1931

United States regulation of the fur trade

Lawrence Sandsmark

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UNITED STATES REGULATION OF THE FUR TRADE

by

Lawrence Sandmark

Presented in partial fulfillment of the requirement of the degree of Master of Arts.

State University of Montana

1931

Approved:

[Signatures]

Chairman of Examining Committee

Chairman of Graduate Committee
United States Regulation of the Fur Trade

by

Lawrence Sandmark

A Thesis
submitted in partial fulfillment of the requirements for the degree of Master of Arts, in the History Department, in the Graduate College, of the University of Montana.

August--1931
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Introduction

The fur trade, as a motivating force in the internal development of the North American continent, has been more or less neglected by those who have written general accounts of its history. A large number of the most important explorations into the interior were initiated by the desire to find new and more lucrative fields for the fur trade. A number of our larger settlements and cities of today had their foundations laid, not with a desire to make permanent and lasting homes because of the fertility of the soil, but rather because they were vantage points in the fur trade. Detroit and St. Louis are two outstanding examples of this. Many others might be mentioned.

The fur trade grew to be one of the most important industries in the earlier history of this country. It flourished for more than two centuries, during which time it laid the foundations for the more permanent and lasting industries which exist today.

Being an industry of such importance, problems as to its conduct and control naturally arose. Govern-


ments became concerned with these problems from the beginning and tried to regulate and control them.

Every Government, that had control of territory in the North American continent, found it necessary to formulate some policy in regard to the fur trade. These policies were in some cases formed for economic reasons, but in the case of the United States, it was largely a humanitarian policy for the purpose of trying to benefit the condition of the American Indian. Evidence throughout the documents of the Government of the United States seem to prove that this feeling of the Government was one of the predominating reasons for many of the laws and regulations which it passed.

Because the Indian played such an important role in the trade, Government regulation became largely a control of the conduct of the trader toward the Indian. Chittenden states, "it is indeed difficult to estimate the degree to which the fur trade was controlled by the Indian, while its far reaching counter-influence upon the tribes cannot, at this remote time, be adequately realized." The great part of the fur was taken by the Indian and came into possession of the traders only by exchange. It was.

3. See pages on which notes 59, 82, 83, 85 and 99 are quoted.

in this traffic that the white man made his first acquaintance with the tribes.

The intense rivalries which developed in order to get control of this valuable trade caused men to stop at nothing to secure it. Many abuses arose which affected the morals of the Indians, affected their economic conditions, and created serious difficulties between individual traders, Indian tribes, and even nations.

No connected account or serious study had been made of this phase of fur trading. Under the suggestion and continued help of Dr. Paul C. Phillips, I have tried to throw added light upon the Government policies of the United States. No attempt has been made to go into a development of the policies of the foreign Governments who had footholds upon the American continent. A brief resume of their policies is given.

The study naturally divides itself into four divisions. The control of the Government through the setting up of a licensing system represents the first method of control. This method had been practiced by all foreign countries. The United States Government, appar-

ently dissatisfied with the results of this system, supplemented a new and untried system known as the trading house system. The problems that arose out of the goods of trade offers another and interesting history. In a consideration of this phase of the problem comes the alcohol problem. Finally, the working of the system and the necessity of military protection offers another interesting avenue of approach.
Chapter I

The fur trade in the North American continent began with the first explorations of the North Atlantic coast. In the seventeenth and eighteenth centuries, French and British traders gradually pushed back from the Atlantic coast into the valley of the St. Lawrence and Great Lakes, along the shores of Hudson's Bay and even into the country bordering on the Ohio and the Mississippi.

The French were the first important fur traders in the North American continent. Their policy in the regulation of the trade was largely economic. They were not concerned with the welfare of the Indian, but, rather, interested in the pecuniary results. Under their regime of both Canada and Louisiana, the trade was always formed


9. This is brought out in the writing of Agnes C. Laut, Pathfinders of the West, New York, 1904, p. 28. The Governor of New France would not give Radisson and Groseillier a license unless they shared half the profits with him. Many of the young men of New France refused to work under this strict system and became free rovers of the inland empire. They were known as coureurs de bois.
out to monopolies, but none of them were enduring or successful.

Even as far back as the time of Radisson and Groseillier, we have an example of the Governor attempting, as the result of an effort on the part of these men to get a license from the Governor to trade in the Hudson's Bay country, to require them to give him half of the returns of their industry, for the right to have a monopoly on this territory. The penalty for trading without a license in New France was very severe. Imprisonment, the galleys for life, or even death were the penalties. Radisson and Groseillier refused to divide their profits with the Governor and went into the Hudson's Bay country without his permission. When they came back, Groseillier was thrown into prison and they were fined to the extent of practically all the enormous profit that they had made on their expedition.

Verendereye was also given a monopoly of all the territory west of Fort Lorraine by the French Government.

10. Johnson, p. 4-6.

11. A good and detailed account of these men and their adventures is given in a book of Agnes C. Laut, Pathfinders of the West, New York, 1904.

This was another case of the monopoly resulting in failure from the profit point of view, although Verendereye contributed much to the knowledge of the territory west of the Mississippi river.

The Spaniards also made a feeble effort to control the fur trade by requiring a license, but because of the weakness of their Government, and the remoteness of its seat from the fur trading areas, they could not protect their licenses.

The policy of the English Government at first, was not only to give a monopoly to a certain group of men, but also to give self control into the hands of the same group. This was done in the chartering of the Hudson's Bay Company in 1670. They had absolute control of the trade in their territory and could expel all unlicensed traders or any who were prejudicial to peace. This monopoly went on for a period of ninety-three years until 1763, when it was rudely broken by the Treaty of Paris.

This treaty opened the rich region of the St. Lawrence and

13. Ibid, p. Iaut also gives an account of these men.
Great Lakes to the Scotch merchants of Montreal. England's policy from then on changed very greatly. The traders were restrained by no licenses, regulations, or traditions. Bloody competition resulted.

The British were, however, anxious to get control of the trade of the newly acquired territory. The French traders had, so firmly established themselves in the friendship of the Indians that this was not easily done. The first attempt of the British to regulate the trade of the newly acquired territory was by the Royal Proclamation of 1763. The territory was by this Proclamation opened "to all subjects, whatever, providing that every Person who may incline to Trade with the Indians do take out a License for carrying on such Trade from the Governor or commander-in-chief of any of our Colonies respectively where such Person shall reside, and also give Security to observe such Regulations as We shall at any Time think fit ... to direct and appoint for the Benefit of the said Trade."


This Proclamation had little effect upon the regulation of the Indian trade. Colonial Governors were too busy to enforce the provisions of the Proclamation, while the traders could see no necessity for taking out licenses and paid little attention to the regulations for fixing prices of goods and prohibiting the sale of spirituous liquors to the Indians. Dr. Paul C. Phillips cites several examples of traders who carried on their work without licenses in the Maumee-Wabash country. He states that there were such names as Capasin, Lorrain, La Motte, and Richardville, the Indian Chief, mostly French, operating without licenses.

One of the first humanitarian policies to be drawn up by the British was the general plan for the management of the Indians and the fur trade by Lord Hillsborough in 1764. By this plan, the country was divided into two departments. The chartered rights of the Hudson's Bay Company were safely guarded in the Northern department. There was to be a Superintendent over each department with three deputies in the northern and two in the southern. The trade in the north was to be at fixed posts, while in the south it was to be at the Indian towns. Each trader had to have a license, the fee for

19. Ibid., p. 93-94.
which should not exceed two shillings, with an additional fee for registration not to be more than sixpence. He was required to trade with the Indians at these specified places. There were to be fixed prices, no liquor, swan shot or rifles to the Indians. A commissary, interpreter, and smith were to reside in each post of the northern department and in each Indian camp of the southern department. The Superintendent and commissioners were empowered to act as justices of the peace to determine causes affecting Indians and traders. Missionaries were to be secured for each district. It was proposed that a tax be placed upon the fur trade to defray expenses, but this was not forthcoming from Parliament.

Benjamin Franklin, on being asked his opinion of the above plan, thought that, in general, it was good. He felt, however, that the colonial laws should be well considered before they were repealed, because they were the opinions of the people inhabiting the colonies where they applied. He felt that people living in England did not have a sufficient understanding of the problems involved to create a good and satisfactory system.


Because the plan was too expensive, Lord Hillsborough was forced to give the control of the fur trade over into the hands of the Governors of the colonies. The plan was an excellent one and probably would have resulted in many benefits to the Indian and white alike. A very loose and inefficient method of regulation resulted from the failure of this plan in 1769. Abuses by traders and Indians alike became more and more prominent. Sir William Johnson even went so far as to insist upon the removal of the French and the building of posts to block them from entering the country. In 1771, New York proposed to Pennsylvania and Quebec that the three colonies co-operate in the regulation of the fur trade. The proposal came to nothing, however, because of the objection of Quebec. That colony felt that she had the advantage in the disorder.

Little was done to enforce what few restrictions existed in the English colonies. Pound states, in speaking of the function of the laws in New York, "though authorities, civil and military, restrained the traders as best they could under regulations which grew more and more stringent with the years, the constant complaint of Johnson and other friends of the Indians prove that profiteers

continually found new ways of outwitting the law."

Further evidence as to the enforcement of the law is brought out by McLlwain, when he states, "During the whole history of the English fur trade, the evidences indicated that most of these traders were the very scum of the earth, and their treatment of the Indians was such as hardly to be suitable for description. The lack of regulation of these lawless and unprincipled men was no doubt a serious disadvantage of the English colonies and it was hardly to be amended while there was such rivalry for the trade between the different colonies themselves."

From 1670 until 1782, the whole wide field of Indian Affairs was under the centralized control of the Lords of Trade in England. Their whole policy was marked mainly by its lack of activity. They let things take their natural course without interference. Thus, we see, that as a whole, the functioning of the laws was very poor.

23. Pound, p. 98.


Chapter II

The colony of Massachusetts was probably the most active of the thirteen original colonies in attempting to better the relations between the Indian and the white man. Her first laws date back as far as the year 1633. In this year a law was passed stating that "No person shall sell, give, or barter, directly or indirectly, any gun or guns, powder, bullets, shot, lead, to any Indian whatsoever or any person inhabiting out of this jurisdiction ..." The French and the Dutch had been in the habit of trading these implements of warfare with the Indians for their furs, to the great discomfort of the inhabitants of Massachusetts. This prohibition was largely a matter of self protection from the Indian. This same law also prohibits "any Frenchman, Dutchman, or any person of any other foreign nation whatsoever, or any English dwelling among them, to trade with any Indian or Indians within the limits of our jurisdiction, directly or indirectly, by themselves or others, under penalty of confis-

26. A compilation of these laws, together with the laws of the other colonies relating to the Indian, was printed by order of the House of Representatives in 1830, under the direction of the Committee on Indian Affairs. These may be found in the House Reports, No. 319, 21st Congress, Serial No. 201, 1st Session, Vol. III, 52 pp, 8 vol.

27. Ibid, p. 11.
ation of all such goods and vessels as shall be found trading, or due value thereof, upon just proof of any goods or vessels so trading or traded."

In this early law of Massachusetts, we also find that the colony had already noted the evil effects of alcohol on the Indian and the Indian trade, and as a result, passed regulations pertaining to it. That part of the law reads as follows: "Whereas several orders for the preventing drunkenness amongst the Indians have been made, yet notwithstanding, there is little or no reformation: for the prevention thereof, and the frequent effects thereof, murder and other outrages amongst them. This Court doth order, That no person of what quality or condition whatsoever shall henceforth sell, truck, barter, or give any strong liquors to any Indian, directly or indirectly, whether known by the name of rum, strongwater, wine, strong beer, brandy, cyder, perry, or any other strong liquors, going under any other name whatsoever, under the penalty of forty shillings for one pint; and so proportionately for greater or lesser quantities, so sold, bartered, or given, directly or indirectly, as aforesaid."

In another Act passed in 1693, entitled, "An Act of the Province of Massachusetts Bay for the better

28. Ibid., p. 3.
29. Ibid., p. 13.
rule and government of the Indians in their several plantations," we find practically the same provisions of this previously mentioned law re-affirmed. In 1717 and in 1725, these same provisions are again put into the form of law. Finally in 1750, another law relative to these same conditions was passed. In this act, a penalty is put upon the Indian for becoming intoxicated. It reads, "And every Indian that shall be convicted of drunkenness, shall pay a fine of eighty four cents, or be set in stocks, not exceeding two hours or less than one hour." This Act places a penalty of one dollar and sixty five cents per pint upon the sale of liquor to the Indian.

In 1721, Pennsylvania passed a law prohibiting the sale of liquor to the Indians which is much the same in its content as that of Massachusetts.

The merchants of New York, which might also be said of all the other colonies, had no desire for close regulation of the Indian trade in the Northwest. They were opposed to any fixing of prices and to any restrictions on the sale of rum. They were willing to confine the operations of the traders to posts, for this would mean


31. These laws are also included in the compilation described in footnote No. 26.
that the French would have no great advantage over the others in the field. The traders of Montreal also wished no restraint on the trade. They profited by the anarchy, because through this policy of free trade they were able to keep the French and the Spanish from the Mississippi out of the Northwest territory.

Virginia also concerned herself to a limited extent with attempts to regulate the trade. In 1677, the trade with the Indians was restricted to marts and fairs to be held twice a year for forty days each. The Indians were permitted to bring in any commodity for trade, but a penalty of five thousand pounds of tobacco was placed upon any person found dealing with them outside of the fair.

In June 1680, all Acts restraining the Indians trade were repealed. From this time on "there be a free and open trade for all persons at all times and places with our friendly Indians." The only restrictions from this time on were on the export of untanned hides and the requirement that anyone who traded with distant tribes must have permission from the proper authority. Thus, we see that restrictions in Virginia were very limited and amounted to nothing.

34. Ibid, p. 480.
The fact that the colonies made no particular effort to control the fur trade was even noted in England. An idea of imperial control was suggested to Lord Dartmouth, the successor of Hillsborough. In a letter to Johnson in 1773, he wrote; "As the colonies do not seem disposed to concur in any general regulations for the Indian trade I am at a loss to suggest any mode by which this important service can be otherwise provided than by the interposition of the Supreme Legislature, the exertion of which would be inadvisable until truth and correction have revived the unhappy prejudices which have so long prevailed in the colonies on this subject."

Dartmouth's letter seemed to have little effect. The Canadian merchants continued to go where they chose to get furs, in spite of any British ordinances.

Thus, we find that at the end of the colonial period in American history, the fur trade was in more or less of a chaotic condition. Traders went where they pleased to secure furs. On the whole, they were unlicensed or had no permission from governmental authorities, and the government had no check or control over them. Although there had been attempts to prevent the use of

37. Ibid., p. 96.
liquor in the trade with the Indians, it was still used freely and in most places, without any restrictions. The trade had no protection, or, on the whole, was little noticed by the Governments.

We may attribute the lack of enforcement of what colonial laws there were to the lack of an organization for enforcement. No law provided for an agency of this kind. It was evidently expected that the local officials were to enforce them. When we realize how inadequate the functioning of the laws were, even with an organization in the field, we can easily picture how a lawless trader would conduct himself under such loose regulations.

Chapter III

As we enter upon the history of the Governmental regulation of the fur trade during the period of the Continental Congress, and the Articles of Confederation, we find definite and concrete efforts being made from the very beginning to bring about order and reform the abusive conditions into which the trade had fallen as a result of the period of no regulation. This policy from the very beginning was permeated with the desire of legislators to better the condition of the Indians. In all, their efforts were to place the Indian in a position in which they would be assured that he would be treated fairly. They realized that the Indian was a child in the hands of the trader. They wished to prevent the cheating, lying, and all the other abuses which had crept into the trade.

From the year 1775, to 1786, our Indian relations were regulated by commissioners, who executed, under the direction of Congress, such arrangements as were from time to time deemed best by that body to be adopted. They pursued such a policy as was thought best calculated to promote the peace of the frontiers and the welfare of the

Indians. The Indians, under this first system, were divided into three departments—the northern, middle and southern. There were five commissioners appointed for the southern department, two for the middle and two for the northern.

