“Perpetual Peace and Friendship”
The Cherokee-Confederate Coalition in the American Civil War

by

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B.A., The University of Tulsa, 2013
M.A., The University of Tulsa, 2014

AN ABSTRACT OF A DISSERTATION

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Abstract

The partnership between the Confederacy and the Cherokee Nation grew out of an acknowledgement of mutual interests and goals. The Confederacy wanted to expand pro-slavery influence further west, strengthen the Southern economy by acquiring natural resources and establishing foreign trade, and protect the western frontier from invasion by the federal government. The Cherokee Nation wanted the means to defend themselves against foreign and domestic threats, funds to care for their suffering people, and full recognition as a sovereign, independent country. Both parties viewed the other as the key to reaching these objectives, and the subsequent collaboration yielded impressive results.

Confederate commissioners approached all five so-called "Civilized Tribes" in Indian Territory in May 1861, hoping to convince them to join the secession movement. Southern leaders in Richmond had authorized these representatives to offer generous terms, including protection against internal and external threats, legal and political independence, and partial representation in the Confederate government. The debate about whether or not to accept these terms split the Cherokee Nation apart, resurrecting decades old feuds and unsettled disagreements. The largest and most influential faction, led by Principal Chief John Ross, favored neutrality, while the second major party, led by Stand Watie, jumped at what they saw as the chance to shape the future of their tribe and protect themselves against their bitter rivals.

As pressure from Richmond and the Watie faction increased, Ross and his followers eventually had to admit the Cherokee Nation had little choice but to join the Confederacy. On October 7, 1861, Chief Ross signed a formal treaty with the South, declaring "perpetual peace and friendship" between the two nations. However, soon after the Cherokee chose sides, Northern troops captured Ross and conducted him to Washington, prompting many tribal leaders

to disavow the treaty and declare their loyalty to the Union. With the approval of Confederate officials, Stand Watie took over as Principal Chief, leading the Southern-recognized tribal government for the rest of the war.

Despite this rocky beginning and subsequent challenges, the Cherokee-Confederate coalition functioned well and accomplished many objectives. The partnership was instrumental in maintaining the Southern war effort in the West, and the Cherokee Nation would have collapsed completely without Confederate assistance. Although the majority of military operations west of the Mississippi River soon devolved into a protracted guerrilla conflict, the units under Watie's command cooperated well with their white allies and achieved great success in that region's irregular warfare.

Although the coalition was unable to change the course of the Civil War in the western theater, both Confederate and Cherokee leaders agreed the partnership had provided vital assistance for both parties involved. The South was unable to fulfill every promise in the treaty but managed to provide desperately needed economic and military aid for their allies in Indian Territory. The Cherokee were unable to tip the balance in favor of the South, but without their help the war in the West would have ended much sooner.

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Introduction

After the Battle of Pea Ridge, Arkansas, in March 1862, allegations emerged that Native American warriors fighting for the Confederacy had robbed and scalped several Union prisoners. Although the perpetrators were never identified, rumors claimed the murderers were Cherokee cavalrymen from Colonel Stand Watie's First Mounted Rifles under the command of General Albert Pike. The Confederacy had recently signed a treaty of alliance with the Cherokee Nation in Indian Territory, and the Pea Ridge campaign had been one of the first times the new partnership had officially taken the field.

General Pike, who had earlier released special orders prohibiting the mistreatment of prisoners, suffered singular condemnation. Federal general Samuel Curtis wrote a letter to Pike stating "the use of savage allies" was inexcusable and unworthy of men of conscience.[1] Local editorials went further, calling Pike the worst agitator of Indian violence since Pontiac and suggesting his father must have raised him poorly to have produced such a degenerate. "There is no pit of infamy too deep for him to fill," one article opined. The commotion ultimately induced Confederate authorities to transfer Pike out of command of the South's allies and into a desk job in the headquarters of the Trans-Mississippi Department.[2]

Curtis also contacted Earl Van Dorn, commander of Confederate forces at Pea Ridge, to protest the use of Indian auxiliaries. Claiming to have found, "contrary to civilized warfare, many of the Union dead who were tomahawked, scalped, and their bodies shamefully mangled,"

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[1]Quoted in Walter Lee Brown, *A Life of Albert Pike* (Fayetteville AR: The University of Arkansas Press, 1997), 395.

[2] *Evening Transcript*, 15 March 1862. Pontiac was an Ottawa chief who led a large coalition of Native American tribes against British rule in the late 18th century.

Curtis expected the incident would remain an aberration. He further hoped "this important struggle may not degenerate into a savage warfare."[3]

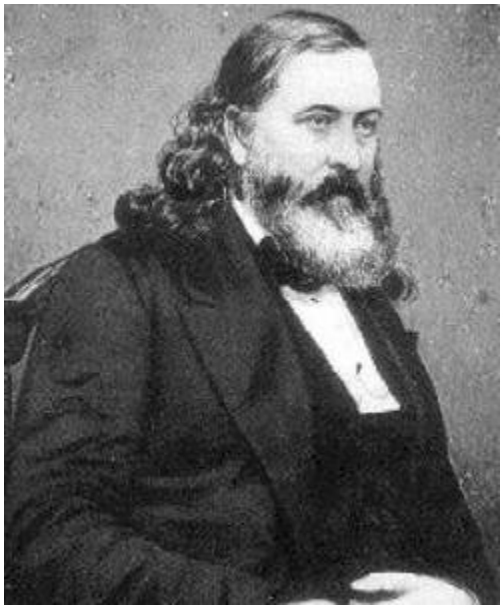

Figure 1: General Albert Pike (National Park Service)

In response to the uproar, Van Dorn had answered Curtis' message, expressing doubt as to the truth of the reports. "[I am] pained to learn by your letter," he wrote, "that the remains of some of your soldiers have been reported to you to have been scalped, tomahawked, and otherwise mutilated." Van Dorn stated he hoped the Union commander had been misinformed since the accused Indians had "for many years been regarded as civilized people" incapable of such barbarity. Van Dorn agreed such "unnatural war" should be repressed, and with that sentiment in mind, informed his opponent of reports that several Rebel prisoners had also been robbed and murdered. Their captors "were alleged to be Germans," and Van Dorn hoped the general would do his part "in preventing such atrocities in future," and punish the miscreants,

[3]*The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies* [Hereafter *OR*], series 1, volume 8, page 194.

"whether German or Choctaw."[4] Either the Southern commander had misheard the rumors, or he wished to demonstrate his disregard for the reports through casual flippancy.

This incident raises several questions. Why did the South decide to ally itself with the tribes in the Indian Territory, specifically the Cherokee Nation? If the stigma against employing Indian allies was so fierce, why did the South sign the treaties? Why would the Cherokee agree to assist a white government in the first place? Did the benefits of an agreement – for both sides – outweigh the consequences? And finally, did the coalition end up making a difference in the Civil War?

I argue Confederate leaders needed the cooperation of the Native Americans in the Indian Territory to succeed in the western theater of the war and legitimize Southern independence. Cultivating a positive relationship with these tribes, especially the Cherokee Nation under the leadership of Stand Watie, was the best way to achieve that goal, so the Confederacy treated the Cherokee as equals in most respects, despite some Southerners' reservations. The Cherokee, too, benefitted from the relationship once the tribe decided that neutrality in the white man's war was impossible. Leaders like Stand Watie chose to align themselves with the side that offered the greatest chance of achieving their goals.

I also contend the coalition between the South and the Cherokee, although unable to affect the ultimate outcome in the western theater, remained strong throughout the war. Other tribes generally abandoned the secessionist cause in the final months of the conflict, but some Cherokee continued fighting until the bitter end. Watie surrendered on June 23, 1865, the last Confederate general to do so.

[4]Ibid., 195.

Watie received accolades from his white comrades for his efforts in Indian Territory and the surrounding regions, but even his successes were unable to tip the balance in favor of the Confederacy. In examining his military career, I will demonstrate his eventual defeat was a result of larger Southern problems, not because the coalition was ineffective.

Many scholars have examined the efforts of the South in the western theater of the Civil War. For instance, Thomas Cutrer and Stephen Oates both have published studies on individual Confederate commanders and on the Confederate cavalry in general. In *Theater of a Separate War,* Cutrer has also compiled an anthology of articles that argues the West was so removed from the fighting east of the Mississippi that the region should be considered an entirely distinct conflict. Jerry Thompson produced an anthology on the West focusing on the Sibley Brigade's expedition into the Southwestern territories, which provides excellent context for the South's treatment of the Cherokee but is beyond the scope of this dissertation. Robert Utley published *The Indian Frontier 1846-1890* as a broad study of interactions between native peoples and various American groups. Both the United States and Confederate States make appearances, but the book does not focus on any one relationship. This kind of scholarship has made significant progress in raising the profile of the West in the realm of Civil War studies.

The history of the Cherokee Nation during the conflict has also received extensive attention. For the most part, scholars like Laurence Hauptman and Morris Wardell focus on the struggles of the tribe for sovereignty and political independence while historians like Circe Sturm have scrutinized the sociological angles of the Native American experience in the Civil War. Stand Watie has received a handful of special studies, but most concentrate so closely on the chief that they neglect the larger picture of the conflict and the Cherokee-Confederate partnership.

An important element missing from these narratives, however, is a discussion of the partnership between the Cherokee Nation and the Confederate States of America as a formal coalition between sovereign nations. While historians have mentioned the unusual relationship and discussed the relevant battles, not one has included a side-by-side analysis of the military and political relationship. This book seeks to fill that gap by treating both countries as active, if not necessarily equal, participants in an alliance with separate, but compatible, agendas.

By chronicling Chief Watie's exploits and the actions of the Cherokee-Confederate partnership, this dissertation examines the Southern way of war in the nineteenth century. Southern rhetoric displayed a clear set of criteria that differentiated between "civilized" and "uncivilized" tribes, enabling the Confederacy to justify cooperation with certain nations of Indian Territory and avoid, or at least deflect, accusations like those leveled at General Pike. While other scholarship has merely commented on these distinctions, mostly from the perspective of white officers, this dissertation explores how the South used the vocabulary of "civilization" in its political and military relationship with the Cherokee Nation and Stand Watie specifically.

Examining the coalition in this way offers insight into the parallel state-building efforts by the Cherokee Nation and the Confederacy. Although certainly differing in scope and methodology, the actions of both parties clearly indicate a similar desire to establish and protect their countries. The South and the Cherokee both saw an opportunity to benefit from the other, and both entered the partnership fully cognizant of the stakes involved.

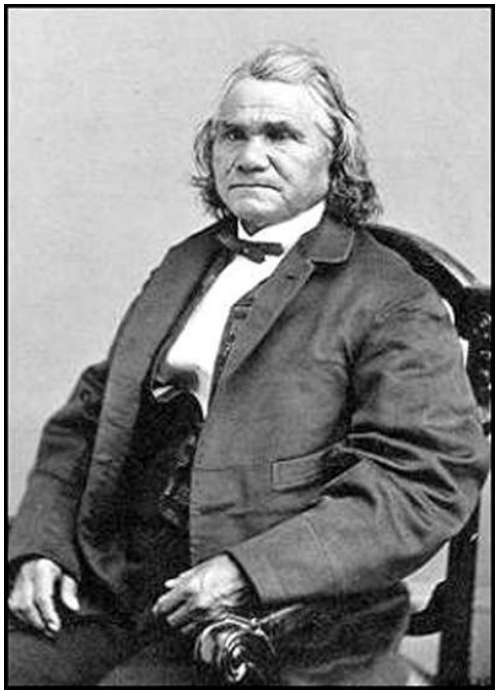

Figure 2: General Stand Watie (Tahlequah Daily Press)

The first part of this dissertation examines the South's vision for an empire in the West and its efforts to establish friendly relations with the Five Civilized Tribes, the Cherokee in particular. The Confederacy needed a strong coalition with these tribes to secure the western frontier, and they had little chance of success without help from the Cherokee and other Indian nations. The section concludes with the arrival of the Confederate commissioners in Indian Territory. Chapter One describes the tradition of expansionism in America and how the Confederacy adopted those ideas after secession. Chapter Two explores the value of Indian Territory for the South's goals in the West and the reasons why Richmond approached only certain tribes with an offer of alliance. Chapter Three briefly chronicles the actions and arguments of the Confederate delegation that visited Indian Territory in 1861 to establish formal partnerships with the Indian nations and the various reactions to those efforts. Chapter Four focuses on the importance of the Cherokee Nation from the South's perspective and introduces Stand Watie as the leader of the pro-Confederate faction within the tribe.

