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DOUGLAS HANCOCK COOPER: SOUTHERNER

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PREFACE

The purpose of this study is to discover and assess the agricultural, political, military, and Indian service contributions of Douglas Hancock Cooper (1815-1879) as a resident of his native state of Mississippi and, after 1853, of the southern regions of the Indian Territory. Treatment of the social, religious, and philosophical aspects of his life is limited by the scarcity of source materials, due perhaps to the nature of Cooper's personality, and not from the design of the study.

I first learned of Cooper when he was frequently mentioned in a graduate seminar at Oklahoma State University in which the topics were chosen from the era of the Civil War and reconstruction in the Indian Territory. In the seminar papers, in which Cooper's career was incidental to the topics, it was evident that there was no clear picture of his participation in the surrender and reconstruction processes. Later I learned from Dr. LeRoy H. Fischer, who had conducted the research seminar, that there was interest in Cooper's entire career and that he considered this a suitable subject for research. He advised me that there was no sizable collection of Cooper's papers of which he was aware, but that there was sufficient material to make the project viable.

I began to search for material, knowing that collecting and collating widely dispersed information about Cooper might well be an unusually long process. Dr. Muriel H. Wright, the late editor of the Chronicles of Oklahoma who had done considerable research on Cooper and had written the only scholarly biographical sketch of him, offered many helpful

suggestions regarding sources. In her usual gracious manner, she kindly loaned an extensive file of research notes and correspondence in enthusiastic support of the project.

Rella Looney and her successors in the Indian Archives Division of the Oklahoma Historical Society in Oklahoma City saved several hours for me by their knowledge of the manuscript collections and by their friendly assistance. The society's library personnel, and especially Alene Simpson, were consistently helpful and often did more than could reasonably be expected. Jack Wettengel and the staff of the society's Newspaper Division merit special thanks for their help.

At the Mississippi Department of Archives and History, I owe a debt of gratitude to Laura D. S. Sturdivant, James F. Wooldridge, and Ronald E. Tomlin. Eugene I. Farr of the Mississippi Baptist Historical Commission, Clinton, Mississippi, furnished copies of the Minutes of the annual meetings of the Mississippi Baptist Association and appended additional information. James P. Morris of Tulane University School of Medicine, Richard E. Wood of Rice University, Helen H. Shelton of the University of Virginia, and Julia Smith Martin of Virginia Military Institute supplied information that would have been impossible to obtain otherwise. Thelma Jennings of Middle Tennessee State University gave facts not included in her dissertation on the Nashville Convention.

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[All the library staff at Oklahoma State University have provided a quality of service that is found in only the finest libraries. The personnel in the non-book section deserve a special thanks.

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CHAPTER I

BACKGROUND AND EARLY YEARS

Douglas Hancock Cooper, the colonel in command of the Confederate Choctaw and Chickasaw Regiment, regrouped his troops on March 12, 1862, at the camp in the Indian Territory where the Canadian and Arkansas rivers join. As he set about this task, the recent Union victory at Pea Ridge, Arkansas, depressed him as he considered the likely results and what should be done to prevent them. Then he wrote to Jefferson Davis, the president of the Confederate States and a close friend, stating his fear that unless steps were taken soon to organize a strong defensive force, including long-promised white troops, the Indian Territory would "be lost and with it Arkansas and Texas."¹

The fulfillment of the request for the organization of a strong defensive force--with white and Indian troops in proportions as promised in the treaties of the Five Civilized Tribes with the Confederate States--would, if approved, be difficult, for it entailed shifting men, supplies, and able commanders. It would mean a policy change in Confederate defensive strategy. Cooper raised this issue when he told Davis: "I do not think the importance of the Indian Territory is sufficiently understood or cared for by the officers in command of the West." It was the relative importance of the Indian Territory that was the crux of the problem that Cooper faced in March of 1862 and which later in the year would drive the first Confederate brigadier general

in command of the territory, Albert Pike, to resign and his successor, William Steele, to transfer a year later.²

Because Cooper attached a high degree of importance to the Indian Territory, he was stubbornly determined that the Indians should receive protection. This was what compelled him to regroup and ready his troops as soon as possible after the battle of Pea Ridge in preparation for the next engagement. Even though it might personally mean "the loss of life and reputation" for him, as he stated it in explaining his plight to Davis, he was firmly committed to service with the Indians. The reputation to which he referred was his position and rank among the Indians, especially with certain groups of Choctaws and Chickasaws. He had been the United States Indian agent to these two nations prior to the Civil War, first coming to Indian Territory in 1853 from Mississippi.³

The old Natchez region in the southwestern corner of Mississippi Territory was the scene of Cooper's birth and early years. It was to this locale that his father, David Cooper, an ordained Baptist minister and practicing physician, migrated in 1802. He was born in Frederick County, Virginia, and licensed as a Baptist minister at Phillip's Mill Church in Wilkes County, Georgia, in 1793. He was pastor of the Ebenezer Jeffrey's Creek Church in South Carolina from 1795 to 1798, and also worked to establish other churches in the Pee Dee River area. His first church in Mississippi Territory, Salem Baptist, was located on Cole's Creek near old Greenville, twenty-eight miles northeast of Natchez on the Natchez Trace. From this pastorate he helped organize other churches south through Adams, Wilkinson, and Amite counties and was one of the founders of the Mississippi Baptist Association in 1806-

1807. At the annual meetings of the association, he was the delegate from the Salem Baptist Church during his pastorate there and later he was the delegate from Shiloh Baptist Church located on Thompson's Creek in southern Wilkinson County. He was chosen by the delegates to act as moderator or chairman of the meetings for ten of the first nineteen years in which the association held its annual meetings. By 1814, he had re-located and attended the annual association meeting as the delegate from Shiloh Baptist Church.⁴

David Cooper married Sarah (Hancock) Davenport, a widowed daughter of Douglas Hancock of Wilkinson County. Her father owned land, purchased in 1809, in southeastern Wilkinson County. Little is known of Douglas H. Cooper's mother, except that she was four or more years younger than his father, and that in October, 1821, her serious illness prevented his father from attending the annual meeting of the Mississippi Baptist Association held that year at the Woodville Baptist Church. She either succumbed to this illness, when Cooper would have been near his sixth birthday, or at some time prior to May 6, 1824, when his father remarried.⁵

Cooper's stepmother, Magdalene (Hutchins) Claiborne, was a daughter of Anthony and Ann Hutchins. Her father, a retired English Army officer, had settled on a large royal grant, eleven miles below Natchez, which included the historic Natchez Indian settlement of White Apple Village. Magdalene was about forty-nine years old at the time of her marriage to David Cooper. Her first husband, Ferdinand Leigh Claiborne, had died in 1815 as a result of wounds received in the Creek War in 1813 in Mississippi Territory. The oldest of Magdalene's children, Ann Eliza Virginia, died on August 3, 1817, but there were three surviving children

when she and David Cooper married.⁶

Magdalene's two sons, Ferdinand Leigh and John Francis Hamtramck, were no longer living at home. The daughter, Charlotte Virginia, was the youngest of the three and only a few months older than her step-brother Douglas. Although the Claibornes were not strongly attracted to Cooper, Charlotte was to be more closely associated with him in later years than were her brothers. This was due in part to the time the two spent together on the Claiborne plantation, Soldier's Retreat, where David and Magdalene made their home, about four miles east of Natchez, on the south side of the road leading to Washington, Mississippi.⁷

In the meantime, Cooper's father continued to work and to prosper. He maintained his connection and ministerial duties with the Mississippi Baptist Association and, from 1826, with the Union Baptist Association. He also accumulated considerable land in Adams and Wilkinson counties, which included a section in the southeastern corner of Wilkinson and a lesser tract adjoining Soldier's Retreat. He owned thirty-seven slaves in 1820 and six years later he owned about fifty-five. He was also interested in education, and served for over twenty-five years as a member of the Board of Trustees of Jefferson College in nearby Washington, after being appointed by the territorial governor in 1803. An industrious person, he was often the administrator of estates, managed his land and slaves, and performed the many and varied duties of a minister until his health failed rapidly in February, 1830.⁸

Cooper's father made his will on March 16, 1830, with Magdalene's brother John Hutchins and Dr. John Wesley Monett among those witnessing. Magdalene was to retain the property that she owned before their marriage. She was also to retain eight slaves and the children of those

slaves, the livestock, farming equipment, and furniture for use during her lifetime. Then they were to be his son's property. He left \$250 to the trustees of Columbia College in the District of Columbia and \$50 each to the American Bible Society and the American Baptist Tract Society. The balance of his real and personal property was to be his son's at maturity. He designated Joseph Johnson of Wilkinson County and two other friends from Adams County, James Smith and White Turpin, as executors of his will and guardians of his fourteen year old son. They were to have full power of attorney. Then five days later, on March 21, David Cooper died.⁹

Young Douglas H. Cooper's financial affairs were managed by White Turpin of Oakland plantation, across the Natchez-Washington road north from Soldier's Retreat. His father had been acquainted with Turpin almost from the day Turpin came to Mississippi Territory in 1809. The two men worked together as members of the Board of Trustees of Jefferson College following Turpin's appointment in 1810. When the Bank of Mississippi, first chartered in 1809, was rechartered in 1818, Turpin was appointed to its board of directors. He was also a man of legal and political experience, for he had been sheriff of Adams County from 1811 until statehood and occasionally after that time. He and Charles B. Green were the Adams County choices for the state Senate in 1819, Turpin serving one year and Green two. Turpin's sons, Joseph A. and White, Jr., were students at Jefferson College with Cooper when he became Cooper's guardian.¹⁰

Prior to attending Jefferson College, Cooper likely received some training in elementary education from tutors in line with customary educational practices in the South. He attended Jefferson College from

December, 1829, to April, 1832, when courses in military science were first offered there. Major John Holbrook, the superintendent, taught the courses in military science. During this time training of the cadets was patterned after the program at the United States Military Academy at West Point, New York. They were under close supervision, their expenditures had to be approved by Holbrook, military drill was taught on the adjoining parade ground, and field marches were made regularly. Winter dress uniforms were blue, consisting of trousers, vests, coats, and caps complete with pompons. In summer, the only change was to white trousers and vests. On occasions when the band performed, Cooper discarded the college's old flintlock musket for his clarinet. He boarded at the school and returned to Soldier's Retreat only during the vacation, which was normally from the middle of August to early November. On one such occasion, in the summer of 1830, he proudly wore his new silk fabric frock coat and brown twill trousers, an outward manifestation of a gentleman of the South.

In the academic world, Cooper studied algebra from the text of Jeremiah Day, a professor of mathematics who was then president of Yale University; Principles of Moral and Political Philosophy, by William Paley, who could not accept the views of the deists; and other subjects such as geography, French, Spanish, military tactics, geometry, fencing, surveying, rhetoric, and bookkeeping. On examination by the faculty and the boards of trustees and visitors, Cooper graduated on April 12, 1832, with one of the first Bachelor of Arts degrees awarded by Jefferson College.¹¹

The following month Cooper withdrew \$250 in cash from the estate through Turpin, packed his clothes and his set of Thomas Jefferson's

Correspondence, and departed for the University of Virginia. Arriving safely at Charlottesville, he entered the university and was assigned to Room 16, East Lawn. One of his first friendships was with John White Stevenson of Richmond, a future lawyer who was completing his college work just as Cooper's was beginning. Stevenson's father, Andrew, had considerable influence at this time as Speaker of the United States House of Representatives and as a close friend of Thomas Ritchie, founder and editor of the widely read Richmond Enquirer. Upon graduation, Cooper's new friend read law in Virginia in a prominent lawyer's office, began his practice in Vicksburg, Mississippi, and in 1841 settled in Covington, Kentucky. It was as a member of the United States House of Representatives from that state during the secession crisis that he proved to be a ready source of information for Cooper on national legislative action.¹²

There was another and more noteworthy association that Cooper formed while a student at the University of Virginia. Although Cooper was not yet acquainted with him, John Hazlehurst Boneval Latrobe, a Baltimore lawyer, visited the campus in August, 1832. Latrobe, a son of Benjamin Henry Latrobe, the architect and engineer, was not only a lawyer but was knowledgeable about architecture, talented in art, and possessed wide cultural interests. His campus visit was a planned stop en route to a summer vacation at the White Sulphur Springs, Virginia-- and to his unplanned engagement to Charlotte Claiborne, who was also vacationing in the White Sulphur Springs area. The twenty-nine year old widower next hurried back to Baltimore to prepare for the long trip to Natchez and the wedding. Leaving Baltimore on November 1, he again stopped in Charlottesville, this time aware that Charlotte's stepbrother

was a student there. Cooper and Latrobe likely became personally acquainted at this juncture. After Latrobe's marriage to Charlotte on December 6 at Soldier's Retreat, Turpin gave them a check for delivery to Cooper. They returned to Baltimore by way of Cincinnati aboard the steamboat Lady Franklin, and Cooper was denied a chance to visit with them or have his check delivered personally. The family relationship had been confirmed, though, and was to be an important Washington contact for him.¹³

The courses elected by Cooper would seem to indicate that he wanted to become a medical doctor. In his first term he studied chemistry, materia medica, moral philosophy, and natural philosophy. During the second term he continued in these and added mathematics. He left the University of Virginia before completing his degree requirements, for reasons unknown, and by January, 1834, he was back home at Soldier's Retreat, his formal education at an end.¹⁴

Cooper, now eighteen, visited Wilkinson County in late January. He had decided to become a planter, and it was in search of a plantation that he journeyed southward on the road leading from Natchez to Woodville. The plantation that he chose was owned by his Wilkinson County guardian, Joseph Johnson. It was an irregular shaped tract of approximately 600 acres, resembling a rectangle about twice as long from east to west as from north to south. Travelers from Natchez approached its northern boundary about three miles south of the ferry on the Homochitto River and passed directly through the central portion of it. The Homochitto River, flowing to the west at the ferry crossing, divided into channels in the swampy delta area before emptying into the Mississippi River. One of the main channels coursed southward, roughly paralleling the road,

and formed the western boundary of the plantation. Part of the land had been under cultivation since the days of Spanish rule, and it still carried the old Spanish name of "Mon Clova." The transfer of title was not recorded until Cooper was almost twenty-one; it appears, however, that he had no home in Wilkinson County other than Mon Clova.¹⁵

Soon after the selection of a home, he returned to Adams County to marry Frances Martha Collins, the daughter of William Keary and Mary (Foster) Collins. The dark haired and attractive Frances was a year younger than Cooper. When Cooper and his father went to Soldier's Retreat in 1824, she was a seven-year-old child playing about the Collins family home, Windy Hill, which was to the south and nearly adjacent to the Claiborne plantation. At seventeen she was mature, reserved, and short of stature, but not diminutive. Her delicate features would have given the impression of being fragile and weak, except for the determined set of her strong chin. She did not have the educational training to contribute substantially to Cooper's advancement in public affairs, but was discerning, loyal, and conservative. She took her place at Cooper's side on March 26, 1834, and the Reverend Pierce Connelly, the rector of the Trinity Episcopal Church of Natchez, read the marriage vows.¹⁶

After marriage, Cooper's financial affairs continued to remain largely under Turpin's control. Expenditures of any amount, which he could not settle independently of the family estate, had to have Turpin's approval. He grew impatient with the restrictions of his guardianship, which was not scheduled to be terminated until November 1, 1836, and was finally allowed to obtain title to Mon Clova three months prior to that date. In payment, he signed on August 1 two promissory notes for \$20,000 each, the first to be due on January 1, 1838, and the second a year

later. To reduce this indebtedness, he sold two tracts of land soon after the estate was settled. One was 300 acres, adjoining Soldier's Retreat, for which he received \$15,000. This sale on November 2, 1836, and a second on December 31 of 485 acres in Wilkinson County, bringing an additional \$24,000, covered all but \$1,000 of the amount owed for Mon Clova.¹⁷

Cooper was inclined to be independent, as indicated by his anxiety to become free of his guardianship. Another manifestation appears in the character of his expenditures. He insisted on being financially independent of Magdalene and the Claibornes from the time of his father's death. He paid for all of his expenses from the estate, including even minor purchases that would normally have been provided by his stepmother. For example, in 1831, during the celebration of his sixteenth birthday, he went to a carnival, and the price of fifty cents "to see the elephants" and a like amount "to see the fire-eater" was obtained through Turpin and paid by the estate. Apparently he refused to ask his stepmother for even such a small favor. The variety, quantity, and repetitiousness of the purchases paid from the estate show that there was little or nothing else for which he could have reasonably asked. His stubborn independence seems to have been either innate or acquired in childhood, and he was able to retain it in manhood through the affluence of his father's estate.

Cooper's elation over reaching his twenty-first birthday and gaining control of his inheritance was tempered by sadness over Turpin's misfortune. Late in 1836, Turpin was stricken with paralysis from which he never recovered, although he lived until April, 1842. Still acting under Turpin's advice, Cooper obtained a legal writ requiring Magdalene

to report annually to the chancery court in Natchez on the status and natural increase of the estate's slaves and livestock still in her possession. Having acted as administrator and as guardian previously, Turpin knew the misunderstandings and legal difficulties that could be avoided if such reports were made. For six important years, from 1830 to 1836, Turpin had served Cooper well as guardian, fulfilling the trust of his late friend and neighbor, David Cooper.¹⁸

The early years in Mississippi were not all unhappy times for Cooper. There were moments of achievement, such as the distinction of being among the first to be granted a Bachelor of Arts degree from Jefferson College. And there were instances when the mischievousness of youth held sway--for reasons not stated on the storekeeper's voucher, he once had to replace an instructor's suspenders and shoes. But he was usually of a serious disposition, with a deep sense of loss from the death of his parents.¹⁹

The indications of what kind of person Cooper was at this time are both discernable and indiscernable. One trait that emerged clearly was his independence. Or antithetically, he insisted upon being singularly dependent upon his own resources, primarily his inheritance. By the extent of the effort--though frustrated and unsuccessful--he made to prepare for the humanitarian goal of practicing medicine, he evinced a compassion that was not destroyed but had merely failed to find a mode of expression. There is also some justification for crediting him with youthful ambition, which in its development cannot be judged nominal or phenomenal.

The decision favoring an agricultural career over the practice of medicine and the ministry was a departure from the professions followed

by his father. The choice may possibly be explained as his response to Jeffersonian agrarianism, but a more acceptable rationale is that it was made on a more pragmatic basis. Specifically, in the last few years of his youth he was maturing and beginning to notice the more attractive aspects of agriculture. It was also then that he realized he had the wealth necessary to pursue the life of a planter.

FOOTNOTES

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⁴L. S. Foster, Mississippi Baptist Preachers (St. Louis: National Baptist Publishing Company, 1895), pp. 159-160; "David Cooper, Obituary," The Natchez, April 17, 1830, p. 126; Leah Townsend, South Carolina Baptists, 1670-1805 (Florence, South Carolina: Florence Printing Company, 1935), pp. 71-74, 92-93, 107-109, 268; Albert E. Casey and Frances P. Otken, eds., Amite County, Mississippi, 1699-1865 (3 vols., Birmingham, Alabama: Amite County Historical Fund, 1948-1957), Vol. II, pp. 603-604; "Land Office," Washington (Mississippi) Republican, September 21, 1814, p. 4; Dunbar Rowland, Mississippi: Comprising Sketches of Counties, Towns, Events, Institutions, and Persons, Arranged in Cyclopedic Form (3 vols., Atlanta: Southern Historical Publishing Association, 1907), Vol. I, pp. 965-969; Mississippi Baptist Association, Minutes of Annual Meetings (publication place varies: Mississippi Baptist Association, 1806-1831), scattered pages, Mississippi Baptist Historical Commission Collection; Leeland Speed Library, Mississippi College, Clinton, Mississippi; Thomas M. Bond, A Republication of the Minutes of the Mississippi Baptist Association from Its Organization in 1806 to the Present Time (New Orleans: Hinton and Company, 1849), scattered pages.

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⁶"Magdalene (Hutchins) Cooper," Mississippi Free Trader (Natchez),

November 1, 1851, pp. 2-3; "Ann Eliza Virginia Claiborne," Washington (Mississippi) Republican and Natchez Intelligencer, August 9, 1817, p. 3; Funeral Notice, August 3, 1817, Magdalene (Hutchins) Claiborne Papers, Southern Historical Collection, University of North Carolina Library, Chapel Hill, North Carolina.

⁷ Rowland, Mississippi: Comprising Sketches of Counties, Towns, Events, Institutions, and Persons, Arranged in Cyclopedic Form, Vol. I, pp. 911-914; C. W. Babbit, Map of Adams County, Mississippi, Reproduced for Adams County Chancery Court, Natchez, Mississippi.

⁸ Bond, A Republication of the Minutes of the Mississippi Baptist Association from Its Organization in 1806 to the Present Time, pp. 80ff.; Deed Record Book P, pp. 132-134, Adams County Chancery Court; David Cooper, Wilkinson County, Mississippi, Population Schedule, Fourth Census (1820); Jefferson College Board of Trustees, The Charter and Statutes of Jefferson College, Washington, Mississippi as Revised and Amended Together with A Historical Sketch of the Institution from Its Establishment to the Present Time (Natchez: Board of Trustees Jefferson College, 1840), p. 21; "Journal, Volume 3, Commencing 13 Novr, 1830, and Ending 1 Octr, 1836," p. 13, Bound Manuscript, Jefferson College Board of Trustees, Jefferson College Collection, Mississippi Department of Archives and History, Jackson, Mississippi.

⁹ Records of Wills, Book 1, pp. 453-454, Adams County Chancery Court; Funeral Notice, March 21, 1830, Magdalene (Hutchins) Claiborne Papers, Southern Historical Collection, University of North Carolina Library.

¹⁰ Estate of David Cooper, Box 52, Adams County Chancery Court; Joseph Dunbar, "Trustee's Sale," Mississippi Free Trader and Natchez Weekly Gazette, April 7, 1842, p. 4; "White Turpin, Obituary," *ibid.*, p. 3; Richard A. McLemore, ed., A History of Mississippi (2 vols., Hattiesburg: University and College Press of Mississippi, 1973), Vol. I, p. 291; Mississippi Republican (Natchez), January 2, 1821, p. 3; David Holmes to Montfort Calvit, May 12, 1811, Clarence E. Carter, comp. and ed., The Territorial Papers of the United States (18 vols., Washington, D.C.: Government Printing Office, 1934-1952), Vol. VI, p. 195; "Election," Mississippi Republican, August 3, 1819, p. 3; Robert Lowry and William H. McCardle, A History of Mississippi from the Discovery of the Great River by Hernando DeSoto, Including the Earliest Settlement Made by the French, Under Iberville, to the Death of Jefferson Davis (Jackson: R. H. Henry and Company, 1891), p. 438; Catalogue of the Officers and Students of Jefferson College, Washington, State of Mississippi (Natchez: Andrew Marschalk, 1830), p. 7.

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Charlottesville, Virginia; Cooper to John H. B. Latrobe, February 28, 1861, John H. B. Latrobe Papers, Maryland Historical Society, Baltimore, Maryland.

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¹⁴ Matriculation Book, Office of the Registrar, University of Virginia; Estate of David Cooper, Box 52, Adams County Chancery Court.

¹⁵ Ibid.; Surveyor's Map of Township 4 North, Range 3 West, approved by C. A. Bradford, April 30, 1847, Wilkinson County Chancery Court, Woodville, Mississippi; Deed Record Book L, p. 96, ibid.

¹⁶ Marriage Book 1, p. 293 and Book 5, p. 459, Adams County Circuit Court; Frances (Collins) Cooper photograph, Douglas H. Cooper Family, Photograph File, Oklahoma Historical Society Library, Oklahoma City, Oklahoma; "Married...at 'Windy Hill,' formerly the residence of Wm. K. Collins...Sabena C. Collins," Mississippi Free Trader, October 25, 1851, p. 3; Frances Martha Collins' birthdate was October 22, 1816, "Affidavit of Witness," Mexican War Widow's Pension 149, Frances M. Cooper, Application 398, Records of the Veterans' Administration, Record Group 15, National Archives.

¹⁷ Deed Record Book L, p. 96, Wilkinson County Chancery Court; Deed Record Book Y, pp. 61-62, Adams County Chancery Court; Deed Record Book K, pp. 273-274, Wilkinson County Chancery Court.

¹⁸ Estate of David Cooper, Box 52, Adams County Chancery Court; "White Turpin, Obituary," Mississippi Free Trader and Natchez Weekly Gazette, April 7, 1842, p. 3.

¹⁹ Estate of David Cooper, Box 52, Adams County Chancery Court.

CHAPTER II

IN WILKINSON COUNTY, MISSISSIPPI

The period beginning with Cooper's removal from Adams County to Mon Clova and ending when he volunteered for the Mexican War was a time of great change in Mississippi. An influx of settlers into the lands recently ceded by the Choctaw and Chickasaw nations transpired and a growth in population was sustained throughout the period and into the 1850's. The number of banking institutions granted charters by the state increased sharply in the 1830's, many of which were railroad companies permitted by their charters to perform banking operations. The economy boomed and commerce was based upon confidence, credit, and bank notes.

Then in 1836 came the Specie Circular, issued by President Andrew Jackson, which required that only gold and silver be accepted in payment for public lands. A general run on the banks to obtain cash to make land-office payments began. Also, an act of the United States Congress caused an additional drain on currency of Mississippi banks holding the federal surplus. This legislation, called the Distribution Act, required the banks to transfer these funds in currency to the state governments proportional to their representation in Congress. The drastic currency shortages and the Panic of 1837 which followed were especially distressing to the newer areas of the state and also exerted harmful effects upon the economy of the older Natchez region. Such was the background against which Cooper began to conduct his private

enterprises and entered upon a public career.¹

From 1834 to 1837, Cooper was occupied primarily with agricultural pursuits, supervising closely the operations at Mon Clova. He improved his two-story house and other farm buildings which were located on the mail road and near to the Cold Springs post office. To the west of the road, in the rich alluvial soil which drained gently to the swamp and a channel of the Homochitto River, he cleared additional acres and planted cotton. The land east of the road where thick loess or brown loam soil predominated, he used for the production of corn and the pasturing of stock. By soil and topography, Mon Clova was well suited for this type of diversified farming. The eastern two-thirds were well drained. The highest elevation was in the northeastern portion, which was still timberland, and the watershed was to the south and west.²

How successful Cooper was as a producer of cash crops in this period can only be surmised, but when conditions forced him to borrow, he was usually able to repay during the same year. He often borrowed for the next crop by using private sources of credit; rather than obtain a bank loan, he dealt with individuals or business firms. He usually used his real estate as collateral, but occasionally borrowed against specifically named slaves or a given number of cotton bales. No recorded instance was found in which he gave corn or cattle as security.³

During the years from 1834 to 1846 there were three sons and three daughters born to the Cooper family. Sarah Magdalene, named after his mother and stepmother, was born on February 13, 1835. Then followed Frances (Fannie) Martha, Douglas Hancock Jr., David Johnson, Elizabeth Herbert, and William Archer Kearn. William, whose name sometimes was given as William Archer, William Kearn, or William Keary, was born June

11, 1844, and the seventh and last child, Emma Buck, was born after the Mexican War.⁴

Elizabeth, many years later, reminisced about life on the plantation. She remembered Mon Clova as a large plantation with nearly a hundred slaves. She recalled that from the oldest child to the youngest child of the family, Sarah to Emma, each had to learn to ride a horse properly. A military education or militia training, mastery of some profession, management of a plantation, and the "gentlemanly arts" were required of the boys. The girls were educated to manage a household, to be a good hostess, speak French, and play the piano. All were required to read the classics. Her recollections were, at least in part, substantiated by the fact that the two older boys were studying medicine in New Orleans when the Civil War started.⁵

Actually, if the information given in the census for 1840 and the tax return for 1852 is indicative, Cooper had fewer slaves than Elizabeth remembered. He reported owning sixty-three in 1840 and forty-three in 1852. No age or sex distribution was given on the 1852 report, but both were noted for the sixty-three in 1840, with forty designated as working in agriculture. There were ten boys and three girls under ten years of age, eleven men and nine women from twenty-four through thirty-five, six men and four women from thirty-six through fifty-four, and one each fifty-five or older.⁶

Cooper raised high-quality livestock and took pride in exhibiting them at the fairs in Wilkinson and Adams counties. In November, 1843, he won a first place certificate on his entry of a purebred "cow imported from England" at the fair in Wilkinson County. In the spring fair the following year at Woodville, he exhibited his champion bull,

Frederick, for a first-place prize of a quarter eagle, a \$2.50 gold piece. His entry in the mare and colt division won another first place certificate. At this same fair Cooper presented the prize, a sovereign, which his bull, Frederick, had won in the last Adams County fair, to the Agricultural, Horticultural, and Mechanical Society, the organization that sponsored the Wilkinson County fairs.⁷

In addition to showing livestock successfully, Cooper often acted as a member of judging committees on agricultural implements and was active in many capacities for the Agricultural, Horticultural, and Mechanical Society in Wilkinson County. For example, in its meeting in May, 1844, he was appointed and served as a member of a three-man committee to nominate officers for the coming year and as a member of a five-man committee to propose revisions to the society's constitution. Tignal Jones Stewart, a prominent planter of southern Wilkinson County and a leading Whig Party member, was nominated by Cooper's committee for president of the society. James Alexander Ventress, a representative from Wilkinson County in the state legislature from 1836 to 1841, and since then in the state Senate, was one of three nominated to the vice-presidential posts. All of the committee's nominees were elected by the society.⁸

There were other areas in which Cooper made notable contributions to Wilkinson County life in the years prior to the Mexican War. One example was the county militia, known as the Fifth Mississippi Militia Regiment. Such organizations were often plagued by a high turnover in personnel and a lack of consistent leadership. Although the Fifth Mississippi Militia Regiment demonstrated most of the expected characteristics of a militia unit, Cooper worked with enthusiasm and patience to

maintain its integrity and a nucleus of men trained in basic military skills. By late 1837, he had established his leadership and was elected as colonel and commanding officer, a post to which he was reelected annually until he became a Mexican War volunteer in 1846. His long tenure in command of the Fifth Mississippi Militia Regiment provided stability and continuity that was above average for county militia regiments.⁹

The Natchez-Woodville mail road was a problem in the Homochitto River crossing area and, to a lesser degree, in the Buffalo River area crossing located between the Homochitto River crossing and Woodville. The swampy ground on the south bank of the often flooding Homochitto River complicated travel. A bridge and approaches high enough to clear the crest of floodwaters was what Cooper and several of the persons who used the road wanted. It was for such a purpose that he and others from Wilkinson and Adams counties organized the Homochitto Turnpike and Bridge Company and obtained a charter, valid for three years, from the state legislature in 1838.

The company was to be capitalized at \$50,000 or more, if required, to complete the construction. The method of financing was to issue 1,000 shares of capital stock at \$50 each, with one-fifth of each share being paid for at the time of subscribing. Subscription books were opened in Natchez, Woodville, and at the Cold Springs post office. Cooper acted as one of the nine commissioners designated to superintend the sale of the capital stock. The boards of police of Adams and Wilkinson counties were required to subscribe a certain amount of their road funds, but individuals were allowed to subscribe for any amount desired, although the number of votes controlled by an individual, at one per share, could not exceed fifty.¹⁰

The required three-fourths of the stock was soon sold, allowing the company, by the terms of its charter, to hold its organizational meeting. Cooper, as one of the directors, was chosen president. By September 15, 1838, the directors were advertising for sealed bids on the work and notifying the public that bids would be received until November 3. All bidders "will be shown the route," the notice stated, "with the drawings and plans for its construction, on application to D. H. Cooper, near Cold Springs P.O."¹¹

Construction contracts were granted and the difficult work of building the approaches moved slowly. It became obvious that additional time would be required to complete the project and, in February, 1840, the state legislature extended the charter to ten years. The same act diverted funds intended for construction of a bridge over the Buffalo River to the Homochitto Turnpike and Bridge Company; these funds were to be repaid from tolls. Cooper, the president of the company in 1840 also, was reelected in August, 1841. The following spring, under his leadership, the company directors were able to get the act amended to relieve them from repaying the funds to the Wilkinson County Board of Police for the Buffalo River bridge. Construction of the Homochitto River bridge was only recently completed when floodwaters destroyed it, but in July, 1843, the company directors were granted permission to operate a ferry in lieu of the bridge provided for in the original act. The company retained the right, however, to rebuild the bridge.¹²

Although the bridge was not rebuilt at this time, the approaches to the crossing were intact. There were few if any in the community who had worked harder or devoted more time trying to make a success of the project than Cooper. Although the objective was not met, the river

crossing could be reached with greater ease, especially with heavy wagons, and users also enjoyed freedom from flood-deposited debris upon the higher roadway.

Cooper undertook another venture, which was short-lived, but it further illustrates his support for public transportation improvements. In the waning months of 1845 he and several others who lived along the Homochitto River organized for the purpose of reducing its navigational hazards. They obtained a charter from the state legislature under the name of the Homochitto Navigation Improvement Company on February 28, 1846. Their meeting to elect officers was scheduled for early June of that year at Kingston in Adams County, but the Mexican War cut short Cooper's participation in the movement.¹³

In 1839, Cooper had made an inauspicious beginning in Mississippi political campaigning. Although his name was on the ticket in July as a candidate for the Wilkinson County Board of Police, he withdrew, for reasons unknown, before the November vote. Tristram S. Easton, an older resident of the Cold Springs community, won the race. The board of police was a county governing body with functions similar to today's county commissioners and consisted of an elected resident from each of five districts or beats in each Mississippi county. Cooper's district, known as Lower Homochitto or District Four, was located centrally east to west and in the northern part of Wilkinson County between the Homochitto and Buffalo rivers. To the south of it in Wilkinson County was Woodville or District One, to the east was Upper Homochitto or District Five, to the southeast was Mount Pleasant or District Three, and Fort Adams or District Two was the western part of the county. Police districts should not be confused with the eight election reporting

precincts which were Woodville, Fort Adams, Mount Pleasant, Upper Homochitto, Lower Homochitto, Percy's Creek, Pinckneyville, and Whitesville or Whitestown as it was sometimes called. Cooper's precinct was often identified as Cold Springs after the post office which also served as the polling place.¹⁴

Before entering another campaign, Cooper served an additional apprenticeship as one of three "managers of election" for the Lower Homochitto precinct in a special county election held on March 26, 1841. The other two managers, Wiley M. Wood and Peter H. Joor, were members of the board of directors of the Homochitto Turnpike and Bridge Company and Joor was also associated with Cooper in the militia as the adjutant of the Fifth Mississippi Militia Regiment. Eventually all three would become Democrats, but at this time Cooper was the only Whig member of the group. Helping conduct the election gave Cooper an opportunity to become better acquainted with the voters in his precinct, to become more knowledgeable regarding the issues, and to establish himself as a public servant.¹⁵

Success in the 1841 election in Wilkinson County for any state office was dependent on the candidate being a Whig who favored redemption of the Mississippi Union Bank bonds and Mississippi bank bonds in general, commonly referred to as a Bond Whig. The county was predominantly Whig, although over the state the majority of voters, led by the Democrats, advocated repudiation by the state of all financial responsibility for the Union Bank bonds.

The campaign issue of redemption or repudiation was an outgrowth of the Panic of 1837, which caught many banks and banking institutions in Mississippi in a position from which they could not extricate

themselves. In February, 1838, when some remained in business only by suspending specie payments, and when others more poorly managed went out of business, the state attempted to relieve the specie shortage by chartering the Mississippi Union Bank and issuing five million dollars in state bonds at five percent interest from date of issue. The proceeds were originally intended as a loan to the bank, but a supplemental act of February 15, 1838, provided for the subscription by the state of 50,000 shares with the proceeds. The Mississippi Union Bank was mismanaged from the beginning. Upon examination of the bank's condition, Democratic Governor Alexander Gallatin McNutt declared its charter forfeited on July 10, 1840. The state was left with the obligation of redeeming five million dollars in bonds sold for the benefit of the defunct bank. The state government, being in serious financial trouble, was unable to pay the interest due on the Mississippi Union Bank bonds in the spring of 1841. McNutt recommended repudiation on the grounds that the sale was made illegally, in violation of the provisions of the charter, and fraudently. Whig opposition was based upon the argument that the state's honor, dignity, and credit were at stake and should not be sacrificed. The Democratic candidate for governor in 1841, Tighlman M. Tucker, took up the torch for repudiation.

David O. Shattuck, the Whig nominee for governor, was a staunch bond-paying Whig. And so the forces were drawn on the bond question, almost along straight party lines, but there were a few Whigs in the state who supported repudiation and also a limited number of Democrats who believed the bonds should be redeemed. The vote for Shattuck over Tucker in Wilkinson County was 607 to 97, but Tucker carried the state by a majority of 2,286.¹⁶

Cooper, running as a Bond Whig, was twenty-six in 1841 when he won election to the state legislature as a representative from Wilkinson County. He entered the race after one of the incumbents, James A. Ventress, withdrew to campaign for the state Senate seat left vacant by Truxton Davidson, a Woodville lawyer who declined to run for reelection. William A. Norris, the editor of the Woodville Republican, was seeking a second term, and Calvin Magoun of Percy's Creek precinct northwest of Woodville, competed with Cooper for the two state House of Representatives seats.¹⁷ Cooper drew fifty-two more votes than Norris and more than twice Magoun's total as shown by the following table of election results:

	Cooper	Norris	Magoun
Woodville	228	232	133
Fort Adams	84	56	37
Pinckneyville	27	23	3
Whitesville	37	31	11
Percy's Creek	25	15	36
Lower Homochitto	52	28	15
Mount Pleasant	69	76	10
Upper Homochitto	34	43	22
Total	556	504	267 ¹⁸

Cooper and Norris, the two winners, left Wilkinson County three days after Christmas for Jackson, the capital of Mississippi. When the 1842 session of the state legislature convened on January 3, Cooper was among the members-elect of the state House of Representatives who presented their credentials and were sworn in. Tardy members arrived, disputes over contested seats were settled, and the total of ninety-

eight representatives were on the rolls early in the session. Democrat Robert Whyte Roberts of Scott County in the central part of the state was elected to the speakership. There was a majority of Democrats over Whigs, approximately sixty to thirty-six, according to the pre-session computations. Governor Tucker's message to the House of Representatives and the Senate was delivered on January 4, and Cooper voted with a majority defeating motions to publish, first, 10,000 copies, and then, 8,000 copies of the message. He also voted against publishing 5,000 copies, but lost on a vote of twenty-seven to sixty-three. The vote gives an indication of the actual relative strengths of the two parties.¹⁹

On January 5, Speaker Roberts announced the membership of six House of Representatives standing committees and three joint committees with the Senate. Cooper was among fifty-six who were given initial committee assignments, his appointment being to the House of Representatives Ways and Means Committee. Other members appointed with him were: John M. Duffield, Whig, City of Natchez; Henry W. Flournoy, Democrat, Kemper County; Robert Greer, Democrat, Marshall County; Thomas W. Hancock, Democrat, DeSoto County; Thomas Harney, Whig, Hinds County; and Thomas H. Williams, Democrat, Pontotoc County.

The next day motions were heard to establish two more standing committees, one on Banks and Currency and the other on Federal and State Relations. When the vote was taken on a motion to amend the title of the Federal and State Relations Committee by striking out the word "Federal," Cooper voted for the amendment in a losing effort, thirty-three to fifty-eight. He became a member of a second committee in the third week of the session. On January 19, he offered a resolution that

a standing committee on the militia be appointed, to consist of five members. On passage of the resolution, Speaker Roberts appointed him to serve with two other Whigs and two Democrats.²⁰

On January 11, Cooper introduced a bill to amend the original act of March 2, 1833, establishing circuit courts and defining their powers and jurisdiction. Cooper's bill provided that chancery cases would be tried at the regular terms of the circuit courts. It was read, on suspension of the rules, the requisite three times and passed by the House of Representatives on the same day. The Senate also approved it shortly thereafter. Another bill, introduced by Cooper on January 19, passed the House of Representatives and Senate and became law on February 23. This act relieved the Homochitto Turnpike and Bridge Company from repaying out of their tolls the funds to build the Buffalo River bridge.²¹

In the session of January 29, a bill to reduce the salaries of certain public officers was called from the table. During the discussion, Cooper offered an amendment providing that the members of the legislature be paid one cent per day by the state and that each county's board of police determine for itself what additional compensation was to be paid from the county funds to its legislators. This was a blow at the counties who paid less in taxes to the state than was required to pay the expenses of their legislators for a session lasting sixty days, while the so-called river counties paid a surplus. For example, Adams County paid enough to support thirty-eight legislators for a session of the same duration. Cooper stressed the savings to the state and the stricter accountability of the legislators to their counties as the main benefits,

but his amendment to the bill was voted down by a large majority.²²

In February, debate in the House of Representatives grew acrimonious, especially on a bill incorporating the resolutions of the House of Representatives Select Committee on the Mississippi Union Bank bonds, which called for repudiation. The measure was called from the table for action in the evening session on February 17. An amendment was offered to invite the bond holders to bring suit against the state as well as the Mississippi Union Bank, but a motion was made to table it, which carried by a vote of thirty-nine to forty-one. Other amendments were offered, none adopted, and the repudiation measure was brought to a vote. It passed fifty-four to thirty-eight, with Cooper voting against it. A point of order was raised during the vote taking, however, claiming that the vote should be denied those members of the House of Representatives who would gain directly as a result of repudiation of the bonds. Cooper moved that the names of members and their financial statements regarding the Mississippi Union Bank be entered on the House of Representatives Journal immediately following the repudiation bill. On February 19, Cooper's resolution was passed by the House of Representatives but not before amendment was made which defeated its purpose. Adjournment followed on February 28, ending Cooper's first term as a Representative of Wilkinson County.²³

The following year, in 1843, Governor Tucker called a special session, which convened on July 10, to consider legislative remedies to financial problems that were caused by repudiation. Cooper took this opportunity to present a petition of the mechanics and other citizens of Wilkinson County, asking for a change in the penitentiary system. After the first reading, the petition was referred to the House of

Representatives Penitentiary Committee. Cooper also promoted the passage of the bill introduced in the Senate by Ventress to allow the Homochitto Turnpike and Bridge Company to operate a ferry in lieu of the bridge recently destroyed by a flood. Upon adjournment on July 26, he returned to Mon Clova.²⁴

The 1843 election in Cooper's home county went heavily Whig, although that party's gubernatorial candidate, George R. Clayton, did not draw as many votes as Shattuck drew in 1841. Thomas H. Williams, an Independent Democratic (bond paying) candidate from Pontotoc County, polled 153 to Clayton's 477 votes. Albert Gallatin Brown, a former member of the United States House of Representatives and advocate of repudiation of the Mississippi Union Bank bonds, ran a poor third in the county, receiving only 79 votes. The split in the Democratic ranks was not serious enough statewide to keep Brown from defeating Williams and Clayton decisively. Cooper had no difficulty winning reelection. Norris did not run and Truxton Davidson, a former state senator, was elected to the post along with Cooper.²⁵ Davidson was a victim of reapportionment, however, and did not serve. Wilkinson County was allowed only one representative for the remainder of the ante-bellum period.

The Democratic majority in 1844 was slightly greater in the House of Representatives. Cooper's political behavior now exhibited more independence or a flippancy born of frustration. For example, on January 20, he offered an amendment as a rider, proposing to repeal four sections of the Banking Act of 1843, commonly known as the "Briscoe bill with Guion's amendments." The 1843 act had been proposed by Democratic Representative Parmenas Briscoe of Claiborne County and, prior to its

passage, was amended to incorporate four additional sections as proposed by Senator John Isaac Guion, a prominent Whig lawyer of Vicksburg. Cooper called for repeal of the Whig sections and advanced one of his own which provided that in suits of recovery brought by banks against individuals the decision was to be given in the defendant's favor if he could show that the bank had not been legally organized or had violated any of the provisions of its charter. Cooper was operating in the guise of an anti-Whig and caricaturing the Democratic "legal technicality" grounds for repudiation of the Mississippi Union Bank bonds. His rider was ruled to be out of order.²⁶

Two days later a Senate bill to declare the Chunky River navigable was brought before the House of Representatives for its second reading. Cooper facetiously proposed an amendment: "Be it further enacted, That Chunky River be and the same is hereby declared as broad as it is long." His amendment failed amid smiles from those who knew the value that could accrue to a representative when a river in his district, no matter how small the stream, was officially declared navigable. His actions were not unusual behavior for a state legislator, but these incidents are illustrative of his attitude. It was almost as if he could no longer consider repudiation as a live issue and was in search of something within either party's program worthy of support.²⁷

The weakening of Cooper's ties with the Whig Party had a substantive base in his home precinct. Lower Homochitto voters were about evenly divided on the gubernatorial vote in 1841, but by 1844 sentiment was changing perceptibly toward the Democratic Party, and in November they returned a ten percent majority for James Knox Polk over Henry Clay. Wilkinson County, however, remained Whig, giving Clay a slight

majority of eighty-six votes. Cooper did not take a major part in the Wilkinson County Clay Club, whose president was T. Jones Stewart, and did not attend its April, 1844, meeting. Four months later his name appeared as a Whig sub-elect, along with four others from Wilkinson County who were being urged to help the Whig electors reach all the voters in the presidential election. Instead, he was in late August engaging in such non-Whig activities as introducing the speaker at a Democratic barbecue in Whitesville.²⁸

On national issues, Cooper's transition from Whig to Democrat sprang from dissatisfaction with Clay's position regarding the annexation of Texas issue and an increasing dislike for the Whig tariff of 1842. He was one of the main organizers of an annexation meeting in Woodville on July 2, 1844, and helped draft the resolutions strongly favoring admission of Texas to the Union. On August 3, he published a set of resolutions as president of a county association advocating the tariff for revenue rather than for protection and calling for the annexation of Texas. He was clearly in the Democratic camp.²⁹

He ran for the first time as a Democrat in a bid for reelection to the Mississippi House of Representatives in 1845. His Whig opponent, lawyer H. F. Simrall of Woodville, pressed him the hardest on the issue of banking and the Briscoe bill, equating Briscoism with Locofocoism. The Loco Focos, a radical wing of the Democratic Party, opposed the issuance of bank and corporation charters by the legislatures and also the extensive use of bank notes. Cooper, who had fought the Briscoe bill in the House of Representatives, was unable to reply on the issue to the satisfaction of his constituency so soon after being in the opposition. On other issues, such as the improvement of public education and the

convict labor system, they fought on even terms. Cooper was defeated by Simrall, but lost by only fifty votes. He failed, nonetheless, to reverse the Whig voting tradition in Wilkinson County. The respectable strength that he mustered at the polls was not due entirely to his party's growth, for he held the trust and confidence of a great many people who lived in his home county.³⁰

During this period, Cooper displayed an interest in the temperance movement, and gave active support to his state and county temperance societies. His support did not derive from excessive personal use of alcoholic beverages but stemmed from his recognition of the public appeal of the movement and its political soundness. He helped organize the Mississippi State Temperance Society in Jackson on the evening of February 2, 1842, while in his first term in the House of Representatives. Among those from Cooper's part of the state who joined him in the organizational meetings were Hazlewood M. Farish and Coatesworth Pinckney Smith, Woodville lawyers, and T. Jones Stewart, Cooper's peer in the House of Representatives from Amite County. Judge William Lewis Sharkey, of the Mississippi High Court of Errors and Appeals, was chosen to be president. Locally, Smith became president, Cooper a vice-president, and Farish a member of the executive committee of the Wilkinson County Temperance Society at a subsequent meeting in Woodville.³¹

The first indications of Cooper's political, economic, and moral views are discernible in his actions of this period. He was initially a Whig who, although successful in local elections to state office, was in the minority on most issues that were brought before the state legislature. The one major issue, repudiation, was as much a moral question for him as it was a legal one for the opposition. He was

independent and proud, both of his person and his state, and it was a bitter lesson for him to learn that these considerations could be so easily submerged by a majority of the voters. The point was not lost on him that in a choice between what the law allows and what seems morally right, there is only one choice that is constantly acceptable-- what the law allows.

When his views collided with those of the Whig program over the annexation of Texas and the tariff, he changed to the Democratic Party. He was never an advocate of Clay's American System, which urged a protective tariff and a national system of internal improvements. Where Clay, for example, would link New Orleans with Frankfort, Kentucky, in a national turnpike that included a bridge over the Homochitto River built with national funds, Cooper would have favored local corporations building and maintaining their sections of the turnpike. Where Clay's American System would interpret the United States Constitution to mean that the national government had the authority and the obligation to build such a turnpike to promote the general welfare, Cooper would have held that this power was reserved to the states. His vote to strike out "Federal" in the proposed Mississippi House of Representatives Committee on State and Federal Relations was not lightly made. His arguments for bond redemption never included a statement in favor of a United States Bank, and his practice of borrowing from private sources seems to indicate that he was independently indifferent to the banking question. Defeat in his first attempt as a Democratic candidate made it imperative that he gain additional personal prestige if he hoped to carry the Whig vote in his home county. The coming of the Mexican War provided just such an opportunity.

FOOTNOTES

¹Charles H. Brough, "The History of Banking in Mississippi," Mississippi Historical Society Publications, Vol. III (1900), pp. 325-328; McLemore, A History of Mississippi, Vol. I, pp. 291-293.

²Commission of Douglas H. Cooper, December 24, 1837, Register of Commissions, 1837-1846, Vol. XIX, Adjutant General, Record Group 33, Mississippi Department of Archives and History; Woodville (Mississippi) Republican, September 15, 1838, p. 3, and July 13, 1839, p. 3.

³Deed Record Books, K, p. 425, L, pp. 39, 96, M, pp. 486-487, 641, O, pp. 403, 407, 431, 435, P, p. 315, and Q, pp. 232-233, Wilkinson County Chancery Court.

⁴Deed Record Books, Q, pp. 105-107, S, pp. 15-17, ibid.; Robert Thornton Cooper Head to Muriel H. Wright (enclosure), December 13, 1952, Douglas H. Cooper File, Muriel H. Wright Papers, Oklahoma Historical Society, Oklahoma City, Oklahoma.

⁵Ibid.

⁶Entry for Douglas H. Cooper, Wilkinson County, Mississippi, Population Schedule, Sixth Census (1840), Bureau of the Census, United States Department of Commerce, Record Group 29, National Archives; Wilkinson County Personal Assessment Tax Roll (1852), Vol. DLXXX, p. 5, Record Group 29, Mississippi Department of Archives and History.

⁷Woodville Republican, November 11, 1843, p. 2, and May 11, 1844, p. 1.

⁸Ibid.

⁹Register of Commissions, 1837-1846, Vol. XIX, Adjutant General, and Correspondence, 1839-1849, Vols. V and VI, Adjutant General, Record Group 33, Mississippi Department of Archives and History; Woodville Republican, December 14, 1839, p. 2, and May 22, 1841, p. 3.

¹⁰Laws of the State of Mississippi, Passed at A Regular Biennial Session of the Legislature, Held at Jackson, in January and February, A. D. 1838 (Jackson: B. D. Howard, 1838), pp. 177-178.

¹¹Woodville Republican, September 15, 1838, p. 3.

¹²Laws of the State of Mississippi, Passed at A Regular Session of the Legislature Held in the City of Jackson, in the Months of January

and February, A. D. 1840 (Jackson: C.M. Price, 1840), p. 183; James A. Ventress to Thomas B. Woodward, February 28, 1840, Correspondence, 1840-1843, Vol. V, Secretary of State, Record Group 28, Mississippi Department of Archives and History; Woodville Republican, August 21, 1841, p. 2; Journal of the House of Representatives of the State of Mississippi, 1842 (Jackson: C. M. Price and G. R. Fall, 1842), p. 437; Laws of the State of Mississippi, Passed at A Regular Biennial Session of the Legislature, Held in the City of Jackson, in January and February, A. D. 1842 (Jackson: C. M. Price and G. R. Fall, 1842), pp. 231-232; Laws of the State of Mississippi, Passed at A Called Session of the Legislature, Held in the City of Jackson, in July, A. D. 1843 (Jackson: C.M. Price and G.R. Fall, 1843), pp. 86-87; William A. Norris, "Mississippi Legislature," Woodville Republican, July 22, 1843, p. 2.

¹³ Laws of the State of Mississippi, Passed at A Regular Biennial Session of the Legislature, Held in the City of Jackson, in January, February, and March, A.D. 1846 (Jackson: C.M. Price and G. R. Fall, 1846), pp. 409-410.

¹⁴ Woodville Republican, July 13, 1839, p. 3, and November 9, 1839, p. 2; Easton was elected again when police districts were specified for each candidate, *ibid.*, November 6, 1841, p. 1; the Woodville Republican, January 25, 1840, p. 3, defines the boundaries of the five police districts.

¹⁵ Woodville Republican, March 13, 1841, p. 2, May 22, 1841, p. 3, and August 21, 1841, p. 2.

¹⁶ Brough, "The History of Banking in Mississippi," Mississippi Historical Society Publications, Vol. III, pp. 326-336; McLemore, A History of Mississippi, Vol. I, pp. 292-294; Vagn K. Hansen, "Jefferson Davis and the Repudiation of Mississippi Bonds: The Development of A Political Myth," Journal of Mississippi History, Vol. XXXIII, No. 2 (May, 1971), p. 106; Woodville Republican, November 6, 1841, p. 1.

¹⁷ *Ibid.*, April 24, 1841, p. 3, and September 11, 1841, p. 2; Mississippi Free Trader, November 25, 1841, p. 2.

¹⁸ Woodville Republican, November 6, 1841, p. 1.

¹⁹ *Ibid.*, January 1, 1842, p. 2; Journal of the House of Representatives of the State of Mississippi, 1842, pp. 3-7, 227-232.

²⁰ *Ibid.*, pp. 235, 242-243, 437.

²¹ *Ibid.*, pp. 358, 437; Woodville Republican, February 5, 1842, p. 2; Laws of the State of Mississippi, Passed at A Regular Biennial Session of the Legislature, Held in the City of Jackson, in January and February, A.D. 1842, pp. 231-232.

²² Norris, "Mississippi Legislature," Woodville Republican, February 12, 1842, p. 2.

²³Ibid., March 5, 1842, pp. 1-2; Journal of the House of Representatives of the State of Mississippi, 1842, pp. 734, 1097.

²⁴Journal of the House of Representatives of the State of Mississippi, 1843 (Jackson: C. M. Price and G. R. Fall, 1843), p. 52; Norris, "Mississippi Legislature," Woodville Republican, July 22, 1843, p. 2.

²⁵Woodville Republican, July 8, 1843, p. 3, and November 11, 1843, p. 2; Lowry and McCardle, A History of Mississippi from the Discovery of the Great River by Hernando DeSoto, Including the Earliest Settlement Made by the French, Under Iberville, to the Death of Jefferson Davis, p. 607.

²⁶Journal of the House of Representatives of the State of Mississippi, 1844 (Jackson: C. M. Price and G. R. Fall, 1844), pp. 289-290; "The 'Briscoe Bill,'" Mississippi Free Trader, October 8, 1845, p. 1.

²⁷Journal of the House of Representatives of the State of Mississippi, 1844, p. 297.

²⁸Woodville Republican, November 6, 1841, p. 1, November 9, 1844, p. 2, and April 13, 1844, p. 1; "Sub-Electors," Western Statesman (Carrollton, Mississippi), August 17, 1844, p. 2; "Democratic Barbecue at Whitestown," Woodville Republican, August 31, 1844, p. 1.

²⁹Ibid., July 6, 1844, p. 2, and August 3, 1844, p. 4.

³⁰"Whig Meeting," ibid., September 13, 1845, p. 2; "To the Voters of Wilkinson County," ibid., October 18, 1845, p. 1; "Election Returns," ibid., November 15, 1845, p. 1.

³¹Soon after the 1842 session, Stewart became a resident of Wilkinson County. Ibid., February 12, 1842, p. 2, and March 18, 1843, p. 2.

CHAPTER III

IN THE MEXICAN WAR

As relations between the United States and Mexico began to deteriorate more rapidly after the annexation of Texas on December 29, 1845, Cooper began to clear the way for his personal participation in the war that would likely ensue. On April 9, 1846, he executed a deed of trust to protect his family's interest in the slaves that his father left in the possession of Magdalene Cooper at Soldier's Retreat. Robert L. Buck, the trustee, was a close friend of the Cooper family and an established resident of the county. As trustee, Buck was to take custody of and manage the slaves for the benefit of Cooper's family in the event of Magdalene's death during Cooper's absence and, in case Cooper should also die, take custody of the slaves until the children were of legal age.¹

In addition, soon after the United States declared war on Mexico, Cooper executed a legal instrument on June 9 on the eve of his departure from Woodville as an army volunteer. Wiley M. Wood and Abram M. Feltus, both of whom were members of the board of directors of the Homochitto Turnpike and Bridge Company with him for several years, agreed to operate and maintain Mon Clova for him during his absence. By giving them power of attorney, he was free to leave for the war with the knowledge that his business affairs would be well managed. Both men held the public trust; Wood had served responsibly as a member of the board of

police in 1844 and Feltus was treasurer of the Wilkinson County Agricultural, Horticultural, and Mechanical Society year after year.²

Meanwhile, on May 9 Governor Brown addressed the county militia colonels, which included Cooper, advising them to enroll the men so volunteer companies could be activated on short notice. At the same meeting, Major General John M. Duffield of the Second Division, Mississippi Militia, better known as the editor of the Natchez Courier, was appointed drill officer to visit the county units and aid in their instruction. Cooper, a colonel in the militia, obtained a commission as a captain in the army volunteers on May 15. By this time, volunteer companies were drilling in many county seat towns.³

Governor Brown issued on June 1 the call for Mississippi's quota of ten army volunteer companies. Cooper called a meeting of the Wilkinson County army volunteers for June 2 and told them that, although he had received nothing official as yet, they should expect a call at any time and be ready to march on twenty-four hours notice. Preparations were quickly made to complete the outfitting of the men, with many residents donating to the cause. Among those who gave generously was Whig Senator T. Jones Stewart. In the race to become one of the ten companies accepted, Cooper called his unit to meet at Woodville on June 10. They were to be ready to leave early that morning for Vicksburg where the volunteer units were being mustered into United States Army service.⁴

June 10, 1846, was a memorable day in Woodville. Eager volunteers from neighboring Amite County started marching the day before for Woodville, anxious to become a part of the Wilkinson County contingent, and arrived at 1:00 a.m. in fog and rain. The ranks of Cooper's company were filled to the required number by accepting some of the Amite men.

Shortly after 6:00 a.m. the crowd gathered, despite the mud under foot and the light drizzle, to witness the presentation of the company flag and the response by Carnot Posey, the company's young lieutenant. The handsewn company banner with its eagle, stars, and stripes was proudly displayed and the ancient cannon, Le Content, was fired in a final salute to Cooper and his company as they boarded the West Feliciana Railroad cars at the depot.⁵

Upon arrival at St. Francisville, Louisiana, Cooper and his company boarded the steamer Cora on the Mississippi River and departed for Vicksburg. During the night of June 10, one of the volunteers, Samuel Woods, was drowned. "He went to sleep on the hurricane deck," Cooper reported, "and it is supposed started up in his sleep and pitched overboard. I saw him twice afterwards, but the yall could not be got out soon enough to save him." Other than this tragedy, they arrived safely in Vicksburg about 4:00 a.m. on June 12. The next day they were paraded on the levee in the rain and mud for inspection by Major General Duffield and were mustered in as Company B, First Mississippi Infantry Regiment.⁶

Company B at this time consisted of ninety men and three commissioned officers. The officers were Cooper, captain and commanding officer, Carnot Posey, first lieutenant, and James Calhoun, second lieutenant. Many of the men in Cooper's company possessed valuable skills. For example, private James Riddle was a gunsmith in Woodville before volunteering and private James D. Caulfield, one of the marchers from Amite, was a medical doctor who won high praise from the company. Riddle, by his skill in repairing rifles, saved the company from missing the Battle of Monterrey. Later, during the administration of Governor

John A. Quitman, he was made responsible for maintaining the state's arms and military equipment.⁷

Regimental officers were elected June 18, 19, and 20 at Vicksburg. Jefferson Davis, in Washington, D.C., as a member of the United States House of Representatives in the First Session of the Forty-fifth Congress, was elected colonel. He left Washington July 4 and joined the regiment in New Orleans on July 21. In the interim Alexander K. McClung, elected lieutenant colonel, was in command. Alexander B. Bradford of Holly Springs, captain of the Marshall Guards, Company I, was chosen major. Davis had graduated from West Point in 1828 and remained in the army seven years before resigning. Bradford's experience was as a militia officer and he had gained a measure of distinction in the Florida wars in 1836. McClung, an amateur in war but an experienced duelist, had more charisma than either of the other regimental officers. He brought the First Mississippi Infantry Regiment to New Orleans where they encamped until four days after Davis arrived.⁸

The First Mississippi Infantry Regiment boarded the steamer Alabama at New Orleans en route to Brazos Island just offshore from Point Isabel, Texas. They disembarked at Brazos Island, on July 28 and after six days moved on to the mainland to a point near Burrита, Mexico, on the Rio Grande River. From this staging point they shipped up the Rio Grande and San Juan rivers to the supply base at Camargo, Mexico. Cooper and his company spent the eight days of slow travel upriver aboard the steamer Virginia crowded together with three other companies.⁹

While the First Mississippi Infantry Regiment was encamped at Camargo, it was placed under the command of Brigadier General John A.

Quitman of Natchez. Quitman's command was the Third Brigade of the Second Division under Major General William O. Butler and consisted of volunteer regiments from Alabama and Georgia, in addition to Mississippi, and a battalion from Maryland and the District of Columbia. Over Butler and in command of the Army of Occupation was Major General Zachary Taylor, upon whom national attention had focused since his early successes in Texas at Palo Alto and Resaca de la Palma of May 8 and 9. Davis and Quitman were friends and their political views were within the limits of the Democratic principles of the time, although fundamental differences in their political preferences existed.¹⁰

Another event during the retention of the First Mississippi Infantry Regiment at Camargo made them distinctive and raised their morale. The Whitney rifles that Davis ordered prior to leaving Washington, D.C., arrived August 24 and were distributed to the regiment. The United States revenue cutter Van Buren brought the first shipment of fifty-four cases from New Haven, Connecticut, and more were received soon after. Although much more accurate than the guns used by the other regiments, they were not machined to accommodate bayonets. This was a disadvantage in close combat, but the time required for the additional machining would have delayed the shipment. From this time the regiment began to refer to itself proudly as the First Mississippi Rifles.¹¹

In one of Cooper's letters from Camargo, paraphrased by the editor of his hometown newspaper, he reported that Taylor had decided to take 7,500 men and march to Monterrey. He revealed that the First Mississippi Rifles had received orders to join Taylor at headquarters and he thought this meant they were to be included in the march to Monterrey, Mexico, especially since they were "the only rifle regiment in the

Army," the article said. "They expect to be a scouting regiment,...and will stand a chance of meeting something of adventure. It is considered a 'crack regiment,' and its members will feel a pride in sustaining its reputation."¹²

Taylor sent regular army troops to establish a supply depot at Cerralvo, Mexico, on the route he chose to take to Monterrey. The advance party marched from Camargo on August 19 and six days later took possession of Cerralvo. Taylor and the first contingent departed from Camargo on September 5 and the remainder of the troops chosen for the expedition followed. The First Mississippi Rifles joined the long procession as a rear guard September 7. A detachment of Texas troops who were to rejoin Taylor's forces before Monterrey marched by way of Cadereita, Mexico, a town on the San Juan River, but the main body proceeded west to Mier, Mexico, and then southwest to Cerralvo.¹³

Cooper's company reached Cerralvo on September 13, when his first sergeant, Douglas West, reported to the people of Wilkinson County that the First Mississippi Rifles now had only 500 men of their original 930. Many had been discharged, some were sick at Mier, Camargo, or Brazos Island, and fourteen were dead. "We have only fifty-seven men in our Company," West stated, "the rest are scattered all along between here and Matamoros."¹⁴

Of the fifty-seven who reached Cerralvo, eight were too sick to go on. They were John S. Holt, John T. Holt, Samuel R. Harrison, James L. Hodge, and four others whose names were not reported. Only the sick were left at Cerralvo with two companies of the First Mississippi Rifles to care for them and guard the supplies, the Lafayette Guards or Company F and the Yazoo Volunteers or Company A. Forty-nine men of Company B fell

in when the First Mississippi Rifles resumed the march on September 15 for Marin, Mexico, and Monterrey.¹⁵

On September 19, the first elements of Taylor's forces came within sight of Monterrey before meeting enemy fire. The Texas troops had rejoined the main body the night of September 17 and, as Cooper and the other Mississippians in the rear guard heard the first shots of Mexican cannons and hurried forward, Taylor's army of about 3,000 regulars and 3,150 volunteers were concentrated about four miles from the city. They brought with them four field batteries, two twenty-four pound howitzers, and one ten-inch mortar. As the defenses of Monterrey were being reconnoitered in the afternoon, the rest of the army encamped in a grove of trees about three miles to the northeast well out of range of the Mexican artillery.¹⁶

From a vantage point near the camp, Cooper could see the cathedral in the oldest part of Monterrey nestled in a bend of the eastward flowing Santa Catarina River. To the west on the north side of the highway from Saltillo, Mexico, and on the south side of the river, which was close to the highway, hills dominated the area below through which the highway and the river emerged. The hills on the south extended as a ridge along the south bank of the Santa Catarina River eastward. Near the cathedral the river turned northeast and a short distance beyond left the city. Northwest of the cathedral a large spring fed a stream which drained north and then due east to empty into the Santa Catarina River at the outskirts. The wedge of land between the stream and the river was a ridge that declined in elevation from the cathedral to the confluence of the river and the stream.

Monterrey was at this time a long narrow city with the long way

running east and west, and all of the city was on the north side of the river. The Saltillo highway passed through several residential blocks due east to the Market Square where it divided and, beyond the plaza and the cathedral, converged before crossing the river. Beyond the bridge it was in open country leading to the town of Cadereita, Mexico. On the north side the Marin road swung down toward the city and divided, one branch entering near the east end and the west branch entering the city northwest of the Market Square.

The main defensive points were a permanent fort, the Citadel, guarding the northern approaches at the intersection of the Monclova and Marin roads, gun emplacements on the heights on either side of the Saltillo highway on the west, and a series of earthworks and converted buildings at the east end of the city by the spring-fed stream. The ridge between the stream and the river, on which there were no buildings or houses, was also defended with a series of earthworks. Taylor sent Brigadier General William J. Worth with a division around by the northwest to cut off the Saltillo highway and take possession of the heavily defended heights commanding it. Cooper's company, as a part of Butler's Volunteer Field Division, fought in the eastern end of the city.

