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Thomas Freeman in Madison County: Mississippi Territory, 1807-1810; Alabama, 1820

By Thomas Schroeder Jandebeur

Introduction

Thomas Freeman of the Town of Washington State of Mississippi - Born in Ireland, arrived in the United States in the year 1784, took the oath of Allegiance to, and became a citizen of the United States in 1795 - have been employed in public service since the year 1793.

Dated May 8, 1820, and filed in Washington, Adams County, Mississippi, so begins “The Last Will and Testament of Thos. Freeman”.¹ From the time of his arrival in the United States, Freeman’s personal relationships and professional accomplishments were remarkable. This article focuses attention on his activities in Madison County, Mississippi Territory (MT), between September, 1807 and July, 1810, and on his death in Huntsville, Madison County, Alabama (AL) on November 8, 1821.

Chickasaw-Cherokee Boundary Survey

In the fall of 1804, General James Robertson, Chickasaw Indian Agent from 1792 until his death in 1814, acted on Secretary of War Henry Dearborn’s

¹ Thos. Freeman, will dated May 8, 1820. Probate Court Records: Washington, MS.

request to initiate land cessions with the Chickasaw Indian Nation. Arguing that the Chickasaw no longer needed the lands on the north side of the Tennessee River for hunting because the deer population was virtually gone, Robertson also informed the Chickasaw that the land was being claimed by the Cherokee Indian Nation. As the Chickasaw Nation's Tisho Minko, George Colbert negotiated the sale of Chickasaw land. Checked by the Minko (Chinubee), the Chickasaw National Council, and the Chickasaw people, on July 23, 1805, Colbert agreed on behalf of the Chickasaw to cede to the United States 2.25 million acres located east and north of the Tennessee River. As part of the treaty terms, Colbert requested a land survey from the War Department to determine the Chickasaw-Cherokee boundary in the disputed area.

Upon arrival at Natchitoches on August 23, 1806, the Grand Expedition led by Freeman to explore the Red and Arkansas rivers in Louisiana Territory was ended.² Having succeeded to explore only part of the Red River, Freeman was in Natchez, MT preparing for an expedition up the Arkansas when he learned that that expedition had been suspended. As related in a letter from Dearborn to William Dunbar,³ by some mistake or inattention, no appropriation was made by Congress for defraying the necessary expenses of an

² Flores, Dan L., *Jefferson & Southwestern Exploration: The Freeman & Custis Accounts of the Red River Expedition of 1806* (Norman, OK: University of Oklahoma Press, 1984).

³ Dearborn to Dunbar, March 30, 1807. *Miscellaneous Letters Sent by the Secretary of War, 1800-1809*. National Archives and Records Administration, Record Group 107, Microcopy No. 370, Roll 3, Vol. 3, Feb. 28, 1807-Mar. 25, 1809.

exploring party up the Arkansas. President Thomas Jefferson directed Dearborn to inform Dunbar that it was necessary "...to suspend all measures relative to exploring parties for the present season...to discharge any persons who may have been engaged by you for such service..." and "...to inform Mr. Thomas Freeman that his services in the exploring line are at an end, at present, but that he [Dearborn] expected ...to offer him [Freemen] other employment, such as running boundary lines in and near the State of Tennessee, or elsewhere." The final sentence of this letter states "Mr. Freeman will have the offer as above mentioned, and may prepare himself accordingly."

By letter dated April 1, 1807,⁴ Dearborn requested Freeman to run the lines "...prescribed by the Treaty with the Chickasaws, and the last convention with the Cherokees." The Chickasaw had agreed to cede to the United States, and forever quit claim to, the tract of country included within the following bounds:

...beginning on the left bank of Ohio, at the point where the present Indian boundary adjoins the same, thence down the left bank of Ohio to the Tennessee river, thence up the main channel of the Tennessee river to the mouth of Duck river; thence up the left bank of Duck river to the Columbian highway or road leading from Nashville to Natchez, thence along the said road to the ridge dividing the waters running into Duck river from those running into Buffaloe river, thence easterly along the said ridge to the great ridge dividing the waters running into the main Tennessee

⁴ Dearborn to Freeman, April 1, 1807. *Miscellaneous Letters Sent by the Secretary of War, 1800-1809*. National Archives and Records Administration, Record Group 107, Microcopy No. 370, Roll 3, Vol. 3, Feb. 28, 1807-Mar. 25, 1809.

river from those running into Buffalo river near the main source of Buffalo river, thence in a direct line to the Great Tennessee river near the Chickasaw old fields or eastern point of the Chickasaw claim on that river; thence northwardly to the great ridge dividing the waters running into the Tennessee from those running into Cumberland river, so as to include all the waters running into Elk river, thence along the top of the said great ridge to the place of beginning....⁵

The “Chickasaw old fields”, the eastern-most site of Chickasaw settlement, is located on modern day Hobbs Island, near Ditto Landing on the Tennessee River, south of Huntsville, Madison County, AL. The Cherokees had relinquished to the United States ...all that tract of country which lies to the northward of the river Tennessee and westward of a line to be run from the upper part of the Chickasaw Old Fields, at the upper point of an island, called Chickasaw island, on said river, to the most easterly head waters of that branch of said Tennessee river called Duck river....⁶

In the April 1, 1807 letter (see note 4), Dearborn conveyed specific instructions for how to proceed, directing Freeman to coordinate his travel and the boundary survey with Robertson and Colbert. In the

⁵ Chickasaw Cession of July 23, 1805. *James Robertson Papers, 1784-1814*. Tennessee State Library and Archives, Microfilm Roll 801.

⁶ *Indian Affairs and Treaties: Treaty with the Cherokee, 1806; Elucidation of a Convention (1806) with the Cherokee Nation*. 57th Congress, 1st Session, Senate Document 452, compiled and edited by Charles J. Kappler, LL.M., Clerk to the Senate Committee on Indian Affairs (Government Printing Office, Washington, DC, 1903), 90-92.

latter regard, Dearborn writes “As you come on you may inform George Colbert, the principal Chickasaw Chief at the ferry at Tennessee river, of the time he with such other Chiefs as shall attend him may meet you at Duck River where you will commence running the lines....” On April 1, 1807 also, Dearborn wrote to Robertson, stating that “George Colbert should be one of the chiefs to attend the running of the lines, and Double Head should attend the last line as a Cherokee Chief.”⁷ On May 5, 1807, in a letter from Return J. Meigs to Robertson, Meigs acknowledged that he and Robertson had been appointed Commissioners by the Secretary of War to run the Chickasaw-Cherokee boundary lines, and indicates his availability to meet Robertson at the Chickasaw Old Fields on or about June 10, 1807, to begin running the Cherokee line, apparently having assumed that Robertson and Freeman first would run the Chickasaw line from Duck River to the Chickasaw Old Fields, and that they [Freeman, Robertson, Meigs] then would run the Cherokee line.⁸ By letter to Dearborn dated June 15, 1807, Freeman agreed “...to proceed to the frontiers of the Cherokee and Chickasaw Nations, and to designate the boundaries between these Nations and the State of Tennessee agreeably to late Treaties....”⁹ In

⁷ Dearborn to Robertson, April 1, 1807. *James Robertson Papers, 1784-1814*. Tennessee State Library and Archives, Microfilm Roll 801.

⁸ Meigs to Robertson, May 5, 1807. *James Robertson Papers, 1784-1814*. Tennessee State Library and Archives, Microfilm Roll 801.

⁹ Freeman to the Secretary of War, June 15, 1807. WD: AGO, Old Recs. Div.: ALS. *The Territorial Papers of the United States, Vol.*

this letter also, Freeman indicated that Robertson would join him “...on the road...then...proceed to the Chickasaw Old fields where we will commence our Lines-....” At the time under government contract to make improvements to the Columbian Road (i.e., the Natchez Trace), Robertson informed Freeman (see note 9) that they “...could not conveniently have commenced the Chickasaw lines sooner than the first of July....” Writing from Natchez, on June 20, 1807, Freeman informed Dearborn that he had drawn on the War Department account for \$700 “...to procure the necessary horses and baggage to proceed from here to the Chickasaw & Cherokee Nations agreeably to your orders....”¹⁰ In a letter to Dearborn dated June 20, 1807, Meigs wrote “I have not yet received any account of Mr. T. Freeman. General Robertson has gone towards the Chickasaw Country expecting to meet him.”¹¹ On July 14, 1807, Seth Pease, Surveyor General of Lands of the United States South of Tennessee, wrote to Gallatin that “Mr. Thomas Freeman is on his way from this place [Washington, Adams County, MT] to the Tennessee River, in order to run the boundary lines of the Chickasaw cession; he

V, The Mississippi Territory 1798-1817, compiled and edited by Clarence Edwin Carter (Washington, D.C., 1937), 553-554.

¹⁰ Freeman to Dearborn, June 20, 1807. *Letters received by the Secretary of War, Registered Series*. National Archives and Records Administration, Record Group 107, Microcopy No. 221, Roll 7, Apr. 1806-Apr. 1808 (F-G).

