

SIXTY YEARS OF INDIAN AFFAIRS

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*Political, Economic, and Diplomatic
1789-1850*

By

GEORGE DEWEY HARMON

CHAPEL HILL

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TO
MY WIFE
GERTRUDE McKAY HARMON

PREFACE

The purpose of this study is to examine the many phases of the federal Indian policy in their financial, political, and diplomatic significance. A factor of chief importance, involving the outlay of millions of dollars, was the legal title of the Indians to the soil and the transfer of this ownership to the white people and their government. In the course of time the tribes were removed and placed on reservations. To effect this change, numerous treaties were negotiated and vast land cessions obtained, presents and annuities were given, trust funds were established, and various attempts were made to regulate the Indian trade.

These activities of the national government involved huge expenditures and required skill and alertness to detect and prevent fraud. Despite the fact that most of the federal officials were honest and actuated by the best of motives, public opinion and prevailing conditions were conducive to the perpetration of wholesale fraud on the Indian tribes through the machinations of designing, avaricious, and land-hungry speculators of the frontier.

I have not attempted to write on all phases of Indian history. The individual looking for a romantic and adventurous history of wars and massacres will find little satisfaction in this treatise. Instead, I have confined myself in the main to the economic, financial, political, and diplomatic aspects of the entangling problems.

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PART I

THE FORMATIVE PERIOD, 1789-1825

Chapter I

INTRODUCTION: THE INDIAN POLICY TO 1789

The American people acclaimed the Treaty of Paris in 1783 with considerable emotion. They had terminated a victorious war and concluded a triumphant peace. But independence was accompanied by serious problems that demanded speedy solution. Indian troubles persisted, foreign intrigues for the control of the fur trade increased to dangerous proportions, internal disputes appeared to grow more alarming, states obstructed commerce to the detriment of all, and the national government fought grimly to find a solution to the embarrassing financial problems that continued to harass the nation. Because of governmental weaknesses, internal jealousies and dissensions, the new nation, under the Articles of Confederation, felt that western territory was slipping into the control and possible future possession of Spain in the Southwest and of Great Britain in the Northwest. The ever present and pressing Indian problem compelled an early consideration. The formation of a sound and practical policy would mean an important factor in the final elimination of foreign control over the red men.

The Continental Congress recognized quite early the gravity of the problem by passing the act of July 12, 1775, which divided the Indian country into three geographical divisions, called departments, for administrative purposes—northern, middle, and southern—each with commissioners who were authorized to treat with the Indian tribes, to preserve their peace and friendship, to appoint agents to watch the conduct of the King's superintendents and their emissaries, and to arrest the British agents found inciting the red men to hostilities against the colonies.¹ Congress furthermore sent an address to the Six Nations urging them to remain absolutely

¹ *Journals of the Continental Congress*, II, 175. (Hereafter cited as *J. C. C.*) Three commissioners were to be appointed for the Northern and Middle departments respectively; five for the Southern, but South Carolina was authorized to nominate three of the commissioners for Indian Affairs in the Southern department.—*Ibid.*, pp. 175, 176, 183, 192, 194. The commissioners from the Southern department were to receive from the Continental treasury \$10,000;

neutral in the struggle with England.² Subsequently, Congress solicited the natives to enlist in the Continental army with the same pay as that of the American soldier, plus bounties for English prisoners. No material aid, however, resulted.³

One of the chief issues that appeared in the writing of the Articles by the Continental Congress was the proposal to give the central government the power of regulating Indian affairs. South Carolina stubbornly resisted the proposal because she desired to engage in an unregulated but profitable trade with the southern tribes. Georgia, however, desired central regulation because of her extensive and unprotected frontiers.⁴ She was tired of playing the rôle of a buffer state to her northern neighbor. South Carolina continued to oppose the surrender of state control over such matters as regulation of Indian affairs and trade until a compromise clause was inserted. Moreover, the Virginia delegation, according to James Madison, was largely responsible for the clause in the Articles which safeguarded the rights of the states in the management of Indian relations.⁵ The Articles as finally adopted gave to Congress the sole and exclusive power of "regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State, within its own limits be not infringed or violated."⁶

Despite the fact that Congress was given the sole and exclusive power to enter into treaties and alliances, the proviso pertaining to Indian relations constituted a loophole for the states to negotiate

the Middle and Northern departments \$6,666 $\frac{2}{3}$ respectively for defraying the expense of treaties and presents to the Indians.—*Ibid.*, p. 175.

It is of considerable interest to note that on July 1, 1775, Congress resolved that in case any agent of the British ministry should induce the Indians to commit actual hostilities against the colonies or to form an offensive alliance with them, the Continental Congress should forthwith enter into alliances with as many tribes as possible to oppose the British troops and their Indian allies.—*Ibid.*, p. 123.

² *Ibid.*, pp. 178-182.

³ *Ibid.*, IV, 394-395. On May 12, 1776, the Continental Congress deemed it necessary to procure the assistance of the Indians against the British throughout the original Thirteen States, but in particular to urge them to take Niagara. For this purpose attractive remunerative offers were made.—*Ibid.*

⁴ *Ibid.*, VI, 1077-1079.

⁵ Gaillard Hunt, ed., *The Writings of James Madison*, II, 91-93.

⁶ Allen Johnson, ed., *Readings in American Constitutional History*, p. 80.

treaties with the Indian tribes. Friction between the states and the National Congress naturally resulted. A dispute, for example, relating to Indian trade and management arose between North Carolina and Virginia. Colonel A. Campbell wrote of the former state, July 10, 1782: "I observe a jealousy of Virginia in assuming the whole agency with the Indians, and a monopoly of the trade. Perhaps this is such a national concern that it may be best accommodated by regulations of commerce. For I doubt whether Carolina would be competent to the task were it relinquished in their favor."⁷

When the agents of Congress were in the process of negotiating the treaty of Fort Stanwix in 1785, New York deliberately endeavored to thwart their success. Although the Articles empowered the central government with the supervision and regulation of Indian affairs, the original Thirteen States managed, in the main, their own relations with the Indians. The states, nevertheless, in times of Indian troubles, did not hesitate to call upon Congress for military aid. When the Northwestern tribes, for example, threatened Kentucky in 1786, Virginia urged the central government to send troops against the frontier tribes⁸ to force them to bury the hatchet.

In response to this request, Charles Pettit made a motion to the effect that Congress was not possessed of sufficient evidence of the aggressions of the Western Indians to warrant carrying war into the Indian country. For the prevention of future incursions Congress should proceed without delay in the reorganization of the Indian department, "and such other measures, as shall effectually secure peace to the Indians and safety to the citizens inhabiting the frontiers of the United States."⁹

As a matter of record Congress had already introduced a measure to reorganize the Indian department for the purpose of augmenting its powers so that Indian relations might be more effectually regulated and controlled to curb the independent action of the states and to thwart the ambitions of irresponsible traders and adventurers.¹⁰

⁷ W. P. Palmer *et al.*, eds., *Calendar of Virginia State Papers*, III, 213.

⁸ *J. C. C.*, XXX, 372-374.

⁹ *Ibid.*, p. 374.

¹⁰ *Ibid.*, pp. 368-372. The report was made to Congress, June 28, 1786.

After considerable deliberation and debate, Congress passed the pending ordinance on August 7, 1786. Instead of three geographical divisions for administering Indian affairs, the measure provided for two—a northern and a southern with a superintendent¹¹ and two deputies for each. The superintendents and deputies were compelled by law to execute such regulations as Congress should establish respecting Indian affairs.

There shall be communications of all matters relative to the business of the Indian department, kept up between the said superintendents, who shall regularly correspond with the Secretary at War, through whom all communications respecting the Indian department shall be made to Congress; and the superintendents are hereby directed to obey all instructions, which they shall, from time to time, receive from the said Secretary at War.

The superintendents were likewise to render an annual account of the expenditures in the form of provisions and presents provided by Congress to the board of the treasury.¹²

The superintendents were authorized to license Indian traders, but only citizens of the United States were to trade with any tribe within the territorial bounds of the red men, and even special approbation of the superintendent was necessary to travel within the Indian Country.¹³ Finally, each superintendent was required to take the following oath before entering upon his appointed duties:

I, A B, do swear that I will well and faithfully serve the United States in the office of superintendent of Indian Affairs, for the district: that I will carefully attend to all such orders and instructions as I shall, from time to time, receive from the United States in Con-

¹¹ Richard Butler was the first Northern superintendent and James White, the first Southern superintendent. The superintendents received \$1,000 annually and deputies \$500.—*J. C. C.* (contemporary ed.), XI, 101, 105-107, 126-129, 136. The superintendent of the Northern department was authorized to appoint two deputies, but the superintendent of the Southern department received no such expressed power.—*J. C. C.*, XXXI, 490-493.

¹² *Ibid.*, p. 491.

¹³ *Ibid.*, pp. 491-493; *American State Papers, Indian Affairs*, I, No. 2 (1), 14. (Hereafter cited as *A. S. P., I. A.*) That part of the act pertaining to trade will be discussed more fully in a subsequent chapter. This ordinance gave no power to the superintendents to appoint agents other than deputies. They were probably appointed by the superintendents as the successors of the former commissioners.

gress assembled, or the Secretary at War; that I will not be concerned, either directly or indirectly, in trade with the Indians; and that, in all things belonging to my said office, during my continuance therein, I will faithfully, justly, and truly, according to the best of my skill and judgment, do equal and impartial justice, without fraud, favor, or affection.¹⁴

The Ordinance of 1786 constituted the most important legislation thus far enacted to establish the necessary governmental machinery for the regulation and more effective control of Indian affairs. The act made the Secretary of War unquestionably the directing head of Indian affairs. The passage of the act within less than ten months of the convening of the Constitutional Convention in Philadelphia is significant.

The management of Indian affairs by Congress under the Articles, as previously observed, appeared confused, haphazard, and often in conflict with the states. In fact, there were fourteen different policies, each competing with the other. Nevertheless, despite the pessimism of the leaders of the nation during the "Critical Period" and the feebleness of the early government, there evolved an Indian policy of considerable direction and energy, challenged at times by the states.

From 1775 to 1779 the Continental Congress controlled Indian relations through a committee on Indian affairs. All correspondence and recommendations pertaining to Indian matters were turned over to the members of the committee,¹⁵ who did laudable work even though no consistent policy emanated from that source. The Revolutionary experiences had now demonstrated the necessity of effecting a change in organized control of Indian relations; therefore, Indian questions and problems were referred to the Board of War, which in turn made its reports and recommendations to Congress.¹⁶ Commissioners who were appointed to make peace with the

¹⁴ *J. C. C.*, XXXI, 492. The deputy superintendents had to take a similar oath. The superintendents and deputies had to give bond "with surety to the board of treasury, in trust for the United States," the former to the amount of \$6,000 and the latter \$3,000.—*Ibid.*, p. 493.

¹⁵ On May 4, 1779, the Continental Congress appointed the last Committee on Indian Affairs. James Duane, John Armstrong, Thomas Burke, Henry Laurens, and Roger Sherman composed the Committee.—*Ibid.*, XV, 1446.

¹⁶ *Ibid.*, XI, 829; XIII, 411; XIV, 693; XVI, 162; XVIII, 1067. For some light upon the question of disposal of Indian commissioners, see *A. S. P., I. A.*, I, 123.

Indians likewise received their instructions from Congress.¹⁷ The important Ordinance of 1786 gave the Secretary of War considerable power in organizing and directing Indian affairs, but the general national situation during the next two years prohibited an effective use of the authority thus received.

The Congress, nevertheless, laid the foundation of the future Indian policy of the federal government. Following the cession of the western lands to the national government the Congress, in the Ordinance of 1785, gave the nation a definite system of surveying and selling the federal lands to the interested public. The Ordinance of 1787 gave the nation a definite colonial policy, but the act applied only to the Northwest because the lands south of the Ohio had not yet been ceded by the southern states. These ordinances proved to be two of the most important laws in American history because they were applied to every organized territory.

The older frontier lay south of the Ohio. Here discontent pervaded the isolated settlements. Too distant from the home government, the people desired to govern themselves and demanded statehood. As the population increased the desire grew until agitation for statehood became practically a continuous affair. The passage of the Ordinance of 1784 stimulated these impulses. The inhabitants of the Tennessee country, thinking that statehood was near, established a government, christened the country the State of Franklin, elected John Sevier governor, and requested admission as a state. To aggravate matters further, North Carolina ceded its western lands but before Congress acted on the cession the State withdrew its offer. After considerable resistance on the part of Tennessee, North Carolina regained political control. It was not until 1789 that the cession was finally completed. Frontier resistance, Indian hostilities, and Spanish intrigues probably convinced the parent State that the struggle to retain the frontier lands against such obstacles would be too hazardous and expensive.

Nature had decreed the Mississippi River to be the only feasible outlet for the ever increasing farm produce of the Southwest and West. In undisputed possession of both banks of the Father of Waters south of the 31° parallel of latitude, Spain closed this

¹⁷ J. C. C., XXXI, 491-493.

great natural highway to American commerce. Possessing the desired vantage, Spain proceeded to force, if possible, the southern frontier into union with her—either as an outright annexation or as a dependent ally. To acquire the coveted prize Spain granted certain frontier leaders the privilege of using the river to New Orleans in return for their aid in effecting the secession of the Southwest from the American Union. Foremost of these enterprising adventurers was James Wilkinson, a former commissioned officer in the Revolution, and a crafty, unscrupulous soldier of fortune. There were others, such as George Rogers Clark and William Blount, whose names were linked with disloyalty and intrigue.

Tennessee had other causes of dissatisfaction in the distressing Indian situation. Indian hostilities constituted one of the important reasons for the creation of the State of Franklin in order to secure protection which North Carolina had failed to give frontiersmen. Between the settlements on the Holston and the Tennessee rivers and Spain to the southward roamed four powerful tribes—the Creeks, Cherokees, Chickasaws, and Choctaws—dwelling upon land largely within the territory of the United States and also within the region disputed with Spain. Apprehensive of her American neighbors and eager to prevent settlements within the Indian country and to protect the Indian trade, Spain formed treaties of alliance and understandings with the tribes for the purpose of resisting all encroachments of the Americans and urged them to exclude all traders from the United States.¹⁸

Since the lands south of the Ohio had not been ceded to the national government, Congress was less able to control Indian relations there than in the country north of that river where all the land claims had been surrendered by 1786. The power of the central government was confined chiefly to those tribes “not members of any state.” Negotiations were undertaken with the Southern tribes but little was accomplished because of state jealousy and state rights.

The rumor that the Jay-Gardoqui proposal to close the Missis-

¹⁸ A. P. Whitaker, “Spanish Intrigue in the Old Southwest: An Episode, 1788-89,” *Mississippi Valley Historical Review*, XII (September, 1925), 155-176; Jane M. Berry, “The Indian Policy of Spain in the Southwest, 1783-1795,” *Mississippi Valley Historical Review*, III (March, 1917), 462-477.

Mississippi to the use of the Americans for a quarter of a century caused great excitement among the frontiersmen and brought the secession movement in Kentucky to the forefront. Union sentiment in that country was so uncertain that Washington likened the West unto a weathercock which the slightest breeze would turn any way. A majority apparently preferred the prospect of future statehood to a doubtful independence, but the vital issues with Spain remained unsolved and a serious danger until 1795.

A similar situation, but one not quite so acute, perhaps prevailed with regard to the British in the Northwest and to their domination of the natives. The forts were still held by the Redcoats largely for the purpose of monopolizing the fur trade. Since the national government possessed a clear legal title to these lands, Congress exercised more effective control over Indian affairs and attempted to give the inhabitants a lawful territorial government. But the questions at issue, like those with Spain in the Southwest, remained unsettled as an inheritance for the government of Washington.

Indian affairs and relations, though serious from 1776 to 1789, were largely eclipsed by more obvious and disconcerting national problems. Although in some respects the financial conditions following the treaty of 1783 had gradually improved, they were still quite unsatisfactory. The government under the Articles proved to be wholly inadequate to meet the needs of the new nation. The attempts made to strengthen the Articles by amendments proved discouraging, if not impossible. With no power to tax, Congress could raise money only through the process of requisitioning the states, by borrowing or emitting bills on the credit of the United States and after the passing of the Ordinance of 1785, through the sale of public lands. No one of these possible means of securing revenue proved satisfactory. With a depreciated national currency, foreign and domestic credit exhausted, interstate commerce at a standstill because of tariff barriers between the states, foreign commerce largely in the hands of English merchants, the British in possession of the Northwest posts, and the Mississippi River closed by Spain to American commerce, foreign powers forming alliances with the frontier Indian tribes against the United States, Indian wars threatening and the states demanding protection therefrom,

rebellion and secession in the air and Daniel Shays' Rebellion a grim reality, life and property endangered, and the national government apparently helpless, something had to be done to save the nation from dismemberment. The Constitutional Convention was, therefore, called to meet in Philadelphia in 1787 to devise a stronger and a more perfect Union.

Chapter II

FEDERAL ADMINISTRATION OF INDIAN AFFAIRS, 1789-1796

The delegates to the Constitutional Convention met the national crisis by ignoring their instructions to amend the Articles and creating instead a new instrument of government with powers to meet the existing and possible future national emergencies. The Constitution provided for three coördinate branches of government—executive, legislative, and judicial—with large powers for each. Each branch of the government materially affected the future Indian policy. The national government was now specifically authorized to negotiate treaties and to regulate commerce with foreign nations, among the several states, and with the Indian tribes.¹ The executive branch, in addition to these diplomatic and treaty making powers, possessed extensive military and appointive powers which had a direct and important bearing on Indian administrations. Congress, through far reaching legislative enactments and money appropriations, determined the machinery for organized control of the numerous tribes. The federal judiciary occasionally handed down vital opinions relating to Indian affairs.

George Washington, the first president of the United States under the newly created federal government, possessed an unusual grasp of the intricate Indian problem as a result of his varied experiences in the French and Indian War and as Commander-in-Chief of the American Army during the Revolutionary War. The frontier problems relating to both whites and Indians were thoroughly understood by him. He was likewise familiar with the activities of foreign powers and their agents within the territorial limits of the nation.

During the Revolution and afterwards, Washington had access to some of the correspondence of General Philip Schuyler, Indian commissioner for the Northern Department, in regard to recommendations and policies as well as to the reports of Congress which

¹ Johnson, ed., *Readings in American Constitutional History*, pp. 116-121.

enabled the great Virginian to formulate an intelligent plan of his own.

As early as September 7, 1783, Washington wrote to James Duane, a member of the committee on Indian affairs, about western lands and Indian matters. He desired a sound and practical plan for the settlement and development of the frontier in order to obviate all possible troubles with the natives. The Indians were to be informed emphatically that they must deliver up all prisoners prior to any negotiations, that all of their lands had been ceded to the United States and that they could with justice be expelled from their territory. The government, however, preferred to be a kind and merciful master by negotiating a boundary that would separate their territories from those of the United States. The lands thus reserved to them would be for their own present and future needs. By an orderly and gradual frontier policy, expensive and bloody Indian wars would be avoided. As the tribes receded westward before the gradual infiltration of the whites the lands could be purchased with little cost. If at all feasible, Indian trade should be a government monopoly or be rigidly regulated by government laws and all Indian traders be compelled to secure a license. Washington did not overlook the possibility of a future state or states being carved out of the Northwest when he proposed that the boundaries should extend

from the mouth of the Great Miami which empties into the Ohio, to its confluence with the Mad River, thence by a line to the Miami fort and village on the other Miami [Maumee] river which empties into Lake Erie and thence by a line to include the settlement of Detroit, which with Lake Erie to the northward, Pennsylvania to the eastward and the Ohio to the southward form a government sufficiently extensive to fulfill all public engagements and to receive, moreover, a large population by emigrants.

Detroit, however, might be omitted until some later day. If circumstances dictated this procedure "the settlement of Detroit and all the territory north of the rivers, Miami and St. Josephs, between Lakes Erie, St. Clair, Huron, and Michigan, [was] to form hereafter another state equally large and waterbound." Furthermore, Washington knew that the settlement and the development of the West and the problem of friendship with the Indians were

necessarily closely intertwined. He accordingly recommended that the new republic adhere strictly to the policy of purchasing the Indian lands through treaties.²

The next year, 1784, the Countess of Huntington, an English philanthropist, offered America a plan for civilizing and Christianizing the frontier Indians by allowing only honest and religious people to settle near them that by example they might lead the red men to Christianity. Patrick Henry urged Congress to accept the plan.³ Washington endorsed it,⁴ but Congress failed to take any definite action upon the proposal.

Appreciating fully the causes of western dissatisfaction and realizing that the problems of the frontiersmen were blended with foreign intrigues to control the Indian tribes and to obtain if possible their trade and their lands, Washington, braced with the greater powers bestowed by the federal Constitution, assumed the responsibilities of Indian affairs. In selecting his cabinet, which included the versatile Thomas Jefferson as Secretary of State and the brilliant Alexander Hamilton as Secretary of the Treasury, the President appointed Henry Knox as Secretary of War. Knox had held this position during the previous three years.

Because one of the foremost needs of the nation was the establishment of a sound currency, Hamilton was naturally the constructive force in the administration, just as Jefferson was the creative genius in formulating the American foreign policy. Since Jefferson inherited from the government of the Articles the unsettled Indian and Spanish combinations in the Southwest, he received a similar legacy in the British domination of the Northwestern tribes, together with their trade. It behooved the new secretary to attempt to dislodge both the Spanish and the British in order that the American nation might become master of its own natural and legal bounds. The Nootka Sound controversy, the French Revolution, a devastating European war, the Genêt mission, the attitude of George Hammond, the British minister to the United States, together with internal plots and intrigues, combined to thwart the success of Jefferson.

² P. L. Ford, ed., *Writings of George Washington*, X, 300-312.

³ William W. Henry, *Patrick Henry; Life, Correspondence, and Speeches*, III, 256.

⁴ *Ibid.*, II, 273.

Genêt proceeded to use American soil to organize attacks on the Spanish and British colonies and commerce. In addition to fitting out privateers, he issued military commissions to frontier leaders like George Rogers Clark to organize a legion for the purpose of seizing New Orleans from Spain. By means of propaganda he likewise hoped to secure the revolt of Canada, as well as of Louisiana.⁵ As a result of Washington's attitude Genêt's comprehensive program collapsed. Nevertheless, because of French, Spanish, and British influence among the natives, diplomacy and Indian control stepped in unison.

Spain, however, under the leadership of Governor General Miro in Louisiana, wanted to accomplish her purpose and to remain at peace with the United States; therefore she admonished the Indians not to go to war with the latter without provocation. The Spanish government probably sought that which it had not been able to secure in the treaties of 1783, namely, "the erection of a wall of wilderness and Indian tribes between the Spanish Floridas and Louisiana on the one hand and the United States on the other. The Indians themselves would serve as a military support and their fur trade would be the basis of the economic development of Louisiana and West Florida."⁶

In 1791 the Baron de Carondelet succeeded Miro as governor-general of Louisiana and West Florida. The former was more belligerent in his policy than the latter and he immediately endeavored to obstruct the plans of the frontiersmen. The Georgia legislature voted large quantities of wild land in the western part of the state, to which it had doubtful claim, to companies of speculators who in turn sold their claims to subordinate companies.⁷ Speculation was

⁵ For Genêt's instructions see F. J. Turner, ed., *Correspondence of the French Ministers to the United States, 1791-1797*. See also the following articles by F. J. Turner, "The Origin of Genêt's Projected Attack on Louisiana and the Floridas," *American Historical Review*, III (1898), 650-671, and "The Policy of France Toward the Mississippi Valley in the Period of Washington and Adams," *American Historical Review*, X (1905), 249-279.

⁶ Berry, "The Indian Policy of Spain in the Southwest, 1783-1795," *Miss. Valley Hist. Rev.*, III, 466.

⁷ Leading men everywhere became interested in the speculative enterprise: George Washington, John Marshall and Patrick Henry of Virginia, Senator James Gunn of Georgia, Wade Hampton and R. G. Harper of South Carolina, and James Wilson of Pennsylvania, an Associate Justice of the Supreme Court.

rampant and adventurers were penetrating the Southwest. The only way to save the province, according to the new governor-general, was through an effective use of the native tribes in thwarting the Americans. Carondelet feared that his policy might lead to war with the United States, but he felt that if conflict followed it could be justified. Fortunately he was held in check. He tried to prevent the running of the boundary according to the terms of the treaty of 1790 which the United States had made with the Creeks. In 1793 he labored to bring all the tribes in the Southwest, West and Northwest into a confederation, so as to hem in the Americans to the east. In this he was not successful, but he did form a confederation with the Southern tribes. The agreement brought together the tribes as one nation into an offensive and defensive alliance under the protection and guidance of Spain. As a reward for her protecting care, the tribes promised to protect the territorial integrity of the Spanish provinces of Louisiana and the Floridas and to take no important action without the consent of the governor-general or some other authorized Spanish agent. These covenants were not applied, for the assembled Indians were never given an opportunity to ratify them.⁸

In 1795 came the long hoped for treaty with Spain, though disappointing to Spanish officials in the Southwest. The treaty opened up the Mississippi River only to American and Spanish commerce with the Americans possessing the right of depositing their goods at New Orleans, free of taxation for three years, subject to renewal—a factor which pleased the frontiersmen, satisfied Georgia by adjusting the boundary in favor of the United States, and placed the larger portion of the four Southern Indian tribes in the undisputed domain of the federal government. Each power agreed to control the Indians within its own territory by pro-

See Henry, *Patrick Henry*, II, 512; *American State Papers, Public Lands*, I, 132-156. (Hereafter cited as *A. S. P., P. L.*) The best account of the Yazoo matter is C. H. Haskins' "Yazoo Land Companies," *Annual Report, American Historical Association for 1891*, V, 395-437.

⁸ For an excellent discussion of some of these problems see Berry, "The Indian Policy of Spain in the Southwest, 1783-1795," *Miss. Val. Hist. Rev.*, III, 463-470; Whitaker, "Spanish Intrigue in the Old Southwest: An Episode, 1788-1789," *Miss. Valley Hist. Rev.*, XII, 155-176.

hibiting incursions into the domain of the other. The last stipulation furnished grounds for subsequent negotiations over the Florida boundary. With the unanimous ratification of Pinckney's treaty by the Senate, the Spanish conspiracy, which had been promoted by Governor Carondelet of Louisiana and his agents in Kentucky, collapsed. The Spanish governor was in touch with James Wilkinson and his co-designers when the former received instructions to suppress the cabal.⁹ Carondelet, nevertheless, continued to keep in close touch with the Indians, hoping that the United States might, perhaps, become involved in the European war, and the Indians might again turn to Spain for protection. Events caused the desire to fade; therefore, in 1798, Spain withdrew her garrisons north of 31° latitude and the permanent control of the natives passed definitely to the United States.

The opening of the Mississippi to American commerce redounded to the commercial advantage of both the West and the East and made the whole nation "Mississippi-minded."¹⁰ America was now in an advantageous position to penetrate Louisiana peacefully.

Although the President and Secretary of State through the channels of diplomacy played a conspicuous rôle in eliminating Spanish and British influence among the Indian tribes and eventually in bringing the frontier Indians under American control, to Henry Knox went the real task of formulating an Indian policy. Knox, formerly a Boston bookseller, had been chief of the artillery and a major general in the Revolutionary War. Since the first Congress, under the federal Constitution, gave the management of Indian affairs to the Secretary of War, Knox's previous training and experience during the Revolution and under the Articles of Confederation together with his augmented powers now served

⁹ For further details see Samuel Flagg Bemis, *Pinckney's Treaty: A Study of America's Advantage from Europe's Distress*. See also the following by A. P. Whitaker, *The Spanish-American Frontier; the Westward Movement and the Spanish Retreat in the Mississippi Valley, 1783-1795*; "New Lights on the Treaty of San Lorenzo," *Miss. Valley Hist. Rev.*, XV (March, 1929), 435-454; "Godoy's Knowledge of the Terms of Jay's Treaty," *Am. Hist. Rev.*, XXXV (July, 1930), 804-810.

¹⁰ A. P. Whitaker, *The Mississippi Question, 1795-1803; A Study in Trade, Politics, and Diplomacy*, pp. 150-154.

him in good stead. His appointment practically assured an unbroken Indian policy, evolved in the light of experience and dictated by necessity.

Knox lost little time in recommending to President Washington and to Congress in a communication of July 7, 1789, a rather ambitious undertaking in Indian management. He urged the purchase of western lands from the natives, whose removal was advocated before the whites were ready to occupy the new lands. Acting upon the request of Knox, Congress in 1789 voted \$20,000 to defray the expenses of negotiations with the Indians.¹¹ This sum was practically five times more than was appropriated for such purposes during the previous year, and almost \$5,000 more than was spent through treaties and for goods and presents in the year 1787. Nevertheless Congress, under the Articles, was not miserly in its financial relations with the Indians. From 1776 to 1789, for example, Congress paid \$580,103.41 to the various tribes.¹² When considered in the light of the number of Indians involved, the amount was exceedingly small, but when viewed in the light of the capacity to pay, it was an enormous sum. In 1789 the national financial situation had improved but little, so that the Secretary of War, under the circumstances, was probably satisfied with so large an appropriation. The Indian situation, however, was treacherous and Congress responded as generously as wisdom probably would permit.

General Knox believed that the federal authorities should exercise a firm hand with the various tribes; that all treaties should be rigidly carried out in order to win the confidence of the red men and the respect of the frontiersmen; and that the Indian trade should be developed and regulated.

It would reflect honor on the new Government [wrote the Secretary] and be attended with happy effects, were a declarative law to be passed, that the Indian tribes possess the right of the soil of all lands within their limits, respectively, and that they are not to be divested thereof, but in consequence of fair and bona fide purchases, made under the authority, or with the express approbation, of the United States.

¹¹ *A. S. P., I. A., I*, No. 3, 64.

¹² *Ibid.*, II, No. 168 (1), 210. See also Henry W. Schoolcraft, *The American Indians, Their History, Condition and Prospects*. . . . Part IV, p. 569.

As the great source of all Indian wars are disputes about their boundaries, and as the United States are . . . liable to be involved in every war that shall happen on this or any other account, it is highly proper that their authority and consent should be considered as essentially necessary to all measures for the consequences of which they are responsible.

No individual State could, with propriety, complain of invasion of its territorial rights.

The different Indian tribes, according to Knox, ought to be considered as foreign nations, not as the subjects of any particular State. Each individual State, indeed, will retain the right of pre-emption of all lands within its limits, which will not be abridged; but the general sovereignty must possess the right of making all treaties, on the execution or violation of which depend peace or war.¹³

Knox also stated that the emigration of the whites should be restrained and regulated, if need be, by armed force. The native population must be preserved and not allowed to become extinct by the onward march of American citizens. Some individuals believed it impracticable to civilize the red men; but Knox felt that this opinion was probably more convenient than just.

That the civilization of the Indians would be an operation of complicated difficulty; that it would require the highest knowledge of the human character, and a steady perseverance in a wise system for a series of years, cannot be doubted. But to deny that, under a course of favorable circumstances, it could not be accomplished, is to suppose the human character under the influence of such stubborn habits as to be incapable of melioration or change—a supposition entirely contradicted by the process of society, from the barbarous ages to its present degree of perfection.

While it is contended that the object is practicable, under a proper system, it is admitted, in the fullest force, to be impracticable, according to the ordinary course of things, and that it could not be effected in a short period.

Were it possible to induce among the Indian tribes a love for exclusive property, it would be a happy commencement of the business.¹⁴

This desirable purpose might be brought about by making presents from time to time, of sheep and other domestic animals, to the chiefs

or their wives; "and if, in the first instance, persons were appointed to take charge, and teach the use of them, a considerable part of the difficulty would be surmounted."

Knox further recommended the appointment of missionaries of excellent moral character to reside among the Indians,

who should be well supplied with all the implements of husbandry, and the necessary stock for a farm.

These men should be made the instruments to work on the Indians; presents should commonly pass through their hands, or by their recommendations. They should, in no degree, be concerned in trade, or the purchase of lands, to rouse the jealousy of the Indians. They should be their friends and fathers.

Such a plan, although it might not fully effect the civilization of the Indians, would most probably be attended with the salutary effect of attaching them to the interest of the United States.¹⁵

Although these humane and benevolent suggestions were never fully carried out, they proved to be the basis of the future Indian policy of the federal government.

When Henry Knox entered Washington's cabinet, the administrative organization of Indian affairs remained for a while as previously provided in the Ordinance of 1786 with two superintendents and with various minor agents directly under their control. In addition, the governors of the territories were *ex officio* superintendents of Indian affairs. Congress, on July 22, 1790, passed an important measure that forbade any person to carry on trade with the natives without a license and prohibited the issuance of any permit for a longer period than two years. An individual so privileged to give bond of \$1,000 to guarantee the observance of the federal rules and regulations. If any man was found guilty of trading illegally, the offender's goods were to be seized and equally divided between the prosecutor and the United States. No sales of lands by red men were valid to any person or state unless the same were made at some public treaty, held under the authority of the central government.¹⁶ Again the national authorities attempted to regulate trade and intercourse with the

¹⁵ *Ibid.*, p. 54. These views were recommended to President Washington and to Congress in the communication of Secretary Knox, July 7, 1789.

¹⁶ *United States Statutes at Large*, I, 137-138. Hereafter cited as *Stat. L.*

Indian tribes in the act of March 1, 1793, by prohibiting agents, superintendents, and all other persons authorized to grant licenses from being interested in Indian commerce. The measure also recognized the superintendents of the departments as officers under the Ordinance of 1786 and authorized the President to appoint other persons to assist the superintendents.¹⁷

¹⁷ *Ibid.*, pp. 329-332.

Chapter III

FEDERAL RELATIONS WITH THE NEW YORK TRIBES 1789-1796

The people who inhabited the frontier of the state of New York were very similar to the pioneers of other states in that they were all apparently thirsting for Indian lands and trade. Strict prohibitions against the purchase of land from the aborigines had existed during the latter part of the colonial period. Upon the formation of the state government in New York in 1777, an article was incorporated in the Constitution, which continued in full force for years, declaring invalid all purchases of territory from the natives since October 17, 1774, and forbidding cessions in the future without the permission of the state legislature in the manner provided by law. It was made a crime to deal with the Indians for the sale of lands on private account; such bargains were void, and the persons found guilty were punishable by fine and imprisonment.¹ The Congress of the United States passed, as previously stated, a similar act on July 22, 1790.²

Despite rigid legislative enactments, the speculators continued their activities with increased vigor. The New York Genessee Company of Adventurers in 1787 was composed of eighty-two members, several of whom were members of the legislature. In that year the company leased thousands of acres of land from the Iroquois for nine hundred and ninety-nine years (Livingston's lease). The agreement called for a yearly payment of two thousand Spanish milled dollars.³

Another tract was obtained the next year from the Oneidas for a similar period, for the payment of \$1,000 the first ten years, and increasing after that at the rate of \$100 annually until it reached

¹ Article 17, Constitution of 1777; a similar prohibition in Article 6, Sec. 12, Constitution of 1821; Article 1, Sec. 16, Constitution of 1846.

² *Stat. L.*, I, 137-138. The federal government passed similar prohibitory acts in 1793 and in 1834.—*Ibid.*, IV, 730.

³ F. B. Hough, *Proceedings of the Commissioners of Indian Affairs . . . in the State of New York*, I, 119-121 and note. Hereafter cited as Hough, *Proceedings*.

\$1,500; which sum was to remain the annual rent afterwards. The company also agreed that for whatever posts and storehouses were erected at the places designated the Indians would receive \$100; and in case of the discovery of mines to allow the natives their share of the profits.⁴

In February, 1788, while a member of the land company and a representative in the state assembly, Livingston memorialized the legislature to recognize the leases. He and his cohorts bribed several of the Indian chiefs to petition that body for the same purpose, but the contracts were summarily rejected. The agents of the company then proposed to turn their claims to more than a million acres over to the State for certain remunerative considerations, but the latter flatly refused.⁵

The Onondagas ceded all of their possessions within the State of New York to the State in the treaty of September 12, 1788, in return for which reservations were given to them for their use. The tribe was paid one thousand French crowns and two thousand pounds in clothing, and five hundred dollars in silver annually forever, unless they preferred raiment and provisions. All intruders were to be expelled and kept off of their lands by the State.⁶

⁴ *Ibid.*, pp. 122-123.

⁵ *Ibid.*, pp. 124-126, 138-139.

⁶ *Ibid.*, pp. 198-201. The whole of the reservations described in this cession have long since passed out of the hands of these Indians. The remnant of that tribe now living in Oneida and Madison counties reside upon lands belonging to them individually. The relinquishment of title occurred as follows:

On September 15, 1795, a portion of the reservation was sold for \$2,952 and an annuity of \$2,952, with the conditional sale of other parts for \$3 annually per 100 acres. June 1, 1798, another part was sold for \$200 and an annuity of \$700. March 5, 1802, a further cession was made for \$900 and an annuity of \$300. March 21, 1805, another cession was made. March 13, 1807, the Christian quit-claim to a part of their tract for an annual rent at six per cent at the rate of \$0.75 per acre. The sum of \$600 was advanced, February 16, 1809; the Christian party sold the remaining part of their Fish Creek Reservation, 7,500 acres, with certain stipulations as to the right of fishing for \$600 in cash, \$1,000 in July following, and an annuity of \$120. On February 21, 1809, the Pagan party sold their lands east of Oneida Creek for an annual rent of six per cent on the lands sold rated at \$0.56 per acre. The sum of \$1,000 was advanced in part payment. March 3, 1810, and February 27, 1807, the Christian party sold parts of their tract at \$0.56 per acre, part paid down, and the balance secured in an annuity at six per cent. July 20, 1811, the Oneidas released their claims upon the Stockbridge and Brotherton lands for \$1,200.

Earnest efforts were now made by the State to obtain a cession from the Oneidas. As an inducement to surrender a very large tract of their lands, the sum of \$2,000 in specie, \$2,000 in goods, and \$1,000 in provisions was offered to them immediately upon signing the agreement, and a perpetual annuity of \$600. The tribe agreed except to the yearly payment; the chiefs thought that they should be paid \$1,000 annually. The commissioners refused to grant the desired amount, but they did agree to give \$500 toward erecting a grist mill and saw mill within their village. These terms were accepted, and the contract was signed, September 22, 1788. A few tracts were also reserved for certain individuals who became owners in fee.⁷

On February 25, 1789, the Cayugas ceded all their lands to the State. In return New York promised the tribe reservations which it could hold forever. The State paid \$500 in silver, six months later \$1,625, and agreed to pay \$500 annually in silver or goods as the tribe might prefer.⁸

In 1789 the federal authorities negotiated a treaty with the Six Nations—the second treaty thus negotiated. The first and only covenant with the New York Indians secured by the central government between 1776 and 1789 was at Fort Stanwix in 1784. The agreement of 1789 renewed the stipulations at Fort Stanwix; an additional cession of land was obtained by the government; the Indians in return received \$3,000 worth of presents; and criminals were to be turned over to the United States to be punished by its laws.⁹

Five years later, with the frontier population ever restless and continually pressing westward, and the situation demanding action, the central government secured another agreement with the Six

On March 3, 1815, the Christian party released several lots at \$1 per acre. March 27, 1817, the Christian party sold 600 acres to obtain funds to build a church. August 26, 1824, February 13, and October 8, 1829, and April, 1833, they conveyed portions of their lands with an agreement to remove to Green Bay. In the forties practically all of the various Christian parties ceded all of their remaining lands to the state. Many of these reservations were made in behalf of individuals and families who thus became owners in fee.—*Ibid.*, pp. 198-199 and note.

⁷ *Ibid.*, pp. 233-234, 241, 247, 249.

⁸ *Ibid.*, pp. 306-311.

⁹ C. J. Kappler, *Indian Affairs, Laws and Treaties*, II, 23-24. Hereafter cited as *Laws and Treaties*.

Nations in which perpetual friendship was established and a new boundary designated. Certain reservations were secured to the Indians forever, and the tribes were never to claim any other lands in the possession of the United States. The treaties previously negotiated with the tribes by the State of New York were confirmed, and no retaliation for offenses was to be attempted on the part of the natives, who were to report the offenses to the federal government. In consideration of these concessions, the federal authorities agreed to pay the Six Nations in goods to the value of \$10,000, and \$4,500 yearly forever.¹⁰

In December of the same year, the national government procured a treaty with the Oneida, Tuscarora, and Stockbridge Indians, the latter dwelling in the Oneida country. Since the two former tribes were allies of the Americans during the War with England, and since they had lost their homes in the services of the colonies, the United States had previously recognized its obligations to them but had been unable financially to compensate them for their misfortunes. Now that the central government had been strengthened both financially and politically, it agreed to pay them \$5,000 for their losses. Some of the meritorious Stockbridge Indians lived among the Oneidas and Tuscaroras, and they were to be included in the stipulations. Grist mills and saw mills were to be erected among them for their convenience and use, millers were to be employed, and \$1,000 given them to erect a church to take the place of the one burnt during the war. These tribes were to forego any other claims, except individual ones, against the central government.¹¹

In May, 1796, the United States invited the Seven Nations of Canada to attend a conference at the City of New York. The latter accepted the proposal and a treaty was negotiated, which stipulated for the cession of all of their lands within the state of New York, except a very small reservation. To remunerate them for this grant the national government and the state authorities agreed to pay them £1,233 6s 8d, and the further sum of £213 6s 8d, "lawful money of the said State," and the latter amount annually forever."¹²

THE SETTLEMENT OF THE MASSACHUSETTS CLAIMS IN NEW YORK

As a result of the ambiguities of the colonial charters, Massachusetts claimed a large part of the lands of New York. The question was submitted to the Continental Congress, but the dispute was not settled until December 16, 1786, by commissioners at Hartford. To New York was given the right of jurisdiction over the disputed territory, but to Massachusetts was granted the right of preëmption of the Indian title to the soil west of a meridian drawn through Great Sodus Bay, and a part of Seneca Lake, from Lake Ontario to the Pennsylvania line, excepting a strip a mile wide along the Niagara River, and the island in that stream. This tract was estimated to embrace about 6,144,000 acres. In addition there was granted to Massachusetts a tract of 230,400 acres, known as the "Boston Ten Towns." The preëmption right to this tract was sold to John Brown for \$3,300 and the Indian title was bought on June 22, 1787.¹³

In 1788 the large tract was sold by Massachusetts to Oliver Phelps and Nathaniel Gorham. They failed to meet their obligations in full, so a part was resold in 1791 to Robert Morris.¹⁴ The Senecas were the only Indians claiming rights within the great purchase, and Phelps, Gorham, and Robert Morris were the only persons who possessed the authority to buy, except those who derived their title from them.

THE PHELPS AND GORHAM PURCHASE

A deed of cession was completed on July 8, 1788, by which the Seneca tribe sold to Oliver Phelps and Nathaniel Gorham a large tract of land, extending across the state of New York from Lake Ontario to the Pennsylvania line. It contained approximately 2,600,000 acres without any reservations. It was confirmed by the Massachusetts legislature, November 21, 1788.¹⁵

¹³ F. B. Hough, "Indian Tribes of New York," *Sen. Ex. Doc.*, 48th Cong., 2nd sess., No. 95, Vol. II, Part 2, Chap. 18, p. 540. See also Hough's *Proceedings of the Commissioners of Indian Affairs* . . . , I, 138-140.

¹⁴ Hough, "Indian Tribes of New York," *loc. cit.*

¹⁵ *Ibid.*, pp. 540-541. I have gone into this purchase because it was a very important economic and political question until after 1850, and it will have to be considered at various intervals throughout this study.

THE COMPLAINTS OF THE INDIANS

There was subsequently much complaint as to the terms of this agreement. The Indians insisted that an annuity of \$500 was due them and that the original payment was to have been \$10,000.¹⁶ Upon the establishment of the federal government in 1789, the natives appealed the next year to President Washington for redress.¹⁷

In answer to the appeal of the red chiefs to Washington, the President said:

I am not uninformed, that the Six Nations have been led into some difficulties, with respect to the sale of their lands, since the peace. But I must inform you that these evils arose before the present Government of the United States was established, when the separate States, and individuals under their authority, undertook to treat with the Indian tribes respecting the sale of their lands. But the case is now entirely altered; the General Government, only, has the power to treat with the Indian nations, and any treaty formed, and held without its authority, will not be binding. . . . No State, nor person, can purchase your lands, unless at some public treaty, held under the authority of the United States. The General Government will never consent to your being defrauded, but it will protect you in all your just rights. . . .

Washington then continued: "But . . . when you find it to your interest to sell any part of your lands, the United States must be present by their agent and will be your security that you shall not be defrauded in the bargain you may make."¹⁸ The chiefs then in Philadelphia were given presents by the Secretary of War as a token of friendship.¹⁹

¹⁶ Hough, *Proceedings*, I, 160n.

¹⁷ *Ibid.*, pp. 160-161 and note.

¹⁸ *A. S. P., I. A.*, I, No. 23 (A), 142. Washington clearly informed the Indians that in the future the sale of their lands would depend upon themselves; that they had the right to retain or sell their country, but to part with their territory required the sanction of the President and Senate.

¹⁹ *Ibid.*, p. 143.

Chapter IV

FEDERAL RELATIONS WITH THE NORTHWESTERN TRIBES, 1789-1796

The first agreement ever negotiated by the central government with any tribe was at Fort Pitt, with the Delawares in 1778.¹ After the Revolution a treaty with the Delaware, Wyandot, Chippewa, and Ottawa tribes was signed in 1785, which reinstated in the Delaware tribe the chiefs and headmen who had lost their caste for having made an alliance with the United States and for having fought on behalf of the colonists. The chiefs were also to enjoy their due portion of the lands which had been reserved to the Delaware and Wyandot Indians; but the national government set apart for its own use six sections of land ranging from two to twelve miles square, for the purpose of establishing trading posts. No American citizens were allowed to settle within the country thus retained by the tribes concerned and if one so attempted the Indians might punish him as they pleased. The natives also acknowledged the protection of the United States and of no other sovereign. The national government agreed to deliver goods to these tribes for their use and comfort in order to express its humane and liberal views.² The lands hereby reserved to the Delawares, Wyandots, Chippewas, and Ottawas comprised a large part of what is now Michigan, Ohio, Indiana, and western Pennsylvania.

¹ *Laws and Treaties*, II, 3-5. The treaty stipulated that there should be peace, and that the troops of the United States might pass "through the country of the Delaware Nation"; that the national authorities "guarantee to the said Nation of Delawares, and their heirs, all their territorial rights in the fullest and most ample manner as bounded by former treaties"; that "should it for the future be found conducive for the mutual interest of both parties to invite any other tribes who have been friends to the interests of the United States to join the present confederation and form a state whereof the Delaware Nation shall be the head and have a representation in Congress," the same should be effected; that the Delaware were to send all the warriors they could to fight for the Americans; and that there should be "perpetual peace and friendship" between contracting parties.—*Ibid.*

² *Ibid.*, pp. 6-8.

Soon after the foregoing treaties had been properly ratified, the tribes became greatly displeased. They insisted that the contracts had been made by only a few chiefs who had taken it upon themselves to represent the tribes. The Northwest Indians held a large council in 1786 on the banks of the Detroit River and drafted a strong protest against the execution of the former agreements.³

Because of these objections from the red men, Congress resolved that a general conference should be held in the spring of 1788

with the tribes of Indians within . . . the country northwest of the Ohio, and about Lake Erie, . . . at such place, and . . . time, as the Governor of the Western Territory shall appoint, for the purpose of knowing the causes of uneasiness among the said tribes, and hearing their complaints, of regulating trade, and amicably settling all affairs concerning lands and boundaries, between them and the United States.⁴

The governor of the Northwest Territory was instructed October 26, 1787, as follows:

You are carefully to examine into the real temper of the Indian tribes, inhabiting the Northern Indian Department of the United States. . . .

The treaties which have been made, may be examined, *but must not be departed from, unless a change of boundary, beneficial to the United States can be obtained.*

Although the purchase of the Indian right of soil is not a primary object of holding this treaty, yet you will not neglect any opportunity that may offer, of extinguishing the Indian rights to the [soil] westward, as far as the river Mississippi. . . .

You will use every possible endeavor to ascertain who are the real head men and warriors of the several tribes, and who have the greatest influence among them; these men you will attach to the United States, by every means in your power.

Every exertion must be made to defeat all confederations and combinations among the tribes, and to conciliate the white people inhabiting the frontiers, towards them.⁵

³ *A. S. P., I. A., I, No. 1, 8-9.*

⁴ *Ibid.*, p. 8.

⁵ *Ibid.*, No. 2, p. 9. (The italics are mine). It would have been to the advantage of the Indians to confederate but to the disadvantage of the United States in case of war.

Such vicious and immoral instructions are open to severe criticism. Probably no government, in its relations with a foreign power, would have permitted the preservation of such records, but instead would have ordered them to be burned.

In 1788 Congress had resolved, and the governor of the Northwest Territory was informed, that the sum of \$20,000 was

in addition to the fourteen thousand dollars already appropriated . . . for defraying the expenses of the treaties which have been ordered, or which may be ordered to be held, on [in] the present year, with the several Indian tribes in the Northern department; and for extinguishing the Indian claims; the whole of the said twenty thousand dollars, together with six thousand dollars of the said fourteen thousand dollars, [previously appropriated] to be applied solely to the purpose of extinguishing Indian claims to the lands they have already ceded to the United States, by obtaining regular conveyances for the same, and for extending a purchase beyond the limits hitherto fixed by treaty. . . .⁶

This is one of the early assertions of the real policy to be pursued by the national government in its relations with the Indians. Notice the definite legal terms: "regular conveyances," "extinguishing . . . claims," by "extending . . . purchase." This expressed policy was closely adhered to by the federal government throughout the first century of its dealings with the Indian tribes.

The governor was further instructed that in his negotiations with the Indians he should make immediate payments if possible from the money already appropriated; "but, in case you shall find it necessary to engage any considerable part of the said additional sum, you are to stipulate that the payments thereof be made in two or three equal annual instalments, the first to be as late in the year 1789, as can be obtained."⁷

After months of persistent efforts, a treaty was finally negotiated with the Northwest tribes at Fort Harmar in 1789. It renewed the provisions of the agreement of 1785, but the boundaries were somewhat changed to include the additional territory ceded to the federal government. The Indians were to possess their lands but were not allowed to dispose of them to any other nation than the United States. For this small cession the Indians received

goods to the value of \$6,000. The privilege of hunting on all the lands reserved to the federal government was promised to the Indians "without hindrance or molestation, so long as they demean themselves peaceably, and offer no injury or annoyance to any of the subjects or citizens of the United States." In order "that nothing may interrupt the peace and harmony now established between the United States and the aforesaid nations," it was agreed that the whites found guilty of perpetrating atrocities or murders of Indians should be punished in the same way as natives committing similar transgressions. Horse stealing was forbidden for the first time, and any person found guilty of such a crime was to be punished under state and territorial laws. The owner of the stolen animal could recover it by giving sufficient testimony, "sales in market overt notwithstanding." Trade was opened up with these aborigines and protection was afforded to those who were licensed to reside among them. Traders without permits were forbidden to enter the country. If white persons attempted to settle upon the Indian lands, they were to be outside the protection of the United States and were to be dealt with as the Indians saw fit. The various trading posts and reservations in the treaty of 1785 were renewed. The Potawatomes and Sacs were taken under the protection of the United States and permanent friendship was established. It was further stipulated that if the Shawnees living upon the territory of the Wyandots continued to cause trouble, the latter might dispossess them.⁸

At this time the national government reached an understanding with the Six Nations,⁹ and the governor of the Northwest Territory, Arthur St. Clair, said that these agreements were made because of the suspicion and distrust that prevailed between them and the Delaware, Wyandot, and other tribes, which he was "not willing to lessen," because mistrust undermined their influence. He added: "Indeed it would not be very difficult if circumstances required it, to set them at deadly variance."¹⁰

Thus, the federal government had adopted the policy of pre-

⁸ *Laws and Treaties*, II, 18-23. This treaty was made with the Wyandots, Delawares, Ottawas, and Chippewas.

⁹ *Ibid.*, pp. 23-24. See Helen Hunt Jackson, *A Century of Dishonor*, pp. 39-40. This book is prejudiced in favor of the Indians, but it is of value.

¹⁰ *A. S. P., I. A.*, I, No. 2, 10.

venting the confederation of the tribes and of creating tribal factions whenever they appeared too powerful. The man who was chiefly responsible for the adoption of such a policy was apparently Governor Arthur St. Clair. Yet the Northwest Ordinance provided:

The utmost faith shall always be observed toward the Indians; their land and property shall never be taken from them without their consent; and in their property rights and liberty they shall never be disturbed unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.¹¹

This Ordinance was reenacted by the federal Congress, August 7, 1789.¹² In theory the national government endeavored to carry out the terms of the Ordinance. In practice the government often failed in the ideal thus set because of the constant westward surge of an expanding people who ultimately determined the course of history.

For several years after 1788 the Indians in the Northwest were in a state of unrest. The natives along the Ohio refused to live up to the terms of the previous treaties and caused terror among the frontier settlers. The white adventurers constantly intruded upon Indian lands; the natives retaliated by marauding expeditions; the tribes made a determined stand for their home and country; and the result was war¹³ accompanied by military expeditions led successively by Generals Harmar, St. Clair, and Wayne, which resulted eventually in the defeat of the Indians.

Before resorting to an expensive war, despite constant devastation and bloodshed along the frontier, the federal authorities were determined to exhaust all peaceful means to accomplish their purpose. They decided to enlist the activities of the friendly tribes. Throughout the earlier part of these hostilities, the Delawares remained friendly. In 1791 Secretary Knox urged that the agents sent to negotiate with the hostile Miami and Wabash tribes take

¹¹ William MacDonald, ed., *Documentary Source Book of American History*, Article III, p. 214.

¹² *Laws and Treaties*, IV, 1173.

¹³ *A. S. P., I. A.*, I, 137. See Ford, ed., *Writings of Washington*, XI, 506.

some of the amicable Delaware chiefs with them as assistants. He said that "these tribes are our friends."¹⁴

By 1792 the Delawares were named among the unfriendly tribes of the United States. The following message was sent by the government:

Brothers: The President of the United States entertains the opinion, that the war which exists is founded in error and mistake on your parts. That you believe the United States want to deprive you of your lands and drive you out of the country. Be assured that this is not so; on the contrary, that we should be greatly gratified with the opportunity of imparting to you all the blessings of civilized life; of teaching you to cultivate the earth, and raise corn; to raise oxen, sheep, and other domestic animals; to build comfortable houses; and to educate your children, so as ever to dwell upon the land.

[Consider, therefore the advantages of peace]; call in your parties, and enjoin a cessation of further depredations; . . . [and send as many of the principal chiefs as possible to] the seat of the General Government, and there make a peace, founded upon the principles of justice and humanity. Remember that no additional lands will be required of you, or any other tribe, to those that have been ceded by former treaties. . . .¹⁵

At Post Vincennes, General Putnam said to them: "The United States don't mean to wrong you out of your lands. They don't want to take away your lands by force. They want to do you justice."¹⁶

The next year, 1793, the federal agents met with the Delawares and twelve additional tribes to terminate the boundary difficulties. The natives repeatedly mentioned the terms of the earlier treaties which had made the Ohio River one of their boundaries. When it became clear, after days of discussion, that the national authorities would not agree to the establishment of the boundary upon the terms offered by the red men, the chiefs were disappointed. Finally they suggested that the United States give all the money, including the annuities, that had been offered them for their lands to the pioneers in order to persuade them to move away. "Money to us," said the chiefs, "is of no value, and to most of us unknown; and

¹⁴ *A. S. P., I. A., I, No. 23 (A), 146.*

¹⁵ *Ibid.*, No. 29, p. 230.

¹⁶ *Ibid.*, No. 31, p. 319.

. . . no consideration whatever can induce us to sell the lands on which we get sustenance for our women and children. . . . We know that these settlers are poor, or they never would have ventured to live in a country which has been in continual trouble ever since they crossed the Ohio." They further said: "We want peace. Restore to us our country, and we shall be enemies no longer."¹⁷ The United States commissioners replied that it was now impossible to make the Ohio River the boundary; that they regretted that peaceful relations could not be restored; but that impartial judges could not now charge the continuance of hostilities to them.¹⁸

Governor St. Clair was notified that the Northwest Indians would not make peace, and General Anthony Wayne wrote a few weeks later to the Secretary of War: "The safety of the Western frontiers, the reputation of the legion, the dignity and interest of the nation, all forbid a retrograde manoeuvre, or giving up one inch of ground we now possess, until the enemy are compelled to sue for peace."¹⁹

The policy thus suggested by General Wayne was strictly adhered to. Once the Indian title was annulled, the United States was never known to cede one foot of soil to the Indians, unless it received more desirable acres elsewhere. It always demanded more and more of their valuable but diminishing lands.

The hostilities in the Northwest began prior to 1789—an heritage from the Confederation. In that year several of the Wabash Indians made incursions into Kentucky and other states and territories which aroused the whites to a state of war.²⁰ There were two plans discussed to terminate the difficulties; one was by extermination and the other by treaties. Since the former was regarded as too brutal and "a gross violation of the laws of nature," the latter was therefore resorted to, but not without plenty of bloodshed.²¹

According to the information of Secretary Knox in 1789, it appeared that on the Wabash and its communities there were close to two thousand warriors. An expedition sufficiently strong to conquer them would require a force of from two thousand to two

¹⁷ *Ibid.*, No. 40, p. 356.

¹⁸ *Ibid.*, p. 357.

¹⁹ *Ibid.*, p. 361.

²⁰ *Ibid.*, No. 2 (1), p. 13.

²¹ *Ibid.*

thousand five hundred soldiers. At the time the regular United States troops on the frontiers numbered less than six hundred; of that number, not more than four hundred could be spared for the purpose of the expedition. To raise, pay, feed, arm, and equip nineteen hundred additional men, with their necessary officers and to provide everything in the hospital and quartermaster's line, for six months alone, would require (it was estimated) the sum of \$200,000.²² This was a far greater sum than the United States could advance at a time when Hamilton was trying to place the national government upon a sound financial basis and to restore credit abroad.

The authorities decided that another attempt to negotiate a treaty with the Wabash Indians must be made. They hoped that an agreement might be effected for the sum of \$15,150, and instructed the territorial governor to try to bring this about. If he could get an additional cession of territory he might pay them an even larger sum.²³

Kentucky, Virginia, and Pennsylvania now demanded protection from the United States for their citizens and property. Washington responded by urging Congress to reorganize the army to afford greater safeguard to the frontier settlers.²⁴ The first military expedition which was led by General Harmar against these Indians not only suffered humiliating defeat but cost the government \$200,000 plus the lives of many valuable citizens. The second army led into that region the next year by St. Clair himself likewise met with failure with an outlay of approximately \$500,000 by the national government.²⁵

One more effort was made to effect a peaceful settlement with the Wabash Indians; Colonel Thomas Procter was the man selected to perform the worthy mission. His instructions in part read:

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*, pp. 12-13; No. 14, pp. 83, 85-88; No. 16 (1-4), pp. 109-110. It was asserted by the Federal District Judge of Kentucky, Harry Innes, that from 1783 to 1790 the Indians had stolen goods to the value of £15,000 and over 20,000 horses.—*Ibid.*, No. 14, p. 88.

²⁵ *Ibid.*, No. 14, p. 98; No. 16 (A) (3), pp. 120-27. For St. Clair's official report see *ibid.*, No. 20, pp. 136-38. W. H. Smith, ed., *St. Clair Papers*, II, contains a mass of materials. The Knox Papers, XXXI, 81, contain a copy of the report of the Committee of the House of Representatives with some annotations probably by Knox.

"Your business with the Miami and Wabash Indians will be to persuade them to repair to fort Washington, where they shall be treated kindly and justly; but you are not authorized to particularize to them any terms."²⁶ He was further instructed to inform the natives that the United States required nothing but peace.

Nay, they are desirous of making you understand the cultivation of the earth, and teaching you how much better it is for human kind to have comfortable houses, to have plenty to eat and drink, and to be well clothed, than to be exposed to all the calamities belonging to a savage life. The offer of peace now made to you is for your good, and the Great Spirit above will approve it. Reflect that this is the last offer that can be made; that, if you do not embrace it now, your doom must be sealed forever.²⁷

Although Colonel Procter's peaceful expedition came to naught, it cost the government the sum of one thousand dollars.

After the defeat of St. Clair the Indians were determined to reconquer some of their lost territory. The federal officials feared that the Northwestern tribes might effect an alliance with the Six Nations and with the Southern Indians and a general war would be the result. To complicate matters further, the troubles in the Northwest caused increased irritation against the British whose officials, the Americans firmly believed, made possible the Indian attacks by supplying them with food, arms, and ammunition.²⁸ Public interest accordingly demanded the termination of this disagreeable and costly war as speedily as possible; therefore, the

²⁶ *A. S. P., I. A., I, No. 23 (A)*, 146.

²⁷ *Ibid.*, p. 147. Procter received five dollars a day for his services and expenses. In case his mission was successful he would receive five hundred dollars in addition to his salary. If wounded or permanently disabled, he was practically promised a pension for life. If he lost his life, his children were to be financially provided for. Captain M. G. Houdin, a former French officer, was commissioned to accompany him. Houdin was to be allowed expenses and two dollars a day.

²⁸ A. C. McLaughlin, "The Western Posts and the British Debts," *Annual Report, Am. Hist. Assoc.*, 1894, p. 413. In this painstaking study, Professor McLaughlin exonerated the British government from the charge of causing the Indian hostilities. However, British subjects and colonial officials did make the Indian war possible by supplies of food, clothing, arms, and ammunition.

government decided, after much deliberation, to organize a military force sufficiently strong to bring the natives to terms.²⁹

In the previous campaigns the United States had relied for its fighting force chiefly upon the militia of Virginia, Maryland, Pennsylvania, and the frontier settlements. Since the militiamen were not regarded as good soldiers and daring fighters, the Secretary of War now recommended that the federal army be increased to 5,168 "non-commissioned officers, privates, and musicians," who were to serve for three years. The cost of such an increase was estimated at \$1,011,642 a year.³⁰ In addition, the President was authorized to take further measures for the protection of the frontiers by calling into service expert woodsmen as patrols or scouts, by engaging mounted militia for defensive operations, and by employing a body of Indians belonging to tribes in alliance with the United States, to act against the hostile tribes. The proposed fighting strength would cost practically \$2,000,000 a year to put down Indian hostilities.³¹

Meanwhile, with this proposed increased military force, President Washington selected General Anthony Wayne to invade the Wabash region. He hesitated to accept a commission³² that would subordinate him to any one except Washington and Knox. He was finally given supreme command with the complete support of the administration. Wayne took his time, drilled his raw recruits into disciplined fighting units, and proceeded cautiously into the hostile country.

In April, 1794, Lieutenant Governor Simcoe, who had charge of the interior affairs of Canada, erected a British post at the rapids of the Miami, or Maumee, some sixty miles south of Detroit. Although in clear violation of the territory of the United States, he defended his action with the modern philosophy that it was necessary to defend Detroit.³³ The truth of the matter probably was to keep the Indians under the guardianship of Great Britain. De-

²⁹ *A. S. P., I. A., I, No. 23 (B), 197-199.*

³⁰ *Ibid.*, No. 14, pp. 85-86; No. 16, pp. 107-111; No. 23 (A), p. 185 (B), pp. 197-202.

³¹ *Ibid.*, No. 23 (B), pp. 197-202.

³² Wayne to Henry Knox, Philadelphia, April 1, 1792, Knox Papers, XXXI, 13.

³³ Simcoe's defense is found in D. B. Read, *Life and Times of Simcoe*, pp. 233-240 and D. C. Scott, *Life and Times of John Graves Simcoe*, pp. 143-154.

spite the obstructions of the British, on August 20, 1794, General Wayne came within sight of the Indians. The Battle of Fallen Timbers soon followed in which the hostile tribes were crushed. Wayne's victorious men burned the Indian homes, destroyed their crops, and pursued the natives to within sight of Simcoe's fort. As a result of the Battle of Fallen Timbers some members of the Detroit Volunteers were captured, and there is no doubt but that the British at Detroit furnished at this time arms and ammunition to the Western tribes.³⁴ Despite British friendship and coöperation, the natives after much suffering finally decided to yield to the inevitable; therefore, in the summer of 1795, they signed the treaty of Greenville, which was dictated by General Wayne. There were more than eleven hundred Indians present, representing twelve Indian tribes.

By this agreement the larger part of the present state of Ohio was ceded to the United States—the territorial dream of Washington of 1783, as previously noted, was more than fulfilled. In consideration of these "cessions and relinquishments, . . . and to manifest the liberality of the United States as the great means of rendering this peace strong and perpetual," the federal government renounced its claims "to all other Indian lands northward of the Mississippi, and westward and southward of the Great Lakes and the waters uniting them, according to the boundary line agreed upon" by the United States and Great Britain in 1783; excepting several tracts of land: first the tract of one hundred and fifty thousand acres near the rapids of the Ohio, "which has been assigned to General Clark, for the use of himself and his warriors"; second, the post of St. Vincennes on the river Wabash and the adjacent lands; third, the lands at all other places in possession of the French people and other white settlers among them; fourth, the post at Fort Massac towards the mouth of the Ohio.

As evidence of the "returning friendship of the said Indian tribes, of their confidence in the United States and desire to provide for their accommodations, and for that convenient intercourse

³⁴ See General Wayne's report in *A. S. P., I. A.*, I, 491; McLaughlin, "Western Posts and the British Debts," *Annual Report, Am. Hist. Assoc. Report*, 1894 p. 413. Professor McLaughlin recognized the receipt of such aid by the Indians, but the home government was not a party to these violations of international obligations.

which will be beneficial to both parties," the said Indian tribes also ceded to the United States approximately three hundred thousand additional acres of land in fourteen separate tracts scattered throughout the Northwest. The Indians also ceded

the post of Detroit, and all the lands to the north, the west, and the south of it, of which the Indian title has been extinguished by gifts or grants to the French or English governments, and so much more land, to be annexed to the district of Detroit, as shall be comprehended between the river Rosine, on the south, lake St. Clair, on the north, and a line, the general course whereof shall be six miles distant from the west end of lake Erie and Detroit river, the post of Michilimackinac, and all the land on the island on which that post stands, and the main land adjacent, of which the Indian title has been extinguished by gifts or grants to the French or English governments; and a piece of land on the main, to the north of the island, to measure six miles on lake Huron, or the strait between lakes Huron and Michigan, and to extend three miles back from the water of the lake or strait; and, also, the island De Bois Blanc, being an extra and voluntary gift of the Chippewa Nation.

The fifth article of the treaty stipulated that the Indian tribes who had a right to lands, were

quietly to enjoy them, hunting, planting, and dwelling thereon, so long as they please, without any molestation from the United States; but when those tribes, or any of them, shall be disposed to sell their lands, or any part of them, they are to be sold only to the United States; and until such sale, the United States will protect all the said Indian tribes in the quiet enjoyment of their lands, against all citizens of the United States, and against all other white persons who intrude upon the same.

The sixth article renewed an old promise which always proved futile:

If any citizen of the United States, or any other white person or persons, shall presume to settle upon the lands, now relinquished by the United States, such citizen or other person shall be out of the protection of the United States; and the Indian tribe, on whose land the settlement shall be made, may drive off the settler, or punish him in such manner as they shall think fit. . . .

The seventh article gave the natives the liberty "to hunt within the territory and lands which they have now ceded to the United

States, without hindrance or molestation, so long as they demean themselves peaceably. . . ."

The federal government consented to pay the Indians \$20,000 in merchandise, and "henceforth, every year, forever, useful goods" to the value of \$9,500. Each tribe was to receive the following annuities: Wyandot, Delaware, Shawnee, Miami, Ottawa, Chippewa, and Potawatomie, \$1,000 each; Kickapoo, Wea, Eel River, Piankishaw and Kaskaskia, \$500 each. If any of these tribes preferred their share of yearly payments in the form of domestic animals, implements of husbandry, or other utensils convenient for them, or to pay useful artificers to be employed for their benefit, the same were to be furnished them.³⁵

Although the military expeditions of the United States against the Northwestern tribes cost the federal government close to eight million dollars, the Americans doubtless thought that it was well worth the sacrifice to open up so large a country to future settlement and to restore peace on the frontier.

The campaign of General Wayne played an important part in solving the diplomatic questions confronting the government at the time, which were regarded by some statesmen as more important than the part played in settling the tangles of the Indian question. In the autumn of 1794 the federal government twice showed its willingness to defend itself in the frontier cause. The first was the suppression of the Whiskey Rebellion; and the second the advance of Wayne and his well-disciplined troops into the Indian country which brought about greater respect for the military capacity of the United States. Wayne's erection of Fort Defiance in August, 1794, was a gesture taken to heart by the British at Detroit. The crushing victory at Fallen Timbers broke the Indian power of independent resistance and the British disposition to aid them in their hostilities against the United States.

These events, though of major importance, were not sufficient

³⁵ *Laws and Treaties*, II, 39-44. After the close of Wayne's successful campaign incriminating charges were made against him, perhaps instigated by James Wilkinson whose conspiracy with the Spanish authorities at New Orleans was probably hampered by Wayne's victories. The attempts made to supersede Wayne might have been part of Wilkinson's planning with the Spanish colonial authorities. See Wayne to Henry Knox, Philadelphia, April 1, 1792, Knox Papers, XXXI, 13. Wayne writes another letter to Knox in October, 1796, *ibid.*, XXXVI, 114.

to settle the frontier question without possible war with England. In fact they probably constituted another step in the direction of war. Fortunately, Jay's Treaty arrived in time to prevent further complications. Although the treaty aroused a storm of indignation even among the most ardent Federalists, it did prevent war with Great Britain by settling a few of the more important questions. Among other things, the agreement provided for the evacuation of the British posts in the Northwest by June 1, 1796, and reciprocal rights of trade across the border between the United States and Canada, except within the limits of the Hudson's Bay Company; the questions of boundaries, debts, and compensation for unlawful captures were to be referred to mixed commissions, which established the principle of arbitration between the two countries. The agreement further declared that the treaty of 1783 gave the British the right to use the Mississippi and apparently Jay's Treaty reaffirmed the right. In Pinckney's Treaty of 1795 Spain said that the Father of Waters should "be free only to his subjects and to the citizens of the United States," which would seem to exclude Great Britain, yet the treaties of 1783 and 1794 of the United States with the British government declared the river free to both countries. To make matters even more complicated the treaty of Greenville, August 3, 1795, stipulated for the licensing of all traders with the Indians by the federal government and the tribes agreed to accept the exclusive protection of the United States. Great Britain contended that the treaty of Greenville was inconsistent with Jay's treaty which secured to the Indian tribes living in Canada and in the United States the privilege "freely to pass and repass by land or inland navigation" into the territorial possessions of either party except that claimed by the Hudson's Bay Company. In order to reconcile these last two covenants an article was added to Jay's Treaty in 1796 which declared that "no stipulations in any treaty subsequently concluded by either of the contracting parties, with any state or nation, or with any Indian tribe, can be understood to derogate in any manner from the rights of free intercourse and commerce, secured by the aforesaid article."³⁶

³⁶ W. M. Malloy, ed., *Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States and Other Powers, 1776-1909*, I, 607-608.

Professor Bemis, who has made an intensive study of this subject, says:

The ostensible purpose of the additional article—i.e., of reconciling Jay's Treaty with the Indian treaty of Greenville—could have been perfectly satisfied without the use of the phrase "any other state or nation." It was possible for Great Britain at a convenient time to construe these words so as to repudiate any exclusion under Pinckney's Treaty and to reaffirm the British right to the navigation of the Mississippi despite the exclusively worded character of the Spanish-American treaty.⁸⁷

Despite the fact that Jay's Treaty failed to settle all of the important questions between Great Britain and the United States—in fact new problems appeared—it did prevent the war which President Washington anticipated with England when he urged Congress to provide for additional means of defense: "If we desire to avoid insult we must be ready to repel it; if we desire to secure peace, one of the most powerful instruments of our rising prosperity, it must be known that we are at all times ready for war."⁸⁸

In 1796 the federal army pushed the military frontier of the United States from the Maumee line of Fort Defiance and Fort Wayne to Detroit when it took over that post with the others from the retiring British.

After the Jay treaty in 1794, the Pinckney agreement of 1795, and the understanding at Greenville of the same year, the national government found itself in a position to formulate and direct its relations with the Indian tribes with less outside interference. Foreign powers, however, especially Great Britain, remained an irritating factor. Washington, nevertheless, had preserved the territorial completeness of the infant republic without a foreign war. The success of Hamilton's financial plan was now apparently assured.

⁸⁷ Samuel Flagg Bemis, *A Diplomatic History of the United States*, pp. 105-106, n. 3.

⁸⁸ James Richardson, *A Compilation of the Messages and Papers of the Presidents*, Washington's message to Congress, December 3, 1793. Hereafter cited as *Messages and Papers*.

Chapter V

THE SOUTHERN TRIBES, 1789-1796

While the Old Northwest was being plundered by the natives, the Old Southwest was suffering a similar fate from the Cherokees, Creeks, Choctaws, and Chickasaws whose united strength was approximately ten thousand warriors. Angered by the steady encroachments of the American homeseeker and adventurer and provoked by the Georgia frontier land grants, the tribes, encouraged by Spanish officials and traders, spread terror throughout the Southwest. A solution was extremely complicated because of the conflicting claims of the United States, Georgia, Spain, and Indian tribes. Since these questions have already been discussed, this chapter shall be limited to a brief treatment of the tribes.

THE CHEROKEES

The possessions of the Cherokees once extended practically to the Mississippi and from Alabama and Georgia almost to the Ohio River. By 1789 their territory had been considerably reduced, but still contained an area of more than fifty-three thousand square miles. The larger part was in Tennessee, some in western North Carolina, western South Carolina, a large portion in Georgia and in the present state of Alabama. The territory of this mountaineer tribe formerly separated the English settlements from the French and Spanish forts along the Gulf coast and in the Mississippi Valley.

The Cherokees, like most of the natives during the Revolution, enlisted in the cause of the British. They were not included in the treaty that terminated the struggle, and, therefore, refused to recognize the jurisdiction of the United States over them. Cordial relations with the tribe were accordingly lacking. Because the southern states retained possession of their western lands during most of the period of the Articles, the lack of Congressional powers limited effective action in treating with the tribes. Yet the central government failed to use for some time the maximum authority

that it actually possessed to treat with the red men. Before 1785, as previously observed, treaties had been effected with some of the Northern tribes. The Congressional Committee to study Indian affairs in the South reported on the southern tribes in May, 1784,¹ and recommended among other things the appointment of commissioners to treat with the Indians, to secure favorable boundaries for the United States and to forbid unauthorized persons to trade with the Indians. Congress delayed action until March 15, 1785, when that body passed a resolution for the appointment of commissioners to treat with "the Cherokees and all other Indians southward of them."²

The states, however, did not wait for Congressional action. They proceeded to negotiate treaties and to vie with each other for the control of the fur trade. North Carolina, as early as September 20, 1782, appointed commissioners to reach an understanding with the Cherokees.³ Georgia made a treaty with the Cherokees and some of the Creeks on May 31, 1783,⁴ and a second agreement with the latter on November 12, 1785. Even the self-made but temporary State of Franklin secured a treaty with the Cherokees on May 31, 1785,⁵ and another in July of the next year.⁶ Georgia and the State of Franklin almost reached an understanding or an alliance to take common action against the natives.⁷

The commissioners, provided for in the resolution of Congress on March 15, 1785, to negotiate with the Indians, urged the Creeks to meet them on October 1 of that year, but only two towns were represented. The commissioners refused, therefore, to negotiate with such a poor representation of the tribe, and proceeded to make arrangements to treat with the Cherokees in the fall at Hopewell. The negotiations began on November 18. Despite the fact that the tribe protested against the continued encroachments of the Georgians and the Carolinians, the treaty was soon completed. The two parties mutually agreed to return all prisoners and the Cherokees acknowledged the protection of the United States and of no

¹ *J. C. C.*, XXVII, 453-464.

² *Ibid.*, XXVIII, 159-162.

³ *North Carolina State Records*, XVI, 710. Hereafter cited as *N. C. S. R.*

⁴ Charles C. Royce, *The Cherokee Nation of Indians*, p. 151.

⁵ *Ibid.*, pp. 151-152.

⁶ *N. C. S. R.*, XVIII, 760.

⁷ Walter H. Mohr, *Federal Indian Relations, 1774-1788*, pp. 153-154.

other sovereign. The territorial boundaries of the tribe were re-defined and no citizens of the United States were allowed on the Indian lands, except the territory between the French Broad and Holston rivers, which "shall be transmitted to the United States in Congress assembled for their decision thereon, which the Indians agree to abide by." If any member of the tribe or person residing among them committed a minor or major crime on any citizen of the United States the offender would be turned over to the federal government for punishment. The citizens of the United States who might commit a crime against the Indians would likewise be punished by the national government. The punishment of the innocent in retaliation was prohibited. All American traders were given "the liberty to go to any of the tribes or towns of the Cherokees to trade with them, and they shall be protected in their persons and property, and kindly treated." As a pledge of confidence in the justice of United States the Indians were allowed the privilege of sending a delegate to Congress whenever they saw fit. "The hatchet," accordingly, "shall be forever buried."⁸

Although no extensive land cessions were made by the Hopewell treaty, a definite effort was made to control the tribal trade. The desire of the federal government to damage Spanish trade and general influence among the natives partially explains the bid for Indian commerce.

The states of Georgia and North Carolina remonstrated vigorously against the Hopewell treaty. The agreement interfered with the speculative activities of some of the inhabitants of these states in western lands. Following "the Revolution the North Carolina speculators had embarked on a policy of getting control of all the lands to the Mississippi. To do this they violated the rights of the Cherokees and the friendly Chickasaws, and proceeded to stake out claims in territory the title to which did not pass into the hands of the United States for another generation."⁹ To some of the lands given the Cherokees William Blount and his brother held title.¹⁰ This accounts for their opposition to the treaty.

⁸ *Laws and Treaties*, II, 8-11.

⁹ Mohr, *Federal Indian Relations, 1774-1788*, p. 149. See Samuel C. Williams, *History of the Lost State of Franklin*, pp. 13-21.

¹⁰ H. M. Wagstaff, ed., *Papers of John Steele*, I, 21, n. 1.

The continued encroachments of the frontiersmen from the State of Franklin upon the tribal lands caused Congress, on September 1, 1788, to issue a proclamation forbidding such practices and federal troops were to be sent to protect the rights of the Cherokees. John Sevier and his followers were to be apprehended. The governors of Virginia and North Carolina were ordered to carry the proclamation into effect.¹¹

Although North Carolina had thus far failed to ratify the federal Constitution, and her status as a member of the Union was in doubt, the State did make an earnest effort to appease the Cherokees who had suffered from the raids of the frontier settlers. Governor Johnston ordered the arrest of Sevier and urged the cessation of hostilities until a treaty could be arranged.¹² North Carolina appointed John Steele as its agent to assist in the negotiations and commissioned Alexander Dromgoole as a special bearer of peace to the tribe. Later he was to proceed to the Creeks.¹³

Despite the fact that William Blount urged the North Carolina Commissioner, John Steele, to effect a treaty with the Cherokees even if he found it necessary to resort to chicanery,¹⁴ nothing was accomplished until after the inauguration of the new national government. The Indian problem constituted one of the paramount questions pressing the federal government for settlement. Secretary Knox reported that the shameful "violations of the treaty of Hopewell with the Cherokees deserve the serious consideration of Congress." He added:

Although the disposition of the people of the States, to migrate into the Indian country, cannot be effectually prevented, it may be restrained . . . by postponing new purchases of Indian territory, and by prohibiting the citizens from intruding on the Indian lands.

It may be regulated, by forming colonies, under the direction of the Government, and by posting a body of troops to execute their orders.

As population shall increase, and approach the Indian boundaries, game will be diminished, and new purchases may be made for small considerations. This has been, and probably will be, the inevitable consequence of cultivation.

¹¹ *J. C. C.*, XXXIV, 476-479.

¹² *A. S. P.*, I. A., I, 45, *N. C. S. R.*, XXI, 507.

¹³ *Ibid.*, p. 508.

¹⁴ Wagstaff, ed., *Papers of John Steele*, I, 27.

It is, however, painful to consider that all the Indian tribes, once existing in those States now best cultivated and most populous, have become extinct. If the same causes continue, the same effects will happen; and, in a short period, the idea of an Indian this side of the Mississippi will only be found in the page of the historian.¹⁵

In view of the Cherokee unrest Knox further suggested the sending of a delegation to communicate with the tribe to pave the way for a new understanding.¹⁶ On July 2, 1791, after the lapse of two years, the treaty of Holston was signed. This treaty reaffirmed most of the items of the Hopewell covenant of 1785. The boundary was settled, and the central government received the sole right to regulate Indian trade. The federal government received the free and unmolested use of a road extending from the Washington district to the Mero district and the privilege of navigating the Tennessee River. The national government guaranteed to the tribe the lands not hereby ceded, forbade any American citizen to settle on them, and required a passport to enter lawfully the Cherokee country. "If any citizen of the United States, or other person not being an Indian, shall settle on any of the Cherokees' lands, such person shall forfeit the protection of the United States, and the Cherokees may punish him or not as they please."

To promote a higher living standard, the federal government made the following stipulations:

That the Cherokee nation may be led to a greater degree of civilization, and to become herdsmen and cultivators, instead of remaining in a state of hunters, the United States will from time to time furnish gratuitously the said nation with useful implements of husbandry, and further to assist the said nation in so desirable a pursuit, and at the same time to establish a certain mode of communication, the United States will send such, and so many persons to reside in said nation as they may judge proper, not exceeding four in number, who shall qualify themselves to act as interpreters. These persons shall have lands assigned by the Cherokees for cultivation for themselves and their successors in office; but they shall be precluded exercising any kind of traffic.¹⁷

Because this treaty granted to the tribe a mere \$1,000 annuity for a rather substantial cession of land, there were objections raised by the tribe to the covenant. The contracting parties, therefore, agreed on February 17, 1792, to add another article to the previous agreement raising the annual payment to \$1,500.¹⁸

To comply with the terms of the treaty, the agent sent by the federal government settled on the Hiwassee River near its junction with the Tennessee. His duties were to adjust all disputes between the Cherokees and the whites, to enforce the federal intercourse laws, to apportion annuities, and to distribute useful presents to the natives such as spinning wheels, cards, looms, plows, and hoes, and to show them how to use these gifts to their advantage.¹⁹

Nevertheless, dissatisfaction continued to exist among the Cherokees. In 1793 Sevier led an expedition against the Coosa towns, and "allowed his army to kill three hundred beeves at Etowah, and leave their carcasses rotting on the ground."²⁰ Andrew Jackson was so disgusted with the treaty-making policy of the government that he wrote in 1793 to John McKee that he opposed making treaties with Indians who would not keep a treaty or abide by the laws of nations. Since the red men would not surrender criminals, all of them should be punished alike.²¹

White people, nevertheless, had settled where they pleased as if treaties did not exist. The Indians proceeded to punish the intruders as they had a specific treaty right to do. The whites retaliated and the Indians resisted attacks. The frontiersmen and Indians alike appealed to the national government for protection. A situation thus existed on the frontier that was unjust both to the whites and to the natives. The Secretary of War stated the problem succinctly on December 29, 1794:

The desires of too many frontier white people, to seize, by force or fraud, upon the neighboring Indian lands . . . continues to be, an unceasing cause of jealousy and hatred on the part of the Indians; and it would appear, upon a calm investigation, that, until the Indians can be quieted on this point, and rely with confidence upon the protection of

¹⁸ *Ibid.*, pp. 32-33.

¹⁹ See Rachel Caroline Eaton, *John Ross and the Cherokee Indians*, p. 13.

²⁰ *Ibid.*, pp. 13-14. See James Mooney, *Myths of the Cherokees*, p. 82.

