

FIU Law Review

Volume 9 | Number 2

Article 14

Spring 2014

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Online ISSN: 2643-7759

Recommended Citation

Brent R. Weisman, *The Background and Continued Cultural and Historical Importance of the Seminole Wars in Florida*, 9 FIU L. Rev. 391 (2014).

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The Background and Continued Cultural and Historical Importance of the Seminole Wars in Florida

*Brent R. Weisman**

Before Columbus, the native peoples of the Americas existed in tribes or nations, each with a name; each with its own history; each with its own web of social, economic, and political interactions; and each with its own place to live and ways to make a living. After Columbus, the political expediency of a colonial mentality grouped these people together as one large Other,¹ the subjects of European will. It was true that groups of neighboring tribes could share the same or related languages, the same ceremonial and ritual cycles, and have the same rules for living on the Earth. But each tribe possessed a distinct cultural identity, largely based on both kinship and lineage membership, as well as a territory, variously defined, but always meaning a place that they were meant to be. There were no “Indians” until those with colonial ambitions saw the need to classify them as such, thusly choosing not to engage with the complex reality created by the tremendous breadth of cultural diversity that characterized aboriginal America. Indeed, one of the Native responses to the colonial encounter was the attempt to dissolve or minimize, at least for a time, the differences that separated the tribes and achieve a pan-Indian unity to fight back against the European powers.² These impulses, continental in scope, erupted from time to time, ignited by charismatic native leadership, but ultimately did not triumph in throwing off the yoke of European control.

It is also important to recognize that the drama and trauma of these conflicts, while negative, did have the power to forge new identities, to create, as a consequence, new self-defined ethnic bonds, and a shared history that becomes heritage for future generations. Anthropologists refer

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¹ Anthropologists use the term “Other” to refer to representations of peoples marginalized or overpowered by the forces of colonialism. See Johannes Fabian, *Presence and Representation: The Other and Anthropological Writing*, 16 *CRITICAL INQUIRY* 753 (1990).

² For an example from the Pueblo Southwest, see MATTHEW LIEBMAN, *REVOLT: AN ARCHEOLOGICAL HISTORY OF PUEBLO RESISTANCE AND REVITALIZATION IN 17TH CENTURY NEW MEXICO* (Univ. of Ariz. Press 2012). For a classic study from New England, see DOUGLAS E. LEACH, *FLINTLOCK AND TOMAHAWK: NEW ENGLAND IN KING PHILIP’S WAR* (W.W. Norton & Co. 1966) (1958). A comprehensive treatment is presented in GREGORY EVANS DOWD, *A SPIRITED RESISTANCE: THE NORTH AMERICAN INDIAN STRUGGLE FOR UNITY, 1745-1815* (Johns Hopkins Univ. Press 1992).

to this process as ethnogenesis.³ The history of Florida's Seminole and Miccosukee peoples is an example of "ethnogenesis as resistance."⁴ Ethnogenesis creates cultural identity by embracing a "primordial narrative" that provides both social cohesion and a blueprint for daily life.⁵ The era of the Seminole Wars (1817-1858) became the primordial narrative, with the Second Seminole War (1835-1842) serving as the key element in the modern self-identity by the Seminoles and Miccosukees as the "unconquered people."⁶

The armed conflicts between the United States Government and Florida's Seminole Indians that occurred during the forty years between 1817 and 1858 had their roots in the emerging imperial dominance of the United States in a postcolonial North America, and were to have consequences reaching into the modern era of tribal politics.⁷ In 1817, two years before the legal transfer of Florida from Spain to the United States, the Seminole Indians numbered as many as 5,000, organized into settled towns across North and Central Florida and thriving on an agricultural economy.⁸ By the close of hostilities in 1858, their number had been reduced to fewer than 200, and these were left in scattered family camps on remote tree islands in the Everglades and Big Cypress Swamp.⁹ It is these survivors whose descendants are now organized into the federally-recognized Seminole Tribe of Florida and the Miccosukee Tribe of Indians. Federal recognition depended on cultural survival and continuity of historical identity, both of which resulted from an internalized self-identity born in response to a period of cultural stress and crisis.

The three Seminole wars differed in scope, strategy, and tactics but shared the goal of containment and removal of the Seminoles from Florida.¹⁰ The fundamental premise was that native peoples could not

³ See HISTORY, POWER, AND IDENTITY: ETHNOGENESIS IN THE AMERICAS 1492-1992 (Jonathan Hill, ed., Univ. of Iowa Press 1996).

⁴ Di Hu, *Approaches to the Archaeology of Ethnogenesis: Past and Emergent Perspectives*, 21 J. OF ARCHAEOLOGICAL RES. 371 (2013).

⁵ See *id.*

⁶ The term "unconquered people" or "unconquered Seminoles" appears on the sides of buildings and other public places on the Seminole reservations. The distinction between the "Seminoles" and "Miccosukees" will be made subsequently in the text. An attempt to explain the various historical and contemporary spellings of "Miccosukee" will also be made *infra*.

