: Cooper Square Publishers, Inc., 1968), esp., 477-491.

Louisiana. Yet, between 1763 and Spain's reacquisition of the area from Great Britain in 1783, however, Britain had carved out a distinct colony—British West Florida, effectively shrinking the “Province of Louisiana.” After 1783, the province remained the ‘Isle of Orleans,’ and included Bayou Manchac, south to the “lakes,” down the east bank of the Mississippi River to its mouth. If there was any room for doubt that the two areas remained distinct, the Governor's documents provided additional evidence: the designations “de las provincias de la Louisiana,” were separated by “y la Florida Occidental.” ⁷⁸

In his rejoinder, Skipwith's attorney argued for the necessity of sovereignty's “recurring proofs”— the need for a continual display of power; a fact that also laid bare the tenuous hold of the United States on the region.⁷⁹ Spanish West Florida and the Province of Louisiana he said “should” be considered one and the same: by the 1762 secret Treaty of Fontainebleau between Spain and France, France had transferred the western side of the river to Spain, and the east side to Great Britain, effectively granting to Great Britain the same lands as when “France possessed it”—referring to France's holdings before the 1762 transfer. From 1762 to 1769, seven years had elapsed before Spain took possession though France had not erected any obstacles.

In those seven years, his argument goes, Spain's claims were not only weak, but the Governor had administered the area as one. Proof that they constituted a single legal zone, administered together, could also be found in the Governor's documents. “For certain purposes,” Skipwith's attorney declared, the province was viewed by the Spanish as extending over land to include all

⁷⁸ *Necombe v. Skipwith*, 1810.

⁷⁹ Benton, “Search for Sovereignty.”

that was given to it originally by France. Spanish documents titled “Provincia de la Luisiana: Distrito de Natchez” and “Provincia de la Luisiana: Distrito de la Mobile” [present-day Alabama] attested to this fact. Sovereignty, therefore, was not a given, it not only required a military force but included mapping, description, the founding of political communities and administrative acts to support claims.⁸⁰

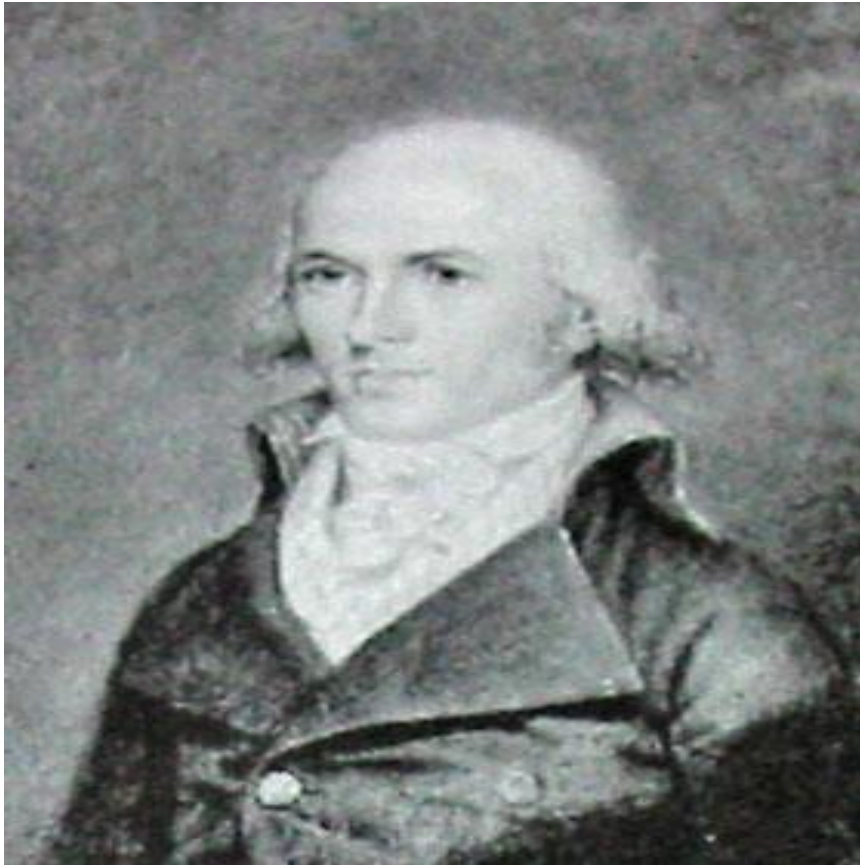


Illustration 7. Fulwar Skipwith, (1765-1830). Source: The Huntington Library, Art Collections and Botanical Gardens.

⁸⁰ Ibid. In 1790, planter Fulwar Skipwith was appointed as United States Consul to the French colony of Martinique followed in 1795 by an appointment as Consul-General in Parish under Ambassador James Monroe. By 1809, Skipwith had moved to Spanish West Florida and became a member of the judiciary. He took part in the 1810 West Florida rebellion by British Loyalists against Spain and served as President of the 90-day Republic of West Florida. Skipwith and this new legislature reluctantly agreed to accept President Madison's 1810 Proclamation annexing West Florida.

In his study of Spanish Louisiana, historian Sean Patrick Dolan writes that in the “grab” for West Florida, *Newcombe v. Skipwith* was instrumental in aiding the United States in its claim that the Purchase included all of Spanish West Florida. Part of the reason had to do with the continued questions concerning the limits and boundaries of Louisiana that by 1817 appeared in issues with regard to land titles. In subsequent cases such as *Foster and Elam v. Nelson* (1829), the Supreme Court simply accepted the decision in *Newcombe v. Skipwith*, despite the prior court’s comment that the issue was a political and not a legal issue the area was under United States sovereignty.⁸¹

Debora v. Coffin & Wife, 1809

The subject of slave seizures became a key component yet again in the case of *Debora v. Coffin & Wife*. This time, the plaintiff-creditor, a Spaniard and resident of Cuba, traveled to Louisiana and obtained from the Orleans Parish court an order to seize the debtor’s five slaves. The defendants were refugees recently banished from Havana under a general act of confiscation and banishment directed against all French inhabitants on the island. They appealed the case to the Superior Court of Orleans in 1809. The case was heard in the context of Spanish opposition to harboring Haitians who had fled Haiti during the slave insurrection of 1791; importantly Spanish Cubans as well as United States planters feared the slightest news of

⁸¹ Sean Patrick Dolan, “Entangled Up in Red, White, and Blue: Spanish West Florida and the American Territory of Orleans, 1803-1810,” in *Entanglements in Legal History: Conceptual Approaches*, Volume 1, 213.

slave insurrection would promote instability on their own slave populations, or worse, that black insurgents would be sold and introduced into the Delta.⁸²

Smith, the attorney for the banished defendants, explained to the court his client's asset holdings in Cuba, and by implication, highlighted the disjuncture between slaves' capacity to choose whether to stay or leave Cuba with the view held by the Superior Court that considered them "immoveable" property.⁸³ Five of the debtors' bondsmen "who followed their master," had avoided being seized in Cuba. The Cuban government confiscated the remainder of his client's assets, including an earthenware factory and additional slaves. The original credit contract was based on a 12-month loan for \$1,400.00, collateralized either by the earthenware factory itself or with slave property. The Cuban government seized the property of all Frenchmen on the island, and title to any property lay with the government. Any proceeds arising from the confiscation were held in government coffers, with Spanish creditors given the right to apply to it for payment of outstanding debts. Smith's argument, that seizure in New Orleans of his client's property should have been prohibited, was based on Cuban laws that

⁸² *Debora v. Coffin & Wife*, 1809, Orleans Term Reports, Cases Argued and Determined in the Superior Court of the Territory of Orleans, Francois Xavier Martin, Volume 2 (New Orleans: 1813), 40-57. For a revealing account of the mutual influence and transfer of insurgents between Cuba and Haiti see Ferrer, *Freedom's Mirror*.

⁸³ Judith Schaffer writes about the confusion regarding the legal definition of slaves as property and as persons. The civil law concept of "immeubles" was defined in the Digest of 1808 and the Civil Code. Chapter 2, article 19 of the Digest of 1808 stated. In 1854 the case *Stephen v. Graves* involved the status of slaves brought to Louisiana from Kentucky. The court declared that the moment "those slaves touched our soil, they ceased to be personal property....slaves are regarded as real estate." Five years later in *Boatner v. Wade* (1859), the Supreme Court of Louisiana declared that they were "a kind of property which may be removed..." Schaffer quite rightly views the court's stance over time as a reflection of the slaveholding class. In this analysis, I rely on the earlier Supreme Court cases to point out the influence of discourses about credit and slaves informed more by wider, Atlantic and geopolitical concerns. Schaffer, "Slavery and the Civil Law," 24-26.

prevented a creditor from filing suit or receiving a direct payment from debtors in that country.⁸⁴

The region remained an indeterminate zone—a legal sphere in which Spanish laws still carried the day and thus, was still amiable to Spaniards. Smith, seeking to restrict Spanish influence, drew from ‘law of nations’ older, natural law, view of contract law. Rodriguez, cognizant of the early modern critiques of natural law, emphasized the governance of contracts by acts of legislatures. The divide between the opposing counsels’ arguments demarcated not only the lines drawn between the United States and Cuban laws, but between two visions. On the one hand stood the supposedly solemn laissez-faire ideological belief in the neutrality of contract law and equality of bargaining power, and its commercial certainty. Running counter to this was a view of contract law based on “conscience through law.”⁸⁵ Here, in the battle over slave seizures, both attorneys exploited the changing opportunities inherent in jurisdictional tensions and the complexities of transnational credit recovery.⁸⁶

To do this, Smith first addressed the penal nature of the seizure. Pursuing the debtor after the confiscation of his property and criminal banishment meant the creditor essentially took the law into his own hands. Legally, the Cuban government alone held the “privilege” of banishment, and effectively took “from the creditor the right” acquired through private contract. Confiscation vested title to all their property in the government and gave it the right

⁸⁴ *Debora v. Coffin & Wife*, 1809, Superior Court of the Territory of Orleans, 1809.

⁸⁵ Bruce Kercher notes this struggle between the two visions in several cases in New South Wales, Australia in the creation of British institutions at the same time, as does Morton Horowitz for the United States. This study looks at the two visions of contract law by assigning credit and debt recovery a central role in jurisdictional conflicts. Bruce Kercher, “Debt, Seduction Law.”

⁸⁶ Benton, *Law and Colonial Cultures*, 33-78.

to prohibit a creditor's lawsuit, "exercised consistently with the principal of natural law" that operated based on moral notions of God and human nature, not the acts of particular legislators or contractual agreements between people and sovereigns. Smith asked, "is it not too revolting to justice and morality," to presume that the Cuban government would allow the creditor to pursue any legal action after confiscation on its own soil? In fact, he stated, the creditor was barred from initiating any legal action and the change in title changed the security and mode of recovery of the debt.⁸⁷

Smith pointed to larger implications that had to do with the way debt recovery operated throughout the Atlantic. Citing English legal scholar Samuel Rutherford (1644), he argued that the act of banishment itself released his clients from obedience to a government that did not extend any rights to them. Instead, the five remaining slaves are entitled "here to the protection of law as well as humanity." The "here" sets up the opposing party's rejoinder.⁸⁸

For Rodriguez, the plaintiff's attorney, there was no "here" or "there." The law of nations considered legal impediments to be temporary and local: "war does not extinguish rights, nor dissolve obligations of individuals of the belligerent nations, it only suspends the right to bring suit." Arguing that the statute of limitations for the collection of debts—the length of time given by law in which to file suit—is "local ONLY." He cited two New York Superior Court cases in which creditors were barred from filing suit by the deadline in the state the credit was contracted and the defendant resided, but were instead, "allowed to recover in another

⁸⁷ *Debora v. Coffin & Wife*, 1809, Superior Court of the Territory of Orleans.

⁸⁸ *Ibid.*

state.”⁸⁹ This Rodriguez stated was because they were not governed by the statute of limitations of another state in actions of contracts or legal impediment existing where the contract was made was local. Cuba’s act of confiscation mirrored the statute of limitations, making its prohibition local and temporary, and allowing the creditor to seek “remedy” in another forum.⁹⁰

The local legal obstacles to recovery did not extend beyond the island of Cuba, according to Rodriguez’s argument. Louisiana’s courts were a forum not only based on Spanish mercantile law, but also a region that contained a Spanish populous. This was the basis for a transnational recognition of debt recovery procedures. Smith, however, countered Rodriguez’s interpretation, claiming instead based on the ‘law of nations,’ the debtor’s property “here” on United States soil, restricted foreign influence. This he illustrated in the distinction between the adoption of Spanish jurisprudence in Louisiana from the specific act of a foreign government that intended its edict to apply only to Spanish-controlled territory.⁹¹ Both sides interpreted international law in an “under-organized domain with fragile sources of legitimacy” to impose standards in the periphery.⁹²

The dominant, though not unchallenged, view of morality and politics between nations for at least a century and a half as embodied in the law of nations constituted the basis of what was then international law. By the early nineteenth-century, natural rights rhetoric was waning.

⁸⁹ *Rugley v. Keeler*, Superior Court of the State of New York; *Lodge v. Phelps and Pearsall, et al. v. Dwight, et al.* in *Debora v. Coffin & Wife*, 1809, Superior Court of the Territory of Orleans.

⁹⁰ *Debora v. Coffin*, 1809.

⁹¹ *Ibid.*

⁹² Calliess, “The Making of Transnational Contract Law,” 455.

Part of this transition had to do with the standard narrative of the law of nations. States were not simply analogous to persons, but “morally equivalent to them, in the autonomy, rationality, and duty to obey the dictates of natural law.” The increasingly drawn out wars of eighteenth century Europe and their extension to the rest of the globe, however, made it even more obvious to commentators that deriving the law of nations from the law of nature provided no guarantees against aggression and may have served to exacerbate international instability.⁹³

Echoing the turn to positive law advocated by such commentators as Immanuel Kant, Rodriguez criticized Smith’s use of the legal scholar Rutherford whose work did not “have the slightest legal force,” since it was based on philosophical ideas.⁹⁴ The Spanish government could not break a private contract for credit and any interference by the government could not destroy the debt. Louisiana was, for Smith, then, a safe haven for assets, where the laws of Cuba, and that of other countries, were under constant re-evaluation. For Rodriguez, the laws in a particular locality were set aside when a party to an action sought relief in another jurisdiction.

Historians such as Anne McClintock have raised the issue of boundary-making as a gendered exercise, one that was facilitated by images of the female form in maps, particularly of slave

⁹³ Jefferson himself encapsulated contemporary wisdom when he stated in 1793 that, “the Law of Nations...is composed of three branches, 1. The moral Law of Nations, 2. The usages of nations, 3. Their special conventions. Thomas Jefferson, “Opinion on the Treaties with France,” April 28, 1793, in *Papers of Thomas Jefferson*, ed., Boyd, 25:609 in David Armitage, “The Declaration of Independence and International Law,” *The William and Mary Quarterly*, 59:1 (January, 2002): 39-64.

⁹⁴ Armitage, *Ibid*.

and female bodies.⁹⁵ Her analysis provides an important, if unlikely insight into the ways nineteenth-century actors may have viewed credit. The commoditized, mortgaged, sold, seized, slave bodies also marked the outer geographic boundaries of credit regimes.⁹⁶ Slaves, and the increased prices tied to them, encoded a more intense capitalism in a borderland region where, according to Walter Johnson, planters and merchants “were envisioning imagined futures that were to be wrung gradually from [slave] bodies.”⁹⁷

Assets and ‘Forum Shopping’: *Aston v. Morgan*, 1812

In a decentralized Atlantic world, contracts occurred in an “endless play of discourses.”⁹⁸ In a practical way, the conflicts over credit make available the different rationalities in different regions. In the case of *Aston v. Morgan* 1812, creditors and debtors essentially “shopped” for legal rules. The Defendant, a former Philadelphia resident who came to New Orleans, tried to convince the Louisiana Supreme court that a Philadelphia creditor was prematurely seeking payment from him as the co-signor on two Philadelphia bonds dated 1796 and 1800, instead of the primary debtor. Morgan requested a ‘plea of discussion’ to determine the extent and value

⁹⁵ Anne McClintock, “Imperial Leather: Race, Gender and Sexuality in the Colonial Context,” (Routledge, 1995), 22-27.

⁹⁶ Benton, “Law and Colonial Cultures,” 212-213.

⁹⁷ Johnson, *Soul by Soul*, 190. Arjun Appadurai makes an incisive point about the moment that the transaction is carried out or the slave is seized: “thus, even though from a theoretical point of view human actors encode things with significance, from a methodological point of view it is the things-in-motion that illuminate their human and social context.” Arjun Appadurai, “Introduction,” in Arjun Appadurai, ed., *The Social Life of Things: Commodities in Cultural Perspective* (Cambridge University Press, 1986), 5. See also, Margaret Jane Radin, *Contested Commodities* (Harvard University Press, 1996).

⁹⁸ Teubner, “Contracting Worlds,” 403.

of the property owned by the primary debtor in Philadelphia. Existing case law allowed creditors who sought collection of a debt to forum shop (indicating that perhaps the creditor believed Morgan's Louisiana assets to be worth more), thus making this a case between a creditor and an endorser. Morgan's attorneys believed oral testimony (the practice used for verification among merchants) would uphold Morgan's status as co-surety. In this way, Louisiana laws pertaining to a co-surety would protect him by allowing a review of the primary debtor's assets.⁹⁹

In the process of arguing for the admissibility of oral testimony, Ellery and Duncan cited *Ross v. Norvel*, and *Washburn v. Merrills*, two cases in which courts granted an alteration in a credit contract. In the first, it was successfully argued that the bill of sale was not actually a sale but "merely" stood as security for a mortgage through testimonial proof. In the second, oral testimony "proved" that a perfectly executed deed was really "intended" to have been a mortgage though the purchase was an "absolute conveyance" of a plantation and slaves, certified by a notarial signature. The court allowed, however, the buyer to become merely the agent of the plaintiff.¹⁰⁰

What was, in fact, the reality according to Morgan's legal team, was that "forum shopping" was a customary practice. Enforcement of contracts originating in other states and countries was really a "courtesy." Creditors "must take the laws of the forum he has elected [to] pursue [and] remedies according to that forum." Relying on this institutional regularity, their client

⁹⁹ *Aston v. Morgan*, 1812, 345.

¹⁰⁰ *Ross v. Norvell*, 1 *Washington* 14; *Washburn v. Merrills*, 1801, 1 Reports of Cases Argued and Determined in the Supreme Court of Connecticut, 1898.

sought the Louisiana courts in order prevent the kind of enforcement reserved for a primary debtor from being imposed against a co-surety.¹⁰¹ In their arguments Ellery and Duncan attempted to answer the court's question of Louisiana's "reach" or jurisdictional powers over a Philadelphia creditor.¹⁰²

The Pennsylvania creditor's demand from Morgan for payment was premature. Since Louisiana courts could disregard the statute of limitations of another state, it could also be said "that despite the validity of the contract over here," demand has been made too early. And, in accordance with case law, the Louisiana court was within its power to determine the time, mode, and extent of the payment or seizure (just not the validity of the contract made out of state, *lex fori*).¹⁰³

The judges recognized that states improvised, that parties made claims in disorderly combinations and strategies. Yet, they denied Morgan's motion for a plea of discussion. The court affirmed that remedies are determined in the forum in which the case was filed. Though it allowed the debtor to hide in another state, it also allowed a creditor to pursue in a state other than the one where the contract was signed and which prevented him from making a demand (*Pearson v. Dwight, et al.*). Precedent was found in a Maryland case in which the merchant-creditor in *Palyart v. Goulding*, (1792) maintained a suit in North Carolina against merchant-debtors in Maryland while at the same time suing a co-obligor or co-surety

¹⁰¹ Ibid., 343.

¹⁰² *Aston v. Morgan*, 1812, "but as the law of a foreign country is of no force *proprio vigore*, but merely admitted by courtesy..."

¹⁰³ In support they cited *Smith v. Spinolla*, Pennsylvania, and *Ruggles v. Keeler*.

exclusively.¹⁰⁴ In the Louisiana court's opinion, however, the words, "jointly and severally," meant that "each promises and engages to pay alone," forcing Morgan to give up his right to a plea of discussion.¹⁰⁵ Furthermore, Spanish law and the Civil Code provided that "neither is the plea of discussion allowed among merchants or bankers." Morgan, even if allowed to expose the debtor's property to review, could not "compel" a creditor to pursue the primary debtor's property.¹⁰⁶

The Imposition of Interest Rates in the Lower Mississippi Valley

Spanish laws considered interest on credit to be usurious—that is, an "exorbitant" profit for the price on money. But, contract law was changing, and a diverse array of nineteenth-century authors were shifting to views that held that law does more than simply evolve in accordance with its own internal logic. Instead, it is affected by broader intellectual, political and economic changes. This was a gradual shift in focus from an older view of the market whereby prices were to be calculated in a fair manner and included a legal cap on interest rates, to the values held by hard bargainers, and economic rationalists and speculators who sought damages in a suit that would compensate for the loss of the plaintiff's expectation of profits.¹⁰⁷ In the Lower

¹⁰⁴ In *Palyart v. Goulding*, 1792, Circuit Court of North Carolina, the defendant and his two brothers carried on business as merchants in the state of Maryland under the name John Goulding & Brothers. In 1791, they gave the plaintiff the promissory note signed John Goulding & Brothers. The defendant (being the only partner in the state of Maryland) was sued alone; he pleaded that the other partners were living and not named and ought to be made defendants.

<https://law.resource.org/pub/us/case/reporter/F.Cas/0018.f.cas/0018.f.cas.1067.2.pdf>

¹⁰⁵ *Ashton v. Morgan*, 353. The court cited the French law in 1 Pothier on Obligations, 208, 382-386.

¹⁰⁶ *Ashton v. Morgan*, 1812, 350-351. The court cited the Spanish code, 1 Ferrier, Verbo Discussion, and Civil Code 428, Article 7, and 430 Article 1. "The surety in an obligation *in solido* of the civil law, is equally subject, with the principal, to the immediate payment of the whole debt."

¹⁰⁷ Kercher, "Debt, Seduction, Law," 150-153.

Mississippi Valley, a variety of interest rates reflected the range of influences from Spain's imposition of judicial rates, to the prices for goods in European metropolitan centers.

When a defendant by the name of Segur obtained funds from his creditors, they "adopted words that were vague," and in French, according to the Louisiana judge, to convey what "was used to express their meaning" for interest. Acknowledging that creditors frequently demanded higher rates in the market—something "made by special convention," he ruled that Segur's interest rate was unlawful and should be fixed at 5 percent instead.¹⁰⁸ In *Merciers admx. v. Sharpy's admx.*, (1809), a case in which merchants sold goods from Bordeaux, France on joint account in New Orleans, the court adjusted the rate to 6 percent justifying this change by referring to "the commercial rate in Bourdeaux, France and New Orleans." In *Caisergues v. Dujarreau*, 1809, the creditors' attorney cited Spanish law dating back to 1620. Based on a loan of \$18,700.00 and secured by a mortgage, the attorney contended that Spanish law in the "Recopilacion de las leyes de Castilla" considered the mortgage void if interest was made part of the principal. The interest rate on the original loan was calculated at 12 percent, a rate that was more than the law allowed. On the one hand, Spanish laws had changed since the 1620s, but more importantly the attorney argued, there was also no single "Spanish" rate or custom emanating from Iberia, since the regions of Spain had different rates according to particular places. Judge Lewis stated that in "commercial parts" of that country interest went as high as fifty percent. For this reason, he concluded, the judicial rate would be determined by special

¹⁰⁸ *Segur v. His Creditors*, 1809, Orleans Term Reports or Cases Argued and Determined in the Superior Court of the Territory of Orleans, Francois-Xavier Martin, Volume 1, (New Orleans: 1811).

agreement, “as advantages resulting from the use of circulating medium[s] in particular places may enhance its value.” The “commercial interest” was set at 10 percent.¹⁰⁹

Down to the 1820s, usury remained a moral issue and arguments were still heard in the Delta’s courtrooms over what constituted a just or fair interest rate. Attorneys essentially argued for-or-against the characterization set by Spanish laws in the *Siete Partidas*, namely the prohibition on usury. Spanish scholars did recognize the need to manage a fluctuating monetary system and for rates that aided merchants in long distance trade and fluctuated between 5 and 12 percent. Locally, 10 to 12 percent interest rates were not uncommon but even by 1820 questions of what the price of money would be reflected changing values in usury.¹¹⁰ In *Richardson v. Terrel* (1820) the issue was the definition of ‘good’ interest. Plaintiff’s counsel answered that it meant not the lowest interest the law gives, but “the intent to act justly, liberally and to give an interest that would be an inducement, or at least an indemnification of the *favor* of delay.” Defendant’s counsel asked “What is good interest? The law has said five percent is good legal interest; that six percent is good bank interest, and that ten percent is not good, merely, but the best conventional interest. The court has a difficult task indeed to fix the precise meaning of the adjective *good*.”¹¹¹ By the 1840s, it is clear

¹⁰⁹ *Caisergues v. Dujarreau*, 1809, Orleans Term Reports or Cases Argued and Determined in the Superior Court of the Territory of Orleans, Francois-Xavier Martin (New Orleans: 1811), 7-12.

¹¹⁰ Martti Koskenniemi, “Empire and International Law: The Real Spanish Contribution,” *The University of Toronto Law Journal*, 61:1 (Winter, 2011): 1-36, 17-18, 28.

¹¹¹ *Richardson v. Terrell*, September, 1820, Orleans Term Reports, Cases Argued and Determined in the Supreme Court of the State of Louisiana, François Xavier Martin, Branch W. Miller, Thomas Curry, Merritt M. Robinson Volume 4 (New Orleans, J.B. Steel, 1853), 4-33.

however, that it was possible for a group of specialists in the Delta to make their profits from discounting bills, exchange between locales (i.e., arbitrage) and by collecting interest.¹¹²

Talcott v. McKibben, 1812

Interest charges illustrate the imposition of national mercantile standards from credit-granting cities. In 1812, the same year Louisiana obtained statehood; *Talcott v. McKibben* was appealed to the state Supreme Court. Talcott, bound by the decisions of an expert panel of merchants for resolution of the case valued at \$2,941.80, was unhappy with the ruling. The disgruntled debtor's attorney downplayed the panel's report as "exceptional"—since it was at "variance with the general laws of the country, as well as the particular acts of the legislature." First, he claimed there was no stated account between the parties. Second, the referees were not qualified, but merely "audited" and lastly, they allowed interest on an open account: "By our law, interest is never allowed upon unliquidated debts and ascertained debts, if not stipulated...it runs, not from the date of the debt, but from the period of judicial demand...but, there [it is] from the date of the debt itself."

The creditor's side cited the "purely mercantile" nature of the issue. The case was not based on an account initially, but arose from a substantive issue of mercantile practice. The plaintiff alleged that allowing credit in the sale of merchandise departed from the defendant's instructions. He had consigned the goods to be sold by this merchant, but had not agreed to sales based on credit. Defendant's counsel argued that such a "departure from his instructions"

¹¹² Richard Holcombe Kilbourne, Jr., "The Business of Arbitrating Exchange Rates and Its Influence on Louisiana's Early Law of Bills and Notes," in Vernon Valentine Palmer, ed., *Louisiana: Microcosm of a Mixed Jurisdiction* (Durham: Carolina Academic Press, 1999), 167, 169.

made McKibben liable for the amount of the loss incurred in giving such credit. In the initial case, McKibben provided a witness to prove that the charging of interest upon advances had been based on the usage of merchants. The appellate judges agreed with the principles of mercantile usage, and the decision of the five distinguished merchants. In addition, the Digest of 1808, Section 470 made it clear that “nothing therein shall alter the usages of commerce. The *lex mercatoria* exists entirely distinct and independent of the code.”¹¹³

Wiltberger v. Edward Randolph, 1818, Supreme Court of Mississippi¹¹⁴

By 1818, one year after Mississippi achieved statehood, a jury of the Supreme Court of that state ruled in favor of a Philadelphia merchant’s right to collect interest payments once the principal was due for goods sold on credit. Both the plaintiff’s attorney and the jury cited the “customs of merchants of Philadelphia” as justification for the claim as well as the verdict. The clause, which was not a formal legal statute, referred distinctly to Philadelphia’s regional standards. In awarding the verdict to the plaintiff, the jury established in Mississippi the practice of charging and receiving interest even if payment had not been made on the principal. The Mississippi defendant, in filing a motion for a new trial, claimed that charging and receiving interest, even after the extension of credit had elapsed, was not proof that the parties had agreed to interest payments, since it was “contrary to Mississippi law.” The jury sided with the

¹¹³ *Talcott v. McKibben*, 1812, Reports of Cases in the Superior Court of the State of Louisiana, 298-305.

¹¹⁴ *Peter Wiltberger v. Edward Randolph*, 1818, Reports of Cases Adjudged in The Supreme Court of Mississippi, Natchez, R.J. Walker, Reporter of the State, (Natchez: 1834), Historical Foundation, Natchez Mississippi, 20-23.

merchant in spite of Mississippi's legal code.¹¹⁵ The case also underscores not only the implementation of 'customs' but also some of the 'frictions,' or 'blockages' to doing business.

In the aftermath of the Supreme Court case of 1818, open accounts, cash advances, and promissory notes accrued interest in compliance with the court's ruling, that is, without the need of a formal agreement. But cotton planters and their merchants who serviced those accounts adapted the rule of law. As cotton became the sole crop produced in Mississippi for the international market, accounts reflected the delays in marketing the crop so that, increasingly, debts were held on the books for longer and longer periods of time. By the mid-1820s, the majority of debts and the accrued interest on them went unpaid for years until the death of either creditor or debtor induced payment. The security of cotton and slaves allowed for a modification of the Philadelphia "custom": the transition to large-scale crop monoculture allowed individuals to put off both principal and interest payments.¹¹⁶ This was the resolution to a region-wide problem that involved huge delays in cotton's profits; it is what June Starr and Jane F. Collier refer to as a legal formulation constructed by human agency that is advantageous to some at the expense of others. As the case illustrates, conflict developed among groups that had access to different legal resources and different ideas about how those resources, especially those slave-based property, should be administered.¹¹⁷

¹¹⁵ *Ashton v. Morgan*, *ibid.*

¹¹⁶ David, "In Pursuit of Their Livelihood," 36-76.

¹¹⁷ June Starr and Jane F. Collier, "Introduction: Dialogues in Legal Anthropology," in *History and Power in the Study of Law* (Cornell University Press, 1989): 1-27.

The “Tableau of Distribution,” or A Grab for Assets?

The ‘tableau of distribution’ refers to the order in which creditors were to be paid out of the assets of an insolvent debtor (or a deceased’s probate administrator). It’s a familiar judicial routine. Just as courts do today, certain types of debts took priority over others.

But conflicts arose when creditors accused debtors of disposing of *moveable* property through the marketplace—whether selling cotton or their slaves—before they could be assigned for sale according to the tableau.¹¹⁸ On the other hand, creditors, especially out-of-state creditors, were accused of preemptively bypassing this routine in order to be paid first. In the Supreme Court cases for Louisiana, usually, though not always, they were merchants.

Ramsey v. Stevenson, 1817

A rise in the value of assets (i.e., slaves), coupled with the location of those assets (land and slaves) in the Lower Mississippi Valley far from creditors residing in credit-granting cities in the North, made information about the activities of debtors increasingly important, though less transparent.¹¹⁹ One of the earliest cases of asset transfers in the Louisiana Superior Court was *Debon v. Bache, et al* (1810/1811) and focused on a preemptive transfer of assets by an

¹¹⁸ One early letter from a Philadelphia agent operating in Natchez is illustrative of this type of monitoring. David Ferguson wrote to his Philadelphia partner that “I hope to have it in my power to send you a few hogsheads of cotton by Dexon’s flat who will sell out in a few days, there is one hogshead of tobacco belonging to John Say which he promised to give to me but has sent it in Harman’s flat without my knowledge, nor do I know who has the management of it as you are his only creditor you will pay some attention to the inspection as I am afraid he intends making use of the money in some other way than paying his debts—also you have an account against Cavallero who has moved his wife to town in Harman’s flat and was to have given me security here but went away without my knowledge.” David Ferguson to John Reed, Natchez, April 3, 1792, Reed & Forde Papers, Box 3 Folder 3, Historical Society of Pennsylvania, Philadelphia, Pennsylvania.

¹¹⁹ David, “In Pursuit of their Livelihood.”

insolvent debtor before his death, and counter-claims by his remaining creditors. The attorneys argued, and the Court decided, only upon Spanish law.¹²⁰ Seven years later, in *Ramsey v. Stevenson*, attorneys on both sides were compelled to move away from strictly Spanish jurisprudence to invoke the ‘law of nations’ (*ius gentium*), and the compatibility of English common law with those of Maryland, (that presumably trumped Louisiana law). In a telling strategy, the attorney on Stevenson’s side even argued for the conflation of state-based bankruptcy with voluntary mercantile routines as legitimate grounds for transferring assets only to one creditor.¹²¹ Increasingly, in cases of improper asset transfers, attorneys’ arguments placed less emphasis on the Spanish Code of Bilboa and *Las Siete Partidas*, and referenced a plurality of interpretations that mirrored the collisions between contracting regions.¹²²

Ramsey v. Stevenson (1817) brings together issues of high value assets (valued at \$500,000.00) held in the area by outside investors, and the clash between older and new regions. Centered on a mercantile routine—the voluntary preference of one creditor over all others in the transfer of assets—debate in the case reveals the attempt to conflate state or

¹²⁰ *Debon v. Bache, et al.*, 1810, Orleans Term Reports, Cases Argued and Determined in the Superior Court of the Territory of Orleans, Francois Xavier Martin, Volume 1 (New Orleans: 1811), 161-165. The case is also discussed in Brown, “Legal Systems in Conflict.” Transfers of Louisiana assets occurred by and between parties in England. In *W.P. Meeker v. His Creditors*, 1809, both the debtor and creditor were British subjects. Meeker was a London merchant who became bankrupt and his English creditor in Louisiana “discovered” some property of his and seized those assets. The debt accrued in England, and the assets located in Louisiana were transferred by assignment in England to a resident English merchant. Both attorneys cited English jurists and English case law to validate and invalidate Meeker’s assignment of assets. *W.P. Meeker v. His Creditors*, 1809, Orleans Term Reports, Cases Argued and Determined in the Superior Court of the Territory of Orleans, Francois Xavier Martin, Volume 1 (New Orleans: 1811), 68-71.

¹²¹ *Ramsey v. Stevenson*, 1817, Cases Argued and Determined in the Supreme Court of the State of Louisiana, Francois Xavier Martin, Volume 2 (New Orleans: 1820): 24-78.

¹²² *Ibid.*, 404-407.

“official” bankruptcy with its mercantile equivalent, whereby a debtor in failing circumstances transfers all property to a firm or colleague.¹²³ Merchants headed for ‘embarrassed’ circumstances routinely turned to other merchants and strategies that did not require state involvement.¹²⁴

All the parties to the case resided in Baltimore, Maryland. Stevenson, a Baltimore merchant, had in 1816 assigned his estate to a Baltimore firm, M’Culloch & Holmes. Ramsey, also Stevenson’s creditor, heard about the assignment, traveled to Louisiana, filed a lawsuit, was issued a writ of seizure by the lower court to attach property as payment for the debt “Stevenson admitted to be due.” A combination of slaves, cotton, sugar, and/or an entire plantation were at stake. M’Culloch & Holmes “interposed” their claim. The court judged in favor of Ramsey, and declared the assignment “void.”¹²⁵

Attorneys for Stevenson quickly appealed, reasoning that it was not a question of whether New Orleans allowed property to be transferred, since “we know of no such impolitic law.”¹²⁶ Nor did it involve the soundness of Maryland laws. The real question was how far the

¹²³ In a nearly identical case, John Jacob Astor’s attorney requested an attachment against the assets of Samuel Winter, a fellow-New Yorker who amassed “by his own industry a considerable fortune” in Louisiana. *John Jacob Astor v. Samuel Winter*, deceased, 1820 Orleans Term Reports, Cases Argued and Determined in the Supreme Court of the State of Louisiana, Francois Xavier Martin, Volume 4 (New Orleans: 1825).

¹²⁴ Benton, “Search for Sovereignty,” 16.

¹²⁵ Ibid.

¹²⁶ The contradictions in law are more evident in *Debon v. Bache, et al*, 1810. In this latter case, the Digest of 1808, chapter 16, declared void “all assignments giving an undue preference to one creditor, in exclusion of others.” Shoring up this view, the commercial laws in the Ordinance of Bilboa, Chapter 17, section 23, provided that if a debtor, “near failing, or before he makes his situation known, pays a debt not yet due” it is considered fraudulent. In direct opposition, a presumably English citation known only as “5 Johnson, 413” allows for a debtor, in insolvent circumstances to give preference to one creditor to the exclusion of others, even if done voluntary, unless they have “contemplated” bankruptcy. *Debon v. Bache, et al.*, 1810, 164, 166-167.

assignment operated. Did it secure the property to the assignees to the same *extent* as an assignment under insolvent or bankrupt laws? The judges' answer determined that in Louisiana it did not.¹²⁷

Interpretations turned on the meaning of "voluntary" assignments of property that privileged one particular creditor, with both attorneys debating its basis within English, mercantile and early United States laws. The plaintiff's attorney argued that even in state bankruptcies, assignments of this type were valid under mercantile and English case law, but only in the originating state. Beyond that, the meaning of 'voluntary' under English statutes was that in such a contract there was no "valuable consideration" or payment given to anyone in the exchange. An assignment under insolvency or bankruptcy was quite different from the voluntary act of a debtor that had created essentially, a form of contract.¹²⁸

The defendant's attorney countered that "voluntary" simply meant "not forced." English law allowed such assignments as long as there were no circumstances of fraud. Furthermore, there was a difference between the bankruptcy laws of England and the United States on the principles that distinguished between bankruptcy and insolvency. English laws considered asset transfers to be an act of bankruptcy "in a trader," and declared void. In the United States, "no such rule prevails" and the debtor is free to choose his creditor. He cited Maryland's insolvent act of 1808 that allowed assignment to a preferential creditor, driving home the point that

¹²⁷ *Ramsey v. Stevenson*, 1817, 26.

¹²⁸ *Ramsey v. Stevenson*, *ibid.*, 40-61. The plaintiff's side cited mercantile law from 2 "Beawes' Lex Mercatoria," 516, 6th edition in which an opinion given by Lord Chancellor Talbot was given and consistent with Louisiana's *Digest of 1808*.

Louisiana's own act of 1805 "does not interfere with" the common law right of "paying all his property to one creditor."

"Erroneous opinions have been entertained with respect to the true meaning of the word "voluntary.'" In language almost goading the judges to admit their bias, the attorney gave a candid glimpse into the lower court's "unofficial" disposition:

It is understood that a very general *idea* has been countenanced in the inferior courts, that assignments made in a sister state, although according to the laws of the place executed—are a perfect nullity here—and that *idea* is said principally to be grounded on this case: but would the learned judges who pronounced the decision be willing to say, that they intended to declare such to be the law?

Not upholding Maryland laws, the court curbed the power of distant creditors to transfer Louisiana property without including Louisiana creditors (*cession bonorum*).¹²⁹

Ramsey's attorney contended that voluntary assignments of assets to whom one pleased forced other creditors to sign a release of the debtor's liability to them. If the assignees did not equitably distribute property or if there was not enough, "the excluded creditors are deprived of all remedy." Even admitting the validity of the assignment, Ramsey had not agreed to what was essentially a contract between Stevenson and M'Culloch & Holmes.¹³⁰

Ramsey, in stating that "Louisiana laws are paramount," and those laws gave no preference to any creditor over another reminded the court that title was not even executed completely. There was no delivery "actual or legal" of the necessary documents transferring title. If

¹²⁹ *Ramsey v. Stevenosn*, *ibid.*, 39, 76.

¹³⁰ *Ramsey v. Stevenson*, *ibid.*, 41, 70.

property was “corporeal,” meaning slave property, it should have been put into the possession of some agent in the city.¹³¹

In his rejoinder, the U.S. attorney for M’Culloch & Holmes reiterated that there was no proof of fraud, and the consequence of showing preference, as stated by Ramsey’s counsel, would only serve to deprive the assignees of their rights under Maryland state laws. And the issue of delivery itself was a non-issue: sometimes, actual delivery, he said, could not occur as when selling a ship still out at sea. Declaring in his closing argument that the Louisiana judges would have to decide according to the law of the state of Maryland, where the contract would be executed, he contended: “this is the true rule.” The other side “evaded this settled principle of law.” As to the Louisiana statute that required that three-fourths of all creditors “sign off their claims in order to discharge the debtor,” this was true only in the abstract since the actual assignment was made in Maryland. The only actual job of Ramsey’s attorney, according to him, was to show the assignment as somehow violating Maryland common law.¹³²

The judges, in a very short opinion, rejected the notion that the voluntary assignment and an assignment under bankruptcy laws were one and the same, and held steadfast to the notion that choosing ones’ own trustee often led to unjust or illegal preferences. An assignment, furthermore, was certainly a contract that entrusted the assignees with the execution of the property. Yet, “it has no great effect”: It gives trustees a right to sue, without ever actually

¹³¹ *Ramsey v. Stevenson*, 49; As a contract, the “the remedy on them must be prosecuted according to the laws of the country in which the action is brought” (s2 Johns Rep 198, *Smith v. Spinola*). 4 Term Rep 193, Lord Kenyon cited as the regulating of property according to LA not Maryland.

