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The Nature of the American Imperial Frontier: Thomas Jefferson, The
Osage and The Cherokee

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Anthony Michael Farber

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Zusammenfassung der Dissertation:

Die Vereinigten Staaten verhielten sich von Anfang an im Einklang mit der Definition eines Imperiums. Die Amerikanische Revolution war ein konzentrierter Versuch einer „Aristokratie der Neuen Welt“, innerhalb ihrer Grenzen ein imperiales System zu errichten, das dem Britischen Empire Konkurrenz machte. Die Expansion dieses neuen „Amerikanischen Imperiums“ lässt sich anhand der Entwicklung seiner Grenzen verstehen. Anders als an den britischen, französischen und spanischen Grenzen, wo sich über Jahrhunderte hinweg stabile Beziehungen, Handelsbeziehungen und sogar militärische Bündnisse mit den amerikanischen Ureinwohnern entwickelten, setzte die amerikanische Grenze innerhalb weniger Jahrzehnte die indigenen Stämme östlich des Mississippi unter Druck und unterwarf sie. Sie begann, die Kontrolle über die im Louisiana Purchase westlich des Mississippi erworbenen Gebiete auf ähnliche, aber raffiniertere Weise zu festigen. Mithilfe von Konzepten der Liminalität und des Dritten Raums, die der Urbanistik entlehnt sind, um die soziale und verhaltensmäßige Struktur der Grenze zu verstehen, werde ich versuchen, die Natur dieser Grenze, quasi als eigenständige Einheit, zu untersuchen und wie sie das amerikanische Verhältnis zu den indigenen Stämmen, der natürlichen Umwelt und den Siedlern, die die „Arbeit“ des Kolonialreichs leisteten, beeinflusste. Insbesondere versucht diese Arbeit, die Fragen zu beantworten: „Welche Form(en) nahm die imperiale Politik der USA an und wie beeinflusste sie ihre Beziehungen zu den indigenen Stämmen Nordamerikas?“

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Author's Note:

My thesis makes extensive use of both primary and secondary sources, including the writings of Thomas Jefferson, legal documents, treaties, philosophical works, and the work of historians such as Drinnon, Prucha, Remini, et al. Block quotes are present. All quotations are marked and cited, and paraphrased material has been rewritten and cited. Theoretical frameworks from urban and cultural studies are employed and sources are introduced and applied analytically. I have scrutinized this text to ensure academic integrity and have done my best to be faithful to the source materials and the cultures representative thereof.

Thesis Abstract:

The United States, from its inception, has behaved in a manner consistent with the definition of empire. The American Revolution was a concentrated effort by a 'new world aristocracy' to create a rival imperial system to the British Empire, within its own borders, and that the expansion of that new 'American Empire' can be understood by an examination of how it's frontier behaved. Unlike British, French and Spanish frontiers which, for centuries, saw stable relationships, trade and even military alliances with Native Americans develop over time, the American frontier, however, within a few short decades, had pressured and subdued the Native Tribes east of the Mississippi and began efforts to consolidate control over lands acquired west of the Mississippi in the Louisiana Purchase in a similar but more refined fashion. Using concepts of Liminality and Thirdspace to understand the social and behavioral structure of the frontier, concepts borrowed from Urban Studies, I will attempt to examine the nature of this frontier, almost as an distinct entity, and how it informed the American relationship with Native Tribes, the natural environment and with the settlers who did the 'work' of colonial empire. Specifically this thesis seeks to answer the questions of "what form(s) did US imperial policy take and how did US imperial policy affect its relationships with the native tribes of North America?"

"Below the earth of the United States are the bones and villages of natives."

-Roxanne Dunbar-Ortiz

Introduction

The case for an American Empire has been made prior to the writing of this Master's Thesis. However, this conversation tends to relay information about the United States since the end of the Second World war and does not stray too deeply into the origins of the nation, whereby the most tangible and visible first steps toward empire were taken by the first government of the United States. Whereas other lines of argumentation do not tend to lead back to the foundation of the nation, this thesis will deal exclusively with it. Thereby the conversation will tend to deviate from many of the contemporary conversations and possibly even the conventional understandings of what is meant by American Imperialism, or even how the broad concept of an empire is conceived of in the sense of a British, French or Spanish overseas empire in the 16th to 20th centuries. Instead what takes place with the United States is a much more modern rendition of a much more ancient mode of empire building. Using legalistic methods and enlightenment era reasonings, debt entrapment schemes, and combined with the threat of force, the United States would carve out a continental empire.

In order to conceptualize the empire of the United States, the nature of imperial frontiers and how the conceptualization of frontiers as a space of liminality and contact, organized by the society's elites, manifests into empire directly, certain topics need to be briefly addressed. For the purposes of accumulation, the elite's fixation of the imperial frontier in a temporal space reflects

the target of interest.¹ Take for example the removal of the Cherokee in Georgia after the discovery of vast gold mines under their territory.² Imperial frontiers are a source of information input but also feedback, and this feedback and input loop of policy implementation changes the ideas, attitudes and actions of policy makers and other varieties of elites within the empire but also the process is happening simultaneously in those populations who are affected by the imperial frontier's advancement through their geographical space and must also respond to the inputs and feedbacks in their own way.³ This can be expressed in the results of legal cases, such as *Worcester v. Georgia*, 31 U.S. 515 (1832).⁴

Beginning with the very first piece of legislation passed by the Congress of the Confederation, the immediate predecessor to the Federal Government of the United States, passed the Land Ordinance of 1784 as its first action after the signing and ratification of the Treaty of Paris in the same year. This document, which was initially organized by Thomas Jefferson, outlined how the lands won by the former colonies in the War for Independence, would be parceled up and organized.⁵

This ordinance did not include negotiations with the resident native tribes who already occupied these lands, but rather gave way to the first imperial war of subjugation initiated by the United

¹ Manuel Castells, *The City and the Grass Roots* (1983): 311-312.

² Williams, H. David. "Gambling Away the Inheritance: The Cherokee Nation and Georgia's Gold and Land Lotteries of 1832-33." *The Georgia Historical Quarterly* 73, no. 3 (1989): 519-39. <http://www.jstor.org/stable/40582015>.

³ Drinnon, Richard. "The Metaphysics of Empire-Building: American Imperialism in the Age of Jefferson and Monroe." *The Massachusetts Review* 16, no. 4 (1975): 666-88. <http://www.jstor.org/stable/25088593>. 666.

⁴ *Worcester v. Georgia*, 31 U.S. 515 (1832).

⁵ Robert V Remini, "The Northwest Ordinance of 1787: Bulwark of the Republic," *Indiana Magazine of History* 84, no. 1 (1988): 15, <https://doi.org/10.2307/27791137>.

States on other people who, broadly speaking, had no knowledge of their sudden introduction into the territory of the new United States of America.⁶ This resulted in the Northwest Indian War and America's first foray into imperial expansionism. Later, in this thesis, the Land Ordinance of 1784, and the subsequent Northwest Indian War, will serve as an introduction to the wider topic of imperial expansionism experienced by Native tribes and initiated by Euro-Americans leading up to and following with swift resolve after the purchase of the Louisiana Territory from Napoleonic France in 1803.

The discussion will not fixate exclusively on the doings and thinkings of the American elite in the late 18th and early 19th centuries, but will examine the cultures and varied responses of native tribes, specifically the Osage and the Cherokee, to this frontier and will examine the curious movement of some groups of native nations westward, west of the Mississippi, in advance of the implementation of Indian Removal Acts in the middle of the 19th century.

Conceptualization of the frontier as a liminal space where the interests of the elites are reflected in the way the space is used and, thereby, defined. A pale is a defined area where certain rules and regulatory processes are firmly in place but only in contrast to what lies beyond this firm zone of control where control is limited or non-existent.⁷ Liminal Spaces are areas where, perhaps ambiguous in dimension, potentially only extend in a temporal sense, that define a space of change and transformation.⁸

⁶ A review of any of these treaties' signatories would reveal this.

⁷ Mendelsohn, Ezra. "Jewish and Christian Workers in the Russian Pale of Settlement." *Jewish Social Studies* 30, no. 4 (1968): 243–51. <http://www.jstor.org/stable/4466427>.

⁸ Turner, Victor (July 1974), 56-57. "Liminal to Liminoid, in Play, Flow, and Ritual: An Essay in Comparative Symbology". https://edisciplinas.usp.br/pluginfile.php/8303489/mod_resource/content/1/Liminar%20e%20Liminoide.pdf

Space, in the setting of urban studies, is defined by its relationship to the elite's designs on its use.⁹ In the context of an imperial frontier, the relationship between the elites and space is that same in outline. However, the metamorphosis of space (hence liminality) is not a 1:1 because of the variety the imperial frontiers can take in form and structure. However, like urban zones of development, zoning is organized through a combination of capital and political coordination, the same can be said about an expansionist frontier of an empire. The empire's individual economic system will determine how investment in the space is structured, however the political component will dictate how the space is to be utilized. The function of the pale as a concept, as it is utilized here, refers to geographical areas firmly under control by the state, where specific legal courts, ordinances, taxation and political processes are enforced without real contestation by rival power factions.

In the case of the early United States expansion, the pale was largely defined, or expressed, by natural boundaries but also by rival European empires and tribal nations that did not recognize US territorial ambitions and exerted effective rival control of geographical regions claimed by the United States. Everything beyond the pale was the zone of expansion we called the American Western Frontier. To establish a zone of non-competition with other nations, specifically European empires, treaties like the Louisiana Purchase were made. What these treaties did not contend with was the multi million person population that describes the indigenous populations of North America that did not adhere to the concept of Euro-American rule over lands that they inhabited.

⁹ Manuel Castells, *The City and the Grass Roots* (1983): 311-312.

This, in turn, leads also to a conversation about indigeneity which, in this thought process, is considered as a condition of being in relation to an opposing imperial/colonial force whose goals are the forcible removal, eradication or subjugation of those persons already established in the geography. Though indigenous populations have their own histories of relationships that preclude involvement by Euro-American populations, their own migrations and internal displacements cause by war and expansionist/imperial tendencies with the associated atrocities associated with total war, these are subject to their own analysis separate from that of this thesis, though inter tribal conflict will be discussed.

Frontiers are not one thing but rather composed of many. Although a frontier is a liminal space, not all liminal spaces are frontiers. Frontiers are, as well as being liminal spaces, imperial in their nature and they are targets of conquest and settlement, zones of expansion by which, through population pressure in the case of settler colonialism, and via conquest of arms, a culture may expand into and breach, pushing the proximal frontier further into the ideal frontier.^{10 11} Frontiers are places of change, as indicated by their status as liminal spaces, and therefore have an effect on the people and the physical space in which the frontier is manifest. The culture that expands into a liminal space is necessarily changed and is not able to return to its prior state. This phenomenon can be seen in the tendency for colonial culture's drift away from the mother culture's core. Though both are necessarily evolving as time progresses, the divergence experienced necessarily forms two or more cultures over time.¹²

¹⁰ Nugent, Walter. "Frontiers and Empires in the Late Nineteenth Century." *The Western Historical Quarterly* 20, no. 4 (1989): 394. <https://doi.org/10.2307/969492>.

¹¹ Govaerts, Sander. "FRONTIERS." In *Armies and Ecosystems in Premodern Europe: The Meuse Region, 1250-1850*, 21–58. Arc Humanities Press, 2021. <http://www.jstor.org/stable/j.ctv22d4zd5.6>.

¹² Eggan, Fred. "Cultural Drift and Social Change." *Current Anthropology* 4, no. 4 (1963): 347–55. <http://www.jstor.org/stable/2739890>.

An examination of the transformation of the so-called Thirteen Original Colonies of the British Empire in North America that would become the United States of America is in and of itself an examination of this phenomena over the period of centuries. The Atlantic seaboard of the North American continent being the original frontier of British expansion. Maps from the immediate post colonial period, in the era of the Confederation Congress, or the United States in Congress Assembled, display the ideal frontier as it was imagined by those who governed the individual states. The original land claims of Virginia extend to the Mississippi River and over all of what would be considered the NorthWest territories after 1787.

The colonies were divorced from their imperial heartland by way of warfare. Though called a war for independence, the Revolutionary War can be viewed as a colonial aristocracy imposing a new frontier internally from the perspective of the old imperial frontier. The Continental Congress acquired enough resources and manpower to establish a rival imperial system, in opposition to the British imperial order, that would make use of the established economic infrastructure and frameworks of the British imperial order. Inside of the former colonies a new frontier was established rapidly, causing new pressures of attitude and action to take hold of the populations which had, prior to the War of Independence, operated under a different system with a different world view which encapsulated different imperial goals.

This translates directly into the rapidly changing relationships between the citizens of the United States of America and the Native American Tribes. The philosophies that the new imperial order operated under established many, but not all, of the characteristics of the nature and operation of

the liminal space that was the so-called New American Frontier. A comparison of the nature of British, French, Spanish and later the American frontiers, their characteristics, legal systems, economic impulses and especially their relationships with Native Tribes will present in which ways American Imperialism is characterized and how that imperialism changed the condition of thriving, healthy indigenous cultures into ones of stark deprivation and an end to their agency, being converted into conquered people.

Liminal Space

Liminal Space is defined by Van Gennep in his description of the three phases of the rites of passage, being roughly consistent in ritual transformations cross culturally, they are: separation, transition, and incorporation.¹³ Victor Turner, writing in his 1974 essay "Liminal to Liminoid, in Play, Flow, and Ritual: An Essay in Comparative Symbolology" describes the first phase, separation, as a phase which clearly marks the sacred space/time from the earthly/material or "profane" secular space/time. Including symbolic behavior, symbols which represent the inversion of materiality, and a process which is representative of the individual from their previous status.

For entire social groups he states:

"it involves collectively moving from all that is socially and culturally involved in an agricultural season, or from a period of peace as against one of war, from

¹³ Van Gennep, Arnold. Rites of Passage (University of Chicago Press, 1960) Pg. 8.

plague to community health, from a previous sociocultural state or condition, to a new state or condition, a new turn of the seasonal wheel".¹⁴

The phase of transition is described by Van Gennep as a "margin" or "limen", where the ritual subject must pass through an area of ambiguity, a so called "social limbo", where the prior status and the future status do not apply and can not be outright associated with the person(s) involved in the transformation. Detached from their prior status and not yet the inheritor of a future status, those caught in liminal space are dispossessed of a fixed social identity.

As applied to the frontier, the ambiguous and transformative nature of liminality avails itself well to the conceptualization of the frontier as a transformative space where those who enter it are changed and do change to others and the environment. Frontiers are challenged and frontiers may progress or fail. As they progress they leave behind the products of their civilization. For though the frontier acts as a liminal space, there is also an intentionality behind it. And that intentionality is driven by the philosophies and demands of the elites who conceived of the space which we call a frontier.