On the afternoon of September 20, Worth's forces filed out of camp on their mission. As a diversion, Taylor made a feint at the eastern end of the city sending, among others, Cooper's company down into the valley land where they drew artillery fire from the Citadel and Fort Teneria, an earthwork at the extreme eastern end of Monterrey, before he recalled them. The Mexican commander, General Pedro Ampudia, was not deceived and sent reinforcements to the west to help defend the Saltillo

highway against Worth's attack. The circuitous route to the west had to be cleared and made passable by Worth for his artillery and he was unable to strike until the following day.¹⁷

Early the following morning, September 21, while Worth was fighting on the west side, Cooper had his first real taste of combat with Butler's forces on the eastern end of Monterrey. Quitman's brigade consisted of Colonel William B. Campbell's regiment of Tennessee volunteers, with conventional arms and bayonets, and Davis' First Mississippi Rifles armed with Bowie knives for close combat. Butler's other brigade consisted of two volunteer regiments under Brigadier General Thomas L. Hamer, the Ohio regiment on the field, and the Kentucky regiment assigned to guard the camp. The first and third regular army infantry regiments and the Baltimore Volunteer Battalion, under the command of Lieutenant Colonel John Garland, were ahead of Butler's three supporting brigades. Garland's forces came under the fire of the Citadel on their right and as they moved closer they began to take the fire of the guns in Fort Teneria and from the roof of the stone tannery building behind it. They suffered heavy losses and Taylor ordered Butler to attack.¹⁸

As they moved forward Cooper and his company were on the right of his regiment which occupied the center position in that sector. On their right marched the Ohio regiment and on their left were Campbell's Tennesseans. After a long march under artillery fire they came within small arms range. The order in which they were maneuvered into firing position brought Cooper's company to the firing line last. Soon after Company B fired its first volley, Davis gave the order to charge. "The noise and confusion at this time," Cooper reported, "was great and I could not hear any command from the field officers," but he saw a

forward movement and gave an order for his company to advance. "When I arrived close enough to the breastwork [of Fort Teneria] to see anything distinctly," he continued, "the first thing I observed was Col. McClung waving his sword upon the fort." When he reached the ditch at the foot of the embankment of Fort Teneria, he saw Mississippi riflemen running into the fort. "Many of my men," he claimed, "were in the fort before I could get over the ditch, and up the embankment." When he jumped into the fort he saw men from the Mississippi regiment "pouring in from all sides and around the embankment."¹⁹

Fort Teneria taken, Cooper ran out the back of the stronghold, going south, which was to the east of the stone tannery building. Not stopping to receive the surrender of the Mexicans in the tannery, Cooper, Posey, Calhoun, Davis, and several riflemen pursued the fleeing Mexicans southward across the spring-fed stream and west up the ridge between the stream and the river. At this point another earthwork, El Diablo, located astride the ridge and firing down on them drove them back across the stream north into the nearest residential area for cover. Here they regrouped and while pondering a way to take El Diablo received orders to retreat. Possession of Fort Teneria and the tannery building was retained by troops from another unit. They now moved back across the open field exposed to artillery fire from the Citadel.²⁰

On the way back to camp Cooper had a narrow escape. "We were exposed to the fire of the cannon in crossing the fields," Cooper explained, "and were threatened with a charge from the Mexican cavalry." Posey reported: "After reaching the field, we were charged by the cavalry of the enemy, which was repulsed by a few volleys." Privately he expanded the incident considerably: "when about half a mile from the

town, about two hundred lancers advanced proudly upon us, thinking we were routed, and in their power." Posey, pleased with his physical condition, continued: "Cooper and myself were in the rear, I saw he was exhausted, and halted to assist him, should he be attacked. They were thirty paces from us, when we reached the chapparal fence, behind which our men were formed to receive them. After two rounds they retreated."²¹

Cooper escaped the clutches of the lancers and the regiment was on its way back to the camp, still under artillery fire from the Citadel, when orders were received to go to the relief of Taylor at Fort Teneria. They had not yet reached the fort when their orders were changed and they retraced their steps across the open field passing once again under the guns of the Citadel. One of Cooper's men claimed they received more casualties marching to and from camp than they did in actual fighting.²²

On the morning of the next day, September 22, Cooper and his company were among the troops ordered to relieve the garrison at Fort Teneria. They discovered that their company banner was nowhere to be found and must have been in the keeping of one of the sick who was left behind at Cerralvo. There was little action in the eastern sector, aside from the artillery, but on the western end Worth's forces brought their mission to a successful close. As the United States flag was run up on the last stronghold on the heights controlling the Saltillo highway, the Mississippians watching from Fort Teneria gave a spontaneous cheer. Mexican artillery tried to dampen their enthusiasm with a few rounds in their direction. That night General Ampudia shortened his defense lines by withdrawing from the outlying emplacements such as El Diablo. He retained the Citadel, however, and prepared his forces to

defend the inner city by forcing the attackers to fight from house to house.²³

September 23 was a long and difficult day for Cooper and his men. They had been ordered into Fort Teneria before breakfast on the previous morning. Shortly after Worth took the last emplacement on the west, it began to rain and rained on the men in Fort Teneria the following night. Still with no food and little rest, Cooper and his men were chosen as one of four companies from the regiment to renew the battle the following morning. They discovered El Diablo had been evacuated and, with other troops, finally drove out other defenders along the stream. As they turned southward, they encountered small arms fire directed from doorways, windows, and roof tops. Cooper's company fought all day, house to house, to within a short distance of the Plaza from the north. Worth's men fought to within a comparable distance of the Plaza from the west. The troops approaching the Plaza from the north were ordered back to camp at nightfall, but Worth's remained in position. The next morning General Ampudia sent his adjutant under a flag of truce to arrange for surrender negotiations and the fighting was over.²⁴

Cooper was given favorable notice in the report of the battle of Monterrey. On September 25, his corporal, William I. Hodge, noted that Cooper was "spoken of in high terms" and that despite not being in good health he "was doing his duty manfully." Peter Smith, son of Cooper's new political ally in Wilkinson County, Democrat Cotesworth P. Smith, wrote home to his father that "Capt. Cooper distinguished himself," and then added boyishly, "I was with him all the time [except at] first, when I outran him and got ahead." There was some dissatisfaction

expressed in Wilkinson County in regard to the officers by the first returnees who had been discharged. But contrary to this, one soldier wrote: "The Wilkinson County volunteers may congratulate themselves upon their fortunate selection of officers.... They have a commander of whom they should feel proud, a man who has a soul 'as big as a mountain,' and would share the last morsel with 'his boys.'" The soldier concluded: "But Captain Cooper is too well known among us to require any eulogy."²⁵

Company B entered the battle with forty-nine men and officers. There were two casualties in the fighting in the city: in the street fighting on September 21 Adam Laneheart's left arm was broken by a musket ball and on September 23 in the house to house fighting Reuben N. Chance was mortally wounded by a musket ball in the forehead. William H. Miller, John L. Anderson, and John H. Jackson were wounded on September 21 in the advance upon Fort Teneria before the charge. Miller and Jackson were seriously wounded in the legs and Anderson was only slightly wounded when his cap box broke the force of a musket ball that struck him in the chest.²⁶

Davis obtained a sixty day leave effective October 18 and returned to Mississippi. With McClung, who was wounded as he waived the men on at Fort Teneria, disabled and Davis on leave, Quitman made Cooper an acting major on October 20. Cooper remained at the camp near Monterrey until applying for and receiving a sixty day leave effective November 28. His arrival in Woodville on December 15 with Adam Laneheart was an occasion for the town cannon, Le Content, to be fired in celebration. The editor of the local newspaper urged a dinner or public meeting be held to express their appreciation for the services

rendered by Cooper and his company of volunteers. A public meeting in Woodville on December 28 appointed a committee of five to extend an invitation for a public dinner at his convenience. Cooper accepted on December 30, stating that he planned to be in Woodville on January 2, adding, "I shall...be most happy to meet the friends and relatives of the young men under my command." He asked them to accept his thanks for the very complimentary manner in which they spoke of the Wilkinson County volunteers.²⁷

The procession which formed at the courthouse was under the direction of one of Cooper's schoolmates at Jefferson College, Patrick F. Keary, who acted as marshall. He placed Cooper at the head, followed by the welcoming committee, and then the volunteers who had returned. At the dinner, to which the procession led, Cooper explained that there was no truth to the claim that the Tennessee regiment was first into Fort Teneria. That the Tennessee regiment's banner first flew over the fort was true, he acknowledged, but it was only because the Mississippians had no banner to unfurl. Not even Wilkinson's flag was available because it had been left in the knapsack of a sick volunteer at Cerralvo. One of the toasts proposed in Cooper's honor was to "Capt. D. H. Cooper, the gallant commander of the Wilkinson volunteers. Wise in council, brave and generous in the field, may he live long to enjoy the honors he has so nobly won!" Among those by Cooper, one was honoring Taylor, "'Old Rough and Ready' the Farmer General." Less than a week later, on January 7, Cooper departed from Woodville for Mexico.²⁸

Cooper arrived at Brazos Island on January 15, at the time Major General Winfield Scott was gathering troops for the Vera Cruz expedition. Butler, in command of the Ohio and Kentucky regiments, was retained at

Monterrey, but Taylor's main force, including the First Mississippi Rifles, were at Victoria, Mexico, on the Rio Santander River, northwest of Tampico, Mexico. Taylor was ordered to return to Monterrey and remain on the defensive while the badly needed troops were to be taken for the expedition. Only a regiment and two field batteries were to return with Taylor, the regiment to be of his choice. Cooper was detained at Brazos Island until it became known to Scott that Taylor had chosen the First Mississippi Rifles. Cooper was notified of Taylor's choice on January 21 and departed that day for Monterrey. He rejoined his company and assumed command on February 15 at Agua Nueva, south of Saltillo.²⁹

En route, on the Rio Grande River aboard the steamer Colonel Cross two days after leaving Brazos Island, Cooper asked Quitman to recommend him to the President or the Secretary of War for a colonelcy in one of the new regiments. He was writing to Quitman asking him to do this, he said, because a number of his friends had expressed a desire to place his name before the President for such a command. "I have told my friends that the command of a regiment would be the lowest rank which would induce me to enter the Regular Service." He then added: "My education and predilections point to the Army, and I should be glad to obtain such a position as would justify my permanently entering it."³⁰

The commission as a colonel in the regular army was not forthcoming for Cooper. His experience to this point led him to believe he was not presumptuous in believing that he was competent for such a command. One of his toasts proposed at the public dinner in Woodville was indicative of his conviction that the day of the "Farmer General" was not yet past. The impact of Taylor's quick ascent to national prominence and

presidential consideration was not lost on him. His disappointment in being assigned to remain on garrison duty and missing the main battles, so he thought, was because he wanted to enhance his status. The admonition that "he also serves who only stands and waits" was not acceptable to a man like Cooper who wanted more than just to serve. He did not hide his resentment in confiding to Quitman his feelings upon learning he was not going to be a part of the Vera Cruz expedition. His longing for participation in a struggle of heroic proportions was soon to be gratified, at least in part, at Buena Vista, Mexico.

The battle developed from the desire of the Mexican president, General in Chief Antonio Lopez de Santa Anna, to destroy Taylor's army after it was weakened by the transfer of most of his troops to Scott's command. Santa Anna marched his army, numbering by his report at 20,000 from San Luis Potosi northward until he met Taylor on February 22. Taylor, warned the day before, withdrew from Agua Nueva northward to Buena Vista, a badly eroded ranch about five miles south of Saltillo. Here he left Brigadier General John E. Wool to select the defensive positions and make disposition of the troops while he hurriedly marched to Saltillo to provide for the defense of the wagons and supplies located there from enemy cavalry raids. When Taylor came back to Buena Vista on the morning of February 22, he left two companies of the First Mississippi Rifles and an artillery officer with one six pounder for defense of the camp and wagons. Taylor found that Santa Anna had stopped short of artillery range and was checking the defensive position which Wool had selected.³¹

The vicinity of Buena Vista had been chosen because it was situated between two mountainous ridges running north and south and about a mile

south of the buildings of the ranch was the narrowest part of the valley which opened to the south in the direction of Agua Nueva. The road from Agua Nueva to Saltillo passed through the valley near the foot of the western ridge in the lowest part, which was an extension of the plateau on the south. East of the road there was a sharp incline for a height of approximately fifty feet, which then rose gradually as it extended eastward to the base of the mountains. Ravines were eroded in this second bank by the runoff from the western slope of the eastern ridge, leaving fingers of elevated or uneroded land extending west and northwest with the tip of one reaching the building site of Buena Vista.

Wool had deployed the United States forces across the valley east to west at the place where the road passed through the narrowest part, or about the fifth of the so-called fingers of land south of Buena Vista. Santa Anna's cavalry could reach Buena Vista or Saltillo by other roundabout routes, but if they came through the valley they could only travel up the road or at the eastern end of the line where the ravines were shallow at the base of the ridge. Action on February 22 was preceded by Taylor's refusal to surrender, despite Santa Anna's warning that he would otherwise be cut up by his 20,000 soldiers which, he said, surrounded Taylor's small force. In the afternoon the attackers moved troops to the heights at the eastern end of the line and Taylor extended his line up the mountainside to check them. Taylor, satisfied that nothing more would be done that day, returned to Saltillo with an escort composed of the eight companies of the First Mississippi Rifles and a squadron of Dragoons.³²

In the meantime, Cooper withdrew along with the main body of troops on February 21 from Agua Nueva to Buena Vista and went with the regiment

to Saltillo that night. He was left in command of the camp guard which consisted of his company and Company E, the State Fencibles of Hinds County under the command of Captain John L. McManus. McManus, incapacitated by poor health, had relinquished command of his company to his lieutenant. Besides the two companies of riflemen, First Lieutenant W. H. Shover of the Third Artillery Regiment was detached from Captain Braxton Bragg's Company C to command a gun crew and its six pounder. During the day a large number of Mexican cavalry came through a pass on the east of Saltillo and stopped near the Monterrey road where they remained at nightfall. Cooper reported their presence to Taylor and ordered the wagons placed to form a barricade. There was no attack and the camp was secure when Taylor and the regiment returned in the evening.³³

The next morning K and D companies were assigned as camp guards and B and E companies were included in the 341 man regiment which was to take the field. Cooper's company numbered forty-nine as the regiment marched along in column of companies advancing by their centers. When they heard the fire of artillery their pace quickened, but Davis, anticipating a long day, stopped them at the next watering place for all to fill their canteens. They resumed march in the direction of the position to which they had been assigned on the previous evening. As they came nearer they were met by fleeing men of the Second Indiana Infantry Regiment who had been driven from their positions in the eastern part of the line where the Mexicans had broken through.³⁴

Davis changed the direction of their march to the point from which the Indiana regiment had come and rode ahead to see the ground upon which they would have to fight. There he met Wool who was trying to regroup

and rally the men leaving the fight. On Wool's promise to send another regiment and artillery, Davis decided to lead his regiment into the battle to stop the Mexican infantry and cavalry advancing through the line. The enemy was moving northwest down one of the long fingers of elevated land toward the rear of the line of defense. The regiment had now come up to where Davis was, and he formed them into a line of battle with Cooper's company on the left.

The Mexicans were still some distance away to the southeast. A ravine intervened which crossed from Davis' right to the advancing enemy's right. He ordered them to fire advancing, brought them across the ravine in good order, and met the Mexican infantry head on. The Mexican losses increased as the distance closed. The enemy stopped, fell back, but their cavalry passed by the right flank of the Mississippians on the next finger of land south and disappeared from view. Davis rode back along his side of the ravine and found them searching for a place to cross the same ravine and take Davis' regiment in the rear. He brought a company from his right flank back to the attempted crossing and drove the cavalry back with heavy losses. By this time an artillery piece and the Third Indiana Infantry Regiment arrived, and the enemy was driven back toward the mountain near the break in the original line. In the interim a Mexican cannon had been moved forward and its fire halted the advance of the Mississippians and the Third Indiana Infantry Regiment. The artillery supporting Davis was withdrawn to another point where it was needed more desperately.

The Third Indiana Infantry Regiment which was most exposed to the fire of the Mexican cannon, moved into the ravine on the left and withdrew down it to the northwest. Davis withdrew his men by the left

flank, with Cooper leading the way around the head of the ravine, and northwest along the brink of the ravine in which the Indiana regiment was moving. This placed the Mississippians above and on the right of the Third Indiana Infantry Regiment as they faced away from the Mexican infantry which remained under the cover of their cannon.

A large group of cavalry emerged from the Mexican line and charged toward the retreating Mississippians. The proud lancers once again threatened Cooper, and the numbers were more in their favor than they were at Monterrey. Davis ordered the regiment to file by the right and form a line across the path of the advancing lancers. The Third Indiana Infantry Regiment, hidden from the view of the lancers off to their left, was ordered by Davis to take up a line along the bank of the ravine with its left flank nearest to Davis' right. During these preparations Davis sent for one or more pieces of artillery. The lancers slowed their advance, the Third Indiana Infantry Regiment and the Mississippians holding their fire, and came slowly within range of the rifles. Finally they approached at a walk. Caught in the crossfire, they suffered heavy losses in the first volley. The survivors withdrew and the artillery piece, which arrived after the firing started, fired upon them effectively until the stragglers were out of range.

Taylor ordered the Mississippi regiment to move to a sector near the middle of the battle line to support Bragg's artillery battery. As the regiment marched near enough to see the situation, Bragg's guns were completely unsupported and firing rapidly at three advancing columns of Mexican infantry bearing down upon them. Pressing on, the Mississippians fired upon the infantry by the right flank and rear so effectively the enemy right column gave way and the other two columns

turned back. Bragg's artillery was saved and the line stabilized. That was their last action of the day and the exhausted regiment once again escorted Taylor back to Saltillo.³⁵

After an anxious night, Cooper and his company prepared for the next day's fight. Despite the heavy losses dealt the Mexicans, they still held a decided numerical advantage over Taylor's forces. If Santa Anna made another attempt, Cooper and all the men knew they would have to do better than on the previous day to avoid disaster. In preparing for the expected onslaught, Cooper was assigned to duty as Field Officer as he was the senior captain present. McClung was in the hospital at Monterrey and, with Davis finally forced out of action from the wound he received the previous morning, only Bradford remained of the regimental officers. Of Bradford, one of the Mississippians remarked that he was "like an old shoe, ...but none seem to regard him as a military man." Companies C, E, and H had fought on February 23 without their captains and Company A's captain was wounded severely. The First Mississippi Rifles lost ninety-six in killed and wounded and two were reported missing. If all ten companies were to take the field they would still total less than the 341 who took the field the day before. It was with great relief that they learned Santa Anna had given up the attack and turned back.³⁶

Cooper's company suffered casualties in killed, wounded, and missing at the rate of twenty-two percent as compared with twenty-eight percent for the regiment. Cooper reported that Seaborne Jones, Thomas H. Titley, B. Lewis Turberville, and William H. Wilkinson were killed and James W. Donnelly, George H. Jones, William Lawrence, James M. Miller, Solomon Newman, and Carnot Posey were wounded. The only member of Company B

reported missing was returned in a general exchange of prisoners arranged by Taylor through his adjutant on February 24. Most of their casualties were incurred in the initial engagement as they drove the Mexican infantry back, almost completely unsupported, in what was the most heroic struggle of the day. Their most effective fighting in which they drove the enemy back and suffered the least casualties, however, was when they fought in concert with artillery.³⁷

After Santa Anna's withdrawal, Taylor reoccupied Agua Nueva. In the months that followed, the most pressing problem was that of supply. Defending supply trains from Camargo promised the only action. Cooper remained at Agua Nueva until April, and then drew escort duty along the supply route with his base at Cerralvo. By May, the First Mississippi companies had been returned to the supply depot at Camargo after performing escort duty along the supply route. They were ordered to the mouth of the Rio Grande River to await transportation to New Orleans on May 13. After an enthusiastic welcome home celebration in New Orleans, Cooper and the men of the regiment were mustered out on June 11. Cooper came home free from the immediate dangers of the Mexican War, but entrapped in the insidious political complications which were to disrupt and ultimately destroy his way of life.³⁸

Cooper's record with the First Mississippi Rifles brought additional prestige and recognition in Wilkinson and adjoining counties. His influence increased more in Amite than in Adams or Franklin counties as a result of Amite volunteers serving under his command. Among Mississippians in general he was overshadowed by John A. Quitman, who was still winning laurels in the drive to Mexico City, Alexander K. McClung, the dashing hero of Fort Teneria at Monterrey, and Jefferson

Davis, for his exploits leading the regiment at Buena Vista. By his performance he gained a higher degree of trust and respect from Quitman and Davis, both Democrats, who were politically influential in the state and were becoming so on the regional and national levels. His sound contribution to the success of the First Mississippi Rifles, of which the state was proud, promised to be a valuable political resource.

Cooper's aspirations for a significant command in the regular army was a portent of his struggle to gain the top command in his theater in his next venture into military service. As the captain of a volunteer company, he was naturally exposed to the criticism of malcontents who resented the imposition of military discipline or the general inefficiency of the army. As the commanding officer of the company, he occupied a position of high accountability. He acted with discretion in maintaining a balance between the welfare of his men as individuals and the discipline required for the benefit and safety of the company. His record indicates that he was a good officer who served his regiment in a dependable manner. By combat experience he learned the value of coordinating infantry, cavalry, and artillery, and by deprivation he saw the necessity of efficient supply systems. Through observation he increased his knowledge of general strategy and theater command. But his most immediate concern was political. Serious questions presented themselves as the possibility of adding Mexican territory became a probability and then a reality.

FOOTNOTES

¹Deed Record Book Q, pp. 105-107, Wilkinson County Chancery Court, Woodville, Mississippi.

²Deed Record Book O, p. 116, ibid.; Woodville Republican, November 11, 1843, p. 1, and May 11, 1844, p. 1.

³Rowland, Mississippi: Comprising Sketches of Counties, Towns, Events, Institutions, and Persons, Arranged in Cyclopedic Form, Vol. II, p. 229; Register of Commissions, 1841-1848, Vol. XXI, Adjutant General, Record Group 33, Mississippi Department of Archives and History, Jackson, Mississippi.

⁴"Volunteers," Woodville Republican, June 6, 1846, p. 1; "To the Editor," Mississippi Free Trader, October 27, 1847, p. 1.

⁵Woodville Republican, June 13, 1846, p. 2.

⁶Cooper to Franklin Soule, June 13, 1846, ibid., June 20, 1846, p. 1; "Delta" to Soule, ibid., June 13, 1846, p. 2; Douglas H. Cooper, Military Service Record, Mexican War, Adjutant General's Office, Record Group 94, National Archives.

⁷James L. Hodge to Soule, June 16, 1846, Woodville Republican, June 20, 1846, p. 2; Dunbar Rowland, comp., "Roll of Mississippi Soldiers in the War of 1812 and the War with Mexico, 1846-1848," 1915, Mississippi Department of Archives and History Library; "Gunsmithing," Woodville Republican, February 12, 1842, p. 3; "A Volunteer," ibid., October 2, 1846, p. 2; Cooper to John A. Quitman, March 25, 1850, and Riddle to Quitman, March 25, 1850, Administration of Governor Quitman, Letters, January 10, 1850, to April 30, 1850, Vol. XXVII, Record Group 27, Mississippi Department of Archives and History.

⁸James T. McIntosh, ed., The Papers of Jefferson Davis, June, 1841-July, 1846 (Baton Rouge: Louisiana State University Press, 1974), Vol. II, pp. 143, 223, 670-672, 695-696; Hudson Strode, Jefferson Davis, American Patriot, 1808-1861 (New York: Harcourt, Brace and Company, 1955), p. 161; Woodville Republican, June 27, 1846, p. 1; Haskell M. Monroe, Jr., and James T. McIntosh, eds., The Papers of Jefferson Davis, 1808-1840 (Baton Rouge: Louisiana State University Press, 1971), Vol. I, p. 414; Woodville Republican, August 22, 1846, p. 2.

⁹Ibid., and October 16, 1846, p. 1.

¹⁰General Order 124, August 19, 1846, Orders of General Zachary

Taylor to the Army of Occupation in the Mexican War, 1845-1847, Record Group 94, National Archives; Justin H. Smith, The War with Mexico (2 vols., New York: Macmillan Company, 1919), Vol. I, p. 229.

¹¹ Strode, Jefferson Davis, American Patriot, 1808-1861, p. 163; Mississippi Free Trader, August 12, 1846, p. 2.

¹² Woodville Republican, September 18, 1846, p. 2.

¹³ Smith, The War with Mexico, Vol. I, pp. 228-230; [Douglas West to] "My Dear Brother," September 14, 1846, Woodville Republican, October 16, 1846, p. 1.

¹⁴ Ibid.

¹⁵ Ibid., and January 2, 1847, p. 3; Smith, The War with Mexico, Vol. I, p. 236.

¹⁶ Ibid., Vol. I, pp. 236-238; Woodville Republican, November 7, 1846, p. 1.

¹⁷ Smith, The War with Mexico, Vol. I, pp. 239-242, 248-249; Woodville Republican, November 7, 1846, p. 1.

¹⁸ Taylor to the Adjutant General of the Army, September 22, 1846, October 9, 1846, and Butler to Bliss, September 30, 1846, "Report of the Secretary of War, 1846," United States Senate, 29th Congress, 2d Session, Document 1 (Washington: Ritchie and Heiss, 1847), pp. 76-78, 84-85, 90-91; Woodville Republican, November 7, 1846, p. 1.

¹⁹ Smith, The War with Mexico, Vol. I, pp. 249-253; Cooper, Report of the Battle of September 21, 1846, Documents of the Mexican War, Administration of Governor A. G. Brown, Vol. XXXVI, Series E, Mississippi Department of Archives and History.

²⁰ Ibid.

²¹ Ibid.; Posey, Report of Battle of September 21, 1846, ibid.; Woodville Republican, October 31, 1846, p. 2.

²² Cooper, Report of the Battle of September 21, 1846, Documents of the Mexican War, Administration of Governor A. G. Brown, Vol. XXXVI, Series E, Mississippi Department of Archives and History; Douglas West to My Dear Father, September 23, 1846, Woodville Republican, October 31, 1846, p. 2.

²³ Ibid.

²⁴ Ibid.; Quitman to Hamer, September 28, 1846, "Report of the Secretary of War, 1846," United States Senate, 29th Congress, 2d Session, Document 1, pp. 94-96.

²⁵ Taylor to the Adjutant General of the Army, October 9, 1846, "Report of the Secretary of War, 1846," United States Senate, 29th Congress,

2d Session, Document 1, p. 89; Woodville Republican, October 23, 1846, p. 1, and October 2, 1846, p. 2.

²⁶Ibid., October 16, 1846, p. 1, October 23, 1846, p. 1, and November 7, 1846, p. 1.

²⁷Special Order 159, October 18, 1846, and Special Order 183, November 28, 1846, Orders of General Taylor to the Army of Occupation in the Mexican War, 1845-1847, and Douglas H. Cooper, Military Service Record, Mexican War, Adjutant General's Office, Record Group 94, National Archives; Woodville Republican, December 19, 1846, p. 2, and January 2, 1847, p. 2.

²⁸Ibid., January 9, 1847, pp. 1-2.

²⁹Cooper to Quitman, January 23, 1847, Vol. A, John F. H. Claiborne Collection, Mississippi Department of Archives and History; Smith, The War with Mexico, Vol. I, pp. 357, 362; Douglas H. Cooper, Military Service Record, Mexican War, Adjutant General's Office, Record Group 94, National Archives.

³⁰Cooper to Quitman, January 23, 1847, Vol. A, John F. H. Claiborne Collection, Mississippi Department of Archives and History.

³¹Taylor to the Adjutant General of the Army, February 24, 1847, Wool to Bliss, March 4, 1847, Shover to Bragg, March 3, 1847, "Report of the Secretary of War, 1847," United States Senate, 30th Congress, 1st Session, Executive Document 1 (Washington: Wendell and Van Benthuyzen, 1847), pp. 97-98, 144-146, 207.

³²Ibid.

³³Ibid.; Cooper to Griffith, March 1, 1847, Documents of the Mexican War, Administration of Governor A. G. Brown, Vol. XXXVI, Series E, Mississippi Department of Archives and History.

³⁴Ibid.; Woodville Republican, April 10, 1847, p. 2; Davis to Bliss, March 2, 1847, "Report of the Secretary of War, 1847," United States Senate, 30th Congress, 1st Session, Executive Document 1, pp. 191-197.

³⁵Ibid.

³⁶Douglas H. Cooper, Military Service Record, Mexican War, Adjutant General's Office, Record Group 94, National Archives; "A Volunteer," Woodville Republican, October 2, 1846, p. 2; Davis to Bliss, March 2, 1847, "Report of the Secretary of War, 1847," United States Senate, 30th Congress, 1st Session, Executive Document 1, p. 196; ibid., pp. 103-107.

³⁷Ibid., pp. 103, 105; Cooper to Griffith, March 1, 1847, Documents of the Mexican War, Administration of Governor A. G. Brown, Vol. XXXVI, Series E, Mississippi Department of Archives and History.

³⁸General Order 39, April 24, 1847, General Order 48, May 9, 1847, General Order 51, May 13, 1847, Orders of General Taylor to the Army of Occupation in the Mexican War, 1845-1847, and Douglas H. Cooper, Military Service Record, Mexican War, Adjutant General's Office, Record Group 94, National Archives; Picayune (New Orleans), June 11, 1847, p. 2.

CHAPTER IV

IN MISSISSIPPI POLITICS

Following his return from the Mexican War in June, 1847, Cooper quickly became active again in Mississippi politics. In Natchez on July 6 he met the influential Democratic editor and publisher of the Mississippi Free Trader, Thomas Alexander Slaughter Doniphan, a native of King George County, Virginia. Doniphan came to Natchez in 1834 as a merchant, married into a locally prominent family in 1837, and purchased the Mississippi Free Trader in 1840. For three years, beginning in July, 1841, John F. H. Claiborne, Cooper's stepbrother, was an associate editor with Doniphan. The fact that Cooper did not become acquainted with the editor during Claiborne's association with Doniphan seems to indicate that the stepbrothers were not close personal friends. Doniphan was favorably impressed when they met in July, describing Cooper as a gallant officer and accomplished gentleman who looked remarkably well after his campaign in Mexico. Doniphan's friendship was a valuable political asset, not only because of his newspaper, for his views and suggestions in the private councils of the Democratic Party were respected.¹

On July 6, while Cooper was in Natchez, the leading Democrats of Wilkinson County met at the courthouse in Woodville to choose delegates to a Fourth Congressional District nominating convention to be held at Monticello, in Lawrence County, on July 26. At the Woodville meeting which was presided over by Francis Gildart, judge of the probate court

of Wilkinson County, it was resolved that fifteen delegates were to be sent to the Monticello convention at which the party's district nominee to the United States House of Representatives was to be selected. It was further resolved that they had "unlimited confidence in the ability and integrity" of Cooper and that the delegates were to recommend him to the convention to represent the district. Among those chosen as delegates were Cotesworth P. Smith, a Woodville lawyer and father of Peter Smith of Cooper's company in the Mexican War, Hazlewood M. Farish, who was the husband of a niece of Jefferson Davis, Wiley M. Wood, Cooper's friend and neighbor of Cold Springs precinct, and James A. Ventress, a former member of the Mississippi House of Representatives and a member of the state Senate during Cooper's last term in the Mississippi House of Representatives.²

The counties in the Fourth Congressional District of Mississippi in 1847 were Claiborne, Copiah, Simpson, Smith, Jasper, Clarke, and all sixteen counties to the south of them. When the delegates from the twenty-two counties convened at Monticello, the only one from Wilkinson County was Cotesworth P. Smith. Six from Adams County, including Doniphan, were in attendance. Three names were submitted to the convention for nomination, but those of Cooper and Powhattan Ellis, a former member of the Mississippi Supreme Court and a staunch Jacksonian from Natchez, were withdrawn in the face of strong support for Governor Brown who was then nominated by acclamation. Since one of the hopefuls was the incumbent governor, the convention's reaction to Cooper's bid was not a true test of his political strength.³

On July 31, Doniphan announced that the name of Douglas H. Cooper for the Mississippi Senate, from the district consisting of Adams,

Franklin, and Wilkinson counties, was meeting with a hearty response from the people of Adams and Franklin counties. Doniphan was hoisting Cooper's name for the Senate, at the request of Cooper's many friends in both counties, without consulting Cooper, but it was hoped he would not withhold his name and services from his friends. On August 10, at a meeting in Woodville of Wilkinson County Democrats, they nominated Cooper for the Senate, subject to a nominating convention if one were thought necessary.⁴

From Mon Clova on August 17, Cooper, who had been out of Mississippi, upon his return responded to the developing situation affirmatively in this statement: "If the people believe that I can be useful, in the capacity of Senator, I shall consider it an honor to be permitted to serve them; yet should be entirely satisfied, in case they, by convention or otherwise indicate a preference for another." Doniphan suggested to his readers that a convention would hardly be necessary. He believed that even the Whig Courier of Natchez would make no serious opposition to the nomination and election of so "gallant a gentleman--one who has done so much for the honor of our arms and the glory of the name of Mississippi." In the absence of a demand for a three county nominating convention, Cooper became the Democratic candidate without one being held.⁵

In the meantime, on August 2 the Whig Party held a nominating convention in Natchez to select a senatorial candidate who would eventually become Cooper's opponent in the November election. Although Wilkinson County was not represented by delegates at Natchez, T. Jones Stewart of Cooper's home county was named to be the Whig standard bearer in the contest. Stewart was a strong candidate. Even the Democratic editor,

Doniphan, reported at the time of Stewart's selection that he was a gentleman of the highest standing, great knowledge, and as a Whig in a decidedly Whig district, was almost certain of election.⁶

During the campaign, Cooper and Stewart sometimes appeared together and addressed the same group of voters. On September 20, they spoke to an assemblage of Whigs and Democrats at Meadville, the county seat of Franklin County. Their ideas of the main issues and their positions with regard to the questions followed party lines, but they made some exceptions. On the repudiation of Union Bank bonds, an issue which Stewart raised, he remained in favor of redemption but advocated raising the funds to do so through taxation. Cooper, who would not agree that repudiation was an issue in the election, considered the question to be in the hands of the courts. He maintained that people and corporations who incurred obligations were to be bound by the law in effect at the time the obligation was incurred. This meant that participating stockholders in the banks were liable in the courts for losses just as they were entitled to share in the profits. Ex post facto legislation could not change that responsibility and was unconstitutional.⁷

Linked with this issue, and often confused with it, was the question of the "Briscoe Bill." Stewart opposed this law, although it was no longer a "Bill" even though popularly referred to as such, as repressive legislation against all banks. Both candidates had opposed its passage in the special session of the Mississippi Legislature in 1843 when they were members of the House of Representatives. Cooper had since examined the subject and, in 1847, considered it an act declaratory of what had been the law for centuries. It merely gave the

state, he maintained, a method of proceeding against state chartered banks that became insolvent before all the bank's assets were plundered, thus minimizing the losses to the bank's stockholders and depositors. Cooper stated that he did not favor "any legislative props to the rotten and crumbling corporations which have cursed our State; but wished the law to take its course." In further explaining his changed view on the "Briscoe Bill," Cooper said: "I had become satisfied of my error and changed my opinion--he had said the horse was sixteen feet high and he stuck to it."⁸

On the Mexican War, Stewart condemned the war as unjust and suggested that President Polk had precipitated the United States into it. Since the United States was in the war, however, it must be prosecuted to a speedy and honorable conclusion. He hinted at the plausibility of the charge against Polk, that the Democratic President was guilty of persecuting Taylor, because the general was being considered as a Whig presidential nominee, by withdrawing most of his forces for the Vera Cruz expedition and sacrificing Taylor and his army. Stewart was opposed to annexation of any new territory in the anticipated settlement at the conclusion of the war. He exploited the fact that it was a Democrat, David Wilmot, who introduced into the United States House of Representatives the proviso so inimical to the interests of the slave states.⁹

Cooper defended Polk against the Whig charge that he brought on the war, maintaining that his leadership was proper and the war was initiated by Mexico. He insisted that the war should be prosecuted until indemnity was received for the wrongs committed by Mexico upon United States citizens and, also, for the expenses of the war. Since there was

no other way for Mexico to pay the debt, Mexico should cede land to the United States. Cooper refused to believe that Polk persecuted Taylor or that he had been willing to sacrifice Taylor's army. Taylor did not appear to be an aspirant for the presidency nor was he likely, in Cooper's opinion, to gain the support of the Whig Party if he should become one. Although Cooper had great respect for Taylor as a soldier, he did not support him at this time for the presidency, contrary to Whig claims, because Taylor would first have to avow political principles with which Cooper could agree. According to Cooper, "Others may be willing to 'go it blind,' but it does not suit my notions of right or self respect to do so."¹⁰

Cooper believed that a United States Bank was an "obsolete idea" and preferred the sub-treasury plan. He thought the preemption system was the best suited to settling the remaining territories of the United States and gave the least encouragement to speculators. He included in his remarks a comment on the tariff, urging the voters to consider the disadvantages of the protective tariff, which Stewart's party advocated, and the Democratic Party's revenue tariff that was more favorable to the agricultural South.¹¹

At the time Cooper and Stewart were in Meadville, a group identifying themselves as "Many Voters" posed a series of questions in an open letter to the candidates. Cooper responded from Mon Clova on October 5 in the same sense and depth as his address at Meadville, except he added his opinion on the extension of slavery into the territory which he anticipated being received as indemnity from Mexico. He would support no man for the presidency who would forbid slavery in any of the new territory south of the line of the Missouri Compromise. It was his

hope that the Democratic Party would unite on that basis, a movement which in his opinion was developing rapidly.¹²

Doniphan, Cooper's friend of the Mississippi Free Trader, infused another issue into the campaign in early October when he remarked on the vagaries of Whig candidate selection. He did not understand why the Whigs, who were so partial to military men as to be willing to run General Taylor for President without knowing his political principles, would run Stewart against Cooper. Or as Doniphan characterized it, Stewart had been at home "enjoying his wealth and ease" while Cooper "was fighting...and helping to build up the military reputation of the hero of Monterrey and Buena Vista."¹³

The Whig editor of the Natchez Courier, W. R. Adams, responded by raising a question of how the men of Company B would vote in the Senate race. He suggested that Doniphan ask the Wilkinson County volunteers who a large majority of them would vote for in the November election. The Courier editor then answered his own question, stating that the answer would be Stewart, "who remained at home enjoying his wealth and ease,..did more to get up and fit out that company than anyone else, [and whose]...purse was always open."¹⁴

When the Wilkinson County volunteers read the Courier's comments, they rallied to Cooper's support. One volunteer pointed out the incongruity of the editor's remarks and Stewart's actions. Cooper's opponent had, through his eloquence, appealed to the patriotism, the honor, and the chivalry of the young men of his county to embark in a war into which Polk, he charged, had "precipitated his county without requisite constitutional authority." That is, Stewart supported raising a company of volunteers to fight in a war which he, in true Whig

fashion, also condemned as unjust and unconstitutional. The volunteer, in conceding that Stewart helped raise and outfit the company, would not grant that he had done more than anyone else. Other persons, he contended, had given more in proportion to their means than Stewart.¹⁵

Eighteen men of Cooper's company responded that they did not wish to detract from anyone, but that they could not remain silent when the Courier editor attempted to take from "our Captain" the credit due him and transfer it to another. Cooper, "who at the call of his country was ready to make every sacrifice for her defense, and at the battles of Monterrey and Buena Vista, in the midst of showers of balls, led us on to victory," would receive a large majority of the volunteer company's vote. Although Stewart had given \$100 to the \$1,800 fund, "others gave much more," they stated. They were willing to give Stewart credit for what he had done, but they lauded Cooper for his work in raising the company, whose diligence secured acceptance of the company, "who spent his money, devoted his time, neglected his individual interests, endured the fatigues and privations of the campaign, and braved every danger."¹⁶

Cooper and his fellow Democratic candidates in Wilkinson and Franklin counties received none of the benefit which a personal visit of the incumbent Democratic governor would have brought. Governor Brown announced in September that he would campaign in the southwestern counties just prior to the election with stops at Meadville on October 27, Woodville on October 30, and Natchez on November 1. However, on arriving at Natchez on November 2, the second and last day of voting, he had failed to visit Franklin and Wilkinson counties.¹⁷

The vote in Wilkinson County went well for Cooper. By late Tuesday

night, November 2, the votes had been counted in all the precincts except Woodville and from the seven outlying precincts he held an eleven vote lead. On Wednesday when the Woodville votes were all counted, Cooper's majority increased to twenty-nine. He had won in his county, a strong Whig county, over the wealthy and estimable Whig, T. Jones Stewart. He followed reports of the election in Adams and Franklin counties only to learn that he was a loser by four votes. His majority in Franklin County was sixteen, which added to his twenty-nine in Wilkinson County, fell four short of Stewart's majority of forty-nine in Adams County. He ran a good race, considering the fact that the two most populous counties, Adams and Wilkinson, usually voted Whig, but it was a disillusioning political defeat. Being a company captain in the First Mississippi Rifles, widely recognized for its heroics in the war, did not add enough prestige to bring success.¹⁸

An editor from one of the inland Democratic counties offered a noteworthy comment upon Cooper's defeat: "In the face of this, we suppose the editor of the Natchez Courier (which paper opposed the Captain most unscrupulously) will read the people...another canting homily upon ingratitude to the brave men who won glory for the State in the first regiment!" The editor was in complete sympathy with Cooper and predicted brighter days ahead for the defeated senatorial candidate. He ventured that Cooper, "beaten upon the principles of the great popular party," would soon be "singled out for the bestowal of its honors." If Cooper expected a political appointment, it was not immediately forthcoming.¹⁹

In the following months, Cooper worked to improve his financial situation. On November 26, he sold a tract of land and reduced his

Wilkinson County holdings to 980 acres. On December 29, he borrowed \$5,000 from his former guardian, Joseph Johnson, mortgaging Mon Clova and another tract identified only as Wash Burns. For a time he was financially hard pressed. On March 21, 1848, he borrowed \$1,700 and on April 12, he obtained a second loan from Cotesworth P. Smith amounting to \$3,513. Specie remained in short supply for him personally as he anxiously awaited his back pay for service in the Mexican War, which was still unpaid in January, 1849.²⁰

Cooper continued to be active in the Mississippi militia. In the fall of 1848 he announced his candidacy for major general of the First Division of the state militia, which drew units from the two southern tiers of counties. These were at this time, the gulf coast counties of Hancock, Harrison, and Jackson, and the second tier of Wilkinson, Amite, Pike, Marion, Perry, and Greene. The election on November 6 and 7 was an easy victory for Cooper, whose commission as a major general in the militia was made effective November 27, 1848.²¹

The year 1849 was a prolongation of difficult financial times for Cooper. It was for that reason that he declined to run for office in the 1849 election. He refused to let his name be advanced as a possible candidate for the United States House of Representatives from the Fourth Congressional District when he learned that a resolution for that purpose had been approved by the Wilkinson County Democrats in a meeting held at Woodville on April 10, 1849. The resolution instructing the Wilkinson County delegates to the district convention to bring his name before the convention as a suitable candidate was introduced after he had left the meeting. In an open letter of April 14 in the Woodville Republican he thanked the friends who had paid him the compliment, but

explained: "Circumstances, connected with my private affairs, would make it my duty to decline the nomination, if tendered. I am content to serve as a private, in the Democratic ranks, and shall cordially support the nominee of the party." During the night following his refusal to seek the nomination, an unusually late heavy frost damaged the cotton crop to the extent that much of it had to be replanted. Already in difficulty trying to repay his loans, his misfortune placed an additional financial burden upon him. It was also quite likely that Cooper, in declining to let his name be submitted, was deferring to the Democratic incumbent United States Representative, ex-governor Brown.²²

On July 2, Cooper presided over a meeting of delegates from the counties of Adams, Amite, Franklin, and Wilkinson. They were gathered at Kingston, Adams County, to devise ways and means of rendering the Homochitto River navigable. It was resolved that before the work of clearing the river was commenced, that funds for a survey were to be collected. The survey was to include cost estimates for removing obstacles and digging a canal linking the Homochitto and Buffalo rivers. The canal would be of particular value to Cooper if it linked the south fork with the Buffalo River, since that fork was the western boundary of Mon Clova. At such time as sufficient funds were collected or pledged to begin the actual work, Cooper was to reassemble the convention. Enthusiasm for the plan by the subscribing public was not strong, however, and it was neglected in the excitement generated by state and national political issues.²³

On October 1, a convention of delegates numbering twice the representation in the Mississippi House of Representatives was called at Jackson. The impetus for such a state convention was furnished by

national political action following settlement of the Mexican War. The actual call was issued as a result of a meeting of central Mississippi citizens of both political parties on May 7, 1849. In the May meeting, commonly called the Central Mississippi Convention of 1849, great concern was expressed over the danger of loss of Southern rights, especially to extend slavery into the territories. Cooper attended the state convention as a delegate from Wilkinson County and acted with the committee of twenty delegates who were appointed to prepare and report to the convention on definite matter for its action. He worked with the committeemen late into the night of October 2, preparing the preamble and resolutions which were presented and accepted on October 3.²⁴

The resolutions, which Cooper helped draft, denied the right of the United States Congress to control or prohibit slavery in the states, territories, or the District of Columbia. If federal legislative action incorporated the Wilmot Proviso or its intent, a state convention was to be called to consider the act and the mode and manner of redress. Emigration of slave-holders into the territories was encouraged. Another resolution called for a convention of all Southern states to be held at Nashville, Tennessee, on June 3, 1850. Delegations of the various states to the Nashville Convention were to consist of two delegates from each United States congressional district and four delegates-at-large from each state.²⁵

Cooper was appointed as a delegate from the Fourth Congressional District to attend the Nashville Convention. The Mississippi delegation was headed by William L. Sharkey, a prominent jurist, and consisted of twelve members evenly divided between the Whig and Democratic parties. Cooper and seven other delegates were replaced in the following March by

joint action of the Mississippi Senate and House of Representatives. Some were replaced because of health reasons, such as the venerable George Winchester, the Whig delegate from Cooper's district, who was already in failing health in 1850 and died in February, 1851. Winchester's successor was T. Jones Stewart, the incumbent state Senator who defeated Cooper in 1847. John J. McRae, a Democrat from Enterprise in Clarke County, was chosen to replace Cooper. McRae was at least as strong an advocate of Southern rights as was Cooper. If the temper of the delegation from the Fourth Congressional District to the Nashville Convention was modified toward compromise, by replacing Cooper and Winchester, it was more likely to be due to Stewart's being slightly more moderate than Winchester in 1850. Each of the other six delegates replaced was succeeded by a member of his own political party so that the bipartisan nature of the delegation was maintained. However, by the time of the Nashville Convention the mood of the delegates was noticeably more moderate, whether due to subtle changes in the composition of the delegation or to the realization of the possible consequences of rejecting majority rule by the federal government.²⁶

In the meantime, Cooper became involved in the election of 1849. Cotesworth P. Smith of Woodville ran against incumbent Joseph S. B. Thacher of Natchez in the Second Judicial District for judge on the Mississippi High Court of Errors and Appeals. Smith, Cooper's friend and political ally, had supported and advanced Cooper at every opportunity since Cooper became a Democrat. At this time, Cooper was also financially obligated to Smith for loans obtained the previous year. Cooper was afforded an opportunity to repay his political obligations to Smith in October when Thacher and his Whig adherents tried to imply

that Smith was circulating, or guilty of starting, a damaging story against Thacher.²⁷

The rumor had been sparked by Harry Keane, a New Orleans commission merchant, who had casually remarked to a resident of the Fort Adams-Woodville area that there was a prominent Judge Thacher of Boston whose son quite some years previously had been found guilty of forgery. When Smith heard the rumor, and knowing that J. S. B. Thacher was the son of a Judge Thacher of Boston, he immediately wrote to his opponent, making him aware and giving him a chance to dispel such a damaging rumor before it became widespread. Thacher, in publishing a "Vindication," by not admitting that Smith had warned him, was hurting Smith's reputation by implying that the tale of forgery was manufactured by Smith out of nothing more than a rumor.²⁸

Cooper came to Smith's defense when the damaging effects of Thacher's "Vindication" became noticeable. Smith, at the time, was campaigning in the eastern counties of the district, so Cooper gathered the facts and letters from the people who were involved and published, on October 17, a convincing argument that Smith had acted honorably in the "Thacher forgery" incident. When the election returns came in from the 22 counties in the district, Smith carried 14 of them for a majority of 1,556 votes. Smith won by a big margin in his home county, Wilkinson, 538 to 71, and lost a relatively close race in Thacher's home county, Adams, 478 to 365.²⁹

The year 1850 was one of small triumphs and continued financial troubles for Cooper. On March 5, the state legislature enacted a measure designed to put new life into the project to improve navigation on the Homochitto River. Two commissioners from each of the counties of

Adams, Amite, Franklin, and Wilkinson were named to a commission authorized to receive appropriations granted by the state or volunteer contributions from the citizens. Although the term "incorporate" was not stated explicitly in the act regulating the powers of the commissioners, it did in fact give them corporate powers. Cooper and Hugh Robert Davis, a nephew of Jefferson Davis, were the commissioners on behalf of Wilkinson County. One of the possibilities considered at this time was for a short canal between the southern end of Old River Lake, or Lake Mary, and the Buffalo River. This route, if completed, would allow Cooper to use the shorter route downstream on the south fork of the Homochitto River.³⁰

One of Cooper's moments of triumph was accomplished in late March, 1850. James Riddle, in Woodville, asked Cooper to help him get a position newly created by the state legislature when it passed an act for the preservation of the public arms of the state. Riddle, a gunsmith and member of Cooper's company in the Mexican War, had repaired their rifles at Gerralvo in time to allow them to participate in the battle at Monterrey. Otherwise, the company would have remained at Gerralvo on garrison duty. Cooper urged Riddle to apply directly to Governor Quitman, their former brigadier general, and recommended Riddle highly for his service at Monterrey and Buena Vista. Riddle and Cooper wrote on March 25 and five days later Governor Quitman appointed Riddle as caretaker of the public arms of the state.³¹

The problem of maintaining operating funds forced Cooper to sell a tract of Wilkinson County land on March 8 and to borrow additional funds on April 16. The loan obtained was in the amount of \$5,247 and was due and payable in one year. His financial troubles were serious enough

that it is quite likely he withdrew as a delegate to the Nashville Convention of 1850 before the legislature made the changes in the delegation in March. If he had assurances that McRae was to be his replacement and that Cotesworth P. Smith was to replace one of the four at large delegates, there would have been little reason for Cooper to attend.³²

The Nashville Convention met during the first week in June as scheduled and drafted a series of resolutions. Cooper attended a meeting of Wilkinson County citizens in Woodville on August 6 to consider the proceedings of the Nashville Convention. He was a member of a committee of six appointed to draft resolutions expressing the sentiment of the meeting upon the Nashville Convention resolutions. The majority report of the committee favored ratification and adoption, but the minority took exception to one resolution, the eleventh, which proposed division of the territories between slaveholding and free states along the line of $36^{\circ} 30'$ north latitude extended to the Pacific Ocean. The minority proposed an amendment to the majority's ratifying resolution, softening the wording to state that Wilkinson County would agree to any adjustment by which the rights of the South would be recognized and secured, dropping the ultimatum regarding holding to the $36^{\circ} 30'$ line. Cooper offered an amendment to the minority's amendment to the effect that the South should agree to no settlement which did not secure to them a front on the Pacific Ocean. In the voting, Cooper's amending statement was accepted, but the minority's amendment was defeated and the original resolution to ratify and adopt was passed by an overwhelming majority.³³

At this same Woodville meeting, the spokesman for the dissenters

was H. F. Simrall, a respected Whig and former Representative from Wilkinson County in the state legislature. They favored passage of Clay's compromise bills, which eventually became the legislation of the Compromise of 1850, over ratification of action taken by the Nashville Convention. After enactment in September, 1850, of Clay's compromise bills, Simrall's position became much more attractive to many Wilkinson County voters who found themselves unwilling to act in defiance of federal law.³⁴

The late fall and early winter of 1851 brought political defeat to Cooper as the Democratic State Rights Party candidate for the state Senate from the district comprised of Adams, Franklin, and Wilkinson counties. Cooper became a reluctant candidate after T. Jones Stewart, whose nomination was proposed by a "Southern Rights Association" meeting held in Natchez on July 7, failed to attract support. At a Democratic State Rights Party meeting in Natchez on August 13, a Franklin County delegate advanced Robert Stanton of Natchez as a candidate for the Senate. When Stanton declined, Cooper was nominated and a committee of three appointed to notify him and "urge upon him the necessity of accepting."³⁵

In accepting the nomination on August 18, Cooper stated that it was "wholly unsolicited and unexpected" and expressed regret that the Democratic State Rights Party had not chosen "someone more capable of doing justice to the great and holy cause of opposition to Northern and Federal aggression upon Southern Rights and State Rights." But since he had been selected, he would answer the call to be the standard bearer of the party which served the "true interests and well-being, not only of the slaveholding states, but of all the states of the confederation."

He believed that each member of the party was "duty bound" to serve in whatever capacity chosen to insure the "triumph of those great principles of our political faith which have been handed down to us by the fathers of the Constitution," and did not feel at liberty to decline the post assigned to him.³⁶

Alexander K. Farrar, Cooper's opponent, had entered the campaign in late June as a Union Whig, or as the Democratic State Rights Party spokesmen called him, a Whig submission candidate, so-called because they advocated submission to the enactment of the compromise measures of 1850. Soon after Cooper became a candidate, his party received a severe blow. Governor Quitman had called the state legislature into special session in the fall of 1850 to consider future United States-Mississippi relations. The legislature condemned the submission or union party movement and voted to censure one of the leaders, United States Senator Henry S. Foote of Mississippi. The legislature called for a convention to be held in November, 1851, and the election of its delegates on September 1 and 2. It was the results of the election of delegates for the November convention that dealt such a harsh blow to Cooper's party and made it difficult for Cooper to campaign effectively. Fifty-seven percent of the votes cast favored Unionist delegates. Ex-Governor Quitman, the Democratic State Rights candidate for governor who favored secession to submission, withdrew from the race on September 6 as a result of the unfavorable plebiscite and left Cooper's party temporarily leaderless.³⁷

On September 23, 1851, Jefferson Davis resigned from the United States Senate to become the Democratic State Rights Party candidate for governor of Mississippi. Under the leadership of Davis the party tried

to change its image from 'disunionist' by diverting attention to Davis' opponent, Foote, who refused to resign from the United States Senate for the campaign and left himself subject to criticism on that account. A Democrat, Foote was accused of making an arrangement whereby he could withhold his resignation until such time as he would be able to control the choice of his successor. In late September and during October the Democratic State Rights Party candidates struggled to lose the appellation of disunionists and the party gained strength, but the time was too short to effectively offset the harmful effects of poor leadership early in the campaign.³⁸

Cooper spoke twice at Natchez, at the Pharsalia Race Trace and the courthouse, on October 18 and at Meadville on October 21 he gave another stirring speech calling for the citizens to do as the First Mississippi Rifles had done at Buena Vista and rally around Jefferson Davis. He attempted to divide what he called 'weak Democrats' following Foote from the 'crafty Whigs' by pointing out how the Union Democrats were aiding the Whigs to gain the governorship and both Mississippi seats in the United States Senate. He blamed the divided state of the country upon the Whigs and the Compromise of 1850. But the best received part of his speeches was the call to support Davis just as the First Mississippi Rifles had rallied under his heroic leadership at Buena Vista.³⁹

On October 25 and 29, Cooper's advocates published attacks on Alexander K. Farrar's legislation, "An Act to suppress trade and barter with slaves, and for other purposes," which he introduced while a Representative of Adams County in the state legislature in 1850. Criticism was directed to Farrar's "Pet Law" in an attempt to alienate the support of the small business operator, who stood to lose from \$450 to

\$500 and court costs and serve from one to twelve months in the county jail if a slave were permitted to remain in the place of business more than fifteen minutes with the door closed. It was a difficult law to observe, and the storekeepers did not like it, but there was little political utility in courting the vote of such a small minority. Farrar's adherents worked among a more numerous group of voters, the non-slaveholding farmers, as one observer reported after the election:

"Against Gen. Cooper reports were circulated of a private character, tending to make a breach between himself and the poor but honest voters. These reports had attached to them the names of respectable men, in order to give better currency to the counterfeit. They were discovered two days before the election, and on investigation, turned out to be perfectly untrue. Though, of course, it is much more easy to spread than to stop a report."⁴⁰

Returns of the November 3 and 4 election were strongly in favor of Farrar, with Cooper losing by a vote of 335 to 388 in his home county and by a majority of 224 in Farrar's home county of Adams. Cooper lost the election by a substantial majority, but his margin of loss was comparable to vote deficits in Adams and Wilkinson counties encountered by Davis and by former governor Brown, who was running for the United States House of Representatives. Davis lost to Foote, but Brown gained reelection. This was the last time Cooper sought an elective office. A report that Cooper was appointed as clerk of the High Court of Errors and Appeals in mid-November was found to be false, the post going to a resident of Jackson, Mississippi.⁴¹

The year 1852, following his defeat in 1851, was a low point in Cooper's political career. It is likely that he worked "in the ranks,"

as he had indicated a willingness to do on earlier occasions, in the presidential election. Cooper was not favorably impressed with the Whig candidate, Winfield Scott, who he had met at Brazos Island in the Mexican War and afterwards judged to be "a magnificent humbug." However, he did not take a leading role in the election to the extent of engaging in public or open letter writing on behalf of Franklin Pierce, the Democratic candidate, in the Woodville or Natchez newspapers.⁴²

Cooper was frustrated politically from the time he left the First Mississippi Rifles in 1847 until the election of Pierce in 1852. After entering two of the three elections and losing both times, he reached a point in his political career when it began to look doubtful that he could break the losing pattern. His 1847 defeat was a close race, a contest which he willingly entered, and lost to a strong candidate. But in 1851 he reluctantly entered the race against Farrar, knowing that the Democratic State Rights Party was in trouble because the Whigs had successfully associated it in the public mind with disunion and secession. He accepted the candidacy and worked hard for the party in a losing cause. The response that he made to his political party's call in 1851 was one that should have built up an accumulation of good will for him among the Democratic Party leaders.

By 1852, Cooper was thirty-six years old, a veteran of the Mexican War, and a former Whig turned Democrat. He had won the two elections in which he represented the Whig Party, but since turning Democrat he failed in all three attempts at elective office. In the field of political preferences that were available to him in 1852, he was a Democrat and a state rights advocate, but not so extreme in his thinking as to forsake compromise if Southern interests could be preserved. His

natural optimism was dampened and his incipient ambition thwarted by the reversals suffered in the post-Mexican War period. In his search for an effective method of increasing his personal influence and advancing the interests of the slaveholding states, as he perceived them to be, it was apparent that he needed an alternative to elective office.

FOOTNOTES

¹Mississippi Free Trader, July 7, 1847, p. 1; Mississippi Free Trader and Natchez Weekly Gazette, July 1, 1841, p. 3; McIntosh, ed., The Papers of Jefferson Davis, June, 1841-July, 1846, Vol. II, p. 112.

²Mississippi Free Trader, July 14, 1847, p. 1.

³Ibid., August 11, 1847, p. 4.

⁴Ibid., August 4, 1847, pp. 2 and 4, and August 18, 1847, p. 2.

⁵Ibid., August 25, 1847, p. 1.

⁶Ibid., August 4, 1847, p. 1.

⁷Ibid., September 29, 1847, p. 1.

⁸Ibid., and October 13, 1847, p. 1.

⁹Ibid., September 29, 1847, p. 1.

¹⁰Ibid., and October 13, 1847, p. 1.

¹¹Ibid., September 29, 1847, p. 1.

¹²Ibid., October 20, 1847, p. 1.

¹³Ibid., October 13, 1847, p. 1.

¹⁴Ibid., October 27, 1847, p. 1.

¹⁵Ibid.

¹⁶Ibid.

¹⁷Ibid., September 29, 1847, p. 1, and November 3, 1847, p. 1.

¹⁸Ibid., November 10, 1847, p. 1.

¹⁹Mississippian (Jackson), December 3, 1847, p. 2.

²⁰Deed Record Book O, pp. 362, 403, 407, and 431, Wilkinson County Chancery Court, Woodville, Mississippi; Army Paymaster A. G. Bennett to Cooper, January 1, 1849, Mississippi Free Trader, January 17, 1849, p. 1.

²¹Ibid., October 25, 1848, p. 2; Register of Commissions, 1848-1861, Vol. XX, Adjutant General, Record Group 33, Mississippi Department of Archives and History, Jackson, Mississippi.

²²Mississippi Free Trader, April 18, 1849, p. 2, and April 25, 1849, p. 4.

²³Ibid., July 11, 1849, p. 2.

²⁴Mississippian, October 5, 1849, p. 2; Mississippi Free Trader and Natchez Gazette, May 16, 1849, p. 1.

²⁵Mississippian, October 5, 1849, p. 2; Thelma Nora Jennings, "A Reappraisal of the Nashville Convention" (Ph.D. Dissertation, University of Tennessee, Knoxville, 1968), pp. 57-60 and 475.

²⁶Ibid., p. 475; Mississippian, October 5, 1849, p. 2; McIntosh, ed., The Papers of Jefferson Davis, June, 1841-July, 1846, Vol. II, p. 123.

²⁷"Vindication," Mississippi Free Trader and Natchez Gazette, September 22, 1849, p. 1.

²⁸Ibid.

²⁹Ibid., October 20, 1849, p. 2, and October 27, 1849, pp. 1 and 2; Mississippian, November 30, 1849, p. 4.

³⁰Laws of the State of Mississippi, Passed at A Regular Session of the Mississippi Legislature, Held in the City of Jackson, January, February, and March, 1850 (Jackson: Fall and Marshall, 1850), pp. 198-200.

³¹Cooper to Quitman, March 25, 1850, and Riddle to Quitman, March 25, 1850, Administration of Governor Quitman, Letters, January 10, 1850, to April 30, 1850, Vol. XXVII, Record Group 27, Mississippi Department of Archives and History.

³²Deed Record Book P, pp. 292 and 315, Wilkinson County Chancery Court. In 1851, Cooper's wife first bought land in her name. On January 11, she purchased an undivided one-half of 530 acres in southwestern Adams County bordering on the Mississippi and Homochitto rivers (Deed Record Book HH, p. 401, Adams County Chancery Court) and on May 8 she secured title to two tracts joining Mon Clova on the east from Tristram S. Easton (Deed Record Book P, p. 524, Wilkinson County Chancery Court). She sold her interest in the 530 acre landing tract in Adams County to Nancy P. Huffman on January 13, 1852, at a \$500 profit (Deed Record Book II, pp. 20-21, Adams County Chancery Court). On February 19, 1852, she made a major purchase, Hyde Park Plantation, which was about 1,000 acres and identified as old Spanish Claim 5 on the Homochitto River northeast of Mon Clova (Deed Record Book Q, pp. 46-47, Wilkinson County Chancery Court). The only land transaction in Cooper's name during this period was a quit claim deed he signed for a small consideration, releasing all future claim to the southwest quarter of section 24,

township 2 north, range 2 west, about 2 miles north of Woodville (Deed Record Book P, p. 433, Wilkinson County Chancery Court).

³³Mississippi Free Trader and Natchez Gazette, August 28, 1850, p. 3.

³⁴Ibid.

³⁵Mississippi Free Trader, July 9, 1851, p. 2, and August 16, 1851, p. 2.

³⁶Ibid., August 20, 1851, p. 3.

³⁷Ibid., July 9, 1851, p. 2; McLemore, A History of Mississippi, Vol. I, pp. 304-305; Mississippi Free Trader, September 10, 1851, p. 2.

³⁸McLemore, A History of Mississippi, Vol. I, p. 305.

³⁹Mississippi Free Trader, October 22, 1851, p. 2, and November 1, 1851, p. 2.

⁴⁰Ibid., October 25, 1851, p. 2, October 29, 1851, p. 1, and December 3, 1851, p. 2.

⁴¹Ibid., November 8, 1851, p. 3, November 15, 1851, p. 2, and November 26, 1851, p. 2.

⁴²Cooper to Quitman, January 23, 1847, Vol. A, John F. H. Claiborne Collection, Mississippi Department of Archives and History. The only source found regarding Cooper in 1852 was his personal property statement to the county assessor in which he reported one Bowie knife, two duelling pistols or pocket pistols, forty head of cattle, one horse, and forty-three slaves under sixty years of age. His statement, more than likely, is not a complete listing of his property. For instance, it is difficult to imagine that he possessed neither a pleasure carriage nor more than one horse. Also, that he owned no clocks or watches appears improbable, and that he did not own a piano refutes what his daughter Elizabeth remembered, unless a piano was obtained after 1852. Wilkinson County Personal Assessment Tax Roll (1852), Vol. DLXXX, p. 5, Record Group 29, Mississippi Department of Archives and History.

CHAPTER V

AS CHOCTAW INDIAN AGENT

In an attempt to take advantage of his military service and selfless support of his party, Cooper sought the aid of his former commanding officer, Jefferson Davis. Davis, who had resigned from the United States Senate in 1851 to enter the gubernatorial campaign, succeeded Quitman as the leader of the Democratic Party in Mississippi. Upon the nomination of Pierce in 1852 as the Democratic presidential candidate, Davis campaigned for him in Mississippi and Louisiana. They had been friends since 1837, when Davis, on a visit to Washington, D.C., first met Pierce, who was then a member of the United States House of Representatives from New Hampshire. After Pierce's election in November he persuaded Davis to accept the cabinet post of Secretary of War, an appointment reluctantly acquiesced in at the last moment.¹

Before Davis decided to accept the appointment, Cooper went to Brierfield, Davis' home south of Vicksburg, and obtained a letter of introduction on February 3, 1853, recommending him for an appointment in Pierce's administration. After an introductory statement, Davis stated that Cooper served with him in the Mexican War and "we have stood shoulder to shoulder in all our political contests at home." Davis spoke of Cooper as a brave soldier, a true American, an educated gentleman, and an honest man, and "learning that he will be an applicant for an appointment under your administration, with much pleasure and full

confidence I commend him to your favorable consideration."²

Davis also recommended Cooper to Stephen Adams, United States Senator from Aberdeen, Mississippi, on the same day. Davis informed Adams that for his services in Mexico the country owed Cooper "much which it can repay." Cooper, he said, "will be an applicant for an appointment under the incoming administration, and has Democracy, intelligence, patriotism and unyielding integrity to commend him. If there be a gate to which a Keeper is wanted who can neither be intimidated by force, nor corrupted by fraud, I speak of Cooper as I know him when I say he will answer for that post." Armed with two strong recommendations, Cooper returned to Mon Clova.³

In preparing to present himself in Washington, Cooper sold fifteen slaves for \$5,300 and borrowed against forty-four others on February 15. In April he was in Washington at the home of Pierre Soule on Pennsylvania Avenue "nearly opposite the National Hotel" when he received word that he had won an appointment. The Commissioner of Indian Affairs, George W. Manypenny, notified him that he had been appointed on April 18 by the President to be agent to the Choctaw Indians, replacing the present agent, William Wilson. The duration of his term was to be until the end of the next session of the Senate, which was to convene December 5, 1853. He met and obtained an interview with the Secretary of the Interior, Robert McClelland, the ex-governor of Michigan. Later, on April 25, he wrote to McClelland, explaining that he was still in Washington because he had learned that there were questions in dispute between the Choctaw and Chickasaw Indians and that "a few days spent here would be profitably employed in getting a thorough knowledge of those matters." He asked McClelland for his views on the dispute

between the Choctaw and Chickasaw nations and because his suspicions were aroused by reports, suggested that further disbursements by the agent from the Choctaw emigration fund be suspended until after he could succeed Wilson.⁴

Cooper told McClelland: "It would no doubt serve the views of certain parties to have as much delay as possible before the present agent is relieved. In fact, some enquiries have been made, as to when I expect to be at the Agency, and, what route I shall travel." He concluded with the observation that "I am, as you have been informed, very anxious to get off, but, am willing to remain as long as it is necessary to do so, being still more desirous to start right upon the duties of the agency to which the President has been pleased to appoint me." Cooper's letter was routinely referred to the Commissioner of Indian Affairs.⁵

When Cooper received his notice of appointment from Manypenny, he was instructed to take the oath of office and execute a bond in the penal sum of \$20,000 with two or more sureties "whose sufficiency must be attested by a District Judge or United States District Attorney." He was to file the oath of office and the bond at the Superintendency of Indian Affairs in Van Buren, Arkansas. There he was to receive instructions and through that office "all your correspondence with this office will be conducted," Manypenny explained. "The Superintendent will be instructed to require Mr. Wilson to turn over to you upon your executing a receipt, all money and other public property in his hands."⁶

It was to comply with these instructions that Cooper departed from Washington for Wilkinson County via the Ohio and Mississippi rivers. En route, at Cincinnati, Ohio, on April 30, he contacted Davis, revealing

the closeness of their friendship at this time and his thinking concerning Choctaw Indian agency problems. He brought to the attention of Davis two or three points "connected with the agency to which, through your kind exertions, I have been appointed." He suggested that the Superintendency of Indian Affairs at Van Buren was not necessary and that he, as Choctaw agent, could ex officio act as superintendent and save the cost of the second salary. In addition, the agent for the Choctaws could perform the duties of agent for the Chickasaws. The combined agencies would give the agent "greater influence with both tribes, which, if properly exerted would be conducive to an amicable settlement of the questions in dispute between the two tribes." He surmised that the troubles arising between the Choctaws and Chickasaws were being fomented by persons hoping to profit from their quarrels.

He was aware that these matters were not in Davis' charge, but he was concerned with the problems of emigration, such as how to identify the Choctaws remaining in Mississippi and how to keep the Choctaws who emigrated to stay in the Choctaw Nation west of Arkansas after they had been paid. He asked Davis to give him his views on these subjects "privately as a friend." Even though Davis was occupied with other business, he urged, "if you could think of it, and in such way as may seem best, impress your views upon the President and Secretary of the Interior I should feel greatly obliged."

Cooper expressed a degree of anxiety about retaining the confidence of the administration, noting that almost every man who came to him had "some private purpose to subserve" and that he was "extremely liable to be deceived." He earnestly promised: "I shall endeavor to guard against all efforts to entrap me...and to discharge my whole duty

to the government and to the people among whom I shall represent the government."

