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THE TREATY OF MOULTRIE CREEK, 1823

by JOHN K. MAHON

A DECADE BEFORE THE United States obtained possession of the whole of Florida the Indians had learned to fear Americans. Three times the men of the new nation to the north had invaded the peninsula; two of these invasions had brought ruin to the redmen. The first invasion-during the "Patriot War" of 1811-1813 - had initiated the disintegration of the towns and the agriculture of the Indians, east of the Suwannee River. The second - Andrew Jackson's campaign in 1818 - had wreaked the same havoc upon those west of the Suwannee. The Florida Indians were never the same after these two catastrophes; perceptive white men testified to this fact. In 1822, Captain John R. Bell, U.S. Army, acting agent to the Seminoles said they had once been proud, numerous, and wealthy, possessing great numbers of cattle, horses, and slaves; "they are now weak and poor, yet their native spirit is not so much broken as to humble them to the dust." The following year Joseph M. Hernandez, a pre-United States Floridian and a person of consequence in the peninsula put it this way. ". . . being thus broken up [they] have continued ever since, without the least kind of spirit of industry or enterprise, - they could at one time have been considered as having arrived at the first stage civilization." But it remained for one of their own to set their downfall in deeply touching words. Chief Sitarky said, "When I walk about these woods, now so desolate, and remember the numerous herds that once ranged through them, and the former prosperity of our nation, the tears come into my eyes."¹

Quite naturally the Seminoles were alarmed when rumor reached them that Spain had transferred their abode to the

1. J. R. Bell to Secy. of War, Jan. 22, 1822, *American State Papers: Indian Affairs*, II, 416; J. M. Hernandez to Secy. of War, Mar. 11, 1823, in Clarence E. Carter (ed.), *Territorial Papers of the United States: Florida Territory*, XXII, 644; Sitarky quoted in William H. Simmons, *Notices of East Florida: With an Account of the Seminole Nation of Indians* (Charleston, 1822), 89; Joseph M. White to Secy. of War, December 1, 1822, ASP: *Indian Affairs*, II, 411. For detail on the "Patriot War" see Rembert W. Patrick, *Florida Fiasco* (Athens, Ga., 1954).

United States. Rumor is all that percolated through to them, and there was plenty of time for it to eat at their nerves, since two years passed before the treaty of transfer was ratified by both sides. Meanwhile, white speculators whispered that Andrew Jackson was coming with a large army to wipe them out once and for all. Some Indians sold their slaves and cattle at disaster prices and plunged into the interior. The United States, for its part, did nothing to relieve the anxiety of the savages.² Few of its leaders, indeed, seemed to feel that Article Six of the treaty of transfer applied to the Seminoles:

The inhabitants of the territories which his Catholic Majesty cedes to the United States, by this treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities, of the citizens of the United States.³

But that the new owner of the peninsula was acutely aware of the redmen living there is certain, for the government appointed a subagent to deal with them before the real estate had officially changed hands. The date of his commission was March 31, 1821; the person, a Frenchman named Jean A. Penieres. No one on the ground could see sufficient reason for his choice inasmuch as he could speak neither Muskogee, Hitchiti, nor English. Certainly the choice did not spring from known sympathy for his charges. He reported that the Seminoles seemed dirtier and lazier than other Indians he had seen.⁴

On March 2, 1821, Congress sharply reduced the army. A few words will show the connection between this event and the narrative we are following. One result of the cut was that there was to be but one major general instead of two. This raised the delicate political problem of what to do with the "riffed" one, he being none other than Andrew Jackson, a folk hero. Inasmuch as Jackson more than any man had panted after Florida and

2. Charles Vignoles, *Observations Upon the Floridas* (New York, 1823), 134, 135.

3. Treaty of Amity, Settlement, and Limits Between the United States and His Catholic Majesty, February 22, 1819, in ASP: *Foreign Relations*, IV, 623-625.

4. Secy. of War to J. A. Penieres, Mar. 31, 1821, *Territorial Papers: Florida*, XXII, 27; J. R. Bell to Secy. of War, Aug. 14, 1821, *ibid.*, 170; J. A. Penieres to Andrew Jackson, July 19, 1821, ASP: *Indian Affairs*, II, 412.

been responsible for connecting it at last with the United States, a solution was ready at hand. The President's commission was issued to him on March 10, 1821, to be governor of the new territory. Nor was he the only person to pass off of the payroll of the army and onto that of the territorial government. Several displaced officers took the same path.⁵

The appointment of their old conqueror was bad news to the Seminoles. Could they have seen his correspondence, it would have seemed worse. Jackson told John Quincy Adams, Secretary of State, that in 1818 he had ordered many of the "Redstick" Creeks to go back north whither they had come. Nearly a thousand warriors had migrated to Florida after General Jackson had beaten them in the Creek War, 1813-1814. These migrants were part of the faction of the Creek Nation which had warred upon the United States, a faction referred to as "Redsticks."

"These Indians," Jackson wrote later, "can have no claim to lands in the Floridas, humanity and justice is sufficiently extended to them by . . . permission to return, and live in peace with their own nation." He either did not realize the deep hatred existing between the Florida migrants and the Creeks who had not moved (a hatred which resulted from having fought against each other in the Creek War) or else he did not care.⁶

Until Andrew Jackson should reach his new post he designated Captain Bell to act for him. By law the governor of the territory was also superintendent of Indian affairs. But the government failed to explain to Bell the role of Penieres. As a result, the acting superintendent wrote, "I am informed that a french gentleman has been on the St. Johns river styling himself an authorized agent of the United States to explore the country and to hold talks with the Indians, him I shall take measures thro the Alcalde to have brought before me." Eighteen days later the Secretary of War, John C. Calhoun, posted a letter advising him that Penieres was a legitimate representative.⁷

5. An Act to Reduce and Fix the Military Peace Establishment . . . March 2, 1821, *U. S. Statutes at Large*, III, 615; *Territorial Papers: Florida*, XXII, 21n.

6. Andrew Jackson to Secy. of State, April 2, 1821, *Territorial Papers: Florida*, XXII, 29; Jackson to Secy. of War, Sept. 20, 1821, *ibid.*, 211.