Space as an Elite Construction

Manuel Castells, in *The City and the Grass Roots* (1983), states that: "*matter and consciousness are interrelated, and that this fusion is the essence of history and science*" and that to study space

¹⁴ Turner, Victor (July 1974), 56-57. "Liminal to Liminoid, in Play, Flow, and Ritual: An Essay in Comparative Symbology".
https://edisciplinas.usp.br/pluginfile.php/8303489/mod_resource/content/1/Liminar%20e%20Liminoide.pdf

without considering its social relationships is to separate nature from culture.¹⁵ So, it follows, that spatial forms on Earth are created by human beings and their actions and will *"express and perform the interests of the dominant class according to a given mode of production and to a specific mode of development"*.¹⁶

Space, therefore, as a construct that is reflective of the will of a social elite in human populations, will implement the 'will' of the state (as defined as the collective organizing body of a society). And, though Castells places a heavy emphasis on the role of elites in the creation of space, he also suggests that spatial units are shaped by the resistance displayed by exploited and oppressed classes of people.¹⁷ This reaches its ultimate expression during times of social movements that arise to challenge the meaning of a spatial form. As Manuel Castells' conceptualization of space, which was intended for use in the domain of urban studies, applies the will of the social elite into the organization of space and it also implies a potentiality for resistance inherent in its construction, the application into the conceptualization of the frontier as a liminal space which transforms according to the will of the elite, but which is marked by the activities of the oppressed and resistant population, is well adapted.¹⁸

Thomas Jefferson's Role in the orchestration of the American Empire

The beginning of the 19th century was when the global order of empire began to approach its zenith. The American Revolution brought the revelation that colonies could manifest

¹⁵ Manuel Castells, *The City and the Grass Roots* (1983): 311-312.

¹⁶ *Ibid.*

¹⁷ Manuel Castells, *The City and the Grass Roots* (1983): 311-312.

¹⁸ Manuel Castells, *The City and the Grass Roots* (1983): 311-312.

independence movements that could throw off the shackles of the master and slave relationship of the colonial order. However, in the peculiar case of the United States, its new elite, the very men who orchestrated the revolution, had designs for the vast expanse of lands that stretched over mountains, plains, deserts and finally ending at the Pacific Ocean.

Though he was only the third president of the United States, Thomas Jefferson did much to orchestrate the expansionism that dominated much of the logic behind the behaviors of the United States. Before his ascendancy to the Presidency he was key in orchestrating the Land Ordinance Bill of 1784. The first American War of the Empire would follow in the so-called Northwest Indian War. As President, during the Louisiana Purchase, in 1803, which acquired lands from Canada to the modern US state of Louisiana, Jefferson initiated the push westward. Despite the questionable legality of the land acquisition from France, the addition of the 1,330,000 square kilometers of new lands allowed Jefferson to initiate plans an aristocrat reared during the height of the British Empire in America could envisage.

In the subsequent years, Jefferson would send missions and diplomats to the vast new region to contact very old nations. The native tribes that inhabited the forests and grasslands of the middle of the continent presented the greatest obstacle to Jefferson's vision of an 'Empire of Liberty'. Jefferson would, for the rest of his administration, be primarily concerned with the creation of a scaffolding by which subsequent leaders would construct his dream nation for him. In these years, Jefferson would dawn the guise of the native "Great Father" in his treaties with the various tribal nations, he would devise legal arguments that would allow the United States to annex lands from tribes in debt to the Federal Government and would devise the methods by which the

nations would become indebted. When the various methods of removal would not work, Jefferson stated that; *"we shall be obliged to drive them, with the beasts of the forest, into the Stony mountains"*.¹⁹

In his essay "The MetaPhysics of Empire Building", Richard Drinnon begins with a quote from Jefferson to Adams referring to the scope of the future of American imperialism, and that it will likely lead to the conquering of the whole of both continents, North and South America, at least culturally and linguistically.²⁰ Drinnon gets the ball rolling with another quote from a 19th-century author, Herman Melville, who wrote *The Confidence Man* (1857). Melville, in satire, compares the 'backwoodsman' type of pioneer to Alexander, calling both "vanguards of civilization", implying that, in effect, the civilizer had civilization as his servant and that the American civilization served the interest of the settlers on the frontiers of the American empire.²¹ While done in satire, Drinnon notes that the sourcebook for Melville is in fact *Sketches of History life and Manners in the West 1834-35* by Judge James Hall. Hall is considered to be an authority on the old western frontier, being a primary source for many as his writings were volumized in the 1830s. However, Hall is an outright bigot and, in Drinnon's words "Hall and his neighbors displayed a doctrinal hate for Native Americans."²² Drinnon extrapolates from Melville that the essential attitude of whites in this period was that of those who can rationalize

¹⁹ Jefferson, Thomas. Thomas Jefferson to John Adams, Jefferson Expresses Concern about Natives. June 11, 1812.

²⁰ Drinnon, Richard. "The Metaphysics of Empire-Building: American Imperialism in the Age of Jefferson and Monroe." *The Massachusetts Review* 16, no. 4 (1975): 666–88. <http://www.jstor.org/stable/25088593>. 666

²¹ Drinnon, Richard. "The Metaphysics of Empire-Building: American Imperialism in the Age of Jefferson and Monroe." *The Massachusetts Review* 16, no. 4 (1975): 666–88. <http://www.jstor.org/stable/25088593>. 666.

²² Ibid.

the unthinkable; generally, the atrocities committed almost routinely against Native Americans in the 19th century:

*"That is to say that Melville knew his contemporaries-as thoughtful white Americans today know theirs-as real believers in the conquering civilization that produced them: They believed in Progress through Christianity, republicanism, and the application of technology."*²³

In the second section of the article, Drinnon details the life of a man named John Dunn Hunter. This man, who was white, was abducted and raised by the Osage, publishing his account in 1823. He would become the toast of the town for a time when he went and recalled his story. In England, he developed his desires and plans to save the native Americans from being eradicated and devised a plan to establish a free territory somewhere near to the border with Mexico. Before endeavoring onward, Hunter had caught the attention of Thomas Jefferson, who, though Jefferson considered himself a friend to the natives, tried to dissuade Hunter from entertaining this mission seriously. In this section, Drinnon juxtaposes the outward-facing messaging that Thomas Jefferson presented to the world and then the private letter to James Monroe which emphasizes a separateness from European affairs and the affair of the rest of the world not in the western-hemisphere, what Drinnon refers to as "Jefferson's principal of two spheres".²⁴

²³ Drinnon, Richard. "The Metaphysics of Empire-Building: American Imperialism in the Age of Jefferson and Monroe." *The Massachusetts Review* 16, no. 4 (1975): 666–88. <http://www.jstor.org/stable/25088593>. 667.

²⁴ Drinnon, Richard. "The Metaphysics of Empire-Building: American Imperialism in the Age of Jefferson and Monroe." *The Massachusetts Review* 16, no. 4 (1975): 666–88. <http://www.jstor.org/stable/25088593>. 670.

Drinnon gives a description of Jefferson that Hunter was spared, through ignorance, as a duplicitous negotiator: "As a white savage, Hunter could hardly have known about political justice, the higher uses of political rhetoric, and how cramped reason's political bounds sometimes became. Their conversations might have taken some awkward turns had Hunter been knowledgeable enough to inquire into the great gap between Jefferson's words and his deeds. Jefferson had initiated the Indian removal policy through his energetic efforts to "obtain from the native proprietors the whole left bank of the Mississippi."

One major reason the lands of the aboriginal inhabitants had been so drastically reduced was Jefferson's acquisition of a hundred million acres in treaties shot through with fraud, bribery, and intimidation. And when Indians interfered with white definitions of the national interest, as did the "backward" tribes of the Northwest in 1812, Jefferson's humanitarianism hardened: "These will relapse into barbarism and misery, lose numbers by war and want," he grimly predicted to John Adams, "and we shall be obliged to drive them, with the beasts of the forest into the Stony mountains."²⁵

Jefferson's addresses to the congress contain vivid and explicit insights into his designs and philosophies on a very practical basis when it comes to the expansion of the Union into territories acquired by the United States. In his second yearly address to congress, on December 15, 1802, Jefferson discusses the recent acquisition of lands in what is now northern Florida. He writes:

²⁵ Drinnon, Richard. "The Metaphysics of Empire-Building: American Imperialism in the Age of Jefferson and Monroe." *The Massachusetts Review* 16, no. 4 (1975): 666–88. <http://www.jstor.org/stable/25088593>. 671.

*"In order to remove every ground of difference possible with our Indian neighbors, I have proceeded in the work of settling with them and marking the boundaries between us. That with the Choctaw nation is fixed in one part...The country to which their title had been extinguished before the revolution is sufficient to receive a very respectable population, ... We are to view this position as an outpost of the United States, surrounded by strong neighbors and distant from its support. And how far that monopoly which prevents population should here be guarded against, and actual habitation made a condition of the continuance of title, will be for your consideration."*²⁶

When, in this quote, Jefferson refers to the future settlement as "an outpost of the United States" he is explicitly referring to a colonial enterprise of expansion where he sees that, though some kind of an agreement has been struck with some representatives of these tribes, the situation is tenuous at best, with the 'outpost' being far from the center of American power and close to the rival powers of well established native tribes. In other instances, where disputes are managed, it is made clear that while one party may make a treaty with the United States and receive a contractual agreement, others will be completely unaware of the agreement taking place and will not recognize the authority of those who treated on behalf of them.

Jefferson writes on the topic of land sales and the motivations that Natives have in engaging in the activity:

²⁶ Thomas Jefferson, *The Writings of Thomas Jefferson: Correspondence, Cont.*, ed. H.A. Washington, vol. VIII (Riker, Thorne and Co., 1854) 17-18.
<https://archive.org/details/writingsofthomas08jeffiala/page/6/mode/2up?view=theater>

*"It has always been the custom, brothers, when lands were bought off the red men, to pay for them immediately, and none of us have ever seen an example of such a debt remaining unpaid. It is to satisfy their immediate wants that the red men have usually sold lands ; and in such a case, they would not let the debt be unpaid.. The presumption from custom then is strong ; so it is also from the great length of time since your fathers sold these lands. But we have, moreover, been informed by persons now living, and who assisted the English in making the purchase, that the price was paid at the time. Were it otherwise, as it was their contract, it would be their debt, not ours."*²⁷

This quote lays the phenomenon of Native sales of lands to Euro-American buyers at the doorstep of racial inadequacies. It is not the first time that Jefferson would refer to the native life ways as "wanting" or inadequate to the immediate needs of survival. Repeatedly suggesting, alongside his theme of the adoption of agriculture, that the mode of economic activity, traditionally engaged in by natives, has been the main reason for their decline in recent generations. Another example of Jefferson's use of tact and history to avail the United States of the burden of retreating with tribal nations comes from an address to the Miamis and Delawares in 1803:

"You know, brothers, that, in ancient times, your former fathers the French settled at Vincennes, and lived and traded with your ancestors, and that those ancestors

²⁷ Thomas Jefferson, *The Writings of Thomas Jefferson: Correspondence, Cont*, ed. H.A. Washington, vol. VIII (Riker, Thorne and Co., 1854) 194.

*ceded to the French a tract of country, on the Wabash river, seventy leagues broad, and extending in length from Point Coupee to the mouth of White river. The French, at the close of a war between them and the English, ceded this country to the English • who, at the close of a war between them and us, ceded it to us. The remembrance of these transactions is well preserved among the white people ; they have been acknowledged in a deed signed by your fathers ; and you also, we suppose, must have heard it from them..."*²⁸

When it comes to the economic outlook for natives who reside within the territories claimed by the United States, Jefferson has only one option available to the various cultures and tribes he seeks to rule over: agriculture. This perspective was immediate and of the highest importance in the mind of Jefferson when it came to the native question. However, this was not born exclusively out of a desire to see the 'situation' of tribal peoples improved, but rather to employ a debt entrapment scheme *vis a vis* what were referred to as 'factories'. These factories were merchandise outposts located in the proximity of the native tribes with the expressed purpose of selling and introducing farming implements to native people to encourage the adoption of farming and to abandon hunting as their primary means of economic subsistence.

The most complete coalescence of Thomas Jefferson's views on the subject of the Native American question is found in this address from 1806 to the Chiefs of the Chickasaw nation, Minghey, Mataha, and Tishohotana:

²⁸ Thomas Jefferson, *The Writings of Thomas Jefferson: Correspondence, Cont.*, ed. H.A. Washington, vol. VIII (Riker, Thorne and Co., 1854) 189.

"We have been told that you have contracted a great debt to some British traders, which gives you uneasiness, and which you honestly wish to pay by the sale of some of your lands... Your lands are your own, my children, they shall never be taken from you, by our people or any others... You will be free to keep or to sell as yourselves shall think most for your own good. If at this time you think it will be better for you to dispose of some of them to pay your debts, and to help your people to improve the rest, we are willing to buy on reasonable terms. Our people multiply so fast that it will suit us to buy as much as you wish to sell, but only according to your good will. We have lately obtained from the French and Spaniards all the country beyond the Mississippi called Louisiana, in which there is a great deal of land unoccupied by any red men. But it is very far off, and we would prefer giving you lands there, or money and goods as you like best, for such parts of your land on this side of the Mississippi as you are disposed to part with." ²⁹

The first section of the message is straightforward as Jefferson describes the nature of the situation for the Chickasaw, Minghey, Mataha, and Tishohotana as being so indebted to a group of British traders that the need to sell land in order to compensate for the debt has arisen. Jefferson, characteristically, addresses them all, specifically the chiefs of the various tribes, as his *children*. The hierarchy that he insists upon is clear in each and every letter he sends to the various native tribes. However, he impresses upon them that, though this relationship that the tribes and the U.S. Government are in is not one of choice, the Tribes still have a ownership

²⁹Thomas Jefferson, *The Writings of Thomas Jefferson: Correspondence, Cont*, ed. H.A. Washington, vol. VIII (Riker, Thorne and Co., 1854) 198-199.

rights over the lands that they inhabit and are entities that the U.S. must treat with in order to avoid unpleasantness. Jefferson is clear, however, when it comes to the question of inevitability; The American population *will* increase and the population *will* acquire land. So much so that in fact, as Jefferson clarifies, that the government of the U.S. doubled its land possession in treaties with the Spanish and the French. And this is where Jefferson incipits the modus operandi of the United States in its posture towards Tribes on the east bank of the Mississippi: Go West.

In a confidential message to Congress in 1803, the very same message that would be the nexus for the famed Lewis and Clarke expedition, Jefferson writes his earnest thoughts on the subject of Native tensions and his use of factories and the adoption of agriculture among the various tribes:

*"...First: to encourage them to abandon hunting, to apply to the raising stock, to agriculture and domestic manufactures, and thereby prove to themselves that less land and labor will maintain them in this, better than in their former mode of living. The extensive forests necessary in the hunting life will then become useless, and they will see advantage in exchanging them for the means of improving their farms and of increasing their domestic comforts. Secondly: to multiply trading-houses among them, and place within their reach those things which will contribute more to their domestic comfort than the possession of extensive but uncultivated wilds. "*³⁰

³⁰ Thomas Jefferson, *The Writings of Thomas Jefferson: Correspondence, Cont*, ed. H.A. Washington, vol. VIII (Riker, Thorne and Co., 1854) 241-242.

This block quote illustrates to the degree that Jefferson honestly believed that the Native problem had a clear and concise course of action and that, should the native populations follow an exact logic that Jefferson himself holds to be true, they will see the forests, which are one of the main economic factors for tribal societies, as become useless once the adaptation to agricultural subsistence has been made. Never mind the incredible amount of labor required to make an agricultural society function, this discounts any and all culturally distinguishing factors that might lay between a hunter gatherer society, which participates in limited horticulture, from adopting a full time occupation as a farmer.

Jefferson's second point only illustrates how limited his perspective on the issue is, demonstrating an ignorance of culture that leads to the resistance demonstrated by various tribes at various times towards that adoption of a settled agricultural existence. It is Jefferson's honest opinion that the adoption of agriculture will lead necessarily to an over abundance that the various native tribes can then use to barter with the Americans.