¹³² *Ramsey v. Stevenson*, *ibid.*, 65.

giving them possession of a tangible object. In their estimation, neither titles, nor slaves had been delivered and affirmed the judgment of the lower court.¹³³

Conclusion

A legal evolution took place during the first half of the nineteenth century in which investment capital propelled conflicts over the nature and routines that extended credit over state borders. Credit and slavery threaded together the Delta's local institutions with a wider, national forum that was accommodating the larger problems of international law (i.e., the law of nations, preference, seizures of property), and pressures by metropolitan merchants for conformity. What are known as 'secondary norms'—rules having to do with the administration of individuals' rights, duties, and powers—were connected to the "independent logic of social sectors that anchored them," inevitably reproducing the structures inherent to commodity-production in the nineteenth-century: credit and capital. In other words, what Gunther Teubner calls the "polycontexturalization" of law—was created by the variety of environments in the legal system that depended on multiple discourses or ways (i.e., paradigms) of ordering, or prioritizing the laws and resources of various regions.¹³⁴

The next chapter explores the tensions influenced by Spanish laws and culture. In aiming to rid themselves of Spanish influence, Anglo-Americans were seeking to define property relations by increasing the distance between British common law and the Delta's existing civil laws. Advocates of "Americanization" tied an older narrative of Spanish "despotism" to the non-

¹³³ *Ramsey v. Stevenson*, *ibid.*, 67-71.

¹³⁴ Teubner, "Contracting Worlds."

equitable distribution of property by Spanish-based laws, and to the shady dealings of its courts, which were perceived by Americans to hinder growth.

Chapter 2

Entangled Worlds, Entangled Laws: The Fear of Spanish “Despotism” in a Planters Market (after the Louisiana Purchase of 1803)

So that when we see a wise people, embracing phantoms for realities, and running mad, as it were, in schemes of refinement, taste, pleasures, wealth and power, by the sole aid of this civil *hocus pocus*; when we contemplate paper gold, and paper land, paper armies and revenues; a paper government and a paper legislature; we are apt to regard the Fairy Tales, the Travels of Gulliver, and the Arabian Nights Entertainment, as grave relations, and historical facts. In truth, we live in a mere enchanted island, and an individual may almost doubt, from the strong propensity there is now towards paper, whether he himself is made of any better materials... we have heard of the Golden, Silver, and Iron Ages of the Poets; the present, to mark its frivolity, may be called the *Paper Age*.
--Niles Weekly Register, 1819

The *Kulturkampf* between the *ancienne population* and the Anglo-Americans for supremacy in Lower Louisiana manifested itself most sharply as a conflict of legal traditions.
--George Dargo, 1975

The fear of Spanish “despotism” did not fizzle out suddenly with the Louisiana Purchase of 1803. The legacy of British, Spanish and French laws in the Delta, all predicated on Roman Law, had left deep marks on the history, economy and geography that affected the daily life of the Delta’s inhabitants. Together they gave rise, in historian Eliga Gould’s words, to a “mutual influencing” indicative of borderland regions—geographic territories that touched and were

contiguous.¹ What is also obvious by now to historians of the Atlantic early modern world is that in the New World, the hemispheric system of colonization was one in which the balance of power angled heavily during most of the colonial era in Spain's favor. That unequal relationship touched practically every aspect of British political thought, and it was, without question, a factor in the development of the Lower Mississippi Valley also.²

In particular, Spain's imperial legacy played a decisive role in the political imagination of the Delta's Anglo-Americans well after Spanish troops left the area. The maligned, but recurrent and widely-invoked image of Spain continued on in the political thoughts and debates of Americans. They were especially concerned about issues of population, with colonial and early national commercial policy and law taking a front seat in efforts to increase the population. British imperial officials and commentators debated amongst themselves about the efficacy of Spain's administration of her empire, while the tactical aspects of Spain's economic policies were the central focus between 'men-on-the-ground' and British metropolitan decision-makers. Such considerations became crucial on the Anglo-Spanish frontier for the governor of British West Florida between 1764 and 1767.³

¹ Jeremy Adelman and Stephon Aron clarify the definition of borderland regions: "By frontier, we understand a meeting place of peoples in which geographic and cultural borders were not clearly defined consistent with frontiers as *borderless* lands, we stress how intercultural relations produced mixing and accommodation as opposed to unambiguous triumph." Jeremy Adelman and Stephen Aron, "From Borderlands to Borders: Empires, Nation-States, and the Peoples in Between in North America History," *American Historical Review* 104:3 (June, 1999): 814-834.

² Gould, "Entangled Histories, Periphery."

³ Gabriel Paquette, "The Image of Imperial Spain in British Political Thought, 1750-1800," *Bulletin of Spanish Studies* 81:2 (2004): 187-214. An excellent comparison of communication systems is found in Richard J. Ross, "Legal Communications and Imperial Governance: British North America and Spanish America Compared," eds., Michael Grossberg and Christopher Tomlins, *The Cambridge History of law in America: Early America, Volume 1, 1580-1815* (Cambridge University Press, 2008).

This chapter suggests that behind the boosterism and enthusiasm for settlement, behind the speculative operations aimed at making a quick buck, and the expansion of farms in the Lower Mississippi Valley, American and creole cotton planters looking for entry into the British-oriented commission system cast an uneasy gaze at the multi-cultural world around them. The wider struggle to get rid of stale and outdated European Continental practices toward property—and thus get rid of the last vestiges of Spanish-oriented institutions in the Atlantic—played out in these enclaves, in the American periphery, even after the last Spanish soldier had left. The fact that Spain’s laws had been adopted by the territorial and state governments, plus the willingness of Jefferson and other political figures to accommodate existing Franco-Spanish customs as a holdover from the colonial period were counterbalanced by the image of a fully incompatible Spanish commercial system that in the eyes of British and American officials had been a failure.⁴ The debate concerning the extent to which judges held sway over commercial matters, a struggle over the common law versus civil law, and therefore implicating the role of judges—extended outward, outside American courtrooms. For example, far from simply being a case of boosterism for Louisiana, the Irish-American Judge James Workman’s play entitled *Liberty in Louisiana*, in which the plot centered on the Lower Mississippi Valley’s geopolitical problems, were presented to audiences in Charleston, New York and Philadelphia. In it, he sought to expel Spanish influence from the region, advocating instead for the Delta’s cultural and economic compatibility with those economies in the eastern-most United States and the British Atlantic—where the most pertinent financial centers were located. Conversely, New York Congressman Edward Livingston who came to New Orleans and served as judge and

⁴ Paquette, *ibid.*

statesman in his adopted state of Louisiana, fought for the continued creolization of Louisiana's laws through the extension of the civil law.⁵ These prominent Anglo-Americans men made sure to broadcast publicly the territories' jurisdictional disputes and cultural entanglements from opposing sides of the debate. Workman was in favor of the English and American common law system which gave judges discretionary powers while Livingston made almost the identical argument against common law judges, whom he viewed as wielding an enormous amount of arbitrary power.⁶ Workman's ideas, however, went to the heart of the matter: if the Delta could not establish itself on the same legal basis as the other states the Spanish legal system might keep at bay the hoped-for economic participation of risk-averse American and British creditors.

If the Anglophone world of Louisiana was splintered-off from the Franco-phone community because of the structure of the legal regime in the area, merchants would lean on their time-tested customs to gain further distance from the "mixed laws" in New Orleans itself. By February 1805, a group of them petitioned the legislative council for the establishment of a commercial court. They complained of the delay in regular tribunals and the misinformation of judges. They wanted a special judiciary to deal with commercial matters: a panel of merchant

⁵ Livingston's critique of the Anglo-American system can be glimpsed in his "Notes on the Introduction to Common Law." Despite his criticism, he was an incisive practitioner of the common law and a brilliant lawyer in a common-law context. Analysis of his legal arguments before Louisiana's courts demonstrates this point. For a window into his legal astuteness in grasping the importance of the legal questions of the day see his arguments in *Lebreton v. Nouchet*, 3 Martin (o.s.) 59-63, *Lebreton v. Nouchet*, (1813) Supreme Court of Louisiana Collection, Department of special Collections and Manuscripts, Earl K. Long Library, University of New Orleans.

⁶ Mark Fernandez, "Edward Livingston, America, France: Making Law," in eds., Peter J. Kastor and Francois Weil, *Empires of the Imagination: Transatlantic Histories of the Louisiana Purchase* (University of Virginia Press, 2009), 271.

arbitrators, an attorney general to represent the public interest in all proceedings, juries selected from the merchant class, special court officers and lawyers and the enactment of a code of commerce. The merchants resisted the common law because of its deficiency as a body of commercial regulations. Above all, they opposed the common law procedure of having commercial disputes in ordinary law courts.⁷

Americanization and the Subtle and Not So Subtle changes to the Credit System

A rapid Americanization of the legal system could provoke resistance. And it did so in more ways than one. The problems facing acting Governor Claiborne were multiple; those related to law and the administration of justice were among the most nagging. "The state in which I found the Jurisprudence of this country embarrasses me extremely," he wrote President Madison shortly after the transfer of Louisiana.⁸ Cases which had begun twenty years earlier were still pending. Corruption had tainted the judiciary in the past Claiborne reported, and now much was expected of the Americans. "Not one in fifty of the old inhabitants appears to understand the English language. Trials by Jury at first will only embarrass the administration of Justice."⁹

The battle between one A. Baudin against one Labie, bookends the struggle we started with in *Newcomb v. Skipwith* (1810). Both cases were based on the collection of a past due debt, both were brought on the basis of a seizure the plaintiffs believed were unlawfully carried out.

⁷ Petition of Several Merchants of the City of New Orleans to the Legislative Council, *Orleans Gazette*, February 16, 1805).

⁸ Claiborne to Madison, January 2, 1804, *Official Letter Books of W.C.C. Claiborne, 1801-1816* ed. Dunbar Rowland (6 vols., Jackson, Mississippi, 1917), I, 323.

⁹ Ibid., 328; On the sheer absence of laws and of experienced and knowledgeable practitioners see Jack E. Eblen, *The First and Second United States Empires: Governors and Territorial Government, 1784-1912* (Pittsburgh, University of Pittsburgh Press, 1968), 73, 110-112; George Dargo, *Jefferson's Louisiana: Politics and the Clash of Legal Traditions* (Cambridge: Harvard University Press, 1975).

And both became a starting point for a jurisdictional dispute between two sovereign nations—Spain and the United States. The first essentially litigated the definition of the physical, territorial boundaries between the two entities, a dispute that Madison’s administration eagerly took advantage of. But both cases substantively defined societies’ commitment to newer, versus older notions of property holding and the rights of creditors, anchoring the choices in imperial, even ethnical terms. Even after the complete territorial sovereignty of the United States was declared over the region, the notion that New Orleans, specifically, was a European enclave with its own distinctive, long-established set of rules and customs was a basis for push-back by the area’s residents. Bookending the *Newcomb v. Skipwith* case (1810), is the appellate case instigated by an old French inhabitant who sought out President Jefferson’s attention in February 1804.

A. Baudin, a Louisiana planter, petitioned the President to grant sugar producers the same privileges accorded to them by the Spanish “laws of the Indies.” He charged that the courts established by Claiborne in New Orleans took no cognizance of these special immunities because they were staffed by men who knew nothing of local jurisprudence or the special difficulties which planters faced. He warned that unless they were protected by the present government, as they had been by the Spanish under the laws then in force, the sugar plantations would be abandoned.¹⁰ Specifically, Baudin requested that Jefferson order the governor to block further seizures of persons and property for failure to meet their debts. He

¹⁰ February 14, 1804, Territorial Papers, ed., Carter, IX, 187.

wrote that earlier petitions for redress directed to the territorial government had been (tellingly) disregarded.¹¹

Claiborne outlined the details of the Baudin's case in a communication to Jefferson. The suit was for the recovery of one thousand dollars plus interest had been brought against Baudin by one Labie. Baudin had not appeared in court when summoned, so judgment had been granted to the petitioner (ex parte). Baudin appealed to Claiborne to suspend the judgment on grounds that the proceeding against him had been "informal," and because sugar planters were exempt from seizure for debt default. But Claiborne had been informed that local custom permitted decrees, so he made no effort to suspend the judgment.¹²

¹¹ Policies in regard to such appeals as that of Baudin can be found in Claiborne's letter to Jefferson, New Orleans, March 18, 1804. W. C.C. Claiborne to Thomas Jefferson, New Orleans, May 1, 1804, in Rowland, *Official Letter Books of W.C.C. Claiborne*, 121. In this second letter Claiborne writes to Jefferson that the laws of the Indies "exempt[ed] from the common process of execution all sugar works and lands employed in the cultivation of Cane, together, with all Slaves, Cattle and implements....But it has been, as I am told the usage here that, Sugars when made, as well as the other property of the planter are liable, as in common cases, to be seized...I will communicate to Mr. Baudin and his Creditors (for he has since become a Bankrupt)." Claiborne wrote to Baudin as well: "The President of the United States did receive your Petition of the 1st of February last...Permit me to inform you that the application to the President in the suit between you and Mr. Labie was *irregular*. Under the former Government of Louisiana there was an appeal in Judiciary matter from the Governor to the Capital General of Cuba. You probably supposed, that the appeal was now to the President of the United States, but this is in error for no authority has as yet been established paramount to that of the Governor. I mean as Judicial decisions."

Claiborne tries to explain the new legal regime. "The Claims of Mr. Labie against you were not disputed, and your objects went not to the justice but the forms of the proceeding against you. Every Court has an inherent right to regulate their own form of proceedings, provided they be not at variance with the substance and general principles of the Law of the Land. That species of your property (Sugar) which was levied on, I do not understand to be exempted from execution under the Laws; and the proceedings of the Sheriff appeared to be correct. Upon a review therefore of the whole subject I see no cause for my interference, or any just reason you have to complain." William C.C. Claiborne to Baudin, New Orleans May 12, 1804, in Rowland, *Official Letter Books of W.C.C. Claiborne*, 145.

¹² Claiborne to Jefferson, May 1, 1804, *Letter Books*, I, 119.

The custom of the country governing the immunity of plantations from seizure for debt was obviously in dispute. Baudin's petition to Jefferson challenged the manner of proceedings. The Frenchman was familiar with the written petitions of the Spanish tribunals, and unfamiliar with the system of pleadings by which issues were prepared for trial under the common law. George Dargo has stated that the source of these problems were "misunderstandings" of the law. That explanation only goes so far. Jefferson, well aware of the situation unfolding in the Delta, replied to Baudin that "every Court has an inherent right to regulate their own forms of proceedings" provided they are not "at variance" with the "Law of the Land." He stayed silent as to the fact that in this case as others, the substance of the law *was* at variance with the Spanish laws of the Indies. He did not acknowledge this explicitly to Baudin.

Historian George Dargo contends that the Baudin case highlights the "difficulties" attending efforts by officials to administer a judicial system when the authorities lacked certain knowledge of local customs. The point, however, is a bit exaggerated. Jefferson's reply to Baudin that Claiborne was the final arbiter of these disputes underscored the President's confidence that Governor Claiborne, an English common-law proponent, would provide institutions favorable to the new nation. Moreover, the characterization of "confusion" was not the most accurate picture to observers on the ground. In writing to official John Breckinridge, a fellow territorial official, James Brown, a key individual in the developing legal controversy, thought the legislative council should assist in the framing of the code of laws drawn from diverse sources. He wrote "The Civil Law—the Spanish Ordinances—the British Statute and

Common Law, and the codes of all the states are spread before us, and the people are prepared for the reception of a code ably compiled from these several systems.”¹³

As in the previous chapter, in refusing to spare or exempt property from seizure, and thus maintain older English and Spanish laws states were clarifying that all forms of property were subject to the claims of creditors; this was really an announcement, one that signaled to the new nation and beyond, the need to play by the Atlantic’s rules in order to maintain the credit networks needed for region to continue expanding. United States officials at the level of territory, state and nation stood in the way of any lasting attempts to enact exemption laws, and these efforts coincided with the expansion of slavery; the open-endedness of the Delta’s laws and its commitment to slavery assured investors of the viability of the Delta’s cotton production. Planters such as James Brown, among others, anticipated a polarization of opinion with the probability that the soon-to-be elected territorial House of Representatives would be dominated by French inhabitants, “attached to French Law...[passing] only acts resembling the Civil Law and the Spanish Ordinances formerly in force here.” With Governor Claiborne favoring the common law, “governor and legislature would each checkmate the other’s efforts.”¹⁴

The themes in the 1804 play entitled *Liberty in Louisiana* included a denunciation of Spanish “despotism”; a satirical attack against the Spanish legal system in Louisiana, the comedy lampooned the role of the corruptible Spanish judge. The unacceptability in the way property

¹³ James Brown to John Breckinridge, January 22, 1805, Territorial Papers, ed., Carter, IX, 365.

¹⁴ Dargo, *Jefferson’s Louisiana*, 115.

was handled by a corrupt system, could almost be read as a response to Baudin's concerns expressed in his letters to Jefferson.¹⁵

Judge James Workman and *Liberty in Louisiana* (1804)

The author of "Liberty in Louisiana," James Workman born in Cavan, Ireland, went to England to study law at the Middle Temple in 1789. In 1797 and 1798, he reviewed political books for the important *Monthly Review* of London. In 1801-02, he sailed from Norfolk to Charleston where he became engaged in merchandising. He was associated with the Federalist newspaper, the *Courier*, in Charleston.¹⁶

Workman's play was performed while he was still living in Charleston. There is no evidence that he had been in Louisiana at any time before he wrote the work. Announcements in the *Courier* show that *Liberty in Louisiana* was produced at the Charleston Theatre on April 4, 6 and May 21, 1804. (It was noted by historian Charles Watson that the play was performed two years before the first plays in English were seen in New Orleans). In 1805, it was shown to New York, Philadelphia, and Savannah audiences. Soon after acquiring citizenship, Workman moved to New Orleans and quickly engaged in the area's civic and political affairs. By April of 1805, the one-time merchant was named regent of the University of New Orleans, and about a month later was appointed Judge of the County of Orleans.¹⁷

¹⁵ Charles S. Watson, "A Denunciation on the Stage of Spanish Rule: James Workman's 'Liberty in Louisiana,'" *Louisiana History*, 11 (1970), 245-258.

¹⁶ Watson, "Dunciation," 246-247.

¹⁷ Watson, *ibid.*, 247.

Workman published his earlier writings entitled “Political Essays” in 1801. In it he proposed an invasion of Spanish America. The idea was again expressed in “A Memorial Proposing a Plan, for the conquest of Spanish America, by means, which would contribute to the tranquility of Ireland.”¹⁸ Workman sent his tract to Thomas Jefferson along with a letter specifically advocating that the United States take possession of Louisiana and the Floridas from Spain before France did so. His suggestions also recommended that among the places where Great Britain might begin the conquest was New Orleans, as “the great depot of the commerce of the western states of America.” That conquest would serve as a launch-pad for invading the rest of Spain’s “dominions.”¹⁹

Workman’s denunciations of Spain’s economic inefficiencies were emphasized most strongly in Act IV, Scene 2, when Don Bertholdo delivers as many decisions as possible at the last session of court.²⁰ The cases are heard privately by a “Scrivan,” according to the Spanish system. The failure of heirs to obtain the land they inherited is the subject of two cases brought before Don Bertholdo’s audience. Don Antonio Gaspar complains that he has not received the land he inherited five years before because it was seized by Don Felix, who raised five crops on it and paid Don Bertholdo \$1,000.00 at various times to prolong the suit. The judge awarded half the land to Don Felix and half to Don Antonio after the latter had bribed him with the sum of \$1,000.00.²¹ In another case heard by Don Bertholdo regarding contraband brought in by a

¹⁸ Watson, *ibid.*, 249.

¹⁹ Watson, *ibid.*, 250.

²⁰ Watson, *ibid.*, 253-254. The general view of Spanish corruption among officials spoke of the friction between French visitors as well as American ones, and is treated more extensively in Smith, *The Mississippi Question*, 32-51.

²¹ Watson, *ibid.* Contemporary observers of Spanish courts in Louisiana describe similar difficulties concerning inheritance. According to observers, the obstacles to inheriting land were among the worst

New England trader, the Spanish official declared he would throw him in chains for seven years.²² The Yankee trader had the last laugh, however, after he bribed the Spanish judge who realized that the gold pieces the smuggler gave him were really counterfeit money.²³ Workman contrasted freedom with “despotic rule,” and then counseled the audience: “Cast your eyes on the country to which yours will be united.” He went on to give the “metrics” by which one should judge the early republic: “the best judgement on America’s government and laws are her extended commerce and universal prosperity.” “Now,” he declared, “the inhabitants of Louisiana will also have the privileges which constitute America’s freedom.”²⁴ The play also favorably portrayed Irish characters in their supposed triumph over the Spanish. Workman had envisioned the Irish as conquerors of the Spaniards in his “Political Essays.”²⁵

Workman’s “Liberty in Louisiana” as a critique of Louisiana’s judicial system that targeted judges—Horwitz’s commercial protagonists—took aim at the kind of economy such a system

abuses of the Spanish judiciary. Workman emphasized the problems of heirs, as he served as Judge of the Courts of Probate for the Territory of Orleans in addition to being Judge of the County of Orleans. In addition, smuggling was common and bribery of Spanish officials to permit it was notorious. James Workman, “A Letter to the Respectable Citizens, Inhabitants of the County of Orleans” in *Essays and Letters on Various Political Subjects*. Discussion of bribery is also found in Thomas P. Abernethy, *The South in the New Nation, 1789-1819* (Baton Rouge, 1961): 255-56.

²² Watson, “A Denunciation,” 255.

²³ Watson, “A Denunciation.”

²⁴ Watson, “A Denunciation,” 249. In a letter addressed to the Duke of Portland, the cabinet secretary in charge of Irish affairs, Workman wrote that it might be impossible to subdue Spanish America by force, but to do so by “emancipating its enslaved inhabitants” would be as practicable as it would be “just and glorious.” Arms would be supported “with the generous principles of English liberty. Workman, *Political Essays*, 139.

²⁵ Watson, *ibid.* 249, 252. *Liberty in Louisiana* with its plot and message of subversion, resembled contemporary comedies such as Richard Brinsley Sheridan’s *School for Scandal*. The latter play begins the day before the Americans take possession of Louisiana, and its theme soon becomes apparent: the deliverance from Spanish oppression and the gaining of American liberty. The plot concerns the wooing of a wealthy Spanish beauty by a young Irish adventurer, Phelim O’Flinn. Michael Corder ed., *The School for Scandal and Other Plays*, (Oxford: Oxford University Press, (1998).

created. Judge Don Bertholdo decided to split the land in half between Don Felix—the debtor who bribed the judge to prolong the suit—and Don Antonio Gaspar the inheritor. The Spanish laws Frenchmen like Baudin were so fond of threatened the compatibility, or in Lauren Benton’s terms, “legibility,” between states. Under such a system it would be highly questionable whether eastern creditors would be inclined to extend large credits. Even more precarious was the scenario by which the insolvent merchants would be looked upon even more unfavorably as debtors could bribe judges and leave creditors in the lurch.

Edward Livingston, Civil Law, and the Americanization of Louisiana

Edward Livingston, a New York City mayor and United States attorney as well as Congressman looked to the Crescent City (New Orleans) to resurrect his declining fortunes. But more importantly for the city, Livingston solidified a counter-narrative of Americanization that focused on reducing the power of the judiciary and its ability to allow seizures of property.²⁶

Livingston had studied law at Princeton University and then rose through the ranks of the New York bar. As part of a prominent New York family, he arrived in Congress with sufficient patronage. After being elected in 1795 he became part of the inner-circles of the Democratic-Republican party. In December, 1803, as Louisiana passed from Spain to France to the United States, Livingston set sail for New Orleans. Louisiana entered the union on December 20, 1803 as a territory of the United States.²⁷

²⁶ Fernandez, “Edward Livingston,” 269-273.

²⁷ Fernandez, “Edward Livingston.”

Livingston's experience in the Territory of Orleans suggests the aims of Americans and the process of Americanization was fluid and contentious. He fell on the opposite side of Workman's ideas about the law. Though the differences between common law and civil law systems were complex, Livingston's main critique manifested itself most fully against the common-law tradition that gave judges a more innovative and powerful position than the civil law.²⁸ Seen in the context of the differences between Workman and Livingston, Americanization was a heterogeneous process.

There was an ever-evolving context within which Workman and Livingston worked and concentrated their efforts. Between the time that Louisiana adopted the Civil Code in 1808 to the 1830s, Workman was working for, and Livingston, against, what historian Richard Holcombe Kilbourne, Jr. describes as a "transmutation" of Louisiana's commercial law. Kilbourne's use of this word 'transmutation' describes what I believe to be the mixture of mercantile custom within the common law. This mysterious reformulation, according to him, was "accomplished by the judiciary and not by the legislature."²⁹ That mixture of *Lex mercatoria* within judge-made law is seen as late as 1833 in a Supreme Court case entitled, *McDonald v. Millaudon*. In it the state supreme court still struggled with the meaning of the phrase "laws and usages of commerce" in the Civil Code. In the decision Justice Porter wrote:

When the tribunals of this country were first called on to interpret this phrase 'laws and usages of commerce' in the Civil Code, and a similar provision in our law, there was great doubt to what laws and usages of commerce, reference was thus made. It was finally concluded, though not without hesitation, that they must have had in

²⁸ Fernandez, "Edward Livingston," 297.

²⁹ Kilbourne, *Louisiana commercial Law*, 74. Kilbourne goes on to write about these developments: "The Louisiana judiciary was merely accomplishing what it was constitutionally compelled to do—apply the commercial law of the nation to effectuate the uniformity implicit" in Louisiana's Digest.

view the usages and laws prevailing in our sister states, unless these laws and usages conflicted with the positive legislation of Spain, or were in opposition to local usages prevailing in Louisiana.³⁰

By 1826, revulsion for codes and for Livingston's codification movement was evident in Louisiana and this drew both judges into a political face-off. The majority of time during 1826 the legislature's energies were consumed by the need to revise the Code of Practice. The everyday application of this code had unpleasant and unintended results, with the conflict focused on judges. In a letter to Congressman John Johnston, the correspondent wrote on January 27 1826 that there was in Louisiana "considerable excitement at...[that] moment against codes in consequence...of the great embarrassment that...[the] new code of practice had produced."³¹ Judge Porter made the following interesting observation about Pierre Derbigny, later governor of Louisiana and one of the three jurists appointed by the legislature in 1823 to undertake the codification: "I do not think Derbigny can be[...] again on the bench. He is most destitute of the legal talents the place requires. These last codes have damaged his reputation with the profession."³²

Three days later, on February 6, mid-way through the legislative session, Derbigny again wrote John Johnston that:

His [Livingston's] code will not be taken up this session of the legislature, nor do I think it will ever pass as it now stands.
...The committee of both houses to whom the code of practice was referred not being able to do anything with such an Augean stable called on Workman to help them to clean it. He has made them a long report in which he is an advocate for

³⁰ Kilbourne, *Louisiana Commercial Law*, 75.

³¹ Letter from [...] to Josiah Stoddard Johnston, January 27, 1826, Josiah Stoddard Johnston Papers, Pennsylvania Historical Society.

³² Letter from Alexander Porter to Josiah Stoddard Johnston, February 3, 1826, Josiah Stoddard Johnston Papers, Pennsylvania Historical Society.

good codes, but he thinks this is a *very bad* one, which means I presume that he would like to *make one*, and in **truth the secret of all the codifying is that no one wants codes**, but code makers. He applied to me yesterday if I would join him and said he thought we could make a good one together. But I declined, and I thought, tho' I did not apply it to him or myself, that fools rush in, where angels dare not tread.³³

Meanwhile, the editorial which ran in the January 26 edition of the *Louisiana Advertiser* indicates a defensive posture to which code proponents had been drawn by outside forces:

The hostility which has manifested itself against codes, and the lamentable change which has taken place in public opinion respecting them, are owing to Judges and Lawyers, men who like the clergy are interested in binding the community, that they may the more easily lead them into snares which abound in our intricate jurisprudence. These persons with an act that 'makes the worse appear the better cause,' disguise their real motives by a pretended love for the institutions of their forefathers. But this cannot prevent men of sense from perceiving that under the mantle of deceit lurks a love of the common law, and a hatred of France...[those] who now are persecuting Mr. Livingston, for following with steady eye and equal step the glorious career of the man, who, like the first cause, brought order out of confusion.³⁴

Opposition to codification crystallized in 1825 around the Code of Practice which had been enacted during the 1824 session of the legislature. There was more to this code than a reduction of existing law to a written compilation. Those most adversely affected by the code wasted no time in securing amendments favorable to their interests. Contemporaries found the provisions on the sale of property under execution particularly objectionable. This objection found its most vehement expression in Judge Workman's report to the legislature in 1826:

Above all the faults of this compilation, are some of its provisions, declared to be made for the execution of judgments, (sec. 3 chpa.6 title 1.) provisions which

³³ Letter from Alexander Porter to Josiah Stoddard Johnston, February 6, 1826, Josiah Stoddard Johnston Papers, Pennsylvania Historical Society.

³⁴ *Louisiana Advertiser*, January 26, 1826.

would render most of the remainder of the code nugatory, if even perfect, and reduce the greatest part of our civil law to a collection of powerless principles, which impair the obligation of contracts, and destroy much of the confidence which lawful government is intended to inspire; --which tend to corrupt the moral sentiments of the people, and to pollute the land with violated faith, and fraud and perjury.

From this portion of the work, for which I understand the jurists who drew the project of it are not responsible—***the whole might be aptly entitled a code to prevent the recovery of debts***, and provide at the same time for the employment and support of lawyers, and the several officers of the courts of law.³⁵

The Code of Practice substituted positive enactments for judicial discretion and clearly had the effect of diminishing the power and flexibility of the judiciary.³⁶

Unlike in other southern states, debtor relief legislation was never very popular in Louisiana. George D. Green has commented on the pressure successfully brought to bear by New Orleans merchants on Governor Robertson to veto, for example, the Usury Bill in 1823. He writes: “Reaction to the Usury bill was violent. Planters generally favored its restrictions, but New Orleans merchants vigorously opposed it.” Governor Robertson in his veto message “argued against interference with the ‘freedom of contract of individuals.’”³⁷ The merchants, together with members of the New Orleans bench and bar, were instrumental in persuading the legislature to amend the most odious provisions in the 1825 Code of Practice.³⁸ Merchants

³⁵ The judiciary’s apprehensions and difficulties were also reflected in Judge Workman’s report to the Louisiana House of Representatives committee appointed to examine the Code of Practice. Judge Workman’s “Opinion of the Code of Practice,” *Louisiana Advertiser*, February 9, 1826.

³⁶ Articles 175, 179, 652, 653, and articles 682 and 721 of the 1825 Code of Practice regarded the execution of money judgments and valid seizures and sales of property. The formalities set forth in articles 175 and 179 were abolished; Kilbourne, Jr., *Louisiana commercial Law: The Antebellum Period*, 44-45.

³⁷ George D. Green, *Finance and Economic Development in the Old South: Louisiana Banking, 1808-1861*, (1972), 107-109.

³⁸ Kilbourne, *Louisiana Commercial Law*, 47.

were arguably politically and economically more powerful than any other group in the region. The close and intimate connection that existed between New Orleans and the other powerful mercantile cities in the nation, not to mention Liverpool and London, justified their opposition to rules and procedures that went against those recognized by different jurisdictions in the new nation. Case law in the Louisiana Supreme Court had little to no significance beyond recognizing the rules prevalent elsewhere in the United States that merchants upheld. Cases such as *Poutz v. Duplantier*, decided in 1812, upheld the nation's procedural rules of allowing blank endorsements for debts. In *Baker v. Montgomery* four years later, Justice Martin wrote that the parish judge had erred in upholding the part of the Spanish laws of Bilboa that presumed a blanket endorsement for a debt that had been illegal.³⁹ Merchants in New Orleans maintained this power which ultimately allowed them to establish a Merchants Court in 1839.

Conclusion

James Workman's astute observations of Louisiana politics drew upon the fears of early Americans—subjects recently turned citizens, who had just cast off the yoke of a previous monarch. But more than this, his observations and the way in which he dispersed them were part of a larger communication that aided, along with a chorus of other voices, in “fixing” or situating imperial and national boundaries. Lauren Benton and Richard Ross make this point succinctly in their discussion of empire and legal pluralism: “The intellectual ecology” that “surrounded and sustained—or undermined—plural legal orders” help us to understand the growth and reconfiguration of empires. “Explicit, articulated political and religious thought was

³⁹ *Poutz v. Duplantier*, 1812, Louisiana Supreme Court, 2 Martin (New Orleans, 1822); *Baker v. Montgomery*, 1816, Louisiana Supreme Court, 4 Martin (New Orleans, 1816).

important, but only one part of the intellectual ecology...Consider in this respect not only the content of reflection about law but the means of its transmission.” Louisiana’s merchants, planters, and judges signaled their cooperation with the Atlantic world through the decisions made in case law, and they communicated to other regions the preference they held for the Anglo-American credit regime through political revulsion of the Spanish system.

Workman’s motif of the corruptible judge and the Yankee trader were a part of an intellectual ecology that included Scots, British and French traders. In his call to rid the North American continent of Spanish influence, the playwright enabled the play to “carry” the rhetoric surrounding credit’s legal conflicts. Speaking via a specific communicative genre, he knew that east-coast audiences might be attentive to the resonances of Spanish despotism. The play pitted supposedly American “freedoms” against the “despotic rule” of Spain and reduced this rhetoric to the types of laws and practices that regulated debts. The plot “carried” or implicated exchange relations by highlighting the importance of development in the periphery. It was not enough to simply bring an influx of new slaves and capital. Collective adherence to the British West Indian case and Parliament’s 1732 Act in dealing with West Indian planters in the collection of debts made this clear. To get credit, and gain entry to the larger Atlantic world, there were certain geo-political rules that made enclaves “legible”—and this was one part of what Benton and Ross call ‘intellectual ecology.’ As historian Gabriel Paquette has argued, “Spain played a decisive role in the British political imagination in the late eighteenth century, especially with regard to imperial affairs.”⁴⁰ That intellectual intrusion

⁴⁰ Paquette, “Imperial Spain,” 188.

continued on in the minds of Anglo-American officials, planters, merchants, and government policies into the nineteenth-century. Between 1763 and 1798 an image of Spain as a tyrannical and commercially-backward empire, had, what historians call, a “didactic function”; that is, it was intended to teach, almost as a moral lesson, that Spain’s mercantilist policies with its reliance on colonial products which created only ‘one great channel,’ or market, in place of free trade, acted as a great hindrance to commerce between countries. To economic actors at the time, this logically led to notions that Spain’s empire was not legitimately acquired or maintained since it essentially an “empire of conquest” not of trade and settlement as in the British and Anglo-American models. Serving as conduits for such ideas Judge Livingston and his adherents perceived of the Spanish system as isolating, rather than revitalizing, credit relations.⁴¹ Spanish property protections from creditors were symptomatic of Spain’s overall protectionist attitude. Meanwhile, across the Atlantic Ocean, the great markets in Britain were changing. The British Parliament passed thousands of Acts restructuring rights to real and equitable estates that enabled families to sell, mortgage, lease, exchange and improve land previously bound by inheritance rules and other legal legacies that resembled the Spanish system. It has been argued that these acts, and not the security against the sovereign’s expropriation of land (as was argued in the 1980s) fostered the growth of capital markets in Britain.⁴²

What the historical record is close to silent about is the struggle over these issues of credit between groups that saw Americanization in different cultural and economic terms. Historians

⁴¹ Paquette, “Imperial Spain.”

⁴² Dan Bogart and Gary Richardson, “Making property productive: reorganizing rights to real and equitable estates in Britain, 1660-1830,” *European Review of Economic History* 12:1 (April, 2009): 3-30.

get hints, though, with such evidence as the merchant petition asking for a separate tribunal apart from the territorial government to adjudicate commercial disputes. Jurisdictional disputes mattered in economic terms because there was so much to be gained or lost.

Whereas this chapter and the previous one traced the form and content of jurisdictional disputes that incrementally imposed an Anglo-American configuration on the trans-imperial Delta, the next two will explore the way merchant-planters operated on the ground. From a particular geographic space—the District of Natchez in Mississippi and its regional tributaries—they organized property to maximize what legal scholar Barak D. Richman calls “transactional assurance.” The term denotes not simply contract enforcement, but the ability to make claims against an estate as just one of the devices that produced the private institutional attributes that aided credit and trust.⁴³

For Mississippi, *Lex mercatoria* was certainly intertwined in a common law framework that enhanced such efforts. The so-call “merchants’ law” played an important role in how these enclaves conformed to a wider set of relationships. Merchants had more to lose than simply their ability to gain trade credit; they held important relationships with “preferential” creditors in other centers. Keeping in mind that there was no recognizable “national consensus” concerning the political economy of trade, and that politics in Louisiana was fractious, jurisdictional politics were crucial. Merchant-planters, in the process of political organization

⁴³ Barak D. Richman, “Firms, Courts, and Reputation Mechanisms: Towards a Positive Theory of Private Ordering,” *Columbia Law Review* 104 (2004): 2328-2368. Richman’s analysis contrasts the “private ordering” (where actors are autonomous and use extralegal mechanisms to enforce contracts) of individual merchant communities with the role of public courts, as well as the incentives that influence governance solutions

sought to maintain strong ties to those 'preferred' Anglo-American and British creditors they viewed as fortifying cotton's commercial ties. Adopting any of the older notions of credit or relationship to slavery would mean throwing-up obstacles to the kinds of abstraction and laissez-faire markets that had been the goals of many cotton producers in the region.

Chapter 3

Making Property Productive: Merchant-Planters and the Role of Property Transactions

On the far periphery of British civilization...where ruthless exploitation was a way of life...where disorder, violence, and human degradation were commonplace, he had triumphed by successful adaptation. Endlessly enterprising and resourceful...he emerged a distinctive new man a borderland gentleman, a man of property in a raw, half-savage world.

--Bernard Bailyn, description of planter William Dunbar of Natchez¹

Court texts constructed farms and even farmers in the wider sense of producing identities and formulating imagined worlds. The total farm or plantation, besides being a fixture on the land, the source of property rights and borders, also existed in the mind, and had mobile segments that could exist far from the site of the farm itself. A migrating farm family carried the essentials of a farm in their wagon, the knowledge of agriculture in their heads.² But the farm and plantation were constructed as well in the minds of merchants. Merchants as parties in court proceedings, as buyers and sellers of real property, as suppliers or factors of the farmer's product, carried the knowledge of the farm or plantation formulated in ledgers and carried along by the cyclical balances of credit and the cotton that produced profits. The necessary purchases in the creation and maintenance of that agricultural world, the accumulated debts, as well as the assets that informed merchants' lending and collection

¹ Bernard Bailyn, *Voyager To the West: A Passage in the Peopling of America on the Eve of the Revolution* (New York: Random House, 1986), 488-92.

² Bushman, "Farmers in Court."

activities enabled them to think and act as planters themselves.³ It was more common for merchants in the Natchez District to become planters; operating these dual ventures complemented both enterprises. The same was not true for planters. The anecdotal evidence suggests that it was difficult for those who started out as planters to capitalize on plantation profits, while also seeking out the knowledge and capital necessary to become a trader. Amos A. Lawrence's letter touches upon this type of occupational pattern: Lawrence wrote to his father that "my present design is to be a merchant, not a plodding narrow-minded one pent up in a city, with my mind always in my counting room, but I would be at the same time a literary man, in some measure, and a farmer."⁴

What this chapter mines are the deeds and mortgages recorded in the Adams County Courthouse in the city of Natchez. These documents span two periods, the first is 1800 to 1801, and the second is 1814 to 1817. The earlier period is a snapshot of property sales and mortgages just before the Louisiana Purchase (1803), while the latter period includes the last few years of the War of 1812 (1812-1815) and its aftermath. Historian Bonnie Martin has called mortgages, "an invisible engine," and this chapter also highlights aspects of the surrounding market that tell us something not so readily seen: the patterns of local investment in property of all kinds by merchant-planters in the region even while cotton producers were consciously aiming to gain a strong footing in Britain's cotton market. It is in sharp contrast to the preceding two chapters which emphasize the importance of long-distance relations. Guided by my

³ Robert F. Dalzell, Jr., *Enterprising Elite: The Boston Associates and the World They Made*, (New York: W. Norton and Company, 1987), 35.

