THE JACKSON PURCHASE: A DRAMATIC CHAPTER IN SOUTHERN INDIAN POLICY AND RELATIONS

By Thomas D. Clark*

At the present time when Indian relations are coming under close scrutiny by historians, the making of the Jackson Purchase in Kentucky and Tennessee constitutes an exciting chapter in the exercising of the older Jeffersonian policies and the formulation of those of the Jacksonian administration. This negotiation was one of the significant parts of the greater overall policy to remove the Indians from lands east of the Mississippi during the years 1814-1840.

The addition of the Jackson Purchase involved a complex story of Indian diplomacy and governmental approaches. The treaty by which the western Kentucky and Tennessee territories were acquired was in fact a continuing act of Indian policy set forth by Thomas Jefferson in 1802. As President, Jefferson was forced to reckon with the all but irreconcilable issue of allowing Indian nations within the sovereign territory of the United States to remain independent and sovereign themselves. He instituted a practice of acquiring Indian lands by purchase or remunerative negotiations so as to peaceably liquidate Indian possessions east of the Mississippi. There was strong and continuing political pressure to open these lands to the ravening horde of westward moving white settlers.

For Kentucky the negotiations of the Jackson Purchase would give the state a vital frontier on the Mississippi and Ohio rivers. Too, a fairly large block of desirable land would be opened to migration at a time when the state was losing population to the great westward movement.[1] The proposed Chickasaw treaty would also complete a piece of business which was left dangling in 1789 by the famous Virginia Compact.

From 1785 on Virginia official documents referred to the state's western territory in vague geographical terms as the District of Kentucky. No definitions were made of its boundaries, except to prescribe the general limitations set forth in the Virginia cession to the Confederation in 1784.[2] This loose generalization prevailed throughout the five enabling acts which set forth the conditions under which Virginia's trans-appa-

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[1] In 1820 Kentucky had a population of 564,317 and an area of approximately 40,000 square miles. After 1819 the Jackson Purchase was to add 2,381 square miles. *Statistical Abstract of the United States, 1930* (Washington: Government Printing Office, 1930). Lewis H. Collins, *History of Kentucky* (2 vols.; Covington: Collins & Company, 1874), I, 29.

[2] The Second Enabling Act, December 18, 1789. William Littell, *The Statute Laws of Kentucky* (5 vols.; Frankfort: William Hunter, 1809-1819), I, 17-22.

lachian counties might separate themselves and form a new state. On December 18, 1789, the Virginia General Assembly enacted the law entitled a "Compact with Virginia" which was the final statement of that state's partition policy.[3]

Remarkably only three general boundaries were specified in the Compact; the one along the eastern Appalachian ridges, that up the Big Sandy, and the one on the northern shore of the Ohio. Technically at least the rest of Kentucky seems to have been left geographically open-ended. The framers of the first Kentucky Constitution also ignored the subject of boundaries. However, it seems to have been clearly understood that the territory of the Kentucky District did not politically extend west of the Tennessee River. Contemporary maps drawn prior to 1818 indicated that this southwestern corner was a vacuous area except for the slender commercial line of the Ohio and Mississippi rivers.[4] This region was understood to be a hunting preserve of the Chickasaw Indians who had been guaranteed the sanctity of their boundaries by a treaty entered into with the United States Government at Hopewell, South Carolina, January 10, 1786. This treaty, one of the three made at that time, established boundaries between the Choctaws and Chickasaws, and between the tribes and the states.[5]

Because of restrictions contained in the Hopewell Treaty no white settlers were permitted to take up lands west of the Tennessee River from a point near the Muscle Shoals to the confluence of that river with the Ohio between present day Livingston and McCracken counties in Kentucky. Unlike Kentucky, the first Tennessee Constitution contained specific descriptions of the state's boundaries.[6] Likewise, Tennessee had a highly interesting chapter of early land-grabbing and speculation in its western area.[7]

Before the Treaty of Hopewell was formulated, and before the North Carolina cession of its western lands was made to the United States in

[3] The Virginia Compact in *Ibid.*, I, 304-308. "Act of Congressional Consent," *Ibid.*, I, 22. Also "Acts Relating to the State Boundary for 1738, 1769, 1797, 1799, 1820, 1821. *Ibid.*, I, 364-365, II, 276-278, V, 814-831. *The Constitutions of the United States According to the Latest Amendments, to which are prefixed the Declaration of Independence* (Lexington: Thomas T. Skillman, 1813), pp. 304-308. There is a fairly good legislative history of the Kentucky boundaries in C. A. Wickliffe, S. Turner, and S. S. Nicholas, *The Revised Statutes of Kentucky* (2 vols.; Frankfort, 1859), I, 150-159. Also, *Acts*, Kentucky General Assembly, February 11, 1820, p. 922.

[4] Luke Munsell, *Munsell's Map of Kentucky from Actual Survey. Also Part of Indiana and Illinois Compiled Principally from Returns in the Surveyor General's Office* (Frankfort, December 6, 1818).

[5] Charles C. Royce, *Indian Land Cessions in the United States, Eighteenth Report of the Bureau of American Ethnology* (2 vols.; Washington, Government Printing Office, 1899), II, 650.

[6] *The Constitutions of the United States*, pp. 277-278.

[7] *American State Papers, Public Lands* (38 vols.; Washington, Government Printing Office, 1834), I, 108, 112, 211-234.

1790, a fairly large number of private grants had been made in the Chickasaw preserve. One of these was a cession of 91,000 acres to the newly chartered University of North Carolina.[8] The United States, however, halted the granting of further claims, and stayed the emigration of whites onto those already registered. There were, after 1790, too many problems in the area to incur the further animosities of the Indians, one of which was the infamous Yazoo scandal. After the turn of the century the United States Government found it imperative to open and operate the Natchez Trace as a vital connection with the far southwest settlements about Natchez and subsequently New Orleans.[9]

In Kentucky from an early date, there was constant threat of a squatter invasion of the Chickasaw lands beyond the Tennessee. In order to check violations of the various Chickasaw treaties, the General Assembly on December 22, 1793, enacted a drastic law which forbade surveyors to run lines in the area, or to issue plats or certificates of surveys, or to enter deeds to lands in the preserve.[10] If a surveyor or county clerk violated this law they were to be fined £200. Every military warrant issued previously by Virginia to lands in the Chickasaw tract was to be declared null and void.