¹¹ Meigs to Dearborn, June 20, 1807. *James Robertson Papers, 1784-1814*. Tennessee State Library and Archives, Microfilm Roll 801.

has agreed to take the latitude, and run the dividing line between this Territory [Mississippi Territory] and the State of Tennessee as far as relates to said cession, also to run the basis meridian.”¹²

On September 11, 1807, Robertson and Meigs met with a delegation of Cherokee chiefs, including Eunolee or Black Fox, the king or head chief of the Cherokee Nation, to determine the eastern limits of the tract ceded by the Cherokee Nation in 1806. This elucidation was “Done at the point of departure of the line at the upper end of the island opposite to the upper part of the...Chickasaw Old Fields...”, and was witnessed by Freeman (see note 6).

Considering the afore-described correspondence and elucidation of the Treaty with the Cherokees (see note 6), it appears that Freeman began running the Chickasaw line on or about July 1, 1807, and began running the Cherokee line on or about September 11, 1807. On October 7, 1807, he closed his War Department account for expenditures related to the Indian Boundary Survey.¹³ For running the Indian boundary lines, Freeman was to be paid \$4 per day, plus expenses (see note 4); Robertson, who was with Freeman “...thru the whole of the business...” (see note 12), was to be paid \$5 per day (see note 7). In a

¹² Pease to Gallatin, July 14, 1807. Letters received by the Secretary of the Treasury and General Land Office from the Surveyor General for Mississippi, Apr. 1, 1803-Nov. 4, 1831, Roll 1, Apr. 1, 1803-Apr. 29, 1822. National Archives and Records Administration, M1329.

¹³ Freeman to Dearborn, October 17, 1807. Dearborn Historical Museum, Dearborn, MI. National Archives and Records Administration, Microcopy M-221-7, Secretary of War Letters Received, F-155(3).

footnote to the letter dated October 17, 1807 (see note 13), Freeman wrote “I have taken the liberty of drawing on you for one thousand dollars of this date to settle accts. for the running of the Indian lines.” At \$4 per day, the \$400 “...of salary for Summer services...”¹⁴ would cover 100 days of survey work; Robertson would have been paid \$500 for work over the same number of days. Expenditures for “...horses and baggage...” (see note 10), provisions, and salaries for a small party of men to carry out the survey work (e.g., chainmen, flagman, axman) apparently amounted to \$1700. The total cost of the Indian Boundary Survey appears to have been \$2600.

Deputy Surveyor: Southern Boundary of the State of Tennessee

Anticipating that Freeman would be employed by the Secretary of War to survey the Indian boundary lines, Albert Gallatin, Secretary of the Treasury, corresponded to Pease his suggestion that Freeman also might survey the public land positioned between the southern boundary of the State of Tennessee, the Indian Nations, and the Tennessee River.¹⁵ Dated March 30, 1807, the letter embodied Gallatin’s

¹⁴ Freeman to Dearborn, April 10, 1808. Dearborn Historical Museum, Dearborn, MI. National Archives and Records Administration, Microcopy M 221-22, Secretary of War Letters Received, F-30(4).

¹⁵ Gallatin to Pease, March 30, 1807. *The Territorial Papers of the United States, Vol. V, The Mississippi Territory 1798-1817*, compiled and edited by Clarence Edwin Carter (Washington, D.C., 1937), 540-541.

suggestion and instructions for initiating a survey of the southern boundary of the State of Tennessee:

As Mr. Freeman is very well qualified, & the tract belonging to the United States is not large enough to make it an object for another such person, it would perhaps be best that you should employ him. This however is left entirely to yourself; and I will only add, that as the southern boundary of the State of Tennessee will form the Northern boundary of the public lands, it is necessary that the Deputy employed, should ascertain with precision the latitude, & be able to run correctly an East & West line. That parallel of latitude, forming the Southern boundary of the State of Tennessee, will of course form the best basis for the whole work, and a meridian must be drawn through such part of the tract, as will be most convenient, from which the ranges will be numbered, both East & West. The Townships in each range will be numbered from the basis line...from North to South.

In his letter to Dearborn dated October 17, 1807 (see note 13), Freeman wrote the following:

Believing it to be your desire that I should ascertain accurately and run the Southern boundary of the State of Tennessee thru this tract of country, I have moved with my little party to a convenient spot on the temporary boundary line which has already been run by the State, and with a number of careful and accurate observations (a copy of which I here enclose) determined the point of 35th degree of North Latitude, and shall immediately proceed to carefully run and mark that...Latitude as far as the public ground extends - about 45 miles.

By mid-October, 1807, then, Freeman had surveyed the 35th parallel between the "...Elk River and the

Cherokee Mountains...” establishing the southern boundary of the State of Tennessee (see note 12).

Deputy Surveyor: Madison County, MT

Land ceded to the United States by the Chickasaw under the treaty of July 23, 1805 (see note 5) was brought under the public land system by an act of Congress approved March 3, 1807¹⁶ entitled “An Act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians, and to establish a land-office in the Mississippi territory.” Section 2 of the Act states That it shall be the duty of the surveyor-general of the public lands, south of Tennessee, to cause to be surveyed and laid out, in the same manner as is provided by law for the other public lands in the Mississippi territory, so much of the lands ceded to the United States by the Cherokees and Chickasaws, as lies within the said territory; and the President of the United States is hereby authorized, whenever he shall think it proper, to establish a land office for the sale of the said lands, and to appoint a register of the same, and a receiver of the public monies accruing from the sale of the said lands, whose respective emoluments and duties shall be the same as those of the registers and receivers of the other land-offices in the said territory.

As early as March 30, 1807, Freeman was being considered by Gallatin, and Peace, to survey the public land positioned between the boundaries of the

¹⁶ Acts of the Ninth Congress of the United States, Session II, Chapter XXXV, Library of Congress, <https://www.loc.gov/law/help/statutes-at-large/9th-congress/c9.pdf>

Chickasaw and Cherokee Indian Nations, the Tennessee River, and the southern boundary of the State of Tennessee (see note 15). In a letter dated October 5, 1807¹⁷, Pease indicated that on September 20, 1807, Freeman corresponded to him his acceptance to survey that land [letter not found], and informed Freeman that, under date of September 21, 1807 [letter not found], he [Pease] had forwarded instructions relative to the survey to him [Freeman] by way of Captain Stephen Neal, and repeats the most essential part of those instructions. In the same letter, Pease wrote:

You mention in your letter that it will be too arduous a task for you to execute the whole with your own hands and trust there will be no objections to your procuring assistance. It would be a desirable thing to avail myself of your service in superintending this survey where you are not able to do it personally; but the Law requires that each line be run by a Deputy Surveyor who is to report immediately to this office...four dollars per mile is the most that the Law allows for running any line whatever in my district.

For running and marking the 45 mile boundary of southern Tennessee between "...Elk River and the Cherokee Mountains..." at \$4 per mile, Freeman would have been compensated \$180. The southern boundary of Tennessee was the baseline used to start the Huntsville Meridian. The distance covered by that portion of the Huntsville Meridian surveyed by Freeman is approximately 30 miles; at \$4 per mile, Freeman would have been compensated \$120 to run and mark the meridian. Located on U. S. Hwy. 231 North,

¹⁷ Pease to Freeman, October 5, 1807. Mississippi Department of Archives and History, Jackson, MS: Series 1153, Box 3198, Folder 6.

near the Alabama-Tennessee state line, an historic marker erected by the State of Alabama marks the initial point of the Huntsville Meridian. The initial point was re-surveyed in 1977 by the Alabama Society of Professional Land Surveyors, and a ten-inch diameter disc marking the location was embedded in the road surface: it was paved over within ten years, and is no longer visible.¹⁸ Within the city of Huntsville, AL, Meridian Street coincides with the Huntsville Meridian for most of its length north of U. S. Hwy. 72. Also in Huntsville, located in Maple Hill Cemetery, the Huntsville Pilgrimage Association erected an historic marker commemorating Freeman's survey of the meridian.

From Nashville, TN, on April 10, 1808 (see note 14), Freeman wrote to Dearborn the following:

Having no other business on hand at present, I find it convenient to run some lines for the Surveyor General, Mr. Pease, in that part of the late purchase which lies south of & adjoining this State. In fitting out a small party with provisions & baggage for this service, I find myself under the necessity of drawing on your Department for four hundred dollars, which will I hope be considered as on acct. of salary for Summer services.

From his camp on the Flint River, on August 21, 1808,¹⁹ Freeman wrote to Gallatin the following:

I shall forward this survey as expeditiously as possible, until the close of Nov. when the whole will I

¹⁸ The Center for Land Use Interpretation, <http://www.clui.org/section/huntsville-meridian>

¹⁹ Freeman to Gallatin, August 21, 1808. In *Letters Received by the Secretary of the Treasury and the General Land Office from the Surveyor General for Mississippi, April 1, 1803-Nov. 4, 1831*. (National Archives and Records Administration: Washington, DC), M-1329, Roll 1, April 1, 1803-April 29, 1822.

expect be closed a few scraps at the foot of the Cherokee mountains excepted. I have written to Mr. Pease to send me a blank commission for a deputy to proceed to survey those fractional Townships which I probably cannot at this time complete before winter.

Writing to Gallatin from Nashville, TN on November 28, 1808,²⁰ Freeman stated:

The whole of the...Tract or purchase is surveyed agreeably to law - one Township and a few fractional Townships adjoining the Cherokee line excepted - a person is appointed and will proceed immediately to complete the Survey of that portion also.