⁷ HARRY A. KERSEY JR., AN ASSUMPTION OF SOVEREIGNTY: SOCIAL AND POLITICAL TRANSFORMATION AMONG THE FLORIDA SEMINOLES, 1952-1979 (Univ. of Neb. Press 1996).

⁸ CHARLES H. FAIRBANKS, ETHNOHISTORICAL REPORT ON THE FLORIDA INDIANS: TO THE INDIAN CLAIMS COMMISSION (Garland Publ'g, Inc. 1974).

⁹ WILLIAM C. STURTEVANT, *Creek Into Seminole*, in NORTH AMERICAN INDIANS IN HISTORICAL PERSPECTIVE 92, 111 (Eleanor Burke Leacock & Nancy Oestreich Lurie, eds., Random House 1971).

¹⁰ JOHN K. MAHON, HISTORY OF THE SECOND SEMINOLE WAR 1835-1842 (Univ. Press of Fla. 1967).

coexist with American settlers seeking a new land of opportunity in Florida. The political gestation of the Indian Removal concept began with Thomas Jefferson and the Louisiana Purchase, which opened up vast tracts of lands where native peoples could be resettled securely and segregated from American society, until such time that they became "civilized."¹¹ The continued presence of Seminole Indians in the slaveholding South was also considered untenable because escaped slaves sought refuge among them.¹² The alliance between Black and Seminole formed a threat to the prevailing social order and ignited the fear of a violent slave uprising.¹³ Ultimately the prevailing political wisdom held that the Seminoles possessed two forms of property to which they were not entitled, and had no rights to: land and people.¹⁴ Government policy, then military action, was put into motion to separate the Seminoles from both.¹⁵

The First Seminole War, (1817-1818) resulted from General Andrew Jackson's invasion of Spanish Florida, ostensibly to quell border unrest and retaliate against Blacks and Seminoles accused of depredations in American territory.¹⁶ Jackson became a hero, received blessings from Congress and President James Monroe, and forced the inevitability of the transfer of Florida from Spain to the United States. The Seminoles were driven deeper into the Florida peninsula where they were subsequently presented with a series of treaties setting terms and conditions for their containment and ultimate removal from Florida to Indian Territory.¹⁷ The Seminole resistance to removal brought down the full force of the United States Army and state militias in a campaign of irregular warfare lasting from 1835-1842.¹⁸ The goal was to capture the Seminoles and Black Seminoles or force their surrender, return the Blacks to their owners, then forcibly send the Indians West. In 1842, realizing this goal would not be accomplished, the military ceased its effort, leaving perhaps 400 Seminoles beyond feasible reach in the uncharted swamps of south Florida.¹⁹ With the

¹¹ For an introduction to the legal scholarship on this issue see ROBERT J. MILLER, *NATIVE AMERICA DISCOVERED AND CONQUERED: THOMAS JEFFERSON, LEWIS AND CLARK, AND MANIFEST DESTINY* (Univ. of Neb. Press 2008).

¹² See generally William S. Willis, Jr., *Divide and Rule: Red, White, and Black in the Southeast*, in *RED, WHITE, AND BLACK: SYMPOSIUM ON INDIANS IN THE OLD SOUTH* 99, 99-113 (Charles M. Hudson, ed., S. Anthropol. Soc'y 1971).

¹³ *Id.* at 103-05.

¹⁴ MAHON, *supra* note 10, at 128-34.

¹⁵ See generally MAHON, *supra* note 10.

¹⁶ DANIEL WALKER HOWE, *WHAT HATH GOD WROUGHT: THE TRANSFORMATION OF AMERICA 1815-1848*, at 74, 77, 97 (Oxford Univ. Press 2007).

¹⁷ MAHON, *supra* note 10, at 66-68.

¹⁸ MAHON, *supra* note 10; JOHN T. SPRAGUE, *THE ORIGIN, PROGRESS, AND CONCLUSION OF THE FLORIDA WAR* (Univ. of Tampa Press 2000) (1848).

¹⁹ STURTEVANT, *supra* note 9, at 108-10.

increasing settlement of Florida (now a state), co-existence again became challenging and after a series of escalating tensions, open conflict again broke out in the Third Seminole War (1857-1858). The 200 or so Seminoles remaining in Florida after 1858 are ancestral to the members of today's Seminole and Miccosukee Tribes.

Two major themes in American history played out in the history of the Seminole wars: imperialism as it would become expressed in the theory of Manifest Destiny, and the moral and legal legitimacy of slavery.²⁰ In Seminole Indian history, the Seminole wars era formed a cultural watershed for the creation of their modern identity. A very important aspect of culture centers on the process of cultural identity. "Who people are," as they define it, results from people within groups actively sharing and reinforcing common sets of beliefs and practices, and selectively shaping and defining historical events to create a sense of group, or cultural, identity.²¹ People make the world smaller and more manageable by creating and maintaining a cultural identity. This is an important part of what culture is. This sense of identity is passed down from one generation to the next and becomes the lens through which the world is viewed. For the Seminoles, their very existence in Florida resulted from an act of defiance. This became an instrumental part of how the outside world saw them and how they saw themselves.