A decade and a half later the General Assembly fortified its former act by forbidding the Register of Public Lands to receive military warrants or to issue patents to lands in the Chickasaw hunting grounds. He was to make certain that certificates of entry were sufficiently clear as to location so as to assure that no subtle violation of the law would occur.[11]

The population pressure in Kentucky in the decade, 1810-1820, was by no means oppressive. The population had indeed increased rapidly, 84 per cent during the first decade of the nineteenth century from approximately 110,000 to 406,511. Between 1810 and 1820 it had grown only 36½ per cent to 564,317.[12] This was hardly enough expansion even to begin to absorb Kentucky's land resources within its established boun-

[8] *Ibid.*, Indian Affairs, July 3, 1801, V, 650.

[9] Clarence Carter, ed., *The Territorial Papers of The United States* (18 vols.; Washington: Government Printing Office, 1938), V, 57-58, 520, 679-680. Dunbar Rowland, ed., *The Mississippi Territorial Archives, 1798-1803. Executive Journals of Governor Winthrop Sargent and Governor William Charles Cole Claiborne* (2 vols.; Nashville, 1905), II, 363. H. A. Washington, *The Writings of Thomas Jefferson: Being His Autobiography, Correspondence, Reports, Messages, Addresses, and other Writings Official and Private* (9 vols.; Washington: Taylor and Maury, 1854), IV, 473, 487-489. James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents 1789-1908* (10 vols.; Washington: Bureau of National Literature and Art, 1908), I, 343, 350, 374-375, 386-387, 390-391, 434-435, 437-438.

[10] *Littell's Statute Laws of Kentucky*, II, 814-815, 1050-1053.

[11] *Ibid.*, II, 815-816.

[12] *Abstract of the United States Census, 1930*, p. 8.

daries. Too, there was a rather heavy out-flow of population to lands beyond the Ohio and Mississippi rivers and the newly opened territories. This was a period of war followed by a runaway moment of financial inflation and national expansion.[13] Kentuckians and Tennesseans were in the forefront of the great rush to Indiana, Illinois, and Missouri. Inevitably, however, there was a rising public anxiety over both the questions of state sovereignty and the vacant Chickasaw hunting ground. The spread of the cotton belt following the invention of the cotton gin helped in Tennessee to create some of this restlessness.

The existence of the four major Indian nations in the South created a political anomaly inside the American system which could be solved finally in only one of two ways, assimilation or removal. There were serious drawbacks to both methods. As best statisticians could estimate there were approximately 3500 Chickasaws concentrated in the northern quarter of the present state of Mississippi, and about the Chickasaw Bluffs on the river.[14] These Indians had two focal centers of tribal activities: Old Town, now Tuscumbia, Alabama, near Muscle Shoals, and the Chickasaw Bluffs, now Memphis.[15] Their territory, as said above, was defined in the Hopewell Treaty and lay athwart the projected Natchez Trace in 1802. In earlier treaty transactions it was necessary for the United States Government to secure Chickasaw permission to cross their territory before it could locate and blaze the road.[16] Thomas Jefferson, through Secretary of War, General Henry Dearborn, assured the Indians that the Federal Government had no intention of trying to purchase their lands, it only requested access to the right-of-way for the Trace. The Government further assured the Chickasaws that no one would steal their horses and cattle while traveling across their nation. Jefferson

[13] Kentucky lost population to the rising new states of Indiana, Illinois, and Missouri. Too, Kentuckians moved southward to the spreading cotton belt. In 1810 the state had a population of 406,511 almost twice that of 1800, but in 1820 it had gained only 157,806. *The Statistical Abstract of the United States, 1930*, p. 8. In the post War of 1812 period there was a heavy movement of population out of Kentucky. Missouri, for instance, received a heavy inflow from this state. Timothy Flint, *Recollections of the Last Ten Years* (Boston: Cummings, Hillard, and Company, 1826), pp. 203-214. Flint, *A Condensed Geography of the Western States, or of the Mississippi Valley*, (2 vols.; Cincinnati: William M. Farnsworth, 1828), II, 110-111.

[14] *Niles' Weekly Register*, September 4, 1824 to February 26, 1825, p. 364 gave the precise number of the Cherokee population as 3,625. The Indian Agent Henry Sherburne had reported the results of his census count to Secretary of War John C. Calhoun, Edwin Hemphill, ed., *The Papers of John C. Calhoun* (7 vols.; Columbia: University of South Carolina Press, 1967), III, 2.

[15] Samuel Coles Williams, *Beginnings of West Tennessee in the Land of the Chickasaws, 1541-1841* (Johnson City: The Watauga Press, 1930), p. 49. Andrew Jackson to Isaac Shelby, August 11, 1818, John Spencer Bassett, ed., *Andrew Jackson Correspondence* (7 vols.; New York: Carnegie Institution, 1926-1935), John C. Calhoun to Isaac Shelby, July 30, 1818, *American State Papers, Indian Affairs*, II, 178-179.

