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Negotiating Unacceptable Behavior:  
Southeastern Indians and the Evolution of  
Bilateral Regulation on the Southern Colonial Frontier

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## Abstract

### Negotiating Unacceptable Behavior: Southeastern Indians and the Evolution of Bilateral Regulation on the Southern Colonial Frontier

By Beverly S. Sylvester

When Indians and Englishmen came into contact on the southern colonial frontier, they brought with them conflicting ideas regarding behavior that was acceptable or – more important – unacceptable. “Unacceptable behavior” is a broad term, which encompasses everything from military invasion to threat to crime to insult to excessive toleration. As trade and other contacts between Indians and colonists multiplied, each discovered more and more ways that the “other” provoked them. Acceptable behavior on one side of the frontier that was unacceptable on the other side inevitably led to reaction and confrontation. Unless they were willing to fight, both were obliged to engage with the other to relieve the pressure. This study explores this clash of behavioral ideals on the southern frontier, from ideological origins, to actual conflicts, to eventual “resolutions” in the intercultural context of the frontier zone.

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## LIST OF ABBREVIATIONS

<i>CGHS</i>	<i>Collections of the Georgia Historical Society</i>
<i>CGHS, Habersham</i>	<i>Collections of the Georgia Historical Society, volume VI</i> "The Letters of the Honorable James Habersham, 1756-1775"
<i>CRG</i>	<i>Colonial Records of the State of Georgia</i>
Cuyler MSS	The Telamon Cuyler Collection of Governors' Papers, 1756-1786, University of Georgia Libraries
<i>EAID</i>	<i>Early American Indian Documents</i>
Egmont MSS	The Phillipps Collection of Egmont Manuscripts, University of Georgia Libraries
<i>Ind Bk 1710-18</i>	William L. McDowell, ed., <i>Colonial Records of South Carolina: Journals of the Commissioners of the Indian Trade, September 20, 1710-August 29, 1718</i>
<i>Ind Bk 1750-54</i>	William L. McDowell, ed., <i>Colonial Records of South Carolina: Documents Relating to Indian Affairs, 1750-1754</i>
<i>Ind Bk 1754-65</i>	William L. McDowell, ed., <i>Colonial Records of South Carolina: Documents Relating to Indian Affairs, 1754-1765</i>
Lyttelton MSS	Sir William Lyttelton Papers, William L. Clements Library
R.S.U.S.	"Records of the States of the United States of America." ed. William Sumner Jenkins (Library of Congress microfilm, 1949)
Salley, <i>JCHA SC</i>	Salley, A.S., ed., <i>Journal of the South Carolina Commons House of Assembly, 1736-1739</i>
Salley, <i>JGCSC</i>	Salley, A.S., ed., <i>Journal of the Grand Council of South Carolina</i>

Salley, Jrnl of Col. Herbert	Salley, A.S., ed. <i>Journal of Colonel John Herbert, Commissioner Indian Affairs for the Province of South Carolina</i>
S.C.C.H.J.	South Carolina Commons House Journal
S.C.C.J.	South Carolina Council Journal
<i>SCG</i>	<i>South Carolina Gazette</i>
<i>SCGCJ</i>	<i>South Carolina Gazette and County Journal</i>
S.C./ P.R.O.	“Records in the British Public Record Office Relating to South Carolina, 1663-1762,” South Carolina Department of Archives and History
Stephens, <i>Journal</i>	Stephens, William., ed. <i>A Journal of the Proceedings in Georgia Beginning October 20, 1737.</i>

## Preface

From the day Southeastern Indians and English colonists first came into contact, a process of negotiation began by which each side sought to assert control over the actions and behaviors of the other. Whereas Anglo-Indian interaction generally focused on control of land in colonies further north, in the Lower South -- South Carolina, Georgia, and the two Floridas—attention usually focused on the trade that both sides considered vital. Unlike the situation in New England, in South Carolina and later, Georgia and the Floridas, the English encountered native peoples whom they could not quickly dominate. Thus, discussion and compromise were necessary to assure that the trade continued to flow. The following study will explore the process of negotiation that took place in the Lower South from 1670 to 1776, through an examination of the behavioral conflicts recorded for this period. Moreover, it will seek to reveal any existing patterns to the types of misbehaviors each group complained of, how these conflicts were resolved, and how these may have changed over time.

While the earliest studies of the native peoples of the Americas focused almost entirely on the policies of Europeans towards the Indians, in more recent times an awareness of the significance of interactions between Europeans, Indians and Africans has led to better understanding of the events that took place and their impact on all the groups involved. With the publication of Verner Crane's *The Southern Frontier* in 1928, historians began to take a larger view, and as Crane did, to present the participants of frontier interaction on more equal terms.

Studies of specific Indian societies began to address notions of law, or more rightly, law-ways, and to consider how differences in perspectives regarding appropriate or acceptable behaviors influenced the ability of Europeans and native peoples to coexist peacefully. John Phillip Reid's *A Law of Blood* published in 1970, for example, delved deeply into traditional Cherokee notions of justice, jurisdiction, and unacceptable behavior, both within the nation and as applied to outsiders. Through his work, Reid revealed that the Cherokees traditional "law of blood" frequently came into conflict with Anglo-American ideals, creating situations in which both sides were forced to adapt to maintain the peace necessary for trade. Over time however, as the number and power of the Anglo intruders increased, customary notions of justice were forced to the side. "The price of vengeance was now too high, retaliation led to war and the nation faced annihilation if men were not held in check."<sup>1</sup>

In examining the interaction between English colonists and the Southeastern Indians, it is important to be cognizant of the similarities as well as the differences between English law and Indian law-ways. As Reid noted, Cherokee law-ways were based on customary rules, in many ways comparable to the reliance of the English during this period on common law rather than on written, statutory law. What distinguished them more than their basis was their enforcement. While among the English, "law was custom backed by the coercive state," for the Cherokees, like most of the Southeastern Indians, "law was custom enforced largely through internal sanctions and partly by external sanctions applied by neither legal institutions nor coercive force."<sup>2</sup>

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<sup>1</sup> John Phillip Reid, *A Law of Blood*, New York: University Press, 1970, 275.

<sup>2</sup> *Ibid.*, 13.

While all societies distinguish between acceptable and unacceptable behaviors, they do not always define both. Ordinarily only those acceptable behaviors deemed to be positively required (such as paying taxes), are specifically delineated. Many others are merely tolerated. Societies are especially likely to avoid defining behaviors near the outer limits of what they will tolerate lest they increase behaviors they permit only reluctantly, by announcing that they will tolerate them. On the other hand, societies always define unacceptable behaviors because they invariably attempt to prevent, suppress, or punish them. Public action to prevent, suppress, or punish a behavior necessarily is predicated upon a commonly understood definition of that behavior. Furthermore, by defining unacceptable behaviors, societies indirectly define the outer limits of acceptable behaviors. When we learn what societies proscribe we can infer what they will permit. By defining what they will not tolerate, societies in effect establish an abstract but socially approved boundary line between acceptable and unacceptable behaviors.

As the cases in this study will reveal, however, societies do not always agree on what behaviors should be tolerated. Behaviors permitted by one society may be prohibited by others. Moreover, even when they forbid the same activities, different societies may do so for different reasons; and, they may proscribe those activities in different ways. In colonial North America the English colonies and the various local Indian tribes had very different ways of defining behaviors they found intolerable. The English ordinarily did so through formal written laws enforced by the colonial governments, or sometimes through orders issued by colonial governors or other appointed officials theoretically representing the English Crown. Among the Indians,

longstanding custom usually defined unacceptable behaviors, but recent consensus decisions by chiefs representing town, clan, or tribe could alter customary rules.

When diverse societies come into extended physical contact with one another, boundaries of behavior can become blurred. But what happens, specifically, when two different patterns of unacceptable behaviors, enforced by two disparate societies, come into contact? In the intermediate zone of mutual influence (what Richard White calls the “middle ground”) how do differences in the ways the varying cultures define intolerable activities create conflict and how are they ultimately resolved?<sup>3</sup> Moreover, given the multiplicity of individuals and interests within the various societies, to what degree can a viable set of rules regarding behaviors in the zone ever be created? And finally, if such rules are established, how equally can they be said to apply to both societies or to all regions within the zone?

This study will examine the clash of definitions regarding unacceptable behaviors on the “middle ground” in the colonial Southeast. It will then turn to the more difficult task of determining the results of that clash. White found that ultimately the French and Algonquians in the Great Lakes region were compelled by the mutual desire for peace and trade “to find a means other than force, to gain the cooperation or consent of foreigners. [And that] to succeed, ...[they] had, of necessity, to attempt to understand the world and the reasoning of others and to assimilate enough of that reasoning to put it to their own purposes.”<sup>4</sup> It is reasonable to hypothesize that the same sort of thing happened among the British colonials and the major Indian tribes of the Southeast. If so, an

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<sup>3</sup> Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815*, Cambridge Studies in North American Indian History (Cambridge: Cambridge University Press, 1991).

<sup>4</sup> White, 52.

examination of the definition and regulation of unacceptable behaviors on the southern colonial frontier should reveal some aspects of this mutual accommodation. Did both the Indians and the English colonists attempt to assert their ideals and practices involving behavior and its regulation over the other? How successful were they in retaining their own ideals of behavior? Is there any evidence that “a process of mutual invention” such as that found by White, took place in the Southeast and became the method by which the southern colonial governments and the major Indian tribes in the region defined and resolved behavioral conflicts?<sup>5</sup>

To understand the clash of legal cultures, it is important to consider the exact nature of the various southern colonial, and Indian, societies’ conceptions of law and unacceptable behavior at the time of earliest interaction. How did the disparate cultural groups define what activities should be forbidden or restricted? What did those activities include? How did they set about regulating behaviors deemed inappropriate? And moreover, what social and/or civic institutions were in place or established for enforcing such regulations or laws? Although similar to English Common Law in their grounding in precedent and custom, “laws” among the native peoples of the southern region were much fewer in number than their colonial counterparts, and were both regulated and enforced in significantly different ways. Studies such as those by John Philip Reid regarding the Cherokee Indians, and Kathryn Holland Braund on the Creeks, have demonstrated the importance of clan structures and relationships in the “legal” processes of some southern Indian societies<sup>6</sup>. In addition, historians such as Steven Iretton and more

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<sup>5</sup> White, 50.

<sup>6</sup> Kathryn E. Holland Braund, *Deerskins and Duffels: The Creek Indian Trade with Anglo-America, 1685-1815* (Lincoln: University of Nebraska Press, 1993), John Phillip Reid, *A Law of Blood: The Primitive Law of the Cherokee Nation* (New York: New York University Press, 1970), John Phillip Reid, *A Better Kind of*



recently Robert A. Williams, Jr., have made clear the attempts of native cultures to assert their understanding of law and the basis of legal relationships into intercultural negotiations and treaties.<sup>7</sup> The degree to which the Indians were successful in doing so during this period remains to be proven however.

Among the most significant works on the interaction of Indian and British colonial legal systems is Yasuhide Kawashima's study of the Puritan-Indian frontier in New England. Kawashima divides the period in which white man's law was "extended" over the New World into three overlapping stages. The second of these he defines as an era of "legal coexistence," which occurred in New England from 1634 to 1676. During this stage, in negotiations and treaties, he argues both the larger Indian nations and the colonial authorities maintained a relatively equal status. Moreover, a "mutual respect of jurisdiction," was achieved, and a system established, whereby interracial conflict over land and trade relations could be handled effectively.<sup>8</sup> This study will seek to identify the stages of intercultural legal development in the Southern colonies. Is it possible that a stage comparable to New England's "legal coexistence" occurred on the southeastern frontier? Was there a distinct period in which the colonial governments and the southern Indians attained a general parity or equality in the creation and enforcement of rules regarding unacceptable behavior in the contact zone between them? Was it even possible, given the scattered nature of settlement and Indian-white interaction on the southern

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*Hatchet: Law, Trade and Diplomacy in the Cherokee Nation During the Early Years of European Contact* (University Park: Pennsylvania State University Press, 1976).

<sup>7</sup> Steven W. Ireton, "Conflict Resolution and Indian Treaties on the American Indian Frontier, 1730-1768" (Ph.D. dissertation, University of California, Santa Barbara, 1987), Robert A. Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800* (New York: Oxford University Press, 1997).

<sup>8</sup> Yasu Kawashima, *Puritan Justice and the Indian* (Middletown, Connecticut: Wesleyan University Press, 1986), 228-33. The first stage he defined as the Extraterritoriality Phase from 1620-1637, and the last was the Period of Legal Imperialism from 1676-1763.

frontier, for a viable “system” for defining and proscribing unacceptable behavior to have been created?

As early as 1629 Council records reveal Virginia colonial officials demanding “satisfaction” from the Indians for the murder of five settlers, based on treaty agreements previously established.<sup>9</sup> Regulating behavior in intercultural contact had been an issue from the moment settlers arrived in the southern colonies of North America. In colonial Virginia the English almost immediately attempted to attain submission of the local Indians and their leader Powhatan to English authority. Through a symbolic “coronation,” the English hoped to relegate the Pamunkeys and their “king” to tributary status, through which their behavior could be regulated and controlled. “During the course of the Colonial period,” W. Stitt Robinson has noted, Virginia authorities came to define “at least three distinct groups of natives,” whose legal status determined, among other things, how their behavior would be defined and regulated.<sup>10</sup>

The first category included free and enslaved “individual” Indians living within English communities without “tribal” ties. Such detribalized natives were subject to colonial law and special slave codes. For those tribes accepting the status of “tributaries,” a number of laws were specifically enacted and proclamations issued directing appropriate behavior and action. Although they “retained most of their own tribal laws and customs,” colonial officials often settled disputes between tributaries and other tribes,

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<sup>9</sup> W. Stitt Robinson, ed. *Virginia Treaties, 1607-1722*, vol. 4 (1983) of *EAID*, 58.

<sup>10</sup> W. Stitt Robinson, “The Indian Policy of Colonial Virginia” (Ph.D. diss., University of Virginia, 1950), 279.

and even between members of the same group. Moreover, in many cases the Laws of Virginia applied to the tributary Indians in the same way they did to whites.<sup>11</sup>

It was mainly among the third category of Indians described by Robinson in colonial Virginia “the foreign tribes,” that legal relations and decisions regarding unacceptable behavior most often entered the realm of negotiation and compromise. Treated with as “independent political communities,” it was with these Indians that colonial officials had the most difficulty asserting and enforcing their own legal ideals.<sup>12</sup> For the Virginia government, the main Indian society of this kind was the Cherokees. As John Philip Reid amply demonstrated in his significant work on “Law, Trade and Diplomacy in the Cherokee Nation” during the early colonial period, the more powerful tribes were often successful in maintaining their own legal ideals. According to Reid, “It was British law, not Cherokee law, that had to be altered, and it was the British, not the Cherokees, who had to change their ways.”<sup>13</sup> Nevertheless, in Virginia, as in New England, by the third quarter of the seventeenth century, most Indians living within the boundaries of the colony were isolated individuals or had accepted the status of tributary (or settlement) Indians.<sup>14</sup> Farther South, however, such does not appear to have been the case.

In a study of “Indians and Southern Colonial Statutes,” Kawashima finds “a variety of legal treatments of Indians reflecting particular situations and circumstances in the different colonies.”<sup>15</sup> Most of the laws regarding Indians in Virginia and Maryland

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<sup>11</sup> W. Stitt Robinson, “The Legal Status of the Indian in Colonial Virginia,” *Virginia Magazine of History and Biography* 61, no. 3 (1953), 247.

<sup>12</sup> Robinson, “The Legal Status of the Indian in Colonial Virginia,” 247.

<sup>13</sup> Reid, *A Better Kind of Hatchet*, 189.

<sup>14</sup> Robinson, “The Legal Status of the Indian in Colonial Virginia,” 248; Kawashima, 233-39.

<sup>15</sup> Yasu Kawashima, “Indians and Southern Colonial Statutes,” *Indian Historian* 7 (1974), 15.

dealt with the tributary Indians and issues of land. The central issue involved the protection of Indian lands (acknowledged to have been received from the King of England) from the encroachments of white settlers. In the Carolinas and Georgia, however, the situation differed significantly. In North Carolina, unlike Virginia and Maryland, statutes ordinarily did not distinguish between “independent” and “tributary” Indians. In South Carolina, however, the majority of the numerous laws related to Indians applied specifically to the “independent” tribes and attempts to regulate trade with them. In Georgia as well, concern was for laws designed to control relations with the more powerful independent tribes like the Creeks.<sup>16</sup> This study will consider these differences in statutory law, and will examine how unacceptable behavior was variously defined and enforced. Moreover, it will look at the numerous treaties between the colonial governments and the various tribes, and consider any apparent changes to their content or construction during the colonial period.

Initial examination of treaties between the Southeastern Indians and the southern British colonies indicates that some accommodation did indeed take place in the realm of law and the policing of unacceptable behavior on the southern frontier. In earlier treaties, such as that between Georgia’s James Oglethorpe and the Lower Creeks at Savannah in May 1733, and between Carolina’s Governor Robert Johnson and representatives of both the Upper and Lower Creeks a year earlier, for example, the Indians appeared to submit themselves to British legal authority while retaining the right of initial “indictment” of Indian “criminals.” In agreeing to “deliver up any of [their] People who shall be guilty of the crimes [enumerated] to be tryed[sic] by the English Laws,” the Creeks in effect renewed and extended an earlier promise of “Humble Submission” to the English Crown

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<sup>16</sup> Kawashima, “Indians and Southern Colonial Statutes,” 10-11.

and its colonial governors given in 1705.<sup>17</sup> By the time of the Augusta Treaty in 1763, however, both explicit and implicit promises of submission to English law had disappeared from such agreements.

In the Augusta Treaty the British government and the major southern Indian nations made peace following the Seven Years' War. Here the governors of Georgia, Virginia, the Carolinas, and the British Superintendent of Indian Affairs for the Southern District, John Stuart, agreed that the Indians themselves should henceforth be responsible for punishing members of their nations guilty of offenses against the colonists.<sup>18</sup>

Although British colonial authorities also insisted that any Indian or Indians killing whites should thereafter "without any delay, excuse, or pretense whatever, be immediately put to death," they nevertheless had relinquished authority they had previously claimed to enforce such a sentencing in certain cases. What forces compelled the negotiations and adjustments in thinking that allowed both groups concerned to achieve the apparently more equitable legal agreement reached by 1763? And moreover, what did this adjustment in treaty demands indicate about the ability of the British and their colonial officials to enforce earlier demands to control the trial and punishment process on the frontier?

Beyond the realm of written laws, statutes, and treaties, custom and practice defined unacceptable behavior on the frontier. Sources such as *The Shaftesbury Papers* reveal that despite the agreements made between early South Carolina officials and the Indians, in practice the regulation of behavior depended on the ability of those concerned

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<sup>17</sup> W. Stitt Robinson, ed. *North and South Carolina Treaties, 1654-1756*, vol. 13, (2001) of *EAID*, 90-91; "The Humble Submission of Several Kings, Princes, Generals, Etc. to the Crown of England" in "Indian Treaties Cessions of Land in Georgia, 1705-1837" (Typescript, Georgia Department of Archives and History, 1941), 1-3.

<sup>18</sup> W. Stitt Robinson, ed. *Virginia Treaties, 1723-1775*, vol. 5, (1983) of *EAID*, 297.

to enforce those agreements. For example, a Journal of the Grand Council in February 1672 complains of the “long time practice” among the local Indians of killing and stealing settlers’ hogs, and authorizes an expedition to locate and bring in the offending Indians to be “proceeded against.” Others dealing with the murder of whites by Indians, and vice versa, demonstrate that often force, especially in the early years, was the only effective means of coercing appropriate behavior on the frontier. Further analysis should be most revealing, moreover, in understanding the earliest attempts of South Carolina officials to come to terms with the gap between the regulation and enforcement of behavior.<sup>19</sup>

A significant portion of the research for this study came from the colonial records of the southern colonies, particularly those of Georgia and South Carolina. The collection from the latter known as the South Carolina “Indian Books” was especially revealing of the situation on the frontier, particularly with regard to the Indians’ perceptions of colonial laws and treaties. In their complaints to the various Indian commissioners, the native people in the South demonstrate how their ideals of appropriate behavior and means of enforcing it differed significantly from the whites. In November of 1750, for example, Commissioner William Pinckney received a report that the Choctaws were refusing to deliver up several of their members guilty of murdering whites. They refused, they explained, because the whites killed had been “litle [sic]

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<sup>19</sup> *The Shaftesbury Papers*, ed. Langdon Cheeves, (“Collection of the South Carolina Historical Society,” vol. 5, 1897; reprint Charleston: Tempus Publishing Co., 2000), 420 and passim.

people” of no great influence while the Indians involved were “great Men and Warriors.”<sup>20</sup>

Before considering the misbehavior data in detail, it is important to note that it has serious limitations, especially with regard to Indian complaints. Whether directly or indirectly, all of the information included in this study derives from English sources. Even when dealing with Indian complaints, the sources reveal only what Englishmen chose to record. It is entirely likely that some complaints were not recorded because the Englishmen receiving the complaints believed the Indian source to be lying, or found the accusations trivial or exaggerated. Certainly the number of cases designated as Indian complaints would be higher had Indians been the ones keeping the records. Thus, the picture of behavioral conflict that emerges from the data is admittedly biased in favor of the English and against the Indians. As best as possible, however, Indian complaints, whether formal or informal, have been culled from the available sources, and allowances made for the inherent imbalances.

The most important records bearing on behavioral problems between colonists and Indians of the Lower South are not judicial, but administrative or diplomatic. The most important collection of published records for this subject is found in a half dozen volumes of *Early American Indian Documents: Treaties and Laws, 1607-1789*, published between 1979 and 2004. Neither this collection nor any other, however, contains a significant compilation of records on court cases that involved Southeastern Indians. Such cases were rare and poorly documented. Editors Alden T. Vaughan and Deborah A. Rosen noted the “practical limits of the *EAIID* series excluded attempts to locate such

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<sup>20</sup> William Sudders to Commissioner Pinkney, Nov. 11, 1750 in William L. McDowell, *Colonial Records of South Carolina: Documents Relating to Indian Affairs, May 21, 1750- August 7, 1754* (Columbia: South Carolina Archives Dept., 1958), 3.

documents, but called for the “ongoing collection and examination of judicial records” to provide a more complete understanding of Anglo-Indian interactions related to laws and legal systems.<sup>21</sup> Such records, they believed, would reveal much about Indian and Anglo-American attitudes towards law and the attempt to regulate interaction on the frontier. Laws were created, but how rigorously were they applied and enforced to punish the various groups coming into contact in the Lower South?

The case of the rape of a white woman by a Catawba Indian in 1742 is a prime example.<sup>22</sup> Due to the apparent “misunderstanding” by the Indian of the heinous nature of the crime in white society and the death penalty it carried, the “law” in this case was effectively ignored, apparently to preserve peaceful intercultural relations.<sup>23</sup> What does this say, then, about the nature of unacceptable behavior on the frontier? To what extent was this negotiated settlement exemplary of the type of “law” that was being practiced in the intermediate zone? Moreover, what might this and other documents included in the collection reveal about the evolution of legal understandings and practices of both Indians and colonial officials in the zone of interaction? What rules regarding unacceptable behavior applied to both groups? Which intolerable behaviors were deemed culture-specific? How might a negotiated rule be circumvented, overruled, or replaced?

While court records for Virginia, Maryland and North Carolina are still largely in existence, those for the colonies of South Carolina, Georgia and East and West Florida are extremely limited. Records from Virginia and Maryland reveal numerous trials involving Indians, due likely to the existence of large numbers of tributary and individual Indians living within the bounds of the colony. One recent study of crime in colonial

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<sup>21</sup> Alden T. Vaughan and Deborah A. Rosen, *EAID* XVI, xx.

<sup>22</sup> Incident 28.

<sup>23</sup> Robinson, *North and South Carolina Treaties, 1654-1756*, 322.



North Carolina that included an analysis of the available court records demonstrates, however, that only a handful of Indians were brought before the English courts there. The author concludes that this was most probably “a result of their small number in the colony’s population.”<sup>24</sup> Although we may never know the extent to which any category of Indians were brought before the courts in South Carolina due to the lack of court data, The *Shaftesbury Papers* and Indian Books reveal to some degree the extent to which colonial officials *tried* to bring Indians before the courts, and the difficulties they encountered in their efforts. In Georgia and the Floridas as well, other sources such as the proceedings of the Council and the papers of the various Governors of the colony reveal some efforts to bring the Indians into the colony’s courts, but reveal more about the resolution of disputes on the frontier. Moreover, newspapers from the various colonies, in particular the *South Carolina Gazette*, provided Indian-related articles and were a source of important data on colonial perceptions of Indian behaviors.<sup>25</sup>

Resolving issues of behavior on the frontier involved both whites and Indians, and both groups could be influential in the defining and regulating of unacceptable actions. Moreover, it appears that both groups could be involved in subverting certain established laws or norms for behavior on the frontier as well. For instance, when the Georgia Trustees established the colony and limited landholding by individuals to fifty acres, they may have unwittingly created a situation in which an unacceptable behavior became acceptable by custom and common practice. Evidence of large cowpens established during the Trustee period indicate that Georgia cattlemen were grazing their herds on

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<sup>24</sup> Donna Spindel, *Crime and Society in North Carolina, 1663-1776* (Baton Rouge: Louisiana State University Press, 1989), 74.

<sup>25</sup> Wes Taukchiray, "American Indian References in the South Carolina Gazette," *South Carolina Historical Magazine*, 94 (1993).

Indian lands, sometimes with the agreement of the Indians whose land was involved. Although it was against the intentions of creators of the law in Georgia, such situations indicate that some types of formally inappropriate behaviors were more readily tolerated than were others.

Throughout the colonial period, examples exist of colonial governments demanding the enforcement of treaties and laws to regulate behavior. Until the mid-1760's, moreover, it appears that the colonial governments in each of the southern colonies attempted to retain the prominent position in deciding who was guilty of breaches in behavior and in meting out appropriate punishment. By the Treaty of Augusta in 1763, however, something clearly changed. Two years later the change became even clearer with a speech given to the Choctaws and Chickasaws by Indian Superintendent John Stuart. In a significant adaptation of early policies, Stuart stated that thereafter disputes between the two tribes and the traders and colonists on their part of the frontier would be resolved jointly by a Commissary appointed by the British government, and "any one or more of ...the Great Medal Chiefs."<sup>26</sup> What is yet to be described however, is exactly how and why such an adjustment took place, and the degree to which such changes indicated a period of relative equity in intercultural legal relations on the southern frontier. Was the fact that the British government began making greater concessions to the Indians than previously merely an odd moment due to a very expensive and painful war? Or, did it indicate a longer trend? If the latter proves true, it would seem to run counter to other trends regarding Indian-white relations.<sup>27</sup>

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<sup>26</sup> Dunbar Rowland, ed. *Mississippi Provincial Archives, 1763-1766: English Dominion* (Nashville: Press of Brandon Printing Co., 1911), 229.

<sup>27</sup> Indians were for the most part becoming relatively weaker in their relations with the English colonists and government, and being looked at more prejudicially by them.

The core of this study comes from the collected cases or incidents of unacceptable behavior, the details of which were found in the available sources, many previously mentioned. The tool of greatest use in compiling this monumental amount of information into a coherent form for analysis is the computer database. By creating fields for quantifying data such as type of behavior, colony and Indian nation involved, type of outcome, etc., it is possible to search for patterns that may indicate the existence of clear periods of interaction and to examine change over time. A database also, however, reveals the inherent limitations of the sources, especially their frequent failure to mention the ultimate resolutions to the various complaints or “crimes.” Cases brought before top colonial officials (often the governor and council) may have recorded a description the punishment or action to be taken. On the other hand, incidents that took place on the frontier, usually recorded only in correspondence between colonial officials, frequently did not. At most, officials may have explained to their superiors the actions they had undertaken in demanding satisfaction from the Indians for some incident of misbehavior, and the subsequent assurances they received from the Indians that they would comply. In the most revealing cases, actual punishments or executions for misbehaviors are described in detail, thus revealing much about both Anglo and Indian attitudes towards justice.

It is difficult to select terms to describe and delineate the various peoples interacting on the frontier of the Lower South without introducing derogatory meanings. Prior to the arrival of Europeans there was no single terms for all the native peoples living on the newly discovered continents. Both “Indians” and “Native Americans” are terms created by Europeans. Realizing, however, that the latter is a more contemporary

effort to replace a term used by colonizers, in a somewhat misguided effort to assuage a sense of guilt over the imposition of the original designation, however incorrect, this study will employ the former. Whenever possible, the specific name of the group will be used. In addition, terms such as “tribe” and “nation” which have frequently been applied incorrectly to delineate the polities existing within Indian groups, can be problematic. In this study the term “nation” will be used to describe the larger entities such as the Creeks, Cherokees, Choctaws and Chickasaws, while the terms “tribe” or “band” will be employed only for the smallest groups.

The term “white” is frequently used to describe all individuals of European descent, and is often used when the specific colonial or European origin of an individual is not specified in the records. Whenever possible, the terms Anglo or English are used more specifically to indicate the origin of the person. Designations as to the colonial alliance of the individual are also used, such as Carolinian.

Although my sources may refer to Indian “kings” or “chiefs,” I have normally preferred to describe such individuals as “headmen,” a more neutral term that more accurately reflects the collaborative character of native leadership. Direct quotations always include the original wording and capitalization, and (with a few minor adjustments) the original spelling and punctuation.

The case of the Catawba Indian rapist would seem to indicate that defining unacceptable behavior on the southern frontier became a negotiated issue at least a decade before the treaty that formalized it. Moreover, it demonstrates the need for a more thorough understanding of how outcomes varied depending not only upon the colony or official venue involved, but also upon the Indian nation, tribe, or clan involved.

Circumstances and concerns varied within the various societies on the southern frontier as much as between them. And, what held true for one situation did not necessarily have applied in all cases. A careful analysis of the definition and enforcement of unacceptable behavior in the new, intercultural world of the colonial Southeast should help us to understand the evolution in the realm of law there. Moreover, in seeking to understand how ideas of inappropriate behavior developed into both written laws and customary practice on the frontier, it may be possible to better perceive the development of early American law, particularly with regard to Indians and the acceptance of treaties as binding law.

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## Chapter One South Carolina 1670-1715

During the first forty-six years of English settlement in South Carolina, only forty-seven recorded incidents of unacceptable behavior drew complaints from colonists or Indians. Involving everything from theft and trespass, to rape and murder, these cases, viewed individually and as a whole, reveal a great deal about the types of conflicts that arose as a result of the new cultural interactions taking place during the early years of settlement. In addition, they point to the underlying causes of the Yamasee War, the most consequential war southern colonists ever fought with the Indians. It was to claim the lives of nearly a hundred Carolina traders, bring an end to the trade in Indian slaves, and result in the complete reevaluation of the manner in which trade was to be conducted in the region.

Most significantly, but perhaps not surprisingly, 83% of the complaints made during this pre-Yamasee War period came from the Indians, and 53% of those came from the Yamasees. In addition, in most cases, nearly 64% of the time, the acts of misbehavior garnered the disapproval of both the Indians and the Carolina authorities. In 51% of the incidents of behavioral conflict in this period, the outcome of the case is unknown. Authorities negotiated thirty-two percent of the incidents, and 21% resulted in some kind of payment or payoff to appease the complainant.

What is significant about the percentage of Indian complaints in this period is that it was far higher than at any other time during the colonial period. It made sense for the Indians to appeal to the colonial government for redress, even if the majority of the time the appeals were made through mediators on the frontier rather than directly to the

courts. Although the Indians understood little of how the colonial government operated, they knew that it had some control over the traders and other colonists. The question then becomes, why were Indian complaints unusually profuse during this early period? What conditions existed during these years that led the Indians to have so many complaints to make, and why were they so willing to express their dissatisfaction to colonial authorities?

On the surface, the imbalance in the number of Indian versus colonist complaints would seem to indicate that the Carolina colonists had less to complain about than the Indians did during this period. Certainly, the Yamasee War is evidence that some Indian groups were deeply dissatisfied with the interactions taking place on the Southern Frontier. What seems more likely, however, is that during these earliest years of settlement, the colonists felt compelled to seek justice for their grievances directly from Indian leaders rather than colonial leaders. Unlike regions like New England (and even early Virginia) where defeated, converted, and tributary Indians were frequently brought before colonial courts, the Indian nations on the Southern Frontier remained largely autonomous making Anglo-American jurisdiction questionable.<sup>28</sup> In all likelihood, it probably never occurred to most traders on the frontier to try to bring Indians before the Carolina courts during these early years. Moreover, it would have seemed more practical to deal directly with disputes on the frontier rather than awaiting correspondence to and from the colonial government.

Dealing directly with Indian leaders rather than asking the colonial government to use diplomacy or force was likely more expedient, but might also have offered another

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<sup>28</sup> Kawashima, *Puritan Justice and the Indian: White Man's Law in Massachusetts, 1630-1763*, (Middletown, Conn.: Wesleyan University Press, 1986), 15; Vaughan and Rosen, eds. *EAID XVI*, xxii.



advantage. Based on the number and types of complaints made by the Indians, it is evident that many traders were involved in questionable trade practices, while some were guilty of outright fraud or theft. In some cases, Indians accused traders of cheating them. Other case evidence demonstrates that in a number of incidents traders resorted to kidnapping, theft and violence to force the Indians to pay perceived debts, rather than Indian or colonial leaders for help. Perhaps some of these preferred to keep the eyes of the government away from what was really happening on the frontier. Despite a 1707 law to regulate the Indian trade, abuses by traders continued. Appeals to Indian leaders are less likely to appear in the available records and thus more difficult to document here. However, the instances of Indian complaints of traders' actions in stealing, kidnapping or committing other abuses under the guise of recouping their losses for the Indians failure to pay for trade goods indicates that Carolina traders were also dissatisfied and had harbored complaints, whether officially expressed or not.

As might be expected, the Indian nation with the greatest number of recorded grievances for the era was the Yamasee Nation, accounting for 47% of all the incidents. Only a single case involving the Yamasees, in fact, was a complaint made by Carolinians against the Indians. In addition, in 38% of the incidents for this period, the records failed to identify the Indian nation involved, so it is likely that well over half of the cases involved the Yamasees.<sup>29</sup>

The Yamasees had become "early leaders in the [slave] trade," and that trade had reached its "high-water mark . . . in South Carolina" in the years leading up to the war.<sup>30</sup>

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<sup>29</sup> See Appendix

<sup>30</sup> Ramsey, William L., "All and Singular the Slaves: A Demographic Profile of Indian Slavery in Colonial South Carolina" in Greene, Jack P. et al., eds., *Money, Trade, and Power: The Evolution of Colonial South Carolina's Plantation Society*, (Columbia: University of South Carolina, 2001), 168.

At the request of Carolinians, the Yamasees had relocated early in this period to Savannah River locations closer to the center of trade. Because of this move, however, factors such as the expansion and growth of Carolina settlements, the eventual decline of the Indian slave trade, and the decimation in coastal deer herds left the Yamasees deeper in debt to Carolina traders than other Indian nations such as the Creeks.<sup>31</sup> Thus, as the number of cases indicates, the Yamasees experienced more incidents of kidnapping and property theft and seizure by Carolina traders seeking to recoup their losses.

The type of misbehavior most frequently complained about during these early years of settlement was theft. Thirteen of the total forty-seven cases for this period (28%) were recorded protests from either the Indians or Carolinians about property being stolen. In eight of those thirteen documented incidents, the Yamasees accused the Carolinians of stealing from them.

Two of the earliest cases of theft were recorded in the Journal of the Grand Council in February 1672/73. On February 2, the Council, responding to complaints reported by “certain neighbouring Indians and enquiry being made, Ordered that Thos. Holton, Jno. Sullivan, and Jno. Pinke doe deliver the goods they have taken from said Indians and make full satisfaction.” Moreover, the offending trio was required to make restitution for the theft “at Ickabee” the following day, and in the event they failed to do so, the Council members issued “a warrant of distress for seizure of said goods to be delivered to said injured Indians.”<sup>32</sup> On the 23<sup>rd</sup> of the month, the Council responded to settler’s complaints of the killing and stealing of hogs by the Indians. Orders were issued for Major Thomas Gray to “take an expedition to inquire after the said Indians and take

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<sup>31</sup> Braund, Kathryn E. Holland. *Deerskins and Duffles: Creek Indian Trade with Anglo-America, 1685-1815*. (Lincoln: University of Nebraska, 1993), 34.

<sup>32</sup> Incident 43

as many as he can find to be proceeded against as their offence may deserve.” A little over one week later, Lieutenant Colonel Godfrey and Captain Richard Conant received similar orders to “enquire, apprehend” and bring before the Grand Council at Charles Town on March 6, Indians they suspected of being those reportedly “lurking about James Town,” and having “lately destroyed several hoggs there.”<sup>33</sup> No record exists, however, of any of the suspected Indians actually appearing before the Council on these charges.

Typical of the incidents involving the Yamasees was the complaint brought to the Commons House of Assembly in January 1702. The Yamasee known as Assendo complained that settlers John Henry and Joshua Brinan had stolen his canoe.<sup>34</sup> In the same record the Journal records Brinan was accused of “forceably” taking “six Hoogs Chest and Goods” from the Yamasee, Thomasa.<sup>35</sup> Other cases record the theft of Yamasee canoes, guns, and other property by English settlers during this period. In most cases, the outcomes were the same: the House ordered the perpetrators to return or make restitution for the stolen items.<sup>36</sup> On one occasion, however, such was not the case, and the Yamasees themselves rose to the defense of an accused Carolinian.

On February 5, 1703, Colonel Stephen Bull, informed the other members of the House that the Yamasees had made complaint against John Cochran. The Houspaw headman, among several other prominent Yamasees, accused Cochran of claiming “pretended Authoritye from the Governor” to take away the Indians’ plundered goods from an earlier attack on St. Augustine, including among other items, “Silks, handkercheifs [and] Shirts.” On February 17, however, the House records note that

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<sup>33</sup> Incident 45

<sup>34</sup> Incident 221

<sup>35</sup> Incident 215

<sup>36</sup> See incidents 223, 219, and 220

“several cassiques appeared” before the Assembly and provided testimony in Cochran’s defense, by which he was “vindicated” and his case was discharged. In an effort perhaps to maintain good relations with the nation, the House “Resolved that a Present of a Barrell of Powdr and Two hundred and fifty weight of Shott be Made to the Yamasees.”

<sup>37</sup> This case appears unique, not only because the Indians chose to defend a white man against the charges of another Indian, but also because it is one of the very few instances in early Carolina in which Indians appeared before the Assembly and in which their testimony was actually accepted.

Indians of unspecified nations (possibly the Yamasees) made complaints regarding several additional incidents of theft during the period from 1711 to 1712, each involving the stealing of slaves claimed by the Indians. In each case, white traders were accused of taking the slaves to satisfy debts owed by the Indians. <sup>38</sup> In July 1711, for example, John Fraser was accused of having “forcibly taken a slave from an Indian named Cohassee.”<sup>39</sup> Less than a year later, on April 17, 1712, an Indian named Wenoya complained that trader Hilden had taken from him a slave, whom he then forced the Indian to sell. <sup>40</sup> And in June of the same year, the Indian, Tuskena, complained to the Carolina authorities that his wife and a slave had been taken away from him by the headman of his own town, to pay off debts owed by the town to Carolina traders.<sup>41</sup>

Although the majority of cases involved theft, six incidents involving murder also appear in the records from this period, and the complaints were evenly divided, half being

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<sup>37</sup> Incident 214

<sup>38</sup> Incidents 226, 232, 233, and 234

<sup>39</sup> Incident 226

<sup>40</sup> Incident 232

<sup>41</sup> Incident 233

made by colonists, and half from the Indians. Interestingly, no cases were recorded for the nineteen year period from 1693 to 1711.

The first mention of an incident of murder recorded by the Carolina Proprietors appeared in a letter from Governor Joseph West to Lord Ashley in September 1671. West informed Ashley of “a very ill office done by an Irishman upon an Indian between Sr. Johns and Mr. Thomas Grayes & though the Indians seems to be satisfied,” West reported, he planned to continue looking into the matter. In addition, he mentioned that Sr. John Yeamans was involved in the affair, as the Irishman was “upon his Bayle; for feare the Indians recant their League.” A letter from Halsted to the Proprietors soon followed, adding more specifics, referring to “An Indian killed by Fitzpatrick about whom Sir J. Yeamans and West had a hot contest he [West ] suspects both Sir Jn. and Gray to have a hand in the Indians death.” By August 1672, it was reported in the Journals of the Grand Council that Henry Woodward and James Needham had been sent to pursue Bryan Fitzpatrick who had fled the colony and headed towards the Spanish, with orders to bring Fitzpatrick back “dead or alive.”<sup>42</sup> Although the murdered Indian was never identified in the records, and any recording of the final outcome of the pursuit of Fitzpatrick appears no longer existent, the misbehavior was clearly unacceptable to both the colonial authorities and Indians.

The first record of a complaint of murder against the Indians appeared on August 3, 1674. On that date the Grand Council issued orders to Captain Maurice Mathews to track down “the Kussoe Indians [that had] secretly murdered 3 Englishmen,” and “to take or destroy all or any of them.”<sup>43</sup> Just one month earlier, Mathews had been

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<sup>42</sup> Incident 44

<sup>43</sup> Incident 47

sent on an expedition to capture and return to Charlestown the Indian, Stonoe Casseca, whom the Council had been informed “hath endeavored to confederate certaine other Indians to murder some of the English nation and to rise in Rebellion against [the] settlement.”<sup>44</sup> There is no existing record to indicate that Mathews was successful, however. Thus, it seems reasonable to postulate that the Kussoes who committed the murders in August were the same men Mathews was in pursuit of in July.

Nearly twenty years later, the next complaint against the Indians for murder demonstrates the palpable fear of Indian reprisals among Carolina authorities and their desire to maintain peace by allowing the Indians to punish their own misbehavior. On November 29, 1693, the Lord’s Proprietor’s penned a letter to Governor Thomas Smith and the Grand Council, giving them instructions on how best to deal with the murder of trader Caleb Westbrooke by a Savannah Indian.

. . . you are resolved to inquire strictly into it lest you fall into the contempt of the Indians, you are to be very carefull in this matter, for Wee have heard it is comon among the Indians to doe an Ill thing themselves and then lay it upon another nation, and if the matter of fact should be fully proved to be done by a Savanah Our opinion is that you should require the Savanahs themselves to punish the person that did it, and not deliver him up to be punished by you, for Wee are informed that Indians are apt to revenge the death of their Relations upon that Nation that put him to death although he be delivered up as a Criminall by his owne nation to be put to death, and you must not expect to have a long peace with the Indians unless you punish such English as do violence to them.<sup>45</sup>

This final statement by the Proprietors, regarding the need to be vigilant in also punishing their own people for misconduct against the Indians, was likely a reference to the murders of several Cherokees by Carolina traders, information regarding which was first recorded in May 1691. At that time, the Proprietors wrote to the Grand Council

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<sup>44</sup> Incident 46

<sup>45</sup> Incident 20

members requesting that they gather witnesses and “make Inquiry upon oath,” to obtain information on the reported murders by “some of the Inhabitants of Carolina.” They noted that the attack on the Cherokees had been conducted “without any war first proclaimed by the Grand council or authority from the Government.” Moreover, they expressed concern that the unacceptable act “may be of very dangerous consequence” to both Carolina and the other colonies, and “be the occasion of the death and ruin of many of his Majesty’s good Subjects.” They, therefore, ordered that the Council submit the results of their investigations in writing as soon as possible.<sup>46</sup> In the same letter sent regarding the Westbrooke case in Nov. 1693, however, the Proprietors expressed their displeasure at the outcome of that investigation. Although they noted that the English traders believed responsible for the murders had been indicted, they were unhappy that “the Grand Jury did not find the Bill for want of Evidence.” They demanded that the Council continue to investigate the case and gather the proof needed, and that they “take care by bringing those that are guilty to condigne punishment to terrify others from committing the like Crimes for the future.” They also issued another warning that “If the Inhabitants of Carolina doe murder the Indians and noe satisfaction given by punishing them for doing of it, It is not to be expected that peace will long continue between the two nations.”<sup>47</sup> This particular case was significant in that it represents the only incident of unacceptable behavior that resulted in a criminal trial during this period. It is also important to note that this single criminal trial was the trial of a colonist. No Indians were brought for trial or even indictment in the Carolina courts during this period. Moreover, the fact that only one colonist was tried indicates that even when the person misbehaving

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<sup>46</sup> Incident 211

<sup>47</sup> Incident 211

was clearly subject to colonial law, the Carolina authorities preferred to use diplomacy (frequently pressuring for restitution or compensation from the perpetrator) rather than legal action.

A complaint made by the Indians was the final murder case recorded in this period. On September 29, 1712, the headman of Altimahaw and several Yamasee warriors appeared before the Council and made a formal complaint against Alexander Nicholas. The Indians accused Nicholas of beating an Indian woman he “kept for his wife so that she Dyed and the child within her.” In addition, they asserted that Nicholas had beaten two other women, including the headman’s sister. The Yamasee leader pointed out that only the fact that he “feared the Displeasure of the Government,” had prevented the Indians from binding and carrying Nicholas into town with them. He assured the Council, however, that unless the white man was “sent for down and punished,” the Indians would “quit the Town.” In response, the council records note that an arrest warrant was issued for Nicholas, but the final outcome of the case and any punishment given the accused man is not recorded.<sup>48</sup>

Incidents of assault were relatively few in number during this period in South Carolina. Of the five incidents recorded, all were complaints brought by Indians against Carolinians, with three accusations made by the Yamasees, and two from unidentified nations. Prior to the aforementioned case against Alexander Nicholas for the murder of one Yamasee woman, and the assault of two others, three earlier incidents are noted in the sources, one involving a trader accused of having assaulted a Yamasee headman.

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<sup>48</sup> Incident 2



On September 21, 1710 two complaints were received by the Council, one for the beating of an unidentified Indian, and the other for the beating of an Indian woman.<sup>49</sup> Less than a year later, in July 1711, trader John Fraser was accused of having “violently beaten,” the Tomatly headman. Evidence from the case indicates that such an act was unacceptable to not only the Indians, but also both the colonial authorities and other traders. Fellow traders testified that Fraser made it a practice “to Beat and abuse ye Indians,” and sources note that Fraser had previously been “convicted of misconduct at Pocotaligo.”<sup>50</sup>

After the Nicholas case in 1712, one final incident of assault on Indians was recorded. In June 1714, traders Samuel Hilden and Cornelius Mackarty were accused of assaulting Yamasees. Lewis, the headman of Pocotaligo, complained to the Council that the men had stripped, beaten and stolen the clothing of two of his people, Wiggasay and Haclantoosa, while “att one of their plays.”<sup>51</sup> No mention is made, however, of the final resolution of any of these cases. It seems likely that this was another example of traders seeking to bypass the Indian authorities, to gain satisfaction for perceived debts on their own.

Complaints of kidnapping accounted for another 8.5% of the cases for this period, and included four accusations by Indians. As with the earlier complaints of traders stealing slaves from the Indians to recoup perceived trading debts, in each of these cases Indians with free status were reportedly abducted by traders to pay off Indian debts.<sup>52</sup> For example, in July 1711, Yamasee trader Cornelius Macarty was accused of kidnapping

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<sup>49</sup> Incident 12 & 15

<sup>50</sup> Incident 227

<sup>51</sup> Incident 225

<sup>52</sup> Incidents 13, 18, 236 and 237

the wife and child of a Yamasee hunter who had just left with on a hunting expedition attempting to acquire furs to repay trade debts.<sup>53</sup> Two more accusations of kidnapping were brought to the Council in 1713. In March, unidentified Indians complained that a free Indian woman had been “seized,” by Carolina traders, and in August, the Cherokees accused trader St. Julian of detaining two of their women.<sup>54</sup> No resolution for the complaints is recorded. Instances of kidnapping, such as these, however, were often preludes to enslavement.

The Indian slave trade was at its zenith during these earliest years of English settlement in the Lower South and came to a virtual end in the years following the Yamasee War. The Yamasees themselves had been leading participants in the trade, and in part, their later decline was a result of the loss of that trade. Historian William Ramsey noted that at the height of the trade, a “rudimentary protocol” had been established that was recognized by both the Carolinians and their Indian trading partners. However when Carolina traders tried to undermine that system, they had to pass through a “double-edged gauntlet of complaint,” running from the Indian towns to Charleston.<sup>55</sup>

Accusations of enslavement came only from the Indians and accounted for six percent of the complaints for this period, but authorities on both sides found the behavior unacceptable when it involved Indians deemed as having free status. The wife and child of the Yamasee hunter, both apparently kidnapped by Cornelius Macarty in July 1711, were subsequently sold into slavery in the colony of New York by William Bray.<sup>56</sup>

During the same month, trader George Wright was also accused of kidnapping and

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<sup>53</sup> Incident 18

<sup>54</sup> Incidents 236, 237

<sup>55</sup> William L. Ramsey, “A Coat for ‘Indian Cuffy,’” *South Carolina Historical Magazine* 103, no. 1, Jan. 2002, 48-66.

<sup>56</sup> Incident 18; see also notes 25 and 26

enslaving a free Yamasee woman whose husband lived in Tomatly.<sup>57</sup> And in August of that year, apparently attempting to set an example to curb this type of behavior by traders, the Board of Commissioners issued an order that John Cochran be prosecuted “for Selling a free Indian Man,” a member of the Yamasee Nation.<sup>58</sup> As Chapman Milling noted, the usual punishment imposed by the Carolina government for such behavior was forfeiture of the trader’s license.<sup>59</sup> During August 1711, a trader named Frazier received an official reprimand for reportedly selling an Indian boy, and was subsequently forced to forfeit his £100 bond after being found guilty of trading without a license. Moreover, he was ordered “to discharge the debt owed him by Indians for rum and to release those Indians indebted to him through debts of their relatives.”<sup>60</sup>

Although few specific incidents of Indian complaints regarding unlicensed traders appear in the records, cases such as that involving Frazier were certainly part of a larger problem that contributed to the coming war. The single recorded complaint of this type appeared in September 1713, when the Pocolabo headman complained to the Council that Dr. Edmund Ellis had been trading amongst his people without a license.<sup>61</sup>

Property destruction was of concern to some Indians and colonists during this period as well, with the category accounting for six percent of the incidents during this era of South Carolina’s history. Most frequently in these cases it was the Indians who brought the complaints, however, the first accusation of property destruction was made against the Indians. In February 1672/73, the Journal of the Grand Council noted that

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<sup>57</sup> Incident 19

<sup>58</sup> Incident 224

<sup>59</sup> Chapman J. Milling, *Red Carolinians*, (Chapel Hill: University of North Carolina, 1940), 139-140.

<sup>60</sup> Michael P. Morris, *The Bringing of Wonder: Trade and the Indians of the Southeast, 1700-1783*, (Westport, Conn.: Greenwood Press, 1999), 77; Board of Commissioners Meeting, 2 August 1711, William L. McDowell, ed. *Colonial Records of South Carolina: Journals of the Commissioners of the Indian Trade, Sept. 20, 1710-Aug. 29, 1718*, (Columbia: State Printing Co., 1955), 13.

<sup>61</sup> Incident 3

“since the Indians have a long time practiced the killing and stealing of hoggs in this settlement,” Major Thomas Gray was ordered to lead the expedition noted previously to locate and apprehend the guilty parties.<sup>62</sup> Less than two weeks later, further orders were made sending Lieutenant Colonel Godfrey and Captain Richard Conant on a similar expedition, with instructions to bring the Indians suspected of “lately destroying several hoggs,” before the Grand Council at Charles Town on March 6.<sup>63</sup> While the success or failure of these specific missions were not noted, just two weeks later the Council mentions difficulties in providing maintenance for “the Indian prisoner now brought in, [who was to] be kept in prison till the Indians who brought him doe come to witness against him.”<sup>64</sup> The destruction of Indian property by Carolinians was first recorded in January 1702. Trader Joshua Brinan was twice ordered by the Commons House of Assembly to make restitution for destroying Yamasee property.<sup>65</sup> In one incident he was found guilty of killing the hogs and burning the house of headman Pocosaba’s son.<sup>66</sup> In the other, he was ordered to repay an Indian called Phillip, for both failing to pay him for his labor in rowing Brinan’s canoe, and for “throwing the said Phillip’s goods over Board.”<sup>67</sup>

The kidnapping, assault and theft incidents committed by whites indicates that in many instances colonists preferred to bypass Indian leaders and use direct force to get what they perceived the Indians owed them. Thus, official complaints of non-payment for goods or slaves came only from the Indians during this period. This category of

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<sup>62</sup> See note 5

<sup>63</sup> Incident 45

<sup>64</sup> Salley, JGCSC, August 25, 1671-June 24, 1680, 56-57.

<sup>65</sup> Incidents 216 and 217

<sup>66</sup> Incident 217

<sup>67</sup> Incident 216

unacceptable behavior, like property destruction, accounted for six percent of the incidents during this period in South Carolina. In January 1702, for example, the Commons House of Assembly ordered John Roe to pay the Yamasee, Assendo, for five skins he owed the Indian.<sup>68</sup> And in 1713 and 1714, unidentified Indians twice complained of not being paid for slaves delivered to the English.<sup>69</sup>

Specific threats during this period came from both Indians and Carolinians, but accounted for only four percent of all the incidents of misbehavior recorded. The threat to the settlers of Carolina from the Kussoes was considered so great, however, that war was declared on that Nation by the Grand Council on September 27, 1671. The Council explained the reasoning behind this action in its journal:

for as much as the said Indians will not comply with any faire entreaties to live peaceably and quietly but instead upon every light occasion have and doe threaten the lives of all or any of our people whom they will sufore to them and doe dayly persist and increase in their insolencyes soe as to disturb and invade some of our plantations in the night time . . . And for as much as the said Indians have given out that they intend for and with the Spaniards to cutt off the English people in this place . . . Ordered and ordeyned by the Governour and Councill . . . that an open Warr shall forthwith [be] prosecuted against the said Kussoe Indians and their co-adjutors.<sup>70</sup>

By 1672 the Kussoe threat had apparently been neutralized and the Nation thereafter is identified by the status of tributaries.

The complaint of threats perceived by the Indians from this period were sometimes the result of traders pressuring the Indians for payment for trade goods. In 1714, for example, the headman of Pocatalligo complained to the Board that trader Samuel Hilden had threatened him with force if the Indian failed to make payment of a

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<sup>68</sup> Incident 218

<sup>69</sup> Incidents 235 and 238

<sup>70</sup> Incident 42

slave for which he claimed not to be indebted.<sup>71</sup> No mention is made of Hilden being punished for his threats, however.

Complaints that the Carolinians refused to pay Indians for their labor accounted for four percent of the incidents during this era. In each of the three cases, the Carolina authorities ordered payment to be made in restitution. For example, in January 1702 the House ordered John Seabrooke to pay the Yamasee, Okala, and his men, “12 Hatchets of the Vallue thereof for building his house.”<sup>72</sup> And in the same year (as previously cited), trader Joshua Brinan was ordered to repay one, Phillip, for failing to pay the Indian for his labor in rowing Brinan’s canoe.<sup>73</sup>

Only two complaints of trespassing (accounting for another four percent of the cases for this period) appear in the records, although the response to one indicates that it had, in fact, become an on-going problem for the colonists. In justifying their decision to go to war against the Kussoes in September 1671, the Grand Council listed as one of the causes the fact that the Indians on many occasions did “disturb and invade some of our plantations in the night time.”<sup>74</sup> In July 1711, unidentified Indians complained to the Council that “squatters” had settled on their lands, and asked that they be removed.<sup>75</sup> Although no further incidents are noted in the records, it is likely that this too was a single example of a larger problem.

Four other types of unacceptable behavior drew complaints during this period. Although the records only reveal a single incident of each type, as with the trespass cases it is likely that many more went unrecorded. In May 1692, Daniell Huger complained to

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<sup>71</sup> Incident 4

<sup>72</sup> Incident 222

<sup>73</sup> Incident 216, see note 31.