⁴ Dalzell, *ibid*; other examples include the life of J.B. Moussier, a French merchant and plantation owner in New Orleans credited with establishing the first property bank in the area. See Irene D. Neu, "J.B. Moussier and the Property Banks of Louisiana," *Business History Review* (Winter, 1961):550-557.

reconstruction of a portion of the Natchez District's early property history, I argue that patterns of property acquisition, primarily by merchant-planters, enabled them to maintain long-standing relationships with preferred creditors (i.e., merchants who were primary creditors and who, through custom or declaration had a preferred claim on a debtor-merchants property), relationships that aided in the unforeseen event of an insolvency or could boost the potential for expansion. If global actors, agents, market demands, and phenomena underpinned the establishment of the Lower Mississippi Valley's cotton (and sugar) export complex, the *local* requirements involved in operating such a complex and the wealth or insolvency which resulted from these enterprises reinforced the Delta's global connections and links.⁵

After a brief overview of some of the routine mercantile operations and forms of investment available at the time, I examine the different transactions merchants entered into. Overall, while a few of the region's earliest and well-capitalized merchants were able to attract significant amounts of credit by mortgaging their plantations and slaves to eastern and British merchants, in terms of sheer volume, revenue from town lots seems to have been the most lucrative. Individual slave sales tapered off overtime in favor of single transactions that involved multiple slaves sold at one time, sometimes along with the plantation itself. In addition, merchant's acquisitions and property sales included many strategic sites in the

⁵ The historiography of the globalization, that is, the integration of export-producing regions in the eighteenth- and nineteenth-centuries with the wider world is by now large. See Peter A. Coclanis, "Global Perspectives on the Early Economic History of South Carolina, *The South Carolina Historical Magazine* 106:2 &3 (April/July, 2005):130-146. An important methodological perspective is found in Alison Games, "Atlantic History: Definitions, Challenges, and Opportunities," in AHR Forum, *The American Historical Review*, 111:3 (June, 2006): 741-757. The evolution of Atlantic history as an operating idea is captured in Bernard Bailyn, "The Idea of Atlantic History," *Itinerario* 20:1 (March, 1996): 19-44.

interior reaches of bayous and rivers that bordered cotton plantations in the area. The most important finding is that merchants affected the overall prices of property, with the largest increases in prices reserved for river lots and town lots. At first glance this does not seem a surprising find. But little is known about the interactions of merchants outside their commercial transactions. Especially for the Lower Mississippi Valley, the literature restricts the southern merchant to his services as banker and factor; if they are treated as debtors, or as planters (simultaneously), the narrative turns on the credits they received from firms and commercial houses in leading cities. In the latter scenario especially, the focus is mostly on the staples the merchant sold and the networks he maintained in the process.⁶ Likewise, southern banks have received extensive treatment by historians (see, "Introduction"). Private finance has garnered more interest among historians over the last decade, especially as it relates to merchants in the Delta. Rarely do historians turn to real estate transactions (which included slaves) in their constructions of local credit sources in a systematic way. In 2013, Kathryn Boodry's analysis of international merchants emphasized again the "links between slavery and the development of an Anglo-American financial world," examined through "cotton sales, consignments, and advances made to Southern planters."⁷ But, what can be said when a good many, if not the majority, of the planter community, was made-up of merchants who

⁶ This is historian Richard H. Kilbourne's main issue with the work of Harold Woodman—that the role of cotton factors as financial intermediaries takes a back seat to issues of how cotton was financed and marketed. Kilbourne states, "Woodman's characterization [of the factor] does not comport with conditions as they existed in the financial world of antebellum New Orleans." Kilbourne, *Debt, Investment, Slaves*, 26; Studies of mortgages in the south are the rare exception. Boonie Martin includes transactions carried-out by merchants but her focus is on slave mortgages rather than merchant portfolios, and she does not exclusively focus on the activities of merchants in their endeavors to diversify. Martin, "Mortgaging Human Property."

⁷ Kathryn Boodry, "The Common Thread: Slavery, Cotton and Atlantic Finance from the Louisiana Purchase to Reconstruction," (unpublished dissertation, Ph.D. diss., Harvard University, 2013).

themselves were large cotton producers? What did it really mean to cotton planters on the level of the everyday when we say that they “were integrated within a larger global network of credit, finance, and exchange”?⁸ At some point, the larger abstraction of the “Atlantic world” becomes an unruly concept. What more were merchants doing on the ground that helped the local economy function so as to produce for markets elsewhere?

Merchants’ role in property sales affected the overall prices of property by raising them, with the largest increases being for river and town lots. But the patterns of investment—which were, by-in-large, consolidations of plantations and investment in urban town lots—exhibited a rapid turnover of owners especially in transactions with other merchants. Mortgages, which were few relative to cash sales, were not for antecedent debts or indemnities in case the borrower failed to pay a note or other debt at maturity.⁹ In other words, the transactions suggest strongly that merchants, those whose plantation enterprises supplemented their mercantile ones (and not vice-versa), were a determinative factor in the growth of real estate markets both slaves and land and not only in terms of volume. Moving beyond the merchant-as-intermediary narrative in credit and staples (i.e., factors) means viewing their need to expand and generate equity in property as a necessary local practice that would support smaller,

⁸ Boodry, *ibid.*, 16.

⁹ Collateralized credit transactions represented only a small percentage of all credit arrangements during the nineteenth-century. However, there were discernible changes, and mortgages increasingly were not simply to access capital in order to provide funds for investment. By the 1830s, mortgages were increasingly used to indemnify accommodation endorsers, to secure a debt would be paid on maturity of the note, or to collateralize pre-existing debts. The wording in such a mortgage would differ from those in the earlier part of the century: “To secure the full and punctual payment of the said drafts and to secure and hold the said Wills and Rawlins harmless and indemnified against any and all loss, damage, or injury which they...[might] incur or be put into by, through or on account of their acceptance of said drafts, and being compelled to pay the same as acceptors thereof—without being furnished with the necessary funds by said John Y. Mills & Brothers.” Kilbourne, *Debt, Investment, Slaves*, 70.

monetary dealings locally. The significance of this snapshot rests in the underlying search for the totality of their activities; merchants were prevalent not only as conduits in the organization of monetary exchange but the sources from which monetary dealings were capable of being supported, both prior to, and after banking facilities existed.

The Natchez District and Patterns of Merchant Investment

Merchants, in their capacity as “factor,” increased their knowledge of trade whether selling flour, rice, cotton, or sugar—a complex role that gave them further insight into prices, interest rates, insurance, and the overall political and economic landscape. They stored the cotton that planters brought in on consignment. Based on the foreseeable predictability of funds from the sale of cotton planters were able to acquire store supplies or outright advances in cash and credit.

As the population in the United States grew and moved further west, farm and plantation products increased. The proportion of planters dealing directly with English merchants decreased as they began to trade instead with the English representatives of those firms. Although some Englishmen remained representatives of those firms, American colonials moved into the business. Many of these factors, especially in coastal cities, financially evolved into commission merchants: they absorbed the costs associated with the assessment of cotton, storage, “wharfage” (another name for ‘handling’), and labor. These advances were placed to the account of the planter and presumably paid with profits from cotton at a later date.¹⁰

¹⁰ Woodman, *King Cotton*, 9, 12, 20-22.

In the Delta, as with much of the new nation, each partner in a commercial firm had “unlimited liability” when it came to the firm’s obligations.¹¹ The commercial agent or merchant who provided the banking and investment services afforded planters in the locality, however limited, were one level in a hierarchy of economic actors who could liquidate the debt. Consequently, a network of creditors and preferred creditors was important at this point: the personal assets of each partner in a commercial firm backed-up the credit of the firm and its clients.¹² Each man’s assets were only beyond the reach of creditors if a third party inserted a privileged or preferred claim on those assets.

Consider the example of Abijah Hunt, a leading regional merchant-planter. Hunt was a native of New Jersey who came to Natchez in 1798 as a licensed merchant of the United States Army stationed along the Mississippi River. He gained a solid reputation and began an importing business in the region. His strategy, a form of vertical integration, aided greatly in responding to the economic problems of frontier life, namely the lack of hard currency. In partnership with Elijah Smith and his nephew David Hunt, the elder Hunt had owned several stores and cotton gins in Natchez, Washington, Greenville, Port Gibson, the Big Black River, Bayou Pierre and Warren County (modern-day Vicksburg, Mississippi). Hunt and his nephew opened a store on the Big Black, with the main store located at Port Gibson. The two men had the backing, that is to say, credit resources, of merchant firms in Philadelphia, New York, and London. Hunt’s properties were extensive, including 500 acres on both sides of the Mississippi

¹¹ Kilbourne, *Debt, Investment, Slaves*, 26-27.

¹² Kilbourne, *ibid.*

River in Warren County (north of Natchez) and a 3,645-acre plantation in Adams County by 1811.

The interdependency of his operations is underscored through Abijah Hunt's ginning operations. Charging regional planters to gin their cotton, he also brokered their cotton in large quantities to British industrialists. Historians have given him credit for establishing the cotton receipt as a sound, alternate currency.¹³ A letter to one of his subordinates is instructive of the ways Hunt leveraged cotton receipts to his advantage, setting prices and competing with other gin owners in the area:

I have a cotton receipt in the hands of Kentucky man for 1,000 lbs & issued at the Red Lick Gin synd Chambers, etc—this must not happen again it is out of the question[,] memorandum must only be given & the holders must be directed to our store for a letter and a negotiable receipt. Would not the holder of the receipt likely exchange it for goods and bills at the Hunt store at Hunt prices?¹⁴

Hunt's sound financial practices and direct ties to eastern centers at home and abroad were buoyed by his proximity to planter communities that enabled him to become a founding member of the first territorial bank in Mississippi when it was established in 1809. In such a context, Hunt's comment offers a clearer picture of the early organization of the market that was possible on the frontier: the setting of prices, the siphoning of exchange through his store, and the merchant-creditors that stood to gain from his local exchange activities.¹⁵

¹³ Hamilton, "American Beginnings," 234.

¹⁴ Quotation in Hamilton, "American Beginnings," 213.

¹⁵ Strikingly similar strategies were used by planter Oliver Pollack. He emerged as one of the most prosperous merchants and landowners in the Lower Mississippi Valley through his investment in real estate bought during the Spanish period and afterward as well as operating an extensive mercantile network. Supplementing these operations were plantations he held in West Florida and New Orleans.

Though a fuller survey of merchants' probate records would be useful, it is clear that his assets, as well as reputation, made particular endorsements (i.e., guaranties on the note or draft) valuable; endorsements allowed the holder of the note to come into funds more readily without taking-on a more burdensome discount and devaluation.¹⁶ Second, it is also clear from Hunt's activities that cotton made the paper which was used to draw credits more secure. But the money for which it was sold was rapidly devalued by debt. Factors who held or "owned the debts" of a planter felt some pressure to sell staples quickly in order to pay-off the planter's debts when they came due, as well as paying any in-coming debts before the sale, as well as their own debts. Many merchants who had borrowed from colleagues also directed their client's cotton to their preferred creditors rather than search for the highest price available in the market. As these affairs related to the clients a merchant serviced, Walter Johnson writes, the advice given by planters to planters "emphasized their loss of control over their own affairs, occasioned by their indebtedness."¹⁷

A Note about the Inter-relationship between Plantation Size, Debt, and Decision-Making

Much of the land bordering the Mississippi River as well as important tributaries in-and-around the District's central urban hub had changed owners several times in the first few years

See Light T. Cummins, "Oliver Pollock's Plantations: An Early Anglo Landowner on the Lower Mississippi, 1769-1824," *Louisiana History: The Journal of the Louisiana Historical Association* 29:1 (Winter, 1988): 35-48.

¹⁶ Woodman, *ibid.*; Kilbourne, *Debt, Investment, Slaves*, 26-29; Johnson, *River of Dreams*, 276-278.

¹⁷ Johnson, *River of Dreams*, 276. An example is also found in the mercantile career of Jacob U. Payne. Payne remained heavily invested as a sugar planter throughout his career as a New Orleans factor. His commercial firm failed in 1874, but he orchestrated a return to his profession by restructuring the business into a much smaller planting partnership in subsequent decades. Elliott Ashkenazi, *The Business of Jews in Louisiana, 1840-1875* (Tuscaloosa: University of Alabama Press, 1988), 69-70, 79-91.

of the 1800s. Merchants, especially those who also owned and operated plantations, were prominently involved in the purchases of both rural and urban property. However, while the exchange of urban property aided incomes, the transition to cotton, like the transition to sugar in the Caribbean before it, required larger units of production, an increase in size that historian James W. Moore regards as “itself a key indicator of incorporation into the world economy.”¹⁸ This is because productive efficiency in newer plantation zones lowered costs after initial investments were made. Larger plantations, better soils, and rot-resistant cotton seed as well as an increase in slave hands were used to produce larger outputs of cotton. And as more cotton was produced, the cost per unit of a bale of cotton gradually decreased. Immanuel Wallerstein gives us an important view of this operation as it relates to decision-making:

It seems clear the ability to respond is a function in part of the size of the decision-making unit. A larger unit is more likely to have an impact *on itself* and its own prospects for capital accumulation by altering its production decisions in light of what it believes to be altered conditions in some market. It follows, that, for enterprises in a zone to begin to respond in this way, they may have to become larger. The creation of such larger units of decision making may occur either at a site of direct production (e.g., by creating a ‘plantation’) or at a site of mercantile collection of production.¹⁹

Between 1790 and 1815 the quantity of several commodities rose more rapidly than at any other time. Historian Dale Tomich explains, “New poles of economic attraction were created between core and periphery that did not coincide with the old colonial boundaries.”²⁰ The

¹⁸ Moore, *Commodity Frontiers*.

¹⁹ Immanuel Wallerstein, *The Modern World-System, Volume III: The Second Great Expansion of the Capitalist World-Economy, 1730-1840s*, (San Diego: Academic Press, 1989), 30.

²⁰ Dale Tomich, *Through the Prism of Slavery: Labor, Capital, and World Economy* (Oxford: Rowman & Littlefield Publishers, Inc., 2004), 79-80.

integration of the Lower Mississippi Valley was based on this fundamental shift. From a local point of view, the Delta in the period between 1790 and 1815 still faced heavy competition from around the world. Counterbalancing profits from cotton in this period were the economic downturns precipitated by Jefferson's 1807 embargo against Great Britain and France as well the Non Intercourse Act of 1809, and later the War of 1812. Regional disruptions also made market integration a bumpy process which has inspired an argument for gradualism that many historians have taken-up. In economic terms, the question (in this study at least) is not really why the Delta came to be a primary producer of cotton for British markets in the mid- to-late nineteenth century (to the degree that it did), but rather why the region developed in the way that it did at a particular point and time, and why at this time there was created a greater concentration of the most profitable economic activities within particular pockets of territorial and state boundaries.²¹

I have argued elsewhere that a planter's individual debts increased strategically, that is, the larger the debt load, the greater the need to diversify by lending. And despite decreases in the costs of production provided by larger tracts of land and more slave hands, lending to others as a way of diversifying ultimately required more property in land and slaves. When this was not feasible, many planters also engaged in planting partnerships, with each planter better able to absorb the costs of early investment. This need that became greater as individual debt loads rose in the nineteenth-century.²² Merchants, in particular, extended credit for ever-longer

²¹ Sidney W. Mintz, "The So-Called World System: Local Initiative and Local Response," *Dialectical Anthropology* (1977) 253-269.

²² Elbra L. David, "In Pursuit of Their Livelihood: Credit and Debt Relations among Natchez Planters in the 1820s," in eds., Susanna Delfino, Michele Gillespie, and Louis M. Kyriakouides *Southern Society and Its Transformations, 1790-1860*, (Columbia: University of Missouri Press, 2011): 217-245.

periods—even short-term debts frequently remained on the books for years. Alternatively, funds from cotton were not enough to carry planters between the time the cotton crop was harvested, marketed, and profits were applied to their accounts. Could debt loads, then, have become what Historian Albert O. Hirschman terms “special push factors”? He contends that decision-making could be shaped not simply by the “pull of incomes,” but also “special push factors”—pressures from the chains or links in the process of producing cotton.²³ The “push” factor here rests with idea that once in operation, a planter-merchant, mindful of his debt load, and lending to neighbors and colleagues, would be cognizant of the need to expand his property holdings (to an extent) in order to satisfy his underlying debts and endorsements and as a surety or guarantor when the need arose. The capacity to expand in this way--diversifying by lending— grew more difficult over the nineteenth-century.

This is evident in the case of 1820s Natchez planter Jonathan Thompson. At the time of his death, he had extended approximately \$59,000.00 in credit and cash. Of that amount, his administrators placed \$52,049.00 under the category of uncollectible or “doubtful.”²⁴ Historian Richard Kilbourne touches on this point. Kilbourne’s analysis shows that many mid-size producers who sought entry into the world of cotton production after the 1830s required

²³ Albert O. Hirschman, “A Generalized Linkage Approach to Development with Special Reference to Staples,” *Economic Development and Cultural Change*, supplement, 25 (1975): 67-98. About those push factors Hirschman writes, “the ruling paradigm...continued to emphasize the income side of the economy. A more radical break with the paradigm came through suggestions that a determining influence on growth may issue from the production side of the economy. I preferred simply assume an insufficiency of entrepreneurial motivation and then to systematically search for such constellations of productive forces as would move private decision makers to ‘do something’ through special pressures—pressures that are more compelling than those that are expected to move the rational decision maker of received economy theory. Linkage effects [that] need time to unfold.” 122.

²⁴ David, “In Pursuit,” 217.

mortgages in order to purchase plantations of adequate size.”²⁵ By the 1850s, the ability to lend to others was circumscribed by the debt loads mid-sized planters faced from the outset of their operations. The middle-tier planter became the predominate borrower.²⁶

Land, Titles, and Location

Part of what made these enclaves concentrated, local centers was the compressed way the law and the land were meant to express an incontrovertible manifestations of authority. This had to do with the interests of emerging planter governments concerned with such issues as the security of the titles to their estates, the disposal of government lands, laws to regulate the collection of debts, taxation, and local enforcement took priority in what was formerly contested wilderness. Spanish, French and British systems of granting land resulted in multiple, overlapping claims, and sometimes included vague demarcations of the land. These early grants also significantly shaped the political-economy of the region, with the most conspicuous characteristic being that the earliest land-grantees received princely portions in the most fertile areas along the Mississippi River. A cadre of these grantees made sure to register their titles with each new imperial government’s requirements.²⁷ [See **Appendix**]. Given the contested spaces of the Delta, how was territory recorded, granted, possessed, and exchanged?

²⁵ Kilbourne, *Debt, Investment, Slaves*, 25-29.

²⁶ Kilbourne, *ibid*. Kilbourne’s work also supports my findings for mid-level planter Jonathan Thompson who, by the 1820s, had heavily leveraged his holdings and business partnerships in order to maintain an income stream from his lending activities. See David, “In Pursuit,” 233; Report of Commissioners, Claims Allowed Against the Estate of Jonathan Thompson; Inventory and Appraisement of the Estate of Jonathan Thompson, 1832, Adams County Office of Records, Natchez, Mississippi.

²⁷ Planter Benjamin Farar’s original parcel of 2,419 acres was granted by the French government, the boundaries of which were marked by latitude and longitudinal lines. This parcel was re-surveyed on April 26, 1801. The surveyor noted that much of the original tract had fallen in the River. The lands belonging to his father-in-law Richard Ellis were certified for the probate proceedings in 1795 by then

The deed records show that with American control, inhabitants applied contemporary European practices systematically in recording land and slave purchases. Land was bought and sold, farmed and exploited, surveyed for private individuals and on behalf of absentee owners for valuations and tax assessments almost exclusively by written description.²⁸ This meant that lands were described parcel by parcel by means of lists that included bounds and abutments. Any improvements on the land such as buildings or gins erected were also included. Deeds were a representation that was documentary for the most part, not pictographic.

Did the extent of surveying and titling depend on where the land was? Two-to-three types of descriptions are evident in the deed registry and they reflect differences in value for the land being purchased or mortgaged. The vaguest descriptions simply stated the intention of the two parties to transact a parcel of land without giving any indication of its location or extent of boundaries. The description was used for properties of the smallest amounts, sometimes only a few hundred dollars were paid, sometimes less. Those entries did, however, follow protocol when it came to obtaining the signatures of witnesses and a statement certifying the transaction to a judge (almost always a merchant). The next type of description was the most common: the number of acres the property contained, whether it had been part of a larger tract of land, and the list of all prior owners going back to the original Spanish or British land grantee was included, for example,

Spanish Governor Manuel Gayos DeLemos. By 1804, the family again registered the titles to these as well as other lands with the American land 'Office West of the Pearl' in the Mississippi Territory.

²⁸ See Bellesiles, "The Establishment of Legal Structures on the Frontier"; In the Detroit-River region, change in sovereignty there, from British to American rule, also gave rise to actions over land titles and slave ownership. Elizabeth Gaspar Brown, "Frontier Justice: Wayne County, 1796-1836," *The American Journal of Legal History* 16: 2 (April, 1972): 126-153.

Do grant, bargain, sell unto the said James Hipkins his heirs, executors, and assigns the following tracts of land and negro slaves. One tract containing seven-hundred and sixteen acres French measure situate in the County of Claiborne, Mississippi Territory, on the north fork of Bayou Pierre and bounded as follows: beginning on the south bank of said Bayou at the corner of a tract of land formerly marked SB surveyed for Squire Boone, and now in the possession of Daniel Boone at a sweet gum tree marked SB.²⁹

Hickories and Red Oaks also served as markers in these descriptions, while other boundaries were made by reference to owners of neighboring properties the land abutted (“adjoining land originally granted to John Minor”). To these were added a list of buildings on the property. Finally, the best documented of the three types of description were applied for the transfer of more valuable properties and by those owners who hired a proper surveyor who used “chains”—a measuring instrument for tracking distance. Measurements which included latitude and longitude were an indication of the individual planter’s ability to strictly enforce his property rights in case of competing claims.³⁰

Those valuable lands also paid the highest taxes, an assessment that was also based on the fertility of the soil and distance from the center of the District itself. Rising between 180 to 500 feet from the river’s shore, the lands along the Mississippi River gained their fertility from two thick layers of Aeolian dirt—a composite of airborne dust deposited by pre-historic dust storms and rotting leaves. The first layer is a loessic deposit in some places ninety feet deep; the top layer is a yellow or brown loam considerably less in depth. They are both thickest nearer the Mississippi, thinning out further east until they give a “plicoene” formation, meaning dust deposited from 10 to 2 million years ago, in the piney woods. These wind-blown soils, although

²⁹ Elijah Smith and David Hunt to James Hipkins, April, 1816, Deed, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

³⁰ Walters, “Migration into Mississippi,” 9.

overlapping several geological formations, lend a unity of character to a strip which begins in Feliciana Parish in Louisiana, enriches almost the entire Natchez district, and passes out of the settled portion of the Mississippi Territory just around Walnut Hills, where it curves to skirt the Yazoo-Mississippi Delta until it reaches the Mississippi again at Memphis.³¹ Planters were on the lookout in these narrow strips of land for the tangle of enormous canes which were signs of fertility. They grew to a height of forty feet, with corresponding thickness. The growth of these canes was accompanied by a matted, messy, undergrowth towered by hardwood trees and flowering trees, giving further indication of the black loess soil underneath.³²

Did urban or riverside properties receive more attention than frontier land? For both questions, the answer is “yes.” Planters and merchants in the Natchez District were much like any other capitalist vanguard group throughout the Continent, they needed to stay closest to port cities where important waterways acted as the most efficient communication systems. In the Natchez case, the port functioned as an urban center. Parcels in the center of town were among the most expensive property purchases in the early nineteenth-century since merchants who lived and worked in the District’s urban hub serviced the export of cotton that came in from the surrounding countryside. By far, it was the distribution of the largest land grants,

³¹ Hamilton, “American Beginnings,” 114-115.

³² Hamilton, “American Beginnings,” 118; Interesting contemporary accounts of the natural phenomena of the region are: Edward Mease, “Narrative of a Journey through several parts of the province of West Florida in the Years 1770-1771,” Publications of the Mississippi Historical Society 5 (1925); *The Travels of William Bartram*, first printed in 1791, reprinted by Mark Van Doren in 1928 in “An American Bookshelf Series” (Bartram explored the Tombigbee, Coast, and Feliciana regions, not Natchez proper); and “Report of William Dunbar to the Spanish Government at the Conclusion of His Services in Locating and Surveying the Thirty-First Degree of Latitude,” printed in Publications of the Mississippi Historical Society, III, 185-205; and in Dunbar Rowland, eds., *Life, Letters and Papers of William Dunbar*, (Press of the Mississippi Historical Society, 1930), 79-99.

particularly in the Spanish and British periods, that enabled well-capitalized planters and merchant-planters to obtain and monopolize the most fertile lands: a type of 'feed-back loop' occurred early-on whereby the largest owners could go on to produce the largest amounts of cotton and thereby purchase more land and slaves. The Earl of Eglinton got 20,000 acres, the Lyman group, the Ogden group, the Swayze associates, Garrett Raplje, Thomas Hutchins and many others were given 25,000 acre domains. For Anthony Hutchins, his proposed settlement reserved no less than 152,000 acres.³³

The crux of the tax system so far as lands were concerned was the method of evaluation, which indicated that from position and quality of soil, the lands on the Mississippi River were considered most valuable, decreasing as one headed east, away from that river, and possessing little value east of the Pearl River except as they lay along the banks of streams. The land was divided into classes: Class one included all parcels lying within five miles of the limits of the city of Natchez, the first quality of which was rated at twelve dollars per acre, the second quality at eight, and the third at five. Class two comprised all other lands within ten miles of the Mississippi river, the first quality of which was rated at eight dollars, the second at five, the third at three dollars per acre, and the fourth, which included all low or broken or hilly lands incapable of immediate cultivation. The remainder of the eastern lands were lumped into a separate class of which the first quality was assessed three dollars, the second at one dollar, and the third at fifty cents. Town property also bore a levy of twenty-five cents per hundred dollars. Between 1807 and 1815 these tax assessments generally remained the same. Moving

³³ Walters, *ibid.*, 9-13.

east, the Tombigbee settlements and the developed Madison County lands were rated in between the second and third quality of Natchez district lands.³⁴

Earlier, Spanish and French officials distributed land grants and bounties for many different reasons.³⁵ Some of the most prevalent were to attract colonists, reward military officers and enlisted men, reward governing officials and gain political favor and acceptance from the early inhabitants. The method of the Spanish land grant was this: the applicant presented a petition to the governor-general of the province which was approved by the district governor. The governor-general issued an order or warrant to the surveyor-general or his deputy to make a survey of the plot, and return it to him. A certificate of surveyor promoted a patent or grant under seal. This process was an expensive one, and was inconvenient. The second were grants given during the transition from the Spanish to the American government. These were few in number. The lands were not used as a source of public revenue. Likewise, there were claims which had passed through part of the process since the signing of the treaty of San Lorenzo in 1795.³⁶

³⁴ Hamilton, "American Beginnings," 248-250.

³⁵ Scant evidence on Spanish grants for the interregnum, 1779-1783 exists. The local commander was powerless to make them, and the settlers probably established themselves as squatters. Residents not put out of possession by reason of their participation in the rebellion of 1781 may have assumed the status of individuals secure in their private property under international law in regard to conquered territory. The Spanish immigration policy was not liberal, and the Spanish governor Miro believed there were too many Irish, American and German Catholics entering the region. See Walters, "Migration into Mississippi," 13.

³⁶ Testimony in court indicated that an order of survey was regarded as sufficient title by custom. After the Treaty of San Lorenzo in 1795, Spain's withdrawal over lands north of the thirty-first parallel to Georgia and the United States, Spanish land grants fell into two categories: The first were grants notoriously fraudulent; they had been antedated to secure to titles to individuals favored by Spanish officials. Testimony of the members of the Board of Commissioners west of Pearl River, July 3, 1807. American State Papers, *Public Lands*, I., 599; W.C.C. Claiborne's report to Madison on lands, November 5, 1802. Rowland, ed., Mississippi Territory Archives, I. 541.

British government officials began to grant land in that part of the Mississippi Territory between the thirty-first parallel of north latitude and the latitude of the mouth of the Yazoo River. The British grants may be classified under four headings: mandamus grants, grants to military officers under the Proclamation of 1763, grants by virtue of family rights, and others to individuals, the condition of which varied. A mandamus was issued by the Privy Council as a result of a petition which was considered by both the Board of Trade and by a committee of the Council, directing the governor to issue a grant. The grants all contained approximately the same conditions. The grantee was to settle the tract within ten years with a Protestant to every hundred acres. The cumbersome method by which the grant passed through its stages included these steps: presentation to the provincial council of a petition stating the type of grant and the amount of land claimed; action of the governor on the petition by advice of the council; issuance by the governor of a warrant to the surveyor general directing him to mark out the land and return the survey, with a plat; direction from the governor to the secretary and the attorney general to draw up the grant; issuance of the grant under the seal of the province and the signature of the governor. No statistics are available of British grants in either the Natchez or Tombigbee Districts.³⁷

The most desirable lands were on the waterways which provided the only means of communication during the early history of the lower Mississippi Valley when the European

Under the terms of the British grant, after an interval, a half-penny quit rent per acre was to be paid annually to the king. Minerals were reserved to the king, and the cultivation of hemp and flax was required, if the land was suitable. While the extent of land covered in the Natchez District by this type of grant was considerable, the only one in which the conditions seem to have been fulfilled in any measure was the Lyman Mandamus on the Big Black. Walters, *Migration*, 302-310.

³⁷ Walters, "Migration Into Mississippi," *ibid.*

powers reigned over the region. By the late eighteenth century both banks of the Mississippi River from below New Orleans to Natchez were lined with land grants. It is certain that during British control the lower part of the Natchez district lying immediately on the river was shingled over fairly compactly with grants. It is just as certain that large numbers of these grantees were absentee, and never made a gesture of settlement.³⁸ These land grants as well as the lands claimed by the state of Georgia caused considerable delays.

Settlers were first asked to register their titles between 1803 and 1807 with the land offices created by Congress so that the new government would know how much to place for sale in the public domain.³⁹ Two commissions were set up by the United States to judge the claims of settlers. One of the commissions adjudicated some 450,000 acres of land to those who claimed grants from a foreign country or from the state of Georgia. The other added 100,000 acres to private ownership when they adjudged the claims of settlers who were living on the lands without the benefit of a title. Moreover, both commissions also granted preemption certificates. These certificates were granted to settlers who came to their new places of residence between 1798 and 1803, a period during which many merchant-planters had settled, and covered pioneer landholders up to 1808. The last category of land seekers were the emigrants who settled after 1803.⁴⁰

Two land districts were created by Congress with offices at St. Stephens, on the Tombigbee River, east of Natchez, and Washington. From 1803 to 1807 the land offices were only opened

³⁸ Walters, "Migration Into Mississippi," 11. These grants passed through several steps and were concentrate in the lower part of the Natchez District along the Mississippi River.

³⁹ Walters, "Migration Into Mississippi," 55.

⁴⁰ Walters, "Migration Into Mississippi," 14-31.

for filing claims. But the great expectation of large land sales did not prove correct for the districts outside the Natchez region. Moreover, the best year for land sales in the Mississippi Territory was the first half of 1812 prior to the outbreak of war, while the largest land sales remained in the oldest and most populated portion of Mississippi. Not surprisingly, cotton's commercialization was the most aggressive where the largest lands sales were made—in the Natchez District. Both land and slave purchases increased considerably. In the case of slave purchases, the census reports indicate that the increase in the black population was too rapid to be caused by a natural increase in the birth rate. In the midst of this growing plantation system in the District, there remained a group of small farmers who owned few or no slaves and possessed the least fertile lands.⁴¹

Early on the phasing-out of the small farmer by larger producers is evident from the deed registry. The transactions show the consolidation of smaller parcels by individuals in numerous transactions who did not own these properties previously. Merchants with cash resources at their disposal benefitted the most. English merchant Ebenezer Rees, residing in Spanish occupied Natchez, became an early regional creditor to the Delta's rising numbers of well-resourced planters through his cash purchases of land. Between 1798 and 1799, Rees personally transacted a total of 25 purchases of land from widows, farmers and estate sales. None of these transactions included merchant-sellers. The price per acre ranged between 16

⁴¹ Walters, "Migration Into Mississippi."

cents to \$1.00 (only one transaction on Bayou Pierre cost \$4.00 per acre). The total purchase price of all lands combined was \$8,637.00 for which Rees paid in cash.⁴²

Between 1799 and 1801 he reversed course and began selling these properties almost exclusively to other merchants. The minimum price paid per acre was \$2.00 and the highest was \$10.00. Nine sales totaled \$17,000.00 and earned Rees a net cash profit of \$8,363.00 in roughly a two-year period.⁴³ Because of these profits he was able to extend credit to others. In 1799, he financed two well-collateralized planter-merchants, Daniel Clark, Junior and John Henderson. The loans totaled \$16,778.00 with notes that carried six percent legal interest and which were collateralized by land and slaves on their respective plantations.⁴⁴ Like Rees, many merchant-planters as well as original land-grantees with large plantations continued to absorb smaller farms. Yeomen farmers sold their properties and left for less fertile areas.⁴⁵

⁴² William Varderman to Ebenezer Rees, 1799; Elizabeth Douglas to E. Rees, 1799; Elizabeth Douglas to E. Rees, 1798; John Sullivan to E. Rees, 1798; Lacy Rumsey to E. Rees, 1798; Christopher Belling to E. Rees, 1798; Clement Dyson to E. Rees, 1798; Thomas Robertson to E. Rees, 1798; William and Henrietta Thomas to E. Rees, 1798; John and Elizabeth Arden, to E. Rees, 1798; Jacob Krumball to E. Rees, 1798; Christopher Bolling to E. Rees, 1798; Christopher Bolling to E. Rees, 1798; John Commock to E. Rees, 1798; John Still Lee to E. Rees, 1798; Lydia Howard, Widow to E. Rees, 1798; Silas L. Payne to E. Rees, 1798; Ephraem Bates to E. Rees, 1798; Jacob Kromhott, planter to E. Rees, 1798; William Collins, farmer to E. Rees, 1798; Patrick Sullivan, planter to E. Rees, 1798; J. William Lewis to E. Rees, 1799; Estate of A. Lewis to E. Rees, 1799; I. Johnson to E. Rees, 1798, Deed. Deed Book A, Adams County Office of Records, Natchez, Mississippi.

⁴³ Ebenezer Rees to James Truly, 1799; Rees to William Bonner, 1799; Rees to A. Dougherty, 1800; E. Rees to J. Rasilly, merchant, 1801; Rees to J. Rasilly, merchant, 1801; Rees to William Kenner, merchant, 1801; Rees to Abner Lawson Duncan, merchant, 1801; Rees to J. Moore, merchant, 1801; Rees to A. Dougherty, 1800, Deed. Deed Book B, Adams County Office of Records, Natchez, Mississippi.

⁴⁴ Ebenezer Rees to Daniel Clark, Jr., planter, 1799, Mortgage; Ebenezer Rees to John Henderson, merchant, Mortgage, 1799, Adams County Office of Records, Natchez, Mississippi.

⁴⁵ Richard S. Lackey's concise and revealing study of the disposal of public lands forces one to view the notion of "cheap lands" as a relative term. Lackey views the economic behavior of individual settlers and speculators in relation to the system of federal credit land sales during and after the auctions in 1811 and 1815. His careful examination of lands east of the Pearl River and along the Pearl, Leaf, and Chickasaw rivers, takes into account the area's relative isolation, the fact that it received an influx of migrants, and that it was surrounded by the Spanish, the Choctaw, and the Creek Indians (the area

The process of settlement as well as the variances in recording of property were maintained throughout the early-to-mid-nineteenth century. Two major regions of settlement in Mississippi—the Natchez District and the area around the Pearl River District—continued their growth and between 1800 and 1802 new counties were established that reflected patterns set by settlement and internal growth of the population. The 1810 census recorded 33,500 inhabitants living in the present-day area of Mississippi. One of the large settlements were located within 15 miles southeast of the Mississippi River along the inland waters of Bayou Pierre, Cole’s Creek, St. Catherine’s Creek, Second Creek, Homochitto River and Buffalo Creek. Only about 400 inhabitants living in the piney woods region of Mississippi were reported in the 1800 census, with another 800 inhabitants living in the present-day state of Alabama along the Tombigbee and Mobile Rivers. Between 1800 and 1814, then, the number of counties increased from three to thirteen. However, only a handful of these—Adams, Wilkinson, Jefferson, Claiborne, Amite and Warren—had, by 1814, had a well-developed plantation system based on cotton and slaves. Meanwhile, frontiersmen in the piney woods region to the east of Natchez made their living principally from cattle raising because the region of pine forests and sandy soil was not suited to the growing of cotton and corn, except for the occasional fertile

constituted the counties of Wayne, Green, Marion, and Lawrence). The evidence sheds light on the fact that most of the federal land offered for sale did not receive the minimum \$2 bid required and that only a small fraction of settlers were willing to make an entry for land—only forty-two purchasers in 1811 entered 16,142 acres of land. Moreover, the average size of the tract was 228-284 acres despite the fact that there were no limits to the acres an individual could obtain. What is important to note is that very few settlers took advantage of the discounts to obtain land priced below the minimum; of those who registered the land, most were forced or willing to pay interest, which increased the actual price paid, and that the right of preemption—a preferential right to buy at the time of sale—was not exercised by the majority of those who inhabited the original settlements (Pre-emptioners were granted 640 acres if their claim was entered by January 1806 and the first installment paid before January 1806). Richard Stephen Lackey, “Credit Land Sales, 1811-1815: Mississippi Entries East of the Pearl,” (Master’s Thesis, University of Southern Mississippi, 1975).

alluvial soils along the banks of the rivers of this region. J.F.H. Claiborne on a trip through the piney woods came to the conclusion that the majority of the people were herdsmen. There were only a few planters in the region and these were only small planters who were crowded out of the fertile lands by competing planters. Another trait of the people in this section of the Territory was that they did not attempt to buy the land that they lived on. Many of them simply squatted and waited to see what would happen to them. The Federal Government made repeated efforts to remove them but most of the efforts failed.⁴⁶

The Relationship between Slaves, Land, and Cotton

Slaves, cotton, and land ownership cultivated what historians of the Delta have called a “rentier mentality”—that is, numerous slaveholders made most of their agricultural income from slave ownership. The preoccupation with the profits from slave-based staple production was as pronounced among those who invested in planters’ debts as planters themselves. Despite these structures, profits from cotton fluctuated and were highly contingent. Individual producers had to decide whether surplus profits would be reinvested in their own operations to expand production or to lend based on the much less risky, and heavily collateralized prospective “income streams” of others. Slaves produced that income in a fairly regular way

⁴⁶ Rejection of plantation life in favor of continual squatting and trading gets a thorough account in the work of Mary Harrison Clay’s “Gideon Linccum, Southern Pioneer, 1793-1874,” (Master’s Thesis, Mississippi State College, 1953). Hamilton, *American Beginnings*, 79-80; William Darby Emigrant’s Guide, 106; Eron G. Rowland, “The Mississippi Territory in the War of 1812,” *PMHS*, Centenary Series, IV (1921), 259; Owsley, *Plain folk of the Old South*, 25, 33; J.F. H. Claiborne, “A Trip through the Piney Woods,” *PMHS*, IX (1906), 514-516, 521-523, 530, 532-533; Moore, *Agriculture in Antebellum Mississippi*, 40, 62; Cotterill, “The National Land System,” 504; *American State Papers*, Public Lands, II, 242-251.

that supported private credit arrangements, long-term loans, and later, the creation of property banks first in Louisiana and then Mississippi.

This rentier mentality emerged early on, facilitated by the earliest property transactions and consolidations of plantations. The notion of income from agriculture was prevalent in pre-twentieth century agricultural societies. The Delta's earliest credit operations, however, benefitted greatly from the combination of property laws free from old restraints as well as better capitalized networks which provided credit facilities to merchants and that operated in distant metropolitan centers. Merchants in the Lower Mississippi Valley were able to keep up with the rest of the nation by increasingly shifting to financial instruments. Credit instruments circulated on the basis of third-party endorsements that were the direct consequence of savings accumulations as represented by slaves. They ensured the financial viability of the region and began a process through which many merchant-planters would have the opportunity to become investment bankers by the antebellum years (1830s to 1850s).

Historians typically trace the capital planters accessed regionally by analyzing the credit acquired through mortgages. Recently historian Bonnie Martin illustrates the importance of this kind of capital for Louisiana's expansion and Michael Woods highlights the dominant role of merchants as both grantors and grantees of mortgages in South Carolina. But my findings differ somewhat because of the perspective I take: that geographic patterns of buying and selling property contributed to early merchant consolidation of the region's prime agricultural properties; that the frequency of mortgages was relatively low but that their occurrence significantly enabled local credit resources to expand, albeit, by tying economic actors more

closely to distant creditors; that these activities, especially those by merchants, raised prices and contributed to future mortgage capital accessed.

The following is a brief discussion of the relationship between slaves, land, and cotton followed by evidence from the deed registry which demonstrates the quick turn-over of urban properties, including many that were transacted by merchants in the Natchez District, investment in inland properties, and consolidation of early plantations. It is a window into the early geographic spread of property purchases. It also establishes a context for what emerged—a secondary market in credit, a subject treated in detail in the next chapter.