[16] Richardson, I, 332. *American State Papers, Indian Affairs*, December 23, 1801, V, 648-649.

and Dearborn further promised the Indians that no whites would be permitted to travel on the Natchez Trace except those who had been granted passes from the United States agents in Tennessee and Natchez. Also houses and gates should be erected to prevent cattle thievery and straying, these to be tended by the Indians themselves.[17]

The following year officials dealt with a persistently thorny problem of Indian relations by removing white squatters from the Chickasaw country. At the same time the Chickasaw agent wrote that the Indians wished to adopt the social and economic ways of white civilization. They sought to learn trades, the science of agriculture, the domestic arts, and to establish schools.[18] By 1818 they had made remarkable headway in all of these areas, and they were by no means a band of wild savages when they entered into negotiations with the United States commissioners at Old Town.[19]

There was inherent in the United States southern Indian policy at this time an element of social and political harshness if not complete chaos. In the act of treaty making the government recognized the sovereignty of the four major tribes over a wide scope of strategic territory. This historical assumption was to prove exceedingly embarrassing and painful in the future. Kentucky, like Tennessee and the Federal Government, found itself caught in the sovereignty net in 1809 when its General Assembly undertook to assert a claim to the rest of the area west of the Tennessee River.[20]

After the making of numerous southern Indian treaties, the fighting of a major international and Indian war, the rise of an intense American nationalism, and the signing of the Treaty of Fort Jackson in Alabama,[21] the United States in 1814 again opened the tedious process of asserting the Jeffersonian policy of further separating the southern tribes from their lands. There was no secret in the fact that the new series of treaties looked firmly to ultimate removal of the Indians from the region east of the Mississippi to wilds beyond that stream. Specifically in 1818, however, concern with removing Chickasaw dominion over the territory of

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[17] Thomas Jefferson to General Henry Dearborn, June 3, 1801. *American State Papers, Indian Affairs,* V, 651-652.

[18] J. F. H. Claiborne to Samuel Mitchell near Natchez, October 5, 1802, Clarence Carter ed., *Mississippi Territorial Papers* (2 vols.; Washington, 1937), I, 519-521.

[19] Arrell M. Gibson, *The Chickasaws* (Norman: University of Oklahoma Press, 1971), pp. 106-110.

[20] Resolution, Kentucky House of Representatives, February 10, 1809, *Acts,* Kentucky General Assembly (Frankfort, 1809), p. 134.

[21] *American State Papers,* VI, June 10, 1816, 110-111; July 5, 1816, 100-102; September 14, 1816, 92; October 24, 1816, 95; July 8, 1817, 129-131. Charles C. Royce, *Indian Land Cessions in the United States, Eighteenth Report* of the Bureau of American Ethnology (2 vols.; Washington: 1899), II, 107-110.

western Tennessee and Kentucky was more pertinent. This move was motivated by several facts. First, was the national desire to create a buffer zone of settlement between the southern and northwestern tribes so as to prevent another native leader like Tecumseh from attempting to unify Indian sentiment and resistance against the spread of white settlements along the ever widening western frontier.[22] Second, the chickasaws' holdings involved an unusually strategic portion of the Ohio and Mississippi valleys.[23] Finally, the states of Tennessee and Kentucky were growing more and more sensitive over the abstract issue of exercising sovereignty over what they considered their rightful territory.[24] The Tennessee legislature on March 16, 1818, memorialized the Congress through representative W. L. Marr of the Clarksville District to take active steps to procure the western Chickasaw lands. This it did on April 3, by adopting a resolution to establish a negotiating commission.[25]

James Monroe became President of the United States in 1817, and he continued the Jefferson and Madison policies in dealing with Indian matters. On December 1, 1817, Major General Andrew Jackson wrote the acting Secretary of War a response to a "private" letter, addressed to him the previous October 25th, which opened the possibility of acquiring title to the Tennessee lands. No doubt it was this agitation which had led the Tennessee Legislature to act the following March. In his reply Jackson assured the administration that nothing could be done with the Chickasaws until the Government cleared up its annuity arrearages for the past two years. Also, the Indians desired the appointment of a new agent for their Nation.[26]

Andrew Jackson, who had just been through a long siege of treaty negotiation with the Chickasaws,[27] promised the War Department that he and his ward, Robert S. Butler, would attempt to distribute the an-

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[22] "First Annual Message of President James Monroe, December 2, 1817," Richardson, II, 16-17.

[23] From the confluence of the Tennessee on the Ohio to the Chickasaw Bluffs were located the mouths of the Illinois, Obion, Big Hatchie, Forked Deer, and Wolf rivers. Most important were the confluences of the Ohio and Mississippi rivers, and below that point the various islands in the latter stream.

[24] Daniel Graham to George Graham, Nashville, Tennessee, August 20, 1829, *American State Papers, Public Lands,* I, 32. This document includes a land map. William Littell, *Statute Laws of Kentucky,* I, 304-308. Williams, *Beginnings of West Tennessee,* p. 85. The territory involved was considered by both Kentuckians and Tennesseeans to have been covered in the Treaty of Paris, 1783. Text of the latter treaty is to be found in W. M. Mallor, C. F. Richmond, and E. J. Treworth, eds., *Treaties, Conventions, International Acts, Protocols, and Agreements between the United States and Other Powers, 1776-1937* (4 vols.; Washington: Government Printing Office, 1910-1938), I, 586 ff.

[25] Williams, *Beginnings of West Tennessee,* p. 85.

[26] Andrew Jackson to the Acting Secretary of War, December 1, 1817, *American State Papers, Indian Affairs,* VI, 172-173.

[27] Andrew Jackson to Brigadier General John Coffee, July 19, 1816, Bassett, *Correspondence,* II, 253-254.

nuities if the Treasury Department provided them with the money.[28] Six months later, May 2, 1818, Secretary of War John C. Calhoun wrote Governor Isaac Shelby and General Jackson, enclosing commissions which authorized them to open negotiations for the Chickasaw lands lying in western Kentucky and Tennessee. Calhoun told these prospective commissioners, "The object and importance of extinguishing their title to that tract of country are so obvious as require no comment; and the President anticipates, from your weight of character and knowledge of the Indians, that the object in view will be affected."[29] What Monroe actually had in mind was the eventual removal of the Cherokees to lands beyond the Mississippi. Congress had appropriated $53,000 for the expenses of holding treaty negotiations and Colonel Thomas L. McKenney had been instructed to purchase $6,500 worth of goods, "suitable to the taste of the southern Indians, to be distributed under your orders, in presents, to effect the object of the treaty." These goods were to be delivered to the Chickasaw Bluffs.[30]