It is in the final section of this quote that Jefferson truly connects the dots in his logic train and paves the path that agriculture will lead to manufacture which will lead to civilization and ultimately into full incorporation into American civilization. However, Jefferson's prolific writing belies his duplicity. For in one setting, where he displays the voice of an all caring and all knowing imperial majesty which reflects the highest values of a "*nobilis oblige*" he shows his true planning and machinations in another. Below is a correspondence with William Henry Harrison from 27, February, 1803 where he explains that debt entrapment, territorial encirclement and subjugation or exile are his ultimate tools:

"...we wish to draw them to agriculture... they will perceive how useless to them are their extensive forests,... we shall push our trading houses, and be glad to see the good & influential individuals among them run in debt, ...when these debts get beyond what the individuals can pay, they become willing to lop th[em off] by a cession of lands. ...in this way our settlements will gradually circumscribe & approach the Indians, & they will in time either incorporate with us as citizens of the US. or remove beyond the Mississippi...as to their fear, we presume that our strength & their weakness is now so visible that they must see we have only to shut our hand to crush them,...driving them across the Mississippi,...would be an example to others, and a furtherance of our final consolidation." ³¹

Further to the point is the emphasis to which Jefferson pays at the need to "crush" the natives, to "drive" them over the Mississippi or to generally demonstrate power and instill fear in these populations.

The purpose of examining these quotes is to draw to attention the explicit ways in which Thomas Jefferson viewed the Native American tribes. Thomas Jefferson viewed these tribes as inconveniences to be overcome by the United States of America in its set goals of continental consolidation. Though he pays lip service to the ideals of native tribes, demonstrates a fascination in their culture and religious practices and speaks fondly of the tribes he encountered in his youth, Thomas Jefferson treats the tribes like children, or loosely organized war bands that

³¹ Jefferson, Thomas. From Thomas Jefferson to William Henry Harrison, 27 February 1803" Founders Online, National Archives, <https://founders.archives.gov/documents/Jefferson/01-39-02-0500>.

must be dealt with by a firm hand. His dominion over them as their earthly quasi-deity "father" places him automatically above them all, capable of bequeathing them with gifts or with setting doom upon them.

Thomas Jefferson was not in favor of maintaining a large army or navy and preferred to go about the dismantling of the tribal systems within the imperial domain of the United States through *peaceful* means which did not make use of outright violence. However, this did not stop Jefferson from actively participating in and intentionally perpetuating other forms of violence; specifically economic violence, against the various tribes both within the firm and fixed realm of the United States but also beyond the pale of American rule and into the frontier.

Using a system of factories, it was Jefferson's intention to increase indebtedness among the tribal leadership of the many various tribes in order to place a legal burden of damages upon them.

When the tribes could not pay for what they owed, the legal system in place called for the sale of lands to the United States, further diminishing the territory of the tribes, reducing the areas where their traditional economic practices could be pursued, thus increasing their reliance on agriculture and their sale of lands to the United States in a vicious cycle of debt entrapment that led directly to the economic failure of entire tribal populations, forcing them to abandon their traditional lands and relocate to new settlements, or to sell the rights to their lands to the Federal Government in exchange of an annuity which would help supplement the tribe's needs, though this was rarely suitable for the tribe's continued existence.

Jefferson was also not unwise to the realities of inter tribal warfare and knew to whom the United States should lend direct aid in order to have as much influence over warring parties as possible.

In a letter sent to the Secretary of War in 1808, Thomas Jefferson writes:

*"I think we may go further, without actually joining in the attack. The greatest obstacle to the Indians acting in large bodies, being the difficulty of getting provisions, we might supply them, and ammunition also, if necessary."*³²

Jefferson would also treat directly with individual tribes on a regular basis, not just relying on his debt entrapment scheme, in order to perform a type of "creeping action" into native territory. Oftentimes this was done by way of authorizing the creation of a military fort which would ostensibly be there to offer aid to neighboring tribes but also to cast a shadow over regional disputes and act as a deterrent to aggression from any side in a conflict.³³

These installations would find themselves at major river intersections and along trade routes and would intercede on behalf of these traders against any injuries done to them by native tribes.

These protections were not only limited to traders but also to settlers as well. For instance, in 1818, outside of the timeframe of Thomas Jefferson's presidency, the Osage tribe had damages laid against it by American settlers in the region with property theft claims. To pay for the damages the United States decided that the Osage had to cede land to the Federal government.³⁴

This type of damages claim was not uncommon and the most common prescription, owing to the

³² Thomas Jefferson. The Writings of Thomas Jefferson, Volume 5. New York, New York. Riker, Thorne and Co. 1854. 348-349

³³ U.S. Congress. U.S. Statutes at Large, Volume 7. Treaties Between the United States and the Indian Tribes 1789 -1845. United States, 1960. Periodical. <https://www.loc.gov/item/lsl-v7/>. Pg 108.

³⁴ U.S. Congress. Treaties, U.S. and Tribes, 1789-1845. 1960. Pg. 183-184.

lack of currency owned by the tribal nations, was the cessation of lands to the Federal government.

This section's aims have been to present the most direct and coherent depiction of Thomas Jefferson's values, goals and perspectives possible without spending too much energy on the individual philosophies of a single individual but also not to take what he himself has written out of its context. What has been presented, at some length, is what can be perceived as the nascent structure of elite interests and plans for domination across the North American continent.

Thomas Jefferson was certainly apart of that landowning economic elite with the direct supervision over much of the territorial expansion that occurred in the 19th century, being partially responsible for the policies and also the future government agents that would further and adapt those policies, those like Andrew Jackson, William Clark and Meriwether Lewis. However, before a discussion about 19th century expansion of the western frontier continues, it is important to visit with the late 18th century, British policy with the Native Americans and the United States' first foray into policies of expansionism *vis-a-vis* the Northwest Ordinance of 1783 and the subsequent Northwest Territory War.

British Native American Policy and Early Colonial Ideologies

This brief section's aims are to present a clear contrast to the types of policies that the United States would pursue in later years after the Revolutionary War but also to illustrate the cultural and legal inheritance that the United States would internalize. In brief the British government

intended to keep the Native populations confined but happy and territorially secure. Though the negotiations of strict territorial boundaries would continue up to the eve of the American Revolution, the British had their own problems with land speculators and individuals settling illegally in native lands, continually threatening the peace maintained by the empire.³⁵

In most respects, the relationship the British enjoyed with native north american's was peaceful with the major exceptions coming in the form of alliances formed with France or the United States which pit British soldiers against Native warriors, however, in the case of the Seven Years war and during the American Revolutionary War, the British were favored by Native Tribes. In terms of territorial integrity, the British Crown issued the Proclamation of 1763, response, in part, to Pontiac's rebellion of the same year, which expressly reserved all lands not formally ceded to the British Crown by Native Nations to be theirs exclusively and for it to be illegal to settle on these lands without a prior agreement and that no such agreement may be made, such as a purchase of land, except by the authorities of the crown.³⁶ Although the trade practices of the British would swing between more centralization to the crown at some times and at other times more delegated authorities to the colonial governments, the issues of alliance building and territorial integrity were out and out a set of legal questions exclusively for the crown and its agents in North America.³⁷

³⁵ Oaks, Robert F. "The Impact of British Western Policy on the Coming of the American Revolution in Pennsylvania." *The Pennsylvania Magazine of History and Biography* 101, no. 2 (1977): 171–89. <http://www.jstor.org/stable/20091146>.

³⁶ Royal Proclamation, 1763," issued October 7, 1763, in Clarence S. Brigham, ed., *British Royal Proclamations Relating to America*, Volume 12 (Worcester, MA: American Antiquarian Society, 1911), pp. 212-18.

³⁷ "Observations of Superintendent John Stuart and Governor James Grant of East Florida on the Proposed Plan of 1764 for the Future Management of Indian Affairs." *The American Historical Review* 20, no. 4 (1915): 815–31. <https://doi.org/10.2307/1835546>.

However, it is important to identify that the *DNA* of how the United States implemented its intercourse with the Native Americans was derived from nearly two centuries of negotiations with them conducted by the British and, as Paul Prucha writes:

*"after individual colonies seemed unable to regulate the settlers and maintain honorable and tranquil relations with the Indians, imperial programs of control furnished models of centralized management of Indian affairs that were clear in the minds of the Founding Fathers."*³⁸

So too did the behavior of the indigenous tribes towards the future negotiations with the United States show an anticipation or expectation of experience derived from British, French and Spanish imperial pursuits. The conceptualization of native persons in the varieties of 'savage' were pervasive in the 18th century and are even reflected in Thomas Jefferson's language in the Declaration of Independence *"he (sic)...has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages"*.³⁹

Concepts of savagery range from a 'noble' form where natives are described in terms of their nakedness, their low concern for private ownership or material goods, living in a minarchist or anarchist-esque freedom from government. The overall sense was one of awe that the Tribes on the North American continent had managed to persist in a technological and cultural

³⁸ Francis Paul Prucha, *The Great Father* (Lincoln : University of Nebraska Press, 1984) Pg 5.

³⁹ Declaration of Independence 1776.

organizational state that had long since disappeared in Europe, that the Native Americans were living, in some sense, an idyllic existence in an "earthly paradise".⁴⁰

The concepts ranged to the opposite end of the spectrum too, whereby the *ignoble savage* was described in terms one can only describe as the worst attribute one would use to describe a person. Everything from their likeness to animals, their "treacherous, cruel, perverse" manners, cannibalism, human sacrifice, their filth and squalor; The lists go on.⁴¹

Prucha, in *The Great Father*, gives a short summary of the distinctions between Spanish and British colonization in their respective zones. Whereas the Spanish were known to have embraced the native population biologically, taking them as wives and as concubines, they also attempted mass subjugation, mass conversion to the catholic faith and used the population as a workforce.⁴² Prucha then indicates that there was no attempt made by the 'family centric' British colonists to do so as smallpox had wiped out much of the population and the purpose of British colonization was to conduct agriculture.

To this point about the British colonists I have to push back and say that the original conceptions of the British were to use the native populations as the Spanish had done and impress them into servitude. This was the reason behind the multiple disasters at Jamestown where starvation and the lack of willingness to conduct agriculture was at the core of the issue. Many of the first

⁴⁰ Francis Paul Prucha, *The Great Father* (Lincoln : University of Nebraska Press, 1984) Pg 7.

⁴¹ Francis Paul Prucha, *The Great Father* (Lincoln : University of Nebraska Press, 1984) Pg 7.

⁴² Francis Paul Prucha, *The Great Father* (Lincoln : University of Nebraska Press, 1984) Pg 11-12.

colonists were goldsmiths, aristocrats and other such artisans who were there to become fantastically rich, not farmers.⁴³

The supremacy of the cultivator over the hunter was a classic weapon in the arsenal of the dispossessory. The argument was given legal expression in the writings of the eighteenth-century Swiss jurist Emmerich de Vattel, whose Law of Nations became a standard handbook. He wrote:

"There is another celebrated question, to which the discovery of the new world has principally given rise. It is asked if a nation may lawfully take possession of a part of a vast country, in which there are found none but erratic nations, incapable by the smallness of their numbers, to people the whole? We have already observed in establishing the obligation to cultivate the earth, that these nations cannot exclusively appropriate to themselves more land than they have occasion for, and which they are unable to settle and cultivate. Their removing their habitations through these immense regions, cannot be taken for a true and legal possession; and the people of Europe, too closely pent up, finding land of which these nations are in no particular want, and of which they make no actual and constant use, may lawfully possess it, and establish colonies there. We have already said, that the earth belongs to the human race in general, and was designed to furnish it with subsistence; if each nation had resolved from the beginning, to appropriate to itself a vast country, that the people might live only by hunting, fishing, and wild fruits, our globe would not be sufficient to maintain

⁴³ Morgan, Edmund S. "The Labor Problem at Jamestown, 1607-18." The American Historical Review 76, no. 3 (1971): 595–611. <https://doi.org/10.2307/1851619>.

*a tenth part of its present inhabitants. People have not then deviated from the views of nature in confining the Indians within narrow limits."*⁴⁴

Beginning with the discovery of the American continents by Europeans, Vattel presses the issue of justifiable possession by people other than the original inhabitants of a land. The question, which had been circulated in legal and scholarly circles at the time, culminating in Rousseau's 'ignoble savage' archetype, posited that the responsibility of humanity is to cultivate the earth and make the best possible use of its resources to support a vastly larger population than the earth could support without cultivation.⁴⁵ It is, therefore, the responsible action to acquire as much of the newly discovered land as possible and to dispossess the people living there of their rights to it. Because, if they were using the land and resources optimally, there would be no way for another people to take it from them. If they were fulfilling their obligations as stewards of the planet, no one would have a legal *obligation* to seize this land from them.

And it is precisely this line of rationalism and pseudo-legalese that Thomas Jefferson and other contemporaries employ continuously in their justifications of the seizure of native territory and also his constant push to force an agrarian economy on the native peoples of North America. It is through this lens of cultural historiography that we can approach the raw materials used by the elite of the 18th and 19th centuries in the establishment of the frontier and its policies towards the inhabitants there that did not already adhere to the economy, jurisdiction and general world

⁴⁴ Emerich de Vattel, *The Law of Nations; Or, Principles of the Law of Nature : Applied to the Conduct and Affairs of Nations and Sovereigns. By M. De Vattel ... Translated from the French* (1758; repr., France: Vattel, 1792), §203.

⁴⁵ Jan Rudnicki, "The Doctrine of Occupation and the Founding of Australia," *Fundamina* 23, no. 2 (2017): 81–93, <https://doi.org/10.17159/2411-7870/2017/v23n2a5>.

view propagated by the nascent, but expansionist, American Empire. There is more evidence that could be brought forward in this section that points towards various British practices, however, enough has been displayed that an examination of the first American experiment in expansionism is owing.

Land Speculation and Empire

When considering the American Revolution and its proximate causes, one is usually directed to look at the so-called "Intolerable Acts". These were a series of five Parliamentary Acts aimed at reigning in the Thirteen Colonies while also attempting to integrate Quebec into the empire writ large. So, while four of the acts were directly related to the governance of the Thirteen Colonies, the fifth, called the "Quebec Act", sought to expand the territory and affirm the British Crown's commitment to rule over the francophone/catholic population fairly.⁴⁶

After the conclusion of the Seven Years War, and the Treaty of Paris 1763, French Canada came into the possession of the British and the Act sought to make concessions for the population living there.⁴⁷ However, the territorial expansion which was to be incorporated into Quebec included all of what is now called the state of Ohio, but also everything east of the Mississippi, North of the Ohio River, and west of what is now western New York state.⁴⁸ Though these lands had been made off limits to the Thirteen Colonies for general settlement by the Proclamation

⁴⁶ Quebec Act, 1774, George. III (UK).

⁴⁷ Treaty of Paris, 1763

⁴⁸ Map: Shepherd, William R. *Historical Atlas* New York, Henry Holt and Company, 1923.

Line of 1763, charters from the Crown still made it possible to settle and conduct land speculation.⁴⁹

This is where issues with land speculation companies come into play. Two specific companies were the Ohio Company, established by Thomas Lee, an influential and wealthy farmer and politician in Virginia, alongside brothers Lawrence and Augustine Washington, brothers of George Washington, who acted as an investor, and the Loyal Company of Virginia, founded by John Lewis and managed by Thomas Walker, Joshua Fry, and Peter Jefferson, the father of Thomas Jefferson.^{50 51} Both of these companies, whose missions were to survey land and arrange settlement of it (via separate legal arrangements) both operated and disputed land claims in the Ohio Valley. The Quebec Act of 1774 effectively put an end to their lucrative speculative arrangements and set in motion, partially, the mobilizing of political and monetary capital to mount an insurrection.

