

The Properties of Capitalism: Industrial Enclosures in the South and the West after the American Civil War

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Reflecting on the economic impact of the Civil War in 1865, William E. Dodge was optimistic. A prominent member of New York City's capitalist class, Dodge interpreted Union victory as divine confirmation of the nation's path to prosperity. That path, he believed, would now run through the South and the West, where natural resources seemed newly primed for extraction. Dodge anticipated "remarkable" riches lying in western grounds, where precious metals had "suddenly sprung up" to meet the crisis of civil war. He expected similar abundance from the postwar South, where such resources "could never have been attained under the influence of slavery." In this narrative, the nation would be "regenerated" by an economy "so mutually beneficial, that former prejudices will be forgotten." The war fueled an economic nationalism in elite figures such as Dodge, who predicted that economic development would overcome divisions between North and South, and East and West.¹

Not incidentally, Dodge's geographic demarcations soon animated late nineteenth-century politics, as well as critiques from future historians, who showed that, over time, industrial capitalism created new forms of interregional discord. A result of ongoing political struggles, this uneven development also folded in older patterns, including the diversity of property relations across southern and western terrains. While Dodge projected cohesion across the national territory, regional resources were not governed by a single coherent social system. Dodge and his associates confronted this reality when they invested in southern lumber and western mining after the war, and found an array of practices and conceptions of property. Investing in Georgia's timber and Arizona's minerals brought Dodge's firm, Phelps, Dodge, & Co., into contact with distinct worlds of yeoman farmers, migrant mine prospectors, native producers and raiders, and formerly enslaved people, generating wide-ranging conflicts over forms of property and political power.²

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¹ William E. Dodge, *Influence of the War on Our National Prosperity: A Lecture Delivered in Baltimore, MD, March 13th, 1865* (New York, 1865), 20, 29.

² On regional unevenness and industrialization, see Elizabeth Sanders, *Roots of Reform: Farmers, Workers, and the American State, 1877–1917* (Chicago, 1999); and Richard Franklin Bensel, *The Political Economy of American Industrialization, 1877–1900* (New York, 2000).

Tracking Phelps, Dodge, & Co.'s postwar expansion, this article examines struggles to make antebellum property regimes compatible with capital-intensive forms of extraction. In Georgia's southern pine barrens, where Dodge purchased three hundred thousand acres in 1868, yeoman households had maintained common rights to the timberlands before the war, which antebellum institutions had only loosely regulated. The political economy of slavery had made this southern regime possible, but related patterns existed across western mineral lands, where federal authorities strained to keep up with miners. As precedents in California revealed, antebellum political conditions enabled miners to organize hundreds of their own property codes without regard for federal law and native possessions. These codes reflected the practices of small-scale, nonnative miners, not industrialists or financiers.

Despite their meaningful differences, these southern and western regimes changed in connected ways after the Civil War, revealing complex structural shifts in the postbellum regional balance. War and emancipation brought profound change not only to the lives of enslaved people but also to broader patterns of economic development, forms of governmental activity, and, above all, property relations. These sweeping transformations reflected the political ideologies of the newly empowered Republican party as well as evolving relationships among federal authorities and northeastern elite figures, represented by businessmen such as Dodge. Although these relationships were often unbalanced and ad hoc, they formed in opposition to antebellum regional orders and with shared assumptions about how society should be organized. In the wake of political fracture, federal authorities and northern capitalists worked to transform regional property relations and orient them toward the capital-intensive development of natural resources. Their struggles, this article argues, coalesced in a broad project to reorganize property, amounting to a transregional wave of land enclosures in the era of Reconstruction. Enclosures took many forms, reflecting the heterogeneity of the national territory. They nevertheless privileged capitalized firms such as Phelps, Dodge, & Co. as they accelerated wide-ranging processes of land dispossession. These dynamics were evident in the company's expansion into Georgia and Arizona, where white yeoman farmers, Apache Indians, and emergent classes of industrial workers waged divergent struggles to create or maintain alternative forms of life. The politics of property brings to light structural transformations linking those diverse struggles and reveals their disparate relationships to shifting forms of public and private power at a critical moment of national definition.

This article thus explores southern and western reconstructions through the politics of property and economic development, offering new perspectives in scholarship on Reconstruction and the West. Recently, historians have framed the Civil War as one among several midcentury crises of sovereignty, pitting centralizing U.S. authorities against relatively autonomous political formations in the South and the West. Scholars have explored, in particular, the racial ideologies underpinning federal projects of regional incorporation, as well as forms of resistance to federal power. Inspired by these transregional perspectives and by histories of the political economy of Reconstruction, this article points to the intersections of national political consolidation and economic transformations in the South and the West. This approach frames the fall of slaveholding planters as causing an important rupture that shifted the relative position of northeastern elites and altered the federal state's composition. Slaveholders' fall allowed

Republicans to occupy new space in Congress and in the southern states during Reconstruction and to wield power in new ways.³

Placing property at the center of the Reconstruction era reveals both the size of this rupture and the concrete links between political incorporation and capitalist transformation in the South and the West. As historians of the U.S. West and the American empire have long argued, the expansion of U.S. authority has hinged on the power to dictate regimes of property. This article suggests that at the critical moment of postemancipation reordering, the reorganization of southern and western resources demonstrated not only the exertions of a new federal state but also the shifting political influence of north-eastern capitalists such as Dodge. Redistributing these potentially lucrative lands created the conditions for capitalist profit. The process also changed the material conditions that underpinned alternative political orders, allowing federal authorities to exert power over previously elusive terrains. In these intersecting struggles to extract resources, reorganize political space, and cultivate territorial control, the politics of property formed a strategic nexus. Thus, the privatization of land emerged as a key, albeit contradictory, element of postbellum consolidation, crucial to both southern and western reconstructions after the American Civil War.⁴

³ On the Civil War as a midcentury crisis of sovereignty, see Stacey Smith, "Beyond North and South: Putting the West in the Civil War and Reconstruction," *Journal of the Civil War Era*, 6 (Dec. 2016), 566–91. See also Elliot West, *The Last Indian War: The Nez Perce Story* (New York, 2009); Ari Kelman, *A Misplaced Massacre: Struggling over the Memory of Sand Creek* (Cambridge, Mass., 2013); Steven Hahn, "Slave Emancipation, Indian Peoples, and the Projects of a New American Nation-State," *Journal of the Civil War Era*, 3 (Sept. 2013), 11–53; Adam Aronson and Andrew R. Graybill, eds., *Civil War Wests: Testing the Limits of the United States* (Berkeley, 2015); Virginia Scharff, ed., *Empire and Liberty: The Civil War and the West* (Berkeley, 2015); Khal Schneider, "'Distinctions That Must Be Preserved': On the Civil War, American Indians, and the West," *Civil War History*, 62 (March 2016), 39–42; Gregory P. Downs and Kate Masur, eds., *The World the Civil War Made* (Chapel Hill, 2015); Steven Hahn, *A Nation without Borders: The United States and Its World in an Age of Civil Wars, 1830–1910* (New York, 2016); William Blair, "Imagining a Hemispheric Greater America," *Journal of the Civil War Era*, 7 (Dec. 2017), 507–11; Richard White, *The Republic for Which It Stands: The United States during Reconstruction and the Gilded Age, 1865–1896* (New York, 2017); and Kevin Adams, "The Civil War and the American West," in *The Cambridge History of the American Civil War*, vol. I: *Military Affairs*, ed. Aaron Sheehan-Dean (New York, 2019), 554–75. On the political economy of Reconstruction, see W. E. B. Du Bois, *Black Reconstruction in America* (1935; New York, 1992); Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863–1877* (New York, 1988); Steven Hahn, "Class and State in Post-emancipation Societies: Southern Planters in Comparative Perspective," *American Historical Review*, 95 (Feb. 1990), 75–98; Richard Franklin Bensel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859–1877* (New York, 1990); Sven Beckert, *The Monied Metropolis: New York City and the Consolidation of the American Bourgeoisie, 1850–1896* (New York, 2001); Nicolas Barreyre, *Gold and Freedom: The Political Economy of Reconstruction* (Charlottesville, 2015); and Noam Maggor, *Brahmin Capitalism: Frontiers of Wealth and Populism in America's First Gilded Age* (Cambridge, Mass., 2017); Stephanie McCurry, *Women's War: Fighting and Surviving the American Civil War* (Cambridge, Mass., 2019), 124–203.

⁴ Especially relevant or influential works in western history, environmental history, and Native American history include Paul W. Gates, *History of Public Land Law Development* (Washington, 1968); Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York, 1987); Sarah Deutsch, *No Separate Refuge: Culture, Class, and Gender on the Anglo-Hispanic Frontier in the American Southwest, 1880–1940* (New York, 1987); William Cronan, *Nature's Metropolis: Chicago and the Great West* (New York, 1991); Donald J. Pisani, *Water, Land, and Law in the West: The Limits of Public Policy, 1850–1920* (Lawrence, 1996); Jeremy Adelman and Stephen Aron, "From Borderlands to Borders: Empires, Nation-States, and the Peoples in between in North American History," *American Historical Review*, 104 (June 1999), 814–41; Karl Jacoby, *Crimes against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation* (Berkeley, 2001); Karen R. Merrill, *Public Lands and Political Meaning: Ranchers, the Government, and the Property between Them* (Berkeley, 2002); María E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict over Land in the American West, 1840–1900* (Berkeley, 2002); Samuel Truett, *Fugitive Landscapes: The Forgotten History of the U.S. Borderlands* (New Haven, 2006); Brian DeLay, *War of a Thousand Deserts: Indian Raids and the U.S.-Mexican War* (New Haven, 2008); Alexandra Harmon, *Rich Indians: Native People and the Problem of Wealth in American History* (Chapel Hill, 2010); Rachel St. John, *Line in the Sand: A History of the Western U.S.-Mexico Border* (Princeton, 2011); and Pekka Hämäläinen and Samuel Truett, "On Borderlands," *Journal of American History*, 98 (Sept. 2011), 338–61.

Visions of Postwar

Few episodes in U.S. history have so significantly disrupted the established order as the Civil War. Southerners' withdrawal from government was highly destabilizing, followed soon by the unprecedented confiscation of property in enslaved people. Emancipation transformed politics across the social spectrum. While ex-slaveholders and freedpeople mobilized to shape the new order, economic boosters, industrialists, and prodevelopment politicians projected their own visions onto a nation without slavery. Thus, from the ruptures of war emerged new political possibilities, hinging, in different ways, on the meanings of property.