7. J. R. Bell to Secy. of War, July 17, 1821, *Territorial Papers: Florida*, XXII, 126; Secy. of War to J. R. Bell, Aug. 4, 1821, *ibid.*, 164.

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Meanwhile, the suspense was unbearable for the Seminoles. They had to try to learn what lay in store for them under the United States. Several times some chiefs went to St. Augustine to make inquiry, but could learn little. Next, Micanopy, head chief of a number of bands, arranged with two trusted white men, Horatio S. Dexter and Edmund M. Wanton, to negotiate a treaty for his people. This was close to July 17, 1821, the date when Governor Jackson arrived and took formal possession of Pensacola. One of his first acts was to issue orders to seize these "self made" Indian agents, for no white man had a right to negotiate with the savages except as an authorized agent of the government. No harm came to Dexter and Wanton, neither did any treaty result, for not only did the Governor refuse to deal with such agents, but he also stated his desire nevermore to be involved in a treaty with Indians. Inasmuch as Congress had both the authority and the power to handle Indian affairs, he said, there was no sense in treating the tribes as nations.⁸

On September 28, 1821, Secretary Calhoun appointed Captain Bell acting agent to the Seminoles. Now the organization for handling the Indians was complete: Jackson was superintendent, Bell acting agent, and Penieres subagent. It mattered not that neither superintendent nor acting agent had met the subagent, with a full table of organization on the white side it appeared likely that the redmen would soon know where they stood. Fate did not so dispose! On October 6 Andrew Jackson went off to the Hermitage, never to return to Florida. At about the same moment Penieres died of yellow fever. Only a few weeks later Captain Bell was charged with conduct unbecoming an officer and suspended from his duties. Thus the organization was shattered, the Indians left wondering.⁹

But the government in Washington and the white leaders in the peninsula continued to ponder on the problem of the Seminoles. They considered two alternatives: to concentrate the Indians somewhere in Florida or to remove them altogether.

8. A. Jackson to Secy. of War, Sept. 17, 1821, *ibid.*, 207; Dexter and Wanton to A. Eustis, Oct. 5, 1821, *ibid.*, 244. For data on Horatio Dexter see Mark F. Boyd, "Horatio S. Dexter and Events Leading to the Treaty of Moultrie Creek with the Seminole Indians," *Florida Anthropologist*, XI (Sept., 1958), 65-95.

9. Secy. of War to J. R. Bell, Sept. 28, 1821, *Territorial Papers: Florida*, XXII, 220. For Bell's court martial and subsequent acquittal see *ibid.*, 409n.

Calhoun defined these two courses as early as March, 1821. Which alternative had Governor Jackson preferred? His first choice was to remove them out of the peninsula, but he saw, once on the ground, that this was unobtainable at the moment. Then they must be concentrated, and the proper place was along the Apalachicola River close to the Georgia and Alabama boundaries. There they could not cut communication between St. Augustine and Pensacola; there a white settlement would stand between them and the sea. They must not have access to open ocean because across it they could receive foreign influence and foreign arms and ammunition. Indeed, they had carried on a traffic with Cuba for many decades. But situated along the upper Apalachicola they would be hemmed in on all sides.¹⁰

Most white men preferred the alternative of eliminating them from the peninsula, and the simplest way to do this, at least on the surface, was to send them off to rejoin the Creeks in Georgia and Alabama. This solution did not reckon with the Seminoles. Acting Governor William Worthington gave his estimate of their attitude toward it: "It is said they never will consent to go up among the Creeks - They will assume no hostile attitude, against the United States, no matter what Course they may adopt respecting them - But if they are ordered up amongst the Creeks, they will take to the bushes." Respecting the other alternative, Worthington said he thought they would willingly concentrate in Florida.¹¹

Florida, being surrounded on three sides by water, was viewed as highly vulnerable to foreign attack, especially so with the Indians in it. Yet late in 1821 the Secretary of War let it be known that the administration would not try to force the natives out, that is, would not unless Congress took the initiative by authorizing such action and appropriating the money for it.¹²

Meanwhile, the white personnel for Indian affairs continued to change. When Governor Jackson left, his duties were divided between two acting governors, William Worthington for East Florida and George Walton for West Florida. The Indian superintendency, so far as anybody knew, was split between them. The

10. A. Jackson to Secy. of War, Sept. 20, 1821, *ibid.*, 211; Secy. of War to J. A. Penieres, Mar. 31, 1821, *ibid.*, 27; Secy. of War to J. R. Bell, Sept. 28, 1821, *ibid.*, 220.

11. William Worthington to Secy. of War, Dec. 4, 1821, *ibid.*, 294.

12. Secy. of War to A. Jackson, Nov. 16, 1821, *ibid.*, 278.

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next change was the appointment of Peter Pelham, a "rified" officer on October 29, 1821, to replace the late Penieres as sub-agent. Then, on April 17, 1822, a commission was issued to William Pope DuVal, a judge in East Florida, to succeed Jackson as the Governor of the Territory of Florida. Three weeks later Major Gad Humphreys of New York was appointed Indian agent. He had served thirteen years in the Army before being cast out by the reduction of 1821, and was badly in need of a regular salary. Captain Bell - who had been cleared of the earlier charges - had applied for the job given Humphreys, and Secretary of War John C. Calhoun assured him that the latter had not been chosen because of superior fitness but of greater need. Now the table of organization was complete once more, and there was reason to suppose that the Seminoles might expect to learn their fate promptly.¹³

The new governor was to loom very large in the sight of the Florida Indians, if for no other reason than that he held his post for twelve years. A descendant of Huguenots expelled from France by the revocation of the Edict of Nantes, he left Virginia, the place where his forbears had settled, and became a hunter in Kentucky. Then, of a sudden, he grew dissatisfied with what he saw ahead, abandoned the free ways of the forest and took up the study of law. Since he had had little education his new way was hard, but he doggedly stayed with it, and in 1804 was licensed to practice. It was his fortune sometime in his life to have encountered Washington Irving. That author considered him typical of the best strains in frontiersmen and wrote several stories centered around his career, using for him the name of "Ralph Ringwood." At least in the beginning, DuVal had a wide streak of sympathy for the Indians.¹⁴

Governor DuVal found the Indians understandably uneasy. They were wandering in every direction. Because floods had ruined their crops, some of them were actually starving. They were digging up miles of the country for "briar" root (coontie)

13. Secy. of War to Peter Pelham, Oct. 29, 1821, *ibid.*, 264; William P. DuVal's commission, April 17, 1822, *ibid.*, 469; Gad Humphrey's commission, *ibid.*, 429; see also 429n; Secy. of War to J. R. Bell, June 1, 1822, *ibid.*, 450; Secy. of War to DuVal, June 11, 1822, *ibid.*, 453.