These companies, in part, had recreated the same essential process of colonization that had been experienced along the eastern seaboard a century and a half prior with the establishment of privately funded forts which acted as logistical hubs and bases from which to project power outward into contested regions. Conflicts over land rights in the region, specifically over the Ohio River Valley, erupted between the French and British, resulting in the French and Indian War, an extension of the Seven Years War.⁵² This conflict would have George Washington as one

⁴⁹ Proclamation of 1763, George III (UK).

⁵⁰ Kate Mason Rowland, "The Ohio Company," *The William and Mary College Quarterly Historical Papers* 1, no. 4 (1893): 197–203, <https://doi.org/10.2307/1939709>.

⁵¹ Henderson, Archibald. "Thomas Walker and the Loyal Company of Virginia" (*American Antiquarian Society*, April 1931): 80, <https://americanantiquarian.org/proceedings/44806881.pdf>.

⁵² Fred Anderson, *Crucible of War : The Seven Years' War and the Fate of Empire in British North America, 1754-1766* (New York: Alfred A. Knopf, 2000).

of its commanders in an interesting turn of events where he would be leading troops in order to secure his own family's speculative property interests in the region. Though a coincidence in appearance, the Lt. Governor of Virginia, Robert Dinwiddie, who ordered George Washington to enter the early conflict on behalf of Virginia, was also an investor in the company.⁵³ However, immediately after the end of the Seven Years War, ending with the Treaty of Paris of the same year, Pontiac's War was waged by a Native American Confederacy, names of tribes that would be seen in the future wars with the soon to be United States.

Pontiac's war ended with negotiations in 1766 but the Crown had issued the Proclamation of 1763 quickly after the beginning of Pontiac's War and had already designated an 'Indian Reserve' and instituted a legal barrier to settlement which could only be crossed if, with the permission of the Crown, native lands were sold to those with a charter to purchase lands. All land claims reverted back to Native ownership, otherwise.⁵⁴ A new 'Vandalia Company' was formed and with Pennsylvanian investors, like Benjamin Franklin, lands were procured with plans to create new settlements however the outbreak of the American Revolution brought these plans to a standstill.⁵⁵

⁵³ Fred Anderson, *Crucible of War : The Seven Years' War and the Fate of Empire in British North America, 1754-1766* (New York: Alfred A. Knopf, 2000) 52-53.

⁵⁴ Dowd, Gregory Evans (2002). *War under Heaven: Pontiac, the Indian Nations, & the British Empire*. Baltimore: Johns Hopkins University Press 253-254.

⁵⁵ Alfred P James, "Benjamin Franklin's Ohio Valley Lands," *Proceedings of the American Philosophical Society* 98, no. 4 (1954): 258, <https://doi.org/10.2307/3143878>.

Land Ordinance of 1783, 1784 and the Northwest Ordinance of 1787

Following the Treaty of Paris, 1783, which resolved the conflict between the newly formed republic of the United States and the British Crown, the Confederation Congress, then the sole representative of the nascent nation, passed its first piece of legislation regarding the territories ceded to it by the British at the end of hostilities. This took the form of a document, penned by Thomas Jefferson, which documented in which precise ways the new territory should be surveyed and incorporated into the Union, including how lands were to be divided up to Revolutionary War veterans, where townships may be established, where and how many schools must be erected and how the lands which have been ceded by the natives are to be dealt with. This document was the Northwest Ordinance.

Referring directly to the Northwest Ordinance, the revision passed by Congress in 1787, **Section 3** refers directly to the appointment of a governor, by Congress, who will preside over the territory for a period of three years and will have a freehold estate. **Section 4** of the document provides for a Secretary who shall be appointed by Congress, who will hold office for four years, and will act as an informant for Congress, ensuring that the acts and laws of the legislature are enforced and also to provide to Congress reports on meetings and developments every six months to Congress. This section also creates a court of three judges which may form a court of two at any time. **Section 5** allows for the Governor and the Judges, in a majority (3 to 4) to apply the laws of the United States and adopt them where necessary and to alter laws as need be and with the approval of Congress. **Section 6** appoints the Governor as commander in chief of the militia with the authorization to commission officers below the rank of general. **Section 9**

outlines the second step towards statehood whereby the population of the territory reaches 5,000 inhabitants and is therefore eligible to elect a representative to observe, but not participate in a legislative capacity, Congress. **Section 11** outlines the structure of the territorial governments, called the General Assembly which consists of the governor, a legislative council, and a house of representatives and sets term limits for the lower legislative offices. **Section 14** of the document sets forth articles which ensure religious freedom, habeas corpus and a jury trial, the encouragement of establishing more schools and modes of education, acting in good faith towards the native tribes and not infringing on their territorial rights unless authorized to do so by Congress. Further it set out that no less than three and no more than five states shall be erected and it permanently outlaws slavery in the region. Finally, it declares that statehood may be applied for once the population reaches 60,000 inhabitants.⁵⁶

This document superseded the two that preceded it, namely the Land Ordinance of 1784, written by Thomas Jefferson as a resolution that would inform the subsequent Land Ordinance of 1785 which describes in detail how the land was to be sold to settlers. Owing to both documents' failure to address the assent to statehood and the political processes which would operate the territory while the process of statehood was achieved, the 1787 version was necessitated.

In his 1988 essay, *Northwest Ordinance of 1787: Bulwark of the Republic*, Remini describes the document as one of the "most important, progressive and far reaching legislative acts" in US history.⁵⁷ The Ordinance does go so far as to ensure the erection of schools, churches and makes

⁵⁶ "Northwest Ordinance (1787)," National Archives, May 17, 2021, <https://www.archives.gov/milestone-documents/northwest-ordinance#transcript>.

⁵⁷ Robert V Remini, "The Northwest Ordinance of 1787: Bulwark of the Republic," *Indiana Magazine of History* 84, no. 1 (1988): 15, <https://doi.org/10.2307/27791137>.

available for sale land to the public and ensures that the issue of slavery is not imported into the new states that would be created there.⁵⁸ Remini's focus is not on the Ohio River valley however, but on the other states and regions that would be affected by the Ordinance over time, namely the development of Tennessee and Kentucky.⁵⁹ He points to their falling under the principal provisions of the Ordinance as they made their transition from frontier to statehood. The two states entered into the Union before other territories nominally targeted by the Northwest Ordinance, becoming states in 1792 and 1796 (Kentucky, Tennessee).

However, in Remini's assessment of the ramifications of the Ordinance, he excludes sections of the Ordinance that deal strictly with the Native Americans and with the issue of Slavery.⁶⁰ He nonetheless points to the other provisions as being critical for the development of the two states. A principal 'obvious' point that Remini makes is that the Ordinance "established a government policy for the entire public domain of the future."⁶¹ However, Remini's most poignant remark comes early into his essay where he states that *"what is possibly unique and most important in the Ordinance, I believe, is that it successfully prevented the republic from collapsing immediately into an empire, and this it did by providing (or, rather, anticipating) a new concept of Union...It has been my experience in reading and studying history that all republics become empires sooner or later before their ultimate decline and fall. Once they acquire territory beyond the original limits, of necessity they evolve into empires."*⁶²

⁵⁸ Remini, "The Northwest Ordinance of 1787", Indiana Magazine of History 84, no. 1 (1988): 15.

⁵⁹ Remini, "The Northwest Ordinance of 1787", Indiana Magazine of History 84, no. 1 (1988): 16.

⁶⁰ Remini, "The Northwest Ordinance of 1787", Indiana Magazine of History 84, no. 1 (1988): 16.

⁶¹ Remini, (1988):16.

⁶² Remini, (1988):16.

Remini clarifies this by addressing how the Ordinance describes the process of a territory attaining statehood, *"in that it decreased the stages and means by which territories would become states equal to all other states in the Union."*⁶³ He says that this prevents the eastern states and the seat of government from colonising the western frontier while also admitting that the colonial apparatus was the first effective step in the stages of statehood stating that *"(w)hat is ironic, of course, is that the Northwest Ordinance did, in fact, impose colonial rule on the territory in its initial stage. A governor, secretary, and judges were appointed by the central government in the east to administer the territory"*.⁶⁴ However, what prevented this from being empire building was the fact that "statehood was an inevitability".⁶⁵

Remini does not consider the real status of the Native American tribes, even in a quasi state legal framework when he refers to them as "the pawns in the international political game" rather than as sovereign actors with human rights who were the original inhabitants of the lands that the United States, by his own admission, were colonizing.⁶⁶ It is precisely this process, that I argue, is the organizing principles by which the United States operated as an empire from its inception onward and not the saving grace that prevented America's fall into Empire but precisely it defines how the United States shall incorporate all of its imperial holdings into governable quantities, repeating the process which took place on the Atlantic coast in the thirteen original colonies, but accelerating the process of British Empire that took place historically and codifying it into a governing document of rules and procedures.

⁶³ Remini, (1988):17.

⁶⁴ Remini, (1988):17.

⁶⁵ Remini, (1988):17.

⁶⁶ Remini, (1988):17.

The notion that because the process of empire making that is described in the French or Roman empires did not duplicate itself in the United States is a long way off from declaring the United States 'not an empire' because things were done in a very neat and orderly way, at least on paper. The United States has defended its territorial claims in the past by right of conquest (Treaty of Paris 1783) and has annexed land it had no outright claims to (Guano Islands Act of 1856, the annexation of Hawaii, the refusal of the State of Sequoyah and the Annexation of Indian Territory as the State of Oklahoma, etc.).

Furthermore, the United States, using the Land Ordinance as a cookie cutter process for unorganized territories to ascend to statehood, created one of the original elite special frameworks for how the frontier operates, concretely. The process is spelled out through the course of the three original documents by which way land was to be organized and sold and by which way the owners of that land would be allowed an equal voice with those states on the east coast. It is in these documents that the first incipit steps towards empire are concretely codified.

An aspect of this design of space is the transfer of property from the Native people to those who purchase lands from the government of the United States. This necessarily creates a quality to the extremity of the frontier which is inherently a 'removal' of Natives from lands. And if not removal of the Native from the lands entirely, then the eventual transformation of the native american into an American who adhered to republican principles of government, religion and land ownership with a heavy emphasis on the eradication of communally owned lands.⁶⁷

However, it was not exclusively the designs of the agrarian elite in charge of the new country at

⁶⁷ Berkhofer, Robert F. "Americans versus Indians: The Northwest Ordinance, Territory Making, and Native Americans." *Indiana Magazine of History* 84, no. 1 (1988): 90–108.
<http://www.jstor.org/stable/27791142>.

work, but also the culture of colonialism perpetuating itself in the colonies along the eastern seaboard for centuries, establishing a culture ready to push into a 'new frontier'. Reginald Horsman, in his 1988 article *The Northwest Ordinance and the Shaping of an Expanding Republic* writes;

*"Even the British attempt to restrict American expansion in the years after 1763 had not stopped actual settlers pressing forward across the Appalachians or land speculators dreaming of the money to be made from new colonies in the transmontane region. When the Revolution began, American pioneers were already establishing themselves in western Pennsylvania, Kentucky, and eastern Tennessee; and even amid the dangers of that conflict, pioneers proved willing to risk their lives in the hope of bettering their lives beyond the mountains."*⁶⁸

The population, across the British Empire, but especially in the American Colonies, already possessed an exploitative state of mind before the American Revolution. However, it was only after the Revolutionary War, and the change of elite designs on the frontier, that willing bodies were able to fill the roles of settlers in the newly defined frontier. Though the Ordinance explicitly prohibits the settlers or the governor from taking military action against the Native people, except by authorization of Congress, the first step in enforcing the Ordinance on the territory, and its resident inhabitants, would be one of military action and disaster in the form of the Northwest Indian War.

⁶⁸ Horsman, Reginald. "The Northwest Ordinance and the Shaping of an Expanding Republic." *The Wisconsin Magazine of History* 73, no. 1 (1989): 21–32. <http://www.jstor.org/stable/4636235>.

Northwest Indian War

The Treaty of Paris 1783 and the Northwest Ordinance of 1787 were completed without the consultation of the Native Tribes which were "inherited" by the United States from Great Britain and who were subsequently imposed upon by a government they did not recognize. George Washington, upon being sworn into office, directed the Army of the United States of America to enforce American claims over the Old Northwest. The Army would struggle to overcome the issues of supplies and logistics, training and the nature of military contracts as successive leadership changes and campaign failures demonstrated the Army's inadequacies. Confronted by a confederation of Native Tribes, and following the conclusion of the war for independence, settlers from the United States, encroaching on native lands, were dying en masse. Wiley Sword writes, in his 1985 book *President Washington's Indian War*;

"In little more than a month during the winter of 1785, thirty-nine boats, with an average of ten settlers each, passed down the Ohio. At Fort Harmar, opposite Marietta, in the latter half of 1787 an observer counted in passing 146 boats bearing 3,196 persons, 1,371 horses, and 165 wagons. The following year the immigration was even greater. By November, 1788, 967 boats carrying 18,370 people; 7,986 horses, 2,372 cows, 1,110 sheep, and 646 wagons had cruised down the Ohio. Once begun, the inexorable westward pressure of Neo-European civilization had reached a floodtide."⁶⁹

⁶⁹ Wiley Sword, *President Washington's Indian War: The Struggle for the Old Northwest* (University of Oklahoma Press, 1985) 4.

The first of the Campaigns fought, now known as Harmar's Defeat, was run under the direction of General Josiah Harmar with precisely 1,453 men, only 320 of whom were regular professional infantry, with the rest being state militia.⁷⁰ The quality of these soldiers was dubious at best, with one observer stating that "They appear to be raw and unused to the gun or woods," and another saying "Their whole object seemed nothing more than to see the country without rendering any service whatever."⁷¹ They faced what, according to estimates, were 1,100 Native Confederacy warriors near the Wabash River.⁷²

Along the Wabash River once lay the Miami town of Kekionga. It was one of many in the region but had a reputation as one of the worst, being called a "nest of villainy"⁷³ However, British accounts of what life was like there in the months before the outbreak of war with the United States and the Confederacy paints an image of a society complete with religious observances, happy people and gala like parties which British traders and the like enjoyed in the company of the Miami locals, being situated between vast fields of corn, fruit trees and gardens.⁷⁴ However, this was the target of Harmar's campaign and it was his intention, as with other villages, to destroy it and to treat British traders there with unkindness as they were to be perceived to be agitators.⁷⁵

In advance of the arrival of the American Army, the Miami chief, Little Turtle, and other Miami leaders would organize the retreat of the population from all of the villages in the region. The

⁷⁰ Wiley Sword, *President Washington's Indian War: The Struggle for the Old Northwest* (University of Oklahoma Press, 1985) 96.

⁷¹ Sword, *President Washington's Indian War*, 1985, 94.

⁷² Sword, *President Washington's Indian War*, 1985, 95.

⁷³ Sword, 1985, 101.

⁷⁴ Sword, 1985, 102.