As a result of the consideration of the letters of General Washington of the 19th of April, 1776, Congress, on April 29th, 1776, made the following resolution: "Resolved, That no Traders ought to go into the Indian country without a license from the agent in the department; and that care be taken by him to prevent exhorbitant prices for goods being exacted from the Indians." In compliance with this resolution, the first arrangements that this Commission found it necessary to make respecting the fur trade, were to require those who took part in it to be licensed from one or more of the commissioners of the respective departments. No trader was permitted to trade except at such posts and places as the commissioners from each department should respectively appoint. Measures

40. A resume of the period is given by Mr. Leake from the Committee of Indian Affairs to the Senate, on the 5th of April 1820, in the American State Papers, Indian Affairs, Vol. II, No. 165, p. 205.


were adopted, also, in the same year, though on a limited scale, for the introduction amongst the tribes of civilization and Christianity; and we find the acts of these earlier times are characterized with kindness and solicitude for the welfare of the Indians.

The members of Congress, during this period, disagreed among themselves as to the right of Congress to regulate the trade and manage all the affairs of the Indians. Rutledge and Lynch opposed giving the power to Congress. Wilson states, "We have no right over the Indians, whether within or without the real or pretended limits of any Colony. Grants made three thousand miles to the eastward, have no validity with the Indians..." Walton states, "The Indian trade is of essential service to any Colony. It must be a monopoly. If it is free, it produces jealousies, animosities, and wars. Carolina, very passionately considers this trade as contributing to her grandeur and dignity." Chase states, "South Carolina claims to the South Sea; so does North Carolina, Virginia and Massachusetts Bay. South Carolina says they have the right to regulate the trade with the Indians. South Carolina could not stand alone against the Indian tribes." Wilson states, "No lasting

43. Ibid, p. 205.
peace will be made with the Indians unless made by some one body. ...None should trade with the Indians without a license from Congress. A perpetual war would be unavoidable, if everybody was allowed to trade freely." Thus we see that this policy of the Federal control grew out of, in the first place, this idea that this was a matter for the Colonial legislatures, and developed into a policy to be handled and executed by the central Government.

In a report of a committee to Congress, of Oct., 15th, 1783, relative to Indian affairs, respecting the Indians of the Northwest, among other things dealing with the idea of creating a definite Indian territory for the Indians in the newly acquired territory from England, was mentioned a recommendation relative to the trade with the Indians. The committee states the following:

"Your Committee be leave further to report that, in their opinion, the trade with the Indians ought to be regulated, and security be given by the Traders for the punctual observance of such regulations, so that violence, fraud and injustice towards the Indians may be guarded against and prevented, and the honor of the Federal government, and the public tranquility, be thereby promoted.

44. The above statements of the various members of Congress may be found in the Journals of the Continental Congress, Vol. VI, 1776, p. 1079.
And that for these purposes a Committee be appointed with
the instructions to prepare and report an ordinance for
regulating the Indian trade, with a clause strictly pro-
hibiting all civil and military officers and particularly
all Commissioners and Agents for Indian affairs, from tr-
ad ing with the Indians or purchasing lands from the Indians,
except only on the express license and authority of the
United States in Congress assembled."

Out of the work of this committee grew the first
law to regulate the trade. On the 7th of August, 1786,
the Congress passed an ordinance for the regulation of
Indian affairs. Under this act, it became recognized fact
that the United States Congress, "Under the ninth Article
of the Articles of Confederation and perpetual Union...
has sole and exclusive power of regulating the power and
managing the affairs of the Indians not members of any
State." In this act, the Indian territory was divided in-
to two departments, the northern and the southern, with a
superintendent over each. It was made the duty of these
superintendents to attend to the execution of such regul-
ations as the Congress should from time to time adopt; to
correspond with each other, and with the Secretary of War;
in all matters relating to these trusts.

45. Papers of the Continental Congress, No. 149, III,
Folio 245, p. 690.

This law may be found quoted in full in Appendix A.
Under this ordinance, none but citizens could reside among the Indian nations, or were allowed to trade with any nation of Indians within the territory of the United States. No person, citizen or other, under the penalty of five hundred dollars, was permitted to reside among or trade with the Indians or Indian nations, within the territory of the United States, without a license for the purpose first obtained from the Superintendent of the district, or one of his deputies. No person could entitle himself to a license who should not first produce a certificate from the Supreme Executive of one of the States, under the seal of the State, certifying to the Applicant's good moral character, and that he was suitably qualified and provided for the employment of trader; for which license he was to pay to the Superintendent, for the use of the United States, fifty dollars. The term of the license was not to exceed one year. No person obtained a license under this ordinance without first giving bond in three thousand dollars for his adherence to and observance of such rules and regulations for the government of the trade as the Congress might from time to time adopt.
Chapter IV

The United States Government Regulation Licenseing System

When the Government emerged from the period of the Articles of Confederation, fur trading had not yet become a large organized industry in the United States. To the North, the Hudson's Bay Company had been trading on a large scale since 1670. The Northwest Company, which later became one of the main competitors of the American traders, was just being organized. The American trade, largely carried on in the district south of the Great Lakes, was mainly a trade between small traders. It had been only a few years before this that men began to venture west of the Allegheny mountains into Kentucky. Trade had been going on, however, and some of the largest fortunes in the United States had laid their foundations back in this period in the territory of Western New York and south of the Great Lakes.

47. An excellent account of this Company may be found in Beckles-Wilson, The Great Company.

48. Probably one of the best accounts of this company is that written by Gordon Charles Davidson, The Northwest Company, Berkeley, University of Columbia Press, 1918.

491 Sir William Johnson became one of the wealthiest men in the colonies during this period. An account of Johnson is included in Arthur Pound, Johnson of the Mohawks, New York, 1930.
The magnitude of the trade necessitated not only laws for its regulation, but also an organization for the enforcement of them. The President of the United States, as the chief executive of the land, was naturally designated as responsible for the enforcement of these laws. He appointed the Superintendents and their deputies who were responsible for carrying out his special regulations. These Superintendents and deputies were placed over certain districts or departments and were responsible for the enforcement in these particular districts.

The duties of the Superintendent and deputy were to issue licenses; see that the regulations in regard to the licenses were observed in their district, carry out and obey all instructions which they might receive from Congress Assembled, and from the Secretary of War, through whose department they worked; to receive bonds for the licenses and to place them in suit in case of violation of the regulations. In all, he was to look after the welfare of the Indian.

These Superintendents often performed important and far-reaching duties. Sir William Johnson, as Commissioner of Indian Affairs for western New York, under the English regime, is given credit for holding the key posi-

50. Annals of Congress, 1st Congress, 1789-1791, Vol. II, p. 2301. This law may be found quoted in full in Appendix B.

51. Ibid., Section I.
tion safe from the aggressive inroads of the French in the French and Indian Wars. He kept the Iroquois loyal to the English cause. His great influence over them turned them into an effective buffer against the French.

Probably one of the most outstanding of the Superintendents under the United States control was Lewis Cass. After playing a very important part as a military leader in the winning of the Northwest Territory from England in the War of 1812, the President appointed him as Governor of the Michigan Territory, October 29th, 1813. He was active in the territory for the next eighteen years. This territory included, at first, all land east of a line drawn through the middle of Lake Michigan and north of a line drawn from the southern end of that lake eastward until it intersected Lake Erie. In 1816, Indiana was admitted to the Union with a slice pared from the southeastern portion of Michigan. After April, 1818, all land east of the Mississippi and north of the northern line of Illinois was under the supervision of Governor Cass. For the remaining years of his governorship he had control of this vast territory.

53. Mc Laughlin, Andrew C., Lewis Cass, Boston & New York, 1892.
54. Ibid, p. 112.
It was customary at this time to vest the authority of Superintendent of Indian Affairs in the person of the Governor of the territory. This was done in the case of Cass. He was the ex-officio superintendent of Indian Affairs in the territory. In addition to this territory he had charge, for a great portion of the time, of agencies at Chicago, Fort Wayne, Piqua and other sub-agencies.

In the capacity of Governor and Superintendent, he came in contact with all the Indians of the Northwest. He made innumerable treaties with the Indians of this territory. His influence was so great that due to his activities, he was given credit for getting possession of this territory for the United States. He traveled through the territory, making actual contacts with Indian and trader. The responsibility of enforcing the fur trade regulations depended upon him. However, the vastness of the territory over which he governed and the character of the men engaged made the enforcement of these regulations practically impossible.

William Clark played equally as important a part as Cass in the capacity of Superintendent. After an active career as Indian fighter and military man in the

55. *Ibid*, p. 112-113.
west, President Jefferson appointed him, in 1803, as one of the leaders with Lewis to explore the newly acquired Louisiana Territory. The success of this expedition is well known. Clark became one of the best informed men in the land in regard to the habits and conditions of the Indians. On March 12, 1807, he was appointed Brigadier General and Indian Agent for Louisiana. In 1812, he was appointed Governor of Missouri Territory. He remained in the capacity of Governor until 1819, when he lost this position mainly because he was charged with favoring the Indians at the expense of the whites. During his term as Governor he made many important treaties with the Indians. In 1819 he was appointed Superintendent of Indian Affairs and remained in that office during the most fruitful days of the fur trade, until his death in 1838. He "probably did more than any other white man to reconcile the Indian to the attitude of the United States", as well as to make the United States see the needs of the Indian.

The enforcement of regulations under his regime was not successful. Again the vastness of the territory over which he had control and the limited number of agents

57. Lindley, Harlowe, William Clark, the Indian Agent, Mississippi Valley Historical Association Proceedings, 1908-1909, p. 63-75.
which he had defeated any possibility of success.

It was such men as these to whom were given authority to put the laws and regulations of the government into effect. The provision for this type of an organization and for laws regulating the trade was among the first concerns of the new government.

The first law regulating this trade was passed by Congress in 1790. While this act, in its essence, was much like that of 1786, it introduced the policy of the newly organized government toward this branch of internal commerce. The first policy which we shall consider, which was introduced in this law, was the policy of requiring a license to trade with the Indian.

In requiring the license, the United States was entering into a policy which had been in practice by all the foreign powers which had had to deal with this problem of trade with the Indians. The motives actuating the requisition of the license were no doubt varied. It was the main means by which the governments could maintain a check on the trader. All those who traded with the Indian had their names registered upon the books of the government so that in case difficulties should arise, responsibility could be more easily placed. The experience of nations

58. Annals of Congress, 1st Congress, 1789-1791, Vol. II, p. 2301. This law may be found quoted in full in Appendix B.
in the past had been that the free trader, unrestrained by regulation, was always taking advantage of the innocence of the Indians in regard to values. It was an easy matter to cheat the Indian out of his valuable furs for valueless trinkets. His savage mind was greatly attracted by the highly colored beads and colored calicoes. The license gave the government the opportunity to regulate these traders.

The next important motive was to see that the proper type of man should receive the license. We can easily understand how a corrupt trader could take advantage of the ignorant Indian, cheat him out of his furs and influence his undeveloped mind against the government and even against his own countrymen. The government desired to safeguard the morals of the Indian.

That the government introduced the system as a source of revenue is hardly likely. The machinery which it was necessary to set up in order to put this policy into practice no doubt cost much more than the fees brought in in payment for the privilege to trade.

The colonies had, since their inception, had difficulties with the Indians. In the case of Massachusetts, we have already noted that the Dutch and French were blamed for the troubles which arose with the Indians because they had traded guns and ammunition for the furs, and had, no doubt,
incited the Indians against them. Pennsylvania and New York had similar difficulties. There is no doubt that many of these difficulties had been created by the unprincipled traders and renegades. It was to check these difficulties, also, that the government entered into the policy of requiring the license.

The law of 1790 required that no person could trade with the Indian without a license. Certain persons were designated from whom these licenses could be secured. Only "proper" persons could receive this license, and in order to insure his obeying the regulations in regard to his conduct with the Indians, it was necessary for him to enter into a bond with one or more of the sureties which had to be approved by those authorized to issue the license. The term of the license was to be for a period of two years.

The law of 1790 had not specified any particular locality in which the licensing system was to be effective. In a new law which was passed in 1796, the government established a definite Indian territory in which the laws relating to the Indian trade were to be exercised. The territory which was set aside included almost all the territory west of the Alleghenies to the Mississippi. Congress apparently wished to make this a territory entirely for the Indian,

59. Law of 1790, Section 1.

60. No. 48. Annals of Congress, 4th Congress, 2d Session, 1796-1797, p. 2909. This law may be found quoted in Appendix D.
where he could go on and live in his wild state much as he had in the past. According to this law, however, the boundary line was not a rigid thing, but might be changed from time to time by treaty between the United States and the Indian tribes.

This new territory was definitely set aside for the Indian. The white man was excluded from it unless he had a license to enter. He could not even enter this territory to hunt or range his cattle. A fine of at least one hundred dollars, or imprisonment for six months, was placed upon such offense. If it were necessary to go into the country at all, according to this act, it was required that he should have a passport from the proper authority. If he were found there without such a passport, he was subject to a fine or imprisonment.

The rapid advancement of civilization toward the west after about 1775 resulted in the gradual diminishing of the Indian territory. Various motives caused men to pack up their worldly belongings and seek out new homes in the fertile valleys and plains west of the Alleghenys. Probably the outstanding motive was land. The more people heard of the ideal conditions for permanent homes which existed there,

61. Ibid, Section I.
the more they desired to go and see it and settle in it. 62
This is exemplified in the law of 1799. While this law
is in substance practically the same as the one passed
in 1796, the important change is in the boundary line of
the Indian country. Indian treaties made during the three
years of the existence of the law of 1796, had made it
necessary to make the change in the boundary line of the
Indian country in this new law.

As a result of the purchase of Louisiana in
1803, a vast new territory was brought under the super­
vision of the government. This new territory abounded
in fur. There were numerous Indian tribes living and
roaming over its area. Necessarily, the laws regulating
the trade and intercourse with the Indians had to be ex­
tended to this new domain.

When this new territory came under the control
of the United States, little was known of its vastness,
its abounding resources, or its inhabitants. Little fur
trading had been done in it, with the exception of along
the course of the Mississippi and also along the shores
and tributaries of the lower Missouri. A few expeditions
had been made into the territory, but their nature and the

Changes in this law over that of 1796 are quoted in
Appendix E.

63. Vandiveer, p. 152.
limit of their extent had not revealed to the public mind much information relative to it. Radisson and Groseillier, two French traders, are purported to have made an expedition into this Western territory as early as 1658-1660. Verendereye and his two sons made an expedition into the interior in 1738. The first revealing information did not come until after the expedition of Lewis and Clark which started in 1803. This expedition was authorized and financed by the United States Government in order that they might get information in regard to their newly acquired territory. Probably spurred on by this information, Manuel Lisa ascended the Missouri, to its headwaters, in 1807, and opened up trade with the Indians in that remote region. About the same time, David Thompson, in the employ of the Northwest Company crossed the Rockies and reached the headwaters of the Columbia.

Through the pioneering of these men, others followed, until the fur trade of this newly acquired territory developed into one of the most lucrative in the North American continent.

64. Laut, Pathfinders of the West, P. 84-89.
From the very beginning of the fur trade, a constant struggle had been going on between men of the different countries who had had footholds in the continent, for the control of the trade. In the earlier period of Western New York, the English and the Iroquois under the able leadership of Sir William Johnson, had carried on a strenuous struggle against the French and the Algonquins. After the expulsion of the French, the English and the American fought for the control of the territory south of the Great Lakes and into the newly acquired territory of Louisiana. Because of the better organization of the English and the superior quality of their goods, the English had the advantage over the American traders and probably got the lion’s share of the trade. Thus we see how the American became determined that none but citizens of the United States should be permitted to secure licenses in order to trade within the boundaries of the United States.

John Jacob Astor probably exerted the greatest influence of any one man upon Congress to exclude the foreigner from the American fur trade. He had, since the last part of the eighteenth century, been involved in the fur


68. An excellent account of this man is Smith, Arthur D. Howden, John Jacob Astor, Philadelphia, 1929.
trade in the old Northwest. When in 1808, he organized the American Fur Company, he was more anxious than ever to be rid of the competition of the Canadian concerns.

That statesmen of note were interested in this problem is brought out in a letter written by Jefferson to Astor in 1808, in which he states, "I learned with great satisfaction the disposition of our merchants to form in companies for undertaking the Indian trade within our own territory,... I consider it highly desirable to have that trade centered in the hands of our own citizens and to oust foreign traders who so much abuse their privilege by endeavoring to excite the Indians to war on us, every reasonable patronage and facility in the power of the executive will be afforded."

