"An ill-judged piece of business": The failure of slave trade suppression in a slaveholding republic

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Abstract
This dissertation examines the U.S. suppression of the slave trade from the ratification of the Constitution in 1789 to the onset of the Civil War in 1861. Instead of studying the slave trade in isolation, this dissertation evaluates U.S. slave trade policy within the context of the development of federal power during the early republic and antebellum period. This work assesses the disconnect between the harsh laws against the slave trade and the United States' ineffectiveness at suppressing the trade, especially since, at its founding, U.S. involvement in the African slave trade seemed to have a looming expiration date.

By separating the importation of slaves into the United States from the U.S. participation in the foreign slave trade, this study evaluates why the federal government was much more effective at suppressing the former, rather than the latter. U.S. slave trade suppression always remained subordinate to higher federal priorities, namely preserving the union through the protection of U.S. commerce, its own borders, and slavery itself. In fact, this dissertation argues that anti-slave trade laws were enforced generally only as a tool through which the U.S. could assert its federal authority against other national powers. Disputes with Great Britain rendered the foreign slave trade suppression increasingly ineffective for all nations as slave trading under the American flag increased exponentially after 1830. This dissertation addresses the many barriers that affected U.S. anti-slave trade policy and examine how the shifting national priorities directly impacted the trajectory of American participation in the slave trade and in its extirpation. Only the abolition of slavery would effectively end the slave trade to the Americas, a full seventy years after the first U.S. law against the "inhuman traffic".

Keywords
History, United States, Liberal Arts

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"AN ILL-JUDGED PIECE OF BUSINESS":
THE FAILURE OF SLAVE TRADE SUPPRESSION IN A SLAVEHOLDING REPUBLIC

BY

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DISSERTATION

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This dissertation has been examined and approved.

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Date
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This project germinated from a summer internship project at the Strawbery Banke Museum. My supervisors, Tara Vose Raiselis and Kimberly Alexander pulled out an old, miscalculated journal of a sailor from the U.S.S. Portsmouth who had jotted down his notes while sailing off the coast of Africa in 1859, and whose frustrations with the Squadron oozed from the pages. Later conversations with my advisor, Eliga Gould,
whose own work examines the slave trade in a "new world empire," eventually led to the development of this dissertation topic. His advice and suggestions helped to mold an amorphous idea into a structured piece of work. For this I am extremely grateful. I would also like to thank Jeff Bolster for encouraging me to "put flesh on the skeleton" of my research, for helping me to develop my voice, and for reminding me to vary my camera angles. Bill Harris's careful editing and source suggestions also were invaluable. Kurk Dorsey and Bill Ross both offered helpful comments, questions, and a willingness to be available when needed.

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ABSTRACT

"AN ILL-JUDGED PIECE OF BUSINESS":
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by

Sarah A. Batterson

University of New Hampshire, May, 2013

This dissertation examines the U.S. suppression of the slave trade from the ratification of the Constitution in 1789 to the onset of the Civil War in 1861. Instead of studying the slave trade in isolation, this dissertation evaluates U.S. slave trade policy within the context of the development of federal power during the early republic and antebellum period. This work assesses the disconnect between the harsh laws against the slave trade and the United States' ineffectiveness at suppressing the trade, especially since, at its founding, U.S. involvement in the African slave trade seemed to have a looming expiration date.

By separating the importation of slaves into the United States from the U.S. participation in the foreign slave trade, this study evaluates why the federal government was much more effective at suppressing the former, rather than the latter. U.S. slave trade suppression always remained subordinate to higher federal priorities, namely preserving the union through the protection of U.S. commerce, its own borders, and slavery itself. In fact, this dissertation argues that anti-slave trade laws were enforced generally only as a tool through which the U.S. could assert its federal authority against
other national powers. Disputes with Great Britain rendered the foreign slave trade suppression increasingly ineffective for all nations as slave trading under the American flag increased exponentially after 1830. This dissertation addresses the many barriers that affected U.S. anti-slave trade policy and examine how the shifting national priorities directly impacted the trajectory of American participation in the slave trade and in its extirpation. Only the abolition of slavery would effectively end the slave trade to the Americas, a full seventy years after the first U.S. law against the "inhuman traffic."
On the morning of September 8, 1858, a lookout aboard the *U.S.S. Marion* sighted a vessel off the coast of Africa. Immediately, the twenty year old, sixteen-gun, sloop-of-war, took on sail to overtake the vessel. Henry Eason, a seaman aboard the *Marion* and five-year veteran of the U.S. Navy, described the chase. After an hour "we fired a shot across her bows & in the twinkling of an eye, the Stars & Stripes were floating at her peak, no colours have ever been hoisted faster than these were. She had evidently been waiting for us to hoist our Ensign first, so the she might hoist false ones & thus blindfold us."\(^1\) The ship, which turned out to be the *Brothers*, was an American ship containing all the equipment needed for a slave voyage. Although its captain had tried to thwart the approaching warship by raising the American flag, his mistake would cost him.

Or would it? The *Brothers* was taken to the United States, where, in 1859, a jury in South Carolina refused to indict the captain and crew for violating slave trade laws. Citing a lack of evidence, the jury dismissed the case. Henry Eason and his fellow shipmates would never receive their long-awaited prize money with the exception of a few casks of black, moldy bread.\(^2\)

During the nineteenth century, time and again, U.S. policy would show that, despite being a country born out of Revolutionary rhetoric, the U.S. government would


\(^2\) Eason, Marion Ship Journal, 26.
absolve its own citizens for transporting enslaved Africans to the Americas. Time and again, events would show that despite having the harshest laws against slave traders on the books, the U.S. government would prove ineffective at suppressing the trade. As the nation matured into a slaveholding republic, American participation in the slave trade to foreign ports would increase dramatically. This is worth analyzing more fully, especially since, at its founding, the U.S. seemed prepared to end the traffic altogether. Thomas Jefferson wrote Edward Rutledge, of South Carolina, in 1787: “I congratulate you, my dear friend, on the law of your state [South Carolina] for suspending the importation of slaves...This abomination must have an end, and there is a superior bench reserved in heaven for those who hasten it.” How could a jury turn a blind eye to the “abomination” of the trade, a full seventy-two years after Jefferson wrote, and many others denounced it so strongly? Since the slave trade did end, if it was not the laws themselves that eventually stopped the trade, then, what did? The questions are what this dissertation aims to answer.

Although human trafficking remains a problem to this day, the abolition of the African slave trade took place relatively rapidly, if one accounts for the scale and persistence of the slave trade in human history. It took less than one hundred years for

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the slave trade abolition movement to carry out the intentions of its followers and end the
"nefarious traffic" in Africans. Yet, when one examines the suppression of the slave
trade, both legally and as a social movement, its development appears slow and unsteady;
for the United States, abolition seems to have a backward trajectory.

In modern eyes, where hindsight is 20/20 and the African slave trade has ended,
one can claim that the United States triumphed in its quest to eradicate the inhuman
traffic, but such a claim would neglect many factors that both helped and hindered the
federal government's supposed success and, ultimately, would give government action
more credit than is due. Enforcing slave trade regulations throughout the nineteenth
century remained subordinate to the federal government's goals to protect U.S.
commerce and to defend its borders against international threats. While the slave trade to
the United States decreased dramatically because of the Slave Trade Act of 1807, the
federal government was less interested in regulating American participation in the trade
to foreign ports. Conflict with Britain over freedom of the seas hamstrung the U.S.
policy on the right-of-search, which in turn allowed for an increased slave trade carried
on by American citizens and of human trafficking occurring under the American flag.
While the British navy was becoming the international police force against the slave
trade, the American-affiliated trade skyrocketed during the 1840s and 1850s.

Palgrave Macmillan, 2004); and Sheldon X. Zhang, Smuggling and Trafficking in Human Beings:

5 See the works of Don Fehrenbacher, The Slaveholding Republic: An Account of the United
States Government's Relations to Slavery, (Oxford, Oxford University Press 2001) and David
Waldstreicher, Slavery's Constitution: From Revolution to Ratification, (New York: Hill and
Wang, 2009).

6 Here, I refer to "American affiliated" trade as being both the American participation in the
foreign slave trade, as well as the trade carried on under the U.S. flag. While the latter did not
The story of the U.S. suppression of the slave trade experienced many twists and turns. The single constant in the story is that, during the first eighty years of the United States' history as an independent nation, the abolition of the slave trade was never a federal priority. The majority of Americans would publicly criticize the slave trade, but public opinion was divided on the question of the federal government's role in regulating the trade. The domestic slave trade and the naturally increasing American slave population ensured a steady supply of slaves, which all but eliminated the United States' reliance on slave imports. Unlike the West Indies, Cuba, and South America, where high mortality rates meant that slave economies required a steady influx of new victims, the proponents of slavery boasted that slaves in America were contented, docile, and preferred lives enslaved on plantations to the wild barbarianism of Africa.

Disputes over the federal regulation of the slave trade prevented its effective suppression from the start. Compromises made during the Constitutional Convention in 1787 set the precedent that the preservation of the Union would stand as the highest priority, effectively ensuring that the Constitution would remain a pro-slavery document and that the federal government would condone the institution of slavery. Therefore, although laws reduced the slave trade to the United States drastically even before the Act of 1807, which prohibited the slave trade altogether after January 1st 1808, these laws would be difficult to enforce. This would become especially apparent during the antebellum period, when the American flag became the flag of choice for slave traders, and American citizens continued to profit from the slave trade to foreign ports. Even though the slave trade to the United States after 1808 was negligible compared to slave

necessarily involve Americans per se, these voyages tended to have at least one American citizen involved, particularly in the transfer of ownership and possession of duplicate papers aboard.
imports to Brazil and Cuba, it must be kept in mind that the majority of the ships that sailed their human cargo across the Atlantic Ocean after 1830 were in some way affiliated with the U.S. flag and with American citizens.

During the Constitutional Convention in 1787, delegates drafted a document that placed the regulation of the slave trade squarely under the jurisdiction of the federal government, while slavery itself remained under state power. This was a significant allocation of federal power, but U.S. regulation of the slave trade remained dependent on other aspects of federal policy, especially as the United States developed into a nation strong enough to compete on the global stage. And, while the ban on slave imports was generally supported, particularly as it protected the domestic slave trade, before the Civil War laws against the foreign slave trade were essentially hollow, enforced only when the United States needed to assert its national authority in the protection of U.S. commercial interests or to prove its strength against another national power. Although by 1820 the United States had the toughest laws in the world against the slave trade, the laws lacked specific wording on how they were to be enforced. Mistrust of centralized power compounded federal ineffectiveness. For example, in spite of the 1820 Piracy Act, which made slaving a capital offence, only one man was ever sentenced to death for trading in slaves, and that was not until 1862, when the Civil War had already begun.

Strained relations between Britain and the U.S., as well as the unwillingness of American leaders to enforce laws against the slave trade, impeded the efforts of those committed to its abolition. Because the history of the slave trade stands at the intersection of politics, culture and race, it is important to examine slave trade

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suppression against the backdrop of a society divided in its views of slavery, states rights and international diplomacy.\(^8\) This dissertation will address the many obstacles affecting the United States’ efficacy in prohibiting the slave trade. While roughly chronological, each chapter will focus on a certain aspect of the suppression of the trade, such as U.S. diplomacy or legal action, and show how attitudes and policies changed during the years leading up to the Civil War. These chapters will form the “spokes” that give structure to understanding the factors that made suppression so difficult. The overall argument, that the effectiveness of the U.S. suppression of the slave trade from 1789 to 1862 was secondary to the United States’ commitment to maintaining national sovereignty and protecting its commerce, forms the wheel to which these spokes are attached. Throughout its history, the authority of the federal government has been challenged, both from within its borders and by external forces. Anti-slave trade laws were employed by the federal government to protect U.S. borders from those who threatened federal authority. It was in these episodes, when slave trade abolition goals were consistent with maintaining national sovereignty, that they were supported by the American public. In the case of international efforts to stop the slave trade, its abolition ran counter to American claims to national sovereignty and freedom of the seas, and therefore the suppression of American participation in the foreign slave trade was generally ineffectual. As the nation developed, the necessity of becoming a “treaty-worthy” nation led to a focus on U.S.

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economic and political interests. These goals overshadowed the idealistic aims of men like Jefferson and Madison, who hoped to see the day the slave trade would come to an end. These founders would see the development of a strong, internationally-recognized nation, but one in which other national priorities would take precedence over the plight of enslaved Africans carried to foreign shores. After 1840, increasing sectional tensions would only act to exacerbate the problem.

**Historiography:**

The literature of the Atlantic slave trade is as vast as the area the trade affected. Hugh Thomas and Herbert Klein both provided syntheses of the history of the African trade from its beginnings in the 1400s to its abolition in the nineteenth century. Some historians have examined British or American slave trade abolition efforts, while others have worked to quantify the number of enslaved brought to the Americas during those five hundred years. An increase in attention on the slave trade occurred after the online publication of the 2008 Slave Trade Database, comprising information on 35,000 voyages, creating the beginnings of a comprehensive and systematic look at the extent of the slave trade. However, this database does appear to under-represent the role of U.S. citizens in the trade.

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11 Chapters four and five discuss the difficulties in identifying American-affiliated ships. As the slave trading practices became more covert, it was increasingly difficult for law enforcement officers to track ownership. The database reflects these problems, especially when American-owned ships were sailed to Cuba where a Spanish or Portuguese captain and crew would be waiting to sail it to Africa. The database also does not take into account American-built vessels,
The debate over the cause and consequences of slave trade abolition remains hotly contested. Much has been written on the anti-slave trade movement in Britain as well as the Atlantic world during the late eighteenth and early nineteenth centuries. Philip Morgan commented that the movement was made up of “marginal misfits” with racist attitudes one would (or should) find shocking today, while Seymour Drescher examined the practical aspects of this moral revolution and the use of the media. Eric Williams’s assertion that the collapse of the slave trade was caused by the industrial revolution and economic decline in the sugar economy remained the dominant paradigm for fifty years, although most historians today would agree with Drescher that the mix of economic, political and social change led to the abolition of slavery in the 19th century. Slave trade abolition did not arrive as a progressive wave crashing over the Atlantic world. Efforts to suppress the trade, by both governments and individuals, was limited, sporadic, and interwoven with a complex mesh of social, political, and economic issues.

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13 Eric Williams, *Capitalism and Slavery*, (UNC Press, 1944); Drescher’s *Econocide*, 180.

The most complete work on the U.S. suppression of the slave trade was written by W.E.B. Du Bois over a hundred years ago. Du Bois argued that the suppression of the slave trade was primarily driven by a fear of slave revolts after the Haitian Revolution of the 1790s and that the United States government was ineffective at enforcing laws against the American participation in the foreign slave trade, particularly because of compromises made during the Constitutional Convention on the subject of slavery and the slave trade. Historians David Eltis and Paul Finkelman have taken up Du Bois’s torch, providing increasing detail and depth to the study of the U.S. slave trade. However, more work needs to be done. The role of the United States in the transatlantic slave trade was multi-faceted and complex. U.S. citizens actively participated in slaving expeditions—both in the transport and importation of slaves. Understanding the political and social climate in which the slave trade was allowed to continue is essential to understanding the underlying causes of complicity.15

In 2008, David Eltis wrote, “it is rather startling to consider that half a century after the first awakening of scholarly interest in slavery and the slave trade in the United States, which has generated many thousands of monographs and articles, there is still no book on the U.S. transatlantic slave trade.”16 Several historians have approached various


16 David Eltis, “The U.S. Transatlantic Slave Trade, 1644-1867: An Assessment,” Civil War History, LIV No 4, 2008, p. 348; there has been renewed interest in the study of the slave trade in recent years, but there has been no new paradigm since Williams and David Bryon Davis. See Eltis, “Was Abolition Significant?” Eltis argues that the moral reform movements had a much greater effect on the abolition of the slave trade than the British and U.S. anti-slave trade laws of 1807-8. More assessments of the trade can be found in Eltis and Finkelman’s other works, as
aspects of the U.S. slave trade. Donald Canney has analyzed the role of the U.S. Navy in
the suppression of the slave trade, while Steven Deyle looks at the domestic trade, which
led to a stronger southern economy and, ultimately, the Civil War.\(^\text{17}\) Hugh Soulsby's
1933 work on the slave trade and the right-of-search remains the definitive authority on
the U.S. slave trade and diplomacy.\(^\text{18}\) Many scholars have focused on the abolition of the
slave trade in 1808, but there has been little written that examines the U.S. slave trade
within the context of the development of federal power. As I hope to show, shifting
national priorities had a direct impact on the trajectory of the American participation in
the slave trade and in its eradication.

Some scholars have looked at the relationship between federal power and slavery.
David Ericson argues, in \textit{Slavery in the American Republic}, that slavery, rather than being
on the periphery or an impediment, was fundamental in the development of government
in the United States.\(^\text{19}\) Like Ericson's analysis of slavery, this work explores the role of
the slave trade in the development of federal power in the United States. It argues that
slave trade suppression was not a national priority except when anti-slave trade laws were

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17 Donald Canney, \textit{Africa Squadron} (Washington, D.C.: Potomac Books, 2006); Steven Deyle,
\textit{Carry me Back: The Domestic Slave Trade in American Life}, (New York, 2005); Warren Howard,

18 There is a vast body of literature on U.S. slavery. For works addressing slavery and the federal
government see: Davis, \textit{The Problem of Slavery}; Ericson, \textit{Slavery in the American Republic};
Fehrenbacher, \textit{The Slaveholding Republic}; Gould, \textit{Among the Powers of the Earth}; Donald
1971); Waldstreicher, \textit{Slavery's Constitution}. Waldstreicher provides an excellent
historiographical sketch in his Notes.

used as a tool in diplomatic negotiations, particularly in protecting U.S. borders and merchant vessels from foreign search and seizure. Except for two periods in South Carolina's history, in 1803-7 and in the late 1850s, all states banned slave importations from outside the U.S., without great opposition. Resistance to the enforcement of federal laws against the slave trade against American citizens was rooted not in a moral support of the trade, but rather in the American people's commitment to ideas of free commerce and national sovereignty. Because the United States consistently demanded that its merchant vessels remain unmolested by foreign patrollers, U.S. anti-slave trade laws actually encouraged slave traders to participate in the trade under the safety of the American flag, allowing for the foreign slave trade to increase and prosper. By placing slave trade suppression within this framework, we can better understand the contradictions between law and enforcement.

**Framework and Overview:**

This dissertation examines the many factors that led to the apparent disconnect between the strict laws against the slave trade in the U.S. and the increase in slave trading by Americans, or under the American flag, from 1787 to 1862. Chapter One examines the Act of 1794, including the first anti-slave trade law in the United States, the political context in which it was enacted and the underlying reasons why it was passed. Most historians have ignored its significance. This chapter examines the slave trade debates in the Constitutional Convention and in Congress in the 1790s, and why many federal legislators (North and South) spoke out against the slave trade. In 1794, the United

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States was desperately trying to avoid war with Britain, and, while Congress began preparations for this war, it also negotiated several commercial treaties and passed acts to protect U.S. merchant vessels. The Slave Trade Act of 1794 represented a novel use of federal authority to regulate commerce and it provided a bargaining chip in U.S. negotiations with Britain. On an international level, the Act of 1794 extended the reach of the federal government, by prohibiting Americans from participating in the foreign slave trade while protecting domestic imports. Like the 1793 Fugitive Slave Law, which aided slave-owners in the recovery of their “human property,” it was also an assertion of federal power.

The second chapter examines the factors that led to stronger anti-slave trade laws between 1818 and 1820, and how these later Acts were used to strengthen the government against foreigners and to improve the protection of U.S. commerce along the Atlantic coast. The United States continued to be plagued by European conflict, illegal smuggling, and problems with trade during the early nineteenth century. As the U.S became more assertive on an international level, especially after the War of 1812, the federal government was less willing to compromise with other nations over its sovereignty, even if this meant less effective suppression of American participation in the slave trade. The chapter focuses on three case studies to illustrate how the so-called foreign threat led directly to the implementation of the Supplemental Slave Trade Acts of 1818-1820.

The United States’ policy towards the slave trade went through several transformations. The 1807 Act to Prohibit the Importation of Slaves provided that confiscated ships carrying slaves would be turned over to the nearest state. Individual
state laws then determined the fate of the smugglers and slaves aboard. In slave states, these slaves were often sold for profit. Slaves were therefore still treated as property and the immorality of slavery was not reflected in the law.\textsuperscript{21} This changed in 1819, when an amendment to the 1807 Act created a U.S. patrol of the African coast, although the African Squadron was not made official until 1842. This new act, according to Paul Finkelman, resulted in a new definition of piracy. An 1820 law, which labeled all citizens participating in the slave trade as pirates and thus punishable by death, criminalized the trade to the extent that it was considered treason. While some scholars argue that the threat of execution was enough to prevent many crews from engaging in the trade, the actual enforcement of this act proved difficult.\textsuperscript{22} These Acts succeeded in discouraging the importation of enslaved Africans into the United States through stepped up efforts to protect U.S. borders. However, they had relatively little effect on the participation of Americans in the foreign slave trade because the government was less willing to allocate funding to halt a trade that did not directly compromise national security.

While the domestic slave trade, a natural increase of American-born slaves, and the fear of slave insurrections kept the slave trade to the United States in check, Americans' participation in the foreign slave trade, especially to Cuba and Brazil, increased dramatically during the nineteenth century. The federal government's use of its enumerated powers often resulted in better enforcement of slave trade laws when slave traders interfered with legal merchants or challenged U.S. borders, or when regulating the

\textsuperscript{21} Finkelman, "Regulating the Slave Trade," \textit{Civil War History}, 401.

\textsuperscript{22} See for example Fehrenbacher, \textit{Slaveholding Republic}, 150.
slave trade coincided with other national concerns, like neutrality in 1794, which resulted in a much better policing of slave imports into the United States. The extirpation of the foreign slave trade was much more difficult, primarily because the U.S. refused to surrender maritime sovereignty to Britain. Because of this, after 1820 the foreign slave trade under the U.S. flag increased. The U.S. creation of an African Squadron did more to reaffirm maritime sovereignty than provide any effective measure against the slave trade. At home, as well, the court system failed to acknowledge slave trading as a serious crime, rendering anti-slave trade laws even more unenforceable.

Chapter Three addresses the link between the right-of-search policy and the suppression of the slave trade. While few white Americans would voice their support for the slave trade, the regulation of the anti-slave trade laws from 1794 to the late 1850s was notably lax, especially in comparison to the increasingly vigilant, and expensive, British suppression policy. Because of the persistent diplomatic tension between Britain and her former colony over British threats to U.S. maritime sovereignty, U.S. and British efforts to control the trade were hindered by the U.S. refusal to allow Britain the right to search the former’s merchant vessels. This refusal, in turn, led to the opening of a significant loophole in international slave trade suppression, allowing slave traders to increasingly turn to Americans and the American flag, to protect their voyage from search and seizure. Failure to resolve the right-of-search issue prolonged the slave trade and markedly decreased the effectiveness of existing anti-slave trade laws and treaties. Instead, the U.S. focus on maintaining freedom of the seas under international law took precedent over any multi-national cooperation in eradicating the slave trade, and the U.S.’s failure to compromise rendered its own anti-slave trade laws ineffective and unenforceable. The
U.S. flag, which symbolized liberty and freedom for so many, offered liberty and freedom for the slave traders hiding behind the stars and stripes rather than to the slaves they carried. Using the flag as a cover, slave merchants and traders successfully manipulated political and legal disputes to gain U.S. protection despite the illegal nature of their trade.

Chapter Four assesses the effectiveness of the U.S. Navy’s slave trade regulation and how this commitment changed over time, examining the problems of regulating the trade and how each problem was addressed. Although the United States had committed itself in 1819 to monitoring U.S. merchant activity off the coast of Africa, British pressure to enter into a right-of-search agreement in the 1840s motivated the U.S. to sidestep their demands by setting up its own squadron, a measure far more expensive than accepting British treaty requests. As anti-slave trade media turned some of its attention to the U.S. involvement in the foreign slave trade, the federal government slowly began to focus more on slave trade suppression, although this, too, was primarily due to British threats to U.S. commerce. In the 1850s, the media frenzy over the call by a vocal southern minority to reopen the U.S. slave trade catapulted government inaction against the trade into the spotlight, linked the slave trade more openly to the institution of slavery, and put pressure on the federal government to improve its Navy Squadron. The ineffectiveness of the African Squadron did not stem from the lack of effort on the part of ordinary seamen. With a case study of the slave ship Orion, which was twice captured by the British but escaped seizure by American ships, this chapter examines the multifaceted issues that rendered the African Squadron so ineffective.
The last chapter aims to uncover the legal obstacles that permitted the continuation of the slave trade. The chapter focuses on challenges to federal authority on the eve of the Civil War by legally trained Southern nationalists who questioned the constitutionality of the 1820 Piracy Act. Historically, many juries were sympathetic to slave traders, believing that slave trading was merely a minor offense and should not carry with it the death penalty. By the 1850s, it was all but impossible to convict slave traders in the U.S. court system. But, when federal authority was challenged from within, the government was forced to act and assert control.

This dissertation is not an exhaustive study of the slave trade, but an examination of the causes and consequences of the federal government’s steps to suppress the slave trade. It aims to create a clearer picture of why the American participation in the trade continued long after anti-slave trade laws were put in place. The abolition of the foreign slave trade was never a priority for the federal government and the trade was intimately connected with America’s commercial, national, and diplomatic development, and it is important to unpack these ideas and connect them to the human history of those involved in slave trade suppression, to assess why slave trade abolition was so problematic and to understand why slave trading persisted despite international laws against it.

The U.S. suppression of the slave trade was both dependent on and influenced by the changing cultural, diplomatic, and political climate leading up to the Civil War. In 1861, the United States formally abandoned its participation in the African Squadron. The onset of the Civil War moved the Union’s priorities closer to home, but with the added goal of restricting the Confederacy’s resources by denying them access to slave
labor. Importantly, the Civil War also expanded Presidential powers to allow a wartime right-of-search treaty to be signed with Britain—after decades of U.S. refusal for peacetime cooperation. In the end, time would tell that abolition had to occur at home, rather than on the high seas. Only with the end of the demand for slaves, would the supply would be rendered obsolete and the Middle Passage finally cease to exist, a full seventy years after the Congress enacted its first federal law against the slave trade.
CHAPTER I

THE ACT OF 1794: THE SLAVE TRADE AND FEDERAL POWER IN THE EARLY NATIONAL PERIOD

In 1794, the United States was on the brink of war. Caught between the warring powers of France and Great Britain, it appeared as though armed conflict might be inevitable for the new nation. Despite rising outrage by Americans against the British destruction of commercial vessels, most knew that war would be destructive to the U.S. which possessed no navy to speak of and only a voluntary militia. As Noah Webster wrote to American citizens in the American Minerva, “if you plunge into war, would not your agriculture languish, your commerce be annihilated... and perhaps your infant, your favorite government, be overthrown.”1 Many political leaders agreed. Desperate to avoid conflict, President Washington sent an envoy to London in the hopes of negotiating a new treaty between the two nations. The envoy was armed in part with the news that Congress had just passed a slave trade act that banned slave ships from being fitted out in U.S. ports. While only a minor response British protests that U.S. ports were being used to provision enemy ships, this act, in combination with Washington’s Neutrality Proclamation and Congress’ non-importation and embargo threats against British trade,

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paved the way for John Jay to successfully negotiate a treaty that protected and expanded U.S. trade and reinforced its neutrality laws.

The Act of 1794 was, on paper, an impressive piece of legislation and represented a novel use of federal power. Claiming constitutionality through the Congressional regulation of foreign commerce, this Act did not outlaw the slave trade altogether, and it did not prohibit slave traders from importing slaves into the United States. There is very little recorded debate over the passage of this Act, either in newspapers or in Congress, and therefore the meaning of this anti-slave trade act is difficult to interpret. Because the Act neither stirred up debate nor halted the slave trade historians have often ignored it relegating attention to a mere footnote in the historiography of the slave trade.² Using the federal government’s power to regulate commerce, the Act of 1794 gave government officials the power to search foreign ships and stood as a warning to other nations that the United States would regulate its own trade. It also stated plainly that slave ships could be captured as privateering prizes, allowing private citizens to involve themselves in the Act’s regulation.³ A federal allocation of funds for customs houses also increased U.S. tariff revenue and improved immigration control through the use of customs manifests.

On March 22, 1794, George Washington signed into law “An Act to Prohibit the Carrying on the Slave Trade from the United States to any Foreign Place or Country.” It was a step forward in the regulation of the slave trade, but its deliberate wording is


³ This stipulation barred slave ships from U.S. protection, thus tacitly condoning the capture of American slave vessels by foreign warships. The case of the Amelie would uphold this limited right-of-search, although, as it will be shown in future chapters, this point would be hotly contested in the fifty years after the War of 1812.
nonetheless reminiscent of the Constitution's importation clause. Even though this Act prohibited U.S. participation in the foreign slave trade, it allowed both American and foreign ships to carry slaves into American ports with the intent of selling them.\(^4\) The Act carried with it penalties and confiscation of property for those caught outfitting ships and it also granted informants the right to half of the fines incurred. To prevent slave states from losing their own slaves, slave traders could not sell U.S. slaves in foreign countries, although the domestic trade was left untouched. Anti-slave trade societies could claim a victory against the "inhumane traffic," while slave owners could ensure that their supply of African slaves was safe and the federal government was authorized to regulate and protect commerce. Because it specifically prohibited American slavers from trading between Africa and the Caribbean (and therefore the United States' agricultural competition), this Act had a more direct effect on slave trading companies in Rhode Island and New York than it did on slaveholders.

The Act of 1794 allowed the U.S. to better control foreign shipping within U.S. ports, giving customs agents the right to search vessels in port. In addition, it also partially placated British concerns over the fitting out of enemy vessels in U.S. ports, while appealing to Britain's growing abolitionist movement. In the wake of British captures of U.S. merchant vessels in the West Indies, the Act also aimed at regulating foreign commerce, although the U.S. would continue to threaten Britain with embargoes and nonimportation.\(^5\)

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\(^4\) See "An Act to Prohibit the Carrying on the Slave Trade from the United States to any Foreign Place or Country," Statutes at Large, I.347.

\(^5\) Combs, 142-4. Federalists like Hamilton understood that America's prosperity was linked to that of England and it was absolutely necessary to protect America's commerce during France
The Slave Trade in the Constitutional Convention:

In order to understand the United States' regulation of the slave trade, it is important to first analyze the role of the slave trade during the formation of the Constitution. Historians have long debated the significance of the Constitutional Convention concerning the slave trade. In his 1896 Harvard doctoral dissertation, *The Suppression of the African Slave Trade to the United States, 1638-1870*, W.E.B Du Bois argued that the delegates compromised over slavery and the slave trade for the sake of union.⁶ This is an argument with which most historians have agreed. According to Du Bois, the founders knew that the success of their republican experiment relied upon all the states joining the new United States. Historians disagree, however, on whether or not there was a moment during the Constitutional Convention where the slave trade (and even slavery) might have been abolished.

Many historians have argued that anti-slavery issues did not become part of the national rhetoric until well into the nineteenth century. If anything, they argued, slavery remained on the political periphery. Lately, "more recent scholarship depicts African slavery in the eighteenth century as a dynamic, changing, modern institution." ⁷ Slavery and England’s wars, or else the “republican experiment” would fail. See Stanley Elkins and Eric McKitrick, *The Age of Federalism* (New York: Oxford University Press, 1993), 112.


⁷ David Waldstreicher, *Slavery’s Constitution* (New York: Hill and Wang, 2009), 14 and George Van Cleve, *A Slaveholders’ Union: Slavery Politics, and the Constitution in the Early American Republic* (Chicago: Chicago University Press, 2010). For an excellent overview of the historiography of slavery and its abolition, see Waldstreicher’s introduction. After outlining the arguments of Beard and others from the progressive school as well as Bailyn and Wood of the republican school, Waldstreicher advocates for a “middle ground” between these two stances. He effectively negotiates Bailyn’s more “idealistic” view of the founders with Beard’s assertion that the Constitutional Convention was strictly a political struggle among economic interests. Fehrenbacher asserts that slavery was a peripheral part of nation building in the early republic, while David Ericson argues that the institution of slavery was an integral part of America’s nation
was not destined to decline with the advent of modern, industrial society; rather slavery flourished alongside manufacturing. Nor was slavery incompatible with the republican rhetoric of the day, because there was so much focus in republican thought on protecting personal property and keeping the powers of the federal government in check. The founders of the U.S. Constitution never intended to give the central government the power to abolish slavery. The question of jurisdiction over the slave trade, however, became a point of contention and resulted in a compromise that southern slave owners claimed as a major victory. While a few delegates in the Constitutional Convention and political commentators denounced this compromise as a crime against humanity, the federal and state constitutional debates reveal that the so-called “slavery compromise” was indeed a triumph for pro-slavery and pro-commerce interest groups. In fact, Southern slavery became more entrenched in the decades after the Revolution, with pro-slavery justifications developing from the apologist, “necessary evil” argument to that of the cultivation of a society of benevolent patriarchs.

building, in Slavery in the American Republic. David Brion Davis has focused on the moral dimensions of slavery and its abolition, showing the centrality of the institution in the development of industrialization.


Waldstreicher, Slavery’s Constitution, 101 and throughout.


The final draft of the Constitution was very deliberate in its word choice. The authors consciously avoided using the word “slavery” for the sake of appeasing slave owners and maintaining unity in the Convention. But, as historian David Waldstreicher asserts, the subject of slavery is widely implicit in the final draft of the Constitution: from the sections on representation, commerce, revenue, federal power, to the election of the President. In fact, “in the founders’ design, slavery informed the successes of the movement for a stronger national government and shaped its limits.” Far from avoiding the issue of the slave trade, the founders were very much aware of the problem and were most concerned about keeping it from becoming a sticking point in the Constitution’s ratification.

The slave trade debates at the Constitutional Convention during the summer of 1787 in Philadelphia often did not focus on slavery itself. Deliberations centered on the allocation of federal power, and specifically, commercial power. One of the main problems with the Articles of Confederation had been that Congress lacked the power to regulate commerce, therefore foreign countries could not effectively negotiate trade treaties with the United States. Because of the immense state and federal debts incurred during the Revolutionary War, America could not afford to inhibit commercial growth. For the agricultural south, the labor shortage caused by the war prevented the area from
recovering its pre-war prosperity. Planters were so focused on rebuilding their enslaved labor force that many went into debt in order to purchase new slaves. By the eve of the American Revolution, slavery had already become so entrenched in the South that slave owners believed slave trade abolition would have disastrous results, for both national security and the southern economy. Because of the wariness of centralized government that might take away their labor supply, slaveholding states were adamant about the protection of slavery.

During the eighteenth and nineteenth centuries, it was not considered contradictory to be pro-slavery and anti-slave trade. The high mortality rate of the middle passage and the preference for American-born slaves prompted slave owners and anti-slave trade supporters alike to condemn the trade. The federal government's inability to control the trade successfully in the early national period lay in the disagreements over the expansion of federal power. It was in areas with the weakest support for federal power that the anti-slave trade laws were most often ignored.

Even though many Americans were against the slave trade, most considered slavery a "necessary evil." Slavery was an institution that had already set down firm roots into America's soil by the time of the Revolution. While some may not have liked the idea of slavery, it "had penetrated all aspects of eighteenth and nineteenth century American life." Many states relied upon the labor of slaves and, while some advocated

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17 Waldstreicher, Slavery’s Constitution, 17.
for its abolition, the idea of free blacks populating the country alarmed most of the white population particularly in light of the threat of slave insurrections both at home and abroad. Far more important to the union was strength and stability of the federal government, a concern that resulted in the silencing of much of the anti-slave trade discourse at the Convention. It did not matter that revolutionary rhetoric professed liberty; only a small minority believed that this privilege should extend to Africans. While some at the Convention spoke out against the slave trade, the more important issue on the minds of the delegates was creating a more effective union, beginning first with rebuilding the nation’s labor force and repaying the enormous war debt. The intent of the delegates in Philadelphia was to draft a new constitution “to give the new national government the power to regulate international and domestic commerce.”

The slave trade debates at the Convention were limited, but their significance rests in how they helped define the powers of the federal government. Southerners feared that the more commercial North would dominate the weaker South and, because of the North’s growing shipbuilding, create a monopoly on the transport trade. The South, reliant on agricultural exports, feared that Congress could unfairly tax the South if the North maintained a Congressional majority. At the eleventh hour, a backroom compromise was struck between delegates from the Deep South and New England, with both sides claiming victory. The relevant clause stated that Congress could not prohibit “migration or Importation of such Persons as any of the States now existing shall think

18 Paul Finkelman, “Regulating the African Slave Trade,” Civil War History, 384; see also Donald L. Robinson, Slavery and Structure of American Politics, 210-214.
proper to admit," but Congress that could levy a tax on such importations. While the meaning was obscured, there was no doubt that this clause was intended to sanction the slave trade to the United States. James Madison lamented that "twenty years will produce all the mischief that can be apprehended from the liberty to import slaves."\(^{19}\) Those from states that did not rely on slave imports argued that denying Congress the power to immediately outlaw the slave trade would limit federal power too much. This federal weakness would Madison prophesized, would strengthen an institution that many found embarrassing in a republic rhetorically centered on "liberty". Nevertheless, Madison also agreed that compromise was essential for the union, and, importantly, the clause did stipulate that, after 1808, the regulation of the slave trade would fall under federal jurisdiction.\(^{20}\)

One of the many repercussions arising from the ratification of the Constitution concerned the regulation of American participation in the foreign slave trade. The Constitution gave the federal government power to regulate the slave trade, but not until 1808, placing the onus on the states to regulate the slave trade before that date. This posed jurisdictional problems for those wanting to prohibit the trade before 1808. In 1790, the Abolitionist Society of New York had originally petitioned their state legislators but the state had determined that the slave trade was to be regulated by the federal government. It seemed as though neither the state nor the federal government had full control over regulation of the slave trade.

\(^{19}\) quoted in Waldstreicher, *Slavery's Constitution*, 97.

\(^{20}\) Ericson, 34.
In settling the jurisdiction of the states over the trade, one key case was that of the *Abeona*, which came before the Supreme Judicial Court in Boston in 1792. Instead of public officials, it was a private citizen, Stephen Cleveland, who charged two ship owners, Joseph Waters and John Sinclair, with fitting out a ship in Salem, Massachusetts for the purpose of transporting slaves. After sailing to Africa, the *Abeona* took on board ninety slaves and departed for the West Indies to sell them. When the case came before the Court of Common Pleas, the judge fined the two owners $4,700 for violating the 1788 Massachusetts anti-slave trade law. Waters and Sinclair refused to pay the fine, stating that Massachusetts had no jurisdiction over affairs conducted on the high seas. While Massachusetts had prohibited the slave trade in 1788, the federal government now was authorized to regulate commerce, the slave trade included. According to the defendants, conflicting state laws undermined the plaintiff's arguments. The case dragged out, "entangled in discussion of [the court's] competence." Eventually the owners lost the case, but they refused to pay the fine, and the *Abeona* continued to sail. Like Waters and Sinclair, many others from northern sea ports rose to prominence through profits from the slave trade. While some tried to prosecute these slave traders for participating in traffic considered illegal in their home states, as the *Abeona* case shows, prosecution proved difficult and ineffective, especially when defendants challenged the authority of state laws over the slave trade after the ratification of the Constitution.

21 Hugh Thomas, *The Slave Trade: The Story of the Atlantic Slave Trade*, (New York: Simon & Schuster, 1997), 334; Donnan, vol III, 89-96. Although the verdict of the jury pronounces two alternatives: one if the state law superseded the federal Act, and the other if the opposite was correct, apparently the judge ruled that the defense would be prosecuted under the state law.
The Quaker Petition and the Debate of 1790

In the three years following the Constitutional Convention, the United States had been strengthened financially and economically with the easement of debts and creation of a National Bank. The anti-slavery Quakers maintained a strong presence in Philadelphia, but most Americans, including the lawmakers, were content to allow individual states to abolish slavery on their own and to postpone the slave trade debate until 1808. Quakers, however, were adamant that the government act before the Constitutional prohibition expired.

Because the state slave trade laws did not assign federal officers to enforce the laws, often it was the Society of Friends, or Quakers, who brought charges against slave traders. The Quakers were originally seen as radical religious activists, but by the American Revolution, their reputation for peace and morality had taken hold. The transnational networks of Quaker societies acted as a particularly active voice against the slave trade. In the eighteenth century, Quakers and abolition organizations tended to be synonymous, but this would change. The goals for these societies ranged from pressuring their own members to emancipate their slaves, to building cases against slave traders, to lobbying both state and federal legislators for immediate emancipation. Several legislators mostly from Pennsylvania, belonged to the Society of Friends.22

22 For Quakers and Abolitionism see David Huw, “Transnational Advocacy in the Eighteenth Century: Transatlantic Activism and the Anti-slavery Movement,” Global Networks, Jul 2007, Vol. 7 Issue 3, p367-382, and James Walvin, “Slavery, The Slave Trade and the Churches,” Quaker Studies, Mar 2008, Vol. 12 Issue 2, p189-195. See also Paul Finkelman, “The Pennsylvania Delegation and the Peculiar Institution,” The Pennsylvania Magazine of History and Biography, Vol. 112, No. 1 (Jan., 1988). Ben Franklin had the opportunity to protest against slavery and the slave trade in the Constitutional Convention, but did not submit the petition, most likely in order to avoid continued conflict and prolonged debate. The Pennsylvania Society for the Abolition of Slavery, of which Franklin was President, had solicited the aging Founder to argue against the immorality of slavery during the Convention, but Franklin remained mostly
The American anti-slavery movement gained strength along with the British abolitionist crusade as this new energy crossed the Atlantic in the last few decades of the eighteenth century. The immorality of slavery was expounded upon from pulpits all over Europe and the United States. Ministers, including Jonathan Edwards, ranted against the “injustice and impolicy of the slave trade” and widely published their sermons. In early February 1790, during the second session of the First Congress, the Society of Friends submitted a petition to both houses of Congress to abolish the slave trade. Petitions to state and local governments had become the Friends’ modus operandi, yet this particular petition had unintended results. The anti-slavery petition of 1790 is significant not because of its content but because of the debate over the reach of federal power that ensued. This petition provoked conflict not only over slavery but also over the role of the federal government in the slave trade’s regulation. It also marked one of the first tests for the new government in the proper procedure within Congress.

On February 11, 1790, the Society of Friends formally appealed to the now stronger national government to enact federal anti-slave trade regulation, although they had been prevented from petitioning in previous Congressional sessions. Using a mixture of religious and Enlightenment rhetoric, the petition entreated legislators to end the slave trade, by using “the full extent of your power to remove every obstruction to public righteousness.” John Lawrence, a representative from New York, also submitted a silent during the formal debates, giving sage advice in private conversation. Franklin understood how important consensus was in saving the union, choosing to withhold his petition for the sake of the Convention.

See Herbert S. Klein, *The Atlantic Slave Trade*, 190-1, for more on Quakers and spread of abolition.

petition from the Society of Friends of New York. There was a motion to refer the petition to committee, which broke from the proper protocol of Congress, since discussion usually preceded the creation of a committee.

Several representatives voiced dismay at the petition. To them, the meddling of the Pennsylvania and New York Quakers was not to be tolerated. The Convention compromise had been clear that the federal government would not take up the slave trade until 1808. Many considered this petition unconstitutional. William Smith, a representative from South Carolina who had married into a wealthy planter family, denounced the motion as running "contrary to our usual mode of procedure," which was to read the petition, then open the floor for debate or committal the following day. 25 James Jackson, a Georgia planter, continued the objection with less restraint. He questioned why the House was even considering committing the petition that day and, with words dripping with sarcasm, asked, "is it because the feelings of the Friends will be hurt?" 26 He argued against allowing the Friends special attention. Referring directly to the Constitutional Convention, in which he had been a delegate, he argued "if Congress are disposed to interfere in the importation of slaves, they can take the subject up without advisers, because the Constitution expressly mentions all the power they can exercise on the subject." 27 Jackson was a staunch anti-federalist and later a Jeffersonian Democrat. His fiery and opinionated speeches got him into trouble more than once; however, this time his objections seemed to be consistent with a strict interpretation of the Constitution

25 Ibid, 1225.
26 Ibid, 1226.
27 Ibid, 1226.
concerning the ability of the people to petition the government. His being a Georgian planter only added fuel to the fire.28

Other legislators supported the Quaker’s petition, or at least believed that their petition should be submitted to a committee for review. Roger Sherman of Connecticut, who had been so quick to compromise with South Carolina in 1787, argued that the petition should be taken to committee although a representative from each state should form the committee. Southern slave owners saw individual state emancipation as a threat to the balance of power in the federal government, and to their economic prospects, which were in dire straights in the early 1790s.

Fearing an impasse caused by the objections of the South Carolina and Georgia delegates, the slight and soft-spoken James Madison intervened. He reminded legislators that all slave importation was to be regulated by the states and that a committee could determine whether the petition was constitutional. A principal figure in the design of the Constitution, Madison knew moderation and compromise were necessary to maintain a union. While disappointed in the final Constitution, Madison nevertheless was committed to limiting centralized power. For him, the issue concerned federal versus state jurisdiction, and the Constitution was quite clear that total abolition of the slave trade was not within Congress’ realm, at least before 1808. To him, the words of the Constitution settled the debate.

The petition over the slave trade let loose a Pandora’s box over the workings of the federal government, threatening to grind all productive debate to a halt. Congressmen opposed to the petition argued that it was unconstitutional for citizens to petition the

government since the 1st Amendment had not yet been added. Some southerners feared that the abolition of the slave trade would lead to conflict over the abolition of slavery. Emancipation, one legislator prophesized, "would never be submitted to by the Southern States without a civil war." 29 Few, aside from the Quakers, spoke about the petition's desire to improve the living conditions of the slaves and end the cruelty of the slave trade. 30 In the end, the petition was committed, with forty-three representatives in favor and fourteen against. The majority of the nays came from Georgia, South Carolina and Virginia.

Almost a month later, the committee returned with a report to the House on the Quaker petition. This report was significant in its specifications concerning the power of Congress. It stated that, according to the Constitution's commerce clause, Congress had the power to lay a tax or duty on importation of slaves, although they did not use the word "slave" directly. Congress could use this power to regulate the international slave trade, insure the "humane treatment of slaves," and prevent foreigners from preparing for slave-trading voyages on American soil. 31 On the other hand, it was reiterated that Congress did not have the authority to prohibit the slave trade until 1808, nor could Congress emancipate slaves or affect state laws concerning slavery. By this time, most delegates seemed to want to lay the matter to rest, since very little debate followed. Despite the recommendation that federal power should extend to the regulation of the foreign slave trade, Congress did not seem eager to put this to the test, and tabled the


30 One exception is Gerry of Massachusetts, who had refused to sign the Constitution in part because of the slave trade clause.

report. The regulation of the slave trade would not be discussed directly in Congress until 1794. Nevertheless, the report did establish the role of the national government in the slave trade and shows an agreement on one aspect of the federal exercise of power in the early national period, ironing out the wrinkles in a still forming republic.

The Society of Friends was not just content to lobby Congress. President George Washington was also a target for Quaker petitions. Encouraged by the creation of a stronger executive, Warner Mifflin, a prominent Quaker leader, wrote to Washington directly on March 12, 1790. Promising that the Friends' goals included "Harmony and concord," Mifflin appealed to Washington, as the "first Majestrate of this Nation," to meet with him concerning the recently tabled Quaker petition. According to Washington's journal, the two did meet four days later. Unlike Southern legislators, Washington apparently felt that the government should receive solicitations from the people, yet Washington may have arranged this meeting merely to silence the Friends. Washington's letter to David Stuart, a Virginia statesmen and overseer of the construction of the District of Columbia, shows that Washington truly believed that the federal government did not have jurisdiction over slavery or the slave trade. He described the Quaker petition as "mal-apropos" and wrote that the issue of the slave trade "has at length been put to sleep, and will scarcely awake before the year 1808." Washington would be proven wrong.

