

4-9-2008

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Indian Agent Gad Humphreys And The Politics Of Slave Claims On The Florida

Frontier, 1822-1830

by

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A thesis submitted in partial fulfillment
of the requirements for the degree of
Master of Arts
Department of History
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Date of Approval:
April 9, 2008

Keywords: florida, slavery, seminole, humphreys, duval

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Indian Agent Gad Humphreys and the Politics of
Slave Claims on the Florida Frontier, 1822-1830

Kevin Kokomoor

ABSTRACT

This project examines the intimate role slave claims played in the animosities which quickly developed from the acquisition of the Florida territory to the outbreak of the Second Seminole Indian War. By focusing on the Indian Agency and its first administrator, Gad Humphreys, this connection is made by suggesting that the territory's legislators were unwilling to allow the coexistence of Seminoles and blacks on the Florida frontier. The presence of these communities threatened developing Middle Florida plantations with significantly increased risks of both slave runaways and insurrection. In response, settlers and government officials pressed Humphreys to see not only that the Seminoles were pacified, but also that runaway slaves were apprehended and returned to their owners.

The agent, however, held fundamentally different opinions on the subject of adjudicating these controversies than did the citizens under his direction, and his superiors in the War Department. When Humphreys regularly supported Seminole claimants in the often-bitter property contests, his actions were met with the disapproval of his superiors—particularly Governor William Pope DuVal—who felt that his first duty was to ensure the development of the territory's plantations. The claims of Margaret Cook and Mary Hannay, in particular, strained these once respectful relationships to the

point where DuVal sought to have Humphreys removed on various charges of misconduct relating to his direction in the controversies. An investigation was initiated into a number of allegations, yet focused on his conduct in slave controversies, and found that far from acting inappropriately, Humphreys had performed his duty with exceptional integrity. Ultimately, however, DuVal's effort was successful. Humphreys was superseded in 1830 by John Phagan—an agent much more willing to take the harsh measures necessary to have the numerous slaves claimed by the territory's citizens surrender.

In examining the actions of Humphreys, the Indians under his charge, and the legislators he reported to, slave claim controversies of the 1822-1830 period clearly illustrate the centrality of the slavery issue on the Florida frontier, and inextricably connect slavery to the outbreak of the Second Seminole Indian War.

Introduction

John Mahon's *History of the Second Seminole Indian War* has become, to scholars of both the Seminole war era and of the Florida frontier generally, the definitive, even benchmark study of the era. To scholars of the conflict, especially, it has become the one by which many have since been measured.¹ The war itself was a complex struggle; it had been waged over a multitude of hostilities, many of which were present in the pre-territorial period. Yet, two of these—expansion and slavery—came to a head in the first decades of American government. And attention to the prewar period, particularly the 1820s, provides excellent insight into the development of those antagonisms. Ultimately, it helps make sense of the bitter, desperate nature of the struggle. Mahon recognized the critical importance of these years, and his study of the conflict benefited distinctly from his understanding of its intricate roots.

Yet, in his introduction, Mahon chose first to recognize a previous study—according to him, *the classic*. “Represented on library shelves for 120 years,” this was Lieutenant John T. Sprague's *Origin, Progress, and Conclusion of the Florida War*, published in 1848. “This book,” Mahon continued, “standing alone for more than a century, has become like a bible to those who bother to concern themselves with the Second Seminole War.”² Interestingly enough, Sprague's study was one of the first, but not *the* original study. Myer M. Cohen's *Notices of East Florida and the Campaigns*, and Woodburne Potter's *The War in Florida*, for instance,

¹ John K. Mahon, *History of the Second Seminole Indian War, 1835-1842*, 2nd ed. (Gainesville: University of Florida Press, 1985).

² John T. Sprague, *The Origin, Progress, and Conclusion of the Florida War* (New York: D. Appleton & Company, 1848; Gainesville: University of Florida Press, 1964); Mahon, vii-viii.

were both published shortly after the war commenced in 1836, and provided the most recent coverage of the conflict and its causes.³ Nonetheless, Mahon recognized Sprague's 1848 study as the most impressive contribution in the post war years—an understandable assertion. As an officer who served in the Florida theatre for a number of years, to say he had an intimate knowledge of the conflict would be very much of an understatement. And, as a result, his impressive collection of original correspondence strengthen the analysis he brings to the war's causes and prosecution. In fact, contemporary historians have continued to lean on his writings extensively as a legitimate source of primary evidence.⁴

Still, as Mahon admitted, "Unfortunately, it is out of proportion."⁵ Not enough time, for instance, was spent on the critical prewar years. More importantly, the lieutenant made no effort to set the conflict in a broader historical context, "or to demonstrate forcefully the close connection between the coming of this Indian war and the general issue of Negro slavery, which was then the central problem of the United States."⁶ This critique is powerful.

The project that follows will attempt to heed this suggestion, and examine more closely the critical prewar years by illustrating the ways slavery influenced or impacted the development of the Florida frontier, and ultimately fomented the Second Seminole Indian War in 1836. Specifically, I will focus on the years immediately following the region's acquisition by the United States government from Spanish colonial authorities in 1821. Colonel Gad Humphreys, late of the Army, and William Pope DuVal, late from the region's federal courts, were the

³ Woodburne Potter, *The War in Florida* (Baltimore: Lewis and Coleman, 1836; Anne Arbor, MI: University Microfilms, 1966); Myer M. Cohen, *Notices of Florida and Campaigns* (Charleston: Burgess & Honour, 1836; Gainesville: University of Florida Press, 1964) .

⁴ While Sprague's inclusion of correspondences and talks are presented as if they are verbatim reproductions, they are not. Whether Sprague meant to alter or paraphrase parts of his included correspondences is not known. Yet, several letters are shortened, altered, or misdated. As a result, inclusion of his letters should be used very cautiously. Most are reproductions of letters found in the books of correspondences received or sent by the Office of Indian Affairs, and although not transcribed, offer original copies.

⁵ Mahon, vii.

⁶ *Ibid.*

primary players there. Their involvement through the Indian Agency moving from 1822 to 1830 was fundamental in developing the vast and fertile frontier the nation had just recently acquired. The development of this frontier, however, paralleled the development of plantation society and of slavery. The Indian Agency became and increasingly powerful presence in this growth; slavery, as with other issues more recognizable in Indian policy, soon consumed the politics of the Florida frontier. This context is an excellent example of what Mahon suggested.

Of course, others attempted to resolve the conflict Mahon recognized in Sprague's work. Joshua Reed Giddings' *The Florida Exiles and the War for Slavery* was published ten years after *Origins*, for instance, in 1858.⁷ As far as he made slavery and the concept of a slavery-driven war the central themes in his argument, Giddings definitely appeared to fill that void.

Unfortunately, Joshua Giddings was the most radical of radical Republicans; his study was published at the height of the Civil War build-up in 1858, and was then republished in 1863. Consequently, its academic value should be approached with extreme cautiousness, and his analysis should be viewed as little more than propaganda. Later, Charles H. Coe's *Red Patriots: The Story of the Seminoles* was published at the turn of the century, in 1898.⁸ Yet while Coe's exposition does at least embrace the role of slaves in the Seminole conflict, he does so only with token inclusion—in the introduction and only with a passing nod to Sprague or Giddings. Thus, Sprague persists. As John Mahon implied in 1967, a more studied effort was clearly necessary.

His own work contributed significantly to filling this omission, but still more elaboration was necessary. What is more fascinating, then, is that John Mahon's call has, for the most part, remained unheeded by the war's more contemporary historians. In the wake of Mahon's *History*, Virginia Bergman Peters next attempted to illustrate the struggle through the lens of its

⁷ Joshua R. Giddings, *The Exiles of Florida* (Columbus: O., Follett, and Foster, 1858).

⁸ Charles H. Coe, *Red Patriots: The Story of the Seminoles* (Cincinnati: Editor Publishing Company, 1898; Gainesville: University of Florida, 1974).

slave controversies in 1979, with *The Florida Wars*.⁹ Expounding heavily on the close association of slaves, black Seminoles, and the removal debate, and including that examination over generations of residence in Florida, Peters' study would appear definitive in making the slavery connection Mahon suggested twelve years previous.

However, her arguments were as forceful as they were blunt and obviously biased; sadly, she in no way reinforced those assertions through the primary evidence she cited. Without any sort of definitive primary source documentation, much of her argument should ultimately be taken with little more than the cautiousness of Giddings' study. James Leitch Wright's *Creeks and Seminoles*, published a year after Mahon's revised addition came out in 1985, provides probably the most convincing (and most professional) elucidation of the causes behind the Seminole conflict to date—an analysis which adroitly considered issues of land, trade, and slavery as the variables which coalesced to created the Seminole conflict.¹⁰ Wright was more of a Creek and Seminole historian, however. He was primarily interested in projecting their shared history, and did not focus his study on the development of war.

Regardless, Wright understood blacks' conspicuousness in Seminole, territorial Florida. From his study, a sort of disturbing, backwards slide began, slowly displacing slavery from the list of variables involved in the conflict. Amazingly, the most recent examples of Seminole War scholarship have been the ones which have chosen to eschew the position of slaves in the Seminole removal debate most completely. John and Mary Lou Missall's *The Seminole Wars*, published in 2004, provides excellent evidence of this retrograde. Their narrative gives scant

⁹ Virginia Bergman Peters, *The Florida Wars* (Hamden, CT: Archon, 1979).

¹⁰ James Leitch Wright, *Creeks and Seminoles* (Lincoln: University of Nebraska Press, 1986).

recognition to blacks of any relation to the Seminoles—whether slaves, maroons, or black Seminoles—and does so almost solely in two pages of their introduction.¹¹

Thus, as Sprague’s war scholarship has stood for over a century, practically on its own, Mahon’s study has done the same for close to half that time now. But alas, where blacks’ position in the debate has flagged on the part of Seminole war scholars, it has been surging for some time from the direction of many of the most highly respected historians of African American history. A salvo of path-breaking articles by Kenneth Wiggins Porter, consolidated into *The Negro on the American Frontier* in 1971, became the spearhead of this surge. Since that time, historians such as Kevin Mulroy and Larry Eugene Rivers have furthered the study of Black Seminoles and slaves in the Seminole country in astonishing ways. Rivers’ 2000 study, *Slavery in Florida*, for instance, has been recognized as a seminal study of the institution’s development throughout all of Florida. His chapter on the interaction between blacks and Indians, most specifically, has become quite possibly the most promising study of the run-up to the Seminole conflict yet, expressed heavily through the lens of black participation.¹²

In even the most comprehensive of these studies, however, one critical aspect of the conflict remains un-examined—Florida’s Seminole Indian Agency. This federal institution played an irrefutable role in the territory’s development, perhaps in a way unparalleled by other territorial experiences. Its position in controversies over slaves, which arose through the 1820s, was no less critical; its officers played an undeniable role in flaming the enmity which ultimately erupted into war. Yet, as a key player in the slavery debate, the U. S. government has been

¹¹ John and Mary Lou Missall, *The Seminole Wars* (Gainesville: The University of Florida Press, 2004), 10-12. See also: James Covington, *The Seminoles of Florida* (Gainesville: The University of Florida Press, 1993); and Joe Knetsch, *Florida’s Seminole Wars, 1817-1858* (Charleston: Arcadia, 2003).

¹² Kenneth Wiggins Porter, *The Negro on the American Frontier* (New York: Arno Press, 1971); Kevin Mulroy, *Freedom on the Border: The Seminole Maroons in Florida, the Indian Territory, Coahuila, and Texas* (Lubbock, TX: Texas Tech University Press, 1993); Larry Eugene Rivers, *Slavery in Florida: Territorial Days to Emancipation* (Gainesville: The University of Florida Press, 2000).

Figure 1. Territorial Florida



The 1820s Florida frontier was almost entirely unpopulated below Tampa Bay, where Fort Brooke was established to secure the southern boundary of the Seminole Nation. The most settled towns were Pensacola on the west extreme of the panhandle, and St. Augustine on the east. Tallahassee was chosen as capital not only because of its position between these two locations, but also because of its central location in the region's blossoming cotton belt.

alarmingly absent from most studies of the larger conflict era. As a result, an examination of the Agency, its experiences and its effects should most certainly further elucidate the role blacks played in the region's turbulence through the 1820s and 1830s. Territorial officials were forced to deal with these complaints and, unfortunately, Gad Humphreys' agency became consumed by them.

Yet, the story of Florida's Seminole Agency and its highly conflicted position on slave claims began, really, with the intersection of three preceding developments. In the first of these, the movement of Seminoles and blacks into the Florida territory can be seen as the result both of Creek autonomy and emigration, and a Spanish colonial system that enticed, liberated, and armed runaway slaves. These arrangements had, by the change of flags, developed populations of both Seminoles and blacks along the Florida borders and into the interior; they were autonomous, fiercely militant, and extremely wary of Americans. The second, conflicting history considers the development of middle Florida—a region blossoming into quite the cotton belt. Its improvement in an Old South direction was progressing remarkably well and territorial legislators wanted, above all else, to promote and continue that growth. Free black populations naturally threatened such development; in response, their eradication—and the Seminole communities that supported them—became paramount to settlers and legislators alike.

Lastly, the Indian Office arrived. It moved into Florida in 1821 and encountered loosely confederated Seminole and black settlements in alarming numbers. Regardless, the Office operated by a system which had already been effectually developed in other southern nations, and legislators were confident that it would prevail in Florida as well. Using an agent, the territorial governor, Superintendent Thomas McKenney, and Secretary of War John C. Calhoun,

the Monroe Administration sought to pacify the Seminole bands, isolate them, and clear the Florida frontier for American expansion.

Ultimately, these stories construct a very volatile Florida territory which existed by the early 1820s—a frontier where Gad Humphreys arrived, fresh from military service, to assume the Seminole Agency. He undertook that office in a dangerous region, and was harnessed with the authority to see to its development. Yet the agent soon realized that his duties included a considerable amount more than isolating and pacifying the Indians—orders which proved difficult enough to effect. As the cohabitation of the Seminoles and blacks collided with the development of chattel slavery, the incidence of runaway slaves increased accordingly. The business of having them returned, as with other issues relating to Indian-settler intercourse, had to be channeled through the Agency—through him. It was these claims which soon became the greatest source of animosity between the regions' settlers and the Indians under his control.

Humphreys, as the sole agent, mediated a great deal of them. So did the territory's governor, William Pope DuVal, who shared in the agent's duties and directed him as a superior authority. Although they had previously worked together in placing the Seminoles on a reservation, sustaining them in difficult times, and mitigating their usually hazardous interaction with whites, they soon disagreed over slave claims. The two had very different opinions regarding the ever-rankling disagreements they were forced to deal with daily, revolving around claims of slave property. DuVal, importantly, shared the views of the burgeoning Democracy enthusiastically. His first duty was to his fellow citizens, and to the emigrant Americans who wished to call the Florida frontier their home. Humphreys, on the other hand, was a much more outspoken proponent of native rights, and those rights extended to the property claims for slaves. He recognized the liberties of the blacks as well—many who had legitimately gained their

freedom under Spanish rule.

Eventually, their disagreements over runaway slave policy became a bitter power struggle, which flamed into a Department-wide controversy that effectually incapacitated the Agency by 1830. By that time, the governor and agent stood in belligerent contradiction to each other. Soon, they were dragging Superintendent McKenney and several secretaries of war into an argument over the legal—even moral—justifications for demanding slaves from Indians who clearly felt they were being robbed. What was soon concluded by removing Humphreys as agent, illustrates with striking clarity the issue of slavery as it intimately influenced the Seminole conflict.

Surprisingly, Colonel Gad Humphreys and his agency are factors in the history of the Seminole conflict which have been largely ignored. Sprague included a great deal of Humphreys' correspondence in *Florida War*. He ultimately approved of the agent's course, and lamented his removal. Generally, so did Dr. Mahon. Even the latter study, however, failed to fully examine these controversies and integrate them into the larger conflict.¹³ Only one study has included such detail, and that investigation came to a conclusion—interestingly enough—which seems to find Humphreys almost criminally culpable. In the debate over runaways in Florida, George Klos argued in 1989, “the agents assigned exacerbated rather than allayed conflict.” And Humphreys, in particular, was to blame. Throughout his tenure, according to Klos' argument, the agent did almost everything in his power to counteract slave owners, at least concerning their complaints about runaways. Furthermore, he was trading illegally in many of the slaves personally.¹⁴

¹³ Sprague, 70-71; Mahon, 70-71. See also: Giddings, 75; Peters, 86.

¹⁴ George Klos, “Blacks and the Seminole Removal Debate, 1821-1835,” *The Florida Historical Quarterly* 68 (July 1989): 63-66.

In the following study, Humphreys' actions are argued to quite the opposite conclusion. As an agent, he developed into a champion of the Seminole Indians at a time, according to Mahon, when they badly needed one.¹⁵ He recognized the position of blacks in Seminole society with a cognizance unmatched by his superiors—whether in the governorship or in the War Department. He moved time after time to shield Seminole claimants from the avariciousness of the territory's settlers. He rebuffed settlers' repeated attempts to gain these slaves, and in doing so earned the widespread enmity the planters. He also regularly challenged his superiors with a sometimes-surprising intensity, confronting them and the unfair practices which robbed Seminoles of what he viewed was their rightful property. It was his unwillingness to defraud the Seminoles of their slaves, and not his own cupidity, which earned the aAgent the respect of the Seminoles, the condemnation of the whites in his region, and ultimately the censure of his superiors.

By the time Humphreys was removed in 1830, Florida's Seminoles and settlers had become true belligerents. These animosities developed around a number of different discrepancies—whether over the struggle for land, food, or slaves. But slavery was central. Not even the conflict over emigration illustrates Floridians' rapacity, the Indians' desperate indignation, or even the breakdown of the region's government, contributed as strongly to the controversy. Humphreys' tenure in the Agency from 1822 to 1830 had dramatically altered the course of slave claims and Seminole-settler relations by the time he was removed. Where this removal would seem to prove his failure as an agent, however, I argue that Humphreys was quite the opposite, and that he spared Florida a bloody guerilla war, if only for six years.

And yet the agent's actions, those of his superiors, and of the Indians under his control, do a great deal more than highlight the inadequacies of the Federal Indian Office, or the cruel

¹⁵ Mahon, 59.

rapacity of frontiersmen. They help shed light, for instance, on the relationships Indians shared with blacks in striking detail—relationships which enraged countless Seminoles when their slaves were, time and time again, stolen from them. They also emphasize the degree in which those relationships outraged white settlers and the enormous pressure they exerted to have alleged runaways apprehended—whether rightfully or deceitfully. These dealings had, possibly more than any other controversy, convinced many Floridians that removal—or war—were the only options. In short, the first eight years of the Seminole Agency, and the slave claims that practically paralyzed it by 1830, can tell us a considerable amount about the roles blacks played in the larger Seminole conflict. In an effort to help answer Dr. Mahon’s call, to “demonstrate forcefully the close connection between the coming of this Indian war and the general issue of Negro slavery,” Colonel Gad Humphreys and the politics of slave claims on the Florida frontier is an examination that needs to take place.

Chapter One

The Natives

“Before giving an account of this wanton destruction of human life,” historian Charles Coe suggested in 1898, “it seems an appropriate place to notice the negroes who lived among the Indians.” Reasserting that centrality, another historian concluded more than a century later that in the “triracial Florida” world, runaways slaves rested “at the root of much of the impending conflict between whites and Indians,” and certainly the Seminoles.¹⁶ Connections the two groups shared through both the Seminole removal debate and war were ones which coalesced slowly in over a century of residence on the Florida frontier. Although for separate reasons, both Seminoles and slaves had moved into Spanish Florida around the same time period, mostly during the eighteenth century. Through their mutual struggles for existence and autonomy, by the territory’s acquisition in 1821, the two groups had grown extremely close, and the efforts begun by territorial officials to extirpate those roots soon proved painfully difficult.

William H. Simmons, as with numerous other commentators, extensively noted the relationships Seminoles and their slaves shared in both the Seminole and maroon towns he passed through. “The partial union of wild and social habits,” he noted, “exhibited by the Negro settlements, presents a very singular [anomaly], no where else, perhaps, to be met with. The gentle treatment they experience from the Indians, is a very amiable trait in the character of the

¹⁶ Coe, 14; Rivers, 189.

latter.”¹⁷ They sometimes lived in Seminole towns, and sometimes in autonomous maroon settlements; in both cases, however, they managed their own cattle, crops, homes and personal affairs. They dressed similarly, carried weapons and hunted alike as well. In his observation, army officer Archibald McCall noticed their large fields “of the finest land,” which produced extensive crops of corn, rice and vegetables. Slaves’ houses were well built, in some cases “more comfortable than those of the Indian masters.” They rendered to their owners a tribute in livestock or produce, but otherwise were “free to go and come at pleasure, and in some cases are elevated to the position of equality with their masters.”¹⁸

Blacks’ position within Seminole communities, another asserted, was one “compared with that of negroes and overseers, of luxury and ease.” Agricultural demands never exceeded the “very trifling”—usually no more than ten bushels from their own crops, “the remainder being applied to his own profit.”¹⁹ As historian Kevin Mulroy has suggested, these tribute arrangements mirrored the communal agricultural *mico* system depended upon by Seminole and Creek cultures for generations. Even its southeastern predecessor, the *sabana* system, bore striking similarities. In these arrangements, all members of a town planted in common fields, and gave portions of the crop to the tribe’s chief, depending upon their individual success. These offerings were then stockpiled as a common surplus—subject to the chief’s discretion, yet usually reserved for times of need.²⁰ The “tribute” many of these observers saw blacks paying

¹⁷ William H. Simmons, *Notices of East Florida* (Charleston: A. E. Miller, 1822; Gainesville: University of Florida Press, 1973), 76.

¹⁸ William Kennedy, *Texas: The Rise, Progress and Prospects of the Republic of Texas* (2 vols., London: R. Hastings, 1841) vol. 2, 350; Simmons, 76; George A. McCall, *Letters From the Frontiers* (Philadelphia: Lippincott, 1868; Gainesville: University of Florida Press, 1974), 160.

¹⁹ Potter, 45-46. See also John Lee Williams, *The Territory of Florida* (New York: A. T. Goodrich, 1837; Gainesville: University of Florida Press, 1962), 240.

²⁰ Mulroy, 7-8; Simmons, 76; Mark Van Doren, ed., *The Travels of William Bartram* (New York: Dover Publications, 1928), 400-401. For more information on the *sabana* system, see Amy Turner Bushnell, “Ruling ‘the Republic of Indians’ in Seventeenth-Century Florida,” in Peter H. Wood, Gregory A. Waselkov, M. Thomas Hatley, eds., *Powhatan’s Mantle: Indians in the Colonial Southeast* (Lincoln: University of Nebraska Press, 1989), 140-142.

was, very likely, less consistent with a master-slave relationship than with the normal contribution required of any town member.²¹

The Indians' retention "of their own notions, practices, and institutions" facilitated the incorporation of Africans remarkably well, Mulroy noted, and those customs (including their economic and agricultural structures) would play heavily into their future with runaways. Like other traditions, various tribes of Seminoles had also long dealt with slavery, and easily incorporated Africans into their institution as fugitives began trickling in from the colonies or the American South. Southern Indian traditions dealt with slavery as a result of battle, however, and as replacements for lost relatives—either torture or adoption was the usual outcome. Native customs did not associate slavery with organized labor or agricultural exploitation, as the institution developed in the American South.²² "It was a mutually advantageous arrangement," Kenneth Wiggins Porter concluded, "in which the master furnished protection and the slave paid a moderate rent in kind, rather than anything even approaching the familiar system of plantation slavery."²³ Equality was an obtainable proposition for many held in this position. Intermarriage was not prohibited, and the children of such unions, according to historian Edwin McReynolds, sometimes acquired complete freedom—an observation confirmed by William Bartram in the late eighteenth century, as well as many others.²⁴

In the loose confederation of bands and towns that constituted Seminole country, both Indians and blacks enjoyed a large amount of autonomy and cultural diversity. It was this sort of independence, Mulroy concluded, which had lured many of the first Indian bands into the region

²¹ Porter, 186-187.

²² Mulroy, 7-8, 17.

²³ Porter, 186-187.

²⁴ Edwin C. McReynolds, *The Seminoles* (Norman: University of Oklahoma Press, 1957), 74; Doren, 183. See also, Coe, 14-15; James Leitch Wright, *The Only Land They Knew* (New York: Free Press, 1981), 261; Thomas Simpson Woodward, *Woodward's Reminiscences of the Creek, or Muskogee Indians* (Mobile, AL: Southern University Press for Graphics, 1965), 94.

in the first place.²⁵ Creek tribes, in the lower portions of Georgia and Alabama, operated with a remarkable autonomy and self-government; although various bands emigrated south for various reasons throughout the eighteenth century, most were Creeks, and they carried their traditions with them. Some were enticed south by the fertile, empty fields of north Florida. Still more, however, fled to the region with the hopes of escaping the expansion of the American frontier. Into a “rare sort of vacuum,” as Mahon suggested, these first Indian bands relocated, prospered, and became Seminoles. Their right to the Florida soil was, in essence, a consequence of both the struggle for empire among European colonial powers, and an aspect of Creek traditions of autonomy.²⁶ By 1823, just under 5,000 Seminoles were recognized in the region.²⁷

Furthermore, Spanish colonial authorities, who had been bringing those settlements into contact with runaways through the eighteenth and even seventeenth century, fostered their existence.²⁸ The first group of these fugitive slaves, fleeing from neighboring English colonies, reportedly arrived in St. Augustine in 1687. As runaway incidents became more frequent, colonial officials repeatedly solicited the advice of the Spanish Crown, and soon a royal decree detailed official Spanish policy. Florida authorities were to begin “giving liberty to all...the men as well as the women...so that by their example...others will do the same.” Later decrees reinforced these initial guidelines, including one in 1733, which not only reiterated Spain’s offer for freedom, but prohibited compensation to their previous owners. In return, the fugitives were required to accept the Catholic religion, and complete four years of service before the crown would officially grant their freedom.²⁹

²⁵ Mulroy, 7.

²⁶ Mahon, 2-3.

²⁷ “Statement of the Commissioners,” in *American State Papers: Indian Affairs* 2: 439. Hereafter, ASPIA; Mahon, 31.

²⁸ Jane Landers, *Black Society in Spanish Florida* (Urbana: University of Illinois Press, 1999), 72-73.

²⁹ Jane Landers, “Spanish Sanctuary: Fugitives in Florida, 1687-1790” *Florida Historical Quarterly* 62 (January 1984): 297-298, 300; John J. TePaske, “Fugitive Slave: Intercolonial Rivalry and Spanish Slave Policy, 1687-1764,”

It became, according to one American report, a system which “combined benevolence in its leading principles, and that, in practice...exhibited a perpetual reciprocity of interest.”³⁰ While recent scholarship has examined the several degrees of freedom available in Spanish Florida, there is little evidence to refute the comparative liberty blacks enjoyed out of English colonies and, later, the American South.³¹ As Mulroy concluded, “Those enslaved, therefore, exchanged masters gladly by escaping across the border to Florida.” In this environment, countless blacks were amalgamated with the Seminoles, and their coexistence in Spanish Florida flourished.³²

Nevertheless, the Spaniards lured both blacks and Seminoles into the territory for a purpose. These policies reflected a want of security on the territory’s northern border as much as it illustrated the supposed grace of the Catholic Majesty. Raids, depredations, and filibustering expeditions commenced by the English or Americans became a generational legacy of the Spanish Florida period. A pointed attack came with the Patriot War of 1812, when Georgians had been for some time hoping for “a desirable pretext...to penetrate their country, and [brake] up the Negroe Town” at St. Augustine—“an important evil” growing under the patronage of the Spanish. While the Seminoles stood to lose their land, Kevin Mulroy concluded, the blacks were threatened with the loss of their freedom. “Both, therefore, were quick to answer the Spanish appeal.” Their cooperation with Spanish regulars rebuffed Patriot attempts to seize Spanish East Florida, proving the collusion of Indian and black forces to be “altogether a formidable foe.”³³

in Samuel Proctor, ed., *Eighteenth Century Florida and Its Borderlands* (Gainesville: University of Florida Press, 1975), 6; Coe, 16.