THE SEMINOLES AS SOUTHEASTERN INDIANS

We must begin with a discussion of terminology. Today there are two federally recognized Indian nations in Florida, both with reservations comprised of federal trust lands.²² One is the Seminole Tribe of Florida, the other is the Miccosukee Tribe of Indians of Florida. Both owe their formal recognition status to the Indian Reorganization Act of 1934²³ promulgated by the U.S. government to encourage native peoples and tribes to establish tribal constitutions and formal governance policies in accordance with stipulated standards and processes of review. In Florida, the first to do so organized as the Seminole Tribe of Florida in 1957.²⁴ Later, in 1962, a second group, culturally and historically "Seminole" but seeking separate recognition, became organized as the Miccosukee Tribe of Indians.²⁵ Their recognition as sovereign bodies enabled the Seminole Tribe and the

²⁰ HOWE, *supra* note 16, at 74, 516-17.

²¹ MORTON FRIED, *THE NOTION OF TRIBE* (Cummings Publ'g Co. 1975); *THE INVENTION OF TRADITION* (Eric Hobsbawm & Terence Ranger, eds., Cambridge Univ. Press 1983).

²² See generally JAMES W. COVINGTON, *THE SEMINOLES OF FLORIDA* (Univ. Press of Fla. 1993).

²³ Indian Reorganization (Wheeler-Howard) Act 25 U.S.C. §§ 461-79 (2012).

²⁴ See COVINGTON, *supra* note 22, at 241-44.

²⁵ COVINGTON, *supra* note 22, at 267-69.

Miccosukee Tribe to elect their own governments and live on reservation lands. Both have the same nation-to-nation relationship with the federal government as sovereign entities.²⁶ The complication arises because the term “Miccosukee” also appears in Eighteenth and Nineteenth Century historical documents (with variable spellings), in reference to a band or bands of that name that may, or may not, have been directly ancestral to members of the present Miccosukee Tribe.²⁷ There is also a native language called Mikasuki (sometimes spelled Miccosukee), a language that happens to be native to many members of the Seminole Tribe, and to all members of the Miccosukee Tribe.²⁸ In summary, the Miccosukees of today are not exclusively descended from the Miccosukee band(s) of history (members of which are likely ancestral to some modern Seminoles as well) nor are they the exclusive speakers of the Mikasuki language, which is also the native tongue of all Seminoles, except those on the Brighton Reservation who speak the related but mutually unintelligible language known as Creek-Seminole.²⁹

Both Seminoles and Miccosukees historically share the common experience of the Seminole wars and were treated as a common enemy by the United States Military. The survivors of these wars who evaded death, capture, and deportation are ancestral to members of both modern tribes. Culturally, historically, and linguistically they are more similar than different, and they are politically indistinguishable until the modern era of federal recognition.³⁰ Therefore, the student of Florida Indians must be careful not to move casually between historical documents and modern tribal identities. Likewise, the student of contemporary Indian politics must base that perspective on a deep, nuanced understanding of history. We also need to recognize that the terms First Seminole War and Third Seminole War are products of modern historical scholarship and refer to events largely unnamed at the time. The Second Seminole War, the most impactful of the three, was known at the time as the “Florida War” or the “Seminole War.”³¹ The latter term reflects the fact that the government

²⁶ Peter d’Errico, *Sovereignty: A Brief History in the Context of U.S. “Indian Law,”* in THE ENCYCLOPEDIA OF MINORITIES IN AMERICAN POLITICS: VOLUME 2 HISPANIC AMERICANS AND NATIVE AMERICANS 691 (Jeffrey D. Schultz, et al. eds., Oryx Press 2000), available at www.umass.edu/legal/derrico/sovereignty.html.

²⁷ See generally BRENT RICHARDS WEISMAN, LIKE BEADS ON A STRING (Univ. of Ala. Press 1989).

²⁸ See STURTEVANT, *supra* note 9, at 112-14, 123.

²⁹ STURTEVANT, *supra* note 9, at 113.

³⁰ KERSEY, *supra* note 7, at 13.

³¹ SPRAGUE, *supra* note 18; see generally M. M. COHEN, NOTICE OF FLORIDA & THE CAMPAIGNS (Univ. Press of Fla. 1964) (1836); WOODBURN POTTER, THE WAR IN FLORIDA (Balt.: Lewis & Coleman 1836).

viewed all native peoples in Florida as subject to Indian policy and were therefore the same, although soldiers in the field realized that they were fighting named bands lead by a chief or headman not a unified army under a centralized command.