He concluded by explaining to Davis that Henry Latrobe, the son of John H. B. Latrobe and his first wife Margaret Stuart, would be approaching Davis for a recommendation. Henry Latrobe had studied law, but was seeking appointment to a consulate in Venezuela. Henry Latrobe was a Democrat "against the wishes of his mother's family, the Stuarts, who are you know highly respectable and influential Whigs and deserves credit," Cooper suggested, "for his independence."⁷

Davis sent Cooper's communication through the Department of the Interior to the Commissioner of Indian Affairs by May 7. Of the problems anticipated, the most immediate was the difficulty of preventing repetition of payments for emigration. Payments to sponsors of parties of emigrating Choctaws were temporarily suspended by the end of May.⁸

In the meantime, Cooper proceeded to Wilkinson County, then to New Orleans, spending May 10 and 11 on business there before returning to Woodville by May 15, when he repaid an overdue note to Cotesworth P. Smith through his trustee, Truxton Davidson. Patrick F. Keary, Cooper's friend since Jefferson College days, and Hardy H. Herbert, a wealthy resident of southern Wilkinson County, signed as sureties for Cooper's Office of Indian Affairs bond on May 17.⁹

On his recent trip to New Orleans, Cooper learned that attempts had been made to weaken Davis' influence in Pierce's cabinet. Davis' political enemies in Mississippi were circulating a rumor that he had attempted to have the Mississippi legislature return him to the United States Senate. In notifying Davis in Washington of this development, he also told of an attempt made to involve him as an Indian agent in

profiteering in slave trade between the Choctaw Nation and markets in Mississippi. Cooper thought he saw in this the work of his bitter political enemy, the ex-judge of the High Court of Errors and Appeals, J. S. B. Thacher. It was his opinion that Thacher would use such information, if it were forthcoming, to get Secretary of the Interior McClelland, a reformer, to dismiss him, as McClelland had done recently in another instance to which Cooper alluded.¹⁰

The Cooper family remained at Mon Clova while he completed the task of complying with the instructions and took up his duties at the Choctaw agency west of Fort Smith, Arkansas. At Vicksburg on May 23 he took the oath of office and his bond was approved by United States District Attorney Horatio J. Harris. The bond was accompanied by a certificate of William H. Brown, clerk, and Peter V. David, presiding judge of the Southern District of the State of Mississippi, certifying to the sufficiency of his bond. By May 25 he completed his preparation and departed from Vicksburg for Fort Smith and Van Buren, via the Mississippi and Arkansas rivers, where he filed the oath of office and bond with Thomas S. Drew, the Superintendent of Indian Affairs for the Southern Superintendency, upon his arrival on June 1. Drew, recently appointed to his position, had arrived on May 17 to succeed John Drennen, who prior to becoming superintendent was agent to the Choctaws from May 29, 1849, until Wilson replaced him on June 30, 1851. Cooper reported to the Choctaw agency at Skullyville, on the Arkansas River in the northeastern corner of the Choctaw Nation, on June 2 and completed the transfer of public money and property two days later.¹¹

The Choctaw Nation was bordered on the north by the Arkansas and South Canadian rivers, by the Red River on the south, by the Arkansas

state line on the east, and on the west by a line from the source of the South Canadian River and, according to the Treaty of 1830, "if in the limits of the United States, or to those limits, thence due south to Red River." The title to this land was held in fee simple by the nation as conveyed to them by the United States in the second article of the Treaty of 1830 as partial compensation for the lands east of the Mississippi, primarily in Mississippi, ceded to the United States. By a convention entered into by the Choctaws and Chickasaws in 1837, the western portion of this land was to be used by the Chickasaws and "held on the same terms that the Choctaws now hold it, except the right of disposing of it, which is held in common with the Choctaws and Chickasaws." This western portion was the Chickasaw District of the Choctaw Nation, and was represented on the Choctaw General Council equally with each of the three Choctaw districts, that is, Mosholatubbee in the north, Apukshunnubbee in the southeast, and Pushmataha in the southwest. The funds of each nation were controlled by their separate councils.¹²

The eastern boundary of the Chickasaw District, as it was described in the Convention of 1837, began "on the north bank of the Red River, at the mouth of Island Bayou, about eight or ten miles below the mouth of [the] False Washita [River], thence running north along the main channel of [Island Bayou] to its source." From that point the watershed or dividing ridge between the Washita River and the "Low Blue" River formed the boundary line up to the intersection with the Fort Gibson-Fort Washita road. The road then became the boundary line up to the line dividing the Mosholatubbee and Pushmataha districts. The boundary then followed the Mosholatubbee-Pushmataha district line eastward to the source of Brushy Creek and downstream or northward to where

Brushy Creek "flows into the Canadian River, ten or twelve miles above the mouth of the south fork of the Canadian." Definition of the line, while sufficient for the conditions existing in 1837, had become inadequate in the ensuing sixteen years and was one of the points of contention between the Choctaws and Chickasaws when Cooper first arrived at Skullyville as the Choctaw agent.¹³

The main settlements or towns, Cooper learned, were Doaksville and Eagletown in the southeastern part of the Choctaw Nation; Perryville, to the west and slightly south of Skullyville on the road from Fort Gibson southwest to Texas; and Boggy Depot, near the junction of the Fort Gibson road and Clear Boggy River, to the southwest of Perryville. The Chickasaw towns were generally located in the eastern part of their district. Rugglesville, sometimes called Hatisboro, was on the Washita River near Fort Washita. Upstream to the northwest was Tishomingo City. Other focal points for the Chickasaws were Pontotoc, Colbert, and Burney which were also in the eastern part of the Chickasaw District. The nearest military posts in the area were Fort Towson, near Doaksville; Fort Washita, near Hatisboro; and Fort Gibson, in the Cherokee Nation to the northwest of Fort Smith.¹⁴

Besides the major problem of the growing dissatisfaction among the Chickasaws with their condition within the Choctaw governmental system, Cooper was confronted with more immediate concerns. The money and valuable records of the agency were being kept in a fireproof safe that Wilson had purchased with his personal funds after having received a large amount of public money during the previous winter and having insufficient time to get the Department of the Interior to give prior approval of such a purchase. Wilson had not subsequently requested the Department of the Interior to give its approval and compensate him, so

Cooper recommended to Commissioner Manypenny that this be done and, in the meantime, he was placed in the awkward position of being obligated to the man he replaced.¹⁵

Another inconvenience for Cooper was the fact that Wilson did not submit all of the records of the agency. It was necessary for Wilson to close his accounts, that is, account for disbursements made since he last submitted his quarterly accounts for approval by the Office of Indian Affairs and the Second Auditor of the United States Treasury. Wilson retained possession of the records showing who had been paid for emigrating to the Choctaw Nation west of Arkansas. Also, he withheld the rolls pertaining to compensation for land that Choctaw families had held east of the Mississippi River or land for which the government had issued scrip in payment, one-half to be received after they had removed to the Choctaw Nation west of Arkansas. Almost one-half of the scrip due the Choctaws was never issued to them. Instead, the government "funded" it for them, that is, promised to pay the claimants five percent annually based on a value of \$1.25 per acre. These records on which the claimants had signed in receipt of payment, called "Receipted Rolls Funded Interest Scrip," were also kept by Wilson in order to compile his statement of accounts. After using them for this purpose, however, he retained them waiting for notification of the exceptions taken by the Office of Indian Affairs and the Second Auditor of the United States Treasury. It was not unusual that there should be items disallowed because of technicalities or incomplete information. The absence of these records from the agency, in the interim, handicapped Cooper in trying to ascertain those Choctaws who had been paid and those who still had legitimate claims against the government.¹⁶

A party of fifteen Choctaws recently immigrated from Mississippi

were waiting at the agency when Cooper arrived on June 2. He determined that at least two of the party had previously immigrated and had been paid, but informed Commissioner Manypenny that he wished to pay the remaining thirteen, provided they could prove their claim, because they had departed Mississippi before the temporary suspension of emigration payments. However, there were not enough funds to pay them. Cooper made several suggestions to the Commissioner regarding a policy which would prevent double payment of a claim against the government due to inadequate identification of the claimants or their heirs.¹⁷

Cooper also asked for approval of his change in furnishing subsistence to the newly arrived emigres. It was the prevailing practice, he said, to issue fresh beef for two, three, and even six weeks in summer, as well as winter. And if the commissary was of the opinion that the emigres planned to stay, a twelve months ration of beef on the hoof was issued. He made changes in this system, forbidding issuance of live beef and ordering the commissary to issue subsistence rations weekly, a four day supply of fresh beef and a three day ration of salt cured meat. This reduced the spoilage of meat and stopped the emigres from selling the live beef before returning to Mississippi.¹⁸

The problem of subsistence and emigration continued to be a part of Cooper's work as an agent for several years. An additional facet of his work sprang from the Choctaw participation on the side of the United States in the wars with England and her Indian allies. Choctaws and Chickasaws who served, for example, with Ferdinand Leigh Claiborne and the militia against the Creek Indians in 1813 were among those made eligible for bounty land. Claimants, either the veterans or their heirs, continued to file through Cooper's agency as part of the regular

business during his entire career as an agent. The bounty land warrants he helped secure for the Choctaws and Chickasaws numbered in the hundreds and sometimes required extensive research in Mississippi, Georgia, Tennessee, or Louisiana to substantiate.¹⁹

Wilson continued to make problems for Cooper as he began his career as an Indian agent. On July 5 Cooper reported a misunderstanding between them over the extent of the agency grounds. Wilson contended that a field which intervened between the agency buildings and the so-called "Agency landing" to the west on a bend in the Arkansas River was not a part of the agency grounds. The former agents had cultivated the field and Wilson, with the understanding that there was no reserve for the agency, thought he could dispose of the field to anyone he chose, namely his friend Edmund McKinny, issuing commissary at Skullyville. Cooper maintained that there was a reserve, citing an order dated April 13, 1833, from the War Department directing Major Francis W. Armstrong to lay off and mark a reserve for the agency. He asked Commissioner Manypenny on July 5 to forward a copy of Armstrong's report and map to him and, also, if the field and agency landing were not included originally, to be granted the authority to extend the agency reserve to include them. Cooper justified his recommendation on the ground that steamboats which stopped at the landing frequently furnished liquor to the Indians and that control of the landing and the land between it and the agency would help him enforce the law against this practice.²⁰

The replacement of former superintendent Drennen, agent Wilson, and lesser clerical help was not a completely peaceful transition. In July, George W. Clarke, the clerk in the superintendent's office in Van Buren was dismissed. He leveled a charge at the chief clerk in the

Office of Indian Affairs in Washington, Charles E. Mix, as he gave up his position. Clarke informed Commissioner Manypenny through the official mail on July 18, 1853, knowing it would pass through the chief clerk's hands, that he had "no desire to fill any station in a Department of Government where...Mix is kept in as the confidential and chief clerk, a man who has been guilty for several years of...affording facilities to speculators in their...frauds upon the Government and Indians." Clarke said that he intended to "expose and rebuke" Mix in the newspapers and left no doubt that he would search for any evidence that linked Mix and his friends with wrongdoing.²¹

Cooper was visited at the Choctaw agency, after having been at work about two months, by the surveying party directed to explore and mark the so-called Thirty-fifth Parallel route for a railroad to the Pacific Coast. The party, with its wagons, mules, and cattle herd, was under the command of First Lieutenant Amiel Weeks Whipple of the United States Army Corps of Topographical Engineers. Whipple, who graduated fifth in his class at the United States Military Academy in 1841, was an experienced surveyor who had engaged in surveying the northeastern boundary of the United States from 1844 to 1849 and the boundary between the United States and Mexico in the years prior to beginning the present expedition. The Whipple party was at Skullyville beginning its trek to California when an incident forced Cooper to act as judge in a dispute between Whipple, a white resident, and a Choctaw.

Whipple had purchased a cow and calf from John G. Ring, the owner of "Ring's Rancho," to add to the herd being driven by the surveying party. When ready to depart, Whipple recorded: "I was told an Indian woman claimed my best cow and calf bought of Mr. Ring and stood at the

gate not permitting the herders to drive her out. Mr. Ring I found at the spot. He said the cow was his--now mine--and to take her. The Indians persisted that she was theirs." Whipple, was was riding to take leave of Cooper when told of the trouble, submitted the question to him. Cooper ruled that the cow and calf should be left with the Choctaw woman and that Ring should refund Whipple's money. Cooper's decision, Whipple noted, was followed "to the annoyance of Mr. Ring and to the delight of the Indians who thus as I believe took away what honestly belonged to the White man." Cooper, by making such a decision, however, did not affect the changes of the surveying party's success and kept the object of contention between Ring and the Choctaw woman in the vicinity where an appeal could be made to his ruling.²²

In November, 1853, Cooper was called upon to defend his appointment as agent replacing Wilson. Lieutenant Whipple had implied that there was at least some objection to the removal of Wilson when he described Cooper as "a high minded and honorable gentleman...[who] bids fair to succeed his lamented predecessor in the deep affection of this people. The former agent...by devoting all the energy both of his body and mind to improve the condition of Choctaws, won their admiration, respect, and love. It was with extreme reluctance that they accepted anyone in his place." In October or early November, the Cotton Plant, a Washington, D.C., publication circulated among the Indians and claiming to be their especial friend, carried an article that brought Cooper to his own defense.²³

The article criticized the government with reference to the Choctaw agency, alleging "that removal of the Old 'Schoolmaster' and friend of the Indians [Wilson], to make way for a person 'whom nobody knows' in

opposition to the 'Protest' of the People...was exceedingly unacceptable." Cooper denied that the Choctaws had authorized any protest and explained the criticism as the work of one Choctaw who had gone to Washington under a completely unrelated authorization. To protect his reputation in Washington, he sent to the Office of Indian Affairs a copy of a resolution recently passed by the Choctaw General Council commending him for his efficient and frank manner when called upon for consultation.²⁴

There was a reason for Cooper's sensitivity about his appointment and tenure. He was assured of his position only until the adjournment of the United States Senate, which was to convene on December 5, 1853, a condition of his appointment causing him to be anxious to establish himself with Choctaw leaders, Chief Clerk Mix in the Office of Indian Affairs, Commissioner of Indian Affairs Manypenny, and Secretary of the Interior McClelland. If he neglected any of the hierarchy, it was the Superintendent of Indian Affairs at Van Buren. He repeatedly bypassed that office by writing directly to Manypenny and McClelland, contrary to his original instructions which were to conduct all of his official correspondence through the superintendent's office. These instructions were repeated when, on August 20, the commissioner noted that of eight letters from Cooper, four were referred from McClelland's office, three were sent directly to the commissioner, and only one had been sent via the superintendent's office. In justification of Cooper's reluctance to conform, the superintendent's office was not always able to make copies promptly, compose cover letters, and avoid confusing them with other agent's mail when forwarding them. Cooper was impatient with any cause for delay and realized that the chances for a reappointment were

to be based primarily upon his ability to deal promptly and satisfactorily with the problems of the Choctaws.²⁵

In September, 1853, Cooper had reported that Choctaw problems centered on emigration, education, liquor, and public health. Too many emigres were returning to their former homes east of the Mississippi River, too many Choctaws were not being educated because there was no system of common or neighborhood schools, and there was a serious shortage of trained millers, blacksmiths, and other artisans. Importation and sale of intoxicating liquors was carried on extensively despite the patrol efforts of each district's light-horse police. Although Cooper reported that the general health of the Choctaw people for the current season was good, he deplored the lack of "scientific physicians." On the disagreements between the Choctaws and Chickasaws arising from the Convention of 1837, he was hopeful that they would be settled satisfactorily in a meeting soon to be held by commissioners appointed by the two tribes.²⁶

The Chickasaws were agitating for a change before Cooper became the Choctaw agent and Andrew Jackson Smith, agent for the Chickasaws, indicated on April 25, 1853, that Sampson Folsom and Benjamin S. Love were among the most outspoken advocates for separation of the Chickasaws from the Choctaws. It was Smith's advice to Commissioner Manypenny that both tribes would "be better off" if this were done, both with regard to their governments and the land. By Article IV of the Convention of 1837 any disagreement over the construction to be placed on the terms of the convention which could not be settled by the two tribes was to be decided by the Choctaw agent and was subject to appeal to the President of the United States.²⁷

The Office of Indian Affairs concurred with Smith and, in late June, Acting Commissioner Mix instructed Cooper and Smith to cooperate in preserving the peace and promoting the prosperity of the two tribes. The Office of Indian Affairs and the Secretary of the Interior had no objection to a separation of the Choctaws and Chickasaws and expressed the opinion that "the independence of each would conduce to the happiness of both."²⁸

When the Chickasaw commissioners tried to reach an agreement with the Choctaw commissioners in a meeting held at Doaksville, Choctaw Nation, in early November, 1853, the Choctaws were unwilling to make commitments on any major points. The Choctaw commissioners were not aware that "any real cause for complaint" existed between their nation and the Chickasaws, but as there seemed to be some dissatisfaction they assured the Chickasaw commissioners they would communicate "in the same spirit of friendship and brotherly love which prompted our people first to receive the Chickasaws into our Nation as citizens." The Chickasaws made no progress toward separation at the meeting, however, as the Choctaws preferred the status quo and left settlement of any "material difference on any important point...to the authorities agreed on in the Compact of 1837," their agent. It was agreed that commissioners from the two tribes would meet again in May, 1854.²⁹

Cooper accepted the responsibility for trying to settle the questions referred to him under the stipulations of the Convention of 1837, including a clear definition of the eastern boundary of the Chickasaw District. He recommended to Manypenny that, as a preliminary step to settlement of the boundary question, the country along the route of the boundary between the Red and Canadian rivers be examined and charted by

a topographical engineer. Although the Choctaws did not favor recognition of the Chickasaw agitation for separate jurisdiction as a problem, Cooper hoped that this question could be brought to a final settlement through the combined efforts of Agent Smith, the commissioners of the two tribes, and himself.³⁰

Concurrently with the meeting of the commissioners, the Choctaw General Council had passed a resolution, on November 9, 1853, creating a delegation to be sent to Washington to institute "a claim upon the United States, for the pay and remuneration of the country which they ceded to the United States Government, east of the Mississippi River." The delegation, consisting of Peter P. Pitchlynn, Israel Folsom, Dixon W. Lewis, and Samuel Garland, was "clothed with full power to settle and dispose of by treaty, or otherwise, all and every claim and interest of the Choctaw people." The council also resolved that Cooper be requested to accompany the delegation to Washington "to aid them with his counsel and official influence."³¹

On November 30, 1853, Commissioner Manypenny added to Cooper's problems by inquiring on the possibility of the Choctaws allowing the Delaware and other tribes to settle within their national boundaries. The inquiry was delayed, due to Superintendent Drew's absence obtaining funds in New Orleans, and did not reach Cooper until January, 1854. In the meantime, Cooper asked Secretary of the Interior McClelland for permission to come to Washington sometime before the next meeting of the Choctaw and Chickasaw commissioners, which was scheduled for May, 1854, to consult with the Commissioner of Indian Affairs personally on the issue of separation of the two tribes and other Choctaw matters.³²

When Manypenny received notice on December 12, 1853, that the

Choctaws were sending a delegation to Washington, he suspended all action on his inquiry regarding settlement of other tribes on Choctaw land. On receipt of Cooper's letter on December 28, 1853, asking permission to come to Washington, Manypenny directed that Cooper do so "with the least delay consistent with the duties" of his office. Cooper, who was still at his agency on January 20, 1854, advised Manypenny that it may be possible for other tribes to be settled on Choctaw land, but that the Choctaws would never give up the title to any land that the colonizing tribes would use. On the same day, Superintendent Drew, who had returned from New Orleans, notified Manypenny that he "was informed by Agent Cooper that a Choctaw Delegation...had set out for Washington before your dispatch reached him. The object of their visit ...is foreign to the subject matter of your letter, and relates, I think, to a settlement under the indemnifying clause of the treaty of 1830."³³

Cooper reported to Drew on February 16, 1854, at Fort Smith, the superintendent's office having been relocated there the previous November, and then departed for his home in Mississippi en route to Washington. President Pierce had reappointed Cooper as agent for a four year term on February 8, but the formal notification from Commissioner Manypenny, dated March 6, arrived at the agency about the same time that Cooper departed from Mon Clova for Washington. Cooper's first transaction with the Office of Indian Affairs after his arrival there was on March 18 when he submitted his statement of receipts and disbursements of public money for the preceding January and February.³⁴

In March, the Chickasaws were preparing to send delegates to Washington, too. On March 6, Holmes Colbert was appointed by William Kemp,

principal chief, to replace delegate designate Sampson Folsom, who was unable to go to Washington at that time. Nine days later Kemp appointed Cyrus Harris to replace Jackson Frazier, who had resigned his place on the delegation. The delegation that appeared in Washington to comply with an act of the Chickasaw National Council of December 21, 1853, authorizing them to request that \$300,000 be withdrawn from their national fund, consisted of Holmes Colbert, Benjamin S. Love, Winchester Colbert, James T. Gaines, and Cyrus Harris. Their request of May 2 to Manypenny that \$300,000 be placed in the hands of Agent Smith and held subject to the order of the commissioners appointed to treat with the Choctaws for political separation was forwarded to Secretary McClelland with Manypenny's approval on May 11. The commissioner also recommended that the amount of \$25,000 be advanced, in compliance with the delegates' privately expressed wishes, presumably for use while they were still in Washington.³⁵

And so Cooper, the Choctaw delegation, and the Chickasaw delegation were all in Washington at the same time. He knew that the Choctaws wanted, as their main objective, to press their claim for remuneration for the land and other property given up in their removal west of the Mississippi River under the Choctaw Treaty of 1830, for which they had not already been compensated. The Chickasaws were in Washington to obtain funds with which they hoped to gain complete independence from the Choctaws, that is, recognition of their claim for title to the land in the Chickasaw District and political separation from the Choctaw government. A clear definition or a satisfactory redefinition of the Chickasaw eastern border was necessary to their purposes. The Commissioner of Indian Affairs and the Secretary of the Interior had yet a different objective. Their primary purpose was to negotiate

with the Choctaws for settlement of the Delaware and other tribes upon their land. The only objective held in common by any of the three parties was that advanced by the Chickasaws, and supported by the Department of the Interior, which sought political separation from the Choctaws.

Cooper, in Washington from March 18 through June 3, 1854, worked hard to promote the interests of the Choctaws and to alleviate the problems of his agency among them. He consulted with the delegates and added his support to their request for an additional force of Choctaw light-horse police. These would be funded by the Choctaws from money held by the federal government and placed under Cooper's direction to prevent introduction of intoxicating liquor. Cooper recommended that all the boundaries be either surveyed or resurveyed and marked with permanent monuments. In conjunction, he urged that a reconnaissance of the whole country be made, mapping topographical, mineralogical, and geological information. Before the end of March he also suggested that the agency be relocated, preferably at Fort Towson, in compliance with the wishes of the delegation.³⁶

After careful preparation he submitted, on April 8, a detailed plan whereby removal of Choctaws to their nation west of Arkansas could be resumed and they could be subsisted satisfactorily after removal. This was a major concern of his and he was gratified when less than a month later both Manypenny and McClelland approved his plan with only minor alterations. He was given the general superintendence of removal of the remaining Choctaws, at no increase in pay, and funds were made available for execution of the plan.³⁷

On April 18 he inquired of McClelland regarding a reserve of

Choctaw land for his use as agent. McClelland made an immediate and favorable response, directing Manypenny to "take the necessary steps to carry out the suggestion of agent Cooper." This success was tempered by the refusal of the Secretary of the Interior, on May 4, to approve of the Choctaw resolution releasing the "Trust fund due orphan claimants" and "Award due Choctaw claimants under Act of July 1852" account balances for application toward establishing a system of neighborhood or common schools. The decision was a disappointment to the Choctaws who shared Cooper's enthusiasm for education of the general public and thought they had found a way to finance it.³⁸

Cooper also conducted a considerable amount of routine agency business. After approval of his plan for removal and subsistence was granted, he hired an issuing commissary, William E. Gildart, and asked approval of his employment on May 12. Manypenny approved Gildart's contract, which was to begin on November 1, 1854, at a salary of \$45 per month. Cooper received \$2,500 on behalf of the delegation on May 19 and delivered their receipt to the Office of Indian Affairs on May 23. In the middle of the month, Cooper asked for \$750 as part of his salary, and another \$750 as contingent expenses for his agency. He also reminded the commissioner of the importance of making the quarterly payments for the benefit of the Choctaw schools. He was allowed the advance on his salary and the contingency fund, but Manypenny did not remit the funds for the schools and postponed consideration.³⁹

In the meantime, events were happening which were to involve Cooper in the initial phase of the so-called Net Proceeds Claim. On April 5, the Choctaw delegation offered a proposal to Manypenny whereby all outstanding claims by the Choctaws against the government of the

United States could be settled. Manypenny reported the proposal favorably to the Secretary of the Interior, approving their recommendation that Cooper be assigned the task of conferring with the Choctaw delegation and conducting the investigative work necessary to determine the character and extent of the Choctaw claims. Cooper was also to suggest what arrangement may be required to make the settlement. Cooper was informed of Secretary McClelland's concurrence and given his instructions on April 20.⁴⁰

During the following weeks in Washington, while attending to the duties of his agency, he also made an attempt to investigate the Choctaw claims. The basis of their claims was the Treaty of 1830 and, specifically, Article 18. By its terms, the land ceded to the United States was to remain a fund pledged to the payment of the several amounts secured by the Choctaws according to the terms of the treaty. The benefits had not been paid to the Choctaws in their entirety, but determination of the deficiency and the claimants was a task which would be exceedingly difficult. To simplify the matter, the Choctaw delegation urged that the net proceeds accruing to the United States as a result of sale of the land be awarded to the Choctaw Nation and it in turn would accept responsibility for settling with the individual Choctaw claimants.⁴¹

On May 25, Cooper reported to Manypenny that the Choctaw claims amounted to \$2,380,701 in a statement which he admitted was inaccurate because of the short time allowed to do the investigating and the press of regular duties as the Choctaw agent. He could not vouch for the amounts given him by the delegates and from other sources as the damages and losses resulting from the hurried removal of the Choctaws. Other

information was not compiled for him by the United States General Land Office, a fact which compounded the problem of determining with accuracy the extent of legitimate Choctaw claims. He expressed some skepticism about the validity of the Choctaw construction placed upon Article 18 of the Treaty of 1830 in that he doubted any legal claim to the net proceeds of the land sale, in the strictest sense. In a moral sense, he felt that there was an obligation on the part of government to make a fair and reasonable settlement with the Choctaws. Although he thought his statement of the extent of the claim was not an accurate and satisfactory account, he hoped that it would enable the commissioner to understand the "nature" of the claim and to "institute such investigation as will lead to a just and proper conclusion on the part of the Government."⁴² Manypenny forwarded Cooper's report to Secretary of the Interior McClelland on May 31.

McClelland did not act favorably on the report. That is, he did not recommend further investigation with a view to determining an amount to be appropriated for settlement. Instead, he informed the Office of Indian Affairs that the Choctaws had no legitimate claim against the government on the basis argued in Cooper's report. In his opinion, the Choctaws had, by Article 3 of the Treaty of 1830, made an unqualified cession to the United States of their land in Mississippi. McClelland explained further: "The provision in Article 18 is nothing more than a pledge of the lands for the payment of the several annuities secured by the Treaty." If the annuities had not been paid, Manypenny should "let Congress or one of the Houses make a call upon the Indian Office and the Second Auditor

for the necessary statements and reports."⁴³

McClelland's refusal did not mean the end of Choctaw hopes for recognition of their claim, but the failure to win a quick settlement was disappointing to the Choctaw delegates and the legal counsel that they had retained. Their principal counsellor, Albert Pike of Little Rock, Arkansas, had signed a contract with Peter P. Pitchlynn and the Choctaw delegation on March 13, 1854, to prosecute their claim. Pike's fee was contingent upon the amount of settlement, of which he was to receive twenty-five percent. Pitchlynn, in a private demand, exacted a rebate of one-fifth of any fee Pike may receive. Pike induced John T. Cochrane, a Washington claim agent and former chief clerk in the Office of Indian Affairs, to aid him in exchange for another fifth of his contingency fee. When the commissioner and the Secretary of the Interior appeared sympathetic to the Choctaw proposal and to the Choctaw delegation's broad hint to have Cooper investigate and report upon the extent and nature of their claim, Pike returned to Arkansas feeling confident that there would be early recognition and settlement of the claim. After the negative response by McClelland, Cochrane began to work for recognition of the Choctaw claim through Congress. Cooper had become well acquainted with Cochrane, especially after Pike's departure, when preparing his report in late April and prior to its presentation on May 25.⁴⁴

Near the end of his first official visit to Washington, Cooper asked the Choctaw delegation when it would be most convenient to resume meetings with Chickasaw commissioners on the questions of the eastern Chickasaw boundary and separation of the Chickasaw Nation. On June 2, Pitchlynn and Garland guardedly replied that the second Monday in

October would be the most suitable time to dispose of the question "touching the privilege they desire of legislating for themselves within the Chickasaw District of the Choctaw Nation." The next day when Cooper forwarded this letter to Manypenny, he told of his expectation that the boundary line "between the Chickasaw and the other districts of the Choctaw Nation" would be run if it were possible to survey one that fulfilled all the conditions of the line described in the Convention of 1837. If such a line could not be surveyed, sufficient topographical information would be available to the commissioners to enable them to agree upon a satisfactory line. He based his expectation on a favorable response to his request for the use of a topographical engineer "or, that authority be granted for the employment of a competent person to assist me in running the line." Cooper was authorized by Manypenny on June 8 to use an army officer from Fort Washita, southeast of Tishomingo near the disputed boundary, or to employ a competent person within the Choctaw Nation.⁴⁵

But Cooper was already on his way to Mississippi when the authorization was given. He was involved in overseeing a party of Choctaws preparing to emigrate to their nation west of Arkansas. In his added capacity as superintendent for removal, the details of his new plan had to be implemented under his direction and he chose to do it personally. In the course of those duties he made a trip to New Orleans and on his return passed through Wilkinson County, where he visited briefly with his family at Mon Clova. On his arrival at the agency at Skullyville on July 15, he found in his waiting mail the welcome authorization to hire a surveyor. Camped about the agency were several unexpected emigrants awaiting subsistence, for which he made arrangements. The next several

days were spent in preparation to receive the emigrant party that he had recently organized in Mississippi.⁴⁶

Once these urgent demands were met, he complied with an order of June 3, 1854, given him upon his departure from Washington, to relocate the Choctaw agency near Doaksville at Fort Towson. A company of the Seventh Infantry Regiment stationed at Fort Towson had been ordered on April 7 to join the garrison at Fort Arbuckle, a military post located west and slightly north of the Chickasaw town of Tishomingo on a tributary of the Washita River. The United States Department of War had abandoned Fort Towson and turned it over to the Department of the Interior. The Choctaw delegation requested that the Choctaw agency be relocated at the abandoned military post and Commissioner Manypenny's order to Cooper was in compliance with the delegation's wishes. He was to place the agency at Skullyville in the custody of a Choctaw tenant and reserve the right, should he need to do business there, to take up temporary quarters at the former agency. The tenant allowed to use the agency was a prominent Choctaw and good friend of Cooper, Tandy Walker, who had been a member of the lower house of the Choctaw General Council for several years.⁴⁷

On September 14, 1854, when Cooper arrived at Fort Towson with the agency property and records, he saw why he had been ordered to stop spending government funds for repair of the agency at Skullyville and was advised to use them, if necessary, at Fort Towson. A windstorm had swept through the buildings of Fort Towson on May 28 and much of the damage was still evident. Four days after his arrival at Fort Towson, Cooper strongly recommended to the Office of Indian Affairs that the boundary of the agency reserve be made to coincide with the boundary of

the abandoned military reserve in order to prevent disputes from arising over who would be allowed to occupy the unused buildings. No matter how the agency reserve would be bounded, he stated, it would be impossible to conduct farming operations and "without the privilege of raising corn and stock, no one who has a family to support can live in this country, where supplies are enormously high, upon a salary of \$1500 per annum."⁴⁸

In the meantime, Cooper had employed a civil engineer, R. L. Hunter, whose professional experience included surveying the route of the railroad from Little Rock to Fort Smith, to do a reconnaissance of the disputed eastern Chickasaw border area for a fee of \$1,000. Hunter and his party began at the northern end of the line, on the South Canadian River, in September and completed the field work and mapping in time for the Choctaw and Chickasaw commissioners to use the information in their meetings that began at Doaksville on October 16. Moving the start of the meetings from the second Monday to the third was for the convenience of the commissioners and was not due to any delay in completing the map of the border area.⁴⁹

As to the early progress of the meetings, Cooper and Smith, the Chickasaw agent, were not optimistic that an agreement would be reached on the basis of what they observed during the first three days. Their reports to Drew, who was not in attendance at Doaksville, influenced the superintendent to emphasize to Manypenny that the difficulty was not in how the Convention of 1837 was being interpreted, but in the character of the convention "and its unfavorable operations prejudicial to the interests of the Chickasaws." Anything less than separate jurisdiction for the Chickasaws would not, in his judgment, alleviate the

problem, and to bring about political separation would necessitate the negotiation of a new treaty between the United States and the two tribes.⁵⁰

The Chickasaws were unable to attain political separation in the Doaksville meetings, but by November 4, 1854, the details regarding the eastern Chickasaw boundary had been agreed upon by both tribes. The line as described in the Convention of 1837 from Red River up to the source of the east branch of the stream known as Island Bayou was retained in the new agreement. From that point, the line was to run due north to the South Canadian River. Confusing references to old roads and "Brushy Creek" were omitted. A provision was included to ensure that Allen's or Wapanucka Academy remained in the Chickasaw District, at least two miles from the boundary, even if an offset had to be made in the north-south line. The new boundary was to be surveyed and permanently marked before August 1, 1855, at Chickasaw expense.⁵¹

Shortly thereafter the Choctaw General Council passed a resolution to retain the delegation in Washington and authorized them to "continue to press to final settlement all claims and unsettled business of the Choctaws" with the government of the United States. By the same resolution, the Choctaws asked that Cooper be authorized to go to Washington to aid them. On November 16, Cooper transmitted the resolution to Manypenny and requested clearance to come to Washington, not just for the purpose stated in the Choctaw resolution but because both tribes would be represented at Washington. "And the Choctaws," he confided, "express to me privately an earnest desire that I should go on and aid in placing their relations with the Government and Chickasaws on a satisfactory and permanent basis." Since it was his opinion that the

question of Chickasaw jurisdiction over a separate district, and other major differences, could only be settled by the government of the United States, he felt he could "render both the Choctaws and Chickasaws as well as my Government important service by being at Washington this winter."⁵²

As 1854 came to an end, Cooper was having personal financial problems. In the second week in December he made a hurried trip to Wilkinson County in a vain attempt to prevent the forced sale of nineteen of his slaves. But legal action by nine creditors led to a sheriff's auction of these slaves at the courthouse door in Woodville on December 12. Although it meant that he would continue to neglect his personal interests as a planter in Wilkinson County, Cooper received authorization in December to come to Washington for negotiations with the Choctaw and Chickasaw delegations. After packing the necessary records at the agency in early January, 1855, he departed on his second official trip to Washington and arrived there the first week in February, ready to participate in the second round of negotiations.⁵³

The first eighteen months of Cooper's career as an Indian agent reveals the many details which were a necessary part of his work. The impediments placed in his way by the outgoing Choctaw agent, Wilson, whether they were purposely done or were only incidental to the cumbersome system, made the task more difficult. When his first appointment was given for an unusually short term, he was frustrated by the delays at the superintendent's office and tried doubly hard to succeed by often ignoring administrative channels. His direct correspondence with Secretary of the Interior McClelland, Secretary of War Davis, and Commissioner of Indian Affairs Manypenny reflects an eagerness to overcome

the inertia inherent in the system in use at that time for handling Indian affairs.

The fact that there was potent agitation among the Chickasaws for separation from the Choctaws added to his responsibilities since, by the Convention of 1837, he was the first level of appeal on disputes between the two tribes arising from that agreement. Such points of disagreement as the eastern boundary of the Chickasaw District, or any other causes of Chickasaw discontent with the conditions imposed by the Convention of 1837, placed Cooper in a somewhat impossible situation. Since the real aim of Chickasaw agitation was to alter or dispense with the 1837 agreement, even when Cooper was able to promote settlement of the boundary location there were other points of Chickasaw dissatisfaction. The energy and determination which he demonstrated in pushing for a topographical survey that made agreement on a new and satisfactory boundary line possible was uncommon among Indian agents.

The willingness with which he accepted the additional responsibility as superintendent of removal, at no additional pay, is evidence of his strong desire that the Indian service be altered to deal more effectively with the problems of emigration. His early suggestion that one agent, presumably himself, serve both the Choctaws and Chickasaws, although not implemented up to this time, was another expression of his desire to provide the most effective service possible.

In less than two years, Cooper made the transition from being a Mississippi planter, not too successful in state and local politics, to becoming an energetic and dedicated Indian agent. He was not forced to work among wild tribes nor to live under conditions as primitive as some of the agents. Instead, although the Choctaws were near the frontier

they were sufficiently advanced in the ways of Western civilization to make the conduct of their affairs complex, technical, and diplomatically difficult.

Work as an agent among the Choctaws appears to have attracted Cooper as nothing else had. In general, his correspondence during this period gave no hint of regret that he had not followed a military career or that he had abandoned aspirations for elective political office in Mississippi. The technical and legal aspects of the agency work, and the opportunities afforded by his position to perform a worthy service to the government and to the Choctaws, appear to have submerged his earlier ambitions and provided a satisfactory outlet for his humanitarian propensities. It is quite likely that he was less interested in the management of Mon Clova than he was in continuing his work as Choctaw agent, especially the approaching negotiations in Washington in 1855.

FOOTNOTES

¹McLemore, ed., A History of Mississippi, Vol. I, pp. 305-306; Roy F. Nichols, Franklin Pierce: Young Hickory of the Granite Hills (2nd ed., Philadelphia: University of Pennsylvania Press, 1958), pp. 97, 237; Strode, Jefferson Davis: American Patriot, 1808-1861, pp. 245-251.

²Jefferson Davis to Franklin Pierce, February 3, 1853, Office of Secretary of the Interior, Record Group 48, National Archives.

³Jefferson Davis to Stephen Adams, February 3, 1853, ibid.

⁴Deed Record Book Q, pp. 232-233, 463, Wilkinson County Chancery Court, Woodville, Mississippi; Manypenny to Cooper, April 23, 1853, Letters Sent, H. R. Clunn to C. Delano, May 1, 1873, and Cooper to McClelland, April 25, 1853, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁵Ibid.

⁶Manypenny to Cooper, April 23, 1853, Letters Sent, ibid.

⁷Letters Received, Choctaw Agency, ibid.

⁸Charles E. Mix to David T. Dozier, October 31, 1853, Letters Sent, ibid.

⁹"Gen. D. H. Cooper," Woodville Republican, May 10, 1853, p. 2; Cooper to Jefferson Davis, May 11, 1853, Miscellaneous Manuscripts, Frances Carrick Thomas Library, Transylvania University, Lexington, Kentucky; Deed Record Book O, p. 431, Wilkinson County Chancery Court; Clunn to Delano, May 1, 1873, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹⁰Cooper to Jefferson Davis, May 11, 1853, Miscellaneous Manuscripts, Frances Carrick Thomas Library, Transylvania University.

¹¹Cooper to Manypenny, May 24, 1853, Drew to Manypenny, June 7, and May 18, 1853, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives; LeRoy H. Fischer, ed., "United States Indian Agents to the Five Civilized Tribes," Chronicles of Oklahoma, Vol. L, No. 4 (Winter, 1972), p. 412; Cooper to Manypenny, June 6, 1853, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹²"Treaty with the Choctaw, 1830," Charles J. Kappler, comp. and

ed., Indian Affairs: Laws and Treaties (3 vols., Washington: Government Printing Office, 1904-1913), Vol. II, p. 311; "Choctaws and Chickasaws, Articles of Convention, 1837," Constitution, Laws and Treaties of the Chickasaws (Sedalia, Missouri: Sedalia Democrat Company, 1878), pp. 183-186.

¹³ Ibid.; A. J. Smith to Manypenny, April 25, 1853, Letters Received, Chickasaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹⁴ Angie Debo, The Rise and Fall of the Choctaw Republic (2nd ed., Norman: University of Oklahoma Press, 1961), p. 59; Arrell M. Gibson, The Chickasaws (Norman: University of Oklahoma Press, 1971), p. 225.

¹⁵ Cooper to Manypenny, June 6, 1853, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹⁶ Cooper to Manypenny, June 11, 1853, Cooper to William Wilson, June 11, 1853, Letters Received, Choctaw Agency, ibid. Cooper was still trying to get the rolls at the end of the year, Cooper to Drew, December 15 and 25, 1853, Letters Received, Choctaw Agency, ibid.

¹⁷ Cooper to McClelland, June 10, 1853, Cooper to Manypenny, June 11 and 15, 1853, Letters Received, Choctaw Agency, ibid.

¹⁸ Cooper to Manypenny, June 11, 1853, Letters Received, Choctaw Agency, ibid.

¹⁹ For example, Cooper to Manypenny, May 5, 1856, Letters Received, Choctaw Agency, and Manypenny to Cooper, May 21, 1856, Letters Sent, ibid.

²⁰ Cooper to Manypenny, July 5, 1853, A. H. Rutherford to Manypenny, January 3, 1854, Letters Received, Choctaw Agency, ibid.

²¹ Clarke to Manypenny, July 18, 1853, Letters Received, Southern Superintendency, ibid.

²² Whipple, notes of August 4, 1853, "Journal," Amiel W. Whipple Collection, Oklahoma Historical Society Library, Oklahoma City, Oklahoma; N. P. Ring to F. M. Bristow, February 17, 1855, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

²³ Whipple, notes of August 4, 1853, "Journal," Amiel W. Whipple Collection, Oklahoma Historical Society Library; Cooper to Manypenny, November 23, 1853, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

²⁴ Ibid., enclosing resolution dated November 16, 1853.

²⁵ Manypenny to Cooper, August 20, 1853, Mix to Cooper, August 23,

1853, Letters Sent, Drew to Manypenny, September 26, 1853, Letters Received, Chickasaw Agency, ibid.

²⁶Cooper to Drew, September 3, 1853, Letters Received, Choctaw Agency, ibid.

²⁷A. J. Smith to Manypenny, April 25, 1853, Letters Received, Chickasaw Agency, ibid.

²⁸Mix to Cooper and Smith, June 29, 1853, Letters Sent, ibid.

²⁹Cooper to Manypenny, December 10, 1853, with enclosures, Cooper to McClelland, n.d., extract by chief clerk George C. Whiting, Department of the Interior, to Commissioner of Indian Affairs, December 28, 1853, Letters Received, Choctaw Agency, ibid. The meeting scheduled for May, 1854, was postponed to October 9 and rescheduled for October 16, 1854, Mix to Cooper, August 18, 1854, Letters Sent, ibid.

³⁰Cooper to Manypenny, December 10, 1853, Letters Received, Choctaw Agency, ibid.

³¹Joseph P. Folsom, ed., Constitution and Laws of the Choctaw Nation (New York: Wm. P. Lyon and Son, 1869), pp. 123-125.

³²Manypenny to Drew, November 30, 1853, Letters Sent, Cooper to McClelland, n.d., extract by chief clerk George C. Whiting, Department of the Interior, to Commissioner of Indian Affairs, December 28, 1853, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

³³Manypenny to Drew, December 12, 1853, Manypenny to Cooper, December 30, 1853, Letters Sent, Cooper to Manypenny, January 20, 1854, Drew to Manypenny, January 20, 1854, Letters Received, Choctaw Agency, ibid.

³⁴Drew to Manypenny, February 16, 1854, Letters Received, Southern Superintendency, Clunn to Delano, May 1, 1873, Letters Received, Choctaw Agency, Manypenny to Cooper, March 6, 1854, Letters Sent, ibid.

³⁵Kemp to Holmes Colbert, March 6, 1854, Kemp to Cyrus Harris, March 15, 1854, Chickasaw Commissioners to Manypenny, May 2, 1854, Manypenny to McClelland, May 11, 1854, Letters Received, Chickasaw Agency, ibid.

³⁶Cooper to Manypenny, March 26, March 30, March 31, 1854, Letters Received, Choctaw Agency, ibid.

³⁷Cooper to Manypenny, April 8, 1854, Letters Received, Choctaw Agency, Manypenny to Cooper, May 4, 1854, Letters Sent, ibid.

³⁸Cooper to McClelland, April 18, 1854, and endorsement, Letters Received, Choctaw Agency, Manypenny to Cooper, May 4, 1854, Letters Sent, ibid.

³⁹Cooper to Manypenny, May 12, 1854, Letters Received, Choctaw Agency, Manypenny to Cooper, May 19, 1854, Letters Sent, Cooper to Manypenny, May 15, 1854, Letters Received, Choctaw Agency, Manypenny to Cooper, May 20, 1854, Letters Sent, ibid.

⁴⁰Choctaw Delegation to Manypenny, April 5, 1854, Manypenny to McClelland, April 13, 1854 (Copy enclosed in Cooper's report to Manypenny, dated May 25, 1854), McClelland to Commissioner of Indian Affairs, April 15, 1854, Letters Received, Choctaw Agency, Manypenny to Cooper, April 20, 1854, Letters Sent, ibid.

⁴¹Choctaw Delegation to Cooper, May 1, 1854, Letters Received, Choctaw Agency, ibid.

⁴²Cooper to Manypenny, May 25, 1854, see enclosures and endorsement, Letters Received, Choctaw Agency, ibid.

⁴³McClelland to Mix, June 20, 1854, Letters Received, Choctaw Agency, ibid.

⁴⁴Harry N. Stull, reporter, Cases Decided in the Court of Claims of the United States, 1923-1924 (Washington: Government Printing Office, 1925), Vol. LIX, pp. 769-770; Cooper, Address and Memorial by Douglas H. Cooper to the General Council of the Choctaw Nation Assembled (Boggy Depot, Choctaw Nation: Vindicator Print, 1873), [pp. 8-9].

⁴⁵Pitchlynn and Garland to Cooper, June 2, 1854, Cooper to Manypenny, June 3, 1854, Letters Received, Choctaw Agency, Manypenny to Cooper, June 8, 1854, Letters Sent, Office of Indian Affairs, Record Group 75, National Archives.

⁴⁶Cooper to Mix, July 18, 1854, Letters Received, Choctaw Agency, ibid.; "Gen. D. H. Cooper," Woodville Republican, September 5, 1854, p. 2.

⁴⁷Manypenny to Cooper, June 3, 1854, Letters Sent, Cooper to Manypenny, September 14, 1854, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁴⁸Ibid.; Captain Daniel P. Whiting to Colonel Samuel Cooper, June 2, 1854, Cooper to Manypenny, September 18, 1854, Letters Received, Choctaw Agency, ibid.

⁴⁹Cooper to Manypenny, September 14, 1854, R. L. Hunter to Cooper, October 11, 1854, Letters Received, Choctaw Agency, ibid.

⁵⁰Drew to Manypenny, October 23, 1854, Letters Received, Southern Superintendency, ibid.

⁵¹"Treaty with the Choctaw and Chickasaw, 1854," Kappler, comp. and ed., Indian Affairs: Laws and Treaties, Vol. II, p. 653.

⁵²Cooper to Manypenny, November 16, 1854, enclosing Choctaw resolution dated November 10, 1854, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁵³"Sheriff's Sale," Woodville Republican, December 12, 1854, p. 1; Manypenny to Cooper, December 6, 1854, Letters Sent, Cooper to Manypenny, December 28, 1854, and January 17, 1855, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

CHAPTER VI

AS CHOCTAW-CHICKASAW INDIAN AGENT

From the time of his arrival at Washington in February, 1855, until the Civil War disrupted his work in March, 1861, Cooper was the United States Indian agent to both the Choctaw and Chickasaw nations. In the negotiations that led to the signing of the Choctaw and Chickasaw Treaty of June 22, 1855, and during its ratification by both tribes, he acted as the de facto dual agent. It was not until March 11, 1856, that President Pierce assigned to him the official charge of the Chickasaws. Consequently, he made bond for an additional \$20,000 by obtaining the signatures of four sureties in the Woodville-New Orleans area to bring his total penal bond coverage to \$70,000 in two bonds. Reappointed by President James Buchanan in 1858, he submitted a single bond for the same amount on April 20 with five sureties. They were James A. Ventress, Joseph Johnson, Samuel H. Stockett, Leonard K. Barber, and Hardy H. Herbert, all residents of Wilkinson County, Mississippi, except Herbert who was a former resident then living in New Orleans. Cooper's annual salary of \$1,500 remained fixed despite the fact that he was subjected to extra demands upon him from the Chickasaws.¹

Dismissal of Chickasaw Agent Smith and the combining of the two agencies transpired over an extended period. As early as October 5, 1854, prominent Chickasaw leaders Cyrus Harris, James Gamble, Sampson Folsom, Jackson Frazier, and Dougherty Colbert demanded on behalf of the

national interests that Smith be speedily removed. Their agent since September 1, 1852, Smith was criticized as unworthy of imitation and "greatly wanting in energy and efficiency." Living with his wife and family at the agency, Smith was specifically accused of gambling in cards and horse racing and "an attempt to [seduce] the daughter of one of the most respectable natives." If Smith were removed, they favored at this time replacing him with William R. Guy, their good friend of many years who resided at Boggy Depot among the Choctaws. The demand for removal, directed to the President, was delivered to the Office of Indian Affairs by United States Senator Stephen Adams of Mississippi on December 6, 1854. During the ensuing months Smith was less effective, whether guilty or not, because of the Chickasaw rejection. At the same time, which was during the negotiations in Washington, Cooper was placed in an advantageous position because of the clause in the Convention of 1837 that made the Choctaw agent the first level of appeal in Choctaw-Chickasaw relations.²

Accordingly, on April 13, 1855, Commissioner Manypenny gave Cooper verbal instructions, supplementing written ones of April 9, to confer with the Choctaw and Chickasaw delegations about the main points of negotiation. Manypenny wanted to know upon what terms they would settle with regard to Choctaw claims against the federal government, Chickasaw differences with the Choctaws, and permanent settlement of the Wichita and other tribes within the Choctaw Nation. Cooper held a conference with the Choctaws and then with the Chickasaws. The Choctaws reaffirmed their position that if there were differences between them and the Chickasaws that required adjustment, they would welcome a statement from the federal government as to what those differences were and what they

wished done. Their purpose in coming to Washington, they reiterated, was to obtain a settlement of their claims against the United States, but if the three points were placed "in a satisfactory train of negotiation" they would be willing to enter upon such negotiations. The Chickasaws had no tribal interest in Choctaw claims except that they hoped for a fair settlement which would "open the door" for an arrangement whereby they could secure their independence from the Choctaw government. As for the permanent use of Choctaw land by the Wichita and other tribes, they were willing to consider, along with the Choctaws, any "fair, just, and safe" proposal made by the United States.³

Cooper reported this information to Manypenny and the negotiations began to take shape. Article by article, the rough draft of the treaty emerged. But by June 12, although most of the points were agreed upon, the negotiations were floundering. Manypenny would not agree to the wording of the article controlling what tribes could be permanently settled within the Choctaw Nation west of 98° west longitude. Cooper, who knew that the Choctaws had a strong claim to the land beyond the eastern border of the Texas panhandle, bargained for an additional \$200,000 in exchange for a Choctaw and Chickasaw quitclaim to the land within the Texas panhandle. This tract of land was located between the Red and South Canadian rivers with its western limit being about 103° west longitude and its eastern was at 100° west longitude, placing this area to the west of the Choctaw land which the federal government wanted to lease. Manypenny, who had previously proposed to offer \$600,000 for the "lease district," told Cooper that he would offer \$800,000 for the lease and the quitclaim. However, he would have to have his amendment accepted in the article controlling what tribes could be settled in the

district. This was one of the points upon which the Choctaw and Chickasaw delegates could not get Manypenny to yield.

There was disagreement also on the article that proposed submission of the Choctaw claims to the United States Senate. The article was so structured that it bound the Choctaws unconditionally to accept whatever award the Senate may make in full satisfaction of all the Choctaw claims in question. Manypenny stated that the article was Cooper's proposition, but Cooper denied it on June 19 to the Secretary of the Interior. He maintained that he had inserted it only in deference to Manypenny's expressed wish, and had stated that such was the case in the presence of Peter Pitchlynn and Sampson Folsom when the article was being drafted. In explaining his position to McClelland, Cooper stated: "I have not, at any time, thought it right, to compel the Choctaw Nation to assume and pay the individual claims against the United States, unless a sum sufficient for the purpose were specifically awarded by the Senate." Manypenny held firm that the award should be final and conclusive, rejecting Choctaw demands for a qualified submission to the Senate. He told the Choctaw delegates: "I...shall extremely regret, if by your persistence, that which is so desirable and seemed so likely at one time to be accomplished, should fail."⁴

Manypenny informed Cooper, his intermediary, that the negotiations were at an end unless the Choctaw delegation were to yield. At this point Cooper called once more upon Jefferson Davis for help. He prevailed upon Davis to go to President Pierce to break the stalemate, or as Cooper stated it, "represent the injustice of Mr. Manypenny's ultimatum." Pierce went to the Department of the Interior and conferred with McClelland. Within a short time, Manypenny's ultimatum was

withdrawn and the terms of the treaty completed. The sum of \$800,000 was to be paid for the lease and quitclaim. Restrictions on the settlement of the Wichita and other tribes were to be in accordance with the limitations desired by the Choctaw and Chickasaw delegations. However, the treaty as signed on June 22, 1855, provided for submission of the Choctaw claims question to the Senate for adjudication and a final decision. McClelland remarked to Cooper at this time that he had not only saved the treaty, but \$200,000 for the Choctaws, and that they ought to reward Cooper, not as their agent, but as their friend. Later, when the legal counsel received their fees, an appreciative John T. Cochrane surreptitiously paid from his fee "certain sums of money" for Cooper's "wife and friends, who could accept the same without a violation of law."⁵

The extent of Cooper's influence was evident to the Chickasaw delegates. They had gained their objective, political separation from the Choctaws, through the treaty and Cooper had not been "wanting in energy and efficiency" in pushing the negotiations through to a successful end. One of the stipulations of the treaty called for one agent to serve both nations and there was little doubt among the Chickasaw delegates that Cooper would be much more effective than their earlier preference, William R. Guy. It was not until December 10, 1855, however, that Agent Smith received notice of his dismissal and that he was to turn over to Cooper the public funds and property of the Chickasaw agency.⁶

Soon after the signing of the treaty of 1855, Cooper went to the Sub-Treasury in New Orleans before returning to Mon Clova for a short visit with his family. Due to the dry weather and the unprecedented low stage of the water in the rivers, he had to cut short his stay at home

in order to travel the much slower land route from Natchez to Fort Towson. He carried with him a large supply of currency with which to make the annuity payments per capita. These were back payments of annuities, so-called "arrearages" due the Choctaws. Upon his arrival at the agency on August 7, he found that opposition to ratification of the treaty was being fomented in certain quarters. "If there is any serious difficulty in the way," he said, "it is the work of certain 'Headmen' for selfish purposes." The Choctaw General Council, scheduled to meet in November in a regular session, was sure to consider ratification of the treaty. For five weeks prior to the convening of the Choctaw General Council, Cooper extolled the advantages of the new arrangements under the pending treaty as he distributed the arrearages in cash to almost every Choctaw in the nation.⁷

Opposition to ratification was not limited, as Cooper had supposed, to selfish "Headmen," for wealthy Robert M. Jones and other influential Choctaws objected to granting the Chickasaws separate jurisdiction for the mere submission of Choctaw claims to the Senate. The delegates returned from Washington and, in conjunction with Cooper's efforts, secured ratification by the Choctaw General Council on November 16.⁸

Meanwhile, the Chickasaw General Council in session at Tishomingo ratified the treaty on October 3, but with an amendment to the nineteenth article which would provide tribal commissioners to witness certain boundary surveys. Apparently Cooper was not aware of the amendment and ratification by the Chickasaws when on November 19 he reported: "I have every reason to believe that the Chickasaw Council--which adjourned to meet so soon as the action of the Choctaw Council should be

known touching the Treaty--will also ratify said convention." Becoming more concerned upon learning of the amendment, Cooper, who was at the Chickasaw agency on December 10 to receipt for the funds and property consigned to his care, went to the Chickasaw Council House in Tishomingo. He confidently gave strong personal assurances to the Chickasaw Council that if the amendment were cancelled their wishes regarding commissioners would be honored, that is, tribal commissioners accompanying the survey team would be compensated by the Department of the Interior. Primarily on their trust in Cooper, the Chickasaw Council revoked the amendment and re-ratified the treaty unencumbered on December 13. In keeping his promise, Cooper persuaded Superintendent Charles W. Dean to urge upon Manypenny the fulfillment of his commitment to the Chickasaws. In 1858, the boundaries were surveyed and the Choctaw and Chickasaw commissioners were compensated by the United States.⁹

Approval of the treaty by the federal government followed in due course, permitting official assignment of Cooper as agent to both nations in March, 1856. He was already dividing his time between the agencies, working during the remainder of December, 1855, and the following January at the Chickasaw agency near Fort Washita. In February he returned to Fort Towson to check the records for unsettled claims, under the Treaty of 1830, of individual Choctaws still residing in Mississippi. He had raised the question of the unsettled claims to Manypenny in March, 1855. Consequently, he was instructed to make a census of Eastern Choctaws by determining from the rolls and any other records the parties not yet paid, visit Mississippi to obtain their present addresses, and pay the awards due those claimants who could furnish full proof of their identity.¹⁰

By February 26, 1856, Cooper was home at Mon Clova with his family while his interpreter was arranging in advance for his first interviews with claimants near Decatur, in the vicinity of Newton and Neshoba counties, east of Jackson. Before beginning the "Census of Eastern Choctaws," as he referred to his assignment, he paid an overdue note in the amount of \$5,247 in Woodville. He expected to be called to Washington by the time he had completed the census, if not before, since the Choctaws and Chickasaws both had sent delegations to the nation's capital to complete the business of the treaty of 1855. The Choctaw General Council requested, at the time they approved sending their delegation, that Cooper be allowed to go east to aid the delegates. He was anxious to be in Washington and was, in fact, so sure he was going that he brought his statements of accounts along with him to Mississippi so that he could, upon being called there, present them to the Office of Indian Affairs in person. To further convince Manypenny of the wisdom of permitting him to come to Washington, he suggested before beginning the census: "My impressions are that some developments will result from the census ordered, which will render it necessary, or, at least, desirable, that a private conference be had with you."¹¹

Manypenny did not call him to the East, however, and Cooper occasionally turned his attention to other matters when not absorbed by the work of locating and identifying the Choctaw claimants. Looking ahead to the location of an agency site suitable to the purpose of serving both nations, Cooper suggested the temporary use of the Chickasaw agency and that accommodations be retained at Fort Towson in an arrangement similar to that made at Skullyville with Tandy Walker. Should the Choctaws not agree to this, he thought the construction of a new agency,

a little east of Fort Washita and more centrally situated, could be supervised from the temporary agency. His concern on this subject was deepened by the fact that he was planning to take his "wife and younger children" out west with him for the first time.¹²

During his stay in Mississippi, he obtained the necessary sureties on his Chickasaw bond and had it approved by Horatio J. Harris of Vicksburg, the United States Attorney who had approved his first bond in 1853. Ten days later, on May 25, 1856, he reported that the census was complete and that he was leaving Hillsboro in Scott County for his home. On June 10, he placed the cotton crop on Mon Clova under the control of his friend and neighbor, Wiley M. Wood, and prepared to take his family to the Choctaw Nation. Since he had received no decision regarding his inquiry about the location of the dual agency, he decided to go to Fort Towson with his family until instructed otherwise. They arrived there in the middle of July, safe and well, but no doubt depressed by the sight of the place, whose wind damaged buildings were still unrepaired.¹³

In August, 1856, he was asked by the Chickasaw General Council to help with the framing of a new constitution and spent the latter part of August and early September at Tishomingo. While there, separated from his family at Fort Towson, he asked Superintendent Dean for a sixty day leave, to be taken sometime during the fall or winter when the business of the agency permitted, due to "private business of an urgent nature." The Chickasaw Council, before resolving into a constitutional convention, had passed an act directing the manner in which they were to receive the \$200,000 due them as their share of the lease and quitclaim money in the 1855 treaty. By the act, payment was to be made to

Cooper to hold it until after the new Chickasaw government was established following the convention. It was further specified that payment was to be "made in corn or Treasury drafts on New York or St. Louis, as soon as can be done." Concurrently, the Office of Indian Affairs moved to provide this amount and payments due the Choctaws and Chickasaws under several other accounts. On August 25, they directed Cooper to go to New Orleans to receive the money. He remained at the Chickasaw Constitutional Convention, however, until late September before leaving for New Orleans. Arriving there on October 2, he receipted for over \$480,000 and returned with the money under the protection of an armed guard to Fort Towson on October 31.¹⁴

The question that Cooper raised regarding the location of the dual agency was answered in September, 1856, when Superintendent Dean directed Cooper to relocate the Choctaw agency temporarily by combining it with that recently vacated by former Chickasaw Agent Smith. Cooper consulted with the authorities of both nations and reported that they had "concurred in recommending Boggy Depot, about 25 miles east" of Fort Washita. After his return from New Orleans with the Choctaw and Chickasaw money on October 31, he packed "the archives of the Choctaw agency" and settled, with his family, at the "temporary location" near Fort Washita on December 8, 1856.¹⁵

With the failure of President Pierce to gain renomination and the subsequent election of James Buchanan to the presidency, Cooper hoped for advancement in the new administration. On February 1, 1857, Tandy Walker sent copies of Choctaw resolutions to Jefferson Davis asking for his endorsement and that he present them to the President. Walker also stated that "the people wish their present excellent agent Genl Cooper

continued in office." With the change to Buchanan's administration on March 4, Davis moved from his post as Secretary of War to that of United States Senator from Mississippi. Davis received Walker's letter after March 4, endorsed the resolutions and added a note recommending Cooper, and then referred the papers to the Department of the Interior on March 13. After remarking on their long association as Mississippi Democrats and Cooper's distinguished gallantry and good conduct as a captain under his command in the Mexican War, Davis commented: "The manner in which he has discharged his duties as an agent for the tribe of Choctaws is best to be inferred from the enclosed resolutions and I will only add that it will be to me a matter of personal gratification if he should be continued in office."¹⁶

But Cooper aspired to a higher office for in the meantime on February 6, he addressed a personal appeal to Davis in which he anticipated that there would be "a change in the Chief of the Indian Bureau" and asked Davis to recommend him for the office. In reviewing his qualifications, Cooper stated: "Having been near four years in the service of the government and engaged in Indian affairs, I should, if appointed, enter upon the duties with the confidence inspired by the knowledge of the business, of the office, and, of Indian affairs, acquired by experience. Continuing, Cooper emphasized: "I can refer, I think, confidently to the present Secretary of the Interior, whom I am glad to believe has been satisfied with my conduct of matters entrusted to me under his orders. If the place of Comr of Indian Affairs cannot be obtained I shall be contented to retain my present office."¹⁷

President Buchanan's appointee as Secretary of the Interior, Jacob Thompson, was a Mississippi Democrat and that fact should have been

favorable to Cooper's gaining the post of Commissioner of Indian Affairs. Davis, however, had quite recently defeated Thompson by two votes in the Mississippi legislature in a contest for the United States Senate. Thompson, a native of North Carolina who had come to Pontotoc, Mississippi, in 1835, and presently made his home at Oxford in the county west of Pontotoc, had held views on repudiation of the bank bonds and other state political issues generally opposed by Davis, Cooper, and other residents of the older river counties. Actually, what approached being a common bond between Davis, Thompson, and Cooper was their converging views on the supremacy of state rights, although there were slight differences in the strength of their convictions at this time on this point. However, the personal relationship between the Mississippi Democrats was cordial enough for Davis to write to Secretary of the Interior Thompson without fear of embarrassment: "Please find enclosed a letter from Col. D. H. Cooper which was addressed to me under the supposition that it would be received before your predecessor retired from office." Davis was glad that Thompson knew Cooper personally and trusted that Thompson would give Cooper the appointment to which he referred, if possible. Davis mentioned that Cooper was a "working Democrat" in Mississippi, that he had been a company commander in the Mexican War, and that as agent for the Choctaws he had given assurance of "fitness for even a higher place." Davis expressed a confidence in Cooper "so entire that I have no hesitation in recommending him in unqualified terms to your most favorable consideration."¹⁸

But Cooper was disappointed, for the appointment was given to James W. Denver, a native of Frederick County, Virginia, who came to the national political scene as a member of the United States House of

Representatives from California in 1855. Among the administrative changes, Superintendent Dean was replaced by Elias Rector of Arkansas, about whom a biographer remarked: "the habit of wearing his hair, tucked up with a comb, like a woman, singled him out from the common herd with marked individuality." Intending to be laudatory of Rector's decisiveness, he observed: "He was a man who leaped to conclusions without resort to logic, and acted promptly upon his impulses and convictions." Rector was in Washington when commissioned on March 17, 1857, and receipted for the public property at the Fort Smith office on May 4. Cooper retained his office as agent and carried on the duties of the agency until departing, on March 20, on the sixty day leave for which he had applied the preceding August.¹⁹

Due to the intrusion of agency business upon his personal leave time, Cooper was absent from the Choctaw and Chickasaw nations from March 20 until August 27, 1857. During this time he left the former agency buildings at Fort Towson in the care of John Page, the United States interpreter for the Choctaws. Cooper first went to Mon Clova where it is likely that he consulted with Wiley M. Wood on the receipts of the cotton crop. By May 6, he was in Washington assisting the Choctaw delegation consisting of Pitchlynn and Lewis of the old group of four appointed in November, 1853, to prosecute the claims of the Choctaws against the government. A Chickasaw delegation was expected to arrive momentarily and he expected that they would ask for his assistance, in compliance with a resolution of the Chickasaw General Council, in conducting their business with the Office of Indian Affairs. Upon application for an extension of sixty or ninety days to his leave, Cooper was granted the maximum of sixty days by Commissioner Denver.²⁰

Before leaving the East, Cooper enrolled his eighteen year old sons, Douglas H., Jr., and David Johnson, in a private school at Staunton, Virginia. Making "Dav and Doug comfortable and contented" on July 6, 1857, Cooper returned to Washington for final instructions before departing for Coffeerville, Clarke County, Alabama, to obtain copies of records pertinent to the reserve secured to the daughters of Samuel Mitchell and Molly, a Choctaw woman. Once the business at Coffeerville was completed, he crossed into Mississippi to do additional work on Choctaw land records. From there he went to New Orleans, receipted for money to be delivered to Rector at Fort Smith, and reached the superintendent's office safely with the money on August 27. The cost of transporting and guarding the funds amounted to \$897, so nearly depleting the contingency fund of the superintendency that Rector asked for additional money, at least \$2,500 more, with which to pay the normal operating expenses.²¹

The business of the Choctaw delegation during Cooper's recent stay in Washington was still largely unresolved. Choctaw claims, whether to be honored by a Senate award of a gross sum or the "net proceeds," went unrecognized despite the efforts of Cochrane, Pike, Lea, Pitchlynn, and other members of the growing group who were prosecuting their claim with the United States Senate. A new member of the group was John B. Luce, an attorney with experience in Choctaw affairs. A secondary objective of the Choctaw delegation was to obtain a reversal or at least a stay of United States Attorney General Caleb Cushing's opinion upholding the Chickasaw practice of denying Choctaws resident in the Chickasaw Nation the right of holding office in the Chickasaw government. The argument that this practice was contrary to the

stipulations of Article 5 of the Treaty of 1855 was agreed to by the Commissioner of Indian Affairs and Cooper, but when Secretary of the Interior Thompson was asked to obtain an opinion from Cushing's successor, he refused.²²

The Choctaw delegation, in conjunction with Chickasaw delegates Sampson Folsom and James Gamble, also asked for surveys to be made of the borders as specified in the Treaty of 1855. Denver notified Cooper on October 28, 1857, that a contract had been signed with Alfred H. Jones and Henry M. C. Brown to survey the eastern border of the Choctaw Nation, the western border of the Choctaw Nation at 100° west longitude, and the western border of the Chickasaw Nation at 98° west longitude. He was advised that an astronomer, Daniel G. Major, had also been engaged to work with Jones and Brown in establishing the necessary starting points. Cooper was instructed to aid the surveying team and to notify the Choctaw and Chickasaw authorities so that they could select commissioners to be present to view the running and marking of the boundary lines.²³

There was another question that the delegations tried to resolve during this same time in which Cooper displayed a special interest. Generally stated, the question was one of jurisdiction over the Leased District of the Choctaw Nation and whether it was retained by the Choctaw government after the Treaty of 1855 or was to be controlled by the United States government. More explicitly, the Choctaws claimed jurisdiction over the district and the United States was granted jurisdiction over only those Indians permanently settled in the district under the auspices of the federal government. It was those Indians, according to Article 9 of the Treaty of 1855, which "shall be subject to the exclusive

control of the United States, under such rules and regulations, not inconsistent with the rights and interests of the Choctaws and Chickasaws, as may from time to time be prescribed by the President for their government." The point of concern to the Choctaws and Chickasaws was that they wished to retain jurisdiction over the members of their nations who chose, as was their privilege by the Treaty of 1855, to settle in the Leased District.²⁴

As their agent, Cooper was interested in protecting the jurisdictional rights or sovereignty of the Choctaw and Chickasaw governments, to the degree that they were commonly assumed to be intact. But at this time his interest as a Southern State Rights Democrat also surfaced abruptly. He saw that if an unfavorable settlement of the question were made, it would have serious ramifications. In his opinion offered to Secretary Thompson on June 23, 1857, and which was promptly referred to Commissioner Denver, he reasoned: "If the President of the United States can make rules and regulations for the 'Leased district' in violation of the Choctaw Constitution and Laws, then can any abolitionist who may hereafter become President...convert it into another Canada--a place of refuge for runaway negroes and under abolition control."²⁵

The next day, June 24, Denver transmitted Thompson's directive to Cooper "to say to the Choctaws and Chickasaws that the Department cannot admit any allegations or any understanding they may have relative to colonization of the Indian tribes by the United States within...the leased land which conflicts with the plain terms of the 9th Article of the Treaty of June 22, 1855," and, "The Indians to be colonized there in permanent settlements, in accordance with said 9th Article, will be

under the exclusive control of the United States." Cooper passed this on to the Choctaws and Chickasaws, who were "somewhat at a loss to understand the reason for the...communication." To prevent any misunderstanding, the delegations jointly stated what the "rights and interests" of the Choctaws and Chickasaws were as recognized in the treaty. In transmitting their statement to Denver on July 3, Cooper added "that it is now absolutely necessary to provide some guard for life and property in that portion of the Choctaw Nation."²⁶

The question of jurisdiction in the western part of the Choctaw Nation not being clearly resolved led to difficulties in protecting the Choctaws and Chickasaws. Depredations, usually the thefts of horses by the Plains Indians, increased as the settled area expanded westward. In anticipation of a rapid increase in depredations with the influx of the wild bands to be located in the Leased District, Cooper suggested in May, 1857, that the agency be permanently located farther west in the sparsely settled area to help stabilize the situation. Approval of the idea that the agency be on or near the military reserve at Fort Arbuckle was quickly granted, Cooper being instructed on July 20 to determine the limits of a reserve. Accordingly, he visited the fort, examined the general vicinity, and reported on November 1 that he had decided upon a suitable location. He was especially impressed with the country west of the military reserve, claiming it to be "the most desirable I have yet seen in the Choctaw and Chickasaw County," and confidently predicted that it would be settled rapidly.²⁷

En route to New Orleans while on leave in January, 1858, aboard the steamer Davis White, Cooper expressed grave concern to Senator Jefferson Davis over recent orders of the Seventh Infantry Regiment to

abandon Fort Washita and Fort Arbuckle and leave only an ordnance sergeant at each. He urged the necessity of a military force to preserve the peace and execute the laws. Due to conditions among the Choctaws and Chickasaws, he anticipated serious trouble unless there were a force to overawe the "turbulent and evil disposed among them." He asked Davis to speak to the Secretary of the Interior about authorizing him to come to Washington for "a short visit and personal conference with the Secretary." Anxious to receive a response, he indicated that he could be notified by telegraph in care of John Heald, of New Orleans, where he would be the first four days in February. Davis responded promptly, with Mix telegraphing authorization to visit Washington on February 1. A week later Cooper departed from New Orleans for Washington.²⁸

Although Cooper was genuinely concerned about the dangers arising from the absence of the army in the Choctaw and Chickasaw nations, he was also painfully aware that he had received no assurances of the extension or renewal of his commission which was due to expire on February 10, 1858. He confirmed upon arrival in Washington that Davis, on January 20, had warmly recommended renewal of his commission. Davis based his confident and strong recommendation upon a "long personal acquaintance with Mr. Cooper" and "his having been a faithful Agent of the government." Mix transmitted his new commission and officially notified him of reappointment on March 17, about a month after his arrival on what was supposed to be a "short visit and personal conference with the Secretary."²⁹

Meanwhile, Cooper was busy with numerous details of work pertaining to his agency. He had submitted statements of accounts for the last three quarters of 1857 to the Office of Indian Affairs and now, on March

18, he received notice that the accounts had been forwarded in the usual manner to the Second Auditor's Office of the United States Treasury Department. A statement of exceptions taken by the Office of Indian Affairs to certain expenditures and tribal disbursements, also part of the routine procedure, was returned to him for explanation or additional documentation. Also, over fifty-seven Choctaw bounty land warrants were approved at this time and transmitted to Cooper for delivery to the claimants or their heirs. Four lists of rejected or suspended bounty land claims were returned to Cooper because of duplicate claims or various deficiencies.³⁰

On March 10, more than likely on Cooper's suggestion, Mix had requested a plat of the Fort Arbuckle military reserve from Adjutant General Samuel Cooper. The boundaries of the proposed agency reserve as drawn by Agent Cooper and submitted to Mix on March 23 enclosed an irregularly shaped tract of approximately 1,600 acres. It was bounded on the north by Wildhorse Creek, on the south by "Marcy's road to Texas and Belknap," on the west by the northward flowing Dufer's Creek, and on the east by the northeasterly course of Garden Creek. To avoid future problems of jurisdiction on the agency reserve, he urged Mix to obtain approval of this location from the War Department.³¹

Cooper's main concern, and the primary reason for coming to Washington, was increased by reports that reached him early in April of a clash between Kickapoos and Pawnees on the Washita River a short distance above Fort Arbuckle. Calling attention to the "exposed and defenseless condition" of his charges, he reminded Mix of the treaty obligation on the part of the United States to protect them. He stated that they had comparatively few arms and, if the Secretary of War could

not provide protection, he "thought it proper to recommend the establishment of a depot of arms at Fort Smith, in order that, in case a necessity should arise to arm the Choctaws and Chickasaws for self defense, arms and ammunition may be readily obtained." He requested that 1,000 rifles, 1,000 Colt pistols, and a supply of ammunition be made subject to requisition by Superintendent Rector at Fort Smith, or in his absence, direct requisition by an agent.