President Monroe had selected the two famous frontiersmen as commissioners because each had long records of Indian relations—nearly altogether as Indian fighters rather than as diplomats. Shelby's history of Indian relations dated back to the battle of Point Pleasant, October 10, 1774 during Dunmore's War. He was one of the heroes of King's Mountain, and only recently had received a gold medal for his participation in the Battle of the Thames. Too, he had just retired from the governorship of Kentucky, and had the year before refused appointment as Secretary of War because of his age. He was sixty-eight at the time and was said to have been in ill health. Whether or not Shelby was personally acquainted with Andrew Jackson is not clear. He certainly knew Jackson by reputation, and may have harbored some resentment over the famous incident in the Battle of New Orleans which at that moment stirred considerable Kentucky wrath.[31]

Jackson was a much younger man than Shelby. He was fifty-one but wrote of his physical condition in the vein of an eighty-year-old man. He had fought Creeks in the crushing battle of Horseshoe Bend, March 27, 1814, and had negotiated the harsh Fort Jackson Treaty which all but

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[28] Andrew Jackson to the Acting Secretary of War, December 1, 1817, *American State Papers, Indian Affairs,* VI, 172-173.

[29] John C. Calhoun to Andrew Jackson and Isaac Shelby, May 2, 1818, *American State Papers, Indian Affairs,* VI, 173-174.

[30] *Ibid.,* May 2, 1818, VI, 173-174.

[31] *John Adair and Andrew Jackson Letters, Letters of General Adair & General Jackson, Relative to the Charge of Cowardice Made by the Latter against Kentucky Troops at New Orleans* (Lexington: Thomas T. Skilman, 1827); W. E. Connelley and E. M. Coulter, *History of Kentucky* (5 vols.; Chicago: Historical Publication Company, 1922), I, 265-266.

dispossessed the Lower Creeks of their homeland. At the time of his appointment as commissioner to negotiate with the Chickasaws he was deeply involved along the troubled Seminole-Spanish border of East Florida and along the southern areas of Georgia and Alabama.[32]

By being the younger man and nearest the Chickasaw Nation, General Jackson took the lead in arranging the meeting of the commissioners with the Indians. He, however, was to face some serious obstacles in doing this. First the somewhat inexperienced and incompetent Henry Sherburne had just been appointed agent for the Chickasaw Nation, and his incapability had to be reckoned with in preparation for the treaty negotiations.[33] On numerous occasions, dating back to 1801, the Chickasaws made it clear that they did not wish to sell or exchange any of their lands.[34] Also, they were in a bad frame of mind because the annuities promised in 1816 and even before had fallen into arrears. Andrew Jackson wrote Secretary Calhoun, "I hope, therefore, that early remittances will be made to liquidate all claims against the United States, previous to any proposition being made for further purchases from the Chickasaw Nation."[35]

The note from General Jackson was one of concern at this point, not because the United States Government was engaged in a bit of highly unseemly chicanery, but because the failure to pay the annuity was self-defeating of the purpose of the meeting.[36] John C. Calhoun wrote Jackson, July 30, 1818, that he regretted the delay of the annuity payments, but it had been caused by failure of a former Chickasaw agent. The annuity of 1817 was to be paid partly in goods and partly in money, that of 1816 was to be paid in goods only, and at the discretion of the commissioners.[37] This within itself was clearly an act of bad faith because the annuities agreements had been made in terms of cash settlements. In his letter to Shelby, Secretary Calhoun not only discussed the distribution of goods versus money, but also outlined the advantages of paying the annuity at the Old Town assembly. "It's possible," he wrote, "that payment at that time of making the treaty might be turned to advantage."[38]

There was considerable difficulty about arranging the place of meeting with the Indians. Isaac Shelby, as said earlier, was in poor health, and it

[32] *American State Papers, Indian Affairs,* V, 826-827 (August 9, 1814); Charles Kappler, *Indian Affairs Laws and Treaties,* (2 vols.; Washington: Government Printing Office, 1904), II, 107-109.

[33] Henry Sherburne to John C. Calhoun, July 29, 1818, *American State Papers, Indian Affairs,* VI, 178.

[34] *Ibid.*

[35] Andrew Jackson to John C. Calhoun, July 13, 1818, *American State Papers, Indian Affairs,* VI, 178.

[36] *Ibid.*

[37] *Ibid.*

[38] *Ibid.*

was believed the long horseback ride to one of the traditional Chickasaw gathering places would be too difficult for him to undertake. Jackson undertook to arrange a meeting nearer Nashville but found this impossible. The Indians were reluctant to meet at all, and they refused to attend a council outside the borders of their nation, or in any spot which was difficult of access to their people.[39]

Jackson informed Shelby, August 11, 1818, that the Chickasaws were opposed to meeting the commissioners anywhere because they did not wish to enter into an agreement which involved their lands. He had replied to them that their father, the President of the United States, only asked for lands lying north of the southern boundary of the State of Tennessee. He said that many years before these lands had been sold to citizens of the United States, and for the past thirty years these people had been kept out of the territory so the Indians might enjoy hunting in the area. Settlers were now exerting great pressures, and the President would be forced to yield to them and allow whites to enter the lands. If he refused to do this then the Congress would pass a law authorizing the purchasers to possess their claims. Jackson told Shelby that if the Indians refused this proposition then Congress under the terms of the Hopewell Treaty had the right to regulate the affairs of the Chickasaw Nation.[40] He again explained to Shelby that he had tried to save him additional travel by bringing the Indians nearer the Hermitage, but he had failed to do so. He expected the Governor to arrive at his home about the middle of September where he could rest for several days before setting out for Oldtown, "200 miles away." Jackson and Shelby would travel from the Hermitage in easy stages so as to reach the Muscle Shoals area by October 1st.[41]

By August 12, Andrew Jackson could be more explicit with the Secretary of War. The first of October had been fixed as the approximate date for the meeting with the Indians. The Commissioners wished to requisition 75,000 rations to be delivered to the treaty ground. It was especially important that the annuity payments should be on hand. Jackson was now direct about the use of these funds as a leverage in the negotiation of the treaty.