²¹ John Spencer Bassett, ed., *Correspondence of Andrew Jackson*, I, 12.

their lands by the United States, no well grounded hope of tranquillity can be entertained.²²

Because of misunderstanding and continued violation of the treaty of Holston, a supplemental agreement was negotiated in Philadelphia, June 26, 1794. The Philadelphia covenant declared "that the said treaty of Holston is, to all intents and purposes, in full force and binding upon the said parties, as well in respect to the boundaries therein mentioned as in all other respects whatever." The boundaries mentioned in the fourth article of the said treaty were to be "actually ascertained and marked" after the Cherokee nation had had ninety days notice of the time and place to begin the survey. In lieu of the annuities agreed to in the treaties of Hopewell and Holston, the United States promised to pay the tribe, with goods suitable for their use, the sum of \$5,000 annually. To put a stop to horse-stealing, which had become so prevalent, it was agreed that the sum of fifty dollars should be deducted from the annuity for every horse stolen from the neighboring whites and not returned to the owner within three months.²³

The supplemental agreement apparently brought temporary peace between the whites of the frontier and the Cherokees. On February 17, 1795, in a communication to Congress, President Washington said: "By these [documents and papers from the Governor of the Southwestern territory], it seems, that hostilities with the Cherokees have ceased, and that there is a pleasing prospect of a permanent peace with that nation."²⁴ The Creeks, however, remained hostile. Washington, with apparent concern, ob-

²² *A. S. P., I. A., I*, No. 57, 544. Upon receiving word of the collection of a large number of disorderly and ill-disposed white people on the frontier for the expressed purpose of destroying the Upper Cherokee towns on the Tennessee to revenge the murder of some whites, Governor Blount on January 28, 1798, ordered them to desist from their intentions and to disperse within one hour from the promulgation of the proclamation or "they will answer the contrary at their own peril." All officers, civil and military, were ordered to carry out the proclamation and execute the terms of the treaty of Holston. Hostilities, however continued.

Because of the bold violations of the treaty of Holston and because the judges of the territory South of the Ohio claimed that they had no authority to try such offenders, it was suggested the establishment of a tribunal with ample power to try all criminals and treaty violators.—*Ibid.*, No. 41, p. 435.

²³ *Laws and Treaties*, II, 33-34.

²⁴ *A. S. P., I. A., I*, No. 62, p. 551.

served: "the Creeks . . . continue their depredations; and it is uncertain to what they may finally lead."²⁵

THE CREEKS, CHOCTAWS, AND CHICKASAWS

During the Revolutionary War, the Creeks²⁶ also were hostile to the colonies. Even with the termination of the struggle with Great Britain, they continued their enmity under the leadership of their able chieftain, Alexander McGillivray.²⁷

Throughout the period of the Articles, the Creeks, the most belligerent of the Southern tribes, were under the influence of Spanish agents. Since the management of these tribes had been left largely to the individual states, as previously noted, Georgia secured a small cession of land from the Creeks²⁸ in 1783 and another in 1785.²⁹

In 1784, the agents of Virginia in the Southwest sent such disturbing reports³⁰ about the ambitions of Spain to their governor and legislature that the latter demanded action of Congress. A resolution was passed by the Virginia House of Delegates urging Congress to treat with the tribes south of the Ohio, and two days later the House requested the governor to help pave the way for the success of such a probable mission.³¹

The Congressional commissioners met the Creeks at Galphinton in October, 1785, but McGillivray was able through Spanish aid

²⁵ *Ibid.*

²⁶ The territory originally claimed by the Creeks stretched from the Atlantic Ocean to the Alabama River west and south from the southern boundary line of South Carolina to the northern boundary of the Spanish province of Florida.

²⁷ It is commonly known that McGillivray was a half-breed. His father was an inhabitant of Georgia and a fairly wealthy man. Since he was loyal to Great Britain during the Revolutionary War, his entire estate valued at £30,000 sterling was confiscated by the state of Georgia. Alexander McGillivray had an English education; his abilities and ambition were great; his resentments for the destructions of his "family estate" were probably unbounded against Georgia in particular and the American people in general. See A. P. Whitaker, "Alexander McGillivray, 1789-1793," *North Carolina Hist. Rev.*, V (April, 1928), 297.

²⁸ Royce, *The Cherokee Nation of Indians*, p. 151.

²⁹ *A. S. P., I. A.*, I, No. 2, 15, 17.

³⁰ Royce, *The Cherokee Nation of Indians*, p. 151.

³¹ *Calendar of Virginia State Papers*, III, 607, 620.

to prevent the attendance of all chiefs³² except from two towns, so that the government mission failed. Spain's policy of political and commercial domination appeared successful.

The federal commissioners, however, succeeded on January 3, 1786, in getting a treaty with the more amiable Choctaws. This agreement was quite similar to that with the Cherokees of the previous year. The Choctaws agreed to free American prisoners, to accept the protection of the United States, and to deliver all criminals to the national government. The citizens of the United States committing crimes within the jurisdiction of the tribe should be punished in the presence of some of the Choctaws. Retaliation for crimes was definitely discouraged.

The two major features of the treaty attempted to define the tribal boundaries and to regulate the trade. The trade article reads: "For the benefit and comfort of the Indians, and for the prevention of injuries or oppressions on the part of the citizens or Indians, the United States in Congress assembled, shall have the sole and exclusive right of regulating the trade with the Indians, and managing all their affairs in such manner as they think proper."³³

A week later the United States secured practically the same terms with the Chickasaws. The boundary clause necessarily varied, but the article pertaining to trade is quoted verbatim.³⁴ These treaties demonstrate the vigorous efforts made by Congress to promote and regulate Indian commerce.

The Creeks refused to send a full delegation to treat with the federal agents. In fact, they showed decided evidence of hostility. Georgia made plans for what she considered to be an inevitable conflict. This state had hopes of securing not only the aid of South Carolina and the State of Franklin, but also help from the apparently friendly Choctaws and Chickasaws. The Creeks, practically assured of Spanish aid, were not to be intimidated. They preferred to take the offensive against Georgia.³⁵ The Confederation period came to a close, as one might have expected, with the agents of the states and of Congress trying to induce the Creeks

³² *A. S. P., I. A., I, No. 2, 16.*

³³ *Laws and Treaties, II, 13.*

³⁴ *Ibid.*, pp. 14-16.

³⁵ Mohr, *Federal Indian Relations, 1774-1788*, pp. 154-155.

to come to peaceful terms, and laboring desperately at times to destroy the Spanish influence among the tribe. As Professor Bemis so aptly states:

Spain contended they [the southern tribes] were under her sovereignty and made treaties of defensive and offensive alliance with them, providing subsidies for the chieftains and firewater and munitions for the warriors. Congress made treaties to incorporate them within the United States. The Indians made treaties both ways and sided with the stronger power, which at this time was Spain. The Spanish connection strengthened their border raids and incursions, so deadly to American frontiersmen, so fruitful a cause of intermittent savage warfare.³⁶

Shortly after Washington was inaugurated President of the United States, he persuaded the Creeks to send delegates to New York, where the treaty of August 7, 1790, was negotiated and properly signed. The Creeks acknowledged the protection of the United States, agreed to return all American prisoners, consented to restrain retaliation, and promised to give notice of designs against the United States. No Americans were to hunt or settle within their country without an authorized permit. The national government, in turn, guaranteed to the tribe all of their lands within the limits of the states and to have the boundary marked by competent surveyors. The government also promised to give them presents from time to time to help them become herdsmen and cultivators of the soil.³⁷

Despite the fact that this was a treaty of permanent friendship and that the westward advance of the whites was to terminate at the Creek border, the frontier speculators paid little heed to boundaries and Carondelet's intrigues became so involved that satisfactory relations with the tribe soon ceased to exist.

As the influence of Spain gradually weakened, the Georgians became more aggressive. On February 17, 1795, President Washington informed the Senate and House of Representatives of two acts of the Georgia legislature, one passed December 28, 1794, and the other on January 7, 1795.³⁸ The first act, disregarding the claims of the Creeks, provided for appropriating, surveying, and giving

³⁶ Bemis, *A Diplomatic History of the United States*, pp. 74-75.

³⁷ *Laws and Treaties*, II, 25-28.

³⁸ *A. S. P., I. A.*, I, No. 62, p. 551.

away upon the payment of a negligible fee the unappropriated lands of the state to the former state troops and to the Georgia families who would settle upon the lands and make improvements. The second act reasserted the legal right of Georgia to all lands within her bounds to the Mississippi River. The act in part reads:

Be it therefore enacted . . . That the State of Georgia . . . is in full possession, and in the full exercise of the jurisdiction and territorial right, and the fee simple thereof; and, that the right of pre-emption to vacant and unappropriated lands lying westwardly and southwestwardly of the present Indian temporary line, and within the limits of the said State, and the fee simple thereof, together with the right of disposing thereof, is, and are hereby declared to be, in the State of Georgia only.

The act then provided for the sale of millions of acres of land to the Georgia Company, the Georgia Mississippi Company, the Upper Mississippi Company, and the Tennessee Company for a few cents an acre, but the total amounted to \$500,000. After the money to be used in extinguishing Indian claims was deducted, the remainder was to be invested in United States six per cent stocks or such other stocks as the state legislature might direct.

The purchasers of the said land

shall forbear all hostile and wanton attacks on any of the Indian tribes . . . and keep this State free from all charges and expenses which may attend the preserving of peace between the said Indians and the grantees, and extinguishing the Indian claims to the territory included within their respective purchases: . . . That this State, and the Government thereof, shall, at no time hereafter, be subject to any suit at law, or in equity, or claim, or pretention, whatever, for [possible] . . . deductions in the quantity of the said territory. . . .³⁹

The Secretary of War informed the Governor of Georgia on March 20, 1795, that the action of that state "has occasioned no small embarrassment to the Executive of the United States. The Creeks have been, with difficulty, restrained from open war; any movement which may hazard that event, must be cautiously made; and it is well known, that no measures excite so much jealousy

among them, as those which affect their lands, unless they are previously disposed to grant them.”⁴⁰

Congress, moreover, passed a concurrent resolution in February recommending that the President use all legal means to prevent the infraction of Indian treaties by the citizens of the United States. Congress further advised the President

not to permit treaties for the extinguishment of the Indian title to any lands, to be holden at the instance of individuals or of States, where it shall appear that the property of such lands, when the Indian title shall be extinguished, will be in particular persons: And that, wherever treaties are held for the benefit of the United States, individuals claiming rights of pre-emption, shall be prevented from treating with Indians, concerning the same; and that, generally, such private claims be postponed to those of the several States. . . .⁴¹

Acting for the Georgia legislature, James Gunn and Thomas P. Carnes informed Washington of the state act of December 28, 1794, requesting the President to hold a treaty with the Indians claiming lands within the limits of the state

lying beyond the temporary boundary line. The General Assembly, at the time they passed this law, appear to have had in view, the operation of an act of the General Government, entitled ‘An act to regulate trade and intercourse with the Indian tribes,’ and, in conformity thereto, they have appointed three respectable citizens, to attend, as agents, on the part of the State, and appropriated the sum of thirty thousand dollars, for the purpose of defraying the expense of a treaty, and extinguishing the claims of Indians, if any there be, to lands lying within the boundaries described in the said act.⁴²

In answer to the demand of Georgia for a treaty, President Washington on June 25, 1795, made known his reluctance to act at that time but finally consented, with this explicit declaration:

That neither my assent, nor the treaty which may be made, shall be considered as affecting any question which may arise, upon the supplementary act, passed by the Legislature of the State of Georgia, on the 7th of January last, upon which inquiries have been instituted, in pursuance of a resolution of [Congress]; and that any cession . . . of the Indian claims, shall be made in the general terms of the treaty of New York, . . . and on the condition that one half of the expense of the sup-

plies of provisions for the Indians assembled at the treaty be borne by the State of Georgia.⁴³

On June 29, 1796, at Colerain, an agreement was completed with the Creeks. It renewed the major terms of the treaty of 1790, laid out more definitely the existing boundary, and stipulated for a trading or military post to be established by the President "on the south side of the Alatomaha." Other posts, if deemed necessary, might be established by the President and each post was to carry with it a tract of land five miles square. The government promised to give the Creeks goods to the value of \$6,000 and to send them two blacksmiths with strikers, together with the necessary tools.⁴⁴

The terms of the treaty were not altogether satisfactory to Georgia, but they gave temporary relief. The effect of Spain's relinquishment of her aggressive policy in the Southwest after the Pinckney treaty of 1795 is evidenced in this agreement.

⁴³ *Ibid.*

⁴⁴ *Laws and Treaties*, II, 46-49.

Chapter VI

THE INDIAN RIGHT TO THE SOIL

One of the primary factors affecting Indian relations was the nature of the Indian title to the soil, which from the earliest times was recognized to be one of occupancy, with the ultimate fee in the Crown and colony and later in the United States. The Crown recognized the right of the Indians to occupy their lands until they had been surrendered by treaty or by conquest. The British government denied the right of the Indians to cede the lands claimed by the Crown to any foreign power. The United States inherited the policy thus established in the colonial days and followed that policy, except possibly in California, down to 1873. The many treaties with the tribes, over a period of one hundred years, were necessitated by the desire of the federal government to take gradual possession of the Indian lands in order to satisfy the demands of the whites.

In October, 1787, Congress instructed the governor of the Northwest Territory to negotiate a treaty with the tribes of that region in order to remove all possible causes of controversy, to regulate trade, and to settle boundaries. The treaties that had been made must not be violated or abrogated except to give the national government additional lands: "Altho' the purchase of the Indian right of soil is not a primary object of holding this treaty, yet you will not neglect any opportunity . . . of extinguishing the Indian rights to the westward as far as the River Mississippi." ¹

Henry Knox, probably the best informed man on Indian affairs of his time, declared

That the practice of the British government, and most of the Northern colonies previously to the late war, of purchasing the right of the soil of the Indians, and receiving a deed of sale and conveyance of the same, is the only mode of alienating their lands, to which they will peaceably accede. That to attempt to establish a right to the lands claimed by the Indians, by virtue of an implied conquest, will require the constant

¹ *J. C. C.*, XXXIII, 711-712.

employment of a large body of troops, or the utter extinguishment of the Indians. That circumstances as they are at present, being in alliance with, and favorably treated by the British government, the doctrine of conquest is so repugnant to their feelings, that rather than submit thereto, they would prefer continued war. That the principle of waging war for an object which may be obtained by treaty, is justly to be questioned.

Knox continued by prophesying that at the ensuing conferences with the Northwestern tribes the Indians would object to the right of the United States to their territory. If the negotiators "are bound by instructions to adhere rigidly to the principle of conquest" and to the territorial limits prescribed by former treaties, the Indians will depart from the scene of diplomatic activity and hostilities will follow. The United States, said the Secretary,

may conform to the modes and customs of the Indians in the disposal of their lands without the least injury to the national dignity. . . . But, . . . the Commissioners may negotiate an extinguishment of the Indian claims, to the territory described by former treaties, and perhaps to the further extension defined in the instructions to the Governor of the Western territory, without calling in[to] question the validity of the said treaties.²

On July 2, 1788, Congress appropriated \$26,000 to be applied solely for "the purpose of extinguishing Indian claims to the lands they have already ceded" and for the purpose of acquiring additional lands beyond the limits hitherto fixed by treaty. The money was to be used for no other purposes than those mentioned.³

Secretary Knox's report to President Washington on June 15, 1789, noted that

The Indians being the prior occupants, possess the right of the soil. It cannot be taken from them unless by their free consent, or by the right of conquest in case of a just war. To dispossess them on any other principle, would be a gross violation of the fundamental laws of nature, and of that distributive justice which is the glory of a nation.

By having recourse to the several Indian treaties, made by the au-

² Knox to the President of Congress, October 27, 1787.—*Ibid.*, XXXIV, 124-126.

³ *Ibid.*, p. 285.

thority of Congress, since the conclusion of the war with Great Britain, excepting those made January, 1789, at fort Harmar, it would appear, that Congress were of opinion, that the Treaty of Peace of 1783, absolutely invested them with the fee of all the Indian lands within the limits of the United States; that they had the right to assign, or retain such portions as they should judge proper.

But it is manifest, from the representations of the confederated Indians at the Huron village, in December, 1786, that they entertained a different opinion, and that they were the only rightful proprietors of the soil; and it appears by the resolve of the 2nd of July, 1788, that Congress so far conformed to the idea, as to appropriate a sum of money solely to the purpose of extinguishing the Indian claims to lands they had ceded to the United States, and for obtaining regular conveyance of the same. This object was accordingly accomplished at the treaty of fort Harmar, in January, 1789.

The principle of the Indian right to the lands they possess being thus conceded, the dignity and interest of the nation will be advanced by making it the basis of the future administration of justice towards the Indian tribes.⁴

Secretary Knox thus recognized the Indian right of occupancy of the soil and so adhered to the principle throughout his administration of Indian affairs, that precedents set by him were followed by subsequent administrators.

The Federal Supreme Court held "that the nature of the Indian title, . . . until it is legitimately extinguished, is not such as to be absolutely repugnant to seisin in fee on the part of the State."⁵ The nature of the title is clearly stated by Chief Justice Marshall in *Johnson and Graham's Lessee vs. McIntosh*: the principle asserted by all the European nations was that discovery gave the exclusive title to the land, while the Indians were

admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion; but their rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by

⁴ *A. S. P., I. A., I, No. 2 (1), 13.*

⁵ William Cranch, *Reports of Cases Argued and Adjudged in the Supreme Court of the United States*, *Fletcher vs. Peck*, VI, 142. (Hereafter cited as Cranch.)

the original fundamental principle, that discovery gave exclusive title to those who made it.

The different nations of Europe respected the right of the natives, as occupants, but they asserted "the ultimate dominion to be in themselves; and claimed and exercised, as a consequence of this ultimate dominion, a power to grant the soil, while yet in possession of the natives. These grants have been understood by all, to convey a title to the grantees, subject to the Indian right of occupancy."

John Marshall further said:

The United States, then, have unequivocally acceded to that great and broad rule by which its civilized inhabitants now hold this country. They hold, and assert in themselves, the title by which it was acquired. They maintain, as all others have maintained, that discovery gave exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest; and gave also a right to such a degree of sovereignty as the circumstances of the people would allow them to exercise. The power now possessed by the government of the United States to grant lands, resided, while we were colonies, in the crown or its grantees. The validity of the titles given by either has never been questioned in our Courts. It has been exercised uniformly over territory in possession of the Indians. The existence of this power must negative the existence of any right which may conflict with and control it. . . .

However extravagant the pretention of converting the discovery of an inhabited country into conquest may appear, if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the community originates in it, it becomes the law of the land, and cannot be questioned. So, too, with respect to the concomitant principle that the Indian inhabitants are . . . to be protected, indeed, while in peace, in the possession of their lands, but to be deemed incapable of transferring the absolute title to others.⁶

Formerly, the government regarded the Indian right of occupancy; and Indian lands were not open to settlement or occupied for government purposes until the Indian title was ex-

⁶ Henry Wheaton, *Reports of Cases Argued and Adjudged in the Supreme Court*, VIII, 574, 587-588, 594. (Hereafter cited as Wheaton.)

tinguished. If passage by land or water through the Indian country was desired, specific grants were made by treaty.

The process of extinguishing the Indian right to the soil entailed the expenditure of large sums of money in the form of presents, annuities, and cash. The practice could hardly have been avoided by the American government, for the precedent had been well established long before the United States existed. The French and the English from the very outset exchanged presents with the natives whenever a treaty was negotiated, and subsequently the United States began the practice of giving presents when treaties were successfully concluded. As expressed by Secretary Knox in 1787 when treaty negotiations with the Northwestern tribes were expected to yield results: "In case of a new purchase, or the modification of the former boundaries, a sum of money may be given according to the Indian custom, on the chiefs signing the deeds in the usual form."⁷

⁷ *J. C. C.*, XXXIV, 125.

Chapter VII

FEDERAL ECONOMIC AND POLITICAL RELATIONS WITH THE SOUTHERN TRIBES, 1796-1812

Because of necessary delays, misunderstandings, and the natural antipathy of the frontier land-hungry whites to the new arrangement, the federal commissioners did not finish running the boundary line according to the treaties of 1791 and 1794 with the Cherokees until the summer of 1797. Many white settlers had already moved into the Indian country before the actual boundary was surveyed. In fact, a bitter dispute had grown out of the North Carolina cession of 1789, the Treaty of Holston in 1791, and the Philadelphia agreement of 1794. North Carolina had sold much land to the soldiers of the Revolution prior to the western land cession and the purchasers had received deeds or certificates for the same. The federal treaties had recognized some of these lands that had been deeded to the Revolutionary soldiers as belonging to the natives. The purchasers naturally appealed to the parent state to save their investments.¹

The North Carolina cession was made with the stipulation:

That all entries made by, or grants made to, all and every person or persons whatsoever, agreeable to law, and within the limits thereby intended to be ceded to the United States, should have the same force and effect as if such cession had not been made; and that all and every right of occupancy and pre-emption, and every other right reserved by any act or acts, to persons settled on, and occupying, lands, within the limits of the lands hereby intended to be ceded as aforesaid, shall continue to be in full force, in the same manner as if the cession had not been made, and as conditions upon which the said lands are ceded to the United States. . . .²

On July 2, 1790, Congress accepted the western land cession of North Carolina with the conditions intact. In answer to the Tennessee petitioners the state legislature in December, 1797, resolved:

That the Congress of the United States are bound, by every principle of justice and equity, to grant complete and ample redress to the petitioners: And, as the honor and interest of this State are deeply concerned in procuring redress to the petitioners.

Resolved, That the Senators of this State, in the Congress of the United States, be and they are hereby, requested to use their utmost endeavors to obtain complete and ample justice for the said petitioners. . . .³

The claimants likewise petitioned Congress:

We have again claimed justice from the State, and we are again referred to the Congress. We hope . . . that the honest claims of citizens will not be eluded by two legislative bodies, upon whom no law can operate, but the clear law of justice. During the late war, we did not shrink from any danger or calamity to which we might be exposed for the public safety, but we cannot discover any reason why we should be marked for destruction in the times of peace, nor why one million of dollars should be taken from certain individuals in North Carolina, in order to make a saving to the nation. Provision has been made for every other citizen; their claims have been funded at 20s. in the pound. We are the only persons to whom justice is refused; we receive nothing but unavailing promises. . . . We made our selection [of lands] at considerable expense; and although those lands should be delivered to us free from other charges, we are willing to contribute our proportion of one million of dollars, counting the remaining vacant lands, in order to extinguish the Indian claim, provided immediate possession can be obtained.⁴

In June, 1796, Tennessee was admitted as a state in the Union. The Assembly of the State lost little time in addressing Congress in behalf of the claims of her citizens:

At the beginning of the late American Revolution, the United States guarantied to each State its sovereignty, according to the chartered limits thereof; and, by the treaty of Paris, done in the year 1783, the King of Great Britain acknowledged the United States to be free, sovereign, and independent; and, for himself, his heirs, and successors, relinquished all claims to the government, propriety, and territorial rights of the same, and every part thereof. It is believed, that this relinquishment operated to each State respectively, according to the

chartered limits thereof, as to right of soil and sovereignty; and, in the said treaty, no provision for, or reservation of, any claims, is made. . . . In the year 1789, North Carolina made a cession of Western lands to Congress, for the use of the United States, under certain express conditions, and subject thereto, ascertained in the act of cession for that purpose; and the contract was solemnly executed by deed, on the part of North Carolina, and accepted on the part of Congress, in behalf of the United States. . . . This Legislature . . . earnestly request that the prohibitions, preventing them to possess the lands . . . may be removed; that provision, by law, be made for extinguishing the Indian claim to said lands that the owner and grantees of said lands may enter upon, occupy, and possess, the same, in a full and ample manner, and have every right, privilege, and advantage, which they are entitled to by constitutional laws. . . .⁵

The Senate committee reviewed the history of the case in its report of March 1, 1797, and resolved,

That, as soon as the Indian title to the said lands shall be extinguished, under the authority of the United States, by purchase or otherwise, provision ought, by law, to be made, to secure to such of the said claimants, as, by conforming to the laws of North Carolina, have secured to themselves a title to the right of pre-emption, under such laws, the occupancy and possession of such lands.⁶

On December 20, 1797, the House committee reported in favor of the Tennessee land claimants. The committee recommended that a sum of money, the amount to be determined later, be appropriated for the purpose of satisfying those who had been deprived of their just claims.

The said sum to be subject to the order of the President of the United States, to be expended under his direction, either in extinguishing the Indian claim to the above described lands, in case he shall deem it expedient to hold a treaty for that purpose, or to be disposed of, in such other manner as he shall deem best calculated to afford the [claimants] . . . a temporary relief.⁷

Tennessee now demanded justice in behalf of the claimants. Other adventurers stood ready to cross into the Cherokee country to take up the fertile lands of that region. President Adams accord-

ingly yielded to pressure and on January 8, 1798, communicated to the Senate:

The situation of affairs between some of the citizens of the United States and the Cherokee Indians, has evinced the propriety of holding a treaty with that nation, to extinguish, by purchase, their right to certain parcels of land; and to adjust and settle other points relative to the safety and conveniency of our citizens. With this view, I nominate Fisher Ames . . . of Massachusetts; Bushrod Washington . . . of Virginia; and Alfred Moore . . . of North Carolina; to be commissioners . . . with full powers to hold conferences, and conclude a treaty, with the Cherokee nation. . . .⁸

The commissioners were instructed by the Secretary of War, James McHenry, on March 30, to depart speedily for Knoxville, Tennessee, and from thence to the place where the temporary agent to the Cherokees, Silas Dinsmoor, would have the tribe in readiness to assemble for the negotiations. According to the instruction,

the citizens who have been removed may be forthwith informed, in such manner as you may judge proper, that they may return to the farms which they had before occupied; warning and forbidding, at the same time, any other than former actual settlers, who have been removed, from crossing, for the purpose of settlement, the boundary lines established by treaty of Holston, as run and marked by the commissioners lawfully appointed for that purpose.

The commissioners were given four maps with possible boundaries definitely marked on each in red and blue. They were to endeavor first to secure the boundary as marked on map number one, which included the largest possible cession. If the tribe stubbornly refused to accede to such a large cession, they were to propose the boundary as marked on map number two. If this agreement could not be obtained, they were to offer the boundary designated in maps number three and four respectively. If the Indians agreed to cede the lands described in map number one or any greater quantity, the Cherokees would be guaranteed the remainder of their lands,

and that the United States will cause to be paid four thousand dollars annually to the nation, in goods, implements of husbandry, machines for

manufacturing, and the pay of fit persons to assist in instructing them in their use, and making and repairing the same; or otherwise, that the United States will deliver them, on signing the treaty, goods to the amount of five thousand dollars, and the further sum of twenty thousand dollars, at four equal annual instalments.

Proportional payments were to be made for smaller cessions.

The tribe was likewise to permit the President to employ military force within their boundaries for the purpose of arresting lawless aggressors. The President was to possess the right to expel from their country any person, citizen or foreigner, who had not been authorized by treaty or by a special permission to reside therein. The commissioners were further instructed to make certain that the individuals who had received claims to lands within the Indian country from North Carolina prior to the cession of her western lands were adequately protected. Such military sites were to be granted for the use of federal troops to protect the Indian lands and to execute the laws of the United States and the treaty stipulations. Finally, the commissioners were authorized:

Should it be found impracticable to obtain Duck river for a southern boundary, or a line which will include in it the road leading from Southwest point through the Cumberland mountains, to Nashville, it will be proper to stipulate for certain parcels of land, lying on the said road, and at due distances from each other, wherein houses of entertainment may be erected for the convenience of travellers.

It will also be proper, in case the line should not include in it the land on both sides of the ferry, over Clinch river, to stipulate for such an arrangement as will secure a free passage to the citizens of the United States, and prevent any higher toll being requirable by the occupant, than will afford him a reasonable compensation for keeping the same.⁹

The commissioners failed to serve and in August Adams appointed George Walton of Georgia, a member of the first delegation who had accepted the original appointment, and Lieutenant Colonel Thomas Butler, commanding the federal troops in the state of Tennessee. They were expected to carry out the instructions given to the first commissioners. If they should fail to secure from the Cherokees any one of the four proposed land cessions they

were to furnish the President with sufficient proof that the fourth proposition, which included the smallest proposed cession, was

urged with all possible ardor and good faith. It is not, however, believed that the latter proposition will fail. If it succeeds . . . it will establish the sincerity of the intentions of [the] Government, and perhaps annihilate the suspicions excited by bad men, in the breasts of the Indians, as well as the frontier inhabitants.¹⁰

In an address to the chiefs and warriors of the Cherokee tribe on August 27, President Adams explained the purpose of the negotiations:

It was expected that the line established by the treaty of Holston, would have left a great proportion of the frontier white settlers within the tract of country purchased, and this was much desired, as many of these settlers were deserving people, and had made valuable improvements. It proved otherwise when the line was run; and the United States, ever disposed to observe treaties, and keep faith with the Indians, were, under the engagements of that treaty, obliged to remove a number of worthy and well-intentioned settlers from those farms you had long permitted them to occupy, because falling within the Indian line. This occasioned distress to the settlers removed, and the representation of their sufferings induced the Senate of the United States to advise a new purchase of land, to include the deserving settlers, and the Congress to grant a sum of money to pay the expenses of the treaty.¹¹

Commissioners Walton and Butler secured the desired treaty on October 2, 1798, in which the Cherokees ceded a large portion of their Tennessee lands.¹² In consideration therefor the United

¹⁰ McHenry to the commissioners, August 27, 1798.—*Ibid.*, p. 640.

¹¹ *Ibid.*, pp. 640-41.

¹² The new boundary was described as follows: "From a point on the Tennessee river, below Tellico block-house, called the Wild-cat Rock, in a direct line to the Militia spring, near the Mary-ville road leading from Tellico. From the said spring to the Chill-howie mountain, by a line so to be run, as will leave all the farms on Nine-mile Creek to the northward and eastward of it; and to be continued along Chill-howie mountain, until it strikes Hawkins's line. Thence along the said line to the great Iron Mountain; and from the top of which a line to be continued in a southeastwardly course to where the most southwardly branch of Little river crosses the divisional line to Tuggaloe river: From the place of beginning, the Wild-cat Rock, down the southeast margin of the Tennessee river (not including islands) to a point or place one mile above the junction of that river with the Clinch, and from thence by a line

States agreed to deliver annually to the tribe, goods, wares, and merchandise, to the value of five thousand dollars. The time and place for the delivery of the annuities would be made known to them and all the Indians who came would be subsisted at the expense of the federal government. The Kentucky road, running through the Cumberland Mountain and the Cumberland River, would be open to the use of American citizens. The road from Southwest point to the Cumberland River would likewise be free to public travel. Horses stolen from whites and not returned in ninety days were to be paid for at the rate of sixty dollars each. If they were stolen by an American from an Indian, the said sum was to be paid to the proprietor in cash. The federal agent who was to reside among them was to have ample ground for his personal use. Subsisting treaties were acknowledged to be in full force with the exception of the changes made in boundaries.¹³

THE CHEROKEES, CREEKS, CHICKASAWS, AND CHOCTAWS

On December 8, 1801, President Jefferson was able to inform Congress that

Among our Indian neighbors, also, a spirit of peace and friendship generally prevails, and I am happy to inform you, that the continued efforts to introduce among them the implements and the practice of husbandry, and the household arts, have not been without success; that they are now become more and more sensible of the superiority of this dependence, for clothing and subsistence, over the precarious resources of hunting and fishing; and, already, we are able to announce, that, instead of that constant diminution of numbers, produced by their wars and their wants, some of them begin to experience an increase of population.¹⁴

To substantiate Jefferson's observation, Benjamin Hawkins, principal agent for Indian affairs south of the Ohio, reported considerable progress among the Creeks. The tribe had been in-

to be drawn in a right angle, until it intersects Hawkins's line leading from Clinch. Thence down the said line to the river Clinch; thence up the said river to its junction with Emmery's river; and thence up Emmery's river to the foot of Cumberland mountain. From thence a line to be drawn, northeastwardly, along the foot of the mountain, until it intersects with Campbell's line."—*Laws and Treaties*, II, 52-53.

duced by the federal agent to send a deputation from each town and village to a national or tribal council. For this council the agent adopted the policy of reporting on the state of the tribe and usually made up the agenda. The council appointed the speaker and all propositions were debated and passed or rejected. According to Hawkins,

The council, when convened sit night and day; the public buildings is their place of lodging as well as business, and they debate as much in the night as in the day. They lie down, when they are sleepy; when hungry they eat; and when any thing important is under debate they attend to it.

The agent furnishes beef, corn, beans, and salt, and the town where the council meet, furnishes butchers, cooks, and waiters. The expense of the meeting is something less than four hundred dollars. I doubt not, in a few years, it will be a useful instrument to approximate them to a more civilized state, and give the United States a more commanding influence over them. One of the interpreters and assistants to the agent, a half breed and chief of the land, remains constantly in the council during their sitting and the agent has a right to enter and speak when he pleases.¹⁵

Hawkins further reported that the Creeks had made slow but considerable progress in agriculture, in manufacturing, and in trade. The raising of livestock was "more relished by the Creeks than any part of the plan devised for their civilization. They are now eagerly acquiring cattle, by every means in their power."¹⁶

Probably due to the peculiar interest of Georgia and Tennessee Congress passed two laws¹⁷ requiring meetings with the Cherokees, Chickasaws, Choctaws, and Creeks primarily to secure roads through their possessions and incidentally land cessions.

Because of diplomatic and political problems of the time President Adams made no real effort to carry out the will of Congress. Soon after the inauguration of Jefferson, Secretary of War Henry Dearborn instructed the federal commissioners appointed to hold conferences with the several tribes to meet first the Cherokees. They were to press for a large land cession and to secure the right to open certain roads through their country in order to connect the

white settlements of the west with those of the east. The Secretary desired a road that would run through the entire Cherokee country to Natchez.¹⁸ A road of such length would cross the possessions claimed by the Chickasaws and Choctaws. Conferences would accordingly be held with these tribes to acquire their approval of the proposed road. Within a few days the Cherokee chiefs learned that the federal government wished to have more of their lands. The chiefs expressed such determined opposition to the suggested land cession that the Secretary of War informed the commissioners that they were not to ask for lands but to concentrate all their efforts on the proposition of opening roads through their country.¹⁹ "You will impress upon them the belief," continued Secretary Dearborn, "that the United States have no desire to purchase any of their land, unless they are quite willing to sell; that we are not in want of lands, but only wish to be accommodated with such roads as are necessary to keep up a communication with all parts of the United States, without trespassing on the lands of the red people."

If the original instructions expressed the lustful aspiration of the federal government, the new order did not convey the will of the nation. The probable truth is found in the desire of Jefferson to satisfy the demands of the people of Kentucky, Tennessee, and Georgia for more lands.

Upon the completion of negotiations with the Cherokees, the commissioners were instructed to meet the chiefs of the Chickasaws and to secure their consent to the opening of the Natchez road through their country. The commissioners were to meet next the Choctaws at Natchez:

The Choctaws may be considered [said Dearborn], one of the most powerful nations of Indians within the limits of the United States; and a pacific and friendly disposition in and towards them should be cultivated, as well from principles of policy as of humanity.

All fair and proper means should be exerted to evince to them a really friendly disposition on the part of the Government of the

¹⁸ *A. S. P., I. A.*, I, No. 92, 649. Secretary Dearborn wrote the instructions, June 24, 1801, to Commissioners William R. Davie, James Wilkinson, and Benjamin Hawkins of North Carolina. Davie, however, declined the appointment and Andrew Pickens of South Carolina was appointed to fill the vacancy.

¹⁹ *Ibid.*, p. 650, Henry Dearborn to the United States Commissioners, July 3, 1801.

United States, and to fortify their minds against the artful and mischievous insinuations and practices of adventurers, who, too frequently, obtrude themselves into their and other nations. It is of importance that the Indian nations generally within the United States should be convinced of the certainty in which they may, at all times, rely upon the friendship of the United States, and that the President will never abandon them, or their children, whilst their conduct towards the citizens of the United States and their Indian neighbors shall be peaceable, honest, and fair.²⁰

The commissioners, however, were to call to the attention of the Choctaw chiefs that their tribe had received from the United States in 1800 presents to the amount of \$2,000 and that a like sum had been appropriated for 1801. They were to inform the tribe that these presents were given out of the magnanimity of the federal government and not because of any authorized agreement. Secretary Dearborn said, however, that

It was understood that they had taken some expression of Mr. Ellicot's for a promise to this effect, and it may be proper and politic to continue making them an annual grant, perhaps of the same sum; but it must be impressed on their minds, that they have given not only no equivalent, but actually nothing at all for it; that they are indebted for what they have received to the generosity of the United States, and not to their justice; that the grants must be viewed as presents, and not as compensation; that they may be continued or discontinued at the pleasure of the United States, without giving the Choctaws a right to claim the one, or complain of the other; and that it might be proper for them to grant . . . something, though an equivalent be not asked in return.

The federal agents were not to present the real purpose of the meeting, that is, the consent of the Choctaws to the opening of the Natchez road through their country. Upon receiving their consent to the first proposition, the commissioners were then to sound out the chiefs, in a subtle way, as to the possibility of surrendering some of their lands to the United States. For example, Dearborn instructed the agents as follows:

On Dunbar's map, a line is run northward from the 31st degree of north latitude, near the 91st degree of west longitude . . . , the lands

between which and the Mississippi, were, heretofore, ceded to the British Government. Although no doubt exists of this fact, it may be impolitic to require from the Choctaws a direct acknowledgment of it; you will, however, consider, and speak of it as indubitable; and endeavor, indirectly, to draw from them an acknowledgment of its authenticity. This they will not refuse, unless they should believe a doubt to exist of it in our minds. . . .

In all your negotiations under these instructions, you will pay the strictest attention to the disposition manifested by the Indians, on the several points to which you are to draw their assent. The ill humor which propositions for further cessions sometimes awaken in them, may be, in a greater or lesser degree, excited by those which you are herein charged with making.

It will, therefore, be incumbent on you to introduce the desires of the Government, in such a manner as will permit you to drop them, as you may find them illy received, without giving the Indians an opportunity to reply with a decided negative, or raising in them unfriendly and inimical dispositions.²¹

Dearborn refrained from giving the commissioners their instructions in regard to the proposed treaty with the Creeks until July 17, 1801. They were directed to meet the Creek tribe at Fort Wilkinson of Georgia and to obtain if possible for the United States Tallassee County. The success of the negotiations was considered to be of such great importance that the negotiators were authorized to pay the tribe for their consent to the proposed cession a sum not exceeding \$12,000, and an increase in their annuities of \$2,000 in cash or in goods as preferred. They were to ascertain whether the Creeks would cede the land lying between the Oakmulgee and Oconee rivers "and if obtainable on what terms . . . but decline entering into any engagement, until you shall receive further instructions."

The federal commissioners were advised that

The Creeks being a powerful and proud nation, and great jealousies having at different times arisen between them and the frontier inhabitants, all prudent means in your power should be exerted to reconcile them, and to remove every obstacle to their mutual friendship; and every assurance of the protection and friendship of the President, which you

were authorized to make to the other Indian nations, should be tendered to the Creeks also.²²

The negotiations with the Cherokees failed altogether.²³ But the conference with the Chickasaws at Chickasaw Bluffs met with success in that the tribe agreed to the proposed Natchez road through their country.²⁴ In reporting the meeting to the Secretary of War, the commissioners wrote:

We enclose you the minutes of our conference . . . and, also, an inventory of the goods delivered on the occasion, taken from an invoice of articles, amounting to two thousand six hundred and ninety-six dollars, which with two hundred gallons of whiskey, and one thousand pounds of tobacco, comprehends all the goods and merchandise we have yet received for the purposes of the commission.²⁵

Of this quantity of goods \$702.21 worth was turned over to the Chickasaws, as well as powder, lead, rifles, axes, hoes, tobacco, calico, and fifty gallons of whiskey.²⁶

The commissioners likewise successfully negotiated a treaty with the Choctaws at Fort Adams on the Mississippi, December 17, 1801. The tribe granted to the United States the right to construct the desired highway through their country. The treaty further stipulated that

The two contracting parties covenant and agree, that the old line of demarcation, heretofore established by and between the officers of his Britannic Majesty and the Choctaw nation, which runs in a parallel direction with the Mississippi river, and eastward thereof, shall be retraced and plainly marked, in such way and manner as the President may direct, in the presence of two persons to be appointed by the said nation; and that the said line shall be the boundary between the settlements of the Mississippi territory and the Choctaw nation. And the said nation does, . . . relinquish to the United States . . . all their right, title, and pretensions, to the land lying between the said line and the

²² *Ibid.*, p. 651.

²³ The commissioners reported, however, that it was fortunate that the Cherokees refused to open a road from Nashville to the Tennessee, "because we find the proposed route embraced, by the limits of the Chickasaws, which have been clearly defined . . . and explicitly recognised by in a declaration of President Washington, bearing the date 1st July, 1794. . . ."—*Ibid.*, p. 651.

²⁴ *Ibid.*, pp. 648-649; *Laws and Treaties*, II, 55-56.

²⁵ *A. S. P., I. A., I*, No. 92, 651.

²⁶ *Ibid.*, pp. 651-652.

Mississippi river, bounded south by the thirty-first degree of north latitude, and north by the Yazoo river, where the said line shall strike the same. . . .²⁷

In April, 1802, Georgia ceded to the United States her western lands with the stipulation that the Indian title to the lands within the state should be extinguished as soon as it could be done peacefully. In May, the federal commissioners, James Wilkinson of Maryland, Benjamin Hawkins of North Carolina, and Andrew Pickens of South Carolina, met the Creek tribe in a convention near Fort Wilkinson, on the Oconee River.

In addressing the tribe assembled, Benjamin Hawkins spoke as follows in behalf of Jefferson's Indian policy:

The President, Mr. Adams, who was the predecessor of the present President, he, although a great and good man, began to believe that the experiment for your civilization could not be carried into effect; that the plan itself was ideal. He began to give it up, by withdrawing his confidence from those entrusted with its execution. Your enemies, by misrepresentation, induced him to turn out Mr. Dinsmoor, one of the best men in the Indian department; . . . and to replace him by quite another sort of man—one, as the Cherokees informed you and me, more attentive to his bottle and woman, than to their interest. And serious attempts were made to lessen my standing with him, to destroy my character as a public man, and to render me odious to my fellow citizens, because I am an enemy to those speculative views of your enemies.

In this state of things, Mr. Jefferson came into office, and found me in the department. He has kept me in; he has re-animated the plan of bettering your condition; he placed Colonel Meigs, an honest and estimable man, among the Cherokees; he has sought for and sent Mr. Dinsmoor to the Choctaws, and wishing to have a correct view of Indian affairs, and to make such amicable arrangements as might lead to their prosperity, has sent General Wilkinson, General Pickens, and myself, to see all the red people, to examine into their wants, and report to him their true state, that he might extend to them the benevolent care of the Government.²⁸

²⁷ *Ibid.*, No. 96, p. 658. In consideration of the foregoing cession the United States delivered to the Choctaws at the time of the signing of the treaty presents valued at \$2,000 in Philadelphia. See *Laws and Treaties*, II, 56-57.

²⁸ *A. S. P., I. A., I*, No. 99, 677.

General Wilkinson explained to the Creeks in the following language how Jefferson proposed to give them the promised prosperity:

We ask you, whether you do not think it might be advisable for you to sell some of your lands, the most distant from your towns and villages, to provide for the old, the poor, and the helpless, among your people, and to establish a broad foundation of peace and comfort, for those who may rise up after you are laid in your graves. This has ever been the policy of your white brethren, in every age and every country, and will it not be for your interests to follow their example?

We know a market can be found for some of your lands, at a price which may relieve the present wants of your whole nation, and with care and attention on your part, provide for the wants of your posterity. You can receive a payment in hand, and payments year after year, in money or goods, at your option; not such as you have heretofore received for the lands you have sold, but such as honest men may offer, and freemen may accept.²⁹

In reply to the commissioners, Efau Haujo (Mad Dog), spoke for the Creek nation very aptly when he said:

I have been talked to a great deal before I could lift up my head, but now I can lift up my head and look up. The thing that was asked us to part with, was like asking us to cut ourselves in two, and take one half one way, and the other half the other way. . . . I am poor, and I consider that I have made myself very poor in complying [with the federal demands]; yet . . . I have done it.³⁰

On June 16, 1802, the treaty was signed. By the terms of this agreement, the tribe ceded an enormous tract of land to the United States. Although the federal government failed to secure all the land that the commissioners requested, President Jefferson in submitting the treaty to the Senate for ratification, said:

I lay before you a treaty which has been agreed to by . . . the United States and the Creek nation . . . for the extinguishment of the native title to lands in the Tallassee county, and others, between the forks of Oconee and Oakmulgee rivers, in Georgia, in pursuance of the convention with that State. . . .³¹

In consideration of the cession, the national authorities promised to pay the Creeks \$3,000 annually, and \$1,000 for the term of ten years, and to the chiefs who administered the government, also \$25,000 in the following manner:

Ten thousand dollars in goods and merchandise, . . . ten thousand dollars to satisfy certain debts due from Indians and White persons of the Creek country to the factory of the United States; . . . five thousand dollars to satisfy claims for property taken by individuals of the said nation, from the citizens of the United States, subsequent to the treaty of Colerain. . . .

The government further agreed to furnish the tribe with two sets of blacksmith's tools, and men to work them for the period of three years.³²

On October 17, 1802, at Fort Confederation, on the Tombigbee River, James Wilkinson completed the negotiations for a treaty with the Choctaw tribe. By this agreement the national government received practically all the lands north of the southern boundary of the United States between the Chickasawhay River on the west and the Tombigbee and the Mobile rivers on the east for the trifling sum of one dollar.³³ After the commissioners of the United States and of the Choctaw Indians finished marking the new boundary, the former gave the latter "fifteen pieces of strouds, three rifles, one hundred and fifty blankets, two hundred and fifty pounds of powder, two hundred and fifty pounds of lead, one bridle, one man's saddle, and one black silk handkerchief."³⁴

Despite being afflicted with fever at the time of signing the treaty with the Choctaws, Wilkinson, with considerable pride, reported his success to Jefferson in the following language:

Believing the cession between the Chickasawhay, the Tombigby, and the Mobile rivers, which includes one and a half million of acres, might prove interesting to [the] Government at an early period (it is certainly so at this moment to our citizens, settled on that tract) I exerted my feeble faculties, and with much difficulty effected it. I perceived, at an early day, that it was essential to the successful issue of my views, to distribute, at this conference, the annuities which I brought with

³² *Laws and Treaties*, II, 58-59. Rights to military posts were included in the treaty.

³³ *Ibid.*, p. 63.

³⁴ *Ibid.*, pp. 69-70.

me from fort Stoddart to this place, and I instructed Mr. Dinsmoor, the agent, accordingly; to whose co-operation I am much indebted. . . .³⁵

In a report of the Secretary of War on January 17, 1803, he likewise boasted that by the recent treaties with the Creek and Choctaw nations of Indians "considerable tracts of land have been obtained, and there is reason to believe, that additional cessions, may be obtained on reasonable terms, from the aforementioned and other Indians, in the course of the present year."³⁶

Although little land was secured from the natives in the Southwest in 1803, the government was more than compensated by sessions in the Northwest and by the great purchase beyond the Mississippi. In order to legalize the Louisiana Purchase and to satisfy his scruples of strict construction, President Jefferson drafted a constitutional amendment which had for its real motive the removal of all Eastern tribes to the promised land beyond the Mississippi.³⁷ Complying with the President's recommendation, Congress appropriated \$15,000 to help realize this result.³⁸

In 1804 the Cherokees agreed to cede to the United States thousands of acres of their land in the state of Georgia for the meagre sum of \$5,000 in money or in goods at their option and \$1,000 as a permanent annuity in addition to the yearly payments heretofore given. This money was to be delivered at the time they usually received their regular gifts.³⁹ Even this did not satisfy the federal authorities, for an even larger grant was negotiated from them the next year. A large portion of this cession lay in the State of Tennessee. In consideration for the relinquishment of this land the United States stipulated to pay \$3,000 in valuable merchandise immediately and \$11,000 within ninety days after the ratification of the treaty. The federal officials held in readiness the first annuity of \$3,000, to be paid as soon as the chiefs signed the covenant. If the Cherokees preferred, part of the \$11,000 would be given them in machines which would be useful in agriculture and manufactures. The roads which the tribe had previously allowed

³⁵ *A. S. P., I. A., I*, No. 100, 682.

³⁶ *Ibid.*, No. 101, p. 683.

³⁷ Annie H. Abel, *The History of Events Resulting in Indian Consolidation West of the Mississippi*, I, 235-450.

³⁸ Royce, *The Cherokee Nation of Indians*, pp. 202-203.

³⁹ *Laws and Treaties*, II, 73-74.

for the use of Americans were to be continued, and two new ones were to be opened up for public use, one near Muscle Shoals to the settlements on the Tombigbee and the other near the head of Stone's River, and falling "into the Georgia road at a suitable place toward the southern frontier of the Cherokees."⁴⁰

A year later, the federal agents and the Cherokees signed another treaty which re-affirmed the previous cession and in addition the United States received the first island in the Tennessee River. The buildings erected by the government within the Cherokee country for public purposes could never revert to the Indians. Since the mail of the United States was ordered to be carried from Knoxville to New Orleans through the Cherokee, Creek, and Choctaw countries, the Cherokees agreed to let the mail, as well as the citizens of the United States, pass through unmolested. For these privileges the federal government agreed to pay them \$1,600 in money or in useful merchandise at their option.⁴¹

On January 7, 1806, the Cherokees ceded another large tract of land contiguous to that of the Chickasaws, and a smaller cession two miles wide on the north side of the Tennessee River which extended northward for three miles. For these grants the United States stipulated to pay \$2,000 in money immediately upon ratification by the Senate, and \$2,000 in each of the four succeeding years, which amounted in all to \$10,000. A grist mill and a cotton gin were promised them. Chief Black Fox was to be paid annually \$100 during the remainder of his life.⁴² Since a dispute arose over the previous cession, a new convention was called to rectify the matter according to the understanding of the officials at Washington. The Cherokees met the wishes of the United States without serious opposition. In order to show full gratitude for their prompt submission, the federal government agreed to pay the tribe \$2,000 more than previously stipulated.⁴³

In the autumn of 1804 Benjamin Hawkins negotiated a treaty with the Creeks in which they agreed to give all their lands at the forks of the Oconee and Oakmulgee rivers for \$200,000 in stock bearing six per cent interest, annually.⁴⁴ In defense of the treaty Hawkins said:

⁴⁰ *Ibid.*, pp. 82-83.

⁴¹ *Ibid.*, pp. 91-92.

⁴² *Ibid.*, p. 84.

⁴³ *A. S. P., I. A.*, I, No. 106, 691; No. 107, p. 695.

⁴⁴ *Ibid.*, pp. 90-91.

We have acquired somewhat more than two millions of acres, half of which is unquestionably the best land in this country. I have done the best I could in this transaction, and I believe a delay to another year would not have benefitted us, and it would have greatly inconvenienced the views of Georgia, who have an undoubted right to these lands, whenever they can be obtained at a reasonable price, and the one given, in my opinion, is far from being unreasonable.⁴⁵

Despite the fact that Jefferson urged the Senate to ratify the agreement, that body refused its assent because of the exorbitant price.⁴⁶

Jefferson, although temporarily defeated, did not give up. The Creek chiefs were invited to Washington and in that city Secretary Dearborn on November 14, 1805, secured a more desirable treaty. The Creeks ceded practically all of their lands situated between the Oconee and Oakmulgee rivers—well over two million acres. Furthermore, the tribe granted to the United States the right to build and use a road from Oakmulgee to Mobile, the authority to establish military posts, and the privilege to occupy certain reserved tracts.

In return for this cession and these privileges, the government agreed to pay annually to the Creeks for eight years \$12,000 in money, or goods and implements of husbandry at the option of the tribe; in like manner \$11,000 was to be paid yearly for a decade, making in all eighteen annual payments, without interest. The government further agreed in lieu of all former stipulations relating to blacksmiths to furnish the Creeks for eight years with two ironsmiths and two strikers.⁴⁷

In advising ratification of the treaty, Jefferson said:

The Senate having dissented to the ratification of the treaty with the Creeks, submitted to them at their last session, which gave a sum of two hundred thousand dollars for the country thereby conveyed, it is proper now to observe, that, instead of that, which was equivalent to a perpetual annuity of twelve thousand dollars, the present purchase gives them an annuity of twelve thousand dollars for eight years only, and of eleven thousand dollars for ten years more, the payments of which would be effected by a present sum of one hundred and thirty thousand dollars, placed at an annual interest of six per cent. If, from

⁴⁵ *Ibid.*, p. 692. ⁴⁶ *Ibid.*, I, No. 108, 695. ⁴⁷ *Laws and Treaties*, II, 85-86.

this sum, we deduct the reasonable value of the road ceded through the whole length of their country from Oakmulgee, towards New Orleans, a road of indispensable necessity to us, the present convention will be found to give little more than the half of the sum which was formerly proposed to be given; this difference is thought sufficient to justify the presenting this subject a second time to the Senate.⁴⁸

The Senate was impressed and ratified the treaty in 1806.

In 1805 the Choctaws ceded approximately five million acres of their valuable lands to the United States for which the latter agreed to pay \$50,500 for the following purposes: \$48,000 to enable the tribe to discharge the debt due the merchants and traders, and to pay for the depredations committed on stock and other property by evilly disposed persons of the tribe; \$2,500 to be paid to John Pitchlynn to compensate him for certain losses sustained in the Choctaw country. The federal government also agreed to pay annually \$3,000 in such goods (at net cost in Philadelphia) as the tribe might choose. Three of the leading chiefs were to receive \$500 each and an annuity of \$150. The treaty also confirmed the right previously granted to the United States to establish a road through the Indian country.⁴⁹

President Jefferson declined to ask for senatorial approval of the Choctaw treaty until January, 1808. In making his belated recommendation that the treaty be approved, the President explained that he had objected to the treaty because the commissioners had failed to secure the cession desired along the Mississippi and had obtained instead five million acres of less desirable land further eastward. Jefferson now realized that in the event of a foreign war the lands would be needed for military purposes. If peace prevailed they would be needed to satisfy the Choctaw creditors and to furnish homes and farms for an expanding people.⁵⁰

President Jefferson, constantly pressing for more Indian lands, turned in 1805 to James Robertson and Silas Dinsmoor to secure

⁴⁸ *A. S. P., I. A., I*, No. 108, 695.

⁴⁹ *Laws and Treaties*, II, 87-89.

⁵⁰ *A. S. P., I. A., I*, No. 117, 748-49; No. 118, pp. 751-52. In his communication to the Senate, January 15, 1808, Jefferson said: "Progressive difficulties, however, in our foreign relations, have brought into view considerations, other than those which then [1805] prevailed."

the coveted lands of the Chickasaws. Their efforts were crowned with success on July 23. The extent of the cession can best be visualized by the boundary description given in the treaty:

Whereas the Chickasaw nation of Indians have been for some time embarrassed by heavy debts due to their merchants and traders, and being destitute of funds to effect important improvements in their country, they have 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 Buffalo river, thence eastwardly along the said ridge to the great ridge dividing the waters running into the main Tennessee river from those running into Buffalo river, near the main source of the Buffalo river; thence, in a direct line to the great Tennessee river . . . ; thence, northwardly to the great ridge divided 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. . . .

No American citizen, however, would be permitted to settle within the ceded territory until three years after the ratification of the treaty. In payment for the cession, the United States agreed to pay \$20,000 "for the use of the nation at large, and for the payment of the debts due their merchants and traders." George Colbert and chief O'Koy were to receive \$1,000 each for services rendered their nation; and the king of the nation was promised a lifetime annuity of \$100 "as a testimony of his personal worth and friendly disposition." All of these payments were to be made in specie.⁵¹

Jefferson had made another "noble bargain" for the United States. Since 1803 Jefferson had come to the conclusion that the Indian tribes must cross the Mississippi into the recently acquired territory, and the country east of the Father of Waters should be

in the main the home of the white man. When, therefore, in 1808 a delegation of Cherokees visited the capital to seek a settlement of the outstanding disputes and a more favorable apportionment of annuities, the Secretary of War wrote Agent Meigs to avail himself of every occasion to encourage the important chiefs to lead the entire tribe beyond the Mississippi.⁵² The emigration policy appealed to the Lower Cherokees who were hunters and were beginning to feel cramped by the narrow territorial boundaries, while the Upper Cherokees were absolutely opposed to the suggestion, for they were chiefly farmers and wished to remain where they were. In the spring of 1808 a few of the chiefs of the upper band arrived in Washington to request that a boundary line be marked between them and their southern kinsmen. They asked that their lands be assigned to them in severalty, and that they be made citizens of the United States. President Jefferson, in his conversation with them, advised removal, but instructed them that only Congress could bestow citizenship upon them.⁵³ Shortly afterwards the Upper and Lower Cherokees seemed to favor emigration. Congress made an appropriation for their removal, and a delegation was sent to Arkansas to investigate the country. Upon their return they gave such a glowing account of that region that many were ready to go immediately. Unfortunately Jefferson retired from his executive duties before anything definite could be effected. President Madison seemed to be less favorable towards removal. By 1817 close to three thousand members of the tribe had emigrated beyond the Mississippi.⁵⁴ Other delegations arrived in Arkansas in 1818 and 1819. These tribesmen were subsequently called Old Settlers. Thus, there came into existence a Cherokee Nation East and a Cherokee Nation West.

⁵² Indian Office Manuscript Records, Secretary Dearborn to Agent Meigs, March 25, 1808.

⁵³ H. A. Washington, ed., *The Writing of Thomas Jefferson*, V, 303.

⁵⁴ Royce, *Cherokee Nation of Indians*, p. 204; *A. S. P., I. A.*, II, No. 144, 97; No. 146, pp. 124-26, and Eaton, *John Ross and the Cherokee Indians*, p. 19.

Chapter VIII

FEDERAL ECONOMIC AND POLITICAL RELATIONS WITH THE NORTHWESTERN TRIBES, 1796-1812

The treaty of Greenville in 1795 proved to be a temporary pacifier. By the beginning of the nineteenth century the pioneers were demanding another Indian cession in the Northwest. Jefferson's chief political supporters were among the frontiersmen; he quite naturally, therefore, made attempts to satisfy their demands. William Henry Harrison, being popular in the West, was appointed governor of the Territory of Indiana and superintendent of Indian Affairs at a salary of \$2,000 a year. He was to carry out the policy of the President in the western region (which was in keeping with his own) for rapidly obtaining possession of the Indian lands.¹

According to the treaty of Greenville, as we have seen, isolated tracts of land in the Territory of Indiana were ceded to the national government. These comprised the country in the vicinity of Vincennes, and some of the former French possessions in the Illinois region.² Arrangements were made for surveying the boundary in 1799,³ but Congress appropriated no money for the purpose; therefore, for the time being, the lines remained unmarked. Since there was no definite demarcation, pioneers often settled on Indian possessions. This almost invariably led to friction between them and the intruding whites. Upon Harrison's arrival in the territory the chiefs entreated him to adjust the difficulties. In compliance with their request, Harrison issued a proclamation against encroaching on Indian soil,⁴ and wrote the Secretary of War for permission to survey the boundary lines in order to avoid further embarrassment.⁵

¹ Dorothy B. Goebel, *William Henry Harrison; A Political Biography*, Indiana Historical Collections, Biographical Series II, XIV, 93-94.

² *Laws and Treaties*, II, 39-41. See Articles three and four of treaty.

³ Act of March 3, 1799, *Annals of Congress*, 5th Cong., 3rd sess., pp. 395-396.

⁴ *Executive Journal of Indiana Territory, 1800-1816*. Indiana Hist. Soc. Publications, III, 101-102.

⁵ M. Dawson, *Harrison*, p. 8; Goebel, *Harrison*, XIV, 97-98.

On January 23, 1802, Harrison received the desired instructions. In surveying the boundaries, he was informed that he should consult the Indian chiefs, the white settlers, and the treaty of Greenville to determine the correct limits of the ceded territory. The chiefs were to be amply satisfied that no more land was to be taken from them than the treaty of 1795 specifically granted, and their most eminent men were to accompany the surveyors.⁶ It seemed as if the Indians were to be dealt with fairly.

In response, Governor Harrison clearly sketched what he considered to be the correct boundary of the Vincennes tract. He said that in so far as he was able to ascertain there was no record of an early Indian grant to the French. However, at Vincennes there existed an Indian deed of cession to the Wabash Land Company that dated back to 1775. The company obtained by this cession a strip of land "ninety-three leagues long and seventy wide." This same document described the former cession to the French as a strip of "land on the Wabash River, twenty-four leagues long and seventy wide."⁷ The Indians denied the validity of the grant to the Wabash Company.⁸ Even committees appointed for the purpose of investigating the transaction both from the Senate and House reported upon the cession unfavorably.⁹ After Harrison had conferred on the subject with the early French settlers in the vicinity, he apparently was convinced that the deed was authentic. He informed the Secretary of War, however, that the natives would be unwilling to part with such an enormous tract of land, and advised that a square of only twenty-four leagues be demanded.¹⁰

Several months passed before the Secretary of War, Dearborn, replied to Harrison's recommendations. Meanwhile the news of the treaty of San Ildefonso had reached Washington. This information caused Jefferson to formulate a more definite Indian policy "to effect the rapid extinguishment of Indian land titles."

⁶ *Ibid.*, p. 98, Secretary of War to Harrison; Letter Book A, 140, Office of Indian Affairs.

⁷ The deed to the Wabash Land Company may be found in *A. S. P., I. A., I*, No. 39, 338-340.

⁸ *Ibid.*

⁹ *A. S. P., P. L., I*, Nos. 11, 12, 27; Nos. 30, 32, pp. 72-73, 74-75.

¹⁰ Esarey, ed., *Governors Messages and Letters*, I, 43.

Early in 1802 the President became fully convinced that the French were becoming a real danger. He visualized the effect the presence of the French in Louisiana would have upon the Northwestern and Southwestern Indians. The French menace caused Jefferson to formulate his new Indian policy of acquiring Indian lands with all convenient speed. In June, 1802, Harrison was accordingly instructed to put the new plan into operation immediately. Although Congress had twice voted that the grant to the Wabash Company was worthless, the governor was now directed to persuade the natives to transfer these claims to the federal government. If they refused, he was to lay claim to the entire tract supposedly ceded to the French.¹¹ This expression of Jefferson's Indian land policy was closely adhered to throughout his two administrations.

Harrison now requested the head men of the Wabash tribes to meet at Vincennes to discuss the question of the boundaries. The meeting was held early in August, 1802, but it was September 17 before the preliminary understanding was reached. The governor obeyed instructions by advancing a claim formerly given to the Wabash Company. The Indians became alarmed and bluntly denied that they had deeded away any such cessions; they maintained that "they had given only seven or eight thousand acres to the French."¹² It is of interest to note that only a decade had passed since the central government had vouchsafed to the Wabash Indians their "right to refuse to sell," and this promise had been repeated again in the treaty of Greenville.¹³

Since the federal government had so disregarded its former pledges, there is little surprise that the tribes became alarmed for their own future safety. By winning the support, however, of Captain William Wells, Governor Harrison was able to induce the chiefs to sign the preliminary treaty. This agreement pledged the four major chiefs—Little Turtle, Richardville, Topenabee, and Winawac—to meet Harrison the next spring at Fort Wayne to draft the definitive treaty that would give the United States a tract of land twelve leagues long and twenty leagues wide.¹⁴ On

¹¹ Goebel, *Harrison*, p. 99.

¹² *Ibid.*, pp. 100-101; Dawson, *Harrison*, pp. 19-26.

¹³ *A. S. P., I. A.*, I, No. 39, 338; No. 67, pp. 562-563.

¹⁴ Goebel, *Harrison*, pp. 100-101; Dawson, *Harrison*, pp. 26-28. Wells was a son-in-law of Chief Little Turtle.

this date Little Turtle was given an annuity of one hundred fifty dollars¹⁵ from the government, and that gift quite likely induced him to favor the proposed settlement. Harrison decided to negotiate only with the chiefs, for the tribesmen as a group had refused to cede any more territory, hoping subsequently to win the individual Indians by means of presents.

Nevertheless, the preliminary treaty caused a great deal of opposition among the native tribes. They sent protests to Jefferson against such high-handed negotiations. Their objections, however, did not divert the determined Jefferson from his course, for the French were still giving him a great deal of worry over their recent acquisition of Louisiana; therefore, he persisted in his determination to obtain all the Indian lands east of the Mississippi. The aborigines must either become civilized and absorbed by the whites or move west of the Great River. In February, 1803, Jefferson sent the governor practically a permanent commission for negotiating with the natives. "The crisis is pressing," the former wrote, and "whatever can be obtained, must be obtained quickly. The occupation of New Orleans, hourly expected by the French, is already felt like a light breeze by the Indians. You know the sentiment they entertain of that nation. Upon the hope of their protection, they will immediately stiffen against cessions of land to us. We had better, therefore, do at once what can now be done." The communication instructed Harrison not to permit these plans to reach the ears of the red men.¹⁶

Harrison used most of the spring of 1803 in an endeavor to persuade the natives to recognize the treaty negotiated at Vincennes, but the majority of the Indians denounced this quasi contract and denied its legality.¹⁷ Since the opposition was so strong, Harrison again attempted to persuade the influential chiefs to be present at the forthcoming conference at Fort Wayne to sign the final covenant. Many hesitated and some refused, but Harrison was equal to the occasion; he announced that the goods and annuities to be distributed would not be given to those tribes that failed to attend the council at Fort Wayne.¹⁸ Confronted with

¹⁵ Letter Book, A, 144, Office of Indian Affairs.

¹⁶ Esarey, ed., *Governors Messages and Letters*, I, 70-73.

¹⁷ Goebel, *Harrison*, p. 103.

¹⁸ *Ibid.*

these facts most of the braves attended the convention.

The governor opened the meeting in the customary manner by emphasizing all the favors and benefits which the Indians had received from the government of the United States and their Father at Washington. The natives had heard such speeches before and knew too well that the government was primarily after their territory. Bitter vituperation resulted, and the Shawnees bolted the conference to return to their homes. Others threatened to do the same; but Harrison was able to induce the chiefs to sign the proposed agreement.

This was the first Indian treaty which Harrison negotiated while governor of Indiana Territory. It was a hard-fought battle but he won a real victory. It is believed, though, that he resorted to bribery.¹⁹ At any rate, he succeeded in defining the bounds of St. Vincennes and in so doing he obtained for his country about 1,152,000 acres of land, in spite of the fact that the Indians contended that they had sold at most 8,000 acres to the French. "As a mark of their regard and attachment to the United States, . . . [the Indians] relinquish and cede to the United States the great salt spring on Saline Creek. . . ." For this valuable spring, the national authorities promised to furnish the natives annually with a quantity of salt not exceeding one hundred and fifty bushels. The federal government was granted the right of locating three tracts of land on the main road between Vincennes and Kaskaskias, and one other between Vincennes and Clarkesville for the purpose of erecting houses of entertainment for the accommodation of travellers.²⁰ In a subsequent arrangement of the same year these reservations were limited to one square mile.²¹ In regard to the general boundary line, the agreement at Fort Wayne stipulated that since "some of the settlements and locations of land made by the citizens of the United States will fall in the Indian country

¹⁹ *Ibid.*

²⁰ *Laws and Treaties*, II, 64-65. The securing of this treaty doubtless cost the government a considerable sum of money in the form of presents, secret negotiations, and understandings, but on paper the land secured cost the federal treasury nothing, on the ground that the Indians had ceded these lands in the treaty of Greenville.

²¹ *Laws and Treaties*, II, 66. The taverns were never erected.

. . . that such alterations shall be made in the direction of these lines as will include them.”²²

In a treaty with the Kaskaskia Indians in 1803 Harrison was able to secure for the United States all their territory in the Illinois country. These lands had been given to them by an Act of Congress, March 3, 1791. In twelve years' time, because of the desires of the pioneers, the Kaskaskia tribe was forced to surrender to the government their claims to approximately eight million acres. The national government promised to take them under its protection. The former annuity was increased to \$1,000 which now was to be “paid to them either in money, merchandise, provisions, or domestic animals, at the option of the said tribe: and when the said annuity or any part thereof is paid in merchandise, it is to be delivered to them” at cost, and the transportation charges borne by the government. The central government promised to give \$100 annually for seven years toward the support of a Catholic priest among the tribe and the sum of \$300 to assist in erecting a church. An additional sum of \$580 was paid them for other purposes. The United States retained the right at any future period of dividing the annuity among the several families of the tribe, “reserving always a suitable sum for the great chief and his family.”²³

During the next year General Harrison secured a cession of land from the Delawares which lay between the Ohio and the Wabash rivers and was sold to the United States for a ten years' annuity of \$300 which was to be “exclusively appropriated to ameliorating their condition and promoting civilization.” Suitable persons were to be employed at the expense of the national government to teach them to make fences, cultivate the earth, and such of the domestic arts as were adapted to their situation. To promote such valuable undertakings the national government agreed to appropriate a further sum of \$300 annually for five years. The United States promised to deliver to them the next spring “horses fit for draft, cattle, hogs, and implements of husbandry” to the amount of \$400. An additional \$800 was given

²² *Ibid.*, pp. 64-65.

²³ *Ibid.*, pp. 67-68. In 1804 the Sioux and Foxes surrendered over fifty million acres.

immediately to the tribe, a part of which was "appropriated to the satisfying of certain individuals of the said tribe," whose horses had been stolen by white people. The government guaranteed to the Delawares all the lands between the Ohio and the White rivers, and promised to negotiate a treaty with the Piankishaw tribe to get them to recognize the claims of the Delawares to the promised lands.²⁴

In making the proposed arrangement with the Piankishaws, Harrison refused to let pass the opportunity of securing another cession of land; therefore, he obtained all the territory which belonged to that tribe between the Ohio and Wabash rivers. An additional annuity of \$200 was promised them for ten years, together with \$700 worth of goods to be delivered when the treaty was completed.²⁵

But the following year, 1805, Harrison negotiated a cession with seven of the Northwestern tribes.²⁶ He estimated that the acquired region contained at least two million acres of the "finest lands along the Ohio and the Wabash rivers." The federal government purchased this enormous cession from these tribes for the miserly annuity of \$825 "current money" and a further sum of \$175, making a total of \$1,000. The \$175 was not really paid by the United States, but was held in trust for the Seven Nations by the President; it was paid by the Connecticut Land Company, and by the company incorporated under the name of "the proprietors of the half million acres of land lying south of Lake Erie, called Sufferer's Land."²⁷

In August, 1805, General Harrison wrote to the Secretary of War that there were great dissensions between the Delawares and Miamis in regard to the ceded lands, the latter claiming that they had never consented to give them up. Harrison said that "A

²⁴ *Ibid.*, pp. 70-71. The White River tract was actually the possession of the Miamis, and Harrison was compelled to call a conference for the following year to negotiate a settlement. At this meeting at "Grouseland" the Governor conceded that the title to this tract belonged to the Miami Indians. The recognition of the sale was only secured by the bribing of the Miami chief, Little Turtle. See Esarey, ed., *Governors Messages and Letters*, I, 164.

²⁵ *A. S. P., I. A.*, I, No. 112, 704-705; *Laws and Treaties*, II, 72-73.

²⁶ Wyandot, Ottawa, Chippewa, Munsee, Delaware, Shawnee, and Potawatomie Nations.—*Ibid.*, II, 77.

²⁷ *Laws and Treaties*, II, 77-78.

knowledge of the value of land [was] fast gaining ground among the Indians," and that negotiations were becoming in consequence much more difficult. In the course of this controversy, "one of the chiefs . . . said he knew a great part of the land was worth six dollars an acre."²⁸ Yet it is impossible to believe that the Indians had a true sense of value when they sold an enormous acreage of land for so little money.

Again in the same year Harrison negotiated a treaty with four of the Northwestern tribes²⁹ for another large cession in Indiana Territory. An annuity for ten years of the following proportions was to be given: Miamis, \$600; Eel River tribe, \$250; Weas, \$250; and Potawatomes, \$500; which, together with the sum of \$400 that was to be delivered at the completion of the agreement, made a total of \$2,000 which the tribes received the first year.³⁰

Governor Harrison was negotiating continually for Indian lands. He thus fitted in admirably with the Jeffersonian policy and the demands of the frontiersmen. Again in 1805 he secured from the Piankishaws all of their possessions between the Wabash and the northwest corner of the tract of St. Vincennes, except one reservation of twelve hundred acres, and promised the Indians that the United States would take them under its protective care. The government promised to pay an additional annuity of \$300, but reserved the right to give it to the individuals of the nation if the authorities saw fit. The permanent grant of \$300 annually, and the \$1,100 which was paid them immediately were the remunerations which they received for the loss of all of their territory.³¹

Four years passed before Harrison negotiated another treaty with the Indian tribes. While the governor of Indiana Territory was taking a rest and trying to appease the angry natives, William Hull, governor of Michigan Territory, was active in securing land cessions in that section of the country. In November, 1807, Hull acquired a very large region from the Ottawa, Chippewa, Wyandot, and Potawatomie tribes in Michigan. In consideration for this

²⁸ Jackson, *A Century of Dishonor*, p. 46.

²⁹ Delawares, Potawatomes, Miamis, Eel River, and Weas.

³⁰ *Laws and Treaties*, II, 80-81. The annuity of five hundred dollars to the Potawatomie tribe was for ten years only. ³¹ *Ibid.*, p. 89.

enormous cession the United States promised to pay the natives immediately upon the ratification of the treaty \$10,000, either in money or goods at their option. The different tribes were to receive the following sums: Ottawa and Chippewa, \$3,300.33 $\frac{1}{3}$ each; Wyandot and Potawatomie, \$1,666.66 $\frac{2}{3}$ each; and likewise an annuity forever of \$2,400 to be paid at Detroit. Of the permanent annuity the Ottawas were to receive \$800, the Chippewas \$800, the Wyandots \$400, and Potawatomes \$400. If the Indians preferred, the annuity might be paid in instalments. It was agreed that the said tribes should be furnished with two blacksmiths for ten years at federal expense.⁸²

The next year Hull secured another treaty with the same tribes, with the exception of the Shawnees. The purpose of this agreement was to connect the settlements in Ohio with those of Michigan. In order to promote this object, the Indians granted to the United States a tract of land for a road one hundred and twenty feet wide, "from the foot of the rapids of the river Miami of Lake Erie to the western line of the Connecticut Reserve, and all the lands within one mile of the said road, *on each side thereof*, for the purpose of establishing settlements along the same; also a tract of land, for a *road only*, of one hundred and twenty feet in width, to run southwardly from what is called Lower Sandusky, to the boundary line established by the treaty of Greenville. . . ." ⁸³

The year 1809 brings us again to the activities of William Henry Harrison. During that year he was instructed "to take advantage of the most favorable moment for extinguishing the Indian title to the lands lying east of the Wabash, and adjoining South"; and the title was extinguished by the treaty of Fort Wayne of that year. The remuneration given for this large cession of 2,500,000 acres of land was: to the Delawares and Potawatomes a permanent annuity of \$500 each, and to the Miamis a like gift of \$250. There were goods distributed to the Indians to the value of \$5,200 as a full compensation for the grant.

The fifth article of the agreement said that the consent of the Wea tribe was necessary to complete the title of the tract ceded; therefore a separate convention would be entered into with them.

A reasonable allowance of goods would be given them, and a permanent annuity of not less than \$300.³⁴

The proposed treaty was negotiated with the Wea tribe the same year and the promised annuity was given them and \$1,500 in addition for the cession. Another annual payment was to be given them as soon as the Kickapoos could be induced to give their consent to the ninth article of the treaty of Fort Wayne.³⁵

The ninth article of said agreement read:

The tribes who are parties to this treaty, being desirous to show their attachment to their brothers, the Kickapoos, agree to cede to the United States the lands on the northwest side of the Wabash, from the Vincennes tract to a northwardly extension of the line running from the mouth of the aforesaid Raccoon creek, and fifteen miles in width from the Wabash, on condition that the United States shall allow them an annuity of four hundred dollars. But this article is to have no effect unless the Kickapoos will agree to it.³⁶

At the same time a separate convention was negotiated with the Miamis in which they were allowed an additional compensation of domestic animals to the amount of \$500, and a like sum for the next two years. It was also stipulated that if the Kickapoos could be induced to confirm the ninth article of the treaty of Fort Wayne, a further permanent annuity of \$200 would be allowed them, and to the Wea and Eel River tribes a similar payment of \$100 each.³⁷

The Kickapoos were induced finally to agree to this ninth article, December 9, 1809, and an additional cession was made at the same time. The said annuity of \$400 was given them and \$800 in goods. For the latter grant it was stipulated that another annual reward of \$100 would be given and \$700 in merchandise were to be delivered to them at once.³⁸

Harrison had thus acquitted himself with glory on the extinguishment of Indian land titles, in compliance with the President's request. He negotiated no more treaties, however, for five years.

In the meantime, the Indians had determined upon a policy of

making one more fight against the westward march of the white pioneers. Pontiac had long since gone to his happy hunting ground, but his mantle had fallen upon another conspicuous chieftain, Tecumseh, head of the Shawnee tribe. He considered all American citizens to be the natural enemies of all the aborigines, and the British their logical and true friends. Had not the Americans robbed them of their lands and cheated them at every turn? Had not the British shown them friendship? Would it not be possible to enlist two natural friends against a common foe? With the support of Great Britain and the combination of all the Indian tribes, the new leader and his brother, "The Prophet," wished to drive out the American intruders. The two brothers induced various Northwestern tribes to resist further violations of their territorial rights. Furthermore, some of the tribes had denied the validity of the Harrison treaties, thus causing much confusion as to land titles.³⁹

Not only did Tecumseh and his followers hate the Americans, but there was no sincere friendship between the British and the citizens of the United States in the Northwest. In addition to the enmities caused by the Revolutionary War and encouraged by a few British and some Americans alike, the former soon learned that John Jacob Astor had entered whole-heartedly into the lucrative fur trade of the Northwest, and that his apparent success was cutting into the profits of the British traders.

The keen competition in commerce in the great Northwest, added to natural antipathy, caused the Americans to believe that the British at Malden incited Tecumseh and his Indian allies in their machination against the United States. Perhaps the major cause of the whole difficulty was the avidity of the frontiersmen to obtain lands. Walk-in-the-Water, chief of the Wyandots, pleaded with Governor Hull to oust the pioneers from the Indian lands and to free their possessions forever from intruding whites. If this request were granted, the great chief believed that all troubles would be eradicated immediately.

At the time there were white settlements near the mouth of the Maumee River, at the Raisin River, on the site of Monroe, at the mouth of the Huron River, at Ecorse, at River Rouge, and also on the Clinton and St. Clair rivers. In 1809 the Lake Erie settle-

³⁹ George B. Catlin, *The Story of Detroit*, pp. 129-130.

ments had a population estimated at thirteen hundred; Detroit and the down-river settlements had twenty-two hundred, and there were about one thousand people in the northern part of the Territory. About four-fifths of these were French settlers.⁴⁰ "It was our thirst for territory," said John Randolph, "our own want of moderation, that had driven these sons of nature to depredations, of which we felt the effects."⁴¹ From the treaty of Greenville in 1795 to 1809 the federal government by treaties had acquired more than 109,884,000 acres of land from the natives and more than half of this lay in the Ohio Valley alone.⁴²

The coming of the natives "from all directions to Fort Malden caused uneasiness at Detroit. There were only ninety-five soldiers in Detroit and seventy-nine at Mackinac, while one delegation of Indians" alone was estimated at eight hundred. Under these threatening war clouds, Detroit petitioned the national government for ample military protection.⁴³

General Harrison had, by means of presents, temporary and permanent annuities, procured for the United States millions of acres of land from the aborigines. Tecumseh now asserted that these treaties and grants were not valid and that any attempt to occupy the country would be vigorously resisted. Harrison gathered together nine hundred soldiers and erected Fort Harrison "where the city of Terre Haute now stands."⁴⁴ Tecumseh was in the South trying to enlist the Southern Indians in his cause. Harrison now advanced into the hostile region and fought the battle of Tippecanoe. It was a doubtful victory at best, but it gave Harrison a lasting reputation. "Had he not been as well the eager representative of the frontier desire to quiet Indian land titles, his vogue would never have been enough to make him President."⁴⁵

The battle of Tippecanoe, however, allayed the Indian troubles in the Northwest and Tecumseh never regained his leadership.

⁴⁰ *Ibid.*, pp. 130-131.

⁴¹ *Annals of Congress*, 12th Cong., 1st sess., pp. 426, 446ff.

⁴² *A. S. P., P. L.*, III, No. 323, 461-462.

⁴³ Catlin, *The Story of Detroit*, p. 131.

⁴⁴ *Ibid.*, p. 131.

⁴⁵ F. L. Paxson, *History of the American Frontier, 1763-1893*, p. 166. Jackson apparently did not regard the battle of Tippecanoe as a victory for the Americans, for he wrote to Harrison on November 30, 1811, that he regretted to hear of the loss he sustained at Tippecanoe and offered to aid him in person and in men if he desired.—Bassett, ed., *Correspondence of Andrew Jackson*, I, 210-211.

After the War of 1812, the federal government extended its area of public lands without opposition to Lake Michigan.

INDIAN APPROPRIATIONS AND EXPENDITURES

The following table shows the annual expenditures of the Indian Bureau from 1791 to December 31, 1812:⁴⁶

Year to Dec. 31	Expenditures exclusive of Indian annu- ties and treaty stipulations	Indian an- nuities and treaty stipulations	Total expend- itures in each year	Amount ap- propriated in each year
1791	.....	\$ 27,000.00	\$ 27,000.00	\$ 39,424.71
1792	\$ 13,120.22	528.63	13,648.85	.....
1793	1,088.00	24,000.00	25,088.00	150,000.00*
1794	13,042.46	.....	13,042.46	50,000.00
1795	21,219.68	.....	21,219.68	80,000.00
1796	58,000.00	55,563.98	113,563.98	70,500.00
1797	38,817.25	23,579.33	62,396.58	6,710.68
1798	.....	15,300.00	15,300.00	96,880.00
1799	.....	20,080.00	20,080.00	101,500.00
1800	.....	.....	.....	49,000.00
1801	.....	9,000.00	9,000.00	72,000.00
1802	32,000.00	20,000.00	52,000.00	71,750.00
1803	.....	.....	.....	73,500.00
1804	.....	53,009.00	53,009.00	90,500.00
1805	100,000.00	41,000.00	141,000.00	94,400.00
1806	75,000.00	.....	75,000.00	130,125.00
1807	44,000.00	60,825.00	104,825.00	128,100.00
1808	2,250.00	70,725.00	72,975.00	202,100.00
1809	43,353.64	169,150.00	212,503.84	125,600.00
1810	23,800.00	58,225.00	82,025.00	151,450.00
1811	4,150.00	57,725.00	61,875.00	153,000.00
1812	.....	55,975.00	55,975.00	184,500.00

Total \$469,841.25 \$761,685.94 \$1,231,527.39 \$2,121,040.39

* Of this amount \$50,000 was for the Indian bureau for that year.

⁴⁶ *House Reports*, 23rd Cong., 1st sess., No. 474, p. 49. See also Henry R. Schoolcraft, *Historical and Statistical Information Respecting the History*,

SUMMARY

From 1796 to 1812 the emigration to the frontier of thousands of whites, dissatisfied with conditions in the East, enabled the alert land speculators to become very powerful. Soon after Jefferson became President, he suggested as a permanent solution of the Indian problem the intermarrying of the whites and natives. But, when the news of the treaty of San Ildefonso reached Washington, Jefferson, realizing that the influence of the French among the tribes might result in a constantly growing danger, formulated the new plan of securing as quickly as possible the Indian land titles, and instructed Harrison accordingly.

After the purchase of Louisiana in 1803, the French ceased to be a menace to the United States, but Jefferson now saw in the newly acquired country an admirable home for the Indians. He then conceived the idea of moving the Eastern tribes beyond the Mississippi. With the new project in mind, President Jefferson, aided by William Henry Harrison, practically forced the Northwestern tribes to cede their valuable lands to the national government.

Conditions, and Prospects of the Indian Tribes of the United States, Part IV, 369. (Hereafter cited as Schoolcraft, *History . . . of the Indian Tribes*.) In order that one may understand more clearly why the amount appropriated for each year was frequently less than the total annual expenditures, it should be kept in mind that the first act of appropriation passed in the fulfillment of a treaty provided for the payment of the annuity, limited or permanent, for the whole of the respective terms. The amount of the appropriation in a subsequent year, therefore, would be less than the sum expended during that period by the amount of the annuity thus provided. This practice continued until 1832.

Chapter IX

FEDERAL SUPPORT OF TRADING HOUSES, 1795-1812

THE ORIGIN OF THE FACTORY SYSTEM¹

The United States became interested in the fur trade with the Indians very early in its history. This was only natural because the duty of the national government was and is to look after the interests of the nation and its citizens. It was to the interest of the citizens of the United States to promote trade with the Indian tribes. To do this successfully, the government had to win the friendship of the Indians and to eliminate foreign competition. In the Northwest the British had a monopoly of the Indian trade; they also had the faith and confidence of the red men; and they obviously would wish to keep this valuable trade for themselves. In the Southwest Spain was the dominant factor. Spain largely controlled the Indians and their trade and devised schemes to promote this trade and friendship at the expense of the United States. During the period from 1783 to 1795 both Great Britain and Spain met with continued success in their endeavors to dominate the Indians. They succeeded not only in controlling the Indians, together with their trade, but they almost succeeded, as we have seen,² in alienating the Northwest and Southwest from the United States.