He renewed his request for an adequate native police force of not more than 100 men who would furnish their own horses and could be employed with less expense to the government than army cavalry. "I have long entertained the opinion," he argued, "that such a force would be far more effective, in preventing the introduction of intoxicating liquors among the Indians, in giving security to life and property, and, for the enforcement of the laws of the United States, generally, in the Indian territory, than the regular forces of the United States." The proposed native police or constabulary force would be in the pay of the United States and subject to Cooper's orders.³²

Not satisfied with the reception given his proposals for defense and law enforcement, Cooper addressed another appeal to Mix as he stopped at Atlanta, Georgia, on April 11 en route to Mon Clova from Washington. He referred to conversations with Secretary of the Interior Thompson and Mix "in relation to the removal of the Kickapoos and other intruders upon the Choctaw and Chickasaw country." The points he raised included: "If the latter [United States Troops] are necessary and yet cannot be had, ought not the agent to be authorized to call upon the Choctaws and Chickasaws, or others to turn out, at the expense of the U. States?" It was his hope "that proper instructions will be

issued, and sufficient authority conferred to enable me to carry into effect the wishes of the Secretary of Interior." On April 16, Secretary of War John B. Floyd notified Thompson that orders had been issued to garrison Fort Arbuckle with a company of infantry from Texas and that the Second Cavalry Regiment in Texas would proceed to Fort Leavenworth via Fort Arbuckle.³³

After leaving Atlanta, Cooper spent from April 19 to April 23, 1858, at Mon Clova visiting his family and arranging for the sureties on his bond. On April 26, he was at Vicksburg securing approval of his bond and within a month he was at Fort Arbuckle reporting to Mix on the conditions on the frontier. He found there was considerable apprehension among the people in the Western settlements, but it was his judgment that the danger was less than the earlier reports had indicated. But it was true that fear was causing the frontier settlers along the rivers to withdraw eastward to the safety of the more heavily populated areas. He was skeptical of the reports of depredations, especially that they were almost all the work of Comanches. "Every murder and theft on the border," he ventured, "will now be charged to them."³⁴

In June, 1858, the rumors of Comanches clashing with Texans and the start of the survey of the 98^o west longitude line compounded Cooper's responsibilities. On June 7, he reported that everything was quiet at Fort Arbuckle and that they had received no news of the United States troops from Texas who were to garrison the fort. After being delayed by high water in Wildhorse Creek, Cooper and the tribal commissioners were able to leave to observe the survey of the 98^o line on June 8. The line was about forty-two miles west of Fort Arbuckle, and it was from that place the surveyors began to mark the boundary south to

the Red River before returning to mark the northern segment up to the South Canadian. After inviting the Wichitas to come and observe the running of the line, Cooper returned to the agency near Fort Washita.³⁵

In the third week of June, 1858, when Cooper received reports "that the Comanches had commenced depredations to a very considerable extent in the immediate vicinity of Fort Arbuckle" and that the Texas troops had not yet arrived, he called upon the Choctaws and Chickasaws for volunteers to go with him to defend the frontier. They were to rendezvous at Fort Arbuckle, at which point Cooper and six Chickasaws arrived on June 24. Soon sixty-six more Chickasaws and a small band of Cherokees arrived. He sent a messenger to halt additional volunteering when he learned that the Texas troops, Company E, First Infantry Regiment, under the command of First Lieutenant James E. Powell, had crossed the Red River en route to Fort Arbuckle. Cooper and his volunteers remained at the fort to protect the military stores until Powell's arrival. With him were James Gamble, the United States interpreter for the Chickasaws, tribal captains Holktiche and George James of the Chickasaws, and Black Beaver, a Delaware guide.³⁶

On June 29, Cooper requisitioned an axe, two spades, and eight pack saddles from Ordnance Sergeant F. Rounds, the only army personnel at the fort, in preparation for a scout to the Wichita Mountains "to ascertain with certainty whether there were any considerable bodies of Comanches" in the Leased District. Powell and his company of infantrymen arrived the next day. On July 1, Black Beaver, Cooper, and the party of Chickasaws, together with the band of Cherokees, rode west from Fort Arbuckle. The mounted column turned south at the 98th meridian and followed the boundary markers to the Red River then toward the

Wichita Mountains, and circled back to the surveying party which was working its way northward approaching the South Canadian River. After deciding that there was no large concentration of Comanches threatening the security of the frontier settlements, they returned to Fort Arbuckle on July 16 and Cooper disbanded the volunteers.³⁷

In his report on the scout to the Wichita Mountains, Cooper stated that he had acted on verbal instructions from Secretary Thompson given him during his last visit to Washington. Rector's clerk, in transmitting the report to Mix, commented that the Superintendent's office was never apprised of the verbal instructions and, therefore, was simply forwarding the report for the information and action of the Office of Indian Affairs. Mix, who received the report on August 18, referred it to Thompson the next day. Reaction was unfavorable at all levels of administration from the superintendency at Fort Smith to the Secretary of the Interior Thompson, who after reading the report, noted, "Maj. Cooper is entirely mistaken in supposing the Secretary of the Interior gave any verbal instructions authorizing him to raise a troop of Indians in any contingency to regulate the wild tribes of the West--for the simple reason that he had no money out of which such a troop could be paid under his control."³⁸

Meanwhile, Cooper received a response to his letters of June 23 and June 30 to Rector, in the first of which he reported that he had called for volunteers in response to the reports of Comanche depredations, that several horses were stolen near Fort Arbuckle, and the general fear of other attacks. In the second, he stated that the horses had been recovered by a party of white men and Wichitas and reported that the Texas troops had arrived at the fort. He also advised

Rector that he had decided to take the volunteers to examine the country west of the fort and reinforce the surveying party, then at work somewhere on the 98th meridian, if necessary. Rector's clerk copied Cooper's letters and, in Rector's absence, transmitted them to Mix. On August 12, Mix, who had not yet received Cooper's report, informed Cooper that the Department of the Interior could not approve his action or plans because there was no lawful authority for calling out a volunteer force of Indians, nor any appropriation to pay for their services, and that "the occasion itself evidently did not warrant the proceeding" since the stolen property had been easily and promptly recovered. It was hoped that Cooper had abandoned the idea of an expedition and had discharged the volunteer force, but if this were not the case he was to disband them immediately.³⁹

Mix's reaction of August 12, under the instructions of Thompson, was the first indication to Cooper that he had acted contrary to the wishes of the Commissioner of Indian Affairs or the Secretary of the Interior. He defended his action vigorously, urging on August 19 that it was necessary to post strong units of cavalry at Fort Arbuckle and Fort Washita. In his judgment, a strong military post at the Wichita Mountains garrisoned by cavalry was "indispensably necessary." On the ineffectualness of infantry, he commented: "The Infantry stationed at Arbuckle afford no protection against depredations. The Indians laugh at the idea of a man on foot being placed to guard and protect the property of the people against their warriors, mounted on fleet horses ridden by the best horsemen in the world." As for paying the volunteers for the twenty days of service, he suggested the use of part of the \$8,000 surplus from the appropriation for running the marking boundary

lines for the Choctaws, Chickasaws, Creeks, and Seminoles.⁴⁰

Support for Cooper mounted in September and October, 1858. Early in September, Cooper inquired of Rector if he were aware, as he supposed he was, "that the Commissioner...under instructions from the Secretary...has severely censured me for retaining a party of Indians, for the purpose of making a reconnaissance...and subsequent events [additional depredations] have proved that the only mistake I made was in discharging them too soon." Jones and Brown on September 14 contacted Mix, giving their hearty approval to Cooper's action: "it may be owing to Genl. Cooper's vigilance that we were enabled to perform our duty successfully." They were commending his course of action "without the knowledge or consent" of Cooper, after learning of the disapproval of Cooper's response by Secretary Thompson from "Washington newspapers." Although their source cannot be refuted, the surveyors probably read the newspapers much more closely than usual, for they were at Fort Smith shortly after Cooper made sure that Rector, also at Fort Smith, was aware that he had been severely censured. In October, the Choctaw General Council passed a resolution complimentary to Cooper for his "prompt, energetic, and judicious course when the people upon the border...were alarmed by fear of and suffered from the several extensive depredations committed by the Comanche Indians upon some of them most of whom are Choctaws by blood." Tandy Walker, Cooper's good friend and the acting governor, sent a copy to Mix.⁴¹

Eventually, Cooper's action received tacit approval. He submitted a detailed estimate for \$2,332.44 required to defray the expenses of the scouting expedition to Commissioner Denver in February, 1859. As justification, he included references to treaty stipulations,

to Denver's instructions of October 28, 1857, to render such aid to surveyors Brown and Jones as he thought would facilitate their work, and "to the now universally admitted necessity for the steps taken by myself." Payment was made through the transfer of funds from the account covering border surveys to the account for "Contingencies Indian Department" from which the money was remitted to Cooper. Complications arose as late as the second quarter of 1863 when a final claim by Jones and Brown was examined and approved, but no funds remained with which to pay them. William P. Dole, Commissioner of Indian Affairs at that time, reported to the Secretary of the Interior, John P. Usher, that exhaustion of the fund was caused by a remittance to Cooper for guarding the surveying party and in protecting Fort Arbuckle. Sufficient money being available to the War Department in the fund "for suppressing Indian hostilities on the frontier," Dole suggested that the amount remitted to Cooper be restored to the Department of the Interior from that fund. Papers in the Second Auditor's Office of the United States Treasury Department, he said, "will show that the condition of the Indian relations in that country was such as to cause the approval of the War Department of the efforts made to protect the surveying party under Jones and Brown as well as to protect the government property at Fort Arbuckle."⁴²

Following the political separation of the Chickasaws from the Choctaws by the terms of the Treaty of 1855, a new Choctaw Constitution had been drafted at Skullyville in January, 1857, that abolished the traditional office of district chief and placed a governor over the nation in a more centralized organization. Tandy Walker was serving as acting Governor in May, 1858, when a crisis arose due to the reaction of

those Choctaws who favored the system of district chiefs. They met at Doaksville on May 10 and drafted a new plan restoring the office of district chief and elected a new set of officers. Cooper, known to be a good friend of Walker's, was attacked by foes of the Skullyville Constitution who claimed he and Rector forced the Skullyville plan upon the Choctaws. Cooper emphatically denied the truth of the complaints and warned that the Commissioner of Indian Affairs "should be on his guard against statements coming from violent personal enemies of the Agent." The centralized form of government did have Cooper's approval, but only to facilitate the administration of Choctaw business. He generally took problems to the Choctaw General Council before the change in 1857. During the crisis, his primary interest was to maintain stability and avoid factionalism. With trouble from Comanches on the frontier and his position as agent in jeopardy because of his scout to the Wichita Mountains, it is likely that Cooper preferred nothing more than to maintain peace and order among the Choctaws.⁴³

At Fort Smith on November 30, 1858, Cooper submitted a request for a sixty day leave, then returned to his agency near Fort Washita, where he remained until directed to visit the surveying party of Jones and Brown on the 100° west longitude western boundary line of the Leased District. Departing from Fort Arbuckle on March 24, 1859, Cooper and a party of five Delawares and four other white men rode west. They were escorted as far as Beaver Creek by a detachment of the First Cavalry Regiment, provided by Major William H. Emory, commanding officer at Fort Arbuckle. The party of ten continued on to Camp Radziminski on Otter Creek, the winter quarters of an expedition composed primarily of four companies of the Second Cavalry Regiment under the command of a

fellow Mississippian, Major Earl Van Dorn. Cooper reported on April 8 that "Maj. Van Dorn and the officers of his command have treated me with the greatest kindness and consideration." He was concerned by reports that a dispute had arisen between Texas and the Choctaws as to which of the branches was the true and main Red River. Van Dorn furnished a sixteen man escort for Cooper on the last leg of his trip to the western boundary of the Leased District and the surveying party, the distance being about fifty miles to the west. After completing his business with Jones and Brown, Cooper returned to the agency about June 1.⁴⁴

A change in the administration occurred while Cooper was visiting the survey party at the western boundary of the Leased District. James W. Denver resigned as Commissioner of Indian Affairs in March, 1859, and was succeeded by Alfred B. Greenwood, a native of Georgia who had just completed his third term as a Democratic member of the United States House of Representatives from Arkansas. Greenwood, who was admitted to the Georgia bar in 1832, had begun his law practice in Bentonville, in the extreme northwestern county of Arkansas. Mix was the acting Commissioner of Indian Affairs until May, when Greenwood assumed the active direction of the Office of Indian Affairs.⁴⁵

The Department of the Interior began to urge, through newly appointed Commissioner Greenwood, that the land held in common by the Indian Tribes be allotted and held in severalty, that is, sections and quarter sections marked and ownership placed in the hands of individual Indians. The idea behind this plan was the hope that pride of ownership would stimulate industriousness or, antithetically, reduce indolence and dependence upon tribal benevolence. Allotment in severalty was to be accompanied by suitable restrictions upon the right of sale

and alienation in order to protect the individual from his own weakness and the greed of the more aggressive members of society.

In November, 1859, Greenwood instructed Rector to introduce the policy to the agents and through them to the several nations and tribes of the Southern Superintendency. Cooper, who was on leave at Mon Clova beginning December 4, transmitted messages from Greenwood and Rector on this subject to the Choctaws and Chickasaws on December 18. In his letter of transmittal to Choctaw Governor Basil L. Leflore, he asked that the case for survey and allotment be fully explained at the constitutional convention scheduled to meet at Doaksville on January 11, 1860. It was at this convention that the constitutional differences, held in abeyance by mutual consent since October, 1858, were to be resolved. Cooper stated to Leflore why the Department of the Interior hoped it would be adopted, and then added an argument in favor of survey and allotment which was his own view of how it would help his Choctaw and Chickasaw charges.

As their friend, Cooper said: "It is a settled rule of the Law of Nations, that no change of government, no transfer of allegiance affects private and individual rights of property. Only the public domain and other public property are transferred with the sovereignty." Whether alluding to the eventual loss of sovereignty by the Indian nations through a deliberate policy of the federal government or anticipating the same result by voluntary formation of another state, Cooper was deeply concerned that the unoccupied land may become a part of the public domain of the United States with no benefit to the Choctaws and Chickasaws.

Cooper's plea for consideration of survey and allotment was accepted by the Choctaw and Chickasaw general councils in 1860 and a

resolution was passed by a joint Choctaw and Chickasaw council at Boggy Depot on March 11, 1861, throwing the question open to a vote of the people. The Choctaws adopted a new constitution which, although Cooper preferred the Skullyville Constitution, was not a complete rejection of his hopes for a centralized government. The Doaksville Constitution of 1860 included elected district chiefs and a principal chief, all to hold office for two year terms. The same conservative political element that was strong enough to alter the Skullyville Constitution opposed survey and allotment.⁴⁶

In the meantime, Cooper had tried unsuccessfully to obtain authorization to visit Washington to settle his accounts in person. Even the intercession of the United States Senators Brown and Davis and United States Representative McRae, all of Mississippi, was rejected by Greenwood on December 23, 1859. Officially denied authorization to visit Washington by Greenwood's telegram of January 4, Cooper mailed his accounts and vouchers from New Orleans eight days later.⁴⁷

The Choctaw Net Proceeds Claim pending before the United States Senate was finally recognized on March 9, 1859, in the Special Session of the Thirty-sixth Congress. The amount as reported by the Department of the Interior was \$2,981,247.30, but an attempt to obtain an appropriation in the next regular session of Congress failed. Cooper, who had returned from Mississippi to the agency near Fort Washita in March, became involved in the personal prosecution of the funding of the Net Proceeds Claim in October. The Choctaw General Council approved on October 27 an "Act to Provide for indigent Choctaws and for other purposes," that anticipated funding, either in part or fully, of the Senate award of March 9, 1859, in the next session of the United States

Congress. This act, the so-called "Corn Law," appropriated \$134,512.55 of the expected funds for the purchase of 65,000 bushels of corn. One proviso required that the corn be delivered to the Choctaws by May 1, 1861, for per capita distribution, and a second proviso stated "that all existing national obligations to be discharged out of said appropriation shall first be paid." The Commissioner of Indian Affairs was authorized and "requested to place in the hands of the United States Agent for the Choctaws and Chickasaws, from the first money appropriated" the \$134,512.55 for the purchase of the corn.⁴⁸

Purchase and delivery of the corn was doubly urgent, made so by the general crop failure of 1860 in such an extensive area that the corn would have to be shipped into the Choctaw Nation and by the relatively short period in the spring when the water in the Arkansas and Red rivers was usually deep enough to accommodate steamers hauling such heavy cargo. The provision to pay "all existing national obligations" first was authorization for the Net Proceeds Claim delegation to receive and retain twenty percent of the payment as allowed in a contract granted the delegates on November 21, 1855, and to receive and pay the fee of the legal counsel. The fee of the legal counsellors, that is Pike, Cochrane, Pitchlynn, and others whose help was enlisted to aid in gaining the funding of the award, had been set at thirty percent of the payment. Pike's contract, for twenty-five percent, had been superseded in February, 1855, by an agreement with Cochrane for the higher percentage.⁴⁹

On October 31, 1860, three days after approval of the "Corn Law," the Choctaw General Council passed a resolution calling for the Choctaw delegation in Washington to secure the retention of Cooper in office as

agent and requesting that the Commissioner of Indian Affairs call Cooper to Washington during the coming winter "to aid by his presence, cooperation, and advice to the Choctaw Delegation in bringing the business of the Nation now before the Government of the U.S. to an early and satisfactory termination." The Choctaw delegates in Washington were Peter Pitchlynn, Israel Folsom, and Peter Folsom. L. P. "Push" Pitchlynn, the delegate's son, was appointed by the Choctaw General Council to aid Cooper "in the purchase, shipment, and distribution of corn."⁵⁰

Simultaneously with this action by the Choctaws, the Chickasaw government enacted a measure authorizing Governor Cyrus Harris "to call on the United States Government for all Orphan and Incompetent funds, now in the hands of the United States Government, so that the money may be sent out to D. H. Cooper United States Agent for the Choctaws and Chickasaws and by him paid out to the Legal Claimants." On January 2, 1861, Harris asked Cooper to attend to this during his stay in Washington. Chickasaw delegates were Edmund Pickens, Sampson Folsom, and James Gamble, interpreter for the Chickasaws.⁵¹

On the way to Washington, on January 15, 1861, Cooper expounded on the national political crisis to his stepsister's husband, John H. B. Latrobe. South Carolina, Mississippi, Florida, and Alabama had seceded from the Union and Latrobe's voice was among those calling for a peace conference. Cooper agreed: "The abstract idea of a conference is good, let it be carried out in the concrete, time presses." He urged that Latrobe help promote a conference of commissioners from the states of Pennsylvania, Ohio, Virginia, North Carolina, Tennessee, Kentucky, Missouri, and Arkansas to meet "not to plan new forms of gov't but to tighten the bonds of Brotherhood, to brighten the chain of Union."

Cooper was convinced that Virginia, North Carolina, Kentucky, Tennessee, Missouri, and Arkansas were "Union to the backbone" and predicted that states thought to be secessionist would prove otherwise. He concluded: "The action of the Gulf States will only be the uprising of the Bull's hide in one corner. But a border strife is ruin and forever. God avert it."⁵²

Once in Washington, Cooper followed the progress of the Net Proceeds Claim funding in the Senate and House of Representatives. On February 9, 1861, the Indian appropriation bill then before the Senate was amended to provide \$1,200,000 for the Choctaws and the balance of the amount was not to be appropriated until further investigation. The amended appropriation bill, sent back for the approval of the House of Representatives, was rejected and a conference committee appointed to modify it, hopefully, into acceptable form for both houses. On February 28, Cooper reported that one of the Republican representatives who had voted against the bill told his "old friend and college mate," Representative John W. Stevenson of Kentucky, that "they understood the Choctaws were about to attach themselves to the Southern Confederacy." The opposition in the House of Representatives, when the bill was reported out of committee of conference on March 2 in virtually the same form as proposed by the Senate, forced the rewriting of the amendment. The second conference committee reported out a bill with an amendment awarding \$500,000 and the remainder to be delayed until further investigation. One half was to be paid in cash and one half in United States bonds. The Senate voted approval and the House of Representatives, paradoxically trusting the Choctaws' loyalty more when repaying them less of what was rightfully owed them, also approved on March 2.⁵³

The \$250,000 was not immediately paid to the Choctaw delegation. On March 11, 1861, Cooper and the Choctaw and Chickasaw delegates visited Latrobe at his summer home near Baltimore. In the course of the brief visit, a letter from Latrobe was obtained urging the Lincoln administration to heed the wishes of the Choctaw and Chickasaw nations, particularly in their desire to confer with the President. Upon their return to Washington from Latrobe's, the delegation asked that the Commissioner of Indian Affairs intercede on their behalf in trying to retain Cooper as their agent and to arrange for a visit with President Lincoln. Cooper expressed his indifference to holding office under the present administration and asked United States Senator Charles B. Mitchell of Arkansas to convey this sentiment to the President. Mitchell complied, informing the President of Cooper's position and that Cooper "only consented to continue as agent for the Indians at their urgent solicitation." On March 22, the Choctaw delegates applied in writing for release of the \$50,000 which they had been informed was all that was presently available. A requisition was issued by the Commissioner of Indian Affairs and United States Treasury Draft Number 2826 for \$50,000 was issued to Cooper on March 22. On April 5, Treasury Draft Number 2849 for \$84,512.55 was likewise remitted to Cooper making a total of \$134,512.55 received by him for the purchase of corn.⁵⁴

The unpaid balance of the \$250,000 was paid over to Pitchlynn on April 12, 1861, \$3,187.45 in cash and a draft on a New York bank for \$112,000 that Pitchlynn did not cash at the time. Instead, he drew \$5,600 of the "corn money" from Cooper with which he paid Cochrane \$1,600 in partial payment of his legal fee and, through Cochrane,

\$4,000 to Senator Mitchell for his part in obtaining the funds. On April 22, Cochrane drew \$1,500 from Cooper, giving a receipt for an advance on his account with the Choctaw Nation. Payment of the other half, that is, the \$250,000 to be paid in United States bonds, was withheld on the authority of Commissioner of Indian Affairs William P. Dole, who succeeded Greenwood the second week in March, and Secretary of the Treasury Salmon P. Chase. They held that a requisition properly drawn by the Choctaw General Council and the Choctaw Principal Chief, dated subsequent to the appropriation act, was required before the bonds could be released. The Choctaw delegates departed from Washington on April 21-22 without the bonds.⁵⁵

Cochrane reported to Pike on April 25 that he thought the ruling was designed to cause the delegates, upon their return to the Choctaw Nation, to urge that the Choctaws remain loyal to the federal government in order to obtain the bonds. He observed that the federal authorities, whose suspicions of Cooper's loyalty had been temporarily allayed, were again aroused and that they meant to replace him. First, though, they wanted to obtain the unspent balance of the corn money in his possession. They were, "moreover, afraid of his influence with the Indians and did not wish to pay out any more to them, lest he might induce them to arm and prepare themselves and then declare for the South." In informing Pike how to help him secure the remainder of their legal fee, Cochrane stated: "In all things, I would advise that you consult Cooper, who is very astute and sagacious, and who knows best how to deal with the Choctaws collectively and individually from a thorough knowledge of their character and peculiarities."⁵⁶

After advancing the \$1,500 to Cochrane on April 22, Cooper went to

Fort Smith, arriving there by May 1, to prepare for the arrival and distribution of the first shipment of corn. Earlier, Cooper had designated Frank E. Williams, the Skullyville representative of the firm of Heald and Company, to be the purchasing agent. Williams had placed the first order with John H. Oglesby, a merchant of Evansville, Indiana, for 4,250 "bags of corn." The corn was transported to Terre Haute for shipment down the Wabash, Ohio, and Mississippi rivers and then up the Arkansas River to Fort Smith and Skullyville. Part of the corn, 1,500 bags, moved through Terre Haute, Indiana, before the local citizens were aware of its route and destination, but 2,750 bags were stopped and stored in the Turner and McKeen warehouse in Terre Haute. Another larger shipment was intercepted and held at Evansville by the United States Customs Officer, Charles Denby, pending instructions from the federal government as to its disposition. The shipments, halted prior to May 1, were delayed until May 10 when Secretary of the Treasury Chase, who was administratively responsible for a decision in such cases, telegraphed Denby to "Let the provisions for the Choctaws go forward."⁵⁷

After nearly eight years as agent, Cooper had become a skillful champion of Choctaw and Chickasaw causes. His feat in gaining an additional \$200,000 for the quitclaim of territory west of the 100th meridian is a spectacular example. More easily overlooked were the numerous bounty land claims he validated by careful research and patient persistence in a sustained effort that likely secured more wealth. The alacrity with which he sought out and paid claimants was a new experience for many Choctaws and Chickasaws, especially those still residing east of the Mississippi River.

Cooper enjoyed considerable prestige and respect among the Choc-taws and Chickasaws, but there were those who rejected the policies of the federal government despite his personal appeals that they be accepted. One example of this was the minority that opposed him with regard to the survey and allotment of land in severalty. Another was the strong sentiment for retaining the district chiefs which forced a modification of the Skullyville Constitution. Much of his prestige stemmed from his ability to break the stalemated negotiations of the Treaty of 1855 and his willingness to lead an expedition in defense of the frontier in 1858 at personal danger to himself, even though few could have known or appreciated the danger to his career.

Politically, he was almost completely dependent upon Jefferson Davis, who had helped him with each of his appointments and in the crisis of the treaty negotiations. Cooper had even turned to Davis for help when he belatedly sought the office of Commissioner of Indian Affairs. On the last visit to Washington, however, which was after the secession of Mississippi, Cooper out of necessity turned to Latrobe and other possible sources of political influence.

By the time Cooper returned to Fort Smith to await the arrival of the corn shipments, the secession movement was no longer limited to the Gulf States. The country was at the brink of the border war that Cooper dreaded, that he had said "would be ruin and forever."

FOOTNOTES

¹Manypenny to Cooper, March 11, and April 10, 1856, Letters Sent, H. R. Clunn to C. Delano, May 1, 1873, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives; George T. Swann, Clerk, United States Circuit Court, Southern District of Mississippi, to Solicitor of the Treasury, October 17, 1876, United States vs Douglas H. Cooper, Docket 6, Folio 4, Legislative, Judicial, and Fiscal Branch, Department of Justice, Record Group 60, National Archives.

²Cyrus Harris et al to His Excellency, October 5, 1854, Letters Received, Chickasaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

³Cooper to Manypenny, April 16, 1855, Letters Received, Choctaw Agency, ibid.

⁴Manypenny to Pitchlynn, Folsom, Garland, and Lewis, June 12, 1855, Letters Sent, Cooper to McClelland, June 19, 1855, enclosing Manypenny to Pitchlynn, Folsom, Garland, and Lewis, June 18, 1855, Letters Received, Choctaw Agency, ibid.; Cooper, Address and Memorial by Douglas H. Cooper to the General Council of the Choctaw Nation Assembled, [p. 9].

⁵Ibid.; "Treaty with the Choctaw and Chickasaw, 1855," Kappler, comp. and ed., Indian Affairs: Laws and Treaties, Vol. II, pp. 706-714.

⁶Smith to Manypenny, December 10, 1855, Letters Received, Chickasaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁷Cooper to Mix, August 10, 1855, Letters Received, Choctaw Agency, ibid.

⁸Jones to Pitchlynn, August 20, 1855, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art, Tulsa, Oklahoma; Cooper to Manypenny, November 19, 1855, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁹"Treaty with the Choctaw and Chickasaw, 1855," Kappler, comp. and ed., Indian Affairs: Laws and Treaties, Vol. II, pp. 711-713; Cooper to Manypenny, November 19, 1855, Letters Received, Choctaw Agency, Smith to Manypenny, December 10, 1855, Dean to Manypenny, December 22, 1855, Letters Received, Chickasaw Agency, Cooper to Rector, August 5, 1858, Letters Received, Southern Superintendency, Office of Indian Affairs, Record Group 75, National Archives.

- ¹⁰ McClelland to Manypenny, March 5, 1856, Letters Received, Chickasaw Agency, Manypenny to Cooper, April 4, 1855, Letters Sent, ibid.
- ¹¹ Cooper to Manypenny, February 26, and March 31, 1856, Letters Received, Choctaw Agency, ibid.; Deed Record Book P, p. 315, Wilkinson County Chancery Court, Woodville, Mississippi; Harkins, Cochnauer, and Cristy to Cooper, November 19, 1855, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.
- ¹² Cooper to Manypenny, May 3, and May 30, 1856, Letters Received, Choctaw Agency, ibid.
- ¹³ Cooper to Manypenny, May 15, and May 25, 1856, Letters Received, Choctaw Agency, ibid.; Deed Record Book R, p. 70, Wilkinson County Chancery Court; Cooper's oldest daughter, Sarah M., remained with friends at Oakley Plantation near Natchez, Cooper to Mix, July 3, and July 17, 1856, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.
- ¹⁴ Colbert to Cooper, August 13, 1856, Letters Received, Chickasaw Agency, Cooper to Dean, August 13, 1856, Letters Received, Choctaw Agency, Cooper to Dean, August 17, 1856, Letters Received, Chickasaw Agency, Mix to Cooper, August 25, 1856, Letters Sent, Cooper to Mix, October 2, 1856, and Cooper to Manypenny, November 3, 1856, Letters Received, Choctaw Agency, ibid.
- ¹⁵ Cooper to Manypenny, March 6, 1857, with attached memorandum, Cooper to Dean, December 8, 1856, Letters Received, Choctaw Agency, ibid.
- ¹⁶ Walker to Davis, February 1, 1857, with endorsement by Davis, Office of Secretary of the Interior, Record Group 48, National Archives.
- ¹⁷ Cooper to Davis, February 6, 1857, ibid.
- ¹⁸ McIntosh, ed., The Papers of Jefferson Davis, June, 1841-June, 1846, Vol. II, pp. 101-102; Davis to Thompson, n.d., Office of Secretary of the Interior, Record Group 48, National Archives.
- ¹⁹ Thompson to Manypenny, March 18, 1857, Letters Received, Southern Superintendency, Office of Indian Affairs, Record Group 75, National Archives; John Hallum, Biographical and Pictorial History of Arkansas (Albany, New York: Weed, Parsons, and Company, 1887), pp. 242-244; "Invoice of Public Property, May 4, 1857," Letters Received, Southern Superintendency, Cooper to Denver, May 6, 1857, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.
- ²⁰ Cooper to Denver, August 28, 1857, Letters Received, Southern Superintendency, Dean to Manypenny, April 3, 1857, Cooper to Denver, May 6, 1857, Letters Received, Choctaw Agency, Denver to Cooper, May 7, 1857, Letters Sent, ibid.

²¹Cooper to Pitchlynn, July 6, 1857, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art; Denver to Cooper, June 27, 1857, Letters Sent, Cooper to Denver, August 28, 1857, Rector to Denver, September 21, and October 20, 1857, Letters Received, Southern Superintendency, Office of Indian Affairs, Record Group 75, National Archives.

²²Pitchlynn and Lewis to Cooper, May 7, 1857, Cooper to Pitchlynn and Lewis, May 8, 1857, and Thompson to Denver, June 10, 1857, Letters Received, Choctaw Agency, Denver to Cooper, June 18, 1857, Letters Sent, ibid.

²³Denver to Cooper, October 28, 1857, Letters Sent, ibid.

²⁴Cooper to Denver, May 26, 1857, Cooper, Notes on the question of jurisdiction over the Choctaw and Chickasaw territory between 98^o and 100^o west longitude, submitted to Secretary of the Interior, n.d. [Received June 23, 1857], Letters Received, Choctaw Agency, ibid.

²⁵Ibid.

²⁶Denver to Cooper, June 24, 1857, Letters Sent, Pitchlynn, Folsom, and Gamble to Cooper, July 1, 1857, and Cooper to Denver, July 3, 1857, Letters Received, Choctaw Agency, ibid.

²⁷Cooper to Denver, May 26, 1857, and Cooper to Mix, June 2, 1857, Letters Received, Choctaw Agency, Denver to Cooper, July 20, 1857, Letters Sent, Cooper to Denver, November 1, 1857, Letters Received, ibid.

²⁸Cooper to Davis, January 23, 1858, Letters Received, Choctaw Agency, Mix to Cooper, February 1, 1858, Letters Sent, ibid. It is likely that Cooper brought his family back to Mon Clova in January, 1858. That they returned is certain because he asked for a leave on November 30, 1858, to go to Mississippi for his wife and children.

²⁹Davis to Thompson, January 20, 1858, Office of the Secretary of the Interior, Record Group 48, National Archives; Mix to Cooper, March 17, 1858, Letters Sent, Office of Indian Affairs, Record Group 75, National Archives.

³⁰Mix to Cooper, March 18, February 1, and 27, March 1, and 4, April 3, 1858, Letters Sent, ibid.

³¹S. Cooper to Mix, March 19, 1858, D. H. Cooper to Mix, March 23, 1858, Letters Received, Choctaw Agency, ibid.

³²Cooper to Mix (2), April 5, 1858, Letters Received, Southern Superintendency, ibid.

³³Cooper to Mix, April 11, 1858, Thompson to Mix, April 16, 1858, transmitting Floyd to Thompson, April 14, 1858, Letters Received, Southern Superintendency, ibid.

³⁴Cooper to Mix, April 22, and 26, 1858, Letters Received, Choctaw Agency, Cooper to Rector, May 26, 1858, Letters Received, Southern Superintendency, ibid.

³⁵Cooper to Rector, June 7, 1858, Letters Received, Southern Superintendency, ibid.

³⁶Cooper to Rector, July 24, 1858, and June 23, and 30, 1858, Letters Received, Southern Superintendency, ibid.

³⁷Voucher signed by Cooper, June 29, 1858, and Cooper to Rector, July 24, 1858, Letters Received, Southern Superintendency, ibid. Cooper's second oldest daughter, Frances Martha, was married in Wilkinson County to William A. Walker, also of Wilkinson County, on July 1, 1858, the day Cooper departed from Fort Arbuckle in search of Comanches. White Marriage Book K, p. 92, Wilkinson County Circuit Court, Woodville, Mississippi.

³⁸Pulliam to Mix, August 4, 1858, and Thompson's endorsement, Letters Received, Office of Indian Affairs, Record Group 75, National Archives.

³⁹Mix to Cooper, August 12, 1858, Letters Sent, ibid.

⁴⁰Cooper to Mix, August 19, 1858, Letters Received, Southern Superintendency, and Cooper to Mix, August 19, 1858, Letters Received, Choctaw Agency, ibid.

⁴¹Cooper to Rector, September 4, 1858, Private Manuscript Collection, Jordan B. Reaves, Oklahoma City; Jones and Brown to Mix, September 14, 1858, Letters Received, Southern Superintendency, Walker to Mix, November 8, 1858, and enclosed resolution of October 26, 1858, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁴²Cooper to Denver, February 10, 1859, Letters Received, Chickasaw Agency, Dole to Usher, April 27, and June 25, 1863, Report Book 13, pp. 163-164 and 196, ibid.

⁴³Cooper to Rector, August 9, 1858, Letters Received, Choctaw Agency, ibid.

⁴⁴Cooper to Rector, November 30, 1858, Letters Received, Choctaw Agency, Cooper to Rector, April 8, 1859, Letters Received, Southern Superintendency, ibid.

⁴⁵Smith to Delano, March 3, 1874, reporting on number of days Mix was acting commissioner in the period from 1851 to 1869, Report Book 24, pp. 153-154, ibid.

⁴⁶Cooper to Leflore, December 18, 1859, Cooper to Greenwood, April 2, 1860, Letters Received, Choctaw Agency, ibid.; Calvin H. Howell and Rhoda Howell to Col. Pitchlynn, March 23, 1861, Peter Pitchlynn Papers,

Thomas Gilcrease Institute of American History and Art; Folsom, ed., Constitution and Laws of the Choctaw Nation, pp. 5-25.

⁴⁷ Greenwood to John J. McRae, Jefferson Davis, and A. G. Brown, December 23, 1859, Greenwood to Cooper, January 4, 1860, Letters Sent, Cooper to Greenwood, January 12, 1860, Letters Received, Choctaw Agency, Greenwood to Cooper, January 25, 1860, Letters Sent, Office of Indian Affairs, Record Group 75, National Archives.

⁴⁸ J. Thompson to Speaker W. Pennington, May 8, 1860, "Amount Due the Choctaws," "United States House of Representatives, 36th Congress, 1st Session, House Executive Document 82 (Washington: Thomas H. Ford, 1860), pp. 1-39; Folsom, ed., Constitution and Laws of the Choctaw Nation, pp. 318-322.

⁴⁹ Contract by N. Cochnauer, Geo. W. Harkins, and Allen Wright, November 21, 1855, Choctaw-Federal Relations, Indian Archives Division, Oklahoma Historical Society, Oklahoma City, Oklahoma; Stull, reporter, Cases Decided in the Court of Claims of the United States at the Term of 1923-24, Vol. LIX, pp. 769-772.

⁵⁰ Resolutions of the Choctaw General Council, Approved October 31, 1860, and "Push" to "Dear Pa," November 14, 1860, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art.

⁵¹ Harris to Cooper, January 2, 1861, enclosing copy of act, and Cooper to Dole, March 18, 1861, Letters Received, Chickasaw Agency, Office of Indian Affairs, Record Group 75, National Archives. Secretary of the Interior Caleb Smith reported to Chickasaw Governor Harris through Cooper that only \$1,203.71 of the total fund of \$6,203.71 was available, the balance being in Arkansas and Indiana state stocks upon which no interest had been paid. They were unable to pay the Chickasaw Nation the arrearages in interest. Smith to Dole, March 22, 1861, Letters Received, Chickasaw Agency, *ibid.*

⁵² Cooper to Latrobe, January 15, 1861, John H. B. Latrobe Papers, Maryland Historical Society, Baltimore, Maryland.

⁵³ 36th Congress, 2nd Session, Congressional Globe (Washington: John C. Rives, 1861), February 9, 1861, pp. 704-709, 824-831; Cooper to Latrobe, February 28, 1861, John H. B. Latrobe Papers, Maryland Historical Society; 36th Congress, 2nd Session, Congressional Globe, March 2, 1861, pp. 1341, 1357, 1362, 1414, 1419, and 1427.

⁵⁴ Cooper to Latrobe, March 9, 1861, John H. B. Latrobe Papers, Maryland Historical Society; Choctaw and Chickasaw delegates to Dole, March 12, 1861, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art; Cooper to Mitchell, March 15, 1861, and Mitchell to Cooper, March 16, 1861, "Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98 (Washington: Government Printing Office, 1873), p. 84; Choctaw Delegation to Dole, March 22, 1861, and Cooper to Smith, December 29, 1874, Appendix B, The Choctaw Nation in

Account with D. H. Cooper, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁵⁵Vouchers 1 and 2, ibid.; Cochrane to Pike, April 23, and 25, 1861, John T. Cochrane Papers, Thomas Gilcrease Institute of American History and Art.

⁵⁶Ibid.

⁵⁷W. K. Edwards to C. B. Smith, May 1, 1861, W. Baker to "Secretary of Interior or War," May 6, 1861, Simon Cameron to C. B. Smith, May 7, 1861, C. B. Smith to Salmon P. Chase, May 7, 1861, C. B. Smith to Dole (2), May 8, 1861, C. B. Smith to Simon Cameron, May 8, 1861, Salmon P. Chase to C. B. Smith, May 10, 1861, Letters Received, Choctaw Agency, Dole to C. B. Smith, May 6, 1861, Report Book 12, p. 156, Salmon P. Chase to Charles Denby, May 10, 1861, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

CHAPTER VII

LEADING THE CONFEDERATE INDIANS, 1861-1862

The Civil War theatre in which Cooper operated included the eastern portion of the Chickasaw and Choctaw nations, the western and northwestern part of Arkansas, the southwestern corner of Missouri, the southeastern corner of Kansas, and the eastern sections of the Cherokee and Creek nations. The population of the Indian Nations involved in the war was estimated by the Commissioner of Indian Affairs in April, 1861, to be 61,210 distributed as follows: Choctaws, 18,000; Chickasaws, 5,000; Creeks, 13,550; Cherokees, 17,530; Seminoles, 2,276; and Neosho Agency, 4,863. The two main lines of transportation and communication were the Texas Road, from Fort Scott, Kansas, southwest into Texas, and the Arkansas River, flowing southeast past Fort Gibson and Fort Smith.¹

In the spring of 1861, the military establishments garrisoned by United States Army troops were Fort Smith, Fort Washita, Fort Arbuckle, and Fort Cobb, the last named having been established in 1859 near the Wichita agency in the Leased District on a tributary of the Washita River northwest of Fort Arbuckle. Fort Gibson, on the Texas Road near the junction of the Verdigris, Grand, and Arkansas rivers, had been abandoned to the Cherokees in September, 1857. Major Emory of the First Cavalry Regiment, who had furnished an escort for the first leg of Cooper's visit to the 100th meridian survey party in March, 1859, had been promoted to lieutenant colonel in January, 1861, and commanded six

companies of cavalry, five companies of infantry, and a battery of field artillery. Emory's abandonment of the posts by early May under stress from state troops in Arkansas and Texas increased the pressure on those citizens of the Cherokee, Creek, Seminole, Choctaw, and Chickasaw nations who wished to remain loyal to the Union or entertained hopes of staying neutral.

At this early stage of the war, there were no Confederate forces, as such, in the Indian Territory. Indian volunteers, who were not yet organized and mustered into Confederate service, joined with the Texas troops to hasten the abandonment of Forts Washita, Arbuckle, and Cobb. Cooper was not involved in the early phase, arriving at Fort Smith from Washington after the Union forces had departed from that post and Fort Washita. He did not participate in the harassment of Emory's forces as they united far to the west with the garrisons from Forts Arbuckle and Cobb and departed, with the guidance of Black Beaver, for Fort Leavenworth, Kansas.²

In May, 1861, Cooper's wife and three youngest children were at Mon Clova. The two oldest, Sarah M. MacDonald and Frances M. Walker, were married, but soon returned to Mon Clova as their husbands entered the war. The next oldest, David J. and Douglas, Jr., were studying medicine in New Orleans. Douglas, Jr., had enrolled at the Virginia Military Institute on August 11, 1860, but left soon afterwards. He was subsequently dismissed, for being absent without leave more than thirty days, on October 31, 1860. He and his brother David began the study of medicine in the fall term at the Medical Department of what was then called the University of Louisiana and has since become the Tulane University School of Medicine.³

On May 13, the Confederate Secretary of War, Leroy P. Walker, notified Cooper that the most "friendly relations" were to be cultivated with the Choctaws and other Indians west of Arkansas. Walker continued: "Appreciating your sympathies with these tribes, and their reciprocal regard for you, we have thought it advisable to enlist your service in the line of this desire." He also informed Cooper that a Texan, Benjamin McCulloch, had been appointed as brigadier general of volunteers to command the district embracing the Indian Territory west of Arkansas and south of Kansas. A Texas cavalry regiment and another from Arkansas along with an infantry regiment from Louisiana were being recruited to be placed at McCulloch's disposal. The Arkansas and Louisiana regiments were to rendezvous at Fort Smith and the Texas regiment at Dallas. Walker authorized Cooper to raise a mounted regiment from among the Choctaws and Chickasaws, to be commanded by Cooper "in cooperation with McCulloch." It was also planned to raise two more mounted regiments from among the other tribes west of Arkansas.

Ammunition was being manufactured, Walker promised, and "the arms we are purchasing for the Indians are rifles." This was intended to interest and please the Indians, who prized rifles and reportedly "would not pick up a musket if it lay in the road." The rifles were to be forwarded to Fort Smith. In the race to cultivate the friendly relations of the Choctaws and Chickasaws, into which Walker's instructions had thrown Cooper, the Confederacy quickly outdistanced the United States. On May 25, the day McCulloch arrived at Fort Smith from Montgomery, the Chickasaw Senate and House of Representatives passed a resolution declaring "that the dissolution of the Federal Union under which the Government of the United States existed, has absolved the

Chickasaws from allegiance to any foreign government whatever," leaving them independent and free to form any alliance promoting their safety and welfare. The Choctaw General Council passed a similar resolution on June 10.⁴

Cooper began to raise his regiment on May 30 when he received an appointment as colonel of the First Regiment of Choctaw and Chickasaw Volunteers. At Fort Washita at the time, he enrolled himself for a twelve months enlistment and began the recruitment of ten companies. Enrollment for service in Cooper's regiment and the other Indian regiments was conducted simultaneously with the negotiation of treaties of alliance between the Indian nations and the Confederate States government. The Confederacy's commissioner, the same Albert Pike who was one of the legal counselors for the Choctaw's Net Proceeds Claim, concluded treaties with the Creek Nation on July 10, the Choctaw-Chickasaw treaty on July 12, and the Seminole treaty of August 1.⁵

Of the major tribes or nations, commonly called the Five Civilized Tribes, only the Cherokees presented a problem to Pike. The Cherokees, being the northernmost and thus more exposed to Union military force, was divided in sentiment over remaining loyal to the United States or declaring for the Confederacy. The Cherokee Chief, John Ross, whose judgment led him to withstand Pike's first overtures, favored restraint in any choice and personally thought the ties to the United States should be maintained, at least in the early part of the negotiations. A minority, whose leaders were Stand Watie and Elias C. Boudinot, favored an alliance with the Confederacy. This tribal discord was a vestige of the murderous factionalism engendered by the negotiations that provided for the sale of Cherokee land east of the Mississippi

River and Cherokee removal west. Finally, on October 7, the Union-Confederate treaty issue was resolved, but not with great unanimity, and a treaty was signed with the Confederacy.⁶

Thirteen days after the Choctaw-Chickasaw treaty was signed, Cooper reported directly to President Davis that "the organization of the Choctaw and Chickasaw regiment of Mounted Rifles will be completed this week, but as yet no arms have been furnished at Fort Smith for them." He was encamped ten miles west of the old Choctaw agency, that is, where Tandy Walker had been Cooper's host when agency work brought him to the Skullyville area. On July 30, the assistant quartermaster general at Fort Smith, George W. Clark, had responded to pressure from Cooper by telegraphing Secretary of War Walker that the rifles for the Indians had not yet arrived at Fort Smith. Secretary Walker, now at Richmond, on July 31 answered that the rifles had been sent to Fort Smith for the Indian regiments and that he "supposed they had arrived."⁷

While the Confederate Indian forces were being organized, mustered into the service, and armed, the disaffected of the various tribes gathered under the leadership of Opothleyahola, the venerable Creek leader encamped on the North Canadian River. Opothleyahola had incurred the enmity of the Lower Creeks, so-called for their respective location prior to removal, for his part in the tribal execution of William McIntosh in 1825. Chief McIntosh, a Lower Creek, was the person through which United States commissioners on February 12, 1825, negotiated the Treaty of Indian Springs ceding all the Creek lands in the East and calling for Creek removal west of the Mississippi River. McIntosh's violation of an agreement among the Creek chiefs

forbidding such sale or exchange of Creek land was punishable by death. The Upper Creeks and Opothleyahola delayed their removal west and, when finally forced to settle in the Creek Nation west of Arkansas, the bitter enmity of the McIntosh family was only held in check by the intervention of United States officials and dampened by the distance of forty miles between the older settlements of the McIntosh Creeks and the Upper Creeks. On the issue of secession in 1861, the McIntosh Creeks favored the Confederacy and the dissenting faction included a large percentage of the Upper Creeks. The cleavage in the Creek ranks was deep and potentially dangerous.⁸

The resolution of loyalties continued through the late summer and into the fall. Opothleyahola's camp population increased to approximately 6,000 persons, mostly Creeks, Seminoles, and Cherokees, with a small number of Choctaws and Chickasaws. On September 11, Colonel Daniel N. McIntosh, commanding the First Creek Regiment, reported to Colonel John Drew, a Cherokee who was enrolling a regiment for defense against any invader, that Opothleyahola's camp was becoming a haven for escaped slaves--150 having fled there in the last three days. This development added another dimension to the already threatened political leadership of Creeks Motey Kennard and Echo Harjo, strong Southern sympathizers.⁹

On October 6, Brigadier General McCulloch ordered Colonel Drew and his regiment, as soon as it could be mustered into the Confederate service, to join with Colonel McIntosh and Cooper "for the purpose of moving against the disaffected Creeks." The Cherokee treaty with the Confederate States, signed on October 7, cleared the way for Drew's regiment to be brought into the Confederate service. All attempts by

Kennard and Harjo to bring Opothleyahola into a peaceful reconciliation proved unsuccessful and support for the Confederacy within the Creek Nation dwindled.¹⁰

Cooper was anxious to end the dissention in the Creek Nation, more specifically the threat posed by Opothleyahola's presence, so that he could move his regiment north of the Cherokee Nation in the event of a Union attempt to invade the Indian Territory. Earlier, Stand Watie had quickly organized a regiment of bellicose Confederate sympathizers from among the Cherokee minority opposed to the more neutral Ross faction and was already in the field along the border between Kansas and the Cherokee Nation. Drew's regiment, on the other hand, was recruited from the Ross faction and its officers were committed to a defensive policy. Watie was doing reconnaissance and had orders, should he be attacked by a large Union force, to withdraw and destroy the forage in the area as he did so. On October 22, Cooper was informed of these orders and ordered "to push the whole of the Indian force as high in Kansas as possible, as the enemy's movements by way of Springfield may leave the southern portion of that state unprotected." As implied in these orders, Cooper began to sign his correspondence, "Colonel C.S.A. Commanding Indian Department."

But Cooper was unable to follow the orders until the threat of Opothleyahola was neutralized, either peaceably or by force. In his opinion, until this was done, D. N. McIntosh's First Creek Regiment and the Creek companies in Lieutenant Colonel Chilly McIntosh's Creek and Seminole Battalion would refuse to march north into Kansas. As late as October 29, Cooper was still trying to arrange a parley with Opothleyahola in the hope of avoiding an armed encounter. He gave no indication

of the terms he was prepared to offer, but since Opothleyahola never seriously considered meeting with him, it is likely that the old Upper Creek anticipated no less demand than unconditional surrender.¹¹

The campaign against Opothleyahola began on November 5, when Cooper learned that the entire colony, including women, children, and all their property that could be taken with them, had abandoned the camp on the North Canadian River. Cooper, who was encamped with his regiment near William Fisher's store on the Texas Road, prepared his regiment for pursuit and, also, ordered Drew's First Cherokee Regiment, at Fort Gibson, north to the Neosho River in support of Stand Watie. "Having received positive evidence that he [Opothleyahola] had been... in correspondence, if not alliance, with the Federal authorities in Kansas," Cooper later reported, "I resolved to advance upon him with the forces under my command, and either compel submission to the authorities of the nation or drive him and his party from the country."¹²

The forces under Cooper's command, in addition to his First Choctaw and Chickasaw Regiment under the immediate command of Major Mitchell Leflore, included D. N. McIntosh's First Creek Regiment and Chilly McIntosh's Creek and Seminole Battalion, with Major John Jumper commanding the Seminole companies. McCulloch also placed at his disposal a detachment of Colonel William B. Sims' Ninth Texas Cavalry Regiment under the command of Lieutenant Colonel William Quayle. Their combined strength was given by Cooper at "about 1,400 men" as they set out in pursuit of Opothleyahola on November 15. They were not all well armed. Of the rifles promised them, only enough had been received to arm part of the companies within Cooper's First Choctaw and Chickasaw Regiment. Others carried miscellaneous arms, many of which were brought with them

at the time they joined the service.

The Confederate base camp, where the supply wagons were left under guard, was established at the Creek settlement of Concharta, twenty-five miles west from Fort Gibson near the south bank of the Arkansas River. Cooper's command, carrying ten days' rations, searched to the southwest and found only abandoned camps as they followed his movement northward in the direction of the junction of the Cimarron and Arkansas rivers. On November 19, they captured a member of Opothleyahola's party from whom they learned that the destination of the party was Walnut Creek, presumably the creek by that name draining into the Arkansas River from the Osage hills northwest of Tulsey Town, present Tulsa. There was another Walnut Creek that joined the Arkansas River three miles above the Kansas border.

Of more immediate importance, Cooper learned from the prisoner that the main party was encamped near the junction of the Cimarron and Arkansas rivers. After crossing the Cimarron River, Cooper quickened the pace of his command until about 4:00 p.m., when it appeared that Opothleyahola was only a short distance ahead. He ordered William Quayle's Texas Cavalry detachment to charge ahead, but they found the camp recently deserted. Pressing on, the cavalry sighted scouts and chased them into a wooded area from which rifle fire caused Quayle to halt his men. Opothleyahola's horsemen charged from the woods and chased Quayle's men in a running fight back to the main body of Confederate forces. Quayle was able to avoid being outflanked, but combat between the two main forces was curtailed by darkness. After an uncertain exchange of several volleys, the grass blazed into a prairie fire and the engagement was broken off. Casualties were light on both sides.

Opothleyahola withdrew during the night. Cooper was unable to continue the pursuit, having received orders from McCulloch to move his forces near the Arkansas line as supporting troops in anticipation of a Union thrust from Missouri into the northwest corner of Arkansas. Accordingly, he returned to Concharta and his supply wagons on November 24.¹³

The need for Cooper's forces to be near the Arkansas line in support of McCulloch failed to materialize. After resting his command in the vicinity of Concharta, Cooper decided to resume operations against Opothleyahola. On November 29, he began the movement of his men northwest to Tulsey Town and then north to join with Drew's regiment and Colonel Sims' Ninth Texas Cavalry Regiment. Due to confusion about the rendezvous, Drew arrived near Opothleyahola's camp on December 7, one day earlier than Cooper expected. The next day Cooper arrived with the main force, conferred with Drew about Opothleyahola's request for a parley, and authorized Drew to make arrangements for a conference the next day. Drew's emissary, who was permitted access to Opothleyahola's camp on the evening of December 8, but not allowed to talk with Opothleyahola, returned with a report that the Confederate forces were to be attacked that night. When the rumor spread, all of Drew's regiment except Drew and twenty-eight of his men either defected to Opothleyahola's camp or fled to Fort Gibson.

Cooper had encamped on Bird Creek about two miles below Drew's camp. When Cooper received the news of the mass defection, he placed his camp on alert for the night. Early on the morning of December 9, the abandoned arms and camp equipment of Drew's regiment were found intact and recovered by the Confederates. Before noon Cooper crossed to the east side of the creek and moved downstream to take up a position

where the lines of communication could be maintained with the base at Coweta Mission, a supply depot across the Arkansas River from Concharta, and in a favorable position to receive the expected reinforcements of Creeks, Seminoles, and Choctaws from Tulsey Town.

As Cooper sought the desirable position from which to launch an attack upon the main camp, a detachment of Opothleyahola's horsemen made a feint at the rear of the Confederate formation before turning to the safety of the woods along the creek. In turning the rearguard threat, Cooper's forces were maneuvered into attacking Opothleyahola at an easily defended position on Bird Creek known as Caving Banks, or Chusto-Talasa.

The combatants were locked in battle from early in the afternoon until darkness forced a halt. A series of advances and withdrawals by Cooper's troops resulted in higher casualties than suffered in the November 19 engagement. Cooper estimated the enemy loss in killed and wounded at 500 and reported his losses as 15 killed and 37 wounded at Chusto-Talasa. He gave the number of men under his command actually engaged in the fighting, that is, not counting those guarding Drew's supply wagons, as 1,100. By his estimate, the enemy force "was certainly over 2,500."

Although Opothleyahola's forces were driven from their positions and did not resume the fight on December 10, they were still intact as an effective fighting unit. Cooper claimed the battleground, evacuated the wounded, and buried the dead, but the defection of Drew's regiment reopened the question of loyalties among the Cherokees and caused Cooper considerable anxiety in the days that followed. He was low on ammunition and reports were reaching him of Cherokees, about 100 in

one group, joining Opothleyahola's camp on Shoal Creek northwest of Bird Creek. In the face of these developments, he sent an express to McCulloch's headquarters at Van Buren with an account of the engagement, the disaffection among the Cherokees, and stating that he was low on ammunition. He also asked for additional white troops, stating that "the true men among the Cherokees must be supported and protected or we shall lose the Indian Territory." Colonel James M. McIntosh, in command during McCulloch's absence at Richmond, called a force of 2,000 men out of winter quarters and led them to Cooper's aid, departing from Van Buren on December 17.¹⁴

After Chusto-Talasa, Cooper withdrew his troops in the direction of Fort Gibson. He stationed D. N. McIntosh's regiment, Chilly McIntosh's battalion, and the Choctaw and Chickasaw regiment at Choska and proceeded on to Fort Gibson, arriving there on December 16. Drew, with the remnants of his regiment, and Sims' Texas cavalry were at Fort Gibson. With the political struggle now of the utmost importance, Cooper addressed Drew: "as your position was peculiar, yet eminently honorable, it is indispensable...that your account of the circumstances be furnished; and particularly I request the names of your few followers--your officers and privates--that I may bear them before our country as their gallant conduct deserves should be done."¹⁵

By praising the steadfastness of Drew and the few who fought with him on the side of the Confederacy, Cooper was making a bid for the friendship and support of Chief Ross. He was aware that more was to be gained for the cause of the Confederacy by commendation of Drew, a Ross man, than by condemnation of the many who refused to fight against Opothleyahola's followers, many of whom were former neighbors

and friends of the defectors from Drew's regiment. Ross came to Fort Gibson and, on December 20, Cooper crossed over the Grand River from his camp opposite Fort Gibson to confer with him on the delicate political condition of the Cherokee Nation.

Cooper had received news that white reinforcements from Arkansas were to arrive at Fort Gibson on the day of his conference with Ross. Seven companies of Colonel William C. Young's Eleventh Texas Cavalry Regiment, under the command of Lieutenant Colonel James J. Diamond, had been dispatched to Cooper's aid and he expected to use this in convincing Ross that the Confederacy would keep its promise to furnish white troops for the protection of the Cherokees. Cooper was surprised, upon his arrival at Fort Gibson on December 20, to find Colonel James McIntosh present and planning to lead the Third and Eleventh Texas Cavalry regiments personally against Opothleyahola. Of the troops brought from Van Buren, McIntosh placed only a three company battalion of Texas cavalry, under the command of Major John W. Whitfield, at Cooper's disposal.

McIntosh had changed plans without notifying Cooper. On December 14, he notified Adjutant General Samuel Cooper in Richmond that he had sent troops as requested by Douglas H. Cooper. On December 16, McIntosh notified Adjutant General Cooper that he had heard more of the disaffection among the Cherokees and of Opothleyahola's rapidly increasing forces. He now "deemed the troubles there of sufficient importance to send additional force, and will myself take command." On the day intervening, he addressed a plea to Adjutant General Cooper for transfer from the Indian Territory section of the country. He did not think any "battle of importance" would be fought "during the next year

west of the Mississippi River." He wanted "to be nearer the Department, where...I may at least be heard, and have the same chances that many of the regular officers of the Army, younger in rank than myself, have had, and rise at least to their level." If Douglas H. Cooper had known of this request by the United States Military Academy graduate, he could have better understood McIntosh's decision to engage personally in the third attack upon Opothleyahola.

McIntosh readied his troops for the attack while Cooper completed his conference with Ross and arranged with the Cherokee chief and Drew for the reorganization of Drew's regiment. Also, Cooper discussed the plan of attack with McIntosh, and it was understood that each would lead a column. One was to proceed up the Verdigris River and the other up the Arkansas River. Watie's regiment on duty to the north of Tulsey Town was ordered to rendezvous with McIntosh on the Verdigris River. Late in the day on December 20, Cooper and Whitfield's battalion moved to Choska, where the balance of his command was refitting for the attack.

The next day, Cooper sent an express to Fort Gibson to learn when McIntosh would be ready and to ask about the ammunition that McIntosh had agreed to share. McIntosh answered that he was departing on December 22 with the major part of his forces and the remainder would follow the next day. The ammunition reached Choska on December 23 and the next day Cooper's command departed for Tulsey Town. En route, he sent an express telling McIntosh that he would not reach Tulsey Town until December 26 and that McIntosh's "well-appointed command was too fast" for his, but that if Watie joined McIntosh he supposed they would have force enough to defeat Opothleyahola without him. McIntosh stated that

Cooper's delay, as reported to him, was due to the desertion of the teamsters.

McIntosh moved rapidly up the Verdigris River to Shoal Creek and struck at Opothleyahola on December 26. Between noon and dusk he had broken their resistance and overrun the camp. Opothleyahola and those who were able to escape fled toward Kansas. Watie arrived after the battle had been decided and Cooper was still in Tulsey Town. The following day, Cooper learned of McIntosh's victory and Opothleyahola's escape. He abandoned plans of an encirclement and marched by the shortest route to the scene of the battle, the so-called battle of Chustenhlah, and searched the Osage Hills for Opothleyahola and groups of his followers. Cooper moved up one trail, running slightly west of north, going almost to the Kansas line, before leaving it to turn west toward the Arkansas River. Cooper's forces occasionally intercepted small parties attempting to reach the vicinity of the Walnut Creek junction with the Arkansas River beyond the Kansas line. At this time the sleet, driven by an increasing north wind, made search operations almost impossible. Many of Opothleyahola's stragglers were of the Seminole Nation, likely the last to yield to the Confederate forces at Chustenhlah, who now bravely risked death not only by exposure and starvation, but also by capture. Cooper's men depleted their supply of rations and, suffering from the extreme cold, returned to Tulsey Town without Opothleyahola on January 3, 1862.

Cooper was satisfied that the Indian Territory was free of the menace of Opothleyahola for the winter, but McIntosh's action was unsettling to him. McIntosh's precipitancy, as Cooper characterized it, had reduced and dispersed the forces of Opothleyahola, but the chance

to capture them was lost. As long as they survived and regrouped, they would provide a rallying point for the disaffected in the Indian nations, where Cooper desired to achieve dependable support for the Confederacy.¹⁶

But with Opothleyahola driven out, the Creek and Seminole political situation was at least temporarily stabilized and the question of loyalty among the Five Civilized Tribes was resolved except among the Cherokees. The Ross faction, the majority party composed primarily of full-blooded Cherokees, was not wholeheartedly in support of the Confederacy even though committed by treaty. Cooper was concerned about this major problem and maintained a military presence among them by going into winter quarters at Camp Dardenne, or "Fort Dardane" as two of his captains called it, near Fort Gibson. He also ordered Colonel Robert H. Taylor's Texas cavalry regiment, the only regiment of white troops under his command, from Fort Washita to nearby North Fork Town in hopes of preventing civil war within the Cherokee Nation.

Cooper was trying to fulfill the promise of the Confederate government to provide the Indian country with three white regiments. The First Arkansas Mounted Rifles under Colonel Thomas J. Churchill, the Third Louisiana Infantry Regiment under Colonel Paul O. Hebert, and the Third Texas Cavalry Regiment under Colonel Elkanah Greer were raised for McCulloch's command, which at the time of the promise in May, 1861, was limited to the Indian country west of Arkansas. McCulloch's command had since been changed to include western Arkansas, where the regiments had been taken and where they were stationed in February, 1862. Cooper considered this a breach of the promise made to him and to the Indians. When former commissioner Pike returned to the Indian Territory in

February, 1862, Cooper cautioned him that "unless the government complies with its promises to the Indians in every particular, and in giving them the aid of a sufficient body of white troops, the Indian Territory will assuredly be lost."¹⁷

Pike had taken the treaties to Richmond after completing the Cherokee agreement of October 7, 1861, and obtained their ratification by the Confederate Senate on December 20 and 21. On December 31, William H. S. Taylor of the Second Auditor's Office in the Confederate Treasury Department notified Pike that \$678,369.15 would be remitted to him to comply, in part with the treaty stipulations made with the Five Civilized Tribes, Comanches, Reserve Indians, Seneca, Shawnee, Quapaw, and Osage. Also, \$3,500 was to be remitted to him for contingent expenses of the superintendency and agencies. On Pike's arrival in the Indian Territory in February, he carried with him the total amount, \$681,869.15; \$200,927 in gold, \$65,000 in silver, and the balance in Confederate paper money. Instead of turning the money over to Elias Rector, the Superintendent of Indian Affairs in Fort Smith, Pike took the money into the Indian Territory and proceeded to make disbursements. This was not only contrary to his instructions, but it hampered his ability to discharge his duties as a brigadier general and commanding officer of the Department of Indian Territory.¹⁸

Orders of November 22, 1861, had placed Pike in command of the Indian country west of Arkansas and north of Texas and designated that area officially as the Department of Indian Territory. Before he returned to assume active command, however, orders were issued on January 10, 1862, giving Major General Earl Van Dorn command of the Trans-Mississippi District comprised of "that part of the State of Louisiana

north of Red River, the Indian Territory west of Arkansas, and the States of Arkansas and Missouri, excepting...[a] tract...on the Mississippi River." Van Dorn's district was a part of a larger department under the command of General Albert Sidney Johnston. The January 10 orders ignored the fact that the Indian Territory had been designated a separate department because of the unique political and military status of its people.¹⁹

Pike stated that Cooper was retained in his position as acting commander of the Indian Territory until February 21, 1862, but Cooper considered it terminated earlier. On February 10, he told Pike: "I have to enclose letter...addressed to me as colonel commanding department. You having virtually relieved me from that position by your order printed and published at Little Rock, I can only advise." Pike was occupied with making disbursements to the various Indian tribes, that is, continuing the role of commissioner well beyond February 21. It is likely that Cooper observed the inconsistency of Pike's logic at this time. As long ago as July, 1861, Pike had maintained that for Cooper to hold the rank of colonel in command of a regiment and to also be Indian agent to the Choctaws and Chickasaws was "incompatible." Cooper had fought this successfully, maintaining both positions concurrently, but giving priority to the military. Yet he saw the commanding general devoting more time to disbursement of treaty funds, a function Superintendent Rector was expected to perform, than to readying the Confederate Indians for their first encounter with organized Union forces.²⁰

The need for troops, trained and ready, was already present. In Missouri, Major General Sterling Price, commanding the Missouri State Guard, was driven by the Union forces from Springfield southwest to

Cassville and across the state line toward Bentonville, Arkansas. McCulloch's troops in northwest Arkansas provided a rear guard for Price's Missourians as they retreated from Cross Hollows near the line farther into Arkansas in late February. Van Dorn, anxious to create a diversion and provide relief for the Confederate defenders of the Mississippi River, sought to free Price's and McCulloch's badly needed troops that were employed in the Fayetteville area. He decided to launch a surprise attack in northwestern Arkansas, eliminate the Union pressure in that area, and then strike at St. Louis to lessen the Union pressure on the Confederate defensive posts along the Mississippi River. In assembling a strike force against Federal Brigadier General Samuel R. Curtis in the Fayetteville area, he ordered Pike to march with his command to be near Elm Springs, Arkansas, in the afternoon of March 5.

On March 3, the date of Van Dorn's orders, Pike departed from Park Hill, near the Illinois River, with Captain Otis G. Welch's squadron of Texas cavalry and Colonel D. N. McIntosh's Creek regiment en route to Arkansas via the Evansville road. Pike, who was acting as paymaster for the troops, had departed from Fort Davis on March 1 and left Cooper to pay the men of his command at Fort Gibson. On March 4, Pike, Welch, and McIntosh were joined by Watie's regiment before they camped for the night at Cincinnati, on the Cherokee line north of Evansville, Arkansas. On March 5, they reached Freschlag's Mill and the next day at Smith's Mill they overtook Drew's Cherokee regiment. That evening, March 6, they camped with the rearguard units of Van Dorn's command near Camp Stephens, located on Sugar Creek about three miles southwest from the main Union defenses of Brigadier General Curtis. The battle of Pea Ridge, or Elkhorn Tavern, was waged on March 7 and 8, with the order for

withdrawal being given by Van Dorn at about 10:00 a.m. on March 8.

It is likely that Cooper and the Choctaw and Chickasaw regiment never arrived in time to take part in the main battle. Only the two companies of his regiment who were in Welch's command were in the heavy fighting with Pike's troops on the Confederate right wing. No mention of Cooper and the Choctaw and Chickasaw regiment is made in the reports until after the order to withdraw filtered through to Brigadier General Martin E. Green's Second Division of the Missouri State Guard in charge of the ammunition and baggage train. Cooper and his regiment helped protect the train back to Elm Springs. At that place, Pike and remnants of his command met the train and ordered Cooper to march with the retreating Indian columns back through Cincinnati to the Indian Territory.²¹

Ramifications of the Confederate defeat at Pea Ridge appeared in the Indian Territory. Van Dorn marched most of the fighting units to the eastern section of Arkansas and left the defenses in the northwestern part of the state considerably weakened. The Indian Territory remained without the white regiments promised at the beginning of the war, except that Van Dorn allowed Pike to keep an artillery battery and placed two poorly armed Texas cavalry regiments, recently recruited and en route to Arkansas at the time of the battle of Pea Ridge, at his disposal. Pike reacted to the increased danger of an attack upon his headquarters at Fort Davis, which was near Fort Gibson, by removing to the southwestern corner of the Choctaw Nation. He located his new post, named Fort McCulloch in honor of Benjamin McCulloch who fell at Pea Ridge, near Nail's bridge on the Blue River where he could control the Indian Territory roads as they converged before crossing the Red River into Texas. The

defensive works at Fort McCulloch included earthen gun emplacements and a system of trenches that were of questionable value so far removed from the Union forces.²²

Pike made disposition of his troops to accommodate the changed conditions, stationing the artillery battery and the two Texas cavalry regiments at Fort McCulloch. Cooper and the Indian troops were placed farther north to wage guerrilla war and serve as scouting units for Pike. Acting under the authority granted him by the Confederate Secretary of War, Pike also increased his forces by recruiting a regiment among the Choctaws and placing it under the command of Colonel Sampson Folsom. Watie, Drew, and McIntosh were assigned to the northeastern section of the Cherokee Nation. Two to four companies were to be withheld from Drew's regiment to guard the "funds, archives, and authorities of the Cherokee Nation" at or near Park Hill east of Fort Gibson, as Cooper ordered. Cooper gathered his scattered forces and readied them for action in camps along the Canadian and Arkansas rivers until able to comply with Pike's orders to march to Boggy Depot on May 8, 1862.²³

The next military engagements in which Cooper participated directly were in late September, 1862, in southwestern Missouri and about a month later in the vicinity of Maysville, Arkansas. In the interim, several events occurred which affected his career as a Confederate officer. Chief among these happenings was the extended and confused resignation of Pike, who either never received the orders that included the former Department of Indian Territory in the Trans-Mississippi District as simply the "Indian country west of Arkansas and north of Texas," or refused to acknowledge the significance of the orders. To

persons outside of the Indian Territory, Pike was no longer a "departmental" commander responsible directly to Richmond, but he never reconciled himself to the fact that Van Dorn was operating within the intent of the orders of January 10, 1862. That is, it was expected of Van Dorn that troops and material would be shifted where and when he and his superiors decided they were most needed. Likewise, in emergencies it counted little that Pike had ordered the material for the "Department of Indian Territory."