The first Seminoles came into Florida organized as bands, politically centered in towns under a town chief, divided socially into clans reckoned through the mother's line and clans divided into paired groups or moieties, and economically centered on farming, herding cattle and engaging in the deerskin trade with European colonists. They moved into Florida from Georgia in the middle decades of the 1700s at Spanish request and in response to perceived opportunities on the colonial frontier, moving away from mounting tensions with the British in Georgia and beyond the realm of direct political participation in the Creek Indian Confederacy of which they had previously played a role.³² They were Creek Indians, so-called by the British colonists but not a term they identified with.³³ Their first allegiance was to their band and their town. Most scholars agree that the Creek Indians descended from prehistoric cultures known to archaeologists as Mississippian, referring to a core area in the Mississippi River valley where corn-growing societies organized into chiefdoms, lived in palisaded towns and built large earthen temple mounds.³⁴

Archaeologists have demonstrated that the Mississippian-influenced cultures of Georgia and Alabama developed from even earlier cultures in the area, but the famous Creek Migration Legend recounts an epic movement of Creek peoples from the west.³⁵ The Creeks no longer built earthen mounds or lived in fortified villages but maintained vestiges of mound ceremonialism and maintained a traditional cosmology and world view. Exposure to European colonists brought about many changes in their way of life and set in motion a process of mutual adaptation. The basic political unit for interacting with this change was the town, typically organized around a chief or leader and his band of related kin.³⁶

The Spanish knew that the towns operated autonomously and sent emissaries directly to them to entice migration.³⁷ Cowkeeper and the Oconee band settled at the Alachua Prairie; the White King on the banks of the Suwannee River; Philip in the hammocks of the middle St. Johns River; a band from the Creek town of Eufala to the Chocachatti Prairie of the

³² See generally J. LEITCH WRIGHT, JR., *CREEKS & SEMINOLES* (Univ. of Neb. Press 1986).

³³ See STURTEVANT, *supra* note 9, at 96-98.

³⁴ See generally CHARLES HUDSON, *THE SOUTHEASTERN INDIANS* (Univ. of Tenn. Press 1976).

³⁵ See generally ALBERT S. GATSCHET, *A MIGRATION LEGEND OF THE CREEK INDIANS* (1884).

³⁶ STURTEVANT, *supra* note 9, at 93; see generally JOHN R. SWANTON, *THE INDIANS OF THE SOUTHEASTERN UNITED STATES* (Smithsonian Institution of Press 1979) (1946).

³⁷ See FAIRBANKS, *supra* note 8, at 105-15.

Annulega Hammock near present-day Brooksville; and a group referred to then as the Mikasuki (again, with variable spelling) in the Tallahassee Red Hills, above the present day Lake Miccosukee.³⁸ To the extent possible they reproduced the living conditions of their Creek homeland, choosing areas of good soils and pasturage for their livestock and building neatly arranged towns of log cabins and public squares.³⁹ Spanish control of Florida was too weak to exert coercive force over these populations and colonial administrators in St. Augustine knew not to press.⁴⁰ Under these conditions the new Floridians thrived, the Alachua and Mikasuki areas in particular becoming nuclei for further expansion.⁴¹

Little changed when British rule came to Florida in 1763, except the trading posts got closer to the Indian towns, and Crown-licensed traders plied regular routes through Indian Country, moving on horseback to meet with their trading partners and establish loyalties.⁴² Beyond the desire to protect their commercial interests, the Florida towns had little incentive to treat colonial authorities in an allied manner, nor did they have much to gain by maintaining allegiance to their Creek brethren. Cowkeeper in particular proved adept at frontier diplomacy, facilitating good relations at times, and feigning indifference at others.⁴³

It is during the era of British control that the term Seminole begins to appear, somewhat ambiguously at first, and most often in reference to Cowkeeper's band, but nonetheless signaling the recognition by the colonials that a group of people had established themselves both beyond the pale of the Creek Confederacy, and remote from the direct and immediate reach of St. Augustine.⁴⁴ England held Florida during the American War of Independence, but lost it by treaty at war's end. Spain, once again, attempted to make the Florida colony a success, but now had a young and overtly expansionist neighbor on their border.⁴⁵ During the British period the Florida Indians gained in strength and prosperity and had become increasingly enmeshed in the mercantilism promoted by the trading companies.⁴⁶ Trade relations stressed entrepreneurial behaviors on the part of the Indians, which eroded the traditional leadership role of the chiefs, and

³⁸ *Id.* at 127-36.

³⁹ *Id.*

⁴⁰ *See id.*

⁴¹ *Id.*

⁴² WEISMAN, LIKE BEADS ON A STRING, *supra* note 27, at 59-69.

⁴³ FAIRBANKS, *supra* note 8, at 154.

⁴⁴ SUSAN RICHBOURG PARKER & WILLIAM S. COKER, *The Second Spanish Period in the Two Floridas*, in THE HISTORY OF FLORIDA 162-78 (Michael Gannon, ed., Univ. Press of Fla. 2013).