In fact, a fractional township was surveyed the following spring by Pharoah Roach (T2S, R2E); that plat is dated May 3, 1809.²¹

It appears, then, that Freeman began his survey of the public land positioned between the southern boundary of the State of Tennessee, the Chickasaw and Cherokee Indian Nations, and the Tennessee River, mid-April, 1808 (see note 14), and completed the survey late-November, 1808 (see note 20), evidenced by 17 original plats for Madison County, MT (see note 21), 15 of which indicate approval by Pease. Although correspondence between Freeman and Pease during the survey has not been found, it is apparent that Freeman kept Pease informed of progress toward

²⁰ Freeman to Gallatin, November 28, 1808. In *Letters Received by the Secretary of the Treasury and the General Land Office from the Surveyor General for Mississippi, April 1, 1803-Nov. 4, 1831*. (National Archives and Records Administration: Washington, DC), M-1329, Roll 1, Apr. 1, 1803-Apr. 29, 1822.

²¹ Bureau of Land Management: BLM.gov/GLO Records.

completion of the survey.²² Pease received field notes for the survey early in 1809,²³ and transmitted plats for Madison County to Gallatin on May 31, 1809.²⁴ Prior to the sale of Madison County public land, which sale began on August 2, 1809, Pease sent copies of the plats to the Nashville Land Office.²⁵ In that same letter, Pease acknowledged Gallatin's concern that Freeman had neglected to set half-mile posts between section corners during the survey. Freeman responded that he had, in fact, set half-mile posts, but that some of the monuments not positioned at exactly one-half

²² Pease to Gallatin August 19, 1808. In *Letters Received by the Secretary of the Treasury and the General Land Office from the Surveyor General for Mississippi, April 1, 1803-Nov. 4, 1831*. (National Archives and Records Administration: Washington, DC), M-1329, Roll 1, Apr. 1, 1803-Apr. 29, 1822.

²³ Pease to Gallatin, February 1, 1809. In *Letters Received by the Secretary of the Treasury and the General Land Office from the Surveyor General for Mississippi, April 1, 1803-Nov. 4, 1831*. (National Archives and Records Administration: Washington, DC), M-1329, Roll 1, Apr. 1, 1803-Apr. 29, 1822.

²⁴ Pease to Gallatin, May 31, 1809. In *Letters Received by the Secretary of the Treasury and the General Land Office from the Surveyor General for Mississippi, April 1, 1803-Nov. 4, 1831*. (National Archives and Records Administration: Washington, DC), M-1329, Roll 1, Apr. 1, 1803-Apr. 29, 1822.

²⁵ Pease to Gallatin, August 2, 1809. In *Letters Received by the Secretary of the Treasury and the General Land Office from the Surveyor General for Mississippi, April 1, 1803-Nov. 4, 1831*. (National Archives and Records Administration: Washington, DC), M-1329, Roll 1, Apr. 1, 1803-Apr. 29, 1822.

mile would be difficult to locate:²⁶ Pease indicated that he would have a Deputy Surveyor for the District locate and re-position those half-mile posts.

Following closely upon completion of the tract surveyed by Freeman, by Proclamation dated December 13, 1808,²⁷ Robert Williams, Governor of the Mississippi Territory (1808-1809), named the tract Madison County:

And whereas the Indian titles have been extinguished to a tract of country lying and being within this territory, principally on the north side of the Tennessee river, commonly called the Great Bend of Tennessee, and bounded as follows: - beginning on the north bank of the Tennessee river on the Cherokee boundary, thence northwardly along said boundary to the southern boundary of the state of Tennessee, thence west with said last mentioned boundary 'til it intersects the Chickasaw boundary line, thence southwardly along said Chickasaw line crossing the Tennessee river thence to the beginning, agreeably to a survey made under the authority of the United States....

²⁶ Pease to Gallatin, October 25, 1809. In *Letters Received by the Secretary of the Treasury and the General Land Office from the Surveyor General for Mississippi, April 1, 1803-Nov. 4, 1831*. (National Archives and Records Administration: Washington, DC), M-1329, Roll 1, Apr. 1, 1803-Apr. 29, 1822.

²⁷ Robert Williams, Proclamation Naming Madison County, MT, dated December 13, 1808, in *Executive Journal of Robert Williams, Cowles Mead and David Holmes, 1805-1810*, Mississippi Department of Archives and History, Jackson, MS.

I do in compliance with said ordinance, and for the purposes aforesaid, lay out said tract of country, described and bounded as aforesaid, into one county to be called and known by the name of Madison....

The earliest known representation of Madison County, MT,²⁸ attributed to Freeman, bears the date of September, 1807 (fig. 1). In the letter to Dearborn dated October 17, 1807 (see note 13), Freeman informed Dearborn that “Immediately after running the State Line I shall run a correct Meridian Line thru the public lands lying south of the State Line between the Indian lines at the request of Mr. Pease, for the accommodation of Deputy Surveyors. This duty will be completed in two or 3 weeks when I shall be ready to proceed to any further services that may be required.” While it is possible that Freeman anticipated the features of this map, including boundaries of the County, the Huntsville Meridian, and indications for Townships and Ranges, it is, perhaps, more probable that it was drawn early November, 1807, or at some point in time after the Huntsville Meridian had been surveyed.

Register

The Congressional Act of May 10, 1800²⁹ provided for the establishment of land districts. District land

²⁸ Freeman, Thomas. 1807. Map of Madison County, MT.

Tennessee State Library and Archives.

²⁹Acts of the Sixth Congress, Session I, Ch. XXXV, Sec. 3, Act of May 10, 1800, Library of Congress, <https://www.loc.gov/law/help/statutes-at-large/6th-congress/c6.pdf>

offices required a Register, and a Receiver of Public Moneys, each a Presidential appointment with the advice and consent of the Senate. The Register entered applications for land, kept in his office the plats of the district, and attended to the affairs of the office connected with land; the Receiver accepted the funds paid to the government by purchasers, issued receipts in duplicate, and superintended financial aspects of the land business, safeguarding the funds and periodically remitting them to the Treasury Department.³⁰ Following closely on the Chickasaw cession (1805), and Cherokee cession (1806), in 1807 Gallatin created a land district for Madison County, MT, and established a Land Office at Nashville, TN.

On March 3, 1807, Congress approved “An Act to prevent settlements being made on lands ceded to the United States, until authorized by law”.³¹ Section 2 of the Act provided

That any person or persons who actually settle before the passing of this act, had taken possession of, occupied, or made a settlement on any lands ceded or secured to the United States...and who at the time of passing this act does or do actually inhabit and reside on such lands, may at any time prior to the first day of

³⁰ Rohrbough, Malcolm. *The Land Office Business: the Settlement and Administration of Public Lands, 1789-1837*. (Oxford University Press, 1968), 23-25.

³¹ Acts of the Ninth Congress, Session II, Chapter XLVI, Library of Congress, <https://www.loc.gov/law/help/statutes-at-large/9th-congress/c9.pdf>

January next, apply to the proper register or recorder, as the case may be, of the land-office established for the disposal, registering, or recording of such lands, or to such person or persons as may by such registers or recorders respectively, be appointed for the purpose of receiving such applications, stating the Conditions tract or tracts of land thus occupied, settled, and inhabited by such prescribed applicant or applicants, and requesting permission to continue thereon; and it shall thereupon be lawful for such register or recorder respectively to permit, in conformity with such instructions as may be given by the Secretary of the Treasury, with the approbation of the President of the United States, for that purpose, such applicant or applicants to remain on such tract or tracts of land not exceeding three hundred and twenty acres for each applicant, as tenants at will, on such terms and conditions as shall prevent any waste or damages on such lands, and on the express condition that such applicant or applicants shall, whenever such tract or tracts of land may be sold, or ceded by the United States, or whenever for any other cause, he or they may be required under the authority of the United States, so to do, give quiet possession of such tract or tracts of land, to the purchaser or purchasers, or remove altogether from the land, as the case may be: Provided however, that such permission shall not be granted to any such applicant, unless he shall previously sign a declaration stating that he does not lay any claim to such tract or tracts of land, and that he does not occupy the same, by virtue of any claim or pretended claim derived, or pretended to be derived from any other person or persons.

On August 21, 1808, from his camp on Flint River, Freeman reports not only on the progress of his

survey, but also on the “...abundance...” of intruders on the public land (see note 19). By letter dated October 25, 1808, Gallatin informs Freeman,³² “...there being yet no register appointed, you [Freeman] are hereby authorized to grant the permissions and to perform every other act, which might in other Districts have been performed by the...Registers of Indian Territory”. Writing from Nashville, TN,³³ Freeman acknowledges his appointment “... to receive applications and grant permissions to those settlers under a law in that case provided...” and indicates his intent to return to that part of the Mississippi Territory called Madison County “...without delay, and agreeably to your [Gallatin’s] instructions, in the most expeditious and prompt manner carry the instructions of the President [Thomas Jefferson] respecting those people into effect.”

On February 20, 1809, Freeman transmitted to Gallatin “...a Register of Applications received, and Permissions granted to the Intruders or Settlers on the public Lands in that part of the Mississippi

³² Gallatin to Freeman, October 25, 1808. Records of the United States House of Representatives, Record Group 233, *Documents Relating to Mississippi Territory and Alabama: Madison County*, National Archives, National Archives and Records Service, General Services Administration (Washington, DC: 1954).