In spite of these early overtures on the part of statesmen and businessmen, the actual exclusion of the foreigner did not come until 1816. The law which excluded them was passed by Congress April 29th, 1816. This law was entitled, "An Act supplementary to an act passed the thirtieth of March, 1802, to regulate trade and intercourse

70. Flandrau, Grace, Astor and the Oregon Country, Great Northern Railroad, p. 6.
with the tribes, and to preserve peace on the frontiers."

The primary purpose of this law of 1816, was to exclude the foreigner. Licenses to trade with the Indians within the territorial limits of the United States were not to be granted to any but citizens of the United States. This policy was of great importance to the fur trade. Up to this time the greater part of the fur trade south of the Great Lakes and west of the Mississippi, particularly in the Northwest mountain area, had been carried on by the foreigner. They were now excluded entirely. The fur trade within the limits of the United States was open only to citizens of the United States.

If a foreigner were now caught in the Indian country trading with the Indians, all the goods which he had in his possession were to be confiscated; half to go to the informer, and the other half to go to the government. If he were in a territory where he could be easily apprehended, this law no doubt discouraged his trading within the limits of the United States, but in the far limits of the territory, he was not much concerned with the regulation.

This law also required that the foreigner must have a passport before he could even go into the country.

72. Ibid, Section I.
73. Ibid, Section II.
as a tourist. The Government was determined that the for-
eigner should stay out of the country entirely unless his
mission were known and acceptable to the authorities. Much
of the hostility of the Indians toward the Americans in the
War of 1812 had been blamed upon the British influence.
This particular phase of the law was no doubt a result of
this feeling.

Because of the shortage of men on the frontier,
traders experienced great difficulty in securing boatmen
to aid in the process of getting their supplies up to the
distant reaches of the Missouri and its tributaries. The
fur trader had many seemingly insurmountable obstacles to
overcome. One of the first problems was the great distance
which he had to travel before he could reach the ground
to carry on his work. This was particularly true when the
trade extended west of the Mississippi. Fort Benton, the
most extreme outpost of the American fur trade on the upper
Missouri, was three thousand five hundred and seventy-five
miles from the mouth of the Mississippi river. Barpenteur
reports in his "Forty Years a Fur Trader on the Upper Mis-
souri," that it was two thousand miles from Fort Union to
St. Louis. The figure is now given as one thousand seven

75. Barpenteur, Charles, Forty Years a Fur Trader, (edited
hundred sixty miles by river. With his primitive means of travel and the great distance that he had to go, it is no wonder that the early fur trader calculated the distance to be much greater than it actually was.

The time that it took to reach these upper waters varied according to the fortune of the trip. In reading the various journals, one is immediately struck by the slowness of travel. It was not uncommon for the keelboat in going up stream to travel only three or four miles a day and sometimes no distance at all because of the necessity of repairing the boat or securing food. If the weather conditions were favorable, they would sometimes travel as far as thirty-five miles a day, but these were rare occasions. The fastest recorded trip was that made by Manuel Lisa when he averaged, by supreme exertion, eighteen miles a day for sixty days. Lapointe records a hurried trip overland from St. Louis to Fort Union which took only six weeks. In going to Fort Union via Green river, he states that they had been on the road continuously for a period of five months lacking four days.

The slow progress up the Missouri was caused by the comparatively primitive methods of travel. The boats used for transportation on the waters of the Missouri

varied. The old keelboat, used down to about 1830, was, in the early days before the coming of the steamboat, one of the most common means of transportation. It was from sixty to seventy feet long, with a fifteen to eighteen foot beam and three to four foot depth. It was propelled by poles, cordelle, oars and sail. The wooden canoe, hollowed from a log was also used. The Mackinaw was used for down stream traffic. The Bull boat, made of buffalo skins, which was about twelve by thirty feet and twenty inches deep, saw extensive service on the western rivers because of its shallow draught. When the practicability of the steamboat was established by the voyage of the Yellowstone up to Fort Union in 1832, transportation was greatly speeded up. The overland trips were few in the early times, although it was necessary to resort to the pack train in the sources of the Missouri where the beaver abounded.

If the trader were to carry on an extensive trade, it was necessary for him to take quite a large supply of goods with him. In doing this he required quite a large number of men. These were hard to obtain. The ordinary American felt that boating was below his dignity. The French Canadians were excellent boatmen, but under the new

[77. Chittenden, Vol. I, Chapter V.]
law they could not be employed. In 1834, Congress found it necessary to revise their laws regarding foreigners to the extent that they permitted the traders to employ foreigners as boatmen.

The term of the license also varied throughout the history of Government regulation. In the law of 1786, the license was only good for one year. In 1796, the term was extended for two years. This remained the practice in the basic law of 1802 on until 1822. In a law which was passed in this year, the Government extended the limit of the term of the license to seven years in the territory west of the Mississippi, while it remained the same for the territory east of the Mississippi. Because of the great distance which the traders had to travel, they went prepared to stay for several years. It was impossible in many cases for them to come back every two years in order to renew their licenses. In 1834, however, the term was reduced to three years west of the Mississippi, instead of seven, as it had been.

In 1834, the government again found it necessary to revise the territorial limits in which these laws were to be in force. Civilisation was advancing by leaps and

79. Ibid, Section II.
bounds until now the frontier extended to and beyond the Mississippi river. Missouri and Louisiana had been admitted as States into the Union. What had been an unknown wilderness only a few years before was now being eagerly overrun by homeseekers. The new Indian territory was to consist of all land west of the Mississippi not included in the States of Missouri and Louisiana, or the Territory of Arkansas, and all the land east of the Mississippi not within any State. The new basic law of 1834, which succeeded the law of 1802, was to be in force in this territory.

In this last important law affecting the licensing system, the minor provisions to the greater extent, remain unchanged. The law is somewhat stricter in regard to whom the license should be given, with the power to the agent to refuse if the person is not of good character. The trader has the power to appeal to the Commissioner of Indian Affairs or even the President of the United States.

From the period of the enactment of this last mentioned law, the fur trade has a gradual decline as an important industry. The gradual migration to the west, created by discovery of gold and the desire for land, pushed the fur industry into the background as an important

80. Ibid, Section I, This portion of the law may be found quoted in the Appendix K.
pursuit which needed the attention of an already overburdened Government. The fur trade was forgotten. It vanished before the oncoming tide of other and more important interests. It had played its important part in laying the foundation for one of the greatest nations on the face of the earth. As the fur trade vanished, so necessity for regulation disappeared. From this point on, there is no change in the licensing laws.

Trading House System

It would appear that, notwithstanding all these precautions, the system of licensing alone was not suited to the humane designs of the Government. The plan of holding intercourse with the Indian tribes by the agency of private traders, in spite of the regulations with which it was attempted to control them, was unsuited to the promotion of those relations which it was to desirable to attain. The Government concluded that it would be wiser to conduct the Indian trade itself in competition with the licensed traders in the field. As a result of this feeling, the Government, as early as 1796, established a system of trading houses.

President George Washington is given credit for the origin of the idea which resulted in this system. His various expeditions into the western territory had given him a broad knowledge of the condition of affairs there. As early as 1753, he had been sent by Governor Dinwiddie of Virginia to ascertain the activities of the French on the Ohio. He had specific orders to make efforts to keep the Indians of that territory loyal to the English. He was later active as a military leader under Braddock in his unsuccessful campaign against Fort Duquesne. He had been active in attempting to locate a feasible outlet for trade via the Potomac to the upper waters of the Ohio. All these activities had acquainted him with the importance of the relations between the white man and the Indian.

All this experience and knowledge was no doubt behind the recommendation which he made in a speech to both houses of Congress on December 3rd, 1793, when he said, "After they shall have provided for the present emergency, it will merit their most serious labors, to render tranquility with the savages permanent by creating ties of interest. Next to a rigorous execution of justice on the violators of peace, the establishment of commerce with the Indian nations on behalf of the United States is most likely to conciliate their attachment. But it ought to be
conducted without fraud, without extortion, with constant and plentiful supplies, with a ready market for the commodities of the Indians, and a stated price for what they give in payment, and receive in exchange. Individuals will not pursue such a traffic, unless they be allured by the hope of profit; but it will be enough for the United States to be reimbursed only. Should this recommendation accord with the opinion of Congress, they will recollect, that it cannot be accomplished by any means yet in the hands of the President."

These recommendations reveal not only the skeleton of the plan for the trading house system, but also Washington's realization of the need for such a system. When he says that it ought to be conducted "without fraud or extortion", he reveals his personal knowledge of the common practices which were in vogue in dealing with the Indians. We might say that Washington was not only the "father of his country," as some historians put it, but also the father of the trading house system.

The feeling for a need of a system of this kind had not grown up out of sudden inspiration. The experience of many years had convinced the Government that a system

of licensing alone failed to bring about the desired relationship between the white man and Indian. In speaking of the necessity of establishing these trading houses, W. H. Crawford, Secretary of War, states, that they were needed for the following reasons: first, to secure the Indian his due; second, to protect him from imposition; third, to save him from the deadly affects of alcohol; and forth, to wean him from his tribal life so that, when settlement should have swallowed up his domains and destroyed his ancient means of subsistence, he would accept his new position without deep reluctance.

Since the beginning of exploration and settlement, the Indian had been unfairly exploited by the fur trader. A good number of the traders were in the business for what they could get out of it. They were not particularly concerned whether or not the Indian received a fair price or a fair share of goods in trade in return for his fur. In the beginning of the history of the fur trade, the Indian was naturally very ignorant of the value of the fur and could be easily cheated. As he became more experienced, he became a shrewd dealer and could not be easily cheated. The trader learned very early, however, that with the use of alcohol, he could cheat the Indian out of practically

all he had at a very small cost. This practice grew to
great proportions until the use of alcohol or rum became
one of the main commodities of the trade. The fact that
the English were able to draw so much trade from the Indi­
ans in western New York, was because of their rum. After
1723, it displaced the French brandy in the trade of the
coast.

The Government was aware of these practices and
realized the demoralizing effect which they had upon the
susceptible red man. They were prompted by a spirit of
charity toward the Indian in the establishment of the trad­
ing house system. They wished to bring him in actual con­
tact with men who represented the Government, who were,
themselves, not interested in exploitation, but rather,
prompted by a desire to do good and to do away with a
hitherto bad situation.

There are three important things to note in con­
nection with the trading house system. The Indian was to
do his hunting and then bring his furs to the trading house

84. Weeden, William B., Economic and Social History of
New England, Boston, 1890, p. 459, Vol. II.

85. This point of view is brought out by Washington in his
speech on Dec. 3rd, 1793, to both houses of Congress
when he states in part as a recommendation to Congress
for the establishment of trading houses, "it will merit
in part their most serious labors to render tranquili­
ity with the savages permanent by treating them of
for sale. The trading house was not to supply the Indian on credit. Liquor was not to be dispensed to the Indian. The practice of having the Indian do the hunting and bringing his furs to the trading house for sale was not a new practice. It was a policy pursued in the early days of the Hudson's Bay Company, before the Northwest Company forced it to go out into the field and actually get the furs.

Indian credit was also an evil which the Government was trying to destroy. The Government desired to create in the minds of the Indian a sense of thrift. The Indian would often fail to bring his furs back to the trader from whom he had received credit. This practice developed in him a spirit of dishonesty in dealing which was demoralizing.

On April 18th, 1796, Congress passed the law which created the trading house system. In this law the President of the United States was given the authority to establish trading houses "at such places on the western frontiers, or in the Indian country, as he shall judge most convenient for the purpose of carrying on a liberal trade with the several Indian nations within the limits of the United States." The President was also given the power to appoint the agents of the trading houses. These agents were

86. This is brought out in the letter of Bernard Pratte and Robert Stuart to James Barbour, Secretary of War, in 1826, Senate Documents, Serial No. 127, Doc. No. 58.

87. Annals of Congress, 4th Congress, 2nd session, 1796-1797, p. 2889. This law may be found quoted in Appendix C.
to take an oath to faithfully perform their duties as the President should regulate. They were required to be bonded and to make semi-annual reports to the Secretary of the Treasury. These agents and clerks were not to be directly or indirectly interested in carrying on the business of trade or commerce on their own account. The prices of goods to be sold were to be so regulated that they did not diminish the capital stock furnished by the Government. The President was authorized to draw annually from the Treasury a sum of eight thousand dollars, exclusive of allowances to agents, to be appropriated for the purpose of carrying on trade and intercourse with the Indian nations. Agents and clerks were not to receive from the Indians in the way of trade or barter, a gun, or other article commonly used in hunting, any instrument of husbandry, cooking utensil of the kind usually obtained by the Indians in their intercourse with the white people, or any article of clothing, except furs.

The Government meant this trade to be carried on in such a way that it would not be a losing proposition financially. There was no attempt at price fixing in this law, but rather, that the goods purchased by the Government should not be sold at a loss. Agents were not to be interested on their own account. The Government undoubtedly felt that if these men were interested on their own
account, corruption might arise which would defeat the policy of the Government in putting the laws into practice.

This first law of 1796 was to remain in force for a period of three years. As a result it was necessary to revive it again in 1799. Each succeeding act was passed for only a short period of time so that we find the government reviving the law at regular intervals. About the only change which we find in these succeeding revivals is in the amount of money appropriated for their continuance.

The law of 1805, entitled, "An Act making appropriations for carrying into effect certain Indian treaties and for the purpose of Indian trade and Intercourse", is particularly interesting, because it makes an appropriation of one hundred thousand dollars for the establishment of additional trading houses and five thousand dollars for the exploration of the Indian country to ascertain good locations for their establishment. This led to the famous expedition of Pike to the headwaters of the Mississippi.

The law of 1806 is also interesting because it is the first intimation of the extension of Government control...
of the fur trade west of the Mississippi river. The important changes in this Act over the Act of 1796 are embodied in Section 1, in which the President is given the authority to establish trading houses "at such posts and places on the frontiers, or in the Indian country, on either or both sides of the Mississippi river, as he shall judge most convenient for the purpose of carrying on a liberal trade with the several Indian nations within the United States, or their territory", and in Section 10, where the money appropriated for carrying on the trade was raised from one hundred and fifty thousand to two hundred and sixty thousand dollars.

Jay's treaty of 1794, permitted British traders to trade within the territory of the United States provided that they conformed to the regulations of the United States. Their influence over the Indians, however, was thought to be dangerous. It was for the purpose of keeping the British in check, and to convince the Indians of the newly acquired territory of Louisiana that the Government had indorsed in this trading house system law of 1806, the policy of maintaining trading houses along the Canadian frontier at such places as Chicago, Ft. Wagner, and Detroit.

Pike recommended that posts be established at the mouth of the Ouissconsing, at the Falls of the St. Anthony, on the St. Peters and on the St. Louis river at the head of Lake Superior, in the hope that through the establishments the trade via the Mississippi, the Red river of the North, and the Great Lakes, might be brought under control.

Trading houses were established in various places not only as Indian civilizing and moralizing agencies, but also for protective and economic reasons. Because of the newness of the Missouri Territory, only one was ever established in it up to the time of the abolition of the system. This was located on the Missouri river, at Fort Osage, forty miles below the present site of Kansas City. All other trading houses were east of the Mississippi.

The Government, by going into the trading house system, was actually in the fur business. All through its rather short career, it was more or less of an experiment. Each new law was passed only for a short time. It was an experiment which did not, in any sense in which it was inaugurated, bring to a successful climax any of the noble purposes for which it was put into practice. In a letter

to Benton on January 19th, 1822, John Biddle states that only a small part of the wants of the Indians were supplied by the trading houses; that the Indians received no particular benefit from the system.

While the Government had excellent motives for the control of the fur trade in the establishment of the trading house system, it did not work out as they had intended that it should. By going into this business, the government lowered itself to the level of a competing trader among a horde of irresponsible and frequently lawless rivals. The policy of the trading house was that the Indian was to do the hunting and bring the furs to the factory for sale. The trading house did not supply the Indian on credit and would not dispense liquor. The individual trader, on the other hand, did not have his post in one place and did not expect to have the Indian come to him with his furs. He accompanied the Indian to the actual grounds where the fur was taken and there exchanged for the furs. He gave the Indian credit and smuggled liquor into the country to be used in the trade in spite of regulations against it. Liquor was the most powerful weapon to be used in the com-


petition with other traders, and was freely used.

