

## 5. Public War, Private Treaty

**L**ORD DUNMORE'S WAR with the Indians was already raging by the time Boone got back, bringing news of the surveyors and also news that on the return journey he had tracked a small party of Indians from Cumberland Gap eastward almost to the settlements. Commissioned lieutenant, Boone was directed to raise as many men as he could and start for the front. He had actually set out to join the main body of the colonial troops when a messenger overtook him with orders to return and aid in the defense of the frontier, where a series of small but bloody raids was spreading terror.

A brief memorandum by a supply officer—"Sept. 22d, Lieut. Boone, fourteen men, four days, three pounds of beef per day"—suggests a scouting party. Orders were to reserve beef rations for scouts and parties pursuing Indians.

He was in a few small engagements and was speedily promoted captain on petition of his neighbors. The settlers insisted on having a commander whose home was in the locality. Then, they thought, he would be sure to stand his ground and keep the Indians out. Promotion gave him command of three forts. His commander reported that "Mr. Boone is very diligent at Castle's woods and keeps up good order."

At this very moment Tahgahjute (Chief Logan) was leading a war party into the Clinch Valley, not far from Boone's command at Moore's Fort, close to his home. In spite of his vig-

ilance, three of Boone's men were ambushed and killed by Logan's raiders. They had gone out to look at pigeon traps within three hundred yards of the fort and in plain view. At the sound of firing, Boone and a group of men rushed out to the relief, but found nothing save the usual war club, left by the bodies as a defiance. Boone pursued but the Indians had vanished. He was out again the next month under the command of Captain Daniel Smith in an effort to recapture stolen horses, but again the Indians got away.

In October General Andrew Lewis defeated the Indians at Point Pleasant. This practically ended the war, and Captain Daniel Boone was discharged from the militia, November 20, 1774.

The crushing defeat that the Indians had suffered made wilderness travel safer—indeed, the Earl of Dunmore has been suspected of bringing on the war mainly to open the way for a little jobbing in lands on his own account. If so, his schemes did him little good, for another land company was at last ready to begin operations. Though Dunmore, as Governor of Virginia, and Martin, as Governor of North Carolina, both fulminated against this enterprising group of business men, they were too late. Within a few months rebellion walked the land. Royal governors no longer mattered very much.

Richard Henderson's judicial duties had ended the year before. He was at last ready for his land scheme. Other colonies had been founded by "proprietors" acting under grants from the King. His Majesty had forbidden further settlements westward. Both the King and the Provincial Assembly had also forbidden treaties with the Indians by private individuals "with respect to his territory claimed by the Indian Nations in North America."

All this was, of course, perfectly well known to Henderson, an attorney and a former justice. It was his grandiose idea to

disregard the royal proclamation, the necessity of a royal grant, and the laws of both Virginia and North Carolina. Perfectly aware that his measures would be opposed, he had tried to secure some shadow of legality.

There was an old decision by two successive British Lord Chancellors, which asserted that royal letters patent were not required "in respect to such places as have, or shall be acquired by treaty or Grant from any of the Indian Princes or Governments." Property rights, they had assured the King, were vested "in the Grantee by the Indian grants, subject only to your Majesty's right of sovereignty."

The "Indians" here referred to were East Indians from India, but the thing sounded legal, the authority was very high, and it might be possible to extend the principle. Copies of the decision had reached America as early as 1772. Various land companies thought it would be extremely interesting as a loophole in the law, if only they could make "Indians" mean American Indians. Henderson eventually procured a copy, though there is some doubt whether he knew anything about it until long after he actually had reached his agreement with the red men.

Henderson's Transylvania Company proposed to deal directly with the Indians for twenty million acres, set up a new, fourteenth colony, retain large tracts for their own estates, sell the rest to settlers, charge a perpetual quit-rent for every acre sold, and retain special rights in the government.

The idea was romantic, magnificent, feudal, and there might be a fortune in it. But it all sounded so queer to one North Carolina official that he wrote a contemporary: "Pray, is Dick Henderson out of his head?"

What the royal governors thought about it could just barely be printed. Governor Martin of North Carolina called it a "daring, unjust and unwarranted Proceeding," besides being

“illicit and fraudulent” and “of a most alarming and dangerous Tendency,” which would help the Indians “in annoying His Majesty’s subjects.” Worse still, “debtors and persons in desperate circumstances” would take refuge in the new colony “to the great injury of Creditors.” And furthermore, said the sputtering governor, Kentucky belonged to the Earl Granville, anyhow.

Though Henderson may have tried to protect himself in London, his project certainly was a flouting of the royal governors. At any other period it would have been promptly suppressed—but not in 1775. The partners, in their agreement with each other, asserted that they would deal with the Cherokees “by the laws of England.” They had to say something like that because the laws of both Virginia and North Carolina forbade anything of the sort.

Daniel Boone was hardly out of the army before he was traveling back and forth between the North Carolina settlements and the towns of the Cherokees, with whom he was by this time well acquainted. His lifelong friend Nathaniel Hart, one of the Transylvania Company partners, went down in person to “sound the Cherokees,” probably acting on Boone’s reports of a year or two earlier. Both Hart and Henderson visited the Cherokee villages in the autumn of 1774. It is said that Boone paid one final, exploratory visit to Kentucky in January of 1775.

By the time winter set in negotiations had gone so far that a Cherokee chief came back to North Carolina with Henderson “to make Choice of the Goods” which were to be paid for the land. A few days later the two returned to the Watauga country in modern Tennessee with an entire wagon train of “Indian goods” from Cross Creek (Fayetteville, North Carolina). Presently, from the woods, a Cherokee embassy emerged to examine



*Mrs. F. R. Bissell*

#### TWO PORTRAITS OF DANIEL BOONE

After Boone's death, Harding painted numerous portraits of him, working either from sketches or from memory. This one, however, was according to tradition given to

General Daniel Bissell by Boone himself.