Access to land was a primary objective of freedpeople, as numerous historians have shown. Land offered a basis to evade exploitation and even to create new political forms. Hoping to build on emancipation's precedent, many formerly enslaved people and their allies advocated redistribution. They insisted on freedpeople's "unquestioned right" to planters' property. "Who," asked the former slave and lawyer Aaron Bradley, "does the property belong to if not to negroes! They have earned it all!" Redistribution seemed especially possible on the coast, where thousands of freedpeople settled under the auspices of Gen. William T. Sherman's Military Field Order No. 15, issued in January 1865. In their tenure on the Sea Islands, some of these settlers created new political institutions to develop autonomy and defend themselves from external threats. Coastal planters harassed the island establishments and warned federal authorities that such landed reserves "put the state and the freedman at arms length." With President Andrew Johnson on their side, planters reclaimed these coastal properties and quashed freedpeople's emergent political formations.⁵

Nevertheless, planters did not easily protect their real estate from creditors, tax collectors, and the social forces of the nation without slavery. In Georgia, slaveowners collectively lost \$275 million from uncompensated emancipation, and millions in repudiated Confederate bonds. Indebted and cash poor, many struggled to sell portions of their estates. It was not a seller's market; land values had declined by 55 percent, and plantations were, in the words of one prospective buyer, "stained with the hands of a servile and devastating war." Recently widowed and with \$80,000 in debt, Caroline Hamilton Couper found a buyer in the Georgia Land & Lumber Company, which purchased her Sea Islands plantation in the 1870s. Directed by William Dodge and his sons, this company built extensive lumber mills on St. Simons Island, employing freedpeople who had few options but wage labor. In barely a decade, the island plantation was transformed from a site of postemancipation struggle to an industrial lumber village owned by northerners—a dramatic turnover that reflected how deeply the war shook the South and the nation.⁶

⁵ Steven Hahn et al., *Freedom: A Documentary History of Emancipation, 1861–1867*, ser. III, vol. I: *Land and Labor, 1865* (Chapel Hill, 2008), 468–70. Tunis Campbell to A. P. Ketchum, May 20–Aug. 26, 1865, in *Records of the Field Offices for the State of Georgia, Bureau of Refugees, Freedmen, and Abandoned Lands, 1865–1872* (microfilm, 90 reels, National Archives and Records Administration, 2003), microcopy M1903, reel 85; Russell Duncan, *Freedom's Shore: Tunis Campbell and the Georgia Freedmen* (Athens, Ga., 1986), 12–41; William Trescot to O. O. Howard, Dec. 5, 1865, folder 55, box 3, Oliver Otis Howard Papers (George J. Mitchell Department of Special Collections and Archives, Bowdoin College Library, Brunswick, Maine), https://library.bowdoin.edu/arch/mss/ooh-pdf/Bowdoin_letters_ooh_20161206.pdf; Paul A. Cimbala, *Under the Guardianship of the Nation: The Freedmen's Bureau and the Reconstruction of Georgia* (Athens, Ga., 2003), 180–81.

⁶ Steven Hahn, *The Roots of Southern Populism: Yeoman Farmers and the Transformation of the Georgia Upcountry, 1850–1890* (New York, 1983), 138; Numan V. Bartley, *The Creation of Modern Georgia* (Athens, Ga., 1983), 31. On the state of the island plantations, see John Friend to Sarah C. Delaroché, May 16, 1867, item 47, folder

A rapidly shifting regional balance was evident in Congress, where Republicans approached western development with new political influence. On the agenda was the first general law to govern federal mineral lands. Antebellum Congresses had neglected this repeatedly, even as mining expanded in the West. But with aspirations to enact new economic policy, the wartime Congress considered several bills to administer property in minerals. Their initial proposals provoked opposition from an emerging segment of mining industrialists, who mobilized to influence policy makers in the East and social relations in the West. These wartime conflicts over minerals raised key questions about the broader politics of postbellum reordering: How did different property relations structure distinct kinds of societies and social classes? What measures should the state take to govern those relations?

In the absence of slaveholders' influence, many Republican leaders aimed to make southern and western property conducive to capital-intensive development. For those committed to this form of economic reconstruction in the South, the end of slavery not only abolished property in people but also promised to change antebellum patterns of southern land use and thus diversify the regional economy. Slaveholders had tended not to prioritize such diversification, choosing instead to invest in property in enslaved people. Postbellum boosters thus promoted investments into the South's "natural advantages unsurpassed": those resources "neglected" by planters' narrow focus on cash crops, in the words of Georgia's Republican governor Rufus Bullock. According to Bullock, developing these "waste places" lying beyond plantations and railroad networks would be a sign of "true statesmanship." To support this initiative, Georgia's Reconstruction legislature financed new railroads throughout the state, distributed information about extractive resources, and incorporated a series of manufacturing companies.⁷

These initiatives espoused ideologies of development but also reflected the strained condition of Georgia's political institutions. The war had destroyed infrastructure, depleted surpluses, and eliminated slave property as a key source of tax revenue. In the postenslavement order, tax burdens fell more heavily on land. Nonplantation sectors such as Georgia's pine barrens were, in this respect, untapped. In Bullock's estimation, investments in timber and other natural resources would greatly increase tax revenues, thanks to "money furnished by Henry Clews & Co., M. K. Jessop, Wm. E. Dodge, Dabney Morgan & Co., and other northern capitalists." Prodevelopment figures celebrated when Dodge and his associates purchased three hundred thousand acres in the heart of the piney woods in 1868. Incorporated in New York City and capitalized at \$1.5 million, the Georgia Land & Lumber Company affirmed ideas about undeveloped lands, describing

3, Isabella Caroline Hamilton Papers (Georgia Historical Society, Savannah). On St. Simons Island, see Caroline Couper Lovell, *Golden Isles of Georgia* (Boston, 1933), 262, 270; Agreement between the St. Simons Lumber Company and Hilton & Dodge Lumber Co., folder 12, box 2, Hilton Family Papers (Georgia Historical Society); and Mart A. Stewart, "What Nature Suffers to Groe": *Life, Labor, and Landscape on the Georgia Coast, 1680–1920* (Athens, Ga., 2002), 193–243.

⁷ Rufus Bullock address to the Georgia State Legislature, July 24, 1868, *Journal of the House of Representatives of the State of Georgia* (Atlanta, 1868), 76–77; "Governor Bullock's Address," *Bulletin of the American Iron and Steel Association*, 15 (Nov. 23, 30, 1881), 298; "Gov. Bullock to the Constitution," *Atlanta Constitution*, Dec. 2, 1888. "An Act to Encourage Immigration into the State of Georgia, and the Investment of Capital in Lands," *Acts of the General Assembly of the State of Georgia, Passed in Atlanta, Georgia, at an Annual Session, Beginning Jan. 13 and Ending March 18, 1869* (Atlanta, 1869), 26–27. "An Act to Encourage and Protect the Buildings of Mills and Other Manufacturing Establishments in this State," *ibid.*, 114. On patterns of antebellum and postbellum development, see Gavin Wright, *Slavery and American Economic Development* (Baton Rouge, 2006), 48–82; and Mark Wahlgren Summers, *Railroads, Reconstruction, and the Gospel of Prosperity: Aid under the Radical Republicans* (Princeton, 1984).

the timberlands as “primitive” and bereft of industry due to slavery. With emancipation, a new railroad, and capital, the firm promised to transform the woods and employ free workers. The Republican-controlled legislature paid tribute to that promise, naming a new county after Dodge in 1870.⁸

Praise for northern capitalists revealed the particular spatial politics of Republicans’ development program. As Bullock and others realized, domestic capital was concentrated in the Northeast. A Republican banking system (created to fund the war effort) reinforced this regional distribution, creating unequal relationships between northeastern capitalists and southern and western developers. These conditions compelled southerners such as George Hazlehurst to solicit Dodge and other northerners to invest in Georgia. As Hazlehurst put it, “we have in this state enormous resources which require only capital, which at present we do not possess.” Dodge fielded many of these requests, as when an underfinanced mine owner from Arizona arrived unannounced at Phelps, Dodge, & Co.’s Manhattan office in 1880. With capital accrued from antebellum cotton and metals trading, and incentives to reinvest in domestic industries, Phelps, Dodge, & Co. invested first in Georgia’s timberlands and then in Arizona’s copper mines, among other ventures.⁹

This shifting geography of capitalism gave shape to a distinct process of capitalist mobilization in the postwar moment. The process was evident in many arenas, including at public events such as the National Mining Convention, which met at New York City’s Cooper Institute in 1866. The convention’s roster included elite northeasterners, such as Dodge, Peter Cooper, and Alexander T. Stewart. Relating these businessmen to one another, and to groups of western landowners, politicians, and boosters, the convention promised “unity of feeling among the capitalists of the East and the owners of the mines in the West.” It also identified potential antagonists, requesting federal protection from “hostile Indians and white-skinned outlaws.” Against those threats, the convention positioned this class project as one for postbellum prosperity. “A gigantic and triumphant peace cannot be more fitly signalized,” the program stated, than by developing this western industry.¹⁰

These visions of development thus encouraged processes of class coordination while they papered over problems that were likely to erupt from their encompassing projects. Participants in the mining convention gestured toward this, but mostly their discussions elided those troublesome “Indians and white-skinned” outlaws. Similarly, the Georgia Land & Lumber Company dismissed the yeoman farmers who subsisted in Georgia’s

⁸ Peter Wallenstein, “Rich Man’s War, Rich Man’s Fight: Civil War and the Transformation of Public Finance in Georgia,” *Journal of Southern History*, 50 (Feb. 1984), 34; Rufus Bullock, draft letter to the editor of “the Times,” April 25, 1872, Rufus B. Bullock Papers, HM28784-28808 (Huntington Library, San Marino, Calif.); *The Georgia Land & Lumber Company, Organized June 3d, 1868* (New York, 1870), 5–13; Mrs. Wilton Philip [Annie] Cobb, *History of Dodge County* (Atlanta, 1932); “Eastman, Dodge County, GA.,” *Macon (GA) Telegraph*, April 7, 1874.

⁹ On the distribution of capital, see Barreyre, *Gold and Freedom*, esp. 43–78; Gretchen Ritter, *Goldbugs and Greenbacks: The Antimonopoly Tradition and the Politics of Finance in America, 1865–1896* (New York, 1997), 62–109; and Noam Maggor, “To Coddle and Caress These Great Capitalists: Eastern Money, Frontier Populism, and the Politics of Market-Making in the American West,” *American Historical Review*, 122 (Feb. 2017), 55–84. For the invitations to invest, see George Hazlehurst to Morris Jesup, Feb. 28, 1871, Macon and Brunswick Railroad Officers Correspondence, Macon and Brunswick Railroad letterbooks, vol. 1-2853 (Georgia Archives, Morrow); “Eastman, Dodge County, GA.,” *Macon Georgia Weekly Telegraph*, April 10, 1874; James Colquhoun, *The History of the Clifton-Morenci Mining District* (London, 1924), 11; and James Douglas to John Paton, Nov. 1, 1882, folder 95, box 5, James Douglas Collection (Arizona Historical Society, Tucson). On Phelps, Dodge, & Co., see Richard Lowitt, *A Merchant Prince of the Nineteenth Century: William E. Dodge* (New York, 1954); and Robert Glass Cleland, *A History of Phelps Dodge, 1834–1950* (New York, 1952).