³³ Freeman to Gallatin, November 28, 1808. Records of the United States House of Representatives, Record Group 233, *Documents Relating to Mississippi Territory and Alabama: Madison County*, National Archives, National Archives and Records Service, General Services Administration (Washington, DC: 1954).

Territory...called Madison County.”³⁴ In the same letter, Freeman writes that he “...appointed Mr. Neal, the Sheriff of the County to receive applications & grant permissions to the few who have not already applied - they will not be more than thirty in number. I shall forward by next mail a census of the inhabitants of Madison County.”

According to Section 3 of the Act to prevent settlements being made on lands ceded to the United States until authorized by law (see note 31), as Register, Freeman was entitled to receive fifty cents for each application received and one dollar for each permission issued, the “...small fee...” mentioned by Gallatin in his letter to Freeman dated October 25, 1808 (see note 32). Freeman remained in Madison County at least until he had completed the Register of Applications and Permissions for intruders or settlers in Madison County, which Register he transmitted to Gallatin in a letter dated March 4, 1809,³⁵ posted from Nashville, TN. That same letter conveyed to Gallatin a census of those settlers taken in January, 1809. Freeman continued as Register until his successor,

³⁴Freeman to Gallatin, February 20, 1809. Records of the United States House of Representatives, Record Group 233, *Documents Relating to Mississippi Territory and Alabama: Madison County*, National Archives, National Archives and Records Service, General Services Administration (Washington, DC: 1954).

³⁵ Freeman to Gallatin, March 4, 1809. GLO: Div. E, Ohio-Miss. SG, vol. 65, 1803-1810: ADS. *The Territorial Papers of the United States, Vol. V, The Mississippi Territory 1798-1817*, compiled and edited by Clarence Edwin Carter (Washington, D.C., 1937), 684-685.

William Dickson, was affirmed by the United States Senate on June 17, 1809.³⁶

Madison County's Western Boundary

In his March 4, 1809 letter to Gallatin (see note 35), Freeman also relates information provided by Robertson regarding the disposition of Chinabee and Colbert, and his brothers (Samuel, Levi, and Joseph), toward white intruders on the Chickasaw Indian Nation's land west of the Elk River:

... [the] Nation has at length come to the following determination - To make one more formal complaint to the President on this subject, and should he not listen to them, but let these people remain on their land - The Nation will positively move them off by force...The Nation does not want to injure any of these people if possible, but is determined that they should not remain on Indian land.

The Chiefs of the Nation have agreed that, should the President move all the white settlers off the Indian lands West of Elk River and north of Tennessee River, they will sell for a reasonable consideration that tract of land East of Elk River, so that the Elk River may be the future [Chickasaw Nation] boundary.

Freeman concludes the letter by writing

...the General wishes me to make this communication. I do it with pleasure - Tho with diffidence trouble you, as it may not belong to your Department [i.e., the Treasury Department].

³⁶ *Journal of the Executive Proceedings of the Senate of the United States of America*, v. 2 (1805-1815), Washington: Printed by order of the Senate of the United States, 1828, p. 124.

This tract of country East of Elk River which the Chickasaw propose to sell is larger in extent and far superior in quality, to that tract adjoining unto which the Indian title is extinguished, now called Madison County. It will make a large compact and rich County of Madison.

The letter was endorsed by Gallatin as follows: “Thos Freeman deserves full credit. That part of the letter which relates to the tract offered for sale by the Chickesaws & Principally to the removal of intruders on their lands, seems to require immediate attention—
—A. G.”

Absent the names of Madison County settlers from the January, 1809 census, but including a summary of that census on the signature page, the letter was forwarded to the War Department, at that time responsible for Indian Affairs, and is to be found among the unregistered letters received by the Office of the Secretary of War. Thus did Freeman assist Robertson to inform the administration of President James Madison of the willingness of the Chickasaw to sell a second large tract of land to the United States. Robertson was instrumental in negotiating the Chickasaw Cession of 1805: he was one of two Commissioners appointed to negotiate that land sale. Robertson also must be credited for initiating negotiations which resulted in the Chickasaw Cession of 1816. Both the cession of 1805 and 1816 encompassed land made part of Madison County, MT. After the Chickasaw Cession of 1816, the western boundary of Madison County was established by act of the Alabama Territorial Legislature at the First Session (January 19-February 14) of the First General Assembly meeting at St. Stephens in 1818; the Act

Jandebeur: Thomas Freeman in Madison County: Mississippi Territory, 1807-181 was approved on February 6, 1818 by Wm. W. Bibb, Governor of the Alabama Territory.

Justice of the Peace

Enacted 1799-1800 by Mississippi Territorial Governor Winthrop Sargent and Territorial Judges, a law establishing courts of judicature provided for Justice of the Peace positions,³⁷ as did “An act for the appointment of Justices of the Peace, and the establishment of County Courts”, enacted by Mississippi Territorial Governor Robert Williams in 1807.³⁸ In a letter to Madison, dated 14 December 1808, Williams states his intention to “commission...from this place [Washington, Adams County, MT] an active intelligent officer as Sheriff of that county, who will act in concert with Major Freeman, in ascertaining some characters to be appointed to office; and to install their names on the commissions. Major Freeman I shall appoint a Justice of the Peace.”³⁹ Only five days after proclaiming Madison County, Williams commissioned Freeman to

³⁷ Rainwater, P. L., *et al.* "Sargent's Code" *American Journal of Legal History*, Vol. 11, No. 2 (Apr., 1967), 160-165.

³⁸ The *Statutes of the Mississippi Territory*, Natchez: Printed by Samuel Terrell, printer to the Mississippi Territory, (1807), 85-103.

³⁹ Williams to Madison, December 14, 1808, In *Executive Journal of Robert Williams, Cowles Mead and David Holmes, 1805-181*, Mississippi Department of Archives and History (Jackson, MS).

be a Justice of the Peace on December 19, 1808.⁴⁰ Freeman's service in this position most likely ended when his successors were appointed in 1809.⁴¹

It appears that Williams had considerable confidence in Freeman's ability to act on behalf of the Territorial government, and in his ability to judge character in making governmental appointments: on February 20, 1809, in his letter to Gallatin transmitting the register of applications and permissions (see note 34), Freeman writes; The Governor of the Territory Mr. Williams has appointed a Sheriff of this County, & sent him on from Natchez to me - informing me that the Government & Laws might be extended to the people of this County...authorizing me at the same time with the person he sent on [Neal] to make some appointments. We have selected three persons whom we commissioned as Magistrates - they are the only appointments that will take place previous to the arrival of the Governor....

The three men commissioned as "Magistrates" may be the men identified as Justices of the Peace in the "Register of Appointments of County Officers 1805-1812": Hugh McVay (01 January 1809); Benjamin

⁴⁰ Williams to Freeman, December 19, 1808, In *Executive Journal of Robert Williams, Cowles Mead and David Holmes, 1805-1810*, Mississippi Department of Archives and History (Jackson, MS).

⁴¹ Record, James. *A Dream Come True: the Story of Madison County and Incidentally of Alabama and the United States*, Vol. 1, p.221, (Huntsville, AL, 1970).

Jandebeur: Thomas Freeman in Madison County: Mississippi Territory, 1807-181 Williams (01 January 1809); and, John Carter (11 March 1809).⁴²

Land Speculator

On August 21, 1808, in his letter from the camp on the Flint River (see note 19), Freeman had the following to say about intruders on the public land positioned between the southern boundary of the State of Tennessee, the Chickasaw and Cherokee Indian Nations, and the Tennessee River:

In justice to the people, I must remark that contrary to the general character of those who have hitherto intruded on public lands, they are quite peaceable, extremely industrious, and fully sensible of their situation with respect to their government - each anxious to be prepared against the day of sale, to purchase, if possible, the spot he has selected, and at all events - disposed and ready to obey the Laws of their country, or will of the Executive.

Over the course of the next six months, Freeman's confidence in the character of the intruders, and in their ability to purchase public land, appears to have changed. On February 20, 1809, in the letter to Gallatin conveying the Register of Applications Received and Permissions Granted (see note 34), he writes:

With diffidence I take the liberty of intruding my opinion that the sale of the public lands here should not in the first instance take place on the land or in the county of Madison. Should the sale take place in

⁴² *Journal of the Executive Proceedings of the Senate of the United States of America*, v. 2, 1805-1815, Washington: Printed by order of the Senate of the United States Senate, 1828, 122.

April next, not more than one fifth - perhaps one tenth of the settlers on the land can possibly purchase - indeed many of them complain of the difficulty of raising 9 shillings to pay for their permissions, yet...all will bid at the sale if on the ground.

Very improper expressions have been made use of by some of them on this subject, though they are very cautious of me. Perhaps Nashville would be the most proper place for the sale of the land. The office might be opened afterward in Madison County.

Whether Freeman was concerned for the intruders ability to pay for the land on terms established by Congress (see note 29), for the safety of individuals seeking to buy land settled on by the intruders or, to serve his own interests - whatever the motivation - Freeman's advice was taken: Madison County public land first was sold at Nashville, from August 7, 1809-July 31, 1811; the office was moved to Twickenham, MT for sales conducted August 1, 1811-December 31, 1811, which office location became the Huntsville Land Office on January 1, 1812, operating until December 31, 1817.