<sup>74</sup> Incident 42, see note 34.

<sup>75</sup> Incident 17

the Grand Council that “an Indian woman named Betty belonging to him did Some time since Run away from him and is detained by the Yamesee Indians.” In response to the complaint that the Indians were harboring a runaway slave, the Council “ordered that the said Indians doe imeadiatly on Sight hereof deliver the said Indian woman.”<sup>76</sup> However, there is no record of Indian compliance with the order. In September 1710, an unidentified Indian’s complaint was brought before the Council alleging the rape of an Indian woman; however, no further details on the case were recorded.<sup>77</sup>

Although only a single complaint appears during this period regarding the sale of rum to Indians, it is clear from the nature of the complaint that despite orders issued by the Council on August 22, 1692 that outlawed the selling of rum to any Indians, traders continued to traffic in it and Indians continued to buy it. They bought rum in such quantities, in fact, that the incident of misbehavior brought before the Council was a complaint by the Indians that they were being held responsible for debts acquired through the traders’ sale of rum illegally.<sup>78</sup>

Problems such as these with the traders soon sparked the Yamasees to initiate a war on the Carolinians that would result in the deaths of numerous traders and the complete reevaluation of the process by which trade with the Indians was to be conducted in Carolina. Moreover, the loss of the traders signaled the end of the Indian slave trade because it “deprived South Carolina of practical knowledge, experience, personal networks and paraphernalia, without which the slave trade could not function.”<sup>79</sup> What an evaluation of the specific incidents of Indian and Carolinian complaints regarding one

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<sup>76</sup> Incident 48

<sup>77</sup> Incident 14

<sup>78</sup> Incident 16

<sup>79</sup> Ramsey, “All and Singular the Slaves” in Greene, *Money, Trade and Power*, 179.

another's unacceptable behaviors reveals, however, is that while both groups were guilty of misbehavior, their approaches to resolving them differed. In most cases, it appears the Indians sought redress and help in controlling trader and settler behavior from colonial authorities, most often through intermediaries on the frontier. Carolinians, however, filed few official complaints through their government, and none through their courts. Instead, they either sought justice from Indian leaders, or more frequently, used force to gain it for themselves. As Katherine Holland Braund rightly noted, "avarice is as old as trade itself," and both Indians and Carolinians were guilty of it.<sup>80</sup> The desire among the Indians for trade goods including guns, rum, and cloth and among the Carolinians for deerskins and Indian slaves created a situation ripe for misunderstanding, misbehavior and violence. Moreover, the failure of the Carolinians and their government to control trader behavior, and the unique nature of Indian social organization that limited the ability of leaders to control the behavior of younger warriors, resulted in conflict that would be repeated in the years to come.

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<sup>80</sup> Braund, *Deerskins and Duffles*, 34.



## Chapter Two South Carolina 1716-1732

When Indian Agent Thomas Nairne traveled to the Yamasee town of Pocotaligo in 1715, he did so with the intention of assuring the Indians that the Carolina government would provide the Indians with satisfaction for all the legitimate complaints related to the actions of misbehaving traders and colonists.<sup>81</sup> Unfortunately, for Nairne, however, his promises arrived too late, and for his efforts, the Yamasees slowly burned him alive. Thus began the Yamasee War in which nearly all the backcountry Indian nations connected to Carolina (with the exception of the Chickasaws and Cherokees) participated and which resulted in the deaths of numerous settlers and virtually all the backcountry traders. The Carolinians' previously unacceptable behavior had become intolerable behavior, and the Indians resorted to extreme measures to try to reform English trade practices.

When the war came to a formal end with the signing of a new trade treaty with the Lower Creeks in 1717, much had changed on the frontier of the Lower South. The devastation of the war had come close to destroying the Carolina settlements and nearly resulted in the destruction of Charlestown itself. With the loss of trade, the Indians were in dire need of weapons and as a result, many, such as the Creeks, had become vulnerable to attacks from enemies, both Indian and European. The few remaining Yamasees dispersed to live among other nations. To reestablish trade and prevent the types of misbehavior that had led to war, both the Indians and the Carolina government agreed to a number of changes. Chief among these was the establishment of Fort Moore at

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<sup>81</sup> Braund, *Deerskins and Duffels*, 34.

Savannah Town as the “frontier entrepôt of the new trading system.”<sup>82</sup> From there, traders and their goods could be both protected and policed, and colonial authorities could closely supervise the trade (now taken over by professional merchants due to increased expenses). In addition, the new treaty with the Lower Creeks, (but which applied to all the Creek towns), included promises regarding behavior. For their part, the English agreed to establish basic rates for trade goods, to provide the Indians with ammunition for use against enemy nations who were not at peace with Carolina, and not to settle below the Savannah river. The Creeks, on the other hand, promised in the future to “mind their manners,” to protect the Carolina traders supplying them (and their property), and perhaps most significantly, they agreed to punish those guilty of misbehavior towards the English.<sup>83</sup>

Records from this period in the history of interaction between Carolinians and Indians revealed only forty cases of unacceptable behavior, slightly fewer than the preceding period. However, the average number of cases per year increased from slightly more than one per year to 2.35 per year, twice as many as the previous period. As in the earlier years, the greatest number of complaints involved theft and murder, in that order. The most notable change, however, was in the percentage of complaints from each group. While in the pre-Yamasee War period, the Indians made 83 percent of the complaints, in the sixteen-year period following the War, 72.5 percent of all the protests regarding misbehavior came from the colonists. Clearly, the war and resulting changes to the trade

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<sup>82</sup> Ibid, 35.

<sup>83</sup> Ibid.; McDowell, *Journals of the Commissioners of the Indian Trade, Sept. 20, 1710- Aug. 29, 1718*, pp. viii-x, 189, 267; Braund, *Deerskins and Duffels*, 35-39. Verner Crane reported that the treaty was signed “Early in November, 1717, Musgrove brought down to Charles Town eleven Creek chiefs; Hastings and three or four companions remained as hostages at Coweta;” Crane, *Southern Frontier*, 259. While the actual text of this treaty has never been found, references to it in later negotiations indicate that it included promises by the Indians to punish their own members for misbehavior against the English.

process influenced both the Indians' and the colonists' ideas about how and where to best attain justice for behavioral disputes.

Following the war, the entire Indian trade came under the direct control of the Carolina government, with the majority of trade conducted from frontier outposts such as Fort Moore. Only a limited number of the most trusted traders were allowed to venture into the backcountry and all traders were required to post bonds to ensure their good behavior. Not until 1721, did the trade revert to a system of private control, a result of the efforts of Charleston's merchants whose profits had declined under government control.<sup>84</sup>

During this period Carolina traders demonstrated much more willingness to allow the colonial government and its' representatives to negotiate their disputes with the Indians. It is likely that the colony's relative success in the war and the resulting trade treaties convinced the traders that the government might actually be successful in gaining justice they sought. Whatever the reasons, however, there began at this time a marked increase in the number of documented complaints from colonists against the Indians; and, this change in the balance of official complaints continued throughout the rest of the colonial period.

Recorded complaints of theft accounted for a quarter of all the cases from 1716 to 1730, and came (with a single exception) exclusively from the colonists against the Indians. Of the ten cases recorded, moreover, all but one was accompanied by a further complaint of threat, assault, murder, or trespass. The Indian nations involved included not only the Yamasee, in these cases, but also the Cherokee, Creek, Chickasaw, and Choctaw. Most of these incidents were concluded by negotiations between Indian

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<sup>84</sup> Braund, *Deerskins and Duffels*, 36.

headmen and colonial authorities on the frontier, including Colonel George Chicken and Colonel John Herbert.

The complaints against the Cherokees involved mainly attacks upon traders sent into the Nation or on the path to the Creek Nation, and were in each case tentatively resolved by Cherokee promises of restitution. In one instance recorded in August 1716, the Cherokees agreed not only to return “all the White Mens Slaves Goods and Horses,” but also to “Deliver up Wateree Jack,” the Indian believed to have been behind “most of the mischief.”<sup>85</sup> During Governor Nicholson’s Second Conference with the Cherokees on July 11, 1721, however, South Carolina authorities once again brought complaints from Cherokee Traders “that their Stores have been broken their goods taken away, their horses killed, themselves threatened and an indifference shown.”<sup>86</sup> Several years later, in March 1727, evidence appears of restitution having been made in one case. Colonel John Herbert recorded that during a meeting with the headmen at Tugaloo, “they lay before me twelve Skins telling me that they were for the white man that was robbed on the path by their people.” This was apparently in response to a request Herbert had made to the Long Warrior of Keowee during a meeting the previous December, for “satisfaction to the White man that was Robbed by some of your people on the Creek path.”<sup>87</sup>

The incidents from this period involving complaints of theft against the Chickasaws (a detached band settled near Fort Moore) come from both reported eyewitness accounts from Col. George Chicken, and from Chicken’s reports of complaints received during his mission from Charleston to the Cherokees in 1725. During a meeting with the “Squiril King with three head Warriours of the Chickesaws,”

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<sup>85</sup> Incident 73

<sup>86</sup> Incident 74

<sup>87</sup> Incident 194

Chicken made an effort to explain the colonial authorities' expectations for the Indians' behavior. He complained of having been "an Eye Witness to some of the faults of their people, having found out One of them who Stole a horse and Saddle which [he] took from them at the Pallacholas on which a white man went out upon, but was never since heard of."<sup>88</sup> He further complained of accounts he had received of the Indians "breaking open a White Mans Store at the Oconeys as also Several other Crimes done at other places which [they] were sure was done by their people." In these cases, the Indians' response was equivocal, but reflected their traditions and practices regarding misbehavior (unacceptable behavior) and the control thereof. They informed Chicken "that if their Young Men were drunk and Mad that they could not help it but that they'll take care for the future and keep them in awe."<sup>89</sup>

This final statement by the Indian elders demonstrates one of the issues that frequently led to disputes regarding behavior, and which made it difficult for Indians and settlers to prevent and resolve such disputes. As Claudio Saunt noted, among the Creeks (and many other nations), there existed a constant tension between the old and the young. While young men sought to earn their adult names and honors through battle or hunting exploits, their elders attempted to control that behavior so that it did not lead to conflict that threatened the entire nation. However, Indian cultural assumptions limited chiefs' ability to use coercion to dissuade their young men from behaviors that were provoking conflicts with the English.<sup>90</sup> From the English perspective, the Indian leaders simply needed to tell the young men to stop such behavior and to punish them if they failed to do

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<sup>88</sup> Incident 197

<sup>89</sup> Incident 198

<sup>90</sup> Claudio Saunt, *A New Order of Things: Property, Power, and the Transformation of the Creek Indians, 1733-1816*, (Cambridge: University Press, 1999), 42.

so. Nevertheless, the limits of coercion as a means to prevent misbehavior, and the power of clan ties and fear of clan retribution if young warriors were physically punished severely hampered the leaders' ability to provide the colonists the behavioral control they demanded. Moreover, as time passed the social dynamics within Indian societies changed. As the deerskin trade expanded, young warriors spent more time away from the group. This factor, along with the increasing loss of elder members of the nations from epidemic disease, led to the breakdown of the storytelling traditions through which elders had imparted their wisdom to, and coercive power over, the younger men. As trade with the English and contact with Europeans expanded, such traditions "became less effective as a form of negotiation and social control."<sup>91</sup>

One recorded incident for this period involving complaints of theft by the Creek Indians took place during the same year. Between August and November of 1725, Captain Tobias Fitch held a series of meetings with Upper Creek headmen, partly to demand satisfaction for the robbery of a Mr. Sharp at the Cherokees. During Fitch's first meeting with the headmen at Okfuskee, the Captain accused Gogell Eyes, a headman, of leading a group of young men in an attack on Sharp that left the white man seriously wounded. Furthermore, Fitch chastised the headman for blaming the incident on the rash actions of the young people, stating that the Indian was "a man in years and ought to know better. . . and should have prevented their Roguish proceedings." Had Sharp died as a result of their actions, moreover, Fitch assured the headman that "my King Would Require no less Satisfaction Then Your Life and the Lives of all the head Men that was

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<sup>91</sup> Ibid.

With [you]; and if your people should have Denied to Deliver you up Then my King would have took Satisfaction with the Mussells of their Guns.”<sup>92</sup>

Gogell Eyes response to Fitch’s accusations was generally conciliatory and apologetic. While he denied being present when the plundering began, he admitted taking “Some of the Remains of the Goods,” was willing to make restitution for those goods, and promised “never [to] be guilty of the Like Action While I Live.” While he pointed out that most of the stolen goods had been dispersed, he offered to give Fitch immediate possession of a slave woman and her children who were taken, along with his “Best Case of Pistools.” For the balance of the goods, the headman promised to try and secure slaves and other property from the guilty parties, and to make future payment for the other goods in skins. On November 2 the matter was apparently resolved when Fitch returned to Okfuskee and was given 120 skins and a further promise to gather “either Slaves or Skins,” from the other men involved, and “send them to Savana Town.”<sup>93</sup>

Two incidents of theft involving the Yamasees were recorded a decade after the end of the Carolinians’ war with the Nation. In both incidents, the Yamasees were also accused of murdering the colonists they stole from, and in both cases slaves were part of the “goods” taken by the Indians. In 1726, the home of John Edwards on the Combahee River “within seven miles of Port Royal” was plundered, Edwards was reportedly killed and four slaves were stolen.<sup>94</sup> In July 1727, the Yamasees were again accused of murdering two men and having “carried off ten slaves” from the English settlements.<sup>95</sup>

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<sup>92</sup> Incident 199

<sup>93</sup> Ibid.

<sup>94</sup> Incident 228

<sup>95</sup> Incident 230

Twenty percent of the cases of unacceptable behavior from this period involved murder, and all of the accusations were made by colonists against the Indians. Of the eight incidents recorded, more than half involved the Yamasees.

The one instance of murder during this period involving the Choctaw Indians is illustrative of the divide that existed between the Indians' traditions regarding behavioral regulation and that of the British colonial authorities. Alden Vaughan and Deborah Rosen described the differences in how individuals on the two sides of the frontier viewed perpetrators of unacceptable behavior as a matter of culpability versus liability. While Anglo-American law emphasized individual culpability, most North American Indian societies did not view perpetrators as deserving of blame, but rather as liable for making restitution for their misbehaviors. Moreover, a significant aspect of Indian law-ways, they assert, was "the collective character of liability." Thus, while individuals might owe or be deserving of restitution for unacceptable acts, in the eyes of the Indians the individual's close relatives or clan members might also be providers or recipients of restitution.<sup>96</sup>

In November 1725, Thomas Jones reported to Captain Fitch that a group of Choctaws had attacked and robbed traders Thomas Wiggins and John Gillespey, taking from them a large quantity of goods and in the process wounding several and killing one of the white men with them. When Gillespey, still bloody from the attack, soon thereafter appeared before the Cousha headman, he informed the Indian leader what had taken place. Seemingly distraught over the incident, the headman told Gillespey that "Now its all Spoilt," referring to his efforts over the previous several years to "open the path to the English . . . but [which he now found] as farr off as ever." His response to the trader was an offer to repay the liability incurred as a result of the attack and apparent murder. He

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<sup>96</sup> *EAID*, XVI. Foreword, xx.



informed Gillespey that his “goods and horses [would be] Restored Back to [him],” but he lamented the fact that “the man Cannot be Brought to Life.” In payment for the life taken, the headman stated that “there is three men of Ours gone to the Creeks to see your Beloved man and them I Give over to be dead.” Gillespey informed the Indian that “though there was a white man killed He did not believe it was done by the Consent of the Chiefest of the Nation,” and upon later encountering the three men offered up by the headman, records state that the trader “sent them home without hurt.”<sup>97</sup> Thus, the headman appeared willing (in this case at least) to extend liability for the murder to the entire Nation by offering restitution in the form of the lives of the three (apparently unrelated but conveniently located) men who had “gone to the Creeks.” In keeping with Anglo-American practices of jurisprudence, however, Gillespey refused this offer.

While the period from 1726 to 1728 was officially a time of peace between the English and Spanish in the New World, Spanish machinations to gain control of the Southern Indians contributed, in reality, to a time of increased conflict instead. Most notably, it was a period of conflict between the South Carolina settlers and the Yamasees acting in conjunction with their Lower Creek allies. Six instances of the murder of white traders or settlers by the Indians were recorded, with the outcome of one being significant as the first recorded instance in which English authorities were able to obtain from the Creeks a promise to punish with death one of their own people for an act of misbehavior towards the English. Moreover, due in large measure to the English response to the murders committed during this period, the alliance between the Creeks and the Yamasees (aided and abetted by the Spaniards) was finally broken.<sup>98</sup>

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<sup>97</sup> Incident 207

<sup>98</sup> Corkran, *Creek Frontier*, 76-78.

In September 1726, this period began with the murder of the aforementioned John Edwards by a small party of Yamasees, likely armed by the Spaniards. As noted earlier, the Indians entered his home near Port Royal, killed the white man, stole the goods they found, and “carried away four Negro slaves who were afterward recognized by English prisoners in St. Augustine.”<sup>99</sup> A few months later, in June 1727, a similar party snuck into the western Carolina settlements and attacked and killed William Lavy and John Sparks. While the party chose to spare the women of the families, they reportedly informed them not to expect similar accommodation in the near future, as “there was a large party both Indians and Spaniards fitting out from St. Augustine who had received orders from the Governor to spare nobody.”<sup>100</sup> Within a month, the murder of trader Matthew Smallwood and several other white men, however, led to eventual English retaliation and concerted efforts by Governor Middleton to make western South Carolina a safe place for settlement.

Matthew Smallwood was sent to trade with the Creeks and to attempt to gain the trade and friendship of the Yamasees.<sup>101</sup> On July 23 or 24<sup>th</sup>, he and seven other traders were attacked by a combined Yamasee and Creek party, while en route to Smallwood’s trading post, built in 1721 near Fort King George at the mouth of the Altamaha River. Smallwood, along with traders John Annesley, Charles Smith, and Albert and John Hutchinson were all murdered and scalped in the attack. Traders John and William Gray and one Beans were taken prisoner to St. Augustine. Some three thousand deerskins were

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<sup>99</sup> Incident 228

<sup>100</sup> Incident 229; “Arthur Middleton to Duke of Newcastle,” [Date ?] BPRO, XIII, 63, cited in Milling, *Red Carolinians*, 159.

<sup>101</sup> Crane, *Southern Frontier*, 248.

also taken in the incident, along with a large quantity of trade goods, including the contents of Smallwood's store.<sup>102</sup>

The result of this incident was a great deal of fear in the western settlements of a general Indian uprising. Reacting to those fears, the Assembly met to decide upon a response. Although the assemblymen first considered sending a force of three hundred men to Coweta to demand satisfaction for the murders, they later decided on an embargo of the Lower Creek trade instead. Furthermore, they decided to send Charlesworth Glover on a mission to the Upper Creeks to convince the Indians to put pressure on their Lower Creek neighbors to end their alliance with the Yamasees and give the requested satisfaction to the English. Glover was successful in his mission, gaining the assurances of the Upper Creek headman, Hobohatchey, that his people remained loyal to their English allies. In addition, through negotiations with Cussita headman, King Hott, Glover achieved a first in Carolina-Creek relations. Convinced that the Upper Creek townsmen who participated in the attack on Smallwood deserved extreme punishment, the men's relatives agreed to set aside traditional beliefs requiring retribution for the killing of clan members, and allow Creek leaders to execute the guilty men. This represented the first time the Creeks would agree to kill some of their own for acts of misbehavior towards the English.<sup>103</sup> To convince the Lower Creeks of the futility of trying to side with the Yamasees against the English, moreover, Glover sent out Upper Creek war parties under Johnny Musgrove and Hobohatchee to attack and kill the Yamasees. And later using more diplomatic methods, Glover took advantage of the pro-English factions among the Lower Creeks, and convinced the Apalachicolos to bring in Cherokeeleechee, one of the

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<sup>102</sup> Ibid.; Milling, *Red Carolinians*, 159; BPRO, XIII, 64; C.O. 3:387, f. 167 JC, August 1,2,3, 1727; *EAIID* XIII, 130-32. (Incident 21)

<sup>103</sup> Corkran, *Creek Frontier*, 77-78.

headmen involved in the Yamasees raids. Rather than being assassinated, however, the headman “was forced to settle down in a pro-English Lower Creek Town,” to prevent his participation in further raiding.<sup>104</sup>

In July and September of 1727, two more incidents of the murder of whites by Yamasees were recorded, one believed to have been perpetrated by the same party that attacked Matthew Smallwood and the traders who accompanied him. When Henry Mishoe and Hezekiah Wood were killed and their ten slaves kidnapped, however, Captain John Bull and fifteen other men pursued the Indians. The party, led by Bull, succeeded in killing six Indians and one Spaniard and in recovering the slaves, from whom they learned that Wood had actually been killed by a Spaniard.<sup>105</sup> Despite the Indians’ desire to spare Wood’s life, the slaves reported, “a Spaniard took up a Billet of Wood and knocked out his Brains.”<sup>106</sup> No record reveals the final fate of the Alexander Dawson family of French’s Island, however. When they were attacked in September by a group of Yamasees accompanied by fugitive slaves, all four adults and four children were either killed or kidnapped. In this instance, however, some may not have been immediately killed despite the Indians’ intentions. Witnesses said “the Indians would have murdered them all for the sake of their scalps, but this time the Negroes would not agree to it.”<sup>107</sup>

In final response to these and other raids on the western settlements, the Assembly decided to send a combined English and allied Indian expedition under Colonel John Palmer to destroy the Yamasee towns in the vicinity of St. Augustine. During the attack,

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<sup>104</sup> Ibid.

<sup>105</sup> See note 9.

<sup>106</sup> Incident 230; Milling, *Red Carolinians*, 159-160; SC BPRO, XIII, 63-64.

<sup>107</sup> Milling, *Red Carolinians*, 160; SC BPRO, XIII, 64-65.

on March 9, 1728 more than thirty Yamasee were killed where they had taken refuge, in a fortified town protected by Spanish guns. The expedition proved to be somewhat of a turning point in English-Indian relations in the region (although the events of 1732 proved more significant). Yamasees raids on the western settlements ended, and the Lower Creek faction that had sided with the Yamasees and Spaniards became convinced of the futility of that alliance and agreed to exclusive trade with the English. Thus, “a similar expedition scheduled to go against the hostile Creek towns was . . . rendered unnecessary.”<sup>108</sup>

Complaints of kidnapping accounted for another 7.5 percent of the cases for this period, and included three accusations by colonists. In each incident, the Indians involved were either Yamasees or their Lower Creek allies. In one instance from December 1725, Captain Tobias Fitch recorded a talk given to the Lower Creek headmen, in which he demanded the return of a white girl who had been “detained by the Dogg King of the Pallachochola Town.” Fitch was persuaded that Seepe Coffee would return the girl when he returned to the settlements, and the headman subsequently issued orders to his warriors that the satisfaction requested should be fulfilled.<sup>109</sup>

Another case of kidnapping during this period was the previously mentioned incident involving the Alexander Dawson family.<sup>110</sup> As in the Dawson case, the first case in this period, recorded in 1717, involved both kidnapping and murder. On May 9 of that year Indian Factor Eleazer Wiggan reported to the Council that the Cherokees planned “to war on the Creeks” in part because the Creeks had murdered “four of Captain

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<sup>108</sup> Milling, *Red Carolinians*, 161; SC BPRO, XIII, 62-68, 187-192.

<sup>109</sup> Incident 208

<sup>110</sup> See note 22; Incident 231

Hutton's men" and had kidnapped one woman.<sup>111</sup> As was so often the case, however, the woman was not identified and the resolution of the specific complaint was not noted.

Stated or implied threats also accounted for 7.5 percent of the complaints from this period, but with this type of misbehavior, the majority of complaints came from the Indians. In both the protests brought by the Indians for such behavior, the threats appeared fairly ominous, such as that made in March 1717/18 by Daniel Callihaun to Indian Forester, a Tuscarora headman at Port Royal. After the violent theft and seizure of his canoe, Forester complained that Callihaun had threatened him that since the government had no further use for him or his people, it "twas designed to knock some of them on the Head and enslave the Rest."<sup>112</sup> Only two months later, Eleazer Wiggan reported a complaint made to him by the Catawbas headman of a "rumor spreading among his people by Young Kelley," which had persuaded them that "the English planned to Destroy them." Wiggan noted that the headman and "his people are much disturbed and are gathering together, building forts to defend themselves, and not allowing Virginians to trade among them."<sup>113</sup> The single threat recorded made by the colonists against the Indians during this period, was that mentioned previously involving the Cherokee traders who were personally threatened and whose stores were broken into by the Indians in July 1721.<sup>114</sup>

Assault, property destruction, insult, inequitable trade and assisting runaway slaves each accounted for five percent of the incidents recorded during this period in the history of the Carolina-Indian frontier. All complaints of assault or assistance to runaway

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<sup>111</sup> Incident 7

<sup>112</sup> Incident 10

<sup>113</sup> Incident 6

<sup>114</sup> Incident 74; see also note 7

slaves came from colonists, and all the insult and inequitable trade complaints came from the Indians. Property destruction complaints, however, were evenly divided, coming from both Carolinians and Indians.

In September 1725, the destruction of Cherokee crops by horses belonging to the English led several of the headmen of Tamausey to complain to Colonel George Chicken. Chicken's response both stated and demonstrated that the colonial authorities found such misbehavior unacceptable as well. In his journal, Chicken recorded telling the headmen that "the English did not Suffer any such thing." Moreover, the next month in Keowee, Chicken went so far as to issue orders to all the traders and other whites then among the Cherokees "not to Suffer or Comitt such ill practices for the future, having given the Indians a particular Charge to Shoot any Such Horses as may at any time hereafter be seen in their Cornfields destroying their Corn or doing them any such damages."<sup>115</sup> Although Chicken thereby authorized the shooting of horses, this was likely the extent to which the English were willing to bend to the Indians' ideas of justice. It seems unlikely that they would authorize the Indians to inflict in serious punishment on whites. One property destruction complaint brought by colonists against the Indians involved livestock as well. In Governor Nicholson's speech to Ouletta in May 1722, he complained of ten Creek Indians living on Port Royal Island being "very saucy" and killing the settler's cattle. The Governor requested that the headman force the offending group to return to the Nation to avoid any violence or retribution, to which Ouletta agreed.<sup>116</sup>

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<sup>115</sup> Incident 196

<sup>116</sup> Incident 75

Both recorded accusations of assault made against the Indians occurred in 1725, and involved injuries that occurred during thefts. The attack on Sharp by the Creeks recorded by Colonel Chicken and mentioned previously constituted one of the incidents of assault.<sup>117</sup> Information on the second case appeared in the account given by Thomas Jones to Captain Fitch regarding the wounding of “Several of the White men” in the Gillespey case, also noted earlier.<sup>118</sup>

On two occasions, in 1725, colonists accused Indians of aiding the escape of runaway slaves. As one historian has noted, such actions may have resulted from the Indians’ fears regarding the ultimate intentions of the colonist in the Southeast.<sup>119</sup> Given the existence of widespread Indian enslavement in the initial period of colonization, and the success of Carolina in the Yamasee War, it seems reasonable to assume that a certain fear may have existed among the Indians that the whites meant to one day enslave all Indians. As such, they may have been somewhat sympathetic to the plight of runaway Indian or Negro slaves and therefore felt compelled to assist them. Captain Fitch once accused a Lower Creek headman of freeing a Negro slave that Fitch had bound for return to his master. Fitch reported that the headman “did Cut the Rope, threw it in the fire, and Told the whiteman That they had as good Guns as they had and Could make as Good use of them.” In response to Fitch’s demand for satisfaction in this and the other case, headman Sepe Coffee gave a speech to the warriors and headmen requesting their compliance with the Captain’s demands for payment.<sup>120</sup>

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<sup>117</sup> Incident 199; see note 6.

<sup>118</sup> Incident 207; see note 11

<sup>119</sup> Saunt, *A New Order of Things*, 27-28.

<sup>120</sup> Incidents 209 and 210



Inequitable trade and insult were both misbehaviors that the Indians complained of exclusively in this period. In 1717, the Cherokees twice complained of inequitable trade practices. On one occasion they are recorded as “complaining heavily of the Measure (for a yard) dealt to them by the Factors,” and on another they accused the traders of mixing too much water in the rum they sold and of charging higher prices for trade goods than agreed upon.<sup>121</sup> In the latter case, the Board ordered an abatement of the prices on certain goods as well as the rum mixture.<sup>122</sup>

Both the Cherokees and the Catawbas complained of being insulted or treated with disrespect.<sup>123</sup> In March 1727, for instance, in a talk between Colonel John Herbert and Cherokee headmen from the towns of Tugaloo, Chauga, Estatoe, Nottely, Echoi, and Toxaway, the Indians complained of trader “John Facey for turning the head men out of his [Facey’s] house at times and looking on them as boys.” Herbert’s response was to request that the headmen send for Facey, and he promised to “talk to him about it.” Two days later Herbert recorded his discussion of the complaint with Facey, who defended himself by saying the he “had allways behaved himself well among the Indians,” but had been “Obliged to use some harsh means with some of them in defense of himself.” Herbert recorded how he had resolved the matter, telling Facey “to take care for the future how he gave further occasion of Complaint by the Indians and that they should not receive any ill treatment from any of the White men.”<sup>124</sup>

Although several other types of misbehavior were complained about and deemed unacceptable by either the Indians or the Carolinians during this period, none appeared in

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<sup>121</sup> Incidents 1 and 8

<sup>122</sup> Incident 8

<sup>123</sup> Incidents 195 and 11

<sup>124</sup> Incident 195

the records for this period more than once. In January 1716/17 for example, a formal complaint to the Board of Indian Commissioners was lodged by Cherokee warrior Hootleboyau and two companions against Captain John Jones, the commander of the garrison at Edistoe, for refusing to make payment for 18 skins. Two days later another Cherokee leader, Charity Hagey, complained that his people had been cheated by Jones, as well. The authorities' response was to promise restitution would be made, but also to lay part of the blame on the Indians for making the decision to trade with private individuals rather than Factors only, as they had been instructed. They were warned that "in future restitution would not be given." A subsequent warrant was issued for Jones and when he appeared before the Board and denied the charges, the Indians were present and demanded satisfaction. In this case, although the final outcome is not recorded, it is noted that the headmen continued to assert Jones' guilt using "Indian Evidence."<sup>125</sup> Philip Reid noted the significance of this incident as "the one occasion during this era of first contacts when the British permitted a Cherokee to bring a charge against a Carolinian, and the charge was adjudicated." However, he asserted that the British "did not treat the matter as a hearing between equals. It was a nuisance, like a child accusing adults and insisting that they listen."<sup>126</sup>

Non-payment for labor was also a concern for the Indians. In December 1717, when Cherokee Charity Hagey complained to Captain Hatton that five of his men had carried packs to Savannah and received none of the promised compensation for their

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<sup>125</sup> Incident 5

<sup>126</sup> Reid, *A Better Kind of Hatchet*, 187.

labor, the Board commanded Hatton to pay them if he found “sufficient evidence of the validity of the complaint.”<sup>127</sup>

The supplying of an insufficient amount of trade goods to the Catawbas in 1718 brought an Indian complaint for another type of misbehavior by the Carolinians.<sup>128</sup> And on the other side of the frontier, Carolinians complained of general disorder by Wateree Jack of the Cherokees in 1716,<sup>129</sup> and of the failure of the Lower Creeks, led by headman Ouletta, to keep their promise to attack the Yamasees in 1723. In the latter case, Governor Nicholson informed Ouletta that Upper Creek headmen had informed him that the Lower Creeks threatened to treat the Upper Creeks as enemies if they complied with the Governor’s orders to “fall upon” the Yamasees if they refused Carolinian overtures of peace. Ouletta denied this accusation of conspiracy against the English, however, and cited division among the Creeks as the cause.<sup>130</sup>

This period of frontier interaction, thus revealed a significant change in behavioral complaint and negotiation. Where formerly the Indians had been the most likely to bring their disputes to colonial authorities to receive justice, now number of Carolinians’ complaints far exceeded those of the Indians. The relative success of the colony in the Yamasee War, the existence of frontier forts as trading posts and more extensive government oversight of traders’ activities likely led Carolinians to appeal to their government for help rather than to try to handle behavioral disagreements on the frontier. Traders and settlers alike were quick to seek justice for theft and murder from their own leaders rather than from the Indians as occurred previously. But what about the change in

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<sup>127</sup> Incident 9

<sup>128</sup> Incident 11

<sup>129</sup> Incident 73

<sup>130</sup> Incident 76

the number of Indian complaints? Is the relatively small number of accusations made by Indians against Carolinians an indication that the new system of trade was working? Did the Indians have less to object to in the behavior of traders and settlers than before? It seems reasonable to assume that to some degree more amenable conditions did exist because of the colonial government's efforts to control the trade. It may also have been, however, that the war left the Indians more wary of approaching the colonial government directly for help. The rise of powerful traders, factors, and Indian agents who frequently solidified their positions through intermarriage and other inter-cultural alliances, and who were situated in forts and trade depots within Indian territory, may have led the Indians to bring their complaints to the men closer to home with whom they felt more comfortable. Moreover, such disputes may not always have appeared in the journals and records of such men if they were considered minor or were easily resolved.

In 1732, Governor Robert Johnson negotiated a new treaty with the Upper and Lower Creeks, which on the surface appeared to be a major concession on the part of the Indians. Rather than continuing to be responsible for punishing their own people for misbehavior against the English, in the new treaty the Indians agreed to "deliver up any of our People, who shall be guilty of the Crimes aforesaid, to be tried by the English Laws, or by the Laws of our own Nation, as the English Governour shall think fit."<sup>131</sup> According to this statement, the Indians would allow the English to decide the fate of Creek offenders, whether that be by trial and punishment by colonial courts, or by application of Creek laws and traditional punishments. In reality, however, the Indians may not have been agreeing to nearly as great a concession as it appeared. After all, the

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<sup>131</sup> *JCHA*, November 10, 1736-March 5, 1737, 109-110; *EAID* XIII, Articles of Friendship and Commerce with the Lower and Upper Creeks, June 14, 1732, 151.

English did not propose to arrest or apprehend any Indians they believed guilty of misbehavior. This was left to the Creeks to accomplish, and then to act in accordance with the decisions of the English as to how to proceed further. In essence, the actual “trial” of any offending Creek began within the nation, and might well remain there unless the English chose to act on their treaty right to have the Indian turned over for colonial trial. It remains to be shown, however, whether in the years following the treaty the English ever acted on this new right to determine justice, and whether or not the Creeks lived up to their agreement in the treaty and actually turned over their people in response to English demands.

### Chapter 3 Georgia and South Carolina, 1733-1754

The clash of behavioral ideals between the Indians and the colonies of the Lower South differed in some significant ways from the experience of the Upper South. Unlike the Upper South colonies' primary concern with land issues, in South Carolina and Georgia the major focus from the start was maintaining the Indian trade to preserve peace and insure the viability of the settlements. During the two initial periods of contact between the Indians of the region and the Carolinians, conflicts over behavior clearly revealed that trade was the paramount concern. With the establishment of the colony of Georgia in 1733, the Indian trade entered a new era in the Lower South, one that offered new opportunities for both alliances and disputes. Indians and colonists alike would have to reconsider existing agreements and create new ones that took into account the changing dynamic in the region.

The third stage of frontier interaction in the Lower South lasted for 22 years and included 77 incidents of behavioral conflict. On average, 3.5 complaints were recorded per year, representing an increase from 2.3 per year in the preceding period. When examined more specifically by date of occurrence, however, it is notable that 51 of the 77 incidents (66 percent) took place in the years from 1751-1754. As with the previous period, during the years from 1733-1754, the majority of the complaints regarding misbehavior came from the colonists, (accounting for 77 percent of all recorded complaints), and once again theft and murder were the categories of complaints that occurred most frequently (23 percent and 22 percent respectively). Following these categories, the next most numerous were assaults at 11.5 percent, and threats and

trespassing, each at 6.4 percent of the total cases. In contrast to the two preceding periods when the Yamasees and Creeks were most involved in recorded conflicts when taken as a whole, during these years nearly half of the incidents, 43 percent, concerned the Cherokees. However, the bulk of these cases involved the people of Carolina, and in the new Georgia colony, the majority of disputes were related to the Creeks. Of the incidents involving the Cherokees, the vast majority, 82 percent, represented colonial complaints against the Indians. Complaints against the Creeks, however, accounted for only a little over half, 55 percent, of all the incidents concerning that nation.

Examined independently, statistics from the two colonies reveal differing experiences during this period. Of the total 77 incidents recorded during these years, only 19 (25 percent), came from the new colony of Georgia. Eleven of these cases occurred in the 1730's. The types of behavior that resulted in the most recorded complaints included threats and trespassing, each accounting for 16 percent of the incidents, followed by murders, thefts, and assaults, each of which represented 11 percent of complaints. As with the earliest years of Carolina settlement, in the first years of the Georgia colony the majority of accusations came from the Indians. Not surprisingly, due to their proximity, the Georgia colonists came into conflict most frequently with the Creek Indians, accounting for 84 percent of all the incidents from the colony for this period.

Despite only 25 percent of the cases from this period involving the new colony of Georgia, and South Carolina colony's policies and practices regarding behavioral disputes with the Indians providing a model for Georgia, it seems most appropriate to begin a discussion of the events of this period with the newer colony for a couple of reasons. Firstly, the majority of the policy challenges that took place during this period

involved the new colony. Secondly, Georgia's Indian diplomacy during this period focused almost exclusively on relations with the Creek Indians, as South Carolina's had in preceding periods. During this period, the latter colony became much more involved in dealings with the Cherokees.

James Oglethorpe's first treaty with the Lower Creeks included an article regarding behavioral disputes that was nearly identical to the one that appeared a year earlier in South Carolina's treaty with the Upper and Lower Creeks. Only in this treaty, the Indians promised to "deliver up" their people who misbehaved to be subject to either the English laws or Creek laws, "as the Beloved Man of the Trustees shall think fit," rather than "English Governour."<sup>132</sup> As in the case of the new treaty with South Carolina, however, it remained to be proven how frequently Georgia authorities would employ this agreement, and how readily the Creeks would comply with it. In 1735 the Georgia Trustees enacted a law (based on a South Carolina statute of 1733) to regulate trade with the Indians. Nevertheless, as had been the case in the older colony, disputes arising from the misbehavior of unscrupulous traders appeared almost immediately in Georgia.<sup>133</sup> During this period of colonist-Indian interaction in the Georgia colony, two incidents of murder took place. Both involved a trader named Joseph Watson, who was the partner of Johnny Musgrove and his wife Mary Musgrove, the half-Creek daughter of an Englishman.

When Johnny Musgrove traveled to London in March 1734 to serve as an interpreter for Creek headman, Tomochichi, in talks with the British king and his representatives, he left Watson in charge of his trading business. Musgrove's partner

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<sup>132</sup> Oglethorpe's First Treaty with the Lower Creeks at Savannah, May 21, 1733, *EAID* XI, 16.

<sup>133</sup> "Law to Regulate Trade with Indians," January 9, 1735, *EAID* XVI, 363-69.



reportedly took advantage of the situation and during the interpreter's absence, Watson skimmed off the company's profits, argued with Mary and neighboring Indians, and "developed into a belligerent drunken lout."<sup>134</sup> By September, Watson was reportedly bragging about his role in the death of the Yamacraw Creek known as Captain Skee. Thomas Causton wrote to the Georgia Trustees in January 1735 that Skee's death had resulted after he and Watson "were drinking every day together. . . for about a Month. Skee got the Flux and went to the Cow-pen and died. When Skee was thus ill, Watson made publick Talk, That he had done Skee's business and that he would dy."<sup>135</sup> Despite Causton's reproach on the matter, and his warning that such talk could be dangerous if it reached the Indians, Watson evidently continued in his bragging. In a later report to the Trustees, Causton related that Watson's "own Report of Killing Skee . . . had reached Tallahumme's Ear, and there was nothing to hope for but the Immediate Confinement of Watson to Secure his Life."<sup>136</sup>

In an effort to satisfy the Yamacraws' demands for justice in the case, Georgia authorities eventually conducted a trial in which Watson was accused of defrauding and killing Skee. Due to a lack of evidence, however, the trader received only a fine, and orders to pay damages to Skee's relatives.<sup>137</sup> Two years later, however, James Oglethorpe told his fellow trustees that he was convinced Watson had actually poisoned the Indian. Moreover, he asserted, "Watson would certainly have been found guilty, of murder, if Indian evidence had been allowed to be taken." In response, the Trustees drafted an act that would have allowed Indian evidence to be accepted in the Georgia courts. In the end,

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<sup>134</sup> Corkran, *Creek Frontier*, 90.

<sup>135</sup> Causton to the Trustees, *EAID XI*, 39-42.

<sup>136</sup> *Ibid.*

<sup>137</sup> Corkran, *Creek Frontier*, 90.

however, they never followed through on passage of the act and Indian testimony continued to be barred from the colony's courts.<sup>138</sup> Whether or not Watson was directly responsible for killing Captain Skee, contemporary reports seem to indicate that his actions clearly contributed to the Indian's death. Moreover, in his same letter to the Trustees, Causton related the events leading to the second case of murder in the Georgia colony, which was precipitated once again by the actions of the trader.

Watson's boast about his participation in the death of Skee, word soon reached the Indian's relatives. Enraged by the trader's actions, one of those relatives, Estichi, "came to Yamacraw with a design to kill him [Watson]."<sup>139</sup> When a group of Indians led by Estichi arrived at Musgrove's store where Watson was in hiding for fear of the Indians' anger, Johnny Musgrove wrote that the Indians "waited with a great deal of patience 'till at last their patience was quite tired and very much vexed and broke open the door and was resolved to be revenged."<sup>140</sup> Mary, hearing of the break-in, reportedly urged Watson to flee out the back door. Finding Watson gone, the Indians "in their mad freak fell upon Justice, Musgrove's slave, and killed him."<sup>141</sup> Later discussions between Causton and the Indians confirmed that Estichi himself dealt the fatal blow.

While Causton and other colonial leaders intended to gain satisfaction for the murder, their immediate response to the situation demonstrated both the Georgia authorities concern for keeping the peace with the Indians, and their recognition of Watson's role in provoking the Indians' anger. After consultation, it was agreed, "whenever he [Estichi] was Seen, either in the Town or Settlements, [he] should be

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<sup>138</sup> Incident 109; *EAID*, XI, 373, n. 6; Egmont, *Journal*, 242, 254; *CRG XXVIII*, pt. 1, 159.

<sup>139</sup> Incident 113; Eveleigh to Oglethorpe, Oct. 19, 1734, *Oglethorpe's Georgia*, 1, 58.

<sup>140</sup> *Ibid.*, Musgrove to Oglethorpe, January 24, 1735, *Oglethorpe's Georgia*, 1, 115.

<sup>141</sup> *Ibid.*; Cristie to Oglethorpe, December 14, 1734, *Oglethorpe's Georgia*, 1, 68.

immediately put away in the most gentle manner that could be. And he being then in Town Mr. Vanderplank was ordered to Conduct him to the Indian line.”<sup>142</sup> The final resolution of the case, moreover, may have demonstrated the willingness of the Georgia authorities to accept Indian notions of justice, at least in this instance, to preserve the peace. In July, Causton reported to Oglethorpe on the death of an Indian, possibly another of Skee’s relatives. “Estinoleiche accidentally shot himself when he was out, and is dead. Estiche is reconciled. Mrs. Musgrove is satisfied for the loss of her slave.”<sup>143</sup> Unclear in this statement, however, is why Causton and the other Georgia authorities were willing to accept an accidental death as payment, rather than demanding the death of Estichi for his own actions. Could it have been because Mary was half-Creek and Indian ideas regarding justice in this case demanded only that the death of her slave, Justice, be balanced by the death of an Indian? Was Causton insinuating that Mary *should* be satisfied; or, had Mary been promised by the Georgia authorities (and later received) a replacement in recompense for the loss of her slave? Without further evidence, it is impossible to be certain. However, Causton’s statement does make it fairly clear that with the death of Estinoleiche, the colonial authorities considered the matter closed.

The arrival of the Georgia colonists resulted in disputes, not only with the Indians living in the region, but sometimes with the existing Carolina colonists and traders as well. During this period of early settlement in Georgia, three incidents of trespassing appeared in the records, two of which involved the new settlers intruding into Indian Territory. In the first case, however, James Oglethorpe reported to the Georgia Trustees that the dispute with the Indians had been exacerbated (and perhaps even caused) by the

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<sup>142</sup> Ibid.; Causton to Oglethorpe, January 16, 1735, *Oglethorpe’s Georgia*, 1, 41-42.

<sup>143</sup> Ibid.; Causton to Oglethorpe, July 7, 1735, *Oglethorpe’s Georgia*, 1, 217.

actions of a Carolina trader, apparently angry about the perceived threat the new settlers posed to the existing Indian trade.<sup>144</sup> In May 1736, Oglethorpe informed the Trustees that one, Captain Green had encouraged the Yuchi Indians to attack a group of Saltzburgers for settling on Indian lands and allowing their cattle to eat the Indians' corn. "But what vexed the Uchees most," stated the Georgia founder, "was that some of the Carolina people swam a great Herd of Cattle over Savannah, and sent up Negroes and began a Plantation on the Georgia side not far from the Uchees Town." Despite the Georgia settlers' "indiscreet Action," Oglethorpe was pleased to report, however, that his efforts to resolve the matter by ordering the trespassers to remove themselves and their cattle from the Indian lands had successfully resolved the issue. The Indians, he stated, "instead of taking Green's advice and beginning Hostilities with us sent up their King and 20 Warriours with a message of thanks to me. . . They told me that my having done them Justice before they asked it made them love me and not believe the Stories that were told against me."<sup>145</sup>

The second complaint of trespassing made by the Indians against the Georgia settlers appeared in March 1746, but evolved into a conflict over sovereignty that would threaten to undermine the existing relationship between the Lower Creeks and the English in Georgia.<sup>146</sup> By this time, Oglethorpe had returned to England and been replaced as military commander of Georgia by Captain William Horton. In addition, the colony finally had a provincial government after the Georgia Trustees granted civil authority to the president and assistants in Savannah in April 1743.<sup>147</sup> In 1744, the former

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<sup>144</sup> Incident 116.

<sup>145</sup> "Oglethorpe to the Trustees," May 18, 1736, *EAID* XI, 65-66.

<sup>146</sup> Incident 119

<sup>147</sup> *EAID* XI, 110.

Mary Musgrove married for a third time, wedding the Rev. Thomas Bosomworth after the death of her second husband Jacob Matthews. After a period of service to the colony as a secretary for Indian affairs, Thomas became a minister in Savannah and after their marriage, became very involved in his wife's business affairs. In his narrative, penned in 1756, Bosomworth recorded the trespassing complaints made by the Indians ten years earlier.

In the Year 1745 as well as the preceeding Year the Inhabitants of Savannah had made a Practice of Cutting Timber of the Indian Land near the Town which the Indians made frequent Complaints of To Mrs. Bosomworth; in regard to the white People though to her own Prejudice, she took Little or no Notice of it; but in March 1746 they became Very Clamorous and threatened to take Satisfaction themselves unless Mrs. Bosomworth would write a letter to the Magistrates and make their Complaint. Accordingly She did, And the Answer that the Indians say the Magistrates gave them to it was 'That the Land was not the Indians for they had given it all to the Great King when in England.' This very much exasperated the Indians as some of them then Present had been in England and denied the Fact.<sup>148</sup>

In addition to denying the Indians' sovereign rights to rule the Yamacraw Tract, the magistrates made it clear to the Yamacraws that their testimony carried no weight in the colony's courts. In his talks to Horton in December, Lower Creek mico, Chigelly, informed him "that Queen Senaukey and her People were very Much vexed because . . . [when they presented their complaint to Colonel William Stephens] . . . he told them their Evidence signified nothing unless some Christian people were to swear to the Fact."<sup>149</sup>

Disputes over the rights to the contested lands continued in the years to come, during which the Creeks sought to assert the control they believed they had reserved in

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<sup>148</sup> "Thomas Bosomworth's 1756 Narrative: Extract on the Savannah Confrontation in March, 1746," *CRG XXVII*, 162-63, *EAIID XI*, 123.

<sup>149</sup> "Chigelli's Talk to Horton," December 4, 1746, *EAIID XI*, 132-34.

the 1739 treaty. Mary and Thomas Bosomworth figured prominently in the conflicts that developed because of the land disputes, particularly after the Indians deeded the land in question to them in 1748. After years of unresolved contention with the Savannah magistrates, in 1754 the couple sought to end the dispute once and for all when they traveled to England to lay the matter before the king.<sup>150</sup> However, it would take another five years before the matter was finally resolved in 1759, when Governor Henry Ellis negotiated a compromise agreement that ended the dispute and granted much of the territory to Georgia.<sup>151</sup>

The single complaint of trespassing made by the Georgia colonists during this period involved the Chickasaws in 1745 and was resolved by a strong rebuke of the perpetrators by the Chickasaw headman, Squirrel King.<sup>152</sup> Georgia's President William Stephens recorded in his journal, that the incident was precipitated when several of the Indians, "having been dealing too plentifully in Rum, . . . intruded into a house, and grew unruly with the family, who turned them roughly out of Doors." Angered, the culprits reportedly incited their fellows to join them in revenge, elevating fear in the area to the point that most of the local inhabitants fled to the security of the closest fort. When Captain Horton arrived, he discussed the matter with the Chickasaw headmen. The Squirrel King, convinced after their talks that the Indians' actions were "no ways to be justified . . . rebuked them very sharply, reproaching them with the Baseness they had been guilty of, in abusing their best friends." In addition, he accused them of being "a Pack of Women and Children," and threatened to "leave them to themselves" while he returned home. His words apparently had the desired affect, and Stephens wrote that the

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<sup>150</sup> *EAID XI*, 164-71.

<sup>151</sup> *EAID XI*, 228-33.

<sup>152</sup> Incident 120

offenders “discovered deep Marks of Grief, and made the Strongest professions they were capable of, never more to give the like Offence to the English.”<sup>153</sup>

The three cases of threat that occurred during this period all included complaints made by Georgia colonists against the Indians. In the incident previously mentioned involving the Squirrel King, settlers complained to the colonial authorities that the Chickasaws had made a number of threats leading them to flee for protection to the nearby fort.<sup>154</sup> In early 1746, fears of an alliance between the Creeks, Cherokees and Chickasaws to attack the English arose from threats reported to Major Horton by Captain Kent Barnard in the Creek Nation.<sup>155</sup> Likely attempting to gain her support in intervening with her Creek relations, Horton informed Mary Bosomworth of Barnard’s warning that the Indians had “resolved to declare War against the English and for that purpose many of the Cassitaws are now amongst the Chickasaws at Augusta where about 100 men keep under Arms and behave very oddly to the Inhabitants.”<sup>156</sup> He added his fears that the Indians may also have convinced the Catawbias to join their attack, and that the Chickasaws had impudently informed Barnard “that the Cussitaws will only kill three or four Englishmen and then return to their Nation.”<sup>157</sup> Additionally, a Carolina trader informed the Carolina Council that “old [Chi]Geally is very much for it,” adding to fears of an all-out attack on traders and colonists.<sup>158</sup> Creek protests of trespassing and the theft of timber from the Yamacraw lands increased the level of tension as well, but fortunately, for the colonists, no concerted attack by the threatening Indians ever occurred.

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<sup>153</sup> “Stephens’s Report on Horton’s Talk with the Lower Chickasaws at Augusta,” August 20, 1745, *EAID* XI, 120-21.

<sup>154</sup> Incident 120

<sup>155</sup> Incident 118

<sup>156</sup> “Horton to Mary Bosomworth,” March 1746, *EAID* XI, 122-23.

<sup>157</sup> *Ibid.*

<sup>158</sup> *SCCJ*, 11 April 1746, *EAID* XI, 373, n. 5.

The final incident recorded of threats made by the Indians was likely representative of a number of similar incidents that went unrecorded. In his talks with the Upper and Lower Creeks in May 1751, Agent Patrick Graham complained of disrespect shown towards traders in the Nation.<sup>159</sup> Indians had reportedly broken open a number of stores, stolen the traders' goods, and "threaten[ed] them with Guns and hatchets for presuming to oppose them, or even to demand a retaliation for the damage done them." He requested the headmen's help in the matter, asking them "to exert your powers, to discountenance the same." The headmen's response was somewhat non-committal at the time, however, as they promised only friendship and not to "disturb" the English.<sup>160</sup>

Further incidents of unacceptable behavior occurring between the Georgia colonists and the Indians during this period included two complaints against trader Joseph Watson for assault, including a charge that he attempted to shoot Mary Musgrove in 1734.<sup>161</sup> After Mary brought charges against him, Watson stood trial for the attack. He was found guilty and ordered to pay £5 sterling in damages and to post bond to ensure good behavior in the future. Thomas Causton reported to the Trustees that the evidence in the case made clear the trader's guilt, writing "it appeared very plain that he had Shott her, If she had not overpowered him in her own Defence, And took it [the gun] from him and broke it."<sup>162</sup> Clearly, Mary was a formidable woman and quit capable of protecting her own interests. In the same report, Causton related that the Grand Jury had indicted Watson in another case for assault and fraud against the Indian, Esteche. The trader was

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<sup>159</sup> Incident 124

<sup>160</sup> "Graham's Talk with the Upper and Lower Creeks," May 28, 1751, *EAID* XI, 215-18.

<sup>161</sup> Incident 111

<sup>162</sup> "Causton to the Trustees," January 16, 1735, *EAID* XI, 39-42.



found guilty in this instance as well, and was ordered to pay damages and make restitution for the defrauded goods.<sup>163</sup>

The remaining accusations regarding misbehavior between Indians and the Georgia colonists for this period included single incidents of slander,<sup>164</sup> inciting the enemy,<sup>165</sup> and aiding the enemy,<sup>166</sup> made against the colonists, and individual cases of lying<sup>167</sup> and drunkenness<sup>168</sup> made against the Indians. In all but one of these cases,<sup>169</sup> the disputes were resolved by the actions of headmen or colonial authorities who intervened and offered promises of good behavior by their people in the future. Thus, it appears that during this initial period of interaction between the Indians and the Georgia colonists, English authorities never asserted their right, as agreed upon in the 1733 Lower Creek Treaty, to demand that a Creek offender be brought in for adjudication by English authorities. Neither, did they formally demand that the Creeks impose their own law on one of their people committing an act of misbehavior against the Georgia colonists.

Fifty-eight of the recorded incidents of unacceptable behavior, 75 percent, involved the colony of South Carolina. In that colony the types of misbehavior receiving demands for justice more closely matched the overall statistics for the region with the majority related to theft (28 percent), and murder (26 percent), followed by assault (12 percent). Threat and trespassing cases were notably less common than in Georgia, however, and each accounted for only three percent of the total cases from the Carolina colony. Continuing the trend begun in the prior period, during these years the vast

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<sup>163</sup> Ibid.

<sup>164</sup> Incident 110

<sup>165</sup> Incident 115

<sup>166</sup> Incident 117

<sup>167</sup> Incident 114

<sup>168</sup> Incident 120

<sup>169</sup> Incident 115

majority of official grievances (86 percent) came from the colonists. As previously noted, over half of the all the Carolina cases in this period involved the Cherokees (55 percent), and the majority of these (84 percent) consisted of colonial complaints against the Indians.

During this period, fifteen separate conflicts involving murders occurred on the South Carolina frontier. An examination of these cases reveals many significant aspects of the clash of behavioral ideals in Lower South colonial-Indian relations, and the nature and scope of negotiation that was necessary to resolve the conflicts that took place. In addition, they shed light on the process by which participants on both sides of the frontier came to accept that if they were to coexist in the region, change and adaptation would be necessary.