The slave and land markets roughly mirrored the expansion and contraction in the demand for cotton. The slave market was primarily conducted on a cash basis. Cash was ready money—negotiable paper, that is negotiable paper (requiring an endorsement) that could be immediately converted into specie. Buyer and seller might have agreed to satisfy the sale price with an interest-bearing instrument that had a highly valuable endorsement on it. Such paper passed for cash and was a cash equivalent. Sometimes, cash was paid in the form we today recognize, that is, Mexican silver and British sterling. Instruments that could be immediately converted into specie. It gave the holder access to the highly liquid negotiable paper of merchant-capitalists in other cities. Still emerging, however, from its frontier origins, cash sales in the District as a percentage of the total dollar amount for land (within 5 to 10 miles from its central hub) fluctuated between 93 percent in 1800 to 81 percent in 1817 (Table 3.1). Except for the pre-Louisiana Purchase period of 1800 to 1801, cash sales of land remained higher than total slave sales.

Table 3.1. Dollar Values of Slave and Land Sales, Natchez, Mississippi.

	1800-1801	1814	1815	1816	1817
Total Cash Sales – Slaves	175,949.50	6,899.00	41,500.00	37,000.00	37,450.00
Average Cash Price- Per Slave	430.95	289.80	521.00	450.00	333.00
Total Credit Sales-Slaves	54,191.00	26,500.00	15,000.00	8,450.00	8,000.00
Total Cash Sales – Land	117,635.00	172,790.50	137,842.96	142,882.21	100,726.00
Total Credit Sales – Land	24,011.62	23,044.32	12,092.00	62,836.50	4,580.00

Table 3.1. Source: Deed Books A, B, H, I. County Deed Registry, Adams County Office of Records, Natchez, Mississippi.⁴⁷

Between 1814, a year dominated by low cotton prices due to cotton surpluses in Great Britain and the War of 1812, and 1815, the year hostilities formally ended, planters' purchases of slaves and land may have been due to opportunism—while the large dip in the price of the average slave in 1814 continued, it helped fuel credit sales of slaves among those who could afford to purchase them, and whose calculations reflected a view that there would be better times ahead. In 1815, a rise in slave prices seems to have confirmed these sentiments: a rise in slave prices drew a larger share of cash purchases of slaves compared with credit sales. We could say that the contraction in hard money during the War restricted cash sales but was eased by 1815 when cash sales rose again. Cash sales for lands, however, remained steady. Only after much of the land in the vicinity of the District and surrounding counties was sold-off

⁴⁷ Though there existed major differences between the pre-1815 period and that of the antebellum period, I have used Kilbourne's procedures to calculate these numbers. Kilbourne, *Debt, Investment, Slaves*, 50-53.

and consolidated was the pattern reversed. By the 1820s and 1830s, land sales on credit predominated until the end of the Civil War.⁴⁸

The deed records for 1800 to 1801 show a pattern in which individual purchases of slaves from places such as Tennessee, Maryland and Kentucky were favored. For example, two sales that year resulted in the transfer of forty-one slaves in all, and three mortgages were collateralized on the basis of 151 slaves. The relative weight of slaves in the cash market may well have been greater given the fact that slaves purchased at New Orleans and elsewhere for cash and brought to the District would not be counted in these averages. The American settlements of Manchac (an enclave made-up of primarily British merchants) and Natchez became transit points for slaves from both the seaboard and West Indian colonies.⁴⁹ Slaves taken out of the District and sold would not have been registered in the local conveyance records, but such slaves were almost certainly sold for cash.⁵⁰

Prices of slaves were tracked by the profits from agricultural staples. It is reflected in what economic historians Robert Fogel and Stanley Engerman call the “age-price profile”—an index created by those seeking to streamline slavery’s financial instrumentality.⁵¹ It essentially

⁴⁸ Kilbourne, *Debt, Investment, Slaves*.

⁴⁹ Ira Berlin, *Many Thousands Gone: The First Two Centuries of Slavery in North America*, (London: Harvard University Press, 1998), 341-342; Patrick S. Brady, “The Slave Trade and Sectionalism in South Carolina, 1787-1808,” *Journal of Southern History* 38 (1972): 601-620; Ronald L.F. Davis, *The Black Experience in Natchez, 1720-1880* (Natchez, Mississippi, 1993); Margaret Fisher Dalrymple, *The Merchant of Manchac: Letterbooks of John Fitzpatrick, 1768-98* (Louisiana State University Press, 1979); Morton Rothstein, “The Natchez Nabobs: Kinship and Friendship in an Economic Elite,” in Hans Trefousse, ed., *Essays in Honor of Arthur C. Cole* (New York, 1977), 97-112.

⁵⁰ Kilbourne, *Debt, Investment, Slaves*, 32.

⁵¹ I make a distinction here between Fogel and Engerman’s characterization of planters’ calculations of ‘age-price-profile’ and that of Walter Johnson’s slave buyers in the New Orleans market. New purchases of slaves from New Orleans pens incorporated color, price, shape, amiability, origin and the like. These human features were made into short-hand formulations for slave buyers. Once purchased and in the

documented the pattern of earnings in the life-cycle of a slave.⁵² It was a continuous measurement by planters in the amount of cotton picked per hand, per day. Both before and after cotton's heyday in the 1850s, ledgers such as those of planter William Welhan documented the age and value of the slaves on his plantations in order to have a running subtotal of their worth. Welhan could track his fortunes in *Affleck's Planter's Annual Record* which provided a set of tables by which a slave's value corresponded to the daily cotton that he or she produced.⁵³ Planter David Christy could thus make more accurate mental calculations using Welhan's coordinates. In his published work, Christy noted that "the total crop of 1853 equaled 395 lbs. per slave—making both the production and export of that staple in 1853 more than four times as large, in proportion to the slave population, as they were in 1820."⁵⁴ He could not only keep track of slave prices going forward, but could compare the productivity of the entire South favorably with that of an earlier time.

The Deed Registry and Merchant-Planters' Transactions of Property

Occupational Categories

In frontier conditions, an individual's occupation was never clear-cut, but more a matter of self-identification. I have categorized individuals based on their self-identification as either planter, merchant, or attorney. That is, if a merchant appears in the record, self-identifies as a

fields, those features and characteristics counted for less than the crude indices cotton producers relied upon. Robert Fogel and Stanley Engerman, *Time on the Cross, Johnson, Soul by Soul*, 159-160.

⁵² Fogel and Engerman, *Time on the Cross*, 74.

⁵³ Johnson, *Soul by Soul*, 26.

⁵⁴ David Christy, "Cotton is King; Or, Slavery in the Light of Political Economy," in *Cotton Is King, and Pro-Slavery Arguments*, ed. E.N. Elliott (August, GA: Pritchard, Abbott and Loomis, 1860), 125. Christy quoted in Johnson, *River of Dark Dreams*, 246.

merchant, appears within the collection suits as a merchant, and was actively occupying space within the city in partnership with another individual, they have consistently remained as 'merchant' in subsequent transactions where they have not self-identified as either. Likewise, individuals listed as planters, owning lands and slaves are also identified in subsequent transactions as planters, even while acting as executors or attorneys for friends and family. Most individuals did not mention their occupations. It is safe to say, then, that the numbers for each category of planter, merchant, attorney and all others are vastly underrepresented, especially the two categories that are the prime concern of this study. It is interesting to note, however, that those who identified themselves as 'merchants,' did not self-identify in subsequent transactions as 'planter' though they had purchased or held large tracts of land and slaves. A complete mortgage dataset for Mississippi has yet to be constructed, though the sampling here provides some indication of the area's transactional history.

The contracts usually, though not always, detailed the location of the property being exchanged, the numbers of acres, and a list of the collateralized property, listing slave names, and property boundaries. Just as with occupations, interest rates were only haphazardly recorded. I have made an effort to rescue some occupational details in this early period. Sold, mortgaged, quit-claimed, and auctioned properties in the Natchez District and surrounding territory changed hands with relative frequency, merchants appeared as attorneys, as planters

as signatories for merchant-planter colleagues, and Justices of the Quorum, witnessing the transactions.⁵⁵

In cities and towns all over the early republic, the physical construction of a farm or plantation was only one manifestation of the “farm idea.”⁵⁶ I would like to add yet another. The set of routines given expression in court texts usually invoke questions among historians about the nature of plantation life, and of the institution of slavery. Yet, courts made farms and plantations into texts.⁵⁷ An execution for debt could auction away animals, tools, or acres; a paper description of a boundary could shift a property line between neighbors. Plantations, city lots, and river parcels with their improvements, housing and enslaved African laborers constituted the physical embodiments by and through which crossed loans, equities, promissory notes, currencies, slaves, and legal ideas. Court records and court experience influenced the formation of farmer, planter and, merchant as political subjects.⁵⁸

⁵⁵ Men such as New Orleans Merchant William Kenner, and Natchez merchants John Henderson, Samuel Brooks, Christopher H. Kyle and Ebenezer Rees, a partner of Abijah Hunt, were some of the names that repeatedly appeared in the role of Justice of the Peace and Quorum.

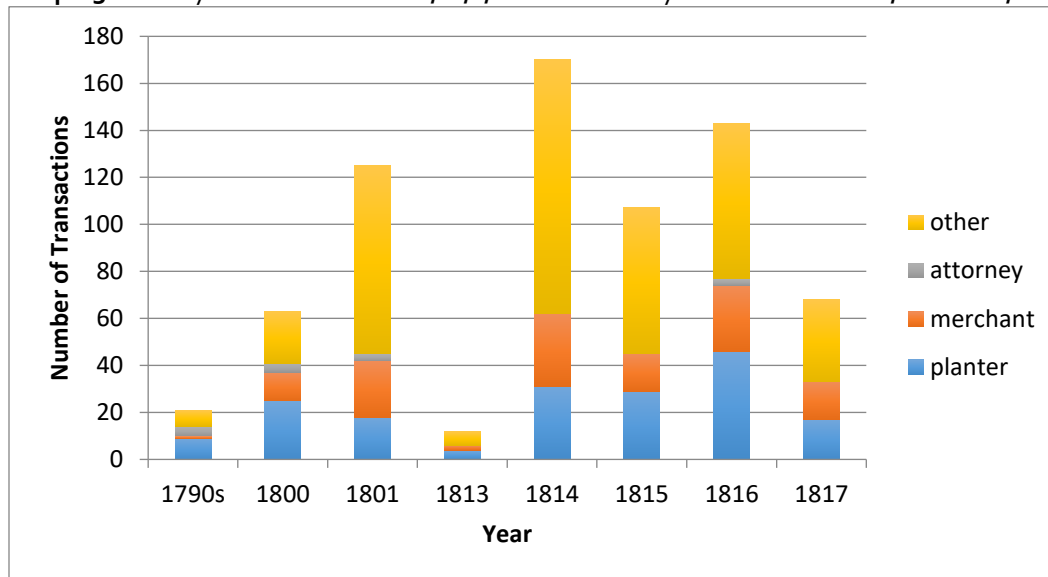
⁵⁶ Bushman, “Farmers in Court.”

⁵⁷ Arjun Appadurai, “Disjuncture and Difference in the Global Cultural Economy,” *Theory, Culture, and Society* 7 (1990): 295-310. These properties, where capital crossed the micro border of the plantation hew closely to what Appadurai calls “finanscapes.”

⁵⁸ Bushman, “Farmers in Court”; Hamilton, “American Beginnings.” The plantation, farm, and all that operated on them were also on the mind of the tax-collector as well. In addition to horned cattle, slaves, unimproved lots in town, dwellings, etc., collectors also calculated taxes based on classes of land. Historian William B. Hamilton considers this aspect of the tax law as having significance to the fundamental economic base of politics of the territory. “An Act to Raise Supplies and Make Appropriations for the Year 1807,” evaluated land based on the position and quality of the soil: the lands along the Mississippi River were considered the most valuable, decreasing as they receded from that river, and possessing little value east of the Pearl River except as they lay along the banks of streams. The land was divided into classes: Class one included all lands lying within five miles of the limits of the city of Natchez, the first quality of which should be rated at twelve dollars per acre, the second quality at eight, and the third at five. Class two comprised all other lands within ten miles of the Mississippi River, the first quality of which was rated at eight dollars, the second at five, the third at

Early merchant business directories for the early nineteenth-century Natchez and New Orleans areas either do not exist or have not surfaced. The majority of individuals whose transactions appear in the deed books did not list an occupation (i.e., “other”). Nevertheless, each entry, crossed-checked with names in the debt collection suits of the era, give us some idea of the individuals who conducted business as merchants or planters or both.

Graph 3.1. “Buyers” Deed Books B, H, I, Adams County Office of Records, Natchez, Mississippi.

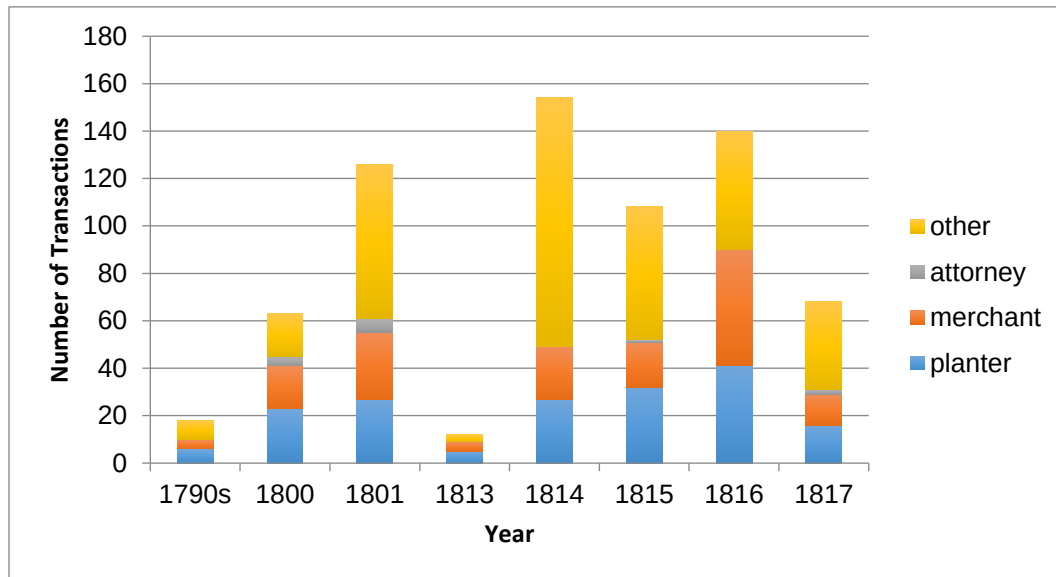


Source: Deed Books A, B, H, I. Adams County Deed Registry, Adams County Office of Records, Natchez, Mississippi.

three dollars per acres, and the fourth, which included all low or broken or hilly lands incapable of immediate cultivation, at one dollar. Class 3 through 5 moved further eastward. And the furthest away, the remainder of the eastern lands, were lumped into Class six, of which the first quality was assessed at three dollars, the second at one dollar, and the third at fifty cents. Town property bore a tax of twenty-five cents per hundred dollars. Under the rough justice of this system, ranking the lands in accordance with ability to pay, the Natchez District paid over three fourths of the total taxes in 1815. Eastern farmers, especially those in the Tombigbee River region began to acquire political power by sheer numbers which increasingly pitted them against the District’ planters.

⁵⁸ Bushman, *ibid.*; Bonnie Martin, “Slavery’s Invisible Engine: Mortgaging Human Property,” *The Journal of Southern History* 76:4 (November 2010); Weisberg, “Commercial Morality”; Jeff Skalansky, “Elusive Sovereign.”

Graph 3.2. Sellers – Deed Book B, H, I, Adams County Office of Records, Natchez, Mississippi.



Deed Books A, B, H, I. Adams County Deed Registry, Natchez, Mississippi.

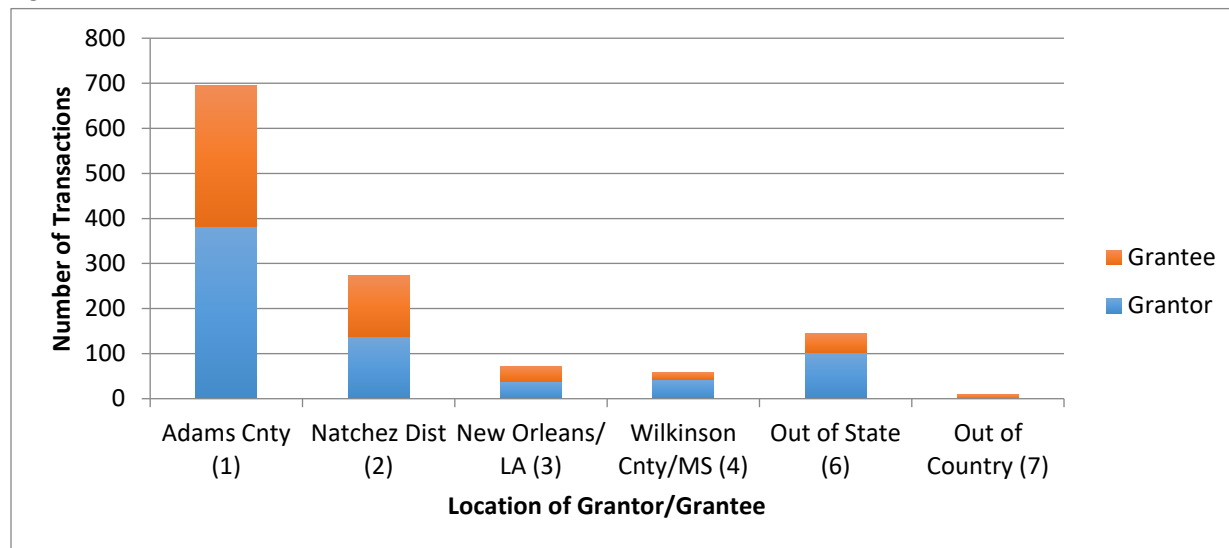
Graph 1 and Graph 2 show the four occupational categories over time. Graph 1 is based only on the 'first party' or the seller's occupation. Graph 2 is based on the 'second party' or 'buyer's side' of the transaction. While the 1790s in this sample is not complete, we can see that planters represent the majority of transactions in the last decade. As early as 1800 three years before the signing of the Louisiana Purchase, there is a pronounced spike in the numbers of planters, merchants, and even attorneys. Slightly more planters than merchants are sellers. As buyers, there is a fairly even number of them, with planters ahead by only five additional transactions. In the year directly following, there are more merchant-sellers than planter-sellers. As buyers, both categories are fairly even—27 planters and 28 merchant buyers. The

category of “other” is composed of those individuals that have not been identified with a certain occupational category in either the deed records or the collection suits.

Three years into the War of 1812 between the United States and the United Kingdom in February of 1815, there was a spike in the overall number of transactions. The volume of transactions far surpassed the pre-1812 levels. There is also more involvement by all occupational categories except that of attorney. That latter appears only when a ‘power of attorney’ is assigned for the collection of debts by creditors living outside the region. Between 1814 and 1816, the last two years of the War of 1812, there is a steady rise in participation among planters as both buyers and sellers. In 1817 a decline in overall transactions is visible with slightly more merchants as sellers than buyers.

Of particular importance is the steady appearance of merchants as buyers and sellers in the real estate of the District. As ‘sellers’ in Graph 3.2 they are most active in 1814, just a year before wars’ end. As ‘buyers,’ their numbers show a definite increase in 1816 (an increase also apparent among planters). Again, keeping in mind that the numbers in each category are understated, we can safely assume that there were proportionately higher numbers of merchants, and merchant-planters, overall than appear on the graphs.

Graph 3.3. Location of Buyer and Seller at the time of the Transaction, 1800-1801, 1814-1815, 1816-1817.



Source: Deed Books A, B, H, I. Adams County Deed Registry, Natchez, Mississippi.

Individuals who lived and worked within Adams County carried out the majority of transactions. The Natchez District is also located within Adams County; however, I distinguish between County and District in order to highlight the geographic hub of the area's business community and to reflect the choice among individual grantors and grantees to identify as residing in an emerging urban center in contrast to the rural parts of the county. Out-of-state sellers came in third place, followed by transactions involving individuals from New Orleans and Louisiana, and those from Wilkinson County, Mississippi and finally individuals who resided out of the county. The tables suggest that overall, the typical transaction involved a local buyer or seller, whose occupation would more than likely be that of a planter or merchant, or both at the same time. The number of merchant-purchasers stayed steady, as did planter-purchasers, but by 1816, more merchants were selling their properties than were purchasing.

Plantations

Some of the largest and earliest investments were transacted by both in-state and out-of-state merchants. In 1800 and 1801 eight transactions recorded the sale or mortgage of plantations: one recorded mortgage transactions, six sales and one obtained through auction. Though they do not include British or other foreign investors, national creditors were always available. Joseph Forman, Junior, of Baltimore, Maryland restricted most (if not all) his dealings to family. Forman, Jr., purchased Wilderness plantation on St. Catherine's Creek at auction for \$3,600.00—a property his relative William was ordered to sell to pay debts. In return, Joseph immediately sold to William a 580-acred plantation for the same amount. Keeping property within the same family no doubt aided early merchant-planters such as William Forman who was a business partner at the time with Natchez merchant Abijah Hunt.

Family affiliations tied Anglo-Americans together over great distances, and their enterprises aided in the process of Americanization and integration. In October 1799, Daniel Clark, Senior sold-off multiple properties, approximately 12,810 acres—8 different locales—minus slaves in the region for \$48,000.00 to Daniel Clark, Junior. These properties were pledged as collateral in the same month, year in a mortgage taken out by Daniel Clark, Jr., from his father, an extension of credit totaling \$200,000.00. The terms of the loan included re-payment in Natchez, Philadelphia, New York, Dublin, or London, or “whichever of said places Senior shall direct the money” paid yearly, and that Junior would pay Senior's debts to creditors as well as \$5,300.00

annually to his brother Richard with six percent interest after 1800. With Jefferson's embargos still nine years away, Senior could expect his son to siphon the funds needed to him.¹

Between 1800 and 1801 the eight transactions included four merchants. Among them was the exchange made by local merchants James and Robert Moore who extended the largest sum of \$29,000.00 to planter William Vousdan.² Meanwhile, Stephen Minor, who even by this date was arguably the region's most well-capitalized operator, sold to local merchant-planter Daniel D. Clarke 240 acres on the Mississippi River that included orchards and stables. A labor-force, however, was not included.³ Like these two plantation sales, there is evidence of disproportionate price increases: Five-hundred acres on Second Creek cost planter James Hoggatt \$1,000.00; John Armstreet purchased in the same month as Hoggatt, 350-acres on the Homochitto River from another planter for \$700.00.⁴ But William Forman paid Joseph Forman Junior his Maryland relative a full \$3,600.00 for 450 acres on St. Catherine's Creek.⁵ As time went on, the size of individual enterprises reflected more and more the affiliations planters had with preferred creditors, locally, nationally, and internationally.

¹ Daniel Clarke, Senior to Daniel Clark, Junior, October, 1799, Deed, ,Book A; Daniel Clarke, Senior to Daniel Clarke, Jr., Deed, October, 1799; Daniel Clarke, Junior to Daniel Clarke, Senior, Mortgage, October, 1799, Deed Book A, Adams County Office of Records, Natchez, Mississippi.

² James Moore, Robert Moore to William Vousdan, Mortgage, 1801, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

³ Stephen Minor to Daniel Clarke, Deed, 1801, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

⁴ John Armstreet to James Hoggatt, 1801, Deed, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

⁵ John Spizer to James Hoggatt, Deed, 1801; Solomon H. Wisdom to Richard P. Smith, Deed, 1801; John Armstreet to James Hoggatt, Deed, 1801; Joseph Pannill to Richard Butler, Deed, 1801, Adams County Office of Records, Natchez, Mississippi.

In 1814 producers accessed the latent capital in their plantations with more frequency. A total of fourteen transactions included seven mortgages. By contrast, in 1815 nine plantations changed hands. And a few, again, show that price increases leaned heavily toward merchant involvement. Instead of paying \$3,600.00 for 500 acres on Second Creek as did Forman in 1801, merchant planter George Poindexter sold 250-acres on Second Creek in 1815 to James Carter for \$5,000.00.⁶ Planters were benefitting from rising prices, increasingly relying on mortgages to access capital when times were good.

The changes were not just in the prices paid for acreage. Accumulated debts and the continuation of the War led some to grant lands to creditors. That is what happened when John Harrison granted back to his creditors, Bradshaw & Harrison, land and slaves from across the river in Concordia Parish; merchants Carson & Perkins placed their tract of land in Concordia, Louisiana across from the Natchez District in a trust for their creditors that included 13 slaves and 30 head of cattle.⁷ Mortgages to secure antecedent debts also appear in this year. Robert Williams owed forty-two creditors for individual debts that included the territorial bank and numerous merchants. That debt, without interest, totaled \$14,765.54 and was secured by a 1,000 acres of land, 3 tracts on the Mississippi River in Concordia, Louisiana and Adams County, Mississippi.

For 1816, eleven transactions involved plantations and in 1817 that number was reduced to six; a fact that did not slow down the increase in prices paid or mortgaged. The types of

⁶ George Poindexter to James Carter, Deed, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

⁷ J. Harrison to J. Bradshaw and J. Harrison, 1815, Deed, Book H; Carson & Perkins to J. Harrison and J. Bradshaw, Trust, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

economic actors also changed, with more of them from the mercantile ranks able to invest in plantations. After the War of 1812 ended, mortgages were on the rise. In 1816, after bidding at auction for the 40 slaves and livestock from the estate of Joseph Panill, merchant-planters Daniel D. Elliott and George Ralston obtained a mortgage the same day they obtained the property at auction and receiving a \$31,000.00 loan out of the \$34,000.00 they originally paid.⁸ In prior years, Elliott had obtained credit for relatively smaller tracts and preferred paying with cotton—a choice that reflected the contraction during a period of hostilities. In 1814, his preferred creditor Benjamin Roach extended a \$64,000.00 loan on the same properties with 57,142 lbs to be paid in cotton that was ginned and baled. Elliott's payment of \$34,000.00 at Panill's auction in 1816 suggests that merchants had the networks by which to invest in plantation debt almost as soon as the war had ended.

Importantly, the records suggest a rise in out-of-state investors that mirrors their involvement in the early 1800s. And again, prices escalated particularly in merchant-to-merchant dealings. Metropolitan creditors influenced prices and funneled credit to plantations owned and operated by the region's most well-established planter-merchants. February of 1815, the same month the hostilities between the two nations officially ended, found Samuel Clement, a New Yorker, with a new mortgage of \$13,000.00 on his 2300-acre plantation. Located on the Natchez-side of the Mississippi River, he purchased the property from then

⁸ Agnes Panill, D. Panill, Executors of Joseph Panill, deceased to Daniel D. Elliott and George Ralston, Deed, March, 1, 1816; Agnes Panill, D. Panill, Executors of Joseph Panill, deceased, to Daniel D. Elliott and George Ralston, Deed, March 1, 1816; Daniel G. Elliott to George Ralston to Agnes Panill and D. Panill, Mortgage, March 2, 1816, Adams County Office of Records, Natchez, Mississippi.

Philadelphia merchant James Linton, but turned to preferred New York creditor James Livingston for the loan. It did not include slaves.⁹

By far the largest loan received by any planter in the area was ex-governor Winthrop Sargent. A northerner with extensive contacts, Sargent's loan of \$400,000.00 was extended to him from Liverpool merchants Barclay & Salked.¹⁰ By comparison, the acreage used to secure the loan—2,000 acres—was of average size. Importantly, it included 89 of Sargent's slaves. There were other loans that year that pushed-the-envelope: \$106,206.00 taken out by Elijah Smith, partner of Abijah Hunt, also from Barclay & Salked of Liverpool, and locally preferred creditor David Williams who extended \$20,000.00 to brother-in-law Jonathan Thompson for 32 of his slaves.¹¹ The loans did not reflect, necessarily, larger size tracts or labor-forces, but favored those already well-capitalized individuals.

When Elijah Smith, former partner to Abijah Hunt, teamed up with Hunt's nephew David, a merchant-planter in his own right, they presented to creditors a portfolio of properties that had taken almost a lifetime to consolidate.¹² The deceased Hunt's properties are what enabled

⁹ Samuel Clement to John Livingston, Mortgage, December 18, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

¹⁰ George Salked, of Barclay, Salked & Company, visited Natchez several times between 1795 and 1810. He dealt extensively not only with William Dunbar, a leading planter that included Esteban Minor, Minor's brother, John and Winthrop Sargent and many others. There was, of course competition from George Green of Green, Wainwright & Company in Liverpool and Buchanan & Benn of Liverpool; both firms were major handlers of Natchez business from 1800 to the 1830s. Adams and Gould, *Inside the Natchez Trace*, 110-112.

¹¹ Elijah Smith and David Hunt to T.B. Barclay and George Salked, Mortgage, 1816 Deed Book I; Jonathan Thompson to David Williams, Mortgage, 1816, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

¹² Keeping property in tact was not as easy as Abijah made it seem. Five different transactions between 1800 and 1817 transferred the "Wilderness Plantation" between several owners. The property began as a 450-acre property and ended-up a 903-acre plantation; it was owned by four different individuals, three of whom were Marylanders, and one was a New Yorker. In two of these transactions the property

Smith & Hunt to obtain the \$106,206.00 loan from Liverpool creditors.¹³ After Abijah's death sometime in 1815, Elijah Smith and David Hunt as executors of his estate placed his properties for sale in order to pay creditors only to re-purchase them.¹⁴ At auction they picked up the original 52 acres Abijah had purchased in 1800 for \$2,200.00. David Hunt sold to fellow-executor Elijah, 520 acres of Abijah's Sandy Creek property; the same one that New Orleans merchant William Kenner had sold to him in 1801. Elijah also purchased Lot 1 Square 3 in Natchez from the estate for \$16,000.00, a 406 acre parcel and 663 acres on Cole's Creek.¹⁵ All

was sold at auction to pay debts, then re-purchased again. By 1800 the 450-acres sold for \$3,600.00, by 1817, it was a 903-acre plantation that cost \$20,000.00, and each owner who mortgage a part of the property turned to east-coast lenders. William G. Forman, Executor of General David Forman to Joseph Forman, Jr., October, 1800, Deed; William Forman, Executor of General David Forman to Joseph Forman, Jr., October, 1800, Deed; William Forman, Executor of General David Forman to Joseph Forman, Jr., October, 1800, Deed, Deed Book A, Adams County Office of Records, Natchez, Mississippi. Joseph Forman, Jr., bid on 1,700 acres of the deceased Forman's property on the much-coveted Bayou Sara, paying \$2,110.00. Joseph paid \$17,599.00 for 71 acres of the elder Forman's estate, 40 head of horned cattle, 4 horses and farming equipment. Another \$8,700.00 was paid for 23 of the decedent's slaves, 16 horses, 50 horned cattle and household articles: Two properties, two sets of enslaved labor forces, and as with most transactions, they were witnessed in the records by fellow merchants, Bryan Bruin, and J.C. Wikoff.

¹³ They also mortgage additional properties to British creditor James Hipkins for a loan of \$10,614.97 on the security of 716 acres and "negro slaves" on Bayou Pierre (how many is not indicated); 675 acres adjoining the first property originally granted to Abijah Hunt in 1810; another 412 acres purchased by David Hunt from the "U.S."; and 105.5 acres granted by the Spanish governor. This loan was obtained one year before the larger loan with Barclay & Salked.

¹⁴ Abijah Hunt's career had hinged on taking advantage of lower prices. Aggressively focusing on inland properties, he purchased Charles Carter's 290-acre tract on Wells Creek in 1801 for \$300.00; a few months later he paid \$200.00 for 160 acres of Carter's 450-acre Spanish granted lot of 1796 also on Well's Creek. He also paid \$400.00 to James Hayas, a Spanish military officer for 500-acres. Hayas sold Hunt another 211 acres eight years later. Hunt paid another merchant \$750.00 in 1800 for 500 acres on Bayou Sara. By April he paid 400 acres on Bayou Sara to an area widow. The only major sales came after his death with his nephew and partner sold his properties. Charles Carter to John Holland and Abijah Hunt, merchants, Deed, December 1800 Deed Book B; Charles Carter and Robert Carter to John Holland and Abijah Hunt, merchants, February, 1801, Deed, Book B; James Hayas to J. Holland and Abijah Hunt, Deed, 1800, Deed Book B; William Lewis to Abijah Hunt, Merchant, Deed, 1800, Deed Book B; Abner Lawson Duncan to Abijah Hunt, Merchant, Deed, 1800, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

¹⁵ The elder Hunt had purchased in 1800 from fellow merchant Antonio Grass and J. Murdock, a Spanish land grantee several tracts that Elijah and David held onto. Antonio Grass to Abijah Hunt, Deed, 1800,

of these properties the elder Hunt had acquired and held onto since the early days in 1800 and 1801. There were even more properties the executors purchased from the estate, but the point is that retention played an important part in creditors' eyes.¹⁶ Regionally, that creditor included the Natchez-New Orleans planter-merchant William Kenner of Kenner & Co. Kenner was an influential spokesman for the mercantile community throughout the region, owned two sugar plantations, Oakland in Jefferson Parish, Louisiana, and in Linwood in Ascension Parish, Louisiana. A member also of the Legislative Council of Louisiana in 1804, he was on the board of directors of the United States Bank of Philadelphia in 1805 and agent of what became the State Bank of Mississippi. As a preferred creditor for a large swath of planters.¹⁷

At some point, however, possibly before August 23, 1820, Smith & Hunt paid their debts to their Liverpool creditors by deeding over the plantations they had used as security. George Salked, partner of Barclay & Salked of Liverpool, turned over his share of Smith & Hunt's Grindstone Ford Plantation in Claiborne County along with his shares to two other plantations. How the firm came to own them is speculative, but the evidence reasonably suggests the two Natchez merchants had defaulted. Salked's shares of these plantations were transferred eventually over to Thomas Barclay and J.P. Barclay. At the time, Grindstone Ford had increased to 1,728 acres. Valued at 18 and a half cents per acres and including 38 slaves valued at

Deed Book B; Abijah Hunt to Antonio Grass, Mortgage, Deed Book B. Grass sold Lot 1, Square 3 to Hunt for \$3,000.00 and a day later, Hunt mortgaged the property back to Grass for \$6,000.00. The Murdock parcel was identified in a "List of owners" from Jeremiah Hunt and David Hunt, Executors of Abijah Hunt to Elijah Smith, Deed, 1816, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

¹⁶ Included in the additional lands the executors picked-up were lands purchased originally from William Kenner and for which David Hunt paid Elijah Smith as executor \$1,500.00. Elijah Smith, executor to David Hunt, executor, Deed, 1817, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

¹⁷ William Kenner Papers, Louisiana and Lower Mississippi Valley Collections, Hill Memorial Library, Louisiana State University.

approximately \$600.00 each, with livestock and buildings, the total value in dollars came to \$57,460.00 (in British pounds, £12,928.10).¹⁸ There is no indication Smith & Hunt ceased operations or were excluded from further loans. The records suggest that their individual accumulation of assets far exceeded the properties they had acquired through Abijah's estate.

The rise in the demand for cotton allowed for more flexibility in the acquisition of property, and thus the rate at which one could accumulate debt. The benefits of being a preferred lender were clearer at the local level: faster payments. The sale of several tracts that included 30 slaves and water rights cost merchant-planter Daniel Elliott \$64,000.00 in March of 1814. Each annual payment of \$16,000.00 would be made in 57,142 pounds of cotton in bales, starting in 1815 and ending in 1818.¹⁹ In June of the same year Roach took out a loan he also sold a portion of his property (which one is not known) to make a one-time \$9,000.00 payment.²⁰ Roach took 375 acres plus 24 slaves and again mortgaged them to Henry Dangerfield.²¹ Geographically close distances between debtor-creditor helped keep them in lock-step with expansion in the area when times were good.²²

¹⁸ "Transfer of George Salked's share in plantations in Mississippi and Louisiana to George and J.B. Barclay," August 23, 1820, A.W. Turner Collection, Miscellaneous Papers, 1805-1894, The British Library, London, Great Britain. The two other plantations transferred in 1820 to the firm was Windsor Foust in Concordia Parish, Louisiana valued at \$108,850.00 containing 2,100 acres and 126 slaves, and Southwood Lodge in Adams County, Mississippi valued at \$114,956.00 containing 2,376 acres and 112 slave laborers.

¹⁹ Benjamin Roach to David D. Elliott, March 1814, Mortgage, Deed Book H, Adams County of Records, Natchez, Mississippi.

²⁰ Benjamin Roach and Elizabeth Greenfield to Daniel Elliott, Mortgage, June 1814, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

²¹ Benjamin Roach to Henry Dangerfield, Mortgage, June 1814, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

²² David Lattimore to Alexander Smith, Mortgage, May 1813, Deed Book H, Adams County Office of Records, Natchez, Mississippi. Elijah Smith, Hunt's old partner, was in partnership with Moses Alexander in Concordia by May of 1813. Both men were able to sell, and then mortgage lands back to

But Roach had the benefit of using Dangerfield and Elliott interchangeably because of his ability to pay in cotton. Before 1814, Dangerfield sold to Roach the 375 acres that included a house. Roach paid with 9,375 pounds of merchantable cotton (ginned and baled).²³ Elliott again obtained the original mortgage back from Dangerfield in June of 1814, providing him with security for the remaining payment of 46,250 pounds of clean cotton due from Roach.²⁴ All but one of Roach's payments were made in cotton—and the property used to secure the transactions were transferred between lenders three times in the same month.

No matter the time period, financial problems sometimes required individuals to sell property quickly, back-and forth between merchant-planters in the same family. Joseph Forman, Jr. resided in Baltimore, Maryland. He sold 3 properties to family member William Forman, of Monmouth County, New Jersey in October of 1800 and totaled \$23,409.00.²⁵ This included 71 slaves, forty-head of horned cattle, four horses and farming utensils on one property, and 23 slaves on another. By the next month, these same three properties in their

David Lattimore after the latter, in an appellate court case in Orleans Parish, had his lands seized to pay back merchants James C. Wilkins & Co.

²³ Henry Dangerfield to Benjamin Roach, Deed, June 1814, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

²⁴ Daniel d. Elliott to Benjamin Roach, June 1814, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

²⁵ William G. Forman, Executor of General David Forman to Joseph Forman, Jr., October, 1800, Deed; William Forman, Executor of General David Forman to Joseph Forman, Jr., October, 1800, Deed; William Forman, Executor of General David Forman to Joseph Forman, Jr., October, 1800, Deed, Deed Book A, Adams County Office of Records, Natchez, Mississippi. Joseph Forman, Jr., bid on 1,700 acres of the deceased Forman's property on the much-coveted Bayou Sara, paying \$2,110.00. Joseph paid \$17,599.00 for 71 acres of the elder Forman's estate, 40 head of horned cattle, 4 horses and farming equipment. Another \$8,700.00 was paid for 23 of the decedent's slaves, 16 horses, 50 horned cattle and household articles: Two properties, two sets of enslaved labor forces, and as with most transactions, they were witnessed in the records by fellow merchants, Bryan Bruin, and J.C. Wikoff.

entireties were sold back to Joseph Forman.²⁶ No matter the issues that led to these transactions in such a short time, they resulted in the ability of the two men to keep these properties within their hands—resources that must have aided William Forman as one-half partner of the Forman & A. Hunt firm.

When they could not hold properties together, assets were quickly transferred to a creditor or preferred lender. By 1815, Stephen Minor had already become a leading planter and a creditor in the region. When he sued planter Thomas Wilkins for \$43,104.86 in Superior Court, the result was the sale of Wilkins' 2,291-acre Mississippi River plantation.²⁷ Auctioned for \$5,000.00, the new owner quit-claimed it on the same day as the auction to his preferred merchant-creditor—a deceased New Orleans merchant by the name of Chew. Beverly Chew, as executor, empowered by the estate, sold the property on the same day the estate acquired it to a New York buyer for \$7,500.00, making a profit of \$2,500.00.²⁸

Keeping pace with the quickening momentum, the plantation as a type of financial instrument is apparent in the sales of mortgages. The mortgage on an 800-acre plantation mortgaged in 1788 involving merchant-planter William Henderson to creditor and New Orleans merchant Peter Sauvi for \$4,200.00 was sold to Natchez merchant John Henderson in May

²⁶ Joseph Forman, Jr., to William Forman, Deed, November, 1800, Deed Book A; Joseph Forman, Jr., to William Forman, Deed, November 1800, Deed Book A; Joseph Forman, Jr., to William Forman, Deed, November, 1800, Deed Book A; William Forman, Executor of General David Forman, deceased, formerly of Kent County, Maryland to Joseph Forman, Jr., of Baltimore, Maryland, Deed, Adams County Office of Records, Natchez, Mississippi.