Between June, 1806 and February, 1809, Freeman held four public service positions: Surveyor for the War Department (July-October, 1807); Deputy Surveyor for the Surveyor of Lands South of Tennessee (October, 1807-November, 1808); Register (October, 1808-June, 1809); and Justice of the Peace (December, 1808-January, 1809). As Surveyor for the War Department, he was to be compensated "...not...less than four dollars per day, & ...actual expenses." (see note 4). As Register, he was entitled to receive fifty cents for each application received and one dollar for each permission issued (see note 31). As Deputy Surveyor, he was paid \$4 for each mile surveyed (see note 15). Further,

between the end of the Red River Expedition (August 23, 1806) and his appointment in June, 1807 to survey the Madison County public land, even as he was preparing for an expedition to explore the Arkansas River, Freeman may have continued to draw a salary of \$4 per day (see note 2). These remunerations apparently positioned Freeman financially to purchase Madison County public land, sold at the Nashville Land Office beginning August 7, 1809: in 1809, Freeman invested \$5,616.74 to pay the 1st installment toward the purchase price of 10,785.7 acres; in 1814, he was awarded patents on 14 tracts encompassing 2,557.46 acres (see note 44).

In 1809, terms under which public lands of the United States were sold are articulated in a document communicated to the House of Representatives on April 5, 1806, to wit:

The public lands are now sold in sections, half sections, and quarter sections, that is, in lots of six hundred and forty, three hundred and twenty, and one hundred and sixty acres, at not less than two dollars per acre, the purchaser paying one-fourth of the purchase money before he can procure a certificate descriptive of the tract purchased, or be considered as a purchaser; another fourth part in two years, another fourth part in three years, and the remaining fourth part in four years from the time of making the purchase. No interest is charged if the instalments are punctually paid as they become due; but, in case of failure in punctuality of payment, interest is calculated from the time of sale. If full and complete payment is not made for any tract within one year after the last instalment has become due, such tract is to be sold by the register of the land office, at public vendue, for a price not less than whole arrears due thereon, with the

expense of sale, provided it will sell for so much; but if it will not, then the land is to revert to the United States, and the purchaser forfeits all he may have paid.⁴³

To complete the process of sale leading to ownership of a tract, “A successful bidder went immediately to the register and received a notation of his tract. Then he moved directly to the receiver... The purchaser paid the receiver one-twentieth of the purchase price and received duplicate receipts. He then returned to the register and presented one of the receipts. The other he retained. The register noted the tract sold on his list and marked an ‘A.P.’ on the plat in the appropriate tract - that is to say, ‘applied for’” (see note 30). Under the rules, 5% of the purchase price of a particular tract was due as a down payment or deposit on the day of sale, and 20% was due in 40 days, thereby making up the 1st installment on the purchase price. The 2nd installment was due two years from the date of entry, and the 3rd and 4th installments at yearly intervals thereafter. At any point after having entered a tract, a buyer could “assign” the tract to another individual, who then would be responsible for making any additional payments. Having made full payment for the tract, the United States government issued a Final Certificate (i.e., Patent) granting ownership to the buyer; if a buyer failed to pay the balance due on the 1st installment, or failed to make payment on a remaining installment, the land reverted

⁴³ Ninth Congress, 1st Session, No. 130, *Credit on Public Lands*, communicated to the House of Representatives on April 5, 1806, American State Papers, Public Lands, Volume 1, 1834 (Washington: Gale and Seaton, 1832-1861), 265.

Jandebeur: Thomas Freeman in Madison County: Mississippi Territory, 1807-181 to the General Land Office, and money already paid was forfeit.

To illustrate the process, it is instructive to follow transactions on several tracts in which Freeman purchased an interest, either by accepting assignment of the tract, or by making application for the tract by paying a 5% deposit or by paying the 1st installment. The data used to detail these transactions, as well as the information contained in tables 1-4, were gleaned from records of the Nashville Land Office,⁴⁴ as have been compiled, in part, by Margaret Cowart.⁴⁵

Assignment: Freeman accepted assignments on 9 tracts. On August 7, 1809, Walter Keeble of Davidson County, Tennessee, deposited \$33.45 toward purchase of T1S, R1E, S19, NE 1/4 (Receiver's Receipt #3): sold at \$4.14 per acre, the deposit represents 5% of the purchase price for the 161.59 acres. Keeble also deposited \$16.16 toward purchase of T1S, R1E, S19, SE 1/4 (161.59 acres; Receiver's Receipt #4): sold at \$2 per acre, the deposit represents 5% of the purchase price for the 161.59 acres. On August 30, 1809, Keeble assigned both quarter sections to Freeman, who then

⁴⁴ Huntsville Registers Office-Money Entered, 1809-1817, (Washington National Records Center, National Archives and Records Service, General Services Administration: Suitland, MD, 1969); Huntsville Registers Office-Money Entered, 1809-1818, Records of the General Land Office, Record Group 49; Numerical Index Series for Huntsville, Alabama, August 1809 through September 1820, Records of the General Land Office, Record Group 49, Washington National Records Center, National Archives and Records Service, General Services Administration, Suitland, MD, 1969.

⁴⁵ Cowart, Margaret M. *Old Land Records of Madison County, Alabama (GLO Tract Book: 2005)*.

paid the balance due on the 1st installment for each parcel - \$133.80 for the NE 1/4 (Receiver's Receipt #154), and \$64.64 for the SE 1/4 (Receiver's Receipt #155). At some point during the next two years, Freeman assigned the parcels to Samuel Allen of Madison County who made payments on the 2nd, 3rd, and 4th installments in 1811, 1812, and 1813, respectively. On April 20, 1814, Allen was granted Final Certificates (#344, #162) for each quarter section. It is interesting to note that, on the Receiver's Receipt #1387, issued August 7, 1813, assignments for T1S, R1E, S19, SE 1/4 are indicated as follows: Allen assignee of Brahan assignee of Freeman assignee of Keeble: apparently, after having accepted the assignment from Keeble, Freeman assigned the quarter section to John Brahan, the Receiver of Public Moneys, who then assigned it to Allen.

Deposit: Freeman applied for 7 tracts by making a deposit of 5% toward the purchase price. On August 14, 1809, Freeman applied for his first tract of Madison County land - T1S, R2E, S8, SE 1/4. In accordance with the terms of sale, sold at the minimum price of \$2.00 per acre, Freeman deposited \$16.04 (Receiver's Receipt #56) with the Receiver of Public Moneys, John Brahan; the deposit represented 5% of the total cost of \$320.80 for the 160.4 acres. Within the 40 day period of time allowed, on August 30, 1809, Freeman paid the balance due on the 1st installment (\$64.16; Receiver's Receipt #157). On or before June 6, 1814, Freeman assigned the quarter section to Reuben Wade who, on June 6, 1814, made a payment of \$310.17 (Receiver's Receipt #2091), which payment would have included interest (\$69.57) on the unpaid balance, calculated at 6% per year. Wade was

Jandebour: Thomas Freeman in Madison County: Mississippi Territory, 1807-181 awarded a Final Certificate (#313) for the quarter section on August 6, 1814.

1st Installment: Freeman applied for 48 tracts by paying the 1st installment on the purchase price. On September 18, 1809 Freeman applied for tract T1S, R1W, S24, NE 1/4 by paying the 1st installment (\$78.78; Receiver's Receipt #622). Subsequently, on or before September 18, 1811 he assigned the quarter section to Samuel Allen, who paid the 2nd installment (\$78.78; Receiver's Receipt #491) on September 18, 1811. Allen paid the 3rd and 4th installments on September 18, 1812 (Receiver's Receipt #927) and September 19, 1813 (Receiver's Receipt #1548), respectively. On May 20, 1814, Allen was awarded a Final Certificate (#272).

Between August 7, 1809 and December 8, 1813, Freeman entered into 64 transactions involving Madison County public land, all but one occurring on or before November 2, 1809. He accepted assignment of 9 tracts, and applied for 55 tracts. His initial transaction occurred on August 7, 1809, at which time he accepted assignment from Walter Keeble of T1S, R1E, S 19, SE 1/4 and NE1/4, by paying the balance due on the 1st installment for each tract. Regarding the 9 tracts Freeman acquired by assignment (table 1), he re-assigned 5, and received patents on 3 (table 3); one of the tracts (T5S, R1E, S 17, SW 1/4) reverted due to non-payment and was returned to the General Land Office. Regarding the 55 tracts Freeman applied for, he assigned 43 (table 2), and received patents on 11 (table 3); one of the tracts (T4S, R1E, S15, NW 1/4) reverted due to non-payment and was returned to the General Land Office. On December 8, 1813 he applied for T1S, R1E, S23, SE 1/4: this was his final

application, and also his last assignment - to John Stone, on February 11, 1818 (table 2).