*S. Bowles King*

#### BOONE BY CHESTER HARDING

This is the only portrait of Daniel Boone known to have been painted from life. Unable to get canvas, Harding used oilcloth. Forty years later, finding the portrait damaged, he cut out the face, here reproduced.

the tribe's prospective riches. The embassy included a squaw, to make sure the feminine viewpoint was represented.

By Christmas Richard Henderson, "for himself and Company," was publicly advertising for "settlers for Kentucky lands about to be purchased." By the next year the wily red men had a white attorney of their own and were ready for the treaty. The parties met at Sycamore Shoals, in the Watauga country.

Without waiting for the treaty, Boone was already concentrating a body of woodsmen at Long Island, in the Holston River, in preparation for the march into Kentucky as soon as agreement had been reached. This time he was going through. This time his settlement would be permanent.

Leaving his brother Squire in charge of the gathering woodsmen, who included old friends like Michael Stoner and Benjamin Cutbirth, Daniel went off to Watauga to attend the treaty-making. In his ghost-written autobiography, he says only that he "was solicited by a number of North-Carolina gentlemen, that were about purchasing the lands lying on the S. side of Kentucke River, from the Cherokee Indians, to attend their treaty at Wataga, in March, 1775, to negotiate with them, and, mention the boundaries of the purchase."

The laconic Daniel hardly does justice to the scene. He had himself journeyed about the forests, persuading the Indians to attend. More than a thousand Cherokees, big and little, braves, squaws, papooses, came to see the treaty made. They were led by their greatest chiefs. Knowing how important the negotiations were, the Cherokees had brought their shrewdest diplomat, Atacullaculla (Leaning Wood), a mere wisp of a man, old, tiny, delicately built, famous for his brains among both whites and reds. The white men humorously called him "The Little Carpenter," because they said he could put a treaty together as neatly as a carpenter joining wood.

There was Oconostota (Groundhog-Sausage), aged, withered,

and wrinkled as only an old Indian can be, the revered head of the nation, who had visited royalty in London, and whom the British recognized as "emperor." And there was also the redoubtable Tsiyu-gunsini (Dragging Canoe), a dour, distrustful fighting-man, who opposed the whole business with all the eloquence of an Indian warrior.

William Bartram, the famous traveler, who saw Atacullaculla, described him as "a man of remarkably small stature, slender, and of a delicate frame, the only instance I saw in his Nation." But, added the admiring author, "a man of superior abilities."

An old settler later remembered Oconostota "with heavy and dul countenance, somewhat corpulent and weighed 180. he did not speak any english, but the traders who could converse with him, said that he was vary dul in point of interlect." On the other hand, "the Dragon Canoe, he was said to be vary large and coarse featured Indian fine with interlect and vary strong prejudices."

The Transylvania Company proposed to pay ten thousand pounds in goods, and someone had been shrewd enough to have this huge quantity of merchandise stored where the impetuous young warriors could see it. Before distribution among the tribe, it looked enormous; when it was parceled out, the Indians were disgruntled. One disgusted brave complained that his share was only a shirt that he could easily have earned in a day's hunting on the land they had given away.

Nevertheless, the treaty seems to have been fair on both sides. Someone who knew Kentucky well—obviously Boone, for there was no one else—had drawn the boundary carefully. The Cherokees seemed to have title to the land. The Iroquois had given up their claim in 1768, in the Treaty of Fort Stanwix. As they ruled the other Indians of the area by right of conquest, their cession seemed to end all claims but the Chero-

kees'. The British Government itself had, in the Treaty of Lochaber in 1770, acknowledged the Cherokee claim to this general area, or at least a good deal of it.

The tribe seemed entirely free to sell the territory if they wished. No one seems to have taken the least advantage of them. They not only had their own attorney, but the signature of "Thomas Price, Linguist" on the treaty guaranteed the accuracy of the translations. One of the men present later testified under oath that "the Indians understood all that was said by the said Henderson."

The negotiation was a long, slow business, which was not helped by the vigorous opposition of Oconostota and Dragging Canoe. Oconostota saw clearly enough the danger of a white advance beyond the mountains. "This is but the beginning," he said. ". . . The invader has crossed the great sea in ships; he has not been stayed by broad rivers, and now he has penetrated the wilderness and overcome the ruggedness of the mountains. Neither will he stop here. He will force the Indian steadily before him across the Mississippi ever towards the west . . . till the red man be no longer a roamer of the forests and a pursuer of wild game." Dragging Canoe was equally emphatic. Once the Indians broke off negotiations altogether. But at length Dragging Canoe stamped on the ground and said: "We give you from this place."

He took Boone by the hand, remarking: "Brother, we have given you a fine land, but I believe that you will have much trouble in settling it." It was Dragging Canoe, also, who made the famous remark that "there was a dark cloud over that country." No one dreamed how right the chief was, but all of the Cherokees warned the white men of the Indian tribes to the west and north of Kentucky. These, they said, were "bad people and when they came to war, would kill white people as



well as red." All the red men "seemed very fond of Richard Henderson and often said they did not want him hurt."

The treaty was actually signed on March 17, 1775. There was a great feast and much merry-making. There was great slaughter of beeves and a mighty swigging of traders' rum. But feasting with the Indians apparently was not altogether to Daniel's taste at the moment. Undisturbed by dismal prophecies, he had left the council days before; and by the time the feast began he and his men had been traveling toward Kentucky for a week.