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Indian lands, “Squatterism,” and slavery: Economic interests and the passage of the indian removal act of 1830 [☆]

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Abstract

In May 1830, the U.S. House of Representatives narrowly passed the Indian Removal Act that authorized the president of the United States to exchange land west of the Mississippi River for Indian land in the east and appropriated \$500,000 to assist tribes in the move west. Three days later the House also passed the Preemption Act of 1830, giving squatters a right of first refusal to purchase land they had occupied prior to its being opened for sale. In a recent paper, Kanazawa (1996) finds that the willingness of squatters to illegally occupy federal lands greatly raised the cost of enforcing property rights and this was a significant factor behind the passage of the first general Preemption Act in 1830. We build on his work to test the hypothesis that Congressmen who favored squatters' rights would also favor moving Indian tribes out of the old southwest. A logit analysis of the vote on the Removal Act of 1830 shows three sta-

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tistically significant variables. Democrats, representatives from slaveholding districts, and those who voted for preemption were more likely to vote for removal. Congressmen from slave states were very likely to favor both Acts, which stands in contrast to southern opposition to a homestead act in the late 1850s.

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In the last week of May 1830, the U.S. House of Representatives passed two important pieces of legislation that critically shaped the settlement of the West. On May 26, 1830 the House passed the Indian Removal Act, officially titled “An act to provide for an exchange of lands with Indians residing in any of the States or Territories, and their removal west of the Mississippi river.” The Act authorized the president to negotiate with tribes to trade their land in the east for land west of the Mississippi River and appropriated \$500,000 to help tribes move west. The vote in the House was a dramatic showdown between Andrew Jackson’s supporters, who favored removal, and Jackson’s opponents, who supported allowing southeastern tribes such as the Cherokee to remain in control of tribal land. The Act was important to Jackson and his opponents hoped to hand him a major defeat. After fierce debates first in the Senate and then the House, the Indian Removal Act narrowly passed in the House of Representatives by a vote of 102 to 97. (*Journal of the House of Representatives, 1830*, pp. 728–729). The Act passed the Senate earlier on a vote of 28 to 18 (*Journal of the Senate, 1830*, p. 382).¹ The Removal Act was followed by a series of events that led to the removal of most, but not all, members of these tribes from the southeast to Indian nations in Oklahoma.²

Three days later, on May 29, the Preemption Act³ passed by a vote of 100 to 58, after surviving a vote to send the Act back to committee. Recently Kanazawa (1996) argued that the actions of “squatters” shaped the political debate in the years from 1790 to 1830 so as to favor a cheap land policy. At first federal land was sold at auc-

¹ Much of the historical discussion about the Removal Act has focused on the motives of Andrew Jackson and his allies in the Democratic Party. Did they truly see removal as the most humane way to deal with Indians, or was this simply a cover to justify driving Indians from desirable land? (see Prucha, 1984, Chapter 7; Statz, 1991; and Wallace, 1993).

² The Cherokee went on to challenge the removal in the Supreme Court in two landmark cases, *Cherokee Nation v. Georgia* (1831), and *Worcester v. Georgia* (1832). Ultimately the majority of the tribe was forced to move west after the ratification of the fraudulent treaty of New Echota in 1835, signed by a faction that saw movement west as inevitable. In 1837, several thousand of Cherokee who resisted removal died of coldness and disease on the mishandled march to Oklahoma. Some members of the tribe resisted in the hills of North Carolina and were ultimately allowed to remain. The Seminoles in Florida also fought removal and some remained in the impenetrable swamps of Florida. Finally some members of the Choctaw Tribe remained in Mississippi.

³ This law granted illegal settlers on all federal public lands the first opportunity to purchase that land when it was opened for sale. These “squatters’ rights” had previously been recognized only where Congress passed special authorization. The Preemption Act of 1830 was temporary and was renewed each year until the passage of the General Preemption Act of 1840, which made preemption a permanent part of U.S. land law.

tion, which generated revenue for the federal treasury. The Preemption Act, changed the system to one where illegal settlers on the public domain (squatters) could buy land they occupied at the minimum price. Beginning in 1801 (Kanazawa, p. 12), special laws were passed from time to time to allow preemption in some areas. The Preemption Act of 1830 broadened this to allow preemption on all parts of the public domain. According to Kanazawa, squatters achieved this major change in land law not only by forming a powerful political interest group, but also by making it costly for the federal government to enforce its property rights to the public domain. Kanazawa analyzed the vote in the House of Representatives on the Preemption Act and found that congressmen who were from states with land available for preemption, Democrats, or from southern states were more likely to favor preemption. Kanazawa was puzzled by the strong support of the slave states for preemption, in light of the opposition of the South to cheap land policies in the late 1850s. We address this puzzle in what follows.

In our view, the Removal Act and the Preemption Act represent two sides of the same coin: the desire of settlers to acquire land cheaply and the desire to open more Indian land for settlement. The two acts also allowed for a *quid pro quo* between southerners who wanted strengthen the power of slaveholding states in Congress and western supporters of cheap land.

Settlers in the northwest stood to gain from Preemption Act, but few were likely to benefit directly from the Indian Removal Act since very few settlers from the northwest ever moved on to the land affected by the Act. Apart from loyalty to Jackson, what would make congressmen in that region support removal? We argue that one reason was that supporters of cheap land wanted to repay southern Congressmen for their support of the Preemption Act.

Similarly, land owners and slaveholders in the southeast stood to gain very little from the Preemption Act. The Removal Act, however, was important to the southeast since it would increase the population and influence of the slave states in Congress. But why did southeastern congressmen so strongly favor Preemption? We argue that support for the Preemption Act was part of a *quid pro quo* for western support on issues such as Indian Removal.