Regarding T3S, R1E, S21, NW 1/4, applied for by Freeman on September 18, 1809, and assigned by Freeman to Francis E. Harris on or before December 18, 1810, a request to transfer the patent to Harris, signed by Louis Winston, initially was denied by Edward Tiffin, Commissioner of the General Land Office, 1812-1814, because the requested transfer was not accompanied by a power of attorney: Freeman explained that Winston, a prominent lawyer and Attorney General for the Madison County District of the Mississippi Territory, 1809-1817, was his agent in Madison County, duly authorized by power of attorney to sell his [Freeman's] lands in Madison County; further, as Winston was reluctant to part with the original, Freeman suggested that an authenticated copy of the power of attorney might suffice to accomplish the transfer.⁴⁶ The matter somehow was resolved: on April 22, 1814, Harris was awarded a Final Certificate (#20).

The greatest number of assignments made by Freeman was to John Brahan, Receiver of Public Moneys at the Nashville (later Huntsville) Land Office: between 1811 and 1814, Freeman assigned 12 tracts to Brahan. Other notable assignments made by Freeman were to John Reed, Register of the Huntsville Land Office (1813-1814), Obadiah Jones, Judge of the

⁴⁶ Freeman to Tiffin, July 5, 1813. In *Letters Received by the Secretary of the Treasury and the General Land Office from the Surveyor General for Mississippi, April 1, 1803-Nov. 4, 1831*, National Archives and Records Administration, Publication Number M1329, Roll 1, April 1, 1803-April 29, 1822.

Superior Court of Law and Equity for Madison County, Francis Harris, Clerk of Court, Superior Court of Law and Equity, Jenkin Whiteside, prominent Tennessee attorney and United States Senator (1809-1811), and Thomas Bibb, Governor of Alabama (July 15, 1820-November 25, 1821).

Freeman received Final Certificates on 14 tracts, including 3 acquired via assignment (table 3). Having paid the balance due on the 1st installment for the 3 tracts acquired by assignment, and the 1st installment on the other 12 tracts, Freeman paid the balance due on the purchase price, plus 6% interest per year on the unpaid balance, to secure a patent on each tract.

The Act of May 10, 1800 (see note 29) required that “...one fourth part of the purchase money shall be paid within forty days after the day of the sale...: another fourth part shall be paid within two Years; another fourth part within three Years; and another fourth part within four Years....” Lands not paid for within five years (within one year of the date of the last installment) would revert due to non-payment and be returned to the General Land Office for resale. Apparently, the General Land Office did not hold Freeman strictly to requirements of the Act: Freeman did pay the balance due on each tract within the five year period specified by the Act, but he did not make payments according to the payment schedule. Regarding T3S, R1W, S15, W 1/2, in a letter to Tiffin dated July 10, 1813,⁴⁷ Freeman asked Tiffin to apply

⁴⁷ Freeman to Tiffin, July 10, 1813. In *Letters Received by the Secretary of the Treasury and the General Land Office from the Surveyor General for Mississippi, April 1, 1803-Nov. 4, 1831*. National Archives and Records Administration, Publication Number M1329, Roll 1, Apr. 1, 1803-Apr. 29, 1822.

the balance of his salary account to make the final payment on the tract "...to save interest on the fourth installment..." The balance due on each section (\$239.46) plus interest on the unpaid balances (\$12.77) was not paid until December 23, 1813 (Receipts Nos. 1712, 1713).

It is not known how, if at all, Freeman profited from assigning Madison County land assigned to him, or that he had applied for. However, that over a period of five years he re-assigned 5 tracts that were assigned to him, and assigned 43 tracts that he had applied for, suggests a strategy for supplementing his income by profiting from those assignments, using proceeds from the assignments to make installment payments on other tracts assigned to him, or applied for by him, as they came due, and to secure patents on certain tracts. Regarding the 14 tracts that were patented to Freeman (table 3), using Power of Attorney granted by Freeman,⁴⁸ Stephen Neal sold each of those tracts, 13 during Freeman's lifetime, and one after Freeman's death: disregarding the posthumous sale of T1S, R2E, S9, NE 1/4, the average compound annual growth rate (CAGR) on the sale of tracts patented to Freeman is calculated to be 31.31% (table 4).

Freeman vs. Williams

According to Madison County, MT, Superior Court records, on January 14, 1812, Freeman entered into a covenant with John Williams, apparently resident in Madison County, that required payment of "...forty-

⁴⁸ Freeman, Letters of Attorney, Stephen Neal, dated April 19, 1819. (Madison County Records Center, Huntsville-Madison County Public Library (Main): Huntsville, AL).

Jandebeur: Thomas Freeman in Madison County: Mississippi Territory, 1807-1818
eight barrels of good, sound, Indian corn...due 25th December succeeding.”⁴⁹ When the terms of the covenant were not satisfied, Freeman sued Williams: a jury awarded Freeman “forty-eight dollars...damages “...besides his costs....” On May 26, 1813, Freeman entered into a second covenant with Williams. The second covenant also specified payment of “...forty-eight barrels of good, sound corn...due the 25th day of December next after the date of said deed, to be delivered at the plantation of said Thomas Freeman in the Red oak flat for value received.” When terms of the second covenant were not satisfied, Freeman again sued Williams: the same jury that had awarded Freeman forty-eight dollars damages for the first broken covenant between Freeman and Williams this time awarded Freeman seventy-two dollars damages plus legal costs incurred bringing the suit to trial.⁵⁰ In a third “covenant broken” court action filed by Freeman against Williams, a jury awarded Freeman one hundred and one dollars in damages.⁵¹ The “John

⁴⁹ *Freeman vs. Williams*, Superior/Circuit Court Record Book No. 3, 1815, pp. 104-107; Sheriff’s Docket Book, November Term, 1813, Docket No. 667, Madison County Records Center, Huntsville-Madison County Public Library (Main), Huntsville, AL.

⁵⁰ *Freeman vs. Williams*, Superior/Circuit Court Record Book No. 3, 1815, pp. 107-109; Sheriff’s Docket Book, November Term, 1813, Docket No. 668, Madison County Records Center, Huntsville-Madison County Public Library (Main), Huntsville, AL.

⁵¹ *Freeman vs. Williams*, Superior/Circuit Court Record Book No. 3, 1815, pp. 211-214; Sheriff’s Docket Book, May Term, 1813,

Williams” sued by Thomas Freeman may have been the same individual sued in 1811 for unpaid debt by Robert Beaty, Hickman and Searcy, White and Gilbreath, and Calvin and Gideon Morgan,⁵² the same “John Williams”, perhaps, who paid the first installment⁵³ on land (SW1/4, Sec. 22, T1S, R1E) later assigned to John Tate.⁵⁴ One can speculate that Williams assigned the land to Tate in order to raise cash to pay damages (\$314.46) resulting from the afore-mentioned five lawsuits.

Plantation in the Red Oak Flat

The Madison County, MT, Superior Court record for the second lawsuit filed by Freeman against Williams (see note 50) indicates Freeman owned a “...plantation...in the Red oak flat”. In fact, at the time of his death, Freeman held patents for 14 tracts of

Docket No. 784, Madison County Records Center, Huntsville-Madison County Public Library (Main), Huntsville, AL.

⁵² *Beaty vs. Williams*, Circuit and County Court Record Book 1, 1811, p. 118. Madison County Records Center, Huntsville-Madison County Public Library (Main), Huntsville, AL; *Hickman and Searcy vs. Williams*, Circuit and County Court Record Book 1, 1811, pp. 119-120; *White and Gilbreath vs. Williams*, Circuit and County Court Record Book 1, 1811, pp. 165-166; *C. Morgan and G. Morgan vs. Williams*, Circuit and County Court Record Book 1, 1811, pp. 164-165.

⁵³Receiver’s Ledger January 18B, Book No. 102: 1811, receipts #617 (December 21, 1811) and #667 (2912). See note 46.

⁵⁴Receiver’s Ledger SW1/4, Sec. 22, T1S, R1E, John Tate, receipt #1702, December 9, 1813. See note 46.

land in Madison County (table 3), including T4S, R1W, S28 (623.9 acres), and four contiguous 1/4 sections of land constituting T1S, R1E, S24 (667.44 acres).

Regarding T1S, R1E, S24, receipts indicate that Freeman entered two of the 1/4 sections (NW 1/4, NE 1/4) on November 2, 1809 by paying the 1st installment (\$83.43) on each tract (Receiver's Receipt #390, #391), and the balance due (\$250.29) plus interest (\$70.08) in July, 1814 (Receivers Receipt #2165, #2166). The other two 1/4 sections (SE 1/4, SW 1/4) were entered by Joe Marptree on October 17, 1809 (see note 47: p. 204), and by Stephen Neal on October 20, 1809 (see note 47: p. 205), respectively, apparently by paying the 1st installment [the author could not locate receipts to support these entries]; these tracts then were assigned to Freeman who, also in July, 1814, paid the balance due plus interest on those sections (Receiver's Receipt #2163, #2164). Freeman was awarded a Final Certificate for each tract (#335, #336, #337 and #338) on September 24, 1814.

Regarding T4S, R1W, S28, Freeman made application for the fractional section (623.9 acres) on August 30, 1809, by placing a deposit of \$311.95 (Receiver's Receipt #149); in July, 1814 he paid the balance due on the tract (\$935.85) plus interest on the unpaid balance (\$271.39), for a balance due plus interest payment of \$1,207.24 (Receiver's Receipt #2174). He was awarded a Final Certificate (#345) on September 24, 1814.