The first case appeared in the records for February 1737/1738, and involved members of a smaller Indian nation living among the Catawbas. At that time, the Council sent Henry Fox on a mission to the Catawbas to meet with the headmen of that nation, as well as the leaders of the “several tribes amongst them.” The purpose of his meeting was to request satisfaction for murders committed at Pine Tree Creek, which the Council had been informed “was done by the Charraws who live under their [the Catawbas’] protection.”<sup>170</sup> On March 1, a committee reviewing Fox’s original instructions for dealing with the Indians, however, concluded that the request needed to be stronger if satisfaction was to be achieved for the murders. The House, therefore, approved additions to the instructions, stating the colonial government’s willingness to use armed force if necessary to attain compliance with their demands. Fox was “to inform the said Chiefs of the Catawbas and the Tribes amongst them that unless they do give us ample Satisfaction. . .

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<sup>170</sup> “Instructions to Henry Fox for Mission to the Catawbas,” *EAID* XIII, 322-24; Incident 27.

that the Government are determined to do themselves Justice by encouraging the Sennekas to fall on them from the Northward and by our sending an armed Force into their Nation to take Satisfaction.”<sup>171</sup> Since no records indicate that such an attack subsequently took place, and the Catawbas remained on friendly terms with the English, it might be assumed that Fox’s mission was successful.

In 1744, Governor James Glen of South Carolina established what he hoped would be a precedent for future Carolina-Indian relations, by facilitating what, in his own words, was “perhaps the first instance in America where any Tribe of Indians was brought to punish themselves for injurys done to other Indians.”<sup>172</sup> The case involved the murders of seven Catawbas by a group of Notchee Indians, at a meeting of the two groups to renew their friendship; and, as both were on friendly terms with the colony, it allowed the governor to assume the role of mediator in the dispute.<sup>173</sup>

One of several fragments of the original Natchez Indians that fled the Mississippi valley in 1729, the Notchee had eventually settled in South Carolina. In March 1738 the Council agreed to take the small band under the colony’s protection and to purchase “One hundred acres of good Corn Land” for their use. Mr. James Coachman purchased land at Four Hole Swamp near Fuller’s Cowpen for this purpose. By early July 1744, the Notchees were assisting the colony in the apprehension of “runaway Negroes,” and

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<sup>171</sup> Ibid.

<sup>172</sup> Governor Glen to the Board of Trade about the Notchee Murders, September 22, 1744, *EAID* XIII, 332-33.

<sup>173</sup> The number of Catawbas killed is unclear from the sources. Thomas Brown’s report on the incident to Gov. Glen, dated July 23, 1744, records ten deaths, while Glen’s report to the Board of Trade on Sept. 22 of the same year, states that only seven were murdered. Chapman Milling sets the number at seven as well; Thomas Brown to Governor James Glen about Murders by Notchees of Catawbas, July 23, 1744, *EAID* XIII, 330-31; Governor Glen to Brown about the Notchee Murders, July 1744, *EAID* XIII, 331-32; Milling, *Red Carolinians*, 229; Incident 29.

Governor Glen had begun referring to them as “my friends the Notchees.”<sup>174</sup> As Chapman Milling noted however, “the Natchez were not destined to remain very long in the executive favor.”<sup>175</sup>

The incident began when the Catawbas accepted an invitation from the Notchees and some Pedee Indians living in the Carolina settlements, to renew their existing friendships and celebrate together. Representatives gathered at the home of trader William Patten on July 16 or 17,<sup>176</sup> where they were supplied, by Patten, Glen later related, with large quantities of Rum, “contrary to his duty and the Laws of this Province.”<sup>177</sup> Later, as the Catawbas slept off their drunkenness, the Notchees fell upon them, killing all but some women and two of the men among them. The dead reportedly included Captain Jack, a beloved man and warrior, who had received his captain’s commission from the Carolina government.<sup>178</sup>

Gov. Glen was informed of the incident, and of the probability of Catawbas descending upon the settlement, “to revenge this blood,” by longtime Catawba trader, Thomas Brown.<sup>179</sup> Responding quickly to the perceived threat, Glen instructed Brown, to notify the Nation’s headmen that he would make “Strick Enquiry” into the matter, to request that the survivors of the attack be sent to Charles Town for questioning, and to assure the Catawbas they would “have Satisfaction.”<sup>180</sup> Moreover, the governor asked Brown to persuade the Nation to keep the peace in the meantime. Glen later reported to

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<sup>174</sup> *S.C.C.J.*, VII, 383-84, cited in Milling, *Red Carolinians*, 228-29, note 82.

<sup>175</sup> Milling, *Red Carolinians*, 229.

<sup>176</sup> Brown to Glen. July 23, 1744, *EAID* XIII, 330-31.

<sup>177</sup> Glen to the Board of Trade, Sept. 22, 1744, *EAID* XIII, 333.

<sup>178</sup> Brown to Glen. July 23, 1744, *EAID* XIII, 330-31.

<sup>179</sup> *Ibid.*

<sup>180</sup> Glen to Brown, July 1744, *EAID* XIII, 331-32.

the Board of Trade that, in fact, “he would not permit them to take revenge at their own hands, but desir[ed] them to submit to the Determination of the Government here.”<sup>181</sup>

The Indians apparently acquiesced to the governor’s wishes, and along with the survivors of the attack, a number of Notchee headmen, including the principal chief and his family, soon arrived in the settlement to discuss the matter. After conversing with them for several days, Glen was able to convince the leader of “the Cruelty and Cowardlyness of the Action, and of the necessity of punishing some of the guilty.” Such action was imperative, Glen argued, not only to prevent the guilty parties from committing such unacceptable behavior in the future, but more importantly, to serve as an example to other members of the band who might consider behaving in a like manner. In his letter to the Board, the governor later expressed his pleasure with the Notchee headman’s ready agreement to his arguments and with the good effect he presumed it would have on relations with neighboring Indians. In addition, however, he revealed his distrust of Indians, in general, stating, “whatever is said of them and of their native Simplicity and honesty, [they] are a savage, cruel, perfidious, revengefull sett of Men.”

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Despite agreeing with Glen’s assessment of the situation and of the necessity for punishment to be assigned, however, the Notchee leader expressed doubts that the plans the governor suggested could ever be implemented. He pointed out that the “two Ringleaders were considerable Men,” who were being protected. Moreover, it was likely the men’s relations would “think it their duty to kill those” who might harm the men. Putting aside his concerns, however, the Notchee headman assured the governor he

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<sup>181</sup> Glen to the Board of Trade, Sept. 22, 1744, *EAID* XIII, 333.

<sup>182</sup> *Ibid.*

would “do everything in his power” to resolve the matter as they had agreed was necessary.<sup>183</sup>

Glen’s description of the incident’s resolution, written seventeen years later, deserves recounting in its entirety. Following the Notchee leader’s promise, Glen writes,

accordingly, a few weeks after he sent me the Heads of these  
Two persons in a bagg; I gave them to a Surgeon to take out the  
Brains, and put each head in a Cask with Spirits to preserve them  
Till they got to the Catawba Nation, and as it is usual amongst the  
Indians to mark their great men by various figures upon their  
Faces and bodies, the heads were immediately known when they  
Were brought to the Nation by those who had made their escape  
From their Cruelty, this action produced a general Joy in the  
Catawbaw Nation, and gave them a very high opinion of us...  
[resulting in all the] ...Subsequent Submissive behaviour of the  
Catawbaws . . .<sup>184</sup>

By the time the Carolina governor penned these words in December of 1761, he had good reason to suggest that his efforts, and the successful resolution of the affair, were a significant step in his colony’s relationship with the local Indians. Convincing Indians to execute their own for killing other Indians was indeed an important step in the effort to extend colonial jurisdiction to the regulation of unacceptable Indian behaviors involving exclusively Indian-on-Indian activities. Moreover, by this time, Glen might even have asserted that his method of resolving intertribal conflict had been tested and proven effective even among the most powerful nations Carolina faced on the frontier. However, while convincing a small settlement band to execute some of their own for the killing of other Indians was a relatively easy task for him in 1744, eight years later the

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<sup>183</sup> Glen to the Board of Trade, Governor Glen’s Additional Description of the Notchee Murders, Dec.1761, *EAD* XIII, 333.

<sup>184</sup> *Ibid.*

governor's efforts to repeat this precedent with the more powerful Creek Indians, proved a great deal more complex.

Thirteen other formal accusations of murder involving the Indians and Carolina colonists also appeared in the records from this period. In all but one of these instances, however, Indians were accused of killing colonists. Over half of these concerned the Cherokees, but allegations against other nations appeared as well. Of those involving the Cherokees, one demonstrated both conflicts that often existed within and between the Indian towns, and the extent to which some of the Indians were willing to comply with English ideas of justice in order to keep trade goods flowing. Moreover, it set an example for compliance that Governor Glen would use in negotiations with other Indian nations, and showed that colonial authorities were still willing, despite treaty agreements, to forego bringing misbehaving Indians into Carolina courts, so long as they believed justice was being served on the frontier.

In his April 1745 talks with the Cherokees and Catawbas, Glen reminded the Indians of their 1730 treaty agreement to “deliver up [to the Carolina authorities] . . . to be punished as so great a Crime deserves,” any Indian guilty of having killed a white man.<sup>185</sup> Two years later, however, the Governor used the language of Indian diplomacy to convince the Cherokee headmen to undertake themselves the task of executing those members of their nation guilty of having killed an unidentified English packhorseman. Reminding the headmen of their earlier talks when both groups had “brightened the Chain of Friendship that [had] so long bound the English and Cherokees together,” Glen expressed concern that that chain which he considered “as strong as Steel and as Shining as Silver . . . [had] contracted Rust and that the Path betwixt [the Carolinians and the

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<sup>185</sup> “Governor Glen’s Talk to the Cherokees and Catawbas,” April 30, 1745 *EAIID XIII*, 187-189.

Cherokee Nation was] Spoiled by the Blood of a White Man.” To preserve the trade and existing amity between them, the Governor told the headmen that it would be “proper for you to revenge this Cruel and Bloody Action your selves, by giving Orders that [those] Guilty of it be put to Death, in the presence of some of my White People.”<sup>186</sup> In a letter to the Board of Trade written only a few months later, Glen related his surprise and great satisfaction at the Cherokee’s response to his requests for justice in the case.

. . . I had sent up to demand satisfaction, but I had no great hopes of receiving any by their putting the guilty Person to Death, more especially as the Englishman that was killed was but a Worthless drunken fellow a Packhorseman and the Person who killed him a man of note a great hunter and Warriour, . . . but the affair was managed by the Indians with great circumspection procedure and Justice, the Town in which this happened did not incline to have the guilty person put to death, but there were consultations in every Town in the Nation about it and many of them sent Deputys to the Town to give them notice that unless they put him publickly to Death in the sight of the English Traders that they would come and destroy their town and kill Man, Woman and Child at length they gave orders to shoot him which was accordingly done and his head cut off with a hatchet and when his relations desired leave to bury him, they were told by the headmen that he must lye & rot above ground, that all the English that passed might see their Justice and how punctually they fulfilled their Engagements, it is a great step towards civilizing savage and barbarous Nations when they can be brought to do public Acts of Justice upon their Criminals.<sup>187</sup>

Pleased with his success in this case, Glen would later cite this example of Indian cooperation in his negotiations with the Creeks. In a conference with Creek headmen in which he described this incident with the Cherokees, Glen stated that the Carolina government would “expect the same from all Indians.” In addition, he promised reciprocal consideration, stating the “when any of my People murder any of the Creeks, they shall certainly suffer Death for it, and I will send for some of you to see the

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<sup>186</sup> “Governor Glen to the Cherokees about Treaty Violations,” March 24, 1747/48, *EAID* XIII, 205-206.

<sup>187</sup> “James Glen to ‘My Lord’,” July 26, 1748, in National Archive of Scotland, Edinburgh, GD 45/2/1, Letterbook of James Glen, April 1748, 76-77; Alex Murdoch, “James Glen and the Indians,” in *Military Governors and Imperial Frontiers, c. 1600-1800: A Study of Scotland and Empires*, ed. A. Mackillop and Steve Murdoch (Leiden: Brill, 2003), 141-59; *EAID* XIII. 207; Incident 31.



Punishment.”<sup>188</sup> However, there is no recorded evidence of any such event ever taking place.

In early 1751, a series of conflicts, including two more murders attributed to the Cherokees, contributed to the decision by South Carolina authorities to place an embargo on all trade with the Nation. The conflicts arose, in part, from the presence among the Cherokees of French-allied Indians from the North, including Nottawegas, Shawnees, Senecas, Ottawas and Iroquois. While some tension already existed between the Overhill, Middle, and Lower towns of the Cherokees, the arrival of the Northern Indians increased the level of anxiety. The proximity of the Lower towns to the South Carolina settlements had resulted in more contact between the headmen there and Carolina authorities. When Charlestown sought to allow the Lower Cherokee headmen to speak for the entire Nation, however, it drove the Overhills (specifically the headmen of Chota), towards the French. Attacks and threats of attacks on the Carolina traders and settlements by both the northern visitors and their Cherokee allies resulted in fear among the English and Lower Cherokees. Rumors spread by both Indians and traders of plans by the Carolinians to raise “an Army to cutt them all to Pieces, and make Slaves of their Women and Children,” increased the level of anxiety among the Cherokees.<sup>189</sup>

Despite unsuccessful efforts to gain satisfaction for the murders and other misbehaviors committed by the Indians, Glen initially remained reluctant to impose an embargo against the entire nation. In his arguments against doing so, the governor cited, among other factors, the potential loss to the trade, the Cherokees’ importance to the colony as a “Bullwark” against the French, and the potential danger to the colony if they

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<sup>188</sup> “Conference of Governor Glen and the Council with the Creeks about the Creek-Cherokee Peace,” McDowell, *C.R.S.C.: Docs. Relating to Indian Affairs, 1750-1754*, 388-408, 409-14; *EAID* XIII, 258-80.

<sup>189</sup> “David Downey to Governor Glen,” May 25, 1751, McDowell, *C.R.S.C., 1750-1754*, 57.

became enemies due to their close proximity, and their large population of warriors.<sup>190</sup>

On June 15, 1751, however, the Carolina authorities enacted the embargo and ordered all traders to leave the Nation.<sup>191</sup>

One of the murders that Glen sought satisfaction for was that of Andrew White, whom members of the town of Keowee had killed while on the Creek Path.<sup>192</sup> In a talk given by the Overhills in April 1751, the Indians acknowledged the man's death and expressed sorrow for the action. However, they added their belief that "it was his [White's] own Fault, for that he joined and assisted their Enemies and encouraged them in the Creek Tongue against them."<sup>193</sup> Attempts to obtain justice for the murder remained unsuccessful prior to the embargo, however. Although information on the final resolution of the case is not extant, a demand for the offender to be delivered up to the Carolina authorities for punishment was included (and was agreed to by the Indians) in Glen's talks with the Cherokees that ended the embargo in November of that year.<sup>194</sup>

The other murder that influenced the Carolina authorities to stop the Cherokee trade had occurred a year earlier and involved an attack by some Cherokees and Nottawegas on trader Jeremiah Swiney and a group of Chickasaws on March 14, 1750. An eyewitness to the attack, Stephen Creagh, stated that a few days prior to the arrival of Swiney and the Chickasaws, a group of Nottawegas arrived at the trader's store at the Oconies demanding to know if any Chickasaws were housed there. Although the man left to guard the store, one Jenks, told the Indians that there were not, they searched the

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<sup>190</sup> "Governor Glen to the Committee on Indian Affairs," May 28, 1751, McDowell, *C.R.S.C., 1750-1754*, 152-53.

<sup>191</sup> "Governor Glen to the Traders of the Cherokee Nation," June 15, 1751, McDowell, *C.R.S.C., 1750-1754*, 66.

<sup>192</sup> Incident 193

<sup>193</sup> "Talk of the Over Hill Cherokees," April 9, 1751, McDowell, *C.R.S.C., 1750-1754*, 64.

<sup>194</sup> "Talk of Governor Glen to the Cherokees concerning their Treaty," November 26, 1751, McDowell, *C.R.S.C., 1750-1754*, 187-96.

store anyway and told the man “that it was not good for him to live there, for that the House and all would be burned.” The threat would not prove an idle one, as the attackers returned on the fourteenth. Creagh provided the following account of the attack:

About Midnight, . . . the Enemie fired a Volly of small Arms into the House, . . . and for a long Time they continually firing, and [Creagh] believes Swiney was the first Person wounded, either white People or Indians. The Chickesaws fired from the House but the enemie came close up, and let Fire to the House, which those within extinguished several Times by beating down the Clap-boards and throwing Water upon them. They were all obliged at last to leave the House, the Fire being often [fanned?], but before this, Swiney had received three Shots and was hardly able to crawl out of the House. . . [after fleeing the scene, Creagh and some others returned six days later, when they found] the Corps of Jeremiah Swiney, about 10 Yards from the Place where the House did stand, stretched out, lying on his Back, naked only some Pieces of burnt Blanket throwed about him.<sup>195</sup>

In his complaints and demands for justice to the Cherokee headmen regarding the murder in May 1751, Governor Glen added his outrage at the Indians’ subsequent attitude and behavior regarding the killing. He stated that, “This barbarous Action, which ought to have affected your whole nation with Concern, . . . served afterwards as a Subject of Mirth and pastime, to some of your mad young men, who when they got Home, are said to have insolently mocked and imitated his dying Groans.”<sup>196</sup> Once again, the final resolution of the incident does not appear in the records. Additionally, no demand for satisfaction for the murder was included in the treaty talks, which ended the Cherokee embargo at the end of November 1751. However, in a meeting between the governor and the Cherokees in Charlestown on November 15, Keowee headman, Skiagunsta informed Glen that a Cherokee they believed guilty in the attack had expressed remorse and had gone “into the Woods to War that he might die by the Hand of the Enemie.” The

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<sup>195</sup> “Deposition of Stephen Creagh,” March 22, 1750, in McDowell, *C.R.S.C., 1750-1754*, 13-14.

<sup>196</sup> “Governor Glen’s Talk to the Cherokees,” May 1751, McDowell, *C.R.S.C., 1750-1754*, 43-45.

governor, therefore, stated his expectation that the offender would “be delivered up when he returns, if alive.”<sup>197</sup>

During the year of the Cherokee embargo, two other incidents of the murder of Carolinians appear in the records, one involving the shooting of James Cotter by unidentified Indians<sup>198</sup>, and the other concerning the killing of Isaac Gould and his children by the Savannahs (Shawnees).<sup>199</sup> The latter case provides a rare instance in which the records indicate the Carolina authorities arrested the suspected Indian murderers, and held them in the Charlestown jail to await trial. Moreover, the imprisonment and possible future execution of the men became a further bone of contention in the ongoing dispute with the Cherokees.

On May 8, 1751, Mary, the wife of Isaac Gould, provided an affidavit to authorities in the Saxa Gotha Township, outlining the events of the attack before dying a few days later of the wounds she sustained therein. She reported that two Savannah Indians had spent the evening visiting and eating dinner with her husband in the couples’ home. Later that night, while the family slept, she stated,

they came as I suppose to the Bed and shot my Husband through the Head, and a young Man lying upon the Floor was shot in the same Minute. And the Indians I suppose thinking the Bullet had gone through my Husband’s Head and mine too, struck me with a Tamhook under my right Arm. They supposed I was dead, and one of them went and killed both my Children, and then they came and took the Blanketts from us, and plundered the House of all that was valuable and went off.<sup>200</sup>

Two years later, in June 1753, Governor Glen examined a group of Savannah Indians and declared his belief that they had been the ones responsible for the Gould

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<sup>197</sup> “Meeting of Governor Glen and Cherokees,” Charlestown, November 15, 1751, in McDowell, *C.R.S.C., 1750-1754*, 175-84.

<sup>198</sup> Incident 23

<sup>199</sup> Incident 22

<sup>200</sup> “Affidavit of Mary Gould,” May 8, 1751, McDowell, *C.R.S.C., 1750-1754*, 126-27.

murders, He ordered them held in the Charlestown jail pending an investigation and trial.<sup>201</sup> The next month, during a conference with the Cherokees regarding making peace with the Creeks, Long Jack and Little Carpenter questioned Glen regarding the status of the prisoners. The governor informed them that the matter was yet undecided, but that either way it was none of their business. He also indicated that the six prisoners may have also been involved in attacks on other Indians. “It is for that reason for seizing red People, that we punish them,” stated Glen. Little Carpenter responded with a threat, saying “We will not make Peace with the Creeks whilst these Prisoners are here.” In his final word in the discussion, the governor told the Indians that, “If these People are guilty we shall punish them. If not, they will be acquitted.”<sup>202</sup> Just three days later, however, the Council proposed releasing the men due to lack of evidence if some of the Savannah headmen would come “and give Security for the good Behaviour of their People for the Future.”<sup>203</sup> It is unknown whether the headmen ever appeared before the Council, however, by December Glen reported to the Creeks that three of the prisoners had escaped, one died, and the other two had murdered a man, stolen his gun and killed a woman and two children at another house.<sup>204</sup>

By 1752, the Cherokee and Creek Indians had been involved in intermittent warfare for more than a decade. The Carolina trade with both nations was being threatened by the machinations of the French and the Spanish; and Glen’s ability to succeed in bringing an end to the warring, and to attaining the trade loyalty of the two

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<sup>201</sup> “Governor Glen examining Savannah Indians,” June 18, 1753, McDowell, *C.R.S.C., 1750-1754*, 429.

<sup>202</sup> “Conference of Governor Glen and the Council with the Cherokees about the Creek-Cherokee Peace,” July 4-5, 1753, McDowell, *C.R.S.C., 1750-1754*, 433-41, 444-46; *EAID XIII*, 280-89.

<sup>203</sup> “Proceedings of the Council Concerning Indian Affairs,” July 7, 1753, McDowell, *C.R.S.C., 1750-1754*, 449-56.

<sup>204</sup> “Governor Glen to the Heads of the Creek Nation,” December 14, 1753, McDowell, *C.R.S.C., 1750-1754*, 464-65.

most dominant Indian societies in the Carolina sphere of influence, appeared questionable.<sup>205</sup> Nevertheless, as luck would have it, an incident took place, which would give the governor a bit of leverage, while at the same time forcing him to take more aggressive action towards peace. Once again, Glen would attempt to resolve behavioral conflict by convincing a group of Indians to execute some of their own members in punishment for the murder of other Indians. But this time, the Indians involved were avowed enemies who were involved in an ongoing war.

On April 1, 1752, a group of Cherokee hunters arrived in Charles Town, where they sought protection from a group of pursuing Creeks, lead by prominent Upper Creek headman Acorn Whistler.<sup>206</sup> Although their presence ran counter to established treaty agreements, Governor Glen allowed them to remain in town for a short time, and agreed to provide them with guns and ammunition for defense on their travel homeward.<sup>207</sup> When Acorn Whistler arrived in town shortly thereafter, Glen confiscated his guns and ordered him not to molest the Cherokees in the settlement. Following a meeting with the Creeks during which they promised to remain peaceful, Glen reassured the Cherokee hunters that the trail northward would be safe to travel, and on his word, the Indians departed. Once outside of town, however, a group of twenty-six Creeks approached the hunters. “Not expecting any Harm [the Cherokees were thus caught off guard] when the Creeks fell upon and killed 3 of them.”<sup>208</sup>

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<sup>205</sup> David Corkran, *The Carolina Indian Frontier*, Columbia, S.C., 1970, 44-45; Doris Fisher, “Mary Musgrove: Creek Englishwoman,” Ph.D. diss., Emory University, 1990, 303-04

<sup>206</sup> The earliest reference to Acorn Whistler appears to be a 1749 event, when he was reportedly bribed by the French to reopen the Creek-Cherokee War and prevent Upper Creek “deputies” from traveling to Charles Town to meet with Gov. Glen and Cherokee representative. He did so by attacking the Cherokee town of Hiawassee and killing two Cherokees. See Proceedings of the Council Concerning Indian Affairs, May 31, 1753, McDowell, *C.R.S.C., 1750-54*, 399; Incident 58.

<sup>207</sup> “Talk of Twelve Cherokees to Governor Glen,” April 1, 1752 McDowell, *C.R.S.C., 1750-1754*, 227-28.

<sup>208</sup> “Talk of the Acorn Whistler to Governor Glen,” McDowell, *C.R.S.C., 1750-1754*, 229.

On April 5, the governor reported to the Cherokee Nation, that in fact, four of the hunters lay dead from the attack and the offending Creeks had taken prisoner a fifth. The Carolinians immediately sent out a party to pursue the Creeks and try to free the captured Cherokee. However, they failed to catch up to the Indians and Glen reluctantly informed the Nation that the effort proved unsuccessful. As with the Catawbas in 1744 though, the governor promised the Cherokees that “all proper Measures... [would]...be taken to procure Satisfaction.”<sup>209</sup>

Upon consideration of the matter, the Carolina council decided it would be best to send an Indian agent into the Lower Creek towns to seek redress. It was not until the end of May, however, that the Council secured someone willing to undertake the potentially dangerous expedition. At Glen’s suggestion, the Council eventually commissioned Indian agent Thomas Bosomworth and his wife, the former Mary Musgrove, to carry Carolina’s demands to the Lower Creek Nation. Mary’s earlier success as a negotiator between Georgia’s General James Oglethorpe and the Lower Creek Indians, as well as her acknowledged status within the Nation due to her kinship to the powerful Lower Creek headman, Brims (and his descendents and current headmen Chigelly and Malatchi), convinced the governor that she would be uniquely qualified to bring success to this mission.<sup>210</sup>

Governor Glen provided the Bosomworths with very specific instructions on where and how to proceed once they arrived in the Creek Nation. Aside from their first major objective, to attain satisfaction for the Cherokee murders, the agent and his wife

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<sup>209</sup> “Governor Glen to the Cherokee Nation,” April 5, 1752, McDowell, *C.R.S.C., 1750-1754*, 233-34.

<sup>210</sup> Doris Fisher, “Mary Musgrove,” 306-08. Fisher describes the negotiations required to secure Mary’s appointment to the mission. She notes the Council’s refusal to accept Mary as a sole representative, and demands that she only be allowed to assist a “proper (male) agent,” despite her obvious qualifications.

were to seek reparation for earlier thefts of English goods by Lower Creeks. More significantly, their final objective required that they “endeavour to make a Peace betwixt the Creeks and the Cherokees.”<sup>211</sup> Their first stop would be the town of Coweta, among Mary’s closest Lower Creek relations. There they would request Satisfaction for the murders, through appeals to maintain good relations with Carolina, and if necessary, with the threat of a trade embargo.<sup>212</sup>

On this first matter, Glen called for the Bosomworths to use their influence to convince Malatchi and Chigelly that the recent murders involved Cherokees who were under the protection of the Carolina government. Therefore, the perpetrators had violated not only existing treaties, but the Laws of Carolina as well.<sup>213</sup> Those laws, they were to point out, required the punishment of all the Creeks involved in the act. However, to keep the “good Understanding” between the Creeks and the Carolina government, Glen offered “to mix Mercy with Justice by demanding only that they deliver up the Cherokee whom they carried off...if alive,” and the promise that the Indians would “punish with Death” some of the most guilty men involved.<sup>214</sup> Moreover, although the agent and his wife were to consult with the Indians on the manner in which the punishment was to be accomplished, they were to “leave the Execution thereof to them.” They were to make

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<sup>211</sup> Instructions to Thomas Bosomworth, McDowell, *C.R.S.C., 1750-1754*, 343-47.

<sup>212</sup> *Ibid.*; Corkran, *Carolina Indian Frontier*, 44-45.

<sup>213</sup> *Ibid.*; Corkran, *Creek Frontier*, 155. Corkran states that in the commission given to Bosomworth, Glen cites “...the treaty of 1721 made by Ouletta, in which the Creeks promised to punish those of their nation who committed depredations or carried on war in Carolina...” He provides no footnote to this information, however, and the record of the commission included in McDowell does not include the reference to that treaty, although the governor does mention “an Old Agreement” McDowell, 344, and Bosomworth records citing the treaty during his negotiations, in his Journal on August 6, 1752, in McDowell, 274. Additionally, elsewhere Corkran misidentifies the 1732 treaty text as that for the 1717 treaty.

<sup>214</sup> “Instructions to Thomas Bosomworth,” McDowell, *C.R.S.C., 1750-1754*, 345-46.



certain, however, that it be well understood the purpose of the execution was to give satisfaction to the English.<sup>215</sup>

The initial reaction of the Lower Creek headmen, recorded in Bosomworth's Journal, was one of shock and dismay. Chigelli argued that despite his advanced years, "never in his Life had [he] heard such a Demand for such a Crime." Had those murdered been whites, it would be understandable, "but to kill their own People for killing their Enemies" seemed incomprehensible.<sup>216</sup> Using terminology he evidently thought the Indians would relate to, the agent insisted the Satisfaction was not demanded for the killing of Creek enemies. Rather, it was necessary to redress the warriors "staining the white beloved Town with the Blood of our Friends."<sup>217</sup>

Despite talks by both Thomas and Mary seeking to convince the Indians of the Carolinians' interest in the affair, the headmen remained unwilling to make a formal response regarding compliance to the demands. Malatchi complained that the English demonstrated "Partiality to the Cherokees" by not demanding Satisfaction for the murders of individual Creeks by Cherokees at Savannah and Augusta. He inquired as to "why their People's Lives should be demanded for making the white Town bloody any more than the Cherokees."<sup>218</sup>

During the negotiations, Thomas records that Mary then noticed a relation of hers, a young man called Hiacpellechi. She accused him of taking part in the attack and insisted that he explain the events that took place on the fateful day. Admitting his part in the murders, the fellow insisted however, that Acorn Whistler was "the Cause of all the

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<sup>215</sup> Ibid.

<sup>216</sup> "Journal of Thomas Bosomworth," McDowell, *C.R.S.C., 1750-1754*, 274.

<sup>217</sup> Ibid.

<sup>218</sup> Ibid, 277.

Mischief.” It had been the Headman, he revealed, who coerced the others to join in his attack with the promise of presents. Their meeting him was accidental and the orders to kill the Cherokees were from the “great Man” himself. He and the others simply believed that due to Whistler’s status, “he ought to know best what was to be done,” and thus they complied.<sup>219</sup>

Given this new information, Malatchi then sought counsel from two of the Whistler’s close relations, Este Paiechi, of the Cussitaws, and the Ottassee principal chief of the Upper Towns. Apprising them of the situation, Malatchi then provided even more information that lent credibility to the young man’s accusations. Upon leaving Charles Town, the Whistler had arrived in Coweta with “bad Talks” regarding his treatment by the governor while in the settlement. He complained of the confiscation of his weapons, and argued the English intended to kill the Creeks. Moreover, Malatchi said, the Whistler endeavored using “all the Arguments in his Power,” to convince the Coweta Headman “to kill all the English in the Nation directly.” Refusing to promote such extreme action until he ascertained the truth of the matter, Malatchi reported that the Whistler responded by threatening to start a war himself by killing “some white Man.” Malatchi replied, “if he [Whistler] did he should die for it.”<sup>220</sup>

Upon consideration of the events and of Chigelly and Malatchi’s appraisal of the situation, Acorn Whistler’s two kinsmen agreed that the matter was indeed grave and required an appropriate response. They were well aware that the English would accept nothing less than blood revenge to atone for the murders. In addition, they found the evidence convincing that the Whistler was indeed most responsible. Together the four

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<sup>219</sup> Ibid, 276-77.

<sup>220</sup> Ibid, 278.

headmen decided that “it was better that his [Acorn Whistler’s] Life should be taken than that they should break off all Friendship with the English by which Means many innocent Persons must suffer for the mad Actions of one Man.”<sup>221</sup>

Having agreed upon the “Reasonableness and Justice” of the Carolinians demands, however, the men also realized that the “Difficulty lay in the Execution.” Should the Whistler or his other, uninformed relations get word of their intentions, a civil war might start before they could prevent it. Thus, the headmen decided the best course would be to select a willing executioner to do the deed, all the while concealing the true purpose of the task and the role of the English in the affair. They would maintain secrecy until the headmen, and the governor’s representatives, could meet with the other relations personally, and inform, or more importantly convince them, of the necessity of the action.<sup>222</sup>

Este Paiechi and the Ottassee principal chief chose the man to be Whistler’s executioner. They selected a young nephew of the condemned man, who had been involved in an earlier dispute with his uncle over the misuse of the younger man’s wife. The headmen ordered the young man to kill his uncle, and to tell others only that the Whistler was angry and had threatened his life. When Malatchi and Chigelly learned of this plan, however, they became angry, insisting that such an important task should not have been assigned to such a young man. They feared the nephew would discover the true circumstances behind the headmen’s orders, and seek to clear himself by making the facts known.<sup>223</sup> Nevertheless, the orders had been given and within a week

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<sup>221</sup> Ibid, 279.

<sup>222</sup> Ibid.

<sup>223</sup> Ibid, 280.

Thlackpallacke, another of Whistler's relations, informed Mrs. Bosomworth "That the Business was done."<sup>224</sup>

Efforts to keep the true purpose of Whistler's death a secret, proved nearly as difficult as convincing the Indians it was justified. While still awaiting word on the completion of the task, the Carolina agent received information that many of the Lower Creeks were privy to the events and thought the English unreasonable in their demands. Like the headmen's initial reaction, they also argued against being required to kill their own people for the supposed "crime" of killing their enemies.<sup>225</sup> Bosomworth related in his journal that some of the white traders incited the Indians to a "great Rage and Fury" because they feared such a demand would result in a general war in which they would become the first casualties. One particular trader by the name of Kennard reportedly informed the Indians that the Agent was in fact, acting on his own and with no orders from the governor at all. Bosomworth resolved the matter by proceeding directly to the Hichetaw town of the Lower Creeks. There he brought together the headmen in the town square where he read to them his commission from Governor Glen, and forced Kennard to admit his error. While the Bosomworths remained in Hichetaw town, Malatchi and Chigelly arrived, as did a number of other traders. By the following day, the group received word of the Whistler's death.<sup>226</sup>

Having accomplished the first part of their mission, Mary and her husband proceeded on their journey to try to convince the Whistler's relatives, and the rest of the Creek Nation, of the reasonableness of the colonial government's demands. It was

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<sup>224</sup> Ibid, 282.

<sup>225</sup> Fisher, "Mary Musgrove," 328.

<sup>226</sup> "Journal of Thomas Bosomworth," McDowell, *C.R.S.C., 1750-1754*, 280-81; Fisher, "Mary Musgrove," 328-30.

necessary to act quickly to prevent the news of the headman's execution (at the behest of the English) from reaching those Creeks who might see it their duty to revenge his death by attacking the English. Moreover, they still needed to persuade the Creeks to agree to peace talks with the Cherokees. Towards these ends, they traveled next to Apalachicola where they were successful, and thus proceeded to the Upper Towns.

Along the way, the agent was informed that the young executioner, the nephew of the Whistler, was now dead. The two headmen who selected him for the mission, reportedly considered it best to silence him before he could cause any problems. At a meeting in the Tuckabatchee town, the Ottassee headman confirmed the young man's death. He stated to the agent and assembled headmen that "one innocent Man suffered with the guilty." Furthermore, they believed it a preferable course of action, than to risk starting a war in which many should die. He added that, "as the Talk [from Governor Glen] was the Cause of two lives being taken, [he] hoped the Governor would be satisfied therewith and that no further Satisfaction ...be required." The Tuckabatchees also informed the agent and his wife that if Coweta agreed, they were now willing to attend a peace conference with Governor Glen.<sup>227</sup>

Despite their compliance with the Carolinians' demands in executing Acorn Whistler, the Creeks continued to accuse the colonial authorities, perhaps rightly, of favoring the Cherokees.<sup>228</sup> In July 1752, while traveling to the Upper Creeks to execute a warrant and return to Charlestown some traders accused of a felony while in the Nation,

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<sup>227</sup> "Journal of Thomas Bosomworth," McDowell, *C.R.S.C., 1750-1754*, 282-91; Fisher, "Mary Musgrove," 330-33.

<sup>228</sup> Governor Glen seemed to show preference when he stated to the Committee on Indian Affairs on May 28, 1751, "It is proper for us to mention a good Understanding with all the Indian Nations around us, but it is absolutely necessary for us to be in Friendship with the Cherokees in Particular, both on Account of their Numbers and Nearness to us, for the promoting of the Trade, and for our own security. . ." in McDowell, *C.R.S.C., 1750-1754*, 152-53.

a South Carolina constable and his companion were reportedly “hewn to Pieces” by some Cherokees. Representatives of the Georgia colony later related to their superiors that the Creeks expressed anger at the English response to the murders, noting that the failure of South Carolina authorities to demand immediate satisfaction (as they had in the Acorn Whistler case) showed inequitable treatment and favoritism towards the Cherokees. Moreover, the Georgia authorities demonstrated their own concerns regarding jurisdiction in the case, writing that they found it “very irregular” that the constable should be sent up to the Creek Nation to execute the warrant “without even being backed by a Justice of the Peace in this Colony.”<sup>229</sup>

The final murder case for this period involving the Cherokees demonstrated that the Indian nations’ willingness to “do public Acts of Justice upon their Criminals”<sup>230</sup> was not an anomaly, but perhaps represented a commitment on their part (for the time being) to do whatever was necessary to maintain trade relations with the English. In February 1754, Ludovic Grant reported to Governor Glen that a Cherokee had killed one of trader Bernard Hughs’ men while he attempted to repossess the hunter’s gun for debts owed to the trader. Because the Indian was unwilling to give up the gun, Hughs and his man had reportedly whipped the hunter, hit him with the butt of the gun, and had broken the weapon. In retaliation, the Cherokee retrieved another gun from his home and used it to kill Hughs’ man.

Response among the Cherokees was similar to that of the incident involving the murder of the packhorseman. Councils were held throughout the nation to decide on the best course of action and although the guilty man fled to Chota, the headmen of the

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<sup>229</sup> “Assistants to Martyn (Extract),” July 28, 1752, *CRG*, XXVI, 404-08; *EAID* XI, 222-23.; Incident 125.

<sup>230</sup> See note 29

Middle Towns were “positive in their Determination that he should die, and . . . sent Men after him over the Hills for that Intent.”<sup>231</sup> The offending Indian had reportedly been guilty of the murder of another Cherokee as well. However, the entire Cherokee Nation, Grant believed, was most concerned that the governor would be displeased and might stop the trade. In a second letter written the same month, Grant reported to Glen that the Indian had been captured and shot twice by his guard, but had escaped. The Indians reported their continue searching for the offender and planned to kill him on sight.<sup>232</sup> The final outcome of the incident was, unfortunately, not recorded.

One case of murder during this period involved the Chickasaws, and was significant as another example of Indians applying their understanding of liability for misdeeds as being collective in nature, as opposed to English ideals of individual culpability.<sup>233</sup> It also further demonstrates the difficulties the colonial authorities sometimes experienced in attaining satisfaction, due to existing ties of kinship within the native societies. Moreover, as in the Whistler case previously, Thomas Bosomworth served as the lead negotiator for the Carolinians and once again utilized his alliances with Creek headmen to achieve his goal.<sup>234</sup>

The case first appears in the records in Bosomworth’s journal, dated October 11, 1752, in which he relates the contents of a letter from William Sluthers from the Breed Camp in the Upper Creek Nation. Sluthers informed the Indian agent that on October 6, a Chickasaw named Noabbey shot and killed William Mackrachun, an employee of trader John Pettygrew. Bosomworth thus notified the Governor of his intentions to travel to the

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<sup>231</sup> “Ludovic Grant to Governor Glen,” February 8, 1754, McDowell, *C.R.S.C., 1750-1754*, 474-76; Incident 64.

<sup>232</sup> “Grant to Glen,” February 15, 1754, McDowell, *C.R.S.C., 1750-1754*, 474-76.

<sup>233</sup> See note 16; *EAID XVI*, xx.

<sup>234</sup> Incident 56

Upper Towns immediately to demand satisfaction, that Creek headman, Malatchi, would accompany him, and that he would present the headmen there “with a Resolution that this Demand should be complied with.”<sup>235</sup> After arriving at Tuckabatchee where a meeting with all the headmen of the Upper Creeks and Chickasaws in the Nation had been arranged, however, the agent was disappointed to find the Chickasaws had not arrived. Ten days later, his patience at an end, Bosomworth decided to wait no longer and ordered the white men present to go with him “in Pursuit of the Criminal.” Malatchi, and two other Creek headmen, Gun Merchant and Duvall’s Landlord would accompany them as guides.<sup>236</sup>

On October 28, the party arrived at Abicouchees where they were informed the Chickasaws were close by, and Bosomworth demanded a meeting with the headmen. The following day, however, Mr. Pettigrew arrived and expressed great fear due to the agent’s demands. When Bosomworth inquired as to the cause of his fears given that it was a “Demand which the Laws of all Indians allowed to be just,” the trader described “the great Risque he [Pettigrew] in Particular should run as the Head Man of the Town was a near Relation of the Indian that committed the Murther, a Great Warriour, obstinate and ignorant, and would pride himself in doing Mischief.”<sup>237</sup> Nevertheless, the agent decided the risk was worth taking, but exercised prudence in sending up to Breed Camp to have Pettigrew’s effects, in particular his ammunition, brought down to them.

In his journal regarding his meeting with the “King of the Chickasaws, his three brothers, and the Notchee King,” two days later, Bosomworth noted that the Indians arrived “all armed, which I could not help concluding to be a very great Insult and

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<sup>235</sup> “Second Journal of Thomas Bosomworth,” October 11, 1752, McDowell, *C.R.S.C, 1750-1754*, 311-18.

<sup>236</sup> *Ibid.*, 313.

<sup>237</sup> *Ibid.*, 314.



Indignity and biding Defiance to the English.” Once again exercising caution, the Indian agent decided to hold the meeting in his own lodgings, where, he stated, “I would demand Satisfaction with my Pistols on the Table,” provided the other white men would stand by him.<sup>238</sup> The men agreed, and Bosomworth held the meeting in which he laid out his many reasons for demanding justice in the case. The Indians’ response the agent found less than satisfactory, however, and he wrote in his journal that “The only Answer that was give by the Chickasaw King worth repeating was that the man that had done the Mischief was his own Flesh and Blood and that if he must die, he [the King] would die with him.”<sup>239</sup> Evidently angered by this response, Bosomworth added that he had wished to answer this insult with “more forceable Arguments (to witt) my Pistols,” but restrained himself because the other white men had left the room. Instead, he informed the Indians of the consequences of their decision, notifying them of the Creeks’ agreement that if the Chickasaws continued in their refusal to provide satisfaction, “it would necessarily create a Breach betwixt them and the Creeks.” Although the Chickasaw King defiantly responded that he “had seen the Day when the Creeks and Chickasaws had been at War and very probably might see it again,” the agent chose to ignore the last statement and gave the headmen until the next day to provide him their final answer.<sup>240</sup>

Following his meeting with the Chickasaws, Bosomworth met with the Malatchi and the other Creek headmen, at which time he pointed to the Chickasaws insolence. Even as refugees in the Creek nation, he stated, the Chickasaws “bid Defience to their Protectors.”<sup>241</sup> The Creeks then agreed to use force if necessary to gain satisfaction in the

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<sup>238</sup> Ibid.

<sup>239</sup> Ibid., 315.

<sup>240</sup> Ibid.

<sup>241</sup> Ibid.

case. As it turned out, such force would not be necessary, however. When the agent met with the Chickasaws again the next day, the headmen conceded that the English deserved satisfaction for the murder. They offered the life of the guilty man or his uncle in payment. When Bosomworth insisted that only the guilty party should suffer for his own actions, the Chickasaw King promised to have the offender himself executed, if they reached the Breed Camp before the deed was accomplished. Unfortunately, soon after the Chickasaws left for the Camp, some Creeks arrived to inform the Indian agent that an execution of sorts had already taken place.

The Indian related to Bosomworth that the Chickasaws at Breed Camp “were almost at the Point of coming to a Resolution of standing by one another, and not granting the Satisfaction demanded when the Unckle of the Criminal started up.” He insisted that the Indians must stand by their own laws and provide satisfaction, adding, the Creek related, “that if his Nephew was afraid to dye for the Good of his People and for Satisfaction to the English, he would sacrifice his own Life for him.” When the guilty man did not reply, the Uncle went home and returned with a “long French Knife” and some paint. He then returned to the center of the gathered crowd, poured the paint over himself, and informed the people that he was paying the debt for his family for the spilling of English blood. Then, “with the greatest Undauntedness [he] strude the Knife into the Gullet and immediately dyed with the Wound,” in essence executing himself for the misdeeds of his family member.<sup>242</sup>

When a messenger later arrived from the Breed Camp, he confirmed for Bosomworth the Creek Indian’s account of the incident. He also informed the agent of the dead man’s final words to his nephew, who before he stabbed himself reportedly

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<sup>242</sup> Ibid., 316.

warned the younger man, “I am now going to purchase your Life with mine. Take care you do no more Mischief to the white People, or you will have no body to pay the Debt for you when I am gone.”<sup>243</sup> Bosomworth later added to this warning, when visited the Breed Camp to see the Uncle’s body for himself and to impress upon the Chickasaws the gravity of the situation. He told the Indians that he hoped the entire affair would serve as “a Warning to them for their future Behaviour.” In addition, he informed the guilty young man that now his life was “not his own, but purchased with the Blood of another, [and] in case he should ever be guilty of the least Insult or Injury whatever to any White Man, that he should suffer Death for it, as his Actions had already made it a Forfeiture.” Malatchi then added his own warning to all the Chickasaws present, saying that future misbehavior towards the English meant, “Satisfaction would be required at their Hands [the Creeks] as the Mischief would be done in their Country.” In response, the Chickasaws promised good behavior in the future.<sup>244</sup>

The final two cases of murder that appeared in the records for this period both involved Northern Indians and the Catawbias. In the first incident, a group of Northern Indians, whom Governor Glen suspected of having originally come to attack the Catawbias, (but who, through his assistance had achieved a peace),<sup>245</sup> were believed to have murdered Felix Smith, a settler living at Captain Depont’s Plantation near Fore Hole Bridge.<sup>246</sup> The incident was first reported in a Declaration from Nicholas Noey and occurred on March 30, 1753. In his account, Noey described that the day before the murder, an Indian had arrived at the Smith home demanding food but was refused. When

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<sup>243</sup> Ibid., 317.

<sup>244</sup> Ibid., 317-18.

<sup>245</sup> Incident 61; “Governor Glen to the Catawba King,” April 10, 1753, McDowell, *C.R.S.C., 1750-1754*, 372-74.

<sup>246</sup> “Declaration of Nicholas Noey,” April 7, 1753, McDowell, *C.R.S.C., 1750-1754*, 374-75.

he returned with a group of Indians the next day, they broke into the home in search of food and Noey reported observing one of the Indians trying to rape a female relative of Smith. When Noey and Smith went to the woman's aid, they heard Smith's wife cry out and so went to help her. As they did, Smith was "hit from behind with his own Axe" and died four days later. Noey added that the Indians subsequently dragged off the woman [Smith's wife or relative?] into the swamp and "when she came back the next day reported having been raped."<sup>247</sup>

On the same day Noey gave his declaration to colonial authorities reporting the murder, Governor Glen issued a proclamation offering a "reward of £100 to anyone taking or killing any of said Indians involved in it [Smith's killing] within three months," or £50 after three months. He also commanded all civil and military officers to assist in the apprehension of the guilty Indians.<sup>248</sup> In addition to these measures, Glen notified the Catawba King, that if any of the Northern Indians guilty of the murder appeared in the Nation, he expected him to "use your utmost Endeavour with the Head Men of the Northern Indians, that one of them at least particularly he who gave the Blow, be sent down to us to be punished as the Crime deserves."<sup>249</sup> No record exists of the final outcome of the case.

The second incident occurred in October 1754, when sixteen Carolina settlers were killed and five kidnapped at the Guttery home on Buffalo Creek five miles from the Broad River.<sup>250</sup> James Francis reported to Governor Glen that during a gathering of the Gutterys and 3 other families, an estimated sixty Indians attacked, killing most of those

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<sup>247</sup> Ibid.

<sup>248</sup> "A Proclamation by Governor Glen," April 7, 1753, McDowell, *C.R.S.C., 1750-1754*, 372.

<sup>249</sup> "Governor Glen to the Catawba King," April 10, 1753, McDowell, *C.R.S.C, 1750-1754*, 372-74.

<sup>250</sup> Incident 66

present and taking away the others. He added that “hog and fowls were killed and piled atop the people’s bodies.” The bodies were discovered by “a newly married couple [who] in fear dropped them in a well rather than taking the time to bury them.”<sup>251</sup> One week after Francis sent his letter, the King Hagler and the headmen of the Catawbas informed Glen of the murders as well, adding that the nation of the offenders was unknown.<sup>252</sup> In a letter from Lachlan McGillivray to the Governor, however, the guilty parties were identified as “a French Nation of Indians called Notawees in conjunction with some Savannahs.”<sup>253</sup> The outcome of the case is unknown, with the exception that about a year later, John Elliot reported to Glen that some Savannahs had arrived in Chota with two white children, “which they say they got from these Indians that did the Murder at Broad River.” He apparently tried to get the Indians to hand over the children but was unsuccessful and sought the governor’s help to do so.<sup>254</sup>

Of the sixteen incidents of theft that were recorded for this period in South Carolina, complaints made by colonists against the Indians accounted for thirteen (81 percent). As with the murder cases, the majority, 56 percent, involved the Cherokees. Perhaps the best-documented and most significant complaint made by the Indians was for the theft of 330 deerskins by two traders from the Cherokees.<sup>255</sup> In April 1751, Stephen Crell informed Governor Glen that the theft had been the cause of several recent attacks on white settlements near Ninety-Six. He reported that the Indians complained that although they had applied to James Francis for redress for the theft, he “had refused to do

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<sup>251</sup> “James Francis to Governor Glen,” October 7, 1754, McDowell, *C.R.S.C., 1754-65*, 20-22.

<sup>252</sup> “King and Headmen of the Catawbas to Governor Glen,” October 15, 1754, McDowell, *C.R.S.C., 1754-65*, 14.

<sup>253</sup> “Lachlan McGillivray to Governor Glen,” October 1754, McDowell, *C.R.S.C., 1754-65*, 23-4.

<sup>254</sup> “John Elliot to Governor Glen,” September 25, 1755, McDowell, *C.R.S.C., 1754-65*, 79.

<sup>255</sup> Incident 26

them Justice, so that the white people provoked the Indians.”<sup>256</sup> In a deposition two months later, Francis reported his efforts to find those responsible for the thefts and to satisfy the Cherokees, saying that he had given the Indians a search warrant to take to the constable, giving him the authority to conduct searches in suspect areas to attempt to locate the skins. Furthermore, he added, “That in whosoever’s Custody any such Skins of Skin should be found to bring the Persons and Skins before [Francis] and if the said Person or Persons could not give a good Account of the Property therein, that he would send them to Charles Town Goal.”<sup>257</sup> After evidence was found implicating two men, the Ringueses, a warrant was issued. However, when the constable attempted to serve it, one of the men threatened him, swearing “they would blow out the Constable’s Brains if he or Anyone whoever should dare to come up to him.”<sup>258</sup>

By the time Glen held his talks with the Cherokees that ended the trade embargo in November of that year, the theft was still an outstanding issue. The governor informed the Indians that the Ringueses had thus far “kept themselves concealed and out of the Reach of Justice.” In an effort to achieve resolution in the case, however, he offered to repay to the headmen of Estatoe “the full Value of 330 Deer Skins,” provided the Indians first made restitution for their own thefts and destruction of goods at Bernard Hugh’s store in Stecoe.<sup>259</sup> When the Indians announced their satisfaction and agreed to the terms, the matter was concluded.<sup>260</sup>

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<sup>256</sup> “Stephen Crell to Governor Glen,” April 6, 1751, McDowell, *C.R.S.C., 1750-1754*, 7-8.

<sup>257</sup> “Deposition of James Francis,” June 1, 1751, McDowell, *C.R.S.C., 1750-1754*, 24-6.

<sup>258</sup> *Ibid.*

<sup>259</sup> Incident 36.

<sup>260</sup> “Talk of Governor Glen to the Cherokee Indians,” November 20, 1751, and “Talk of Governor Glen to the Cherokees Concerning their Treaty,” November 26, 1751, McDowell, *C.R.S.C., 1750-1754*, 184-86, 187-96.

In each of the other two theft incidents that brought complaints from the Indians, the items stolen were horses, something that the colonists brought several complaints regarding as well. In March 1752, Ludovic Grant reported to Governor Glen the Cherokees had made many accusations that white men were stealing their horses, the truth of which he assured Glen he would look into and would pay compensation if necessary.<sup>261</sup> Two months later, a warrant was issued for the arrest of Joseph Clements for stealing a horse from Catawba, Mr. Ears.<sup>262</sup> No further mention was made of either case.

The theft case involving trader Bernard Hughs took place just prior to the Cherokee trade embargo and figured prominently in the negotiations to reopen the trade.<sup>263</sup> In May 1751, Lower Cherokee headmen notified Governor Glen that they had identified the four men from Stecoe guilty of plundering the trader's store and that they had "had all the said Hughs' Goods returned."<sup>264</sup> In addition, Glen received assurances from Master Trader John Williams that the white people who had fled the town out of fear during the theft had been well treated and offered protection by the headmen in the next town.<sup>265</sup> Nevertheless, in November Governor Glen continued to demand restitution from the Indians. In their talks on November 20, Glen pointed out that although some of the goods had been returned, "yet a great many of them are still detained from him [Hughs], and such as have been returned, are much spoiled and damaged." He went on to specify the value of the goods amounting to "468 Weight of Leather," and insisted

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<sup>261</sup> "Ludovic Grant to Governor Glen," March 4, 1752, McDowell, *C.R.S.C., 1750-1754*, 222-24.

<sup>262</sup> "Alexander Gordon to Robert Steill," May 11, 1752, McDowell, *C.R.S.C., 1750-1754*, 378.

<sup>263</sup> Incident 36

<sup>264</sup> "The Head Men and Warriors of the Lower Cherokees to Governor Glen," May 10, 1751, McDowell, *C.R.S.C., 1750-1754*, 62-3.

<sup>265</sup> "Affidavit of John Williams," May 21, 1751, McDowell, *C.R.S.C., 1750-1754*, 19-20.

that the trader be “fully indemprnified for his Losses.”<sup>266</sup> Glen reiterated his demand later that year. When the Indians agreed, the governor lifted the embargo.<sup>267</sup> Whether or not the Indians ever made such restitution is unknown, as it was not recorded.

One additional incident of Indians breaking into traders’ stores and stealing their goods took place during this period as well. The case, however, was resolved by the swift actions of a Cherokee headman. In April 1752, Anthony Dean reported that some Cherokees had plundered his store at Toco. He added, however, that Old Hop of Chota had assisted him in regaining his property. The headman had demanded the return of the goods and subsequently, “brought me [Dean] up to his House in Chotee where he kept me and my Goods in Safety during all the trouble, telling me if it was Warr or otherwise, they had appointed not to hurt me.” Dean remained in Chota for the next five years.<sup>268</sup>

In May and June 1752, traders accused Indians of stealing horses from them. James Beamer reported both incidents to Governor Glen, informing him that in both cases Lower Creeks were guilty of straying into Lower Cherokee towns, where they stole a total of 34 horses.<sup>269</sup> Several complaints were also made this period by settlers who alledged they had been attacked and robbed by Cherokee and Catawba Indians. Samuel Hollinshead charged that Cherokees had been “stealing animals and guns” as well as scaring and threatening women and children.<sup>270</sup>

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<sup>266</sup> “Talk of Governor Glen to the Cherokee Indians,” November 20, 1751, McDowell, *C.R.S.C., 1750-1754*, 184-86.

<sup>267</sup> “Talk of Governor Glen to the Cherokees Concerning their Treaty,” November 26, 1751, McDowell, *C.R.S.C., 1750-1754*, 187-96.