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What Washington perhaps did not see was how closely linked the slave trade was to other national concerns. The main focus of Washington's letter to Stuart in March 1790 referred to sectional divisions. Commercial interests of the North had caused "jealousies [that were] poisoning the minds of the southern people."34 Despite the compromises made between slave and free states during the writing of the Constitution, these conflicts nevertheless remained and were a constant threat to the Union. Washington was one of many who ascertained the potential threat, writing, "common danger brought the States into confederacy, and on their union our safety and importance depend."35 If the southern states could not find ways to unite, then they would be the ones to blame. Compromise from both sides would be necessary to preserve the union.

One of the main reasons Congress and Washington were unwilling to act on the prohibition of the slave trade was that the United States was still struggling economically. As Southerners pointed out, any measure taken to abolish slavery or even the slave trade would be economically detrimental to the development of the nation. While South Carolinians did not mention that many planters were in debt because they had purchased slaves on credit, Northerners were not willing to push the slavery issue in a time of financial crisis. As historian Gary Nash points out, economic security trumped any moral argument over slavery during this time.36 Even though, by themselves, South Carolina and Georgia were not a strong force, their votes were absolutely necessary in order to maintain union. Observers could see "the connection between [the North's] collapsing

34 Ibid, 28.

35 Ibid., 29.

36 Hamilton's propositions included a stronger federal government which assumed all state debt. see Gary Nash, Race and Revolution, (Oxford: Rowman & Littlefield, 1990), 41.
principles concerning slavery and their intense desire to adopt Hamilton’s funding program, which would implement their vision for the economic development of the country” and make use of the federal government’s powers.37 Since most white Americans could not come to terms with the economic sacrifices necessary in total emancipation nor could they fathom a biracial society, support for the Quaker petition declined.38

Another major problem legislators had with the Quaker petition was rooted in a deep-seated fear of slave insurrection. Several legislators were concerned about the repercussions the petition might carry. Both James Madison and Thomas Tucker were wary that discussion of abolition might lead to slave uprisings or at least a destabilization within slave states. Madison and Tucker may have been right: according to a letter written by David Stuart, the publication of these debates in newspapers had indeed led to rumors that Congress was planning on abolishing slavery altogether. He claimed that this rumor caused several slave owners to sell-off many slaves at low cost and caused them to lose faith in the federal government.39 George Washington’s response to Stuart reveals the complex balancing act necessary in maintaining union. Rumors and inaccuracy of the press were dangerous and, Washington concluded, “the introductions of the (Quaker) Memorial respecting Slavery, was to be sure, not only an illjudged piece of business, but occasioned a great waste of time.”40

37 Nash, Race and Revolution, 41.

38 This argument comes from Nash’s Race and Revolution, 35.

39 Writings of Washington vol 31, 50.

40 Ibid, 52.
On the other side of the Atlantic, the British abolitionist movement was taking shape. Beginning in 1788, William Wilberforce, Granville Sharp, and others petitioned British Parliament for the abolition of slavery. As more abolitionist societies formed, their pressure on the government increased. Despite this increase, merchants and West Indian planters formed a formidable bloc against the passage of any anti-slavery bill during the 1790s. In England, Wilberforce's abolitionists could not pass any legislation through Parliament until 1807, thirteen years after the United States passed the Act of 1794. Until 1807, British slave trading operations would multiply and thrive.\textsuperscript{41}

In the United States, Quaker petitioners were losing ground in Congress. In November of 1792, Warner Mifflin again broached the subject of abolition in Congress. This time there was very little debate. Mifflin's petition was called a "mere rant and rhapsody of a meddling fanatic."\textsuperscript{42} The petition was returned to him without being sent to committee. Congress was now unified against any legislation that might reach beyond the scope of federal power that had been outlined two years earlier. Neither a rumored slave insurrection in North Carolina nor a petition from the Abolition Society of Rhode


Island in February 1793 initiated a Congressional debate over the regulation of the slave trade.43

**The Act of 1794 in Context:**

The Congressional debate of 1790 might have been the last slave trade debate on the national level until 1808 if it had not been for events occurring around the Atlantic and within U.S. borders that forced Congress into action. In the 1790s, the federal government’s authority was tried and tested on many fronts. These challenges ultimately led to a stronger and more stable centralized power as Federalists succeeded in creating a national bank, reducing the public debt, and improving trade.44 When the Whiskey Rebellion broke out, Washington led his troops to meet the protestors in an unprecedented show of federal force.45 Additionally, victories on the frontier, such as that of “Mad” Anthony Wayne at the Battle of Fallen Timbers, proved that the United States could defend its borders. The majority of the acts of Congress during the 1794 session address national defense, including making appropriations for the military, building post roads and lighthouses, establishing a Navy, securing duties, paying off the foreign debt and the loan from the Bank of the United States.46

Congress also passed the Fugitive Slave Act, which granted the federal government authority to return human property to their owners, despite the existence of

43 New Jersey Journal, 8/22/1792; Norwich Packet, 3/13/1793.


45 Ellis, American Creation, 195.

state laws to the contrary. Federal enforcement of its new authority proved problematic. The Constitution did not specify how fugitive slaves should be returned to their masters and what the federal government’s specific role was in the recovery of these slaves. When it became clear that conflicting state laws were leading to interstate court cases, legislators began drafting a bill to ensure federal supremacy. This Fugitive Slave Act was introduced in 1790, but it took three years of Congressional debate, some of them bitter, to finally pass in 1793. Signed by George Washington on February 12, 1793, the Act charged state governors with the task of bringing offenders to justice. A fine would be levied against anyone impeding this process. The constitutionality of this Act was not questioned, in part because, as Paul Finkelman asserts, “the political activists most likely to raise a constitutional question about federal legislation were the followers of Thomas Jefferson, who were mistrustful of national power and centralized authority...were also the most proslavery element in American politics.” The assertion of federal protection of private property would extend the reach of the federal government.

The Fugitive Slave Act of 1793 asserted and reaffirmed the federal government’s supremacy over state law, which would in turn have a direct effect on the regulation of the slave trade before 1808. The United States Constitution contained a fugitive slave clause allowing slave owners to reclaim their human property even if the state in which the slave had escaped outlawed slavery. Proposed by Pierce Butler and Charles Pinckney of South Carolina during the Constitutional Convention, the clause was passed without

47 Finkelman, Slavery and the Founders, 99.

48 Ibid, 100.
debate. This fact shows that delegates understood property, even human property, to be a fundamental right in a republic. In light of the British capture of slaves during the Revolution, ensuring one’s right to property was fundamental to founding of the nation.⁵⁰

Even though some states “boldly defied the Act of 1793 by passing laws protecting any person within their borders from being taken back to slavery,” the Courts would continue to uphold the constitutionality of the Fugitive Slave Act.⁵¹ The Fugitive Slave Act upheld one’s legal status across state lines, allowing slave owners to claim their property when slaves escaped to another state. This was a significant extension of national power—a power that condoned slavery.

During this period of internal nation-building, international crises would also challenge the reach of U.S. national sovereignty. The first external threat came from the destabilization of the West Indies. The Haitian Revolution had a major impact on the United States and prompted the federal government to act in order to protect its people and individual property rights. After several years of unrest, on May 6, 1794, Toussaint L’Ouverture led a successful revolt against France in St. Domingue. In that same year, U.S. Congress pledged money to aid white refugees arriving from St. Domingue on U.S. soil.⁵² The crisis in the West Indies also had a direct impact on the regulation of the slave


⁵⁰ Paul Finkelman, *Slavery and the Founders*, 82.


⁵² Du Bois argued that the Haitian Revolution did more to end the slave trade than abolitionist movements.
trade in the United States. Individual states acted to curb their slave trade began doing so in earnest. By 1798, all states had some form of prohibition against, or strong regulation of, the slave trade primarily directed at halting the importation of West Indian slaves.\textsuperscript{53} Slave owners wanted slaves from Africa, not the so-called dangerous slaves who had been influenced by the insurrection in Haiti. As Du Bois wrote, the "wild revolt of despised slaves [in the West Indies]... frightened the pro-slavery advocates and armed the anti-slavery agitation."\textsuperscript{54} Before 1808, the two states that sporadically allowed slave trade imports, Georgia and South Carolina, allowed only African imports, banning the trade in West Indian slaves.

**The Act of 1794 and American Neutrality:**

The Congressional debates leading up to the Act of 1794 were less contentious and were of shorter duration than those generated after the Quaker petition of 1790. There were several reasons for this lack of debate. First, in the four years since 1790, the federal government had proven itself to be a strong unifier. Its citizens and other nations began to acknowledge the United States' staying power. Second, events occurring within the Atlantic world generated support for the abolition of the slave trade although arguments for its abolition varied. Within the context of a growing sense of American nationalism, the Act of 1794 can been seen as a federal tool against the use of American ports by foreigners, even though enforcing these laws against its own citizens was not a national priority. Therefore, the enacting of anti-slave trade laws, and the inability to enforce these same laws are not contradictory.

\textsuperscript{53} See Du Bois, *Suppression of the Slave Trade*, 57.

\textsuperscript{54} Ibid.
The Act of 1794 stemmed from a petition from several Abolitionist Societies, presented to the House and Senate in January 1794. Instead of rejecting the petition or making a motion to postpone debate, as Congress was more typically to do, this Congress chose to take up the petition for discussion. This petition was presented against the backdrop of several national and international crises. While the complete debates concerning the slave trade act do not exist, legislators spent weeks speaking out against the transgressions of Great Britain, primarily in her interference in American trade. While legislators could not agree on which country to support in the war between England and France, most agreed that the United States had to protect its commerce from foreign nations, especially in the wake of the British destruction of American merchant ships in the West Indies. Enacting a commercial bill under the guise of regulating the slave trade would increase federal control over commerce while maintaining neutrality in the conflict between France and Britain.

Utilizing religious and moralistic language, the memorial that initiated the anti-slave trade proposal itself highlighted the injustices of the trade, insisting that “this cruel commerce” itself weakened the United States. The memorialists also warned against the dangers of depriving others of liberty and allowing foreigners to use American ports for the fitting out of slave ships. The petition linked the inhumanity of the slave trade with that of the capture of Americans by Algerian corsairs, thus connecting the United States with liberty on one hand and pirates with slavery on the other. Without much debate, a committee was formed to take up the petition. Several weeks later, the House committee

returned. Instead of sending the Abolitionists packing, as Congress had done in the past, the committee proposed an anti-slave trade bill.

The wording of the report of the Committee offers particular insight into the ultimate goal of the Act of 1794. While the memorialists had focused on the immorality of the slave trade and the hypocrisy of the United States concerning slavery, the report focused only on the final aspect of the petition: that of foreign trade. Evidently the Committee had no intention of officially condemning the slave trade, which would have led to division and conflict, nor were they as concerned about Americans supplying U.S. slave owners with African slaves. Instead they focused on the use of American ports by foreigners.

The report, written by delegates from Connecticut, Massachusetts, New York, Virginia, and North Carolina, began with the disclaimer that the Quakers had no intention of lobbying Congress for the abolition of slavery, thus placating slave owners. Their only goal was to "obtain an act of Congress, prohibiting the trade carried on by citizens of the United States, for the purpose of supplying slaves to foreign nations, and to prevent foreigners from fitting out vessels for the slave-trade, in the ports of the United States."56

One can only infer what was discussed during this committee meeting, but it is clearly noticeable how specific the report is compared to the lofty goals of the original petition. Also important to note is how little the wording of the finalized Act of 1794 differed from this original report.

The significance of the Act of 1794 is not that it was groundbreaking in prohibiting the foreign slave trade, but that it put into action Congress' power to regulate

56 American Convention for Promoting the Abolition of Slavery, Philadelphia, 1794, Broadside.
trade. Compared to that of the slave trade debates in the Constitutional Convention, and again in 1790, there was very little discord during the passage of the bill. The Congressional session of 1793-4 is rife with the creation of laws intended to enhance the power of the federal government. The successful passage appears to be the result of this good timing. In addition to destabilizing forces along America's western borders and the threat of insurrection in the wake of unrest in St. Domingue, by 1794, France and England were once again at war, and the United States was being dragged into the conflict.

In 1787, founders like Washington, Hamilton, Jefferson, and Madison, had banded together to create, from the Articles of Confederation, a strong, federated republic. They aimed to "increase opportunities for foreign trade... secure its borders and have foreign nations respect them," and most of all, "avoid war." These men differed in opinion over the limits of federal power by the 1790s, but all of them still hoped to avoid war, particularly as the conflict escalated in 1793.

George Washington announced a Declaration of Neutrality in 1793. In George Washington's address to the Senate and House of Representatives on December 3, 1793, he asserted that, in light of the problems in Europe, it was his "duty to admonish our citizens of the consequences of a contraband trade... and to adopt general rules, which should conform to the treaties and assert the privileges of the United States." Washington believed that the time was ripe for the federal government to regulate the

57 Combs, 16.

commerce in order to prevent damage to U.S. shipping and as leverage in its diplomatic negotiations.

The founders understood that, while the United States had very little military strength, it did have a great deal of bargaining power in its commercial activities. Great Britain, and France to a lesser extent, relied on exports to the United States and depended on U.S. provisions in supplying its West Indian plantations. At the same time, Britain had not yet delivered on her promises in the Treaty of Paris in 1783, which included the abandonment of forts on the western frontier, compensation for slaves captured, and non-interference with American shipping. While there was dispute between Hamilton, Jefferson, and Madison over the ideal extent of commercial sanctions, all knew that by placing trade restrictions on either France or Great Britain, the U.S. would obtain significant bargaining power in negotiating free trade agreements, which in turn would expand U.S. trade.\(^{59}\)

As Britain’s war with France spread across Europe and the Americas, news came to the United States of the British capture of American merchant ships off the coast of France and the West Indies. This, to Americans, violated the Neutrality Act, while the British countered that American ships were violating the British blockade.\(^{60}\) As a South Carolina paper reported, “it becomes a question of national honor and interest,” to right this violation of the “law of nations.”\(^{61}\) Representative Foster of Massachusetts favored supporting France, arguing “Britain is now at war against republican principles [and] the

\(^{59}\) Combs, 25-7

\(^{60}\) Ellis, *American Creation*, 194, see also George Washington’s speech to Congress Dec 5, 1793 in *Annals of Congress*, vol IV, 16 and Combs, 120.

\(^{61}\) City Gazette and Daily Advertiser, 7/15/1793.
balance of our trade with France has always been in our favor.” Others were not as convinced.

William Smith, a federalist from South Carolina, delivered a long speech in which he argued “the intervention of Great Britain therefore, may, in most cases be considered as a mean of extending, instead of abridging our commerce.” The reality was that, despite the war and lingering mistrust towards the mother country, the United States relied heavily on British imports, to the tune of $15 million annually, according to Smith. Such a trade deficit concerned many political leaders, including James Madison, who drafted an embargo bill intended to decrease American dependence on foreign imports. Federalist leaders, like Hamilton, argued that such an embargo would be devastating to the United States, as “90 percent of the revenues flowing into the Treasury Department came from customs duties, the vast majority from British imports.” The fact stood that the U.S. economy was fastened like an umbilical cord to Britain. Within the debate concerning the role of the United States in European affairs, a Quaker petition proposing a prohibition of the foreign slave trade, found its way into Congress, and passed both Houses with relative ease. This new piece of legislation would aid in the future negotiations with British ministers in the months to come.

62 Dwight Foster, quoted in American Minerva 2/20/1794.

63 William Smith, quoted in American Minerva, 2/5/1794.

64 Ellis, American Creation, 194.

65 See proceedings of the 3rd Congress in Annals of Congress, vol 4; and U.S. Statutes at Large, Vol. 1, 4th Congress, 1st Session, Chapter 41. As Madison spoke on Jan 3, 1794: “It is in the power of the United States... by exerting her natural rights... to make her interests respected... This being the case, our country may make her enemies feel the extent of her power.” quoted in Annals of Congress, vol 4, 157.
By the time Washington sent John Jay to Britain to negotiate a new treaty with Britain at the end of 1794, the federal government was much stronger and its powers of commerce much more clearly defined than they had been the previous year. Congress, at the request of Washington, had seen to that. Jay sailed across the ocean with specific directions to maintain neutrality in European affairs to ensure that the Treasury’s coffers remained full from import duties by improving trade with Britain (while putting a stop to Royal Navy seizures of American shipping). With Congress having prohibited the foreign slave trade from U.S. ports, and threatening further economic sanctions against Britain, Jay was able to negotiate a treaty with Britain that, in part, secured American shipping rights to the British East and West Indies, while keeping U.S. ports open to British trade. While Jay received huge criticism for conceding to British demands, the treaty resulting from Jay’s negotiations nevertheless maintained American neutrality, and ensured that American commerce was protected, at least on paper.66

In reality, the closing of the foreign slave trade to American citizens at that time had very little real effect. Between 1787 and 1794, there had been 112 slave voyages recorded as flying the American flag, mostly to Cuba or the Dutch West Indies, and twenty-two of those landing in U.S. ports. In comparison, there were 1,073 British slave-trading voyages and 727 French voyages that sailed from African slave ports to the Americas. The American slaving voyages, primarily undertaken by trading companies in Newport and Salem, were extremely profitable, but the destruction of over 250 American ships in the West Indies by the British in just a few months points to the fact that West Indian trade not related to the slave trade was significantly crippled by the war between

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66 Ellis, American Creation, 197.
France and Britain. Losing a small market in slave trading (under an Act that was poorly enforced because of limited patrols), and extending an olive branch to the British, was seen as an adequate sacrifice for keeping open other lucrative trading opportunities.\(^6\)

**The Act of 1794 in Action:**

It is difficult to determine if the Act of 1794 had *any* real effect against the slave trade. It was a very specific law, and, because there was no real mechanism for enforcing the act, prosecuting slavers proved difficult at best. What is clear, however, is that the African slave trade overall was on the rise, particularly as parts of South America developed as major slave plantation sites. A cursory examination of customs house entries shows that few American slave ships heeded the Act of 1794, as the Americans used thinly veiled disguises or delivered insincere promises not to trade in slaves.\(^6\)

Americans continued to outfit ships for the slave trade, including ports in states with prohibitions against importing slaves. For example, the logbooks of the *Mary* reveal the accounts of a slave voyage that began in Rhode Island, then sailed to Africa to purchase slaves, where they were sold in Georgia. This was legal trade.\(^6\)

Not surprisingly, the Quakers were the most vocal in attempting to enforce the new anti-slave trade law. In May 1795, the Providence, Rhode Island Abolition Society printed the results of their annual meeting in the local *United States Chronicle*. They lamented the narrowness of the 1794 Act but pledged to “take such measures as may

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\(^6\) Donnan, Elizabeth, Vol III, 358 and 378. In the note, Donnan asserts that of the customhouse entries from Rhode Island, many more slave voyages were not recorded. Some slave ships may have found loopholes for the legitimate trade in slaves, but many did not heed the law.

\(^6\) Donnan, Vol III, 360-378.
appear necessary to secure the execution of the said Act of Congress against all such persons as have or may violate it.⁷⁰ After 1794, Abolition societies would meet in Philadelphia to discuss the past years' accomplishments (and failures) in the abolition of slavery. During the 1795 meeting, the convention agreed that no amendment was necessary for the Act of 1794, and that it was more important to ensure that the current Act was enforced.⁷¹ By 1796, morale in the Abolition Societies seemed to be low, since most chapters had failed to submit petitions to their state governments, and the Convention discussed the lack of compliance by these chapters. Nevertheless, the Philadelphia chapter considered itself "successful in prosecuting the law."⁷²

The Philadelphia chapter's above comments reveal much about the changing tactics of the Abolition societies during the 1790s. Where originally these groups aimed to persuade state and federal governments to create laws against slavery and the slave trade, now their goals were to ensure enforcement of the laws. These societies, particularly in Pennsylvania and Rhode Island, began to use their resources to bring cases against suspected violators.

In Pennsylvania, it was discovered that some ships were illegally using the Danish flag to evade the law. The Abolition society also discovered that a small number of merchant ships were departing American ports with legal cargo but carrying along with

⁷⁰ United States Chronicle, May 21, 1795, Vol. XII, No. 593.

⁷¹ American Convention for Promoting the Abolition of Slavery, "Minutes... of the Second Convention," Philadelphia, Poulson, 1795.

⁷² American Convention for Promoting the Abolition of Slavery, "Minutes... of the Third Convention," Philadelphia, Poulson, 1796, 3.
them a handful of slaves to sell in foreign ports. In this way, captains could more easily smuggle their illegal cargo while plying their legitimate trade. Unlike the large slavers, these merchant ships looked exactly the same as legal traders. Despite efforts of Abolitionist Societies, it was evident that the federal government simply did not have the effective power to prohibit the trade until 1808.

In Virginia, questions arose concerning what to do with the slaves once a vessel was captured. On February 4, 1801, nearly seven years after the Act of 1794 went into effect, Thomas Newton, U.S. Representative from Virginia, wrote to Governor James Monroe asking what should be done with the thirty slaves found aboard a New England vessel off the coast of Havana. Monroe appears not to have known the answer, as seven days later he received a letter that stated, "the Act of Congress does not conflict with this [state] Act in its provisions since it is silent as to the disposition of the negroes on board." Apparently federal silence sanctioned state profit, as Thomas Newton later wrote, "if there are any condemned negroes to be transported, there is an opportunity to sell about 30 to a place from which there will be no danger of their returning to Virginia." The Act left much to the interpretation of those involved, particularly in how the law would be enforced. Presumably, the Africans were sold into slavery, with the support of the federal government.

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74 Annals of Congress vol 1, 1227.

75 Donnan, vol IV, 167.

76 Ibid, 166n2.
These reports highlighted real problems in the enforcement of the anti-slave trade Act of 1794. In 1797, the Abolition Society Convention moved to lobby Congress to strengthen and amend the Act of 1794. The Society sent a letter to the Secretary of the Treasury, Oliver Wolcott Jr., of Connecticut, to apprise him of the ineffectiveness of the law.\textsuperscript{77} The Act had initially deterred slavers but when it soon became clear that customs officials could not (or would not) enforce the law, the slave trade resumed and increased.\textsuperscript{78} By 1797, the Abolition Society of Rhode Island had brought several cases against suspected slavers to the District Court.

Jay Coughtry, a historian of the Rhode Island slave trade, has researched several cases tried under the Act of 1794. Clearly, there were many backroom deals and loose interpretations of the law, as members of the Society aimed to prosecute, rather than fine, slave traders. Abolition members resolved to drop their cases if the slave traders promised not to organize any more slave voyages. What appears to be the first successful prosecution occurred in Rhode Island in 1797, when John Brown was convicted of illegally trading slaves. His brother, Moses Brown, had tried to convince him to stop the trade in exchange for dropping the case, but John Brown had refused and Moses, a Quaker and active member of the Abolition Society, continued to pursue the case against him.\textsuperscript{79} This victory would be short-lived.


\textsuperscript{78} Coughtry, Notorious Triangle, 34.

\textsuperscript{79} Ibid, 214-6.
Slavers employed many methods of evasion. Slave traders tended to be wealthy, high-standing members of society, particularly in the eighteenth century, which worked in their favor. Their influential connections enabled many to take advantage of the many loopholes in the law. On United States soil, slave ships could be detected and confiscated by customs officials, yet slave traders found many ways to circumvent prosecution. In Rhode Island, Coughtry has discovered that the influence of the slave traders in the court system led to sham auctions in which captains could easily reclaim their forfeited vessels. In 1799, the U.S. Customs agent ordered local customs officials to “obtain a fair estimate of [a slave ship’s] value and send someone to the auction to bid for the government.”

The Rhode Island surveyor was twice threatened by three prominent Rhode Island slave traders, and then was abducted before he arrived at the auction of a captured slave ship. While the government official was unhurt, the auction was carried out without his interference.

In another Rhode Island case, the brigantine Orange, was searched at sea and discovered to be carrying slaves. The Navy ship that searched her, however, could not confiscate the ship because the ship was at sea and had not yet landed slaves illegally. The Orange was released and, by the time the message was received by the Rhode Island customs officials, the owners of the Orange had initiated their own lawsuit (between the crew and owners for wages), which took precedent over the customs officials’ claim. The Judge, whose sons-in-law were involved in the slave trade, ruled in favor of the

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80 Ibid, 217.
owners, who were then able to repurchase their ship at low cost, successfully evading legal action.  

In addition to the existence of corrupt, bribed, or generally intimidated officials on land, there were problems at sea as well. A main problem with enforcement right up to the Civil War was that the U.S. Navy did not have the manpower to search every suspected ship. While the interior of a slave ship was radically different from that of other merchant ships because of its need to transport human cargo, from the exterior, a slave ship was “indistinguishable from the vessels that lay nearby.” The Navy could only search ships suspected of being slavers and, if the ship was in international waters, sometimes not even then. Even five years after the Act of 1794 had been passed, few ships had been confiscated, and even fewer had been taken to court. Slave traders were crafty, and often could circumvent the law through many loopholes: third-party ownership, use of foreign flags, bribery, and by peddling legal wares within the boundaries of the United States.

Clearly the suppression of the slave trade was not a national priority, except when considered a national security issue in the wake of European conflict. In terms of the slave trade, Americans were most concerned about restricting the importation of West Indian slaves into the U.S. In response, more measures were put in place to halt the West Indian slave traffic to the United States. A circular letter from Secretary of the Navy Thomas Pickering reminded captains of the specifics of the law and that “infractions of

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81 Ibid, 218.

82 Coughtry, Notorious Triangle, 70.

83 Six suspected slave ships were captured by American vessels. Ericson, Slavery in the American Republic, 33.
the act...have of late been frequently committed." \(^8^4\) Several months later, Pickering warned John Morton, Consul of the United States in Havana, about the selling of ships to France or Spain. Additionally, Pickering wrote to Morton that "the vigilance of the Treasury Department and officers of the Customs has been insufficient to put a stop to the exercise of the slave trade by our citizens. Your situation will doubtless put it in your power to discover many vessels contravening the law." \(^8^5\) This "vigilance" in Havana did have the effect of confiscating a Newport schooner that had just unloaded sixty-four African slaves in Cuba. While the schooner \textit{Betsey} was sold, the death of the owner closed the case without prosecution. \(^8^6\)

There were other convictions under the slave trade act of 1794, but because the Atlantic slave trade was growing, the effect on the trade was negligible. Newspapers occasionally printed the news of the capture of slave ships, as in the \textit{Lady Walterstorf}, \textit{Lindamin}, and \textit{Mac}, but these were short pieces conveying very little information, although these notices were reprinted widely. \(^8^7\) Some cases against slave ships did reach the Supreme Court, but only after the abolition of the slave trade in 1808. \(^8^8\) Even then,


\(^8^5\) letter from Timothy Pickering, Secretary of State, to John Morton, U.S. Consul in Havana, Cuba, November 16, 1799. (Gilder Lehrman Collection, GLC 7221), http://www.gilderlehrman.org/collections, accessed November 12, 2012.

\(^8^6\) Coughtry, Notorious Triangle, 217.

\(^8^7\) Philadelphia Gazette, 2/23/1797; Gazette of the United States, 3/9/1797; Salem Gazette, 9/20/1799.

compromises still won out, and abolition on a national level was sacrificed for the sake of national unity and commercial prosperity.

The Act of 1794 and the strengthening of federal laws were effective at improving the regulation of commercial activity in ports but not in suppressing the slave trade. As the 1790s progressed, foreign nations continued to test U.S. sovereignty and the U.S. increasingly asserted itself as a nation able to compete on the global stage.\textsuperscript{89} Even after Jay's Treaty, Britain failed to acknowledge American neutrality and commercial law, pressed sailors into the Royal navy, and refused to abandon western land claimed by the United States. As European chaos continued, the United States sought to increase its control over foreign trade and maintain economic and political stability. The Act of 1794 created positive law that expressly focused on American trade and commercial voyages originating from U.S. ports. With this, the U.S. government attempted to claim a space on the international stage and increase its diplomatic clout.

The U.S. regulation of the slave trade in the 1790s reflects other concerns of that time period, namely that of the position of the U.S. between the warring nations of France and Britain. Regulating the slave trade was a low priority except when laws against it could aid the U.S. in foreign negotiations and protect other aspects of American foreign trade. With the Act of 1794, the federal government claimed its power to regulate the slave trade, which in turn expanded and further defined federal power. The Act made many promises, appeasing abolitionists and slaveholders alike. It seemed to abolitionists

\textsuperscript{89} Eliga Gould, \textit{Among the Powers of the Earth}, 3-4. Gould focuses on the making of a "treaty-worthy" nation- that U.S. independence had much to do with international recognition. The U.S. had to prove itself in order to be considered "among the powers of the earth."
that the regulation of the slave trade might end slavery altogether, while slave owners ensured that slavery would be protected while minimizing the threat of insurrection. While the Act demonstrated a stronger federal government on paper and on an international level, particularly in the regulation of trade, slave traders saw to it that the slave trade aspect of the law was unenforced and ineffective. Based on the fact that previous abolitionist petitions had been ignored, it is clear that the political “crises of 1794” had primed the pump for increased trade regulations. The Act of 1794 was passed because it coincided with events that tested national sovereignty at home and abroad. Nevertheless, as the new century dawned, slave traders grew craftier in answering the increased, demand for slaves particularly in U.S. territories, the West Indies, and Brazil, despite the hopes of the abolitionist societies for the complete eradication of slavery.
On January 10, 1818, a special Congressional committee submitted a report justifying the United States’ recent invasion of Spanish-owned Eastern Florida at a place called Amelia Island. The Spanish minister to the United States, Luis Onís, was furious that the United States seemed to be supporting the revolutionary governments in South America, whose privateers preyed on Spanish shipping. He was also incensed that the United States had the audacity to invade a foreign territory while at peace, even though Eastern Florida had, until the U.S. intervened, been occupied by men claiming to be
"liberating" the territory from Spain. The Congressional committee sought to justify their actions by arguing:

It does not appear that among these itinerant establishers of republics and distributors of Florida lands there is a single individual inhabitant of the country where the republic was to be constituted;... where the venerable forms by which a free people constituted a frame of government for themselves are prostituted by a horde of foreign freebooters, for purposes of plunder.1

From the United States’ perspective, these pirates, otherwise known as freebooters, were threatening the “security, tranquility, and commerce of this Union,” and had to be stopped. Since the Spanish government had shown itself to be incapable of controlling its territories, the Committee asserted that a U.S. invasion of the unruly territory was completely justified.

The U.S. invasion of Spanish-held Amelia Island in December 1817 occurred amid a prolonged period of expansion for the United States. After purchasing Louisiana territory in 1803, Congress turned to the disorderly, Spanish-held peninsula of Florida, actively courting Spain for its annexation. Through treaty, doctrine, threats, or brute force, the federal government would assert its powers and seek justification of one kind or another for its actions. By 1821, the United States could claim territory stretching from “sea to shining sea,” continuing the expansionist precedent set by Thomas Jefferson and the Louisiana Purchase.

In the case of the Amelia Island invasion in 1817, the federal government’s main claim that it had been acting legitimately was based on a secret act of Congress passed in 1811, which authorized U.S. invasion of Spanish Florida if U.S border security was threatened.

threatened, as well as the Anti-Slave Trade Act of 1807. Congress argued that the federal
government had indeed acted appropriately in 1817 against unlawful and violent pirates
and smugglers. In rationalizing its invasion of Spanish Florida, the U.S. government
argued, among other points, that pirates on Amelia Island had caused the illegal
importation of thousands of West Indian and African slaves into U.S. territories through
Spanish Florida. While this was true, and many residents in Georgia were alarmed by the
unauthorized immigration, the anti-slave trade law also was conveniently used by the
federal government to justify the invasion for the protection of commerce and the control
of its borders against these pirates. The incident offered the U.S. government another
opportunity to extend its reach.

In the wake of the Amelia Island crisis of 1817, the United States Congress
passed several new acts strengthening federal power, which included several slave trade
acts. Some historians have argued that these Acts are evidence that the U.S. government
did seek to end the slave trade for moral reasons.2 This chapter argues, however, that
these Supplemental Slave Trade Acts were primarily aimed at protecting U.S. residents
from uncontrolled slave populations and insurrections; improving border control; and
protecting U.S. commerce by supporting African re-colonization efforts, expanding U.S.
Navy patrols, and expanding the definition of piracy to include slave trading. Dominated
by Southern slave owners, who capitalized on a thriving domestic slave trade and who
competed with illicit slave smugglers, and Northern merchants whose livelihood
depended on safe shipping, the federal government was more than willing to enact these

2 See for example, Don Fehrenbacher, The Slaveholding Republic (London: Oxford University
Press, 2001); Paul Finkelman, "Regulating the African Slave Trade," Civil War History, Vol. LIV
No. 4, 2008.
stronger Supplemental Slave Trade Acts. While there was a moral component to slave trade suppression, the priorities continued to be to protect merchants and secure the United States' expanding borders.

In analyzing the invasion of Amelia Island's effect on federal slave trade laws, it is important to make the distinction between the slave trade to the United States and the participation in the foreign slave trade by Americans. By 1817, the institution of slavery in the United States was flourishing even with the slave importation ban. It was mainly the border regions that did not have ready access to legally acquired slaves that resisted government regulation and supported smuggling operations. As these pages will show, the U.S. was willing to regulate more strictly the slave trade to the U.S. because of concern about unchecked smuggling and piracy into U.S. territory. Stronger regulations against foreign pirates also secured U.S. shipping along the coast.3

The thriving domestic slave trade also provided support for the United States' strengthening of anti-slave trade laws. The population of slaves in the relatively healthy environments in Virginia and Maryland fostered a profitable trade with the less developed Western states and territories. These eastern states leveraged their strong representation in the federal government to protect slavery and the domestic slave trade, while supporting laws that prohibited foreign slave imports. These slave states generally supported the banning of the slave trade, in part to capitalize on the growing interstate slave trade. Without an influx of slaves from Africa, they argued, their "surplus" slaves

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would increase in value at the auction house. These states were eager to reap the profits of an internal slave trade and supported the abolition of the African slave trade, which competed with them as a source for slaves. Until the Civil War, the areas most notorious for breaking anti-slave trade laws by importing slaves were in newer U.S. territories such as Louisiana and Florida, where large plantation societies had not been established in the previous century. It was in these border regions where the federal government and smugglers sparred; the result was support by the general population for increased federal control and stronger laws against those who would compete with or threaten U.S. trade, including the domestic slave trade.

The U.S. Supplementary Slave Trade Acts of 1818-1820 created the strongest anti-slave trade laws in the world. It is no coincidence that they were enacted in conjunction with other laws aimed at increasing the federal regulation of imports in the wake of several threats to U.S. commercial interests, namely at the piratical strongholds of Galveston, in the Gulf of Mexico, and Amelia Island in Eastern Florida. While the territories in question were not on U.S. soil, the activities of their inhabitants threatened U.S. shipping and caused the illegal smuggling of thousands of dollars of goods and slaves into the United States. The threat to commerce by bands of smugglers who would strike at any ship, regardless of its nationality, prompted the federal government to crack down on illegal imports and smuggler strongholds and increase legal commerce in these areas. Unchecked slave smuggling, in particular, alarmed many border inhabitants and motivated the U.S. government to act. Even though many Americans were involved in

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4 For the status of freed blacks in nineteenth, see Watson Jennison, *Cultivating Race* (Lexington: University Press of Kentucky, 2012), 290-1, and Introduction for changing status from colonial era to Civil War.
illegal smuggling, the presence of foreign freebooters "offered a convenient rationale for a U.S. invasion and occupation that happened to coincide with diplomatic efforts" to annex Florida.\(^5\) Complications arose on a diplomatic level, however, when these pirates claimed their legitimacy as wartime privateers through South American republics—new nations the United States tacitly supported.

### Background and Context

The link between the slave trade and U.S. border control stemmed from the 1808 prohibition of the trade and the rise of an illegal market for slaves along the poorly controlled southern U.S. border. In the twenty years since the Constitutional Convention, slavery within the United States had become more entrenched in the South and continued to develop as U.S. borders spread westward. The worldwide demand for cotton and sugar increased, particularly as modes of transportation and industry improved, populations increased, and new trading markets opened. Technological innovations, such as the power loom and cotton gin, all were intimately connected to agricultural slave labor. The swelling demand for slave-produced goods like cotton and sugar, in turn, drove up the demand for slaves.\(^6\)

The United States’ rapid territorial expansion also contributed to increased demand for slave labor. This demand fostered a strong interstate slave trade from Eastern slave states and contributed to the growing illicit trade in borderland communities like New Orleans and parts of Spanish Florida. Jefferson’s purchase of Louisiana from the

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\(^5\) Peter Andreas, Smuggler Nation, 147.

\(^6\) Herbert Klein, *The Atlantic Slave Trade* (New York: Cambridge University Press, 2010), 204.
French in 1803 opened vast tracts of agricultural land for white settlers, many of whom brought their slaves with them. As the new territory extended U.S. land claims in North America, it also promoted the growth of slavery and increased dependence on slave labor, particularly as new settlers planted cotton, which was then purchased by New England and European mill owners.\(^7\)

The Louisiana Purchase had another direct effect on the growing slave trade and the expansion of slavery into U.S. territory. By 1798 all states had outlawed the slave trade primarily because of a fear of slave insurrection. Yet, three weeks after the announcement that Louisiana territory had been purchased by the United States, the South Carolina legislature voted to reopen the trade. Since the trade had been prohibited in that state for fourteen years, this cannot have been coincidental. Historian Jed Shugarman argues that the reopening of the trade at this time did not have immediate benefits for coastal South Carolinians but it did aim to prevent the smuggling of “dangerous” slaves from the West Indies and to ensure that the southern territories would become slave states. Ensuring the expansion of slavery, Southern slave owners could protect their interests when these future slave states sent legislators to Congress. Nevertheless, South Carolina’s reopening of the slave trade did alarm most Americans,

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7 While Fehrenbacher disagrees with the idea that Southerners engineered the expansion of slavery into the territories, it is certainly a fact that territorial expansionism led to the expansion of slavery and increased number of slave states. See Fehrenbacher, Slaveholding Republic, 119. For a discussion on the expanding domestic trade see Deyle, Steven. “An ‘Abominable’ New Trade: The Closing of the African Slave Trade and the Changing Patterns of U.S. Political Power, 1808-60.” William and Mary Quarterly, Third Series, Vol. 66, No. 4, Abolishing the Slave Trades: Ironies and Reverberations (Oct. 2009), 839-43. See also James Lewis, The American Union and the Problem of Neighborhood: The United States and the Collapse of the Spanish Empire, 1783-1829, 1998.
and President Jefferson encouraged Congress to pass an act to prohibit the “odious commerce.”

As the year 1808 approached and the twenty-year moratorium on federal action prohibiting the slave trade reached its expiration date, lawmakers once again turned their attention to the slave trade. The 1807 debates over the proposed slave trade prohibition rekindled questions about the status of free blacks in America, the supremacy of the federal government over states, and the best method by which to “relocate” captured Africans under the proposed ban. According to the Constitution, slave status depended on individual states and the federal government did not have the authority to regulate slavery. This meant that if captured illegal slaves were forfeited to the federal government, then the federal government, as owner of these slaves, would be subject to the laws of the state in which the enslaved Africans were captured. The Government “could not free the Negroes contrary to such laws.”

Most Southerners, and many Northerners, argued that if slaves were returned to Africa at great federal expense, they would most likely be re-enslaved anyway. As a result, with some exceptions, many Americans had come to believe that slaves would be better off living enslaved in the United States than re-enslaved or killed in Africa. Although the Act eventually passed, it “came very near being a dead letter.”

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10 Ibid, 102.

11 Du Bois, Suppression of the Slave Trade, 110; for more on the slave trade debates see Matthew Mason, “Slavery Overshadowed: Congress Debates Prohibiting the Atlantic Slave Trade to the United States, 1806-1807.” Journal of Early Republic, Vol. 20, No. 1 (Spring 2000), 59-81; also
The Act to Prohibit the Importation of Slaves (the Act of 1807) passed in March of 1807 and went into effect on January 1, 1808. The 1807 Act stipulated that no one of African descent could be imported by anyone into the United States with the intent to sell or enslave that person. The penalties could run as high as $20,000 for outfitting a ship for the trade. The Act increased federal power, especially over imports, and increased the role of Customs Agents in the regulation of commerce. The Act also stated that all ships had to be registered at U.S. customs houses and any captured slaves would be put under the protection of the U.S. Marshal or Governor of that particular state. The intent of the bill was to free illegal slaves or send them to Africa, but in the Constitution, the regulation of slavery was left up to the states. Therefore, in slave states, these captured Africans were often sold to the highest bidder and endured a life of slavery under the Act of 1807. While the most important aspect of this slave trade law was its contribution to the expansion of federal powers—no small feat during Jefferson’s administration— the law nevertheless illustrates the limits to federal authority. As the Constitution outlined, the federal government could regulate the slave trade, but slavery and Africans captured on confiscated slave ships would fall under the jurisdiction of the states. While

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13 This penalty resulted from a compromise made when the death penalty was struck from the punishment. Du Bois, *The Suppression of the Slave Trade*, 103.

the federal government did claim the power to suppress the slave trade, the actual effect of these laws on the suppression of the slave trade was fairly weak. With no clear-cut method to regulate traffic, no specific enforcement authority, and few federal resources devoted to suppressing the slave trade, the federal government could not effectively end the traffic even if it had been a priority.\textsuperscript{15}

From a Constitutional perspective, although the U.S. government was able to prohibit the slave trade after 1808, it was not granted the power to outlaw slavery, which would have eliminated the demand that kept the slave trade active. Lawmakers were already divided on the issue of slavery and unwilling to push the law further. When war broke out with Britain in 1812, regulating the slave trade took a back seat to more pressing security measures in the United States.\textsuperscript{16} At the same time, American privateers took advantage of wartime prizes, capturing British merchant ships, including those carrying slaves.

Because the demand for slaves in the new U.S. territories remained high while the slave trade had been made illegal, “respectable” slave traders before 1808 were replaced by illicit smugglers, particularly in New Orleans and parts of Florida. These smugglers took advantage of the lax federal regulation in these outer regions. While the federal government was generally unresponsive towards the suppression of American slave trade.

\textsuperscript{15} Fehrenbacher, \textit{Slaveholding Republic}, 152. David Eltis and W.E.B. Du Bois were underwhelmed in their analysis of the Act of 1807. See David Eltis, “The U.S. Transatlantic Slave Trade,” \textit{Civil War History} Vol. LIV, No. 4, 2008, 722; W.E.B. Du Bois called U.S. efforts as “a few unsystematic and spasmodic attempts” to halt the trade see 115. When compiling data from the Du Bois Slave Trade database, Eltis found that, from an international perspective, the years 1830 and 1860 had a much more significant impact on the abolition of the slave trade than 1808 for reasons to be explored later in this dissertation.

participation in the foreign slave trade, during the 1810s and 1820s it made efforts to control the rampant smuggling of enslaved Africans into the United States, primarily along the Gulf of Mexico and Florida. If legislators and the general public could not agree among themselves about slavery, most could support government measures taken to control those participating in illegal smuggling, which avoided customs agents and import fees.

The Gulf coast was particularly vulnerable to smuggling because it was poorly patrolled. A longtime contested area between the Spanish, French, British, Americans, and Native American tribes, the clashing of cultures gave rise to thriving underground commercial and political networks. U.S. government measures taken during this period against smugglers and “patriot invaders” claiming independence from the Spanish empire exposed problems in the federal suppression of the slave trade under the Act of 1807. Smugglers and pirates, like the infamous Lafitte brothers and fellow Frenchman, Luis-Michel Aury, drew the attention of the federal government because of their aggressive antics, avoidance of customs duties, and questionable ties to revolutionary governments. While the local residents may have supported their smuggling operations, the federal government did not.17

American Pirates and the Profitability of Slave Smuggling:

The nature of the slave trade was changing in significant ways, and not solely because of the 1807 laws. The institution of slavery was protected by the U.S.

17 Although Fehrenbacher argued that the 1821 annexation of Florida largely ended slave imports into the United States, there were still thousands of slaves who were smuggled into the U.S. either directly from Africa or via Texas and Cuba.
government and, with the slave population increasing naturally, there was no need for additional foreign slave imports to sustain it. Southern states that had protested the federal government's control over slave imports now capitalized on the expansion of slavery into western territories. While illegal importations did exist, lack of demand for new slaves drove legal compliance perhaps more than the actual federal enforcement of its prohibition.

Demand for smuggled slaves was strong along the Gulf Coast, however, where the U.S. domestic slave trade could not reach. The Gulf of Mexico was a breeding ground for pirates, smugglers, and revolutionary patriots, and it was often difficult to distinguish between the three. The U.S. had little regard for any of these types because they were seen as a direct threat to national security and legal American commerce through their ties to renegade armies and their notoriety for seizing merchant vessels.

The Napoleonic Wars and the War of 1812 produced huge incentives for privateering. When peace returned after 1812, many privateers were reticent to give up their lucrative trade and registered themselves as South American ships to prey on Spanish merchants. These vessels captured thousands of slaves in the process and sold them in or near American ports, as local custom agents turned a blind eye. The Spanish-American governments that commissioned these privateers benefitted through sharing the profits and by crippling enemy trade. Often, however, legal prizes bled into illegal pirating if the legitimacy of the government supporting the privateers was questioned, or if the privateers began seizing neutral merchant ships. The Gulf of Mexico and the Caribbean were notorious breeding grounds for these patriot-pirates. The Slave Trade Act of 1807 merely "added one more incentive for smuggling" by making desirable
African slaves an illegal commodity. The U.S. government mostly ignored these privateers and smuggling operations until these ships began to interfere with U.S. trade. In 1818, the United States asserted its national power to protect its commercial interests by invading Spanish Florida. This action led directly to a near war with Spain, a clearer definition of piracy, and a stronger effort to suppress the slave trade to the United States.

Three men who conducted business in the borderland regions of the Gulf and Caribbean exemplify the ambiguities between legal trader and pirate: Luis-Michel Aury, Jean Lafitte, and Gregor McGregor. All three claimed their legitimacy through the South American republics, all three directly or indirectly participated in the smuggling of slaves into the United States, and all three were brought to the attention of U.S. officials, leading to better protection of U.S. commerce and a broader definition of piracy. Their stories

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demonstrate the interconnectedness of the Spanish/Anglo Atlantic world, where people and regions claimed multiple nationalities and cultural identities.\textsuperscript{20} 

Of the three, Commodore Luis-Michel Aury ran the most widespread smuggling operations in the Gulf of Mexico, Caribbean, and Florida. A handsome young adventurer, Aury crossed and re-crossed national boundaries and identity. He walked a fine line between a sanctioned patriot and lawless pirate. Born in France in 1788, as a young adult he caught the Revolutionary spirit of the age and joined Mexico in the South American Wars of Independence. During the course of his short life, his fortunes rose and fell, particularly as he increasingly became involved in privateering operations under the flag of Mexico.\textsuperscript{21} In 1816, Aury was appointed by Manuel Herrera, a Mexican revolutionary, to form a government loyal to Mexico on the island of Galveston. Galveston was considered a prime location for smuggling operations during the early nineteenth century as it was located near the U.S. border and had an excellent harbor. As governor of the new republic, Aury commissioned privateers to raid Spanish ships in an


attempt to weaken the foundering Spanish empire, and to line their own pockets as well.  
Through his efforts, Galveston became a supply line for the importation of slaves into Louisiana. Aury benefited from a local demand for smuggled goods and illegal slave trading, but support for his operations did not extend to the federal government, which was receiving more and more demands from merchants for the protection of commercial vessels from the likes of Aury.