⁷⁵ Sword, 1985, 100-102.

cattle in the area were to be slaughtered and the munitions carried by the British and French traders in the towns were to be confiscated. The town of Kekionga was burned down to prevent it from being used by the American's in Miami's retreat.⁷⁶

The Army advanced quickly, facing little resistance and enjoying the discovery of treasures left behind by the Miami around their abandoned villages. However, on the advance, Miami soldiers managed to drive off 50-100 pack horses from the Army's supply train, causing massive supply shortages and preventing the Army from advancing down the Wabash.⁷⁷ A detachment led by Col. John Hardin did advance further into the territory and approached the village that Little Turtle called his home on the Eel River. Caught in an ambush, Hardin's detachment and with a few volleys, scattered the militiamen and caused a general rout in the chaos.⁷⁸ The major defeat by so few Miami warriors sent a major wave of depressed morale through the Army and even more so it affected the morale of the militia men who were seen as bearing the responsibility for the defeat at the hands of the Miami.⁷⁹

The Army proceeded with their orders to destroy Miami villages and raised them to the ground. Harmar then ordered them to vacate the region, having completed their task. However, on their exit from the region, a report of Miamis returning to one of their villages inspired a depress and demoralized Harmar to send an expedition of 400 men to ambush a force of an estimated 200 Miami. However, the scouts of the Miami were better and faster to report to Little Turtle and what was intended to be an ambush turned into a major defeat in a counter ambush by Miami

⁷⁶ Sword, 1985, 103.

⁷⁷ Sword, 1985, 103-104.

⁷⁸ Sword, 1985, 106-107.

⁷⁹ Sword, 1985, 108-109.

forces.⁸⁰ The result was a disaster for the US Army and would spur on a series of interactions and spurious victories and defeats by other commanders.

In response to the folly displayed by US commanders in the frontier war of the empire, Jefferson writes to C. Carroll of Carrollton on 15 April of 1791:

"Our news from the westward is disagreeable. Constant murders committing by the Indians, and their combination threatens to be more and more extensive. I hope we shall give them a thorough drubbing this summer, and then change our tomahawk into a golden chain of friendship. The most economical as well as most humane conduct towards them is to bribe them into peace, and to retain them in peace by eternal bribes. The expedition this year would have served for presents on the most liberal scale for one hundred years; nor shall we otherwise ever get rid of an army, or of our debt. The least rag of Indian depredation will be an excuse to raise troops for those who love to have troops, and for those who think that a public debt is a good thing."⁸¹

This commentary of Jefferson's and his prescription for how the conduct of expansion should be engaged is consistent throughout his time as a public figure. As mentioned before, Jefferson was not in favor of spending the federal budget on a standing military nor with having public debts of any kind. However, that is not to say that Jefferson did not mind spending money, it was just that, in his estimation, it would be better to use that money to bribe the natives in the northwest into

⁸⁰ Sword, 1985, 114-117.

⁸¹ Thomas Jefferson. The Writings of Thomas Jefferson, Volume 3. New York, New York. Riker, Thorne and Co. 1854. 246-247.

submission rather than beat them into submission. His "golden chain of friendship" has a chance to reveal itself during his presidency.⁸²

The Battle of Fallen Timbers in 1794 would be the final battle of the Northwest Indian War and would result in a US victory over the Confederation of the Northwest, originally comprised of the Wabash Confederacy, the Cherokee, Potawatomi, Delaware, Odawa, Huron, and Shawnee, and the Shawnee who were also aided by other more distant tribes.⁸³ A reformed US Army, 3,000 men strong, operating under the moniker of the "Legion of the United States", battled and were victorious over Confederacy forces who were supported by the British.⁸⁴ The result would be the Jay Treaty, signed in 1794 which forced the British to vacate their fortresses on US territory and to cease supporting native tribes who were resistant to American expansion.⁸⁵

The Louisiana Purchase

The Louisiana Purchase was the United States government's foray into outright imperialism by acquiring lands through purchase. The French Empire, under the rule of Napoleon Bonaparte, and with the intention of settling damages that American citizens had against France, sold the Port of New Orleans and the area now called the Great Plains of North America to the nascent United States.⁸⁶ The land had been acquired by France from Spain in 1801 with the Treaty of

⁸² Thomas Jefferson. *The Writings of Thomas Jefferson*, Volume 3. New York, New York. Riker, Thorne and Co. 1854. 246-247.

⁸³ Speech of the United Indian Nations, at their confederate council, held near the mouth of the Detroit River between the 28th Nov. & 18th Dec. 1786. <https://wardepartmentpapers.org/s/home/item/39863>

⁸⁴ Sword, 1985, 308-311.

⁸⁵ Ken Drexler, "Research Guides: Jay's Treaty: Primary Documents in American History: Introduction," [guides.loc.gov](https://guides.loc.gov/jays-treaty), July 28, 2020, <https://guides.loc.gov/jays-treaty>.

⁸⁶ Treaty for the Cession of Louisiana between the United States and France, April 30, 1803 Treaty Series 86 EX (Exchange File); Perfected Treaties, 1776-1945; General Records of the United States Government, Record Group 11; National Archives, Washington, DC.

Aranjuez which saw the transfer of lands held by France in Tuscany transferred to Spanish possession in exchange for the territory.⁸⁷

Occurring with the backdrop of the Wars of Coalition between European powers aligned against a revolutionary and then belligerent expansionist France and the Quasi-War fought between the United States and France in the Caribbean, the French, and the American governments normalized relationships in 1801 with the Convention of 1800 (or Treaty of Mortefontaine).⁸⁸ However, this normalization did not stop the American government from being highly suspicious of the French government's ambitions for the North American continent.

The port of New Orleans had remained under Spanish control since the conclusion of the French and Indian Wars/ Seven Years' War which saw France lose Louisiana, and surrendered to Spain in the Treaty of Fontainebleau 1762.⁸⁹ With the Treaty of Aranjuez, France regained the port of New Orleans and ended Spain's encirclement of the Gulf of Mexico. However, actual governance of Louisiana continued to be a Spanish affair until the year in which France would hand control of New Orleans over to the United States. Leading up to the final transfer of Louisiana and New Orleans to France, in 1798 the Spanish revoked the permission of Americans to navigate the Mississippi and refused them the rights of deposit awarded to them by an agreement in 1795 with Pinckney's Treaty.

⁸⁷ Henry Edward Chambers, *West Florida and Its Relation to the Historical Cartography of the United States* (John Hopkins University Press, 1898) 50-51.

⁸⁸ Hunter David Miller and *États-Unis, Treaties and Other International Acts of the United States of America*, vol. 2 (Washington, D.C.: Government Printing Office, 1931).

⁸⁹ Henry Edward Chambers, *West Florida and Its Relation to the Historical Cartography of the United States* (John Hopkins University Press, 1898) 51.

This refusal represented an actual danger to American commercial interests in the Mississippi Valley and west of the Appalachian mountains, suspicions of French ambitions, and the need to secure the western frontiers of the nation, were factors that spurred American attempts at the acquisition of the port of New Orleans from France after the Treaty of Aranjuez returned the city to French control. Simultaneously, Napoleon sent a military expedition to what is now Haiti, to end the slave rebellion that had liberated the nascent nation. While openly supporting the French war there, though then assuming a neutral position, Thomas Jefferson sent Robert Livingston to France as its Minister with instructions to treat for the purchase of New Orleans. With the failure of Napoleon to retake Haiti his ambitions for North America were abandoned as he refocused his sights on a conflict with Great Britain. The sale was made and in December 1803 and March 1804, ceremonies held in New Orleans and in St. Louis, respectively, commemorated the transfer of possession of Louisiana from Spain to France and from France to the United States.

In a letter from Thomas Jefferson to John Breckinridge, 12 August 1803:

"The Constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into our Union. The Executive in seizing the fugitive occurrence which so much advances the good of their country, have done an act beyond the Constitution. The Legislature in casting behind them metaphysical subtleties, and risking themselves like faithful servants, must ratify & pay for it, and throw themselves on their country for doing for them unauthorized what we know they would have done for themselves had they been in a situation to do it. It is the case of a guardian, investing the money of his ward in

*purchasing an important adjacent territory; & saying to him when of age, I did
this for your good;*⁹⁰

Jefferson writes during the purchasing of the Louisiana territory that he is not confident that the Constitution allows for the "holding of foreign territory, still less for incorporating foreign nations into our Union." This mental framework of defining nations is precisely why understanding Jefferson's views on expansionism is so pertinent to understanding and describing the nature of empire in the earliest days of the Republic. At once, Jefferson would arrange treaties, by and large considered to be binding agreements between sovereign states, with native tribes in order to procure land from them and fix new borders.

Simultaneously, in an act of cognitive dissonance, he blatantly rules them out of the category of "nations" in this letter to John Breckinridge with his admission that the Constitution does not explicitly allow for the territorial acquisition of or from other nations. Though this, as a legal dispute, was resolved by Congress, it goes a great distance in understanding that Jefferson's own definitions of a nation state did not extend to the various native tribal communities of North America and certainly did not include all of those, as of yet, uncontacted Native nations, millions in number, who were incidentally traded along with the land that Spain, France and the United States all held as owners in the same decade.

This sentiment over recognizing the tribal nations as sovereign actors and as states has more than semantics at its core. It is an attitude that can be felt from the way in which Jefferson

⁹⁰ Thomas Jefferson, *The Writings of Thomas Jefferson: 1801-1806*, ed. Paul Ford, vol. VIII (New York, NY: G.P. Putnam's Sons, 1897), 244.

communicates his world view and his meaning, through history, to the end of the 20th century at the end of the Cold War with American historians like Robert Remini echoing the same sentiment; *'The Native Tribes are not nations and do not deserve to be treated as such'*. It is this same reasoning that is evocative of the concept that the native people of the Americas are like aspects of nature and that their presence in the vast territory is akin to wildlife that populates the wilderness; nations do not make treaties with rabbits and raccoons however.

This dissonance is an attribute of the imperial *"l'esprit"* of the United States, however, a feature, not a bug. It allows for a certain level of definitional ambiguity while keeping the books in order at home. The United States, therefore, is capable at once of treating native communities as sovereign nations and, like a referee playing full court tennis on his own side, is capable of reminding these native communities of their commitments to the United States. However, as soon as the native communities begin to act like sovereign states, elites, like Jefferson, would move to see these actors as barbaric threats to the integrity of the democratic experiment.

Jefferson's perspectives on the matter of native conversion to republican ideals or exile/eradication, have been made abundantly clear so far in this thesis, however, it may be prudent to repeat Jefferson's opinion that the natives *"will relapse into barbarism and misery, lose numbers by war and want, and we shall be obliged to drive them, with the beasts of the forest, into the Stony mountains."*⁹¹

⁹¹ Jefferson, Thomas. Thomas Jefferson to John Adams, Jefferson Expresses Concern about Natives. June 11, 1812.

New Madrid

The western American frontier was not exclusively cultivated by relationships constructed by the Americans in Washington D.C. and the relentless push of settlers westward from the American states, though some of its citizens participated independently from their government. Across the Mississippi River laid the lands of the Spanish Empire and for the enterprising it offered, for a time, the possibility of establishing new colonies away from the oversight of the new American Congress in Washington D.C. It also had served, for centuries, by the beginning of the 19th century, as a crossroads of European explorers, missionaries, fur trappers and native tribes in an intercourse that defined European and native interactions.

New Madrid is a town in what is now Missouri in the United States. Its origins as a fur trappers' camp is well documented by two Canadian fur trappers, Francois and Joseph LeSieur, who made use of the location in 1783 as a place to hunt and trade with the natives in the region.⁹² Originally named "L'Anse a la Graise" (or 'cove of grease'), by those who came there to trade, it was only ever intended as a temporary trading post. The location was well supplied with natural resources (such as timber) and a source of freshwater. An examination of the region also revealed that native people have also made use of the location in their past as evidenced by the number of burial mounds in the region. It is also possible that this is the general location where Hernando de Soto, a Spanish explorer from two centuries earlier, made camp and where French explorers began to trade with local native people, as evidenced by the existence of a known native trade route that extended from what is now Commerce, MO, to the mouth of the St. Francis River in Arkansas along the Mississippi.⁹³

⁹² Robert Sidney Douglass, *History of Southeast Missouri* (The Lewis Publishing Company, 1912) Pg.81.

⁹³ Robert Sidney Douglass, *History of Southeast Missouri* (The Lewis Publishing Company, 1912) Pg.81-82.

In this period, the site called "L'Anse a la Graise" was firmly under the control of the Spanish empire, though many of the European inhabitants of the region were French in origin. It was under this regime then, that a disgruntled but ambitious Colonel George Morgan of the Continental Army of the Continental Congress, who had recently won their war for independence from Britain, arrived in the region.⁹⁴

After having been denied by Congress ownership of lands he acquired through a private negotiation with native tribes (this was directly against the law which gave Congress the authority to negotiate with native tribes for land purchases) he devised a plan to establish a colony in the Spanish Empire, across the Mississippi. In a move that appeared to reflect the ambitions of the "Manifest Destiny" that would define westward expansionism, Morgan appealed to the government of Spain via Don Diego Gardoqui, a Spanish minister in Washington D.C., who gave to Morgan the impression that Morgan had the blessings of the Spanish Crown to move forward with his plans and in 1789 he moved himself and others (Euro-Americans and native people) to the site of New Madrid.⁹⁵

Morgan's plans, well made with surveyors, grid patterns and settlers, began in earnest on arrival to the site. However, the site was also the target of the ambitions of another U.S. military officer, General James Wilkinson, who was working with the Spanish governor of Louisiana, headquartered in New Orleans, Esteban Rodríguez Miró, in order to incite a rebellion in the territory of the United States immediately adjacent to Morgan's 'New Madrid'.⁹⁶ Miro sent

⁹⁴ Douglass, History of Southeast Missouri (1912), Pg.83.

⁹⁵ *Ibid.*

⁹⁶ Douglass, History of Southeast Missouri (1912), Pg.88.

soldiers to the location with orders to construct a fort and to take control of the settlement.⁹⁷

Morgan was effectively run out of New Madrid, with only a part of his vision completed, the settlement would flounder over the following years. Maintaining its position as an ideal location for trade with the natives in the area for some years, a lessening population of game animals in the area forced a shift towards more intensive agriculture which the population was not prepared to engage in and the economic situation of New Madrid suffered as a result.⁹⁸

Robert G. Watson was a Scotsman by birth but he and his brother left Scotland in his youth for the city of Detroit, in the care of his uncle, who did business in native goods and trade in the region along the Mississippi. In an autobiographical letter, reprinted in Douglass' *History of Southeast Missouri* (1912), Watson details his life experiences as a trader along the Mississippi from Detroit to New Madrid. Beginning with his first departure from Detroit in the summer of 1805, Watson describes the inhabitants;

"No white inhabitants were on the banks from the time we left the foot of the rapids, with the exception of one Frenchman — a baker...in getting to Fort Wayne, I do not recollect. We found some Indian traders and a company of U. S. troops stationed there...Indian traders at Fort Wayne were prepared with oxen and wagons to haul our goods and boats across...Not a white inhabitant except Indian traders, from the time we left Fort Wayne till we arrived at Vincennes, and from there to the mouth of the Wabash — with the exception of Coffee island, some French families lived there of the name of Levilets. We arrived at New

⁹⁷ Douglass, *History of Southeast Missouri* (1912), Pg.90.

⁹⁸ Douglass, *History of Southeast Missouri* (1912), Pg.90-93.