According to some authorities, the Government would have been wise to have taken over the entire fur trade to itself, or given a monopoly to some large concern. The conditions would probably have been much better. The Hudson's Bay Company is an example of a company being given a monopoly. While they did not hesitate to use liquor in the trade with the Indians where competition with some other company or individuals necessitated it, they realized the evil effects of the liquor upon the Indian and refrained from using it in parts of their territory where they had no competition. This was in the early history of their concern. Except when it was struggling with the Northwest Company or the American Fur Company along our borders, the conduct of its business secured the greatest good to the Indians. It had as its policy of dealing with the Indians, that no liquor was to be used; a fixed basis of prices; and men of experience who were often related to the Indians by marriage, were their traders. They were always at peace with the Indians where they had no competition.

In her passage of the trading house law, the Government had all of these things in mind. It had a desire to bring about the greatest good to the Indian. The

report of Mr. Leake, from the Committee of Indian Affairs, corroborates the above statement. In this report of 1820, in part he states, "It was commenced, and has been continued, from motives both of prudence and humanity; and though it may not have fully realized the expectations of its friends, it has no doubt produced beneficial results. Wars have not been prevented by it, they probably, without it, would have been more frequent; and if the Indians have made but little advances in civilization, they probably, without it, would have made less. If greater effects have not resulted, it is to be attributed not to want of dependence on the part of the Indians on commercial supplies, but to the defects in our system of intercourse with them."

For the Government to create a policy of monopolizing the trade, would have been contrary to the spirit of American institutions. The spirit of our Government is opposed to monopolies of all kinds.

Probably the outstanding opponent of the trading house system in Congress was Thomas H. Benton. Being a citizen of the frontier settlements, he had seen the working of the system, and from the time he became a member of Congress he fought to repeal the law and abolish the system. Soon after he had gained admission to a seat in the Senate,

he communicated to Mr. Calhoun, Secretary of War, the defects of the system and his desire to have the system abolished. He was opposed to it because it failed to materialize any of the great ideals for which it had been founded under the instigation of President Washington. He states, "it was soon suspected that this system did not work as disinterestedly as had been expected...no counteraction to British traders...an injury to our own fur trade...a loss to the United States." He brought out the fact that after the law had been repealed it was found that "the Indians have been imposed upon in the quality and prices of the goods sold them; a general trade had been carried on with the whites as well as with the Indians; large per centums had been charged upon everything sold; and the total capital of three hundred thousand dollars was lost and gone." He maintained that the entire history of the system was an experiment which resulted in no good to the Indian or white.

As we have seen in the review of the law of 1796 which created this system, the capital which the Government appropriated was to be maintained without diminution, and the system was to be self supporting. According to Senator Benton, it seems that the capital was all lost.

There is no doubt but that a great deal of corruption entered into the system as is illustrated by Benton. The defenders of the system lauded its operation, and constantly brought in the name of Washington as its author.

However, under the leadership of Senator Benton, a bill finally passed the Congress, in 1822, which abolished the system. Under this law, the President of the United States was given the authority and "required to cause the business of the United States trading houses among the Indian tribes to be closed, and the accounts of the Superintendents of Indian trade, and of the factors and sub-factors, to be settled." The President was to select from the agents certain men, who were to be bonded, to see to the closing of this business, receive the accounts, goods, and peltries, and make final report to the Congress of the United States.

Thus we see the passing of the trading house system. The fact that they did not use the best articles in their trade handicapped them. They patronized home industry. Goods manufactured in the United States were inferior to those manufactured in England. The Indian was a good judge of the articles in which he traded and was not, at this late date, easily led to trade for inferior goods.


102. Annals of Congress, 17th Congress, 1st session, Vol. I, p. 2606-2608. This law may be found quoted in full in the Appendix G.
The Government traders were Government officials, and because of their lack of experience with Indians, they failed to understand the Indian. He was a stranger to them. They failed to recognize the fact that they were dealing with children who liked to receive presents. They gave no presents. The individual trader, on the other hand, offered the Indian foreign imported goods of the best kind; he understood the Indian and as a result, in spite of the better bargain that the Indian might have gotten from the trading houses, the individual trader got the greater amount of the business.

The system, of course, had other enemies besides Senator Benton. Practically every trader outside of it, and especially the larger trading companies, were opposed to it. The trading house cut into the business of these larger concerns. "As it (the Indian trade) now stands," wrote Charles Gratiot to J. J. Astor in 1814, "it is too precarious for anybody to hazard anything in it unless the factories were to be abolished."

Thus, after a quarter of a century of existence, the trading house was closed up and the Government went out of the fur business. To say that the system was an ab-

104. Ibid, p. 77.
solute failure would be going too far. Leaders of Congress were convinced that the system must be discontinued. Just how much pressure was brought to bear by large operators in the fur business will never be known. It is certain that, because this was the period of organization of the larger American Companies, no doubt influence was brought to bear by them for economic rather than sentimental reasons.

Goods of the Trade

The fur trade was based upon the exchange of one type of goods for another. If the Indian had not had something that the white man wanted, and vice-versa, innumerable expeditions into an unknown wilderness would never have been tried; the rapid growth and settlement of the North American continent would have been much retarded. The greater portion of the earlier exploring expeditions were made for the purpose of finding new and richer fields of trade. These explorers and traders sought an article which would bring, in return for their efforts a profit. Goods were the basis of the trade.

Fur to the fur trader was as gold to the prospector. He was willing to undergo the most daring and fool-hardy experiences in order to secure the valuable pelts. It lured him from the quiet and uneventful life of civil-
ized communities into lands of hostile Indians and hardships. The tales of the fur trader are almost unbelievable in this day and age. Since it was through hunting that the Indian secured his means of subsistence, he knew the habits and haunts of the fur bearing animals. It was through the Indian that the white man received and sought the fur.

The Indian, on the other hand, soon learned that the furs which he gathered had a value. The white man had many things which he had never seen before and which greatly pleased his savage vanity. He learned that with the fur he could secure from the white man many useful and ornamental articles. He was willing to spend many days in hunting in order that he might trade for these articles. At first these articles represented to him mere luxuries which satisfied his curiosity. Finally he found that they became necessities. He was not interested in profit at first, but rather the advantages which they represented to the bettering of his living conditions.

Thus we see how profit on the one hand, and savage vanity on the other brought about a relationship between the white man and the savage. This desire for goods brought them together. It developed to such proportions, that for over two centuries it created problems which men attempted to solve and regulate.
In these early days before settlement had finally wiped out the frontier, the North American continent abounded in fur bearing animals. Bears, wolves, lynx, fishers, muskrats, foxes (both red and cross) and beaver were found in abundance. Most important of all to the trader was the beaver. Because of its great demand for hats, it became most valuable. Among the trading posts and all along the frontier, it was the money of the day, an item entering into every day life. It was the medium of exchange. Not only the Indian, but everyone bought his goods with furs.

When the white man went into the Indian country, he took with him blankets, various colored cloths and shrouds, beads, brooches, arm-bands, ear-bobs, wampum, shawls, handkerchiefs, ribbons, sleigh-bells, looking-glasses, combs, knives, scissors, shot, powder, guns, tobacco, liquor, and many other things that tickled the Indian's fancy. These he would exchange for the fur which the Indian had collected. Thus we see that the trade was of a most primitive type. During its whole period it was based upon barter.

This trade of the savage Indian with the civilized white developed several problems which disturbed the minds of the more conscientious men. Cheating, defrauding and extorting, became common practices. The more lawless trader took every opportunity to take advantage of the ignorant Indian.

Another important problem was that which was created by the fierce competition between individual traders, between companies and individuals, and between traders of different nations. In order to secure the trade for himself, the trader used every means he could devise to belittle his competitor in the eyes of the Indian. This developed enmities and animosities amongst traders, Indians, and nations, which had serious and far reaching effects. Probably the most serious of all was the demoralizing effect which the trade had upon the Indian. The Indian lost his respect for the white man. When he saw how one rival trader acted toward the other, he thought all white men were the same. He did not come in contact with the better type. On the whole, the fur traders were a rough, greedy, unprincipled group.

110. Johnson, p. 159-160.
However, the greatest source of demoralization came through the use of liquor in the trade. After the Indian had imbibed a taste for the white man's brandy, the desire for it became so great that he was willing to exchange the costliest furs for it. Drunken brawls, lawlessness, and fraud were the natural outcome. He would exchange several months of hard labor in hunting furs for a few drinks, causing starvation and lack of clothing to his family.

In attempting to regulate the trade, the Government was not unaware of these problems. We have already noted how the Government, through the licensing system and through the trading house system conscientiously tried to better some of these conditions. In the original law which was passed by Congress in 1790, the Government specifically prohibited the white trader to trade an Indian out of his gun, or other article commonly used in hunting, any instrument of husbandry, cooking utensil, the kind usually obtained by the Indians in their intercourse with the white people, or article of clothing, except skins and furs.

The Government did not wish the Indian to be de-

111. Ibid, p. 24-25.
prived of the few tools of civilization which he had received in the course of his relations with the white man. The only thing for which the trader could barter with the Indian was his furs. This is important, because it shows the deep seated desire of the Government to better the conditions of the Indian through making it impossible for the trader to trade him out of these necessary tools of life.

The only exception to this is included in the law of 1796. In this law the trader was permitted to trade with the Indian in horses. This was undoubtedly thought necessary for the reason that the Indian had plenty of horses and the white man was often in need of them. This trade, however, had to be under the strict supervision of the Government.

In the trading house law of 1796, and continuous throughout all subsequent laws on this subject, all agents and clerks of the trading houses were instructed not to receive from the Indian in the way of trade or barter, a gun,

113. This is illustrated in a letter of Cass to the Department of War. He states, "Oxen have often been given them, upon their own request, to promote agricultural operations, but the first time they become intosicated, it is easy to prevail upon them to exchange their cattle for whiskey." Senate Documents, Serial No. 127, Document N. 58.

114. Annals of Congress, 4th Congress, 2nd Session, 1796-1797, p. 2909. This law is quoted in Appendix D.
or other article commonly used in hunting, any instrument of husbandry, or cooking utensil of the kind usually obtained by the Indians in their intercourse with the white people, or any article of clothing, except skins and furs. They were restricted for the same reason as the trader.

The article that caused the Government the greatest amount of trouble was liquor. It became an important article of trade when the French first set foot upon the continent, and remained so until the end in spite of regulations against it. Every Government noted its bad effects upon the Indian and made attempts to prevent its use.

The Indian became a victim to the alcohol habit. The lawless trader took advantage of his weakness and used alcohol to increase his profits by getting the Indian intoxicated and then cheating him out of all that he had. The history of the trade is filled with incidents of this kind. It is pointed out by one historian that, in its infancy, the successful trader received a profit of as high as six and seven hundred per cent.

To destroy it, or at least control it, remained an unsolved problem throughout the entire fur regime.

115. Ibid, 4th Congress, 2nd Session, 1796-1797, p. 2889. This law is quoted in Appendix C.

The French maintained that to abolish the use of alcohol would mean the ruin of the trade, since the coureurs de bois and the English traders used it in abundance. The savage, they claimed, took his furs where he could get fire water in return. In spite of this view, the French tried to stop it. As early as 1633, Champlain prohibited its use except under strict control. Frontenac prohibited the carrying of it to the woods, but permitted a moderate use of it in the colony. Louis XIV issued a decree against it in 1679, with strenuous penalties for its violation, but all these regulations remained as a dead letter on the state books. The resourceful trader found means to evade the law.

The English likewise attempted to put a stop to the use of alcohol, but of no avail. Sir William Johnson, Commissioner of Indian Affairs in western New York, observing the effect which it had upon the Indian, the fraud and cheating which went with its use, became one of the outstanding opponents of its use there. He made efforts to curb its use, but again with little success.

117. Ibid. p. 25.
118. Ibid. p. 41.
The United States was no exception to the rule. The law of 1796 had prohibited the giving, bartering, or selling of liquor to the Indians. While the law of 1790 makes no reference to the distribution of alcohol, all those who secured licenses were required to abide by the regulation as made in the law of 1786.

We have already noted how the Government, in the creation of the trading house system, hoped to curb the use of alcohol. This was one of the important motives in the creation of the system. The trading house was prohibited from using it in the trade with the Indian.

In the face of continuing abuses, the Government in 1802 made further provisions for its control. The provision in Section 21 of this law reads, "And be it further enacted that the President of the United States be authorized to take such measures, from time to time, as to him may appear expedient to prevent or restrain the vending or distributing of spirituous liquor among all or any of the said Indian tribes, anything herein contained to the contrary thereof notwithstanding."

The exclusion of the foreigner from the American field was no doubt partly due to his disregard for the liquor regulations. The greatest violations of the liquor regulations occurred along the borders of the United States between the citizens and foreigners. Pike, as early as 1806, discovered English traders in the upper waters of the Mississippi trading freely with liquor. Early traders in the upper waters of the Missouri complained of its use by the British.

In abolishing the trading house system in 1822, the Government threw open the door for a fiercer competition between fur trading companies and individual traders. In so doing, the Government meant, by no means, to discontinue or slacken up on the regulation of the trade. On the contrary, it went about strengthening the existing laws. In the same year that the trading house system was abolished, further efforts were made to prevent the evils which had been growing to greater proportions.

About this time, the real value of the upper Missouri began to be appreciated. A great struggle began to take place between American fur trading companies for the


control of this area. The Northwest Company, which had as early as 1807 established itself in the Columbia area, also waged relentless war against the Americans to get the cream of this trade. Here again, to the less law abiding, any method sufficed whether it was legal or not. In spite of regulations against it, liquor was used freely beyond the Mississippi. It was a comparatively easy matter to smuggle liquor up the Missouri into the Indian country.

In a law passed in 1822, the Government made an effort to stop the carrying of excess liquor into the Indian country. This law gave the President power to have the articles and packages of traders searched as they came up the Missouri river. If the trader were found with more liquor than was prescribed on his license, his goods were confiscated, and his license was taken away from him. This penalty was to great that no doubt the average trader did

124. Smith, Arthur B. Howden, John Jacob Astor, Philadelphia, 1929, p. 215, states, "Carried in flat kgs, adjustable to pack saddles and readily concealed beneath wagons loads of lawful goods, alcohol remained a staple of thr fur trade to the very last.

In a letter of Thomas L. McKenney to the Secretary of War, 1826, he states in part; "The source of difficulty is to be found in the necessity which the traders esteem themselves to be under to carry spirituous liquors into the Indian country; and it is from this source that so much wretchedness and so many evils proceed."

"It is believed that sound policy, no less than justice and humanity, requires that it should be made a capital offense for any person to furnish spirituous liquor to the Indians." Senate Document, Serial No. 127, Document No. 58, p. 7.

not wish to take the chance of getting caught. Inspectors were stationed at Leavenworth, Bellvue and other places.

This law did not mean that the trader could not take liquor into the Indian country at all. It was, under the regulations of the President, permissible for him to take so much liquor for the use of his employees. This privilege was granted in the annual license which read, "Permission is hereby granted to William Sublette to take to the places designated for carrying on trade (places designated here) not exceeding four hundred and fifty gallons of whiskey for the special use of his boatmen, etc." Each trader was compelled to give bond not to sell liquor to the Indians.

It was possible to get liquor to the trading posts under the above provisions. Pierre Chouteau Jr., in a letter to Kenneth Mackenzie, April 25th, 1818, explains how liquor was gotten to the trading posts of the interior. "The Government does not allow us to use liquor in our trade with the Indians. On the contrary it is expressly forbidden, but it is permitted to take one gill per day for each boatman during the period of their absence...that is, twelve months."

127. Ibid, p. 25.
128. Ibid, p. 25.
The provisions of the law of 1822 did not stop the use of liquor in the fur trade. Smuggling became a common practice. One company was found to even go so far as to distill liquor out of corn raised by the Indians in the distant posts. A distillery was discovered later on at Fort Union, in 1834, a post which had been established on the Fork of the Yellowstone and the Missouri, by the American Fur Company. This infraction of the law was punished according to the law.