Congressmen from the old southwest had interests that overlapped those from the northwest and southeast. Settlers in the southwest stood to gain from the Preemption Act and both settlers and slaveholders would benefit from the Removal Act, since it opened more land for development in their states and would increase the influence of their state—and all slave states—in Congress.

There are two versions of our hypothesis. A narrow version is that there was a *quid pro quo* specifically on these two bills—logrolling. This would mean that congressmen in favor of preemption and those who favored removal exchanged votes so as to get their favored bills passed. The more general hypothesis emphasizes the political power of settlers in the west but also in states like Georgia, which contained vast “internal” frontiers comprised of Indian territorial claims.

The fact that these two Acts were passed in the same week provides a “natural experiment” to test the hypothesis that congressmen who supported Indian removal (Democrats and southern slaveholders) formed an alliance with congressmen who

avored squatters' rights. The two groups were not identical and a vote for cheap land did not imply that a congressman would necessarily vote for Indian removal—many other factors influenced how congressmen voted. Our hypothesis is that support for preemption increased the likelihood of a vote for removal as part of *quid pro quo* between those who favored western expansion north of the Ohio River and those who favored the opening of new lands for cotton in the South.

1. Cheap land and the Indian removal act

There were repeated disagreements about cheap land policies throughout the 19th century. In the 1830s eastern manufacturers' opposed selling land at low prices, since they feared laborers would move west, thereby reducing the supply of labor and raising wages.⁴ Land owners in the northeast would suffer losses if the increased supply of land in the west pushed down the value of other their land. Selling land at low was also opposed by some who favored federal funding of internal improvements, (Henry Clay's "American System") since proceeds from land sales was an important part of federal revenue (Watson, 1990, p. 113). Congressmen who favored Clay's system became part of the new Whig Party later in the 1830s.

On the other side were westerners who stood to gain if the population of their region increased—either because of increased rents or for increased political influence in Congress—and settlers who hoped to acquire land cheaply. While the debates were made in terms of idealistic principles, Bateman, Atack, and Parker conclude that "Such idealism aside, the debate over the transfer of public land into private hands was dominated by self-interested rent-seekers." (Atack, Bateman, and Parker, 2000, p. 288)

Removing Indians from the South did not directly affect very many people in the northeast or northwest—most migrants into the southwest came from elsewhere in the South. (Steckel, 1983) Leading opponents of the Indian Removal Act were Anti-Jackson senators from the northeast whose constituents stood to gain very little from opening land in the southwest. Northeasterners were often opposed to cheap land policies as well. Many of these Senators later became leaders of the Whig Party.

The economic interests of eastern slaveholders were complex. On the one hand, opening more cotton land in the west would increase the marginal product of a slave's labor by increasing the land-labor ratio. On the other hand, the expansion into new land would lead to increased production and a lower price of cotton. Passell and Schmundt (1971) find that the net economic effect on the value of slaves was negative—the lower price of cotton outweighed the higher marginal product of slave labor. Adding in other factors, they conclude that the impact on slave prices of opening more land in the west was small. Contemporaries were well aware that expansion into the southwest might harm the southeast. According to Miller planters in the Southeast were concerned about the migration to the Southwest because "The Southeast

⁴ Passell and Wright (1972) however, find that a combination of cheap land, high tariffs, and immigration would favor manufacturing growth.

was not just losing its people, it was gaining a new competitor.” (Miller, 2002, p. 31) Slaveholders in both the southwest and southeast, however, had a common interest in protecting slavery as an institution from legislative challenges. (Wright, 1978, pp. 143–145) Opening new land in the old southwest would encourage migration west and increase the power of slave states in Congress. Miller finds that after the Missouri compromise “. . . northern opposition to the expansion of slavery strengthened slaveholder’ belief in the political the necessity of the westward movement as a prerequisite of preserving slaveholding power. . .” (Miller, 2002, p. 31) Cooper and Terrill conclude that Jackson’s success in the 1830s at moving Indians from the South tempered southern criticism of Jackson for his strong stand against South Carolina in the Nullification Crisis of 1832–1833. (Cooper and Terrill, 1996, p. 158)

2. The role of squatters

Indian Removal and Preemption shared another thorny issue: the problem of enforcement. Illegal settlers—squatters—moved on to both federal and Indian land. These people were often relatively poor, but influential on the frontier. Looking at the history of land policy within the historical tradition inspired by Turner, Robbins (1942) wrote:

The fact is that much of the history of the national land system centers around *the struggle between squatterism and speculation, between the poor man and the man of wealth*. Ever since the early colonial days *the danger of frontier revolt had menaced established society*. The opening of vacant lands to the westward always stimulated *a frontier spirit—a peculiar democratic levelling influence, likely to be arrogant, dangerous, and even uncontrollable*. The frontiersman wanted free access to the soil, but the forces of established order, on the other hand, contended that free land would destroy the economic and political values upon which the government was founded. (Robbins, 1942, p. 9) (Emphasis added)

Squatters created many problems for federal authorities. At times, military force was used to evict squatters from federal lands. These efforts were unpopular on the frontier and often ineffective. When land was eventually offered for sale at auction, residents would form “claims clubs” to try to ensure that squatters could buy the land on which they had already settled. Armed groups at the auctions would sometimes try to intimidate buyers from the east from making bids on land for sale. Over time the rights of squatters came to be recognized by special legislation (Kanazawa, p. 231). The success of squatters in gaining legal recognition of their occupation of federal land encouraged others to settle in other parts of the public domain not yet open for sale.