The second part covers the Cherokee decision to join the Southern cause. While the first four chapters detail the reasons why Richmond desired the alliance, the next four will examine the partnership from the tribe's perspective. Chapter Five surveys Cherokee nationalism, including the similarities between their culture and the South's. Chapter Six investigates the concerns that drove the Cherokee away from the North and the incentives that drew them toward the South. Chapter Seven discusses the factors which ultimately ended Cherokee neutrality and concludes with the battle at Wilson's Creek, Missouri, after which the Nation decided to sign the Confederate treaty.

The dissertation’s third part examines the effectiveness of the Cherokee-Confederate coalition and evaluates how well the partnership functioned on and off the battlefield. Chapter Eight profiles several Southern military and civilian authorities, examining their positive relationship with the Cherokee Nation and Stand Watie in particular. Chapter Nine asks whether the coalition could turn the tide of the war in the West and addresses some stereotypes about the effectiveness of guerrilla fighters in the region. Chapter Ten serves as a case study of the impact of the Cherokee-Confederate partnership by describing one of the most important engagements in Indian Territory, the second Battle of Cabin Creek. The final chapter discusses Confederate command failures in the West and explores how those problems affected the relationship with the Cherokee.

Chapter 1 - Frontier Expansion

For the United States, the nineteenth century was a period of soul searching. Americans constantly debated the best course for their young country. Should the government get involved in transportation and commerce? Who should have the right to vote? Should the practice of slavery remain legal? How should the future of the western frontier be decided? These questions, and many more, framed the United States' pursuit of national identity, and the surrounding debates produced consequences that America still feels today.

The Civil War was obviously the most violent consequence of this quest. At its core, the conflict arose over a disagreement about how the United States would deal with slavery. Should the peculiar institution spread to the new states in the West? Did one region of the country have the right to perpetuate such a system? Did the federal government have the authority to abolish the practice altogether? When this debate eventually transformed into open conflict, the country split across the middle.

Another important debate, and one that would prove consequential for Indian Territory in particular, was the subject of expansion. Even before the thirteen colonies united, Americans looked to the frontier for the possibility of even greater wealth and opportunity. As the young nation consolidated its territory during the early decades of its existence and began to look to the future, westward growth seemed the logical next step. Pursuing and justifying this expansion remained an American priority for most of the nineteenth century.

The newly-formed Confederate States of America also needed to succeed in the West. The region promised future development for Southern society, specifically the institution of slavery. Southerners had emphasized the need for new territory in which to expand slavery in the years preceding secession. The new Confederate government, unconstrained by abolitionist

sentiment or legal precedents, could pursue that goal without impediment. These men believed the acquisition of pro-slavery territory would improve their economic position by providing new markets for cotton, tobacco, and other exports.[5]

The West held the key to plans for a Southern empire and bore serious consequences for the war itself. Confederate leaders recognized the disparity between their fledgling nation and Washington's industrial power, and they sought to seize any advantage that might offset the imbalance. In particular, the southwest territories of New Mexico, Arizona, Colorado, and Nevada offered a surplus of valuable resources and presented the possibility of broader relationships with the outside world. The Confederacy considered holding the Western territories vital for national security and commerce, as well as the best way to civilize the "indolent societies" of Native Americans in the region. Achieving these aims would, Confederate leaders believed, provide military and economic advantages to decide the war in their favor.[6]

The West also acted an outlet for future Southern national designs. Precious metals and other natural resources from the region would fill Southern coffers, connection to the Pacific Ocean would open foreign trade routes and agricultural opportunities, and territorial gains would legitimize Southern nationhood in the eyes of potential European allies. For many Southerners, the western frontier contained critical potential for the growth of their new country, and the key to those designs was Indian Territory. Before the first shots rang out at Sumter, many Confederate leaders, including President Jefferson Davis, wanted to cement good relations

[5]Troy Smith, "Nations Colliding: The Civil War Comes to Indian Territory," *Civil War History*, 59, no.3 (2013): 282-283.

[6]Donald S. Frazier, *Blood and Treasure: Confederate Empire in the Southwest* (College Station TX: Texas A&M University Press, 1995), 21.

between Richmond and the tribes of Indian Territory. An effective coalition would safeguard the frontier and all the associated possibilities.[7]

This chapter examines the reasons why the South desired an alliance with the tribes in Indian Territory, particularly the Cherokee. Confederate leaders needed the resources and influence offered by the territories in the West, and they believed securing Indian Territory was vital to attaining that goal. And no connection to the territory would be complete without an alliance with the most powerful tribe in the area, the Cherokee Nation. This simple logic led the Southern leadership to conclude friendship that with the Cherokee was critical to the success of the war in the West.

Manifest Destiny

One way in which Americans justified their need to acquire new lands and resources was through the doctrine of Manifest Destiny. Historian Norman Graebner describes this philosophy as an implication that "the United States was destined by the will of Heaven to become a country of political and territorial eminence." The obligation to perform this necessary work belonged especially to American civilization because of their enthusiastic sense of idealism and mission. The crusade to bring democracy and enlightenment to every corner of the continent was part of the uniquely American responsibility to bring freedom to their neighbors, or at least those worthy of such a great gift. This national mood favoring territorial expansionism gained momentum during the 1840s, driven in part by the economic growth and technological advances of the more introspective 20s and 30s.[8]

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[7]Jerry Thompson, *Civil War in the Southwest: Recollections of the Sibley Brigade* (College Station TX: Texas A&M University Press, 2001), xiii.

[8]Norman A. Graebner, *Manifest Destiny* (New York: The Bobbs-Merrill Company, Inc., 1968), xv, xxvii.

Prior to the Civil War, the United States had been as enthusiastic in its desire for an empire as any European nation but attempted to disguise its conquest beneath a veneer of benevolent moral rhetoric and obedience to divine fate. Although the Native American tribes and Mexican government were largely unable to challenge American advances, and thereby create a more traditional imperial struggle, the process of overthrowing and subjugating indigenous people still occurred. Americans wanted the prestige and wealth that accompanied conquest while preserving comforting ideological principles like self-determination and human dignity. In the end, the rhetoric of Manifest Destiny struck the balance between those two goals, allowing the United States to broaden the frontier with little moral hesitancy.[9]

Although this mood permeated many aspects of American culture in the early nineteenth century, not all Americans supported national expansion. In most cases, people went about their lives concerned with their own troubles without considering the national elite's push for new land and more resources. Although not all Americans approved of their country's imperial ambitions, the fact remains that enough powerful individuals adopted the tenets of Manifest Destiny to ensure the concept dominated the United States' frontier policy for much of the nineteenth century.

When the southern states seceded from the Union, many of their leaders took their expansionist vision with them, instilling an appetite for the wealth of the West within the newborn Confederacy that echoed the imperialist impetus of the United States as a whole. The South, through the vehicle of secession, sought to reclaim the Manifest Destiny the North had

[9]Ibid., xxiii.

forsaken and revive the dream of an American empire. Expansion would be the foundation of the new Confederate nation.[10]

Southern Expansionism

According to many scholars, Southerners had often provided the strongest impetus behind American proto-imperialism in, and before, the early decades of the nineteenth century.[11] States-rights Democrats often led the charge for territorial acquisition because they wanted to expand the power of the slave-holding political bloc and spread the institution of slavery. If more states embraced the so-called "peculiar institution," then the slave states' influence in Washington would continue to grow, possibly even offsetting the explosive population growth in the North as a result of immigration. The imbalance had given Northern states more influence in Congress and Southerners, like John C. Calhoun and Jefferson Davis, worried that the inequality would eventually threaten their ability to defend slavery and the culture it supported.

In order to preserve that culture, the southern states wanted to extend their influence as far as possible. Few of the reasons for this desire had anything to do with fostering democracy. While Northerners had economic and social reasons for promoting ideas like manifest destiny, the South needed to shape America's future on the frontier as a matter of economic and cultural survival.[12]

After secession, the South no longer had to fret about representation in Congress, but expansion remained a priority for other reasons. Rather than a collection of states struggling against more populous rivals within the same political institutions, Southerners now saw

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[10]Frazier, *Blood and Treasure*, 21.

[11]Ibid., 4-6.

[12]Frederick Merk, *Manifest Destiny and Mission in American History* (Cambridge MA: Harvard University Press, 1995), 39.

themselves as a new country waging a nationalistic struggle against a strong foreign power. The Confederacy needed to legitimize its nationhood in front of Washington and the rest of the world, and what better way to prove that legitimacy than to behave like a nation and expand the frontier?

When deciding how to proceed, the South had two primary options. The first was an expansion past the southern border. Given the prevalence of slavery in South America and Caribbean countries like Cuba, Southern expansionists viewed these areas as prime candidates for acquisition. These Southerners believed annexing Cuba as a slave state would curb Northern influence in the United States Congress and provide a loophole in restrictions on territorial expansion.[13]

Another, perhaps more practical, option for expansion was the North American West. Securing that frontier would also open trade between Richmond and the rest of the world. At this time, the Open Door Policy was already in effect in China, exposing that country's vast population to Western capitalist endeavors. Commodore Perry had already signed the now-famous trade accord with Japan, providing even more opportunities for nations interested in expanding trans-Pacific commerce. An exchange of goods with the East was no longer a fantasy, and the South was desperate to seize a share of those markets. Establishing control of the southwestern territories, possibly including portions of California, would make those markets available and grant the South a slice of international commerce and the attending national prestige. With these aspirations in mind, Richmond began exploring options for securing its hold on the frontier.

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[13]Robert E. May, *The Southern Dream of a Caribbean Empire 1854-1861* (Gainesville FL: University Press of Florida, 2002), ix, xiii.

One important question for those considering frontier growth was how to engage with foreign neighbors. European powers had mostly vacated the West and the Caribbean by the mid-19th century, but Mexico still owned vast tracts of land in modern Arizona, New Mexico, Nevada, and California. The United States had recently fought with its southern neighbor in what is now called the Mexican American War, gaining swaths of territory as a result, but still more land remained.

In addition to dealing with Mexico, the Confederacy also had to decide how to engage with the various Indian tribes in the West, some more friendly than others. Groups like the Comanche and Apache seemed unpredictable and unreliable, but other tribes held more potential for cooperation. And the more allies the South could accumulate, the more secure its imperial ambition.

As the Civil War gathered momentum, Southern leaders needed as many resources on hand as possible to hold territory and counter the Northern military in the East, reducing the amount of manpower and supplies they could spare for campaigns in the West. At the end of the day, the secessionist states would need outside help to safeguard the dream of a Southern empire. Reliable allies would be a crucial part of addressing the most important challenge on the frontier, maintaining security. Not only was the West vital for preserving Southern hopes for independence, but the region itself needed defending as well. Pioneers living on the edge of national expansion faced a host of challenges, and none was more intimidating than the possibility of Indian attacks. Ever since the first Europeans arrived in North America, they viewed native people with suspicion and fear.

Life on the frontier could be lonely, with most settlers isolated from their neighbors and towns by miles. Many people living in those remote areas believed, sometimes based on

experience, that an Indian raid could occur at any time, and this constant threat kept relations with Indian tribes uneasy at best. Not only did Europeans consider themselves victims of a monolithic native malevolence but also felt ennobled by having endured such savage treatment. Conflict with and fear of Indians played a significant role in colonial identity.[14]

Early colonists used the specter of this violence as a pejorative rhetorical weapon against other Europeans, casting anyone with a connection to Native Americans as nefarious. Not even famously peaceful groups like the Pennsylvania Quakers were immune to these aspersions. Paranoia and anxiety, usually in connection to Native American existence and activity, shaped white images of the American frontier almost from the start.[15]

By the mid-nineteenth century, Texas was on the front line of that frontier. Many Southerners had arrived in that territory around the time of the 1835-36 revolution, and they carried their expansionist notions with them.[16] Given its location at the western edge of the country, Texas would naturally bear the brunt of expansion after entering the Union and would also continue to bear the brunt of the anxiety. The Texan settlers, many of whom had come from Tennessee and were no strangers to frontier life, fought against the local Indian tribes almost constantly, even pulling various militia groups into an official security force known as the Rangers. In the years leading up to the Civil War, Texas generally had to fend for itself.