Further evidence as to the functioning of this law is brought out in an investigation which was made by the Senate in 1832. Joshua Pilcher, who was one of the contributors of information in the investigation, among other things, recommends the absolute prohibition of spirituous liquor in the Indian country. He states in regard to this, "the several laws regulating trade and intercourse with the Indian tribes prohibit the selling, bartering, or giving of spirituous liquors to the Indians. By special authority vested in the Superintendent of Indian Affairs by the President of the United States, the former is empowered to grant permits for the use of boatmen employed


to assist in trade, limiting the quantity to the number of hands employed and the length of their absence; and taking bond that it is not to be sold, bartered, exchanged, or given to the Indians." This privilege, he states, is abused. According to Pilcher, alcohol was taken into the Indian country, diluted and used in the Indian trade.

Other contributors in this investigation of 1832, such as John Jacob Astor, Alphonso Wetmore, Henry R. Schoolcraft, Thomas Dougherty, and others, point out practically the same conditions. The views and findings of these men were apparently of great importance in molding subsequent legislation. Congress made conscientious efforts to better the conditions according to the recommendations of these men.

Possibly the most important result of this Senatorial investigation is embodied in the law of 1834. This law places an absolute prohibition upon liquor in the Indian country in any form, "except such supplies as shall be necessary for the officers of the United States and troops of the service, under the direction of the War Department." It was now possible for any person in author-

131. Ibid, Doc. 90, p. 5-11.

132. Congressional Debates, Vol. X, Part IV, 1833-1834, Appendix, p. 344-347. Important parts of this law are quoted in Appendix K.
ity who had reason to suspect any individual of attempting to introduce spirituous liquor into the Indian country, to not only inspect the boats as they came up the river, but also the places of deposit. In case the individual was found to possess any liquor, all the goods of the offending party could be seized, half to go to the informer, and the other half to go to the Government. The license of the offender could be revoked and his bond put in suit. In this respect, also, the law provided for the prevention of the setting up of distilleries and the power of the proper authorities to destroy them, with a severe penalty for the violation of the same.

As we have already noted, it had been possible for traders to take a certain amount of liquor into the Indian country for the use of their boatmen, but now we see that the Government is trying to put a stop to the apparent abuses of this privilege by making absolute prohibition. It was a well known fact that much of the liquor that went up the Missouri river for the use of the boatmen and employees found its way to the Indians and was used in the trade. There is no doubt, however, that the good intentions of the Government, in spite of these new provisions, were disregarded by the lawless type of Indian trader. Smuggling liquor into the Indian country continued
and even the distilling of liquor was discovered at Fort Union in 1834. The main offenses seem to be made by the small trader, however, as the larger companies were more easily watched and their operations were no doubt founded on higher principles.

In dealing with the Indians, liquor has remained a problem even up to recent times. As connected with the fur trade, however, it has declined with the decline of that branch of commerce. No other important regulations were passed from this time on in its connection with fur trading.

The Government of the United States had little success in bringing about a satisfactory condition in its attempts to enforce these liquor regulations. The vastness of the territory to which they applied made it practically impossible to apprehend the violators. The traders found it comparatively easy to evade detection or apprehension. Smuggling continued, and the fact that the regulations did not prohibit liquor from settlements that were carved out of the Indian country, made it possible for the Indian to get it from the settlers, if he was unable to get it from the trader. His desire for it did not diminish and he was willing to go to great lengths to secure it.

133. Smith, p. 213-217.
134. Johnson, p. 151-152.
Another problem which arose out of the goods of trade was the question of duties on English manufactured articles. England, at this time, was the leading manufacturing country in the world. The quality of her goods was superior to those manufactured in the United States. The United States had not become very important, as yet, as a manufacturing country. It is true that some manufacturing was being done, but the quality of these articles was not comparable to those of the English. In her desire to promote home industry, the United States placed duties on English manufactured goods. These duties amounted to from forty to sixty percent. This worked to the disadvantage of the American traders in their competition with the British traders, and much complaining resulted.

In his report to the Senate in 1832, Cass states that one of the greatest disadvantages of the Indian trade was the duty on Indian blankets and other articles. He points out the fact that the British did not have to pay duties on the goods which they used or a duty was not imposed upon their furs on the English market. As a result, the British could undersell the American trader. Joshua Pilcher recommends the abolition of duties on such articles


as are especially imported for the Indian trade and the im-
position of duties on furs from foreign countries equal to
that imposed on these articles by the same country. John
Jacob Astor, Alphonso Wetmore, Henry Schoolcraft, Thomas H.
Dougherty, and others, in reporting the disadvantages, are
practically unanimous in making the same recommendations.

As a result of these recommendations, Mr. Benton,
on January 4th, 1832, introduced a bill into Congress to
reduce the duty on Indian blankets. This bill, however,
did not win the favor of the majority in Congress, so it was
not passed. The protectionist policy which had been instit-
tuted a few years before, persisted. Any attempt to lower
duties on goods manufactured in foreign countries, which
competed with the American manufactured goods was not met
with a great deal of favor.

The Working of the System

The entire policy of regulation, which the Gover-
ment put into force, did not work out as the Government
had intended that it should. Human greed for material

137. Ibid, p. 5-11.
138. Congressional Debates, Vol. VIII, Part I, Doc. p. 49-
51.
wealth blinded the average trader to humanitarian policy of the Government. He, as a rule, was not interested in the Indian, but, rather, used him as a tool to further his personal enterprises. The fur trade was his business. From it he secured his means of livelihood. If Government regulations stood in the way, it was comparatively easy for him to find a way to nullify them as far as he was concerned.

Probably the thing that contributed most to the lack of functioning of the system was the vastness of the territory over which it applied. A Superintendent, located in St. Louis, responsible for the enforcement of the regulations over such a vast territory as Louisiana, had before him a hopeless and impossible task. He knew little of what was going on in any part of it. With the primitive means of travel which existed at that time, it took months and years to inspect or gain a knowledge of the working of the system, to say nothing of trying to enforce it.

Probably one of the most valuable and revealing sources of information as to the working of the system in the earlier period, was the expedition of Pike to the sources of the Mississippi in 1806. The purpose of this expedition was to keep the British in check and to convince the Indians of the newly acquired Louisiana Territory that

the Government had indorsed in the trading house law of 1806 the policy of maintaining trading houses along the Canadian frontier.

Pike found British subjects were operating illegally in this territory. One named Murdock Cameron had taken liquor and sold it to the Indians on the St. Peter. Cameron's partner, who was operating farther down the river, was found guilty of the same practice. La Jennisse was detected in the same practice. When Pike demanded his license, all he could produce was a certificate on the goods sold in the Indian country. He also found that the British were distributing medals to the Indians. He told these representatives of the Northwest Company that they would have to stop the distribution of medals and show respect for the laws of the United States. He found the British flag flying at Sandy Lake, where, when he asked why, he was told it belonged to the Indians. At Leach Lake he also found the British flag flying. He shot it down.

While at Leach Lake, he drew up a careful statement in writing of the limitations under which the foreigner might operate within the boundaries of the United States. British traders were to be amenable to the jurisdiction of

140. Ibid, p. 286.
the United States; they must obtain licenses of our agents; they must pay duties at the frontier; they must abstain from giving or selling liquor to the Indians; they must refrain from distributing British flags and medals to the Indians; and must stop flying the British flag from their posts.

While these rules, as laid down by Pike, embodied the policy of the Government toward the foreigner, whom she allowed to trade within her boundaries, and while they were fair in every respect, Pike's expedition had no lasting effect. Congress was too occupied in the contest with Great Britain, that culminated in the War of 1812, to pay much attention to what was happening on her frontiers. The Northwest Company continued to operate in the Mississippi valley and maintained posts at Mackinaw, Fort du Lac, and Prairie du Chien. The British flag flew over the later post as late as 1815.

Thus we can see that as far as the region of the upper Mississippi was concerned, the policy of the Government was not functioning at all. This same condition was probably characteristic of the greater part of the fur trading area.

For the period after the War of 1812, a letter written by Thomas Biddle to Colonel H. Atkinson, in 1819,

141. Ibid., p. 287.
142. Ibid., p. 288.
from Camp Missouri, on the Missouri river, gives us revealing information as to the functioning of the laws in that section. In this letter he states, "these traders are continually trying to lower each other in the eyes of the Indians, not only by abusive words, but by all sorts of low tricks and manoeuvres. ...The Indians, witnessing the efforts of these people to cheat and injure each other, and knowing no other important white men, they readily imbibe the idea that all white men are alike bad. The imposing appearance of arms and equipment of white men, and the novelty and convenience of their merchandise, had impressed the Indians with a high idea of their power and importance; but the avidity with which beaver skins are sought after, the tricks and wrangling made use of, and the degradation submitted to in obtaining them, have induced belief that the whites cannot exist without them, and made a great change in their opinion of our importance, our justice and our power."

The policy of the Government, instead of winning the Indian over to the friendship and respect of the American Government, seems to have worked in the opposite direction. One who looks into the activities of the fur trader, can see the seeds of future Indian hatreds being sown.

by these intense rivalries between traders. These hatreds were no doubt responsible for the need for military protection which the Government found it necessary to institute during the closing years of the trade.

That the laws failed to produce their desired effects is revealed in a letter of Lewis Cass to the War Department in 1826. He states in this letter, "discretionary authority should be vested in the agent in granting licenses. Many persons obtain licenses who are utterly unfit to enter the Indian country. While there they violate the laws, and produce the worse effects upon the morals of the Indians." He is speaking here of the condition in the Michigan Territory over which he was the Governor.

The source which gives us the best insight into the working of the system is the report to the Senate on February 8th, 1832. On March 2nd, 1831, the Senate made a resolution requesting the President of the United States "to cause to be collected and reported to the Senate, at the next session, the most authentic information which can be obtained of the number of names of the American citizens who have been killed or robbed while engaged in the fur trade, or the inland trade of Mexico, since the late war with Great Britain; the amount of the robberies committed.

and at what plans, and by what tribes. Also, the number of persons who annually engage in the fur trade to Mexico; the amount of the capital employed; and the annual amount of the proceeds in furs, robes, peltries, money, etc. Also the disadvantages, if any, which these branches of trade labor under; and the means for their relief and protection."

This report consisted of a series of letters from various men who were directly or indirectly concerned with the fur trade. Lewis Cass points out that posts had been established at such points in the Indian country as were deemed most favorable for the trade itself, and for the convenience of the Indians. There were six hundred hunters, according to his estimate, in the territory east of the Rockies. There was an annual return at this time of about two hundred packs valued at about ninety thousand dollars. He states that one of the greatest disadvantages of the trade was the peril of the Indians. "It is quite time," states Cass, "that the United States should interpose, efficaciously, to put a stop as well to the depredations of the Indians against our own citizens, as to their hostilities among themselves. If this is not soon done the evil

146. Ibid, Doc. 90, p. 4.
will increase and it will be more and more felt as the Indians east of the Mississippi migrate to the country west of the river."

As to the working of the laws in the Indian country, Andrew S. Hughes states: "Experience has fully proved to me that the laws which are now in force, and which were intended to regulate Indian trade and intercourse, as well as to preserve peace on our frontiers, are, in every point, wholly inapplicable to our existing relations with the Northwest Indians...that the major part of the Indian laws should be repealed." He further brings out the fact that the law requiring a license to trade in the Indian country is rudely violated and that there was no method to go into the Indian country and get them out. He also states that Congress passed a law requiring all aliens to take the oath of abjuration, before they could be permitted to trade with the Indians residing within the territorial limits of the United States, but questioned the ability or means of the agents to keep them loyal.

William reported upon the condition of the trade in the vicinity of the Rocky Mountains. He had been, in the year 1822, the clerk of the ill-fated expedition of

147. Ibid, Document 90, p. 4.
the Missouri Fur Company, under the leadership of Immel and Jones. He brings out in his letter to Cass the difficulties of competition with the British in that territory. He emphasizes that two things are necessary; first, the release of goods from duties, and second, military protection by mounted soldiers.

All the other contributors to the report bring out substantially the same points. They stress the poor working of the Government policy toward the fur trade. One is almost lead to believe that the innumerable efforts of conscientious men to better the conditions of the Indians were entirely wasted.

These reports also bring to light a new problem. This was the need for military protection for the trade.

In solving the problem of military protection, we again find Benton championing the west. As early as 1824, Benton had brought a bill before Congress providing for a road, protection, and consular service for the Mexican trade. When Mexico gained her independence in 1821, her frontiers were thrown open to foreign trade. The State of Missouri, because of her advantageous position, was one of the first to take advantage of this new trade possibility. Within a few years, this trade grew to a new and regular

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branch of internal commerce. The route extended through
the plains of the Southwest across the border and into Mex-
ico. The trade grew out of individual enterprise, without
Governmental protection, and even without her knowledge.
The bill which Benton proposed passed and became law, but
the actual carrying out of the protection part was of little
consequence. It needed more than an understanding between
Government and Government; it needed protection against the
nomadic Arabs along the route—the Indian. Foot soldiers,
stationed at one or the other end of the route, were of no
value whatsoever.

The law of 1796 had given the President power to
use military force in the apprehension of violators of the
fur trading regulations. So far as the records reveal,
very little use had been made of the power. This provis-
ion had been reaffirmed in subsequent legislation but had
never been of much value. What the fur trade needed more
than anything else in this later period, was not military
force to apprehend violators of the fur trading laws, but
rather, military force to protect the trader against the
Indian which he had so greatly antagonized and abused.
One might say that the trader was the victim of his own
handiwork.  

The first real attempt to protect the trade in the west is exemplified in a bill which Mr. Benton introduced into Congress in 1829, which provided for ten companies of soldiers to be mounted and to be stationed at various places along the frontier.

In his speech before Congress, Benton brings out three important reasons why a policy of this kind was necessary. In the first place, the caravans between Missouri and Mexico needed protection. Benton states, "caravans which annually bring home large sums of gold and silver, now experience continued losses in lives and property, for want of the species of protection which this bill proposes to give." In the second place, it was needed to provide for adequate defense for the western frontier, and that its whole extent, from the Sabine to the Falls of the St. Anthony, to Green Bay was in need of protection. In the third place, he states, "...the security of the fur trade, now a dangerous pursuit to our own citizens on our soil..." needs protection.

Because the Indians were mounted, an unmounted garrison was of no value whatsoever. The Indians could approach to the very gates of the garrison, kill and scalp...

men in its view and gallop away in triumph. A mounted force on the frontier was an indispensable necessity.

Benton states in his speech, referring to the fur trade of the interior, "In the region of the fur trade, where the Indians are excited by the British, the destruction of lives and property is horrible. The report of General Clark and Governor Cass, made at the last session of Congress, estimates the loss of lives, in this trade, at upward of four hundred; the loss of property at about five thousand dollars. The destruction of lives and property is still going on and will go on, until the troops of the Federal Government shall make an appearance beyond the Mississippi, calculated to impress respect and fear upon the savage mind."

In spite of Bentons efforts, this bill failed to pass, but on June 15th, 1832, a bill did pass which included practically all the things for which Benton had been striving.

This bill is particularly interesting because of the type of force which it provides for the frontier. The President was given power to raise five companies of rangers

152. Ibid, p. 272.
154. See Appendix I.
for the protection of the Northwest frontier. This force was to consist of men who had been raised on the frontier and were acquainted with its life. The men were to furnish their own equipment, arms and mounts, and the Government in return offered to pay them one dollar per day "as full compensation for their services, and the use of their arms and horses." Congress evidently thought that the men who were actually acquainted with the frontier life were more capable of defending it than an army recruited in the east. Congress was also desirous of conserving her resources in making such meager provisions.

This law failed to come up to expectations. Therefore, on the following year, Congress passed a more substantial measure for the protection of the frontier. The provisions of this law are much more liberal than those of the proceeding year. This new force was to consist of regularly enlisted men, equipped and mounted by the Government.

With the addition of the States to the Union, carved out of the old Indian territory, and with the addition of the policy of the Government of removing the Indians to the Indian country west of the Mississippi and on to reservations, the Government ran into the difficulty of

155. See Appendix J.
having the Indians refuse to leave their old hunting grounds. True, treaties had been made with the Indians to this effect, but they were wont to disregard the treaties made between the United States Government and their chiefs. They even went so far as to shoot their chiefs who had been responsible for making the treaties.

At this time, 1835, there were two hundred and fifty thousand Indians between the Mississippi river and the Rocky Mountains. They were in a great spirit of unrest and threatened the frontier settlements. Senator Linn of Missouri, introduced a bill for the increase of military protection of the west, as the result of this condition. It was thought that the Mexican, Santa Anna, had had something to do with the incitation of the Indians against the American frontier.