According to Kanazawa:

The ascendancy of preemption may be understood as a process whereby squatter rights were legitimized and integrated into federal land disposal policies. Early congresses made every effort to suppress squatters’ rights, even passing

a law in 1807 calling for the use of military force to remove squatters from public lands. Over time, however, Congress took an increasingly lenient stance toward squatters, granting preemption rights selectively in individual cases before passing the first general preemption law in 1830. Squatting activity probably influenced this policy evolution in two distinct ways. First, squatters exerted political pressure on Congress for preemption through numerous memorials and petitions, and through western congressmen who represented their interests in Congress. The story is, however, more than simply the emergence of a new interest group with effective political power. Squatters also disrupted the operation of the local land auctions, thus reducing auction revenues and making adoption of preemption less unacceptable to its (mostly eastern) opponents in Congress. They thus altered the terms of the political debate in their favor, enabling them to gain valuable policy concessions. (Kanazawa, 1996, p. 228)

In stressing the power of squatters, Kanazawa agrees with earlier historians such as Robbins. Kanazawa tested his model by looking at the vote on the Preemption Act of 1830. Our model builds on his work by analyzing the vote on the Removal Act.

Settlers showed a similar willingness to occupy Indian land as they did to occupy federal land they did not own.⁵ Like squatters on federal land, it was clear that it would take force to remove settlers from Indian land in the 1830s. This was especially true in Georgia.

3. The Cherokee tribe and the state of Georgia

Although several southern states, the federal government, and five Indian tribes (the so-called “Five Civilized Tribes”) were involved in the removal of Indians from the South, the battle over removal was most intense in Georgia. There the struggle was between the Cherokee Nation and the State of Georgia. At independence, the territory of Georgia, based on its colonial charter, stretched from the Atlantic Ocean to the Mississippi River and included much of what was to become the states of Alabama and Mississippi. White settlement, however, was pinned up against the border with South Carolina (the Savannah River) and the coast, with all remaining territory in the hands of Indian tribes. In 1802, Georgia became the last of the original 13 states to cede its western territories to the federal government. Under the terms of the agreement with the State of Georgia, the federal government promised to move Indians out of Georgia as soon as it could reach an agreement with the tribes. As

⁵ A literary example may serve to humanize a process that may seem simply driven by greed. The Ingalls family in the autobiographical *Little House on the Prairie* was one such squatter family. In the second book in the series, the Ingalls’ move from Wisconsin to Indian land in Kansas. Events in the novel are in the late 1860s but the issues are similar. The Ingalls’ do not see themselves as interlopers, do not have ill will towards the Indians and are outraged that the army forces them to leave. They were decent people who believed that they had a right to establish a farm on undeveloped land and who did not believe they are doing harm to anyone (Wilder, 1953, first published 1935).

interpreted by Georgia politicians, this agreement required the federal government to move all Indians out of Georgia, the sooner the better.

Why did not Georgia citizens simply buy land from Indians? The answer is that they could not. Under United States law, which is largely derived from English law, land could not be purchased by private parties directly from Indian tribes. According to Juricek:

Since Indians did not “own” the land in a sense recognized by English law, no Englishman – not even the king – could “buy it from them. An Indian land cession was therefore not a legal conveyance but a surrender of an inconvenient competing title to the king or his representative. Indian rights were not transferred to the English but eliminated – hence the later expression, “extinguishment of Indian title.” Once Indian rights to a tract had been given up, legal titles to the same land based on royal grants could take place. (Juricek, 1989, p. xxiv).

Some Indians had farms or, in a few cases, plantations with slaves, but they could not sell their land or improvements to anyone who was not a member of the tribe. There were white men living on tribal land but their right to land was far from secure. A white man married to a member of a tribe could hold land in his wife’s name under tribal rules, but otherwise he would be a trespasser.⁶

After 1802, residents of Georgia waited impatiently for the opening of more Indian land for the expanding cotton economy. Indian land in Georgia ceded to the state after 1805 was distributed via a unique land lottery.⁷ Male citizens of Georgia over 21 who had not won in the previous three years could participate in the lottery. Veterans and heads of households, including widows and orphans, got extra chances. Land fees were just enough to pay the state for the costs of the lottery. The outcome was determined in a double blind lottery and the names of winners were posted in local newspapers. “Fortunate drawers” usually had the right to claim 202 1/2 acres within the newly opened area.⁸ Winners had one year to claim land, but that time was often extended. Land won through the lottery was often sold in a secondary

⁶ As a part of the removal treaties, some Indians were “allotted” title to their land. In these cases, the land was given up by the tribe and then title was granted by the state or federal government. The allotment of land to those with well-developed farms was a way to gain cooperation by tribal leaders. Typically these allotments were quickly sold to non-Indians (Young, 1961).

⁷ This developed after the notorious Yazoo Land case. In 1790, the Georgia legislature sold land along the Yazoo River in what was to become the state of Mississippi to a private land company for a fraction of its value, in return for outrageous bribes in the form of stock in the company. The next year, the people of Georgia elected a new group of legislators who tried to revoke the contract, but the Supreme Court ruled in 1795 that the contract was binding. Distrust of the legislature contributed to Georgia’s unique way of disposing of public lands.

⁸ Not all plots were of the same size. In early allotments, there were cases of 490-acre plots in 1805 and 1820 and 250-acre plots in some counties in 1820. In 1832, there were two lotteries for Cherokee lands, a regular lottery and a special “Gold Lottery” for 40-acre plots in gold country. In 1832, there was a special lottery of 40-acre parcels in gold country in addition to a regular lottery. Fragments were auctioned off at the state capital. See the Georgia secretary of State web site, <http://www.sos.state.ga.us/archives/rs/lotteries.htm#intro> accessed April 6, 2003.

market, allowing large planters to acquire the best cotton lands quickly (Weiman, 1991, pp. 841–842).