14. James O. Knauss, "William Pope DuVal," *Florida Historical Quarterly*, XI (Jan. 1933), 95-139.

which would fend off starvation. They were not willing to make any improvements on the land lest the white settlers crowding in confiscate it. Throughout the summer and autumn of 1822 DuVal continued to tell this doleful story to the government and to urge action. Meanwhile, he did what he could on the spot. July 29 he issued a proclamation saying that no white man might deal with the natives unless he had a special license, and none might settle near an Indian town. This measure was terribly unpopular with many of his own people who made money from the Indians, and could not be enforced. Seeing this, the Governor urged that his charges be bundled out of the state, either to join the Creeks or to resettle west of the Mississippi.¹⁵

The Monroe administration was obliged to choose positively between the alternative courses. At first it favored reuniting the Seminoles with the Creeks, but this policy met opposition not only from the Seminoles but from the people of Georgia. Accordingly, it took Jackson's advice to locate them near the Apalachicola River, this resettlement to be accomplished that very fall. In July, 1822, Secretary Calhoun said the shift would already have been completed but for the lack of money. By late August, however, this relocation lost favor because the administration realized that it might interfere with the Forbes Purchase which the United States was honoring pending final settlement of it in court. All the while the Indians remained on tenterhooks, unable to find out what lay in store for them.¹⁶

They were humble enough about it. Captain Bell had explained the why of this when he had been in Florida. "They appear sensible of their reduced situation; that they are too weak to make much resistance in war; and that the presumptive rights to their land has passed into the hands of the American government. To that Government, they now look for that liberality,

15. DuVal to Secy. of War, June 21, 1822, *Territorial Papers: Florida*, XXII, 471; DuVal to Secy. of War, July 18, 1822, *ibid.*, 491; Proclamation, July 29, 1822, *ibid.*, 504; DuVal to Secy. of War, Sept. 22, 1822, *ibid.*, 533, 534.

16. Secy. of War to DuVal, July 17, 1822, *ibid.*, 488; Secy. of War to DuVal, Aug. 19, 1822; *ibid.*, 508; Secy. of War to DuVal, Aug. 28, 1822, *ibid.*, 518.

The Forbes Purchase comprised about 1,250,000 acres along the east bank of the Apalachicola River. The case concerning it was finally settled in favor of the assigns of Forbes in 1835. The brief concerning the case is printed in *Record of the Case of Colin Mitchell and Others v. the United States* (Washington, 1831). For the story in brief see William T. Cash, *The Story of Florida*, 2 vols. (New York, 1938), I, 328.

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justice, and protection, which it has extended to other nations of Indians." It is noteworthy that his estimate added up to the same thing as Acting Governor Worthington's quoted above; the Indians intended to keep the peace if at all possible. Nevertheless the pressure upon them was very great; hunger, the thronging white men encroaching on their lands, and the inevitable frictions between the two cultures, white and red, pushed them into a corner. There were many border incidents and a murder or two.¹⁷

The time had come to solve the Seminole problem lest it grow very ugly. Accordingly, the administration sought to reach decisive action late in 1822. A council with the Indians was set at St. Marks to be held November 20. This was expected to produce an agreement, but before it could take place the organization broke down a second time. To begin with, Peter Pelham, the subagent, fell ill and had to go north for his life. Then, late in September, 1822, Governor DuVal abruptly left for Kentucky to tend to his personal fortunes. Lastly, Agent Humphreys did not appear in Florida although he was supposed to organize and run the projected council. There was no one to negotiate for the government at the council. Acting Governor George Walton was in a state of panic. His nerves were near the snapping place anyway, because a terrible epidemic of yellow fever was rampant in Pensacola, carrying off his friends and loved ones. He had no knowledge of what the government intended to do at the talks - DuVal had not posted him - nor had he any money to buy the presents and food necessary for a pow-wow. Meanwhile, the Indians had already been notified, and it was too late to head them off. Yet if they went to St. Marks and found no representative of the United States there, relations would be permanently damaged. Walton all but wrung his hands in his letter to Secretary Calhoun.¹⁸

In the end, that situation occurred which the acting Governor had shuddered to foresee. A few chiefs went to the rendezvous on the 20th, and found no preparations to receive them. They waited three days, then left annoyed. It was not until a week later

17. J. R. Bell to Secy. of War, Aug. 22, 1822, *ASP: Indian Affairs*, II, 416; DuVal to Secy. of War, Aug. 3, 1822, *Territorial Papers: Florida*, XXII, 501.

18. A. Eustis to Secy. of War, July 23, 1822, *ibid.*, 495; G. Walton to Secy. of War, Nov. 4, 1822, *ibid.*, 501.

that the "crash" negotiator, Thomas Wright, a paymaster in the U.S. Army, reached St. Marks. He called the nearby chiefs together and explained the government's embarrassment. The Indians were good natured about it, for they apparently realized that they dared not ruffle the new lords of their peninsula. The head chief in that quarter, Neamathla, assured Wright that his people would remain quiet until a permanent arrangement was made for them.¹⁹

What a change was here revealed in Neamathla! In 1817, only five years before, he had sent word to General E. P. Gaines, commanding at Ft. Scott, that if American troops so much as crossed to the Indian side of the Flint River, they would be attacked. Now in 1822, although goaded by uncertainty and suspense, he was meek and tractable while the United States, through carelessness and poor organization, appeared to trifle with the future of his people. The steep decline of the Florida Indians was here vividly demonstrated.²⁰