⁴⁵ *Id.*

⁴⁶ WEISMAN, LIKE BEADS ON A STRING, *supra* note 27, at 65.

worked against tribal unity.⁴⁷

Spain faced one more problem looming large along the unprotected border between the United States and Florida. This was the issue of runaway slaves. Not only was Spain unable to effectively govern the Indian peoples of the colony, she also could not prevent the flow of escaped slaves from disappearing into the vastness of Florida's interior and finding haven among the Indians.⁴⁸ To the slaveowners of the United States South, the circumstances in a weak Spanish Florida converged to create a nightmare scenario: the uncontrolled loss of their property and a possible stronghold for organized retaliation on the part of the slaves.⁴⁹ Further turbulence resulted from the English attempt to regain her colonies using the Southern Indians as allies.⁵⁰ This created factionalism among the Indians and made the Georgians even more afraid of their Indian neighbors.⁵¹ Following the summer of 1812, when the Georgia militia, under Colonel Daniel Newnan, attacked the Alachua towns, crossing an international border to do so, they were hailed as heroes.⁵² Although the Georgians were driven back by Seminole warriors, Payne, Cowkeeper's nephew and now the chief of the Alachua band, was mortally wounded. Tennessee militia also invaded with impunity. The lack of Spanish reprisal and the demonstrated vulnerability of the Seminole towns to American aggression were but harbingers of worse things to come.

ERA OF CONFLICT

The First Seminole War (1817-1818)

The American victory in the War of 1812 signaled the advent of a new world order. The United States would no longer be confined to the Eastern Seaboard but would unfurl her wings across the continent, pushing aside or pushing under any obstacles to expansion. The term Manifest Destiny, yet to be coined, captures perfectly the underlying rationale: the boundless American spirit needed a vast land as its stage. The greatness of the United States depended on it. Regarding the thumb of Spanish Florida hanging

⁴⁷ See WEISMAN, LIKE BEADS ON A STRING, *supra* note 27, at 79-81.

⁴⁸ See generally KEVIN MULROY, FREEDOM ON THE BORDER: THE SEMINOLE MAROONS IN FLORIDA, THE INDIAN TERRITORY, COAHUILA, AND TEXAS (Tex. Tech Univ. Press 1993).

⁴⁹ WILLIS, *supra* note 12, 102-04.

⁵⁰ See, e.g., JAMES CUSICK, THE OTHER WAY OF 1812: THE PATRIOT WAR AND THE AMERICAN INVASION OF SPANISH EAST FLORIDA (Univ. Press Fla. 2003); FRANK L. OWSLEY, JR., STRUGGLE FOR GULF COAST BORDERLANDS: THE CREEK WAR AND THE BATTLE OF NEW ORLEANS 1812-1815 (Univ. of Ala. Press 2000) (1981).

⁵¹ See CUSICK, *supra* note 50; OWSLEY, *supra* note 50.

⁵² See generally John K. Mahon, Daniel Newnan: A Neglected Figure in Florida History, 74 FLA. HIST. Q. 117, 148-53 (1995).

2014] *Continued Importance of the Seminole Wars in Florida* 399

like an appendage from the southern states, there was only one thing to be done. Florida must become part of the United States. It was only a matter of how and when. As fate would have it, General Andrew Jackson would answer both questions. Jackson, hero of the War of 1812 and fresh from victory against the Creek Indians in the Creek War of 1814, had proven himself to be a tenacious fighter especially in frontier conditions and showed unabashed enthusiasm for liberating Florida from Spanish rule.⁵³ In this he was expressing the will of Presidents Jefferson, Madison, and Monroe. Manifest Destiny aside, Spanish control of the Apalachicola River blocked American access to the Gulf of Mexico and New Orleans. Jackson, ever the warrior, received approval in July 1816 to move ships up the river to a newly established American fort in Georgia, passing directly by a fortified community of escaped slaves in Spanish Florida. Shots were fired, the fort destroyed, and American ambitions unambiguously demonstrated.⁵⁴

Further border provocations ensued, culminating in Jackson's authorized invasion of Florida in March and April 1818.⁵⁵ Sweeping first through the Mikasuki towns nearest the border, burning them and their cornfields, Jackson's army pushed south to the west bank of the Suwannee River, there encountering valiant but limited resistance from blacks associated with the village of Bowlegs,⁵⁶ Payne's brother, and like him, a nephew of Cowkeeper of the Alachua band. Bowlegs and his people did not wait for Jackson and fled across the river, dispersing to the east and south, deeper into the interior, as the Alachua bands had also done following the attacks of the Georgia and Tennessee militias. Jackson met with no unified resistance on the part of the Florida Indians, and thus brought no consequence or sanction to the United States government for his actions. Spain faced Manifest Destiny and relinquished Florida to the United States. Florida entered the United States as a territory in 1821, with Andrew Jackson appointed as the first territorial governor.⁵⁷

The Indian policies of Britain and Spain stressed favorable trade

⁵³ See HOWE, *supra* note 16, at 76, 103

⁵⁴ See HOWE, *supra* note 16, at 76-77; WRIGHT, *supra* note 32, at 197-200.