<sup>268</sup> Incident 54; “Anthony Dean to Governor Glen,” April 13, 1752, McDowell, *C.R.S.C., 1750-1754*, 259-60.

<sup>269</sup> Incidents 53 and 55. “James Beamer and Richard Smith to Governor Glen,” May 2, 1752, and “James Beamer to Governor Glen, June 1, 1752, McDowell, *C.R.S.C., 1750-1754*, 247-48, 266-67.

<sup>270</sup> Incident 50; “Samuel Hollinshead to Moses Thomson, Esq.,” December 28, 1751, McDowell, *C.R.S.C., 1750-1754*, 216-17; see also Incidents 59, 40, 57, and 60.



Several complaints of Indians committing thefts involved the stealing of corn and other provisions.<sup>271</sup> In some instances, such thefts may have arisen from cultural differences and misunderstandings regarding hospitality and property rights. In most Indian societies, visitors were routinely provided with food when traveling and Indians may have demanded the same treatment from white settlers they encountered. James Francis, for example, wrote to the governor about a group of Cherokees arriving at his house while he was away and demanding corn. Apparently dissatisfied with the amount they were then offered, he reported they became “insolent in their Demands, the head Fellow saying he was a Warriour, and . . . he would to fill his Baggs. . . [which he and the others did] and afterwards behaved very impudently.”<sup>272</sup> In their talk given to Governor Glen, the Nottawegas argued that such thefts, as well as the destruction of cattle they were often blamed for, were done out of necessity and were partly the fault of the colonial authorities who were protecting their enemies. They stated, “we value our Men as much as the white Men do their Cattle, so we desire they may not harbour the Catawbas in their Settlements, which if they do we must come after them, and then are forced to kill Cattle for Want of meat, being so far from Whome.”<sup>273</sup>

Assaults accounted for 12 percent of the recorded incidents in South Carolina during this period. The majority of those took place in conjunction with the murders or thefts previously mentioned, and most involved attacks by Indians.<sup>274</sup> In January 1751/1752, however, Matthew Toole informed Governor Glen of an assault on a Catawba headman by an unlicensed “Negro Fellow” trading in the Nation, and several white

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<sup>271</sup> Incidents 25, 63, and 51.

<sup>272</sup> Incident 25; “James Francis to Governor Glen,” July 24, 1751, McDowell, *C.R.S.C., 1750-1754*, 29-31.

<sup>273</sup> “Talk of the Notowaga Indians,” McDowell, *C.R.S.C., 1750-1754*, 47-8.

<sup>274</sup> Incidents 22, 38, 40, 50, and 59.

men.<sup>275</sup> When the headman demanded to see the fellow's license and refused to trade with him without seeing one, Toole recorded that the trader became "very angry about it. . . [subsequently] the Negro Fellow and one John Dudgeon made the King and the other Head Man drunk and amongst them beat and abused the King in a very gross Manner that he could not see out of his Eyes for Five or six Days."<sup>276</sup> Upon recovering, the King had intended to bring the offenders to Charles Town for punishment, but was persuaded by Toole to await the governor's response to his letter. The Catawbas further expressed their anger that a Negro had tried to trade in their nation and had refused to leave when commanded to do so, "which gives them a great Deal of Uneasiness."<sup>277</sup> No resolution to the matter appeared in the records.

The two cases of threats that were recorded in the Carolina colony in this period occurred in connection with thefts.<sup>278</sup> Toole reported to Governor Glen from the Catawba Nation in October 1752, regarding several such incidents, stating "The Insolence of the young Fellows here is unsufferable, a going into the Settlements, robbing and stealing where ever they get an Opportunity." He added that the Indians had entered homes and threatened to shoot the inhabitants if they refused to give up the goods they demanded from them.<sup>279</sup>

Of the two incidents of rape recorded in this period, the most well documented and significant, involved the rape of a female colonist in 1742.<sup>280</sup> In July of that year, the South Carolina Council received a letter from Indian agent and trade, George Haig,

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<sup>275</sup> Incident 49

<sup>276</sup> "Matthew Toole to Governor Glen," January 13, 1751/1752, McDowell, *C.R.S.C., 1750-1754*, 201.

<sup>277</sup> *Ibid.*

<sup>278</sup> Incidents 50, see note 112.

<sup>279</sup> "Matthew Toole to Governor Glen," October 28, 1752, McDowell, *C.R.S.C., 1750-1754*, 358-59.

<sup>280</sup> Incident 28

reporting the outcome of a conference recently held with the Catawba Indians regarding the rape of a young white woman by one of the men of their nation. In seeking justice for this female “Subject of his Majestys our Sovereign,” the agent “endeavoured,” he related, “to give the Indians a Notion of Natural and National Justice in General,” and to convince them specifically, of the justice of the death penalty “for so highnous a Crime.” Had the guilty party been a white man and the victim, an Indian, Haig tried to convince the Indian headman and others present, the laws of England would likewise require that man’s execution.<sup>281</sup>

Apparently convinced by the agent’s explanations that under English law the young man had committed a crime worthy of the most sever punishment, the Indian headman argued, however, that despite his guilt, the man should not be executed. Pointing out the youthfulness and previously unoffending nature of the man, he suggested that an exception should be made. More importantly, however, he insisted that the accused (along with the other members of his nation) had been ignorant of the nature of English laws prior to the commission of the crime. Moreover, since the offender, and the rest of the nation, was henceforth “willing to be Governed by them,” the death penalty should not be imposed in this case. Haig, believing the Indians’ agreement to future cooperation too significant and important to risk “ruffl[ing] them too much,” reported to the council members that he had thus relented, ceasing his demands for an execution. In accordance with the agreement reached with the Indians, he this sought the Council’s

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<sup>281</sup> South Carolina (Colony), council. The Journal of the Council of the Assembly, July 5, 1742, 95, 98-99 in *EAID* XIII, 327.

approval to grant a pardon to the young rapist. The Council, based on the Indians' "promise of good behaviour in the future," subsequently granted the pardon.<sup>282</sup>

The record of behavioral disputes for this period reveals some distinct differences between the colonies of Georgia and South Carolina during these years. While the majority of complaints of misbehavior came from the colonists in South Carolina, in Georgia, it was the Indians who most frequently accused the colonists of acting badly. In addition, the predominant types of behavior each group objected to most frequently varied between the two colonies. In Georgia, the majority of the disputes that arose during these years involved trespassing and threats, whether stated directly or implied. The colonists and officials in South Carolina, however, were most disturbed by incidents of theft and murder that were occurring more and more frequently during this period, particularly in comparison to earlier periods.

When one compares the earliest years of South Carolina to this first period of settlement in the Georgia colony, however, a couple of similarities are revealed. In both colonies, more than 80 percent of the complaints regarding misbehavior came from the Indians during the initial years of interaction. The evidence from South Carolina indicates that this was a short-lived situation in that colony. In the following periods, the number of complaints coming from Indians rapidly declined as those of the colonists increased. It remains to be seen if the same inversion occurred in the Georgia colony. In addition, the number of incidents recorded in the earliest years of both Georgia and South Carolina were similar. On average, each colony recorded about one behavioral conflict per year. During the succeeding eras, the average number of cases increased in South Carolina and it will be interesting to note if the same occurred in Georgia.

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<sup>282</sup> Ibid.

In addition, a comparison can be drawn between the two colonies and their enactment of the rights they had both gained by treaty agreements in 1732 and 1733 with the Creeks, regarding the adjudication of unacceptable behavior. While each colony had initially asserted the right to judge Creek offenders and decide on their fates, whether by English or Creek laws, only South Carolina authorities actually did so in this period, and they did it in response to the murder of Cherokees, not whites. In the case of Acorn Whistler, Governor Glen insisted that the Creeks execute the man because he felt it necessary to preserve the colony's own peace with the Cherokees, and to use the opportunity of Mary and Thomas Bosomworth's foray among the Indians to try to negotiate peace between the two nations. During this period the majority of South Carolina's diplomacy was focused on relations with the Cherokees, thus the governor was willing to assert the treaty agreement in this case. As for Georgia, it remained to be seen whether or not the authorities would do this same.

Chapter Four  
Georgia and South Carolina, 1755-1763

In 1766, Chickasaw headman Pousha Mattaha told Deputy Superintendent Charles Stuart that, “Bad White Men make bad red Men.”<sup>283</sup> While on first examination this statement seems to deny both Indian agency and responsibility for their own actions, and presents the Indians as merely reactive participants in the cultural interactions taking place in the Colonial Southeast, it may hold a grain of truth. The events of the period from 1755 to 1763 seem to lend credence to the headman’s later assessment, and to the logical extension of the analogy, that “*good* white men” could also, therefore, make “*good* red men,” at least when it came to colonial leadership. In both the colonies of South Carolina and Georgia during these years, the arrival of new leaders (both governors and Indian superintendents) affected the degree to which disputes regarding misbehavior were tolerated by participants on both sides of the frontier. When a colonial leader who demonstrated thoughtfulness, restraint, and a talent for diplomacy assumed power, disagreements regarding behavior between the English and the Indians tended to be more readily set aside. In contrast, during the tenure of an inattentive, aggressive, or uncompromising colonial leader, disputes over misbehavior could result in significant disaffection or even war.

As for the ability of individual Indian leaders to affect the behavior of the English in the Southern colonies, the situation appears more complex. Even referring to a particular Indian as a leader is assuming a much greater degree of coercive power than any of the southern Indian groups would have traditionally bestowed on a single

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<sup>283</sup> Deputy Superintendent Charles Stuart’s Talk with Chickasaw War Chief Pousha Mattaha, June 21, 1766, *EAID* XII, 301.

individual. Group actions undertaken by the Southeastern Indian peoples were based on discussion, attempts at persuasion, and eventual consensus. Moreover, even when agreement was reached regarding a particular action, no real system of enforcement existed to compel individual compliance with the group decision. Thus, while persuasive and influential headmen might convince their fellows to act with aggression or patience towards the English, it would be incorrect to assume that the actions of the Indians either way was a direct result of an individual headman's orders or demands.

During the period from 1755 to 1763, 54 incidents of unacceptable behavior resulted in formal complaints from Indians or colonists in Georgia and South Carolina, for an average of six cases per year. This represented a continuation of the pattern in the region, in which each period showed an increasing average number of incidents over the previous period. In addition, once again the majority of the cases for the period, 78 percent, involved the colony of South Carolina, compared to 75 percent of the cases from the preceding period. The majority of the incidents during the period, 83 percent, took place between 1755 and 1759. The type of misbehavior drawing the greatest number of complaints during the period was murder, accounting for 33 percent of all the incidents.

As occurred in South Carolina, the second period of Anglo-Indian interaction in Georgia brought an increase in the average number of recorded incidents of unacceptable behavior. Although records from the younger colony revealed only 12 cases in this period compared to 19 cases in the preceding period, this represented an average of 1.33 incidents per year versus 86 per year in the years from 1733-1754. In each of the 12 disputes recorded during the latter years of settlement, the conflicts involved the Creek Indians, representing an increase from the nations' involvement in 84 percent of the cases

in the prior period. Additionally, during this second period of relations between Indians and settlers in Georgia, the number of complaints regarding misbehavior was balanced equally between the two groups, with six grievances made by each against the other. During the previous period, the number of recorded Indian complaints had exceeded colonial ones, but only by a single incident. Thus, the second period in Georgia did not reveal the same significant reversal in the origin of complaints recorded in South Carolina during its second period of frontier interaction.

Anglo-Indian dealings in Georgia during the years from 1755 to 1763 centered on a number of conflicts, but most notably dealt with the continuing Bosomworth land claims, the unauthorized settlement of Virginia and North Carolina settlers in Creek territory on the Ogeechee River in 1754, and the possibility of Creek participation in the Anglo-Cherokee War of 1760-1761. A number of factors affected negotiations on these issues. Following the achievement of the Cherokee-Creek peace, for example, Creek headmen including Gun Merchant and Mortar began to complain of the cheaper prices for trade goods paid by the Cherokees and to demand lower prices and to threaten traders. Further influencing each of these main conflicts, moreover, was the constant threat to the colony of French machinations among the Creeks, which intensified after war between the English and French was officially declared in 1756. Equally and perhaps more important to the resolution of Anglo-Indian disputes than the pressure being exerted by the French, however, was the influence of Georgia's colonial leaders throughout this period.

During these years, leadership of the colony changed hands three times. The first royal governor, John Reynolds, arrived in October 1754, and remained in office until



recalled to London by the Board of Trade in February 1757. Reynold's removal from office stemmed in large measure from issues regarding the Indians, which led the Board to view the governor as inept at best, and possibly unduly influenced by personal motivations. Three main concerns contributed to a growing sense of dissatisfaction with the governor from both Council members and the Board of Trade. These included, his perceived complicity with the Bosomworths in their land claims, his mismanagement of the conference with the Creeks at Augusta in December 1755, and his failure to address adequately Creek complaints regarding the encroachment of white settlers on Creek land on the Ogeechee River. The latter, moreover, led in 1756 to the single worst incident of Anglo-Creek violence since the founding of the colony.<sup>284</sup>

Reynolds arrived in Georgia during a period of increasing tension and discontent among the Creeks and colonial authorities. For the Bosomworths, Reynold's arrival apparently appeared an excellent opportunity to reinvigorate their failing efforts to gain British acceptance of Mary's land claims. Much to the chagrin of many colonial officials, the couple soon developed a close relationship with Reynolds. Upon the arrival of a much-anticipated stock of presents for the Indians on September 30, 1755, Reynolds invited the Creeks to a conference at Augusta in December. At that meeting, however, the new governor demonstrated a lack of understanding of the delicate nature of the current conditions. When the Indians took longer than expected to arrive at the conference, Reynolds returned to Savannah and left William Little, Commissioner and Agent for Indian Affairs, in charge. At the talks following the distribution of presents, little was discussed except the Bosomworth's land claims. In a letter regarding the conference and Reynold's behavior, the Board of Trade made specific complaints about the presence of

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<sup>284</sup> Incident 30.

the Bosomworth's at the meeting, as "persons interested in points prejudicial to your Majesty's Interests and those of the Colony."<sup>285</sup> In addition, they expressed their distress that the main purpose of the conference, settling existing disputes "by an explicit Treaty," had been neglected at the meeting despite its being the concern that the Board deemed "of the utmost consequence to the Colony in general," about which the governor himself had previously "expressed the utmost anxiety."<sup>286</sup> Having accomplished little more than the acquisition of presents, upon leaving Augusta, the Creeks traveled on to Charles Town to meet with Governor Glen where their trade grievances were given more serious attention. On January 23, 1756, Glen successfully negotiated the signing of a treaty with the Creeks (referred to as Gun Merchant's Treaty) to which Reynolds could only later send his agreement.<sup>287</sup>

Disputes regarding encroachment on Creek land by Georgia settlers began in 1754. The unauthorized settlement of some 40 whites far up the Ogeechee River drew particular attention from the Creeks in large part because of the settlers' practice of hunting deer in the area using long rifles. Already concerned about the loss of valuable hunting grounds and the dwindling number of deer available, the Creeks saw the settlement as a considerable threat to their ability to acquire skins for trade. Clearly Governor Reynolds understood the Indians' concerns, as he described the settlers as "rather Hunters than Planters," in a letter to South Carolina's new Governor Lyttelton in September 1756, adding his belief that "the Indians have Reason to complain of that

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<sup>285</sup> Board of Trade to the King, July 29, 1756, *EAID* XI, 241-243.

<sup>286</sup> *Ibid.*

<sup>287</sup> Due to the reluctance of the Creeks to allow the Carolinians to build a fort on their lands, however, the Creeks failed to subsequently ratify the treaty.

Settlement, as they allege it is upon their Hunting Ground.”<sup>288</sup> Taking advantage of the situation, moreover, the French seized the opportunity in May 1755 to incite the Creeks’ fears by suggesting that the settlement demonstrated Anglo intentions to steal the Creeks’ lands. Apparently sufficiently convinced that such might be the case, Lower Creek Headman Malatchi responded to the perceived threat by issuing one of his own, stating that if the trespassers failed to leave the area as ordered they would face attack.<sup>289</sup>

By September of 1756, Governor Reynolds had still done nothing to remove the offending settlers, blaming his inaction on his belief that the settlers were “a lawless Crew,” whom he believed would “not easily be persuaded even to consult their own Security.”<sup>290</sup> On September 10, two of the settlers involved, James and Andrew Lambert, described the violent incident that occurred at Ogeechee as a result of Reynolds’ failure to act decisively to avoid conflict. They reported that one week earlier, four Indians whom they described as acting “very saucy,” had arrived at their homes and “stole away several Things.” Although they and other settlers had chased down the thieves and recovered the stolen goods, the same Indians returned later and stole three horses from settler Andrew Clement’s pen. Once again the men followed the offenders, but this time rather than surrendering the stolen property, a gunfight ensued which resulted in the deaths of three of the Indians and the wounding of Clements.<sup>291</sup>

Settler Peter Elliott corroborated the Lamberts’ story on September 11, adding the names of the other whites involved, including Andrew and Joseph Clements, Edward Brown, Soloman Kemp, John Todfort and Arthur Thomas. Moreover, he named Brown

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<sup>288</sup> Reynolds to Lyttelton, Sept. 8, 1756, McDowell, *C.R.S.C., 1754-1765*, 187-88.

<sup>289</sup> *EAID XI*, 229.

<sup>290</sup> Reynolds to Lyttelton, Sept. 8, 1756, McDowell, *C.R.S.C., 1754-1765*, 188.

<sup>291</sup> Confession of James and Andrew Lambert in Jacob Paul and William Carr to David Douglass, Sept. 10, 1756, McDowell, *C.R.S.C., 1754-1765*, 185-86.

as the man responsible for killing the first Indian.<sup>292</sup> Furthermore, in a message written that same day, Lieutenant White Outerbridge indicated that Clements had not been the only settler injured in the standoff when he informed South Carolina's Governor Lyttelton "some whites were wounded." He added that the local magistrates and militia officers had dispatched a party to apprehend "the White People who were first engaged in this unhappy Fray."<sup>293</sup>

On September 14, Governor Reynolds sent a message of complaint to Tugulki and the Creeks regarding the incident. After describing the events, (which neglected to mention the deaths of the Indian participants), the governor suggested that while he understood the Creeks' displeasure regarding the Ogeechee settlement, he nevertheless held the Indians responsible.

I have been informed that the White people's living at that part of Ogeechee is disagreeable and inconvenient to the Indians on account of their Hunting, and therefore I have never given them any Authority to Settle there, but have had that matter under consideration for some time and am now consulting with the Governor of South Carolina about the best method of removing them from Ogeechee, and I expect an answer to my last Letter to him on that Subject very soon, which will determine it.

However I expect that upon this complaint, You will take the matter of it into serious consideration, and give such redress therein as You yourselves would expect to have on a like occasion.<sup>294</sup>

In his own letter to the Creeks two days later, South Carolina's Governor Lyttelton took a much different approach to the problem, specifically discussing the three Creeks killed in the dispute. He informed the headmen that he was very concerned and had "already sent Orders that the Persons who have spilt the Blood of your Countrymen be apprehended and secured." He added, moreover, that should they be unable to locate

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<sup>292</sup> Deposition of Peter Elliott, Sept. 11, 1756, McDowell, *C.R.S.C., 1754-1765*, 186-87.

<sup>293</sup> Lieutenant White Outerbridge to Governor Lyttelton, Sept. 11, 1756, McDowell, *C.R.S.C., 1754-1765*, 185.

<sup>294</sup> Governor Reynolds to Tugulki and the Creeks, Sept. 14, 1756, *EAIID XI*, 243-44.

the white men involved, he would “give Presents to the Relations of the Slain of such a Value as shall be amply Satisfactory to them.”<sup>295</sup> One week later, Outerbridge reported to Lyttelton that the search for the men had been successful, that one man, Edward Brown, was already in Reynolds’s custody and that a constable was accompanying the other seven men to Savannah for questioning.<sup>296</sup> On September 26, Reynolds notified Lyttelton that he had received the examination of Brown, and that the man had subsequently been “committed to Prison.”<sup>297</sup> Unfortunately, the specific charges against Brown were not recorded.

The initial response of the Lower Creeks to the events was generally conciliatory. In separate letters to the governors of both colonies on September 17, the headmen referred to the conflicts as “a sad Misfortune,” which they blamed on “the Madness of some of our young People.” Moreover, they issued an apology, saying they were “very sorry” for the killing of the two white men, indicating that two of the settlers injured in the incident had subsequently died of their wounds.<sup>298</sup> To Governor Reynolds, however, the headmen added their hopes that he would “let the Thing die” and the matter would be dropped, since two men from each side had thus been killed. Absolving themselves of responsibility, moreover, they informed Reynolds that the guilty were Upper Creeks from the area near the Tallapoosa River and that the Lower Creeks “had no hand in the affair.”

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<sup>295</sup> Governor Lyttelton to the Creek Indians, Sept. 16, 1756, McDowell, *C.R.S.C., 1754-1765*, 183-84.

<sup>296</sup> Lieutenant White Outerbridge to Governor Lyttelton, Sept. 23, 1756, McDowell, *C.R.S.C., 1754-1765*, 188-89.

<sup>297</sup> Governor Reynolds to Governor Lyttelton, Sept. 26, 1756, McDowell, *C.R.S.C., 1754-1765*, 194.

<sup>298</sup> Headmen of the Lower Creeks to Governor Lyttelton, and Headmen of the Lower Creeks to Governor Reynolds, Sept. 17, 1756, McDowell, *C.R.S.C., 1754-1765*, 191-192.

Finally, they requested once again that Reynolds see to the removal of the Ogeechee settlers.<sup>299</sup>

Reynolds received information regarding the response of the Upper Creeks to the incident a few weeks later. In a message dated October 13, the Coweta headmen notified the governor that two of their people had brought word that within five days the Upper Creeks intended “to send four of their Warriours to you to demand Satisfaction for their People that were killed.”<sup>300</sup> Lieutenant Outerbridge confirmed this in a letter to South Carolina Governor Lyttelton a few days later, when he reported information received from Upper Creek trader George Johnston. In a meeting with the Upper Creek headman, Wolf Warrior, Johnston was informed that the Upper Creeks had “concluded that the Indians being killed at Ogeechey was a meer Accident. . . therefore nothing more was to be expected than Satisfaction by punishing the Agressors.”<sup>301</sup>

Exactly whom the Indians referred to in using the term “agressors” in this instance is unclear, however. When the reported Upper Creek delegation met with Governor Reynolds and Provincial Council members at Savannah on November 16, headman Oboylaco, (aka Handsome Fellow of Oakfuskee), stated his understanding that in the incident “the Indians were the first Agressors,” and that the whites involved were not to be blamed. Nevertheless, the Upper Creeks had come to request satisfaction for their people killed in the incident. Apparently unaware that white men had also died as a result of the conflict at Ogeechee, Oboylaco reminded the governor of agreements in “Ancient Treaties” that “if a White Man Killed an Indian the White Man was to be

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<sup>299</sup> Headmen of the Lower Creeks to Governor Reynolds, Sept. 17, 1756, McDowell, *C.R.S.C., 1754-1765*, 191-192.

<sup>300</sup> Lower Creeks to Governor Reynolds, Oct. 13, 1756, McDowell, *C.R.S.C., 1754-1765*, 239-240.

<sup>301</sup> Lieutenant White Outerbridge to Governor Lyttelton, Oct. 22, 1756, McDowell, *C.R.S.C., 1754-1765*, 210-211.

killed.” Initially refusing to confirm such an agreement specifically, Reynolds said only that in such an instance “there was always Proof required.” Furthermore, he informed the headman that, in fact, two white men had also died. In addition, the governor took the opportunity to further explain the Anglo perspective on liability in such cases, stating, “If a White Man should Break open the House of an Indian and be thereby killed we should require no Satisfaction because he was a Robber.” Being previously unaware of the other deaths in the case, Oboylaco thus promised to carry the new information to the other headmen and did not pursue his requests for satisfaction any further at the meeting.

In perhaps a final effort to convince the headman of his good intentions in the case, Reynolds added “If it appeared to me that a White Man had Wilfully killed an Indian he should certainly be put to death.”<sup>302</sup> The sincerity of such a statement must be questioned however, when one considers that no record exists of any white man ever having been executed in the Lower South colonies (prior to 1763) for killing an Indian. At most, the colonial authorities might have meant that such an accused colonist would be subjected to English law. On the other side of the frontier, however, Indians were clearly expected to, and in several cases did, execute their own people for the murder of whites.<sup>303</sup> Moreover, in at least one case, the South Carolina courts tried and executed an Indian accused of such an act.<sup>304</sup>

Although Oboylaco’s acceptance of Governor Reynolds’s argument at this meeting seemed to have ended the affair, it was apparently only a temporary lull. By June of the following year, rumblings of dissatisfaction with the outcome reached South

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<sup>302</sup> Provincial Council: Talk of the Handsome Fellow of Oakfuskee, Nov. 16, 1756, *EAID* XI, 247-49.

<sup>303</sup> See Incident 58.

<sup>304</sup> See Incident 33.

Carolina Governor Lyttelton. Daniel Pepper informed the governor at that time that the Upper Creeks at Oakfuskey “seemed pretty strenuous for Satisfaction” in the case.<sup>305</sup>

With the appointment of Edmond Atkin as Superintendent of Indian Affairs for the Southern Colonies in 1756, and the arrival of Lt. Governor Henry Ellis in February 1757, relations between the Indians and the Georgia colonists underwent significant changes. Ellis set about immediately repairing the diplomatic damage done by Reynolds, and straight away sent Joseph Wright to the Upper and Lower Creeks to invite them to a conference in Savannah. In addition to distributing gifts, Ellis planned to address the Bosomworth dispute and bring it to a final resolution as quickly as possible.

The Savannah conference was by all accounts the most elaborate to date, with Ellis entertaining some 150 Creeks from 21 different towns, even hosting meetings in his home with some of the more influential headmen. Demonstrating skillful diplomacy, Ellis reminded the Creeks of the mutual friendship and respect they had enjoyed in the past, and assured the Creeks that he intended to do all in his power to “redress every Grievance.”<sup>306</sup> Furthermore, he showed restraint in his negotiations when he assured the Indians that the English were their true friends and the French their enemies, but refrained from requesting Creek assistance in fighting the French. One of the most significant outcomes of the conference, however, was the Indians’ renunciation of the Bosomworth claims to the disputed land. By October, Thomas Bosomworth offered an agreement to compromise on the issue. And, in the resulting Savannah Treaty signed on November 3, the Creeks entrusted the lands at “Ossebaw, St. Catherine’s, and Sappelo, and the Lands from the town of Savannah to Pipe Maker’s Creek” to the governor as

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<sup>305</sup> Pepper to Governor Lyttelton, June 28, 1757, McDowell, *C.R.S.C., 1754-1765*, 387-90.

<sup>306</sup> Provincial Council: Conference with the Upper and Lower Creeks, November 3, 1757, *EAID XI*, 266.



representative of the king, claiming they had never, in fact, sold or given such lands to Mary.<sup>307</sup>

With the success of the negotiations undertaken by Ellis and the resolution of the Bosomworth claims, relations between Georgia and the Creeks were better than at any time since Oglethorpe's departure. Discontent over trade abuses, however, which Ellis had deferred to South Carolina, continued among the Upper Creeks led by the Mortar. In addition, dissatisfaction with the remaining Ogeechee settlers continued to cause problems among the Lower Creeks. In the period prior to 1760 and the start of the Cherokee War, however, Ellis continued to build up a relationship with the Creeks, which would allow both Georgia and the Creeks to remain bystanders in the conflict.

The Creeks lodged three complaints of unacceptable behavior against the Georgia colonists during these years, two for trespassing and one for insult. In February 1758, Hopoya of Pallachicola complained to the Provincial Council that his people "were much dissatisfied at Cowpens being Settled by the White People about the Ohoopee a Branch of the Okonees." Governor Ellis responded to the headman's request for assistance in the matter, by promising to "give such Orders," to prevent future settlement in the area.<sup>308</sup> A few months later, another complaint of trespassing regarding White people continuing to settle on the Ogeechee hunting grounds, however, drew a counter-complaint from the new governor.<sup>309</sup> In his response to the party of Chehaws and Cussitas bringing the complaints, Ellis expressed his own concerns regarding "the bad Behaviour of their People, who after that they had been kindly received and entertained here and had had

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<sup>307</sup> Governor Ellis's Treaty with the Upper and Lower Creeks at Savannah, November 3, 1757, *EAID* XI, 270-72.

<sup>308</sup> Incident 126; Provincial Council: Talk with Hopoya of Pallachicola, February 21, 1758, *EAID* XI, 277.

<sup>309</sup> Incidents 127 and 128.

Presents given them, made it a Practice in their Return home to Steal the Horses and Cattle belonging to the White People.”<sup>310</sup> While he suggested that the offenders might possibly have been Yuchis, to prevent any misunderstandings in the future, Ellis requested that headman Hoyanne “use his Endeavours to prevent such Evils in future.”<sup>311</sup> The headman agreed to speak with both his own people and the Yuchi headmen living amongst them, assuring the governor that he “would always use his utmost Diligence to prevent the Mischiefs complained of.”<sup>312</sup>

While the new superintendent of Indian Affairs for the southern colonies spent the summer of 1758 in Charles Town preparing for a diplomatic mission to the Creeks and Choctaws, continuing trouble with the Yuchis led Governor Ellis to send Joseph Wright among the Lower Creeks once again. On July 26, the Creeks informed Wright that on the way home from Savannah, Occothla of the Chehaws and his companions had discovered the bodies of one white man and two white women, whom they believed had recently been killed by some Yuchis.<sup>313</sup> Upon pursuit, Georgia’s Creek allies found the Yuchis encamped “and intended to have killed them on the spot but having Women and Children with them they thought better to let them go to the Nation and then kill them.”<sup>314</sup> On August 3, Wright met with the Lower Creek headmen at Chehaws, and demanded that they kill the three Yuchis whom he had been informed were guilty of the murders. After consultation with the Cowetas and Cussitas, it was agreed that warriors from the Lower Creek towns would proceed to the Yuchi town and execute the offenders. When the

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<sup>310</sup> Incident 128; Provincial Council: Talk with a Party of Chehaws and Cussitas, May 26, 1758, *EAID XI*, 281.

<sup>311</sup> *Ibid.*

<sup>312</sup> *Ibid.*

<sup>313</sup> Incident 129.

<sup>314</sup> Wright’s Report on Talks with the Lower Creeks, July 28, 1758, *EAID XI*, 284.

Cussitas and Cowetas failed to appear, however, the proposed execution was called off.<sup>315</sup>

With the arrival the next day of Half Breed Abram and Malatchi of the Cowetas, the Creeks demanded that the Yuchi headmen appear to answer for the murders. At their meeting, Wright later informed the governor, that he demanded that the headmen “either kill or deliver me the three Murderers.” The Yuchis, however, asserted that as the English had lately killed five of their people and failed to give satisfaction, the English “were still two in their debt and that they had no thought of giving satisfaction.” They agreed only to return home and consult further with the other headmen.<sup>316</sup>

Receiving no further response from the Yuchis as they had promised, Wright evidently became increasingly frustrated. On August 5, he spoke with the Cowetas again, but this time he demanded not only that they go and kill the offending Yuchis, but added that if they were unable to locate the murderers, they should “kill the first three they should see agreeable to their own Laws.”<sup>317</sup> The next day, Wright received word that not only were the Yuchis “determined to give no satisfaction,” they also meant to hold him personally responsible for any attempts by the Creeks to gain such satisfaction. He was informed that the Yuchis had stated, “if any of their people is killed by the Creeks they will kill me as they are confident it will be through my means.”<sup>318</sup> Despite such threats, however, Wright and the Lower Creeks were determined to resolve the matter and maintain the peace. On August 9, Wright relayed a message from the headmen to Ellis, in which they expressed their concern regarding the matter, and the “great deal of pains to

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<sup>315</sup> Wright’s Report on Talks with the Lower Creeks, August 4, 1758, *EAID* XI, 285.

<sup>316</sup> *Ibid.*

<sup>317</sup> *Ibid.*

<sup>318</sup> *Ibid.*

obtain satisfaction” that they had made. One of the murderers, they informed him, had already been put to death, “a fate the other two who are fled shall suffer as soon as they can be taken.” An additional talk from headman King Alick, moreover, stated that although satisfaction was being obtained, “still there is one left,” and steps were being taken to secure that individual at the Upper Creeks.<sup>319</sup>

Despite such early efforts, however, the last Yuchi involved in the murders remained at large in January 1760, just prior to the start of the Cherokee War. At that time, Superintendent Atkin reported to Governor Ellis that while he hesitated in demanding the satisfaction Ellis had requested “given the conditions of relations in the Nation,” after the matter was raised by one of the Lower Creek headmen, he was forced to act. Atkin thus declared to the headman “while the Indian who was most guilty of that Murder was living, I should never look upon the Euchees as Friends.” Although the headman, King Jack, attempted to divert attention to the matter by raising other concerns specific to the Creeks, Atkin continued to pursue the issue, “saying that if they set so little account by the lives of 3 white people (1 only of the Murderers having been put to Death) I knew not any Business white People had to be among them.” Convinced that the guilty man was hiding “among the Savanoes . . . where he had a wife, but easily to be come at if King Jack pleased,” Atkin ordered the headman to pursue the man and end the matter by the Busk. To further demonstrate his determination to have the case resolved, moreover, Atkin gave notice to traders and ordered the trade to the headman’s town stopped until that time.<sup>320</sup>

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<sup>319</sup> Wright’s Report on Talks with the Lower Creeks, August 9, 1758, *EAID* XI, 285.

<sup>320</sup> Superintendent Atkin to Governor Ellis, January 25, 1760, *EAID* XI, 306-07.

Although the final resolution of the matter was never recorded (likely due to the more pressing issue of the Cherokee War), Atkin did note that following King Jack's failure to appear at the Busk Festival, the Lower Creeks appeared to want to leave the matter of the final execution to the superintendent. Prudently avoiding "having a hand in doing that," Atkin insisted it was the Creeks' responsibility, and rejected their suggestion "that the English owed the Creeks 2 Men, and if the Euchees owed us two, we were now even" (clearly a reference to the earlier Ogeechee incident). Ultimately, the Yuchi headmen left the matter to headman Aleck to consult with Upper Creek headman, the Wolf, to see about gaining final satisfaction. Atkin reported that the Wolf had assured him that while the offender was currently out hunting, he was expected back soon and when he returned, the Wolf "would take care he should not live long." The superintendent suggested that in addition to being an act of justice, the execution of the guilty Yuchi would also be a prudent action, "for it is most certain that he has threatened to kill another White man for the Euchee who was killed by his own Unkle on account of the family murdered."<sup>321</sup>

While Atkin suggested to Ellis that he was cognizant of the delicate nature of relations with the southern Indians during the period immediately preceding the war, Atkin's approach to dealing with conflicts with the Creeks and Yuchis demonstrated that he could sometimes be less than cautious and even heavy-handed. Moreover, his very presence in the Creek country during this period demonstrated his lack of understanding for the true threat to Anglo-Indian relations in the Southeast. In spite of Governor Ellis's efforts to convince Atkin to focus his efforts on the declining relations with the Cherokees, the superintendent insisted on pursuing his planned mission to the Creeks and

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<sup>321</sup> Ibid.

Choctaws. Aware of the danger posed by Creek factions allying with the Cherokees, and in an attempt to maintain Creek neutrality in the building conflict, Ellis invited the Upper and Lower Creeks to meet with him to discuss their positions. When the Cowetas and Cussitas, led by headman Sempoyaffi, arrived in Savannah for talks with the governor in October 1759, however, the major topic of discussion became the Indians' dissatisfaction with the behavior of Superintendent Atkin.

After first denying suggestions that they had allied with the Cherokees against the English, Sempoyaffi proceeded to enumerate a string of complaints against the superintendent. Atkin's actions, the headman stated, had led to "Uneasiness" in the Nation, starting with his failure to arrive when expected. After having "waited many Months at Home in Expectation of his Arrival," and subsequently suffering from the loss in missing their hunting season, Atkin had further caused the situation in the nation to deteriorate by halting trade to many of the Lower towns. In addition, when he finally did arrive in the Cussita town, Atkin, the headman complained, treated the headmen with great disrespect, in particular accusing his nephew, Togulki, and other important headmen of being French Men and having taken away some of their commissions. Perhaps most disturbing to the Creeks, was that Atkin then proceeded to distribute gifts to the Choctaws while in the Creeks' presence, gifts that the Creeks believed were intended for their own people.<sup>322</sup>

During Governor Ellis's meeting with the Creek headmen, word came of an incident, which further demonstrated the extent of the Indians' dissatisfaction with the new superintendent. While delivering a "Great Talk" to the Creeks at Tuckabatchee,

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<sup>322</sup> Provincial Council: Talks with the Headmen of Coweta and Cussita, October 10, 1759, *EAID* XI, 300-05.

Atkin was assaulted by one of the headmen, Tobacco Eater, who struck the superintendent with a tomahawk.<sup>323</sup> When Ellis informed the headmen and other Creeks with whom he was meeting of the attack, their initial reaction was to be “extremely alarmed.” Once assured that Atkin was “not much hurt and out of Danger,” however, Togulki revealed his real concerns regarding the incident, and further expressed his opinion of the superintendent. The headman explained “that his chief Concern arose from the circumstances of the Agent’s having the King’s Paper in his Pocket otherwise, said he ‘I should have rejoiced at his Disaster even if it had gone worse with him, I would have served him so my self long ago had I not been prevented by the other Indians.’” Governor Ellis, apparently choosing not to discuss the issue of Atkins’ behavior further, returned the conversation to his concerns about the prospect of war, stating his distress “that so unlucky and Accident should fall out at this Juncture when a Cloud is gathering over Us.” He continued, showing himself a true diplomat who understood the Indians and their customs, by flattering the headmen using terminology they would understand and appreciate, saying, “The Creeks I have always deemed the Eldest Brothers and the best Friends of the English.” Then, he urged them to demonstrate they were worthy of such high praise, declaring “the Time is come when they must shew themselves such.”<sup>324</sup>

With the onset of the Cherokee War with South Carolina in January 1760 (as a direct result of the misguided actions of Governor Lyttelton), Georgia’s Governor Ellis worked quickly to try to enlist the aid of the Creeks against the Cherokees or at least to ensure Creek neutrality and prevent his colony’s involvement in the conflict. Despite his efforts, however, some of the Upper Creeks, particularly the Abeikas under the leadership

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<sup>323</sup> Incident 131.

<sup>324</sup> Provincial Council: Talks with the Headmen of Coweta and Cussita, October 10, 1759, *EAID* XI, 304.

of the Mortar, gave their support to the Cherokees. On May 16, moreover, it appeared that Georgia was destined to become fully embroiled in the conflict when eleven traders from the four Upper Creek towns of Oakfuskee, Oakchoy, Caileigei, and Sukaspoga, were murdered.<sup>325</sup> Acting swiftly to try to avert further bloodshed, Ellis sent a talk to both the Upper and Lower Creeks on May 26, notifying them that he was aware of the killings and seeking the help of the headmen in resolving the matter peacefully. Ever the diplomat, the governor first requested, “If you have any real Cause to be dissatisfied with the white People I desire you will let me know it to the End that it may be removed and not suffer you mad People to go on killing our Traders.” Then going a step further, he offered the Creeks an olive branch and a way out of the impending conflict, saying “though some of your People may have done a mad Thing yet Friends may overlook it and make it straight again.” Finally, he requested the Indians send a headman to meet with him and discuss a resolution.<sup>326</sup>

On the same day Ellis penned his Talk, Gun Merchant of the Upper Creeks sent his own message to the governor, assuring him “that the Mischief was done by a few young Fellows without consulting the Head Men of the Nation.” Despite this admission of his people’s participation in the murders, however, Gun Merchant added that he and the other Creek headmen believed “it not prudent that any Satisfaction should be demanded at present least these desperate Fellows should be pushed to greater Lengths.” Moreover, he requested the return of the traders who had fled during the attacks, “to quiet the Minds of the young People who would be alarmed at the Trade being stopped on this Occasion.” Using an argument more closely reflecting English ideals of justice than those

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<sup>325</sup> Incident 132.

<sup>326</sup> Governor Ellis to the Upper and Lower Creeks, May 26, 1760, *EAIID* XI, 319-20.



of the Indians, the headman then requested that the governor “consider with himself that the Innocent should not suffer for the Sakes of a few Guilty People.”<sup>327</sup>

As his earlier Talk promised, Governor Ellis was willing to compromise somewhat in this situation, in the hopes of preventing further Creek disaffection and participation in the war as allies of the Cherokees. During this talk with headman Mad Dog of Tuckabatchee on June 5, however, the issue of Superintendent Atkin’s behavior in the Nation was raised once again. Mad Dog suggested to Ellis that the young men’s actions in committing the recent murders were likely influenced by the bad feelings created by Atkin. He further posited that the superintendent’s behavior was in fact “so intollerable to the Indians, they would certainly have killed him [Atkin] had it not been for the Intervention of two or three.” The governor’s response to this repeated complaint against Atkin was similar to that given earlier. He was apologetic for the superintendent’s behavior once again, but denied the headman’s attempt to excuse the Indians’ recent behavior on the actions of the agent. Ellis made clear to the Indian that “the Imprudence of one Man should not induce them to quarrel with all; and to Use Us as they have done in murdering our Traders.” Rather than demanding immediate delivery of the guilty parties to the Georgia authorities, however, Ellis informed Mad Dog “agreeable to Treaty I am ready to leave the Satisfaction due to us for the late Murders to themselves.”<sup>328</sup>

Evidently concerned that they might be blamed in the murders and desiring that trade to their towns would continue, two days later the Lower Creek headmen sent word to the governor. They assured him that they had not been involved in the attacks and requested that the English not “throw away their nation for the Murder committed by a

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<sup>327</sup> Upper Creek Headmen to Governor Ellis, May 26, 1760, *EAID* XI, 320-21.

<sup>328</sup> Provincial Council: Talk with the Mad Dog of Tuckabatchee, June 5, 1760, *EAID* XI, 321-23.

few young People.”<sup>329</sup> On June 30, Ellis met with representatives of both the Upper and Lower Creeks and responded to the talks presented by both groups. He began by first pointing out the restraint shown by the English in refusing to take “easy Revenge” for the late murders by attacking the Creeks in the settlements. He then reminded the headmen that the killings had been a direct “Violation of the solemn Treaties subsisting between Us,” and suggested that had the English committed such an offense against the Creeks, “we should certainly have put them to Death.” Reiterating his earlier statement regarding justice for the murders, however, the governor told the headmen assembled “We cannot give you stronger Proof of our Moderation and Regard than to leave the Punishment of your People, and the Satisfaction due Us, to yourselves, which we are willing to do relying on the Justice of your Nation.”<sup>330</sup>

While be willing (or perhaps feeling forced in this situation) to compromise by allowing the Creeks to punish their own people for the murders, Ellis did, however, insist on a degree of security before sending traders back into the nation. To this end, he stated his expectation “that the Head Men of every Town will meet and choose out some powerfull Person to take Charge of the Traders and be answerable to me for their Persons and Effects.” In exchange for their protection he added, “the Traders shall pay a yearly Consideration to their respective Guardians.”<sup>331</sup> When Creek headman, Salechi met with the governor a few weeks later, however, he told Ellis that although his response to the Indians’ talks had been well received in the nation, yet the Indians “gave no Hints of their Intentions to punish those who did it [the murders].” The headman further informed Ellis

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<sup>329</sup> Lower Creek Headmen to Governor Ellis, June 7, 1760, *EAID XI*, 323-24

<sup>330</sup> Provincial Council: Governor Ellis’s Reply to the Creek Talks of May 26 and June 7, June 30, 1760, *EAID XI*, 325-27.

<sup>331</sup> *Ibid.*

that the Creeks had “very much approved” of his talk, and upon hearing the governor’s words, “the Indians forthwith went and collected the Bones of the white People that had been murdered, wrapt them in white Skins and buried them.” The governor responded by requesting, more vehemently this time, that satisfaction should be given for the murders, “for if the Murderers went unpunished their national Credit would be intirely destroyed, no Trader would hereafter trust is Life, nor would any Merchant his goods, amongst them.” However, he continued to insist, “that the Head men should themselves inflict the Punishment due.”<sup>332</sup>

As no word regarding the approval or selection of guardians for the traders was forthcoming, moreover, Ellis informed Salechi that he was sending Joseph Wright to the nation to try to secure agreement to his terms before traders would be allowed to return.<sup>333</sup> On August 8, Wright sent word to Ellis regarding the response of the Upper Creeks to his demands. Headman of Oakfusky, Tomathla-Hago, relayed word that upon their return the traders “must live in such Headmen’s Houses as shall be thought proper and able to protect them for it will not do for the Traders to live alone out of the Towns.” For the future, he added, he would inform the governor of any behavioral conflicts that took place between Creeks and whites within the nation and asked that Ellis do likewise regarding conflicts in the settlements. Moreover, he promised immediate satisfaction for any future complaints. As for satisfaction for the deaths of the traders, however, headman Gun Merchant of Oakchoy sent word that “all past Grievances must be forgotten and never more thought about.” Regular attempts by the Cherokees to persuade the Creeks to break with the English, among other reasons, the headman added, led him to believe that

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<sup>332</sup> Provincial Council: Salechi Reports on Creek Reaction to Governor Ellis’s Message of May 26, July 28, 1760, *EAID XI*, 328-29.

<sup>333</sup> *Ibid.*

if demands for satisfaction continued, “more Mischief will be done.” As Ellis had wisely left the matter of punishment to the Creeks, the headman suggested “in Time something may be done but not at present for the People are all mad.”<sup>334</sup>

In November, James Wright of South Carolina replaced Governor Ellis who returned to London due to failing health. Although no longer living in the colonies, Ellis continued to play an important role in colonial Indian relations, however, through his close alliance with the Earl of Egremont, Secretary of State for the Southern Department. As the new governor of Georgia, Wright would serve through the remainder of the colonial period and would continue to maintain the peace with the Creeks that Ellis had worked hard to establish during his tenure. During his first month in office, Wright set about immediately making diplomatic overtures to the Creeks, responding to talks sent down in August, announcing the arrival of royal presents, and requesting a meeting with the headmen in Savannah.<sup>335</sup> Within two weeks a contingent of Creek head warriors arrived in Savannah to receive the gifts and speak with the new governor. At their talks, Wright raised the issue of the murdered traders, stating his understanding of the matter and telling the Indians “I approve of what my Brother Governour Ellis did on that Account by leaving it to your selves to give Us Satisfaction agreeable to the Treaties subsisting between Us.” As warriors, however, the headmen could promise only to carry the governor’s words back to the Nation.

Evidence that the Creek headmen followed through on their promise to provide some protection for the returning traders appears in the council records from January of the following year. At that time the Wolf, headman from the town of Mucklassee sent a

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<sup>334</sup> Upper Creek Reply to Governor Ellis’s Talk of June 30, August 8, 1760, *EAID* XI, 329-30.

<sup>335</sup> Governor James Wright to the Upper and Lower Creeks, November 7, 1760, *EAID* XI, 334-35.

complaint alleging the headmen of his town had not yet been paid for their services as protectors to the traders, despite their having gone so far as to accompany the traders to Augusta to bring in leather. “When the Indians arrived the People of Augusta took no Notice of them, but suffered them to return Home without any Recompence,” he protested.<sup>336</sup> Gun Merchant submitted a similar complaint in April of that year. Despite “a Man appointed to look after the Traders in each Town,” which he listed by name and town, the headman pointed out “we see no Rewards for it yet.”<sup>337</sup> In August, Governor Wright responded to the Creeks’ complaints by reminding them that the original agreement stated, “for this Protection the Traders shall pay a Yearly Consideration to their Guardians.” Thus, he informed them, “I am not to satisfy the Indians but the Traders must do it, and as you say they have not done so, I will write to them about it.”<sup>338</sup>

By the time of this response from Wright, however, yet another murder of a white man bringing trade goods into the Nation had occurred.<sup>339</sup> On June 22, Lower Creek headmen sent word to the governor describing the unfortunate event. A few days prior, the man had been killed near Augusta. “He had Pack-Horses,” they explained, “and they wanted some Victuals from him and he would not give them any, although they say he gave them Punch until they got drunk, and one of them shot him.” Although intending to then flee with the horses and goods to the Cherokees, the Creeks involved were convinced by another “Fellow in the Woods” to return home instead. After apologizing for the offenders’ actions and expressing their concern, saying, “It troubles Us much that any of the White People’s Blood should be spilled by Us,” once again, the headmen

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<sup>336</sup> Provincial Council: Talk with the Wolf of Mucklassee, January 29, 1761, *EAID* XI, 341-42.

<sup>337</sup> Upper Creek Headmen to Governor Wright, April 30, 1761, *EAID* XI, 342-43.

<sup>338</sup> Governor Wright to the Upper and Lower Creeks, August 4, 1761, *EAID* XI, 346-47.

<sup>339</sup> Incident 134.

blamed the incident on the fact that “some of our young People are mad and we cannot rule them.”<sup>340</sup>

In his same message to the Upper and Lower Creeks regarding payment for the trader’s guardians, Wright expressed his outrage at this most recent murder of the man he identified as Thomson. Despite the numerous assurances of protection and safe passage for the traders which he received from the headmen of the various towns (and which he enumerated specifically), the governor lamented “some of your People fell on him and Murdered him and carried off his Goods.”<sup>341</sup> Moreover, he mentions another incident which had recently occurred in which “three of Senior Mill’s Children” had been killed by the Creek known as Etomah, “at the Southward.”<sup>342</sup> As no mention of satisfaction had been made by the Lower Creeks when they informed him of the murder of Thomson, Wright further reminded the headmen “a Talk sent down to me in November last promised that if any Red Man killed a white Man such Red Man should be put to Death immediately and laid with the white Man.”<sup>343</sup> As per that talk, the governor then asked the headmen to “convince me of your Sincerity by punishing the Offenders, as People who are not worthy to be called Creeks or looked upon by you.”<sup>344</sup> No evidence exists to indicate that such satisfaction was ever given by the Creeks in these two cases, however; and, when the issue of the murders was raised at the Conference with the Creeks in January 1763, the Indians refused to discuss it.<sup>345</sup>

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<sup>340</sup> Lower Creek Headmen to Governor Wright, June 22, 1761, *EAID XI*, 345.

<sup>341</sup> Governor Wright to the Upper and Lower Creeks, August 4, 1761, *EAID XI*, 346-47.

<sup>342</sup> *Ibid.*; Incident 135.

<sup>343</sup> Wright to the Upper and Lower Creeks.

<sup>344</sup> *Ibid.*

<sup>345</sup> Provincial Council: Talk with an Upper Creek Delegation Led by the Gun Merchant, January 4, 1763, *EAID XI*, 348-50.

With the end of the European conflict for control of the colonial Southeast in February 1763, and the signing of the Treaty of Paris, a new era in Anglo-Indian relations began. For the Creeks, the prospect of the French and Spanish withdrawal from the region augured a shift in the balance of power in the region, which would leave them at a distinct disadvantage. Foreseeing this loss of bargaining power and the possibility of future efforts by the English to gain control of more of the lands that they claimed, many of the Creek headmen became increasingly irate and sensitive to any encroachments. One final complaint involving Georgia during this period was recorded in April 1763, and involved Creek concerns regarding perceived attempts to take their land.<sup>346</sup> On that occasion, Upper Creek headmen including the Mortar and Handsome Fellow protested that colonists were settling on lands reserved to the Nation in earlier treaty agreements. Specifically, Handsome Fellow stated their understanding of the agreement “that white People were to drink upon one Side of Savannah River, and red People on the other.” Now, however, he complained, “the Virginia People settled upon a great Part of their Lands which they never granted, such as Satilla to the South of Georgia, Ogechee, Conutchee, and Savannah River up high.” He requested the governor order the settlers to leave the area immediately.<sup>347</sup> Less than a month later, the Mortar again complained of expanding encroachments, “now he thinks,” recorded the translator, “white People intend to take all their Lands.”<sup>348</sup>

Governor Wright’s response to the Creeks on this issue was relayed to the Provincial Council in July of that year. Firstly, Wright informed the Board, he had notified the Indians of the upcoming general conference to be held during Fall in Augusta

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<sup>346</sup> Incident 136.

<sup>347</sup> Upper Creek Protest to Governor Wright over Encroachments, April 5, 1763, *EAID* XI, 351-52.

<sup>348</sup> The Mortar and Gun Merchant to Governor Wright, May 8, 1763, *EAID* XI, 352.

at which time “all the Matters they mention, and every thing else may be talked over and settled.” In addition, he “sent up Copies of his Majesty’s Instruction, lately received, forbidding any Persons settling upon Lands claimed by the Indians, and requiring those already settled to remove therefrom, in Order that the same might be explained to the Indians.”<sup>349</sup> Despite the Creeks’ protests, however, Wright never issued orders to have the settlers forcibly removed from the disputed territory. Further discussions on the matter would have to wait until the Augusta Conference, and the arrival of the new Superintendent of Indians Affairs, John Stuart.

Similar to the situation in Georgia, the governorship of the colony of South Carolina changed hands several times during this period. From the years 1755 to 1763, four men held the position and as with Georgia, during each man’s tenure relations with the Indians was altered in part by qualities of the governor. In June 1756, William Henry Lyttelton replaced Governor James Glen in office, and under his leadership, South Carolina would blunder into a costly and unnecessary war with the Cherokees.

As stated, the majority of the recorded incidents of unacceptable behavior during this period, 78 percent, involved the colony of South Carolina. Sixty-seven percent of these cases represented colonial complaints against the Indians, down from 82 percent during the preceding era. As in the previous periods, the greatest number of incidents involved the Cherokees, which accounted for 64 percent of the total, increasing from the 55 percent recorded for the previous period. As was the case in Georgia, the type of behavior that drew the most complaints was murder. Thirteen incidents of murder involving the Carolinians and the Indians were recorded for this period, which

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<sup>349</sup> Provincial Council: Consideration of Governor Wright’s Replies to Recent Talks From the Creeks and Cherokees, July 14, 1763, *EAID* XI, 355.



represented 31 percent of all the cases. Nine of these, the majority, were colonial complaints.

The first complaint of murder was made by the colonists against the Catawba Indians and involved the killing of two Pedee Indian women and the kidnapping of two Pedee boys in the settlements.<sup>350</sup> In October 1755, Trader John Evans took a letter from Governor Glen to Catawba headman, King Hagler, demanding the return of the two boys. Further, he accused the guilty party of having also robbed a group of Cherokees in the Amelia Township. While at first denying their people had been involved in the incident, the Catawba headmen later admitted “eight young men had gone out hunting in that direction and if found guilty, the goods would be returned.”<sup>351</sup> In January of the following year, King Hagler informed Pedee headman King Waites, that the two boys who had been taken by the Catawbas had been rescued. He requested Waites to “come fetch them home.”<sup>352</sup> No further mention of the murdered women was recorded, however.

The second incident of murder involved the killing of one, McKenzie, by a group of Chickasaws. Trader Jerome Courtonne recorded in his journal on February 1, 1756 the events leading up to McKenzie’s death. At first in the area of the Cherokee (Tennessee) River hunting beaver with John Buckles, McKenzie had later gone off on his own under the pretense of hunting buffalo. Coming upon a group of Chickasaws, he had questioned them at length about the French settlements. Leaving the Indians, McKenzie had then headed in the direction of those settlements. When the Chickasaws later spotted smoke in the distance, they assumed it was northern Indians and decided to capture McKenzie “for

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<sup>350</sup> Incident 69.

<sup>351</sup> Journal of John Evans, October 14-22, 1755, McDowell, *C.R.S.C., 1754-1765*, 85-87.

<sup>352</sup> King Hagler to King Waites, January 24, 1756, McDowell, *C.R.S.C., 1754-1765*, 93.

fear he might give the Northward Indians intelligence about them.” When McKenzie refused to go with them, they shot him down. Courtonne explained the Chickasaws’ fears, writing “as there was a White Man run to the French the same Way, the Winter before, and gave them Intelligence of their Hunting Ground which had brought the Back Enemy thicker upon them than they used to be.”<sup>353</sup> No further information on the incident or its repercussions was recorded.