There were two major Indian tribes in Georgia: the Creeks and the Cherokee. The Creeks were a loose confederacy of towns and often split over how to deal with the Americans. The Creeks allied themselves with the British during the War of 1812 and suffered a disastrous defeat at battle of Horseshoe Bend in 1814 at the hands of troops led by Andrew Jackson. Under the terms of the Treaty of Fort Jackson, the Creeks ceded large amounts of land in Alabama and Georgia to the U.S. (Cooper and Terrill, pp. 132–133) Over time more land was obtained from the Creeks and some members of the tribe moved to Oklahoma. The question of whether to stay or leave badly divided the Creeks. Indeed, Chief William McIntosh, who signed the Treaty of Indian Springs in 1824 in which the Creeks ceded their remaining lands in Georgia, was killed on order of the Tribal council for acting without their authorization. After 1820, agitation for moving more Indians out of the South became less intense in Alabama and Mississippi, but remained high in Georgia (Schoenleber, 1986, pp. 390–401).

By the late 1820s Georgia's plans for further expansion were blocked by the Cherokee Nation, which controlled territory in northwestern Georgia, North Carolina, Tennessee, and Alabama. President John Quincy Adams, who narrowly defeated Andrew Jackson (who had a plurality of the vote) in the election of 1824, was sympathetic to Georgia's efforts to open Indian land to white settlement, but he was reluctant to force Indian tribes to leave without their consent. The Cherokee leadership opposed removal and refused to cede further tribal land.

The tribe was split over how to deal with the aggressive Georgians. During the 1820s, some members of the tribe decided that leaving Georgia was inevitable and voluntarily moved to land in what would become the state of Oklahoma. The majority of the Cherokee nation led by Principle Chief John Ross, however, was unwilling to cede lands in Georgia or leave. Some religious groups in the northeast took up the cause of the Cherokee and offered political and legal support.⁹

In 1827, the Cherokees deliberately challenged the State of Georgia by adopting a constitution very similar to Georgia's that included a definition of boundary of the territory governed by its laws. This outraged the Georgia legislature, which passed a law stating that Georgia law was supreme on Cherokee lands and that it had the right to use force if necessary to enforce its actions, but it did not do so at that time. An added complication was the discovery of gold in Cherokee lands in the 1828 which led to an influx of prospectors onto Cherokee lands. Jackson knew that if the Indian Removal Act passed, Georgia would see it as a signal that it had the federal government's backing to pressure the Cherokee to leave. In December 1830, Georgia passed a law that made it illegal for the Cherokee government to meet or act, required whites in Cherokee territory to take an oath of allegiance to the State of Georgia, and created a Georgia Guard to enforce its laws in Cherokee Territory (Perdue and Green, 1995, p. 62).

⁹ Thanks to the aid of their allies, when the Cherokee Nation sued the State of Georgia the Cherokees were represented in the Supreme Court by William Wirt, a former Attorney General of the U.S. in the Monroe and Adams administrations.

4. Sectionalism and the “Second Party System”

The 21st Congress, elected at the same time as Jackson, was fractious and divided and these splits ultimately lead to the creation of a second political party, the Whigs. (Weingast, 1998, p. 148) Conflicting sectional interests also divided congressmen. Indeed an attempt by Senator Robert Hayne of South Carolina to gather western support for southern interests was the catalyst for a famous debate between Hayne and Daniel Webster of Massachusetts about the relationship of states to the federal government. The debate occurred in January 1830 just prior the Senate debate about the Removal Act. It began when Senator Thomas Hart Benton attacked a bill by Senator Foote of Connecticut to limit settlement on public lands.

Benton argued that a restrictive land policy, like the tariff, was an attempt to protect the interests of northern manufacturers at the expense of other regions. According to Benton “The manufactories want poor people to do the work for small wages; these poor people wish to go to the west and get land . . . How to prevent it – how to keep them from straying off in this manner – is the question.” One way to do this was the tariff, “A most complex scheme of injustice, which taxes the South to injure the West, to pauperize the poor of the North!” Even worse in Benton’s view would be restrictions on settlement in the west (*Register of Debates*, 1830, p. 24).

Following Benton’s speech “Senator Hayne jumped in to support Benton. Hayne saw in the public lands issue an attempt to strengthen the alliance between the South and West.” (Tindall and Shi, 1993, p. 256) In his speech, Hayne argued that both the South and West had been harmed by the North. He objected to:

. . .the grievous oppression of a system [the tariff]by which the wealth of a country is drained off to be expended elsewhere. . . the Federal Government, which subjects us to a taxation [the tariff] which it requires the utmost efforts of our industry to meet. . . Such, sir, though probably to a less degree, must have been the effects of a kindred policy[restricting settlement on public lands] on the fortunes of the West. (*Register of Debates*, 1830, p. 33)

Daniel Webster denied the claim and replied “. . . what is there in the history of recent measure of Government that exposes New England to this accusation of hostility to Western interests? . . . Let me see, sir, any one measure favorable to the West which has been opposed by New England, since the Government bestowed its attention to these Western improvements.” (*Register of Debates*, 1830, p. 33)

The subject of the debate then shifted in subject and Webster and Hayne went on to debate the legal basis of federal–state relations, but Senators were clearly aware of the potential for logrolling in building sectional coalitions.