When the southern states seceded, Texas joined the Rebel cause, in part, to continue its westward expansion, and it assumed a more active role. As the most powerful Confederate state west of the Mississippi, Texas had to simultaneously defend its citizens and expand the frontier.

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[14]Peter Silver, *Our Savage Neighbors: How Indian War Transformed Early America* (New York: W.W. Norton and Co., 2009), xix-xxii.

[15]Ibid., xxii.

[16]Frazier, *Blood and Treasure*, 7-10.

On top of those responsibilities, Richmond expected Texas to establish Confederate control of the vast natural resources in the southwest. The burden for realizing Richmond's vision of a Southern empire rested in the hands of Texas, and the largest state in the South would need all the help it could get.[17]

In many ways, the task was nearly impossible. Northern troops roughly equaled the strength of Southern forces in the area, and supplies were constantly short for the Confederacy because of the distance from the rest of the country. Another problem Texas encountered was the vacuum left by the absence of Federal authority. While the South was now able to pursue its imperial aspirations unhindered by abolitionist sentiment, it also had to handle a frontier without support from Washington. The U.S. government no longer stood between the Southern expansionists and local Indian tribes.

Texans had been fighting various nomadic tribes like the Apache for decades and were intimately familiar with the threat of Indian attack. Due to decades of intermittent conflict, many Texans were predisposed to mistrust Indians. Many of the state's early cavalry units contained soldiers who had enlisted expressly to fight Indians and when the time came to cooperate with the "civilized tribes," many soldiers expressed doubts about their new allies' fighting capabilities. Most expressly refused to serve under non-white commanders. While they recognized the necessity of native assistance, many Texans remained uncomfortable with the notion of cooperating with any Indians from any tribe, let alone recognizing their national sovereignty and supplying them with weapons and supplies. This paradox of simultaneously needing and despising their Indian neighbors kept tensions high for the rest of the war.[18]

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[17]Ibid., 39

[18]Ibid., 39-40.

The elephant in the room regarding border security was Indian Territory. The region, should it remain in Federal control, presented an unmistakable threat, and sat directly on Texas' doorstep. The primary difference between the tribes in Indian Territory and those living farther west was these Indians were more "civilized" and might be relied on to support the South. One Confederate officer, E. Kirby Smith, stated: "In considering the defense of the line of the western frontier of Texas our relations with the civilized Indians north of the Red River are of the utmost importance." These Indian nations, Smith argued, "form a strong barrier on the north, forcing the line of operations of an invading army westward into a region impracticable to the passage of large bodies of troops."[19]

Several important Texans, including Brigadier General Benjamin McCulloch, believed the establishment of friendly relations with the tribes in Indian Territory was the best way to protect the frontier and sustain the dream of a Southern empire. The southern states had attempted to incorporate Indian Territory into the United States as a slave state some years earlier, and while that effort had failed, those connections again became relevant after secession. Many Southerners still considered the Five Tribes potential allies in the sectional conflict, regardless of different circumstances.[20]

[19]*OR* 1:1, 628.

[20]Smith, "Nations Colliding," 282-283.

Figure 3: General Benjamin McCulloch (Daily News Journal)

Despite all the debates and the two sides' unfriendly history, Texas needed a positive relationship with the tribes if it wanted to provide manpower and border security for the Confederacy. The last thing the state needed was another Indian conflict, and if the commissioners could sign treaties with at least some of the tribes, the South would wind up with extra manpower and resources instead of enemies. Some Texans might have been unwilling to countenance a possible coalition of the Confederacy and the Indians, but many more were willing to take the chance.

How did all these concerns affect the coalition with the tribes in Indian Territory? Ultimately, the partnership created a paradox for white Southerners. On the one hand, their racial beliefs and history of conflict predisposed them to mistrust native peoples. On the other hand, they recognized the need for allies in order to protect their holdings in the West and hope for further expansion.

Many Confederates believed the best way to safeguard troops and supplies arriving from the East was to establish friendly relations with the tribes of Indian Territory. These tribes could provide manpower and war materiel to the South if they could only be convinced to cast their lot against Washington. A partnership with the most powerful native groups in the area would ensure that the Confederacy need not fear attacks from those tribes but also presented the possibility of auxiliary troops which might assist local Rebels in holding the territory. They might even be persuaded to venture off their own land and assist with campaigns in nearby states such as Kansas and Arkansas. The bottom line was that the South's chances for success in the West greatly improved with the assistance of the tribes from Indian Territory, especially the Choctaw, Chickasaw, Seminole, Creek, and Cherokee nations.

Chapter 2 - Indian Territory

Despite their ambitious imperial designs, Southern leaders knew taking and protecting such remote territories presented serious obstacles. The Caribbean and the far southwest might remain out of reach, but alliances with the tribes of Indian Territory were far more attainable. The South desperately wanted the resources found in the Western territories, such as livestock and precious metals, and while the North could afford to allocate large forces to the region, roughly 20,000 troops by 1865, Richmond simply lacked the manpower and materials to defend its frontier. Alliances with friendly Indian tribes would help cover that shortfall, making the establishment of positive relations a high priority.

For many Confederate leaders, the tribes of Indian Territory would play a decisive role in protecting and expanding the frontier. Richmond was principally concerned with the actions of the so-called Five Civilized Tribes, or just the Five Tribes. These people occupied an unusual place in the American political landscape in that they were close enough to the Union to hold opinions on secession but enough removed to be treated as separate political entities. This unique position made certain Indian nations worthy of treatment as independent nations in much the same way as the Confederacy hoped for recognition from the countries in Europe.[21]

White Southerners were able to accept these alliances because they could argue the Five Civilized Tribes were not like other native groups. These Indians shared many important aspects of white culture including political institutions and agricultural practices. The Cherokee had modeled their national constitution after that of the United States, and many of the tribe's elite members were slaveholders. Despite protestations about the untrustworthy nature of Indians, the

[21]Annie Heloise Abel, *The American Indian as Slaveholder and Secessionist* (Cleveland OH: The Arthur H. Clark Co., 1919), 13.

Confederacy believed these tribes would honor a treaty in the same way a European nation would. This chapter will describe the factors that contributed to the South's decision to forge a coalition with the tribes in Indian Territory and will explore some of the conditions it set on the arrangement.

Indian Territory was the key to Southern goals in the West because of its unique strategic position. Located at the farthest western edge of the United States at that time, the tribes in the region were distinctively suited to influence the development of military and economic plans for the frontier. Friendly relations with the Indian nations would greatly improve chances for the success of a Southern empire, and hostility could impede, or even destroy, those chances. Whatever the plans for the frontier, Confederate leaders could not ignore Indian Territory's crucial spot in the geography of the West.

Securing these locations would supply more manpower to the Southern cause and shield the fragile Confederate frontier from Northern aggression. Although the South might sacrifice thousands of troops to the defense of tribal lands, losing ground in Indian Territory would not be a loss of the South’s own soil. If Richmond could convince the tribes to join the Confederate cause, the infant nation would gain a geographic advantage that could spread a new layer of protection over its fragile frontier.

To the north of the territory was the state of Kansas. Home to several Federal forts and thousands of Union troops, this new state would serve as the platform for any Northern invasion against the western frontier. Nearby Confederate states feared a Northern-controlled Indian Territory would serve as a platform for invasion, not to mention the obstacle such a situation would present for frontier expansion. Should the tribes of Indian Territory side against the South,

Union forces in Kansas and other Northern states would quickly arrive on the Confederacy's very doorstep.[22]

To the east of Indian Territory sat Missouri and, more importantly, Arkansas. Both states teetered between pro- and anti-slavery for most of the war, and both North and South worried that the region would swing the wrong way. The major engagements in these states all represented attempts to gain the momentum that would secure the region for one side or the other, and when conventional warfare failed to decide the issue, both sides resorted to brutal guerrilla tactics.

Support from Indian Territory had the potential to tip the balance in this area and Arkansans were keenly interested in developments within the region, especially with regards to their nearest neighbors in the Cherokee Nation. David Hubbard, a Confederate commissioner from the state, reported to his superiors:

> The counties bordering on the Indian nations – Creeks, Cherokees, Choctaws, and Chickasaws – would hesitate greatly to vote for secession, and leave those tribes still under the influence of the Government at Washington, from which they receive such large stipends and annuities. These Indians are at a spot very important, in my opinion, in this great sectional controversy, and must be assured that the South will do as well as the North before they could be induced to change their alliances and dependence.[23]

The tribes could tip the balance in that crucial region, and the Confederates of Arkansas watched closely to see where their sympathies lay.

Finally, Indian Territory shared a border with the state of Texas to the south. Relations between Indians and Texans had traditionally been tense, at best, and few possibilities worried

[22]Smith, "Nations Colliding," 283.

[23]*OR* 4:1, 3.

the largest Rebel state more than the prospect of another Indian war. Ensuring that the Indian nations, at least those closest to the border, stayed friendly to the South remained a top priority for Texas, as evidenced by their efforts to send diplomats and secession commissioners even in advance of Richmond's official delegation to the Five Tribes. Sam Houston, one of the state's founders and its first governor, had written in 1839 that the "friendly Cherokee" had often acted as a barrier "between the people of the East and the wild Indians." In commissioning several individuals to secure the friendship of the tribes, Edward Clark, the governor of Texas at the time of secession, simply reiterated: "The active friendship of these nations is of vital importance to the South." The state's charge to protect and expand the Confederate frontier would prove a much easier task without having to worry about Indian Territory as well, and the strategic benefits of a friendly neighbor were undeniable.[24]

The other side of all these positive geographic equations was the threat posed to the territory from outside forces. While the South feared a Northern invasion augmented by tribal forces, the Indian nations were equally apprehensive about losing their land and sovereignty to encroachment from the North. Cherokee leaders knew that Kansas settlers coveted the land in the northern part of Indian Territory, and the rest of the tribes recognized their position in the direct path of westward expansion. Although the U.S. government had offered only oral promises to leave the tribes undisturbed, Richmond presented the possibility of real protection. True, the South needed to the cooperation of Indian Territory for military reasons, but the offer of cooperation also appealed to the Five Tribes' sense of vulnerability. The language of the proposals presented to the tribes showed their shared interests, demonstrating the South

[24]Amelia W. Williams and Eugene C. Barker, eds., *The Writings of Sam Houston, 1813-1863* (Austin TX: The University of Texas Press, 1938-43), V. 2, 316; *OR* 4:1, 322.

understood, and planned to exploit, the precarious situation of those living in Indian Territory. The tribes were not blind to this double motive, but whereas the federal government wanted a frontier at the expense of the Indian nations, the Confederacy promised to respect their sovereignty.[25]

In appealing to the tribes' sense of nervousness, one of the South's most persuasive arguments was the ways in which its goals differed from those of the United States government. Settlers in Kansas repeatedly demonstrated a desire to remove the tribes from their land, while states like Texas and Arkansas wanted to ensure Indian Territory remained in the hands of slaveholders, whether they were white or not. This important distinction between Northern and Southern intentions would make a positive impression on many in the tribes when the Confederate commissioners eventually arrived in Indian Territory.[26]

In addition to the military significance of its geographic location, Indian Territory also interested the Confederacy because the region abounded with natural resources. Sutton S. Scott, the Confederate Commissioner of Indian Affairs, noted that the area was, "in many respects, really a magnificent one," citing its supply of iron, coal, and other minerals; excellent land for grazing; mild climate; large herds of livestock; and good soil. Scott concluded that Indian Territory was "certainly the equal naturally of the most favored lands on this continent, and only needs the development of its resources to become an invaluable adjunct of the Confederate States." The tribes could provide manpower for bolstering border security and the land contained an abundance of materials that would greatly aid the resource-hungry Confederacy. Although the

[25]Abel, *Slaveholder and Secessionist*, 28.