⁵⁵ See HOWE, *supra* note 16, at 97, 101, 103.

⁵⁶ See generally Captain Hugh Young, Mark F. Boyd, & Gerald M. Ponton, *A Topographical Memoir on East and West Florida, with Itineraries of General Jackson's Army, 1818*, 13 FLA. HIST. Q. 16 (July 1934); Captain Hugh Young, *A Topographical Memoir on East and West Florida, with Itineraries of General Jackson's Army, 1818*, 13 FLA. HIST. Q. 82 (Oct. 1934); Captain Hugh Young, Mark F. Boyd, & Gerald M. Ponton *A Topographical Memoir on East and West Florida, with Itineraries of General Jackson's Army, 1818*, 13 FLA. HIST. Q. 129 (Jan. 1935); Ernest F. Dibble, *Captain Hugh Young and His 1818 Topographical Memoir to Andrew Jackson*, 55 FLA. HIST. Q. 321, 321-35 (Jan. 1977).

⁵⁷ HOWE, *supra* note 16, at 108.

relations, non-coercion, and negotiated mutual interest.⁵⁸ The Florida Seminoles thrived in this environment, increasing their numbers tenfold,⁵⁹ gaining wealth in livestock (horses and cattle); and in property, especially human property in the form of the escaped slaves and their families that the Seminoles now claimed as their own. They had vested interests in cultivated land and in dependable hunting territories.

The Americans would regard the Seminoles very differently. Their demonstrated prosperity became their undoing. The Americans wanted the land and they wanted their slaves back. Their only interest in Indian policy was to control and contain. At the close of Spanish rule, there were at least twenty-five Indian towns from the Apalachicola River eastward through the Red Hills and south to the lakes and prairies of central Florida, inhabited by some 5,000 people.⁶⁰ The term Seminole appears in military accounts, but other tribal, town, or band names also continue to be used.⁶¹ In addition to Seminole, the names Mikasuki, Creek, Tallahassee, Yuchee, Hitchiti, Topekay-liga, and Choceochutti were recognized as identifying distinct bands.⁶² The Yuchees (or Uchees) (one town) maintained their separateness through the 1830s when they too were deported West.⁶³ This was the cultural geography confronting the Americans: dispersed and largely autonomous populations by now well acquainted with, and highly suspicious of, American strategy and motives; and by now, having lived in Florida for several generations, invested in defending their homeland.

Like Spain and Britain, the United States recognized that relations with the Seminoles, despite Jackson's success, were best structured through treaties. The first order of business was to write a treaty in which the Indians pledged allegiance to the United States, agreed to place themselves under United States protection, promised to relocate within the boundaries of a reservation allotted to them, and agreed to prevent fugitive slaves from taking shelter among them. This provision, Article 7 in what became known as the Treaty of Moultrie Creek (1823),⁶⁴ also required the Indians to deliver fugitive slaves to the government-appointed Indian Agent.

The language of the treaty failed to acknowledge what had already become reality. The Seminoles felt that they possessed the runaway slaves

⁵⁸ WRIGHT, *supra* note 32, at 127; See FAIRBANKS, *supra* note 8, at 137-41, 182-90.

⁵⁹ WRIGHT, *supra* note 32, at 127; See FAIRBANKS, *supra* note 8, at 137-41, 182-90.

⁶⁰ FAIRBANKS, *supra* note 8, at 236.

⁶¹ FAIRBANKS, *supra* note 8, at 263; SPRAGUE, *supra* note 18, at 97, 270, 296.

⁶² FAIRBANKS, *ibid*; SPRAGUE, *ibid*; FRANK LAUMER, *AMIDST A STORM OF BULLETS: THE DIARY OF LT. HENRY PRINCE IN FLORIDA 70-71* (Univ. of Tampa Press 1998).

⁶³ See generally JASON BAIRD JACKSON, *YUCHI INDIANS BEFORE THE REMOVAL PERIOD* (Univ. Neb. Press 2012).

⁶⁴ See CHARLES J. KAPPLER, *INDIAN AFFAIRS: LAWS AND TREATIES 204-206* (Gov't Printing Office, 2nd vol. 1904).

2014] *Continued Importance of the Seminole Wars in Florida* 401

that had sought refuge among them. The Seminoles and the so-called Seminole Negroes engaged in a unique form of vassalage. In return for protecting the escapees from slave catchers, the Indians received an annual portion of the crops raised by the blacks.⁶⁵ In 1823, Micanopy, Payne's nephew and the head of the Alachua band, was reported to own 160 slaves; Opauney, another chief, owned 40 slaves. At least 350 slaves were said to be living among the Seminoles.⁶⁶ Loosening this bond became a government priority but attempts at doing so further alarmed the Seminoles and their blacks. Indeed, the situation seemed unsolvable; the coexistence between settler and Seminole could not be.