*Madrid in October and found the place settled principally by the French, and the town or village beautifully laid off in lots of two and four arpens, each, well improved and the streets wide and running parallel with the river."*⁹⁹

Once in New Madrid, Watson took over control of his uncle's trading operations in the region and traded with natives, French trappers, and Americans.¹⁰⁰ He made six trips between Detroit and New Madrid from 1805 until 1812, when the War of 1812 commenced. Watson expanded his operation in New Madrid to include trade to New Orleans by river boat. The War of 1812 effectively ended his trade with the natives in the region and his trade with New Orleans continued until 1825.¹⁰¹ In reading Watson's account of this span of years, it describes an economy that still had much in the way to do with trade with natives. However, as the years progress and the events after the Louisiana Purchase, and of 1812, and onward (speaking principally about U.S. policy towards native tribes) the regional dynamics that dominated the landscape under Spanish imperial rules visibly and tangibly evaporated.

Native Sovereignty

Cultural and economic domination of the Indigenous people of North America alongside the recognition, and subsequent side skirting of Native sovereignty, juxtaposed with the persistent resistance of native people against the United States' westward expansion, all go toward the same direction of empire. The United States sought, throughout its short and coercive history, to dominate the North American continent outright and the Western Hemisphere through direct and

⁹⁹ Douglass, History of Southeast Missouri (1912), Pg.99-100.

¹⁰⁰ *Ibid.*

¹⁰¹ Douglass, Pg. 101.

indirect means of action. However, it is the relationship with the Native Americans that drives the main argument to define the United States as a continental empire. A contrast can be drawn between the Canadian, American, and Mexican constitutions. The US Constitution recognizes a limited type of sovereignty that the tribes have but only at the sufferance of Congress. This is spelled out in an essay that explains the scope of this authority vis-a-vis **Article I, Section 8, Clause 3**: "[The Congress shall have Power . . .] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; etc."

In this essay, we learn that the opinion of the Supreme Court in *Worcester v. Georgia* in 1832 stating: *"tribes are unique aggregations possessing attributes of sovereignty over both their members and their territories. They are no longer possessed of the full attributes of sovereignty, however, having relinquished some part of it by [t]heir incorporation within the territory of the United States and their acceptance of its protection. Accordingly, [t]he sovereignty that the Indian tribes retain is of a unique and limited character. It exists only at the sufferance of Congress and is subject to complete defeasance."*¹⁰²

A later act of Congress, 25 U.S.C. § 71, outright removes the recognition of the native tribes as sovereign states, stating that "No Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty".¹⁰³ So this offers two historical views of the native tribes. Initially, the tribes were viewed as being significant enough, in the context of the potential threat

¹⁰² US Congress, "Scope of Commerce Clause Authority and Indian Tribes | Constitution Annotated | Congress.gov | Library of Congress," Congress.gov, 2021, https://constitution.congress.gov/browse/essay/artI-S8-C3-9-1/ALDE_00012976/.

¹⁰³ 25 U.S.C. § 71:Future treaties with Indian tribes

that the native nations posed to the United States, to be treated with, literally, the facade of sovereign dignity. However, as the native nations were effectively encircled and neutered as threats, they gradually lost this status and were treated as semi-autonomous entities but not true nations that were to be treated with-in the sense that their status allowed for in the past. Their status as semi-autonomous entities would be directly challenged in the 1950's with House Concurrent Resolution 108 in 1953 that set Congress the task of systematically depriving native nations their rights and privileges in the reservation system by dismantling the entire legal framework.¹⁰⁴

This process proceeded for 17 years before President Nixon called for “self-determination without termination” and Gerald Ford signed the Indian Self-Determination and Education Assistance Act of 1975 which abandoned the Resolution of 1953.¹⁰⁵ However, this is all unilateral action taken by the United States, again, irrespective of the desires or wishes of the native people of North America.

Though treaties were made that saw various tribes resettled and relocated to other geographic areas, most agreements were made in order to avoid conflict with the Euro-American settlers that began dominating the landscape with their settler colonial activities. What one group may perceive as an acquiescence or a recognition of the United States as the *de facto* and *de jure* arbiter of 'Indian Affairs' another can easily perceive a large degree of coercion taking place against populations that have been consistently maneuvered into an increasingly impoverished condition by a duplicitous and hostile entity that has acquisition of the entirety of the continent as

¹⁰⁴ U.S. Congress. House. House Concurrent Resolution 108. 83rd Cong., 1st sess. (1953).

¹⁰⁵ Mann, Lina. “Self Determination without Termination.” WHHA (en-US), November 3, 2021. <https://www.whitehousehistory.org/self-determination-without-termination>.

its primary economic and security strategies. What is clear is that, throughout the entire history of the relationship between the tribes and the Federal government, who has sought to dominate and reduce the tribes to the point of non-existence, the tribes, by and large, have fought literal wars against the United States to defend their territorial integrity and have fought legal battles in U.S. Courts, which, since the 1970's, have frequently sided with the tribes in recognizing the legally demonstrable sovereignty of tribes and also the failure of the United States to live up to promises and sworn obligations made to the tribes.¹⁰⁶

The Osage: Their History and Culture in Brief

What follows here is an introduction to the Osage people. As this thesis enters into the topics of Indigeneity and Indigenous rights, so too does it seek to understand how the American imperial frontier affected native peoples. This section is intended as an introduction to the Osage, a people who stood in direct opposition to the United States at the time of the Louisiana Purchase and who, like all of the tribes of what is now the states and territories of the United States of America, have been the target of policies which define the Imperial frontier in its expansion across the continent of North America. The necessary description of Native American cultures is integrated into this thesis so that the names of tribes are not treated as statistical and historic noise in the calculus of empire.

The history of the Osage dates back to the last glacial period when North America and Asia were connected by a land bridge, allowing for human beings to immigrate to the continent in various

¹⁰⁶ Newland, Bryan. "Tribal Sovereignty Ruling." [www.doi.gov](https://www.doi.gov/oc/tribal-sovereignty-ruling), September 21, 2022. <https://www.doi.gov/oc/tribal-sovereignty-ruling>.

migrations that happened over thousands of years. Emerging from the glacial shelf and onto the open plains of what would be called North America, various people peopled the land and formed societies and cultures over the course of many thousands of years. Moving past those millenia to a time closer to the present, Osage oral traditions and archaeology can place the modern culture to an origin somewhere in the Chesapeake Bay area of Virginia and Maryland, near to Washington D.C. Evidence from archaeological surveys in the Ohio River Valley also indicate that the Osage, at some point, occupied the area for a non-insignificant time. It is in the Ohio River Valley that many linguistically related tribes find their origin and go some way towards explaining why so many cultures share aspects of tradition.¹⁰⁷

The Osage belong to a larger family group of related tribes called the Dhegiha Sioux. This family includes the Kansas, Ponca, Omaha, the Osage and the Quapaw whose oral histories corroborate those of the Osage and suggest a long intertwined history with them.¹⁰⁸ While the Osage were present in the Ohio River Valley, multiple cultures extant at that time are referred to as the Hopewell Interaction Sphere which appears to have developed as early as 100 BCE but shows a sustained influence over tribal traditions from 300-500 CE.¹⁰⁹ After this period the Osage recorded a time in their history as the "Great Move".¹¹⁰

Burns indicates in his book "A history of the Osage people" (2004) that the move certainly implies a geographical movement but also contact with and the adoption of a new culture which appears to have been a feature of the Hopewellians to incorporate aspects of culture from groups

¹⁰⁷ Burns, Louis F. 2004. A History of the Osage People. Tuscaloosa, Al: University Of Alabama Press. Pg 2.

¹⁰⁸ Fagan, Brian M. 1991. Ancient North America. New York, N.Y. : Thames and Hudson. 346-347.

¹⁰⁹ Fagan, 370

¹¹⁰ Burns, Louis F. 2004. A History of the Osage People. Tuscaloosa, Al: University Of Alabama Press. Pg 4.

who were integrated into the larger society. The largest shift would come in the way of contact with Meso-Americans who brought Maize cultivation from 800-1000 CE.¹¹¹

This, generally, gave rise to the development of the Mississippian culture area. It can be described economically by access to woodland game, fisheries, foraging and limited forms of horticulture and agriculture, dominated by Maize and Beans, by the 1200's.¹¹² Economic exchange was an occurrence that happened on a more local level, rather than at larger scales, usually occurring at the household level.¹¹³ With the rise of reliance on agriculture to feed growing populations, however, it is thought that low level chiefdoms arose out of a need to manage resources.¹¹⁴

This new elite status is marked, archaeologically, by the types of burial sites found in association with the culture. These funerary goods have been found to contain examples of wares made in distant regions, demonstrating a larger trade area that allowed for the products of small communities to arrive in the hands of elites in larger population centers.¹¹⁵ Largest, at least, most prominent, of the larger settlements in the Mississippian era of Meso-American culture diffusion is Cahokia which, around 1250 CE had a population of roughly 30,000 people.¹¹⁶ By the 1500's the Mississippian culture began to give way to other forms of cultural expression with large population loss being experienced simultaneously.¹¹⁷

¹¹¹ Fagan, 388-389.

¹¹² Fagen, 391-92.

¹¹³ Fagen, 391.

¹¹⁴ Fagen, 392-93.

¹¹⁵ Fagen, 393.

¹¹⁶ Fagen, 396.

¹¹⁷ Burns, 6.

The Osage culture, owing to its origins in the Hopewell and later traditions, is the result of contact with many other culture groups. One aspect of this can be seen in the Osage morning prayer ritual which has enough similarity with a Maya ritual that it appears to be related, along with a handful of other linguistic and symbolic quanta.¹¹⁸ Louis Burns, author of *A History of the Osage People*, discusses the Osage tradition of oral histories. It is his understanding that the Osage Oral tradition is one that comes with various customs that interfere with the transmission of the factual information, especially when the information is being relayed to outsiders.¹¹⁹

A few guidelines for obtaining Oral histories, as relayed by Burns, is to avoid receiving oral histories in the months of January and February as the "Little old men" go dormant in this time period and so any story received at this time should be treated with suspicion.¹²⁰ He also suggests that the authentic stories are never given away for free, something must be offered in exchange for the story. Any story received for free is also to be treated with suspicion.¹²¹ Inclusive to the general outline of rules is that the Osage are hospitable people who would like to entertain their guests and so frequently tell stories, true or *not*, to entertain their guests.¹²²

Burns relays the Osage origin story, here paraphrased:

The Osage were beings without souls, minds or the ability to communicate in the domain of the fourth of the four upperworlds of their cosmos. Their spirits progressed through the third world and gained souls, they passed through the second and they formed minds and in the first they

¹¹⁸ Burns, 8-9.

¹¹⁹ Burns, 50.

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² Burns, 12.

learned how to communicate. The Osage first took the form of Eagles and flew from the sky to the seven trees below on earth, each surrounded by water. There, the 'Big Elk' came and threw himself on the water, revealing the earth below. His hair got stuck in the mud and was transformed into the plants of the world. The four winds came forth and dried the mud. The Big Elk gave the Osage the 'snare of life' which bound all souls to the world, only released in death. The Milky Way formed the path to heaven for departing souls who would linger for three days before going off to the realm of origin in the upper worlds. The sky and the earth were pressed together in order to make rain on earth and to give the nourishing light of the sun.¹²³

The Osage oral tradition communicates that there was at some point a union of many different people over time who all spoke the same language to each of their surprise. In a system, described by Archaeology as the Hopewellian culture tradition, the Osage cultural and political structures were changed over time with the inclusion of different clans. The clans, organized around a confederation of fourteen 'fires' would distribute power based on who best maintained the shrines of the Houses of Mystery, which involved the ceremonies of peace and war. Around 1600 CE 'those who were last to come' were integrated into the Osage and changed their war policies, referred to as the war party system.¹²⁴

The Osage are divided into the water, earth, winds and sky divisions with the sky division being the de facto leadership group within the larger governing body of the Osage. In this division the Sky Chief and the Earth Chief were nominally equal but the Sky Chief held more status though he was only a representative of the real power in society, 'The Little old Men'.¹²⁵ The Little Old

¹²³ Burns, 12-14.

¹²⁴ Burns, 14-16.

¹²⁵ Burns, 18.

Men formed the legislative body of the government but also oversaw the executive and spiritual functions of society with power shared with the division chiefs, whose main function was to keep the peace.¹²⁶ They functioned as a unicameral legislative body. New chiefs were selected by a council that had been formed by the previous chief, named the Ah ke ta Ki he ka' or 'Chief Protectors'. The powers of the chief were bound to internal peace making.¹²⁷

Being further subdivided into bands, they were the White Hairs, the Little Osage and the Claremore bands. The chief structure described previously applies to the White Hairs where as with the Little Osage and the Claremore bands, their chiefs were selected democratically in what is referred to as 'voting with their feet' where a chief gains or loses power by the literal number of people who literally follow him.¹²⁸

The reaction of the Osage to contact with Euro-American forces was palpable. The Osage defended their territorial integrity from intrusion with deadly force and made trade with the interior of the continent difficult until the United States became involved after the Louisiana Purchase in 1803. Though there were trails that passed through Osage territory, routine blockades of rivers by the Osage made trade difficult. It was this militant persistence that ultimately led both Spain and France to turn away from attempts at colonizing the interior.¹²⁹

This course of Osage behavior is reflective of their historic concepts of property rights, which were that land was to be held in common by the tribe for the purposes of hunting and

¹²⁶ Burns, 39-40.

¹²⁷ *Ibid.*

¹²⁸ Burns, 41.

¹²⁹ Burns, 61.

gathering.¹³⁰ This flies in direct contrast with the Euro-American perspective of efficient use of land to maximize output, as sentiment repeatedly shared by Jefferson in the thesis. Land claims, however, were justifiable only if they could be maintained by force, in the Osage custom, and this goes a long way to explaining the Osage militant attitude towards interlopers, with violators' heads being displayed on spikes.¹³¹

Treaties with the Osage

The first of the treaties made with the Osage were done by individuals who had already made contact with the tribes previous to the interests of the United States in the tribe. One of the main characters in the early history of the Osage and U.S. relations is Pierre (Peter) Chouteau. Before the Louisiana Purchase in 1803 by the United States, the Spanish imperial frontier already had a bustling fur trade with over a century of negotiations, agreements and stable continental and transcontinental economic relationships that spanned from New Orleans to Montreal and further to England. The Osage were known, in fact, to have a preference for Mackinaw blankets, which came from Montreal, over Buffalo robes sourced locally.¹³² So when the time came for the first of the treaties between the Osage and the United States, Merriweather Lewis, of Lewis and Clark fame, who was the Governor of Louisiana and Superintendent of Indian Affairs, tapped the successful and well connected Chouteaus to establish a primary relationship with the tribe.

¹³⁰ Burns, 87.

¹³¹ Burns, 89.

¹³² Wayne Morris, "Auguste Pierre Chouteau, Merchant Prince at the Three Forks of the Arkansas," *Chronicles of Oklahoma* 48, no. 2 (1970): 155–63, https://gateway.okhistory.org/ark:/67531/metadc2124076/m2/1/high_res_d/1970-v48-n02_a02.pdf.