¹ The word "factory" as used in this chapter refers to the federal stores or trading houses. Factors are those who actually run the stores, but in this chapter, I frequently refer to them as the agents of the factory. From 1795 to 1822, when the experiment ended, the federal government established in all twenty-eight factories. These factories have not received the attention of historical writers that they deserve. The best account is that of Edgar B. Wesley, "The Government Factory System Among the Indians, 1795-1822," *Journal of Economic and Business History*, IV (May, 1932), 487-511. Other studies of value are: Katherine Coman, "Government Factories: An Attempt to Control Competition in the Fur Trade," *American Economic Association, Papers and Discussions* (April, 1911), 368-388. Royal B. Way, "The United States Factory System for Trading with the Indians, 1796-1822," *Mississippi Valley Historical Review*, VI (June, 1919), 220-235; Milo M. Quaife, *Chicago and the Old Northwest*; Bert J. Griswold, ed., *Fort Wayne, Gateway of the West*; George D. Harmon, "Benjamin Hawkins and the Federal Factory System," *North Carolina Historical Review*, IX (April, 1932), 138-152.

² See Chapter I of this study.

The United States government, however, had no intention of surrendering the lucrative trade and priceless territory without a struggle. The American diplomats busied themselves in trying to open up the Mississippi River and to eliminate the British from the Northwest. The Secretary of War engaged himself in the difficult task of winning the friendship of the Indians and directing their trade to the United States. In 1786, as previously mentioned,³ Congress passed an ordinance which divided the Indian department into two divisions with a superintendent for each, charged with the duties of granting licenses to trade with the Indians, under which foreigners were forbidden to trade. By the Act of 1790, the licenses were granted for two years and the clause preventing foreigners from engaging in trade was omitted.

In an attempt to control the Indian trade, a treaty was negotiated with the Delaware tribe as early as September 12, 1778.⁴ Eleven years later, the treaty made at Fort Harmar in 1789 between Arthur St. Clair, governor of the Northwest Territory, and the Northwestern tribes, provided specifically for the opening of trade with Indian tribes of that region.⁵ In the same year, the United States negotiated a treaty with the Wyandots and Delawares, in which new trading posts were created. The federal government was given a section of land six miles square at each trading post for trading purposes, except at Fort Michilimackinac, where the section was twelve miles square.⁶

Meanwhile, in the South, the Creeks were carrying on a trade estimated at £10,000 with the Spanish and English traders, whose trade with the Cherokees, Chickasaws and Choctaws, in addition, was far from negligible. Naturally, the United States wanted its share of the trade. It was estimated also that the amount of European goods annually consumed was about £12,000, furnished principally by the commercial house of Panton, Lislie and Company, of which McGillivray, the Creek leader, was a partner.⁷

In order to preserve the attachment of the several Indian na-

³ *Ibid.*

⁴ *Laws and Treaties*, II, 3-5.

⁶ *Ibid.*, pp. 23-25.

⁵ *Ibid.* Since these treaties have been discussed in Chapter I, I have merely pointed out the trade features here.

⁷ The house of Panton, Lislie and Company was a company of British traders at Pensacola, Florida, which received protection from the Spanish colonies.—*A. S. P., I. A.*, I, Nos. 2, 29, 34, pp. 15, 296, 308. See Whitaker, "Alexander McGillivray, 1789-1793," *N. C. Hist. Rev.*, V, 297.

tions bordering upon the United States, the federal commissioners to the Indians in the Southwest said that it was expedient to adopt immediately some adequate means of supplying the Indians with goods and ammunitions at moderate prices. They therefore recommended that Indian commerce be established and uniformly regulated by the supreme authority of the United States. The commissioners added:

This would be part of the duty imposed upon the superintendent, agent, or commissary, of Indian affairs, in the Southern department. . . . The superintendent, agent, or commissary, by going through the Indian towns of all the different nations, would be able to collect such information as might be extremely useful in forming definite plans of trade with those people; and, in case of war with the Creek nation, he might be of solid advantage in bring[ing] the Choctaws and Chickasaws to co-operate with the arms of the United States.⁸

In 1789 the United States attempted to negotiate a treaty with the Creeks to offset the influence of the opposing nations and to attract the lucrative trade to the United States. It seemed to be well understood that the trade was almost exclusively in the hands of Panton and Lisle, who by agreement made their importations of goods from England into the Spanish ports.⁹

As the trade of the Indians was one means of their political management, it was therefore obvious that the United States would not "possess any security for the performance of treaties with the Creeks while their trade . . . [was] liable to be interrupted or withheld at the caprice of two foreign powers." Hence it became an object of real importance to form new channels for the commerce of the Creeks through the United States. But such an arrangement would require time, for the established channels of trade could not be broken suddenly. In the light of these facts, the United States offered in a secret article of the proposed treaty to let the commerce pass through the usual Spanish channels until 1792, but after that time the trade would be directed through the ports of the federal government. Goods to the amount of \$60,000 would be allowed to pass through these ports, duty free.¹⁰

After much effort the federal government interested McGillivray in the proposition sufficiently to induce him to visit New York for the purpose of negotiating a treaty. As soon as the Creek delegation arrived at the federal capital, President Washington appointed Secretary Knox commissioner¹¹ to negotiate the treaty. On August 7 the agreement was reached and signed by the chiefs.¹² Subsequently, the chiefs shook hands with the President and "a song of peace concluded this highly interesting, solemn and dignified transaction."¹³

There were both public and secret articles in the treaty, and these were sufficiently attractive to ensnare the brilliant Creek leader. The public articles related to the boundary, trade, and annuity to the Creeks. The clause relating to trade provided that no trader without a federal license should be permitted to visit the Creek towns within the limits of the United States.¹⁴ Although the annuity promised in the treaty was supposedly a remuneration for the cession of land, actually it was a price for peace as a substitute for war.

While the treaty of New York in 1790 and the French Revolution, which was soon to lead all Europe into conflict, were the beginnings of the downfall of Spanish trade in America, the federal authorities wanted to continue a policy of friendship in order to win the Creeks completely from the influence of Spain. In 1792 a great drought ruined the Creek Indian corn crop and famine threatened their country. The United States responded liberally to their cries by sending them a supply of goods, corn, and money, estimated at \$13,314.61. The federal agent informed the Creeks that if additional supplies were needed they would be sent.¹⁵ It would not be just, perhaps, to say that the only motive of the

¹¹ *Ibid.*, No. 11, p. 81.

¹² *Laws and Treaties*, II, 25-28.

¹³ Whitaker, "Alexander McGillivray, 1789-1793," *N. C. Hist. Rev.*, V, 297-298.

¹⁴ *A. S. P., I. A.*, I, Nos. 10, 12, pp. 80-82. In case of war between Spain and Great Britain over the Nootka Sound Controversy McGillivray would be made the commissioned agent of the United States to the Creeks, with the rank of brigadier general at a salary of \$1,200 a year.

¹⁵ *Ibid.*, No. 29 (III), 259-60, Secretary of War to James Seagrove, agent to the Creeks, October 31, 1792. Over 5,000 bushels of corn were sent to the Lower Creeks alone. See Seagrove's letter of July 5, 1792.—*Ibid.*, pp. 303-304 (App. to IV).

federal government was selfish, but the federal officials were doubtless thinking of the Creek trade at the time.

As we have seen, the United States government was very persistent in its efforts to win the support of the Indians. It negotiated treaties and granted enormous annuities; officials offered kindness, promises, presents, food, and allowed only licensed traders to go among them. Gradually, because of the governmental policy and the European situation, the federal government won them over. Taking a lesson from Panton and others in Florida, from the British in the Northwest, and from the early colonial policy,¹⁶ the national government decided to open a store on the St. Mary's River¹⁷ for the purposes of trade, hoping to attract the Creek trade to the store by selling them cheaper and better goods than they could purchase from Panton, and by giving them more for their skins and furs.¹⁸ The experiment had a rather sad history. The men who kept the store were killed by the Indians and the goods were carried away into the Indian lands.¹⁹

But the United States government was undaunted. President Washington sent a message to Congress in 1793 and again in 1794 requesting that Congress pass a law which would authorize the government to establish trading houses among the Indians.²⁰ Because the relations of the United States and Spain were strained at this particular time, and since the federal government was eager to eliminate the Spanish and English as rivals among the Indians, there is little doubt but that the factory system grew out of this strained situation. Nevertheless, the United States probably got its cue from the Spanish and British traders who kept stores for the purpose of supplying the natives.²¹ Could the government carry on this trade without loss or profit and beat the foreign merchants at their own game? The government was apparently willing to attempt it.

¹⁶ Public truck-houses were established during the colonial days by Massachusetts, Virginia, and South Carolina for the purpose of promoting trade with the Indians.

¹⁷ *A. S. P., I. A., I, No. 52 (5)*, 496, J. Meriwether to Captain Fauche, July 30, 1794.

¹⁸ *Ibid.*, Meriwether to warriors of the Creek Nation, August 11, 1794.

¹⁹ *Ibid.* ²⁰ *Messages and Papers*, I, 141, 167; *A. S. P., I. A., I, No. 52*, 487.

²¹ It is also probable that the American government profited by the experiences of the original Thirteen Colonies.

The request of President Washington eventually met a favorable response in the House of Representatives. The report of the House committee read:

That, in their opinion, it would conduce to the honor and prosperity of the United States to cultivate peace with the Indian tribes.

It appears . . . that the establishment of trading houses, under the direction of the President of the United States, would have a tendency to produce this laudable and benevolent effect. From the best information the committee can obtain, they are induced to believe a sum, not exceeding one hundred thousand dollars, would answer the purpose.

The committee further proposed that the materials for trade be purchased by an agent or agents and sold at such posts as might be most convenient for the several nations of Indians within the United States. The agents appointed were to

receive stated salaries for their services, to take an oath or affirmation for the faithful discharge of . . . their duties, and moreover, give bond and sufficient security for the due performance thereof. It should be the duty of the agents . . . to make up their accounts half yearly, and transmit them to the Secretary of the Treasury. . . .

This transaction, as specifically stated by the committee, was intended to win the affection of the Indians; therefore, it should not be the object of the government to profit thereby; "hence a stated price should be fixed on the articles to be sold, having regard to the profit or loss on the articles received in payment, in such a manner that, although nothing is to be made by the Government, the capital should be kept entire."²² The committee then recommended that one hundred thousand dollars be appropriated for the purpose of carrying on trade with the Indian tribes.²³

Thomas L. McKenney, Commissioner of Indian Affairs for about twenty years, later stated that the purpose of the factory system was to supply the savages with merchandise, and to protect them against the greed and avarice of traders.²⁴ To the present writer

²² *A. S. P., I. A., I, No. 53, 524.*

²³ *Ibid.* For the debates over the establishment of the factory system see *Annals of Congress*, 3rd Cong., 2nd sess., pp. 1262-1263, 1276; *ibid.*, 4th Cong., 1st sess., pp. 229-232, 240, 283, 285.

²⁴ T. L. McKenney, *Memoirs, Official and Personal*, p. 18. John Mason held the office of Superintendent of Indian Trade from 1808 until April, 1816. He was succeeded by McKenney.

the commissioner's statement is only partially true, for the factory system was primarily created to control the native tribes, to attract the Indian trade to the Americans, and to counteract the Spanish and British influences.²⁵ The new policy became a reality soon after the ratification of the Jay and Pinckney treaties. As we have seen, the system was under consideration in 1794; in 1795 Congress appropriated \$50,000 to purchase goods for the Indians, and by early 1796 the total appropriation had increased to \$150,000.²⁶

The law of 1796 was based largely upon the report of the House Committee of 1794. The President was given the power to establish trading posts or factors throughout the country for the purpose of carrying on an extensive trade with the Indian tribes. He was to appoint agents for each establishment, whose duty it was to sell goods to the savages and receive their articles of trade and to dispose of them. All employees or agents were compelled to take an oath not to engage in any trade, commerce, or barter with the Indians except on public account. If they were guilty of violating their oath, they were subject to removal from office and the loss of \$1,000. Brandy, rum, and whiskey were forbidden in these factories.²⁷

No imperfect merchandise was to be sold to the Indians and the prices charged for the goods were to be so regulated that they would merely cover the purchase price plus cost of operation. The goods placed in a trading house were for the Indians primarily but could be purchased by other persons at an advanced price, usually ten per cent.²⁸ The plan was to give the Indians goods at cost, thereby gaining their friendship and confidence.

The agents, according to the act of 1796, had to render reports to the Secretary of War for all goods and money passing through their hands. In the territories, the usual plan was for the agents

²⁵ *A. S. P., I. A., I*, No. 52, 496; *ibid.*, No. 53, p. 524; *Wisconsin Historical Collections*, XX, 26-28.

²⁶ *Stat. L., I*, 443; *Annals of Congress*, 4th Cong., 2 sess., cols. 2889-2891. See also Washington's message to Congress in 1795, in *Writings of Washington* (Ford ed.), XIII, 144-145.

²⁷ *Stat. L., I*, 452-453; *ibid.*, II, 140 n.

²⁸ *Indian Letter Book, Wisconsin Historical Collections*, XIX, 326-330.

to send all vouchers, abstracts, accounts, and estimates to the governor for examination, since he was *ex-officio* superintendent of Indian Affairs; ²⁹ then he in turn forwarded the reports to the head of the War Department. The act provided for these trading houses to remain active for two years.

But another problem now plagued the federal government. Aided by the frontier wilderness the British traders smuggled goods across the Canadian border, defrauding the United States government of duties estimated at \$26,000 annually. In order to prevent such illegal practices, Congress passed an act on March 2, 1799, creating a revenue district in and around Michilimackinac, which included St. Marie and Grand Portage. The first named post, however, was to be the only port of entry. A collector was appointed to levy duties upon the goods passing into the district.³⁰ Naturally such procedure caused the British merchants considerable annoyance. Nevertheless, the British continued to enjoy the lion's share of the Indian trade until the War of 1812.

A year later, on March 30, 1800, the United States Congress passed the next important act. This act supposedly settled the boundaries between the Indian lands and the lands owned by the government.³¹ It was made unlawful for any citizen or person resident in the United States or in the territorial districts of the United States to go within the said boundary line to hunt or to destroy the game, or to convey any stock of horses or cattle to range on any lands allotted to any Indian tribes. If any person were found guilty of violating these provisions, he would be fined or imprisoned.³² It is thus seen that the treaties and laws of the United States contemplated the complete separation of the Indian territory from that of the states, and provided that all intercourse with them should be regulated exclusively by the government of the Union. Not always, though, was it done with success. The act, furthermore, made it unlawful for any person to go into any country allotted to the Indians without a passport obtained from the governor of some one of the United States, or from the com-

²⁹ See *Territorial Records, Michigan Historical Collections*, XXXI, 557-561; Ida A. Johnson, *The Michigan Fur Trade*, p. 104.

³⁰ *Stat. L.*, I, 638 (Chap. 22, Sec. 17).

³¹ *Ibid.*, II, 141 (Chap. 13, Sec. 1). See boundary as thus outlined.

³² *Ibid.*, Sec. 2.

manding officer at the nearest post on the frontiers, or such other person as the President might authorize to grant the same.

The most liberal portion of this act, if not the most liberal in Indian history, made it unlawful for any person to go into the territory belonging to any friendly tribe and while there commit a crime which should be punishable if committed within a state of the Union against a citizen of the United States. If a person were found guilty of destroying the property of a friendly Indian, he should pay to the injured person a sum equal to twice the value of the property destroyed. If the offender were unable to pay, the United States promised to pay an amount equal to the full value of the goods, provided no attempt were made to secure private revenge. If the Indians made incursions into the white settlements, the President was authorized to make deductions from their annual government stipend.³³

The act of March 30, 1802, renewed many of the provisions of the law of 1800 but in some respects it was more restrictive. Any person found guilty of murdering a friendly Indian would suffer death. A trader without a license was not only subject to a fine of one hundred dollars and to thirty days imprisonment, but in addition, he was compelled to forfeit all the merchandise offered for sale to the Indians found in his possession. In order to purchase a horse in the Indian territory, a person had to get a special license. No agent,

authorized to grant a license to trade or purchase horses, shall have any interest or concern in any trade with the Indians, or in the purchase or sale of any horse to or from any Indian, excepting for and on account of the United States; any person offending herein, shall forfeit a sum not exceeding \$1,000 and be imprisoned not exceeding twelve months.³⁴

No person, except agents of the United States, could purchase Indian lands and no individual state could adjust its claims to Indian lands except by agreements negotiated by the federal government. In order to promote the friendship and civilization of the Indians, the President was authorized to furnish them with domestic animals, implements of husbandry, and to appoint temporary agents to reside among them, provided that they did not

exceed \$15,000. The violators of this act were to be tried in any of the federal courts. In order that culprits might be brought to justice, the military authorities in the Indian territories were empowered to arrest any trespasser, but the arrested person must be hastened to a nearby court within five days.³⁵

The law of 1806 confirmed the more important provisions of the previous acts and authorized the establishment of trading houses beyond the Mississippi. The superintendent of Indian trade and the agents were placed under heavy bond not to engage in Indian trade except on public account. The superintendent of Indian trade had to account quarter-yearly to the Secretary of the Treasury for all the money, goods, and other property, which came into his hands. There was to be an agent for each factory who received from the superintendent of trade such goods as the latter might send, disposed of the same according to law, and reported every three months to the superintendent.

According to this act, the President of the United States was authorized to draw annually from the federal treasury a sum not exceeding \$10,000, to be applied under his direction to the payment of the agents and clerks, which agents were allowed to draw out of the public supplies two rations each, and each clerk one ration a day. Furthermore, a sum of \$260,000, which included the sums heretofore appropriated for such purposes, was appropriated for carrying on trade and intercourse with the Indians. The prices of goods supplied to the Indians and paid for by them was to be regulated in such a manner that the capital stock should not diminish. The superintendent of Indian trade was empowered to sell the furs and peltries secured by the factories at public auction after giving three weeks' notice. The demand of the market, however, would largely determine where the sale would take place. But, according to law, there had to be at least six annual public sales of goods received from the Indians, and the superintendent was forbidden to hold more than two such sales in any one state during any one year.³⁶

³⁵ *Ibid.*, pp. 145-146 (Chap. 13). This act was passed the year before the Louisiana Purchase was made, so that it is easily seen why the United States was so solicitous for Indian trade and friendship.

³⁶ *Ibid.*, pp. 402-404 (Chap. 48). The superintendent's salary was \$2,000 a year. He was allowed a clerk at a salary of \$1,000.

The act of 1809 merely renewed the preceding act and appropriated the sum of \$40,000, a total of \$300,000, promoting trade with the red men.³⁷ A provision was also made for the appointment of an additional clerk at a salary of \$800.

In 1811 the superintendent of Indian trade, the factors, the clerks, and all other persons employed by them were not only forbidden to engage in trade or commerce, but to own "in whole or in part" any sea vessel.³⁸

The factor was by no means a free agent. He was told specifically what to do and what not to do. He had to remain at the place to which he was assigned, to be friendly and deal fairly with the Indians, to report all unlicensed traders who attempted to trade, and to act as a peace messenger to the Indians. He could neither carry nor sell liquor to red men; if he did so, or even attempted to trade without a license, the traders were authorized to seize his goods for their own use. Thus the United States hoped to regulate and contract trade by means of trading houses and the license system. The policy of the United States differed from that of the British, French, and Spanish regimes in this respect, that her laws acknowledged that the rights of the original owners of the hunting grounds should be recognized and respected, as well as those of the traders.³⁹ The United States was continually warning British and Spanish authorities to depart from her territory, but the young republic was not successful in driving out foreign rivals until after the War of 1812. Even afterwards there was some slight competition.

FINANCING THE FACTORY SYSTEM

The Secretary of War reported on December 12, 1795, that the Six Nations were surrounded either by the settlements of the United States, or by the British of Upper Canada; and under such circumstances it seemed wise to exclude them from the experiment proposed in the factory system of commencing a trade on the

³⁷ *Ibid.*, p. 544 (Chap. 34).

³⁸ *Ibid.*, p. 653 (Chap. 30). There were various acts passed renewing the factory system but they contained nothing new.

³⁹ Samuel Flagg Bemis, ed., *John Jay*, I, 23, 30, 70. *Thomas Jefferson*, II, 52-58 (both in the American Secretaries of State Series); *A. S. P., I. A.*, I, No. 55, 535. The United States and foreign powers had at times tried to direct trade by means of military force but not always with success.

principle of furnishing cheap supplies to the Indians, because the familiar intercourse between them and the whites would subject the public to continual impositions, against which there would be no checks provided.⁴⁰ The Indians north of the Ohio were also to be excluded from the projected trade because many of these tribes were still hostile to the United States, peace was only in the making, and they were therefore in no condition to participate in the projected trade.⁴¹

It remained then, according to the reasoning of the Secretary of War, to make the experiment with the Southern tribes, because the appropriation for this project was so small and because the undertaking was only experimental. Therefore, it was desirable to handle the matter in as inexpensive a manner as possible. The sum appropriated was divided unequally. More than two-thirds was destined for opening a trade with the Creeks to whom the goods could be conveyed by sea. The remainder was designed for the trade with the Cherokees and Chickasaws.⁴² The remote situation of the Choctaws could render either of the two trading posts of but small and only contingent use to them.

To accommodate the Creeks, Colerain, on the St. Mary's River was chosen because it was easy of access, with a depth of water for sea vessels, and conveniently near the Creeks, especially of the lower towns.

For the purpose of supplying the Cherokees and Chickasaws, it was supposed that Tellico Blockhouse, within the country of the Cherokees, would be a convenient station. It was a military post with a small garrison of regular troops. Protection would thus be furnished without added military expense. The Indians had been accustomed also to resort thither for conferences and negotiations.⁴³

It was quite obvious to the Secretary of War that neither the Chickasaws nor the Choctaws, especially the latter, would be much benefited by these arrangements. They could not be well accommodated until at least one trading post for each could be established on the Mississippi. But circumstances would not admit of the administration's undertaking such developments, for the entire quantity of goods appropriated to this trade would not allow of any further division than that already mentioned.

If the factory system had been undertaken in a more ambitious manner and Congress had appropriated a more ample sum, it would have had a more promising history. The available funds were so meagre, that after procuring goods necessary for General Wayne's treaty, and after paying the annuity due to the Chickasaws, the merchant stores were so drained that the requisite assortments of the articles most important for the Indian trade could not be obtained immediately in New York, Philadelphia, or Baltimore; therefore, the purveyor had to wait the arrival of the fall ships. As soon as the purchases could be made and the persons who could be trusted as factors were selected, the goods and persons were sent together to the posts.⁴⁴

The Secretary of War gave an itemized account of the goods which the federal government paid in annuities to the Six Nations, the Chickasaws, Creeks, Wyandots, and Delawares, which totaled \$30,000.⁴⁵ This enormous sum was paid by the infant government in 1795 in the form of goods. Is there any wonder that the government started on the factory experiment in a modest way? The Secretary then concluded that the large sum would continue to be paid to these tribes for years to come in the form of merchandise; and that such goods should be imported by the government, for they would cost less, be of the same kind and proportions demanded and would always be in season. If Congress should decide on a continuation and extension of the Indian trade based on the principles just inaugurated, the importance of importing on public account would be greatly increased.⁴⁶

The speeches of the commissioners of the United States to the Creeks at the treaty of Colerain in 1796 were confined chiefly to a description of the new system of trade which the United States was undertaking. They explained to the Indians that the

goods necessary to supply your wants come a great way, and must be brought in ships, and to save expense to you, must be suffered to be carried as far as possible into your country in boats. Long land carriage will be tedious and expensive. This, we have well explained to you before. We are directed by General Washington to talk freely to you, on this

⁴⁴ *Ibid.* The headquarters of the Superintendent of Trade was at first in Philadelphia but later moved to Georgetown.

subject. We have thought much on it, and suppose it will be difficult at once to fix on the place or places best suited to the establishment of trading posts. . . . If one place is sufficient to supply your whole nation conveniently, he will choose but one; if you find two necessary, he will fix on two. We think the stores and post of protection should be over the line, and these are our reasons: You and your families will be on your own ground, your persons and your property will be safe. There will always be a garrison of federal troops stationed there, to preserve order and good government; they will of course protect you, as you see they do here. The officers of the United States will always command there, and your men and warriors, and hunters, may always safely come to them.⁴⁷

The commissioners asked for a plot of ground large enough to raise bread for the traders, the garrison, and their red friends who might visit them. They would also need beef and milk; therefore they would have to have land for their stock to graze and to grow corn and other necessary crops. The land, however, was not to become the permanent possession of the government or of the individuals concerned; it was to revert to the Indians whenever the government surrendered its factors.⁴⁸

The commissioners then explained the boundary lines between the United States and the Indians, introduced arguments to show the watchfulness of the government to protect the red people in their rights, and adverted again to trade. They said that, in the regulation of trade, the President would direct that every article of goods should have a stipulated value. The advance permitted to the traders allowed in the nation, on articles purchased at the trading house was to be fixed. Weights and measures were to be introduced in every town. The young warriors and hunters could then bring their leather, "throw it into the scales and at once know its value, and the value of the goods they are to receive for it; every trader will sell at the same price when they are permitted, and the distance is the same from the trading post."⁴⁹

The commissioners then observed:

We hear that the nation has been badly supplied with goods, and those have not been well assorted. When we agree on the place [for the

⁴⁷ *Ibid.*, No. 72, p. 601, address of the United States commissioners to the Creeks, June 23, 1796.

factory], and shall have had time to make the necessary arrangements, there will always be a full and well assorted store, and at a reasonable price. The United States are determined to make no profit to themselves; they intend the trade to be carried on solely for the benefit of their red brethren. The President will appoint persons to procure of the manufacturers at the cheapest rate. The goods will be brought to the trading house, with the addition only of cost and charges, annexing thereto only so much, as that the trade will support itself. The Indians who apply at the store, will purchase at the first cost, covered as aforesaid, and as cheap as the traders. The traders must have a small profit, where they are permitted, and in proportion to the distance from the trading house. This advance will be stipulated, sufficient only to indemnify them for their trouble; and the prices at which they must sell, shall be posted up in every town.⁵⁰

As we have seen under the act of 1796, two trading houses were soon established, one among the Creeks in Georgia and the other in Tennessee among the Cherokees. The law provided for the establishment of trading houses for two years, more or less as an experiment, but at the end of that period, the act was not renewed despite a favorable report from the Congressional Committee. The committee stated that of the sums appropriated by Congress to establish the factory system, \$90,115.90 was drawn from the treasury at the end of two years for the purpose of forming these establishments, purchasing and conveying goods suitable for trade with the Indians of the Cherokees and Creek nations.⁵¹ The appropriations of 1795 and 1796 were sufficiently large to keep the two factories functioning, however, until 1801 when Congress was induced to reenact the original bill.⁵²

A committee of the House of Representatives in 1800 reported that from the irregularity of the factors in sending in accounts it was impossible for the committee to determine with certainty "how far the scheme is practicable." It seems that the law which required that the agent employed at each trading post should make his accounts half-yearly and transmit them to the Secretary of the Treasury, was violated.⁵³ Therefore, a summarized statement of the Indian trade from the establishment of the new system in 1796

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, No. 90, p. 646, report of the House Committee.

⁵² *Ibid.*, p. 646; No. 93, pp. 653-655. See Report of the War Department, *ibid.*, 654.

⁵³ *Ibid.*, No. 88, p. 643, report of the House Committee.

to January 9, 1800, could not adequately be given. To the members of the committee the outlook of the new undertaking was very gloomy, for the act had not been renewed; therefore, the committee reported that the entire capital stock would soon be "greatly diminished, if not entirely sunk, in a very short time."⁵⁴ This committee, however, deemed it expedient that power should be given to employ the capital already embarked for a limited time; but the capital stock should not be enlarged until the establishment was better understood in its several relations; and, therefore, it recommended the renewal of the act of 1796.⁵⁵

In 1801 a similar committee in the House reported that it was impossible to determine from the accounts rendered to the Treasury by the persons who superintended the factories what the present state of this trade was. While the committee believed that the trading system had produced some advantages in attaching the Indians to the government of the United States by affording them the necessaries of life, it did not believe that any immediate extension or increase of the capital stock should be made. It was recommended, however, that the stock already invested be continued in the service of such trade for one year longer.⁵⁶

In 1796 Benjamin Hawkins⁵⁷ was appointed superintendent of the Indian trade south of the Ohio River. He reported favorably concerning the factory system in 1797. In support of the trading establishments he recorded a conversation that he had with one of the Creek Indians of that year. The Indian had expressed much pleasure at the commercial establishment of the United States; he said that he had visited it; that he had actually traded with it; and that he had met such treatment as would induce him to go there for all that he would want in the future. Hawkins wrote: "I told him that Mr. [Edward] Price would make no difference in the price with the Indians or traders, that they would all fare alike; he replied that he had experienced it, as he mentioned many

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*, No. 90, p. 646.

⁵⁷ I am grateful to the Editor of the *North Carolina Historical Review* for permission to include in this study a few pages of my article entitled "Benjamin Hawkins and the Federal Factory System," in the *N. C. Hist. Rev.*, IX (1932), 138-150. With his appointment as superintendent Hawkins became profoundly interested in the Indians and spent the rest of his life among the southern tribes.

inconveniences attending the intercourse with the present establishment.”⁵⁸

Hawkins said that there was a begging spirit which manifested itself in every visit of the Indians, and that it must be crushed. “The annuity will be punctually paid and distributed,” said the superintendent, “and the Indians must expect in all other cases that they are to apply to Mr. Price and obtain from him such articles as they want from the public store, and that they are to pay for the same.”⁵⁹ The Indians were to be taught the habit of working and paying for what they got at the public store.

Hawkins, October 22, 1797, ordered the following articles through the factory:

I wish you to send me, by Whitaker, 3 good blankets, . . . some thread and needles, binding, 2 kegs of spirits and anything that will make a load or two to buy provisions. I believe he [Whitaker] will have two spare horses. I want some nails, the spade shovel, hand saw, drawing knife and grindstone. You will pay Whitaker 4 dollars a load, and I wish you to pay at that rate for anything you send me from time to time.

This letter to Price was sent by a man named Davis, who was to be “paid at the rate of \$10 a month from October 2 until he returns with this letter, for bringing blacksmith’s tools to the nation. Let him raise a small account vs. the Indian Department, and insist on it as a voucher.”⁶⁰

Colonel Hawkins was continually ordering things from the factories. In 1797 he sent Henry Wilson from Cusseta, Georgia, to the Tellico Blockhouse with eight pack horses to get a large supply of goods for the Creek Indians.⁶¹

When it came to recommending credit at the factory, Hawkins was exceedingly careful. In fact, he believed that the credit system should be discouraged lest it prove the ruination of the factory system.⁶² In one of his letters to Price he said: “Several applica-

⁵⁸ *Georgia Historical Collections*, IX, 85. To show how carefully Hawkins supervised Indian trade it is only necessary to state that Christian Russell of Georgia applied to Hawkins for permit to remove his hogs and other property to the Tellico Blockhouse to market, which request was granted.—*Ibid.*, p. 103.

⁵⁹ *Ibid.*, pp. 201-202.

⁶⁰ *Ibid.*, p. 210.

⁶¹ *Ibid.*, pp. 235-236.

⁶² *Ibid.*, p. 205.

tions have been made to me to obtain credit at the store, and to some of the applicants I have given letters [of recommendation], but no assurances that they would on them obtain credit.”⁶³ In spite of his precautionary methods, Hawkins occasionally recommended to Price that certain reliable Indian traders be given credit at the stores in order to encourage them to trade with the commercial houses of the United States. On November 16, 1797, he wrote the following letter to Edward Price introducing an Indian trader:

The bearer is Short Neck; he lives above this about 30 miles; he has a hundred cattle and some hogs; is careful and attentive, always attached to the U.S., and deemed honest; he goes down with some skins and requests that I would introduce him to you. He has more skins than he carries down; he will give you the weight, and you may safely rely on him. I have begun to draw on you for the stipend; this may draw down a crowd. . . .⁶⁴

Again when Hawkins introduced the son of Crook Neck to Edward Price, November 26, he said:

Auwihejee, son of Lauchejee, of Tallassee, called on me for a letter to you; his father is called Crook Neck by our misnomers, and in that name I gave him a note to you. Lauchejee has 750 lbs. of deer skins, and 36 lbs. of beaver, which he takes down to you; his son, Auwihejee, and a black bay will accompany him. He leaves behind 200 deer skins and 30 or 40 small furs; these he will take down in the spring; for the value of these he wishes a credit till he can send them down.

The goods he wants are 6 pcs. Strouds, 1 pair white blankets and 1 pc. Duffils, 3 pair arm bands, 3 pair wrist bands, 2 pcs. petticoat linseys, 2 pcs. white linen for shirts, 2 pcs. black handkerchiefs, 2 or 3 pieces callico, 1 piece striped cotton homespun, 1 piece negro cloth, 50 lbs. powder and 100 lbs. of lead, 12 fine combs, 12 long knives, 12 cutteaux knives, 12 pair of cissars, ribband, binding, 1 lb. white thread, 100 needles, flints, paint, 2 or 3 scarlet blankets, 3 pcs. of romals, 3 pcs. coarse check or strip for shirts, 1 brass kettle, 7 bags salt, 1 keg of brandy, broaches, ear bobs, beads, 1 fowling piece, 1 hat, a good one, black feathers; hatchets, axes, looking glasses.

⁶³ *Ibid.*, p. 209.

⁶⁴ *Ibid.*, pp. 236-237. Hawkins was also successful in securing the return of runaway slaves, by offering bounties.—*ibid.*, p. 242.

I have taken the list down as the son named them; the father lives at Long Island, on this river 35 miles above this; he is a careful industrious man, not in debt, and [owns] seven negroes, good property, and the old man does not drink, and is honest in the discharge of his debts; you will be safe in crediting him to the amount of skins and furs left at home and beyond that relying on the truth of this statement. . . .⁶⁵

When the military authorities in the Southwest became hostile to Edward Price for personal reasons, they united against him to force his removal or resignation.⁶⁶ The welfare of the trading houses could not be promoted with the development of this feud. There was for the time being absolutely no coöperation between them. Finally the personal threats became so violent that Price was forced to leave the factory because his personal safety was apparently in danger. During his absence Hawkins selected Matthew Hopkins to manage the factory until the matter was settled.⁶⁷ Hawkins almost immediately took the opportunity to warn Hopkins of the danger of the credit system.

In cases where the debtors don't bring peltry sufficient to discharge the debts already created, you would do well to take, in all cases, the pack horses and put the public brand on them, and limit them to a small credit until they extricate themselves. I am an enemy to credit, but it arose before my agency, in a mistaken policy, which, as I am informed, has been since sanctioned by the Secretary of War. I will sanction it only until the parties can extricate themselves . . . ; if you had given the credits you could regulate them, but this is not material and you would do well, as the peltries were purchased with the goods on credit, to let them go to balance of that debt.⁶⁸

Hawkins then stated that he would let the traders in arrears have a small credit to extricate themselves, and a running account

⁶⁵ *Ibid.*, p. 253.

⁶⁶ *Ibid.*, p. 306.

⁶⁷ *Ibid.*, p. 307.

⁶⁸ *Ibid.* The factories were generally established at or near military posts for the purpose of securing protection. The soldiers often helped in the transportation of goods and in the erection of the necessary buildings for the factories. Since the soldiers received little extra pay for such services, usually ten cents a day and probably a little whiskey, they disliked the system.—*A. S. P., I. A.*, II, No. 157 (K, 3), 355; *Wisconsin Historical Collections*, XIX, 389-390; Wesley, "The Government Factory System Among the Indians, 1795-1822," *Journal of Economic and Business History*, IV, 502.

of small things only. The peltries should go to the original debt, and the

remittance for the season should leave the ballance for our future deliberation; these ballances you will note particularly. I would advise you, by every exertion, to be prepared in aid of Mr. Price for the settlement of his accounts; he has had a very difficult task; the experiment was a new one and the source from which information was to be drawn was not sure.⁶⁹

The factors figured even in the exchange and collection of mortgages. Thomas Carr, a trader, called on Hawkins to register a complaint against John A. Sandoval who owed him \$256 and had given a mortgage for the same. Notice of this obligation was served by Hawkins on May 10, 1798. Two days later John A. Sandoval appeared before Hawkins and "agreed that he was justly indebted the sum charged, of two hundred fifty-six dollars and that the mortgage now on his boy with Price should remain and be transferred to secure this debt, and that I am to give orders to that effect to Mr. Price. This debt to be paid at the Rock Landing, to the credit of Mr. Carr, and on the receipt, the negro to be returned."⁷⁰

The public store was carrying on a very intricate business. Thomas Carr, the man who appealed to Hawkins for aid in collecting the mortgage and in which Price, the factory agent, co-operated, had a charge account at the factory. It might be of interest to note some of the things he had on one of his very small accounts:

Half a steer.....	\$ 4.00
4 lbs. of gunpowder.....	4.00
80 balls	.50
3 yards of cotton stripe.....	3.00
6 white shirts	8.00
4½ yards of Stroud.....	6.00
1 Duffil blanket	4.00
 Total	 \$29.50 ⁷¹

⁶⁹ *Georgia Historical Collections*, IX, 307.

⁷⁰ *Ibid.*, p. 309. At first the sum claimed was \$261.

Ibid., p. 312.

Price and Hawkins were even involved in the collecting of money for Negro slaves. On May 14, 1798, Hawkins wrote:

I have, in virtue of a power of attorney from John Batts Bard, of South Carolina, sold to Thomas Marshall, of Coweta, a negro man, named Ned, for two hundred and fifty dollars, and on the payment of that sum into the U. S. Factory at Fort Wilkinson, and obtaining a receipt on the same from the principal, Mr. Price or either of the assistants there, acting for and on account of the said John Batts Bard, the receipt to be on the back of this instrument; then a complete title shall vest in him, and his heirs forever to the said negro, Ned.⁷²

All transactions in the form of trade had to pass through the hands of either Hawkins or the factory agent. It made no difference whether it was a Negro slave or a horse. The receipt of the money was nearly always vouched for in the presence of the factor.⁷³

The methods of paying claims was an interesting phase of Indian finance and is partly explained in an excerpt from a letter of Hawkins to the Governor of Georgia, November 19, 1797, which reads:

The Uchee who murdered Brown is under sentence of death and has fled. Mrs. Brown has exhibited a claim for losses at the time; this I shall pay on her application to Mr. Price, and deduct it out of the Creek stipend. If she applies in person to Mr. Price [by] the first of January, I shall pass the account and direct him to pay it on that day.⁷⁴

Again in November, 1797, Hawkins wrote a letter to the Secretary of War in which he said:

I have begun to divide the stipend for 1796 and 1797. I am not satisfied with the plan, but it is the best I could devise for the present. Each town appoints an agent and I give a draft in his favour as agent for the portion allotted to the town. The dividend will be small and perhaps it will give as much satisfaction this way as any other. I told the chiefs they ought to consider it as a fund to enable them to fulfill their stipulations with us, rather than as capable of being divided among the whole nation; that in the first case it would enable them to do justice to those who faithfully exert themselves for the honour and interest of their country, and in the latter it was not worth dividing.⁷⁵

In case an Indian was injured, Hawkins was careful to provide him with the things absolutely needed. On one occasion when several Creek Indians were injured, Hawkins wrote: "I then directed that particular attention should be paid to the wounded, and that they were not to want for anything. I gave a draft on Mr. Price for some clothing for them and provisions and corn for the women, and directed what they should do." ⁷⁶

In getting his salary and supplies, there is no doubt that Hawkins had a difficult time. He could not get bills or drafts on Philadelphia cashed. In a letter to John Habersham, of Georgia, February 28, 1798, he said: "I am necessitated again to send to you to have my wants supplied; I cannot any where find a man who will give cash for a bill on Philadelphia, and I have sent Mr. Hill, a man in my department, who is intelligent and much to be relied on, expecting you will find no difficulty in getting cash for one in Savannah." ⁷⁷

The draft on which he wanted pay was written by Hawkins on the Secretary of War, and reads, quoted in full:

Fort Wilkinson
25th February, 1798.

Exchange for 1000 Dollars:

At sight of this, my second of exchange, first of the same tenor and date not paid, pay to Major John Habersham, or to his order, one thousand dollars for the like sum advanced me for my salary, due to the 8th of September last, exclusive of my ration allowance as P.T. Agent for Indian Affairs South of Ohio. I am, sir,

Your obedient servant.

1000 Dollars,

The Honourable

James McHenry

Secretary of War.

Early in 1802 Thomas Jefferson reviewed the conditions of the public stores up to January 1, 1801, along with a report of the Secretary of War thereon, explaining the effects, the general situation, and the development of that commerce. The latter reported

that of the \$200,000 which was appropriated in 1795-1796 for the purpose on the experimental trading system, only \$90,000 had thus far been drawn from the treasury; that the business of the two trading houses had been so ably managed that the capital stock had not only been saved from diminution, but had even been increased three or four per cent. The Secretary finally recommended that the system be extended to other tribes not only because he believed that it could be done without diminishing the capital stock, but because it would be of direct benefit to the Indians by furnishing them with nearby markets in goods of the finest quality at the lowest possible cost. He said further that the extension of the system would eliminate at the same time foreign competition.⁷⁸ Jefferson, however, left the matter of continuing the system entirely up to Congress.⁷⁹ He doubtless hoped that the success of the experiment would cause Congress to continue the system. As we have seen, the act was accordingly re-enacted in 1802.⁸⁰

It was in January, 1802, that Thomas Jefferson sent to Congress a statement written by the Indian agent in Philadelphia, who was the purchasing agent for the factories. The latter reviewed the volume of business which passed through his hands together with the financial condition of the factories. The agent declared that he had forwarded to the Georgia factory an invoice of merchandise amounting to \$5,520.76. At the same time he had sent to the Tellico factory goods amounting in value to \$5,297.33. In addition he had placed articles worth \$2,650.31 in the care of Colonel Meigs to go to the factories. He also stated that there had been an increase of the capital stock, which included one-third advance on the original cost of the merchandise remaining at the factories. The increase of the capital at the Georgia factory was \$15,740.83; the increase at Tellico was \$309.53.⁸¹

The following statistics reveal the intricacy of the problem of getting supplies for the Indians as well as the cost of operating the system:⁸²

⁷⁸ *A. S. P., I. A., I*, No. 93, 654. During Jefferson's presidency factories were established at Fort Wayne, Detroit, Chicago, Belle Fontaine, Sandusky, Fort Madison, Mackinac, Fort Osage, Chickasaw Bluffs, Fort St. Stephen's, Natchitoches, and Arkansas Post.

⁷⁹ *Ibid.*, p. 653.

⁸⁰ *Stat. L.*, II (Chap. 39).

⁸¹ *A. S. P., I. A., I*, No. 93, 653-654.

⁸² *Ibid.*, p. 654.

TELLICO FACTORY in account with UNITED STATES [1796-1801]

Dr.

Cr.

1801

Jan. 1

To amount merchandise purchased in Philadelphia and forwarded to the factory . . \$55,066.13

To amount merchandise purchased by David Henly, and amt. drawn for payable in Philadelphia . . . \$5,078.24

To amount contingent expenses of the factory, defrayed at Philadelphia . . \$19,860.59

To amount of debts due by the factory

Profit and loss, nett gain, \$309.53

\$60,144.37

8,018.29

1801

Jan. 1

By nett sales of furs and peltries, received from the factory, from its first establishment to date, inclusive, per account of the same, rendered by A. Tybout

\$42,976.69

By amount of bills of exchange duly received and paid into the treasury

15,240.09

By peltry remaining in the care of Andrew Tybout, estimated at

4,981.78

By merchandise remaining at the factory, at prime cost in Philadelphia, per inventory

10,171.74

By peltry remaining at factory

676.22

By cash remaining at factory

1,977.66

By furniture remaining at factory

181.75

By buildings, cost
and valued at \$ 2,199.10

By debts due the
factory 6,515.22

By one-third ad-
vance on merchan-
dise remaining at
the factory, inven-
toried at prime
cost in Philadel-
phia, to cover
amount of trans-
portation, &c . . 3,390.58

\$88,322.78

\$88,322.78

GEORGIA FACTORY in account with UNITED STATES

Dr.	[1796-1801]	Cr.
1801	1801	
Jan. 1	Jan. 1	
To amount of mer- chandise pur- chased in Philadel- phia, and forward- ed to the fac- tory	\$73,435.73	By amount nett sales of peltries re- ceived from the factory, from its first establishment to date, inclusive, per account of the same rendered by A. Tybout
To amount contin- gent expenses of the factory, paid in Philadelphia	15,219.90	\$32,545.43
To amount debts due by fac- tory	2,108.56	By bills of ex- change duly re- ceived and paid into the treasury
Profit & loss, nett gain	15,740.83	11,383.90
		By peltry remain- ing in the care of A. Tybout
		1,084.00

By merchandise from London	\$ 4,676.57
By merchandise remaining at the factory, per inven- tory, at prime cost in Philadelphia . . .	23,874.96
By peltry remain- ing at Savannah . . .	4,000.00
By debts due the factory	20,981.84
By one-third ad- vance on merchan- dise at the fac- tory, inventoried at prime cost	7,958.32
\$106,505.02	\$106,505.02

The increase at both factories would have been much greater had the peltry been disposed of to advantage in Philadelphia. Instead of the furs being sold as soon as received, while they were in good condition, they were deposited in the cellar of the person to whom the sale was intrusted,⁸³ where a considerable portion were ruined by moths and worms, and then sold for one-half of their original cost. Some of the goods were rendered entirely unfit for sale and were therefore thrown away.⁸⁴

The figures previously cited reveal much if carefully studied. They prove that a large quantity of goods was bought and paid for in Philadelphia; that nearly \$5,000 worth of goods had been bought in England for the Georgia factory; and that the two factories had disregarded Hawkins' sound advice and had allowed the credit system on a rather extensive scale. The Georgia factory had an outstanding indebtedness of nearly \$21,000 and the Tellico house had nearly \$7,000 indebtedness. If these debts could have

⁸³ The man who was thus entrusted was A. Tybout.—*Ibid.*, p. 653.

⁸⁴ *Ibid.*, p. 654.

been collected, however, the factory system would have been making progress, for, as we have seen, there had been a fair increase of the capital in the form of goods.

The great disproportion of gain between the two factories was due to the mode of transportation to each place. The merchandise transported to and from the Tellico Blockhouse was carried all the way by land, at a high carriage rate; whereas the transportation to and from the Georgia factory was chiefly by water,⁸⁵ a fact which reduced the rates to less than one-third of the cost of transportation to the Tellico store.

According to the report of the War Department in January, 1803, strange though it may seem, the surplus of \$150,000 appropriated in April, 1796, was never really applied to the first two factories established, and was applied to the four new establishments of 1802 for the first time.⁸⁶ There is no doubt but that the extension of the system on such a large scale was for the purpose of making the fur trade unprofitable for the British in the Northwest and for the Spanish in the Southwest. In presenting a conversation which took place between Matthew Ernest, collector of custom duties at Detroit, and Colonel Hamtramck, a British merchant of the Northwest, the report ran:

that the United States, by establishing trading-houses in this country, and disposing of their goods to the Indians, at a reduced price, must effectually ruin them, as well as the American traders; and that they intended to close their business in the Indian country, by the first of June next [1803], and would not, hereafter, enter any goods at the custom-house for that purpose. . . .⁸⁷

By underselling the British at the trading houses, Ernest believed that the British would be soon eliminated; therefore the support of the extension of the factory system by the President and cabinet plus the flourishing condition of the two factories caused the extension of the factory system between 1802 and 1810. By 1810 there were twelve public stores in operation. Several of

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*, No. 101, 684. Fort Wayne, Detroit, Chickasaw Bluffs, and Fort St. Stephens on the Tombigbee.

⁸⁷ *Ibid.*

the new establishments were located in the Northwest near the Canadian border to eliminate British competition.⁸⁸

The state of the trading fund is rather difficult to ascertain. The business of the trading houses was, previous to the year 1805, conducted by the purveyor of the public supplies and others under the direction of the Secretary of War. By 1810 Congress had appropriated the sum of \$300,000 as a permanent trading fund. The entire sum, all except \$20,000, had been drawn from the Treasury and placed in the hands of the public agents for the purpose of Indian trade; therefore \$280,000 of the said sum had been actually employed. According to the report of the superintendent of Indian trade in 1810 this sum had dwindled to less than \$250,000.⁸⁹

The following figures illustrate the state of the trading fund on the 31st of December, 1809:⁹⁰

Amount of property of various kinds,	
on hand at the trading houses	\$124,041.10
Amount of peltries in the hands of	
Thomas Burke, agent, Savannah	85.00
Amount of peltries, &c. in the hands	
of Joseph Saul, agent, New Orleans	39,010.62
Amount of goods on the way to the factories	25,519.16
Amount of merchandise, cash, and other	
balances, on the books of the superintendent	57,084.45
Amount of furs and peltries in the	
hands of the superintendent	8,150.00
	\$253,890.33
Less amount balances on the books	
of the superintendent, due to sundry persons	8,428.69
	\$245,461.64

⁸⁸ *Ibid.*, No. 130, 768. The others established that were not mentioned in footnote 86 were: Chicago, Belle Fontaine on the Missouri River, Natchitoches, Arkansas Post, Sandusky, Fort Madison, Mackinac, and Osage. The Belle Fontaine and Arkansas factories were discontinued. Two factories had moved to a more desirable location.

⁸⁹ *Ibid.*, pp. 768-769.

Deduct amount of salary, and subsistence money due to agents and assistants at the trading houses, and other balances, amounts unascertained, unpaid at the end of the year, estimated at	\$ 10,000.00
	\$235,461.64

The chief reason for the diminishing of the trading funds, no doubt, was the nature of the law relating to the factory system, which did not permit the exportation of furs or peltries.⁹¹ At the same time the home demand for peltries was by no means equal to the quantity forwarded. This was particularly true of deer skins, and the factories of necessity had to take a large number of deer skins.⁹² As they were restricted to the markets of the United States, sacrifices naturally had to be made. It appears to have been contemplated by the law to pay from the treasury the salaries requisite to conduct the establishments, and by not taxing the fund therewith, to give the Indians their supplies on better terms.⁹³ The increase of the business, by adding to the number of trading houses and spreading more extensively the benefits of the system among the various tribes, compelled a departure from this plan and occasioned heavy drafts on the trading fund. The law authorized the President to draw annually from the treasury a sum not exceeding \$10,000 for the payment of salaries of agents and clerks on the frontier, and to allow them to draw rations from the public supplies. The rations were commuted into subsistence money in 1805, which was paid from the funds for Indian trade.⁹⁴

On December 19, 1811, the House of Representatives passed a resolution requesting the President of the United States to give a statement to that body of the capital employed in the Indian trade, the amount of the annual purchases, sales, and articles received in payment, together with the number of people employed and their salaries, and the state of the trade during the past four years.⁹⁵ The superintendent of Indian trade replied on January 16, 1812,

⁹¹ *Ibid.*, p. 774.

⁹² *Ibid.*, No. 124, p. 756; No. 130, p. 774.

⁹³ *Ibid.*, No. 124, p. 756.

⁹⁴ *Ibid.*, No. 130, p. 774. Mason estimated that the factories need \$25,000 to pay the salaries of the trading house employees.

⁹⁵ *Ibid.*, No. 124, p. 756; No. 133, p. 782.

that of the \$300,000 appropriated only \$290,000 had actually been employed in the trade.⁹⁶ He stated that he had received from the factories furs and peltries to the value of \$47,996, and many of these articles were still on hand unsold. Besides, a large portion had been allowed to spoil.⁹⁷ For the four years just mentioned \$211,472.98 worth of goods had been sent to the different factories,⁹⁸ and all had been accounted for except about \$200 worth. There was \$17,235 paid out in the form of salaries and subsistence.⁹⁹ After all expenses had been paid, the factories had netted a gain of \$14,171.30 from 1808 to 1812.¹⁰⁰

⁹⁶ *Ibid.*, No. 133, p. 782.

⁹⁷ *Ibid.*, No. 133 (A), p. 783.

⁹⁸ *Ibid.*, p. 783.

⁹⁹ *Ibid.*, No. 133 (B), p. 784.

¹⁰⁰ *Ibid.* (C), p. 784.

Chapter X

TERMINATION OF THE FEDERAL TRADING HOUSES, 1812-1822

During the War of 1812, the factory system suffered severely. The Chicago, Sandusky, and Mackinac factories were captured and destroyed by the enemy. The army officer at Fort Madison ordered the store there destroyed to prevent it from falling into the hands of the English. Furthermore, the federal agents sank a boat in Georgetown laden with factory goods valued at \$1,440.18 to prevent the articles from falling into the hands of the enemy.¹ The British and their Indian allies destroyed \$43,369.61² worth of goods, furs, buildings, and household furniture. Moreover, the Indians had run up a charge account at the factories estimated at \$19,631, of which the factors expected to collect only fifty per cent.³ Yet, despite these losses and obstacles to trade, it was reported that the capital fund in 1815 had diminished only \$28,631.91.⁴ Besides, quite surprisingly, there was a gain in trade from 1812 to 1815 of \$12,427.87.⁵

After the War of 1812, the competition of the foreign trader with the domestic merchant largely came to an end.⁶ Immediately the private traders and directors of fur companies conceived the possible development of a lucrative trade with the Indians if the federal government ceased to be a competitor. They therefore began to bring pressure to bear on the United States government to get out of the trading business. Within Congress senators and representatives of the frontier states soon came to the support of the private traders.

The opponents of the factory system often misrepresented the facts to the Indians. They told the Indians that the trading houses

¹ *A. S. P., I. A., II, No. 142 (Ab)*, 35, 26-61.

² *Ibid.*, No. 142 (Fm), p. 59. ³ *Ibid.* (Aa and Recapitulation), pp. 34-35.

⁴ *Ibid.* (A), p. 34.

⁵ *Ibid.* (F), pp. 54-55.

⁶ The law of 1816 forbade foreigners to trade within the United States.—*Stat. L., III, 332-334.*

were established and credit allowed them so that the government would have an excuse to take their lands, that the factors sold them goods that were intended for presents, and that agents stole half of the presents.⁷ In 1819 the citizens of St. Louis petitioned Congress to abolish the system.⁸ Governors Ninian Edwards of the Illinois Territory and Lewis Cass of Michigan Territory denounced the factory system.⁹ Cass, in his communication to Secretary of War John C. Calhoun, urged the abolition of the factories and the establishment instead of a rigid federal regulation of licenses to private traders.¹⁰ The persistent opposition of the fur companies to the federal factories furnish sufficient proof that the system carried on an extensive trade.¹¹

The opponents of the federal trading houses, however, could not agree upon a substitute plan. John Mason, superintendent of Indian trade, advocated in 1816 the establishment of a large factory at St. Louis for the purpose of selling to the traders only. He recommended that \$150,000 worth of goods be distributed to private traders who would take them to the various tribes.¹² Reverend Jedediah Morse in 1820 advocated a modified form of the Mason plan.¹³

Other opponents of the factory system advocated the formation of a large company to trade with the Indians, guaranteed and regulated by the federal government. In 1815 Governor William Clark of Missouri Territory really proposed the company plan.¹⁴ The next year Rufus Easton, delegate from the Missouri Territory, offered a petition to the House of Representatives urging the formation of such a company to trade with the Indians.¹⁵

⁷ *A. S. P., I. A.*, II, No. 142 (E), 85; Wesley, "The Government Factory System Among the Indians, 1795-1822," *Journal of Economic and Business History*, IV, 503-504.

⁸ *St. Louis Enquirer*, June 16, 1819; *Daily National Intelligencer*, August 4, 1819. As might be expected the frontier press, with a few exceptions, opposed the factory system.

⁹ Governor Edwards' criticism is found in *A. S. P., I. A.*, II, No. 142, 62-66.

¹⁰ *Wisconsin Historical Collections*, XX, 82-86.

¹¹ *A. S. P., I. A.*, No. 187, pp. 355-356, 360. ¹² *Ibid.*, II, No. 142 (Zs), 70.

¹³ Jedediah Morse, *Report to the Secretary of War of the United States on Indian Affairs*, pp. 40-60.

¹⁴ *A. S. P., I. A.*, II, No. 142, 78.

¹⁵ *Annals of Congress*, 14th Cong., 1st sess., p. 1301.

Apparently Calhoun endorsed the plan in 1817.¹⁶ The plan, however, was denounced by the *Daily National Intelligencer*¹⁷ and by *Niles' Weekly Register*.¹⁸

The supporters of the factory system included most factors and other federal officials. Although faced by strong opposition, committees of Congress and Congress itself frequently upheld the system.¹⁹

The supporters of the federal factories readily admitted that the system was not perfect, but it had nevertheless been beneficial to the Indians and should be extended. The partial elimination of foreign competitors in the fur trade was described by William H. Crawford, Secretary of Treasury, a supporter of the trading houses, on March 13, 1816:

The right of the British Northwest Company to participate in this trade [with the Indians], independent of the will of the Government, is now at an end. The settlement of the lands ceded by the Creeks in 1814 will exclude the southern tribes from all intercourse with the Spanish ports in the Gulf of Florida. The preservation of peace with those tribes, as well as the execution of the plans which may be devised for their civilization, requires that this intercourse should not be renewed. The great distance of some of the tribes in the Northwest Territory, and in the northern regions of Louisiana, from the settled parts of the United States, will probably make it necessary to permit the British merchants from Canada to participate in the commerce of those tribes, until more accurate information is obtained as to their situation and numbers, their wants, and their capacity to pay for articles of the first necessity. As this knowledge is gradually acquired, and the mode of conducting the trade better understood, the exclusion of foreigners from all participation in it may be safely effected. If the trade is to be continued in the hands of the Government, the capital ought to be increased to \$500,000. The exclusion from all commercial intercourse with the ports in the Gulf of Florida, and the necessity of extending our trading establishments farther to the west and the north, with a view to the ultimate exclusion of foreign participation in it, forcibly suggest the propriety of such an increase.²⁰

¹⁶ *A. S. P., I. A., II*, No. 157, 184.

¹⁷ August 4, 1819.

¹⁸ XVI, 408-409.

¹⁹ *A. S. P., I. A., II*, No. 157, 185; *Ibid.*, No. 165, 205-206.

²⁰ *Ibid.*, No. 142, 27.

The superintendent of Indian trade, J. Mason, was called upon to give his views on the subsequent proposals: continuing the factory system as established; introducing proper modifications into that system; and increasing capital necessary to supply the numerous tribes within the jurisdiction of the government.²¹ In reply thereto, the superintendent said that it would be unwise and inexpedient to abolish the system at this time (1816); but that it should be continued with some modifications and with an increase of capital.²² He continued:

If it is the policy of the Government, . . . no longer to permit any trade or intercourse to be held by foreigners with the Indians within our limits, it becomes very questionable whether the amount of supplies heretofore furnished these in many parts of our territories by British traders can, within any short period, be substituted by American traders, independently of public aid.²³

Superintendent Mason added that it would be

difficult, perhaps impossible, so to organize a system of trade purely on public account, as that it should pervade the villages and the hunting camps of the numerous tribes within our limits, . . . without exposing the public funds engaged in it to too great risk of loss by its complexity, or from fraud in the numerous and distant subagencies which would thus, of necessity, be created. For these considerations, I would, with great deference, propose that the present capital in Indian trade (which may be considered to be equal, or nearly equal, to the sum originally vested, to wit, \$290,000,) be increased to \$500,000; and that the superintendent of Indian trade be authorized, besides opening additional trading-houses . . . , to establish a depot of supplies, duly assorted for the Indian trade, at some proper place, neighboring to the Indian country, as at St. Louis, equal in amount to \$150,000, to be furnished from time to time on credit for a reasonable term, but under strict regulations as to the ultimate security and the character of the persons intrusted, to American traders, who should come under engagements to barter the goods so obtained at the villages and hunting grounds of such tribes as might be designated to them, respectively; these credits to be given out in moderate sums, proportioned to the means of the trader, and made reimbursable at the depot in the furs and peltries received from the Indians, at fair prices, such as would at the same time

support the public fund, and give sufficient encouragement to the adventurer.²⁴

By these means, it was believed that adequate supplies of goods could be furnished to all the Indian tribes on the frontier without resort to foreign capital and traders.²⁵

John C. Calhoun, Secretary of War, declared in favor of the system and its enlargement on December 8, 1818.²⁶ The very next year the House Committee on Indian Affairs came out strongly for alteration of the system but insisted upon its continuance and enlargement.²⁷

Despite strong opposition from fur companies and private traders, several factories were established after the termination of the war with Great Britain. In 1815 factories at Green Bay²⁸ and Prairie du Chien, and the former trading houses at Fort Osage and Chicago²⁹ were reestablished. A branch of the Prairie du Chien factory was established in 1818 at Fort Edwards. It later became a separate factory,³⁰ and, in 1822, was moved to Fort Armstrong. In 1821 a branch of the Osage³¹ factory was moved to Marais des Cygnes on the upper Osage River. The superintendent of Indian Trade, Kennedy, was ready to establish eight additional trading houses when his plans were suddenly halted by congressional action.³² Table I in the Appendix shows the receipts and expenditures in the Indian Trade Department from April 1, 1811, to December 31, 1820.³³ Perhaps a statement of the appropriations and expenditures on account of trading houses within the Indian country from 1795 to 1819 would be of value in grasping the amount of money involved.³⁴ (Table II, Appendix). The direct sum involved was over a half million dollars. If the indirect appropriations were included, the sum would reach almost two million dollars.³⁵

Subsequent to the War of 1812 the general weakness of the

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*, No. 157, pp. 181-184.

²⁷ *Ibid.*, No. 158, pp. 185-186; No. 105, pp. 205-206.

²⁸ *Wis. Hist. Coll.*, XIX, 380-381.

²⁹ *A. S. P., I. A.*, II, No. 167, 208.

³⁰ *Wis. Hist. Coll.*, XX, 101-102.

³¹ *A. S. P., I. A.*, II, No. 188, 371.

³² Wesley, "The Government Factory System Among the Indians, 1795-1822," *Journal of Economics and Business*, IV, 496.

³³ *A. S. P., I. A.*, II, No. 172 (A), 246. See report of the Commissioner of Indian Affairs, *ibid.*, No. 165, 205-206.

³⁴ *Ibid.*, No. 168, (4), p. 211.

Indian tribes made the control of their trade not so important for the purpose of governmental management. False propaganda⁸⁶ gradually poisoned the minds of some Indians against the benevolent factors and factories. This naturally harmed trade at certain factories. In an effort to regain control of the trade with the Creeks, the federal government in 1816 moved the factory to Fort Mitchell, located in the heart of their country, but little improvement followed; therefore, the post was abandoned in 1819. The treaty with the Chickasaws in 1816 forbade traders to enter their country, but the factory did not prosper and in 1818 it was moved to Arkansas among the Cherokees. In the South, east of the Mississippi, the only remaining factory was at Fort Confederation. It was fairly prosperous.⁸⁷

Although a few factories were abolished between 1815 and 1816 more had been created than abandoned, but from the outset the factories were in a precarious situation, judging by the frequency of the acts renewing or extending the life of the system.

In 1822, Thomas Hart Benton, chairman of the Senate investigating committee, was gathering evidence against the factories. An interesting objection was raised by Indian agent Benjamin O'Fallon, of Missouri, when he wrote that the Indians did not favor the competition of the federal government with private traders and that such practices lowered the dignity of the government.⁸⁸ Benton admitted that he put forth a strenuous exertion to overthrow the system.⁸⁹ "It is, however, difficult to escape the suspicion that Benton was serving Clark, Hemptead, Chouteau, and other influential fur dealers who were his constituents."⁹⁰

The act which abolished the system provided for the winding up of the affairs as quickly as possible. The Secretary of the Treasury appointed a New York firm to sell the goods on hand at public auction. The firm received the following instructions:

⁸⁶ *Ibid.*, No. 187, pp. 354, 355, 358.

⁸⁷ For a good discussion of the federal policy in the South, see R. S. Cotterill, "Federal Indian Management in the South, 1789-1825," *Mississippi Valley Historical Review*, XX (December, 1933), 333-352.

⁸⁸ *A. S. P., I. A., II*, No. 187, 328, 358.

⁸⁹ Thomas H. Benton, *Thirty Years' View*, I, 21.

⁹⁰ Wesley, "The Government Factory System Among the Indians, 1795-1822," *Journal of Economics and Business*, IV, 506.

I herewith enclose you invoice and bill of lading of ninety-seven packages of merchandise, the property of the United States, shipped on board the sloop Abeona, William H. Nicholls, master, to your address, amounting to \$31,175.28.

These goods you will please sell at auction, on a credit of sixty and ninety days, for notes with unexceptionable endorsers, negotiable and payable at the office of discount and deposite, New York, first giving two or three weeks notice of the sale in the papers of your city.

. . . I do not wish it to be known that the goods are the property of the United States, as purchasers are more apt to form combinations at the United States' sales than at those of individuals. I wish the tierces to be kept out of sight, as they would be immediately recognized as United States' property by persons engaged in the Indian trade. A large portion of the goods being strouds and blankets of the heaviest kinds, and well suited for the Indian trade, it is hoped they will command good prices.⁴¹

The hope for good prices was not realized. The goods which were valued at \$31,175.28 brought only \$10,795.22⁴² at public auction, just about one-third of the original estimate. The immediate loss in winding up the Indian trade was estimated in 1824 at \$86,370.91.⁴³ But the actual loss was several times that sum. If the money (\$413,209) paid out in the form of salaries were included in the loss, the entire loss would be \$535,356. The loss on the capital stock alone was at least \$122,147.⁴⁴

During this period Indian traders continued to be licensed, and they supplied a large share of the Indian trade. The number of government trading houses in 1822 was only nine, while the number of licensed traders was one hundred and twenty-six.⁴⁵ The goods on hand at the nine trading houses in 1822 was valued at \$126,950.⁴⁶ Since the expense of the agencies was not charged in the price of the goods, and the government made additional appropriations for

⁴¹ *A. S. P., I. A.*, II, No. 217, 536.

⁴² *Ibid.*, No. 217, 537.

⁴³ *Ibid.*, No. 217 (12), 541.

⁴⁴ *House Report*, 23rd Cong., 1st. sess., No. 474, p. 12. This estimate I feel is too conservative. The actual loss was probably over \$600,000.

⁴⁵ *Ibid.*, pp. 13, 73. The trading houses operating in 1822 were at Prairie du Chien, Fort Edwards, on the Upper Mississippi, Fort Clark, on the Osage, a branch of this on the Marie Decine, Green Bay, Chicago, on the Arkansas and Red Rivers, and on the Tombigbee.

⁴⁶ *Ibid.*, p. 73.

salaries, it was possible to sell goods to the Indians at a reduced price.⁴⁷ The agents employed in the factory system were the worst foes of the experiment, for they were unacquainted with the Indians and the nature of their trade; and they received their salaries regardless of the success or failure of the system.

After the abolition of the system, licensed traders were not interfered with by the government except in a regulatory way. The reasonableness of prices henceforth was dependent largely upon the competition of trade and the character of the Indian traders. Hereafter there were to be no authorized agents to fix a tariff of prices in the various stations of trade. It was deemed more practicable to revoke licenses for fraudulent practices.⁴⁸

APPROPRIATIONS FOR SALARIES

Since the system was more or less an experiment, it was to be put into operation at the minimum cost and under the most favorable circumstances. Under this system, as we have seen, the government furnished the capital stock and managed the trade entirely on its own account, "according to such rules and orders as the President should prescribe."⁴⁹ The trading houses and the agents were established by the President. The agents were required during the first few years to transmit their accounts to the treasury semi-annually. An annual appropriation of \$8,000 was at first made for the purpose of paying the agents and clerks.⁵⁰

The precise amount paid for the salaries of the superintendents of Indian trade, agents, clerks, and assistants from 1796 to 1805 cannot be fully ascertained, as the money was drawn from the general trading fund by warrants in favor of the purveyor of public supplies, or agent of the War Department.⁵¹ In a report made by Mason, the superintendent, in April, 1810, there is this statement:

There have been employed, in all cases, a principal agent at each house, and in most cases, an assistant agent or clerk at each. The compensation allowed has been from \$750 to \$1250, per annum, to the principal agents, and from \$250 to \$600, per annum, to the assistant agents or clerks, exclusive of rations or allowance for rations, paid out of the funds of this establishment.

⁴⁷ *Ibid.*, p. 13.

⁴⁸ *Ibid.*, pp. 12, 72, 73.

In elaborating upon the foregoing statement, Mason said:

It does not appear that the annual compensation allowed to agents and assistant agents, or clerks, exceeded the sum of ten thousand dollars, until the year 1805; previous to which time, . . . six trading houses had been established; during that year four additional houses were set up, and one discontinued, leaving then in operation nine houses. At this time, the allowance for rations was commuted into money, at fixed rates per annum, and the compensations paid during the latter part of this year (1805) stood thus:

8 agents, at \$1,000, per annum.....	\$ 8,000
1 agent, at.....	1,250
7 assistants, at \$500.....	3,500
1 assistant, at.....	400
	\$13,150

Allowance for subsistence, in lieu of rations:

9 agents, at \$365 per annum.....	\$ 3,285
6 assistants, at \$150.....	900
1 assistant, at.....	180
	\$ 4,365

[Total for salaries and subsistence.....\$17,515]⁵²

In 1810 there were twelve houses in operation at an annual cost to the federal treasury of \$14,750 for salaries and \$5,475 for subsistence, making a total of \$20,225. In 1811 Congress fixed the pay of the superintendent at \$2,000 and allowed him in addition \$2,500 for clerks.⁵³

As previously stated, it is impossible to determine accurately the amount paid to the employees of the new system in the form of salaries and subsistence prior to 1805. However, the superintendent of Indian trade for 1810 estimated that \$143,000 was paid for such purposes during that period. From 1805 to 1810, Congress appropriated \$65,000 for similar purposes. For the next twelve years, the government paid \$204,989.90 to factory employees. In

⁵² *A. S. P., I. A., I*, No. 130, 768.

⁵³ *Ibid.*, No. 130, 768; *House Report*, 23rd Cong., 1st sess., No. 474, p. 72.

other words, the United States government paid to employees alone while the factory system existed the gigantic sum of \$413,209.90. However, the government officials are to be congratulated for not spending an even larger sum, for Congress appropriated several thousand more dollars for such purposes than what was actually spent.⁵⁴

Chapter XI

FEDERAL FINANCIAL AND ECONOMIC POLICY TOWARD THE NORTHWESTERN TRIBES, 1812-1825

The year 1812 marks no distinct break in the federal Indian policy. Some of the Indian tribes remained friendly, however, to Great Britain; but the United States exercised unremitting care in its efforts to keep the good will of the more amicable tribes and to win the friendship of others. Against the natives who remained hostile, the federal government waged relentless war. A conspicuous example may be found in General Jackson's campaigns against the Creeks of the Southwest. The author, therefore, has chosen the year 1812 as one of the natural divisions in our Indian relations. The reader, nevertheless, should not lose sight of the fact that the federal government only slightly modified its policy between 1812 and 1825. Some officials urged,¹ with increasing demand, the removal of the aborigines beyond the Mississippi; while others desired to educate, civilize, and Christianize them.

THE SIOUX INDIANS

The citizens of the United States had little contact with the Sioux Indians before 1800. The first diplomatic relations with this tribe on the part of the federal government began September 23, 1805, when Zebulon M. Pike of the national army reached an understanding with the tribal chiefs. The treaty stipulated that two tracts of land should be given to the United States for military purposes, one near the mouth of the St. Croix and the other along the Minnesota River. Pike led the members of the tribe to understand that the federal government would establish within their possessions a trading house like those in operation in the East as well as a military post. No stipend was agreed upon, but the Senate subsequently promised to reward them with \$2,000 payable

¹ See Senate and House resolutions in *A. S. P., I. A.*, II, Nos. 145, 146, 123-125.

in either merchandise or money. Pike was generous with his presents, distributing some sixty gallons of liquor to the Indians, who seemed to be pleased with the provisions made. The foreign traders had almost completely disregarded "the boundary between Canada and the United States, and they had numerous posts in full operation on the upper Mississippi." To offset the British influence, Pike followed the river practically to its source, remained there during the entire winter in order to win the friendship of the Indians. He returned to St. Louis the following spring, but the treaty was not sent to the Senate until March 29, 1808; it was unanimously ratified on April 16 but never proclaimed.²

The agents of the United States came in contact with the Sioux very seldom until 1815. In that year and the year following, there were negotiated sixteen treaties of peace and friendship with the different tribes of Indians. In most cases these agreements demanded no cession of land beyond the original grants which the bands had previously made to the English, French, or Spanish governments; but they confirmed those to the United States, providing perpetual peace, and declaring that "every injury or act of hostility committed by one or other of the contracting parties shall be mutually forgotten." Three of these treaties were made with bands of the Sioux, "the Sioux of the Leaf, the Sioux of the Broad Leaf, and the Sioux of the Pine-tops."³

In 1824 and 1825 six more covenants were made with separate Sioux bands. The one in 1824 was unlike the previous contracts with this tribe, for it contained a land cession, in return for which the tribe was to share with the Fox the \$1,000 allowed them. A blacksmith was to be furnished to them and also farming utensils

² *A. S. P., M.*, I, No. 164, 344-356; No. 178, pp. 390-391; No. 248, p. 719; No. 259, p. 942; Elliot Coues, ed., *The Expeditions of Zebulon Montgomery Pike to the Headwaters of the Mississippi River through Louisiana Territory, and in New Spain during the years 1805-06-07*, I, 74, 226-240; *A. S. P., I. A.*, I, Nos. 121, 122, 754-755; *Journal of the Executive Proceedings of the Senate of the United States of America*, II, 76-80; E. D. Neill, *The History of Minnesota*, pp. 242-248; W. M. Babcock, Jr., "Major Lawrence Taliaferro, Indian Agent," *Mississippi Valley Historical Review*, XI (December, 1924), 359-360. In 1819, however, the government apparently regarded the Pike treaty as in force, despite the fact that it had not been promulgated, and the orders to Forsyth to make the payment seemed like an afterthought. Nothing was done about the tract secured at the mouth of the St. Croix.—*Ibid.*, p. 360n.

³ *Laws and Treaties*, II, 126-130.

and cattle.⁴ On June 22, July 5, and July 16 of the next year, three treaties were negotiated with various bands of the Sioux tribes, in which the red men acknowledged the supremacy and protection of the United States, and also the right of the federal government to regulate all their trade and intercourse.⁵

The most essential one of these agreements was the one negotiated at Prairie du Chien on August 19, 1825. The little pioneer village presented a pompous appearance during the month of August. Chippewas, Sioux, Sacs, Foxes, Menominees, Iowas, Winnebagos, and a portion of the Ottawa, Chippewa, and Potawatomie tribes occupying the region along the Illinois River convened there to confer with Governor Lewis Cass of Michigan and General William Clark, the United States commissioners. Of the 1,054 Indians drawing rations on the last day, 386 were the delegates of the Sioux and Chippewas gathered by Major Taliaferro at Fort Snelling and brought down in safety to make a triumphal entry, in true Indian style, with flags flying, drums beating, and guns firing.⁶

Although there was no acquisition of territory, unmistakable advancement was made in the direction of peace. The possessions of the different tribes were more clearly marked, thus making subsequent negotiations easier. Of special importance was the adjustment of the Sioux-Chippewa boundary line, which made clear the territorial claims of each tribe, so that when the year 1837 arrived and treaties were made to obtain the land east of the Mississippi, the areas with which each was concerned were well understood,⁷ Congress appropriated \$10,000 to carry the Prairie du Chien treaty into effect.⁸ Senator Benton said that a convocation of the Indians at Lake Superior would soon take place, "so the copper mine business" might be arranged.⁹ The proposed treaty materialized the next year, 1826,¹⁰ whereby the Indians gave

⁴ *Ibid.*, pp. 207-208.

⁵ *Ibid.*, pp. 227-231, 235-236.

⁶ *Niles' Register*, XXIX, 187-92; "Autobiography of Major Lawrence Taliaferro," *Minnesota Historical Collections*, VI, 206; Marcus L. Hansen, *Old Fort Snelling, 1819-1858*, p. 177.

⁷ *Ibid.*, p. 178; *Laws and Treaties*, II, 250-255.

⁸ Henry R. Schoolcraft, *Personal Memoirs of a Residence of Thirty Years with the Indian Tribes on the American Frontier*, p. 241. Hereafter cited as Schoolcraft, *Memoirs*.

⁹ *Ibid.*

the United States the right to "carry away any metals or minerals from any part of the country."¹¹

THE OTHER NORTHWESTERN TRIBES

Throughout the War of 1812 the Northwestern tribes and fur traders remained somewhat hostile to the Americans and furnished some aid to the cause of the British, but in the main the battle of Tippecanoe quieted the Indian troubles in that section of the United States.

In 1814 General Harrison negotiated his last treaty with the Northwestern Indians while governor of the Territory of Indiana. In this agreement, there were no lands ceded by any of the tribes. It was simply a covenant of peace and friendship. The Indians agreed to fight faithfully on the side of the United States against the British, and the federal government agreed to "confirm and establish all the boundaries" as they had existed prior to the war. The next year similar treaties were negotiated with the Potawatomie, Piankishaw, Teton, Sioux, Kickapoo, and various other tribes of that region.

A small cession was obtained, however, in Michigan in 1816 from the Ottawa, Chippewa, and Potawatomie tribes. The United States agreed to pay them annually for the period of twelve years goods to the value of \$1,000.¹² While this acquisition was small, the federal government had the opportunity of ascertaining the attitude of the Indians, and what could be expected in the way of subsequent cessions.

The next year it was deemed expedient to make an earnest endeavor to "extinguish the Indian title to all the lands claimed by them within the limits of the State of Ohio."¹³ General Duncan McArthur and Governor Cass, with large discretionary powers, were appointed to secure the desired cession. Their unremitting toil resulted in a treaty whereby the United States received nearly all the land to which the natives had claim in Ohio, a part of Indiana and a portion of Michigan.¹⁴ The Secretary of War said

¹¹ *Ibid.*, pp. 268-271. The treaty was with the Wyandots, Delawares, Shawnees, Senecas, and Miamis.

¹² *Ibid.*, pp. 132-133.

¹³ *A. S. P., I. A.*, II, No. 149, 136-137, George Graham, Acting Secretary of War, to Governor Lewis Cass, May 19, 1817.

¹⁴ *Laws and Treaties*, II, 145-151.

that this treaty was the most important of any hitherto made with the Indians. "The extent of the cession far exceeds my most sanguine expectations," and he openly admitted that "there can be no *real* or *well-founded* objection to the amount of the compensation given for it, except that it is not an adequate one."¹⁵

The commissioners, however, seemed to fear that they might be criticized for having made too lavish terms with the natives, and in their report to the national government they stated that it was impossible for them to get the land cheaper. Lewis Cass, one of the commissioners, said of the terms of the treaty that this was no ordinary land cession, and regardless of the fact that the terms exceeded those found in Indian treaties, they would fall far short of the pecuniary, political, and military value of the country.¹⁶

The contracting tribes made a colossal sacrifice, so that the United States promised, in consideration for this cession, to pay forever the following annuities: to the Wyandot tribe, \$4,000; to the Seneca, \$500; to the Shawnee, \$2,000; to the Potawatomie annually for the term of fifteen years, \$1,300 each in specie; to the Ottawa and Chippewa tribes annually for fifteen years \$1,000 each in coin; to the Delaware tribe in the course of the next year, \$500 in metallic money, but no annuity. Annuities allowed the tribes in former treaties were to be continued, but to be paid in specie. There were various grants of land in fee simple to the various Indian chiefs, the size of which varied from one to forty-eight square miles. None of these gifts to the chiefs was subject to taxation. One tract was given in fee simple to the Seneca chiefs which contained thirty thousand acres. There were other miscellaneous cessions to various whites and half-breeds which amounted in all to thousands of acres. It was further agreed to pay the different tribes for the losses which they had sustained in the War of 1812 to the amount of \$19,898. Several sections of land were set aside for the purpose of Indian education.¹⁷

In 1818 the United States negotiated separate treaties with the Wyandot, Peoria, Wea, and Potawatomie tribes. They ceded thousands of acres of land to the United States, located in Michigan, Indiana, and Illinois. For these cessions the United States

¹⁵ *A. S. P., I. A., II, No. 149, 140*, George Graham to Governor Cass, October 17, 1817.

¹⁶ *Ibid.*, pp. 137-139.

¹⁷ *Laws and Treaties*, II, 145-154.

promised to pay \$11,100 to the different tribes. The Wea Indians were to receive a perpetual annuity of \$1,850 and the Potawatomes a similar annuity of \$2,500 in silver.¹⁸

In that year, the Delawares, like some of the other tribes of the Northwest, ceded all of their lands in the State of Indiana. The national government promised to give them "a country to reside in on the west side of the Mississippi and to guarantee to them the peaceable possession of the same." The United States agreed to pay the Delawares the full value of their improvements in the country hereby ceded: "which valuation shall be made by persons to be appointed for that purpose by the President of the United States; and to furnish the Delawares with one hundred and twenty horses, not to exceed in value forty dollars each, and a sufficient number of pirogues, to aid in transporting them to the west side of the Mississippi; and a quantity of provisions, proportioned to their numbers, and the extent of their journey." The United States in addition promised to pay the Delawares a perpetual annuity of \$4,000; which, together with all annuities that the federal government by former treaties engaged to pay them "shall be paid in silver, at any place to which the Delawares may remove," and a blacksmith was to be furnished them. There were several individual land grants which were to be located upon moving West. These grants were not transferable without the consent of the President.¹⁹

Three days later, October 6, 1818, the Miami tribe ceded an enormous area of land to the United States in Indiana and Illinois. There were likewise various reservations for some of the Miami chiefs and individuals living within the ceded area. These tracts, however, were not to be sold without the President's consent. For this large cession the government agreed to pay the tribe forever an annuity of \$15,000 in specie. In addition, the annuities granted by former treaties were to be continued but converted into specie payments. A grist mill, saw mill, blacksmith, and one hundred and sixty bushels of salt annually, were to be furnished them.²⁰

The next year, 1819, the Kickapoo Indians ceded all of their possessions east of the Mississippi and agreed to move West. In consideration for the surrender of their lands in Illinois, Indiana,

and in the other Northwestern states, and for the release of all former annuity payments, the government agreed to pay them \$2,000 in silver annually for fifteen successive years. An additional \$3,000 worth of merchandise was delivered to them immediately. The United States promised to assist them in their transportation West at its own expense.²¹

During the same year, at Saginaw in Michigan Territory Lewis Cass obtained a very large cession from the Chippewa tribe of Indians. There were sixteen reservations to the natives within the limits of the ceded territory, which ranged from 2,000 to 40,000 acres and several other smaller reserves for the use of a few specified individuals. In payment for the grant the United States agreed to pay annually forever the sum of \$1,000 in silver. It was further promised that "all annuities due by any former treaty to the said tribe, shall be hereafter paid in silver." The Indians were also given the right of hunting and making sugar upon lands ceded. All improvements which the aborigines were forced to abandon because of the treaty were to be paid for by the government. The United States further agreed to furnish the natives with a blacksmith and "farming utensils and cattle, and to employ such persons to aid them in agriculture," in return for the privilege of building roads through their country.²²

On June 16, 1820, the Chippewa tribe surrendered to the United States sixteen square miles of land on St. Mary's River, for a "quantity of goods," the value of which was not recorded.²³ The very next month the Chippewa and Ottawa tribes ceded the St. Martin Islands in Lake Huron. Merchandise was distributed among them in payment for the cession.²⁴ On July 19 the Kickapoo Indians relinquished a tract of land east of the Mississippi in exchange for similar possessions in the Territory of Missouri. Goods to the value of \$3,000 were distributed among them in addition to the new acquisitions of the tribe.²⁵ The Wea Indians in August granted their lands, which had been reserved to them on the St. Mary's in 1818, to the United States for \$5,000 in money.²⁶ One

²¹ *Ibid.*, pp. 182-183. They were given a tract of land on the Osage River.

²² *Ibid.*, pp. 185-186.

²³ *Ibid.*, pp. 187-188.

²⁴ *Ibid.*, p. 188. Again the value of the goods was not mentioned.

²⁵ *Ibid.*, p. 189.