¹⁰ “National Mining Convention,” *American Mining Gazette and Geological Magazine*, 3 (Feb. 1866), 83–95.

piney woods, describing them as “shiftless.” Nevertheless, postemancipation development introduced material pressures to these farming households, provoking conflicts between local producers, outsider capitalists, and mediating public officials. Those conflicts revealed enormous unevenness in the social relations of land, a diversity obscured by developmental ideologies.¹¹

In reality, industrial-resource extraction in Georgia and elsewhere would depend not only on capital and free landless workers but also on the redistribution of common resources. The enforcement of industry-oriented property relations thus sparked important political struggles after the war. With such a diversity of social and environmental landscapes, those struggles took different forms. They were nevertheless shaped by this broad political project and a capitalist class composing itself on a new scale. And, in the words of E. P. Thompson, these struggles did not pose “property, supported by law, against no property”; rather, they involved “alternative definitions of property-rights.”¹²

Antebellum Worlds of Property

What were those alternative conceptions of property that industrialists confronted? In Georgia’s timberlands, they were rooted in the social worlds of yeoman farmers. Like many nonplantation sectors, the antebellum piney woods had been governed by an open-range system, where households privileged subsistence over production for markets. In addition to herding and hunting, farmers cut timber from common lands. This supplied firewood, fences, and other domestic needs, while some producers sold “scab timber” (logs squared down by axe) seasonally for supplemental incomes. Like herders and hunters, timber cutters were not generally confined to their own land: in Telfair and Early Counties an 1857 law placed the burden on property owners to post a notice at the courthouse to prohibit timber cutting on their land. In other piney woods counties, small-scale cutting had few limits, so long as rivers remained clear.¹³

Antebellum officials only loosely regulated these “wild lands,” as they were officially called, which were unattached to plantations, sparsely populated, and low in value. A few acres might have passed between kin without entering the public record, regardless of who, if anyone, held the state’s plot and grant, the original documents to verify chains of title. These patterns of common land use developed after an earlier history of colonization and land speculation, where massive estates passed to owners who never set foot on the land. When Dodge’s lawyers later questioned local residents about why they had failed to register their land deeds in the public record, several responded that they had never seen

¹¹ *Georgia Land & Lumber Company*, 9.

¹² E. P. Thompson, *Whigs and Hunters: The Origins of the Black Act* (New York, 1977), 261.

¹³ Mark V. Wetherington, *The New South Comes to Wiregrass Georgia, 1860–1910* (Knoxville, 1994), 1–26; Ann Patton Malone, “Piney Woods Farmers of South Georgia, 1850–1900: Jeffersonian Yeomen in an Age of Expanding Commercialism,” *Agricultural History*, 60 (Autumn 1986), 51–84. Steven Hahn, *Roots of Southern Populism*, 15–49; Stephanie McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations, and the Political Culture of the Antebellum South Carolina Low Country* (Cambridge, Mass., 1997), 37–91. On small-scale timber cutting, see Warren P. Ward, *History of Coffee County* (Atlanta, 1930), 316; and Mark V. Wetherington, *Plain Folk’s Fight: The Civil War and Reconstruction in Piney Woods Georgia* (Chapel Hill, 2005), 28. “An Act to Make It Penal to Cut and Haul Off Timber from Lands in the Counties of Telfair and Early, without the Consent of the Owner, or Agent or Tenant in Possession,” *Acts of the General Assembly of the State of Georgia, Passed in Milledgeville, at an Annual Session of the Same, in November and December, 1857* (Columbus, 1858), 250. For laws to protect navigation on the Altamaha River and tributaries, see *Acts of the General Assembly of the State of Georgia, Passed in Milledgeville, at a Biennial Session in November, December, and January, 1851–’2* (Macon, 1852), 273.

a plot or grant; that there were other ways to know a deed was good, if it came from a trusted source; and that it was “neighbor-like” to know about chains of title. Under this system, household property was often determined by local knowledge, which tended to elude state records. Inconsistent tax collecting reinforced these legal ambiguities. In 1857, the comptroller’s tax records contained a decade’s worth of unsettled accounts, revealing that millions of wild land acres had not been turned in for taxes. Yet no urgent political need to reform this system existed when the majority of working people were enslaved, lumber production was marginal, and state institutions relied heavily on nontax revenues, such as profits from a state-owned railroad. The political economy of slavery thus permitted distinct social and institutional arrangements in the timberlands.¹⁴

There was even more unevenness across the antebellum West, where histories of imperialism, territorial transfer, and mining rushes created a diversity of practices. Definitions of mineral property were especially ambiguous. Although mining on public lands was a widespread practice, the U.S. government retained formal ownership of minerals. Whether authorities subscribed to traditional understandings of mines as “subject to the control of the authority established in the State,” in the words of the legal expert and Union general-in-chief Henry Halleck, was ambiguous. A former mine director and attorney, Halleck understood the logic of this tradition. Minerals were products of a “common character,” he wrote, which provided money and arms. Yet minerals were often concentrated in just a few acres of land, which threatened to make the common needs “dependent upon the will of a single individual.” For this reason, a sovereign traditionally retained “primitive ownership” of subsurface property and regulated its use through duties, seigniorage, or some form of public charge.¹⁵

Most U.S. land laws facilitated privatization, yet Congress had long reserved lands containing minerals from general disposal. Until the 1840s, federal authorities leased or auctioned mines on a case-by-case basis, sometimes prosecuting unauthorized mining. This patchwork approach endured even after the acquisition of Mexico’s northern territory. As gold miners flooded California, several U.S. authorities urged legislation to reinforce federal control over minerals and perhaps to charge rents. Yet sectional politics made passing western economic legislation difficult. While Congress stalled, hundreds of local miners’ codes appeared across the mining West, with self-determined voting quotas that were sometimes as small as six male claim holders. Although digging for gold was not the same as subsistence farming, these codes were largely oriented toward small

¹⁴ On distinct procedures for wild lands, see *Acts of the General Assembly of the State of Georgia* (Milledgeville, 1841), 186; and Thomas Read Rootes Cobb, *A Digest of the Statute Laws of the State of Georgia in Force Prior to the Session of the General Assembly of 1851, with Explanatory Notes and References; and Also, with Notes, Giving the Exposition of the Statutes by the Supreme Court of the State* (2 vols., Athens, Ga., 1851), II, 1062, 1077. On unsurveyed or unreturned lands, see “Governor’s Message,” *Augusta (GA) Chronicle*, Nov. 6, 1845; “Governor’s Message,” *ibid.*, Nov. 4, 1847; “The Georgia Wild Lands,” *New York Times*, Jan. 28, 1878; *Report of the Commissioner of Agriculture for the Year 1867* (Washington, 1868), 113; Farris Cadle, *Georgia Land Surveying History and Law* (Athens, Ga., 1991), 85–106; and Wetherington, *New South Comes to Wiregrass Georgia*, 7. On local practices and record keeping, see Examination of James Vaughn, pp. 1309–11, *Norman Dodge v. L. L. Williams* (1894), transcript vol. 4, case 77, box 17, U.S. District Courts, Equity Case Files, Circuit Court (Macon), RG 21 (National Archives and Records Administration, Atlanta, Ga.); Examination of W. E. Warren, p. 2512, transcript vol. 6, case 77, box 18, *ibid.*; Examination of P. D. Couey, p. 1907, transcript vol. 5, *ibid.*; and “Report of the Comptroller General,” *Savannah (GA) Daily News*, Oct. 27, 1857. On state revenues, see Peter Wallenstein, *From Slave South to New South: Public Policy in Nineteenth-Century Georgia* (Chapel Hill, 1987), 28.

¹⁵ Henry Halleck, “Introductory Remarks,” in *Fundamental Principles of the Law of Mines*, by J. H. N. DeFooz, trans. Henry Halleck (San Francisco, 1860), x, xii, cii; Rossiter W. Raymond, *Mineral Resources of the States and Territories West of the Rocky Mountains* (Washington, 1869), 196–215.

producers. They were generally organized around placer mining, a form that dominated California's gold fields and did not yet require significant capital investments; in placer mining, minerals were found dispersed across the ground's surface and were sifted out from sandy terrains and streams. Local codes often placed limits on the size of mineral claims, as well as on the number of claims one party could make. They established the consistent use of property as a prerequisite for ownership and permitted squatters to claim mines found unworked. Exploitation increased in the mid-1850s, but these mining codes nevertheless gained reputations for "guarding against every form of monopoly," placing an emphasis on consistent, reasonable use and the rights of on-the-ground producers.¹⁶

Some codes made exemptions—notably, miners who "went to fight the Indians" were exempt from standard work requirements to maintain exclusive possession. As this exemption suggests, "free mining" relied on violence against native peoples, which reached extraordinary heights in the 1850s. On western mineral lands miners became a driving force of U.S. colonialism; federal authorities appreciated miners for seizing valuable resources and populating "savage wastes." Others criticized miners for undermining traditional federal procedures to extinguish native territorial rights via treaties. By the time federal authorities negotiated eighteen treaties with California's native peoples, hostile mining settlements were already in place, poised to challenge the outcome. Not incidentally, Congress never ratified those treaties and thus provided little clarity to the rules of both native territory and mineral property. Like practices in Georgia's timberlands, this western regime persisted until national political conditions changed.¹⁷

¹⁶ "Report of the Secretary of the Treasury, Showing, in Compliance with a Resolution of the Senate, the Number of Suits which Have Been Instituted against Citizens of Illinois and Wisconsin since March 4, 1841, for Trespasses on Public Lands," no. 37, *Public Documents Printed by the Order of the Senate of the United States, First Session of the Twenty-Eighth Congress Begun and Held at the City of Washington, December 4, 1843, in the Sixty-Eighth Year of Independence of the United States* (11 vols., Washington, 1844), II, 1–5; *United States v. Gear*, 44 U.S. 120 (1845); Robert Swenson, "Legal Aspects of Mineral Resources Exploitation," in *History of Public Land Law Development*, by Paul W. Gates (Washington, 1968), 702–6; Charles W. Miller, *Stake Your Claim: The Tale of America's Enduring Mining Laws* (Tucson, 1991), 9–21; Thomas Donaldson, *The Public Domain: Its History, with Statistics* (Washington, 1881), 314; Joseph W. Ellison, "The Mineral Land Question in California, 1848–1866," *Southwestern Historical Quarterly*, 30 (July 1926), 34–42; Gregory Yale, *Legal Titles to Mining Claims and Water Rights in California* (San Francisco, 1867), 20–24; "An Act Concerning the Location and Possession of Mining Claims," *Statutes of the State of Nevada Passed at the Second Session of the Legislature, 1866: Begun on Monday, the First Day of January, and Ended on Thursday, the First Day of March* (Carson City, 1866), 141; Halleck, "Introductory Remarks," cxxii–cxxxiii; Clarence King, *The United State Mining Laws and Regulations thereunder, and State and Territorial Mining Laws, to Which Are Appended Local Mining Rules and Regulations, Compiled under the Direction of Clarence King; Department of the Interior, Census Office* (Washington, 1885), 245–685; Karen B. Clay and Gavin Wright, "Order without Law? Property Rights during the California Gold Rush," *Explorations in Economic History*, 42 (June 2005), 155–83; Rodman Wilson Paul, *Mining Frontiers of the Far West, 1848–1880* (Albuquerque, 2001), 168–69; Charles Howard Shinn, *Mining Camps: A Study of Frontier Government* (New York, 1885), esp. 283. On instability in the system of mineral ownership after the U.S.-Mexico War, see Peter L. Reich, "Western Courts and the Privatization of Hispanic Mineral Rights since 1850: An Alchemy of Title," *Columbia Journal of Environmental Law*, 23 (1998), 57–87; Donald J. Pisani, "'I Am Resolved Not to Interfere, but Permit All to Work Freely': The Gold Rush and American Resource Law," *California History*, 77 (Winter 1999), 123–48; and Maureen A. Jung, "Capitalism Comes to the Diggings: From Gold Rush Adventure to Corporate Enterprise," *ibid.*, 52–77.