The Treaty of Fort Clark (1808), established the intentions of the United States as being one primarily of friendship and of peace, as stated in Article 1, but the United States also promises to assist and protect the Osage from incursions made by other tribes and from whites by building a fortress on the banks of the Missouri River. At this frontier fort the Osage are welcomed, in Article 3, to make use of the fort's facilities, blacksmith, etc. establishing an economic dimension between the Osage and the Federal government. However, this article also discusses farming implements and the construction of 'blockhouses', fortified homes, in Osage villages in proximity to the fort. Article 4 of the treaty addresses the grievances of frontier settlers against the Osage for acts of theft and vandalism allegedly carried out by the tribe against white settlers.¹³³

The government, in this instance, offers to pay damages not to exceed \$5,000. Article 5 discusses payment for lands ceded by the Osage, in Article 6, to the United States in the form of a goods based annuity, \$1,000 yearly for the Osage and \$500 per year for the Little Osage. Article 6 describes the territorial losses for the Osage which included, at a minimum, 182,000km² of land which the Osage were known to inhabit. The actual amount of land is technically indeterminate as the treaty's 6th article stipulates "all lands situated northwardly of the river Missouri".

However, taking the area of the Mississippi, to the Missouri, west to Fort Osage and south to the Arkansas which then runs east to the Mississippi River, the Osage effectively are removed from all of Missouri and most of Arkansas. Literally, this removes the Osage from the Arkansas River, along the western boundary defined by the location of Ft. Osage (in the treaty, Ft. Clark), north to the border with Canada and east to the Mississippi. This area, calculated to the modern Canadian border, is an area of 500,000km², an area twice the size of the modern United Kingdom. While articles 7,8 and 9 deal primarily with the rights and responsibilities of the

¹³³ Treaty of Fort Clark (1808)

Osage to the United States, and vice versa, including hunting permissions and what to do if someone's horse is stolen, or if there is a murder, article 10 establishes a very firm and concise understanding of the relationship between the United States and the Osage.¹³⁴

Article 10 establishes the United States as the friend and protector of all of the Osage and the Osage must declare that they consider themselves as being under the protection of the U.S. government and under the protection of no other power whatsoever. Along with this declaration of patronage, the Osage must promise not to engage in any treaties or agreements regarding the cessation or sale of lands to any other entity other than the United States of America unless otherwise stipulated or authorized by the President of the United States. This freezes the autonomy of the tribe and places it in a kind of ward relationship with the Federal government where they have the rights to conduct their business as they see fit but that the sale of lands only goes in one direction.¹³⁵

After the War of 1812, the United States engaged in a series of treaties with various Great Plains tribes to ensure that peace was maintained at the frontier. The Treaty of 1815 was such a treaty that established that, though the Osage did not participate in the war in any meaningful way, the Osage received the same blanket amnesty that other tribes received.

¹³⁴ Treaty of Fort Clark (1808)

¹³⁵ *Ibid.*

Disastrous Consequences

The next treaty, that of 1819, requires that a connection, the first connection between the Osage and the Cherokee, be explained in its context. Because of colonial pressure being applied on the Cherokee Nation in the southern states of the United States, a portion of the tribe was authorized to cede part of their lands in exchange for lands west of the Mississippi that were meant to be uninhabited. These lands, as agreed in 1808 but also reaffirmed in the Treaty of 1817, were to be bound between the Arkansas and White Rivers. Around that time (1817) approximately 3,000 Western Cherokee had settled in Arkansas along the Arkansas and White Rivers.¹³⁶

This land had technically been ceded to the United States by the Osage in the Treaty of Fort Clark (1808) however, Cherokee hunting parties frequently crossed the western boundaries established by the treaty and bloody conflicts arose from the meeting of these two people, forced together by ill devised imperial American policy. A component of the situation was the fact that the Federal government had also armed the Western Cherokee with firearms and ammunition. To this effect, in 1816, an aging William Lovely, an Indian Agent in the employ of the Federal government organized an unauthorized purchase of land from the Osage. Called Lovely's Purchase today, it was meant to provide access for the Western Cherokee to hunting grounds disputed by the Osage.¹³⁷ Consisting of 7 million acres, the ploy by William Lovely to keep the peace between tribes did not, in fact, work. The Osage did not adhere to the agreements, viewing their adherence to be something worth less than full commitment, and continued attacks on the

¹³⁶ Jon D. May, "Claremore Mound, Battle of," *The Encyclopedia of Oklahoma History and Culture*, <https://www.okhistory.org/publications/enc/entry?entry=CL003>.

¹³⁷ Agnew, Brad. "The Cherokee Struggle for Lovely's Purchase." *American Indian Quarterly* 2, no. 4 (1975): 347–61. <https://doi.org/10.2307/1183609>.

Western Cherokee.¹³⁸ This concept of land ownership and rights to use that land were separate concepts in the Osage cultural mind. In 1821, the Osage Chief Clarimore described the situation: when the President "sent the Cherokees on this side of the great river and gave them land we had sold him, he certainly did not give to the Cherokees all the beaver, bear, buffalo and deer on our lands. We Sold him Land but not the game on our Land." ¹³⁹

Regardless, the conflict that was simmering for most of a decade came to a fever pitch with the Battle of Claremore Mound. During the Strawberry Moon the Osage men went on long distance bison hunts. It was during this time, in 1817, that the Cherokee, armed with modern rifles and allies from neighboring tribes, 500 strong, conducted an assault of the Osage village at Claremont Mound. Coming off the back of an enormous horse theft at the hands of the Osage, the group of Cherokee and likewise other aggrieved tribes initiated their attack on the village.¹⁴⁰ The battle resulted in a number of dead Osage and captives. Upon hearing of the outbreak of the armed conflict, the War Department sent a force to resolve the peace.¹⁴¹

The Treaty of 1819, which followed the armed conflict between the Osage and the Cherokee, as well as other groups, resolves the questions regarding the legality of Lovely's Purchase and, in this treaty, formally annexes that land from the Osage into the possession of the United States.

¹³⁸ Agnew, Brad. "The Cherokee Struggle for Lovely's Purchase." *American Indian Quarterly* 2, no. 4 (1975): 347–61. <https://doi.org/10.2307/1183609>.

¹³⁹ Carter, Clarence. Speech By Clarimore to an Osage Council, September 15, 1821, Territory of Arkansas, 1819-1825, Vol. XIX of Territorial Papers of the United States, Clarence E. Carter (Washington, 1953) 320-322. <https://archive.org/details/territoryofarkan0000clar>

¹⁴⁰ Rachel Caroline Eaton, "The Legend of the Battle of Claremore Mound," *Chronicles of Oklahoma* 8, no. 4 (1930): 369–77. https://gateway.okhistory.org/ark:/67531/metadc2191757/m2/1/high_res_d/1930-v8-n4_a02.pdf.

¹⁴¹ Agnew, Brad. "The Cherokee Struggle for Lovely's Purchase." *American Indian Quarterly* 2, no. 4 (1975): 347–61. <https://doi.org/10.2307/1183609>.

Furthermore, this began the concise execution of a series of treaties, mainly the Treaty of 1825, with articles 1 and 2 of said treaty, which saw the Osage reduced in their territorial holdings to lands in what are now Oklahoma and Kansas. With the exchange came promises of peace and security, along with annuities to be paid out over time. The main loss for the Osage was the loss of access to their historic hunting grounds.¹⁴²

Confinement

The final treaty, which pertains to the scope of this thesis, came in 1839. After years of hostilities between the Osage and their neighboring tribes, the United States sought to confine the Osage to a reservation, fixed, and unambiguous. However, this last treaty is also a direct result of population pressure put on the region by the forced removal of eastern tribes, specifically the Cherokee, in what is known as the Trail of Tears. It was the policy of the United States to relocate the Cherokee to lands that were, according to the laws and treaties of the United States, owned wholly by the United States and were available to the President for the resettlement of the Cherokee. However, this did not stop the Osage from contesting the settlement of people onto lands that they still viewed as their own. The Treaty of 1839 sought to end all ambiguity.

Article 1 demands that the Osage give up all claims to lands in all reservations other than those specifically granted to them by the United States and then demands they confine themselves there. Article 2 lays out annuities to be paid out to the Osage as well as establishes the services of a blacksmith and the construction of various mills. The 4th Article supplies the Osage with

¹⁴² United States Congress. A Compilation of all the Treaties between the United States and the Indian Tribes now in force as laws. Washington.D.C. 1873. Pg. 577-582.

cattle. The 5th article supplies the various chiefs and headmen with homes worth a value of \$100-\$200 with additional provisions for wagons to be made. The 6th article pays for all historical damages committed by the Osage unto other groups. The rest of the treaty deals with the payments of annuities owed and refunds made to various bands and groups within the Osage at large. This treaty confines the Osage, once and for all, to lands designated by the Federal government and forces on the Osage an agrarian lifestyle that is totally at odds with their culture and practices that were thriving just 10 years prior.¹⁴³

Cherokee History through the lens of Treaties

One perspective of Cherokee history can be viewed through the lens of the treaties made between the United States and the Cherokee people, before and after their separation into multiple groups. The perspective is limited and does not tell us the complete story, however, it does offer a legal timeline and a narrative can be drawn out, or inferred, from the timeline of treaties between the two. What follows is not a complete analysis of every treaty but it is an overview of the main themes and some of the causes or justifications for each. A few of the common themes to take note of is the encroachment of Euro-American settlers onto Cherokee lands in violation of previous treaties and the cessation of lands by the Cherokee to ensure peace between the two groups.

¹⁴³ United States Congress. A Compilation of all the Treaties between the United States and the Indian Tribes now in force as laws. Washington.D.C. 1873. Pg. 582-584.

Territorial Encroachment

The Treaty of Hopewell (1785), is the first of the treaties between the United States and the Cherokee people signed after the conclusion of the Revolutionary War. However, this agreement, which recognized the Cherokee Nation as a sovereign people and established recognized borders between Cherokee lands and the United States, came on the heels of extensive violence between Cherokee and Euro-American forces.¹⁴⁴ Fighting alongside Loyalist and British forces in the Revolutionary War against the Continental Army, the Cherokee were not simply fighting as a British proxy but were fighting to ensure that treaties made previous to the Declaration of Independence, which nullified agreements made on behalf of the British Crown with natives, remained in effect.

Their territorial integrity was at risk and the Cherokee placed their futures in lockstep with the British authorities in the Colonies. Prior to the war, in 1775, the Cherokee had engaged in agreements with land speculators that resulted in the Henderson Purchase and the short lived Transylvania Colony.¹⁴⁵ It was at the negotiations that the Cherokee War chief Dragging Canoe made his stance clear and, although the land sale would go through, Dragging Canoe would fight a bloody war of resistance that lasted until his death in 1793. During the Revolutionary War, the Cherokee lost many of their villages and, although they would make agreements that secured their territorial integrity for a time, their land would be chipped away slowly, all the while Dragging Canoe continued his fight, separating himself and his followers from the main body of the Cherokee. At the negotiations, Dragging Canoe made an impassioned speech, decrying the

¹⁴⁴ Treaty of Hopewell (1785)

¹⁴⁵ Sam'l C Williams, "Henderson and company's purchase within the limits of Tennessee," *Tennessee Historical Magazine* 5, no. 1 (1919): 5–27, <https://doi.org/10.2307/42637407>.

advance of the white settlers and the disintegration of once powerful native tribes, like the Delaware.

*"Whole Indian Nations have melted away like snowballs in the sun before the white man's advance. They leave scarcely a name of our people except those wrongly recorded by their destroyers. Where are the Delawares? They have been reduced to a mere shadow of their former greatness."*¹⁴⁶

Frontiersmen, like Daniel Boone, repeatedly encroached on territory that was reserved for or was acknowledged to be the property of various native tribes. However, without much of an apparatus, on the British side of the frontier, to check these encroachments, the Cherokee opted to either make land sale agreements or to fight against settler encroachment with violence. West of the Blue Ridge Mountains, in the era before 1776 and after the Proclamation of 1763, settlers from the east continued their encroachments over the Appalachian Mountain range, as was prohibited by law, into the territory of the "Overhill Cherokee". An agreement between the British and the Cherokee would move these settlements under British protection, but it would be the beginning of ongoing tension between the Cherokee and the Anglo-Americans who were pushing westward in spite of orders to the contrary.¹⁴⁷

During the earliest parts of the Revolutionary War, the Overmountain settlements fought directly against 'invasions' made by Cherokee warriors. Though these were initially successful campaigns made by the Cherokee, the Overmountain men were ultimately successful in their defensive and

¹⁴⁶ Aaron Kushner, *Cherokee Nation Citizenship* (The University of Oklahoma Press, 2025).

¹⁴⁷ John R Finger, *Tennessee Frontiers : Three Regions in Transition* (Bloomington: Indiana University Press, 2001), 47–52.

offensive campaigns.¹⁴⁸ Before this period of encroachment by Anglo-American settlers, the Cherokee enjoyed being courted for trade by imperial continental powers like France and Britain. However, as migration westward increased and the once remote Cherokee villages became accessible, a combination of increased trade brought prosperity for the tribe but with it came the population pressures of an increasingly hostile and rapacious frontier mentality shared by individuals and families looking to increase their wealth ever westward.

The end of the war and the resultant peace brought both sides of the conflict to the negotiating table, where the Cherokee would cede territory to the United States for guarantees that their land would not be encroached upon and that the United States recognized the Cherokee as a sovereign entity.¹⁴⁹ However, this would not stop encroachment and it would not stop hostilities between the populations. Failures by the Washington administration to prevent hostilities and encroachments, breaking the Hopewell Treaty of 1785, the Treaty of Holston (1791) saw the Cherokee cede more land to the United States in return for an annuity and reaffirmed the U.S. commitment to respecting the Cherokee nation's territorial integrity.¹⁵⁰

The treaty also stipulates that individuals guilty of a capital crime in the United States (robbery, murder, etc.), which targeted a citizen of the United States, must be handed over to the authorities to be punished by the laws of the United States. This includes citizens of the Cherokee tribe.¹⁵¹

¹⁴⁸ John R Finger, *Tennessee Frontiers : Three Regions in Transition* (Bloomington: Indiana University Press, 2001), 47–52.

¹⁴⁹ Treaty of Hopewell with the Cherokees, Nov. 28, 1785

¹⁵⁰ Treaty of Holston with the Cherokees, Jul. 02, 1791

¹⁵¹ Article 10, Treaty of Holston with the Cherokees, Jul. 02, 1791

The so-called Treaty of Tellico (1798) addresses deficiencies on the part of the United States and its citizens in upholding the terms of the previous treaty. Mainly, the issue of delays in starting the survey process of the official boundaries between the Cherokee and the United States. This delay led to the establishment and subsequent removals of settlements by Americans on Cherokee land. Other issues resolved were the ongoing disputes of horse theft that were apparently rife between the two groups with an entire article (9) devoted to the subject. The treaty establishes the cessation of lands by the Cherokee in what is now Tennessee in return for goods and services.¹⁵²

Seven years later the Treaty of Grouseland (1805) saw the Cherokee again cede land to the United States in southern Georgia. A treaty in the following year, 1806, would see the Cherokee sell more land to the United States for a cash payment but also a payment payable in farming equipment and other machinery.¹⁵³ The road that passes through Muscle Shoals en route to Tennessee is also stipulated to remain open and free for citizens of the United States to travel en route to settlements and for the purposes of delivering the U.S. Mail to New Orleans. This type of agreement concerning the safe passage of settlers on roads that pass through Cherokee lands is a recurring stipulation in treaties between the United States and the Cherokee.¹⁵⁴

A treaty, proclaimed May 23, 1807, in Washington D.C., saw the Cherokee again cede land to the United States in Tennessee along and north of the Tennessee River, in exchange for the construction of a Gristmill, a device for turning cereals into flour, and ten thousand dollars worth of cash payments over the course of five years. The United States also promises to press upon the

¹⁵² Treaty of Tellico (1798)

¹⁵³ Treaty of Grouseland (1805)

¹⁵⁴ Articles of Treaty with the Cherokee, April 21, 1806.