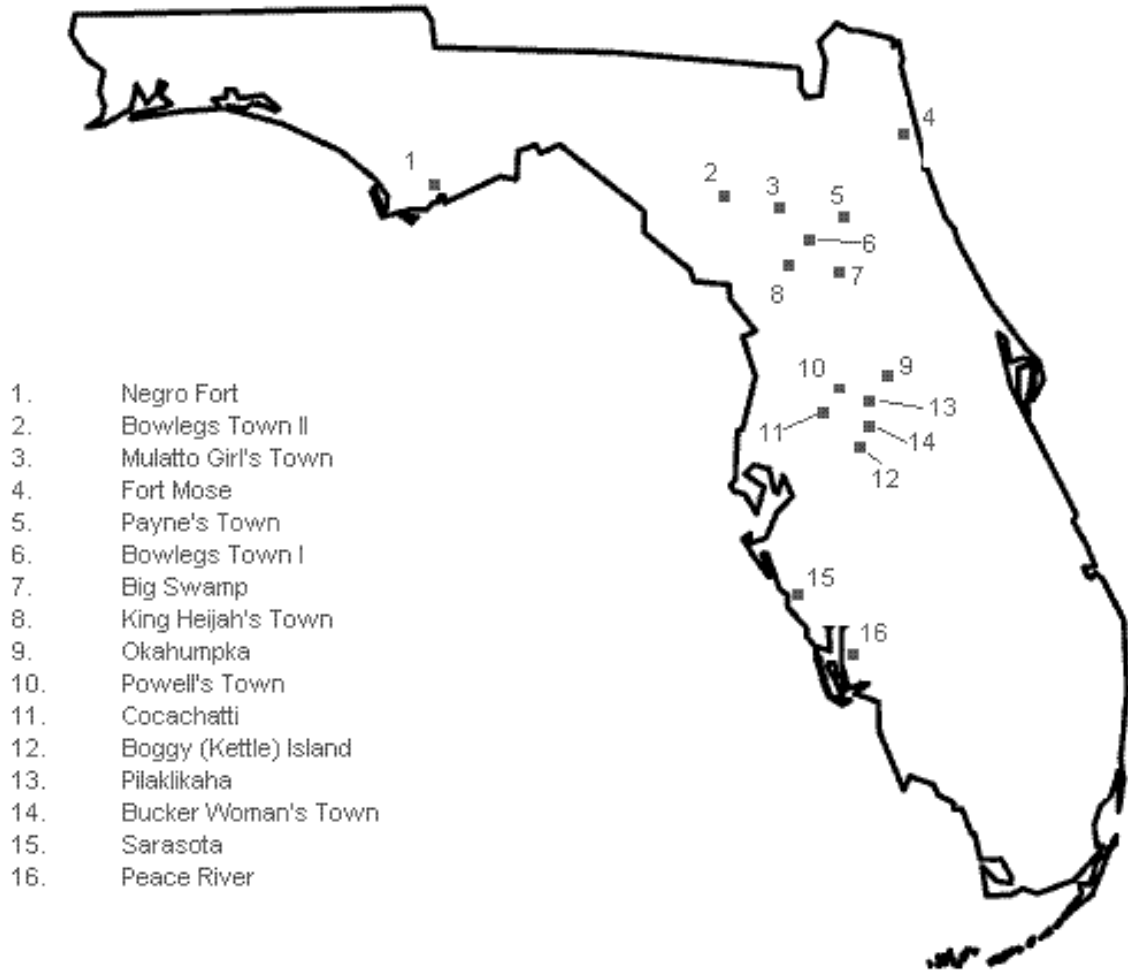
³⁰ Report of Mr. Metcalf, February 21, 1823, ASPIA 2: 409.

³¹ For a detailed study of Africans in colonial Florida, see Landers, *Black Society in Spanish Florida*.

³² Foreman, 315, 318; See also: Mulroy, 8; Missall, 10.

³³ Mulroy, 12; Mahon, 21-22.

Figure 2. Colonial and Territorial Black Settlements



Sources: Landers, *Black Society*, 236; Mahon, *History*;
Mulroy, *Freedom on the Border*; *Territorial Papers*;
American State Papers.

More large emigrations followed the close of the Creek War of 1813-1814 and the bitter loss thousands of Creeks felt at the conclusion of the treaty of Fort Jackson, which stripped them of upwards of twenty million acres of land. Numerous “Red Stick” Creeks—as well as blacks—fled south rather than submit to the terms of that accord. Once in Florida, they too were considered Seminoles. Many created their own autonomous settlements, while others simply integrated into the already prosperous Seminole villages. With the influx of these Creek and black warrior-refugees, the militant atmosphere in the territory further thickened.³⁴

Considering the blacks that chose to reside by themselves, however, the years preceding the First Seminole War marked a growth period of impressive proportions. With the influx of emigrants from Alabama and Georgia, large autonomous towns consisting of maroons and runaway slaves began to emerge. For the most part these black settlements, known as maroon communities, were usually closely associated with a larger Seminole or Creek town, and with the passage of time, became large and populated themselves. Examples of these settlements could be found scattered across the Peninsula: on the Suwannee, around Tallahassee and St. Augustine, along the St. John’s River, along the Withlacoochie River, above Tampa Bay, in the Great Wahoo Swamp, in the Big Cyprus Swamp, down the southwest coast of Florida and especially on Charlotte Harbor.³⁵

The frequency of runaways from these regions, the willingness of the Seminoles and Spanish to harbor them, and the determination of runaways’ owners in the southern states to regain them—or perhaps “to take advantage of the confusion and recover additional slave

³⁴ Mahon, 22; Katherine E.H. Braun . “The Creek Indians, Blacks, and Slavery,” *The Journal of Southern History* 57 (Nov 1991): 633-634; Missall, 22.

³⁵ Braun, 633-634; Milton Meltzer, *Hunted Like a Wolf* (Sarasota, FL: Pineapple Press, 2004), 52. For an account of a black settlement on “Big Swamp,” see John C. Ley, *Fifty-Two Years in Florida* (Nashville TN, 1899), 47. For information on those settlements south of Tampa Bay, see Clarence Edwin Carter, ed. *The Territorial Papers of the United States* (Washington: United States Government Printing Office, 1956-1962), 22: 744. Hereafter, TP; John Winslett to Augustus Steele, December 21, 1833, in *American State Papers: Military Affairs* 6: 453. Hereafter, ASPMA.

property,” Edwin McReynolds suggested—combined to make border diplomacy in the region frustratingly complicated.³⁶ Coalescing in the destruction of the Negro Fort in 1816, and Andrew Jackson’s invasion in 1817-1818, depredations on behalf of angry frontiersmen often destroyed villages and scattered countless communities of both Seminoles and blacks.³⁷ They also—in what would be a thematic trend—brought both warrior groups together over and over again in common defense; the threat of annihilation crystallized their alliances in permanent ways. During one campaign of the 1817 invasion, for instance, over six hundred blacks were visible in numerous Seminole towns, seen “on parade,” in town squares, bearing arms, and “in complete fix for fighting” together with their Indian compatriots.³⁸ In another, General Edmund P. Gaines reported to Major General Andrew Jackson on the forces opposing him in Florida, numbering the Indian warriors at over two thousand, “besides the blacks, amounting to near four hundred men, and increasing daily from Georgia.”³⁹ During Jackson’s siege of Suwannee—a town which included large numbers of both blacks and Seminoles—thousands escaped only after a heroic defense put on by both black and Seminole warriors allowed the town to evacuate across the river and escape.⁴⁰

Whether linked as fellow emigrants, exiles, fugitives or warriors, both Seminoles and blacks were formed up by the Spanish as the first line of defense and hardened by almost continual struggle. Through the eighteenth and early nineteenth centuries, the two populations had soon weathered and endured, side by side, a perilous existence in north Florida. Constant skirmishes had tested or weakened both the black and Seminole warriors. Yet they persevered.

³⁶ McReynolds, 74.

³⁷ For information on the destruction of Negro Fort and the battles of the First Seminole Indian War, see See James Covington, “The Negro Fort,” *Gulf Coast Historical Review* 5 (Spring 1990): 79-91; Mulroy, 15-17; Mahon, 18-28.

³⁸ George Perryman to Lieutenant Sands, February 24, 1817, ASPIA 1: 155.

³⁹ Gen Gaines to Maj Gen Jackson, November 21, 1817, ASPMA 1: 686.

⁴⁰ Jackson to Calhoun, May 20, 1818, *ibid.*: 700; Adj. Gen Robert Butler to Brig. Gen Daniel Parker, May 3, 1818, *ibid.*: 704.

Their associations with each other grew stronger; the indignation they held towards the settlers on their northern borders grew more resolute. It was when the two groups were assailed “from without,” Mulroy asserted, that their bonds were the strongest.⁴¹

In this sort of precarious position, both Seminoles and blacks prospered. In an 1822 survey, the Reverend Jedidiah Morse estimated their number at around five or six hundred. Ten years later, Alachua county residents put their population at over eleven hundred, and Joshua Giddings noted that by the outbreak of the Second Seminole Indian War, the total, “including women and children, was not less than twelve hundred.”⁴²

Yet the American government, which John Mahon suggested “was to be their nemesis,” would not tolerate their existence.⁴³ With the territory’s purchase, everything changed. Most importantly, both black and Indian settlements were faced with the reality of an imminent, determined threat. As one interested observer foreshadowed, “it is probable, that this hoard will be broken up by the American Government,—as their existence, in their present state, is incompatible with the safety and interests of the planters of Florida.”⁴⁴

⁴¹ Mulroy, 17.

⁴² Morse, 311; *TP* 24: 643-644; Giddings, 97.

⁴³ Mahon, 18-19.

⁴⁴ Simmons, 75.

Chapter Two

The Territory

As Williams Simmons' observations implied, whether slave or free, the blacks living amongst the various Seminoles tribes constituted a steady threat to slavery's existence in the more settled states on its northern border. Settlers populated the region relentlessly in the wake of its annexation; soon, many were complaining of the loss of their slaves to Seminole raiders. The Indians were similarly enthusiastic in blaming American frontiersmen for slave stealing, among other depredations. The frictions these mutual threats generated around the borders with Georgia particularly, Mahon asserted, heightened those typical of race relations on other territorial borders.⁴⁵ It was natural, another historian has suggested, that the presence of a tribe of Indians, over which runaway slaves "exerted such a peculiar influence," should rouse the "jealousy and enmity" of the slaveholders outside of the Florida territory in the ways they did.⁴⁶

Ultimately, the acquisition of Florida was only a matter of time. Americans felt that Florida belonged in America "as a foot belongs to a leg."⁴⁷ And with its acquisition, numerous slaveholders must surely have breathed a collective sigh of relief. For, although Seminoles still populated Florida, the threat of having their slaves escape or stolen no longer included an international boundary. Under national jurisdiction, the lengths resorted to in having property seized must doubtless have been made less desperate or severe. Simmons confirmed that confidence in 1822, explaining that in the wake of the annexation, "the Negro property, also in

⁴⁵ Mahon, 20.

⁴⁶ Porter, 48.

⁴⁷ Mahon, 19.

the South, is now surrounded with greater security, and rendered less susceptible of being converted into a source of domestic danger.”⁴⁸

The invasions of 1816-1818—many backed by United States army participation—had already manifested this fear. While most of the earlier incursions were fueled by simple American expansion, Kenneth Wiggins Porter suggested, another objective, “which became increasingly important and eventually developed into a primary purpose,” was to better safeguard the institution in the states by breaking up the runaway negro settlements in Florida which threatened it.⁴⁹ A British trader in the territory—later executed for his participation—wrote his son confirming that apprehension in 1818. “The main drift of the Americans,” Alexander Arbuthnot accused, “is to destroy the black population of Suwannee.”⁵⁰

“You harbor a great number of my black people among you,” General Gaines admonished a Seminole Chief during one campaign into that particularly large settlement. “If you give me leave to go by you against them, I shall not hurt any thing belonging to you.”⁵¹ General Jackson echoed the same sentiment in his larger 1818 campaign, explaining that “to chastise a savage foe, who, combined with a lawless band of negro brigands, have for some time past been carrying on a cruel and unprovoked war against the citizens of the United States, had compelled the president to direct me to march my army into Florida.”⁵² These incursions became the bulk of the First Seminole Indian War, which officially ended in May 1818.

Certainly disrupted and many permanently displaced, the Seminole tribe suffered heavily from Jackson’s assault. And yet, a second assault came with the transfer from Spain, only a few

⁴⁸ Brent Weisman, *Unconquered People: Florida’s Seminole and Miccosukee People* (Gainesville: University of Florida Press, 1999), 43; Simmons, 53.

⁴⁹ Porter, 210.

⁵⁰ A. Arbuthnot to John Arbuthnot, April 2, 1818, in *American State Papers: Foreign Relations* 4: 584. Hereafter, ASPFA.

⁵¹ Gen Gaines to King Hatchy, n.d., ASPMA 1: 723.

⁵² Maj. Gen Jackson to , April 6, 1818, ASPMA 1: 704.

years later. The ratification of the Adams-Onís Treaty in 1821 formally brought the territory under American control where, ultimately, “the slavery problem could be handled more easily.”⁵³ Article six of that agreement did, on the one hand, guarantee an admittance of all the region’s inhabitants—regardless of race—to “the enjoyment of all privileges, rights, and immunities of the citizens of the United States.” Sadly, however, as John Mahon and Larry Rivers have noted, that clause must have only been designed to salve the conscience of his Catholic Majesty, as there was almost no likelihood the Americans would honor the pledge.⁵⁴

Rather, whites took almost immediate steps in eradicating the combined threat in the wake of annexation. Nervous Georgia slaveholders initiated the first of these steps, anxious to retrieve their numerous slaves pilfered by the Seminoles or held under Spanish protection. They first accomplished this not through an agreement with the Seminoles, but through their northern neighbors in the Creek Nation. Commissioners there were appointed to negotiate indemnity demands for slaves on behalf of Georgians, and in fairly straightforward language, they were informed that the treaty was to be for the benefit of the state’s citizens, “and her wishes should control them.” What resulted was the Treaty of Indian Springs, concluded in January of 1821. With its agreement, not only did the Creek Nation surrender five million acres of land, but also took formal responsibility for the slaves under the control of the Seminoles; \$250,000 in pecuniary damages were paid to the citizens of Georgia on their behalf.⁵⁵

Previous efforts had been made to wrest from the Creek Nation the numerous slaves in *their* possession, as could be seen in treaties held in August 1790 and June 1796. By those agreements, their nation was required to deliver all blacks to the closest American post, or face a

⁵³ Grant Foreman, *Indian Removal: The Emigration of the Five Civilized Tribes of Indians* (Norman: University of Oklahoma Press, 1932), 317.

⁵⁴ Mahon, 29; Rivers, 11-12.

⁵⁵ Foreman, 317; Williams, 239; For more information on the treaty proceedings, see ASPIA 2: 252-257; Charles J. Kappler, LL. M., ed., *Indian Treaties, 1778-1883* (New York: Interland Publishing Inc., 1973), 198.

deputation of commissioners which would enter the nation and claim “such prisoners and negroes” on behalf of American citizens.⁵⁶ With the incorporation of the Florida territory, however, Georgians were anxious to retrieve the property held out of the jurisdiction of Georgia or the Creek Nation; a new treaty, integrating the Seminole tribe, was necessary. With the fixation of blame placed upon both the Creeks and Seminoles, and their slaves indemnified, Georgians were thus relieved of a financial burden they had been agonizing over for more than thirty years.

On the other hand, as one contemporary noted, great exertions had also been made, “to get the Indian negroes away, by other false claims of individuals; and under these claims,” many slaves were pilfered by the Georgians “by force and fraud.”⁵⁷ If this had been the object in the past treaties attempted, then with the conclusion of the Indian Springs agreement, it had finally been achieved. Not only had Georgians retrieved at least some restitution for the slaves they had lost among long-removed Seminole tribes, they had the pleasure of pitting the southern tribes against their northern brethren in the process. Yet, would the Treaty of Indian Springs really quell Georgians’ interest in the slaves already indemnified, yet also being reigned under the control of the American government? Collecting damages for lost slaves was a good start; collecting damages *and* recovering lost slaves, however, would prove much more profitable to planter interests—even if it meant defrauding the Seminoles of theirs. They had multiple weapons within their control for affecting these desires. Creek warriors were now more than willing to help capture slaves from their evidently delinquent cousins—especially the ones they had just recently paid for. With the imposition of American jurisdiction over the territory, exploiting the naïve Seminoles would only be a matter of time.

⁵⁶ Kappler, 26, 46.

⁵⁷ Williams, 239.

Under the umbrella of this jurisdiction, the fertile Middle Florida region appeared much more attractive to a great number of Old South planters, and development of the region sped up considerably. Particularly, cotton held the most promise, although sugar and tobacco also found limited success.⁵⁸ The interior was, in Governor DuVal's 1824 estimation, "the most valuable Southern country I have ever seen." He had no doubt that the fertile Middle region—located between the Suwannee and Apalachicola rivers—alone would sell for "more than the Florida debt." Planters from Georgia, the Carolinas, and Virginia agreed, and began moving their slaves and families into the province; rich plantations were soon developing across Florida's brand new "black belt." In the decade of development proceeding from Florida's annexation, this belt developed into Jackson, Gadsden, Leon, Jefferson, and Madison counties. The great majority of Florida's slaves resided here—sixty percent by 1830—and they were producing roughly 85 percent of the territory's cotton. The 1830 census reveals a total population in Florida of almost 35,000; over 15,500 were slaves, and 7,587 resided in the middle Florida region. With the majority of this North Florida slaveholder class controlled by a small percentage of planters—those who owned twenty or more slaves—soon "Piedmont and Tidewater society had come into being," according to Julia Floyd Smith, making Florida's interests akin to those of the neighboring Old South.⁵⁹

Yet, while North Florida held lucrative cotton growth prospects, in terms of its security and development, it in no way mirrored the Old South culture it emulated. The majority of Florida was still an unpopulated, unbroken frontier; the possibility of achieving a successful escape was much more of a reality to slaves in Florida than in more settled slave states. The

⁵⁸ Rivers, 18-19.

⁵⁹ TP 22, 848-849; Julia Floyd Smith, *Slavery and Plantation Growth in Antebellum Florida* (Gainesville: University of Florida Press, 1973), 17-18; *Abstract of the Return of the Fifth Census* (Washington: Duff Green 1832), 44; Rivers, 17-18.

Figure 3. Fugitive Slave Illustrations



Above: “Escape,” and “In Hiding,”
c1935, Bernarda Bryson.
LC-DIG-ppmsca-06786, and
LC-DIG-ppmsca-06781, respectively, in
*Library of Congress, Prints and Photographs
Division*

Below: 1834 Engraving of a slave
being kidnapped by slave raiders.
Library of Congress



Kidnapping. Page 120.



Above: “In The Swamp,”
c1863, H. L. Stephens.
LC-USZ62-28494, in
*Library of Congress, Prints
and Photographs Division*

reality of a bloody slave uprising was just as evident to slaveholders and similarly unsettling. They were removing thousands of slaves from well developed southern states and planting them in relatively dangerous—borderline inhospitable—frontier surroundings, practically surrounded by both Seminole and maroon settlements. Facing this threat, territorial legislators began developing a plainly outlandish slave code, progressing through the 1820s with what Larry Eugene Rivers has considered “a small flood of repressive legislation.” Beginning with the act “For the punishment of slaves, in violations of the penal laws of this territory,” any crime of capital offense resulted in death, while most other infractions resulted in whippings in a variety of lashes. Of note in this first wave of legislation, section four called for the apprehending of runaways, “whereas many times, slaves run away and lie hid and lurking in swamps.” Any slave away without permit, more than five miles from his owner’s plantation, would thereby be considered a runaway.⁶⁰

More legislation followed in 1824, 1826, 1827, 1828 and 1829, further revising and amending the original statutes. In particular, the 1824, 1827 and 1828 legislative additions further defined and regulated the apprehension and redelivery of slaves by the authorities and Indian agents. They enjoined upon agents the power to apprehend fugitives, yet also provided them with a five-dollar profit, per slave, on all runaways successfully delivered—proceeds that could be used to run the Agency.⁶¹ As with the original statutes, no less than thirty lashes were required for even the most trivial

⁶⁰ Rivers, 12; *Acts of the Legislative Council of the Territory of Florida, Passed At Their First Session, 1822* (Pensacola: Floridian Press, 1823), 182. See pages 181-185 for full run of legislation.

⁶¹ *Acts of the Legislative Council of the Territory of Florida, Passed At Their Third Session, 1824* (Tallahassee: Florida Intelligencer, 1825), 289-292; *Acts of the Legislative Council of the Territory of Florida, Passed At Their Fifth Session, 1826-7* (Tallahassee: Florida State University, 1988), 141-144, 149-150; *Acts of the Legislative Council of the Territory of Florida, Passed At Their Sixth Session, 1827-8* (Tallahassee: Joseph D. Davenport, 1828), 92-94, 97-110.

infraction. For the more dangerous offences, including rebellion, assault, or even theft, slaves were to be executed. These statutes were in most cases oppressively severe and, in many others, extreme to the point of being unenforceable. Yet, as Larry Eugene Rivers and Canter Brown, Jr. have argued, their harshness reflected the genuine threat posed by the presence of Seminoles and slaves in burgeoning Middle Florida.⁶²

“Nervous planters hesitated to invest in lands and slaves in so unprotected a situation,” Dr. Rivers has suggested. The territory’s seemingly excessive slave regulations illustrated the immediate necessity planters felt in stabilizing their institutions and communities in the most expedient way. Slave codes which counteracted not only the Spanish system of relative slave autonomy, but also limited plantation contact with free blacks or Seminoles, were necessary to “insure against slave flight or rebellion.” In this way, both historians contend, dangerously harsh codes were written not in the desire to culture a prosperous plantation economy for the future, as was the case in the more developed Old South. Instead, they evinced the immediate threat of slave insurrection or flight, which drove the demand for immediate, preemptory action.⁶³

Through treating with the Creeks and designing an extensive catalogue of slave codes, the territory’s first legislators initiated steps to both dispossess the Seminoles of their slaves, and minimize the interaction they shared with the region’s plantations. The next logical step necessitated dealing with the Seminoles in their own right. And here the worst news quickly became apparent to the Seminoles. General Jackson, under whose command the most offensive of the First Seminole War invasions were conducted, was to be appointed acting governor. Who else was better suited for the territory? He knew the

⁶² Rivers, 8-9; Canter Brown, Jr., “Race Relations in Territorial Florida, 1821-1845,” *Florida Historical Quarterly* 73 (January 1995): 287-289.

⁶³ Rivers, 8-9.

terrain well, and his capacity “for ruthless action would be useful in stabilizing the situation there.”⁶⁴

Almost immediately after cession he had, along with other authorities, begun viewing both only the Seminole and black settlements with considerable apprehension. They were dangerous, they needed to be removed, and it had to happen as quickly as possible.⁶⁵ Jackson communicated one such appraisal to the secretary of state in spring of 1821, as he recommended all Seminoles be immediately removed to Creek country. “Whatever may be the President’s instructions upon this subject shall be strictly obeyed,” Jackson wrote, “and likewise in relation to the negroes who have run away from the States & inhabit this country and are protected by the Indians.”⁶⁶ Three months later, acting Indian Agent Jean Peñieres passed his own judgment to the newly appointed Jackson in his Indian report, noting that if it became necessary to use force with the numerous negroes present in the region, it was to be feared “that the Indians would take their part.” Peñieres had no doubt that the black settlements had to go, however, “among whom runaway negroes will always find refuge.”⁶⁷ Jackson promptly forwarded those observations to the secretary of war, citing also the necessity to remove the Seminoles, that “this must be done, or the frontier will be weakened by the Indian settlements, and be a perpetual [harbor] for our slaves.” The runaways, he added, must be removed, “or scenes of murder and confusion will exist, and lead to unhappy consequences that cannot be controlled.”⁶⁸

⁶⁴ Peters, 64.

⁶⁵ Mahon, 31.

⁶⁶ Commissioner and Gen Jackson to the Secretary of State, April 2, 1821, TP 22: 28-29.

⁶⁷ Penieres to Gen Jackson, July 15, 1821, ASPIA 2: 411-412.

⁶⁸ Gen. Jackson to Secretary of War, September 2, 1821, ASPIA 2: 414.

Two years later, Commissioner James Gadsden, appointed to treat with the Seminoles, also warned of the necessity to have the blacks exiled. In his observations, he noted that “an Indian population...connected with another class of population which will inevitable predominate in Florida, must necessarily add to natural weaknesses, and endanger the security of one of the most exposed, but important frontiers of the Union.” Furthermore, the Indians in the area were reportedly well connected with the Cuban fishermen in the area of Charlotte Harbor, and “to this cause principally has been ascribed the encouragement hitherto given to absconding negroes & savage depredations committed...” Nothing short of a military post would be successful in stemming this “illicit traffic.”⁶⁹ Governor Jackson again counseled the secretary of war on the situation, agreeing with Gadsden that troops would be immediately necessary to “overawe the Indians, and keep down the insurrection of the Blacks, of which there must be a large number in the Floridas at some future date.”⁷⁰

The territory’s earliest authorities recognized the danger posed by the presence of blacks in the region, and moved as quickly as possible to have them apprehended or removed. Ultimately, the Treaty of Moultrie Creek, completed in September, 1823, at least somewhat provided for this necessity. In that agreement, chiefs and warriors were directed, forthwith:

To be active and vigilant in the preventing the retreating to, or passing through, of the district of country assigned to them, of any absconding slaves, or fugitives from justice; and further agree, to use all necessary exertions to apprehend and deliver the same to the agent, who shall receive orders to compensate them agreeably to the trouble and expenses incurred.⁷¹

⁶⁹ James Gadsden to the Secretary of War, June 11, 1823, TP 22: 695-696.

⁷⁰ Andrew Jackson to the Secretary of War, July 14, 1823, *ibid.*: 719-720.

⁷¹ Kappler, 204.

Slavery was not the only stipulation provided for in the treaty. In fact, at article six, it was not near the top. Yet, “inasmuch as the presence of fugitive slaves among them was one reason the white men were determined to force them out,” John Mahon suggested, that provision was of particular importance to the Seminoles.⁷² Their presence ran contradictory to the development of the frontier and of the plantation system which had, to that point, been successful in its emigration from the Old South. The territory’s legislators, civil and military leaders realized the threat, and moved as quickly as possible to have it neutralized.

⁷² Mahon, 47. See also: Peters, 69.