Pike, in spite of the powers given the commanding officer of the Trans-Mississippi District, resisted the exasperating seizures upon reasonably firm grounds. The friendship of the Indian nations having been "purchased" by treaties, they were not to be treated as former Union states who "joined" the Confederacy. In other words, once agreements were ratified by the Confederate Senate recognizing that a special relationship existed between the Confederacy and the Indian nations, it should not have been within the power of the Secretary of War and the district commander to abrogate or subvert those agreements.²⁴

Pike's frustrations grew. On May 11, 1862, Van Dorn notified Major General John S. Roane to "assume command of the forces for the defense of the State of Arkansas." Eight days later Van Dorn instructed Pike: "You will please send to General Roane all the troops (not Indians) which can be spared from your command." On May 26, orders were issued that reorganized the Trans-Mississippi District into the Trans-Mississippi Department and included Missouri, Arkansas, Louisiana west of the Mississippi River, Texas, and the Indian Territory. There was still no restoration of the Department of Indian Territory. Pike recommended to President Davis on May 29 that Cooper be commissioned a

brigadier general.²⁵

In June, 1862, Union troops in Kansas under the command of Colonel William Weer began an invasion of the Indian Territory. An advance detachment commanded by Colonel Charles Doubleday surprised Watie late in the day of June 6 and forced a hasty withdrawal from his camp on Cow-skin Prairie, between the Grand River and the Cherokee-Missouri boundary. To meet this threat, Pike issued orders placing Cooper in command of all Indian and allied troops in the Indian Territory north of the Canadian River, excluding only the Seminole battalion. When Pike learned that a colonel in the Missouri State Guard, J. J. Clarkson, had been given command of northern Indian Territory by Major General Thomas C. Hindman, commander of the Trans-Mississippi Department, he issued a second set of orders contradictory to Hindman's instructions to Clarkson. Pike's orders were issued expressly to reaffirm Cooper's command of all troops north of the Canadian River and to state: "No officer of the Missouri State Guard, whatever his rank...can ever exercise or assume any military authority in the Indian country, and much less assume command of any Confederate troops or compare rank with any officer in the Confederate service." Within a week, on July 3, 1862, Clarkson and his command were decisively defeated by part of Weer's forces at Locust Grove, about twenty-seven miles north of Fort Gibson. Many of the Confederate troops were taken prisoner and a large supply of gunpowder was lost when the supply train was taken by the victors.

Clarkson's misfortune, or ineptness, eliminated one source of trouble between Pike and Hindman, but it was a blow to the Confederate cause and added to the difficulties Cooper encountered in trying to rally opposition to Weer's expedition. At Fort Davis on July 7, Cooper

ordered a supply of percussion caps from N. Bart Pearce of Fort Smith and estimated he would need enough for about 5,000 men who would be with him soon. Unable to call his force up to fighting strength quickly, he was relieved only by Weer's withdrawal from the Indian Territory. Pike, whom Hindman had also ordered north to meet Weer's expedition, forwarded his resignation and a request for leave of absence until President Davis had time to act on his resignation.²⁶

Hindman was succeeded by Major General Theophilus H. Holmes as commander of the Confederate Trans-Mississippi Department in accordance with instructions of the War Department dated July 16, but Holmes assumed command, while en route to Arkansas, at Vicksburg, Mississippi, on July 30. Major General John Bankhead Magruder was appointed prior to Holmes, but had remained in Richmond to participate in the impending battle with General George B. McClellan's Union forces before assuming command of his new post. Reportedly, he was charged with drunkenness and disobedience of orders and replaced as quickly and as quietly as possible with Holmes. Hindman was still in command on July 29 when he relieved Pike of his command "on account of physical disability, and at his own request," and ordered Pike to report to headquarters at Little Rock. At the same time Hindman assigned Cooper "to the command of the Confederate forces in the Indian Country until further orders."²⁷

On July 31, Pike asked Hindman for renewal of his leave of absence, preferring to be in north Texas or Indian Territory closing his affairs, to being at headquarters near Hindman and Holmes. Cooper became deeply involved in Pike's resignation controversy when Pike printed and distributed a document revealing the forces under Cooper's command and the weakness of Cooper's left flank, the Creek and Seminole country to

the west. Cooper sent a copy to Hindman on August 7 and reported: "I have also ordered the arrest of General Pike, and that he be conveyed out of the Indian Territory to your headquarters. I consider that he is partially deranged, and a dangerous person to be at liberty among the Indians. If sane, he should be punished for violation of the Rules and Articles of War."

The following day, while still at Fort Davis, Cooper enclosed a copy of Pike's printed document to President Davis and informed him of the action taken. He denounced Pike's actions in stronger terms to Davis than he had to Hindman. He declared that Pike had constantly written to him that it was "madness to try to hold" Fort Davis and, upon failing to convince him, had attempted to starve him out "by stopping supplies fifty miles back." Weer's expedition, which Cooper said consisted of five white regiments and two Indian regiments augmented by 1,000 to 1,500 Cherokee defectors, was being rated by Pike as "only a jayhawking party, and of course that no credit is due for arresting their career." After telling of his order to have Pike arrested and removed from the Indian Territory "as a dangerous person to be at large among the Indians," he judged Pike to be "either insane or untrue to the South."²⁸

Davis was in possession of the printed document before receiving Cooper's letter, as attested by the reprimand of Pike on August 9 for his "impropriety," which was a "grave military offense," said Davis. "If the purpose was to abate an evil, by making an appeal that would be heeded by me," Davis admonished, "the mode taken was one of the slowest and worst that could have been adopted." On September 19, Cooper's letter was referred to the Secretary of War, who returned it with the

the notation, "General Pike's resignation has not yet been accepted." In late September or October, Pike returned to the Indian Territory, whereupon Hindman notified Cooper that neither he nor his command were to respect Pike's orders and, if necessary, take him into custody and send him under guard to Hindman's headquarters. Two days later, on November 5, Secretary of War George W. Randolph in Richmond ordered that the resignation be accepted and Pike notified of the acceptance. A detachment of cavalry sent from Arkansas under instructions from Holmes located Pike near Tishomingo on November 14 and took him into custody. After escorting him into Texas, news of the acceptance reached his captors and he was released. Pike's rationale for reassuming command was that he had done so, but reluctantly, in deference to the wishes of President Davis as conveyed to him through Captain Thomas J. Mackey of the Confederate Provisional Engineer Corps.²⁹

Despite Pike's uncertain status before his separation from the military and Indian service in November, 1862, Cooper was commanding officer of the Confederate forces in the Indian country from July 29, 1862, "until further orders." Under reorganization orders of September 28 and 30, Hindman was made commander of the First Army Corps, Army of the West, in Arkansas, southwestern Missouri, and the Indian Territory. The First Division, under Brigadier General Roane, included Cooper's First Brigade and the Second Brigade commanded by Brigadier General James S. Raines, former commander of the Eighth Division of the Missouri State Guard. It was in response to Hindman's plans, with which Pike refused to comply, that Cooper prepared to invade southwestern Missouri. Hindman, attempting to produce more war material within his command, wished to gain control of the lead mines near Granby, Missouri.³⁰

As senior colonel and commanding officer in the Indian Territory, Cooper needed to increase his staff. One of his first acquisitions was Thornton B. Heiston, a corporal in Captain Otis G. Welch's company of Texas Rangers, whose initial twelve month enlistment had expired in June, 1862. Heiston and his brother, Felix S., were natives of Kentucky who had removed to Kentuckytown in north Texas, about fifteen miles south of the point where the Texas Road crossed the Red River. They both took part in the occupation of the forts abandoned by the Union troops at the beginning of the war, the Opothleyahola campaign, and Pea Ridge. Felix, who had become a sergeant in an artillery crew on detached service with the Choctaw and Chickasaw Regiment, reenlisted in the artillery, but Thornton became the nucleus of Cooper's personal staff as an aide-de-camp.

During the summer and fall of 1862, Cooper's two older sons were added to his staff. Under orders of June 27, his son Douglas H., Jr., was released from Captain Isaac D. Stamps' Company E, Twenty-first Mississippi Infantry Regiment, and transferred as of July 7 to Cooper's headquarters as another aide-de-camp. Douglas H., Jr., had interrupted his study of medicine at New Orleans and enlisted for the war on June 6, 1861, in Stamps' company at Woodville, Mississippi. Stamps, a nephew of Jefferson Davis and former Superintendent of Common Schools in Wilkinson County, Mississippi, had led his company through the fighting in Virginia at Seven Pines, Savage Station, and Malvern Hill. This was the veteran son who the senior Cooper was later to describe as "partially educated at Virginia Military Institute." David J. did not leave medical school until New Orleans came under Union control in April, 1862. After a brief stay in Arkansas, he joined his father's

camp in early September and was to render valuable service in the engagement at Newtonia, Missouri, on September 30, receiving an appointment as an assistant surgeon one week later.³¹

The clash at Newtonia erupted on the seventh day after Cooper led his troops across the Arkansas boundary and encamped south of Pineville, Missouri, on the afternoon of September 23. The Indian units accompanying him included six companies of his First Choctaw and Chickasaw Regiment, now under the leadership of his friend from Skullyville, Lieutenant Colonel Tandy Walker. Others were Colonel Sampson Folsom's First Choctaw Regiment, Major J. M. Bryan's First Cherokee Battalion, and Lieutenant Colonel M. W. Buster's Indian Battalion. Other regiments that Cooper brought with him were the First Texas Partisan Cavalry Regiment under Colonel J. G. Stevens, the Thirty-first Texas Cavalry Regiment under Colonel Tresevant C. Hawpe, and the Thirty-fourth Texas Cavalry Regiment under the command of Colonel Almerine M. Alexander. Captain Sylvanus Howell was in charge of a four gun artillery battery.

The Confederates broke camp on September 24 and moved north to Pineville, where Cooper stationed Buster's Indian Battalion. Continuing slightly east of north, they reached the rendezvous point for a juncture with Colonel Joseph O. Shelby's forces at Camp Coffee, five miles south of Newtonia. Shelby placed his own cavalry regiment and two others, under the command of Colonel Beal G. Jeans and Colonel John T. Coffee, at Cooper's disposal. Cooper also gained the use of two artillery pieces under the command of Captain Joseph Bledsoe.

Camp Coffee became the headquarters and outposts were established in the vicinity. Scouting parties were sent out to Neosho, northwest of Newtonia, and to Granby, north and slightly east of Newtonia. On

September 27, Cooper stationed Hawpe's regiment and Bryan's battalion at Newtonia. Acting on Hawpe's suggestion, Cooper moved Bledsoe's battery to Newtonia and placed Hawpe in command of the outpost which, with its grist mill, became important to the sustenance of all of Cooper's men. On September 29, Hawpe reported to Cooper that a Union force had driven in the pickets on the north of Newtonia. Cooper took Shelby's regiment, under the command of Lieutenant Colonel B. Frank Gordon, and Jeans' regiment to Newtonia, but finding no Union troops, placed the regiments under Hawpe's command and returned to Camp Coffee. Union troops were reported in the vicinity of Granby late in the day and Cooper dispatched Stevens' cavalry to that area.

Early in the morning of September 30, Hawpe's men saw no Union force, so Shelby's two regiments were sent back to Camp Coffee. Within half an hour, however, pickets on the north and west of Newtonia were fired on and driven in. Cooper, en route to Granby with Alexander's regiment, was two miles south of Newtonia when he heard Bledsoe's artillery and hurried to the scene. Union troops had taken possession of outlying buildings in the northwest section and two Union batteries were firing from the northwest and west into the Confederate position. Bledsoe's artillery was positioned behind a stone fence, with Hawpe's troopers on the right and Bryan's on the left. Cooper sent Alexander's regiment to the right wing to extend the Confederate line to near the mill, but it was forced to withdraw to the protection of the stone fence on Hawpe's immediate right. Union sharpshooters came within rifle range of Bledsoe's artillerymen, and Hawpe counterattacked, driving them back. When the Union artillery concentrated on Hawpe's men, they withdrew to their initial position behind the stone fence. Bledsoe's

crews ran out of ammunition and withdrew to a ridge about 150 yards in the rear, but wheeled into position as if to fire and bluffed a Union cavalry detachment that threatened the left wing.

With the situation beginning to appear desperate, Cooper's reinforcements began to arrive. The first unit to appear was his old regiment, the First Choctaw and Chickasaw, with Walker at their head as they came riding into the center of the fight with rebel cries and war whoops. Cooper swung in with Walker and, with Gordon's Missouri cavalry arriving on his right, waved them to join the charge. Union infantry gave way in the face of the assault and fled northward. As the Union line was breaking, Stevens' regiment from Granby approached on Cooper's left. Gordon halted, not recognizing Stevens' as a Confederate force until informed by aides David Cooper and Thornton Heiston, and then resumed the charge. The delay allowed the Union artillery to escape, although many of the infantry were overrun. It was at this time that the Union Ninth Wisconsin Infantry Regiment suffered heavy losses, with four companies losing all but about ten men. Confederate pursuit was broken off when heavy Union reinforcements appeared about six miles north of Newtonia.

When Cooper returned to Newtonia, he found that Shelby had sent Jeans' regiment and Howell's battery up from Camp Coffee. He positioned Howell's battery at the graveyard on the north edge of town, where they faced the main Union force that had taken a position on the ridge one mile north. Union infantry approached behind the cover of trees and shrubs along a creek in the northeast section, reaching a corn field near the mill before being detected. This was on the Confederate right where Walker's regiment, now dismounted, was posted. As the Union

infantry attempted to turn the right against Walker, the First Choctaw Regiment under Folsom arrived and were sent to join Walker. Union batteries, now three groups of six guns each, opened fire to cover the advance of infantry sent to reinforce those engaged in the fighting in the corn field. Cooper ordered two of Howell's guns to take position where they could drive the Union infantry back before those sent to reinforce them could arrive. While the corn field was thus cleared of Union troops, the Confederate left was protected by Jeans' and Stevens' regiments with assistance from Bledsoe's resupplied battery. Howell's two guns remaining at the graveyard were shelling the advancing columns of Union infantry, but the artillerymen were being punished by the Union batteries. Sergeant Felix Heiston was among those busily loading and firing when a cannon ball struck him down.³²

Cooper described the fighting at its height in the afternoon as "now raging in all parts of the field. Their masses of infantry could be plainly seen advancing in perfect order, with guns and bayonets glittering in the sun. The booming of cannon, the bursting of shells, the air filled with missiles of every description, the rattling crash of small arms, the cheering of our men, and the war-whoop of our Indian allies, all combined to render the scene both grand and terrible." Earlier, Shelby had sent a messenger to Pineville to notify Buster to bring his Indian battalion forward quickly. Having previous orders to move to Camp Coffee, Buster was six miles north of Pineville when the news reached him. He halted his train, handed out ammunition, and leaving his train to come up later, hurried to Camp Coffee. After a brief stop there to load their guns and for both men and horses to drink at the spring, they galloped on to Newtonia. Cooper placed the

new arrivals in the center of the line with the artillery and Alexander's troopers. On his right were Folsom's, Walker's, and Steven's regiments and on his left were Hawpe's, Jeans', and Gordon's. Thus aligned they pushed the Union forces steadily northward. Brigadier General Frederick Salomon, despairing of receiving reinforcements, ordered a withdrawal at sunset and marched the Union troops back to Sarcoxie, twelve miles to the northeast.³³

The Confederates held the field but made no more than a show at pursuit. A Union captain in command of the artillery described the scene as he covered their retreat: "I had scarcely got into battery when the enemy, discovering we were retreating, instantly marched out to the ground we had recently occupied and formed in line of battle. They dressed up their lines, over a mile long, but refused to advance or even to come within range of my guns. The sun was now down, but the moon was giving a brilliant light, so that the rebel line was perfectly distinct, when I limbered to the rear and retired into the woods."³⁴

The same scene is hardly recognizable as described by Cooper: "By this time it was night. The enemy had planted a battery so as to command the road and as we approached opened on us, but owing to the darkness did little execution. Getting the direction from the flash of the guns, Captain Howell was ordered into battery and threw a few shells into them, fired somewhat at random, but which it was afterward ascertained exploded among them, killing a number of men and horses. They now fled in confusion, leaving the road, passing through fields and woods, and abandoning loaded wagons by the way wedged between trees."³⁵

Salomon, using information from Confederate prisoners, estimated Cooper's forces as "7,000 strong" and gave no count of Union troops

involved. Colonel William Weer, of the Tenth Kansas Infantry Regiment and next in command to Salomon, guessed Cooper's forces at 5,000 to 11,000 and said "they evidently outnumbered us largely." Cooper, on the other hand, stated that the Union forces numbered from 6,000 to 7,000 men and that his own force "did not exceed 4,000." Union and Confederate officers agreed on the number of artillery pieces, there being 18 Union and 6 Confederate.³⁶

Newtonia was a Confederate victory and Cooper's best military achievement, but it failed to intimidate the Union command in southwest Missouri into forfeiting the lead mines to the South. Rapidly mustering a decided advantage in men and arms, the Union forces began to exert pressure on the Confederates three days after they had been driven off at Newtonia. Within a week they had forced Confederate withdrawal from the state, with Cooper falling back to Elm Springs, southwest of Bentonville, and Shelby entering Arkansas farther east. Cooper's superior while Hindman was at departmental headquarters, and whose orders he now awaited, was Brigadier General James S. Rains. On October 14 and 15, 1862, Rains reorganized the First Division, detaching four regiments from Cooper's brigade. They were the Texas cavalry units commanded by Stevens, Alexander, and Hawpe at Newtonia, and another, under the command of Colonel Thomas C. Bass, was already on duty in Arkansas, although previously reported as assigned to the Indian Territory. Contrary to Rains' plans, but in keeping with Cooper's strenuous protest, Buster's battalion was not detached.

Soon after the victory at Newtonia, Cooper had suggested to Rains that an attack be made on Fort Scott, Kansas, an important link in the Union supply line into the Indian Territory that Cooper thought was

left temporarily with only a small garrison to defend it. Rains now ordered, on October 15, that Cooper proceed with an expedition against it. With Buster's battalion, Howell's battery, Walker's Choctaw and Chickasaw regiment, and Bryan's Cherokee battalion, he marched northwest to Old Fort Wayne, the designated rendezvous in the Cherokee Nation about five miles west of Maysville, Arkansas. Sampson Folsom and his First Choctaw Regiment were ordered to go in advance and report to Watie. Messengers were sent to Chilly McIntosh, D. N. McIntosh, and Watie.

On October 17, Cooper's "little force," as he described it, marched into Old Fort Wayne and found only Watie and a part of his regiment encamped there. Messengers were again sent out. Chilly McIntosh and his Creek battalion soon marched in, but Folsom's, D. N. McIntosh's, and the balance of Watie's regiment had still not arrived on the evening of October 21. The campsite where Cooper waited, impatient and ill with the "flux," was not a fort in any sense of the word. It was located in a grove of trees on Beattie's Prairie, five miles west of Maysville on a road that ran west and then south toward Tahlequah. The prairie was bordered on the south and west with timber. About three and a half miles west of Maysville, a triangular projection of that border extended northward into the grassland then receded to the south side of the road for a distance west of about a half a mile before crossing the road and forming the western border of the prairie. On the north side of the road were two fenced fields extending from the triangular projection westward to the trees that formed the western border of the prairie. The fields, once under cultivation but now covered with tall grass and brush, ran parallel to the road, with the north fence of the one nearest

the road serving as the south fence of the other. Cooper was encamped east of the fields in the wooded area that projected north into the prairie and near the road that passed through it.³⁷

Meanwhile, Union Brigadier General James G. Blunt, commanding the First Division of the Army of the Frontier in the Department of the Missouri, had marched south to Pea Ridge preparatory to a strike against Hindman. At 7:00 p.m. in the evening of October 20, he marched the Second and Third brigades of his division from Pea Ridge en route for Bentonville and left the First Brigade, Brigadier General Frederick Salomon commanding, to protect his flank and keep a supply line open. The two brigades with Blunt consisted of the Second, Sixth, Tenth, and Eleventh Kansas Cavalry regiments, the First and Third Cherokee regiments, the First Kansas and Second Indiana batteries, and four mountain howitzers. Upon learning that Cooper and Watie were concentrating a large force near Maysville, he ordered a forced march from Bentonville to the Maysville area that was calculated to bring him into position for a predawn attack on October 22.

When the weary Union column was halted about eight miles east of Maysville, many of the men slumped onto the roadside to sleep. The order to resume the march died out quickly as it was passed toward the rear and failed to rouse the last seven companies of the Second Kansas Cavalry Regiment and the five regiments and two batteries behind them. The break in the column, increasing with every step taken by Blunt and the three companies with him, went unnoticed until Blunt stopped short of entering Maysville. An officer was sent back to bring up the remainder of the column. Blunt was faced with the choice of waiting until he could attack with his full force or launch an attack with only

three companies of the Second Kansas Cavalry Regiment. He decided to proceed with the attack without waiting.

Blunt sent two companies around Maysville to intercept the pickets, if possible, before they warned the Confederate camp. The attempt failed and Buster, in command for the day due to Cooper's illness, was warned of the approaching group. Skirmishers were sent out to meet Blunt's impending attack. At this time five more companies of the Second Kansas Cavalry Regiment rode through Maysville and the eight companies were ordered into line of battle by regimental commander Lieutenant Colonel Owen A. Bassett. Lieutenant E. S. Stover arrived with twenty four artillerymen and two of the mountain howitzers in time to wheel in behind the center companies as they charged the Confederate skirmish line at the edge of the trees where the road entered them east of the camp. The Confederates were driven back into the woods and Bassett's troopers, now dismounted, pursued them. Blunt discovered that the main defense line was west of the trees where he found them drawn up in line of battle on the road south of the two fenced fields, facing Blunt who had emerged from the woods north of the fields. The cavalry were called to mount up and rode around the point of the triangular projection to approach the Confederate line from the north. As Blunt and Bassett placed their men in line along the fence, with the two fields intervening, the Confederates advanced and began a flanking movement at both ends of the Union line.

By this time the arrival of tardy Union troops began to decrease the disparity of numbers. The ninth and tenth companies of Bassett's regiment were on the line with the rest of the unit at the north side of the field and Lieutenant John W. Rabb's Second Indiana Battery was approaching the rear of the Union line. Colonel William R. Judson's

Sixth Kansas Cavalry Regiment accompanied by Colonel William A. Phillips' Third Cherokee Regiment arrived to save the Union flanks. The Confederate line had advanced into the south field from the road and now was crossing into the north field despite the effective fire of Stover's howitzers. Howell's three six-pounders and one twelve-pounder, less ably manned because of untrained replacements after losses at Newtonia, moved north behind the advancing Confederates. The companies in the center of the Union line charged, driving the Confederates back to their artillery and beyond, and captured Howell's battery. From that moment the Confederate resistance began to crumble.³⁸

Most of the Confederates retreated down the Tahlequah road and others fled to the surrounding countryside. Watie, with a part of his regiment, provided an effective rearguard action some distance from Old Fort Wayne at the Spavinaw Creek crossing. Bryan's men and the late arriving regiment of D. N. McIntosh joined with Watie to repulse the pursuing Union cavalry. Blunt's victory was accomplished quickly, with Bassett stating that the engagement with the main Confederate force lasted less than an hour. Cooper, sick and apprehensive of the Indian will to continue to fight against the Union, retreated via Tahlequah and Fort Gibson to Skullyville. Blunt did not launch a full scale invasion of Indian Territory immediately following his decisive and shattering blow, but his superior, Major General Samuel R. Curtis stated on October 24, 1862: "We will now enter the Indian Territory, and restore the refugee Indians to their homes."³⁹

Cooper returned to Skullyville to face a time of great uncertainty. Pike's controversy with Hindman and Holmes was at its height. Since July 29, Cooper had been in command of the Confederate forces in Indian

Territory "until further orders." On August 8, he had raised with President Davis the question of the implied temporary nature of his appointment. He indicated that he had previously asked to be placed in command and to be ex officio Superintendent of Indian Affairs, but did not know if Davis had received his request. In stating his case to Davis, Cooper observed that since his juniors had been promoted without rendering service to the Confederacy and he had been passed by, he concluded that "some systematic misrepresentation has been made." He claimed that the Confederate treaties with the "Southern" Indians could not have been made by Pike without his exertions. It was his contention that he should be given preference in the assignment of an officer to command the Indian Territory. He did not feel willing to serve under a new brigadier general who knew nothing of the Indians and may prove "as has General Pike, totally unfit for the place. I have no one at Richmond to urge any claims on my part and do not intend to get any one, as you know me as well or better perhaps than any one else near you."⁴⁰

Unknown to Cooper, Davis had submitted his nomination for the post of Superintendent of Indian Affairs to the Confederate Congress for confirmation. After considerable delay, Secretary of War Randolph suggested to Davis that appointment could be made without Congressional confirmation, by the War Department, in accordance with an act dated April 8, 1862. Davis withdrew the nomination and notified Randolph who, two days later on September 29, assigned Brigadier General Douglas H. Cooper to duty as Superintendent of Indian Affairs. This was the first indication that Cooper had become a brigadier general, or at least was considered such in some quarters in Richmond. Cooper was not immediately aware of his "promotion" and appointment, but learned first

of Holmes' orders of September 28 assigning Brigadier General John S. Roane to the command of troops in the Indian Territory. Roane was placed in command of the division, which also included Cooper's First Brigade.⁴¹

That Holmes held Roane and the Indian command in low esteem is evident from Holmes' remarks at this time. On October 26, he advised the Adjutant and Inspector General's office in Richmond that "Roane is useless as a commander, and I have sent him to take care of the Indians All the brigades are now commanded by colonels, most of whom are not qualified to command a regiment," Holmes continued, indicating strong dissatisfaction with the quality of officers upon whom he must depend. On October 27, Randolph sent word to Holmes at Little Rock that "Col. D. H. Cooper has been made a brigadier general and assigned to duty as Superintendent of Indian Affairs.... You will notify him of his promotion and assignment to duty if he has not already been informed of them, and desire him to enter at once upon the duties of his office." He then explained to Holmes that charges of "habitual intoxication and notorious drunkenness" had been brought against Cooper by Captain Thomas J. Mackey of the Provisional Engineer Corps. He ordered Holmes to assemble a court "under General Orders, No. 38, and cause inquiry and report to be made accordingly." With Pike's resignation accepted, he observed that Holmes would be without a successor to Pike "if the charges against General Cooper be well founded."⁴²

On November 1, Holmes suggested to Hindman: "Your affairs seem to have gone terribly wrong, your juniors taking to drink at the time they were most needed." Two days later Hindman informed Holmes of the conditions in northwest Arkansas and of the action taken by him.

Cooper's command had "scattered when he reached Maysville, and on the 22d was completely routed and the battery taken by the enemy. General Cooper at the time was sick." Hindman reported that he had approved the resignation of Brigadier General Rains, "he having been intoxicated," and that Colonel Coffee was arrested for the same cause. He had also arrested Colonel Stevens of the Texas cavalry, upon charges of cowardice preferred by Cooper, for his conduct during the withdrawal from the vicinity of Newtonia. There was nothing in Hindman's report to suggest that Cooper had been intoxicated at Old Fort Wayne or that he was sick from having been intoxicated. Neither did Hindman indicate that he planned to arrest Cooper.

But Holmes, on the same day that Hindman reported from his forward camp to Holmes at Little Rock, made his apology to the Adjutant and Inspector General's Office at Richmond for the reversal in the northwestern area of his command in a statement grossly unfair to Cooper: "The enemy have assembled a large force in Northwest Arkansas, where Generals Rains and Cooper were in command. For all I can learn both were drunk and fell back without resistance. General Hindman, whom I sent there, has arrested Rains, and will arrest Cooper when he can find him. It is terrible to be obliged to trust such men, and yet I had no alternative." Holmes wanted to produce scapegoats and make it appear that Cooper was avoiding arrest, but Cooper had been in contact with Hindman and was at his camp near Skullyville about fifteen miles from Fort Smith with Hindman's full knowledge of his whereabouts.⁴³

After having distorted the facts to the War Department for his own purposes, and lending a measure of substance to Mackey's charges against Cooper, Holmes also created doubt in Hindman's mind about the

advisability of allowing Cooper to assume the duties of superintendent and implied that Cooper was in more serious trouble than just Mackey's charges. He stated: "Pike's resignation is accepted, and General Cooper is appointed to succeed him as Indian Commissioner...but there are matters connected with him which render it necessary that he should not take immediate charge, and I am directed to put some competent officer there for the present; and inferring from all I have heard that future developments will have a tendency to increase rather than diminish the difficulties with General Cooper, I am anxious to fall on a suitable general officer for the command.... In the meantime you must order General Roane to assume the duties of superintendent if you think it necessary that there should be no interregnum."⁴⁴

On November 10, 1862, one week later, Holmes was not quite so sure. He asked Hindman: "Hereafter...the military commandant in the Indian country is ex officio superintendent. Which will do better, Roane or Cooper? Answer this." It is likely that Hindman avoided giving Holmes an answer and no record is found of one. By November 15, one day after Pike's arrest at Tishomingo, Holmes gave his apology to Secretary of War Randolph for the reversal in the northwestern sector of Arkansas and in the process continued to sully Cooper's reputation. Holmes explained: "Feeling perfectly safe there, I...recalled General Hindman...leaving his command in the hands of Generals Rains and Cooper. They retreated in a most shameful manner without offering any resistance." Holmes continued to blacken Cooper's reputation and rationalize the reversal suffered in southwestern Missouri and at Old Fort Wayne, reporting: "Hindman...reports...that General Rains was drunk and General Cooper sick from the effects of intoxication." Holmes

recommended to Secretary of War Randolph "that three others be sent in place of Generals McBride, Rains, and Cooper, the first two having resigned."⁴⁵

On November 25, Holmes stated to the Adjutant and Inspector General's Office at Richmond that "General Rains, for his drunkenness when the enemy advanced from Missouri, has been directed to resign. I hope his resignation may be accepted, as the shortest way of getting rid of him. If the witnesses can be had General Cooper will be brought before a court of inquiry under Orders, No. 38, though he denies the charges made against him by Captain Mackey, C. S. Engineers, emphatically." On November 28, Cooper once again turned to President Davis for help and flatly denied the charges being made against him. He acknowledged receipt of a letter from Davis and an order addressed to him as brigadier general that assigned him to duty as Superintendent of Indian Affairs. The suspension of his appointment before he could assume the duties of the office surprised him. Mackey's charge of "habitual intoxication," he stated emphatically, "is untrue as can be proved by thousands who have served under my command."⁴⁶

He also maintained that the charge, made "by some unknown person," that he was intoxicated "at the time of the disaster at Old Fort Wayne" was definitely false. He had been ill with "a violent attack of Flux," not under the influence of liquor of any kind and, furthermore, "could not have used it if [he] had so desired." He attributed his defeat to the transfer of the four regiments of Texans, the failure of two regiments of Indians to join him the day before the attack, and his illness, indicating that "If I had been well I think the Indians would have made a better stand and everything would have been saved."

Roane's assignment to command the Indian Territory and Cooper's suspension from the superintendency placed him in an embarrassing position. He told Davis: "Unless I can have command of the forces in the Indian Territory and the management of the Indians generally I should prefer to be transferred to some other field. I now command the 1st Brigade, Genl. Roane the Division assigned to the Indian Territory, and I presume an effort will be made to place the Superintendency in the hands of some Arkansian. I am proud to know one thing, and that is, that the officers and men who have acted under my orders in the Indian Territory and in Missouri, with a few exceptions, are satisfied and desire to serve under my command."⁴⁷

Cooper's status in the Indian Territory and within the Confederate government was clouded with uncertainty as 1862 came to a close. Mackey's charges and Holmes' willingness to misrepresent Cooper's actions, in the light of those charges, were blocking his advancement and weakening his influence with the Confederate government. These circumstances reduced his utility to the Indians and, consequently, brought his influence among them to a new low. The prestige of the Confederate government declined with its failure to defeat Blunt at Prairie Grove, twelve miles southwest of Fayetteville, Arkansas, on December 7. When Brigadier General Francis J. Herron marched his forces to Prairie Grove in time to prevent a quick victory over Blunt, Hindman's troops were forced to withdraw after a single day of fighting. By December 28, Blunt and Herron were able to penetrate to Van Buren and seize or destroy war material almost unopposed. Although Blunt and Herron withdrew to Fayetteville and beyond for the winter, Confederate garrisons also had to be reduced in the Van Buren and Fort Smith area because of supply

problems. Cooper, at the camp a short distance west of Skullyville, was ordered to retire to the vicinity of the supply depots deep in the Choctaw and Chickasaw nations.⁴⁸

Southern sympathizing Cherokees and Creeks were left unprotected, there being no substantial body of Confederate troops retained in the northern sector of Indian Territory for the winter. Just how well the resources of the Confederacy could and would be mustered to protect and supply the Indians was an open question. The question of policy toward the Indian Territory, whether it was to be treated as an expendable resource in the Southern cause or as an ally whose treaties were to be honored, was not clearly resolved. These were matters that Cooper did not wish entrusted to Roane or to anyone else who was not vitally interested in the Indian Territory.

FOOTNOTES

¹William P. Dole to Caleb B. Smith, April 30, 1861, Report Book 12, p. 152, Office of Indian Affairs, Record Group 75, National Archives.

²E. D. Townsend to Secretary of War, March 27, 1861, Official Records, Ser. I, Vol. I, p. 660; Emory to Townsend, May 19, 1861, ibid., pp. 648-649; Campbell to Emory, May 5, 1861, ibid., p. 652.

³Douglas H. Cooper, Jr., to F. H. Smith, January 9, 1861, File of Cadet Douglas Hancock Cooper, Jr., Class of 1864, Public Relations Office, Virginia Military Institute, Lexington, Virginia; University of Louisiana, Annual Circular of the Medical Department of the University of Louisiana, 1860-1861 [New Orleans: n.p., 1861].

⁴Walker to Cooper, May 13, 1861, Official Records, Ser. I, Vol. III, pp. 574-575; Pike to Toombs, May 29, 1861, ibid., Ser. IV, Vol. I, p. 360; McCulloch to Walker, May 28, 1861, ibid., Ser. I, Vol. III, p. 587; "Resolutions of the Senate and House of Representatives of the Chickasaw Legislature Assembled," ibid., pp. 585-587; George Hudson, "Proclamation by the Principal Chief of the Choctaw Nation, June 14, 1861," ibid., pp. 593-594.

⁵Douglas H. Cooper, Military Service Record, Department of War Collection of Confederate Records, Record Group 109, National Archives; Official Records, Ser. IV, Vol. I, pp. 426-527.

⁶Gary E. Moulton, "John Ross, Cherokee Chief" (Ph.D. Dissertation, Oklahoma State University, Stillwater, 1974), pp. 304-314; Official Records, Ser. IV, Vol. I, pp. 669-687.

⁷ibid., Ser. I, Vol. III, pp. 614, 620, 623.

⁸LeRoy H. Fischer, ed., "Introduction," The Civil War Era in Indian Territory (Los Angeles: Lorrin L. Morrison, 1974), pp. 13-14.

⁹D. N. McIntosh to John Drew, September 11, 1861, and Kanard and Harjo to John Drew, October 10, 1861, Cherokee-Civil War Papers, Indian Archives Division, Oklahoma Historical Society, Oklahoma City, Oklahoma.

¹⁰Special Order 138, McCulloch, October 6, 1861, ibid.

¹¹Cooper to John Drew, October 29, 1861, Armstrong to Cooper, October 22, 1861, ibid.

¹²Cooper to John Drew, November 5, 1861, ibid.; Cooper to Benjamin,

January 20, 1862, Official Records, Ser. I, Vol. VIII, p. 5.

¹³Ibid., pp. 5-15.

¹⁴Ibid., pp. 5-15 and 16-21; Cooper to James McIntosh, December 11, 1861, and James McIntosh to Samuel Cooper, December 16, 1861, ibid., pp. 709, 715.

¹⁵Cooper to Benjamin, January 20, 1862, ibid., pp. 11-12; Cooper to Drew, December 17, 1861, and T.B.H. to Dear Mamma, December 23, 1861, Cherokee-Civil War Papers, Indian Archives Division, Oklahoma Historical Society.

¹⁶Cooper to Benjamin, January 20, 1862, Official Records, Ser. I, Vol. VIII, pp. 11-13, and 709-715; James McIntosh to Samuel Cooper, January 1, 1862, ibid., pp. 22-25.

¹⁷Cooper to Pike, February 10, 1862, ibid., Vol. XIII, p. 896.

¹⁸J. J. Hooper to President Davis, December 24, 1861, ibid., Ser. IV, Vol. I, p. 813; W. H. S. Taylor to Pike, December 31, 1861, Pike to E. Rector, January 28, 1862, E. Rector to S. S. Scott, February 28, 1862, and Pike to E. Rector, February 23, 1862, Letters Sent, Confederate Records of the Southern Superintendency of Indian Affairs, Office of Indian Affairs, Record Group 75, National Archives.

¹⁹Special Order 234, November 22, 1861, Official Records, Ser. I, Vol. VIII, p. 690; Special Order 8, January 10, 1862, ibid., p. 734.

²⁰Pike to President of Confederate States, May 29, 1862, Douglas H. Cooper, Military Service Record, Department of War Collection of Confederate Records, Record Group 109, National Archives; Cooper to Pike, February 10, 1862, Official Records, Ser. I, Vol. XIII, p. 896; Cooper to Davis, July 25, 1861, ibid., Ser. I, Vol. III, p. 614.

²¹Maury to Pike, March 3, 1862, ibid., Ser. I, Vol. VIII, pp. 763-764; Pike to Maury, March 14, 1862, ibid., pp. 286-292; M. E. Green to Sterling Price, March 21, 1862, ibid., pp. 316-318.

²²Maury to Pike, March 21, 1862, ibid., pp. 795-796; Cooper to Van Dorn, May 6, 1862, ibid., Ser. I, Vol. XIII, pp. 823-824.

²³Pike to Secretary of War, July 20, 1862, ibid., pp. 859-860; Cooper to John Drew, May 6, 1862, Cherokee-Civil War Papers, Indian Archives Division, Oklahoma Historical Society.

²⁴Pike to Secretary of War, June 26, 1862, Official Records, Ser. I, Vol. XIII, pp. 841-842; Pike to President Davis, July 31, 1862, ibid., pp. 860-868.

²⁵Maury to Roane, May 11, 1862, Maury to Pike, May 19, 1862, General Order 39, May 26, 1862, ibid., pp. 827, 829; Pike to President of Confederate States, May 29, 1862, Douglas H. Cooper, Military Service Record, Department of War Collection of Confederate Records, Record

Group 109, National Archives. Roane was a veteran of the Mexican War as a lieutenant colonel of a volunteer Arkansas cavalry regiment. He was no stranger to Pike, who served under his command as a captain of a company in Roane's regiment. Both were at Buena Vista, although Pike's company was on detached duty with the Second Dragoons. Roane to Wool, February 27, 1847, "Report of the Secretary of War, 1847," United States Senate, 30th Congress, 1st Session, Executive Document 1, pp. 171-173.

²⁶ Charles Doubleday to Weer, June 8, 1862, Official Records, Ser. I, Vol. XIII, p. 102; ibid., pp. 839-840, 844-846; Weer to Moonlight, July 4, and July 6, 1862, ibid., pp. 137-138; Cooper to Nicholas Bartlett Pearce, July 7, 1862; Pike to Secretary of War, July 20, 1862, ibid., p. 856.

²⁷ General Order 1, July 30, 1862, ibid., p. 860; Clark to Price, July 17, 1862, ibid., Ser. I, Vol. LIII, pp. 816-817; General Order 30, July 29, 1862, Cherokee-Civil War Papers, Indian Archives Division, Oklahoma Historical Society.

²⁸ Pike to Hindman, July 31, 1862, Official Records, Ser. I, Vol. XIII, p. 974; Cooper to Hindman, August 7, 1862, ibid., p. 977; Cooper to Davis, August 8, 1862, ibid., Ser. I, Vol. LIII, pp. 820-822.

²⁹ Davis to Pike, August 9, 1862, ibid., p. 822; Newton to Cooper, November 3, 1862, ibid., Ser. I, Vol. XIII, p. 923; Cooper to Davis, August 8, 1862, endorsement of G. W. Randolph, November 5, 1862, ibid., Ser. I, Vol. LIII, p. 822; Pike to Davis, November 19, 1862, and Pike to S. S. Anderson, October 23, 1862, ibid., Ser. I, Vol. XIII, pp. 921-922, and 924.

³⁰ General Order 30, July 29, 1862, Cherokee-Civil War Papers, Indian Archives Division, Oklahoma Historical Society; Special Order 39, September 28, 1862, and Special Order 42, September 30, 1862, Official Records, Ser. I, Vol. XIII, pp. 883-885, and 978.

³¹ Thornton B. Heiston, Douglas H. Cooper, Jr., Felix S. Heiston, David J. Cooper, Military Service Records, Department of War Collection of Confederate Records, Record Group 109, National Archives; University of Louisiana, Annual Circular of the Medical Department of the University of Louisiana, 1861-1862 [New Orleans: n.p., 1862].

³² Official Records, Ser. I, Vol. XIII, pp. 286-307. Camp Coffee was sometimes called Camp Kearney. Shelby to Marmaduke, October 27, 1862, ibid., p. 979.

³³ Ibid., pp. 299, 303, 287.

³⁴ Ibid., p. 296.

³⁵ Ibid., p. 299.

³⁶ Ibid., pp. 286-288, 299.

³⁷ Cooper to Newton, October 25, 1862, and Cooper to Hinton, December 15, 1862, ibid., Ser. I, Vol. XIII, pp. 331-336; ibid., pp. 329-330.

³⁸ Ibid., pp. 325-331.

³⁹ Ibid., pp. 335-337, 331, 324-325.

⁴⁰ Ibid., Ser. I, Vol. LIII, pp. 820-822.

⁴¹ Burton N. Harrison to Secretary of War, September 27, 1862, Douglas H. Cooper, Military Service Record, Department of War Collection of Confederate Records, Record Group 109, National Archives; Special Order 227, September 29, 1862, Official Records, Ser. I, Vol. XIII, p. 883.

⁴² Ibid., pp. 899, 906.

⁴³ Ibid., pp. 907, 48, 908.

⁴⁴ Holmes to Hindman, November 5, 1862, ibid., pp. 910-911.

⁴⁵ Ibid., pp. 913, 918-919.

⁴⁶ Ibid., p. 928; Cooper to Davis, November 28, 1862, Letters Received by the Secretary of War, 1863, War Department Collection of Confederate Records, Record Group 109, National Archives.

⁴⁷ Ibid.

⁴⁸ Official Records, Ser. I, Vol. XXII, Pt. I, pp. 67-158, 167-173.

CHAPTER VIII

CONCLUDING THE CONFEDERATE INDIAN INVOLVEMENT, 1863-1865

The Union Third Indian Home Guard Regiment under Colonel William A. Phillips attacked the small Confederate garrison at Fort Davis, capturing and destroying the post on December 27, 1862. Elimination of the Confederate rallying point and symbol of Southern military presence removed a threat to the safety of Union Cherokees and Creeks who were returning to their homes from Kansas. Defections among the Southern Cherokees and Creeks, at Phillips' invitation, because of the scarcity of supplies and inadequacy of Confederate protection, embarrassed and worried Cooper. In his opinion, the people would submit to the first Union force available in the spring unless a strong contingent of white troops with the necessary supplies were sent in immediately by the Confederate command. As early as January 8, 1863, he saw a strong undercurrent drifting them that way.¹

The low state of the Confederacy in the Indian Territory and the extent of Cooper's embarrassment were depicted by him at this time: "I am concentrating what force I can at the Canadian Depot (Johnson's Place), but we are not in condition for service. The mules will scarcely draw empty wagons. The fact is, we cut such a figure that our forces are becoming an object of derision among the Indians."²

While Cooper was composing the depressing vignette of conditions at

his camp, a graduate of the United States Military Academy with twenty years of experience in the Second Dragoons was assuming command of the First Division at Fort Smith. Holmes' choice to replace Roane, Brigadier General William Steele, had been directed to report to Holmes for assignment more than sixty days previously. After settling personal business affairs in San Antonio, Steele reported to Holmes early in January, 1863, and was assigned to the Indian Territory. On January 8, Steele so notified Cooper and requested a full report on the troops of the First Brigade and on the quantity and condition of the commissary and quartermaster's stores. As soon as Cooper could do so "without prejudice" to his command, he was to come to Fort Smith for a personal interview with Steele.³

Steele's record, including recognition for gallant and meritorious service in the Mexican War at Contreras and Churubusco, indicated considerably more military training and experience than that received by Cooper. He was admittedly uninformed on the superintendency of Indian affairs, having received no significant information, records, or accounts from Pike or Roane, and the primary reason for desiring an interview with Cooper was to obtain information on this aspect of his command. To Cooper, whether he or Steele would be the more effective field commander was an open question; that his experience made him eminently more qualified and deserving than Steele to superintend the Indian-Confederate relations was beyond question. Despite this opinion, Cooper's reaction to the news that he had been passed over again was one of friendly cooperation.⁴

On January 18, Steele ordered Cooper to assign his troops to guard the depots and wagon trains against raiders, both Union and small bands

of deserters from Hindman's army, reported to be active in the vicinity of the supply routes from the South. He told Cooper that he would come to the Indian Territory as soon as affairs could be put in order at Fort Smith and that in regard "to the movements of your troops as indicated, of course much is left to your direction, as you may be surrounded by circumstances in regard to which I may be ignorant."⁵

In the succeeding weeks there was a free exchange of information between Cooper and Steele as they confronted the critical supply and forage problems that threatened the existence of the Confederate Indian forces. A snow storm, high water, and bad roads delayed supply wagon trains from Texas to Cooper's camp, and provisions seldom arrived at Fort Smith via the Arkansas River from Little Rock. Steele was able to maintain his headquarters at Fort Smith, however, and Cooper narrowly averted a forced removal to the Red River area by the timely arrival of a supply train on January 23, when the flour reserve had dwindled to less than 500 pounds.⁶

In the first quarter of 1863, Lieutenant General Edmund Kirby Smith, an 1845 graduate of the United States Military Academy, gained command of the Trans-Mississippi Department. Hindman was reassigned east of the Mississippi River and Holmes was demoted to command of the District of Arkansas, including the Indian Territory and Missouri. Smith, cited like Steele for gallant and meritorious conduct at Contreras and Churubusco in the Mexican War, had been an officer in the Seventh Infantry Regiment for ten years before becoming a captain in the Second Cavalry Regiment from March, 1855, to January, 1861, and a major three months before resigning to join the Confederate Army. With the departure of Roane and Hindman and the advent of Steele and Smith,

Cooper's superiors in the Trans-Mississippi Department were all professional soldiers and United States Military Academy graduates.⁷

After Holmes' demotion became effective on March 18, 1863, he ordered Cooper to report without delay to his headquarters at Little Rock. Steele transmitted on March 23 Holmes' orders to Cooper and eight days later stated to Holmes: "General Cooper has been ordered to Little Rock, as directed. I have considered his services too valuable to part with so long as it was left discretionary with me. General Cooper has a knowledge of the Indians that is possessed by few. His services have been very important. My intercourse with him has left an impression more favorable than I entertained before. His troops are widely scattered for the protection of the frontier and of depots."⁸

Steele's appreciation of Cooper after three months was near its apex. Holmes' reason for calling Cooper to Little Rock was not stated nor was there evidence that Cooper went to Little Rock. Steele's remarks indicate a concern that Cooper may be transferred or that his service with the Indian forces may somehow be lost. But the outstanding fact to be noted is that the impression initially conveyed to Steele of Cooper's usefulness improved markedly as Steele became acquainted with the circumstances of the Indian command and with Cooper.

Steele, as divisional commander, was also ex officio Superintendent of Indian Affairs. Soon after accepting the command, he began agitating for appointment of a superintendent who would be responsible for feeding the destitute, most of whom had been driven from their homes by the incursions of Union troops and by lawless renegades. "This matter," he complained to Holmes on March 31, 1863, "has become interwoven with the supplies for troops in a manner that embarrasses any calculations that

can be made."⁹

In corresponding with a friend in Richmond on April 15, Steele vented his frustrations. On accepting the command, it was destitute of nearly everything except ammunition obtained by Cooper. Steele then turned his remarks to the aggravating problems that he was encountering as, ex officio superintendent. He had been provided with no instructions, records, or money and his attempts to establish communication with the Commissioner of Indian Affairs had been futile. He was often asked to fulfill the treaty obligations with the various tribes, an almost impossible task as Pike could attest, but Steele did not even have copies of the treaties.¹⁰

As the time for the spring military action arrived and Steele failed to exhibit any greater aggressiveness as a field commander than he had as superintendent, Cooper began to take the initiative instead of relying on Steele. This change was not sudden or dramatic, but developed in April, May, and June, 1863, in response to the changing military situation. On April 10, Union forces under Colonel William A. Phillips were at Fort Gibson and Webber's Falls, and about 1,500 had crossed the Arkansas River. Earlier, Cooper had suggested sending a sizeable detachment to the western frontier to drive back the Plains Indians who were beginning their spring raids against settlers. Steele ruled against such a course, allowing only a few Texas companies to be stationed along the frontier, and called for Cooper to assemble the main strength of his brigade before bringing it up to the vicinity of Webber's Falls. The difference of opinion over the value of a punitive expedition on the frontier early in the season was the first between Steele and Cooper. With Phillips' activity below Fort Gibson on April

10, it was too late to strike at the mauraunders on the frontier.¹¹

As Steele remained at Fort Smith and attempted to marshal his division to repel a Union offensive or launch one of his own, he experienced one of the humiliations that Pike had endured. Phillips' force was not so large but that Steele felt he could defeat him as long as Blunt did not join his force with Phillips. As Steele was planning his move to prevent supplies from reaching Phillips at Fort Gibson and mustering an adequate force to drive the Union troops from the Indian Territory, Department Commander Smith ordered Colonel John W. Speight and his command to Louisiana. Speight placed his own construction on the orders and marched his four regiments of Texas cavalry, with Captain Henry C. West's four-gun artillery battery, to Louisiana. Steele protested that he had not been notified of the order, delivered directly to Speight who was en route to Fort Smith, and that the order specified that Speight with three regiments were to report to Smith, not four regiments and a battery. Steele argued that he was not challenging the right to transfer the brigade or the battery, but that to do so without notifying him when he was in the process of a military operation was dangerous and humiliating.¹²

The loss of Speight's brigade and the condition of the Union forces under Colonel Phillips at Fort Gibson caused Steele to alter his plans. Phillips, protecting the refugee Indians who had returned to Fort Gibson from Kansas, had become extremely dependent upon supply trains from Fort Scott, Kansas. By May 9, 1863, he was unable to issue bread to the refugees and his troops were on short rations. Steele sent Brigadier General William L. Cabell with his brigade into northwestern Arkansas to prey upon the supply trains passing from Fort Scott to Fort

Gibson. Cooper was brought up south of Fort Gibson to prevent Phillips' recruiting forays south across the Arkansas River and to impede any expedition down the Texas Road.¹³

Cooper camped near the ruins of Fort Davis and placed pickets up and down the Arkansas River at the fords. From these vantage points he could see Fort Gibson and any unusual activity around it. If the raids on the supply trains became effective enough to force Phillips to withdraw to Fort Scott, Steele's strategy was for Cooper to follow. Cabell was to intercept Phillips and form a junction with Cooper. But Phillips did not withdraw from Fort Gibson. Additional Union troops were brought to Fort Scott and a large supply train under heavy escort departed for Fort Gibson.¹⁴

Learning of these developments, Cooper sent a 1,000 man force under Watie's command up the west side of Grand River on June 23. Steele ordered Cabell to move westward to strengthen the Confederate attack force. Watie reached the point on the Texas Road where it crossed Cabin Creek and prepared his ambush. The train arrived, was warned of the Confederate troops by the advance guard, and after delay until July 2 drove off the Confederates with effective artillery and a cavalry charge. Cabell was unable to cross the Grand River because of high water and failed to reach Cabin Creek in time to join in the fight. The supply train reached Fort Gibson without further molestation. Watie withdrew south of the Arkansas River and Cabell returned to Van Buren, Arkansas. On July 10, Cabell crossed to the south side of the Arkansas River at Fort Smith.¹⁵

Steele received reports that the high waters of the Arkansas River were receding, making the river fordable at numerous points, and

increasing the chances that Phillips would strike south on the Texas Road or down the river toward Fort Smith. He ordered Cabell to march westward along the south side of the river, foraging his cavalry mounts as he moved closer to Cooper's position south of Fort Gibson. Desertions increased sharply in Cabell's brigade as the order to march spread through the ranks.¹⁶

The opening phase of the 1863 campaign had been lost by the Confederate forces at Cabin Creek. Blunt, now able to bring in reinforcements from Fort Scott without immediately endangering the post's food supply, arrived with troops from Colorado and Wisconsin on July 11. He immediately set his men to building flatboats with which to cross the Arkansas River. Cooper left pickets at the fords and moved his main force back to protect the forward supply depot at Honey Springs, about eighteen miles south on the Texas Road. He fortified Elk Creek, a natural barrier almost two miles north of Honey Springs, where he hoped to stall the Union forces until Cabell could arrive. Blunt, urging his men to complete the flatboats because he had learned of Cabell's brigade moving toward Cooper, forded the Arkansas River about thirteen miles upstream with 250 men and light artillery. Driving down the south side of the river to a point opposite Fort Gibson, he brought the main force over and commenced marching south down the Texas Road on the morning of July 16.¹⁷

During the day and night of July 16, two forces had converged on the Confederate supply depot at Honey Springs. Blunt's 3,000 Union soldiers, well armed, clothed, and supplied, presented a sharp contrast to Cabell's column. The Confederates, approaching on the road from Briartown, reflected the supply problems which left them ill clad,

poorly armed, and demoralized to the point of deserting. Cabell's troops moved dispiritedly toward Honey Springs and were several hours' march away when Blunt's advance guard first made contact with Cooper's at daybreak on July 17.¹⁸

Captain William Gordon's Company F of the Sixth Kansas Cavalry Regiment met Tandy Walker's Choctaw and Chickasaw Regiment and Captain L. E. Gillett's Texas Cavalry squadron accompanied by Lieutenant Thornton B. Heiston, Cooper's aid-de-camp and acting assistant adjutant general, about five miles from Elk Creek. Walker and Gillett met the charge of Gordon's company and drove them back to the protection of Lieutenant Colonel William T. Campbell's Sixth Kansas Cavalry Regiment. Campbell advanced, forcing Walker and Gillett to withdraw to Elk Creek. Heiston watched Blunt deploy his troops and then reported to Cooper that the force numbered about 4,000. Heiston also reported that the gunpowder was defective, with the dampness of the morning air causing it to turn to a paste that often failed to detonate. This situation, unsatisfactory at best, was made desperate by the rain that began to fall after the first clash.¹⁹

The light artillery battery of Captain Roswell W. Lee, supported by Colonel Thomas C. Bass' Twentieth Texas Cavalry Regiment, dismounted, and small detachments of the First and Second Cherokee regiments, were posted on the Texas Road north of the main Confederate defense lines at the creek. Cooper rode up to Lee's battery and, when Blunt's troops were found passing to the right, he ordered half of Bass' regiment under Captain J. R. Johnson to shift to the right to meet them. Riding to the scene on the right, Cooper called for a detachment of the Second Cherokee Regiment just returned from a scout to Prairie Springs. He

conducted them to the right and sent for half of Colonel Sampson Folsom's Choctaw Regiment to be posted on the extreme right. He saw a large force of Union troops moving off to the west of the Texas Road and advancing to strike at the Confederate left a short distance west of the bridge over Elk Creek. The Creek troops under Colonel D. N. McIntosh, initially positioned on the extreme left, were shifted to their right to close up the ranks and Tandy Walker's regiment, held in reserve, was called to the support of Bass and Lee. Walker, having misunderstood a previous order to send a scout out to the left on the Prairie Springs road, was found moving his entire command in the direction of Prairie Springs.

Cooper sent a messenger to retrieve Walker's regiment. Walker responded promptly, but by the time he arrived at the combat area Lee's battery and Bass' regiment had been forced to fall back. The Confederate right wing was driven back from the creek, and the bridge was lost before Walker's regiment could be brought to its defense. Cooper withdrew his troops toward the depot at Honey Springs with vicious rear-guard fighting, permitting the ammunition and baggage trains to be moved out of danger eastward on the road to Brairtown. Blunt pursued D. N. McIntosh's regiment down the Texas Road about three miles before breaking off, while the main body of Cooper's defeated troops retired toward Briartown following the ammunition and baggage wagon trains.²⁰

The loss of the supply depot at Honey Springs on July 17, 1863, cannot be attributed solely to defective powder, important as was that fact. Another consideration was the disparity in artillery: Blunt commanded twelve pieces and Cooper four. On the Union side, Captain Edward A. Smith's two 12-pounder brass and two 6-pounder iron guns, a

similar battery commanded by Captain Henry Hopkins, and four mountain howitzers of a light artillery battery attached to the cavalry, gave Blunt a greater range and a decided edge in firepower. Cooper's artillery, commanded by Captain Lee, consisted of three mountain howitzers and one lighter piece, a 2.25 inch rifled prairie gun.²¹

Cooper's losses in the engagement at Elk Creek in defense of the supply depot at Honey Springs numbered 134 killed or wounded with an additional 47 lost as prisoners or missing. Blunt lost 75, of which 13 were killed and 62 wounded. Cooper lost one piece of artillery, a howitzer, but managed to save the other three guns. None of the Union guns were destroyed. The supplies, always difficult to obtain, lost at Honey Springs included quantities of sugar, salt, and flour. After the destruction of Honey Springs, the northernmost Confederate depot on the Texas Road was that at North Fork Town, about twenty-five miles farther south.²²

Blunt camped at Honey Springs on the evening of July 17, not sure if the Confederate forces would regroup and attack in the morning. By late afternoon of the following day, confident that Cooper and Cabell would not renew the fight, he ordered the Union forces back to Fort Gibson. Cooper withdrew to the southeast and met Cabell, who reversed his command, and both brigades retired south of the Canadian River at the Briartown crossing. Steele placed Colonel A. S. Morgan with the Twenty-sixth Arkansas Infantry Regiment in command of Fort Smith and moved his headquarters into the field with Cabell and Cooper's brigades. Regrouping on Imochia Creek below the Canadian River, Steele moved his command north of the Canadian River to Prairie Springs, fifteen miles below Fort Gibson, on July 24. Four days later, Steele relocated his

command at Elk Creek on the Texas Road.²³

At this time the first indication appeared that additional members of Cooper's family were in the Indian Territory. His daughter, Elizabeth, and his acting assistant adjutant general, Lieutenant Thornton Buckner Heiston, were married five days after the defeat at Honey Springs. It is likely that Cooper and his son, Douglas, Jr., accompanied Heiston on a quick ride to attend the ceremony. Dr. David Cooper was at that time stationed at the Fort Washita hospital. His two older married sisters, Sarah and Francis, were reportedly in the Indian Territory along with Elizabeth to aid their father and brother David.²⁴

On July 28, 1863, Cooper addressed a request to Adjutant General Samuel Cooper in Richmond for Heiston to be advanced to assistant adjutant general of the brigade. Heiston had been acting in that capacity since April 23 in the absence of Captain J. Williams Wells, who had been promoted to lieutenant colonel of a cavalry battalion. He also asked that his son, Douglas, Jr., be raised to the position Heiston was vacating. Both acted in the positions as recommended by Cooper pending official action in Richmond.²⁵

In the weeks that followed, Steele was forced to separate the two brigades due to the increasing desertions in Cabell's command. Fearing that the example set by the white Arkansas troops would destroy the already low morale of the Indians in Cooper's brigade, he at first kept them within supporting distance of each other. Finally, on August 19, 1863, he ordered Cabell to move his brigade to the vicinity of Skullyville, while he remained with Cooper's brigade encamped on Brookin's Creek. Steele's logic told him that somehow moving the troops in

Cabell's brigade toward Arkansas would reduce desertions. Cabell was to be near enough to Fort Smith to reinforce Colonel Morgan, if a defense of that post were judged likely to succeed, or to withdraw to a supply depot fifty miles to the southwest.²⁶

Blunt was ill at the time of the Honey Springs engagement and for several weeks following. His Union force, considerably reduced by sickness in late July and August, was reinforced on August 21 by the arrival of Colonel Cloud's Second Kansas Cavalry Regiment and two sections of the Second Indiana Battery under the command of Captain John W. Rabb, who as a tardy lieutenant had participated in the closing minutes of the fight at Old Fort Wayne. On August 22, Blunt departed from Fort Gibson with 4,500 troops, heading south on the Texas Road determined to destroy Confederate control of the Indian Territory south of the Arkansas River. He hurried his force, moving sixty miles in two days, intent upon striking Steele near North Fork Town with Cabell's and Cooper's brigades together.²⁷

Meantime Steele, who had sent Cabell to support Fort Smith on August 19, withdrew southward from North Fork Town on the Texas Road farther into the Choctaw Nation. Ignoring orders to join Steele near Perryville in the Choctaw Nation, the Creek regiments under the command of Chilly McIntosh and D. N. McIntosh withdrew to the west up the Canadian River. Steele was forced to continue to withdraw down the Texas Road as Blunt's cavalry made its first contact with the Confederate scouts north of Perryville on August 25.²⁸

Since July 11, Steele had been requesting support from acting Brigadier General Smith P. Bankhead, the commanding officer of the Northern Sub-District of Texas, with headquarters at Bonham, Texas.

Bankhead, after receiving a direct order from his commanding officer to give immediate aid to Steele, finally sent the first of his troops to Boggy Depot on August 23. As other units arrived and encamped there, Bankhead's effective number grew to a reported strength of "not exceeding in all 800 men" by August 26. Steele was advised of this and refused more than light rearguard action with Blunt, even at the sacrifice of supplies stored at Perryville. Cooper employed the two mountain howitzers briefly in defense of Perryville before ordering their removal to prevent their possible loss. Blunt, who had destroyed the supplies left at North Fork Town, now destroyed the second depot of this campaign before breaking off and turning to attack Fort Smith. Cabell abandoned that post to Blunt on September 1.²⁹

Blunt's successful campaign down the Texas Road was both a cause and a symptom of a serious deterioration of morale among the Confederate forces in the Indian Territory, especially the Indians. The overwhelming advantage in artillery firepower possessed by the Union invalidates any evaluation of strength determined by the ordinary method of comparing troop numbers. That the Union could produce a superior quantity of ordnance and move with impunity about the Indian Territory intimidating the Confederates was, undeniably, a fact that reduced the fighting morale of the Confederate Indians almost to the vanishing point. The view that Blunt's success was symptomatic of an existent morale problem among the Confederate Indians derives its validity from such facts as the refusal by the Creeks to rally to Steele's aid above Perryville.

Cooper suggested to Steele that Major Israel G. Vore be sent to talk with the Creek regiments and persuade them to report to a

Confederate camp in the Choctaw Nation. On September 8, Steele approved the idea as a means of regaining the lost troops or determining which side the Creeks were going to take. Steele asked Commissioner of Indian Affairs S. S. Scott, who was a guest at Steele's camp on the Middle Boggy Creek, to accompany Vore, but Scott was unable to make a personal visit and sent a letter of instruction to Vore instead.³⁰

The Creek regiments reluctantly aligned themselves with the Confederacy after Cooper brought his brigade north, a short distance south of the Creek Nation, to guard a line from the vicinity of Perryville eastward to a point on the road leading to Union held Fort Smith. Cooper was relieved of the responsibility of watching the Fort Smith road after sending Colonel L. M. Martin with his regiment to Riddle's Station, located eastward fifty miles short of Fort Smith. Martin carried supplies to Bankhead's Texas troops and met them near Riddle's Station. Bankhead was returning from western Arkansas after being unable to form a junction with Cabell in time to support him against Blunt's attacks. Steele assigned Bankhead to guard the Fort Smith to Boggy Depot road and Cooper to the Texas Road on September 17.³¹

Steele then went to Bonham, Texas, to consult with Brigadier General Henry E. McCulloch, commander of the Northern Sub-District of Texas, on the availability of troops for temporary duty in the Indian Territory. From McCulloch he learned that no troops were en route to Bonham for duty with Steele's command. From Bonham, he notified Cooper that he was going to departmental headquarters at Shreveport, Louisiana, and expected to be absent in late September and early October. Command of the troops in the Indian Territory devolved upon Cooper during this period. During Steele's stay at headquarters, Lieutenant General Smith

issued orders on October 3 separating the "Department of the Indian Territory" from the District of Arkansas, that is, from Holmes' command. Steele was to make his reports directly to headquarters at Shreveport. Instead of acquiring Texas troops for use in his command, however, Steele was obliged by orders to instruct Cooper on October 9 to send Colonel Martin's Fifth Texas Partisan Rangers back to Texas to report to McCulloch.³²

The main Confederate forces shuffled from one location to another in the last quarter of 1863 and, as there were no major military engagements during this period, the availability of forage, water, and supplies was the dominant consideration in the moves. Cooper moved his command in early October from west of the Texas Road near Perryville to the vicinity of North Fork Town. Watie, with a small force, was left there as Cooper marched east to a position close by Fort Smith on the southwest.³³

Steele became impatient waiting for Cooper to acknowledge receipt of his orders of October 9 sending Colonel Martin's regiment to Bonham, or for a report from McCulloch of Martin's arrival. On October 17, Steele received news from Cooper that Martin's regiment was en route to Bonham. This delay and other considerations caused Steele to go north to take personal charge of the Confederate troops. Cooper and Bankhead, encamped near Fort Smith with their brigades, were "overtaken" at that place, as Steele stated, on October 24.³⁴

Steele guessed that Cooper had brought the troops there "with the apparent intention of attacking Fort Smith. As to whether it was his real intention to make the attack, I am in doubt." Although he did not state it explicitly, Steele implied that the move was to embarrass him.

If Steele attacked the Union post and were defeated, the road to Texas would be left open and he would be at fault for taking the risk. If he withdrew, the Indian troops were "expecting a fight, and it would undoubtedly have a bad effect upon them to retire." Withdrawing would discredit Steele with the Indians, and he was sure Cooper had placed him in the difficult position deliberately.³⁵

While pondering the chances of a successful attack and the ramifications of defeat, Steele was relieved of the decision by events not of his making. Fort Smith was reinforced by about 3,000 troops and word was received from McCulloch that the district commander of Texas requested the return of Bankhead's brigade. Steele, although not intending to comply with the request unless ordered to do so by the department commander, Lieutenant General Smith, advised Cooper on November 1 that he was withdrawing "the Texas brigade to the rear for clothing and other supplies."³⁶

Cooper and the Indian troops were skeptical of the announced destination of the brigade, fearing it would be sent south for defense of the Texas coast. When Cooper told Steele of the unrest caused by this suspicion, Steele reproached him for not dispelling their doubts. It was difficult for Cooper and the Indians to accept Steele's reason as plausible, especially since the October inspection by Major Wright C. Schaumburg, Assistant Inspector General, had revealed that Bankhead's brigade quartermaster had in stock an extra set of clothing for each Texan.³⁷

On November 1, 1863, Brigadier General Richard M. Gano arrived at the Confederate encampment near Fort Smith, replacing Bankhead as brigade commander. Steele had transferred Howell's battery and Colonel

Charles DeMorse's Twenty-ninth Texas Cavalry Regiment from Cooper's command to Bankhead's prior to Gano's arrival. The next day, as Steele accompanied Gano's brigade south, Cooper was left with the Indian troops and Lieutenant Colonel Wells' cavalry battalion on picket duty with instructions to observe and annoy the enemy. He was not to risk an engagement with his whole command, but should the Union troops advance down the road to Doaksville, he was to notify Steele.³⁸

On November 14, 1863, Chilly McIntosh posed the question of clothing for the Creek regiments, suggesting issuance of it to attract the troops back to camp. There were only eighty-seven men in the camp of the First Creek Regiment and seventy-seven in the Second Creek Regiment. Four days later Cooper indicated to Steele that the First and Second Creek regiments and Chickasaw Battalion were instructed to report to Watie, but that the Creeks were widely scattered. He wanted their clothing issued at their camp, as McIntosh suggested, to bring them together. To Steele's displeasure, Cooper then raised the issue of discrimination by stating: "I would respectfully ask what clothing has been appropriated for the Indian troops, and why a distinction has been made by reserving a large lot of gray uniform cloth for the white troops."³⁹

Cooper sent the brigade assistant adjutant general, his son-in-law Captain Heiston, to Steele's headquarters and, also, to carry a report on the conditions of his command to departmental headquarters. Upon Heiston's return from Shreveport, he delivered papers for Steele at his headquarters, now established at Doaksville. Steele was surprised and hurt by the action of both Cooper and departmental headquarters. On November 27, he began a complaint to the assistant adjutant general of the

Trans-Mississippi Department, Colonel S. S. Anderson, with these words: "That a subordinate commander is allowed to send one of his staff to report the state of affairs in his brigade, and that his reports should be received, and myself referred to the communications so sent, appears to me to strike at the root of all discipline." Heiston had not told him of his orders to continue on to Shreveport or, Steele stated, "he would have been sent back" to his post in Cooper's brigade. The fact that departmental headquarters had received Cooper's report and asked him to explain the lack of supplies, especially clothing, for the Indians had aroused Steele's wrath most of all.