At length the white personnel began to reassemble. At long last Agent Humphreys made his appearance in Pensacola on Christmas Eve. A month later, Acting Governor Walton issued him instructions. He had delayed the issue because in DuVal's absence he truly did not know what the policy of the government was. Naturally, his orders were comfortably general. Try to get the savages to give up the hunt and turn to agriculture, he said, and ". . . prevent animosity and dissension among themselves, and suppress apprehension of severity or injustice from our Government, and of violence from the Creek Indians." General or not, this was a big order.²¹

Governor DuVal returned to Florida in March, 1823, and bustled about condemning everyone but himself for the confusion which his absence had created.²²

Meanwhile, in Washington the problem of the Florida Indians was under discussion. President Monroe referred to it in his annual message. Thereupon the House of Representatives established a temporary committee to report on that portion of the

19. Thomas Wright to G. Walton, Dec. 7, 1822, *ibid.*, 578.

20. George Perryman to Lt. Sands, Feb. 24, 1817, *ASP: Military Affairs*, I, 681, 682.

21. G. Walton's instructions to Humphreys, Jan. 21, 1823, *Territorial Papers: Florida*, XXII, 602.

22. DuVal to Secy. of State, Mar. 16, 1823, *ibid.*, 649.

message. The head of this committee, Thomas Metcalfe of Kentucky, wrote to Florida for information and then on February 21, 1823, gave his report to the House. His committee, marvelous to tell, took Article Six of the treaty of transfer with Spain seriously. The Indians, the report said, must be accorded the privileges of citizens of the United States. The thing to do, it continued, was to give each Seminole family a grant of land. This action would break up the tribal bond and introduce in its stead the energy of private enterprise. Thus stimulated, they would be prepared to amalgamate with the white society. Even though this report showed scant appreciation of the grip upon the Indians of their own culture, it was surprisingly humane. It was also not much attended to.²³

Joseph M. Hernandez, in 1823 territorial delegate to Congress from Florida, helped lead the administration toward action. In reply to his urging, Secretary Calhoun stated the new policy. Commissioners were to be appointed at once to hold a talk, and be instructed to insist upon a concentration of the natives south of "Charlotte's River." If there should prove to be insufficient land for cultivation in that area, the commissioners were to be empowered to extend the reservation northward toward Tampa Bay. The documents do not show why the region along the Apalachicola was given up in favor of a southern reservation. They do, however, show that the Indians who ranged east of the Suwannee favored the latter, while those to the west of that river were almost more willing to migrate to the Far West, beyond the Mississippi, than to such a place.²⁴

In any case, Secretary Calhoun meant what he said. On April 7 commissions went out of the War Department to James Gadsden of South Carolina and to Bernardo Segui of Florida, accom-

23. Metcalfe for Comm. on Indian Affairs to the House of Representatives, Feb. 21, 1823, *ASP: Indian Affairs*, II, 408-410.

24. J. M. Hernandez to Secy. of War, Mar. 11, 1823, *Territorial Papers: Florida*, XXII, 644; DuVal to Secy. of (State, Mar. 16, 1823, *ibid.*, 649; Secy. of War to J. M. Hernandez, Mar. 19, 1823, *ibid.*, 652; J. Gadsden to Secy. of War, June 11, 1823, *ibid.*, 695.

Charlotte's River was a name that showed on several contemporary maps. Inasmuch as little was known of the south of Florida, its position did not correspond exactly with any watercourse existing today, but it probably was what became known later as Pease or Peace Creek. This stream also bore the designation of Tolochocko or Talakchopko Creek on some maps. See maps issued by J. S. Tanner in 1823, John Lee Williams in 1837, and Capt. John Mackey and Lt. J. E. Blake in 1840.

panied by the instructions described to Hernandez. Little is known of Segui except that he was a Minorcan who had migrated to Dr. Turnbull's colony of New Smyrna. But Gadsden's name is more widely recognized because of the purchase he made in 1853 which filled out the boundaries of the continental United States, except for Alaska. He had been a lieutenant of engineers during the War of 1812, and an aide to General Jackson thereafter, holding that post in the invasion of Florida in 1818. By 1820 he had attained the grade of colonel and been appointed adjutant general, but he resigned in a huff when the Senate refused to confirm his appointment. The new assignment as commissioner to treat with the Indians brought about his migration to Florida.²⁵

On June 30 Governor DuVal was instructed to make himself a part of the commission. He would have been appointed when the other two were, said the Secretary, except that it had not been known then that he had returned from Kentucky. DuVal accepted on July 15, but much of his energy had to be devoted to being governor. Of the pair, Gadsden and Segui, the former took the initiative. It did not seem feasible to meet with the redmen until their summer agriculture was over, so the date set was September 5. Three months in advance of that day Micanopy and Jumper, a "Redstick" Creek who had established himself as first counsellor, committed the tribes over which Micanopy had some jurisdiction to be present. In an attempt to avoid incidents which might jeopardize the forthcoming critical negotiations, Governor DuVal revoked all trading licenses issued to white men before his administration.²⁶

Beginning with his summons to the Indians to come to the talks Gadsden took a hard tone. He gave them to understand that a treaty was to be concluded, and that ". . . those tribes who neglect the invitation, or obstinately refuse to attend, will be considered as embraced within the compact formed, and forced to comply with its provisions." This is obviously not the language of diplomacy but rather of the strong to the weak. That was perfectly clear to the Seminoles.

25. "James Gadsden" in *Dictionary of American Biography*; also *Territorial Papers: Florida*, XXII, 42n on Gadsden; Commissions to Gadsden and Bernardo Segui, Apr. 7, 1823, *ibid.*, 659, 660.

26. Agreement marked by Micanopy and Jumper, June 4, 1823, *ASP: Indian Affairs*, II, 432; Proclamation June 7, 1823, *Territorial Papers: Florida*, XXII, 694; also *ibid.*, 659n.

Gadsden's personal preference was to remove the natives from Florida altogether. Inasmuch as this was not included in his instructions, he undertook to sell the Secretary of War on the need:

[Florida] must be as internally weak as she is externally assailable. An Indian population, under these circumstances, connected with another class of population, which will inevitably predominate in Florida, must necessarily add to her natural weaknesses. . . . It is useless to enlarge on the policy of removing a class of savages from where they may prove dangerous to where they would be comparatively harmless.