Each of the eight remaining cases involving murder from South Carolina during this period involved the Cherokees. Five of these represented colonial complaints, while three came from the Indians. In October 1756 Captain Raymond Demere reported to the recently installed Governor Lyttelton, that a packhorseman named Thompson had been shot in the leg by a Cherokee Indian and had subsequently died of the wound. Demere described the incident as one of many disorders caused by the arrival of a large amount of rum in the nation. After the captain had allowed Thompson and a trader named Elliot to bring up twenty kegs of rum to supply the English officers, the Indians had gained access to it. When one Cherokee woman had demanded more of the alcohol, he explained, Thompson “turned her out of the House and used her ill.” When the woman called out for help, several young men including her husband came to her defense. Although Thompson was able to drive the men back, Demere reported “The Wench run for a Gun and gave it to her Husband who shot the said Thompson with a Ball through the thigh.” The Cherokees, the captain reported, were “much concerned about it,” and had asserted, “that if the white Man dies the Indian that shot him shall die likewise.”<sup>354</sup>

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<sup>353</sup> Journal of Jerome Courtonne, July 18, 1755-April 23, 1765, McDowell, *C.R.S.C., 1754-1765*, 113.

<sup>354</sup> Captain Raymond Demere to Governor Lyttelton, October 26, 1756, McDowell, *C.R.S.C., 1754-1765*, 228-32.

On November 7, Captain Demere informed the governor that Thompson had eventually died of his wound. As the Indian who shot him was a nephew of the important headman, Old Hop, however, the matter of satisfaction appeared to be more complicated than originally stated. Demere spoke with headman, Judd's Friend, regarding having the young man executed, insisting such punishment was "the Law of God, the King and the Province, and agreeable to their own known Constitutions." However, while Judd's Friend reportedly agreed the punishment was fitting of the crime, he insisted on consulting with Old Hop and the other headmen before acting. Although Demere agreed to wait, he informed the governor, he added, "in a proper Time I shall insist on having the Fellow put to Death."<sup>355</sup> No record of such an execution exists, however.

In August 1757, Captain Demere reported to Governor Lyttelton on a much more gruesome murder committed by an Indian known as Savannah Tom, at Tellico in the Cherokee Nation.<sup>356</sup> After failing to convince Cherokee headmen, Old Hop and Little Carpenter, that the Upper Creeks, under the sway of Gun Merchant, had driven the English out of their nation and that they should therefore join him in rebellion against the colonists, Demere speculated that Tom had been "in a Rage." To satisfy his anger, and perhaps to force an English attack on the Cherokees, the Indian then apparently hatched a plan to murder a white woman in the nation. Knowing that the wife of one of Demere's men was being cared for at Black dog's house, Savannah Tom sent an Indian woman (wife of the Thigh) to get the woman under pretence of caring for her. Demere then gave the following account of the heinous attack.

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<sup>355</sup> Captain Raymond Demere to Governor Lyttelton, November 7, 1756, McDowell, *C.R.S.C., 1754-1765*, 240-43.

<sup>356</sup> Incident 97.

As soon as she [the Indian woman] came near her House, gave her to Savannah Tom and he executed his inhuman, cruel, and barbarous Will on her Body by stabbing her several Times with a Knife, scalping and opening her Belly, and taking out a poor infant Creature that she had in her Body.<sup>357</sup>

Demere informed Lyttelton that his response to the murder had been swift. He immediately prepared a group of men to march on the town “to demand satisfaction” if a request for justice was refused. When Old Hop, Little Carpenter and other headmen arrived the next day, the captain notified them “that War was now begun in their Towns. They had made the Path bloody themselves with English blood by killing that poor Woman, and that I demand Satisfaction, that I wanted those that killed her to be delivered up to me.” The headmen agreed, Old Hop stating that because of the attack the Cherokees “would be in War with the Savannah.”<sup>358</sup> The headman also reportedly told Demere that the Cherokees believed to have aided Savannah Tom in the murder plot, French John, the Thigh and his wife, had since fled the area with Tom. A few months later, Jerome Courtonne then at Breed Camp among the Chickasaws, updated the governor on the case. A group of Cherokees and Savannahs, he informed him, had arrived in the Creek Nation carrying the scalp of the soldier’s wife. The Chickasaws had taken part of the scalp, Courtonne stated, and buried it “at the same Time expressing their Resentment for so bad an Action.” They requested, moreover, orders from the English granting them permission to attack the Cherokee town involved in the murder.<sup>359</sup> No further account of the case or its outcome was recorded.

In December 1757, John Fairchild informed Governor Lyttelton of what would turn out to be the first recorded incident involving the murder of Indians by colonists in

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<sup>357</sup> Captain Raymond Demere to Governor Lyttelton, August 10, 1757, McDowell, *C.R.S.C., 1754-1765*, 396-401.

<sup>358</sup> *Ibid.*

<sup>359</sup> Jerome Courtonne to Governor Lyttelton, December 16, 1757, McDowell, *C.R.S.C., 1754-1765*, 422.

South Carolina during this period. That the “four Indians found murdered near the Branches of Seluda River,” were killed by colonists, was uncertain in the beginning, however. Although the identities of the culprits were still unknown, Fairchild notified the governor that, nevertheless, local whites were fearful the Cherokees would assume the murders to be the work of “some ill disposed white People.”<sup>360</sup> In his correspondence to the governor regarding the attack, Captain West added more details and speculated on the identity of the killers. The victims, known to be “Friend Indians of the Cherokee Nation,” he informed Lyttelton, had been killed “on the 24<sup>th</sup> or 25<sup>th</sup> Day of November last.” Due to the manner of the murders, and the subsequent treatment of the bodies, West suspected the Chickasaws to have been involved. “There were four of them killed and very much hagged,” he wrote, “as their Bowels cut open and their Blankets and Guns burnt in the Fire.” In addition, all four had been shot and scalped, West stated, “with Judgement.”<sup>361</sup>

After acknowledging the spread of rumors in the region that Chickasaws or Catawbas may have committed the murders, James Francis, Justice of the Peace on the Saluda River, informed Lyttelton of another possibility. “There is Account of four white Men that came from the Northward at this Juncture who are accused of sundry Malpractices, in their journeying, sufficient to justify a suspicion of their being the criminal Actors of this Tragedy,” he wrote. The men’s proximity to the location of the incident seemed to support this suspicion as well. The Indians had been killed, Francis stated, “on the path which leads from the Congarees to Savannah Bluff.” And, he added,

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<sup>360</sup> John Fairchild to Governor Lyttelton, December 10, 1757, McDowell, *C.R.S.C., 1754-1765*, 421.

<sup>361</sup> Captain West to Governor Lyttelton, McDowell, *C.R.S.C., 1754-1765*, 424-25.

“as these four Men passed the Road towards Savannah at the Time of these People being killed it is by some supposed they committed this Fact.”<sup>362</sup>

Two months later, trader James Beamer reported to the governor information he received from Samuel Tuo, that “it was the white People killed the Indians and took their Skins and laid them out with Mr. Tobler at Fort Moore.” He believed, moreover, that the guilty men had since run off to St. Augustine; and, he feared trouble with the Cherokees if efforts were not made to determine the perpetrators.<sup>363</sup> Lyttelton sought to avoid such troubles, when he sent a talk to the Lower Cherokee headmen a few weeks later.

Although he originally believed the murderers to have been Indians, due to the bodies being scalped, the governor notified the headmen that he had nevertheless ordered a full investigation of the incident. “If I can ever discover who they are who have done this Deed, I will immediately cause the Offenders to be punished with the greatest Rigour,” he assured them. Additionally, he stated, “In the mean Time the Warriours at the Fort shall give Presents to the Relations of the Deceased to wipe away their Tears.”<sup>364</sup>

The headmen of the Lower Towns, in a letter sent to the governor that same month, recorded more specific information on the incident. A Chickasaw headman, who received it from a “Negro Fellow,” passed on the information the Cherokees then related to Lyttelton.

At Conkshell Creek where the Indians were killed, there lives a white Man who wrote to Fort Augusta that the four Indians were killed nigh his House. The Negro declares that two of the Indians were coming towards a Plantation upon which a white Man mett them and shott one of them and the other made his Escape towards the women and told them that the white People were at War with them and desired them to make their Escape and before they could get far they

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<sup>362</sup> James Francis to Governor Lyttelton, December 23, 1757, McDowell, *C.R.S.C., 1754-1765*, 425-26.

<sup>363</sup> James Beamer to Governor Lyttelton, February 25, 1758, McDowell, *C.R.S.C., 1754-1765*, 441-42.

<sup>364</sup> Governor Lyttelton to the Lower Cherokee Headmen and Warriours, March 14, 1758, McDowell, *C.R.S.C., 1754-1765*, 479-80.

were [surrounded] and killed. The White People took away their Skins and went to Fort Augusta and sold them there and the Officer of Fort Augusta took the Skins from the Merchants.

Moreover, the Negro told the Chickasaw that the Cherokees were Fools and that it would never be found out, that that was the Opinion of the White People.<sup>365</sup>

Based on this secondhand information, the Cherokee headmen requested Lyttelton seek to discover the men who had sold the skins at Fort Augusta and that they “be apprehended and brought to Justice.” More ominously, the headmen included in their talk to the governor “beads to show the path is now bloody,” although they promised to delay action to allow Lyttelton time to bring the killers to justice.<sup>366</sup>

A few weeks later, a possible cause for the murders appeared in a message from the Cherokees at Estatoe to the governor. The instigation for the murders of the four Indians, they informed Lyttelton, had likely been the prior murders of two white men by Cherokees. While on the path to Virginia, the Indians explained, two of their people had gone ahead of the rest. Meeting up with two white men, the Cherokees had decided to kill the men and try to keep it a secret. The headman responsible for the attack had been an Overhill they informed Lyttelton. “And after he had killed the two Men, he scalped them and made four Scalps of the two, and forced every one of the Gang to make a Promise not to divulge it on Pain of being immediately killed.” The warriors of Estatoe assumed that the headman’s plan had been to pass off the scalps as those of Frenchmen to receive a reward.<sup>367</sup> In a letter from Lachlan MacIntosh, enclosed with the message from the Cherokees, the trader informed the governor that Cherokee headman, Little Carpenter,

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<sup>365</sup> Head Men of the Lower Towns and Warriours of Kewee to Governor Lyttelton, March 2, 1758, McDowell, *C.R.S.C., 1754-1765*, 444.

<sup>366</sup> *Ibid.*

<sup>367</sup> Warriour of Estertoe to Governor Lyttelton, March 20, 1758, McDowell, *C.R.S.C., 1754-1765*, 449-50.

believed that the headman guilty of the murders had actually been from the Lower Towns, however. Furthermore, MacIntosh notified Lyttelton that Little Carpenter was on his way to Charleston to “acquaint your Excellency of the whole Affair and make every Thing easy to both parties.”<sup>368</sup>

Reports of attacks and counterattacks in South Carolina between Virginians and Cherokees returning from the north where they had aided the British in their battles to oust the French from the region, appeared at the end of 1757 and throughout the next year. In December 1757, Joseph Chatwin notified Governor Lyttelton that on the first of the month three Cherokees had been killed near New Hope on the Savannah River “by some vagabond white Persons, lately come from the Northward.”<sup>369</sup> In July 1758, George Turner at Fort Prince George informed the governor that conditions were rapidly deteriorating.

For there is now some Dislike among the Indians of the Middle Settlements occasioned by some of their People being cutt off by the out Settlers of Virginia and both the Carolina’s who were robbed and some murdered as we are told by the Indians returning from Virginia and the Whites had pursued and killed eight or ten out of three several Gangs, and we expect hear of more Mischief of this Nature every Day.<sup>370</sup>

In September, Lyttelton attempted to address the problem by sending a talk to the headmen of the Upper and Middle Cherokee towns. He first informed them that he was aware that a group of Cherokees had gone out to revenge the recent killing of their people by Virginians. Then, he notified the headmen that although he was sorry the murders had taken place, he had nevertheless informed the governor of Virginia of their intentions.

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<sup>368</sup> Lachlan MacIntosh to Governor Lyttelton, March 21, 1758, McDowell, *C.R.S.C., 1754-1765*, 451.

<sup>369</sup> Incident 99; Joseph Chatwin to Governor Lyttelton, December 41, 1757, McDowell, *C.R.S.C., 1754-1765*, 421.

<sup>370</sup> Incident 105; George Turner to Governor Lyttelton, July 2, 1758, McDowell, *C.R.S.C., 1754-1765*, 470-72.



Finally, the governor assured the Indians that his counterpart in Virginia would give them satisfaction and offered the following consolation (similar to what he had offered following the Saluda River murders.) If the headmen would send out runners to bring the group seeking revenge back home, he would “give Presents to the Relations of your People that have been slain, sufficient to hide the Bones of the dead Men and wipe away the Tears from the Eyes of their Friends.”<sup>371</sup>

Four months later, another incident occurred in which a white man killed a Cherokee while the Indian was out hunting.<sup>372</sup> No record exists providing any further details, but Presbyterian missionary William Richardson reported in his journal on the fear among whites in the region, due to the Cherokees notions of justice.

His friends are come seeking satisfaction, which is to get Leave to kill the first white man they conveniently can, for such is their custom, that they will have Man for Man, if not the guilty another, so that is dangerous to stir abroad at present.<sup>373</sup>

In April 1759, a series of murders of Carolina settlers by Cherokees appeared to justify Richardson’s fears and precipitated a response by Governor Lyttelton, which would result in full-scale war in the colony.<sup>374</sup> On April 25 and 26, Nathan Alexander informed the governor, “Indians supposed to be the Cherrockees did murder and scalp three white Persons on the Yadkin River and eight Persons on the Fourth Creek and three persons on the south fork of the Catawba River.”<sup>375</sup> On May 5, Samuel Wyly notified the governor that based on accounts given by two men from the Upper settlements where the murders occurred, he could identify those killed. They included Conrad Mull, his wife

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<sup>371</sup> Governor Lyttelton to the Lower and Middle Cherokee Headmen and Warriours, September 26, 1758, McDowell, *C.R.S.C., 1754-1765*, 481.

<sup>372</sup> Incident 121.

<sup>373</sup> William Richardson, “An Account of the Presbyterian Mission to the Cherokees, 1757-1759,” in *Tennessee Historical Magazine*, I, No.2, 1931, 125-138.

<sup>374</sup> Incident 106.

<sup>375</sup> Nathan Alexander to Governor Lyttelton, May 4, 1759, McDowell, *C.R.S.C., 1754-1765*, 485.

and son at the south branch of the Catawba River, the eight children of a Mr. Hannah on the north side of that river “in William Morrisson’s settlement,” and two families on the Yadkin River. Wyly, then among the Catawbas, further informed the governor that the Catawbas “declared they would do all in their Power to find out the Murderers, and revenge it.” Twenty-two Catawbas, he added, had already been sent to bury the dead and fifteen warriors had accompanied a group of white men to search for the killers.<sup>376</sup>

A possible identity of the leader of the murderers came from Lieutenant Coytmore a couple of days later. He reported that on May 3, Moytoy of Setticoe and twenty-five of his men had arrived in one of the Lower Towns with at least eight scalps taken in the Dutch settlements. Furthermore, the Indian, Wawhatchee, Coytmore said, had informed him that Moytoy had as many as nineteen white scalps, and that a gang of twenty Overhill Cherokees was still out having gone against the same settlement.<sup>377</sup> Cherokee headmen Old Hop, Standing Turkey, and others a few days later, however, declined any knowledge of the killings during a talk with Captain Demere. Rather, the headmen blamed the recent attacks on Cherokees by Virginians for provoking these new murders. Regarding Demere’s request for satisfaction, moreover, the headmen declined, promising only to discuss the matter with Little Carpenter upon his arrival.<sup>378</sup> Within a week, however, Lyttelton received accusations from two different headmen at the Lower Town of Keowee that people from the Overhill town of Settico had done the killing, and requests that only that one town be blamed.<sup>379</sup> A letter from thirteen Cherokee towns followed these a few days later, informing the governor that “Tassitee of Stickoe” would

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<sup>376</sup> Samuel Wyly to Governor Lyttelton, May 5, 1759, McDowell, *C.R.S.C., 1754-1765*, 485-86.

<sup>377</sup> Lieutenant Coytmore to Governor Lyttelton, May 8, 1759, McDowell, *C.R.S.C., 1754-1765*, 487-88.

<sup>378</sup> Captain Paul Demere to Governor Lyttelton, May 12, 1759, McDowell, *C.R.S.C., 1754-1765*, 488.

<sup>379</sup> Lower Towns to Governor Lyttelton, May 11, 1759, 491-92, and Tiftoe to Governor Lyttelton, May 13, 1759, McDowell, *C.R.S.C., 1754-1765*, 492.

be arriving soon to discuss the matter “for it’s the Desire of us all and for what has been killed on both Sides of these thirteen Towns shall be utterly buried in Obscurity and never more thought on.”<sup>380</sup>

In October of that year, in an apparent effort to scare the Cherokees into giving satisfaction for the recent murders, Governor Lyttelton assembled some 1500 men with the intention of leading them into Cherokee territory. In an action that would quickly escalate the situation, he then seized as hostages a delegation of Cherokees, led by Oconostota of Chota, who were headed to Charleston to discuss peace. Arriving at Fort Prince George in December, the governor then announced that the twenty-two delegates would be forced to remain at the fort, and would be released man-for-man as those guilty of the murders were turned over to the Carolina authorities for punishment. Although enraged at the audacity of the governor in seizing the peace delegation, the Cherokees at first made indications that they would accept the governor’s demands and a handful of hostages were exchanged. By January 1760, however, reports of traders being killed in the Cherokee towns began to reach Lyttelton, who had fled the fort following reports of a small pox epidemic and returned to Charleston.<sup>381</sup> By the middle of the month Cherokees from Estatoe, led by Saluy attempted to gain admittance into the fort under guise of a prisoner exchange, in order to capture the fort and free the hostages. Unsuccessful, the party returned to their town and reportedly killed a number of traders including John Elliot.<sup>382</sup> Thereafter, attacks on the inhabitants of the backcountry began in earnest.

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<sup>380</sup> Thirteen Cherokee Towns to Governor Lyttelton, May 16, 1759, McDowell, *C.R.S.C., 1754-1765*, 494-95.

<sup>381</sup> John Alden reported that Lieutenant Coytmore had been informed on January 13 that trader John Kelly had been killed at Hiawassie town. John R. Alden, *John Stuart and the Southern Colonial Frontier*, NY: Gordion Press, 1966, 101.

<sup>382</sup> Alden, *John Stuart*, 103.

On February 8, John Pearson reported to the governor on “the deplorable State of out back Inhabitants, they being chiefly killed, taken Prisoners and drove into small Forts.” The Cherokees, he added,

Have burnt and destroyed all up Bush River . . . All up Saludy, Little River, Rabourns Creek, Long Cane, and Stevens Creek, are all destroyed. I am informed they have killed 27 Persons on Rabourns Creek, and out of 200 Persons that were settled on the Long Canes and Steven’s Creek not above 40 or 50 to be found, so that the Case is very desperate.<sup>383</sup>

Perhaps the most well documented of the attacks was that on the Long Canes settlers. In February, the *South Carolina Gazette* reported that while the settlers were attempting to flee to the safety of Augusta, close to one hundred Indians attacked them, killing or capturing forty men, women and children.<sup>384</sup> A later report from Lieutenant Alexander Miln placed the blame for the attack on the Middle Towns, and stated that the Indians in actuality killed “fifty-six people including women and children and brought home slaves, one to Keowee.”<sup>385</sup>

In an attempt to free the hostages, the Cherokees soon surrounded Fort Prince George. On February 16, headman, Oconostota who had been released in an earlier trade, lured Coytmore out of the fort and into an ambush in which the lieutenant was mortally wounded. The Indians then opened fire on the fort. Angered at the sight of the dead officer, the soldiers in the garrison sought to kill the remaining hostages, but were prevented by Lieutenant Miln who had assumed command. Although Miln attempted to calm the situation and protect the Indians by ordering them put in irons, the hostages resisted. Miln reported to the governor the outcome of that opposition.

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<sup>383</sup> Incident 107; John Pearson to Governor Lyttelton, February 8, 1760, McDowell, *C.R.S.C., 1754-1765*, 495-96.

<sup>384</sup> *South Carolina Gazette*, February 23, 1760.

<sup>385</sup> Lieutenant Alexander Miln to Governor Lyttelton, February 24, 1760, McDowell, *C.R.S.C., 1754-1765*, 497.

The Hostages I had in Confinement, the Men after seein their officer shot before their Faces, was so exasperated, that immediately they put them every one to Death, in Spight of all I could either say or do, though I threatened them very hard what I would do, and Punishment at that Time, did not consist in the Safety of the Fort; so I was obliged to put up with the Massacre.<sup>386</sup>

After the Cherokees began their attacks on Carolina settlers during January and February, Governor Lyttelton, recognizing a state of war existed, had begun efforts to acquire the funds and men necessary to battle the Cherokees. On February 22, however, he received news of his reassignment as governor of Jamaica and almost immediately ceased his public activities, resulting in little being done about the situation for many weeks. Thus with the colony in the middle of a war, any hope for satisfaction for past and current killings by either side became moot. With the end of the war and the signing of the Augusta Treaty in 1763, however, would begin a new stage in Indian-Carolina relations and with it, the first publicly recorded execution of an Indian by Carolina authorities.<sup>387</sup>

Six incidents of assault were recorded during this period in South Carolina, including four complaints made by colonists and two by Indians. The first such incident involved an attack on a Creek headman from Tucksiga known as Chuchecha. The Indian sent word to Governor Glen on August 4, 1755, that two weeks prior to that date he had been “knockt down with a great Billot of Wood . . . by one John Burn [who] was a Deserter from Colonel Washington from Virginia.” The headman requested that the governor empower the white men present in his town to apprehend Burn, “so as he may

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<sup>386</sup> Ibid.; John R. Alden pointed out that this particular account of the incident is likely questionable. In Miln’s account, four hostages had died between February 8 and 14 from natural causes, leaving fourteen to be slain in the massacre. Miln’s attempts to absolve himself of any guilt in the episode, and the little likelihood that the hostages actually posed a threat to the fort, Alden points out, are reasons to doubt the officer’s truthfulness in his report.

<sup>387</sup> Incident 33.

suffer the Law according to his Deserts.”<sup>388</sup> James May reported to the governor the following month, however, that Burn “was run away out of the Nation.”<sup>389</sup>

In addition to the assaults committed as part of the conflicts mentioned earlier relating to the Cherokees returning from Virginia<sup>390</sup> and the attacks on backcountry settlers at the beginning of the Cherokee War,<sup>391</sup> a few other cases were recorded during this period. They included: a complaint in June 1757 of an attack on a white man “at the Hitchetaws,” by a Lower Creek, due to the Indian’s “constant Drinking,”<sup>392</sup> reports of a white woman abused by a Catawba in May 1759,<sup>393</sup> and an attack on a trader in December 1757 that resulted in the killing of the Cherokee perpetrator.<sup>394</sup>

In the latter incident, trader Samuel Benn, accompanied by his eleven-year-old son and a “Negro Fellow,” was reportedly chased down by four Cherokees who stopped him and demanded he turn over his goods. Captain Demere later informed Governor Lyttelton that Benn refused to give over his possessions and tried to prevent them from taking his horses. Demere recorded the ensuing incident as follows.

On which they took Sticks and Stones and threw at him. He begged and prayed several Times to let him alone, but all in vain, and finding that he could hold no longer, and ready to fall down from his Horse, he took one of his Pistols and as one of the most desperate was going to knock him down with a large Stone, he shot him and killed him.<sup>395</sup>

The reason given by the Indians for the attack, Demere, added, was that “the white

People have begun to be Rogues, it is high Time for us to be so now.” In the aftermath of

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<sup>388</sup> Incident 68; Chucecha to Governor Glen, August 4, 1755, McDowell, *C.R.S.C., 1754-1765*, 73-74.

<sup>389</sup> James May to Governor Glen, September 27, 1755, McDowell, *C.R.S.C., 1754-1765*, 80-81.

<sup>390</sup> Incident 105.

<sup>391</sup> Incident 107.

<sup>392</sup> Daniel Pepper to Governor Lyttelton, June 28, 1757, McDowell, *C.R.S.C., 1754-1765*, 388.

<sup>393</sup> Samuel Wyly to Governor Lyttelton, May 5, 1759, McDowell, *C.R.S.C., 1754-1765*, 486.

<sup>394</sup> Incident 98.

<sup>395</sup> Captain Paul Demere to Governor Lyttelton, December 30, 1757, McDowell, *C.R.S.C., 1754-1765*, 426-31.

the incident, Benn fled towards Tellico fearing the Indians' return. Demere reported seeing Benn at Fort Loudon, and described his condition as "so much bruised from his Shoulders down to the Waste of his Back. He was black as Ink." When the trader informed Old Hop of what had happened, the headman apologized for the incident and promised to look into the matter and seek satisfaction. He added, however, that he was "sure some white Man was the Occasion of this Usage, and has told the Indians some Story, for otherwise they would never have done it." Nevertheless, he went on to reassure Benn that he should "not be afraid of the Consequences, for it was the Indians' Fault, and their own Seeking, and it was in his own Defence, that he did kill him." After further investigation by the Cherokees, the trader's goods were located at Natalee and returned to him. The headman of the family of the slain Indian, moreover, sent word to Demere through headman Lane Arm that they believed their relative to have been at fault in the affair, and that "he was quite forgotten."<sup>396</sup> A few months later, however, a cousin of the dead man sent word to Captain Demere that he wanted Benn "to send sum of saverell Sorts of goods over to them will make Satisfaction for the Loss of the Dead."<sup>397</sup> In his final report to the governor regarding the incident, however, Demere stated that "concerning Samuel Ben's Affair with the Indians, it is quite dropped."<sup>398</sup>

Theft and trespassing cases accounted for another ten percent each of all the complaints in South Carolina for this period. In the majority of the theft cases, however, the complaints were made against the Indians, while in all the incidents of trespassing, it was the Indians who protested. In one Carolinian accusation regarding theft in 1756, for

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<sup>396</sup> Ibid.

<sup>397</sup> Warriour of the Long Savannah to Captain Paul Demere, March 7, 1758, McDowell, *C.R.S.C., 1754-1765*, 440-41.

<sup>398</sup> Incident 89; Captain Paul Demere to Governor Lyttelton, March 7, 1758, McDowell, *C.R.S.C., 1754-1765*, 439-440.

example, Captain Demere informed the headman of Jo'ree that some young men from his town had recently brought to Fort Prince George "several horses also a Rifled Gun and sundry Woman's Apparel," which the he believed to have been stolen from the backcountry settlements.<sup>399</sup> The following year, John Fairchild reported to Governor Lyttelton of settlers' homes being plundered in the regions at the "southering Branch of Broad River and Great Saludy."<sup>400</sup> Among the Indians' complaints of theft was that in December 1756 by the Cherokee Kenoteta, brother of the Mankiller of Tellico.<sup>401</sup> In this incident, the Indian protested against the actions of several traders in the nation, including John Elliot, whom he claimed taken "Things very dear to him," including some of his horses. Captain Demere, in response, promised to inform the governor of the traders' activities and to give "full Satisfaction as to any of the Pack Horse Men that had taken his Horses." If the men failed to deliver up the horses, he further promised to have them pay restitution for the animals, as well as "so much a Day for the Hire of each Horse, and besides will reprimanded and perhaps sent to Charles Town in Goal for so doing."<sup>402</sup> Each of the Indians' complaints regarding trespassing during these years involved settlers encroaching on Indian hunting grounds including, two complaints from the Cherokees,<sup>403</sup> one from the Catawbas,<sup>404</sup> and one from the Upper Creeks.<sup>405</sup>

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<sup>399</sup> Incident 93; Captain Demere to the Prince of Jo'ree, August 24, 1756, McDowell, *C.R.S.C., 1754-1765*, 178.

<sup>400</sup> John Fairchild to Governor Lyttelton, January 1, 1757, McDowell, *C.R.S.C., 1754-1765*, 324.

<sup>401</sup> Incident 91.

<sup>402</sup> Captain Raymond Demere to Governor Lyttelton, December 11, 1756, McDowell, *C.R.S.C., 1754-1765*, 267-69.

<sup>403</sup> Incidents 70 and 122.

<sup>404</sup> Incident 84.

<sup>405</sup> Incident 87.



Three complaints regarding threats made by Indians against Carolina colonists were recorded between 1755 and 1763, all involving the Cherokees.<sup>406</sup> In two of the cases, Captain Raymond Demere informed Governor Lyttelton that the Indians began to make threats of violence after becoming drunk on rum supplied by traders. On one occasion, the officer notified the governor of threats made by Cherokee headman, Little Carpenter.<sup>407</sup> One day after delivering a keg of rum to the headman, the Indian reportedly arrived at Fort Prince George quite intoxicated. “He soon became so troublesome,” stated Demere,” that I could not stay any longer with him. Then he made a Motion to strike me in the Face with a Bottle that he had brought with him into the Fort.” The headman was then taken back to Keowee by his fellows, but returned to the fort the next day begging for forgiveness and blaming his actions on the effects of the alcohol. In an effort to further demonstrate his remorse and that he had received just punishment by his people, he added “that the People of Keowee had scratched him that Mourning enough to make him remember it and to make his Blood good.” Despite accepting the Indian’s apology, however, Demere informed the governor “I shall never have a good Opinion of him and I take him to have a great Deceit in him even when sober and is a very impertenant Fellow.” Demonstrating a growing concern about the effects of the trade on Indian-Carolina relations on the frontier, Demere went on the blame the bringing of rum into the nation for contributing to this and other such incidents.<sup>408</sup> In a similar incident less than a month later, Demere informed Lyttelton that while among the Cherokees at Keowee, headman Captain Harris of the Catawbias had overheard a group of drunken Cherokees say, “that they would kill all the white Men.” Demere pointed out that this was typical

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<sup>406</sup> Incidents 86, 88 and 96.

<sup>407</sup> Incident 86.

<sup>408</sup> Captain Demere to Governor Lyttelton, July 25, 1756, McDowell, *C.R.S.C., 1754-1765*, 147-48.

unacceptable behavior among the Indians while intoxicated, which they would seek to excuse the following day.<sup>409</sup>

The final specific threat recorded was based on information received from two Lower Creek headmen regarding a scheme hatched by the Cherokees to wipe out the whites in their nation.<sup>410</sup> Daniel Pepper reported to Demere that he had been notified the Cherokees planned “to cut off the Garrison at Fort Loudon and destroy all the white Men in their Nation.” The Cherokees had sought their assistance in the attack the Creeks informed Pepper, but they had refused. The attack was scheduled to take place during the summer of 1757, and in the meantime, the Indians involved were to “behave with the utmost Civility and Moderation to the English and to ingratiate themselves with the Officers all in their Power till their Plot was ripe.” At the appropriate time, the co-conspirators, the Nottawagas were to appear at the fort acting in a hostile manner, so that the Cherokees would be taken inside for protection. Once in the fort, they would “knock all the Garrison on the Head, sally out and join the Nottiwagas, burn the Fort and proceed to drive all the white People from their Nation.”<sup>411</sup> Additionally, in a letter to Lieutenant Jonathan Boggs sent the same day, Pepper warned of a similar attack planned for Fort Prince George.<sup>412</sup>

Another type of complaint of unacceptable behavior during this period included Creek accusations of inequitable trade prices,<sup>413</sup> and Cherokee protests of an inadequate supply of trade goods.<sup>414</sup> Other complaints, each with only a single incident, included

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<sup>409</sup> Captain Demere to Governor Lyttelton, August 21, 1756, McDowell, *C.R.S.C., 1754-1765*, 164-66.

<sup>410</sup> Incident 96.

<sup>411</sup> Daniel Pepper to Captain Raymond Demere, June 27, 1757, McDowell, *C.R.S.C., 1754-1765*, 390.

<sup>412</sup> Daniel Pepper to Lieutenant Jonathan Boggs, June 27, 1757, McDowell, *C.R.S.C., 1754-1765*, 391.

<sup>413</sup> Incident 67.

<sup>414</sup> Incident 94.

lying,<sup>415</sup> property destruction,<sup>416</sup> and the kidnapping case involving the Catawbas previously mentioned.<sup>417</sup>

The significance of this period in the history of interaction between the Southeastern Indians, and the South Carolina and Georgia colonies, appears twofold. Firstly, it represented a continuation of the patterns established in the earlier periods. The average number of incidents of unacceptable behavior each year continued to rise in the region and within each colony individually. The number of cases involving South Carolina once again exceeded that of Georgia. Murder remained the type of misbehavior most frequently eliciting formal complaints from both sides. In each colony the largest local Indian nations, the Creeks in Georgia and the Cherokees in South Carolina, were involved in the majority of complaints from both sides of the frontier. In addition, the decisions regarding official responses to the various grievances continued to be handled more frequently by colonial representatives on the frontier, from the Indian towns or colonial forts, rather than in formal colonial court proceedings.

Secondly, as the headman Pousha Mattaha suggested several years after this period ended, it appears that at least to some degree, the actions of inept, misguided or uninvolved colonial leaders could negatively influence the actions of the Indians with which they were charged with pacifying. During the tenures of Governor Reynolds, Governor Lyttelton, and Superintendent Atkin, the reactions of the various Indians to behavioral conflicts appeared more prone to violence and reactive retaliation than during the years when more diplomatic and patient leaders, such as Governor Ellis and Governor Glen held sway. Ultimately, however, the conclusion of the war in the north with France,

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<sup>415</sup> Incident 85.

<sup>416</sup> Incident 93.

<sup>417</sup> Incident 69; see note 68.

the Cherokee War in South Carolina, and the resulting Augusta Treaty would have the most sustaining impact on relations between the Indians and the English in the Southeast.

Chapter Five  
Georgia and  
West and East Florida, 1763-1776

The years following the conclusion of the French and Indian War brought significant changes to the colonial Southeast. With the Treaty of Paris in 1763, Great Britain acquired all territory east of the Mississippi River (except New Orleans) from France, and all of Florida from Spain. The British government first divided this vast region into two colonies, East and West Florida. East Florida extended from the Atlantic Ocean westward to the Apalachicola River and West Florida from the Apalachicola to the Mississippi River and Lake Pontchartrain. The result of this restructuring of European control in the region for the Southeastern Indians was profound and, for some, potentially ominous. While some staunchly allied groups may have celebrated the notion that henceforth there would be only one European nation with which they would have to negotiate, many others feared encirclement.

Most significantly, this change in the European power structure in the region brought with it a distinctive shift in agreements between the British and the Southeastern Indians regarding jurisdiction over acts of unacceptable behavior. In Article III of the Treaty of Augusta between the British and all the major Indian nations in the region, the British promised, as in the Treaty of 1733 with the Creeks, “to do them [the Indians] full and ample justice.” In a significant addition, however, the new treaty stated that in return the Indians likewise promised to “do full and ample justice to the English.” In the earlier treaty, it was stipulated by the Lower Creeks that “if it should happen that any of our People should be mad and either kill, wound, beat, or rob any of the English Traders or their People,” the headmen would deliver up to “be tryed by the English Laws,” any of

their people “who shall be guilty of the crimes aforesaid.”<sup>418</sup> With the new agreement, however, the English gave over their previously claimed (although rarely exercised) right to impose English criminal law or Creek law on such Indians. There is no record of any Creek Indian ever being brought before the English colonial courts prior to the Augusta Treaty. In two incidents, the English sought to impose Creek law on the Indians. In 1727, (prior to the treaty that formalized English claims) South Carolina authorities succeeded in their efforts to convince the Upper Creeks to execute their people who participated in the murder of Matthew Smallwood. A Lower Creek who had participated in the killing, however, was returned to his people after appearing in Charles Town, and was forced only to settle in a pro-English town.<sup>419</sup> In the second incident, the Acorn Whistler affair, the Creeks were once again convinced by South Carolina authorities to execute one of their own for murder, but in this case, it was for the murder of Cherokees in the English settlements.<sup>420</sup>

Confirming nearly all past practice in the southern colonies, the English agreed in the Augusta Treaty, that Southeastern Indian nations should judge and punish their own people for any alleged acts of aggression toward English persons or property. The treaty went one step further by requiring that if Creek leaders found that one of their own had murdered an Englishman he would “be immediately put to death.” The execution would be performed by the Indians “in the presence of at least two of the English.” Moreover, the new treaty included a promise by the Indians that when disturbances occurred, “satisfaction shall be made to the party injured.”<sup>421</sup> While demands for satisfaction were

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<sup>418</sup> Oglethorpe’s First Treaty with the Lower Creeks at Savannah, May 21, 1733, *EAID* XI, 16.

<sup>419</sup> Incident 21.

<sup>420</sup> Incident 58.

<sup>421</sup> Treaty of Augusta, November 10, 1763, *EAID* V, 297.

mentioned previously, this was the first time providing satisfaction for unacceptable behaviors was formalized and required by southeastern treaty agreements. This innovation meant that from then on, all negotiations over bad behavior would be structured around the idea of satisfaction.

In removing any efforts to achieve justice for misbehavior from the realm of law and placing them more fully into that of diplomacy, the British would henceforth be forced to prove to the Indians that they were willing to treat with them on more equal terms. Thus, the new treaty included more specific promises regarding the punishment of colonists accused of unacceptable actions as well. Any white man accused of murdering an Indian, the treaty stated, would be tried in a colonial court “as if he had murdered a white man, and if found guilty, shall be executed.”<sup>422</sup> Moreover, disputes regarding misbehaviors became more about negotiating a way to balance misdeeds, whether that meant giving “satisfaction” in the form of “blood for blood” or otherwise. Clearly, the Augusta Treaty in this sense represented a significant concession on the part of the British to Indian traditions, and a significant deviation from the “territorial character of English law.”<sup>423</sup>

This period revealed a significant shift in the regional focus of Indian diplomacy due to the realignment of European colonial control. While a significant number of cases of behavioral disputes, 34, were recorded in Georgia, the majority during these years

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<sup>422</sup> Ibid.

<sup>423</sup> A significant work comparing Roman Law and Common Law offers contrasts between the personal nature of Roman law and the territorial nature of English law. In addition, it describes ‘A system of Conflict of Laws [which] recognizes the existence of different legal systems and endeavours to avoid conflicts between them by laying down rules of priority in each case.’ Given the lack of a comprehensive “legal system” among the native peoples of the colonial southeast, a Conflict of Laws system cannot be said to have existed in the region. However, the desire to create some type of similar system by which conflicts regarding behavior could be avoided and when they did occur, could be dealt with in a manner agreeable to both sides clearly did exist. W.W. Buckland and Arnold D. McNair, *Roman Law and Common Law: A Comparison in Outline*, Cambridge: University Press, 1965, 25.

came from the new colony of West Florida. Out of 87 incidents, 48 (55 percent) took place in that colony. Only five percent of the cases involved the new East Florida colony. Continuing the pattern established during the previous periods, these years saw an increase in the average number of cases recorded per year, revealing 7.9 per year, up from an average of six per year in the previous period. Moreover, nearly two-thirds, 72%, of the recorded incidents from these years represented complaints made by colonists against the Indians, compared to only 59% during the preceding stage.

The most recorded type of misbehavior during these years was murder, as in the earlier periods. During this time, however, the number of recorded murders far surpassed those of the other stages. Thirty-three separate incidents, representing 38 percent of the cases for this period, and 42 percent of all the murder cases recorded in the years included in this study took place during the years between 1764 and 1776. The majority, 82 percent, were complaints of murder reported by colonists. Fifty-two percent of the accusations came from the colony of Georgia, and 36 percent from West Florida. Most notable regarding the cases involving murder during this period, perhaps, was the manner in which they were resolved. In the Treaty of Augusta, the British had promised to execute colonists found guilty of murdering Indians, and in each colony, a single case of murder resulted in an execution during this period.<sup>424</sup>

The second most numerous type of unacceptable behavior for which complaints were recorded during these years was theft. Eighteen cases, twelve from West Florida and six from Georgia were recorded. As with the murder cases the majority of complaints of theft came from the colonists during this period accounting for 72 percent

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<sup>424</sup> Incident 138, 165, and 191.



of the total. Following theft cases were incidents involving trade disputes, which made up 8 percent of all the incidents. All were complaints made by Indians.

Just one month after the Treaty of Augusta was signed, the provision by which Indians promised to execute their own people in a public manner for the murder of whites was put to the test. On December 24, a group of seven Creeks who had been living among the Cherokees killed fourteen Georgia settlers at Long Canes.<sup>425</sup> Despite an immediate demand by Superintendent Stuart that the Creek headmen make good on their treaty agreements and execute the killers,<sup>426</sup> the Creeks could do little more than blame the Cherokees for corrupting their young people.<sup>427</sup> Lower Creeks promised to provide satisfaction when their people returned from the hunt,<sup>428</sup> but in the long run, clan ties among the Creeks proved more powerful than their desire to satisfy the English in this case. The South Carolina Gazette, in reporting on the murders, noted the colonists' awareness even at the time of the significance of such clan connections. The murderers, including Sempoyaffi, were "all men of such note and influence in the nation (chiefly of the Bear family, one of the greatest in it) that we can have little or no hopes of seeing them punished."<sup>429</sup> While some headmen agreed that the murderers should die, others, such as Fool Harry whose son was involved, "opposed the proposal and said he loved his son." Asked if he was willing to die for his son, the headman reportedly "answered in the negative."<sup>430</sup> However, the very real danger of retaliation by members of the murderers

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<sup>425</sup> Incident 33; Tugulki of Coweta to Governor James Wright and Superintendent John Stuart, January 8, 1764, *EAID* XII, 8.

<sup>426</sup> Superintendent Stuart to Tugulki and the Creeks, Protesting Murders at Long Canes, January 13, 1764, *EAID* XII, 9.

<sup>427</sup> Reply of Coweta Headmen to Superintendent Stuart's Protest, February 6, 1764, *EAID* XII, 10.

<sup>428</sup> Lower Creek Reply to Superintendent Stuart's Protest, February 14, 1764, *EAID* XII, 10-11.

<sup>429</sup> *SCG*, January 28, 1764.

<sup>430</sup> *SCG*, January 14-28, 1764.

kin groups if they should attempt to execute the men, may well have influenced the Creeks and prevented their compliance in this case.

In the Fall of 1765, two additional incidents of murder occurred, which continued to test the willingness of both the English and the Indians to fulfill their new treaty agreements. However, while the murder of a Creek Indian by “three Runaway Negro Men” near the Satilla River in October provided a relatively easy way for the English to prove their willingness to comply,<sup>431</sup> the murder of three white men by the son of a prominent Creek headman in September revealed the difficulty inherent in attaining compliance to any joint agreements made by the Indians.<sup>432</sup> In the former case, the actions of the escaped slaves provided Governor Wright a convenient opportunity to demonstrate “his great regard and friendship for the Creek Indians,” when he responded to word of the murder by sending out soldiers from Fort Barrington to apprehend the men. Once caught, the three men were taken to the fort where they “were all tried and condemned to be hanged.” In compliance with the treaty, one of the killers was executed “at Satilly River in the presence of some Creek Indians,” and another was hung at the fort. The third man, the Governor later reported to the Creek headmen, “was brought down here to Savannah and executed, whose body now hangs in chains.” This response, Wright informed the Creeks, demonstrated his willingness “to do Justice and give full Satisfaction to you, even although there is no obligation on the White People to do so, Negroes not being mentioned in the Treaty at Augusta.”<sup>433</sup> Thus the governor was able to

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<sup>431</sup> Incident 137.

<sup>432</sup> Incident 138.

<sup>433</sup> Governor Wright and Superintendent Stuart to Upper Creek Great Medal Chiefs, Protesting Payne-Hogg Murders, December 27, 1765, *EAID* XII, 17-18.

display compliance to the Indians and rid the colony of potentially dangerous runaway slaves at the same time.

The murders of brothers William and George Payne, and James Hogg by a group of young Creek warriors led by Limpiki, son of Coweta headman Sempoyaffi, proved much less convenient, however. For three years Superintendent John Stuart, Governor Wright and Commissary Roderick McIntosh attempted to threaten, convince and cajole the Creeks into complying with the treaty agreement to execute the murders of the three white men. The colonial representatives reminded the Indians of Georgia's recent act of compliance in executing the slaves, and informed them that the English king "expects and Requires that your Justice will be Reciprocal."<sup>434</sup> In May 1767, a Cussita headman described the difficulty in obtaining the satisfaction demanded of them.

When the Commissary Spoke to us all at the point about having the Murtherer killed, we came home and consulted together about it and we Concluded that if he was not killed the Trade would be Stopt. And although we persued him a day and a Night we were disappointed by his having so many well wishers. For that reason we did not come down. We don't think Satisfaction can be taken by one Town only. All the other Towns say that his Relations are in this Town and that we are the only people that ought to have him killed. But his making his Escape has prevented us and now Wee are like to be killing one another about him. His friends said that if we kill him, they would kill the white men in their Town.<sup>435</sup>

At a trade conference with the Upper and Lower Creeks the following month Superintendent Stuart used symbolism he knew the Indians would easily recognize to demonstrate the position of the English regarding the need for justice for the murders. After raising the issue, he informed the Indians present that he would speak of it no more and would assume they would make satisfaction "as soon as in your power." He then presented them with "a string of White Beads with 3 Black Beads at the End," to remind

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<sup>434</sup> Superintendent Stuart to the Lower Creeks, December 17, 1766, *EAID* XII, 22-23.

<sup>435</sup> Cussita Headmen to Superintendent Stuart, May 1767, *EAID* XII, 26.

them, and he added, “when any of the Murderers are brought to Justice you may take off the three black beads and throw them into the River.”<sup>436</sup> In November, however, Commissary McIntosh described the continuing difficulty he experienced in gaining satisfaction in the case, and revealed changes within the Creek Nation that contributed to the increase in the number of behavioral disputes during this period. “There are some Old Men among them that would willingly Support out Interest if they had it in their power, but their Young men are become Boistrous and Wanton that without a hearty drubbing such as the Cherokees had, they will never be a Tractable People.”<sup>437</sup>

The eventual resolution of the case came at Superintendent Stuart’s Congress with the Lower Creeks at Augusta in November of the following year. Sempoyaffi expressed grief at the actions of his son, stating, “my Son’s behavior, has covered me with Shame.” Pleading that the young man be forgiven, he then returned his own medal and commission to Stuart. He promised, furthermore that “if he [his son] can be forgiven, I will answer for his behavior in future.” Apparently eager to resolve the issue and retain the good will of the headman who had been a reliable English ally, Stuart agreed. In responding, he explained to the Indians present that although the young man “committed unprovoked Murders,” he believed the headman understood the gravity of the situation. “You must be convinced,” he stated, “that Satisfaction is due us, and of the Justice of your Nation, in having Banished him.” The superintendent, therefore, promised to request a pardon for the headman’s son.<sup>438</sup>

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<sup>436</sup> Superintendent Stuart’s Trade Conference with Upper and Lower Creeks at Augusta, May 28-June 6, 1767, *EAID* XII, 31.

<sup>437</sup> Commissary Roderick McIntosh to Superintendent Stuart, Reporting Upper Creek Victory and Recent Talks, November 16, 1767, *EAID* XII, 340-41.

<sup>438</sup> Congress with the Lower Creeks at Augusta, November 14, 1768, *EAID* XII, 72.

Stuart explained his actions at the congress and applied for that pardon in a letter to his superiors in England the following month.

Sempoyaffi is a Man of great weight in the Nation and well affected to the British interest. For which reason I did not think it prudent, at this time, to discourage his application in behalf of his Son, who was driven from the Nation and is looked upon as an outlaw; and humbly submit to Your Lordships, how far he may be a proper object for His Majesty's Clemency, especially as there is no appearance of our obtaining any other satisfaction.<sup>439</sup>

In May 1767, the superintendent was informed of another murder committed by the Creeks, in a message sent by Upper Creek headman Emistisiquo.<sup>440</sup> A white man named Thomas, the Indian notified him, had been killed in the woods near 'the Hillibys.' The culprit, suspected to be from Hillibee, had apparently escaped and taken a white woman with him. The Creeks assured Stuart, however, that they intended to pursue the guilty party and see that satisfaction was obtained, stating, "we are resolved to send some of our best runners after him to have him killed." As the man had thus far eluded them and it was believed he had fled towards the Cherokees, Emistisiquo requested further that a talk be sent to that Nation seeking their assistance in the matter. "We shall take it as a great favour and piece of friendship if they will do their Endeavours to have him killed," they added. Furthermore, the headman requested that local white people be asked to kill the murderer if they should encounter him. Emistisiquo added that "If he is killed by the white people, we expect they will bring the Woman to Augusta so as we may see her, and if by Red we will be very glad that they will bring the Woman in with a white wing and white beads to the Oakjoy Square."<sup>441</sup>

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<sup>439</sup> Superintendent Stuart to Hillsborough, Reporting Upper Creek Isolation, December 28, 1768, *EAID* XII, 347.

<sup>440</sup> Incident 141.

<sup>441</sup> Upper Creek Chiefs to Superintendent Stuart, Reporting Another Murder, May 16, 1767, *EAID* XII, 27-28.

Superintendent Stuart, while appreciating the headman's intentions, stating "your Resolution of punishing the Murder of Thomas is wise and just,"<sup>442</sup> found satisfaction in the case hard to obtain, however. Five years later, in January 1772, he was still demanding justice in the incident in a letter sent to the Upper Creeks in which he stated "you also promised Satisfaction for a man killed at the Hillabies, but this you have failed in, and the Murtherer still Lives."<sup>443</sup> The headmen's response to that letter, delivered to them by David Taitt in March of that year, was another promise to give satisfaction, but with a caveat. The headmen "desired me not to demand Satisfaction publickley, but promised to give it as soon as they Could get an Opportunity, as they Could not Kill any person publickley."<sup>444</sup> The Creeks may have earlier executed one of the Indians who participated in the murder, however. In April 1768, McIntosh reported to Stuart on his visit to the Lower Creek towns "where I had much Altrication with the Indians about getting Satisfaction for this Murther committed to the Southward Last Summer. With some difficulty," he reported, "I got one fellow killed and they have promised to kill another before I return there."<sup>445</sup> As more specific details on the precipitating murder are not given, however, it remains uncertain if this execution was for the murder of Thomas.

In August 1770, two more Georgia settlers were killed by the Creeks, which also resulted in a series of complaints and demands for satisfaction by Stuart and by Governor Wright.<sup>446</sup> The case involved the murders of Thomas Jackson and George Beeck, who were killed while pursuing a group of Creeks who had reportedly raided some of the

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<sup>442</sup> Superintendent Stuart's Trade Conference with Lower and Upper Creeks at Augusta, May 28-June 6, 1767, *EAID* XII, 34.

<sup>443</sup> Superintendent Stuart to the 'Great Chiefs' of the Upper Creeks, Demanding Satisfaction, January 20, 1772, *EAID* XII, 110.

<sup>444</sup> David Taitt's Journal of a Journey Through the Creek Country, 1772, in Mereness, *Travels*, 520.

<sup>445</sup> Commissary McIntosh to Superintendent Stuart, April 18, 1768, *EAID* XII, 43.

<sup>446</sup> Incident 150.

settlements between Augusta and the Little River. Hearing of the killings, the Lower Creeks quickly wrote to the governor denying any responsibility in the incident, and accusing the Upper Creeks, promising, moreover, to do their “Utmost to make the Uper Creeks to Give Satessfaction.”<sup>447</sup> Wright, nevertheless, sought redress from the Lower Creeks. “I must now demand Satisfaction of you,” he stated, and added his expectation “that two of the Murderers be Immediately Put to Death.”<sup>448</sup> Concerned that trade to their towns might be stopped as a result of the incident, the Lower Creeks sent a reply stating once again that the Upper Creeks were the culprits in the case, and informing the governor that they “have Sent Immediately up to the Upper Towns, That did the Murder, for to have two of them killed.”<sup>449</sup>

Superintendent Stuart’s efforts to attain satisfaction in the case focused on the Upper Creek town of Okfuskee, and he urged the headmen there to do more than express their disapproval. Rather, he argued, “You must Exert yourselves and put the Murtherers to death.”<sup>450</sup> In May of the following year, however, the murderers still not having been executed, the Upper Creek headmen wrote to Stuart arguing that the recent killing of one of their people by a white man should serve to balance the debt. “As we are sensible he is the first man you have killed all His Relations now send to assure you, that they look upon it as taking Satisfaction. And as the Governor of Georgia may be disposed to Punish the Murderers, we desire that this talk may prevent it.”<sup>451</sup> The governor quickly informed the headmen, however, that the Indian who had died had accidentally drowned after

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<sup>447</sup> Lower Creek Headmen to Governor Wright, September 5, 1770, *EAID* XII, 92.

<sup>448</sup> Governor Wright to Lower Creeks, protesting Murders Near Oconee River, October 2, 1770, *EAID* XII, 93.

<sup>449</sup> Lower Creek Reply to Governor Wright’s Protest, early November 1770, *EAID* XII, 94.

<sup>450</sup> Superintendent Stuart to the Upper Creeks, November 25, 1770, *EAID* XII, 377-78.

<sup>451</sup> Upper Creek Headmen to Superintendent Stuart, Declaring Issue of Oconee Murders Settled and Complaining of Encroachments, May 1, 1771, *EAID* XII, 96-98.

falling from a canoe, and “Therefore ought not be put upon the Footing of Satisfaction for the People who were Actually Murdered by the Indians, because this was only an Accidental thing.”<sup>452</sup> It appears no satisfaction was ever given in the case, and in January 1772 Stuart was still demanding justice for the two men “killed upon the Oconies.”<sup>453</sup>

The murder of one Creek Indian did result from the attacks by the Okfuskees on the Oconee settlements.<sup>454</sup> In October 1771 Council President James Habersham wrote to the Creeks apologizing for the incident in which some settlers who lived near Bryer Creek had mistakenly killed an innocent Creek Indian while in pursuit of others who had lately stolen some horses from their settlement. Locating two Creeks encamped nearby, the settlers demanded information regarding the stolen horses. When one of the Indians attempted to flee, Habersham reported, “the white People being very much provoked and very angry at losing their Horses, some of them fired at the Indian.” Although uncertain whether the Indian thus wounded had died, however, he added “I am told they tyed and whipped the other Indian.” In response to news of the incident, Habersham promised to “do full Justice” to the Indians. Orders had been sent, he informed them, “to take up the People, who it’s suspected have been guilty of this rash Behaviour and Breach of the Treaty, and to send them to Savannah, where you may depend, they shall be prosecuted and punished with the utmost Severity our Laws will inflict.”<sup>455</sup> No further record was made regarding this case, however.

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<sup>452</sup> Governor Wright’s Reply to the upper Creek Talk of May 1, June 25, 1771, *EAID* XII, 104-05.

<sup>453</sup> Superintendent Stuart to the ‘Great Chiefs’ of the Upper Creeks, Demanding Satisfaction, January 20, 1772, *EAID* XII, 110.

<sup>454</sup> Incident 151.

<sup>455</sup> Council President James Habersham to the Creeks, Apologizing for Violent Incident, October 29, 1771, *EAID* XII, 107-08.