²⁷ White Turpin to Lyman Harding, Deed, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

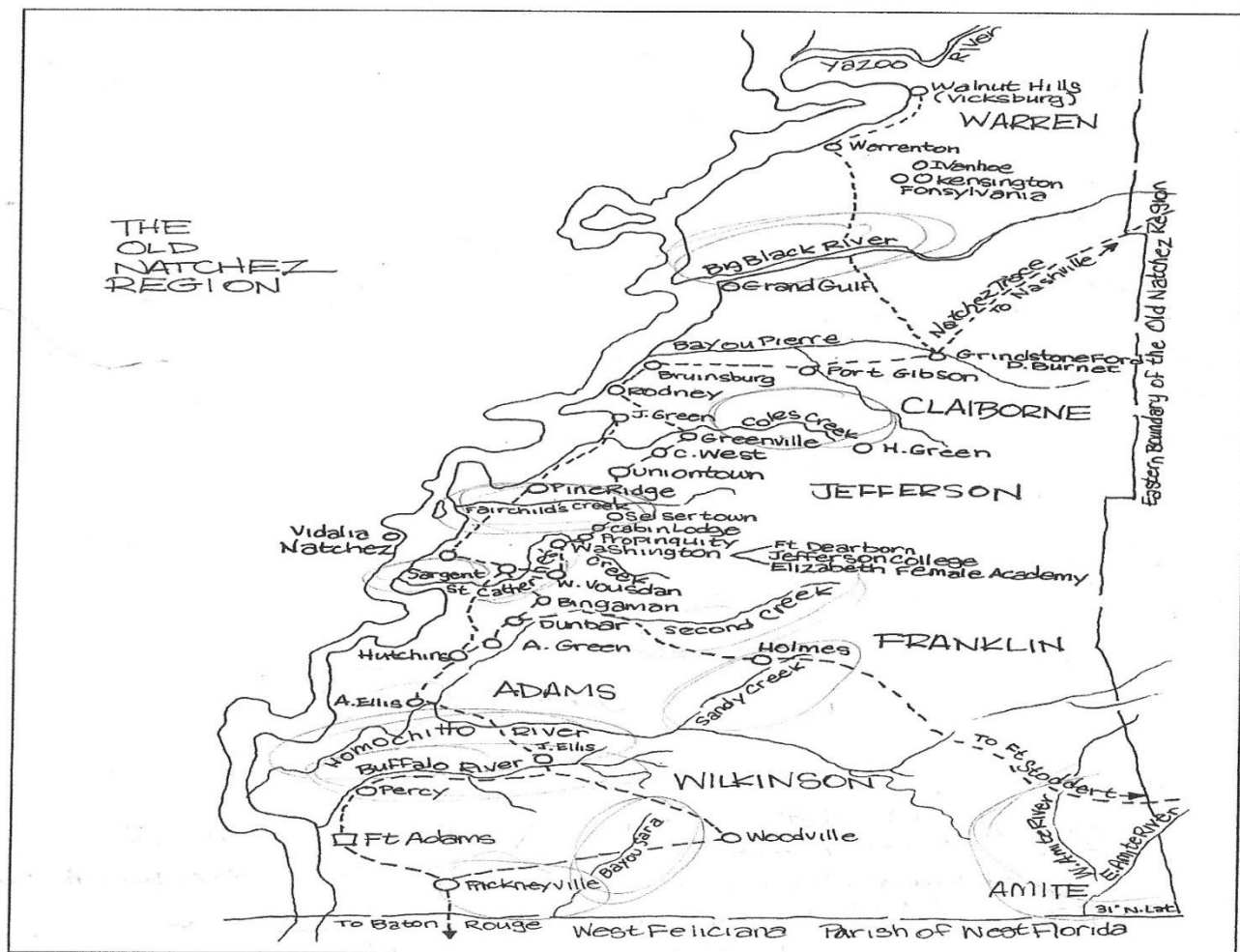
²⁸ Beverly Chew to John Livingston, New York, Deed, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

1808. Henderson then sold the mortgage to William King in 1808. By 1812, it was again sold by William to Richard King, and the latter sold it to Lyman Harding, attorney general of the District in 1814 for \$800.00.²⁹ The need for income streams from such financial arrangements was clearly, if imperfectly, on the rise.

²⁹ William King to Richard King, Mortgage, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

Riverine Properties

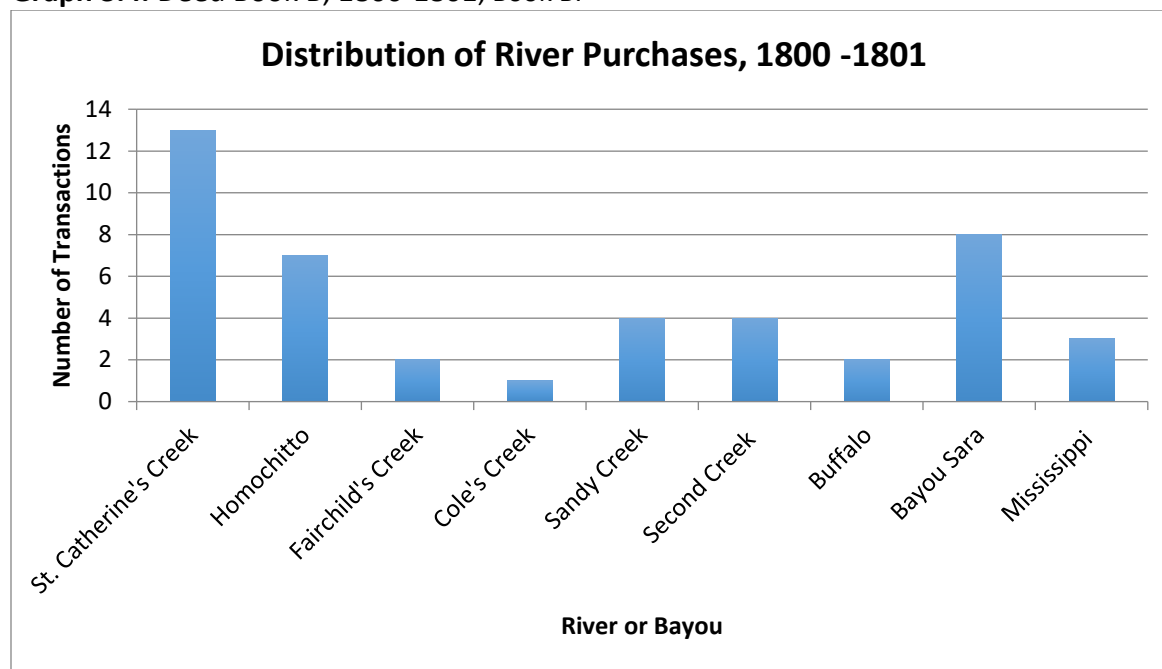
Land on a river or waterway outsold the category of plantations in all periods.¹ Transactions for waterway lands, moreover, centered perhaps unsurprisingly on the inland river ways eastward from, and running into, the Mississippi River.



Map 3. Source: Richard H. Faust, “William Weatherford: A Case Study of a Man Dominated by Historical Events in the Creek Nation, 1780-1824,” (Unpublished Master’s Thesis, University of Southern Mississippi, 1973). The Mississippi River is the meandering double-line to the left of the settlements indicated in the map.

¹ Kilbourne, *Debt, Investment, Slaves*. This observation is consistent with the antebellum period of land sales examined by Kilbourne.

Graph 3.4. Deed Book B, 1800-1801, Book B.



In 1800 and 1801, lands along St. Catherine's Creek were the most in-demand properties (**Graph 3.1**). Line **graph 3.2** includes all the transactions sold, mortgaged, and auctioned on St. Catherine's Creek in those two years. For purposes of this discussion, I focus on the five price spikes of the total thirteen transactions in those two years. The average number of acres exchanged hovered between 400 and 700 acres. The price spikes include a 764-acre property sold in a merchant-to-merchant transaction for \$3,000.00,² as well as 400 acres sold between two planters also for \$3,000.00.³ The smallest tract—.732 of an acre—was sold by merchant John Girault for \$2,000.00 to a Tennessee merchant, Seth Lewis.⁴ No doubt, Girault sold to

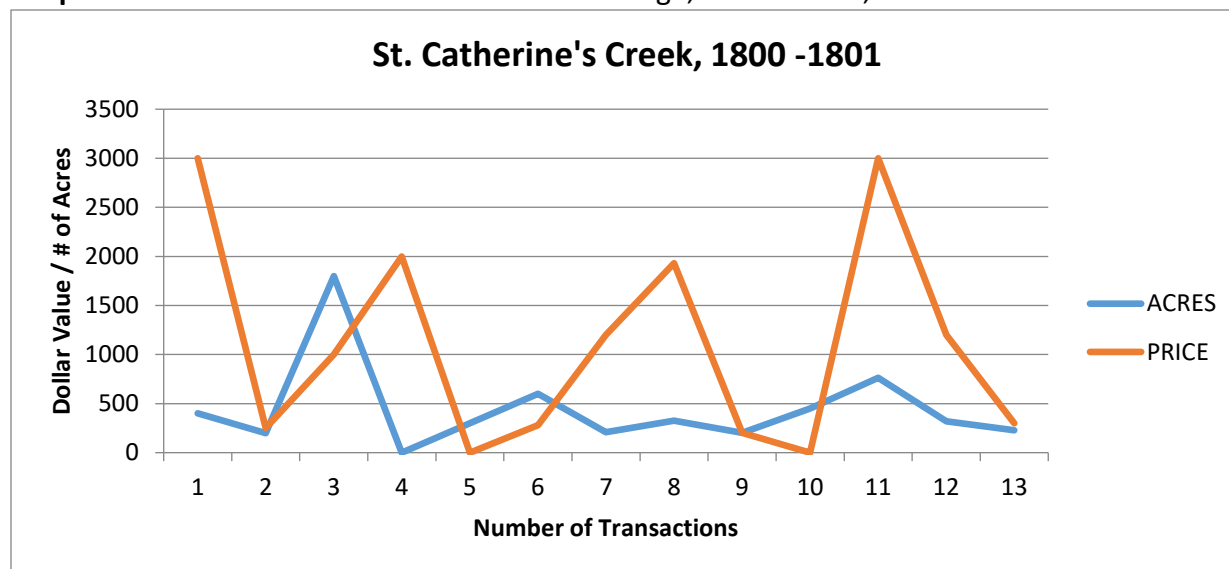
² Ebenezer Rees, merchant to William Kenner, merchant, Deed, 1800, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

³ Christian Harman to Thomas Rule, Deed, October 1, 1800, Deed Book A, Adams County Office of Records, Natchez, Mississippi.

⁴ John Girault to Seth Lewis, Deed, October 1, 1800, Deed Book A, Adams County Office of Records, Natchez, Mississippi. The property was located at the corner of two branches of St. Catherine's Creek and was measured in what are called "perches." Perches were measured as follows: "beginning at a

Lewis a valuable piece of property since it sat at the fork of two branches of St. Catherine's Creek. Still, merchants were able to find a bargain on this waterway by purchasing from planters and smaller farmers. Merchant Thomas Tyler purchased 203-acres located at yet another fork of the St. Catherine's Creek for \$203.00 from a planter. This was possible even as what we today call "comps" or "comparables" gradually rose in the Natchez District.⁵

Graph 3.5. St. Catherine's Creek Prices and Acreage, 1800 – 1801, Book B.



Total Number of River Lots= 52													
Acres	400	200	1799	n/a	300	600	208	325	203	450	764	320	229
Prices (in dollars)	3000	250	1000	2000	0	280	1200	1929	203	0	3000	1200	300

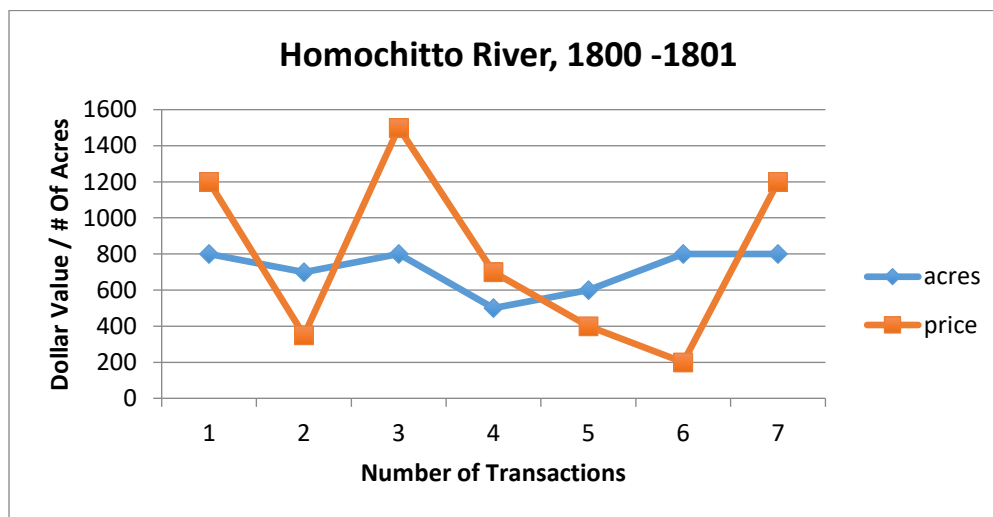
The case for inflated prices is made clearer when we look at the third most in-demand creek, the Homochitto. The Homochitto, like St. Catherine's Creek, ran directly into the Mississippi

Black Oak corner on Richard Adam's line, running thence along Daniel Maggoll line North 57 degrees West , two hundred and twenty four perches to a walnut on the West Bank of the Branch thence north 70 degrees sixty perches to a Sweet Gum" tree.

⁵ Merchants were making in-roads into many other waterway locations: Abijah Hunt and John Holland picked-up 290-acres on Wells Creek in 1800 for \$300.00. He also bought extensively on Cole's Creek and Sandy Creek.

River. Four transactions in 1800 and 1801 each for 800-acres were double the size of a minimum lot on St. Catherine's. Whereas 764 acres on St. Catherine's sold for \$3,000.00, the average price-spike here on the Homochitto fell within the range of \$1,200.00 to \$1,500.00 for an 800-acre lot. Merchants again benefitted, first by buying low, as when merchant Leonard Pomet paid \$400.00 for a 600-acre lot, and planter-merchant William Dunbar's purchase of a 500-acre lot for \$700.00.⁶

Graph 3.6. Homochitto River Prices and Acreage, 1800 – 1801. Book B.



Total Number of River Lots =52							
Acres	800	700	800	500	600	800	800
Prices	1200	350	1500	700	400	200	1200

⁶ Henry Nicholson to William Dunbar, Esq., Deed, 1800, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

When they sold, they garnered a sizable profit. Merchant Jesse Carter sold to John Ellis, a Spanish-era Anglo-American planter, an 800-acre tract on the Homochitto for \$1,200.00.⁷ But, planter-to-planter transactions do not illustrate such price-hikes normally: John Planter (in both name and occupation) sold to planter John Armstreet a 700-acre property that year on the Homochitto for \$350.00.⁸

Observing fewer sales on other waterways is not in itself give any indications of diminished economic importance. Neither did size. What did matter was distance and the liquidity of merchants that helped determine which locales would make an impact on their enterprises. Before the operation of steamships on western rivers that began in 1812 and ran routinely between Natchez and New Orleans, and later, the construction of steamers able to traverse navigable inland bayous after 1818, merchant-planters picked-up properties on the basis of their distance to-and-from larger channels; and were able to do so also without compromising the need to expand their acreage at this time.⁹

⁷ Jesse Carter to John Ellis, Deed, 1800, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

⁸ John Planter to John Armstreet, Deed, 1800, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

⁹ Brasseaux and Fontenot, *Steamboats*, 4, 8, 38-50.

Map 5. Confluence of Bayou Sara and the Mississippi River (present-day).



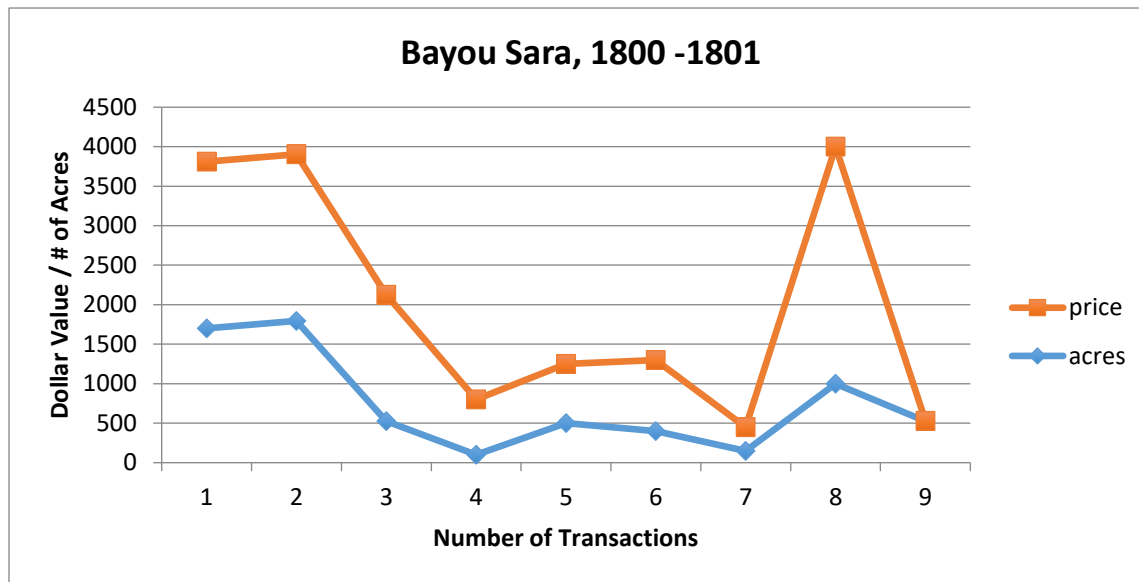
Map 4. Source: Google Maps. (2018). Bayou Sara and the Mississippi River. Retrieved from <https://mapcarta.com/20977562>.

Sandy Creek and Bayou Sara (**Map 5 and Graph 3.4**) exhibited much of the space price patterns as the previous waterways, but Bayou Sara was an extremely important location; the confluence of Bayou Sara and the Mississippi River was a full 64.5 miles closer to New Orleans. A roughly comparable number of acres along Bayou Sara—a tract of 1,975 acres compared with St. Catherine’s Creek of 1,799 acres—sold between Maryland merchants for \$2,110.00.¹⁰ The

¹⁰ Joseph Forman, Jr., to William Forman, Deed 1800, Deed Book B, Adams County Office of Records, Natchez, Mississippi. Both Joseph and William transacted again for Bayou Sara properties: William Forman sells to Joseph Forman again in 1800 for 1700 acres at \$2,110.00 (see Graph 3.4). Joseph Forman, Jr., to William Forman, Deed, 1800, Deed Book B. Adam Horton to Patrick Connelly, Deed, 1800, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

St. Catherine's Creek property sold for \$1,000.00. Tennessee merchant Isaac Johnson paid a local planter \$1,600.00 for 525 acres of Bayou Sara waterfront and even well-funded merchants forked-over comparatively more money: Daniel Clark paid \$700.00 for 100 acres as did Abijah Hunt who paid \$900.00 for 400 acres.¹¹ Hunt's purchase reflects the fact that even he thought this waterway was worth more in the long run.

Graph 3.7. Prices and Acreage Purchased on Bayou Sara, 1800 -1808, Deed Book A & B.



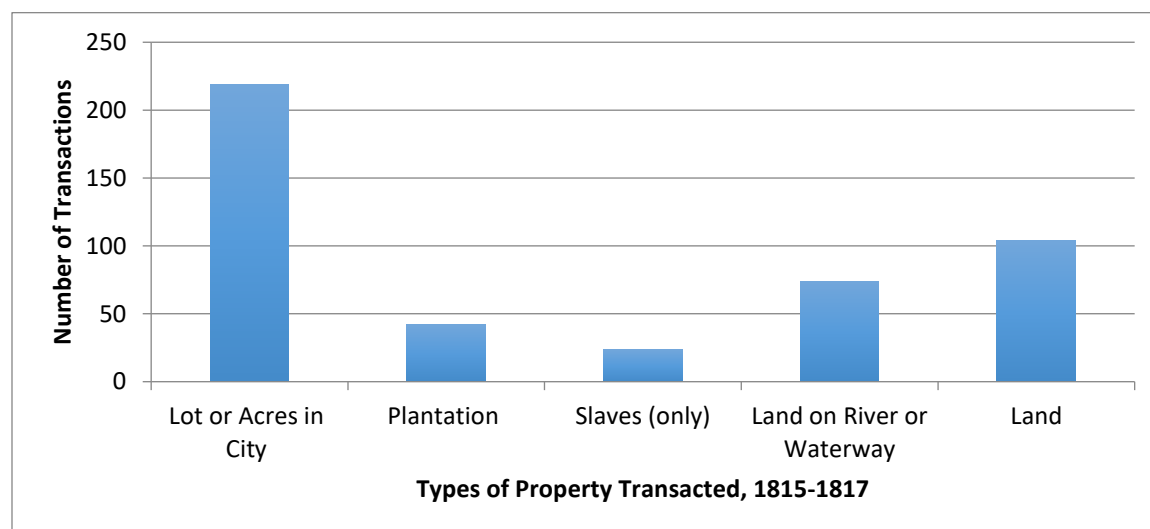
Total Number of River Lots 52									
Acres	1700	1795	525	100	500	400	150	1000	525
Prices	2110	2110	1600	700	750	900	300	3000	5

Perhaps it was easier to inflate the price of land when selling to an out-of-town merchant, but there is nothing that directly accounts for the sometimes erratic price variances though there is

¹¹ John Wall to Isaac Johnson, Davidson, Tennessee, Deed, October, 1801, Deed Book B; Thomas Dawson to Daniel Clark, Deed, March 1801, Deed Book B; Abner Lawson Duncan to Abijah Hunt, April, 1801, Deed Book B; though Hunt on average paid \$400.00 for land, he again paid \$750.00 for 500-acres on Bayou Sara in the same year as his other Bayou Sara purchase. William Lewis to Abijah Hunt, June, 1801, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

some indication of a very general consensus. For example, the highest price paid of \$3,000.00 for 1,000 acres on Bayou Sara was transacted between long-established and well-capitalized planters Joseph Panill and John Ellis. This was roughly double the price and acreage purchased by the above-referenced Tennessee merchant.¹² Is this evidence of a kind of merchant-led price indices? Answering this question requires further research. But there are indications: While planter Cader Rabie sold 300-acres on Sandy Creek to merchant James Moore for a paltry \$150.00, merchant Ebenezer Rees paid Philadelphia merchant James Rasilly \$1,200.00 for a 400-acre tract on the same creek.¹³ Still, prices were, as they say, “all over the map,” despite some consistencies apparent in merchant transactions all throughout these early years.

Graph 3.8. Types of Property Sold, Auctioned, and Mortgaged, 1815, 1816, 1817 Deed Book H & I



¹² Joseph Panill, Esq. to John Ellis, Deed, Esq. May 1800, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

¹³ Calder Rabi to James Moore, Deed, December, 1800, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

Line **graph 3.8** illustrates the prices paid for Homochitto River tracts between 1815 and 1817. Purchases and sales of Homochitto tracts align with the overall patterns found in the previous decade. Merchant J. William Weeks sold a 660-acre property to planter Elijah Swayze for \$6,600.00, and Swayze again paid a family member \$4,270.00 for a 470-acre lot.¹⁴ But Swayze also got a “deal,” purchasing 18 acres for \$146 from planter Caleb King.¹⁵ King also sold to Calvin Smith (a planter) a 300-acre lot for a low \$400.00.¹⁶ Among the higher priced properties was the \$5,000.00 paid by merchant-planter James Cook for 533 acres.¹⁷ There is also evidence of mortgage-lending to those who were sought entry into plantation agriculture. J. Howard mortgaged a 640-acre property for \$640.00 through merchant Lewis Baker.¹⁸ Meanwhile, the three lowest-priced property sales were based on auctioned properties.¹⁹

¹⁴ J. William Weeks to Elizjah Swayze, Deed, 1815, Deed Book H; N. Swayze to N. Swayze, Deed, 1815, Book H, Adams County Office of Records, Natchez, Mississippi.

¹⁵ Caleb King to N. Swayze, Deed, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

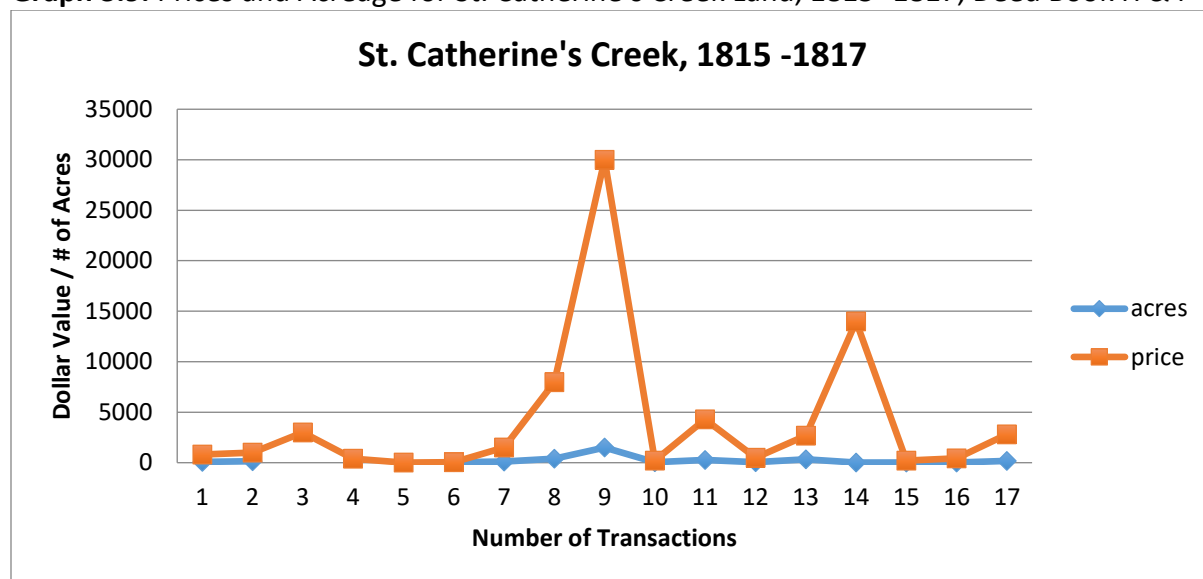
¹⁶ Caleb King to Calvin Smith, Deed, 1816, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

¹⁷ James Cook to Gabriel Winter, March 9, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

¹⁸ J. Howard to Lewis Baker, Mortgage, 1817, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

¹⁹ White Turpin to A. O’ Connor, Deed; White Turpin to W. Adams, Deed; White Turpin to W. Adams, Deed, 1817, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

Graph 3.9. Prices and Acreage for St. Catherine's Creek Land, 1815 -1817, Deed Book H & I



Total Number																	
Acres	82	150	n/a	n/a		50	105	398	1500	40	276	40	336	14	30	20	190
Prices	800	1000	3000	400	9	42.39	1500	7962	30,000	200	4300	500	2688	14000	200	430	2800

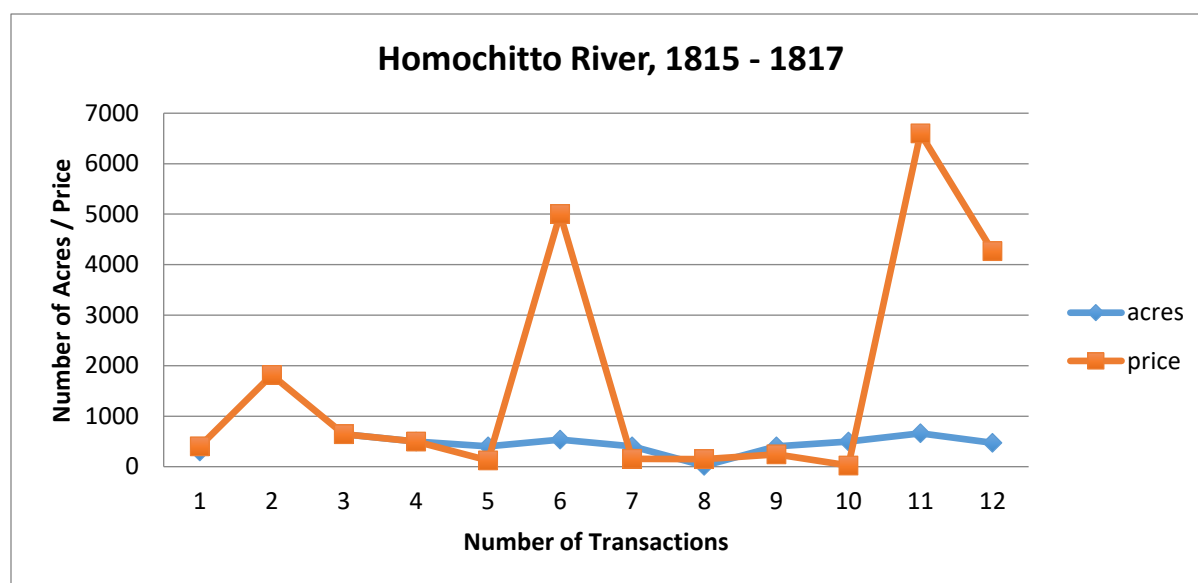
The Natchez District and surrounding lands was able to maintain gains in higher prices during the period 1815 to 1817 (not including foreclosed properties or auctioned properties) and two transactions stand out for St. Catherine's Creek properties. A \$30,000.00 sale made by merchant Benjamin Osmun to planter Robert Andrews, Elizabeth Andrews and Joseph Wilkinson for 1,500 acres.²⁰ The records suggest that this 1,500 acre lot included 398-acres purchased by the Andrews the day before they made the sale; the two transactions again show a quick turnover of properties and profits.²¹ Why they paid such a high price is hard to tell. The

²⁰ Benjamin Osmun to Richard Andrews, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi;

²¹ Amy Blanchard, administrator of Thomas Blanchard to Robert Andrews, Elizabeth Andrews, Joseph Wilkinson, Deed, January, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

second price-point for \$14,000.00 was transacted between two planters for 14 acres.²² The next highest price, \$4,300.00 was a sale by merchant Timothy Terrell to merchant-planter Benjamin Kitchen.²³ None of the remaining transactions include merchant-planters as either buyers or sellers, and price points as well as the number of acres remained at or below the 5,000 mark.

Graph 3.10. Prices Paid for Lands on Homochitto River, 1815 – 1817.



Total Number												
Acres	300	n/a	640	500	400	533	400	18	400	500	660	470
Price	400	1815	640	500	126	5000	152	146	244	24.23	6600	4270

²² Joseph Taylor and Gerard Brandon, Deed, 1816, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

²³ Timothy Terrell to Benjamin Kitchen, Deed, 1817, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

Natchez City Town Lots

Increased prices meant, potentially at least, more equity and credit. This is evident among transactions for Natchez town lots. Merchants were quick to sell these town lots to other merchants with more liquid capital than planters; in the process they made a tidy profit. Town lots were measured in square feet rather than acres and sales of these lots or sometimes acres within city limits (designated as lots) exceeded in number all other types of property sold (see Graph 3.11). Town lots were expensive and they changed hands more quickly than any other category of property. Merchant Abijah Hunt's penchant for raising or at least fixing prices extended over to town lots. Hunt sold lot 1 square 3 for \$6,000.00 in 1800; this was far higher than a comparable lot with improvements on it for \$2,000.00.¹ The latter involved a merchant creditor from New Orleans who extended a line of credit based on a mortgage to a local Natchez planter. On the same day Hunt sold lot 1 square 3 to local merchant Antonio Grass, the latter merchant turned to Hunt for a mortgage on the same property for \$3,000.00.²

Sales of town lots sometimes were bundled with other properties. Hunt quickly sold-off a few properties he had accumulated between 1801 and 1810. He purchased 520 acres off Sandy Creek in November of 1801 from New Orleans merchant and Natchez Judge, William Kenner.³ He had acquired another 118 acres adjoining the town of Washington in Mississippi in May of

¹ Abijah Hunt to Antonio Grass, Deed, October, 1800, Deed Book A, Adams County Office of Records, Natchez, Mississippi.

² Antonio Grass to Abijah Hunt, Mortgage, October, 1800, Deed Book A, Adams County Office of Records, Natchez, Mississippi.

³ William Kenner to Abijah Hunt, Deed, 1801, Deed Book A, Adams County Office of Records, Natchez, Mississippi.

1810 from William Kenner, and another 50 acres from merchant-planter Robert Williams.⁴ By 1816, Hunt's brother and nephew, Jeremiah and David, sold off much of Abijah's properties. The Hunts sold approximately 265 acres of the properties purchased from Kenner to Abijah's partner, Elijah Smith for \$3,000.00.⁵ The consolidation of properties continued on to properties sold by other planters. On the same day, the properties formerly sold to Abijah by merchant Antoine Grass were sold to back to Smith again by Hunt's firm for \$16,000.00 and included Square 3 of Lot 1 in the city, 663 acres on Cole's Creek in Jefferson County, another 406 acres also along Cole's Creek, and another 520 acres on Sandy Creek.⁶ There were still plenty of opportunities for buying low in order to sell high. Jeremiah and David bid at auction on a number of foreclosed lots, all of which are not known, paying \$2,200.00 for one lot, and bid \$200.00 for another lot from planter Charles Green.⁷

The rate of change is suggested by the increase in prices but also patterns such as those seen in the exchange of lot 4 of the Natchez town plat. Like other town lots, Lot 4 was divided in four even sections. In 1815, William Richards, a New Orleans merchant mortgaged Lot 4

⁴ William Kenner to Abijah Hunt, Deed, March 1810, Deed Book B, Adams County Office of Records, Natchez, Mississippi.

⁵ Jeremiah and David Hunt to Elijah Smith, merchants, Deed, 1816, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

⁶ Jeremiah Hunt, merchant to Josiah Simpson, Deed, May 1817, Deed Book I, Adams County Office of Records, Natchez, Mississippi; Jeremiah and David Hunt, merchants to Elijah Smith, Deed, May 1816, Deed Book I; Jeremiah Hunt to Elijah Smith, May 1817, Deed Book I; Jeremiah and David Hunt, merchants to Elijah Smith, May 1817, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

⁷ White Turpin to Jeremiah and David Hunt, merchants, Deed, 1817, Deed Book I; Charles B. Green to Jeremiah and David Hunt, Deed, 1817, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

Section 1 to Anglo-American merchant Phillip Engle.⁸ Richards, a Spanish-era, Anglo-American merchant, loaned Engle the small sum of \$450.00 based on the property. On August 12, 1816, the same day Engle paid off the loan, he quickly split section one into two equal halves, selling them each for \$450.00 to attorney and planter Edward Turner, and doubling his initial investment.⁹

Baltimore merchants Michael and Luke Tiernan purchased a house and buildings on a Natchez city lot from another merchant in 1815 for \$9,741.00. Just a few miles north a planter that same month purchased 50 acres on Fairchild's Creek for \$200.00.¹⁰ The disparity tells us something about the premium placed on sites that were sources of trade and business. The transactions of Lewis Evans consisted mainly of town lots. Between 1813 and 1817 he bought and sold 13 town lots, six in total, took place in 1816.¹¹ Out of those six transactions in 1816, four were conducted with fellow-merchants. Evans' profits in town lots certainly supplemented

⁸ Philip Engle to William Richards, Mortgage, 1816, Deed Book H, Adams County Office of Records, Natchez, Mississippi

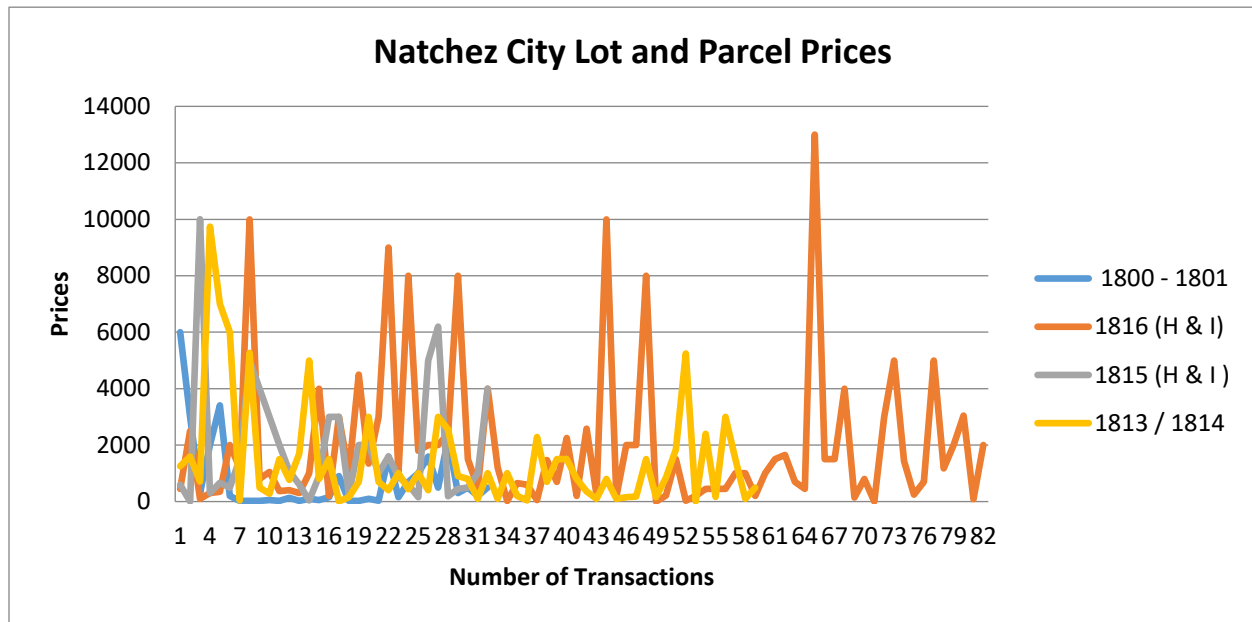
⁹ Phillip Engle to Edward Turner, Deed, 1816, Deed Book H; Phillip Engle to Edward Turner, Deed, 1816, Deed Book H, Adams County Office of Records.

¹⁰ Deed, October 9, 1813, Alexander Murray to Michael and Luke Tiernan, Tiernan & Co., 1813, Deed Book H, Adams County Office of Records, Natchez, Mississippi. The property included a house and buildings. Deed, November, 1813, John Wrinkle to Manuel Madden, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

¹¹ Deed, William Lattimore, merchant to Lewis Evans, 1815, Deed Book H, 425; Deed, Christopher H. Kyle, Merchant to Lewis Evans, 1815, Deed Book H, 305; Deed, John Henderson, Merchant to Lewis Evans, 1815, Deed Book H, 300; Deed, Lewis Evans to John Werlin, 1814, Deed Book H, 61; Deed, William Barland to Lewis Evans, 1816, Deed Book H, 70; Deed, H.R. Williams to Lewis Evans, 1816, Deed Book H, 149; Deed, William Barland, executor to Lewis Evans and James C. Wilkins, Merchant, 1816, Deed Book H, 153; Deed, Lewis Evans to Gabriel Tichenor, 1816, Deed Book H; Deed, S. Davis to Lewis Evans, 1816, Deed Book H, Deed, Robert Cochran, Merchant to Lewis Evans, 1816, Deed Book H, 530.

his mercantile enterprise as did his access to the latent capital in his plantation properties; twice in 1816 he mortgaged two of his plantations.¹²

Graph 3.11. Prices Paid for Town Lots, 1800 – 1801, and 1815 – 1817.



Graph 3.11 shows the cumulative transactions from 1800 and 1801, and then 1815 to 1817 involving city lots. For the 1800 to 1801 period 32 transactions were carried out on the basis of town lot purchases. For 1815 33 transactions based on town lots took place. A range of sizes characterized town lots, especially if owners split or consolidated lots. Sizes ranged from twenty-three feet in length by one hundred and sixty feet wide to one-hundred and fifty feet by

¹² Lewis Evans, merchant to William Lattimore, merchant, Mortgage, 1815, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

forty-eight feet and still others were described only by reference to the Lot number and square number, directing the reader only to a city map without enumerating the exact size.¹³

After the War of 1812, however, there was a marked increase in the sale of these properties. For 1816 to 1817, eighty-three transactions were carried out by 66 discrete merchant-sellers. They sold to 78 discrete merchant-purchasers. Such purchases were facilitated by a merchant's knowledge of court proceedings and property seizures. Alexander Murray of Natchez was able to capitalize on a suit involving merchants John Wilkins, Jr. and James C. Wilkins against Natchez merchant-planter William Lattimore. Wilkins & Linton requested and were granted a seizure of Lattimore's town lots, occupied by Murray at the time. The property was valued at \$1,350.00, and at auction was purchased by Murray. Murray allowed Lattimore to remain, and "together with [merchant] Elijah Smith as his security" purchased the property. Knowing what he could get for the property that included a house and buildings in the city, Murray mortgaged it five months later to Baltimore merchants Michael Tiernan and Luke Tiernan for \$9,741.06.¹⁴ The evidence suggests that merchants were a driving-force behind much of the real estate transactions in the Natchez area and that the networks they were a part of were crucial to the advancement and growth of property and prices. While slaves were a separate market and value was dictated by cotton prices, real estate proved crucial to early merchants as it provided them with yet another avenue of income and credit; realizing here that this conclusion contradicts historian Richard Kilbourne's analysis regarding ties between land and income.