In this presentation the Commissioner revealed a principal reason why many white men wished to get rid of the Florida Indians. That other "class of population" to which he referred was not secure as long as there existed Indian villages to which they could escape. Too many slaves to suit the masters had already disappeared, presumably in that direction.²⁷

As for Calhoun, he needed no convincing. He agreed that it was important to move the savages out of the peninsula, but could do nothing to bring it about. His reason? There were no lands west of the Mississippi available which the government could assign to them, and no funds to purchase any. The policy of systematic Indian removal, although the Secretary could not know it, still lay seven years in the future.²⁸

Meanwhile, Andrew Jackson, living the life of a planter at the Hermitage, learned of the proposed negotiation and offered Secretary Calhoun his advice. He had already communicated his ideas to his friend Commissioner Gadsden, he said, and presumed to address the government unsolicited because he wished very much to see Gadsden succeed in his first Indian assignment. The thing to do, Jackson said, was to send half the Fourth U.S. Infantry Regiment from Pensacola to the vicinity of Tampa Bay. This show of force would hasten the concentration of the Indians which was to be arranged in the forthcoming talks; indeed without it they might refuse to comply.²⁹

James Gadsden had already adopted his old chief's views. A month before Jackson's letter to the Secretary he had urged a

27. J. Gadsden to Secy. of War, June 11, 1823, *ASP: Indian Affairs*, II, 433, 434.

28. *Ibid.*

29. A. Jackson to Secy. of War, July 14, 1823, *Territorial Papers: Florida*, XXII, 719, 720.

show of strength in the following words: “. . . a judicious location of an adequate force simultaneous with the concentration of the Indians cannot but have the happy effect of obtaining such a controul as to render them perfectly Subservient to the views of Government.” The use of the phrase “perfectly Subservient,” if the Commissioner chose his words carefully, once more indicates that the relationship between the two negotiating parties was hardly one of balance of power.³⁰

The movements of troops on the flanks of the proposed reservation was calculated to influence the Seminoles. But this was not the purpose of the detachment of soldiers to be present on the treaty grounds. A military detachment was a standard prop at Indian parleys; in truth the savages would have felt deprived without the panoply and color which their presence added. Accordingly, Governor DuVal directed Captain John Erving, commandant of St. Francis Barracks in St. Augustine to send one officer and twenty-five enlisted men to the site. The Captain began by protesting that he could spare only half that number, but in the end produced the full complement under the command of Lieutenant James Wolfe Ripley.³¹

The detachment would not have far to go since the spot selected for the council was the second landing place on the north bank of Moultrie Creek, about five miles south of St. Augustine. By contrast, the Indian bands west of the Suwannee River would have to travel 250 miles to get there. On the other hand, Micanopy's bands had been consulted and had no doubt favored the site which was very convenient for them. In judging the choice of the meeting place one must remember that there were no inland white settlements at the time, no central points to which the supplies necessary for a council could be transported.³²

During the summer Governor DuVal appointed Horatio S. Dexter - erstwhile negotiator for the Seminoles - to act as sub-agent in the place of Peter Pelham, still ill and absent. Dexter, who knew the Indians of the peninsula quite well, estimated that 1500 of them would attend the talk. They would consume three

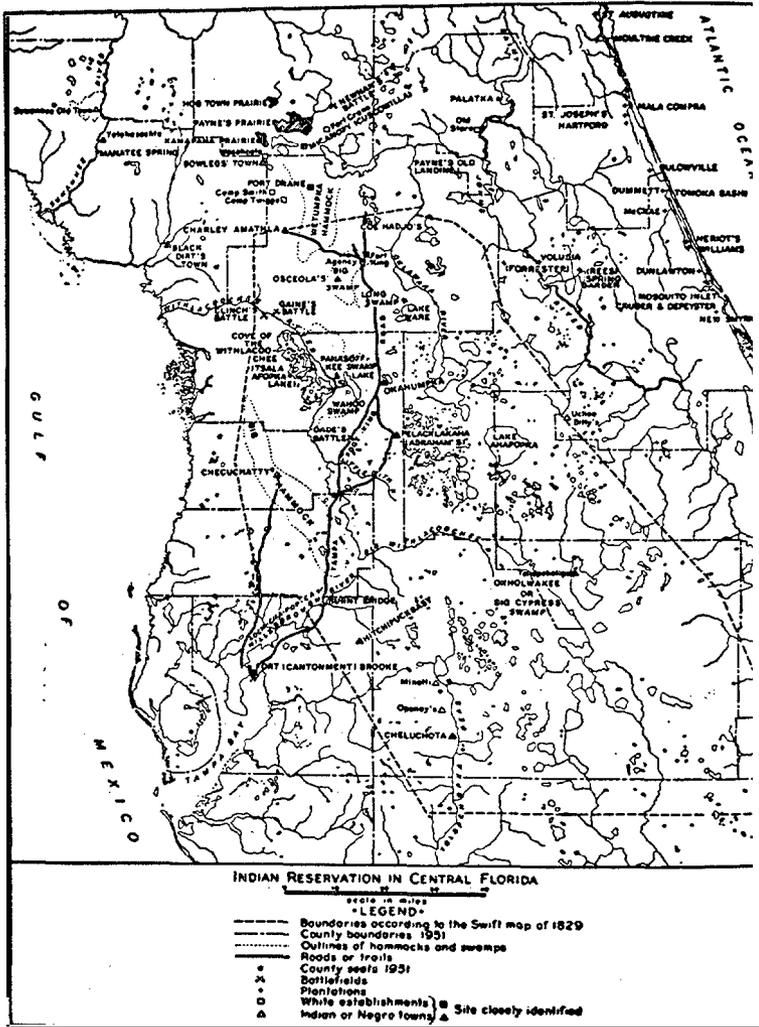
30. J. Gadsden to Secy. of War, June 11, 1823, *ibid.*, 696.

31. Interchange, DuVal and Capt. John Erving, 26, 27, Aug., 1823, *ASP: Indian Affairs*, II, 436.

32. St. Augustine *East Florida Herald*, Sept. 6, 1823, described the treaty grounds as the second landing place on the north bank of Moultrie Creek.