> "Colonel Sherburne, the Chickasaw agent," said Jackson, "will be instructed to withhold the payment of the sums which may be due the Indians until that time as the payment of so large an amount at the time of the negotiation will, no doubt, have considerable effect in forwarding the objects of the treaty, and will also be a saving of considerable expense."[42]

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[39] *Ibid.*

[40] Andrew Jackson to Isaac Shelby, Bassett, *Correspondence,* II, 387-388.

[41] *Ibid.*

[42] Andrew Jackson to John C. Calhoun, *American State Papers, Indian Affairs,* VI, 179.

Various chiefs spoke for the Chickasaws, but no representatives were more influential than the Colberts. There were four of them, Levi, Major General William, Major George, and James. The latter served as interpreter. This family had been most influential in Chickasaw history, and the four Colbert delegates were descendants of the famous British Commissary, James Colbert, who had played such an active role among the southern Indians during the American Revolution.[43] They had run the ferry across the Tennessee River which passed all of the Natchez Trace traffic, they owned plantations, maintained trading stands on the Trace, and profited otherwise from the relationships with the spreading white frontier.[44] By 1818 this family spoke with an almost decisive voice for the Chickasaws. Too, since 1805 some of its members had received bribing gratuities from the agents of the United States Government. Now at the assembly at Old Town they were in a position to play an active role in the up-coming treaty negotiations, and they were to profit further from bribes and gratuities.[45]

The commissioners had prior knowledge of the disturbing fact that George and Lewis Colbert and some of the other chiefs had informed themselves concerning the price which the United States Government received for its public lands. They suggested that the Chickasaws should be paid the same price for their holdings.[46] After considerable correspondence with both the Indians and Secretary of War Calhoun, and between themselves, Shelby and Jackson finally reached Old Town on September 29. The Chickasaw chiefs had agreed only on August 8 to the meeting, and even then seemed reluctant to go to the famous assembly ground. In the meantime some of the goods which were to be offered in lieu of the cash annuity had arrived. Some of them had been injured in shipment down the Ohio and Mississippi rivers and the Indians expressed dissatisfaction with them. Not only had they been damaged but the merchandise frankly was of mediocre quality. Another source of dissatisfaction with this mode of settlement was that the merchandise had such a high degree of visibility that the chiefs were unable to hide their own management of the annuities. With cash money in hand, they could make such prorations as they chose without being detected or called to task.[47]

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[43] Harry Warren, "Some Chickasaw Chiefs and Prominent Men," *Publications of the Mississippi Historical Society,* III, 555-570. Robert S. Cotterill, *The Southern Indians, the Story of the Civilized Tribes before Removal* (Norman: University of Oklahoma Press, 1954), p. 43.

[44] Arrell M. Gibson, *The Chickasaws,* pp. 78-105, 126, 134-137.

[45] Article 4, Section 4, and Article 6, Treaty with the Chickasaws, September 30, 1816, *United States Statutes at Large,* 7, pp. 148-153.

[46] Andrew Jackson and Isaac Shelby to John C. Calhoun, October 30, 1818, Bassett, *Correspondence,* II, 399-400.

[47] Robert Butler to John C. Calhoun, Edwin Hemphill ed., *The Papers of John C. Calhoun,* III, 182.

The treaty negotiations covered the space of twenty-one days, September 30 to October 19. In a subsequent letter Isaac Shelby observed, "The Indians have been very litigious and slow in their decisions; the business which might have been done in two or three days, it has taken twenty days to effect."[48] Shelby was only partially right on this point. Surprisingly the commissioners, agents, and the War Department had made what amounted to unbelievably sloppy arrangements for the assembly. It was amazing that after all of the legislating, correspondence, and direct communication this should be true.[49] Assembled on the Old Town treaty ground, so it was said, were 3000 Chickasaws, surely a mistaken estimate.[50]

Three central issues made the Indians litigious. First, they did not want to part with their Tennessee and Kentucky hunting grounds, and had been positive in saying so on several occasions. Second, there was the matter of the several reservations which the Chickasaws wished to make to salt licks and private holdings. The salt lick was contained within a four square mile tract, and this later caused debate in the United States Senate.[51] A second reservation was the demand made by James Colbert for a "doceur" of $1,089.00 to recompense him for an equal sum stolen from him by a pickpocket in a Baltimore theatre in June, 1816.[52] The biggest issue, however, was the price which the government would pay for the lands.

In the legislation and executive communication the government had not specified a price which the commissioners might bid for the Chickasaw reservations. On July 30, 1818, John C. Calhoun wrote Andrew Jackson that the sum of $7,000 had been sent on to pay the annuity arrearage for 1817. On the same day the Secretary wrote Isaac Shelby that both goods and money had been forwarded to the Chickasaw Bluffs, "for which you were authorized to draw, were intended to be used at your discretion in bringing about the treaty, by presents to the

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[48] *Niles' Weekly Register,* December 12, 1818, p. 266.

[49] A good portion of the goods to be delivered at the Chickasaw Bluffs was damaged when the flat boat *Good Hope* on which they were shipped sank. Obviously the delay of these goods to be delivered caused further dissatisfaction among the Indians. Robert Butler to John C. Calhoun, October 2, 1818. Hemphill, *Calhoun Papers,* III, 183.

[50] *Niles' Weekly Register,* December 12, 1818, quoted a letter from Isaac Shelby saying: "The treaty, however, is this moment concluded upon and signed by all the chiefs in presence of 3000 of the nation---." This estimate of the number of Indians present was no doubt too high since there were estimated to be only about 3500 Chickasaws in all.

[51] "Treaty with the Chickasaws," October 19, 1818, *United States Statutes at Large,* VII, 193.