Caught temporarily off guard, Steele withheld his letter of November 27 until December 22 before submitting it to Shreveport at which time he was able to give information on the amount of clothing issued to the Indians. He first suggested that the estimate of clothing needed for the brigade was late and unrealistic, calling for clothing for 6,000 men. In Cooper's defense, this quantity would barely have furnished two uniforms for each man in his command and was the number available to each Texan when Steele saw fit to return them to the rear for clothing. Steele also was providing DeMorse's and Howell's men, recently transferred from Cooper's brigade, with 500 uniforms, having notified Gano that they were available at Fort Washita on November 19. Steele was not willing to give the Indians full status as soldiers, stating in criticism of Cooper: "It appears to be General Cooper's wish to give the Indians all the pay and allowance they would be entitled to if they were regular troops and remained at their posts, and give them all the latitude of the most irregular troops."⁴⁰

Steele's doubts about the value of Indian troops in conventional

warfare were not unique or unusual. Blunt had said of the Union Indians, who were much better supplied and armed than the Confederate, that he "would not exchange one regiment of negro troops for ten regiments of Indians." Steele said a year of experience in the Indian country had convinced him "that, with a few exceptions, the Indians are wholly unreliable as troops of the line. The officers, as a general rule, are ignorant, void of moral tone of character, and indisposed to enforce discipline among their men. Their allegiance to the Government seems to be regarded more in the light of a voluntary contribution on their part, susceptible of being withheld at their option, than the performance of an obligatory duty." Steele, without mentioning Cooper by name, aimed a criticism at him that told much about their difference of opinion on the worth of Indians when he stated: "I became satisfied that with those exercising the chief influence among the Indians there was a settled design to subordinate white officers and white troops to Indian officers and Indian troops."⁴¹

Cooper was accused by Steele, indirectly, of failing to do his duty as a subordinate officer and a gentleman. Explanations of his official conduct, Steele maintained, "were never attempted to be made by those whose implied duty it was to give me their aid and support." Steele was rankled by the Indian preference for Cooper. He contended: "the Indian troops were also led to believe that I was illegally exercising the command of the Territory over Brigadier General Cooper, who was represented as my superior in rank, and that he being an Indian officer, I was thereby trampling upon the rights, privileges, and wishes of the Indian troops." When Steele referred to Cooper as an Indian officer, he was alluding to the fact that the Chickasaws had made Cooper a

citizen of their nation, so far as was within the power of their legislature, on May 25, 1861.⁴²

The question of rank between Cooper and Steele came to the forefront in August, 1863, and is inseparable from the problem of determining Cooper's date of rank. One of Cooper's friends of long acquaintance, Alfred Chapman, was at Richmond in the previous May and made inquiries regarding Cooper's commission as brigadier general. He found no record of a commission after checking with the Adjutant and Inspector General's Office and the President's private secretary. He also examined the Senate's proceedings and found no indication that Cooper's name had been sent in for confirmation. On May 14, 1863, Chapman brought this to President Davis' attention and inquired on Cooper's behalf if he should not be reappointed. Davis verified this with the Adjutant and Inspector General who speculated that some error of omission had occurred and recommended that Cooper be appointed to that grade. On May 19, Davis told the Secretary of War that he regretted the error and ordered that Cooper be reappointed "if further search does not reveal what I am sure exists, a previous appointment."⁴³

The Secretary of War responded promptly, sending Davis an extract of the letter of October 27, 1862, from Secretary of War Randolph to Lieutenant General Holmes which stated: "Col. D. H. Cooper has been raised to Brigadier Genl, and assigned to duty as Superintendent of Indian Affairs, by virtue of an Act of Congress permitting such assignment. You will notify him of his promotion and assignment to duty, if he has not already been informed of them, and advise him to enter at once upon the duties of his office." Holmes had withheld Cooper's promotion and the appointment as superintendent in October, 1862, presumably on the

basis of Mackey's charges. A court of inquiry was never assembled, but opposition to his advancement remained, especially on the departmental level.⁴⁴

When Cooper raised the question of rank, claiming precedence over Steele on August 14, 1863, the opposition to Cooper manifested itself in the response given by the departmental commander, Lieutenant General Smith. Cooper included a letter supplied by Steele in which the date of rank of Steele's commission was given as September 11, 1862. But Cooper was unable to furnish a copy of his commission, with or without a date of rank, to Smith, a fact which he acknowledged. He submitted, instead, that Mackey had heard the President say Cooper was appointed and that he, Mackey, had seen the commission in the War Department before departing from Richmond in August, 1862. S. S. Scott, Commissioner of Indian Affairs, was Cooper's witness to the events in Richmond. Scott, who left Richmond on August 15, had told Cooper that Mackey left the Confederate capital prior to that date.⁴⁵

Smith replied to Cooper, saying he was sorry that Cooper regarded himself as having submitted to wrongs. He told Cooper: "You possess the high opinion and respect of your superiors, who have represented you to me as a man of ability and patriotism." He continued to flatter Cooper for his patriotism in serving under an officer whom he believed to be his junior in rank. He also stated: "Your influence with the Indian troops, whose confidence I believe you possess to a greater degree than any other person, makes it imperatively necessary for the interests of the Government that you should remain as their commander." Smith asked Cooper to reconcile himself to his present position until the question of rank could be settled by the "proper authority."

Cooper was to furnish a copy of his commission, if he had it. "If not," Smith affirmed, "you must obtain a copy of it from Richmond, when the question of rank will be decided, and the senior placed in command."⁴⁶

Cooper claimed that, cut off as they were from Richmond, Smith's decision that he must furnish a copy of his commission was virtually a denial of redress. Cooper explained that he had served under Steele, despite the fact that he believed Steele to be his junior, in the hope that the interests of the country would be served. When he became satisfied that such was not the case, from what he observed in the field, he had insisted on his right of precedence. Steele's "want of acquaintance with the people and the topography of the country," Cooper observed, had led to Steele's failure in the administration of the affairs of the Territory. "It is proper," Cooper informed Smith, "you should know that he has so entirely lost the confidence of the Indians that it will be impossible to hold them together under his command."⁴⁷

Support for Cooper's leadership and dissatisfaction with Steele was presented to President Davis by at least three messengers in the last quarter of 1863. Among those offering testimony on Cooper's behalf were James Gamble, former interpreter for the Chickasaws and captain of Company B of the Chickasaw Battalion; Winchester Colbert, Chickasaw governor; Cyrus Harris, former Chickasaw governor; Wilson Love, Chickasaw judge of probate court; Motey Kennard and Echo Harjo, chiefs of the Arkansas and Canadian districts of the Creek Nation; John Jumper and George Cloud, first and second in command of the Seminole Battalion; Stand Watie and Samuel L. Taylor, chief and acting assistant chief of the Cherokees; Tandy Walker, Cooper's close friend and commanding officer of the First Choctaw and Chickasaw Regiment; the Chickasaw

Legislature through a resolution of October 7, 1863; the Choctaw General Council and its resolution of October 8, 1863; and Otis G. Welch with other officers of the Twenty-ninth Texas Cavalry Regiment, except Colonel Charles DeMorse, who refused to serve under Indian commanding officers and disagreed with Cooper on that point. Their testimonials and requests for Cooper to command a separate Indian department dated from April 16 to October 14, 1863, that is, earlier by a month than Alfred Chapman's inquiry about the date of Cooper's commission and four months prior to Cooper's first letter raising the question of rank.⁴⁸

Lieutenant General Smith forwarded Cooper's letter of October 9, 1863, in which Cooper raised the point of virtual denial of redress, to the Adjutant and Inspector General in Richmond. On December 11, the Adjutant and Inspector General submitted it to President Davis with the following endorsement: "Brigadier General Steele was appointed October 3, 1862, to take rank September 12, 1862. Brigadier General Cooper was appointed June 23, 1863, to take rank May 2, 1863, and has not yet been nominated for confirmation." The Adjutant and Inspector General expressed belief that Cooper was acting as brigadier general early in 1862. In view of having received many testimonials on Cooper's behalf, he also stated that if Cooper were to be nominated for confirmation in the rank of brigadier general, that "it be recommended that he take back rank, to correspond to date of his former command, and that in the meantime he be placed in the entire command of the Indian Department, and that General Steele be withdrawn from that command."⁴⁹

In November, 1863, the Grand Council of the Six Confederate Indian Nations, with Israel Folsom of the Choctaw Nation presiding, met to assess their situation. Delegates from the Caddo, Cherokee, Chickasaw,

Choctaw, Creek, and Seminole nations discussed the causes for failure of the Confederacy to provide adequate supplies and protection. They passed resolutions asking that the Indian Territory be made a separate military department outside the control of the commanding officer of the Trans-Mississippi Department, that Cooper be placed in command, that additional brigades of Indian troops sufficient for a division be enlisted and armed, and that delegates from the six Confederate Indian nations be instructed to assure the Confederate States of the continued loyalty of the Indians. Israel Folsom, on November 24, sent the recommendations and resolutions to President Davis with courier Captain Campbell LeFlore, acting quartermaster, without Steele's prior knowledge.⁵⁰

Despite the efforts of the Confederate Indians and the recommendations of the Adjutant and Inspector General to make the Indian Territory a separate department and place Cooper in command of it, Cooper was not given the command. On December 11, 1863, the same day that President Davis received the recommendation so favorable to Cooper, Lieutenant General Smith at Shreveport relieved Steele of his command and placed Brigadier General Samuel B. Maxey in command of the Indian Territory. Maxey, who was a plebe at the United States Military Academy when Smith was a second year student, graduate fifty-eighth in his class in 1846. Maxey, a veteran of the Mexican War, was a second lieutenant in the Seventh Infantry Regiment, as was Smith, at the battles of Contreras and Churubusco and was also cited for gallant and meritorious conduct. A native of Kentucky, Maxey had resigned his commission after the Mexican War and was practicing law in Paris, Texas, about thirty miles southwest of Fort Towson, when the Civil War began.⁵¹

After participating in the unsuccessful defense of western Tennessee and Mississippi, Maxey was transferred at his request to the Trans-Mississippi Department and ordered to report to Holmes at Little Rock for assignment on August 18, 1863. He was not released from his command east of the Mississippi River until October and, upon reporting to Smith at Shreveport, was given leave for a month to return to his home in Paris. Although his orders were dated December 11, it was not until after Christmas that he assumed active command at Fort Towson.⁵²

By December 14, 1863, Cooper had moved his command southward and was encamped near Spencer Academy, a Choctaw school for boys that had been discontinued in 1861 and since utilized as a general hospital. The school was situated about seven miles northwest of the District of Indian Territory headquarters at Fort Towson. Steele, who was relieved from command at his own request, characterized the recent series of events as "a systematic course...pursued...for...the destruction of my character with the Indians, with a view to the promotion of Brigadier General Cooper, through the influence of the Indian Nations." These and other comments by Steele in his defense, addressed to the Adjutant and Inspector General at Richmond on December 19, 1863, were transmitted through the Trans-Mississippi Department headquarters at Shreveport.⁵³

Smith had included a statement demonstrating confidence in Steele in the orders relieving him from command and withheld Steele's remarks of December 19, 1863, until January 17, 1864, before adding the following: "The enclosed paper is well worthy the attention of the Department. General Steele labored conscientiously and faithfully in the discharge of his duties whilst commanding the Indian Department. If he has not been successful, it must be remembered his means were limited and the

difficulties encountered great. I do not regard the promotion of Brigadier General Cooper as wise or necessary." Smith's opposition to Cooper was explicit and he also differentiated by offering laudatory remarks on behalf of Cooper's opponents when mentioning them, yet when it was necessary to mention Cooper he did so in the briefest possible manner. Strangely enough, Smith does not give his reasons for giving Cooper both overt and covert opposition.⁵⁴

Elias C. Boudinot, Cherokee delegate to the Confederate House of Representatives, offered a plan to President Davis on January 4, 1864, for improving affairs in the Indian Territory. Actually, it was a variation on the proposal to obtain departmental status for the Indian Territory and a veiled attempt to bring the Indian Territory from under the control of Trans-Mississippi Department commander Smith. His plan included linking the Indian Territory with Missouri, placing Major General Sterling Price in command, giving Price the forces then in the field in the Indian Territory and the Missouri infantry regiments in Arkansas, plus such other forces as may be raised in Missouri or the Indian Territory. The plan also included promoting Watie to brigadier general as the Indian forces increased to two brigades, with a third Indian brigade authorized. Boudinot likewise urged the appointment of a superintendent of Indian affairs and offered for consideration the idea of a military court for Indian Territory.

Davis referred the plan on January 9, 1864, to James A. Seddon, the Secretary of War, for remarks. Seddon doubted that Price would be willing to accept the command but, if he were, Seddon did not think all the Missouri regiments could be spared from Arkansas. He approved three brigades of Indian troops, but thought there would be difficulty in

finding competent Indian officers. There should be special legislation limiting the commands of Indian officers to Indian troops, with white troops not being required to serve under them. He offered a suggestion in the selection of officers designed to prevent tribal jealousies. Watie was the only officer he could recommend, if the selection had to be made in Richmond. While favoring appointment of a superintendent, he was dubious about a military court. If it were constituted of Indians as well as white persons, "it might be advisable."

Davis made the following reply to Seddon: "Consultation with General Smith would be proper in relation to the assignment of a commanding general to the Indian country. The organization of the Indian troops into brigades as their numbers may justify, is approved. General Cooper can command the first brigade, and any fractions less than another brigade. A second brigade will justify the appointment of Stand Watie, and further selections may be postponed until another brigade is formed. A superintendent is desirable. The Indian country may, I think, advantageously constitute a military district."⁵⁵

Although Maxey had been assigned a month previously, there was no indication that Seddon or Davis were aware that a commanding general for the Indian country had been selected. From his remarks, Davis was not considering Cooper for more than brigade commander. His opinion that "the Indian country may...advantageously constitute a military district" was a clear indication that he favored keeping it under the control of Smith as a part of the Trans-Mississippi Department.⁵⁶

Smith used his appointive powers to greater advantage than would have been possible if he had been in easy communication with Richmond. On September 12, 1863, he asked for an expansion of his appointive

powers due to his practically isolated command. Davis told Seddon in response on October 2 that "the power to appoint cannot be delegated." However, "promotions, elections, examinations may occur and be acted on for the time, officers may be assigned to staff duty, and thus it is hoped the difficulty, recognized to the full extent described, may be practically removed. All which can be legally done will be performed by the Executive branch of the Government to diminish, if it cannot remedy, the evil." On October 10, Seddon transmitted this information to Smith and then added: "The difficulty may, it seems to me, be in a great measure obviated by your power of recommending and assigning officers, and placing them temporarily in their commands until the sanction of the President can be officially had."⁵⁷

Smith's assignment on December 11, 1863, of Maxey to the command vacated by Steele was such an action. On January 9, 1864, Seddon issued Special Order 7 that appeared to Cooper to contradict Smith's. The text read: "Brig. Gen. D. H. Cooper is assigned to the command of the Indian troops in Trans-Mississippi Department on the borders of Arkansas. Brigadier General Steele is relieved from that command and will be otherwise assigned to duty by the commanding general of the Trans-Mississippi Department." Cooper, more frustrated than perplexed, sent a copy of the orders to headquarters, along with a copy of orders dated September 29, 1862, that assigned him to duty as superintendent of Indian affairs, and asked for Smith's interpretation. Smith replied through his assistant adjutant general, Colonel S. S. Anderson, and dealt only with Special Order 7, saying that "you will still be under the command of Brigadier General Maxey. The action of the War Department in placing you 'in command of the Indian troops' was anticipated

in the instructions given Brigadier General Maxey when he was ordered to relieve Brigadier General Steele."⁵⁸

On February 29, 1864, Cooper sent copies of his correspondence with Smith on the subject to President Davis. He drew attention to the fact that Smith's interpretation would reduce his command to Indian troops only while previously it had included the white troops in Texas units. He asked Davis if this were the intent, or if it were to place him in the position vacated by Steele. Also, he did not understand why Holmes and his successor had ignored the order assigning him to duty as superintendent. After relating briefly that Steele and Maxey had been chosen ahead of him, he stated: "I make no complaint and shall make none and will do all in my power to defend this country, but should be glad to know my true status. Nothing but my pledges to the Indians when I induced them to furnish troops for the Confederate States service, and the belief that my continuance with them under the circumstances was and is necessary at least for a while longer, could reconcile me to submission to the indignities which have been heaped upon me."⁵⁹

The Adjutant and Inspector General, to whom Davis referred Cooper's questions, recommended the following disposition: "Issue special order constituting the Indian Territory west of Arkansas a separate district within the Trans-Mississippi Department and placing Brigadier General Cooper in command of that district." After a considerable lapse of time, the War Department on July 21, 1864, issued Special Order 171 to establish a separate district and place Cooper in command. On October 1, 1864, Smith, who had received the order and withheld its publication, asked the War Department to revoke it.

Reluctant to remove Maxey, Smith justified his request on the basis that Maxey had shown skill, judgment, and success in administering his duties. Maxey's removal would be an injustice to Maxey and a misfortune to the department, Smith argued, but he gave no reason for believing that Cooper would be less successful, nor did he give credit to Cooper for even a minimal effort. Smith was informed that Special Order 171 was "deemed imperative and must be carried into effect."⁶⁰

But the War Department's instructions to Smith, either lost or ignored, had to be repeated on December 23, 1864, and Smith delayed a response until February 14, 1865, when he issued orders for Brigadier General Watie to relieve Cooper in the command of the Indian division and, "in accordance with instructions from the War Department," assigned Cooper to duty as superintendent of Indian Affairs. A week later Smith placed Cooper in command of the District of Indian Territory. Smith, aggravated by being overruled in his choice of a commanding officer for the Indian Territory, stated in his orders that he was relieving Maxey "from his present for more important duties."⁶¹

In graciously relinquishing the command and the office of superintendent to Cooper, Maxey would "impress upon all the absolute necessity of upholding and sustaining the new district commander in the arduous and complicated duties that will devolve upon him. No man will more heartily rejoice at his entire and perfect success than the undersigned." With Smith expressing confidence in him, commending him, and placing him in a favorable light in Richmond at every opportunity, Maxey could afford to be magnanimous even though he was aware that Cooper had fought his assignment to the command for over a year.⁶²

Smith, who had informed the Adjutant and Inspector General in

Richmond in July of the preceding year that Cooper could not "perform properly the duties of a general officer and superintendent of Indian affairs," continued to be Maxey's protector and to denigrate Cooper. On March 2, 1865, he notified the War Department that he had complied with the order assigning Cooper to the command, enclosing the orders that praised Maxey and relieved him "for more important duties." Smith reported that conditions had never been better in the Indian Territory since his arrival in the department, due in a major way to Maxey's administration. He then turned his attention to Cooper, stating: "I shall give General Cooper my full support. The change has not the concurrence of my judgment, and I believe will not result beneficially. Cut off as the department commander is from direct communication with Richmond, he should not be made responsible for events which may transpire in the districts under his command, unless he controls their commanders and has the power of changing them when circumstances demand." Cooper issued General Order 9 from his headquarters at Fort Towson on March 1, 1865, with a brief statement that he was assuming command of the district and the duties of the superintendency.⁶³

In turning back to Cooper's military activities during Maxey's command, there were no battles or engagements in which Cooper occupied more than a secondary or supporting position. In February, 1864, an expedition under the command of Union Colonel Phillips had moved deep into the Indian Territory. Enough resistance from Cooper's forces, coupled with other considerations, caused Phillips to turn back to Fort Gibson, but there was no fighting involved beyond brief skirmishing. Cooper was placed in command by Maxey in mid-April, 1864, while Maxey took Gano's and Tandy Walker's brigades into Arkansas, where

victory was attained over a heavily guarded Union foraging party at Poison Springs on April 18. By May 9, Maxey was at Fort Towson reassuming command. Watie and Gano enjoyed a measure of success on daring raids in the northern portion of the Indian Territory, but Cooper was detained to guard the approaches to the Red River crossings into Texas during Maxey's administration.⁶⁴

Cooper, who had never left his duty assignment during the Civil War, was almost completely isolated from his wife and younger children in Mississippi. For one six month interval he received no letters from them. Union forays from Natchez, especially south into Wilkinson County, and the lack of news from his family caused him constant worry. On May 1, 1864, his third and youngest son, William Keary, enlisted as a private in Company E of the Twenty-first Mississippi Infantry Regiment. In the battle of Cedar Creek, Frederick County, Virginia, on October 19, a minie ball struck him in the right knee, shattering it, and he was taken prisoner as the Confederates were driven from the field. The next day, his leg was successfully amputated at Winchester, a few miles north of the battle scene, where he recuperated until January 4, when he was admitted to the United States Army General Hospital in Baltimore, Maryland. This was the first step in his exchange, which had been initiated by Robert Ould, the Confederate Commissioner of Exchange, on October 30. By March 2, he was near Richmond, where a medical review board certified his disability, and on March 24, near Jackson, Mississippi, he was discharged from the Confederate service.⁶⁵

Exchanges of prisoners such as that of Cooper's son were conducted in accordance with the provisions of a cartel first arranged by two major generals on July 22, 1862, John A. Dix for the Union and Daniel

H. Hill of the Confederacy. By 1864, the Dix-Hill Cartel so often employed east of the Mississippi River was an innovation in the Trans-Mississippi Department. Cooper was instrumental in introducing in September, 1864, a variation of the cartel in the Indian Territory whereby women and children trapped behind enemy lines were also exchanged. Cooper conducted a wagon train of non-combatants under a flag of truce bound for the Union-held area north of the Arkansas River in the first week of November. This was but one example of Cooper's humanitarianism that influenced assistant inspector general Bulow W. Marston, a wounded veteran of Shiloh assigned to the Trans-Mississippi Department at Smith's request, to characterize Cooper's position among the people of the Indian Territory as deriving "from long association and universal kindness."⁶⁶

In critical times during Maxey's administration, Cooper worked to strengthen the Confederate forces. Early in February, 1864, he sought to influence the Choctaws and their principal chief, Samuel Garland, to raise a third regiment. His efforts toward that objective among the delegates of the six Confederate nations attending the grand council at Armstrong Academy, the Choctaw capital less than twenty miles north of the Red River on the Texas Road, were not successful. However, the failure was not due to lack of attention on Cooper's part as he urged the other delegations to exert pressure on Garland to honor an offensive and defensive compact previously entered into by the six nations.⁶⁷

Later, Cooper helped obtain an enlistment "for the war" of the troops of the First Choctaw and Chickasaw Regiment. On June 23, 1864, when asked to address the troops of his old regiment, he "responded in an earnest and patriotic manner," observed Lieutenant Colonel James

Riley, "impressing all present of the great importance of enlisting for the war, and announced that he was in for that period, let it be 'one or forty years.'" The First Choctaw and Chickasaw Regiment approved a resolution to enlist for the duration of the war, a rarity among the Indian regiments whose troops preferred generally to limit their commitment to one year.⁶⁸

A reorganization of the Confederate forces in the Indian Territory that would draw off all the white troops into a separate command was underway when Cooper succeeded Maxey as district commander. Cooper had suggested such a plan on December 29, 1864, and Maxey forwarded it to Smith at Shreveport with his approval. A limited number of white troops in key positions were to be retained in the Indian units. Captain Bulow W. Marston was to be promoted to lieutenant colonel and placed in command of the battalion, so organized, until the unit reached regimental size. The plan was not yet fully implemented when the war ended, however, and its effectiveness was never tested.⁶⁹

Serious financial troubles impeded the most routine operations of the Trans-Mississippi Department before Cooper had gained command of the district. Smith, in an effort to reestablish the department's credit, addressed appeals to the Secretary of War and to Texas congressmen Louis T. Wigfall and Williamson S. Oldham in Richmond on February 11, 1864. The substance of Smith's message was the information furnished by Major and Acting Chief Quartermaster William H. Haynes and P. W. Gray, the departmental Confederate States Treasury agent. Since they could no longer impress, were unable to use certified accounts, and the certificates of indebtedness were too large for general use, being mostly of the \$1,000 denomination, Haynes had suggested that the

certificates be issued in amounts of \$100 and that a currency receivable for taxes be supplied. Smith stated that at least \$30,000,000 was needed at once for temporary relief. Sufficient funds were not forthcoming from the Richmond government, and Cooper's actions upon assuming command indicate he was skeptical of receiving any aid in the Indian Territory even should funds be provided.⁷⁰

Lieutenant Douglas H. Cooper, Jr., was sent as the courier to Richmond with Smith's requests, his leave dating from February 14, 1865. Allowing two to four weeks for his trip to Richmond, it is likely that he visited his wounded brother, William Keary, who arrived there as an exchanged prisoner on March 2, and was detained there until March 18 before being sent to Jackson, Mississippi, for release from the army. Their father, meanwhile, was at Fort Towson making plans for the District of Indian Territory.⁷¹

On March 7, Cooper had issued orders intended to help the farming interests produce as much food as possible. All officers and agents subject to Cooper's orders, who operated facilities suitable for repairing farm implements, were to devote one or more days per week to such work without charge to the farmers. Materials, as far as practicable, were to be supplied by the farmers. Continuing to encourage food production, Cooper ordered quartermasters on March 18 to issue seed corn to indigent farmers. Authorization, in the form of a certificate approved by a district chief or the principal chief, stating that the applicant could not otherwise procure the corn, was to be surrendered to the quartermaster. For each ten acres declared to be planted with corn, the applicant was to receive one bushel of seed.⁷²

During this period, Israel G. Vore, formerly Cooper's quartermaster

and since May 24, 1863, agent to the Creek Nation, suggested that the Confederate government foster a council between the Confederate Indians and the Indians of the plains. The Comanches and other western Indians, traditional enemies of the Indians in Cooper's district and the settlers of northwestern Texas, had recently shown a disposition leading Vore to believe that they could be won over to the Confederacy. Smith, realizing the importance of such a diplomatic victory at his back door, endorsed the plan. Smith also concurred with Cooper's suggestion that Brigadier General James W. Throckmorton be selected as one of the Confederate commissioners to attend the council. On April 8, 1865, Smith asked Albert Pike to act as a commissioner with Throckmorton for the council scheduled for May 15 at Council Grove. Upon Pike's refusal, Colonel W. D. Reagan, judge of a military court in Arkansas, was asked on April 15 to act with Throckmorton on behalf of the Confederates.⁷³

Arrangements for the council moved slowly, with delegates being selected by each of the several Confederate nations and tribes. In a preliminary meeting by these delegates, it was decided that the council at Council Grove would be held in two stages. First, the Indians would hold a peace council. The second step would involve the Confederate commissioners in an attempt to form a treaty of alliance with the Plains Indians against the settlers on the frontier of Union-held Kansas and the enemy troops along the Santa Fe Trail. On May 8, 1865, Cooper accompanied commissioners Throckmorton and Reagan as they departed from Fort Towson for Council Grove. Cooper remained at Fort Washita on May 10 as the commissioners moved on to their rendezvous of May 15. While Cooper waited at Fort Washita for the Chickasaw troops to assemble, he sent orders back to Fort Towson for his son David to bring his servants,

baggage, and camp equipage to him at Fort Washita. As Cooper had let Throckmorton take his "mess vehicle" on to the council, another wagon was to be brought for possible use in the field.⁷⁴

Rumors of events east of the Mississippi River and of surrender demands upon Smith soon reached Cooper at Fort Washita. On May 16, he sent a courier to Commissioner Throckmorton with the following message: "I inclose 'extra' from Marshall, [Texas].... Under existing conditions I would...suggest that the negotiations with the Indians of the plains be confined to...securing friendly relations with them." The raid into Kansas and other military plans were to be deferred until Cooper learned the decision of the governors of Texas, Louisiana, Arkansas, and Missouri, in consultation with the Confederate military commanders, in a meeting being held at Marshall. Cooper told Throckmorton that General Smith had refused to surrender the Trans-Mississippi Department, but that the peace commissioners had not left. He concluded: "I presume the matter is referred to the Governors."⁷⁵

In the days that followed, Cooper issued urgent calls for instructions and waited anxiously for official news from Smith at departmental headquarters. He notified Tandy Walker and Stand Watie to act strictly on the defensive and to use their forces to maintain order. On May 22, 1865, he informed Throckmorton that he had suggested a grand council of the six Confederate Indian nations to hear reports of their commissioners who had attended the recent council with the plains Indians and to determine what course the six nations would take with regard to ending the war. On May 25, he reported to departmental headquarters that he had established his district headquarters at Fort Washita. The grand council of the six nations, which he referred to also as "allied

nations" or "their league," was set for June 10 at Armstrong Academy. On May 26, the Trans-Mississippi Department was surrendered by Lieutenant General Simon B. Buckner on behalf of Smith at New Orleans, but it was not until June 6 that Buckner sent a belated message to Cooper, officially notifying him. Due to the irregularity of the mail service, Cooper read of the terms of surrender from a copy of the Houston Telegraph that came to him on June 23, prior to receiving Buckner's copy of the terms.⁷⁶

Upon receiving news of the surrender several days previous to learning the terms of surrender, Cooper took the liberty of releasing several of his staff in early June. In bidding goodbye to one volunteer aide-de-camp, Lieutenant Colonel George Weissenger, on June 16 at Fort Washita, he expressed his appreciation of Weissenger's character as a gentleman and an officer, adding: "By your assistance and that of a few who, like yourself, stood steadfast at the post of duty to the last, I have been enabled to restore order to a community wild with excitement and desperate from impending starvation. By the blessing of God, I believe the most dangerous crisis of the late war has been safely passed, and the horrors of anarchy averted within this district."⁷⁷

By paragraph seven of the military convention entered into at New Orleans on May 26, "the time, mode, and place of paroling and surrender of property will be carried out by commissioners appointed" by the United States. Major Generals Francis J. Herron and Joseph J. Reynolds, Union commanders at Shreveport and Little Rock, both sent commissioners to the Indian Territory. Herron's arrived first. Cooper was appointed commissioner on behalf of the Confederates. The May 26 convention was

based on the erroneous assumption that the same surrender and parole procedures would be followed in the Indian Territory as in the Southern states. Cooper's control of the situation was weakened by the independent action of the Confederate Indian governors and principal chiefs who made temporary treaties or truces with Herron's commissioners. This unilateral or sovereign action by the nations left Cooper with only two major public responsibilities, the first being the parole of the white persons not citizens of Indian nations, and the second being the surrender of public property remaining under his control.⁷⁸

Following Cooper's explanation of the problems involved in complying with the terms, Union authorities on July 15, 1865, ordered white persons not citizens of Indian nations to report to paroling officers at Marshall, Texas, Fort Smith, Arkansas, or to the nearest post of the United States forces. As late as August 20, Cooper was still trying to get Union troops to take custody of the public property remaining in his care at Fort Washita. Brigadier General Cyrus Bussey, the commanding officer at Fort Smith, notified Cooper on August 26 that he could neither send an officer to receive the property nor send transportation to have it brought to Fort Smith.⁷⁹

In the various truces made by the Indian nations with Herron's commissioners, tentative plans were made whereby Herron would request that United States peace commissioners be sent to meet with the Confederate Indians at Armstrong Academy on September 1. When the final arrangements were made through Reynolds at Little Rock, in whose jurisdiction the Indian Territory had been placed, the Secretary of the Interior ordered that the negotiations be conducted at Fort Smith. Northern or Union factions of the Indians nations and tribes were also to attend,

and the Fort Smith Peace Council took on an added dimension. It was to be the first major move toward reconstruction in the Indian Territory. Bussey, receiving the news late in August, rushed the information to Cooper and the Confederate delegates assembling at Armstrong Academy that they were to meet with the Union factions and the peace commissioners at Fort Smith. Although Cooper had on several occasions recently offered his services in restoring relations between the Confederate Indians and the United States, it was at Fort Smith during the peace council that he took his first official step toward personal reconstruction.⁸⁰

The last part of the war, that is, the period beginning with Steele's assignment to the command of the Indian Territory in January, 1863, and concluding on the eve of the Fort Smith Peace Council in late August, 1865, marked the demise of Cooper's personal link with nationally influential Confederate leaders. Cooper's close political association with President Davis was weakened by the surrender of Vicksburg and the growing isolation of the Trans-Mississippi Department. Cooper was not generally supported by the majority of Mississippians before the war and, consequently, in the Richmond government, he was almost without support other than that of Davis. The states of Arkansas, Texas, and Missouri had other aspirants to advance. Cooper's constituency, allies by treaty but wards in actuality of the Richmond government, could wield no influence in the Confederate Congress from which all confirmations of commissions came. Once the Trans-Mississippi Department reached a level of isolation that allowed Smith an inordinate amount of discretion in making assignments, or to delay the implementation of orders issued by Davis, Cooper was virtually without influence.

The situation was frustrating to Cooper on at least two counts. First, he wanted command in the Indian Territory in order to comply more fully with the treaty stipulations for which he, like Pike before him, felt a personal responsibility. Cooper's personal commitment, however, was based upon years of public service to the Choctaws and Chickasaws rather than as a paid contracting agent as was Pike. Second, Cooper's expectations as a close political friend of the chief executive of the Confederate government were perhaps excessively high, too lofty to be fulfilled by Davis, given the political and military realities existing within the Confederacy.

As a result, his prestige among the six Confederate Indian nations was placed in jeopardy. A considerable amount of the influence he was able to muster was drawn from the Indians, especially those troops under his command. He supported the Indian officers as being competent to command regardless of whether subordinates were Indian or white, a position that brought approval from the Indians, but was contrary to the popular attitude of white persons generally, and Colonel Charles DeMorse of Texas in particular. In struggling to ensure a fair and equitable distribution of the clothing and arms to the Indian troops, he encountered opposition from Hindman, Steele, and Smith. Steele, in particular, favored the white troops in the distribution of clothing. Cooper utilized a combination of respect for the Indian leaders, in both the political and military sense, and a humanitarian treatment of the general populace as a basis for his leadership.

The events of the war proved that Cooper was not a successful field commander. His victory at Newtonia, Missouri, could not be denied, but subsequent events proved it could be ignored. It is true that he

was sick at Old Fort Wayne, the powder was defective at Honey Springs, and the action at Perryville was under Steele's control as a rearguard action until reinforcements from Texas should arrive. But there was faulty judgment on his part in remaining at such a forward position as Old Fort Wayne with less than his full force and without adequate scouting parties in all directions. At Honey Springs, it was incredible that the faulty powder was not discovered until the engagement had begun. He could have withdrawn with honor, under the circumstances at Old Fort Wayne or Honey Springs, and remained within the limits of discretion allowed him as a field commander.

Cooper's world in August, 1865, was filled with doubts and uncertainties. He approached the end of his forty-ninth year marked as a rebel general whose civil status was undetermined. Even during the war he had been unsure as to what his true status was in the Confederacy. The social, economic, and political system that he had known before the war was irretrievably altered. His desire to promote the interests of the Choctaws and Chickasaws and the friendships formed by more than a decade among them were real and familiar in a drastically changed world. They were points of departure as he prepared to expand his civil and possibly public role in the postwar world by placing himself at the disposal of the Indians and the Union peace commissioners at Fort Smith.

FOOTNOTES

¹Phillips to Blunt, December 28, 1862, Official Records, Ser. I, Vol. XXII, Pt. I, p. 881; Cooper to Hindman, January 8, 1863, ibid., Ser. I, Vol. XXII, Pt. II, p. 770.

²Ibid. The supply depot was on the Texas Road south of the Canadian River.

³Theophilus H. Holmes to General S. Cooper, October 26, 1862, Official Records, Ser. I, Vol. XIII, p. 899; William Steele to Douglas H. Cooper, January 8, 1863, ibid., Ser. I, Vol. XXII, Pt. II, p. 770.

⁴Steele to Wigfall, April 15, 1863, ibid., p. 820.

⁵Ibid., p. 775.

⁶Steele to Anderson, January 27, 1863, and Crosby to Cooper, January 27, 1863, ibid., pp. 776-779.

⁷General Order 1, March 7, 1863, and General Order 23, March 18, 1863, ibid., pp. 798 and 803.

⁸Ibid., pp. 806 and 810.

⁹Ibid., p. 810.

¹⁰Steele to Wigfall, April 15, 1863, ibid., pp. 820-821.

¹¹Steele to Anderson, April 10, 1863, and Steele to Cooper, April 13, 1863, ibid., pp. 816, 817-818.

¹²Ibid., p. 839.

¹³Phillips to Blunt, May 9, 1863, ibid., Ser. I, Vol. XXII, Pt. I, p. 316; Steele to Cabell, June 16, 1863, ibid., Ser. I, Vol. XXII, Pt. II, p. 874.

¹⁴Steele to Cooper, May 24, 1863, ibid., p. 847.

¹⁵Cooper to Steele, June 23, 1863, extracted in Steele to Cabell, June 25, 1863, Duval to Cabell, June 29, 1863, Steele to Blair, July 5, 1863, ibid., pp. 885, 894, 905; Phillips to Blunt, July 7, 1863, ibid., Ser. I, Vol. XXII, Pt. I, pp. 378-379; Steele to Blair, July 10, 1863, ibid., Ser. I, Vol. XXII, Pt. II, p. 917.

- ¹⁶ Steele to Cabell, July 15, 1863, ibid., p. 933.
- ¹⁷ Blunt to [H. Z. Curtis], July 13, 1863, ibid., pp. 367-368; Blunt to Schofield, July 26, 1863, ibid., Ser. I, Vol. XXII, Pt. I, p. 447.
- ¹⁸ Ibid., pp. 447-448; Cooper to Steele, August 12, 1863, ibid., p. 458.
- ¹⁹ Ibid.
- ²⁰ Ibid., pp. 458-461.
- ²¹ Ibid., pp. 448, 454, 456-457; ibid., Ser. I, Vol. XXII, Pt. II, p. 941.
- ²² Ibid., Ser. I, Vol. XXII, Pt. I, pp. 460, 449.
- ²³ Ibid., p. 448; ibid., Ser. I, Vol. XXII, Pt. II, pp. 933, 940-941, 948-949.
- ²⁴ Robert Thornton Cooper Head to Muriel H. Wright, July 22, 1953, Douglas H. Cooper File, Muriel H. Wright Papers, Oklahoma Historical Society, Oklahoma City, Oklahoma; Thornton B. Heiston, Military Service Record, Department of War Collection of Confederate Records, Record Group 109, National Archives.
- ²⁵ D. H. Cooper to S. Cooper, July 28, 1863, ibid.
- ²⁶ Steele to Blair, August 7, 1863, Steele to Cabell, August 15, 1863, and Steele to Cabell, August 19, 1863, Official Records, Ser. I, Vol. XXII, Pt. II, pp. 956-957, 967-968, and 972.
- ²⁷ Curtis to Marsh, July 22, 1863, and Blunt to Schofield, August 22, 1863, ibid., pp. 392, 465-466; Blunt to Schofield, August 27, 1863, ibid., Ser. I, Vol. XXII, Pt. I, pp. 597-598.
- ²⁸ Steele to Snead, August 28, 1863, ibid., pp. 599-600.
- ²⁹ Steele to Bankhead, July 11, 1863, Carrington to Bankhead, August 22, 1863, Bankhead to Turner, August 23, 1863, Bankhead to Turner, August 27, 1863, and Steele to Bankhead, August 26, 1863, ibid., Ser. I, Vol. XXII, Pt. II, pp. 921-922, 975, 977, 981, 981-982; Blunt to Schofield, August 27, 1863, and Cabell to Duval, December 7, 1863, ibid., Ser. I, Vol. XXII, Pt. I, pp. 597-598, 606.
- ³⁰ Steele to Cooper, September 8, 1863, ibid., Ser. I, Vol. XXII, Pt. II, p. 1000.
- ³¹ Crosby to Cooper, September 15, and 17, 1863, ibid., pp. 1016, 1019-1020.
- ³² Crosby to Cooper, September 19, and 23, 1863, Special Order 154, October 3, 1863, Crosby to Cooper, October 9, 1863, ibid., pp. 1021-1022, 1025-1026, 1045, 1037.

- ³³ Cooper to McCulloch, October 9, 1863, and Steele to Bass, October 15, 1863, ibid., pp. 303-304, 1047.
- ³⁴ Steele to Cooper, October 17, 1863, and Steele to Anderson, October 24, 1863, ibid., pp. 1047, 1048.
- ³⁵ Ibid.
- ³⁶ Steele to Anderson, November 9, 1863, McCulloch to Steele, October 23, 1863, and Steele to Cooper, November 1, 1863, ibid., pp. 1065, 1047-1048, 1055.
- ³⁷ Steele to Cooper, November 8, 1863, and Schaumburg to Boggs, October 26, 1863, ibid., pp. 1063-1064, 1052.
- ³⁸ Steele to Anderson, November 9, 1863, and Steele to Cooper, November 1, 1863, ibid., pp. 1064-1065, 1055.
- ³⁹ Steele to Anderson, November 27, 1863, ibid., pp. 1077-1078.
- ⁴⁰ Ibid., and Duval to Gano, November 19, 1863, ibid., p. 1073.
- ⁴¹ Blunt to Schofield, August 22, 1863, ibid., p. 465; Steele to Anderson, February 15, 1864, ibid., Ser. I, Vol. XXII, Pt. I, p. 35.
- ⁴² Ibid., p. 36; ibid., Ser. I, Vol. XXII, Pt. II, p. 1118.
- ⁴³ Alfred Chapman to Jefferson Davis, May 14, 1863, and endorsements, Douglas H. Cooper, Military Service Record, Department of War Collection of Confederate Records, Record Group 109, National Archives.
- ⁴⁴ Ibid., and Holmes to Hindman, November 5, 1862, Official Records, Ser. I, Vol. XIII, pp. 910-911.
- ⁴⁵ Smith to Cooper, September 1, 1863, and Cooper to Smith, October 9, 1863, ibid., Ser. I, Vol. XXII, Pt. II, pp. 987, 1037-1038.
- ⁴⁶ Smith to Cooper, September 1, 1863, ibid., p. 987.
- ⁴⁷ Cooper to Smith, October 9, 1863, ibid., pp. 1037-1038.
- ⁴⁸ John C. Robinson to James A. Seddon, December 28, 1863, and enclosures, ibid., pp. 1116-1125.
- ⁴⁹ Ibid., p. 1038.
- ⁵⁰ Ibid., Ser. I, Vol. XXXIV, Pt. III, pp. 824-825; Steele to S. Cooper, December 19, 1863, ibid., Ser. I, Vol. XXII, Pt. II, p. 1100.
- ⁵¹ Special Order 214, December 11, 1863, ibid., p. 1094; Louise Horton, "General Sam Bell Maxey: His Defense of North Texas and the Indian Territory," Southwestern Historical Quarterly, Vol. LXXIV, No. 4 (April, 1971), pp. 507-508.

⁵² Louise Horton, Samuel Bell Maxey: A Biography (Austin: University of Texas Press, 1974), pp. 25-34; Special Order 196, August 18, 1863, and Maxey to W. R. Boggs, December 26, 1863, Official Records, Ser. I, Vol. XXII, Pt. II, pp. 970-971, 1112-1113.

⁵³ Duval to Cooper, December 15, 1863, Steele to S. Cooper, December 19, 1863, and endorsement, ibid., pp. 1099, 1100-1101.

⁵⁴ Ibid., p. 1101.

⁵⁵ Ibid., Ser. I, Vol. LIII, pp. 920-922.

⁵⁶ Ibid.

⁵⁷ Smith to Seddon, September 12, 1863, and endorsements, ibid., pp. 895-896; ibid., Ser. I, Vol. XXII, Pt. II, p. 1040.

⁵⁸ Ibid., Ser. I, Vol. XXXIV, Pt. II, p. 1008; Anderson to Cooper, February 20, 1864, ibid., p. 1008.

⁵⁹ Cooper to Jefferson Davis, February 29, 1864, ibid., pp. 1007-1008.

⁶⁰ Ibid., p. 1008; ibid., Ser. I, Vol. XLI, Pt. II, p. 1019; ibid., Ser. I, Vol. XLI, Pt. III, p. 971.

⁶¹ Smith to S. Cooper, March 2, 1865, Special Order 40, February 14, 1865, Special Order 45, February 21, 1865, ibid., Ser. I, Vol. XLVIII, Pt. I, pp. 1048-1049, 1387, 1396.

⁶² General Order 7, February 24, 1865, ibid., p. 1403.

⁶³ Smith, July 31, 1864, quoted in Boggs to Cooper, February 14, 1865, Smith to S. Cooper, March 2, 1865, General Order 9, March 1, 1865, ibid., pp. 1388, 1048-1049, 1408.

⁶⁴ Phillips to Curtis, February 16, 1864, and "Itinerary of the Indian Brigade," ibid., Ser. I, Vol. XXXIV, Pt. I, pp. 106-110, 111-112; Maxey to Boggs, April 14, 1864, ibid., Ser. I, Vol. XXXIV, Pt. III, p. 765; Horton, Samuel Bell Maxey: A Biography, pp. 37-38; General Order 39, May 9, 1864, Official Records, Ser. I, Vol. XXXIV, Pt. III, p. 816.

⁶⁵ Bulow W. Marston to Dear Sissie, July 18, 1864, Henry Marston and Family Papers, Louisiana State University Archives, Baton Rouge, Louisiana; William Keary Cooper, Military Service Record, Department of War Collection of Confederate Records, Record Group 109, National Archives; Robert Ould, "Memorandum sent to Maj. John E. Mulford," October 30, 1864, Official Records, Ser. II, Vol. VII, p. 1066.

⁶⁶ Maxey to J. M. Thayer, September 27, 1864, Cooper to Marston, October 5, 1864, and Maxey to Cooper, October 27, 1864, Henry Marston and Family Papers, Louisiana State University Archives; J. M. Thayer to S. H. Wattles, October 29, 1864, Official Records, Ser. I, Vol. XLI, Pt.

IV, p. 309; Bulow W. Marston, "Remarks," n.d., Henry Marston and Family Papers, Louisiana State University Archives.

⁶⁷Cooper to Maxey, February __, 1864, Official Records, Ser. I, Vol. XXXIV, Pt. II, p. 959.

⁶⁸Ibid., Ser. I, Vol. XXXIV, Pt. IV, pp. 694-695.

⁶⁹Cooper to Boggs, December 29, 1864, and endorsement by Maxey, December 31, 1864, Henry Marston and Family Papers, Louisiana State University Archives.

⁷⁰Official Records, Ser. I, Vol. XLVIII, Pt. I, pp. 1381-1384.

⁷¹Ibid., p. 1382; Douglas H. Cooper, Jr., Military Service Record, Department of War Collection of Confederate Records, Record Group 109, National Archives.

⁷²Special Order 63, March 7, 1865, Special Order 18, March 18, 1865, Official Records, Ser. I, Vol. XLVIII, Pt. I, pp. 1413-1414, 1437.

⁷³Smith to P. Murrah, March 21, 1865, ibid., pp. 1439-1440; Smith to Pike, April 8, 1865, ibid., Ser. I, Vol. XLVIII, Pt. II, pp. 1266-1269; C. S. West to W. D. Reagan, April 15, 1865, ibid., pp. 1279-1280. Council Grove was on the North Canadian River in what is now west Oklahoma City. LeRoy H. Fischer and Muriel H. Wright, Civil War Sites in Oklahoma (Oklahoma City: Oklahoma Historical Society, 1969), p. 44.

⁷⁴Cooper to S. S. Anderson, May 15, 1865, and Cooper to T. M. Scott, May 14, 1865, Official Records, Ser. I, Vol. XLVIII, Pt. II, pp. 1306, 1303.

⁷⁵Ibid., p. 1307.

⁷⁶Cooper to Walker, May 21, 1865, Cooper to Throckmorton, May 22, 1865, Cooper to Anderson, May 25, 1865, Terms of Military Convention, May 26, 1865, Buckner to Cooper, June 6, 1865, Cooper to Scott, June 26, 1865, ibid., pp. 1315-1316, 1317, 1319, 600-602, 1322, 1323, 1324.

⁷⁷Cooper to George Weissenger, June 16, 1865, ibid., p. 1323.

⁷⁸F. J. Herron to A. C. Matthews, June 9, 1865, J. J. Reynolds to C. C. White, June 17, 1865, Smith to Canby, June 2, 1865, ibid., pp. 830-831, 911, 727; for temporary treaties or truces, see ibid., pp. 1006, 1097, 1100-1101.

⁷⁹General Order 6, July 15, 1865, and Bussey to Cooper, August 26, 1865, ibid., pp. 1102, 1214-1215.

⁸⁰Ibid., pp. 1214-1215; Cooper to Buckner, June 28, 1865, ibid., p. 1099.

CHAPTER IX

WORKING TOWARD PEACE

Reconstruction was not easily accomplished by Cooper personally nor by the Choctaw and Chickasaw people, his charges of more than a decade. Cooper worked for the restoration of peaceful relations between the Choctaw and Chickasaw nations with the victorious United States government. During the war a preponderance of Choctaws and Chickasaws had sympathized with the Confederacy, a fact reflected in the greater degree of unanimity among them after the war than existed within the Cherokee, Creek, or Seminole nations. There were factions within the Cherokee, Creek, and Seminole nations who opposed Watie and Boudinot of the Cherokees, the McIntoshs and Samuel Checote of the Creeks, and John Jumper of the Seminoles. Although directing his efforts primarily toward restoring peace for the Choctaws and Chickasaws and aiding them to regain their status within the sphere of the United States government, Cooper acted as a general consultant to the peace commissioners and to any of the factions who sought his services in the peace negotiations.¹

Cooper also acted on his own behalf while at Fort Smith during the council by applying for parole to Brigadier General Bussey, commandant of Fort Smith and host to the council. The parole was accepted and honored routinely. Although uncertain as to the necessity of doing so, and as to the class or classes of exception applicable in his situation,

Cooper let it be known to his friends at Fort Smith that he was applying for a pardon under the terms of President Andrew Johnson's amnesty proclamation of May 29, 1865. The Chickasaw delegation responded with a memorial on Cooper's behalf directed to the President and to be forwarded by the presiding officer of the Fort Smith Peace Council, Commissioner of Indian Affairs Dennis N. Cooley. Delegates from the Choctaw, Creek, Seminole, and Cherokee nations endorsed the memorial, notable exceptions being Robert M. Jones, the president of the Choctaw delegation, and all but two of its members.²

The Confederate or Southern delegations, after arriving at Fort Smith on September 15, 1865, first engaged in the council proceedings the following day. By September 18, the Choctaw and Chickasaw delegations had been persuaded to agree generally with the commission's proposed treaty of peace and amity. Cooley adjourned the council on September 21 with the understanding that delegations would later be sent to Washington to negotiate detailed reconstruction treaties. Cooper's part in the council was always behind the scenes, and he informed Cooley and the other commissioners of the special problems and relations of the many tribes and factions. After the council, Cooley acknowledged Cooper's contribution when he stated: "I was very favorably impressed with the conduct of Mr. Cooper at our Council at Fort Smith. I believe he did all in his power to forward our wishes and interests as Comrs."³

On the day after the adjournment of the Fort Smith Peace Council, former Union Major General James G. Blunt endorsed the Chickasaw memorial calling for Cooper's pardon. After stating that he had fought "several battles" against Cooper and, since then, he had "much to do with him touching our relations in the Indian Country," he observed that Cooper

"has done all he could since the surrender of the Confederate forces to restore order and to aid the U. S. authorities to bring about amicable relations with the Indians." He recommended that Cooper be pardoned, "believing that he would be of service to U. S. in the Indian Country."⁴

Before leaving Fort Smith, Cooper gave Cooley his formal application for pardon and a signed loyalty oath. He had prepared the special application and signed the oath in consultation with attorney A. M. Bryant of Grayson County, Texas, prior to coming to Fort Smith. Upon Cooley's return to Washington, he forwarded Cooper's application and accompanying papers to United States Attorney General James J. Speed. On October 17, 1865, Cooley submitted additional information to the attorney general: "In connection with the reference by this office to you a few days since of the application for pardon of D. G. (H.) Cooper, formerly an Agent of the Department for the Choctaw & Chickasaw Indians, I desire to state for consideration therewith, that Mr. Cooper by letter of May 4th 1861, resigned his office and at the same time observed that he presumed he would be obliged to turn over the Agency buildings and other public property to the Chickasaw government."⁵

Cooper had in the meantime returned to the old Choctaw and Chickasaw agency near Fort Washita. On October 18, 1865, he informed Cooley: "In accordance with your request that I should keep you informed of passing events in the Indian Territory worthy of note I have to inform you that the Chickasaw Legislature has adjourned after a very brief session." The legislation passed included an act appointing commissioners to be sent to Washington in December, 1865; a resolution that required the Chickasaw Governor to issue a proclamation for the conduct of former slave owners; a resolution ratifying the agreement made at

the Peace Council at Fort Smith; and a resolution providing for amending the Constitution of the Chickasaw government. "Nearly all in the Choctaw Nation have set their slaves at liberty," Cooper explained, "and in most cases I believe the Negroes will remain with their former owners. I called up mine and gave them choice to go elsewhere or remain and work, promising the able bodied and middle aged either fair wages or a reasonable share in the crops. At present the latter is only way to remunerate them, there is little or no money in the country and no sale for produce." Cooper, who had been ill, was now anxious to go to Washington via Mississippi to close his accounts and promote his application for pardon. "I should be glad to be re-installed without delay," Cooper pleaded, "not only that I may be doing something to support myself and family, but also that I may be the better able to exert [my wanted] influence with the people of this Territory, for the furtherance of the policy of the Government and the good of the People."⁶

On November 21, 1865, Cooley told the Secretary of the Interior, James Harlan, of Cooper's desire to come to Washington to adjust and settle his accounts as a former agent and to apply for pardon. Cooley also transmitted Cooper's wish to continue to work with the Indians. He told Harlan of Cooper's parole at Fort Smith and of his "great service to the Commission in aiding to bring about the gratifying results of that Council. An application for his pardon was endorsed by me, and forwarded to the Attorney Gen. of the U. S. some weeks since, but I have not been advised of the result. Believing his application to be allowed to come to this city a reasonable one, and that the extension of the Executive clemency in his behalf will serve the interests of the Government, I request that you will lay the subject before the proper

authorities."⁷ If a pass were to be sent to Cooper, arrangements had been made for him to receive it through Brevet Major General Henry J. Hunt at Fort Smith.

Cooley promptly notified Cooper of the action he had taken. Harlan, after checking with Attorney General Speed, advised Cooley that the government had no objection to Cooper's proposed visit to Washington. With the way now cleared, Cooper accumulated additional recommendations for his pardon from Orville Jennings, United States District Attorney at Little Rock, and Isaac Murphy, Governor of Arkansas, before making his first trip to Mississippi since the beginning of the Civil War. While at Jackson, he obtained a favorable endorsement of his application for pardon from William L. Sharkey, who had recently served as provisional governor of Mississippi from June until after the election of Benjamin G. Humphreys in the fall. Sharkey commented: "I have been long acquainted with Douglas H. Cooper who is an applicant for pardon. He has always occupied a high position as a gentleman of honor and I have no hesitation in saying that he will comply with his pledge to be a loyal citizen of the United States for the future."⁸

In gathering recommendations for his pardon and possible restoration to the Indian service, Cooper asked the former Confederate commissioner who had borrowed his "mess vehicle" for the trip to Council Grove, James W. Throckmorton, for help. Throckmorton, in requesting a recommendation for Cooper's pardon from the provisional governor of Texas, Andrew J. Hamilton, stated: "I take great pleasure in endorsing most favorably, Genl. Cooper's application to you." After explaining that during the late stages of the war he and Cooper had frequently talked, he described Cooper as an "enlightened, humane, and magnanimous

officer." He credited Cooper's information on possible raids by the Plains Indians, made possible by his location and experience with Indian affairs, with saving many lives on the Texas frontier. He praised Cooper's contribution to an orderly transition from war to peace in the Indian Territory and his sincere commitment to the Fort Smith Peace Council. After affirming that Cooper would support the policies of the United States government, he called attention to Cooper's exceptional capabilities to advise on Indian matters generally. He knew of no one so capable, "especially as to the Indians of the Plains, and who could use so large an influence in controlling them."⁹

Throckmorton's recommendation became a part of the papers submitted by Cooper, but no record was found of an endorsement by Governor Hamilton. Instead, when Cooper reached Washington he learned that another Texan, Samuel B. Maxey, had recommended his pardon on the basis of adherence to the "first usages of honorable warfare, and that he was more than ordinarily humane" in helping to unite families separated by the vicissitudes of war. Maxey, acting without Cooper's solicitation, stated, "I deem it but just to him" to be pardoned.¹⁰

Cooper, Pike, and others had been named as influencing the Southern Indians to ally themselves with the Confederacy. The allegation that the Indian nations had been induced to take such action by "the insidious influences which were brought to bear upon them," as stated by Superintendent of Indian Affairs William G. Coffin in 1863, endangered Cooper's chances of a pardon. He was defended by spokesmen of the Indian nations, especially Cherokee delegates Elias C. Boudinot and William P. Adair. They not only denied that Cooper had influenced them, but stated he "had no earthly connection with the Cherokees until

several months after Mr. John Ross made the treaty with the so-called Confederate States."¹¹

As Cooper waited in Washington for the pardon, he realized that a memorial prepared in Van Buren was missing from the papers accompanying his application. On February 12, 1866, he called the missing memorial to the attention of the President and described it as having been signed by several residents of Van Buren and Fort Smith, including Major General Henry J. Hunt. Other signers included Chickasaw Governor Winchester Colbert and the members of the Chickasaw Legislature present at the October, 1865, session. Governor Colbert, Robert H. Love, and Holmes Colbert signed a statement attesting to the accuracy of Cooper's description of the missing memorial.¹²

Three days later all the delegates from the Chickasaw and Choctaw nations, two delegates from the Cherokees, and one from the Seminoles memorialized the President for a speedy pardon of Cooper on the basis of Cooley's evaluation of Cooper's work during the Fort Smith Peace Council. Also, they observed: "It would be highly gratifying...to see our friend and fellow citizen Genl. D. H. Cooper reinstated; and thus be enabled more efficiently to discharge the duties he owes to his family and to the Country."¹³

Cooper's case, number 2537 among the numerous applications crossing President Johnson's desk, received approval on April 27, 1866, under the first and third exceptions of the Amnesty Proclamation of May 29, 1865. That is, he was pardoned for having been a civil officer and a military officer above the rank of colonel in the service of the Confederate government. Accordingly on April 28, Major and Acting Adjutant General Andrew K. Long transmitted the order from the Executive Mansion to

"Please issue warrant for pardon in this case [Cooper's]." ¹⁴

April 28, 1866, was noteworthy to Cooper because it was not only the day of his pardon, but because it marked the successful conclusion of the negotiations leading to the Choctaw and Chickasaw reconstruction treaty. As Cooper had indicated to Cooley after the Chickasaw legislative session of October, 1865, Colbert Carter, Holmes Colbert, and Edmund Pickens were selected as delegates to Washington. Governor Winchester Colbert and Robert H. Love were subsequently added to the Chickasaw delegation.

The Choctaw delegates who were selected to negotiate the reconstruction treaty in Washington were Robert M. Jones, James Riley, John Page, Alfred Wade, and Allen Wright. Their appointment by the Choctaw General Council was announced on November 10, 1865, by Peter P. Pitchlynn, who had succeeded Samuel Garland as principal chief in 1864. Pitchlynn left the Choctaw government in the hands of Senate President John Wilkin and returned to Washington. There he planned to renew prosecution of the Net Proceeds Claim and to participate in the treaty negotiations. ¹⁵

The Choctaw and Chickasaw delegates departed for Washington in December, 1865. Commissioner Cooley had arranged with Major General Hunt at Fort Smith for transportation of those delegates who wished to avail themselves of it. Some traveled separately, such as wealthy Choctaw delegate Jones, who had hurried eastward to obtain the help of the Office of Indian Affairs in a private business matter involving cotton in New Orleans that he was in danger of losing. An order had been issued by United States Treasury Agent O. H. Burbadge for seizure of the cotton on the grounds that Jones had sold it to the Confederate government.

Jones maintained that it had not been sold, except conditionally to a private party who had afterwards withdrawn the purchase offer. On January 3, 1866, Cooley explained the situation to Secretary of the Interior Harlan and asked that an appeal on Jones' behalf be made to the Secretary of the Treasury calling for suspension of further proceedings against the cotton in question.¹⁶

On February 9, 1866, the cotton was seized and Jones' agent, a "Dr. Lyon," was killed by the armed force taking possession of it. The Choctaw and Chickasaw delegates received the news on February 28 and immediately filed a protest with Cooley. When the matter was reported to Harlan on March 2, he learned from the Secretary of the Treasury that the case was under investigation. Jones returned home soon afterwards, and his services were lost to the Indian delegations.¹⁷

As a successful businessman generally held in high esteem, Jones had furnished strong leadership to the Choctaw delegation prior to his departure. He also had exerted considerable influence in the joint efforts of the Choctaw and Chickasaw delegates. Both delegations had been instructed by their governments before departing for Washington to work together to determine how best to proceed in the negotiations to protect their common interests. Some of the delegates, en route to Washington, had conferred with attorney John H. B. Latrobe of Baltimore regarding the treaty negotiations that were about to begin. At least one delegate, Edmund Pickens of the Chickasaws, had met Latrobe before the war when Cooper had arranged a meeting of the Choctaw and Chickasaw delegations at Latrobe's Baltimore home in March, 1861. The terms of a treaty given to the two Indian nations at Fort Smith in September, 1865, by the United States commissioners were discussed with Latrobe

and a copy left with him. Latrobe's report of a favorable finding was forwarded to the two delegations in Washington. Jones acted as chairman of a joint meeting at which the two delegations, impressed with Latrobe's work, resolved to employ him as legal counsel. Latrobe agreed, making separate agreements with each nation, but no formal contracts were signed with the Choctaws or the Chickasaws at the time he began to act as their counsel.¹⁸

The negotiations moved slowly in February and March, 1866. On February 22, Cooley asked Harlan to have Colonel Ely S. Parker, a mixed-blood Seneca Indian on the staff of Lieutenant General Grant, detailed to assist Elijah Sells and himself in the negotiations. Parker had served as one of the peace commissioners the previous September at Fort Smith and Sells was the Superintendent of Indian Affairs for the Southern Superintendency. By April 4, Latrobe informed Cooley that he had completed a rough draft of a treaty that expressed what he believed to be the wishes of the delegations and the Secretary of the Interior. To discuss the draft, he told Cooley: "I will be happy, if you find it altogether proper and agreeable, to call on you at your office...any evening...or at your house. I think I see, now, an early agreement on all the knotty points."¹⁹

To Cooley, Latrobe credited the Choctaw and Chickasaw delegates with conveying to him what Harlan wanted in the treaty. He omitted mentioning the contribution of Cochrane, who had resumed acting as counsel for the Choctaws in their Net Proceeds Claim, in constructing the treaty. Yet Latrobe was busy in court in Baltimore during much of this time and relied heavily upon Cochrane, and also Cooper, to forward the work in Washington. By April 28, 1866, the treaty was brought into

form acceptable to the commissioners and Indian delegates, who signed it in the presence of Peter Pitchlynn, Latrobe, Harlan, Mix, and Cooper. The United States Senate ratified the treaty on June 28 and President Johnson approved it on July 10. Cooper also signed as a witness on July 2 when the delegations gave their assent to seven amendments required by the United States Senate.²⁰

While aiding with the negotiations and obtaining a pardon, Cooper also worked to adjust and close his accounts as a former Indian agent. Mix found that, in April, 1863, Cooper had not rendered any accounts beyond the year 1860. That is, settlement number 760 of March 26, 1861, was for the fourth quarter of 1860. Therefore, Cooper's first obligation was to obtain the necessary vouchers, letters of administration, and other documentary evidence to justify the expenditures made in late 1860 to which exceptions had been taken. These he submitted to the Office of Indian Affairs on May 14, 1866. Finally, they were approved by the Office of Indian Affairs and forwarded to the Second Auditor's Office on September 15, where they were approved under settlement number 3562 of November 1, 1866.²¹

Cooper's accounts for 1861, from January 1 through the date of his resignation on May 4, were more difficult to settle. This time period included the purchase of corn, long delayed in shipment, at the outset of the Civil War. His first move was to request, on February 8, 1866, the relevant documents available in the Office of Indian Affairs. He asked for copies of the correspondence relative to the appropriation by the Choctaw General Council of \$134,512.55 for the purchase of corn, correspondence relative to its detention in Indiana and elsewhere while in transit, and the requests by the Choctaw delegates that their

government's appropriations be filled by turning over the money to them.²²

The \$134,512.55 was paid over to the Choctaws in two United States Treasury drafts. On March 22, 1861, Choctaws Peter Pitchlynn, Israel Folsom, and Peter Folsom requested \$50,000 through the Office of Indian Affairs. Requisition number 5091, issued in response to their request, caused the release of Treasury draft number 2826 for \$50,000, which was then turned over to Cooper. The balance \$84,512.55, was released in a similar manner in response to the delegation's request of April 5, 1861, on requisition number 5108 and draft number 2849. This amount was also placed in Cooper's charge for the purchase of corn.²³

The difference between the \$134,512.55 and the total of the first award of \$500,000 on the Choctaw Net Proceeds Claim is accounted for in the following manner: \$115,487.45 was paid over to the Folsoms and Pitchlynn, and \$250,000 was as yet unpaid when the Civil War disrupted relations between the United States and the Choctaw Nation. Of the \$115,487.45, \$3,487.45 was received in specie and \$112,000 as a draft on a New York bank. Of the Net Proceeds Claim funds, Cooper was involved directly with and accountable for the corn money amounting to \$134,512.55 in the settlement of his 1861 accounts.²⁴

On May 4, 1866, in Washington, Cooper obtained a settlement of his accounts with the Choctaw Nation, including the corn money account, negotiated through delegates Allen Wright, Alfred Wade, John Page, and James Riley. Peter Pitchlynn signed his approval as the Principal Chief of the Choctaw Nation. In the transaction the delegates claimed "full powers to arrange and settle with the United States all treaties

and other matters affecting the interests of our People." On behalf of the Choctaw Nation and its members, they acknowledged that Cooper had satisfactorily accounted for the Choctaw money remaining in his accounts at the beginning of the Civil War. The total amount was \$146,822.52 with the corn money representing almost all of it. Five lesser accounts were under the headings of: Interest of Choctaw orphan reservations, \$3,445.87; Proceeds on Land sales of Choctaw orphans, \$1,844.74; Reappropriation for cattle claims, \$1,007.50; Purchase of corn for indigent Choctaws, \$120.86; and, Proceeds on sale of corn, \$5,891. Of the proceeds on sale of corn, W. H. Wooten had purchased corn in the amount of \$5,831 and Cooper had paid in \$60. As the \$5,891 had not passed through the United States Treasury, Cooper was not legally responsible for it except to the Choctaw Nation. This left only the total of the other four accounts, \$6,418.97, in Cooper's charge at the beginning of the Civil War for which he was legally bound by the laws and regulations to disburse according to the expectations of the Commissioner of Indian Affairs. If any of the \$6,418.97 were to be paid out by Cooper for any other purpose, even though it be on the order of the Choctaw government, it would be a violation of the conditions of the bond that Cooper had posted as Indian agent. By the settlement granted by the Choctaw delegation of 1866, the accounting officers of the United States Treasury were authorized to "credit our late Agent D. H. Cooper by the amount of \$146,822.52 "so far as the same stands charged against him on the books of the Treasury, and charge the same to the Choctaw Nation."²⁵

Cooper included the May 4, 1866, settlement when he rendered accounts as Choctaw and Chickasaw agent for January 1 to May 5, 1861, which was for the last months he was in office. He delivered the

accounts in duplicate to Cooley's office on May 17, 1866, and requested "an early settlement thereof." Two days later Mix advised the Second Auditor's Office that Cooper had filed papers closing his accounts as a former Indian agent, providing there were no exceptions taken by either office.²⁶

But the first to take exception were other Choctaw interests who were unwilling to abide by the decision made on May 4 by the delegates and approved by Peter Pitchlynn. A general investigation of the disbursement of public moneys was ordered by an act of the Choctaw General Council in a called session on December 21, 1866. The act called for Principal Chief Allen Wright to appoint a committee of three who were granted subpoena powers. Among the major items of investigation, but by no means the only one, was the disbursement of money placed in Cooper's charge for the purchase of corn in 1861. Public funds expended from 1857 to 1867 were to be investigated and a transcript filed with Principal Chief Wright.²⁷

On June 15, 1867, Pitchlynn requested that the Office of Indian Affairs furnish him with copies of Cooper's accounts insofar as they were relevant to the corn money. He based his request on the grounds that he had been notified to appear before the Choctaw General Council's investigating committee. He was not given copies of the accounts, however, until he called for them at the Office of Indian Affairs on September 10. In the meantime, on July 3, per Cooper's request, copies of the same papers were forwarded to Principal Chief Wright for the use of the committee. On November 19, as a result of the committee's investigation, Cooper paid \$889.22 into the Choctaw treasury. That amount was the deficit or balance remaining unaccounted for after the committee had

accepted thirteen vouchers.²⁸

Despite the action of the Choctaw investigating committee in November, 1867, there remained a strong and active opposition to the course taken by the delegates of 1866 in the matter. Sampson Folsom, the Choctaw National Attorney, shared this sentiment. He was authorized by an act of the Choctaw General Council to go to Washington to defend the Choctaw government against the claims of Union Choctaws filed under the provisions of the Treaty of April 28, 1866. He was also authorized to bring certain Negro and territorial government questions to the attention of the Commissioner of Indian Affairs. He went beyond the limits of his authority when, after preliminary inquiries on April 3 and June 30, 1868, he requested of the Secretary of the Interior on the following July 24 that his protest of the settlement of Cooper's accounts be honored and that the case be reopened and an adjustment made.²⁹

The matter was referred to the Office of Indian Affairs on July 25 for consideration and report. After waiting for action on his request, and in the interim learning more of the facts of Cooper's settlement, Folsom wrote to Mix: "My letter...having been...referred by the Hon. Secretary of the Interior to the Commissioner of Indian Affairs for his 'action and report,' and having upon further inquiry become satisfied that I was mistaken as to the most material facts connected with said settlement, I now desire to withdraw my protest against it, as well as my request that said settlement may be reopened, and respectfully request that you will so report to the Hon. Secretary of the Interior."³⁰

On September 28, 1868, Mix acknowledged receipt of Folsom's

request of July 24 and excused the long delay in making a response upon "the press of other business of public importance." He then invited the Secretary of the Interior's attention to Folsom's letter, presented to the Office of Indian Affairs on August 25, asking for withdrawal of his protest. Mix then stated, "I therefore return the papers in the case, and respectfully recommend that Mr. Folsom be permitted to withdraw the same in accordance with his request." On October 1, the acting Secretary of the Interior, W. T. Otto, approved of Folsom's decision to withdraw his protest and, enclosing Folsom's papers, instructed Mix to return them to Folsom. Apparently the Choctaw faction contesting the settlement of Cooper's accounts was satisfied, or at least temporarily quieted, for the controversy subsided.³¹

In returning the agency records, office furniture, and other public property to the United States government, Cooper had also encountered difficulties. Isaac Coleman, who was the agent in November, 1865, had declined signing for the public property at the then unused location near Fort Washita until he received authorization to do so from the Office of Indian Affairs. As it was necessary for Cooper to turn the property over to Coleman, or to have someone guard it during his absence in Washington, Cooper obtained permission from Coleman to hire a guard, Charles F. Ricketts, with Coleman promising to recommend that the funds be provided by the Office of Indian Affairs.³²

Ricketts continued to guard the property and Coleman was unable to obtain pay for him or instructions as to the disposition of the problem. On May 29, 1866, Cooper called the situation to Cooley's attention, suggested that Ricketts be paid, and asked to be relieved of responsibility for the property. Again no action was taken. In December, 1866, after

Coleman had been replaced by Martin W. Chollar, the matter was again called to the attention of the Office of Indian Affairs, this time by Chollar through Superintendent William Byers at Fort Smith. In late January, 1867, Commissioner of Indian Affairs Lewis V. Bogy ordered that the books and papers of the old agency be receipted for and removed for use with other agency records currently located at Skullyville.³³

But Ricketts, writing to Cooper on February 7, 1867, was still neglected and the agency furniture was left as Cooper's responsibility. Ricketts had received only "sixty dollars in greenbacks equal to forty two dollars and fifty cents in specie" in the fourteen months that he had been there. Cooper, in interceding for Ricketts on March 1, urged that the location of the agency for the Choctaws and Chickasaws be settled upon at Boggy Depot "which is the only point upon which both [nations] can agree." Then the furniture could be moved, Ricketts could be relieved and paid in full, and Cooper would no longer be responsible for agency property. Later in 1867 the agency was moved from Skullyville to Boggy Depot, and the last physical tie between Cooper as a former Indian agent and the Office of Indian Affairs was severed.³⁴

Some of the uncertainties that Cooper had faced at the close of the Civil War were now more clearly resolved. The possibility that he would be punished, perhaps imprisoned, for being both a military and civil officer in the government that had dared to rise in rebellion did not become a reality for him. He had in fact obtained parole and a presidential pardon in a relatively short time, due primarily to his gentlemanly and humanitarian conduct during the war and to his willingness to serve the interests of the United States government at the

conclusion of the war. Although he expressed a desire to be restored to the Indian service, the political situation generally and the factionalism among the Choctaw leaders in particular precluded any serious consideration of restoring him to the Choctaw and Chickasaw agency.