Smuggling networks like Aury’s did not go unnoticed by U.S. officials. In 1817, a newly appointed customs agent, Beverly Chew, took on the vast network of corruption and targeted Aury’s operations directly. Chew wrote that he was unable to stop the “shameful violations of the slave act, as well as our revenue laws,... by a motley mixture of freebooters and smugglers, at Galveston, under the Mexican flag,” where many of Aury’s collaborators were U.S. citizens. But Beverly Chew was also a businessman. As a customs agent he benefitted from the fees collected at customs, but he also participated in his own smuggling operations, and he was not above turning a blind eye to slave importations when he could profit.

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23 There are many petitions to the Customs Agents and the federal government by merchants during this time. See PresMsg1817.

24 Beverly Chew, quoted in Barker, 146; see also Ernest Obadele-Starks, *Freebooters and Smugglers* (Fayetteville: University of Arkansas Press, 2007).

25 Chew was an interesting character in New Orleans and his conduct is a perfect example of the grey legal area so prevalent in the border regions during this period. When he could profit from suppressing the slave trade, he would. When he could profit from smuggling, he would. In an interesting side note, Chew would also assist slaves and free people of color, when it served his purpose. See Obadele-Starks, *Freebooters*, 42-45.
If Aury had maintained his trade outside of U.S. territory, or preyed solely on Spanish ships, his movements likely would not have been considered threatening to the U.S. That Aury’s smuggled slaves may have been West Indian slaves, considered dangerous by many Americans, made Aury’s activities more suspicious to Chew and his agents. From early in 1817, Aury’s movements were tracked by customs agents and, when Aury moved his operations eighty miles south from Galveston to Matagorda in the spring of 1817, President Monroe was quickly informed.26

Attacks on the private property of U.S. citizens in the region mounted, presumably under Aury’s command. Chew, the officious customs agent, submitted to Congress letters of protest from American merchants who had been attacked by Aury’s corsairs. Their accounts depict Aury’s band as ruthless criminals without regard for personal belongings or laws of nations.27 Unable to protect U.S. merchants at sea, Chew also could not stop the smuggling of goods into Louisiana. Because he had no real proof of Aury’s activities and Aury was not officially recognized as a pirate, Chew could only take note of the dozen Mexican and Venezuelan ships floating at the New Orleans wharves; he could not arrest them.28 Merchants requested convoy protection from these pirates, as the British Navy had done in the Caribbean, but the United States did not have the naval power to comply.

26 Chew to Crawford, August 30, 1817, in Message from the President ... Communicating Information ... of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817), 13.

27 Chew to Crawford in ibid, 12, 16-17.

28 Chew to Crawford, in ibid, 13; for an account of attacks on ships Pomona, Freelove and Firebrand, all US vessels; also of brig Charles see ibid, 25; and Aury’s authorization of attacks see ibid, 30. Chew was also a business partner of Jean Lafitte, so he may not have wanted to suppress all “piratical” activity. See Obadele-Starks, Freebooters, 44.
More and more accounts labeling Aury and his followers as ruthless pirates came to the attention of the federal government. One source claimed that Aury was not even legitimately authorized by the Mexican government or any former Spanish colony.\footnote{15th Congress, 1st Session, No. 290, "Suppression of Piratical Establishments, Reported on January 10, 1818," 137. and Chew to Crawford in \textit{Message from the President ... Communicating Information ... of Amelia Island and Galvezton, Dec 15, 1817}, (Washington: E. De Krafft, 1817), 10.} American citizens were also implicated in Aury's criminal networks. When rumors started circulating that patriots under General Miña were to attack Pensacola after resupplying in U.S. ports, residents reacted with alarm. Although this rumor proved false, it was one more strike against the South American patriot cause, although Aury's abandonment of Matagorda in July 1817 raised eyebrows.\footnote{Morris to Secretary of Navy, March 14, 1817, in ibid, 22.} The U.S. could not afford to turn a blind eye to the operations of organizations that posed even a rumored threat to U.S. territory. By the time Aury and his fleet resurfaced in Eastern Florida in September 1817, the United States was convinced he was nothing but a lawless pirate.

Aury was not the only patriot/pirate operating in the Gulf of Mexico. Also from France, Jean Lafitte and his brother Pierre resided in New Orleans and environs, capturing prizes and selling goods and slaves on the black market. At times deeply in debt and always watched by U.S. customs officials, the Lafittes nevertheless ran some legal businesses and assisted the American forces during the battle of New Orleans in 1815, earning them full pardons from their smuggling convictions.\footnote{See Davis, \textit{Pirates Lafitte}, 225.} Jean's national alliances shifted with the prevailing winds, spying for both the Spanish and Mexican...
governments at various points. Like Aury, Lafitte saw the benefits of the border regions for his smuggling operations.

Many of Jean Lafitte’s prizes were ships captured in the West Indies, mostly Spanish slavers heading to or from Cuba, one of the last legal slave trade ports in the Caribbean. Lafitte’s knowledge of the Gulf Coast and Mississippi River tributaries, and his vast network of connections in Louisiana, made it relatively easy for his captured human cargo to be sold to American planters. Jean Lafitte was quick to capitalize on Aury’s departure, immediately seizing Galveston Island. Under Lafitte, a provisional government was set up in order to display some sort of authenticity. Jean Lafitte’s government at Galveston used the flags of the South American republics to hide their smuggling and piratical operations. His claims to legitimacy, however, fooled no one.

Both Lafitte and Aury capitalized on the poorly patrolled U.S. coast, benefitting from weak national alliances of the residents and high demand for smuggled goods. The nature of these borderlands in which these men worked, such as in New Orleans, was that of a twisted mixing of loyalties, nationalities, and cultures. In the corsairs’ world, profit came before flag allegiance. In one decade alone, Jean Lafitte aided the governments of Mexico, Spain, France and the United States. These shifting allegiances created a complicated web of interaction. Even the U.S. Navy was not free from these backroom deals.

The networks and alliances along the Gulf of Mexico made it particularly difficult to separate patriot action from piratical activity. Captain Daniel Patterson, a veteran of

the War of 1812 and the Barbary Wars, commanded the *U.S.S. Firebrand*, off the coast of New Orleans. In 1811, he had orchestrated a raid of Barataria, near New Orleans to crack down on Lafitte’s smuggling and the outfitting of Mexican privateers.33 At the same time, Patterson was a long-time member of the New Orleans Alliance, an organization that supported Mexican independence. Under the guise of cruising for pirates, Patterson’s *Firebrand* escorted Mexican ships on several supply voyages in 1815 and 1816, providing protection against Spanish raiders.34 A “cargo of arms” that Beverly Chew reported lost, was very likely part of one of these escorted trips.35 As with the claiming of the Barataria prizes, Patterson was compensated for his efforts. While technically acting illegally, the United States’ tacit support of South American independence did not, in Patterson’s reasoning, contradict his mission as a captain in the Navy. Even when the Spanish minister, Luis de Onís, reported Patterson’s actions to the U.S. State Department, Patterson remained at his post, although in 1816 the customs collector in New Orleans was replaced by Beverly Chew.36 In 1818, Patterson wrote to the Secretary of the Navy concerning the abandonment of Galveston, and the capture of several Mexican privateers. He also submitted a memorial on behalf of New Orleans merchants against several privateers of the United Provinces of South America. Clearly, Patterson considered the violations of laws against piracy much more heinous than the

33 Davis, *Pirates Lafitte*, 79.


violation of neutrality laws, especially when the piracy claims were against American citizens and their capture earned him prize money.37

Patterson’s stance towards the Mexican government echoes that of the United States. U.S. expansionists like President James Monroe hoped that South American independence would rid European occupation of North America, which would grant the United States control of land from the Atlantic to the Pacific Oceans.38 Privateers and freebooters would be tolerated—unless they threatened U.S. territorial or commercial interests. Increasing threats to U.S. shipping in the wake of the wars of independence forced the United States to act. The problem lay in the fact that the new American republic did not have the federal strength to effectively protect merchants even after the Navy improvements made on the eve of the War of 1812. The U.S. government’s first goals became to create specific definitions for piracy and smuggling and to enact laws to punish violators. On a diplomatic level, this meant that the U.S. had to make distinctions between the patriot-privateer and freebooter pirate.

Despite what appears to be a real attempt to curb illegal smuggling (or at least operations in which he was not financially involved), Beverly Chew was fighting a losing battle. With thousands of miles of coastline and only a small squadron patrolling, the

37 Patterson to Secretary of the Navy Aug 4, 1817, in Message from the President ... Communicating Information ... of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817), 12-13; it is no wonder that in his July 28, 1817 letter to the Secretary of the Navy he wrote that he had no information on the “conduct of foreign armed vessels” and other transactions, although he must have been well aware of their movements. He focused on the attacks on American ships by several South American privateers, which “have been robbed of specie to a considerable amount,” in Message from the President ... Communicating Information ... of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817), 36.

38 This is the basis of the Monroe Doctrine from President Monroe’s Seventh Annual Message to Congress, December 2, 1823, while the “Manifest Destiny” interpretation of the Doctrine did not occur until later, Monroe’s Doctrine nevertheless cautioned European nations to stay out of American affairs, see Gould, Among the Powers of the Earth, Epilogue.
U.S. government could not properly monitor its borders. These ships were also at a disadvantage because they could not maneuver into the shallow inlets like the smaller smuggling ships could. In a letter to the Secretary of the Treasury, Beverly Chew wrote of the "necessity of either granting a certain number of revenue cutters,... or that the naval force on this station be enjoined strictly to prevent these privateers from hovering in our waters and violating our laws." Chew seems to have been frustrated with the smugglers' abilities to thwart his customs agents, and this frustration motivated him to improve the effectiveness of the U.S. government. While he ordered that all ships arriving from the "patriot" town of Galveston be searched, it was not because they were importing goods into New Orleans, but because he suspected that they were not authorized by the Mexican government. Public backlash against the increased government regulations of privateers in New Orleans compelled Chew to justify his actions for capturing privateers in August 1817 after he was accused of "being an enemy to personal liberty." Whether or not he knew Patterson was involved in the New Orleans Alliance, Chew complained about the role of United States citizens in these piratical exploits. Among his biggest complaints was the smuggling of slaves into the region.


40 Chew to Crawford, August 1, 1817, in *Message from the President ... Communicating Information ...of Amelia Island and Galvezton, Dec 15, 1817*, (Washington: E. De Krafft, 1817), 10.

41 Ibid.
By 1817, only Spain and Portugal permitted the slave trade. As a result, their slave ships were targeted by South American privateers and pirates because their human cargo could be worth a great deal of money. It did not escape Beverly Chew's notice that in New Orleans slaves were being smuggled into the region and purchased by the area planters. But simply knowing about clandestine slave importations did not mean these smugglers could be caught. The *U.S.S. Boxer*, patrolling off the coast of New Orleans, seized slaves that had been purchased by American planters, but the captures appeared more by accident than because of the Navy's effectiveness. Beverly Chew wrote to the Secretary of the Treasury of a planned smuggling trip he had learned about through informants but the U.S. Navy was unable to catch the freebooters.42 Because of inaccurate maps, or perhaps an unwillingness to pursue these smugglers, the commander of the *Boxer*, John Porter, wrote it "will not be in my power to approach nearer the shore than within ten miles off the Sabine, and not nearer than thirty off the Atchafalya [River]."43 Porter reported that he would utilize smaller boats to attempt to halt smuggling from Galveston to Louisiana. But, the waters were dangerous, and the *Boxer* was lost in October 1817, leaving the coast virtually unpatrolled.

Even if slave ships were captured, there were other obstacles in the way. While the 1807 Act outlined proper legal procedure for the prosecution of slave traders, Chew wrote, "owing to the unfortunate absence of the judge, no decision can be had thereon."44 Chew was unraveling a complex web of illicit trading, complete with absent judge.

42 Chew to Crawford, in ibid, 12.
43 Porter to Crowninshield, June 28, 1817, in ibid, 35.
44 Chew to Crawford, August 1, 1817, in ibid, 10.
Smugglers had other means for evading the state and territorial laws against slave importations. One method, utilized by the Lafittes, employed the technique of bribing corrupt officials to capture illegal slaves and sell them at public market, where the original importers would purchase them at reduced prices. The slaves thus became legal and could be sold to planters without risk of capture. This “laundering” of slaves could only be accomplished in states whose laws stipulated that captured slaves be sold for the benefit of the state, such as in Georgia and Louisiana, but it proved to be highly effective. Demand was so high for slaves from Africa that the extra expenses paid in bribes did not deter planters.\footnote{Davis, The Pirates Lafitte, 63.} Slave-owners were too willing to “render [smugglers] every possible assistance.”\footnote{Morris to Crowninshield, June 10, 1817, in Message from the President ... Communicating Information ...of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817), 35.}

When customs agents were able to sniff out illegal traders, they would pry open the hold and find the ships empty of their human cargo even while the stench of their horrific journey lingered. While customs agents condemned these abandoned ships, very rarely could their owners be tracked down. Captains could also avoid regular procedure by coming into the harbors under supposed “duress.” False papers would show that the ship never intended to land there, so the customs agents could not perform a search. Then, as the ship made its so-called repairs, the cargo could be secretly unloaded and sold.\footnote{Chew to Crawford, October 17, 1817, in ibid, 15; and Davis, Pirates Lafitte, 26.}
Customs agents did seem to be informed of the movements of smugglers but they consistently seemed to arrive a day late and a dollar short. While at Galveston, Commodore Aury sold over three hundred slaves to local planters and took more with him on his way to Florida in July 1817. Other reports of slave gangs came too late for officials to organize a capture. Once the smugglers had avoided being caught while unloading slaves, customs agents had no evidence with which to arrest them. The recently imported Africans disappeared in plain view on the plantations. Once there, there was little agents could do to recover the slaves.

Chew was connected to enough informers to know that Commodore Aury had abandoned Galveston in late July 1817. He then received a letter directly from Aury stating that he had taken his government with him, therefore absolving himself of anything that might happen after his departure. Although Galveston was considered to be under United States jurisdiction, it was poorly patrolled, and, by August, the Lafitte brothers had set up shop there, continuing their privateering missions. With Barataria still not well patrolled by the United States, Chew argued, “nothing is easier...[than for a] privateer... to commit hostilities against the persons and property of a nation with whom the United States are at peace.” To Chew, the businessman, the violations to U.S.

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48 Porter to Crowninshield, June 28, 1817, Message from the President ... Communicating Information ...of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817), 35.

49 Chew to Crawford, October 17, 1817, in ibid, 14.

50 Chew to Crawford, August 30, 1817, in ibid, 12.

51 Chew to Crawford, October 17, 1817, in ibid, 15.
merchants were the crux of the problem, not specifically the introduction of slaves into the territory.

Figure 2: Luis-Michel Aury (probably self portrait, 1816), Jean LaFitte (Rosenberg Library, Galveston, Texas), and Gregor McGregor (General Gregor MacGregor, by Martín Tovar y Tovar, 1874)

**McGregor, Aury and the Seizure of Amelia Island:**

The slave trade and piratical activity was not restricted to Louisiana and Texas. Tiny Amelia Island, on the border between Georgia and Eastern Spanish Florida, became the center of international crisis during the early nineteenth century, nearly causing a war between the United States and Spain. The island was a hornet's nest of smugglers, patriots, slaves, freemen, and privateers, not necessarily exclusive of each other. Well-known as a primary location for the smuggling of goods and slaves into the United States after Jefferson's Embargo Act of 1807 (which halted virtually all legal imports) and the Slave Trade Act of 1807, the 1817 Amelia Island conflict embodies the complex relationship between national and diplomatic policy, and reflects the extent to which the United States employed the Slave Trade Acts to prevent border smuggling. The
Supplementary Slave Trade Acts of 1818-1820, were a direct result of the threats to border security by these so-called privateers.\textsuperscript{52}

Amelia Island was not the only prime smuggling point in Florida during the nineteenth century but it was particularly notorious both with the general public and federal government. The United States’ attempts to control this point of entry were inconsistent at best. In fact, one of the last successful slaving voyages, the infamous \textit{Wanderer}, landed its slaves in 1859 within twenty miles of Amelia Island’s harbor. Fifty years after the first reports of slave smuggling appeared in newspapers, the area still could not (or would not) be brought under federal legal control.

Like with Galveston, the geography of Amelia Island was the main reason slave traders targeted the area. Swampy, sparsely populated, and at the mouth of several rivers, this sea island made it a perfect location for clandestine operations. The harbor of Fernandina, the only town on the island, was “one of the best natural harbors along the South Atlantic Coast.”\textsuperscript{53} It also lay along the often-disputed boundary of Georgia and Spanish Florida. The United States had its eye on the later of which for annexation. Additionally, while originally founded as a buffer from Spain as well as a colony that outlawed slavery, by the early nineteenth century, Georgia had become an expanding plantation society with a voracious appetite for slaves. Demand was met partially

\textsuperscript{52} See T. Frederick Davis, “McGregor’s Invasion of Florida,” \textit{The Florida Historical Society Quarterly}, Vol. 7, No. 1 (Jul., 1928), 9; Rufus Kay Wyllys, “Filibusters of Amelia Island,” \textit{The Georgia Historical Quarterly}, Vol. 12, No. 4 (Dec. 1928), 300. Amelia Island had no fewer than eight national flags flying from its garrison during the eighteenth and nineteenth centuries. This does not include Native American territorial claims.

\textsuperscript{53} T. Frederick Davis, “McGregor’s Invasion of Florida,” 11.
through the legal interstate trade with South Carolina and Virginia as well as through the illicit trade from Florida.

Smuggling around Amelia Island was not new. In 1811, the Navy Department reported on many slave violations near St. Marys, Georgia. In this same year, a group of men claiming to be South American patriots invaded Florida and offered to cede the territory to the United States. When the affair was over and Florida had been restored to Spain, Congress passed a secret act authorizing the President to invade Spanish Florida if patriots staked their claim again. Evidently these patriots were enough of a commercial and political threat that Congress was willing to grant these powers to the Executive at the risk of breaking neutrality laws. This secret act would come into play before the end of the decade.

Even though Amelia Island was already a known smuggling location, the capture of that island by Scotsman Gregor McGregor in June 1817 set events in motion that would bring to the attention of President Monroe and Congress the extent of the slave smuggling operations. While not a notorious slave trader like Lafitte and Aury, McGregor's actions led directly to an increase in illegal slave trading along the Florida/Georgia border. It was his capture of Amelia Island that eventually led the U.S. to take a firmer stance on U.S. slave trading in particular, and piracy in general.

Gregor McGregor is first mentioned in the *Niles' Weekly Register*, incorrectly, under the name Charles McGregor, as a "patriot chief" in 1816, responsible for numerous

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54 "Letter from Secretary of Navy...subject of Importation of Slaves, Jan 12, 1819," (Washington: E DeKrafft, 1819).

South American victories. The South American revolutions had attracted adventurers, revolutionaries, and mercenaries alike, many, like Scottish-born McGregor, with no previous ties to Spain. In general, the United States took a cautiously favorable stance towards these so-called patriots, but delayed recognizing the sovereignty of their nations, mostly due to the federal government's desire to maintain good relations with Spain.

Owing to his foreign status and a wave of South American nationalism, which excluded foreigners from the patriot cause, McGregor quit the Venezuelan army in 1816, sailing north to Philadelphia with plans to gather funds to support an invasion of Spanish Florida. At the same time, the United States and Spain began talks to cede Florida to the United States. These negotiations would be called off because of actions put in motion by the Scotsman patriot, leaving Spanish Minister Onís incensed at the U.S. invasion.

Gregor McGregor would not have considered himself an accomplice to slave traders. Nor would he have called himself a pirate. His decision to invade Amelia Island does raise questions. While some historians have argued that McGregor aimed to claim Florida for the United States, this could not have been a high priority for McGregor since his claim for legitimacy rested on his so-called commissions from the various governments of Spanish America. If the United States claimed Florida, Amelia Island


57 Niles' Weekly Register, Vol. 11, 10/5/1816, 96.

58 for correspondence between Adams and Onís see Spain-Ilegal armaments, and occupation of Amelia Island, 15th Congress, 1st Session, No. 300, March 26, 1818.

59 See T. Frederick Davis, "McGregor's Invasion of Florida," 6. This claim comes from information provided by Postmaster J. Skinner from Baltimore who had met with McGregor many times during his stay in Message from the President...Relating to the Occupation of Amelia Island, (De Krafft: Washington, 1818) 7.
would not legally be a resource for the patriots as it would cause the U.S. to violate neutrality laws. McGregor must have seen Amelia Island for what it was: a privateer and smuggler's haven. Florida's Treasure Coast is where McGregor could raise money and resources to support the patriot cause, and, eventually, where he would begin his conquest of Florida.\textsuperscript{60}

On June 29, 1817, McGregor and his fifty-five troops quickly gained possession of the garrison at Fernandina, claiming the island on behalf of the South American governments. The Spanish at the fort surrendered without a shot being fired. McGregor immediately issued a proclamation (which he was fond of doing), and began to organize a new government based at Fernandina, which included an admiralty court for prize ships.\textsuperscript{61} At that point, while the Charleston newspapers claimed that McGregor was planning an imminent attack on St. Augustine with "hundreds of recruits," McGregor seemed to have stalled in his plans, hosting expensive dinner parties as his funds slowly drained away.\textsuperscript{62}

\textsuperscript{60} McGregor's commission came from Lino de Clemente, Pedro Gaul, and Martin Thompson, residents in Philadelphia on March 31, 1817 on behalf of Venezuela, Mexico, and Rio de la Plata respectively. In T. Frederick Davis, "McGregor's Invasion of Florida," 5, and "Memorial of Don Vincente Pazos," in \textit{Message from the President...Relating to the Occupation of Amelia Island}, (De Krafft: Washington, 1818) 33. McGregor used Postmaster Skinner to relay messages on to the U.S. government in an attempt to show his legitimacy and that McGregor wanted Florida to be a part of the United States. Since the U.S. accession of Florida would have legally closed the area off for the patriots, this contact must have been mainly to protect himself from U.S. retaliation.

\textsuperscript{61} T. Frederick Davis, "McGregor's Invasion of Florida," 16-18.

\textsuperscript{62} \textit{Charleston City Gazette}, 07/09/1817, T. Frederick Davis, 19. For a comment on the St. Mary's trade, see \textit{Charleston City Gazette}, 07/12/1817, see also \textit{Charleston City Gazette}, 08/01/1817, 08/05/1817 and 08/19/1817; "Letter of Marque, No. 8", September 1, 1817, in \textit{Message from the President...Relating to the Occupation of Amelia Island}, (De Krafft: Washington, 1818), 13.
Attempts at privateering did not at first bring in the profits McGregor had hoped. One of his own privateer ships was captured by the Spanish and most of its crew put to death.\textsuperscript{63} McGregor's privateering attempts were not all failures, however. By the end of September there were reports of several prizes in the Fernandina harbor waiting to be processed through the admiralty courts, before the captured goods filtered through Fernandina's growing markets.\textsuperscript{64} If McGregor originally had wanted to make friends with the local residents, he failed at the attempt by seizing slaves found on the island and selling them for his own benefit. Order in the town soon fell apart, and McGregor's privateers turned to looting the countryside. Many residents appealed to U.S. government officials across the river at St. Marys to intervene.\textsuperscript{65}

Low on money, McGregor still seemed to believe that he would receive reinforcements from South American patriots residing in the United States. On August 19, 1817, it was reported in the \textit{Charleston Gazette} that troops were amassing in Fernandina and "the brig \textit{Morgiana} was also hourly expected from New York with 400 men."\textsuperscript{66} In reality, the \textit{Morgiana} brought Ruggles Hubbard, a former sheriff of New York, but no supplies, troops, or money for the patriots.\textsuperscript{67} By the beginning of September, Hubbard and McGregor were at odds, and several of McGregor's officers had

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\textsuperscript{63} Wyllys, "Fillibusters of Amelia Island," 305; \textit{Charleston City Gazette}, 08/05/1817.

\textsuperscript{64} Charleston City Gazette, 09/22/1817.

\textsuperscript{65} T Frederick Davis, "McGregor's Invasion of Florida," 20.

\textsuperscript{66} Charleston City Gazette, 08/19/1817.

\textsuperscript{67} Wyllys, "Fillibusters of Amelia Island," 306.
resigned. On September 6, 1817, McGregor abandoned the island, sailing for Nassau.\textsuperscript{68} A source from Baltimore wrote that McGregor had left no one in charge when he departed, which seemed to be another strategy to avoid responsibility for what was to come. Ruggles Hubbard and Jared Irwin, a former Representative from Pennsylvania, claimed control of the island, although it is not clear what flag they flew.\textsuperscript{69} Except for a few letters written to absolve himself from wrongdoing against the United States, McGregor disappeared from historical record concerning Amelia Island.\textsuperscript{70}

The United States tolerated Gregor McGregor because he appeared to have legitimate ties to the independence movement and did not have direct connections to pirates known for targeting American shipping. McGregor’s troops were primarily American, and the local residents enjoyed the brisk trade of Spanish goods sold at Fernandina. The next leader of Amelia Island would compel the United States to act, with stronger anti-slave trade laws being a direct result.

As McGregor sailed out of the harbor, none other than Commodore Aury sailed in with his fleet of privateers. It was then that the United States finally mobilized for action, perhaps because Aury was more associated with smuggling than McGregor, or perhaps because Aury’s claim to Amelia Island on behalf of Mexico made it seem less likely the island could be turned over to the United States. One cause of concern for the U.S. with

\textsuperscript{68} Wyllys, 307; letter from Wayne, purser aboard Saranac, in Message from the President … Communicating Information … of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817), 42.

\textsuperscript{69} “Extract of letter to Secretary of State,” in Message from the President… Relating to the Occupation of Amelia Island, (De Krafft: Washington, 1818), 11.

\textsuperscript{70} McGregor to Gentleman in Baltimore, in Message from the President… Relating to the Occupation of Amelia Island, (De Krafft: Washington, 1818), 8.
The arrival of Commodore Aury is that while McGregor barely had fifty-five men (mostly Americans) fighting with him, Aury brought with him a much stronger force, mostly consisting of what one witness described as "one hundred and thirty brigand negroes—a set of desperate bloody dogs." Whether these soldiers were the captured Africans he brought with him from Galveston or other hired soldiers is unclear. The presence of so many armed blacks alarmed the white population, however. Aury's stronger force, increased privateering, and his use of black soldiers was unsettling. Aury's arrival also brought into question the legitimacy of his ties to Mexico. While it is true that Aury had a longer and more legitimate connection to the patriot cause than McGregor, Aury's behavior at Galveston led the United States government to label him as a pirate. Public opinion in the newspapers towards the patriots at Amelia Island quickly soured when Aury and his black soldiers arrived. One witness wrote, "the patriotism of Amelia Island appears to be confined to privateering and plundering." Indeed, as reports came in about privateers commissioned by Aury and the creation of an admiralty court, officials sat up and took note of the activities on the island. Aury's strength, organization, and notoriety led U.S. officials to question his motives. His larger, and seemingly more dangerous, force threatened U.S. border security, especially

71 Mr. McIntosh to Mr. Crawford (Secretary of the Treasury) from his plantation near St Marys, Oct 30, 1817, in Message from the President... Communicating Information...of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817), 20.


73 Elton to Crowninshield, Sept 26, 1817, in Message from the President... Communicating Information...of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817), 36.
since McGregor's Americans were now dominated by the new "French" force under Aury.

If McGregor had been a luckless patriot presiding over a lawless region, Commodore Luis Aury had no qualms against smuggling operations. He was the epitome of the Caribbean adventurer: part pirate, part legitimate privateer, and wholly seeking profit. Like many other so-called patriots, Aury sought to keep up appearances of legitimacy, organizing a legislative body to create laws and utilizing a printing press to publish a newspaper. While using his black soldiers to maintain control, Aury nevertheless made some attempts to integrate the so-called "American" party in with his own "French" party. Despite these attempts, chaos reigned. In November 1817, Aury declared martial law.

Aury's extensive connections to South American privateers increased slave smuggling operations at Amelia Island during the fall of 1817. Several contemporary accounts estimated that in two months, nearly one thousand slaves had been smuggled into Georgia from Florida, and a half million dollars' worth of goods had been sold in Fernandina. The United States government could no longer overlook this blatant disregard for the law.

The federal government had been aware of slave importations into the United States through Florida for many decades. Very little had been done to control this,

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74 Newspapers referred to the remnants of McGregor's group, who were led by Jared Irwin, as the "American" party, while Aury's troops were called the "French" party.


76 Ibid.
especially while Florida remained a territory of which Spain could exercise very little control. When McGregor took control of Amelia Island at the end of June, George Graham, interim Secretary of the Navy, immediately gave orders to the *U.S.S. Saranac* in New York to sail to St. Marys, Georgia, charging Captain John Elton to search every suspicious vessel on the voyage. The United States' interest in Florida and Amelia Island's proximity to the United States caused Graham to take immediate defensive action. Graham wrote about the need to "defend against disturbed tranquility" from the Spanish Wars and to "prevent the illicit introduction of slaves into the United States." Since the United States remained neutral with Spain and could not, therefore, legally invade Amelia Island, one of the only laws the U.S. government could cite to justify increased surveillance of Amelia Island was the 1807 Slave Trade Act.

Once the *U.S.S. Saranac* arrived at St. Mary's, Captain John Elton began patrolling American waters for suspicious activity. Not only did Elton soon discover that American citizens were fitting out vessels to prey on neutral ships, but he also realized he lacked the authority to put a stop to the illegal operations. Unlike in the seizure of Amelia Island in 1811, McGregor and Aury were not American citizens, although most of McGregor's men had been. Aury claimed the island for Mexico, but Elton was fairly certain Aury had not been officially authorized to do so. The United States remained a neutral country, and Amelia Island was clearly in Spanish territory. "Until I get directions on how to consider the island of Amelia, and the people bound to that place," Elton complained, "it will be impossible to prevent either slaves or goods being

77 Graham to Elton dated July 1, 1817, in *Message from the President...Communicating Information of the Troops*, January 13, 1818, (De Krafft: Washington, 1818), 15.

78 Graham to Crowninshield, in ibid, 11.
smuggled.” Because the island was considered foreign territory and his brig could not negotiate the smaller inlets where slaves were smuggled, Elton could only board ships at sea—a task that proved difficult with only one ship.

Even if Elton were able to capture an illegal privateer, as he did on October 17, he could not prevent blatant smuggling. As he brought the captain of the captured slaver in for questioning, the illegal prize was accidentally left unguarded and the slaves were secreted off the ship and disappeared. While this was clearly a mistake on the Navy’s part, it nevertheless shows how active the smuggling networks were.

Slave smugglers also took advantage of the loopholes in customs collecting. Because boats under five tons were not required to have clearance papers, smugglers utilized small boats to transport slaves and prize goods into Georgia. Once they were across the border, it was impossible for government officials to track down the smuggled slaves. Despite Elton’s best efforts, additional slaves were brought into Fernandina and, ostensibly, into Georgia, although that particular slave ship was eventually delivered to St. Marys.

Elton found the border region between Florida and Georgia particularly difficult to control due to the delicate diplomatic situation among Spain, the U.S., and Spanish-American patriots. The vague orders from the Secretary of Navy compounded the

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79 Elton to Crowninshield Oct 10, 1817, Message from the President ... Communicating Information ... of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817. 28.

80 Elton to Crowninshield, Oct 19, 1817, in ibid, 38.

81 Elton to Crowninshield, November 15, 1817, in Message from the President ... Communicating Information ... of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817), 38.
problem and Elton was often unsure how to carry out his duties. On November 9th, tensions escalated between the U.S. Navy and Aury’s command. Elton’s orders were to “prohibit all vessels freighted with slaves from entering the river St. Mary’s,” but Elton soon found that even this became impossible.82 Just as they were doing in the Gulf of Mexico, the brazen privateers showed no qualms about firing upon U.S. ships. Without firm orders about how to proceed with this turn of events, Elton was once again forced to act as he saw fit.

The Spanish slave ship Tentativa, captured by the Mexican privateer Brutus, sailed into the Fernandina harbor with Elton already apprised of the contents of the cargo. Demanding that the ship be examined by U.S. Navy boats, one of Elton’s officers tried to board the ship. The ship fired upon the American cutter, which returned fire, but was unable to stop the Tentativa from reaching the safety of Fernandina harbor. Elton then sent a message to Aury, demanding that the ship be surrendered to the United States, but, with Fernandina being in Spanish territory, Elton had very little authority in this matter. The Tentativa was technically a legitimate prize, if Aury’s authority was recognized and, unless it could be proved that the ship was owned or sailed by Americans, the Navy could not legally claim her. Aury argued that the U.S. had fired upon his ship in Amelia Island waters, while Elton’s officer claimed that the scuffle began in neutral waters. Elton clearly had very little respect for Aury’s power as a representative of Mexico, writing “I have never been instructed... but I really think they hold the island by too precarious a

82 Graham to Crowninshield, July 17, 1817, in Message from the President...Communicating Information of the Troops, January 13, 1818, (De Krafft: Washington, 1818), 11.
tenor, to be yet so very tenacious of their rights.⁸³ When Aury did send over the Tentativa, its slaves had been removed and "she appeared in a very filthy state."⁸⁴ The incident did not prevent Aury from commissioning more privateers from Amelia Island.

**American Seizure of Amelia Island:**

In late 1817, President Monroe met with an advisory committee concerning his desire to invade Amelia Island to rid it of Aury and his followers. The relationship between the illegal slave trade and the prevalence of pirates in the Gulf and Caribbean made it such that federal action to protect U.S. commerce included efforts to suppress the slave trade. The Amelia Island incident was the federal government's breaking point. One of Monroe's justifications for his proposed invasion was that if Spain could not control its territories, the United States was compelled to do it instead.⁸⁵ Still, the United States had no desire to create an international incident by violating neutrality laws with Spain.⁸⁶

After receiving more reports about Aury's disregard for American sovereignty, the United States Congress decided to act. Aury's crew had fired on an armed U.S. vessel, which translated as a direct assault on the U.S. government. President Monroe, decided to invoke the Secret Act of 1811, passed by Congress authorizing the invasion of

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⁸³ Elton to Crowninshield, November 15, 1817, in Message from the President...Communicating Information...of Amelia Island and Galvezton, Dec 15, 1817, (Washington: E. De Krafft, 1817), 38.

⁸⁴ Ibid; see also Lowe, "American Seizure," 22.

⁸⁵ Fehrenbacher, Slaveholding Republic, 152, and Message from the President...Communicating Information of the Troops, January 13, 1818, (De Krafft: Washington, 1818).

⁸⁶ T. Frederick Davis, "McGregor's Invasion," 5; the Secret Act of 1811 was published in 1818, see U.S. Statutes at Large, III, 471.
Florida in the case of a security threat, and called for the occupation of Amelia Island. The Secretary of the Navy, B.W. Crowninshield, sent orders to Commodore J. D. Henley aboard the *John Adams* to sail immediately to St. Marys. In addition to his sailors, three other ships would accompany Henley. President Monroe authorized Henley to “remove from Amelia island, the persons who have lately taken possession thereof... without authority from the colonies, or any organized government whatever.”

This latter part was crucial, since the invasion of Amelia Island was an invasion of Spanish territory, a nation with which the U.S. claimed to be at peace. In order to proceed, Monroe knew that invasion of the island could not be seen as an aggression against Spain.

Citing the inability of Spain to regulate this territory and rampant slave smuggling in violation of the Act of 1807, Monroe argued that he was authorized by Congress to invade Amelia Island. Monroe hoped that by merely displaying force, Aury’s government would surrender, especially since the discord among the Fernandina leaders was well known. In addition, the Navy ordered its ships to “detain all prizes, or other vessels having slaves on board, as the presumption is strong, that they are intended to be smuggled into the United States.” This would be easier said than done.

On December 22, 1817 several U.S. ships entered the Fernandina harbor and demanded that Aury surrender. In response, Aury sent a letter in which he claimed to be “at a loss to ascertain ...[Bankhead and Henley’s] authority to interfere with our internal

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87 Crowninshield to Henley, November 14, 1817, in *Message from the President... Communicating Information of the Troops*, January 13, 1818, (De Krafft: Washington, 1818), 17.

88 U.S. Statutes at Large, III, 471.

concerns.” Knowing full well that the United States could not legally invade a nation with which it was at peace, Aury hid behind these laws, arguing smugly that the only law the United States could “adduce… is that of force, which is always repugnant to republican governments, and to the principles of a just and impartial nation.”

Aury felt he was legally justified in his claims and grossly underestimated U.S. interest in the Island, but he was unaware that Congress had specifically authorized the President to allow for the U.S. invasion of Florida in the event insurgents claimed it as their own. From the U.S. perspective, Aury’s invasion compromised U.S. negotiations with Spain over the acquisition of Florida. Monroe’s administration used the argument that the U.S. had invaded Florida in order to prohibit illegal slave importations as an attempt to defend government action. Aury’s “surprise” at the U.S. invasion was grounded in his belief that the United States had no authority to control territory outside its jurisdiction and that the federal government would not willingly antagonize Spain. In his response to Aury’s letter, Henley refused to capitulate, and Aury admitted surrender on December 23. Still protesting U.S. action, Aury allowed the troops to enter Fernandina and Bankhead and Henley began their attempts to control the island.

Aury took his time to abandon the island, remaining in Fernandina for over a month. Henley and Bankhead experienced difficulty in maintaining order and, because of the poor condition of Aury’s ships, were delayed in removing Aury’s black troops from the island. Meanwhile, the sailors from the privateer vessels, Bankhead reported,

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90 Aury to Bankhead and Henley, Dec 22, 1817, in ibid, 8.

91 Graham to Crowninshield, July 17, 1817, in ibid, 11.
“whom it is difficult to restrain from violence and excess, are still here.”\textsuperscript{92} The arrival (and quick departure) of General Gaines did nothing to restore order.\textsuperscript{93} Henley complained that he was given no instructions on how to act, considering he had just, in fact, invaded a foreign territory.\textsuperscript{94} Communication between Amelia Island and the Navy was sporadic at best and the uncertain position of the United States as an invading nation left large holes in Henley’s authority. At the same time in Washington, government leaders greatly underestimated the extent of the conflict, submitting orders to Henley to proceed to the Gulf of Mexico even before he arrived at Amelia Island. Henley would still be at Amelia Island as late as March, four months later, where he wrote the Secretary of Navy asking “how far the commissions granted by Aury or McGregor, to vessels… are to be recognized.”\textsuperscript{95} Still unclear if their connections to South America were legitimate, Henley lacked the proper authority to detain the privateers that still kept sailing into Amelia Island waters.

Nearly a month after Aury officially turned over Fernandina to the United States, Aury and his officers evacuated the island. Despite Aury’s reputation for piracy, despite his being suspected of attacking U.S. ships, and despite being a suspected smuggler, the United States had no authority to prosecute him in Fernandina. By the time a

\textsuperscript{92} Bankhead to Crowninshield, December 27, 1817, in ibid, 14. Also Bankhead to Crowninshield, December 27, 1817, in ibid, 14; Henley, Dec 24, 1817, in ibid, 18.

\textsuperscript{93} Henley to Crowninshield, December 30, 1817, in ibid, 19. Also: Henley, Dec 24, 1817, in ibid, 18;

\textsuperscript{94} Henley to Crowninshield, December 30, 1817, in ibid, 19.

\textsuperscript{95} Extract of a letter to a gentleman in DC dated Baltimore, July 30, 1817, in Message from the President ...Relating to the Occupation of Amelia Island, (De Krafft: Washington, 1818), 6.
Congressional inquiry was made into the affair, Aury was long gone.\textsuperscript{96} Within months, he had set up a new base at New Providence, off the coast of Honduras, while the United States maintained a larger Gulf Coast squadron in order to protect merchant ships from the South American pirates.

The repercussions from Aury's invasion had not ceased, however. Reports of illegal slave trafficking continued after the U.S. seizure of Amelia Island and its increased surveillance in the Gulf. By April, naval ships sent to Florida finally sailed to the Gulf with the orders to patrol a territory so vast that even the addition of four ships had little effect on the rampant smuggling. These smugglers, claiming commissions from Aury or Jean Lafitte, had no qualms about firing on U.S. merchant and naval ships, and their ability to shift trading locations confounded officials.\textsuperscript{97} In one instance, a collections cutter succeeded in capturing an illegal slave smuggling operation, only to have the pirates attack and reclaim their prize.\textsuperscript{98} The slaves were taken to plantations to the west of Galveston and out of U.S. jurisdiction. Customs agents not only lacked the power to enforce U.S. laws but also, as in the case of the customs agents in New Iberia, Louisiana, sometimes had not received pay for several months. Even after the passing of more stringent slave trade and commercial laws, the government's ability to capture illegal slave traders did not improve significantly.

\textsuperscript{96} See both Charles H. Bowman Jr., “Vicente Pazos and the Amelia Island Affair, 1817,” \textit{The Florida Historical Quarterly}, Vol. 53, No. 3 (Jan., 1975), 273-295 and “Vicente Pazos, Agent for the Amelia Island Filibusters, 1818” in ibid, 428-442; see also and 15\textsuperscript{th} Congress, 2\textsuperscript{nd} session, No. 309, “Independent Governments of South America, Foreign Relations.” Aury died a few years later in New Providence after being thrown from a horse.

\textsuperscript{97} Chew to Crawford, April 17, 1818, in House... Extracts from Documents in the Departments of State, of the Treasury, and of the Navy, in Relation to the Illicit Introduction of Slaves, January 19, 1819. (Washington, De Krafft, 1819), 7.

\textsuperscript{98} Misc letters in ibid, 8-11.
Perhaps the most compelling evidence explaining why U.S. leaders suddenly were willing to expend resources on stopping the slave trade into American territory comes from accounts referring to the importation of slaves from the West Indies. Convinced these slaves were more violent and willing to foment insurrections, many states enacted anti-slave trade laws.\textsuperscript{99} William McIntosh, a customs collector in Georgia, argued in March 1818 that “African and West India negroes are almost daily illicitly introduced into Georgia.”\textsuperscript{100} It was reported that slave importers (including one from New York) were creating a “Botany Bay” of the southern United States, by allowing black criminals to be imported.\textsuperscript{101} Desire for slave labor competed with the fear of insurrection.

The fact that laws were in place to determine what to do with captured Africans did not mean the federal government was acting for the slaves’ benefits. In many states it was quite the contrary. In Georgia, illegally imported Africans were to be put in the care of the Marshal or Governor, who would then sell them, with the profits going to the state. Sometimes, the officials receiving the slaves were as corrupt as the slave traders themselves. It is nearly impossible to document all transgressions concerning officials and violations of anti-slave trade laws, particularly of those who “merely” turned a blind eye to slaving operations. Some of these routes passed through Indian territories, where

\textsuperscript{99} W.E.B. Du Bois was particularly convinced that the Haitian Revolution sparked anti-slave trade legislation.

\textsuperscript{100} Du Bois, \textit{Suppression of the Slave Trade}, 114. McIntosh was a Creek chief from Scots-Irish and Creek heritage. He is believed to have used his influential status to circumvent U.S. importation laws. He had led a group of “Friendly Creeks” to assist General Andrew Jackson in the taking of Fort Gadsden (Negro Fort) in 1817. See Watson Jennison, \textit{Cultivating Race}, 179-180.

\textsuperscript{101} Du Bois; also Henley in \textit{Letter from Secretary of Navy... relating information... slaves into the United States}, Jan 7, 1820. (Washington: Gales & Seaton, 1820), 5 concerning British ship Neptune.
agents, like General David Mitchell, were all too willing to assist in smuggling operations. His case was brought to the attention of the federal government and illustrates the complex network of smuggling operations into the United States.

American Complicity:

On the other side of the St. Marys river, David Mitchell had created a well connected network of slave smugglers, using his authority as a Creek agent to bring the Amelia Island slaves into Alabama territory. Mitchell, once the Governor of Georgia, was an Indian agent in southwestern Georgia in 1817 when McGregor and Aury captured Amelia Island. A slave owner himself, Mitchell was willing to help other slave owners purchase slaves. Mitchell allowed the Indian agency to be used by slave dealers in their transport of newly imported slaves into the Alabama territory. His cooperation with slave traders illustrates the level of complicity of some government officials. In October 1817, a prize ship carrying one hundred and ten slaves sailed into Fernandina, where they were purchased by William Bowen, an agent for a Georgian businessman. These slaves were then taken in two groups across the Florida border into Georgia where they were held at the Creek nation agency, supposedly free from the hand of U.S. law. Eventually an investigation into the smuggling of the Fernandina slaves was made, and Mitchell was implicated, but no formal prosecution took place.

Mitchell's role in the illegal importations is convoluted and it is difficult to determine exactly what he did or did not sanction.\(^\text{102}\) Clearly he was turning a blind eye to the importations, while he benefitted from the slave labor, and sought to hide several

slaves (presumably ones he had purchased) when they were seized. By the time an investigation was launched and Mitchell was taken to court, the statute of limitations had expired. The jury in the circuit court located in Milledgeville, where Mitchell had considerable influence, refused to indict him, although the judge scolded him for his actions. Mitchell was removed from his position as Indian agent by the Governor of Georgia. He later served as an inferior court judge, and, in 1836, he was elected to the state Senate. Although one historian argues that this was a "test case for the non-importation laws"103 and thus an important step forward, the lack of federal jurisdiction over the fate of the Africans ultimately resulted in the enslavement of more Africans in America. Despite the "tarnishing" of Mitchell’s reputation by this investigation, the smuggling of slaves from Florida continued through the Civil War.

David Mitchell’s case shows the reluctance of state and federal officials to act unless infractions against the existing slave laws were blatant. It would take over four years for the federal government to make a full investigation into Mitchell’s role in the smuggling in Georgia, although he had been reported in early 1818. Georgia was the last state to prohibit the slave trade, excepting the four years before 1808 when South Carolina reopened the trade. Georgia’s rapid agricultural expansion fueled the demand for slaves. At the same time, Georgia’s officials could not ignore the fact that confiscated slaves could be sold by the state for profit. This was enough incentive for the state to halt Mitchell’s operations, although for the slaves captured, hundreds more were no doubt successfully imported. Mitchell’s actions however, together with those of the

patriot/pirates at Galveston and Amelia Island, brought increased attention to the problem of illegal slave smuggling. This would lead directly to the passing of stricter anti-slave trade and anti-piracy laws.

The Supplementary Slave Trade Acts of 1818-1820:

The Amelia Island affair revealed to the U.S government how powerless it was to control smuggling and piratical operations along its southern borders. Most of the government’s inaptitude was derived from its inability to legally arrest South American affiliated freebooters. It was clear that the U.S. needed to strengthen its anti-piracy laws. If these laws were to include additional slave trade laws, the federal government could control more commercial activities and justify a stronger border patrol. After 1818, the federal government did try to improve the effectiveness of the suppression of the slave trade to the United States, as a direct result of what they saw as a threat to the security of U.S. commerce.104 Between 1818 and 1820, three new regulations were enacted to support the Act of 1808 and, as Congress deliberated on how best to improve the non-importation act, information was collected to determine the effectiveness of the 1808 law. Reports from the Secretaries of the Navy and the Treasury demonstrated that there was much left to be desired.