5. The debate over the indian removal act of 1830

Andrew Jackson made Indian removal a central part of his First Annual Message to Congress in December 1829. In his speech, Jackson argued that neither Georgia nor any other state could tolerate an independent government to be set up inside its

borders. He also called for “preserving this much-injured race . . . [by] setting apart an ample district west of the Mississippi . . . to be guaranteed to Indian tribes as long as they shall occupy it . . .” The move west should be voluntary, but “if they remained within the limits of the states they must be subject to its laws. . .” Jackson also said it would be “visionary to suppose that . . . claims can be allowed on tracts of the country on which they have neither dwelt or made improvements, merely because they have seen them from the mountain or passed them in the chase.” (reprinted in Prucha, 1990a,b, p. 48) If the act passed, Jackson expected the Cherokee and other tribes to accept the inevitable and move west or for individuals to leave the tribe and remain under state jurisdiction.

Andrew Jackson’s biographer, Charles Remini, sees the opposition to Indian removal as a serious attempt to both challenge Jackson and protect Indians from unfair treatment. Francis Prucha, the leading historian of Indian policy, acknowledges that the vote attracted widespread attention, but concludes that the opposition to Indian removal was largely the result of agitation by Jeremiah Evarts, a prominent reformer and clergyman who aroused support for the Cherokee cause in the Northeast (Prucha, 1984, pp. 201–207). Regardless of Evarts role, however, the Removal Act was important to Jackson and the vote was widely followed throughout the country.

The removal bill came to a vote in the Senate in April of 1830. Remini describes the debate over the Removal Act in the Senate as a “verbal brawl.” (2001, p. 268) The key vote, however, was in the House of Representatives, which had more members and more factions and parties. According to Remini,

The opposition never really expected to kill the measure in the Senate where the Democrats outnumbered and outmaneuvered them. What they hoped to do in the upper house was arouse public sympathy for the plight of the Indian and the terrible wrong removal involved. But in the House, the National Republicans looked for a triumph. The Democrats in the House were not as well disciplined as those in the Senate, and many of them feared reprisals from certain religious groups like the Quakers if they voted for the bill. Removal might *remove* them from office (Remini, 1981, p. 261) (emphasis in original).

The opposition to the Removal Act was lead by Charles Frelinghuysen of New Jersey, a leader of the anti-Jackson National Republicans. Frelinghuysen argued that federal government was obliged to protect Indian rights against the claims of all, including the states (Remini, 1981, p. 261). As part of a long speech he also asked:

. . .how can we ever dispute the sovereign right of the Cherokees to remain east of the Mississippi, when it is in relation to that very location that we promised our patronage, aid, and good neighborhood? Sir, is this high-handed encroachment of Georgia to be the commentary on the pledge given. . .” (Reprinted in Prucha, 1990a,b, p. 51)

He also rejected the idea that farmers had a superior claim to land than hunters. “If I use it for hunting, may another take it away because he needs it for agriculture?”(Prucha, 1990a,b, p. 49) Others in Congress seconded Frelinghuysen’s argu-

ments, emphasizing the promises made to Indian tribes. Some also were concerned about the potential cost of moving Indians west, suggesting it might run to millions of dollars.

Defenders of Indian removal replied that it indeed was a humanitarian gesture. For example, Wilson Lumpkin of Georgia described it as “their only hope of salvation.” . . . He also assured the Senate that “No man entertains kinder feelings toward the Indians than Andrew Jackson.” (Quoted in [Remini, 1981, p. 260](#))

The proponents of Indian removal also made less altruistic arguments. On April 15th, John Forsyth of Georgia denounced Frelinghuysen’s speech by saying:

The Indians in New York, New England, Virginia, etc. are to be left to the tender mercies of those States, while the arm of the General Government is to be extended to protect the Choctaws, Chickasaws, Creeks and especially the Cherokees from the anticipated oppressions of Mississippi, Alabama, and Georgia. . . . He [Frelinghuysen], no doubt hopes . . . the Indian cause will be crowned with success; that he will . . . persuade the Senate, and his friends in the House . . . to interfere and . . . compel the President to take new views of the relative power of the State and the General Governments, and that under these new views of the physical force of the country will be used, if necessary, to arrest the progress of Georgia. (*Registrar of Debates, 1830, p. 325*)

In appealing to state’s rights, Forsyth was alluding to issues Senator Hayne had covered earlier in his debate with Webster. There were other constitutional issues as well. The Cherokee were claiming sovereignty within the boundaries of the state of Georgia. Robert Adams of Mississippi, however, “insisted that everyone living within the boundaries of a particular state is subject to the laws of that state. Otherwise chaos reigns. Or has a new set of rights been discovered? In addition to federal and state rights we will now have ‘Indian rights.’ What folly!” (Quoted in [Remini, 1981, p. 260](#))

Opponents of removal were aware that Georgia and other states were ready to pressure Indians to leave with or without their consent. For example, on May 15th, Representative W. L. Storrs of Connecticut stated that:

“...if he believed that the real object . . . of the bill was to further the policy of providing a country beyond the Mississippi for such Indian tribes as might be inclined of their own free choice, to remove there, he would have cheerfully given his support for the measure. [But] The papers before the House have convinced me that it is chiefly expected to come to the aid of the measures recently taken by the states along the southern line of the Union, for removing the Indian nations within their limits from the country they now occupy. . . . finding a purpose so unjust . . . lurking under it [the Indian Removal Act], I cannot give it my countenance or support. (*Registrar of Debates, 1830, p. 994*)

Senator Benton claimed to see another motive. According to Benton, the Indians would have already voluntarily left Georgia if they had not been encouraged to stay. According to Benton, opponents of removal were looking for an excuse to use troops

to assert federal rights over states rights. He concluded that “. . . if the Indians can be prevented from leaving Georgia, a case can be got into the Supreme Court, the decision pronounced which is anticipated, and an armed force sent to execute it.” (*Register of Debates 1830*, p. 451) Benton’s reaction was extreme and Senator Sprague of Maine, an opponent of Indian removal, immediately discounted Senator Benton’s concerns, but clearly Senators were well aware that there were many implications of the Removal Act for federal state relations.