[52] *Ibid.,* Article 5, p. 193.

principal chiefs, or otherwise. Should a larger sum be necessary in that way, you are authorized to draw for it, provided it does not exceed $5,000."[53] It was by design that the goods and money for the annuities should arrive at Chickasaw Bluffs and Old Town at the same time Shelby and Jackson reached the treaty ground. On August 25, Jackson wrote Shelby that the Secretary of War had sent the annuity funds agreed upon by the terms of the Chickasaw treaty of 1807, "believing that great advantage might result from so large a sum being distributed, at the time of the treaty, as well as a great saving of expense to the government. I have wrote the agent to postpone the payment of the annuity to the first of October next. This will insure a full delegation from the Nation."[54]

Jackson actually arrived at Old Town a day ahead of Isaac Shelby, and a day was lost trying to locate the old Kentucky Governor. It was thought he had mistaken one of the numerous southern trails, and had ridden off in the wrong direction. In the meantime Robert S. Butler was appointed acting secretary of the meeting.[55] Finally on October 1, Shelby had arrived at the treaty ground, but Colonel Henry Sherburne, the Chickasaw agent, was missing and a messenger had to be sent to bring him to the council place. In the meantime the Indians were assembled, but no actual provisions were on hand for feeding them. When Captain Carter, the commissioner's messenger, finally located Henry Sherburne he found that he did not after all have cash funds in hand. He bore instead a draft on the New Orleans branch of the United States Bank for $19,850—an instrument which was about as useful in the northern Alabama woods as a broken twig.[56]

Failure to come to the treaty grounds with cash in hand created a most unpromising situation. Again the Indians gave evidence of being convinced this was further chicanery on the part of the United States Government. Additional confusion was created by the fact that the Chickasaw agent, and not the Indians, had been notified of the council meeting, and this aroused unnecessary suspicion. To solve the cash problem Benjamin Smith was rushed off to Nashville with the bank draft and the bills of balance held by Henry Sherburne to ransack every possible

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[53] John C. Calhoun to Andrew Jackson, July 30, 1818, Hemphill, *Calhoun Papers*, II, 442. Also to Henry Sherburne, July 30, 1818, II, 242.

[54] Andrew Jackson to Isaac Shelby, August 25, 1818. Bassett, *Correspondence*, II, 391-392.

[55] *Ibid.*

[56] Andrew Jackson and Isaac Shelby to John C. Calhoun, Bassett, *Correspondence*, II, 399-401.

source for cash money. Further delay was caused by James Colbert who did not arrive until the third of October, and no business could be transacted without him.[57]

Ten days elapsed before any action could be started, and then Levi Colbert raised a question about the North Carolina cession grants. A second messenger had to be sent express to Nashville to bring the North Carolina land grant books so the literate chiefs, principally Levi Colbert, could inspect them.[58] To clarify the matter of the precise area of Tennesse and Kentucky lands involved in the discussions with the Chickasaws, Jackson and Shelby requested Major William B. Lewis to give them a report. This he did within a day's time. Lewis had made a general survey and a summary of various other surveys in 1810. He concluded there were 8,820 square miles in Tennessee, or 5,644,800 acres. North Carolina had issued warrants for 1,073,918 acres. Lewis said there were 1,290 square miles in Kentucky, and 825,600 acres.[59] By modern computation there are 2,093 square miles in the Kentucky purchase, and 1,339,520 acres.[60]

The greatest confusion seems to have prevailed concerning the two major shipments of goods to the Chickasaw Bluffs. When these arrived they had to be inspected. Some had gotten wet on the boats and had to be dried. There were fifteen packages in the last shipment which contained such items as saddles, strouding, other types of cloth, hats, looking glasses, blankets, and rifles. These goods were described by the inspectors as of inferior quality and many of them severely damaged. The saddles, for instance, were said to have left their makers as shabby merchandise. This pile of goods was indeed a poor means to impress a group of somewhat sophisticated Indian chiefs that they should endanger their very lives in giving up a part of their homelands.[61]

By considerable ingenuity and persuasion, Benjamin Smith was able to collect in Nashville enough cash, $37,550, to pay the past annuities.

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[57] Williams, *Beginnings of West Tennessee*, p. 88.

[58] The *Secret Journal,* transmitted to the United States Congress and the Tennessee General Assembly by the Commissioner on October 20, 1818. An original copy of this journal is located in the Library of Congress, Washington, D.C. This note refers to the entry for October 6, 1818.

[59] W. B. Lewis to Andrew Jackson and Isaac Shelby, October 10, 1818. *Secret Journal,* Saturday, October 10, 1818.

[60] *Ibid.; Statistical Abstract of the United States, Thirteenth Census,* 1910, p. 38.

[61] Henry Sherburne to John C. Calhoun, October 16, 1818. Hemphill, *Calhoun Papers,* III, 213, regarding the sinking of the flatboat *Good Hope.* In a subsequent report Thomas L. McKenney listed the goods damaged in the sinking of the flatboat. McKenney to Christopher Vanderveter, November 28, 1818. Hemphill, *Calhoun Papers,* III, 241. Also, M. B. Winchester reported to Andrew Jackson and Isaac Shelby in detail the condition of the goods on October 9, 1818. Many of the items were not only injured in the sinking of the boat but they were found to be of rascally inferior quality of manufacture. The *Secret Journal,* October 12, 1818.