[26]Ibid., 67.

territories further west and in the Caribbean promised riches for the South, Indian Territory was much more accessible.[27]

The land in present-day Oklahoma was not to be dismissed as insignificant, either. The Texas commissioners stated that the Indian nations were "occupying a country well suited to them, well watered, and fertile, with extensive fields of the very best mineral coal, fine salt springs and wells, with plenty of good timber, water powers which they are using to an advantage. Pure slate, granite, sandstone, blue limestone and marble are found in abundance." According to reports from the commissioners, the farms and ranches in Indian Territory produced abundant amounts of grain and vast numbers of livestock, and the mines held generous deposits of salt and lead. One Southern official calculated that the Cherokee alone could supply "sufficient lead to supply the total small arms needs for all the Confederate armies in the field." Clearly, a relationship with the tribes and their assets would greatly improve the South's chances of victory in Indian Territory and across the frontier.[28]

The third factor that Richmond examined when considering a partnership with the Five Tribes and some of their neighbors was the political situation within Indian Territory. In the eyes of the Confederacy, the tribes were primed for an alliance with the South. Indian "experts" such as Albert Pike assured Richmond that sympathy for the Southern cause ran deep in the region, and that the powerful tribes would warmly greet overtures of cooperation.

Even before the Civil War, Southern politicians had been the most enthusiastic promoters of tribal sovereignty. Although the Five Tribes were certainly aware of these states' ulterior motivations in supporting native territorial claims, any support would surely be welcomed. In a

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[27]*OR* 4:1, 324.

[28]Ibid.; Smith, "Nations Colliding," 283.

classic case of political pragmatism, Jefferson Davis and his advisers planned to make the most of those sentiments.[29]

In a message to the governor of Texas, secession commissioners from that state gave a glowing report of the territory's situation in 1861, writing, "These nations are in a rapid state of improvement." In these men's opinion, the local tribes had become much more "civilized," hunting for recreation rather than as "means of subsistence," and pursuing agricultural endeavors with "good success." The Indians had long since begun constructing "well built and comfortable" dwellings, "some of them costly," and modern farms that were "well planned . . . extensive and all well cultivated." The tribes had "extensively patronized" schools and churches with "a large membership of moral, pious deportment," and they had "written constitutions, laws, etc., modeled after those of the Southern States." And in all this good fortune, the commissioners, wrote the tribes "declare themselves Southerners by geographical position, by a common interest, by their social system, and by blood, for they are rapidly becoming a nation of whites."[30]

Although they benefited from all these economic and social developments, the Indian nations also worried about protecting their prosperity. According to the commissioners, the tribes regarded their wealth "as inviting Northern aggression, and they are without arms, to any extent, or munitions of war." The proper course of action, according to the Texans, was simple:

> We recommend them to the fostering care of the South, and that treaty arrangements be entered into with them as soon as possible. They can raise 20,000 good fighting men, leaving enough at home to attend to domestic affairs, and under the direction of an officer from the Southern government would deal

[29]Abel, *Slaveholder and Secessionist*, 30.

[30]*OR* 4:1, 324.

> destruction to any approaching army from that direction. . . . No delay should be permitted in this direction. They cannot declare themselves until they are placed in a defensible position.[31]

Time was of the essence for the Confederacy, and those in the states adjacent to Indian Territory did not want their government to miss the crucial opportunity offered by alliances with the Five Tribes and their neighbors.

Despite this urgency, the Confederacy had been very deliberate in choosing which tribes to approach. Neither the strategic location nor the resources of Indian Territory appeared in the proposed treaties, although such factors undoubtedly appealed to the Confederacy. The most consistent reason given in support of a coalition with certain Indian nations was cultural parity. Some tribes were worthier than others, strictly based on their adherence to "civilized" cultural practices. Those groups which met the necessary standards received a much different set of offers than those which did not.

This distinction existed because white Southerners feared and mistrusted the so-called "wild tribes" such as the Comanche and Kiowa. In fact, anxiety about the loss of Federal protection against hostile tribes was one of Texas Governor Sam Houston's primary arguments for keeping his state in the Union. On the other hand, many Texans felt that any delay in joining the secessionist cause would cast doubt on Texas' commitment to the powerful "civilized" tribes in Indian Territory, thereby jeopardizing any hope of securing their assistance against less friendly Indians. In both cases, fear of an Indian conflict helped shape Texan frontier policy, which was the basis for Confederate frontier policy in the main. In the eyes of the Confederate government, treaties with certain tribes could be trusted to help handle the rest.[32]

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[31]Ibid.

[32]Abel, *Slaveholder and Secessionist*, 90-91.

That said, the Confederacy would not seek or accept cooperation from just any tribe. Texas was particularly careful to distinguish between the so-called civilized and the uncivilized tribes. In the eyes of the South, the former was worthy of alliance and support while the latter deserved hostility and mistrust. To better appreciate this diplomatic double standard, one need only examine how the South dealt with tribes from other parts of the frontier.[33]

The Southwest

As mentioned previously, the South wanted to establish an empire in the West that would stretch all the way to the Pacific Ocean. This expansion would provide desperately needed resources for the Confederacy and contribute to the South's claims of legitimacy as a new country. Thus, the campaign to conquer the southwest territories played a crucial role in the long-term plans of Confederate leaders like Jefferson Davis. During that campaign in 1861, Southern commanders treated the indigenous people as hostile entities requiring suppression rather than foreign nations with which to negotiate. While the Confederates had similar goals in the southwest as in Indian Territory, their behavior towards the tribes they encountered was markedly different.

In an early test of his aggressive defense strategy, Jefferson Davis granted command of operations in the southwest to Brigadier General H.H. Sibley. His orders charged him with holding the Arizona territory, occupying New Mexico, acquiring, if possible, the Mexican provinces of Sonora, Chihuahua, and Lower California, and ultimately taking California for the Confederacy.[34]

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[33]Ibid., 90.

[34]Frazier, *Blood and Treasure*, 3; Thompson, *Civil War in the Southwest*, xiv.

One of Sibley's primary qualifications for commanding the campaign was his history as an Indian fighter. Having served in the Second Seminole War of the 1840s and in campaigns against Great Plains tribes and the Navajo in the 1850s and 1860s, his record marked him as an expert on frontier warfare. Sibley considered the task in the southwest straightforward, given recent developments in the area.[35]

With the advent of the Civil War, the government in Washington had abandoned nearly every fort on the frontier and had recalled all regular army units eastward, leaving local militia as the region's only forces still loyal to the Union. Davis and Sibley agreed that a modest Confederate force focused on the Southwest could easily defeat any lingering resistance and secure the region and its resources for the Confederacy.

To further isolate antislavery forces in the New Mexico territory and thereby smooth the corridor toward California, Confederate leaders opened diplomatic talks with the Mexican government. Confederate ambassadors, led by Colonel James Reily, secured safe passage through Sonora and Chihuahua for Southern forces. This agreement marked the first official recognition of the Confederacy as a nation by a foreign power and provides another example of Southern foreign policy. The parallels between this interaction and those with the Five Tribes demonstrate how Richmond viewed their nationhood. Unlike many of the “wild tribes” the Confederates encountered in the southwest, the “civilized” people of Indian Territory warranted the same level of courtesy and respect as a country such as Mexico. This point is important enough to warrant repeated emphasis: the South assigned the label of “civilized” to some of their allies in order to benefit from their support without suffering censure from other white groups.

[35]Frazier, *Blood and Treasure*, 44-46.

This arbitrary distinction was the Confederacy's primary justification for the decision to pursue peace with the tribes of Indian Territory while perpetuating hostility with other groups.[36]

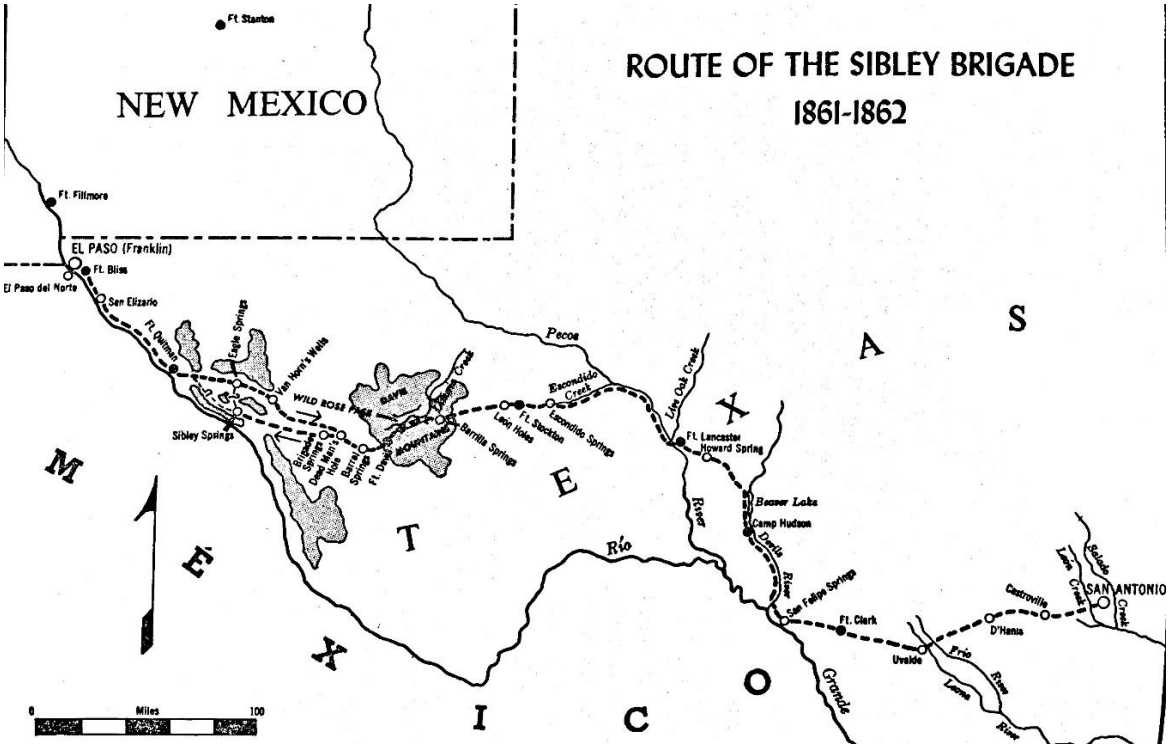

Figure 4: The Confederacy's Expedition in the Southwest (Sibley's New Mexico Campaign)

At the outset, Sibley's forces pushed into the territory of New Mexico and began threatening the local Union garrisons at Fort Thorn and Fort Craig. Washington was not about to accept the loss of the southwest without a fight, and regular troops under the command of Colonel E.R.S. Canby, also a respected Indian fighter, arrived in the region. After initial Confederate successes at the battles of Valverde and Pigeon's Ranch, as well as the capture of several supply depots, the Southern advance ground to a halt when Northern forces cut the Confederate supply lines. A unit of Union volunteers from Colorado, under the command of Major John Chivington, maneuvered behind Rebel lines and attacked a wagon train containing

[36]Thompson, *Civil War in the Southwest*, xvi; *OR* 1:4, 171.

"ammunition, clothing, subsistence, and forage, all of which were burned upon the spot or rendered entirely useless." Federal forces also reported capturing 17 prisoners and roughly 30 horses and mules. Unable to recover from the loss of supplies, Sibley and his forces withdrew to Santa Fe, then further east along the Rio Grande. Canby, recently promoted to brigadier general, gathered his forces and pursued the retreating Confederates. Although Canby decided not to attack his quarry, the Southern army still endured a hellish march on their way out of the southwest, eventually concluding their return trek in the summer of 1862.[37]

Although the Confederacy's imperialist foray into the southwest had ended in abysmal failure, the South's dealings with local Native Americans revealed a great deal about its mixed standards when interacting with tribal entities. Simply put, none of the tribes in the southwest were friendly to any white Americans, Northern or Southern. The Navajo, Comanche, Ute, and Apache tribes had fought the United States government intermittently for decades, and the advent of the Civil War meant little to those who only cared about protecting and elevating their people. Northern officials had never prioritized negotiations with these groups, and Southern leaders, many of whom had a long history of fighting Indians while in the Federal army, continued the trend.[38]

The governor of the Arizona territory, John Baylor, ordered the extermination of all tribes in the region, especially the Apache:

> You will therefore use all means to persuade the Apaches or any tribe to come in for the purpose of making peace, and when you get them together kill all the grown Indians and take the children prisoners and sell them to defray the expense

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[37]Ibid., 508-509; 1:9, 538-539, 510-512; Thompson, *Civil War in the Southwest*, xvii-xxi. Chivington would later instigate the Sand Creek Massacre in 1864.