²⁶ *Ibid.*, p. 190.

year later, 1821, the Ottawa, Chippewa, and Potawatomie tribes surrendered an enormous tract of land in Michigan. Within this cession there were reserved to them five sections of land from three to six miles square for their use. In addition there were twenty-eight reservations for specified individuals. In remuneration for the grant, the United States engaged to pay to the Ottawa Nation \$1,000 in specie as a permanent annuity, and also annually for the period of ten years, \$1,500, to be expended as the President might direct, to support a blacksmith, a teacher, and a person to instruct the Ottawas in agriculture and to purchase cattle and farming utensils. The national government also promised to pay to the Potawatomie tribe \$5,000 in specie annually for the term of twenty years, and also to appropriate annually for fifteen years \$1,000 to be expended as the President might direct, in the support of a blacksmith and a teacher. Certain lands were also reserved within the Indian Territory for the use of the blacksmiths and teachers who were to reside among them. The United States was also given the right to construct roads through the remaining lands held by the natives.²⁷

After the War of 1812, the federal government realized the value and need of the important mines held by the Indians in the Northwest. The Senate passed the following resolution in May, 1822:

Resolved, that the President of the United States be requested to communicate to the Senate, at the commencement of the next session of Congress, any information which may be in the possession of the government, derived from special agents or otherwise, showing the number, value, and position of the copper mines on the south of Lake Superior; the names of the Indian tribes who claim them; the practicability of extinguishing their title, and the probable advantage which may result to the Republic from the acquisition and working these mines.²⁸

In compliance with this request, the President appointed a commission to investigate the mines in that section of the country. The most important and best known member of this commission was Henry R. Schoolcraft who completed his report October 1, 1822.²⁹

This report proved to be of inestimable value to the republic. It was just a question of how long the native tribes could retain possession of these valuable mines.

The Indians were given a breathing spell, however, for there were very few treaties with the Northwestern tribes during the next four years. General William Clark of St. Louis was associated with General Cass in the negotiations of the treaty of August 19, 1825. The great object of the covenant was to lay the foundation of a permanent peace by establishing boundaries with the Sioux, Sacs, Fox, Menominee, Iowa, Winnebago, and a portion of the Ottawa, Chippewa, and Potawatomie tribes. Nearly a whole month was consumed in these negotiations. The resultant undertaking, however, proved to be worthwhile and lasting.³⁰

³⁰ Schoolcraft, *Memoirs*, pp. 216-217. See *Laws and Treaties*, II, 250-254.

Chapter XII

THE FEDERAL FINANCIAL AND DIPLOMATIC POLICY TOWARD THE SOUTHERN INDIANS, 1812-1825

THE CREEKS

In 1812 the larger number of the Creeks favored the cause of Great Britain and entered the contest against the United States.¹ The weakness of the Spanish provinces of East and West Florida opened the way for British emissaries to enter with impunity the posts of Augustine and Pensacola, to furnish supplies and ammunition to the natives, and opportunities to tempt them to become parties to the conflict. The result was a bloody war between the aborigines, urged on and managed by Great Britain on one side, and the United States on the other. The Creek tribe was the colossal loser. The hostile portion of the tribe was ultimately crushed in the famous battle of Horseshoe Bend in 1814, through which victory Jackson became the idol of the Southwestern frontiersmen who were eager to take possession of the fertile lands of the Creeks.

The Tennesseans were bitterly disappointed to learn that their state had no representative on the commission to make the final treaty with the Creeks, so unusual pressure was brought to bear on the administration to place General Jackson in charge of the negotiations.²

Meanwhile, General Pinckney received the necessary instructions from Secretary Armstrong directing the terms to be granted the enemy "when they shall sue for peace." The principal conditions consisted in delivering up the prophets and instigators of the war, making indemnity for the war by cessions of land, giving American citizens free use of roads and waterways through all parts of the

¹ It should not be forgotten that many of the tribesmen were faithful allies of the United States in this conflict.

² Bassett, ed., *Correspondence of Andrew Jackson*, I, 496-497; II, 4. The commissioners appointed were Thomas Pinckney and Benjamin Hawkins.

Creek territory, and renouncing all connections with the Spanish posts.³

In the meantime General Jackson wrote the following to the Secretary of War:

The commissioners appointed to make a treaty with the Creeks, will have little to do but assign them their proper limits. Those of the friendly party who have associated with me will be easily satisfied, and the remainder of the hostile party, pleased that their lives were spared them,—will thankfully accept as a bounteous donation, any district which may be allowed them for their future settlement.

The General then proceeded to give in detail the boundary which he favored and hoped that the commissioners might accept.⁴

Thomas Pinckney interrogated Jackson as to what portion of the Creek country would be sufficient to indemnify the United States for the Creek war. To this inquiry the latter replied that the country west of the coast, and north of the Alabama, is a valuable country, and might indemnify the government fully for the expense of the war. But certainly this cannot be the only object of the government. The hostile Creeks have forfeited all right to the Territory we have conquered, and while Justice to the friendly part of the nation requires that they should be left in the peaceable enjoyment of their Towns and villages, with sufficient appendage of woodland, humanity dictates, that the conquered part of the nation should be allotted sufficient space for agricultural purposes. Still the grand policy of the Government ought and must be to connect the settlements of Georgia with that of the Territory and Tennessee which at once forms a bulwerk against invasion, and prevent the introduction of foreign influence to corrupt the minds of the Indians. Settlements should be so formed, as to separate the strength of the Creek nation, and the settlements of the whites between them would always keep them peaceable and faithful.

³ *Ibid.*, I, 508, Jackson to John Armstrong, April 25, 1814; *A. S. P., I. A.*, I, No. 139, 836, Secretary Armstrong to General Pinckney March 17, 1814.

⁴ It is of interest to note that Governor Blount wrote to General Jackson, November 24, 1813, urging that in case the Creeks should sue for peace the treaty should grant to the United States the free and unmolested use of their rivers, the right to improve the beds of those rivers, and to build places of deposit for produce, to garrison desirable places, and to open roads through their country and to travel them without passports.—*Ibid.*, I, 359-360.

To accomplish this desirable object, General Jackson again proceeded to give in great detail a proposed boundary line. Such a session, he said, would give to the United States land valued at \$12,000,000, and afford a settlement from Georgia to the mobile and from Tennessee to the southern limits of the united states. Government ought to adopt every means to populate speedily this section of the union, and perhaps, if she would give a preference right to those that conquered it, at 2 dollars pr acre of 320 acres, it would be settled by a hardy race that would defend it.⁵

Jackson furthermore expressed his surprise that Colonel Hawkins had permitted the Indians to settle on their "former habitations."

I did tell him the Territory I had assigned them. I did tell him that no Indians should settle west of the cosee or north of the allabama, and I am certain Government will not permit them to settle below the allabama. at this point is the strenght of the frontier of the union to be established by thick and wealthy inhabitants, unmixed by indians.⁶

General Jackson further said that the time was at hand for the government to extinguish the Cherokee and Chickasaw claims within the State of Tennessee; that it could with perfect honesty be said to the latter that the tribe had shown its incapacity to protect American citizens on the roads through the tribal possessions; that the enemy had been permitted to pass and repass through their country and kill and plunder American citizens; that the United States must therefore extend its settlements to the Mississippi and cut off all communications of the Southern tribes with the Northern, in order to give the citizens of the nation perfect safety. Jackson further elaborated:

Our national security require it, their security require it. The happiness and security of the whole require this salutary erangement, it must be done, and they shall be indemnified either in money or land Gained by Creek conquest. Now is the time to obtain it, and it ought and must be had. This then will give strength to the southern section of the u. states both in the councils of the nation, and against foreign invasion

and foreign influence, and create a fund competent to meet the expense of the whole war. . . .⁷

Apparently the protests of the citizens of Tennessee to the national government for not giving them a representative on the peace commission had the desired effect, for General Jackson succeeded Thomas Pinckney,⁸ so that the former had the privilege of writing into the treaty his imperialistic ideas, much to his own gratification and to the pleasant satisfaction of the people of his adopted state.

In accepting the appointment, Jackson made it clear to the Secretary of War that he was opposed to the discharge of the militia as suggested, for he did not favor relying chiefly on the friendly Creeks for protection, because he anticipated more trouble in negotiating with the amicable members of the tribe than with the conquered portion. He further requested that suitable persons be appointed to begin surveying the boundary "so soon as the preparatory arrangements are entered into. This is suggested from a full conviction, that no time like the present (when the *past* is fresh on their minds) to secure ample remuneration for this war."⁹

General Jackson subsequently instructed Benjamin Hawkins to notify both friendly and unfriendly Creeks to meet him at Fort Jackson on August 1, to reach a mutual understanding, and that if the latter refused to comply with his demand it would mean destruction.¹⁰ Although the Indians yielded to this request, Jackson complained that Colonel Hawkins and General Pinckney had made it exceedingly difficult for him to negotiate with the natives because they had previously promised them several indemnities for losses which were unwarranted by all instructions. The final treaty, however, did not contain any provisions for compensation.¹¹

The friendly Indians, nevertheless, insisted that they had a right to continue to enjoy their share of the former annuities.

⁷ *Ibid.*

⁸ *Ibid.*, p. 4, Secretary Armstrong to Jackson, May 24, 1814. Jackson accepted the appointment June 13.—*Ibid.*, p. 7.

⁹ *Ibid.*, Jackson to Armstrong, June 13.

¹⁰ *Ibid.*, pp. 14-15. Fort Jackson was laid out at the junction of the Coosa and the Tallapoosa Rivers.

¹¹ *Ibid.*, p. 24, Jackson to Governor Blount, August 9.

While a portion of the tribe had violated previous treaties, they had not. General Jackson said:

As they must be fed and clothed, this claim might be closed forever, by a sound sum in clothing. The whole number from the last return drawing rations from the United States at different posts amount to 820. To clothe the whole number will cost a considerable sum; but this sum would be very inferior to the value of the territory ceded to the United States.¹²

In the treaty of Fort Jackson, according to the estimate made by the topographical engineers, the Creeks ceded to the United States twenty million acres of exceedingly fertile land. Since the minimum price for federal lands was two dollars an acre, the lowest estimated value that could be placed on this acquisition would be forty million dollars. In addition a line of communication was opened from Georgia to the Mississippi Territory and "a rich and extensive settlement from the river Perdido to the county of Madison intercepted by a small slip of land claimed by the Cherokees south of the Tennessee River, which can be obtained from them for a moderate compensation." For this enormous cession the national government paid nothing, except a little food, clothing, and blood. The land was taken to cover in full the expenses involved in prosecuting the war. The government received the right to establish military posts, trading houses, and other special privileges. In return, however, the United States promised to furnish supplies of corn gratuitously until the Creeks could produce a new crop, for they had been reduced to extreme want. However, the federal government demanded that the tribe abandon all communication with any British or Spanish post, garrison, or town; and the chiefs were not to admit among them any agent or trader who had not been duly licensed by the President of the United States or the latter's agents.¹³

Although not generally recognized, General Jackson had treated the friendly and unfriendly Indians alike. In a letter to George Graham, chief clerk of the War Department, Colonel Hawkins, the principal agent for Indian Affairs south of Ohio, said:

¹² *Ibid.*, p. 25, Jackson to Armstrong, August 10.

¹³ *Ibid.*, pp. 25-26. The Creeks ceded all of their lands adjoining the Spanish possessions.—*Laws and Treaties*, II, 108-109.

Upon being asked, among other things, as his powers extended only to retaining as much land conquered from the hostiles as would indemnify the United States for the expenses of the war, upon what principles he took the lands eastwardly to Georgia, belonging obviously to the friendly Indians? the general answered, he did it from political motives—to prevent an intercourse between the Indians and the Spaniards and English in the Floridas; to have a border to know and separate his enemies from his friends, which was as beneficial to the friendly Indians as to the United States; and also gave the friendly Indians the lands in the forks of Tallapoosa and Coosa. The speaker asked where the hostiles were to be placed, if he took all their land? His answer was, you have room enough to take them among you. . . .

It struck me forcibly, at the time, that the general, who was authorized only to retain lands conquered from the hostiles to indemnify the United States for the expenses of the war, should take nearly eight millions of acres from the friendly Indians, [the federal allies in the war] over and above all the hunting grounds of the friendly Upper Creeks, giving, without consulting them, what he called an equivalent, which they did not deem such, and did not feel himself authorized to adjust this equitable claim of theirs.¹⁴

In his message to Congress in 1817, the President of the United States expressed the current philosophy:

The hunter state can exist only in the vast uncultivated desert. It yields to the more dense and compact form and greater force of civilized population; and, of right, it ought to yield, for the earth was given to mankind to support the greater number of which it is capable; and no tribe or people have a right to withhold from the wants of others more than is necessary for their support and comfort.¹⁵

The national government was not long satisfied with the preceding cession, although it was very large because the frontiersmen were pouring into the fertile lands of the Southwest; therefore it demanded another portion of Creek land and secured the desired

¹⁴ *A. S. P., I. A., II.*, No. 206, 493, Hawkins to Graham, August 1, 1815. It is of interest to note that the Creeks gave to General Jackson three square miles of land, location to be selected by Jackson himself. The General accepted on condition that the President approve.—*Ibid.*, I, No. 139, 837; II, Nos. 141 and 205, 26, 493.

¹⁵ *Ibid.*, No. 207, p. 496. An indemnity of \$85,000 was paid in 1817 to the friendly Creeks.—*Ibid.*, No. 206, p. 492.

cession January, 1818. For the territory thus secured the United States promised to pay the Creeks over a period of eleven years \$120,000.¹⁶

Again in 1821, an additional quantity of land was acquired. In this treaty, six reservations of one mile square were excepted so long as they were occupied by the persons concerned, but as soon as the named individuals should move therefrom, the reserves were to revert to the United States. There was also a strip of land retained for the federal agency. In consideration for this cession, the United States agreed to pay the Creeks \$10,000 in cash and \$40,000 as soon as practicable after the ratification of the treaty, \$5,000 annually for two years, \$16,000 annually for five years, and \$10,000 annually for six years, making in the aggregate fourteen payments in four and ten successive years without interest, in money or goods and implements of husbandry at the option of the tribe. The total amount thus promised the Creeks was \$160,000.¹⁷

As a further consideration for the cession, the United States promised to pay the State of Georgia whatever balance might be found due from the Creek tribe to the citizens of the state, whenever the same shall be ascertained, in conformity with the reference made by the Commissioners of Georgia, and the chiefs, head men, and warriors, of the Creek nation, to be paid in five annual instalments without interest, provided the same shall not exceed the sum of two hundred and fifty thousand dollars; the Commissioners of Georgia executing to the Creek nation a full and final relinquishment of all the claims of the citizens of Georgia against the Creek nation, for property taken or destroyed prior to the act of Congress of 1802, regulating the intercourse with the Indian tribes.¹⁸

In the year 1825 the Treaty of Indian Springs was negotiated. This agreement proved to be unsatisfactory, so a new one was signed the next year. In this well-known treaty the Creeks sold all the lands which they held within the State of Georgia. In compensation therefor the United States promised to exchange acre for acre beyond the Mississippi on the Arkansas River. Since the Indians had made considerable improvements within the limits of the ceded territory, it was stipulated that the national government

¹⁶ *Laws and Treaties*, II, 155.

¹⁷ *Ibid.*, pp. 195-196.

¹⁸ *Ibid.*, II, 196-197. This sum satisfied the Georgia commissioners.

should pay to the emigrating tribe the sum of \$400,000 on the instalment plan. At this time the United States paid the Indians \$30,000 yearly in annuities,¹⁹ but these payments were not perpetual.

THE CHEROKEES

On March 22, 1816, the United States negotiated a treaty with the Cherokees at the request of South Carolina, in which that tribe surrendered all of its claims within the state. According to the terms of this agreement South Carolina was to pay \$5,000 to the Cherokees for the cession.²⁰ On the same date another treaty was signed which cleared up an old boundary question over lands claimed by the Creeks and Cherokees alike. The national government was allowed to open up new roads through the latter's possessions; the citizens of the United States were to have free use of the navigable rivers and streams; and the Cherokees promised to keep up all ferries and public buildings which might be constructed within their country for the free use of American citizens. The United States in turn agreed to indemnify the tribesmen for the losses sustained by them in consequence of the march of the militia and other troops of the government through their territory during the Creek War, and the federal agents subsequently estimated the damages wrought at \$25,500.²¹

In September, 1816, General Andrew Jackson and two other commissioners secured another large cession of land from the Cherokees. The United States agreed to pay them \$6,000 annually for ten years and \$5,000 within sixty days after the ratification of the treaty, making a total of \$65,000 to be paid the Cherokees for this grant.²²

Again Andrew Jackson, Joseph McMinn, and D. Meriwether negotiated a treaty the next year with the Cherokees who had moved West on the Arkansas River and the Eastern Cherokees. The United States promised to give them acre for acre in the West for every one ceded in the East. In addition to the lands surrendered by those who had gone West, a cession was made by the Eastern Cherokees, too. The annuities which were to be given in

1818 were to be distributed to the Eastern and Western Cherokees alike according to their numbers. To each of the poor warriors who agreed to move west of the Mississippi, the government promised one rifle and "ammunition, one blanket, and one brass kettle, or, in lieu of the brass kettle, a beaver trap, which is to be considered as a full compensation for the improvements which they may leave" behind. To aid in the removal of the Indians, the government further agreed to furnish flat-bottomed boats and provisions sufficient to last them throughout the journey. To those emigrants whose improvements added real value to their lands, the United States agreed "to pay a full valuation for the same," which was to be appraised by commissioners appointed for that purpose. It was also stipulated that the lands ceded which had real improvements upon them would be rented to those Indians who remained year after year for the benefit of the poor and decrepit. Furthermore,

to each and every head of any Indian family residing on the east side of the Mississippi river, on the lands that are now, or may hereafter be, surrendered to the United States, who may wish to become citizens of the United States, the United States do agree to give a reservation of six hundred and forty acres of land, in a square, to include their improvements, which are to be as near the centre thereof as practicable, in which they will have a life estate, with a reversion in fee simple to their children, reserving to the widow her dower, the register of whose names is to be filed in the office of the Cherokee agent, which shall be kept open until the census is taken as stipulated in the third article of this treaty. Provided, that if any of the heads of families, for whom reservations may be made, should remove therefrom, then, in that case, the right to revert to the United States.²³

The treaty of 1819 gave to the United States a very large strip of the Cherokee lands in the East. As in the treaty of 1817 the Indians were promised pay for all worthwhile improvements and a reservation of six hundred and forty acres to each head of a family who desired to become citizens of the United States. Those who agreed to go to Arkansas were excepted. There was a section of six hundred and forty acres reserved to all persons who were

²³ *Ibid.*, pp. 140-144. In this agreement, as in previous ones, the navigable waters were reserved for the use of American citizens.

regarded as individuals of industry and capable of managing their property with discretion, provided they expressed their intention to reside permanently on the said lands. There were also several reservations made for specific individuals. Certain lands were to be sold and the proceeds therefrom to be invested in public stocks for the purpose of creating a permanent school fund to promote the education of the tribe.²⁴

The treaty of 1819 seemed to put an end to all desire on the part of the Cherokees to move West. All subsequent efforts to negotiate for their removal proved futile until 1835 when they were practically forced to submit.

Before and after 1820 the Cherokees sincerely promoted tribal improvements. Fathers and mothers tried enthusiastically to educate their children, missionaries received a warm welcome, land was held in common, and by 1822 most families tilled from ten to forty acres of land. The women spun and wove their own cloth and kept their families supplied with knitted stockings.²⁵ A constitutional government was adopted, the Cherokee alphabet was invented, and the printing press was established. The *Cherokee Phoenix*, a weekly newspaper, was printed in both English and Cherokee, the Bible was soon translated into the language of the tribe, and later hymn books and texts were published. But all of this progress in civilization and in economic development came to naught as we shall see in a subsequent chapter.

THE CHOCTAWS

The opening of the lands in Mississippi to settlement prior to 1812 proceeded very slowly. But immediately after the close of the war with Great Britain the Southwest began to fill up much more rapidly. The whites began to demand another slice of Choctaw lands. As usual the young nation yielded to the material designs of the frontiersmen; and a large cession was effected by the treaty of 1816. In consideration, therefore, the government promised to pay the Choctaws the sum of \$16,000 annually for twenty years, and \$10,000 in merchandise immediately after the ratification of the treaty.²⁶

²⁴ *Ibid.*, pp. 177-179. In a subsequent chapter the Indian trust funds are considered. ²⁵ Payne MSS., Vols. VI and VII. ²⁶ *Laws and Treaties*, II, 137.

This enormous cession did not even give temporary satisfaction. Demands were now made for the removal of the Choctaws beyond the Mississippi. These requests were complied with when the federal government negotiated the treaty of 1820. In consideration for this very large cession, the national government gave to the Choctaws an equivalent tract of land west of the Mississippi between the Arkansas and Red rivers. The boundaries east of the Mississippi were to remain "without alteration until the period at which said nation shall become so civilized and enlightened as to be made citizens of the United States, and Congress shall lay off a limited parcel of land for the benefit of each family or individual in the nation." ²⁷

For the purpose of aiding and assisting the poor Indians who wished to emigrate to the country given them in the West, the government agreed to give each warrior a blanket, kettle, rifle, bullet moulds and nippers, and ammunition sufficient for hunting and defense for one year. Such warriors were to be supplied with corn to support them and their families for one year, and they were given free transportation to their new home. They were allowed an agent and a blacksmith, and as soon as possible a public factor to supply their wants. ²⁸

In addition fifty-four sections of the best lands ceded in Mississippi were to be surveyed and sold, and the returns therefrom were to go to the support of Choctaw schools east and west of the Mississippi. An additional tract of good land was also set aside for the benefit of the Choctaws, the proceeds from the sale of which were to aid the deaf and dumb, blind and distressed Indians. The balance was to be distributed equally among each individual of the tribe. All of those who had separate settlements within the limits of the territory ceded by the Choctaw tribe, and who desired to remain where they resided, were given a tract of land one mile square to include their improvements. Anyone who preferred to emigrate and who did so within one year from the date of this treaty was paid the full value of the land which was estimated by two persons appointed by the President. To those who had valuable buildings and who desired to move, an equivalent was given for the

same. The Choctaw chiefs who had aided the United States during the War of 1812 were paid for their services. There was a provision in the agreement which authorized the Choctaws to raise and organize a corps of light-horse, consisting of ten in each district, so that good order might be maintained, and so that all men, both white and red, might be compelled to pay their just debts. It was stipulated that the sum of two hundred dollars should be appropriated by the national government for each district annually, and placed in the hands of the agents to meet the expenses in raising and establishing such military protection.²⁹

This was the most important treaty thus far negotiated with the Choctaw tribe, but its execution was so slow that a supplemental agreement was negotiated by John C. Calhoun in Washington in 1825. For the lands ceded in the understanding of 1820, the United States promised to pay the tribe \$6,000 annually forever. It was agreed, however, that this sum was to be applied under the direction of the President for the support of schools within the nation. At the expiration of twenty years, it was agreed that the "said annuity may be invested in stocks, or otherwise disposed of, or continued at the option of the Choctaw Nation." Six thousand dollars was to be appropriated annually for sixteen years in order to avoid the delay and expense of surveying and selling certain lands as stipulated in the eighth article of the treaty of 1820. Furthermore, the United States promised to take immediate steps to survey and "bring into market, and sell, the fifty-four sections of land set apart by the seventh article of the treaty" of 1820 and to apply the proceeds in the manner provided by that covenant. Those who desired to remain east and who held sections of land according to that treaty were allowed to convey the same in fee simple. The debts which some individuals of the tribe owed to the United States' trading house on the Tombigbee were relinquished by the government. The payments for the services of certain chiefs and warriors in the War of 1812, according to the treaty of 1820, had not been made because of want of proper vouchers which had not been found. The national government promised to pay them \$14,972.50, which it was judged by the muster rolls of the Third

²⁹ *Ibid.*, pp. 193-194. An annuity of \$150 was to be paid to Chief Mushulatubbee.

Auditor to be the amount due. This sum was immediately paid to the chiefs who negotiated the treaty, and they in turn were to distribute that sum fairly among the warriors concerned. The Choc-taws had certain claims against citizens of the United States for spoiliations of various kinds but had been unable to collect them; therefore, the federal government, in order to expedite matters, agreed to pay these obligations which were estimated at \$2,000.³⁰

INDIAN APPROPRIATIONS AND EXPENDITURES: 1812-1825

From March 4, 1789, to December 31, 1819, the federal government appropriated \$1,726,459.15 on account of Indian treaties, but only \$1,458,601.37 was actually spent for such purposes; therefore at the end of the year 1819 there was a surplus of \$177,254.77. From 1791 to 1819 the Creeks alone received according to treaty stipulations, \$275,500.³¹

During the period from 1813 to 1825 inclusive, the government spent for the purpose of annuities, for fulfillment of treaty obligations, and for other purposes over \$3,704,366.

SUMMARY

The year 1812 brought the United States into a costly conflict with Great Britain, a war for which we were wholly unprepared. We were only a little better prepared to battle with the aborigines,

³⁰ *Ibid.*, pp. 212-213. It should be understood that the treaty of 1825 confirmed most of the provisions of the treaty of 1820.

³¹ Schoolcraft, *History . . . of the Indian Tribes*, Part IV, 370-371. *House Reports*, 33rd Cong., 1st sess., No. 474, pp. 49-60. In the statement of the Commissioner of the General Land Office in the fall of 1820, it was estimated that the whole amount of land purchased from the Indians under the various treaties and cessions was 191, 978, 536 acres.

Est. amt. of land sold before opening of land offices in 1796 was

1,536,552 acres	\$ 1,944,244
Total amt. of land sold at the several land offices from their institution to Sept. 30, 1818, was 18,601,930 acres	44,054,452
Total sales of 20,138,482 acres at	45,998,696
Total amt. of land surveyed in the several land office districts est. in acres	72,805,092
Amount sold, in acres	18,601,930
Amount surveyed for military bounties, in acres	12,315,360
Paid by purchasers on sales made to Sept. 30, 1819	22,229,180
Remaining payment	22,000,657

See Schoolcraft, *History . . . of the Indian Tribes*, II, 582.

but obviously not equipped to fight in addition the strongest nation in the world. Nevertheless, the American traders at the close of the struggle found themselves in control of the commerce in the old Northwest without British competition. There followed, however, a period of removal of the Northwestern tribes beyond the Mississippi, and accordingly the shifting of the trading interest to that section of the country where the American merchants found themselves again competing with the British fur traders of Canada, a rivalry which was not settled until the Oregon controversy was adjusted in 1846.

Even in the South the Creeks had practically been driven out of Georgia, and South Carolina was no longer burdened with an Indian problem. The government had brought considerable pressure to bear upon the Cherokees and Choctaws to surrender their eastern possessions for additional lands in the West, but the progress made in this direction was not sufficient to satisfy the eager whites who wished to dispossess the red men.

The national policy following the War of 1812 has been severely criticized by many able writers, and justly so perhaps in many instances. It should not be forgotten, however, that considerable effort was made during this period to train the natives in agriculture, in crude mechanics, in education and religion. Many treaties provided for blacksmiths and strikers, for the construction of churches, and for separate appropriations for the purpose of education. These humanitarian efforts were commendable and will be discussed more fully in a later chapter.

Chapter XIII

INDIAN EDUCATION AND CIVILIZATION, 1789-1825

On the question of Indian civilization, as stated in the first chapter of this study, Secretary Knox in 1789 recommended that the government send missionaries to reside among the aborigines; and that presents of domestic animals be given to the red men in order to cultivate "a love for exclusive property." Knox said that this would be one of the most effective means of promoting civilization among the tribes.¹

Washington took this sound advice to heart, for in his instructions to the commissioners appointed to negotiate a treaty with the Creeks, he said: "You will . . . endeavor to obtain a stipulation for certain missionaries to reside in the nation, provided the General Government should think proper to adopt the measure." These men were to be precluded from trade, or the purchase of any lands, but were to have a certain reasonable quantity for cultivation. "The object of this establishment would be the happiness of the Indians, teaching them the great duties of religion and morality, and to inculcate a friendship and attachment to the United States."²

On May 22, 1792, the following was included in the instructions to Rufus Putnam, who was sent to negotiate with the late hostile Indians near Lake Erie:

The United States are highly desirous of imparting to all the Indian tribes the blessings of civilization, as the only means of perpetuating them on the earth. That we are willing to be at the expense of teaching them to read and write, to plough, and to sow, in order to raise their own bread and meat, with certainty, as the white people do.³

The first treaty agreement providing for any form of education was made December 2, 1794, with the Oneida, Tuscarora, and Stockbridge Indians, who remained faithful to the United States

during the Revolution. This covenant stipulated that the government should employ one or two persons to keep in repair certain mills which were to be built for the Indians, and to "instruct some young men of the three nations in the arts of miller and sawyer"; and that \$1,000 was to be given to erect a church for the purpose of promoting their religious interests.⁴

The commissioners of the United States at the treaty of Cole-rain in 1796 with the Creek Indians recommended the establishment of schools for their education, but the Creeks objected so strongly that the matter was dropped;⁵ therefore, the tribe had to wait approximately three decades before it received federal financial aid for educational purposes. The chief objections of the Creeks to education was that an educated Indian became mischievous, troublesome, and worthless, and involved the red and white people in difficulties.⁶

The second treaty for education was with the Kaskaskias, August 13, 1803, wherein the United States promised to give annually for seven years one hundred dollars toward the support of a Roman Catholic priest, who, besides the duties of his office, was "to instruct as many of their children as possible in the rudiments of literature."⁷

The agreement with the Delawares the next year provided for an annuity for ten years of three hundred dollars, to be used solely for the purpose of "ameliorating their condition and promoting their civilization." Suitable persons were to be employed at the expense of the United States to teach them to make fences, cultivate the earth and instruct them in such of the domestic arts as were adapted to their situation, and a further sum of three hundred dollars "shall be appropriated annually for five years to this object. The United States will cause to be delivered to them in the course of the next spring, horses fit for draft, cattle, hogs, and implements of husbandry to the amount of four hundred dollars."⁸

On March 30, 1802, Congress authorized the President to spend annually a sum not to exceed \$15,000 for the purpose of promot-

⁴ *Laws and Treaties*, II, 38.

⁵ *A. S. P., I. A.*, I, No. 72, 602.

⁷ *Laws and Treaties*, II, 67-68.

⁶ *Ibid.*

⁸ *Ibid.*, pp. 70-71.

ing civilization among the friendly Indians. To accomplish this purpose the chief executive was allowed considerable discretion. He might furnish them with domestic animals, implements of husbandry, goods or money. He might appoint temporary agents to live among them, obviously to instruct them in the ways of the white man's civilization.⁹

This fund apparently became so interwoven with the annual presents distributed among the friendly Indians by the government that it could not be distinguished from other moneys spent. Twenty years later the Senate became curious to know what actually had been done with the money and, accordingly, passed a resolution requesting President Monroe "to make known to the Senate the annual disposition which has been made of the sum of \$15,000" appropriated in 1802.¹⁰ The matter was referred to the Treasury Department and the Second Auditor reported:

I have the honor to state that no separate account appears ever to have been kept by the accounting officers of the War Department of presents made to the Indians, or salaries granted to Indian agents under the act of 30th March, 1802; which arose, I presume, from its having been considered rather as an act limiting the extent of the expenditure than as making an appropriation, as I find no special appropriations (under which heads, only, accounts are kept in the books of this office) were ever made for these objects.

In relation to presents, they are so interwoven with the expenses of holding treaties, visiting the seat of government, and other purposes, that it would be impracticable to distinguish them apart, except by dissecting all the files of accounts settled for years back, many of which were destroyed in the conflagration by the enemy in 1814.¹¹

The Secretary of War, John C. Calhoun, explained to President Monroe:

It is believed, however, that the principal expenditure authorized by the act [1802] has been made through the Cherokee, Creek, Chickasaw, and Choctaw agents, for spinning-wheels, looms, implements of husbandry, domestic animals, &c; but the particular amount annually can-

⁹ *Stat. L.*, II, 143 (Chap. 13, Sec. 13).

¹⁰ *A. S. P., I. A.*, II, No. 186, 325-326.

¹¹ *Ibid.*, p. 326, William Lee, Second Auditor, to J. C. Calhoun, February 19, 1822.

not be stated, as no distinct account of it has been kept in the offices of the Treasury Department.¹²

The treaties negotiated during the period from 1805 to 1817 make no mention of education. They were mainly devoted to cessions of land and to the establishment of peace after the War of 1812. The great religious awakening which occurred after that war "resulted in the formation of missionary associations and the Bible and the tract societies made itself felt in a revival of interest in Indian education and civilization."¹³

On January 22, 1818, the House Committee on Indian Affairs reported:

Your committee are induced to believe that nothing which it is in the power of Government to do would have a more direct tendency to produce this desirable object [civilization] than the establishment of schools at convenient and safe places amongst those tribes friendly to us. Your committee are aware that many plausible objections may be raised against the proposed measure; but we believe that all difficulties on this subject may be surmounted, and that the great object may be carried into practical effect. In the present state of our country, one of two things seems to be necessary: either that those sons of the forest should be moralized or exterminated. Humanity would rejoice at the former, but shrink with horror from the latter. Put into the hands of their children the primer and the hoe, and they will naturally, in time, take hold of the plough; and, as their minds become enlightened and expand, the Bible will be their book, and they will grow up in habits of morality and industry, leave the chase to those whose minds are less cultivated, and become useful members of society. . . .

The committee believe that increasing the number of trading posts, and establishing schools on or near our frontiers for the education of Indian children, would be attended with beneficial effects both to the United States and the Indian tribes, and the best possible means of securing the friendship of those nations in amity with us, and, in time, to bring the hostile tribes to see that their true interest lies in peace, and not in war; and therefore the committee report a bill [to effect these desirable objects].¹⁴

¹² *Ibid.*, p. 326, J. C. Calhoun to President Monroe, February 21, 1822.

¹³ Fletcher, *Indian Education and Civilization*, p. 162.

¹⁴ *A. S. P., I. A., II*, No. 151, 152.

The general appropriation for Indian education was made on March 3, 1819, when the following act was passed:

For the purpose of providing against the further decline and final extinction of the Indian tribes adjoining the frontier settlements of the United States, and for introducing among them the habits and arts of civilization, the President of the United States shall be, and he is hereby, authorized, in every case where he shall judge improvement in the habits and condition of such Indians practicable, and that the means of instruction can be introduced with their own consent, to employ capable persons of good moral character to instruct them in the mode of agriculture suited to their situation; and for teaching their children in reading, writing, and arithmetic, and performing such other duties as may be enjoined, according to such instructions and rules as the President may give and prescribe for the regulation of their conduct in the discharge of their duties.

And be it further enacted, That the annual sum of \$10,000 be, and the same is hereby appropriated, for the purpose of carrying into effect the provisions of this act; and an account of the expenditure of the money and proceedings in execution of the foregoing provisions, shall be laid annually before Congress.¹⁵

On January 15, 1820, John C. Calhoun, in compliance with a request from the House for information concerning the progress made in the civilization of the Indians and whether or not any of the ten thousand dollars had been expended, reported that:

No part of the appropriation . . . has yet been applied. The President was of the opinion that the object of the act would be more certainly effected by applying the sum appropriated in aid of the efforts of societies or individuals who might feel disposed to bestow their time and resources to effect the object contemplated by it; and a circular . . . was addressed to those . . . who have directed their attention to the civilization of the Indians. The objects of the circular were to obtain information, and disclose the views of the President in order to concentrate and unite the efforts of individuals and societies in the mode contemplated by the act of the last session. . . .

. . . The Cherokees exhibit a more favorable appearance than any other tribe of Indians. There are already established two flourishing schools among them, one at Brainard, under the superintendence of the

American Board for Foreign Missions; at which there are at present about one hundred youths of both sexes. . . . The Choctaws and Chickasaws have recently evinced a strong desire to have schools established among them, and measures have been taken by the American Board for Foreign Missions for that purpose. A part of the former nation have appropriated \$2,000 annually, out of their annuity, for seventeen years, as a school fund. A part of the Six Nations in New York have, of late, made considerable improvements; and the Wyandots, Senecas, and Shawanees at Upper Sandusky and Wapaghkonetta, have, under the superintendence of the Society of Friends, made considerable advances in civilization.

Although partial advances may be made under the present system to civilize the Indians, I am of an opinion that, until there is a radical change in the system, any efforts which may be made must fall short of complete success. They must be brought gradually under our authority and laws, or they will insensibly waste away in vice and misery. It is impossible, with their customs, that they should exist as independent communities in the midst of civilized society. They are not, in fact, an independent people, . . . nor ought they to be so considered. They should be taken under our guardianship; and our opinion, and not theirs, ought to prevail, in measures intended for their civilization and happiness. A system less vigorous may protract, but cannot arrest their fate.¹⁶

The following extract from the circular of September 3, 1819, mentioned in the previous quotation, indicates the policy of President Monroe and Secretary Calhoun:

But it will be indispensable, in order to apply any portion of the sum appropriated in the manner proposed, that the plan of education, in addition to reading, writing, and arithmetic, should, in the instruction of the boys, extend to the practical knowledge of the mode of agriculture, and of such of the mechanic arts as are suited to the condition of the Indians; and in that of the girls, to spinning, weaving, and sewing. It is also indispensable that the establishment should be fixed within the limits of those Indian nations who border on our settlements. Such associations or individuals who are already actually engaged in educating the Indians, and who may desire the co-operation of the Government, will report to the Department of War. . . .

¹⁶ *A. S. P., I. A., II, No. 162, 200-201; Fletcher, Indian Education and Civilization, pp. 163-164.*

In proportion to the means of the Government, co-operation will be extended to such institutions as may be approved, as well in erecting necessary buildings, as in their current expenses.¹⁷

For a list of Indian schools reported receiving government aid in 1823, see Table III, Appendix.¹⁸

The expenses over and above the amount allowed by the government were paid by the respective religious and charitable societies. It is easily observed that the federal government donated a very small part of the total sum received by the Indian schools. While it is not known just how much money was contributed by the societies to each school, the government contributed just about one-tenth of the money received by the Indian schools in 1823.¹⁹

The number of Indian schools in 1825 was thirty-eight, which were located and cared for as follows:²⁰

Tribes	No.	By whom established
Choctaw	11	American Board of Foreign Missions.
East and West Cherokee	9	Five by the Am. Board of Foreign Missions; two by Baptist General Convention.
Seneca	3	Two by United Foreign Mission Society; one by Baptist General Convention.
Chickasaw	2	One by Cumberland Mission Board; one by Synod of South Carolina and Georgia.
Oneida	2	One by Baptist General Convention; one by Protestant Episcopal Church.
Osage	2	United Foreign Mission Society.
Ottawa	2	One by Baptist General Convention; one by Western Mission Society.

¹⁷ *A. S. P., I. A., II, No. 162, 201.*

¹⁸ *Ibid.*, p. 459. See also *ibid.*, Nos. 199, 200, pp. 443-445, 459.

¹⁹ *Ibid.*, No. 203, p. 459n.

²⁰ *Ibid.*, No. 223 (B), p. 587.

Tribes	No.	By whom established
Chippewa	1	United Foreign Mission Society.
Creek	1	Baptist General Convention.
Missouri	1	Jesuit.
Passamaquoddy	1	Society for Propagating the Gospel, etc.
Potawatomie	1	Baptist General Convention.
Tuscarora	1	United Foreign Mission Society.
Wyandot	1	Methodist Episcopal Church.

The following statement shows the amount paid by the government to missionaries, and the amount received by them in money, property, stock, and from other sources, for the support of schools in the Indian country in the years 1824 and 1825: ²¹

Sources from which paid or received.	Year 1824.	Year 1825.
From the Government	\$ 12,708.48	\$ 13,620.41
From Indian annuities, and under provisions of Indian treaties	8,750.00	11,750.00
From private contributions, in money, property, stock, &c., and including the value of the houses and other improvements on the sites of the respective institutions	170,147.52	176,700.44
[Total]	\$191,606.00	\$202,070.85

Steps were now taken to bring about more efficiency in the administration of the civilization fund and the treaty annuities for educational purposes. Among the measures first taken were those which were deemed essential to secure a prompt and accurate rendition of accounts. To effect this desired object, the number of clerks was increased; forms were prepared and forwarded to the superintendents of the Indian schools, which produced system in their reports, out of which a general exhibit of all that related to this branch of the Indian Bureau was furnished with facility and accuracy at the close of each year.

²¹ *Ibid.*, No. 240 (B), p. 669; Fletcher, *Indian Education and Civilization*, pp. 164-165. It is interesting to note the small amount contributed by the federal government in comparison with private contributions.

The returns show [December 7, 1824] that thirty-two schools are in operation, containing nine hundred and sixteen children. The reports of the superintendents are highly satisfactory. They certainly demonstrate that no insuperable difficulty is in the way of a complete reformation of the principles and pursuits of the American Indian. Judging from what has been accomplished since the adoption by the Government, in 1819, of a system upon which all the schools are now operating, and making due allowance for the tardy advancements of the first two or three years, which were for the most part consumed in the work of preparation and in overcoming the prejudices and apprehensions of the Indians, there is good reason to believe that an entire reformation may be effected, (I mean among the tribes bordering on our settlements, and to whom those benefits have been extended,) in the course of the present generation; it being with the children of the Indians that those have to do who have undertaken this work of reformation.

Nothing appears to be required to effect so humane an object but the necessary means for the support of the system, as its enlargement may be required, and the continued application of the same zeal and intelligence which have, so far, characterized those who superintend and conduct it.²²

By 1824 there had developed considerable opposition to the continuance of the Federal Civilization Fund. The Senate Committee on Indian Affairs replied to the opposition:

The committee are aware that very considerable aids have been given by different Christian denominations, all of whom feel a deep interest in the paternal views of the Government. But the committee are well persuaded that, had the Government afforded no pecuniary aid, very few, if any, of the benefits which have been conferred, would have been experienced by the Indians. The annual appropriation of ten thousand dollars has encouraged the benevolent and pious, in many parts of the country, to form associations and collect donations with the view of aiding the humane purposes of the Government. Hundreds of such associations are now in active operation; and they are much cheered in their exertions by the rapid advances to civilization which the Indians have made.

It requires but little research to convince every candid mind that the

²² *A. S. P., I. A., II, No. 213, 523.* There were 241 teachers, clerks, and superintendents employed.—*Ibid.*, p. 524.

prospect of civilizing our Indians was never so promising as at this time. Never were means for the accomplishment of this object so judiciously devised, and so faithfully applied, as provided in the above act, and the auxiliary aids which it has encouraged. . . .

From the various lights in which the committee have viewed the policy of this law, they are convinced that it is founded in justice, and should not be repealed.²³

In answer to an inquiry from the Congressional Committee in 1824 as to whether the annual appropriation of \$10,000 could be withdrawn without injury to federal Indian relations, Secretary of War Calhoun replied:

I have to state, that the societies, in co-operation with whose benevolent efforts the fund referred to has been applied, have made considerable establishments in the Indian country, for the purpose of effecting the object of the appropriation, and incurred heavy expenses, under the expectation of a continuance of the aid which they have received from the Government. The Indians also have become much interested in these establishments, and would, no doubt, feel greatly disappointed if they are not continued. Should the fund, therefore, be withdrawn, it is my opinion that the measure would not only be productive of serious loss to these societies, but of the most injurious effects to our Indian relations; and that, both as it regards policy and justice, it would not be advisable to adopt it [the proposed measure] at this time.²⁴

The civilization fund was accordingly continued, but the change in federal policy prevented progress. During the next twenty-five years forceful removal of the Eastern tribes to the west of the Mississippi was largely realized.²⁵

²³ *Ibid.*, No. 203, pp. 457-459.

²⁴ *Ibid.*, p. 459.

²⁵ The subject of Indian education is continued in Chapter XXIII of this study.

PART II
THE COERCIVE PERIOD, 1825-1850

Chapter XIV

ADMINISTRATIVE REORGANIZATION AND FEDERAL INDIAN POLICY WITHIN THE WESTERN TERRITORIES

The year of 1825 might be regarded as the year terminating the old federal Indian policy of peaceful persuasion and negotiation and beginning the new coercive policy. There was, however, no distinct break with the policy of the past. There had often been coercion after the failure of peaceful negotiations. Washington, Jefferson, Madison, and Monroe had frequently resorted to force or the threat of force to secure Indian lands in order to make room for the advancing frontiersmen. During the previous twenty-five years, tribes or portions of tribes had been moved beyond the Mississippi and practically every tribe that still remained east of the Father of Waters had been pushed a little or considerably farther toward the West. To pursue a forceful policy of removal necessitated the reorganization of the administrative force.

ADMINISTRATIVE REORGANIZATION OF INDIAN AFFAIRS

There had been no fundamental legislation in regard to the administrative duties of the Indian agents from 1796 to 1818. Thus far the only officers in the Indian Bureau established by direct legislation were superintendents appointed under the Ordinance of 1786, the governors of territories, and the agents for Indian affairs authorized by treaties.¹

In the meantime, that is, between 1796 and 1818, an extensive establishment had grown up under executive patronage. The appropriation for Indian expenditures was general, and "under it the

¹The agents authorized by treaties were three: an agent to the Cherokees, East, by the treaty of October 2, 1798, one to the Creeks according to the treaty with that tribe of the same date, and another to the Cherokees, West, by the terms of the treaty of July 8, 1817. In the trading house establishment the officers in 1818 were a superintendent of Indian trade, agents and assistant agents of Indian trading houses, rightly called *factors* and *sub-factors*. See *House Reports*, 23rd Cong., 1st sess., No. 474, p. 6.

whole subject of the Indian Department passed on in silence, and almost in secrecy, until 1818." At this time there were fifteen agencies and ten sub-agencies.²

The appointment of all officers by the Constitution was vested in the President and Senate; therefore, the sole object of the act of April 16, 1818, seems to have been to bring back the appointment to the proper authority. It says: "The superintendent of Indian trade, the agents and assistant agents of Indian trading houses, and the several agents of Indian affairs, shall be nominated by the President of the United States, and appointed by and with the advice and consent of the Senate," and "that from and after the eighteenth instant, no person shall act in either of the characters aforesaid, who shall not have been thus first nominated and appointed."³ This measure did not establish agencies or create the office of Indian agents, but merely directed and restricted the mode of appointment. The act, however, may be considered contemporaneous with the statute of April 20, 1818, which fixed the compensation of the fifteen agents.⁴

These laws were passed with reference to the existing state of things without inquiring whether or not these agencies had been previously established by law. Indian agencies were created by the power of appointment, and so long was this power exercised that for years no examination was made in regard to its legality. If, however, these acts, and the long usage of the executive should be considered as then establishing the agencies named in the second act, they by consequence establish the principle that a legislative act fixing the salaries was necessary to establish all subsequent agencies.⁵

Ever since the trading house system was abolished in 1822, the appropriations for the payments of the agents and subagents had been in the general form, "for pay of the several Indian agents as allowed by law"; "for pay of the sub-agents as allowed by law." The appropriation bills of the 16th and 20th of April, 1818, took

² *Ibid.*

³ *Ibid.*, p. 6. *Stat. L.*, III, 428. Each agent had to give bond for \$10,000.

⁴ *Ibid.*, p. 461. The salaries were graded. All subagents were allowed \$500 a year.

⁵ See *House Reports*, 23rd Congress, 1st sess., No. 474, p. 7.

it for granted that the agencies had been legally established, but they did not establish them.⁶

The growth and development of the frontier between 1818 and 1830, and "the consequent complexity and magnitude of the duties devolving" upon the Secretary of War, caused Congress to attempt to lighten the burden of the overworked Secretary in the act of July 9, 1832. This act created the office of commissioner of Indian affairs, subordinate to the Secretary of War.⁷

In 1834 there were eighteen Indian agents. Of this number nine were referred to the act of 1802 as the authority for their appointment and two to the act of 1793.⁸ For five of these the committee on Indian affairs in 1834 were unable to find that their salaries were authorized by any law, namely:

Agent to the Caddoes, \$1,200.

Agent to the Choctaws, West, \$1,500.

Agent to the Creeks, West, \$1,500.

Agent to the Kansas, \$1,000.

Agent to the Sacs and Foxes, \$1,200.

Of the twenty-seven subagents, twenty-one were referred to the act of 1802, and the remainder to special acts and treaties.⁹

In 1834 there was a general reorganization of the Indian Bureau. However, the offices of superintendents, agents, and subagents of Indian affairs were continued, but with a modification and extension of their powers. The tribes were placed at too great a distance from the government to enable them to make their complaints heard "against the arbitrary acts of our agents," and it was believed that they had much cause of complaint. Since the agents were subject to no immediate control, they were held responsible for little else than for moneys received. The superintendents were, therefore, authorized in 1834 to exercise a general supervision and control over the official conduct of the agents and subagents, and to suspend them from office for misconduct, reporting their reasons therefor to the President. The duties of agents and subagents were of the same character but of different

⁶ *Ibid.*

⁷ *Stat. L.*, IV, 564.

⁸ *House Reports*, 23rd Congress, 1st sess., No. 474, p. 7.

⁹ *Ibid.*

extent. Each was to be assigned to a designated district and to act independent of the other. The term subagent was retained merely for convenience to designate a class of agents whose appointments and salaries were different from those of the agents. Two superintendencies were abolished. The bill established certain specified agencies, provided for the appointment of the agents, and fixed their salaries. Some of these agents were to be discontinued at specified periods, and still others from time to time at the pleasure of the executive, as their duties could be performed by subagents. All agencies other than those provided for were abolished, and none in the future were to be established without the sanction of Congress. In order to bring back the appointive power where it originally belonged, the bill provided that the term of office of the incumbent at the time should expire on March 4, 1835, and that in the future the agents were to be appointed for four years. The appointment of subagents as well as the establishment of subagencies was referred to the executive. The salaries of the interpreters were lowered and many positions eliminated, thus saving the government over \$26,000 annually. The power given the President to appoint military officers to perform the duties of agents tended to enable the government to lessen the number of Indian deputies still further; and the chief executive was also authorized to dispense with the subsistence and disbursing agents and their assistants, thereby effecting a real saving to the government.¹⁰

It was not until the late forties that another change in organization was seriously urged. On December 9, 1848, in his annual report to Congress, Robert J. Walker, Secretary of the Treasury said:

The duties now performed by the Commissioner of Indian Affairs are most numerous and important, and must be vastly increased with the great number of tribes scattered over Texas, Oregon, New Mexico, and California, and with the interesting progress of so many of the tribes in Christianity, knowledge, and civilization. These duties do not necessarily appertain to war, but to peace, and to our domestic relations with those tribes placed by the Constitution under the charge of this Government.

¹⁰ *Ibid.*, pp. 7-9, 23-40, 43-48. For the law of 1834, see *Stat. L.*, IV, 735-738.

This most important Bureau, then, should be detached from the War Department with which it has no necessary connection. . . .

There is another reason why the Pension Office, as well as the Indian Bureau, should be detached from the War Department and placed under the supervision of the same Secretary to whom the Land Office would be intrusted, namely: under our system revolutionary and military bounties and land warrants, as well as under treaties and reservations with Indian tribes, many questions arise in relation to our public lands and private land claims, connecting themselves frequently and intimately with our general land system, and with decisions upon land titles made by the Commissioner of the General Land Office; and therefore all those bureaus whose duties are so intimately connected with the public lands, as well as with private land claims, ought to be placed under the supervision of the same department, or conflict of decision and jurisdiction may, and does in fact, take place.¹¹

Although the creation of a similar department had been urged at intervals since 1810 by James Madison, John Q. Adams, Daniel Webster, Andrew Jackson, James K. Polk, and others, it was largely through the efforts of Walker that the Department of Interior was created on March 3, 1849, that the Bureau of Indian Affairs was transferred to that Department,¹² and that "the Indians passed from military to civil control."¹³ There it has remained ever since, despite the efforts of the War Department to regain control.

According to the report of the Commissioner of Indian Affairs, Luke Lea, there were in 1850 two hundred and eighty-one men employed in some phase of Indian service and subject to the jurisdiction of the head commissioner, which cost the government in the form of salaries approximately \$150,000 annually.¹⁴

THE REMOVAL POLICY

The State of Georgia had long contended that under the western land cession agreement of 1802 the federal government, within a

¹¹ *House Ex. Doc.*, 30th Cong., 2nd sess., II, No. 7, 36-37.

¹² *Stat. L.*, IX, 395-397. See H. B. Learned, *The President's Cabinet*, pp. 253-87 and Fletcher, *Indian Education and Civilization*, p. 108.

¹³ *House Ex. Doc.*, 30th Cong., 2nd sess., II, No. 7, 35-36. Walker is supposed to have actually drafted the original bill.

¹⁴ This included superintendents, agents, subagents, farmers, strikers, clerks and all kinds of employees. See *House Ex. Doc.* 31st Cong., 2nd sess., V, No. 27, 2-12.

reasonable time, was morally and legally bound to extinguish the Indian land claims within the state and that the government had been negligent in carrying out its obligations. By 1823 Georgia claimed that the Indians should be moved by force if they could not be persuaded peacefully to go West. This contention President Monroe denied in a special message to Congress, March 30, 1824, and again in his annual message of December 7, 1824.¹⁵

It was President Monroe, however, who advocated a rather definite plan of Indian removal in his message to Congress in 1824 and again on January 27, 1825. Accompanying his message were detailed estimates from Calhoun, the Secretary of War, for carrying the plan into effect,¹⁶ but Congress did not respond to the request.

Although the Secretary of War and the President desired and recommended the removal of all the remaining tribes east of the Mississippi to the West, they were immediately concerned with the pressing Indian problem in the State of Georgia. In order to fulfill the 1802 agreement with Georgia, the federal government, in its endeavors to annul the Indian title to the soil within the state, estimated its expense during the previous twenty-five years at \$7,735,243.521½.¹⁷ There still remained in the possession of the Indians 9,537,920 acres; of which 5,292,160 belonged to the Cherokees and 4,245,760 to the Creeks.¹⁸

A treaty was made, however, with the Creeks at Indian Springs on February 12, 1825, but it was so fraudulent that a new agreement was negotiated at Washington a year later, which provided for a cession of all the remaining lands held by that tribe in Georgia.¹⁹

Only the Cherokees now possessed land in the State of Georgia. In 1828 and 1829 Georgia annexed the Cherokee country to certain of her frontier counties. The tribe applied to the Supreme Court for an injunction to restrain Georgia from executing these laws. The injunction, however, was denied on the ground that the Cherokee Nation was not a foreign nation and hence could not maintain a suit in the Supreme Court.

¹⁵ *Messages and Papers*, II, 235.

¹⁶ *Ibid.*, pp. 280-283; *A. S. P.*, I. A., II, No. 218, 541-547.

¹⁷ *Ibid.*, No. 204, pp. 460-463.

¹⁸ *Ibid.*, No. 218, p. 545.

¹⁹ *Laws and Treaties*, II, 264-68.

Jackson was elected President in 1828, and in 1830 the removal bill was finally passed. By this time the Indian question had become so important that it occupied a position along with such momentous questions as the national bank, tariff, and internal improvements. The act²⁰ authorized the President to exchange the public domain in the West for Indian lands in the East, to give perpetual title to the country thus exchanged, to pay for improvements made upon the old possessions, and to give aid and assistance in emigration. The measure was not to interfere with existing treaties and the sum of \$500,000 was appropriated for the purpose of making removal possible. The law, however, by the broadest interpretation, could not possibly be interpreted to mean that the President could compel the Indians to emigrate. President Jackson, however, exerted considerable pressure to secure removal; therefore, during the next twenty years the vast majority of the tribes had been moved across the Mississippi, and some of the tribes were compelled to emigrate four or five times.²¹

THE INDIANS, RAILROADS, AND THE WESTERN TERRITORIES

The law of May 28, 1830, with the Indian treaties in mind, designated the region west of Missouri and Arkansas for the red men, and provided for the emigration thither of various Eastern tribes and also the Indians residing west of the Mississippi. In the early forties the "Indian Territory" extended from the Red River on the south to the Platte. The Sioux and their neighbors further north were not disturbed at this time, but within a surprisingly short time conditions arose which forced the government to organize territorial governments in the Sioux country. Consequently, within a few years, the Sioux wars naturally began.

The organization of the Indian territory beyond Missouri and Arkansas had tremendous effect on the migration thither of various tribes. The federal intercourse acts and covenants with the red men prohibited white settlements within the designated region. Thus the exodus of prospective white settlers was for several years partially impeded.

The course of the frontiersmen was directed, therefore, into Texas and Iowa respectively. So long as the American pioneers

²⁰ *Stat. L.*, IV, 411-412.

²¹ *Sen. Doc.*, 33rd Cong., 1st sess., No. 379, p. 6.

could find plenty of fertile, accessible, and unclaimed regions elsewhere, the government experienced little complaint from them. The demand for these lands "had not become overwhelming when interest in the Pacific coast made the larger Indian territory for a time more important" because it furnished an obstacle to the various road and railroad projects.²²

It was the movement for a transcontinental road or railroad which eventually led to the breaking up of the larger Indian territory.

Under the conditions that had hitherto prevailed the southern part of this area would have been subjected to greater pressure than the northern part, as the frontier line of the southwest had always been beyond that of the northwest. Thus Kentucky and Tennessee were settled and admitted into the Union before Ohio, and Arkansas and Michigan were contemporary frontiers of settlement. Wisconsin, Iowa, and Texas formed the next frontier, and Oklahoma belongs geographically with this line of states. The settlers south of the Arkansas River and west of Fort Smith, who were driven out shortly after 1820 to make room for the Choctaws, were the advance guard of an invasion which, if it had not been checked, would have brought the country west of Arkansas into the Union before 1850, either as a part of Arkansas or as a separate state.²³

The plan to make accessible to whites a portion of the Indian territory and to give Oregon a territorial government was the outgrowth of an increasing desire for a road and, if deemed feasible, a railroad to the Pacific coast, to be a link in the trade with China. In 1844, William Wilkins of Pennsylvania, the Secretary of War, recommended the organization of a new territory which should include both banks of the Platte. This was one of the plans to connect Oregon with the East, to overcome the superiority of the British on the Pacific, and to augment our trade with the Orient. He recommended that the tribes should be moved northward and southward and then "an organized and settled district should be created to control the passes to Santa Fé and to Oregon."²⁴ In

²² Roy Gittinger, "The Separation of Nebraska and Kansas from the Indian Territory," *Mississippi Valley Historical Review*, III (March, 1917), 442.

²³ *Ibid.*, pp. 442-443. See *A. S. P., I. A.*, II, No. 219 (C), 557-558.

²⁴ *House Ex. Doc.*, 28th Cong., 2nd sess., I, No. 2, 123-124. See Gittinger, "The Separation of Nebraska and Kansas from the Indian Territory," *Miss. Valley Hist. Rev.*, III, 444.

December, 1844, Stephen A. Douglas brought forward in the House a bill to organize the territory of Nebraska, in accordance with the proposal of the Secretary of War. On January 22, 1845, he presented another measure to construct an adequate number of military posts in Oregon and Nebraska to protect emigration and commerce with California and Oregon.²⁵ Even as early as December, 1844, Atchison introduced a bill to organize the territory of Oregon, and to require the President "to cause to be erected, at suitable places, a line of stockade forts and block-houses . . . from some point on the Missouri River, on the most practicable route to the South Pass in the Rocky Mountains." The President was also required "to cause fortifications to be erected at or near the mouth of the Columbia River."²⁶

When the Oregon bill was taken up on January 31, 1845, a long debate followed. In the course of this debate, Douglas said: "We want Texas to protect our commerce in the Gulf, and we want Oregon to protect our fisheries and our trade with China, and to put a stop to the unscrupulous aims of Great Britain at universal dominion." He then spoke of the means by which England was attempting to control the whole trade of China, and showed the means by which he was convinced that the United States could counteract the British movements, "and secure the best part of that trade to ourselves." Douglas was then asked if he would vote for an appropriation of money for the purpose of constructing a railway to the Oregon country, to which he replied that he "would with great pleasure," even "if no other member did it," but he felt certain that other members of the House of Representatives were willing to vote for such a measure, and that he would bring in a "measure to authorize a survey of that country for a railroad at this very session. Do that, make the territorial governments in Nebraska and Oregon, and we could drive Great Britain and her ships and commerce from China."²⁷

Perhaps the strongest statement in regard to the possibilities of Oregon was made by C. J. Ingersoll, Representative from Pennsylvania. The Oregon question, he said, had been considered chiefly from the angle of territorial acquisition when it should be viewed as a commercial question. In a strong speech, he said:

²⁵ *Congressional Globe*, 28th Cong., 2nd sess., XIV, 21, 41, 165, 173.

²⁶ *Ibid.*, App., p. 44.

²⁷ *Ibid.*, p. 226.

To express the ideas I have always entertained on the subject in language more forceful and eloquent than mine, I read from a newspaper which has been sent to me [giving] the sentiments of a gentleman whose high appreciation of the importance of our hold on Oregon is by no means beyond its merits.

'The Oregon Question is one of great national moment, and should engage the early, earnest attention of Congress. The public mind has not fully appreciated its transcendent importance. It embraces consequences to the republic equal if not superior to any question of acquisition or annexation which has arisen, whether it be contrasted with the purchase of the Louisiana Territory, the treaty acquiring Florida, the present movement in reference to Texas, or the steadily pursued policy of extinguishing the Indian title. . . . The American continent, washed in its entire length by two great "highways of nations," presents extraordinary advantages to its population for commercial intercourse. Its position is one of nature's monopolies. From its Atlantic ports it can grasp the commerce of Europe—from those on the Pacific it may seize the trade of the East Indies and China. Seat the United States firmly in Oregon, and the commercial enterprise and wealth of the world will centralize within our limits. . . . No nation is or has been so favorably situated to divert this stream of wealth into its lap, as will be the population occupying Oregon. The Pacific seas are free from those storms which rage on the Atlantic, and are the theatre for triumphs of steam. Commerce might be conducted across this expanse of waters, from coast to coast, with the certainty, safety, and speed of railroad travelling. It would diffuse its stores throughout the Union—the long and dangerous passage round the Capes would be given up—and Europe would seek in our Atlantic ports the products of this tropical garden. . . . Let Congress, the state legislatures, the press and the people, awake to a sense of the real importance of the Oregon question. The recommendation of the Secretary of War is judicious in connection with this subject. An immediate organization of the territorial government of Nebraska, extending from Missouri to the Rocky Mountains, and the making of a good road throughout its whole extent, together with the erection of military posts, would hasten the growth of our transmontane power, and enable us to sustain our title. That is just and righteous, and before it is surrendered to the encroachment or ambition of any nation, let the cannon of the republic be heard among the peaks and crags of the Rocky Mountains, and its stars and stripes be displayed along the coast, to the breezes of the Pacific Ocean.²⁸

²⁸ *Ibid.*, App., p. 241. Asa Whitney was one of the chief agitators for a

Despite the interest that had developed rather suddenly in Nebraska and the Pacific Coast, the Indians had not been entirely forgotten. In fact, they were exceedingly prominent in the minds of the politicians. They were again an obstruction. Why should an inferior race stand in the path of progress and power? The tribes had to be moved again to pave the way for the Oregon project.

The Indians, though, had some supporters. Some thought that recent pledges to the aborigines necessitated doing something for them. On June 22, 1846, the Committee on Indian Affairs in the House presented a measure to organize an Indian territory. Since the proposal commanded little attention, a corresponding bill was offered. The latter measure provided for an Indian confederacy to be formed out of the region west of the states of Missouri and Arkansas, north of Texas, and south of the Missouri River. Any tribe within this territory might remain aloof, join or secede from the confederacy at its discretion. The tribes, within the territory and co-operating with the proposed organization, might "establish and maintain such government for the regulation of their own internal affairs as to them . . . seem[ed] proper, not inconsistent with the constitution of the United States, or the laws thereof."²⁹ The governor of the territory was appointed by the President and designated ex-officio Superintendent of Indian Affairs, at a salary of \$3,500.³⁰ The Indians, however, protested against its passage, and the bill came to naught. They said that the bill was probably founded "in the purest philanthropy, and in an earnest desire for the best interest of the Indians, is beautiful in theory, but in practice, would be destructive to all the long cherished hopes of the friends of the red men, as it would introduce discord, dissensions, and strife among them." The conditions of each tribe differed, and so did their habits, prejudices, and modes of living. The Indians also observed that since the natives did not understand each other's language, a legislature composed of representatives from each of the tribes would make it necessary that "every article read, and every speech made, even the very call to order would have to be repeated by eight or ten interpreters in as many transcontinental railroad between 1844 and 1853. He spoke in behalf of his scheme throughout the United States.

²⁹ *House Report*, 30th Cong., 1st sess., III, No. 736, 11-14.

³⁰ *Ibid.*

different languages, producing endless delay and confusion." In addition, bad men would "use it as a means of introducing discord and confusion among our people, and finally driving them from their present happy home to wandering on the shores of the Pacific, or sink in its deep waters."³¹

As usual, when the white men wished virgin soil the Indians were moved, pressure was again brought to bear on the President, the Senators, and Representatives (who proved to be interested listeners) to move the nations because they were much in the way under the new and changed conditions. Early in 1849 the North Carolina legislature petitioned Congress to give the aborigines a permanent home, guaranteed to them against further encroachment "by the great current of western emigration; by which their moral, intellectual and social condition may be improved and elevated; by which the blessings of education, civilization and Christianity may be imparted to them; by which they may all be brought together and united in one grand confederation, . . . and if found practicable, they may be ultimately admitted into our federal union."³² During the same month Pennsylvania made a similar request. Evidently North Carolina and Pennsylvania did not regard their home in the Indian territory permanent.

With the securing of California in 1848, there was greater necessity for better means of communication with the Pacific, so on March 15, 1848, Douglas, now senator, introduced his second bill to organize Nebraska. On December 20 of the same year he presented the bill for the third time. In his annual report, the commissioner of Indian Affairs, W. Medill, stated that his bureau had actually begun "the establishment of two colonies for Indian tribes that we have been compelled to move," one north on the head waters of the Mississippi, the other south on the western borders of Missouri and Arkansas. Between these rivers, he said, "there would be a wide and safe passage for our Oregon emigrants; and for such of those to California as may take that route."³³ The northernmost passage to Oregon was inhabited by the Sioux, and snow made it less practicable. There was still another route to California,

³¹ *House Mis. Doc.*, 30th Cong., 2nd sess., No. 35, pp. 1-4.

³² *Ibid.*, No. 39, p. 1.

³³ *House Ex. Doc.*, 30th Cong., 2nd sess., No. 1, pp. 388-390.

namely through Texas, but that was objectionable to the central and northern states. "The Indian territory, proposed by the bills of 1834 and 1838 was a buffer between the United States and Mexico; the Indian territory in 1848, although it had practically the same boundaries, had become a barrier through the geographical center of the United States as constituted after the war with Mexico."³⁴

Since the Indians were forced to give way to a stronger race and a superior civilization, the Senate Committee on Indian Affairs in 1854 frankly admitted the truth in the following succinct passage:

Over and over again, in the most solemn manner, we have guaranteed to nation after nation such of its lands as remained to it, after we had cajoled or forced it into a cession; and, as often, after the lapse of a few short years, has the wave of white population again overtaken the hapless people, forcing it ever westward, and by new negotiations, new appliances of money and presents to corrupt greedy chiefs, and new threats of leaving them to the tender mercies of state sovereignty, another and another cession of land has been extorted, until the last grave of their fathers was included in the field of a stranger.³⁵

³⁴ Gittinger, "The Separation of Nebraska and Kansas from the Indian Territory" *Miss. Valley Hist. Rev.*, III, 445.

³⁵ *Senate Doc.*, 33rd Cong., 1st sess., No. 379, p. 6.

Chapter XV

FEDERAL FINANCIAL AND ECONOMIC POLICY TOWARD THE CHEROKEES

THE GEORGIA COTTON PLANTERS

Judging by the treaties which the federal government had hitherto negotiated with the Cherokees, one would be led to believe that the government had done all that could be reasonably expected of it in annulling the Indian claims in Georgia and Tennessee. But the Georgia cotton planters felt cramped in the East and wanted virgin soil to replace the worn out land which had been tilled by slaves for years. The natives were an obstacle in the path of these fortune seekers; so they brought pressure to bear on the State of Georgia to move the red men. In turn, the state appealed to the authorities at Washington and accused the federal government of bad faith in not living up to the agreement of 1802. When the central government hesitated to act, Governor Troup began to defy John Q. Adams and to take matters into his own hands.

In May, 1828, an agreement was made with the Western Cherokees: for the surrender of all their land in the territory of Arkansas seven million acres were given to them between the Red and Arkansas rivers. They were also given a permanent outlet to the West as far as the United States possessions extended. As usual the tribesmen were to be paid for all improvements made in Arkansas, to be appraised by persons appointed for that purpose. In consideration of the inconvenience and trouble caused by removal, and in recognition of the fact that a great portion of the country herein ceded to the Cherokees was of less value than the lands already possessed by them in Arkansas, the United States agreed to pay to the members of the tribe immediately after their removal¹ the sum of \$50,000; also an annuity for three years of \$2,000 to go towards defraying the cost and trouble which they would have in going after and recovering their stock which would doubtless stray into Arkansas Territory in quest of old and familiar pas-

¹ Removal was to be effected in fourteen months.

tures; \$8,760 for spoilations suffered by them up to date; \$1,200 for the losses sustained by Thomas Graves, a Cherokee chief; \$500 to be conferred upon George Guess (Sequoyah), another Cherokee, for the great benefits he conferred upon the tribe from the use of the alphabet which he devised, and, for the relinquishment of a valuable saline, the privilege of locating upon another on Lee's Creek within the new country. The United States further agreed to pay \$2,000 annually to the Cherokees for ten years to be expended under the direction of the President in the education of their children; and \$1,000 was allowed for the purchase of a printing press and types. The national government promised to help the religious societies construct new buildings in the western country. There was reserved to the federal government a tract of land two miles wide and six miles long for the accommodation of the military force which was stationed at Fort Gibson on the Grand River. The right was reserved to establish a road through their country for the purpose of having a free and unmolested way leading to the said Fort. It was agreed, also, that Captain James Rogers in consideration of various losses sustained by him in the service of the United States should be paid the sum of \$500.²

In order to induce the Eastern Cherokees to migrate, the following provision was incorporated in the treaty:

that their Brothers yet remaining in the States may be induced to join them and enjoy the repose and blessings of such a State in the future, it is further agreed, on the part of the United States, that to each Head of a Cherokee family now residing within the chartered limits of Georgia, or either of the States, East of the Mississippi, who may desire to remove West, shall be given, on enrolling himself for emigration, a good Rifle, a Blanket, and Kettle, and five pounds of Tobacco: (and to each member of his family one Blanket), also, a just compensation for the property he may abandon, to be assessed by persons to be appointed by the President of the United States. The cost of emigration of all such also be borne by the United States, and good and suitable ways opened, and provisions procured for their comfort, accommodations, and support, by the way, and provisions for twelve months after their arrival at the Agency; and to each person, or head of a family, if he take along with him four persons, shall be paid immediately on his arriving at the Agency and reporting himself and his family or fol-

² *Laws and Treaties*, II, 288-291.

lowers, as emigrants and permanent settlers, in addition to the above, *provided he and they shall have emigrated from within the Chartered limits of the State of Georgia*, the sum of fifty dollars, and this sum in proportion to any greater or less number that may accompany him from within the aforesaid Chartered limits of the State of Georgia.³

GEORGIA EXTENDS HER LAWS OVER THE CHEROKEE COUNTRY

The Cherokees who lived in Georgia followed the progress of the presidential campaign of 1828 with peculiar interest, because it held such ominous possibilities for the tribe.⁴ The state was also vitally interested in the election, and within a few weeks after the overwhelming election of Jackson was known, her legislature passed two acts which were designed to devitalize the new constitutional Cherokee government. The first incorporated the Cherokee territory within some of the frontier counties of Georgia; and the second extended the laws of Georgia over the Cherokee country after January 1, 1830, and nullified the tribal enactments.⁵ The natives immediately protested against these acts and declared them null and void. They appealed to Washington for relief, but the retiring administration could do nothing and the incoming administration of Andrew Jackson refused to aid the Indians. They were told that they would have to go west of the Mississippi. They refused to give up hope. In the meantime the Georgia laws were being enforced gradually. An extra session of the Cherokee Council drew up memorials to Congress, asking for mitigation and protection in accordance with the treaty obligations. However, Congress was not in session at the time and did not meet for several months afterwards.

PRESIDENT JACKSON AND THE CHEROKEES

In the meantime, in order to promote his removal project, President Jackson sent General William Carroll, of Tennessee, as a secret agent among the Cherokees and Creeks to develop and encourage public sentiment in favor of emigration. It was known

³ *Ibid.*, p. 290.

⁴ *Cherokee Phoenix*, August, September, and October issues; Eaton, *John Ross and the Cherokee Indians*, p. 48.

⁵ *Ibid.*; Moses Dawson, *Compilation of the Laws of the State of Georgia*, (1829), 29-198.

that Carroll was eager to get rid of the Cherokees in the East in general and in Tennessee in particular. He was instructed to keep his official character shrouded in secrecy, informed that he might distribute presents among the poorer Indians, the children of the chiefs, and even the leaders themselves, provided he did not exceed \$2,000, in order to gain a personal following and to be able to bring them to some future agreement.⁶ Carroll reported that the Cherokees were too discerning to be deceived and that they would rely upon Congress to sustain them in their rights against the encroachments of Georgia.⁷

Jackson was now more determined than ever to move the tribe, and in his message to Congress on December 8, he openly advocated removal. He said that the Cherokees were interfering with the rights of a sovereign state; and that he would not countenance the efforts of the Indians to establish an independent government in Georgia and Alabama.

THE REMOVAL BILL

The question was taken up earnestly by both Houses of Congress early in 1830. There were many bitter debates and vituperation on the Removal Bill which was espoused by the administration. Finally, in May, 1830, the bill was passed and signed by the President. According to the words of Senator Benton, it was "one of the closest and most earnestly contested questions of the session, and was carried by an inconsiderable majority."⁸

GOLD DISCOVERED

In July, 1829, another complication arose to add serious trouble to the Indian question. Gold was discovered in the Cherokee country. This caused the value of their land to be greatly augmented. Seekers of gold rushed into the country in violation of the Cherokee law which prohibited intruders on their land without a permit from the tribal officials, and also, in defiance of the federal intercourse act which forbade anyone to settle or trade on Indian territory without a special federal license. Since the gold enthusiasts

⁶ Indian Office Manuscript Records, Secretary of War, Eaton, Letters of Instructions to Carroll, May 30, 1829.

⁷ *Ibid.*, Carroll to Eaton, November 19, 1828.

⁸ Benton, *Thirty Years' View*, I, 164.

disregarded both the federal and the Cherokee law, a period of extreme lawlessness prevailed. Governor Gilmer of Georgia issued a proclamation in which he prohibited all individuals, which included Indian occupants, from encroaching or settling upon Georgia territory, and announced that no gold or silver was to be taken from the land.⁹ The natives felt that the precious metal was their own, and therefore refused to observe the governor's proclamation. The Georgia authorities promptly had such Indians arrested and thrown into prison. Federal troops were rushed into the region to restore order. When the red men appealed to them for protection, they were refused, it was asserted, because they were violating the laws of the state.¹⁰

The governor now requested that the federal troops be removed from the commonwealth since the laws of the state had been extended over the gold region. Jackson complied with the request and left Georgia to act as she saw fit. The legislature established a heavy guard around the gold fields to keep order there. It then proceeded to pass act after act to reduce the influence and power of the Cherokees. It was made unlawful for the Cherokee Council to assemble within the state except for the expressed purpose of relinquishing land. If the tribal judges attempted to hold court a penalty of four years' imprisonment would be inflicted. Any white person who attempted to reside in the Cherokee country on or after March 1, 1831, without a special permit from the governor of the state would be guilty of a misdemeanor, subject to the penalty of not less than four years' imprisonment. The governor was allowed to license only those who would take an oath to support and defend the constitution and laws of the state.¹¹ The Cherokee country was soon mapped out into counties. Lots of one hundred and sixty acres each and gold lots of forty acres each were surveyed. These lots were distributed among the white citizens of the state. Each Cherokee was given a reservation of one hundred and sixty acres without a deed; therefore, possession of it depended not upon the will of the Indian but upon the decision of the state legislature. "Contests over these lottery claims" naturally followed. A law was passed prohibiting any member of the tribe from

⁹ *Niles' Register*, XXVIII, 328.

¹⁰ *Ibid.*, pp. 404-405.

¹¹ Eaton, *John Ross and the Cherokees*, p. 52.

bringing suit in the state courts or "to testify against a white man." This law made it impossible for the Indian to defend his rights in any court or to resist the seizure of his homestead, or even of his dwelling house, under penalty of imprisonment at the discretion of the Georgia courts. Still another law was passed which made "invalid any contract made by an Indian unless established by the testimony of two white men"; this practically cancelled all debts due the Indians.¹²

It is easily seen that the purpose of these laws was to force the natives to move out of the state. White people entered the Cherokee country in great numbers, seized horses and cattle and drove them off in large numbers. Families were ejected from their homes in bleak weather to make room for whites. When the guilty were arrested and arraigned before the courts "the cases were dismissed on the ground that no Indian could testify" against a member of the Caucasian race.¹³

PRESIDENT JACKSON AGAIN TAKES THE INITIATIVE

While William Lloyd Garrison was using his pen to arouse the people against the evils of Negro slavery at this time, the people were indifferent to his cause. But the case of the poor Cherokees had aroused the whole country. The President and Congress were bitterly criticized. Jackson had planned to secure emigration without so much publicity of the methods employed, but he did not surrender. In order to paralyze any attempt at concerted action on the part of the tribes, the Chief Executive instructed the Secretary of War to issue the following statement to all the agents within the Cherokee country:

The President directs that the practice of paying annuities to the Treasurer of the Cherokee Nation shall from henceforth be discontinued; and that, with a view to secure to the mass of the nation their proper proportion of such annuity, the same shall be hereafter paid in every case to the individuals respectively entitled, that is to say, to the chiefs and warriors and common Indians, and their families, in the ratio in which these several classes are entitled; where there are Indians without families, the payments are to be made to them per-

¹² *Ibid.*, p. 53.

¹³ *Ibid.* See also speech made by Edward Everett in the Senate, April 16, 1830, in *Niles' Register*, XXXIX, 179-180.

sonally, and not to their chiefs. This mode of distribution is not, under any circumstances, to be departed from.¹⁴

At this time the annuities amounted to ten thousand dollars a year and two-thirds of that sum was due to the Eastern tribe, while the remainder belonged to the Western Cherokees. For more than ten years the money had been turned over to the elected treasurer of the tribe and used to promote the general welfare. According to the new payment plan, each Indian would receive approximately forty-two cents, and it cost several times that to make the trip to the agency to secure it. The Cherokees voted several times that they wished to receive it in the regular way and refused to accept it in the new form; therefore, Jackson proved to be as stubborn as the men of the forest by refusing payment and allowing the interest to accrue in a Nashville bank for five years.¹⁵ This forced the Cherokee government to borrow money to meet general expenses and to pay the salaries of the officials.¹⁶ The commissioners of the United States now had an excuse for assembling the Cherokees to get them to emigrate. Their efforts, however, ended in failure and Georgia was unable to get rid of the Indian nuisance.

THE SUPREME COURT

As a last resort the Cherokees appealed to the Supreme Court for redress. The attempt to secure an injunction was refused and accordingly dismissed by asserting that the tribe was not an independent state in the sense of the Constitution of the United States, and, therefore, could not maintain action in the federal courts.

In the case of *Worcester vs. Georgia*, however, the Cherokees received the decision they desired. In this well known case the Supreme Court declared the obnoxious laws of Georgia unconstitutional and ordered the release of Worcester. Jackson was placed in a dilemma, since Georgia was determined to fight before she would yield. It was up to him to enforce the ruling of the Supreme Court. Instead, he let Georgia defy the highest tribunal of the land. "The laws of the United States must be executed"—but only when Jackson saw fit.

¹⁴ *House Ex. Doc.*, 21st Cong., 2nd sess., III, No. 102, 1-2.

¹⁵ *Sen. Doc.*, 25th Cong., 2nd sess., II, No. 120, 529. See Eaton, *John Ross and the Cherokees*, p. 53. ¹⁶ *Sen. Doc.*, 25th Cong., 2nd sess., II, No. 120, 529.

CHEROKEES DIVIDED INTO TWO PARTIES

Under such unjust treatment, it is only natural that a few individuals would advocate emigration in order to live in peace again. Thus sprang up a faction that advocated removal, known as the Treaty Party. The Indians were in distress, demoralized, and deprived of their annuities. The factional fight, therefore, grew more bitter and new recruits were added daily to the party in favor of migration. In the meantime, negotiations for removal were begun with the party favorable to it. A treaty was finally negotiated, submitted to the whole Cherokee tribe, and overwhelmingly defeated.

The regularly constituted Cherokee government was now alarmed at what might be agreed upon between the Treaty Party and the authorities at Washington. It decided, therefore, to send a delegation to the capital to defeat the treaty men at any price. If a treaty had to be made it should be made with the constitutional government. In the winter of 1835 there were two rival delegations at Washington, John Ross, who represented the regular government, and Major Ridge who represented the small group who favored removal.

THE FEDERAL GOVERNMENT PLAYS ONE FACTION
AGAINST THE OTHER

The Secretary of War proceeded to recognize the Ross delegation, but failing to reach an agreement with them, he then turned to the Ridge deputation. When Ross heard of this procedure, he asked President Jackson to allow him to present a proposition for a treaty. Permission was accordingly granted. Ross offered to sell all of the Cherokee Country East for \$20,000,000. The President considered these terms excessive and refused to consider the proposition further. Ross then proposed to allow the Senate to decide the sum tentatively, reserving the right to refer any proposals made to the Cherokee tribe. This proposition was accepted and the case was sent to the Senate in the form of a memorial. The matter was taken up by the Senate Committee on Indian Affairs, whose Chairman was Senator King of Georgia. The committee reported that not more than \$5,000,000 should be paid the Cherokees for their eastern possessions. The Ross delegation refused to consider these

terms, so a treaty was then negotiated with the Ridge faction which provided for the payment of \$4,500,000 for Cherokee possessions. The administration then attempted to get the agreement ratified by the Cherokees. But an unexpected move took place when the two factions united and defeated the treaty. Later the Ridge faction disagreed with the Ross group and strife began.¹⁷ In order to take advantage of this cleavage, Schermerhorn and Carroll were appointed on a commission to effect a treaty. This was finally accomplished at New Echota, Georgia, in 1835, much against the will of the majority of the Cherokees. The regularly constituted government protested against the treaty and refused to have anything to do with it because they regarded the arrangement illegal and therefore not binding.

THE NEW ECHOTA TREATY

The New Echota agreement ceded all of their Eastern Cherokee possessions to the United States for \$5,000,000, and a common joint occupation of the 7,000,000 acres previously granted to the Western Cherokees and an additional tract of 800,000 acres west of Missouri was given them by patent in fee simple. The right to build as many post and military roads through their country as the United States might desire was granted. In constructing such roads, the federal government was to pay for any damages done to personal property. The United States stipulated to move the Cherokees to their new homes and to subsist them for one year after their arrival in the West. Those who were judged capable of subsisting and transporting themselves were permitted to do so, and they were allowed in full for all claims for the same \$20 for each member of their family. In lieu of their one year's rations they were allowed \$33.33 if they so desired. The central government agreed to appraise all improvements made in the East and all the ferries according to their net income, such improvements from which they were dispossessed by the State of Georgia were to be paid for by the government. The sum of \$200,000 was to be invested by the government in profitable stocks; \$50,000 to be placed as an orphans' fund; \$150,000 to be set aside as a permanent

¹⁷ Eaton, *John Ross and the Cherokee Indians*, pp. 64-71.

school fund. The United States further stipulated to pay the just debts and claims against the Cherokee tribe, and the sum of \$60,000 was to be appropriated for that purpose. No claims, however, against individual persons of the tribe were to be paid by the government. The sum of \$300,000 was set apart to pay the just claims of the Cherokees upon the United States for spoiliations of every kind, that had not been satisfied under former agreements. It was agreed that if any individual had been given a reservation under former treaties and he had been robbed of his possession either by the State of Georgia or by the federal government, he should be recompensed by the latter. Cherokee soldiers who were wounded in the service of the United States in the War of 1812 and in the War against the Creeks were to receive a pension from the government. It was agreed that after deducting the amount which was actually expended for the payment of improvements, ferries, spoiliations, removal, subsistence, debts, claims upon the tribe, and the several sums to be invested for the general tribal funds, the remainder of the \$5,000,000 should be equally divided between all the people belonging to the Cherokee Nation East according to the last census. Such persons as moved West after 1833 were entitled to an equal portion of the money according to their numbers. The Cherokees had to emigrate in two years. The annuities were to be withheld for two years and the interest thereon used for feeding and clothing the needy Indians. Article 12 of the treaty dealt with those natives who wished to remain in the East and become citizens of the different states.¹⁸

The majority of the Indians were highly indignant and refused to recognize the validity of the treaty. But General Wool was sent among them with an army of 7,000 men to overawe them and to "frown down opposition to the treaty."¹⁹ The poor Cherokees were subsequently rounded up like cattle by General Scott and forced off to the West at the point of the bayonet. Hundreds died from exposure and bad treatment.