¹³ James Moore to William Shipp, April, 1817, Deed; Lewis Evan to Gabriel Tichenor, March, 1817, Deed; Leonard Pomet to Daniel D. Elliott, September, 1816, Deed, Deed Book I, Adams County Office of Records, Natchez, Mississippi.

¹⁴ Alexander Murray to Michael Tiernan, Luke Tiernan, December 1815, merchants of Baltimore, Maryland, Mortgage, Deed Book H, Adams County Office of Records, Natchez, Mississippi.

Though his insights are centered on the 1840s and 1850s and after, Kilbourne's discussion of land as comparably inferior to slave property still acknowledges that land changed hands with far more frequency than slaves. For this analysis, land not only sold more frequently, but it also conferred benefits to those individuals "getting-into" the early stages of the market; an overused idea that is nevertheless made discernible through such early transactions of frontier lands that would continue to increase in price even if they did not rise relative to the level of slave prices. Such a situation developed without the aid of bank loans and testifies to the strength of mercantile networks in and outside the region.

Conclusion

Property of all kinds, its value and size were at the heart of the local economy and its politics. When the place of study is also a market hub of a slave based economy mid-way in its transition from a frontier setting to a more mature area, the analysis has implications relevant to the institutions that followed, not least of which were slavery and banking. How credit was used as a resource, which instruments were preferred and the relationship fostered between "giver" and "taker" all are processes that had their roots in the patterns of changing property rights, size, ownership and exchange.

Importantly, these patterns set the stage for what was to come. The emergence of banks in the region is really the story of how New Orleans and slightly lesser extent, Natchez, Mississippi, merchants devised methods of increasing their control of bank capital.¹⁵ The

¹⁵ Richard J. Kilbourne, Jr., "Security Commercial Transactions in the Antebellum Legal System of Louisiana 70 Kentucky Law Journal (1981): 609 – 641, 615-616.

capital raised for property banks, beginning in the 1820s, was not the sale of stocks but the sale of bonds secured by a pool of stockholders' mortgages on real estate. While commercial security was ultimately a matter of personality, the mortgage itself was "creatively" utilized by merchants in financing the capital of the state's several land banks. Every stockholder upon depositing and pledging his certificate of stock was "entitled to a credit equal to one-half of the total amount of his stock."¹⁶

The anti-bank sentiment which existed early on in the beginning of the nineteenth-century was complicated by the Creole/American distinction and the xenophobia often closely associated with it. Complaints about the control of one city bank or another by particular ethnic factions had been common since territorial days, but as the institutional matrix of the region's mercantile capitalism expanded in size, complexity, and global reach during the 1830s, popular prejudices were even more frequently expressed the banks that seemed to epitomize these trends. One citizen, for example, denounced "the influence of foreign capital working through New Orleans banks" in 1831 letter to the *Baton Rouge Gazette*. Interestingly, the same writer also linked foreign influence in Louisiana banking to 'the remnants yet of Spanish feudality' in "our social system."¹⁷ Indeed, as of 1837 over half of the Crescent City's banking capital, over \$20 million, was imported from sources overseas, especially from Great Britain and

¹⁶ An Act to Incorporate the Citizens' Bank of Louisiana, §11, 1833, 1st Session, 172, 180; Kilbourne, "Security," 615-616; Marler, *New Orleans Merchants*, 23-25.

¹⁷ Data on the sources of New Orleans banking capital in 1837 are presented in Green, *Finance and Economic Development*, Table 3.2. *Baton Rouge Gazette*, January 29, 1831, quoted in Roger W. Shugg, *Origins of Class Struggle in Louisiana: A Social History of White Farmers and Laborers During Slavery and After, 1840-1875*, (Baton Rouge: Louisiana State University Press, 1968), 30. On merchants' close involvement with Louisiana banking during the territorial and early national periods, and the ethno-cultural controversies that sometimes resulted, see Clark, *New Orleans, 1718-1812*, 342-349.

France. Increasingly, banking capital was generated through foreign investment. In New Orleans the Union and Citizens Banks garnered nearly a fifth of the city's bank capital from non-Louisiana U.S. investors, mainly New York.¹⁸

Despite the need for banknotes and loans, it was, more often than not, the need for an everyday form of currency that was at the heart of an exchange business and set firmly in the hands of private individuals that predominated. Substitutes for banknotes such as that of the promissory note and draft increased in a landscape where a multitude of debts were negotiated and renegotiated, whether it was in the sale of an important commodity, or a transaction recorded in a simple ledger account for merchandise or services advances. Most fundamentally, this study of debt and credit includes those transactions that appeared in collection suits for Adams County, Mississippi, and demonstrates that a layer of economic activity served as a secondary capital market that facilitated what might be referred to as the every-day economic life of the region.

¹⁸ Marler, *Merchants*, 24.

Chapter 4

Credit Instruments and Changing Mercantile Practice in the Natchez District

...the Yazoo men were promiscuous, in the eighteenth-century sense.

Faith in the rewards that attended risk imparted a shared identity to an otherwise diverse and fluid group. They came from different ethnic and family backgrounds and pledged different parties. They attended different churches, but these good paper men shared a reverence for Mammon.

Money's god prized novelty and flexibility and daring. Morton expressed something like their catechism when he pled the New England Mississippi Land Company's case to Congress: 'Whatever is not forbidden by law, is permitted, and whatever is permitted is lawful.'

--Jane Kamensky

I was only the property of another, working to pay the debt of another, who I suppose thought he ought to receive interest on his bill; and that interest had to be paid by me in addition to the daily labor, by receiving a whipping every day besides losing a meal.

--Isaac Mason, slave

The Adams County Circuit Court records of collection actions recorded debts between private individuals outside the limits set by commerce and banking. Local economic actors, many of them without long-distance ties, used other forms of credit to operate in the region, and they too, required regional preferred lenders. Indeed, few if any of the collection suits were based on disputes over land, cotton, or slaves, and none of them included indications of the region's commercial orientation, or the typical barter exchange that was quintessentially part of the "frontier" economy. Yet, the absence of such indicators has analogous implications for the study of the Delta's credit relations. To date, descriptions of the credit and debt system in the early national period veer toward a primitive "semi-barter," as described by Daniel

Usner, Jr., or as a set of “complexities” in the forging of numerous plantation empires. Usner’s detailed account of frontier relations aptly recognized the need to focus on the interstices of exchange. Though he necessarily included the “internal relations forged by inhabitants,” the domestic, colonial market of the Delta is strongly set among the barter and deerskin trade between Indians, slaves, and settlers.¹⁹

At the other end of the spectrum, Thomas Scarborough’s detailed account of the economic strategies used by four generations of the Bisland family of Natchez illustrates their adaptability to a credit system that “rested on a foundation honeycombed by the numerous mortgages and notes...given to relatives and other planters.” Both descriptions, while accurate, still leave out much of the area’s early loan relationships.²⁰

The hundreds of collection suits filed in the Adams County Court in Natchez document the character of a slave-based, river-port economy from its quasi-frontier status to a mature cotton-exporting economy of astounding wealth. The cases remained sealed until the 1990s and reveal that the Natchez District reflected the economy of much of the rest of the nation: a high incidence of endorsements that enabled personal IOUs to pass among strangers. Where the informal market intensified in this way, creditors’ willingness to hold on to “scraps of paper” that were “symbolic capital” occurred because of an increase in overall liquidity and a rate of return that enabled farmers to divert more of their savings accumulations from physical

¹⁹ Daniel H. Usner, Jr., *Settlers and Slaves In a Frontier Exchange Economy before 1783*, (University of Alabama Press, 1992).

²⁰ Thomas A.H. Scarborough, The Bislands of Natchez: Sugar, Secession, and Strategies for Survival,” *The Journal of Mississippi History* 58:1 (Spring, 1996).

improvements on their farms to debt instruments and securities.²¹ I discuss some of the grey area between private banking and commercial banking in the first section of this chapter and in the next section analyze the collection suits themselves.

Regional Banking and Private Credit: An Economic Historian's View

The “great void” in our understanding of early financial markets remains, however, with an especially large piece missing for private plantation debt in the Delta. Historians have studied southern banking for quite a while. Louisiana banking, in particular, was the focus of George D. Green’s monograph twenty years ago. Larry Schweikart’s study of the Delta includes an analysis of state-chartered banking institutions. Green’s book importantly teased-out the various commercial banking philosophies that came to predominate in Louisiana during the Depression of the 1840s. Echoing historian’s Fritz Redlich’s 1970 monograph, they proposed that a great deal of southern banking was carried on outside the boundaries of the state-chartered banks which represented only a “partial accounting” of that history.²² Richard H. Kilbourne confirmed that outlook, explaining that “a study of state-chartered banks and their impact would not be without interest, but it would be of limited importance in piecing together the credit history the area.”²³ By now a general consensus among historians is that much of the antebellum south’s banking was conducted outside of banks, privately. But how slavery shaped

²¹ Rothenberg, “The Emergence of a Capital Market.”

²² George D. Green, *Finance and Economic Development in the Old South: Louisiana Banking 1804-1861* (Stanford: Stanford University Press, 1972); Larry Schweikart, *Banking in the American South, from the Age of Jackson to Reconstruction* (Baton Rouge: Louisiana State University Press, 1987); Larry Schweikart, “U.S. Commercial Banking: A Historiographical Survey,” *Business History Review* 65 (Autumn, 1991): 606-661; Fritz Redlich, “The Role of Private Banking in the Early Economy of the United States,” *Business History Review* 41 (1977): 90-93.

²³ Kilbourne, *Debt, Investment, Slaves*, 23.

the area's developing financial system or how it shaped planters' perceptions of property in human beings as assets, still remains to be explored.

The first part of this chapter examines the debts that merchants in the Natchez area put to suit. I claimed earlier in the study that the routines set by metropolitan centers were diffused by merchants. Here I trace more clearly the use of the local court as an extension of the debt collection process, and of the merchant routines that such collection suits bring to light. Next, I turn, once again, to planter Jonathan Thompson and examine the possibilities available to a planter, heavily in debt, who chose to use the local arena, family and friends, to obtain the credit and resources needed to finance of his cotton operations. Thompson's debt levels by any calculation were considerable. Much of the credit he contracted as both debtor and creditor was unsecured and had little connection to the larger networks of international credit. Moreover, the credit he obtained by mortgaging real and personal property, as well as his cotton planting partnership, centered on his close friend and business partner James L. Trask, and brothers-in-law David Williams and Winthrop Sargent. His records show that in having leaned heavily toward family and friends for business loans, he eschewed the speed and pace with which merchants sought to put promissory notes into suit, and prevented his properties from ever being seized.

Assumpsit Debts in a Transitional Economy

At the core of this dissertation is the idea that conflict was shaped by a legally pluralistic society.²⁴ But, what, if anything, does the idea of ‘legal pluralism’ at a local level, help us understand, or give us, beyond simply that there is no one obvious player who is able to impose jurisdiction in all cases?²⁵ To better understand the potential advantages that diversity-in-law offered requires seeing how the approach to credit transpired in the choices individuals made.²⁶

Those decisions were in a certain sense masked under the legal heading of *indebitatus assumpsit*.²⁷ Because Mississippi was an English common law territory and state, the courts recognized individual indebtedness in one of two ways. A promise to repay was expressed or

²⁴ Here, I am less interested in the locating the capitalist and pre-capitalist strains of Southern, or for that matter, Northern capitalism. Both were present in unequal and varying activities from the seventeenth into the twentieth century. Moreover, regional economies and societies more or less capitalistic were not necessarily at odds. Thus to describe capitalism and markets as having penetrated or invaded isolated regions runs the risk of separating producers as oriented toward international markets or not—a dualism proposed by Morton Rothstein in the 1960s. The crucial question is the transitional process itself, how it occurred, how it affected people, how in turn, it shaped the legal process. For Mississippi this view is also prevalent in, Morris, *Becoming Southern*. An important body of literature addresses these ideas and which is influenced by studies of Latin American agricultural development. See for example, Gustavo Rodriguez O., “Original Accumulation, Capitalism, and Pre-capitalistic Agriculture in Bolivia,” eds., Lillian Manzor Coats and Dianne Tritica Robman, trans., *Latin American Perspectives* 7 (Fall 1980), 50-66. Steve Stern, “Feudalism, Capitalism, and the World-System in the Perspective of Latin America and the Caribbean,” *American Historical Review* 93 (October, 1988): 829-72.

²⁵ Kenneth Pomeranz, Conversation, March, 2012.

²⁶ Benton and Ross, “Legal Pluralism.”

²⁷ Assumpsit, Latin for “he undertook” or to assume. “In law, a promise or undertaking not under seal. This promise may be verbal or written. An assumpsit is express or implied; express when made in words or in writing is implied, when in consequence of some benefit or consideration accruing to one person from the act of another; the law presumes that the person has promised to make compensation. In this case, the law upon principle of justice, implied or expressed, raises a promise, on which an action may be brought to recover the compensation. Thus if A contracts with B to build a house for him, by implication A promises to pay B without any express words to that effect.” Webster’s New Universal Dictionary of the English Language (Webster’s International Press, New York, 1976)

implied; if express, whether written or oral; and if written, whether embodied in a promissory note, a bill, or a bond. The courts recognized what was by definition the debtor's assumed liability that was "not under seal," with the plaintiff having to show proof of the claim. Under the assumpsit heading were nested two types of claims. The first was a debt for a specific sum, or fixed quantity, which did "not depend on an after calculation to settle it."²⁸ Examples include rent, a bond or a promissory note. Hence the action was identified as an "action of debt," meaning that it reflected a previously negotiated and fixed sum. The second type of assumpsit debt was identified as an "action on the case." According to this latter type of suit, the parties had not settled on a specific price, and the debtor assumed a liability based on the nature of the financial arrangement. Typical of an "action on the case" were those claims that sought to recover the remaining balance of an open account that was a credit line for goods rather than a definitive amount of money previously agreed upon.²⁹ **[Figures 4.1 and 4.2]**

For scholars, the hallmark of the antebellum credit system was its ability to carry a debt from one year to the next (i.e., assumpsit debts). Financially, that capability stemmed from what historian Harold Woodman describes as the "security of cotton grown, growing, and to be grown that served as the basis of an immense credit system in the South."³⁰ But even open accounts, which presumably were paid with the incoming tide of profits from cotton, were not always unproblematic. Open account statements from commercial merchants to planter clients contained debit entries for drafts accepted and funds placed to the credit of such clients, as

²⁸ David, "The Role of Credit and Debt."

²⁹ See also, R.H. Helmholz, "Assumpsit and Fidei Laesio," *The Law Quarterly Review* 91 (1975): 406; R.H. Helmholz, "Debt Claims and Probate Jurisdiction in Historical Perspective," *The American Journal of Legal History* 23 (January, 1979): 68-82.

³⁰ Woodman, *King Cotton and His Retainers*.

well as purchases of supplies charged to the account and payments made on behalf of clients as requested. So long as the client had money on deposit with his factor, it is quite easy to see how the arrangement functioned smoothly. However, many clients frequently had unpaid balances with their factors for longer periods, even years. Sometimes that firm had substantial capital. Most did not. The simplest arrangement, as in Reno's case, was for a factor to take a planter's draft and endorse it, making himself liable; he could then sell it to a third party for a discount (sometimes a hefty discount). Promissory notes were used as payment for a debt owed, sold in the market, or pledged as security to a third party, the open account was considered liquidated. But notes were uncollateralized, secured only with endorsements, therefore ran the risk of non-payment.

Private promissory notes began with "I promise" and end with a signature. Thus, the absence of a seal facilitated their use as a flexible form of secondary exchange. Such unsecured lending rested on the creditor's good estimate of the debtor's solvency. Analysis of the debt cases, however, reflects an increased reliance upon promissory notes despite the inherent risks. The question, then, is what alternatives would there have been and how did promissory notes come to be a preferred method? Prior to 1809, there were what were known as "due bills," which were essentially a legal description of a debt that was presumed to be owing but did not have a specific date of maturity and even left open-ended the extent of the debtor's liability. In this period, also, was the practice of 'reckoning,' or accounting of the mutual indebtedness of creditor and debtor. Items such as an open account for "merchandise, goods, wares" required the merchant to sell the draft or promissory note to a private investor in order to liquidate the debt. The first banking institution in Mississippi established in 1809,

however, allowed factors and commission merchants to make promissory notes a flexible substitute for hard currency. The promissory note was discounted at the bank, and the merchant received banknotes in exchange, with the bank essentially placing its own notes in circulation, and substituting its “liabilities” for real gold. With more options available for liquidating debts, the proliferation of promissory notes in the Delta was in lockstep with the post-Independence economics of the rest of the United States.³¹ Increasingly, then, courts as well as banks were becoming an extension of the local economy.³²

Local Instruments, Merchant-Creditors: A view from the Natchez Court

In the post-Independence era, collection suits based on what is known as “accommodation paper,” or “private paper” (based on the laws of *assumpsit*) were steadily increasing in volume. Table 4.1 presents the types of suits filed with the court and their volume during the three separate years under review.

Table 4.1. Types of Debt Claims filed in 1809, 1820, and 1826, Natchez, Mississippi.

³¹ A large literature establishes a positive relationship between credit market development and economic growth. Richard Sylla argues that banking emerged in the United States in the 1790s; Peter Rousseau and Sylla suggest that financial development was indeed the driving force of economic progress. Ta Chen-Wang suggests, however, that micro-level studies of early banks are needed, because the mere introduction of early banks may not have advanced the overall quality of the credit market relative to personal credit. The most incisive study of the Delta’s credit economy, Richard H. Kilbourne, Jr., determined that in the region’s agricultural enclaves banking and factorage systems “were ancillaries to” the market in plantation debt that was “many times larger than the exchange and discounting operations of a handful of commercial banks.” See Richard Sylla, “Financial Systems and Economic Modernization,” *The Journal of Economic History* 62:2 (2002): 277-92; Peter L. Rousseau, and Richard Sylla, “Emerging Financial Markets and Early U.S. Growth,” *Explorations in Economic History* 42:1 (2005): 1-26; Wang, “Banks, Credit Markets,” 440-451; Kilbourne, *Debt, Investment, Slaves*. See also, Winifred Barr Rothenberg, “The Invention of American Capitalism: The Economy of New England in the Federal Period,” In *Engines of Enterprise: an Economic History of New England*, ed., Peter Temin (Cambridge: Harvard University Press, 2000), 69-107.

³² For a discussion of the economic ties between the courthouse and the slave market after the 1830s in Natchez, Mississippi see, Gross, *Double Character*, 23-32.

Year	Promissory Note	Bill of Exchng	Order, Draft, Due Bill	Money Lent	Open Account	Bond	Rent	Wages Services	Theft, Fraud	Barter
1809	59	4	3	5	14	0	1	9	14	3
1820	202	14	7	11	32	1	3	5	22	0
1826	209	7	3	11	40	2	6	28	18	2

Source: Adams County Office of Records, Historic Natchez Foundation, Natchez, Mississippi.

Promissory notes were by far the largest category of defaults. Written promises (what one contemporary called “scraps of paper”) to pay did not circulate at par, (face value of the note), although they had to be paid at par with interest. That is, when creditors assigned their debtors’ notes they did not receive the full face value of the notes or bonds in return, whereas the assignees who ultimately collected from the debtors did, plus interest. What creditors actually received was determined by two discounts. One is mathematically straightforward—the right to receive \$10 one year from now is not worth \$10 today; rather, the present value of that claim is whatever lesser amount would grow to \$10 in one year’s time with the accumulation of interest. Thus, a note for \$10 payable in one year, would sell for that lesser amount, but further discounts remained. A debtor’s promises to pay were only as good as his ability to pay and ability to borrow which depended on the quality of endorsements. Other people’s perceptions of that ability constituted the debtor’s creditworthiness and determined what they were willing to pay for the debtor’s written promises. A determining factor in the circulation of the notes and bonds of debtors was the quality of merchant or planter endorsements. Many notes traded at deeper discounts—that is to say, they cashed-in less on the market than the notes or bonds of debtors with high-quality endorsements. The result was the private equivalent of currency depreciation—as reports of a debtor’s difficulty spread, the price at which assignees would accept his paper dropped, often precipitously. Hence the frequent preoccupation of debtors with reputation and honor. Assignability thus promoted a

level of economic efficiency.³³ Income streams depended upon the ultimate value of such notes and made the issue of liquidity (i.e., their convertibility into specie or a cash equivalent such as a banknote) fundamental to credit arrangements in the Delta.³⁴ Liquidity appeared also within the language of the law and reflected the changes in the every-day world of lending.

The two salient features among the cases is the increased use of the promissory note itself, and second, the category of petty debt that these notes served. In Figures 4.4 through 4.6, petty debt which is valued at between \$1 and \$501.00 accounted for the majority of cases in all three years. These small uncollateralized notes, with depreciating values, and endorsements that were contingent upon reputation and status, made it imperative that merchants collect all that they could as soon as possible. Add to this the variety of unpredictable factors that informed creditors' on-the-spot knowledge—a debtor's bad luck, unreliability, or, the death of a merchant-partner who had lent sums in his own name, and it is easy to see what prompted

³³ Mann, *Republic of Debtors*, 13-17; David, "The Role of Credit."

³⁴ Liquidity or "ultimate liquidity" is what drove income streams. In his examination of the secondary market for credit instruments in the region Richard H. Kilbourne, Jr., explains it this way: "The picture of the locality is complicated by a variety of credit instruments that were primarily distinguished by their relative liquidity. It is the 'ratio of ultimate liquidity' to aggregate income,' that seems especially relevant for elucidating the relationship between the debt market and the monetary system. Private investors in plantation debt were willing to hold debt instruments for a long period of time provided the relative loss of liquidity was compensated for with various premiums. Land sales on credit, which were the norm, generally resulted in a rise of 25 to 50 percent in the acre price. Short-term loans denominated in specie-convertible bank notes carried a discount premium of 1 percent per month for less than six months. Long-term financing arrangements with factorage firms generally did not entitle the borrower to a fixed interest charge; rather, the borrower paid the financing costs borne by the firm, which varied with the short-term cost of money." In times when banks suspended payments, the whole debt market then became "less liquid." Kilbourne, *Debt, Investment*, 17. In Peter Dickson's study of finance in early modern England, he points to the period between the 1690s and early 1700s for evidence of liquidity when England began discounting bills of exchange through the Bank of England in such frequency that by 1707 it was apparent to some observers that their use had increased the flow of trade. P.G.M. Dickson, *The Financial Revolution in England: A Study of the Development of Public Credit, 1688-1756* (New York: St. Martin's Press, 1967), 15.

merchant-creditors to quickly file suits based on small sums. This is also borne-out by the higher number of merchant-creditors as plaintiffs. Twenty-one individual merchants and merchant-firms filed collection suits in 1809 26 times out of 128 debt cases filed that year. In 1820, that number rose to fifty-six individual firms who filed 99 cases out of a total of 332 debt cases in 1820. By 1826, the number of individual firms dipped to thirty-seven but they still filed 105 times out of 328 debt cases. **[Appendix, 4.7 List of Merchants].**

Figure 4.1.—Monetary Values of Debt Cases, 1809

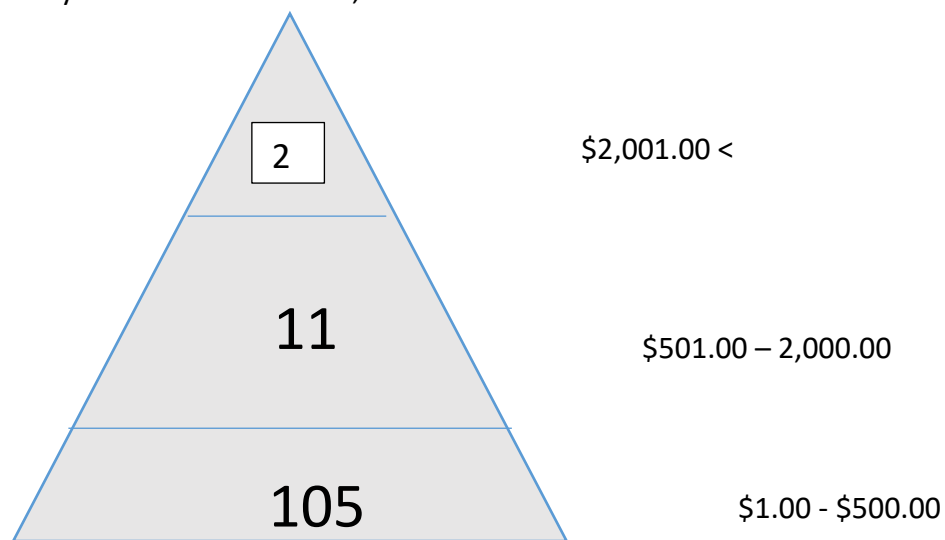


Figure 4.2.—Monetary Values of Debt Cases, 1820

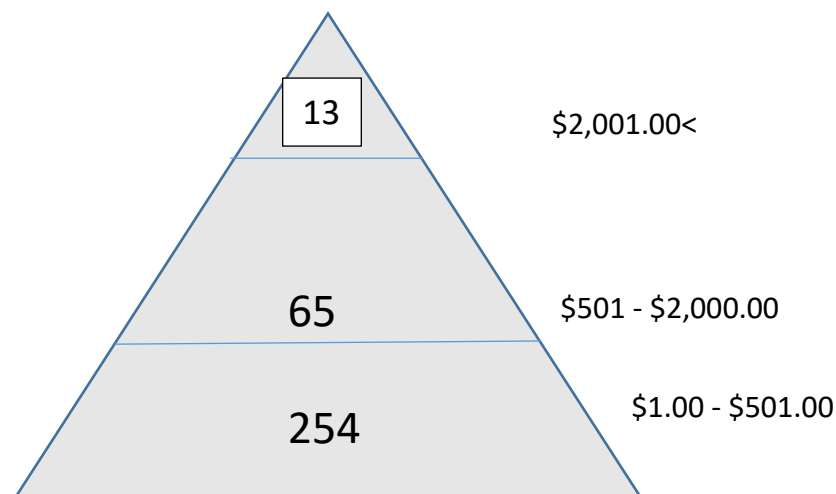
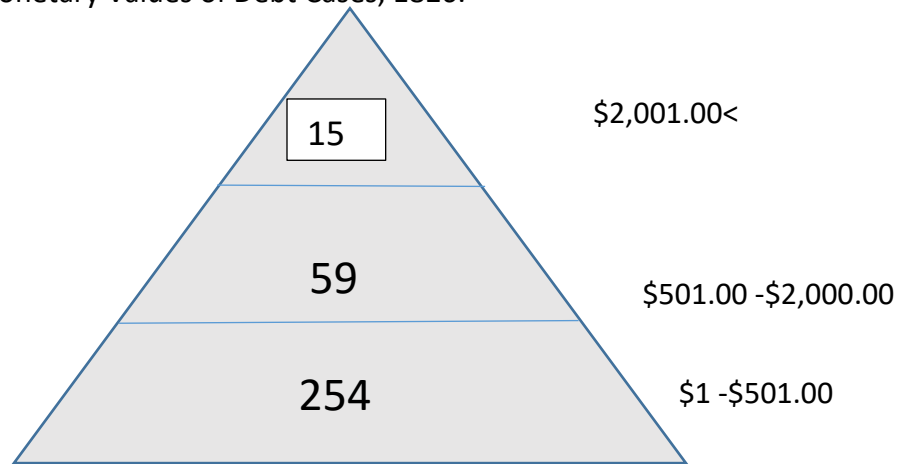


Figure 4.3.—Monetary Values of Debt Cases, 1826.



Source: Adams County Office of Records, Natchez Historic Foundation

In 1809, creditors brought 95 separate cases to collect bills of exchange, promissory notes, and accounts for goods and merchandise, drafts, or book accounts. Of those, forty cases were filed in 1809, the same year as the original contract. Eleven out of the forty were promissory notes “due on demand.” Twenty-nine cases out of the 95 total suits filed were based on credit instruments which were a year old or contracted one year prior to the filing of the suit.

Twenty-six were filed to recover debts based on credit instruments that were contracted two years before; the oldest of which was for a promissory note dated November 1802. Moreover, twenty-one individual merchants and merchant-firms filed 26 times out of total 95 collection suits based on credit instruments and accounts (33 were filed to recover debts that did not arise from a credit instrument).

In 1820, approximately 259 cases were filed to recover debts due exclusively on notes, drafts, bills of exchange and open accounts. Seventy-two cases from this sub-group were filed in the same year the debt originated, in 1820. One-hundred and seventeen cases out of the

259, were for those debts that originated one year before, while seventy cases were for debts two years or older. All but one case in these seventy cases had a date of indebtedness for which the year had been 1818 and 1817. In 1820, the number of merchants and merchant-firms that filed rose to fifty-six. Out of 259 cases merchants filed 99 times to recover debts based on financial instruments (leaving 160 suits based on debts that did not arise from financial instruments). In 1826, the number of merchants and merchant-firms dipped to 37. This group filed 105 collection suits to recover debts based on credit instruments.³⁵

Before the establishment of the bank, the words creditors used in their declarations invoked an immediacy; a reflection of a marketplace lacking hard currency. The practice of “accounting together” was used to induce payment and gradually decreased in the transitional era. Also known as “reckoning,” creditor and debtor came together, compared their respective debts, crossed-out equivalent debts and settled on the difference with cash or a note. Since credit was common most people accumulated a variety of mutual debts overtime. These obligations were remembered or recorded in an account book, and mutually cancelled at convenient, though frequent intervals. ‘Reckoning,’ appeared in complaints in only one case in 1809 and once in 1820; suits based on “such accounting,” were instigated when the defendant was “found to be in arrears.” In 1809, Natchez planter and lumber merchant Peter Little sued John B. Stout, based on having “accounted together concerning divers sums of money.” Fast-forward

³⁵ Adams County Office of Records, Historic Natchez Foundation, Natchez, Mississippi.

to 1820, when merchant James H. Caldwell claimed that the “aforesaid accounting” showed Samuel Emberton to be in arrears.³⁶ But by 1826, there were no cases filed on this basis.

Nowhere was the relative lack of liquidity more obvious than the words, “on demand,” indicating a strong need among creditors to have debtors pay when the need arose. In May of 1800, Jesse Camp endorsed a promissory note due from Peter Pollard “on demand.” Camp quickly assigned the sum of money to be paid to John Logan. The sum of \$150.00 was promised either to Camp himself or the bearer of the note ‘when summoned on demand.’ Pollard refused payment, and the note with the refusal was presented to Camp “immediately upon his return to the territory.” Apparently, Camp’s return did not solve the problem and Logan turned to suing Camp for the funds, rather than the original debtor. **[See “Complaint” in Appendix, 4.8.]** John Lattimer sued John Payton for an 1808 note that was “due on demand,” and even the larger merchants in the area relied on such terms: Abijah Hunt and his partner William G. Forman sued debtors for notes that were “due bills,” that forced or “made due” the payment.³⁷ But, after the bank’s establishment in 1809, the due bill was not only used less frequently, there were no debt cases based on a due bill filed by merchants; instead many raised the interest rates on notes. ‘Payable on demand’ were words used less frequently because when a factor or planter took a note as evidence of a debt, the note could be pledged or sold to a third party or bank. So, for example, when B & J Shaw extended credit to Charles T. Thompson, the terms of repayment on the promissory note specified, “which if not punctually paid shall bear 10 percent interest.” The

³⁶ *Peter Little v. John B. Stout*, 1809, Adams County Court Records, Historic Natchez Foundation, Natchez, Mississippi; *James H. Caldwell v. Samuel Emberton*, 1820, Adams County Court Records, Historic Natchez Foundation, Natchez, Mississippi.

³⁷ *John Lattimer v. John Payton*, 1808, Adams County Office of Records, Historic Natchez Foundation, Natchez, Mississippi.

fact that the note could be more easily sold to a bank or third party, also enabled B & J Shaw to assign it as payment to someone else.³⁸

Aided by the territorial, and then State Bank of Mississippi, and by a growing money market in the region, these same instruments, promissory notes, bills of exchange, open accounts functioned on the immediate availability of funds.³⁹ The steady increase in cases based on promissory notes in **Table 4.1** is a sign of the rise in liquidity, and is reflective of the period during which cotton production became a full-fledged part of the commission system. Tied more closely to the ups and downs of cotton production itself was the bill of exchange. Typically the instrument involved four parties, the drawer, the drawee, the payee, and the purchaser of the bill. Two elements enabled it to function properly—the existence of a credit balance held with a city merchant, and the inherent negotiability, or credibility of the originator of the bill that

³⁸ *Henry Tooley, assignee of John Tooley, assignee of B & J Shaw v. Charles T. Thompson*, 1820, Adams County Office of Records, Historic Natchez Foundation, Natchez, Mississippi. Likewise, William B. Harper was required to write that “if the same is not punctually paid, I agree to pay them two percent a month until paid for value received,” for a note extended by merchants Tiernan & Alexander valued at \$474.18. *Robert Alexander, Peter Tiernan, merchants v. William B. Harper*, 1820, Adams County Office of Records, Natchez Historic Foundation, Natchez, Mississippi.

³⁹ The bank established in Natchez in 1809 was chartered with a capital stock of \$500,000.00. In December of 1817, Mississippi became a state of the Union and the state became a partner in the regional bank. In 1818, the charter was amended and the capital stock was increased to \$3 million with the name of the bank changed to The Bank of the State of Mississippi. The General Assembly chartered the Planters’ Bank in 1820 and the Agricultural Bank in 1833. Neither of these latter two banks survived the crash in 1837. In that year, the Mississippi Union Bank was chartered in Jackson, Mississippi, with a capital stock of \$15.5 million raised on the basis of state bonds. Speculation and ineffective management led to a deterioration of the banking system and most banks in Mississippi were insolvent by 1840. Although most financing in the state was managed by brokers and cotton factors from 1840 up to the Civil War, private banks such as Britton and Koontz in Natchez, Wirt Adams & Company in Vicksburg, and both J. & T. Green and Griffith and Stuart in Jackson provided some banking services. Marvin Bentley, “The State Bank of Mississippi: Monopoly Bank on the Frontier: 1809-1830,” *The Journal of Mississippi History* 40:4 (November, 1978). For a brief history Mississippi banks see Lewis F. Mallory, Jr., *Mississippi Bankers Association: A Century of Service* (New York: Princeton University Press, Newcomen Society of the United States, 1989).

allowed it to be transferred from person to person. Both of these requirements allowed merchants to use their credits in one location to purchase goods or make payments in a distant or foreign market without relinquishing hard currency in form of silver or gold.

A typical scenario went much like this: The drawer, a Natchez merchant, who needed to purchase goods or make a payment in a distant market such as Jamaica, but who did not have a credit balance with mercantile correspondents in that location, would either make a payment, consign his cotton, or access existing credits by drawing a bill of exchange on his New Orleans merchant, the drawee. In the case of cotton consignments, The New Orleans merchant would endorse this bill, indicating his acceptance on the face of the bill and guaranteeing its payment upon maturity. The Natchez drawer, upon receiving the accepted bill, would then send it to the Jamaican merchant, the payee, who could then present it for payment to the New Orleans merchant who held the credits, or endorse the bill and use it to discharge his own debts, pay for goods or simply sell the bill for a cash advance. The purchaser of the bill could collect payment from the New Orleans merchant who held the credits, or use it to pay his own debts with it. Bills could in this way remain in circulation for a considerable length of time.⁴⁰

A dramatic increase in defaults based on bills of exchange, a change of 250 percent over 1809, was followed by a dramatic decline in 1826. The decline could be attributable to three factors: the first, would be that income streams from cotton meant fewer defaults on bills of

⁴⁰ Descriptions of the bill of exchange can be found in Bruce G. Carruthers, *City of Capital: Politics and Markets in the English Financial Revolution* (New Jersey: Princeton University Press, 1996), 128-131; James Steven Rogers, *The Early History of the Law of Bills and Notes: A Study of the Origins of the Anglo American Commercial Law* (Cambridge: Cambridge University Press, 1995); Woodman, *King Cotton and His Retainers*, 118-119.

exchange, although this is unlikely due to Jefferson's 1808 and 1809 embargos; second, the cause may have rested with the cotton market itself and over-speculation in Liverpool during the mid-1820s; and lastly an overall shift in the way debt was perceived may have been changing as well—from a liability payable in the future with actual cash to a view that treated obligations as deferrable assets.⁴¹

Still, the vast majority of collection suits were based on promissory notes. This picture comports with that of the rest of the country during this time.⁴² In agrarian regions, we would expect that merchants held the bulk of local debt and that planters would be the largest group of debtors. But, merchants in the Natchez District naturally filed against other merchants. In 1809, eighteen identifiable merchant-creditors filed suit against six other merchants. In 1820, seventy-one cases involving merchant-creditors and their firms filed against thirty-eight merchant-debtors, and in 1826, the number dipped just a bit, to sixty-five merchant-plaintiffs who filed twenty cases against fellow merchant-debtors. **[Appendix, List of Identifiable Merchant-firms].**⁴³ Almost from its inception, then, the Delta's early national debt collection practices were undoubtedly a basis for achieving a communal consensus about the way

⁴¹ Kilbourne, *Debt, Investment, Slaves*; David, "The Role of Credit."

⁴² Rothenberg, "The Emergence of Capital in Rural Massachusetts." The literature on informal loans remains largely centered on the Northeast and other eastern seaboard states, though this is changing. The debates in the 1990s, concerned with the origins and timing of capitalism, fueled the need for detailed studies of rural economic exchange patterns. See Michael Merrill, "Cash is Good to Eat: Self-Sufficiency and Exchange in the Rural Economy of the United States," *Radical History Review* (Winter, 1977): 42-71; Naomi Lamoreaux, "Rethinking the Transition to Capitalism in the Early American Northeast," *The Journal of American History* (September, 2003): 441; James A. Henretta, "Families and Farms: Mentalité in Pre-Industrial America," *William and Mary Quarterly* 35 (January, 1978): 3-32; Christopher Clark, *The Roots of Rural Capitalism: Western Massachusetts, 1780-1860* (Ithaca, 1990).

⁴³ The Delta's merchant debt cases kept pace with other regions in previous and later periods: Jacob M. Price, "Buchanan & Simson, 1759-1763: A Different Kind of Glasgow Firm Trading to the Chesapeake," *William and Mary Quarterly Third Series*, 40:1 (Jan., 1983): 3-41;

business should be conducted, or a way to resolve monetary issues by using the court as arbitrator. In an agrarian mercantile environment, we would expect that merchants would hold the bulk of local debt and that planters would be the largest group of debtors. But the lines were, and are blurred for the category called 'merchant-planters.' Plaintiffs and defendants were engaged both directly and indirectly in commerce, and the debt cases underscore the knowledge they carried concerning the financial capacities of neighbor.

Jonathan Thompson's Local Sources of Credit

When *assumpsit* debts lacked official documentation, the court looked for complaints that established "physical" proof of an *assumpsit* debt: that the "Defendant made his certain note and *delivered* it to Plaintiff." This physical act of delivery between the original debtor and the creditor established an "acceptance" or "assumption" regardless of whether the creditor transferred the note to his creditor at a later time. There were however numerous circumstances that resulted in a debt being owed, and thus a variety of criteria for establishing a case of *assumpsit*.⁴⁴

In this context, planter Jonathan Thompson's probate suggests he sought out business relationships which enabled him to avoid the demands made by mercantile credit and still tap

⁴⁴ Richard Sylla "Forgotten Men of Money: Private Bankers in Early U.S. History," *Journal of Economic History* 36 (1976): 173. Sylla originally commented on the absence of studies regarding private lending. In 2000 Howard Bodenhorn reminded readers once again that private lending remained "one of the great voids in our understanding of the antebellum financial markets...important, if not large." For a discussion of the national integration of banks for the period, see Howard Bodenhorn, *A History of Banking in Antebellum America: Financial Markets and Economic Development in an Era of Nation Building* (Cambridge, UK: Cambridge University Press, 2000), 182. A concise depiction of the lending activities of private banking firms in Virginia has been offered by Bodenhorn in "Private Banking in Antebellum Virginia: Thomas Branch & Sons of Petersburg," *Business History Review*, no. 4 (1997): 513-42.

into large amounts of local capital. His cotton operations definitely placed him among the planters Morton Rothstein considers to have been oriented toward the “export-led” sector of the economy.⁴⁵ But while he lent to others based on promissory notes a method that was impersonal and even risky despite its wide use, the loans which Thompson owed money for his own operations were restricted to creditors whom he knew personally in the planter class. Chief among them was ex-Governor of the Territory and Winthrop Sargent, his brother-in-law David Williams, and his closest partner, a planter himself, Colonel James L. Trask, also from Massachusetts.⁴⁶ These non-merchant creditors assumed liabilities on behalf of Thompson as we will see, in addition to loaning him funds on more formal mortgages.