Chapter Three

The Agency

If the appointment of their “old conqueror” made for a scary proposition to the thousands of Seminoles or blacks in the territory, and his suggestions regarding their removal an even more dangerous one, they must surely have found relief in October 1821, when the General withdrew from the territory and his governorship, never to return. His commission had been a sort of consolation appointment, after all, as the once Major General had been slated to lose his position after a drastic reorganization cut the army roughly in half. On the other hand, according to both Mahon and Peters, Jackson seemed like the ideal candidate for the position, as he had commanded so successfully the 1817-1818 expeditions; he was well acquainted with the country, and more importantly, was even more well equipped to deal with the Indian character. He surely was not appreciative of his appointment, however, as he had was slow to accept his commission, did not assume the position for four months, and left three months later.⁷³

Nevertheless, shortly after the General’s withdrawal William Pope DuVal was commissioned to the first permanent governorship of the territory in April of 1822. He also assumed the role of ex-officio Superintendent of Indian Affairs for his territory, a subjoined position by virtue of his office. The position included no extra compensation,

⁷³ Mahon, 30-31; Peters, 64.

but under his control would be appointed one agent, and any number of subagents.⁷⁴

Governor DuVal was a southerner, born in Virginia in 1784, and a devout Democrat. He grew up on the frontier, and spent his early years as a professional hunter before moving to practice law in Kentucky. Elected as a Representative to the Thirteenth Congress in 1813, he resumed the law in Kentucky after failing to gain reelection in 1815. His tenure in Florida began as a United States judge of the East Florida district, where he was appointed in May of 1821.⁷⁵

According to one historian, as a frontiersman the governor “learned not only the art of hunting but also the ability to handle pioneers.” In addition, James Owen Knauss elaborated, he became “filled with the spirit of the robust individualism of the West, the spirit which nurtured Andrew Jackson and so many others.” With drive and abilities such as these, DuVal seemed like a fine appointee with the character necessary to govern a frontier such as Florida. Yet, he was also individualistic, self-confident, and brave to the point of recklessness; above all, he was hot headed, and these faults at times detracted from his ability to lead and influence others in times of upheaval. He was quick to blame others, and his emotional government many times seemed tainted by an almost personal enmity of his detractors—Indian or white.⁷⁶

Under his superintendence, the Indian agency was thrust onto a volatile and confusing frontier in 1822. At least with the superintendency came the framework of the Indian Office, which was not a new concept by that time. The necessity of Indian agents

⁷⁴ Commission of William P. DuVal as Governor, April 14, 1822, TP 22: 469. For information on the connected role of governor and Superintendent, see Secretary of War to Governor DuVal, June 11, 1822, *ibid.*: 453; and Editor’s note, *ibid.*

⁷⁵ *Biographical Directory of the American Congress* (Washington: Government Printing Office, 1961), 839. Hereafter, *Biographical Directory*; James Owen Knauss, “William Pope DuVal, Pioneer and State Builder,” *Florida Historical Society Quarterly* 11 (Jan 1933): 97-100.

⁷⁶ Knauss, 97, 102.

had developed steadily after the passage of the second intercourse law in 1793, which provided measures to civilize many of the tribes. To aid in these endeavors, the president was authorized to “appoint such persons, from time to time, as temporary agents, to reside among the Indians, as he shall think proper.” By the time Florida had been gained through annexation, according to Francis Prucha, *temporary* had been dropped from the title. Permanent Indian agents began assignments in various tribes, and were soon indispensable elements in the management of Indian affairs.⁷⁷

Agents’ positions and duties, for the most part, paralleled the development of the Indian intercourse laws. They were to maintain the confidence of the Indians, as well as keep their interests connected to those of the United States. In the specific cases where the intercourse law made those broad instructions insufficient, their duties were then specified, in order that both the law and peace could be maintained. Additionally, subagents were also commissioned, but were usually done so in special circumstances—sometimes as assistants to agents, sometimes to separate locations and given duties similar to agents. Regardless of their position or purpose, they were accountable to the agent, who was in turn accountable directly to the governor.⁷⁸

Directives to the governor and agent in the dealings of Indian Affairs came directly from the Secretary of War and his Department until 1824, when Thomas McKenney was appointed to the newly created Bureau of Indian Affairs. McKenney quickly referred to the Bureau as the Office of Indian Affairs, however; and from his position, he oversaw annuity payments, expenditures by the various agencies under the Department’s direction, and the claims or controversies which arose over intercourse

⁷⁷ Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (2 vols., Lincoln: University of Nebraska Press, 1984) 2: 161.

⁷⁸ Prucha 2: 161.

regulations. Strangely however, McKenney's actual status was only that of an administrator, and officially he lacked the authority to enforce the orders he was appointed to direct from his position in the War Department. That power still lay under the discretion of the Secretary of War—technically, McKenney was only another clerk. A separate and autonomous superintendence would not pass into law until 1832. Yet, while McKenney loathed his seemingly ineffective position, through the early years of the Florida Agency he channeled the power of the War Department through his Bureau with every means at his disposal and with remarkable energy. “Tall and slender, outgoing but aristocratic,” McKenney became an extremely able liaison between the territorial Florida government and Washington; both Governor DuVal and Agent Humphreys respected his authority as such.⁷⁹

Where the influence of the Indian Office became insufficient, however, and military force became necessary, agents were supposedly provided with the authority to employ the assistance of nearby forces. Commanders were often given express instructions to aid agents in the enforcement of their duties, Francis Paul Prucha maintained, and were called upon in times of true upheaval. Sometimes this meant patrolling the boundaries, keeping Indians within their limits, and preventing confrontations. Other times excursion parties arrested Indians or whites suspected of committing depredations, and helped give a sense of security to an otherwise lawless region. In some instances, commanders were wary to exercise such force without explicit orders from their superiors in the War Department, or to take orders from civilian officers. Generally, as Prucha concluded, for the most part the officers were “able and

⁷⁹ Prucha 2: 164-165; Robert M. Kvasnicka and Herman J. Viola, *The Commissioners of Indian Affairs, 1824-1970* (Lincoln: University of Nebraska Press, 1979), 3-4.

devoted supporters of the government and of the intercourse laws,” and provided invaluable assistance.⁸⁰

For a number of reasons, the case in Florida taxes this assumption distressingly. “The military sent to this post not being under my command,” DuVal complained to the Secretary in one of many crises, “and I think they should have been, were of no use, to me in stopping, the Indians in their course...I cannot omit to impress on you the importance of having a respectable force in this quarter...”⁸¹ Forces in the region—at St. Augustine, Pensacola, or Tampa—were too far removed from the Indian or white settlements, both DuVal and Humphreys consistently groused. At the same time, a misunderstanding of the power vested in agents or superintendents to call regular troops into action was at its most painful threshold when their presence was needed most urgently. A regular, powerful military presence was usually necessary, it seemed; and it was either never authorized, or never available.

The other alternative—the militia—was unreliable to the point of being almost totally useless. As George Bittle suggested, Florida frontiersmen were, for the most part, far too independent or too busy to form any trustworthy militia force. Through the 1820s and 1830s the minuteman system developing in the nation remained “totally unorganized” in Florida. DuVal, as territorial governor, had power to muster and direct any volunteer militia party as he deemed necessary. In times of the most severe depredations, some of these forces came together and achieved some measure of

⁸⁰ Prucha 2: 166-168. See also: Mahon, 51-52.

⁸¹ DuVal to Secretary of War, July 19, 1824, TP 23: 22-23.

defensive success. Usually, however, settlers ignored every federal or territorial militia ordinance adopted, and the men that did muster were almost completely inept.⁸²

In most cases, as Prucha maintained, the success of the agency was directly “depended upon the character of the man.” The agent did, after all, project his power through the confidence of the Indians under his control, and by the authority he commanded over the whites in his region. Although both McKenney and DuVal were empowered to give the agent advice, and although the military was available as a last resort, the most critical responsibilities devolved directly upon Humphreys and his discretion. Acting with broadly defined powers, Indian agents became powerful men in Indian affairs, and it was hoped that by their personal influence alone, the conflicts arising between whites and natives could be resolved.⁸³ Humphreys’ agency was no different.

Once appointed, Humphreys was to report to DuVal as soon as he arrived from his home in Pittsfield, Massachusetts. He would be required to report to DuVal, Secretary of War Calhoun instructed the Governor, “from time to time,” and keep him informed of anything that might be interesting relative to the Indians. DuVal, in return, was required to forward what he deemed interesting onto the Department. Moreover, the Secretary directed DuVal, the Florida Agency would be funded to include one agent, one subagent, and both were to report directly to him.⁸⁴

Humphreys, however, was not the first Indian agent to operate in the Florida territory. Captain John R. Bell had been appointed acting agent in 1821 by Governor

⁸² George Cassel Bittle, “In the Defense of Florida: The Organized Florida Militia from 1821 to 1920” (PhD diss., Florida State University, 1965), 13, 17, 22, 29-30; Mahon, 52, 59.

⁸³ Prucha 2: 163.

⁸⁴ Secretary of War to Governor DuVal, June 11, 1822, TP 22: 452.

DuVal, and exercised that power while a permanent commission was being readied by the Department. Moreover, Jean A. Peñieres had been acting subagent in the Territory since 1821, and upon his death from yellow fever, Peter Pelham was appointed in his place in October.⁸⁵ Only in May of 1822 was Gad Humphreys commissioned by President James Monroe to the Florida Agency, and was requested to report to the governor in Tallahassee.⁸⁶ His commission superceded John Bell's acting agency, which had evidently come as a difficult decision for the Department.

When the appointment of the agents was made, Secretary Calhoun assured Bell, "I laid your name, and that of Lieutenant Col. Humphreys who was also an applicant, before the President for the appointment of Agent in Florida. After due consideration, the President nominated Col. Humphreys." Both the Colonel and Captain Bell had been released from the army in the same reduction which trimmed General Jackson from the service. As a result, however, Col. Humphreys, "and his present means of support" for himself and family in Massachusetts, gave him a most urgent claim "to the patronage of the government." It was, the Secretary confessed, one of the "hardest cases" of the late reduction.⁸⁷

The captain had recently been charged with conduct unbecoming an officer, tried by a general court martial, convicted, and then had the verdict overturned by the War Department. Yet the selection of Humphreys over himself was not based on this incident, the Secretary of War consoled Bell. In fact, the captain had been in the territory for almost a year as acting agent, and was considered by the Secretary in a greater capacity

⁸⁵ DuVal to John Bell, September 28, 1821, *ibid.*: 220; Secretary of War to Jean A. Penieres, March 31, 1821, *ibid.*: 26-27; Secretary of War to Peter Pelham, October 29, 1821, *ibid.*: 264.

⁸⁶ Commission of Gad Humphreys as Indian Agent, May 28, 1822, *ibid.*: 429-430; Mahon, 35.

⁸⁷ Secretary of War to John R. Bell, June 1, 1822, TP 22: 450.

“and experience in the affairs” of the Indians of Florida—Humphrey’s financial situation was simply more of a priority. “Under this view,” the Secretary concluded, “you will see that the appointment of Col. Humphreys was in a degree unavoidable, and was not made in preference to yourself, or from any diminution in your capacity.”⁸⁸

Humphreys’ arrival, though, would not come for quite some time. Two months after his commission, Secretary Calhoun addressed the agent, requesting him to “make immediate arrangements” for his departure to Pensacola, where “it appears that the presence of the Indian agent there is indispensable.” Furthermore, the agent had not yet forwarded the bond required by the government for service. “Any omission,” warned Calhoun, “or unreasonable delay on your part, to comply with the above order, will be considered as a resignation of your office,” and a replacement appointment would immediately be made. Less than a month later, the Secretary reiterated the order, adding that if not heard from by October, the agent will have been considered as resigning his office.⁸⁹

Humphreys returned the Calhoun’s ultimatum in early October, assuring Washington that he would depart for Florida by November 18 at the latest. “I am glad to hear you will be prepared to take your departure,” the Secretary replied, though he continued that Humphreys had better not be late, as he was scheduled to meet a delegation of Seminoles in St. Marks two days later.⁹⁰ As that date approached, the agent was nowhere to be found; he missed the scheduled meeting, and was thoroughly

⁸⁸ For Bell’s court martial, see Editor’s note: *ibid.*, 409; Secretary of War to John R. Bell, June 1, 1822, *ibid.*: 450.

⁸⁹ Secretary of War to Gad Humphreys, August 19, 1822, *ibid.*: 509-510; Calhoun to Humphreys, September 10, 1822, in Letters Received by the Secretary of War, 1801-1870, record group 107, microcopy 221A, roll 95. Hereafter, LR SW.

⁹⁰ Secretary of War to Humphreys, October 18, 1822, TP 22: 532.

exasperating an already panicky acting Governor George Walton. Walton had been frustrated multiple times over, according to John Mahon, “his nerves near the snapping point” on account of DuVal’s absence and an outbreak of yellow fever in Pensacola, which was threatening his friends and family. The absence of the agent only compounded these difficulties, and Walton had absolutely no idea what the government was planning as far as Indian affairs. All he knew was that a delegation of Indians had traveled to meet the agent at St. Marks, and when they arrived no one was there. Only in late December did Humphreys appear and assume his authority.⁹¹

The agent had certainly not impressed his superiors as far as punctuality. Compounding the difficulties created by his absence, the subagent Pelham fell ill while he was still at his home in Massachusetts. His duties were performed by Captain Bell, and then assumed by Abraham Eustis in August 1822.⁹² In the months after his arrival, DuVal commissioned Horatio Dexter as subagent to the eastern Indians, in St. Augustine, in an effort to alleviate the burden placed on Humphreys, who had finally arrived and was presently in St. Marks. A year later, Owen Marsh was commissioned subagent in addition. Beginning in 1824, after a full two years of considerable chaos, the Seminole Agency was finally taking form.⁹³

With a subagent now in the area of east Florida, Humphreys could focus most of his attention at St. Marks and the Indian affairs of that region. His post was selected because of its relative centrality to many of the Seminole chiefs, and acting Governor

⁹¹ *Ibid.*; Acting Governor Walton to the Secretary of War, December 8, 1822, *ibid.*: 577; Acting Governor Walton to the Secretary of War, January 9, 1823, *ibid.*: 598; Mahon, 37-38.

⁹² Secretary of War to Peter Pelham, June 24, 1822, TP 22: 474; Secretary of War to Abraham Eustis, August 21, 1822, *ibid.*: 513; Abraham Eustis to Peter Pelham, July 21, 1822, *ibid.*: 498.

⁹³ DuVal to Horatio S. Dexter, May 10, 1823, *ibid.*: 681; Calhoun to DuVal, August 17, 1824, in Letters Sent by the Office Indian Affairs, 1824-1882, record group 75, microcopy 21, roll 1, page 181. Hereafter, LS OIA; McKenney to DuVal, February 21, 1825, *ibid.*: 361; McKenney to DuVal, February 22, 1825, *ibid.*: 365.

Walton directed him there upon his arrival in December 1823.⁹⁴ Regardless of Dexter's position near St. Augustine, however, Humphreys' duties also required periodic presences there, in Pensacola, Central Florida, and even Tampa at times; the agent traveled constantly. He was directed to St. Augustine by the Secretary of War in June 1823, for instance, to help assist with the Treaty of Moultrie Creek, which was to take place in September. Humphreys had requested a leave of absence to visit north, but Calhoun denied his application, noting that until the treaty was signed, "your services are considered indispensable." In order to best aid the treaty commissioners, Calhoun concluded, "you will repair to St. Augustine where you will be stationed until further orders."⁹⁵

For the first few years of the Seminole Agency, all Humphreys could do was shuttle himself among these places, as an actual Agency house did not yet exist. Its location had to be on or near the Indian boundary so as to effectually control their intercourse and keep up normal communications. Until a treaty had been finalized, and the survey of a reservation boundary completed, acting Governor Walton had advised Humphreys, it would be impracticable to begin designing or building one.⁹⁶ Shortly after the close of the treaty, however, such terms had been met, and Governor DuVal wasted no time in asking the Secretary for directions in constructing the establishment. "The necessity of the Agent of Indian Affairs, speedily making his establishment, and taking

⁹⁴ Acting Governor Walton to the Secretary of War, January 9, 1823, TP 22: 598.

⁹⁵ Secretary of War to Humphreys, June 30, 1823: LR SW, r. 95. For further information concerning Humphreys' role in aiding the commissioners with the Treaty of Moultrie Creek, see "Minutes of Proceedings of James Gadsden:" ASPIA 2, 431; and James Gadsden to Secretary of War, June 6, 1823, TP 22: 694. James Gadsden, one of the commissioners, was informed that Humphreys was to assist in the treaty, and was located at St. Marks. Gadsden wrote Secretary Calhoun in June, however, complaining that Humphreys could not be found; in consequence, they were being forced to treat directly with the Seminoles without the assistance of the agent.

⁹⁶ Acting Governor Walton to Gad Humphreys, January 21, 1823, TP 22: 601.

up his residence in the Country allotted to the Florida Indians, will readily occur to you,” the governor asserted. He was “unacquainted with the usual practice” of the department in commencing with the business, however, although he supposed the buildings should be funded by the department as the Indian officials were not paid near enough to afford building anything.⁹⁷

Almost a year later, however, by November 1824, no satisfactory progress had been made in the establishment of the house. DuVal directed Humphreys “forthwith” to select a site near the center of the Indian population, and on as good of land and water as could be found.⁹⁸ Nothing respectable appeared, however, and Humphreys was forced to again wait until the northern boundary had been raised to include a large hammock area known as the Big Swamp. In early 1825, the boundary line had been formally altered, and the agent again got the go-ahead to select a site. Superintendent McKenney wrote DuVal to direct Humphreys in that endeavor, “about which it appears owing to a want of a salubrious spot within the hitherto ceded limits, he found some difficulty.” A site picked, and layout generated, the agent forwarded his plans to the department in September 1825. The location, Humphreys argued, “appears most valuable and important” for the purpose of the Agency. It was located “in the direct line of communication” between the whites and Indians of the region, and thus gave, “in an extensive degree, the power to regulate and [control] the intercourse between them.”⁹⁹

At a price of five thousand dollars, the plan would cost the department over double its usual allowance—a cost McKenney replied was totally inadmissible. “The

⁹⁷ DuVal to the Secretary of War, September 26, 1823, *ibid.*: 746-747.

⁹⁸ DuVal to Humphreys, November 27, 1824, TP 23: 115.

⁹⁹ McKenney to DuVal, February 25, 1825, LS OIA, r. 1: 378; Humphreys to McKenney, September 20, 1825, TP 23: 323.

maximum allowance for a building, council house, and all necessary appendages, cannot be permitted to exceed two thousand dollars.”¹⁰⁰ The governor relayed that news to the agent, but also replied to McKenney that nothing was more difficult “than to procure working hands” in their area, and to get them all the way out to the Agency was going to be expensive. Two thousand dollars would not complete even the buildings “absolutely necessary for the Agency.” When the “unusual [expense], in a remote situation, in a Southern and interior” region was factored in to the Agency’s construction, added compensation would be necessary, even to put up the most “rude buildings.”¹⁰¹ Eventually, the Agency was successfully constructed with DuVal’s help, and General Duncan Clinch recognized the necessity of establishing a military presence in the area. He dispatched two companies from Fort Brooke, in Tampa, to the site, and ordered the erection of a fortification approximately a quarter of a mile from the Agency house. Under the command of Lieutenant J. M. Glassell, construction of Cantonment King began late in March, 1827, and was finished soon after.¹⁰²

DuVal’s assistance with the agent in the building of the Agency evinced the governor’s early confidence in the government’s selection. The Moultrie Creek commissioners, one of whom was the governor, further commended the agent on his abilities during the treaty negotiations in late 1823, where Humphreys rendered them “essential services during the complicated difficulties” encountered.¹⁰³ Yet, in fall of 1824, when it came time to begin transferring large numbers of Seminoles to their

¹⁰⁰ McKenney to DuVal, November 12, 1825, *ibid.*: 355.

¹⁰¹ DuVal to McKenney, January 23, 1826, *ibid.*: 423; DuVal to McKenney, March 2, 1826, *ibid.*: 452-453.

¹⁰² Mahon, 66.

¹⁰³ Indian Commissioners to the Secretary of War, September 26, 1823, TP 22: 751.

Central Florida reservation lands, Humphreys was nowhere to be found. He had left to visit his family in New England, without properly alerting the DuVal.¹⁰⁴

“I am directed by the Secretary of War to direct you to report yourself,” McKenney admonished Humphreys in October, “with as little delay as possible to [Governor] DuVal, and resume forthwith the duties of your agency.” The Secretary threatened him personally less than a month later, reminding him that “the public service has for some time required your presence at your agency.” If he had not yet left Pittsfield, Calhoun directed, he was thereby required to leave immediately. “Any further delay will be viewed, by the President, in the light of a resignation.”¹⁰⁵ Luckily, Humphreys was already on his way back when Calhoun’s letter reached Massachusetts, and upon his return, the governor’s complaints quieted.¹⁰⁶

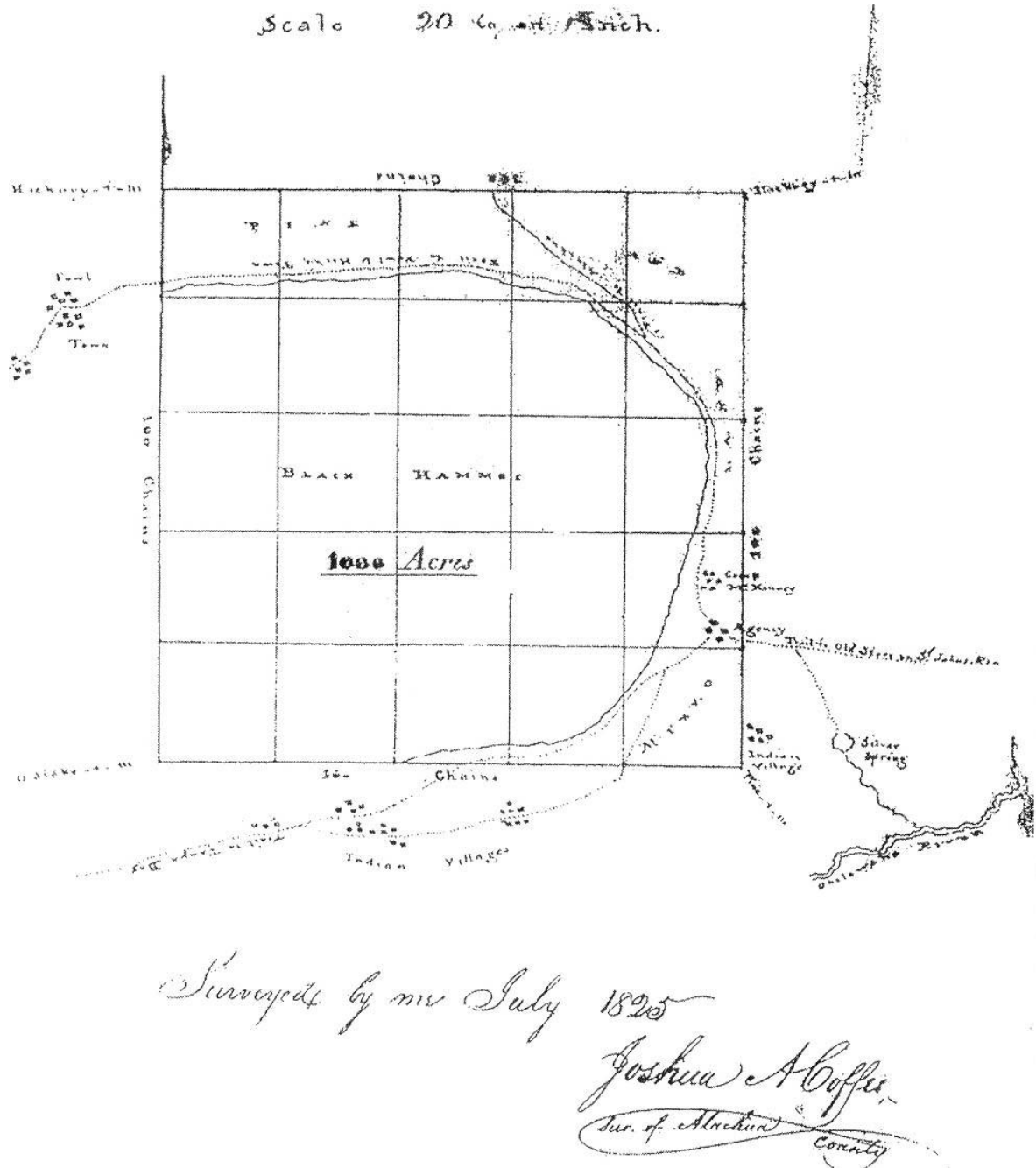
A great deal of friction continued in the proceeding year, however. A severe drought and other complications concerning the Seminole’s first season in their new reservation nearly resulted in war; in the panic, the governor lost his temper. Humphreys returned to his Agency late in the spring of 1825 from his absence and arrived to witness the Seminole emigrants in extreme destitution. The recent drought “has been so severe that the crops of the Indians are, in some instances, wholly destroyed,” he observed. The recently relocated Seminoles would be the hardest hit, as they had just begun planting new fields, and had no other subsistence to rely on. “I am greatly apprehensive,” he feared, “that this failure of crops will produce much distress among these people” unless

¹⁰⁴ Mahon, 54.

¹⁰⁵ McKenney to Humphreys, October 7, 1824, LS OIA, r. 1: 210; Calhoun to Humphreys, November 26, 1824; *ibid.*, r. 1: 240.