¹⁸ *Laws and Treaties*, II, 439-449. For further information in regard to this phase of the treaty, see the author's article: "The North Carolina Cherokees and the New Echota Treaty," *North Carolina Historical Review*, VI (July, 1929), 237-253.

¹⁹ *Daily National Intelligencer*, May 4, 1838.

ARRIVAL IN THE WEST

Upon their arrival in the West, they had to face a serious problem. The Eastern Cherokees wished to continue their government in the West. The Western tribes felt that they had been there longer and that their governmental organization should, therefore, prevail. Neither faction wanted to yield to the other; therefore, a long and bitter fight ensued in which valuable lives were lost. In this state of confusion and bloodshed, there was little to be expected in the way of agricultural progress, for very little farming was done by the newcomers in the summer of 1839. Finally, a compromise government was effected and a delegation was sent to Washington to get the money promised under the New Echota treaty. The new agreement was short lived and the old settlers sent a delegation to Washington to protest against recognition of the government established by the newcomers. All efforts, therefore, to get a financial settlement at Washington ended in failure. Days "and months of inaction followed." In order to settle the matter the Secretary of War, acting through the commissioner of Indian Affairs, "instructed Agent Stokes to call a meeting and to settle by popular vote the question as to which of the rival governments should prevail."²⁰ Finally an act of union was agreed upon in 1840, which subsequently caused additional troubles.²¹

THE FINANCIAL DISPUTE

The Indians who had been delegated to visit Washington, as previously stated, returned home after several months had elapsed. The information, however, which they brought was not altogether promising. The terms of the treaty were so vague that they were embarrassing to the President and Senate when the financial end of the agreement came up for adjustment. Neither the Senate nor the administration could reconcile the "contradicting statements as to whether the cost of removal" should be deducted from the \$5,000,000 which was to be paid for the cession, or whether such expenditure should be made by the federal government.

The old settlers in the West now claimed that since they were

²⁰ Eaton, *John Ross and the Cherokee Indians*, pp. 100-101.

²¹ *Sen. Doc.*, 28th Cong., 2nd sess., VIII, No. 140, 5-12.

compelled "to share their country with the newcomers" they were entitled to share "in the per capita payment which was to be made of all the moneys" which remained after the sale of the eastern lands had been made and certain debts had been paid and the national funds set aside. Furthermore, the treaty men claimed that since they were promised only twenty dollars per capita upon removal and the emigrants had been promised "three times as much, they should be reimbursed for the difference." Similar conflicting claims continued to grow. President Van Buren had so many difficult financial problems to face during his administration that he did not seriously consider the Cherokee question after they left Georgia. The Indian question was not a prominent issue in the hard cider campaign of 1840. The Cherokees sent a delegation to Washington in the winter of 1840-1841, and they appealed in vain for a final interpretation and settlement under the New Echota treaty.²² With the inauguration of the Whig regime in 1841, the Cherokees had increased hopes, for the Whig leaders had boldly denounced Jackson's forceful removal policy. With the death of President Harrison, it was several months before Tyler seriously considered the Indian question. Finally in September he addressed a letter to the Cherokee delegation in Washington in which he regretted the injury which they had suffered at the hands of the preceding administrations and assured them, so far as it was in the power of the executive to prevent it, that no Cherokee would ever petition again in vain during his presidency. He promised to give them a new covenant which would ameliorate their conditions, and guarantee to them their new possessions in fee simple.²³

Through the Commissioner of Indian Affairs, President Tyler instructed the Cherokee agent to secure all possible information upon the recent wrongs inflicted upon these Indians, so that adequate amends might be made. In order to make these promises good the Secretary of War really went so far as to draft a new treaty. Nothing came of it, however, because it failed to satisfy the many political groups which existed in the tribe at the time. These factions began to quarrel among themselves as to which would get the

²² There is a very good discussion of this phase of the controversy in Eaton, *John Ross and the Cherokee Indians*, pp. 104-106.

²³ *Ibid.*, p. 105. *House Report*, 27th Cong., 2nd sess., V, No. 1098, 71-72.

most of the prospective money. Lawyers who had hopes of getting rich by the collection of high fees in contesting claims were actively engaged in the disputes. The treaty men and old settlers put in separate claims which conflicted with the contentions of the regular constituted government. These party wrangles continued until Tyler decided to suspend payments until these disputes could be straightened out. An investigating committee was sent among them to ascertain the source of the difficulties. Its report upheld the ruling party. As to the question of per capita payments, the committee said that all parties stood on an equal footing. The report concluded by recommending a new treaty²⁴ on the basis of Tyler's previous letter to the Cherokee delegation.²⁵

When Tyler received the report of the commission the country was again in the midst of another presidential election. The Whigs were defeated and Polk was elected. President Tyler was too much engrossed in the annexation of Texas during the last few months of his administration to be bothered with distressed and disgruntled Cherokees. After Polk was inaugurated, he was too busy with diplomatic questions to give a great deal of time to the Indian situation. In the meantime the condition of the Cherokees became so serious that some action was necessary, therefore, in the summer of 1846, a new commission was appointed with full power to examine into the causes of the controversy and to bring about reconciliation. The result was the treaty of August 6, 1846.

THE TREATY OF 1846

The treaty stated that "the lands now occupied by the Cherokee Nation should be secured to the whole Cherokee people for their common use and benefit"; and a patent was to be issued for the 7,800,000 acres of land, and in case the tribe should ever abandon the country these lands were to revert to the United States. It reconciled all the Cherokee party factions. All offenses were pardoned, and laws for the equal protection of all were to be passed. All money unjustly deducted from the \$5,000,000 granted under the treaty of 1835 was to be restored to them, and the residue of that amount was to be distributed according to the terms

²⁴ *Ibid.*, p. 457, No. 140, pp. 5-14.

²⁵ *Ibid.*, p. 14; Eaton, *John Ross and the Cherokees*, p. 107.

of the agreement. According to the New Echota contract, the Western Cherokees had no exclusive title to the lands in the West but had to share these lands in common with the Eastern tribe. Since the former had to share their lands with the latter, it was deemed right that they should share in some of the financial benefits; therefore, it was decreed that the old settlers should be given one-third interest in what remained of the \$5,000,000 which was to be paid per capita. Since the treaty party seemed to get the poorest end of the deed, it was agreed that they should be paid \$115,000 to indemnify them for their losses. Of this sum they had to pay \$5,000 to the heirs of Major Ridge, \$5,000 to the heirs of John Ridge, and a like sum to the heirs of Elias Boudinot who were murdered shortly after their arrival in the West. The remaining \$100,000 was to be divided among them per capita. The United States agreed to pay them \$2,000 for the loss of a printing press while they were in the State of Georgia, and \$5,000 was to be equally divided among those who had been deprived of their arms by the United States soldiers upon their forceful removal West. The covenant authorized the Senate to determine whether or not the amount of subsistence was to be "chargeable to the treaty fund," and whether interest should be allowed, and if so "from what date and at what rate per annum." The treaty further guaranteed to the Cherokees still living in the East the privilege of moving West without the loss of their citizenship.²⁶

FINAL SETTLEMENT

Although the treaty was welcomed by the tribes, it did not bring the anticipated financial relief. The ambiguous terms of the agreement required years to clarify. After Commissioner Medill studied the question for two years he reported that the \$5,000,000 was a complete payment for all the lands ceded to the government by the New Echota treaty, and that the agreement did not grant any additional compensation for emigration, subsistence, or anything else.²⁷ The Cherokees naturally remonstrated vigorously against such an interpretation.²⁸ It was not until the summer of 1850 that the Senate Committee on Indian Affairs came to a definite deci-

²⁶ *Laws and Treaties*, II, 561-565.

²⁷ *Cong. Doc.* 521, No. 65, p. 6.

²⁸ *Ibid.*, Doc. 511 (145).

sion. This committee supported the position of the Cherokees that the cost of maintaining the tribesmen during their removal and a year's upkeep after their arrival West should be paid by the federal government, and the expense of the removal agents should also be paid by the United States.

The Cherokees now had hopes of an early settlement. But after the amount of the award had been determined, Congress delayed the necessary appropriation. Congress made arrangements for a definite settlement on February 27, 1851.²⁹ The act, therefore, stated that this was to be a complete settlement of all claims on the part of this tribe against the United States under any agreement hitherto made. Final instructions were issued in September to the Superintendent of the Southern Division, John Drennan, to make the necessary payments as soon as possible. After being denied their eastern lands for more than thirteen years, and being harassed by Georgia for several years in addition, a settlement was finally made, but not to the satisfaction of the Indians concerned. The old settlers received their money under protest, in order that they might urge claims in the future which they considered just but which were not allowed by the treaty. The Cherokee Council before accepting the payment also "registered its disapproval by a set of resolutions" which were forwarded to the United States Congress.³⁰

Following the per capita payments, the Indians concerned experienced a degree of prosperity. Buildings were erected, and large herds of cattle were purchased. The Cherokee government, however, failed to experience any material relief. The only income which it had was from the invested funds of the United States. Their debts grew larger and larger until some of the public schools were forced to close.

²⁹ *Congressional Globe*, 31st Cong. 2nd sess., XXIII, 602-606.

³⁰ See Eaton, *John Ross and the Cherokee Indians*, pp. 109-11.

Chapter XVI

FEDERAL FINANCIAL POLICY TOWARD THE CREEKS OF GEORGIA AND ALABAMA

The treaty of Indian Springs in 1825 satisfied very few Creeks. Fraud was so evident that another treaty was negotiated the next year in Washington which declared the previous agreement null and void. In the arrangement of 1826 the Creeks sold all their lands within the boundaries of Georgia, but reserved to themselves over five million acres lying within the State of Alabama and west of the Chattahoochee River.¹

Immediately after the ratification of this treaty, the United States arranged to pay the leaders of the tribe the sum of \$217,600 which was to be divided among their chiefs and warriors, and obligated itself to pay an additional perpetual annuity of \$20,000.² In consideration of the exertions used by the friends and followers of General McIntosh to procure a cession at Indian Springs and for the inconveniences caused by a contemplated removal, the national government agreed to present to the chiefs and warriors of the McIntosh party \$100,000 if they did not exceed 3,000 persons, and in that proportion for any smaller number. At least \$15,000 of this sum was to be paid immediately after the ratification of this treaty, and the residue upon the arrival of the Creeks in the country west of the Mississippi.³ It was agreed that the President should appoint an agent to ascertain the damages sustained by the friends and followers of the late General McIntosh, in consequence of the difficulties growing out of the treaty of Indian Springs, as was set forth in an agreement entered into with General Gaines at Broken Arrow,⁴ and which was done contrary to the laws of the

¹ *Laws and Treaties*, II, 264-268.

² *Ibid.*, p. 265.

³ *Ibid.*, p. 266.

⁴ The government negotiated a treaty at Broken Arrow with the Creeks in 1825-1826 which was never ratified, by which the Creeks promised to pardon the followers of McIntosh and Hawkins and to restore the property which was lost or destroyed to the proper owners. Some individuals of the pardoned party were justly indebted to the tribe for moneys borrowed in different amounts for which the United States expected the tribe to pay, but was willing to wait a reasonable length of time.—*Ibid.* pp. 1034-1035.

Creek tribe. If the Creeks did not repair these damages, the amount was to be taken out of the annuity due them. All of the improvements made were to be ascertained by the federal commissioners, and the amount thus estimated was to be paid to the parties owning such improvements. The government in turn guaranteed to the Creeks all their country not ceded in Alabama, and agreed to make good to them any losses they might incur in consequence of the illegal conduct of any citizen of the United States within their possessions. In the territory which the Creeks were given beyond the Mississippi the federal government retained the right to reserve a tract of land equivalent to two sections where it could erect the necessary public buildings. The boundary of their new country was to be run at the government's expense. The government soon discovered, however, that in spite of the late treaty, the Creeks had remaining some land in Georgia; therefore a supplementary article was drafted and regarded as part of the agreement in which the Creeks really surrendered all of their possessions within that state. In return for this cession the government promised to pay them the sum of \$30,000. According to this treaty, therefore, the United States agreed to pay the Creeks \$247,600 in addition to the permanent annuity of \$20,000 and the cost of transportation West, as well as a year's upkeep, plus the value of the improvements made on their land in the East and the cost of surveying their new home in the West. Not including the permanent annuity, this covenant cost the government close to a third of a million dollars.⁵

After the treaty of 1826 all the country which remained to the Creeks lay within the boundary committed to Alabama. In the early thirties the Alabama legislature passed a law which extended the civil and criminal jurisdiction of the state over the Creeks, but provided that "nothing in the act should be so construed *as to give any Creek or other Indians any political or civil rights* other than those of protection under the laws of the state and that they should not be required to perform any public duties or pay any taxes." The jurisdiction of the Orphans Courts was extended over some of the counties of the territory occupied by the tribe as early as 1830. In the same year the state directed that an accurate census of the native population be taken by persons appointed for that purpose;

but the tribesmen were exempted from taxation and military duty.⁶

On January 16, 1832, the civil and criminal jurisdiction of Alabama was extended over all the Indian territory within the limits of that state. The revenue and road courts were enjoined to establish such highways, bridges, and ferries which they deemed the public good required within the territory in which the natives might live. The red warriors, however, were excused from the duty of mustering, from working on roads, from serving on juries, and from payment of taxes. The white settlers in the Indian country were to be governed by the same laws as citizens in other parts of the state. All laws and customs enjoyed and practiced by the Creeks within the limits of Alabama contrary to her constitution and laws were abolished. It was further enacted that if the Indians should meet in council and make any laws for the tribe contrary to the laws and constitution of Alabama, such persons should upon conviction be imprisoned in the common jail of the country. The Indians were permitted, however, by an act of the state legislature, to meet any commissioner of the United States in council, and if any person dissuaded them from so doing he was liable to be imprisoned. Contracts by white men for Indian improvements were made valid and binding.⁷

These laws caused great excitement and hostility among all the natives, especially among the chiefs. Such legislation destroyed their oligarchical form of government and their power at one blow; their peculiar usages and customs were abolished so far as they could be by legislation. Roads were to be cut in every direction through the Indian territory; the white men were permitted to purchase and take possession of Indian improvements; the integrity of the tribe as a distinct community was immediately annihilated.⁸

Circumscribed as the Creeks were within comparatively restricted limits, harassed by intruders often without principle, pressed upon by a large population on the side of the Chattahoochee on

⁶T. H. Crawford and A. Balch, Reports in 1836 and 1838 on Creek Indian Hostilities in Alabama Creek Frauds, p. 9, Office of Indians Affairs. In response to a resolution passed by the House of Representatives in July, 1836, to investigate the Alabama Creek frauds, President Jackson appointed Crawford and Balch to make the investigation. Since their reports are the best available account of these frauds, I have used them extensively. Crawford and Balch made individual reports.

⁷*Ibid.*, Balch's Report of 1836, pp. 10-11.

the east and the Alabama River on the west, they had ample causes for discontent and bloodshed.

The passage by Alabama of the law of January 16, 1832, placed the President of the United States in a position of great delicacy and embarrassment. The faith of the nation had been pledged to protect and do justice to the Indians. Alabama had openly asserted the legislative right of a sovereign state. The provisions of that law were in opposition to many of the provisions of the intercourse acts passed by Congress in 1802 and 1807.⁹

The laws of Congress prohibited, under heavy penalties, even the honest grantees of land which had been long paid for from raising a tomahawk to renew the ancient marks or from stretching a chain to survey and ascertain the lines of such lands lying in the Indian country. In this dilemma the President invited the Creek chiefs to visit Washington to effect a treaty for the conveyance to the United States of the five million acres of land which still remained of the former sixty million which the Creeks originally claimed.¹⁰

President Jackson wished if possible to avert any serious collision between the federal government and the State of Alabama; therefore he refused to protest against the hostile laws of that state and demanded the removal of the Creeks to the West. The frontier President, therefore, submitted to the pressure brought to bear by the Alabamians. Accordingly the treaty of March 24, 1832, was negotiated and ratified.

By this instrument the Creek tribe of Indians ceded to the United States all their land east of the Mississippi River. In consideration therefor the government contracted to pay them in money for various purposes \$136,280. The treaty allowed them an additional sum of \$12,000 for five years, and thereafter an annuity of \$10,000 for the term of fifteen years. Particular individuals were allowed annuities for life. Those who had already emigrated at their own expense were allowed the sum of fifteen dollars each, provided the aggregate did not exceed \$1,400. Three thousand dollars was to be divided among those who had suffered in consequence of being prevented from emigrating. Since the chief object of the United States was to induce them to emigrate, it guaranteed

that as many as were willing to go West and live upon the land to be provided for them, would be transported at the expense of the federal government and maintained for twelve months at their new homes. To each emigrating warrior arms and ammunition were given. Blacksmiths were to be furnished and maintained among them for a period of twenty years. Finally, the Creeks were definitely promised their new country forever, and a "patent or grant" was issued therefore according to the act of Congress of May 2, 1830.¹¹

Since that part of the treaty pertaining to reservation and Indian lands subsequently produced so much scandal and ill-will, perhaps it would be wise to quote these articles in full:

Article II. The United States engage to survey the said land as soon as the same can be conveniently done, after the ratification of this treaty, and when the same is surveyed to allow ninety principal chiefs of the Creek tribe to select one section each, and every other head of a Creek family to select one half section each, which tracts shall be reserved from sale for their use for the term of five years, unless sooner disposed of by them. A census of these persons shall be taken under the direction of the President and the selections shall be made so as to include the improvements of each person within his selection, if the same can be so made, and if not, then all the persons belonging to the same town, entitled to selections, and who cannot make the same, so as to include their improvements, shall take them in one body in a proper form. And twenty sections shall be selected, under the direction of the President for the orphan children of the Creeks, and divided and retained or sold for their benefit as the President may direct. Provided, however, that no selections or locations under this treaty shall be so made as to include the agency reserve.

Article III. These tracts may be conveyed by the persons selecting the same, to any persons for a fair consideration, in such manner as the President may direct. The contract shall be certified by some person appointed for that purpose by the President, but shall not be valid till the President approves the same. A title shall be given by the United States on the completion of the payment.

Article IV. At the end of five years, all the Creeks entitled to these

¹¹ *Laws and Treaties*, II, 341-343. For a good discussion of the treaty see Crawford's Report of 1838, C-696, pp. 7-9.

selections, and desirous of remaining, shall receive patents therefor in fee simple, from the United States.¹²

It was provided also that twenty-nine additional sections should be located for the Creek tribe generally, and there were special grants to Benjamin Marshall and Joseph Bruner.¹³ All intruders upon the country ceded were to be removed by law, except those white persons who had made their own improvements and who had not expelled the Creeks from theirs.¹⁴

The government felt that the allotment in the second article of the treaty which allowed a half section of land to each head of a Creek family, was destined to be a breeder of trouble. But it was almost unavoidable, for the chiefs who signed it had a vivid recollection that the sale made by McIntosh in 1826 had cost that leader his life, so in order to get the lands from the chiefs the federal government was forced to acquiesce in their demands.¹⁵

It was this allotment that caused the rekindling of old animosities between the white and red men in Alabama. The latter possessed the delusive hope that they could settle on their reserves, cultivate and improve them for their own separate use like the whites.

Within one month after the ratification of this treaty, the President directed that the newly acquired territory be surveyed and the reserves located. Certifying agents were appointed,¹⁶ and President Jackson and Lewis Cass drew up regulations for certifying contracts to protect the Indians in their property rights. The first were the regulations of November, 1833, which required every application to a certifying agent to be accompanied by the written contract itself, and if the payments were all made to the satisfaction of the Indian, that fact must be clearly established before the agent; or, if they were not all made when the parties came before him, the contract itself must distinctly state the times and modes of payment and the sum actually received. The agent was required, wherever it was possible, to have a personal interview with the

¹² *Laws and Treaties*, II, 341.

¹³ Joseph Bruner was a colored man who acted as an interpreter.—*Ibid.*, p. 342.

¹⁴ *Ibid.*, p. 341. It should be remembered that the 12th article said that the Indians should be free to go or stay as they pleased.

¹⁵ Crawford's Report of 1838, C-696, p. 8.

¹⁶ Balch's Report of 1836, p. 16.

Indian, and to explain to him fully the nature of the proceeding with a view to his perfect understanding and approbation of it on mature consideration. When this was impracticable the agent was to be contented with nothing short of the clearest proof of the whole transaction, and report the same to the President and he was required to say further why he had not seen the vendor. In these cases in which the amount stipulated to be paid was less than the minimum price of the government sales of \$1.25 per acre, the commissioner was directed to ascertain the actual value of the land; and he was to certify that the price was fair if he so believed, and in his certificate he was to furnish a general description of the quality of the land, so that the President might consider each case and its circumstances with care and come to a just decision thereon. The general idea was that a contract would not be approved unless the price of \$1.25 an acre was paid or secured; but as information from the Creek country induced the belief that many of the tracts were not of this value, it became the duty of the agent to form a fair estimate of their real value. In all cases, of whatever value the land, the deputy had to ascertain its worth and to see that the Indian was paid or the money secured to him before he signed the certificate. No patent could be issued until the payments were made in full. No contract was final until sanctioned by the President. Finally, there was a general form of certificate made and the agents were required to follow it with a few exceptions.¹⁷

It was believed that these regulations would be ample to enable the Creek reservees to dispose of their property for a full and fair consideration, but it soon was known that if the payment of the price was to depend on Indian acknowledgment of satisfaction the practice of fraud would become so prevalent that it would cover the whole territory. Therefore, on December 18, 1833, a supplemental regulation was adopted which required the payments to be "made in the presence of the approving agent, except in the very few cases where the Indian may be prevented by illness or inability from appearing before the agent. But such cases must be proved by the most unexceptionable evidence, as well as the payments made

¹⁷ *Ibid.*, App. A, pp. 1-3 and App. A, Balch's Report of 1838, pp. 49-52. For a good discussion see Crawford's Report of 1838, C-696, pp. 14-16.

under them; and the circumstances must be distinctly stated for the consideration of the President.”¹⁸

Even these rigid regulations and instructions, as we shall subsequently see, did not prevent the whites from intimidating, whipping, and defrauding the Indians. Conditions became so intolerable by 1836 that supplemental regulations were again issued.¹⁹ The agent now could certify no sale except in the public square of the town to which the reservee belonged, where, in the presence of the chiefs and other Indians, he was directed to ascertain the identity of the owner of the land, and convince himself that the bargain was just and fair, fully comprehended by the native, and that he was paid for his property according to the existing regulations. If the Indian was unable because of sickness to meet the agent, the latter was instructed to visit him at his dwelling, and in the presence of one or more chiefs. When all the circumstances and information were ascertained, he might certify a contract.²⁰

In conformity with the provisions of the second article of the treaty, orders were issued on May 2, 1832, for surveying the land transferred by that instrument. That work was prosecuted with great vigor until finished in December, 1833.²¹ The census of the tribe was taken simultaneously and was completed in May, 1833; it showed an Indian population of 23,566, and 6,557 heads of families, entitled severally to a half section of land. If to these be added the ninety sections assigned by the treaty to the chiefs, the twenty sections for the benefit of the orphan children, and the twenty-nine that belonged to the Creek tribe, there were an aggregate of 6,696 sections and half sections that were to be separated from all other lands for Indian ownership, amounting to 2,187,200 acres of land.²² It was a tremendous task, at considerable national

¹⁸ *Ibid.*, App. B, C-696, pp. 52-53.

¹⁹ *American State Papers, Military Affairs*, VI, No. 691, p. 625. Hereafter cited as *A. S. P., M. A.*

²⁰ *Ibid.* See Crawford's Report of 1838, C-696, p. 16. This direction was virtually given as early as April 28, 1835.—*Ibid.*, App. K, pp. 69-74.

²¹ Crawford's Report of 1836 and 1838, C-696, pp. 11-16.

²² Crawford's Report of 1836, pp. 11-16. The figures in regard to the population varied as well as the number of acres of land that the Indians possessed. According to Lewis Cass's report, there were 21,762 Creeks excluding their slaves, and 4,800,000 acres of land in the original Creek purchase and of this 2,187,200 acres was reserved to the Indians.—*A. S. P., M. A.*, VI, No. 691, 575, 582.

expense, to survey the entire cession of approximately 5,200,000 acres. With a view to public sales, it was divided into townships and sections, halves, quarters, and eighths of sections. Thus the War Department was enabled to place the Indians upon their different reservations. The work of location was completed in January, 1834.²³ These steps necessarily preceded all sales of reservations, but proper officers, appointed to superintend them, commenced operations early in 1834.²⁴ Being ignorant of the Creek language the agents found their duties difficult and embarrassing. They were compelled to rely upon interpreters, who were generally Negroes or half breeds,²⁵ and who were in some cases so destitute of all moral principle, that they would often for a small gift abet the schemes of those whose designs were fraudulent. Complaints of deceptive practices were made as early as March, 1834. Thereafter the purchasers began a practical system of swindling the Indians. On March 12, 1834, one of the certifying agents, R. W. McHenry, admitted this fact in a letter addressed to the Commissioner of Indian Affairs.²⁶ The money paid to the natives before the agents was taken away from them either by fraud or force after they had acknowledged the sale. In some cases in which the Indians were unwilling to surrender what they had received, they were whipped and flogged into submission. In other cases the ignorant tribesmen were paid in bank notes, a form of money for which they felt great contempt, and which they later surrendered for a small amount of specie. Not satisfied with these methods of deception, the white impostors frequently practiced impersonation. Indians were bribed to appear before the agents and swear that they were the owners of reserves which belonged to others and they were permitted to acknowledge contracts for the sale of the same.²⁷

The Indian agents were aware of many of the frauds which were perpetrated in the year 1834, yet they did nothing. Land companies and individual speculators, encouraged by success, continued undaunted in their atrocious practices. Early in 1835 there was a scheme concocted to defraud the Indians of all the reserves that remained uncertified, amounting to more than fifteen hundred. This was the plan of Eli S. Shorter which was made known to his

²³ Crawford's Reports in 1838, C-696, pp. 11, 16.

²⁵ Balch's Report of 1836, p. 16.

²⁴ *Ibid.*, pp. 11-12, 16.

²⁶ *Ibid.*

²⁷ *Ibid.*, pp. 16-17.

supporters in several letters addressed to them in the early part of 1835. His letter of March 1 will speak for itself, and I shall quote the major part of it, which reads as follows:

Gentlemen, I have just returned from Dr. McHenry's.²⁸ When there Yargo sold and certified his land to Dr. Billings Co. for \$6,000 and then gave back \$3,000 of the money, and took a bond for the occupancy of the land west of the river. I left at the agency Hayden and his son, Gen'l. Woodward, Stone, McBryde, Collins, the whole Columbus Company, and a host of others,²⁹ with a firmly belief four hundred Indians hid out all around the hill. Certification commenced late yesterday morning, and about *sixty* were taken through. The agent will be at home certifying the whole of next week, and in that time most, if not all of the land will be swept that is worth a notice. I have the agent's promise to meet us at any place of our appointment on the Monday afterwards, and to obtain this, I have had to interest another man in our Company so far as it regards McHenry's District and to give him 1/8 part. It is unnecessary to mention names—the thing was necessary and was therefore done.

Now, if we are to do anything, you must *instantly* upon reading this letter, lay all other business aside, and gather up as many Indians who can be depended on as possible, and Corley or Craven, with one of the Griersons must come on with them towards the agency in Chambers. The other with the other Grierson must remain behind and collect and come on with another company. When you get within from five to ten miles of the agency, stop where you can get water and provisions and send a messenger to us at the agency to let us know where you are, and we will meet you Monday morning with the agent and proceed to business. Your messenger must reach us on *Sunday* night. Camp your Indians *out of sight of the road*. You need give yourself no trouble about the *value* of the land, I will arrange all that.

Stealing is the order of the day,—and out of the host of Indians at the agency, I don't think there were ten *true* holders of land. When I left, there were not more than 80 reservations left in all Tuckabatchee, they will go tomorrow, then will follow Tblobthlocco, then Kialize, then Oak-tar-sar-say—then Eufala—and in two weeks the whole host of Philistines will be in your quarter, and rely upon it, they will carry all before them.

Now Scott may wrap himself in his Indian blanket and say all this

²⁸ Dr. McHenry was a certifying agent and abetted the cause and designs of the land speculators.

²⁹ This was at McHenry's agency.

is impossible, but *I* say it is not only *possible*, but *certain*. When I see such men with so few advantages getting so much valuable land at \$10 per tract and how much money *we* have paid out, the *power* we have had, and see the quantity and *quality* of land we have received, and particularly when I think of the *reason* why these things are so, I can almost tear my hair from my head. . . . You need not come, unless you will drill your Indians and prepare them to receive ten dollars *in the store* for every contract certified. . . . The whole show will be up in 4 weeks from this time and all the Indians who do not sell will lose their lands. This system has not been working more than three weeks and upwards of 1,000 tracts have been certified. The stream is getting wider, deeper, and stronger every day. If things are to be radically altered *as to money* at Tallapoosa I will furnish funds in *paper money*, to certify the balance. . . .³⁰

Early in January the land speculators spread the report among the Indians that the federal government would cease certifying after March 1 and all land not sold by the Indians at that time would be a dead loss to them, for they would no longer be able to sell. They were persuaded that they had better sell for almost nothing than not to sell at all.³¹

In regard to the report that the government would cease certifying land on March 1, Eli S. Shorter wrote to the members of his firm as follows:

It is important that you press this subject immediately upon the attention of Smith and the Griersons so that they understand it, and let them spread it amongst the Indians. They have but one moon in which to save their lands. Better by far had they have their lands certified without receiving a dollar and leaving it open to an arrangement with us to be paid hereafter when they are willing to sell, than thus to be cheated out of their rights. To Dr. Scott I urge that he give up the beautiful Miss Jenny for the present, that he lay aside his poetry, come down from his stilts, and rouse up from his slothfulness and spend one short month in increasing energy and unwavering industry. To the Messrs. Cravens I say that they will swear off from the society of ladies for one month and make every *day* and *hour* of it . . . profitably upon our business. And upon *you all*, I urge an immediate close of every

³⁰ Crawford and Balch's Reports of 1836 and 1838. App. D, pp. 5-7. This letter was addressed to J. S. Scott, E. Corley, M. M. and N. H. Craven. See also *Ibid.*, pp. 4-5.

³¹ *Ibid.*, p. 4.

contract upon which advances have been made, and the making of no more advances, for all contracts made, and not closed, will be dead losses. After this is done, the great struggle should be for the *most valuable* lands. Every man should now be at his post. Is there *no chance* to make an impression on those valuable lands in Tuckabatchee [?] . . . If I were now with you, I would spend the month and shew you how much labor I could perform.³²

Evidently Shorter had taken the report rather seriously. The letter written by Benjamin P. Tarver to M. A. Craven is one of the most flagrant of all. The following extract is taken therefrom:

There is nothing going on at this time but stealing of land with about 50 Indians. Pay them \$10 or \$5 when certified and get all the balance back and get 400 or 500 contracts certified with 50 Indians is all the game. Judge Shorter has just returned from Dr. McHenry's—he states the different speculators have about 500 Indians hid out and certifying at night . . . without a rush we are gone.

Then with a P. S. he closed:

The Judge [Porter] thinks that the largest proportion, if not all the land that is before Dr. McHenry will be certified on this week, now is the time, or never. Hurrah boys—here goes it—let's steal all we can. I shall go for it, or get no lands—now, or never.³³

If the reader will tolerate one other important letter written by one of the land-grabbers, I shall quote it. It was written by Elijah Corley to Scott and Cravens:

I want you so soon as you get this letter to start Bailey and Wat. Grason over with as many Indians as they can start. I want them to be at the office with Indians next Monday, if they can, and as to the balance of you must be up and doing, for I can assure you what we don't do before Tarrant³⁴ the next week of certifying will not be done by us, for just as soon as they finish on this side of the Tallapoosa, every speculator will be over there. They intend first to try to get a part of that District cut off to McHenry, and if they fail in that they will take their Indians and go on for those lands are what they [are] after and they will have

³² *Ibid.*, App. C, p. 5.

³³ *Ibid.*, App. E, p. 9. The letter dated March 1, 1835.

³⁴ Tarrant was another certifying agent. McHenry was just closing up his work in his district and Tarrant was just beginning in a new district.

it. They have rogued it and whored it among the Indians, until I fully believe that for the purpose of getting a piece of land, they would swear before Almighty God that the Indians in Russel County were located in Coosa. I think it necessary that one of you go down to Hatchechubba and Hickory ground Towns and have the best of the lands valued and ready for certifying, as that is the part of the Country they intend stealing in. Gentleman don't lay on your oars with belief that no man can do anything with Indians in that part of the Country, for they have Indians of their own and they will fetch them with them. The harvest is nearly over and perhaps there will never be another such a one. I therefore think it necessary for us to be up and doing while it lasts.³⁵

In the oath which was required of all certifying agents the following words were employed, "and the deponent believes that the Indian who has been introduced before the agent, is the true *holder* of the location described in the foregoing deed." Subsequently to 1834 in many instances these essential words were omitted and another form used. It seems as though the speculators had bribed several of the agents, for the new oath gave room for gross fraud because impersonators could sign away lands belonging to ignorant and innocent Indians. The new oath, which some of the agents used read as follows:

Personally appeared before me a Justice of the Peace for the County of Russell, State of Alabama, the said the purchaser within named, and being duly sworn, deposeth and saith, that of the amount of Dollars, being the consideration money for the said tract of land is correct, as stated in the within contract, and that the amount of Dollars acknowledged to have been received by the said was actually paid by him as stated in the within contract. . . .³⁶

Upon information that fraud was committed within a certain agency, J. B. Hogan, an investigating agent, began to inquire into the alleged frauds. Among those who complained was an Indian, Tho-with-la, who was identified as the owner of the land marked W $\frac{1}{2}$. 6.15.28 and whose identity was not questioned by any person in the community, but whose land stood marked on Sandford's books as sold to Fanning and Howell for \$400. W. J. D. Howell,

a member of the firm which claimed the land, was present. The Indian stated that he had never been before an agent for the purpose of selling his land, nor had he ever sold it. Upon inquiry among his chiefs and neighbors, they all testified to the same fact. Hogan then called on Howell to make a defense. The latter said he could not tell whether the land was his or not; that he had never bought the land, but that it was one of his partner's transactions and that Fanning, his partner, was dead. Hogan then remarked that he would mark it as a case to be reversed and did so. Howell then departed with the Indian claimant, Tho-with-la. After a while they came back and Howell insisted that the investigating agent hear the Indian acknowledge that he had sold the land to him. Howell now stated that he had bought the land from the Indian owner and had paid him \$400 for it. The agent then directed his interpreter to ask Tho-with-la if he had sold to Howell. The Indian replied that Howell had pushed him so hard he supposed he must let him have it. Hogan then asked him what he was to receive for his land and whether he was satisfied with the same. The Indian replied that he had received \$20 in silver and a paper for the balance \$380. The agent then asked to see the paper. The paper read as follows: "I have purchased Tho-with-la's land W $\frac{1}{2}$. 6.15.28 and he has my permission to live on it. (Signed) Jno. D. Howell." After such open intent to deceive, the Indian naturally refused to accept the sum offered; therefore, Howell lost the land.³⁷ It was sold later for \$1,800.³⁸

A very large number of these reserves which were allotted to female heads of families were stolen too. Some of these women could speak the English language and they had little hesitancy in registering their protests. They appealed for redress to their chiefs and to the agents, but their protesting voices were merely cries in the wilderness.³⁹ "The avidity with which the Creek Indian reservations were sought for was so great, that many conditional contracts for their purchase were made before the locations were completed. As soon as certifying agents opened their offices there were crowds of 'land-buyers' in attendance."⁴⁰

³⁷ *Ibid.*, App. G, I, 13-15.

³⁸ *Ibid.*, App. I, p. 15. There is no doubt but that Tho-with-la was impersonated in the first deal.

³⁹ *Ibid.*, pp. 21, 23.

The reports of these corrupt practices soon reached the ears of the administration officials at Washington, so the Secretary of War urged the agents to increased vigilance and activity in the prevention and detection of such disgraceful acts. They were informed that "if any instances of individual fraud, permitting the interference of the government, can be pointed out, they shall be investigated and if requiring and admitting correction, they shall be corrected."⁴¹ Little good did these instructions do.

Artful schemes and devices gave impunity and success to bold bad men, whose profligate and wanton conduct not only extended its operations, but became utterly regardless of public observation and opinion, until at length in the spring of 1835, every prudential restraint was set at defiance, and acts which should make men cover their faces, and shun sun-light, came to be the boast of these spoilers of Indian property.⁴²

The people who desired not merely to speculate, but to settle permanently within the new and fertile country, sought for locations on which some improvement had been made and were willing to pay higher prices for such than for wild lands.⁴³

The cleared lands which had produced little while in the hands of the natives, now yielded an abundant harvest in the hands of the newcomers. The Indians' means of subsistence accordingly was lessened. Some of these settlers disregarded the rights of the aborigines by intruding upon their lands, driving them by force from their cabins, or seducing the red men to surrender their property by falsehoods or threats. A military officer was ordered to remove the interlopers, but in the execution of his duty a white man was killed. This caused the intruders and law-abiding citizens alike to rise up in protest against the high-handed methods of the federal government.⁴⁴ Thus began the Creek hostilities in Alabama, which may be attributed to the frauds and forgeries committed in the land deals, to the vice and intemperance practiced among them by the whites, and to the destitute and starving conditions of the Indians largely caused by the surrender of their lands and the diminishing of wild game.⁴⁵

⁴¹ Crawford's Report of 1838, C-696, p. 17; *A. S. P., M. A.*, VI, No. 691, 590.

⁴² Crawford's Report of 1838, C-696, pp. 17-18, 23; Balch's Report of 1838, p. 23.

⁴³ Balch's Report of 1836, p. 23.

⁴⁴ *Ibid.*, pp. 23-24.

⁴⁵ *Ibid.*, App. Y, Z, pp. 49-51.

Upon the appearance of the federal troops to keep out the invaders, Alabama began to protest. The legislature of that state passed an act protesting against such invasion of her sovereign rights. She took matters into her own hands, that is, the enforcement of the treaty of 1832 and the punishment of those who violated it within her own courts.⁴⁶ A copy of this act was sent to the President of the United States accompanied by a vigorous message from the governor of Alabama.⁴⁷ As the State of Alabama resolved upon her own enactments for the protection of the Indians, President Jackson, wishing to avoid difficulties and not too sympathetic with the Indians anyway, acquiesced⁴⁸ in her demands, just as he had when Georgia had defied the federal government a few years before.

As the source of food supply produced by the tribe lessened, the Indians were constrained to rely more upon the game of the forest. But this source also failed. The natives were prevented from hunting in Georgia by about 200 well armed mounted troops. Later there were about 500 well armed militiamen scattered along the Georgia side of the Chattahoochee.⁴⁹ The Indian country was crowded with white settlers who were "as eager and skillful in the chase as the red men themselves." They either killed off the deer or frightened them off to inaccessible swamps. Rather than starve, many of the Creeks wandered off in small groups and committed aggressions upon the property of the white settlers.⁵⁰

By 1835 the condition of the Creeks was deplorable. It was impossible for them to get corn and meat. The intruding people who had moved in and who possessed sufficient means purchased at enormous prices all the provisions that were to be sold. It was said no doubt with truth "that the Indian often stripped off the inner bark of trees and after boiling it in water drank the decoction as a substitute for food."⁵¹

The women and children asked permission to pick up the small potatoes and potato roots which were left after the main crop was removed and they regarded this permission as a great favor.⁵² Yet

⁴⁶ *Ibid.*, p. 24; App. W, pp. 46-47.

⁴⁷ *Ibid.*, App. W, pp. 45-46.

⁴⁸ *Ibid.*, App. Y, p. 53.

⁴⁹ *Ibid.*, p. 26.

⁴⁸ *Ibid.*, p. 24.

⁵⁰ *Ibid.*, p. 25.

⁵² *Ibid.*, pp. 26, 49-51.

the government regarded it as unpolitic to relieve them because relief would have delayed their enrollment for emigration.⁵³

The people who entered deliberately into the conspiracy to cheat the reservees, employed a class of persons commonly called "strikers" whose business it was to steal land. They lived among the Indians, made love to the squaws, made the men drunk, and bribed the chiefs. So long as there were any reserves that remained for sale, the "strikers" earnestly dissuaded the aborigines from enrolling themselves for emigration. In previous years the efforts of the President as well as of the citizens of Alabama to persuade the Indians to treat had been obstructed by the fallacious reports spread by unprincipled speculators. The legislature of Alabama was compelled to enact "that if any person dissuaded the Indians from meeting a commissioner of the United States he should be liable to be indicted and on conviction should be imprisoned for three months."⁵⁴

After the "strikers" a number of persons came into the Creek country with merchandise carefully selected and devised to capture the primitive fancies of the natives. Whiskey was the chief enchantment that was offered to tempt the red men to their establishments. While there they became intoxicated and spent all the annuities which they had received from the government as well as what little money they had received from their reserves.⁵⁵

There soon followed another class into the Indian country, inferior in wealth and "dignity" to these "store-keepers." They were known chiefly as "shop-keepers" who sold only whiskey and tobacco. The Indians congregated around their headquarters and often remained for days. The natives who possessed some property were given credit, and authorized white men had to swear to their accounts. The testimony of a red man could not be admitted to contradict any facts that might be alleged. Judgments were often rendered for nonpayments and the property of the unfortunates was taken by the constables, some of whom had as little principle as the intruders.⁵⁶ With such profligacy and debauchery practiced on the Indians, is there any wonder that they flew to arms to protect their rights when the federal government failed to give them adequate protection?

In McHenry's district, the Creeks claimed that at least one-third of the contracts signed were fraudulent. An Indian who had sold his land and received payment therefor would be employed by fiendish individuals to assume the name of another and sell lands belonging to other Indians. The money was then turned over to the purchaser except that portion which was given to the Indian as a reward for his dishonesty.⁵⁷ In this way a few hundred dollars and the help of five or six Indians could sell and buy all the land in the Creek Purchase.

In March, 1835, several Indian chiefs addressed a letter of protest to McHenry, and sent a copy of the same to the Commissioner of Indian Affairs.⁵⁸ An excerpt from their protest reads:

The homes which have been rendered valuable by the labor of our hands, are torn from us by a combination of designing speculators who haunt your office, and who, like the man among the tombs, are so fierce that no one can pass that way. The helpless widow and orphan, the aged and infirm father, are alike the victims of their cupidity. Sir, we have borne with this oppression until forbearance has ceased to be a virtue, and we are determined to speak out, let the consequences be as they may. While we have been at home preparing something for our dependent families to subsist on, other Indians have sold our homes, our all, the only means for our support, and when we have applied to you for redress what has most frequently been the result? Why, sir, that you would inquire into it, you place the burden of proof upon us, you exclude the testimony of our people, the only persons who can know much satisfactorily in relation to our claims. We are required to prove a negative, that we have not been the person who sold; all of which we assert is oppressive. . . . But worse than all this and more to be regretted is the fact, through fear of the merciless horde who surround your office, our people cannot speak to you in defence of their just rights, without subjecting themselves to punishment.⁵⁹

⁵⁷ Crawford's Report of 1838, C-696, p. 58.

⁵⁸ *Ibid.*, App. E, C-969, pp. 56-60.

⁵⁹ *Ibid.*, pp. 58-59. For further proof of such flagrant injustice see the complaint of L. Tarrant to the Commissioner of Indian Affairs, March 24, 1835, *ibid.*, App. F, pp. 60-62; McHenry to Commissioner of Indian Affairs, March 25, 1835, *ibid.*, App. G, pp. 52-63. The inhabitants of Chambers County to the President, April 8, 1835, *ibid.*, App. H, pp. 63-67; the proceedings of "a meeting of the citizens of Macon County, and its vicinity," May 19, 1835, App. I, pp. 67-69.

These frauds, though most numerous in McHenry's district, were perpetrated in all the agencies in the Creek country. McHenry stated that nineteen out of twenty cases certified by him were fraudulent. In his agency, a justice of the peace, Henry C. Bird, was procured, who possessed no moral sense, "made and signed officially affidavits in which he left blanks for all the material facts and names, that they might be filled up at the pleasure of the holder in consummation of base designs. . . ." ⁶⁰ In a letter to the Secretary of War dated May 15, 1835, E. Sanford stated that there is not a shadow of doubt "of the existence of fraud, of very great fraud," and "possibly in the latter days of my office."

In a communication to the Commissioner of Indian Affairs dated March 24, 1835, L. Tarrant in speaking of Dr. McHenry remarked,

Frauds have been practiced upon him to a great extent, perhaps to a much greater extent than they have been upon me; but with all the vigilance I have been enabled to use, they have to some extent been practiced upon me, and if the same number of contracts had been certified by me, I am not sure that frauds to a great extent might not have been practiced upon me. I believe that there is an organized plan of operations to deceive the agents, and to introduce the wrong Indian to certify or approve contracts.⁶¹

In consequence of these reports, the Secretary of War by April 28, 1835, directed the agents to suspend the certification of contracts until they were otherwise instructed, and to give public notice of such direction. They were also instructed to investigate the alleged frauds, and told that the President would withhold his approval from all contracts in his possession for the time being.⁶² The agents proceeded at once to examine the questionable sales during the summer of 1835. Before their labors were completed, because of additional requests of the government, John B. Hogan was made special agent on September 9, 1835, to investigate the Creek frauds with the aid of the several agents in the respective districts.⁶³

On January 22, 1836, Hogan reported the results of his investigations. It embraced 656 cases in McHenry's district but the infor-

mation was so scant that the President could reach a satisfactory decision in only eight cases. Jackson thus referred the cases back to Hogan and his associates for re-investigation. Indian hostilities broke out in the spring of 1836; therefore the inquiry ceased in McHenry's agency,⁶⁴ but continued in another district where the natives were less hostile.

In April, 1835, the agents were instructed to cease their labors until further orders. In September the Commissioner of Indian Affairs instructed various agents to resume their work of certifying contracts,⁶⁵ but little progress could be made because of unsettled conditions in the country.

Since the reports of the Hogan Committee proved to be unsatisfactory and the conditions among the Creeks were not improved, the House of Representatives adopted in July, 1836, a resolution which requested the President to institute an inquiry into the alleged frauds in the purchase of the reservations of the Creek Indians.⁶⁶ In order to carry out this resolution the President appointed a commission composed of T. H. Crawford and Alfred Balch.⁶⁷ These two men proceeded with vigor in the prosecution of their work. They did not complete it, however, until 1838. They were somewhat hampered by instructions which forbade an investigation unless they had reason to believe fraud had been committed.⁶⁸ They had little difficulty, however, in finding ample proof of the existence of fraud and corruption. They proved that in 1835 "the land stealers" crowded into the office by "droves," and succeeded in getting the lands certified very fast. It really looked as if they were going to steal all the land the Indians had. Crawford and Balch reported that the intruders seemed to carry on the business of stealing land "in sport." A toast was given in a crowd by one of those concerned in these nefarious practices: "Here's to the man that can steal the most land tomorrow without being caught at it."⁶⁹ It was further shown that various attempts were made to buy off those who expressed their indignation at these transactions and were exposing the thieves.⁷⁰

⁶⁴ *Ibid.*, p. 20; App. pp. 78-79.

⁶⁵ *Ibid.*, pp. 20-21.

⁶⁷ *Ibid.*, pp. 22-30.

⁶⁹ *Ibid.*, p. 35.

⁶⁶ *Ibid.*, p. 1.

⁶⁸ *Ibid.*, pp. 30-32.

⁷⁰ *Ibid.*, p. 36.

RECERTIFYING CONTRACTS

On October 28, 1835, a communication was addressed to L. Tarrant and Dr. McHenry, directing them to resume their duties of certifying, but expressly excluding recertification.⁷¹ Where an original contract ought in the judgment of the agent to be reversed, he sometimes issued, before that opinion was further acted on, a new or second contract to another purchaser, and these were called recertifications. The validity of such agreements was seriously questioned. With certain exceptions, recertification was disallowed. The agents never had power under the general authority conferred to vouch for such second deeds.⁷² As soon as the War Department was informed of the practice of recertifying, it forbade it. Later this prohibition was qualified, and the agents were informed they might write a second contract "where the buyer and seller were both willing to annul" the first agreement. Again the agents were somewhat restricted by instructions requiring the surrender by mutual consent to be reduced to writings and signed by the parties concerned.⁷³ Subsequently the agents were further instructed to abstain temporarily from recertifying contracts where the originals were "declared by the parties to be fraudulent." ⁷⁴

In a letter from the Secretary of War to the Hon. Dixon H. Lewis of the House of Representatives in March, 1836, the former stated that "no authority . . . [had] been given to recertify contracts, except in those cases where they . . . [had] been set aside by the mutual consent of the parties." It would thus seem that unless the President had sanctioned the reversal of a contract or it had been relinquished by the consent of both parties, it could not be reissued. Where the power had been given to recertify, this right was later suspended. In Hogan's report of January 22, 1836, there were 205 contracts noted as "given up," and a number of these were recertified and so marked on the report. These recertifications, where they conformed to the requirements of the

⁷¹ *Ibid.*, p. 21; App. R, pp. 82-83.

⁷² *Ibid.*, p. 43. See Letter of Secretary of War to the Attorney General of May 7, 1836.—*Ibid.*, App., FF, pp. 130-134.

⁷³ *Ibid.*, p. 43; App., pp. 133-135.

⁷⁴ *Ibid.*, p. 43; App., p. 135.

federal government, were entitled to ratification because they were recognized by the Indian Bureau.⁷⁵

In regard to Hogan's report, the Secretary of War wrote:

In the second class of cases, those given up, by which it is understood the purchasers, in the presence of the agent, agreed to surrender their contracts, the Department will suspend its action for the present. They will, however, ultimately be reversed unless something shall occur to call for a different course, and the re-certified contracts will be approved, if no valid objection should be made to them.⁷⁶

The policy toward recertification as stated by the War Department conformed with that later asserted by the Commissioner of Indian Affairs of September 5, 1837:

That their inquiries should not extend to the validity of second contracts, unless the first had been set aside by the President, or the parties had consented in writing that the first should be set aside, or it was stated in the abstract of Col. Hogan, transmitted to him and his associates, Messrs. Burney and Anderson, on the 11th of March 1836, that the first had been given up.⁷⁷

Although the foregoing problems were difficult enough to baffle those who tried to do justice to the Creeks, other delicate and serious questions soon appeared. These difficulties grew out of the sales of the lands which belonged to widows, orphans, and heirs of deceased Indians. These sales were of two descriptions: (1) those effected by Commissioners appointed for the purpose by the different orphans' courts of Alabama on applications made by administrators for orders to sell the real property of their intestates; (2) conveyances made by widows, by heirs, and by legal representatives of the lands that they inherited under the laws of Alabama.⁷⁸

The treaty made no provision for those dying intestate. The negotiators seemed to think only of the living reservees, for whom alone the means of security in transferring their lands were provided. After stipulating that ninety principal chiefs should each have a section, and every other head of a family a half section of land, it provided that "these tracts may be conveyed by the persons selecting the same to any other persons for a fair considera-

tion. . . .”⁷⁰ The agreement does not refer to reservations that would be cast by descent upon the legal representatives of a Creek. A legal difficulty soon existed in regard to this class of cases. The President decided not to interfere in cases where Indians had died, “leaving claims to reservations under the Creek treaty.”⁸⁰ The covenant itself fixed only the interests of persons while living.⁸¹ The disposition of these interests had to be made independent of the treaty. In a letter from the Secretary of War to F. S. Lyons, a member of the Committee on Indian Affairs in the House of Representatives, on May 9, 1836, we find the following statement:

In answer to your letter of the 6th instant, I have the honor to remark, that the question of the right of descent under the Creek treaty, is one which the President has not thought it proper for him to determine, and he has therefore declined interfering in every case of this nature, looking to the action of the judicial tribunals, or to the necessary legislative measures, either by Congress, or by the legislature of Alabama. I enclose herewith two opinions of the attorney General, which touch upon the questions presented by you. It is the impression of that office, as well as my own, that the rights of land secured to the Creek Indians under the 2nd article of the treaty with them . . . are descendible interests, and that the rules of inheritance by which they may be regulated must be prescribed by the laws of the State of Alabama.

And again he says:

I would observe that the opinion of the Attorney General conveyed in his letter to the President of April 3d, 1836, lays down the necessary limitations respecting the conveyance of these reservations. The power of approval, vested in the President, will still remain after the estate has descended to the heirs of a deceased Indian, and the only effect of the State laws would be to authorize the persons inheriting the property, or those competent to act for them, to do whatever under the treaty, the original grantee might do.⁸²

If it had been deemed either legal or expedient to interpose executive authority, the occasions on which it might have been exercised occurred soon after the ratification of the treaty. A

⁷⁰ *Laws and Treaties*, II, 341-342.

⁸⁰ Crawford's Report of 1838, C-859, p. 2.

⁸¹ *Laws and Treaties*, II, 341-343.

⁸² Crawford's Report of 1838, C-859, pp. 2-3.

different interpretation, however, prevailed. In the meantime many sales were effected under the orders of the Orphans' Courts, and by the widows, heirs, and legal representatives of deceased Indians.⁸³ The approval of the President was necessary to the issuing of patents,⁸⁴ but he decided to await legislation on the subject before acting.⁸⁵ Under these circumstances the Congress of the United States, on March 3, 1837, passed a law from which the following is an extract:

That the President of the United States may, and he is hereby authorized to, confirm the sales by the widow, the widow and children, the children, or the lawful administrator of Creek Indians who have died, or who may die, prior to the fourth day of April next, without having legally disposed of said reserves, and to receive the purchase money, or such portions of it as may not have been paid to the persons entitled to it, and to cause patents to be issued therefor to the purchasers: Provided, that sales made by lawful administrators shall be entitled to a preference over sales made by widows and children.⁸⁶

The laws of the State of Alabama disposed of the real estate of an intestate descendant as follows:

To his widow belongs a life estate to the extent of one half if there be no children—if there are, it is limited to a third. The fee simple descends to his children, or, if he leaves none, to his brothers and sisters—in either case in equal parts, and, with them, to the descendants of such as may be dead, taking in equal shares the position of their deceased parent.⁸⁷

Furthermore the Alabama laws made it lawful for an administrator of "any deceased intestate" who had not the "power by the will of the testator to sell real estate for the purpose of paying debts or to make more equal distribution among the heirs," to file a petition in County Court setting forth that "the personal estate of his intestate or testator . . . is not sufficient for the payment of the just debts of such intestate or testator, or that the real

⁸³ *Ibid.*, p. 3.

⁸⁴ *Laws and Treaties*, II, 341.

⁸⁵ Crawford's Report of 1838, C-859, pp. 3-4.

⁸⁶ *Stat. L.*, V, 186.

⁸⁷ Crawford's Report of 1838, C-859, p. 4.

estate . . . cannot be equally, fairly, and beneficially divided among the heirs . . . without a sale of real estate.”⁸⁸

The Court was authorized not to sell the real estate described in such petition “unless it was satisfied by proof to be taken by deposition as in chancery cases, and filed in the cause; and where a sale of the estate shall be ordered or decreed by the court, commissioners shall be appointed in the order, or decree, with directions to sell the estate, either for money, or on credit, as may be most just, and equitable, and to report to the said court, at the time limited in the order or decree.”⁸⁹

There were numerous sales of such lands in Alabama. A large number of them consisted of venditions on applications of administrators and under orders of the courts of Alabama. Few if any of the administrators’ auctions, according to the report of Crawford and Balch, were legal if thoroughly tested prior to 1837, while the sales by widows of intestates were still less maintainable.⁹⁰ These individuals had but a life interest in the one-third or one-half of the realty of their late husbands and their deeds could not legally call for more. Where contracts were signed by the widow and children, or by the children alone, they were either legal or not according to whether the children were of age or minors.⁹¹

In order legally to complete a land title, the President had to approve the contract and issue a patent in fee simple.⁹² But the treaty, as we have seen, made no provision for sales on the death of reservees; therefore, the real estate of a deceased reservee descended according to the laws of Alabama. Thus we have the overlapping of federal and state authorities. By a liberal construction of the treaty, however, perhaps the heirs might have sold under a certifying agent and the contract approved by the President. These sales were not so made and Alabama took the initiative which the federal government regarded as irregular.⁹³ According to the terms of the covenant the United States was free to provide for the disposition of such reservations as remained unsold on the 4th of

⁸⁸ *Ibid.*, p. 5. Before the sale of such lands could take place, they had to be advertised in local papers for forty days.—*Ibid.*, pp. 6-7.

⁸⁹ John G. Aikin, *Digest of the Laws of the State of Alabama*, pp. 180-182.

⁹⁰ Crawford’s Report of 1838, pp. 4-11.

⁹¹ *Ibid.*

⁹² *Laws and Treaties*, II, 341.

⁹³ Crawford’s Report of 1838, C-859, pp. 11-12.

April, 1837. Under these circumstances, the act of March 3, 1837, was passed to legalize such contracts as were honest and fair but irregular, which could not have stood the legal test otherwise.⁹⁴

The difficulties which occurred in the disposition of Indian reserves, where their owners had died, caused a state of excitement and dissatisfaction in respect to questionable titles, not only in the minds of purchasers but of others as well.⁹⁵ If the settlement of Alabama was not to be hindered it became necessary for the federal government to allay the people and satisfy the prospective settlers by giving the peaceful and law-abiding people who wished to purchase these lands a legal title. It thereupon behooved Congress to do justice to the Indian heirs, to placate the prospective settlers, and to terminate the uncertainty which was attached to the titles of claimant purchasers. The proceedings of the courts of Alabama had to be treated with respect and delicacy in order not to offend the state, even though they were frequently believed to be in error. To execute these purposes it was necessary to clothe the President with ample powers to cope with the situation. This was done, as we have seen, in the act of 1837.⁹⁶

Before the passage of this act there were many Indians who did not receive all the money that was due them. On the other hand there were many Creeks who received more than their rightful share. The cases were numerous in which it was represented that the money raised by sales was paid to administrators, who in turn said they had paid the heirs, and the latter claimed that they had not received the money.⁹⁷ The law required that the money received from the sale of these lands should go to the persons entitled to it whether they were orphans, widows, or minors. The law made it the duty of the President to receive the money and to act as trustee for the Indians.⁹⁸ Sales by heirs were rarely valid for any purpose; still more seldom was a conveyance executed by *all* the representatives, and defective as they were in all other respects, there was frequently added the minority of the grantors. Scarcely one of them was legally binding, but it was for that very reason, among others, that the act of Congress was required.⁹⁹

⁹⁴ *Ibid.*, p. 12.

⁹⁵ *Ibid.*

⁹⁶ *Stat. L.*, V, 186.

⁹⁷ Crawford's Report of 1838, C-859, p. 15.

⁹⁸ *Stat. L.*, V, 186.

⁹⁹ Crawford's Report of 1838, C-859, pp. 17-18.

In the sales by widows and heirs, the consideration was settled by the individual speculators concerned, who frequently agreed to pay only when the federal government confirmed or approved the purchase; and *often* an appraisement or valuation was filed by two citizens. This was not a fair estimation of the true worth of the land, for the valuation was always made by individuals of the purchaser's own choice, and under his exclusive direction; therefore the investigating commission recommended that a revaluation of the land in such cases be made by persons appointed by the War Department.¹⁰⁰

Let us turn now to a few specific cases of fraud committed upon the widows, orphans, and minors. In the cases decided by the Orphans Court of Russell County, Alabama, the administrator for the Indians was G. W. Elliott. He disregarded the law of Alabama by his failure to file petitions for the sale of the twenty reserves which belonged to certain specified Indians within the county; therefore it was impossible for the heirs to have been known to the court. By right of administrator, Elliott had the exclusive right to file petitions for the sale of their real estates either to pay debts or to effect a more equal distribution among the heirs of the descendants. The administrator did not show that a single debt was due by any one of the intestates or that it was necessary to sell the land to effect a more equal distribution. Judging from Elliott's records, there was no mention of any one of the reservees having heirs of age or under, or of any one of them having daughters who were *femes covert*.¹⁰¹

By order of the court J. G. Worsham was appointed guardian, *ad litem*, to such of the heirs of the intestates of Russell County as may be "under age to answer and defend the said petitions." But there is no evidence to show that he ever did a single act for the protection or defense of the rights or interests of his wards. Neither is there any evidence to prove that any one of the heirs of the reservees ever had any knowledge of the Court proceedings or "ever were before the court or ever dreamed that any measures were

¹⁰⁰ *Ibid.*, p. 19. For other minor cases see *ibid.*, pp. 20-21.

¹⁰¹ Balch's Report of 1838, B-631, pp. 9-10; App. A, p. 11. The report now asserts that there were nineteen reserves. Previously Balch said there were twenty.

taken to affect their freehold estates and direct them of their titles thereto.”¹⁰²

On one occasion, under the direction of G. W. Elliott, there were thirteen of these reserves sold at auction at the county courthouse which brought upwards of \$12,000.¹⁰³

There were six additional reserves sold at the same time which the court ordered to be resold, for the first sale did not conform to the terms of the law because the bidders refused to pay the high prices bid.¹⁰⁴ At the second sale, according to the commissioner's report, the land sold for less than one-half the amount of the first sale. The investigating committee therefore concluded that these high prices were bid at the first sales in order to drive away the *bona fide* bidders. The highest bidders at the first sale were probably keen enough to know that the pliant judge would order a resale of the land. Those who were the purchasers at the first sale were the ones who bought the land at the second auction on much more reasonable terms.¹⁰⁵

The purchasers of these last reserves, and probably the original buyers also, did not pay the administrators a dollar of the money. The pretended purchaser gave his note for the purchase money. The commissioners reported to the court that the money was ready. It was then passed over to the administrator who put the note into his pocketbook and executed a bond to the court to account for the disbursement of the fund; the pretended purchaser became the security of the administrator in this bond. If the Indian never applied, nothing was ever paid. The way in which the administrator was “compensated for his trouble and risque [risk] was by coming in as a secret partner in the speculation.”¹⁰⁶ In this manner gross frauds were perpetrated upon the heirs of the deceased Indians.

It is thus safe to conclude that no greater frauds were ever perpetrated upon mankind than these inflicted upon the innocent

¹⁰² *Ibid.*, pp. 10-11; see App. A, B-631, pp. 1-28.

¹⁰³ *Ibid.*, pp. 18-19.

¹⁰⁴ *Ibid.*, pp. 20-21.

¹⁰⁵ *Ibid.*, pp. 43-45.

¹⁰⁶ *Ibid.*, pp. 45-46. In some cases the administrator and guardian purchased the lands through representatives without paying full value.—*Ibid.*, pp. 46-47. There are even cases in which the lawful administrator let another person assume his duties without being lawfully appointed and without the knowledge of the court.—*Ibid.*, p. 48.

Creeks in Alabama. Although the federal government made an investigation of the whole matter and reversed some of the sales, it ended like most government investigations, by letting the guilty in many instances go unpunished.

Chapter XVII

FEDERAL FINANCIAL AND ECONOMIC POLICY TOWARD THE CHOCTAWS

After the War of 1812 there were three roads leading into the Mississippi Territory: one from Fort Hawkins to Natchez, another west of Fort Hawkins and south of Fort St. Stephens; the third directly from eastern Tennessee southward through the territory of Mississippi to Huntsville in present-day Alabama. There were innumerable navigable streams leading into the Mississippi Territory. In 1810 the population of the Territory was 40,352; in 1820 the population of Alabama and Mississippi was over two hundred thousand; and by 1850 the population of the two states had reached nearly 1,400,000.¹ This rapid increase in population in the Southwest was due to the increased value of the cotton crop, the rich fertile lands and the mild climate which made the production of cotton a relatively simple matter, and also to speculation. When wealth-hunting whites arrived in large numbers, no room remained for the Indians. Mississippi, like Georgia and Alabama, extended her laws to persons and property within her chartered limits without consulting the United States and in direct violation of the authority of the federal government.² President Jackson again refused to uphold the rights of the national government and allowed the State of Mississippi openly to defy the central authority. The President, following his usual course of procedure, decided the best way to get out of the awkward situation would be to negotiate a treaty of removal. This was done in the treaty of Dancing Rabbit Creek, September 27, 1830, when the Choctaws ceded all their lands in the State of Mississippi.

The first article of the treaty pledged perpetual peace and friendship. The Indians ceded all their lands in Mississippi and were given what was deemed an equivalent in the West between the

¹ Paxson, *History of the American Frontier*, pp. 209-210.

² *Laws and Treaties*, II, 310-311; *A. S. P., P. L.*, VII, No. 1306 (A, 1, 2) 610-611.

Arkansas and Red rivers. They agreed to move to their new home as early as practicable; not more than one-half of the whole number were to depart in the autumns of 1831 and 1832, the residue to follow in the autumn of 1833.³

The fourth article has long since been broken; yet it sounds so beautiful and consoling, that it is worth quoting in full:

The Government and people of the United States are hereby obliged to secure to the said Choctaw Nation of Red People the jurisdiction and government of all the persons and property that may be within their limits west, so that no Territory or State shall ever have a right to pass laws for the government of the Choctaw Nation . . . and their descendants; and that no part of the land granted them shall ever be embraced in any Territory or State; but the U. S. shall forever secure said Choctaw Nation from, and against, all laws except such as from time to time may be enacted in their own National Councils, not inconsistent with the Constitution, Treaties, and Laws of the United States; and except such as may, and which have been enacted by Congress, to the extent that Congress under the Constitution are required to exercise a legislation over Indian Affairs. . . .

Furthermore, the federal government promised to protect the Choctaws against domestic strife and foreign foes. If any of them entered into the military service of the United States, they were to receive the same pay and other emoluments as any citizen of the United States for the same service performed. Offenders of the law were to be turned over to the federal government for punishment. Traders were required to obtain a written permit from the government and were required to live within the Choctaw country, subject to the laws of the tribe. All navigable streams were opened to the Choctaws who were required to pay no higher toll or duty than citizens of the United States. It was agreed further that the federal government should establish one or more postoffices within the possession of the tribe and also such military post roads and posts as might seem necessary.⁴

Since in many ways the fifteenth article of the treaty is the most interesting, it is quoted in full:

To each of the Chiefs in the Choctaw Nation (to wit) Greenwood Lafore, Nutackachie, and Mushulatubbe there is granted a reservation

³ *Laws and Treaties*, II, 311.

⁴ *Ibid.*, p. 312.

of four sections of land, two of which shall include and adjoin their present improvements, and the other two located where they please but on unoccupied unimproved lands, such sections shall be bounded by sectional lines, and with the consent of the President they may sell the same. Also to the three principal Chiefs and to their successors in office there shall be paid two hundred and fifty dollars annually while they shall continue in their respective offices, except to Mushulatubbe,⁵ who as he has an annuity of one hundred and fifty dollars for life under a former treaty, shall receive only the additional sum of one hundred dollars, while he shall continue in office as Chief; and if in addition to this the Nation shall think proper to elect an additional principal Chief of the whole to superintend and govern upon republican principles he shall receive annually for his services five hundred dollars, which allowance to the Chiefs and their successors in office, shall continue for twenty years. At any time when in military service, and while in service by authority of the U. S. the district chiefs under and by selection of the President shall be entitled to the pay of Majors; the other chiefs under the same circumstances shall have the pay of a Lieutenant Colonel. The Speakers of the three districts, shall receive twenty-five dollars a year for four years each; and the three secretaries, one to each of the Chiefs, fifty dollars each for four years. Each Captain of the Nation, the number not to exceed ninety-nine, thirty-three from each district, shall be furnished upon removing to the West, with each a good suit of clothes and a broad sword as an outfit, and for four years commencing with the first of their removal, shall each receive fifty dollars a year, for the trouble of keeping their people at order in settling; and whenever they shall be in military service by authority of the U. S. shall receive the pay of captain.

In addition there were several other chiefs who received reservations of land which ranged from two to four sections each. Heads of families were remembered also in this treaty; namely, first, one section to each head of a family not exceeding forty in number, who during the year 1830 had in actual cultivation, with a dwelling house thereon, fifty acres or more; second, three-quarter sections to each head of a family not exceeding four hundred and sixty who had in cultivation from thirty to fifty acres; third, one-half section to those who had cultivated from twenty to thirty acres, provided that there were not more than four hundred of such heads

⁵ Mushulatubbe was given the \$150 in the treaty of 1825.

of families; fourth, a quarter section to those who had cultivated from twelve to twenty acres, the number not to exceed three hundred and fifty; and, fifth, one-eighth of a section to those who had cultivated from two to twelve acres, the number also not to exceed three hundred and fifty. Each class of cases was to be so located as to include that part of the improvement which contained the dwelling house. If a greater number was found to be entitled to reservations than stipulated for under the limitations prescribed, the chiefs separately or together were to determine the persons who were to be excluded in the respective districts. In the sixth place, any captain, the number not to exceed ninety persons, who under this treaty should receive less than a section, was by the nineteenth article entitled to an additional half section adjoining his other reservation. The several reservations thus secured might be sold with the consent of the President, but if any Indian failed to take the reservation to which he was entitled, the federal government promised to pay fifty cents an acre on his removing West. A seventh clause allowed the orphan children a quarter section of land each.⁶

The treaty further stipulated that the Choctaws were to be moved to their new homes at the expense of the United States, and they were to be furnished with ample corn and beef or pork for themselves and families for twelve months after reaching the West. The federal government agreed to take their cattle at the valuation of some discreet person to be appointed by the President, and to pay that price to the Choctaws in money after their arrival at their new homes. If they preferred, the Government would furnish them with other cattle.⁷

The several annuities and sums secured under former treaties to the Choctaw tribe and people were to continue unmolested. In addition, it was agreed that the sum of twenty thousand dollars should be paid for twenty years upon their removal West, making a total of four hundred thousand dollars in the form of this particular kind of annuity alone.⁸ To compensate the twenty Choctaw warriors who marched and fought in the army with General Wayne,

⁶ *Laws and Treaties*, II, 313-315.

⁷ *Ibid.*, pp. 313-314.

⁸ *Ibid.*, p. 314. Ten thousand dollars of this money was to go to those who did not receive reservations under the treaty.

the government promised to pay them twenty-five dollars each, annually, so long as they lived.⁹

The federal government agreed to educate at its expense forty Choctaw youths for twenty years, and as this number finished their education others were to be selected to take their places. The treaty provided for the construction of a council house for the tribe at some central and convenient point in the West, a house for each chief, and a church for each of the three districts, which were to be used as schoolhouses as well as places of worship. For these purposes ten thousand dollars was appropriated. Two thousand five hundred dollars was to be paid for the support of three teachers for twenty years, which made a total of fifty thousand dollars to be paid in teachers' salaries. Likewise the United States was to furnish three blacksmiths, one for each district for sixteen years, and a "qualified Mill Wright for five years." The government furnished also twenty-one blankets, and to each warrior who emigrated "a rifle, moulds, wipers, and ammunition"; and "one thousand axes, ploughs, hoes, wheels, and cards each; and four hundred looms." The United States further promised one ton of iron and two hundredweight of steel annually to each district for sixteen years.¹⁰

Since Article Fourteen subsequently caused so much fraud and corruption to be perpetrated upon the Choctaw Indians, it will be well to quote that article in full:

Each Choctaw head of a family being desirous to remain and become a citizen of the States, shall be permitted to do so, by signifying his intention to the Agent within six months from the ratification of this Treaty, and he or she shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one half that quantity for each unmarried child which is living with him over ten years of age; and a quarter section to such child as may be under 10 years of age, to adjoin the location of the parent. If they reside upon said lands intending to become citizens of the States for five years after the ratification of this Treaty, in that case a grant in fee simple shall issue; said reservation shall include the present improvement of the head of the family, or a portion of it. Persons who claim under this

article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity.¹¹

The treaty was not ratified until February 24, 1831. Since only six months were allowed from the ratification of the covenant to signify one's intention of remaining in the East, the time limit thus expired on August 24, 1831. Colonel William Ward was appointed agent to receive and register the declarations of the red men in accordance with the provisions of the fourteenth article. He received no instructions in regard to the duties of his position until May 21, 1831, which were communicated to him from the Department of War after he had reached the Choctaw agency. This allowed "less than three months for those who desired to make reservations" to indicate their intention. Even at that late date Colonel Ward failed to receive specific instructions pertaining to the performance of his duties, "except that he should be careful in keeping a register of the reservations . . . and that he should transmit a certified copy thereof for the information of the Department of War. The terms of the treaty were to be his only guide, all besides was left to his discretion."¹²

Within the three months remaining, the agent selected the places and the time for conferring with the Choctaw claimants who were entitled to place their applications for the benefits of the treaty under Article Fourteen. It is said that Ward was "a man of intemperate and careless habits," and that "when the Choctaws applied to him, giving notice of their intention to remain on their lands, he in some cases refused to receive the application and in other cases to record it."¹³ At the termination of his duties as agent, Ward forwarded to his superiors in Washington "the names of only sixty-nine heads of families out of several hundred who were registered."¹⁴ Many applications were rejected without ample cause. In some cases, applicants were told that their names had been formally recorded, but were not sent to Washington; many of

¹¹ *Ibid.*, p. 313.

¹² *A. S. P., P. L.*, VIII, No. 1523, 672.

¹³ *Ibid.*, VII, No. 1315 (9, 10) 635-636; VIII, No. 1415, 432; *Register of Debates in Congress*, ed. by Gales and Seaton, XIII, 853; Franklin L. Riley, "Choctaw Land Claims," *Publications of the Mississippi Historical Society*, VIII, 346.

¹⁴ *Ibid.* A list of these names are printed in the *A. S. P., P. L.*, VIII, No. 1523 (H), 686.

them had been subsequently lost or deliberately erased unbeknown to the heads of families concerned. In other instances the applicants' names were "written on scraps of paper, according to the advice of the said Ward," and were accepted by him but subsequently destroyed or lost.¹⁵

Several Choctaw claimants addressed a memorial to the Senate and House of Representatives giving a list of their grievances.¹⁶ They stated that a number of the Indians "living on the Suckinatche, went forward to the said agent, at the Old Factory, to signify their intentions to become citizens of the United States, and did duly and formally have their names entered in the agent's book kept for that purpose; yet few, if any, of the names so entered in said books have been reported to the War Department by the said agent." Furthermore, they stated that many individuals of the tribe had caused their names to be entered in the book of registration and "yet their names were afterwards erased or blotted out by (possibly) those who had free access to the books of the agent." These omissions were made without the consent of any person entitled to claims. The Indians further had told the agent the number in each family who desired to remain in Mississippi and the age of each child, but in many instances the federal deputy had declined to enter their names on the ground that there were too many of them and had told them they must go beyond the Mississippi.¹⁷

Gabriel Lincecum, a resident of Lowndes County, who lived near the agency at the time, made the following report under oath:

I saw the representatives of some of these Indians go forward to the agent with a large bundle of sticks, as is the Indian custom, and offer to register the families thus represented; but the agent refused to receive them, and threw them away, saying that there were too many of them, and that they had sold their lands, and must go west. I have also, on various occasions, seen the agent, object to register the names of Indians who went to him on purpose; I have seen him at other times register a good many names, and I have seen him put down names which afterwards could not be found on the book. . . . He kept his book lying on the table at all times, free to the inspection of all

¹⁵ *Ibid.*, VII, No. 1315 (1, 2, 3) 627-629.

¹⁶ *Ibid.*, VIII, No. 1415, 432-433.

who wished to look into it. I have often seen persons take the register out of the room where it was deposited, to other parts of the house, and out into the yard, and inspect it as much as they wished. I have seen it loaned out and taken off by the persons. Several times the agent sent the book to my house by persons who wished to find names in it, for me to examine, he himself not wishing to take the trouble to do so. . . . I cannot undertake to say what number of names were registered, as I never made any count; but I am certain that there must have been several hundred at least. I know that I have frequently spent one or two hours looking over it, before I could find some particular name that I was in search of. . . . The agent himself was often absent from the agency during the six months allowed for registering, and in his absence, Stephen Ward¹⁸ had charge of the business. I have often seen him so much intoxicated that he could neither read nor write. I have seen the mail arrive when he would be too drunk to open it, and he would tell me to do it. I have often opened the mail under these circumstances; and sometimes the driver would open it. . . . Colonel Ward . . . seriously advised the emigrating agents to whip such [natives] as did not wish to go [to their new homes] and force them off . . . [David Folsom] lived near the agency and was often there, and had just as free access to the books as Colonel Ward¹⁹ himself. He was very much opposed to any of the Indians' staying, and I always suspected that he had some agency in destroying the register of names, though I have no certain knowledge of it.²⁰

Colonel John W. Byrn, sheriff of Lowndes County, also testified that he was almost certain that he "heard Colonel Folsom say that he, Folsom, had scratched the names of Choctaws off the agent's books, where they had been registered for citizenship and land, under the provisions of the 14th article of the treaty of Dancing Rabbit Creek, saying 'that he wanted them all to go west of the Mississippi river'." ²¹

After Colonel Ward completed his work as agent he sold his pos-

¹⁸ Stephen Ward was Col. William Ward's brother.—*Ibid.*, VII, No. 1315 (5), 631; *ibid.*, VIII, No. 1523 (N, 6), 694.

¹⁹ *Ibid.* (N, 5, 6, 7), pp. 694-697. Colonel Folsom, with the consent of Col. Ward, carried the register home with him, about four miles from the agency.

²⁰ *Ibid.*, p. 694. This statement is also proved by the testimony of Grant Lincecum, Adams James, R. H. Grant, J. Clements, J. C. Whitsett, J. Oxberry, G. S. Gaines, J. Pitchlyn and others.—*Ibid.*, pp. 691-696, 627-644; No. 1523 (N, 1-7), pp. 691-696, 627-644.

²¹ *Ibid.*, VII, 628.

sessions at public auction. At this vendition, Gabriel Lincecum bought "a lot of books and papers." In this acquisition he discovered one of Ward's books, "in which he entered the names of the Indians." This volume was used primarily to record the names of the orphans, but upon examination it was discovered that the names were not transferred, with a few exceptions, to the general book deposited in the office of Columbus.²²

George W. Martin was appointed June 26, 1833, by President Jackson to locate all reservations under the fourteenth, fifteenth, and nineteenth articles of the treaty. He was notified accordingly, and instructed to secure from Colonel Ward and Captain William Armstrong of the registers containing each class of reservations and to conform to them in assigning and marking reservations.²³ Upon visiting Ward and Armstrong he was told that it would be impossible to supply him with flawless copies of the register. He obtained two lists, but only one was certified. In the latter, sixty-nine heads of Choctaw families expressed their desire to become citizens of Mississippi according to the terms of the fourteenth article. In regard to these lists Colonel Martin makes the following statement:

The uncertified list contained twenty names which were not on the certified list, and the certified list contained twenty-three names which were not on the uncertified list. The other names, about fifty in number, were the same on both lists. The names and numbers of their children also varied. These lists were each of them written on a sheet of letter paper, and fastened in the back part of the register of claimants under the other articles of the treaty. . . ."

He further said that he understood from Ward that the list was imperfect and "that he would not vouch for their correctness, and had taken no particular care of them. I got the impression that a part of the register had been lost; but whether Colonel Ward stated it specifically or not, I am unable to say."²⁴

Martin communicated his difficulties to the Department of War and "pointed out the great injustice and embarrassments, which would arise, if no other reservations should be withheld from sale, than such as could be satisfactorily and finally ascertained and

²² *Ibid.* (D, F), pp. 627-628, 630-631.

²³ *Ibid.*, No. 1230, pp. 23-24.

located." He then attempted to place on the proper reservations the heads of families whose names appeared on the certified list. He attempted to do the same for those who produced Colonel Ward's certificates that they had made the proper declaration within the required period of time. All the remaining petitioners who did not fall into these two groups were informed that they could not possibly be given reservations.²⁵ Meanwhile the Choctaw cession was being rapidly surveyed and the lands placed on sale. These venditions were made with the proviso that if "any reservation secured to any Indian by the treaty should be sold, such sale would not be confirmed."²⁶

The registrars at the various land offices were directed on September 10, 1833, not to place on sale such reservations or tracts as the Choctaws should think necessary and proper to be withheld from sale, in order to carry out the spirit as well as the letter of the treaty.²⁷ The Secretary of War sent a corresponding order to the locating agent on September 27, 1833.²⁸

Colonel Martin published a list of places in each district where the process of locating the claimants would be effected. The applicants were specifically instructed to appear before the proper agent within their respective districts and make their claims in proper form prior to the day of sale.²⁹ The agents were "authorized to receive, and place on file for registration, all such claims as may be presented, and come under the rules prescribed."³⁰

After Martin had turned down many claimants because of his first instructions, the Indians became so excited that the Acting Secretary of War, Mahlon Dickerson, on October 11, 1834, issued new instructions to the locating agent, which read in part as follows:

You will therefore give public notice, that persons who consider themselves entitled to reservations under the 14th article, and whose names are not upon the register of Colonel Ward, will exhibit to you the

²⁵ *Ibid.*, VII, No. 1507, 639-643.

²⁶ *Ibid.*, p. 10.

²⁷ *A. S. P., P. L.*, VIII, No. 1395 (8), 392. See also Riley, "Choctaw Land Claims," *Pub. of the Miss. Hist. Soc.*, VIII, 351.

²⁸ *A. S. P., P. L.*, VIII, No. 1395 (9), 392-393.

²⁹ *Ibid.*, VII, No. 1230, 12-13. He then appointed his assistants and interpreters. The locating agent received five dollars a day and interpreters \$2.50.

³⁰ *Ibid.*, p. 15.

evidence in support of their claims. This evidence must show that they were citizens of the Choctaw nation, heads of families, and did signify their intention to become citizens within the time prescribed by the treaty. It must also show the time of their application to be registered, and the conversation and circumstances relating to it.³¹

Where the lands claimed had been sold, Colonel Martin was instructed to select other locations "of equal dimensions and of as nearly equal value as practicable." Such claims were withheld from sale, but it was clearly understood that these sections were not to become valid until approved by Congress. The agent had specific instructions to transmit . . . for the action of Congress at its next session, detailed reports, showing the names, standing, and credibility of the witnesses, and all the circumstances in each case. . . ." ³²

The locations which were made between October 13, 1834, and December 4 of that year were sent to Congress by President Jackson on February 6, 1835.³³ The Committee on Indian Affairs in the House considered the matter and reported a bill which provided "for a more full and satisfactory investigation of the claims," but the terms of the proposal were never carried out. By 1835 additional information had been received and the President turned the new claims over to Congress for confirmation. Colonel Martin made provisional locations for 520 heads of families, estimated at 615,686 acres.³⁴

CHOCTAW LAND COMPANY

At first little attention was given to the so-called "floating claims." The President was largely responsible for these claims because he too hastily had placed the lands on the public market before adequate and correct locations had been made for the Choctaws, under Article Fourteen of the treaty. Since the Indians failed to get the lands to which they were justly entitled, they filed claims for other reservations in place of the reserves to which they were justly entitled. The former were called "floating claims." In the autumn of 1833 the agents of several land companies visited the locating agent, Colonel Martin, representing the Indian claim-

³¹ *Ibid.*, VIII, No. 1395, 393-394.

³³ *Ibid.*, VII, No. 1315, 627.