104 The United States was less concerned about the slave trade to foreign ports. It is interesting to compare the U.S. attitudes towards the foreign slave trade (when the interstate slave trade was growing) to the Act of 1794, which concerned itself entirely on the foreign slave trade and not on the domestic trade as it was prohibited by the Constitution. The Act of 1794 was enacted during a period of debt, struggling commerce, and amid a strong demand for African slaves. Just as with the Act of 1794, the Supplemental Acts were an expansion of federal authority, particularly in the protection of commerce, even though these Acts focused on different aspects of the trade and even though the federal government appeared more ambivalent towards the slave trade to foreign ports in 1820 than it did twenty-five years before. The issue of what appears to be a shifting outlook towards the trade is understood when one reflects that U.S. policy against the slave trade primarily was governed by the protection of commerce and assertion of federal power.
Because there was no federal record of captured slaves, local customs agents were responsible for their own accounting. This made the inquiry into the actual numbers difficult, and still frustrates many historians. The Secretary of the Treasury, William H. Crawford, a Georgian and member of the American Colonization Society, wrote to the Speaker of the House, reporting that most slaves were sold to benefit the state, although he did mention that the slaves were supposed to be turned over to the colonization society in Georgia.\textsuperscript{105} In a letter written to Crawford, Joseph Nourse, from the Register’s Office, claimed that, according to the records kept in the office, not one ship had been condemned under the Act of 1808.\textsuperscript{106}

In Alabama, regulation was even more disorganized. The U.S. Marshal in Alabama, John Hanes, claimed that while illegal slaves were supposed to be put in his custody, to limit expense, these slaves would be farmed out to nearby plantations. Aware of the extent of the corruption, the marshal declared that it was friends of the judge who housed the slaves—men who also had connections to Cuba. Without hope of a successful verdict, Alabama Marshal Hanes believed the slave smugglers would maintain control of their cargo.\textsuperscript{107} Meanwhile, the one revenue boat in use in Mobile, although it had just had repairs, was in danger of sinking, and the collector did not have the funds to

\textsuperscript{105} Crawford to House Speaker, January 20, 1819, in \textit{Letter from Secretary of the Treasury Transmitting... Ships Engaged in the Slave Trade}, (Washington: De Krafft, 1819), 3.

\textsuperscript{106} Nourse to Crawford, Jan. 7, 1819, in ibid, 5.

\textsuperscript{107} Hanes to Anderson, July 22, 1818, in ibid, 6. This was the case of the \textit{Merino, Luisa, and Constitution}, of July 1818.
purchased another. The harbor of Mobile was at risk of not having a customs vessel at all.\footnote{\hspace{1em}Lewis to Crawford, November 15, 1818, in ibid, 8.}

The events of the previous year did resonate in Congress. The destruction of U.S. property and the threat to commerce caused by the freebooters and pirates convinced legislators, that tougher federal laws needed to be enacted. Legislative acts passed in the three years after the Amelia Island affair reflected Congress’s goals to strengthen federal law, particularly as it became clear the extent of illegal slave smuggling.\footnote{\hspace{1em}Du Bois quotes extensively the remarks of legislators, judges, and other officials who were concerned about the number of slaves imported and the participation of Americans in the trade, see 123-125.} This increased attention led to the passing of stricter anti-slave trade laws—the last to be passed until the Civil War. In the 1818 Act, the maximum fines and jail sentences for complicity in the slave trade were reduced, however the burden of proof was shifted to the defendant, who would have to prove the slaves were not illegally imported. Additionally, the Slave Trade Act of 1819 “changed the regulation of the trade”\footnote{\hspace{1em}Finkelman, “The American Suppression of the African Slave Trade,” 464, see also, Du Bois, \textit{Suppression of the Slave Trade}, 249-50.} by rewarding any informer who brought about the capture of illegally imported slaves.

The Act also called for the imported slaves to be “re-colonized” in Africa rather than be sold in the United States. Previously, the conflict between state and federal laws had led many states to regulate slave captures as they saw fit. Even with these new laws, officials still often remained hesitant to allow the federal government to return valuable slaves to Africa. In 1822, for example, the \textit{Guerrero} wrecked off the coast of Florida, and, eventually, the U.S. government recovered 121 slaves. These slaves were hired out...
to plantation owners while their case was pending and, as Florida was still a territory, the federal government could not agree on a proper course of action, although according to territorial law the slaves were “entitled to their freedom.” The colony of Liberia, in Africa, eventually received recaptured slaves, but unhealthy conditions and poor regulation kept the colony from thriving.

The most radical Anti-Slave Trade Act, on paper, was the Act of 1820, which declared that participation in the slave trade was equal to an act of piracy. This applied both to U.S. citizens participating in the trade and foreigners aboard a U.S.-owned ship. The original statute was aimed at expanding the definition of piracy—a direct consequence of the Spanish Wars for Independence and the incidents at Galveston and Amelia Island. The goal of the 1820 Act was to strengthen federal protection of commercial interests, allowing anyone suspected of piracy to be brought to the United States and tried in U.S. courts, the “conviction thereof... be punished by death.”

During the next session of Congress, the Act was amended to include participation in the slave trade as an act of piracy, although it only extended to the captain and crew of a slave vessel, which would have included all of Aury and Lafitte’s privateers. Now, these slavers could be put to death for their crimes, although no one was until the onset of the Civil War. The most significant aspect of this act is that the federal government used the prohibition of the slave trade to strengthen U.S. federal power in negotiations with


112 Pub.L. 15-77, 3 Stat. 510, enacted March 3, 1819; this Act originated with President Monroe’s call for a Congressional committee to define piracy at the height of the Amelia Island affair on December 15, 1817, see motion in Senate Journal. 15th Cong., 1st sess., 15 December 1817, 33.

other nations, as in its justification for invading Spanish-Florida. This assertion of
national sovereignty was supported by Northern merchants and Southern slave owners
alike. Even though the demand for slaves in the expanding southwest was high, most
slave owners believed that the growing interstate slave trade could both meet the demand
and protect them from the importation of "undesirable" slaves from the West Indies. For
these reasons, both the anti-slave trade and pro-slavery factions within the U.S.
government could support stronger federal laws, all for the sake of protecting American
interests.\(^{114}\)

These Anti-Piracy Acts increased federal appropriations for naval surveillance in
the Gulf of Mexico, creating both a federal alliance with the American Colonization
Society to "repatriate" captured slaves and a squadron to patrol American ships off the
coast of Africa. Most significantly for the suppression of the slave trade, the Slave Act
stipulated that informers could reap huge rewards for aiding in the capture of illegal
slaves.\(^{115}\) While the law had great potential to be effective, enforcing it proved,
particularly as the slave trade itself moved south of the Equator. After 1820, Brazil
received more slaves than any other region. Americans continued to participate in the
trade, slipping through loopholes in the law and the many blind spots in the slave patrols.

Events at Amelia Island and Galveston during the summer and fall of 1817 do
show an effort on the federal government's part to crack down on slave importations, as

\(^{114}\) This coincided with John Quincy Adams's policy of rejecting British demands to allow for the
mutual right-of-search of all British or American vessels. This will be discussed in greater detail
in the following chapter.

an extension of the federal government’s protection of legal commerce from freebooters and pirates. Newspaper accounts covering the Amelia Island occupation revealed to the general public how ineffective the Act of 1807 actually was and how complicit American citizens were in the extent of the smuggling from Spanish Florida. The Madison and Monroe administrations knew long before McGregor and Aury’s occupation both that Spanish Florida was a haven for slave smugglers and that the law was ineffective, but there was little they were willing or able to do. Because few Americans at this time supported the slave trade into the United States, primarily because they feared the influx of West Indian slaves and already had a ready supply of American-born slaves, the federal government was able to enact legislation to control the slave trade into the United States. Enforcement of these laws would be a different beast altogether. Only when slave smuggling became tangled up in violations of U.S. revenue laws and increased attacks against U.S. merchant ships, did the federal government move towards better suppression of the slave trade.

It would take another year before Spain finally agreed to cede Florida to the United States, and another two years after that before the U.S. took full possession of it. The United States Navy proved to be effective at reducing the number of pirate attacks in the Gulf, thus protecting U.S. commerce and preventing slave importations into the U.S., but its efforts stopped short of suppressing American participation in the slave trade. Although more ships were sent to patrol the southern coasts for slave ships, the squadron was too small to be effective, and even once slave ships were boarded, these smugglers found ways to circumvent the laws, both while at sea, and, if captured, on land. At the same time, new markets opened in Brazil, and the bulk of the slave trade moved south,
away from primarily British attempts to abolish the trade north of the Equator. While demand for slaves continued, the illicit slave trade would continue to strengthen.\textsuperscript{116} Once piracy in the Gulf seemed controlled, interest in preventing the slave trade waned. The United States soon called back its slave trade patrols and, at the same time, continued to fight British pressure to sign right-of-search treaties, a subject which will be discussed in depth in the following chapter.

\textsuperscript{116} For additional cases involving the landing of slaves in Florida see \textit{Jeune Eugenie, Caroline, Emperor, Wanderer}; see also Gould, \textit{Among the Powers of the Earth}, 173-177.
CHAPTER III

"MAKING SLAVES OF OURSELVES"¹: THE UNITED STATES, GREAT BRITAIN, AND THE RIGHT-OF-SEARCH

The United States emerged as a self-confident, sovereign nation during the second quarter of the nineteenth century. No longer as dependent on other nations to assert its independence, the nation nevertheless continued to spar with Great Britain over sovereignty on the high seas. Maintaining its maritime independence trumped all other considerations, including abolition of the slave trade. Problems between Great Britain and the United States had existed since the Revolution, but the main cause for crisis that caused an escalating diplomatic crisis in the 1830s and 1840s centered on the U.S. refusal of a mutual right-of-search of vessels on the high seas.

The United States refused to cooperate with foreign nations in suppressing the slave trade because maintaining the nations' maritime independence took precedence. Illegal smuggling from Florida and the Gulf Coast motivated the United States to increase its naval patrols along the coast and implement the Supplementary Acts, which reduced the introduction of slaves into the United States. In the case of the Supplementary Slave Trade Acts, regulations against the slave trade reinforced the U.S. government's goals to secure its borders and prevent foreigners from circumventing

¹ John Quincy Adams, quoted in Don Fehrenbacher, The Slaveholding Republic (London: Oxford University Press, 2001), 159.
customs regulations. Halting the foreign slave trade, however, remained a low priority especially when its suppression involved surrendering the U.S.’s hard-won maritime rights. Utilizing legal and constitutional justifications to deny Britain, the federal government refused to agree to a mutual right-of-search policy. This refusal led to the increased use of the American flag by slave traders, contributing to a vast expansion of the foreign slave trade and a rise in the number of Americans affiliated with the slave trade, and causing the failure of British or American efforts to stop the slave trade. By the 1840s, most slave ships had some sort of American involvement, either in their ports of origin, in the seamen who worked them, to those who financed the trip, in the flag the ships flew. Such would be the consequences of American nation building.  

The right-of-search policy on the high seas has been a source of contention for hundreds, if not, thousands of years. Among European nations, it was generally understood since the fourteenth century that individual states should enjoy sovereignty over their own vessels on the high seas and thus be exempt from foreign search and seizure, except during times of war. Britain often contested this idea during the eighteenth and nineteenth centuries because of its stronger naval force.  

In the early national period, the U.S. took issue with the right-of-search because it clashed with international law-a tacit, mostly unwritten code of conduct among European nations that also sanctioned the slave trade. In essence, international law stipulated that, in peacetime, sovereign nations had the right to enforce their own laws on the high seas.

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without the fear of foreign intervention. Henry Wheaton, a lawyer and diplomat from Rhode Island, compiled a digest of maritime laws in 1815 that became instrumental in supporting the United States's stance towards Britain's policies. Arguing that "the right of visitation and search is a right of belligerent powers," Wheaton brought legal support to the U.S.'s protests against peacetime right-of-search. The issue remains contentious to this day. The current U.S. policy under the U.N. Freedom of Navigation agreement, which the U.S. has signed but not ratified, remains virtually identical to the policy of the early republic aside from new provisions on conservation and scientific research. Now, just as in the nineteenth century, the U.S. accepted the international law of the seas, while aiming "to enhance national and homeland security by protecting U.S. maritime interests," namely, ensuring the freedom of the seas.

Problems between the U.S. and Britain over the right-of-search policy began before the ink on the U.S. Constitution was dry, but the conflict intensified in the early nineteenth century. Emerging victorious from the Napoleonic Wars, and having proved its prowess at sea, Britain favored the right-of-search policy, especially because the Royal Navy had become the strongest naval power on the Atlantic Ocean. Britain benefitted from enforcing a right-of-search policy and regulating neutrality laws, contraband, and

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4 Henry Wheaton, *Digest of the Law of Maritime Captures*, (1815), 94. Wheaton argued that the case of the *Amédée* showed that the consular tribunals would uphold the laws of the violator's own country (in this case, the Act of 1807), but it also showed that slave ownership was legal only through positive law and therefore one could not assume that slavery was part of natural law, 227.

the trading missions of other nations. No other nation bordering the Atlantic Ocean possessed a maritime force that matched the Royal Navy.  

Britain could only enforce the right-of-search policy during peacetime through individual treaty negotiation. Turning its sights to eliminating the slave trade, "at critical moments, Britain was forced to deploy its 'hard' powers, as well as its domestic law and courts, to bring reluctant treaty partners back into the legal fold." British foreign ministers were successful in negotiating several international treaties, the result of which "in practice, more often than not, was British inspection of non-British vessels," because of Britain's superior naval power. This "inspection" was, ultimately, unacceptable to Americans.

The United States also quibbled with Britain's acknowledgment of a distinction between the right-of-search as a right determined through treaty and the right of visitation as a natural right for identification purposes. The British Navy was accustomed to boarding ships of any nation to inspect their papers and determine nationality. For the United States after the War of 1812, British visitation and seizure were essentially

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7 Jenny Martinez, *The Slave Trade and the Origins of International Human Rights Law* (New York: Oxford University Press, 2012), 14. See also *Charleston City Gazette*, 08-07-1821. Search and seizure was a belligerent right during wartime, therefore it was only during peacetime that a treaty was necessary.


The U.S. consistently refused to allow British vessels to board any American vessel and regarded any visitation as a violation of national sovereignty. In reality, British and American vessels likely visited each other regularly, but any time an American captain protested a British visitation, an in-depth inquiry was always undertaken by the U.S. Navy Department.\textsuperscript{11}

The heart of British abolitionist goals involved the right-of-search policy. Considered only a belligerent right under international law, Britain would eventually sign dozens of treaties with other nations allowing for a peacetime mutual right-of-search for suspected slave ships under the auspices of ending the slave trade.\textsuperscript{12} The United States would be one of the last to sign such a treaty and then only in 1862 during the Civil War. The root cause of America's adamancy against the mutual right-of-search stemmed from the Royal Navy's seizures of American ships and sailors during the Napoleonic wars and the belief that Great Britain was overstepping her boundaries. During the brief period of 1808 to 1812, the U.S. tacitly allowed British ships to seize American slave vessels, but this would change when the two nations went to war. After the War of 1812, American mistrust of the British remained. While Britain increased its efforts to suppress the slave

\textsuperscript{10} Again, while the United States did tacitly uphold rulings in the British Admiralty courts that the British could seize illegal U.S. slave ships as a belligerent right such as in the case of the Amedie, after the War of 1812, the United States would explicitly bar all British vessels from searching any American ship. See H.E.D. 7, 36:2, Blythe to Appleton, May 8, 1858.

\textsuperscript{11} David Canney discusses the frequent visitations between the British and American ships off the coast of Africa in his book, \textit{Africa Squadron} (Washington, D.C.: Potomac Books, 2006). The next chapter discusses this more thoroughly. This chapter discusses several British visitations before 1842.

\textsuperscript{12} Matthew Mason, "Keeping up Appearances," 813. Belligerent right refers to rights claimed by one nation when engaged in war with another nation. These rights justify attacks on shipping, for example, and offer a relaxed interpretation of search and seizure policies that would be considered unacceptable if the two nations were at peace. See Sir Travers Triss, \textit{Belligerent Right of Search on the High Seas}, (London: Butterworths, 1884).
trade after the Napoleonic wars, the United States refused to allow British ships to search American vessels during peacetime.

Historians have long debated Great Britain's motives in its crusade against the slave trade. Some scholars assert that Britain approached abolition with entirely humanitarian principles, while others hold that abolition was pushed forward to protect British commercial interests in the face of a declining slave system in the West Indies and increasing industrialization. In wartime, the seizure of slaves and the capture of slave ships had long been a measure to hinder enemy productivity and Great Britain used this to its advantage against its former colonies both during the American Revolution and the War of 1812. As the abolition movement in the United Kingdom gained strength, some plantation owners turned to the so-called apprentice system whereby Africans captured aboard slave ships were enrolled in an "apprenticeship" in the West Indies. Working for room, board, and for the cost of their middle passage, many of these indentured servants did not live long enough to enjoy their freedom. One 1808 pamphlet encouraged the use of Chinese immigrants on West Indian plantations, declaring that the Chinese were suited to the environmental conditions and would enjoy a better standard of living on a

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plantation than in China.\textsuperscript{15} U.S. newspapers were quick to criticize Britain for its apprenticeship practice.

On two occasions, the United States almost negotiated a limited right-of-search treaty with Great Britain: 1806 and again in 1824. Both of these negotiations ultimately failed. After the Slave Trade Act of 1808 went into effect, the U.S. government begrudgingly submitted to the British seizure of American slave ships, but this was due to British claims of belligerent right-of-search, not solely because of the existence of U.S. laws. Once again neutrality issues would plague Anglo-American relations and directly affect U.S. policy and U.S. efforts to stop the slave trade.\textsuperscript{16}

**The Failed Mission of James Monroe and William Pinkney**

The first treaty negotiation directly involving the regulation of the slave trade occurred two years before the federal slave trade moratorium expired in 1808. Because of neutrality crises erupting during the Napoleonic wars, relations between the United States and Great Britain were strained, at best. American demands for compensation for the slaves carried away by the British during the Revolution had gone unheeded. Jay's Treaty, signed in 1794, granted American ship owners compensation for lost vessels.


Still, the British Royal Navy continued to press American seamen into service, a practice that increasingly irked Americans as the United States matured as an independent nation. Even though Jay's treaty resolved some important issues left over from the Revolution, Jefferson and his followers nevertheless were disappointed with the final negotiation. When the treaty expired in 1804, Jefferson, now President, was ready.

Jefferson sent James Monroe and William Pinkney to London to negotiate the terms of a new agreement. Monroe and Pinkney's main goal was to create a broad definition of neutral maritime rights in the wake of the Napoleonic wars. Many Americans had felt that Jay's treaty did not protect American interests and were interested in pressing for more stipulations to protect American citizens and commerce. Jefferson was "willing to sanction a limited treaty with England covering neutral rights—impressment, blockades, contraband, the re-export trade, and the right of search." In other words, the United States was willing to surrender some maritime freedom on the high seas in exchange for continued goodwill from the British, the result of which would, in turn, protect American commerce. Because of British maritime strength and the U.S. dependence on British imports, Jefferson had little choice in negotiating a treaty at that point.

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17 Hickey, Donald R. "The Monroe–Pinkney Treaty of 1806: A Reappraisal". *William and Mary Quarterly* 44 (1), 1987, 73.

18 Bradford Perkins asserts that the British, in effect, controlled American commerce, because of its strong naval power and various blockades during the Napoleonic wars. Both Jefferson and Madison were fairly miserable diplomats, using non-importation as a "mild threat" to Britain, and all but ignoring the problem of British impressment (also known as pressing men into the service of the Royal Navy). See Bradford Perkins. "Jefferson and Madison: The Diplomacy of Fear and Hope." The Creation of a Republican Empire, 1776–1865. Cambridge University Press, 1993. *Cambridge Histories Online*. Cambridge University Press. 17 October 2012, 110, 118, and 122.
From the British perspective, the Americans continued to profess neutrality while aiding French commerce. One of the problems the British had with the American maritime trade during this period stemmed from the U.S.'s lucrative export trade. Americans, claiming neutral rights during wartime, could transport goods from Europe, sail to an American port, then proceed to the West Indies to sell those goods, thus circumventing the British belligerent blockade. This trade earned American merchants upwards of $53,000,000 in 1805 alone. The British government felt that this was a violation of wartime commerce, benefitting the Americans who they regarded as their commercial rivals. In addition, the British, desperately in need of able seamen, argued that British subjects were disguising themselves as Americans aboard U.S. ships in order to avoid service to the crown. The British claimed the right to search all vessels in order to confiscate enemy contraband and to sniff out Royal Navy deserters.

Meanwhile, Monroe and Pinkney worked with British ministers to iron out the treaty, heedless of the downwardly spiraling U.S. public opinion of the British. In December 1807, the British-signed Monroe-Pinkney treaty was rushed back to Washington for President Jefferson's review. The treaty did protect U.S. commercial interests in that it narrowed the wartime contraband list, lowered duties for American vessels arriving in British ports, and extended American territorial waters from three miles to five. The treaty stipulated that the United States would offer up British seamen to the Royal Navy, and, importantly, allow British naval ships to board U.S. vessels to determine nationality. This right-of-search provision was actually quite limited in practice and would have in actuality decreased the prevalence of the British seizure of American vessels. The treaty also stipulated that both countries would agree to cooperate
in the slave trade's suppression since both the United States and British governments aimed to prohibit the illicit trade after 1808.\textsuperscript{19}

In Congress, a non-importation bill was being debated which was intended to prevent Great Britain and France from selling their goods in American markets. Jefferson supported this bill, but postponed its passage, waiting on the outcome of the treaty negotiations with Britain.\textsuperscript{20} While the non-importation bill was being debated, the crisis of impressment reached new heights. On June 22, 1807 the \textit{H.M.S. Leopard} attacked, then boarded, the American frigate \textit{Chesapeake}, seizing four seamen—three of whom were later proven to be American citizens. One sailor was killed and eighteen wounded in the attack. Although the British government made an inquiry into the incident, Parliament failed to apologize. The American public was now in an uproar against Britain's "atrocious act of aggression."\textsuperscript{21} The \textit{Chesapeake} incident made any negotiations with Britain over the right-of-search policy an impossibility. The \textit{New York Evening Post} wrote that the incident was "worse than Whitby" who was the captain on trial in the \textit{Essex} case.\textsuperscript{22}


\textsuperscript{20} Hickey, "Monroe-Pinkney Treaty," 82; Spivak, \textit{Jefferson's English Crisis}, 139-44.


\textsuperscript{22} See \textit{American State Papers}, For Rel Vol 3, Pub. No. 205, pp. 6-23; there were hundreds of articles printed in the months after the \textit{Chesapeake} expressing public outrage. See for example: \textit{New York Evening Post}, 36/291807.
Because of escalating tensions between the U.S. and Britain, when Jefferson received the Monroe-Pinkney treaty, which provided for a limited mutual right-of-search, the President could not sign it as written. Worse than allowing a limited right-of-search, the proposed treaty did nothing to prevent the impressment of American seamen. According to the opposition, allowing Britain the right to search American vessels impinged upon the sovereignty of the American flag on the high seas, as had clearly been demonstrated with the Chesapeake. Jefferson rejected the Monroe-Pinkney treaty, submitted revisions which were promptly dismissed by the now Tory-led Parliament, and signed the much more radical Embargo Act of 1807, shutting down all trade with Britain and France. The British practice of searching American vessels would be a sticking point for decades to come and, more immediately, one of the causes of the War of 1812.24

23 Gould, Among the Powers of the Earth, 166. For a thorough discussion of impressment and the Monroe-Pinkney treaty see Dumas Malone, Jefferson the President, (Boston: Little, Brown, 1974), 399-402, 409; and Bradford Perkins, Prologue to War, 123-139.

24 Hickey, “Monroe-Pinkney Treaty,” 88, see also Spivak, Jefferson’s English Crisis for more on the Treaty and the Embargo. The U.S. begrudgingly allowed the British Navy to seize American slave ships until the outbreak of the War of 1812. Madison conceded this right only as it pertained to the slave trade. After 1812, American opposition to the right of search would include that of slave ships. See Gould, Among the Powers of the Earth, 169-70.
As an infant nation, the United States had continually seen the strength of the British navy as a threat to its own national sovereignty. In 1795, George Washington wrote of his concerns about British power on the high seas, condemning the "domineering spirit of Great Britain."\textsuperscript{25} By Madison’s presidency, the United States believed that Britain was grossly overstepping its boundaries. In his speech to Congress recommending a declaration of war on June 1, 1812, James Madison stated:

British cruisers have been in the practice also of violating the rights and the peace of our coasts. They hover over and harass our entering and departing commerce...and have wantonly spilt American blood,...our commerce has been plundered in every sea, the great staples of our country have been cut off from their legitimate markets, and a destructive blow aimed at our agricultural and maritime interests....\textsuperscript{26}

British violation of commercial agreements, neutral rights, and the protection of citizens under the American flag was just cause for a declaration of war, Madison argued. Congress agreed. American officials estimated that thousands of American citizens had been pressed into British service and hundreds of American vessels boarded by the Royal Navy. The United States had to be respected as an independent nation, pro-War Americans argued, and it was worth a "second revolution" to ensure these rights. Britain's power had to be checked, lest the United States find herself once more under the ruling thumb of Parliament.


\textsuperscript{26} James Madison's Message to Congress, June 1, 1812, Library of Congress, \url{http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=024/llac024.db&recNum=221}, Accessed February 23, 2012.
Disagreements between the United States and England concerning British removal of slaves during both the American Revolution and the War of 1812 continued long after peace was declared in 1814. Correspondence between John Quincy Adams, then the U.S. Ambassador to the United Kingdom, and Viscount Castlereagh, Britain’s Foreign Minister, largely concerned compensation for American “private property” and the British denial of its violation of the law of nations concerning a flag of truce. After the War of 1812, United States continued to be convinced that, if left unimpeded, England would control the seas, and, by default, maritime commerce. Because of this, American ministers, including those who were against the slave trade, were reticent to allow any sort of British commercial privilege on the high seas even at the expense of slave trade suppression.27

The Treaty of Ghent, which ended the War of 1812, confirmed in writing that both the United States and Great Britain condemned the traffic, but no cooperative agreements were put in place between the former foes.28 With the war over, the United States government turned its focus to domestic affairs and internal nation-building. The War of 1812 did prove to the world that the United States would endure, and, for Americans, the war proved to be a uniting force, aiding in the creation of national identity and patriotism, despite the fact that it was merely “sheer luck that the union was not

27 See for example: “From the Franklin Gazette,” *City Gazette*, 07-19-1823.

destroyed.” The United States thus emerged from the war with stronger negotiating powers on the international scene.\textsuperscript{29}

Under James Monroe’s administration, the suppression of the slave trade was a much lower priority than that of making internal improvements to the American transportation system and manufacturing, although personally he supported ending the slave trade.\textsuperscript{30} According to Monroe, the expanding yet still immature United States needed to focus inwardly on its own affairs, while at the same time maintaining a watchful eye on nearby territories, namely South America and the new, independent nations forming there. Monroe’s policy would extend towards the regulation of the foreign slave trade and diplomatic relations with Britain. England’s continued searching of American vessels was, in Americans’ view, a point of outrage and a flagrant disregard for American independence and liberty.\textsuperscript{31} The American conviction that England was aiming to control the seas, coupled with the inability of the United States and Great Britain to compromise and the increasingly divergent opinions concerning slavery, led to considerable discord over the policing of the slave trade.\textsuperscript{32}

After the Napoleonic Wars and the War of 1812, the United Kingdom focused much of its foreign diplomacy on negotiating treaties with European powers. These

\textsuperscript{29} Quotation from Perkins, \textit{Cambridge Histories Online}, 110; for building a “treaty-worthy nation” after European peace see Gould, \textit{Among the Powers of the Earth}, 144, and Epilogue.

\textsuperscript{30} Monroe’s Inaugural Address, \textit{in Foreign Relations Annals}, no 288, 128. See also Stanislaus M. Hamilton, \textit{The Writings of James Monroe}, vol. 5. (New York: G.P. Putnam’s Sons, 1901), especially 25 and 33 on how the aftermath of the Monroe-Pinkney treaty affected Monroe’s policy.

\textsuperscript{31} Foreign Relation Annals, no. 288, 355

\textsuperscript{32} Soulsby, \textit{Right of Search}. While Britain worked to abolish slavery, slavery in America became more entrenched and the pro-slavery bloc increased.
treaties aimed to prevent war, protect commerce, and make the anti-slave-trade laws more effective. Both the United States and France refused to sign right-of-search agreements with Britain. In 1820, Portugal was the only European nation that allowed its ships to participate in the slave trade, yet British reports claimed the French and Spanish flags were often used to shelter slave ships. Throughout the 1820s, slave trade conferences took place, with Britain urging European cooperation. The consequence of Britain's strong-arm tactics was that Great Britain's anti-slave trade policies became equated with "threats to national sovereignty and thus handed a powerful argument to slaving factions," particularly in Spain, Portugal, Cuba, and the United States.

Although Great Britain did succeed in securing right-of-search treaties with some nations, negotiations with the United States did not have the same results. In 1818, Lord Castlereagh, the British Foreign Secretary and Canning's predecessor, accused the United States of being unable to enforce its own laws, citing the Amelia Island controversy of 1817. Richard Rush, Ambassador to the United Kingdom from 1817 to 1825, retorted that the opposite was true. The Amelia Island affair, and the island's subsequent capture by the United States actually displayed a successful assertion of U.S. control.


35 Mason, "Keeping up Appearances," 814.
Castlereagh could not agree and called for the reciprocal right-of-search during the Anglo-American Convention of 1818, refusing to back down on Britain’s impressment policy. The United States, in turn, flatly refused. At the same time, Robert Walsh Jr., a lawyer from Maryland, published “An Appeal from the Judgments of Great Britain,” which highlighted Britain’s hypocritical stance towards the slave trade and accused British writers of unjustly criticizing the United States. Blaming Great Britain for introducing slavery to American soil, Walsh’s nearly 600-page tome placed the United States at the forefront of abolitionist politics and underlined England’s duplicity as it patrolled the seas protecting its own commercial interests. Without citing his sources, Walsh argued that American ships were not being used for the slave trade, blaming Spain, Portugal, and France for the continued trade.

Monroe’s administration agreed with Walsh’s assertions that Americans were not participating in the slave trade since the passage of the Supplementary Slave Trade Acts. While it was true that the smuggling of slaves into the United States was decreasing, particularly after the Amelia Island crisis of 1817, the slave trade to Cuba and Brazil increased dramatically, and, in the years to come, United States citizens would play an integral role in those lucrative slave markets. By being labeled a pirate under the Piracy Act of 1820, slave vessels could be searched and seized by both the U.S. Navy and ordinary citizens, eliminating all protective laws against the ship, allowing the slaver to be claimed as a prize, and making foreign slave trading a capital crime.

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36 House Document 48, 16:2, (Washington [D.C.]: Printed by Gales & Seaton, 1821), 9; Soulsby, Right of Search, 132.

Most Americans believed that American participation in the slave trade was minimal and more importantly, that there were no slaves smuggled into U.S. territories. Not everyone was convinced, however. Two southern Representatives informed Congress these anti-slave-trade laws were ineffective, estimating that since 1807, 28,000 illegal slaves had been smuggled into South Carolina and Virginia alone.\(^{38}\) Just as they had in previous decades, eastern slave states allied with Northern free states to denounce the illicit traffic, maintaining an ideological separation between the "odious commerce" and the institution of slavery.\(^{39}\)

Because of the growing domestic slave trade, eastern slave states generally supported the Supplementary Slave Trade Acts. Charles Mercer, of Virginia, was particularly vocal about ensuring that the laws were being carried out. He reported in January 1819 that at least twenty vessels had been "fitted out in the ports of the United States for the obvious purpose of carrying on the slave trade,"\(^{40}\) and British courts had tried several Americans for participating in the trade. With little debate, the House voted to make inquiries into the effectiveness of the anti-slave trade laws, which led directly to the declaration of the slave trade as piracy in 1820. At the last moment, Thomas Butler of Louisiana amended the piracy bill to stipulate that the captured slave ship be returned to its home port. This obvious (and effective) maneuver to ensure court favoritism

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\(^{38}\) According to Jay's *Inquiry into American Colonization* (1838), in Du Bois, *Suppression of the Slave Trade*, 124; I have not, however, been able to locate Jay's original source. Instead his information seems to have come from the speeches of Henry Middleton of SC and Robert Wright of MD in the House in the House in February 1823, in *Annals of Congress*, House of Representatives, 17:2, 1148-1154.

\(^{39}\) Du Bois, *Suppression of the Slave Trade*, 125.

\(^{40}\) *Annals of Congress, House of Representatives*, 15:2, 442, see also Fladeland, *Men and Brothers*, 114. Mercer was in favor of colonization, against the slave trade but not an abolitionist—a prime example of what modern society might see as conflicting ideas.
towards the slavers received no opposition from any Representative, revealing that most policy makers believed that the regulation of the slave trade should remain a concern of the state rather than be subject to national, and especially international, regulation.

After the turmoil of the War of 1812 and the Missouri Crisis of 1820, most Americans wanted harmony to be restored to the nation. The debate in the Senate over the slave trade and right-of-search focused less on the resolution itself and more on the limits of Congress in instructing the Executive, and on the practice of recommending resolutions in the first place. While it appeared as though public opinion was united against the slave trade, Congress was unwilling to compromise national unity for the sake of suppressing the trade. As more punitive laws against the slave trade were enacted, more legal loopholes were opened through amendments and exceptions made to accommodate state and commercial activity. One major exception to the impotence of the slave trade acts was that these laws, particularly the piracy act, provided the federal government with strong leverage in its negotiations with Great Britain.

The Slave Trade Convention negotiations between British and American ministers illustrate the extent to which the U.S. was unwilling to compromise maritime sovereignty in order to more effectively suppress the foreign slave trade. In 1820, the Committee on the Slave Trade submitted a resolution to request the President “to consult and negotiate with all the Governments... on the means of effecting an entire and immediate abolition of the African slave trade.” At the same time that the Committee later recommended that a limited right-of-search treaty be agreed to with Britain, John Quincy Adams wrote to Canning of the constitutional impossibility of allowing the U.S.

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41 *Annals of Congress, Senate* 16:1, 697, also reported in “Right of Search,” *Columbian Centinel*, 04-24-1822 and “Abolition of the Slave Trade,” *Columbian Centinel*, 12-14-1822.
to participate in the right-of-search and mixed courts, and Richard Rush, the U.S. Attorney General, argued that maintaining maritime independence was far more important than suppressing the slave trade.\textsuperscript{42} Monroe himself argued, "the concession of the right of search in time of peace for an offense not piratical would be repugnant to the feelings of the nation and of dangerous tendency. The right of search is the right of war of the belligerent toward the neutral. To extend it in time of peace to any object whatever might establish a precedent which ... might be subject to great abuse."\textsuperscript{43} Congress would eventually agree to a limited right-of-search with Great Britain, but it did so on terms that Parliament ultimately rejected. The feud between the two nations continued, each blaming the other for the continuation of the trade and congratulating itself on making efforts to stop it, both placing national policy over the abolition of the slave trade.\textsuperscript{44}

Despite the continued recommendations from the Committee on the Slave Trade to cooperate with Britain, the Senate continued to vote against any proposal that included provisions for the mutual right-of-search.\textsuperscript{45} Even though there were limited efforts to suppress the slave trade, and repeated appeals by Congressional Committees to cooperate with Britain, the U.S. government refused to compromise on this matter, stymieing attempts to create an international cooperative effort against the slave trade. Many

\begin{itemize}
\item \textsuperscript{42} quoted in Fehrenbacher, \textit{Slaveholding Republic}, 158. Here Rush discussed British impressment as “more afflicting to humanity” than the slave trade, see also Fladeland, \textit{Mend and Brothers}, 119.
\item \textsuperscript{44} An excellent discussion of impressment and slavery can be found in Matthew Mason, “The Battle of the Slaveholding Liberators: Great Britain, the United States, and Slavery in the Early Nineteenth Century,” \textit{The William and Mary Quarterly}, Third Series, Vol. 59, No. 3, Slaveries in the Atlantic World (Jul., 2002), 665-696.
\item \textsuperscript{45} Du Bois, \textit{Suppression of the Slave Trade}, 137; Ericson, \textit{Slavery in the American Republic}, 8, 23.
\end{itemize}
legislators simply did not believe these negotiations were a proper extension of Executive powers, nor were they convinced that the foreign slave trade was enough of a problem to prompt a sacrifice of maritime sovereignty.\textsuperscript{46}

Some legislators did recognize the need to abolish slavery in order to effectively end the trade. In 1821, Henry Meigs, a Democratic-Republican from New York, was concerned about the "growing controversy between the North and South," and proposed that there be western land allotted to those willing to emancipate their slaves. The freed blacks would then be transported back to Africa.\textsuperscript{47} Seen by some in Congress as a potential solution to both the "problem" of freed blacks in the South and the nation's divisions over slavery, the resolution was nevertheless tabled and never resolved.

The Seventeenth Congress began its first session in March 1822, with the slave trade resolutions still on the table. The annual report of the Committee on the Slave Trade praised the effectiveness of the Navy, although it proposed that there should always be a U.S. ship on the coast of Africa. The Committee went further to assert that the American flag "had wholly disappeared from the coasts of Africa," although the trade was increasing "under the flags of other nations." It was therefore necessary, the Committee argued, that a qualified right-of-search be agreed to.\textsuperscript{48}

Some policymakers were so committed to ending the slave trade they were willing to add a specific amendment to alter federal powers to create the most effective means by which to stop it. Robert Wright, a Maryland legislator, urged the House to

\textsuperscript{46} Annals of Congress, House of Representatives, 17:1, 1065-1068.

\textsuperscript{47} Ibid, 1168-9.

\textsuperscript{48} Ibid, 1536.
consider amending the Constitution to allow the United States to cooperate with other nations, specifically in order to grant a mutual right-of-search.\textsuperscript{49} He was in a minority. After the chaos of the Missouri Compromise, few were willing to rock the boat and increase tension. Wright was adamant about adding a right-of-search provision, stating, "this is the only effective measure to secure that important purpose."\textsuperscript{50} Once again, with Congress mired in a legislative stalemate, a Committee was appointed to investigate the slave trade.\textsuperscript{51}

Congress discussed piracy and the slave trade again at length in December 1822. Congress approved appropriations to the Navy to help patrol the West Indies and the coast of Africa, and for the purchase of additional cruising ships. Concerned that "piracies are multiplied to an alarming degree," Congress agreed that the federal government ought to have the power to act.\textsuperscript{52} Here, the uncertainties about the limits of the national power become apparent. No one objected to the federal government pursuing lawless pirates, but, as discussed in chapter two, the question of how and to what extent these pirates should be prosecuted was hotly debated. Now that the slave trade was added to the list of piratical crimes, American commerce itself became embroiled in this question. Throughout its short history, the United States had struggled with international legitimacy. After finally achieving full commercial and national

\textsuperscript{49} Ibid, 17:2, 332.
\textsuperscript{50} Ibid.
\textsuperscript{51} Ibid, 333.
\textsuperscript{52} Ibid, 374 and 384.
recognition by the powers of Europe, this independence continued to be tested.\(^5\) Could the United States now concede these hard-won liberties? For most Americans, including those, like John Quincy Adams, who opposed the slave trade, the answer was no. Despite arguments by Mercer and Wright on the necessity of allowing a qualified right-of-search, their amendments were rejected, and Adams was employed to negotiate a treaty with Britain over the slave trade, with instructions to reject all conventions that included a right-of-search clause.

**The Anglo-American Convention of 1824**

In a carefully worded letter written on April 8, 1823 to Secretary of State John Quincy Adams, Stratford Canning, British minister to the U.S., outlined in detail a proposition that Great Britain and the United States work together to end the slave trade. Canning was pleased to learn that the United States was “prepared to enter into a formal engagement with Great Britain.”\(^5\) This was no small accomplishment since Great Britain had been pushing for right-of-search privileges since before the War of 1812, stipulating that ships of consenting nations had the right to board participating countries’ merchant vessels. Now it finally seemed as though England’s goals would be realized. An ambitious diplomat, Canning, who John Adams described as a “‘a proud, high-tempered, Englishman, of good but not extraordinary parts; stubborn and punctilious, with a disposition to be overbearing,’” had worked tirelessly to negotiate a treaty against


\(^5\) *American State Papers*, I: 328
Adams himself was strongly opposed to both slavery and the slave trade and would later argue the famous Amistad case in the Supreme Court. Adams was also an ardent nationalist, advocating for a strong American government insulated from European affairs. Canning and Adams met often over a period of several months and left behind pages of correspondence that reveal how unwilling the U.S. was to compromise on freedom of the seas. In Canning’s long career as a British ambassador to the Ottoman Empire, Russia, and Greece, his U.S. post would be his most unsuccessful. In 1824, he returned to London with a treaty so watered down by U.S. exceptions that Parliament refused to endorse it.

Figure 4: Stratford Canning and John Quincy Adams

55 Allan Nevins, The Diary of John Quincy Adams, 1794-1845 (New York: Longmans, Green and Co., 1929), 296. Lord Castlereagh, his predecessor and arch rival, had committed suicide in 1822. Canning and Castlereagh had dueled in 1809, an action that left Canning wounded, and forced both of them to remove themselves from politics for several years because of public scrutiny.


57 George Peter Alexander Healy, John Quincy Adams, 1858, White House Collection.
Constitutional issues concerning the right-of-search policy and the recent war with Britain plagued the Monroe administration. During the treaty negotiations in 1823, the United States used as leverage the fact that Britain had yet to declare the slave trade piracy. Believing in the future success of the Piracy Act despite evidence to the contrary, Adams and the Monroe administration professed that the most effective means by which to end the slave trade was to have the slave trade declared an act of piracy under the law of nations. Arguing that an international declaration of the slave trade as piracy would be "more effectual to its purpose and less liable to objections...than... of granting the right of search," Adams "declare[d] the willingness of this Union to join with other nations." This method, and this method only, they asserted, would end the trade. After an international declaration that the slave trade was an act of piracy, Adams argued, no slave ship could hide under the flag of another country, thus negating the need for a mutual right-of-search treaty. In this circumstance, no flag could protect a slaver, and therefore all suspected slave ships could be boarded by any nation. From the U.S. government's perspective, this was the only means by which the slave trade could be stopped and while allowing the U.S. to maintain its freedom on the high seas. The problem of this proposal lay in the positive identification of slave ships and the high probability that the British navy would board legal traders, thus committing so-called "outrages" on the high seas.

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58 Du Bois, Suppression of the Slave Trade, 124.

59 Message of President to Congress... March 20, 1824, 18:2, doc 119, 10.

60 This, of course, is exactly what happened. See Message of the President... May 19, 1858, S.E.D 59, 35:1.
The American proposal differed from the right-of-search in function only: if the slave trade became piracy under international law, Britain could not claim a right to search American vessels through treaty. Even though the piracy act would remove U.S. government protection for American slave ships, the wording circumnavigated the right-of-search sticking point that had been the cause of so much discord between the two nations, and which the U.S. government refused to concede.

If the American proposal were to be at all effective however, all nations would have to agree to this policy and consent to alter international laws governing sovereignty on the high seas. In the eyes of the British, this proposition would only be effective if slavers could be immediately identified. If a ship could not be immediately identified as a slaver under the proposition, its navy could not then board the suspect foreign vessel. Under the right-of-search policy, the navy of one nation could visit a ship of another nation without the threat of breaking sovereignty laws. According to British reasoning, the U.S.'s proposal left too much potential for slavers to pass undetected or for legal merchants to be boarded illegally. It would not solve the problem of the slave trade.

Reminding Adams of the U.S.'s "solemn obligations, to employ their utmost endeavors for the trade's completed and universal extermination," Canning once again underlined the necessity for a right-of-search policy between the two nations.61 He wrote to Adams that the United States was not effectively patrolling its ships off the coast of Africa, further justifying the need for international collaboration and making it clear to Adams that Great Britain was unwilling to concede this policy in its negotiations. Adams, in turn, reminded Canning of England's past transgressions, leading to the War

61 Message of President to Congress... March 20, 1824, 18:2, doc 119, Canning to Adams, April 8, 1823, 13.
of 1812, citing the practice as "an abusive and wrongful extension of the search for contraband,... and... a relict of the barbarous warfare of barbarous ages." Under no circumstance would the United States stoop to such a practice, nor allow any nation (especially Britain) the right to board its vessels.

Despite Adams's protests, Parliament was unwilling to abandon its demands for the right-of-search and the Mixed Admiralty court system it had implemented in its recent treaties with several European nations. These admiralty courts created an international judiciary system aimed at the suppression of the slave trade. All captured slavers were sent to these mixed courts where they were tried in a court represented by several nations. These courts allocated prize money and meted out punishments for those involved in the trade. Great Britain, perhaps because it had led the way in the creation of these courts, held them in high esteem. As Canning intimated in his response to Adams, Britain could not understand why the United States would have a problem with bringing the perpetrators to justice in this manner, particularly if the current U.S. laws against the slave trade "might be applied to [the courts] without difficulty or inconvenience." Adams countered that there were serious constitutional complications with the Mixed Admiralty courts. Even if the court had had one American judge on the bench, the Constitution cites that all U.S. citizens have a right to a trial of their peers, thus both judge and jury must be fellow American citizens. The American people would never

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62 Message of President to Congress... March 20, 1824, 18:2, doc 119, 18.

63 Message of President to Congress... March 20, 1824, 18:2, doc 119, Canning to Adams, April 8, 1823, 12-13.
agree to being subject to a foreign court, Adams argued. Even the evils of the slave trade could not convince Adams to agree to these policies.64

The United States’ refusal to capitulate on a mixed court and a right-of-search policy also revealed the extent to which the federal government was unwilling to alter the status quo, even for a crime that the U.S. itself had deemed an act of piracy. The law of nations historically limited the searching of foreign vessels only during wartime. Because of the two nations’ past history, Congress would never agree to any proposal that compromised the U.S.’s independence from Britain. Some feared that the right-of-search policy would force the U.S. to become a mere “satellite” of Britain, and several newspapers denounced the right-of-search as “a right of war.”65

Pressure from the House Committee eventually convinced Adams to propose to Canning a limited right-of-search provision, provided that Great Britain declared the slave trade an act of piracy. This, proponents argued, would circumvent the constitutionality of right-of-search because international law treated pirates as belligerents and therefore subject to search. The House as a whole agreed to the wording of a new Convention in 1824, that if the slave trade was piracy under the law of nations, slave ships could then be considered belligerents and thus subject to search by any nation agreeing to the policy. The U.S. government had no love for pirates and could legally justify the inclusion of slave traders in this law. In March 1824, delegates from the U.S. and Britain drew up a formal convention with specific language concerning the slave

64 Annals of Congress, House of Representatives, 17:2, 1152.

trade, piracy, and the right-of-search. In it there were “a variety of restrictions designed to allay American fears. Procedures for boarding were carefully spelled out, and boarding officers were to be held strictly accountable for abuses.”\textsuperscript{66} Meanwhile, Parliament quickly passed an act making the slave trade piracy. Soon it would be clear, however, that Canning’s negotiations would all be in vain. Once the signed treaty made its way to Congress, political divisions and the contentious election of 1824 set in motion a breakdown of the Convention that ensured that the slave trade could not be effectively halted.