During the same month Habersham was informed of this murder of the Creek Indian, he was also notified that a Lower Creek Indian had murdered one John Carey near George Galphin's cowpen. In December, Habersham wrote to the Lower Creeks demanding satisfaction in the case, stating

I neither can or will Suffer any of the people under my Care to be murdered by any people whatever, without having full Satisfaction made. And therefore I must and do insist on this Murderer, whose Name I am told [is] Sugley being killed, which will be the best and only proof, you Can give me of your desire to live peaceably with us and to keep the path open white and Clear between us.<sup>456</sup>

If the Creeks failed to give justice in the case, Habersham threatened to stop the trade and reminded the Indians if such happened, they “must blame yourselves for not keeping your mad runagating people from doing Mischief to the white people.”<sup>457</sup>

Three months later, the Lower Creeks sent word to Habersham that the guilty Indian had been summarily executed. “Fullocky and his Old Brother Cateaga was of the same Family as the Murderer was,” they stated, “and as they Consented by Salegee, putting him to death it was done as you desired it, so it is Completed, and was done in presence of several of the Traders.”<sup>458</sup> David Taitt confirmed the execution in his journal, when he recorded a complaint of a horse theft given by an Indian named Howard, writing “This Howard is the person that held the Murderer until two others Stabed him with their knives in the sides.”<sup>459</sup> A couple of weeks later, Taitt added that the Indians “Shewed me the place where the Indian was Killed who had Murdered the white Man at Ogechee, there was a little piece of ground hoed over to Cover the blood.”<sup>460</sup> This case was

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<sup>456</sup> President Habersham to the (Lower) Creeks, Demanding Satisfaction for the Murder of John Carey and Threatening to Stop Trade, December 9, 1771, *EAID* XII, 108-09.

<sup>457</sup> *Ibid.*

<sup>458</sup> Lower Creek Chiefs to President Habersham, Reporting Execution of Carey's Murderer, March 17, 1772, *EAID* XII, 111.

<sup>459</sup> Taitt's Journal in Mereness, *Travels*, 539.

<sup>460</sup> *Ibid.*, 546.

significant, as it was the first instance in which the Lower Creeks executed one of their own in response to a demand from the Georgia government

In September 1772, the situation with the Upper Creeks appeared to be deteriorating. Stephen Forrester reported to Superintendent Stuart on the danger to the traders in the Nation evidenced by the murder of one and attacks on two others.<sup>461</sup> One of the Indians formerly regarded as a staunch ally, moreover, Forrester accused of being behind the attacks. “Salleeachie, that always Before sided for you is now One of the Worst in the Creek Nation,” he wrote. “They have almost killed McQueen and one Whitfield his man, and they have killed One Inman upon the Path,” he informed Stuart. Further, Forrester warned the superintendent, “they are now so Turbulent grown, that it is with great hazard the Traders can Stay. I expect every Moment when they will break out.”<sup>462</sup> The resolution of this case was not noted, however.

Roughly one year later, three more white men were attacked and killed at St. Joseph’s Bay, this case involving the Lower Creeks and a Seminole known as Miley from Weeupkee.<sup>463</sup> While the specific circumstances of the incident were not recorded, in June of 1774, Lower Creek headmen informed Governor Wright and Superintendent Stuart that two of their men had been executed for their role in the murders, “one man killed at the Forks of Tomawtly for the Murders at St. Joseph’s Bay.”<sup>464</sup> Stuart’s response indicated his belief that the man thus executed had been Miley, the Indian most guilty in the incident. “I observe with pleasure your Inclination to do justice by the Punishment inflicted on Miley at the Forks of Tomawtly,” he wrote, “who was principally Concerned

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<sup>461</sup> Incident 156.

<sup>462</sup> Stephen Forrester to Superintendent Stuart, September 7, 1772, *EAID* XII, 112-13.

<sup>463</sup> Incident 161.

<sup>464</sup> Lower Creek Headmen to Governor Wright and Superintendent Stuart, Reporting Two Executions, June 23, 1774, *EAID* XII, 147.

in the murder of Three Whitemen at St. Joseph's Bay last October."<sup>465</sup> Two days later, however, David Taitt informed Stuart that such was not the case. "They have only killed a Slave at the Forks for the Murder of the three Whites at St. Josephs," Taitt related, "and not Meley and his Nephew, as reported."<sup>466</sup>

The demands for satisfaction in this case were tied to another, more significant incident of murder in which thirteen "New Purchase" settlers were killed.<sup>467</sup> Both incidents, moreover, were the result of increased Creek frustration with the results of the 1773 Treaty of Augusta by which some 675,000 acres of the Creek territory were ceded to Georgia in payment for outstanding trade debts. Within six months of the signing of the new treaty, much of the lands surrendered to the colony had been sold and settlers had begun to pour into the new territories. Many of the Indians, frustrated at the speed of colonial expansion and the perceived failure of the English to live up their treaty promises, took out those frustrations on the newly arrived settlers. Of greatest concern to the Creeks, was the seeming reluctance of the British to supply them with promised ammunition needed in their ongoing conflict with the Choctaws and to control illicit trade. Stuart informed General Gage that such concerns had led to the most recent attacks on settlers.

I have mentioned in this Letter what was assigned as the Reason for the Creeks having committed such and so many murthers; but I am pretty well assured that the late Cession obtained in Georgia for payment of debts due to the Traders by the Indians is an Eyesore which keeps up their Jealousy and discontent, and which the above accident brought to light prematurely, before a peace could be accomplished between them and the Chactaws, . . .<sup>468</sup>

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<sup>465</sup> Superintendent Stuart to Upper and Lower Creeks, Demanding Satisfaction as Agreed in Savannah, July 2, 1774, *EAID* XII, 148-49.

<sup>466</sup> Taitt to Stuart, July 4, 1774, note 61, *EAID* XII, 527.

<sup>467</sup> Incident 157.

<sup>468</sup> Superintendent Stuart to General Gage, on Repercussions of White-Sherrill Murders, May 12, 1774, *EAID* XII, 144.

The murders of the thirteen members of the White and Sherrill families took place between December 1773 and January 1774. When news of the attacks reached Stuart, he went immediately to Savannah to meet with the governor to plan a response. On February 1, Governor Wright informed the Creeks of the details of the White killings.

Some of your People on Christmas Day last, murdered one White, and his Wife and 4 Children, who had bought some of the said Lands on the North branch of Ogechee River, within the Line agreed upon, and were settling on the Same, and that your people also robbed and plundered the House of every thing that was in it, worth carrying away. And that I was also informed that another White Man had been Murdered near Ogechee, . . .<sup>469</sup>

After demanding the Indians give satisfaction for the White murders “by immediately putting the Offenders to Death,” Wright added details on the subsequent murders of the Sherrill family who lived a few miles from the White family. The Indians, he reported, “attact the people there, without any reason or Cause whatever and murdered 5 White people and 2 Negroes.” In addition, when a party of settlers later approached the Sherrill home to recover some provisions left behind by the raiding party, “some of your people fired upon them,” the governor stated, “and killed 4 Men One of whom was Mr. Grant of Augusta.”<sup>470</sup> Lieutenant David Grant, it was later revealed, had been taken captive by the Indians “who they tortured and put to death in a most barbarous and Shocking manner.”<sup>471</sup>

The governor notified the Indians that, based on treaty agreements, he expected them to “make Satisfaction, by immediately putting the Offenders to Death.”

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<sup>469</sup> Governor Wright to Upper and Lower Creeks, Demanding Meeting on White-Sherrill Murders, February 1, 1774, *EAID* XII, 134-35.

<sup>470</sup> *Ibid.*

<sup>471</sup> Governor Wright’s Meeting with a Small Creek Party Headed by Emistisiguo, April 14, 1774, *EAID* XII, 123, 139.

Furthermore, while acknowledging that the murders were likely committed “Runagates and Mad Young People,” and were not sanctioned by the headmen, the governor nevertheless requested that “some of your Head men and Warriors come to me in Savannah as soon as Possible, that we may talk these matters over, and agree upon such Satisfaction, as may be reasonable.”<sup>472</sup> Stuart was also convinced that the attacks were not the fault of the headmen, but rather that of the Georgia traders. “All subordination among them is destroyed by the practice of employing Indians to sell goods as factors for white people, by which means they are enabled to counteract the chiefs and to prejudice the people against them,” Stuart wrote to Haldimand. Such activity had garnered complaints from the headmen for a long time, Stuart added, and had “been a matter of complaint which the chiefs have never failed to mention at every meeting for twelve years past.”<sup>473</sup>

Coweta headman Escotchaby informed trader George Galphin that the murders were committed in response to the murder of one of his people by the whites. “You Sent me Word,” Galphin wrote to the headman, “the white People had killed one of your People first, which was very bad, but it was wrong to kill so many People for one.” In addition, the headman blamed the murders on “Seventeen mad Young People that did all the damage.” Galphin warned the headman, moreover, to caution the young people against frightening the traders with threats to “knock them in the Head as they often do when they are drunk,” thereby causing the traders to flee the nation which would create undue fear among the Indians due to further loss of trade.<sup>474</sup>

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<sup>472</sup> Wright to Upper and Lower Creeks, February 1, 1774, *EAID* XII, 134-35.

<sup>473</sup> Stuart to Haldimand, February 3, 1774, in note 4 *EAID* XII, 520.

<sup>474</sup> George Galphin to Escotchaby of Coweta, February 1774, *EAID* XII, 137-38.

In response to the governor's demand for a meeting with the Creek headmen to discuss justice for the murders (and Stuart's actions through David Taitt to have Emistisiguo influence compliance with that demand), a handful of Creek leaders arrived in Savannah in April to negotiate satisfaction. Apparently, warnings from the Cherokees that Wright intended to take the headmen hostage (as Lyttelton had taken Cherokee headmen previously) prevented a larger group from accompanying Emistisiguo and the others. Although Stuart was late in arriving, Wright went forward and met with the Creeks on April 14. At that meeting, the governor began by admitting that Georgians had recently been guilty of killing two Creeks.<sup>475</sup> Then, he repeated the details of the White-Sherrill murders, which he had informed them of in February. Based on the facts presented and existing treaty agreements, Wright insisted that "the people who have committed these Murders may be put to Death." Such executions, the governor pointed out, would both "prevent any of your People from committing more Murders," and, since satisfaction for the murders of whites committed previously had yet to be provided, would "be accepted of, for all that have been committed since the Great Congress in 1763." Until such time as the Creeks provided proof that the executions had been carried out, however, Wright informed the headmen that the trade "must be stopt, and no Goods can be carried to your Nation till Satisfaction is given." Four days later, Wright reported that he had agreed to a further amelioration of his demands, "as they have lost four of their People," he stated, "I have told them if they will put only four of the Offenders to Death, it will be received as satisfaction for the whole."<sup>476</sup>

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<sup>475</sup> Incidents 158 and 159.

<sup>476</sup> Governor Wright's Meeting with a Small Creek Party Headed by Emistisiguo, April 14, 1774, *EAIID* XII, 138-42.

Emistisiguo's response to the governor's demands was first to remind him that the problem had been caused by the presence of too many traders in the nation, and "that a Trade is Carried on with the White Boy, At the Coweta Town on the Oakmulge River, which has Principally Caused the disturbance." He added that the Upper Creeks would not be willing to suffer for the actions of the Lower Creeks, and promised to discuss the matter in the nation and "report in three moons."<sup>477</sup> Upon the headman's return to the nation, Superintendent Stuart later reported however, "all the Indians concerned in the murder in Georgia fled into the Woods."<sup>478</sup>

The imposition of the trade embargo had a profound effect on the Creeks. Whereas they had previously been concerned about the relative scarcity of ammunition and other trade goods necessary for their defense in their disputes with the Choctaws, they now faced a total lack of access to such needed materials. In response, Emistisiguo and the Second Man of Little Tallassee convened a meeting, likely one of the first general meetings of headmen from all of the Upper and Lower Creek towns, to discuss giving the satisfaction Wright had demanded. At the assembly on May 23, the governor later related to Stuart, "they had agreed and desired I should be made acquainted that satisfaction shall be given."<sup>479</sup> Clearly, the Upper Creeks had compelled the Lower Creeks to participate in such a display of unity, in large measure due to the peril they felt as a result of the British decision to impose the embargo.<sup>480</sup>

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<sup>477</sup> Ibid., 141.

<sup>478</sup> Stuart to Gage, May 12, 1774, *EAID* XII, 145.

<sup>479</sup> Governor Wright to Superintendent Stuart, Reporting Creek Promise of Satisfaction, June 13, 1774, *EAID* XII, 146.

<sup>480</sup> This was one of three recorded instances in which the Creeks held joint meetings to resolve issues regarding relations with the English. In each instance, such meetings appear to have occurred at the behest of the Upper Creeks, and at times of crisis involving the trade. For more, see *EAID* XII, 521-22, notes 9, 10 and 13, and Steven C. Hahn, *The Invention of the Creek Nation: A Political History of the Creek Indians in the South's Imperial Era, 1540-1763*, Ph.D. diss., Emory University, 2000.

The following month, Lower Creek headmen sent word to the governor and superintendent that they had taken measures to provide satisfaction for the murders. They informed the men that they “have gone so far with our Friendship as to kill one of our Great Warriors named Ocktulkee, the Head and Leader of all the Murders in Georgia committed on the White People.” Moreover, they added that “as the leader is given up the Governor ought to send up the Traders Immediately and not Require or demand any more Blood from us as all the young People were lead into the Mischief by him who is now killed.”<sup>481</sup> What the Lower Creeks had neglected to mention, however, was that the man they had executed was an Upper Creek. Thus, as with the Acorn Whistler case in 1752, the Creeks sought to have the execution of the lead member of a party guilty of committing murder suffice for satisfaction.<sup>482</sup> This rather than provide justice on an eye-for-an-eye basis as the treaty, and even their own traditional law-ways, would seem to demand. Stuart’s reply a week later notified the headmen that although the English appreciated their move towards compliance in having the leader killed, more was required. “You know that further Satisfaction was agreed upon,” he reminded them, “and we Hope that it will be Complied with fully, that your Trade may again be Opened and all bad Talks buried.”<sup>483</sup>

The Creeks’ decision to execute only the single man they deemed most guilty of the murders was, they later declared, influenced by a message received from “the White King of the Lower Euffallies acquainting them that Ocktulkee alone would be looked upon by Governor Wright as Sufficient Satisfaction.” Had the message not been received,

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<sup>481</sup> Lower Creek Headmen to Governor Wright and Superintendent Stuart, Reporting Two Executions, June 23, 1774, *EAID* XII, 147.

<sup>482</sup> See incident 58.

<sup>483</sup> Superintendent Stuart to Upper and Lower Creeks, Demanding Satisfaction as Agreed in Savannah, July 2, 1774, *EAID* XII, 148-49.



Yahula Mico of the Usitchie Town informed David Taitt, “the four Men who were demanded as Satisfaction would have been killed.” Furthermore, “it would have all been Settled in one Morning as they had all the four Surrounded when they Shot Oaktulkee,” Taitt later informed Stuart. The White King reported receiving the misinformation from an agent of George Galphin (if not Galphin himself).<sup>484</sup> Galphin denied this, however.

Taitt further reported to Stuart on the new eagerness on the part of some of the Lower Creeks to demonstrate a willingness to comply and provide the required satisfaction so that the trade would be reopened.

The Pumpkin King and Head Warriour of Chehawshas sent a Message to me assuring me that they will do all in their Power to get Satisfaction and Say that Galphin must have made the Lie as they are sure the White King would not do it. The Head Warrior of the Cussitaws has been at Occoni and Burned the House and destroyed the Corn that his Son and another of the Murtherers planted. The Warriour carried Seventeen men with him on purpose to kill his Son or than carry him into his Nation, which he has Effectted and his Son was with him when he was met by Yahula Mico.<sup>485</sup>

The British response to such overtures was uncertain, for the governor and the superintendent approached the issue differently. While Stuart favored diplomacy, Wright preferred to exert more pressure on the Creeks. In an effort to do that, the governor requested the cooperation of neighboring colonies in the embargo and reportedly requested troops from Generals Gage and Haldimand. In addition, he requested that Stuart employ the help of the Choctaws by having them “send out Parties. . . to harass the Creeks.” Stuart reportedly refused such underhanded tactics, however, believing that doing so “would be breaking all terms with the Creeks.”<sup>486</sup>

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<sup>484</sup> Taitt to Superintendent Stuart, July 18, 1774, *EAID* XII, 150-51.

<sup>485</sup> *Ibid.*

<sup>486</sup> *EAID* XII, 125, and note 16.

In August, the situation among the Creeks had become more desperate and a group of Upper Creeks arrived in Augusta with a talk purported to be from the Abeika headmen, including the Mortar. The Upper Creeks requested that the embargo be lifted among their people and that the traders be allowed to return. Attempting to distance themselves from the Lower Creeks, they headmen stated “neither the Abicas, Tallapuses nor Alibamas desire to have any Thing to say to the Cowetas, but desire Peace, and we therefore think it hard to Suffer on their Account.”<sup>487</sup>

In September, the Lower Creeks notified the superintendent and the governor that they had apprehended and intended to execute two more of the murders, Houmatchka and Sophia, who had earlier hidden among the Cherokees. Following this, the headmen planned to travel to Savannah in early October negotiate the end of the current embargo.<sup>488</sup> Distracted by trouble emerging with the colonists, Wright was eager to end the affair and agreed to meet with the Indians. On October 20, a treaty was concluded with both the Upper and Lower Creeks which lifted the embargo. Restating the events of the murders and the subsequent efforts by the authorities on both sides to attain satisfaction in the case, the treaty gave the Creek headmen credit for having “declared their disapprobation [for the murders] in the Strongest Terms.”<sup>489</sup> In addition, the treaty acknowledged the deaths of four Creeks in the affair, and the subsequent executions of three of the guilty men. For their part, the Creeks were required only to follow through on their promise to apprehend and execute Hourmatchka and Sophia, who had recently escaped, and to deliver up all the runaway slaves, stolen horses and cattle remaining in

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<sup>487</sup> Purported Talk from Abeika Headmen to Stuart and Wright, as Delivered to Taitt at Augusta, August 23, 1774, *EAID* XII, 151-52.

<sup>488</sup> *EAID* XII, 125.

<sup>489</sup> Treaty with the Upper and Lower Creeks at Savannah, October 20, 1774, *EAID* XII, 153.

the nation. Further sweetening the deal for the Indians, was the addition to the treaty that stated “it is further Agreed that the Satisfaction herein before mentioned Being Completed, is Accepted of for all Murders Committed in the Province of West Florida, as well as in this Province.”<sup>490</sup> A final capitulation on the part of the British, moreover, was the treaty agreement to prevent white settlements near the Creeks, which had been the cause of much of the recent disturbances and disputes. The treaty stopped short, however, of granting permission for the Creeks to use force to disperse any such unauthorized settlements.<sup>491</sup>

Believing the matter of the recent murders, including those of the White and Sherrill families, effectively resolved, Governor Wright reported to the Earl of Dartmouth only four days later on his success with the Indians.

Although your Lordship Seemed to doubt the Propriety of the measure I took in Stopping the Trade and it might Seem Bold, or in Some Degree Rash, yet be Assured my Lord it was not taken Rashly, and was the only Effectual means we had in our Power to bring them to do us Justice. I saw Clearly my Lord that things were growing worse every day, and that we should be more Embarrassed and Deeper Involved, and that it was absolutely necessary to take that Step, in order to bring matters to a point and this my Lord has convinced them of their Dependance upon us. They saw (which they never would believe before) that the Trade *could be Stop't*. They saw the Four Provinces *unite*, and then Declared that they found we were one People and that if they made War with Georgia it was making war with all the other Provinces, and they also found themselves reduced to the greatest Necessity and Distress for having received no Supplies for ten months. . . And my Lord they having now been brought to Submit and Comply with the Demand I trust will Prevent their Mad Young People as they call them from Daring to murder any more of His Majesty's Subjects, as they are *now Convinced we will not Put up with it*, and that their Lives will be in Danger.<sup>492</sup>

Information given to Commissary Taitt in December, however, seemed to indicate that Wright assumed too much about what he had achieved with the Creeks. One of the

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<sup>490</sup> Ibid., 153-55.

<sup>491</sup> Ibid., 155.

<sup>492</sup> Governor Wright to the Earl of Dartmouth, Secretary of State, Reporting on the Creek Congress, October 24, 1774, *EAID* XII, 156-57.

murderers the Creeks had promised to apprehend and execute, Hourmatchka, was reportedly still at large. Furthermore, the Indian had “sent word that he is Coming to the upper Trading Path to kill white Men and has got Three more men to join him.”<sup>493</sup> Nine months later, Taitt informed Deputy Superintendent Charles Stuart that the other man the Creeks promised to execute, Sophia, was also still alive and living in the nation and “had just come up from Augusta.”<sup>494</sup>

The two incidents of murder that drew complaints from the Indians in Georgia during this period both occurred in March 1774, and were resolved in the October 1774 treaty with the Creeks as well. In the first case, a Creek by the name of Big Elk was killed while in the Cherokee nation “by a white Man to whom he had offered some Insult.”<sup>495</sup> In the second, an Okfuskee headman much allied to the English, Mad Turkey, was killed by an Augusta blacksmith, Thomas Fee in late March 1774.<sup>496</sup> Besides being included in the treaty negotiations to bring an end to the trade embargo, the latter incident was significant in that it resulted in the creation of a new Georgia colonial law. The Law to Punish Murder of Free Indians was passed on June 20, 1774, and declared that the killing of a free Indian was “as penal to all intents and purposes what soever as to Murder any White person.”<sup>497</sup>

In May 1774, Superintendent Stuart informed General Gage of the circumstances of the murder of Mad Turkey. Having escorted a group of traders to Augusta, “the poor unsuspecting Indian was met in the Village by Fee, who had a Bar of Iron on his shoulder and a Bottle of Rum in his hand. He enticed the Indian to drink until he was intoxicated,

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<sup>493</sup> Samuel Thomas to Commissary Taitt, December 10, 1774, *EAID* XII, 165.

<sup>494</sup> Taitt to Deputy Superintendent Charles Stuart, August 27, 1775, *EAID* XII, 170.

<sup>495</sup> Incident 159; *South Carolina Gazette and Country Journal*, June 28, 1774.

<sup>496</sup> Incident 158.

<sup>497</sup> *EAID* XVI, 448.

and then knocked his brains out with the bar of Iron.”<sup>498</sup> Having informed Emistisiguo and the other headmen of the murders of both Big Elk and Mad Turkey, Stuart described the headmen as “much disconcerted.” They feared, the superintendent added, that “some violent steps might be taken by the Relations of the two deceased Indians, upon news of their Death reaching the Nation.” In the case of the murder of Mad Turkey, although the killer, Thomas Fee, “was apprehended and committed to jail,” he was later broken out and “rescued by a party of Armed Men.”<sup>499</sup> Despite rewards for the recovery of the murderer, however, at the time of the treaty he remained at large.

The majority of the incidents in Georgia related to theft during this period involved the stealing of horses by the Creeks. All but one case arose as complaints from the colonists against the Indians.<sup>500</sup> Most significantly, however, was the apparent connection between these incidents and the presence of illegal traders in Indian territory. Despite the creation of a colonial law in 1765 to attempt to prevent unlicensed trade with the Indians,<sup>501</sup> it continued to be a problem throughout this period, bringing frequent complaints from the Indians, and contributing to nearly every category of disputes over unacceptable behavior.

In May 1767, Superintendent Stuart complained to the Creek headmen that their people had recently been abusing traders and stealing their horses and other goods.<sup>502</sup> Two of the headmen responded with complaints of their own, blaming the thefts on the presence of traders in the woods. Salechi objected to such illicit trade, as well as to the

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<sup>498</sup> Superintendent Stuart to General Gage, on Repercussions of White-Sherrill Murders, May 12, 1774, *EAID XII*, 143-45.

<sup>499</sup> *Ibid.*

<sup>500</sup> Incidents 142, 143, 144, 148 and 157.

<sup>501</sup> Law to Curb Unlicensed Trade with the Indians, March 25, 1765, *EAID XVI*, 420-21.

<sup>502</sup> Incident 142.

many traders giving credit to their young people. Mad Dog of Tuckabatchee described an incident typical of those that took place in the woods.

Last year when I went into the Woods to Hunt for Bear instead of finding my Game I found great numbers of White and Red people, who had been trading in the Woods lying drunk with bottles in their hands. When any of our people for the benefit of Planting settle at a distance from their Towne, Traders immediately settle there and intercept our people returning from their Hunts and purchase their Skins with Rum, by which means they are prevented from paying their just debts to the Traders in their Towns.<sup>503</sup>

As for the horses and goods the traders complained of recently having been stolen, the headman added, addressing the traders present, “If you still persist in sending your Goods to the Woods I shall imagine you want to throw them away and I shall without Ceremony take them, but shall not hurt the person of any white man.” Stuart answered the Indians’ complaints by promising to do all in his power to curb such activities, and mentioned nothing more regarding the thefts.<sup>504</sup>

Three months later, Stuart sent word to the Lower Creeks that he had issued orders to Commissary Roderick McIntosh “to call in all the Stragglng Traders in the out Settlements and as far as lies in his Power to remedy the Evils of which you Complain of.” In addition, he reported having communicated with the governors of the other colonies regarding the matter, requesting that they license their traders for specific towns within the nation only, and not allow traders to do business outside those towns. Curiously, referring to the out settlements and villages the Creeks complained of, Stuart added, “I hope you will not suffer any such Settlements to remain or be made near the Inhabited Frontiers of the Provinces, as in such Cases perpetual Complaints and

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<sup>503</sup> Superintendent Stuart’s Trade Conference with Lower and Upper Creeks at Augusta, May 28, 1767, *EAID XII*, 32.

<sup>504</sup> *Ibid.*

Disorders may be expected.”<sup>505</sup> Such a statement appeared to request the Creeks’ help in controlling the traders, and to give them license to harass such settlements. Headman Emistisiguo certainly appeared to understand it that way when he later took it upon himself to conduct a raid on the Buzzard’s Roost settlement.<sup>506</sup> Misunderstanding (whether feigned or authentic) by the commissary regarding Stuart’s statement to the Indians, as well as his own orders, further contributed to the situation. The incident that resulted, moreover, led British officials and colonial leaders to reconsider the entire structure of Indian diplomacy and dispute resolution in the region.

In May 1768, Commissary McIntosh sought to explain the events of the case, and his part in it, to Superintendent Stuart. At the Augusta Congress, he reminded Stuart, the Creeks had “strenuously insisted in restraining the White People from Trading in the Woods and Villages.” The superintendent had responded by telling the headmen that they were “Authorized to take the Goods and Leather from any person they should find so Trading,” McIntosh argued.<sup>507</sup> Once Emistisiguo became aware of the illicit trade taking place at the Buzzard’s Roost settlement, which the commissary referred to as “a detached Village about Seventy Miles from any Town,” the headman informed McIntosh of his intentions to “Suppress that Illicit Trade.” Before setting out, however, the Indian requested the commissary provide him with a letter intended to reassure the white people there that he was not “going to kill them.” After some consideration, McIntosh said, he decided to provide such a letter, which asserted “imported nothing more than he was to Seize upon and take away all the undressed Deer Skins he may find with any White Man

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<sup>505</sup> Superintendent Stuart to the Lower Creeks, August 14, 1767, *EAID* XII, 40.

<sup>506</sup> Incident 144.

<sup>507</sup> An assertion Stuart denied. “Stuart has underscored much of this passage and at this point adds in the margin: ‘The Indians were never authorized by me to Seize the Goods of any white man. J:S’.” in *EAID* XII, 513, note 59.

or Indian Trading in or at Villages Hunting Grounds or any part of the Woods, Towns only excepted.”<sup>508</sup>

Emistisiguo’s actions after receiving that letter, however, went beyond what McIntosh argued he had authorized. Stuart reported to General Gage on the deposition of trader William Frazier described the events that had taken place in February. After encountering “a Gang of Indians 27 in Number” on February 7, the following day, Frazier “was told that Mr. McIntosh had given those Indians orders to go and rob his Store at the Bussard Roost and that the Store where he lived at himself was likewise to be robbed.” Returning home the trader found “all the goods and leather” had been stolen. On the same day, moreover, Frazier reported that the same Indians, led he said by Emistisiguo, “robbed the Store at the Bussard roost and carried off everything in it together with the provisions packsaddles and Six valuable Horses.” When he inquired of the commissary if he had indeed ordered the robbery, Frazier stated that McIntosh told in “if it was a Village he lived in he was happy if a Town he was sorry for it.” The judges in the situation, moreover, the commissary informed the trader were “the Indians to be sure.” After using the letter to accomplish his own raid, Emistisiguo reported he had then “given it to another Indian to rob some other person and that the said Indian gave it to a White man.” Indians had subsequently robbed two other stores, but reportedly had left George Galphin’s store “not in the lease molested,” most likely upon specific orders from McIntosh.<sup>509</sup>

Although McIntosh later scolded the Indians for their actions in taking goods from Frazier, after determining that the area in which he lived was indeed a town and

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<sup>508</sup> Commissary McIntosh to Superintendent Stuart, on Emistisiguo’s ‘Authorized’ Raid, May 29, 1768, *EAIID* XII, 44-45.

<sup>509</sup> Deposition of William Frazier, March 16, 1768, *EAIID* XII, 41-42.



should have remained unmolested, he also admitted to the trader that he had ordered the confiscation. In response to Frazier's direct questioning of his role, McIntosh reportedly informed Frazier "he had told them he would send the Philistines amongst them and now he had done it and at the same time damned the deponent and askt why he did not serve an honest man." The trader further stated in his deposition that headman Fool Harry (Sempoyaffi) and others of the Creeks had criticized the commissary for his actions, saying "Mr. McIntosh did very Wrong in sending Indians on such Errands and that it was a very bad Example for their Young men who of themselves were ready enough to rob White People without any Encouragement."<sup>510</sup>

Commissary McIntosh strenuously defended his actions, both in encouraging the raids in general and in specifically authorizing the raid by giving the letter to Emistisiguo. He assured Superintendent Stuart that "had not that Place been broke up, it would have been the Ruin of several Honest Traders in the Nation who have suffered Much for Several Years past in having their Hunters Stript by the Settlers there."<sup>511</sup> In addition, he justified the letter saying Emistisiguo was "determined upon what he was About, and intent not to be diverted from it." Moreover, the commissary explained his concern that based on the agreements reached at Augusta, the headman might think he "had two Tongues" if he refused to provide the letter and that the whites at the settlement would indeed fear the Indians had violent intentions as Emistisiguo suggested. The people trading at Buzzard Roost were clearly doing so illegally, the commissary explained. "Not one of these people trading at this Place, ever Brought me a License or permit if they even had them, from a Consciousness, I suppose, of the Impropriety of the place at which

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<sup>510</sup> Ibid., 42.

<sup>511</sup> Commissary McIntosh to Superintendent Stuart, April 18, 1768, *EAIID* XII, 43-44.

they were Trading.” He further justified his actions on the conditions existing in the nation and his doubt that any laws created by whites would make a significant impact on them. Complaints about the illicit trade had been coming from both Indians and whites for some time, he explained, “which none of our Laws have yet been able to remove, nor I’m afraid ever will, howsoever well framed and Vigilantly carried into Execution.”<sup>512</sup>

The reaction to Emistisiguo and McIntosh’s actions was negative on both sides of the Creek-Georgia frontier. Lower Creeks protested against the Upper Creeks trespassing into their territory to seize goods intended for trade with their people, and threatened to seek revenge. Traders complained vehemently of the use of Indians to police the trade and the robbery of legitimate traders. Despite the difficulty inherent in any attempt to control illicit trade, or to prevent the Indians from trying to do so, this incident demonstrated that it was nearly impossible to create a legitimate way to accomplish that goal, that would be acceptable to both Indians and whites.<sup>513</sup> Therefore, to prevent the situation on the frontier from further deteriorating, the British government acted in March to return management of the Indian trade to the colonial governments. “The futile and expensive struggle to control events on the Indian side of the boundary was to be replaced by a more limited effort to define and maintain it.” Thereafter, Stuart’s role was limited to diplomacy and treaty negotiations, and he was less directly involved in negotiating unacceptable behavior on the frontier.<sup>514</sup>

Creek complaints about illicit trading continued throughout the period, however.<sup>515</sup> During talks with the Provincial Council in September 1768, Emistisiguo

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<sup>512</sup> McIntosh to Stuart, May 29, 1768, *EAID* XII, 45.

<sup>513</sup> *EAID* XII, 6.

<sup>514</sup> *Ibid.*, 5-6.

<sup>515</sup> Incidents 147, 149, and 175.

objected, once again, to the use of Indians as factors. He believed such utilization to be “a very hurtful and improper Measure, as they are not acquainted with the English Laws nor any ways liable to its Penalties.” Furthermore, he explained how traders trained the Indians thus employed to deceive those who might question their illegal activities. “In Order no Discovery might be made of the Trader who employs an Indian as Factor,” the headman stated, “he is taught by such Trader, if questioned about it by Indians of others, to say that the Goods are his own, and that he bought them himself.” Such statements illustrate the Indians’ understanding of their position relative to English Law, but also raise some questions. Was Emistisiguo asserting that, since Creeks had no responsibility to obey English law (much less enforce it), they could not be held accountable for their part in the illegal trading? Although McIntosh authorized him to take undressed deerskins from any whites or Indians trading outside the towns, why is there no indication that he seized skins from any Indian factors?<sup>516</sup>

Governor Wright’s response to Emistisiguo’s complaints was to promise to do what he could to prevent such activity, but was mainly an admission of the difficulty inherent in trying to police the traders’ actions on the frontier. He explained the English Law precepts of the need for evidence and witnesses, the difficulty in getting traders to testify against one another, and the requirement of conviction by a twelve-man jury. In addition, he pointed out his lack of jurisdiction in dealing with traders licensed by South Carolina or the new Florida colonies. At most, the governor was able to offer to check on any specific individuals that the headman could name, to discover whether they were actually licensed to trade in Georgia.<sup>517</sup>

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<sup>516</sup> Incident 147; Provincial Council: Talks with Emistisiguo, September 3-6, 1768, *EAID* XII, 50-60.

<sup>517</sup> *Ibid.*

In December 1769, Superintendent Stuart reported on complaints made by the Upper Creeks regarding the situation in the nation since the removal McIntosh.<sup>518</sup> The headmen, he noted “observed that since the Commissary had been withdrawn their Towns have swarmed with Lawless Vagabonds who are Subject to no Sort of Rule or Jurisdiction. That the Traders pay no Regard to their former Instructions and that very bad Consequences may result from such Confusion and disorder.” After reminding Stuart of the agreements made at the Augusta Congress to prohibit trading in the woods or villages, the headmen reiterated earlier objections made by the Lower Creeks regarding Indians being “commonly intercepted as they returned from Hunting and induced to lay out their skins for Rum.” In addition to this practice, which prevented the Indians from repaying the debts they already owed, the headmen complained of other effects of frontier trading houses. Traders there, they said, “also encourage the Practice of Stealing Horses by purchasing and receiving them from the Indians.” By encouraging the Indians to settle near the frontier, moreover, the illicit traders made it more difficult for the headmen to exert influence over their people, making it nearly impossible for them to “prevent the Thefts and Violences, so loudly Complained of by White People.”<sup>519</sup> Clearly, attempts by both colonial and Indian authorities to control the actions of their people on the frontier had become severely limited due to lack of proximity to the interactions taking place there.

Following the establishment of the colonies of East and West Florida in 1763, and the arrival of the new governors of those colonies, Superintendent Stuart called congresses at Mobile in March and April 1765, with representative of the Chickasaws

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<sup>518</sup> Incident 149.

<sup>519</sup> Superintendent Stuart to William Bull, on Meeting with Upper Creek Chiefs at Augusta, December 2, 1769, *EAID* XII, 91-92.

and Choctaws, and at Pensacola in May and June, with representatives of the Upper and Lower Creeks. At these meetings, the superintendent faced many obstacles in his efforts to establish, among other goals, equitable agreements regarding behavioral regulation in the new colonies. The Indians' fears of English encroachment on their lands and their perception of British negligence regarding trade regulation, made them suspicious of British motives. In addition, disputes and competition for trade, as well as the general lack of management among the traders who attended the congress meant that cooperation even on the colonial side of the aisle would be difficult. Nevertheless, Stuart was relatively successful in negotiating treaty agreements, which individuals on both sides of the frontier could accept, if not always respect.

In the treaty established with the Choctaws and Chickasaws at Mobile, the English and the Indians agreed "to do full and Ample Justice" towards the other, renewing promises established in the Treaty of Augusta two years earlier.<sup>520</sup> In addition, the Indians agreed once again that in the event that one of their people killed a white man, that Indian would "without any delay, Excuse, or Pretence Whatever be Put to death, in the Presence of at least Two of the English who may be in the Neighborhood where the offence is Comitted." Likewise, the English agreed that "if any White man shall kill or Murder an Indian, such white man shall be Tried for the Offence, in the same Manner as if he had killed a White man, and if found guilty, shall be Executed Accordingly in the Presence of some of the Relations of the Indian who may be Murdered."<sup>521</sup>

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<sup>520</sup> Treaty with the Choctaws and Chickasaws at Mobile, March 26, 1765, *EAD* XII, 251-52.

<sup>521</sup> *Ibid.*; In a speech given by French Governor D'Abbadie of New Orleans and Major Robert Farmer, the English officer in charge of West Florida on November 14, 1763, the white men state that murders of whites should be "Payed by the head of the Red man," and "that the Head of the whiteman who shall have killed a red man, shall be delivered to the Family of him who shall have been killed." Most interestingly, however, they made provisions for killings committed by either Indians or white men "in defence of his own Person," stating that in such cases members of the killer's society "shall have no Revenge to demand."

In November of that year, the English demonstrated their willingness to live up to this last treaty promise, when they executed a white man for the murder of a Choctaw.<sup>522</sup> West Florida Governor George Johnstone reported to Choctaw Commissary Elias Legardere on “the example we have made of an unhappy Man, John Plumb, for the Murder of an Indian.”<sup>523</sup> West Florida authorities reportedly tried Plumb for the killing, and finding him guilty, executed him in the presence of Choctaw witnesses. While some dissension arose over Johnstone’s willingness to accept Indian evidence in the case, James Adair recorded that Plumb “was justly condemned on his companion’s oath.”<sup>524</sup> Following the execution, the governor instructed Legardere to “take Occasion while the Impression is strong on their Minds to enforce an opinion of the strictness of our Justice, and our equitable Intentions towards them.”<sup>525</sup>

In the new colony of West Florida, twelve incidents of murder occurred during this period, accounting for 36 percent of all murder cases recorded during these years, and for 25 percent of all the cases from that colony. The murder for which Plumb was executed was one of only two complaints made by the Indians against the English.<sup>526</sup> The rest of the complaints were made against the Indians, with eight involving the Creeks, and two involving the Choctaws. Governor Johnstone made the first accusation against the Creeks in April 1765 when the Indians arrived at Pensacola for their congress.<sup>527</sup>

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Joint Speech by Governor D’Abbadie and Major Farmer to the Choctaws, November 14, 1763, *EAID XII*, 205.

<sup>522</sup> Incident 165.

<sup>523</sup> Governor Johnstone to Elias Legardere, Commissary to the Choctaws, November 21, 1765, *EAID XII*, 291-92.

<sup>524</sup> Adair, *History*, 315-16, as cited in *EAID XII*, 545, note 14.

<sup>525</sup> Johnstone to Legardere, November 21, 1765, 291-92.

<sup>526</sup> The second involved an Indian “dying near Pensacola,” in the fall of 1773, and regarding which little was recorded.; Incident 187; Reports from Commissary Taitt to Superintendent Stuart, September 1773, *EAID XII*, 438.

<sup>527</sup> Incident 169.

Reportedly angered by the failure of the headmen to give satisfaction for the several recent, but unspecified murders, Johnstone “warmly debated in council to order each of them to be secured, as hostages, and kept aboard a man of war in the harbour, till satisfaction was remitted.”<sup>528</sup> Fortunately, the memory of the disastrous consequences of Lyttelton’s similar actions in South Carolina led to cooler heads prevailing in the council, and the “considerable majority of votes” defeated the governor’s motion.<sup>529</sup>

Johnstone’s complaints about the failure of the Creeks to provide satisfaction for these murders continued into the next year, and led to three more congresses.

Additionally, in April 1766, the Upper Creeks near Pensacola reportedly killed another white man, John Kemp.<sup>530</sup> In June the governor sent a message to the Indians that unless such violent actions stopped “it is better we were at War at once.”<sup>531</sup> Colonel William Tayler, commander of British troops in West (and East) Florida, informed the headmen, moreover, that “if they proceed in committing Unjustice, that as I command all the Warriours in the surrounding Provinces, that I must order them to act together against them.”<sup>532</sup> Demonstrating once again that he would have little patience for Creek inaction in providing demanded satisfaction, two weeks later, before the Creeks had time to respond, Johnstone sent a message to Secretary of State Henry Conway complaining that since the signing of the Pensacola Treaty, the Indians had killed four more whites.<sup>533</sup> As a result, he argued, “the Creeks must be chastised,” and he proposed an incursion against

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<sup>528</sup> James Adair’s Account of Governor Johnstone’s Attempt to Take Upper Creek Hostages and The Mortar’s Subsequent Intrigue with the Chicakasaws, May and October 1765, *EAID* XII, 290-91.

<sup>529</sup> *Ibid.*

<sup>530</sup> Incident 168.

<sup>531</sup> Governor Johnstone to the Upper Creeks, Replying to Their May 16 Talk, June 9, 1766, *EAID* XII, 299.

<sup>532</sup> Colonel William Tayler to the Upper Creeks, June 9, 1766, *EAID* XII, 299.

<sup>533</sup> Incident 139.

both the Upper and Lower Creeks by a combined force of British troops, and Choctaw and Chickasaw warriors.<sup>534</sup>

Despite the fact that only the Upper Creeks were implicated in the murders to which he objected, the governor suggested that the amalgamated army “should march forthwith against the Lower Creek Towns destroying men, Women, and Children.”<sup>535</sup> With the Creeks already at war with the Choctaws, the new governor sought to utilize existing animosities to gain control over the intractable Creeks. In his efforts, Johnstone found allies among many of the traders in the new colony, including James Adair. It was later determined that only two men were killed, traders John Goodwin and Andrew Davies. At a general council held in October, the Tallapoosa headmen admitted discovering that “our people had been guilty of the Crime.” As a result, they further reported, “We Cheifs of this District determined that the offender shold die. He accordingly was put to death as shall Every one who is guilty of the like Crime.”<sup>536</sup> The execution was confirmed and in November 1766, Colonel Tayler reported to General Gage that satisfaction for the murders had been obtained, and that the Creeks “had actually killed the Chief who commanded the party guilty of the outrage, and that they had left his body to the Beasts of the Woods.”<sup>537</sup>

While he had little to do with the resolution of the dispute, the aim of Superintendent Stuart, whose utmost goal was maintaining the peace between the southern colonies and the Indians, and between the various Indian nations, was achieved.

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<sup>534</sup> *MPAED*, I, 511-15; *EAID* XII, 286, note 27.

<sup>535</sup> *Ibid.*

<sup>536</sup> Tallapoosa Chiefs to Governor Johnstone, Reporting Execution of the Murderer of Goodwin and Davies, October 11, 1766, *EAID* XII, 312-13.

<sup>537</sup> Colonel Tayler to General Gage, Reporting the Passing of the Crisis, November 30, 1766, *EAID* XII, 317.



In December he urged Governor Johnstone to demonstrate restraint in dealing with the Creeks, and reminded him of their “determination to give Satisfaction,” in the case.<sup>538</sup> A few days later, Stuart sent a warning to the Upper Creeks using a tangible symbol of British dissatisfaction with the recent violence, a string of white beads with seven black beads at the end. In the future, swift satisfaction would be expected for murder and other unacceptable behaviors. Once the Indians had proven their “upright Intentions,” he informed them, “then the Black beads on the String I now send you, Shall be taken off and thrown into the River.”<sup>539</sup> Commissary Roderick McIntosh, whom Stuart sent to deliver the talk, was instructed to “publicly take off the 7 black beads from the string,” if he found that satisfaction had been obtained and that “all bad Thoughts are removed.”<sup>540</sup>

In February 1767, the murder of an Englishman by a Choctaw headman, Cholko Holacta, brought to a head existing animosities between British authorities on the frontier divided over their support for the Choctaws and Creeks in the ongoing conflict.<sup>541</sup> Commissary Elias Legardere, upon notifying Deputy Superintendent Charles Stuart of the allegation of murder against the Small Medal Chief of Ibitipougoulou skatani, added the disturbing news that Lieutenant John Ritchey had accused the commissary of “setting on Chocolacta to kill whites as well as Reds and having distributed ammunition for that purpose.”<sup>542</sup> Clearly, the ongoing dispute between Ritchey, who had shown preference for

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<sup>538</sup> Superintendent Stuart to Governor Johnstone, Urging Restraint Toward the Creeks, December 13, 1766, *EAID XII*, 319.

<sup>539</sup> Superintendent Stuart to the Upper Creeks, with Warning Black Beads, December 17, 1766, *EAID XII*, 322.

<sup>540</sup> Superintendent Stuart’s Instructions to Roderick McIntosh, Commissary to the Creeks, December 19, 1766, *EAID XII*, 323.

<sup>541</sup> Incident 166.

<sup>542</sup> Commissary Elias Legardere to Deputy Superintendent Charles Stuart, Reporting Talks on Recent Killing By a Choctaw Chief, March 4, 1767, *EAID XII*, 333-35.

the Creeks, and Legardere, who frequently sided with the Choctaws, contributed to this accusation.

In his report to Stuart, the commissary included a transcription from his journal in which he recorded his actions regarding the incident. When the accused headman met with Legardere, he claimed that the killing was accidental and that he had encountered the white man in the woods at night and mistakenly shot him believing he was a Creek. The commissary questioned the Choctaw, however, about reports from some of the other Choctaw headmen that he had taken the scalp of the dead man. These headmen, the commissary was informed, “were dissatisfied at it and that some had insisted to kill him for the same.”<sup>543</sup> Cholko Holacta denied having taken the man’s scalp, and argued “that if he had wanted white men’s blood he would have killed the three companions of the deceased.” Legardere then reminded the Indian of the agreements made at Mobile, and that “Frivolous excuses in such matters would not satisfy you nor can you expect they will us.” The commissary then stated his intent to confer with Stuart on the matter and collected the dead man’s gun and saddle from the headman.<sup>544</sup> Further information on the case was supplied in the deposition given by John Farrell, a storekeeper in the Choctaw nation and a relative of the deceased man. Farrell reported having seen a white man’s scalp “with one Ear” still attached and he believed Cholko Holacta to be guilty of murder.<sup>545</sup>

Ritchy’s accusations against Legardere in this incident were never proven, however, and the final resolution of the case did not come until three years later. During a visit from the Choctaws in June 1770, Lieutenant Governor Elias Durnford reported two

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<sup>543</sup> Ibid.

<sup>544</sup> Ibid.

<sup>545</sup> *EAD* XII, notes 35 and 36, 556.

of the Medal Chiefs had requested a pardon for Cholko Holacta. Durnford, stating his opinion that the headman's contention of the killing being accidental did "not seem to be altogether improbable as the Indian fellow immediately submitted himself to the Commissary's power," thus informed Hillsborough that he had promised to pardon the man.<sup>546</sup>

It was during Durnford's administration that Superintendent Stuart began efforts to mediate the dispute between the Creeks and Choctaws, in hopes of ending their war. It was also during this period that Emistisiguo reported the murder of two more white men to the new colonial leader.<sup>547</sup> The identity of the two men was never determined, although Stuart speculated they were "probably Virginia Emigrants, or Hunters, both Extremely obnoxious to every Indian Nation to the Southward."<sup>548</sup> Both the Creeks and the colonial authorities made efforts to determine who had killed the men, and rumors spread that the Choctaws had possession of two white scalps. No determination of guilt was ever made in the case, however, and no evidence was ever reported to indicate Choctaw participation in the murders.

In 1771, during the Second Pensacola Congress with the Upper Creeks, Superintendent Stuart complained of the attempted murders of Indian slaves owned by whites.<sup>549</sup> The Indians thus attacked, Stuart insisted, were "brought from a great distance on the other Side of the Mississippi. These Cannot be Enemys of Yours, Nor can any Honor redound to you as Warriors from killing poor defenceless Slaves." Yet on several

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<sup>546</sup> Lieutenant Governor Durnford to Hillsborough, Reporting Visits from Chickasaw, Choctaw, and Upper Creek Leaders, June 8, 1770, *EAID* XII, 357-58.

<sup>547</sup> Incident 173; Emistisiguo, Spokesman for the Tallapoosas and Alabamas, to Lieutenant Governor Durnford, March 4, 1770, *EAID* XII, 351-52.

<sup>548</sup> *EAID* XII, note 50, 557; Stuart to Hillsborough, December 2, 1770, C.O. 5/72, 163-70.

<sup>549</sup> Incidents 180.

occasions, the superintendent pointed out, Upper Creeks had attacked plantations “in Search of such people.” In the most recent case, such had occurred “at Mr. Weggs plantation on Mobile Bay, where they pursued and fired several Shott at a very Valuable Slave of his.”<sup>550</sup> A few months later, Stuart lodged a similar complaint against the Lower Creeks, but in this case a slave had been killed.<sup>551</sup>

“A Party of the Tomawtly People,” the superintendent stated, “some time ago carried away a Family of Indian slaves, who belong to a Planter on Pascagaula River. The Man they Killed or Burnt, the Woman is still among them.” As such an act was unwarranted and represented an attack on the “property of your Friends,” Stuart requested “that the Woman and Children may be restored to their Master.”<sup>552</sup> While Lower Creek headmen originally argued “that the Land where the Eufalla people had Killed the Slave and burned the House was theirs,” eventually, complaints by the English resulted in an empty promise by headman Tomachichi to redraw boundaries lines established earlier.<sup>553</sup> Having led the party that killed planter Comyns’s slave, the headman “promised to give more land then what they had agreed to at the Congress in 1765 on purpose to regain their Honor.”<sup>554</sup>

In another case involving discussions related to honor, a Choctaw headman was reportedly executed by his people for the killing of a white man after Superintendent

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<sup>550</sup> Proceedings of the Second Pensacola Congress with the Upper Creeks, October 29-31, 1771, *EAID* XII, 400-01.

<sup>551</sup> Incident 155.

<sup>552</sup> Superintendent Stuart to the Lower Creek Headmen, Protesting Depredations, January 20, 1772, *EAID* XII, 424-25.

<sup>553</sup> David Taitt’s Journal in Mereness, *Travels*, 556-57.

<sup>554</sup> *Ibid.*

Stuart demanded satisfaction.<sup>555</sup> Stuart reported the Indians' account of the incident thusly.

A Party of Hunters from Toussana, had in Winter last met a white Man in the Woods who had lost his Way and was at the point of Death for Want of Nourishment, that they the Indians had Fed and taken Care of Him, by which means he had Recovered entirely. That after Some Days he joined another Party of Chactaws in order to Return to the Nation, at which the person who had taken so much Care of him being Offended pursued and killed Him.<sup>556</sup>

Being so informed, Stuart argued that the murderer should therefore 'Suffer Death, according to Treaty.'" After conferring on the matter, the headmen reportedly "all agreed that Justice Should be done, and Mingo Emmitta chief of the Town undertook to Execute the Sentence."<sup>557</sup>

The final murder case recorded in West Florida during this period involved the killing of "Six White Men and a Negroe Indian Traders upon the Path between the Creeks and Augusta," some time between the fifteenth and twentieth of April 1774.<sup>558</sup> Similar in the number killed to the Sherrill murders, which occurred around the same time, this appears a separate incident as those killed were identified as traders on the path. No further mention of this case appears in the records, however.

Equal to the number of murder cases from West Florida during this period were the number of incidents of theft. Twelve of the eighteen reported cases (67 percent) for this entire period came from that colony. The majority of the incidents involved allegations made by colonists against either the Choctaws or the Creeks. Four of the incidents, however, were complaints made by the Indians, all of which occurred in 1772,

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<sup>555</sup> Incident 184.

<sup>556</sup> Proceedings of the Second Mobile Congress with the Choctaws and Chickasaws, December 31, 1771-January 6, 1772, *EAID* XII, 421-22.

<sup>557</sup> *Ibid.*

<sup>558</sup> Incident 213; Charles Stuart to Superintendent Stuart, Reporting Talks with Choctaws and Chickasaws, May 19, 1774, *EAID* XII, 443.

and in each case, they objected to the stealing of horses.<sup>559</sup> The first allegation of horse stealing came from Chickasaw headman Paya Mattaha during the Second Mobile Congress related to general complaints of unlicensed traders in the nation. Similar to Choctaw complaints, the Chickasaw leader alleged such men “Steal our horses and Committ innumerable Violences, and what is worse have Corrupted the manners of my People and Rendered them as bad as themselves, so that I now cannot govern them.”<sup>560</sup>

In February 1772, two Creek headmen lodged complaints with David Taitt against trader John Pigg for horse theft. A headman “from the Fushatchies,” made a charge regarding four horses Pigg had taken from his nephew.<sup>561</sup> The Wolf King reportedly begged to have Pigg removed from the nation, calling the man “a very great horse thief,” who had already stolen one of his horses and whom the headman feared “would Steal every one that he had.”<sup>562</sup> In April, Taitt had Pigg brought before him and arrested for the thefts, having promised the Indians in February that he would force the guilty man to make restitution.<sup>563</sup> On April 20, Taitt received a similar complaint from the Morter regarding a man named Pretor “a hireling on Mr. Galphins, who had stolen some horses from him.” The following day Taitt left the headman with an interpreter, to await the return of Pretor “that he may get paid for the horses which Pretor Stole from him.”<sup>564</sup> No further mention of the case was recorded.

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<sup>559</sup> Incidents 202, 185, 201, and 206.

<sup>560</sup> Proceedings of the Second Mobile Congress with the Choctaws and Chickasaws, December 31, 1771-January 6, 1772, *EAID* XII, 410-11.

<sup>561</sup> Incidents 201 and 202; Taitt’s Journal, February 24, 1772, Mereness, *Travels*, 510.

<sup>562</sup> Taitt’s Journal, April 14, 1772, Mereness, *Travels*, 540-41.

<sup>563</sup> *Ibid.*, April 15, 1772, 542.

<sup>564</sup> *Ibid.*, April 20-21, 1772, 544-45.

Accusations of thefts made against the Indians began in October 1767 with Lieutenant John Ritchy's complaints of the Choctaws actions against Fort Tombeckby.<sup>565</sup> "Eight Hundred and Sixty two Including Officers came here resolutely bent to have what Ammunition I had in Store to War against their Enemy, the Creeks," Ritchy reported. Although able to convince the Indians to be satisfied with what he was willing to give them, as they had then no commissary amongst them, he objected to the destruction they caused to the fort and the theft of "their Vegetable growing in their Gardens." In his report to Haldimand regarding the incident, Ritchy asserted his belief that "their Designs were more against this Fort them to War against their Enemys."<sup>566</sup>

In January 1770, Choctaws looted the store of John Bradley at Natchez, after promises of presents from the colonial government were not fulfilled.<sup>567</sup> In response, Durnford sent a letter of inquiry to the Choctaws, stating very diplomatically that the reason for which "is that we never listen to bad Talks of our own people till we have heard your Talk also."<sup>568</sup> At the Second Mobile Congress, Superintendent Stuart raised the issued again, complaining to Ullisso Mingo, the Great Medal chief, that his town was responsible for the thefts. In particular, he named warrior Aceta Ouma as "the Chief and Leader of the party concerned in that Riot."<sup>569</sup> The Choctaws gave no response to this allegation, however.

Beginning in the Fall of 1771, Superintendent Stuart issued a number of complaints to the Upper and Lower Creeks regarding attacks on plantations in the

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<sup>565</sup> Incident 170.

<sup>566</sup> Lieutenant John Ritchy to Brigadier General Frederick Haldimand, Reporting Trouble with Choctaws at Fort Tombeckby, October 6, 1767, *EAID* XII, 339.

<sup>567</sup> Incident 171; *EAID* XII, 330.

<sup>568</sup> Lieutenant Governor Elias Durnford to the Choctaws, Inquiring About Incident at Natchez, February 7, 1770, *EAID* XII, 351.