¹⁷ For work exemptions, see King, *United State Mining Laws and Regulations thereunder*, 503, 533, 568, 593. For federal views and the treaty process, see John Ross Browne, *Resources of the Pacific Slope* (New York, 1869), 605. *Report of the Commissioner of Indian Affairs* (Washington, 1863), 40. For miners' opposition to the California treaties, see "Report of the Secretary of the Interior Communicating, in Compliance with a Resolution of the Senate, a Copy of the Correspondence between the Department of the Interior and the Indian Agents and Commissions in California," doc. 4, *Documents of the Senate of the United States, Printed by the Order of the Senate during the Special Session Called March 4, 1853* (Washington, 1853), 274–82. Stuart Banner, *Possessing the Pacific: Land, Settlers, and Indigenous People from Australia to Alaska* (Cambridge, Mass., 2007), 163–95. On violence in California, see Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe, 1846–1873* (New Haven, 2016).

Industrial Enclosures

The Civil War transformed the conditions of possibility for these regional orders. From the war emerged a political economy oriented toward new forms of accumulation, with distinct configurations of space, class, and state. As the balance of forces shifted, political authorities at federal and state levels exerted power to administer southern and western resources, placing significant pressure on antebellum practices.¹⁸

Emancipation transformed the politics of Georgia's wild lands. For freedpeople, sparsely populated lands promised an escape from exploitation, if not the autonomy once forged on the Sea Islands. Thus, one planter described freedpeople who left "to settle on their own properties in the pine woods"—lands that one freed man insisted "belonged to nobody." For this reason, the Democratic legislature in 1866 criminalized trespass and timber cutting on unenclosed lands. The Georgia Land & Lumber Company endorsed the law, including its penalties: a "fine of \$200 or sixty days imprisonment." "This will aid greatly in protecting the timber," reported the firm. Industrialists therefore strengthened a movement to police lands that antebellum officials once considered worthless.¹⁹

Still, legacies of the antebellum system made valid titles difficult to secure. As his railroad laid tracks in the late 1860s, Hazlehurst described the difficulty of buying titles in the timberlands. "I feel a great reluctance in making any purchase," he wrote. "So soon as the lands became valuable by reason of the road touching them, owners were soon found." In response, Governor Bullock focused on reforming the land administration. In 1870 he reported that potential investors were making daily inquiries into the "wild land books" but had found them in disarray. In many cases the lands had been "granted twice, or oftener, or have been recorded in the wrong book." Vast expanses had been "lost sight of," he reported. Bullock thus worked with the legislature to create an office of wild land management, which centralized records to execute timely tax sales, promote investment, and "insure titles" where "now no valid claim of title can be obtained," as Bullock put it.²⁰

Consolidating authority over wild lands did not immediately produce an orderly regime, but it did accelerate the scramble for land. Indicative were the old-guard real estate agents who petitioned the government to desist with tax sales, complaining that tax receivers recorded their wild lands incorrectly. Reform was indeed contentious: speculators exploited confusing policies to purchase the state's tax liens, while title forgery appeared rampant. Nevertheless, despite protests from conservative antistatist Democrats, the wild land office survived the constitutional convention of 1877, suggesting that older governing practices were indeed incompatible with the emergent order.

¹⁸ Richard Schneirov, "Thoughts on Periodizing the Gilded Age: Capital Accumulation, Society, and Politics, 1873–98," *Journal of the Gilded Age and Progressive Era*, 5 (July 2006), 189–224.

¹⁹ Frances Butler Leigh, *Ten Years on a Georgia Plantation since the War* (London, 1883), 156; Sarah Wister to Frances Butler Leigh, [ca. 1874–1875], folder 7, box 3, Wister and Butler Families Papers, coll. 1962, ser. 5 (Historical Society of Pennsylvania, Philadelphia); On the criminalization of trespass and timber cutting on unenclosed lands, see *Acts of the General Assembly of the State of Georgia, Passed in Milledgeville, at an Annual Session in November and December, 1865* (Milledgeville, 1866), 237–38; *Georgia Land & Lumber Company*, 6–7.

²⁰ Hazlehurst to William Vanlandingham, March 15, 1869, Macon and Brunswick Railroad letterbooks, vol. 1-2853; Hazlehurst to D. Woodward, Aug. 20, 1870, *ibid.* For Rufus B. Bullock's report on wild lands, see his address to the Georgia State Legislature, in *Journal of the House of Representatives of the State of Georgia at the Annual Session of the General Assembly, Commenced at Atlanta, January 10, 1870* (Atlanta, 1870), 412–14. Resolution to Establish a Department of Wild Lands, *Acts and Resolutions of the General Assembly of the State of Georgia, Passed in Atlanta, Georgia, at the Session of 1870* (Atlanta, 1870), 505.

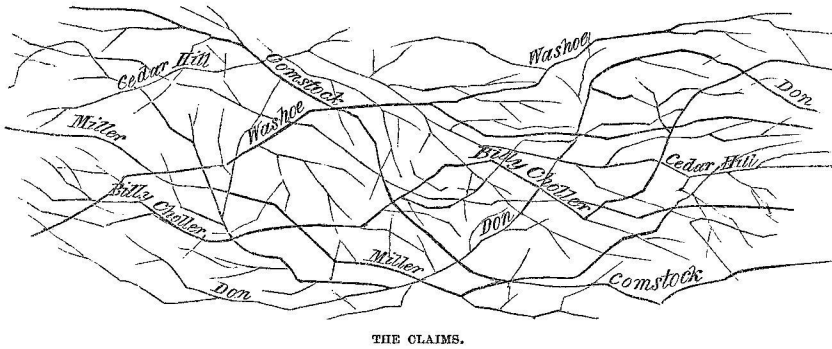
Notwithstanding tensions and setbacks, the postbellum state fitfully extended authority over wild terrain.²¹

The Georgia Land & Lumber Company monitored the land administration closely. The firm's title chain originated from antebellum speculators, but Dodge nevertheless employed agents to scrutinize public records and buy competing deeds purchased at tax sales or elsewhere. Dodge "had men all over the country" perfecting titles, recalled a county clerk. Dodge's son Anson also canvassed households about who lived on which land, the nature of their possession, and whether they might accept a cash "compromise" for their deeds. When negotiations failed, the firm sued dozens and even hundreds of occupants at a time. Some claimed to have purchased lands at massive tax sales before the war, although antebellum sheriffs failed to complete the paperwork. Others took possession after the war, sometimes by squatting, sometimes by buying forged deeds. Squatters sought cash to vacate; others seemed unaware of the land's entanglements. Over time, with hired guards and lawyers, the Georgia Land & Lumber Company made continuous property surveillance a de facto department of operations.²²

Events in Georgia anticipated struggles to bring capital to southern timberlands that were still held by the federal government. Repealing the Southern Homestead Act was key. Passed in 1866 after the failure to redistribute plantation land, this act reserved federal timberlands in five southern states for freedpeople and loyal white southerners. Placing restrictions on cash sales, it prevented lumber corporations from purchasing timberlands from the government. Not long after the act passed, critics in Congress began to argue that those timberlands needed capital, not small farmers, to extract their greatest possible value. Only "by the introduction of northern capital," declared Kansas senator John Ingalls, and through railroads and "machinery for the manufacture of lumber" would those timberlands become "valuable for commercial purpose." When lawmakers repealed the act in 1876, they invited lumber corporations to purchase substantial estates, orienting property relations toward the large-scale extraction of resources sitting atop the land. This

²¹ "Sale of Wild Lands for Taxes Forbidden," *Macon Georgia Weekly Telegraph*, Nov. 27, 1868; "Wild Lands," *Daily Columbus (GA) Enquirer*, Nov. 26, 1870; "Sale of Wild Lands," *Macon Georgia Weekly Telegraph*, Jan. 3, 1871; "Look Out for Land Pirates," *Albany (GA) News*, March 19, 1874; *Savannah (GA) Morning News*, Jan. 3, 1874; "The Land Pirates," *ibid.*, June 6, 1879; "The Sale for Taxes of the Wild Lands of Georgia," *Macon Georgia Weekly Telegraph*, April 13, 1875; "Spare the Timber," *ibid.*, Jan. 8, 1878; Articles of Impeachment against Washington L. Goldsmith, Comptroller-General of the State of Georgia, *Journal of the Senate of the State of Georgia at the Adjourned Session of the General Assembly, Commenced at Atlanta, Ga., July 2, 1879* (Atlanta, 1879), 684–782; "Come into Court," *Atlanta Weekly Constitution*, Aug. 12, 1879; "The Wild Lands," *Eastman (GA) Times*, Aug. 7, 1879; "The Wild Lands," *Savannah (GA) Morning News*, Dec. 29, 1877. For proceedings to abolish the wild land office, see Samuel White Small, *A Stenographic Report of the Proceedings of the Constitutional Convention Held in Atlanta, Georgia 1877: Giving Debates in Full on All Questions before the Convention* (Atlanta, 1877), 143–44, 378, 940. For inclusion of the wild land office in the new state constitution, see *ibid.*, 483.