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tons of rice. But the other persons responsible for the success of the negotiation were not as optimistic as he. There was some anxiety among them that important chiefs might absent themselves in spite of Gadsden's dire warning. To insure the attendance of the trans-Suwannee bands, Agent Gad Humphreys and interpreter Stephen Richards conducted a party of 350 the whole



250 miles. Their trek was conducted so skillfully that the Mikasukies and Tallahasseees (the most important bands west of the Suwannee) did not feel themselves herded; indeed were willing to see the two white men given an especial reward (to be noted later). In the end, the pessimists were closer to the truth than Dexter. Many Indian families were left home to tend the crops, so that only about 425 redmen, including a few women, attended the talks. If Dexter's estimate had been followed concerning provisions, those present must have had to wade through the rice.³³

The Florida Indians - both those who attended and those who stayed away - did not constitute a cohesive society. About all they had in common was the Creek culture. There were many divisive factors tending to offset the common culture. For one, the bands spoke two major, mutually incomprehensible tongues, Muskogee and Hitchiti, besides various dialects of these. Second, the Indians had not come to Florida from the north as a body, but in individual bands, having no contact with each other, over the span of a century. The last increments had come to the peninsula as recently as 1814, and some even later. Some bands of the late-comers had amalgamated with those already here, others had not. All in all, with such a background, there could hardly have been very much cohesion.

The three major groupings were called Mikasuky, Tallahassee, and Seminole. The two former resided west of the Suwannee, the latter had scattered pretty well over the upper portion of the peninsula. Contemporaries usually reserved the name "Seminole" for those peninsular Indians who stemmed from the band which had migrated into what is now Alachua County in the middle of the eighteenth century. Cowkeeper had been head chief at the time of migration. It will be obvious, however, that in this article, "Seminole" is applied to almost all of the Florida Indians.

For purposes of negotiation the diverse bands who arrived at Moultrie Creek needed a head chief. Accordingly, a mile and one-half short of the treaty ground they foregathered to reach an agreement among themselves. They chose Neamathla, head chief of the Mikasukies. He had the respect of red and white men

33. DuVal to H. S. Dexter, May 10, 1823, *Territorial Papers: Florida*, XXII, 681; St. Augustine *East Florida Herald*, Sept. 6, 1823; Boyd, *op. cit.*, 86.

alike; indeed Governor DuVal called him the most remarkable savage he had ever seen.³⁴

Because of the Indians' organizational meeting the council itself got under way one day later than agreed. The only account known to me of the opening day written by a person who was there, (other than the official minutes) is the diary entry of the Reverend Joshua Nichols Glenn of St. Augustine. In company with numerous other townsfolk he took the day off to see the show at Moultrie Creek. These are his words:

Sat 6th the Treaty with the Floriday Indians commenced to day in the morning Capt. Wm. Levingston his wife and Daughter Mr. and Mrs. Streeter and my Self went up to Moultry the place of holding the Treaty in a very comfortable Boat - accompanied by many other gentlemen and Ladies in other Boats - a little after we landed the Indians came from their Camps to the Commissioners Camp to Salute the Commissioners & hold their first talks this was quite Novel - the Indians came in a body with a White Flag flying - beating a little thing Similar to a Drum and Singing a kind of a Song at the end of every appearant verse one of them gave a Shrill hoop - which was succeeded by a loud and universal Scream from them all - in this way they marched up to the Commissioners - when two of them in their birthday Suit and painted all over white with white Sticks in their hands and feathers tied on them - came up to them (viz the Commissioners) and made many marks on them - then their King Nehlemathlas came forward and Shook hands and after him all the chiefs in rotation - after which the King Smoked his pipe and then observed that he considered us gentlemen as Fathers and Brethren and the Ladies as Mothers and Sisters the Commissioners then conducted the chiefs into the bark house they had bilt to hold their talk in and after they had all Smoked together they held their first Talk - in the evening we returned to Town and the Governor was unwell he came with us -³⁵

What was an outing for the curious townsfolk was the beginning of nearly two weeks of exacting negotiations for the principals at Moultrie Creek. Seventy chiefs and warriors took part

34. Minutes of the Council, *ASP: Indian Affairs*, II, 437. For comments by white men about Neamathla see Gad Humphreys to DuVal, April 7, 1824, *ibid.*, 617; DuVal to Secy. of War, Jan. 12, 1824, *Territorial Papers: Florida*, XXII, 823; DuVal to Secy. of War, Mar. 19, 1824, *ibid.*, 904.

35. "A Diary of Joshua Nichols Glenn: St. Augustine in 1823," *Florida Historical Quarterly*, XXIV (Oct., 1945), 148.

in the deliberations conducted within the "bark house." Here, the show of immediate force played no part. I have seen no document indicating that the Indians were required to disarm at the treaty grounds, but it is probable that they left their weapons at the Indian camp one and one-half miles farther down the creek. As for the detachment of twenty-five red legged infantry (members of the Fourth Artillery serving on foot), they served primarily as stage decoration, but had in addition a police function.³⁶ At least four officers who came along for the spectacle added the color of their uniforms to the decor, and also added their signatures to the document finally completed, as witnesses that it was done in good order.

James Gadsden opened the negotiating. He followed the same stern line he had employed when summoning the Indians to the meeting. General Jackson, he reminded them, had subdued them twice, and might have driven them into the ocean had he chosen. What the General had done to them was wholly just, inasmuch as they alone were the cause of the quarrel which had brought him upon them. Nevertheless, Gadsden continued, the President, their "Great Father," was willing to forget the past. But in return they would have to concentrate; he would not permit them to remain scattered all over Florida as they then were. "The hatchet is buried; the muskets, the white men's arms, are stacked in peace. Do you wish them to remain so?" The implication was plain enough, the Seminoles had better agree to the terms offered or take the consequences. The silken glove here barely concealed the iron fist.³⁷

Two days elapsed before Neamathla replied. The records do not chronicle what took place in the interval. From the fragments of his talk, which Gadsden reported, it is clear that the chief's tone was surprisingly defiant. For instance, he let the Commissioners know that the Florida Indians regarded the "Redstick" Creeks in their midst as incorporated with them. They would not drive them out. This brought a rejoinder from Gadsden the following day. Again the mailed fist shone through the thin covering: "Brave warriors, though they despise death, do not madly contend

36. Minutes of the Council, *ASP: Indian Affairs*, II, 437; signatures on the treaty, Charles J. Kappler, *Indian Affairs, Laws and Treaties*, 2 vols., *Sen. Doc. 452*, 57 Cong., 1 Sess., II, 207.