Electoral politics contributed to the failure of the mutual right-of-search. With Adams in the race, friends of his opponent, William Crawford, campaigned against the Convention’s ratification in the Senate. These men succeeding in amending the treaty to preclude American waters from this search policy, allow either party to terminate the agreement at any time, and forbid Naval Officers from removing sailors from vessels.\textsuperscript{67} Whether the reasons for this action were rooted in the desire to harm Adams’ reputation, stymie British attempts at maritime control, or thwart growing abolitionism, the effect was the same: twenty-three Senators voted against the treaty as amended, and ultimately Parliament also rejected the amended convention.\textsuperscript{68}

\textsuperscript{66} Flageland, \textit{Men and Brothers}, 129, 137.
\textsuperscript{67} Flageland, \textit{Men and Brothers}, 139 and \textit{American State Papers}, For. Rel. V, 360-2, no. 379.
\textsuperscript{68} See Fehrenbacher, \textit{Slaveholding Republic}, 160 and Bradford Perkins, \textit{Castlereagh and Adams} (Berkeley: University of California Press, 1964), 277, and Flageland, \textit{Men and Brothers}, 140. William Crawford is an excellent example of the complexity of the issue of the right-of-search and the slave trade. Crawford was a Georgian and an active member of the American Colonization Society, yet his followers were unwilling to allow the Slave Trade treaty to pass. Some claimed he was involved in the Mitchell case of smuggling slaves into GA from Amelia Island, while others asserted that Crawford would seek to allow slavery in the former Northwest Territories, see Flageland, \textit{Men and Brothers}, 126.
In the end, the Slave Trade Treaty of 1824 was, in fact, ratified by the Senate. It stipulated a very limited right-of-search clause, which is definitely significant, but it was so narrow in scope and contained so many limiting provisions that Parliament refused to approve it. Newspapers wrote lengthy articles concerning the “surrender of the right of search,” and it was feared that despite the recent war with Britain, America would lose her maritime sovereignty.69 Another eighteen years would pass by before another anti-slave trade treaty would be negotiated between the U.S. and Britain.

The diplomatic relations between the United States and Great Britain concerning the slave trade during the 1820s reveal two nations publicly willing to condemn the “nefarious traffic” while unwilling to compromise much in policy. The United States’ refusal to cooperate with Britain in the suppression of the slave trade, despite publicly shunning the middle passage depicts a federal government more concerned about maintaining its sovereignty than about its commitment to ending the trade.70 As Adams wrote, the right-of-search policy “would make slaves of ourselves.”71 The United States finally agreed to send Navy ships to Africa to monitor the trade, but these voyages would last only a few weeks each year, leaving the African coast void of U.S. surveillance for most of the year.

After the Slave Trade Convention of 1824 broke down, the United States and Britain developed their own methods for addressing issues connected to the slave trade. Britain increased its attention to the elimination of the international slave trade north of

69 See installments in City Gazette, 05-19-1824, 06-18, 1824.

70 Mason, “Keeping up Appearances”, 824.

71 Adams, Memoirs, VI, 13.
the equator through treaties with other nations. Parliament also began to put pressure on Portugal to eliminate the slave trade south of the equator although this proved to be a much more difficult task, leading to the British blockade of the harbor of Buenos Aires in 1850. It would take until 1842 for the U.S. and Great Britain again to discuss a mutual right-of-search policy in earnest. By then the American flag was being used extensively by slave ships to escape British patrols. The U.S. government refused to acknowledge Britain’s charges that Americans were participating in the slave trade, arguing that these were foreign ships abusing the U.S. flag and not under U.S. jurisdiction, asserting that Americans no longer participated in the trade at all. Unfortunately, U.S. officials claimed, the U.S. had no authority in prosecuting foreign ships. \(^{72}\)

The Slave Trade Convention of 1824 between the United States and Great Britain was a failed moment in the abolition of the slave trade because the United States refused to allow foreign naval ships to board American merchant vessels. Having more potential importance than the 1808 U.S. and British slave trade acts, this treaty would have given both the U.S. and Great Britain the means with which to enforce their laws against the slave trade. The rejected treaty would have prevented slave ships from using neutral flags as cover for their illegal operations under international law. Once again, with the slave trade to the U.S. having been mostly eliminated and U.S. sovereignty upheld, no amount of “moral repugnance” towards the slave trade would encourage the U.S. to surrender any of its sovereignty on the seas.

\(^{72}\) For information on documented American ships see Slave Trade Database at slavevoyages.org. For letter from Forsyth to Fox about absence of U.S. participation in slave trade and inability of the U.S. government to “control foreigners,” see House Doc, 26:2, no 115, p167.
During the 1830s and 1840s, slave trading under the American flag increased significantly, primarily because the U.S. refused to cooperate with other nations and surrender any maritime power. At the same time, the expansion and protection of U.S. slavery in federal policy made it increasingly difficult for abolitionists to make any domestic policy change regarding slavery. In the two decades after the Missouri Compromise of 1820, the Presidential administrations of Jackson, Van Buren and Polk cemented the U.S. expansionist policies, particularly in the Southwest. The movement of U.S. slaveholders into Mexican territory, later the Republic of Texas, ensured a strong pro-slavery faction in the U.S. government and an increasingly unified pro-slavery south. Britain’s concerns about the U.S. annexation of Texas and the increase in the slave trade because of this expansion did not improve Anglo-American relations. Simultaneously, the increasing slave trade to Texas through Cuba as well as to Brazil, and the regular use of the American flag by slavers, decreased the effectiveness of Britain’s slave-trade patrol. The failed Anglo-American negotiations in 1824 illustrate America’s unwillingness to compromise over sovereignty and the U.S.’s continued protective stance towards the British Navy.

In the 1830s, the complicit role by Americans in the foreign slave trade, namely Cuba and Brazil, caused the issue to be revived. The British, well aware that the American flag was being used as protection for slavers, began stepping up their efforts to confiscate counterfeit papers. Inevitably, the Royal Navy did occasionally search

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legitimate American traders, causing outrage among the American people who would not soon forget the British seizure of American ships during the Revolution and War of 1812. In 1841, a report from President Van Buren, per House request regarding British search and seizure of U.S. vessels was delivered to Congress totaling 766 pages. The bulk of the document concerned the U.S. consul in Havana and questionable bills of sale, yet hundreds of pages are devoted to the British visitation of U.S. vessels. United States policymakers, like Andrew Stevenson and John Forsyth who served as foreign ministers to Britain during the 1830s, equated visitation with belligerent search, vehemently protesting the Royal Navy’s practice of the former. Still insisting that visitation was illegal during peacetime, Stevenson and Forsyth claimed that because the “search for pirates was the only occasion for its exercise in time of peace, and as the slave trade had not been acknowledged as piracy in international law, there was no case whatever for the exercise of a right of visit or search against slave traders.” Hiding behind this stipulation, the United States continued to protest British search and refused to cooperate with Parliament.

Meanwhile, the British consulate in Cuba accused the American consul, Nicholas Trist, of providing slave ships with illegal papers, which granted them safe passage to Africa. While Trist denied these accusations, the evidence against him forced the Van Buren administration to make a formal inquiry and admit the increasing use of the American flag in the slave trade. At this time, the United States, particularly southern

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74 House Doc, 26:2, no 115, extensive correspondence, March 3, 1841.
75 Soulsby, Right of Search, 176.
76 Soulsby, Right of Search, 161. See also House Doc, 26:2, no 115, on Trist.
politicians were eyeing Cuba for annexation. Britain’s desire to block U.S. expansion both in Cuba and Texas, as well as its dependence on Cuba’s sugar, impeded on American annexation efforts. Because of the United States’ refusal to allow British right-of-search, Spanish and Portuguese slave ships increasingly used the American flag for protection.\(^7\)

The U.S. government’s admission of the use of the American flag in the slave trade did not signify admission of U.S. complicity in the trade. U.S. officials blamed Spanish and Portuguese slavers for illegally flying American colors, without admitting that these ships were actually American-built, sailed, or supplied (which they often were). The investigation, increased pressure by Britain, and an increasingly vocal abolitionist contingency in the United States led to the creation of a U.S. African Squadron. Nevertheless, although Stevenson finally admitted that the U.S. flag was being used by slavers, he refused to acknowledge the right-of-search policy as a feasible preventative measure.\(^8\)

Lord Palmerston, British Secretary of State for Foreign Affairs, had kept the American government apprised of the use of the U.S. flag in the slave trade throughout the 1830s.\(^9\) In 1836, he sent a letter to Secretary of State John Forsyth concerning


\(^8\) Hugh Soulsby reported in detail of the use of the American flag by slavers in *Right of Search*, 180-2; Fehrenbacher, *Slaveholding Republic*, 165.

several American-built schooners sailing from Cuba for Africa. The *Martha*, a brig from Maine, sailed from Cuba with "a cargo which would equally have [been] confiscated as a slaver [by] any Spanish vessel"\(^\text{80}\) to the slave factories in Africa. The correspondence between the two governments remained cordial--until growing accounts of the unlawful seizure of American vessels by Britain compelled U.S. diplomats to utilize more forceful language.

The capture of the *Susan* in 1839 led to a U.S. investigation of British seizures and a renewal of negotiations between the U.S. and Britain over the right-of-search. On April 10, 1839, the Boston-built *Susan* departed Rio de Janeiro bound for Africa with a Brazilian captain and American passengers. Soon after she got underway, the Royal Navy Ship *Grecian* fired a shot at the *Susan*, boarded her "in a piratical manner," and demanded that the captain be taken over to the *Grecian* for questioning.\(^\text{81}\) In a letter of complaint sent by the U.S. passengers on board to Andrew Stevenson, a Democrat and American Minister to the United Kingdom, the manner by which the *Grecian* boarding party behaved was befitting not of naval officers, but of pirates. British officers allegedly threatened the captain of the *Susan*, but when the officers realized it was an American ship, they returned to the *Grecian* and sailed off without explanation.\(^\text{82}\)

This "outrage" committed by the British against an American vessel is perhaps not surprising considering the ship bore all the right markings for being a slaver, from its American-colors being flown as it sailed eastward, to its mix of American and foreign

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\(^\text{80}\) House Doc, 26:2, no 115, 6.

\(^\text{81}\) extract from the logbook of the ship “Susan” of Boston, in ibid, 9.

\(^\text{82}\) Ibid.
citizens aboard, and, more obviously, its destination. This case does exemplify the difficulties the British faced in its suppression of the slave trade. While the Susan may not have been used to transport slaves at that moment in time, it is clear that her owners were trading in Brazilian and African goods directly linked to the slave trade. Slavers would often maintain one crew for eastward voyages and another one for western ones, listing the "off-duty" crew as passengers. For the U.S., whether or not the Susan was a slaver was not the issue.

The British government conducted their own investigation of the boarding of the Susan, and determined that "nothing was done by the officers of the 'Grecian' of which the United States Government can justly complain." Furthermore, the conduct of James Brewer, an American passenger, who berated and threatened the British crew while the Susan was being boarded, was "rude and offensive." The boarding officer, N.B. Pearse later wrote that the Susan had been making signals towards shore, and, as the area was already well known for its slave-landing, the Grecian had cause to stop the ship for search. According to his account, the Susan was slow to respond to the Grecian's call to heave-to, compelling the British captain to fire a blank shot. Upon hearing this account of the boarding, John Forsyth responded to Palmerston that "that answer cannot be considered as otherwise than unsatisfactory."84

The increase of British searches compelled the United States to rethink its participation in the suppression of the slave trade, namely with respect to the protection of its commerce on the coast of Africa. Discussions focused on the creation of a

83 Ibid, 33.

84 House Doc, 26:2, no 115, 40; other reports of illegal British seizure came from the Edwin, Mary, Douglas, Tigris, Hero, and Iago.
permanent U.S. African Squadron in order to appease the British demands for the U.S. participation in the suppression of the slave trade while circumventing a right-of-search treaty. Forsyth, while being sure to commend the British for its efforts against the slave trade, nevertheless saw British efforts as “exceeding their appropriate limits.” The United States could not “surrender to British cruisers certain rights and authority not recognized by maritime law...and... vessels legally sailing under [the U.S.] flag can in no case be called upon to submit.” The long list of British abuses against American shipping also exposed the extent to which the U.S. flag was being used by slavers. The U.S. was finally compelled to outfit its own squadron, at a minimum, to prevent the boarding of American ships by British vessels and to alleviate pressure by Parliament to concede the right-of-search policy.

A New Hope: The Webster-Ashburton Treaty

In 1842, ministers from Great Britain and the United States succeeded in negotiating a treaty that both avoided another bloody conflict and solidified American borders. The Webster-Ashburton Treaty succeeded in easing Anglo-American relations in the wake of British seizures, but it did little to effectively suppress the slave trade. Principally focusing on boundary issues between British Canada and the United States, the diplomatic thorn in the United States’ side, the question of right-of-search was featured in the negotiations of this new treaty, led by Daniel Webster and Alexander Baring, also known as Baron Ashburton. During these debates, public outcry,

85 Ibid.

86 Lane, African Squadron. The commander of the Grampus signed an agreement with the commander of the British African Squadron allowing a mutual right-of-search, which was quickly renounced by the U.S. government. See Soulsby, Right of Search, 170.
questioning the true British intent for pressing the right-of-search policy, resonated on Capitol Hill. Captain Charles Bell, commanding officer in the U.S. Navy reported, "the British Government is not sincere in its attempts to put down the slave-trade," as British agents often were given precedent in the purchasing of captured slavers. According to this claim, Parliament benefitted by pulling the strings in the so-called suppression of the slave trade and the U.S. would be unwise to make any concessions.

The American minister in Berlin, Henry Wheaton, also adamantly opposed any right-of-search compromise. In a tract published in 1842, the diplomat wrote "we shall hereafter endeavour to show; it is the true nature of the pretension set up by Great Britain on this occasion." Still blaming Great Britain for the institution of slavery in the United States, Wheaton argued that Parliament still controlled the slave trade and "sacrificed maritime rights to suppress the slave trade." All sovereign nations should find this unacceptable, he claimed. He continued by echoing the words of John Quincy Adams a generation before, that "seizing and confiscating enemy’s property in the ships of a friend—[is a] relic of a barbarous age." Search and seizure were crimes for which England still needed to be held accountable, Wheaton and many others claimed.

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88 Wheaton was the author of *Digest of the Law of Maritime Captures* (1815) and *Elements of International Law* (1836), among many others. He reported extensively on legal procedure and international affairs.
90 Wheaton, *Enquiry*, 149; President Tyler also refused to compromise the freedom of the seas, see James D. Richardson, *Messages and Papers of the Presidents*, (New York: Bureau of National Literature, 1897), v. IV, 1930.
Lewis Cass also opposed compromise on the issue of right-of-search. Instrumental in Jackson’s Indian Removal policy, he had served as Secretary of War from 1831-1836 and was later appointed minister to France. He resigned his position in 1842 amid his disapproval of the Webster-Ashburton treaty negotiations and the new Whig administration under Tyler. Like Wheaton, he published a tract against the British right-of-search policy. Cass did not personally support slavery, although he advocated popular sovereignty—that states and territories should decide on the issue rather than the federal government. Cass believed that a mutual right-of-search policy and national sovereignty could not be reconciled.

Cass actively campaigned against the Webster-Ashburton Treaty and published several tracts berating Great Britain for its duplicitous slave trade policy and for exerting pressure upon other nations to bend to its will. Cass and journalist Duff Green, “mixed economic determinism with a good deal of conspiracy theory, summoning up the specter of a British grand design aimed at maritime supremacy, commercial monopoly, and universal emancipation.”91 Only the United States was in a position strong enough to stand up to British demands, they argued.

In his published account, Cass railed against Britain’s dominating spirit, and, like Wheaton, blamed England for slavery in America. He argued “freedom of the seas… [and its] connexion with the African slave trade is but incidental, and the nature of this traffic, which no where finds advocates, cannot affect the nature of this question.”92

91 Fehrenbacher, Slaveholding Republic, 168.

Once again, the horrors of the slave trade were not considered grave enough to sacrifice maritime rights, nor did many Americans believe that their fellow citizens were participating in the trade in any great numbers, if at all.

The general American public was convinced that the United States was doing more to stop the slave trade than most other nations and that “not a slave has been imported into the United-States for thirty years.”\(^\text{93}\) The number of those smuggled into territories later incorporated into the United States is unknown. The indirect American participation in the slave trade was nothing less than a “loosely knitted international conspiracy,” especially since the U.S. refused to take responsibility for slave voyages taking place under the American flag.\(^\text{94}\) It was not surprising that, with the duplicate documents, the re-export trade, hidden nationalities, and lax security, officials like Cass and Wheaton, could deny any U.S. involvement in the slave trade.

Regardless of the political battles between Britain and the United States, U.S. and British captains tended to be more willing to cooperate in day-to-day operations. During the Webster-Ashburton Treaty negotiations, Daniel Webster wrote letters to the commanders of the two ships sailing off the coast of Africa. Both commanders recommended no fewer than fifteen U.S. ships be assigned to the African Squadron, a

\(^{93}\) Cass, *Examination of the Question*, 12. Historians still debate the actual number of slaves carried into the U.S. I argue that the inability of the U.S. to regulate its borders and the overall conviction that slave smuggling was not politically important, is significant. Fehrenbacher claimed that there were very few slaves smuggled and argues that these numbers are not significant, see Fehrenbacher, *Slaveholding Republic*, 149. W.E.B. Du Bois estimated that there were 250,000 slaves smuggled into the United States, while the Trans-Atlantic database documents 5,900 slaves and 28 voyages. This does not include slaves smuggled into the U.S. via Cuba or Texas, nor does it include undocumented cases, obviously. See http://www.slavevoyages.org, accessed April 30, 2012.

\(^{94}\) Fehrenbacher, *Slaveholding Republic*, 156.
number far greater than was ever achieved. More importantly, however, the two officers suggested that a mutual right of visit be allowed. On land, this idea was so abhorrent that Webster had the suggestion struck out before the letter was sent to the printers for distribution.

Very likely the negotiations would have failed if the pro-slavery nationalists, Forsyth and Stevenson, had not been replaced with the New England anglophiles Daniel Webster and Edward Everett after the election of Whig William Henry Harrison. Although a slaveholder himself, Harrison and his party tended to be more pro-Great Britain than the administrations of Jackson and Van Buren had been. Meanwhile, on the British side, the uncompromising Palmerston was replaced by the more moderate Lord Aberdeen, creating a much more mutually supportive negotiation. With a pro-British, northern coalition on the Americans' side and a pro-compromise party at the table from Britain, the timing seemed ripe for a united Anglo-American effort in the suppression of the slave trade.

Unlike during the 1824 slave trade negotiations, the abuse of the American flag by slave traders had, by 1840 caused enough national embarrassment to encourage compromise by American diplomats. Treaty negotiations led to an agreement for a collaborative naval patrol off the African coast and an official statement by both the United States and Britain that they would cooperate in the eradication of the slave trade and in the destruction of slave markets in Africa. The Webster-Ashburton treaty was

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95 Ibid, 169. The average number of U.S. ships on the African squadron from 1842-1860 was three.

96 Ibid.

97 Soulsby, Right of Search, 183.
ratified by the U.S. in August 1842 and went into effect that November.\textsuperscript{98} The section of the Webster-Ashburton treaty that concerned the slave trade avoided the issue of search and visitation and, although it created a stronger naval patrol off the African coast, the fact that the U.S. and British ships did not have to cruise together ultimately negated all efforts to control the abuse of the American flag. At the time, however, both Webster and Ashburton seemed pleased with their negotiations and Anglo-American tensions eased.\textsuperscript{99}

After the treaty was signed, the British continued to patrol the coast of Africa, mostly performing its tasks without international support. The Royal Navy continued to visit suspected slavers, even if they were flying American colors, but the permanent presence of an American fleet off the coast of Africa eased some of the right-of-search problems. The British practice of visitation would not reach a crisis again until 1858 when the British put additional pressure on the United States to improve the efficiency of their African Squadron. The Webster-Ashburton treaty did not put an end to the British practice of visitation, nor did it placate anti-British protesters like Lewis Cass. The Treaty did ease Anglo-American diplomatic relations and required U.S. Naval participation in the African Squadron.

\textsuperscript{98} The Avalon Project, "Webster-Ashburton Treaty," http://avalon.law.yale.edu/19th_century/br-1842.asp, accessed April 25, 2012. Also interesting to note, in 1836 John Forsyth wrote a letter to Congress arguing that the right-of-search policy would be ineffective, but that the destruction of slave markets (presumably he meant the ones in Africa) would be the most effective means for suppression. See PresMsgMar31841NOTES, House Doc, 26:2, no 115, 167.

\textsuperscript{99} Soulsby, \textit{Right of Search}, 200.
The Failure of the Webster-Ashburton Treaty

International efforts were not enough to stop, or even decrease, the number of captured Africans sent to the Americas. Although emancipation efforts in the West Indies and increasing abolitionist sentiments decreased some of the trade, the extensive profits found in the slave trade to Brazil and Cuba lured many, including many Americans, into the trade. New slave markets opened as plantations Brazil and Cuba consumed thousands of slaves. Increasingly, with the United States' conflicting and contentious debates over slavery and the trade, slave traders took advantage of the Navy's lax patrols, sailing safely past them under the American flag. The most significant effect of the creation of the African Squadron was that it improved Anglo-American relations at a time when many felt that the two nations were on the brink of another war. The Squadron did not effectively suppress the American participation in the slave trade. By the 1850s, most slave voyages sailed at least part of the time under the U.S. flag. In what could have been a watershed moment in ending the slave trade, the United States' refusal to compromise over the right-of-search allowed the slave trade to continue, and, in fact, flourish.

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100 Fehrenbacher, Slaveholding Republic, 161; Du Bois, Suppression of the Slave Trade, 141.

101 Du Bois, Suppression of the Slave Trade, 178.
CHAPTER IV

"A DEAD FAILURE": THE U.S. AFRICAN SQUADRON AND THE SLAVE TRADE

Figure 5: The U.S.S. Portsmouth, circa 1896, photograph by John S. Johnson.

The Portsmouth she was the pride of the Station
She beat all the Steamers and also the Constellation.
She is a good Ship and never wavers.
And she is always there when there is [sic] empty slavers,
Through the water she ploughs like a mad bull,
But she is never there when the slavers are full. 1

When seaman Isaac Mullen penned these words in late 1859 aboard the U.S.S. Portsmouth, his frustration with the Navy's inability to capture and effectively bring to justice American slave ships was apparent. Even though the Buchanan administration had increased expenditures and finally added steam ships to the skeletal African Squadron, the U.S. faced a daunting foe. Lightning-quick slave ships still passed by the British and American blockades using their sailing abilities, superior intelligence of the

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1 Isaac Mullen, Journal of Isaac Mullen aboard the U.S.S. Portsmouth, Strawbery Banke Museum, October 9, 1859.
whereabouts of navy vessels, and duplicate flags behind which to hide. To the sailors assigned to this unpopular post, the African patrol must have been maddening. Even when slave ships were searched and found to have storage holds filled with water casks, lumber, medicines, and huge coppers, convictions in American courts were nearly impossible without slaves on board.² To make his job more difficult, a Navy captain also ran the risk of causing an international incident if he boarded and condemned a seemingly legal foreign trader.

During the season in which Isaac Mullen vented his frustrations into his private journal, Anglo-American cooperation along the African coast had improved immensely, with commanders from both countries sharing information and often cruising in tandem. U.S. policy towards the right-of-search, however, continued to hamstring any widespread effectiveness in suppressing the foreign slave trade. Even with a stronger African patrol, the United States was no better at suppressing the slave trade than it had been fifty years, earlier because the government was unwilling to sign a right-of-search treaty with Britain. The main focus of the African Squadron from 1842 to 1861 was to protect U.S. interests and merchant ships off the coast of Africa. Despite the complaints from sailors like Mullen and influential Squadron leaders like Andrew Foote, the inflexibility of U.S. policymakers directly contributed to the proliferation of the American-affiliated trade after the signing of the Webster-Ashburton treaty in 1842 and rendered the both the

² Coppers are kettles for making large quantities of food, usually kept on the deck of slave ships. Merchant ships would not have the need for such large cooking vessels.
American and British African Squadrons ineffectual, despite their immense financial cost.³

Continued British pressure on the U.S. government eventually persuaded the U.S. to improve its African Squadron patrols, but change would occur very slowly and the Squadron would only improve marginally in the few months before it was disbanded in 1861. In the nineteen years of the Squadron’s deployment, the individual efforts of the few captains and seamen personally committed to the suppression of the trade were hindered by inefficiency, lack of financial support, poor supplies, and a general disregard by the federal government. For U.S. policymakers, the Squadron served two main goals: 1) to patrol the African coast to protect American merchant ships from British vessels, and 2) to appease Parliament in order to avoid signing a right-of-search policy. Suppressing the foreign slave trade would remain a low priority. Until 1858, most American slave ships were captured by mere chance rather than by a real commitment to suppression by the U.S. government.⁴

The proliferation of the American-affiliated slave trade sowed its own seeds of destruction. As the trade under the American flag increased, its notoriety spread through American and British newspapers, drawing more attention to the major flaws in U.S. policy. The United States government held fast to maritime sovereignty, and its refusal

³ Andrew Foote recognized the connection between the lack of cruisers off the coast of Africa and the increase in the American-led slave trade. In his influential work, Africa and the American Flag (New York: Appleton & Co, 1854), he wrote: “our legal commerce here exceeds that of Great Britain or France, … [T]he slave-trade has been boldly carried on under the American flag,” 354.

⁴ See Donald Canney, Africa Squadron (Washington, D.C.: Potomac Books, 2006), 136-7, for a list of vessels captured in port. The American vessels seized very few slavers at sea until 1858 see also Appendix E.
to cooperate with Britain or make slave trade suppression a national priority remained points of contention between the British and American governments long after the Webster-Ashburton Treaty aimed to alleviate these tensions. Stars aligned for slave trade suppression when an increase in British seizures of American ships coincided with rumors that the illegal slave trade to the United States had been revived. These direct threats, the former to U.S. commerce and the latter to national security, combined to improve the efficacy of the African Squadron beginning in 1859. Nevertheless, the Squadron remained wholly inadequate to patrol the entire African coastline, and, without international cooperation, which the U.S. continue to refuse until 1862, improvements would remain slight.

Based on the entries in his journal, Isaac Mullen probably wrote his poem upon learning of the recapture of the slave ship Orion by the H.M.S. Pluto on November 29, 1859. Owned and operated by Americans, the Orion had been captured by the U.S.S. Marion off the coast of Africa in April of that same year with a cargo of suspicious equipment and taken to New York for indictment. In a New York court, Judge Samuel Betts decreed that there was insufficient evidence with which to convict her as a slaver. The court released the bark on bond and Thomas Morgan, the former mate and current captain and owner of the ship, sailed immediately back to the coast of Africa. Between October 10 and November 22, the Orion was boarded no fewer than five times by the U.S. Navy but, because the judge had ruled that her cargo was not enough to convict her as a slaver, the Navy was compelled to send her on her way. Even though it was clear to everyone that the Orion was planning on taking on slaves near the mouth of the Congo River, the Navy had to wait until she was full of slaves in order to capture her. Finally,
on November 29th, she was captured with nearly 900 slaves on board but, despite all the evidence and all the searches by the U.S. Navy, it was a British ship, not an American, that claimed the prize. Within a few weeks, the *Orion* had been destroyed in St. Helena and three members of her crew, including Captain Morgan, were sent to Boston for trial. All three men spent less than two years in jail for their crime.5

The story of the *Orion* exemplifies the problems the U.S. Navy faced in suppressing the slave trade. Even if the Navy itself had been effective in capturing slave ships (which it was not), it faced a barrage of inefficiencies, apathy, and conflicting orders from the federal government and the Secretaries of the Navy. It also faced a court system unwilling to prosecute the alleged pirates to the fullest extent of the law and a public divided over slavery, yet decidedly anti-British and anti-standing Navy in its sentiments. These factors resulted in the overall ineffectiveness of the Squadron even after it received increased government and public support. Although the federal government was fairly effective at protecting its borders and preventing the illegal slave trade onto U.S. soil by the 1830s, it was mainly the success of the domestic slave trade that had minimized the demand for imported slaves. The case of the *Orion* is often considered a success story since the vessel was seized and its cargo of 900 Africans released but the *Orion* case resonates as an example of the failure of the Navy to suppress

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5 Warren Howard, *American Slavers and the Federal Law, 1837-1862* (Berkeley, 1963), 171-173; Morgan would still be in jail in 1863 after failing to pay the $2,000 fine, see Record Group 204, Office of the Pardon Attorney, National Archives. There was still tension between Britain and the United States over the right-of-search, but, because the *Orion* was so clearly a slave ship, the U.S. could not protest the British boarding of the slaver. Once the Flag Officer learned that the *Orion* had been taken to St. Helena, he sent the *U.S.S. Vincennes* to arrest the *Orion*’s crew in St. Helena. See Record Group 45, *Letters to the Secretary of the Navy, Captain’s Letters*, National Archives, Microfilm Roll 110.
the slave trade, even after the force had been strengthened. After all, it was a British crew that ultimately received the prize.

During this so-called Age of Abolition, the slave trade under the American flag continued to increase. Between 1820 and 1866, 2.2 million enslaved Africans are recorded to have been forced across the Atlantic Ocean, with fifty-seven recorded voyages originating from North American ports. What can never be known is how many slavers were successful in landing their human cargoes on U.S. soil without detection, nor is it possible to determine exactly how many Americans participated in the 5,552 slaving voyages made after 1808.6 Despite the fact that we will never know the exact numbers of Americans who participated in the slave trade, based on extant data and eyewitness accounts, it is clear that Americans played a large role in the operation, ownership, construction, and fitting out of these slave ships.7

**The British and the Formation of the U.S. African Squadron, 1842**

As the slave trade shifted to the southern hemisphere and Britain negotiated with European nations and African chiefdoms to halt the slave trade, the expansion of slavery in Brazil and Cuba in turn increased the demand for slaves and the potential for profits for the slave traders.8 Even as more nations made commitments to suppressing the slave trade, the citizens of those same nations continued to involve themselves in the trade.

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6 In this chapter, all statistics come from the Trans-Atlantic Slave Trade database at slavevoyages.org


Britain emerged from the Napoleonic Wars as the international police force, using its superior naval strength to bully weaker nations into mutual right-of-search and anti-slave trade treaties while stronger nations, like the United States and France, resisted giving one nation the authority to interfere with the affairs of another. As an alternative to mutual right-of-search, both France and the United States created their own African Squadrons to patrol the coastline, although the U.S. rarely sent a patrol ship to Africa before 1842.

The British, on the other hand, actively patrolled the coast of Africa. Emerging as the victor after the Napoleonic Wars, it formed the West African Squadron, or Preventative Squadron, capitalizing on its superior strength. While Britain did not patrol alone—France, the U.S. and Portugal also sent ships to the coast-the U.K. was certainly the most committed to the African patrol. Parliament offered incentives to the Navy's captains and crews with promises of prize money for the capture of slavers and slaves. When captured, slave traders were sent to Mixed Commission courts to be tried, while the slave ship crews were generally freed. As Britain gained a footing in Africa, it also entered into anti-slave trade agreements and legal trading contracts with various African chiefdoms, establishing and protecting British commerce along the coast.

Even though it was the most powerful navy in the world at the time, the British Navy had to obey international law, a topic addressed in the previous chapter. Other

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nations, especially France and the United States, were quick to point out infractions and had a legal right to do so. The British Navy "frequently broke even the nascent dictates of early-nineteenth century international law." 11 As a safeguard against British "outrages," the United States government signed the Webster-Ashburton Treaty in 1842, which created a U.S. squadron that would have no fewer than eighty guns patrolling off the coast of Africa at all times. 12 From the start, under Secretary of the Navy Abel Upshur, the U.S. Africa Squadron was not given a high national priority. Under the terms of the Webster-Ashburton treaty, the United States agreed to "prepare, equip, and maintain in service on the coast of Africa, a sufficient and adequate squadron to enforce separately and respectively, the laws... for the suppression of the slave trade." 13 In reality, instructions given to the Squadron focused on the protection of U.S. commerce above all else. Secretary of the Navy Upshur wrote in 1843, "while the U.S. States sincerely desire the suppression of the Slave Trade, ... they do not regard the success of their efforts as their paramount interest nor as their paramount duty." 14 Considering this, it is no wonder that the U.S. Navy captured only thirty-six slave ships; it is surprising that any were caught at all.

When Upshur finally organized efforts to create the African Squadron, it was over a year after the Webster-Ashburton Treaty was signed. Matthew C. Perry, a Commodore


12 Andrew Foote, famous for his support of the squadron, questioned British anti-slave trade motives, while Henry Wise, a pro-slavery statist, argued against the inhumanity of the slave trade, working diligently in Brazil to stop the illegal traffic. See Howard, American Slavers and the Federal Law, 10-11.

13 Webster-Asburton Treaty, Section 8.

14 Upshur quoted in Fehrenbacher, Slaveholding Republic, 173.
of the U.S. Navy who would become more famous for his Japan Expedition in the 1850s, was appointed to command the first squadron. Four relatively new naval ships sailed to Africa in 1843, where Perry set up a depot in the Cape Verde Islands, concerned himself with the health of the sailors, and protected the small settlement of Monrovia, which was populated by missionaries and former U.S. slaves.

Perry’s orders to the Squadron focused on guarding American merchant vessels against British search. On August 1, 1843, upon arriving at Cape Verde, he issued the proclamation that the Squadron was to prevent the boarding of any U.S. vessel by any foreign navy under all circumstances.\(^{15}\) If captains had had any interest in patrolling in tandem with the Royal Navy, these orders expressly forbade it. Because the Navy was so concerned with maintaining maritime sovereignty for American vessels, very little time and effort was put into suppressing the slave trade.\(^{16}\) As relations improved between the U.S. and Great Britain in the early 1850s, calls came to eliminate the squadron.\(^{17}\)

During his tenure, Perry used the African Squadron to protect American interests and to show American strength along major trading centers in Africa, such as Cape Verde, Sierra Leone, and, occasionally, Whydah, situated near modern day Accra. Though advised to cooperate with the British Squadron, Perry kept his squadron separate from the Royal Navy. With thousands of miles to patrol, Perry chose to keep his ships together, rather than dispersing them along the coast. He seemed most concerned about maintaining health on his ships, ordering that common areas be fumigated every day and

\(^{15}\) Squadron Letters, Perry, August 1, 1843.


distributing flannel drawers to all seamen. Rarely did he send his ships south where slave trading was most active, and only one slave ship was captured during his tenure. When Charles Skinner took command of the Squadron in 1845, the Navy captured a handful of slavers, with the total number of slavers captured by 1850 totaling seven “at an annual cost of $384,000.” The Secretaries of the Navy continued to employ large frigates, primarily as a sign of power and prestige, which could easily make up at least half of the eighty-gun requirement but proved to be unsuited for the navigation of shallow inlets, where slavers tended to hide. Throughout the history of the African Squadron, political leaders consistently ignored the appeals from Squadron captains and commodores to improve conditions and effectiveness, preferring to use the Squadron as a display of national force.

Problems with Support

Perhaps the biggest obstacle in suppressing the slave trade was the general belief that American participation in the slave trade was not a widespread problem. Most of the slave trade to the United States had ceased after 1820 and the scope of American complicity in the foreign slave trade was difficult to discern. Since the United States was more concerned with protecting its borders, few Americans concerned themselves over the slave trade to the Caribbean and South America, although many took part in its profits. President Monroe, whose administration was responsible for the Supplementary Slave Trade Acts, was convinced that the slave trade by American citizens had ended.

18 See Squadron Letters, Perry 1843.

19 Fehrenbacher, Slaveholding Republic, 174.

While the U.S. African Squadron was in existence, Secretaries of the Navy as well as many Squadron leaders refused to acknowledge involvement in the slave trade by American citizens until very late in the Squadron’s history. Even Commodore Perry declared that the slave trade was not being carried out by Americans.21 Throughout the history of the African Squadron, there seemed to be very little consensus about the extent of the traffic. African Squadron Flag Officer Crabbe wrote in April 1856 that the slave trade was “broken up,” but by the next February he admitted that Americans were participating in the trade and later stated that the slave trade was “carried on to an unusual extent.”22

Even after the African Squadron was formed, and even though the British continued to report on the vast American involvement in the trade, most political leaders denied the prevalence of American slavers. Despite the evidence of foreign ships sailing illegally under the Stars and Stripes, Lewis Cass wrote in 1860 that he “regrets if the U.S. flag is used more for the slave trade, although he doubts it in actuality.”23 Throughout the African Squadron’s history, policy makers refused to admit that the participation by Americans in the trade was carried on by more than just a few misguided troublemakers.

One explanation why African Squadron leaders and the Secretaries of the Navy tended to believe that the slave trade was waning, while in fact it was increasing, was that the African Squadron usually sailed solely between Madeira, Cape Verde, and Liberia,


22 H.E.D., No. 7, 36:2, 517, 520, and 522.

23 H.E.D., No. 7, 36:2, 415.
and avoided areas south of the Equator. While the coast around Liberia had been dotted with slave barracoons in the eighteenth century, the trade shifted further and further south as the nineteenth century progressed. By the 1850s, the African slave trade was focused around the Congo River in modern day Angola. While the British used their extensive spy networks to gain intelligence about the African trade, American naval ships rarely traveled south of Liberia until the late 1850s. Some captains, like McNair aboard the *Dale*, aggressively patrolled the coast while on a southern cruise, but many captains chose to focus on the protection of Monrovia, and most were unwilling to sail close to the coast. This was in part due to the deep draft of the U.S. ships-of-war and in part due to the fear of African fever. Most captains returned to Cape Verde or Madeira as soon as possible.24

There were those who did believe that the United States was playing a complicit role in the foreign slave trade. Reverend Charles Remond, a black abolitionist from Massachusetts, asked if anyone would deny that “the star spangled banner was now the greatest protector of the slave trade,” in a debate against Frederick Douglass on May 20, 1857 in New York City.25 Douglass himself would chastise the U.S. government, saying “we were made the patrons of pirates...our Government virtually gave notice not merely to slave traders, but to all manner of sea pirates that the American flag is broad enough to cover them all, and that the American arm is strong enough to defend them all.”26

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Abolitionist alarmists increasingly pressed the federal government to stop the slave trade, but their message was weakened by international politics between the U.S and Britain, as well as the United States' own anti-slave trade stance. Words and deeds, however, were distinctly separate entities.

From the beginning, the African Squadron was an unpopular post. The patrol was isolating, it lacked public support and, above all, was considered the least healthy of the American Squadrons. In reality, seamen posted to the African Squadron were no more likely to die than those on other patrols but its reputation as a death squadron made most captains and crews long for transfers.\(^{27}\) And, despite the fact that few ships were posted to the Squadron for more than twenty-four months, the flag officers tended to keep the ships around Porto Praya, two thousand miles northwest of the Congo River and most of the slaving activity, in order to stay near the supply depot and to keep the crews healthy. Many Flag Officers spent significant time in Madeira, an island even further from the slaving coast. The long distances ships-of-war had to travel significantly reduced active patrol duty, slowed down communication between the ships and, based on the reports of African fever at Porto Praya, had little effect on the overall health of the crews.\(^{28}\)

The African Squadron was also hindered by the lack of monetary support because few believed the U.S. slave trade was a problem. It was hugely expensive to maintain a fleet so far from American soil. The United States government did not have the power necessary to justify the allocation of such funds, especially since there was so little public support for the squadron. Even the Navy reported that conducting a patrol of such a large


\(^{28}\) Henry Eason reported a yellow fever outbreak in Porto Praya, see also Canney, *Africa Squadron*, 66.
area was futile, an observation that did not help the squadron's image, particularly with a public generally opposed to a standing navy. While Americans supported the squadron either for the protection of commerce or as a measure against British dominance, most believed that an expensive blockade was not the best method to suppress the traffic.

This lack of public support for the Squadron also manifested itself in the general dislike of the post by Squadron Commanders. Many flag officers did not complete their two-year commitment, preferring the perks of the Mediterranean or the Home Squadrons. The Secretaries of the Navy tended to neglect the Squadron, leaving the Flag Officers to command as they saw fit. For most, this meant long stays in Porto Praya and Madeira and little overall coordination and strategy within the small fleet. In general, the Squadron captains displayed a commitment to their duties, both in protecting U.S. commerce and in their search for American slave ships. Navy captains made attempts to acquire information from the British about slave ship locations, while the Secretaries of the Navy were more concerned about British right-of-search violations. In the long run, the fear of illness, poor supplies, insufficient fire-power, and the long distance between the supply depot and the slaving coast, rendered efforts to stop the slave trade futile.\textsuperscript{31}

\textsuperscript{29} Canney, \textit{Africa Squadron}, 68, and McNeilly, \textit{The U.S. Navy}, 175

\textsuperscript{30} There are many letters from Commodores to the Secretaries of the Navy asking to be relieved of their position. Some had good reason. Bolton, for example, died a few months after being reassigned to the Mediterranean post, after a long illness which kept him and his flag ship in Madeira for most of the time he was Flag Officer. See Canney, \textit{Africa Squadron}, and Letters to the Secretary of the Navy, housed in the National Archives.

\textsuperscript{31} See Canney, \textit{Africa Squadron}, 221, 223, and 227; see also Booth, "The United States African Squadron," 102; Pfautz discusses the "indifference of captains" but Canney's thorough analysis of squadron letters and decklogs does support the argument that the Captains were committed to their goals. The problem for the suppression of the slave trade was that the General Orders did not prioritize abolishing the slave trade.
The Squadron and the Slave Trade Laws

The Squadron was also fraught with miscommunication and legal uncertainty. Even though the laws against the slave trade stipulated that vessels could be condemned for having slave trading equipment aboard, none of the laws specified what this equipment was. The Navy tended to assert that items such as chains, slave coppers, water casks, and medicines were evidence enough to confiscate a vessel. Justice Joseph Story in 1823 and Chief Justice Roger B. Taney in the 1840s also agreed. Juries, hesitant to convict fellow citizens of a capital crime, increasingly dismissed these cases because of lack of evidence, however. By 1859, seamen and officers were only able to receive prize money if human cargo was found aboard a slave vessel.\(^\text{32}\) In the *Wanderer* case, which will be analyzed in the next chapter, a judge declared the 1820 piracy law to be unconstitutional, and New York District court judge Samuel Betts declared that vessels could only be condemned if slaves were found aboard. This created huge obstacles for a Navy that otherwise was becoming better organized and more effective.\(^\text{33}\)

Because the United States never resolved the issue of mutual right-of-search and was ineffective against the abuse of the American flag, even when these abuses were acknowledged, little could be done to mitigate them. By the 1850s, public officials finally admitted the problem of the abuse of the American flag as well as American participation in the trade, but they had made little progress in improving the squadron. Andrew Foote commented on this problem in 1855, arguing that the right-of-search policy effectively sheltered slavers under the flag because, “unless the vessel is boarded,

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\(^\text{32}\) Fehrenbacher, *Slaveholding Republic*, 175, see also Blythe to Hatch in Cuba July 22, 1857, concerning Blythe’s difficulty in gaining evidence in H.E.D., No. 7, 36:2, 71.

\(^\text{33}\) Canney, *Africa Squadron*, 199.
our colors may be made to cover the most atrocious acts of piracy."34 The U.S. Squadron slowly began to cooperate with the British Squadron, particularly by trading information and sailing in tandem. By drawing the public’s attention to problems of the slave trade, men like Andrew Foote pressured Congress to make the squadron more effective. An avid abolitionist after serving on the U.S.S. Perry in the African Squadron, Foote declared, that while his ship sailed in tandem with the British, the slave trade “languished,” but afterwards, when the Marion and Boxer spent very little time sailing south, the “abuse of the American Flag became too notorious… to make it necessary for me to refer further to it.”35

Back in the United States, conflict over the expansion of slavery dominated politics. The federal government continued to sanction slavery and prioritize preserving the Union, while abolitionists began increasingly to attack the “peculiar institution.” The Fugitive Slave Act of 1850 cemented the government’s commitment to slavery, which made harboring a fugitive slave a criminal offense and employed federal marshals to carry out state slavery codes. After 1850, some claimed that the U.S. Navy, in capturing slave ships and separating slaves from their potential owners, was violating the Fugitive Slave Act, creating yet another contradiction in U.S. policy.36

Changes to the Squadron

Understanding the disconnect between the vision of American leaders and the practice of the commanders on the coast of Africa reveals the difficulties in slave trade

36 This claim comes from Canney, Africa Squadron, 155
suppression. Beginning with the agreed cooperation between the British Squadron and the *U.S.S. Grampus* in 1843 and the swift orders overriding this agreement from the Secretary of the Navy, the Squadron captains seemed much more willing than the U.S. policy makers to join forces with the British, probably because the captains understood the many problems at sea in suppressing the slave trade and that a single country could not act alone. Historian Donald Canney’s assessment of the Africa Squadron concludes that Navy captains, in general, took their positions seriously despite the obstacles, unpopularity of the post, and lack of support from above.\(^{37}\) Despite the overall efforts of squadron captains, effective patrolling could only be brought about from the political leaders holding the purse strings. Eventually the African Squadron would improve its efforts in stopping American slave ships, but, in the end, it was the U.S. efforts to stop British seizure of American ships that led to a stronger squadron.

Partially in response to the renewed British “attacks” on shipping, the United States increased its surveillance of the African Coast in 1858, adding several steamships and sloops-of-war to its Squadron. At the same time, plans for a supply depot closer to the slaving ports were finally accepted. The Navy seemed much more committed to the Squadron than it had ever been before. This commitment reflected the changes at home: the radicalization of Southern politics and the reaction in the North, and an admission by the government of American complicity in the slave trade and the abuse of the flag. The addition of steam ships was important because, unlike sailing vessels, they were much more effective in navigating the shallow inlets along the African coast and were not dependent on Africa’s unreliable breezes. Despite these important additions, many slaver

traders would still escape capture, and many more would escape conviction in U.S.
courts, as the example of the *Orion* showed. Its journey from the Baltimore dry docks to
its destruction at St. Helena by the British highlights the many problems the U.S. and
British squadrons had in successfully capturing slave ships.

By the time the owners of the *Orion* began fitting her out in New York for a
slave-trading voyage in early 1859, the British and American squadrons off the coast of
Africa had entered into an unwritten understanding and were increasingly sailing in
tandem. But, as it became more and more apparent that the U.S. flag was acting as a
cover for slavers, the British also increased their policing of suspicious vessels regardless
of the flag flown. Because the U.S. Secretaries of the Navy continued to protest Great
Britain’s search and seizure policy, the British began utilizing other methods of capturing
slavers, and therefore claiming their prize money. When a suspicious ship raised the
Stars and Stripes in the presence of a Royal Navy ship, often the British would then
“detain” the ship until it came upon an American cruiser. As the ships waited for the
U.S. squadron to arrive, British officers would try to convince the alleged slaver to
abandon its American papers and surrender to the British or else be subject to capital
punishment in the U.S. courts. Often, this tactic worked, since the British tended to
release crew members while the U.S. Navy would send them to the U.S. for trial. Not
surprisingly, the U.S. government protested this practice, accusing British officers of
overreaching their authority.\(^{38}\)

\(^{38}\) The *President Message Concerning the Slave Trade of 1860* is full of examples of British
“liberties” see for example: 80, 82, 83, 92, 97, 532. By 1858, the British had increased the
pressure on the U.S. over the abuse of the American flag, by blatantly boarding vessels flying the
American flag. Even the captain aboard the *Orion* protested this action. H.E.D. No. 7, 36:2.
The *Orion* first came under the suspicion in the spring of 1859 as it cruised near the mouth of the Congo River. The bark, under the control of Captain John Hanna, had left New York in January of that year and had spent nearly three months sailing off the African coast, arousing British suspicion. Finally, Lieutenant Commander R. H. Burton of the *H.M.S. Triton* boarded the *Orion* on the 11th of April and “never for the moment suppos[ing] him legally entitled to fly the ‘American ensign’”40 seized the ship, placed her in tow, and got underway to find a U.S. Navy ship. After four days of sailing, the *Triton* returned to Shark’s Point, at the mouth of the Congo River, and waited for the *U.S.S. Marion*, which was scheduled to arrive in the area.