As a result of these threatened hostilities, Congress passed a law on May 23rd, 1836, providing for the increase of the military force on the frontier. The force was increased to ten thousand men and added appropriations for use in the suppression of Indian hostilities. In the same year, Congress passed another act which pro-

158. Ibid, Vol. XII, Part IV, Appendix p. 12. See Appendix
vided for the building of a military road from some point on the right bank of the Mississippi river, between the mouth of the St. Peter's and the mouth of the Des Moines rivers. This was for the purpose of aiding in the military protection of the frontier.

In 1829, Major Bennett Riley was ordered to accompany the spring caravan to the Mexican border. Again in 1834, an expedition was sent out for the same purpose, under the leadership of Captain Wharton, to protect the Sante Fe traders. This policy was abandoned, however, and not used again for some time. The caravans were so large that they could protect themselves. Furthermore, this method of protection was too expensive.

The protection of the actual fur trader of the interior against the depredations of the Indians was more or less of a failure. Stealing and murdering by the Indians continued in spite of the military posts along the frontier, the semblance of authority in the form of military expeditions sent into the Indian country might have had some temporary effect in the way of overawing the Indian, but, again, the vastness of the territory in which the trader operated defeated any hope which the few military posts might have had in the way of keeping law and order. How could a few scattered whites hope to keep thousands of
widely scattered Indians and traders in check?

The fact must be remembered, however, that the Government, in the creation of the military organizations in the west, did actually try to heed the cry of the people for protection, but, like the other policies of the Government, they failed to have much influence in changing fur trading conditions to the better.

There is no doubt but that the fur trade was in part responsible for this need of military protection. Other things contributed also for this need. When the Indian saw the main source of his livelihood so rapidly decreasing, he, no doubt, became alarmed. The fur bearing animals were the Indian's main means of subsistence. He depended upon them for his food, clothing and shelter. We can hardly blame him for rising up and trying to defend his ancient hunting grounds against an ever-increasing flow of immigration.
Chapter V

With the annexation of Texas; the Mexican war and the addition of a vast new territory in the Southwest; with the discovery of gold in California and other parts of the western territory, the fur trade sank into a minor and unimportant occupation.

From 1843 on, the fur trade of the upper Missouri, where it made its last important stand, experienced a marked decline, until it disappeared as an important industry. Wholesale slaughter, caused by the extreme competition between the Americans and the British soon caused the vast sources of supply to diminish and fade away. The demand for the fur, also, began to decrease, which had its effects upon the importance of the industry. The steady flow of immigration gradually extended the frontier until the west became a farming and mining, rather than a fur trading area. The discovery of gold in California in 1849, caused hordes of gold seekers to rush into the west to search its most hidden corners, not for fur, but for the gold.

Figures from the Hudson's Bay Company show a decline in production after 1843. In 1834, twenty one thousand pelts were sent from the Columbia. In 1837, twenty six thousand seven hundred thirty-five were shipped.
In 1848, a decided drop may be noted, when only twelve thousand seven hundred fifty-six were shipped.

From 1843 on, there is also a decided decline in the prices of pelts. In 1800, a pelt brought about one dollar and twenty-five cents. From 1834 to 1840, a pelt brought about four dollars each. From 1848, the price ranged from one dollar to two dollars and fifty cents each. This fall in price was largely due to decline in demand for furs. One of the chief sources of demand was in the making of the beaver hat. Mr. Astor noted as early as 1834 that silk hats were beginning to take the place of the fur hat.

In 1843, nine hundred immigrants went in one party to the Oregon country. From then on, the rapid flow became a serious obstacle to the operations of the fur trader in the western country.

All these things contributed to the down-fall of that great industry of the west. It had grown, flourished, and played its part in the great drama of the west, and then changing economic and social conditions caused its disappearance as an important industry. It had played its important part in the growth and development of the North

159. Work, Introduction to, p. 47.

160. Ibid., p. 48.
American continent. It is to the fur trader that we owe our first knowledge of the land. While he did not always keep accurate accounts of his expeditions, and most always not at all, he explored every nook and corner of this vast continent in search of fur. He found the trails. He first gazed upon the fertile lands. He discovered the gold. In short, he paved the way for greater and more permanent things.

To say that the Government failed entirely in its efforts to control this great industry, would be too severe an indictment. There is no doubt but that much good resulted. Generally speaking, however, the regulatory measures of the Government failed to attain their high purposes. In a speech before the Senate, on April 18th, 1838, Mr. Tipton of Indian, states, "But, I am sorry to say, that I know, from personal observation, that the benevolent designs of the Government towards this unfortunate race of men are seldom accomplished. New, I know, sir, by personal experience with the subject, that, with slight exceptions, our well meant efforts have injured rather than benefited them. "...We have imposed upon them a system of regulations which necessarily holds them fast in their uncivilized habits. Our laws recognize them only as savages headed by chiefs." 161

In spite of the fact that the policies of the Government largely failed, we cannot help but have a feeling of high regard for the Government when we note its noble efforts to bring about order and peace in the fur trade. The hopelessness of trying to enforce these excellent regulations in the Indian country is very well expressed by McKenney when he stated, "as well might the agents attempt to catch a distant and flying cloud, or to stop the decent of a mountain torrent."

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Appendix A

An Ordinance for the regulation of Indian Affairs

Whereas the safety and tranquility of the frontiers of the United States do, in some measure, depend on the maintaining of a good correspondence between their citizens and the several nations of Indians in amity with them: And whereas the United States, in Congress assembled, under the ninth article of confederation and perpetual union, have the sole and exclusive right and power of regulating and managing all affairs with the Indians not members of any of the States; provided that the legislative right of any State within its own limits be not infringed or violated:

Be it ordained by the United States in Congress assembled, That, from and after the passing of this ordinance, the Indian department be divided into two districts, viz, The southern, which shall comprehend within its limits all the nations in the territory of the United States who reside southward of the river Ohio; and the northern, which shall comprehend all the other Indian nations within the said territory, and westward of Hudson river; Provided, That all councils, treaties, communications and official transactions, between the superintendent hereafter mentioned for the northern district and the Indian nations, be held, transacted and done, at the outpost occupied by the troops of the United States in the said district. That a superintendent be appointed for each of the said districts, who shall continue in office for two years, unless sooner removed by Congress, and shall reside within, or as near the district for which he shall be appointed, as may be convenient for the management of its concerns. The said superintendents shall attend to the execution of such regulations as Congress shall from time to time establish, respecting Indian affairs. The superintendent for the northern district shall have authority to appoint two deputies, to reside in such places as shall best facilitate the regulations of the Indian trade, and to remove them for misbehavior. There shall be a communication of all matters relative to the business of the Indian department, kept up between the said superintendent, who shall regularly correspond with the Secretary of War, through whom all communications, respecting the Indian department, shall be made to Congress; and the superintendents are hereby directed to obey all instructions which they shall from time to time receive from the said Secretary of War. And whenever they shall have reason to suspect any tribe or tribes of Indians of hostile intentions, they shall communicate the same to the Executive of the State or States whose territories are subject to the effect of such hostilities. All stores, provisions, or other property, which Congress may think necessary for presents to the Indians, shall be in the custody and under the care of the said superintendents, who shall render an annual account of the expenditures of the same to the board of treasury.
And be it further ordained, That none but citizens of the United States shall be suffered to reside among the Indian nations, or be allowed to trade with any nation of Indians within the territory of the United States. That no person, citizen or other, under the penalty of five hundred dollars, shall reside among, or trade with any Indian or Indian nation, within the territory of the United States, without a license for that purpose first obtained from the superintendent of the district, or one of the deputies, who are hereby directed to give such license to every person who shall produce from the supreme Executive of any State, a certificate, under the seal of the State, that he is of good character, and suitable qualified and provided for that employment, for which license he shall pay the sum of fifty dollars to the said superintendent, for the use of the United States. That no license to trade with the Indians shall be in force for a longer term than one year; nor shall permits or passports be granted to any other persons than citizens of the United States, to travel through the Indian nations, without their having previously made their business known to the superintendent of the district, and received his special approbation. That, previous to any person or persons obtaining a license to trade as aforesaid, he, or they, shall give bond in three thousand dollars to the superintendent of the district, for the use of the United States, for his or their strict adherence to, and observance of, such rules and regulations as Congress may from time to time establish for the government of the Indian trade. All sums to be received by the said superintendents, either for licenses or fines, shall be annually accounted for by them with the board of treasury.

And be it further ordained, That the said superintendents, in trade with the Indians, on pain of forfeiting their offices; and each of the superintendents shall take the following oath, previous to his entering on the duties of his appointment: "I, A. B., do swear, that I will well and faithfully serve the United States in the office of superintendent of Indian affairs, for the —— district; that I will carefully attend to all such orders and instructions as I shall from time to time receive from the United States, in Congress assembled, or the Secretary of War; that I will not be concerned, either directly or indirectly, in trade with the Indians; and that, in all things belonging to my said office, during my continuance therein, I will faithfully, justly, and truly, according to the best of my skill and judgment, do equal and impartial justice, without fraud, favor or affection." And the superintendent for the northern district shall administer to his deputies, the following oath, before they proceed on the duties of their office: "I, A. B., do swear, that I will well and faithfully serve the United States, in the office of deputy superintendent of Indian affairs, in the northern district, that I will carefully attend to all such orders and instructions as I shall from time to time
receive from the United States, in Congress assembled, the Secretary of War, or the superintendent of the district aforesaid; and that in all things belonging to my said office, during my continuance therein, I will faithfully, justly and truly, according to the best of my skill and judgment, do equal and impartial justice, without fraud, favor or affection. And the said superintendents, and deputy superintendents, shall, each of them, give bond, with surety, to the board of treasury, in trust for the United States, the superintendents, each, in the sum of six thousand dollars, and the deputy superintendents, each, in the sum of three thousand dollars, for the faithful discharge of the duties of their office.

And it is further ordained, That all fines and forfeitures, which may be incurred by contravening this ordinance, shall be sued for, and recovered before any court of record within the United States, the one moiety thereof to the use of him or them, who may prosecute therefor, and the other moiety to the use of the United States. And the said Superintendents shall have power, and hereby are authorized, by force, to restrain therefrom, all persons who shall attempt an intercourse with the said Indians, without a license therefor, obtained as aforesaid.

And be it further ordained, That in all cases where transactions with any nation or tribe of Indians shall become necessary to the purposes of this ordinance, which cannot be done without interfering with the legislative rights of a State, the superintendent in whose district the same shall happen, shall act in conjunction with the authority of such State.

Chas. Thomson, Secretary,

Approved, August 7, 1786.

An Act to regulate trade and intercourse with the Indians.

Be it enacted, etc., That no person shall be permitted to carry on any trade or intercourse with the Indian tribes, without a license for the purpose, under the name and seal of the superintendent of the department, or of such other person as the President of the United States shall appoint for that purpose; which superintendent, or other person so appointed, shall, on application, issue such license to any proper person, who shall enter into bond, with one or more sureties, approved of by the superintendent, or person issuing such license, or by the President of the United States, in the penal sum of one thousand dollars, payable to the President of the United States, for the time being, for the use of the United States, conditioned for the true and faithful observance of such regulations, and restrictions, as now are, or hereafter shall be made for the government of trade and intercourse with the Indian tribes. The said superintendents, and persons by them licensed aforesaid, shall be governed in all things, touching the said trade and intercourse, by such rules and regulations as the President shall prescribe. And no other person shall be permitted to carry on any trade or intercourse with the Indians, without such license as aforesaid. No license shall be granted for a longer term than two years; Provided, nevertheless, That the President may make such order respecting the tribes surrounded in their settlements by the citizens of the United States, as to secure an intercourse without license, if he may deem it proper.

Sec. 3. And be it further enacted, That the superintendent, or person issuing such license, shall have full power and authority to recall all such licenses as he may have issued, if the person so licensed shall transgress any of the regulations or restrictions provided for the government of trade and intercourse with the Indian tribes, and shall put in suit such bonds as he may have taken, immediately on the breach of any condition in said bond; Provided always, That if it shall appear, on trial, that the person from whom such license shall have been released, has not offended against any of the provisions of this act or the regulations prescribed for the trade and intercourse with Indian tribes, he shall be entitled to receive a new license.

Sec. 3. And be it further enacted, That every person who shall attempt to trade with the Indian tribes, or be found in the Indian country with such merchandise in his possession as are usually vended to the Indians, without a license first had and obtained, as in this act prescribed, and being thereof convicted in any court proper to try the same, shall forfeit all the merchandise so offered for sale to the Indian tribes, or so found in the Indian country, which forfeiture shall be one half
to the benefit of the person prosecuting, and the other half to
the benefit of the United States.
Sec. 4. (deals with the sale of land)
Sec. 5. (deals with the commission of crime in the
Indian country by the white man.)
Sec. 6. (Procedure of apprehending criminal and
bringing him to trial.)
Sec. 7. And be it further enacted, That this act
shall be in force for the term of two years, and from thence to
the end of the next session of Congress, and no longer.*

Annals of Congress, 1789-1791, 1st Congress, Vol. II,
p. 2301.
Appendix C

An Act establishing houses with the Indians.

Be it enacted, That it shall be lawful for the President of the United States to establish trading houses at such posts and places on the western frontiers, or in the Indian country, as he shall judge most convenient for the purpose of carrying on a liberal trade with the several Indian nations within the limits of the United States.

Sec. 2. And be it further enacted, That the President be authorized to appoint an agent for each trading house established, whose duty it shall be to receive and dispose of in trade with the Indian nations aforementioned, such goods as he shall be directed by the President of the United States to receive and dispose of as aforesaid, according to the rules and orders which the President shall prescribe; and every such agent shall take an oath or affirmation faithfully to execute the trust committed to him; and that he will not, directly or indirectly, be concerned or interested in any trade, commerce, or barter with any Indian or Indians whatever, but on the public account; and shall also give bond, with sufficient security, in such sum as the President of the United States shall direct, truly and honestly to account for all the money, goods, and other property whatever, which shall come into his hands, or for which, in good faith, he ought so to account, and to perform all the duties required of him by this act; and his accounts shall be made up half-yearly, and transmitted to the Secretary of the Treasury of the United States.

Sec. 3. And be it further enacted, That the agents, their clerks, or other persons employed by them, shall not be directly or indirectly, concerned or interested in carrying on the business of trade or commerce on their own or any other than the public account, or take, or apply to his or their own use, any amolument or gain for negotiating or transacting any business or trade during their agency or employment, other than is provided in this act. And if any such person shall offend against any of the prohibitions aforesaid, he or they shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, forfeit to the United States a sum no exceeding one thousand dollars, and shall be removed from such agency or employment, and forever thereafter be incapable of holding any office under the United States; Provided, That if any other person than a public prosecutor shall give information of any such offense, upon which prosecution and conviction shall be had, one half the aforesaid penalty when received, shall be for the use of the person giving such information.

Sec. 4. And be it further enacted, That the prices of the goods supplied to, and to be paid for by the Indians, shall be regulated in such manner that the capitol stock furnished by the United States may not be diminished.
Sec. 5. And be it further enacted, That during the continuance of this act the President of the United States be, and he is hereby, authorized to draw annually from the Treasury of the United States a sum not exceeding right thousand dollars, to be applied, under his direction, for the purpose of paying the agents and clerks; which agents shall be allowed to draw out of the public supplies two rations each, and each clerk one ration per day.

Sec. 6. And be it further enacted, That one hundred and fifty thousand dollars, exclusive of the allowance to agents and clerks, be, and they are hereby, appropriated for the purpose of carrying on trade and intercourse with the Indian nations in the manner aforementioned, to be paid out of any moneys unappropriated in the Treasury of the United States.

Sec. 7. And be it further enacted, That if any agent or agents, their clerks, or other persons employed by them, shall purchase or receive from any Indian, in the way of trade or barter, a gun, or other article commonly used in hunting; any instrument of husbandry, or cooking utensil, of the kind usually obtained by Indians in their intercourse with the white people; any article of clothing, (except skins or furs,) he or they shall, respectively, forfeit the sum of one hundred dollars for each offense, to be recovered by action of debt, in the name and to the use of the United States, in any court of law of the United States, or of any particular State having jurisdiction in like cases or in the Supreme or Superior Courts of the Territory of the United States: Provided, That no suit shall be commenced except in the State or Territory within which the cause of action shall have arisen, or the defendant may reside; and it shall be the duty of the Superintendents of Indian Affairs and their deputies, respectively, to whom information of every such offense shall be given, to collect the requisite evidence, if attainable, and to prosecute the offender without delay.