37. Minutes of the Council, *ASP: Indian Affairs*, II, 437, 438.

with the strong." The events of that day, September 10, seem to have broken the Indian resistance. Neamathla's next speech showed the change. His people did not want to go to the reservation to the south. It was a bad place because the soil was too poor to sustain them and because it was too close to the big water across which evil influence could waft to corrupt the young men. The rest of what he said can best be told in his own words:

We are poor and needy; we do not come here to murmur or complain; . . . we rely on your justice and humanity; we hope you will not send us south, to a country where neither the hickory nut, the acorn, nor the persimmon grows . . . For me, I am old and poor; too poor to move from my village to the south. I am attached to the spot improved by my own labor, and cannot believe that my friends will drive me from it.³⁸

The allusion to the acorn and the hickory nut are not mere caprice. Like most savage peoples the Seminoles needed oils, and they derived them from nuts. Concerning the tenor of the whole address, its abject humbleness is striking. Was this genuine or was it deceit? In the light of the additional clause finally appended to the completed treaty, it is possible that he humbled himself to impress his own people instead of the white men. On the other hand, it is possible that the pity he induced in the white negotiators may have influenced them to modify the instructions of the authorities in Washington.

The minutes of the talks kept by the Commissioners include nothing about activities on September 12, 13, and 14. They cryptically report that on the 15th the outline of a treaty was read to the Indians. How the provisions in it got there is not known. Nor is it known how the red negotiators reacted to it, for September 16 and 17 are also slurred over. Indeed there is only one other entry of consequence except the bald statement that on September 18 the chiefs signed the treaty. But the event recorded for September 19 is of unusual interest. On that day an additional article was drawn and signed by the interested parties. It allotted reservations of from two to eight miles square to Neamathla, Blunt, Tuskihado, Mulatto King, Emathlochee, and Econchatomico in the valley of the Apalachicola River. These chiefs and their followers did not have to move south after all as they had so much detested to do; indeed they scarcely had to

38. *Ibid.*, 438, 439.

move. The Commissioners frankly told the Secretary of War that the assent of these six powerful western headmen could not have been secured without this "equitable provision." Using balder terms it would be possible to call this article a bribe.³⁹ After the inclusion of the special article, presents were distributed. On September 21 the Seminoles left the treaty grounds having been there seventeen days.

What were the provisions of the document to which thirty-two chiefs had put their X's? The first paragraph stated that the Florida Indians appealed to the humanity of the United States, and threw themselves upon its protection. Next, they surrendered all claim to the "whole territory of Florida" except for the district shown on the accompanying map. Their reservation as it was finally enlarged included about 4,032,940 acres. The Commissioners had exercised the discretion, given them in their instructions, to move the reservation northward if there was not enough good land in the preferred area to support the Indians. The latter had said that they would not go south of Charlotte's River unless forced. On these two counts, the entire tract lay north of that stream instead of south. In addition, it was provided that the boundaries could be extended to the north if the reservation did not include enough tillable land. (Two extensions were made in February and December, 1825.) All in all, if the Seminoles had title to the "whole territory of Florida" they were ceding roughly 28,253,820 acres of ground. In return for this the United States obligated itself to:

Protect the Indians as long as they obeyed the law.

Supply them with \$6000, worth of agricultural equipment and live stock on the reservation.

Pay \$5000 a year for twenty years.

Keep white men out of the reservation except those authorized to be there.

Provide the natives who had to move with meat, corn, and salt for one year.

Pay up to \$4500 for improvements which the Indians were obligated to abandon.

Provide up to \$2000 for transportation to the reservation.

Maintain an agent, subagent, and interpreter in the reservation.

39. *Ibid.*, 439; Kappler, *op. cit.*, 207; Commissioners to Secy. of War, Sept. 26, 1823, *ASP: Indian Affairs*, II, 440.

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Pay \$1000 a year for twenty years to maintain a school on the reservation.

Pay \$1000 a year to maintain a blacksmith and gunsmith on the reservation.

The cash considerations, and those in kind converted to cash, add up to \$221,000. Expressed in payment per acre this comes to roughly $\frac{3}{4}$ cents; to be exact, $\frac{78}{100}$ cents.⁴⁰

Three other points in the treaty are worth highlighting. First, the Indians agreed to try to prevent the concentration of runaway slaves in their midst. Inasmuch as the presence of fugitive Negroes among them had done much to decide the white men to force them out, this provision was very important. Second, the boundaries of the reservation were nowhere closer to the coast than twenty miles. Thus it was intended to cut the natives off from intercourse with Cuba, in which they had for generations received powder, ammunition, and arms, and had - Commissioner Gadsden believed - been able to trade stolen slaves and cattle. Landwards, too, they were encircled. Being cut off from outside influence and the chance of expansion, the Commissioners believed the savages could be forced to take up agriculture. This might ultimately soften their barbarism. Finally, the document made no mention of duration, that is, it did not guarantee the reservation to the Seminoles for any specified span of time. Later, the redmen claimed that the duration was clearly twenty years inasmuch as the annuities and several of the other payments ran for that period.⁴¹

Buried in the body of the treaty was a grant of land one mile square to Gad Humphreys and Stephen Richards each. Like so much of the rest of the document, it is impossible to say how this

40. Commissioners to Secy. of War, Sept. 26, 1823, *Territorial Papers: Florida*, XXII, 747-751; Kappler, *op. cit.*, 203-207. Concerning the extensions to the reservation see, J. Gadsden to Editor, *St. Augustine News*, July 3, 1839; Executive Order, Feb. 24, 1825, *Territorial Papers: Florida*, XXIII, 192, 193; T. L. McKenney to DuVal, Sept. 15, 1825, *ibid.*, 318; Secy. of War to Delegation of Indians, May 10, 1826, *ibid.*, 539.

treaty itself. In computing the cost of rations furnished them I used 1500 Indians fed per day at $12\frac{1}{2}$ cents per ration, a total of \$68,437.55. The number of Indians and cost per ration was drawn from DuVal to Secy. of War, July 12, 1824, *ibid.*, 15.