The partnership of Trask/Thompson relied extensively on the mutual financial accommodations between both planters, and was the most important financial partnership for Thompson. It facilitated a range of activities, from the operation of cotton plantations with enslaved labor and speculation in bank stock and steamboat stocks, to endorsing notes and loans for one another for a number of investments in the area. In September of 1818, Thompson wrote from Natchez to James Trask informing him, in a not unusual letter, that “I

⁴⁵ Morton Rothstein, “The Antebellum South as a Dual Economy: A Tentative Hypothesis,” *Agricultural History* 41, no. 4 (1967): 373-82. The “modernized sector” consisted of three categories, (1) the non-slaveholding yeoman farmers who produced surpluses, (2) the planters on the make, who owned from twenty to fifty slaves on one or two plantations and (3) the true elite of the economic system. The small, cohesive elite at the top of the social order are described as “exploiting their access to external markets and credit.” See also Rothstein, “The Cotton Frontier of the Antebellum United States: A Methodological Background,” *Agricultural History* 44 (1970): 149-65, and the “The Changing Social Networks and Investment Behavior of a Slaveholding Elite of the Slaveholding Elite in the Antebellum South: Some Natchez ‘Nabobs,’ 1800-1860,” in *Entrepreneurs in Cultural Context*, ed Sidney M. Greenfield, Arnold Stickson, and Robert T. Aubey (Albuquerque: University of New Mexico Press, 1979): 65-88.

⁴⁶ Rothstein, *Dual Economy*.

have this day advanced your overseer \$134 to pay his ginwright.” In this instance, Thompson functioned as Trask’s agent in assisting him in the management of one of his plantation properties. On other occasions, they pooled together the funds and resources necessary for larger transactions and kept each other abreast of the financial climate from Philadelphia to New Orleans. For example, when Trask’s brother Israel required their aid in obtaining a large loan, he first met with Thompson in Natchez. After attempting to obtain funds from a Natchez bank for Israel, Thompson reported back to James Trask:

I returned here to indorse with your brother’s name and my own, but it would not answer...owing as I understand to the extraordinary course now pursued by the banks at New Orleans which makes them careful here how they put any of their means in the power of the banks there.⁴⁷

And when James Trask finally obtained funding for his brother he called upon Thompson to serve as a conduit:

Finding an opportunity here of raising the money wanted by my brother I.E. Trask at the Mississippi Bank on the 23rd [sic] I have this day drawn on you at 60 days for the amount, say \$15,000 in favor of William Kenner and Company which please accept, and I shall place timely funds in your hands to withdraw the same at maturity.⁴⁸

Efforts to facilitate such a transaction seem to indicate a solid reputation and financial standing, but Thompson’s probate in the fall of 1823 clearly indicates the ups and downs of his affairs. In 1823, his personal property was worth an estimated \$13,207.00. His investment in ninety-seven slaves was worth \$30,720.00 (though this amount remained a debt at the time of

⁴⁷ Jonathan Thompson to James L. Trask, September 5, 1818, Natchez, Mississippi, Trask-Ventress Family Papers, Mississippi Department of Archives and History, Jackson, Mississippi.

⁴⁸ James L. Trask to Jonathan Thompson, December 1, 1818, New Orleans, Trask-Ventress Family Papers, Mississippi Department of Archives and History, Jackson, Mississippi.

his death).⁴⁹ He also owned Pine Grove and Bradley plantation along with his townhome in Natchez.⁵⁰ At the time of his death, sixty creditors listed sixty-four claims against his estate, amounting to an uncollateralized debt against him of \$84,007.81.⁵¹ The picture runs contrary to the view that credit, tightly monitored, was extended only to friends and family. A whopping \$52,049.00 lent by Thompson as cash or simple endorsements was labeled “doubtful” in the probate ledger; meaning that his executors thought the amounts would not be collected.⁵² The probate record testifies to both the impersonal nature of credit as well as the inherent risks of such loans, and by implication supports the notion that dealing with one’s preferred group of lenders, as well as debtors, was a safer route.

⁴⁹ Inventory and Appraisalment of the Personal Estate of Jonathan Thompson, deceased, late of the City of Natchez, State of Mississippi, Probate Records, Folder 2, Adams County Office of Records, Natchez, Mississippi.

⁵⁰ Thompson had extensive dealing in Natchez real estate that included land on the outskirts of town and plots within the city. The earliest entry is dated 1808 to one John S. Miller. Although the value of Thompson’s property, bought and sold, over his lifetime remains to be calculated, in 1824, both his real and personal property were auctioned over a six-day period for a total of \$39,436.92. Profits from the sale of real estate totaled \$38,275.92, with the terms of sale being a bond with security payable in twelve months. First through Six Days Sale of the Real and Personal Property of the Estate of Jonathan Thompson, December 15 -22, 1824, Probate Records, folder 1, 2, and, 4, Adams County Office of Records, Natchez, Mississippi.

⁵¹ Report of Commissioners: Claims Allowed Against the Estate of Jonathan Thompson, deceased, June 1825, Probate Records, Folder 2, Adams County Office of Records, Natchez, Mississippi. The total amount of claims, stated here, represent only those allowed by the Commissioners as of June 1, 1825. All of the sixty-four claims are unsecured, assumpsit debts for promissory notes, drafts, bills of exchange. The majority, however, had been based on locally contracted open accounts. The one secured claim listed at a later date had been the mortgage contracted with Samuel Postlethwaite. Out of the seven mortgages entered into the land deed records, only the mortgage to Samuel Postlethwaite appears among the probate records (claim number 80). The other mortgages, dated between January 1, 1816 and June 1, 1822 do not appear in the Report of Commissioners, and other probate documents, possibly due to the fact that Thompson used Postlethwaite’s mortgage to re-finance any previous mortgages, or simply paid them off.

⁵² Memorandum of Debts Due the Estate of Jonathan Thompson, deceased, March 2, 1824, Probate Records, Folder 2, Adams County Office of Records, Natchez, Mississippi.

The largest debt claimed by any one creditor was that of James L. Trask during Thompson's probate proceedings. Below, Table 4.2 itemizes the sums owed to Trask:

Table 4.2--The Estate of Jonathan Thompson, Deceased: Account with Major James L. Trask, June Term 1824

<i>Date</i>	<i>Debit</i>	<i>Amount</i>
<i>May 23, 1814</i>	To your draft paid by Israel E. Trask	\$1,000.00
<i>July 3, 1819</i>	Dividend on Bank Stock	1,500.00
<i>Jan. 29, 1821</i>	Dividend on Bank Stock	463.18
<i>May 20, 1821</i>	Chamber's Note	742.00
<i>May 01, 1821</i>	Net Proceeds Cotton Rec'd of Wm Kenner & Co.	1,275.88
<i>Jan. 1, 1822</i>	One half expenses Plant. Concordia. 1821 & 1823	3,259.16
<i>June, 1822</i>	Net proceeds 110 Bales Cotton Rec'd By you	5,680.27
	One-half hire negro to W. Vancompen	150.00
<i>Jan., 23, 1823</i>	Account with Winter	97.93
	My expenses to New Orleans on your business	150.00
	Cash paid in Bank for Amount of my endorsement	6,236.75
	To amount of Interest	3,578.51
	Balance Brought Down	10,355.83

Source: Claim Number 34, Account Allowed by Commissioners of the Orphans Court, Adams County, June 1824, Probate Records, Adams County Office of Records, Natchez, Mississippi.

The entries indicate the final balances between Trask and Thompson and include the planting partnership in Concordia, Louisiana in 1821 a venture that left Thompson indebted to Trask for \$10,355.83. Most important are the entries, such as the one dated January 23, 1818 itemized as "cash paid in Bank for Amount of my endorsement," and "my expenses to New Orleans on your business." It is clear that Trask not only paid these expenses on behalf of Thompson, but also secured his notes with endorsements in lieu of a merchant's endorsements.

Trask, as partner, also arranged financing (as would a merchant) in order to pay back his brother-in-law and mutual creditor Winthrop Sargent. In the list of debts outstanding, Trask claimed the amount of \$6,236.75 for his endorsement of Thompson's note at the bank. Both

Thompson and Trask had ongoing debts to pay back to Sargent. Though the extent and duration of this three-way relationship remains unclear, evidence indicates that significant sums were advanced to Thompson as unsecured loans. Correspondence between Trask and Thompson reveals that they considered the relationship with Sargent to be a priority. At one point Thompson urges Trask to pay Sargent his \$1,100.00, writing that this “last sum you should arrange now.”¹ When this payment was not made quickly, Thompson urged Trask to put the funds in the hands of a New Orleans factor. It is likely that the firm William Kenner & Co. represented Sargent as his agent in the sale of his crops, meaning that depositing funds with Kenner would translate into a credit for Sargent.²

By the time of Thompson’s death in 1823, he personally owed Sargent \$13,021.00 and had contracted another \$10,000.00 debt from Trask in order to clear past balances owed to Sargent.³ The records do not make clear the full character of Thompson’s indebtedness to his brother-in-law, Sargent. However, the earliest transaction was a note contracted in February of 1819 through which Thompson received a \$3,000 loan that included the option to negotiate the note at the Bank of the State of Mississippi.⁴ In addition to this loan there was an “old account” that carried a balance of \$2,002.62 and “cash” borrowed in the amount of \$6,000.00.⁵ In

¹ Jonathan Thompson to James L. Trask, April 7, 1820, Trask-Ventress Family Papers, Mississippi Department of Archives and History, Jackson, Mississippi.

² Jonathan Thompson to James L. Trask, Natchez April 23, 1820, Trask-Ventress Family Papers, Mississippi Department of Archives and History, Jackson, Mississippi.

³ Jonathan Thompson to James L. Trask, Natchez, April 11, 1823; Jonathan Thompson to James L. Trask, Natchez July 11, 1823, Trask-Ventress Family Papers, Mississippi Department of Archives and History, Jackson, Mississippi.

⁴ Promissory Note, Jonathan Thompson to Winthrop Sargent, July 18, 1819, Adams County Office of Records, Natchez, Mississippi.

⁵ Untitled Document, May 1, 1821, Jonathan Thompson, Probate Records, folder 4, Adams County Office of Records, Natchez, Mississippi. The interest rate on the \$3,000.00 as well as the open account with

August of 1821, Sargent's death forced Thompson to settle these debts, and he again turned to Trask. He asked Trask to accept (i.e., endorse) a promissory note for \$10,000.00, reminding Trask that his position as bank director would enable Trask to accommodate his request.⁶ From Philadelphia Thompson wrote to Trask:

And as money matters stand (of Mrs. S.) precisely as I told you I supposed they did, let me know if I may draw a bill on you there (Oct.1.) say payable 1.Jan. for the amount of the debt due W.S.'s estate, or some part of it say \$10,000.00, or say what I may do in this respect, and for how much. If [I] do draw on you on my own account as I have your leave to do, you will have nothing to do but accept it. I shall be on the spot ready and able I hope to provide for it.⁷

Trask obtained these funds via a bank loan by using a promissory note from Thompson to him which the bank discounted. Dated July 18, 1823, the note to Trask was due 60 days after it was made.⁸ Trask endorsed the note and it was presented to the cashier of the Natchez bank, Gabriel Tichenor. Thompson's death, however, sometime in the fall of 1823, prevented the loan from being repaid. Interest accrued on the debt at 8 percent per annum and was added for the period leading up to the claim in 1824. On the face of the note was written, "paid by Trask," yet in the final calculation Trask, as endorser, assumed only partial liability: Thompson's estate therefore stood liable for the \$6,236.75 instead of the full \$10,000.00 most likely

Sargent for \$2,002.62 had been 8 percent. Interest on the \$6,000.00 loan had been 15 percent. Interest had accrued from 1820 to 1825. The debts owed to Sargent also included the amounts of \$5,962.59 and \$5,206.26. These are listed among the "Claims Allowed" in the Report of the Commissioners as Claims 3 and 5. See Report of Commissioners, Claims Allowed Against the Estate of Jonathan Thompson, deceased, Probate Records, Adams County Office of Records, Natchez, Mississippi.

⁶ Jonathan Thompson to James L. Trask, March 17, 1821, Trask-Ventress Family Papers, Mississippi Department of Archives and History, Jackson, Mississippi. The bank for which Trask was director is not stated in any of the documents researched here.

⁷ Jonathan Thomson to James L. Trask, August 4, 1821, Trask-Ventress Family Papers, Mississippi Department of Archives and History, Jackson, Mississippi.

⁸ Promissory Note, July 18, 1823, Jonathan Thompson to James L. Trask, Jonathan Thompson Probate Records, Folder 5, Adams County Office of Records, Natchez, Mississippi.

because the partnership to plant cotton together required the expenses to be split in half.⁹ This became the entry in **Table 4.2**, as “cash paid in Bank at Natchez for amount of my endorsement” in the account rendered by Trask against Thompson’s estate, accompanied by an additional 5 months and 12 days of interest.

Jonathan Thompson and Petty Lending

The debt cases filed on behalf of Thompson’s estate confirm that he had access to larger credit resources within the region, that his operations were firmly fixed within a local credit network, evidenced by the many promissory notes he held, and that his ability to obtain credit at the regional level facilitated the local market. Only after his death in 1823 did Thompson appear as a party to an action. In the 1826 dataset, a total of sixteen collection suits involved his probate administrators in the Adams County Court. Out of the total, fifteen were filed on behalf of Thompson as creditor. Of these twelve were 12-month promissory notes and one was for a 6-month promissory note; the terms of the other two are unknown. Of the fifteen cases, eleven were for cash or credit based on amounts under \$500.00; one case is unknown as to its amount, and the remaining three cases were mid-tier debts that fell between \$501 and \$2,000.00. One case out of these sixteen shows Thompson as a debtor. The Bank of Pennsylvania filed suit against his estate for a 24-month bill of exchange, an amount over \$2,000.00. Locally, the majority were short-term credits extended to local individuals for small or medium dollar amounts.¹⁰

⁹ James L. Trask to the Bank of the State of Mississippi, 1824, Jonathan Thompson Probate Records, Folder 4, Adams County Office of Records, Natchez, Mississippi.

¹⁰ The collection suits represent a portion of all credit advanced by Thompson, as well as those that were filed against him as debtor. The following were filed in 1826 by his administrators: *James C. Williams*,

Thompson's profile is in this way confined to a regional/local framework in which available funds were channeled back into the locality without recourse to larger lenders in international markets. In contrast, his two major planter-creditors on whom he relied, James L. Trask and Winthrop Sargent received substantial sums and maintained communication with their commission merchants in Liverpool.¹¹ James L. Trask maintained a working relationship with Brown Brothers and Company in New York City (1842-1853), an offshoot of James and William Brown of Liverpool, England (1818-1834) to whom he also shipped his cotton, as well as the related offices of Brown, Shipley and Company of Liverpool, England (1839-1849). His ties were not limited to those in Liverpool and New York; Byrne, Hermann & Company of New Orleans (1835- 1866), Reynolds, Byrne, and Company of New Orleans (1827-1857) were also used. Ex-governor Winthrop Sargent also maintained strong ties to Liverpool merchants Barclay & Salked. In contrast, Thompson's lending patterns suggest, as does his overall profile, that he sought to avoid indebtedness with merchants.¹²

administrator of the estate of Jonathan Thompson, deceased v. Joseph Bradley and John Forsyth; Alexander Smith and Samuel Patterson; Francis Little and George R. Williams; Robert Piggott and Nathaniel Perkins; Horrell Moss and Richard Holloy; John Forsyth and Richard H. May; Samuel Cotton and P.C. Brown; John Forsyth and Horace Gridley; Louis Robitaille and Walter Irvine; Thompson Gardiner; Hugh J. Jones; Richard H. May and Ira R. Lewis; Samuel Patterson and Alexander Smith; David Miles; Alexander Smith; Bank of Pennsylvania v. James C. Williams, administrator of the estate of Jonathan Thompson, deceased, Historic Natchez Foundation, Natchez, Mississippi.

¹¹ See Trask-Ventress Family Papers, Mississippi Department of Archives and History, Jackson, Mississippi. The ties Winthrop Sargent maintained with Liverpool merchants Barclay, Salked and Company are detailed in Chapter 3 and in the Winthrop Sargent Papers, 1771-1801, Massachusetts Historical Society.

¹² Memorandum of Debts Due the Estate of Jonathan Thompson, deceased, March 2, 1824, Probate Records, Folder 2, Adams County Office of Records, Natchez, Mississippi. Sixty-one individuals were listed on the basis of a debt owed to the late Thompson. Of these, there were listed 39 notes, 5 bonds, 6 open accounts and 1 draft. Of the 39 notes, 3 were identified as being based on mortgages held by Thompson; John D. Cochran mortgaged "ground in the city," to Thompson for \$2,000.00, another property located within the city was mortgaged to Thompson by Samuel Brewer and John Glover for \$4,500 and lastly, a note given by John Creighton had been for a mortgage on furniture. Only these

For him, the legalities of credit remained local in nature. His use of the “due bill” is instructive since this kind of credit was abandoned by merchants, and considered inferior because it relied on the debtor himself admitting his indebtedness. Writing from Philadelphia in 1821 to his Natchez business partner, Thompson dispensed some legal advice should the debtor, a Mr. Gerley, dispute the unsecured debt that was owed to them. In full knowledge of the law concerning informal debts, he stated plainly the precautions that should be taken:

If Gerley makes any difficulty about accepting the bill as it now stands, under pretence that it is for a quarter sum than is due, let him accept it for less or for as much as he admits is due, stating it so in writing on the bill, thereon ‘accepted for _____’ and put his name to it.

I am more particular about his, because I want to have him disposed to pay the money as I may want it, and if I do not you may.¹³

Thompson’s need to cover all his legal bases should he be forced to file suit is representative of what was technically an “assumpsit” or accommodation-style debt, but one that did not, from the outset, carry a fixed sum.¹⁴ Rather than being the instrument upon which the original debt had been contracted, the due bill was a legal description of the physical act of acceptance—a feature that made it less flexible and dependable for mercantile purposes. Complaints stated, “Defendant acknowledged to be due,” indicating the debtor had, at a later time than when the debt was incurred, acknowledged the validity of a debt owed. In *Archibald Wilson v. Robert Field*, the complaint claimed the debtor had delivered the note to the firm and thereby

three mortgages appeared as due, owing, and “doubtful.” The mortgage for Benjamin Osmun in the amount of \$4,592.00 as well as the mortgage for Josiah Morris in the amount of \$8,000.00 were not listed among the debts due.

¹³ Jonathan Thompson to Major James L. Trask, August 4, 1821, Trask-Ventress Family Papers, Mississippi Department of Archives and History, Jackson, Mississippi.

¹⁴ John H. Langbein, *Commentaries on the Laws of England: William Blackstone, A Facsimile of the first Edition of 1765-1769*, Volume III (Chicago, 1979).

“acknowledged [the debt] to be due.” The plaintiff’s attorney crossed out the words “promised to pay,” which was required in cases based upon a promissory note, and hand wrote above it “acknowledged to be due”—the physical act of acknowledgment tied the debtor to his legal obligation, and it was a technicality in a local context that comports with a “confession of judgment” in other states. In *Charles Little v. Martin L. Thomas*, the past due amount was not certain, but somewhere between \$100.00 and \$500.00. The complaint declared the debt had been for “goods, labor and money lent,” but in lieu of supporting documents, the suit rested upon a “due bill” that declared the “Defendant acknowledged to be due and owing by him.”¹⁵

Merchant Practice: Seizures of Property Moved West, and then Trickled-Downward

Seizures of property, especially the attachments on land, slaves, and commodities interrupts the view of an established, already-in-place group of planters. Most of what we know about merchant-planters is revealed in the context of the antebellum era that many historians prefer to see as at least a semi- “seigneurial” world; an ancient feudal ideal, applied by some historians in varying degrees to the planter class, was in the Lower Mississippi Valley, punctured by the intensified relations of the marketplace and by the routines of merchant-planters themselves. Writing about planter-merchant Peter Little, historian Chad Vanderford described “seigneurial” capitalism: it emphasized organic community relations removed from the market; once a seigneur acquires plenty of land and slave-labor (or peasant labor), “market relations do not intrude into their functioning.” And always, the ideal is “the independent feudal estate.” Vanderford writes that as Little became an increasingly successful planter, he “moved from one

¹⁵ *Archibald Wilson v. Robert Field*, 1826; *Charles Little v. Martin L. Thomas*, 1826, Adams County Court Records, Historic Natchez Foundation, Natchez, Mississippi.

form of capitalism—entrepreneurial capitalism—to another form, seigneurial capitalism.”¹⁶ As I have argued elsewhere, it was the merchant-planter himself, individuals such as Peter Little, who collectively, actively, changed mercantile practices, implementing prevailing norms to achieve as closely as possible, conformity with metropolitan centers as frequently and consistently as possible. And the centrality of the merchant-planter to bringing, or ‘diffusing’ those routines and practices is evident even among the debt cases based on the smaller credits that serviced the day-to-day needs of planters in the region.

Locally, seizures of assets were not thoroughgoing in the sense that merchants did not want to deprive debtors of too much property, and generally attached plantation products such as tobacco and cotton, leaving the planter able to continue his operations, and leaving the merchant with a guaranteed form of payment. When William Disharoon owed John Rabb a local merchant, Rabb filed suit in 1820 and seized Disharoon’s “sorrel horse” and “one negro boy” for the total debt of \$1,497.12.¹⁷ For what seems today a small amount, Eli Jones

¹⁶ Chad V. Vanderford, “Peter Little: From Merchant to Planter,” *Masters Thesis* (California State University, Northridge, 2000), 1, 55-57; Rothstein, *Dual-Economy*. The issue of whether the South was “pre-capitalist” and feudal has been strenuously debated in the last decade: The standard for Marxist scholars, capitalism was defined by wage labor, not slave labor. But the debate has reached a kind of consensus and which focuses on the South’s commercial character, the proliferation of money changers and cotton factors who yearly handled millions and millions of pounds of foreign exchange and the mercantile ambitions of slaveholders themselves. A discussion of alternative views is articulated by Walter Johnson. He cites thriving slave markets which tracked the upward trajectory in slave prices, tracked those of prices being paid for cotton thousands of miles away, which in turn, supported the market in mortgages as evidence that the Atlantic economy presents a unity—a single space, a characterization in which “its dimensions [were] defined by flows of people, money and goods, its nested temporalities set by interlocking labor regimes and cyclical rhythms of cultivation and foreign exchange.” See, Johnson, “The Pedestal and the Veil,” 303-304.

¹⁷ *John Rabb v. William Disharoon*, August 1, 1820, Adams County Office of Records, Natchez Historic Foundation, Natchez, Mississippi.

attached his debtor's "land" to recover \$87.00.¹⁸ Other creditors headed straight to Natchez-under-the Hill where the District's commodities were held and loaded for the journey to New Orleans. For "cash and other things lent to you and paid for you," as well as the "20 bales of cotton possess[ed] by you and detained from me," including other sums paid on his behalf and "other things sold at the farm," one merchant in 1826 obtained a court-ordered writ to attach 26 bales of cotton "taken on board the Steamboat Eagle" as well as from the "warehouse of Augustus Griswold in the city of Natchez."¹⁹

It is important at this point to make some comparisons. Merchant-planters in the Delta were not, as historian Michael Woods has stated for Charleston's early development, a "protectionist" lot. The "protectionist attitude among leading commercial operatives" in Charleston, all of whom were residents of that City, is more apparent if we look at insolvent laws. Charleston merchants adhered to discharge laws set by the Commons House, and there existed a reluctance to extend the routine benefits of their court system to enjoin, or include outside creditors.²⁰ The exclusiveness of discharge laws centered on bonds. Here the law enabled a preferring creditor to collect the value of the bond, plus interest. Local creditors also, typically, acted together so that all shared equally in the division of assets. Non-bondholders sometimes recovered half the balance owed. Evidence from insolvent debtor, merchant Dougal Campbell, showed he filed bankruptcy before any unsecured creditor could seize assets and while he could still meet the 50 percent requirement under the discharge laws. Woods points

¹⁸ *Eli B. Jones v. William B. Jackson*, 1826, Adams County Office of Records, Natchez Historic Foundation, Natchez, Mississippi.

¹⁹ *John Rabb v. William Disharoon* 1826, Adams County Office of Records, Natchez Historic Foundation, Natchez, Mississippi.

²⁰ Woods, "Culture of Credit," 369.

out the intentional use of such laws to protect against unsecured, non-resident English, and northern merchants.²¹

In contrast, it was the distant, metropolitan creditor who had the advantage in the Lower Mississippi Valley. Natchez merchant John Henderson was a Natchez merchant as early as 1803, was active not only in planting, but was an attorney, and Justice of the Quorum. He was deposed in a court case between local Natchez merchants Peter Tiernan and Jesse Cook and Alexander Cranston & Company in 1820.²² On the face of it, this was a simple collection suit in which Cranston & Co. owed Tiernan & Co. \$918.40 for “divers goods, wares, and merchandise,” sold to them. Henderson’s deposition, however, shows him to be at the center of a grab for assets between Natchez local merchants and creditors in Kentucky.²³

The preferred creditors, Schatzell & Company of Kentucky, claimed half of all the assets and debts owed to the ailing Natchez firm of Alexander Cranston & Co., while the other half was claimed by the Receivership of the estate of J.P. Schatzell based on an injunction, or judicial hold, from the United States court of Kentucky.²⁴ Meanwhile, William Craig of Kentucky made his own claims as assignee. Craig cited a deed dated sometime in 1819 as the basis for an assignment that entitled him to “rights to any interest and property, monies, securities due J.P. Schatzell & Co.,” and any money and property owed to the Natchez firm of Alexander Cranston & Company.

²¹ Woods, “Culture.”

²² *Peter Tiernan, Jesse Cook v. Alexander Cranston & Company* and Andrew Alexander, 1820, Natchez Historic Foundation, Natchez, Mississippi.

²³ John Henderson, Deposition, November 20, 1818, *Peter Tiernan, Jesse Cook v. Alexander Cranston & Company* and Andrew Alexander, 1820, Natchez Historic Foundation, Natchez, Mississippi.

²⁴ Henderson, *ibid.*

Peter Tiernan and Jesse Cook immediately filed their claim for approximately \$900.00.

Henderson's deposition makes clear that he received Craig's assignment on August 7th, and within "two hours upon receiving said Notice, I was served with an attachment by Tiernan on any property that might be in my hands belonging to Alexander Cranston & Andrew Alexander."

And this was not the only time creditors knocked on his door:

This [cotton bagging] property having so many claimants each enjoining me strictly not to pay it over to any other, I am unable to determine to whom I can account with safety to myself, especially as the matter is still before the U.S. court at Frankport in Kentucky and cannot come to a decision before sometime in the present month when that Court sits; and it is the decided opinion of Counsel in this State, that I cannot with safety to myself account with any of the claimants in preference to another without an agreement of all the Parties or a final decision of a Court have competent jurisdiction.²⁵

By comparison, we see then that the Charleston merchant Dougal Campbell retained the goodwill of his Charlestonian colleagues post-bankruptcy; his phoenix-like recovery, according to Woods, included a career as Justice of the Peace, as Clerk of the Court of Common Pleas, and accumulated wealth within a fourteen-year period.²⁶ Hindering, or diluting the claims of outside creditors was not in evidence in Natchez nor New Orleans: In 1820, Henderson again found himself in a debt case in which he became the target of seizure when an out-of-state creditor "levied his attachment," and seized 3 boatloads of tobacco amounting to 172 hogsheads at the Natchez landing.²⁷

²⁵ John Henderson, Deposition, November 20, 1818, *Peter Tiernan, Jesse Cook v. Alexander Cranston & Company* and Andrew Alexander, 1820, Natchez Historic Foundation, Natchez, Mississippi.

²⁶ Woods, "Culture," 369.

²⁷ *John P. Marshall v. William Watson and John Henderson*, 1820, Natchez Historic Foundation.

Conclusion

The issue of “transition” to commercial agriculture remains unsettled in many of its details. Here, we see a divergence from older, slower methods within the legalities of credit, to those practices that aided merchants in keeping up with market circumstances. For the 1820s, the region as a whole, although well entrenched in cotton production on a grand scale, was still emerging from its frontier origins. Historians Charles B. Green and Harold Woodman view this transition from private to commercial agriculture to have articulated change in their own ways. For Green, the “transition” that was “rapidly replacing the primitive economy with commercial agriculture” was made possible by bank development in the 1820s and 1830s. Hence, credit relations, according to Green, had to do with the influence of the banks; the “desire for sound money and easy credit” which caused bankers and merchants to “devise” credit arrangements.²⁸ For Harold Woodman it began long before the establishment of state-chartered banking, and reflected the marketing needs of cotton and slavery. He asserts that the changes in Mississippi involved several features separate from the banking system, namely, the role of the cotton merchant or town store men in handling the crops produced by marginal as well as substantial cotton farmers and planters. Customers either sold their crops or bartered them for store merchandise; clients that had either a frequent or large supply of cotton or other crop periodically received advances in the form of supplies and cash, paying for them with either cotton or other farm products.

By the mid-1820s, the emergence of factorage firms allowed planters and farmers the option to store their cotton or other perishable commodity in order to receive the best price available

²⁸ Green, *Finance*.

in the market; what is more, these factors or commission merchants, acted as agents for the producers, finding buyers for the planter's crop. Even while this development occurred and increased in pace, farmers continued to haul "their crops to the local village...where they bartered them for needed store goods."²⁹ Merchants then would act as "partial factors" receiving the produce in exchange for merchandise and loading the product to be marketed in places such as New Orleans and New York. Essentially, it was this type of activity that allowed local merchants, through their access to various outside credit markets, to meet the credit needs of their local planter clientele and act as early bankers or underwriters in the development of plantation capital. Thus, while Green's depiction emphasizes expansion spurred on by the evolving regional banks, Woodman's discussion of this period is one that is taken from the evidence found in factor's books and ledgers.

Examination of the default cases for 1826 Natchez seems to support Woodman's analysis, but the pace of development may have been more aggressive than he suggests. The two 'frontier' characteristics of barter, and 'reckoning' of accounts, both declined significantly and relatively early, in a period closer to Woodman's characterization.

²⁹ Woodman, *King Cotton*, 10-11.

Conclusion

In a broad, “Atlanti-cized” sense, this dissertation contends that through law and custom the practice of maintaining a preferred lender in order to obtain credit in the future, and conversely, the practice of preferring a creditor in an impending insolvency, gave merchants, especially those at a distance with different legal and economic priorities, a foothold into newer, frontier regions. The metropolitan world certainly intruded on the periphery and responses from the margins varied widely to that “intrusion.” In this case, however, the merchant-planters of the Delta willingly heard the call and responded to the demands of a larger commercial world.¹ They were aided by a legal evolution that was broad and national in scope and which favored commercial practice. In the context, ‘preferences’ fastened the chains between merchants across space.

Preferences also helped to diversify local market activity. Individuals such as Abijah Hunt, as we have seen (Chapter 3), responded to the overall demands of the Atlantic through the vertical integration of his enterprises but also by actively influencing prices in both the price of property and planter and merchant exchanges at his stores; adaptations of the local with features that ultimately aided creditors both locally and nationally.

This dissertation also analyzed the different forms through which legal conflicts based on credit arrangements were broadcast. Looking at the varied aspects of a credit regime in flux, the most apparent struggles arose at the appellate level, a forum through which national and internationally creditors made their claims. The way judges publically engaged the struggle to

¹ Benton, *Law and Colonial Cultures*, 5, 124.

cast-off Spanish (and French custom to a lesser degree) influence in the region coalesced around the formation of common and civil law, especially in Orleans Parish. While in the day-to-day deed and mortgage transactions, as well as in the last chapter, the collection suits in Natchez, Mississippi, there are discernible, though subtle hints that merchants in these enclaves were changing their standards to meet those of the outside world.

Credit relations, much like any other relation, are interwoven with trust, risk, expectation, and sometimes disillusionment. In the fray of these calculations of risk and benefit, the planter-merchants of Natchez and New Orleans were critical links not only to the outside world, but in the direction that the political and national agenda would take. When the place of study is also the market hub of a slave based economy mid-way in its transition from a frontier setting to a more mature arena, the analysis has implications relevant to the larger national context and the functioning of slavery and its supporting base.

Moreover, the evolution of the Lower Mississippi Valley is in equal parts hampered as well as bolstered by its historiographic context. The early national period, or Founding-era, when viewed from the Delta and looking east, is a frontier of promise and expansion. Land was plentiful, the Mississippi River offered a convenient route from Natchez to New Orleans and beyond, and area-soils were among the best in the country. The typical narrative arch is one in which planters in Virginia, South Carolina and Georgia, battling soil exhaustion or limited land and demographic pressures, sold slaves west, or moved themselves and their families to the Delta. The idea of a 'manifest destiny' swept the political imagination as well as the economic one, even as it masked the underlying political conflicts between citizens of diverse European

and native backgrounds at the regional level and between the economic outlook domestically among cotton-producing debtors in the Delta and the agendas of long-distance creditors.

This dissertation argues that the increases in capital extended by distant investors and subsequently generated from within the region by merchant-planters was a decisive element in a period that witnessed multiple processes. Indeterminate sovereignty, that is, the repetitive changes in imperial ownership of the Delta, and the multiple borderlands were processes decisively influenced by Anglo-American and British capital. A good portion of local merchants were planters with direct ties to local and distant preferred colleagues in various metropolitan, credit-granting centers and in the early pre-statehood period, one marked by violence and multi-ethnic jurisdictions, conflicts over commerce and credit in the Delta's courtrooms decided not only issues of liability but were tied to issues of imperial power. Thus, despite accommodations made by the Jeffersonian administration toward French custom in the period after the Louisiana Purchase (1803), the region's Supreme Court judges nurtured an atmosphere of ambiguity, contradiction and repetitiveness. Judges, many of them from eastern cities (as in the example of Edward Livingston in Chapter 2), either upheld, outright, the precedents of out-of-state investors, or more subtly helped maintain the ambiguities inherent in a "mixed" legal landscape, reserving for merchant-capitalists the opportunity to repeatedly re-litigate the same types of issues. In these cases (Chapter 1) judges gradually chipped-away Spanish-based laws regulating commercial laws and property rights. In a stark example, a Mississippi jury upheld the right of Philadelphia merchants to collect interest at the moment the debt was due despite the laws of Mississippi then in place. The architects of American

commercial law in the Delta used debt cases, and international commercial custom to work past diverse local precedents.

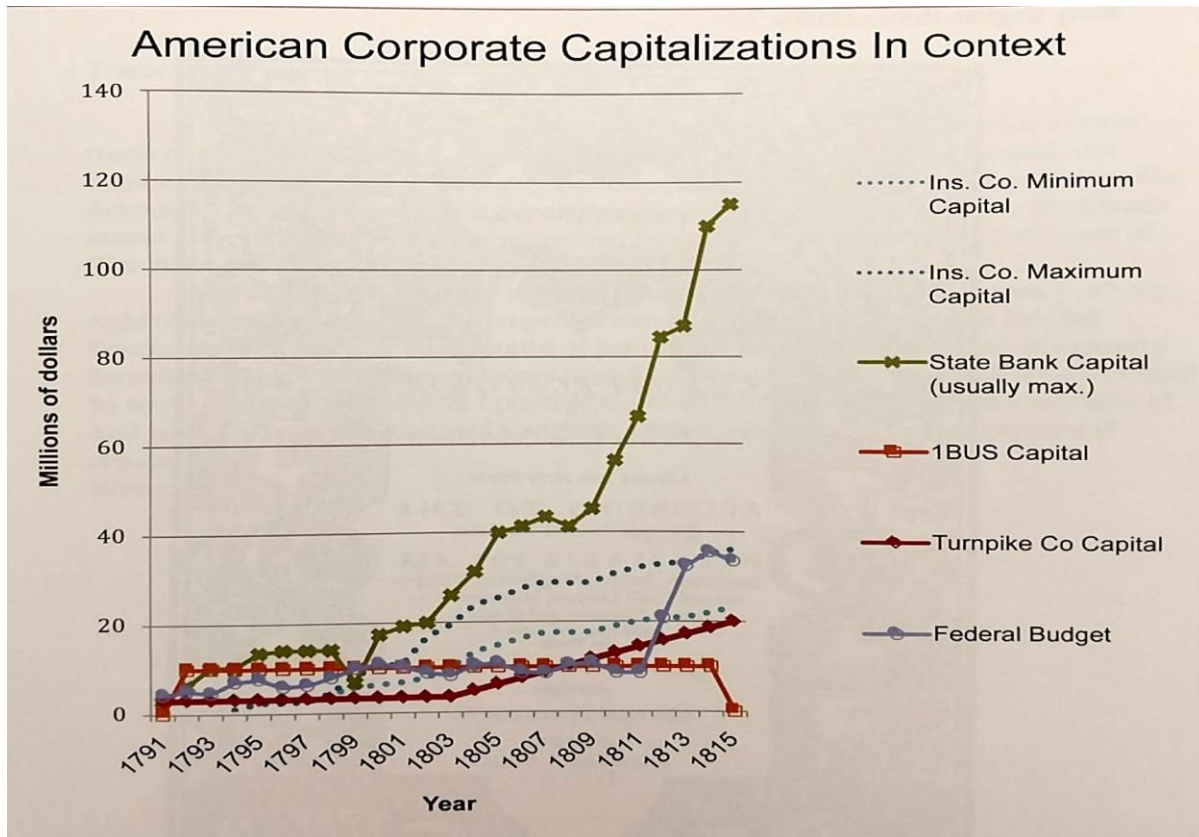
Europeans in the region had access to, and were inclined to support the slave trade. Slavery, at all times, and whether weak or strong, extended legal regimes beyond the borders of particular legal systems; it created a *legibility* among culturally diverse groups. Consistent with my overall argument, the more potent and politically determinative version of slavery came in the wake of capital infusions from British and Anglo-American creditors; up to that point it was an institution that languished under Spain's military preoccupations and France's concern over other more important colonies including St. Domingue. Capital and credit in the territorial and early national periods helped to anchor slavery to a particular commodity and credit regime (in contrast to earlier periods when laws and the types of staples produced fluctuated). But slavery itself as an institution not only aided in the establishment of repeatable routines—from the blossoming of the mortgage as a device to the informal, secondary economy credit, its ties to cotton prices, and even the notorious commodification of bodies in New Orleans slave markets—but it did so by replicating an existing economic form that was legible to all. In this way, despite the variations in the treatment of slaves that historians have pointed to in their studies of European society, economic actors from different legal systems nevertheless constructed a shared understanding of political power: a point evident in the seizure of a slave for an unpaid debt on a contested imperial border (Chapter 1). As a field of economic power, slavery as an increasingly commodified “given,” reinserted the wider system of credit into newer regions. It carried with it the laws of particular imperial powers, though unevenly. In the absence of a strong regulatory framework, slavery's expansion, and with it

credit and capital, enabled merchants locally to use the English common-law in a way that would create a secondary economy in mortgage-backed banknotes. Informal, private promissory notes and drafts, locally and nationally, were vehicles through which the logic of *lex mercatoria* was adapted in the struggle over the meaning of republicanism and the place the United States held in the world of “civilized” nations.

Appendix A: Illustrations and Figures

Introduction

0.1



Sources:

Hannah Atlee Farber, "Underwritten States: Marine Insurance and the Making of Bodies Politic in America, 1622-1815 (University of California, Berkeley, 2014)

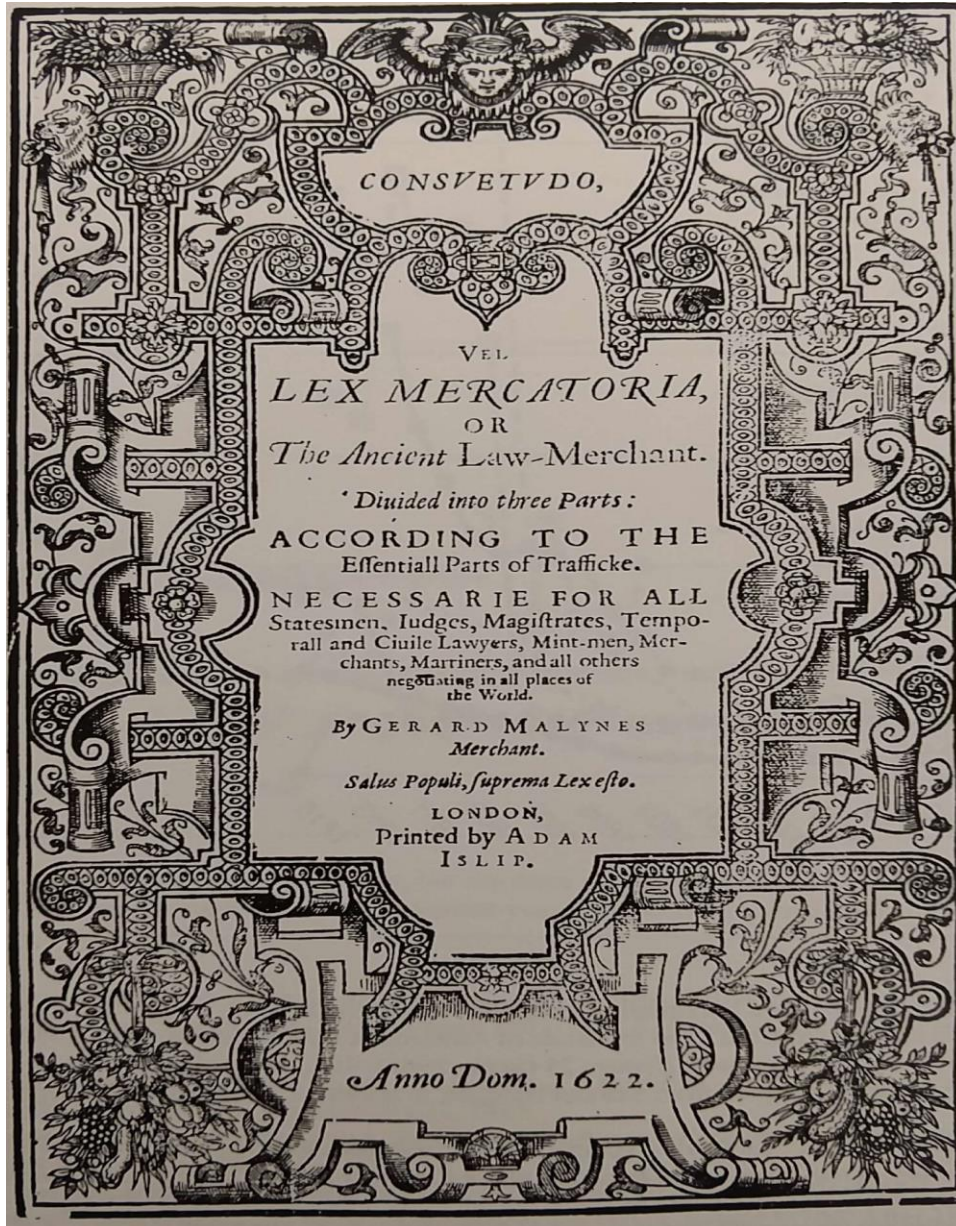
State Banking Capital: Adapted from "The Statistics of American Commercial Banking, 1782-1818," by J. Van Fenstermaker, the *Journal of Economic History* 25 (Sept., 1965): 404.