[38]Frazier, *Blood and Treasure*, 4; Thomas W. Cutrer, *Theater of a Separate War: The Civil War West of the Mississippi River 1861-1865* (Chapel Hill NC: The University of North Carolina Press, 2017), 106.

> of killing the Indians. Buy whiskey and such other goods as may be necessary for the Indians, and I will order vouchers given to cover the amount expended. Leave nothing undone to insure success, and have a sufficient number of men around to allow no Indian to escape.[39]

Jefferson Davis later demanded Baylor's resignation as punishment for these actions, but the hostility between the Confederates and tribes such as the Apache continued for the rest of the war. Although Richmond's official stance toward the frontier tribes remained one of neutrality or self-defense, Southern commanders in the field considered the tribes dangerous obstacles at best and serious threats at worst. However, both groups agreed none of these tribes met the criteria for alliance with the Confederacy. This distinction was crucial for any Southern acceptance of a coalition, but such standards for determining "civilization" caused serious problems when certain individuals refused to abide by the official definition.[40]

Dove Creek

Partnering with native tribes, even those whose culture resembled the South's, did not sit well with every Confederate. After tribal leaders such as Stand Watie assumed command of official units, some Southern troops refused to serve under a non-white officer. Some expressed doubts about arming Indians at all, let alone fighting alongside them. Degrees of civilization did not change matters for many Southerners, and even after the treaties were signed, certain Confederate commanders continued to treat every tribe as hostile.

One especially bloody incident involved a group of roughly 700 Kickapoo Indians traveling out of Indian Territory. The band had been moving southwest across the territory when Texas troopers picked up their trail in the northwest of the state. Two units of cavalry, a militia

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[39]*OR* 1:50.1, 942.

[40]Martin Hardwick Hall, *Sibley's New Mexico Campaign* (Austin TX: University of Texas Press, 1960), 224.

unit under Captain S.S. Totton and a detachment of regulars commanded by Captain Henry Fosset, set out to ascertain the Indians' identity and intentions. At least two abandoned camps along the trail revealed discarded cups and saucers, strips of calico, and other trappings of a non-military group. Any experienced scout should have known the camp did not resemble those of the nomadic tribes from the plains like the Comanche. Despite these signs, both Confederate commanders apparently decided the group was hostile, and they returned to gather more troops from headquarters.[41]

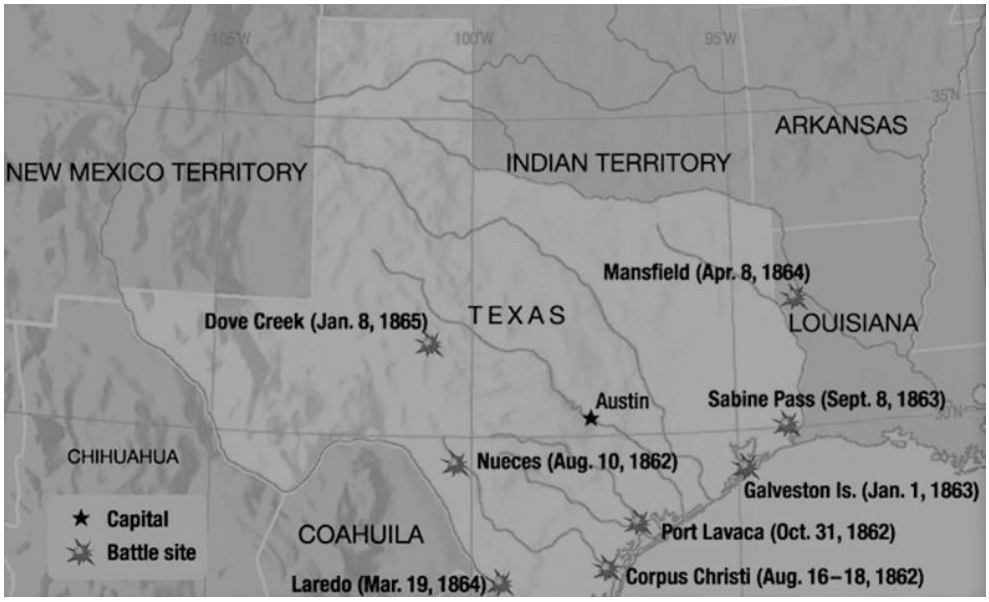

Figure 5: Battle of Dove Creek (Public Domain)

Beginning in December 1864, Totton and his command of roughly 300 militiamen ignored direct orders to regroup at nearby Fort Chadbourne, instead deciding to pursue the Indians' trail. After nearly two weeks of fruitless searching, Totton's command set out to rejoin Fosset, who had just received reports of an Indian encampment on the banks of Dove Creek,

[41]William C. Pool, "The Battle of Dove Creek," *The Southwestern Historical Quarterly* 53, no. 4 (1950): 369.

roughly 30 miles south of his location. According to later reports, neither the scouts nor their commander attempted to learn the tribe's identity.[42]

The two commands eventually connected on 8 January 1865. The two officers consulted briefly and, despite advice from a Cherokee scout who accompanied them, they gave the order to attack "without any council of war, without any distribution of orders, without any formation of a line of battle, without any preparation, without any inspection of the camp, without any communication with the Indians or inquiry as to what tribe or party they belonged to, without any knowledge of their strength or position."[43]

Reports on the strength of both sides vary, but the most generous estimates still had the Texans outnumbered almost two to one by the Indians. The Confederates attacked in undisciplined waves with no tactical consideration, apparently confident in their ability to defeat their non-white quarry. The Indians, on the other hand, took up secure defensive positions, ambushed several contingents of the regulars, and inflicted severe casualties. Confederate investigators reported: "No fire was made by the Indians until after they were fired upon and some of them killed." The militia managed to capture the tribe's horses, but then detached a small force to join the battle without scouting the situation. Strong and constant attacks from the Indians kept the Confederates at bay for several hours, until the tribe eventually retreated to their main encampment. Some captured prisoners identified the tribe as Kickapoo, possibly the first time the Southern forces learned whom they were really fighting.[44]

Battle reports stated that the tribe then sent an emissary, accompanied by two small boys, to the Southern commanders (one report claims the delegation consisted only of a woman with a

[42]Ibid., 372-373; *OR* 1:48.1, 26-27.

[43]Ibid., 27.

[44]Ibid.; Pool, "The Battle of Dove Creek," 379.

child). The Indians approached with their hands raised, claiming they were friendly and presenting a pass from their tribe's government agent, but Captain Fosset "told the Indian he recognized no friendly Indians in Texas." The ambassador attempted to surrender himself, but Fosset replied, "We take no prisoners here," and ordered his men to open fire. The troopers killed the messenger but took the boys prisoner.[45]

The strange circumstances of the battle led to several official inquiries. Confederate authorities concluded the Indians were probably on their way to Mexico to escape the fighting in Indian Territory and had no hostile intentions. One investigator, Brigadier General J.D. McAdoo, concluded there had been "nothing about [the tribe's] movements to excite suspicion except the fact of their presence in the country unexplained." McAdoo added that he considered "the attack upon [the Indians] without a parley as extremely unfortunate, if not culpable." In another report a week later, McAdoo recommended that the South apologize for the attack and establish a treaty with the Kickapoo, lest the tribe "return to avenge their losses." This incident demonstrates that while the Confederate government continued to officially distinguish between friendly and hostile tribes, mostly based on their supposed degree of civilization, not everyone felt the same. The tensions and violent history between the tribes and the settlers kept many enlisted Texans from accepting any alliance, regardless of the big-picture benefits cited by their superiors.[46]

A government agent who had lived and worked with the Choctaw and Chickasaw tribes, D.H. Cooper, stated in 1863 that losing the Indian allies meant losing Indian Territory. His statement represented the feeling of many in Richmond. The loss of Indian Territory would virtually ensure the loss of the West as a whole, leading to serious problems for the consolidation

[45]*OR* 1:48.1, 28.

[46]Ibid., 28-30. Existing documents indicate no punitive actions resulting from the investigations.

of the Confederacy. If the war went poorly Texas might decide to blaze its own trail to independence again and leave the distant government in Richmond to its own devices. Holding Indian Territory would bring the region together by forcing Southern troops in Arkansas, Missouri, and Texas to cooperate with the Indian nations, and each other, against the threat of invasion from the North. Without geographic and strategic cohesion, the western Confederate states might be lost.[47]

This consideration, as well as the other factors above, indicated formal relations with certain tribes of Indian Territory should be a priority for the Confederacy. Not only did the region hold the key to the success of the South west of the Mississippi, but it was also populated by people who had little or no reason to remain loyal to the federal government. If the South ever hoped to safeguard its western border and the hope of a frontier empire, positive partnership with the Five Tribes was imperative.

Eager to establish positive ties with as many tribes as possible, Jefferson Davis dispatched a commission under the leadership of Albert Pike, a renowned author, orator, and Indian fighter, to establish treaties with the tribes in Indian Territory. Pike would receive assistance from a detachment of troops under General McCulloch, also an Indian fighter from Texas. Their mission was simple: make diplomatic contact with as many Indian tribes as possible, especially the Southern Indian nations, and secure treaties of friendship and cooperation between them and the Confederacy. This commission marked the beginning of the South's official attempt to secure its frontier and gain the upper hand in the western theater.

[47]Ibid. 1:22.2, 1038; Abel, *Slaveholder and Secessionist*, 14.

Chapter 3 - Southern Diplomacy

In May 1861, official emissaries from the Confederate States of America entered Indian Territory, charged with establishing formal treaties with as many tribes as possible, especially with the five southern Indian nations. Pike would lead the negotiations while McCulloch organized the region's military and coordinated with tribal units. This diplomatic mission was a major part of Southern expansionist plans that would change the course of the war in the West.

As mentioned previously, the infant Confederacy desperately needed the tribes' help to protect the western frontier and had been willing to secure that assistance through formal relations at the state level. This chapter examines the Confederate effort to enlist the Five Tribes as allies, focusing specifically on the Choctaw, Chickasaw, Seminole, and Creek nations. Although the South also intended to contact tribes, such as the Kiowa and Comanche, those relationships were simply agreements of neutrality rather than formal alliances. The "civilized tribes" were the true goal.

In a letter to Superintendent of Indian Affairs David Hubbard, the Confederate Secretary of War, Leroy Pope Walker, clearly defined Richmond's expectations for the negotiations with the inhabitants of Indian Territory. This letter offers insight into the Southern views on these tribes and how the Confederacy planned to interact with them during the war. Richmond instructed its emissaries to accord the Indian nations the respect due sovereign countries, but cautioned the delegation against making too many promises. The core negotiating principle, according to Walker, was straightforward:

> You will, in an especial manner, impress upon [them] the imperious fact they will doubtless recognize, that the real design of the North and the Government at Washington in regard to them has been and still is the same entertained and

> sought to be enforced against ourselves, and if suffered to be consummated, will terminate in the emancipation of their slaves and the robbery of their lands.[48]

According to this argument, the Indian nations had many problems in common with the Confederacy and should unite against a common enemy.

Hubbard and the rest of the commissioners would also need to explain how Northern aggression had united both causes in a "common destiny" against threats to their nationhood and property rights. Walker ordered the commissioners to ensure the tribal governments understood that "the Government of the Confederate States of America . . . will assume all the expense and responsibility of protecting them against all adversaries" if the Indian nations partnered with the South. The Confederate government would also attempt "to establish and enforce the debts and annuities due to them from the Government in Washington."[49]

The primary expression of this cooperation was through the formation of three regiments of cavalry. "Let them know," Walker instructed, "that our agents are now actively employed in procuring rifles and providing ammunition to be immediately forwarded to Fort Smith, for the purpose of supplying these three regiments as soon as they shall have been organized." The Choctaw and Chickasaw would have to supply one regiment, as would the Cherokee, and the third would include warriors from the Creek, Seminole, and other friendly tribes.

"Finally," Walker wrote, "communicate to them the abiding solicitude of the Confederate States of America to advance their condition in the direction of a proud political society, with a distinctive civilization, and holding lands in severalty under well-defined laws, by forming them into a Territorial government." This recognition would not include formal statehood, however,

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[48] *OR* 1:3, 576-577.