41. J. Gadsden to Secy. of War, June 11, 1823, *Territorial Papers: Florida*, XXII, 696; commissioners to Secy. of War, Sept. 26, 1823, *ibid.*, 749; Abstract of Council held Oct. 24, 1834, *Sen. Doc.* 152, 24 Cong., 1 Sess., 25ff.

provision found its way in. But the Senate of the United States thought it improper and struck it out before ratifying the balance of the treaty.⁴²

Thirty-two Indians signed the Treaty of Moultrie Creek. Were they representative of a majority of the bands in Florida? Neamathla submitted, during the talks, a list of thirty-seven Florida towns and their chiefs. Seventeen of those chiefs can be positively identified as markers of the Treaty. But what of the other twenty towns and chiefs? Either they were not represented, refused to sign being present, were considered to be represented by the mark of some higher chief, or their names on the treaty do not coincide with those Neamathla gave. The latter is not improbable since white scribes put down the Indian names as they heard them, so that it was very uncommon for the name of a chief to be recorded the same way by any two or more white men. Moreover, to offset the twenty missing chiefs we find on the document fifteen additional names whose bearers do not appear in Neamathla's list of chiefs. The writer does not know whom they represented. However, this much is certain, here was a more representative group than the white men ever again gathered into a Florida council.⁴³

The Treaty of Moultrie Creek, it is safe to say, was not entirely a white-dictated document. In spite of the inequality of the power of the two negotiating parties, there was some give on the part of the stronger. The principal point yielded was to shift the reservation from the south side of Charlotte's River to the north of it. In addition there was the special article which bought the support of six influential trans-Suwannee chiefs. The Commissioners at least implied that these six would not have knuckled under without it. So, when one ponders the abject plea of Neamathla, he cannot help wondering what part of it was sincere, and what proportion window dressing. I confess I do not know, and do not know how to find out.

Even so, the effect of the inequality of the treating parties looms large. Each side recognized the imbalance and shaped its conduct accordingly. Ten days after the signing, James Gadsden, in a private letter to Secretary Calhoun, said as much. "It is not

42. *Territorial Papers: Florida*, XXII, 747n.

43. Neamathla's list is included with the Minutes of the Council, *ASP: Indian Affairs*, II, 439.

necessary," he wrote, "to disguise the fact to you, that the treaty effected was in a degree a treaty of imposition - The Indians would never have voluntarily assented to the terms had they not believed that we had both the power and disposition to compel obedience." Yet the Commissioners felt they had exercised no more coercion than any powerful party would have done in a similar situation.⁴⁴

Nevertheless, the taint of coercion did not fade away. Two years after the signing, the newly created Superintendent of Indian Affairs wrote a letter to each of the three Commissioners. Informants told him, he said, that the Indians had been forced into agreement at Moultrie Creek. Required from each was a report in response to this charge. It is hard to say what the Superintendent expected to get in answer, and I have seen but one of the responses. Governor DuVal reacted with indignation. Who is my accuser, he demanded? Not until he was confronted by him, and also accused of specific sorts of duress would he reply. Since the proceedings were public, he added, anyone could have attended and checked what went on.⁴⁵

In summary, the matter of coercion, it seems clear, stemmed altogether from the discrepancy between the power of the two parties. James Gadsden did not scruple to remind the savages over and over of the engulfing power almost certain to be unleashed against them if they refused to reach an agreement satisfactory to the United States. No one was abused or manhandled on the treaty grounds. Would any government, having the same margin of power on its side have shown greater forbearance in the 1830's? It seems doubtful. The Senate found the treaty legitimate enough to ratify on December 23, 1823. Thereupon, since the Indians had no such formality to go through, the provisions were presumed to be in effect.⁴⁶

What did the absence of any stipulation about duration signify? On this, the evidence is contradictory. John C. Calhoun, certainly one of the most important of the principals, seemed to regard the arrangement made in the treaty as enduring. Writing

44. J. Gadsden to Secy. of War, Sept. 29, 1823, *Territorial Papers: Florida*, XXII, 752.

45. T. L. McKenney to DuVal, Bernardo Segui, and J. Gadsden, Dec. 15, 1825, *ASP: Indian Affairs*, II, 642; DuVal to McKenney, Jan. 22, 1826, *Territorial Papers: Florida*, XXIII, 422.

46. Ratification, *Territorial Papers: Florida*, XXII, 747n.

to the President on January 24, 1825, he said:

. . . it is probable that no inconvenience will be felt, for many years, either by the inhabitants of Florida, or the Indians, under the present arrangement . . . there ought to be the strongest and most solemn assurance that the country given them should be theirs, as a permanent home for themselves and their posterity.⁴⁷

In contrast, James Gadsden wrote to Andrew Jackson in 1829 that the idea behind the treaty had been to get the Indians concentrated in order eventually to move them west. It is probable here that he was expressing the view of the Commissioners rather than that of the government. The three had stated in their report that it would have been much better to get the Seminoles out of Florida. As for the other party to the treaty, when pressed later to leave Florida altogether, the chiefs, claimed that their understanding about duration was twenty years.⁴⁸

Writers have more often than not condemned the Treaty of Moultrie Creek; indeed Annie Abel, a competent scholar called it one of the worst Indian treaties ever made by the United States.⁴⁹ It does not seem to me that the march of events, as I have paraded it here, warrants quite so strong a criticism. But whatever the moral judgment passed on this treaty, no one can deny that it was the first in a series of disasters which, in the end, ruined the Indians of Florida.

47. Secy. of War to President, Jan. 24, 1825, *ASP: Indian Affairs*, II, 543, 544.

48. Commissioners to Secy. of War, Sept. 26, 1823, *Territorial Papers: Florida*, XXII, 750; J. Gadsden to A. Jackson, Nov. 14, 1829, Jackson Papers, Library of Congress.

49. Annie Heloise Abel, "The History of Events Resulting in Indian Consolidation West of the Mississippi," *American Historical Association, Annual Report*, 1906, I, 330, 332.