²² Examination of Hardy Smith, pp. 739–50, *Norman Dodge v. L. L. Williams* (1894), transcript vol. 3, case 77, box 17, U.S. District Courts, Equity Case Files, Circuit Court (Macon); Examination of Ed McRae, pp. 284–86, *Norman Dodge v. L. L. Williams* (1894), transcript vol. 2, box 16, *ibid.*; Examination of John Rogers, p. 1891, *Norman Dodge v. L. L. Williams* (1894), transcript vol. 5, box 18, *ibid.*; "Georgia Land & Lumber Company vs. John Parker and Jasper Rawlins," Dec. 13, 1873, folder 38, box 3, William Wischam Paine Papers (Georgia Historical Society); F. Bartow to James Boyd, Nov. 1, 1852, folder 37, *ibid.*; "Bill to Authorize and Require James Boyd of Telfair County, Who Was a Tax Collector of Said County for the Years 1844 and 1845, to Make Deeds to Lands Sold by Him, as Such Tax Collector," *Journal of the Senate of the State of Georgia, at the Annual Session of the General Assembly, Commenced at Atlanta, January 10, 1877* (Atlanta, 1877), 379–80; *Dodge v. Williams*, 107 Ga. 410 (1899); "Court Calendar," *Savannah (GA) Morning News*, Nov. 20, 1875; "United States Circuit Court," *ibid.*, Dec. 6, 1876. For overviews of the Dodge land troubles in Georgia, see J. N. Talley, "The Dodge Lands and Litigations," *American Bankruptcy Review: The Monthly Magazine for Lawyers, Bankers, and Business Men*, 2 (Jan. 1926), 165–81; and Marion Erwin, *The Land Pirates: A Narrative of the Great Conspiracy and Murder Case Recently Terminated in the Federal Court at Macon, Georgia* (Savannah, 1891).



This 1860 sketch from the “A Peep at Washoe” series by J. Ross Browne depicts the many conflicting claims to underground property in Nevada’s Comstock District. As the sketch implies, the complexity of underground rock formations easily generated disputes between parties who hoped to privatize and develop subsurface resources. Reprinted from J. Ross Browne, “A Peep at Washoe,” *Harper’s New Monthly Magazine*, Dec. 1860, pp. 1–17.

established more decisively an emergent logic, which was already evident in Georgia and across the mineral lands of the West.²³

Mirroring southern developments, the property rules of western mines grew more controversial during the Civil War, especially as the industry incorporated capital-intensive lode mining. In contrast to surface-level placers, lode mines required greater investments to extract ores from underground rock formations. They predominated in Nevada’s Comstock districts, where a mining rush accelerated in 1859 and 1860. As capital poured in, endless disputes erupted over the definitions of subsurface property. “Every body’s spurs were running into everybody else’s angles,” wrote the *Harper’s* correspondent J. Ross Browne, whose sketches revealed the state of underground property lines.²⁴

Securing exclusive rights was especially difficult when parties held conflicting theories “as to what constituted the Comstock Lode,” in the words of the Nevada attorney and senator William M. Stewart. Whether the Comstock Lode comprised one mineral ledge or many—whether a few or many parties could claim this wealth—was determined by multi-million-dollar lawsuits and hired scientists. The costs of litigation and production ultimately forced the majority of small operators to give up their Comstock claims and either work for mining corporations or leave the district.²⁵

²³ For congressional debates about repealing the Southern Homestead Act, including the quotation from John Ingalls, see *Congressional Record*, 44 Cong., 1 sess., Feb. 2–15, 1876, pp. 815–18, 849–53, 1082–90, esp. 851. For early bills to repeal the Southern Homestead Act, see H.R. 3610, *Congressional Record*, 43 Cong., 1 sess., June 5, 1874, pp. 4633–34. Paul Wallace Gates, “Federal Land Policy in the South, 1866–1888,” *Journal of Southern History*, 6 (Aug. 1940), 303–30; C. Vann Woodward, *The Origins of the New South, 1877–1913* (Baton Rouge, 1951), 115–19; Edward L. Ayers, *The Promise of the New South: Life after Reconstruction* (New York, 1992), 104–31.

²⁴ J. Ross Browne, *A Peep at Washoe and Washoe Revisited, 1863, 1864, and 1869* (Balboa Island, 1959), 161.

²⁵ William M. Stewart, *Reminiscences of Senator William M. Stewart, of Nevada* (New York, 1908), 134; “Talk on ‘Change,” *San Francisco Daily Alta California*, Aug. 28, 1864; “The Mines of Gold Hill District,” *ibid.*, Dec. 24, 1863; Eliot Lord, *Comstock Mining and Miners* (Washington, 1883), 99–100, 131–82, esp. 169–71; David A. Johnson, “Industry and the Individual on the Far Western Frontier: A Case Study of Politics and Social Change in Early Nevada,” *Pacific Historical Review*, 51 (Aug. 1982), 243–64; Gunther Peck, “Manly Gambles: The Politics of Risk on the Comstock Lode, 1860–1880,” *Journal of Social History*, 26 (Summer 1993), 703–4. Ronald M. James, *The Roar and the Silence: A History of Virginia City and the Comstock Lode* (Reno, 1998), 130–32; Paul, *Mining Frontiers of the Far West*, 75.

As litigation and speculation overtook Nevada's Comstock Lode, mining professionals and financiers grew concerned about the implications of miners' loosely governed practices. They complained that cash-poor miners marked their mineral claims haphazardly, creating a "perpetual uncertainty in titles" and leaving outsider investors "at the mercy of blackmailers [and] quartz pirates." Appointed by the government to report on western minerals, the leading engineer Rossiter Raymond warned that the power of small local miners would deter capitalists from investing in the future. "In the important matter of ownership," Raymond held, "capital has been wronged by the regulations established by labor," revealing his own assumptions about the future of the mining industry. The volatility troubled prominent eastern capitalists, such as Jay Cooke, the investment firm Brown Bros. & Co., and Phelps, Dodge, & Co., who petitioned Congress to encourage more systematic development and exert greater control over small miners' "crude" practices.²⁶

While capitalists scrutinized miners' codes, the Comstock incident underscored to Congress the enormous wealth accumulating from government property. After years of inaction, there was growing pressure, articulated in a House report, to pass "some *positive* policy in dealing with interests so precious." Especially as Congress searched for revenue, the war created conditions to enhance federal power over western minerals. Some eastern lawmakers proposed retaining sovereign fees from mines, or "that which belongs to the nation," in the words of Republican representative Thaddeus Stevens. Others, however, believed that the government's continued ownership had produced "roving" and "feudatory" mining populations, rather than permanent settlements. Aiming to raise revenues and prevent monopolization, they supported a controlled form of privatization that would charge at least \$50 per acre, restrict purchases to forty acres, and conduct extensive federal mineral surveys to better assess and tax mines.²⁷

Yet both public ownership and regulated privatization provoked strong opposition from the emergent industrial mining sector. In conventions and petitions, they threatened "revolution" should the state "confiscate" their possessions or retain proceeds of mines. Industrialists preferred the legislation introduced by Sen. William Stewart, whose experience as a corporate mine attorney in Nevada made him familiar with the political economy. With Stewart's leadership and pressure from mining interests, the first general mining act passed in 1866 and privileged industrialists in one important way: it offered inexpensive property rights (five-dollar patents) to capital-intensive lode mines (not placers) that had at least \$1,000 in investments. It thus established security for capitalists, and for a price far lower than Congress had initially proposed. Yet Stewart was also mindful of the interests of small miners, whose prospecting remained crucial to seizing the "vast

²⁶ Lord, *Comstock Mining and Miners*, 48–50; Rossiter W. Raymond, *Statistics of Mines and Mining in the States and Territories West of the Rocky Mountains* (Washington, 1872), 501; Raymond, *Mineral Resources of the States and Territories West of the Rocky Mountains*, 177–78; "Petition for Appointment of Commissioner to Investigate Methods Used in Europe for Extraction of Precious Metals from Ores," report no. 21, *Miscellaneous Documents of the Senate of the United States for the Third Session of the Fortieth Congress* (Washington, 1869), 1–3.

²⁷ "Mineral Lands (To Accompany Bill H.R. no. 322)," report no. 66, in *Reports of the Committees of the House of Representatives Made during the First Session, Thirty-Ninth Congress, 1865–66* (2 vols., Washington, 1866), I, 2. Emphasis in original. For efforts to regulate, tax, and privatize minerals, see "Extract from the Report of the Secretary of the Interior, Relative to the General Land Office," in *Report of the Commissioner of the General Land Office, Accompanying the Annual Report of the Secretary of the Interior for the Year 1862* (Washington, 1862), 4. *Congressional Globe*, 38 Cong., 2 sess., Feb. 9, 1865, p. 686; *ibid.*, 39 Cong. 1 sess., Jan. 23, 1866, p. 361; *ibid.*, 38 Cong., 1 sess., June 16, 1864, p. 3026; *ibid.*, 38 Cong., 1 sess., April 18, 1864, p. 1695; "A Bill for the Survey and Sale of the Mineral Lands of the United States," *Bills and Resolutions*, Senate, 39 Cong., 1 sess., S. 10, Dec. 15, 1865, pp. 1–11.

products of our extended domain.” The law empowered those miners to continue prospecting freely on the public domain and affirmed their myriad local rules. Thus, while industrialists generally approved of securing capitalists’ property, they thought the law did not go far enough to protect the “Eastern or foreign capitalist” from small producers’ local decision making, as Rossiter Raymond put it.²⁸

This changed in 1872, when Congress passed another law that created uniform recording standards, set deadlines to purchase mineral claims, overrode several local restrictions (including on the number of claims one party could make), and protected unworked patented mines from federal forfeiture, despite congressional attempts to incorporate such a provision. The law also included a controversial rule, once defended by Stewart in Nevada, to enhance the value of lode mines. This “law of apex” granted exclusive rights to whoever claimed a mineral vein’s most shallow outcropping, known as its apex, even if someone else claimed that vein at a different point. This generally encouraged property to concentrate, for, as Raymond observed, “whoever has the apex takes the vein.” And whoever had the resources could hire lawyers and scientists to settle an apex dispute and accumulate property. Thus did one prospecting miner conclude that the rule failed to protect the “poor men” who discovered new mines only to find “the men of means beat them out of their rights.” The problem was compounded, the miner held, because the law placed no restrictions on monopolizing tendencies.²⁹

Postbellum legislation thus gave considerable power to capitalists and their professional allies. Yet it satisfied no one class completely. Inheriting a patchwork landscape of property lines, Phelps, Dodge, & Co. secured mineral patents through a lengthy and complex process, which left pending rights vulnerable to challenge. Nevertheless, the company director and engineer James Douglas learned to navigate the system, opting to sue smaller competitors when they were, in his words, “foolish enough to exceed their rights.” Faced with the possibility of more expensive litigation, Douglas changed tactics, choosing instead to coordinate with well-financed competitors. Thus, when Douglas realized in 1884 that a neighboring firm held the apex of a mine running through both of

²⁸ *Congressional Globe*, 38 Cong., 1 sess., May 30, 1864, p. 2559; “Memorial of the Chamber of Commerce of the City of San Francisco Remonstrating against the Taxing of the Gross Products of the Mines in the Pacific States and Territories,” Senate misc. doc. no. 118, 38 Cong., 1 sess. May 25, 1864, pp. 1–2; *Congressional Globe*, 38 Cong., 1 sess., April 18, 1864, p. 1696; “Telegraphic Communication from the Officers of the Miners’ Convention,” Senate misc. doc. no. 40, 39 Cong., 1 sess., Jan. 23, 1866, pp. 1–2; “Memorial of the Miners of California,” *Sacramento (CA) Daily Union*, Jan. 31, 1866. For the impact of petitions against federal mineral regulations, see *Congressional Globe*, 39 Cong., 1 sess., June 18, 1866, pp. 3231, 3236. “National Convention in Relation to Mineral Interests of the United States,” *American Mining Gazette and Geological Magazine*, 2 (Jan. 1–Dec. 31, 1865), 716–25. Act Granting Right of Way to Ditch and Canal Owners over Public Land, 14 Stat. 251 (1866). For Senator William Stewart’s discussion of small miners, see *Congressional Globe*, 39 Cong., 1 sess., June 18, 1866, p. 3228. For Rossiter Raymond’s critique of the first mining bill, see Raymond, *Statistics of Mines and Mining in the States and Territories West of the Rocky Mountains*, 500–501.