This money was delivered to the agent, Colonel Henry Sherburne, to be distributed to the various chiefs and their clansmen.[62] At noon, October 12, the treaty talks finally got underway.[63] In a lengthy joint statement, Shelby and Jackson addressed the assembled Chickasaws. They told the Indians the United States was ready to pay the rich and poor alike all of the past due annuities as soon as the chiefs could supply the numbers of each group. The President, their father, was anxious to keep the peace between his red and white children. Thirty-five years before Virginia and North Carolina had made grants of land in Kentucky and Tennessee to pay the debts owed Revolutionary War veterans. However, their white father had kept the rightful claimants out of the land, even though they had paid for their grants. Then they made the somewhat startling prediction that their white brethren would soon have nearly a hundred steamboats plying the waters of the Mississippi, and these would need large supplies of wood. When a steamboat broke down, its crew preferred to be on shore among white people until it could be repaired. The commissioners at this point presented "a paper" showing all the lands included in the early purchases.[64]

The Chickasaws were told the United States would pay them for the Tennessee and Kentucky lands and that they should be willing to sell them. In his characteristically strong if not iron-handed manner Andrew Jackson warned the Indians that if they did not sell their hunting preserve at a reasonable price they would have to appeal to the Congress to remove white squatters from the territory, and he implied Congress would do nothing to aid them.[65] Jackson and Shelby reviewed, for what to the Indians was a meaningless bit of British-American history, in their discussion of the Treaty of Paris, 1783. They informed the chiefs that they were aware that some bad men among the Chickasaws threatened to kill them if they sold the land, but if such a thing happened the President would have the murderers put to death. The commissioners closed their statement with the admonition that if they did not sell their lands they would lose them to white claimants and without collecting money for them. The President would not be able to stop the whites in their invasion of the territory.[66]

The Indians heard the Shelby-Jackson "writing," and then began a discussion among themselves. Robert S. Butler wrote that by the 17th, "The Commissioner has been able to ascertain from transactions of this work, that an appeal becomes absolutely necessary to the avarice of the

[62] The *Secret Journal*, Monday, October 12, 1818.
[63] *Ibid.*
[64] *Ibid.*
[65] *Ibid.*
[66] *Ibid.*

chiefs in addition to the address to their fears delivered on Monday."[67] The fund in the hands of the commissioners was too small to make the desired dent on the chiefs' avarice. Nevertheless a proposal was made that a doceur of $10,000 be paid George and Levi Colbert, but it was learned this also was too little. It was then proposed to add $3,000, and again a strong statement was repeated that the settlers would move onto the lands anyway, and the Indians might as well profit by selling them. An agreement was finally reached to pay the collective chiefs $20,000 in cash or goods, whichever they chose to receive. George Colbert was to be given $8,500, and a like sum was to be awarded Levi Colbert. James was to be paid $1,666, and the remainder was to be paid to Captain Sealey and Captain McGilvery. These doceurs were to be paid either in cash or merchandise, if the latter it was to be delivered in Philadelphia sixty days after the treaty was signed—or delivered in the Chickasaw Nation at a twenty-five per cent discount. These bribes, said the commissioners, was the only way by which their objectives could be accomplished.[68] James Jackson was instructed to arrange through the wholesale house of Kirkman and Jackson to procure the goods.[69]

After the chiefs involved in the secret negotiations had met, Levi Colbert informed Shelby and Jackson that they neither wanted to move west nor acquire land beyond the Mississippi. They knew nothing about that country, and wanted only to remain in Tennessee and Mississippi, and wanted money from their father, the President. Following this announcement Levi Colbert addressed the chiefs on the subject of the land cession and Colonel Henry Sherburne polled them. They agreed to surrender to the President the land he asked for, but they assured him it was the best part of their country and they hoped James Monroe would be generous in his payments. The commissioners proposed an annuity of $20,000 for twelve years, but this was rejected, then they added a year and this was refused. General Jackson then said to set all hearts straight the commissioners would add two more years.[70]

The chiefs again conferred for several hours. Levi Colbert then asked if the United States Government would add one cent to the price General Jackson had suggested. Jackson asked if one cent would satisfy the Nation, and Colbert said it would. This, however, proved to be a point of gross misunderstanding. What the chiefs said they meant by *one cent* was the addition of another yearly payment of $20,000, making fifteen

[67] *Ibid.*, Tuesday, October 20, 1818.
[68] *Ibid.*, Saturday, October 17, 1818.
[69] *Ibid.*, Saturday, October 17, 1818.
[70] *Ibid.*, Sunday, October 18, 1818.

in all or $300,000. Shelby and Jackson agreed to this and the amount was filled into the blank in the treaty text. Butler wrote in the secret journal, "the instrument was then duly and solemnly executed and attested after being read and explained in the presence of the numerous concourse of their young men."[71] This took place on Monday, October 19, 1818. At this moment Colonel Sherburne delivered the back due annuity to the chiefs. Shelby and Jackson expressed the idea that the annuity money could have reached the poor only in this manner of public distribution.[72]

Reservations were made for the payments of certain obligations to the Colberts, and when this was done the deed of conveyance of the Chickasaw hunting preserve was transferred to the United States Government. Martin Colbert endorsed the deed saying it was the desire of the Chickasaws named in the document to take the sums designated them in merchandise.[73] The Indians celebrated the conclusion of the treaty with a game of ball for the amusement of the commissioners. Jackson and Shelby left Old Town almost immediately after the treaty signing. A requisition was drawn on Jackson and Kirkman of Philadelphia to deliver $30,000 worth of merchandise within thirty days after the United States Senate ratified the treaty. Butler concluded the secret journal saying, "the commissioners set out in the evening leaving the Nation more happy and contented than it was ever known to be, and Levi Colbert took occasion to remark, 'we have made a good treaty'; observing we are now safe from the claims of our white brothers and we can live in peace and friendship."[74] Isaac Shelby made a quick trip back to Danville. The Lexington *Kentucky Gazette,* November 13, 1818, reported that he was at home after having ridden 300 miles at the rate of 40 miles a day.

In retrospect the commissioners attributed their success to their advice to the Chickasaws as to their true interests, and to the remark of the chiefs that their want of knowledge on the subject had heretofore prevented them from exercising their influence in the proper manner.[75] The entry in the secret journal for October 19 indicated that for the first time the government got a true sense of the number of Chickasaws when the agents made a more or less correct enumeration. This information was subsequently to figure prominently in the removal of the Chickasaws to the West.