[49] Ibid., 577.

because Walker suspected that the tribes would "still require the strong arm of protecting power, and may probably always need our fostering care."[50]

As mentioned previously, the South had many incentives of its own to approach the Five Tribes, but the delegation did not enumerate these reasons to the tribal leaders. Instead, the commissioners, led by Pike and McCulloch, focused on how the tribes could benefit from a Confederate alliance. The commissioners appealed to the tribes' sense of familiarity with the Southern states, warning them that the United States government would continue to be far less respectful of their rights.

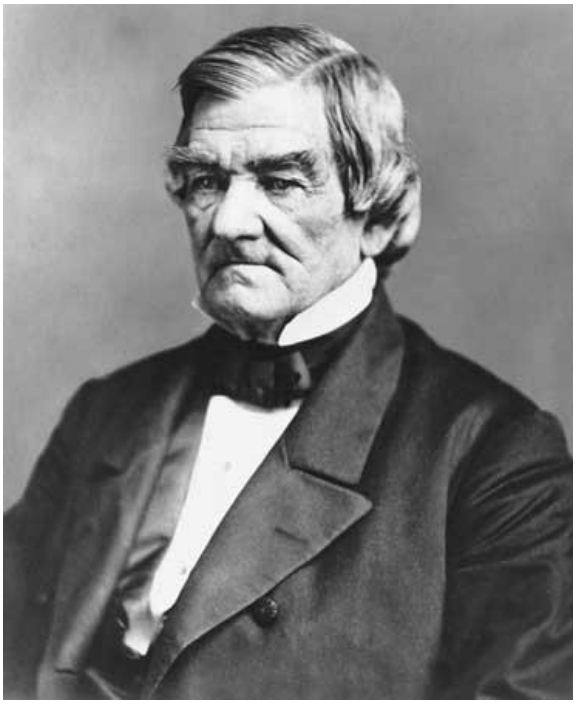

Figure 6: Principal Chief John Ross (Encyclopedia Britannica)

When Chief John Ross, the elected leader of the Cherokee Nation, made clear his intention to remain neutral in the upcoming conflict, David Hubbard wrote a brief letter to the chief expressing the arguments in favor of alliance with the South. Hubbard's remarks, although

[50]Ibid.

focused specifically on the Cherokee, echoed arguments Southern commissioners employed when negotiating with all the Five Tribes.

Hubbard began his appeal with a simple statement: "If we succeed in the South . . . then your lands, your slaves, and your separate nationality are secured and made perpetual . . . If the North succeeds you will most certainly lose all."[51] Not wanting to leave his meaning open to interpretation, Hubbard clearly explained what he meant:

> First your slaves they will take from you; that is one object of the war, to enable them to abolish slavery in such manner and at such time as they choose. Another, and perhaps the chief cause, is to get upon your rich lands and settle their squatters, who do not like to settle in slave States. They will settle upon your lands as fast as they choose, and the Northern people will force their Government to allow it. It is true they may allow your people small reserves -- they give chiefs pretty large ones -- but they will settle among you, overshadow you, and totally destroy the power of your chiefs and your nationality, and then trade your people out of the residue of their lands. Go North among the once powerful tribes of that country and see if you can find Indians living and enjoying power and property and liberty as do your people the neighboring tribes from the South. If you can, then say that I am a liar, and the Northern States have been better to the Indian than the Southern States. If you are obliged to admit the truth of what I say, then join us and preserve your people, their slaves, their vast possessions in lands, and their nationality.[52]

This letter exemplifies how the delegation delivered Richmond's double-edged message. They reminded tribal leaders what was at stake if the North prevailed, and the benefits of allying with such sympathetic allies as the Southern states.

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[51]Ibid. 1:13, 497-498.

[52]Ibid.

On the one hand, the Southerners offered such generous terms that Davis ultimately instructed Pike to temper some of the promises before signing the treaties. The commissioners offered common cause with a culturally similar nation which would respect the tribes' sovereignty in a way the U.S. government never had. On the other hand, the commissioners argued, refusal of the offered alliance would have serious consequences. Not only would the government in Washington leave them out in the cold, but the South would shift from ally to adversary. Remaining with the Union, the South claimed, would ruin Indian Territory.

This platform met with mixed success. On the positive side, the Choctaw and Chickasaw were almost unanimous in their support of the Confederacy due, in part, to their loyalty to Colonel Douglas H. Cooper. A former Federal agent to the tribes, Cooper had been one of the many officials in the West to defect to the South just prior to secession and had received a commission in the Confederate army shortly thereafter. The Texas commissioners reported the two tribes "[are] entirely southern and are determined to adhere to the fortunes of the South." The Chickasaws reciprocated, calling the South their "natural allies." A few dissented, but most of the tribes supported the Confederate cause wholeheartedly, and the tribes signed a treaty of alliance with the Confederacy on July 12, 1861.[53]

The Creek, Seminole, and Cherokee were less enthusiastic. All three nations contained factions supporting both perspectives in the sectional debate, and not one of these groups was eager to change course, especially given the stakes involved. The road to alliance with these tribes proved much more difficult.

The issue created singularly severe problems for the Creek Nation. The debate about whether to accept the proposed partnership eventually grew so heated that Pike took drastic

[53]Ibid. 4:1, 323; 1:3, 586.

measures. He asked the leader of the pro-Union faction, a respected chief named Opothleyaholah (or O-poeth-le-yo-ho-la), to negotiate peace with a gathering of western tribes, then signed a treaty with the Creek Nation on July 10th before the chief could return. Opothleyaholah responded by abandoning the tribe and leading a large group of his followers north toward Kansas with the intention of surrendering to Federal authorities. Members of other tribes who favored the Union, mostly groups from the Seminole and Cherokee nations who opposed the pro-Southern factions in their own tribes, joined the venerable leader, swelling his band to several thousand.[54]

As Opothleyaholah and his followers made their way toward Kansas, Confederate troops dogged their heels, determined to either deter or destroy them. The Southern force, including a unit of Cherokee cavalry under the command of a chief named Stand Watie, engaged their quarry three times. In the first two skirmishes at Round Mountain and Chusto-Talasah, the Confederates inflicted heavy casualties on the refugees but they could not stop them from continuing their trek into Federal territory. Watie's unit participated in the third attack on December 26th at Chustenahlah, inflicting about 350 casualties and capturing nearly 200 women and children, whom they returned to Indian Territory. The ragged and starving survivors continued north, finally reaching Kansas in early January.[55]

Unfortunately, even after their hazardous display of loyalty to the federal government, the refugees' suffering did not end. Local authorities were not happy to have hundreds more mouths to feed, so the Indians received sparse shelter, paltry supplies, and hardly any care for their sick

[54]Robert L. Kerby, *Kirby Smith's Confederacy: The Trans-Mississippi South 1863-1865* (New York: Columbia University Press, 1972), 38; Theda Perdue, "Stand Watie's War," *American History* 50, no. 1 (2015): 36.

[55]Ibid.

and wounded. Many of the men wanted to redress their mistreatment by the pro-Southern tribes and joined the First and Second Union Indian Brigades, participating in the brutal conflict that continually oscillated across the border of Indian Territory. Despite their service, these soldiers and their families lived in deplorable conditions, under the supervision of the U.S. Army, for the rest of the war.[56]

Figure 7: Chief Opothleyahola (Oklahoma Historical Society)

Such a large defection concerned Southern officials, but their biggest problem had yet to be solved. The last of the Five Tribes still undecided was the influential Cherokee Nation. That tribe's Principal Chief, John Ross, was wary of involving his people in a white man's war and had given only the barest of courtesies to the Confederate commissioners. If Pike and McCulloch

[56]Ibid.; Arrell Morgan Gibson, "Native Americans in the Civil War," *American Indian Quarterly* 9, no. 4 (1985): 389; Robert M. Utley, *The Indian Frontier 1846-1890* (Albuquerque NM: University of New Mexico Press, 2002), 75.

remained unable to change Ross’s mind and secure the Cherokee Nation's friendship, then much of their work in Indian Territory might come to nothing.

Chapter 4 - The Cherokee Nation

By far the most powerful and influential of the Southern Indian Nations, the Cherokee held a unique position in Indian Territory. Their greater population yielded more troops, and their location on the borders of both Kansas and Arkansas played a crucial strategic role in the coming conflict. Success with the other tribes mattered much less if the Cherokee decided to remain neutral or join the Union. The South would need their support to have any hope of succeeding in Indian Territory and, possibly, in the West.

The largest obstacle to this nation joining the Southern cause was its leader, Principal Chief John Ross. The commissioners' meetings with Ross had been less than encouraging. They described him as "diplomatic and cautious" but noted he held views similar to those expressed by Abraham Lincoln and Sam Houston. The commissioners reported that Ross received them "with courtesy, but not with cordiality." Although the report claimed that Ross had the support of only a fifth of the tribe, the numbers of pro-Union Cherokee were, in fact, much larger, and they would follow Ross's lead.[57]

Ross had gained the regard of his people early in life, despite his blond hair, blue eyes, and mostly European ancestry. He had partnered with one of his tribe's most eminent members, Major Ridge, against the British and their numerous Indian allies during the War of 1812. During the Creek Wars (sometimes called the Red Stick Wars) in 1813 and 1814, Ross and Ridge, along with famous American frontiersmen like Sam Houston and David Crockett, cooperated with

[57] *OR* 4:1, 323; Smith, "Nations Colliding," 286.

future-president Andrew Jackson in putting down the Creek uprisings. Ross was present at the battle of Horseshoe Bend, the decisive clash of the war, and earned even more renown.[58]

Ross's reputation as a warrior and statesman had earned him massive influence within the Cherokee Nation and with other tribes in the territory. When the Chickasaw called an intertribal council in the first months of 1861 to discuss the matter of choosing sides in the Civil War, Ross's well-known preference for neutrality eventually caused the council, which also included representatives from the Creek Nation, to disband. Although this impact seemed to have waned somewhat in the following months, no effort to secure alliances in the territory would be complete without contacting the man who commanded such reverence even among his former enemies.[59]

The other side of this issue centered around Major Ridge's nephew, Stand Watie. The political rivalry practically guaranteed Watie would support the Confederate cause, possibly as much because Ross was neutral as because Watie favored secession. Whatever the reasons, the South would have gladly dealt with Watie alone, but without Ross's endorsement the Nation would not officially join the Confederacy.[60]

Prior to their forced relocation to Indian Territory, the Cherokee had been sharply divided over how to handle increasing encroachment from the federal government into their ancestral lands in the state of Georgia. Some had spent decades reinventing themselves to make their tribe

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58A. J. Langguth, *Driven West: Andrew Jackson and the Trail of Tears to the Civil War* (New York: Simon and Schuster, 2010), 32, 34.

59Abel, *Slaveholder and Secessionist*, 71-72.

60Morris L. Wardell, *A Political History of the Cherokee Nation, 1838-1907* (Norman OK, University of Oklahoma Press, 1977), 127; Gerard Alexander Reed, "The Ross-Watie Conflict: Factionalism in the Cherokee Nation, 1839-1865" (PhD diss., The University of Oklahoma, 1967), 279; Laurence M. Hauptman, *Between Two Fires: American Indians in the Civil War* (New York: The Free Press, 1995), 47.

more like white society, and these Cherokee were willing to fight for their rights through the American legal system, though they were not always united about how best to wage such battles. Others remained faithful to their traditions, less willing to mimic white culture and resolutely resistant to all efforts to change their culture or take their land. Some of the latter persuasion had split from their tribe and moved west into Texas, Arkansas, and Indian Territory rather than see their land stolen by white squatters.