³² *Ibid.*

³⁴ *Ibid.*, No. 1569, p. 927.

ants. From that time on such speculative companies were rampant in the Choctaw country so long as the natives had any lands left. They appeared to the Indians as their ardent supporters in order to win their friendship. They promised to prosecute the Indian claims for one-half of such demands in property, and for one dollar and a quarter an acre for the remaining half when retrieved.³⁵ These companies assumed the power of attorney to secure their purpose. They were willing to sell the half promised to the Indians at any price in order to be relieved of the obligation. Agents of these companies in the State of Mississippi and in their new country in the West "produced documents purporting to give them power of attorney to select and dispose of the land which they might acquire for Indians who had not complied with the terms of Article Fourteen, and whose claims were therefore wholly fraudulent."³⁶

The land companies endeavored to popularize their organizations by writing to the most influential men in the counties where they hoped to carry on their work, requesting their co-operation and asking the latter to join them. In order to weaken the influence of the opposing forces they distributed many written contracts, "agreeing to convey a quarter section to each settler who would not attempt to prevent the passage of the claims." A public meeting was held to discuss the subject "at which several of these instruments were publicly read, and commented upon." Several men tore up their certificates saying that they had been induced to believe that these contracts would secure them a quarter section of land; that they had been deceived; that signed agreements were not to be considered as binding; and that they were now determined to oppose such frauds with all their might.³⁷

These speculators even tried to win over the most influential members of the state legislature by means of bribery and frauds. One of the speculators told a member of the Upper House of the Mississippi Legislature after trying to bribe him, that his company had obtained about two thousand sections or 1,280,000 acres of Indian lands; that "the company was to have one-half of the

³⁵ *Ibid.*, VIII, No. 1451, 507-509. See Riley, "Choctaw Land Claims, *Pub. of the Miss. Hist. Soc.*, VIII, 353-355.

³⁶ *Ibid.*, VIII, 354.

land, if they succeeded, for their trouble," and that the members of the company would divide the spoils among themselves.³⁸

This gave rise to a new group of adventurers who now concocted a scheme to get the remaining half of the Choctaw lands after the first group of speculators had secured their bounty. The second group contended that the sale of such lands by the Indian himself would be good, disregarding the fact that the first group had been given "an irrevocable power of attorney to sell for the Indians the half retained for them. . . ." Some contracts, however, were made by the second lot of speculators, but it is impossible to ascertain how many.³⁹

PEOPLE OF MISSISSIPPI AROUSED

The honest citizens of the state who lived in the Indian region urged an immediate adjustment of these claims. Samuel Gwin, a registrar of public lands, wrote many letters to the Commissioner of the General Land Office at Washington, advising him of the conditions in Mississippi and the danger involved in an unnecessary delay of settlement. On May 5, 1835, he wrote:

. . . this delay of bringing the public lands in the Choctaw purchase, into markets, is the *hot-bed* that will bring forth thousands of fraudulent claims under the treaty; and you need not be surprised if it does not forever supercede another public sale, by sweeping off some six or seven hundred sections of the choicest lands, by claims *coined* to suit the times. By pushing the lands into market, they are prevented from maturing their plans, and carrying them into effect. But here is time given them to gather a head of water, and it will not be lost to them.⁴⁰

Again Gwin wrote on May 7, 1835, that these lands

are held by speculators and not by Indians—have been purchased at reduced prices, and the assignees were, at the last session, lobby members in Washington; . . . these lands are worth *fifty times* as much as the lands the Indians *pretendedly* lived on. . . . There is no justice in their *floating* from the poor pine lands, east of the Yala Busha, to the richest river lands on the Mississippi. . . . I have seen enough to know that anything can be proved where the *rich river lands* are in view.⁴¹

³⁸ See the report of a Committee of the Mississippi Legislature in *A. S. P., P. L.*, VIII, No. 1451, 507-509.

³⁹ *Ibid.*

⁴⁰ *Ibid.*, No. 1395 (14), 394.

⁴¹ *Ibid.*, pp. 394-395.

On November 24, 1835, Gwin wrote to the authorities in Washington:

Hordes of Indians, who have all *plain cases*, are now conjured up, and, under pretended purchases, a set of ravenous speculators are carrying everything before them.

Already have they blown up the sales at Columbus, and, after devouring that carcase, they have commenced here; and I was told this evening that they would take all the valuable land in this district.

I have reflected but little on the subject, but that little has brought me to the conclusion to go on and offer the lands as ordered in the proclamation. If I do finally adopt this course, . . . I am fully satisfied they will at least satisfy you that I am solely governed by the public good. . . .

The subject deserves the serious consideration of Congress, as *several* of that body are either directly or indirectly interested in these claims, whose influence, with the perseverance and importunities of the claimants as lobby members, will, I fear, have the effect of forcing them through without reflection or a strict regard to the interests of the United States.⁴²

A letter was written to the Commissioner of the General Land Office from Augusta, Mississippi, on October 20, 1835, informing him that a man by the name of John Johnson, Sr., who called himself the "Agent and Attorney in fact of the Choctaw claimants" had taken the testimony in favor of a hundred or more claims, most of which were believed to be "of a suspicious character," and that he had warned the people against buying "certain lands which were claimed by his clients."⁴³

There were various communications from the northern, central, southwestern, and other parts of the state warning the authorities at Washington of the frauds perpetrated upon the Indians and upon the federal government. It was alleged that about three million dollars worth of the public domain was at stake and depended upon "the action of Congress with regard to these floats."⁴⁴

Two petitions in 1836 were sent to the House of Representatives and Senate which unhesitatingly asserted that these speculators

⁴² *Ibid.*

⁴³ *Ibid.* See Riley "Choctaw Land Claims," in *Pub. of the Miss. Hist. Soc.*, VIII, 356.

⁴⁴ *A. S. P., P. L.*, VIII, No. 1395 (17, 18), 396.

had "set apart for them the choicest lands in the country; sweeping over large districts inhabited and cultivated by persons who settled the public lands on the faith of the policy of the Government, indicated by the passage and renewal of pre-emption laws at almost every session of Congress, that their homes would be given them at a reasonable price, unexposed to the heartless grasp of the voracious speculator." The petition continued:

To the alarm of your memorialists, these claims have now amounted, as they are informed to upwards of three thousand, which, at an average of 1,280 acres each, amount to the enormous aggregate of three millions eight hundred and forty thousand acres; and the said speculators, availing themselves of the panic which these operations have produced, are now selling out, receiving a portion of the price in ready money, which they refuse to become bound to refund, in the event that the title is not confirmed, thus securing to themselves large fortunes, without having advanced to the Indians one cent, so far as your memorialists are informed and believe.

Your memorialists are persuaded that not more than one out of twenty claims are founded in justice and equity, and if scrutinized by a tribunal sitting in the vicinity of the land offices, with competent powers to reject or confirm, and to compel the attendance of witnesses, those honestly claiming would be secured in their rights, and the most stupendous system of fraud on the Government would be exposed and defeated.⁴⁵

There was naturally much objection to the way in which the treaty of Dancing Rabbit Creek was executed. Therefore certain citizens of Mississippi memorialized Congress, requesting that a special commission be appointed "with power to enforce the attendance of witnesses," or that the question be referred to the courts of the country for investigation, or some other method be legalized that would insure impartial investigation of the Indian claims. To this petition was added the sworn statements of certain residents, asserting that individuals had assumed the name of Indian claimants who had migrated West after they had duly registered.⁴⁶

⁴⁵ *Ibid.*, No. 1414, p. 431; No. 1415, pp. 432-433.

⁴⁶ *Ibid.*, No. 1449, 498-499.

MISSISSIPPI LEGISLATURE INVESTIGATES FRAUDS

Early in January, 1836, the lower chamber of the Mississippi Legislature appointed a select committee to investigate the alleged frauds committed under the fourteenth article of the treaty.⁴⁷ The testimony taken by this committee was reported to the Lower House which confirmed the statement that shameful frauds had been perpetrated upon the federal government. Mississippi was interested in putting down these evils, for such practices would deprive the state of considerable revenue which would normally "accrue to it through a five per cent fund which the federal government had promised [the state] from the sale of the public lands."⁴⁸ The speculators' land agents were scattered throughout the state looking after the interests of their employers. One of them was seen "at ball plays, surrounded by several hundred Indians, making their marks for them on blank sheets of paper, and apparently taking the number of their children, when the Indians themselves did not touch the pen"; while these marks were being secured the natives had no interpreter. One of the adventurers located 250 sections of land under false claims, and he sold \$150,000 worth of these prior to his departure to Washington to have his work confirmed by Congress. He had no capital when he entered into the speculative game, but expected to clear \$6,000 in this one deal. There were others who were able to secure "two reservations for one Indian by varying the spelling of the name." Many of the tribesmen who had gone to their new homes in the West had been enticed to return to Mississippi to enter their claims contrary to the agreement in Article Twelve. Another adventurer said that "when the general Government left the door open to fraud, it was no harm to make use of it." Efforts were made to corrupt and intimidate at least one member of the legislature who advocated the exposition of the frauds before Congress. These flagitious characters believed that if unmolested they would be able to secure deeds to land for all the red men who were able to prove that they had lived in Mississippi six months after the treaty, whether they had regis-

⁴⁷ *Vicksburg Sentinel*, February 1, 1844; see also February 4, 1844.

⁴⁸ *Session Acts of Mississippi*, 1836, pp. 105-107; Riley, "Choctaw Land Claims," *Pub. of the Miss. Hist. Soc.*, VIII, 359.

tered or not. The adventurers believed that they in turn would be able to secure these lands for their company from the Indians at about ten cents an acre. When they could not accomplish their ends, they had Chickasaws registered as Choctaws.⁴⁹

Since the speculators were endeavoring to get the richest bottom lands in the State of Mississippi, lands which no Choctaw Indian apparently claimed, the state legislature petitioned Congress to refuse to sanction such claims.⁵⁰ The members of the legislature had no intention of allowing these pernicious men to rob the state of its "just and inalienable right" to five per cent of the proceeds from the sale of the public lands in the state, which Congress allowed.⁵¹

CONGRESSIONAL INVESTIGATION

As early as 1834, at the suggestion of Senator Poindexter, a Senate committee was appointed to examine the behavior of the agents to whom had been entrusted the work of carrying out the treaty of 1830 and the impostures which had been committed by the Chocchuma Land Company. These alleged crimes were probed chiefly for political effect; therefore, nothing of any great value was accomplished. However, the findings of the committee were transmitted to the President on March 3, 1835. Three months later President Jackson sent to the Senate the reply of Colonel Gwin, Registrar at Chocchuma, to the accusations of his conduct by the Senate committee. Along with this report was submitted the address of Robert J. Walker, a representative of the Chocchuma Land Company. The message of Walker had been written to the people of the United States in support of the action of the company.⁵²

The appeals made by the Indian claimants, the activities of the citizens of the state, and the memorial of the Mississippi legislature with supporting testimonies were transmitted to the national Congress, all of which were referred to various committees. Judge Black, Senator from Mississippi, reported for the Senate Commit-

⁴⁹ *Ibid.*, pp. 359-360; *A. S. P., P. L.*, VIII, No. 1451, 507-509.

⁵⁰ *Session Acts of Mississippi*, 1836, pp. 105-107.

⁵¹ *Ibid.*; see *House Documents*, 24th Cong., 1st sess., No. 202.

⁵² *A. S. P., P. L.*, VII, No. 1264, 448-507. For the defense of Samuel Gwin and the address of Robert J. Walker see *ibid.*, VIII, 711-788. Robert J. Walker was one of the land speculators at this time. His name appears frequently in the pages in *ibid.*, Vols. VII and VIII.

tee on Private Land Claims, March 22, 1836. He said that the committee found it necessary to uphold the views of the legislature of the state and likewise pronounced the claims and the contracts with the Indians to be pregnant with fraud. Extracts from this report read as follows:

The granting of other lands, in place of those sold, would be in the shape of an indemnity, it not now being possible to obtain that to which they suppose they were entitled. Under these circumstances the Executive has not the power to allot other lands to them any more than he has to indemnify other individuals who have equitable claims on the government, on account of land claims, out of the public domain. Applications [are] therefore made to Congress, and the question is, in what way, (admitting the claims to be equitable,) and to what extent, ought indemnity be granted. If these individuals were entitled to lands sold, other lands in lieu of them cannot be a matter of *right*: a just compensation is all that can be claimed. Compensation in money has frequently been made for lands sold by the government, to which citizens were entitled. The committee, after considering all the facts and circumstances attending the whole transaction, do not hesitate to recommend that course in case any of these claimants can hereafter show they have equity.⁵³

Thus far we have considered chiefly the action of the Senate; the House assumed, however, a somewhat different position. President Jackson brought the matter before the Lower House on February 6, 1835, in a report from the Secretary of War, which contained the testimonials of the claimants secured by Colonel Martin and the work that he had accomplished. The report of Secretary Cass was referred to the Committee on Indian Affairs for special study.⁵⁴

On February 1, 1836, Colonel J. F. H. Claiborne of Mississippi submitted to the Lower House of Congress

a memorial from certain mingoes of the Choctaw Nation, remaining in the limits of the State of Mississippi, praying a grant of unappropriated lands in lieu of those to which they say they were entitled under the 14th article of the Treaty of Dancing Rabbit Creek, and of

⁵³ *Ibid.*, VIII, No. 1480, 564-566. It was so recommended by the committee that money payments be made to just claims.

⁵⁴ *Register of Debates*, Vol. XI, Part I, pp. 1249-1250.

which they declare that they have been unjustly deprived; also a memorial or remonstrance of a numerous and respectable portion of his constituents against the validity of these claims, denouncing the whole proceeding as fraudulent, and calling on Congress to protect them in their settlement and rights; and the country against the most stupendous fraud that was ever set on foot.

When Claiborne submitted this memorial and other documents, he said:

Whether we consider the magnitude of the claims, the respectability of the parties, or the deep and absorbing interest felt in the State of Mississippi, the subject is alike worthy of a full and fair investigation. On one side are these Choctaw claimants, their agents, and assignees, citizens of different states, of every political party, and many of them gentlemen of the highest respectability, upon whose integrity heretofore not one shadow of suspicion has ever rested, and who come here, not shrinking from, but, as they say, seeking investigation. On the other side are many of the settlers of the State of Mississippi, a valuable class of men, entitled to the highest credit, and claiming justice at your hands. . . . I candidly confess . . . to the House that, if I have any pre-possession, any prejudice, any conviction on the matter, it is against these claims. Whether just or unjust, if they be confirmed, the fairest portion of Mississippi will be desolated; the stability of property will be shaken; the tide of prosperity will be rolled back, and hundreds of my best constituents, the men who support their Government, and fight its battles in war, will be driven from their homes to other and distant lands.⁵⁵

This memorial was sent to the Committee on Indian Affairs of which Senator John Bell of Tennessee was chairman. After several weeks of consideration, Bell offered a joint resolution to the effect that all the public lands that accrued to the government according to the treaty of 1830, and had been set aside by the federal agent for individuals claiming reservations under Article Fourteen, be withdrawn from public auction until further "ordered by Congress."⁵⁶ The resolution passed the House but the Senate on Private Land Claims recommended the deletion of the words "until the further order of Congress," and substituted therefor the words

⁵⁵ *Ibid.*, Vol. XII, Part II, pp. 2466-2467.

"from the first day of June until the first day of December."⁵⁷ This amendment passed the Senate but failed in the House; therefore the proposal was lost.

On May 11, 1836, Senator Bell, on behalf of the Committee on Indian Affairs, again recognized the justice of the Indian claims, and maintained that the federal government was obligated to protect the claimants against the fraudulent designs of the adventurers. The committee held that "all contracts entered into before the title is perfected by patent, should be regarded as wholly void." The committee further said that

after a full and careful consideration of the subject, [we] are unanimous in the opinion that the most safe and satisfactory plan which can be adopted for the examination and adjustment of those claims, will be to institute a commission to take the evidence for and against them, in the several land districts in which they originated. . . . The committee are also decidedly of the opinion that the decision of the commissioners should be final. . . .⁵⁸

Soon afterwards Bell introduced a bill which covered the recommendations of his committee. This proposal also passed the House, but Walker of the Senate moved to amend the original measure by eliminating it entirely, and including a provision to set apart thirty thousand dollars as a supplement to the appropriations previously made to further aid the removal of the Choctaw Indians then living in the State of Mississippi.⁵⁹ The bill was laid on the table and Congress adjourned without taking further action.

THE FIRST AND SECOND CHOCTAW INVESTIGATING COMMISSIONS

At the next session of Congress the previous measure was taken up for further action. After much deliberation a bill was finally approved, March 3, 1837, which provided for an unbiased commission to investigate the land claims of each claimant and to report their findings with all the facts obtainable in each individual case. The act further provided that nothing contained within the bill

⁵⁷ *Ibid.*, p. 1412.

⁵⁸ *Ibid.*, pp. 3615-3617; *A. S. P., P. L.*, VIII, No. 1523, 675-676.

⁵⁹ See *Woodville Republican*, June 25, 1836; *Register of Debates*, Vol. XII, Part II, p. 1936.

shall be so construed as to sanction what is called contingent locations, which have been made by George M. Martin, for the benefit of such Indians as were supposed to have been entitled to other lands, which have been sold by the United States; such contingent locations having been made without legal authority; it being the true intent of this act to reserve to Congress the power of doing that which may appear just when correct knowledge of all the facts have been obtained.⁶⁰

Unfortunately the Senate proposed an amendment to the bill which was approved by the House, limiting the duration of the commission to March 1, 1838.⁶¹ The commission began its work in due time but its work was largely a failure because its term expired before the commissioners had examined scarcely one-fourth of the cases. The report of the commissioners upheld the contentions of the claimants. A federal attorney, Richard M. Gaines, was present at the meetings of the commissioners and was eager to examine the contracts reported to have been effected between the speculators and the claimants, but the commissioners asserted that according to the law they constituted an investigating and advisory body and, therefore, had no jurisdiction over the questions involved. The investigators accordingly gave no decisions, but transmitted the results of their findings to the authorities in Washington. Nothing came of this investigation; and the whole question was temporarily dropped.

In accordance with the recommendations of the new head of the Indian Bureau, T. Hartley Crawford, Congress passed the act of 1842, providing for a new commission which had all the authority of the previous one and also the powers of a Court of Judgment and Records.⁶² The persons appointed to serve on this commission were: the Honorable J. F. H. Claiborne of Mississippi, Colonel Ralph Graves and William Tyler⁶³ of Virginia. These men were ordered to make a complete investigation and to render a decision on each case, subject to the approval of the President.

A great deal of latitude was given them in carrying out their instructions; therefore, they adopted certain rules to govern their action. Each Indian claimant, as well as his family, was compelled

⁶⁰ *Stat. L.*, V, 180-181; *Register of Debates*, Vol. XIII, Part II, App. 24.

⁶¹ *Stat. L.*, V, 872.

⁶² *Ibid.*, pp. 513-516.

⁶³ William Tyler was a brother of President Tyler.

to come before the commission. He was carefully examined physically for scars or moles and so forth to prevent subsequent impersonation. The claimant then presented his claims and was put through a searching cross-examination; he had to have a responsible witness; he had to give the number and ages of his children at the date of the treaty of Dancing Rabbit Creek and his place of residence at the time. Furthermore he had to prove that he was not only a Choctaw but the head of a family. In addition he had to state that he either had signified or had offered to state his intention to the agent of the federal government within the designated time in order to get the benefits of Article Fourteen; that he had lived continuously on his claim for at least five years after the signing of the treaty, unless he had been dispossessed by force. He also had to testify that he had not emigrated West, and had not within five years entered into any contract to sell any portion of his claim.⁶⁴

If the claimant could prove these points to the satisfaction of the members of the commission, he was awarded his claim. Where the land had already been sold by the federal government, or where so much of it had been sold that an insufficient amount was left to satisfy their claims, scrip was issued in its place at the rate of \$1.25 per acre. This certificate of credit was redeemable at par at any of the land offices in Mississippi, Alabama, Louisiana, or Arkansas. The scrip was paid to the Indian claimants only on condition of their removal West. One-half was redeemed when they started West and the residue after they arrived. As usual the United States was to pay the entire expense of removal and to furnish ample provisions for the natives for a year after their arrival in their new country. The federal government also agreed to provide them with the essentials of life while the commission was considering their claims.⁶⁵

The first meeting of the commission was held at Hopahka on December 19, 1842, during William Tyler's absence. It investigated close to two hundred and fifty cases and awarded a number of decisions in favor of the claimants. These awards were immedi-

⁶⁴ *Mississippi Free Trader*, September 16, 1843. See also Riley, "Choctaw Land Claims," *Pub. of the Miss. Hist. Soc.*, VIII, 366-367.

⁶⁵ *Ibid.*; see also the *Mississippi Free Trader*, September 16, 1843.

ately forwarded to Washington. General Reuben Grant took offense at the awards of the commission and wrote a letter to the Commissioner of Indian Affairs saying that the commissioners were attempting to defraud the government of millions of dollars by granting claims to Indians who were not entitled to a foot of land; "that he was extensively acquainted among the Indians; that they did not pretend to have any claim until after the speculators went among them; that not ten in a hundred are entitled to anything; that large numbers of Indians have returned from the West; that Indians in the hands of speculators will prove anything; that with proper exertions two and one-half millions of dollars may be saved to the government; and, finally, that the cases reported by the board are mostly frauds, and should be remanded for further investigation."⁶⁶

As a result of Grant's letter, the Commissioner of Indian Affairs urged the delegation to use considerable care in their investigations in order to obviate fraud. He further urged "the employment of one or two more agents to protect the interests of the claimants and the government, particularly the latter." A former member of the House of Representatives at Washington, T. J. Ward, was now appointed to examine the county records in order to secure all possible information. He soon disclosed some contracts which furnished sufficient evidence to prove to the satisfaction of the president of the commission, Colonel Claiborne, that practically all of their awards at Hopahka were wrong. He immediately wrote a letter to the department at Washington advising it to suspend all the cases that had been reported favorably at Hopahka and to issue no scrip upon them.⁶⁷

The act of 1842 provided that the validity of all of these claims depended upon the question as to whether or not the Indians had disposed of their lands or claims within five years after the treaty. The investigation proved that almost all of the claimants had violated this part of the agreement in spite of their sworn statements to the commissioners. The inquiry also brought to light the fact that various companies of speculators had purchased claims

⁶⁶ *Proceedings of the Board of Choctaw Commissioners*. This pamphlet is in the Claiborne collection in the Library of the University of Mississippi. Photostat.

⁶⁷ Riley, "Choctaw Land Claims," *Pub. of the Miss. Hist. Soc.*, VIII, 368-369.

for almost nothing, and asserted that S. S. Prentiss, a member of the Mississippi legislature, had been secured by the speculators for a "contingent fee of \$100,000.00," to protect their interests.⁶⁸

The commissioners subsequently assembled at the Yazoo village and accepted at that place and at Garlandville petitions for approximately one thousand claims. They examined nearly two hundred cases. Again the commissioners suspended the investigation largely because General Reuben H. Grant had contended that these claims too were invalid. After subpoenaing several witnesses, the commissioners adjourned to convene at Hillsboro on the first Monday in November, 1843, to review the questionable cases and to hear any new evidence that might be presented. In the meantime, Ward was requested to pursue his examinations "in every county in the ceded district." Claiborne wrote a personal letter to the authorities in Washington exhorting them to do nothing until each case could be reviewed by the commissioners.⁶⁹

The *Natchez Free Trader* of September 20, 1843, gives the following account of conditions in Mississippi:

The Choctaw claims look squally. They began in a storm and will go out in a whirlwind. Commissioners, agents and speculators, are all at loggerheads. Mr. Graves, one of the commissioners, had had a fight with the secretary, [Col. Fisher] . . . a leading speculator, . . . and a combination of vexed and disappointed speculators are now moving heaven and earth to get rid of Col. Claiborne, because he suspended all their claims. Where three millions of dollars are at stake, the man who refused to distribute it, has fearful odds to contend against. It is easy in such case, to get up every species of attack upon his character and to find tools to manufacture a thousand bugbears. But in this case the contest will be a two-sided one, and blow for blow will be given. It has only been a short time since all those speculators were singing in tenor, treble, and bass the praises and business talents of Col. Claiborne; now they pipe in a different tune. The fruit of this excitement, however, will be salutary. It has already drawn public attention to these claims. They will be canvassed and scrutinized and if legal contracts have been made, *they cannot be screened under cover of a personal issue with one of the commissioners, which seems now to be the design.*

Claiborne now was bitterly opposed by the speculators. They did everything within their power to cause his resignation. Pressure

was brought to bear on the officials at Washington to get him removed, but he was able to give blow for blow. He charged the speculators with perpetrating fraud and deception upon the Indians, having obtained from them "absolute deeds of conveyance for the whole of their lands, and powers of attorney to receive their scrip, having given their bonds to pay over one-half of it to the Indians when the claim is closed!" Again Claiborne stated that

every acre of land, yet patented to these Hopahka Indians, is held by one Forrester, who has not paid a dollar. It is said he held 30,000 acres. Not a sale he has made under such contract can stand and every man who has purchased under him should withhold payment. This man made contracts—contracts were made with the Hopahka Indians, by inducing them to believe that Gen. Jackson desired it. Gen. Jackson who always denounced the whole claim a fraud! If the agencies at work at Washington succeed, Forrester will realize half a million at once, out of nothing. His claims passed the Board by perjury testimony; the Board suspended them on suspicion of fraud, and if they pass it will be corruption. He stood by and heard his witnesses perjure themselves by swearing they had made no contracts—when he knew that he had made contracts with himself and with Gwin and Fisher, and Judge Wright and others, before him! And Gwin and Fisher are now clearing their part of the land scrip under these contracts! And their partners and coadjutors charge them with an attempt to defraud them out of their portions of the profits!⁷⁰

Colonel Claiborne later returned to Natchez. While there, he prepared an elaborate account of the entire work of the Choctaw commissioners. It was published in pamphlet form at Natchez, November 30, 1843, and each member of Congress was given a copy. It concluded with the following paragraph:

I leave this matter in the hands of the country, for it was in its service I incurred the hostility of this band of speculators. In the early stages of the commission I was on intimate terms with some, on amicable terms with all of them and was applauded by them for the liberality and fairness of my course. This is notorious. But no sooner did the course of events, the communications from the Department, and from other quarters, satisfy me that our action had been too precipitate, and that it

⁷⁰ *Vicksburg Sentinel*, November 10, 1843. See also *Mississippi Free Trader*, November 15, 1843.

was my duty to atone for my error by advising a suspension of the scrip, than the whole pack opened in full cry upon me, and determined to frighten me out of office. If I had permitted the bandage to remain upon my eyes, or consulted my personal interests, my career would have been both peaceful and profitable. So much for these matters. As a public officer I have my defense to make, whenever I am formally attacked. I trust in God that it will be satisfactory; and my friends may be assured, great as are the odds of many against one, I will not shrink from any ordeal through which it may be my lot to pass.⁷¹

One of the leading newspapers of Mississippi came out with strong editorials praising Claiborne and the Commissioner of Indian Affairs, Crawford. It closed one of its editorials as follows:

Before closing this article, it may be stated that the testimony taken before the former Board has been examined under the direction of Mr. Commissioner Crawford. He made a very elaborate and most able report on the subject, which was concurred in by the Secretary of War, and furnishes a precedent for the decisions of the present Board. Many of the cases were rejected. On those confirmed, scrip to the amount of \$130,000.00 has been issued and transmitted to John J. McRea, Esq., the emigrating agent of the United States. Not a dollar of it is to be paid until the Indians emigrate, an event which we doubt not the abilities of Mr. McRae will soon accomplish.⁷²

ANOTHER LEGISLATIVE INVESTIGATION

The legislature of Mississippi acted very indifferently toward the Choctaw claims before 1840. The resolution of February 6 of that year constituted the only positive act of the legislature on that subject. This first resolution is recorded as follows:

Whereas, great uncertainty and difficulty exist with regard to the titles of land claimed by certain Choctaw reserves, under the 14th article of the Treaty of Dancing Rabbit Creek, which must result in ruinous litigation: *And whereas*, also, the public lands acquired by said treaty are withheld from sale, until the final action of the Federal Government is had upon these matters; all of which tend to retard the settlement and improvement of the State: *And, whereas*, also, it is a subject of deep interest, as well to reserve under said treaty as to the

⁷¹ Riley, "Choctaw Land Claims," *Pub. of the Miss. Hist. Soc.*, VIII, 381.

⁷² *Mississippi Free Trader*, September 16, 1843.

purchases of these lands from the government, that these titles should be defined and promptly adjusted; Therefore—

Be it resolved by the Legislature of the State of Mississippi, that our Senators in Congress be instructed and our Representatives requested, to use their best efforts to pass such a law, by Congress, as will cause a final adjustment of all disputes and difficulties arising under the said article of treaty.

And resolved further, that in making said adjustment, the rights of settlers and pre-emptors shall in every case be protected from said claims.

*And be it further resolved, that the Governor be requested to forward a copy of the above preamble and resolutions to each of our Senators and Representatives in Congress.*⁷³

From 1840 to 1844 the people of the state were well aroused. Various reports were carried to every section of the state. Editors of newspapers took one side of the case or the other; while citizens of Mississippi used the columns to inform the public of their views.

In the *Vicksburg Daily Sentinel* of January 15, 1844, General Reuben H. Grant of Macon, Mississippi, addressed the people of the state and endeavored to show that in certain writings of the *Vicksburg Whig* "the writer has knowingly and willfully misstated facts and has throughout made misrepresentations utterly inconsistent with truth."⁷⁴

This address of General Grant contained almost three columns in which he reviewed his investigations and defended his conduct throughout the whole procedure. He gave a vivid description of the excitement in Mississippi: "A war of extermination is to be carried on against every man who even from the compulsion of the law is forced to testify, if it happens that his evidence militates against the monstrous combination [of] wealth, influence and talent, arrayed to carry out this impudent fraud. Millions are the prize they contend for."

Early in 1844 a resolution was introduced in the Lower House to investigate the Choctaw claims. Almost immediately after the resolution was introduced a motion was made to lay it on the table, but the latter was lost by a vote of 52 to 20.⁷⁵ Another motion soon

⁷³ *Session Laws of Mississippi*, 1840, p. 88.

⁷⁴ *Vicksburg Daily Sentinel*, January 15, 1844.

⁷⁵ *Mississippi Free Trader*, February 7, 1844.

followed and passed to refer the resolutions to a committee of five, and Messrs. Yeger, Lea, Grant, Boone, and Buckley were made members of this committee.⁷⁶ The new investigators soon ascertained that no evidence of the work of the legislative investigating committee of 1836 could be found, not even on the original minutes of that body. Fortunately the United States Congress had published the proceedings of the said committee, and, accordingly, a copy was soon obtained.⁷⁷

The following article was found in the *Vicksburg Daily Sentinel* of February 2, 1844:

The resolutions offered . . . in relation to the Choctaw claims, are creating some excitement. The speculators are getting very familiar with the members. . . . I learn that a part of the committee to which these resolutions were referred are unwilling to act on the committee, for reasons best known to themselves. This subject will elicit some further investigation in the House soon. John F. H. Claiborne, Esq., is at Jackson. Wm. M. Gwin is here also, and others.

After this report was written, Colonel Felix Labauve,⁷⁸ a man of decided opinions, moved that the committee selected to investigate the Choctaw claims be absolved, and that the resolutions be immediately passed upon. In support of this motion he

proposed to rely on the testimony taken in 1836—testimony voted to be conclusive by the Legislature, and given by men well acquainted with the Indians, and when the circumstances were fresh. His object was action. He wished Congress to know the sentiment of this Legislature by adopting the resolutions which would respond to the wish of the people. Nine-tenths of the people, Whigs, and Democrats, looked on the claims as fraudulent.⁷⁹

Largely as a result of Labauve's action a heated debate ensued in the legislature. The seriousness of the situation is shown by the article in the *Vicksburg Daily Sentinel*, February 3, 1844: "any man daring to advocate the rights of the general government, or the plundered Choctaws must suffer the consequences of a duel."

⁷⁶ *Vicksburg Daily Sentinel*, January 31, 1844.

⁷⁷ *Ibid.*, February 5, 1844.

⁷⁸ See Colonel Saunders, "Col. Felix Labauve," *Pub. of the Miss. Hist. Soc.*, VII, 131-140.

⁷⁹ *Ibid.*

On February 8, 1844, a new resolution was introduced which considerably modified the original proposals of that year. The new resolution read as follows:

Whereas the Legislature of Mississippi in 1836 after the testimony duly taken by a committee passed a preamble and resolution in relation to the Choctaw claims solemnly asserting the existence of enormous frauds; *And whereas*, it is believed that the Act of Congress of 1842 establishing a board of commissioners will not answer the purpose intended to be accomplished, to wit, speedy removal of the Choctaws and securing to them, to be enjoyed by themselves exclusively, a just indemnity for their claims under the treaty, but on the contrary will retard their removal by giving them in many instances, land; will leave them in the power of the speculators more or less, and will operate most injuriously on the people and on the State by throwing an enormous amount of scrip in the market in competition with the actual settler, and with the State in any future grant that Congress may make to her for great public purposes; *And, whereas*, the scrip to be issued is receivable as gold and silver at any of the land offices of Alabama, Mississippi, Arkansas, and in Louisiana, and may be made to cover every forty acre tract of good land in this State thereby arrest and deprive of their improvement many of our most worthy citizens, *the pioneers of civilization in peace*, the best defense and bulwark of country and [in] war; *and whereas*, a full and thorough investigation cannot be had before a board of commissioners, unless the said board had the power to compel a discovery from all the parties concerned; therefore, *Resolved*, That our senators be instructed and our representatives requested to propose the repeal of the Act of 1842, establishing the board of commissioners, and to desire some more effectual means for the removal of Indians: And that we deem it expedient in lieu of land or scrip, to pay each Indian head of a family, now residing in this State, and whose name was registered by the late or former commissioners, a fair equivalent in money on his removal west with his family, the principal to be funded, the interest on it to be paid annually, it being understood that they are to be removed at the expense of the United States and to be supported for twelve months thereafter. *Resolved also*, That they be requested to use their best exertions to graduate and reduce the price of public lands in this State, so as to induce immigration, place a home within the reach of every man, and enable the United States and the State to derive some income from the vast amount of public lands in this State.⁸⁰

This resolution was passed by a majority of two votes. The fight was so bitter that it is hard to describe the situation. The following account in the *Mississippi Free Trader*, February 21, 1844, appears to be very accurate:

And now came the conflict—the heavy tug of eloquence, craft movement and counter movement which wore out the day and night until nearly two hours past midnight. I have never witnessed such a scene save in the Capitol of the Union. Both the friends and enemies of the bill emphatically slept on their arms and on the field of battle. At eleven o'clock on Wednesday, the cannon again began to roar right and left, but less furiously than on the day previous. Smylie, of Amite, gave a last charge against the resolution. . . .

The resolutions were adopted by a vote of forty-four to forty-two. During the whole of this discussion the greatest interest was exhibited by crowded lobbies and attentive members. The most eloquent speeches were made by those opposed to the resolutions. Such men as Yerger, Winchester, Miles, and Smylie exhausted their energies; and the animated action of the House, the calls for order, the management, the bursts of applause from time to time as some grand or forceful thought was elicited, or some bolt-like argument was sent home to the antagonistic party, would seem to have realized all that had been said of the action of the French chamber of deputies in their stormiest sessions.

On February 16 the Senate committee acting on the Choctaw proposals unanimously recommended “changing the payment for claims in money instead of scrip, and striking out all the condemnatory clauses and adding a special clause for the protection of the Indians’ rights under the treaty.”⁸¹ This report was subsequently adopted by the state legislature. The contest finally reduced itself to a political issue within the state. The Democrats favored the resolutions while the Whigs opposed their passage.⁸²

THE FEDERAL COURTS

The interpretations of various Attorneys General of the United States of Article Fourteen is illuminating.

The 14th article provides for those who desired to remain and become citizens of the United States, and their title is made to depend upon a residence of five years.

⁸¹ *Mississippi Free Trader*, February 28, 1844.

⁸² *Vicksburg Daily Sentinel*, February 14, 1844.

Any head of a family, if he desires to become a citizen, may avail himself of the provisions of the 14th article.⁸³—Roger B. Taney, September 9, 1831.

The residence of heads of Choctaw families who in due time signified to the agent their intention to remain and become citizens of the United States, or a valid excuse for non-residence, entitles them to grants pursuant to the treaty; and such grants when made are paramount to pre-emption and all other claims.”⁸⁴—Benjamin F. Butler, August 17, 1838.

The Commissioners were not authorized to award to said claimant scrip instead of land, unless it was then impossible to give to said claimant the quantity of land to which he was entitled, including his improvements or any part thereof, on the adjacent lands.

The same Indian cannot be allowed a claim under both the 14th and the 19th articles of the treaty.⁸⁵—John Nelson, October 21, 1844.

A Choctaw head of a family, entitled, under the 14th article of the treaty of Dancing Rabbit Creek, to a reservation of land, who gave notice, made the claim, and continued the residence thereon required, is entitled to a patent although the agent, whose registration a former Executive declared to be the evidence in such cases, failed to make the necessary entries, inasmuch as a sub-agent did make entry of the facts and location, and certified that to the General Land Office.⁸⁶—John J. Crittenden, September 17, 1850.

In addition the courts in the interpretation of Article Fourteen emphasized that the recording of the Choctaw names constituted an official act of the federal agent and furnished legal evidence of the open intention on the part of the native to become a citizen according to the treaty. The court held that if the Indian made the proper application to Agent Martin and secured his endorsement of a specified reservation, the former was entitled to the location.⁸⁷ The treaty gave a legal title to the reservees whenever the land was located, and no subsequent grant from the national government was necessary. The title granted, however, was based upon the condition that the reservee should live upon the reservation five years from the date of the treaty, and if he voluntarily abandoned

⁸³ *Opinions of the Attorneys-General of the United States*, II, 462.

⁸⁴ *Ibid.*, III, 365-366.

⁸⁶ *Ibid.*, V, 351-352.

⁸⁵ *Ibid.*, IV, 344 ff.

⁸⁷ 4 Howard 522.

it before that time his proprietorship would be lost.⁸⁸ The treaty required actual residence for five years—occupation by an agent would not do—; moreover, the property was lost as soon as the reservee vacated without the intention of returning, even though at the time of surrender he had not secured another domicile. No judicial act was necessary declaring the forfeiture; and no grantor could waive the forfeiture. As no evidence of the waiver had been given since the United States had sold the land, the grantee was therefore in possession.⁸⁹ However, if the Indian had to vacate his holding because of intimidation, he would not lose his right.⁹⁰ The reservee need not have a residence on the land claimed by him at the time of the ratification of the treaty. He would be within his rights if he established his residence and made improvement within six months after the approval of the agreement. Ordinarily the reservation was in one tract, but it could be in separate sections, even when only one section was claimed. The government, however, did not encourage separating the individual's tract if it could be avoided. If not located according to this rule, the deed would be legal if sanctioned by the federal government.⁹¹ The actual registration of the Choctaw Indian head of a family by the United States agent was not necessary to entitle him to a reservation under Article Fourteen. Such Indian became entitled to the reservation upon his signifying, within six months from the ratification of the treaty, to the agent of the United States, his intentions to become a citizen, and his compliance in other respects with the treaty. The failure of the agent to register him could not affect his right.⁹²

CONCLUSION

On December 31, 1845, the House of Representatives of the United States requested the President to lay before that body information in relation to the claims arising under the Choctaw Treaty of 1830, which were allowed or rejected by the commissioners appointed for that purpose in pursuance of the laws of March 3, 1837, and August 23, 1842. Under the act of March 3, 1837, and under the law of August, 1838, there were 1,349 claims. The com-

⁸⁸ *Ibid.*; 7 Smedes and Marshall 363.

⁸⁹ 3 Smedes and Marshall 565.

⁹⁰ 4 Smedes and Marshall 40.

⁹¹ 4 Howard 522.

⁹² *Ibid.* See also Riley, "Choctaw Land Claims," *Pub. of the Miss. Hist. Soc.*, VIII, 390-391.

missioners appointed in pursuance of the law of 1842 failed to report the number of claims presented to them. Under the act of 1837 the commissioners reported on 261 claims; of these 165 were allowed, 65 rejected, 26 recommended to the department for favorable consideration, and 5 cases unfinished. Under the act of 1842 1,023 were claims allowed. The department in its revision of the reports allowed 1,009 and rejected and suspended 275. The last board of commissioners in its final report to the President stated that 175 claims were unadjudicated, 108, because the township map, showing sales of the lands claimed by the Indians had not been submitted to them, and 57, in its opinion, because they were not embraced in the terms of the law of 1842. The quantity of land required to satisfy the claims allowed by the commissioners was 1,380,960 acres, but the department made revisions and the amount actually allowed them was 163 sections or 104,320 acres. Those Indians who had been deprived of their lands by a sale of the same by the government were given 569,200 acres, or \$711,500. This sum was for one-half of the claims only, the remainder was retained by the federal government; and an annual interest of five per cent was paid to the claimants according to the law of March 3, 1845.⁹³

In reference to the welfare of the Choctaw claimants, the following questions were asked:

In those cases where lands have been assigned the Indians, what protection against fraud and deception is afforded the Indians by the government in their alienation of the same; what proof is required that a fair consideration has been paid by the purchaser to the Indians; and what is, in a majority of cases, deemed a fair consideration to render a deed satisfactory to the department?⁹⁴

In answer to these questions the Commissioner of Indian Affairs, W. Medill, replied on April 25, 1846:

I have to state, that under the terms of the 14th article of the treaty, and an opinion of the Attorney-General of the United States, it has been the uniform practice of the department to direct the patent for lands allotted under said article to be issued in favor of the respective reservees entitled to the same; after which, the department entertained no jurisdiction in the premises. The interests of the reservees (they being re-

⁹³ *Sen. Ex. Doc.*, 29th Cong., 1st sess., VI, No. 189, 1-2.

⁹⁴ *Ibid.*, pp. 2-3.

garded as citizens of the States in which they resided) were alienated, if at all, under the laws of the State within which the land is located.

The remaining questions respecting the transfer of the scrip properly pertain to the business under the direction of the Commissioner of the General Land Office, to whom a copy of the resolution was sent, in accordance with the direction of the President. But as incidental to the subject, it may not be improper to state that this department has decided that on the *delivery* of the scrip to the Indians entitled to it, its authority over it has terminated.⁹⁵

On April 22 and November 20, 1845, instructions were issued by the General Land Office to the local officer where by law the scrip was receivable, to the effect that the said officers were authorized to receive the scrip, where it was frequently assigned to pre-emptors, in payment of pre-emption lands; it was held that such lands, so far as the pre-emptor was concerned, were subject to private entry. At the same time they were instructed that in all other cases, the scrip could be satisfied only out of the lands which were regularly proclaimed and in the market subject to entry at private sales.⁹⁶

On August 3, 1846, the Secretary of War was authorized to adjudicate certain claims which the commissioners failed to determine for the lack of township maps, and to decide the same, and to award land or scrip in each case as the available testimony might justify.⁹⁷

Thus closed the dramatic events of the Choctaw Indians in Mississippi. There were some who remained,⁹⁸ but the vast majority went beyond the Mississippi. Not voluntarily, but under compulsion, did they go to seek new homes.

⁹⁵ *Ibid.*, p. 3.

⁹⁶ *Ibid.*, pp. 3-9.

⁹⁷ *Ibid.*, pp. 5-7.

⁹⁸ For the history of those who remained in Mississippi see J. W. Wade, "The Removal of the Mississippi Choctaws," *Pub. of the Miss. Hist. Soc.*, VIII, 397-426.

Chapter XVIII

FEDERAL FINANCIAL AND ECONOMIC RELATIONS WITH THE NEW YORK INDIANS

In a previous chapter we have observed the land purchases from the New York Indians by Livingston, Phelps and Gorham, and Robert Morris. We shall now study the rights of the Ogden Land Company.

THE OGDEN LAND COMPANY

Robert Morris sold his purchase to the Holland Land Company, and on September 12, 1810, the latter sold to David A. Ogden its right of pre-emption to 197,835 acres of land for fifty cents an acre. Ogden, in turn, sold shares of this purchase to various persons; and, subsequently, the lawful title became vested in Thomas Ludlow Ogden, Joseph Fellows, and other associates.¹

Since the land company could not realize any profit on its pre-emptive purchase until it could induce the Indians to sell, Ogden and Fellows began almost immediately to try to induce the Senecas to sell and emigrate. In 1817 the tribe memorialized the President against any proposition of removal.²

During the next year a council was held at Buffalo, but the Indians absolutely refused to sell. Eight years later, 1826, a treaty was signed at Buffalo Creek in the presence of Oliver Forward, the United States commissioner. The Senecas, accordingly, sold to Robert Troup, Thomas L. Ogden, and Benjamin W. Rogers several reservations amounting to over 123,000 acres for the sum of \$48,216.³

¹ Hough, *Indian Tribes of New York* (in *Sen. Ex. Doc.*, 48th Cong., 2nd sess., No. 95), II, Part 2, 542. "The capital of this company in 1872 was represented by twenty shares, of which fifteen belonged to estates, three to individuals, and two were held in trust."—*Ibid.*, n.

² *Ibid.*, p. 542.

³ *Ibid.*, pp. 542-543. Caneadea Reservation, 16 sq. miles; Canawagus Reservation, 2 sq. miles; Big Tree Reservation, 2 sq. miles; Squawky Hill Reservation, 2 sq. miles; Gardeau Reservation, 2 sq. miles, not previously sold to John Greig and Henry B. Gibson in 1823; of the Buffalo Creek Reservation, 33,637 acres; of the Tonawanda Reservation, 33,408 acres; of the Cattaraugus Reservation, one sq. mile.

The agents of the Ogden Land Company continued their unremitting efforts, however, to oust the Indians from their pre-empted lands in New York. Finally a small party was formed among the Senecas willing to listen to terms for purchase. In the year 1837, a commissioner was appointed by the government of the United States to negotiate a treaty with the New York Indians for the purpose of acquiring certain lands within the state. In consequence of this appointment, another agreement was concluded at Buffalo Creek, January 15, 1838, at which it was stipulated that the natives should cede all their reservations in New York and emigrate to the regions beyond the Mississippi.

The opponents of the treaty dubbed it as an attempt to obtain the money and influence of the federal government to assist the land speculators in their efforts to secure the more valuable lands of the Indians in New York. Great exertions at least were made to secure the ratification of the covenant by the Indians. Large bribes were "offered to such of the chiefs as could be deceived by misrepresentation or gained by the love of money; and where such a reluctance to leave their homes was manifested, as no pecuniary rewards could overcome, they were threatened with a forceful removal, or bribed by an offer of leases for life, of the lands on which they dwelt, free of rent; and, in some instances, by fee simple titles." The enemies of the treaty asserted that the Ogden Land Company bribed the Indians by the promise of more than \$24,000.⁴ Besides, the understanding was not signed according to usage in general council. Not only was it secured by fraud, but the deed of conveyance was corrupt. The makers of the deed put into it a consideration much lower than even the bribed chiefs had expressed themselves willing to receive. Some of them discovered the artifice and registered complaint, but bribery was again resorted to in order to silence them. Daniel Two Guns, one of the Seneca chiefs, in an affidavit taken before H. A. Salisbury, Commissioner of Deeds for Erie County, said that

while the emigrating chiefs were in council with the Ogden Company as to the price of their lands, the chiefs asked two dollars and fifty cents

⁴ Nathaniel T. Strong, *A Further Illustration of the Case of the Seneca Indians in the State of New York in a Review of a Pamphlet Entitled "An Appeal to the Christian Community,"* pp. 14-16.

per acre, the Odgen Company offering one dollar and eighty cents per acre, this deponent was taken by Potter the agent of that company into another room, and was told by said Potter, that *if he would sign the treaty, and say nothing* more about the price of the land, he would give him \$200 in land, and \$300 in three months after the ratification of the treaty, in addition to the \$4,000 before mentioned; to which this deponent agreed, and did sign the treaty and deed, and was paid the \$200 by Potter.⁵

Since there was so much alleged fraud, the understanding was not ratified by the Senate. Another agreement known as the Amended Treaty was ratified, that is, the original covenant was so amended by the Senate that it was practically a new compact. In regard to the original and amended treaty, Senator Sevier in his speech to the Senate said:

It was read in the Senate, was properly referred, and then your Committee went to work upon it. They found it so essentially defective, that it was out of their power to recommend its ratification. The objections to it were communicated, among others, to the Senators from New York. Some alterations in it were suggested by the War Department, and all agreed, without a dissenting voice in any quarter, so far as I recollect, that it could not be ratified in the form in which it was executed. We amended it *so thoroughly* as to make *nearly a new treaty* of it, and in these amendments the Senate concurred, and I believe with unanimity.⁶

Senator Sevier commented upon the rejected covenant:

While this treaty was before the committee, we heard many complaints from the Indians and others against the treaty. Fraud, unfairness, and bribery, of which, at that time, we had no evidence, were charged; and it was stated that a majority of the chiefs neither approved of, nor had signed the treaty, although, from the preamble, it purported to have been executed in council, and properly assented to.⁷

No change in a contract can be lawfully made without the consent of both parties; therefore, the protocol had to be referred back to the Six Nations for their approval. In a resolution passed by the Senate, June 11, 1838, special instructions were given to the agent bearing the treaty to these tribes. The resolutions stated

⁵ *Ibid.*, pp. 16-17.

⁶ *Ibid.*, p. 18.

⁷ *Ibid.*, p. 21. For these reasons the treaty was radically changed.

that the treaty shall have no force or effect whatever, as it relates to any of the tribes, nations, or bands of New York Indians, nor shall it be understood that the Senate have assented to any of the contracts connected with it, until the same, with the amendments herein proposed, is submitted, and fully explained by a commissioner of the United States, to each of said tribes or bands separately assembled *in council*, and they have given their free and voluntary assent thereto. And if one or more of said tribes or bands, *when consulted* as aforesaid, shall freely assent to said treaty as amended, *and to their contract* connected therewith, it shall be binding and obligatory upon those so asserting. . . .⁸

Despite these specific instructions the agent interpreted them as meaning that all that was necessary was to get the signature of a few of the chiefs representing each of the Six Nations whether in council or on the highways.⁹ Fraud was again resorted to by the representatives of the Ogden Land Company. As much as \$6,000 was paid by the latter to obtain the signatures of the chiefs of one or two tribes. While a majority of the chiefs in council were supposed to assent to the treaty, only sixteen chiefs out of eighty-one could be induced to sign the agreement *in council*, although as it later developed more than one-half of them were bribed to the amount of \$20,000. Sixty-four chiefs and warriors not only refused to sign the agreement, but came forward and desired to enter in writing a dissent or protest against it, a paper which the commissioner refused to witness, under the pretense that "he was not authorized to authenticate any document other than such as he had been *specially* directed to submit for their consideration." But General H. Dearborn, the commissioner for Massachusetts, did attest the dissent, and it was forwarded to the governor of that state and to the President of the United States.¹⁰

During the transactions of the commissioner, the persecuted Indians had not only to contend with this mighty Land Company, and their army of agents, subagents, bribed chiefs, and others; but they had to face powerful governmental influences against them. It is well known that for some ten or twelve years past, the avowed policy of the federal government had been to move the aborigines beyond the Mississippi. The Ogden Company in all its operations took advantage of this policy; and the federal govern-

ment seconded its views by appropriating \$400,000 to carry out the treaty. When the Indians appealed to the authorities at Washington on the affairs of their nation, and particularly in regard to any scheme to drive them from their lands, they felt the full weight of this influence against them. They were coolly told that it was "the settled policy of the government to remove them." Every executive officer in the Indian Bureau felt the sway which sprang from this source; and however humane and magnanimous they may have been in their purpose, this pressure obtained results which never could have taken place if the prejudice had been as influential in favor of the natives.

The preamble of the amended treaty is worth consideration. It read in part thus:

WHEREAS, the Six Nations of New York Indians not long after the close of the Revolution, became convinced from the rapid increase of the white settlements around, that the time was not far distant when their true interest must lead them to seek a new home among their red brethren in the West: And whereas this subject was agitated in a general council of the Six Nations as early as 1810, and resulted in sending a memorial to the President of the United States, inquiring whether the Government would consent to their leaving their habitations and their removing into the neighborhood of their western brethren, and if they could procure a home there, by gift or purchase, whether the Government would acknowledge their title to the lands so obtained in the same manner it had acknowledged it in those from whom they might receive it; and further, whether the existing treaties would, in such a case, remain in full force, and their annuities be paid as heretofore: And whereas, with the approbation of the President of the United States, purchases were made by the New York Indians from the Menomonie and Winnebago Indians of certain lands at Green Bay in the Territory of Wisconsin, which after much difficulty and contention with those Indians concerning the extent of that purchase the whole subject was finally settled by a treaty between the United States and the Menomonie Indians, concluded in February, 1831, to which the New York Indians gave their assent on the seventeenth day of October, 1832: And whereas, by the provisions of that treaty, five hundred thousand acres of land are secured to the New York Indians of the Six Nations and the St. Regis tribe, as a future home, on condition that they all remove to the same, within three years, or such reasonable time as the President should prescribe: And whereas, the President is satisfied that various considera-

tions have prevented those still residing in New York from removing to Green Bay, and among other reasons, that many who were in favour of emigration, preferred to remove at once to the Indian Territory, which they were fully persuaded was the only permanent and peaceful home for all the Indians. And they therefore applied to the President to take their Green Bay lands, and provide them a new home among their brethren in the Indian territory. And whereas, the President being anxious to promote the peace, prosperity and happiness of his red children, and being determined to carry out the humane policy of the Government in removing the Indians from the east to the west of the Mississippi, within the Indian territory, by bringing them to see and feel, by his justice and liberality, that it is true policy and for their interest to do so without delay.

In view of these considerations the Indians agreed to surrender their claims to lands at Green Bay, except those lands already settled upon by some of the tribes. Another tract was given to them directly west of the State of Missouri as a permanent home for all of the New York Indians. They were to hold these lands in fee simple. They agreed to move to their new homes within five years. Those who refused to emigrate sacrificed all claims to the western lands. They were to establish their own government and pass laws without molestation. Each one of the New York tribes was given a certain portion of the new lands for its own specific use.

The tenth article said:

And whereas at the making of this treaty, Thomas L. Ogden and Joseph Fellows the assignees of the State of Massachusetts, have purchased of the Seneca nation of Indians, in the presence and with the approbation of the United States Commissioners, appointed by the United States to hold said treaty, or convention, all the right, title, interest, and claim of the said Seneca nation, to certain lands, by a deed of conveyance a duplicate of which is hereunto annexed; and whereas the consideration money mentioned in said deed, amounting to two hundred and two thousand dollars, belongs to the Seneca nation, and the said nation agrees that the said sum of money shall be paid to the United States, and the United States agree to receive the same, to be disposed of as follows: the sum of one hundred thousand dollars is to be invested by the President of the United States in safe stocks, for their use, the income of which is to be paid to them at their new homes, annually, and the balance being the sum of one hundred and two

thousand dollars is to be paid to the owners of the improvements on the lands so deeded, according to an appraisement of said improvements and a distribution and award of said sum of money among the owners of said improvements, to be made by appraisers, hereafter to be appointed by the Seneca nation, in the presence of the United States Commissioner, hereafter to be appointed, to be paid by the United States to the individuals who are entitled to the same, according to said appr[a]isal and award, on their severally relinquishing their respective possessions to the said Ogden and Fellows.

A similar article pertains to the possessions of the Tuscarora Indians. Deeds of conveyance of these lands were attached to the treaty itself. The United States set apart for the Cayugas \$2,000 to be invested in safe stocks, the income of which was to be paid them annually at their new homes; and \$2,500 was to be paid to the chiefs to be distributed among the members of the tribe. The Onondagas had \$2,500 to be invested similarly, and \$2,000 to be distributed among them. The Tuscaroras set aside 5,000 acres of land to be sold and held in trust for the same consideration. The money to be received for their improvements was to be immediately turned over to the owners. The sum of \$6,000 was to be paid to two chiefs for their services. The St. Regis Indians were paid \$1,000. The United States agreed to pay the natives for the cession \$400,000 to be applied from time to time, under the direction of the President, as might be most beneficial to the tribes: to aid them in removing to the West and to support them the first year upon their arrival, to encourage and assist them in education and in the cultivation of the soil, in buying animals, and erecting mills and houses.¹¹

President Van Buren, although warmly in favor of removal, returned the amended treaty twice to the Senate, because he could not ratify consistently the resolutions previously passed by that body. In his last message on the question dated January 13, 1840, he referred to the clandestine conduct of the commissioner in his efforts to obtain the execution of the agreement: "The provision of the resolution of the Senate of the 11th of June, 1838, requiring the assent of each of the said tribes of Indians to the amended

treaty to be given in council, has not been complied with as it respects the Seneca tribe.”¹²

The President further said that “statements were made to the Secretary of War, at Cattaraugus, to show that a vast majority of the New York Indians were adverse to the treaty,” and that “no advance towards obtaining the assent of the Seneca tribe to the amended treaty in council was made; nor can the assent of a majority of them in council, be now obtained.”¹³

Again in reference to the subject of bribery, and to the shameful conduct of the agents of the Ogden Company in attempting to corrupt the chiefs, the President said that “improper means have been employed to obtain the assent of the Seneca chiefs, there is every reason to believe; and I have not been able to satisfy myself that I can, consistently with the resolution of the Senate of the 2d of March, 1839, cause the treaty to be carried into effect in respect to the Seneca tribe.”¹⁴

When the final vote was taken on the question of the ratification of the treaty, the Senate proved to be divided, and the decision was made, not by a concurrence of two-thirds of the Senators present, but by the casting vote of the Vice President. Out of fifty-two Senators, only nineteen voted for the treaty, there being at the time but thirty-eight present.¹⁵ The agreement was finally proclaimed on April 4, 1840.

In February, 1838, a treaty was negotiated with the First Christian and Orchard parties of the Oneida Indians at Washington in which they agreed to cede to the federal government all of their interest in the land set apart for them in the first article of the covenant with the Menominees of February 8, 1831, and the second article of the treaty with the same tribe of October 27, 1832, except one hundred acres which was reserved to each member of the tribe at Green Bay. In consideration for the cession the United States agreed to pay the Orchard party \$3,000 and the First Christian party \$30,500. Of the last sum \$3,000 might be spent in the erection of a church and parsonage house. The sum of \$500 was to be paid to John Denny to surrender his claim to some of their lands.¹⁶

¹² *Messages and Papers*, III, 561-566.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Strong, *A Further Illustration of the Case of the Seneca Indians in the State of New York*, pp. 27-28.

¹⁶ *Laws and Treaties*, II, 517-518.

The questionable treaty of 1840 proved to be very difficult to enforce, for the Seneca Indians refused to live up to its terms; therefore a bitter dispute arose between the Ogden Land Company and the Seneca chiefs. A new protocol was accordingly negotiated on May 20, 1842, to clarify and rectify the previous understanding. This may be called the compromise agreement between the company and the Indians, with the United States acting as arbiter. It was agreed that the natives were to keep two of their reservations, the Alleghany and Cattaraugus, and the remaining two, the Buffalo Creek and Tonawanda, were to go to the Ogden Company, provided that the latter paid them a proportional amount for the reservations and for the improvements.¹⁷ The right of the preemption remained unchanged.

The troubles of the Ogden Land Company were not yet over. This treaty, also, proved to be unsatisfactory to that portion of the Indians living on the Tonawanda Reservation. These tribesmen insisted that not one of their number living on this particular reservation had assented to the compact and positively refused to consent to any project for removal.¹⁸ "These difficulties almost entirely arrested improvements, and to add to their troubles their reservation was taxed upon the theory that it was now owned by the whites, and finally sold for taxes, and bid in by the state."¹⁹

The claims of these Indians were taken to the state and federal courts. The following decisions are of interest:

In *Ogden vs. Lee* the supreme court of the State of New York held, in a dispute over the sale of timber, that

the Seneca Nation of Indians have never parted with the title to the lands on which the timber was cut. Their right is as perfect now as it was when the first Europeans landed on this continent, with the single exception that they cannot sell without the consent of the Government. The right of occupancy to them and their heirs forever remains wholly unimpaired. They are not tenants of the State nor its grantees. They hold under their own original title. The plaintiffs have acquired nothing but the right to purchase whenever the owners may choose to sell. In

¹⁷ *Ibid.*, pp. 537-541.

¹⁸ Hough, *Indian Tribes of New York*, *loc. cit.*, p. 551.

¹⁹ *Ibid.*, pp. 551-552. This sale was annulled by an act passed April 17, 1860, and moneys paid were refunded with interest. There was to be no further tax imposed on this reservation so long as it remained the property of the Indians.

the meantime, or until the tribe shall become extinct, the Seneca Indians will remain the rightful lords of the soil. They have cut their own timber, and I see no principle upon which the plaintiffs can have any action either against them or their vendees.²⁰

In January, 1857, and again in March, 1859, the Supreme Court of the United States said that the Indian reservations had never lost their character of Indian territory, and this court affirmed a judgment of the court of appeals of New York, in which it was decided that it was the duty of the county judge of Genessee County to entertain summary proceedings for the removal of such whites as had entered and settled under the Ogden Land Company.²¹

The dispute between the New York Indians on the Tonawanda reservation and the Ogden Land Company continued until 1857. On November 5th of that year a treaty was concluded with these Indians. They released all claim to 500,000 acres in Wisconsin and to lands west of the Mississippi, and to payments for improvements promised from the Ogden Land Company. The federal government agreed to pay \$256,000.

The Tonawanda Indians were authorized to purchase from Ogden and Fellows any part of their reservations that the company might be willing to sell, at an average of \$20 an acre, out of the \$256,000 paid them by the United States. The deed was to be held by the Secretary of the Interior until it might be delivered to an officer of the State of New York. The land not thus repurchased was to remain in the possession of Ogden and Fellows. The "improvement money" was to be re-apportioned on a new estimate, and paid to the Indians who relinquished their lands under this treaty.²² This arrangement practically closed the embarrassing dispute between the New York Indians and the Ogden Land Company.

²⁰ *Ibid.*, p. 552 n. See New York Reports, 6 Hill 546 (1844). In 1846 the court of errors unanimously confirmed the above decision. See *Fellows vs. Lee*, 5 Dennis 628.

²¹ See Hough, *Indian Tribes of New York*, loc. cit., p. 552; 19 Howard 366; 5 Wallace 761.

²² *Laws and Treaties*, II. According to the terms of this treaty the Tonawanda Indians repurchased 7,599 acres and released 5,000. See Hough, *Indian Tribes of New York*, loc. cit., p. 553.

Chapter XIX

FEDERAL FINANCIAL AND ECONOMIC POLICY TOWARD THE NORTHWESTERN TRIBES

The year 1826 opened with unfavorable symptoms for the Indian cause. The administration of John Q. Adams seemed to be strong in Congress at first but that strength kept dwindling. President Adams believed in the right of the natives to the soil they occupied east of the Mississippi until it could be acquired by voluntary cession; but the doctrine of state sovereignty contended for by Georgia seemed to be spreading among all the eastern states.¹ Congress, however, in February, 1826, passed an appropriation bill of \$10,000 to carry out a clause in the Prairie du Chien treaty of 1825,² and a council of the Lake Superior tribes was called to negotiate for their copper mines.³

Schoolcraft gives a vivid description of the methods used in negotiating an understanding with the Lake Superior Indians—called the Fond du Lac Treaty of August 5, 1826.⁴ Governor Cass and Thomas L. McKenney were appointed by the President to negotiate the treaty. Everything was made ready for the delegates to embark for the Indian country.

The military element of the party consisted of a company of the 2nd Infantry, with its commissariat and medical department, all told, sixty-two men. It was placed under Capt. Boardman. They embarked in three twelve-oared barges, and formed the advance. The provisions, presents of goods, and subsistence supplies of the Commissioners' table occupied four boats, and went next.

I [Schoolcraft] proceeded in a canoe *allége* with ten men, with every appendage to render the trip convenient and agreeable. Col. McKenney, struck with the "coach-and-six" sort of style of this kind of conveyance, determined to take a seat with me, and relying upon our speed and capacity to overtake the heavy boats, we embarked a day later. The whole expedition, with flags and music, was spread out over miles, and formed an impressive and imposing spectacle to the natives, who saw

¹ Schoolcraft, *Memoirs*, p. 240.

² See Chapter XI, p. 166.

³ Schoolcraft, *Memoirs*, p. 240.

⁴ *A. S. P., I. A.*, II, No. 243, 677-678.

their "closed lake," as Superior was called in 1820, yield before the Anglo-Saxon power. . . .⁵

On reaching the post of Fond du Lac, they found a large assemblage of Indians from every part of the widespread Chippewa territories. "It embraced delegations from the extreme sources of the Mississippi, the rainy lake borders, and Old Grand Portage, besides the entire American borders of Lake Superior and the Rice Lake region, as sources of the Wisconsin, Chippewa, and St. Croix valleys. The negotiations were held under a large bower, supported by posts, and provided with rude seats."⁶ The principles of the treaty negotiated the previous year were fully explained and assented to by the tribes. In the treaty of Fond du Lac of 1826, the Chippewas ceded the right to explore and take away the native copper and copper-ores, and to work the mines and minerals in the country.

In regard to the mines, Lewis Cass reported to James Barbour, Secretary of War:

For many years the opinion has been prevalent that there is a rich metalliferous region upon the southern coast of Lake Superior, and recent inquiries have placed this matter beyond a doubt. Abundant specimens of native copper have been found, of the purest quality; and it is easy to foresee that a state of things may exist, which may render it important that the United States should possess the right of procuring this copper. It, of course, may be exercised or not [under the terms of the treaty] as the Government may think proper.⁷

According to the treaty the Indians further agreed to surrender the murderers who belonged to the misguided war party of 1824. They fully acknowledged the sovereign authority of the United States and disclaimed all connection whatever with foreign powers. They stipulated that the boundary lines of the treaty of Prairie du Chien should be carried out in 1827 with the Menominees and Winnebagos in the region of the sources of the Fox, Wisconsin, and Menominee rivers. All of the Chippewa half-breeds were given six hundred and forty acres each located along the St. Mary's River, but they were not allowed to convey the same without the consent

of the President. An annuity of \$2,000 in money and goods was to be paid them. It was also stipulated that an annual sum of \$1,000 was to be appropriated for the support of a school for their education on the St. Mary's, and the money was to be spent under the direction of the President. Both annuities were to continue "only during the pleasure of the Congress of the United States."⁸ During the negotiations, Schoolcraft placed about forty silver medals of the first, second, and third classes on the necks of the chiefs,⁹ thus establishing his permanent influence among the natives.

Two months later the Potawatomie Indians ceded an enormous quantity of land in Michigan and Indiana. In payment for these lands, the United States promised them \$2,000 in silver annually for twenty-two years which would amount to \$44,000. A blacksmith was to be furnished them, and for the purpose of education the annual sum of \$2,000, "as long as the Congress of the United States may think proper, to be expended as the President may direct, and also to build for them a mill, sufficient to grind corn, on the Tippecanoe River, and to provide and support a miller; and to pay them annually one hundred and sixty bushels of salt; all of which annuities, herein specified, shall be paid by the Indian Agent at Fort Wayne." The Commissioners delivered to the tribesmen goods valued at \$30,547.72 in consideration for the cession. An additional sum of \$900 was also furnished them. The United States also agreed to pay the claims amounting to \$9,573 against the Potawatomie Indians. There were many reservations to certain individuals of the tribe, but these lands could not be conveyed without the consent of the President. The natives, however, were allowed to hunt on any of the ceded lands so long as the same remained in the possession of the United States.¹⁰

On October 23, 1826, the Miami Indians ceded all of their lands in the State of Indiana, north and west of the Wabash and Miami rivers, except ninety-three sections which were reserved to indi-

⁸ *Laws and Treaties*, II, 268-273. Congress immediately appropriated the money to carry out the terms of this treaty. See Schoolcraft's *Memoirs*, p. 243. A section of land was also granted upon which to locate the proposed school. Many sections of land were reserved to families and to individual members of families.—*A. S. P., I. A.*, II, No. 243, 678.

⁹ Schoolcraft, *Memoirs*, pp. 244-245.

¹⁰ *Laws and Treaties*, II, 273-277. Again many sections of land were reserved to individuals of the tribes. See *A. S. P., I. A.*, II, No. 243, 679-680.

viduals. Indiana was given the right, however, of constructing a canal through any of the said reservations. Goods were distributed to the tribesmen valued at \$31,040.53, in part consideration for this very large cession. Additional goods valued at \$26,259.47 were further promised to the red men the next summer. "And it is also agreed that an annuity of thirty-five thousand dollars, ten thousand of which shall be in goods, shall be paid to the said tribe in the year one thousand eight hundred and twenty-seven, and thirty thousand dollars, five thousand dollars of which shall be paid in goods, in the year one thousand eight hundred and twenty-eight; after which time a permanent annuity of twenty-five thousand dollars shall be paid to them, as long as they exist together as a tribe; which several sums are to include the annuities due by preceding treaties to the said tribe." Several yoke of oxen and wagons were to be furnished to certain individual Indians. Houses not to exceed the value of six hundred dollars were to be granted to nine different individuals. The tribe was to be furnished with two hundred head of cattle from four to six years old; two hundred head of hogs; two thousand pounds of iron were to be delivered to them annually, as well as one thousand pounds of steel, and one thousand pounds of tobacco. The claims against the said tribe amounting to \$7,727.47 were to be paid by the federal government. The sum of two thousand dollars annually was to be furnished them for the support of the "poor infirm persons" and for the education of the tribe.¹¹

Again Lewis Cass reported to the Secretary of War:

But our principal difficulty has been with the Miamies. The country which they occupy is much more valuable than that occupied by the Pattawatomies. It is immediately upon the Wabash, and commands the great avenue of communication between the Ohio and the lakes. Eel river, the northern boundary of the Pattawatomie cession is incorrectly represented on the maps. In its general course, it is much further from the Wabash than it appears to be upon them; and, from the best calculation we can make, the whole extent of the cession is not less than 2,000,000 of acres, and perhaps amounts to 3,000,000. The tract upon Lake Michigan is essential to the interests of Indiana; for without it, her citizens can have no access to that important outlet. The district

embraced in the Miami cession is probably equal in value to any other tract of similar extent in the western country; and its acquisition was highly important to the State of Indiana, as it interrupts the continuity of her settlements, and prevents her from entering upon that system of internal improvements to which she is invited by nature, policy, and interest.¹²

The next year Lewis Cass and Thomas L. McKenney were appointed by the President to treat with the Chippewa, Menominee, and Winnebago tribes. Schoolcraft accompanied the commissioners to Butte des Morts on the Fox River, where temporary buildings of logs and a mess house were constructed, and a very large number of Indians were collected. The commissioners found the Menominees assembled in mass, with full delegations of the midland Chippewas and the removed bands of Iroquois and Stockbridges, some Potawatomies from the western shores of Lake Michigan, and one band of Winnebagos. The last named tribe proved to be hostile to the United States and General Cass had to send to St. Louis for troops. Upon the appearance of these additional military recruits they were overawed.¹³ The negotiations were resumed and a treaty was successfully concluded and signed on August 11. Its terms completed the system of Indian boundaries which was commenced by the treaty of Prairie du Chien on August 19, 1825, and continued by the agreement of Fond du Lac of August 5, 1826, as previously described. These covenants were called the *Augustic* treaties because they were negotiated in the month of August of those respective years.¹⁴ They embodied "a new course and policy for keeping the tribes in peace, and are founded on the most enlarged consideration of the aboriginal right of fee simple to the soil."¹⁵ In consideration of the liberal establishment of the boundaries at Butte des Morts in 1827 the sum of \$1,000 was promised the tribes for three years, and the sum of \$1,500 was to be annually thereafter appropriated "as long as Congress thinks proper, for the education of the children of the tribes." There were distributed among the tribes at the time, goods to the amount of \$15,682.¹⁶

In February, 1828, the Miami Indians ceded additional lands in

Michigan, Indiana, and Ohio. The red men were instructed not to burn the houses or fences on the ceded territory. In payment for the cession the United States gave them immediately goods to the value of \$2,000 and promised to deliver to them the next summer \$8,000 in goods. The federal government agreed to build twelve log houses, ten on the five-mile reservation and two on the Wabash, and to clear and fence forty acres of land on the former reservation. In addition the United States was to furnish them one wagon and two yoke of oxen, and to provide two hands to work three months in each year for two years. Five hundred dollars worth of provisions was to be delivered on the Wabash, as well as five horses, five saddles and five bridles. The United States agreed to pay Peter Langlois one thousand dollars in goods the next summer for provisions and merchandise heretofore delivered. An appropriation of one thousand dollars annually for five years for education was also promised, to be continued longer if Congress should think proper.¹⁷

In August the Winnebago Indians and the united tribes of Potawatomie, Ottawa, and Chippewa ceded lands in Michigan and Illinois. Attempts were made to get all of the Northwestern tribes together for the purpose of securing their territory east of the Mississippi. Failing in this endeavor, the federal commissioners took what land they could get from the assembled Indians, and made them promise to meet in a larger assemblage of the Northwestern tribes. In addition to land cessions, it was further stipulated that "if any white persons shall cross the line herein described, and pass into the Indian Country, for the purpose of mining, or for any other purpose whatever, the Indians shall not interfere with nor molest such persons, but that the proper measures for their removal shall be referred to the President of the United States." The federal government agreed to pay to the Winnebago, Potawatomie, Chippewa, and Ottawa Indians the sum of twenty thousand dollars in goods at the next treaty council to be held with all of the natives in that region in 1829.¹⁸ This provision was incorporated in the understanding doubtless to assure their presence at the forthcoming meeting.

In September the Potawatomie Indians ceded to the United States an enormous country in Michigan between the St. Joseph

River and the northern boundary of Indiana. A permanent annuity of \$2,000 was promised them, and an additional annuity of \$1,000 for the term of twenty years; goods to the value of \$30,000 were immediately given them; an additional sum of \$10,000 in goods, and another \$5,000 in specie was to be paid them in the year 1829. The amount of \$7,500 was to be expended under the direction of the President in "clearing and fencing land, erecting houses, purchasing domestic animals and farming utensils, and in the support of labourers to work for them." There were to be delivered annually to the tribe two thousand pounds of tobacco, one thousand five hundred "hundred weight of iron," and three hundred and fifty pounds of steel. In order to promote the interests of education, \$1,000 was to be given "as long as Congress may think the appropriation may be useful." There was an allowance of goods to the various chiefs; a blacksmith was permanently employed at government expense for the tribe, and three laborers during four months in the year for ten years. Various grants of land were made to certain individuals of the tribe. The sum of \$10,895 "shall be applied to the payments of certain claims against the Indians. . . ." ¹⁹

In July, 1829, the united Chippewa, Ottawa, and Potawatomie Indians in Michigan ceded a very large area of land to the United States. In consideration for this cession, the national government promised to pay the tribes annually forever \$16,000 in specie, and in the next October \$12,000 worth of goods was to be given as a present. It was further agreed to deliver to the said Indians at Chicago, fifty barrels of salt annually forever. The United States consented to pay the claims against these tribes to the amount of \$11,601. There were reserved to three chiefs and several individual Indians twenty-two sections for their own use. The boundary line was to be run at the expense of the United States. ²⁰

Again on August 1 the Winnebago Indians ceded a huge tract of land in Michigan, for which the federal government stipulated to pay \$8,000 in specie annually for the period of thirty years; \$30,000 in goods were delivered to them at once; and three thousand pounds of tobacco, fifty barrels of salt were promised to the tribe yearly for three decades. Three blacksmith shops were to be pro-

vided with the necessary tools, iron, and steel for the term of thirty years. A yoke of oxen, one cart, and the services of a man at the portage of the Wisconsin and Fox rivers "to continue at the pleasure of the Agent at that place, the term not to exceed thirty years." The United States further agreed to pay the claims against the tribe which were estimated at \$23,532.28. As usual several sections within the ceded area were reserved to a few chiefs and individuals.²¹

On August 3, 1829, the Delawares ceded their remaining reservations in the State of Ohio for \$3,000. The next month a supplementary article was added to the treaty of 1818 with that tribe. The United States seemed to show signs of contrition and sympathy. The article said: ". . . whereas the said Delaware Nation, are now willing to remove, . . . it is hereby agreed . . . that the country in the fork of the Kansas and Missouri rivers [selected for their home], . . . shall be conveyed and forever secured by the United States, to the said Delaware Nation, as their permanent residence: And the United States hereby pledges the faith of the government to guarantee to the said Delaware Nation forever, the quiet and peaceable possession and undisturbed enjoyment of the same, against the claims and assaults of all and every other people whatever." For the relinquishment of all their land in Missouri an additional permanent annuity of \$1,000 was promised; forty horses, "and the use of six wagons and ox-teams to assist in removing heavy articles," provisions, and adequate maintenance for twelve months after they reached their destination; also the construction of a grist and saw mill within two years.²²

The Menominee Indians made another large cession in 1831 in Michigan. An additional smaller reservation was surrendered in the same treaty near Green Bay. In consideration for the latter grant which went to the New York Indians, the United States agreed to pay the Menominee tribe \$20,000; \$5,000 was to be paid within six months, and \$5,000 annually thereafter. For the larger cession to the federal government the tribesmen were to be nationally encouraged in farming and homebuilding. Five farmers were to be employed for their use for ten successive years to assist them in the cultivation of their soil. Five women were to be employed to teach

the Indian girls in domestic arts for a decade. "The United States will cause to be erected houses suited to their condition for which \$13,000 shall be appropriated." They were to be supplied with useful household articles, horses, cows, hogs, and sheep, farming utensils, and other articles of husbandry necessary to their comfort, to the value of \$6,000. A grist and saw mill were to be constructed and a good miller employed. It was stipulated that \$8,000 worth of clothing should be delivered to the tribe. The fund previously appropriated annually for education was increased \$500 for ten years. The expenses of the delegation to Washington were paid by the federal government.²³

In August the Shawnees ceded their remaining possessions of one hundred and twenty-five square miles. This land was given to them in 1817 in fee simple. They were to be transported beyond the Mississippi at the expense of the United States and allowed one year's support. Their new home was to consist of 100,000 acres. They likewise were given a saw mill and grist mill and useful articles. In lieu of their improvements, \$13,000 was to be paid them. The lands ceded in Ohio were to be sold to the highest bidder and if they brought over \$13,000, the remainder was to be paid to them. They were given two hundred blankets, forty plows, forty sets of horse gears, one hundred and fifty hoes, fifty axes, Russian sheeting sufficient for fifty tents, twenty-five rifles, two cross-cut saws, four grindstones annually, ten hand saws, ten drawing knives, twenty files, fifty gimlets, twenty augurs, ten planes, two braces and bits, four hewing axes, two dozen scythes, five frows, and five grubbing hoes.²⁴

Under the authority of the act of Congress approved May 28, 1830, the President appointed a commission to confer with the different tribes residing within the constitutional limits of Ohio on the subject of their emigrating West. On August 30, 1831, a treaty was negotiated with the Ottawa tribe in Ohio. There were two cessions of land wrested from them. The first cession contained 21,760 acres on the Great Auglaize River. This branch of the tribe agreed to go West. The second cession was on the Miami River of Lake Erie and contained 28,157 acres, but this portion of the tribe was unwilling to move.

In consideration of the first cession, the United States promised to remove the two hundred Indians who agreed to emigrate "in a convenient and suitable manner . . . and will grant by patent in fee simple to them and their heirs forever . . . a tract of land to contain thirty thousand acres" on the Kansas River. The expense of removal and one year's subsistence were to be borne by the federal government. The sum of \$2,000 was to be paid them as soon as they moved West. The United States was to be reimbursed from the sales of the lands already ceded. The farming utensils, livestock, and other chattel property, which the Ottawas then owned were to be "sold under the superintendence of some suitable person appointed by the Secretary of War; and the proceeds paid to the owner of such property respectively." The lands herein ceded were to be sold to the highest bidder,

and after deducting from the proceeds of such sales the sum of seventy cents per acre, exclusive of the cost of surveying, and the sum of two thousand dollars advanced in lieu of improvements; it is agreed that the balance, or so much thereof as may be necessary, shall be hereby guaranteed for the payment of the debts, which the said Ottaways . . . may owe in the State of Ohio and Territory of Michigan [estimated at \$20,942.25], . . .; and any surplus of the proceeds of said lands, which may still remain, shall be vested by the President in Government stock, and five per cent. thereon shall be paid to the said Ottaways . . . as an annuity during the pleasure of Congress.

The country granted to them in the West was guaranteed to them forever and they were promised "that the said lands shall never be within the bounds of any state or territory, nor subject to the laws thereof. . . ." The following presents were given the two hundred Indians who agreed to move: eighty blankets, twenty-five rifle guns, thirty-five axes, twelve plows, twenty sets of horse gears, and Russian sheeting sufficient for tents for their entire band; the whole was to be delivered according to the discretion of the Secretary of War.

In consideration of the second cession from the Indians who refused to go West, forty thousand acres were assigned to them to be theirs forever whenever they saw fit to move to these lands. If they emigrated they were to be subsisted for one year and all expenses of removal were to be paid by the federal government. Whenever

they migrated they would be granted their portion of annuities according to terms of former treaties. The lands ceded were to be sold at auction and seventy cents per acre deducted, exclusive of the cost of surveying. Their debts were to be paid out of the surplus and if anything was left, the remainder was to be invested in five per cent stocks. In the meantime they were given temporary reservations in the East.²⁵

The natives who remained in Ohio were pretty well surrounded and harassed by the intruding whites. For that reason and to get possession of their lands for the avid Americans, the United States was able to get the remaining sixteen thousand acres in the state early in January, 1832. As soon as practicable the land was to be surveyed into sections and sold in the ordinary manner of selling public lands. Regardless of the price received the Wyandots were to be paid \$1.25 per acre. The said price "shall be paid in silver, and in the current coin of the United States." All improvements made by the Indians upon the ceded lands were to be appraised by the federal government and the same paid to the deserving individuals. The men of the forest had the option of moving to Canada or to the River Huron in Michigan where they owned a reservation.²⁶

On May 3, 1831, Schoolcraft was officially instructed to make an expedition into the Northwest to the head of the Mississippi to get certain statistical information and to win the favor of the Northwestern tribes. His instructions from the Secretary of War read in part:

Reports have reached this Department from various quarters, that the Indians upon our frontiers are in an unquiet state, and that there is a prospect of extensive hostilities among themselves. It is no less the dictate of humanity, than of policy, to repress this feeling and to establish permanent peace among these tribes. It is also important to inspect the condition of the trade in that remote country, and the conduct of the traders. To ascertain whether the regulations and the laws are complied with, and to suggest such alterations as may be required. And finally, to inquire into the numbers, standing, disposition, and prospects of the Indians, and to report all the statistical information you can pro-

cure, and which will be useful to the government in its operations, or to the community in the investigation of these subjects.²⁷

Lieutenant R. E. Clary, 2nd Infantry, accompanied Schoolcraft with a small detachment of troops into the western country. Of his aids, Schoolcraft said: "I had an excellent crew of experienced men, guides and interpreters, and full supplies of everything suited to insure respect among the tribes, and to accomplish, not only the government business, but to give a good account of the natural history of the country to be explored."²⁸ While in the Indian country he distributed valuable presents to the various tribes to win their friendship and to establish a favorable reputation among them.²⁹ The Schoolcraft expedition returned with valuable information to report to the Department of War.

In the summer of the next year, 1832, Schoolcraft made a second expedition into the western region.³⁰ He was accompanied by thirty men. This expedition was not so imposing as the first, for the War Department was badly in need of money. The Secretary of War wrote: "We have allowed all it was possible, and you must on no account exceed the sum, as the pressure upon our funds is very great."

Again the Secretary of War wrote:

It has been impossible before now to make you a remittance of funds, and they [the funds] cannot yet all be sent for your expedition. Our annual appropriation has not yet passed, and when it will I am sure I cannot tell. So you must get along as well as you can. I trust, however, the amount now sent will be sufficient to enable you to start upon your expedition. The residue promised to you, as well as the funds for ordinary expenditures, shall be sent as soon as the appropriation is made.³¹

These expeditions threw new light upon the Indian situation and what might be expected in the way of land cessions.

By this time the people of Illinois had become restless because of the presence of the red men who obstructed their progress. In order to comply with their urgent request, General Winfield Scott and the Governor of Illinois secured a large grant from the Winne-

²⁷ Schoolcraft, *Memoirs*, p. 347.

²⁸ *Ibid.*, p. 350.

²⁹ *Ibid.*, pp. 362, 369, 382. In 1831 Lewis Cass was transferred to the War Department and George B. Porter became Governor of Michigan Territory.

³⁰ *Ibid.*, p. 406.