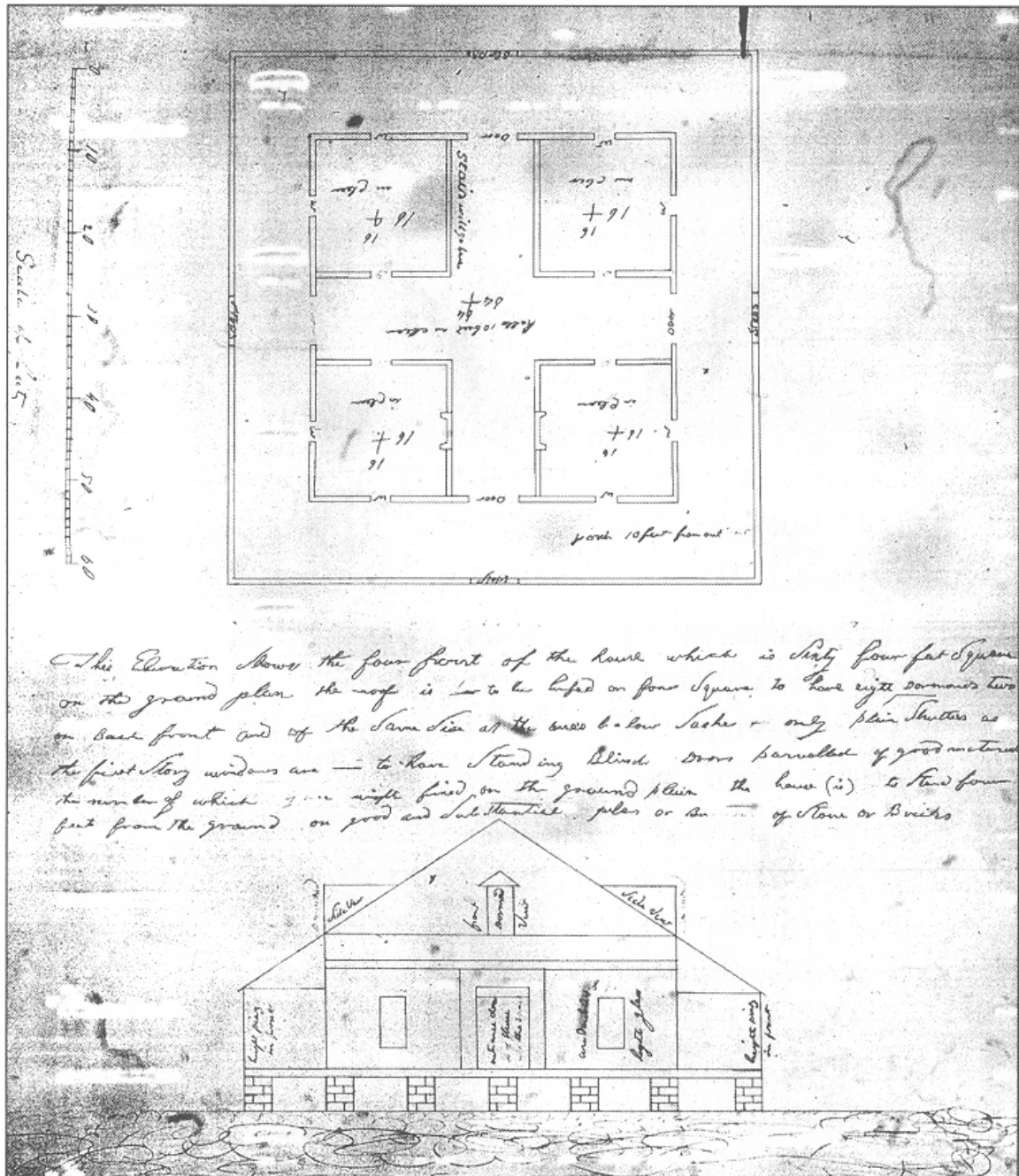
¹⁰⁶ Mahon, 54.

Figure 4. Location of the Agency



This map of government land included the location of the Agency at the bottom right of a surveyed, 1000-acre parcel. It was advantageously located on roads connecting Tampa Bay, the St. John's River, Alachua, and several large Indian towns. Also located near Silver Springs and close to the Ocklawaha River, the Agency appeared impressively positioned on the edge of the reservation. Taken from *Territorial Papers*.

Figure 5. Plan of the Agency House



This Elevation shows the four front of the house which is thirty four feet square on the ground plan the roof is to be hipped on four squares to have eight dormer tops on back front and of the same size at the ends below Sashes & only plain Shutters as the first story windows are — to have standing blinds Doors paneled of good material the number of which you might find on the ground plan the house (is) to stand four feet from the ground on good and substantial piles or on — of Stone or Bricks

This survey of the Agency house included a scaled floor plan and frontal view. The building was very spacious at over sixty feet square; it included four large meeting rooms, wide hallways, and large porches. For its isolated location, the Agency was a very impressive structure. Taken from Knetsch, *Florida's Seminole Wars, 1817-1858*.

plans were made to provision them above what had been authorized by the Department. It would probably not be a permanent necessity, he alerted McKenney, “but humanity seems to require, that some provision should be made to meet the cases of actual want.”¹⁰⁷

The emigrating Seminoles were allowed up to one thousand rations per day by the Treaty of Moultrie Creek. In consideration of the recent drought, however, Humphreys asserted to acting Governor Walton that the number had to be increased. One ration per day per Indian was Humphrey’s solution, and he immediately began authorizing additional orders to be supplied at depots on Tampa Bay and the St. John’s River.¹⁰⁸

Walton, who was again filling in for DuVal while he visited Kentucky, evidently misunderstood the crisis, and did not agree with the agent’s actions. The issue of rations had “greatly exceeded” the number which, even in the most extreme case, had been calculated by the Department for the Indians. Over eighteen hundred rations were being distributed each day, he added—almost double the stipulated thousand.¹⁰⁹

Upon DuVal’s return late in 1825, the governor seemed almost insulted by the developments. “The arrangement which I had made...were ample.” He was “impressed, strongly and confidently, that no want of provisions would be felt by the Indians entitled under the treaty to draw rations.” The agent’s directions had simply “not been attended to.” Under no condition, he fumed, “was the agent to issue more rations than had been specifically contracted for,” and Humphreys had evidently disregarded that order

¹⁰⁷ Humphreys to Superintendent of Indian Affairs, May 14, 1825: Sprague, 26-27.

¹⁰⁸ Humphreys to Walton, May 25, 1825, ASPIA 2: 634.

¹⁰⁹ Walton to Barbour, November 18, 1825, *ibid.*: 639.

completely.¹¹⁰ “The responsibility which the Agent, Colonel Humphreys, has thrown upon me, by not conforming to my instructions,” he complained directly to Secretary of War James Barbour, “has not only surprised me, but has seriously deranged my whole plan for the government of the Indians in this quarter.”¹¹¹ DuVal was losing his temper with Humphreys over his over-issue of rations, and lashed out at actions he considered a direct disobedience to both McKenney and the Secretary of War’s direct orders. The Department wanted to know what happened, and soon McKenney ordered an investigation into the affair, including the agent’s over-issue of rations, as well as his seemingly willful allowance of the Indians to roam outside of their border. Should the agent’s actions be concluded as “indispensable,” McKenney directed DuVal, he was directed to pay for the rations, and make their allowance possible in the future on the same principle.¹¹²

The time allowed for the investigation must have given DuVal the chance to cool down. When he completed his inquiry, the governor had completely reversed his judgment of Humphreys’ conduct. The drought, he began, had caused a larger number of Indians to apply for rations than the Department had calculated. As more Indians appeared, the number of rations simply fell short. As a result, Humphreys over-issued above what the Department authorized, and allowed the Indians out of their boundary to scrounge for food. “I am perfectly satisfied that the agent has acted properly in this manner,” DuVal concluded, “as he apprized the acting governor that large issues had become necessary, after the back rations had become exhausted.” So far from censuring him, the governor felt confident that Humphreys had simply discharged his duty. “I

¹¹⁰ DuVal to McKenney, December 2, 1825, *ibid.*: 640-641.

¹¹¹ DuVal to Barbour, December 12, 1825, *ibid.*: 642.

¹¹² McKenney to DuVal, December 26, 1825, *ibid.*: 642-643.

approve of his conduct, and regret that justice should, for a moment, have detracted from his services and merit.”¹¹³

DuVal had finished his investigation by commending the agent for his faithful service. Yet, the depth of the governor’s unhappiness with Humphreys in the early weeks of the crisis was surprising. DuVal had illustrated his tendency for hot-headedness, and his temper had flared startlingly when confronted with Humphreys’ perceived insubordination. Deflecting responsibility not only from the agent, but from himself, DuVal later confided to McKenney that there were settlers who had remonstrated against the agent loudly during the confrontation—actions “calculated to injure the character of the agent, Colonel Humphreys.” Those “clandestine attempts,” were the real culprit in the controversy that ensued—not his overreaction. Luckily, DuVal assured the Department, he felt assured that those animadversions had “no influence on your department.” There was much “restless disposition in all new countries to interfere and direct the conduct of the officers of Government,” he earlier wrote, “and so strong a temper to complain” which came on the part of interested frontiersmen in the region.¹¹⁴

These frontiersmen had evidently been affronted by the agent’s actions in saving the Indians from starvation, and the region from war. The Indians knew it, and thanked him in a statement of their own. As John Mahon has argued, “If in 1824 Gad Humphreys had been inattentive to duty,” he later began to make up for it through these tough times. It the disagreements between the Indians and the whites preceding the emigration crisis, “bit by bit he began to emerge as a champion of the Indians.”¹¹⁵ In 1827, still dealing

¹¹³ DuVal to McKenney, March 15, 1826, *ibid.*: 692.

¹¹⁴ DuVal to McKenney, January 10, 1826, TP 23: 409; DuVal to McKenney, January 2, 1826, ASPIA 2: 643-644.

¹¹⁵ Mahon, 59.

with accusations stemming from his early government of the Indians, he confronted a grand jury investigation in St. Augustine. “I shall,” he began, “as I have ever made a point to do, act honestly but *independently*, regardless of the interested murmurings and calumnies of the malevolent and discontented spirits of the land.” The territory was filled with “reckless adventurers from all quarters of the globe,” he retorted, and actions designed to protect the Indians would surely make him the “object of vituperative assault; but for these I care not, so long as I am sustained by a consciousness of my own rectitude of purpose.” Humphreys had, he proclaimed, chosen for himself a line of conduct “from which I have never wittingly deviated—one, to be sure, that has given me much difficulty, and subjected me to severe and illiberal animadversions, but one which will nevertheless, I feel a comforting certainty, eventually bear me triumphantly through the trying ordeal of public opinion.”¹¹⁶

The agent’s campaign against his “reckless adventurer” detractors proved effective—he was never threatened with removal. Yet, while his decisions had won him the respect of the Indians under his control, they had certainly not won him the respect of many Floridians. The worst fight, one building slowly through his earliest years at the agency, was soon to mirror that unhappiness to a much more extreme degree. The emigration and ration crises had illustrated the agent’s conscientiousness, but also his hardheadedness. It had also taxed his relationship with the department and with a number of influential citizens. It put him at odds with the DuVal, most importantly, and succeeded in unleashing the governor’s hotheaded, volatile personality. Slave claims would soon bring out the worst in the agent, the worst in the governor, and the worst in the territory.

¹¹⁶ Sprague, 39-40.

Chapter Four

Slave Claims

Another difficulty in the territory, Lieutenant Sprague noted early in *Origin*, increased “from day to day, and which ultimately led to open rupture”—that difficulty was the emerging controversy over runaway slave claims. Sprague noted the emergence of that controversy heavily in the pre-war chapters of his study. As Mahon suggested, he underrepresented many of the struggles, and especially the slavery controversies. That maybe true. Yet, the time he did spend discussing the years 1821-1834 was dictated by the story of Gad Humphreys—the story of slave claims. And Sprague examined that difficulty with a pointed suspicion.

Regardless of their degree of bondage, the Indians certainly held slaves. Eventually, a primary source of enmity quickly sprung from their naiveté in that position, when juxtaposed against slaveholders and a new American jurisdiction; they simply did not understand the legal system in which they now existed. “Here was a splendid opportunity for white men,” Sprague charged, “greedy to acquire able-bodied slaves, to make extravagant claims.” Efforts were made to take these slaves by force—legally, or otherwise.¹¹⁷

Attempts had, after all, proven effective in the years before Florida had been acquired. The spectacularly violent destruction of Negro fort in 1816 produced a small number of slaves, and Jackson’s First Seminole War advance on the town of Suwannee

¹¹⁷ Sprague, xv, 34; Mahon, vii.

threatened a large number of black families, who only narrowly escaped.¹¹⁸ In addition, very shortly before the territory's change of flags, a major expedition of Creek and Coweta warriors penetrated deep into the peninsula, striking black settlements around Tampa Bay and farther south. Hundreds of slaves were reportedly captured and whisked out of the territory for sale. The raiding party was over two hundred strong on Tampa Bay alone, taking from that place "about 120 Negroes[,] after destroying four Spanish settlements."¹¹⁹

After Florida became an American territory, these efforts for the most part ceased; slaveholders rejoiced in the movement of jurisprudence into their region. Soon, numerous citizens began petitioning territorial officials, who had taken the preliminary steps necessary in having once lost property returned. Marshal James Forbes, for instance, informed Secretary of State John Quincy Adams in July of 1821 that a Georgia man had recently arrived in St. Augustine. This particular slaveholder was attempting to prove his ownership of a runaway slave boy freed by a Spanish court shortly before the cession. In the spirited controversy that followed, however, the case was twice adjourned, "at which violent arguments were held" and a further recess taken. Two weeks later, Forbes reported back that the case was still in suspense "by the conduct of the citizen of Georgia," whose actions, the Marshal added, had been "highly disgraceful and reprehensible."¹²⁰

¹¹⁸ Covington, "The Negro Fort," 79-91; Missall, 41; Rivers, 191-192.

¹¹⁹ James Forbes to Secretary of State, July 17, 1821, TP 22: 118-119; Secretary of War to John Bell, September 28, 1821, *ibid.*: 220-221. For more information on the Coweta Raid, see Canter Brown, Jr., *Florida's Peace River Frontier* (Orlando: University of Central Florida Press, 1991), 21-23.

¹²⁰ James Forbes to the Secretary of State, July 14, 1821, TP 22: 118-119; James Forbes to the Secretary of State, July 29, 1821, *ibid.*: 136.

Numerous other slaves were being held in St. Augustine's recently renamed Fort Marion. Notice of their capture was posted in local newspapers and prospective owners were encouraged to come forward and prove their right of property—a directive presaging the legal precedent set in 1824 by the Acts of the Legislative Council, which mandated the practice with all runaways. Should they remain unclaimed, they were to be sold to pay public expenses. In a similar confrontation over these slaves, a John M. Carter approached authorities to obtain an entire family being held there, including children. While a military tribunal investigated the case, however, he evidently grew impatient and attempted to carry the slaves off forcibly. In what resulted, Carter “subjected himself to an arrest,” was released on his own recognizance, and was required to attend a criminal court hearing “to answer for the offence.”¹²¹

The desire for slaves was bringing out the worst in the region's slaveholders, no doubt anxious to get their hands on valuable property, which had just recently become much more available. As the Indian Agency became established, these efforts were increasingly channeled through its agents and the governor/superintendent. Secretary of War John C. Calhoun first directed Indian agent John Bell in his roll, notifying the captain that the government expected all the slaves who had run away, “or been plundered from our citizens or from Indian tribes within our limits,” would be given up peaceably by the Seminoles. They would do so when demanded by him, and after he had received sufficient proof of the claim's justice.¹²²

Provisional agents, like Bell, were appointed on an irregular basis—when required to regulate trade between the area's settlers and Seminoles in the earlier years,

¹²¹ John Bell to Acting Governor Worthington, August 20, 1821, *ibid.*: 179. For 1824 Legislative Council Act concerning the return of fugitive slaves, see *Acts* 1824: 291.

¹²² Secretary of War to John Bell, September 18, 1821, TP 22: 220-221.

and before permanent positions were created. Quickly, however, they were pressed by aggressive frontiersmen to issue trading licenses, many for the purpose of buying Indian slaves. Considerable anxiety existed in the territory, subagent Abraham Eustis wrote the Secretary in 1822, on behalf of a large number of citizens who urgently desired the ability to trade in Indian settlements. Several had already applied to him for these rights, ostensibly for various trading purposes. Eustis immediately recognized that many were interested primarily in slaves, and the subagent was unsure whether to grant requests under these pretenses or not. In asking Calhoun for directions, he wondered if these men should be allowed the right at all—"If yea, under what restrictions?" He also enquired as to whether contracts over slaves made before the transfer, "which have not been yet paid for, or delivered," could now be completed.¹²³

Whether Secretary Calhoun directly responded is unknown. In July 1822, however, one of Governor DuVal's first acts in office answered the subagent's queries definitively, proclaiming that "no person or persons shall be permitted to purchase of an Indian residing in the Territory any cattle, hogs, horses or slaves," unless by the express permission of Col. Humphreys, himself, or the president. Clearly evincing his early consideration for the sovereignty and property rights of the Seminoles, DuVal worded his proclamation sternly. Those violating the trade or intercourse laws were subject to arrest and prosecution. It also forbid settling in or close around Indian settlements, and anyone found there would be "liable to be removed by military force." The moratorium, agent Eustis confided to the governor two months later, would without a doubt preempt such

¹²³ Abraham Eustis to the Secretary of War, July 23, 1822, *ibid.*: 496.

“unlicensed trade.”¹²⁴ DuVal updated his decree less than a year later, proclaiming all licenses issued by acting agents up to that date “to be null and of no avail.” Once again, the governor forbid “any person or persons whatsoever from trading with any Indian” within the territory, without a license issued directly by either agent Humphreys or himself.¹²⁵

With aggressive frontiersmen effectually held at bay by late 1822—denied the ability to acquire slaves through legal trade—DuVal first turned his attention to their allegations, and confronted a delegation of chiefs on the subject of runaways in July. If he had illustrated his concern for the Seminoles’ rights in slaves, he soon clarified his support for the claims of the settlers to many of them. “If you Chiefs will have all the slaves belonging to the white men who have run away to Florida brought to the post of St. Marks,” he offered, “you shall have what is right.” DuVal promised to reimburse the chiefs for their “time and trouble.”¹²⁶ Calm and obliging, he must have anticipated little agitation over the subject.

As the Treaty of Moultrie Creek concluded in 1823, government focus shifted away from intercourse and trade, and dealt primarily with readying thousands of Seminoles for their trek deep into the peninsula and onto a newly surveyed track of land.¹²⁷ Consequently, the subject of slavery was not given much notice, and DuVal’s next report came more than a year later. His previous talk evidently had not produced the participation he expected, however, and runaway claims were lately coming in with more frequency. Writing to Secretary Calhoun, DuVal alerted Washington of this distressing

¹²⁴ Proclamation by Governor DuVal, July 29, 1822, *ibid.*: 504; Abraham Eustis to DuVal, September 22, 1822, *ibid.*: 548.

¹²⁵ Proclamation by Governor DuVal, June 7, 1823, *ibid.*: 694.

¹²⁶ Governor Duval’s talk with Seminole Chiefs, July 1822, *ibid.*: 503.

¹²⁷ For information on the treaty, see Mahon, 46-47.

development, noting that the territory's citizens had numerous slaves "running at large" in the region, and he appealed to Calhoun to converse with the president over the subject. Moreover, the territory lacked a sufficient force to have them apprehended. The force that was available was not even under his or the agent's control. Owners "continually solicit me to send a force to take them," he complained, yet a military command was necessary, and he had none. His position as ex-officio superintendent did not allow him control over army regulars for use in Indian affairs. Without that ability, and unable to provide for militiamen should they even be authorized, he continued, neither he nor the agent was able to comply with their constituents' wishes. He recommended a force of fifty or sixty mounted militia, at least, to be placed under Col. Humphreys' command near the Agency, along with "such Indian force as may be deemed necessary." That detachment could then be sent into south Florida, he continued, and directed to disburse the large settlements of blacks along the southwest Florida coast (most likely those on Charlotte Harbor), apprehending as many fugitives as possible. He hoped the president would see "the importance of authorizing me to act speedily" in arresting the fugitives—not only because their presence was dangerous, but also because he could do nothing about it.¹²⁸

The use of force in issues like these and in future cases was a particularly sore point for both for the governor and Agent Humphreys. Continually they were pressed by settlers to have military deputations enforce their demands, whether relative to controlling the Indians within their limits, or having runaways forcibly seized. In 1824, Colonel George Mercer Brooke moved four companies from Pensacola to Tampa Bay to secure the southern boundary of the treaty lands and established a permanent, sizable

¹²⁸ DuVal to the Secretary of War, September 23, 1823, TP 22: 744.

military presence there. Citizens felt secured by these forces, yet they blamed both DuVal and Humphreys when the regulars there were not employed in having disputes solved. That was not in his power, the governor complained; he could only *request* Colonel Brooke for troops—he could not order them.¹²⁹

The same conditions applied in 1827, when Lieutenant J. M. Glassell marched two companies from Fort Brooke to the Agency and established Fort King. As with Brooke's command, Lieutenant's Glassell's force was doubtless designed primarily to assist the Agency in policing the Indians. Still, Fort King's troops had to be ordered through Glassell, and through the War Department, not directly through a civilian officer such as DuVal or Humphreys. Moreover, with militia usefulness being considered “more of a troublemaker than a fighting force,” as Mahon suggested, and with DuVal's inability to sustain or compensate them, there was almost no incentive to have them organized.¹³⁰

Complaints from citizens, however, continued to solicit such authority. In an October 1823 petition to the president, a number of residents soon made the request direct. While Florida was under Spanish control, they explained, the peninsula was a veritable haven for fugitive slaves from both South Carolina and Georgia. These planters' slaves had been lured there and protected by both the Indians and the Spanish, “so that from the date of the Revolution up to the change of flags, it has been utterly impossible for your petitioners, and other sufferers, to reclaim their property.” To make matters worse, many of the petitioners had located their fugitive slaves, yet were unable to retrieve them—a result of the regulations designed to restrain their trading with the Indians and enforced by the Indian Agency. To “arrest these inconveniences,” the

¹²⁹ Mahon, 52, 59, 66.

¹³⁰ *Ibid.*, 59, 66.

petitioners called on the president directly to “exert his ample power” and restore to the citizens their “long [deferred] rights.” If the governor was to be given power to investigate their claims, for instance, and a tribunal erected to “test the right of property,” the redress which so many citizens were searching for, to their “long and continued wrongs,” might be secured.¹³¹

The secretary of war answered the petitioners a month later, lamenting however that the property they spoke of was within the possession of the Indians when the territory was acquired. The Department did not know enough about the existence of runaways and their numbers, nor the relation in which they stood to the Indians. As a result, the commissioners made no real provision in the treaty for their surrender when it was concluded in 1823. Furthermore, the secretary wrote, the president simply did not have the authority to establish the suggested tribunal without such an agreement. Asserting Washington’s reluctance to force compliance in such matters, the secretary informed the citizens that they could only petition Congress, who the secretary had no doubt, would “promptly attend” any request made on the subject.¹³²

Many of the memorialists did just that. Six months after their first attempt, several petitioned Congress. In more explicit terms, they complained that “before the cession of Florida to the United States, the Indians within the limits of the Territory...were in the constant habit of stealing, or enticing away the slaves of the people of Florida, as well as those of the adjacent states.” When the change of flags took place, when the petitioners “were admitted to the protection of the laws of a powerful and wise government,” they “flattered themselves, that their property would no longer be held

¹³¹ Petition to the President by Inhabitants of the Territory, October 4, 1823, TP 22: 762-763.

¹³² Secretary of War to Samuel Cook and Others, November 30, 1823, *ibid.*: 820-821.

from, but the Indians would be compelled to surrender to their proper owners the runaways among them.” As yet, however, “the hope of your memorialists has not been realized.”¹³³

The commissioners were unable to include the restoration of slave property as a provision of the Treaty of Moultrie Creek. And without a clear provision, there evidently was no foundation for military coercion. Without this military force, Agent Humphreys had declared himself both unable and unwilling to interfere. A special tribunal was necessary, they again concluded, but they would welcome anything else Congress “may deem expedient” to remedy the situation.¹³⁴

In a correspondence which illustrates these early difficulties, Humphreys had previously explained to a Georgian, John McIntosh, his inability to assist in the man’s claim. McIntosh had written the agent in 1824, requesting aid to remove his slaves from the Indians. Instead, Humphreys answered that he had not yet been issued any specific instructions relative to the runaway issue, “but to adopt as practicable means to prevent their further escape or removal until the question of ownership be fully decided.” Humphreys admitted that the government’s future role in such cases would be “impossible for me to say,” but that he would forward the request to Governor DuVal for his consideration. McIntosh had heard nothing from the agent in some time, however, and pleaded his case directly to Secretary Calhoun. He had located his runaways, and had actually traveled into Florida to have them returned. He failed in that endeavor, however, “there appearing to be no authority in the country vested with powers from the General Government” to enforce his requests. “I beg leave to...sincerely hope that the

¹³³ Petition to Congress by Inhabitants of East Florida, March 8, 1824, *ibid.*: 857-858.

¹³⁴ *Ibid.*

government will speedily adopt some rule of identity by which the property may be rescued,” he further chided the Department, “before it is to late.”¹³⁵

Superintendent McKenney received the man’s letter through the secretary of war in early 1825. He wrote Governor DuVal in response, though he echoed in it Humphreys’ admissions that the government had “no power to adopt a rule of identity by which the property may be recovered.” Without any provision in the treaty, all the Department could do was direct DuVal to “afford every possible facility to Mr. McIntosh to enable him to identify his property—which may serve him whenever Congress may adopt a provision for its restoration.” The effectiveness of the Agency with directives such as these would be negligible at best.¹³⁶

Later that year, while DuVal was away on leave, acting Governor Walton received numerous claims, and evidently also more of the same orders from the war department concerning them. He relayed those to Humphreys in May, including “letters from individual claimants.” As with Governor DuVal’s order, Humphreys was directed to assist claimants in any way possible. For Humphreys, that meant enabling the claimants, as best he could, to identify their property. Continuing with somewhat more positive instructions, however, in all cases where the “validity of the claim is clearly established, and no other obstacle arises to prevent it,” Humphreys was to seize the slave and have him/her delivered to the proper owner immediately. Any sort of trial in these circumstances would not be necessary. “Let the chiefs distinctly understand,” Walton added, “that they are not to harbor runaway negroes, and that they will be required to give

¹³⁵ John N. M. McIntosh to J. C. Calhoun, January 16, 1825, in Letters Received of the Office of Indian Affairs, 1824-1881, record group 75, microcopy publication 234: Seminole Agency, roll 800. Hereafter, LR SEM.

¹³⁶ McKenney to DuVal, February 3, 1825, LS OIA, r. 1: 339.

up such negroes as are now residing within their limits.”¹³⁷ In addition, agents for the Creek Nation were pushing Humphreys to deliver their slaves as well. Owen Marsh, then the subagent appointed under him, was ordered to the Creek Agency in Georgia in June 1825 to litigate one claim in particular, in a dispute between a Creek and a Seminole tribesman.¹³⁸

Superintendent McKenney, unsatisfied with the results of the directives outlined in his February 1825 letter to Governor DuVal, wrote Humphreys again a year later. He directed the agent to immediately report the number of runaways in the nation, and to take immediate steps “to restore them to their owners.”¹³⁹ The newly appointed secretary of war, James Barbour, had evidently decided to adopt a more assertive role in claims. Humphreys was to project as much authority as possible to influence the chiefs in this manner, as McKenney had earlier directed DuVal. The combined petitions of Middle Florida planters, as well as John McIntosh’s requests, had finally elicited some sort of response from the Department, however vague its orders might have been.¹⁴⁰ Still, the military forces at Fort Brooke, St. Augustine or Pensacola were not under their direct control.

McKenney’s directive never reached the agent, as he had gone north on leave. Subagent Owen Marsh instead responded that any sort of accurate count would be impossible to attain, “from the circumstance of their being protected by the Indian Negroes.” Marsh had traveled to several villages for this purpose, but could not find any blacks who he could positively identify as runaway slaves. They were being hidden by

¹³⁷ George Walton to Humphreys, May 22, 1825, ASPIA 2: 634.

¹³⁸ Humphreys to Acting Governor Walton, October 2, 1825, TP 23: 332.

¹³⁹ McKenney to Humphreys, February 28, 1826, *ibid.*: 451.