Sec. 8. And be it further enacted, That this act shall be in force for the term of two years, and to the end of the next session of Congress thereafter, and no longer.

Approved, April 18, 1796.

Appendix D

An Act to regulate trade and intercourse with the Indian Tribes, and to preserve peace on the frontiers.

Be it enacted, etc., That the following boundary line established by treaty between the United States and various Indian tribes, shall be clearly ascertained, and distinctly marked in all such places as the President of the United States shall deem necessary, and in such manner as he shall direct, to wit; Beginning at the mouth of the Cuyahoga river, on Lake Erie, and running thence up the same, to the protage between that and the Tuscaroras branch, of the Hocking; thence, down that branch, to the crossing place above Fort Lawrence; thence, westerly, to a fork of that branch of the Great Miami river running into the Ohio, at or near which fork stock Laromie's store, and where commences the protage, between the Miami of the Ohio, and Saint Mary's river, which is a branch of the Miami which runs into Lake Erie; thence, a westerly course to Fort Recovery, which stands on a branch of the Wabash; thence southwesterly, in a direct line to the Ohio, so as to intersect that river, opposite the mouth of Kentucky or Outttaw river; thence, down the said river Ohio, to the tract of one hundred and fifty thousand acres, near the rapids of the Ohio, which has been assigned to General Clark, for the use of himself and his warriors; thence, down the same, to a point opposite the high lands or ridge between the mouth of the Cumberland and Tennessee rivers; thence, easterly on the said ridge to a point, from whence a southwest line will strike the mouth of Duck river; thence, still easterly on the said ridge, to a point forty miles above Nashville; thence, northeast to Cumberland river; thence, up the said river, to where the Kentucky road crosses the same; thence to the top of Cumberland mountains; thence along Campbell's line, to the river from which a line shall pass the Holsten, at the ridge which divides the waters running into Little River, from those running into the Tennessee; thence, south to the North Carolina boundary, to and over the Ocuma mountain, in a southwesterly course, to Tugelo river; thence, in a direct line, to the top of the Currahee mountain, where the Creek line passes it; thence, to the head or source of the main branch of the Oconee river, called the Appalachsee; thence, down the middle of the said main south branch and river Oconee, to its confluence with Oakmilgee, which forms the river Altamaha; thence, down the middle of the said Altamaha, to the old line on the said river; and thence, along the said old line, to the river Saint Mary's. Provided always That if the boundary line between the said Indian tribes and the United States, shall at any time hereafter be varied by any treaty which shall be made between the said Indians and the United States, then all the provisions contained in this act shall be construed to apply to said provisions now apply to the boundary line hereinbefore recited.
Sec. 2. And be it further enacted, That if any citizen of, or other person, resident in the United States, or either of the territorial districts of the United States, shall cross over, or go within the said boundary line, to hunt, or in any wise destroy the game; or shall drive, or otherwise convey any stock or horses or cattle to range, on any lands allotted or secured by treaty with the United States, to any Indian tribes, he shall forfeit a sum not exceeding one hundred dollars, or be imprisoned not exceeding six months.

Sec. 3. And be it further enacted, That if any such citizen, or other person, shall go into any country which is allotted or secured by treaty as aforesaid, to any of the Indian tribes south of the river Ohio, without a passport first had and obtained from the Governor of some one of the United States, or the officer of the troops of the United States commanding at the nearest post on the frontiers, or such other person as the President of the United States may from time to time authorize to grant the same, shall forfeit a sum not exceeding fifty dollars, or be imprisoned, not exceeding three months.

Sec. 4. (Crime in the Indian Territory).
Sec. 5. (Settlement on lands in the Territory).
Sec. 6. (Penalty for the murder of an Indian).
Sec. 7. And be it further enacted, That no such citizen, or other person, shall be permitted to reside at any of the towns or hunting camps, of any of the Indian tribes as a trader, without a license under the hand and seal of the superintendent of the department, or of such other person as the President of the United States shall authorize to grant licenses for that purpose; which superintendent, or person authorized, shall, on application, issue such license, for a term not exceeding two years, who shall enter into bond with one or more sureties, approved of by the superintendent, or person issuing such license, or by the President of the United States, in the penal sum of one thousand dollars, conditioned for the true and faithful observance of such regulations and restrictions as are or shall be made for the government of trade and intercourse with the Indian tribes; and the superintendent, or person issuing such license, shall have full power and authority to recall the same, if the person so licensed shall transgress any of the regulations or restrictions, provided for the government of trade and intercourse with the Indian tribes; and shall put in suit such bonds as he may have taken, on the breach of any condition there contained.

Sec. 8. And be it further enacted, That any such citizen, or other person, who shall attempt to reside in any town or hunting camp of any of the Indian tribes as a trader, without such license, shall forfeit all the merchandise offered for sale to the Indians, or found in his possession, and shall moreover, be liable to a fine not exceeding one hundred dollars, and to imprisonment not exceeding thirty days.
Appendix D.

Sec. 9. And be it further enacted, That if any such citizen, or other person, shall purchase, or receive of any Indian, in the way of trade or barter, a gun, or other article commonly used in hunting, any instrument of husbandry, or cooking utensil, of the kind usually obtained by the Indians in their intercourse with white people, or any article of clothing, except skins or furs, he shall forfeit a sum not exceeding fifty dollars, and be imprisoned not exceeding thirty days.

Sec. 10. And be it further enacted, That no such citizen, or other person, shall be permitted to purchase any horse of an Indian, or of any white man in the Indian territory, without special license for the purpose; which license, the superintendent, or such other person as the President shall appoint, is hereby authorized to grant, on the same terms, conditions, and restrictions, as other licenses are to be granted under this act. And any such person who shall purchase a horse or horses under such license, before he exposes such horse or horses for sale, and within fifteen days after they have been brought out of the Indian country, shall make a particular return to the superintendent, or other person, from whom he obtained his license, of every horse purchased by him, as aforesaid; describing such horses by their color, height, and other natural or artificial marks, under the penalty contained in their respective bonds. And every such person purchasing a horse or horses, as aforesaid, in the Indian country, without a special license, shall, for every horse thus purchased and brought into any settlement of citizens of the United States, forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding thirty days. And every person who shall purchase a horse, knowing him to be brought out of the Indian territory, by any person or persons not licensed as above to purchase the same, shall forfeit the value of such horse.

Sec. 11. And be it further enacted, That no agent, superintendent, or other person, authorized to grant a license to trade or purchase horses, shall have any interest or concern in any trade with the Indians, or in the purchase or sale of any horse to or from any Indian, excepting for and on account of the United States. And any person offending herein, shall forfeit a sum not exceeding one thousand dollars, and be imprisoned not exceeding twelve months.

Sec. 12. (Settlement on land).

Sec. 13. And be it further enacted, That, in order to promote civilization among the friendly Indian tribes, and to secure the continuance of their friendship, it shall be lawful for the President of the United States to cause them to be furnished with useful domestic animals, and implements of husbandry, and with goods or money, as he shall judge proper, and to appoint such persons from time to time, as temporary agents, to reside among the Indians, as he shall think fit: Provided, That the whole amount of such presents and allowance to such agents, shall not exceed fifteen thousand dollars per annum.
Appendix D.

Sec. 14. (Indians crossing boundary line and committing crimes.)

Sec. 15. (Court jurisdictions for criminal cases)

Sec. 16. And be it further enacted, That it shall be lawful for the military force of the United States, to apprehend every person who shall or may be found in the Indian country over and beyond the said boundary line between the United States and the said Indian tribes, in violation of any of the provisions or regulations of this act, and him or them immediately to convey in the nearest convenient and safe route, to the civil authority of the United States, in some one of the three next adjoining States or districts, to be proceeded against in due course of law: Provided, That no person apprehended by military force as aforesaid, shall be detained longer than ten days after the arrest and before removal.

Sec. 17. And be it further enacted, That if any person who shall be charged with a violation of any of the provisions or regulations of the act, shall be found within any of the United States, or either of the territorial districts of the United States, such offender may be there apprehended and brought to trial, in the same manner as if such crime or offense had been committed within such State or district; and it shall be the duty of the military force of the United States, when called upon by the civil magistrate or other proper officer, or other person having lawful warrant, to aid and assist such magistrate, officer, or other person authorized as aforesaid in arresting such offender, and him committing to safe custody, for trial according to law.

Sec. 18. And be it further enacted, That the amount of fines and duration of imprisonment directed by this act as a punishment for the violation for any of the provisions thereof, shall be ascertained and fixed, not exceeding the limits prescribed, in the discretion of the court before whom the trial shall be had; and that all fines and forfeitures which shall accrue under this act shall be one half to the use of the informant and the other half to the use of the United States; except where the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

Sec. 19. And be it further enacted, That nothing in this act shall be construed to prevent any trade or intercourse with the Indians living on lands surrounded by settlements of the citizens of the United States, and being within the ordinary jurisdiction of any of the individual States; or the unmolested use of a road from Washington district to Mero district, and of the navigation of the Tennessee river, as reserved and secured by treaty.

Sec. 20. And be it further enacted, That the President of the United States be and he is hereby authorized to cause to be clearly ascertained and distinctly marked, in all such places as he shall deem necessary, and in such manner as he shall direct, any other boundary lines between the United States and any Indian tribe which now are or hereafter may be established by treaty.
Sec. 21. And be it further enacted, That all and every other act and acts, coming within the purview of this act, shall be and they are hereby repealed; provided, nevertheless, That all disabilities that have taken place shall continue and remain, all penalties and forfeitures that have been incurred may be recovered, and all prosecuted to final judgment under the said act or acts, in the same manner as if the said act or acts were continued and in full force and virtue.

Sec. 22. And be it further enacted, That this act shall be in force for the term of two years and from thence to the end of the session of Congress next thereafter, and no longer.*

Approved, May 19, 1796.

Appendix E.

An Act to regulate trade and intercourse with the Indian Tribes, and to preserve peace on the frontiers.

(This Act is much the same as that of 1796, so I merely quote the changes.)

Sec. 1. (The boundary line cited in the last law remains the same from the mouth of the Cayahoga river on Lake Erie, to the point opposite the highlands or ridge between the mouth of the Cumberland and Tennessee rivers.)———thence southeastwardly on the said ridge, to a point from whence a southwest line will strike the mouth of Duck river; thence still eastwardly on the said ridge to a point forty miles above Vashville; thence, northeast, to Cumberland river; thence up the said river, to where the Kentucky road crosses the same; thence to the Cumberland mountains to Emery's river; thence down the same to its function with the river Clinch to Hawkin's line; thence along the same to a white oak, marked "one mile tree", thence south fifty-one degrees west, three hundred twenty-eight chains, to a large ash tree on the bank of the river Tennessee, one mile below southwest point; thence up the northeast margin of the river Tennessee(not including island) to the Wild Cat rock below Tellico blockhouse; thence in a direct line to the Militia Spring near Maryville road leading from Tellico; thence from the said Spring to the Chilhowee mountain, by a line so to be run, as will leave all the farms on Nine-Mile creek to the northward and eastward of it, and to be continued along the Chilhowee mountain until it strikes Hawkin's line; thence along the said line to the Great Iron mountain; and from the top of which a line to be continued in a southeastwardly course to where the most southern branch of Little river crosses the divisional line to Tugaloo river; thence in a direct line to the top of Currahee mountain, where the creek line passes it; thence to the head or source of the main south branch of the Oconee river, called the Appalachée; thence down the middle of the said main south branch and river Oconee, to its confluence with Cockmulgee, which forms the river Altamaha; thence down the middle of the said Altamaha, to the old line of the said river Saint Mary's; Provided, always, That if the boundary line between the said Indian tribes and the United States shall, at any time hereafter, be varied by any treaty which shall be made between the said Indian tribes and the United States, then all the provisions contained in this act shall be construed to apply to the said line as to be varied, in the same manner as said provisions apply by force of this act to the boundary line hereinbefore recited.
Appendix E

(The remaining sections are identical with the law of 1796 with the exception of an addition to Section 16 and 19. I shall quote the changes.)

Sec. 16. Provided, That no person apprehended by military force, as aforesaid, shall be detained longer than five days after arrest, and before removal. And all officers and soldiers, who may have any such person or persons in custody, shall treat them with all the humanity which the circumstances will possibly permit; and every officer and soldier who shall be guilty of maltreating any such person, while in custody, shall suffer such punishment as a court martial shall direct: Provided, That the officer having custody of such person or persons, shall, if required by such person or persons, conduct him or them to the nearest judge of the supreme or superior court of any State, who, if the offense it bailable, shall take proper bail, if offered, returnable to the district court next to be holden in said district, which bail the said judge is hereby authorized to take, and which shall be liable to be estreated as any other recognizance for bail in any court of the United States; and if said judge shall refuse to act, or the person or persons fail to procure satisfactory bail, then the said person or persons are to be proceeded with according to the directions of this act.

Sec. 19. nor shall this act be construed to prevent any person traveling from Knoxville to Price's settlement, (so called) provided they shall travel in the trace or path which is usually traveled, and provided the Indians make no objection; but if the Indians object, the President of the United States is hereby authorized to issue a proclamation, prohibiting all traveling on said trace, after which, the penalties of this act shall be incurred by every person traveling or being found on said trace, within the Indian boundary, without a passport.*

Approved March 3, 1799.

Appendix F.

An Act supplementary to an Act passed the thirtieth of March, 1802, to regulate trade and intercourse with the Indian Tribes, and to preserve peace on the frontiers.

Sec. 1. Be it enacted,—etc., That licenses to trade with the Indians within the territorial limits of the United States shall not be granted to any but citizens of the United States by the express direction of the President of the United States, and upon such terms and conditions as the public interest may, in his opinion, require.

Sec. 2. And be it further enacted, That all goods, wares and merchandise, carried by a foreigner into the lands to which the Indian title has not been extinguished, for the purpose of being used in the Indian trade; and all articles of peltry, or provisions, or of any other kind purchased by foreigners, or tribes of Indians, contrary to the provisions of this act shall be, and the same are hereby, forfeited, one half thereof to the use of the informer, and the remainder to the United States: Provided, That the goods, wares, and merchandise are seized before they are removed beyond the limits of the United States.

Sec. 3. And be it further enacted, That if a foreigner go into any country which is allotted or secured by treaty to either of the Indian tribes within the territorial limits of the United States, or to which the Indian title has not been extinguished, without a passport first had and obtained from the Governor, of one of the States or Territories of the United States, adjoining the country into which he may go, or the officer of the troops of the United States, commanding at the nearest post on the frontiers, or such other person as the President of the United States may from time to time authorize to grant the same, he shall, on conviction thereof, pay a fine of not less than fifty or more than one thousand dollars; or be imprisoned not less than one month, or more than twelve months, at the discretion of the court.

Sec. 4. And be it further enacted, That trials for offenses against this act shall be had in the courts of the United States of the territory in which the person accused may be arrested, or in the circuit court of the United States of the district into which he may be first carried, after his arrest.

Sec. 5. And be it further enacted, That each and every person charged with a violation of the second section of this act shall, if arrested, be indicted and tried in one of the courts aforementioned and that the conviction of the accused shall authorize the court to cause the goods intended to be sold to, and articles purchased from the Indians, belonging to him, or taken in his possession, to be sold, one half to the use of the informer, and the other to the use of the United States. But if goods
intended to be sold, or articles purchased from the Indians contrary to the provisions of this act, should be seized, and the owner or person in possession of them should make his escape, or from any other cause cannot be brought to trial, it shall and may be lawful for the United States Attorney of the Territory in which they may be seized, or the District Attorney of the United States, of the district into which they may have been first carried after they are seized, to proceed against the said goods intended to be sold to, or articles purchased from the Indians, in the manner directed to be observed in the case of goods, wares, or merchandise brought into the United States in violation of the revenue laws.

Sec. 6. And be it further enacted, That the President of the United States be, and he hereby is, authorized to use the military force of the United States whenever it may be necessary to carry into effect this act, as far as it relates to seizure of goods to be sold to, or articles already purchased from the Indians, or to the arrest of persons charged with violating its provisions.*

Approved, April 29, 1816.