²⁹ General Mining Act of 1872, 17 Stat. 91 (1872). On restrictions to possessory rights, see “The New Mining Title Bill,” *San Francisco Daily Alta California*, Feb. 8, 1871; N. P. Mann et al. to Hannibal Hamlin, Jan. 2, 1874, folder SEN43A-E11, box 46, 43rd Congress Committee on Mines and Mining, Records of the U.S. Senate, SEN43A-E11 (National Archives and Records Administration, Washington, D.C.); James Burrell to Hamlin, Feb. 18, 1874, *ibid.* For opposition to unlimited claim making, see *Congressional Globe*, 42 Cong., 2 sess., April 16, 1872, p. 2459; *Report of the Public Lands Commission, Created by the Act of March 3, 1879, Relating to Public Lands in the Western Portion of the United States and to the Operation of Existing Land Laws* (Washington, 1880), 619–20; Raymond, *Mineral Resources of the States and Territories West of the Rocky Mountains*, 217; Rossiter W. Raymond, “The Law of the Apex,” *Transactions of the American Institute of Mining Engineers*, 12 (June 1883–Feb. 1884), 392; *Report of the Public Lands Commission*, 619. Carl J. Mayer, “1872 Mining Law: Historical Origins of the Discovery Rule,” *University of Chicago Law Review*, 53 (Spring 1986), 624–53; Gordon Morris Bakken, *The Mining Law of 1872: Past, Politics, and Prospects* (Albuquerque, 2008), 25–31.

their properties, he bought out the company with the intent of making Phelps, Dodge, & Co. the majority owner. Federal mining policy did not, therefore, spell the end of capitalists' property disputes. Postbellum forms of privatization nevertheless privileged private profits over federal revenues and capitalized firms over cash-poor miners. The purpose was not just to privatize mines but also to encourage large investments and rapid development of minerals. Protected at the federal level from property forfeiture and squatters, Phelps, Dodge, & Co. thereafter invested in political lobbying at local levels to maintain reduced corporate tax rates.³⁰

Reflecting later on the privatization of extractive resources, Douglas wondered, "had the people, that is the state, then realized the value of what they were virtually giving away, it would never have passed so cheaply into private hands." In reality, Congress knew what it was doing, advancing a form of privatization that shared a common characteristic with southern timberlands: it oriented the lands' unique productive capacities toward the maximization of profits and privileged industrial extraction over other modes of production. This not only facilitated accumulation but also deepened collaboration between federal institutional development and capitalist transformation. This alliance placed certain limits on government capacities, making it politically difficult, for example, to raise federal revenues from mines. Yet even as they privatized property, political authorities also cultivated forms of control: they administered resources, reorganized space, and foreclosed possibilities for diverse groups of dispossessed people to maintain alternative forms of life.³¹

Struggle and State Power in Georgia's Timberlands

The expansion of Phelps, Dodge, & Co. was indeed contingent on—and accelerated—multiple forms of dispossession affecting diverse populations. Far from creating uniform experiences, industrial capitalism subsumed unevenly those social worlds. This was evident in Georgia, where white farmers had long maintained common rights to undeveloped timberlands. While the Georgia Land & Lumber Company employed landless black timber cutters to transform the woods, white farmers and their political allies contested northern corporations' property rights for many years. For these farmers, industrial enclosure was protracted and was enforced in the last instance by an empowered federal judiciary.³²

Georgia's lumber industry destabilized yeoman worlds considerably, but change did not occur in one fell swoop. Many households felt the effects indirectly, as lumber's

³⁰ On complex surveying rules, see "Title to Mineral Lands," *Tucson Arizona Citizen*, Jan. 3, 1874. For Phelps, Dodge, and Co.'s rejected patents, see Royale Johnson to Ben Williams, Feb. 26, 1884, vol. 4, box 146, Letters Sent Relating to Mineral Surveys, Surveyor General of Arizona, Records of the Bureau of Land Management, RG 49 (National Archives and Records Administration, Riverside, Calif.); and John Wise to Williams, June 9, 1887, *ibid.* For corporate strategies and activities, see James Douglas to William Dodge Jr., Oct. 4, 1882, folder 31, box 3, Douglas Collection; Edmund Coffin to William E. Dodge Jr., Oct. 11, 1882, *ibid.*; James Douglas, "Later Story of the Copper Queen," pp. 2–3, folder 60, box 4, *ibid.*; Carlos A. Schwantes, *Vision and Enterprise: Exploring the History of Phelps Dodge Corporation* (Tucson, 2000), 75; David R. Berman, *Politics, Labor, and the War on Big Business: The Path of Reform in Arizona* (Boulder, 2012), 23–24; James W. Byrkit, *Forging the Copper Collar: Arizona's Labor-Management War of 1901–1921* (Tucson, 1982), 74–81; and Joseph Henry Beale, *The Law of Foreign Corporations and Taxation of Corporations Both Foreign and Domestic* (Boston, 1904), 673.

³¹ James Douglas, "Trusts and Wealth," p. 2, folder 70, box 4, Douglas Collection.

³² For a similar account of Gilded Age dispossession, see Steve Fraser, *The Age of Acquiescence: The Life and Death of American Resistance to Organized Wealth and Power* (New York, 2015), 40–46.

environmental impact undermined herding or as some farmers took on debts to compete against lumber corporations. Many, in contrast, were displaced through legal battles against the Georgia Land & Lumber Company, which began in the 1870s and lasted into the 1890s. The local press denounced these suits brought by Dodge, accusing the corporation of exploiting farmers and Bullock's "scalawag" land administration. Some called for united action, directing citizens to organize themselves and reclaim their land.³³

Something of an anti-Dodge (the man and the company) front did in fact emerge. Its composition was fragmented. It included dispossessed farmers, hundreds of whom received orders of ejectment or injunction on behalf of Dodge's firm. It also comprised local professionals, land agents, and competing southern developers, who sometimes paid twice for timberlands to "buy their peace" from northern capitalists. This upwardly mobile class was, in a broad sense, served by the new order of property, which favored development in the long term. It also created intense competition among these local elites. Anti-Dodge politics thus reflected the complex tensions of a social regime in flux: as capital and state power extended across the forest, conflicts emerged not only between classes but also within them.³⁴

White southerners expressed opposition in several ways, including through attacks on Dodge's black employees. As timber cutters moved through the woods, white farmers showed up in arms, warning them to turn away. Intimidation at times targeted capital: saws were ruined or trees were laid across tram tracks. Sometimes, however, farmers wielded violence, creating extremely hostile conditions for black workers. Beyond the woods, Dodge's black sawmill workers waged their own struggles on St. Simons Island, going on strike for better wages in 1880. But these struggles against exploitation operated on different terrains than those of white farmers, who experienced dispossession more fitfully. These black and white southerners perhaps shared an enemy in the same lumber corporation but not common relationships to capital, landlessness, or each other. In this period, white farmers channeled their experiences of postemancipation capitalism into renewed racism.³⁵

Whatever coherence existed in anti-Dodge politics manifested also in hostility to the geographies of capital and federal power. In 1877, the Georgia legislature passed a law that denied the state "consent" to foreign (out-of-state) corporations that held more than five thousand acres of land "in her territory." It required such corporations to incorporate locally or risk their property. Early drafts named the Georgia Land & Lumber Company explicitly. Introduced by local town elites involved in ongoing legal disputes, the law was

³³ Cobb, *History of Dodge County*, 120; "Letter from Montgomery," *Eastman (GA) Times*, Nov. 13, 1879; "Crops, Timber Dutting Etc.," *ibid.*, Sept. 11, 1879; Wetherington, *New South Comes to Wiregrass Georgia*, 139–77; "Telfair County, GA.," *Hawkinsville (GA) Dispatch*, April 24, 1873; "Telfair County, GA.," *ibid.*, June 26, 1873.

³⁴ For examples of "buying their peace," see examination of John DeLacey, pp. 73–76, *Norman Dodge v. L. L. Williams* (1894), transcript vol. 1, case 74, box 16, U.S. District Courts, Equity Case Files, Circuit Court (Macon); Notes and testimony for *William Dodge et al. vs. Hilliard, Bailey, and Reppard*, April 23, 1878, folder 34, box 3, Paine Papers; *Memoirs of Georgia: Containing Historical Accounts of the State's Civil, Military, Industrial and Professional Interests, and Personal Sketches of Many of Its People* (2 vols., Savannah, 1895), II, 978. See also Wetherington, *New South Comes to Wiregrass Georgia*, 208–18, 270–71.

³⁵ Examination of Ed McRae, pp. 291, *Norman Dodge v. L. L. Williams* (1894), transcript vol. 2, case 77, box 16, U.S. District Courts, Equity Case Files, Circuit Court (Macon); "The Hall Case," *Atlanta Constitution*, March 15, 1890; "Finis for Five," *ibid.*, Oct. 21, 1882; "The Riot at Eastman," *ibid.*, Aug. 12, 1882; "Strike! Struck! Did Strike!," *Brunswick (GA) Advertiser*, Nov. 13, 1880; "St. Simons Department," *ibid.*, Nov. 20, 1880. In contrast to the racialized division in social relations, note the black and white timber workers who later waged mass struggles against lumber barons in Louisiana and Texas. See James Green, "The Brotherhood of Timber Workers 1910–1913: A Radical Response to Industrial Capitalism in the Southern U. S. A." *Past and Present*, 60 (Aug. 1973), 161–200.

designed to undermine the Dodges' jurisdictional strategy of removing lawsuits to the federal courts. It had little to say about changing local property rights but likely resonated with small farmers, whose experiences often hinged on the federal judiciary.³⁶

Directors of the Georgia Land & Lumber Company, which was incorporated in New York, readily admitted to removing lawsuits to the federal courts. They framed this right as outside the realm of politics, but, in fact, Congress had laid the foundations in the Jurisdiction and Removal Act of 1875. This expanded the scope of diversity jurisdiction, allowing out-of-state corporations to remove their cases to federal courts at growing rates. Rep. George D. Robinson of Massachusetts made clear that the law enabled patterns of long-distance investment. As he put it, "capital is needed to restore the waste places of the South and to build up the undeveloped West; it must flow largely from the old states of the East," and it needed protection, he held, from local "prejudices." It was true that federal judges often decided in the Dodges' favor, although imagined federal neutrality was only one advantage. The others were the time and money required to travel to U.S. courts. For these reasons, permeating Georgia's pine barrens was the sense that federal courts were aligned to capitalists in the North. Company attorneys reinforced these antipathies when they subpoenaed farmers to appear at the circuit court, and questioned them in ways that framed local property practices as trespass and fraud. Distinctions between legitimate and illegitimate practices were not difficult to blur, given that the actual incidence of forgery was high.³⁷