Considering the cash outlay to pay the balance due plus interest for the afore-described 1/4 sections, and the acreage comprising the sections (667.44, and 623.9 acres, respectively), it is probable that Freeman's "...plantation...in the Red oak flat" occupied either T4S, R1W, S28 or T1S, R1E, S24. Using the

Power of Attorney granted him by Freeman, Neal sold T4S, R1W, S28 to Francis Anderson for \$1000, and T1S, R1E, S24 to Robert Walton for \$5000. That the sale price of Section 24 commanded five times the sale price of Section 28 suggests improvements had been made to Section 24; further, Freeman did not sell Section 24 until March 13, 1820 (Section 28 was sold on June 12, 1815): these facts strongly suggest that, most probably, Section 24 was operated as the “...plantation...in the Red oak flat.”

Surveyor General of Lands of the United States South of Tennessee

By letter to President James Madison dated July 23, 1810, Seth Pease resigned his position as Surveyor of Lands of the United States South of Tennessee.⁵⁵ The letter was readdressed to Albert Gallatin, Secretary of the Treasury, and is endorsed thus:

July 23^d 1810. No.122. Seth Pease resigns. Please to enquire for the Christian name of M^r. Freeman, who surveyed Madison C^y &^a his present residence. There is some intention to appoint him Successor if no objection ag^t him should appear.

A.G. M^r. Sheldon

Done in my letter to M^r. G. of Aug^t 7th 1810. D.S.

At the time of this inquiry, it appears that Freeman was in Washington City. Writing to Gallatin from Washington, Adams County, MT, on August 8, 1810,⁵⁶

⁵⁵ Pease to Madison, July 23, 1810. *The Territorial Papers of the United States, Vol. V, The Mississippi Territory 1798-1817*, compiled and edited by Clarence Edwin Carter (Washington, D.C., 1937), 84.

⁵⁶Freeman to the Secretary of the Treasury, August 8, 1810: GLO: Div. E, Miss. SG, vol.53, 1810-1816: ALS.

Freeman related the following... I arrived here the 31st Ult., after arduous & very unpleasant journey by land from Washington City. Previous to my departure from Washington I wrote to Mr. Pease informing him of the contemplated arrangement that had taken place respecting the Surveyors Office in this country, his appointment in another department, and the object of my journey to the Mississippi Territory, requesting of him at the same time to answer my letter & direct to me at Nashville Tennessee where I should be by the time his answer would arrive there. About a week after my arrival at Nashville, I rec^d the answer looked for from Mr. Pease' son, Clerk in the Surveyor's office.... I thence hastened with all possible expedition to this place.... In succession to Pease, Congress being in recess at the time, Freeman received a recess appointment. A temporary commission was forwarded to Freeman on September 10, 1810;⁵⁷ the Oath of Office was taken on October 18, 1810.⁵⁸ On January 7, 1811, Madison formally nominated Freeman to the Office;⁵⁹ the Senate resolved to consent to the

⁵⁷ GLO, Div. E, SG, 1790-1816.

⁵⁸ GLO, Div. E, Mississippi, SG, vol. 53.

⁵⁹*Journal of the Executive Proceedings of the Senate of the United States of America*, v. 2, 1805-1815, Washington: Printed by order of the Senate of the United States, 1828, 159.

nomination on January 9, 1811;⁶⁰ a new commission was sent to Freeman on January 22, 1811.⁶¹

Mortgage on Neal Property

On September 2, 1821, only 2 months before Freeman's death, Stephen Neal, then Sheriff of Madison County, and his wife, Frances, mortgaged the south half of Lot 51 (City of Huntsville 1819 map) to Freeman for \$4,500.00.⁶² Neal was Freeman's friend of long-standing, and a business associate. On April 21, 1819, Freeman granted Neal power of attorney (see note 48). Using the Power of Attorney, in 1819 Neal sold two tracts of land for Freeman, collecting \$4000.00 in payment; in 1820 he sold three tracts of land for Freeman, collecting \$8,000.00 in payment. Apparently in consequence of having collected this money, Neal incurred a \$4,500.00 debt to Freeman. The mortgage was collateral for Neal's payment of that debt. Provided that Neal paid the debt before January 1, 1822, the mortgage was to be null and void; otherwise, it was to be treated as part of Freeman's estate. On November 8, 1821, Freeman died at Neal's home. There is no mention of the mortgage in the codicil to Freeman's last will and testament, written on the eve of Freeman's death, nor do the Executors of

⁶⁰*Journal of the Executive Proceedings of the Senate of the United States of America*, v. 2, 1805-1815, Washington: Printed by order of the Senate of the United States, 1828, 161.

⁶¹ GLO, Div. E, SG, 1790-1816.

⁶² *Deed Book H*. Madison County Records Center, Huntsville-Madison County Public Library (Main), Huntsville, AL, pp. 29-30.

Freeman's estate account for Neal's debt to Freeman, nor is there a Madison County Court record of the mortgage ever having been paid: Freeman may have forgiven the debt; the Neal's may have paid their debt to Freeman without leaving a record; or, they may have chosen to forget about the mortgage. On April 4, 1822, however, the Neal's did use the property (south half of Lot 51) as collateral for a \$10,000.00 surety (penal) bond made with the state of Alabama, such bond being a requirement of Stephen Neal's position as Sheriff of Madison County.⁶³

Codicil to Last Will and Testament

On November 7, 1821, the day before his death, Freeman made a codicil to his last will and testament.⁶⁴

Whereas I Thomas Freeman have made my last will and testament which is now among my papers in my house at Washington in the County of Adams and State of Mississippi, and whereas I have some claims and demands on different persons in the County of Madison State of Alabama amounting on the whole to about four thousand five hundred dollars, besides several negro slaves now in the possession of Major Stephen Neal of the Town of Huntsville in said County of Madison, which property is not specifically bequeathed in my said last will and testament, and

⁶³ *Deed Book H*. Madison County Records Center, Huntsville-Madison County Public Library (Main), Huntsville, AL, pp. 237-238.

⁶⁴ Thos. Freeman, codicil dated November 9, 1821. Orphans Court Records, Madison County Records Center, Huntsville-Madison County Public Library (Main), Huntsville, AL.

whereas I wish to make a disposition of said property & servants without in any manner interfering with the devices and bequests made and contained in my said will. Now I Thomas Freeman do hereby make and publish this my codicil to said last will and testament, hereby ratifying and confirming my said last will and testament except so far as it may be varied by this my codicil.

The codicil largely is concerned with collection and application of a debt incurred by Robert Walton, to wit: I will and desire that the amount which is due me on a note for twelve hundred and twenty two dollars and ninety cents given by Robert Walton to me due the 23rd September 1818 (which said Walton has pledged himself to pay in land office money by the first day of March next) to be remitted to the land office in Cahawba [sic] and applied by my Executor Gamalien Peas [sic] and Gabriel Winter towards paying the sum due to the United States on the lands which I hold that were sold at that office, and I further will and desire that Stephen Neal my agent in said County of Madison shall remit by the first day of March next, a sufficient sum in money receivable in the land office, to the said land office at Cahawba, to make up when added to the money to be paid by said Walton as aforesaid, the sum of two thousand dollars to be applied in same way towards the payment of the land held by me which was sold at said land office.

Considering the date that the note for \$1,222.90 owed Freeman by Walton was pledged by Walton to be paid (i.e., March 1, 1822), and the fact that collection of the debt obviously was very much on Freeman's mind, collection of the debt may be a reason for Freeman being in Huntsville at the time of his death. Apparently, Neal was to have added \$777.10 to the

amount to be paid by Walton to make up the \$2000 to pay for the land purchased by Freeman at the Cahaba Land Office, perhaps in partial consideration of the mortgage Freeman held on Neal's property. Whether Walton's debt to Freeman was collected and applied to the Cahaba Land Office purchase has yet to be determined: there are no records for Thomas Freeman listed in Old Cahaba Land Office Records and Military Warrants, 1817-1853,⁶⁵ but the author indicates that there are "...many ledgers pertaining to the Cahaba Land Office which are not included..." in the book. In June, 2018, Barry Buford, Auburn University at Montgomery, searched Cahaba Land Office records (i.e., Receiver's Ledgers, Registers of Receipts, Daybooks, Journal) located in the Department of Archives and History in Montgomery, AL for information relating to a land purchase by Freeman: no such information was found. The codicil continues thus:

I further will and desire that my said Executors shall proceed to collect the residue of the monies which may be due me in the said County of Madison and apply their pursuance of the directions contained in my last will and testament above refered [sic] to, and to which this is a codicil, for the applications of monies if not specifically bequeathed.

With particular reference to the Neal mortgage, the debt incurred by Robert Walton, and the posthumous sale of T1S, R2E, S9, NE 1/4, there appears to be no record of Neal or Freeman's Executors having collected

⁶⁵ Hahn, Marilyn Davis. 1981. Revised 1986, Old Cahaba Land Office Records and Military Warrants, 1817-1853, Southern Historical Press, Inc., Greenville, SC, 1981, Revised 1986), xxxvi + 266 pp.

monies due Freeman in Madison County, much less its having been applied in pursuance of the directions in his last will and testament or the codicil thereto. Coincidentally, perhaps, Freeman's "...claims and demands on different persons in the County of Madison..." amounted "...on the whole to about four thousand five hundred dollars...", the same amount due Freeman on the Neal mortgage.