Appendix G.

An Act to abolish the United States Trading Establishment with the Indian Tribes.

Be it enacted, That the President of the United States shall be, and hereby is, authorized and required to cause the business of the United States trading houses among the Indian tribes to be closed, and the accounts of the superintendent of Indian trade, and of the factors and sub-factors, to be settled; and, for that purpose, the President is hereby authorized to select, from among the Indian agents, or others, a competent number of fit and suitable persons, to be and appear at the office of Indian trade in Georgetown, in the District of Columbia, and at each of the trading houses established among Indian tribes, on or before the third day of June next, or as soon thereafter as can conveniently be done, to demand and receive of and from the superintendent of Indian trade, and of the respective factors and sub-factors, all goods, wares and merchandise, furs, peltries, evidences of debt, and property and effects of every kind, which may be in their power, or possession, by virtue of their respective offices, and justly due and belonging to the United States; and the said agents, selected for the purpose aforesaid, shall be furnished with the copies of the latest quarterly returns of the said superintendent, factors, and sub-factors, as rendered by them to the Treasury Department, and copies of any other papers in the said Department, which will show what is or ought to be due and coming to the United States from the said office of Indian trade in Georgetown, and from each of the trading houses established among the Indians. And the persons so selected shall enter into bond, with good and sufficient security, in such sums as may be required by the President of the United States, for the faithful discharge of the duties enjoined on them by the provisions of this act. And, from and after, the third day of June next, the act of the second of March, one thousand eight hundred and eleven, entitled, "An Act for establishing trading houses with Indian tribes", shall be continued in force for the purposes only of enforcing all bonds, debts, contracts, demands, and rights, which may have arisen, and all penalties and punishments which may have been, or may be incurred under the provisions of the said act, and for the settlement of the accounts of the superintendent, factors, and sub-factors, at the treasury department.

Sec. 2. And be it further enacted, That the goods, wares, and merchandise, which shall be delivered over to the agents of the United States, under the provisions of this act, shall be placed at the disposition of the President of the United States, subject, under his orders, towards satisfying or extinguishing the treaty obligations on the part of the United States to keep up trading houses with the Indians; also, towards the payment of annuities due, or to become due, to the Indian tribes; also, in making the
Appendix G.

customary presents to tribes or individuals in amity with the United States; and the surplus, if any, may be sold to the best advantage, under the orders of the President, and the proceeds paid over to the Treasury of the United States.

Sec. 3. And be it further enacted, That the furs, peltries, effects, and property, received under the first section of this act, shall be sold in the manner the President may direct; the debts due and owing shall be collected under his orders; and all the money received from these sources, and all that shall be received from the superintendent of Indian trade, and from the factors and sub-factors, shall be paid over as fast as received into the Treasury of the United States: Provided, That such sums may be retained and applied, under the orders of the President of the United States, as may be necessary to defray the expenses of carrying this act into effect.

Sec. 4. And be it further enacted, That, as soon as may be after the commencement of the next session of Congress, the President of the United States shall communicate to Congress the manner in which he shall have caused this act to be executed, showing the amount of money, furs, peltries, and other effects, and the amount and description of goods, wares, and merchandise, and the actual cash value thereof, received from the superintendent of Indian trade, and each of the factors and sub-factors, under the provisions of this act.*

Approved, May 6, 1833.

Appendix H.

An Act to amend an act, entitled, 'An Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers', approved thirtieth of March 1802.

Be it enacted, That the seventh section of the act entitled 'An Act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers', shall be, and the same is hereby, repealed; and, from and after the passing of this act, it shall be lawful for the superintendent of Indian Affairs in the territories, and Indian agents, under the direction of the President of the United States, to grant licenses to trade with the Indian tribes; which licenses shall be granted to citizens of the United States, and to none others; taking from them bonds, with securities, in the penal sum, not exceeding five thousand dollars, proportioned to the capital employed, and conditioned from the due observance of the laws regulating trade and intercourse with the Indian tribes; and said licenses may be granted for a term not exceeding seven years, for the trade with the remote tribes of Indians beyond the Mississippi, and two years for the trade with all the other tribes. And the superintendents and agents shall return to the Secretary of War, within each year, an abstract of all licenses granted, showing by, and to whom, when, and where granted, with the amount of the bonds, and capital employed, to be laid before Congress, at the next session thereof.

Sec. 2. And be it further enacted, That it shall and may be lawful for the President of the United States, in execution of the power vested in him by the twenty-first section of the Act of the thirtieth of March, one thousand eight hundred and two, aforesaid, to which this is an amendment, to direct Indian agents, Governors of territories acting as superintendents of Indian affairs, and military officers, to cause the stores and packages of goods of all the traders to be searched upon suspicion or information that ardent spirits are carried into the Indian countries by said traders, in violation of the said twenty first section of the Act to which this is an amendment; and if any ardent spirits shall be so found, all the goods of the said trader shall be forfeited, one-half to the use of the informer, the other half to the use of the Government, his license cancelled, and bond put in suit.*

Sections 3, 4, 5, and 6 omitted)

Approved, May 6, 1822.

Appendix I

An Act to authorize the President to raise mounted volunteers for the defense of the frontier.

Be it enacted, That the President of the United States be, and he hereby is, authorized to raise, either by the acceptance of volunteers, or enlistment for one year, unless sooner discharged, six hundred mounted Rangers, to be armed, equipped, mounted, and organized, in such manner, and to be under such restrictions as the nature of the service may, in his opinion make necessary.

Sec. 2. And be it further enacted, That each of the said companies of Rangers shall consist of one captain, one first, one second, and one third lieutenant; five sergeants, five corporals, and one hundred privates; the whole to form a battalion, and be commanded by a major.

Sec. 3. And be it further enacted, That the said non-commissioned officers and privates shall arm and equip themselves, unless otherwise ordered by the President, and provide their own horses, and shall be allowed, each one dollar per day, as a full compensation for their services, and the use of their arms and horses. The commissioned officers shall receive the same pay and emoluments as officers of the same grade in the army of the United States, and the officers shall be allowed forage for their horses, and be entitled to the same rations as those of the same grade in the army of the United States respectively.

Sec. 4. And be it further enacted, That the officers, non-commissioned officers, and privates, raised pursuant to this act, shall be entitled to the like compensation, in case of disability by wounds or otherwise, incurred in the service as has heretofore been allowed to officers, non-commissioned officer, and privates, in the military establishment of the United States; and shall be subject to the rules and articles of war, and such regulations as have been or shall be established according to law for the government of the army of the United States, as far as the same may be applicable to the said Rangers, within the defense of the North-western frontier of the United States.

Sec. 5. And be it further enacted, That the President of the United States, by and with the advice and consent of the Senate, is hereby authorized to appoint all the officers proper to be appointed under this act; which appointments may be made during the recess of the Senate, but shall be submitted to the Senate at their next session, for their advice and consent; and that the sum of fifty thousand dollars be, and the same is hereby appropriated, for the purpose of carrying this law into effect.*

Approved June 15, 1832.

*Annals of Congress.
Appendix J.

An Act for the more perfect defense of the frontier.

Be it enacted, That in lieu of the battalion of mounted rangers authorized by the act of the fifteenth of June, one thousand eight hundred and thirty-two, there be established a regiment of dragoons, to be composed and organized as follows, to wit; one colonel, one lieutenant colonel, one major, one quartermaster-sergeant, and two chief buglers, one adjutant, who shall be a lieutenant, one sergeant major, one chief musician, and ten companies; each company to consist of one captain, one first Lieutenant, and one second Lieutenant exclusive of the lieutenant who is to be the adjutant of the regiment; four sergeants, one of whom shall act as quartermaster-sergeant to the company, four corporals, two buglers, one farrier and blacksmith, and sixty privates.

Sec. 2. And be it further enacted, That the officers, non-commissioned officers, musicians, and privates, when mounted be entitled to the same pay and emoluments as was allowed the dragoons during the war, and when on foot, the same pay and emoluments as are now allowed to the officers, non-commissioned officers, musicians, and privates of a regiment of infantry; and that the farrier and blacksmith be allowed the same pay and allowances, as are allowed to an artificer of artillery.

Sec. 3. And be it further enacted, That the said regiment of dragoons shall be liable to serve on horse, or foot, as the President may direct; shall be subject to the rules and articles of war, be recruited in the same manner, and with the same limitations; that the officers, non-commissioned officers, musicians, farriers, and privates, shall be entitled to the same provisions for widows and children, and the same allowances and benefits in every respect, as are allowed the other troops constituting the present military peace establishment.

Sec. 4. And be it further enacted, That the President of the United States be authorized to carry into effect this act, as soon as he may deem expedient, and to discharge the present battalion of mounted rangers, on their being relieved by the said regiment of dragoons.

Sec. 5. And be it further enacted, That the sum required to carry into effect the provisions of this act, is hereby appropriated, in addition to the appropriations, for the military establishment for the year one thousand eight hundred and thirty-three.*

Approved, Mar. 2, 1833.

*Annals of Congress.
Appendix K.

An Act to regulate trade and intercourse with the Indian Tribes, and preserve peace on the frontiers.

Be it enacted, That all that part of the United States west of the Mississippi, and not within the States of Missouri and Louisiana, or the Territory of Arkansas, and, also, That part of the United States east of the Mississippi river, and not within any State to which the Indian title has not been extinguished, for the purposes of this act, be taken and deemed to be the Indian country.

Sections 2 through 19 omitted because of similarity to other acts, or not applying to the subject under consideration.

Sec. 30. And be it further enacted, That if any person shall sell, exchange, or give, barter, or dispose of, any spirituous liquor or wine to an Indian, (in the Indian country) such person shall forfeit and pay the sum of five hundred dollars; and if any person shall introduce, or attempt to introduce, any spirituous liquor or wine into the Indian country, except such supplies as shall be necessary for the officers of the United States and troops of the service, under the direction of the War Department, such person shall forfeit and pay a sum not exceeding three hundred dollars; and if any superintendent of Indian affairs, Indian agent, or sub-agent, or commanding officer of a military post, has reason to suspect, or is informed, that any white person or Indian is about to introduce, or has introduced, any spirituous liquor or wine into the Indian country, in violation of the revisions of this section, it shall be lawful for such superintendent, Indian agent, or sub-agent, or military officer, agreeably to such regulations as may be established by the President of the United States, to cause the boats, stores, packages, and places of deposit of such person to be searched, and if any such spirituous liquor or wine is found, the goods, boats, packages, and peltries of such persons shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the use of the informer, and the other half to the use of the United States; and if such person is a trader, his license shall be revoked and his bond put in suit. And it shall moreover be lawful for any person in the service of the United States, or for any Indian, to take and destroy any ardent spirits or wine found in the Indian country, excepting military supplies as mentioned in this section.

Sec. 31. And be it further enacted, That if any person whatsoever shall, within the limits of the Indian territory, set up or continue any distillery for the manufacturing of ardent spirits,
he shall forfeit and pay a penalty of one thousand dollars and it shall be the duty of the Superintendent of Indian Affairs, Indian Agent, or sub-agent, within the limits of whose agency the same shall be set up or continued, forthwith to destroy and break up the same; and it shall be lawful to employ the military force of the United States in executing that duty.*

Approved June 30, 1834.

Appendix L

An Act authorizing the President of the United States to accept the service of volunteers, and to raise an additional regiment of dragoons or mounted riflemen.

Be it enacted, That the President of the United States be, and hereby is, authorized to accept volunteers who may offer their services either as infantry or cavalry, not exceeding ten thousand men, to serve six or twelve months after they shall have arrived at the place of rendezvous, unless sooner discharged; and the said volunteers shall furnish their own clothes, and, if cavalry, their own horses, and, when mustered into service, shall be armed and equipped at the expense of the United States.

Sec. 2. And be it further enacted, That the said volunteers shall be liable to be called upon to do military duty only in cases of Indian hostilities, or to repel invasions whenever the President shall judge proper; and when called into actual service, and while remaining therein, shall be subject to the rules and articles of war, and shall be in all respects, except as to clothing, placed on the same footing with similar corps of the United States army; and, in lieu of clothing, every non-commissioned officer and private in any company who may thus offer themselves, shall be entitled, when called into actual service, to receive in money a sum equal to the cost of the clothing of a non-commissioned officer or private (as the case may be) in the regular troops of the United States.

Sec. 3. And be it further enacted, That the said volunteers so offering their services shall be accepted by the President in companies, battalions, squadrons, regiments, brigades or divisions, whose officers shall be appointed in the manner prescribed by law in the several States and Territories to which such companies, battalions, squadrons, regiments, brigades, or divisions shall respectively belong: Provided, That where any company, battalion, squadron, regiment, brigade, or division of militia, already organized, shall tender their voluntary services to the United States, such company, battalion, squadron, regiment, brigade, or division shall continue to be commanded by the officers holding commissions in the same as the time of such tender; and any vacancy thereafter occurring shall be filled in the mode pointed out by law in the States or Territory wherein the said company, battalion, squadron, regiment, brigade, or division shall have been originally raised.

Sec. 6. And be it further enacted, That the President of the United States be, and he is hereby, authorized to organize companies, so tendering their services, into battalions, or squadrons, into regiments, regiments into brigades, and brigades into divisions, as soon as the number of volunteers shall render such organization, in his judgment, expedient; and
the President shall, if necessary, apportion the staff, field, and general officers among the respective States or Territories from which the volunteers shall tender their services, as he may deem proper; but until called into actual service, such companies, battalions, squadrons, regiments, brigades, or divisions shall not be considered as exempt from the performance of militia duty as is required by law, in like manner as before the passage of this act.

Sec. 5. And be it further enacted, That the volunteers who may be received into the service of the United States, by virtue of the provisions of this act, shall be entitled to all the benefits which may be conferred on persons wounded in the service of the United States.

Sec. 6. And be it further enacted, That there shall be raised and organized, under the direction of the President of the United States, one additional regiment of dragoons or mounted riflemen, to be composed of the same number and rank of the officers, non-commissioned officers, musicians and privates, composing the regiment of dragoons now in the service of the United States, who shall receive the same pay and allowances, be subject to the same rules and regulations, and be engaged for the like term, and upon the same conditions, in all respects whatever, as are stipulated for the said regiment of dragoons now in service.

Sec. 7. And be it further enacted, That the President of the United States may disband the said regiment whenever, in his opinion, the public interest no longer requires their services, and the sum of three hundred thousand dollars, required to carry into effect the provisions of this act, is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

Sec. 8. And be it further enacted, That so much of this act as relates to volunteers shall be in force for two years from and after the passage of this act, and no longer.*

Approved May 23, 1836.

Appendix M.

An Act to provide for the better protection of the frontier.

Be it enacted, That the President be, and he is hereby, authorized to cause to be surveyed and opened a military road, from some point upon the right bank of the Mississippi river, between the mouth of St. Peter's and the Des Moines river, upon such route as may appear best calculated to effect the purposes of this act, to Red River.

Sec. 2. And be it further enacted, That the said road shall pass west of the State of Missouri and of the Territory of Arkansas, on condition that the assent, through whose territory said road is to pass, shall be first obtained; and if such assent cannot be obtained, then east of the western boundaries of said State and Territory; and shall be so constructed as to enable troops to move along the same with proper facility. And the following mode of construction shall be adopted, subject to such alterations as the President may, from time to time, direct to be made. The timber shall be cut down to reasonable width, and the west and marshy places shall be causewayed or otherwise rendered passable; cheap bridges shall be erected over the smaller streams, not having good fords across them; and, where it may be found necessary, the road may be thrown up in the center.

Sec. 3. And be it further enacted, That the military posts shall be constructed at such places along the said road as, in the opinion of the President, may be most proper for the protection of the frontier, and for the preservation of the necessary communications.

Sec. 4. And be it further enacted, That the troops of the United States shall be employed in performing the labor herein required, whenever, in the opinion of the President, the same can be done with a just regard to their other duties; and the other labor rendered necessary shall be procured in such manner as the President may direct.

Sec. 5. And be it further enacted, That the sum of one hundred thousand dollars shall be, and the same is hereby, appropriated, to be applied towards the accomplishment of the objects specified by this act.

Approved July 3, 1836.

*Congressional Debates, Vol. XII, Part IV, 1835-1836. Appendix p. 34.