Despite legislation at the state level, Georgia failed to regulate the property of this out-of-state corporation. The Georgia Land & Lumber Company remained incorporated in New York, retaining ownership of valuable assets, and dispersed real estate between several northern parties to give the appearance of owning less land. When local elites challenged this latter tactic in the circuit court, Judge Emory Speer found that only the state of Georgia could make such a case. He nevertheless decided that the Dodges had not violated the foreign corporation law, and he continued to admit their cases to the federal court. "The great bulk of the business in those courts," Speer found, "arises from controversies between suitors of his [Dodge's] class." And so, this struggle for the timberlands was determined at the federal level, revealing the state legislature's relative will, vis-à-vis

³⁶ "An Act to Prescribe the Conditions on which the State Will Assent to the Holding of Lands in This State by Foreign Corporations, and Corporations Incorporated by the Laws of Other States," *Acts and Resolutions of the General Assembly of the State of Georgia, Passed at the Regular January Session, 1877* (Atlanta, 1877), 36. For the local elite connection to the bill, see "A Resolution Refusing the Assent of the State to the Holding of Lands by the Georgia Land and Lumber Company," *Journal of the Senate of the State of Georgia, at the Annual Session of the General Assembly, Commenced at Atlanta, January 13, 1875* (Savannah, 1875), 194; John Parker and Jasper Rawlins to William Paine, July 23, 1874, folder 37, Paine Papers; "A Bill to Require the Georgia Land and Lumber Company to Be Incorporated with and in Accordance with the Laws of Georgia," *Journal of the Senate of the State of Georgia, at the Annual Session of the General Assembly, Commenced at Atlanta, January 10, 1877* (Atlanta, 1877), 465–66.

³⁷ "Memorial," *Macon (GA) Telegraph*, Feb. 14, 1877; "An Act to Determine the Jurisdiction of Circuit Courts of the United States, and to Regulate the Removal of Causes from State Courts, and for Other Purposes," *Statutes of the United States of America, Passed at the Second Session of the Forty-Third Congress, 1874–1875* (Washington, 1875), 470–73. See also Jurisdiction and Removal Act of 1875, 18 Stat. 470 (1875). For George D. Robinson's defense of foreign corporations, see *Congressional Record*, 46 Cong., 2 sess., Feb. 12, 1880, p. 850; "The Georgia Land & Lumber Company," *Savannah (GA) Morning News*, Nov. 1, 1873; "Telfair's Troubles," *Macon (GA) Telegraph*, March 6, 1895; Examination of T. Curry, pp. 455–63, *Norman Dodge v. L. L. Williams* (1894), transcript vol. 2, case 77, box 16, U.S. District Courts, Equity Case Files, Circuit Court (Macon); Examination of Thomas White, pp. 1024–43, vol. 3, case 77, box 17, *ibid.* For overviews of diversity jurisdiction, see Edward A. Purcell Jr., *Litigation and Inequality: Federal Diversity Jurisdiction in Industrial America, 1870–1958* (New York, 1992), 16–18; Felix Frankfurter and James M. Landis, *The Business of the Supreme Court: A Study in the Federal Judicial System* (New York, 1927), 84–92; and Tony A. Freyer, "The Federal Courts, Localism, and the National Economy," *Business History Review*, 53 (Autumn 1979), 343–63.

broader political geographies, to control the organization of property in Georgia. Federal injunction orders continued to circulate in the woods, and tensions of localism endured: as populist insurgencies swept over regional peripheries, the leading anti-Dodge lawyer denounced proposals to nationalize infrastructure for threatening to empower the central state.³⁸

Consistent with this attitude, some farmers simply rejected the federal court's authority. Among them was Lucius Williams, a seventy-year-old yeoman farmer and Confederate army veteran. "I shall cut timber on that land and do as I please with it," Williams reportedly told a U.S. deputy marshal. "I do not intend to pay any attention to the United States Court." After evading arrest and fatally shooting the black timber worker Tom Young, Williams died in 1895 in a shoot-out with a federal marshal. Finding the marshal innocent of murder, Speer portrayed Williams as an outlaw, whose story evoked others to respond to land dispossession in the West. "He was like an Apache Indian driven to his last stand," Speer wrote, referencing conflicts that had recently erupted around Arizona's mineral fields. The comparison to Apache Indians was rhetorical flourish. Yet it captured links between regional processes, where capitalists and the federal state mobilized against conflicting concepts of property and authority, often resulting in violence.³⁹

Nevertheless, white farmers' decades-long struggles reflected their distinct social position, particularly from black southerners who cut timber for wages. Certainly Arizona's Apaches faced far more arbitrary and violent powers in the military and Indian Bureau. Industrial expansion brought Phelps, Dodge, & Co. into contact with all of these groups. Yet these groups confronted different elements of the state's dynamic ensemble, which operated through many institutions and mechanisms. This layered ensemble made available terrains of contestation to white farmers and their allies. It also benefited Phelps, Dodge, & Co. insofar as it mediated disparate struggles between and within diverse regions, reproducing older hierarchies and transforming the conditions of social life.⁴⁰

Mineral Property and Native Territory in Arizona

The expanded authority of federal courts, in addition to changing land policies, was a key institutional shift that enforced southern farmers' dispossession and thus facilitated the geographic expansion of Phelps, Dodge, & Co. In the West, the corporation depended on federal power to police not only mineral property but also native territory, which involved different sets of questions about political authority and spatial organization. During Reconstruction, Congress changed the government's formal position on native sovereignty and territorial rights. This accelerated indigenous dispossession

³⁸ Talley, "Dodge Lands and Litigations," 170–71; "Memorial," *Macon (GA) Telegraph*, Feb. 14, 1877; Dodge County Property Tax Digest, district no. 317 (Rawlins), 1885, available at *Ancestry.com*; Erwin, *Land Pirates*, 9; *Dodge v. Briggs*, 27 Fed. 160, 172 (1886); *United States v. Lancaster*, 44 F. 88 (1890); "Col. L. A. Hall," *Eastman (GA) Times-Journal*, Aug. 19, 1892. On Democrats' local dominance, see Wetherington, *New South Comes to Wiregrass Georgia*, 206–7.

³⁹ *Kelly v. Georgia*, 68 F. 652 (1895); "Synopsis of the Testimony and Report of the Decision of Judge Emory Speer," Peonage Files of the U.S. Department of Justice, 1901–1945, available at Proquest Black Freedom Struggle; Wetherington, *Plain Folk's Fight*, 303–5; *Kelly v. Georgia*.

⁴⁰ This conceptualization is influenced especially by Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton, 2015), 89–124; and Bob Jessop, *The State: Past, Present, Future* (Cambridge, Eng., 2015), 15–52.

around Arizona's mining districts and undermined, in uneven ways, the landed bases of native autonomy.⁴¹

In 1871 Congress formally ended the practice of negotiating treaties with native powers. Until this point, the government had recognized native titles, formally if not faithfully, and extinguished them only via treaties. Members of Congress had challenged this regime before, as had precedents in California. Nevertheless, the politics shifted during Reconstruction. Mirroring their position on the South, Democrats defended the treaty system as an appropriate limit on centralized power vis-à-vis federated sovereignties. In contrast, many Republicans, such as Nevada's William Stewart, argued that the government should no longer recognize native sovereignty, and by extension, their rights to land. Voting with a majority, Republicans abandoned the treaty procedure and established a general policy to locate native peoples on reservations. To lend ideological legitimacy, Congress also established a consultant body, the Board of Indian Commissioners, comprising presidential appointees. Many of the inaugural members had been active in the politics of Reconstruction; these included William Dodge, among other economic and political elites "eminent for their intelligence and philanthropy." Postbellum Indian policy thus incorporated eastern capitalists into federal structures as it established new mechanisms of native dispossession in the West.⁴²

This policy did not abrogate previous treaties, but few of Arizona's native polities had ever entered those formal negotiations. In the post-treaty system, the federal government declared them "mere tenants at will" and established reservations with considerable discretion reserved for the executive branch. This led to unstable boundaries, particularly in areas with minerals. Long empowered to prospect freely on federal land, nonnative miners pled ignorance about trespassing on reservations and then petitioned the president to protect their possessions. The Clifton-Morenci mining district, where Phelps, Dodge, & Co. invested in 1881, formed through this process: in 1874, trespassing miners persuaded President Ulysses S. Grant to alienate copper-rich lands from the White Mountain Apache reservation, which Grant had established just three years earlier via executive order. This postwar shift to unilateral decision making thus made institutional levers available to mining interests, while denying native land rights, even on reservations. Indicative of this change were industrialists who preferred to alienate reservation lands by "work[ing] with" executive officials rather than using the lengthy procedures of Congress.⁴³

⁴¹ For a useful conceptual framing of land and territory, see Stuart Elden, "Land, Terrain, Territory," *Progress in Human Geography*, 34 (Dec. 2010), 799–817.

⁴² Appropriations Act of March 3, 1871, 16 Stat. 566 (1871). For the politics of the treaty system, see, for example, *Congressional Globe*, 41 Cong., 3 sess., March 1, 1871, pp. 1822–24. John R. Wunder, "No More Treaties: The Resolution of 1871 and the Alteration of Indian Rights to Their Homelands," in *Working the Range: Essays on the History of Western Land Management and the Environment*, ed. John R. Wunder (Westport, 1985), 39–56; D. Stuart Dodge, *Memorials of William E. Dodge* (New York, 1887), 167–70. For the board's composition, see "An Act Making Appropriations for the Current and Contingent Expenses of the Indian Department," *Acts and Resolutions of the United States of America, Passed at the Third Session of the Fortieth Congress, December 7, 1868–March 4, 1869* (Washington, 1869), sec. 4, p. 191.

⁴³ *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, for the Year 1878* (Washington, 1878), 58. For examples of miners' efforts to redraw reservation boundaries, see Petition to J. C. Campbell, Aug. 20, 1879, folder 45, box 5, John Harte, San Carlos Indian Reservation Notes, 1857–1888, ms 1425 (Arizona Historical Society, Tucson); Agent Tiffany to the Commissioner of Indian Affairs, Nov. 25, 1880, folder 49, *ibid.*; *Globe Arizona Silver Belt*, March 15, 1884. On the Clifton-Morenci mining district, see E. M. Pearce to John Wason, Sept. 22, Oct. 1, Oct. 6, Oct. 8, 1872, box 26, Letters Received by the Surveyor General of Arizona, Records of the Bureau of Land Management, RG 49 (National Archives and Records Administration, Riverside). "Reducing a Reservation," *Tucson Arizona Citizen*, July 25, 1874; "Reduction of the White Mountain Reservation," *ibid.*, Nov.