6. Econometric analysis of the vote

Kanazawa tested his model by looking at the vote in the House on the Preemption Act of 1830. Our model builds on his work by using similar variables to analyze the vote on the Removal Act in the same week. The roll call vote in the House allows us to test hypotheses about who supported and opposed the Indian Removal Act. The hypothesis tested in what follows is that congressmen who favored removal of Indians from the southeast found it easy to make an alliance with those who favored a cheap land policy and they did so. The vote on the passage of the Indian Removal Act of 1830 is recorded in the *Journal of the House, 21st Congress, first session* (1830). The Act passed the House by a vote of 102 to 97. In order to test which factors that may have influenced a Congressman’s vote, we use a logit regression to estimate the effect of economic and political characteristics of the congressman’s district and party affiliation on his vote. We assume that each congressman had a continuous range of attitudes towards Indian removal that is measured by the economic characteristics of his district, his party, and an error term that accounts for individual beliefs and omitted factors. In later regressions, we add a variable that uses his vote on the Preemption Act to measure his attitudes toward cheap land policies. Following the standard model, we assume that these preferences are continuous with a normally distributed error term.

The dependent variable is the vote on the removal Act, VOTE. In our model, if a congressman had a strong enough preference for opening Indian land to settlement, he voted yes. If his preferences did not reach the threshold level he, voted no. A yes vote = 1 and a no vote = 0.

Thus $VOTE = 1$ if $\beta_0 + \beta_i X_i + \varepsilon_i > 0$,

And $VOTE = 0$ if $\beta_0 + \beta_i X_i + \varepsilon_i < 0$, where X_i is a vector of the independent variables representing the characteristics of the district or the congressman himself, β_i is a vector of coefficients, β_0 is the intercept, and ε_i is a normally distributed error term. We include the following independent variables.

PARTY is a dummy variable that equals one if a congressman was a Democrat and zero if not. Jackson and the Democratic Party strongly favored removal. The main rival of the Jacksonian Democrats was the National Republican Party, but there were other factions in Congress. Party affiliation is taken from [Parsons \(1978\)](#). The coefficient of PARTY is predicted to be positive.

The economic and political influence of slaveholders’ are measured by the variable SLAVE. SLAVE is defined as the percentage of slaves in the total population of a

congressional district. All of the land covered by the Indian Removal Act was open to slavery and slaveholders stood to gain from the increased representation in Congress. The congressional districts in the 21st Congress were based on the Census of 1820 and all data on districts is based on that Census. Data are taken from [Martis \(1982\)](#). The coefficient of SLAVE is predicted to be positive.¹⁰

In order to account for general agriculture interests, the variable FARM was created. FARM is defined as the number of persons employed in agriculture as a percentage of total population in each district. The effect of this variable is uncertain, since farmers stood to gain from opening more land if they or their children planned to move west, while the opening of more land could also reduce the value of existing farm land in the east.

The dummy variable WEST tests whether there is a general western interest in removal. WEST equals 1 if the congressman was from a state west of the Proclamation Line of 1763, and 0 otherwise. States east of this line contained no public lands and people living there probably had less to gain from removal than westerners. The coefficient of WEST is predicted to be positive.

Most importantly for this study, the variable PREEMP was created. PREEMP equals 1 if a congressman voted in favor of the 1830 Preemption Act and 0 if he against or did not vote. Including PREEMP allows us to capture the attitudes of congressmen towards cheap land policies and a possible quid pro quo with the South. The sign of PREEMP is predicted to be positive.

The vote on Removal was hotly contested and most Congressmen voted. In all, 199 congressmen voted on the Indian Removal Act of 1830. Three days later 158 congressmen voted on the Preemption Act of 1830, which passed comfortably 100 to 58. Out of the 158 congressmen who voted on the Preemption Act, 157 had also voted on the Indian Removal Act three days earlier.

There are two econometric issues to consider regarding the inclusion of the variable PREEMP in the estimates. We treat the vote on the Preemption Act as exogenous. It is possible, however, that the decisions on the two bills were made simultaneously. Econometrically this would mean that the independent variable PREEMP would be correlated with the error term in the regressions. We tested whether there is a correlation using a test proposed by [Rivers and Viroung \(1988\)](#) as discussed in [Wooldridge \(2002\)](#). We cannot reject the null hypothesis that there is no correlation and we treat the preemption vote as an exogenous variable in the estimates that follow.¹¹ The fact that our statistical test rejects the hypothesis that the two votes were independent is consistent with the strong form of our hypothesis as discussed earlier.

¹⁰ Most districts with slaves were in the southern US, although slavery was had not yet totally eliminated from New York and some other northern states as of the census of 1820, which serves as the source of data in these estimations. As an alternative, we replace the variable SLAVE with a dummy for SOUTH in the appendix. The results are similar.

¹¹ Wooldridge suggests this approach when the evidence for simultaneity is weak, since there is no valid two stage way to estimate the equation and the full MLE is difficult to compute.