¹⁴⁰ James Barbour to McKenney, March 1, 1826, LS OIA, r. 2: 458.

the more settled Indian Negroes, he concluded, who were “so artful, that it is impossible to gain any information relating to such property from them.”¹⁴¹

Secretary Barbour had also forwarded McKenney’s correspondence with Humphreys to Florida’s territorial delegate in the House of Representatives, Colonel Joseph White. “The order you have issued will not obtain the object,” White returned to McKenney in March 1826. “The quo modo must be pointed out, and strict and minute instructions issued to the Agent.” White included letters from a Superior Court Judge and an attorney in the Legislative Council, outlining some possible steps in proving ownership. McKenney responded to the suggestions by acknowledging “the necessity of giving additional and more spirited instructions to the Agent in regard to the delivery of the Slaves, &c.” Should his general order to Humphreys “fail of its object,” he assured White, his suggestions “shall then be immediately acted on.”¹⁴²

DuVal responded to McKenney’s general directives first, convening another delegation of chiefs and admonishing them (in much more stern language) to surrender all runaways under their control. By the treaty, he reproached, they were bound to deliver to the agent all the blacks they did not own. This, “you have not done, although you have promised in your talk to do so; you are now called upon to fulfill the treaty.” Their conduct in the manner, DuVal chided, was the cause of “loud, constant, and just complaint on the part of the white people, who are thus deprived of their slaves.” Deliver them up, “and do what, as honest men, you should not hesitate to do.” Should they refuse, he warned, “I shall order my soldiers to go over your whole country, to search every part of it, from time to time, and seize on all runaway slaves by force.” In the

¹⁴¹ Owen Marsh to McKenney, May 17, 1826, LR SEM r. 800.

¹⁴² Delegate White to McKenney, March 6, 1826, TP 23: 462; McKenney to White, March 14, 1826, *ibid.*: 470.

confusion, the Indians might lose their own slaves, but the fault “will be your own, in trying to keep that which does not belong to you, and you will have no right to complain.” Deliver the fugitives, “or immediate chastisement will follow your neglect; for I will order my soldiers from Tampa Bay to scour the country, and drag the runaways from their hiding-places, and make your nation suffer for its neglect and violations of the treaty.”¹⁴³

Beginning to illustrate his increasing unhappiness over the matter, DuVal not only forwarded the proceedings of that talk to Secretary Barbour, but he also wrote McKenney and complained to him personally. “I am more and more convinced that the slaves belonging to the Indians are a serious nuisance,” he wrote. It was a “great misfortune” that they held slaves in the first place, and should be allowed to sell them away. “If this was done,” he continued, “you would never hear of the planters complaining that their slaves were constantly running away from them into the Indian nation.” There had been no less than four men at the Agency just recently, he added, pushing their claims on him personally. Perhaps the agent should be given permission to purchase some of the slaves for the use of the Agency. Moreover, the territory’s citizens should be permitted to do the same, by contracts negotiated through Humphreys (as to “avoid all misunderstanding or fraud.”)¹⁴⁴ DuVal had first recommended this course to the superintendent a few months previously: “I have never permitted in a single instance any white man to purchase a negro of an Indian,” he confided in January. “But I am convinced the sooner

¹⁴³ Copy of a Talk Delivered, ASPIA 2: 690.

¹⁴⁴ DuVal to McKenney, March 2, 1826, TP 23: 454.

they dispose of them the better.” With demands increasing by every mail, he had become even more certain of the necessity to remove them in any way possible.¹⁴⁵

Within a week of DuVal’s second letter to McKenney on the subject, citizens reasserted their own mounting displeasure, again petitioning the president. This time, St. Johns County residents complained of their continued suffering in relation to the runaway issue: that without adequate resolution in the matter, they would “never be able to recover their property.” Again reminding Washington of its fundamental oversight, the petitioners learned from DuVal that the governor’s command was not backed by “a sufficient force to execute his orders.” Without this security, they warned, they would be forced “to abandon their plantations on the River St. Johns, and in the county of Alachua.” Power had to be put under the governor’s control ample to retrieve runaways and prevent further losses. The weak association of the Indian Agency with the military force in Florida was clearly lacking. “Should government withhold her protecting hand,” they concluded, “your memorialists must be ruined, or driven to make reprisals on the Indians which may end in a war of extermination.”¹⁴⁶

Meanwhile, DuVal kept the pressure on McKenney with another heavily worded letter. “I herewith transmit to you a paper,” he began, as a sample of claims “which have been and are daily present to the Agent and myself for slaves” argued to be in the Nation. It was these claims, he asserted, “which have in a great degree, occasioned do much dissatisfaction with the claimants as well as with the Indians.” It was absolutely critical, he closed, that the Department adopt measures and prescribe specific rules under which

¹⁴⁵ DuVal to McKenney, January 12, 1826, *ibid.*: 413-414.

¹⁴⁶ Memorial to the President by Inhabitants of St. Johns County, March 6, 1826, *ibid.*: 462-463.

these claims may be decided.¹⁴⁷ Both he and Agent Humphreys, the governor continued, were almost constantly engaged in persuading the chiefs to deliver slaves; some had done so, yet many more slaves were still daily claimed. Were slaves and other valuables taken by the Seminoles in the skirmishes associated with the War of 1812 to be returned, DuVal asked? In addition, numerous whites had deceitfully persuaded Indians into selling their slaves shortly before the state's acquisition, or otherwise defrauded them under threats, and for "trifling sums of valuables." Many slaves had since re-escaped; they were again under the protection of the Seminoles, and the whites who acquired them wanted them back. "Ought this property so obtained," DuVal inquired, "under these false representations, now be delivered up to such claimants?"¹⁴⁸

The difficulty and trouble associated with the controversies, DuVal bemoaned, "is incalculable." Clearly frustrated by the situation, yet showing his resolve, the governor lamented that he could not consent to "that sort of left handed justice which gives all that is demanded of our citizens, & which withholds justice from this cheated and persecuted race." Again soliciting a military command, a post associated with the Agency was vital. "I assure you it is all important to secure the rights of the Indians as well as the peace of the country."¹⁴⁹

Yet, in his own right, DuVal had achieved at least some measure of success flexing power through his own influence as superintendent. In response to another of his stern talks with the chiefs in late February 1826, the Indians had evidently delivered up a large number of the slaves in the nation. The governor commended himself for the success of his talk, noting that "my presence has done much to effect this and bring the

¹⁴⁷ DuVal to McKenney, March 17, 1826, *ibid.*: 472-473.

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*

nation into order.” At the same time, however, he again mourned the injustice seemingly calculated against the Seminoles by the never-ending requests for runaways flooding the Agency. “I wish you would converse at large with Col Humphreys,” he deplored to Superintendent McKenney, “as to the manner these people have been cheated and imposed upon by some of the Inhabitants of Florida.”

The persons who have been more clamorous about their claims on the Indians for property are those who have cheated under false reports, these people of their slaves who have since gone back to the Indians. I have been adjudicating on these claims for some time almost daily since my arrival here. The justice which the Indians are entitled to they cannot obtain, while they surrender to our citizens the slaves claimed by them, their own negroes that have been taken from them and are held by white people who refuse to deliver them up—I have felt ashamed while urging the Indians to surrender the property they hold, that I had not power to obtain for them their own rights and property held by our citizens. The government should have their property restored to them or pay to the Indians the value of it. To tell one of these people that he must go to law for his property in our courts with a white man is only adding insult to injury. I pray you ser will hear the agent on this subject who is possessed of many facts, highly deserving the attention of your department. I have taken the most unwearied pains to have justice done to all parties but I confess—the Indian under the laws of the United States at present has but little share in its advantages.¹⁵⁰

McKenney finally answered DuVal’s salvo of letters in May 1826, but did not give the governor the news he was doubtless searching for. The Indians, he stated plainly, “must be protected on the one hand from the press of the White people, of which you speak; and the white people from the depredations of Indians, on the other.” The intercourse law alone would be the basis for this “mutual protection,” however, and its enforcement was enjoined upon him as governor, subject to the approval of the Department. Furthermore, no buying or selling of slaves would be permitted by Agency. If the Indians owned slaves, they were their property. Yet, “if they secrete runaway slaves, they must give them up to their rightful owners.” In relation to those taken by the

¹⁵⁰ DuVal to McKenney, March 20, 1826, *ibid.*: 483. See also: Mahon, 61.

whites, “the law of intercourse must be resorted to.” The vague and unhelpful communication must have disappointed DuVal, who found no definitive instruction or comfort in the superintendent’s reply.¹⁵¹

The chiefs were also responding to continued accusations of harboring runaways with a measured increase in suspicion. They had replied to a particularly stern one, written by James Barbour, but delivered by Humphreys in May. “Your great father has heard that you have runaway slaves in your country,” the secretary charged, “and that many of your people hide them from their owners.” Barbour reiterated article six of the Treaty of Moultrie Creek, emphasizing that they were required to give them up, and that they would, “as soon as a slave runs into your country, take him up and deliver him to the agent for his rightful owner.” The secretary of war reasserted the necessity of complying with that provision. He then acknowledged the injustice of which DuVal spoke. It had been said, the secretary admitted, that some slaves of the Indians were being held by whites. The agent, he reminded the chiefs, was directed to see justice done them, and “whenever he finds your slaves in possession of the whites to demand their surrender.”¹⁵²

Answering that talk, chief Hicks responded with disappointment. “We do not like the story that our people hide the runaway negroes from their masters,” he began. The nation did not find itself bound by the treaty to return those slaves they had in their possession before the treaty agreement was made, only those which had escaped into the country after 1823. Regardless, they had never opposed whites coming into the nation when they had conclusively located and identified their property, and would not “hereafter oppose their doing so, but will give them all the assistance we can.” At the

¹⁵¹ McKenney to DuVal, May 8, 1826, TP 23: 535-536.

¹⁵² James Barbour to Delegation of Florida Indians, May 10, 1826, ASPIA 2: 697.

same time, however, they were determined to retrieve their own slaves. And the constant press of slave claims—many for slaves which clearly belonged to the Indians—was beginning to strain their relationship with the territory’s authorities. “The laws of the whites, who have so much better sense than the red men,” Hicks complained, “ought not to be less powerful and just.”¹⁵³

Agent Humphreys, who delivered Secretary Barbour’s talk and recorded the chiefs’ responses, shared Governor DuVal’s early uneasiness—including his desire to have the Indian slaves sold away if possible. He noted to acting Governor McCarty more than a year later, in September 1827, that numerous applications “from a very respectable citizen of this vicinity,” were seeking to purchase several Indian blacks. In his opinion, there was no question that it would prove a mutual beneficial transaction. The blacks were, he described, “only slaves in name.” They were treated in no fashion consistent with anything he had ever seen on a plantation, and the influence they exercised over their Indian masters was particularly instrumental in the heightening distrust of whites by the chiefs. Here, the blacks held the most power, portraying settlers as being hostile to “all who differ in complexion.” And, with “the recollection of the many acts of injury and injustice, which the Indians have received from their white brethren, it may be easily imagined, would make them give ready credence to these cunning suggestions of their negroes; whom they look upon, rather as fellow sufferers and companions in misery than as inferiors.”¹⁵⁴

In January 1827, Joseph White reasserted to McKenney and the Department his desire to adopt definitive instructions relative to slave property, remarking that he had

¹⁵³ Talk by the Delegation of Florida Indians, May 17, 1826, TP 23: 549-550.

¹⁵⁴ Humphreys to Acting Governor Walton, September 6, 1827, *ibid.*: 911-912.

actually begun receiving numerous complaints, “by almost every mail.” It was suggested, he continued, that the only “effectual means of preventing & remedying the evil” would be the delivery of the slaves to the Superior Court for trial.¹⁵⁵ McKenney immediately responded that with every disposition of the Department to secure justice for Florida settlers, he did not know what was legal beyond the Intercourse Act of 1802. He had written Humphreys a year previous, directing him to ascertain the locations of runaways, and pressing him, as agent, to exert all efforts in seeing them returned to their owners—a correspondence McKenney emphasized to White. McKenney reissued that order to the agent the same day he returned White’s letter, but Humphreys was again away north, and was to return shortly. “Would it not be advisable for all concerned to forward descriptive lists to the Agent?” McKenney instead counsels. Reiterating his earlier directives to both DuVal and Humphreys, McKenney suggested that having the two men assist in identifying the fugitives as well as they could would “doubtless facilitate the recovery” of these citizens’ property.¹⁵⁶ Humphreys had maintained that his influence as Indian agent was in many cases insufficient to affect these ends, or force compliance with runaway demands. It is not easily perceived how McKenney thought further elucidation of this line of thinking would facilitate the claims process. Nevertheless, Humphreys’ personal influence was deemed sufficient; again, the Department skirted the Agency’s request for more powerful alternatives.

After Humphreys returned to his office in August, he immediately received another request to purchase slaves, this time by a Mr. F. C. Fatio. The agent forwarded

¹⁵⁵ White to McKenney, January 7, 1827, *ibid.*: 717.

¹⁵⁶ McKenney to White, January 7, 1827, *ibid.*: 718. See also: McKenney to Humphreys, January 8, 1827, LS OIA, r. 3: 300. “The Secretary of War directs me to call your attention to an order addressed to you, of the 28th February last, and to require your immediate and prompt attention to its execution.”

the request to acting Governor McCarty, who communicated it to the War Department in October. The letters implicitly reopened the debate over the Agency's ability to purchase slaves; McCarty also asked for an explanation of the laws regarding licenses and trading with the Indians, which might be of assistance in future cases. McKenney responded in December that "the title is understood to be in the Indian; and his right to sell or refuse to sell is not questioned." It was decided by the secretary of war, however, "that no purchases can be made either directly or indirectly by any agent of the Government in the service of the Indian Department." The agent was directed to see that justice be done to the Indian in all cases, but was not to "commit the Government in any way, either as to the title of the Indian to his slave, or in any other way."¹⁵⁷

Meanwhile Delegate White, flooded with requests and complaints of his own, grew tired of the Department's apparent inability to decide the matter by May of 1828, and resolved to converse with the secretary of war directly. "The repeated complaints I have received in relation to fugitive slaves," he wrote, "make it necessary that some certain mode should be adopted for the more speedy & satisfactory decision of these questions." Rather than endorse the use of military force to simply pry the slaves away, White requested that Humphreys be issued orders referring all claims to the Judge of the district, and that the Judge be empowered to decide and report the cases to the Department, "so that an order may be issued on the basis of a judicial decision." This

¹⁵⁷ L.C. Fatio to Humphreys, August 31, 1827, in Letters Received of the Office of Indian Affairs, 1824-1881, record group 75, microcopy publication 234: Florida Superintendency, roll 287. Hereafter, LR FLA; McCarty to Secretary of War, October 24, 1827: *ibid.*; Thomas McKenney to Acting Governor McCarty, December 18, 1827, TP 23: 952.

method, White concluded, “will greatly promote the harmony of that part of the country & save the department itself a number of vexatious and difficult investigations.”¹⁵⁸

Evidently, the new secretary of war, Peter B. Porter, agreed with White’s suggestions. Less than a week after White’s letter to the Department, McKenney wrote Governor DuVal requesting that he direct agent Humphreys to forward all claims to the Judge of the district. Should the Judge’s decision be in favor of the claimants, DuVal was to order the slaves delivered in pursuance of that decision. As per legal custom, the white claimant would be allowed to hold the property during the trial, upon providing a bond sufficient to abide by any future legal decisions, or return the property should the claim be in favor of the Indian.¹⁵⁹

Judge Joseph L. Smith of St. Augustine, selected for the purpose of settling these claims, accepted his responsibility in December. He complained, however, that his adjudication was still subject to a final decision of the governor, who would then order the agent to deliver the claimed slave to its owner. “If such construction be adopted,” he warned, “a delay will ensue...in a great measure doing away the benefit of the arrangement made with the War Department.” Delivery, he argued, should be made instantly upon his decision. He was more than willing to take the position, he continued, but it had to be prosecuted to both parties’ success. Smith did not mean any disrespect to the governor, he maintained, or to usurp his authority as Superintendent. “My object is solely as expressed that the arrangement should be efficiently beneficial and acceptable both in regards to the Indians and the whites.”¹⁶⁰ Once again, the Department agreed. McKenney wrote DuVal a week later, informing him that no other judgment in addition

¹⁵⁸ White to the Secretary of War, May 1, 1828, TP 24: 6.

¹⁵⁹ McKenney to Governor DuVal, May 5, 1828, TP 24: 8.

¹⁶⁰ Judge Smith to Joseph M. White, December 4, 1828, LR FLA, r. 287.

to Smith's would be necessary, and that claimed slaves were to be delivered over immediately upon that decision.¹⁶¹

Escaping a lack of provision in the Treaty of Moultrie Creek the Department, through Delegate White's suggestions, seemed to have solved the issue of force. The authority complication would be routed through a system in which property claims could be tried by a formal judicial hearing—a process expounded by legislators and Judge Smith as one “efficiently beneficial and acceptable” to all parties: Seminoles, blacks, and settlers. It was doubtless thought that the process would be equally embraced by both parties; the reluctance of the chiefs to accept the authority of the Agency, after all, and the unwillingness of the agent to seize demanded slaves without explicit authority, were the issues which had originally developed such controversies out of the claims. A judicial hearing would, it seems, solve all of these discrepancies.

Soon, however, setbacks associated with the trial system mounted. White claimants were required to deliver a bond to the court which sufficiently covered the worth of the slave, for instance, thus assuring they would not attempt to steal the slave away without trial. They were also required to surrender the slave if their property right was denied by the hearing. In return, the Indian claimant was required to surrender the claimed slave or slaves to authorities before trial. In many cases, the Seminoles were unwilling to do this. They agonized—in many cases legitimately—that regardless of the judicial decision they would never again see the claimed bondsmen; fraudulent or insufficient bonds threatened the theft of the blacks by the white claimants in many instances, one way or another.

¹⁶¹ McKenney to DuVal, January 2, 1829, LS OIA, r. 5: 251.

The Seminoles' intransigence in the matter enraged DuVal, who doubtless also felt slighted by the removal of his control over the claims in general. The governor delivered a blistering talk to a delegation of chiefs in the summer of 1828, threatening to deny the Seminoles the annuity money guaranteed by the Treaty of Moultrie Creek, unless they surrendered all of the claimed runaways. Humphreys recorded their reply and forwarded it to the secretary of war for examination. "I do not think the whites will be satisfied as long as we have a negro left," Chief Hicks complained. "Those which this angry talk of the governor is about we know are the property of the Indians, who have bought them and honestly paid for them, they do not belong to any white person." The chiefs recoiled against the idea of the governor withholding their payments even more bitterly, arguing its unethical purpose and illegality. They did not agree with the annuity stoppages, "but if the white people want it and have a right to it they must keep it."¹⁶²

In his first confrontation with DuVal since the ration crisis in 1825, Humphreys agreed with the chiefs. Shortly after the talk, Humphreys wrote Judge Smith complaining of the governor's threat, and enquiring into its legality. Smith retorted that he knew of "no right or equity in withholding from the Indians their annuity, because they do not give up to white claimants property which they allege is their own." By the Intercourse Act of 1802, stoppages in annuity could be ordered, or compensation to whites be subtracted from it, only in response to Indian depredations. Even then, a stoppage could only be made upon proof, Smith concluded, "If I recollect the law correctly," by an order of the President.¹⁶³ Humphreys also complained to Secretary Porter of the governor's

¹⁶² Substance of Talk held with the Indians, enclosed in Humphreys to P.B. Porter, September 10, 1828, LR SEM, r. 800.

¹⁶³ Smith to Humphreys, October 13, 1828, LR FLA, r. 287.

actions in September, and Judge Smith forwarded the subject to Delegate White in December.¹⁶⁴

As the framework for the trying of slaves was just being constructed, a considerable disagreement between the agent and the governor was brewing at the Agency, and Humphreys wasted no time confronting his superior. As John Mahon has noted, “the two principle men grappling with the Indian problem in Florida seemed to be developing opposite attitudes toward their native charges.” On the one hand, Humphreys had supported the Indians consistently during the first six years of his tenure. “He spoke so strongly in their defense” during the 1825 crisis, Mahon suggested, he earned a grand jury indictment. The controversy over slave claims had just undergone a promising development to him, as he doubtless viewed judicial hearings as the best possible course—one which would provide the Indians under his direct control the most security from rapacious citizens.¹⁶⁵ Where Humphreys had sided with the chiefs during the 1825 ration crises, and sustained them to the enragement of a number of legislators, he became almost totally sympathetic to their claims of property rights through 1827 and 1828. He heard the complaints they made over the mounting claims from settlers, and he began to recognize then with an increasing suspicion.

DuVal, “who seemed to show less and less sympathy for the Seminoles,” was not so passionate. Where Humphreys viewed the Seminoles with this respect, and the whites with a calculated distrust, DuVal had developed the opposite viewpoint. He had, on the one hand, made the earliest and most protective measures regarding slave controversies, including a total intercourse moratorium. Yet, for his measured compassion, the

¹⁶⁴ Humphreys to P.B. Porter, September 10, 1828, LR SEM, r. 800; Judge Smith to Joseph White, December 4, 1828, LR FLA, r. 287.

¹⁶⁵ Mahon, 69.

governor more importantly favored the region's settlers. As a faithful Democratic administrator, he valued the area's rural development above all other concerns—particularly those dealing with Indians and their supposedly free blacks.¹⁶⁶ In the imminent confrontation, the governor did not agree with Humphreys' course of action, the Department's decision on how to have claims decided, or Smith's power to adjudicate the cases. Instead, leaning on his authority as Superintendent and as Humphreys' superior, he moved to usurp the Judge's appointment, and ordered the agent to seize slaves without the required judicial hearing.

He ordered Humphreys to deliver one slave to a claimant while letters were being exchanged establishing the judicial hearing. Humphreys complained of this action to Smith in the same letter in which he alerted the Judge to the annuity stoppage. Property in possession of the Indians, Smith answered, could not be seized from them “but by treaty, by their consent, or by decision of courts of justice. General principles would forbid it, and I have seen no special statute, conferring such power on superintendents or agents.” Smith also apprised White of the governor's course. These actions, predicated upon the *ex parte* statements of the area's settlers, were usually fraudulent; even if they were truthful, the concept of having the slaves seized on those statements alone still critically undermined the theory of a judicial hearing, and his authority as Judge.¹⁶⁷ Humphreys, receiving this sort of reaffirmation in combination with unwillingness to deliver the slaves generally, doubtless ignored the DuVal's order. Though they had worked together smoothly for almost five years—where DuVal had “the utmost

¹⁶⁶ Mahon, 69.

¹⁶⁷ Smith to Humphreys, October 13, 1828, LR FLA, r. 287; Smith to White, December 4, 1828: *ibid.*

confidence” in Humphreys as “active, and energetic”—the agent and governor were beginning to move in separate directions under the pressure of slave claims.

Chapter Five

Mrs. Cook and Mrs. Hannay

When the relationships between agent Humphreys and both the governor and Department began to deteriorate around issues associated with slave claims, no two did more damage than the claims of Margaret Cook and Mary Hannay. Like many others, both petitioned the Agency through attorneys, and demanded slaves they argued had runaway or been stolen by various Seminoles. Unlike most, however, at least one of the women were widows. They were no doubt forced by their difficult financial situations to retrieve any sources of income their estates had once possessed—slaves were valuable properties, and they desperately sought their return, whether rightfully or not. Through their attorneys, these women pressed the agent relentlessly to have several slaves returned. Eventually, their two claims became heated controversies between Humphreys and both their lawyers and his superiors, damaging the ties between the agent and the Indian Office in irreversible ways.

In the first of these claims to appear, Mrs. Cook had sought numerous runaways through a number of claims, and eventually succeeded in receiving most of those fugitives through the Agency. Still, she charged, more were in the nation, and Humphreys was inconsistent in providing delivery. Pressured by her lawyers over one fugitive in particular, referred to as Jack or John, Thomas McKenney requested Humphreys to “procure and deliver” the slave “on the same conditions as she received

the other Negroes claimed by her” in January of 1827. Evinced his frustration over the claim, McKenney ordered the agent to respond with an “immediate answer,” reflecting the agents’ compliance with his order.¹⁶⁸

Frustrated by Humphreys’ apparent indisposition to comply with that request however, two months later the superintendent began to lose his temper. Frequent complaints had been made to the Department, McKenney began to Humphreys, respecting slaves claimed by citizens of Florida; they had all been acted on by the Department in issuing orders for their seizure that Washington confidently expected would be obeyed. Investigations were supposed to have been set up, decisions of ownership made, and slaves delivered. “Nothing satisfactory has been received of you.” He then ordered Humphreys, by direction of the secretary of war, to attend immediately to the subject of slave claims “in a general way,” but particularly in the claim of Cook. The agent was to demand the slaves be delivered to Cook, immediately following her submittal of a bond with sufficient security to abide by the decision of Judge Smith’s decision. He was also ordered to ensure a mutual cooperation, by satisfying the Indian claimants “of the propriety and justice of the course”—a position he had continually argued was becoming more impossible to maintain. The chiefs were increasingly unwilling to surrender slaves with each proceeding claim, whether bonded or not, until the right of property had been decided upon. Acknowledging the predicament, McKenney instructed Humphreys to ensure the chiefs that the claim had been properly set up, “and that this act is merely to secure the property until the right is decided, when if it be in them they will be restored.”¹⁶⁹

¹⁶⁸ McKenney to Humphreys, January 7, 1828, LS OIA, r. 4: 235.

¹⁶⁹ Thomas McKenney to Gad Humphreys, February 8, 1827, TP 23: 755.

McKenney issued this order in February 1827—three months before secretary of war Peter Porter’s directive treating all cases in such a manner. Soon, Judge Smith was selected to regularly adjudicate on all controversies. In preparation for such a proceeding, however, not many people knew what to expect. The white claimants certainly were not sure. They were, as one interested observer noted, “very anxious” to ascertain exactly how the trial would be commenced, and before what sort of court. They were particularly interested, for obvious reasons, to know if Indian testimony would be allowed, and if so, how it would be weighed.¹⁷⁰

The Indians, on the other hand, voiced their extreme displeasure at the idea of surrendering the black man again to Mrs. Cook, after he had evidently been surrendered once and escaped. Furthermore, they were incensed over another alleged threat to have their annuity withheld for noncompliance, and were increasingly reluctant to help the Agency with anything. “We find that some of the whites are determined,” chief Hicks complained, “not to let us rest, as long as we have any thing that they want.” Their warriors did not bring the slave in, the chief asserted, because they considered themselves “bound to do it.” Instead, they did it because Humphreys had advised them to do so. The black man was not a runaway, but “was raised in the nation, out of which he has never been.” He had been bought legitimately, and Hicks angrily resented the concept of having his supposed worth deducted from their annuity and paid to Mrs. Cook—especially when they continually argued that the man belonged to them. They could not agree “that she be permitted to wrong us out of the money which is our due from our Great Father; and which he has said should be punctually paid to us.” They could not

¹⁷⁰ Thomas Douglas to the Secretary of War, June 16, 1827, *ibid.*: 868.

stop the government, he concluded, but if it had to be done, it would be “without our consent,” and they would think very harshly of it.¹⁷¹

Humphreys forwarded these proceedings to Governor DuVal, noting that the Indians appeared hurt at the idea of Mrs. Cook getting the slave paid from their annuity—particularly, he added, upon her own “interested *ex parte* statement.” The agent took particular exception to this tactic. Her claims would, he carped, “I hazard nothing in saying[,]” be found by any investigation to be “grossly if not designedly erroneous.” Humphreys could not believe that the Department would “for a moment” consider so “unjust and extravagant” a claim as what Mrs. Cook pretended to demand. “I am naturally led to infer from the tenor of your language,” he continued, that the Seminoles were being deliberate and disrespectful in withholding the slave from Mrs. Cook. Quite to the contrary, he defiantly countered. “The claim, if such an opinion exists[,] it is a libel upon the nation, and those who have been instrumental in producing it, if it be as I suppose it must be[,] are those immediately interested in this business.”¹⁷²

To both Mrs. Cook and her lawyer John Hanson, he continued, he had repeatedly explained the difficulties and intricacies of the case, both personally and through multiple correspondences. Through his own influence, he emphasized, the chiefs had brought in the claimed slave, but only after he repeatedly assured them that Hanson would pay them the balance of the original purchase money for which they claimed they sold the slave to Mrs. Cook. The story was much more complicated than what Hanson was pretending. Allegedly, the original Seminole owner had dealt the slave for a “small pack horse” of goods, while he was in a “period of intoxication (artfully brought upon him for that

¹⁷¹ Minutes of talk given by head chief, John Hicks, in Humphreys to DuVal, February 14, 1828: Sprague, 57. Original also located in LR FLA.