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[71] The *Secret Journal,* Monday, October 19, 1818.
[72] *Ibid.*
[73] *Ibid.,* Tuesday, October 20, 1818.
[74] *Ibid.*
[75] *Ibid.,* Monday, October 19, 1818.

The text of the Chickasaw Treaty of October 19, 1818, is fairly brief. The heart of the document is article 2 which describes the cession of Chickasaw lands in Tennessee and Kentucky, and article 3 which stipulates the amount and terms of the annuity payments. The remainder of the document contains specifications of the various reservations and terms of personal payments to individuals.[76] President James Monroe submitted the treaty to the United States Senate for its consideration on November 30, 1818. There ensued a debate in which objections were raised to the reservations contained in the document. Some senators contended that these violated the sovereignty of the United States as established under the terms of the Treaty of Paris, 1783.[77] Debate continued from November 30, 1818 to January 7, 1819 when the treaty was ratified in its original form.[78]

The Kentucky General Assembly enacted a law, February 4, 1820, incorporating the state's share of the Chickasaw Purchase into the Commonwealth's boundaries and system of government. Fundamentally this law provided for the appointment of a superintendent to have the region beyond the Tennessee River surveyed and laid off in townships of six square miles, the north-south lines to be established on true meridians. Township corners were to be marked with progressive numbers, with those at each southeast corner constituting beginning points of reference. The sections were to contain 640 acres each, and in every other respect the Purchase area surveys and administration were to conform with the rectilinear system established in the Northwest Land Ordinance of 1785.[79] This law was revised December 26, 1820, to deal with the ancient issue of Virginia revolutionary grants, the process of surveying, of registry, taxation, and with special exceptions. Subsequent legislation dealt with the laying off of towns and counties and with the establishment of the Kentucky-Tennessee boundary.[80] In 1821 Hickman County was established as the first one in the Jackson Purchase, and in time seven more were created.

Two other incidents added a touch of personal interest to the Old Town negotiations. The daily journal kept by Robert S. Butler was detailed and revealing of the proceedings. It was kept in two copies, one of which was sent on to Washington and is now in the Library of Congress, the other was kept in Nashville as a reference for the Tennessee

[76] Section of the Treaty with the Chickasaws, October 19, 1918, set the boundaries, specifying lands ceded both north and south of the Tennessee River. *United States Statutes at Large,* VII, 150-152.

[77] Samuel Gordon, Heiskell, *Andrew Jackson and Early Tennessee History* (3 vols.; Knoxville: Ambrose Printing, 1923), III, 145-146.

[78] Heiskell, III, 145-146; *United States Statutes at Large,* VII, 150-152.

[79] William Littell, *Kentucky Statutes,* II, 318-323.

[80] *Ibid.,* II, December 27, 1820, sections 1, 2, and 3, pp. 318-323.

Legislature. The commissioners feared that if the contents of the journal should ever be revealed to the rank and file of the Chickasaws they would murder the chiefs for agreeing to sell their hunting preserve.[81] This journal was printed for the first time by Samuel Coles Williams in his book *The Beginnings of West Tennessee, In the Land of the Chickasaws 1541-1841* (1930).

In 1828 when the Clay-Jackson feud over the contested presidential election was hottest, Thomas H. Shelby, son of the Governor, published his recollections of the treaty proceedings. He said his father replied to Jackson's enquiry as to how high he should bid, that he would agree to go up to $300,000, but the Governor believed $250,000 would buy the lands. When Jackson finally agreed to fifteen annuity payments at $20,000 each Thomas Shelby said his father left the table, thus breaking up the council. In wrath Jackson said, "Why Governor, God damn it, did you not say you would give $300,000?" "No Sir," replied Shelby, "I did not authorize you to make any such proposition." On the subject of the various reservations, Shelby was quoted as saying the Indians might well sell their claims to the King of England. At this point it was said that Shelby and Jackson were ready to come to blows, but Thomas H. Shelby stepped between them. When Shelby prepared to leave Old Town Jackson retorted he would make the treaty alone. Thomas H. Shelby said he persuaded his father to dismount and remain on the treaty ground. All this no doubt was apocryphal political propaganda of the Jacksonian era.[82]

On November 24, 1818, Jackson wrote Shelby that he had arrived at the Hermitage on the 12th. He found his friends were gratified by the Chickasaw purchase. He told Shelby he was retiring from public life, and that on the 20th the citizens of Nashville had given a ball in his honor to celebrate the negotiation "of the late Chekesaw Treaty where I had the pleasure to see your portrait suspended at the head of the assembly room and I was gratified to find that Mr. Earl had been so fortunate—for I can with truth say that there never came from the hands of an artist a better likeness. I hope you reached home in good health and have had a happy meeting with your family, finding them enjoving good health. Present me to your Son Major Thomas Shelby respectfully . . ."[83]

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[81] The *Secret Journal,* Saturday, October 17, 1818.

[82] Williams, *Beginnings of West Tennessee,* quoting Thomas H. Shelby to C. S. Todd in the *United States Telegraph* extra for October 8, 1832. p. 89.

[83] Andrew Jackson to Isaac Shelby, November 24, 1818, Bassett, *Correspondence,* II, 401-402.

Shelby expressed himself publicly as being well pleased with the bargain which he and General Jackson had made with the Chickasaws, and nowhere in his correspondence is there the least hint of dissatisfaction with either the price paid, or with General Jackson's behavior.[84] For the Chickasaws the sale of their land was the beginning of the end of their occupation of their traditional home country east of the Mississippi.

[84] Shelby wrote, "The treaty, however, is this moment concluded upon the signature by all the chiefs, in the presence of 3000 of the Nation; by which all the lands west of the Tennessee, are ceded to the United States for the sum of $300,000, payable in fifteen annuities, of 20,000 each—besides presents to sundry chiefs of seven or eight thousand dollars. These sums may seem large at first view, but the country obtained is of immense importance to the two states in which it lies as well as to the strength and defense of the Nation." *Niles' Weekly Register,* December 12, 1818, p. 266.