While the *Orion* was in tow, it seems from Lieutenant Burton’s testimony that the Captain and Chief Officer of the suspected slaver were in disagreement. According to Burton, Captain Hanna had discussed with him the possibility of forgoing the American

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39 G.W. Blunt Library, Log 902; Eason Ship Journal, 1858. On the side of the image, Henry Eason wrote: “A Dead Failure: She was honorably acquitted in Charleston, S.C. & no prize money.” It is unclear why Henry Eason sketched a bark rather than a brigantine, which is what the *Orion* was; it is most likely because the drawing was done by memory, not in person.

flag and turning the ship over to the *Triton*. On April 13, Thomas Morgan, the Chief Officer of the *Orion*, submitted a protest to Burton, insisting that the bark be turned over to the closest American ship or consul immediately and that Hanna was "so unwell that he is unable to conduct or manage the vessel himself."\(^{41}\) Unsure of who was in charge of the *Orion*, Burton must have been relieved when the *U.S.S. Marion* came into sight on the 19\(^{th}\).

Once the *Marion* arrived on the scene, the situation did not improve for Burton. Thomas Morgan clearly had been instructed on how to claim innocence while carrying a suspicious cargo. A formal protest dated April 18th by Hanna, Morgan, and the second mate, claimed that the British seizure of the ship was "calculated to injure the interest of my owners to a very serious extent, and, [that they would]... seek reparation for every damage sustained thereby."\(^{42}\) Morgan’s detailed account of the ordeal indicates that he was well aware of the conflict between the U.S. and Britain over the right-of-search. He also claimed that Burton had made threats to Hanna and Morgan and also indicated that the Royal officer was open to bribery. According to Morgan, "these and many other things were used by the British commander, in order to intimidate and induce our captain to give up the ship."\(^{43}\) When questioned about the cargo on board, both Hanna and Morgan claimed that they had no "knowledge of the nature of their cargo."\(^{44}\)

\(^{41}\) Morgan to Burton, April 13, 1859, H.E.D. No. 7, 36:2, 370.

\(^{42}\) Protest of John Hanna, April 18, 1859, H.E.D. No. 7, 36:2, 367, the *Orion*’s logbook refers to its seizure by the Triton.

\(^{43}\) Morgan, Excerpts from *Orion*’s logbook, April 14, 1859, H.E.D. No. 7, 36:2, 369.

\(^{44}\) Burton to Brent, April 32, 1859, H.E.D. No. 7, 36:2, 365.
Denying knowledge of the cargo was one of many tactics slave traders used in order to escape conviction. The captain and crew need not have worried. The Anti-Slave Trade Acts failed to define what cargo was considered evidence despite all the U.S. laws against the slave trade and the severity of the punishments.\textsuperscript{45} At sea, the \textit{Marion} quickly seized the \textit{Orion} and made preparations to sail her to New York, believing her to have enough evidence for conviction.\textsuperscript{46}

The officers and crew aboard the \textit{Marion} would find many American merchant ships at the mouth of the Congo that spring. The day after the \textit{Orion} was seized, the \textit{Emma Lincoln} was boarded and was found to contain nearly identical cargo as the \textit{Orion} and owned by the same group of New Yorkers. While Commander Brent of the \textit{Marion} seems to have been suspicious of the \textit{Orion}'s story, the papers of the \textit{Emma Lincoln} were considered to be “correct [and] they could not find sufficient evidence to condemn her.”\textsuperscript{47}

In the case of the \textit{Orion}, Brent must have been wary of the outbursts of Captain Hanna and claims of Thomas Morgan. Brent sent a letter on April 20 to Commander Burton of the \textit{H.M.S. Triton}, arguing that the \textit{Orion}'s papers were genuine and informing Burton that a formal investigation would take place. Remaining cordial but firm in his letter, Brent reminded Burton that, although Burton believed himself to be carrying out his orders, “as to [the \textit{Orion}] being engaged in the slave trade, that is another question, and in

\textsuperscript{45} See Slave Trade Acts of 1794, 1800, 1808, 1818, 1819, and 1820 in Appendices, and Judge Betts's decision that required slaves be present on board in order for a slave ship to be convicted, see Canney, \textit{Africa Squadron}, 94.

\textsuperscript{46} Henry Eason, \textit{Journal of Henry Eason aboard U.S. Marion}, G.W.Blunt Library, 4/19/1859, 46.

\textsuperscript{47} Eason, \textit{Journal}, 47.
my jurisdiction." Brent knew that keeping the British in check was the squadron’s main priority.

Brent’s tone in his correspondence with Burton was mild compared to that of the letters sent from the Secretaries of State and Navy and the U.S. Minister to the Court of St. James, George M. Dallas. Unlike the men who had witnessed the capture of the Orion, they focused on the illegal boarding of an American ship by the British, rather than the obvious nature of the bark’s voyage. Whereas Brent concluded that, without Burton’s “intervention it is highly probably I could not have effected the capture of that vessel,” Dallas wrote to the British Secretary of State that “the incidents, if ultimately established, are so calculated to create angry feeling, and to disturb the existing relations of the two countries.” He demanded that a full investigation be conducted.

Meanwhile, as the two nations fought over the alleged misconduct of Burton, the Orion sailed to New York with its original officers and crew in irons. En route to New York, Captain Hanna, apparently “under the menaces, humiliation, and responsibilities to which he was subjected, died of a broken heart.” When captured aboard the Orion, however, Morgan initially described Hanna’s ailments as an intestinal blockage. Hanna’s death was declared to have been caused by the cruelty of the British captain and there was widespread sympathy for the Orion’s crew among the American public. The case


49 The main objectives of the squadron were for “protecting the American flag and denying to the British a right of search.” See Pfautz, African Squadron, 62.

50 Brent to Burton (at Burton’s request), April 22, 1859, H.E.D. No. 7, 36:2, 366.


52 Ibid.
became less about the illegal actions of the *Orion* and more about British aggression against American merchants. In court, the crew was immediately released, the owner, Harrison Vining, was not held liable, and a bond was posted in return for the ship. As a result, while the United States and British politicians sparred over the seizure of the ship, Thomas Morgan, the former mate and new captain of the vessel, readied the *Orion* for a return trip to Africa, carrying the same cargo from the first voyage.

The seizure of the ship and the subsequent dismissal of the case had effectively given Morgan a free pass to travel undisturbed. Even with a cargo of slave coppers, water casks, medicine, and lumber, the New York judge ruled that there was insufficient evidence by which to condemn the vessel. By dismissing the case, the judge made the cargo legal in the eyes of the U.S. courts, and subsequently, Thomas Morgan himself. Immediately before sailing the *Orion* back to Africa, Morgan boldly sent a letter to Lewis Cass, Secretary of State, protesting the “insulting” behavior of the British officers aboard the *Triton*, and informing him of the *Orion*’s preparations to sail to Africa. In addition, Morgan asked Cass what a captain’s rights were in denying foreign navies permission to board his ship. It seems, though, despite Morgan’s request for a swift reply, that his goal was merely to have his inquiries put in writing, since he set sail with a new crew aboard the *Orion* shortly after posting his letter.\(^{53}\) After a journey of less than two months, the suspected slaver was back at the mouth of the Congo River. The ship’s arrival, however, did not go unnoticed.

By the fall of 1859, the African Squadron had changed dramatically because of the Buchanan administration’s increased support of the Squadron. William Inman, a War of 1812 veteran and native of Utica, New York, had been appointed Flag Officer of the Squadron. Inman’s tenure as flag officer brought many important changes to the African Squadron. His attention to detail created a more connected, streamlined, patrol of the African coast. Isaac Toucey, the Secretary of the Navy, finally answered the requests of previous Flag Officers; he allocated funds for steamships, negotiated a supply depot closer to the slaving coast, ordered U.S. ships to remain south of Liberia, and encouraged communication between British and U.S. ships. These improvements marked a great “sea change” in the U.S. African Squadron. This change stemmed from two main causes. First, the increased British aggression on American merchants ships encouraged Congress to allocate more funding for the Navy in order to protect merchants ships, which also had the consequence of improving U.S. patrols against illegal slavers. The second cause stemmed from rumors of the reopening of the slave trade to the U.S., including the successful voyage of the Wanderer to Georgia, which will be discussed in greater detail in the next chapter. For these reasons, the U.S. government itself was more committed to suppressing the slave trade. Additionally, the capture of more American slavers brought international attention, and added U.S. embarrassment, to the participation of American citizens in the illegal slave trade. Finally, U.S. policy makers

54 Canney, Africa Squadron, 201

55 Buchanan, a Democrat, responded to demands to improve the African Squadron in part to prevent the Republican party from gaining anti-slave trade supporters and capitalize on the alarming (mostly inflated) reports that the slave trade to the U.S. was reviving. See Canney, Africa Squadron, 204-5.
begudgingly admitted that Americans were profiting from the trade, and they began to take responsibility for the abuse of the U.S. flag by foreign slave ships.

The extent of the success of the African Squadron under Inman and Toucey was limited, as Inman’s extreme micromanaging decreased the squadron’s flexibility and effectiveness. Aside from a few, albeit important, improvements made in the final two years of the Squadron, the United States’ policy would never alter or adapt to the ever-changing evasion tactics of the slavers, although the squadron made more captures between 1859-1861 than the previous fourteen years combined. In many ways, the increasingly hesitant court system cancelled out any progress the Navy made in capturing slave ships, because the policy for conviction was not keeping pace with improvements to the African Squadron.

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56 Canney, *Africa Squadron*, 220, McNeilly, *U.S. Navy*, 226, see also the works of Booth, Pfautz, and Howard. Canney argues, rightfully, that the Squadron became more effective due to changes from the federal government, not necessarily Inman’s officiousness. It must still be pointed out that although Inman’s tenure saw many changes in the Squadron (i.e. changing supply stations, use of steamers, better communication with the British, and increased funding) slave ships still escaped the African blockade and delivered their human cargo, and, the court system in the United States still balked at convicting slavers. The case of the *Erie* and Captain Gordon, who was hanged in 1862, stands as the one exception to the rule. Inman’s letters to officers and the Isaac Toucey, the Secretary of the Navy, begin in July 1859 when he was appointed Flag Officer. His correspondence then proceeds to fill three rolls of microfilm, compared to one to one-half roll from his predecessors. Although Inman’s tenure does boast the largest number of slave ship captures, this seems in part due to sheer luck rather than his own desire to capture illegal traders.


58 Warren Howard has an impressive set of Appendices including lists of vessels and slavers captured and the outcomes of their trials. Most criminal prosecutions resulted in acquittal or less than 5 years sentencing, while cases involving alleged slave vessels were increasingly dismissed. See also Canney, *Africa Squadron*, 201-203, see also the infamous *Wanderer* case, in Tom Henderson Wells’s *The Slave Ship Wanderer* (Athens, University of Georgia Press, 1968). Owner Charles Lamar bragged to his friends that he could land slaves on U.S. soil, transporting them aboard his yacht, which he did successfully, and with great publicity. The vessel was eventually forfeited, but over 300 enslaved Africans disappeared into Southern plantations and were never recovered.
From an international viewpoint, the differing strategies of the United States and Britain placed huge obstacles in the way of successful cooperation. It does appear that captains from both navies communicated and collaborated on a regular basis, however. These U.S. Navy captains employed British spy networks and superior force to their advantage, learning more about the slave ships than they would have on their own, particularly in years where the American squadron was functioning at a minimum level. The right-of-search issue, of course, remained a sticking point until the Civil War. The U.S. policy of freedom of the seas in international law continued to obstruct most efforts to stop the trade. This is most apparent from the fact that despite appropriating funds for a stronger African force, the general orders for the African Squadron in 1858 were virtually identical to orders given to Perry in 1842. The main, and most significant, change to U.S. policy was the order from Isaac Toucey to collaborate with the British if it were deemed prudent. 59

Inman took most General Orders seriously and in his typically officious manner. His orders to re-concentrate his force and alter the supply depot he carried out with methodical diligence. He had been ordered to transfer the supplies from Porto Praya to St. Paul de Loando, a Portuguese port near the mouth of the Congo River that was believed to be fairly healthy, and, more importantly, was much closer to the slaving coast than Cape Verde. The most important change Inman orchestrated was in ordering the Squadron captains "to cooperate with her Majesty's ships whenever it may be mutually

59 Canney, Africa Squadron. 208; H.E.D. No. 7, 36:2, 584.
desirable to do so. Inman himself seems to have minimized his own contact with British Officers during his tenure.

Inman left New York in July 1859 aboard the Constellation, a five-year old sloop-of-war that would gain the distinction of being the last all-sail ship built for the U.S. Navy and the last Flag Ship of the African Squadron. But, before the Constellation could begin its cruise down the African coast, Inman kept the ship in Madeira for a month and, in Porto Praya, the supply depot in Cape Verde, for another five weeks, not reaching Liberia until the end of October. Flag Officers of the Squadron typically preferred to maintain their base of operations in either Madeira or Porto Praya, since they believed that these ports were healthier than any other found in Africa. Like his predecessors, Inman was in no hurry to sail south.

While Inman supervised these duties in Madeira and Porto Praya and awaited the arrival of the steamers and the return of the ships from patrol, only the U.S.S. Vincennes remained on duty to monitor the hundreds of miles of coastline and inlets. By September, that ship had sailed north to Porto Praya with the hope of returning to the United States, while the U.S.S. Portsmouth sailed south after receiving orders from the Constellation in Porto Praya. On her way south, the Portsmouth captured the slave ship Emily the day after having met with the captain of a British warship. Likely the British had informed Captain Colhoun of the suspicious vessel. When the Portsmouth arrived at

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60 Inman to Rear Admiral Sir Fred. Grey, October 24, 1859, in H.E.D. No. 7, 36:2, 584.
62 This information comes from Record Group 45, Letters to the Secretary of the Navy, National Archives, Microfilm Reel 110.
the Congo River on October 9, crew member Isaac Mullen simply recorded, “English steamers Archer and Viper also barque Orion lying there.” The Orion was back on the coast and immune to both British and U.S. searches.

The fact that the Orion was in company with the two Royal Navy ships is telling. Clearly Thomas Morgan, the captain of the Orion, was not threatened by the presence of the British Navy. With the vast intelligence and communications networks of the British, the two British men-of-war would have known about the Orion's previous capture, and, most likely, would have been in communication with the ship. Morgan's court libel rendered him untouchable. Without slaves on board, the U.S.S. Portsmouth was also powerless to slow Morgan's progress. What Morgan did not know was that the Portsmouth soon would not be alone. Three more U.S. Navy ships would sail to the Congo in the next six weeks, trapping Morgan on the coast.

Even if Calhoun and the rest of the Portsmouth crew did not initially suspect the Orion as a slaver, communication with the British would have informed them of the situation. Five days after Mullen recorded seeing the Orion, the First Lieutenant of the Portsmouth boarded the Orion and found Captain Morgan sailing with his bonded cargo—the same cargo with which the Portsmouth had seized the Emily. But because the Orion had been bonded by the district court, its cargo was immune to seizure. With that knowledge, Colhoun ordered the Portsmouth to release the Orion and set sail. No more mention of the Orion exists until four weeks later.

In the span of time before the Orion was again spotted off the coast of the Congo River, Thomas Morgan must have gone up river to negotiate the purchase of slaves, fill

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63 Isaac Mullen, *Journal of Isaac Mullen aboard the U.S.S. Portsmouth*, Strawbery Banke Museum, October 9, 1859.
up his water casks, and dispose of the slave coppers, which then he had trekked over land
to a prearranged slave loading area north of the mouth of the Congo River. Slave trader
intelligence networks must have informed Morgan that he was being watched by the
British and American ships, and that more navy ships were congregating south of the
Congo River, making it impossible to load the slaves from the river. Yet, his trip up the
river also subjected himself and his crew to "African fever" and, by the time she was
again sighted off the coast by American ships a month later, most of her crew, including
Morgan, were sick.64

By the beginning of November, the U.S. African Squadron had begun
concentrating its forces at the mouth of the Congo River, where the majority of slave
trading voyages were reported to have embarked. The Portsmouth, the Mystic, the San
Jacinto, and the Constellation all patrolled a three hundred mile stretch of coastline
between Kabenda and St. Paul de Loanda.65 Inman had ordered all ships to make St. Paul
de Loando their base, and he finally left Porto Praya, arriving at Shark's Point on
November 21. Never before had so many U.S. Navy vessels patrolled such a
concentrated area of the African coast.

Before the Constellation's arrival, the Portsmouth, the Mystic, the San Jacinto,
together with the British ships Pluto and Archer, circled around the untouchable Orion.
The Portsmouth boarded the Orion on November 10th after a six-hour chase. One hour
later, Captain Colhoun released the suspicious vessel because, as a New York Herald
correspondent aboard the Portsmouth lamented, "although her intention was perfectly

64 The Portsmouth chased the Orion for six hours before boarding her for an hour on November 10th. The Mystic boarded her on the 12th, see Record Group 45 Deck Logs, National Archives.

65 Also spelled Kabinda or Cabinda.
evident, we could do nothing but let her pass, not being able to procure the evidence our
courts in New York require for condemnation."\textsuperscript{66} Two days later the \textit{Mystic} boarded the \textit{Orion} and found the captain and crew sick with African fever. To assist the \textit{Orion} back to Shark's Point, "an officer and fourteen men [from the \textit{Mystic}] were put on board at the request of her master"\textsuperscript{67} where they would remain at least a week.

While it was not unusual for Navy ships to assist merchant vessels in distress, one can only imagine what was going on aboard the \textit{Orion} for those seven days. Later Morgan would be accused of feigning sickness, but this accusation only adds to the brazenness of Morgan's behavior off the coast of Africa. Free to sail where he wanted, sick or not, he could make preparations for a slaving voyage right under the U.S. Navy's nose.

One incident during the middle weeks in November that had a direct impact on the \textit{Orion}'s story was the boarding of the ship by the U.S. Steamship \textit{San Jacinto}, recently arrived from the United States. Steamships would prove invaluable in the policing of coastal inlets, but they were expensive to fuel and often broke down. During the voyage across the Atlantic, the steamer's propellers and pumping system failed. Despite Flag Officer Inman's orders to continue on patrol, Captain William Armstrong wrote many letters describing the extent of the damage and had engineers submit damage reports recommending immediate overhaul. Inman overrode all these protests, ordering Armstrong to "anchor the \textit{San Jacinto} off Shark's Point in such a position that, with your gun boats and by chase under steam, you can command the mouth of the river... You will


\textsuperscript{67} Ibid.
retain that position, except when in chase, under further orders; and you will not fail to visit and examine every American Vessel arriving and departing.\textsuperscript{68} Inman’s very specific orders, after the ordeal with the repairs, did not sit well with Armstrong. Upon arriving at Shark’s Point, Armstrong spotted the Orion and gave chase. Finding the officers of the Mystic still on board, Armstrong left the Orion, and steamed into Kabenda, thirty miles north of the Congo, where the San Jacinto spent four days watering the ship, despite having a thirty days’ supply already on board.

Armstrong clearly was frustrated with the way Inman disregarded his concerns over the state of the steamship, but there were other reasons why Armstrong did not immediately return to his post at Shark’s Point. Firstly, in Kabenda’s harbor, several British ships were at anchor, including the HMS Pluto and Archer, as well as the U.S.S. Portsmouth and the Mystic. The deck logs of the Portsmouth and San Jacinto show active telegraphic communication between the ships as well as many visitations between officers and crew of the several ships. Captain Le Roy of the Mystic had lost track of the Orion and his crew, so, according to Armstrong, he was glad to hear about the whereabouts of the ship. Because the Orion had been boarded so recently by so many of the ships in that harbor, it must have been a topic of conversation during those next few days, and it appears as though the commanders of the ships, including those of the British, had ample time to discuss the problems of seizing suspected slavers.\textsuperscript{69}

\textsuperscript{68} Inman to Toucey, relaying Inman’s orders to Armstrong, Nov 28, 1859, Letters to the Secretary of the Navy, National Archives, Reel 110.

\textsuperscript{69} This information comes from the logbooks of the San Jacinto and Portsmouth, both housed at the National Archives in Washington, D.C. Unfortunately, this author has not been able to locate the logbooks for the Mystic or the Constellation, nor information on how to translate these specific signals. Many thanks to Paul Cora, curator at Historic Ships in Baltimore, for his help in the matter.
While it is not clear when the Mystic received its officers back from the Orion, there is evidence that action was taken to catch the slaver with slaves on board or, at the very least, force the bark to give up on its mission. The Mystic returned to the Congo and seems to have proceeded further south from there. The Portsmouth sailed out to sea on a circular route to try to catch slave ships sailing out from the coast. Leaving on November 22, she would be back at Shark's Point on November 29, before sailing south to St. Paul de Loanda. The San Jacinto meanwhile, completed the watering of the ship and returned to Shark’s Point on the 22nd but not before Inman could arrive at Shark’s Point and find the post abandoned.

When the Constellation arrived at Shark's Point with the steamer San Jacinto nowhere in sight, Inman must have seen it as the last straw in Armstrong’s attempt to undermine his authority. Armstrong’s decision to chase the Orion may not have been against Inman’s direct orders, but his four-day “liberty” was. This latest insult compounded the dispute between the two men over the serviceability of San Jacinto’s
propellers and rudders. When the San Jacinto returned, Inman immediately ordered the Constellation and San Jacinto to sail 300 miles south to St. Paul de Loando, ironically ordering the San Jacinto to abandon her post at Shark’s Point. William Armstrong was later court martialed for neglect of duty and would never again command a naval ship. On November 22, the day the Constellation allegedly boarded the Orion, the U.S. ships sailed to St. Paul’s, thus removing all American Navy ships from a coastline where a suspicious slaver lurked. The Congo River was at last free of American Navy ships.  

During this window, Thomas Morgan of the Orion, now recovered from his fever, may have sailed back up the Congo to secure a shipment of slaves. Then, on the night of the 28th of November, Morgan anchored in a bay twenty miles north of Shark’s Point and just south of Kabenda, and loaded nearly 900 enslaved Africans aboard. The slaver had escaped relentless inspections by U.S. cruisers, but now, with slaves on board, the U.S. flag could no longer protect it from Britain’s superior fleet.  

Within twenty-four hours, the H.M.S. Pluto spied the Orion over one hundred miles out to sea and pounced. According to an account aboard the Pluto, the Orion continued to sail with American colors but, when the British threatened to board anyway, she struck her colors and surrendered. All the protection Morgan had had from the American court could not save him. For the 108 Africans who died below decks while the captured Orion was taken to St. Helena, the seizure came too little, too late. The

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70 The Constellation boarded the Orion on November 22nd, but there was not enough evidence for conviction, although there are no deck logs available for this time period. Inman to Toucey, December 15, 1869. H.E.D. No. 7, 36:2, 585.


fate of the survivors is unknown, although David Eltis suspects that they were brought to the West Indies for Britain’s “apprentice” program.73

The capture of the ship earned the captain and crew of the *Pluto* substantial prize money. The *Orion*’s crew was released, which was common practice by the British, while the brig was condemned and destroyed. The fate of Thomas Morgan and his mates, Chamberlain and Dunning, would be quite different. They were delivered to Boston for trial, where they would be sentenced to two years each in prison. For Rudolph Blumenberg, the man who posted the bond for the *Orion* on August 6, a sentence of five years was given, but this relatively harsh sentence was imposed because of his inability to post the bond from the first court case rather than for his participation in the slave trade. He, too, was released in two years.74

**The Failure of the U.S. Navy**

![Image of the capture of the *Orion* by the *Pluto*](http://hitchcock.itc.virginia.edu)

Figure 8: Capture of the *Orion* by the *HMS Pluto*
The Illustrated London News (April 28, 1860), vol. 36, p. 409

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Although the *Orion* was eventually captured and condemned, many voiced their frustrations over the inability of the United States to stop the slave trade. The court system was clearly at the root of the problem: from Judge Betts's ruling that slaves had to be on board a ship in order to condemn it, to the unwillingness of judges and juries to sentence a man to death for participating in the slave trade. At sea, this translated to a nearly impossible task, even for a squadron so recently bolstered by steamships and improved efficiency. The seamen aboard the Navy ships saw first-hand how ineffective their mission could be. Aboard the U.S. Squadron ships, Isaac Mullen penned the words to his poem concerning the empty slavers, and Henry Eason, a sailor aboard the *Marion* when it captured the *Orion* in April wrote:

> We heard that our slavers we sent home had been acquitted because the jury could not find substantial evidence to condemn them. The *Orion* came out on the coast as a trader the second time & the consequence was that the American Commodore detained her for six days but could find nothing to condemn her & a short time after the English Steamer *Pluto* captured her with 808 slaves on board & took her to St. Helena. This will make our people at home pull their eyes out at an American ship capturing slavers & sending them home for triale & get honorably acquitted and then come & load up with slaves three months later. The *Orion* had everything that is needed on board of slavers.75

The frustration from Mullen and Eason is obvious, but the question does remain: was Inman's order to abandon the busy slave trading coastline issued in order to draw the *Orion* out and catch her with slaves on board or was Inman too caught up in following the proper order of the law, thus considering a court martial on a charge of neglect of duty more important than patrolling the coast for slavers? While Inman's true motives

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can only be speculative, his character, previous behavior, and overall mission, seem to
point to the latter.

By November 1859, Inman had only been flag officer of the African Squadron for
five months. He was, nevertheless, a diligent letter-writer, keeping Secretary of the Navy
Isaac Toucey up to date on all the machinations of the squadron. An intense micro-
manager, Inman felt it his duty to keep tabs on all the squadron ships, personally
inspecting all of the cruisers that fall, issuing orders such as when to celebrate a day of
Thanksgiving, and, most importantly, ensuring that all his orders were carried out
efficiently.\textsuperscript{76} When Inman found anything out of order, he ensured that proper procedure
was carried out to correct the problem.

There is some evidence that, by abandoning Shark’s Point, Inman was setting a
trap for Thomas Morgan. The \textit{Orion} had, after all, been on the coast for six weeks and
had been boarded numerous times with slaving equipment, but no slaves, on board.
Everyone involved knew that she would have to be captured with human cargo in order
to be condemned. The British intelligence in the area was quite strong and the deck logs
of the \textit{San Jacinto, Portsmouth, Marion,} and \textit{Vincennes} all record frequent boardings and
communications between the U.S. and British ships. Both nations knew what was at
stake and that catching a slaver with her human cargo would be a challenge. It is possible
that, between November 16 and November 21, the captains of the various British and
American Navy vessels in Kabenda discussed strategies in luring the \textit{Orion} into loading
her cargo. Before Inman became Flag Officer, the captains generally had a free hand in

\textsuperscript{76} See Canney, \textit{Africa Squadron}, 202, 207.
their day-to-day decisions while on patrol. The fact that the U.S.S. Portsmouth departed Kabenda to sail a large half circle patrol 150 miles off the coast focusing on the areas affected by the Congo River's current, does indicate that the Portsmouth aimed to catch a slaver at sea. The Mystic too, cruised directly down the coast, anchored at St. Paul de Loando, before sailing northward again to Princes Island, covering a larger area of the slaving coast. Inman may very well have been in discussion with the British about the necessity of American ships vacating the area in order to capture the slavers.

This reasoning does not bring into account the overall goals of Inman's African Squadron: to protect U.S. interests off the coast. Abandoning their posts meant that the British ships in the area would be the ones to detain and board the suspected slavers flying the American flag. For the U.S. sailors, a British capture meant that the U.S. captain and crew would not receive prize money, which was, perhaps, the only perk to the entire post.

Even though Inman did receive orders to cooperate with the British to an extent and the deck logs show that captains did frequently meet with British officers, Inman himself believed that war with the British was imminent. While he was certainly not the only one who perceived British/U.S. tension over the right-of-search issue as a true threat, it does appear that this conviction came more from government officials rather than the captains and crews sailing off the coast. Inman's aloofness removed him from the daily operations in which Squadron captains actually seemed to keep slave trade suppression as their goal. Instead, at the end of January 1860, Inman issued a confidential general order to squadron captains that:

See McBlair's cruise down the coast, refitting the ship and disguising the brig as a English ship-of-war, in Canney, Africa Squadron, 185.
complications exist in the relations between the U.S. and Great Britain. It is possible that these may result in war of which one may not hear of immediately... you will endeavor to keep on hand a supply of provisions and water for three months... You will use every means in your power to be constantly informed of the condition of our foreign relations and after you are satisfied that war was taken place between the U.S. and Great Britain... you are authorized to return home, without further orders. 

When the Squadron was ordered home, it was not because of war between the U.S. and Britain, but because of civil war in the United States.

Based on this information, it seems that Inman prioritized proper Navy procedure over capturing the Orion. Perhaps he believed that the Portsmouth would be able to capture the Orion at sea, or perhaps he believed the Orion's crew was still too ill to carry out its plans. When he learned about the British capture of the Orion at least two weeks afterwards, Inman was uncharacteristically silent, appearing quite ambivalent about the capture, saying only that the U.S. ships had been “necessarily withdrawn” from Shark's Point. More characteristic, however, is the flurry of correspondence he sent in order to reclaim the captain, crew, and ship of the Orion from the British consul in St. Helena in January 1860.

Another problem Inman faced stemmed from a direct result of capturing slave ships with slaves on board: what to do with the recaptured Africans. The mortality rates on a slave ship even after it had been captured by the Navy could be astronomical. When the Echo, Wildfire, and Storm King, were captured and sailed to Key West and Charleston, the death rates of the weakened enslaved Africans appalled citizens and

78 Order Confidential, Inman, Jan 27, 1860, in Letters to the Secretary of the Navy, Reel 111.

79 While the Armstrong court martial takes up at least thirty pages of microfilm, the capture of the Orion referring to the U.S. ships being “necessarily withdrawn” is accomplished in one, single-page letter. See Reel 110. The letters sent to coordinate the return Thomas Morgan and the Mates comprises several pages on Reel 111.
politicians alike. When slave ships were captured off the coast of Africa by the U.S. Navy, protocol stipulated that all those aboard should be sailed to the nearest U.S. port. With poor sanitation, inadequate food and water, and general poor health of those aboard, this often cost many lives. Inman was able to secure orders to the Squadron to sail recaptured Africans immediately to Liberia instead. Shortening the time spent on the disease-ridden ships saved countless lives.\textsuperscript{80}

During its nineteen-year history, the U.S. African Squadron worked effectively only in its last two years of existence. Only after 1859 did the squadron have enough firepower and the organized patrolling system needed to catch slavers in the act on a regular basis. This period also marked an increase in the U.S. government’s attention to the American complicity in the slave trade because of the sectional crisis and highly publicized landings of slaves on U.S. soil. Statistics show that most of the seizures under the Act of 1820 took place in the year before the outbreak of the Civil War, which shows that sectional crisis motivated the Buchanan administration to improve its Navy patrols.\textsuperscript{81} Effective change took place in the Navy Department only after Americans began accepting responsibility for some of the slave trade and the government was more willing to allocate sufficient funds for the African Squadron. But, as historian Donald Fehrenbacher argued, the United States was still a “slaveholding republic,” and it was an entirely different thing to sentence Americans to death for participating in the trade.

\textsuperscript{80} McNeilly, \textit{U.S. Navy}, 226, see also \textit{Letters to the Secretary of the Interior}, National Archives.

\textsuperscript{81} Fehrenbacher, \textit{Slaveholding Republic}, 200.
As the case of the *Orion* showed, the courts could not convict a suspected slaver unless it had slaves on board, and even then, this too was not a guarantee. When slave traders like Thomas Morgan were convicted, sentences were light and the fines relatively low. Both the public, and the judges, were reticent to find slavers guilty and face the death penalty over what many still felt to be a minor offence.

Even after the Civil War began, Abraham Lincoln, the so-called Great Emancipator, seems not to have been willing to categorize a slave trade conviction as a capital offence. When Thomas Morgan wrote the President in December 1861, appealing for a pardon, Lincoln jotted a note on the reverse of the letter, that “the gentleman who brings me this letters says it is a ‘slave trade’ conviction of a minor grade.”82 From the Newburyport jail, Morgan solicited recommendations from the law offices of Beebe, Dean & Donahue, who had defended Morgan and many other accused slave traders, and from the manager of the jail itself. All called the two-year, $2000 sentence “extreme.” With the Civil War raging, Morgan offered his service to the federal government, highlighting his twenty-five-year career at sea. On March 11, 1863, despite the existence of the anti-slave trade laws, despite having twice been accused of sailing on a slave ship, and, more importantly, despite being caught with 900 slaves on board a ship he commanded, Thomas Morgan received a pardon from Abraham Lincoln. Morgan’s fine was eventually waived and, since he had already completed his two-year sentence for slave trading, Morgan was set free from the Newburyport jail.83

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82 “Letter from Thomas Morgan at Newbury port gaol”, December 1, 1861 to Abraham Lincoln, Record Group 204, Records of Pardon Attorney, Box 10, 358. National Archives.

Although the *Orion* never again sailed the high seas, the ship's history illuminates the challenges the Navy faced in capturing slave ships. Even when the Squadron received enough funding to create a stronger military force, the captures of slave ships did not guarantee conviction. Perhaps, as Donald Fehrenbacher argued, the laws against the slave trade deterred many Americans from participating in the trade. Statistics show, however, that the foreign slave trade thrived under the American flag and the illegal trade to the United States was becoming more prominent as the sectional crisis escalated. The crisis over slavery and rumors of the reopening of the slave trade to the United States in the 1850s led to increased efforts against the slave trade. Slaving voyages like that of the *Wanderer*, which reportedly landed slaves on U.S. soil, just north of Amelia Island in Florida, were trumpeted by abolitionists as flagrant attacks against U.S. security and as evidence of the South's disregard for federal authority.\(^{84}\)

The U.S. Navy became more effective at stopping slave ships, but the courts continued to be lenient towards violators of the slave trade acts. From Maine to Florida, district court judges dismissed slave trading cases owing to lack of evidence and, if convicted, all citizens, except for the case of Nathaniel Gordon in 1862, received sentences much less severe than the law stipulated. As the next chapter analyzes, even if slave ships were caught red-handed while preparing to off-load slaves, conviction could be impossible and, as in the case of the *Echo*, would lead to the declaration by a District Judge that the piracy law was unconstitutional. In the meantime, the Navy would

\(^{84}\) Howard writes that "conservative slaveowners and law-abiding men were shocked by this gross defiance of federal law, and by the fact that the government could do nothing to punish it," *American Slavers*, 147
continue to sail the coast of Africa, with orders to protect U.S. commerce and being
“there when there [are] empty slavers [and]... never there when the slavers are full.”

85 Issac Mullen, Ship Journal.
CHAPTER V

“PIMPS OF PIRACY”: THE SLAVE TRADE AND CHALLENGES FROM WITHIN

On August 1, 1860, the town of Geneva, New York celebrated the anniversary of West Indian emancipation. In addition to a steamboat ride on Seneca Lake and a ball held that evening, Frederick Douglass, a prominent African-American abolitionist, delivered a three-hour keynote speech. His first speech since the death of his ten-year old daughter five months before, Douglass’s passionate presentation focused on slavery, the history of abolition, and the domestic and foreign slave trades. Even though the U.S. Navy had increased its surveillance of slave traders on the high seas, Douglass argued that “the American Government is worse than winking at the slave trade, and slavers are fitted out in sight of our business men’s prayer meetings.”¹ He continued to chastise the North for allowing the Southern Slave Power to spread and strengthen. While only twenty years before, slavery had been confined to the South, now the disregard for federal laws and slavery’s expansion had created a government of apologists and accommodators. Douglass’ somber note would cast a pall over the event.

Douglass was not the only Northerner concerned about the state of slavery and the slave trade. From the increasingly radicalized South came calls to reopen the slave trade, something that had not seriously been heard since South Carolina overturned its own

anti-slave trade laws from 1803-1807. While some justified its reopening in order to “democratize” slaveholding and reduce the high prices of slaves in the U.S., according to one newspaper, others argued that “the measure ...[had been] proposed...for the purpose of effecting dissolution.” The small, but vocal, minority of Southerners in favor of legalizing the slave trade allied themselves with disunionists, promoting Southern agitation, pro-states’ rights ideology, and an anti-nationalist fervor. Amid the fault lines of a nation ripping apart, direct challenges to the federal anti-slave trade laws would threaten federal sovereignty from within and result in a stronger federal government that would reassert its authority as the Civil War era dawned. It was within this new Republican-controlled government that slavery, and with it the slave trade, would at last become a national priority.

In the 1850s, the political, economic, and social divisions between the Northern and the Southern states that had simmered since before the founding of the United States erupted into crisis, and, by 1861, open military conflict. These points of crisis included the Compromise of 1850, which brought California into the Union as a free state, closed slave markets in Washington, D.C., and increased federal involvement in the return of fugitive slaves. In 1854 came the Kansas-Nebraska Act, overturning the Missouri Compromise, allowing any new state to determine its slave status, and leading to Bleeding Kansas or the Kansas Civil War. The Dred Scot case of 1857 also fomented public agitation by upholding and protecting slavery in the Union. Until the Civil War broke out, politicians continually used compromise to resolve the problems between Northern and Southern sentiments, which, although it diffused the situation, seemed to

only prolong the inevitable. The two main centers of conflict were slavery's expansion into U.S. territories, particularly after the Mexican War, and tensions over state versus federal authority.

It was during the 1850s when several outspoken South Carolinians linked the federal government's suppression of the slave trade with the abolitionists' goal of extirpating slavery. These southerners, called "slave traders" not because they traded in slaves but because of their support for reopening the trade, were a vocal minority in South Carolina's political circles yet their message alarmed abolitionists while adding fuel to the fire of secession which was threatening to boil over by the late 1850s. The "slave traders" connection between the slave trade and slavery with regard to federal authority allied them with white Southerners even though most Southerners had traditionally opposed the slave trade. Even though the slave traders never gained enough of a following to actually reopen the slave trade, their alarmist message spread like wildfire through American newspapers.³

There is a misconception today that all southern slave owners supported the international slave trade. Previous chapters have shown that generally the opposite was true. Most slave owners supported the suppression of the slave trade because they felt that it increased the value of their property and protected them from the so-called "dangerous" Africans and West Indians who they considered more prone to violent insurrection.⁴ Scholarship has shown the extent to which Northerners, particularly New

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Yorkers and Rhode Islanders, benefitted from the slave trade, with their participation in the foreign slave trade increasing exponentially into the 1850s.\(^5\)

On the home front, Southern protection of slavery began expanding to question federal authority over the slave trade. While this did not mean that Southerners began supporting the slave trade, there was a small minority of pro-states’ rights Southerners who called for the reopening of the slave trade. This temporary association should not be construed as a unified effort by Southerners to reopen the U.S. slave trade. As Don Fehrenbacher has stated, the ineffectiveness of the U.S. suppression of the slave trade “bear[s] some marks of southern influence, though not of deliberate southern intent.”\(^6\)

Fehrenbacher’s nuanced argument will be unpacked in this chapter. The claim that the South wanted to revive the slave trade stems from a pro-states’ rights agenda and a small, vocal, radical minority. As Southerners challenged federal laws in the court system, the Constitutionality of the slave trade as piracy was also scrutinized. Northern abolitionists took this as a challenge to the slave trade laws and, with the very public landing of slaves on U.S. soil, the Buchanan administration eventually had to take a firmer stance on the U.S. suppression of the slave trade.

In general, anti-federalist Southerners considered the pro-slave trade advocates as too narrow-minded and single-issued for fostering Southern nationalism, and, by the late


\(^6\) Donald Fehrenbacher, *Slaveholding Republic*, (New York : Oxford University Press, 2001), 204, emphasis added
1858s, had largely distanced themselves from the slave traders’ message. Where the anti-federalists and the slave traders had found common ground was in the federal anti-slave trade laws, specifically the 1820 Anti-Piracy Law. These forces would combine to challenge the laws in the court system, publically showing that the 1820 law was not only inoperable but, more importantly, unconstitutional. No state was more up to challenging the federal government than South Carolina. It was from this center of turmoil that challenges to the federal laws against the slave trade were generated, bearing the marks of a southern-influenced attack on anti-slave trade laws. Two of these test cases, the *Echo* and the *Wanderer*, focused on the 1820 federal anti-piracy law. Ultimately, the ruling that reversed the 1820 law was founded on anti-federal rather than pro-slave trade arguments. This chapter focuses primarily on the cases surrounding the capture of the slave ship *Echo*, and how the pro-slave trade-led defense successfully convinced the jurors not only to dismiss the case, but also to lay the groundwork for challenging the anti-piracy law, which the South Carolina district court would then declare unconstitutional in the *Wanderer* trial. Challenged repeatedly on the high seas by Britain,

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7 The terms “disunionist” and “anti-federalist” come from Manisha Sinha’s book, *Counterrevolution of Slavery*. Both are terms that refer to the growing southern secessionist movement in the 1850s. Disunionist refers to someone who favored secession, while an anti-federalist would have been more of a states’ rights advocate, and not necessarily a secessionist.

U.S. federal authority was also being challenged from within, and the government's anti-slave trade laws were targeted although from the opposite side of the debate over slavery.

This momentum could have continued to overturn all anti-slave trade laws on the basis of challenging federal authority, particularly since few slavers had ever been convicted and none had yet been convicted of piracy in any court in the United States. The outbreak of the Civil War stopped the courts' momentum and granted the federal government additional war powers to outlaw the slave trade, and ultimately slavery, once and for all. One of the last slave trading court cases would result in the first and only trip to the gallows for a luckless sea captain. Lincoln's government would triumph.

By 1858, the U.S. government finally was starting to admit to Britain's charges that American participation in the foreign slave trade was increasing. With the increase in Naval patrols off the African coast and in the Caribbean, accounts of more captures of American slave ships reached government officials and the general public. In fact, no fewer than 189 voyages occurring between 1850 and 1866 had some direct U.S. affiliation, either through the flag that the vessel flew, the ownership of the vessel, or the nationality of its crew members. These 189 voyages carried a minimum of 85,501 slaves. In 1859 and 1860 alone, at least ninety sailing vessels with American affiliation were associated with the slave trade. This can be compared to the 117 voyages and 34,000 enslaved Africans aboard American-affiliated ships between 1808 and 1849, inclusive. This is an annual average increase from 790 slaves per year to 5,300 per year after 1850.9

9 Slave trade database, http://www.slavevoyages.org, search August 29, 2012. Manual search of U.S. affiliation. It must also be kept in mind that not all slave voyages are recorded in this database, and many more U.S. affiliated ships delivered their human cargoes undetected. I realize that some may take issue with my definition of "U.S. affiliated" since ships sailing under false
The link between the slave trade and slavery had been maintained by abolitionists who had initially campaigned for the abolition of the slave trade in order to promote the gradual abolition of slavery. They used the near universal “abhorrence” of the slave trade to gain support for the extermination of slavery. After Britain formally abolished slavery in its territories in 1833 and began to pressure other nations to do the same, some slave-owning southerners raised some alarm. There was concern that the abolition of slavery would spread and interfere with their way of life. Those who expressed these concerns were easily placated, however, as British and American textile mills demand for slave-produced cotton increased dramatically. Slavery in established states appeared well-protected and most slaveholders were quick to distance themselves from the brutal West Indian slavery and the middle passage. The question of slavery in the territories caused widespread conflict, polarizing the nation, and, eventually, leading to Civil War.

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colors did not necessarily have Americans involved in the voyage. To this I would point out that it was the United States’ refusal of right-of-search that enabled these voyages to proceed. These statistics also include captured vessels, which one could argue should not be counted because they were not successful voyages, but I argue that these voyages were nonetheless organized with the intent to be successful with large amounts of capital invested. Additionally, it also partially reveals the scope of the slave trading networks and the high probability that other voyages were successful and have disappeared from any record.

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It was during these debates in the 1850s that a minority of pro-states rights, proslavery, southerners sent out the call for the revival of the slave trade in order to protect the institution of slavery and southern aristocracy. South Carolina proved to be the ideal location for challenging slave trade laws.

South Carolina had a long history of both pro-slave trade and anti-federalist tendencies. Its low-country (coastal) rice plantations subjected its slaves to hard labor and disease at a rate that barely kept up with the birth rate. Historically, South Carolina had levied taxes to manage the slave trade in the hopes of preventing slave insurrection and it had been the last state to permit the trade before its federal prohibition in 1808. Unlike Virginia, which enjoyed a profitable domestic slave trade, the rise of cotton production in the rest of the South Carolina kept demand for slaves, and thus prices, high. The slave trade did prove profitable for many plantation owners, and most slave owners did not condone the slave trade, but the political circumstances within South Carolina set the stage for the pro-slave trade movement.\footnote{Manisha Sinha, Counterrevolution of Slavery, 10. For the history of slavery in South Carolina, see S. Max Edelson, Plantation Enterprise in Colonial South Carolina, (Cambridge: Harvard University Press, 2006); Larry E. Tise, Proslavery: a History of the Defense of Slavery in America, 1701-1840 (Athens: University of Georgia Press, 1987); Lacy K. Ford, Origins Of Southern Radicalism: The South Carolina Upcountry, 1800-1860 (New York: Oxford University Press, 1988); and John W. Blassingame, The Slave Community: Plantation Life in The Antebellum South (New York: Oxford University Press, 1979), among others.}

South Carolina also had a long history of anti-federal government agitation. Many Constitutional compromises involved South Carolina delegates. Outspoken politicians, like John C. Calhoun, supported a weaker federal government. During the 1830s, while Andrew Jackson was President, the South Carolina state legislature declared two federal tariff acts null and void, resulting in the Nullification Crisis, which led to a
military threat to the state by Jackson and, eventually, a compromise. Few of the South
Carolinian elites who had controlled state politics would forget that battle. 12

By the 1850s, in South Carolina, the old proponents of the nullification crisis of
1830 intermingled with those of the new generation pushing for the expansion of slavery.
In the middle of the melee was Leonidas Spratt, who joined Maxcy Gregg, Edmund
Bellinger, and John A. Calhoun in their support for reopening the slave trade. They used
clever propaganda to ally themselves with the growing “southern nationalist rhetoric and
spread beyond South Carolina.” 13 During the late 1850s, Spratt was at the forefront of
the southern nationalist “slave traders” who encouraged state legislators to overturn the
federal prohibition of the slave trade. Forty-years old in 1858, he spearheaded the
campaign for reopening the slave trade. His activism had fallen short in state legislatures,
and it was only in South Carolina that his crusade had gained more than a minor
following. Attorney and owner of the Charleston Mercury, Spratt collaborated with
many like-minded southerners, including South Carolinian governor, James H. Adams, to
encourage southerners that the trade in slaves was essential to the future prosperity of the
region. Arguing that the slave trade supported the overall values of a proslavery,
aristocratic south, the “slave traders” hoped to gain followers throughout the southern
states.

12 See Sinha, Counterrevolution of Slavery, 19-61, see also Richard E. Ellis, The Union at Risk:
Jacksonian Democracy, States’ Rights, and the Nullification Crisis, (New York: Oxford
University Press, 1987); William W. Freehling, Prelude to Civil War: The Nullification
Controversy in South Carolina, 1816-1836, (New York: Oxford University Press, 1992); Merrill
D. Peterson, Olive Branch and Sword: The Compromise of 1833 (Baton Rouge: Louisiana State
University Press, 1982).