¹⁷² Humphreys to DuVal, August 15, 1828, LR FLA, r. 287.

purpose in exchange for his slave).” When he sobered up, he denied the sale, refused the goods, and left with the slave. Other Indians took and consumed the goods, and now Mr. Hanson claimed ownership of the slave for Mrs. Cook by a legitimate right of sale.¹⁷³

Still, Humphreys persisted, he had convinced the Indians to surrender the slave, and placed him in irons at the Agency. Through the night, however, the slave escaped, most likely with the help of another black man, and was currently being pursued by more Seminole warriors. “It is manifest from the foregoing facts,” Humphreys angrily retorted, “that so far from the nation’s attempting to practice any want of firmness in the matter towards Mrs. C it is acting with a liberality which might be looked for in vain if the position of the parties were reversed.”¹⁷⁴

Humphreys also returned McKenney’s February order, explaining to the superintendent that by the time he received the correspondence ordering his participation, he had already dispatched a fourth search party to retrieve the slave in six months, and it had just recently come back empty handed. In doing so, Humphreys rehashed an old argument. He had utilized all means under his ability, he argued, short of issuing a military force which not only was forbid, but which would have also certainly resulted in hostilities. And still, the slave could not be recovered. In consequence, Humphreys bitterly intoned, “I have to ask the Department, what is to be done;” particularly, whether he had the authority to engage significant army forces from Fort King or Fort Brooke to utterly coerce a now hostile Indian population.¹⁷⁵

The friendly chiefs did not even pretend to dispute the title with Mrs. Cook, he pressed. Yet they lacked control over the whole of the nation, and the sympathizing

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*; Deposition of Francis Richards Junior, March 6, 1829, LR SEM, r. 800.

¹⁷⁵ Humphreys to McKenney, March 7, 1828, LR FLA, r. 287.

parties were simply unable to pry the fugitive away from the Indians and blacks who were hiding him. His personal influence was manifestly insufficient to gain this surrender, he argued, and he had tried everything he had authorization to attempt. He had even sent his own deputation of blacks and horses, at his own expense, to hunt the runaway. Furthermore, he had exhausted the support of the chiefs that were under his control, who had become unwilling to continually risk their lives “in a service which has always been a thankless one.” Just recently one of these pursuits had “proved fatal to one of the most respected [and] valuable chiefs in the nation,” who was killed tracking down one such runaway.¹⁷⁶

By March, the slave had still not been delivered up, and Delegate White wrote McKenney that he had received several letters, presumably from Hanson, which “incontestably” established Mrs. Cook’s right to the property. Recently, however, the Indian claimant who disputed that right had sold her claim to another white man. If that was so, White asserted, Humphreys needed to pursue the claim with a renewed vigor, and have the slave surrendered as soon as possible; there was now no legitimate reason for the slave to be in the nation. The right of property was then to be taken up by the district courts, as it had by that sale become a contest between two citizens. Humphreys was therefore to cancel the bond given by Mrs. Cook in reference to her claim against the Indian.¹⁷⁷ McKenney relayed this order to the agent soon after, also requesting that he report the proceedings to DuVal, “in order that the Department may be informed thro’ him of the same.”¹⁷⁸

¹⁷⁶ *Ibid.*; Deposition of Francis Richards Junior, March 6, 1829, LR SEM, r. 800.

¹⁷⁷ Joseph M. White, March 5, 1828, LR FLA, r. 287.

¹⁷⁸ McKenney to Humphreys, March 8, 1828, LS OIA, r. 4: 331.

McKenney soon received Humphreys' letter regarding the inability to retrieve the slave, however. It was expected, he admonished the agent, that if it was in any way within his means as agent, he would have complied with the order. "The military will not be employed."¹⁷⁹ His personal influence should, and would have to suffice. Mrs. Cook's lawyer soon wrote him directly over the slave, requesting his immediate compliance. Not yet in possession of McKenney's correspondence, and unaware that his request for military assistance had already been denied, the agent answered Hanson that it was not—yet at least—within his power to comply with his request. "The Indians have declared their utter inability to apprehend the fugitive," he stated, in consequence of which he wrote the War Department and asked for the military aid necessary to have him surrendered. He was now waiting for its reply. He also informed Hanson that the Indian contesting her claim, Nelly Factor, had sold her right to another citizen. In the event of this statement becoming "satisfactorily established," Humphreys alerted Hanson, Mrs. Cook's bond would no longer be necessary, as the case "would cease to be one in which the U States could take any interest of cognizance."¹⁸⁰

Hanson read the agent's letter and soon vented his frustration over the situation to another of Cook's lawyers, excoriating Humphreys for his almost criminal reluctance to follow direct, repeated commands. Humphreys cared no more "about the orders of the Secretary of War" than he did for his own word. If he so chose, Hanson accused, he could perpetually "find some way" to refuse the secretary's orders, "let them ever be so positive." A "pretty story indeed," that the whole nation would be so afraid of one slave. To admit that he could do nothing, Hanson continued, only proved that the agent had no

¹⁷⁹ McKenney to Humphreys, March 17, 1828, *ibid.*: 372.

¹⁸⁰ Humphreys to Mrs. Margaret Cook, April 17, 1828, LR FLA, r. 287.

authority over the nation, and had to be removed. His most bitter condemnation was reserved for Humphreys releasing the bond and his implied participation: “now what do you think of this,” he fumed, “does not the man deserve to be hung.” The slave had to be found; if not, they would demand from the Government three hundred dollars for him “and let them pay it and deduct it from the annuity.”¹⁸¹

Hanson forwarded Humphreys’ letter to Delegate White a few days later, remarking that as the Representative could plainly see, Mrs. Cook was no nearer to obtaining her property than when the Secretary issued his first order to the agent in January—an order that Mr. Hanson claimed was “as full and positive as it possibly could” have been. Contrary to what Humphreys alleged, Hanson insisted that as agent, he had control over both the forces at Forts King and Brooke, and condemned him for not dispatching troops to have the slave apprehended. Not only was his assumption wrong, but had such force been resorted to, it would have met with fierce resistance. Still Hanson raged. Humphreys’ address to Washington requesting further directions, Hanson charged, amounted to “nothing more or less [than] to know whether he is to obey the order of the Secretary of War.” “I am convinced,” he concluded, “that if the War Department was acquainted with the dissatisfaction that exists among the people of this Territory generally against Col. Humphreys, he would be removed from office immediately.”¹⁸²

In addition, Hanson relayed his extreme displeasure to Governor DuVal, who in turn forwarded that correspondence to McKenney in May. “My order for the delivery of the slave being given directly to the Agent, by the Secretary of War,” DuVal stated, “I do

¹⁸¹ Mr. Hanson to Mr. Downing, April 30, 1828, *ibid.*

¹⁸² Mr. Hanson to White, May 7, 1828, *ibid.*

not know what further step I could take to ensure the delivery of the slave.”¹⁸³ A month later, McKenney returned the governor’s mail, responding that everything in the power of the Department had been done, “to ensure to the Citizens of Florida, a restitution of their property, in the persons of their Slaves.” It was not known, McKenney echoed the governor, if anything else could be done. Withholding annuity, however—the weapon DuVal had been lately using to threaten Seminoles into surrendering various slaves—was “not esteemed to be proper.” DuVal had the intercourse law and that alone to govern such situations. “Let that be respected and its terms complied with—but further cannot be sanctioned.”¹⁸⁴ This denial must certainly have come as a blow to the governor, frustrating another attempt to have the controversies resolved.

Hanson wrote DuVal in August, however, thanking him for his kindness and efforts in the case. He wasted no time thereafter attacking the agent, suggesting that McKenney was “not perfectly correct” in saying that the government had done everything in its power. It was true that he had given the agent his orders, but the Department had not adequately enforced their execution. “Had the agent obeyed the order he has received,” Hanson emphasized, “there would now be no complaint.” He also accused Humphreys of improperly improving the Agency and charging personal work to the government, assuring DuVal that all his charges could be proved. The controversy between the agent and Hanson had “reached a pitch,” that longer forbearance on his part, he concluded, would put him at fault.¹⁸⁵ By that time, the case had arrived at

¹⁸³ DuVal to McKenney, May 11, 1828, *ibid.*

¹⁸⁴ Thomas McKenney to Governor DuVal, June 6, 1828, TP 24: 22-23.

¹⁸⁵ M. Hanson to DuVal, August 27, 1828, LR FLA, r. 287.

the District court, and its proceedings were being watched by Delegate White.¹⁸⁶ It is not known, however, whether the runaway was ever apprehended.

While this controversy was beginning to reach its feverish pitch, the claim of Mrs. Mary Hannay was developing as well. A black woman named Sarah and her four children were claimed by Hannay through her agent Archibald Clark, by a bill of sale that was over thirty years old.¹⁸⁷ Clark wrote McKenney that he had personally apprised Humphreys of the claim, proved to him that the adverse claim of the Indian “could not be well founded,” and demanded the slaves be surrendered from the chiefs immediately for trial. “Some considerable time having elapsed,” Clark declared, he rewrote the agent, suspicious of his indisposition, and urged him to have the slaves delivered, and “abide by the decision,” of the assigned tribunal. Nothing had resulted from that letter either, Clark grumbled, and so nothing remained but to address McKenney, “at the head of the War Office for Indian Affairs,” to remonstrate the “neglect of the Agent,” and respectfully request that he as superintendent demand the delinquent agent forthwith to see to the claimed slaves’ capture and trial.¹⁸⁸

McKenney responded quickly, ordering Humphreys in early March to deliver the slaves to Hannay or her agent immediately. He was also to see to it that a bond of sufficient security be accepted to ensure their complete participation. That order he also forwarded to Clark, regretting “that so much trouble should have been had on the subject to which it relates.”¹⁸⁹ Two months later, an incensed Clark penned McKenney, complaining that the bond he had prepared was rejected by the agent. Clark had written

¹⁸⁶ J. M. White, May 20, 1828, *ibid.*

¹⁸⁷ Archibald Clark to McKenney, February 22, 1828, LR SEM, r. 800.

¹⁸⁸ *Ibid.*

¹⁸⁹ McKenney to Humphreys, March 8, 1828, LS OIA, r. 4: 330; McKenney to Archibald Clark, March 8, 1828: *ibid.*

the terms in duplicate, and for the sum of two thousand dollars—more than adequate—to “relieve the case from further difficulty,” and guard “as much as possible against objections that might be raised by the agent” as to its competency. After a delay of over forty days, Clark noted, Humphreys finally replied that different security would be necessary; the security previously offered resided outside the territory and as such, was insufficient.¹⁹⁰

“Without knowing more particularly the character of the agent,” Clark was unable to personally attack him for his actions. “But sir,” he protested, he had asserted upon the agent the destitute nature of Mary Hannay, who was widowed and with six children. There was a necessity in her case to keep the expense and grief as much to a minimum as possible. Security in Georgia—her state of residence—was all that she could provide. In light of this, Clark contended, Humphreys “certainly does appear to me most absurd and preposterous to impose upon her the necessity of procuring as securities for her bond, persons residents of the Territory.” It was almost as if the agent was raising every difficulty in his power “for the sole purpose of producing embarrassment, delay, and finally a total abandonment of the claim.” Clark considered any citizen of the nation, “no matter in what state,” competent security, and demanded that Hannay’s bond be accepted by the agent. “I extremely regret that I have again been compelled to complain to the Department of this officer’s conduct,” he closed. “But considering it as I do—highly reprehensible[—]I cannot but earnestly solicit in behalf of the distressed claimant” the redress of the Department.¹⁹¹

¹⁹⁰ Archibald Clark to McKenney, May 26, 1828, LR SEM, r. 800.

¹⁹¹ *Ibid.*

McKenney quickly wrote both DuVal and Clark over the controversy, lamenting to the Governor that he regretted “that any unnecessary difficulty” should have been “thrown in the way of a trial” of these slaves and their ultimately delivery to the proper owners. DuVal was to immediately order Humphreys to accept the bond, without the “condition which it appears he has superadded,” requiring the bondsmen be residents of the territory. “They only question will be are they competent? If they are let the negroes be given up and the security offered received.”¹⁹² DuVal reiterated that judgment to both Humphreys and Clark, ordering the Agent to accept Clark’s security, and reassuring Archibald that the agent could add no further condition to the bond other than what the Department prescribed. If the security was competent, it should have nothing to do with residency.¹⁹³

Humphreys received the order, and wrote DuVal over the situation, noting that the order would be immediately attended to. He could not help, however, but confess the apprehension that he would find considerable difficulty in judging on the security of the bond, considering it resided in another state. His situation, Humphreys continued, “would be awkward and embarrassing in the extreme,” should he accept security that would ultimately be insufficient to keep Hannay from whisking the slaves away. Ultimately, Humphreys feared, the opposing Indian claimant, also a woman, would be left to suffer. He again found himself morally conflicted. On the one hand, he had been issued explicit orders from the Department—orders which gave him almost no alternative than to accept the bond, knowing nothing about its competency. On the other hand, he clearly worried that the bond would ultimately prove insufficient—that the slaves would

¹⁹² McKenney to DuVal, July 11, 1828, LS OIA, r. 5: 36; McKenney to Archibald Clark, July 11, 1828, *ibid.*

¹⁹³ DuVal to Humphreys, August 1, 1828, LR FLA, r. 287; DuVal to Archibald Clark, August 1, 1828: *ibid.*

be stolen out of the territory, and that he would be able to do nothing about it. Unwilling to take the chance, Humphreys again petitioned Washington for specific instructions in these and like cases.¹⁹⁴

He also, however, again accepted the bond, and approached the chiefs with demands to have the slave family surrendered. Not surprisingly, they refused. They, like Humphreys, feared that the family would be swept out of the territory before the trial even commenced, or that regardless of its adjudication, Hannay would not re-surrender them. Humphreys relayed this information to Hannay's lawyers, explaining that the chiefs absolutely refused to let the slaves be taken from the nation in consideration of the bond Hannay provided. They would, as he had earlier explained, surrender the property after an investigation and decision had been made adverse to the Indian woman's claim. In an effort to compromise, at least, the Indians had consented to surrender the claimed slaves to the agent, and have them secured at the Agency until the trial had concluded. Under no circumstance, however, would they consent to surrender them directly to Hannay or her attorneys.¹⁹⁵

Humphreys also apprised the governor of these developments, likewise notifying him that the chiefs "positively, but respectfully," objected to the procedure. They were willing to "cheerfully submit" to the decision of Judge Smith, he reiterated, "but they wholly refuse their assent to a relinquishment of a possession of the disputed property, before the matter has been adjudicated upon, and an award given adverse to their claim." If force was resorted to in demanding the slaves, Humphreys pressed, they could not possibly offer any opposition, other than to "appeal to the justice and good faith of the

¹⁹⁴ Humphreys to DuVal, August 14, 1828: *ibid.*

¹⁹⁵ Humphreys to H. Lowe, September 17, 1828, *ibid.*

government.” It was regrettable that the trial ordered by the Department could not be instituted until this sort of surrender had to be made. The system had been calculated to benefit all, doing much more to settle the “troublesome controversies,” than had any other option—controversies which were productive “of more ill feeling between the Indians and their neighbors than all other causes combined.” Yet the necessity of the Indians to surrender the claim before the trial took place undermined its integrity. Even worse, the theft of the slaves under supposed bond, and the confrontations which ensued over security, completely nullified its intended good.¹⁹⁶

Archibald Clark, upon receiving word of Humphrey’s letter to Mr. Lowe, instantly addressed McKenney in October 1828, and proceeded to flay the agent with remarkable ferocity. Not only was Mrs. Hannay’s agent turned away without the claimed slaves, but was first delayed several weeks. “Having been twice disappointed in the recovery of this property,” Clark complained, “and great expense incurred, by one ill able to support it, I now feel at a loss how to proceed. Too long as this officer is permitted to occupy the station he does, it cannot be believed that the Citizens of the country will ever obtain justice in their controversies with the Indians.”¹⁹⁷

The agent, Clark was sure, purposefully withheld the fugitives from their rightful owner, (who he knew, he continued, “to be a poor and destitute widow”) until compounding expenses would force her to give up the claim, or dispose of it “on their own terms.” If this officer considered himself “beyond the reach of the orders issued from the War Department,” he bemoaned, there was no other option than to appeal directly to Congress. Yet, as Clark appealed, Humphreys was appointed by the president,

¹⁹⁶ Humphreys to DuVal, September 23, 1828, *ibid*.

¹⁹⁷ Archibald Clark to Thomas McKenney, October 20, 1828, LR SEM, r1; Horatio Lowe Deposition, October 29, 1828, *ibid*.

and being “amenable to the orders of the War Office,” there was no reason why this agent’s flagrant disobedience had not already subjected him to a violation of his duty. This, Clark hoped, might still happen, and relieve the “good citizens” of the region “of an officer, who has already brought down upon him the...indignation of all persons who have had occasion to transact business with him in his official character.”¹⁹⁸

In 1829, Clark also wrote the new secretary of war, John Eaton, and forwarded McKenney numerous correspondence which he hoped might aid in the Department’s investigation of Humphreys, which was by that time in progress. The other object, Clark explained, was to again present the subject of his claim, which he asserted “has been for the past thirty years withheld from its lawful owner.” McKenney returned his request several months later, noting that an investigation into his particular claim had begun in the Department, and Clark would be updated when it had been concluded.¹⁹⁹ That enquiry McKenney also sent to Humphreys, postmarked the same day. “I am directed by the Secretary of War,” McKenney wrote, to enquire into the reasons why the claim of Mrs. Hannay had not yet been delivered. Were the slaves in Florida, or under the control of the agent? Furthermore, McKenney asked, were the new terms of bond defined and accepted?²⁰⁰

Humphreys answered by explaining to the superintendent what he had already told both Clark and DuVal: that the chiefs regarded the slave Sarah as their property, “and that they could not consent to surrender it, until the matter should be adjudicated upon,” and a ruling made adverse to their claim. As with the Cook claim, they in no way

¹⁹⁸ *Ibid.*

¹⁹⁹ Archibald Clark to J.H. Eaton, February 12, 1829, *ibid.*; McKenney to Archibald Clark, September 24, 1829, LS OIA, r. 6: 96.

²⁰⁰ McKenney to Humphreys, September 24, 1829, *ibid.*

refused to surrender the property after such a decision was made—but were determined against releasing them any sooner. The agent also remarked that the fugitives were in the country, but not under his control, “denied as he is (by the Department in a letter received from you some months since) the use of the means requisite, to enable him to effect a compliance with its orders, upon the subject.” There was a meeting with a delegation of chiefs schedule the next day, Humphreys concluded; the order for the slaves would be re-read, its compliance urged, and their response recorded.²⁰¹

Humphreys communicated that talk to Lieutenant Governor Westcott in late February 1830, once again reiterating that there was no way the Indians would surrender the slave until a trial had been concluded. They would go so far “as to offer resistance by force and arms,” Humphreys added, although the Indians themselves held a “humiliating sense of their weakness,” and surely realized how hopeless of a struggle it would quickly become. Still, he argued, that determination emphasized how resistant they were to further surrendering slaves in these sorts of cases, “which they evidently think would be construed in a measure as an abandonment of their claim,” no matter how he attempted to assure them otherwise.²⁰²

“As a means to avoid unpleasant extremities,” Humphreys suggested, why not extend to the chiefs the ability to bond the property under dispute, a privilege regularly afforded to the white claimants. “This would afford the white claimant the same kind of protection proposed to the opponent,” Humphreys argued, “and I have no doubt the Indians could and would if such alternatives were presented to them, give satisfactory

²⁰¹ Humphreys to McKenney, February 16, 1830, LR SEM, r. 800.

²⁰² Humphreys to James Westcott, February 23, 1830, *ibid.*

security for the forthcoming of the negroes when requiring legal authority to give them.”²⁰³

²⁰³ *Ibid.* See also: Minutes of Talk held at the Seminole Nation, February 20, 1830, *ibid.*

Chapter Six

Humphreys' Investigation

Government officials, for the most part, ignored Humphreys by the time he suggested alternatives to the system in 1829. In fact, some had begun doing so by 1828. They were, instead, blaming him for the failures of the Agency in increasingly unambiguous language. In a January 1828 "Report to the Legislative Council Committee on Indian Affairs," for instance, a House Indian Affairs committee stated the obvious: that "much complaint" existed in the country, and because of the reluctance in which runaways had been surrendered "by the proper authorities to their lawful owners." On the one hand, direct evidence of malicious intent was unavailable. Yet, that there was complaint, "a reference to the numerous letters on file in the war office" could easily illustrate. As the committee's report continued, blame became much more directed. Most importantly, the "probable causes" of these difficulties, could be traced "to interest and unwarrantable interference" on the part of those connected with the tribes—in short, agent Humphreys. Removal could not possibly be affected, they concluded, until different sentiments were "diffused among them." Humphreys needed to be removed.²⁰⁴

Governor DuVal enthusiastically agreed with the Legislative Council, having grown disgusted by the agent's alleged excuses in late 1828. In September, while responding to his latest rebuff of Archibald Clark in the case of Mary Hannay's claim, DuVal finally washed his hands of the man. "I shall state to the Department," he began,

²⁰⁴ Report of the Legislative Council Committee on Indian Affairs, January 17, 1828, TP 23: 1002-1003.

that Humphreys had not “impressed the Indians with the necessity of complying with orders relating to the delivery of slaves in the nation,” and that if he had done his job, “no difficulty would have occurred.” As the first officer of the territory, DuVal continued, it was his duty to see that the orders of the government were “promptly executed,” and with every effort in his ability—Humphreys had clearly not endeavored to do the same. Finally, the governor refused any further communication with the agent on the subject of Indian affairs, at least until he had been counseled by the War Department on the whole situation.²⁰⁵

That same day, DuVal also forwarded a number of his letters with Humphreys to McKenney, upbraiding the agent’s conduct. DuVal had also ordered the chiefs’ annuity retained in order to enforce the slaves’ surrender, and vowed not to “recede from the ground” he had taken, until otherwise directed by the secretary of war. “It is well known that the Agent of any Indian tribe,” he noted, could induce chiefs to sign practically any paper he wanted, or to enforce any act he recommended. Under that assertion, “I say without hesitation,” that Humphreys could “have any order carried into effect” that the Department wished, “even to removal of the whole nation,” yet particularly regarding runaway slaves. His own personal command of the respect of the chiefs, DuVal confided, and his “knowledge of their facility,” alone warranted his statements. Concluding his diatribe, an impartial, professional enquiry had to be initiated into the conduct of the officer, of which he thoroughly disapproved.²⁰⁶

²⁰⁵ DuVal to Humphreys, September 22, 1828, Sprague: 59-60.

²⁰⁶ DuVal to McKenney, September 22, 1828, LR FLA, r. 287.

The governor also forwarded a number of missives supporting his accusations.²⁰⁷ He included seven attachments in all, containing several correspondences he had with the agent, affidavits from concerned or outraged citizens, and his remarks. One of these remarks was written on the Humphreys-DuVal correspondence made over an order to have Hannay's slaves delivered immediately, written in August 1, 1828. In that order, pursuant to McKenney's request, DuVal had directed Humphreys to accept Hannay's bond, regardless of the residencies of those she listed as securities. In response, Humphreys reported two weeks later that he was extremely wary of the bond her lawyers had presented him. He was hesitant to accept the bond, and have it prove insufficient to insure Hannay's continued cooperation. Therefore, Humphreys concluded, he would delay the order's execution until he "may be furnished with instructions" for his government "on the point in question." Essentially, DuVal argued, Humphreys informed him that he was, respectfully of course, ignoring his order.²⁰⁸ This, the governor fumed, was preposterous. "The delay in the execution of this order, for the reasons assigned by the Agent, is only evidence of his determination to evade the order."²⁰⁹

DuVal also remarked to McKenney about Humphrey's letter of August 15, which also contained a talk he gave to the chiefs over the slaves in Mary Hannay's claim. Firstly, DuVal declared, the proceedings of the talk—and the Indians' argument in it—sounded more like it was manufactured by Humphreys than it actually reflected "the concise brevity of the Indians."²¹⁰ This talk DuVal forwarded to McKenney, further remarking that the order to have the slaves delivered was given by the recommendation

²⁰⁷ *Ibid.*

²⁰⁸ DuVal to Humphreys, August 1, 1828, *ibid.*; Humphreys to DuVal, August 14, 1828, *ibid.*

²⁰⁹ "Remarks" by DuVal to Humphreys to DuVal of August 14, 1828, enclosed in DuVal to McKenney, September 22, 1828, LR FLA, r. 287.

²¹⁰ DuVal to McKenney, September 22, 1828, *ibid.*

of the Department, with “such information as satisfied the Secretary of its justice.” It was insulting that the agent would, “more than a year after the time the order should have been executed,” attempt to not only lecture the Department on its alleged injustice, but ignore its commands. If the Department and superintendent continued to submit to having their orders “thus evaded by the agent,” DuVal warned, “and our citizens consequently deprived of their property,” the outcome would “be worse than useless to expect insubordination in their Agents.” He had no doubt that if Humphreys had been at least sufficiently threatened by the Department into doing his duty, “the order would have been executed long since without difficulty.”²¹¹

The third correspondence DuVal forwarded to the superintendent was no less pejorative. He first copied Humphrey’s September communication notifying the governor that the chiefs had “positively, but respectfully” declined to have Hannay’s slaves surrendered. Humphreys also complained of the bond controversy generally, regretting that the order to have claims adjudicated by Judge Smith was not being correctly executed. The agent sent these comments by express to the governor, so that the Department would be “seasonally apprised of the *facts*” in the case.²¹²

“I have never heard before,” DuVal retorted angrily, “that the Indians had objected to the delivery of these slaves,” when sufficiently ordered by the Department. He also doubted the Indians’ ability to comprehend any judicial proceeding, and resented Humphreys’ avowal that the chiefs would readily abide by Judge Smith’s recommendation. They would no more “attend to the order of a judge,” he barked, “than

²¹¹ Talk with the Indians, August 15, 1828, *ibid.*; Humphreys to DuVal, August 15, 1828, *ibid.*; “Remarks” by DuVal to Humphreys to DuVal of August 15, 1828, enclosed DuVal to McKenney, September 22, 1828, *ibid.*

²¹² Humphreys to DuVal, September 23, 1828, *ibid.*

to that of a private individual.” All difficulty in these cases, he concluded, originated with Humphreys’ injudiciousness. As long as the Department allowed him to continue evading its orders, he as governor could not discharge his duty “in any other manner than by respectfully remonstrating.” He also reiterated to McKenney his severing the ties between his governorship and Humphreys’ agency. Not that it mattered, he rationalized, as he was convinced his orders would go unexecuted regardless.²¹³

In consideration of his moratorium, DuVal did personally return one more of Humphreys’ notes—his express letter of September 23—although only because the original missive declining any further communication had most likely not made it to the Agency when Humphreys wrote back. A copy of that letter, DuVal informed Humphreys, along with others and remarks, had been forwarded to the Department for its consideration. Nothing else would be done, until he had received a response. Washington must decide on the whole situation, he closed, “and either approve your conduct—and thus surrender all direction of Indian affairs—or enforce their orders.”²¹⁴

Six days later, in early October, Humphreys did receive the governor’s mail. And it was read, according to the stunned agent, “with no little surprise.” Unfortunately, Humphreys wrote, “I am unable to obtain your approbation of the manner in which I have discharged my duties,” at least in relation to slave claims. He could not but feel angered, however, at the governor’s insensitivity—even callousness—on the subject. “You attribute to me a disregard of duty no wise warranted by any circumstances that have occurred,” he countered, “and therefore inconsistent with that liberality and justice I have a right to expect at your hands.” That delays had occurred, Humphreys readily admitted.