There are certain facts that emerge clearly from Cooper's actions following the conclusion of the Civil War. He was not a die-hard or unreconstructed rebel. By his anxiety to obtain a pardon, by his willingness to forward the work of the federal government in restoring peace through the commissioners at Fort Smith and through personal influence on Indian leaders, and by his apparent indifference to any punishment that may have been directed toward him as an individual, he fully demonstrated that he had accepted the verdict of the test of arms.

Cooper's response to emancipation was made quickly and revealed but little of his feelings toward the freedmen. The fact that he gave them the choice of remaining to share in what was produced by his farming operation indicated a measure of compassion on his part. He knew the privation to which they could be subjected if abandoned to their own initiative with no financial resources.

FOOTNOTES

¹D. N. Cooley to James Harlan, November 21, 1865, D. H. Cooper, Pardon Case No. 2537, Records of the Adjutant General's Office, 1780's-1917, Record Group 94, National Archives.

²Ibid.; Cyrus Harris, et al., to D. N. Cooley, September __, 1865, D. H. Cooper, Pardon Case No. 2537, ibid.

³"Report of D. N. Cooley, as president of the southern treaty commission," October 30, 1865, and Charles E. Mix, "Official report of the proceedings of the council with the Indians of the west, and southwest, held at Fort Smith, Arkansas, in September, 1865," United States Department of the Interior, Report of the Commissioner of Indian Affairs for the Year 1865 (Washington: Government Printing Office, 1865), pp. 305-312, 336-353; D. N. Cooley, endorsement, October 16, 1865, on Isaac Coleman to Elijah Sells, September 12, 1865, D. H. Cooper, Pardon Case No. 2537, Records of the Adjutant General's Office, 1780-1917, Record Group 94, National Archives.

⁴James G. Blunt, endorsement, September 22, 1865, on Cyrus Harris, et al., to D. N. Cooley, September __, 1865, D. H. Cooper, Pardon Case No. 2537, ibid.

⁵D. H. Cooper Pardon Application and Cooley to James J. Speed, October 17, 1865, Pardon Case No. 2537, ibid.

⁶Cooley to Cooley, October 18, 1865, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁷Cooley to Harlan, November 21, 1865, D. H. Cooper, Pardon Case No. 2537, Records of the Adjutant General's Office, 1780's-1917, Record Group 94, National Archives. Hunt replaced Bussey as commandant of the Frontier District, which included the Indian Territory, at the close of the Fort Smith Peace Council.

⁸Cooley to Cooper, November 21, 1865, Letters Sent, Office of Indian Affairs, Record Group 75, National Archives; Harlan to Speed, November 22, 1865, and Harlan to Cooley, November 22, 1865, Cherokee-Civil War Papers, Indian Archives Division, Oklahoma Historical Society, Oklahoma City, Oklahoma; Jennings to Speed, December 23, 1865, Murphy to President Andrew Johnson, December 26, 1865, Sharkey's undated endorsement on reverse of Murphy to President Johnson, December 26, 1865, D. H. Cooper, Pardon Case No. 2537, Records of the Adjutant General's Office, 1780's-1917, Record Group 94, National Archives.

- ⁹ James W. Throckmorton to Governor Andrew J. Hamilton, October 15, 1865, D. H. Cooper, Pardon Case No. 2537, ibid.
- ¹⁰ Samuel B. Maxey to President Johnson, January 11, 1866, D. H. Cooper, Pardon Case No. 2537, ibid.
- ¹¹ E. C. Boudinot and William P. Adair to Cooley, January 19, 1866, D. H. Cooper, Pardon Case No. 2537, ibid.
- ¹² Cooper to Andrew Johnson, February 12, 1866, and subscribed statement by Winchester Colbert, et al., D. H. Cooper, Pardon Case No. 2537, ibid.
- ¹³ Holmes Colbert, et al., to Andrew Johnson, February 15, 1866, D. H. Cooper, Pardon Case No. 2537, ibid.
- ¹⁴ Endorsement on D. H. Cooper Pardon Application, Pardon Case No. 2537, ibid.; Andrew Johnson, "A Proclamation," May 29, 1865, James D. Richardson, comp., A Compilation of the Messages and Papers of the Presidents, 1789-1897 (10 vols., [Washington, D. C.]: United States Congress, 1899), Vol. VI, pp. 310-312; Andrew K. Long to [United States Attorney General Henry Stanbery], April 28, 1866, D. H. Cooper, Pardon Case No. 2537, Records of the Adjutant General's Office, 1780's-1917, Record Group 94, National Archives.
- ¹⁵ Kappler, comp. and ed., Indian Affairs: Laws and Treaties, Vol. II, p. 931; P. P. Pitchlynn, [A Proclamation], November 10, 1865, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives; W. David Baird, Peter Pitchlynn: Chief of the Choctaws (Norman: University of Oklahoma Press, 1972), pp. 146-147.
- ¹⁶ Cooley to Henry J. Hunt, October 27, and 31, 1865, Letters Sent, and Cooley to James Harlan, January 3, 1866, Report Book 15, p. 22, Office of Indian Affairs, Record Group 75, National Archives.
- ¹⁷ John Phelps to Mix, February 28, 1866, P. P. Pitchlynn, et al., to Cooley, February 28, 1866, Letters Received, Choctaw Agency, Cooley to Harlan, March 2, 1866, Report Book 15, pp. 109-110, Harlan to Cooley, March 3, 1866, Letters Received, Choctaw Agency, ibid.
- ¹⁸ "Choctaw Resolutions," October 19, 1865, enclosed with C. Delano to Commissioner E. P. Smith, May 17, 1873, Letters Received, Choctaw Agency, ibid.; D. H. Cooper to J. H. B. Latrobe, March 9, 1861, John H. B. Latrobe Papers, Maryland Historical Society, Baltimore, Maryland; D. H. Cooper, Reply to Charges Made by J. P. C. Shanks, Late Chairman of the Committee on Indian Affairs, 42 Congress, 3d Session, in Regard to Matters Connected with Choctaw and Chickasaw Affairs (Washington, D. C.: Joseph L. Pearson, 1873), pp. 9-11; Allen Wright, et al., Memorandum, May 16, 1866, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art, Tulsa, Oklahoma.
- ¹⁹ Cooley to Harlan, February 22, 1866, Report Book 15, p. 101, Latrobe to Cooley, April 4, 1866, Letters Received, Choctaw Agency,

Office of Indian Affairs, Record Group 75, National Archives.

²⁰Ibid.; "Treaty with the Choctaw and Chickasaw, 1866," Kappler, comp. and ed., Indian Affairs: Laws and Treaties, Vol. II, pp. 918-931; A. R. Durant, Davis Homer, and Ben Watkins, comps., Constitution and Laws of the Choctaw Nation, together with the Treaties of 1837, 1855, 1865, and 1866 (Dallas, Texas: John F. Worley, 1894), pp. 49-84.

²¹F. Andrews to Mix, April 2, and 4, 1863, E. B. French to Commissioner of Indian Affairs, December 12, 1873, Cooper to Cooley, May 14, 1866, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

²²Cooper to Cooley, February 8, 1866, Letters Received, Choctaw Agency, ibid.

²³"The Choctaw Nation in Account with D. H. Cooper," Appendix B, and E. B. French to Secretary of the Treasury, January 13, 1871, Appendix C, of Cooper to Edward P. Smith, July 10, 1874, Letters Received, Choctaw Agency, ibid.

²⁴Ibid.; Baird, Peter Pitchlynn: Chief of the Choctaws, p. 123.

²⁵Choctaw-Federal Relations, Indian Archives Division, Oklahoma Historical Society, Oklahoma City, Oklahoma; also appears in Appendix B, Cooper to Edward P. Smith, July 10, 1874, Letters Received, Choctaw Agency, Office of Indian Affairs, Records Group 75, National Archives.

²⁶Cooper to Cooley, May 17, 1866, and endorsement, Letters Received, Choctaw Agency, ibid.

²⁷Folsom, ed., Constitution and Laws of the Choctaw Nation, pp. 446-447.

²⁸Peter Pitchlynn to Commissioner N. G. Taylor, June 15, 1867, Letters Received, Choctaw Agency, Mix to Pitchlynn, September 10, 1867, N. G. Taylor to Allen Wright, July 3, 1867, Letters Sent, Receipt of E. Dwight, November 19, 1867, enclosed with Cooper to N. G. Taylor, April 22, 1868, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

²⁹Allen Wright to N. G. Taylor, May 19, 1868, and enclosed Act of the Choctaw Council dated November 20, 1867, Sampson Folsom to N. G. Taylor, April 3, and June 30, 1868, Letters Received, Choctaw Agency, Mix to W. F. Otto, September 28, 1868, Report Book 17, p. 457, ibid.

³⁰Ibid.; Sampson Folsom to Mix, August __, 1868, Letters Received, Choctaw Agency, ibid.

³¹Mix to W. F. Otto, September 28, 1868, Report Book 17, p. 457, W. F. Otto to Mix, October 1, 1868, Letters Received, Choctaw Agency, ibid.

³²Cooper to Cooley, May 29, 1866, Letters Received, Choctaw Agency, ibid.

³³Chollar to William Byers, December 31, 1866, Byers to Commissioner Lewis V. Bogy, January 2, 1867, and endorsement, Letters Received, Choctaw Agency, ibid.

³⁴Cooper to Bogy, March 1, 1867, with extract of Ricketts to Cooper, February 7, 1867, Letters Received, Choctaw Agency, ibid.

CHAPTER X

AS A CLAIM AGENT TO 1872

After the Civil War, when Cooper realized it was not politically feasible to regain his former position as United States agent to the Choctaw and Chickasaw Indians, he chose to capitalize on his experience and knowledge of Indian affairs. For bringing the Choctaw and Chickasaw delegations of 1866 to employ Latrobe as their legal counsel to negotiate the reconstruction treaty, Cooper secured a position as aide and advisor to both clients and their counselor. He worked for Latrobe, and his compensation was contingent upon the fee paid to Latrobe by the delegations. John T. Cochrane, who previously held a contract arranged with Peter Pitchlynn of the delegation of 1853 as Choctaw counsel in the Net Proceeds Claim, also worked with Latrobe and Cooper during the treaty negotiations for a share of Latrobe's fee.¹

Article 48 of the Choctaw and Chickasaw Treaty of 1866 provided for the transfer of \$25,000 from each of the Indian nations' funds, held by the United States Treasury, to the Choctaw and Chickasaw delegations upon ratification of the treaty to enable them to discharge obligations that they had incurred during the negotiations. The Secretary of the Interior, hearing reports that a fee of \$25,000 may be paid to Latrobe, withheld transfer of the money to the delegations. Reportedly, the Secretary of the Interior considered such a fee extortionate and unjust. The delegations, Latrobe, and Cooper protested early in August, 1866,

to Commissioner of Indian Affairs Dennis N. Cooley upon learning the reason for the delay.

The delegations argued that the exercise of supervisory power was not appropriate in this instance and assured Cooley that they had been invested with control of interests of far greater magnitude than the expenditure of the comparatively paltry sum of \$25,000. Latrobe indicated that he expected a fee of \$5,000 to \$6,000, but that he had "neither agreement nor understanding with the Indians as to the amount to be paid...out of the funds in question" as he knew that by law the Secretary of the Interior was prohibited from recognizing contracts between Indians and attorneys. He was relying upon his clients to make a reasonable settlement with him after they had received their money. Cooper denied the report that Latrobe was to receive a fee of \$25,000. He informed Cooley that Latrobe, absent from Washington, had requested that "whatever sum the Choctaws and Chickasaws should conclude to pay him for his services as counsel in the late negotiations" was to be received by Cooper.²

On August 10, 1866, Choctaw delegates Alfred Wade, John Page, James Riley, and Principal Chief Peter Pitchlynn requested the release of all available Choctaw funds for relief of the general destitution in their nation, to provide funds for national and general councils, and to reopen their schools and seminaries. They wanted the money released in Washington to delegate Allen Wright, the Choctaw National Treasurer, instead of being shipped to the agent in the Choctaw country for eventual transfer to Wright.³

Twelve days later the Choctaw and Chickasaw delegations resumed their efforts to obtain the money that was to be made available by

Article 48. They jointly furnished to Cooley a statement of liabilities, debts, and expenses amounting to \$50,510 in compliance with the demands of the Secretary of the Interior. Item 1 of the statement indicated \$14,000 was to be expended for legal services, advice and assistance, printing, and clerical services. Item 5, compensation for services as commissioners, was in the amount of \$14,300. Another comparable sum, \$11,000 was to be prorated per Item 4 at about \$1,000 to each delegate to compensate for the additional expenses incurred by their families because of the delegate's absence.⁴

Cooley notified Allen Wright on September 3, 1866, that the Secretary of the Interior had prepared an order upon the United States Treasury making \$150,000 available to him for relief of the Choctaws. Two days later, Wright presented the order in exchange for United States Treasury notes for the full amount. With the money in hand, Wright met with Cochrane, Cooper, Pitchlynn, and delegates Page, Riley, and Wade. Notes in the amount of \$100,000 were counted and paid to Cooper as Latrobe's agent, who gave a receipt for Latrobe's fee for the full amount. Cooper then returned \$50,000 to Wright. The half retained by Cooper was divided between Cochrane, Latrobe, and Cooper, with \$16,000 being Cooper's share.

The Choctaw delegation divided their half into \$10,000 shares for the five authorized delegates, that is, Page, Riley, Wade, Wright, and Jones. But Pitchlynn prevailed upon Wright to pay over to him the share intended for the absent Jones. There is little doubt that Pitchlynn based his request for the fifth share upon his services as a delegate. After ratification of the treaty on July 10, 1866, he had sought a supporting statement from Cooley to establish his claim to whatever

benefits may accrue to a delegate. Cooley replied: "You are and have been regarded as one of the Delegation, and as being entitled to be placed upon a footing of equality with the other Delegates in all respects, so far as any obligation of your people to them is concerned." As a witness to the transaction, Cooper understood that Pitchlynn was claiming a part of Jones' share and that Pitchlynn had "pledged his Masonic word to Wright that he would settle with you [Jones] to your [Jones'] satisfaction." The implication is clear that Pitchlynn requested the money as a delegate succeeding Jones and not, as he was later to claim, as partial payment of the amount owed to him on the Net Proceeds Claim contract.⁵

The Choctaw transaction by which Latrobe was paid a fee of \$100,000, or was credited with receiving that sum, was based upon the memorandum of an agreement signed only by the four Choctaw delegates, Wright, Page, Wade, and Riley, in Washington on May 16, 1866. According to the terms of the agreement, if Latrobe could prevent the abrogation of former treaties between the Choctaws and the United States, save the annuities and other money not paid to the Choctaw Nation during the Civil War, and secure the Choctaw Nation against the sale as required by the United States government of a large portion of Choctaw land east of 98^o west longitude, the Choctaws would pay to Latrobe not less than \$100,000. There were conditions attached whereby Latrobe could earn additional fees and there were stipulations providing for adjustments if the treaty should be amended to materially impair Choctaw interests. The treaty as ratified left the Choctaw interests intact and the delegation made the fee transaction with Cooper and Cochrane, Latrobe's agents, from the first money available. A rebate was not

mentioned in the memorandum of the agreement.⁶

One of the provisions that would allow Latrobe to earn additional fees was designed to recoup the \$100,000 to the Choctaw Nation. That is, by Article 10 of the Choctaw and Chickasaw Treaty of 1866, the annuity payments were to be resumed, starting with the fiscal year beginning July 1, 1866. The Choctaw delegation had anticipated the omission of annuity payments for the years 1861 through 1865 and agreed to pay Latrobe one-half of any such "back annuities" as he may recover. Since the Choctaws expected to lose the annuities for those years at the time they made the agreement, any amount recovered for them by Latrobe could be counted as a gain. Latrobe, and with him Cochrane and Cooper, were to receive nothing more for recovery of the back annuities until their earnings were equal to the amount advanced to them.⁷

The report of the Choctaw delegates and "all their acts respecting the negotiations of the late Treaty" were approved by an act of the Choctaw General Council on December 21, 1866. In the debate preliminary to passage of the act, objections were raised to the size of the fee paid to Latrobe. Some council members later claimed that they were not informed of the rebate to the delegates, but Allen Wright and others were to maintain that knowledge of the rebate was widespread among the membership of the council.⁸

In turning from the Choctaw transactions to those of the Chickasaws, and Cooper's involvement with them, there were some important differences in the handling of Chickasaw business. Although the Chickasaw delegates, Winchester Colbert, Edmund Pickens, Holmes Colbert, Colbert Carter, and Robert H. Love, also entered into an informal agreement with Latrobe as legal counsel and agreed to advance \$100,000,

they specified that the money was first to be appropriated by the Chickasaw legislature from funds obtained under the treaty. Latrobe was to receive one half of the "back annuities" recovered, but as with the Choctaws, the \$100,000 was to be deducted from the one-half part of the back annuities due Latrobe upon recovery.⁹

The \$100,000 to be advanced to Latrobe was appropriated by the Chickasaw legislature on November 14, 1866. Two delegates were appointed by the same legislative act to go to Washington "with full powers to represent the interests of the Chickasaw people in all things touching their interests and welfare" under any treaties with the United States. One of the primary duties of the two delegates, Holmes Colbert and George D. James, was to withdraw the money with which to pay Latrobe's fee. Their request, based upon Article 5 of the Chickasaw Treaty of June 22, 1852, was for so much of their stocks to be sold as necessary to raise \$100,000. The Office of Indian Affairs took no action on their request until Latrobe on April 6, 1867, asked the Commissioner of Indian Affairs to report favorably on the matter to the Secretary of the Interior. The recently appointed Commissioner of Indian Affairs, N. G. Taylor, made a favorable report on April 22 to the Secretary of the Interior and the money was eventually made available.¹⁰

The Chickasaw delegates, Colbert and James, settled Latrobe's fees and received a rebate of \$50,000. Equal shares of approximately \$10,000 were received by Latrobe, Cooper, and Cochrane's executor on behalf of their former partner's family. Cochrane, by the terms of his will, had named a Washington lawyer, John D. McPherson, as his administrator shortly before his death of cholera on October 21, 1866. Although the remaining \$20,000 was used in part for expenses and about

\$8,000 was divided between the secretaries to the delegations of 1866, no exact accounting of it was made.¹¹

Cooper was also involved in business stemming from other articles of the Choctaw and Chickasaw Treaty of 1866. After ratification on July 10, a special claims commission was established to comply with articles 49 and 50. The two member commission appointed in July, consisting of Elliott W. Rice of Iowa and A. H. Jackson of Nebraska, investigated the claims of Choctaws and Chickasaws and United States citizens suffering losses during the Civil War for their loyalty to the Union. Claims approved against each nation were to be paid from the appropriate nation's funds held by the United States. Rice and Jackson conducted hearings at Fort Smith in the fall and returned to Washington to submit their report, which had to be approved by the Secretary of the Interior before the claims could be settled.

On December 17, 1866, Latrobe moved to forestall a precipitate settlement by asking the Secretary of the Interior for an opportunity to examine Rice and Jackson's report before any claims were confirmed. He suggested that Cooper be allowed to aid and advise him. Latrobe stated that no one was more competent to examine the report than Cooper, who had become intimately acquainted with the character and circumstances of almost every person in the two nations. Cooper, at Fort Smith at the time, was expected to return to Washington by the middle of January, 1867, and it was because of his absence that Latrobe sought the delay.¹²

Latrobe's initial action was quickly buttressed by the work of the Choctaw and Chickasaw governments. The Choctaw General Council passed a resolution on December 21, 1866, protesting against the proceedings

of the special commission. They argued that by conducting the hearings so hurriedly, and outside the nations, that the defending nations were denied a reasonable time in which to offer rebutting testimony to that of the claimants. During the hearings, Cooper's old adversary, former Union Major General Blunt, acted as legal counsel for the loyal Indian claimants, and Campbell LeFlore, recently the secretary to the Choctaw delegation concluding the treaty, served as junior counsel to the Choctaw Nation. LeFlore obtained a verbal agreement from commissioner Rice that testimony might be taken by the defense, upon cases already reported, and submitted as evidence. The Choctaws, with the Chickasaws concurring, asked in their protest for suspension of the report of Rice and Jackson until depositions could be taken and offered in rebuttal.¹³

Principal Chief Allen Wright, who was charged by the Choctaw resolution of December 21, 1866, to transmit a certified copy to the Secretary of the Interior, authorized Latrobe to do so on behalf of the Choctaw Nation. Latrobe complied, forwarding the protest to the Office of Indian Affairs with the request that the protest accompany the report of commissioners Rice and Jackson when submitted to the Secretary of the Interior. In July, 1867, Cooper negotiated an agreement on Latrobe's behalf with the Chickasaw delegates, Colbert and James, whereby Latrobe was to defend the Chickasaw Nation against the claims. In return, Latrobe was to receive fifteen percent of any savings accruing to the Chickasaw Nation. The agreement was approved by the Chickasaw legislature on October 23, 1867. The loyal Indian claims, commonly referred to as "spoliation claims" by the Southern majority, were unpaid until 1870. Originally amounting to about \$234,000, the total sum was reduced to \$125,000 at the time of payment.¹⁴

Article 49 dealt with the claims of loyal Indians against the Choctaw and Chickasaw nations. Article 50 was designed to allow United States citizens to recover losses sustained at the hands of the Confederate Choctaws and Chickasaws. One of the claimants under Article 50 was a licensed trader in the Choctaw Nation, Reuben Wright of Massachusetts. Wright and another licensed trader, Joseph G. Heald, were explicitly mentioned in Article 50 and had obtained approval from the Choctaw delegates of 1866 for a lump sum settlement amounting to \$70,288.80 prior to the signing of the treaty. Their claim against the Choctaw Nation was for an adjustment on the merchandise in their stores despoiled by individual Choctaws and for other losses sustained during the war. In 1866, Wright made an unsolicited recommendation to the President of the United States that Cooper be granted a pardon. He credited Cooper with saving his life during the violent days at the start of the Civil War when mobs threatened the safety of all who were not avid supporters of the Confederacy. Cooper had continued to protect Wright until the opportunity presented itself to pass him safely through to the North. A grateful Wright, who had known Cooper since 1853, described him as a "kind hearted, generous, and humane man--a man among men."¹⁵

Latrobe and Cooper, assured of the Chickasaw contract for defense against the spoliation claims, were frustrated in their effort to obtain a similar agreement with the Choctaw Nation. Early in 1867, they had been encouraged by the authorization granted to them to present the Choctaw General Council's protest against the spoliation claims report of Rice and Jackson to the Secretary of the Interior. However, a sharp division developed during 1867 between the delegation of 1866 led by

Principal Chief Allen Wright and the old delegation of 1853 under the leadership of Peter Pitchlynn. The Choctaw spoliation contract became one of the lesser prizes in the struggle that ensued over control of the prosecution of the Net Proceeds Claim. Wright and the 1866 delegation favored Latrobe and Cooper in the contest for the spoliation claims contract, but the Choctaw General Council in November, 1867, authorized Sampson Folsom and Franceway Battice to go to Washington to attend to the claims set up against the nation under articles 49 and 50 of the Choctaw and Chickasaw Treaty of 1866. The legislative act, denying the contract to Latrobe and Cooper, was a victory for Pitchlynn and the interests of the so-called old delegation that awarded Folsom and Battice expenses at \$3 per day plus fifty percent of the savings accruing to the nation. Folsom was the duly elected Choctaw National Attorney, but Battice was elected by the Choctaw General Council as assistant attorney especially for this assignment.¹⁶

The larger struggle, for control of the Choctaw Net Proceeds Claim contract, centered on the old delegation with Pitchlynn as their strongest advocate, and the delegation of 1866, with Allen Wright, Latrobe, and Cooper promoting their authority. After Cochrane's death in October, 1866, control of Cochrane's thirty percent contract became a matter of bitter contention. Latrobe and Cooper, having shared interests in contracts with Cochrane since before the Civil War, understood that they had a legitimate partnership interest in Cochrane's Net Proceeds Claim contract.¹⁷

Cooper's expectations and interest in the Net Proceeds Claim preceded the struggle that ensued following Cochrane's death by more than a decade. He had made a contribution, greater than that normally

achieved by an Indian agent, in negotiating the Treaty of 1855 whereby the initial recognition of the Net Proceeds Claim was obtained from the United States government. That is, in negotiating that treaty, he had secured the assistance of his personal friend, Jefferson Davis, who was then Secretary of War, and ultimately that of President Pierce in bringing the Secretary of the Interior to alter his position, allowing the negotiations to be concluded successfully. Then, in 1866, he had with Latrobe and the delegation of 1866 helped obtain the treaty that retained the benefits of previous treaties and legislation, thus keeping intact the Net Proceeds Claim award and the appropriation act that had led to payment of the first \$250,000 in 1861 and provided for \$250,000 in bonds, although the bonds had not as yet been released.¹⁸

Cooper held claim to the gratitude of the Choctaw Nation on substantial grounds, both as their former agent and as their friend in the postwar treaty negotiations. Pitchlynn and others who opposed Cooper did so on the basis that the delegation of 1866 had exceeded the authority granted them by the Choctaw General Council when they made the contract with Latrobe. The fifty percent contingency clause for recovery of the "unpaid annuities and other moneys belonging to the Choctaws" was rejected by Pitchlynn and the old delegation as an unlawful agreement because it could be construed to include the unpaid balance of the Net Proceeds Claim. The delegation of 1866 was not authorized to do more than negotiate the treaty that would restore the Choctaw Nation to its former relationship with the United States without yielding any of its lands, Pitchlynn argued, and did not include the authority to enter into new contracts, especially those that impinged on existing contracts such as that between the old delegation and Cochrane.¹⁹

The delegation of 1866 based its authority on the secret instructions given them by the Choctaw General Council in executive session on October 19, 1865. By the resolutions approved that day, the delegation was "clothed with plenary powers, for negotiating a treaty...subject however to the following instructions," none of which explicitly or implicitly placed any limitation on the plenary powers of the delegation to make contracts. On the contrary, the second instruction reminded the delegation that it was against the policy of both nations to sell, barter, exchange, or in any way dispose of their lands and that they would "sooner yield all claim to any funds due the Nation on the part of the U. S. Government." The injunction of secrecy was lifted by a resolution of the Choctaw General Council on November 26, 1866. Subsequently, the delegation claimed the "plenary powers" granted to them were sufficient for entering into the contract with Latrobe and for settling Cooper's accounts with the Choctaw Nation in the acknowledgment of May 4, 1866.²⁰

Latrobe and Cooper lost almost all hope of retaining an interest in Cochrane's contract in November, 1866, when the negotiations were completed for its sale to Washington lawyer Jeremiah S. Black, who had been Attorney General and Secretary of State in the cabinet of President James Buchanan. Neither Latrobe nor Cooper were aware that Cochrane had begun the transaction before his death. When McPherson, Cochrane's executor, closed the sale on November 8, Latrobe and Cooper were left to fight for what they could salvage of their interest in Cochrane's contract or to validate their interest in the Net Proceeds Claim as represented by Latrobe's agreement with the delegation of 1866.²¹

A series of exchanges between Pitchlynn in Washington and Principal

Chief Wright of Boggy Depot occurred following the sale of Cochrane's contract to Black. Pitchlynn and Israel Folsom, using the powers of attorney of absent co-delegates Samuel Garland and Peter Folsom, gave the old delegation's unanimous approval of Black's purchase early in 1867. Wright became exasperated with Pitchlynn's independent course despite instructions to Pitchlynn to work with Latrobe for the advancement of all Choctaw interests. Pitchlynn, intent on trying to settle the Net Proceeds Claim, encouraged Choctaw National Attorney Sampson Folsom to make a quick compromise settlement of the article 49 and 50 claims so that the Net Proceeds Claim might receive more favorable attention from Congress. Finally, on May 24 and 25, 1867, Wright notified Pitchlynn and Commissioner of Indian Affairs Taylor that the commissions of both Pitchlynn and Israel Folsom were revoked until such time as they could present new commissions from the proper authority of the Choctaw Nation.²²

But Pitchlynn was active in his defense of the authority of the old delegation. He hired Eli S. Mitchell, promising him \$10,000 from the Net Proceeds Claim when funded, to appear at the next session of the Choctaw General Council and persuade them to continue the authority of the old delegation. To aid Mitchell in raising the issue of the authority of the delegation of 1866 through their settlement with Cooper, he furnished Mitchell with copies of Cooper's accounts related to the "corn money" and the settlement of Cooper's accounts with the Choctaw Nation of May 4, 1866. At the Choctaw General Council on October 21, 1867, Mitchell obtained approval of a resolution proposed by Samuel Garland calling for an investigation into the acts and resolutions appointing past delegations to Washington and the extent of the various

delegations' powers. Later during the same session, resolutions were approved reaffirming the authority of the old delegation to prosecute the Net Proceeds Claim to its final settlement under the Cochrane contract of February 13, 1855.²³

The action of the Choctaw General Council of 1867 in reaffirming the old delegation's authority to prosecute the Net Proceeds Claim and in their appointment of Folsom and Battice to defend the nation against the article 49 and 50 claims was a double defeat of Latrobe and Cooper. Thereby, Latrobe's contract with the Choctaw Nation was limited to the recovery of the unpaid or back annuities that should have been paid prior to July 1, 1866. Apart from his work with Latrobe in conjunction with the Choctaw and Chickasaw nations, Cooper also prosecuted an increasing number of claims under private agreements with individuals of the Indian Territory.²⁴

The first four years following the Civil War were a time of heavy financial drain on Cooper, despite his percentage of Latrobe's contingency fee contracts. His former slaves on the Chickasaw land near Fort Washita, who had remained and labored for a share of the production, abandoned him in January, 1868, taking their livestock with them. He was unable to continue his farming operations in the Chickasaw country without them and lost this source of income. During this time he made his home in Washington, but paid brief visits to Mississippi and the Indian Territory.²⁵

In aiding his sons after the war, he accepted additional financial obligations. Dr. David Cooper returned to New Orleans for two more years of medical training at the University of Louisiana before graduating on March 19, 1869. Douglas H. Cooper, Jr., returned to Mon Clova

in Wilkinson County, Mississippi, in a brief and unsuccessful attempt to convert the family's former plantation into a profitable postwar farming enterprise. The elder Cooper was forced to assume his son's mortgage of the personal property on the farm in December, 1868, and allow Mon Clova to be sold at public auction on January 5, 1869, to satisfy the indebtedness. At the auction, Cooper's youngest son, William Keary, bought Mon Clova at the depreciated price of \$3,200, only eight percent of the amount Cooper paid in 1836.²⁶

Four years after the Civil War Cooper merged his claim agency work into a partnership with Charles E. Mix, the former chief clerk in the Office of Indian Affairs who had resigned in May, 1869. They advertised as general claim agents with Latrobe as their legal counsel from their office at 426 E Street North, in Washington, D. C., between Eighth and Ninth streets west. The firm, under the name of Charles E. Mix and Company, operated from that location for the balance of the year. By January, 1870, they had relocated at 809 E Street North, where they remained until dissolution of the company in 1873.²⁷

To facilitate the prosecution of claims, the firm of Charles E. Mix and Company or its legal counsel obtained important authorizations from the Choctaw and Chickasaw government authorities soon after the firm was established. In May, 1869, Principal Chief Wright sent notice to Secretary of the Interior Jacob D. Cox, the recent governor of Ohio, through Commissioner of Indian Affairs Ely S. Parker, requesting that Latrobe be recognized as the sole counsel of the Choctaw Nation in all matters except the Net Proceeds Claim and the Arkansas-Choctaw boundary question.²⁸

Wright should have given the spoliation claims as an exception

also. Folsom and Battice, who erroneously reported on September 23, 1868, that they had settled the matter of the spoliation claims, were sent back to Washington early in February, 1869, to complete their audit of those claims. Battice, who became anxious to return to his home at Spring Bluff, Choctaw Nation, requested of the Office of Indian Affairs on July 17, 1869, that Charles E. Mix and Company be recognized as the agents and attorneys "duly authorized to attend to any and all business committed or which may be committed to my charge by the Choctaw Nation or by individual members thereof." Battice finally went home in August, but Folsom continued in Washington into October, when that portion of the Choctaw legislation under which they had been commissioned was repealed. Subsequently, the authorization given by Battice to Charles E. Mix and Company was of use only in private claim action.²⁹

Early in June, 1869, Holmes Colbert had informed the Office of Indian Affairs that the firm of Charles E. Mix and Company was authorized, separately or in conjunction with Latrobe, to represent the Chickasaw Nation "in all matters before the Indian Bureau, and before any of the departments or courts of the United States," and requested that they be given access to the Chickasaw records on file in the Office of Indian Affairs. In February, 1869, Chickasaw Governor Cyrus Harris had given Colbert the authority to receive and receipt for any funds forthcoming through United States congressional appropriations. In the following April, Colbert was represented to the Office of Indian Affairs as having been appointed the Chickasaw National Treasurer, replacing the ailing Joseph D. Harris. On May 26, 1869, Colbert received the sum of \$216,306.67 in separate payments of \$157,669.15 and \$58,637.52 for

interest due the Chickasaw Nation prior to July 1, 1866.³⁰

Colbert received payments on behalf of the Chickasaws until May, 1870, when Joseph D. Harris resumed his duties as treasurer and informed Commissioner of Indian Affairs Parker that Colbert was no longer authorized to receive Chickasaw national funds. On a portion of the money received by Colbert, Latrobe's account with the Chickasaws was credited in error in that not all of it was properly subject to Latrobe's "back annuity" contract, although it was posted that way. During this same period, "back annuities" were paid directly to the Chickasaw Nation without passing through Colbert's hands or his knowledge of the payments. That is, it was not credited to Latrobe's account against the \$100,000 advance. Consequently, errors were introduced into Latrobe's account with the Chickasaw Nation not only as excesses but as omissions on the credit side of the ledger.³¹

Cooper and his claim agent business associates gained considerable influence with the Chickasaw Nation. Colbert, who continued as delegate in the prosecution of Chickasaw claims arising under their treaties of June 22, 1852, and July 10, 1866, gave power of attorney to Charles E. Mix and Company in May, 1871. In February of the following year, they were granted power of attorney of the Chickasaws by Governor Thomas J. Parker. They were authorized to act as the lawful attorneys for the Chickasaw Nation in "all cases in which the interests of said Chickasaw Nation may be concerned, and by all lawful ways and means to advance said interests." Colbert, who had been in poor health during the winter, died in Washington on March 24, 1872, and the power of attorney given by Chickasaw Governor Parker was in part a matter of expediency until Colbert's successor, authorized by an act of May 8, 1872, could

be sent to Washington.³²

Cooper became the agent in another claim at the time Governor Parker gave the power of attorney to Charles E. Mix and Company. On January 19, 1872, Commissioner of Indian Affairs Francis A. Walker asked Cooper to aid him with the James H. Hamilton claim. Hamilton, whose license to trade among the Chickasaws had not been renewed, had removed to Arkansas and asked \$12,000 of the Chickasaws for the buildings that he was forced to vacate in Rugglesville and Tishomingo. An important fact in the case was whether the building material was taken from Chickasaw land or from the United States military reserve at Fort Washita. Walker asked Cooper to give a deposition stating his knowledge of the construction, especially regarding where Hamilton had obtained the building material.³³

On January 29, 1872, Cooper responded that at the last session of the Chickasaw legislature he had been employed to defend the nation against Hamilton's claims. His authorization to act on behalf of the Chickasaws, along with other papers relevant to the case, were expected soon from the Chickasaw Nation. After this explanation to Walker he asked that in the meantime he be allowed, as the friend of the Chickasaw Nation and an adopted member, to see the papers in the Office of Indian Affairs and to proceed in the case. On March 2, Cooper received a power of attorney executed by Governor Parker authorizing him to serve as attorney for the nation in the Hamilton case. His fee, he reported in May, was the "brick and rubbish out of old Fort Washita."³⁴

The land and buildings of Fort Washita and the old Choctaw and Chickasaw agency had reverted to Chickasaw ownership following action initiated in September, 1869, by the Chickasaw government. A joint

resolution by the Chickasaw legislature on September 20 noted that the United States government had not occupied the buildings at the fort or the agency nearby "for several years." It was resolved that inquiry should be made to ascertain if the United States had truly abandoned the property. In Washington on November 30, 1869, Army Captain George T. Olmstead, the Chickasaw and Choctaw agent since June 23, 1869, told the Commissioner of Indian Affairs that the Chickasaws were "desirous of ascertaining whether 'Old Fort Washita' the site of the former Chickasaw Agency" had been abandoned. Three days later Charles E. Mix and Company requested an early response to the Chickasaw inquiry and asked that the answer, "if not already sent to Gov. Harris," be transmitted through them as the "Official Counsel for Chickasaw Nation."³⁵

In response to an inquiry of April 19, 1870, Olmstead informed the Office of Indian Affairs that there were no habitable buildings nor any that could be made so at Fort Washita. At Rugglesville, which he said was a Chickasaw settlement on the military reserve, there were several old buildings that were the property of individuals. There were two dwelling houses and one storehouse that remained standing and were occupied. In addition, Olmstead told Commissioner of Indian Affairs Ely S. Parker that "the Old Agency building and Office save two or three cabins (formerly negro quarters) are now, and have been since June 1865 in possession of Genl D. H. Cooper an adopted Chickasaw, but are in a very dilapidated condition. Both reservations (the Agency reserve is included within the Military) as far as I can ascertain, cover an area of five miles in length by two in width."³⁶

On July 1, 1870, Secretary of War William W. Belknap informed Secretary of the Interior Cox that the Fort Washita Military Reservation

was no longer required for military purposes and was formally relinquished to the custody of the Department of the Interior for disposition. Olmstead and Charles E. Mix and Company were notified of this action; Olmstead being instructed to "communicate through the proper channel to the Chickasaw authorities in order that said reservation including the old Indian Agency may revert to said Indian Nation in accordance with existing treaty stipulations." By this claim of events the Chickasaw Nation was enabled in 1872 to offer the salvagable material from the buildings of Fort Washita to Cooper as his fee for defending the nation against the claim of James H. Hamilton.³⁷

A provision of the Choctaw and Chickasaw Treaty of 1866 had led to a controversy in 1870 and 1871 over the issue of the survey and allotment of lands in severalty. By Article 11, the Choctaw and Chickasaw people could have their lands surveyed into ranges, townships, sections, and parts of sections by United States surveyors at the expense of the United States government. On July 12, 1866, which was two days after ratification of the treaty by the United States, Pitchlynn praised this feature of the treaty and urged acceptance of the idea of holding the land in severalty as a wise move that would guard against loss of tribal lands through a sale approved by a bare majority. Despite Pitchlynn's favorable recommendations, the Choctaws did not request such action when confirming the treaty. But the Chickasaws were in favor. In an act approved November 9, 1866, by which the treaty was confirmed, Section 2 stated: "Be it further enacted, that the Chickasaw Legislature does hereby give its consent to the sectionizing and allotment of the lands in severalty, under the system of the United States as is provided for in the Treaty of April, 1866, and the President of the United States is

hereby requested, to cause the same to be done, so soon as may be practicable."³⁸

Pitchlynn reversed his position on the issue of survey and allotment after it proved to be unpopular with a majority of the Choctaw General Council. In 1870, when pressures were increased upon the Secretary of the Interior to proceed with the survey of Chickasaw lands, an item was included in an appropriation bill in the United States House of Representatives providing for the expense of surveying and marking Chickasaw lands. Representative Aaron A. Sargent, a California member of the House Appropriations Committee, observed that the treaty of 1866 provided that before the Choctaw or Chickasaw lands could be surveyed and subdivided, the legislative bodies of those nations should request such action. Sargent asked the Commissioner of Indian Affairs, on February 10, 1870, if that request had been made and, if so, for documents substantiating the fact to be furnished to the House Appropriations Committee.³⁹

Commissioner of Indian Affairs Parker informed Sargent that the Chickasaws had requested that their lands be surveyed and allotted in severalty as soon as may be practicable in an act of November 9, 1866, but that the Choctaws had not as yet made such a request. Unable to produce a copy of the Chickasaw act, Parker on April 1, 1870, asked agent Olmstead to obtain and furnish an official copy. Olmstead was also instructed to bring the subject of survey and allotment to the attention of the Choctaw General Council in its next session and to urge its adoption. Opposition within the Choctaw General Council resulted only in passage of an act committing the issue to a vote of the people. The vote of July 4 and 5, 1870, revealed that a majority of the Choctaws

opposed asking for their lands to be surveyed and allotted in several-
ty.⁴⁰

On July 19, 1870, Parker recommended to the Secretary of the Interior that a survey of Choctaw and Chickasaw lands be made under the direction of the General Land Office. The United States Congress, adjourned four days previously, had appropriated \$444,480 for the survey of Indian lands, "Provided, That none of this appropriation shall be expended for surveys of Choctaw and Chickasaw lands, unless the same shall be requested by the Choctaw or Chickasaw people, through their respective legislative councils, in accordance with Article 11 of the treaty with said Nation, concluded April 28, 1866." The Secretary of the Interior directed on July 21, 1870, that the survey of Chickasaw lands proceed in accordance with Parker's recommendations, and a contract was made with surveyors Theodore H. Barrett and E. N. Darling on July 25. Letting of the contract was protested by Pitchlynn on August 3 on the basis, primarily, that the lands of both nations were held in common and that nothing respecting them could be done without the consent of both.⁴¹

On the same day as Pitchlynn's protest, Cooper's claim agency inquired of Secretary of the Interior Cox, for the information of the governor and people of the Chickasaw Nation, if any steps had been taken to survey the lands under Chickasaw jurisdiction. If not, the claim agency asked whether the Department of the Interior considered that the lands in question could be "surveyed and allotted under the request of the Chickasaws, heretofore made, or without the consent of the Choctaw Council." In response to Pitchlynn's protest, Secretary Cox suspended work under the contract pending resolution of the question

of Choctaw assent or dissent and notified both Pitchlynn and Charles E. Mix and Company on August 4, 1870.⁴²

But, by August 29, Cox lifted the suspension and ordered the surveying work to be resumed. He explained that nothing more than the survey itself would be done at this time. No land office would be established in Indian Territory, nor would the land be distributed to the Chickasaws in severalty. He reasoned that the surveyor's lines would not interfere with the present system of holding the lands in common and that the delay was causing additional and unnecessary expense to the surveying team. At the time that Parker had made the recommendation and the contract was negotiated, Cox had no knowledge of Choctaw objections, he maintained, and was unaware that Pitchlynn had changed his views on the issue since ratification of the Choctaw and Chickasaw Treaty of 1866.⁴³

In response to a request by Pitchlynn of September 7, 1870, the Office of Indian Affairs forwarded a copy of the Chickasaw act of November 9, 1866, wherein the Chickasaw legislature requested survey and allotment. It was indicated to Pitchlynn that this was the only document calling for the survey and that an official copy had been received in the Office of Indian Affairs on May 27, 1870. Upon receipt of the information, Pitchlynn protested to Cox again on September 12, 1870, in which he interpreted the act to mean that the Chickasaws had given their assent, but had not intended that a survey be ordered without the assent of the Choctaws. The Chickasaws could not have done so, he ventured to Secretary Cox, "whatever Messrs. Cooper and Mix may have wished you to do." No influence, however "sinister, sordid, and malignant," could cause his Chickasaw brothers to take so "base" and so

"contemptible" an advantage of the Choctaws by means of the "swift alacrity of the Indian Office to do anything that shall help give our lands to railroad corporations and vulturous speculators."⁴⁴

Cooper reacted on September 30, 1870, by calling attention to the fact that the inquiry by Charles E. Mix and Company was for information only and dated more than a week after the contract with surveyors Darling and Barrett was signed. Moreover, the contract was made in accordance with the recommendation of the Commissioner of Indian Affairs. He ignored the association of himself and Mix with "sinister, sordid, and malignant" influences, but observed that it appeared "a gratuitous and uncalled for attack has been made upon Charles E. Mix and Company in the name of Col. Pitchlynn."⁴⁵

The division among the Choctaws over the issue of survey and allotment of Indian lands was along the general lines as that developing during this same period over control of prosecution of the Net Proceeds Claim. Cooper and one faction of the Choctaws, a minority that included Allen Wright and the other delegates of 1866, advocated survey and allotment on the grounds that it was the best method of protecting the Choctaw title to their land. Before the Civil War, Cooper had supported a plan of allotment with suitable restrictions upon the sale or alienation of title to protect the unwary or uneducated. He had warned that in time of war, or when major changes were being made in the system of government, the danger of losing title to land was greater when held in common as public property than when held by individuals.⁴⁶

By skillful negotiation in 1866, Cooper maintained, title to the Choctaw lands had been retained. But the move in 1870 to organize and implement an intertribal council or territorial government, provision

for which was included in the treaty of 1866, posed the other threat to ownership of Choctaw lands that Cooper had foreseen. A possible fallacy in Cooper's argument was his assumption that the individual rights of Indians to hold title to land in fee simple under the Constitution of the United States were as secure as those of citizens of the various states.⁴⁷

Pitchlynn and those opposing survey and allotment did so in the belief that there was greater strength to be derived from tribal or national action. Or conversely, they reasoned that individual Indians were less able to protect their land and property from the encroachment of white citizens of the United States, and from unfavorable policies of the proposed territorial government, than were the Choctaw government authorities. They also saw the Missouri, Kansas, and Texas Railroad, whose construction crews commenced building their line southward across Indian Territory in 1870, as a threat. Railroad lobbyists, they believed, urged survey and allotment in the hope that it would facilitate acquisition of land grants along the right-of-way. Adherents to these views were unable to foresee the eventual demise of all Indian "nations" within the territorial limits of the United States, the so-called "domestic nations," and that ultimately the responsibility for retaining title to the land would devolve upon the individual Choctaws.⁴⁸

At the heart of the controversy among the Choctaws in these years following the Civil War was, of course, the Net Proceeds Claim. Mix and Cooper were interested in it through Latrobe's connections with Cochrane, now deceased, and also through Latrobe's contract with the Choctaw Nation arranged in 1866 with the Choctaw delegates then in

Washington. Mix and Cooper lobbied in Washington for the funding of the remainder of the Net Proceeds Claim award of March 9, 1859. At the same time, most of the work of promoting their influence with the Choctaw government, to strengthen support for Latrobe's interests, was conducted by Cooper.

It followed that, to maintain the influence of the old delegation with the Choctaw government and protect its control of the prosecution of the Net Proceeds Claim, Pitchlynn and those persons opposed to Latrobe's contractual interests rarely missed an opportunity to attempt to discredit Cooper by identifying him with issues known to be unpopular among the majority. For instance, they used his longtime advocacy of survey and allotment to his disadvantage. It was also frequently suggested by his opponents that he was dishonest, that he had not satisfactorily accounted for the "corn money." Because of the nature of the settlement of his accounts with the Choctaw Nation on May 4, 1866, and the subsequent campaign to discredit both Cooper and the delegation that had approved the settlement, it is not surprising that Cooper was regarded with suspicion by a number of Choctaws and was soon to be subjected to an investigation for possible fraud.

FOOTNOTES

¹Stull, reporter, Cases Decided in the Court of Claims of the United States, 1923-1924, Vol. LIX, pp. 770, 775.

²Kappler, comp. and ed., Indian Affairs: Laws and Treaties, Vol. II, p. 930; Choctaw and Chickasaw Delegates to D. N. Cooley, August 2, 1866, Cooper to Cooley, August 2, 1866, and J. H. B. Latrobe to Cooley, [August _], 1866, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

³Alfred Wade, et al., to Cooley, August 10, 1866, Letters Received, Choctaw Agency, ibid.

⁴P. P. Pitchlynn, et al., to Cooley, August 22, 1866, Letters Received, Choctaw Agency, ibid.

⁵Endorsement on Wade, et al., to Cooley, August 10, 1866, Letters Received, Choctaw Agency, ibid.; Stull, reporter, Cases Decided in the Court of Claims of the United States, 1923-1924, Vol. LIX, pp. 775-776; Baird, Peter Pitchlynn: Chief of the Choctaws, p. 153; Cooley to Pitchlynn, July 17, 1866, Letters Sent, Office of Indian Affairs, Record Group 75, National Archives; Cooper to Robert M. Jones, July 19, 1871, Choctaw-Robert M. Jones Papers, Indian Archives Division, Oklahoma Historical Society, Oklahoma City, Oklahoma; "Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, pp. 126-127.

⁶Allen Wright, et al., Memorandum, May 16, 1866, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art, Tulsa, Oklahoma.

⁷Ibid.

⁸Folsom, ed., Constitution and Laws of the Choctaw Nation, p. 450.

⁹Documents included with W. H. Bourland's testimony, "Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, p. 676.

¹⁰Ibid., p. 677; Latrobe to Commissioner N. G. Taylor, April 6, 1867, Letters Received, Choctaw Agency, and N. G. Taylor to Secretary O. H. Browning, April 22, 1867, Report Book 16, pp. 284-285, Office of Indian Affairs, Record Group 75, National Archives.

¹¹"Investigation of Indian Frauds," Committee on Indian Affairs,

United States House of Representatives, 42nd Congress, 3rd Session, Report 98, pp. 597-598; Cooper to Pitchlynn, October 22, 1866, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art.

¹²Rice and Jackson to the Secretary of the Interior, July 30, 1866, and Latrobe to Browning, December 17, 1866, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives; Angie Debo, The Rise and Fall of the Choctaw Republic, p. 97.

¹³Folsom, ed., Constitution and Laws of the Choctaw Nation, pp. 452-453; "Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, p. 221.

¹⁴Allen Wright to Latrobe, December 21, 1866, Latrobe to Commissioner of Indian Affairs, January 23, 1867, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives; "Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, pp. 676, 221.

¹⁵Kappler, comp. and ed., Indian Affairs: Laws and Treaties, Vol. II, pp. 930-931; Allen Wright, et al., to D. N. Cooley, April 27, 1866, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives; Reuben Wright to President of the United States, May 4, 1866, D. H. Cooper, Pardon Case No. 2537, Records of the Adjutant General's Office, 1780's-1917, Record Group 94, National Archives.

¹⁶Folsom, ed., Constitution and Laws of the Choctaw Nation, pp. 478-480.

¹⁷Cooper to P. P. Pitchlynn, October 22, 1866, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art; Baird, Peter Pitchlynn: Chief of the Choctaws, pp. 158-159; Cooper, Address and Memorial by Douglas H. Cooper, to the General Council of the Choctaw Nation Assembled, [p. 12].

¹⁸Ibid., [p. 9].

¹⁹[Pitchlynn to Allen Wright], April __, 1867, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art.

²⁰"Choctaw Resolutions," enclosed with C. Delano to E. P. Smith, May 17, 1873, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives; Folsom, ed., Constitution and Laws of the Choctaw Nation, pp. 436-437.

²¹John T. Cochrane, Will, October __, 1866, and J. S. Black, John D. McPherson, and Thomas A. Scott, "Memorandum" of sale of Cochrane's contract, February 14, 1867, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art.

²²Ibid.; Pitchlynn and Folsom to Wright, April 12, 1867, Wright to Pitchlynn and Folsom, May 24, 1867, Peter Pitchlynn Papers, ibid.; Wright to N. G. Taylor, May 25, 1867, Reply of Peter Pitchlynn, Choctaw Delegate to a Libellous Pamphlet Published by Douglas Cooper (Washington, D. C.: n.p., 1873), p. 24.

²³Pitchlynn contract with Mitchell, May 4, 1876, Peter Pitchlynn Papers, Thomas Gilcrease Institute of American History and Art; Pitchlynn to N. G. Taylor, June 15, 1867, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives; Samuel Garland, Resolution, Choctaw-Federal Relations, Indian Archives Division, Oklahoma Historical Society; Folsom, ed., Constitution and Laws of the Choctaw Nation, pp. 470-472.

²⁴For example of individual claims, see N. G. Taylor to Cooper, July 22, 1867, Letters Sent, Office of Indian Affairs, Record Group 75, National Archives.

²⁵G. Harris to Dear Genl, January 16, 1868, enclosed with Holmes Colbert to N. G. Taylor, February 13, 1868, Letters Received, Choctaw Agency, ibid.; "Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, p. 594.

²⁶University of Louisiana, Annual Circular of the Medical Department of the University of Louisiana, 1867-1868 [New Orleans: n.p., 1868]; University of Louisiana, Annual Circular of the Medical Department of the University of Louisiana, 1868-1869 [New Orleans: n.p., 1869]; Deed Record Book T, pp. 318-319, 607-609, 610-611, Wilkinson County Chancery Court, Woodville, Mississippi.

²⁷E. P. Smith to C. Delano, March 3, 1874, Report Book 24, pp. 153-154, Holmes Colbert to E. S. Parker, June 4, 1869, and February 22, 1870, Charles E. Mix and Company to E. S. Parker, January 29, 1870, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

²⁸Wright to Parker, May 1, 1869, Letters Received, Choctaw Agency, ibid.

²⁹Wright to N. G. Taylor, February 15, 1869, Battice to Parker, July 17, and August 4, 1869, Wright to Parker, November 8, 1869, and enclosed copy of Choctaw act approved October 26, 1869, Letters Received, Choctaw Agency, ibid.

³⁰Holmes Colbert to E. S. Parker, June 4, 1869, C. Harris, Colbert's commission, February 6, 1869, Colbert Carter and George D. James, Deposition, April 7, 1869, Letters Received, Choctaw Agency, ibid.; "Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, p. 89.

³¹Ibid., pp. 89, 597-598; J. D. Harris to E. S. Parker, May 17, 1870, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

³²Holmes Colbert, Power of Attorney, May 29, 1871, enclosed with Charles E. Mix and Company to F. A. Walker, February 17, 1872, Governor Parker, Power of Attorney, February 22, 1872, enclosed with Charles E. Mix and Company to Walker, March 2, 1872, Letters Received, Choctaw Agency, ibid.; Constitution, Laws and Treaties of the Chickasaws, pp. 111-112.

³³Walker to Cooper, January 19, 1872, Letters Sent, Relating to Land and Civilization, G. T. Olmstead to E. S. Parker, May 23, 1870, Governor Parker, Power of Attorney to Cooper enclosed with Cooper to Walker, March 2, 1872, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

³⁴Cooper to Walker, January 29, and March 2, 1872, with enclosed power of attorney, Letters Received, Choctaw Agency, ibid.; "Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, p. 586.

³⁵Chickasaw Joint Resolution, approved September 20, 1869, enclosed with Drennen to Parker, May 16, 1870, G. T. Olmstead to Parker, November 30, 1869, Charles E. Mix and Company to Parker, December 3, 1869, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

³⁶Parker to Olmstead, April 19, 1870, Letters Sent, Relating to Land and Civilization, Olmstead to Parker, May 23, 1870, Letters Received, Choctaw Agency, ibid.

³⁷Belknap to Cox, July 1, 1870, Letters Received, Choctaw Agency, W. F. Cady to Olmstead, July 7, 1870, W. F. Cady to Charles E. Mix and Company, July 8, 1870, Letters Sent, Relating to Land and Civilization, ibid.

³⁸Kappler, comp and ed., Indian Affairs: Laws and Treaties, Vol. II, pp. 923-924; Peter Pitchlynn, Address by P. P. Pitchlynn, Principal Chief of the Choctaw Nation, and Winchester Colbert, Governor of the Chickasaw Nation, to the Choctaws and Chickasaws (Washington: Joseph L. Pearson, 1866), pp. 6-7; "An Act confirming the treaty of 1866," enclosed with C. Harris to His Excellency President Johnson, June 8, 1868, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

³⁹Pitchlynn to Cox, August 2, 1870, in Report of P. P. Pitchlynn, Choctaw Delegate, to His Excellency the Principal Chief and General Council of the Choctaw Nation (Washington: Cunningham and McIntosh, 1870), Appendix, "A"; A. A. Sargent to Parker, February 10, 1870, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁴⁰Ibid., see endorsement; Parker to Olmstead, April 1, 1870, Letters Sent, Relating to Land and Civilization, Olmstead to Parker, April 19, 1870, Letters Received, Choctaw Agency, ibid.; Pitchlynn to Cox, August 2, 1870, in Report of P. P. Pitchlynn, Choctaw Delegate, to His

Excellency the Principal Chief and General Council of the Choctaw Nation, Appendix, "A".

⁴¹Ibid., and Appendix, "B"; J. S. Wilson to Parker, July 22, 1870, Wilson to Cox, July 22, 1870, Cox to Wilson, July 25, 1870, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁴²Report of P. P. Pitchlynn, Choctaw Delegate, to His Excellency the Principal Chief and General Council of the Choctaw Nation, Appendix, "C" and "D".

⁴³Ibid., Appendix, "G".

⁴⁴Pitchlynn to Cox, September 7, 1870, Letters Received, Choctaw Agency, and William F. Cady to Pitchlynn, September 9, 1870, Letters Sent, Relating to Land and Civilization, Office of Indian Affairs, Record Group 75, National Archives; Pitchlynn to Cox, September 12, 1870, in Report of P. P. Pitchlynn, Choctaw Delegate, to His Excellency the Principal Chief and General Council of the Choctaw Nation, Appendix, "N".

⁴⁵Cooper to the President of the Senate and the Speaker of the House of Representatives of the General Council of the Choctaw Nation Assembled, September 30, 1870, Choctaw-Federal Relations, Indian Archives Division, Oklahoma Historical Society.

⁴⁶Cooper to Basil L. LeFlore, December 18, 1859, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

⁴⁷Kappler, comp. and ed., Indian Affairs: Laws and Treaties, Vol. II, pp. 921-923; "Pitchlynn's Scare-Crow!" in Address and Memorial by Douglas H. Cooper, to the General Council of the Choctaw Nation Assembled, [pp. 9-10].

⁴⁸Robert E. Riegel, The Story of the Western Railroads, From 1852 Through the Reign of the Giants (New York: Macmillan Company, 1926), p. 108.

CHAPTER XI

INVESTIGATION BY CONGRESS

On January 8, 1872, United States Representative John Peter Cleaver Shanks, chairman of the Committee on Indian Affairs, submitted a resolution from the floor of the House of Representatives that was to have a profound impact upon Cooper. Shanks, a Republican from Portland, Jay County, Indiana, obtained approval of his committee's resolution that they "be authorized to investigate and report in writing at any time to the House the condition and management, by Government officials and other persons, of Indian Affairs with the Choctaws, Chickasaws, Cherokees, and other tribes, nations, bands, or individual Indians, touching the subject of annuities, pensions, bounties, bounty lands, and the moneys paid under treaties and laws of Congress, and the Committee have the power to send for persons and papers, and to take testimony to enable it to make such investigation and report."¹

Shanks, formerly the Prosecuting Attorney of Jay County, conducted much of the questioning of witnesses who were summoned before the committee. On April 8, 1872, Shanks questioned Latrobe, drawing from him his involvement in the collection of moneys claimed by the Choctaws. Latrobe professed little interest in the fee arrangements as he was being questioned regarding the agreement for negotiating the treaty and collecting the back annuities. Shanks quizzed him about his interest in the Net Proceeds Claim and Cochrane's contract, especially the

\$250,000 in bonds appropriated in 1861 and reappropriated in 1871 that had not been released to the Choctaws.

Latrobe related that he had a verbal agreement with Cochrane, not yet reduced to writing at Cochrane's death, whereby Cochrane agreed to pay him "one-half of such compensation as he and said Choctaws might receive on that account." Subsequently, he had agreed with McPherson, the executor, to receive \$75,000 as a compromise settlement. Latrobe maintained that his arrangement with Cochrane was fully understood by the Choctaw treaty delegation of 1866. He had received nothing on the \$75,000 compromise which was for his interest in the unfunded \$1,832,000 balance of the Net Proceeds Claim. Latrobe stated that he did not expect to receive one-half of the \$250,000 in bonds, but that he expected to be paid for his services in regard to the bonds. He wanted the bonds delivered into the hands of the Choctaw government, not Pitchlynn's, and would rely upon their sense of right as to the amount he should receive for his services.

Shanks asked Latrobe if he had made or proposed to make any compromise settlement, jointly with executor McPherson, with the old delegation relating to his fees on any part of the Net Proceeds Claim. Latrobe replied that prior to reappropriation of the bonds in 1871 he had signed with McPherson a proposal whereby McPherson was to receive, for the Cochrane estate, \$20,833.33 of the bonds plus \$12,500 interest and Latrobe would receive \$41,666.66 out of which, he explained, he was to pay Mix and Cooper for their work as his agents. In March, 1870, Pitchlynn had made an agreement with George W. Wright, a former congressman from California, promising him one-half of the interest on the bonds if he could secure their release during the Forty-first Congress.

A provision for payment of this old delegation commitment to Wright was included in the proposed compromise. This proposal, if it had not been rejected by Pitchlynn when advanced by McPherson, would have eliminated Wright, Latrobe, and the parties represented by McPherson, from the field of those who were competing with Pitchlynn for control of the bonds and the accrued interest.

Latrobe submitted copies of correspondence with the Secretary of the Treasury in which he had opposed release of the bonds to Pitchlynn on two counts. First, Pitchlynn and other members of the old delegation had assigned the bonds on April 27, 1861, to the firm of Lehman and Brother, of Philadelphia, to cover an indebtedness of "some fifty or sixty thousand dollars." Second, Pitchlynn was heavily in debt to the Choctaw Nation according to a memorandum from Allen Wright submitted to Latrobe. For these reasons and others previously called to the attention of the Secretary of the Treasury, Latrobe desired that the bonds be delivered to the Choctaw Nation instead of Pitchlynn. Shanks concluded the questioning of Latrobe by asking what special services he had rendered in procuring the appropriation of \$250,000 in bonds under the act of 1861, or the confirmation of that appropriation under the act of 1871. Latrobe answered that he had served personally as required and furnished the services of his agent, Charles E. Mix and Company.²

Pitchlynn kept his friends in Choctaw country informed of the progress of the investigation, telling Robert M. Jones on April 25, 1872, that the hearings were not yet over, but that copies of the report would be sent to him and others in the Choctaw Nation when completed. At this time Pitchlynn described Shanks' work as "the investigation into the Latrobe and Cooper transaction with the Choctaws" an indication that

he had been assured the investigation would be friendly to his interests and directed toward his opponents, Latrobe, Mix, and Cooper.³

Cooper was called before the investigating committee on May 9, 1872. Shanks directed his questions toward Cooper's association with Latrobe and the treaty delegations of 1866. He dealt first with Choctaw affairs, including Cochrane's contract, Latrobe's interest in the Net Proceeds Claim, McPherson's proffered compromise on the bonds and its rejection by Pitchlynn, the agreement by the Choctaw delegation of 1866 to retain Latrobe as counsel, Pitchlynn's initial approval and subsequent repudiation of Latrobe's contract, and the rebate of half of the \$100,000 to the Choctaw delegates.

Shanks asked Cooper: "Have you heard those commissioners who made that treaty speak about the matter of the contract?" When Cooper answered in the affirmative, Shanks asked him if he had heard them say what proportion they were to get. Cooper replied: "I think they made some sort of compromise with the Pitchlynn delegation. I think the Pitchlynn delegation claimed some 20 or 25 per cent. for their services and expenses, and so on." Shanks responded: "Yes; but I am asking about the men who made the treaty, and not about Pitchlynn." From the distinction that Shanks drew, Pitchlynn apparently had been successful in disassociating himself from the making of the treaty of 1866 and delegates Wright, Page, Riley, and Wade. Such a position was diametrically opposed to that taken by Pitchlynn in July, 1866, when he successfully sought from the Commissioner of Indian Affairs "to be placed upon a footing of equality with the other Delegates in all respects, so far as any obligations of your people to them is concerned."

Shanks then turned his attention toward Chickasaw affairs and

Cooper's part in the handling of their funds. Cooper's testimony on the details of Latrobe's contractual relations with the Chickasaws corroborated Latrobe's and was made a part of the record. Errors in Holmes Colbert's accounts while acting as Chickasaw National Treasurer, due to the failure to distinguish between regular and back annuities, were probed by Shanks. The error in Colbert's accounts, given by Shanks as \$79,000 and by Cooper as \$29,318.76, had been investigated by a Chickasaw legislative committee. They reported finding no evidence of intentional fraud, but that the annuities had not been sufficiently identified as regular or back annuities when paid to Colbert. As fees were to be credited to Latrobe's account on the back annuities and not on the regular annuities, Latrobe and Cooper were involved. Cooper told Shanks: "I believe, upon a fair settlement, correcting the mistakes on both sides, there will be found a balance due Mr. Latrobe, when he is credited upon that portion of the back annuities upon which he has received no credit."

Shanks established that Cooper, as a member of the firm of Charles E. Mix and Company, held other small contracts. One such contract that had been obtained through Israel G. Vore, a former Confederate Indian agent to the Creek Nation, was with "an Indian who had piloted General Emory out of the Indian country" in 1861 and now sought to be compensated for his services. After establishing that Cooper's fee on this particular contract was for ten percent of the amount awarded, Shanks concluded his questioning of Cooper of May 9, 1872.⁴

On May 30, Cooper was recalled before Shanks' committee for additional questioning about Colbert's account of the Chickasaw back annuities, Cooper's disbursements of the Choctaw funds in his hands as a

United States Indian agent in 1861, his settlement with the Choctaw Nation as approved by the treaty delegation of 1866, and the Confederate military service of Cooper and Choctaw delegates Page, Riley, and Wade. Cooper promised to furnish as a part of his testimony a statement, not yet completed, from the Commissioner of Indian Affairs showing the receipts and disbursements of Chickasaw funds. He was anxious to present the statement as a part of his defense and told the committee: "We have done nothing that we conceive to be wrong at all. All this whole fuss is gotten up by a set of slanderers who wish to blacken my business. I have been at work for years, and they wish to take up the matter and begin where I left off. They are a set of thieves, and I think it my duty to tell you. We just want fair play, nothing else."

In addition to the statement of the Chickasaw receipts and disbursements that he later supplied to Shanks' committee, Cooper submitted in his May 30, 1872, appearance before the committee his letter of the previous September directed to Choctaw Principal Chief William Bryant. The argument presented by Cooper was designed to counteract Pitchlynn's influence on Bryant, who had recently appeared to be aligning himself with Pitchlynn. Both Cooper and Pitchlynn had come to the Choctaw Nation prior to the October, 1871, session of the Choctaw General Council in search of support for their opposing views on who should be authorized to receive the \$250,000 in bonds with the accrued interest. For Bryant's benefit, Cooper reviewed the long series of events regarding the Net Proceeds Claim, Cochrane's contract, and Latrobe's interests. He explained that Pitchlynn and the old treaty delegation had made various agreements with other parties for recovery of the bonds which, if honored, would exceed the fifty percent fee allowed by Choctaw

law. Such action was inimical to those persons having an interest in the Cochrane contract. If the bonds were released to Pitchlynn, it could even endanger the interests, except for Pitchlynn's, of the old treaty delegation.