13 Sinha, Counterrevolution of Slavery, 142. See also Erik Calonius, The Wanderer (New York:
Spratt’s desire to reopen the African slave trade was rooted in his belief that the South prospered through slave labor and the elevation of the white planter class. Anti-democratic and pro-slavery, Spratt argued that all men were not created equal and that slavery was the African race’s natural state. Reopening the slave trade would allow for the South to continue to prosper, and capitalize on the increasing cotton trade.\footnote{Leonidas Spratt, \textit{Speech upon the Foreign Slave Trade before the Legislature of South Carolina}, (Columbia, 1858), 7-8; see also Ronald Takaki, "The Movement to Reopen the African Slave Trade in South Carolina," \textit{South Carolina Historical Magazine}, 66 (January 1965).}

Leonidas Spratt tried to spread his pro-slave trade ideology by speaking in many southern state legislatures and conferences. Although the slave traders gained some support, including that from the South Carolina governor, the slave traders’ propositions "[met] with little favor in the slave States."\footnote{"Protests Against the Policy of South Carolina," \textit{Baltimore Sun}, 12/10/1858.} The \textit{Charleston Mercury}, having received letters to the editor demanding clarification of its stance on the subject of the slave trade, published an article stating that the reopening of the slave trade was "impractical," although two months later it published an editorial proclaiming that the legalization of the trade would reduce the mortality rate of the middle passage.\footnote{"Our Consistency," \textit{Charleston Mercury}, 06/12/1858 and "The South and the African Slave Trade," \textit{Charleston Mercury}, 08/03/1858.} The \textit{New York Herald} proclaimed that "the revival of the slave trade is a moral impossibility and there is no need of any farther discussion of the subject," however the real cause for concern was South Carolina’s agitation and refusal to compromise. A particularly illuminating passage in the \textit{Herald} described South Carolinians as “bold, original, and logically consistent, even to the most startling conclusion... they are direct and adventurous [and]... they have striven to stake the fortunes of the war on the issue of a single
battle.” South Carolina’s mistrust of federal authority would directly affect the enforcement of slave trade laws in the courtroom.

Many southerners who were against the slave trade supported Spratt’s endeavor mostly because they saw Spratt’s protests as a challenge to federal authority and Northern aggression. As the public agitation over the expansion of slavery increased, many white Southerners advocated for increased state sovereignty, or, more extreme, complete secession from the Union. In Spratt’s mind, an important step in his crusade would be to protect slave traders from the U.S. piracy law. As an attorney, he used his knowledge of the law to question the constitutionality of the slave trade acts. His attacks would lend themselves to the increasing polarization of the nation, and spread the alarm across the nation, in a very public way, that the federal government was incompetent in enforcing its own laws. For a young country still experiencing growing pains, the internal usurpation of its laws was a national embarrassment on an international level.

Enforcement problems with the anti-slave trade acts had been apparent before the ink comprising the Act of 1794 was fully dry. The American Convention for Promoting the Abolition of Slavery commented in 1796 that the anti-slave trade law was “defective,” and that slave traders were easily evading the law. The Act of March 22, 1794 prohibited anyone from fitting out a slave voyage from the United States to Africa with the intent to sell enslaved Africans in a foreign port, with a $2,000 maximum penalty. In 1800, the Act was extended by adding a maximum of $2,000 and two years

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imprisonment, which included all crew members knowingly participating. The 1807 Act prohibited the slave trade altogether (except the domestic trade), and the 1818 Act set a maximum fine of $5,000 and seven years prison sentence. In 1820, Congress declared the slave trade, that is, the act of having Africans on board a ship with the intent to sell them as slaves, an act of piracy. There were, however, significant problems in the enforcement of these laws in the court system, leading one Judge, Andrew Magrath, to retort "had... a verdict of guilty been rendered [under the Piracy Act of 1820], I do not believe that any Judge of the United States would have hesitated in directing a new trial." Magrath took issue with the specific wording of the Act of 1820, as will be discussed later. For most judges and juries, the main problems lay in proving guilt as well as in the reticence of judges and juries of convicting their own citizens in a trade they considered a low national priority. After the Act of 1820 which declared the slave trade to be piracy, carrying with it a capital punishment, judges preferred to convict American slave traders of violating the Act of 1800 which stipulated fines and a maximum two year prison sentence if they were to convict men at all. Slave ships were more often condemned and sold at auction. The original owners generally were able to re-purchase these vessels at a fraction of their value. Even when a ship was condemned, more often than not, slave traders were acquitted in the courtrooms.

Protecting American borders from smugglers and pirates and controlling immigration in order to prevent slave insurrection were the main focal points of the

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federal slave trade prohibition. The 1820 Act, which the federal government used so extensively in diplomatic negotiations, was intended to extend Congress’s protection of commerce. The piratical designation only extended to the officers and crew of the slave ship, thus excluding the real on-shore slave trade networks of U.S. and foreign citizens dotting the coasts of Africa, Brazil, the Caribbean, and U.S. ports like New York City. As slave trading networks grew more complex in order to escape British and American slave patrols, slave trading organizations hired powerful attorneys like New York based Beebe, Bean & Donahue to defend those who found themselves in court. Most convictions were made under the Acts of 1800 or 1818 and, until 1861, all cases involving the 1820 Act were thrown out by the courts.

American juries were hesitant to convict their own but slave traders were also a wily bunch whose vast intelligence networks spread across the Atlantic world and beyond. Finding proof admissible in court that a ship was, indeed, an American slaver was generally impossible, even if slaves were found on board. Ships were owned by holding companies, where captains and owners changed depending on if they were sailing east or west and, if caught, most men involved could point a finger at another, claiming their own ignorance of the ship’s intent. Legal and illegal ships carried similar cargoes to the coast of Africa, with “auxiliary” ships and disguised slavers throwing the navy off their trail. If a suspected slaver was caught, even the presence of slaves on

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23 The Act is partially entitled “An Act to continue in force ‘an Act to protect the commerce of the United States.” Statute I, Chap. CXIII, May 15, 1820.
board did not always translate to conviction especially as the movement to challenge federal authority spread.²⁴

In the North, as well as the South, it became increasingly difficult to convict slave traders, a fact that became all the more apparent when the Navy sent increasing numbers of captured slave ships to the United States for adjudication. Judge Samuel R. Betts and Justice Samuel Nelson presided over the U.S. Circuit Courts in New York during the 1850s. Betts had served in Congress as a Democratic-Republican before being nominated as a Southern N.Y. District Court Judge by John Quincy Adams in 1826. Nelson served as an associate U.S. Supreme Court Justice, nominated by President Tyler, and filled in for Judge Betts if he was unavailable. In a case against a suspected slave trader in 1856, Betts argued that the 1818 law which prohibited citizens from preparing a ship for the slave trade could only be enforced if it could be determined that the trader was in full control of the vessel. Because the slave ship had had many owners and supercargoes, the man could not be convicted under Betts's construction of the law. Betts and Nelson would extend this interpretation to the Act of 1794 later on in 1856. The result of this led to an increasingly narrow interpretation of the anti-slave trade laws, applying only to captains, owners, and supercargo, and only if they had been in full control of the ship rather than sharing duties with others. Additionally, prison sentences were all but eliminated if a trader was convicted. Between 1856 and 1861 there were no prison sentences for slave traders in the Southern District of New York, the hub of the

²⁴ Howard provides an overview of this in American Slavers, 18-23; see also chapters 4, 12, and 13. Auxiliary ships acted as decoys for slave trading ships, often carrying supplies for the slave trade, but were not actually intended for human cargo.
illegal slave trade.\textsuperscript{25} Despite the renewed efforts of the U.S. Navy in capturing slave ships, it had become readily apparent that the laws themselves had become unenforceable. The prevalence of slave trade corruption in the courts led one editor of the \textit{New York Times Tribune} to complain:

\begin{quote}
It is a remarkable fact that the slave-traders in this city have matured their arrangements so thoroughly that they almost invariably manage to elude the meshes of the law. Now they bribe a jury, another time their counsel or agents spirit away a vital witness... To effect [abolition] it will be necessary to purge the Courts and offices of these pimps of piracy.
\end{quote}

The New York courts, in bed with the slave trading companies the city had become infamous for, capitalized on legal grey area and opened up large loopholes in the language. In New York, a game of legal semantics played by judges and defense attorneys alike made the slave trade laws laughable. To be sure, these "pimps" understood the law and had many resources, networks, and money tied up to protect their profits and keep the trade going.

The impotence of the laws had the same legal impact in both New York and South Carolina, but the impetus stemmed from radically different sources. The sectional crises of the 1850s brought the ineffectiveness of the federal government's prohibition of the slave trade into sharp relief. Newspapers acknowledged the Northern pimps of piracy but were far more concerned with the cries for reopening the slave trade by a vocal minority of Southerners. The public agitation generated from the so-called "slave-traders" led by Leonidas Spratt spilled over into the courtroom. There was a difference, however, between those, like Spratt, who truly supported the reopening of the slave trade and those who protested federal laws. In South Carolina, slave trade cases were used to

\textsuperscript{25} Howard, \textit{American Slavers}, 156-169, case of Rudolph Lasala, registered owner of \textit{Horatio}. 

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challenge federal authority over states. This provided an opportunity for the "slave traders" to collaborate with disunionists and other federal agitators to manipulate the court system which, in the south, was dominated by propertied, slave-owning elites. The first test case for South Carolina was that of the Echo, captured off the coast of Cuba.

The Capture of the Echo:

The capture of the Echo began with Lieutenant Maffitt, in command of the U.S.S. Dolphin sailing off the coast of Cuba.26 His orders were to protect U.S. merchant vessels from being searched by British ships, and, if applicable, to stop American slaving vessels. On August 21, 1858, sailors on watch detected a brigantine entering the cove of an island to the North of Cuba. Since this was a well-known area for the disembarkation of slave ships, Lieutenant Maffitt ordered his ship change course to investigate. The Dolphin commenced a short chase before overtaking and capturing the vessel, finding over three hundred enslaved Africans chained in the hold. That slave ship, identified as the Echo but later determined to be legally named Putnam, was hauled to Key West before it was taken to Charleston, South Carolina. There, the Africans were taken to Castle Pinckney for safekeeping and the crew was thrown into the Charleston jail to await trial. Maffitt sailed on to Boston with the captain of the Echo, who eventually was ordered back to Key West to stand trial.27

26 Interestingly enough, Maffitt would later become famous for his daring escapades as a Confederate blockade-runner, ultimately capturing twenty-four vessels and blasting through Union lines on the Mississippi River.

From the start, people reacted strongly to the case. Editorialists from the *Charleston Mercury* argued that the naval officers had made too many assumptions about the ship in declaring it a slaver. For starters, there were no records left aboard and the naval officers only assumed that a man named E.C. Townsend was the captain. Additionally, as one editorial in the *Mercury* mentioned, there was no way to prove that the crew members or the ship were American, and no way to prove that the captives had just come from Africa and were held with the intent to make them slaves. The fact that the *U.S.S. Dolphin* had also been sailing under false British colors to draw out American slavers also suggested dishonesty on the part of the U.S. Navy.\(^{28}\)

**The Fate of the Africans**

Many newspapers, upon hearing of the captured slave ship, printed descriptions of those aboard. The brig *Echo* had left African waters carrying an estimated 455 captives in the spring of 1858. By the time she was captured, after forty-seven days at sea, over 140 aboard had died, according to one crew member who eventually cooperated with the prosecution. The *Baltimore Sun* wrote that most of the captives were between the ages of eight and sixteen and while “some of them were able-bodied, good sized and in good case… the greater part were half-grown children only, weak and worn.”\(^{29}\)

When the *Echo* was captured, Dr. Brown, of the *U.S.S. Dolphin* discovered that most of the Africans were “afflicted with diseases of the eye and the skin, and dysentery.”\(^{30}\) The doctor recommended that the sick be taken to Key West since he did

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\(^{28}\) “Who are the Pirates?” *Charleston Mercury*, 9/15/1858.

\(^{29}\) “Further from the Captured Slave Brig,” *The Sun*, Baltimore, 9/02/1858.

not think that many would survive the sail to New York. When the *Dolphin* and the *Echo* reached Key West, it became clear that the conditions on land were unfavorable for the arrival of the sick Africans because of a yellow fever outbreak, so the ships sailed on to Charleston harbor. By the time the recaptured Africans reached Castle Pinckney in Charleston, another dozen lives had been lost. The young captives were so weak with disease and starvation that many of them had to be carried off the ship in Charleston. Many more were sickened when hunger drove them to eat raw shellfish on the beaches. Their arrival created a stir in the already agitated city. People came to see the spectacle of the exotic Africans as well as to voice sympathy for the crew members.

Because of the high mortality rate of the captives and the excitement their presence caused in Charleston, U.S. Marshall D. H. Hamilton was anxious to have the Africans taken out of his hands as soon as possible. On September 8, 1858, the U.S. Secretary of the Interior ordered Hamilton to supply the captives with blankets and, two days later, informed him that the steam ship *Niagara* was on its way to Charleston to transport the captives back to Africa. Like in New Haven with the 1840 *Amistad* trials, the exoticism, and suffering, of the Africans drew crowds. Many watched as the captives were transported from the quarantine station to Charleston harbor, and all witnesses could see the effects of the middle passage.

Until the arrival of the *Echo* captives, U.S. Marshal Hamilton had been an ardent supporter of the slave trade. After he saw the deplorable condition of the “human cargo” and dealt with the disposal of the dead, he had an immediate change of heart. As he tried

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31 Thompson to Hamilton, Sept. 8 and Sept. 10, 1858, Record Group 45, *Records of the Office of the Secretary of the Interior relating to the Suppression of the African Slave Trade*, Register of Letters Received, 1858-1872, National Archives.
to supply the captives with necessary supplies, he also advocated for their rapid return to Africa.\textsuperscript{32} Within two weeks, the surviving captives of the \textit{Echo} were taken aboard the \textit{Niagara}, as the 1819 law stipulated, to Liberia under the direction of the U.S. Navy. Despite better treatment in Charleston and aboard the \textit{Niagara} on its way to Africa, over a hundred more captives died before the survivors reached Liberia. In the spring of 1859, Reverend Seys, of the African Colonization Society, received the 200 survivors in the settlement Monrovia, where the American Colonization Society maintained a missionary society that was paid by the U.S. government for each recaptured African who arrived.\textsuperscript{33}

Newspaper articles published across the country reveal the heated debate over the legalities of the act and what was the best course of action to take. The crux of the arguments focused on the labeling of the captured “cargo,” and whether or not the captured Africans should be considered property or freemen. The debate concerning the constitutionality of the captives’ return to Africa continued for months, long after their placement in Monrovia. Several slave owners, including soon-to-be famous Charles Lamar, placed bids for the purchase of the Africans, and some residents protested the federal government’s claim to them. The state Attorney General argued that since these Africans were residing at Castle Pinckney, which was federal property, the 1835 law did not apply. The tightening of the slave codes and the Fugitive Slave Trade Act of 1850 showed that free blacks, particularly in the South, were not welcome. High slave prices fed the protests against what many saw as the federal government’s denial of one’s right

\textsuperscript{32} Thompson to Hamilton, ibid.

\textsuperscript{33} HED 28, 37-3; see also: Calonius, \textit{The Wanderer}, or Sinha, \textit{Counterrevolution of Slavery}. 

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to slave ownership. Others argued that the President had done what was the best for the victims. All agreed that it would be detrimental to society if the Africans were released as freemen on U.S. soil.

An editorial from the *Sunday Delta* from New Orleans captures the sentiments of those against the captives' return to Africa:

[The President] surely can not send them back to their own tribe, for they have doubtless been captured and brought from the center of the continent, or at least from some considerable distance in the interior. To place them on the coast, amid the coast tribes, would insure their being massacred, or sold again to another slaver.

Other critics were shocked at how quickly the captives were returned to Africa, even before the trials had begun and before the origins of the captives had been determined. One particularly vocal resident of Charleston in an editorial series asked "is it not premature to determine upon the disposal of these negros before their status has been judicially ascertained?" The author ridiculed the federal government for not making broader inquiries into the actual status of the Africans, suggesting that not only could they have been immigrants coming to the United States as freemen but they also could have been previously enslaved and personally owned by members of the captain or crew. If the captives had already been enslaved, who then were the pirates, the author

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35 "Further from the Captured Slave Brig," *The Sun*, 9/2/1858.


asked? Perhaps, the author concluded, the real pirates were not the crew members behind bars, but the government itself who had stolen their property from them.\textsuperscript{38}

There were legitimate reasons for the federal government's haste in returning the captives to Africa. Increased numbers of captured slave ships caused the temporary shelters, particularly at Key West, to overflow with captives, adding to government expense and raising the already high mortality rate. Nor could the government merely release the captives in South Carolina where they would immediately be enslaved. The arrival of the \textit{Echo} captives brought both the conflict over slavery and debate over state versus federal authority into sharp relief. Thousands of people viewed the captives, and debate over the trial agitated the already strained relations between Northern and Southern states. President Buchanan most likely "made haste" in this matter in order to ease tensions and avoid criticism over excessive expenditures. Congress allocated funds to send the captives to Liberia and paid the American Colonization Society $100 for each recaptured African sent to the colony.\textsuperscript{39}

\textsuperscript{38} Professor Frederick A. Porcher, a.k.a. F.A.P. wrote in the 9/21/58, issue of the \textit{Charleston Mercury}, that "If the vessel is not condemned, if the crew is not hanged, the government is guilty of piracy."

\textsuperscript{39} As with much of the history of the slave trade, the voices of the recaptured Africans themselves are silent. Reverend Seyes, head missionary in Liberia sent many updates about the \textit{Echo} Africans to the federal government over the next several years, but he made no mention of the individuals involved in the ordeal. See \textit{Records of the Office of the Secretary of the Interior Relating to the Suppression of the African Slave Trade and Negro Colonization, 1854-1872}, Rolls 3 & 10, National Archives, Microfilm Publication M160.
The arrival of the *Echo* fit brilliantly into the agenda of the “slave traders,” led by Leonidas Spratt. His main focus since 1850 had been for the reopening of the slave trade, and, once he allied his goals with that of the disunionists and pro-state sovereigntists, Spratt felt confident that he could facilitate the change he desired. At the time, South Carolina was the only state whose legislature had seriously considered reopening the slave trade. The *Echo* case, the first slave trade case held in the South Carolina federal court system since the capture of the *Panther* in June 1846, and the first considering the *Piracy Act of May 15, 1820*, would provide the perfect test case for the “slave traders.”

Immediately, Leonidas Spratt and other proponents of the slave trade gathered to build a case for the defense. All offered their services *pro bono*.

The capture of the *Echo* produced three criminal trials: a case against Captain Townsend, tried in April 1859 in Key West, and two separate trials for the crew members...

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40 Wayne image from Juliette Gordon Low website and Magrath image courtesy of South Carolina Library, University of South Carolina.

41 The *Panther* case resulted in an indictment under the Act of 1800 and the captain was acquitted. The previous year saw two indictments under the Act of 1818, which resulted in three years’ imprisonment and a fine, however both of these prisoners received full pardons one year later. See Howard, *American Slavers*, Appendix B, 226.
who were divided according to their perceived nationality. Indictment proceedings in
front of the Grand Jury were held in succession in November 1858, which was then
followed by a motion by the defense for a writ of habeus corpus to release the crew
immediately.

On November 26, 1858 the U.S. Circuit Court in Columbia, S.C. met to review
the bills posted against the crew of the *Echo*. South Carolina Attorney General and
prosecutor in the case, Isaac W. Hayne, “impress[ed] upon the jury the duty of
impartially discharging their oaths of office, and, while avoiding unfounded accusations,
to suffer no personal sentiments or private feelings to deter them from presenting for
investigation every case where reasonable evidence of guilt exists.”42 He encouraged the
jury to rule according to the law, not judge the law itself. Hayne was also quick to argue
that this case did not concern sectionalism, stating that “there is no conflict of jurisdiction
between the State Sovereignties and the General Agency in this matter” and, in fact, all
the American crew members “hailed from North of the Potomac.”43 Issac Hayne was an
ardent states’ rights advocate who publicly questioned the power of the federal
government. His appointment as prosecuting attorney appears puzzling given his
political leanings, but historian Paul Finkelman suspects that this was part of the Attorney
General’s plan. By placing Hayne as counsel, the prosecutors hoped to distance the case


43 Isaac W. Hayne, “Argument before the United States Circuit Court,” (NY: Weed, Parsons &Co,
1859), 24.
from the states' rights circle and, at the same time, demonstrate that they were not above prosecuting crew members (who were a motley crew of Northerners and foreigners).  

Spratt and his friend and fellow slave trader, F. D. Richardson, offered their legal services free to the crew members. During the proceedings, the attorneys for the prisoners argued that the crew should be discharged and that the 1820 Act of Piracy be declared unconstitutional. From Maine to Louisiana and Wisconsin to South Carolina, newspaper reporters waited for the word from the Grand Jury. On December 1, news came that shocked most Northerners: the jury had found no bills of indictment against the crew of the Echo.

The decision launched a slew of editorials in Northern newspapers and fueled rumors that the South Carolina slave trade had been reopened. In the Trenton State Gazette, a reporter admonished the south, writing “the laws of the United States against the African Slave Trade are not heeded... [and] the people there have determined that they shall not be enforced.” Northern states were particularly alarmed at the ruling, combined with the vocal threats by the “slave traders,” and were quick to spread rumors of the reopening of the slave trade.

The Grand Jury’s decision posed problems to both those who wanted to convict the men and those who hoped to challenge the piracy law for constitutional reasons. Without a trial, the law could not be tested. U.S. Supreme Court Judge James Wayne and


46 “Southern Regard for the Law,” Trenton State Gazette, 12/08/1858.
circuit court judge Andrew Magrath overruled the Grand Jury’s decision and ordered that the crew members be put on trial in April 1859.

Judges Wayne and Magrath figured prominently in several slave trade cases during the late 1850s, including the *Echo* and *Wanderer* cases. Both judges were strict constitutional constructionalists, yet their differing views concerning the power of the federal government would lead their careers in drastically divergent paths. Justice Wayne was originally from Georgia and had been educated at the College of New Jersey (which is now Princeton University). A proslavery southerner, he was a strong nationalist, who had supported Andrew Jackson in his Indian Removal policy and in the South Carolina nullification crisis of 1830. He believed that the federal government was responsible for upholding the institution of slavery, and the Constitution had been designed to do just that. Choosing Unionism over the Confederate cause, he later moved to D.C. at the onset of the Civil War in 1861. He was the only man involved in the *Echo* case to do so.47

Wayne’s tempered conservatism contrasted with Judge Andrew Gordon Magrath’s fiery secessionism. Magrath clearly aimed to declare the 1820 Piracy Law unconstitutional, and, by 1860 would issue a ruling that did just that. Wayne’s federalist stance would moderate Magrath during the *Echo* case, but once he was left alone to judge a *Wanderer* case, he would strike at the very heart of the Piracy law. A staunch states’ rights supporter, upon hearing of the election of Abraham Lincoln on November 7, 1860, Magrath ceremoniously removed his robes and stamp on them in front of the court before dramatically resigning his position as District Court Judge. He would become South Carolina’s last Confederate Governor. In 1858, Magrath, who frequented the same

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circles as Spratt and Calhoun, saw the *Echo* case as an opportunity to test the 1820 Piracy law, and therefore was eager to see the case taken to trial.48

**The Echo’s Trials Part Two: The Trials of the Crew**

Based on a straightforward interpretation of the U.S. slave trade laws, this should have been an easy case for the U.S. Attorney General of South Carolina, a twenty-nine year old lawyer named James Conner, into whose hands the prosecution of the *Echo* case fell. But Conner was wary of the anti-federal activism in the state and knew very well what Spratt was planning; furthermore he, himself, supported secession. Because of recent demands to reopen the trade, coupled with a strengthening pro-Southern nationalist movement, Conner did not feel as though he had victory within his grasp. In a letter to U.S. Attorney General Jeremiah S. Black on November 26, 1858, he wrote that the jurors “are nearly to a man in favor of the slave trade movement and opposed to the prosecution.”49 Instead of examining the evidence found on board the slave ship *Echo*, Conner knew that politics would interfere in the case. He was right.

Attorney General Black, continued to reassure Conner, writing, “I have no doubt whatever that the prisoners are guilty.”50 Black, a Northerner, believed that if South Carolina had issues over the legality of the U.S. laws, the court room of a criminal trial would not be the proper place to voice these concerns. He could not have been more

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49 Daniel Lewis, *Letters Received from the Attorney General: Southern Law and Order*, Reel 4, District of South Carolina, Bethesda, MD.

wrong. Conner’s goal was to establish that the crew was guilty of piracy under the 1820 law. The prisoners were tried separately in two groups although the testimony is generally the same.\textsuperscript{51} All of the counts against the prisoners were consistent with the 1820 Act of Piracy and, Conner argued, this law had been upheld in many courts. The fact that the ship had just come from Africa was supported by the testimony of a crew member, as well as the \textit{Echo}’s confiscated charts which showed a route directly from Africa to Cuba.\textsuperscript{52} This evidence should have been all the jury needed to convict someone of participating in the slave trade. It seemed as though this would be a relatively easy trial since the incriminating evidence existed for all to see. The refusal of the Grand Jury to accept the bills against the crew was a sign of things to come.

On the other side of the aisle, the attorneys for the defense were all active “slave traders,” led by Leonidas Spratt. The defense’s strong argument was a two-pronged approach: one questioning the evidence in the case and the other questioning the constitutionality of the 1820 law. Maxcy Gregg, Esq, who had just published a “secessionists’ manifesto,” began his argument by disputing what he determined were twelve allegations against the prisoners.\textsuperscript{53} In order for a guilty verdict to be reached, he argued, all of the prisoners needed to be found guilty of all twelve allegations.\textsuperscript{54} He cast doubt on the claim that the prisoners were all crew members, suggesting they might have been passengers on the ship. Gregg also argued that there was no proof that the prisoners


\textsuperscript{52} Ibid, 9, although the defense claimed that all documents had been thrown overboard.

\textsuperscript{53} Sinha, \textit{Counterrevolution of Slavery} 193.

\textsuperscript{54} Bates and Woodruff, \textit{Report}, 15.
confined, detained, or aided and abetted in capturing the African. Gregg denied that there was any proof that the prisoners had participated in these offenses and argued that the map charting the course of the *Echo* could not be counted as evidence because it easily could have been planted on board.

Gregg argued that in order to convict the prisoners of piracy, it had to be proved that all of them were members of the *Echo*'s crew. Pointing out that while the prisoners did help sail the vessel and care for the African captives after the vessel was captured, this was not enough evidence to prove that the prisoners were crew members. Furthermore, one of the prisoners, a man named Henrys, had demonstrated that he was a passenger on the ship and should therefore not be prosecuted as a crew member. Because the first count had to show that *all* prisoners were crew members, Gregg argued, Henrys, and perhaps others, should not be put on trial.

Gregg further declared it impossible to determine who was the true owner of the *Echo*. All ship’s records had been thrown overboard and thus were not available to the court. According to bills of sale, the ship belonged to a man named E. C. Townsend, of New Orleans. Even though there was an E. C. Townsend aboard the *Echo* at the time of her capture, Gregg argued that it could not be proven that the E.C. Townsend aboard, who claimed to be from Rhode Island, was the same one who was the captain and owner of the ship. Because of this “uncertainty” concerning ship ownership, there was “no evidence against [the] third parties on trial for their lives,” according to the defense.\(^5\)\(^5\) It was impossible to determine ownership of the vessel, and consequently its nationality, therefore the charges of the prosecution could not stand.

\(^5\) Ibid, 16.
The defense asserted that it was impossible to make the claim that “the negroes found on the captured vessel were not held to service or labor by the laws of any of the United States.”\textsuperscript{56} In South Carolina, Gregg argued, all people of African descent were assumed to be enslaved, however the laws of South Carolina respected the status of freemen of foreign countries. If a free black man arrived from England, he was considered free in South Carolina. But, Gregg argued, “so far as the condition of the negroes in Africa is known, from the accounts of travelers, slavery is the general condition of the population, and freedom the exception.”\textsuperscript{57} The crew members could not be charged with kidnapping free Africans with the intent of enslaving them if the Africans had already been enslaved in Africa. If that were the case, and Gregg argued that this was the most likely scenario, the crew members were merely transporting property, not committing acts of piracy. Without the ship’s logs, it was impossible even to prove that the Echo had indeed come from Africa, as the prosecution claimed. Perhaps the Echo was transporting slaves within the Caribbean only.\textsuperscript{58} After submitting these arguments, Gregg then turned to the constitutionality of the 1820 Act of Congress.

Gregg’s argument against the constitutionality of the Act of Congress centered on the idea that Congress’s power to regulate commerce did not allow it the power to prohibit commerce altogether. If Congress had the right to prohibit the trading of slaves, then what could prevent it from prohibiting the cotton trade, or any other legitimate

\textsuperscript{56} Ibid.

\textsuperscript{57} Ibid, 17.

\textsuperscript{58} Another attorney for the defense also took up this question in more detail. Bellinger argued that it was impossible to prove that the ship was from Africa, especially since it was closer to America than Africa, and could have been transporting slaves from one end of Cuba to the other. see ibid, 69.
trade? It was the duty of the jury to prevent such abuse of power, and decide for themselves if this act was constitutional. Even though the Judge asserted that this Act was constitutional, Gregg pressed upon the jury that this was up to the jury, and the jury only, to determine.

The arguments for the defense proceeded, captured verbatim in Bates and Woodruff's publication of the trial. Evidently talked out, Gregg turned the floor over to Edmund Bellinger, another attorney for the defense and fellow secessionist. He outlined the role of the Federal Government and argued that it, "unlike the British Parliament, was not omnipotent." It was not under the jurisdiction of the federal government to interfere with state power and, by making comparisons to the very government from which the United States had broken free, Bellinger made an effective argument in favor of limited federal authority. If the founding fathers had intended to call the slave trade piracy, Bellinger reasoned, why would they have allowed it to continue for twenty years? According to this argument, the founding fathers never would have allowed continuing anything that they considered illegal; therefore, the intent of the Constitution was to keep the question of slavery up to the states, and not under the jurisdiction of Congress's regulation of commerce. Appealing to the slave owners in the jury, Bellinger added that among other misuses of power, "if Congress could make

59 Gregg's arguments (ibid, 21-22) echo that of that of "The Pirates of the Echo" published in the Charleston Mercury, 3/16/58-3/23/58, by Von Tramp a.k.a. Lucius Sargent

60 Bates and Woodruff, Report, 19.

61 Sinha, Counterrevolution of Slavery, 113. Bellinger and Gregg had been part of the first group to organize with the old "nullifiers" over secession in 1851.


63 Ibid, 35.

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the foreign slave trade piracy, Congress could make the domestic slave trade piracy." The defense argued that if the crew members were found guilty then this had proved that "Congress has usurped the functions of a jury."  

Up to this point, few slavers had been captured so close to United States soil and fewer with slaves aboard. The 1820 Act of Congress had been in place for thirty-eight years and never had anyone been prosecuted to the fullest extent of the law. For the prosecution, this was the time to finally achieve a conviction. Yet they seemed to underestimate the power of the state's rights argument. Mr. Bellinger stated "this case would serve as a precedent for other times... [and] was one of deep interest and paramount importance." The defense, at least, understood what was at stake in this case, and chose it as a way to challenge the law itself.

While Bellinger's speech declared that this was not to be a political case but a legal one, Leonidas Spratt's arguments aimed to appeal to the southern property owners—men who formed the jury. He opened his speech by reiterating how important the case was and what larger issues were in question:

The North has numbers, and shares a government in which numbers tell on legislation. They execrate us, and their execrations are applauded. They have the power to pass what laws they please, and they have passed them... They have abolished the trade in slaves within the limits of the Capitol. They are preparing to suppress the trade between the States... One step in that direction they have taken. They have passed the Act we have before us; and to bring it to

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64 Ibid, 30.
65 Ibid, 73.
66 Ibid, 22.
enforcement is now the last remaining step at which aggression trembles... and that question is dependant on your verdict.\textsuperscript{67}

In this speech one can read that the Echo case was much more than the sum of its parts. It was not merely a case of piracy, as the prosecution tried to show. In that court room, and later in the newspapers, the case came to represent a rejection of Northern supremacy, a call to reassert the southern status quo, and to be the torchbearer for the Constitution against tyrannical Northern leadership. The jury was charged not only to uphold justice “to these poor men” but also to keep the South from bending to a “hostile law.” Spratt maintained that it was “repulsive to the feelings of the South, that men shall be hanged for trading in slaves.”\textsuperscript{68} In this speech, Spratt effectively appealed not to the law but to the sentiments of southern plantation owners facing a challenge to their own way of life.

On the bench, one can only speculate over the content of the discussions between pro-nationalist Wayne and secessionist Magrath. Magrath knew that Wayne would never challenge the constitutionality of the May 15, 1820 Piracy Law, but the aging Wayne was also content to defer opinion to the junior Magrath. Whereas the fiery “slave traders” centered their Echo defense strategy on the unconstitutionality of the 1820 Act, Magrath stayed silent. It is highly probable that at this point Magrath wanted to distinguish his pro-southern states’ rights stance from that of the more radical and less popular pro-slave trade faction, since the defense attorneys were so clearly “slave traders.” Magrath deferred to Wayne, who laid out arguments for the jury before sending them out to deliberate, reminding them that this was not a case to test the law. The men deliberated

\textsuperscript{67} Ibid, 62-3.

\textsuperscript{68} Ibid, 68.
for less than an hour before returning the verdict of not guilty. The entire crew was discharged. The backlash from the verdict was immediate. For the South, this was a triumph while, for the North, this was a miscarriage of justice. The anti-slave trade acts could not be enforced in a court of law.

**The Echo's Trials Part Three: Townsend's Trial**

Meanwhile, the accused captain of the *Echo* was going through his own legal ordeal. When the *Echo* was captured off the coast of Africa all its papers had mysteriously disappeared, including information on the owner, captain and crew of the ship. Therefore, Captain Maffitt of the U.S.S. *Dolphin* received no aid in determining who was in charge of the ship, although his belief that Townsend was the captain did not seem to be contested. Townsend was immediately separated from the crew, apparently ill, and kept in irons for the duration of the trip.

Upon landing in Charleston in August 1859, the *Dolphin* was immediately ordered with Townsend to New York, then Boston, despite the fact that the law stated that trials should take place in the district closest to the ship's capture. Apparently there was some confusion as to where Townsend should be tried, and it was determined that, being listed as residing in Rhode Island, he should be sent to the closest District Court which was in Boston. An article in the *Boston Journal*, reprinted in the *Charleston Mercury*, gives clues to why, perhaps, Maffitt's orders were to bring the Captain north:

> The question of jurisdiction is undoubtedly an important one to the prisoner, for here [Boston] the offence with which he is charged is viewed as a crime of the blackest dye... In Charleston or Key West, on the other hand, he would be looked upon as a gentleman who had been a little unfortunate in

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his business arrangements, but who is entitled to admission into the most respectable society of the place... and he would escape punishment.\textsuperscript{70}

This was the opportunity to try a captain, caught red-handed with slaves, and finally convict him of piracy. By this time, in the eyes of Northern abolitionists, Southern courts could no longer be trusted in cases concerning slavery although statistics show that both Northern and Southern courts had enforcement issues. For Maffitt, he knew he and his crew could only receive prize money if the captain and ship were convicted under the slave trade acts. With New York being a slave-trading den, Boston was his best bet.

In mid-September, nearly three weeks after the capture of the \textit{Echo}, the \textit{Dolphin} arrived in Boston, and Townsend was brought into the court to stand before C.W. Loring, U.S. Commissioner. Lieutenant Maffitt, commander of the \textit{Dolphin}, submitted his deposition to the court, giving a description of the capture and explaining how he had arrived in Boston.\textsuperscript{71} Despite this justification, Judge Loring determined that Townsend would have to be tried in Key West, which was the first port of contact after the capture of the \textit{Echo}. By January, Captain Townsend had been taken back down to Key West, where he was held. His trial began in May 1859.

Not much is known about E. C. Townsend. While it seemed as though he had a wife and children in New England, the owner of the \textit{Echo} had listed himself as residing in New Orleans. For the prosecution for both Townsend's trial and for the crew, this was enough to cast doubt upon the ownership of the ship. Nevertheless, the \textit{Columbus}

\textsuperscript{70} Ibid.

Ledger, in Georgia, printed an article that quoted Captain Townsend as saying, "the captives in the Echo would prefer a life on a plantation, to the sufferings they endured at the hands of their enemies in the barracoons [in Africa]."\(^{72}\) If this was truly a statement from Captain Townsend, then it is a printed admission of guilt according to the 1820 Act of Piracy because he admitted that he was both the captain of the Echo, and that the Echo had sailed from Africa with the intent to make its captives slaves. Townsend’s trial did not focus on this aspect. As he waited in a Key West prison, his crew was acquitted of all charges in the Charleston court. His trial a month later seemed to be a mere formality.

On May 19, 1859, Captain E. C. Townsend stood trial for piracy under the Act of 1820. District Attorney John L. Tatum attempted to postpone the trial as a witness in New Orleans had not yet been subpoenaed and therefore material was missing for the trial. Why the District Attorney had not been able to submit the order in the five months Townsend had been in Key West is unknown. The Judge refused this motion and the trial began. Lieutenant Maffitt testified that Townsend had been on board the Echo with 318 slaves aboard and crew members identified him as the captain. The Deputy Marshal of Rhode Island proved that Townsend was a United States citizen. The prosecution submitted both a register from the port of New Orleans and a bill of sale for the Putnam now Echo, both of which had Townsend’s name on it. The court rejected both the register and bill of sale on the grounds that their authenticity could not be proved. At this time the Judge then ordered the Jury to find the prisoner not guilty because of lack of

\(^{72}\) "The Captain of the Slave Ship," *Columbus Ledger-Enquirer*, 9/14/1858.
evidence. Without leaving their seats, the Jury then voted and dismissed all charges against Townsend. The trial was over and Townsend was discharged.73

Perhaps this ruling was not a surprise given the crew’s verdict in Charleston. Many Northern abolitionists could not help but see this as an abuse of the system, declaring the problem to be a sectional issue and ignoring the reputation of Northern courts with regard to the slave trade. The *Ohio State Journal* printed a scathing report titled, “How Trials are Conducted in the United States Courts in the South” not long after the Townsend trial concluded. Not only was the north more “civilized” than the south, the article argued, but Northern courts conducted themselves with “mathematical precision” while in the South there is a “lamentable uncertainly of the law... and human reason still struggles on blindly.”74 In the South it was not considered a crime to transport slaves and Captain Townsend was seen as a “benevolent, self-sacrificing and praiseworthy missionary”75 for saving the Africans from their fate in Africa. What should be remembered, however, is that despite the animosity felt between the North and the South, the ship itself had been built in Baltimore and outfitted by a captain who resided at least part of the time in Rhode Island. Even some of the crew were originally from the Northern states. Even though all the evidence seemed to point towards a certain conviction, it was a Northern judge who decided the Townsend trial had to take place in the South and a federal judge who threw out the case. Not one case up to that point,

73 There are no existing court records for this trial, however the *Barre Gazette*, of Barre, MA printed a summary of the trial on June 10, 1859. Several other papers printed the verdict of the trial over the week of May 29th, 1859.

74 In *Ohio State Journal*, 6/07/1859.

75 Ibid.
either in the North or South, had resulted in the full conviction of a captain or crew on the charge of piracy.

For Judge Magrath, the *Echo* crew trials had shown that the federal policies against the slave trade were unenforceable. He saw that the next step would involve putting the 1820 Piracy Act on trial.\(^7\) Claiming to be against the slave trade, he nevertheless questioned the role of the federal government in the suppression of the trade. Elite Southerners agreed with him and, "while slave traders may have been in the minority, many Carolinian planter politicians accepted their rationale, if not their demand, for the immediate reopening of the African slave trade."\(^7\) As the nation polarized, particularly as the South reacted to the new Republican Party's call for the stricter enforcement of slave trade laws and for the prohibition of slavery in the territories, Southerners like Magrath, aimed to roadblock the federal government's power at every turn. While the court waited to hear the *Echo* trial, the landing of slaves directly on U.S. soil would capture the attention of the nation.

**The Wanderer**

In mid-October 1858, two months after the *Echo* was caught off the coast of Cuba, another slave trading voyage left the coast of Africa. This time, the ship escaped detection, and the human cargo were successfully landed on Jeckyl Island, in Georgia. William Corrie, master of the ship and a South Carolinian socialite, had collaborated with

\(^7\) The story of the *Echo* did not end there. It was sold by the U.S. government in January 1859 for $2300 cash. In July she was advertised for sale in New York and listed as a Baltimore built brig that had just been renovated. In 1861, in a twist of irony, she was renamed the *Jefferson Davis* and sailed as a Confederate privateer during the Civil War before sinking in Charleston harbor, see *Charleston Mercury*, "Echo," 1/07/1859 and "The Slave Brig Echo," 7/22/1859.

\(^7\) Sinha, *Counterrevolution of Slavery*, 172.
Charles Lamar, another prominent southerner, to carry slaves directly from Africa to the United States. They succeeded. Their ship, the yacht *Wanderer*, sailing the flag of the New York City Yacht Club, had fitted out for the voyage in New York earlier that year and returned with 487 slaves on board. Corrie had entertained British sea captains along the African coast as he waited for his illegal cargo to reach the coastline, wining and dining the men aboard the luxurious, sleek vessel. Once on board, the swift *Wanderer* made for open waters, sailing gracefully past Captain Totten aboard the *U.S.S. Vincennes*, who must have paused to see the yacht in African waters, but whose frustrations over a recent British boarding of an American vessel occupied his mind.  

![Image of the Wanderer](U.S. Naval Historical Image, The Dictionary of American Naval Fighting Ships)

Arriving on Jeckyll Island on November 28 after a forty-two day voyage, Corrie unloaded the weakened Africans, now numbering close to 400, where they were dispersed around Georgia, Florida, and South Carolina to be sold. Suspicious of Lamar and Corrie’s activities, eventually the U.S. marshal seized the *Wanderer* and arrested the

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78 Description of the *Wanderer* on the African coast comes from Calonius, *The Wanderer*, 97-103. Captain Totten was searching for the royal navy ship *Viper*, to protest its boarding of the *Rufus Soule*. According to Calonius, the *Wanderer*, with slaves on board, sailed so close to the *Vincennes* that there was nearly a collision.
owners and crew. Whereas the *Echo* case had been a test to set the scene, the *Wanderer* cases would demonstrate the limits of federal power on the eve of the Civil War, not because of the public's support for the slave trade, but because of the growing distrust of the federal government.

The *Wanderer* was the perfect venue within which to question the constitutionality of the 1820 Piracy Act. Judge Magrath saw that South Carolina would be the best state in which to hold these trials, therefore, in January 1859, even before the *Echo* trial in April, Magrath ruled that Georgia could not try the case even though it had been the state in which the enslaved Africans had been landed. His repeated denial of Georgia's jurisdiction over the cases lends support to historians' suspicion that Magrath was seeking to place the 1820 Piracy Act on trial. A previous slave trading case against the crew of the *Brothers*, captured by the *U.S.S. Marion* in late 1858, found, once again, a Grand Jury refusing to indict the crew.79 Even those southerners who had been against the importation of slaves into the United States supported the abolition of the piracy law. The jury in the Georgia trial against Charles Lamar stated that they had been forced to indict him and that they, the jury, denounced the slave trade laws "because they directly or indirectly, condemn this institution [slavery], and those who have inherited or maintain it."80 On November 23, 1859, in the Georgia District Court presided over by Justice Wayne who instructed the jury to rule according to federal law, the jury found three *Wanderer* crew members not guilty under the Piracy Act of 1820.


80 Quoted in Sinha, *Counterrevolution of Slavery*, 168. A wonderfully entertaining recount of the *Wanderer* can be found in Erik Calonius's book of the same name.
Magrath saw that the slave trade laws, and thus the sovereignty of the federal government, could never be directly challenged if juries continued to dismiss the cases. In May 1859, a month after the *Echo* crew was released, the captain of the *Wanderer*, William Corrie, stood before the Grand Jury in South Carolina, who, unsurprisingly, refused to indict him. The day after the Grand Jury’s opinion, the jury decided to alter its stance, and the jurists themselves charged Corrie in the violation of the Act of May 15, 1820, a highly unusual maneuver. It is impossible to determine if this surprising move was directly influenced by Magrath, but, based on Magrath’s determination to keep Corrie in South Carolina for trial, making this assertion would not be a stretch.\(^{81}\)

The Corrie case dragged on, carrying into the 1860 court session. Meanwhile, in South Carolina, Magrath authorized Corrie’s release on bail, despite being charged for a capital crime. James Conner had been brought in to prosecute, and was directed to enter a *nolle prosequi* (refusal to prosecute), by the U.S. Attorney General who planned to then re-arrest Corrie to stand trial in Georgia. Magrath, of course, refused. James Conner, who seemed to be in support of Magrath’s plan, motioned to discharge the Grand Jury several months later in June 1860. Justice Wayne, now presiding over the case with Magrath, agreed to this and ordered that the jury be dismissed.\(^{82}\) Corrie was released and, perhaps because of the turmoil resulting from the 1860 election, Corrie was never re-arrested.

Magrath then released an opinion in the case, in response to Northern outcry that slave trade laws were unenforceable in Southern courts. Essentially arguing semantics,

\(^{81}\) Sinha, *Counterrevolution of Slavery*, 170.

\(^{82}\) Wells, *The Wanderer*, 60-1.
Magrath opined that the Piracy Law did not extend to slave trading, nor was the law "consistent with any previous legislation."\textsuperscript{83} Indicative of his strict constitutional constructionist interpretations of the law, Magrath also stated that, although the slave trade was prohibited by federal law, nowhere did it stipulate that the law was to be "tried and punished in its courts."\textsuperscript{84} Accordingly, Magrath stated that the slave trade could not be declared piracy. While the implications were obscured by the election of 1860, the ruling nevertheless undermined federal authority, and the anti-piracy law could have been overturned if Lincoln not been elected.

The convoluted nature of the \textit{Wanderer} case highlights the unraveling of federal authority in the Southern states. Slave trade cases had never been well enforced in the federal courts, but, until the late 1850s, courts would at least convict slave traders of minor offenses if there was evidence that a vessel had been used for slave trading. The increased southern agitation, sectional polarization, and direct challenges to federal authority by southern politicians and judges, would further decrease the effectiveness of the slave trade laws. While the Republican Party increased its pressure on the federal government to make a stand against secessionists and slavery and as the federal government strengthened its African Squadron resulting in more captures of American slaving vessels, the Southern challenges stood out in sharper relief. Arguing that the founding fathers never intended to have the slave trade prohibited by the federal government, even Southerners against the slave trade at least tacitly supported the "slave traders'" claims.

\textsuperscript{83} Magrath, \textit{Slave Trade not Declared Piracy}, 18.

\textsuperscript{84} Ibid, 17.
The polarization of the United States over slavery had direct consequences for the U.S. suppression of the slave trade. The campaign to challenge federal authority over the trade by linking it to the states’ rights agenda gained followers even among those opposed to the trade. Reformulating the slave trade, not as a crime against humanity, but as a means with which to preserve southern slavery and culture, proved effectual. Laws had always been lax and, thanks to cases like the *Echo, Orion* and the *Wanderer*, were now shown to be ineffective. As the North and South drew more distinct ideological lines and issues became more divergent, the U.S. government took a bolder stance in the suppression of the slave trade, resulting in a stronger, more efficient Navy, and bills introduced in Congress for the “more effectual prohibition of the African slave trade.”

The newly formed Republican Party maintained that slavery should remain under the control of state governments, but it expressly condemned the reopening of the slave trade and promised to limit slavery in the territories.