A second econometric issue concerns the fact that roughly 20% fewer Congressmen voted on preemption than on removal. This might simply have reflected the fact the vote on preemption was not close and that some Congressmen simply did not show up. But there could have been some sort of strategic behavior that led some Congressmen not to show up for the vote. We test for selection bias using the Heckman two-stage procedure. We cannot reject the hypothesis that there is no selection bias and we use the estimates from the equation without the mills ratio variable in what follows. (Wooldridge, p. 564) We also estimate the relationship with a reduced sample that only includes those who voted on both Acts, Eq. (5) in what follows, and get similar results.

In Table 1, Eq. (1) shows the result of a logit regression to estimate the probability that a congressman would vote in favor of removal using the entire sample and four independent variables. The coefficients on PARTY and SLAVE have the predicted signs and are statistically different than zero at the 1% level. The other two variables, WEST and FARMER have positive coefficients, but are not statistically significant.

Equation (2) adds the variable PREEMP. PREEMP is defined as one if a Congressman also voted for Preemption Act three days later and zero if he voted against it or did not vote. The coefficients on Slave and PARTY remain positive and signif-

Table 1
Logit regression results for the vote on the removal act of 1830, using the proportion of slaves as an independent variable

Variable	Eq. (1)	Eq. (2)	Eq. (3)	Eq. (4) ^a	Eq. (5)
_cons	-2.496 *** (-0.60)	-3.038 (0.64)	-2.653 *** (0.427)	-3.607 *** (.792)	-2.628 *** (0.486)
Party	2.317 *** (0.40)	2.40 *** (0.41)	2.343 *** (0.41)	2.401 *** (0.41)	2.247 *** (0.44)
Slave	5.225 *** (1.37)	4.81 *** (1.42)	5.362 *** (1.214)	5.660 *** (1.26)	4.554 *** (1.32)
Farmer	1.999 (2.65)	2.30 (2.66)			
West	.0349 (0.43)	-0.427 (0.46)			
Preemption		1.124 *** (0.40)	1.124 *** (.374)	1.270 *** (0.44)	1.238 *** (0.44)
Inverse Mills ratio				2.240 (1.52)	
Number of obs =	199	199	199	199	157
Log likelihood =	-94.833	-89.755	-90.459	-89.289	-71.80
Pseudo R2 =	0.312	0.349	0.344	0.3524	0.338

Standard error in parenthesis.

*Significant at .01.

***Significant at .10.

Definitions of variables—see text.

VOTE: 1 if vote for Removal Act, 0 otherwise.

PARTY: 1 if Democrat, 0 otherwise.

SLAVE: Number of slaves divided by total population.

FARMER: Number of farmers divided by total population.

WEST: 1 if the district was located west of the Proclamation Line of 1763.

PREEMP: 1 if a congressman voted in favor of 1830.

Preemption Act; 0 otherwise.

Sources. Parsons et al., *United States Congressional Districts*; Martis, *The Historical Atlas of the United States Congressional Districts*; Census of 1820; *Journal of the House*, 21st Congress, first session.

^a Equation (4) uses an estimate of the Mills ratio taken from an estimate produced by the Heckman correction technique in STATA 8.0 using a linear probability model. Using the Mills ratio as an independent variable produces estimates in which the standard errors of care biased downward, but the estimates of the coefficients themselves are unbiased. The test of selection bias in the linear probability model was also insignificant. Since there is weak evidence of selection bias, we use the estimates without the mills ratio.

Table 2

Estimated probability of a Yes vote on the Removal Act of 1830

		Democrat		Non-Democrat	
		Preemp = no	Preemp = yes	Preemp = no	Preemp = yes
Slave/capita	Slaves = zero	0.423	0.693	0.066	0.178
	Mean for South	0.803	0.926	0.281	0.547
	Maximum	0.983	0.995	0.851	0.946

This is based on the results in Table 1, Eq. (3). See text for a discussion.

icant and the variable PREEMP is positive and significant at the 1% level. FARMER and WEST remain positive but not significantly different than zero.

Equation (3) shows the results of a logit regression using only the three statistically significant variables SLAVE, PARTY, and PREEMP. Again, all three are significantly different from zero and have the expected signs.

Equation (4) shows the results of estimating the same equation using the Heckman two-stage sample selection model. The inverse of the Mills ratio is included as an independent variable to test whether there is sample selection bias. The null hypothesis that the inverse of the Mills Ratio is zero cannot be rejected. The same independent variables are statistically significant. Since there is no evidence of sample selection bias, in what follows we use the results from the entire sample.

Equation (5) show the results using only the 157 congressmen who voted on both Acts and the three significant variables from the earlier regressions. Again, the coefficients on SLAVE, PARTY, and PREEMP have the expected sign and are significant.

Table 2 gives our estimate of the probability of a Congressman voting yes on the removal Act using the estimate in Eq. (3).¹² Two of the variables are dichotomous (zero or one). A congressman was either a Democrat or not and a congressmen either voted for the General Preemption Act or voted no (or did not vote, which is counted as a no). The value of SLAVE, however, takes on different values for each district (or for the state, for states which elected their congressmen at large). Thus, we report the values for three levels of the variable SLAVE. These are zero (the minimum value of this variable and the modal value for congressmen outside the South), .32 (the mean value for southern congressmen), and .82 (the maximum value for any congressmen).

A set of 12 probabilities is calculated and reported in table 2.¹³ These can be interpreted as follows. A Democratic congressman from a district with no slaves is estimated to have a .42 probability of voting for removal if he voted against preemption. If he voted for preemption, the probability rises to .69. The probability that a National Republican from a district with no slaves who voted against preemption would vote for removal was only .07. This increased to .18 if he voted for preemption.