²¹³ “Remarks” by DuVal to Humphreys to DuVal, September 23, 1828, enclosed DuVal to McKenney, September 22, 1828, *ibid.*

²¹⁴ DuVal to Humphreys, October 2, 1828, Sprague: 62.

They were not any consequence of his lack of effort, however. In an argument the agent had made to the Department numerous times before, he blamed inaction on the lack of military power necessary in the confrontations which almost always developed. Had he been issued that authority, “there would have been far less difficulty in enforcing obedience to the instructions of the Department.” Furthermore, his facilities were not sufficient to keep slaves from escaping, and the chiefs had lost the confidence required to deliver them under the present system of bonds.²¹⁵

Humphreys also reiterated these complaints directly to the Department, addressing Secretary of War Peter B. Porter two days after he wrote DuVal, on October 10. There was no other way of communicating to the Department, than directly through the secretary, Humphreys began by apologizing. Governor DuVal had, after all, declined all correspondence with him, and thus effectually closed his line of communication through the Indian Office. Humphreys alluded that DuVal greatly disapproved of his conduct in relation to slave claims, “and that, on this account, he had determined to report me as a delinquent.” Of the governor’s actions, Humphreys argued, predicated as they were on “the *ex parte* statements of irresponsible and interested persons,” and completely untrue, “I have a good right to complain.” DuVal evidently did not fully realize the difficulties of his position. The agent also forwarded Porter a copy of his August talk with the chiefs as evidence, which he hoped would illustrate the chiefs’ complete refusal to surrender slaves. From this talk, Humphreys wrote, it may be easily perceived “their feelings in regard to the delivery required of them of certain negroes, and how far I am obnoxious to censure for the failure of the Indians to comply with the orders directing said delivery.” He, as agent, had pressed every single one of these predicaments on to the

²¹⁵ Humphreys to DuVal, October 8, 1828, *ibid.*: 60.

governor, and so on through the chain of command. “I have no fear of reproach from them.”²¹⁶

The agent then proceeded to attack DuVal’s allegations on a more personal level. “That I have questioned the policy, and even doubted the *justice*, of some of the measures directed in the property controversies between the whites and Indians, I am free to admit.” Perhaps this was presumptuous, Humphreys concluded; “but if so, it was honest.” Furthermore, Humphreys warned Porter, DuVal’s dangerous course of action in continually threatening to withhold annuity payments would soon be considered by the Indians as an infraction of the treaty, “and serve to impair their confidence in the kindness and justice of the government.”²¹⁷

Nevertheless, the cascade of complaints against the agent which began with the Legislative Council and intensified with Governor DuVal, continued with the Superintendent and Secretary of War. McKenney wrote Porter in early November 1828, outlining the accusations which had been lately made against him. “In a general way,” McKenney began, for two years various complaints of the agent had been made through Delegate White by “those who felt aggrieved,” and by others who accused him of a “want of disposition to aid them” in recovering their runaways. From time to time, McKenney continued, orders were issued by the Department “of the most preemptory character, perfectly to the satisfaction of the claimants,” which more than addressed the controversy. Claimants regularly responded, however, that they were unable to secure their property, as Humphreys “was determined not to assist them.”²¹⁸

²¹⁶ Humphreys to Porter, October 10, 1828, *ibid.*: 60-62.

²¹⁷ *Ibid.*

²¹⁸ McKenney to Secretary of War, November 1, 1828, TP 24: 94-97.

One citizen, Zephaniah Kingsley, accused the agent directly of keeping his slaves at the Agency under a different name, and also to keeping and working Margaret Cooks' claimed slaves there for more than a year, even after they were positively ordered by the Department to be delivered. McKenney also cited the Legislative Council report, arguing its implication of Humphreys' "illicit traffic of slaves," although, he admitted, "no proof accompanies this." In a third charge, another letter outlined the "vexatious" state of affairs in the territory in relation to the agent's conduct. It concluded, McKenney wrote, that "if the War Department was informed of the dissatisfaction that exists among the people of the Territory, generally, against Colo. Humphreys, he would be removed immediately." This was most likely a letter from Mrs. Cook's lawyer John Hanson, in consideration of the controversy over her claim. "It is certainly true," McKenney added, "that great dissatisfaction does exist."²¹⁹

A fourth charge was contained in a similar letter by Archibald Clark. He accused Humphreys of "opposing obstacles" to the recovery of their slaves, by repeatedly denying them his assistance, particularly in rejecting Mary Hannay's out-of-territory security. Clark's letter was a strong one, McKenney added, "and I know no excuse that can be offered for the agent in the course he took."²²⁰ Yet another re-accused the agent of speculating in the slaves he was required to deliver. According to the affidavit of a Mr. William Everett, he bought numerous slaves from chiefs at a reduced rate—the only way, Humphreys had allegedly assured Everett, that they could be secured for delivery. Yet, as Everett claimed, he had not seen his slaves since the reported sale, except once or twice at the Agency, and was convinced that Humphreys, "instead of aiding in their

²¹⁹ *Ibid.* See also: Mr. Hanson to Col. White, May 7, 1828, LR FLA, r. 287.

²²⁰ Thomas McKenney to Secretary of War, November 1, 1828, TP 24: 94-97.

recovery...[raised] obstacles in order to purchase them at reduced prices.” If these accusations were proved true, McKenney warned, Humphreys obviously had to be removed. On the other hand, whether he really bought them for himself or not was irrelevant; he had been refused the ability to buy slaves under any circumstance, and this order “it appears he has disregarded.” In relatively unrelated charges, McKenney also included accusations from John Hanson that he improved the Agency land for his own use, including sugar works, and charged his bills to the government.²²¹

The superintendent also reiterated DuVal’s request that the agent’s actions be investigated. “He is loudly, and constantly complained against,” he added, “and has been for two years—the directions of the Department have not been conformed to by him;” on the questions of difficulty, “his answers, and reasons appear evasive.” Finally, whether the most egregious allegations were sustained or not, “such is the excitement against the agent in Florida,” and especially since DuVal “assumed the relation to him which he has,” that there was very little confidence that he could effectively control the territory at all, ever. Particularly shameful, his dealing with slaves after positively ordered not to “indicated a dealing of insubordination which makes it questionable whether orders on any other subject would be met differently.” If that were the case, certainly the duties of his agency would be “more acceptably” performed by someone else.²²²

Secretary Porter read McKenney’s report and forwarded his own conclusions on to President John Quincy Adams. Porter offered Adams proof the agent’s “having connived with the Indians in the concealment of runaway slaves,” with the intent, he emphasized, of purchasing them for himself. In addition, the representations of both

²²¹ *Ibid.*

²²² *Ibid.*

DuVal (who had “declined all official intercourse with him on account of his conduct”) and Col. White, “go strongly to confirm the charges.” The interests of the government, Porter declared, required “his speedy removal.” The secretary went so far as to recommend a replacement, Captain William Beard of Maryland, who, like Humphreys, was “late of the Army.”²²³

President Adams chose, instead, to order an investigation. Somewhat in agreement with that decision, Col. White wrote Porter in December that he had spoken to Adams, and understood that the President was unwilling to act on accusations “so seriously affecting the character of an individual,” until Humphreys had a chance to explain himself. The allegations were, White suggested, liable to the agent’s reputation; to wait until the agent could present a defense sounded like a reasonable request. Yet, he pondered almost sarcastically, how far “the want of harmony,” the “serious embarrassments to the public service,” and the numerous “public complaints on file” could justify the removal of the agent—that he did not “presume to decide.”²²⁴

White proceeded to address the House of Representatives on the subject three days later, requesting that an independent investigator be assigned. To that position he recommended Alexander Adair, Esq.—the Marshall of Tallahassee. McKenney wrote Adair after his appointment was confirmed, forwarding him a number of papers containing the charges leveled against Humphreys. Adair was to investigate each charge, hear Humphreys’ defense, and relate everything back to the Department, with his own opinion added.²²⁵ Adair soon accepted the position, and vowed to attend to the

²²³ Secretary of War to the President, December 6, 1828, LR SEM, r. 800. Contains four enclosures.

²²⁴ White to Porter, December 13, 1828, *ibid.*

²²⁵ White to House of Representatives, December 16, 1828, *ibid.*; McKenney to Alexander Adair, December 18, 1828, TP 24: 120-121.

investigation with as little delay as possible. Yet, it would take a while, as there were numerous complainants, and their residences were disbursed through a very rural north Florida. In addition, Adair enquired, were the formalized charges to be restricted to those written by the Department? Some of the complaints were so vague or “indirectly alluded to,” Adair confessed, he was confused as to whether he should consider them formal charges or not—although, he added, “I have reason to believe they would be insisted upon.”²²⁶

Once instigated, it took Adair three months to prosecute his investigation. He moved from St. Augustine, north to St. Mary’s in Georgia, and then southwest to Fort King and the Agency in Central Florida. In April, he wrote the Department that he had finished taking his depositions, yet was not ready to report his conclusions. This prolonged absence, he apologized, was consequent to both the horrible conditions in Florida, and his ailing health.²²⁷ A little over two weeks later, he forwarded the secretary of war his full report, containing formal charges, questions, countless depositions and his own additions. He had also forwarded those papers to Humphreys, in order that the agent could write his formal defense. At the time Adair returned his investigation to the Department, Humphreys’ defense had not yet come to hand. It was expected shortly, Adair noted however, and he would forward it to Washington as soon as possible.²²⁸

From the magnitude of the charges and the fanaticism with which they were preferred, Adair’s report began, “not a doubt was entertained that all needful assistance would be afforded to facilitate the investigation. What was my surprise to find the reverse.” Those who were “most clamorous,” in their accusations were the most hesitant

²²⁶ Adair to McKenney, January 12, 1829, LR SEM, r. 800.

²²⁷ Adair to McKenney, April 6, 1829, *ibid.*

²²⁸ Adair to the Secretary of War, April 24, 1829, TP 24: 203-206.

to give any sort of deposition at all, and the testimony that was given by one often contradicted others.²²⁹ The first charge he elucidated in his investigation reflected the complaints which accused Humphreys of willfully disobeying the orders of the Department, in having claimed slaves surrendered to their owners—particularly those of Mrs. Hannay and Mrs. Cook. To that charge, Adair wrote Secretary of War John Eaton, the three depositions he took did not sustain the charge. “They show no want of respect for the orders of the Department,” he added, “or zeal in the discharge of duty.” Among the depositions he included evincing that conclusion was of a Daniel Meickler, which accounted the controversy over Mary Hannay’s claim.²³⁰

Meickler recalled that Humphreys had originally rejected Hannay’s bond in consequence of its being non-local, but after consultation with others in his general vicinity, soon accepted it. Humphreys then directed Meickler, with a small complement of soldiers and an interpreter, into the nation to retrieve the slave. That party met an alarming resistance, however, and returned without success. According to the deposition, Humphreys then confronted the chiefs angrily and demanded the slave, threatening the use of a stronger military force—threats the chiefs heatedly returned. The agent then re-sent a considerably larger squad into the nation, containing a lieutenant and ten soldiers, and directed them to scour the area for the fugitive. Again, however, their force returned empty handed. Meickler also recollected that about that time, he became informed by a letter that Humphreys, who was then in Tallahassee, had come upon information which brought Hannay’s bond into serious suspect. Only under that information, and in genuine

²²⁹ *Ibid.*

²³⁰ *Ibid.*; Adair to Humphreys, n.d., enclosed in Adair to Secretary of War, April 24, 1829, *ibid.*: 207; Affidavit of Daniel Mickler, February 24, 1829, in Adair to Secretary of War, April 24, 1829, LR SEM, r. 800.

regard for the well-being of the Indians, did Humphreys then alert Hannay's attorney, Archibald Clark, that security within the territory would be necessary.²³¹ So far from deserving censure, Meickler's deposition seemed to prove Humphreys' dedication to executing his authority with power, yet respect—whether that meant denying seizure of slaves or enforcing it.

In the controversy over Cook's slave John, who Humphreys was also unable to secure, a deposition by Francis Richards Junior again seemed to exonerate his actions. Humphreys personally apprehended the claimed fugitive at Tampa Bay (a dangerous region including the most militant blacks and Indians), returned him to Fort King, and secured him to the Agency house with a chain until his delivery could be made. In that time, however, the slave forced the chain from his neck and escaped. Humphreys again personally pursued the fugitive back south for ten days, returning successfully and proceeded directly to the blacksmith, where he had the slave shackled in custom made handcuffs and ankle chains, directly to the Agency foundation. Yet again, with the help of an Indian Negro, John escaped. "The deponent has reason to believe," Richards concluded, "and does verily believe that the Agent made use of his best exertions, to have the said Negro so secured, as that he might be delivered to his owner."²³²

Adair narrowed the next grouping of complaints into a second general charge: that Humphreys failed to give necessary assistance to citizens in enabling them to recover their property. And he did so, the complaint continued, in order that he may affect the

²³¹ Adair to the Secretary of War, April 24, 1829, TP 24: 203-206; Adair to Humphreys, n.d., enclosed in Adair to Secretary of War, April 24, 1829, *ibid.*: 207; Affidavit of Daniel Mickler, February 24, 1829, in Adair to Secretary of War, April 24, 1829, LR SEM, r. 800. See also, "Interrogatories to be propounded to Horatio Lowe," and "Answers of Horatio Lowe," February 24, 1829, *ibid.*

²³² "Deposition of Francis Richards Junior, 3/6/1829," enclosed in Adair to Secretary of War, April 24, 1829, LR SEM, r. 800. See also, Affidavit of John M. Hanson, February 14, 1829, *ibid.*

purchase of the same slaves at discounted rates for his own use. That charge, Adair declared, was “no better sustained.” The deposition of Waters Smith was the only one taken, and was simply wrong. Smith, Adair noted, while being a seemingly upstanding citizen, must not have been aware that the slaves he claimed were being withheld had already been delivered. The depositions of others had proven it. In addition, there was a positive refusal in the instance of Zephaniah Kingsley’s accusation to even recognize his earlier statements. Kingsley had settled his affair with the agent and wanted nothing to do with the investigation. Evidence gathered in support of these statements included depositions by three army regulars stationed at Fort King: a surgeon, Lieutenant, and Captain.²³³

Also included in the charge were William Everett’s allegations, contained in a copy of his original complaint to Governor DuVal, dated September 1828. Everett protested to DuVal of Humphreys’ continued refusal to deliver his slaves, while seeking, Everett argued, to purchase them outright for his own benefit. These accusations, Adair countered, were “predicated upon a Volunture[sic], Exparty[sic], affidavit of Wm Everett—strong & explicit.” From what the investigator collected concerning the man’s character, “any statement coming from him should be read with caution.” The brief statement made by a Mr. John Buck, whom Everett mentioned in his original accusation, according to Adair, contradicted his whole statement. Buck declined any meaningful

²³³ Adair to Humphreys, n.d., enclosed in Adair to Secretary of War, April 24, 1829, TP 24: 207; Alexander Adair to the Secretary of War, April 24, 1829, *ibid.*: 203-206; Waters Smith Deposition Questions, n.d., enclosed in Adair to Secretary of War, April 24, 1829, LR SEM, r. 800; Waters Smith Deposition Answers, February 19, 1829, *ibid.*; Letter by Capt Glassell, March 4, 1829, *ibid.*; Deposition of Francis D. Newcomb at Fort King, March 9, 1829, *ibid.*; Deposition of H. S. Hawking at Fort King, March 9, 1828, *ibid.*

deposition, “out of delicacy to Everett.” “I have little confidence,” Adair stated, “in the statement of either of them.”²³⁴

The last two charges were relatively unrelated to the slave controversies. The third dealt with accusations that Humphreys had contracted work to be done on the Agency for his own benefit, and inappropriately billed the government. While depositions taken by a Mr. Nickolay Morgan, one of the contractors, seemed to prove that the agent had not intended to defraud the government, still the investigator added, “let this be admitted and yet the least that can be said.” It was certainly an unprofessional way to conduct his business, according to Adair: “it would have been but little trouble for the Agent to have kept a regular account of the labour & materials supplied by him,” so that the government would have known exactly what they were paying for.²³⁵

The fourth and last charge accused Humphreys of willfully allowing the Indians to roam outside their boundary, where they were accused of constantly attacking the surrounding settlers. This charge, Adair noted, was obvious from his own observations, and yet “was admitted by the Agent.” Humphreys, Adair stated, categorically denied having any sort of power to control them in that respect. “Not knowing how far his authority extends,” he continued, “or what power he has, I can only state that the evil exists to a very great extent.”²³⁶ It seems, ironically, that these last two charges were the

²³⁴ Adair to the Secretary of War, April 24, 1829, TP 24: 203-206; William Everitt to DuVal, September 20, 1828, enclosed in Adair to Secretary of War, April 24, 1829, LR SEM, r. 800; Affidavit of William Everitt, In Everitt to DuVal, September 20, 1828, *ibid.*; J. Buck to Alexander Adair, March 5, 1829, *ibid.*

²³⁵ Adair to Gad Humphreys, n.d., enclosed in Adair to Secretary of War, April 24, 1829, TP 24: 207; Adair to the Secretary of War, April 24, 1829, *ibid.*: 203-206; Deposition of Nickolay Morgan, February 26, 1829, in Adair to Secretary of War, April 24, 1829, LR SEM, r. 800; Cross interrogatories by Col Humphreys, n.d., *ibid.*

²³⁶ Adair to Gad Humphreys, n.d., enclosed in Adair to Secretary of War, April 24, 1829, TP 24: 207; Alexander Adair to the Secretary of War, April 24, 1829, *ibid.*: 203-206; Deposition of S. Streeter, February 19, 1829, in Adair to Secretary of War, April 24, 1829, LR SEM, r. 800; Deposition of Jos. B. Lancaster, March 31, 1829, *ibid.*; Deposition of H. S. Hawking at Fort King, March 9, 1828, *ibid.*

only ones that might actually have contained evidence of impropriety on behalf of the Humphreys' actions. Yet they were unrelated to the root issue—slave claims—and it appears they were only preferred in an attempt to add more depth to the general accusations. They were passed over briefly by the investigator, and ignored almost completely by Humphreys.

Adair forwarded Humphreys' written defense of the accusations a week later, which had until that time been delayed. While nothing in the agent's defense required a change in his report, the investigator noted, Humphreys certainly did have a lot to say. He first took exception with Adair, actually, noting "with dissatisfaction...the ex party manner of conducting the enquiry and the want of [precision] of charges" presented to him. Adair defended the way he designed the investigation, however, noting to McKenney the orders he received recommending he proceed taking testimony, as well as his directions to reorder the accusations into general charges.²³⁷

A formal written defense, Humphreys soon began, was not even necessary, considering the proceedings of the investigation and Adair's own conclusions. It seemed, at least to the agent, "poorly complimentary to the good sense of the President, and any thing respectful to him, to suppose, that a studied argument is necessary, to convince him, of the entire groundlessness of the accusations." They were, he spat, the "offspring of malevolence and cupidity; for I may safely assert, and without the fear of well grounded contradiction." There was not in the whole report, he added, one single piece of testimony "as would be admissible in a court of law, which goes to sustain even a single charge, enumerated in the catalogue of my alleged enormities." For not finding the initial necessity of a full defense, as he had earlier suggested, Humphreys enumerated his

²³⁷ Adair to the Secretary of War, May 4, 1829, TP 24: 210-211.

complaints in a good degree of detail, assailing the investigation's depositions one-by-one and with determination. Everett's accusations were "wholly destroyed" by its opposing testimony, he began, being in substance "positively and unqualifiedly contradicted" by John Buck. Buck's statements, he argued, while no not made under oath, were "equally valid in law"—and "decidedly more to be respected"—when considering the ex parte statement of Everett, which it effectually canceled. As gross as Everett's statement was, it did not surprise him: "When I consider his character...I only wonder that his pliancy of conscience was not further used against me."²³⁸

Waters Smith's deposition was no more accurate, Humphreys continued. The elevated standing of the man, and the "high respect heretofore entertained" by the agent, made the task of completely gainsaying his statements a much more difficult one. By Adair's own investigation, however, three depositions had been taken into the accuracy of his accusations: from Captain Glassell, Lieutenant Newcomb, and Assistant Surgeon Hawkins—all army regulars posted at Fort King. All three of those depositions, Humphreys added, directly contradicted Smith's statement that the slave Sally had not been delivered over to her proper owners. Smith alleged that Sally was still in the nation at the time his deposition had been taken, in February of 1829. Yet, by the depositions of the officers at Fort King, delivery had been made in November or December of 1828—at least three or four months earlier—a difference he emphasized. How under such circumstances, Humphreys concluded, it was possible for Smith to deny the delivery, "I am utterly at a loss to imagine." With the witnesses, he snapped, "I have now done!"²³⁹

²³⁸ Humphreys to Adair, April 27, 1829, *ibid.*: 212-214.

²³⁹ Adair to the Secretary of War, May 4, 1829, *ibid.*: 210-211; Humphreys to Adair, April 27, 1829, *ibid.*: 212-214.

Still, the agent spared no criticism in his assessment of the Department's role. The ex parte, "and of course illegal" manner by which the investigation had been conducted, by special instruction from the Department, disgusted him. It left him no doubt, "from the character this stamped upon the investigation, in its outset," that had not been designed to "promote the ends and further the sacred cause of justice," but to be used as an engine "to be wielded for the unhallowed purpose of gratifying personal dislike and advancing selfish views." Having said this much, he concluded, "I shall here leave the case to rest upon its own merits, sustained by my own consciousness of rectitude of purpose in the discharge of my public duties, and relying confidently for an entire acquittal upon the justice of my Government."²⁴⁰

²⁴⁰ Humphreys to Adair, April 27, 1829, *ibid.*: 212-214.

Chapter Seven

Humphreys' Removal

DuVal, however, who seemed to almost personally hate Humphreys by this point, had long since resolved not to let the case rest “upon its own merits.” In April 1829, three days before Adair had concluded and forwarded the results of his investigation to Washington, DuVal wrote President Jackson directly in the first of many blistering complaints to Washington. Both Humphreys—who “ought long since to have been removed for misconduct”—and Judge Smith—“a man who was dismissed with disgrace from our army, as too vile to hold any command”—had been thought “pure enough” by the preceding administrations to gain commissions in the territory. Remove these men, DuVal practically begged Jackson, “and aid us in giving a character to our Territory it richly deserves.” He appealed to Old Hickory as the father of the territory, and as a patriot who “not one man in fifty” did not revere. Yet nearly two-thirds of all the appointments made by his predecessors “were in direct opposition to the wishes of the people.” The governor held no “vindictive feelings,” he assured the general. Yet the honor, interest, character, and future prosperity of the territory all hinged on the changes that had to be made.²⁴¹

Next, DuVal began what would turn out to be a year long barrage of correspondence to the Department, writing Secretary of War John Eaton the same day Adair forwarded Humphreys' written defense. He had previously communicated to the

²⁴¹ DuVal to the President, April 21, 1829, *ibid.*: 197-198.

president, DuVal wrote, pressing him to remove Humphreys and have him superceded by subagent John Phagan. The conduct of the agent was such “that I felt it my duty to bring him before the War Department,” yet nothing satisfactory had been decided. DuVal was certain much of that had to do with Humphreys, who he accused of inducing the witnesses to withhold their testimony. He had no doubt that Humphreys was continually purchasing slaves, had made “a sugar plantation at the agency,” and that he had gone as far as purchasing the land that the Agency was built on. Most importantly, however, “I have never for the last two years been able to execute any of the orders issued by the War Department,” except those with which the agent personally agreed. The Department looked to him as governor, he argued, and to have its orders enforced, which he had for some time “in vain attempted.” As superintendent, DuVal had no confidence in Humphreys as agent, and vociferously urged his removal.²⁴²

Humphreys soon learned of DuVal’s post to the Department, and wrote Eaton just over two weeks later. It had come to his attention, that since the failure “of the prosecution of the investigation recently had in relation to my official acts as agent for the Florida Indians,” DuVal had continued to petition for his removal. This was done, the agent protested, “in a manner less consistent with correct feeling [, than] to do me that injury with the [Goverment] which he failed of in the attack.” He begged the Department not to listen. Instead, he was leaving immediately for Washington, and hoped the secretary of war would await his arrival and discuss the situation personally.²⁴³ Captain Glassell, still the commanding officer at Fort King, also wrote Eaton on his behalf. Reiterating that Humphreys had left, and was en route for the purpose of consulting with

²⁴² DuVal to the Secretary of War, May 4, 1829, *ibid.*: 209-210.

²⁴³ Humphreys to Eaton, May 21, 1829, LR SEM, r. 800.

the Department over the charges, Glassell gave the secretary his views on the situation. It was his firm belief, that could the Department delay its final decision until Humphreys arrived, “a different complexion would most probably be placed upon the case.”²⁴⁴

DuVal, however, also kept up his brisk writing, and said everything he could to portray Humphreys as negatively as possible. In a letter ostensibly illustrating his lack of compensation, the Governor again blamed Humphreys. Since his residence was transferred to the Agency, DuVal bemoaned, the agent had “totally disregarded every order or direction given him,” and that rather than assisting him as superintendent, he had thrown countless difficulties in the way. As a result, not only was DuVal responsible for executing the normal duties of a territorial governorship, but also had to compensate for the total “neglect and absence of the Agent.” He was practically working both jobs, he argued, and deserved recompense.²⁴⁵

Again, the next day, the governor complained. In another letter over money, DuVal expressed his unhappiness with the agent. Normally, territorial governors were given complete power over Indian affairs as superintendents, he began. In his case, however, many of those powers had been taken from him and compensation withheld. “Whether the interests of our citizens will be promoted, by keeping the Superintendent in ignorance of the subject, you can determine.” In the case of property controversies—specifically slave property—DuVal felt slighted by the loss of his control over the claims. Those powers had been delegated to Humphreys, originally, and then to Judge Smith. It was to the governor that the citizens looked foremost for the delivery of their property.

²⁴⁴ Captain Glassell to Eaton, May 22, 1829, *ibid.*

²⁴⁵ DuVal to Eaton, June 8, 1829, LR FLA, r. 287.