During the Presidential campaign of 1860, Democrats failed to agree over the issue of slavery and divided into Northern and Southern factions. This, along with the growing popularity of the Republican Party, allowed Abraham Lincoln to win the election. Upon hearing the news, southern states began seceding from the Union. Isaac Hayne read the Order of Secession at the convention in Charleston and was sent by the Confederate governor to act as a special envoy to the United States over the Fort Sumter crisis. James Conner, former U.S. Attorney general in South Carolina, meanwhile joined the ranks in the siege of the fort, and *Echo* defense attorney Maxcy Gregg became a

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85 In Sinha, *Counterrevolution of Slavery*, 175.

Brigadier General for the CSA before being killed at Fredericksburg in December 1862. Spratt would denounce the Confederate States of America when its government condemned the slave trade, while Magrath became a Confederate governor. These men, caught up in the complexities and nuances of the slave trade laws on the eve of insurrection, nevertheless found common ground in supporting their state of South Carolina.

The *Wanderer* case and the public declaration that the U.S. slave trade laws were a "dead letter" had embarrassed the new administration. Despite renewed efforts to patrol its coastline, the blatant disregard for the laws and successful landing of enslaved Africans in Georgia showed the world that the U.S. government was impotent against slave traders. The fact that the *Wanderer* had been so widely publicized by newspapers (and the slave traders themselves), added fuel to accusations against the government. The U.S. stance towards the slave trade, particularly as it pertained to U.S. imports, would change with the onset war.

**Nathanial Gordon and the Trial of the *Erie***

In 1862, Nathanial Gordon, became the only person in the United States hanged for participating in the slave trade. His swift execution appears incongruous when compared to the long history of slave trade acquittals and lenient sentences. What had changed in those three years? There were still bribes being taken by U.S. Attorneys and Marshalls to turn a blind eye to the trade, but there was a new crop of abolitionists and lawyers ready to prosecute slave traders. In addition, the verdicts of the *Echo* and the *Wanderer* were so egregious, the newly Republican-led government was forced to make

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a stand against those who would challenge federal law. Amid the turmoil of the increased number of slave trade captures and subsequent acquittals in court, Gordon, veteran slave trader, made preparations in Cuba to sail to Africa for a cargo of slaves. When he set sail, there was no indication that he, Nathanial Gordon, would be the first and only man hanged for the crime of piracy, a direct result of the *Echo* and *Wanderer* cases.

Gordon had been born in Portland, Maine to a family that could trace its ancestry back to passengers on the *Fortune*, arriving in Massachusetts Bay colony in 1621. Nathaniel Gordon’s father was a sea captain, who mainly kept to the legal trades. He had been brought to trial for slave trading in the 1840s but had been acquitted. Gordon followed in his father’s footsteps, and, according to some overly dramatic newspaper accounts of his life, he had commanded at least four previous slaving voyages. In 1860, Gordon left his wife and child in Boston and sailed for Cuba, where he outfitted the *Erie* for a slave voyage. By the time he returned from his voyage to the Congo, the Civil War had erupted, and the United States laws against the slave trade were more effective than they had been for the previous eighty years. Without his realizing it, Gordon’s luck had run out and he would become the example for this new, more powerful, federal government.88

The court records state that the vessel was owned by a Mr. Post and Mr. Knudsen, both American citizens, in March 1860 when the ship was in Havana, Cuba. Four crewmen testified against the Captain, saying they were employed as regular seamen and the ship was fitted out with liquor, bread, rice, supplies for making barrels,

as well as pork and beef. If the crew had been suspicious of the legality of the cargo, none of them voiced any concerns. Liquor and meat were common trade items and, on their own, were not enough to cause alarm. According to the crew testimony, about thirty days en route to Africa, several members of the crew approached the captain with their suspicions that the ship carried provisions used in the slave trade. Captain Gordon dismissed these claims and made it clear that this topic was not to be mentioned again.

When the ship sailed up river in the Congo, the climate immediately changed aboard the ship. Maintaining command of the ship, Gordon allegedly ordered the boarding of African captives—nearly 900 in number. According to their testimony, the crew had voiced concerns to the captain, but Gordon promised them one dollar each for every slave that arrived in Cuba and then ordered them to continue with their duties that they had signed a contract to perform. Fifteen days later, on August 8, 1860, the Erie was captured by the U.S. naval steamer Mohican, about fifty miles off the coast of Africa. The Africans were taken to Liberia, while the Erie, her captain, and crew were sent to New York for trial.

Once captured, Gordon was taken to New York where he was charged with violating the 1820 Act of Congress, which District Judge Magrath had declared unconstiuutional but which still remained a federal law. The prosecutors in the Erie trial had to prove either that 1) Captain Gordon was an American and had sailed with the intent to make Africans slaves, or, that 2) the ship was owned by Americans and was on a slaving voyage. These were charges that had been held against the captains and crews

89 25 F. Cas. 1364.

of many alleged American slaving vessels. The jury of the circuit court of the Southern District of New York heard the testimony of the captain, crew, and other witnesses as news filtered in about the blood spilled at Bull Run and the public realized that the Civil War would last much, much longer than the anticipated few weeks. This made all the difference.

As it happened during the trial of E. C. Townsend of the *Echo*, Gordon's attorneys argued that his nationality could not be proved, since he was the son of a captain and he was supposedly born at sea. Additionally, they argued that it could not be proved that the ship itself was American, since the records might not have been up to date. As in the *Echo* case, the defense tried to blur the facts and to call into question the reliability of the ship's register. In Gordon's case, however, the crew members stood against the captain and four of them gave testimony against him, perhaps because they felt that they had been coerced into an illegal sailing trip, or perhaps because they were saving their own necks. The crew of the *Erie* provided damning evidence against Gordon and absolved themselves of all blame. On November 30, 1861, Gordon was convicted of piracy and sentenced to hang.\(^9\) Gordon's attorney's appealed the conviction, but the Supreme Court rejected the motion.\(^2\) A petition signed by 25,000 people was sent to President Lincoln asking for clemency, but Lincoln refused to grant it. On February 21, 1861, after a failed suicide attempt, Nathaniel Gordon became the first and only person hanged for participation in the slave trade, an example of the federal

\(^9\) 25 F. Cas. 1364.

\(^2\) 66 U.S. 503.
government’s increasing vigilance and a warning to all other would-be slave traders.93 This case made it clear that federal laws against the slave trade would now be upheld and enforced in the wake of secession.

The three cases of the Echo, Wanderer, and Erie show the radical shift in federal priorities from 1858 to 1861. Cases like that of the Echo reflect the complacency of the federal court system over the enforcement of the slave trade laws. Although anti-slave trade in word, in deed, few could condone the conviction of fellow citizens for slave trading under the Piracy Law. The Wanderer case, which challenged federal law directly, crossed the line for many who denounced the South’s anti-federalist protests. The highly publicized case cast the sovereignty of the federal government into a critical light and stood as a direct defiance against the government. Just as important, whereas the Echo had been transporting slaves to a foreign country, the Wanderer deposited enslaved Africans onto U.S. soil, demonstrating that the federal government could not control its own borders. This very public failure of national security stood as an embarrassment to the nation amid a highly volatile, political atmosphere.

As a direct response to Magrath’s Wanderer verdict, Nathaniel Gordon was hanged—the first victim under a then-forty year old law. The death of Gordon was, as historian Ron Soodalter asserts, a fluke, but it did reflect the changing political climate where the abolition of the slave trade finally aligned itself with national priorities.94 Because of the internal challenges to federal authority from within the United States, the


94 Soodalter, Hanging Captain Gordon, 242.
The federal government was forced to take a strong stand against the slave trade. The rise of the Republican Party and the outbreak of the Civil War turned the tide against the U.S. participation in the slave trade.

The rise of the Confederacy, ironically, ended the calls to reopen the slave trade and made the laws against the participation in the foreign slave trade enforceable. The Confederate Congress adamantly opposed the traffic, not only passing laws against the trade but also "requiring congressional legislation to enforce the ban."\(^{95}\) Despite the strong objections of a small minority, southern states maintained anti-slave trade policies, for economic and humanitarian reasons, and, at the onset of war, to encourage Britain to back its cause and encourage Virginia and Maryland to join the Confederacy. The natural population increase of slaves continued to meet the demand for laborers, and the domestic slave trade flourished. In the North, the onset of war allowed the federal government to redouble its border patrols, primarily against blockade-runners, and, most importantly, to enter into agreement with Britain over the right-of-search. Finally, after decades of resistance, the war ended American participation in the slave trade. The foreign slave trade to Cuba and Brazil would continue into the 1860s, but the U.S. flag would cease to protect those involved in the illicit traffic. The generations-old feud between Britain and her former colony, and among Americans themselves, would finally be put to rest.

\(^{95}\) Fehrenbacher, Slaveholding Republic, 203. This was decided partly because of lingering fears of insurrection and partly in order to appease Britain, which the Confederacy hoped would provide aid.
The onset of the Civil War marked a turning point in the federal suppression of the slave trade. Abraham Lincoln and the Republican-led Congress were committed to restoring the Union with or without the abolition of slavery, but the suppression of the slave trade coincided with other federal priorities. Lincoln agreed to sign a belligerent right-of-search agreement with Britain to stop the trade, as well as prevent Confederate smuggling and a Confederate/British alliance. In 1861, the United States formally abandoned its participation in the African Squadron and its ships were called to patrol along the Southern blockade of the Confederacy. The Civil War moved the Union’s priorities closer to home, with a goal of restricting the Confederacy’s resources by denying them access to slave labor.

Even after the Civil War, American ships and citizens continued to transport enslaved Africans to the few areas still reliant on slave labor, although documentation is all but impossible. The Civil War, however, enabled the U.S. government to enter into agreement with Great Britain to allow the right-of-search during wartime. This did more to halt the American participation in the slave trade than previous efforts, as it took the protection of the American flag away from slave traders who sought to slip through the British African blockade. International cooperation, as the British had been arguing for decades, proved to be essential in eliminating the illegal traffic.

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The Civil War also brought about another essential change in American attitudes toward the trade. Until the war, the federal government was committed to protecting slavery. Previous chapters have demonstrated that slavery and the slave trade were separate issues, with the majority of Americans, North and South, against the latter. The federal government's commitment to protecting Southern slavery effectively prevented it from enforcing laws against the slave trade. Political leaders focused instead on preserving the Union and protecting U.S. commercial interests, at home and abroad.

These two factors, preserving the Union and protecting commercial interests directly and indirectly affected the slave trade, both in improving efforts to suppress the trade as well as in allowing the trade to continue to flourish depending on the situation. In the 1790s, the federal government's attempt to protect its neutrality led to the enacting of the first anti-slave trade laws, as chapter one discusses. In addition, in response to threats to American shipping along the Gulf Coast and Southern Florida in the wake of the Spanish American wars of independence, the federal government stepped up its efforts to prevent piratical attacks and illegal smuggling, which in turn improved controls against slave importations into the United States.

The United States did make some contributions to the suppression of the slave trade, and, after 1820, the importation of enslaved Africans into U.S. territory was minimal although we will never know the exact numbers of those smuggled onto American shores. Based on personal accounts and state and federal law, most Americans denounced the African slave trade from the 1780s onward. Only a few outspoken proponents would admit to supporting the trade. The fact that the United States had a naturally increasing slave population most likely had more to do with the abolition of the
American slave trade than any abolitionist sentiment, as is evidenced by so many Americans participating directly or indirectly in the foreign slave trade. Then, as now, profit and the protection of American interests guided American policy far more than pure altruism. That the slave trade continued to such a great extent for decades after both the United States and Britain outlawed is testament to the prioritization of national interests above international cooperation and humanitarian efforts.

The African slave trade did end. Despite Africa’s continued turmoil stemming in part from centuries of colonization and slave trading, and despite the continued existence of the slave trade and slavery, the nineteenth century stands as an example of a rapid shift in labor systems along the Atlantic, from that of general acceptance of slavery to a free-labor system stemming from industrialization. The immigration of “free” people to the Americas dwarfed that of forced immigration in the nineteenth century, although the virtual enslavement of African and Asian “apprentices” in the Caribbean was, even then, widely criticized. Plantation slavery in Brazil and Cuba continued into the late nineteenth century.

The abolition of the slave trade was a nineteenth century phenomenon, and a result of monumental, multinational collaboration. Conceptions of human ownership changed in those short years, “so that today no state sanctions slavery or slave trading.” The idea that slavery was immoral grew out of the Enlightenment and Revolutionary periods, and blossomed during the reform movements of the nineteenth century. Yet, for all the so-called radical talk, the United States and its rise to international power relied upon the labor of enslaved Africans and the federal government’s commitment to

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The founding fathers had had an uneasy relationship with the slave trade, a step-sibling of slavery. The horrors of the middle passage could not be denied and the desire of the federal government to control its borders, maintain its national sovereignty, and protect Southern interests, all fueled anti-slave trade sentiments.

For the first half of the nineteenth century, U.S. laws enacted against the slave trade existed usually in name only and did little actually to prevent American participation in the transatlantic slave trade. More effective against illegal imports was the strong domestic slave trade that fueled western agricultural expansion. The naturally increasing domestic slave population kept imported slave demand to a minimum. It was political conflict that sparked the Southern cry for the revival of the slave trade, although even the conflict was grossly exaggerated by the Northern press. Meanwhile, it was primarily Northerners who participated and profited from the transatlantic slave trade. Until the Civil War forced the federal government to take a stand against slavery, the policy towards the slave trade remained primarily designed to protect American interests and assert federal power within the international community.

Instead of focusing on protecting U.S. interests in Africa against Britain, the domestic turmoil of Civil War forced the federal government to address the problems of union, and the institution of slavery itself. Ironically, despite the withdrawal of federal efforts to suppression the international slave trade, it was only war that led to Anglo-American cooperation and the subsequent abolition of the slave trade. War strengthened

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4 Anne Farrow, et. al, *Complicity*. 
the power of the federal government in a way that even the federalists could not have foreseen.

The U.S. suppression of the transatlantic slave trade was both dependent on and was influenced by the changing cultural, diplomatic, and political climate leading up to the Civil War. In the end, the Founders were proved wrong when they asserted that ending the slave trade would end slavery. Time would tell that abolition had to occur at home, rather than on the high seas. Without the demand for slaves, the supply was rendered obsolete and the Middle Passage finally ceased to exist, a full seventy years after the Congress enacted its first federal law against the slave trade.
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APPENDIX A: ACT OF 1794

"An Act to Prohibit the Carrying on the Slave Trade from the United States to any Foreign Place or Country"

SECTION 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no citizen or citizens of the United States, or foreigner, or any other persons coming into, or residing within the same, shall, for himself or any other person whatsoever, either as master, factor or owner, build, fit, equip, load or otherwise prepare any ship or vessel, within any port or place of the said United States nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of carrying on any trade or traffic in slaves, to any foreign country; or for the purpose of procuring, from any foreign kingdom, place or country, the Inhabitants of such kingdom, place or country, to be transported to any foreign country, port, or place whatever, to be sold or disposed of, as slaves And if any ship or vessel shall be so fitted out, as aforesaid, for the said purposes, or shall be caused to sail, so as aforesaid, every such ship or vessel her tackle, furniture, apparel and other appurtenances, shall be forfeited to the United States; and shall be liable to be seized, prosecuted and condemned, in any of the circuit courts, or district court for the district where the said ship or vessel may be found and seized.

SEC. 2. And be it further enacted, That all and every person, so building, fitting out, equipping, loading, or otherwise preparing, or sending away, any ship or vessel, knowing or intending that the same shall be employed in such trade or business, contrary to the true intent and meaning of this act, or any ways aiding or abetting therein, shall severally forfeit and pay the sum of two thousand dollars, one moiety thereof to the use of the United States, and the other moiety thereof to the use of him or her who shall sue for and prosecute the same.

SEC. 3. And be it further enacted, That the owner, master or factor of each and every foreign ship or vessel, clearing out for any of the coasts or kingdoms of Africa, or suspected to be intended for the slave trade, and the suspicion being declared to the officer of the customs, by any citizen, on oath or affirmation, and such information being to the satisfaction of the said officer, shall first give bond with sufficient sureties, to the treasurer of the United States, that none of the natives of Africa, or any other foreign country or place, shall be taken on board the said ship or vessel, to be transported, or sold as slaves, in any other foreign port or place whatever, within nine months thereafter.

SEC. 4. And be it further enacted, That if any citizen or citizens of the United States shall, contrary to the true intent and meaning of this act, take on board, receive or transport any such persons, as above described, in this act, for the purpose of selling them as slaves, as aforesaid, he or they shall forfeit and pay, for each and every person, so received on board, transported, or sold as aforesaid, the sum of two hundred dollars, to be recovered in any court of the United States pro per to try the same; the one moiety thereof to the use of the United States, and the other moiety to the use of such person or persons, who shall sue for and prosecute the same.

1 Stat. 348. United States Statutes at Large.
APPENDIX B: ACT OF 1800

"An Act in Addition to the Act Untitled "An Act to Prohibit the Carrying on the Slave Trade from the United States to any Foreign Place or Country."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any citizen of the United States, or other person residing within the United States, directly or indirectly to hold or have any right or property in any vessel employed or made use of in the transportation or carrying of slaves from one foreign country or place to another, and any right or property, belonging as aforesaid, shall be forfeited, and may be libelled and condemned for the use of the person who shall sue for the same; and such person, transgressing the prohibition aforesaid, shall also forfeit and pay a sum of money equal to double the value of the right or property in such vessel, which he held as aforesaid; and shall also forfeit a sum of money equal to double the value of the interest which he may have had in the slaves, which at any time may have been transported or carried in such vessel, after the passing of this act, and against the form thereof

SEC. 2. And be it further enacted, That it shall be unlawful for any citizen of the United States or other person residing therein, to serve on board any vessel of the United States employed or made use of in the transportation or carrying of slaves from one foreign country or place to another: and any such citizen or other person, voluntarily serving as aforesaid, shall be liable to be indicted therefor, and on conviction thereof shall be liable to a fine not exceeding two thousand dollars, and be imprisoned not exceeding two years.

SEC. 3. And be it further enacted, That if any citizen of the United States shall voluntarily serve on board of any foreign ship or vessel, which shall hereafter be employed in the slave trade, he shall, on conviction thereof, be liable to and suffer the like forfeitures, pains, disabilities and penalties as he would have incurred, had such ship or vessel been owned or employed, in whole or in part, by any person or persons residing within the United States.

SEC. 4. And be it further enacted, That it shall be lawful for any of the commissioned vessels of the United States, to seize and take any vessels employed in carrying on trade, business or traffic, contrary to the true intent and meaning of this or the said act to which this is in addition; and such vessel, together with her tackle, apparel and guns, and the goods or effects, other than slaves, which shall be found on board, shall be forfeited, and may be proceeded against in any of the district or circuit courts, and shall be condemned for the use of the officers and crew of the vessel making the seizure, and be divided in the proportion directed in the case of prize: and all persons interested in such vessel, or in the enterprise or voyage in which such vessel shall be employed at the time of such capture, shall be precluded from all right or claim to the slaves found on board such vessel as aforesaid, and from all damages or retribution on account thereof: and it shall moreover be the duty of the commanders of such commissioned vessels, to apprehend and take into custody every person found on board of such vessel so seized and taken, being of the officers or crew thereof, and him or them convey as soon as conveniently may be, to the civil authority of the United States in some one of the districts thereof, to be proceeded against in due course of law.

SEC. 5. And be it further enacted, That the district and circuit courts of the United States
shall have cognizance of all acts and offences against the prohibitions herein contained.
SEC. 6. Provided nevertheless, and be it further enacted, That nothing in this act contained shall be construed to authorize the bringing into either of the United States, any person or persons, the importation of whom is, by the existing laws of such state, prohibited.
SEC. 7. And be it further enacted, That the forfeitures which shall hereafter be incurred under this, or the said act to which this is in addition, not otherwise disposed of, shall accrue and be one moiety thereof to the use of the informer, and the other moiety to the use of the United States, except where the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.
APPROVED, May 10, 1800.
APPENDIX C: ACT OF 1807

Act of 1807

An Act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of January, one thousand eight hundred and eight, it shall not be lawful to import or bring into the United States or the territories thereof from any foreign kingdom, place, or country, any negro, mulatto, or person of colour, with intent to hold, sell, or dispose of such negro, mulatto, or person of colour, as a slave, or to be held to service or labour.

(Importation of slaves into the U.S. forbidden after Jan. 1, 1808. Forfeiture of vessels fitted out for the slave trade after Jan. 1, 1808.)

SEC. 2. And be it further enacted, That no citizen or citizens of the United States, or any other person, shall, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, for himself, or themselves, or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load or otherwise prepare any ship or vessel, in any port or place within the jurisdiction of the United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of procuring any negro, mulatto, or person of colour, from any foreign kingdom, place, or country, to be transported to any port or place whatsoever, within the jurisdiction of the United States, to be held, sold, or disposed of as slaves, or to be held to service or labor; and if any ship or vessel shall be so fitted out for the purpose aforesaid, or shall be caused to sail so as aforesaid, every such ship or vessel, her tackle, apparel, and furniture, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts, for the district where the said ship or vessel may be found or seized.

(Penalties for being engaged in such expeditions.)

SEC. 3. And be it further enacted, That all and every person so building, fitting out, equipping, loading, or otherwise preparing or sending away, any ship or vessel, knowing or intending that the same shall be employed in such trade or business, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, or any ways aiding or abetting therein, shall severally forfeit and pay twenty thousand dollars, one moiety thereof to the use of the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

(Forfeitures and penalties for importing slaves from Africa, &c. after Jan. 1, 1808. Distribution of the forfeitures. Slaves imported to remain subject to regulations of the states.)

SEC. 4. And be it further enacted, If any citizen or citizens of the United States, or any person resident within the jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight, take on board, receive or transport from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place, or
country, any negro, mulatto, or person of colour, in any ship or vessel, for the purpose of
selling them in any port or place within the jurisdiction of the United States as slaves, or
to be held to service or labour, or shall be in any ways aiding or abetting therein, such
citizen or citizens, or person, shall severally forfeit and pay five thousand dollars, one
moiety thereof to the use of any person or persons who shall sue for and prosecute the
same to effect; and every such ship or vessel in which, such negro, mulatto, or person of
colour, shall have been taken on board, received, or transported as aforesaid, her tackle,
apparel, and furniture, and the goods and effects which shall be found on board the same,
shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and
condemned in any of the circuit courts or district courts in the district where the said ship
or vessel may be found or seized. And neither the importer, nor any person or persons
claiming from or under him, shall hold any right or title whatsoever to any negro, mulatto,
or person of colour, nor to the service or labour thereof, who may be imported or brought
within the United States, or territories thereof, in violation of this law, but the same shall
remain subject to any regulations not contravening the provisions of this act, which the
legislatures of the several states or territories at any time hereafter may make, for
disposing of any such negro, mulatto, or person of colour. (See notes to act of March
22, 1794, chap. 11, vol. i. 347, 348.)

(Further penalties on citizens and residents, &c. for bringing slaves to the U. S. from any
foreign place. Imprisonment and penalty not to exceed $10,000.)

SEC. 5. And be it further enacted, That if any citizen or citizens of the United States, or
any other person resident within the jurisdiction of the same, shall, from and after the first
day of January, one thousand eight hundred and eight, contrary to the true intent and
meaning of this act, take on board any ship or vessel from any of the coasts or kingdoms
of Africa, or from any other foreign kingdom, place, or country, any negro, mulatto, or
person of colour, with intent to sell him, her, or them, for a slave, or slaves, or to be held
to service or labour, and shall transport the same to any port or place within the
jurisdiction of the United States, and there sell such negro, mulatto, or person of colour,
so transported as aforesaid, for a slave, or to be held to service or labour, every such
offender shall be deemed guilty of a high misdemeanor, and being thereof convicted
before any court having competent jurisdiction, shall suffer imprisonment for not more
than ten years nor less than five years, and be fined not exceeding ten thousand dollars,
nor less than one thousand dollars.

(Penalties for buying slaves from the neighbouring territories, &c. Forfeiture not to
extend to the seller or purchaser of any slave sold under the regulations of the legislature
of any state.)

SEC. 6. And be it further enacted, That if any person or persons whatsoever, shall, from
and after the first day of January, one thousand eight hundred and eight, purchase or sell
any negro, mulatto, or person of colour, for a slave, or to be held to service or labour, who
shall have been imported, or brought from any foreign kingdom, place, or country,
or from the dominions of any foreign state, immediately adjoining to the United States,
into any port or place within the jurisdiction of the United States, after the last day of
December, one thousand eight hundred and seven, knowing at the time of such purchase
or sale, such negro, mulatto, or person of colour, was sought within the jurisdiction of the
United States, as aforesaid, such purchaser and seller shall severally for fee and pay for
every negro, mulatto, or person of colour, so purchased or sold as aforesaid, eight
hundred dollars; one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect: Provided, that the aforesaid forfeiture shall not extend to the seller or purchaser of any negro, mulatto, or person of colour, who may be sold or disposed of in virtue of any regulation which may hereafter be made by any of the legislatures of the several states in that respect, in pursuance of act, and the constitution of the United States.

(Vessels may be seized, having slaves on board. Naval force of the U. States may be employed for the purpose of enforcing this act. Penalties, fine and imprisonment. Proceeds of prizes divided between the U. States and the officers and men making the seizures. Every negro and mulatto found on board any vessel captured to be delivered to persons appointed by the respective states to receive them. An account to be transmitted to the governors of the respective states.)

SEC. 7. And be it further enacted, That if any ship or vessel shall be found, from and after the first day of January, one thousand eight hundred and eight, in any river, port, bay, or harbor, or on the high seas within the jurisdictional limits of the United States, or hovering on the coast thereof, having on board any negro, mulatto, or person of colour for the purpose of selling them as slaves, or with intent to land the same, in any port or place within the jurisdiction of the United States, contrary to the prohibition of this act, every such ship or vessel, together with her tackle, apparel, and furniture, and the goods or effects which shall be found on board the same, shall be forfeited to the use of the United States, and may be seized, prosecuted, and condemned, in any court of the United States, having jurisdiction thereof. And it shall be lawful for the President of the United States, and he is hereby authorized, should he deem it expedient, to cause any of the armed vessels of the United States to be manned and employed to cruise on any part the coast of the United States, or territories thereof, where he may judge attempts will be made to violate the provisions of this act, and to instruct and direct the commanders of armed vessels of the United States, to seize take, and bring into any port of the United States all such ships or vessels, and moreover to seize, take, and bring into any port of the United States all ships or vessels of the United States, wheresoever found on the high seas, contravening the provisions of this act, to be proceeded against, according to law, and the captain, master, or commander of every such ship or vessel, so found and seized as aforesaid, shall be deemed guilty of a high misdemeanor, and shall be liable to be prosecuted before any court of the United States, having jurisdiction thereof; and being thereof convicted, shall be fined not exceeding ten thousand dollars, and be imprisoned not less than two years, and not exceeding four years. And the proceeds of all ships and vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted and condemned, shall be divided equally between the United States and the officers and men who shall make such seizure, take, or bring the same into port for condemnation, whether such seizure be made by an armed vessel of the United States, or revenue cutters thereof, and the same shall be distributed in like manner, as is provided by law for the distribution of prizes taken from an enemy: Provided, that the officers and men, to be entitled to one half of the proceeds aforesaid, shall safe keep every negro, mulatto, or person of colour, found on board of any ship or vessel so by them seized, taken, or brought into port for condemnation, and shall deliver every such negro, mulatto, or person of colour, to such person or persons as shall be appointed by the respective states, to receive the same; and if no such person or persons shall be appointed
by the respective states, they shall deliver every such negro, mulatto, or person of colour, to the overseers of the poor of the port or place where such ship or vessel may be brought or found, and shall immediately transmit to the governor or chief magistrate of the state an account of their proceedings, together with the number of such negroes, mulattoes, or persons of colour, and a descriptive list of the same, that he may give directions respecting such negroes mulattoes, or persons of colour. (The district courts have jurisdiction under the slave trade acts, to determine who are the actual captors under a state law, made in pursuance of the 4th section of the slave trade act of 1807, and directing the proceeds of the sale of the negroes to be paid, "one moiety for the use of the commanding officer of the capturing vessel." The Josefa Segunda, 10 Wheat. 312; 6 Cond. Rep. 111. The offence against the laws of the United States under the 7th section of the act of 1807, is not that of importing or bringing into the United States, persons of colour, with intent to hold such persons as slaves, but that of hovering on the coast of the United States with such intent. And although it forfeits the vessel and any goods or effects found on board, it is silent as to disposing of the coloured persons found onboard, any further than to impose a duty upon the officers of the armed vessels who make the capture to keep them safely to be delivered to the overseers of the poor, or the governor of the state, or persons appointed by the respective states to receive them. United States v. Preston, 3 Peters, 57. The persons sold as slaves under an order of the district court of Louisiana, in a case where the decree was afterwards reversed, were illegally sold, and they are freed. Ibid.) (Slaves not to be transported in vessels under forty tons burthen, to be disposed of, &c. Penalties. This section not to prohibit taking on board or transporting on any river or bay within the jurisdiction of the U. States.)

SEC. 8. And be it further enacted, That no captain, master or commander of any ship or vessel, of less burthen than forty tons, shall, from and after the first day of January, one thousand eight hundred and eight, take on board and transport any negro, mulatto, or person of colour, to any port or place whatsoever, for the purpose of selling or disposing of the same as a slave, or with intent that the same may be sold or disposed of to be held to service or labour, on penalty of forfeiting for every such negro, mulatto, or person of colour, so taken on board and transported, as aforesaid, the sum of eight hundred dollars; one moiety thereof to the use of the United States, and the other moiety to any person or persons who shall sue for, and prosecute the same to effect: Provided however, That nothing in this section shall extend to prohibit the taking on board or transporting on any river, or inland bay of the sea, within the jurisdiction of the United States, any negro, mulatto, or person of colour, (not imported contrary to the provisions of this act) in any vessel or species of craft whatever. (Vessels of larger burthen, sailing coastwise, to have the names of slaves for sale inserted in their papers, &c. The shipper to swear the negroes were not imported into the U. States after January 1, 1808. Penalties on departing without such list. Penalty for negro or mulatto taken on board.)

SEC. 9. And be it further enacted, That the captain, master, or commander of any ship or vessel of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise, from any port in the United States, to any port or place within the jurisdiction of the same, having on board any negro, mulatto, or person of colour, for the purpose of transporting them to be used or disposed
of as slaves, or to be held to service or labour, shall, previous to the departure of such ship or vessel, make out and subscribe duplicate manifests of every such negro, mulatto, or person of colour, on board such ship or vessel, therein specifying the name and sex of each person, their age and stature, as near as may be, and the class to which they respectively belong, whether negro, mulatto, or person of colour, with the name and place of residence of every owner or shipper of the same, and shall deliver such manifests to the collector of the port, if there be one, otherwise to the surveyor, before whom the captain, master, or commander, together with the owner or shipper, shall severally swear or affirm to the best of their knowledge and belief, that the persons therein specified were not imported or brought into the United States, from and after the first day of January, one thousand eight hundred and eight, and that under the laws of the state, they are held to service or labour; whereupon the said collector or surveyor shall certify the same on the said manifests, one of which he shall return to the said captain, master, or commander, with a permit, specifying thereon the number, names, and general description of such persons, and authorizing him to proceed to the port of his destination.

And if any ship or vessel, being laden and destined as aforesaid, shall depart from the port where she may then be, without the captain, master, or commander being first made out and subscribed duplicate manifests, of every negro, mulatto, and person of colour, on board such ship or vessel, as aforesaid, and without having previously delivered the same to the said collector or surveyor, and obtained a permit, in manner as herein required, or shall, previous to her arrival at the port of her destination, take on board any negro, mulatto, or person of colour, other than those specified in the manifests, as aforesaid, every such ship or vessel, together with her tackle, apparel and furniture, shall be forfeited to the use of the United States, and may be seized, prosecuted and condemned in any court of the United States, having jurisdiction thereof; and the captain, master, or commander of every such ship or vessel, shall moreover forfeit, for every such negro, mulatto, or person of colour, so transported or taken on board, contrary to the provisions of this act, the sum of one thousand dollars, one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

(Manifests to be delivered to officers of customs where such slaves carried coastwise are landed. Penalty for landing a negro or mulatto without a permit.)

SEC. 10. And be it further enacted, That the captain, master, or commander of every ship or vessel, of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise, and having on board any negro, mulatto, or person of colour, to sell or dispose of as slaves, or to be held to service or labour, and arriving in any port within the jurisdiction of the United States, from any other port within the same, shall, previous to the unloading or putting on shore any of the persons aforesaid, or suffering them to go on shore, deliver to the collector, if there be one, or if not, to the surveyor residing at the port of her arrival, the manifest certified by the collector or surveyor of the port from whence she sailed, as is herein before directed, to the truth of which, before such officer, he shall swear or affirm, and if the collector or surveyor shall be satisfied therewith, he shall thereupon grant a permit for unlading or suffering such negro, mulatto, or person of colour, to be put on shore, and if the captain, master, or commander of any such ship or vessel being laden as aforesaid, shall neglect or refuse to deliver the manifest at the time and in the manner herein directed, or shall
land or put on shore any negro, mulatto, or person of colour, for the purpose aforesaid, before he shall have delivered his manifest as aforesaid, and obtained a permit for that purpose, every such captain, master, or commander, shall forfeit and pay ten thousand dollars, one moiety thereof to the United States, the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

APPROVED, March 2, 1807.
APPENDIX D: SUPPLEMENTAL SLAVE TRADE ACTS

Act of March 3, 1819, Relative to the Slave Trade.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be, and he is hereby, authorized, whenever he shall deem it expedient, to cause any of the armed vessels of the United States, to be employed to cruise on any of the coasts of the United States, or territories thereof, or of the coast of Africa, or elsewhere, where he may judge attempts may be made to carry on the slave trade by citizens or residents of the United States, in contravention of the acts of Congress prohibiting the same and to instruct and direct the commanders of all armed vessels of the United States to seize, take, and bring into any ports of the United States, all ships or vessels of the United States, wheresoever found, which may have taken on board, or which may be intended for the purpose of taking on board, or of transporting, or may have transported, any negro, mulatto, or person of color, in violation of any of the provisions of the act entitled "An Act in addition to an act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of Our Lord one thousand eight hundred and eight, and to repeal certain parts of the same," or any other act or acts prohibiting the traffic in slaves, to be proceeded against according to law: And the proceeds of all ships and vessels, their tackle, apparel, furniture, and the goods and effects, on board of them, which shall be so seized, prosecuted, and condemned, shall be divided equally between the United States and the officers and men who shall seize, take or bring, the same into port for condemnation, whether such seizure be made by an armed vessel of the United States or Revenue Cutter thereof: And the same shall be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy. Provided, That the officers and men be entitled to one-half of the proceeds aforesaid, shall safe-keep every negro, mulatto, or person of color, found on board of any ship or vessel so seized, taken, or brought into port, for condemnation, and shall deliver every such negro, mulatto, or person of color, to the marshal of the district into which they may be brought, if into a port of the United States, or, if elsewhere, to such person or persons as shall be lawfully appointed by the President of the United States, in the manner hereinafter directed, transmitting to the President of the United States, as soon as may be after such delivery, a descriptive list of such negroes, mulattoes, or persons of color that he may give directions for the disposal of them. And provided further, That the commanders of such commissioned vessels, do cause to be apprehended, and taken into custody, every person found on board of such vessel, so seized and taken being of the officers or crew thereof, and him or them convey, as soon as conveniently may be, to the civil authority of the United States to be proceeded against in due course of law, in some of the districts thereof.

Sec. 2. And be it further enacted. That the President of the United States be, and he is hereby, authorized to make such regulations and arrangements as he may deem expedient for the safe-keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of color, as may be so delivered and brought within
their jurisdiction: And to appoint a proper person or persons, residing upon the coast of Africa, as agent or agents, for receiving the negroes, mulattoes, or persons of color, delivered from on board vessels, seized in the prosecution of the slave trade, by commanders of the United States armed vessels.

Sec. 3. And be it further enacted, That a bounty of $25.00 be paid to the officers and crew of the commissioned vessels of the United States, or Revenue Cutters for each and every negro, mulatto, or person of color, who shall have been, as hereinbefore provided, delivered to the marshal or agent duly appointed to receive them: And the Secretary of the Treasury is hereby authorized and required to pay or cause to be paid to such officers and crews, or their agents, the aforesaid bounty, for each person delivered as aforesaid.

Sec. 4. Be it further enacted, That when any citizen, or other person, shall lodge information, to the attorney for the district of any state or territory, as the case may be, that any negro, mulatto, person of color, has been imported therein, contrary to the provisions of the acts in such case made and provided, it shall be the duty of the said attorney forthwith to commence a prosecution by information; and process shall issue against the person charged with holding such negro, negroes, mulatto, mulattoes, person or persons of color, so alleged to be imported contrary to the provisions of the acts aforesaid: And if, upon the return of the process executed, it shall be ascertained, by the verdict of the jury that such negro, negroes, mulatto, mulattoes, person or persons of color, have been brought in, contrary to the true intent and meanings of the acts in such cases made and provided, then the court shall direct the marshals of the said districts to take the said negroes, mulattoes, or persons of color, into his custody, for safe keeping, subject to the orders of the President of the United States; and the informer or informers, who shall have lodged the information, shall be entitled to receive, over and above the portions of the penalties accruing to him or them by the provisions of the acts in such case made and provided, a bounty of $50.00, for each and every negro, mulatto, or person of color, who shall have been delivered into the custody of the marshal; and the Secretary of the Treasury is hereby authorized and required to pay, or cause to be paid, the aforesaid bounty, upon the certificate of the clerk of the court for the district where the prosecution may have been had, with the seal of office thereto annexed, stating the number of negroes, mulattoes, or persons of color, so delivered.

Sec. 5. And be it further enacted, That it shall be the duty of the commander of any armed vessel of the United States, whenever he shall make any capture under the provisions of this act, to bring the vessel and her cargo, for adjudication, into some of the ports of the states or territory to which such vessels, so captured, shall belong, if he can ascertain the same; if not, then to be sent into any convenient port of the United States.

Sec. 6. And be it further enacted, That all such acts, or parts of acts as may be repugnant to the provisions of this act, shall be, and the same are hereby repealed.

Sec. 7. And be it further enacted, That a sum not exceeding one hundred thousand dollars, be, and the same is hereby appropriated to carry this law into effect.

Approved, March 3, 1819.

Act of 1820

STATUTE I. May 15, 1820.

CHAP. CXIII. --An Act to continue in force "An act to protect the commerce of the
United States, and punish the crime of piracy," and also to make further provisions for punishing the crime or piracy.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the first, second, third, and fourth, sections of an act, entitled "An act to protect the commerce of the United States and punish the crime of piracy," passed on the third day of March, one thousand eight hundred and nineteen, be and the same are hereby, continued in force, from the passing of this act for the term of two years, and from thence to the end of the next session of Congress, and no longer.

[First, 2d, 3d and 4th sections of act of 3d March, 1819, ch. 77, continued for two years, etc.]

SEC. 2. And be it further enacted, That the fifth section of the said act be, and the same is hereby, continued in force, as to all crimes made punishable by the same, and heretofore committed in all respects as fully as if the duration of the said section had been without limitation. [Fifth section of the act of 3d March, 1819, continued as to crimes heretofore committed.]

SEC. 3. And be it further enacted, That, if any person shall, upon the high seas, or in any open roadstead, or in any haven, basin, or bay, or in any river where the sea ebbs and flows, commit the crime of robbery, in or upon any ship or vessel, or upon any of the ship's company of any ship or vessel, or the lading thereof, such person shall be adjudged a pirate: and, being thereof convicted before the circuit court of the United States for the district into which he shall be brought, or in which he shall be found, shall suffer death. And if any person engaged in any piratical cruise or enterprise, or being of the crew or ships company of any piratical ship or vessel, shall land from such ship or vessel, and, on shore, shall commit robbery, such person shall be adjudged a pirate: and on conviction thereof before the circuit court of the United States for the district into which he shall be brought, or in which he shall be found, shall suffer death: Provided, That nothing in this section contained shall be construed to deprive any particular state of its jurisdiction over such offences, when committed within the body of a county, or authorize the courts of the United States to try any such offenders, after conviction or acquittance, for the same offence, in a state court. [Persons committing robbery, on any ship or vessel, or ship's company, etc., or on the high seas, in a roadstead, etc. Conviction in circuit court where brought or found. Persons engaged in any piratical enterprise, etc., and committing robbery onshore, declared pirates, and to suffer death.]

SEC. 4. And be it further enacted, That if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned in the whole or part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall land, from any such ship or vessel, and, on any foreign shore, seize any negro or mulatto, not held to service or labour by the laws of either of the states or territories of the United States, with intent to make such negro or mulatto a slave, or shall decoy, or forcibly bring or carry, or shall receive, such negro or mulatto on board any such ship or vessel, with intent as aforesaid, such citizen or person shall be adjudged a pirate; and, on conviction thereof before the circuit court of the United States for the district wherein he may be brought or found, shall suffer death. [Persons landing on a foreign shore, and seizing negroes or mulattoes, not held to service, etc., with intent to make them slaves, or decoying, forcibly bringing or carrying, etc., them on board, etc., declared pirates, and to
suffer death.

Sec. 5. And be it further enacted, That if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned wholly or in part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall forcibly confine or detain, or aid and abet in forcibly confining or detaining, on board such ship or vessel, any negro or mulatto not held to service by the laws of either of the states or territories of the United States with intent to make such negro or mulatto a slave or shall on board any such ship or vessel, offer or attempt to sell, as a slave, any negro or mulatto not held to service as aforesaid, or shall, on the high seas, or any where on tide water, transfer or deliver over, to any other ship or vessel, any negro or mulatto not held to service as aforesaid, with intent to make such negro or mulatto a slave, or shall land, or deliver on shore, from on board any such ship or vessel, any such negro or mulatto, with intent to make sale of, or having previously sold, such negro or mulatto, as a slave, such citizen or person shall be adjudged a pirate; and, on conviction thereof before the circuit court of the United States for the district wherein he shall be brought or found, shall suffer death. [Persons forcibly confining, detaining, or aiding to confine or detain negroes, etc., on board vessels, etc. declared pirates, and to suffer death.]

APPROVED, May 15, 1820.
APPENDIX E: LIST OF SLAVE SHIPS CAPTURED BY U.S. AFRICAN SQUADRON

<table>
<thead>
<tr>
<th>Vessel</th>
<th>Captor</th>
<th>Date</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uncas</td>
<td>U.S.S. Porpoise</td>
<td>1 March 1844</td>
<td>Gallinas</td>
</tr>
<tr>
<td>Porpoise</td>
<td>U.S.S. Raritan</td>
<td>23 January 1845</td>
<td>Rio de Janeiro</td>
</tr>
<tr>
<td>Albert</td>
<td>U.S.S Bainbridge</td>
<td>June 1845</td>
<td>Bahia</td>
</tr>
<tr>
<td>Merchant</td>
<td>U.S.S Jamestown</td>
<td>12 March 1845</td>
<td>Sierra Leone</td>
</tr>
<tr>
<td>Spitfire</td>
<td>U.S.S Truxtun</td>
<td>24 March 1845</td>
<td>Pongas R.</td>
</tr>
<tr>
<td>Patuxent</td>
<td>U.S.S. Yorktown</td>
<td>27 September 1845</td>
<td>Cape Mount</td>
</tr>
<tr>
<td>Pons</td>
<td>U.S.S. Yorktown</td>
<td>30 September 1845</td>
<td>Kabenda</td>
</tr>
<tr>
<td>Panther</td>
<td>U.S.S Yorktown</td>
<td>15 December 1845</td>
<td>Kabenda</td>
</tr>
<tr>
<td>Malaga</td>
<td>U.S.S. Boxer</td>
<td>13 April 1846</td>
<td>Kabenda</td>
</tr>
<tr>
<td>Casket</td>
<td>U.S.S. Marion</td>
<td>2 August 1846</td>
<td>Kabenda</td>
</tr>
<tr>
<td>Chancellor</td>
<td>U.S.S. Dolphin</td>
<td>10 April 1847</td>
<td>Cape Palmas</td>
</tr>
<tr>
<td>Susan</td>
<td>U.S.S. Perry</td>
<td>6 February 1849</td>
<td>Rio de Janeiro</td>
</tr>
<tr>
<td>Excellent</td>
<td>U.S.S. John Adams</td>
<td>23 April 1850</td>
<td>Ambriz</td>
</tr>
<tr>
<td>Martha</td>
<td>U.S.S. Perry</td>
<td>6 June 1850</td>
<td>Ambriz</td>
</tr>
<tr>
<td>Chatsworth</td>
<td>U.S.S. Perry</td>
<td>11 September 1850</td>
<td>Ambriz</td>
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<tr>
<td>Advance</td>
<td>U.S.S. Germantown</td>
<td>3 November 1852</td>
<td>Porto Praya</td>
</tr>
<tr>
<td>R.P. Brown</td>
<td>U.S.S. Germantown</td>
<td>23 January 1853</td>
<td>Porto Praya</td>
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<tr>
<td>H.N. Gambrill</td>
<td>U.S.S. Constitution</td>
<td>3 November 1853</td>
<td>Congo</td>
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<tr>
<td>Glamorgan</td>
<td>U.S.S. Perry</td>
<td>10 March 1854</td>
<td>Congo</td>
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<td>W.G. Lewis</td>
<td>U.S.S. Dale</td>
<td>6 November 1857</td>
<td>Congo</td>
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<td>Brothers</td>
<td>U.S.S. Marion</td>
<td>8 September 1858</td>
<td>Mayumba</td>
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<td>Julia Dean</td>
<td>U.S.S. Vincennes</td>
<td>28 December 1858</td>
<td>Cape Coast Castle</td>
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<td>Orion</td>
<td>U.S.S. Marion</td>
<td>21 April 1859</td>
<td>Congo</td>
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<td>Ardennes</td>
<td>U.S.S. Marion</td>
<td>27 April 1859</td>
<td>Congo</td>
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<td>Delicia</td>
<td>Constellation</td>
<td>21 September 1859</td>
<td>Kabenda</td>
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<tr>
<td>Emily</td>
<td>Portsmouth</td>
<td>21 September 1859</td>
<td>Loango</td>
</tr>
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<td>Virginian</td>
<td>Portsmouth</td>
<td>6 February 1860</td>
<td>Kongo</td>
</tr>
<tr>
<td>Falmouth</td>
<td>Portsmouth</td>
<td>6 May 1860</td>
<td>Porto Praya</td>
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<tr>
<td>Thomas Achorn</td>
<td>Mystic</td>
<td>29 June 1860</td>
<td>Kabenda</td>
</tr>
<tr>
<td>Vessel</td>
<td>Captor</td>
<td>Date</td>
<td>Location</td>
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<tr>
<td>Triton</td>
<td>U.S.S. Mystic</td>
<td>16 July 1860</td>
<td>Loango</td>
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<tr>
<td>Erie</td>
<td>Mohican</td>
<td>8 August 1860</td>
<td>Congo</td>
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<td>Storm King</td>
<td>San Jacinto</td>
<td>8 August 1860</td>
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<td>Cora</td>
<td>Constellation</td>
<td>26 September 1860</td>
<td>Congo</td>
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<td>Bonito</td>
<td>San Jacinto</td>
<td>10 October 1860</td>
<td>Congo</td>
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<tr>
<td>Express</td>
<td>Saratoga</td>
<td>25 February 1861</td>
<td>Possibly Loango</td>
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<tr>
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<td>Saratoga</td>
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<td>20 May 1861</td>
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</tr>
<tr>
<td>Falmouth</td>
<td>Sumpter</td>
<td>14 June 1862</td>
<td>Congo</td>
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