¹² We get similar results if we use Eq. (5) from Table 1.

¹³ As an alternative, we also estimated the same equations using a dummy variable for southern rather than the percentage of slaves in a district. The results are roughly similar to what we get using the mean number of slaves.

The results are very different for districts with slaves. A southern Democrat from a district with the mean ratio of slaves to total population for all southern states has an estimated probability of .80 of voting for removal if he voted against preemption, but a .93 probability of voting for removal if he voted for preemption. A National Republican from a district with the mean number of slaves had an estimated probability of .28 of voting for removal if he opposed preemption, but a .55 probability of voting for removal if he had voted for preemption.

Finally, for a district with the maximum proportion of slaves, the estimated probability of voting for removal ranged from .85 to .95 for non-Democrats and from .98 to .995 for Democrats.

Is this a large number? The effect of a vote for preemption increased the chance of a typical congressman voting for removal by 10–25%. This is roughly a third the size of the effect of party on voting behavior. If PREEMP is set to zero in our estimates, the Indian Removal Act would not pass.

The way individual Congressmen voted reveals interesting detail behind these statistical results. Our argument is that all slaveholders would have a reason for favoring removal and preemption, even if there was no Indian or federal land in the state. In South Carolina, the state with the highest proportion of slaves to total population, and no federal land or Indian tribal land, all nine representatives voted in favor of removal and six voted in favor of preemption, with only one representative voting no on Preemption and two not voting. All seven of Georgia's representatives voted for both Acts, even though there was no public land in Georgia. In Tennessee, a western slave state, eight representatives voted for removal and one, David Crockett (who is best known for his later role in the Texas war for independence against Mexico), voted against the Indian Removal Act. All nine favored preemption. In Ohio, only two Congressmen voted for the Indian Removal Act and both were Democrats who also favored preemption. In Virginia, 14 of 25 Congressmen voted for Indian Removal and nine in favor of preemption, all of whom also supported removal. Only two of 46 northeastern National Democratic (anti-Jackson) Congressmen voted for the Indian Removal Act. Both were among the 14 from their party and region who also voted for preemption.¹⁴

In the Senate, Daniel Webster, the opponent of Jackson and critic of slavery voted against both Preemption and Removal. Senator Hayne voted for both bills as did Senator Benton, a leading Jackson supporter. Senator Frelinghuysen, the leader of the opposition to removal, also voted against Preemption.

7. Slavery and cheap land

A puzzle for Kanazawa was “. . . how and why southern support for cheap land eroded over time” (p. 248) In the 1830s, southern and western Democrats were

¹⁴ Of the 44 northeast National Democrats who voted against removal, 19 voted against both, 12 voted against removal and for preemption, 13 voted against removal but did not vote on preemption.

strongly in favor of liberal land policies. This strategy appears to have been abandoned in the 1850s when free land movement merged with anti-slavery movement. This shift did not occur all at once. According to Fogel,

“... the barriers to integrating the free land and anti-slavery (free soil) movements was revealed in the vote in March 1854 on the Homestead Act, which passed the house by 107 to 72. About 30% of the affirmative votes came from slave states, while more than a third of the opposition came from New England, New York and Pennsylvania. . .

Nevertheless, the Kansas-Nebraska Act marked a turning point in the struggle to make economic issues central to the anti-slavery appeal. The bill was a turning point partly because of the outspoken way **some southern Democrats linked the change in their position on a homestead bill to the struggle to shore up the pro-slavery vote in Congress**. . . It was a turning point also because it drew into direct conflict with the Slave Power northern working class leaders who had previously remained aloof from the anti-slavery movement. (Fogel, 1989, pp. 349–350) *Emphasis added.*

A detailed look at the vote shows that southern support for the Homestead Act of 1854 was concentrated in the old southwest. A majority of congressmen from western slave states, 31 of 40, voted for the Homestead Act, but only two congressmen from the southeast (the original slave states) voted affirmative. (*Journal of the House*, 33rd Congress, first session, pp. 458–459) This is in marked contrast to 1830, when 32 out of 50 southeastern Congressmen voted for Preemption. (*Journal of the House*, 21st Congress, first session, pp. 728–729) By 1854, southeastern congressmen appear to have decided that it was no longer in their interest to support cheap land policies—perhaps because they did not expect enough in return from western congressmen. This is consistent with our results, since by the 1850s the southeast no longer needed western support to remove Indian tribes.

By the end of the decade supporters of a Homestead Act saw “Slave Power” as the main opposition to liberal land policies. (Fogel, 1989, p. 351) Southerners in turn saw a Homestead Act as strengthening the power of the anti-slavery movement in Congress. The Homestead Act of 1860 was passed by both houses with strong support from northern and western congressmen. Only one slave state congressman voted for the bill, however, which was vetoed by President Buchanan (Ransom, 2001).

8. Conclusion

Why did the Indian Removal Act pass? We find that slaveholders, Democrats, and advocates of cheap land were all more likely to support removal. Congressmen from the north and west who favored legalizing squatters’ rights were more likely to support removing Indians from the old southwest. This was true even though all of the land was in the southwest and few of the potential settlers who would move into that region were from outside the South. Southeastern congressmen returned the favor by voting for the Preemption Act.

The motives of southern congressmen were very much tied to the expansion of slavery. Moving the Cherokee and other tribes west opened large areas in slave states to settlement. This would further encourage the growth in southwestern states and increase the influence of the slave states in Congress in the future. The Preemption Act of 1830 did little to help large slaveholders or the southeast, but the support from the West for the Indian Removal Act may help explain why Congressmen from the South in turn voted for to recognize “squatters rights” in 1830.

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