The government policy of Indian removal became law in 1830 with the passage of the Indian Removal Act.⁶⁷ This act gave form to the growing public sentiment that the Indians were obstacles in the path to progress and had to be removed. In Florida, the landscape had already become militarized. Army forts had been constructed at the corners of the reservation, Fort Brooke (present-day Tampa) and Fort King (present-day Ocala). Connecting these forts was a military road, hacked through the hammocks and palmetto thickets by soldiers wielding felling axes and cutting through the middle of the Indian reservation.⁶⁸ Tensions mounted. Those Seminoles who had moved onto the reservation were starving and struggling to survive; those who had not moved were considered renegade. Moving to the newly created Indian Territory (present day Oklahoma) also required giving up their slaves. The Indians were reluctant and skeptical that they would receive fair compensation for their loss. Several chiefs were escorted to Indian Territory for a tour of the real estate and agreed to move, but could not compel bands beyond their own to join in.⁶⁹

The Americans saw that resistance was growing and sent in additional troops to reinforce the forts.⁷⁰ Both sides escalated their actions in response to perceptions of what the other was doing. Pro-Removal and anti-Removal factions split the Seminoles. Seminole attacks on army supply trains in the Alachua area in November 1835 signaled their commitment to armed

⁶⁵ Brent R. Weisman, *The Plantation System of the Florida Seminole Indians and Black Seminoles During the Colonial Era*, in *COLONIAL PLANTATIONS AND ECONOMY IN FLORIDA* 136, 142 (Jane Landers ed., University Press of Florida 2000).

⁶⁶ Mark F. Boyd, *Horatio S. Dexter and the Events Leading to the Treaty of Moultrie Creek*, 11 *FLA. ANTHROPOLOGIST* 65 (1958); Horatio S. Dexter, *Observations on the Seminole Indians 1823*, *microformed on* National Archives M271, roll 4, frames 505-519, available at <http://freepages.genealogy.rootsweb.ancestry.com/~texlance/seminoles/observations.htm>.

⁶⁷ Indian Removal Act of May 28, 1830, ch. 148, 4 Stat. 411 (1830).

⁶⁸ FRANK LAUMER, *DADE'S LAST COMMAND* (Univ. Press Fla. 1995); William M. Goza, *The Fort King Road: 1963*, 43 *FLA. HIST. Q.* 1, 52-70 (1964).

⁶⁹ MAHON, *supra* note 10, at 69-86.

⁷⁰ MAHON, *supra* note 10, at 87-89.

resistance.⁷¹ On December 28, 1835, the Seminoles annihilated Major Francis Dade and his command of 108 men, by ambush, on the Fort King Road.⁷² Three bands led by Micanopy, Jumper, and Alligator, assisted by a force of blacks, coordinated the attack from a tactically secure position in thick palmettos. Meanwhile, as part of the plan, Osceola ambushed the Indian Agent, Wiley Thompson, outside the gates of Fort King. The Second Seminole War had begun.⁷³

Seminole culture during this period easily could have disintegrated. The trade economy long enjoyed under Spanish and British rule diminished the traditional role of the chiefs and encouraged assimilation into European-based values and worldview. Individual Indians increasingly acted as agents on their own behalf. Core beliefs were not abandoned but success was measured in European terms. New concepts of property and ownership were taking hold. For example, upon Opauney's death in 1820 his son inherited his real estate and cash holdings, in contrast to the traditional practice of matrilineal inheritance. The Seminoles had not presented a unified front against Jackson's invasion and did not vest their political future in the hands of a single leader, despite pressures from the colonists, and especially the Americans, to do so. Based on the previous events, a unified resistance now, in the face of the United States government, was not likely and even perhaps improbable. But come together they did.

In the first several years following the Dade attack, combined forces of warriors came together under joint leadership several times to take the offensive, in each case relying on a set of combat behaviors based on stealth, ambush, and the advantageous use of local terrain.⁷⁴ Tactical options formed around a single strategy, to keep the army away from their villages of women and children.⁷⁵ Traditional practices like the Green Corn Dance were not extinguished but were kept alive. The Green Corn Dance was part of core Creek ceremonies known as the "busk" and had its roots in the rituals of the late prehistoric-era Mississippian cultures.⁷⁶ The Dance was a four-day festivity that emphasized purity, group harmony and solidarity, and the reinforcement of clan bonds. Under the supervision of a medicine man, secret medicine bundles were unwrapped to check the condition of special objects entrusted with the health of the busk group.

⁷¹ MAHON, *supra* note 10, at 101.

⁷² LAUMER, *supra* note 62.

⁷³ MAHON, *supra* note 10, at 102-107.

⁷⁴ See David S. Butler, An Archaeological Model of Seminole Combat Behavior (May 2001) (unpublished M.A. thesis, University of South Florida) (on file with the University of South Florida Library).

⁷⁵ *Id.*

⁷⁶ HUDSON, *supra* note 34.