Taking yet another jab at Humphreys, he added that the Indians confided in him as well, “when not misled by those whose duty it is to advise them honestly.”²⁴⁶

He also enclosed further charges against Humphreys, levied by himself and allegedly supported by the statements of subagent Owen Marsh. DuVal had written to Marsh a week previous, asking the subagent to recall whether Humphreys had withheld annuity, cattle, or slaves from the Indians. “The interests of the country call for an explanation of the conduct of the agent,” he pressed Marsh. He had been “severely censured” by numerous citizens who had slaves held by the Indians, because they believed he as governor had not sufficiently compelled Humphreys to have them delivered. Assuring himself that Humphreys was totally at fault, he noted to Owen that “so far as my authority and power could extend, everything I could do, was done.” If Humphreys had done *anything* wrong, and Marsh knew about it, he had inform DuVal, and the same had be reported to the Department.²⁴⁷

That the agent was actively trading with the Indians, DuVal concluded to Eaton a week later (seeming to find the evidence he needed in Marsh’s response), “I have no doubt; and that he claims, and has on his plantation at the agency, slaves belonging to the Indians, which he has no right to hold, I am convinced.” In addition, Humphreys also had cattle on the Agency property, which had supposedly been purchased and paid for by the Indians. If the government overlooked the agent’s obvious and continued violation of Congressional intercourse laws, DuVal asserted, which prohibited any employee of the

²⁴⁶ DuVal to Eaton, June 9, 1829, *ibid.*

²⁴⁷ *Ibid.*; DuVal to Owen Marsh, May 29, 1829, enclosed in DuVal to Eaton, June 9, 1829, TP 24: 231-232; Owen Marsh to DuVal, May 29, 1829, *ibid.*

Indian Office from trading with the Indians, “that moment consigns these unfortunate people to certain destruction.”²⁴⁸

Again, not only should the agent be dismissed, but also more of the governor’s original powers should be reinstated—particularly power over slave claims. The easiest way to mitigate such complaints was not through the judicial system—a process in which, as he had already confided to McKenney, he had no faith. Rather, with power properly articulated through the superintendency—in assembling the chiefs at the Agency together with the claimants, and having a fair investigation “of the claims on both sides” conducted—controversies over runaways would practically disappear. He had done this once, DuVal reminded Eaton, in 1826, and “in a very short time, many slaves were given up with the unanimous consent of the Chiefs, and all parties were perfectly satisfied.”²⁴⁹

One particular slaveholder, Davis Floyd, echoed that sentiment to Eaton in a seemingly independent correspondence. Interested in “one or two claims” to slaves in the nation, Floyd also questioned Eaton on why the duties of the superintendent in such controversies had been taken away and given to Judge Smith. “It is quite immaterial to me who decides upon those cases,” he wrote. Yet, it was previously thought that questions regarding slaves were “regularly to be decided in the first instance by the Superintendent,” and then reported to the War Department; Floyd wondered why this had been altered. After all, he had heard that at one time, DuVal had performed that service with several chiefs, “and in a few days delivered over a great many slaves to their proper

²⁴⁸ DuVal to Eaton, June 9, 1829, LR FLA, r. 287.

²⁴⁹ *Ibid.*

owners.” Since his responsibilities had been redirected, however, “not a single case has been finally decided.”²⁵⁰

DuVal personally took up the question again with a fourth letter to Eaton, addressed in June 1829. The continued applications “I daily receive from Georgia and Florida on the subject of slaves” were occupying the majority of his time and attention as governor; again, he complained, he was under-compensated. The “unprofitable and laborious duties of Superintendent” were enjoined upon him by the late administration, he argued, while those usually performed by territorial governors—and for which compensation was allowed—were taken from him and given to Judge Smith. If the Judge was not being paid for this service, then it certainly was appropriate of the Department to avoid the expense. But he was getting paid. As an attorney for the government in slave controversies, DuVal countered, appointed to that position by the late administration, “I should consider his power of attorney as having legally expired.” Now, DuVal requested, let him again perform his own duties, “unless it shall appear that I am unable to do so.” As superintendent, he should be allowed to investigate and decide on all disputes of property between citizens and Indians, and “where it is evident that the property belongs to a white person,” it should be delivered to them “by my order.”²⁵¹

Slave controversies, he reiterated, were the most numerous and pressing issue present in the territory. “This single subject,” he argued, “has imposed more labor and difficulty on me, than any other Superintendent has encountered in the discharge of all other duties.” There were now at the Agency, he added, five men currently claiming slaves in the nation. That the agent was absent and in Washington did not help, yet it did

²⁵⁰ Davis Floyd to Eaton, June 10, 1829, LR SEM, r. 800.

²⁵¹ DuVal to Eaton, June 18, 1829, LR FLA, r. 287.

not surprise him. “This, he has done so before, and business which he ought to attend to must await his return.” Even when he was not absent, DuVal noted, Humphreys had not discharged his duties any more thoroughly. Again he sniped: perhaps that was for the best—maybe “he had better be absent altogether.”²⁵²

While the Governor withheld his venom on the subject for another seven months, other notable citizens continued. One particularly harsh comment came from James Gadsden. A commissioner for the Indian Office, Florida planter, and Jackson protégé, the Colonel soon joined in the chorus of those denouncing the agent in late 1829. Eyeing the Seminoles’ emigration west, Gadsden wrote President Jackson and explained that power had to be projected through the Florida Agency. That was not possible in its present condition. In fact, the whole region was in turmoil. The garrison at Fort King had been removed, and the territory was recoiling from the loss of its troops. The Agency was of little help, it being “confided to a young man not in any way qualified for the office.” Humphreys was, in the commissioner’s opinion, “not qualified for the station.” He had little knowledge of the Indian character, and was the “principle source of most of the difficulties which have occurred with the Indians” in the region.²⁵³

Again promising to clean up the mess left in Humphreys’ wake, DuVal next wrote Eaton in January of 1830, whining afresh of his position, lack of compensation, and of the agent generally. Through late 1827, he reminded the Department, he had enjoyed the authority to decide on slave claims, and to forcibly return them if necessary. In that time, he had decided over one hundred cases “to the entire satisfaction of our citizens and Indians,” and personally overseen some seventy slaves being delivered over to their

²⁵² *Ibid.*

²⁵³ James Gadsden to Jackson, November 14, 1829, LR SEM, r. 806: Emigration.

proper owners. He again petitioned to have such responsibility restored, and adequate compensation included, as it was an expensive and time-consuming task. Judge Smith received such compensation; DuVal asserted that he could execute the position better, and already deserved the extra funds.²⁵⁴

Finally, in March 1830, DuVal succeeded in having Humphreys removed. McKenney wrote him notifying that President Jackson had, “by and with the advice of the Senate,” appointed John Phagan to supercede Humphreys as agent. DuVal was to inform Humphreys that his Agency will have been considered terminated when he received the letter conveying it.²⁵⁵ As John Mahon had suggested, where Adair’s investigation did not do much to prove the culpability of Humphreys in most of his alleged improprieties, DuVal’s correspondences to Eaton, on the other hand, did much more. A fundamental shift had taken place in the United States by that time: Andrew Jackson had become President. DuVal beseeched Florida’s old conqueror to relieve the territory of an official who clearly did not embrace the same egalitarianism the emerging Democracy championed. With Joseph White and James Gadsden joining DuVal in a sort of chorus censuring the agent, the criticism of Humphreys evidently reached the intensity necessary to pressure Jackson into action.²⁵⁶ The Seminoles lost a dear friend when agent Humphreys was removed. He was a man, Charles Coe concluded, of “sterling qualities of head and heart.”²⁵⁷

²⁵⁴ DuVal to Eaton, January 28, 1830, LR FLA, r. 287.

²⁵⁵ McKenney to DuVal, March 18, 1830, TP 24: 381. For information on Phagan’s commission, see *Senate Executive Journal*, vol. 4: 68, 72; Phagan to Eaton, May 10, 1830, LR SEM, r. 800; McKenney to DuVal, May 27, 1830, LS OIA, r. 6: 433; McKenney to DuVal, June 10, 1830, *ibid.*: 472.

²⁵⁶ Mahon, 70-71.

²⁵⁷ Coe, 46; Mahon, 71; Peters, 86; Sprague, 70-71.

Yet, even Humphreys' removal appeared not to cool DuVal's almost consuming sense of indignation. In his sixth letter to the Department concerning the situation, he re-accused Humphreys of purchasing slaves and cattle inappropriately from the Indians. This time, DuVal asserted, the Seminoles were directly complaining—certainly a new development if the allegations turned out to be true. As for the slaves at least, chiefs reported to Phagan that the late agent continually approached them and traded for their slaves. In most circumstances, DuVal emphasized, he plainly defrauded them, refusing even to pay them the reduced prices he originally offered. Property so illegally obtained should be seized by the government, the governor asserted, and held until a proper investigation had been concluded. Yet again, he added to his list of gripes the necessity of regaining the authority over general slave controversies he felt had been unfairly taken from him. "I have never known why this business was transferred from me to the judge," he protested, "since any order he may make would not be submitted to by the Indians and force would be required to effect." An order from him, on the other hand, as Superintendent would be executed immediately and effectually.²⁵⁸

The War Department finally responded to DuVal's repeated requests in April 1830, when McKenney granted the governor the authority he so desperately demanded. The Superintendent confided to him that Judge Smith was given the authority he was "with no other view than to give satisfaction to the claimants who had remonstrated so long, and so loud, against the agent." If he was confident he could handle the cases, McKenney assured DuVal, then the Department had no problem returning that power into the hands of the governorship. Secretary Eaton had already ordered Judge Smith to forward everything relative to the cases to the Governor; and the matter was now, the

²⁵⁸ DuVal to Eaton, April 7, 1830, LR FLA, r. 287.

Department concluded, in “your authority to act upon, and report...to the Department of War for any further direction which they may require.”²⁵⁹

Washington also addressed Humphreys’ continued presence in the region and his alleged purchases of Indian property. Any investigation DuVal might see fit in the cases where Indians disputed any transfer of cattle, slaves, etc., to the late agent was thereby authorized. In addition, Humphreys had lately been appointed to the Office of Post Master at the Agency, the Secretary informed DuVal, which he held “as a pretext for remaining in the Indian boundary.” The appointment was given to him out of courtesy, however, and apparently, he abused it. Eaton vowed to contact the Post Master General about the improprieties, who would “doubtless promptly apply the proper remedy”—presumably have him stripped of his position. Then, DuVal was assured, “there will be nothing in your way to prevent [his] interference, (by the enforcement of the law if necessary,) with the Indians in the future.”²⁶⁰

Ironically, the War Department also issued the Florida Agency the military assistance Humphreys had campaigned so urgently for throughout his tenure. Agreeable to DuVal’s request, the commanding officer of Fort King was, under direction of the Secretary of War, ordered “to give the Indian agent on his written application, such aid as may be necessary to enable him to execute the duties required of him.” Considering the ease at which Washington obliged the governor in this request, the Department’s actions are hard to explain. Perhaps the newest Secretary finally recognized the need. Perhaps,

²⁵⁹ McKenney to DuVal, April 8, 1830, LS OIA, r. 6: 378.

²⁶⁰ *Ibid.*; Acting Secretary of War to DuVal, August 14, 1830, TP 24: 439.

on the other hand, directives were deliberately withheld late in Humphreys' tenure—at least until the late agent had been successfully removed.²⁶¹

Regardless of the intentions of the Department, with Humphreys out of the picture, a renewed sense of power, and an Indian agent under his complete control, DuVal set out to clean up the messes he surely felt Humphreys left behind. In September, he instructed Phagan to deliver a talk to the Indians, in which they would be notified that their annuity was again to be withheld, at least until they delivered the slaves claimed by Mary Hannay to her or her agent. The Governor doubtless hoped Phagan would prove to be a much more effectual tool of the Department's policy. His first test—these orders, the governor reminded him—had “constantly been evaded” by his predecessor. Additionally, Phagan was also to investigate Humphreys' possession of certain slaves supposedly belonging to the Indian Nelly Factor, and report back to him as soon as possible.²⁶²

Taking the course of slave claim arbitration back practically to its 1822 roots, DuVal then elucidated the procedure which would henceforth be used in deciding the controversies. In all cases, Phagan was to be the principle investigator. Where a citizen claimed slaves in the nation, it was relatively undisputed by the Indians, and the agent found sufficient proof that the slaves had indeed absconded, he was then ordered to exert all his power “and authority to have them delivered up to the owner.” Where both a citizen and Indian claimed the same slaves, on the other hand, a counsel of chiefs would

²⁶¹ *Ibid.*

²⁶² DuVal to Phagan, October 9, 1830, LR SEM, r. 800.

be assembled, evidence submitted to them, and their answers reported back to DuVal, who would then decide.²⁶³

The message conveying this system—and a few words over Hannay’s claim, which “will not be pleasant” to the ears of the Seminoles—was delivered to a delegation of chiefs and warriors two days later in the stern language of the new policy. “Your annuity will not be paid,” the chiefs were plainly notified, “until you comply with the treaty, in giving up runaways from labour who are in your nation. The Agent will report to me what you determine on, and I will make known the same to your Great Father.”²⁶⁴ The orders of the Department, DuVal forwarded along to Secretary Eaton one week after the talk, “have been repeatedly evaded by the chiefs and especially the order to deliver up slaves claimed by Mrs. Hannay.” He was absolutely determined to have those orders executed, and to that end, he had once again resorted to withholding the Indians’ annuity. This tactic had been previously turned to, DuVal reminded Eaton, but had been rejected by the previous administration. With Jackson in the presidency, however, the governor doubtless considered the threat a very realistic course of action. Should it not meet the views of the Department, however, “it is desirable that such directions may be given in relation to this subject.”²⁶⁵

As Humphreys was removed from the picture, he had applied for and been turned down for indemnification involving the land and improvements he had invested in the Agency. Still, however, he remained in the region. He soon built a trading post just outside the nation, and became an outspoken opponent of emigration.²⁶⁶ Phagan

²⁶³ *Ibid.*

²⁶⁴ A talk, Chiefs and Warriors of the Seminole Nation, October 11, 1830, *ibid.*

²⁶⁵ DuVal to Eaton, October 18, 1830, *ibid.*

²⁶⁶ See Editor’s notes, TP 24: 381.

approached him over the disputed slaves allegedly under his control, arguing that they belonged to Davis Floyd (who earlier wrote the Secretary of War in DuVal's defense) and John Garry, demanding them of the late agent. Humphreys, however, positively refused to release them, with the threat "that I might take them on my own responsibility" Phagan reported, which he declined. The two claimants then also declined insisting on the execution of the order through the Department, illustrating yet another seemingly fraudulent claim Humphreys intransigently refused to placate.²⁶⁷

Later in 1832, both Phagan and DuVal accused him of attempting to persuade the Indians not to travel west. "I am convinced," DuVal wrote on the subject, that Humphreys and another man, W. George Centre, endeavored to "prejudice them against removing west of the Mississippi." DuVal had to act fast, he concluded, and travel down to the Agency from Tallahassee to "counteract any impressions these men have made on the minds of the Indians unfavorable to the views of the Government."²⁶⁸ The two had not only attempted to persuade the Indians, but moved to indict Phagan on a number of charges as well. The most interesting charges included his "unjust, oppressively, and arrogantly" withholding of the Indians' annuity, and his insistence on having certain slaves surrendered for delivery to Davis Floyd and John Garry—the same slaves Phagan had unsuccessfully demanded of Humphreys months earlier. Phagan complained of these charges to the secretary of war directly in July, noting that he was forced to defend himself not only to promote the removal of the Indians west, but to "defeat those

²⁶⁷ Charge 7, Specification 1, enclosed in Phagan to Cass, February 6, 1832, LR SEM, r. 800.

²⁶⁸ Phagan to Cass, July 13, 1832, LR SEM, r. 800; DuVal to Secretary of War, August 21, 1832, TP 24: 725-726.

scoundrels that are trying to operate not only against the views of the government, but also against me.”²⁶⁹

Yet, under the pressing of Delegate Joseph White, the government investigated Phagan on those and a catalogue of other charges. DuVal again came to the agent’s aid, however, assuring the Department in the ensuing enquiry that he had ordered Phagan to pursue the courses he did. He first reminded Eaton that he had forwarded his orders to the agent, along with his general course of action in withholding the annuity, to the Department for its review. Upon hearing back that Washington did not believe it had the ability to authorize the withholding of annuity in such cases (again), he ordered the Indians be paid. If there was any impropriety in this course, DuVal assured the secretary, “the responsibility rests on me and not the agent who acted in obedience to my order.”²⁷⁰

Phagan was also accused of threatening the Indians with “chastisement in the case of their disobedience” of the order to deliver a large number of slaves demanded by Davis Floyd and John Garry, which Humphreys had personally refused to deliver. According to DuVal’s own report, a number of councils with the chiefs, which occurred while Humphreys was agent, had determined that the slaves indeed belonged to an Indian woman named Nelly Factor. Nelly had allegedly sold that ownership to Floyd and others, who then ordered them surrendered into their custody. Humphreys, although no longer an agent, argued that the slaves never really belonged to Factor, but to another Indian woman named Ann Burgess. Burgess had never sold her right to the slaves; the sale made by Factor, therefore, was a forgery and illegal. Sensing their inevitable loss, Humphreys then claimed himself an interested party in the slaves, by right of sale from

²⁶⁹ Phagan to Cass, July 13, 1832, LR SEM, r. 800; Charges and specifications preferred by George Center, January 23, 1832, *ibid.*

²⁷⁰ Explanation of charges preferred by Mr. Center on John Phagan, February 7, 1832, *ibid.*

Burgess. This action seems less consistent with Humphreys' actual desire to acquire the slaves, and was most likely designed to shield the Indian party from the real threat of a fraudulent claim, placed under the control of an Agency which no longer considered their well being. For whatever purpose, Humphreys disputed the right of agent Phagan to seize them under this pretense, and Floyd's party declined any further action in having them seized.²⁷¹

There were several other charges made against agent Phagan which were pressed by Delegate White, Acting Governor Westcott, and ultimately Secretary of War Lewis Cass.²⁷² While scholar Virginia Bergman Peters stated relatively bluntly that as the agent who replaced Humphreys, Phagan was a "rank opportunist," Mahon seems more subtle in remarking that if the Indians gained an ally with Phagan, "they certainly did not get a more honest man."²⁷³ Of all the charges levied against him, the ones accusing him of financial misconduct ultimately had him removed in 1832. A later investigation proved not only that he was underpaying interpreters and other workers at the Agency, but that he misappropriated annuity payments and embezzled money from the Office—ironically, one of the same accusations he and DuVal pressed on Humphreys shortly after he was removed.²⁷⁴

²⁷¹ Charges and specifications preferred by George Center, January 23, 1832, *ibid.*; Explanation of charges preferred by Mr. Center on John Phagan, February 7, 1832, *ibid.*

²⁷² For examples of these charges, see: White to President, January 19, 1832; White to Cass, January 23, 1832; Westcott to Phagan, February 4, 1832; Phagan to Cass, February 6, 1832, and February 7, 1832, *ibid.*

²⁷³ Peters, 86; Mahon, 71.

²⁷⁴ Peters, 86; Foreman, 322. For direct evidence of this misconduct, see Westcott to Herring, November 15, 1833, ASPMA 6: 490-491.

Conclusion

Beginning in 1822, the Agency was almost continually engaged in a struggle to assist in the development of the Florida frontier. Possibly, more than with any other region of the south, its richly fertile fields came with tremendous difficulty to planter-emigrants. The territory's earliest legislators had struggled to enact a code which disenfranchised the blacks legitimately freed under Spanish rule, and sought to have their plantations guarded from runaways or uprisings with the most preemptory of measures. To achieve that security, planters sought to have black settlements destroyed, and Seminole communities isolated. Most importantly, they sought to have runaways seized and returned. These measures had all been frustrated by Humphreys—an agent who did not weigh those priorities as heavily as protecting the sovereignty of the Seminoles under his charge. By the election of Andrew Jackson and the Democracy in 1828, however, the regions' settlers had finally received the support they needed; Humphreys, who clearly did not share its views, was replaced.

In the wake of Phagan's removal, Wiley Thompson was tapped for the Agency position in 1833. With his appointment as the third agent in ten years, and with the assumption of his duties in December, the backwards slide of the Florida Agency seemed finally to have begun reversing. A Georgia native, militia commander and general, and longtime Congressman, Thompson was a highly respected leader, and was doubtless valued by Washington. The Indians revered him as well, acting Governor Westcott

confided, “and much advantage is anticipated from his appointment.”²⁷⁵ With his commission, however, the most ironic conclusion can now be made to the tenure of Gad Humphreys. It comes with the development of the Agency moving through the Treaty of Payne’s landing in 1832, and the run-up to war in the early 1830s. The controversies which had Humphreys removed did not subside—instead, they intensified. In addition, the maturity of Thompson’s views as an agent bore striking similarities to Humphreys’. More than any other circumstance, perhaps, they rectify Humphreys’ troubled career at the Agency—particularly his opinions regarding slave policy.

Ushering forth those views was Richard K. Call, rehashing an old controversy when he wrote the President in 1835 regarding citizens’ ability to purchase slaves of numerous Indians. Several had done so and personally, Call had no problem with the notion. If there was no objection to the purchase, “and I presume there can be none,” he added, there was “no measure” which promised so much towards their removal west. The slaves had great influence over the Indians, he argued. Through the 1830s, in fact, they had developed into the most alarming setback in having the Seminoles relocated. If the Indians were permitted to “convert them into specie,” one great obstacle in the way of that removal “may be overcome.” The Attorney General agreed, and soon Andrew Jackson personally endorsed the course.²⁷⁶

At least Humphreys, in 1826, had supported the idea. The newest agent, on the other hand, clearly did not. And, with a defiance striking similar to Humphreys’, the new agent recoiled against the idea with a surprising aggressiveness. He particularly

²⁷⁵ *Biographical Directory*, 1711; Bond of Wiley Thompson, in McAllister to Cass, January 23, 1833, LR SEM, r. 800; Westcott to Herring, November 15, 1833, ASPMA 6: 490-491. For more information on Thompson, see Mahon, 87-88.

²⁷⁶ Call to President, March 22, 1835, ASPMA 6: 464.

emphasized the slaves' relationships with the Indians, noting in it "the true cause of the abhorrence of these negroes of even the idea of any change." With this relationship in mind, with an "indulgence so extended by the owner to the slave," Thompson forcibly asserted, it was obvious to anyone "that an Indian would almost as soon sell his child as his slave," except, perhaps, when drunk. Personally, he continued, as agent he had assured both the Indians and blacks that their movement west would be the safest recourse for both parties, and the best way to continue their coexistence. As a result, he declared, he had refused to permit anyone to buy or sell any slave, "unless it be clearly dictated by *humanity*," and he would continue that policy.²⁷⁷

In an impressive outburst of indignity over Washington's enthusiasm, Thompson continued his scathing disapproval of the administration's suggested change in policy. They existed in "relative ease and comparable freedom," he stressed, also forcefully reiterating that to secure a continuance of that relationship was the primary reason he had urged them to remove west in the first place. "I should feel that I was accessory to the enslaving a freeman if I were to permit the sale of one or more of them in favor of the views of those who, for their own aggrandizement, may wish to purchase." With the most respectful deference to the department, he concluded, any other course would amount to "an abandonment of the principles of the treaty and of humanity."²⁷⁸

He continued voicing his extreme disapproval to the acting secretary of war two months later. The Department recognized the blacks' influence with the Indians, he claimed. It doubtless also understood their "undeniable abhorrence" to the idea of being transferred out of the territory and onto sugar plantations. Those views were, after all, the

²⁷⁷ Thompson to Cass, April 27, 1835, *ibid.*: 533-534.

²⁷⁸ *Ibid.*

primary reason the Indians had originally resolved not to emigrate. He had worked tirelessly to persuade them otherwise, personally assuring both the Indians and blacks that they would be transferred together, and protected from the Creeks. Surely then, Thompson sourly concluded—in light of these assurances, it would be more conscientious of the government to see to the “punctilious redemption of those pledges,” rather than to proceed in “classing them with the Indian skins and furs.” He was ashamed, the agent reiterated, that his views should differ so fundamentally from those of the government—views which “I verily believe so deeply involved principles of humanity, justice, and an enterprise for the success of which, standing in relation which I do to the government and these people, I am more responsible, perhaps, than any other person.”²⁷⁹ Jackson finally, in July of 1835, recommended a prohibition on having citizens buy slaves—at least unless permitted by the agent.²⁸⁰

In another almost entertaining reappearance, Archibald Clark again began petitioning to have the claims of Mary Hannay attended to, almost seven years after he first approached Humphreys. He furnished McKenney with one of these original correspondences—an order from the secretary of war to Humphreys, dated March of 1828—which demanded that Humphreys deliver the slaves claimed by Mary Hannay. Clark now alerted McKenney that he was ready “to comply with the above-recited requisition.”²⁸¹

Thompson, however, took a few exceptions with the suggestion. First, the Treaty of Payne’s Landing, concluded in 1832, dealt specifically with the issue of slave claims.

²⁷⁹ Wiley Thompson to C. A. Harris, June 17, 1835, *ibid.*: 470-471.

²⁸⁰ Endorsement of Andrew Jackson on Thompson to the President, June 14, 1835, *ibid.*: 478.

²⁸¹ Thompson to Herring, July 20, 1835, *ibid.*: 470. See also: R. L. Gamble to Cass, February 28, 1835, *ibid.*

In article six, it provided for compensation to be provided by the government in cases of disputed slave claims, as to relieve the Indians from the “repeated vexatious demands for slaves and other property alleged to have been stolen and destroyed by them,” and speed their removal west. It seemed clear to Thompson that Clark’s claim fell under that provision; if the Department should take up the issue, it would be to decide on a monetary adjustment, not to seize property. Far more ironic, however, Thompson added that as far as he had read the enclosed evidence, Hannay had no title to the claimed slaves. Nothing supported Clark’s assertions. On the other hand, an affidavit from a Mr. Wanton—whose credibility, Thompson confided, was supported by himself and General Duncan Clinch—directly contradicted her claim. “I am therefore still of the opinion,” he concluded, “that Mrs. Hannay has no equitable right to the negroes in question.”²⁸²

How surprising. In the five years since Humphreys was removed, the very same controversy was an irritating presence at the Agency and in the Florida territory. What is most interesting, then, is that practically the very same agent was in control, and defending his native charges in the very same ways. Who knows what would have happened to Agent Thompson. With views akin to those of Humphreys, he had most certainly placed himself in a similar trajectory. Yet, that never happened. Thompson was gunned down by Osceola after dinner on December 28, 1835, as he strode around the Agency palisade with Lieutenant Constantine Smith—one of the two simultaneous actions, along with the massacre of Dade’s command, recognized as the commencement of the Second Seminole Indian War.²⁸³

²⁸² Thompson to Herring, July 20, 1835, *ibid.*: 470.

²⁸³ Mahon, 103-104.

A conflict heavily participated in by black warriors, the war soon became recognized as having been initiated over the expansion of slavery into the Florida frontier. As Major General Thomas S Jesup famously suggested only a year into the struggle: “This, you may be assured, is a negro, not an Indian war; and if it be not speedily put down, the south will feel the effects of it on their slave population before the end of the next season.”²⁸⁴ Yet the prewar years, examined here through the 1822-1830 Indian Agency and through Gad Humphreys, illustrate that same cause fermenting almost a decade previous.

²⁸⁴ Jesup to Butler, ASPMA 7: 821.

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