Regarding disposition of the several Negro slaves in possession of Neal, Freeman directed the following:

I give and bequeath my negro woman Charlotte & and her child Claibourne, now in the possession of said Stephen Neal, to Caroline Elizabeth Neal daughter of said Stephen Neal her heirs & forever. I give and bequeath my negro girl Dicey now in the possession of said Stephen Neal to George Washington Neal son of said Stephen Neal his heirs & forever.

It is my will and desire that my negro boy Bob now in the possession of the said Stephen Neal be sent immediately to my plantation on the Bayou LaFouche in the State of Louisiana and that he be considered as included in the bequest of my negroes now on said plantation as contained in said last will and testament.

Death in Madison County, Alabama

Freeman died on November 8, 1821, at the home of Major Stephen Neal, in Huntsville, Madison County, AL. An obituary published in the *Alabama Republican* on November 9, 1821,⁶⁶ reads as follows:

DIED-In this town, yesterday evening, 8th inst, Maj. Thomas Freeman of Washington, Mississippi, for many

⁶⁶ *Alabama Republican* (Huntsville, Madison County, AL), November 9, 1821, p. 3. column 3.

Jandebeur: Thomas Freeman in Madison County: Mississippi Territory, 1807-181 years Surveyor General of public lands south of Tennessee River.

The friends of the deceased are invited to attend his funeral from the house of Maj. Neal, at 3 o'clock this afternoon.

Freeman was buried in the Neal plot (Block 2) in Huntsville's Maple Hill Cemetery.⁶⁷ No headstone remains to mark his grave. In 1999, however, the Tennessee Valley Professional Land Surveyors placed a monument in the Neal plot to commemorate Freeman.

From July 31, 1810 until his death, Freeman resided in Washington, Adams County, MS. The capital of the Mississippi Territory from 1802 until 1817, and a social and cultural center, Washington was located only 12 miles from Natchez, MS. On November 24, 1821, the Natchez Gazette published the following obituary:⁶⁸

Died, At Huntsville, (Alabama), on the 8th inst. Major THOMAS FREEMAN, of Washington, Mississippi, Surveyor General of Public Lands South of Tennessee.

The death of this gentleman will be deeply lamented by the society in which he moved. The urbanity of his manner, the amiability of his disposition, and the honorable uprightness of his deportment, endeared him to all his acquaintances. To

⁶⁷ *Maple Hill Cemetery Stroll Brochure* (Huntsville Pilgrimage Association, Huntsville, AL: 2018).

www.huntsvillepilgrimage.org.

⁶⁸ *Natchez Gazette* (Natchez, Adams County, MS), November 24, 1821, p. 3.

the country the loss is most serious; for few men are to be found who are as well qualified to fill the important office which he held - scientific and judicious, The most persevering industry and rigid integrity, were the strongest traits of his public character, and enabled him to afford the highest degree of usefulness.



Table 1: Madison County Land Assigned to Thomas Freeman.

<u>T</u>	<u>R</u>	<u>S</u>	<u>Q</u>	<u>Entered</u>	<u>R#</u>	<u>Assigned</u>	<u>R#</u>
1S	1E	19	SE	18090807	4	18090830	155
1S	1E	19	NE	18090807	3	18090830	154
1S	1E	20	NE	18090808	5	18090830	156
1S	2E	9	SW	18090814	58	18090926	277
2S	2E	19	NE	18090816	67	18090816	67
5S	1E	17	SE	18090918	317	18140700	2167
5S	1E	17	SW	18090918	318		
1S	1E	24	SE	18091017		18091017	2164
1S	1E	24	SW	18091020	46	18140700	2163

Note: R#=Receipt Number; Source of data see note 44.

Table 2 Madison County Land Applied For and Assigned By Thomas Freeman

<u>T</u>	<u>R</u>	<u>S</u>	<u>Q</u>	<u>Applied</u>	<u>Assigned</u>	<u>Receipt</u>
4S	1W	36	NE	18090918	18091202	409
4S	1W	36	SE	18090918	18091202	408
5S	1W	1	NE	18090918	18091202	412
5S	1W	1	SE	18090918	18091202	411
4S	1E	17	NW	18090918	18091202	2352
4S	1E	31	NW	18090930	18091202	
2S	1E	31	NE	18090918	18100314	
3S	1E	21	NW	18090918	18101218	
3S	2W	2	SW	18090906	18110621	
1S	2E	9	NW	18090918	18110701	309
2S	1W	36	NW	18090823	18110823	
1S	2E	9	SW	18090814	18110909	38
1S	1W	24	NE	18090918	18110918	
1S	1W	24	SE	18090918	18110918	490
1S	1E	19	SW	18090918	18110918	925
1S	1E	20	NW	18090818	18110918	
2S	1E	21	NW	18090918	18110918	
3S	1E	14	SW	18091102	18110928	12
4S	1W	3	NE	18091102	18111001	
1S	1E	19	NW	18091030	18111001	14
1S	1E	20	NE	18090808	18111001	

4S	1W	24	SW	18090829	18120829	
4S	1W	25	NE	18090830	18120829	877
4S	1W	25	NW	18090830	18120829	878
4S	1W	24	SE	18090918	18120918	
2S	1W	34	NE	18090823	18130821	

1S	1E	21	SE	18090918	18130913	1517
2S	1W	34	NW	18090918	18130918	
2S	1W	27	SE	18090918	18130918	
2S	1E	23	SE	18091102	18131001	
2S	1E	23	SW	18091102	18140105	
2S	1E	26	NE	18090918	18140105	
2S	1E	26	NW	18091102	18140105	
2S	1E	25	NW	18091102	18140224	1868
1S	2E	8	SE	18090814	18140606	
2S	2E	19	NE	18090816	18140816	2278
4S	1W	33	F	18090830	18140827	
3S	2W	2	NW	18090906	18140905	
2S	1W	27	SW	18090918	18140917	
3S	2W	2	SE	18091004	18140917	1011
3S	2W	3	NE	18090918	18140923	
2S	2W	34	SE	18090905	18141103	
2S	2W	35	SW	18090905	18141103	
1S	2W	31	NW	18090902	18141119	

Jandebour: Thomas Freeman in Madison County: Mississippi Territory, 1807-181

4S 1E 30 SW 18091004 18141119

1S 1E 23 SE 18130812 18180211

Note: T=Township; R=Range; S=Section; Q=Quarter Section; Source of data see note 44.

Table 3 Madison County Land Patented to Thomas Freeman.

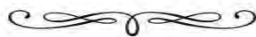
<u>T</u>	<u>R</u>	<u>S</u>	<u>Q</u>	<u>FC#</u>	<u>Y/M/D</u>
2S	1W	35	NW	341	18140924
4S	1W	27	NW	344	18140924
4S	1W	28	SW	345	18140924
3S	1E	15	NW	330	18140808
3S	1E	15	SW	331	18140808
2S	1W	26	SE	342	18140924
2S	1W	35	NE	340	18140924
5S	1E	17	SE	339	18140924
2S	1W	26	SW	343	18140924
1S	1E	24	SE	336	18140924
1S	1E	24	SW	335	18140924
1S	1E	24	NE	338	18140924
1S	1E	24	NW	337	18140924
1S	2E	9	NE	350	18140924

Note: T=Township; R=Range; S=Section; Q=Quarter Section; FC#=Final Certificate Number; Y=Year; M=Month; D=Day; Source of data see note 44.

Table 4 Compound Annual Growth Rate (CAGR) for Madison County Land sold by Thomas Freeman

<u>T</u>	<u>R</u>	<u>S</u>	<u>Q</u>	<u>\$</u>	<u>\$\$</u>	<u>Book</u>	<u>Days</u>	<u>CAGR</u>
2S	1W	35	NW	390	720	B:073	688	38.44
4S	1W	27	NW	937	1000	A:238	346	7.11
4S	1W	28	SW	1519	2000	A:235	318	37.13
3S	1E	15	NW	358	2000	E:400	2014	36.59
3S	1E	15	SW	358	2000	E:400	2014	36.59
2S	1W	26	SE	390	720	B:073	688	38.44
2S	1W	35	NE	389	720	B:073	688	38.63
5S	1E	17	SE	389	1500	E:256	185	30.38
2S	1W	26	SW	390	720	B:073	602	45.02
1S	1E	24	SE	417	1250	F:191	2080	21.25
1S	1E	24	SW	404	1250	F:191	2080	21.92
1S	1E	24	NE	404	1250	F:191	2080	21.92
1S	1E	24	NW	404	1250	F:191	2080	21.92
1S	2E	9	NE	388	800	D:111	2905	9.55

Note: T=Township; R=Range; S=Section; Q=Quarter Section; Deed Books located in Madison County Record Center, Huntsville, AL. Tract coordinates (T, R, S, Q) and Cost \$, see Note 44; \$\$=Proceeds from sale.



Meet the Author;

*Thomas Schroeder Jandebeur; Thomas graduated from Huntsville's S. R. Butler High School, and continued his education at The University of Alabama. He taught biology and served as Dean of the School of Arts and Sciences at Athens State University, Athens, AL. His interest in Madison County history stems from research focused on springs of the southern bend of the Tennessee River in Alabama and Tennessee, particularly those within the historic range of *Elassoma alabamae*, the spring pygmy sunfish*