<sup>569</sup> Proceedings of the Second Mobile Congress with the Choctaws and Chickasaws, December 31, 1771-January 6, 1772, *EAID* XII, 407.

western part of the colony, in which the Indians reportedly destroyed or stole cattle, hogs, and other animals, as well as crops.<sup>570</sup> In each case, Stuart alleged, the Indians proceeded under pretense of going to war. In one instance, the superintendent reported having provided Lower Creeks with “Ammunition Flints and Provisions,” to assist them. Rather than going to war against their enemies, however, a group he identified as “from the Eutchies and Chiskataloofa,” went instead to the plantations on the islands near Mobile Bay and attacked them. In the past year, Stuart added, “they broke up Three Plantations on the West side of Mobile Bay.”<sup>571</sup> In January, Stuart appealed to the Upper Creeks for help in the matter, requesting that they use their influence to convince the Cowetas to put a stop to the robberies.<sup>572</sup> In April, Upper Creek headman Tallechea responded, saying there was little they could do, beyond insisting that should the Lower Creeks go to war in the future, “they must ask the white people for Provisions or any thing they may want and not to rob them.”<sup>573</sup>

During the Second Mobile Congress, the matter of the many robberies committed by the Choctaws was raised once again. In response, the Indians blamed the occurrences on the proliferation of rum in the nation, citing it as the root cause of all the recent robberies and disorder. Headman Mingo Immita described the problem.

I must Complain of the great Quantity of Rum carried into our Towns. It is what Distracts our Nation. We wish to See a Stop put to this Pernicious Practice, and that the Traders be allowed to carry no more that a small Quantity sufficient to procure provisions and Pay for the Building [of] Stores and Houses. When the Clattering of the Packhorses Bells are heard at a Distance, our Town is immediately deserted, Young and old run out to meet Them Joyfully Crying

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<sup>570</sup> Incident 177.

<sup>571</sup> Superintendent Stuart to Leading Lower Creek Chiefs, October 16, 1771, *EAID* XII, 386.

<sup>572</sup> Superintendent Stuart to the Upper Creek Headmen Requesting Escambia Cession, January 20, 1772, *EAID* XII, 423.

<sup>573</sup> Tallechea to Superintendent Stuart, Replying to January 20 Protest, April 26, 1772, *EAID* XII, 429.



Rum! Rum! They get Drunk, Distractions, Mischief, Confusion, and disorder are the Consequences, and this is the Ruin of our Nation.<sup>574</sup>

After agreeing that the headman's assessment of the effects of excess rum in the nation was "very Just," Stuart requested their help in curbing the trade. "Only Fifteen Gallons every Three Months to each licensed Trader" was allowed, he pointed out. Thus, the superintendent added, "Whatever Quantity you find above 15 gallons, or Four Small Keggs with any person you may Conclude to be Contrary to Law and you ought to Destroy the Surplus by Staving the Keggs." Moreover, Stuart asserted that the headmen should take some responsibility in the matter. When entire cargoes arrived in their nation, he argued, the headmen should "Seize Such Rum and call Two or Three of the Established Traders that the Offenders may be Convicted by sufficient Evidence, and in Their Presence Destroy the Rum," rather than protecting the men.<sup>575</sup> As with the problem of illegal traders among the Creeks, therefore, Stuart's actions once again revealed that control of trade on the frontier could not be accomplished without the combined efforts of both colonial and Indian leadership. Even then, there were no guarantees of success.

In the new colony of East Florida, the most significant disputes regarding unacceptable behaviors involved two incidents of murder. In the first case, the murder of two colonists by a group of Seminoles near the St. Mary's River in September 1767, resulted in repeated efforts by Governor James Grant to gain satisfaction, dominating diplomatic relations throughout his term of office.<sup>576</sup> In the second, the murder of a

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<sup>574</sup>Proceedings of the Second Mobile Congress with the Choctaws and Chickasaws, December 31, 1771-January 6, 1772, *EAID* XII, 413-14.

<sup>575</sup> *Ibid.*, 418.

<sup>576</sup> Incident 190.

Seminole by a colonist in 1768 resulted in the single instance in which a white man was executed for the murder of an Indian in that colony's history.<sup>577</sup>

In the first case, it was determined that the two sons of Seminole headman Philko had committed the murder. In an effort to attain satisfaction for the killings, Grant sent word to the headmen assuring them "I do not blame you or think the worse of you, because a few of your Red People, who are Rogues to you as well as to us, have killed two White Men." Thus, the governor informed them, he desired their presence at a second congress to be held at Picolata where they could discuss the matter.<sup>578</sup> At that congress in November, the governor reminded the Indians of agreements made at the Treaty of Picolata in 1765, in which they promised to "immediately put to Death in a public manner in the Presence of at least Two of the English," any of their people guilty of murdering a white man.<sup>579</sup> Headman Pumpkin King responded that he "was determined to give the satisfaction required."<sup>580</sup>

By June of the following year, the executions of the guilty Seminoles had still not taken place. Tallechea of the Lower Creeks proposed an alternative to the execution, informing Grant that Bonaichee, a headman and uncle of the two guilty men, had been killed "because he had persuaded his nephews to kill the White people." It was his hope that "the Governor would think his Death sufficient Satisfaction for what had been done by his means," the headman added, "for Bonaichee had been a bad Man, and did not love the white people." Grant rejected the proposal, however, insisting that at least one of the murders be executed. Moreover, he asserted his belief "that the Nephews to save their

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<sup>577</sup> Incident 191.

<sup>578</sup> Governor Grant to the Seminoles, October 10, 1767, *EAID* XII, 469-70.

<sup>579</sup> Treaty of Picolata, November 15, 1765, *EAID* XII, 464-65.

<sup>580</sup> Proceedings of the Second Picolata Congress, November 21-23, 1767, *EAID* XII, 473.

own Lives, put their Uncle, Bonaichee to death.”<sup>581</sup> In notifying Hillsborough of his actions, Grant insisted that his determination to achieve satisfaction in the case was that “Such an Execution would keep their Young men in order.”<sup>582</sup> Two years later, however, having yet to attain the justice he demanded in the case, Grant informed Hillsborough that he was willing to waive satisfaction , if the Seminoles would only return several Negro slaves reportedly under their protection after fleeing from their masters.<sup>583</sup>

In an effort to demonstrate to the Indians his willingness to comply with English promises in the Picolata Treaty, and to convince them to do likewise in the case of the St. Mary’s murders, Grant responded quickly to accusations of the murder of an Indian by a colonist in late 1768. When headman Nipkee of Ouseechee came to him concerned about his son who had been in the company of some white men and was missing for several days, the governor reported doing all in his power to comfort and assist the man. “I made the old man Wellcome, kept him in my House privately, and immediately sent to the woods to apprehend the people who were suspected,” he later stated. When two of the suspects were brought in and jailed, “Nipke was present.” Grant later informed General Gage of the outcome of the case, and its effects on the colonists.

One of our Crackers killed a poor young Indian lately, upon St. Johns River. I had early Information of the Murder, and had the Fellow taken up and in Custody before any Man in this Town had heard of the Murder. The Sessions met soon after, the Cracker was tryed, found guilty, condemned and hanged in the Presence of the murdered Indians Father and a number of other Indians, within three Weeks from the Day he committed the Murder. Our Woodsmen stared and were astonished at such prompt Justice, what a white Person suffer for an Indian! But they’l hardly play such a Trick again, which might have ruined the Colony if the

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<sup>581</sup> Tallechea Delivers Lower Creek Proposal on Satisfaction, which Governor Grant Rejects, June 1, 1768, *EAID XII*, 476-77.

<sup>582</sup> Governor Grant to the Earl of Hillsborough, Secretary of State, June 20, 1768, *EAID XII*, 478.

<sup>583</sup> Governor Grant to Hillsborough, July 10, 1770, *EAID XII*, 483.

bad consequences which must have attended that Affair had not been prevented by giving Blood for Blood according to their Idea of Law.<sup>584</sup>

Thus, Grant demonstrated his willingness to impose Indian notions of justice on whites, and even this failed to convince the Indians to execute the guilty men in the St. Mary's case.

The single case appearing in the South Carolina records during this period involved the rare execution of a Southeastern Indian by a colonial government, for a murder that occurred at the end of 1763.<sup>585</sup> On October 31, 1764, Wholanawidzie, a Creek Indian, was hanged by the South Carolina government for the murder of a Long Canes settler named Bennefield.<sup>586</sup> The Creeks' response to the planned execution was recorded in the Georgia Gazette. "The Gun Merchant and others, on being informed that one of their countrymen was in goal here for murdering a white man, declared their readiness to acquiesce in every step taken in the affair agreeable to the treaty; and that if the fact proved according to our laws, they had no objection to his being put to death."<sup>587</sup> The murderer's accomplice, it was reported, had evaded a similar fate when he escaped while being transported to Fort Prince George by the Young Warrior of Estatoe.<sup>588</sup> The South Carolina Gazette reported on the outcome of the execution, stating, "the Indian died like one."<sup>589</sup>

In shifting their efforts to achieve justice for misbehaviors from the realm of law to that of diplomacy during this period, the English discovered that it would be vital to prove their own willingness to abide by the new agreements and treat with the Indians on

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<sup>584</sup> Governor Grant to General Gage, March 5, 1769, *EAD* XII, 481-82.

<sup>585</sup> Incident 34.

<sup>586</sup> *SCG*, November 5, 1764.

<sup>587</sup> *Georgia Gazette*, August 16, 1764.

<sup>588</sup> *Georgia Gazette*, June 7, 1764.

<sup>589</sup> *SCG*, November 5, 1764.

a more equal footing. They also came to realize, that doing so offered no guarantees that the Indians would do the same. No matter how many headmen may have wanted to comply with their treaty agreements, shifting alliances, the power of clan and kinship ties, and the influence of rum and illicit traders worked to prevent them from doing so. The frontier had become a true middle ground, where agreements were made and broken on a continual basis, and where the influence of outside authorities had increasingly less impact. Traders, legal or illicit, and the Indians they came into contact with in the woods, the outsettlements, and the towns determined to an increasing degree the outcome of treaty agreements. When colonial and Indian leaders realized they could not control their own people, they called on one another for help. What they soon discovered, however, was that it was nearly impossible to find a way to control events on the frontier that would be satisfactory to both sides.

## Chapter 6 Misbehavior Trends in the Lower South

The previous chapters in this study have focused on the narrative, seeking to describe the situation and tell the story of behavioral disputes and resolutions taking place on the Lower South frontier and placing these within the context of larger events and processes. It is important, however, to approach the topic quantitatively as well, to look for evidence of patterns that may reveal trends. Although each chapter has also included statistics specific to each period, a collective examination of these figures will help to reveal a larger view of the types of allegations made and disputes that took place.

During the period covered in this study, 232 cases of behavioral disputes were recorded in the Lower South colonies. Many of the cases included more than one type of unacceptable behavior. Included in this study, therefore, are 305 specific incidents of a particular type of misbehavior that can be quantified. An examination of the statistics derived from the database offers to reveal a great deal of information about the nature of behavioral disputes in the region.

Beginning with an initial review of the incidents collectively, considering factors such as the time, location, origin, and nature of the disputes, one can then move to more specific examinations that allow for more detailed analysis. Each of the factors can be examined in relationship to one another to explore them more fully so that comparisons might be made. The various colonies can be considered together, for example, to determine when and where the incidents occurred, who complained the most in each region and what types of misbehaviors they found most troublesome in each region. Moreover, the origin of each incident, whether from colonist or Indian complaint, can be

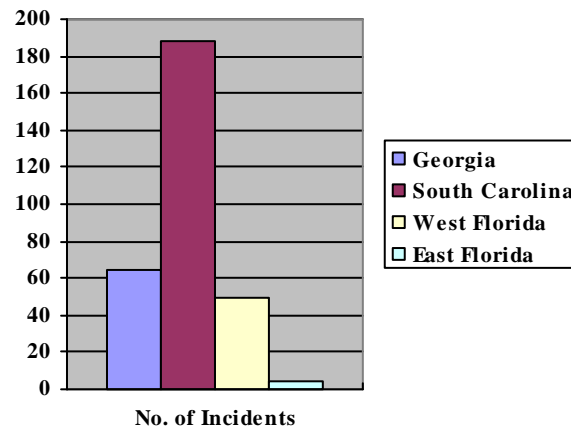
quantified and examined for change over time, or variations between colonies and the types of the misbehavior. Likewise, comparisons can be made between these types of misbehaviors and the frequency with which they occurred in the various colonies, how this evolved over time, and with whom those misbehaviors most often originated. A specific examination of the most frequently occurring types of misbehavior is also possible using the data collected. Finally, an examination of the data from each colony individually will make it possible to reveal any cycles or trends over time in relation to the origin and nature of behavioral disputes in each region.

Collectively, data on the incidents indicates a number of expected, and some surprising facts. The percentages in table 1 reveal that the bulk of both the cases and incidents came from South Carolina, not surprising, given the earlier establishment of that colony. With the much later creation of the colony of West Florida in 1763, compared to the founding of Georgia in 1733, however, it may be significant that the percentage of cases from Georgia only exceeded that of West Florida by less than five percent.

**Table 1. –Number and Percentage of All Cases and Incidents, by Colony**

	<b>Number of Cases</b>	<b>Percentage of All Cases</b>	<b>Number of Incidents</b>	<b>Average Incidents per Year</b>	<b>Percentage of All Incidents</b>
South Carolina	142	61 %	188	1.8	62 %
Georgia	52	22%	64	1.5	21%
West Florida	35	15 %	49	3.8	16 %
East Florida	3	1%	4	0.3	1%
Totals	232		305		

**Figure 1. –Number of All Incidents, by Colony**



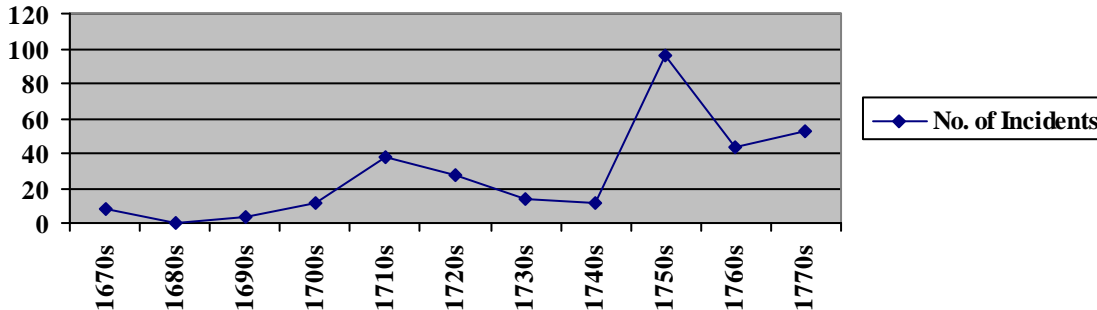
An examination of the chronology of the recorded incidents reveals that the greatest number took place during the last three decades included in the study. Sixty-two percent of all the incidents included in the study were recorded during these three decades. During the decade of the 1750s, the largest percentage of incidents, 31 percent, occurred. Fourteen percent of all the incidents took place in the 1760s, and during the final decade of the study, the 1770s, 17 percent of all the incidents happened. In addition, table 2 indicates when the most dramatic changes in the number of complaints took place. From the decade of the 1700s to the 1710s, for example, a more than three-fold increase, from 11 to 38 incidents, was recorded. The most significant increase is revealed between the 1740s and the 1750s, however, which showed an eight-fold increase from 12 recorded incidents to 96 incidents.



**Table 2. –Number and Percentage of All Incidents, by Decade**

	No. of Incidents	Incidents (%)
1670-79	8	3
1680-89	--	--
1690-99	3	1
1700-09	11	4
1710-19	38	12
1720-29	27	9
1730-39	14	5
1740-49	12	4
1750-59	96	31
1760-69	43	14
1770-76	53	17

**Figure 2. – Number of All Incidents, by Decade**



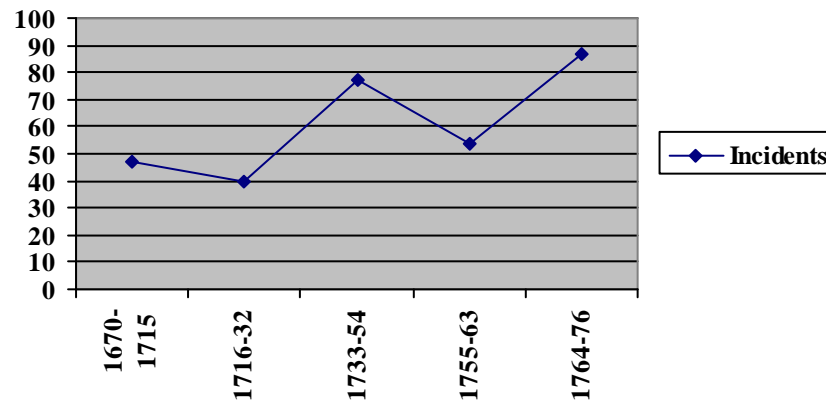
An examination of the number and percentage of recorded incidents during each period as divided in this study is also revealing. Table 3 shows that the largest number and percentage of incidents took place in the final period, from 1764 to 1776. During these years, 29 percent of all the complaints were recorded. The second greatest percentage, 25 percent, occurred in the period from 1733 to 1754. Figure 3, moreover,

demonstrates the cyclical nature of the number of complaints over time. Consecutive periods saw a regular oscillation between more and fewer total incidents.

**Table 3. --All Incidents, by Period.**

	<b>No. of Incidents</b>	<b>Incidents (%)</b>
1670-1715	47	15
1716-32	40	13
1733-54	77	25
1755-63	54	18
1764-76	87	29

**Figure 3. -- All Incidents, by Period.**



Looking at the various types of unacceptable behaviors that drew formal complaints from the colonists and Indians in the Lower South, it is clear from table 4 that murder, as might be expected, was the category in which the greatest number of incidents were recorded, accounting for 25 percent of all incidents. Theft resulted in the second

largest percentage of complaints, at 21 percent of all complaints, followed by assault at 8.5 percent. Less significant in percentage of total incidents, but nearly equal in number to one another were incidents of trespass and trade disputes, showing 19 and 18 incidents respectively. Similarly, incidents of threat, property destruction and kidnapping each accounted for roughly 4 percent each of all incidents. Individually, the two most frequent types of misbehaviors, murder and theft, each accounted for more than twice the number of any other type.

**Table 4. – Number and Percentage of All Incidents, by Type of Unacceptable Behavior**

<b>Type of Behavior</b>	<b>No. of Incidents</b>	<b>% of Total</b>
Murder	78	25.5
Theft	65	21.3
Assault	26	8.5
Trespass	19	6.2
Trade Disputes	18	5.9
Threat	15	4.9
Property Destruction	14	4.5
Kidnapping	12	3.9
Insult	10	3.2
Drunkenness	7	2.2
General Disorder	5	1.6
Rape	3	0.9
Other	33	10.8

Note: “Trade disputes” includes: trading without license, trading outside towns, inequitable trade, illegal rum trading, insufficient trade, use of Indians as Factors, and excessive traders.

“Other” includes: Inciting, suspected, or attempted murder; illegal enslavement; non-payment for goods or labor; harboring, inciting, or assisting runaway slaves; lying; slander; fraud; assisting enemies; inciting Indian attacks; attempted kidnapping; attempting or inciting theft; and harboring criminals.

In examining the incidents collectively, it is important to note the differences in the origins of the complaints. While both Indians and colonists found behaviors unacceptable, the number of recorded incidents differed significantly. Table 5 shows that

the colonists made the majority of complaints, accounting for 62 percent of all recorded incidents.

**Table 5. – All Incidents, Number and Percentage of Colonist vs. Indian Complaints, by Colony**

Colony	Colonist Complaints		Indian Complaints	
	No.	(%)	No.	(%)
South Carolina	114	60	74	64
Georgia	39	21	25	22
W. Florida	34	18	15	13
E. Florida	3	1	1	1
Totals	190	62	115	38

Besides looking at the incidents collectively, the statistics are useful in drawing comparisons that are more specific. One can examine, for example, the types of incidents, their origins, and changes over time in the four colonies included in the study, as well. As shown in table 5, the majority of both Indian and colonist complaints came from South Carolina, accounting for 60 percent of all colonist complaints, and 64 percent of all Indian complaints. This is not surprising, as table 1 previously demonstrated that the majority of all the recorded incidents came from South Carolina, which was settled decades before the other colonies. Given the existence of the Georgia colony for roughly thirty years more than West Florida, however, it appears significant that the number of colonist complaints in the two colonies was very similar. The lack of a corresponding balance between the numbers of Indian complaints in these two colonies is also noteworthy.

Comparing the statistics for the various decades in each of the colonies, it is further revealed in table 6 that during the final three decades in the study in which the

majority of incidents took place, each colony experienced its greatest number of incidents. During the decade of the 1750s, the largest percentage of all incidents were recorded. Of the 96 incidents, 81 involved the colony of South Carolina, more than twice as many as had ever been recorded in that colony in a single decade. During the 1770s, the decade with the next greatest number of total incidents, 37 of the 53 recorded complaints came from West Florida, representing a more than threefold increase over the previous decade in that colony. In the colony of Georgia, the decade of the 1760s revealed the greatest number of incidents, with 24 of the 43 total complaints originating there.

**Table 6. –Number and Percentage of All Incidents, by Decade & Colony**

	Number of Incidents	All Incidents (%)	Incidents by Colony							
			SC		GA		WF		EF	
			No.	(%)	No.	(%)	No.	(%)	No.	(%)
1670-79	8	3	8	100	--	--	--	--	--	--
1680-89	--	--	--	--	--	--	--	--	--	--
1690-99	3	1	3	100	--	--	--	--	--	--
1700-09	11	4	11	100	--	--	--	--	--	--
1710-19	38	12	38	100	--	--	--	--	--	--
1720-29	27	9	27	100	--	--	--	--	--	--
1730-39	14	5	3	21	11	79	--	--	--	--
1740-49	12	4	6	50	6	50	--	--	--	--
1750-59	96	31	81	84	17	16	--	--	--	--
1760-69	43	14	5	12	24	56	12	29	2	5
1770-76	53	17	--	--	14	26	37	70	2	4

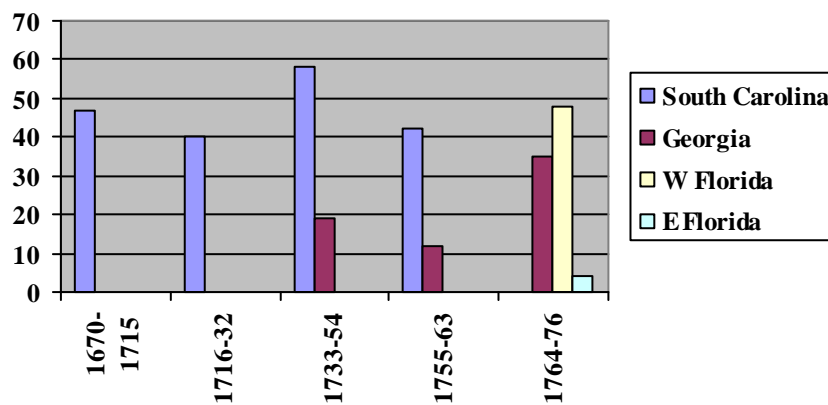
An examination of the number and percentage of recorded incidents during each period as divided in this study is more illuminating. Table 7 shows that the largest number and percentage of incidents took place in the final period, from 1764 to 1776. During these years, 29 percent of all the complaints were recorded, 55 percent of which

came from the colony of West Florida. The second greatest percentage, 25 percent, occurred in the period from 1733 to 1754, with 75 percent of these recorded in South Carolina. Each of these also represented the periods in which each of these two colonies documented their largest number of incidents. The colony of Georgia recorded the greatest number of its incidents in the period from 1764 to 1776, when it nearly tripled in increase from 12 during the previous period to 35 incidents. The greatest surge in the number of complaints in South Carolina occurred in the period of 1733 to 1754, going from 40 incidents in the previous period to 58, and then declining to 42 in the subsequent period from 1755 to 1763.

**Table 7. --All Incidents, by Period and Colony**

Time Span	No. of Incidents	% of total Incidents	Incidents by Colony							
			SC		GA		WF		EF	
			No.	(%)	No.	(%)	No.	(%)	No.	(%)
1670-1715	47	15	47	100	--	--	--	--	--	--
1716-32	40	13	40	100	--	--	--	--	--	--
1733-54	77	25	58	75	19	25	--	--	--	--
1755-63	54	18	42	78	12	22	--	--	--	--
1764-76	87	29	--	--	35	40	48	55	4	5

**Figure 4. -- All Incidents, by Period and Colony**



Statistics regarding the frequency of incidents involving specific types of unacceptable behaviors allow for comparisons of the various colonies as well. Not surprisingly, the majority of all types of misbehavior, with the exception of general disorders, were recorded in South Carolina. In three of the colonies, the two most frequent types of unacceptable behaviors were murder and theft. However, table 8 indicates that the type of misbehavior eliciting the greatest number of complaints varied somewhat by colony. In South Carolina, the plurality of cases, 44 out of 188 recorded (23 percent), involved theft. In Georgia and East Florida, the largest number of incidents involved murder, accounting for 23 of the 64 total cases (36 percent) in the former, and three of the four incidents (75 percent) in the latter colony. West Florida recorded an equal number of theft and murder incidents, with 12 of each representing the most frequent types of complaints.

**Table 8. – Incidents by Type of Behavior and Colony**

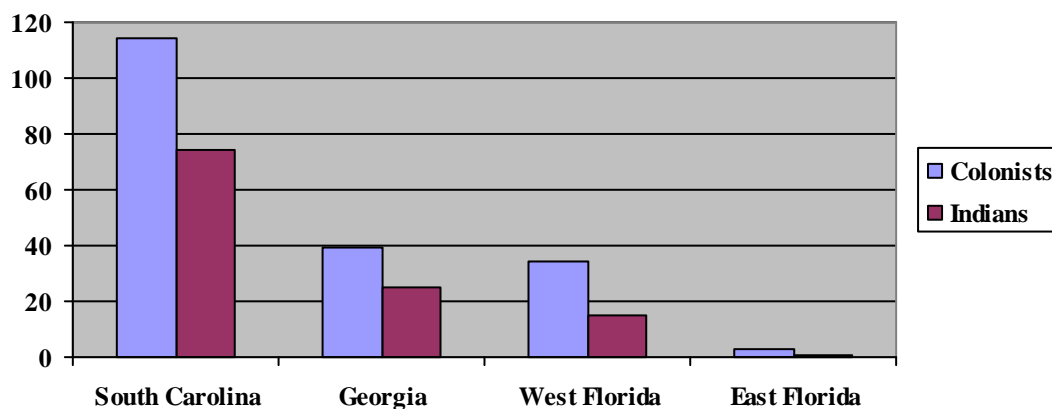
Type of Behavior	Total	SC		GA		WF		EF	
		No.	%	No.	%	No.	%	No.	%
Murder	78	40	51	23	29	12	15	3	4
Theft	65	44	68	9	14	12	18	--	--
Assault	26	20	77	5	19	--	--	1	4
Trespass	19	9	47	6	32	4	21	--	--
Trade Disputes	18	10	56	4	22	4	22	--	--
Threat	15	10	67	3	20	2	13	--	--
Property Destruction	14	9	64	--	--	5	36	--	--
Kidnapping	12	11	92	--	--	1	8	--	--
Insult	10	5	50	3	30	2	20	--	--
Drunkenness	7	3	43	2	29	2	29	--	--
General Disorder	5	1	20	1	20	3	60	--	--
Rape	3	3	100	--	--	--	--	--	--
Other	33	23	70	8	24	2	6	--	--
Totals	305	188	62	64	21	49	16	4	1

An examination of the origin of complaints in the various colonies is revealing as well. In each of the four colonies in the study, the recorded incidents most frequently appeared as complaints from colonists or colonial authorities. Table 9 demonstrates that the percentage of colonial complaints was the same in Georgia and South Carolina, with 61 percent of all complaints coming from the colonists in each colony. In the Florida colonies, the percentage of colonial complaints was even higher.

**Table 9. – Complaints by Origin and Colony**

	Total	From Colonists		From Indians	
		No.	% of Total	No.	% of Total
South Carolina	188	114	61	74	39
Georgia	64	39	61	25	39
West Florida	49	34	69	15	31
East Florida	4	3	75	1	25

**Figure 5.-- Complaints by Origin and Colony**



A more specific consideration of the origin of complaints, examining change over time, the relationship between the types of misbehaviors and the parties issuing

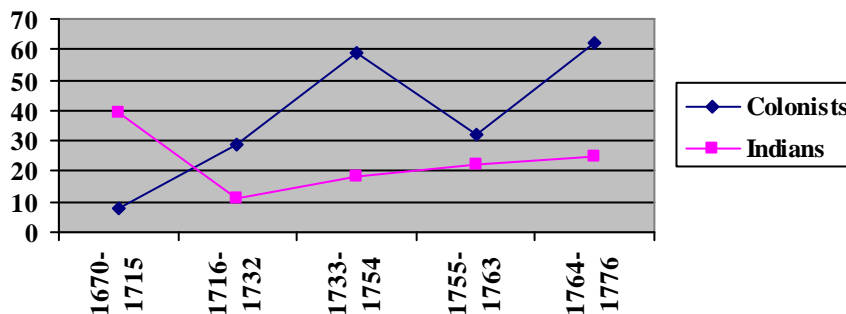


complaints, and the situation in the various colonies, is also possible using statistical data. Table 10 shows during the periods covered by this study, the largest number of colonists' complaints were recorded in the years from 1764 to 1776. Thirty-three percent of all the incidents representing colonial complaints of misbehavior by the Indians took place during that period, slightly more than the number recorded for the period from 1733 to 1754. Figure 6, moreover, graphically demonstrates the decline in colonial complaints in the intervening period between 1755 and 1763. The period during which the Indians lodged the greatest number of complaints was the earliest period in the study, from 1670 to 1715, the time at which colonial complaints were at their lowest. This trend reversed in the subsequent period from 1716 to 1732, and thereafter, colonial complaints always exceeded those of the Indians. While the number of colonial complaints showed periods of fluctuation, however, the frequency of Indian complaints steadily increased after 1732.

**Table 10.-- Complaints by Origin and Period**

	1670-1715		1716-1732		1733-1754		1755-1763		1764-1776		Totals
	No.	%	No.	%	No.	%	No.	%	No.	%	
Colonists	8	4	29	15	59	31	32	17	62	33	190
Indians	39	34	11	9	18	16	22	19	25	22	115
Totals	46	15	39	13	77	25	53	17	90	30	305

**Figure 6.-- Complaints by Origin and Period**

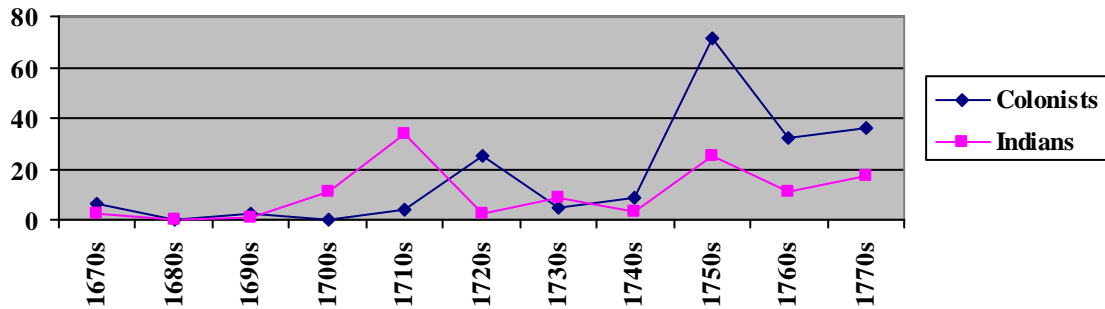


When examined by decade, it is possible to consider the differences between the periods more specifically. For example, while the number of Indian complaints was greatest, and exceeded those of the colonists during the period from 1670 to 1715, table 11 and figure 7 indicate that the bulk of those complaints were recorded in the two decades from 1700 to 1719. Moreover, when considered by decade, it is evident that some fluctuation in the number of Indian complaints did occur between the 1730s and 1740s. It is also interesting to note that while the frequency of colonial complaints rose more dramatically in the years from the 1740s to the 1750s, the trend between Indian and colonial complaints was towards a relative balance in proportion to one another from that period onward (Figure 7).

**Table 11.-- Complaints by Origin and Decade**

	Number of Incidents	Colonist Complaints		Indian Complaints	
		No.	%	No.	%
1670-79	8	6	75	2	25
1680-89	--	--	--	--	--
1690-99	3	2	67	1	33
1700-09	11	--	--	11	100
1710-19	38	4	11	34	89
1720-29	27	25	93	2	7
1730-39	14	5	36	9	64
1740-49	12	9	75	3	25
1750-59	96	71	74	25	26
1760-69	43	32	74	11	26
1770-76	53	36	68	17	32

Figure 7.-- Complaints by Origin and Decade



It is also possible to examine the origins of the complaints of misbehavior in relationship to the specific type of behavior. Table 12 shows that the colonists' most frequent complaint involved murder, accounting for 33 percent of all colonist complaints. Moreover, it demonstrates that the colonists complained of murder much more frequently than did the Indians, with colonist complaints representing 81 percent of all murder allegations. Incidents most frequently resulting in Indian complaints related to theft. Twenty-one percent of all Indian complaints were of thefts, although colonists' complaints of this type of behavior still exceeded those of the Indians and represented the second greatest cause of colonist complaint. In the areas of trade disputes, trespass, and insult, however, Indian complaints surpassed those of the colonists. Trade disputes followed theft as the second greatest cause of Indian complaints, and 89 percent of all complaints regarding trade issues came from the Indians.

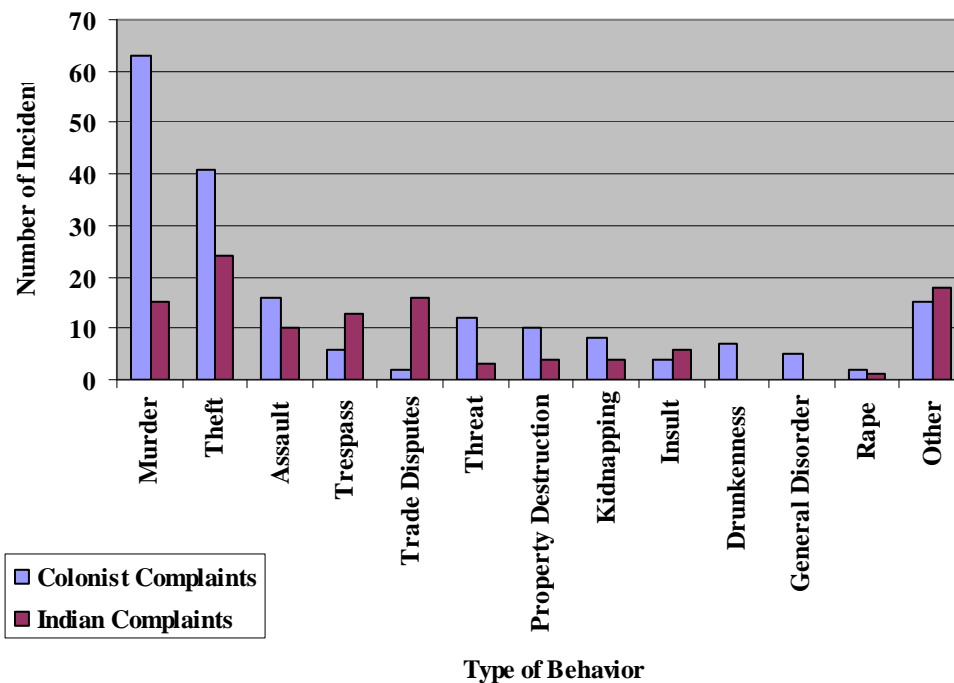
Table 12.-- Complaints by Origin and Type of Behavior

Type of Behavior	Total	Colonist Complaints			Indian Complaints		
		No.	%*	%**	No.	%*	%**
Murder	78	63	81	33	15	19	13
Theft	65	41	63	22	24	37	21
Assault	26	16	62	8	10	38	9
Trespass	19	6	32	3	13	68	11
Trade Disputes	18	2	11	1	16	89	14
Threat	15	12	80	6	3	20	3
Property Destruction	14	10	71	5	4	29	3
Kidnapping	12	8	67	4	4	33	3
Insult	10	4	40	2	6	60	5
Drunkenness	7	7	100	4	--	--	--
General Disorder	5	5	100	3	--	--	--
Rape	3	2	67	1	1	33	1
Other	33	15	45	8	18	55	16
Totals	305	190	63	100	115	37	100

\*--Percentage of total complaints of the specific type of behavior.

\*\*--Percentage of total complaints from the specific group of people indicated.

Figure 8.--Complaints by Origin and Type of Behavior



In addition to considering the origin of complaints and the types of behavior, it is possible to examine these in relation to the specific colonies. The statistics presented in table 13 allow for comparison of the frequency of specific types of behavioral complaints by colonists and Indians in each of the colonies. Not surprisingly, the colony with the earliest settlement, South Carolina, recorded the greatest number of all types of behavioral complaints, both from Indians and colonists, with the exception of general disorder. It is revealed, for example, that over half of the recorded incidents of murder, the area of greatest complaint by the colonists overall, were reported in South Carolina. The behavior eliciting the largest number of allegations overall by the Indians, theft, occurred most often there as well, accounting for 75 percent of all theft complaints by Indians. It should be noted, however, that in the category of property destruction complaints by colonists, the number in South Carolina was matched by that of West Florida. Likewise, allegations of trade irregularity by colonists in Georgia equaled those in South Carolina.

Table 13.—Complaints by Origin, Type of Behavior and Colony

	Complaint by	Totals	SC		GA		WF		EF	
			No.	%	No.	%	No.	%	No.	%
Murder	Colonists	63	33	52	18	29	10	16	2	3
	Indians	15	7	47	5	33	2	13	1	7
Theft	Colonists	41	26	63	7	17	8	20	--	--
	Indians	24	18	75	2	8	4	17	--	--
Assault	Colonists	16	12	75	3	19	--	--	1	6
	Indians	10	8	80	2	20	--	--	--	--
Trespass	Colonists	6	4	67	1	17	1	17	--	--
	Indians	13	5	38	5	38	3	23	--	--
Trade Disputes	Colonists	2	1	50	1	50	--	--	--	--
	Indians	16	9	56	3	19	4	25	--	--
Threat	Colonists	12	7	58	3	25	2	17	--	--
	Indians	3	3	100	--	--	--	--	--	--
Property Destruction	Colonists	10	5	50	--	--	5	50	--	--
	Indians	4	4	100	--	--	--	--	--	--
Kidnapping	Colonists	8	7	88	--	--	1	12	--	--
	Indians	4	4	100	--	--	--	--	--	--
Insult	Colonists	4	2	50	1	25	1	25	--	--
	Indians	6	3	50	2	33	1	17	--	--
Drunkenness	Colonists	7	3	43	2	29	2	29	--	--
	Indians	--	--	--	--	--	--	--	--	--
General Disorder	Colonists	5	1	20	1	20	3	60	--	--
	Indians	--	--	--	--	--	--	--	--	--
Rape	Colonists	2	2	100	--	--	--	--	--	--
	Indians	1	1	100	--	--	--	--	--	--
Other	Colonists	15	12	80	2	13	1	7	--	--
	Indians	18	11	61	6	33	1	6	--	--
Totals	Colonists	190	114	60	39	20	34	18	3	2
	Indians	115	74	65	25	22	15	13	1	<1

While some data on the specific nature of behavioral disputes appears in tables 4, 8, 12 and 13, it is helpful to examine this factor more completely. Table 14 reveals during which period each type of misbehavior drew the greatest number of complaints. The majority, 41 percent, of murder incidents, for example, were recorded during the final period, from 1764 to 1776. Theft incidents, the type of behavior the Indians complained of the most, however, occurred most frequently in the period from 1733 to 1754. During these years the majority of assault, threat, kidnapping, drunkenness and rape incidents also occurred.

**Table 14.—Type of Unacceptable Behavior by Period**

	Totals	1670-1715		1716-1732		1733-1754		1755-1763		1764-1776	
		No.	%	No.	%	No.	%	No.	%	No.	%
Murder	78	5	6	7	9	16	21	18	23	32	41
Theft	65	13	22	10	15	20	31	6	9	16	25
Assault	26	5	19	2	8	9	35	7	27	3	12
Trespass	19	2	11	1	5	5	26	7	37	4	21
Trade Disputes	18	2	11	3	17	3	17	3	17	7	39
Threat	15	2	13	3	20	5	33	3	20	2	13
Property Destruction	14	3	21	2	14	3	21	1	7	5	36
Kidnapping	12	4	33	3	25	5	42	--	--	--	--
Insult	10	--	--	2	20	2	20	2	20	4	40
Drunkenness	7	--	--	--	--	3	43	3	43	1	14
General Disorder	5	--	--	1	20	--	--	--	--	4	80
Rape	3	1	33	--	--	2	67	--	--	--	--
Other	33	9	27	5	15	4	12	3	9	12	36

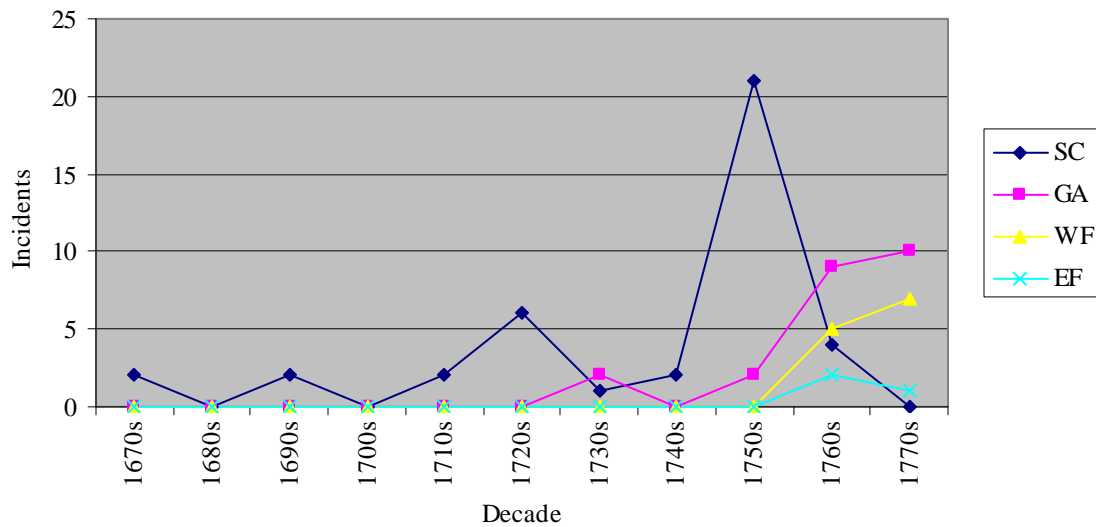
The two most frequently recorded types of misbehavior included murder and theft. While table 14 revealed that the greatest number of murders took place between

1764 and 1776, a closer examination shows that the decade during which the highest percentage of murders occurred was the 1750s (Table 15). Furthermore, by charting the number of murder cases in each colony by decade, a pattern emerges, showing a steady and relatively equal increase in the number of murder cases from Georgia and the two Florida colonies during the last three decades in the study (Figure 9). After spiking in the 1750s, however, the number of murder cases recorded in South Carolina showed a steady decline.

**Table 15.—Murder Incidents by Decade and Colony**

Total		SC		GA		WF		EF	
		No.	%	No.	%	No.	%	No.	%
1670s	2	2	100	--	--	--	--	--	--
1680s	--	--	--	--	--	--	--	--	--
1690s	2	2	100	--	--	--	--	--	--
1700s	--	--	--	--	--	--	--	--	--
1710s	2	2	100	--	--	--	--	--	--
1720s	6	6	100	--	--	--	--	--	--
1730s	3	1	33	2	67	--	--	--	--
1740s	2	2	100	--	--	--	--	--	--
1750s	23	21	91	2	9	--	--	--	--
1760s	20	4	20	9	45	5	25	2	10
1770s	18	--	--	10	56	7	39	1	6
Totals	78	40	51	23	29	12	15	3	4



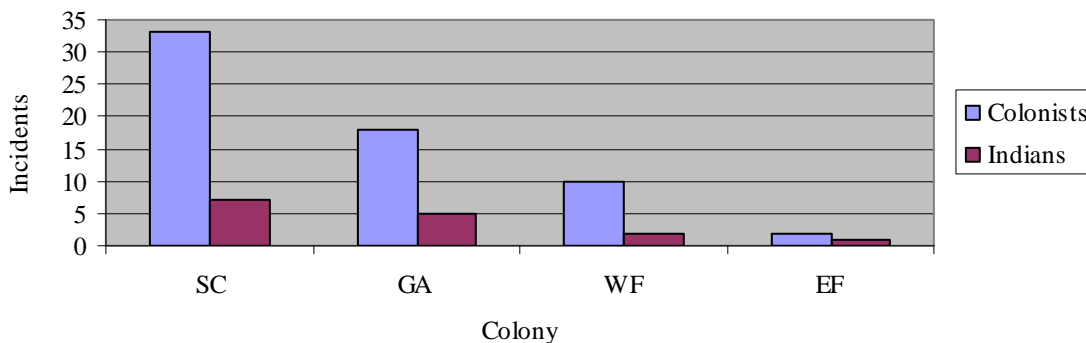
**Figure 9--Murder Incidents by Decade and Colony**

An inspection of the origins of the murder complaints in the various colonies shows a similar ratio of colonist to Indian accusations. In each colony, incidents of murder drawing protests from the colonists exceeded those of the Indians. The total ratio of all complaints was 4.2 to 1. With the exception of East Florida, the ratios in each of the colonies fell between 3.5 and 5 to 1 (Table 16). When this is further broken down by periods, it is revealed that after an initial decline between the first and second periods, Indian complaints of murder consistently increased during the subsequent periods (Figure 11). Colonist complaints however, steadily rose through the first three periods, declined significantly in the fourth (from 1755 to 1763), and then rose again dramatically in the final period in the study.

**Table 16.—Murder Incidents by Colony and Origin**

Complainant	Total	SC	GA	WF	EF
Colonists	63	33	18	10	2
Indians	15	7	5	2	1

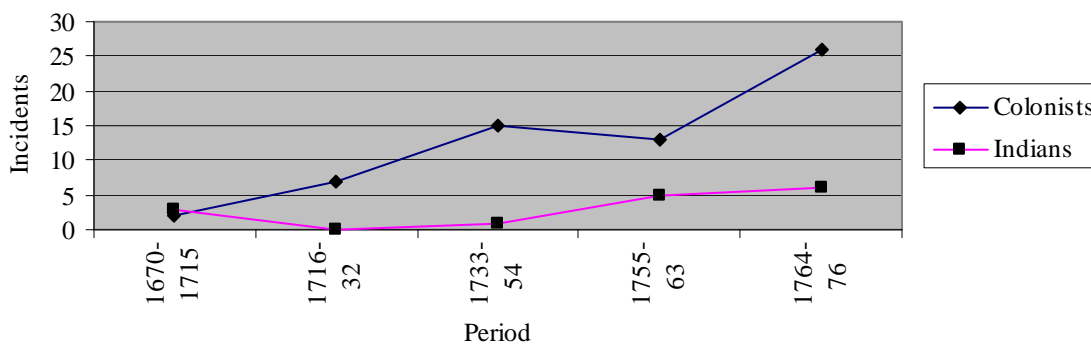
**Figure 10.--Murder Incidents by Colony and Origin**



**Table 17.—Murder Incidents by Origin of Complaint and Period**

	Total	1670-1715	1716-32	1733-54	1755-63	1764-76
Colonists	63	2	7	15	13	26
Indians	15	3	0	1	5	6

**Figure 11.--Murder Incidents by Origin of Complaint and Period**



Theft incidents accounted for the second most frequent type of incidents recorded.

Table 14 demonstrated that the period with the highest incidence of thefts was from 1733

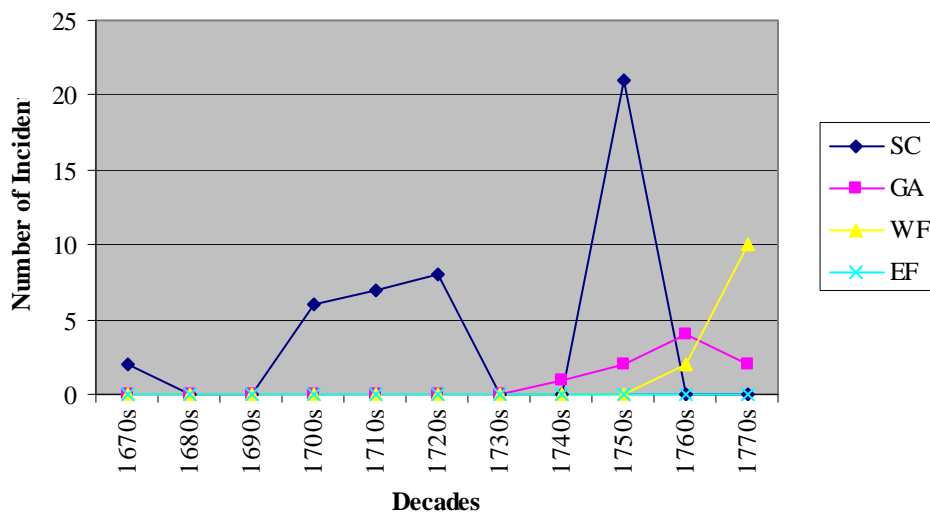
to 1754. Table 18 further reveals that within that period, the decade of the 1750s included

the greatest number of those cases. Additionally, it shows that 21 of the 23 theft incidents recorded in that decade, 91 percent, occurred in South Carolina. Overall, theft incidents from that colony accounted for 68 percent of all recorded theft complaints. Interestingly, the percentage of thefts from the younger colony of West Florida, 18 percent, exceeded those of Georgia, which recorded only 14 percent of all theft incidents.

**Table 18.—Theft Incidents by Decade and Colony**

	Total	SC		GA		WF		EF	
		No.	%	No.	%	No.	%	No.	%
1670s	2	2	100	--	--	--	--	--	--
1680s	--	--	--	--	--	--	--	--	--
1690s	--	--	--	--	--	--	--	--	--
1700s	6	6	100	--	--	--	--	--	--
1710s	7	7	100	--	--	--	--	--	--
1720s	8	8	100	--	--	--	--	--	--
1730s	--	--	--	--	--	--	--	--	--
1740s	1	--	--	1	100	--	--	--	--
1750s	23	21	91	2	9	--	--	--	--
1760s	6	--	--	4	67	2	33	--	--
1770s	12	--	--	2	17	10	83	--	--
Totals	65	44	68	9	14	12	18	--	--

**Figure 12.--Theft Incidents by Decade & Colony**

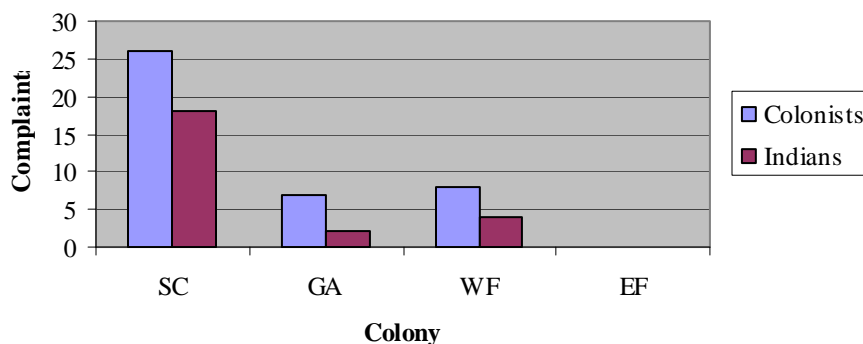


As with murders, the number of recorded theft complaints originating with the colonists exceeded those of the Indians. However, in this case, the amount by which they surpassed them was much less. Colonists complained of murder at a ratio of 4.2 to 1 over Indian complaints. Their accusations of theft, as revealed in table 19, however, occurred at a ratio of only 1.7 to 1 over the Indians. When the numbers from each colony are considered separately, moreover, colonial complaints again exceed those of the Indians. However, while in South Carolina and West Florida the ratios are similar to the overall at 1.4 to 1, and 2 to 1 respectively, in Georgia the ratio increases to 3.5 to 1.

**Table 19.—Theft Incidents by Origin of Complaint and Colony**

Complainant	Total	SC	GA	WF	EF
Colonists	41	26	7	8	0
Indians	24	18	2	4	0

**Figure 13.--Theft Incidents by Origin of Complaints and Colony**



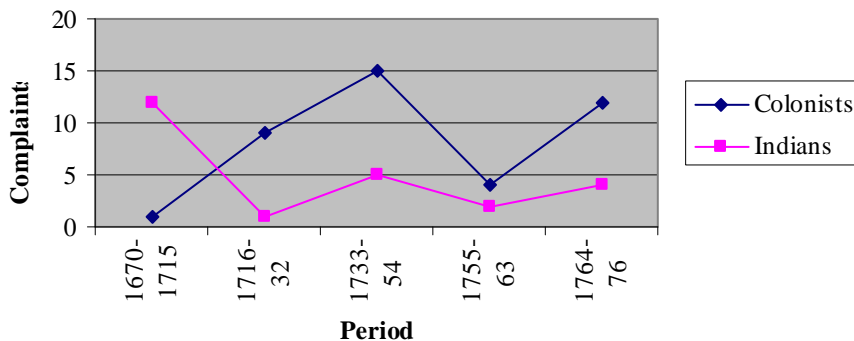
When one examines the data of all theft complaints by period, it is evident that while during the first period on interaction, from 1670 to 1715, Indian complaints of theft far exceeded those of the colonists, those numbers reversed during the subsequent period and the number of Indian accusations of theft never again surpassed those of the colonists

(Table 20). Figure 14, moreover, demonstrates a pattern in which the number of Indian and colonist theft complaints increased and decreased at a relatively similar rate throughout the remaining periods in the study.

**Table 20.-- Theft Incidents by Origin of Complaint and Period**

Complainant	Total	1670-1715	1716-32	1733-54	1755-63	1764-76
Colonists	63	2	7	15	13	26
Indians	15	3	0	1	5	6

**Figure 14.--Theft Incidents by Origin of Complaint and Period**



Using the accumulated data, a consideration of each of the colonies individually is possible as well. While much was revealed in previous tables and charts about the frequency, nature, and types of disputes over misbehaviors in South Carolina, a specific examination of the data from that colony brings to light even more. Enumerating the data by decade, for example, shows that the greatest number of all complaints, 86 of 188, were recorded in the 1750s, and that 67 of these came from the colonists (Table 21). During that decade, the colonists lodged their greatest number of allegations, accounting for 59 percent of all South Carolinians’ recorded accusations of misbehavior against the Indians.

Murder and theft accounted for the largest portions of these accusations, at 27 and 24 percent respectively.

The majority of the incidents involving Indian complaints against South Carolinians occurred in the 1710s. Forty-six percent of all Indian allegations in the colony were recorded during those years. While the greatest number of these complaints are included in the catch-all category of “other,” the types of individual misbehavior that drew the most frequent allegations included theft and assault, at six and five incidents respectively. During the decade of the greatest overall number of all complaints, both Indian and colonist, the Indians most frequently accused the colonists of theft (Table 21). That table and figure 15 also reveal that the closest ratios of Indian to colonist complaints involved trespassing, property destruction, and insult, while the greatest disparity in ratio included the category of trade disputes, followed by that of murder.