One faction among the Cherokee that remained in the South, under the leadership of John Ross and the Cherokee tribal council, maintained that the tribe could reach an arrangement with the U.S. government allowing for at least the possibility of the Cherokee remaining on their land. The second major faction, comprised mostly of those who had embraced the trappings of American culture, was led by several influential members of the tribe with mixed ancestry who wanted to make the transition to Indian Territory immediately. These men, including Stand Watie and several members of his immediate family, believed that remaining in Georgia was impossible. Disobeying direct orders from Ross and the rest of the elected Cherokee leadership, these dissenters had signed the Treaty of New Echota in 1835, precipitating the horrific events of Cherokee removal including the Trail of Tears.[61]

Citing a Cherokee law requiring capital punishment for anyone who fraudulently sold tribal land, Ross and his followers issued a death sentence against the signers of the treaty a few years later in 1839. Within the space of a few weeks, all but one of the so-called Treaty Party leaders had been assassinated. As the sole survivor, Stand Watie became the *de facto* leader of his faction. While tensions between the two sides had subsided somewhat during the 1840s, the

[61]Wardell, *A Political History of the Cherokee Nation*, 8, 13,16-17; Perdue, "Stand Watie's War," 32, 34.

feud threatened to flare into open conflict in the years just before the Civil War. Any negotiations with the Cherokee Nation would have to account for these factional divisions.[62]

Given these conditions, the Confederate delegation presented the Cherokee with a simple choice that would appeal to both sides. On the one hand, the Southerners argued, the Nation could side with a federal government that had abandoned them and cared little for its promises of supplies, protection, and money. In that sense, the Cherokee owed Washington nothing except mistrust. On the other hand, although a Confederate alliance would antagonize the North, the South promised to make good on every broken promise.

Could the Cherokee Nation trust the Confederacy? Southern leaders, especially McCulloch and Pike, knew they would have to offer incentives tantalizing enough to convince the tribe to forsake the federal government, but would the tribe believe their promises any more than those from Washington? For several months, the tribe was clearly divided on these questions. Some agreed with Chief Ross, while others agreed with Watie's support for the South. The deciding factor seemed to stem from the bloody rivalry between the two factions. Watie and his friends clearly considered joining the South their only chance at surviving, while Ross's followers felt the same about remaining neutral. The stalemate would fester and keep the Cherokee Nation out of the war until either the two sides could reconcile, or the Confederacy could cut out dissenting voices and embrace the remaining Cherokee leadership.

This strategy of securing the frontier through treaties with Indian nations, particularly the Cherokee, was not new, nor was that tribe's tradition of discord when reacting to those agreements. The United States government had similarly courted Southern tribes in the 1780s to ease tensions between Indians and white migrants who had defied Federal law and were

[62]Hauptman, *Between Two Fires*, 44.

squatting on tribal land. These overtures seemed to suggest that Washington was willing to recognize tribal independence, which had been a central Cherokee goal from the start.[63]

In the early 1820s, white colonists partnered with the Cherokee against more hostile tribes, like the Comanche, during the conquest of the Texas territory. Stephen F. Austin, often called the "Father of Texas," allied with several groups of Cherokee who had emigrated from the South, exploiting their military assistance with promises of land. Brokering a deal with a self-appointed Cherokee representative named Richard Fields, Austin coordinated with the tribe to drive several plains tribes, including the Waco and the Tawakoni, from the area the white colonists wished to settle.[64]

The South had even made a long-shot attempt to incorporate Indian Territory in the Union as a slave state. Their failure in this endeavor compounded Southern frustration about the spread of abolitionism and contributed to the enthusiastic pursuit of westward expansion after secession. In this example, and in previous instances, the Cherokee consciously decided to align with certain white groups during times of crisis as a way to secure territorial claims and national sovereignty. And in each case, those white groups viewed the tribe as an asset that could tip the balance in their favor.[65]

An alliance even more like that in the Civil War occurred during the Fredonian Rebellion in 1826. White colonists in Texas, hoping to win independence from the current Mexican government, enlisted the help of several Indian groups who had also moved to the area, especially a contingent of Cherokee who had relocated to escape loss of their traditional lands.

63Carol L. Higham, *The Civil War and the West: The Frontier Transformed* (Denver CO: Praeger, 2013), 47.

64Gary Clayton Anderson, *The Conquest of Texas: Ethnic Cleansing in the Promised Land, 1820-1875* (Norman OK: University of Oklahoma Press, 2005), 55-58.

65Smith, "Nations Colliding," 283.

These Indians agreed to help the American settlers mainly for the promise of their own land, and the two groups "resolved to form a Treaty of Union, League and Confederation." This treaty claimed that the Mexican government had, "by repeated insults, treachery, and oppression, reduced the White and Red emigrants from the United States . . . to the dreadful alternative of either submitting their free-born necks to the yoke of an imbecile, faithless, and despotic government . . . or of taking up arms in defense of their unalienable rights and asserting their Independence." Bound by the "ligaments of reciprocal interests and obligations," the white and Indian settlers agreed to cooperate against a common enemy. The coalition even fashioned a flag, dubbed the "Independent Standard," which displayed two stripes, white for the Americans and red for the Cherokee and other tribes.[66]

One white colonist, B.W. Edwards, wrote a letter to Stephen Austin to justify the decision to partner with the Indian tribes:

> We have not acted blindly or precipitately in this matter. We have for some time looked forward to this issue and were prepared for it. The Indians on our north have long since intended the same thing, and have only been waiting for us to say the word. They were determined to have a part of the country, which, they say, was promised to them by the government, and which they will never yield. They have immigrated of late in great numbers to the northern part of this province. Under those considerations, and for our own security and protection, we have just completed a treaty with them, designating a line to the north of this, running westwardly to the Rio Grande, securing all individual rights within their territory.

66Ernest William Winkler, "The Cherokee Indians in Texas," *The Quarterly of the Texas State Historical Association* 7, no. 2 (1903): 141-142.

> . . . They are now our decided friends, and by compact, as well as interest, are bound to aid us in effecting the independence of the country.[67]

Shared interests had compelled these unlikely allies to put aside differences and cooperate toward a common goal.

The coalition during the Fredonian War also resembles the events of the Civil War in that the white settlers only turned to the Indians with such warm language and generous terms when all other options had been exhausted. Neither the United States government nor any nearby Anglo-American settlers would rally to the aid of the Fredonians. Even those following Austin refused to aid the rebels, their leader openly condemning the uprising. In the end, the would-be revolutionaries turned to the Cherokee as their last recourse.[68]

The Mexican government recognized the importance of Indian allies for the Fredonians and attempted to convince neighboring tribes, especially the Cherokee, to abandon the struggle in exchange for land grants. As would be the case in Indian Territory 35 years later, the competing offers exacerbated divisions within the tribe and split the Cherokee down the middle. Two chiefs, Bowles and Big Mush, forsook the alliance, while Richard Fields and John D. Hunter, signatories of the Fredonian treaty, remained faithful to their agreement. The Cherokee who had accepted the Mexican government's offer eventually murdered Fields and Hunter, depriving the Fredonians of all Cherokee assistance and dooming the revolution.[69]

The relationship between the Mexican government and the Cherokee continued to improve after the uprising. In 1827, a Mexican officer, Lieutenant Nicolas Flores, delivered a

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[67]Dudley G. Wooten, *A Comprehensive History of Texas 1685 to 1897*, Vol. 1 (Dallas TX: William G. Scarff, 1898), 518.

[68]Winkler, "The Cherokee Indians in Texas," 144-145.

[69]Ibid., 148-149.

commission as lieutenant colonel to Chief Bowles as a gift from the government. Although the title was mostly honorary, the chief was expected to provide real aid against the rebels and "co-operate in preserving the peace and repose of the country." The chief reciprocated by sending two of his young sons to be raised in Mexico. Plans for granting the Cherokee the promised land seemed on track, and relations remained friendly.[70]

Despite this positive relationship, the land grant process met with many delays. In 1833, a Mexican political officer took up a petition to finally get the tribe their land, writing: "There can be no doubt as to the advantages that will result to this department from the settlement of these Indians, who are almost civilized; provided always, that they can be induced to acquire our language and adopt our customs and laws, so that as far as possible they may be governed by them." The reason for this integration was clear: "In case of war and in the useful arts they may prove themselves very serviceable to this country."[71]

Several facts become clear when examining the Cherokee experience in the Fredonian affair. First, one can see the tribe's priority of gaining their own land and their willingness to earn that land through deliberate engagement with their neighbors. Second, the divisions within the tribe become painfully clear. Some of the Cherokee had united to leave their countrymen and ancestral lands in the South to make a new life for themselves in the West. However, even that cohesion did not survive the complications of frontier diplomacy. Third, anyone on the frontier seeking political change ignored the local Indians at their peril. Finally, friendly partnership with the tribes depended on their social and cultural advancement.[72]

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[70]Ibid., 153.

[71]Ibid., 159-160.

[72]Ibid., 143, 145.

As mentioned in the previous chapter, the more a tribe's society resembled white "civilization," the greater the chances of an alliance. By the time of the Civil War, the Cherokee in Indian Territory met that criterion. Both of their principal leaders, John Ross and Stand Watie, wore European-style clothing, spoke English, owned farms and businesses, and generally lived like white Americans. Although these two men could not agree on how to engage with the South, they personified the kind of Indian the Confederacy wanted as allies. Davis and most of the government in Richmond agreed that establishing formal ties to the tribe was of paramount importance, even if only part of the Cherokee leadership was receptive to the partnership.

Before even arriving in the Cherokee Nation, Pike and McCulloch suspected that the leader of the tribe's pro-slavery faction would be a much more enthusiastic ally than the cautious Ross. The last surviving leader of the faction that had signed away Cherokee lands in Georgia thirty years earlier, Stand Watie, was wholly in favor of joining the South and went to great lengths to demonstrate his fidelity. Some citizens of Arkansas had even written to Watie in May 1861, advising him to advocate for a Southern alliance and secure the area for the Confederacy by ambushing the local Federal Cherokee agent.[73]

Before the Cherokee leadership declared their intentions, Watie organized a detachment of cavalry to fight for the Confederacy, paying for their food and equipment with his own money. The unit participated in Southern campaigns in and out of Indian Territory, including the pursuit of Opothleyaholah and his band of pro-Union refugees. These events impressed Confederate authorities, strengthening Watie's position in the tribe even more. Since the

[73]Edward Everett Dale and Gaston Litton, eds., *Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family* (Norman OK: The University of Oklahoma Press, 1995), 106-107.

Southern leaders wanted official links to the Cherokee Nation, they might prove willing to back Watie against Ross if the Principal Chief would not change his position.[74]

Actions such as this ensured Stand Watie would be at the center of his tribe's war effort if the Cherokee ever joined the Confederacy. Recognizing this fact, Pike and McCulloch split their attention between trying to change Ross's mind and providing more support for Watie and his followers. McCulloch suggested that "[i]t might be well to give [Watie] a battalion separate from the Cherokee regiment under Colonel Drew," a well-known Ross ally who also favored neutrality. In any case, the Colonel's unit, McCulloch observed, could not compare with the quality of Watie's troops, who were "educated men, and good soldiers anywhere, in or out of the Nation" and worthy of serving alongside white units.[75]

As the negotiations approached a conclusion, McCulloch again reported favorably about the leader of the pro-Confederate faction: "Col. Stand Watie belongs to the true Southern party, composed mostly of mixed bloods, and opposed to John Ross." McCulloch continued by saying he hoped Richmond would allow Watie to continue serving the Confederacy and to remain under McCulloch's command.[76]

In perhaps his greatest service to the South, Watie's rebellion provided the commissioners with an opportunity to enlist Cherokee help in the western theater. His cooperation also convinced Pike and McCulloch that Ross would eventually have to change his mind and sign the treaty. One way or another, the South was determined to have the Cherokee for allies, even if only part of the tribe was fully receptive to the partnership.

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[74]Hauptman, *Between Two Fires*, 47.

[75]*OR* 1:3, 692.

[76]Ibid.

Ultimately, these divisions within the Five Tribes, even those in the Cherokee Nation, mattered little to the South. Dealings with the Indian nations had always been conducted through the tribal elite, many of whom were wealthy planters on par with many white slaveholders. In most cases, the factions from each tribe possessing secessionist sympathies held great influence with their people, so the Confederacy could simply deal directly with these individuals, regardless of dissent from other groups. In the case of the Cherokee, Watie would serve as the tribe's unofficial representative as far as the South was concerned. Ross was still the Principal Chief, but Watie's support indicated at least part of the tribe would side with the Confederacy.[77]

[77]Wardell, *A Political History of the Cherokee Nation*, 123, 134; Smith, "Nations Colliding," 279, 309-310; Gibson, "Native Americans and the Civil War," 387-388.