Chickasaw tribe the established boundaries between peoples. An addendum in the following year (1808) would follow that the tracts of land ceded to the United States would have new western boundaries, that the Cherokee were to be compensated but also left a glaring source for future conflict in reference to the allowance of the United States for the Cherokee to continue to hunt on ceded land until such a time as the area becomes too populated with settlers and becomes "improper" to do so.¹⁵⁵

Following the sale of land in Tennessee, in 1816 the South Carolina legislature appealed to the Federal government in order to remove the Cherokee from lands along the Chattuga River and between the boundaries of North and South Carolina. The Federal government entered into a treaty with the Cherokee and stipulated that the Cherokee be paid five thousand dollars by the state of South Carolina within 90 days of the sale of the lands.¹⁵⁶

Because of inadequacies regarding the boundaries described in the treaty between the United States and the Cherokee in 1806 regarding the cession lands along the northern boundaries of the Tennessee River, and with reference to lands ceded by the Creek to the United States, disputes over the ownership of a tract of land, south of the Tennessee River's "big bend" necessitated another treaty in 1816. This treaty resolved the issue of land ownership, however, it also made modifications to the freedom of movement of U.S. Citizens through the Cherokee nation on all roads and navigable rivers and waterways through that territory with the added stipulation that the Cherokee keep those passages clear. The United States also demanded that the United States

¹⁵⁵ United States Congress. *A Compilation of all the Treaties between the United States and the Indian Tribes now in force as laws*. Washington.D.C. 1873. Pg. 41.

¹⁵⁶ United States Congress. *A Compilation of all the Treaties between the United States and the Indian Tribes now in force as laws*. Washington.D.C. 1873. Pg. 42.

held the right to create new roadways as it deemed necessary through Cherokee lands. Finally, regarding an incursion by U.S. military forces into Cherokee lands, an indemnification was paid to the Cherokee tribe for the loss of life incurred by the interactions between the U.S. military and the Cherokee, paid to the sum of twenty five thousand dollars.^{157 158}

In a treaty of the same year, on December 30, 1816, the United States effectively succeeded in boxing in the Cherokee within a confined and defined territory. As described, the Cherokee would reside in lands that included most of what is now northern Georgia, southeastern Tennessee south of the Tennessee River and south western North Carolina without lands in South Carolina but with some lands that include territory in what is now north eastern Alabama. The Cherokee were meant to receive a total of sixty five thousand dollars, to be paid over the course of ten years, for the cessation of all land claims outside of the said boundaries in Article 2 of the December 1816 treaty.

A People Divided

In 1808, a delegation from the Cherokee went to Washington to discuss the possibility of negotiating a split within the tribe of those who wished to continue a hunter gatherer lifestyle and those who wished to adopt agriculture. The response from the Jefferson administration, in 1809, was to the affirmative and that those who wished to cede land to the United States and move west of the Mississippi could scout out lands, in what is now modern day Arkansas, along the Arkansas and White Rivers, that were not occupied or reasonably claimed by another tribe. In

¹⁵⁷ Articles of Treaty with the Cherokee, April 8, 1816.

¹⁵⁸ United States Congress. A Compilation of all the Treaties between the United States and the Indian Tribes now in force as laws. Washington.D.C. 1873. Pg. 43-44.

1818 that agreement came into force with an acre for acre exchange of lands for those who wished to migrate west.¹⁵⁹

The lands were divided based on a formula derived from population totals (those who wished to stay vs those who wished to leave). This cessation of lands ended most of the land claims by the Cherokee to lands in the state of Georgia. Those who stayed behind on what were traditional Cherokee lands received private property rights with an expectation to assimilate into the American economy and were also granted pathways to citizenship, as stipulated in Article 8 of the treaty. This treaty effectively creates two distinct groups of Cherokee with two distinct reservations of land, though the Cherokee nation is still considered to be "whole" in this treaty. Article 6 of the treaty references a promise made to the Cherokee by Jefferson to supply those who move westward with arms and supplies (flat bottom boats, etc.) to make the journey.¹⁶⁰

This split is the first major division of the Cherokee population in its history with the United States and will have consequences for the definition of the Cherokee nation as a legal entity in the future. However, as of 1818 there are effectively two groups of Cherokee that the United States recognizes. One group, later referred to as the "Old Settlers", would be those that relocated voluntarily to what is now Oklahoma, the second group would be those who were affected by the Indian Removal Acts. A follow up treaty, which acts as an addendum to the 1818, proclaimed in 1819, establishes 31 reservations of 640 acres of land to designated heads of family and establishes a framework for how annuities were to be paid to the tribes in the future, specifically relating to the "Old Settler" group, who would be entitled to one-third of the total annuities owed

¹⁵⁹ Treaty with the Cherokee (1817).

¹⁶⁰ United States Congress. A Compilation of all the Treaties between the United States and the Indian Tribes now in force as laws. Washington.D.C. 1873. Pg. 45-50.

to the Cherokee people as a whole Nation, simultaneously creating a "two in one" designation, constantly having to refer to one or the other group using descriptions of their location or activities as identifiers.¹⁶¹

Indian Removal Era

The United States, looking to further move the Cherokee ever westward, now looked to remove the Cherokee from all lands in Georgia that they still had legal rights to but also to remove the Cherokee that had voluntarily relocated to Arkansas further west into seven million acres of land in Oklahoma. This was the beginning of the Indian Removal Period and the Federal government's resolve to use force if necessary to accomplish its goals of removal would be consolidated under the administration of Andrew Jackson.

The Treaty of 1828 put in place the initial framework for the last of the voluntary removals that the Federal government would put in place to encourage the Cherokee to remove themselves from all lands targeted by white settlers (as they are referred to in treaties). The treaty puts in place financial and sundrie incentives and programs for child education to encourage the emmigration of Cherokee to Indian Territory (modern Oklahoma). The treaty assures that the Cherokee would have a free hand to travel westward, calling it a "Perpetual Outlet West", however the Senate, during the ratification process, made sure to include stipulations that observed the need to settle the Creek tribe in similar lands.¹⁶² ¹⁶³

¹⁶¹ Articles of a Convention with the Cherokee, March, 10, 1819.

¹⁶² United States Congress. A Compilation of all the Treaties between the United States and the Indian Tribes now in force as laws. Washington.D.C. 1873. Pg. 61.

¹⁶³ The Treaty of 1828, May 28, 1828.

This disruption would exacerbate the issues already experienced by a legally anxious and strained Western Cherokee population that had worked to establish communities in the Ozarks that the treaty refers to in Article 8 in terms of embarrassment. Article 8, while spending a sentence on the Western Cherokee, deals heavily in the incentives the Federal government was prepared to offer; *"The cost of the emigration of all such shall also be borne by the United States."*¹⁶⁴

Indeed, the offer did not only go out to those individuals residing in Georgia, but all those who resided in any of the states east of the Mississippi. Specifically to those in Georgia, an immediate cash incentive of fifty dollars was offered once individuals surrendered themselves to the office of the designated agent. Provisions are made in Article 5 for those in Arkansas who leave to reimburse them for the loss of lands guaranteed to them in the Treaties of 1817 and 1819, by offering them fifty thousand dollars for all the lands in Arkansas. However, the Treaty, and its follow up addendum the Convention of 1833, makes a promise that would ultimately be broken by Congress in the future; *"The United States agree to possess the Cherokees, and to guarantee it to them forever, and that guarantee is hereby pledged, of seven millions of acres of land"*.¹⁶⁵

The Indian Removal Act of 1830 would cement the Federal Government's main policies into active law that gave the executive the legal framework to remove natives from their ancestral lands, evicting them and resettling them against their will to lands west of the Mississippi. An era that had been hinted at in treaties made with individual tribes, now enacted as a blanket policy of

¹⁶⁴ United States Congress. A Compilation of all the Treaties between the United States and the Indian Tribes now in force as laws. Washington.D.C. 1873. Pg. 60.

¹⁶⁵ United States Congress. A Compilation of all the Treaties between the United States and the Indian Tribes now in force as laws. Washington.D.C. 1873. Pg. 62.

eviction. Strictly speaking, it has the executive to arrange for the exchange of lands owned east of the Mississippi for corresponding plots west of the Mississippi.

Section 1 of the Act gives the President the authority to parcel up unorganized and unclaimed land, west, as needed. Section 2 gives the President the authority to exchange lands in the limits of any state or territory east of the Mississippi for lands west. Section 3 of the Act gives the President the power to make assurances and to establish patents and grants that effectively guarantee the exchange of land from ancestor to descendant provided that if the family line goes extinct, the land reverts back to U.S. ownership.

Section 4 describes the payment and transfer of ownership for value added improvements on lands taken from tribal individuals but reinforces the permanence of the eviction. Section 5 provides the President with the authority to make resources available to the emigres for their long trip. Sections 6 and 7 give the President the authority to guarantee security and to have the same force of authority over them in their new place of residence but that nothing in this act should violate any previously negotiated treaty. Finally, Section 8 gives the administration a budget of \$500,000 to accomplish this task.¹⁶⁶ Though not a treaty that deals exclusively with the Cherokee, as has been the main theme of this section, this Act was pivotal in changing the relationship between the United States and the Cherokee Nation moving forward.

¹⁶⁶ The Indian Removal Act of 1830.

The Supreme Court and the Era of Andrew Jackson

Before moving forward to the final treaties, it was in this time period that two very important Supreme Court cases were heard and decided. The first, *Cherokee Nation v. Georgia* (1831), sought to refute the ability of the state of Georgia from enforcing laws on Cherokee lands.

Because the United States had entered into various Treaties with the Cherokee acknowledging their sovereignty and territorial integrity, the case sought to use Article III of the Constitution to resolve issues between states. The Supreme Court ruled that the Cherokee Nation was not a full nation but a dependent nation with the status of a ward with reference to the United States Federal Government, and therefore the case could not be ruled in favor of the Cherokee Nation in the sense that it was a nation.¹⁶⁷ However, the following year, the Court heard the case *Worcester v. Georgia* (1832) in which missionaries, living in the Cherokee reservation without a license, in violation of a Georgia law requiring such, were arrested. The issue in this case was whether or not Georgia had the right to regulate intercourse on Cherokee lands. In this instance, in contrast to *Cherokee Nation v. Georgia* (1831), the court ruled that:

“The Cherokee nation, then, is a distinct community occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of congress. The whole intercourse between the United States and this nation, is, by our constitution and laws, vested in the government of the United States.”¹⁶⁸

¹⁶⁷ THE CHEROKEE NATION v. THE STATE OF GEORGIA. 30 U.S. 1 (1831)

¹⁶⁸ WORCESTER V. GEORGIA. 6 Pet. 515 (1832)

With this court ruling at this specific junction in time, we can see that the position, at least of the Supreme Court, is that the Native Tribes within the boundaries of the states and territories of the United States are to be treated as legal sovereign entities that, though they do not have equal status with the 'states' of the United States, and are not acknowledged to be full "States" in the sense of a foreign sovereign, but as unique legal entities that possess an autonomy and a self government that is expressly the domain of the Federal, and not State government's, arena to regulate. However, Andrew Jackson famously scoffed at the decision of Chief Justice John Marshall and continued to support Georgia's attempts to force the Cherokee out of the state.

The Treaty of New Echota (1835). Signed on December 29, 1835, this treaty between the United States and the Cherokee sought to resolve the issue of the Cherokee nation's very existence east of the Mississippi.¹⁶⁹ Article 1 of the treaty outright removes all Cherokee land claims east of the Mississippi. Article 2 makes a new home for the Cherokee nation in the Indian Nation (Oklahoma). The rest of the treaty details the allotment of funds to be doled out, per capita, in the sum of 5 million dollars, to the whole tribe and the resolution of national debts and the arrangements that would be made for the removal and migration of the entire tribe to Oklahoma. Article 12 did provide for a method by which those who wished to remain east could be given an allotment of 160 acres of land and granted U.S. citizenship. Challenges were made to the treaty, however, by 1838, the Jackson Administration evicted the remainder by force, resulting in the Trail of Tears, where nearly 15,000 Cherokee were forced to march to Oklahoma with thousands of deaths along the way.¹⁷⁰

¹⁶⁹ Treaty of New Echota (1835).

¹⁷⁰ Young, Mary. "The Cherokee Nation: Mirror of the Republic." *American Quarterly* 33, no. 5 (1981): 502–24. <https://doi.org/10.2307/2712800>.

Conclusion

It is evident, then, that the United States of America, by the design of the founders and authors of the first laws of the land, did intentionally describe, through legal doctrine and policy, to create a continental empire. This empire, whose initial model can be identified as the Land Ordinance of 1784 (and its multiple superseding iterations), and whose defenders will say is the "bulwark of the republic", identifies the precise steps by which the territory of the United States, and those claimed by the United States and contested by Native Tribes, should be parcelled up for the purposes of land sales, organization into townships and eventually into states with equal powers as the original thirteen states in proportion to their population, past a certain threshold.¹⁷¹

It is also evident that the original author of the Land Ordinance, Thomas Jefferson, had the nation's imperial framework mapped out before the framing of the Constitution in 1787. Through the use of a large amount of Jefferson's quotations, some in their entirety, it is possible to perceive that he not only was a principal architect of westward expansion, he was the principal architect of native american policy of the early to mid-nineteenth century. Jefferson helped define, and used, a legal framework in order to create debt entrapment schemes *vis a vis* factories and other mechanisms of trade in order to induce the sale or seizure of lands to and by the United States of America by native tribes. By forcing the native tribes to adopt agriculture and abandon hunting game as their main economic process, the United States was then capable of encircling and, eventually, removing native tribes in their entirety, through legalistic mechanisms and by force.

¹⁷¹ Remini, "The Northwest Ordinance of 1787", Indiana Magazine of History 84, no. 1 (1988).

Furthermore, it becomes clear that the founders, before the outbreak of revolution in 1774, and before declared independence in 1776, were deep into the economic activity of land speculation. And, it was this, among other factors, that when the acquisition of land by private individuals was outlawed by King George in 1763, it set off a chain of events that could not be undone.¹⁷² Both George Washington's and Thomas Jefferson's families' wealths were tied up in land speculation activities in the Ohio River Valley and, even after Washington proved victorious in the French and Indian Wars, those lands were denied to them.

It is also clear the the relationship and fate of all Native American tribes on the North American continent, within the claimed territories of the United States, have been forever altered and intertwined. Tribes like the Osage and the Cherokee, whose cultures were separated by thousands of kilometers of dense wilderness, mountains, forests and rivers, were forced to collide with one another, creating a dynamic situation that was forced by the hand of the American Empire. The policies of the United States have done nothing but harm the historic populations of Native Americans, who are seen as the legal dependants of the Federal Government, and have stripped them of their rights, languages, cultures and dignity. The Native Nations are those nations that specifically make up the human and coercive component of the American Empire, being legally and economically dominated by a power that has effective and uncontestable control over their destinies.

So it is the position of this thesis, by review of legal, cultural, and historical documents, as evidence, that the United States is and, since the enforcement of the Land Ordinance and the outbreak of hostilities in the Old Northwest, has been an empire.

¹⁷² Proclamation of 1763, George III (UK).

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