Of course, executive orders did not automatically compel native compliance, and reservation boundaries were more porous than many policy makers imagined. Some forms of off-reservation mobility adapted to changing structures of political economy, as when material conditions compelled Apache men and women to perform day labor or gather food beyond the White Mountain reservation. More controversial, in contrast, were extended excursions of Chiricahua Apaches, whose leadership negotiated a conditional reservation settlement in the early 1870s. When political conditions changed unexpectedly, especially after their reservation was relocated, groups of Chiricahuas organized themselves and returned to familiar mountain ranges along the U.S.-Mexico border. These parties were accustomed to replenishing supplies and exercising authority through raiding cycles, which required more fluid forms of political space. Dwindling resources and military opposition made this difficult, and some Chiricahuas returned periodically to the centralized White Mountain reservation. They left again to escape repression, riling military authorities into the 1880s. Recalling the military's furious efforts to police this mobility, the prominent Chiricahua warrior Geronimo later noted, "I do not think that I ever belonged to those soldiers . . . or that I should have asked them where I might go."⁴⁴

Apache raiding defied the forms of territory that underpinned industrial operations, including those of Phelps, Dodge, & Co. Copper mines were not primary targets, although members of a raiding party once attacked the mining infrastructures of Phelps, Dodge, & Co. as others drove away stock. More costly were the effects on production and logistics, especially before trains traversed isolated trails. For nearly three months in 1882, Apache raiding near the Clifton-Morenci district prevented the company from transporting ore to furnaces. A few years later, during an extended military campaign against Chiricahua parties, William Dodge Jr. expressed his fears that it was "not safe for unarmed parties to venture a single mile from any mine." He concluded that Apache raiding required "some definite governmental action." Privatizing mines and employing landless mine workers was not enough; these industrialists depended on distinct configurations of political space and on state practices to maintain them.⁴⁵

Anxious to suppress Apache opposition and experiencing pressure from Arizona settlers, military authorities took drastic enforcement measures in 1886. Under false pretenses, they lured raiding parties into negotiations and forced five hundred Chiricahua Apaches, including those who had opposed raiding and settled on reservation lands, to

22, 1873; *Executive Orders Relating to Indian Reserves* (Washington, 1902), 8; M. L. Power to John Corbett, April 12, 1882, folder 57, box 6, San Carlos Indian Reservation Notes.

⁴⁴ *Globe Arizona Silver Belt*, Sept. 22, 1883; *ibid.*, July 25, 1885; John Harte, "The San Carlos Indian Reservation, 1872-1886: An Administrative History" (Ph.D. diss., University of Arizona, 1972), 258, 414, 428, 464, 517-19; A. R. Chaffee to Ezra Hayt, July 29, 1879, folder 44, box 5, San Carlos Indian Reservation Notes; "Passes for 1200 Apaches," *Tucson Arizona Citizen*, Aug. 1, 1879. On raiding, see Keith H. Basso and Grenville Goodwin, *Western Apache Raiding and Warfare* (Tucson, 1971); Morris Edward Opler, *An Apache Life-Way: The Economic, Social, and Religious Institutions of the Chiricahua Indians* (Lincoln, 1996), 134-40, 333-36; Robert M. Utley, *Geronimo* (New Haven, 2012), 62-80; Edwin R. Sweeney, *From Cochise to Geronimo: The Chiricahua Apaches, 1874-1886* (Norman, 2010), 402-7; and Angie Debo, *Geronimo: The Man, His Time, His Place* (Norman, 1996), 126-33, 220-42. On native spatial formations, see Pekka Hämäläinen, "Reconstructing the Great Plains: The Long Struggle for Sovereignty and Dominance in the Heart of the Continent," *Journal of the Civil War Era*, 6 (Dec. 2016), 481-509. Geronimo, *Geronimo's Story of His Life*, ed. S. M. Barrett (New York, 1906), 132.

⁴⁵ Truett, *Fugitive Landscapes*; James Douglas, "Autobiographical Recollections," n.d., p. 20, folder 5, box 2, Lewis W. Douglas Papers (Special Collections, University of Arizona, Tucson); Colquhoun, *History of the Clifton-Morenci Mining District*, 14; "Report on the Detroit Mine," n.d., box 5, Douglas Collection; Dodge to Herbert Welsh, June 11, 1886 (microfilm: reel 1), Indian Rights Association Papers (Historical Society of Pennsylvania).

relocate to military posts in eastern states. This removal demonstrated the arbitrary nature of U.S. imperial power, which punished Chiricahua Apaches as a homogenous political community despite no longer recognizing native sovereignty. It was a warning to other Apache peoples who evaded this outcome. Many would continue to live and work on the same reservation, while intermittently seeking markets and employment around nearby mining towns, ranches, and federal posts. Such practices reflected the growing orbit of property owners such as Dodge who had the government's most coercive powers on their side.⁴⁶

Yet even as off-reservation incomes partially fulfilled material needs, several Apache groups maintained close connections to reservation lands in Arizona, adapting a range of economic activities. The governor of the territory described them as "cling[ing] tenaciously to the mountains as their own home," echoing claims made about dispossessed peoples the world over. It was "difficult," he maintained, to consistently compel Apaches' off-reservation labor, a pattern that racist mine workers' unions appreciated for intervening in native labor force participation. Reports such as this gestured toward the unevenness of dispossession and capitalism, which contoured both native and nonnative labor relations in Arizona. The unevenness grew out of indigenous politics and from the reservation system itself. This system undercut Apaches' territories but did not fully subsume their social practices, thanks especially to their strategies on and beyond reservation lands. It thus remained both a primary terrain of native struggles for autonomy and an enduring force in the political economy of Arizona.⁴⁷

Conclusion

After the turn of the twentieth century, Phelps, Dodge, & Co.'s James Douglas conceded that small numbers of people and their corporations increasingly controlled materials "upon which mankind relies." Yet he could imagine few alternatives. "Under some other system," he posited, wealth might have been distributed "more equitably." But such a system might not have yielded the same national outcome. Industrialists had been, in

⁴⁶ Bud Shapard, *Chief Loco: Apache Peacemaker* (Norman, 2010), 224–26; John W. Ragsdale, "The Chiricahua Apaches and the Assimilation Movement, 1865–1886: A Historical Examination," *American Indian Law Review*, 30 (2005–2006), 324–27. On tensions over reservation boundaries, see *Globe Arizona Silver Belt*, Sept. 22, 1883; *ibid.*, July 25, 1885; Harte, "San Carlos Indian Reservation," 258, 414, 428, 464, 517–19; Chaffee to Hayt, July 29, 1879, folder 44, box 5, San Carlos Indian Reservation Notes; "Passes for 1200 Apaches"; Basso and Goodwin, *Western Apache Raiding and Warfare*; Opler, *Apache Life-Way*, 134–40, 333–36; Utley, *Geronimo*, 62–80; Sweeney, *From Cochise to Geronimo*, 402–7; Debo, *Geronimo*, 126–33, 220–42; Hämäläinen, "Reconstructing the Great Plains," 481–509; and Geronimo, *Geronimo's Story of His Life*, ed. Barrett, 132. On economic activities, see *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, for the Year 1892* (Washington, 1892), 219–21; *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, for the Year 1898* (Washington, 1898), 130; *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, for the Year 1904* (Washington, 1904), 152–53; Edward H. Spicer, *Cycles of Conquest: The Impact of Spain, Mexico, and the United States on Indians of the Southwest, 1533–1960* (Tucson, 1962), 255–59; and Stephen Cornell and Marta Cecilia Gil-Swedberg, "Sociohistorical Factors in Institutional Efficacy: Economic Development in Three American Indian Cases," *Economic Development and Cultural Change*, 43 (Jan. 1995), 239–68.

⁴⁷ *Report of the Governor of Arizona, Made to the Secretary of the Interior, for the Year 1902* (Washington, 1902), 40; *Annual Report of the Commissioner of Indian Affairs, to the Secretary of the Interior, for the Year 1906* (Washington, 1906), 191–92. On organized labor, see *Annual Report of the Commissioner of Indian Affairs, to the Secretary of the Interior, for the Year 1902* (Washington, 1902), 161; and True Anthony McGinnis, "The Influence of Organized Labor on the Making of the Arizona Constitution," (M.A. thesis, University of Arizona, 1930), 75–77. For an astute analysis of reservations and labor relations in Arizona, see Eric V. Meeks, "The Tohono O'odham, Wage Labor, and Resistant Adaption, 1900–1930," *Western Historical Quarterly*, 34 (Winter 2003), 468–89.

Douglas's view, agents of consolidation—a “politically unifying force” to overcome the crisis of “dangerous sectionalism.” They invested in “our factories as well as our political heritage,” allowing the United States to achieve its “proper rank.”⁴⁸

It was true that industrial development and political consolidation intersected, but elites such as William Dodge were not neutral arbiters of preordained processes. Rather, they organized themselves as old systems splintered, wielding particular influence with the empowered Republican party. As the Civil War transformed the balance of regional forces, Republicans advanced projects to reorganize political and economic space. They administered terrains that previously evaded central state authority and did so in ways that privileged capitalists. Phelps, Dodge, & Co.'s transregional expansion was contingent on this authority, and on the state's willingness to use violence to suppress opposition. At the same time, postwar land policies empowered industrialists to enclose land and materially undermine alternative political formations. Phelps, Dodge, & Co.'s expansion indeed made it more difficult for many different groups to procure life's necessities or maintain autonomy in the same ways as before.

These modes of extending corporate control over what had been public land rested on the expansion of U.S. central state authority. They also helped develop state capacities, including at the subnational level in Georgia. Yet these changing postbellum capacities cannot be grasped by a glance at only one or two strategies. Rather, the government's expanded power manifested in its versatility, in its willingness to use various means to achieve broad objectives. The central state privileged two objectives most of all: redefining property in potentially lucrative resources and policing the dispossessed. That it favored those particular objectives alerts us to a key dynamic of the central state in the post-Civil War era: it operated in a society increasingly organized around capitalism. Its versatility allowed it to act effectively across a layered institutional governmental system and diverse social worlds, whose relationships to the changing capitalist order were and remained uneven. This postbellum state would soon be reconfigured again through new waves of political struggle, with terms grounded in this period of transregional reconstructions.

⁴⁸ Douglas, “Trusts and Wealth,” 2; James Douglas, “Business and Wealth,” [ca. 1913], p. 14, folder 57, box 4, Douglas Collection; James Douglas, “The Industrial Progress of the United States of America,” *Journal of the Royal Society of Arts*, 60 (Nov. 1911), 35; James Douglas, “For the John Fritz Medal Meeting,” n.d., p. 8, folder 69, box 4, Douglas Collection.