**Figure 15.-- South Carolina: Origin of Complaints by Type of Misbehavior**

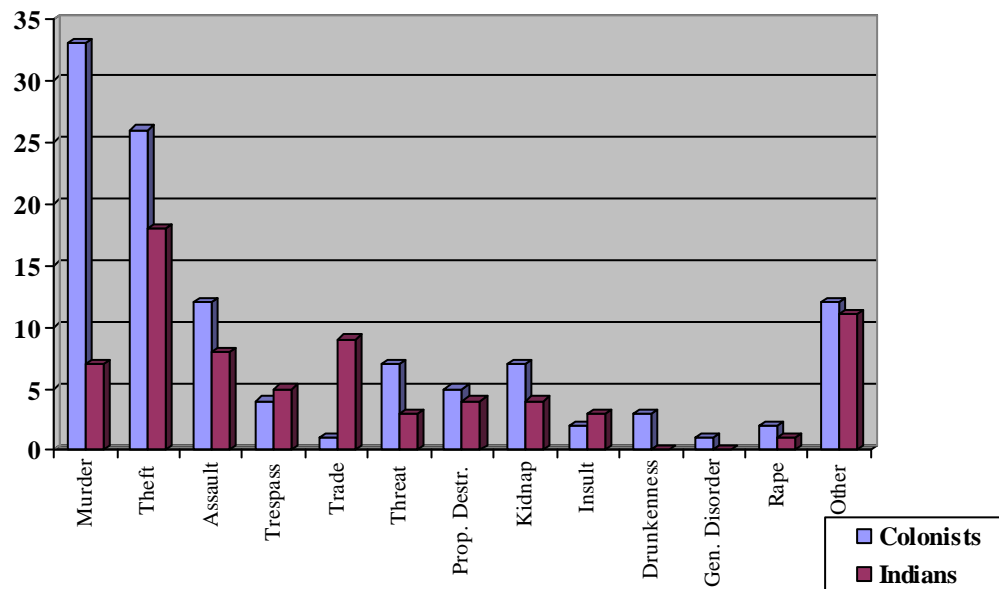
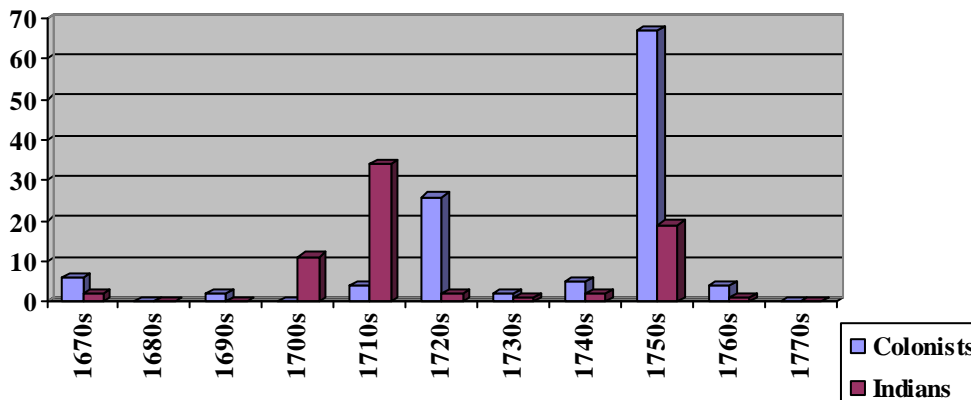


Table 21.-- South Carolina: Type of Misbehavior by Origin of Complaint and Decade

		Totals	1670	1680	1690	1700	1710	1720	1730	1740	1750	1760	1770
Murder	Colonists	33	1	--	1	--	1	6	1	2	18	3	--
	Indians	7	1	--	1	--	1	--	--	--	3	1	--
Theft	Colonists	26	1	--	--	--	1	8	--	--	16	--	--
	Indians	18	1	--	--	6	6	--	--	--	5	--	--
Assault	Colonists	12	--	--	--	--	--	2	--	1	8	1	--
	Indians	8	--	--	--	--	5	--	--	--	3	--	--
Trespass	Colonists	4	1	--	--	--	--	1	--	--	2	--	--
	Indians	5	--	--	--	--	1	--	--	-	4	--	-
Trade Disputes	Colonists	1	--	--	--	--	--	--	--	--	1	--	--
	Indians	9	--	--	--	--	5	--	1	1	2	--	--
Threat	Colonists	7	1	--	--	--	--	1	--	--	5	--	--
	Indians	3	--	--	--	--	3	--	--	--	--	-	--
Property Destruction	Colonists	5	1	--	--	--	--	1	--	--	3	--	--
	Indians	4	--	--	--	2	--	1	--	--	1	--	--
Kidnapping	Colonists	7	--	--	--	--	1	2	--	1	3	--	--
	Indians	4	--	--	--	--	4	--	--	--	--	--	--
Insult	Colonists	2	--	--	--	--	--	--	1	--	1	--	--
	Indians	3	--	--	--	--	1	1	--	--	1	--	--
Drunkenness	Colonists	3	--	--	--	--	--	--	--	--	3	--	--
	Indians	--	--	--	--	--	--	--	--	--	--	--	--
General Disorder	Colonists	1	--	--	--	--	1	--	--	--	--	--	--
	Indians	--	--	--	--	--	--	--	--	--	--	--	--
Rape	Colonists	2	--	--	--	--	--	--	--	1	1	--	--
	Indians	1	--	--	--	--	1	--	--	--	--	--	--
Other	Colonists	12	1	--	1	--	--	4	--	--	6	--	--
	Indians	11	--	--	--	3	7	--	--	1	--	--	--

Figure 16.-- South Carolina: Origin of Complaints by Decade



An examination, in table 22, of the incidents from South Carolina by period reveals the greatest proportion, 31 percent, of all misbehaviors were recorded in the period from 1733 to 1754. This was also the period of the largest percentage of the colonists' complaints, 43 percent, which included the majority of all their accusations of murder, 42 percent, and theft, 52 percent. During the first period of contact, from 1670 to 1715, the Indians lodged 53 percent of all their complaints against the colonists, including 67 percent of all their allegations of theft, and 63 percent of assault complaints. The type of misbehavior showing the highest ratio of Indian to colonist complaints, trade disputes, are revealed as occurring at a relatively steady rate from 1670 to 1763.



**Table 22.—South Carolina, Type of Misbehavior by Origin of Complaint and Period**

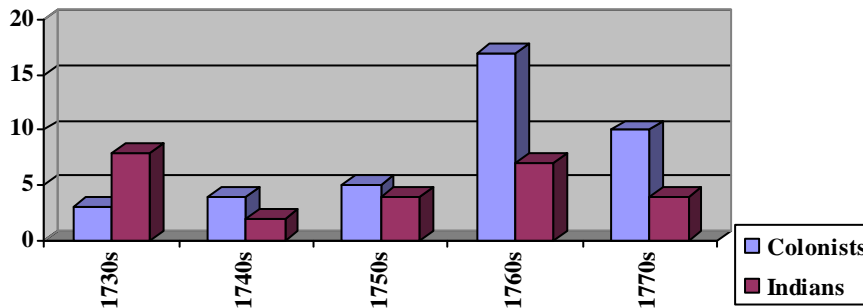
		Totals	1670-1715	1716-1732	1733-1754	1755-1763	1764-1776
Murder	Colonists	33	2	7	14	10	--
	Indians	7	3	--	--	4	--
Theft	Colonists	27	1	9	14	3	--
	Indians	18	12	1	4	1	-
Assault	Colonists	12	--	2	6	4	--
	Indians	8	5	--	1	2	--
Trespass	Colonists	4	1	1	2	--	--
	Indians	5	1	--	1	3	--
Trade Disputes	Colonists	1	--	--	--	1	--
	Indians	9	2	3	2	2	--
Threat	Colonists	7	1	1	2	3	--
	Indians	3	1	2	--	-	--
Property Destruction	Colonists	5	1	1	2	1	--
	Indians	4	2	1	1	--	--
Kidnapping	Colonists	7	0	3	3	1	--
	Indians	4	4	--	--	--	--
Insult	Colonists	2	--	--	2	--	--
	Indians	3	--	2	--	1	--
Drunkenness	Colonists	3	--	--	1	2	--
	Indians	--	--	--	--	--	--
General Disorder	Colonists	1	-	1	--	--	-
	Indians	--	--	--	--	-	-
Rape	Colonists	2	--	--	1	1	--
	Indians	1	1	--	--	--	--
Other	Colonists	10	2	4	2	2	--
	Indians	12	8	2	1	1	--
Totals	Colonists	114	8	29	49	28	--
	Indians	74	39	11	10	14	--

A closer consideration of the colony of Georgia is revealing as well. During the 1760s, the decade with the greatest number of incidents overall, the largest number of colonial complaints were also documented (Table 23). Thirty-eight percent of all Georgia incidents were recorded in the 1760s. Forty-four percent of all Georgia colonists'

accusations against the Indians took place in that decade, followed by 26 percent during the following ten-year period. The most frequent type of colonial complaint from Georgia involved murder, accounting for 46 percent of all complaints from Georgia colonists, and during these two decades, the largest number of murder allegations were recorded. During each, eight complaints of murder were made, each representing 44 percent of all murder complaints from Georgia colonists. Following in frequency the number of grievances over murder were those concerning thefts, which accounted for 18 percent of Georgians' complaints against the Indians.

The largest proportion, 32 percent, of Indians' complaints against the colonists took place in the 1730s, followed by the 1760s, at 28 percent. Like the colonists, the Indians complained most frequently about murders, which accounted for 20 percent of all Indian allegations. Equal in number to the murder complaints they made, however, was the number of trespass incidents.

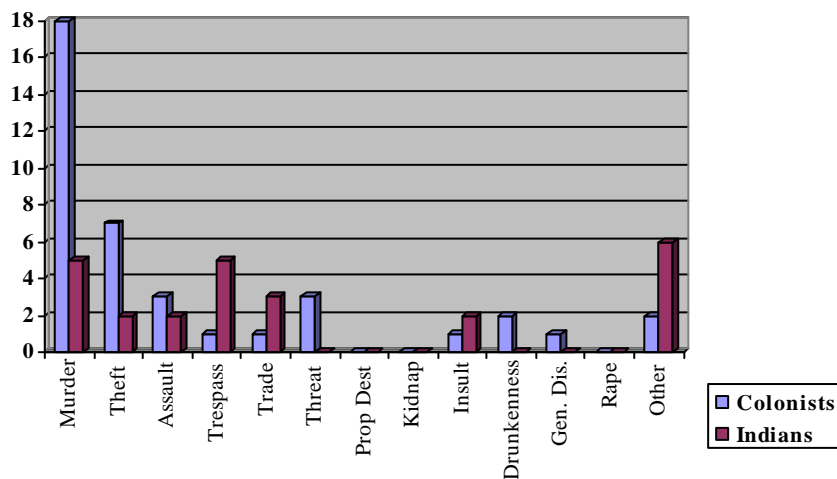
Figure 17.-- Georgia: Origin of Complaint by Decade



**Table 23.-- Georgia: Type of Misbehavior by Origin of Complaint and Decade**

Type of UB	Complaint by	Totals	1730s	1740s	1750s	1760s	1770s
Murder	Colonists	18	1	--	1	8	8
	Indians	5	1	--	1	1	2
Theft	Colonists	7	--	--	2	4	1
	Indians	2	--	1	--	--	1
Assault	Colonists	3	--	--	1	1	1
	Indians	2	2	--	--	--	--
Trespass	Colonists	1	--	1	--	--	--
	Indians	5	1	1	2	1	--
Trade Disputes	Colonists	1	1	--	--	--	--
	Indians	3	--	--	--	2	1
Threat	Colonists	3	--	2	1	--	--
	Indians	--	--	--	--	--	--
Property Destruction	Colonists	--	--	--	--	--	--
	Indians	--	--	--	--	--	--
Kidnapping	Colonists	--	--	--	--	--	--
	Indians	--	--	--	--	--	--
Insult	Colonists	1	--	--	--	1	--
	Indians	2	--	--	1	1	--
Drunkenness	Colonists	2	--	1	--	1	--
	Indians	--	--	--	--	--	--
General Disorder	Colonists	1	--	--	--	1	--
	Indians	--	--	--	--	--	--
Rape	Colonists	--	--	--	--	--	--
	Indians	--	--	--	--	--	--
Other	Colonists	2	1	--	--	1	--
	Indians	6	4	--	--	2	--
Totals	Colonists	39	3	4	5	17	10
	Indians	25	8	2	4	7	4

Figure 18.-- Georgia: Origin of Complaint by Type of Misbehavior



An examination of incidents in Georgia by period demonstrates that more than half, 51 percent, of all recorded cases of behavioral disputes between colonists and Indians occurred in the final period from 1764 to 1776 (table 24). Likewise, 62 percent of all colonists' complaints transpired during this period. While Indian complaints peaked at 40 percent during the period from 1733 to 1754, the total number of those complaints only exceeded the final period from 1764 to 1776 by a single incident. Furthermore, the majority of all murder and theft cases appeared in the latest period as well.

**Table 24.—Georgia, Type of Misbehavior by Origin of Complaint and Period**

		Totals	1733-	1755-	1764-
			1754	1763	1776
Murder	Colonists	18	1	4	13
	Indians	5	1	1	3
Theft	Colonists	7	1	1	5
	Indians	2	1	--	1
Assault	Colonists	3	--	1	2
	Indians	2	2	--	--
Trespass	Colonists	1	1	--	--
	Indians	5	2	3	--
Trade Disputes	Colonists	1	1	--	--
	Indians	3	--	--	3
Threat	Colonists	3	3	--	--
	Indians	--	--	--	--
Property Destruction	Colonists	--	--	--	--
	Indians	--	--	--	--
Kidnapping	Colonists	--	--	--	--
	Indians	--	--	--	--
Insult	Colonists	1	--	--	1
	Indians	2	--	1	1
Drunkenness	Colonists	2	1	--	1
	Indians	--	--	--	--
General Disorder	Colonists	1	--	--	1
	Indians	--	--	--	--
Rape	Colonists	--	--	--	--
	Indians	--	--	--	--
Other	Colonists	2	1	--	1
	Indians	6	4	1	1
Totals	Colonists	39	9	6	24
	Indians	25	10	6	9

Although the two Florida colonies recorded far fewer incidents than South Carolina and Georgia, it is important to examine the statistics from these regions, as well, to consider whether the colonies recorded a unique state of affairs or similar ones to the older colonies. While all of the incidents in the Florida colonies occurred in the final

period of the study, from 1764 to 1776, table 25 reveals that the nature of those disputes was similar to those of the other colonies, with the majority of the cases involving murder and theft. In West Florida, the numbers of each type were equal, each representing 24 percent of all incidents from that colony. Of the four incidents recorded in East Florida, three involved murder. Furthermore, table 26 demonstrates that the majority, 83 percent, of murder cases from West Florida appeared as complaints from the colonists, as did 66 percent of murder complaints in East Florida. In West Florida, Indians complained most frequently of thefts and trade issues, with each accounting for 26 percent of Indian complaints from that colony.

**Table 25.—West and East Florida, by Type of Misbehavior**

	WF	EF
	No.	No.
Murder	12	3
Theft	12	--
Assault	--	1
Trespass	4	--
Trade Disputes	4	--
Threat	2	--
Property Destruction	5	--
Kidnapping	1	--
Insult	2	--
Drunkenness	2	--
General Disorder	3	--
Rape	--	--
Other	2	--
Totals	49	4

**Table 26.—West and East Florida, by Origin of Complaint**

	Complaint by	WF	EF
		No.	No.
Murder	Colonists	10	2
	Indians	2	1
Theft	Colonists	8	--
	Indians	4	--
Assault	Colonists	--	1
	Indians	--	--
Trespass	Colonists	1	--
	Indians	3	--
Trade Disputes	Colonists	--	--
	Indians	4	--
Threat	Colonists	2	--
	Indians	--	--
Property Destruction	Colonists	5	--
	Indians	--	--
Kidnapping	Colonists	1	--
	Indians	--	--
Insult	Colonists	1	--
	Indians	1	--
Drunkenness	Colonists	2	--
	Indians	--	--
General Disorder	Colonists	3	--
	Indians	--	--
Rape	Colonists	--	--
	Indians	--	---
Other	Colonists	1	--
	Indians	1	--

Following this review of the data, a more thorough analysis of the significance of the collected incidents is possible. The following chapter will seek, therefore, to evaluate the patterns revealed here, and place them within the context of larger movements and events taking place on the frontier of the colonial Lower South. Furthermore, it will also attempt to expose the relationship between behavioral conflicts and the formal negotiations, treaties, laws, and individuals involved on both sides of the frontier.

## Conclusion

Former Secretary of State, Dean Acheson said, “Negotiation in the classic diplomatic sense assumes parties more anxious to agree than to disagree.”<sup>590</sup> With the common diplomatic goal of maintaining peace in order to ensure the continuation of the trade so crucial to both sides, the English colonists and Indians of the Lower South were clearly interested in finding ways to agree on how to define and, if possible, prevent or at least limit unacceptable behaviors. In negotiating to accomplish this, moreover, they created in the Southeast, a situation similar to the “middle ground” Richard White described existed between the Algonquians and French in the Great Lakes Region.<sup>591</sup>

Statistics and case evidence from this study demonstrate that while Anglo-Indian relations in the Southeast bore some similarities to the period of “Legal Coexistence” described by Yasuhide Kawashima in New England, it was ultimately a unique situation that reflected the cultures and concerns of the peoples involved.<sup>592</sup> The presence of large and powerful Indian nations, with extensive networks of clan and family ties, the varied diplomatic and economic interests of the colonies, as well as the need for peaceful relations to ensure the viability of the all-important Indian trade, resulted in the need for negotiation and a level of accommodation not found in New England. Kawashima found that “white man’s law expanded into Indian country without being modified by Indian law,” in that region, but such was not the case in the Southeast.<sup>593</sup> Despite early treaties in which the English asserted the right to extend legal jurisdiction over certain Indians to

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<sup>590</sup> Dean Acheson, *Sketches from Life of Men I Have Known*, Santa Barbara, CA: Greenwood Press, 1974, 104.

<sup>591</sup> White, *The Middle Ground*.

<sup>592</sup> Kawashima, *Puritan Justice and the Indian*, 228-33.

<sup>593</sup> Kawashima, 15.



demand that misbehaving Indians appear before the colonial courts or that they be punished according to Indian law, such rights were rarely claimed. Over the years of interaction, negotiations over bad behavior became more discussions of gaining or giving “satisfaction,” until such was formalized in the 1763 Augusta Treaty.

Despite the limitations of the sources concerning Indian complaints, the data from this study reveals much about the concerns and actions of participants on both sides of the frontier. Although flawed, the data is more useful than it initially appears to be because presumably the underreporting of Indian complaints occurred uniformly during all periods, thereby exposing trends that might otherwise have gone unnoticed. No matter how large such underreporting is, so long as it is more or less uniform across time periods, the flawed data will reveal the same trends that the “pure” data would. Of the 305 specific complaints recorded in this study, 63 percent came from colonists, traders, colonial governments, or Anglo authorities, while the remaining 37 percent came from one or more of the Indian people, their headmen, nation or tribe, or colonial intermediaries acting as their representatives.

In the preceding chapter, an examination of the trends in Anglo-Indian behavioral interaction exposed some major reversals that require consideration. Foremost was the shift in the number of Indian complaints compared to those of the colonists from the first to the second period in the study.<sup>594</sup> While the period from 1670 to 1715 showed 83 percent of complaints coming from the Indians, it was the only period during which Indian complaints exceeded those of the colonists. During the following period, for example, 73 percent of the incidents were allegations made by the colonists against the Indians. Although the ratio fluctuated over the years of this study, the percentage of

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<sup>594</sup> See Table 10 and Figure 6, p.215.

complaints coming from the English never dropped below 59 percent. More specifically, when considered by decade, the data indicates that the major reversal occurred between the 1710s and the 1720s. During these decades, the majority of complaints shifted from 89 percent from the Indians, to 93 percent from the English.<sup>595</sup>

This shift in the ratio of complaints should not, however, be taken to indicate that the English suddenly and thereafter always had much more to complain about than the Indians. As stated previously, it is more likely that the treaties that resulted from the resolution of the Yamasee War convinced the Carolina traders that the government might actually be successful in gaining the justice they sought.<sup>596</sup> Thus, rather than taking their grievances directly to Indian leaders, as they likely had done before, they more readily called upon the colonial government and its' representatives to negotiate their disputes in the period from 1716 to 1732, and thereafter. Colonists' complaints taken to Indian leaders while occasionally appearing in Anglo sources were less likely to be recorded, thus skewing the ratio of Anglo to Indian complaints prior to the war.

As to why the Indians suddenly appear to have issued fewer complaints regarding colonists' behavior, one needs to consider the diplomatic and demographic adjustments that occurred after the war. The end of the Yamasee War resulted in extensive Indian migrations and changes in the balance of European influence in the region. In the years prior to the war, 53 percent of all Indian complaints had come from the Yamasees. Thus, with the destruction and dispersal of the Yamasees, the largest group of initial Indian complainants was removed from the stage of interaction. In addition, the Spanish and French sought to take advantage of the massive breakdown in Anglo-Indian relations that

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<sup>595</sup> See Table 11, p. 214.

<sup>596</sup> See p. 20.

resulted in the war, and to open and extend trade with the Creeks and more western nations. As a result, what Crane referred to as “the sharpest sort of triangular contest” for alliances with and control of the Creek trade began.<sup>597</sup> As “custodians of the wilderness balance of power in the South,”<sup>598</sup> Creek leaders like Brims began to act in accordance with their belief “that their security and welfare required a perpetual friendly intercourse” with both the English and the French.<sup>599</sup> It is possible that in attempting to do so, at least in the years most immediately following the war, Indian leaders such as Brims chose to overlook less serious complaints regarding colonists’ misbehavior and reserved discussion of more serious complaints to use as ammunition during diplomatic negotiations.

As new treaties were subsequently established, and the English began to more specifically assert their intention to judge and decide the fate of misbehaving Indians,<sup>600</sup> the likelihood that traders and colonists would call upon their colonial leaders to do so continued to increase. During the years from 1733 and 1754 the ratio of colonists’ to Indians’ complaints peaked, at 77 to 23 percent. The subsequent stage of interaction from 1755 to 1763, then saw an increase in the number of Indian complaints again, as a number of disputes arose over settlements such as that on the Ogeechee River which the Creeks believed encroached on their lands. Following the Augusta Treaty in 1763, however, the number of British complaints surged again. After much negotiation, the colonial governments and their representatives had promised to provide equal satisfaction

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<sup>597</sup> Crane, 257.

<sup>598</sup> *Ibid.*, 260.

<sup>599</sup> Adair, *The History of the American Indians*, 1775, 260.

<sup>600</sup> *JCHA*, November 10, 1736-March 5, 1737, 109-110; *EAID* XIII, Articles of Friendship and Commerce with the Lower and Upper Creeks, June 14, 1732, 151; Oglethorpe’s First Treaty with the Lower Creeks at Savannah, May 21, 1733, *EAID* XI, 16.

to the Indians for the misbehavior of traders and colonists and therefore, more vehemently demanded “satisfaction” for the misbehavior of Indians.

Evidence of the types of misbehaviors that most frequently drew complaints reveals much about the collision of cultures taking place on the southeastern frontier. Differences in definitions of intolerable behaviors led to disputes and misunderstandings, as each group sought to assert their own ideals over the other. When Indians took livestock, crops or other foodstuffs from the homes or stores of colonists, for example, they frequently argued they were not committing theft, but merely taking what should rightly have been offered to them, as allies. Likewise, when they took horses from colonists, Indians often asserted the need to restore the balance, because of the large numbers of horses taken from them by the settlers. When traders took horses, canoes, and other goods from Indians in order to recoup their losses from unpaid debts, in their minds they were not guilty of stealing, but were simply acting to preserve the viability of their trade businesses.

The second major reversal in trends occurred between the first and second periods as well, and involved the number of Indian complaints of theft. During the period from 1670 to 1715, Indian complaints of theft far exceeded those of the colonists, those numbers reversed during the subsequent period and the number of Indian accusations of theft never again surpassed those of the colonists.<sup>601</sup> As with the reversal in the overall incidence of Indian complaints compared to those of the colonists, the change in the origin of theft complaints was at least partially due to an increase in the colonists’ confidence in the ability of the colonial government to represent their interests, rather than to a surge in Indian thefts. It is also likely, however, that the changes in colonial

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<sup>601</sup> See Table 20 and Figure 14, p. 225.

oversight of the traders, and the palpable fear of further Indian uprisings in the region, resulted in better behavior by the returning traders, at least for a little while. Many of the earlier theft complaints from the Indians involved traders seeking to recover losses from trade debts, including several instances of the reported theft of Indians' slaves.<sup>602</sup> In the years immediately following the war, such accusations are not evident. Over time the number of Indian allegations of Anglo thefts increased again, but never to the previous level and never exceeding the number of colonial complaints.

Although it is useful to examine statistics on the types of misbehavior drawing complaints during the years of this study as a whole, it is perhaps more revealing to consider the differences that existed between the two groups and between each period. While during the first three periods of interaction, theft accounted for the majority of all recorded behavioral complaints, for example, the majority of colonial complaints during each of these periods involved murder.

For both the Indians and the colonists, theft and murder were the two most frequently alleged misbehaviors, each occurring at more than twice the rate of any other category of misbehavior.<sup>603</sup> Together these two categories of complaints accounted for 55 percent of all colonists' complaints, and 34 percent of all Indians' complaints.<sup>604</sup> For the Indians, theft drew the greatest number of complaints, accounting for 21 percent of all the allegations of misbehavior they made. Thirty-seven percent of all the charges of theft recorded in the study came from the Indians.<sup>605</sup>

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<sup>602</sup> For examples, see p. 24 and incidents 226, 232, 233, and 234.

<sup>603</sup> See table 4, p. 207.

<sup>604</sup> See table 12 and figure 8, p. 216.

<sup>605</sup> *Ibid.*, For examples, see Incidents 26, 52, 91, 234.

During the years from 1670 to 1715, thefts constituted the majority of all grievances recorded, with many involving Indian complaints of traders taking property, which they claimed as repayment for debts owed by the Indians. In the vast majority of cases from this period, no resolution was recorded. The difficulty in controlling and regulating the behavior of traders in this period, contributed significantly to nearly all types of complaints. Incidents of murder, kidnapping and other violence frequently resulted from the actions of the traders or from the responses of the Indians to those actions.<sup>606</sup> Despite efforts to control unscrupulous traders through legal actions, the failure of colonial authorities to do so resulted in a war which ended in the deaths of numerous traders, the devastation of much of the area then settled by the English, and the near destruction of Charles Town itself.

The following period of Anglo-Indian interaction saw efforts to manage the trade and control traders through extensive governmental controls. Following the war, treaties establishing trading forts, the licensure of traders, and standardization of weights and measures helped to decrease the number of Indian complaints. More significantly, the more extensive involvement of colonial authorities in the trade led traders to rely more frequently on their own authorities to obtain justice for complaints against the Indians. Thus, these began to appear much more often in the records, and the number of colonial complaints exceeded those of the Indians in these years, although thefts still received the most complaints. Additionally, the rise of powerful traders, factors, and Indian agents situated in forts and trade depots within Indian territory, may have led the Indians to bring their complaints to the men closer to home with whom they felt more comfortable, many allegations of which may not have been recorded. As in the earlier period, the

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<sup>606</sup> See for example, Incidents 18 and 20.

majority of disputes continued to be addressed by Indian headmen and colonial authorities on the frontier.

The behavior bringing the largest number of complaints from the English during each period was murder. Thirty-four percent of all the recorded incidents involved murder and 80 percent of the recorded incidents of murder appeared as allegations against the Indians. From the beginning, unscrupulous and illegal trade practices, easy access to goods carried along the trading paths or in unfortified stores, and the influence of the Spanish and French, contributed to the number of attacks on the English. Over time, illegal encroachments on Indian hunting grounds, perceived slights to headmen or alliances with Indian enemies, the effects of rum, and culturally defined norms that gave honor and prestige to young warriors (control over whom became increasingly tenuous), led to a further rise in the number of murders.

This period also saw an overall increase in the average number of all complaints, a trend that continued throughout the colonial period. Moreover, complaints involved nearly all the Indian nations and tribes in the region during these years. Issues regarding the inability of Indian leaders to control their young people arose as well,<sup>607</sup> as did the problems inherent in differing ideas on collective versus individual liability.<sup>608</sup> The first Creek execution of one of their own for the murder of whites occurred during this period,<sup>609</sup> as did one of the first instances in which an English authority suggested that Indians might be allowed to punish whites for misbehaviors against the Indians.<sup>610</sup> In addition, an incident occurred that resulted in one of the first recorded instances in which

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<sup>607</sup> See Incident 199.

<sup>608</sup> See incident 207.

<sup>609</sup> See Incident 21.

<sup>610</sup> See Incident 196, and Colonel George Chicken's suggestion that Cherokees might be authorized to shoot horses destroying their corn.

the English allowed a Cherokee Indian to bring a formal charge against a Carolinian, and that charge be adjudicated in a colonial court.<sup>611</sup>

The third period in this study involved records of disputes from both South Carolina and the new colony of Georgia. While the majority of accusations during these years came from the colonists, in Georgia most recorded complaints came from Indians. This preponderance of native complaints during Georgia's earliest years repeated a pattern first established during the earliest years of South Carolina. Moreover, while in South Carolina the bulk of the allegations of misbehavior involved murder and theft, in Georgia the incidents more frequently related to accusations of trespassing or threats. In Georgia most cases involved the Creeks, many related to Mary Musgrove,<sup>612</sup> and in South Carolina the incidents most often concerned interactions with the Cherokees.

The establishment of new treaties between the Creeks and both colonies included for the first time English assertions of the (rarely used) right to decide the punishment for misbehaving Indians, although the initial right of indictment continued to reside with the Indians. Among the most significant cases occurring during these years, was one that resulted in Indians agreeing, at the behest of English authorities, to execute one of their own for the murder of other Indians.<sup>613</sup> This was repeated moreover, a few years later in the Acorn Whistler case.<sup>614</sup> In cases involving misbehavior against whites, however, such compliance was more difficult to achieve, resulting in South Carolina authorities resorting to a trade embargo to try to force the Cherokees to provide "satisfaction" (a word that was increasingly being used and would soon dominate negotiations

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<sup>611</sup> See Incident 5.

<sup>612</sup> See Incidents 109, 111, 113.

<sup>613</sup> See Incident 29.

<sup>614</sup> Incident 58.



officially).<sup>615</sup> Even when Indians appeared willing to admit the guilt of one of their own, the importance of kinship and clan ties within Indian societies often made it difficult for them to perform executions of their own people for misbehavior against whites.<sup>616</sup> In their attempts to convince the Indians to act in such cases, English authorities in this period increasingly turned to the language of Indian diplomacy to achieve their goals.<sup>617</sup> Moreover, in at least one instance when the risk of angering Indians on whose alliance they depended appeared too great, English authorities demonstrated their willingness to forgo punishment of Indian “criminals” in favor of maintaining good relations.<sup>618</sup>

The years from 1755 to 1763 revealed an increase in the number of Indian complaints, but in both Georgia and South Carolina recorded accusations from colonists still exceeded those of the Indians overall. The average number of incidents of unacceptable behavior continued to increase, and murder remained the predominant type of complaint from colonists, and trespassing from the Indians. Unlike what occurred in South Carolina, however, the number of colonial complaints in Georgia did not dramatically exceed those of the Indians in this second period of interaction for that colony.

In Georgia, disputes over the Bosomworth land claims and the Ogeechee settlers appeared prominently in this period.<sup>619</sup> In South Carolina, disputes with the Cherokees, principally over the encroachment of white settlers beyond Long Canes creek, part of the boundary fixed by treaty, as well as the inability of colonial authorities to gain acceptable justice without resorting to drastic and untenable actions, resulted in the Cherokee War in

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<sup>615</sup> See Incident 193.

<sup>616</sup> See Incident 103.

<sup>617</sup> See Incident 31.

<sup>618</sup> See Incident 50.

<sup>619</sup> See Incidents 30, 87, 127, 128.

1760. Increasingly, English authorities used language in diplomacy that they believed would appeal to the Indians, in order to achieve their ends. In addition, the effects of the trade in rum appeared as the precipitating factor in several incidents, leading Indian headmen to decry it as a cause in their decreasing ability to control the behavior of their people.<sup>620</sup>

Decisions regarding grievances continued to be handled most frequently in Indian towns or frontier forts, rather than in colonial courts in this period as well. However, this period also demonstrated that the success of negotiations over misbehavior frequently depended on the ability of individual colonial authorities and their representatives to earn the respect of Indian leaders. Governor Ellis's ability to retain alliance with the Creeks and to prevent the Cherokee War from encompassing his colony, as compared to Governor Lyttelton's misguided efforts to force satisfaction that sparked the war, for example, demonstrated how significant a role individual leaders could play in expanding or resolving and limiting behavioral disputes.

Profound changes to the dynamic of Anglo-Indian interaction occurred after the Treaty of Paris and the Augusta Treaty in 1763. During the period from 1764 to 1776, more incidents were recorded than in any other period in the study. In the years preceding the Revolutionary War, conflicts increased and a general breakdown in alliances occurred. Continuing the pattern established earlier, the average number of cases increased annually, and murder remained the type of misbehavior receiving the greatest number of complaints. During this period, all of the recorded incidents came from

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<sup>620</sup> See Incidents 90, 86, 157.

Georgia and the two new Florida colonies, however, with the majority from the colony of West Florida.<sup>621</sup>

The lack of recorded incidents in South Carolina during the final period in the study is puzzling, but might be more reflective of the change in the concerns of those recording such disputes than of the extent of actual conflict. Only a single law related to Indians was recorded in the colony in the years between 1762 and 1776. The Law to Limit the Hunting of Deer, passed in 1769, sought to prevent over-hunting by South Carolina colonists, and did not apply to Indians in alliance with the colony.<sup>622</sup> Moreover, it is possible that in a colonial government dominated by eastern planter and merchant elites, the changes in Indian policy that occurred at the end of the French and Indian War created an environment in which those who governed and those likely to record disputes were less concerned about Indian affairs. Such sectionalism within the colony, later revealed in opposing alliances during the Revolutionary War, may well have been responsible for the paucity of recorded incidents. It is also possible that changes in treaty agreements led South Carolina authorities increasingly to leave regulation of Indian behavior to the Indians. Among the Cherokees, this period revealed a great deal more conflict with Virginia and North Carolina settlers, as well.

During the final period in this study, giving and gaining “satisfaction” for behavioral offenses became the basis for nearly all negotiations. Moreover, with the new treaty, the English promised to provide the same to the Indians. This represented a shift away from English norms and toward Indian norms. Relinquishing earlier (although rarely used) treaty rights to require the Indians to turn over misbehaving Indians to

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<sup>621</sup> See table 7, p. 210.

<sup>622</sup> *EAID* XVI, 347-48.

colonial authorities for trial, or to require them to impose Indian law, the new treaty stated that Indians would henceforth be responsible for punishing their own people. This represented a reversion in one way, then, to the earliest of treaty agreements in which each group promised to control and punish their own members. During this period, in fact, the English executed one of their own in each colony, after finding them guilty of misbehavior against the Indians.<sup>623</sup> On the other hand, in 1764 a Creek Indian was tried and convicted by a South Carolina court for a murder committed the previous year, and was promptly executed. Again, this is the only such case recorded during the entire period of this study. It would never have come before an English court but for prior permission from the nation's headmen.<sup>624</sup> Moreover, English leaders probably would never have sought such permission if the murder had not been flagrant and committed in the heart of the English settlements.

Concerns among the Indians about English efforts to take over their lands resulted in a number of incidents of attacks on settlers in this period, particularly those referred to as New Purchase settlers.<sup>625</sup> In addition, the continued expansion of the rum trade and the proliferation of illegal traders doing business "in the woods" outside of Creek towns provoked complaints from both Indian headmen and colonial authorities.<sup>626</sup> In the case of the Buzzard Roost incident, frustration on the part of authorities on both sides led to misunderstandings that resulted in British authorities reconsidering the entire structure of Indian diplomacy and dispute resolution in the region. Throughout this period, moreover, both Indians and colonists complained of their inability to control events on the frontier,

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<sup>623</sup> Incidents 138, 165, 191.

<sup>624</sup> Incident 34.

<sup>625</sup> Incident 33, 157.

<sup>626</sup> See for example Incident 144.

and to control the actions of their own people. Increasingly, they turned to one another for assistance in doing so.

Of the four colonies involved in this study, Georgia appears to have been the most typical, based on a comparison of the statistics of the incidents from that colony to those of the incidents overall.<sup>627</sup> In that colony, as in the region as a whole, the most frequent types of behavioral complaints involved murder and theft, in that order. In addition, as with the colonies collectively, Georgia recorded the greatest number of incidents in the final period of the study, from 1764 to 1776 and the least in the earliest years of its existence. South Carolina, conversely, recorded more incidents of theft than murder, and the period with the greatest number of complaints was between 1733 and 1754, while the fewest occurred in the final period.<sup>628</sup>

The colony revealing the most atypical pattern of behavioral conflicts appears to be West Florida. Surprisingly, in that colony a relatively large number of incidents was recorded in the first period of settlement, especially in comparison to the number that occurred in Georgia and South Carolina. Given the sparse settlement in that colony, moreover, this may appear even more unexpected. Such an outcome was probably due mainly to the general disintegration of the entire region during these years leading up to the Revolutionary War rather than to some special faults of the colonists or Indians of West Florida.

Based on his extensive research into the interactions between the native peoples and European colonists in the Great Lakes region, White concluded that because they were frequently allies and involved in mutually beneficial trade, the French and

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<sup>627</sup> See table 14, p. 219 and table 24, p. 233.

<sup>628</sup> See table 14, p. 219 and table 22, p. 229.

Algonquians had of necessity to create a “middle ground.” In this zone of mutual influence, both groups, assured of their own rightness, yet unable to exert sufficient power to control the behavior of the other, found the need to “arrive at some common conception of suitable ways of acting.”<sup>629</sup> In analyzing the nature of this area of interaction, moreover, White discovered that “Perhaps the central and defining aspect of the middle ground was the willingness of those who created it to justify their own actions in terms of what they perceived to be their partner’s cultural premises.”<sup>630</sup>

From the evidence provided in this study, it appears that the Southeastern Indians and the English attempted, out of similar necessity, to create a comparable “middle ground,” where they could negotiate behavioral ideals and try to find a way to prevent and resolve disputes. Likewise, there is evidence to suggest that on many occasions each attempted to exploit their knowledge of the other’s traditions to validate their own actions. In 1758, for example, Georgia’s Governor James Wright suggested to the Cowetas that if they were unable to locate the Yuchis guilty of murdering whites, they should “kill the first three they should see agreeable to their own Laws.”<sup>631</sup> In doing so, he demonstrated that when English ideals of justice failed, he was willing to resort to Indian notions of “blood for blood” justice to achieve satisfaction. When Upper Creek headman Gun Merchant asked Governor Henry Ellis not to impose an embargo on his people in 1760 in response to his inability to gain satisfaction for recent misdeeds by his people, he appealed to English reasoning and requested that the governor “consider with himself that the Innocent should not suffer for the Sakes of a few Guilty People.”<sup>632</sup> Like

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<sup>629</sup> White, *Middle Ground*, 50.

<sup>630</sup> *Ibid.*, 52.

<sup>631</sup> Wright’s Report on Talks with the Lower Creeks, August 4, 1758, *EAID* XI, 285.

<sup>632</sup> Upper Creek Headmen to Governor Ellis, May 26, 1760, *EAID* XI, 320-21.

Governor Wright, he demonstrated that when needed, he, too was willing to use his knowledge of the cultural norms of the “other” to convince his diplomatic opponent to act in a way that would prove most beneficial to his own people.

South Carolina’s Governor Lyttelton also displayed a willingness to employ Indian cultural premises to keep the peace when necessary. When it was unclear if enemy Indians or whites had been involved in the killing of Cherokees, for example, he ordered an investigation and informed the headmen that “In the mean Time the Warriours at the Fort shall give Presents to the Relations of the Deceased to wipe away their Tears.”<sup>633</sup> After the murders of several Cherokees by suspected whites from Virginia, Lyttelton made a similar offer of restitution. If the headmen would send out runners to bring a group seeking revenge back home, he would “give Presents to the Relations of your People that have been slain, sufficient to hide the Bones of the dead Men and wipe away the Tears from the Eyes of their Friends.”<sup>634</sup>

In an earlier period, Georgia authorities demonstrated a willingness to accept the accidental death of a Creek Indian, instead of insisting on the execution of Estichi, who was guilty of killing Mary Musgrove’s slave, Justice.<sup>635</sup> Their exact motivation in doing so remains unclear, perhaps because the murdered man was a slave, or because Mary was part Indian, they were less interested in pursuing the matter. But whatever the reason, they exhibited a readiness to accept the balancing of blood for blood, even when one death was unrelated to the other and accidental in nature. During the negotiations related to the Acorn Whistler incident, Thomas Bosomworth sought to convince the Creeks of

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<sup>633</sup> Governor Lyttelton to the Lower Cherokee Headmen and Warriours, March 14, 1758, McDowell, *C.R.S.C., 1754-1765*, 479-80.

<sup>634</sup> Governor Lyttelton to the Lower and Middle Cherokee Headmen and Warriours, September 26, 1758, McDowell, *C.R.S.C., 1754-1765*, 481.

<sup>635</sup> Incident 113.

the necessity of executing Whistler for his role in killing Cherokees. Using terminology he evidently thought the Indians would relate to, the agent insisted the satisfaction was not demanded for the killing of Creek enemies. Rather, it was necessary to redress the warriors “staining the white beloved Town with the Blood of our Friends.”<sup>636</sup> In agreeing to the execution of Whistler, moreover, the Creek headmen stated “it was better that his [Acorn Whistler’s] Life should be taken than that they should break off all Friendship with the English by which Means many innocent Persons must suffer for the mad Actions of one Man.”<sup>637</sup>

Finally, East Florida’s Governor Grant informed General Gage that he had sought to gain satisfaction for the murders of whites by demonstrating his willingness to execute a white man in the presence of headman Nipke. In doing so, Grant stated he sought to avoid “bad consequences which must have attended that Affair had not been prevented by giving Blood for Blood according to their Idea of Law.”<sup>638</sup>

While the “middle ground” created in the Southeast was thus similar in nature to that White discovered in the Great Lakes Region, it was nevertheless distinctive, because of the goals, cultural norms, and individuals involved in the interaction. The lack of any interest on the part of the English in converting the Southeastern Indians to Christianity, as compared to the extensive efforts of the Jesuits to convert the Algonquians, for example, meant that in the realm of spiritual belief, interaction differed. The presence of English women in the Southeast also resulted in less intermarriage there (although it did still exist) than in the Great Lakes Region. Thus, the extensive connections created by

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<sup>636</sup> Journal of Thomas Bosomworth, McDowell, *C.R.S.C., 1750-1754*, 274.

<sup>637</sup> *Ibid.*, 279.

<sup>638</sup> Governor Grant to General Gage, March 5, 1769, *EAID* XII, 481-82.



kinship ties that existed in White's "middle ground" and profoundly affected interaction there, existed, but to a much lesser degree in the Southeast.

Although no true "system" for defining unacceptable behaviors was created in the Southeast, a continuous process of redefining and reevaluating each group's own standards regarding misbehavior in light of what they learned about those of the other did take place. This process then allowed the English and the Indians in the region to negotiate with one another and at least try to maintain a sufficient level of peace to ensure that the all-important trade continued. Difficulties inherent in the process included factors such as differing concepts of law and justice, the power of clan and family ties within the native groups, the existing animosity between Indian groups, the differing interests of the colonies and competing European powers, and the varied interests of the traders, settlers, and colonial authorities. Perhaps in part because of the number of competing elements, however, the ongoing process created a situation in which both Indians (at least the larger, more powerful nations) and the English maintained a level of parity in their negotiations. Neither was able to effectively control their own people without turning to the other for assistance. Neither was able to force the other to completely accept their own ideals and act according to them. Yet both were able to force the other to make concessions that allowed them to retain a relative degree of control over interactions taking place on the southern colonial frontier.

## Appendix

Incident Number	Date	Source1	Source2	Source3
1	07-Jan-1716	Ind Bk 1710-18, p. 145-46	Ind Bk 1710-18, p. 306	
2	25-Oct-1712	Ind Bk 1710-18, p. 37		
3	25-Sep-1713	Ind Bk 1710-18, p. 38		
4	09-Jun-1714	Ind Bk 1710-18, p. 38		
5	23-Jan-1716	Ind Bk 1710-18, p. 149-52, 154		
6	09-May-1717	Ind Bk 1710-18, p. 177-88		
7	09-May-1717	Ind Bk 1710-18, p. 177-88		
8	10-Sep-1717	Ind Bk 1710-18, p. 205		
9	03-Dec-1717	Ind Bk 1710-18, p. 237		
10	21-Mar-1717	Ind Bk 1710-18, p. 261-62	Ind Bk 1710-18, p. 276-77	
11	08-May-1718	Ind Bk 1710-18, p. 272-73		
12	21-Sep-1710	Ind Bk 1710-18, p. 3		
13	21-Sep-1710	Ind Bk 1710-18, p. 3		
14	21-Sep-1710	Ind Bk 1710-18, p. 3		
15	21-Sep-1710	Ind Bk 1710-18, p. 3		
16	27-Jul-1711	Ind Bk 1710-18, p. 11		
17	28-Jul-1711	Ind Bk 1710-18, p. 11		
18	28-Jul-1711	Ind Bk 1710-18, p. 11	Morris, Bringing of Wonder, p. 77 note #34	Milling, Red Carolinians, p. 136
19	28-Jul-1711	Ind Bk 1710-18, p. 11	Morris, Bringing of Wonder, p. 77	

20	29-Nov-1693	SC/ BPRO, 1691-97, p. 109	Crane, V. The Southern Frontier, p. 25 n. 10	
21	23-Jul-1727	Corkran, The Creek Frontier, p. 77-78		
22	08-May-1751	Ind Bk 1750-54, p. 126-27, 429		
23	03-Oct-1751	Ind Bk 1750-54, p. 124, 130-32		
24	04-May-1751	Ind Bk 1750-54, p.41, 51,59		
25	24-Jul-1751	Ind Bk 1750-54, p. 29-31		
26	06-Apr-1751	Ind Bk 1750-54, p. 7-8, 23-29, 189		
27	01-Feb-1738	EAID XIII, p. 322-24	SCCHJ, 1736-39, p. 482	
28	01-Jun-1742	EAID XIII, p. 327-28	SCCHJ, July 5, 1742, p. 95, 98-99	
29	25-Jul-1744	EAID XIII, p. 330-33	Chapman, Red Carolinians, p. 229	
30	03-Sep-1756	EAID XI, p. 230-31, 244-45, 247-49	Ind Bk, 1754-65, p. 191-92, 210-212	
31	01-Apr-1748	Murdoch, James Glen & the Indians, p. 146	EAID XIII, p. 205, 207-08	SCCJ, 24 Mar 1747/48, p. 193-94
32	01-Mar-1751	Ind Bk 1750-54, p. 11-14		
33	24-Dec-1763	GA Gazette, Jan. 5, 1764	SCG, Jan 14 & Feb. 4, 1764	
34	31-May-1764	GA Gazette, May-Nov 1764		
35	04-May-1751	Ind Bk 1750-54, p. 17		
36	21-May-1751	Ind Bk 1750-54, p. 20		
37	21-May-1751	Ind Bk 1750-54, p. 20		

38	21-May-1751	Ind Bk 1750-54, p. 43-5, 52-5, 66-8, 76, 79-82,		
39	15-May-1751	Ind Bk 1750-54, p. 83		
40	11-Oct-1751	Ind Bk 1750-54, p. 127		
41	04-Jul-1738	Stephens, Jrnl of Proceedings in GA, vol. 1		
42	27-Sep-1671	Shaftesbury Papers, p. 341-42		
43	02-Feb-1673	Shaftesbury Papers, p. 429-30		
44	24-Aug-1672	Shaftesbury Papers, p. 338, 351, 411		
45	23-Feb-1673	Shaftesbury Papers, p. 420		
46	25-Jul-1674	Shaftesbury Papers, p. 451		
47	03-Aug-1674	Shaftesbury Papers, p. 451		
48	28-May-1692	JGCSC, p. 31		
49	13-Jan-1752	Ind Bk 1750-54, p. 201		
50	28-Dec-1751	Ind Bk 1750-54, p. 216-17		
51	27-Feb-1752	Ind Bk 1750-54, p. 218, 221		
52	04-Mar-1752	Ind Bk 1750-54, p. 222-24		
53	02-May-1752	Ind Bk 1750-54, p. 247-49, 320-21		
54	13-Apr-1752	Ind Bk 1750-54, p. 259-60		
55	01-Jun-1752	Ind Bk 1750-54, p. 266-67, 320-21		
56	06-Oct-1752	Ind Bk 1750-54, p. 311-18		
57	28-Oct-1752	Ind Bk 1750-54, p. 358-59		
58	03-Apr-1752	Ind Bk 1750-54, various pp. 208-414	EAID XIII, p. 253-57, 258-80	Fisher, Mary Musgrove
59	08-Feb-1753	Ind Bk 1750-54, p. 366-68		

60	30-Mar-1753	Ind Bk 1750-54, p. 370, 372-74		
61	30-Mar-1753	Ind Bk 1750-54, p. 372-76		
62	11-May-1752	Ind Bk 1750-54, p. 378		
63	04-Sep-1753	Ind Bk 1750-54, p. 459-60		
64	05-Feb-1754	Ind Bk 1750-54, p. 474-76		
66	07-Oct-1754	Ind Bk 1754-65, p. 14, 20-22, 23-24		
67	22-Apr-1755	Ind Bk 1754-65, p. 63-66	SCCHJ, 1754-55, p. 314m	
68	20-Jul-1755	Ind Bk 1754-65, p. 73, 80-81		
69	21-Oct-1755	Ind Bk 1754-56, p. 85-87, 93, 95-99		
70	11-Feb-1756	Ind Bk 1754-65, p. 94-5		
71	21-Feb-1756	Ind Bk 1754-65, p. 104-06		
72	01-Feb-1756	Ind Bk 1754-65, p. 111-14		
73	06-Aug-1716	EAID XIII, p. 71-2	SC/PRO, 6:235, 241-42	
74	11-Jul-1721	EAID XIII, p. 105-06	SCCJ, 1671-1721, p. 133-34, 136	
75	25-May-1722	EAID XIII, p. 106-08, 108-09	SCCJ, RSUS, Ala, Reel 1, unit2, p. 6-9	
76	16-Nov-1723	EAID XIII, p. 106-08, 110-12, 112-13	SC/PRO, 10:178-82	
77	31-May-1734	EAID XIII, p. 154-55, 159-60	SCCJ, RSUS, Ala, Reel 2, Unit 1, pp. 648, 650	
78	24-Mar-1738	EAID XIII, p. 163-65	SCCHJ, 1736-39, p. 558, 559-61, 563	
79	29-Apr-1745	EAID XIII, p. 184-86	SCG, May 18, 1745	
80	09-May-1746	EAID XIII, p. 197-98	SCG, June 30, 1746	

84	01-Jan-1755	EAID XIII, p. 353-56	SC/PRO 26:203-11	
85	21-Jul-1756	Ind Bk 1754-65, p. 146-47		
86	25-Jul-1756	Ind Bk 1754-65, p. 147-48		
87	09-Aug-1756	Ind Bk 1754-65, p. 153-54, 156		
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89	24-Aug-1756	Ind Bk 1754-65, p. 178, 195-96, 196-97		
90	26-Oct-1756	Ind Bk 1754-65, p. 228-32, 240-43		
91	11-Dec-1756	Ind Bk 1754-65, p. 267-69		
92	02-Jan-1757	Ind Bk 1754-65, p. 305-06, 306-07, 311-16		
93	01-Jan-1757	Ind Bk 1754-65, p. 324-25		
94	05-Feb-1757	Ind Bk 1754-65, p. 333-35		
95	28-Jun-1757	Ind Bk 1754-65, p. 387-90		
96	27-Jun-1757	Ind Bk 1754-65, p. 390, 391		
97	10-Aug-1757	Ind Bk 1754-65, p. 396-401, 422		
98	08-Dec-1757	Ind Bk 1754-65, p. 426-31, 439-41		
99	01-Dec-1757	Ind Bk 1754-65, p. 421		
100	24-Nov-1757	Ind Bk 1754-65, p. 421, 424-25, 425-26, 479-80, 441-42, 444, 449-50		
101	20-Mar-1758	Ind Bk 1754-65, p. 449-50		
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103	05-May-1759	Ind Bk 1754-65, p. 485-86		
105	02-Jul-1758	Ind Bk 1754-65, p. 470-72, 481		

106	25-Apr-1759	Ind Bk 1754-65, p. 485-88, 491-92, 494-95		
107	08-Feb-1760	Ind Bk 1754-65, p. 495-96		
108	24-Feb-1760	Ind Bk 1754-65, p. 497-501		
109	01-Sep-1734	EAID XI, p. 39-42	CRG, XX, 171-76	
110	01-Aug-1734	EAID XI, p. 39-42	CRG, XX, 171-76	
111	01-Aug-1734	EAID XI, p. 39-42	CRG, XX, 171-76	
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113	01-Aug-1734	EAID XI, p. 39-42	CRG, XX, 171-76	
114	29-Mar-1735	EAID XI, p. 49-51	CRG, XX, 295-97	
115	29-Mar-1735	EAID XI, p. 49-51, 55-58	CRG XX, 295-97, 398-403	
116	18-May-1736	EAID XI, p. 65-66	CRG, XXI, 161-62	
117	03-Jul-1736	EAID XI, p. 70-74	Egmont MSS., 14202, p. 49-52	
118	17-Mar-1746	EAID XI, p. 112, 122-23	SCCJ, Apr. 11, 1746	CRG XXVII, p. 268
119	01-Mar-1746	EAID XI, p. 123, 132-34	CRG XXVII, p. 162-63	CRG XXXVI, p. 298-303
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127	26-May-1758	EAID XI, p. 280-81	CRG, VII, 763-65	
128	26-May-1758	EAID XI, p. 280-81	CRG, VII, 763-65	
129	26-Jul-1758	EAID XI, p. 284-85, 305-10	Lyttelton MSS, Sept. 8, 1758	CGHS, XX, 136-43
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131	28-Sep-1759	EAID XI, p. 292, 300-05	CRG, VIII, 160-70	
132	16-May-1760	EAID XI, p. 292, 319-31	Cuyler MSS, Ellis 39	CRG, VIII, 325-26, 319-23, 327, 325-34, 348-50, 419-22
133	29-Jan-1761	EAID XI, p. 341-43, 346-47	CRG, VIII, 469-70, 542-44, 554-57	
134	19-Jun-1761	EAID XI, p. 345-47	CRG, VIII, 553-54, 554-57	
135	04-Aug-1761	EAID XI, p. 346-47	CRG, VIII, 554-57	
136	05-Apr-1763	EAID XI, p. 351-52	CRG, IX, 71-72, 72-73	
137	01-Sep-1765	EAID XII, p. 3-4, 17-26, 29-36		
138	01-Oct-1765	EAID XII, p. 17-18		
139	15-Jul-1766	EAID XII, p. 25-26		
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144	01-Feb-1768	EAID XII, p. 5-6, 41-43, 43-46		
145	18-Apr-1768	EAID XII, p. 43-44		
146	22-Aug-1768	EAID XII, p. 49-50, 7, 71-78		
147	03-Sep-1768	EAID XII, p. 50-60		
148	14-Nov-1768	EAID XII, p. 71-78, 89		
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152	01-Oct-1771	EAID XII, p. 83-84, 108-09, 111	Mereness, Travels, Taitt's Journal, p. 527,539,546	CGHS, Habersham, p. 171-72
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173	01-Mar-1770	EAID XII, p. 330-31, 351-52, 354-55, 358-60, 376		
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177	16-Oct-1771	EAID XII, p. 386-401, 423-25, 429	Mereness, Travels, Taitt's Journal, p. 551	
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182	31-Dec-1771	EAID XII, p. 404-22		

183	31-Dec-1771	EAID XII, p. 404-22		
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187	01-Sep-1773	EAID XII, p. 437-38		
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197	28-Oct-1724	Mereness, Travels, Jrnl of Col Chicken, p. 171		
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236	26-Mar- 1713	Ind Bk 1710-1718, p. 38	
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