Turnpike Company Capital: Adapted from Samuel Blodget, *Econoimca*, 196, 198, and Joseph Stancliffe Davis, Essays II: 218.

Federal Budget: Adapted from "Table 4—Receipts and Expenditures for the Fiscal Years 1789-1934," Annual Report of the Sectary of the Treasury on the State of the Finances for Fiscal Year Ended June 30, 1934 (Washington: GPO, 1935), 302. Available at http://fraser.stlouisfed.org/docs/publications/treasar/AR_TREASURY_1934.pdf

Chapter 1

- 1.1 Gerard Malynes, *Consuetudo, Vel Lex Mercatoria*, or The Ancient Law-Merchant
London: Adam Islip, 1622 Early English Books Online





Source: "Counties of Mississippi, 1860," Morton Rothstein, "The Changing Social Networks and Investment Behavior of a Slaveholding Elite in the Ante Bellum South: Some Natchez 'Nabobs, 1800-1860," in *Entrepreneurs in Cultural Context*, ed. Sidney M. Greenfield, et al. (Albuquerque: University of New Mexico Press, 1979).

Appendix B.

(P) = Planter

(M) = Merchant

Grantor	Grantee	Counties/ Regions	Amount		Description
S. Minor (M)	D. Clark (P)	Adams	n/a	Sale	MS River+240 Acres + Stables
J. Spizer (P)	J. Hoggatt (P)	Adams	800.00	Sale	Second Creek + 300 Acres
S.H. Wisdom	R. Smith	MS Terr.	600.00	Sale	Second Creek
W.Forman	J. Forman, Jr.	Maryland	3,600.00	Auction	St. Catherine's Creek +450 Acres
J. Forman, Jr.	W. Forman	Maryland – New Jersey	3,600.00	Sale	St. Catherine's Creek+ 580 Acres
J.Armstreet (P)	J. Hoggatt, Esq.	Adams	1,000.00	Sale	Second Creek + 500 Acres
J. Pannill, Esq	R. Butler, Esq	Adams	10,000.00	Sale	Bayou Sarah; Unknown Acres
J. Moore, R. Moore	W. Vousdan	Natchez	10,000.00 +19,000 lbs ginned cotton	Mortgage	Land + Slaves
Grantor	Grantee	County/ Region	Amount		Description
D.G. Elliott G. Ralston	A. Pannill P. Pannill	Adams	31,000.00	Mortgage	Fairchild's Creek + 1539 Acres +Slaves+Cattle, The "Grove"
S. Clement	J. Livingston	New York	13,000.00	Mortgage	MS River + 2,291 acres
J. Barnes	C. Smith	Savannah – Natchez	15,085.00	Sale	Homochitto River
Nicholls & Montgomery	W. Cochran	Adams	2,000.00	Sale	St. Catherine's Creek
G. Poindexter	J. Carter	Adams	5,000.00	Sale	Second Creek
J. Harrison	J. Bradshaw	Adams	n/a	Grant	MS River +Concordia, La+ land+ slaves
Carson/ Perkins	J. Harrison J. Bradshaw	Adams	n/a	Trust	1 tract + Concordia, La +13 slaves + cattle
R. Williams	S. Winston, S. Richardson, J. Taylor, C.B. Green	Adams	14,765.54	Mortgage	
W.Sargent (P)	D. Urqhart J. Thompson	Adams – N. Orleans	n/a	Grant	Pine Grove, 1,000 acres Bellmont, 10,000 acres
F. Claiborne (M/P)	C. Miles	Adams – Amite County	3,850.00	Mortgage	Land + slaves
J. Woods	Bosley, et al.	Adams	5,000.00	Sale	Sandy Creek + land +slaves
N. Hoggatt	Bosley, et al.	Adams	2,000.00	Sale	Sandy Creek
J.W. Bernard	W.Shipp	n/a	15,000.00	Mortgage	232 acres +1,000 acres +22 slaves
W. Turpin	J. Trask (P)	Adams – Wilkinson	1,67.20	Auction	St. Catherine's Creek +903 Acres, "Wilderness" Plantation
W. Turpin	J. Trask (P)	Adams – Wilkinson	5.00	Auction	100 arpents

A. Calvet	J. Fort	Rapide, LA	n/a	Sale	2 Counties: Cowles Creek, 800 arpents, +Sandy Creek
W. Brooks	Brooks & Thompson (P)	Adams	n/a		"Cotton Field" + slaves
C. Boardman	D.D. Elliott	Adams	2,500.00	Mortgage	600 Acres + slaves+ hogs
S. Minor (P)	J. Livingston	Adams – New York			
B. Chew (M)	J. Livingston	N. Orleans – New York	7,500.00	Sale	2,291 Acres
W.Turpin	L. Harding	Adams	5,000.00	Auction	MS River (value: \$43,104.86)
Wilkins (M)	R. King	New Orleans-Adams	4,200.00	Mortgage	800 arpents
B. Roach	H. Dangerfield	Adams		Mortgage	444 Arpents +Slaves
B. Roach	D. Elliott	Adams	16,000.00	Mortgage	Paid w/57,142lbs of ginned cotton; 5 tracts, 24 Slaves
B. Roach	D. Elliott	Adams	64,000.00	Sale	Land in Claiborne; paid with cotton; 444 arpents in Adams; 439 acres Second Creek; 94 acres in Adams; 30 Slaves
L. Evans	J. Thompson	Adams	16,000	Sale	176 Acres in the City
C. Boardman	J. Linton (M)	Adams – Pittsburgh, PA	11,613.00	Mortgage	Pine Ridge plantation; 500 Acres +Buildings+11 slaves +Livestock
J. Thompson (P)	L. Evans	Natchez-Adams	12,000.00	Mortgage	176 acres in the City; interest
Grantor	Grantee	County/Region	Amount		Description
J. Livingston	S. Clement	New York	14,000.00	Sale	2,291 Acres
W. Rutherford (M)	W. King, S. King	Adams	20,000.00	Sale	MS River + 16 Slaves
A. Parnell, D. Parnell, Executor	D.D. Elliott, G. Ralston	Adams	12,000.00	Sale	Fairchild's Creek; 1,539 Acres; "Laurel Grove"
A. Parnell, D Parnell, executor	D.D. Elliott, G. Ralston	Adams	34,000.00	Auction	Slaves +Cattle; "Laurel Grove"
W.Sargent (P)	J.C. Williams (P)	Adams	Quit Claim		St. Catherine's Creek; 1,000 Acres
T. Hutchins	R. Cochran (M)	Pennsylva-New Orleans	224.00	Sale	Homochitto Creek ; 400 Acres
W.Sargent (P)	G. Salked	Adams – Britain	400,000.00	Mortgage	2,000 Acres + 89 Slaves
J.Thompson (P)	D.Williams (P)	Adams	20,000.00	Mortgage	Bradley Plantation + 32 Slaves
E.Smith, D. Hunt (M-P)	T.B. Barclay (M),G. Salked (M)	Adams – Britain	106,206.00	Mortgage	412 Acres, Grindstone Ford +30 Slaves, sheep, hogs, etc. +125 arpents in the City

P. Presley	C. Cason		2,100.00	Sale	"plantation"
T.P.Braddish	J.Gailliard	Adams	4,250.00	Sale	Egypt Plantation; 500 Acres
J. Grafton	A.Campbell	n/a	2,400.00	Sale	'plantation'; 163 Acres
J. Brown	J. Trask (P)	New York-Wilkinson	20,000.00	Sale	St. Catherine's Creek; 903 Acres; "Wilderness" Plantation
S. Hunt (M)	J.Hipkins (M)	Claiborne – Britain	10,614.97	Mortgage	1) 716 Acres + Slaves Bayou Pierre 2) 800 Arpents, Bayou Pierre 3) 412 Acres 4) 125 Arpents 5) Slaves
B. Roach	D. Cummings	Adams	n/a	Grant	Second Creek; 533 Acres + 21 slaves
Grantor	Grantee	County/Region	Amount	1800-01	Description
A.Hunt (M)	A. Grass (M)	Natchez	6,000.00	Mortgage	Lot 1, SQ 3
A.Grass, (M)	A.Hunt (M)	Natchez	3,000.00	Sale	Lot 1, SQ 3
C. Lumber	J. Barr	n/a	300.00	Sale	Two lots
B. Kitchen	W. Wikoff, W. Garland (M)	Adams – New Orleans	2,000.00	Mortgage	Lot 1 SQ 16; contains 2 lots + houses+ legal interest
T. Tyler (M)	W. Wikoff, W. Garland (M)	Natchez – New Orleans	3,411.62	Mortgage	Lot 2, SQ 16
D. Lorezo	P.Connelly	Natchez	200.00	Sale	House +Lot + under Hill
P. B. Bruin	B. Osmun	MS - Adams	25.00	n/a	Lot 3, SQ 10
P.B. Bruin	R. Jones	MS –Adams	25.00	n/a	Lot 6 SQ 6 on Bayou Pierre
P.B. Bruin	R. Jones	MS –Adams	25.00	Sale	Lot 1, SQ 3
J.McNeil (M)	T. Dawson	New Orleans Adams	50.00	Sale	n/a
P.B. Bruin	H.Davis	MS Terr.	25.00	Sale	Bayou Pierre, Lot 3, SQ 2
J. Wylie	J. Stump	Adams – Tenn.	130.00	Sale	L4, SQ 26
T. Dawson	R. Dawson	Adams	25.00	Sale	Lot in town
W. Barland	P. Connelly	Natchez	96.00	Sale	L1, SQ 25 105 Acres in town
T. Dawson	W. Miller, Esq. /(M)	Adams	50.00	Sale	Lot ?, N. 48
E. Durgan	J. Courtney	Natchez – Pennsylvania	150.00	Sale	House + Lot on MS River, under the Hill
A. Gill Esq.	St. J. Beavais & Company (M)	Baton Rouge – Adams	900.00	Sale	Lot 5, SQ 2 +dwellings, orchards, gardens
T. Dawson	J. Kean	Adams	25.00	Sale	Town of Pinkneyville; ½ Acres
			25.00		
			100.00		
			30.00		
I Guion	P. Vandorn (M)	Natchez	1,600.00	n/a	n/a
S. & R. Swayze (M)	Silas Crane	Natchez	20 Spanish Milled	Sale	Lot 7, on Homochitto
W. Barland	T.Tyler (M)	Natchez	150.00	n/a	Lot 3, SQ 10
F. Candel, M. Lopez, atty	J. Walton	New Orleans-Natchez	700.00	Sale	Lot 1, SQ 8

T. Tyler (M)	B. Kitchen	Natchez – Adams	1,000.00	Sale	Lot 1 SQ 3
R. McCabe	C. Miller (M)	n/a	Grant	Sale	Lot 4 SQ3
C. Miller (M)	H. Turner & Co. (M)	Natchez	1,600.00	Sale	Lot 4 SQ3
T. Tyler (M)	I Locks	Adams	500.00	Sale	town lot
D. Ferguson	C. Miller (M)	Adams	2,200.00	Sale	Lot, 150 feet front fronting MS River
J. Girault (M)	L. Harding, Duncan	Adams	300.00	n/a	Lot SQ 8
W. Barland	Catholic Socit	Natchez	500.00	n/a	n/a
W. Barland	S.Timberlake	Natchez	200.00	n/a	½ of one square
Rev.Lennan	R.Moore (M)	Natchez	500.00	Sale	Lot 4 SQ 10
Grantor	Grantee	County	Amount		Description
L. Evans	P.Brill	Adams	1,250.00	Sale	2 parcels in City
P.Brill	A. Kuhl	Adams	1,600.00	Sale	2 parcels + 2 Acres
J. Foster (M)	C. Mead	Wilkinson-Adams	400.00	Sale	Parcel +2 2 Acres, Town of Washington
W. Turpin	n/a	Adams	706.84	Auction	Lots 1,2,3, SQ 24
A Murray	Tiernan & Company (M)	Adams – Baltimore	9,241.06	Sale	Lot of ground + house +buildings
T. Terrell (M)	C.H. Kyle (M)	Adams	7,000.00	Sale	“3 rd Street from River”
C. Defrance	W. Brooks	Adams	6,000.00	Mortgage	Lots in Washington + Interest, 46 Acres
W. Brooks	C. Miles	Adams	4,200.00	Sale	Sale of Mortgage
C.H. Kyle (M)	Hall & Wright (M)	Natchez – Baltimore	5,272.35	Mortgage	Lot of land in City
Brooks	Meade	n/a	2,100.00	Sale	Lot in Washington
W. Scott	E. Smith	Natchez – Claiborne	500.00	Sale	Lot in Natchez
C. Springer	E. Howell	Kentucky - Natchez	275.00	Sale	Lot in Natchez
W.Thompson	B. Cassee	Adams	1,500.00	Sale	Lot in City
R. Moor	P. Dayton	Adams – Rapide	n/a	Sale	Lot in City
S. Lee	G. Albine	Adams –New York	1,000.00	Sale	House under the Hill
E. Rees (M)	C. Defrance	Adams	2,000.00	Sale	Town of Washington
A Deemer	A Deemer	Ohio – Pennsylvania	1,600.00	Sale	Lot in City
A Deemer	J. Hankinson	Ohio – Pennsylvania	n/a	Sale	Lot in City
W. Barland	J. Hankinson	Adams – Natchez	864.00	Sale	Lot 3, SQ 24
E. Gamble	J. Davis	Adams	40.00	Sale	Lot of Land, Washington
J. McConnell	L. Young	Natchez	600.00	Sale	Lot of Land, Washington
A Defrance	J. Keith	Adams	32.50	Sale	Land in the town of Washington
D. Eliott	J. Bracken	Adams-Natchez	156.00	Sale	Land in the City
W. Bernard	J. Anderson (M)	Adams-Natchez	n/a	Grant	Land in City

J. Henderson (M)	L. Evans	Natchez-Adams	5,000.00	Sale	Land in City
C.H. Kyle (M)	L. Evans	Natchez-Adams	6,200.00	Sale	Land in City
D. Greenleaf	C. Miles	Adams	28.00	Auction	10 Lots in Town of Washington
P. Woodward	J. Phelps	Natchez-Concordia	192.00	Sale	Lot of land in Natchez
D. Bruney	E. Roach	Adams	1,000.00	Sale	Land in town of Washington
T. Foster	J. Hendin	Adams-Natchez	450.00	Sale	Lot in City
J. Foster (M)	B. Brustie	Wilkinson-Natchez	500.00	Sale	Lot in City
T. Foster	J. Henderson (M)	Adams – Natchez	1,000.00	Sale	Lot in City
C. Defrance	E. Rees (M)	Adams – Natchez	4,000.00	Mortgage	2 Lots in Town
G. Selser	C. Lewellen	Jefferson – Natchez	Sale 85.00		Lot in Selsertown
J. Martin	C.B. Green	Adams – Natchez	771.97	Mortgage	House +Lot
L.B. Moore	J. Walker	Natchez	1,700.00	Sale	Lot 4
P. Allan	E. Goldman	Adams	5,000.00	Sale	½ house, Natchez landing
J. Routh	W. Dishoon	Adams	800.00	Sale	Ground in City
A Simmons	S. Davis	Natchez	1,500.00	Sale	Lot
J. Jackson (M)	W. Jackson (M)	Tennessee – Natchez	5.00	Grant	Lot
S. Minor	R. Terrell (M)	Adams	150.00	Sale	One lot
L. Adams	H. Bidner	Adams-Pennsylvania	700.00	Sale	Lot
W. Turpin	B. Chew (M)	Adams –New Orleans	3,000.00	Sale	Lot in City (14 Arpents)
M. Lee	E. Goldman	Natchez	n/a	Sale	Half of house
W. Parker	R. Terrell (M)	Natchez	700.00	Sale	Lot of land
A Hernandez	J. Andrew	Adams	400.00	Sale	Lot of land
J. Boleau	M.D. Hurdus Adams	Adams	1,000.00	Sale	House, Natchez Landing
C. Miles	W.R. Richards (M)	Adams	439.00	Sale	Lot in City
Terrell & Richards (M)	C. B. Green	Marion – Natchez	1,000.00	Sale	Lot in City
J. Glenmany	J. McGahey	Wilkinson – Adams	n/a	Sale	153 Acres in township
P. Smith	P.Brill	Adams-Natchez	400.00	Sale	Land in City
P.Brill	A.Kuhl	Adams	3,000.00	Sale	Land+Building, City
R. King	Estate G. Forman (P)	Adams	2,562.00	Mortgage	Lot in city
R.Cochran (M)	C. Minnish	Claiborne-Natchez	900.00	Sale	Land in City (10 Arpents)
E. Goldman	M. lee	Natchez	800.00	Sale	Land in City
C. Defrance	J. Piper	Adams	100.00	Sale	Lot of land, Washington

J. Meyer	Hernandes, et al	Louisiana-Natchez	1,000.00	Sale	Lot in City
B. Cuebard	n/a	Adams	100.00	Sale	House + lot in City
C. Keller	J. Moore (M)	Natchez	1,000.00	Sale	Land in City
F. Curtis	R. Terrell (M)	Adams	200.00	Sale	½ Acre in City
A Defrance	J. Robertson	Adams	2,500.00	Sale	Land in town of Washington
W. Barland	J.Henderson (M)	Adams-Natchez	45.00	Sale	Lot of land in City
J. Linton (M)	P. Wiltberger (M)	Concordia – Philadelphia	2,285.43	Mortgage	Lot of ground in City
J. Mason	C Defrance	Kentucky – Adams	3,000.00	Sale	Land in town of Washington
C. Defrance	W. Brooks	Adams	n/a	Mortgage	Lots in town
C. Miles	W. Turpin	Adams	n/s	700.00	Lots in town of Washington
J. Low	P. Allaire	Adams	700.00	Sale	House + Lot
J. Dunlop	R. Gustin	Natchez	1,500.00	Sale	House + Lot
F. Claiborne	J. Dunlop	Adams	1,500.00	Sale	House + Lots
W. Turpin	c. Miles	Adams	1,200.00	Auction	Lots in Town of Washington
J. Burget	J. Gobo	Natchez	800.00	Sale	Lot in City
W. Turpin	P. Brill	Adams	355.00	Auction	House + Lots
T. Plaster	C. Baldwin	Adams	100.00	Sale	Lot of land in City + houses
J. Metcalf	P. Hernandez	Washington – Adams	800.00	Sale	Land in town
C. Defrance	J. Metcalf	Adams	100.00	Sale	Land in town
W. Turpin	J. Richards (M)	Natchez	n/a	Auction	House + Lot in city
C. Defrance	W. Turpin	Washington	150.00	Sale	Lot of land in City
E. Gorrell	J.H. Rutherford (M)	n/a	180.00	Sale	Lot of land in City
J. Moore (M)	L. Purnell	Natchez	1,500.00	Sale	Lot or parcel in City
W. Turpin	C. Miles	Adams	160.00	Auction	Land in city
J. Forman (M)	J. Rutherford	Natchez	850.00	Sale	Lot of ground in City
J. Richards, et al.	B. Osmun (M)	Adams	1,848.00	Sale	House + Lot in City
B. Osmun (M)	L. Evans	Natchez	5,250.00	Sale	House + Lot in City/Main street
M. Bruner	H. Hunt, et al	Adams	1,487.00	Mortgage	Lot of land in Town, Washington
D. Ferguson	L. Evans	Natchez	12.50	Sale	Lot of alnd in City
B. Osmun, (M)	N.C. Hall	Adams	2,400.00	Mortgage	House + Lot+Interest
L. Evans	J. Werlin	Natchez	170.00	Sale	One Acre in City Natchez
R. Cochran (M)	L. Evans	Claiborne-Natchez	0.00	Granted	13 Acres in City
E. Rees (M)	J. Thompson	Natchez	3,000.00	Sale	Lot in city
P. Bayless	J. Potter	Adams	1,500.00	Sale	Lot in City
A Mahan	J. Thompson	Adams	100.00	Sale	Lot in City
I. Guion	J. Linton (M)	Adams	500.00	Sale	City Lots
Deed Book I					
Peter Little	J. Eiler	Adams	8,000.00	Sale	House + Lot
W. Parker	S. Davis	N/a	1,500.00	Sale	City Lot 1, Sq. 9 + buildings
E. Howell	G. Miller	Adams	500.00	Sale	Lot 4, Sq. 22

E. Howell	J. Nichols	TN –Adams	200.00	Sale	150 Sq Ft; town of Washington
R. Throckmorton (M)	G. Ralston	Adams	4,000.00	Sale	Main Street, Sq. 10
W. Turpin	P. Walton	MS – Adams	1,214.00	Auction	Lot 1 sq. 14
W. Barland, Exec	M. Wooley (M)	Natchez	20.00	Sale	Lot in City
W. Barland	L. Evans	Natchez	649.00	Sale	6 acre Lot in City
T. Foster	J. Henderson (M)	Adams	600.00	Sale	Lot 4 in City
W. Turpin	J. Forsyth	Adams	56.19	Auction	Lot in Town
A. Williams	J. Forsyth	Adams	50.00	Sale	Land in town of Washington
Ralston, Exc	P. Grayson	Adams	1,475.00	Sale	Lot 4 Sq. 3
Minors, et al	W. Turpin	Adams	700.00	Sale	Lot in Natchez
F.L. Claiborne	Foster & Elam (M)	Adams	2,250.00	Sale	Lot of land in City
M. Wooley (M)	N. Lowry	Adams	202.50	Mortgage	House + Lot in Natchez
D. Watson	J. Henderson (M)	CT – Natchez	250.00	Sale	Lot in Natchez
B. Kitchen	J. Richards (M)	Natchez	2,580.00	Sale	Lot 1 Sq2
W. Barland	H. Tooley	Natchez	n/a	Sale	Lot 3, Sq 10
R. Moore (M)	J. Linton (M)	Natchez	5.00	Fee Simple	Lot 2, sq 4
T. Seip (P)	J. Kerchival (P)	Natchez	10,000.00	Sale	Lot 2, Sq 10
J. Brandt, Peter Little (M)	Ben B.	New Orleans-Natchez	180.00	Sale	Land near Landing/Natchez
G. Swazey	J. Nichols	TN – Adams	200.00	Auction	Town of Washington
Washington-Jackson (M)	J. Lope	Adams	2,000.00	Sale	Lot
D. Virtner	J. Linton & Co (M)	Natchez	2,000.00	Sale	Lot 3, Sq 1
J. James Smith	Turner, Linton & Co (M)	Natchez	8,000.00	Sale	House+Lot,
W. Barland	E. Barland	Natchez	1.00	Grant	Lot 3, Sq 24
J. Brandt, et al. Peter Little (M)	McConnell & Patterson (M)	New Orleans Natchez	210.00	Sale	Land near Landing
L. Whitmore, R. Bell	L. Marting	New York-Kentucky	500.00	Sale	2 lots in town of Washington
J. Burget	P. Isler	Natchez	1,500.00	Sale	Town Lot, Lot 1, Sq 22, House
W. Turpin	T.B. Reed	Natchez	25.00	Auction	House +Lot
C.B. Green	J. Hunt (M)	Natchez	200.00	Sale	Lot in Natchez
W. Richards (M)	P. Engle (M)	Natchez	450.00	Mortgage	Lot 4, Sq 1
P.A. Engle (M)	E. Turner	Adams	450.00	Sale	One half of Lot 4, SQ 1
P.A. Engle (M)	E. Turner	Adams	450.00	Sale	Lot 4 SQ 1 one-half

W. Walton	W. Rutherford (M)	South Carolina-natchez	1,000.00	Sale	Lot 2 Sq 24
W. Walton	W. Rutherford (M)	South Carolina – Natchez	1,000.00	Sale	Parcel
W. Walton	W. Rutherford (M)	South Carolina-Natchez	200.00	Sale	Lot ¼ part Lot 1, Sq 50
J. Thompson	G. Smith	Natchez	1,000.00	Sale	Lot on Main Street
H.R. Williams	L. Evans	Natchez	1,500.00	Sale	3 Acres in the City
W. Barland, Exec	J. Evans, J.C. Wilkins (M)	Natchez	1,650.00	Sale	Land in City
G. Turney	W. Price	Natchez	n/a	Sale	Lot 2, Sq 8
W. Price	P. Engle (M)	Natchez	700.00	Sale	Lot 2, Sq 6
L. Pomet	D. Elliot	Natchez	450.00	Sale	Lot 2, Sq 8
D. Hunt, A. Hunt (M)	E. Hunt (M)	Natchez	13,000.00	Sale	Lot 1 Sq 3 + 603 acres on Coles Creek; 406 acres Cole's Creek
P. Antoine(M)	W.R.Richards (M)	Natchez-New Orleans	1,500.00	Mortgage	Lot in City as security; article of agreement; merchandise
L. Pomet(M)	J. Texada	Natchez	1,500.00	Sale	House + Lot
J. Linton, Jr. (M)	J. Richards (M)	New Orleans –Natchez	4,000.00	Sale	Lot in City
W. Turpin	J. Minor	Natchez	141.00	Auction	Lot 4 Sq 5
J. Walton	W. Parkers	Natchez	800.00	Sale	Lot in city
J. Hunt (M)	E.Smith (M)	Natchez-Adams	1.00	Grant	Ground/Main Street
J.Moore (M)	F. Seip	Adams-Natchez	3,000.00	Sale	Lot 2 Sq 5
J. Kerchaval	F.Seip	Natchez	5,000.00	Sale	14 arpents in City
W. Turpin	J. Thompson	Adams	146.00	Sale	Lot 1 Sq 29
W. Barland	J. Thompson	Adams	n/a	Auction	Lot 1 Sq29
W. Barland	G. Cochran (M)	Adams	n/a	Quit claim	Lot 4 Sq 9
W. Turpin	C. Mead	Adams-Jefferson	1,438.00	Auction	Lot 1, 2, 3, 4, Sq 13
J. Snodgrass	W. Snodgrass	Jefferson-Natchez	250.00	Sale	Lot 3 Sq 23
L. Weeks(M)	G.West	Natchez	2,000.00	Sale	"in city"
C. Mead					
Grantor	Grantee	County/Region	Amount	(1817)	Description
J. Forsyth	S. Lee	Adams	450.00	Sale	Lot of ground Town, Washington
C. Mead	J. Henderson & Company (M)	Adams	2,500.00	Sale	¼ Acre in the Town of Washington
W. Barland, Executor	Munce & Steele, (M)	Adams	100.00	Sale	Natchez Lot 3, SQ 1
T.W. Powell	A. Griswold	Adams –	300.00	Sale	Natchez Lot 8

	(M)	Natchez			
R. Langdon, et al.	S. Patterson, et al.	Natchez	350.00	Mortgage	Lot 4, SQ 21
P. Tiernan, (M)	J. Walker	Jefferson – Concord	2,000.00	Sale	n/a
W. Wren (M)	J. Eiler (M)	Adams	1,200.00	Sale	Lot 4, Sq25
P. Pedirclau (Pierre)	Adam ?	New Orleans - ?	10,000.00	Sale	Lot 24, + 1 Slave 23 years old
J. Ailes	J. Richard, I Overaker	Natchez	800.00	n/a	Lot 4 SQ 14 + house
J. Walker	J. McConnell, S. Patterson	Concord – Natchez	1,050.00	Sale	Lot 4,SQ 24
Grantor	Grantee	Cnty/Region	Amount	1800-01	Description: Slaves
R.McCabe	W. Burling	Adams	400.00	Sale	Female, 20 years
W. Beall	B. Osmun (M)	KY-Adams	1,000.00	Sale	2 slaves
G.McAfee	T. Thomson	KY-Adams	200.00	Sale	Slave man, Davy, 30 years
R.Lord	G.Cochran, M	KY-Adams	500.00	Sale	One slave man
Wm Barrow	A.Gras (M)	MS-MS	290.00	Sale	slave boy, 6 years, one girl child
J.Adair, et al	A. Gras (M)	KY-Adams	650.00	Sale	Slave woman, 32 years, girl 11
S. James	A. Gras (M)	KY-Adams	425.00	Sale	Slave woman and child
J. Lawnsdale	P. Connelly	KY-MS	600.00	Sale	Joe, 23 years old
M.Forman	E.Forman (M)	KY-Adams	n/a	Sale	7 slaves
I.Johnson	J.Wall	n/a –Adams	500.00	Sale	Dolly, 16 years
I.Johnson	J. Wall	n/a-Adams	500.00	Sale	One slave boy, 2 years
W.Forman M	J.Forman (M)	MD –MD	17,599.00	Sale	71 slaves, 40 cattle, 16 horses
W.Forman	J. Forman (M)	MD-MD	8,700.00	Sale	23 slaves, 40 cattle, four horses
J. Forman (M)	W. Forman	MD-NJ	17,699.00	Sale	71 slaves, 40 cattle, four horses
R.Huston	P. Ahton (P)	KY-Adams	500.00	Sale	One slave girl
J. Stump	J. Bisland (P)	TN-Adams	400.00	Sale	Slave boy, 14 years
J. Hennen	R.Dunbar	TN-Adams	750.00	Sale	Two slaves, 18 years
J. Hennen	J. Ellis (P)	TN –Adams	500.00	Sale	Slave woman, 20 years
J. Stump	P. Engel (M)	TN-Adams	190.00	Sale	Slave woman, 45 years
J.Mills	R.Dunbar	n/a-Adams	450.00	Sale	Slave man, 20 years
G.Bell	J.Vidal	TN-Adams	425.00	Sale	Slave woman, 20 years
G.Bell	T.M.Green	TN-Pickering	900.00	Sale	Slave girl, 14 years, child 2 years
W.Carvin	W. Dunbar	TN-Adams	450.00	Sale	Man, 23 years
G.Bell	W.Dunbar	TN-Adams	1,600.00	Sale	Man, 30, Man 26, Man, 27, boy 12
J. Carter (P)	T.Foster (P)	Adams-Adms	1,000.00	Sale	Two slaves
G.Bell	W.Dunbar	TN-Adams	450.00	Sale	Slave man, 35 years
J.Carter (P)	J.Bernard	Adams-Adms	500.00	Sale	Slave girl, 17
J. Hull	T.Green (P)	KY-Pickering	3,000.00	Sale	n/a
H.Abbett	W.Alexander	KY-Adams	400.00	Sale	Man, 17
H.Abbett	I.Alexander	KY-Adams	300.00	Sale	Boy, 10 years
W.Dunbar	J.Gallaspie	Adams-Adms	280.00	Sale	n/a
R. Huston	S.Minor	KY-Adams	1,400.00	Sale	4 slaves
W.Luckess	R.Dunbar	TN-Adams	650.00	Sale	2 slaves
B. Kitchens	B. Osmun (M)	n/a-Adams	1,000.00	Sale	2 slaves
J.Odum	B.Osmun (M)	MS-Adams	650.00	Sale	2 slaves
P.Buckner	B.Osmun(M)	KY-Adams	n/a	Sale	1 slave
J.Baker, etal	R.Dunbar (P)	KY-Adams	1,150.00	Sale	4 slaves
F.Smith, et al	A.Green (P)	KY-Adams	500.00	Sale	1 slave

R.McCabe	F.Riggs	Adams-Adms	500.00	Sale	1 slave
J.Carter (P)	Landon, et al	KY- n/a	1,000.00	Sale	2 slaves
T.Jones	P.Foley	MD-Adams	800.00	Sale	Mother, two children
H.Rennecks	T.Bullett	KY-KY	600.00	Sale	3 slaves
J.Jones	J.Green	KY –n/a	1,000.00	Sale	4 slaves
J.G.Meaux	B.Osmun (M)	KY-Adms	1,800.00	Sale	4 slaves
R.Davenport	I.Gaillard	KY-Adms	600.00	Sale	3 slaves
Henderson (M)	W.Dunbar	Natchez-Adams	500.00	Sale	2 woman and child
L.Moore (M)	R.Dunbar (P)	Natchez-Adm	1,250.00	Sale	4 slaves
S.McDowell	J. Routh et al	n/a	500.00	Sale	1 slave
D.Lorero	M.Slibellas	Natchez-Adm	500.00	Sale	1 slave
J. Ward	J. Moore	KY-Adams	1,450.00	Sale	5 slaves
1814, 1815, 1816, 1817, Slaves					
J. Ellis	J. Duncan	Adams-Adms	n/a	Granted	“slaves”
S.Posthwaite	I.Smith	Adams-Adms	4,000.00	Mortg	5-6 slaves + cattle
J.Corbell	T.Hurst	Adams-Adms	n/a	Appoitmt	Slaves
A.Enandez	H.Ernandez	Adams-Adms	n/a	Granted	Slave girl
J.Cook	J.Barnes	Adms-Savanh	300.00	Sale	Slave girl
J.Cook	J.Barnes	Adms-Savanh	400.00	Sale	Nancy +child
J.Cook	J.Barnes	Adms-Savanh	1,200.00	Sale	4 slaves
S.Graham	C.Stone	Adms-Adms	n/a	Sale	Sally
M.Theresa	V.Colombe	Adms-Concor	n/a	n/a	n/a
E.Bradley	S.Joseph	TN – Natchez	430.00	Sale	Woman +child
W.Barland	A.Barland	n/a	n/a	Manumiss	n/a
J. Andrews	E.Newman	Adms-Adms	3,400.00	Sale	75 head of cattle, Slave woman
T.Claiborne	R.Gibson	Adms-Adms	179.00	Sale	Slave girl
W.Shipp	W.J. Barnard	n/a	10,000.00	Sale	35 slaves
P.Brill	J.Fry	Adms-Adms	1,500.00	Sale	Slave man
S.Knight	R.Reed	Natchez	100.00	Sale	Slave and child
W.Chew	J. Millers	Msterr	420.00	Sale	Ben, 40 years
W.Tully	D.Lattimore	Adms-Adms	300.00	Sale	Slave man
P.Hunter	P.Little (M)	Natchez	450.00	Sale	Mulattor woman, 35
p.Little (M)	E.Smith	Natchez	250.00	Sale	Slave, mulatto
G.Wilkinson	T.Serop	Natchez	800.00	Sale	3 slaves
T.Claiborne	R.Gibson	Adms-Adms	250.00	Sale	1 male
C.Green	A.Forman	Adms-NJ	8,000.00	Mtg	41 slaves
Mparker	A.Cloud	MD –Adms	n/a	Manumiss	
J. Calvin	J.Hoover	n/a	450.00	Sale	Girl, 19
Pannill, et al	D. Elliott, et al	Adms-Adms	34,000.00	Sale	46 slaves
R. Fletcher	G.Glasburn	Adms-Adms	3,000.00	Sale	n/a

Chapter 4

4.7. Merchant-Firms as Plaintiffs and Defendants in the Adams County Court Records, 1809, 1820, 1826.

1809 Peter Little William Forman and Henry Hunt John Wilkins Samuel C. Hall, William Wright (Baltimore, MY) Daniel D. Elliott, John Wilkins Hezekiah Stiles John Wilkins, Charles Wilkins John B. Willis George B. Curtis & Company John Reed, Forde (Philadelphia, PA) William Kenner, New Orleans John Henderson Bigelow & Miller Forman & Forman William Delile Daniel D. Elliott Daniel D. Clarke Abijah Hunt & Smith McQuaddy & Company James Steele Ellis Wood & Company Hammond & Brown	1820 James P. McNeil & Alvarez Fisk, McNeil & Fisk Alexander Tiernan & James Cook (Baltimore, Maryland) Alexander Cranston & Company Augustus Griswold & Levi Weeks James Raisley & Company Ebenezer Rees William Shipp & Company Noyes & Spencer Stockton, Allen & Company Breedlove & Robinson Isaac Drake & Company Winter & Moore Anderson & Morrow John Henderson Ochmucher & Company 1820 continued Whitehead Manufacturing James Berthe & company Henry Postlethwaite William Currell M & G Thomas Timothy Terrell Thompson & Mosley Townsbys & Company William Dougherty Harberling & Irvine Hamilton & Hyde Bacon, Samuel & Company Turner & Metcalfe Wilkins & Linton James Bailey & Company Postlethwaite & Company Alexander & John Sterling B.J. Shaw Christopher H. Kyle and Micajah Terrell James H. Steele & Company Foote, Huntington & Company Head & Lyons John L. Buck & Company Slocomb 7 Higdon Eiles & Williams Gireaudeau & Pomet Dunn & Phillips Peabody & Chamberlain William Jackson & Company Hall & Worley Miller & Rowan Montgomery & Stringer J.H. McComas & Company	1826 Abraham Scranton, Jr., & Company James J. Rowan & Lion G. Rowan Thomas Wren, Leverett Hyde John M. Whitney and William Snodgrass & Company Woodson Wren, Perkins & Wren Joshua Cox, Allen Hill, A. Hill & Company James M. Reynolds, John B. Byrne, William Ferriday James C. Wilkins, John Linton, Wilkins & Linton Thomas H. Smith & Company (& Archibald Wilson) Horace Gridley, Gridley & Reynolds Washington, Jackson & Company Bennett & Peter Laidlaw, merchants John Little, James Stockman, Little & Stockman Peter Southworth, Nathan Bolls, merchants John Anderson, Alexander C. Henderson, Thomas Henderson, merchants John Richards & Company (A.H. Buckholts) J.B. Wallace, Alexander Wallace Grissam, Moss & Company (William C. Grissam, Henry Moss, John Snodgrass) Foote & Huntington Ezra Talmage, Ezekiel Haynes Robert Laytow, David Esterbrook, merchants Matthew Tilgham, G. Pearce, merchants Gabriel Gireaudeau & Marshall Pomet Thomas Munce, James Steele, Munce & Steele John Black, Samuel Macracken, John Black & Company Alvarez Fisk, Malcom McNeil Robert Piggott, Nathaniel Perkins Stanton & Company Horace Gridley, Gridley & Reynolds Samuel Postlethwaite Richard H. May Richard Knox, Thomas Nixon Richard L. Smith, Thomas J. Dobbins, R.L. Smith & Company Bradley Lee, Reed & Lee (New York) Francis Bynam (non-resident), Alvarez Fisk, Thomas J> Rutherford, partners Wilson H. White, Abbott & White,
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	Munce & Stein William R. Cox & Company James Railley & Company Field & Morgan John Brown, James Ross, James Brown & Company	innkeepers James Foster, John Steele, firm of Foster & Steele
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4.8. William Henry v. William Turner, June 1809, Natchez Historic Foundation.

Adams County Secy
William Henry complains of William Turner
in Custody & of a plea of trespass on the case
For that Whereas the said Defendant on the
25th day of February — in the year of
our Lords 1808 — in the
County aforesaid was indebted to the said
Plaintiff in the sum of 500 Dollars for so
much money of the said Plaintiff by the said
Plaintiff, to and for the use of the said
Defendant before that time paid laid out and
expended, and being so indebted by the said
Defendant in consideration thereof afterwards to wit
on the same day and year aforesaid undertook
and to the said Plaintiff then and there
faithfully ^{promised} that he the said Defendant the
said sum of 500 Dollars last mentioned
to the said Plaintiff whenever after he should
be thereto requested would and faithfully
pay and Content. And Whereas also the said
Defendant afterwards to wit on the same
day and year aforesaid in the County aforesaid
was indebted to the said Plaintiff in other
sum of 500 Dollars for money by the

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Louisiana State University, Hill Memorial Library, Baton Rouge

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Ellis-Farar Papers

Massachusetts Historical Society

Winthrop Sargent Papers, 1771-1948: bulk 1785-1801

Mississippi Department of Archives and History, Jackson

Bank of the State of Mississippi (1826-1827)

Trask-Ventress Papers

New York Historical Society

Office of Records, Adams County, Natchez, Mississippi

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