Latrobe and Cooper did not claim authority to receive the bonds, Cooper informed Bryant, but were working for their release and delivery to the Choctaws at the seat of their government. Reports, recently recirculated, that Cooper was responsible for the contract to survey Chickasaw lands without the consent of the Choctaws and that Cooper had "spoiled the corn money" were flatly denied by Cooper and labelled devices to discredit him. He asked Bryant to "review the facts of the case, and, laying aside all prejudices, do us justice." The letter to Bryant was included in his testimony of May 30, 1872, his last appearance before the committee.⁵

Two days later Shanks obtained approval of a resolution allowing a three member subcommittee to continue the investigation into the Third Session of the Forty-second Congress. During the summer recess of the House of Representatives, the subcommittee was to visit the Indian Territory and take additional testimony. On June 8, 1872, two days before Congress recessed, Shanks obtained approval to draw up to \$3,000 from the contingency fund of the House of Representatives for the subcommittee's summer expenses.⁶

The subcommittee consisted of Shanks and fellow Republicans Samuel S. Burdett of Missouri and John A. Smith of Ohio. Burdett, a native of Leicestershire, England, who studied law at Oberlin College, Ohio, before being admitted to the bar in 1858, was in his second term as United States Representative from Osceola, Missouri. He had entered

the Civil War in May, 1861, as a private in the First Iowa Volunteer Cavalry Regiment, rose to the rank of captain, and served until August, 1864. In December, 1865, he removed his practice from Dewitt, Iowa, to Osceola. Smith was a native of Hillsboro, Highland County, Ohio, and was educated at Miami University, Oxford, Ohio. A member of the bar since 1835, he had served in the Ohio legislature several years before being elected to the United States House of Representatives in 1868. Smith was in his second term in 1872 and the oldest of the three at fifty-seven, being twelve years older than Shanks and twenty-two years the senior of Burdett. All three went to New Boggy Depot in the Choctaw Nation in late June, 1872, to gather information and take testimony.⁷

Early in July, 1872, Cooper received the statement of Chickasaw receipts and disbursements that was in preparation by the Office of Indian Affairs late in May, 1872, during his last appearance before Shanks' committee. He prepared from it a recapitulation of Chickasaw annuities, both back and regular, receipted for by Holmes Colbert and of other annuities paid directly to the Chickasaws. On July 5, he forwarded the information to Thornton B. Heiston, his son-in-law who was then working at New Boggy Depot as a member of the trading firm of E. Dwight and Company, to be delivered personally to Shanks. In Cooper's computations, \$70,678.04 in back annuities had been paid directly to the Chickasaws and one-half of that amount, \$35,339.02, should have been credited to Latrobe's account. One-half of \$58,637.52 regular annuities, that is, \$29,318.76, had been credited in error to Latrobe's account with the result that \$6,020.26 net was due to be credited to Latrobe's account. After deducting the \$6,020.26 from the balance of

the amount advanced to Latrobe, the balance due the Chickasaws out of fees yet to be collected on unrecovered back annuities was \$43,979.74. Shanks filed the recapitulation with other evidence gathered during his stay at New Boggy Depot before departing on July 10 with Burdett and Smith for Muskogee in the Creek Nation.⁸

On the day prior to leaving New Boggy Depot, Shanks questioned William H. Bourland, the twenty-five year old Chickasaw National Secretary, of Tishomingo. From Bourland, Shanks obtained certified copies of the Colbert, James, and Latrobe agreement to defend against the Article 49 spoliation claims as reported by Rice and Jackson, the Latrobe contract to recover back annuities, and the Chickasaw act appropriating \$100,000 to be received by commissioners Colbert and James for payment to Latrobe as an advance on his back annuities contract.⁹

Cooper was not idle at this time. Early in July, 1872, he obtained a certified copy of Choctaw National Attorney Sampson Folsom's letter to the Office of Indian Affairs of August 8, 1868, in which Folsom withdrew all objections to the May 4, 1866, settlement of Cooper's accounts with the Choctaw Nation as approved by the treaty delegation of 1866. He was also acting as agent for E. Dwight and Company in attempting to sell one of their buildings at New Boggy Depot to the Department of the Interior for use as the Choctaw and Chickasaw agency. Indian agent Theophilus D. Griffith, who succeeded agent Olmstead in October, 1870, had made an agreement to buy Heiston's home at New Boggy Depot and moved from the dilapidated quarters at Old Boggy Depot into the buildings vacated by Heiston. The Department of the Interior disapproved the agreement after Griffith had obtained possession and Heiston had purchased another building for a home, thus forcing

Heiston to rent his former home to Griffith while he hoped for a reversal. Cooper had been engaged to urge the Commissioner of Indian Affairs to reconsider purchase of the buildings for use as an agency. There was no reversal permitting sale as late as September 16, 1872, when Griffith requested that a new agency be built at Atoka, about twelve miles northeast of New Boggy Depot and located on the Missouri, Kansas, and Texas Railroad.¹⁰

But exaggerated reports sent out in late July, 1872, from the Indian Territory to eastern newspapers had held the attention of Latrobe and Cooper. One report in the New York Herald, republished in the Baltimore American, was thought to be authored by Shanks. Entitled "the financial exhibition," the report purported to show that no money would be received into the Choctaw Treasury from \$250,000 paid in cash in 1861, \$250,000 in bonds, and \$1,800,000 for the balance of the Net Proceeds Claim. In the last two instances, one-half of the amount was to be deducted for the commissions of Cochrane, thirty percent, and the delegates of 1853, twenty percent. The thirty percent commission of Latrobe and the twenty percent commission of the treaty delegation of 1866 would, according to the report, absorb the remaining half.

The "financial exhibition" was denounced by Latrobe on August 2, 1872, in the Baltimore Gazette as "unqualifiedly false." He stated that he was not involved in the \$250,000 paid in 1861, that he only wanted the bonds delivered to the proper authorities in the Choctaw Nation, and that he asserted no claim directly on the \$1,800,000. In the last two instances, he was only trying to receive compensation through the Cochrane contract for services rendered, that is, a portion of the thirty percent that was to be received by Cochrane's administrator,

McPherson, from the first half. In both cases, the second half was to be delivered in full to the Choctaws.¹¹

Cooper brought Latrobe's response with him to New Boggy Depot where it was republished in the Vindicator on August 24, 1872, in both the Choctaw and English languages. The Vindicator reported, incidentally, that "the General is not looking so well as usual, having... suffered from a severe spell of sickness in June, from the effects of which he has not thoroughly recovered." He also brought financial statements obtained by Charles E. Mix and Company from the Office of Indian Affairs for the Chickasaw legislative session that convened at Tishomingo soon after his arrival. At this time the Chickasaw Nation was under the progressive leadership of Cooper's friend, Governor Cyrus Harris, but the conservative faction was more vocal than usual. B. F. Overton, formerly a progressive, was now speaking out for such conservative measures as retention of tribal title to lands and for abandonment of the practice of sending delegates to Washington to promote national interests. Overton favored direct communication with the United States Congress and the President. Despite this factionalism, fostered in part by Shanks' visit in July, 1872, and increased by the gubernatorial election won by Harris, Cooper was able to conduct the business of Charles E. Mix and Company and returned to Washington the following December.¹²

Shanks' subcommittee had departed from the Indian Territory at the end of July, 1872. They were reported to be in St. Louis on August 4, en route home after taking "an immense amount of testimony" and unearthing "frauds to a very large amount." Shanks and Burdett, who chose to wage campaigns for reelection, placed the investigative work

aside temporarily. Smith decided not to run and planned to resume his law practice in Hillsboro, Ohio, at the expiration of this term on March 3, 1873. In Missouri, Burdett lost his bid for reelection, while in Indiana, Shanks' district returned him for the Forty-third Congress. Shanks' investigation proceeded slowly in the face of more urgent business during the Third Session of the Forty-second Congress.¹³

But in April, 1873, Shanks began to make additional inquiries regarding Cooper. On April 3, he asked the Commissioner of Indian Affairs to inform him of the "real character of the final settlement of Douglas H. Cooper, United States Indian Agent for the Choctaws and Chickasaws, for 1860 and 1861 and any other time he may have held said trust." He called attention to Cooper's four receipts dated May 4, 1866, accounting for Choctaw funds in the amounts of \$134,512.55, \$5,290.61, \$120.86, and \$1,007.50 for a total of \$140,931.52. Shanks especially wanted to know by what authority Cooper had settled his accounts with the Choctaws.¹⁴

The Commissioner of Indian Affairs, Edward P. Smith, replied on April 11 that the receipt of May 4, 1866, given to Cooper by the Choctaw delegates "seems to have been treated as authority for balancing the accounts of Mr. Cooper." Smith narrated the details of Sampson Folsom's protest of June 30, 1868, against the settlement of Cooper's accounts and stated that copies of the credentials of the Choctaw treaty delegates of 1866 were furnished to Folsom on July 10, 1868. He told of Folsom's second protest, this time on July 24 as the Choctaw National Attorney, and the accompanying request that Cooper's accounts be reopened and readjusted. He also informed Shanks that Folsom, on August 25, wrote to the Office of Indian Affairs asking that his protest

and request for reopening the accounts be withdrawn. On September 28, the Secretary of the Interior was notified of Folsom's withdrawal in a report "setting forth the fact that Mr. Folsom declared himself satisfied, upon inquiry, that he was mistaken in regard to the most material facts on which his protest was based, and with the recommendation that Mr. Folsom be permitted to withdraw his protest in accordance with his request." The request of Folsom was approved and on October 3, 1868, Folsom's papers were returned to him. Smith concluded his report to Shanks with the comment that "you will perceive that the whole matter reverts back to the receipt given to Mr. Cooper by the Choctaw Delegates May 4, 1866."¹⁵

Shanks continued to inquire about the funds of the Choctaw and Chickasaw nations before reporting on April 23, 1873, to Secretary of the Interior Delano calling "special attention to a gross fraud practiced upon the Choctaw Indians in 1866 by a combination of corrupt men." Proof of his statement, he maintained, could be found in the records of the Office of Indian Affairs, the Treasury Department where Indian agents' accounts were settled, and in the testimony taken during the investigation. The testimony would soon appear "printed with the Committee's Report No. 98, House Report, 42d Congress, 3d Session, March 3d 1873 (now in the hands of the Public Printer)."

Cooper was Shanks' primary target. As United States Indian agent, Cooper was responsible for four Choctaw accounts amounting to \$140,931.52 in March, 1861. He had not satisfactorily accounted for the money, having procured a "false and fraudulent voucher intended to cover this amount from the Commissioners appointed by the Authority of the Choctaw Council to make a Treaty with the United States, and who did

make a Treaty for Choctaws of 1866, but who had no authority to give this or any other voucher touching Cooper or his duties or liabilities in any capacity whatever." Also, Shanks claimed that Cooper had received \$16,000, prior to the \$140,931.52, for the purchase of corn for the Choctaws, but that the corn never reached them. Part of this corn Cooper sold for \$5,891 and had not accounted for it except in the voucher or settlement of May 4, 1866, which Shanks condemned as fraudulent and made by "irresponsible and unauthorized parties."

Other persons who drew the fire of Shanks included Mix, who was acting Commissioner of Indian Affairs in 1866 when Sampson Folsom requested withdrawal of his protest. Shanks stated: "That Mix knew of this fraud at the time it took place and that he knew it when he wrote his letter to Acting Secretary Otto for permission to withdraw his protest is unquestionable, or else he was utterly incompetent for any business." Latrobe, Cochrane, and the Choctaw treaty delegates of 1866 were also classified as "corrupt men" for their part in receiving and dividing the \$100,000 payment of September 5, 1866. Shanks reported the division of \$50,000 among Latrobe, Cochrane, and Cooper with the other half being rebated and divided among Choctaw delegates Page, Riley, Wade, and Wright. Shanks did not mention that Pitchlynn received an equal portion of the rebate.

Cooper was accused of false testimony in claiming he had paid \$40,000 of Choctaw corn money to Albert Pike on the order of Sampson Folsom. But Pike's testimony indicated that Cooper had paid only \$5,000 to him in Confederate notes, instead of United States money or gold, implying that Cooper had not only misstated the amount, but had taken advantage of the favorable exchange rate by converting to

Confederate notes. Shanks concluded his report of April 23, 1873, to Secretary of the Interior Delano by stating: "The testimony shows that Cooper introduced the Indians to Latrobe and then introduced the plan of the fraud to the Indians, and by the combination got this fraudulent voucher to cover the \$146,822.52, and got \$16,000 money out of these people as above stated through the Latrobe swindle, a clear loss to the Choctaws by Cooper of \$162,822.52 and the \$84,000 balance of the Latrobe \$100,000 yet to be added."¹⁶

Further insight into Shanks' thinking at this time may be derived from his letter of April 29, 1873, to the editor of the New York Times in which he commented on the moral side of the Indian question. Prominent in the national news at the time was the murder on April 11 of Major General Edward R. S. Canby, an 1838 graduate of the United States Military Academy and veteran officer of the Mexican War and Civil War, while under a flag of truce conferring with the Modoc Indians in California. In an attempt to reduce white reaction to all Indians, as a result of the treachery of a small band within the Modoc tribe, and to allay increasing racial hatred, Shanks observed that the recent tragedy should not change the policy of the United States towards Indians to one of extinction. Shanks urged that the policy should be to punish only the guilty individuals, whether Indian or white, and to reduce white encroachments upon the Indians. More pertinent to the investigation and revelatory of Shanks' opinion of claim agents in general, was his incidental remark: "Rid the Indians of these infernal middlemen, claim agents, false officials, corrupt contractors and contracts..., and...protect them...from intrusions and waste."¹⁷

In response to an inquiry about Cooper from Secretary of the

Interior Delano of April 26, 1873, the Office of Indian Affairs furnished on May 1 a review of Cooper's appointments as United States Indian agent; the names of the sureties for his bonds given in 1853, 1854, and 1856; copies of each of the bonds; and a copy of his final account. The acting Commissioner of Indian Affairs informed Delano: "In reply to your interrogatories respecting his accounts, I remark that from the records of this office it appears that Mr. Cooper's accounts have been settled and closed."¹⁸

On May 3, 1873, Secretary of the Interior Delano informed the acting Commissioner of Indian Affairs of Shanks' letter of April 23. Delano stated that the information regarding Cooper's transactions as Indian agent and the indication that former chief clerk Charles E. Mix was connected with those transactions caused him to call the matter to the attention of the Commissioner of Indian Affairs. In view of the facts and statements in Shanks' communication, which he did not enclose, he suggested that it would be advisable "for your office to prohibit said Cooper and Mix, who are now Claim Agents in this City, from practicing before the office, or having any permission to visit it, or confer with its clerks, your subordinates."¹⁹

Cooper first reacted on May 13, 1873, to Shanks' official published report of the investigation supposedly laid on the table and ordered to be printed on March 3, 1873, at the close of the Forty-second Congress. He called the attention of the Commissioner of Indian Affairs Smith to the discrepancy between the March 3 date and the date of Smith's letter to Shanks published in the report under the date of April 15, implying that Shanks had altered and added to the report after it had been approved for publication by the House of Representatives.

He took exception especially to Smith's letter as published by Shanks under date of April 15. Unknown to Cooper, a paragraph had been inserted in Smith's letter of April 13 to Shanks and the date changed to April 15. The inserted paragraph, decidedly hostile to Cooper and inconsistent in tone with the text of Smith's letter as originally written, expressed the opinion that the credentials of the Choctaw treaty delegates of 1866 had given no authority for them to make the May 4, 1866, settlement with Cooper and concluded that "this receipt is therefore found to be not only objectionable in form as a voucher, but entirely without validity."²⁰

Discrediting the authority of the treaty delegates of 1866 to make the settlement with Cooper was the key to Shanks' case. Cooper not only maintained that the voucher was valid, but that Choctaw National Attorney Folsom's action in withdrawing the protest against his settlement confirmed its validity. Cooper explained to Commissioner of Indian Affairs Smith that certain claim agents and Indian delegates were under the impression that, if his settlement could be set aside, the United States could be made to pay the money again to the Choctaw Nation. The fact that the United States had "a valid and full receipt for said money from the proper authorities of the Choctaw Nation," he said, had caused Folsom to withdraw his protest in 1868.

An attempt was now being made, Cooper alleged, to account for Folsom's withdrawal "by supposing he might have been bribed to do so." If this attempt were successful, "the old scheme to hold the United States responsible for all moneys remaining in my hands in 1861 will be revived, for these conspirators know full well that nothing could be made out of myself or my bondsmen--(broken up as we all were, by the

results of the late War) even if I had not already settled in full with the Choctaw Nation." He suggested to the Commissioner of Indian Affairs that an examination of the records in the Office of Indian Affairs and the Second Auditor's Office of the United States Treasury would reveal that there were "good and sufficient vouchers for all moneys which came into my hands."²¹

Four days later, on May 17, 1873, Secretary of the Interior Delano applied more pressure upon Smith for the suspension of Cooper and Mix by transmitting to Smith a copy of Shanks' April 23 letter pertaining to alleged frauds by a combination of corrupt men. Public attention was drawn to the alleged frauds with the release of the official report of the investigation as it came off the press in May. Commonly known as "Shanks' Report," it consisted of the committee's report of the investigation and their recommendations. Transcripts of the testimony and documentary supporting evidence constituted a supplement and an appendix to the report. The findings of Shanks' committee was publicized across the nation as newspapers republished the report, in its entirety or as extracts.²²

The language of the report was similar but less restrained than that found in Shanks' correspondence with Commissioner Smith and Secretary Delano regarding the investigation. The committee reported that, "but for the dishonest interference of Latrobe, Cooper, McPherson, and Allen Wright, in their attempt to plunder these bonds [in the amount of \$250,000 withheld from the Choctaws in 1861], they would have been delivered to the Choctaw people long since." The Latrobe and Cochrane contracts were declared "corrupt and exorbitant, and should be set aside as void from the beginning." Cooper was characterized by the committee

as "the serpent and brains of the dishonorable combinations to defraud those people, and the master-head that has manipulated the movements before and since." Latrobe was "the figure-head," but Cooper was "the serpent who beguiled and debauched" the Choctaw and Chickasaw treaty delegations of 1866. It was also the finding of the committee that the Choctaw treaty delegates of 1866 "were not authorized by the Choctaw council to settle with a defaulting United States agent and cover his waste of money."²³

Among the nineteen specific recommendations of the committee, the thirteenth dealt especially with Cooper. Its purpose was "to cause Douglas H. Cooper, United States Indian agent for Choctaws and Chickasaws in 1860 and 1861, to return to the United States Treasury, for the use of the Choctaws, the sum of \$140,931.52, with interest, the amount in his hands as such agent when he betrayed his trust in 1861; and that the fictitious and fraudulent accounting and settlement made by him May 4, 1866, with the Choctaw delegates of 1866, who were fraudulently connected with him in the Latrobe contract of that year, and which settlement was carelessly received by the Indian-Office, be set aside and a proper accounting settlement and return be demanded and enforced." The interest on the \$140,931.52, as computed by the committee, amounted to \$100,766.03 and made a total of \$241,697.55 to be repaid by Cooper.²⁴

On July 5, 1873, Smith finally complied with Delano's suggestion of the previous May 3 that Cooper and Mix be prohibited from practicing as claim agents. Smith notified Cooper that he had examined the certified copies of receipts that Edward Dwight, National Secretary of the Choctaw Nation, had prepared and which Cooper had submitted with his argument on May 13, 1873. Smith, quoting a short statement from Shanks'

report, explained his decision: "I am not able to see how this relieved you from the charge of 'including in your account a receipt for \$146,822.52, which was false,' in claiming to be given by persons duly authorized to issue the same." He was advised that the firm of Charles E. Mix and Company and each individual member of the firm were debarred from practicing before, visiting, or conferring with the clerks of the Office of Indian Affairs. The action was taken "on account of this transaction," that is, because he had submitted the May 4, 1866, acknowledgment of settlement made by the Choctaw treaty delegation which was also signed by Principal Chief Pitchlynn. Duration of the debarment was "until you are relieved from the charge of fraud in connection therewith."²⁵

The debarment of Cooper and Mix may have been justified on the basis of the information supplied by Shanks. But there were important points which should have been resolved before such action was taken by the Commissioner of Indian Affairs and the Secretary of the Interior. It was alleged that Cooper had not satisfactorily accounted for the Choctaw funds in his hands in 1861 and that he was the responsible party in the negotiation of the Latrobe contracts in which the fees were said to be exorbitant and the contracts fraudulent.

One point that Shanks did not resolve was to determine the amount of federal funds for which Cooper was accountable to the United States and the amount of Choctaw funds for which he was accountable to the Choctaw government. Funds intended for disbursement among the Choctaws and still the property of the United States that remained in Cooper's charge in 1861 amounted to only \$6,418.97. The corn money, for which Cooper was accountable to the Choctaw government, was neglected when

Shanks questioned Cooper before the committee, but it was made the basis for Shanks' allegation that Cooper had defrauded the Choctaws of a large amount.

Shanks, when questioning Cooper before the committee, was preoccupied with the contracts that Latrobe held and in which Cooper shared as Latrobe's agent. Perhaps the fees of fifty percent were too high, but they were allowable under Choctaw and Chickasaw laws. The experience of both nations in obtaining funds from the federal government had led them to expect that a high percentage of their awards were necessarily paid out to lobbyists for obtaining favorable legislation. Latrobe and his agents, Cooper and Mix, knew that the federal government did not search out and pay obligations such as back annuities on its own volition. They were therefore performing a service for the Choctaws and Chickasaws for which it was reasonable that they be paid.

FOOTNOTES

¹42nd Congress, 2nd Session, Congressional Globe (Washington: F. and J. Rives and George A. Bailey, 1872), January 8, 1872, p. 308.

²"Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, pp. 484-490.

³P. P. Pitchlynn to R. M. Jones, April 25, 1872, Choctaw-Robert M. Jones Papers, Indian Archives Division, Oklahoma Historical Society, Oklahoma City, Oklahoma.

⁴"Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, pp. 594-599.

⁵Ibid., pp. 583-593.

⁶42nd Congress, 2nd Session, Congressional Globe, June 1 and 8, 1872, pp. 4133, 4447.

⁷"Indian Frauds Investigated-The Indian Subcommittee," New York Times, August 6, 1872, p. 1; Biographical Directory of the American Congress, 1774-1961 (Washington: United States Government Printing Office, 1961), pp. 677, 1586, 1619.

⁸"Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, pp. 88-90; "Deposition of John P. Turnbull," Address and Memorial by Douglas H. Cooper, to the General Council of the Choctaw Nation Assembled, [p. 14].

⁹"Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, pp. 675-677.

¹⁰F. A. Walker to Cooper, July 5, and 24, 1872, Letters Sent, Relating to Finance, and T. B. Heiston to Genl [Cooper], July 15, 1872, Cooper to F. A. Walker, July 22, and 26, 1873, T. D. Griffith to F. A. Walker, July 29, 1872, T. B. Heiston to F. A. Walker, August 5, 1872, Charles E. Mix and Company to F. A. Walker, August 13, 1872, T. D. Griffith to F. A. Walker, September 16, 1872, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹¹Latrobe, "The Choctaw Fund," Vindicator (New Boggy Depot, Choctaw Nation), August 24, 1872, p. 6; "Personal," ibid., August 31, 1872,

p. 5; ibid., p. 4.

¹²Ibid., pp. 4, 5; Charles E. Mix and Company to acting Commissioner H. R. Clunn, August 21, 1872, and Cooper to F. A. Walker, December 28, 1872, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹³"Indian Frauds Investigated-The Indian Subcommittee," New York Times, August 6, 1872, p. 1; Biographical Directory of the American Congress, 1774-1961, pp. 677, 1586, 1619.

¹⁴Shanks to Commissioner of Indian Affairs, April 3, 1873, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹⁵Edward P. Smith to Shanks, April 11, 1873, Letters Received, Choctaw Agency, ibid.

¹⁶Shanks to Columbus Delano, April 23, 1873, enclosed with Delano to Smith, May 17, 1873, Letters Received, Choctaw Agency, ibid.

¹⁷New York Times, May 4, 1873, p. 3.

¹⁸Delano to Smith, April 26, 1873, and H. R. Clunn to Delano, May 1, 1873, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹⁹Delano to H. R. Clunn, May 3, 1873, Letters Received, Choctaw Agency, ibid.

²⁰Cooper to Edward P. Smith, May 13, 1873, Letters Received, Choctaw Agency, ibid.

²¹Ibid.

²²Delano to Smith, May 17, 1873, Letters Received, Choctaw Agency, ibid.; Vindicator, June 7, 1873, p. 3, June 14, 1873, p. 1.

²³"Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, pp. 69, 80-82.

²⁴Ibid., pp. 220, 83. The committee also recommended that others were to repay money. For example, former Major General James G. Blunt and his "accomplices" were to return \$126,100; \$62,500 of which had been obtained in fees in 1870 from the Chickasaws, \$33,600 in 1870 from the Choctaws, and \$30,000 in 1868 from the Quapaws, ibid., p. 221.

²⁵Smith to Delano, July 5, 1873, Report Book 23, p. 561, and Smith to Cooper, July 5, 1873, enclosed with Cooper to Smith, July 10, 1874, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

CHAPTER XII

VINDICATION

The destructive effect of the publication of Shanks' Report, capped by Commissioner of Indian Affairs Smith's debarment order of July 5, 1873, ranked second only in Cooper's life to the tragedy of the Civil War. Unless he could quickly and clearly vindicate himself, he would be faced with complete ruin. He was in his fifty-ninth year and almost without friends in the federal government or among the leaders of the Choctaws. Only the Chickasaws under his friend, Governor Cyrus Harris (1872-1874), could be considered as sympathetic. His most influential non-Indian ally in the Choctaw Nation at this time was his son-in-law Thornton B. Heiston, who had recently become the editor of the Vindicator, a bilingual newspaper published at New Boggy Depot, Choctaw Nation. In the struggle to counteract the harm done to his reputation by Shanks' Report, Heiston afforded Cooper a voice among the Choctaws and Chickasaws.¹

Cooper acknowledged receipt of Smith's order on Sunday, July 6, 1873, and informed Smith that the firm of Charles E. Mix and Company had ceased to exist prior to July 5 under the limitation previously established by the articles of partnership. On July 7 he also informed Secretary of the Interior Delano, and added, "inasmuch as this prohibition does me great injustice and is calculated to do me great injury, both in reputation and business, I...request...a copy of the

communication of Mr. Shanks to which you alluded in your letter of May 3d/73 addressed to the Commissioner of Indian Affairs, so that I may be enabled to reply to the charges made by Mr. Shanks, and relieve myself from the prohibition." The request initiated an extended effort by Cooper to learn the specific basis for the debarment and to collect evidence for his defense.²

He requested a suspension of the debarment order until he and Mix could have a fair hearing, but it was not granted. Denial of his request forced him to resort to inquiries by mail to obtain copies of relevant correspondence from the Office of Indian Affairs and the office of the Secretary of the Interior. Distance made it impractical to visit the seat of the Choctaw government and much of his effort to secure copies of additional vouchers or other pertinent information from the Choctaw government also had to be conducted through the mail, although he was able to obtain part of the information personally from the Second Auditor's Office in Washington. Gathering evidence was a slow process, and it was not until March 2, 1874, that he was able to present to the Commissioner of Indian Affairs a certified statement from the Choctaw National Secretary that the Choctaw General Council had never passed an act or resolution authorizing the principal chief or anyone else to protest against the settlement of Cooper's accounts. In accordance with Cooper's request, copies of the statement and his cover letter were placed on file in the offices of the Secretary of the Interior and the Second Auditor of the Treasury.³

The statement presented by Cooper was in response to a protest filed with the Commissioner of Indian Affairs by William Bryant, Principal Chief of the Choctaw Nation, under date of September 10, 1873.

Bryant began his protest with the statement that "the Choctaw people have seen with great satisfaction" Shanks' Report and especially the recommendation that the sum of \$140,931.52, with interest, be returned to the United States Treasury for the use of the Choctaws. He recognized, he said, that the partisans of Cooper in the Choctaw Nation would argue that Cooper had received the money as the employee of the Choctaw Nation and was therefore accountable only to the Choctaw and not the United States government. Bryant requested that, should the Office of Indian Affairs not be able to set Cooper's settlement aside, the recommendation be made to the United States Congress for passage of a law authorizing the Choctaw Nation to bring suit against Cooper for recovery of the funds in the United States Court of Claims and directing the United States Attorney General to institute and prosecute the suit."⁴

Shanks, pressing for such court action as Bryant wished, introduced three bills in the House of Representatives on March 23, 1874. The first, House of Representatives number 2600, called for the President "to cause suit or suits to be commenced and carried on, in law or equity, in the district or circuit courts of the United States, against Douglas H. Cooper, and his bondsmen...for the collection and return to the Treasury of the United States of any money that may be found to be in his hands and not duly accounted for as such agent."⁵

The second bill introduced by Shanks, House of Representatives number 2601, was to authorize the Chickasaw Nation to institute and carry on a suit or suits in law or equity in the district or circuit courts of the United States against John H. B. Latrobe, Douglas H. Cooper, John T. Cochrane, Winchester Colbert, Edmund Pickens, Holmes

Colbert, Colbert Carter, Robert H. Love, and E. S. Mitchell to recover "moneys received for alleged services" in making the treaty of 1866 and in collecting money due from the United States since January 1, 1860. The bill excluded the money paid to the Chickasaw treaty delegates and their secretary for per diem and expenses as provided by a Chickasaw law of October 7, 1865.⁶

The third bill, House of Representatives number 2603, was designed to authorize the Choctaw Nation to bring suit against the same individuals named in House of Representatives number 2601, except for the substitution of Choctaw treaty delegates and secretary for their Chickasaw counterpart. Peter Pitchlynn was not named among the Choctaw delegates. The proposed court action was for recovery of money received "for alleged services as attorneys or counsellors, or received collusively or fraudulently from said national funds, or of the individual funds of said people...or for alleged services in collecting, receiving, handling, or in any way managing the funds of said Indians" since January 1, 1860. All three of the bills were read twice, referred to Shanks' Committee, and ordered to be printed.⁷

Shanks' three bills were never reported out of committee. It was not necessary, as a move was already underway by the United States Attorney General to bring suit against Cooper and the sureties of his bond. In May, 1873, Attorney General George H. Williams had inquired of the United States Attorney for the Southern District of Mississippi regarding the solvency of Cooper and his sureties. Williams, a former Republican senator from Oregon who had strongly opposed the moderate reconstruction policies of President Andrew Johnson, required no encouragement to bring the full weight of the Department of Justice to

bear upon a former Confederate brigadier general such as Cooper.⁸

It was not until October 27, 1873, that Williams' inquiry was answered by Felix Brannigan, who had recently succeeded to the office of United States Attorney for the Southern District of Mississippi. Brannigan's information was that H. H. Herbert, of East Feliciana Parish, Louisiana, was insolvent; J. A. Ventress, deceased, left a large estate; J. Johnson and L. K. Barber, both of Wilkinson County, were reputed to be wealthy; and S. H. Stockett, deceased, was reported to have been insolvent. Brannigan was vague about Cooper, stating only that he "was not known to have any property, and when last heard of here was a claim agent in Washington, D. C." As to their total net worth, Brannigan believed "that they are now good for a judgment of Twenty thousand...dollars at least."⁹

On November 7, 1873, Williams directed Brannigan to proceed with preliminaries to the suit against Cooper. Responding on December 5, Brannigan requested that a transcript of Cooper's accounts and settlements be prepared and sent to him at Jackson, Mississippi. He also suggested that a readjustment of settlements be made that would take from Cooper credits already on the books. Brannigan's letter was referred to Commissioner of Indian Affairs Smith with a request for information on Cooper's accounts and, thereby, came to the attention of Second Auditor E. B. French, who denied that Cooper's accounts had been debited or credited erroneously. On February 2, 1874, French stated that Cooper's "accounts as Indian Agent, all that have been rendered to this office, have been settled, and on November 1st, 1866, he was found to be indebted to the United States in the sum of \$2,579.52." French suggested that if Brannigan had proof that Cooper had been "credited in the

settlement of his accounts by sums to which he was not entitled, such proofs should be put in form to come before the accounting officers for their action."¹⁰

In preparing for the impending court action, Cooper requested Commissioner of Indian Affairs Smith to supply copies of all correspondence on the subject between the Department of the Interior and the Department of Justice. He also asked for copies of any instructions given by the Department of Justice to the United States Attorney in the Southern District of Mississippi and the District Attorney's response. Smith referred Cooper's request to Delano on April 1, 1874, but Delano declined to take action and returned Cooper's letter to Smith on April 16. Two days later Smith notified Cooper that Delano had refused to give him the information.¹¹

Although stalled in the attempt to anticipate the nature and extent of the court action being prepared by the United States Attorney General, Cooper continued to give full attention to the task of clearing himself with Commissioner of Indian Affairs Smith. From Georgetown, D. C., on July 10, 1874, Cooper sent a plea to Smith for withdrawal of the order of July 5, 1873. Among the several papers appended, he included copies of his account with the Choctaw Nation and thirteen vouchers of disbursements, all certified by the Choctaw National Secretary. From the \$146,822.52 that Cooper was charged with in March, 1861, which included the \$134,512.55 so-called corn money, he had made the following disbursements:

April 12, 1861, Voucher 1,	to Choctaw Delegates-----	\$5,600.00
April 22, 1861, Voucher 2,	to J. T. Cochrane-----	1,500.00
June 3, 1861, Voucher 3,	to L. P. Pitchlynn-----	674.00

October 14, 1861, Voucher 4, to J. R. Hall-----	173.00
October 14, 1861, Voucher 5, to Tandy Walker-----	86.50
October 14, 1861, Voucher 6, to N. B. Breedlove-----	1,500.05
October 19, 1861, Voucher 7, to Charles Ringwald-----	62.50
October 19, 1861, Voucher 8, to S. N. Folsom-----	400.00
October 19, 1861, Voucher 9, to W. Roebuck-----	375.00
October 23, 1861, Voucher 10, to S. N. Folsom-----	4,561.50
Voucher 11, to W. Wilson-----	1,337.55
January 2, 1862, Voucher 12, for corn purchases turned to S. Folsom and E. Loman, Commissioners-----	86,225.60
January 2, 1862, Voucher 13, to order of Commissioners Folsom and Loman in favor of Albert Pike-----	40,075.60
To commission for disbursing corn funds \$134,512.55 at 2½ percent-----	3,362.00
May 4, 1866 to Choctaw Nation by Cooper to balance account-----	<u>889.22</u>
	\$146,822.52 ¹²

Vouchers 1 through 10 were individual receipts, for amounts disbursed by Cooper, that he had filed directly with the Choctaw government. Voucher 11 certified that former Choctaw agent Wilson, Cooper's predecessor, had been paid \$1,337.55 from the corn money for making two trips to the North in 1861. Wilson had been commissioned to cash Treasury Draft 2826 in the amount of \$50,000, one of the drafts for corn money that Cooper received, by presenting it at the New York Sub-treasury upon which it was drawn and then smuggle the money into the

Confederacy to the Choctaw government. He was able to cash the draft for gold, but was unable to bring it nearer than St. Louis, Missouri, and returned to New England where he left the money for safekeeping.¹³

Voucher 12 represented a number of receipts for the corn purchases made under Cooper's general supervision and the immediate supervision of Peter Pitchlynn's son. The corn was detained at various places in Indiana for weeks by local civilian officials who feared it would be confiscated by the Confederacy. The federal government, hoping to retain the loyalty of the Choctaws, ordered it released for delivery. Again, it was detained at Cairo, Illinois, where part of it was confiscated for the use of the Union Army. Cooper later filed a claim on behalf of the Choctaws, stating the loss sustained at Cairo to be \$6,462.50. The balance of the corn was finally allowed to pass down the Mississippi River, but en route up the Red River the barges were forced to halt near Shreveport, Louisiana, because of shallow water. The delays into the dry summer season made it impossible for the barges to move nearer Choctaw country and the corn aboard began to spoil.

By this time Cooper had been assigned to command of the Choctaw and Chickasaw Regiment. The Choctaw government then appointed Sampson Folsom and Eastman Loman as commissioners to oversee the salvage or sale of the undelivered corn, and make a settlement with Cooper on all the corn money. With Voucher 12 Cooper accounted for \$86,225.60. Commissioners Folsom and Loman gave a receipt, identified by Cooper as Voucher 12, to Frank E. Williams, a trader located at Skullyville who was acting as Cooper's agent, in exchange for the corn purchase vouchers totaling \$86,225.60. Any accounting for the amount realized for the Choctaw Nation in salvage of the spoiling corn became the responsibility of Folsom

and Loman.¹⁴

The transaction of Voucher 12 and another one made by Folsom and Loman were both executed on January 2, 1862, in Richmond, Virginia. The second, represented by Voucher 13, was a sight draft issued by Folsom and Loman and payable by Cooper on the order of Albert Pike, who was then Cooper's commanding officer in the Confederate States Army. The text of the draft, noteworthy because Pike denied to Shanks early in the investigation that he had received any of the corn money, was "At sight please pay to the order of Albert Pike Forty thousand and seventy five 60/100 dollars, being balance of money placed in your hands by the Choctaw Nation for the purchase of corn, under Act of Council of October A.D. 1860, and this shall be your voucher for the same." The draft was endorsed by Pike showing he had presented the order to Williams and received payment.¹⁵

By presenting Voucher 13, Cooper revealed that Shanks had purposely stopped short of the truth in the report of the investigation. During the investigation and after Pike had denied Cooper's claim to have paid the \$40,075.60 in corn money to him, Shanks exploited the contradictory testimony by giving credence to Pike's version and discounting Cooper's. Pike learned that he was in error about the funds he had received from Cooper and sent an amended statement to Shanks before the report was published, but Shanks refused to correct his report accordingly.¹⁶

The lengthy argument presented by Cooper in his plea of July 10, 1874, stressed the idea that the Choctaw treaty delegation did in fact have the authority to make the May 4, 1866, settlement and that the United States government had on more than one occasion acknowledged that

the corn money had been paid to the Choctaw Nation. As an example, Cooper called attention to the fact that Shanks had stated in the House of Representatives on June 16, 1874, that the United States had paid \$250,000 to the Choctaws on the Net Proceeds Claim. The corn money being part of this payment, Cooper reasoned that he could not be a defaulter to the United States, as Shanks claimed, for money that the United States credited itself with having paid to the Choctaws.

Cooper's plea and the attached documents were accepted and retained by the Commissioner of Indian Affairs, but the order of July 5, 1873, was not rescinded. During this time, Cooper's influence among the Choctaws and Chickasaws had declined sharply, as indicated by the repudiation in 1874 of contracts in which he had an interest. On February 3, 1874, the Choctaw House of Representatives voted eleven to seven to cancel Cochrane's contract. Those voting against cancellation were T. D. Ainsworth, Joseph Garland, Gilbert Perry, Wilson Nail, Edward Dwight, A. R. Durant, and W. W. Hampton. The Senate, the upper house of the Choctaw General Council, also approved, as did Principal Chief William Bryant.¹⁷

On September 22, 1874, the Chickasaw government under the leadership of B. F. Overton, a bitter political foe of Cyrus Harris, passed an act by which "the informal and fraudulent contract made and entered into by and between the Chickasaw Commissioners and J. H. B. Latrobe... and all laws and parts of laws, giving or granting authority to any and all contracts made by and between the Chickasaw Commissioners and J. H. B. Latrobe, their agents and attorneys, are hereby repealed, repudiated, rescinded and declared null and void." The second section of the act required Governor Overton to send copies to the Secretary of the

Interior, the Commissioner of Indian Affairs, and the Secretary of the Treasury. Overton asked the Secretary of the Interior to "earnestly and honestly direct the financial interest of this people, so as to prevent further losses on their part, under exorbitant contracts obtained from them by false representations." He referred the Secretary to the report of Shanks' Committee for further explanations.¹⁸

It was late December, 1874, before Cooper accomplished any significant gain in his struggle to get the debarment order rescinded. He met with Commissioner of Indian Affairs Smith on December 28 and discussed a recent memorial of the Choctaw General Council addressed to the United States Senate and House of Representatives. The Choctaws, in asking that the Net Proceeds Claim be paid, officially acknowledged receiving payment of \$250,000 on the Net Proceeds Claim in 1861. This acknowledgment coincided with the wishes of the Department of the Interior to so credit itself. On December 29, 1874, Cooper reminded the Commissioner of Indian Affairs that this money was the same as that "for part of which I am charged by Mr. Shanks with being a defaulter to the United States!" Of the amount for which he was charged, the residue over the \$134,512.55 corn money, Copper explained, consisted of several small accounts, "every dollar of which...was disbursed for its [the Choctaw Nation's] account, and benefit, or else turned over to the National Treasurer." He again requested withdrawal of the order of July 5, 1873.¹⁹

And so it was that eighteen months after his debarment Cooper finally convinced Commissioner of Indian Affairs Smith he should rescind the order. Secretary of the Interior Delano, to whom Smith made his favorable recommendation, "duly considered the subject" and concurred

on January 22, 1875. Smith immediately notified Cooper and Mix as follows: "You are advised that the order of the Commissioner of Indian Affairs dated July 5, 1873, by which you were suspended in the transaction of business with the Indian Office, has been rescinded by the direction of the Hon. Secretary of the Interior, in letter to this office of this date."²⁰

Cooper did not wait for the formal notification in resuming business with the Office of Indian Affairs. On January 12, 1875, between the time of Smith's recommendation and Delano's concurrence, Cooper responded to a request by Edward Dwight for help to sell his store building in New Boggy Depot to the Department of the Interior. The Choctaw and Chickasaw agency building, recently vacated when the local agency was combined with other agencies at Muskogee as the Union Agency, was situated adjacent to Dwight's building at the southwest corner of the New Boggy Depot public square. When Dwight learned that the Department of the Interior planned to establish a school for the children of freedmen at the vacant agency, he proposed to sell his building, which had been occupied by the trading firm of Nicholls and Byrd, for use as a classroom. In notifying Smith of his authorization to act on Dwight's behalf, Cooper suggested that, although the agency had adequate living quarters for the teachers and their families, a large schoolroom would be indispensable. He was ready to confer on the price or place the question with referees for arbitration. Smith deferred responding to Cooper until January 27, 1875, five days after Delano had approved rescinding the debarment order. Overtures were still being made by Cooper in April, 1875, to sell Dwight's building and involved the efforts of his son-in-law, Thornton B. Heiston, then of Kentuckytown, southeast of

Denison in Grayson County, Texas, who was visiting Cooper in Washington.²¹

As Cooper began again to work as a claim agent in the first quarter of 1875, he learned that the Department of Justice had not dropped its proceedings against him and the sureties on his bond. On March 5, he informed Commissioner of Indian Affairs Smith that he had been advised by the Department of Justice that no information of the revocation of the debarment order had been received there, nor had any withdrawal been received of the request of May 21, 1873, by the Department of the Interior that a suit should be brought against him and his sureties in consequence of Shanks' allegations of embezzlement. Smith recommended to Delano on March 19 that the request for a suit be withdrawn from the Department of Justice. Three days later, Delano requested of Attorney General Williams that Commissioner Smith's recommendation receive favorable consideration.²²

On the same day, March 2, 1875, Shanks was notified by Smith that Delano had designated him as a special commissioner to visit the Indian Territory. The former chairman of the Committee on Indian Affairs of the House of Representatives had failed to win renomination in his home congressional district in 1874 and, following March 3, 1875, was available for such an appointment. He was to receive \$10 per day and expenses to ensure the proper disbursement of funds to the Seminole and Pottawatomie Indians; to negotiate with the Creek Nation for relinquishment of a portion of their country for use by the Seminoles; to investigate and report on an adjustment of the status of persons of African descent resident in the Choctaw and Chickasaw nations; and to visit the Cheyenne, Arapahoe, Kiowa, and Comanche tribes in western Indian

Territory with reference to selection of those recently engaged in depredations and who were to be removed to reservations in the northeastern section of the Indian Territory. After completing this assignment, Shanks returned to practice law in Jay County, Indiana.²³

Following Delano's withdrawal of the request for a suit against Cooper on March 22, 1875, there was little activity until again in August, 1876, when Solicitor of the Treasury George F. Talbot directed Luke Lea, the District Attorney for the Southern District of Mississippi, to institute a suit against Cooper and his sureties. Talbot transmitted a certified copy of Cooper's bond dated April 20, 1858, and transcripts of his accounts and settlement to Lea at Jackson, Mississippi. There were many contradictions in the transcripts which had to be returned for correction and additional information was required from the Second Auditor's Office of the Treasury. It was not until October 17, 1876, that Lea was ready to bring a suit against Cooper and his sureties, but when he did it was a penalty suit for the face amount of the bond, \$70,000, for breach of the conditions of the bond.²⁴

The defendants named, after further investigation into their financial condition, were Charlotte Ventress, executrix of the estate of James A. Ventress; Mary Johnson, executrix of the estate of Joseph Johnson; Lucy Stockett, executrix of the estate of Samuel H. Stockett; and Leonard K. Barber. George T. Swann, Clerk of the Circuit Court, reported to Talbot that Cooper and Hardin H. Herbert were "not found in District, and not here served." A judgment for the full amount of \$70,000 was rendered against Mary Johnson and Leonard K. Barber in May, 1877. No settlement was made at that time and it is not likely that the judgment was ever paid. The United States Marshal, William L. Durkins,

reported to the Solicitor of the Treasury in August, 1889, that the sureties were "utterly insolvent, so broken up were they by the War that they did not or were not able to make any defense to this suit." On September 25, 1889, A. H. Longino, the District Attorney, reported from Greenwood, Mississippi, to the Solicitor of the Treasury that he could "find no traces of any property out of which the judgment could be made."²⁵

The volume of the claims business that Cooper hoped to enjoy in Washington, after regaining his standing with the Office of Indian Affairs, did not develop. Having been denied the means of earning claims commissions for the previous eighteen months by his debarment, Cooper's financial condition grew steadily worse. His absence from the Southern District of Mississippi explains why he was not served with a writ to appear as a defendant in the penalty suit in Circuit Court in Jackson, Mississippi. But why suit was not initiated against him elsewhere may, more than likely, be accounted for by his financial embarrassment and the fact that he had returned to live at the old Choctaw and Chickasaw agency at abandoned Fort Washita about the end of 1875 or early 1876. The buildings, the "brick and rubble at Fort Washita" that were his by virtue of his defense of the Chickasaw Nation against the Hamilton claims of 1872, became the home of Cooper and his son, Dr. David Cooper, who had returned to the Indian Territory after graduation from the University of Louisiana in New Orleans in 1869.²⁶

Adopted as a citizen by an act of the Chickasaw legislature in 1861, Cooper raised the question of his right to hold Chickasaw land under that citizenship. When Cooper attempted to obtain land in Panola County, in which the old Choctaw and Chickasaw agency was located,

County Judge H. F. Murry asked for an opinion from Chickasaw Attorney General William P. Brown. In an opinion dated April 19, 1876, former Governor Brown held that persons adopted by an act of the Chickasaw legislature and not having the approval of the Choctaw people, who were in the majority and held an interest in the land, were given no right under the law in effect at the time Cooper became a citizen other than to settle in the nation and be subject to its laws. But, if Cooper had been adopted by joint action of the Choctaw and Chickasaw legislatures under Article 43 of the Treaty of 1866, then there could be no doubt as to Cooper's rights as a citizen to hold land.²⁷

Reacting to this adverse opinion, Cooper prevailed upon the Chickasaw legislature to adopt him again under the provisions of the August 16, 1867, Chickasaw Constitution. A portion of Section 7 of the General Provisions stated: "All who may hereafter become citizens, either by marriage or adoption, shall be entitled to all the privileges of native born citizens, without being eligible to the office of Governor." Also, the following appeared as Section 10 in the General Provisions: "The Legislature shall have the power, by law, to admit or adopt, as citizens of this Nation, such persons as may be acceptable to the people at large." On October 7, 1876, the Chickasaw legislature adopted Cooper by law, with Governor Overton's approval, as a member of the Chickasaws entitled to all the rights, privileges, and immunities of a citizen.²⁸

This was an unhappy time for Cooper, nevertheless. Former peers were enjoying success. Samuel B. Maxey, for example, was now a United States Senator from Texas who was receiving favorable notice in the Denison newspaper for his views on silver. Cooper, however, was subsisting only slightly above poverty level in the decaying buildings of

the old agency. His wife reportedly made her home in Kentuckytown, Texas, with her daughter Elizabeth Heiston and her family. His son David, whose health had been failing for several months, died in March, 1878, and soon thereafter Cooper spent a short time at Kentuckytown.²⁹

After returning from Texas to live alone at the agency, Cooper attempted to participate in Chickasaw politics as a citizen of that nation. In the gubernatorial contest scheduled for the fall of 1878, Cooper favored Cyrus Harris. Chickasaw National Treasurer B. C. Burney, who had the support of incumbent Governor Overton, was the opposition candidate. On the first count Harris led by eleven votes, but the election board declared sixteen votes for Harris, including Cooper's, invalid. The board ruled his adoption was not complete on the grounds that the Choctaws should also accept him before he could be considered a citizen. Rejection of his right of suffrage, and the wider implication that his citizenship was not accepted by the people among whom he was living, was the final civic indignity that he was to suffer. His health failed rapidly in the winter. Critically ill with pneumonia in the spring, he died on April 29, 1879, in his sixty-fourth year. He was likely buried at Fort Washita, although the exact location of his grave is unknown.³⁰

The debarment order and penalty suit had brought anguish and embarrassment to Cooper. His last years were spent in the frustrating effort of proving himself innocent of the allegations. The committee report was couched in the prejudicial language of a prosecuting attorney, not a fact finding committee, that placed the burden of proof on the accused. Cooper's detractors were supplied with a tool, under the label

of a United States government publication, with which they attempted to destroy his influence.

Supplying the proper evidence to the officials of the Department of the Interior to cause the debarment to be rescinded was the first major step in reestablishing Cooper's reputation. It was an accomplishment made doubly difficult because the officials of the Department of the Interior were not under any compulsion to substantiate Shanks' charges in a court of law and, also, because the disruption caused by the Civil War had forced Cooper to disburse money remaining in his custody for Choctaw purposes other than those for which the United States had intended. He had fought for and risked his life in defense of the great majority of Choctaws and placed the remainder of the corn money with his agent where it was made subject to the order of Commissioners Sampson Folsom and Eastman Loman by the Choctaw government. Folsom and Loman were given control of the money, but Cooper learned that he was not relieved of the responsibility.

FOOTNOTES

¹ During July and August, 1873, Heiston carried replies by Latrobe and Cooper to the charges by Shanks in the Vindicator.

² Cooper to Smith, July 6, 1873, and Cooper to Delano, July 7, 1873, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

³ Cooper to H. R. Clunn, July 22, 1873, Acting Secretary of the Interior to Acting Commissioner of Indian Affairs, August 7, 1873, Cooper to Edward P. Smith, March 2, 1874, Smith to Cooper, March 4, 1874, Letters Received, Choctaw Agency, ibid.

⁴ Bryant to Edward P. Smith, September 10, 1873, Letters Received, Choctaw Agency, ibid.

⁵ 43rd Congress, 1st Session, Congressional Record (Washington: Government Printing Office, 1874), March 23, 1874, pp. 2371-2372.

⁶ Ibid.

⁷ Ibid.

⁸ George H. Williams to Attorney E. P. Jacobson of the Southern District of Mississippi, May 23, 1873, Records of the Department of Justice, Record Group 60, National Archives.

⁹ Felix Brannigan to George H. Williams, October 27, 1873, ibid.

¹⁰ Felix Brannigan to George H. Williams, December 5, 1873, ibid.; E. B. French, Second Auditor, to Commissioner of Indian Affairs, February 2, 1874, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹¹ Cooper to Edward P. Smith, March 28, 1874, Letters Received, Choctaw Agency, Smith to Delano, April 1, 1874, Report Book 24, p. 246, Delano to Smith, April 16, 1874, Letters Received, Choctaw Agency, ibid.

¹² Cooper to Smith, July 10, 1874, and enclosures, Letters Received, Choctaw Agency, ibid.

¹³ Ibid.; Address and Memorial by Douglas H. Cooper, to the General Council of the Choctaw Nation Assembled, [p. 7].

¹⁴Cooper, "Corn Money--Defalcation Charges," Reply to Charges Made by J. P. C. Shanks, Late Chairman of the Committee on Indian Affairs, 42 Congress, 3d Session, in Regard to Matters Connected with Choctaw and Chickasaw Affairs, pp. 19-25; "Voucher No. 12," and "Voucher No. 13," enclosed with Cooper to Smith, July 10, 1874, Letters Received, Choctaw Agency, Commissioner L. V. Bogy to O. H. Browning, February 6, 1867, Report Book 16, p. 136, Office of Indian Affairs, Record Group 75, National Archives.

¹⁵Ibid.

¹⁶Ibid.; "Investigation of Indian Frauds," Committee on Indian Affairs, United States House of Representatives, 42nd Congress, 3rd Session, Report 98, pp. 83-84; Albert Pike to P. P. Pitchlynn, September 12, 1873, enclosed as Appendix B, No. 5, with Cooper to Smith, July 10, 1874, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹⁷Choctaw Legislative Journal, February 3, 1874, Choctaw--National Council, Indian Archives Division, Oklahoma Historical Society, Oklahoma City, Oklahoma.

¹⁸B. F. Overton to Secretary of the Interior, September 28, 1874, enclosing Chickasaw legislative act of September 22, 1874, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

¹⁹Cooper to Smith, December 29, 1874, Letters Received, Choctaw Agency, ibid.

²⁰Cooper to Smith, January 4, 1875, Letters Received, Choctaw Agency, Smith to Delano, January 6, 1875, Report Book 25, p. 335, Delano to Commissioner of Indian Affairs, January 22, 1875, Letters Received, Choctaw Agency, Smith to Cooper and Mix, January 22, 1875, Letters Sent, Relating to Land and Civilization, ibid.

²¹Cooper to Smith, January 12, 1875, Letters Received, Choctaw Agency, Smith to Cooper, January 27, 1875, Letters Sent, Relating to Land and Civilization, Cooper to Smith, January 28, 1875, T. B. Heiston to Smith, April 21, 1875, Letters Received, Choctaw Agency, ibid.

²²Delano to the Attorney General, March 22, 1875, enclosing Smith to Delano, March 19, 1875, Records of the Department of Justice, Record Group 60, National Archives.

²³Smith to Shanks, March 22, 1875, Letters Sent, Relating to Miscellaneous Subjects, Office of Indian Affairs, Record Group 75, National Archives; Biographical Directory of the American Congress, 1774-1961, p. 1586.

²⁴Comptroller C. C. Carpenter to George F. Talbot, August 10, 1876, Talbot to Lea, August 11, 1876, Lea to Talbot, August 14, 1876, Acting Comptroller James S. Delano to Talbot, October 7, 1876, Lea to

the Solicitor of the Treasury, Report of Suits Commenced, October 17, 1876, Records of the Solicitor of the Treasury, Record Group 206, National Archives.

²⁵ Ibid.; George T. Swann to Solicitor of the Treasury, Report of Suits Commenced, No. 2397, October 17, 1876, Lea to Solicitor of the Treasury K. Raynor, July 14, 1877, William L. Durkins to Solicitor of the Treasury, August 9, 1889, A. H. Longino to Solicitor of the Treasury, September 25, 1889, ibid.

²⁶ Agent George T. Olmstead to Commissioner of Indian Affairs, April 19, 1870, enclosing Olmstead's certificate of April 19, 1870, and David J. Cooper's bond dated February 20, 1870, Letters Received, Choctaw Agency, Office of Indian Affairs, Record Group 75, National Archives.

²⁷ W. P. Brown to H. F. Murry, April 19, 1876, Records of Attorney General, Chickasaw--Tribal Officers, Indian Archives Division, Oklahoma Historical Society.

²⁸ Constitution, Laws and Treaties of the Chickasaws, pp. 15-16, 77.

²⁹ Denison Daily Herald (Texas), February 7, 1878, p. 2; "Died [Dr. David Johnson Cooper]," Vindicator, March 16, 1878, p. 3; Denison Daily Herald, March 22, 1878, p. 4.

³⁰ Ibid., August 14, 1878, p. 4, and September 26, 1878, p. 4; Vindicator, September 28, 1878, p. 1; "Declaration of Widow," Mexican War Widow's Pension 149, Frances M. Cooper, Application 398, Records of the Veteran's Administration, Record Group 15, National Archives; "Death of Douglas H. Cooper," Vindicator, May 10, 1879, p. 1.

CHAPTER XIII

IN RETROSPECT

The many and varied roles that Cooper assumed mark his life as extraordinary, colorful, useful, and tragic. He was indeed more than an ordinary man. Although his peers may have participated in a number of the endeavors in which he engaged, few if any challenged life on so numerous and such diverse fronts. He was a Southern planter and successful livestock exhibitor, the president of a local turnpike company, a state legislator during Mississippi's banking crisis, a Southern Whig who turned Democrat before the Mexican War, a volunteer company captain in Jefferson Davis' First Mississippi Rifle Regiment at Monterrey and Buena Vista during the Mexican War, a major general in the Mississippi militia, an Indian agent to the Choctaws and Chickasaws for the United States and later for the Confederate States, a volunteer officer of general rank commanding Indian and white troops for the Confederate States, a friend and conciliator for the Choctaws and Chickasaws in the reconstruction treaty negotiations, an ex-Confederate army officer competing as a claim agent in Washington during reconstruction, and a twice adopted citizen of the Chickasaw Nation.

As a first generation planter in the Old Natchez District of Mississippi, he engaged in the basic activities of that group. As such, he was primarily an agriculturalist who also recognized that there were two other avenues to prestige--war and politics. In addition to

producing cotton as a cash crop, he grew cereal crops and used imported purebred sires to maintain and improve his small but high quality cattle herd. That his knowledge of agriculture was held in high esteem by the residents of Wilkinson and Adams counties was attested by his prize-winning livestock entries in the contests sponsored by the agricultural associations and by being chosen to act as judge in other categories.

The labor for his plantation was supplied by slaves while he practiced the gentleman's arts of politics and war. Favored with initial successes in politics as a Whig in a traditionally Whig county, he became disillusioned with the party's national policies and turned to the Democratic Party. As such, he was defeated by a Whig when he sought reelection for a third term in the Mississippi House of Representatives. Because he favored a settlement with Mexico and the annexation of Texas, he volunteered for duty in the Mexican War. He was not oblivious to the fact that military honors could strengthen him politically. Although he won recognition at the battles of Monterrey and Buena Vista, he was never again able to attain elective public office. This was not because of public rejection of him personally, but because the Democrats split over the Compromise of 1850 and because his convictions placed him with the minority faction which did not combine in 1851 with Mississippi Whigs. With state politics made temporarily unfavorable, he drew upon the influence of Jefferson Davis within the national party to obtain a place in the government as an Indian agent.

While others were patient enough to mark time until the rift in the Democratic Party of 1851 closed, and Southern Whigs found it expedient to align themselves with Democrats under the banner of State

Rights or Southern Rights, Cooper was becoming heavily involved in Indian affairs. As the political climate improved in Mississippi for conservative or State Rights Democrats, such as Cooper, it seems legitimate to question why he did not return to the political scene of his native state. Part of the answer is found in the success of the wealthier, more influential Democrats and ex-Whigs to control the party machinery. Also, Cooper was occasionally receiving, indirectly at this time, more than his annual salary of \$1,500, and had the possibility of obtaining more out of gratitude for his help with the Choctaw Net Proceeds Claim. It was reasonable to expect him to try to retain the position as agent rather than give it up for the greater uncertainty associated with his chances of gaining nomination and election in Mississippi.

When Cooper became an Indian agent, he moved outside the usual sphere of activity of a Southern planter. His reason or reasons for doing so, whether from economic need, personal ambition, an emergent humanitarianism, or a conscious effort to aid in the formation of another slaveholding state, made settling into the routine of life in Wilkinson County unacceptable to him. By seeking and accepting the appointment as Indian agent to the Choctaw Nation, he placed himself in a position where he could facilitate the formation of another state, thus supporting the contention that this was his purpose. As Indian agent, he had advocated survey of the land and allotment in severalty, a necessary step in the process of preparing for statehood. It is also known from his speeches in 1849 and 1850 that he favored extension of slavery to the Pacific Ocean. Passage of the Compromise of 1850 closed off this possibility, but it left open the expansion of slavery in

western areas that included the Indian Territory. And he did become Indian agent for a strategically located Indian nation shortly after the South began to know the reality of the Compromise of 1850.

Other facts tend to refute the argument that Cooper came to the Indian Territory to structure another slaveholding state. When the Chickasaws exerted pressure for separation of their government from the Choctaws, Cooper was in support of the move. It was his influence through Secretary of War Jefferson Davis that saved the floundering negotiations and brought the treaty to completion in 1855. The division of jurisdiction between the Choctaws and Chickasaws as provided in the treaty was a move toward proliferation and away from integration of the two nations into a politically viable state. On the premise that the Choctaw Nation was too small by itself to gain admission as a state, Cooper indicated by his action in this instance that he was not in the Indian Territory to foster the formation of another state.

Cooper's appointment as agent to the Choctaws in 1853 marked the beginning of a lifelong association with the people of the Indian Territory, especially the Choctaws and Chickasaws. In an overview of that relationship, a fair appreciation of the service he performed for the Choctaws and Chickasaws as their agent and friend may be lost because of the unfavorable publicity given to him for his part in more spectacular events. As the highest ranking Confederate officer serving continuously in the Indian Territory for the four years of the Civil War, he became for some Choctaws and Chickasaws the symbol of broken Confederate promises and the tragedies of the war to a greater degree than did transient generals such as Pike, Steele, and Maxey. Yet he was more appreciative of the fighting ability of Indian soldiers and was virtually

the lone advocate of an Indian officer's right to command white troops in the field when rank dictated. He interceded on behalf of the Indian troops, often to the extent that he incurred the displeasure of his commanding officer. At one time he appealed to Lieutenant General Edmund Kirby Smith, over Steele's head, for a share of the clothing that Steele was distributing in disproportionate amounts to Texans. Despite all this, his prestige with important groups of Choctaws and Chickasaws was damaged as a result of a war that he neither favored nor fostered, and which he had fearfully predicted on January 15, 1861, would end in ruin.

While the lost rebellion, with which Cooper was unfavorably identified, was the more spectacular of two major events that tend to obscure his service as an Indian agent, it was the bitter struggle between Peter Pitchlynn of the Old Choctaw delegation and Cooper, representing generally the interests of Latrobe and the Choctaw delegation of 1866, that was far more damaging to his reputation. The Congressional investigation and Shanks' allegations were important events in themselves, but they were the outgrowth of the contest for control of the lucrative contingency fee contracts in which Cooper held an interest. Since there was more at stake for the Choctaws, the principal attack upon Cooper was engineered by the Pitchlynn faction and was directed toward his transactions with that nation, but there were also influential Chickasaws who favored cancellation of the contracts from which Cooper benefitted. This is not to imply that Shanks was collaborating with Cooper's opponents by deliberately abusing the investigative powers of his Congressional committee. Whether such was true or not, he conducted the investigation and shaped his report with a sensational anti-

Cooper bias that ensured Cooper's debarment as an Indian claim agent and caused virtually irreparable damage to Cooper's image.

Damaging allegations had been made against Cooper before. Each time they were more vicious and each time harm was done before it was possible to present an adequate defense. In the election of 1851, he was the object of a rumor about which he learned only two days before the voting took place. The substance of the tale was a statement designed to alienate lower income voters. The prospects for State Rights Democratic candidates in Mississippi in 1851 were known to be poor, but the political trick helped defeat him at the polls. Then in September, 1862, he was charged with "habitual intoxication and notorious drunkenness" by a member of Brigadier General Albert Pike's staff soon after Pike's erratic behavior led to a break with Cooper. The charge was filed in Richmond with the Secretary of War, who ordered a court of inquiry, but the order was never implemented and Cooper was not afforded an opportunity for a hearing. The charge, made at that particular time, delayed his advancement in the Confederate Indian service and placed his recent appointment to the rank of brigadier general in an uncertain status.

The politics of elective office in Mississippi in 1851 and within the Confederate command structure during the early part of the Civil War were extremely competitive. But in the contest for control of contingency fee contracts with the Choctaws and Chickasaws prior to Cooper's debarment as an Indian claim agent, the stakes were higher, the competition stronger, and the defamatory propaganda more unrestrained. The publicity employed in the attempt to discredit Cooper, especially in the eyes of the Choctaws and Chickasaws, has not

subsequently been counterbalanced by an explanation of the circumstances nor by publicizing the benefits that accrued to the Choctaws and Chickasaws from his association with them.

For eight years Cooper was the Choctaw and Chickasaw agent and conducted the routine business of these Indian nations with the United States in a highly acceptable manner. Even later, when his detractors were anxious to criticize him, there were no notable attacks upon this aspect of his work. The bounty land claims that he researched and presented for settlement were numerous, time consuming, and sometimes they were returned by the Office of Indian Affairs for additional information before being submitted to the General Land Office. Completion of the claims was always difficult and occasionally proved impossible, but the conscientious effort made by him in closing claims deserved recognition. With patience and skill, he acquired knowledge over an unusually broad spectrum of Indian affairs. The advanced state of the Choctaw and Chickasaw civilizations, and the accompanying complexity of their problems, placed heavy demands upon him, but he served both nations well.

Cooper was looked upon as the public servant of the Choctaws and Chickasaws in solving difficulties, but was seldom consulted or followed in matters of policy. For example, when the Comanches were causing damage along the western border area, he was asked as the proper public official to lead a scout in that direction. He responded, perhaps too eagerly, at no little danger to his person and with bland disregard for the cost of an armed expedition to the Wichita Mountains in search of Comanches. His willingness in this instance to serve the Choctaws and Chickasaws without regard to personal or public

cost was typical. But when survey and allotment in severalty was recommended by the Commissioner of Indian Affairs through Cooper, and with his full support, neither the Choctaws nor the Chickasaws accepted it, although after the war, when Cooper was no longer their agent, the Chickasaws changed their mind.

Among Cooper's accomplishments as an agent was his discovery that the Choctaw Nation could claim, by previous treaties, title to the land west of 100^o west longitude lying between the Canadian and Red rivers. The quitclaim payment to the Choctaws of \$200,000, negotiated in the Choctaw and Chickasaw Treaty of 1855, can also be attributed to Cooper on the basis of his personal intervention to bring the stalmated treaty negotiations to a successful conclusion. In this particular instance, the indications of Cooper's exceptional value as an Indian agent were displayed. He was perceptive and thorough in his research, ready to act on behalf of the people whose agent he was, and wielded sufficient influence to obtain results.

After ratification of the Choctaw and Chickasaw Treaty of 1855, Cooper permitted his wife to accept a gratuity from an appreciative counselor for the Choctaws during the negotiations. The \$200,000 quitclaim payment had increased the counselor's contingency contract fee and, by speeding the conclusion of the treaty, Cooper had also expedited receipt of the fee by the counselor. Allowing his wife to receive the gratuity when he, as an agent, could not was a practice that was not uncommon among Indian agents and was considered legal. But the procedure was a deliberate circumvention of the law and involved a question of ethics. His action in this instance raises the question of his ethical position later when entering into and participating directly

in the contingency contracts after the Civil War in which Shanks alleged that the fees were exorbitant and fraudulently designed.

In the Civil War, Cooper's association with the people of the Indian Territory was broadened to include the Seminole, Creek, and Cherokee nations. He was a field officer and second in command under Pike (1861-1862), Steele (1863), and Maxey (1864). Pike, as commanding officer, was also charged with or assumed superintendence of Indian affairs. Pike's role as advocate on behalf of the Indian allies fell vacant when Steele, who was ignorant of the treaties and Indian affairs in general, succeeded to Pike's command. Military demands upon the Indian nations were enlarging and their treaty rights were being increasingly neglected. Cooper was confident that he could rectify the situation and improve the management of Indian affairs if given the command. Neglect of the people of the Indian Territory, many of whom he had known for a decade, concerned Cooper and caused him to ask repeatedly for the command.

Cooper's accomplishments on behalf of the people of the Indian Territory during the Civil War center around such objectives as security and protection. In the early months of the war, his efforts to drive Opothleyahola and his adherents from the Indian Territory helped reduce the incidence of guerrilla warfare and outlawry in the midst of the Indian nations. He was always conscious of the need to station himself as far north as possible in the Indian Territory in order to afford a semblance of protection and security, even when the forces at his disposal were not strong enough to make a stand if the Federals approached. When Cooper succeeded Maxey in command late in the war, he issued orders for soldiers to repair farming tools at no charge to the farmers and

otherwise helped to speed food production. His leadership in the final months was directed toward maintaining order and conserving human resources.

Cooper was not a successful field commander. His victory at Newtonia, Missouri, on September 30, 1862, was the only military triumph to which he could lay claim. Less than a month later he was defeated at Old Fort Wayne and lost his artillery. He was defeated again at Elk Creek, or Honey Springs, on July 17, 1863. Even though he scored a victory at Newtonia, the area was so far advanced that it could not be held. Granting that he was ill at Old Fort Wayne and that he was under orders to strike even farther north, he exercised poor judgment in not employing sufficient scouting parties at such an advanced camp. At Honey Springs the discovery of defective powder after the attack began showed a serious lack of preparation. The fact that he made the decision to fight rather than withdraw toward a union with Cabell's approaching forces indicates an inaccurate assessment of his strength or poor tactical planning. The skirmish later at Perryville was only a rearguard action to gain time for the arrival of Texas reinforcements. In fairness to Cooper, it would have been difficult for any Confederate commanding officer, given the circumstances in the Indian Territory, to have withstood the pressure of the Union army. He should also be commended for his continuous service without leave from the beginning to the end of the war.

In the third and last phase of Cooper's career with the people of the Indian Territory, again primarily with the Choctaws and Chickasaws, he performed unquestionably beneficial service despite the adverse publicity. His work in regard to the Choctaw and Chickasaw

reconstruction treaty was not to take advantage of these Indian tribes regardless of the allegations by Shanks. The treaty was good for the Choctaw and Chickasaw nations, and Cooper contributed substantially to it. It is important to note that the pay Cooper received, \$16,000 of Latrobe's fee from the Choctaws and \$10,000 of Latrobe's fee from the Chickasaws, was for his work in the negotiation of the reconstruction treaty and an advance on recovering, at a fifty percent rate, a total of \$400,000 in back annuities. Considering that the back annuities were lost without a competent agency to research them and secure payment, they were more reasonable contracts than Shanks portrayed them. At their signing, the back annuity contracts were designed to bring a minimum net recovery of \$100,000 to the Choctaws and a like amount to the Chickasaws.

Some misconceptions of Cooper's activities have gained acceptance that should be reconsidered. For instance, he has been credited with wielding a strong influence upon the Choctaws and Chickasaws to withdraw from the Union and declare for the Confederate States. By his own admission he was instrumental in aiding Pike in negotiating the Confederate treaties, but the decisions to withdraw from the Union were not under his control and were reached while he was in Washington. Cooper has also been represented as an unreconstructed rebel, primarily because he did not formally surrender in the field as did Brigadier General Stand Watie. The actual cause was the confusion among the Union commanders and their inability to send a force to take custody of the military equipment when Cooper asked them to relieve him of the responsibility. Cooper did oppose a formal military surrender, but it was because he respected the prerogatives of the governing bodies of

the individual Indian nations in this instance just as he had as an Indian agent and when the decisions to withdraw from the Union had been made. He applied for a pardon, taking the loyalty oath, and cooperated with the Union peace commissioners in an orderly transition to peace. In another instance, Cooper was not found guilty of defrauding the Choctaws of the corn money as Shanks had alleged. Although the judgment was rendered against the sureties on Cooper's bond, it was a lawsuit for violation of non-theft conditions of the bond. But the violations did not include diversion of Choctaw funds by Cooper to his own purposes.

During the twenty-six years of his association with the Choctaws and Chickasaws, Cooper demonstrated a singular interest in their welfare, to the neglect of his family and the exclusion of friends and home in Mississippi. He served his country in the Mexican War and the Confederacy in the Civil War, but his most devoted service began in 1853 with the Choctaws. Simple justice suggests that his work, sometimes misunderstood, be reconsidered and appreciated.

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VITA 2

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