2014] *Continued Importance of the Seminole Wars in Florida* 403

Bundles in use in the early 1950s still contained “Power in War” medicine and a small stone used as protection against bullets. Seminoles at this time also claimed that in earlier years the medicine “ate” the blood of soldiers slain by Seminole warriors,⁷⁷ clearly a reference to the Seminole Wars’ era. It is likely that during the Second Seminole War, the Seminoles were organized into several different busk groups, with membership based on historical town and clan affiliation.⁷⁸ The Green Corn Dance was an annual, planned event, bringing together people who were remote from each other and rarely interacted otherwise.

Through the organized activities of war and the social bonds reinforced through the Green Corn Dance, a shared identity began to emerge. Archaeological evidence from wartime villages suggests that a process of revitalization was taking place, rejecting the white man’s culture and restoring traditional ways.⁷⁹ The previous cultural trend of assimilation was reversed. For those who remained in Florida at the end of the grueling seven-year conflict, hidden now beyond reach and left alone in the vastness of south Florida’s Everglades and Big Cypress Swamp, a new identity took shape, one that would be polished by their descendants several generations later and used as a point of pride: the unconquered people.

The United States Government would mount one more armed attempt to remove the Seminoles from Florida. Historians refer to this as the Third Seminole War, 1857-1858.⁸⁰ The Government committed troops very reluctantly, remembering the ineffectual end of the previous conflict, but yielded to public pressure to rid the peninsula of the 400 or so remaining Indians. The regular army seemed no better suited for Florida combat than they had been earlier and began to be replaced by citizen soldiers, some of them local ranchers.⁸¹ The attack and destruction of Billy Bowlegs’s town by three boat companies brought that chief out of hiding and secured his surrender, leaving only 200 Seminoles in the south Florida swamps, some or most of them, in the band of the aged medicine man and Second Seminole War veteran Sam Jones (Abiaka) who would never leave Florida.⁸² The cultural repository of Southeastern Indian tradition embodied in these select few survivors, shaped, refined, and redefined by

⁷⁷ Louis Capron, *The Medicine Bundles of the Florida Seminoles and the Green Corn Dance*, 151 BUREAU AMERICAN ETHNOLOGY 155 (1953); William C. Sturtevant, *The Medicine Bundles & Busks of the Florida Seminole*, 7 FLA. ANTHROPOLOGIST 31, 31 (1954).

⁷⁸ STURTEVANT, *supra* note 9, at 94-95.

⁷⁹ See WEISMAN, LIKE BEADS ON A STRING, *supra* note 27, at 82-123.

⁸⁰ See, e.g., JAMES COVINGTON, THE BILLY BOWLEGS WAR, 1855-1858: THE FINAL STAND OF THE SEMINOLES AGAINST THE WHITES (Mickler House Publ’g 1982); JOHN MISSALL & MARY LOU MISSALL, THE SEMINOLE WARS: AMERICA’S LONGEST INDIAN CONFLICT (Univ. Press Fla. 2004).

⁸¹ COVINGTON, THE BILLY BOWLEGS WAR, *supra* note 80, at 54.

⁸² COVINGTON, THE BILLY BOWLEGS WAR, *supra* note 80, at 81.

their Florida experience, became the wellspring for the construction of ethnic identity by Twentieth Century Seminoles.

In the decades following the last of the wars, when the hidden Seminoles again emerged into view, they lived in small clan camps loosely organized into larger settlements or bands.⁸³ In 1880, twenty-two camps were documented, organized into five settlements up to seventy miles apart.⁸⁴ These settlements were named after nearby physical features (Devil's Garden, Cow Creek, and Catfish Lake as examples) and did not bear the names of chiefs or carry forward the names of ancestral towns.⁸⁵ In the Twentieth Century, camps continued to proliferate and became loosely aggregated in the areas now defined by the Seminole and Miccosukee reservations.⁸⁶ To many Floridians, this is the way it has always been. The Seminoles, like the panther, are creatures of the swamps, the historical landscape of the Seminole past nearly lost to the public memory. Indeed, the association between the Seminoles and the Everglades and Big Cypress regions is so strong as to seem natural, even to the Indians themselves. Yes, geography plays a role in who the Seminoles are, but even more important is the identity forged in the crucible of their wartime experience.

⁸³ STURTEVANT, *supra* note 9, at 111.

⁸⁴ CLAY MACCAULEY, THE SEMINOLE INDIANS OF FLORIDA, FIFTH ANNUAL REPORT OF THE BUREAU OF ETHNOLOGY TO THE SECRETARY OF THE SMITHSONIAN INSTITUTION, 1883-84, 469 (1887), available at <http://www.gutenberg.org/files/19155/19155-h/19155-h.htm>.

⁸⁵ *Id.*

⁸⁶ ROY NASH, SURVEY OF THE SEMINOLE INDIANS OF FLORIDA, S. DOC. NO. 71-314, U.S. DEP'T OF THE INTERIOR (3d Sess. 1931).