³¹ *Ibid.*, p. 407.

bagos in that state. By this treaty the tribe ceded their lands lying to the south and east of the Wisconsin River and the Fox River of Green Bay, which constituted a vast territory and "not inferior in richness of soil to the most fertile portion of the fertile west." In part consideration for the lands ceded, the United States gave them a large tract of land west of the Mississippi. Since the surrendered lands in Illinois were regarded as more valuable than those obtained, in exchange the federal government agreed to pay the Winnebagos annually for twenty-seven successive years the sum of \$10,000 in specie. Schools were to be established among the tribe at a cost of \$3,000 annually. For one score and seven years it was stipulated that the government should support six agriculturists among them and give twelve yokes of oxen, plows, and other agricultural implements, a sum not exceeding \$2,500 and five hundred pounds of tobacco a year, and \$200 each year for a physician. It was agreed that a blacksmith shop and the necessary equipment should be provided. While moving they were to be furnished with soldiers, allowances of bread and meat, for thirty days, up to sixty thousand rations. Certain individuals were to receive cash payments amounting to \$11,000. The natives were not permitted to hunt within the ceded country.³²

Again in the autumn of 1832 the Potawatomie tribe ceded a very large tract of land in northern Michigan, in consideration of which the United States agreed to pay an annuity of \$15,000 for twenty years, \$600 annually to Billy Caldwell, \$200 to Alexander Robinson, and \$200 to Pierre Le Clerc, during their lives. The sum of \$28,746 was to be applied to the payment of certain claims against the Indians. The federal government agreed to pay in goods immediately after signing the treaty \$45,000, and also the further sum of \$30,000 in merchandise the next year. The amount of \$1,400 was allowed to certain individuals in payment for the loss of horses during the War of 1812.³³

On October 26, 1832, the Potawatomes ceded all of their claims in Indiana, except eighty sections reserved to individuals and chiefs. An annuity of \$20,000 was promised them for twenty years. Goods

³² *Ibid.*, pp. 345-348; *Sen. Doc.*, 24th Con., 1st sess., III, No. 215, 3. The estimated cost of transporting 2,500 Winnebagos to their new home called "Neutral Ground" was \$50,000.—*Ibid.*, p. 6.

³³ *Laws and Treaties*, II, 353-356.

valued at \$100,000 were to be delivered to them as soon as the tribe agreed to the terms of the treaty, and \$30,000 in goods was to be paid them the next year. The debts of the tribe estimated at \$62,412 were to be paid by the government. A saw mill and goods were provided them.³⁴ The next day marked the signing of another agreement which granted to the United States all of the Potawatomie lands in Indiana, Illinois, and the territory of Michigan, except one hundred and forty sections reserved to certain chiefs and individuals. In remuneration, the Potawatomies were promised \$15,000 annually for twelve years; \$32,000 in goods as soon as the treaty was agreed to; \$10,000 in goods the next spring; and the payment of their debts amounting to \$20,721. For the purpose of education they were to have \$2,000 as long as Congress might think proper.³⁵

In February, 1833, the Ottawas ceded a large tract of land in Michigan, for which the United States promised to pay \$29,440 to be used in paying the Indian debts.³⁶

The federal government was rapidly securing a valid title to the Indian lands east of the Mississippi. On September 26, 1833, the United States secured all the land possessed by the Chippewa, Ottawa, and Potawatomie tribes along the western shore of Lake Michigan and between this Lake and Fort Armstrong. In consideration for this cession these tribes were given land in the West; \$100,000 to satisfy certain individuals who insisted upon reservations; \$150,000 to satisfy the claims made against these tribes; \$100,000 to be paid in goods and provisions; \$280,000 to be paid in annuities of \$14,000 a year for twenty years; \$150,000 to be applied to the erection of mills, farm houses, Indian houses, and blacksmith shops, and for stock and agricultural implements; \$10,000 for the purpose of education; \$400 a year to Billy Caldwell; \$300 annually for life to Alexander Robinson; \$200 to be correspondingly paid to two other individuals; and \$3,500 for nine sections of land previously granted to private persons.³⁷

A supplementary article to the treaty the next day, in which another large acquisition of land was secured from these tribes in the territory of Michigan, added \$10,000 to the previous sum to

satisfy individuals who desired reservations and who were refused; \$25,000 was added to the previous \$150,000 to satisfy the claims against the natives; \$25,000 in goods, and \$40,000 in annuities for twenty years. The Indians were to be removed in three years.³⁸

Thus closed the year 1833, and the Secretary of War congratulated the nation on the fact that "the country north of the Ohio, east of the Mississippi, including the states of Ohio, Indiana, Illinois, and the Territory of Michigan as far as the Fox and Wisconsin rivers," had been practically "cleared of the embarrassments of Indian relations." There were not more than five thousand Indians left in the entire region.³⁹

These remaining Indians still roamed over large tracts. The policy was to get them beyond the Mississippi as quickly as possible; therefore, the Miami Indians remaining in Indiana were forced to cede thousands of acres in 1834. For this cession the government stipulated to pay the Miami tribe \$208,000. Of this sum, \$58,000 was to be paid within six months from the ratification of this treaty; \$50,000 to be applied to the payment of the debts of the tribe, and the residue of \$100,000 was to be paid in annual instalments of \$10,000. The United States promised to pay \$1,500 for horses stolen from them by the whites, to put a value upon the buildings and improvements on the lands ceded, and to cause a similar amount in value, to be laid out in building and in clearing and fencing ground, for the use of the Indians on such place as their chiefs might select. The red men were to enjoy peaceable possession of their houses until other corresponding improvements were made for them in their new homes.⁴⁰

In December, 1834, there were four different treaties negotiated with the chiefs of the Potawatomie bands, in which they granted several sections reserved to them by former stipulations. In payment for these lands the United States promised them over \$7,100.⁴¹ Two or three years later there were nine other understandings negotiated with the different bands of Potawatomes in Indiana in which certain sections of their lands were ceded for \$63,620 in specie and goods.⁴²

On September 12, 1835, Schoolcraft received instructions from

³⁸ *Ibid.*, pp. 410-411.

³⁹ Jackson, *A Century of Dishonor*, p. 49.

⁴⁰ *Laws and Treaties*, II, 425-428.

⁴¹ *Ibid.*, pp. 428-431.

⁴² *Ibid.*, pp. 450, 457, 459, 462, 470, 472, 488.

the Department of War to ascertain whether the Indians north of Grand River would sell their possessions, and on what terms.⁴³ This was the first official step which led to the treaty of March 28, 1836, at Washington. Circumstances had now inclined the Chippewa and Ottawa tribes to cede to the United States a portion of their extensive territory between the mouth of Grand River of Lake Michigan and Lake Superior. The reasons for this large grant were the decline in wild game in the greater part of the region, the demands of the national government for a cession, and the lack of any other method of raising funds to pay their huge debts to the traders. There were reservations within the ceded tract of several hundred thousand acres for the use of these Indians for five years only. For these the following sums were to be paid to the tribes: an annuity of \$30,000 to the Indians between the Grand River and the Cheboigan; \$3,600 to the red men on the Huron shore; \$7,400 to the Chippewas north of the straits; \$1,000 to be invested in stock by the Treasury Department; \$5,000 for the purpose of education, annually for twenty years; \$3,000 for missions; \$10,000 for agricultural implements; \$300 a year for vaccine matters, medicines, and physicians; \$2,000 for provisions; 6,500 pounds of tobacco; 100 barrels of salt, and 500 fish barrels annually for twenty years; \$150,000 in goods and provisions on ratification of the treaty; \$200,000 in consideration of changing the permanent reservations to five years only, to be "paid whenever their reservations shall be surrendered, and until that time the interest on said two hundred thousand dollars shall be annually paid to the said Indians." The sum of \$300,000 was given to pay such just debts as the tribes owed. The stipend of \$150,000 was set aside as a fund for the half-breeds; and to extinguish titles to reservations owned by the latter, it was agreed that \$48,148 should be appropriated. The chiefs were to receive \$30,000 upon ratification of the treaty, and two aged ones were to receive \$100 and \$50 each during their lives. The compensation for all objects was about \$2,000,000. This was a pretty large sum it seems, but when one considers the fact that at least 16,000,000 acres were included within the cession it was extremely reasonable.⁴⁴

⁴³ Schoolcraft, *Memoirs*, p. 524.

⁴⁴ *Laws and Treaties*, II, 450-456. See Schoolcraft, *Memoirs*, p. 534.

Two months later a delegation of Chippewas from Michigan, who had separate interest in the regions of Swan and Black creeks, presented themselves with the view of ceding the reservations made them by a treaty concluded by General Hull, November 17, 1807. Upon their arrival in Washington, they were referred to Schoolcraft to adjust the terms for the sale of these reserves. The tracts possessed by these individuals were ceded, and the United States agreed to pay them

the net proceeds of the sale thereof, after deducting the cost of survey and sale and the contingent expenses attending the treaty. The lands shall be surveyed and offered for sale in the usual manner, at the land office in Detroit, as soon as practicable after the ratification of this treaty. A special account shall be kept at the Treasury of the amount of the sales of the said lands, and after deducting therefrom the sums hereafter stipulated, to be advanced by the United States, ten thousand dollars shall be retained by the Treasury, and shall be paid to the said Indians in annuities of one thousand dollars a year for ten years; and the residue of the fund shall be vested by the Secretary of the Treasury in the purchase of some State stock, the interest of which shall be annually paid to the said Indians like other annuities. . . .

The United States advanced to Indians \$2,500 and also goods to the value of \$4,000 to be purchased in New York and delivered in bulk, at their expense, to the proper chiefs at Detroit. Lands were given to them west of the Mississippi.⁴⁵

About the beginning of May, 1836, a delegation of Saginaws arrived in Washington for the purpose of ceding to the federal government the reservations in Michigan under the covenant of 1819. Schoolcraft negotiated the treaty, the terms of which were agreed to and signed on May 20, 1836, but the understanding was rejected by the Senate.⁴⁶ In the letter of appointment of May 17 to confer with these Indians, Schoolcraft was instructed by the Secretary of War: "You are authorized to offer them the proceeds which their lands may bring, deducting such expenses as may be necessary for its surveys, sales, etc. You will take care that a sufficient fund is reserved to provide for their removal, and such arrangements made for the security and application of the residue as will be most beneficial to them."⁴⁷

⁴⁵ *Laws and Treaties*, II, 461-462.

⁴⁶ Schoolcraft, *Memoirs*, p. 535.

These instructions were carried out, in articles of a compact in which the government furthermore agreed, in view of the lands not being immediately brought into market, to make a reasonable advance to these Indians. Yet the Senate rejected it, not, it seems, for the

liberality of the offer of the nett proceeds of the lands, but for the almost *per necessitate* offer of a moderate advance, to enable the people to turn themselves in straitened circumstances, which had been the prime motive for selling. The advance was, in fact, as I have reason to believe, a mere bagatelle, but the chairman of the Indian Committee in the Senate [Hugh L. White] was rather on the lookout for something, or anything, to embarrass or disoblige General Jackson and his agents, having fallen out with him, and being then, indeed, a candidate for President of the United States himself, at the coming election. If I had not heard the pointed expressions of Hon. Hugh L. White, on more than one occasion, in which three treaties were before him, in relation to this matter of not affording the presidential incumbent new sources of patronage, etc., I should not deem it just to add the latter remark. He was a man of strong will and feelings, which often betrayed themselves when subjects of public policy were the topics. And, so far as he interfered with the principles of the treaties which I had negotiated with the Lake Indians in 1836, he evinced an utter ignorance of their history, character, and best interests. He violated in some respects, the very principle on which alone two of the original cessions, namely, those of the Ottawas and Chippewas and of the Saginaws, were obtained; and introduced features of discord, which disturbed the tribes and some of which will long continue to be felt. And the result is a severe caution against the Senate's ever putting private reasons in the place of public, and interfering with matters which they necessarily know but little about.⁴⁸

In order to carry out the stipulations of the treaty of March 28, 1836, the Secretary of War recommended to Schoolcraft a man by the name of Ryly to deliver the goods to the Indians.⁴⁹ At the appointed time the merchandise was ready for distribution. Upwards of 4,000 natives, who were subsisted by the government for a month encamped around the post. Tribal annuities of \$42,000 were distributed on a per capita basis. Of these there were 143 chiefs who received an additional payment of \$30,000. In addition

to the provisions consumed, \$2,000 worth of flour, pork, rice, and corn were delivered to the separate villages in bulk prior to their departure; and \$150,000 worth of "best quality of Indian goods and merchandise, cutlery, and other articles of prime necessity, was systematically divided among the mass. The sum of \$220,000 has been paid on accounts exhibited to the agent, and approved by the creditors of the two tribes." The half-breeds were paid \$150,000. According to Schoolcraft who had charge of the distribution of presents, and in conformity with the stipulations of the treaty, \$5,240,000 in goods, provisions, and money were paid the tribes, plus \$2,000,000 which totaled \$7,240,000.⁵⁰ These several duties

required care and involved responsibilities of no ordinary character. They have been shared by Major H. Whiting, the Paymaster of the Northern Department, by whom the funds were exclusively paid, and John W. Edwards, Esq., of New York, who divided the half-breed fund, to both of whom I am indebted for the diligence with which they addressed themselves to the duty, and the kindness and urbanity of their manners.⁵¹

So large an assemblage of red and white men [said Schoolcraft], probably never assembled here before, and a greater degree of joy and satisfaction was never evinced by the same number. The Indians went away with their canoes literally loaded with all an Indian wants, from silver to a steel trap, and a practical demonstration was given which will shut their mouths forever with regard to the oft-repeated scandal of the stinginess and injustice of the American government. Not a man was left, of any caste or shade of nativity, to utter a word to gainsay or cavil with the noble and high public manner in which these proceedings were done. The blood relatives of the Indian found that the two nations, actuated by a sense of their kindness and real friendship for years, had remembered them in the day of their prosperity. The large number of Indian creditors, who had toiled and suffered and lost property in a trade which is hazardous were glad in seeing the ample provisions for their payment.⁵²

⁵⁰ *Ibid.*, p. 543. The Ottawas of Grand River who were parties to the agreement of March 28, 1836, purchased lands in Barry County with the \$6,400 allowed by the ninth article of the treaty, in trust for Chiminonoquet; and a mission was established in the lands purchased which was called Ottawa Colony. Difficulties, however, arose with pre-emption claimants.—*Ibid.*, p. 553.

⁵¹ *Ibid.*, p. 543.

The agents of the government also rejoiced [continued Schoolcraft], in the happy termination of their labors, and the drum, whose roll had carried away the troops who had been present to preserve order, now converted to a symbol of peace, was never more destined to be beaten to assemble white men to march in hostility against these tribes. They were forever our friends. What war had not accomplished, the arts of peace certainly had. Kindness, justice, and liberality, like the 'still small voice' at Sinai, had done what the whirlwind and the tempest failed to do.⁵³

In April, 1836, the Wyandots ceded all of their territory in Ohio and various sections which had been reserved to certain chiefs. These lands were to be surveyed as usual by the Surveyor General, "and to be sold at such time and place, allowing sixty days' notice of the sale, as the President may direct." A registrar and receiver were to be appointed by the President and Senate, "in accordance with the wishes of the delegation of chiefs, whose duties shall be similar to those of other registrars and receivers. They shall receive such compensation for services rendered, not exceeding five dollars per day for every day necessarily employed in the discharge of their duties, as the President may determine." All expenses involved in the execution of this treaty, and in the sale of the lands included in it, were to be defrayed out of the funds raised therefrom, including such disbursements as were incurred by the delegation to Washington and certain allowances to individuals who assisted in the negotiations. A portion of the money not exceeding \$20,000, "arising from the sales as the chiefs may deem necessary for the rebuilding of mills, repair and improvement of roads, establishing schools, and other laudable public objects for the improvement of their condition, shall be properly applied under their direction, and the remainder to be distributed among the individuals of said tribe as annuities are distributed." The money "raised by the sales of the lands for all the above-mentioned objects, except the last, shall be paid by the receiver on the order of the chiefs; and such order, together with the receipt of the persons to whom payment shall be made, shall be the proper voucher for the final settlement of the accounts of the receiver;—but the funds for the tribe shall

⁵³ *Ibid.*, p. 544. Fourteen years before, when Schoolcraft first took charge of the Northwestern Indians, these tribes did not have one dollar in annuities.

be distributed by the registrar and receiver to each person entitled thereto." The lands ceded by the chiefs in Michigan were to be surveyed and sold in the same manner as the Wyandot lands in Ohio, and they received the respective sums arising from said sale. If during the progress of the vendition, the Indians were not satisfied with the prices at which the lands were selling, the registrar and receiver, on the written application of the chiefs, were to close the auction, and report the proceedings to the War Department, and "the President may appoint such other time for the sale as he may deem proper." ⁵⁴

In the autumn of 1836 Henry Dodge, Governor of the Territory of Wisconsin, secured a large cession from the Menominee tribe in that section of the country. In remuneration for this grant the United States agreed to pay to the tribe \$20,000 yearly for the term of twenty years, and to give them annually for a similar period \$3,000 worth of provisions, two thousand pounds of tobacco, thirty barrels of salt, \$500 for the purchase of farming utensils and cattle. They were to erect two smithy shops and employ two blacksmiths over the same period and to furnish them with the necessary iron, steel, and tools. The just debts of the Menominees, amounting to \$99,710.50, were to be paid by the government. The sum of \$80,000 was to be divided among the half-breeds of the tribe. The portion of this fund allowed by the Commissioner of Indian Affairs to those half-breeds "who are orphans, or poor or incompetent to make a proper use thereof, shall be paid to them in installments or otherwise as the President may direct." The Menominee tribe agreed to release the United States from "all such provisions of the treaty of 1831 and 1832, aforesaid, as requires the payment of farmers, blacksmiths, millers, &c. They likewise relinquish all their right under said treaty to appropriation for education, and to all improvements made or to be made upon their reservation on Fox River and Winnebago Lake; together with the cattle, farming utensils or other articles furnished or to be furnish[ed] to them under said treaty." In consideration of these releases the federal government agreed that the sum of \$26,000 should be allowed them and invested in some safe stock and the

interest thereon should be reinvested until such time as the President might deem it wise to pay the total sum.⁵⁵

On January 14, 1837, Schoolcraft negotiated at Detroit a treaty with the Chippewa tribes for the sale of all their reservations in Michigan. These reserves had been given to them under the agreement of September 24, 1819. They were ceded by them at Washington in the spring of 1836, but the terms and particularly the advance of money stipulated to be made were deemed too liberal by the Senate, and in consequence, the stipulation was rejected. The object was now attained in a manner satisfactory to the Senate. By this, as in the former understandings, the tribe was allowed the entire proceeds of the sale of their lands at public auction. A special account of the "sales shall be kept at the Treasury, indicating the receipts from this source, and after deducting therefrom the sums hereinafter set apart, for special objects together with all other sums, justly chargeable to this fund, the balance shall be invested . . . in some public stock, and the interest thereof shall be annually paid to the said tribe. . . ." These Indians agreed to set apart out of the fund created by the sale of their lands the following sums: for the purchase of goods and provisions \$40,000;⁵⁶ for a special payment to each of the principal chiefs \$5,000; for distribution among the heads of families to be paid as an annuity in 1837, \$10,000;⁵⁷ for the support of schools, \$10,000; for the payment of debts, \$40,000; for compensating American citizens upon whose property this tribe had committed depredations after the surrender of Detroit in 1812, \$10,000; for the payment of other claims, \$12,243.35; for vaccine matter and the services of a physician, \$100 yearly for five years; for purchase of tobacco, \$200 annually for half a decade. The whole of these sums were to be expended under the direction of the President, and he was to be governed by the following principles:

The goods and provisions shall be purchased by an agent, or officer of the government, on contract, and delivered to them, at their expense, as early as practicable, after the ratification of the treaty. The annuity of ten thousand dollars shall be divided among the heads of families,

agreeably to a census, to be taken for the purpose. The school fund shall be put at interest, by investment in stocks, and the interest applied annually to the object, commencing in the year 1840, but the principal shall constitute a permanent fund for twenty years, nor shall the stock be sold, nor the proceeds diverted, at *that* period, without the consent of the President and Senate.⁵⁸

Six months later the Chippewas of the Territory of Wisconsin ceded a very large tract of land in that region. In compensation for this grant, the United States agreed to pay the Chippewas annually for twenty years: \$9,500 in money, \$19,000 in goods, \$3,000 for establishing and supporting three blacksmith shops, \$1,000 for farmers, implements of labor and seeds, \$2,000 in provisions, and \$500 in tobacco. The sum of \$1,000 was to be paid to the half-breeds, and \$20,000 was to be applied toward the payment of their debts,⁵⁹ making a total of more than \$850,000.

In July, 1837, Schoolcraft was instructed to submit a proposition to the Chippewa Indians to take fifty per cent of their annuities under the treaty of 1836, "at the approaching payments, in goods, and half in silver." If the goods were declined, they were requested to receive the half annuity in silver and to wait for the remainder till the next year.⁶⁰

Schoolcraft submitted the proposition to a full council of the chiefs and warriors on July 24. They debated it at great length. A delegation visited the goods which were shown by the agent. They declined receiving them, but agreed to receive the half annuity in coin, and to wait as requested for the balance till the next payment.⁶¹ On June 5, 1838, the deferred annuity was paid in silver.⁶²

In 1837 Judge McDonnell of Detroit and Captain Clark of St. Clair were engaged in a careful and elaborate appraisement of the Indian improvements, under the eighth article of the treaty of March 28, 1836. They commenced their labors in the Grand River

⁵⁸ *Laws and Treaties*, II, 482-486. Two thousand dollars was paid to the chiefs for the surrender of two sections of land in Oakland County, Michigan. This agreement was not to affect annuities granted in former treaties.

⁵⁹ *Ibid.*, pp. 491-492.

⁶⁰ Schoolcraft, *Memoirs*, p. 561.

⁶¹ *Ibid.* This proposition was called the "goods offer" and was much distorted by the public press. Schoolcraft was blamed for having carried the offer into effect, whereas it was declined, and the half annuity in silver accepted and the credit asked for given for the rest.

Valley, and continued along the entire coast of Lake Michigan, not omitting anything which could by the most liberal construction be considered "as giving value to the lands ceded." "Not an apple tree, nor a house or log wigwam, and not an acre, once in cultivation, though now waste, was omitted." They reported the whole

number of villages in this district at twenty-two, the whole number of improvements at 485, and the gross population at 3,257 souls. This population live in log and bark dwellings of every grade, cultivate 2,477 acres of land, on which there are 3,212 apple trees; besides old fields, the aggregate value of which is put at \$74,998. They hold that these appraisements have been deemed everywhere fully satisfactory to the Indians.⁶³

In the summer of 1837 troops from Green Bay passed through Mackinac on their way to Florida to fight in the campaign against the Seminoles. This was a long weary road to send reinforcements; but "our army is so small, and has so large a frontier to guard, that it must face to the right and left as often as raw recruits under drill." ⁶⁴

Early in September Major John Garland of the United States Army, who had previously succeeded Major Whiting as the general disbursing officer on this frontier, arrived in Michigan to take charge of his new duties. The incumbent was engaged with

his assistants and the aid of the Indian Department, about a week, in preparing the payrolls of the Indian families, and correcting the lists for deaths, births, and new families. All the payments which were made in silver at the agency in my [Schoolcraft's] presence were divided per capita. This business of counting and division took three days, during which time the proportionate share of \$21,000 in half dollars, was paid. The annuities in provisions, tobacco, etc., were delivered in bulk to the chiefs of villages, to be divided by them.⁶⁵

⁶³ *Ibid.*, p. 569. The appraisement was regarded as too high at Washington, and the subject was referred for revision to Major Garland and Schoolcraft. They objected on the ground that it would be impossible to revise the estimate without opportunities of personal examination in each case. However, they performed their official duties. It was found that the original appraisement was too high. Clark and Schoolcraft estimated their improvements at \$14,601.75.—*Ibid.*, pp. 583-602.

During this assemblage of the Ottawas and Chippewas at which their annuity was to be paid, great care and exactitude were observed by the concurrently acting officers of the army and the Indian Bureau to carry out strictly the agreements made with them in the spring, by which the payment of half their annuity in silver, due for 1837, was postponed till 1838. Yet it was reported and reiterated by the press that the natives had been defrauded out of fifty per cent of their annuities, and that goods, and those of bad quality, had been given them for silver. And Schoolcraft's name was coupled with the transaction, although the Indians of all tribes who were under his charge in the State of Michigan had from the first been treated with "the kindness and justice of a father." The government at Washington came in for no little abuse. Mrs. Jameson wrote from Toronto asking "whether it was true that a Miami chief offered \$70,000 to enable the Indian Department to pay their debts to the Indians in specie."⁶⁶

Upon receiving a copy of the treaty of July 29, 1837, with the Chippewas, Schoolcraft recorded the following in his *Memoirs*:

This tribe, like all the other leading tribes of the race, is destined to fritter away their large domain for temporary and local ends, without making any general and permanent provision for their prosperity. The system of temporary annuities will, at least, leave them without a home. When the buffalo, and the deer, and the beaver, are extinct, the Indian must work or die. In a higher view, there is no blessing which is not pronounced in connection with *labor* and *faith*. These the nation falter at.⁶⁷

Another agreement was made with the Chippewa tribe on December 20, 1837, in which they relinquished their reserves in this valuable portion of the country, and consented to accept a location on the head waters of the Osage. They were permitted to occupy two reservations on the west shores of Saginaw Bay for five years. The federal government promised to pay them the entire proceeds received from the sale of the land, as sold in the public land offices, but fifty cents an acre was retained out of every

⁶⁶ *Ibid.*, p. 571. On September 30, 1837, Schoolcraft completed and transmitted the returns of the year's proceedings and expenditures.—*Ibid.*, p. 572.

⁶⁷ *Ibid.*, p. 573. An Indian brought in a counterfeit half dollar and received a good one in its place from Schoolcraft.—*Ibid.*, p. 577.

acre of land ceded by said tribe on January 14, 1837, to constitute a fund to finance their emigrating West. They set apart funds for schools and to pay Chippewa debts, and allowed an annuity of \$5,000 "and goods to the amount of \$10,000 to be advanced by the Treasury and to be refunded out of the first proceeds of their lands." ⁶⁸

In 1837 and 1838 the Canadian Revolution found many sympathizers in the northern United States. In order to maintain neutrality along the Canadian borders, to put down the "wild patriotic movement," and to prevent disturbance on the frontier, the steamer *Robert Fulton* arrived at Detroit with three companies of federal troops under the command of Colonel Worth.⁶⁹ A few weeks later General Scott arrived in the city with a view to quiet the disturbances on the lines and to see to the proper disposition of the soldiers along the chain of lakes. Schoolcraft immediately called on him, "and offered him any of the peculiar facilities, which were at the command of the Indian Department, in sending expresses in the Indian country." ⁷⁰

On returning from Grand River, June 16, 1838, Schoolcraft observed that the misrepresentations begun the previous winter respecting the Indian policy and proceedings of the Indian Bureau were being continued. The germ of these misconceptions, as we have seen, lay in the "goods offer" for the half annuity made in 1837. "This offer being rejected by the Michigan Indians was renewed to those of Wisconsin, and accepted by the Menominees of Green Bay. Traders and merchants who were expecting the usual payments of cash annuities to the Indians were sorely disappointed by [not] finding a single tribe in the lake country paid in merchandise." ⁷¹ The policy itself was a bad one, and denoted the inexperience and consequent unfitness of Carey A. Harris for the position of Commissioner of Indian Affairs at Washington.

In exercising independence of action in regard to the "goods offer," Schoolcraft aroused the ire of the Indian Commissioner, Harris, who had in fact been

overreached by a noted commercial house, who dealt heavily in Indian goods [at] New York, who sold him the goods on credit; but who

⁶⁸ *Laws and Treaties*, II, 501-502.

⁷⁰ *Ibid.*, p. 587.

⁶⁹ Schoolcraft, *Memoirs*, p. 586.

⁷¹ *Ibid.*, pp. 596-597.

actually collected the *specie* from the western land offices on public drafts, before the year expired. He vented this pique officially, by suspending my [Schoolcraft's] report of October 18, 1837, on the debt claims against the Indians, finally *assumed* powers in relation to them, directly subversive of the principles of the treaty of March 28, 1836, which had been negotiated by me, and referred them for revision to a more supple agent of his wishes at New York, who had been one of the efficient actors in the "goods offer" at Green Bay, Wisconsin. . . .⁷²

Early in January, 1838, another treaty was negotiated with the Chippewas at the city of Saginaw, Michigan. Because of a combination of purchasers who had agreed not to bid against each other in order to get valuable lands for almost nothing, a compact which would be to their financial advantage and to the disadvantage of the Indians, it was stipulated that the lands ceded by the terms of January 14, 1837,

shall be offered for sale, by proclamation of the President, and the sale shall be conducted in the same manner, as the laws require other lands to be sold. *But it is provided*, that all lands brought into market, under the authority of said treaty, shall be put up for sale by the register and receiver of the respective land office, at five dollars per acre, which is hereby declared to be the minimum price thereof; and if this price is not bid the sales shall be stopped; nor shall any such lands be disposed of, either at public or private sales, for a sum less than five dollars per acre, for, and during the term of two years from the commencement of the sale. Should any portion of said lands remain unsold at the expiration of this time, the minimum price shall be diminished to two dollars and fifty cents per acre, at which price they shall be subject to entry until the whole quantity is sold: *Provided*, That if any part of said lands remain unsold at the expiration of five years from the date of the ratification of this treaty, such lands

remaining should not be sold for less than seventy-five cents an acre.⁷³

In November the Miami Indians surrendered valuable possessions in Indiana and certain sections of land in Ohio. In payment for this grant the United States agreed to give the tribe \$335,680; \$60,000 of which was to be paid immediately after the ratification of the treaty; and the remainder, after setting aside \$150,000 for

the payment of claims against the tribe, was to be delivered in ten yearly installments of \$12,568. It was provided that "no debt or debts that any Indian or Indians of said tribe may contract with any person or persons, shall operate as a lien on the annuity or annuities, nor on the land of the said tribe for legal enforcement." The improvements were to be appraised and paid for by the federal government. Certain chiefs were given land in fee simple, and the poor and infirm persons were to be supported.⁷⁴

Congress published a statement in 1838 from the Indian Bureau, showing, first, that upwards of fifty treaties had been concluded with various tribes since January 1, 1830, for their removal West, in accordance with the principles of the organic act of May 28, 1830; second, that by these agreements, 190,879,937 acres of land had been acquired; third, that the probable value of this land to the United States was \$137,349,946; fourth, that the total cost of these cessions, including the various expenses of carrying the treaties into effect, was \$70,059,505.⁷⁵ Uncle Sam was developing into a good business man; in eight years he had cleared \$67,290,441 in his business transactions with the red men.

In September, Schoolcraft paid the Northwestern tribes in full all of the annuities due them for 1838, and the deferred half annuity for the previous year, making a total of \$47,000 which was distributed proportionately among the natives. The whole number of Indians on the payrolls for 1838 amounted to 4,872, of whom 1,197 were in the Grand River Valley. The previous year they numbered in all 4,561, denoting an addition of 311. This increase, however, was partly due to immigrations from the South, partly to previous imperfect counts, and only partially to the increase of births over deaths. The annuity divided per capita was as follows: \$12.57 on the north, \$22.50 in the middle or Thunder Bay District, and \$11.50 on the southern pay list. The Indians requested at this time that these per capita divisions be equalized. But the terms in the agreement itself created the geographical districts;⁷⁶ therefore, they could not be changed without a new covenant or an amendment of the old.⁷⁷

Criticism of the injustice of the treaty of July 29, 1837, became

rife in the autumn of 1838. Schoolcraft, therefore, inquired of Lyman M. Warren, one of witnesses of the agreement, "why it was that so little had been given for so large a cession, comprehending the very best lands of the Chippewas in the Mississippi Valley." He detailed a series of petty intrigues by the St. Peter's agent, L. Taliaferro, who had flattered two of the Pillager chiefs, and loaded them with new clothes and presents. One of these, Hole-in-the-Day, came down twenty days before the time. The Pillagers, in fact, made the treaty. The bands of the St. Croix and Chippewa rivers, who really lived on the lands and owned them had, in effect, no voice. So in respect to the La Pointe Indians, Taliaferro had stated that

Dodge really knew nothing of the fertility and value of the country purchased, having never set foot on it. Governor Dodge thought the tract chiefly valuable for its pine and natural mill-power; and there was no one to undeceive him. He had been authorized to offer \$1,300; but the Chippewas managed badly—they knew nothing of *thousands*, or how the annuity would divide among so many, and were, in fact, cowed down by the braggadocia of the flattered Pillager war chief, Hole-in-the-Day.

Warren further stated that the Lac Courtorielle band had not united in the sale, and would not attend the payment of the annuities, nor would the St. Croix and Lac du Flambeau Indians. He said the presents of \$19,000 would not exceed a breech-cloth and a pair of leggings apiece. . . .⁷⁸

About this time the Commissioner of Indian Affairs, Harris, resigned because of alleged land speculations in Arkansas. T. Harley Crawford of Pennsylvania, a man well versed and experienced in Indian questions, was appointed to that important position.

Previous treaties set aside stipulated sums to pay the just debts of various tribes. Nearly all of these obligations were due the Indian traders. Many of these claims had not yet received the action of the administration in the autumn of 1838, but investigations were being made at the time by commissioners appointed for the purpose of examining them. Some of these incumbencies were regarded as individual debts and others as tribal.⁷⁹

According to Schoolcraft

The error, in all these cases seems to be that where a tribe has agreed to set apart a generic sum to satisfy debts, and the United States has accepted the trusteeship of determining the individual shares, that the Indians who cannot *read or write, or understand figures, or accounts at all*, and cannot possibly tell the arithmetical difference between one figure and another should yet be made the subject of these minor appeals. The Trustee himself should determine that, by such testimony as he approves, and not appear to seek to bolster up the decisions of truth and faithfulness by calling on Indian ignorance and imbecility, which is subject to be operated on by every species of selfishness.⁸⁰

The Stockbridge and Munsee Indians ceded 87,643 acres in the territory of Wisconsin in 1839, for which the United States promised them one dollar an acre. The improvements of the emigrating bands were to be appraised and indemnified by the federal government. The sum of \$3,879 was paid for such purposes, and \$12,647 was to be distributed among the migrating parties. The remainder was to be invested for the said tribes.⁸¹

In 1840 the Miami Indians ceded all of their lands in Indiana for \$550,000; \$300,000 to be applied toward the payment of the debts of the tribe; the residue of \$250,000 to be paid in twenty equal instalments; the United States to bear all expense of their removal beyond the Mississippi and provide subsistence for one year; and certain lands were reserved for the individuals of the tribe.⁸²

Two years later the Wyandots surrendered 109,000 acres of land in Ohio, and 6,000 in Michigan. The United States in turn granted the tribe 148,000 acres beyond the Mississippi, and \$500 to be used immediately to locate them temporarily on the reserve at Sandusky. A perpetual annuity of \$17,500 in specie was promised them and a permanent school fund of \$500 a year. The improvements were to be satisfied by the federal government, and their debts were to be paid to the amount of \$23,860. Several reserves were allowed individuals and also several cash payments which totaled several hundred dollars.⁸³

⁸⁰ *Ibid.* It appears that the gain in trade of the American Fur Company from 1824 to 1827 was \$167,000. From 1827 to 1834 it was \$195,000. From the aggregate of ten years' business, there is to be deducted \$45,000, being lost from 1817 to 1824, which leaves a profit on seventeen years' trade of \$317,000.—*Ibid.*, pp. 626-627.

According to the provisions of the act passed by Congress which confirmed the valuations made by Caldwell and Waggoner, funds were placed in the hands of agents to reward the claimants, a condition precedent to the liquidation of the various amounts, that the sums thus paid were to be "in full satisfaction of all claims and demands," under the fifth article of the treaty. This stipulation met with strong opposition. The agent who had charge of the funds reported that but few had accepted the terms, "embracing but about one-third of the sum to be paid over; the balance refusing to receive the amount of their valuation."⁸⁴ The government had the advantage, for it had possession of their lands and the power to retain them.

The stipulations of this treaty were violated in other ways also. The Indians never received the tract of 148,000 acres and were forced to buy lands from the Delawares. This purchase, however, was approved by the government.⁸⁵ In order to extinguish their title to the original grant of 148,000 acres, a covenant was negotiated with the Wyandots in April, 1850. To compensate them for the surrender of their title to this land, the Wyandots were given \$185,000 or \$1.25 an acre. This sum was to be paid in the following manner: \$100,000 to be invested in five per cent government stocks and the interest therefrom to be paid them annually, and the balance of \$85,000 to be released at once to enable them to pay their just debts and to compensate the Delawares for the purchase of their lands. As usual the expense of negotiating the treaty was borne by the federal government.⁸⁶

In the fall of 1842 the Chippewas ceded a huge country between the Mississippi and Lake Superior. In order to compensate them for this territory, the United States engaged to pay annually for twenty-five years \$12,500 in specie, \$10,500 in goods, \$2,000 in provisions and tobacco, \$2,000 for the support of two blacksmith shops, \$1,000 for the pay of two farmers, \$1,200 for the salary of two carpenters, \$2,000 for the support of schools; and \$5,000 as an agricultural fund was to be expended under the direction of the Secretary of War. The sum of \$75,000 was allowed for the full satisfaction of their debts within the ceded region. In order to pro-

vide for the half-breeds, the amount of \$15,000 was appropriated. The Indians residing on the "mineral district shall be subject to the removal therefrom at the pleasure of the President of the United States." ⁸⁷

The treaty of 1846 with the Potawatomie bands united them into the Potawatomie Nation and located them together on a given territory on the Kansas River. These tribes ceded a large number of acres to the United States in turn for a grant of 567,000 acres. In payment for this cession it was stipulated that the Indians should receive \$850,000 but that they were to pay the federal government \$87,000 for their new possessions. The United States promised the Potawatomes \$50,000 at the first annuity payment to enable them "to arrange their affairs, and pay their just debts, before leaving their present homes; to pay for their improvements, to purchase wagons, horses, and other means of transportation, and pay individuals for the loss of property necessarily sacrificed in moving to their new homes; said sum to be paid in open council by the proper agents of the United States, and in such just proportions to each band as the President of the United States may direct." The Potawatomes agreed to move to their new homes within two years from the ratification of the treaty. They further promised to set apart the sum of \$20,000 to the upper bands (ten dollars a head) and \$10,000 to the lower bands (five dollars a head) to pay the actual expenses of emigration; and the amount of \$40,000 for all the bands as subsistence money for the first twelve months after their arrival upon their recent possessions. These funds, however, were to be subtracted from the aggregate granted by the United States to the said tribes. After deducting the cost of removal and subsistence, the balance of \$850,000 "shall remain with the United States in trust for said Indians, and an interest of five per cent annually paid thereon, commencing at the expiration of one year after the removal of said Indians and continuing for thirty years. . . ."⁸⁸

In August, 1847, the Chippewa Indians of the Mississippi and Lake Superior region ceded a vast tract of country, for which the United States promised the Chippewas of Lake Superior \$17,000 in specie, and the Chippewas of the Mississippi the same amount.

An annuity of \$1,000 for forty-six years was promised them, but whenever the Chippewas of the Mississippi

agree as to the schools to be established, and the places at which they shall be located, the number of blacksmiths and laborers to be employed for them, and shall request the United States to expend, from year to year, the annual payments remaining unpaid, in the support of schools, blacksmiths, and laborers, the same shall be expended by the United States for such purposes; and that Chippewas of full or mixed blood shall be employed as teachers, blacksmiths, and laborers, when such persons can be employed who are competent to perform the duties required of them under this and all former treaties.

The half-breeds were to be considered as Chippewas and to "participate in all annuities which shall hereafter be paid to the Chippewas of the Mississippi and Lake Superior, due them by this treaty, and by the treaties heretofore made and ratified." ⁸⁹

The next year the Menominee Indians relinquished to the United States "all their lands in the State of Wisconsin wherever situated." In consideration of this cession, the Indians were promised \$350,000, to be used for the following purposes: to the chiefs, \$30,000; to the mixed bloods, \$40,000; toward removal, \$20,000; toward subsistence, \$20,000; to erect a grist and saw mill, \$15,000; to persons to direct these mills for a period of fifteen years, \$9,000; to purchase iron and steel for blacksmith shop, \$11,000; to pay for individual improvements upon the ceded lands, \$5,000; the balance of \$200,000 was to be turned over to the tribe in ten annual instalments. The money placed in stocks under the treaty amendment of 1836 was to remain invested and the interest therefrom to be applied toward educating the Indian children. The new country granted to them was to be explored at the expense of the United States. The deficit in goods which were

⁸⁹ *Ibid.*, pp. 567-568. Three weeks later a treaty was negotiated with the Pillager band of Chippewa Indians at Leech Lake. This band made a cession of their lands to the government. To compensate them for the grant they were promised for five years a large number of blankets, twine, cloth, two hundred combs, five thousand assorted needles, one hundred and fifty metal looking glasses, ten pounds of vermilion, thirty tin kettles, five hundred pounds of tobacco, and five barrels of salt. At the first payment made under this treaty, "the Indians shall receive as a present two hundred warranted beavertraps and seventy-five northwest guns."—*Ibid.*, pp. 569-570.

supposed to be delivered in 1837, and were not, was to be paid in full.⁹⁰

WINNEBAGO INDIANS AND FINANCIAL LAXITY

As we have seen, the Winnebago Indians made a treaty of friendship with the United States in June, 1816.⁹¹ Nine years later the federal government was determined to put an end to the ruthless wars in the Northwest between the Sacs, Foxes, Chippewas, Sioux, and Winnebagos. These relations required weeks of persistent toil before an agreement was finally reached, unsatisfactory though it was. The boundaries were designated by such phrases as "a half day's march," "a long day's march," "about a day's paddle in a canoe," "to a point where the woods come out into the meadows," "to a point on Buffalo River, half way between its source and its mouth." These were doubtful and insecure terms for permanent peace to be based upon since it was the common knowledge of all the assembled natives that "no tribe shall hunt within the acknowledged limits of any other without their assent."⁹²

At the conclusion of this agreement there transpired an interesting episode which was called "an experiment on the moral sense of the Indians with regard to intoxicating liquors." The incident is thus described:

It had been said by the tribes that the true reason for the commissioners of the United States speaking against the use of ardent spirits by the Indians, and refusing to give it to them, was the fear of expense, and not a sense of its bad effects. To show them that the government was above such a petty motive, the commissioners had a long row of tin camp-kettles, holding several gallons each, placed on the grass; and then, after some suitable remarks each kettle was spilled out in their presence. The thing was ill-relished by the Indians, who loved the whiskey better than the joke.⁹³

In 1827, as previously stated, a third compact was signed by the Winnebagos, Chippewas, and Menominees. This agreement definitely marked the boundaries of their possessions,⁹⁴ in which the two previous treaties unquestionably failed. Of these negotiations

⁹⁰ *Ibid.*, pp. 572-574.

⁹¹ *Laws and Treaties*, II, 130.

⁹² *Ibid.*, pp. 250-254.

⁹³ Jackson, *A Century of Dishonor*, p. 220; Schoolcraft, *Memoirs*, p. 217.

⁹⁴ *Laws and Treaties*, II, 281-282.

Schoolcraft remarked, "These three conferences . . . embody a new course and policy for keeping the tribes in peace, and are founded on the most enlarged consideration of the aboriginal right of fee simple to the soil. They have been held exclusively at the charges and expenses of the United States, and contain no cession of territory." ⁹⁵

These were the last benevolent treaties with the Northwestern tribes. In 1828 the citizens of the Great Lake regions were hungry for additional Indian lands, and negotiators were appointed to treat with the natives for the surrender of the desired possessions. The aborigines were hesitant and the matter was postponed. The federal government in the meantime promised to pay to these bands \$20,000 "in full compensation for all the injuries and damages sustained by them in consequence of the occupation of any part of the mining country." ⁹⁶

In 1829 a beneficent policy for the liberation of these depressed tribes of the Northwest was presented by J. D. Stevens, a missionary at Mackinaw. His plan was to colonize them in the Lake Superior region. He said:

The Indian is in every view entitled to sympathy. The misfortune of the race is that, seated on the skirts of the domain of a popular government, they have no vote to give. They are politically a nonentity. . . . The whole Indian race is not worth one white man's vote. If the Indians were raised to the right of giving his suffrage, a plenty of politicians on the frontiers would enter into plans to better him: whereas now the subject drags along like an incubus in Congress. ⁹⁷

Such was indeed the case. Appropriations were sadly behind in the late twenties and also in the late thirties. The agreements made with the natives could not be met. In 1829 a Washington correspondent wrote to Schoolcraft because there was no available money: "In 1827 we were promised \$48,000 for the Indian service, and got \$30,000; in 1828 \$40,000, and got \$25,000; and besides these promised, were all the extra expenditures authorized to be incurred, amounting to not less than \$15,000. It is impossible this can continue."

Schoolcraft observed: "The derangements in the fiscal affairs of the Indian Department are in the extreme. One would think that appropriations had been handled with a pitchfork. . . . And these derangements are only in regard to the North. How the South and West stand, it is impossible to say. But there is a screw loose in the public machinery somewhere."⁹⁸

Somewhat later the Secretary of War wrote: "Our annual appropriation has not yet passed; and when it will, I am sure I cannot tell."⁹⁹

The year 1828 brought no relief to the Indian financial question. A friend of Schoolcraft who was well versed in the subject wrote from Washington:

The fact is, that nothing could be worse managed than the fiscal concerns of the department. Not the slightest regard has been paid to the apportionment made, and there is now due to our superintendency more than the sum of \$40,000. . . . It is manifest, however, that the whole department will be exceedingly pressed for funds next year, as a considerable part of the [next] appropriation must be assigned to the payment of arrearages, which have [been] suffered to accumulate; and it is not considered expedient, in the present state of affairs, to ask for a specific appropriation. It will require at least two years to bring our fiscal concerns to a healthy state.¹⁰⁰

In fact, to meet these embarrassments, many retrenchments were necessary. Some subagents were drawn in from the Indian country, mechanics and interpreters were dismissed, and "things put on the very scale of expenditures."¹⁰¹

In March, 1828 "a person high in power" wrote to Schoolcraft: "The fact is this, the fiscal concerns of the department have come to a dead stand, and nothing remains but to ascertain the arrearages, and pay them up. You will know how this has happened [by diversions and misappropriations of the funds at Washington.] Such management you can form no conception of. There will be, during the year, a thorough change."¹⁰²

There is no doubt that the Bureau of Indian Affairs at Washington, was in regard to fiscal questions, wretchedly managed, and

got "over head and ears in debt" and the result of all this mal-administration was visited on the frontiers, in the "bitter want of means for agents, sub-agents, and mechanics, and interpreters, who are obliged to be either suspended, or put on a short allowance." ¹⁰³

In 1830 Congress was engrossed in the important question of the removal of the Indians. It occupied public attention throughout the nation. Meanwhile the Western tribes were warring among themselves, and slaughtering pioneers who settled upon their possessions. The Indians must move on; therefore, in September, 1832, the Winnebagos were forced to surrender some of their territory for the first time to the national government. They received in return land beyond the Mississippi, and before the following summer most of them had found their way across the Father of Waters. Their title to the recent acquisition was not so good as they had a right to believe, according to the terms of the treaty. ¹⁰⁴

The treaty said that "as the country hereby ceded" by the Winnebagos "is more extensive and valuable than that given by the United States in exchange," the latter would pay to the tribe \$10,000 annually in specie for twenty-seven years. Likewise buildings were to be constructed, teachers employed, and generous allowances were made for stock, implements, and tobacco. The chiefs agreed to surrender the murderers of white settlers. Furthermore, lands were granted by patent to four individual tribesmen but the treaty does not cite their daring services to merit such generous rewards. ¹⁰⁵

Within half a decade the Winnebagos granted all of their possessions east of the Mississippi, and in addition they surrendered the right to occupy, "except for hunting," some of their territory which they possessed on the west side. For this very large cession they were paid only \$200,000. A portion of this amount was to be used in the payment of their just debts, the cost of their emigration and settlement in their new country, and the residue was to be invested in safe stocks for their benefit. ¹⁰⁶

In 1846 the Winnebagos were really compelled to sell to the United States "all right, title, interest, claim, and privilege to all

lands heretofore occupied by them"; and accepted another grant of 800,000 acres, "to be held as other Indian lands are held," north of St. Peter's and west of the Mississippi. Though this constituted their third removal, they received for this grant and the abandonment of certain hunting privileges, approximately \$200,000. Some of this money was to be used to meet the expense of emigrating to their new homes, and the remainder was to be invested by the government.¹⁰⁷

This reservation did not prove satisfactory for the tribe. The Indians from the first were dissatisfied and disgruntled. Many of them wandered back to their previous homes, and in 1855 they willingly made another treaty with the United States by which they returned to the federal government all the territory which the agreement of 1846 had guaranteed them, and received in lieu of it a small tract on the Blue Earth River.¹⁰⁸

While the Winnebagos were thus happy and contented, the citizens of Minnesota were not. The latter held an indignation meeting. They made the lives of the Winnebagos unhappy and forced them to remove again in 1859.¹⁰⁹

¹⁰⁷ *Ibid.*, pp. 565-566.

¹⁰⁸ *Ibid.*, pp. 690-693.

¹⁰⁹ *Ibid.*, pp. 790-792.

Chapter XX

FEDERAL FINANCIAL AND ECONOMIC RELATIONS WITH THE SIOUX, SACS, FOXES, AND OTHER TRIBES

In a previous chapter, as we have seen, the different bands of Sioux Indians negotiated several treaties with the United States in 1825. Five years later the Sioux bands negotiated another treaty which involved not only the Sioux, but the Sauk or the Sac, the Fox and other tribes. Four of the Sioux bands "relinquished to the United States forever a tract of country from the Mississippi to the Des Moines River. This cession and an additional grant involved two other bands of Sioux, and four or five foreign tribes who were not very well represented at the council. Misunderstandings and disputes about the boundaries were, therefore, inevitable. This caused ill-feeling, occasioned hostilities, and resulted in trouble which lasted for years.

The first annuities promised the Sioux were stipulated in this treaty as follows: \$3,000 annually for ten years to the Yankton and Santee bands of the Sioux; to the other four, \$2,000. The two former were to pay out of their annuity \$100 yearly to the Ottos, because part of the land reserved for the various Sioux half-breeds had originally belonged to them. A blacksmith, at the expense of the United States; also, instruments for agricultural purposes; and iron and steel to the amount of \$400; also, \$3,000 a year "for educational purposes," and \$3,000 in presents distributed at the time, were promised them.¹

The State of Missouri now began to urge the federal government to annul the Sioux claims to land within the northwestern part of the state. Zachary Taylor, colonel in the United States Army and acting Indian Agent, was successful in securing the coveted tract in 1836. The second paragraph of the treaty stipulated that

the chiefs, braves, and principal men of the above named tribe of Indians, fully understanding the subject, and well satisfied from the

¹ *Laws and Treaties*, II, 305-309.

local position of the lands in question that they can never be made available for Indian purposes, and that an attempt to place an Indian population on them must inevitably lead to collisions with the citizens of the United States; and further believing that the extension of the state line in the direction indicated, would have a happy effect, by presenting a natural boundary between the whites and Indians, . . . do hereby . . . forever cede . . . the lands lying between the State of Missouri and the Missouri river [to the United States], and . . . exonerated the United States from any guarantee, condition, or limitation, expressed or implied under the treaty of Prairie du Chien. . . .

For this highly desirable cession the Indians received only \$550.²

By the next year many conditions called for a still larger cession of the Sioux lands. The vast forests, the great water power, the rich lead mines and mines of other ores stimulated the cupidity of speculators. Settlers were crowding into the Sioux country, and it was believed that if the territory could be purchased and the natives moved, the people would be free from any hostile invasions, and the red men would be safe from the corrupting influence of objectionable whites.³ The traders who for several "years past had given credit to many worthless Indians who had never brought back from the hunt furs sufficient to pay for the goods advanced them" also hoped that if the Indians emigrated the government would agree to pay these debts.⁴

In 1837 Major Taliaferro was directed to organize a delegation of Sioux Indians who could be taken to Washington, where the negotiations would take place. At the same time a decree was issued to invite the Chippewas of the Upper Mississippi to a council to be held at Fort Snelling. To both of these tribes the subject of the purchase of their lands east of the Mississippi would be discussed.⁵

The treaty with the Chippewas on July 29, 1837, involved a large cession of land to the federal government, which had its counterpart in the treaty with the Sioux tribe two months later in

² *Ibid.*, pp. 466-467, 481-482.

³ These were the reasons given in the report of the Commissioner of Indian Affairs, Dec. 1, 1837. *Sen. Doc.*, 22nd Cong., 2nd sess., I, No. 1, 526-527.

⁴ Marcus L. Hansen, *Old Fort Snelling, 1819-1858*, p. 178.

⁵ *Ibid.*, p. 179.

Washington. According to the latter agreement all of the Sioux possessions east of the Mississippi were surrendered for approximately \$1,000,000.

It is of interest to note that the United States agreed to invest \$300,000 of the money promised at not less than five per cent interest, one-third of which was to be applied under the direction of the President, and the residue paid in specie to the tribe. Those possessing not less than one-fourth of Sioux blood were to receive \$110,000; \$90,000 was to go toward paying the debts of the Sioux; \$10,000 in goods was to be paid the tribe for a period of twenty years; \$8,250 was to be given during a similar period of time to purchase medicines, agricultural implements and stock, and to support a physician, farmers, and blacksmiths; \$10,000 to go for the latter purpose immediately; \$5,500 was to be expended for certain purposes for twenty years; and \$6,000 was to go to the chiefs.⁶

By this treaty and the agreement with the Sioux the following October,⁷ the lands to the east of Fort Snelling were open to settlers and to commercial enterprise. The frontiersmen could hardly wait for the Senate to ratify the treaties before moving into the coveted region. The negotiation of the Chippewa agreement was interesting because it furnished a specific example of the aid of the army in the opening up of the rich timber lands and fertile prairies that border on the Mississippi.⁸

For several years the liquidation of the annuity obligations to the Sioux was a yearly memento of these last two treaties. To obviate fraud it was essential that each native be given his share of the merchandise and money. It was an annual occurrence for all the warriors to leave their homes in August for Fort Snelling. In the federal building the officers of the United States Army called the name of each individual Indian who was to receive federal money and place his mark after his name before he received the

⁶ *Laws and Treaties*, II, 493-494.

⁷ On October 21 another treaty was made with the Yankton tribe of Sioux Indians, in which a large cession was made to the government, in return for which the United States agreed to pay \$4,000 in money; \$1,500 to purchase horses and presents; \$2,000 in goods; and \$500 to defray the expenses of moving certain buildings and shops.—*Ibid.*, pp. 496-497.

⁸ Hansen, *Old Fort Snelling*, p. 184.

allotted compensation. The Fort Snelling band entertained the Indians by playing patriotic songs and thrilling hymns.⁹

With the migration of the natives later to the reserves farther up the Minnesota River, the liquidations of these annuities could no longer be fulfilled at Fort Snelling. "But the guarding of the funds was a necessity. Captain James Monroe spent the latter half of the month of November, 1852, at Traverse des Sioux with one subaltern and forty-seven men of the dragoons and infantry, protecting the money from bandits and Indians. William T. Magruder was ordered on October 23, 1853, to proceed in command of a detachment of troops to escort the money being sent to Fort Ridgely; and exactly a year later, an officer and thirteen men were detailed to perform a similar task."¹⁰

The government, however, fell behind with its payments to the Sioux as early as 1838. The reason for this may be attributed to the severe panic of 1837 and the general period of depression throughout Van Buren's administration. The money to be spent on Indian Affairs as the President might direct was not spent at all and by 1850 it amounted to \$50,000.¹¹

During the decade following 1837 affairs went badly for the Sioux; they were intermittently attacked by the Chippewas, Ottawas, and others; and they always retaliated. Whiskey traders thronged into their country; fur traders, also, found it more lucrative to traffic with an intoxicated native than with a dispassionate one; thus the tribe became demoralized.

Another treaty was not negotiated with the Sioux and ratified by the Senate until 1851. By 1849 the white settlers were beginning to feel cramped for the lack of available fertile lands. Lumberjacks, miners, speculators, and settlers began to demand additional cessions. Commissioners were accordingly sent to treat for the desired lands.

After the expenditure of considerable exertion, three treaties were negotiated with the Indians of the Minnesota region in 1851,¹²

⁹ *Ibid.*, p. 185.

¹⁰ *Ibid.*

¹¹ Jackson, *A Century of Dishonor*, pp. 146, 148-149. In 1841 Governor Doty of Wisconsin negotiated treaties with the Sioux for the purchase of approximately 25,000,000 acres of land west of the Mississippi, but they failed of ratification.

¹² Minnesota became an organized territory in 1848.

two with the Sioux and one with the Chippewas, the last named of which was never ratified by the Senate. The negotiations were taken up first with the upper bands of Sioux at Traverse des Sioux because they were thought to be more favorable to making a treaty. The agreement with the lower tribe was made later in the same year at Mendota, and the covenant with the Chippewa tribe was negotiated at Pembina. In the treaty of Traverse des Sioux the upper Sioux Indians consented to surrender all their lands in the territory of Minnesota, east of the Red River of the north and along that stream to the mouth of Sioux Wood River, following the west bank to Lake Travers, thence to the Sioux River, and from this point to the State of Iowa. In payment for this immense cession the United States agreed to give \$1,665,000, which was to be paid at different times. The chiefs of the bands were to receive \$275,000 for the purpose of paying the expenses of moving to their new reservation and to meet their present obligations; \$30,000 was to go to the establishment of schools and mills, blacksmith shops, and opening farms; and the remainder, \$1,360,000 was to be held in trust at five per cent interest for a period of fifty years. The interest from this money was to be applied as follows: for general agricultural improvement and civilization fund, \$12,000; for educational purposes, \$6,000; for the purchase of goods and provisions, \$10,000; and for money annuity, \$40,000.¹³

As the Indian chiefs signed the treaty by marks, they were led to another place and asked to sign another document which is known as the "traders' paper," but which the natives afterwards claimed that they thought was a duplicate copy of the treaty. The most important part of this document is as follows:

We, the undersigned Chiefs, Soldiers, and Braves of Wahpaton and Seesseetoan Bands of Sioux Indians, having this day concluded a treaty with Luke Lea and Alexander Ramsey . . . and being desirous to pay our traders and half-breeds the sums of money which we acknowledge to be justly due to them, do hereby obligate and bind ourselves, as the representatives of the aforesaid bands, to pay to the individuals hereinafter designated, the sums of money set opposite their respective names . . . and for this payment, well and truly to be made, we hereby solemnly pledge ourselves and faith of our nation. . . .¹⁴

¹³ *Laws and Treaties*, II, 588-589.

¹⁴ *Sen. Doc.*, 33rd Cong., 1st sess., IX, No. 61, 9.

This paper, apparently, was not read or explained to the Indians at the time of signing it and the evidence is not convincing that its contents were explained to them at any time.¹⁵ They were told, however, that part of the \$275,000 was for the purpose of paying their debts to the traders.¹⁶ Since the natives signed the "traders' paper" immediately after accepting the treaty, there was no opportunity for holding an open council according to stipulation, unless it be considered that they were in an unrestricted meeting at the time of the signing of the treaty, and in the name of the assembly told that the money was to be paid to the traders, thus technically meeting the legal requirements.¹⁷ To an unprejudiced student it looks as if the white men were not dealing honestly with the Indians.

Since the total amount of the claims of the traders was greater than the amount of money available to pay the "just debts" of the Indians, it required considerable negotiating and bargaining among the merchants themselves to adjust the contentions and ascertain what the rightful obligations really were. The names of the dealers to receive payment and the amount to be paid to each were not incorporated in the paper until the next day.¹⁸ In the meantime the whites agreed upon their claims among themselves. Martin McLeod, Joseph R. Brown, and Louis Roberts, representing the half-breeds, made adjustments. They did not examine the books or compel the creditors to make their statements under oath,¹⁹ and in all probability the traders' paper was never submitted to the chiefs. This paper provided that \$209,200 should go to the traders, \$800 to S. R. Riggs for the American Board of Missions, and \$40,000 to the half-breeds, making in all \$250,000 out of the \$275,000. The half-breeds were allowed \$250 each, part of this money going to the half-breed children of some of the traders.²⁰

¹⁵ J. R. Brown and Martin McLeod, two of the traders, testified before the investigating committee that the paper was explained before it was signed by the chiefs.—*Sen. Doc.*, 33rd Cong., 1st sess., IX, No. 61, 42, 206, 219, 236, 245.

¹⁶ R. Riggs, a missionary, said he told them that \$275,000 was intended among other things to enable them to pay their just debts.

¹⁷ See W. P. Shortridge, *Transition of a Typical Frontier*, p. 114; *Laws and Treaties*, II, 588-590.

¹⁸ Testimony of McLeod before the investigating committee.—*Sen. Doc.*, 33rd Cong., 1st sess., IX, 61-227.

¹⁹ *Ibid.*, pp. 115, 233.

²⁰ *Ibid.*, pp. 115-227; *Minnesota Historical Collections*, X, Part I, 101-129; Shortridge, *Transition of a Typical Frontier*, p. 115. The success of the traders

The treaty with the lower Sioux at Mendota was similar to the one of Traverse des Sioux, except that the money stipulations were somewhat different. The half-breeds and traders were provided for, and there was a similar adjustment of the latter claims. The terms were as follows: these Indians ceded all of their lands in Iowa and Minnesota, and in consideration of this cession, the United States agreed to pay \$1,410,000. Of this sum \$220,000 was to be paid them upon moving to their new homes to meet their just obligations and for one year's support; \$30,000 was to be used for the establishment of manual labor schools, establishment of mills and for breaking land; \$1,160,000 was to remain in trust at five per cent interest for fifty years. The interest therefrom was to be used as follows: \$12,000 for agricultural improvements and civilization fund; \$6,000 for educational purposes; \$10,000 for purchasing goods and provisions; \$30,000 as an annuity; the yearly obligations provided for in the treaty of 1837 was to be paid in money; and new lands were to be given them between the Yellow Medicine River and the Little Rock.²¹

Strong opposition was shown in the Senate against the two Sioux treaties and great dissatisfaction was in evidence among the Indians themselves over the payment of their "just debts." This discontentment led to considerable trouble at the time of payment to the upper Sioux. Most of this division was caused by Madison Sweeter, who was used by other men who did not share in the spoils and who hoped to profit by blackmailing the traders whose claims were allowed. When the time came for the payment according to the treaties, the chiefs demanded that the amount for the settlement of their "present engagements" be paid to them and be disposed of in open council. Ramsey, who had been appointed disbursing agent, held them to the terms of the traders' paper, however, and settlement was made accordingly. For this action Ramsey was severely criticized by the disgruntled individuals.²²

shows the influence of the traders in negotiating treaties. There was always a scramble among the traders to get the spoils. The influence of the traders and half-breeds had to be taken into consideration if any success was to come from the negotiations, for if these two influences were thrown against the making of a treaty the commissioners were doomed to failure.

²¹ *Laws and Treaties*, II, 591-593.

²² H. H. Sibley to Ramsey, Dec. 26, 1851, in Ramsey Papers; Shortridge, *Transition of a Typical Frontier*, p. 116.

The situation in which the Sioux found themselves as a result of these agreements was most unfortunate. By these treaties they reluctantly parted with a very large portion of valuable country, which it was of the greatest importance to the federal government to acquire. An insignificant portion of it, near its western boundary, not deemed necessary nor desirable for a white population in many years, if at all, was set aside and assigned to the red men for their future residence. The Senate exercised its right to amend the covenants by striking out this provision, allowing ten cents an acre in lieu of the reservations, and requiring the President, with the assent of the Indians, to assign them tracts of country beyond the limits of that ceded territory as might be satisfactory for their future home. To the amendments was appended a proviso, "That the President may, by the consent of these Indians, vary the conditions aforesaid if deemed expedient."²³ The natives were induced to agree to the correction "confiding in the justice, liberality, and humanity of the President and the Congress of the United States, that such tracts of country will be set apart for their future occupancy and home, as will be to them acceptable and satisfactory." Thus the Indians were not only forced to assent to the assignment of a country beyond the limits of that ceded, but they were required to give their approval to the President who was empowered, by authority to vary the conditions of the amendments to the treaties, to place them upon designated reservations or upon any other portion of the ceded territory, "if deemed expedient."

White people began to pour into the acquired country at once before the Indians could find a desirable place, and they were compelled to vacate the lands forthwith to avoid collision. Under these circumstances the President was determined to permit them to remain five years on the designated reservations, if they were willing to accept this alternative. The Indians gave their consent, and many of them began immediately to move to the assigned districts. This arrangement was a most unfortunate one. The natives were fully aware of its temporary character, and, consequently, they were disinclined to make improvements. At the end of the five years, they were in a far worse condition than they had been at the beginning, for they were completely demoralized, much

of their annuity money had been wasted, and the remuneration stipulated in the treaty for agricultural improvements and for the erection of mills was pretty largely thrown away.²⁴ For these errors in policy the Indians were the ones who had to suffer.

THE SACS AND FOXES

The first treaty with the Sacs was negotiated on January 9, 1789, at Fort Harmar.²⁵ The first agreement with the Sacs and Foxes was on November 3, 1804;²⁶ thenceforth the two tribes were dealt with together in practically all diplomatic relations. From 1789 to 1850 there were in all fifteen treaties with these people;²⁷ and according to stipulations, they ceded approximately forty million acres of land in exchange for \$1,500,000 in money, goods, and presents of various kinds and a permanent reservation.²⁸

THE OSAGES

Twelve treaties were negotiated with the Osages between 1789 and 1850,²⁹ the first in 1804. These understandings involved an expenditure of \$312,600 in money, goods, and presents, and a cession of 99,840 acres of land on the part of the federal government in return for 142,961,124 acres from the Indians.³⁰

VARIOUS OTHER TRIBES

With the Appalachicholas, Caddoes, Ottoes, Missouriias, Pawnees, Peorias, Quapaws, Shawnees, Seminoles, Weas, Texas Indians, and other minor tribes, there were numerous treaties which involved land cessions of over 90,000 acres costing the government in exchange in the form of presents and money approximately \$3,500,000,³¹ and 154,000 acres of land.

²⁴ Schoolcraft, . . . *History . . . of the Indian Tribes*, IV, 464-467.

²⁵ *Laws and Treaties*, II, 18-22.

²⁶ *Ibid.*, pp. 74-76.

²⁷ *Ibid.*, pp. 18-22, 74-76, 120-122, 126-127, 202, 207, 250, 305, 349, 468, 473, 476, 495, 497, 546.

²⁸ *Ibid.* See also Schoolcraft, . . . *History . . . of the Indian Tribes*, II, 598-606.

²⁹ *Laws and Treaties*, II, 36, 95, 119, 167, 201, 217, 246, 435, 489, 525, 526, 529.

³⁰ *Ibid.*; Schoolcraft, . . . *History . . . of the Indian Tribes*, II, 598-606.

³¹ *Ibid.*; *Laws and Treaties*, II, 18-589.

THE PRAIRIE TRIBES

By 1849 plans were being made to bring the Prairie tribes together in a general conference for the purpose of negotiating a treaty with the chiefs and head men of the various tribes of Indians residing south of the Missouri River, east of the Rocky Mountains, and north of boundaries of Texas and New Mexico. In pursuance of the proposal, Superintendent Mitchell, the Indian Commissioner, and the Secretary of the Interior, each recommended in his annual report the advisability of effecting an agreement with the Prairie tribes. With this in mind, Atchison of Missouri introduced a bill on March 18, 1850, authorizing an expenditure of \$200,000 for the purpose, but it failed to meet with the approval of the majority in the Congress. At the next session of Congress, 1850-1851, the treaty plan met with better success, and on February 27, 1851, Congress appropriated \$100,000 "for expenses of holding treaties with the wild tribes of the prairie and for bringing delegates on to the government." Since the treaty plans had official sanction, Superintendent Mitchell and Agent Fitzpatrick were made official commissioners to negotiate such a treaty, and accordingly arrangements were made for the execution of the project. The Indians were assembled at Fort Laramie on September 1, 1851. It was one of the largest and most important Indian councils ever held in the far West. The Cheyenne, Arapaho, Snakes, and several branches of the Sioux were there en masse, while the Crows, Arrikara, Gros Ventres, and Assiniboinés were represented by delegations. In all, ten thousand Indians were present.³² The treaty was finally agreed to and signed on September 17, 1851. It provided for a lasting peace between the signatory tribes and with the United States; recognized the right of the federal government to establish roads and military posts in the Indian country; fixed the boundaries of the territory of the respective tribes; and provided for the payment of annuities of \$50,000 in goods for a period of fifty years.³³

³² For full accounts of the incidents of the council, see H. M. Chittenden and A. T. Richardson, eds., *Life, Letters, and Travels of Father Pierre-Jean de Smet, S. J. 1801-1873*, II, 675-692; P. G. Lowe, *Five Years A Dragoon*, pp. 77-90; *Missouri Republican*, October 6 to November 30, 1851.

³³ *Laws and Treaties*, II, 594-595.

A train of twenty-seven wagons arrived on the 20th with presents, and the articles were soon distributed. Father De Smet wrote: "The great chiefs were, for the first time in their lives, pantalooned; each was arrayed in a general's uniform, a gilt sword hanging at his side. Their long, coarse hair floated above the military costume and the whole was crowned by the burlesque solemnity of their painted faces."³⁴

In order to impress the tribes with the strength of the federal government a delegation of representative Indians was selected to visit the capital. Superintendent Mitchell brought the treaty back to Washington for ratification.

While the treaty was under consideration, the Senate cut down the term of the annuities from fifty to ten years, "with the right to continue the same at the discretion of the President of the United States for a period not exceeding five years thereafter, in provisions, merchandise, domestic animals, and agricultural implements, in such proportions as may be deemed best adapted to their condition by the President of the United States, to be distributed in proportion to the population of the aforesaid Indian nation."³⁵ The ratification of the changed treaty was finally secured from all of the signatory tribes except the Crows, but it is alleged that bribery was resorted to by the agents. Since the Crows failed to ratify the Senate changes, technically the treaty was never approved, but in subsequent agreements the treaty was recognized as in force.

THE TEXAS INDIANS

Only one treaty was negotiated with the Texas Indians during the period included in this study, and that was in 1846 with the Comanche, Aionai, Anadarko, Caddo, Lapan, Wichita, and Waco tribes. These Indians agreed to recognize the protection of the United States and the right of the government to regulate their trade and intercourse; trading houses were to be established by the government to furnish the tribes with goods and presents valued at \$10,000.³⁶

There were other attempts made by the federal government,

³⁴ *Life, Letters, and Travels of Father Pierre-Jean de Smet, S. J.*, p. 683.

³⁵ *Laws and Treaties*, II, pp. 594-595; *Sen. Doc.*, 57th Cong., 1st sess., No. 452.

³⁶ *Ibid.*

immediately after the Mexican War, to negotiate treaties with the Indians in the Lone Star State but without success. It was not until the late fifties that the Indian problem in Texas was really settled.³⁷

CONCLUSION

From the establishment of the federal government in 1789 to 1850 the United States negotiated and ratified 245 treaties with the Indians. As a result, the government secured over 450,000,000 acres of land for less than \$90,000,000.

³⁷ For a history of the national Indian policy in Texas see: Lena Clara Koch, "The Federal Indian Policy in Texas, 1845-1860," *Southwestern Historical Quarterly*, XXVIII (January, 1925), 223-234; (April, 1925), 259-286; XXIX (July, 1925), 19-35; (October, 1925), 98-127. See George D. Harmon, "The United States Indian Policy in Texas, 1845-1860," *Miss. Val. Hist. Rev.*, XVII (December, 1930), pp. 377-403.

Chapter XXI

SUMMARY OF INDIAN LAND TITLES AND LAND CESSIONS TO 1850

Since nearly all of the public domain involved the Indian rights to the soil, the land question and the Indian policy were closely interwoven. The question of private land grants and claims permeated the whole system. The federal land office was charged with the examination and preparation of grants for claims to land resting upon titles under laws of the United States, connected with which is the issuing of patents for Indian reservation.¹

It was the policy of Great Britain, France, and Spain, in the management of their colonial affairs, to exercise upon a most extensive scale the power of granting away the royal domain, to promote and advance the settlement of the country, in many instances in immense sections, but generally in moderate quantities. In this way millions upon millions of acres were granted to individuals. To that extent the public lands were encumbered when the United States acquired title to them.

By the laws of nations and terms of treaties of cession, it became incumbent upon us to recognize and respect all *bona fide* grants of this character, and to carry them into full effect in a liberal and just spirit, according to the intentions of our predecessors in sovereignty.

Many, if not all, of these early grants involved Indian rights as we have already seen. By different treaties negotiated with Indian tribes, reaching back to the early days of the republic and extending up to a late period, the United States recognized numerous and various claims to individual Indian reservations. The General Land Office on November 30, 1850, said that these "may be ranged into several classes—a few usufructuary; others, and a very large class, in which the government has agreed to confer the *fee simple*; sometimes stipulating that the sale shall not be made without the sanction of the President of the United States, and others without

such conditions." In some of these cases, it was required that the patents should issue direct to the reservee, as in the Potawatomie, Miami, and Chickasaw treaties, others, as under the nineteenth article of the Choctaw covenant of 1830, were to issue to the first purchaser from the Indian upon presentation of deeds approved by the President. There existed also another class of claims numbering between six and seven thousand, in "pursuant to the treaty of 1832 with the Creek Nation and the act of Congress approved July 5, 1838, directing patents to be issued to the last regular assignee, whatever may be the number of intermediate assignments." ²

An examination of the agreements, treaties, executive orders, and acts of Congress will show that there were various methods of dealing with the Indians in regard to lands, and that these methods were not entirely uniform.

The different titles held by Indians which have been recognized by the federal government are as follows: (1) the original right of occupancy, which has been sufficiently discussed in the fifth chapter of this study; (2) the title to reservations, differing from the original ownership chiefly in the fact that it is derived from the federal government; (3) the reservations which have been patented to the Indian tribes.³ In the last class, patents were issued prior to 1859 to the Cherokees, Choctaws, and Creeks for the tracts defined by the treaty stipulations which were as follows:

The agreement of August 6, 1846, with the Cherokees guaranteed to them certain lands forever, upon conditions, one of which was "that the lands hereby granted shall revert to the United States if the said Cherokees become extinct or abandon the same." ⁴

The treaty of September 27, 1830, promised certain lands to the Choctaws and their descendants in fee simple "to insure to them while they shall exist as a nation and live on it," liable to no transfer or alienation "except to the United States or with their consent." ⁵

² *Ibid.*, p. 12.

³ Charles C. Royce, *Indian Land Cessions in the United States*, 18th Annual Report, Bureau of American Ethnology, 1896-1897, Part 2, p. 641.

⁴ *Laws and Treaties*, II, 461.

⁵ *Ibid.*, pp. 310-315.

Another understanding of August 11, 1852, gave specified lands to the Creek tribe of Indians "so long as they shall exist as a nation and continue to occupy the country hereby conveyed to them."⁶

The usual interpretation given to these titles by the Indian bureau and the court is that they are not the same as the ordinary title of occupancy, but "a base, qualified, or determinable fee, with only a possibility of reversion to the United States, and the authorities of these nations may cut, sell, and dispose of their timber, and may permit mining and grazing within the limits of their respective tracts *by their own citizens*."⁷ However, the act of March 1, 1889, established a United States court in the Indian territory, and it largely prevented the five civilized tribes from entering into leases or contracts with others than their own citizens for mining coal for a period not exceeding ten years.⁸

In addition to the preceding titles, Indians held land in severalty, and the following is a schedule of treaties and acts of Congress authorizing allotments of land in severalty prior to 1850.

TRIBE	DATE OF TREATY OF LAW	U. S.	
		VOL.	PAGE
Sauk, Fox, Sioux, <i>et al.</i>	July 15, 1830, Arts. 9 and 10	VII	330
	July 31, 1854, Sec. 5, act of Congress	X	332
Choctaw	Sept. 27, 1830, Art. 14 and 19	VII	337
Chickasaw	Oct. 20, 1832, Art. 4	VII	382
"	Oct. 22, 1832, Art. 1	VII	388
"	May 22, 1834, Art. 6	VII	452
New York Indians	Jan. 15, 1838, Art 2	VII	551
Stockbridge	Mar. 3, 1843, act of Congress,		
	August 6, 1846, and act of Congress Nov. 24, 1848	IX	955

In the annual report⁹ of the Commissioner of Indian Affairs for 1890 there is this statement:

From the execution of the first treaty [made between the United States and the Indian tribes residing within the limits September 17, 1778,

⁶ *Ibid.*, pp. 957-958. See Indian Deeds, pp. 446-447, Office of Indian Affairs.

⁷ Royce, *Indian Land Cessions*, pp. 642-645.

⁸ *Ibid.*, p. 654.

⁹ *Annual Report of the Commissioners of Indian Affairs for 1890*, pp. 29ff.

with the Delawares] to the adoption of the act of March 3, 1871, that "no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty," the United States has pursued a uniform course of extinguishing the Indian title only with the consent of those tribes which were recognized as having claim to the soil by reason of occupancy, such consent being expressed in treaties. . . . Except only in the case of Sioux Indians in Minnesota, after the outbreak of 1862, the Government has never extinguished an Indian title as by right of conquest, and in this case the Indians were provided with another reservation, and subsequently were paid the net proceeds arising from the sale of the land vacated.

It appears from this quotation that until March 3, 1871, Indian titles to lands were extinguished only under the treaty-making clause of the Constitution. The covenants with the natives, even though the tribe frequently had been reduced to an insignificant band, were usually clothed in the language which characterized a treaty with a leading foreign power. In 1871, however, the federal government abolished the practice of recognizing the tribes as independent nations.

From the report of the Commissioner of Indian Affairs of 1890 we learn that the Indian title to all the public domain had been extinguished, except in Alaska and in the portions included in one hundred and sixty-two reservations and those acquired by individuals through purchase.

Of the one hundred and sixty-two reservations there were established: ¹⁰

By executive order	56
By executive order under authority of act of Congress	6
By act of Congress	28
By treaty, with boundaries defined or enlarged by executive order	15
By treaty or agreement and act of Congress	5
By unratified treaty	1
By treaty or agreement	51
Total	162

THE CHICKASAW LAND SALES

Since it is impossible in this study to give a detailed account of the sale of the Indian lands for each tribe, I have selected to describe briefly the lands belonging to the Chickasaws, for that which is true of this tribe of Indians, is, in the main, true of all other tribes.

By the treaty of 1832 the Chickasaws ceded to the federal government certain lands in the northern part of Mississippi and Alabama, with a stipulation that they were to be sold by the United States and the net proceeds paid over to them. That cession, accordingly, was duly surveyed and found to contain 6,718,586.27 acres; but of this area, individual Indian reservations which were recognized covered 2,421,679.86 acres, which left subject to sale, 4,296,906.41 acres. Of this quantity there had been sold up to September 30, 1850, 3,997,588.97 acres, which left unsold at that date 299,317.44 acres.

Besides selling "public lands" for the Chickasaws, in 1850, the land officers had disposed of 36,005.68 acres of "orphan reservations," according to the eighth article of the treaty of 1834. The aggregate acreage of Chickasaw lands, "public" and "orphan," sold by September 30, 1850, was 4,033,594.65, which brought \$3,336,732.32.¹¹

LAND CESSIONS AND COMPENSATION

In the main this chapter has been primarily a study of land policy and cessions; therefore it is only necessary here to summarize briefly the lands received by the government from the Indians and the remuneration therefor. From the inception of the American Government down to the year 1840 the United States acquired 442,866,370 acres of land from the Indians at the astonishingly low cost of \$31,331,403 in money and 53,757,400 acres of land were given in exchange. Table IV in the Appendix¹² gives a detailed account of these transfers.

If the lands which the United States gave in exchange for the Indian lands were valued \$1.25 an acre as computed by the general

land office, it would seem that the lands ceded by the natives would be worth at least \$1.25 to the government if not more. If the lands so valued had been paid for at that price, the federal government would have turned over to the Indians \$553,582,962.50. These lands actually cost the United States less than ten and one-quarter cents an acre.

From 1840 to 1850 the federal government acquired approximately 20,000,000 additional acres of land from the aborigines at a cost close to \$3,000,000. The Indians received in exchange practically 4,000,000 acres.¹³ The United States Government, therefore, drove hard bargains with the Indians. Practically every treaty left the Indians weaker and poorer; the United States accordingly, became wealthier and stronger.

PART III

THE FEDERAL GOVERNMENT AS THE GUARDIAN OF THE INDIANS

Chapter XXII

THE INDIAN TRUST FUNDS

Since the first white settlements in America, the Indians had been accustomed to receive presents and annuities of different kinds from the British government, the colonies, and subsequently the United States. The purpose of these gifts was to pacify the natives, to win their friendship, and to get their lands. By 1825 and thereafter for many years, as a result of the removal policy, the sums paid to the different tribes by the United State government were quite large. Not realizing the value of money, the Indians merely squandered it, with the result that the revenue they received almost immediately found its way into the pockets of the designing white traders. Therefore, the red men were generally reduced very quickly to dire need. Accordingly they were judged to be incapable of handling such large sums of money without supervision. During the second quarter of the nineteenth century, the federal government consequently adopted the policy of setting aside rather large sums of money to be held in trust for the Indians. As a rule they were given only the annual interest to save, spend, or squander. In some cases even this was added to the principal for a number of years until the annual increment therefrom would be sufficiently large to be of some real economic benefit to the Indian tribes. The funds might be either permanent or temporary, as determined by treaty. Specific provision was made for orphans, for incompetents, and for educational and tribal purposes.¹

Whoever examines these treaties with care is apt to be convinced of the sincerity of the government in its attempt to help the Indians and especially to preserve them from destitution. But the federal government helped to bring about this dependence on itself by creating these funds, and many of the Indians have never extricated themselves from this support.

FIRST INDIAN TRUST FUND

The first Indian trust fund came into existence as a result of the ambiguities of the colonial charters. Massachusetts claimed a large part of the land of New York. The issue was submitted to the Continental Congress, but was not settled until December 16, 1786, as the result of a meeting of commissioners at Hartford. To New York was conceded the jurisdiction over the lands in question but to Massachusetts was given the right of pre-emption of the Indian title to the soil west of a meridian drawn through Great Sodus Bay and a part of Seneca Lake from Lake Ontario to the Pennsylvania line, excepting a strip a mile wide along the Niagara River. This tract was estimated to embrace about 6,144,000 acres. In addition there was granted to Massachusetts a tract of 230,400 acres, known as the "Boston Ten Towns."²

In 1788 the large tract was sold by Massachusetts to Oliver Phelps and Nathaniel Gorham; when they failed to pay for the entire tract, a large part was resold in 1791 to Robert Morris.³ The Indians possessed the right to occupancy, so that their lands could not be lawfully taken from them until they had ceded them by treaty. The Senecas were the only natives claiming rights within the great purchase, and Phelps, Gorham, and Morris were the only persons except those who derived their title from them who possessed authority to buy.

Robert Morris became quite eager to secure complete control of his pre-emptive purchase by getting the tribes concerned to relinquish their claims by means of a treaty cession. Since only the national government could negotiate with the Indians, Morris began to press the federal authorities to move them. In the spring of 1797 Jeremiah Wadsworth was appointed to secure such a treaty with the Seneca tribe and on September 15 it was properly signed and forwarded to the President. The chiefs agreed to sell to Morris and to his heirs certain of their lands in the State of New York for the sum of \$100,000, "to be by the said Robert Morris vested in the stock of the bank of the United States, and held in the name of the President of the United States, for the use and behoof of the

² Hough, *Indian Tribes in New York*, *Sen. Ex. Doc.*, 48th Cong., 2nd sess., II, Part 2, 540 n.

³ *Ibid.*, p. 540.

nation of Indians. . . .”⁴ There was not another treaty providing for such a fund until after the lapse of several years.

CHICKASAW AND CHOCTAW FUNDS

The treaty of October 20, 1832, with the Chickasaw Indians agreed to create a perpetual fund for the use of that nation out of the proceeds from the sale of the land then ceded. This was to be invested in safe and valuable stocks by the government, with the provision that only the annual interest therefrom was to be used for tribal purposes. The sum to be thus reserved was to equal three-fourths of the whole net proceeds of the sales of the lands; and as much more as the nation might determine if the allowance of one-fourth was too much to supply its immediate needs. However, the treaty provided that if the reasonable wants of the Chickasaws required more than one-fourth of the receipts from this source for ready valuable tribal purposes, arrangements could be made with the approval of the President and Senate to draw upon the perpetual fund. But such sums obtained would have to be replaced later. While the reserved funds were designated as perpetual, it was nevertheless agreed that should the American government become satisfied at the end of fifty years that the Chickasaws had made sufficient improvement in education and civilization generally to be capable of managing so large a sum of money to advantage and with safety, the whole or any part of the money thus set apart could be withdrawn and used as the Indians might think proper for the benefit of the whole tribe.⁵

Again in 1834 an even larger fund was created for the Chickasaws. The agreement of that year stated that every six months after the first land sale the federal authorities should advise the Indians of all entries, sales, receipts, expenditures, and “balances in their favor.” After deducting the cost of surveying and selling, and additional expenses, the United States government was to invest the remaining funds within a period of not more than twenty years. The interest therefrom was to be paid annually to the Indians.⁶

In this treaty a provision was made, also, for the investment in

stock of such moneys as might arise from the sales of reservations of land which belonged to the Chickasaws incapable of managing their own concerns. These sums were to remain as a part of the general Chickasaw fund in the hands of the government until the chiefs in council should recommend the payment of the same to the claimants or their rightful representatives.⁷

In its watchful supervision the federal government did not forget the orphans of the tribe. According to the previous treaty the lands which were assigned to the orphans were to be sold by the federal authorities, should this be deemed advantageous to the parties interested. If these reservations were vended at public auction, the income therefrom was to remain in the possession of the United States unless the President directed the same to be "invested in stocks for the benefit of the parties interested, . . . until said persons marry or come of age, when the amount shall be paid over to those who are entitled to receive it," provided it was "to their interest and advantage."⁸

In 1837, according to treaty stipulations, the national government invested \$500,000 for the Choctaws in State of Alabama five per cent bonds which were held in trust by the Secretary of the Treasury for the benefit of the whole tribe.⁹

CHIPPEWA, OTTAWA, AND POTAWATOMIE FUNDS

By a treaty of September 26, 1833, the United States had contracted to apply \$150,000 to the erection of mills, farmhouses, and blacksmith shops; also to make agricultural improvements, to purchase farm implements and livestock for the farmers, and to employ and support such physicians, millers, farmers, blacksmiths and other mechanics as the President of the United States should think proper to appoint.¹⁰ Despite these stipulations, the above sum was invested in 1837 in State of Maryland six per cent stock. There is no direct authority in the treaty for this procedure, although on December 14, 1836, a letter was addressed by the Commissioner of Indian Affairs to the Secretary of War proposing to place the money in some safe and productive stock. On January

⁷ *Ibid.*, pp. 418-419; Stock Letter Book, No. 1, p. 92.

⁸ *Laws and Treaties*, II, 420.

⁹ *Ibid.*, II, 487; Stock Letter Book, No. 1, p. 71.

¹⁰ *Laws and Treaties*, II, 403.

11 of the following year authority was given by the latter to the then Commissioner of Indian Affairs to direct the investment, and the funds were disposed of as previously stated. The \$150,000 provided for in the treaty was a very large sum for such purposes. While the money, as we have seen, was not disposed of as specified, its investment was judicious. This furnished a permanent tribal fund; and the interest which accrued was added to the principal and reinvested for several years thereafter, so as to enlarge the fund. By 1845 this sum had increased to \$171,757.¹¹

By the third article of the treaty of 1833 the federal government had agreed to give \$70,000 for the purpose of education and the encouragement of the domestic arts, to be applied in such manner as the President of the United States might direct. The Indians expressed a desire to create a perpetual fund for the purpose of education and the encouragement of domestic manufactures; they therefore requested the President to make such investment for the nation as he might think best.¹²

The fifth article of the treaty of March 28, 1836, appropriated \$300,000 for the payment of Chippewa, Ottawa, and Potawatomie debts, and provided if that amount should exceed the debts, the residue should be paid over to the Indians in the same manner that annuities were required by law to be paid.¹³ When this treaty was ratified on May 27, 1836, the Senate added a supplemental article thereto authorizing an investment as follows: "Any excess of the funds set apart in the fifth and sixth articles shall, in lieu of being paid to Indians, be retained and vested by the Government in stock under the conditions mentioned in the fourth article of this treaty."¹⁴

The Chippewa, Ottawa, and Potawatomie tribes were united in 1846 and thus became the Potawatomie Nation. In that year the United States negotiated a treaty with the united bands in which a large cession was made. For this tract of land the federal government agreed to pay \$850,000; \$50,000 was to be paid them as soon as the agreement was ratified. The remainder, after deducting the

¹¹ Stock Ledger Book, No. 1, p. 93, Office of Indian Affairs.

¹² *Laws and Treaties*, II, 403.

¹³ *Ibid.*, p. 452.

¹⁴ *Ibid.*, p. 456. The sixth article provided a fund for the half-breeds. The fourth article set aside \$1,000 as a permanent fund to be invested by Treasury Department.—*Ibid.*, pp. 451-452.

cost of removal and subsistence, was held in trust for the Indians at five per cent for thirty years. After the expiration of thirty years if their number was reduced below 1,000 souls, the annual interest was to be paid *pro rata*.¹⁵

MENOMINEE FUND

By an amendment of the Senate to the treaty of September 3, 1836, the United States agreed that the sum of \$76,000 should be allowed the Menominee Indians, "and this sum shall be invested in some safe stock, and the interest thereof . . . shall also be so invested until such time as in the judgment of the President, the income of the aggregate sum can be usefully applied to the execution" of the terms of the agreement or to some other purpose beneficial to the tribe.¹⁶

CHEROKEE FUND

Although the treaty with the Cherokees in 1835 was in many ways disgraceful, especially the manner in which it was negotiated, it did contain a few redeeming features. The tenth article and one of the supplementary clauses authorized the President to invest as a permanent fund the following amounts in some safe and most productive stocks of the country for the benefit of the "whole Cherokee Nation who have removed or shall remove" beyond the Mississippi:

The sum of two hundred thousand dollars in addition to the present annuities of the nation to constitute a general fund the interest of which shall be applied annually by the council of the nation to such purposes as they may deem best for the general interest of their people. The sum of fifty thousand dollars constitute an orphans' fund the annual income of which shall be expended towards the support and education of such orphan children as are destitute of the means of subsistence. The sum of one hundred fifty thousand dollars [devoted to education] in addition to the present school fund . . . the interest of which shall be applied annually by the council of the nation for the support of common schools and such a literary institution of a higher order as may be established in the Indian country.¹⁷

¹⁵ *Ibid.*, pp. 557-559.

¹⁶ *Ibid.*, p. 465. The fourth article provided for the payment of the annuities yearly, and also for the removal of the tribe from the ceded lands.

¹⁷ *Ibid.*, pp. 443-444.

According to the eleventh article of the same treaty, the Cherokees agreed to commute their permanent annuity of \$10,000 for the sum of \$214,000, the same to be invested by the President as a part of the general fund of the tribe; and the school money of \$50,000 which was provided by the agreement of 1819 and which had been placed by the government in securities was now added to the general school fund for the nation and to be invested by the federal government. By this treaty the government agreed to invest, for the orphans, for the nation, and for the advancement of education, over \$600,000.

SHAWNEE FUND

By the treaty of August 8, 1831, the Shawnee Indians granted to the United States all their lands in the State of Ohio. The United States agreed to sell the lands thus ceded to the highest bidder. After deducting from the proceeds of such sales the sum of seventy cents per acre (exclusive of the cost of surveying, the cost of the grist mill, saw mill, blacksmith shop, and the sum of \$13,000 which the government allowed them for improvements), it was agreed that any balance from the sales of the lands should "constitute a fund for the future necessities of the tribe . . ." ¹⁸ which should yield five per cent interest.

In consequence of this arrangement the federal government placed \$30,341.50 in Maryland six per cent and Kentucky five per cent stocks. The interest on these investments was paid to the Shawnee tribe annually.¹⁹

CREEK FUND

While the treaty with the Alabama Creeks of 1832 was disgraceful and its execution may be regarded as the most fraudulent and shameful in Indian history, yet the actual agreement itself was perhaps as honorable as any Indian treaty during the first half of the nineteenth century. The second article provided for the selection of twenty sections under the direction of the President for the orphans of the Creeks, and it might be divided and retained or sold for their benefit as the President might direct.²⁰ The lands were sold and the proceeds therefrom were invested in state stocks.²¹

¹⁸ *Ibid.*, p. 333.

²⁰ *Laws and Treaties*, II, 341.

¹⁹ Stock Letter Book, No. 1, p. 94.

²¹ Stock Letter Book, No. 1, p. 95.

The treaty made no specific provision for the use of the fund, other than that it should be used at the direction of the President, which seems to have been wisely exercised in ordering the investment of the funds in state securities.²² The interest was appropriated annually to the wants of the orphans.²³

In moving West the Creeks suffered enormous losses of life and property. They therefore demanded payment for the losses involved. In 1838 the United States agreed to furnish them with \$50,000 worth of livestock and in addition agreed to invest \$350,000 in five per cent bonds for them; the interest thereon for the first year was to be paid in money, but thereafter, in money, stock animals, blankets, domestics, or such articles of a similar nature as the President of the United States might direct. It was further agreed that at the expiration of twenty-five years the said sum would be appropriated under the direction of the Chief Executive for the common benefit of the Creek nation.²⁴

KANSAS FUND

By the fifth article of the treaty of June 3, 1825, it was agreed "that thirty-six sections of good lands . . . shall be laid out under the direction of the President . . . and sold for the purpose of raising a fund, to be applied, under the direction of the President, to the support of schools for the education of the Kansas children" within the tribe.²⁵ The lands were sold and the proceeds were invested as in the case of the Creek orphans.²⁶

SAUK AND FOX FUNDS

Although the United States had always been eager to acquire additional lands, it seemed to be more desirous and determined to secure new Indian lands in the thirties than in any other decade in its history. After receiving a large cession from the Sauks and Foxes in 1832,²⁷ five years later the government demanded and

²² *Ibid.*, No. I, pp. 95, 97; *Annual Report of the Commissioner of Indian Affairs, 1848-1850*, Doc. No. 5, pp. 94-99.

²³ Stock Letter Book, No. 1, p. 95.

²⁴ *Laws and Treaties*, II, 524.

²⁵ *Ibid.*, II, 223. A similar provision was incorporated in the treaty with the Osages of the same year.—*Ibid.*, p. 219.

²⁶ Stock Letter Book, No. 1, p. 95; *Annual Report of the Commissioner of Indian Affairs*, Doc. No. 5, pp. 90-94.

²⁷ *Laws and Treaties*, II, 349.

secured 1,250,000 acres for which it agreed to pay nearly a half million dollars in the form of goods and money. Of this sum the United States agreed to invest \$200,000 in safe state stocks and to guarantee to the Indians an annual income of not less than five per cent. The interest was paid to them each year in the manner of annuities and in money or goods as the tribe directed. A portion of the interest was applied to education.²⁸

At the same time a treaty was negotiated with the Sauk and Fox Indians of Missouri in which these bands made large cessions to the United States, for which the federal government agreed to pay \$160,000. The government invested \$157,400 and guaranteed to the Indians at least five per cent thereon. The annual interest of \$7,870 was spent in the following manner: for the support of a blacksmith's establishment, \$1,000; for the support of a farmer, the supply of agricultural implements and assistants, and other beneficial objects, \$1,600; for the support of a teacher and the incidental expenses of a school, \$770. The balance of \$4,500 was delivered at the cost of the United States to the said Sauk and Fox Indians, in money or merchandise at the discretion of the President.²⁹

SIoux AND WINNEBAGO FUNDS

In 1837 the Sioux Indians ceded all of their lands east of the Mississippi and all their islands in that river to the land-hungry Americans. The government felt under obligations to remunerate the Indians for their lands; just as it paid Spain a nominal sum for Florida in 1819 and \$20,000,000 for the Philippines in 1898, it now paid the Sioux Indians a small amount for this valuable cession.³⁰

The government was now in the process of moving all natives east of the Mississippi to the west of that river as rapidly as possible. In 1837 a treaty was negotiated with the Winnebago tribe. These Indians ceded all their lands east of the Mississippi for the consideration of \$1,500,000. Of this, \$1,100,000 was to be invested in five per cent stocks. It was agreed that the annual interest of \$55,000 should be spent as follows: for the purpose of education, \$2,800; for the support of an interpreter for the school, \$500; for the support of a miller, \$600; for the supply of agricultural

implements and assistance, \$500; and for medical services and medicines, \$600.

The foregoing sums were to be expended for the objects specified, for "the term of twenty-two years, and longer at the discretion of the President. If at the expiration of that period, or any time thereafter, he shall think it expedient to discontinue either or all of the above allowance, the amount so discontinued shall be paid to the said Winnebago nation. The residue of the interest, amounting to \$50,000 shall be paid to said nation, in the following manner": \$10,000 in provisions, \$20,000 in money,³¹ and the remainder in goods.

Only a few years elapsed before the ravenous Americans were pushing the Winnebago tribe on beyond the Mississippi. Demands were made upon the government to move this tribe from their present holdings. Therefore in 1846 a new treaty was negotiated in which the Winnebagos ceded all the lands which they held in America to the federal government, but the United States promised them in exchange for their cession 80,000 acres north of St. Peter's River. In consideration for this cession the United States promised to pay them \$190,000, but retained \$85,000 in trust at five per cent interest.³²

FUNDS FOR OTHER TRIBES

The Tuscarora Indians of the State of New York conveyed certain lands in 1838 to the United States and the proceeds from the sale of these lands were to be invested in safe stock for their benefit.³³ The United States also received a large cession of land from the Iowa Indians in 1838, for which it agreed to place \$157,500 for them in five per cent stocks. A part of the income therefrom was to go to the support of education and agriculture.³⁴ Similar cessions were made by the Stockbridge and Munsee tribes in the territory of Wisconsin in 1839. According to agreements with these two tribes, the federal government was to invest \$10,392.95 in five per cent stocks, \$6,000 of which was to be invested for educational purposes and the remainder to be held and invested as a national fund.³⁵

The agreement of May 20, 1842, with the Senecas of New York was somewhat different from previous treaties. New York was eager to get rid of her Indian tribes and demanded that the federal authorities act. After much effort a treaty of cession was successfully negotiated. The fourth article required an appraisement by arbitrators³⁶ of the value of the land within the Buffalo Creek and Tonawanda reservations and of the improvements on each, according to the principles agreed on.³⁷ The valuations were made the following year and the Senecas were allowed \$75,000, which sum was invested in the six per cent United States loan of 1842,³⁸ according to the fifth article of the treaty.

METHODS USED IN COLLECTING AND INVESTING INDIAN FUNDS

There were different methods used in collecting Indian funds. Thousands of acres of land were sold on the instalment plan and the revenue therefrom when received was often invested for the different Indian tribes. The Commissioner of Indian Affairs would frequently authorize an agent in a certain state or territory to collect the money due on the purchased lands by deferred payment and to deposit the same in certain designated banks to the account of the proper tribe and stipulated fund,—national, incompetent, education, or orphan.³⁹ In other sections purchasers, according to contracts, would send their checks directly to Washington, Baltimore, New Orleans, or New York.⁴⁰ People falling behind in their payments were apt to receive a visit from a special federal agent reminding them that the government expected and would compel payment. Those unable to meet their obligations were forced to give back their purchases to the government with entire loss to themselves.⁴¹ Those who could meet their payments would usually

³⁶ The Ogden and Fellows Land Company had claims on the Seneca lands; therefore the Company had a representative on the arbitration commission.

³⁷ *Laws and Treaties*, II, 539.

³⁸ *Ibid.*, p. 540; *Annual Report of the Commissioner of Indian Affairs, 1843-1847*, Doc. No. 2, p. 303.

³⁹ Stock Letter Book, No. 1, pp. 1-5. The agents were busily employed in this manner, for nearly all of the Indian lands held in trust were sold on the deferred payment plan.

⁴⁰ *Ibid.*, No. I, pp. 1-5, 7, 8, 71, 99.

⁴¹ Register of Letters Received, Indian Trust Fund, Office of Indian Affairs. (No page numbers given.) Frequently though the government would wait two or three years for payments before taking extreme measures.

pay by check. Since the central government had no national bank from 1836 to 1845 except the Independent Treasury system which lasted for one year only, it would deposit the check in one of the "Pet Banks" for collection. If honored, the sender would be given credit for the same.⁴²

The following letter, written by T. H. Crawford, the Commissioner of Indian Affairs, to Harry Gilliam of Mississippi, a purchaser of Choctaw lands who had defaulted in one or two of his payments, is one of many such letters written to delinquents:

Sir:

Your letter dated 25th ultimo is received. Treasury drafts will be received at this place [Washington] in payment of any indebtedness on account of your purchase of Choctaw Orphan Reservations. I regret to hear of the failure of your crop in any event, but particularly if it should prevent your paying up the instalments due on your purchase, as non-payment by the several purchasers will so seriously militate against the interest of the parties concerned, viz: the orphans which the Government is bound to watch over perhaps with more solicitude than almost any other class of its wards, it is therefore confidently expected that this year the instalment of principal and arrears of interest falling due in May and June next will be promptly paid. As to the place at which the last payment is to be made, the Department cannot change the designation contained in the obligation itself, viz: Washington, D. C. Payments, however, have been made by others on this account by drafts on good houses in New York promptly met, which proved satisfactory. Nevertheless, I am not prepared to say how far I should be justified in authorizing payments to be made in that or any other way differing from the requirement on the face of your note which is in specie at the office of Indian Affairs in Washington. . . .

Although not requested by you it [may] be proper here to state the amount that will be due from you on 28 May next, viz:

Instalment of $\frac{1}{3}$ due 28 May 1842.....	\$539.26
2 years interest on unpaid installments (1078.52).....	129.43

Total due 28th May '43.....	\$668.69

T. H. C.⁴³

⁴² Stock Letter Book, No. 1, pp. 7-8.

⁴³ *Ibid.*, pp. 5-6. This letter was written April 13, 1843. Gilliam was behind one instalment and two years interest.

Most of these payments were made in specie. Perhaps Jackson's hard money policy pronounced in his Specie Circular of 1836 was the cause. At any rate the government refused to accept anything but silver or gold in payment for lands. There were those who asked the national government to accept fiat money but were refused. In reply to such a request the Secretary of War, W. Wilkins, said that the Department could not accept "depreciated currency in payment of interest due on stock which is held in *trust* by the Sect. of War for the time being, solely for the benefit of various Indian tribes. I would, however, remark that the Dept. is willing to receive in part payment the *specie* provided for the payment of half the six months dividend." ⁴⁴

Frequently banking firms were asked to collect the interest due on the various stocks. On July 1, 1843, D. Thompson, cashier of the Bank of America, was requested to secure the interest due on various coupon bonds. It is so typical, that I shall quote the letter in full:

Sir:

I transmit herewith, for collection, the following coupons, which you will please collect and place to the credit of the Treasurer of the United States, in the name of the Secretary of War for the time being, to whom you will forward duplicate certificates of deposit under the following heads of accounts, viz:

Kentucky "Trust fund" interest for the Cherokees, treaty 1835.

94 coupons @ \$25 each.....	\$ 2,350.00
Chippewas and Ottawas 42 coupons @ \$ 25 each	1,050.00
Chippewas and Ottawas 7 coupons @ \$125 each	875.00
Senecas and Shawnees 6 coupons @ \$ 25 each	150.00
Menomonies 27 coupons @ \$ 25 each	675.00
Menomonies 10 coupons @ \$125 each	1,250.00
Senecas 5 coupons @ \$ 25 each	125.00
Shawnees 1 coupon @ \$ 25 each	25.00

Alabama "Trust fund" interest for the Creek Orphans.

82 coupons payable at the Merchants

Bank, N. Y..... @ \$ 25 each \$ 2,050.00

Cherokees

300 coupons payable as above.....@ \$ 25 each \$ 7,500.00
 Missouri "Trust fund" interest for Cherokee Schools.
 10 coupons@ \$27.50 each 275.00

Senecas and Shawnees

7 coupons@ \$27.50 each 192.50

Kansas Schools

18 coupons@ \$27.50 each 495.00
 Creek Orphans 28 coupons.....@ \$27.50 each 770.00

All due 1st instant and amounts to.....\$17,782.50⁴⁵

Again on July 10, 1844, the Indian Office transmitted to the Cashier of the Bank of America 603 coupons amounting to \$16,932.50 for six months interest on Kentucky, Alabama and Missouri State bonds, for Indian benefit, which he was requested "to collect and deposit the avails thereof in the Bank of America, New York, in the name of the Secretary of War, to the credit of the Treasurer of the United States and forward duplicate certificates of the deposit to this Department on account of Trust fund interest for the tribes of Indians named:

Kentucky

Cherokee (Treaty 1835)

	Interest	Total
94 coupons @ \$25 each, 6 mo. int. due 1 July '44.	\$2,350	

Senecas and Shawnees

6 coupons @ \$25 each for 6 mo. int. due 1 July '44.	150

Menomonies

27 coupons @ \$25 each for 6 mo. int. due 1 July '44.	675
10 coupons @ \$125 each for 6 mo. int. due 1 July '44	1,250

Senecas

5 coupons @ \$25 each for 6 mo. int. due 1 July '44	125

Shawnees

1 coupon @ \$25 each for 6 mo. int. due 1 July '44	25

Chippewas and Ottawas

7 coupons @ \$125 each for 6 mo. due 1 July '44..\$	875	
8 coupons @ \$25 each for 6 mo. due 1 July '44...	200	\$5,650.00

Alabama

Cherokee (Treaty 1835)

300 coupons at \$25 each for 6 mo. int. due 1 July '44..\$7,500

Creek Orphans

82 coupons at \$25 each for 6 mo. int. due 1 July '44 2,050

Missouri

Cherokees (Schools 1819)

10 coupons @ \$27.50 each for 6 mo. int. due

1 July '44..... 275

Senecas and Shawnees

7 coupons @ \$27.50 ea(ch) 6 mo. int. due

1 July '44..... 192.50

Kansas Schools

18 coupons @ \$27.50 ea(ch) for 6 mo. int. due

1 July '44..... 495.00

28 coupons at \$27.50 ea. for 6 mo. int. due

1 July '44..... 770

\$1,732.50

A draft was also offered for \$6,250,

being 6 months interest on \$250,000 Tennessee 5 per cent interest, the proceeds of which you will please likewise deposit to the credit of the Treasurer of the U.S. and forward duplicate certificates of said deposit to this Dept. on account of "Trust fund" interest for Cherokees (Treaty 1835)\$ 6,250.00

\$23,182.50⁴⁶

In addition to collecting funds for the federal government, certain bankers were authorized to buy stock for the Indians. The government had \$75,000 in the Bank of America in May, 1844, to be held in trust and invested in safe and sound stock in order

⁴⁶ *Ibid.*, pp. 76-77.

to make it productive of an income for the use of the Seneca Indians under the third article of the treaty with them of May 20, 1842. It was thought best to place the full amount, if possible, in the federal loan of 1842, 6 per cent stock which ran for twenty years.⁴⁷ The purchasing agent succeeded in so investing \$64,500. A draft was accordingly issued from the federal treasury on the Bank of Commerce, New York, in favor of the Bank of America for \$74,938.75 to reimburse the buyer for the purchase of the said stock.⁴⁸

There were times when the federal government advanced money to certain Indian tribes by taking a loan on the tribal trust fund as security. According to the eighteenth article of the treaty with the Cherokees of December, 1835, it was agreed that, in consequence of the unsettled affairs of the Cherokee people, and other causes likely to produce distress, the United States should advance an amount equal to the sum expected to be derived from their investments, for two years' annuity, and expended in provisions and clothing for the poor and destitute.⁴⁹ The sum of \$75,000 was therefore advanced or rather appropriated, and it was embraced in the appropriation warrant of July 8, 1836, of \$5,490,-367.90 to carry the treaty into effect. Of this advance there had been expended by 1844 the sum of \$55,532.17, which left undrawn of the \$75,000 a balance amounting to \$19,467.83. Out of the interest which accrued on the unused money the United States was able to reimburse itself to the amount of \$52,074.27.⁵⁰

In 1844 the Shawnee Indians memorialized the Indian Office for their trust fund despite treaty stipulations. The request was for Congress to pass a law authorizing the Commissioner of Indian Affairs to pay a draft drawn by them for \$9,600 in favor of the Superintendent of Indian Affairs at St. Louis, out of the money held in trust by the Department for the Shawnee Indians, and the balance of the fund to be paid over to them with their

⁴⁷ *Ibid.*, pp. 66-71. The original deposit was made by Ogden and Fellows in the bank of Commerce of New York.

⁴⁸ *Ibid.*, p. 71. For further examples of selling stock, see Register of Letters Received, B, Office of Indian Affairs. (No page numbers in MS.) Occasionally there was bad bookkeeping on the part of the government and as a result it would over-check the trust fund accounts, but this was rather seldom.—Stock Letter Book, No. 1, p. 34.

⁴⁹ *Laws and Treaties*, II, 446-447.

⁵⁰ Stock Letter Book, No. 1, pp. 52-53.

next annuity. The seventh article of the treaty of August 8, 1831, provided for the sales of the lands ceded by the Shawnees and for the money thus derived to be invested in state securities.⁵¹ The proceeds from these lands amounted to nearly \$37,000 after the authorized deductions. This money was invested in state stocks as follows:

Maryland 6 per cent stock.....	\$33,912.40
Kentucky 5 per cent stock.....	980.00
U. S. Treasury Loan, '41.....	2,000.00
Total	\$36,892.40

The dividends on these sums as they were collected were paid over to the tribe on orders of the chiefs and head men, leaving to their credit on this account at the time of their petition a sum of only \$85. The state of Maryland had failed to pay the interest on the money invested in the bonds of that state. If the government had been able to collect the profit due on the Maryland bonds, or even if Congress had made an appropriation which was asked for and which passed the Senate, there would not have been anything like a sufficient sum to pay the draft. The Indian Office would not attempt a disposal of the stocks in order to meet their wishes, for it would have been ruinous to the Indians. The needs of the tribe were not deemed so great as to make such a sacrifice necessary or wise;⁵² therefore, the petition was refused.

Between 1835 and 1850 the federal government invested nearly all of the money which it held for the benefit of the Indians in state bonds. In some cases it invested in the railroad and canal securities of the different states but they were guaranteed by the state and therefore considered as state stocks.⁵³

In 1845 the aggregate amount of the bonds held for all the tribes by the United States was \$2,194,120.51 at an aggregate cost of \$2,116,309.09.⁵⁴ This was not half of the Indian funds

⁵¹ *Laws and Treaties*, II, 532.

⁵² Stock Letter Book, No. 1, pp. 53-55. T. H. Crawford, Commissioner of Indian Affairs, wrote this letter to W. Wilkins, Secretary of War.

⁵³ *Ibid.*, No. 2, p. 11.

⁵⁴ *Annual Report of Commissioner of Indian Affairs, 1843-1847*, Doc. No. 1, pp. 476-479. In 1844 the aggregate amount of the bonds was \$2,085,441.32 at an aggregate cost of \$2,116,309.09.—*Ibid.*, Doc. No. 2, pp. 344-347.

held by the federal government. Some of the states failed to pay interest due; therefore, treaty agreements were made whereby the government guaranteed to pay the Indians an income of 5 per cent on such money in lieu of investment. In 1845 the United States was paying 5 per cent interest on \$3,380,100 according to treaty contracts in lieu of investing the money in state stocks; the proceeds alone on this latter fund amounted to over \$171,000 annually.⁵⁵

In the years 1841, 1842, and 1847 the federal government needed money; therefore it issued 5 per cent and 6 per cent bonds and sold them to the public. The administration had large sums of money which it held for the Indians and had promised to invest for them in safe and sound stocks. In order to fulfill that obligation and to secure the money which it needed, the federal authorities placed the money retained for the Indians in these bonds.⁵⁶

In 1855 \$251,330 was invested in these federal loans. Of these stocks \$58,050 were in certificates of the loan of 1847, the interest on which for six months in 1853 was \$1,741.50; \$130,280 were in certificates of the loan of 1842, and the income for the same period on 63,000 coupon stocks was \$3,908.40; and \$1,890 worth of the coupons was payable at the same time, making a total of \$7,539.90 due on federal loans in 1855.⁵⁷

When the sum of \$7,539.90 interest was collected, it was placed to the credit of the following trust fund accounts:⁵⁸

	Stock	Loan 6 mo. int.	Total
Chippewas, Ottawas, and Potawatomies (Mills) . . .	\$ 1,921.93	1842 \$ 57.66	\$
Chippewas, Ottawas, and Potawatomies	1,791.83	1847 53.76	111.42
Chippewas, Ottawas, and Potawatomies (Education)	5,556.71	1842 166.70	
Chippewas, Ottawas, and Potawatomies	6,525.54	1847 195.77	362.47

⁵⁵ *Ibid.*, Doc. No. 1, p. 80.

⁵⁶ *Ibid.*

⁵⁷ Stock Letter Book, No. 2, p. 1.

⁵⁸ *Ibid.*, p. 2.

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	Stock	Loan	6 mo. int.	Total
Cherokee Schools (1819) \$	5,800.00	1847 \$		\$ 174.00
Kansas Schools	4,444.66	1842	133.34	
Kansas Schools	1,540.06	1847	46.20	179.54
Menomonies	26,114.88	1842	783.45	.....
Menomonies	21,321.10	1847	639.63	1,423.08
Chippewas and Ottawas..	4,588.97	1842	137.67	.....
Chippewas and Ottawas..	2,274.47	1847	68.23	205.90
Creek Orphans	49,900.84	1842	.....	1,497.02
Choctaws under Con[tracts]				
with Chickasaws	1,734.71	1842	.....	52.04
Delawares (Education) ..	7,806.28	1842	.....	234.19
Osages (Education)	24,679.56	1842	.....	740.39
Stockbridges and Munsees.	5,204.16	1842	.....	156.12
Choctaws (Education) ...	60,893.62	1842	1,826.81	.....
Choctaws (Education) ...	18,026.97	1847	540.81	2,367.62
Chickasaws (Orphans) ...	433.68	1842	13.01	.....
Chickasaws (Orphans) ...	770.03	1847	23.10	36.11
Total	\$251,330.00		\$4,686.14	\$7,539.90

Nearly all of the Indian trust funds were invested in the stocks of Kentucky, Missouri, Tennessee, Virginia, Indiana, Maryland, Pennsylvania, North Carolina, and Alabama.⁵⁹ It seems strange that none of this money was invested in New England State bonds prior to 1850. A partial explanation may be found in the fact that New England was not so heavily in debt and that most of the more influential Secretaries of War and of the Treasury hailed from the Southern states.

Some of the states were very conscientious in paying the interest as soon as it came due, while others were continually defaulting. Some of the Western states when admitted into the Union were allowed a certain portion of the proceeds from the sale of public lands. In order to meet their obligations due on the trust fund, some of these states would use their portion of such revenue to pay the interest on the invested stocks.⁶⁰ When-

ever a state fell too far in arrears, considerable pressure would be brought to bear on the delinquent. When the state legislature was in session, the federal government would send petitions and agents to the state capitol to get an appropriation to pay the money due.⁶¹

The amount of interest due on the bonds of the delinquent states held in trust by the War Department on Indian account in 1845 ⁶² was as follows:

State of Pennsylvania up to 1st February, 1845.....	\$ 5,937.50
State of Indiana up to 1st January, 1845.....	9,025.00
State of Maryland up to 1st January, 1845.....	11,939.08
State of Michigan up to 1st January, 1845.....	2,931.75
State of Arkansas up to 1st January, 1845	900.00

Total interest past due.....\$30,733.33

According to the returns sent to the Indian Office from the first comptroller of the Treasury Department, the federal government retained \$21,654.12 out of the distributive share of the net proceeds of the sales of the public lands, under the distribution law of September 8, 1841, in lieu of the interest due on bonds held in trust on Indian accounts by the delinquent states.⁶³ The following is an itemized statement of the retention of such funds:

Maryland	\$ 7,654.53
Pennsylvania	6,750.00
Michigan	3,849.59
Indiana	3,400.00

Total.....\$21,654.12

While the Distribution law of 1841 aided the federal government in the collection of unpaid obligations from the states by withholding funds due them, it was unable to collect all of such dues in that manner. It had to continue to bombard state legislatures with petitions and lobbyists for years to come.⁶⁴ The Indians could not be denied their income in such manner as this; therefore

⁶¹ *Ibid.*, No. 2, p. 5.

⁶² *Ibid.*, No. 1, p. 97. By June of that year the interest past due had increased to \$42,254.51.—*Ibid.*, p. 105.

⁶³ *Ibid.*, p. 99.

⁶⁴ *Ibid.*, No. 2, p. 5.

the central government paid the interest overdue with the hope that it would be reimbursed later by the states.⁶⁵

In the fifties, during Buchanan's administration, a large number of the Indian bonds were stolen from the Interior Department by one of the government employees, just when and how it has never been known. The federal government valued the stolen bonds at \$787,000. The chairman of the Committee of Indian Affairs in the Senate opposed the refunding of the principal but favored the payment of interest due on the abstracted bonds.⁶⁶

The government apparently made little effort to recover the stolen bonds before the year 1862. In July of that year Congress passed an act which stated that "all interest in said bonds is vested in the United States, and any recovery or reclamation of the same, or any part thereof shall be for the use and benefit of the United States."⁶⁷ At that time the government was too busy fighting General Lee to devote much attention to the recovery of the bonds.

This was not the only loss which the Indians sustained under the trusteeship of the federal government. When the southern states seceded in 1861, \$850,000 had been invested in Southern stocks which ceased to bear interest.⁶⁸ Thus the Indians were robbed of \$25,500 annual interest. As we have already seen there were Northern states which had been delinquent in paying interest too. By 1862 bonds invested in Northern securities which ceased to bear interest amounted \$473,000. Thus, when the Indians probably needed the income most, they were being denied *lawful interest* on \$1,323,000 worth of stock. In addition, the Southern states after the Civil War repudiated the Indian bonds along with the other repudiated bonds of the period.⁶⁹

CONCLUSION

In conclusion, suffice it to say that the national government created trust funds for the Indians and agreed to invest the same in

⁶⁵ *Ibid.*, No. 1, p. 341.

⁶⁶ Indian Trust Fund, Letter A., pp. 1, 20, 21, 29, 30, Office of Indian Affairs. It seems that the bonds had been stolen some time before the government was aware of their theft.

⁶⁷ Stock Letter Book, No. 2, p. 334.

⁶⁸ Indian Trust Fund, Letter A., pp. 22-25.

⁶⁹ *Ibid.*, pp. 22-25. The records of the Indian Office fail to show, with a few exceptions, the market value of the bonds.—*Ibid.*, p. 27.

sound and profitable stocks in order to protect and promote the moral, social, financial, and general welfare of the Indians against the degrading influences of designing whites. In the main the investments were sound, but occasionally mistakes were made. The good intentions of the federal government, however, cannot be questioned. The Indians were benefited substantially by the income from these investments between 1830 and 1857, and they were accordingly enabled to provide for the orphans and incompetents, create and improve schools, encourage and promote agriculture, and provide for the financial necessities of the different tribes. It was unfortunate, however, that the Indians were made to suffer because of stolen and repudiated bonds in the late fifties and early sixties; nevertheless, despite criticisms, no nation, so far as the writer is aware, ever agreed to invest such large sums of money for a race of an inferior character, inferior because the red man had been denied the opportunities of the Caucasian.

Chapter XXIII

INDIAN EDUCATION AND CIVILIZATION, 1825-1850

In 1825 federal force was substituted for Indian management. The real problem that faced the national government for the next twenty-five years, as previously demonstrated, was the proper timing of the removal of the individual tribes. However, despite the policy of force, which inflicted painful and cruel experiences, Indian education made some progress. Private individuals and organized missions spent considerable money for the betterment of the Indians. Although the federal government took the Indian lands and forced the tribes to move West, the central government continued to appropriate annually \$10,000 as a special civilization fund.¹ In addition, through treaty stipulations, the United States gave increasingly large sums of money to promote Indian education.

In 1826 the report on Indian conditions reads in part:

It is a lamentable fact, that hundreds of Indian children are turned away, annually, from those nurseries of kindness, for want of ability on the part of the superintendents to receive them. Numerous applications for assistance, and from the most respectable societies, are now on file in this office, to which it has not been possible to return any other answer than the fund appropriated by Congress is exhausted.

It is . . . earnestly recommended that the sum be increased.

In order to meet the discouragement arising from the educated children being thrown back into uneducated Indian settlements, it was recommended that sections of land and agricultural and other implements be given them, by which they might earn their living and become an "intermediate link between our own citizens and our wandering neighbors, softening the shades of each, and enjoying the confidence of both."²

¹ See Chapter XV.

² *A. S. P., I. A., II*, No. 241, 671. See Fletcher, *Indian Education and Civilization*, p. 165.

The following statement compiled from the reports of the Commissioner of Indian Affairs will show the annual expenditure of the civilization fund, 1819-1832:³

1819-1821.....	None of the fund was expended	
1820-1821.....	\$ 16,605.80	
1822.....	Report gives list of schools but omits allowances	
1823.....	\$ 11,135.33	
1824.....	Report gives list of schools but omits allowances	
1825.....	\$ 13,550.00	
1826.....	\$ 13,783.33 $\frac{1}{3}$	
1827.....	7,150.00	For tuition only
1828.....	7,350.00	For tuition only
1829.....	8,800.00	For tuition only
1830.....	6,500.00	For tuition only
1831.....	6,650.00	For tuition only
1832.....	110,005.21	(Estimated expenditure for the year)

The statement of annual allowances (Table V, Appendix) for tuition does not include the contributions for buildings. The total allowances, therefore, do not balance with the totals cited above, which sometimes include and sometimes omit these contributions. On account of the variation between the accounts kept by the Treasury Department and those of the Indian office, it is impossible to find an exact balance for any one year; hence these figures are intended to indicate the trend of the administration of the civilization fund rather than the exact sums which may have been paid out by the treasury during the year.⁴

The Indians were apparently impressed by the new educational system inaugurated by the government and the missionaries. The latter became very active in their work because they felt that a new era had begun for the Indians. So optimistic and forceful were the religious and educational workers that the Indians in many instances were induced to contribute from their own scanty resources to their support. Several of the tribes placed large annuities at the disposal of the superintendents of the schools under the direction of the national government. The Choctaws allotted

³ See *Annual Reports of the Commissioners of Indian Affairs*; also Edwards, *Indian Missions*, Appendix to Chapter VI, 135. Photostat of unpublished Ph.D. thesis.

⁴ *Ibid.*, pp. 136-139.

\$12,000 of their means per annum for twenty years towards the support of this system, which amounted to almost a quarter of a million; and the Chickasaws gave one year's annuity, which amounted to upwards of \$30,000, as a fund for the same object.⁵

When it was first definitely proposed to move the Indians west of the Mississippi, William Clark, Superintendent of Indian Affairs, proposed that common schools be established in the villages to teach all the children to read, write, and cipher.

A college education for a few, while the body of the nation is left in ignorance, has been proved, by the experience of more than two hundred years, to be a most unprofitable experiment; and besides (because there is no other way of dividing equally the large fund for education which is now accumulating in many tribes, except by establishing common schools in every village), the fund for this purpose is too great to be given up to a few who choose to administer upon it. I presume that it is equal, at present, to more than two hundred thousand dollars, and is constantly increasing. Charities, among the white people, are liable to be abused; and, among ignorant and careless Indians, much more so. A plan of education and accountability should be established by law. The superintendents and agents should be charged with its execution. Frequent rigorous and personal examinations should be had over the scholars and teachers, regular reports made to the Government, liberal pay given to the teachers at the end of each quarter, and after each examination; but large sums ought not to be put in their hands, to be used at discretion.⁶

Thomas L. McKenney believed that the teachers would willingly support the removal policy if the buildings and losses incurred were paid for by the federal government.⁷ It was further suggested that the revenue from the sale of land received from the Indians be used for educational and religious purposes; that the donation from the government be considerably increased; and that an Indian college be erected after the consolidation of the Indians west of the Mississippi.⁸

James Barbour, Secretary of War, summarized the situation accurately in his report of 1826:

⁵ *A. S. P., I. A.*, II, No. 231, 650-651.

⁶ *Ibid.*, p. 654.

⁷ *Ibid.*, No. 245, p. 700, McKenney to the Secretary of War, Dec. 27, 1826.

⁸ *Ibid.*, No. 201, pp. 446-448

Missionaries are sent among them to enlighten their minds, by imbuing them with religious impressions. Schools have been established, by the aid of private as well as public donations, for the instruction of their youths. They have been persuaded to abandon the chase, to locate themselves, and become cultivators of the soil; implements of husbandry and domestic animals have been presented them; and all these things have been done, accompanied with provisions of a disinterested solicitude for their happiness. Yielding to these temptations, some of them have reclaimed the forests, planted their orchards, and erected houses, not only for their abode, but for the administration of justice and for religious worship; and when they have so done, you send your agent to tell them they must surrender their country to the white man, and recommit themselves to some new desert, and substitute, as the means of their subsistence, the precarious chase for the certainty of cultivation. The love of our native land is implanted in every human bosom, whether he roams the wilderness, or is found in the highest state of civilization. This attachment increases with the comforts of our country, and is strongest when these comforts are the fruits of our own exertions. We have imparted this feeling to many of the tribes by our own measures.⁹

The need of Indian education was greatly felt by the authorities at Washington. While the civilization fund was not increased, treaty stipulations began to provide very large funds for such purposes. Table VI in the Appendix shows the funds provided by treaties down to 1834 for the purpose of education, exhibiting the names of the tribes, the dates of the treaties, the amount for each, and the period for which the payment was to be continued, and for what specific use.¹⁰

By 1834 there were sixty schools established among the various tribes by six religious organizations and by the Indians themselves. There were 137 teachers employed and nearly 2,000 children enrolled.

The following table shows the allowance from the civilization fund to each of the associations and individuals:¹¹

American Board for Foreign Missions	\$1,690
Methodist Society	550

⁹ *Ibid.*, No. 231, p. 647.

¹⁰ *House Reports*, 23rd Cong., 1st sess., No. 474, p. 68. By 1835 the total amount had been increased to \$42,000.—*Sen. Doc.* 24th Cong., 1st sess., I, No. 1, 284.

¹¹ *House Reports*, 23rd Cong., 1st sess., No. 474, pp. 69-70.

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Baptist General Convention	\$2,000
Choctaw Academy	310
Catholic Bishop, Ohio	1,000
Catholic Bishop, Boston, for Passamaquoddy Indians	300
Godfroy, a Pottawatomie Indian	200
Choctaws	300
Mohegan Indians	400
Donations from the Civilization Fund	
On account of cost of buildings at	
Green Bay, under Menomonie treaty	1,700
Choctaw Academy, for purchase of tools and erect- ing workshops for a wheelwright, blacksmith and shoemaker	500
Total	\$8,950

The report of the Commissioner of Indian Affairs on November 24, 1835, is quite flattering:

The whole number of children to whom instruction is given may be stated at 1700. Reports from Michilimackinac is especially gratifying. There are eight establishments within the limits of his agency, stationed at different points between the above island and Ana Kwiwanau, on the shores of Lake Superior. In the school at Michilimackinac the higher branches—geography, philosophy, and history, are successfully taught. Two of the pupils have gone out among their relatives in the North as teachers. Another has been recently received as a Catechist by the American Board of Missions. A third now commands a vessel on the lakes. A fourth is studying medicine. Many of them read and write the English and Ojibwa languages easily and correctly.¹²

The schools established among the Shawnees, Delawares, and other tribes west and north of the Missouri River, appear to have been well conducted. Instruction was given to a considerable extent in the languages of those tribes. There were thousands of pages printed in the languages of the various tribes. "In every instance, a knowledge of agriculture and of some mechanic art is imparted to the boys, and of household duties and economy to the girls." The Commissioner of Indian Affairs further reported:

The agents for the several tribes for whose benefit schools are supported are required to visit and inspect them at least once in each year. At these visits a public examination of the pupils is made, and the attendance of the military officers and of other citizens, wherever convenience will permit is requested. By the application of these and other incentives, it is hoped that a deeper interest in the success of these establishments will be awakened in the minds of parents and children, and more extensive results be obtained from the means and exertions appropriated in knowledge and virtue.

At the time when the systematic removal policy was actually begun by the federal government, there still remained within the states east of the line of the Mississippi and Missouri, 110,349 souls. At the close of the year 1836, 45,690 of this number, comprising portions of nineteen tribes, had been transferred to the West.¹³ At this time there had been established for these tribes in their new locations, fifty-one schools, at which 2,221 pupils were instructed. In addition to this, 156 pupils of an advanced grade were instructed at the Choctaw Academy in Kentucky, and four of the graduates were studying the legal profession in New York, Vermont, and elsewhere.¹⁴

In 1846 the Indian Commissioner reported:

The general introduction of manual labor schools among the Indians, and the purchase of tools and agricultural implements as are necessary for their management and successful operation, will be attended with much expense, and will require all the funds that are in any way applicable to objects of education. A portion of these funds has heretofore been applied to the education of boys at literary institutions in the various states, and even to the preparation of some of them for the practice of the learned professions; and although important advantages have thereby resulted in the diffusion of information among the different tribes, yet it is believed that the money can now be more beneficially expended at the homes and in the midst of the Indian people. The prejudices of the red man will be thus more easily overcome, and the benefits extended alike to both sexes of the same tribe.¹⁵

In 1848 sixteen manual labor schools, eighty-seven boarding and other schools were reported in operation, and several additional

¹³ *Annual Report of the Commissioner of Indian Affairs for 1836*, p. 41.

¹⁴ *Ibid.*; Schoolcraft, . . . *History . . . of the Indian Tribes*, VI, 318.

¹⁵ *Sen. Ex. Doc.*, 29th Cong., 2nd sess., I, No. 4, 227.

manual labor schools under contract: two each for the Creeks and Potawatomies, one each for the Chickasaws, Kansas, and Miamis. The aggregate sum expended for buildings and improvements was \$34,000, annual endowment and maintenance \$26,000, in addition to the amounts contributed by missionary societies under whose care they were in general placed.¹⁶

In 1849 the commissioner reported that "nearly the whole of the large amount required for the support and maintenance of the schools now in operation is furnished by the Indians themselves out of their national funds," and urged that the \$10,000 annually appropriated, in accordance with the act of 1819, be raised to \$50,000.¹⁷

In 1855 the Indian Commissioner made a detailed statement of the money expended for Indian education and civilization:

In addition to the \$102,107.14 furnished by the United States, and to the aggregate of \$824,160.61 drawn from the Indian funds, and over \$400,000 paid out by the Indian nations among themselves, that private benevolence in ten years has expended for the Christianization and civilization of the Indian tribes, more than \$830,000; showing a total outlay for these objects in ten years exceeding \$2,150,000.¹⁸

CHOCTAWS AND EDUCATION

According to the reports of the Commissioner of Indian Affairs, the Choctaws made the most progress in education of any of the tribes prior to 1850. Since it is impossible in this study to give a detailed account of educational progress of all the tribes, the following statements will show the total amount stipulated by treaties with the Choctaws since 1816 for the purpose of education and the amount appropriated by Congress in fulfillment of such obligations:¹⁹

TREATY PROVISIONS FOR EDUCATION

1825—per second article of the treaty of 1825, from 1825	
to 1852 inclusive, \$6,000 per year for twenty-eight	
years	\$168,000.00

¹⁶ *Ibid.*, 30th Cong., 2nd sess., I, No. 1, 406-407. Additional schools were then being constructed.—Fletcher, *Civilization and Education of the Indians*, p. 166.

¹⁷ *Ibid.* See *Sen. Ex. Doc.*, 31st Cong., 1st sess., III, Part 2, No. 5, 956-957.

¹⁸ Fletcher, *Indian Education and Civilization*, pp. 166-167.

¹⁹ *Sen. Doc.*, 33rd Cong., 2nd sess., XI, No. 64, 7-8. For minute detail of this fund see *ibid.*, pp. 1-59.

Four years annuity, under treaty of 1816, to 1820, as directed by the chiefs.....	\$ 24,000.00
1825—per thirteenth article of the treaty of 1825, \$6,000 per year for sixteen years.....	96,000.00
1853—twenty appropriations . . . for educating forty youths for twenty years, and for schools in the nation.....	262,000.00

APPROPRIATIONS MADE BY CONGRESS

Amount, as per Second Auditor's statement, paid for education, from annuity under treaty of 1816.....	\$ 40,400.00
Amount paid, as per Second Auditor's statement to 1848, inclusive, for education in the nation, from annuity, second treaty of 1825.....	81,133.61
Amount paid from annuities under treaty of 1825, as per Second Auditor's statement, for education at the Choctaw Academy.....	85,998.69
Miscellaneous payments from annuity funds in 1836 (treaty of 1825) as per Second Auditor's statement.....	2,304.00
Amount paid under provisions by treaty of 1825, to Walter Lowrie, Secretary, A. B. C. F. M., for support, &c, of the Spencer Academy, from January, 1847, to October, 1852 inclusive, as per statement of Indian Office....	39,000.00
Amount realized by the Choctaws (expended at the Choctaw Academy in Kentucky, invested in stock, paid for education, schools in the nation, &c., and including a balance now [1835] in the treasury) under the twentieth article of the treaty of 1830.....	267,260.73
Total amount of expenditures under treaty provisions for education, 1817 to 1852 inclusive.....	516,097.03
Balance, therefore, due Choctaws for educational purposes	33,902.97

It was of great satisfaction to the Commissioner of Indian Affairs that the Choctaws continued "highly sensible of the benefits which they are receiving from the schools which they have established in their nation, and the example thus set by them is destined to exert an important influence on all the neighboring tribes. They will see the advantages resulting from the efforts made by these people, and strive to follow in their course." ²⁰

PROGRESS OF OTHER TRIBES

Apparently most of the Indian tribes did not realize the necessity of an education until the late thirties and early forties. By 1845 there were several schools functioning surprisingly well. The report of Governor Butler, late agent for the Cherokees, furnishes the most flattering account of the schools among that people. "They are principally what are called 'neighborhood schools' and are represented to be numerous and in a flourishing condition. Last year [1844] they numbered twenty-eight; all supported out of their own funds, reserved by treaty and appropriated for that purpose. The reports from which, so far as they have come to hand, furnish abundant evidence of increase and improvement."²¹

A spirit of emulation, caused by the example of the Choctaws and Cherokees, seems to have reached and pervaded the Creeks. They had by 1845 established several schools in which were taught the primary and more important useful branches of learning, one of which was on the manual labor principle. These people requested the application of all their school funds to the establishment of two additional manual labor schools, and arrangements were made for their erection under the superintendence of the Presbyterian Board of Missions.²²

The Chickasaws likewise asked for the establishment of a manual labor school and requested that a portion of their school money be applied to that object. To this they proposed to add out of their other funds such additional sum as might be sufficient to carry on the same. The approval of the department was given to this arrangement, and the buildings were immediately commenced.²³ For the amount and disposition of funds provided by treaty for education in 1845, see Table VII in the Appendix.²⁴

CONCLUSION

It is thus seen that the civilization and Christianization of the Indians were not entirely neglected by the federal government during the first seventy-five years of its existence. Since 1819 the

government had donated a regular civilization fund of \$10,000 a year. It had stipulated by means of treaties to pay approximately \$3,000,000²⁵ for the purpose of educating the Indian youths. This did not include the very large sums of money paid out to aid them in the development of agriculture. Hundreds of grist and saw mills were erected and operated at government expense, and several hundred blacksmiths and mechanics were employed by the federal government to aid them in their development.

Chapter XXIV

A CRITICISM AND SUMMARY OF THE INDIAN POLICY OF THE UNITED STATES

The federal officials in their relations with the Indians have been accused of misconduct and even of reckless and wanton injustice. But with few exceptions the writer has discovered little convincing evidence to warrant the assertion that the higher officials prior to 1850 were guilty of deliberate fraud. The officials may justly be charged with lack of foresight, of dispassionate, systematic, and discreet administration of Indian affairs. They provided no effective supervision of the subordinates scattered throughout the Indian country, and some of them violated their trust. In this connection it is possible to use truthfully the most terrifying invectives against some of the agents and instrumentalities to which the federal government entrusted functions which were nefariously abused. There is no way, however, to ascertain whether the agents in the field always turned over to the Indians their annuities in full. Evidence shows, however, that some of them were lax in regard to such matters, but Congress, the President, and the Cabinet may be acquitted of intentions of inhumanity and fraud. But, in the final analysis, the government at Washington is responsible for the existence of a defective and inefficient system, and the higher officials are in a sense responsible for the acts of the subordinates.

STATEMENTS OF POLICY

-It was Washington who said: "A system corresponding with the mild principles of religion and philanthropy towards an unlightened race of men, whose happiness materially depends on the conduct of the United States, would be as honorable to the national character as conformable to the dictates of sound policy."¹

Alexander Hamilton wrote:

Their friendship alone can keep our frontiers in peace. It is essential to the development of our fur-trade,—an object of immense importance. The attempt at the expulsion of so desultory a people is as chimerical as it would be pernicious. War with them is as expensive as it is destructive. It has not a single object, for the acquisition of their lands is not to be wished till those now vacant are filled; and the surest as well as the most just and humane way of removing them is by extending our settlements to their neighborhood. Indeed, it is not impossible that they may be already willing to exchange their former possessions for more remote ones.²

In his message to Congress in 1828, John Q. Adams stated emphatically and briefly what had been the government policy since the establishment of the Constitution:

The principle was adopted of considering the Indians as foreign and independent powers, and also as proprietors of lands. As independent powers, we negotiated with them by treaties; as proprietors, we purchased of them all the land which we could prevail on them to sell; as brethren of the human race, rude and ignorant, we endeavored to bring them to the knowledge of religion and of letters.³

The decision of the Supreme Court in 1832 in the well-known case of *Worcester vs. Georgia* confirmed this view as to the treaty-making power and as to the legal status of the Indians. It, however, proved of no avail in holding the federal government to any consistent course of policy, or in adding to the security of the Indians in subsequent negotiations with the various tribes.

CRITICISMS OF THE FEDERAL POLICY

The Commissioner of Indian Affairs, E. S. Parker, himself an Indian of considerable ability, in his report to the Secretary of Interior in 1869 exposed the very roots of the error of the federal Indian policy. He recommended the abolition of the practice of negotiating treaties with the Indians in regard to all future arrangements with them about their reservations and the matter of federal aid, for treaties involved the principle of a compact between sovereign powers, each possessing the authority and force to coerce a signatory power to fulfill its obligations. The Indians, how-

² *The Works of Alexander Hamilton*, ed. John C. Hamilton, I, 408.

³ *Messages and Papers*, II, 415-416.

ever, were not sovereignties with such powerfully organized governments as to be able to execute treaties. They had been induced by these treaties dealing with them as autonomous nations to regard themselves as sovereign powers, and to believe that the federal government had recognized them as possessing an absolute fee in the lands for which it had treated with them; whereas the government "really regarded them as wards of the nation," with possessory title only to the territory.⁴

This criticism of our national Indian policy was just. Not until the middle of the nineteenth century did the government define positively the legal status of an Indian tribe possessing territory within the national domain, and even at the present time the legal status of the Indian is somewhat in doubt.⁵ For want of such an authoritative legal definition, the federal policy was occasionally inconsistent, faithless, and unjust. The Indians, on the other hand, construing the agreements with them as recognizing certain rights and claims of theirs, which in actuality the United States seldom recognized, therefore charged the government with infidelity. The federal government regarded these same tribes, in theory, at least, as sovereign nations, independent proprietors, wards of the nation, and friends and enemies. The United States made with them solemn treaties, guaranteeing to them their land as reservations forever, and it invariably violated these covenants at will. The government made innumerable agreements to defend their lands against encroachments by whites; and when intruders, settlers, miners, surveyors, and railroad engineers trespassed upon them, the federal authorities sent the soldiers to protect the interlopers and not the Indians. The national government made covenants with tribes, reserving to them lands that soon after were found to lie within the bounds of newly organized states, which at once claimed the supreme right of jurisdiction. Such perplexities, arising from a conflict between national and state sovereignty, the Indians could not understand. Meanwhile, the shifting of the frontiers of civilization by a much more rapid advance through emigration and occupation than was ever dreamed of, crowded the

⁴ See *Report of the Commissioner of Indian Affairs*, 1869.

⁵ R. A. Brown, "The Indian Problem and the Law," *Yale Law Journal*, XXXIV (January, 1930), 307-331.

Indians and forced them into reservations; then the subsequent discovery of enormous mining wealth, of comparatively little use to the savages, in their reservations which we had made over to them "forever," caused the federal government to feel justified in reconsidering the compact. The excuse given by the government was: "We had given the Indians hunting grounds; we never intended to make over to them our gold mines." George E. Ellis boldly criticized the white man's methods in these words: "It is notorious, however, that this right [of occupancy] has never been able to stand against the white man's purpose and resolve to acquire any territory when he could plead his need or desire of it. The Indian's right to hold was subordinate to the white man's right to buy,—a right which involved the other right of compelling the Indians to sell, on terms, too, which in effect the purchaser himself dictated." ⁶

The United States, moreover, disregarded the right of occupancy in the Oregon Territory. The government gave its moral encouragement, at least, to prospective settlers to go into that region without any previous attempts to extinguish the Indian title to the soil. In fact, at the beginning, it did not even recognize the Indian right to the territory. The discrepancy in policy may be partially accounted for, because that region was held jointly by the British and Americans to 1846, and Congress was unable to give the settlers an organized territorial government until two years later.

Although the Constitution pronounced all treaties to be the supreme law of the land and the Supreme Court declared them binding and inviolable, the federal government did tolerate the violation of treaties with the Indian tribes by individuals, speculative companies, and traders. Jackson even refused to enforce the decision of the highest tribunal of the country and allowed Georgia, Alabama, Mississippi, and other states⁷ to defy the federal government and to violate the federal law. In order to extricate the government from such embarrassment, new treaties were negotiated from time to time to satisfy the land-hungry whites. Such flagrant viola-

⁶ George E. Ellis, *The Red Man and the White Man*, pp. 538, 542.

⁷ See Chapters XVI-XX of this study.

tion of covenants continued until 1871 when the treaty policy was abolished.⁸

Furthermore, it is impossible to determine accurately what went on at the treaty-conventions. Many promises were no doubt made to the Indian chiefs that were never recorded in treaties or in writing. The commissioners and agents were too discreet to put everything that was promised into print. Conversations are seldom recorded on such occasions even today. Since the Indian was ignorant, it was impossible for him to chronicle such events and promises, except in his memory. The government, had, therefore, to rely largely upon the written documents in deciding controversies that arose between the Indians and the United States.

The well-known Northwest Ordinance of 1787 stipulated that the utmost good faith shall always be observed toward the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.⁹

Washington and subsequent presidents, with the approval of successive congresses, repeatedly extended these promises to many different tribes without observing such important pledges.

Besides the fundamental error of making treaties with the Indians to last "forever" and subsequently forcing them to sell these very lands to the government to make room for the frontiersmen, the federal authorities made additional mistakes. These errors were related and incidental to the fundamental blunder of treating the tribes as independent nations. Among these errors three are worth mentioning.

First, after going to much expense, the government assigned the troublesome tribes to reservations beyond the Mississippi. With

⁸ *Stat. L. XVI*, 566.

⁹ MacDonald, *Documentary Source Book of American History*, 214.

the advance of civilization and the trespasses of the whites upon the reservations, the federal government moved the tribes off to another region. In some cases this was done several times. The Indians were thus kept in a restless and rebellious condition, which was injurious to the Indians and expensive for the government.

A second mistake consisted in assigning to the Indian tribes by treaties territorial reservations altogether too large—so extensive, in fact, as to countenance the hope that they might continue to exist by their antiquated methods of the chase.

The third error was the fact that according to the stipulations of nearly all the covenants down to 1871, the federal government paid the Indians for the cession of their hunting grounds in money annuities to be transmitted to their chiefs, or to be apportioned per capita through the federal agents. It is needless to say that these sums of money were squandered, made the Indians the easy prey of grasping traders in whiskey and gewgaws, and encouraged them in laziness and profligacy. The result was not much better when the annuities were paid in food and clothing. This tended to turn the red men into dependent paupers.

The Indian reservations were scattered over our national domain, and were largely exempted from federal and local jurisdiction. If the government took cognizance of offenses in them, it was in many cases by arbitrary methods. Often, as we have seen, confusion was the result because of conflict between state, or territorial, and national government.

COST OF INDIAN WARS

The War Department had charge of the relations with the Indians down to 1849. The reasons for the transfer of such duties to the Interior Department were many. For instance, the Secretary of War was overworked. The national army was very small and had enough duties to perform without the increased burden involved in managing the federal relations with the Indians. Neither the officers nor the privates possessed any special talent or training for the delicate duties involved; therefore, the Department of Interior was created, and the War Department was relieved of an important duty.

It is difficult to ascertain the total cost of all Indian wars

between 1789 and 1850. The sources of information on this subject are limited to the many reports of the Secretary of War, the Secretary of the Treasury, the Commissioner of Indian Affairs, the messages of the President, and the appropriations of Congress. For the first ten years after the establishment of the independence of the United States, a million dollars a year was spent in sending expeditions and commissions among the Indians. The campaigns against the Northwestern tribes from 1789 to 1794, if the extra expense of enlarging and equipping the army are taken into consideration, cost the government approximately \$25,000,000. Harrison's campaigns against the same tribes in 1811 and Jackson's campaigns against the Indians of the Southwest a few years later may be estimated at another \$25,000,000. The Seven Years War with about 2,500 Seminoles in Florida cost the government at least \$30,000,000 and the lives of 1,500 soldiers. There were, in addition, innumerable minor campaigns that cost over \$100,000,000. The writer feels that the probable cost of Indian wars of all kinds, large and small, down to 1850 may be estimated at the staggering sum of \$200,000,000. During the sixty years of management of Indian affairs by the War Department, the civil disbursements for the Indians in bounties, presents, pensions, rations, trust funds, and similar expenses may be estimated at \$60,000,000. Thus the expenditures for destructive purposes exceeded the disbursements for constructive purposes more than three to one. Is there any wonder that in the early fifties it was believed to be cheaper to feed the Indians for a year than to fight them for a day?

THE BRIGHTER SIDE OF THE FEDERAL INDIAN POLICY

The federal government, during the first sixty years of its existence, had an exceedingly difficult task to perform. It did as well under the circumstances,¹⁰ perhaps, as could be expected, for no nation in the Americas had formulated and put into operation an admirable and well defined Indian policy. The young republic,

¹⁰ One must keep in mind the financial, political, and diplomatic embarrassments of the United States during the first twenty-five years of its existence. It was during these trying years that the government attempted to formulate a just and adequate Indian policy. The United States really did not have a free hand with the Indians until after the War of 1812.

therefore, had to try various methods. An Indian policy, as we have seen, gradually evolved; although, at times, it was indefinite and vacillating.

The United States government with few exceptions had high ideals in regard to its relations with the Indians and it kept these worthy aspirations in the main constantly in mind, although experience has shown that the government policy at times proved to be injurious to the tribes concerned.

The idealistic efforts of the national government to aid the Indians may be listed as follows:

1. The government was eager to give the Indian the civilization of the white man. It was believed that this object could best be accomplished by making him an agriculturist rather than a proficient hunter; therefore, large supplies of domestic animals, farming utensils, seeds, and goods of various kinds were furnished the Indians at the government's expense. Farmers, millers, and blacksmiths were employed to instruct them in the art of tilling the soil in a scientific and profitable manner.

2. Schools were established and teachers employed to teach red men to read and write, so that they might more readily understand and acquire the civilization of the white man.

3. Churches were erected and missionaries appointed to go among them to teach them what was considered to be the higher way of life.

4. Intercourse acts were passed to prohibit the traffic of whiskey or "high wines" with the Indians, and no trader was permitted to go among them without a license.

5. The government established trading houses to attract Indian trade. The Indians were furnished goods at cost and fair prices were allowed them for their furs. While the trading houses were established, as already stated, for selfish purposes, the Indians were expected to benefit by them.

6. Trust funds were established and the money was invested in safe and profitable stocks by the government. No nation, so far as the writer is aware, ever agreed to invest such large sums of money for a race of an inferior character.

7. The orphans were carefully provided for by the federal

authorities. Land and trust funds were set apart for them, too.

8. There were regular agents employed who lived among or near the Indians to look after their welfare.

9. Food and raiment were furnished to the needy, especially during periods of famine.

10. Medical attention was often given to the Indians, especially vaccination against the ravages of smallpox.

11. The removal and reservation policies were conceived with the idea that in the end they would benefit both the whites and the Indians. Such a policy would open up new lands to the whites and move the Indians from the greedy and designing frontiersmen.

12. The United States gradually extended its criminal jurisdiction over the Indians, applying the criminal law of the state or territory which encompassed their tribal possessions.

13. The government contemplated allowing certain Indian tribes to send delegates to Congress: the Cherokees were given the right to send a representative,¹¹ and the Delawares were practically promised the same privilege.¹²

14. An Indian state or protectorate was even contemplated.¹³

15. The federal courts nearly always upheld the legal rights of the Indians.

16. Between 1789 and 1850, so far as the writer is able to ascertain, no nation gave such large annuities to the Indians as the United States.

17. The government of the United States furthermore recognized the possessory right of the Indians to the soil. No land was to be taken from the Indians except by treaty, except in case of just wars. These rights were abused, but, nevertheless, they exercised a restraining influence upon the government.

18. Military forces were sent among the Indians to protect them against hostile tribes and to repel mischievous whites.

After weighing the evidence for and against the federal Indian policy, it is difficult to determine whether that policy as a whole is worthy of praise or condemnation. Probably the truth of the matter is that the federal practice is to be praised and at the same time denounced. It would be possible to write a book lauding the benevolent attitude of the government toward the red men. On the other

hand, an extended account could be written severely criticizing the federal policy,—this has been the customary practice. In fact, attacks have been so bitter and numerous that they have blinded historians and novelists alike to the good intentions of the government. It is exceedingly doubtful if any one could truthfully decry the honesty of purpose of the majority of the higher officials engaged in formulating and directing the federal Indian policy.

TABLE I

RECEIPTS AND EXPENDITURES IN THE INDIAN TRADE DEPARTMENT FROM APRIL 1, 1811, TO DECEMBER 31, 1820, INCLUSIVE

RECEIPTS

In the year	From the several trading-houses in cash and drafts	From the several trading-houses on account of sales of furs, &c	For damaged merchandise sold	For interest on notes	Cash received from annuity fund for goods taken from the trade stock	From the Treasury, for the salary of the superintendent and his clerks	From the Treasury, for the salary of the factors and their clerks	Total
1811	7,861.35	23,056.01	.....	.....	1,500.00	3,375.00	9,277.50	45,069.86
1812	8,212.98	80,288.29	.....	.....	27,142.92	4,500.00	10,879.96	131,024.15
1813	11,808.24	27,652.65	.....	.....	9,033.91	4,500.00	8,459.06	61,453.86
1814	20,421.67	28,127.33	.....	.....	7,663.68	4,500.00	7,455.43	68,168.11
1815	14,208.92	69,197.87	.....	972.49	2,200.00	4,500.00	7,455.54	98,634.82
1816	33,527.17	73,305.52	147.23	300.00	75,246.51	4,500.00	9,308.21	196,334.64
1817	2,629.82	33,099.13	125.47	20.89	11,470.20	4,500.00	9,965.18	61,810.69
1818	5,147.07	29,145.86	248.29	8.61	18,702.97	4,837.50	12,189.26	70,279.56
1819	16,826.81	28,482.95	12.00	40.05	19,184.53	4,950.00	14,496.35	83,992.69
1820	4,133.50	36,188.14	.....	20.69	13,853.45	4,950.00	13,450.00	72,595.78
Dollars, ...	124,777.53	428,544.75	532.99	1,362.73	86,098.17	45,112.50	102,935.49	889,364.16
Grand total, ...								

APPENDIX

EXPENDITURES

	Merchandise forwarded to the several factories	Transportation	Contingencies	Repairs of factories	Salaries of the superin- tendent and his clerks	Salaries of the factors and their clerks	Total
In the year 1811	42,811.22	6,493.54	1,446.87	.....	3,375.00	9,277.50	63,404.13
1812	29,916.02	14,918.01	2,167.25	.....	4,500.00	10,879.96	62,381.24
1813	28,494.46	20,104.10	1,559.08	.....	4,500.00	8,459.06	63,116.70
1814	33,237.18	1,963.49	1,372.08	.....	4,500.00	7,455.43	48,528.18
1815	68,283.47	8,596.59	1,176.63	.....	4,500.00	7,455.54	90,012.23
1816	76,100.76	34,889.13	2,882.55	.....	4,500.00	9,308.21	127,680.65
1817	69,709.23	4,619.33	2,981.60	3,999.81	4,500.00	9,965.18	95,775.15
1818	58,404.46	4,619.31	2,774.01	.....	4,837.50	12,189.26	82,824.54
1819	29,666.98	5,964.88	1,846.66	.....	4,950.00	14,496.35	56,924.87
1820	30,250.65	8,375.00	2,521.29	.....	4,950.00	13,450.00	69,546.94
Dollars, ...	466,874.43	110,543.38	20,728.02	3,999.81	45,112.50	102,936.49	750,194.63
Grand total, ...							

TABLE II

STATEMENT OF APPROPRIATIONS AND EXPENDITURES ON ACCOUNT OF TRADING HOUSES WITHIN INDIAN COUNTRY FROM 1795 TO 1819

Appropriations	Amount appropriated	Amount carried to surplus fund	Balance of appropriations	Expenditures	Amount expended
1795	\$ 50,000.00	.....	\$ 50,000.00	1795	\$ 2,000.00
1796	158,000.00	\$118,000.00	40,000.00	1796	58,000.00
1797	8,000.00	8,000.00	.....	1797	30,000.00
1798	8,000.00	8,000.00	.....	1798	.....
1799	110,000.00	110,000.00	.....	1799	.....
1800	.....	.....	.....	1800	.....
1801	.....	.....	.....	1801	.....
1802	118,000.00	86,000.00	32,000.00	1802	32,000.00
1803	.....	.....	.....	1803	.....
1804	.....	.....	.....	1804	.....
1805	129,000.00	.....	129,000.00	1805	100,000.00
1806	77,000.00	.....	77,000.00	1806	75,000.00
1807	18,000.00	.....	18,000.00	1807	44,000.00
1808	13,000.00	.....	13,000.00	1808	2,250.00
1809	53,800.00	10,246.16	43,553.84	1809	43,353.84
1810	13,800.00	.....	13,800.00	1810	28,800.00
1811	4,325.00	.....	4,325.00	1811	4,150.00
1812	30,312.76	.....	30,312.76	1812	16,870.00
1813	19,250.00	10,014.62	9,235.38	1813	16,883.28
1814	19,250.00	1,770.65	17,479.35	1814	10,294.86
1815	19,250.00	429.33	18,820.67	1815	4,500.00
1816	19,250.00	42.19	19,207.81	1816	17,437.16
1817	19,250.00	.....	19,250.00	1817	18,820.67
1818	19,587.50	.....	19,587.50	1818	21,866.98
1819	19,700.00		19,700.00	1819	19,446.35
Total	\$921,775.26	\$352,502.95	\$569,272.31		\$540,673.14

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TABLE III
SCHOOLS REPORTED RECEIVING GOVERNMENT AID IN 1823

Names and sites of stations	By whom established	When Estab- lished	No. of scholars at last report	Sum		Whole expenses during last year
				annually allowed by the United States for tuition	No. of Missionary Families	
School at Cornwall, Connecticut.....	American Board of Foreign Missions, Boston..	1817	35	\$1,438		
Brainard, Cherokee Nation, Ten[n].....	do	1817	84	1,200	42	7,632
Elliot, Choctaw nation.....	do	1818	80	1,200	12	9,735
Newell, ...do.....	do	1821	15	350		668
Mayhew, ...do.....	do	1822	66	800	10	15,706
Dwight, Cherokees, Arkansas.....	do	1820	50	600	9	6,241
Ft. Wayne, Indiana and Michigan..	Baptist General Convention	1820	40	200	10	3,000
Valley Towns, Cherokee, Ten[n].....	do	1820	50	500	26	3,000
Tensawatee, ...do.....	do	1821	25	250		
Withington, Creek nation.....	do	1823	40	600	7	3,000
Oneida nation.....	Hamilton Baptist Missionary Society	1820	24	500		
Tuscarora nation, New York.....	United Foreign Missionary Society, N. Y.	1819	45	450		
Seneca nation, New York.....	do	1819	31	450	6	2,451
Union, Osages, Arkansas.....	do	1820	12	250	30	6,700
Harmony, Osages, Missouri.....	do	1822	17	250	41	4,680
Wyandots, near Upper Sandusky ..	Methodist Ohio Conference	1821	60	500		1,950
Spring Place, Cherokees, Ten[n].....	United Brethren.....	1801	20	300		744
Monroe, Chickasaw nation.....	Synod of South Carolina and Georgia	1821	54	500	12	2,675
Charity Hall, ...do.....	Cumberland Missionary Society.....	1822	21	400		608
Ottawas, Miami of the Lake.....	Western Missionary Society.....	1823		300	21	
Florissant, Missouri.....	Catholic Bishop of New Orleans	1823		800		

TABLE IV

AGGREGATES OF LANDS, COMPENSATION, EXCHANGE, AND NAMES OF TRIBES, FROM THE ORIGIN OF THE GOVERNMENT TO 1840

Names of Tribes	No. of acres of land acquired	No. of acres given in ex- change, or reserved	Value of land given in ex- change or re- served at \$1.25 per acre	Amount of consideration in money, goods, &c.	Aggregate consideration	Remarks
Appalachicolas	5,120	None	.....	\$ 13,000	\$ 13,000	
Caddoes	1,000,000	4,440	\$ 6,800	80,000	86,800	
Cherokees	11,053,440	800,000	500,000 (a)	6,322,279	6,833,279	(a) Valuation made by treaty \$3,- 000,000 estimate net proceeds to be paid to them.
Chickasaws	6,768,800	None	.....	3,068,000	3,068,000	(b) And net pro- ceeds of sales of 8,320 acres of land and a quantity of merchandise, the quantity of which is not specified in the treaty.
Chippewas	19,202,240	10,240	12,800	1,011,600	1,024,400	

TABLE IV

Names of Tribes	No. of acres of land acquired	No. of acres given in ex- change, or reserved	Value of land given in ex- change or re- served at \$1.25 per acre	Amount of consideration in money, goods, &c.	Aggregate consideration	Remarks
Chippewas, Ottawas, and						
Potawatomies	10,683,840	5,016,640	\$ 6,270,800	\$ 1,656,090	\$ 8,026,890	
Choctaws	19,934,400	20,030,912	20,750,000	2,288,730	28,038,730	And reservations
Creeks	24,766,400	15,298,400	19,123,000	2,786,571	21,909,571	
Delawares	5,760	None	.....	3,000	3,000	
Delawares, Shawnees, &c	2,038,400	...do...	.....	4,000	4,000	
Delawares and Pianki- shaws	2,038,400	...do...	.....	4,000	4,000	
Delawares, Potawatomies, &c.	1,572,480	...do...	.....	5,000	5,000	
Delawares, Miamis, &c...	3,257,600	...do...	.....	18,000	18,000	
Eel Rivers, Miamis	64,000	...do...	.....	21,250	21,250	
Florida Indians	Unknown	...do...	.....	106,000	106,000	
Kaskaskias	8,911,850	...do...	.....	12,000	12,000	
Kaskaskias and Peorias..	1,920	96,000	120,000	35,780	155,780	
Kickapoos	5,359,360	2,816,000	960,000	228,800	1,188,800	
Menomonees	7,184,320	None	.....	905,797	905,797	
Miamis	6,853,020	44,640	55,800	1,205,907	1,261,707	
Osages, Great and Little, and Osages and Kansas	142,961,124	99,840	124,800	376,600	501,400	
Ottawas	81,917	36,560	45,700	34,440	80,140	
Ottawas and Chippewas	19,234,400	14,000	17,500	2,459,451	2,476,951	(a) And a quantity of merchandise disse amount not specified in the treaty.

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Ottawas and Missouras	(b)	None	\$.....	\$ 40,150	\$ 40,150	(b) Boundaries not defined in such manner as admit of the area of cession being ascertained.
Pawnees	(b)	...do...	.....	112,220	112,220	
Peorias	6,865,280	640	800	5,600	6,400	
Piankashaws and Weas...	160,000	160,000	200,000	14,062	214,062	
Potawatomes	7,832,680	226,000	282,000	1,797,950	2,079,950	
Quapaws	51,786,560	98,320	122,900	175,076	297,976	
Sacs, Foxes.....	.....	None	.....	1,332,156	1,332,156	
Sacs, Foxes and Iowas...	10,000,000	None	.....	60,000	60,000	
Sacs, Foxes, Sioux, et al...	16,256,000	...do...	.....	317,732	317,732	
Shawnees and Delawares	692,480	1,701,280	2,126,600	130,850	2,257,450	
Seminoles	4,032,640	None	.....	295,500	295,500	
Senecas and Shawnees...	79,680	128,120	160,150	114,850	275,000	
Sioux	5,000,000	None	.....	1,000,000	1,000,000	
Weas	(c)	1,280	1,600	42,000	43,600	(c) Precise number not known.
Winnebagoes	10,346,000	2,029,440	2,536,800	2,658,482	5,195,282	
Wyandots	4,862,880	271,480	339,359	246,880(d)	586,230	(d) And net proceeds of sales of 39,200 acres of land.
Wyandots, Delawares, &c.	11,808,499	None	.....	210,000	210,000	
Wyandots, Ottawas, &c.	1,030,400	...do...	.....	16,500	16,500	
Totals	442,866,370	48,684,832	\$53,757,400	\$31,331,403	\$85,088,803	

TABLE V
ALLOWANCE FROM CIVILIZATION FUND

Congregational and Presbyterian Missions Founded by	Tribe	YEARS						
		No. 1823	1825	1826	1828	1832	1832	
American Board	Cherokee, East	4	1,200	1,200	700	...	...	Allowance was withdrawn before removal.
do	do, West	1	600	800	200	220	...	Allowance was increased to \$390 in 1833.
do	Choctaw	9	2,350	1,500	1,000	...	...	Continued regularly.
United For. Miss. Soc.	Osage, Mo.	1	250	250	150	170	...	Allowance withdrawn before removal.
								These two missions were consolidated. Received allowance of \$300 until abandoned in 1837.
do	Osage, Ark.	1	250	250	150	170	...	
do	Seneca	2	450	950	400	440	...	Allowance of \$400 until 1843.
do	Tuscaws	1	450	450	200	220	...	Allowance of \$200 until 1843.
do	Chippewa and other Indians at Mackinac	1	500	500	300	350	...	
Synod of S. Car. & Ga.	Chickasaw	4	500	800	400	...	...	Abandoned on account of removal.
Western Miss. Soc.	Ottawa & Miami	1	300	300	100	120	...	Abandoned on account of removal.
Soc. for Prop. Gospel	Passamaquoddy	1	250	250	150	...	...	Abandoned on account of Catholic opposition, 1835.
American Board	Cornwall, Conn.	1,438	...	...	...	...	...	Allowance transferred to Catholic Mission, 1835.
Presbyterian	Castleton, Vt.	...	...	...	200	...	...	After 1834 the annual allowance of \$1,690 was paid to the American Board to be distributed among the several missions. The allowance for 1834 was \$2,200.
<i>Baptist Missions</i>								
Baptist Gen'l. Conv.	Cherokee, East	2	750	750	350	900	...	Allowance of \$600 until abandoned in 1834.

Baptist Gen'l Conv.....Creek	1	600	600	600	225	450	Mission abandoned, 1832, allowance transferred to the new mission in the west.
.....do.....Potawatmie	1	200	600	600	300	450	Allowance of \$450 until abandoned, 1834.
.....do.....Ottawa	1	....	....	....	....	....	
.....do.....Seneca	1	....	300	300	175	200	Allowance continued until 1834.
.....do.....Choctaw Acad.....	....	....	....	....	....	310	
Hamilton Bap. Miss. Soc. Oneida	1	500	400	400	200	300	
Hamilton Acad.....	....	....	38,383	350	....	....	After 1834 the annual allowance of \$2,000 was paid to the Baptist Board to be distributed among the missions of that denomination.

Methodist Missions

Methodist Miss. Soc.....Wyandot	1	500	800	800	400	400	Allowance continued until 1843.
.....do.....Creek	1	....	....	....	100	150	Allowance continued until 1843.

Catholic

Society of Jesus.....Florissant, Mo.....	1	800	800	800	400	....	Allowance received in 1837.
Catholic Bishop of Cincinnati	1	....	....	....	....	....	
.....Ottawa	1	....	....	....	....	....	
.....Potawatmie	1	....	....	....	....	....	
.....Menominee	1	....	....	....	....	....	
					1,000	....	Allowance continued until 1843.

Protestant Episcopal

Prot. Episc. Miss Soc. of N. Y.....	1		500	500	250		Allowance was surrendered in favor of Greene.
Bishop of Ohio.....Kenyon College.....	....	....	....	600	200	....	Bay Mission.
Green Bay.....	....	....	....	....	....	....	First allowance received in 1834.
United Brethren.....Cherokee	2	300	300	300	200	250	Allowance surrendered on account of removal.
Cumberland Presbyterian ..Chickasaw	1	400	400	400	250	....	Allowance surrendered on account of removal.

TABLE VI
EDUCATIONAL FUNDS PROVIDED BY TREATIES TO 1834

Names of the tribes	Date of Treaty	Amount	How long payable	How expended
1. Miamies	Oct. 23, 1826	2,000	Pleasure of Cong.	Ed. of youth at Choctaw Acad.
2. Potawatomies	Oct. 16, 1826	2,000	do	do
do	Sept. 20, 1828	1,000	do	do
3. do of Indiana	Oct. 27, 1832	2,000	do	do
4. Winnebagoes	Sept. 15, 1832	3,000	27 yrs.; expires 1859	Schools in the nation.
5. Menomonies	Feb. 8, 1831	500	10 yrs.; expires 1842	Green Bay.
6. Chippewas	Aug. 5, 1826	1,000	Pleasure of Cong.	Sault St. Marie.
7. Chippewas, Menomonies, Winnebagoes, and New York Indians	Aug. 11, 1827	1,500	do	
8. Sacs, Foxes, and Iowas	July 15, 1830	3,000	10 yrs.; expires 1840	Ed. of youth at Choctaw Acad.
9. Kickapoos	Oct. 24, 1832	500	10 yrs.; do	Schools in the nation.
10. Shawnees and Delawares	Oct. 26, 1832	500	3 yrs.; do	Schools in the nation.
11. Choctaws	Sept. 27, 1830	12,500	20 yrs.; do	Choctaw Acad. and Schools in the nation.
12. Creeks, East.	Mar. 24, 1832	3,000	20 yrs.; do	1851
13. Cherokees, West.	May 6, 1828	2,000	10 yrs.; do	1839 Schools in the nation.
14. Florida Indians	Sept. 18, 1823	1,000	20 yrs.; do	1843 Education of youth at Choctaw Acad.
Total		35,500		

TABLE VII

AMOUNT AND DISPOSITION OF FUNDS PROVIDED BY TREATY FOR INDIAN EDUCATION IN 1845

Tribes	Date of treaty	Amount	How expended
Chippewas	August 6, 1836	\$ 1,000.00	Baptist Board.
Chippewas, Ottawas, and Potawatomies	Sept. 26, 1833	3,825.00	Choctaw Academy.
Chippewas, Menomonees, Winnebagoes, and New York Indians	August 11, 1837	1,500.00	Protestant Episcopal.
Choctaws	Sept. 27, 1830	2,500.00	Schools in the Nation.
Choctaws	Sept. 27, 1830	12,000.00	do
Choctaws	Jan. 20, 1825	6,000.00	do
Chickasaws	May 24, 1834	3,000.00	Choctaw Academy.
Creeks	May 24, 1832	3,000.00	do
Creeks	Feb. 14, 1833	1,000.00	Schools in the Nation.
Cherokees	May 6, 1828	2,000.00	do
Delawares	Sept. 24, 1829	2,844.00	Manual Labor School, Fort Leavenworth.
Florida Indians	Sept. 18, 1823	1,000.00	Schools in the Nation.
Miamies	Oct. 23, 1826	2,000.00	Choctaw Academy.
Ottawas and Chippewas	Mar. 28, 1836	8,000.00	Schools in the Nation.
Ottoes and Missourias	Sept. 21, 1833	500.00	do
Osages	June 25, 1823	3,456.00	do
Potawatomies	Oct. 16, 1826	2,000.00	Choctaw Academy.
Potawatomies	Sept. 28, 1828	1,000.00	do
Potawatomies	Oct. 27, 1832	2,000.00	do
Pawnees	Oct. 9, 1833	1,000.00	Schools in the Nation.
Quapaws	May 13, 1833	1,000.00	do
Sacs and Foxes of Missouri	Oct. 21, 1837	777.00	do
Winnebagoes	Sept. 15, 1832	3,000.00	do
Winnebagoes	Nov. 1, 1837	2,800.00	do
Total		\$68,195.00	Spent for education by treaty grants.
Plus civilization fund		12,367.50	
Grand Total		\$80,562.50	

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