Chapter 5 - Cherokee Nationalism

One of the arguments that the Confederate commissioners had used to convince the Five Tribes to ally with the South was claiming the inhabitants of Indian Territory shared common culture and interests with the secessionists. This common identity, they argued, meant that the two groups were natural allies and that the slaveholding tribes would share the South's fate if the federal government prevailed.

Slavery was a significant factor for tribal leaders to consider when choosing sides in the sectional conflict. Historian Troy Smith writes: "The Confederate States of America and the Cherokee, Choctaw, Chickasaw, Creek, and Seminole Nations all framed themselves as slaveholding autonomous nations. For all of them, slavery was the cornerstone of a racial hierarchy that helped define their nations." Unlike the Southern states, however, the Cherokee did not enter the war to fight for slavery. Instead, they wanted to establish national sovereignty and earn equal treatment from their white neighbors. These goals had led the tribe to adopt many aspects of white culture in the decades before the Civil War. The forced-labor system was a central characteristic of that adaptation but, given the choice, most Cherokee elite would have chosen nationhood over slavery.[78]

This chapter will investigate the similarities between the South and the Cherokee Nation and explain how those common traits existed as a result of Cherokee efforts to reinvent their culture to resemble American society. By making themselves appear more like their white neighbors, the Cherokee attempted to maintain their rights as a sovereign country. Principal

[78]Smith, "Nations Colliding," 305; Russell Thornton, "Boundary Dissolution and Revitalization Movements: The Case of the Nineteenth-Century Cherokees," *Ethnohistory* 40, no. 3 (1993): 364.

Chief Ross's decision to remain neutral, despite the shared cultural characteristics, exemplifies the tribe's commitment to the course most likely to preserve their national existence.

Perhaps the most obvious similarity between the cultures of the Confederacy and the Cherokee Nation was their shared toleration of slavery. The pro-slavery Cherokee did not comprise a majority within the tribe, but they did form the majority within the elite class. It stands to reason that those with the greatest economic stake in a forced labor system would be its strongest supporters, and those leaders, namely Watie and other members of the Treaty Party, argued for their rights as slaveowners.[79]

Some Southerners went so far as to suggest that Cherokee social and economic achievements depended entirely on the tribe's slaves, citing forced labor as "an incentive to all industrial pursuits," especially given apocryphal evidence claiming that Indians avoided hard work. Without slavery, these people hinted, the Cherokee would not have been able to succeed in their imitation of white culture. Tribal leaders, however, had their own reasons for adopting the South's labor practices.[80]

Taking and trading slaves had been part of Cherokee culture since long before the arrival of the Europeans. Traditionally, enemies captured during raids would be kept as slaves and integrated into the family group, with many eventually becoming members of the tribe. As the Cherokee and other native groups began to rely more on farming than hunting for sustenance and wealth, their needs for labor also shifted. A census in 1809 showed African slaves accounting for nearly 5% of the Cherokee Nation's total population. By the time of the Civil War, the number

[79]Smith, "Nations Colliding," 309.

[80]Abel, *Slaveholder and Secessionist*, 45-46.

had risen to nearly 15%. As with the American South, only a sliver of the elite owned more than one or two slaves, but these individuals wielded great influence within the tribe.[81]

Unlike the case of their American neighbors, the rise of chattel slavery in the Cherokee Nation was uneven and slow. The tribe had not viewed humans as commodities until the arrival of Europeans and it was not until agriculture became a larger part of tribal life that the demand for African labor increased. In many ways, even this increase resulted more from a Cherokee desire to mimic white culture than from economic or cultural necessity. Despite these origins, however, racial prejudice was thoroughly entrenched in much of the Cherokee elite by 1860 and slavery had become an integral part of the tribe's economy.[82]

Cherokee leaders' support for slavery mirrored that of the South, but their root motivations differed. Whereas slavery was the foundation of every aspect of Southern life, the Cherokee economy had more diversity. White Southerners derived their political authority and social status from the denigration of African laborers, while elite Cherokee obtained theirs from tribal hierarchy. Without slavery the Confederacy stood to lose its culture, but the Cherokee stood to lose their nationhood.

These differences meant slavery was not as foundational an issue for the Cherokee as it was for the South. Several influential Cherokee who owned large numbers of slaves favored neutrality until the eleventh hour and some, like John Ross, eventually abandoned the Southern cause to support the federal government, despite the cost. Part of the reason this system was not such a sticking point for the Cherokee is that their adoption of the practice had grown out of their efforts to acculturate themselves to American ways. As members of the tribe succeeded in the

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81Langguth, *Driven West*, 33-34; Circe Sturm, *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma* (Berkeley CA: University of California Press, 2002), 48-49; Perdue, "Stand Watie's War," 35.

82Ibid., 50-51.

agricultural sphere, the need for workers increased, leading many Cherokee to participate in exploiting the South's primary labor source. Thus, although slavery had become important for Cherokee acculturation and agriculture, protecting the institution was not the tribe's primary reason for partnering with the Confederacy, nor was it the only cultural institution the Nation shared with the South.[83]

Both the Cherokee and their white neighbors agreed on many issues of class and religion. These kinds of shared values put a large portion of the Cherokee elite on the same ideological page as the Southern elite, deepening the understanding between the two groups. Some tribal members had white Southerners as blood relatives and considered themselves part of the South. The similarities sometimes went so deep that Cherokee and Choctaw plantations reminded visitors of locales in Georgia and Mississippi.[84]

One of the most significant changes the tribe underwent was the creation of the Cherokee alphabet by a man named George Gist, also known as Sequoyah. The son of a Dutch trader and a Cherokee farmer, Gist had grown up hunting and fur trading and had never attended school. After serving under Andrew Jackson against the Creek during the War of 1812 and observing the effectiveness of the white man's "talking leaves," Sequoyah decided that his people needed their own system for written communication. After over a decade of intensive work, Sequoyah finished his alphabet. After a mere handful of demonstrations before tribal leaders in the 1820s, the council members were so impressed that they adopted the syllabary for the entire Cherokee Nation almost immediately.[85]

83Smith, "Nations Colliding," 309.

84Higham, *The Civil War and the West*, 52; Smith, "Nations Colliding," 285.

85Langguth, *Driven West*, 67-70.

Figure 8: George Gist/Sequoyah (Public Domain)

Over the following decade, his methods of writing and, eventually, arithmetic spread to every corner of Cherokee land, revolutionizing the tribe's culture to such an extent that some white observers claimed Seqyuoyah's system was superior to the English alphabet. "You must learn and remember eighty-five letters instead of twenty-five," one American stated, "but this once accomplished, the education of the pupil is completed. . . . The boy learns in a few weeks that which occupied two years of the time of our boys." The reader should note that while George Gist had been inspired by white culture, his eventual success had been completely independent of outside influence.[86]

These developments drastically changed Cherokee culture, as the lingual codification elevated one dialectic strain at the expense of the rest. After that, official tribal education emphasized both English and Cherokee, and those who received this bilingual education were

[86]Ibid., 71.

not only more likely to establish profitable contact with external entities but were also more likely to own slaves.[87]

The education and heightened literacy that came with the new syllabary also played an important role in the evolution of Cherokee government. With the adoption of an official constitution in 1828, the tribe's governmental structure changed forever and matched that of the United States even more closely. Even the wording of the new constitution, and its successor in 1839, mirrored that of the United States, again displaying the ultimate Cherokee goal. They did not seek to copy American culture, but rather to show how they equaled it, and then draw from it what they needed.[88]

The Cherokee adapted their legal institutions as well. Whereas law enforcement had once been the responsibility of individual clans, the tribe had established a police force and a centralized court system by the early 1800s. Cherokee elites started remaking their tribe into a nation the Americans and Europeans would respect, which had been the goal all along. Expanding the tribe's justice structure also produced Cherokee lawyers familiar with Federal Indian policies and the tangled U.S. legal system. These individuals could advocate for their people better than had ever been done before.[89]

State building within the American model altered tribal political organizations. The class of elite Cherokee planters located primarily in Alabama and Georgia embraced the American version of democracy and, realizing that only a centralized Cherokee government would help

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[87]Higham, *The Civil War and the West*, 54.

[88]Ibid.; Wardell, *A Political History of the Cherokee Nation*, 43.

[89]Higham, *The Civil War and the West*, 53; Bob L. Blackburn, "From Blood Revenge to the Lighthorsemen: Evolution of Law Enforcement Institutions among the Five Civilized Tribes to 1861," *American Indian Law Review* 8, no. 1 (1980): 49-52.

them retain their land, they adopted political institutions like those of the United States. In 1808, Cherokee recorded their first formal laws and established a national police force, the Lighthorse Patrol. The tribe created a bicameral legislature in 1817, formed a constitutional republic by 1818, and established a Supreme Court in 1822. The new government possessed three branches, much like that of the United States, with a Principal Chief, a National Council, and a Supreme Court. These changes founded the Cherokee Nation, encouraging more individualization within the tribe and making Cherokee culture more compatible with a slave economy.[90]

Gender roles within Cherokee society shifted during the early years of the nineteenth century as well. Traditionally, tribal membership depended on the mother's status. As the Cherokee moved towards a more centralized government and adopted aspects of European, and ultimately American, legal infrastructure, the traditional ways slowly lost legitimacy with most of the tribe. By the time of the Civil War, the matrilineal hierarchy had all but disappeared, only to be respected by those Cherokee most dedicated to their ancestral social structures. Although these changes devastated some members of the tribe and created lasting resentment, the South viewed the shift as a positive sign of growing Cherokee civilization.[91]

For decades, the Cherokee had consciously adapted their lifestyle and social infrastructure to resemble that of the white man as part of a concentrated strategy to legitimize the tribe as a civilized nation. Rather than resorting solely to violence as a means of dealing with encroaching white settlers, the majority of Cherokee chose acculturation and sought to reinvent their culture.[92]

90Thornton, "Boundary Dissolution," 364-365; Higham, *The Civil War and the West*, 54.

91Sturm, *Blood Politics*, 41-43.

92Smith, "Nations Colliding," 280-281.

The Cherokee, like the other four southern Indian nations, refashioned their society to resemble that of white settlers as a way of building peaceful relations and cultural parity with their white neighbors. The Cherokee's goal in adapting their culture was twofold. First, the tribe wanted to separate themselves from the popular American perception of Indians as, at best, ignorant children and, at worst, dangerous savages. Second, the Cherokee wanted recognition as a legitimate nation in the eyes of the United States government. Acculturation was the tribe's primary strategy for developing and legitimizing their attempts at state building.[93]

This strategy was not an admission that white culture was superior and should completely replace the traditional way of life, nor was it intended to remake the tribe into an Anglo-American entity. Tribal leaders wanted to earn respect and independence but had no desire to abandon their own culture. Sharing attitudes, language, economics, and politics with their white neighbors showed that the tribe was not a collection of primitives who could not handle the responsibility of sovereignty. Cherokee leaders pursued this course to make peace with the Americans without sacrificing their tribal heritage.[94]

Proof of Cherokee indifference to becoming American could be found in the history of the nation's relations with the Southern states. Far from sharing a record of peace and mutual respect, the two sides had been strongly at odds just decades earlier. The state of Georgia, where most of the Cherokee originated, had ruthlessly carved away chunks of tribal land in the years preceding the forced relocation of the tribe to Indian Territory, often simply called "Removal." Even when the federal government professed support for the tribe's territorial claims, local and state authorities continued to look the other way while droves of white settlers stole tracts of land

[93]Ibid., 282; Higham, *The Civil War and the West*, 44.

[94]Sturm, *Blood Politics*, 48.

left and right. In 1803, Cherokee leaders invited Protestant missionaries to live with their people and build schools and churches. This invitation represented a Cherokee understanding of changing circumstances rather than a preference for Christianity.[95]

Going back even further, the relationship had been still less friendly. After the Revolutionary War, new states like Georgia and the Carolinas treated the Cherokee and other tribes as subjugated nations, dealing with the vanquished however they pleased. Clearly, the Cherokee and their white Southern neighbors had not been on the best of terms, and these wounds remained fresh in the short time since removal.[96]

Given this prickly history, it is little wonder that some Cherokee leaders, like Ross, disliked the notion of joining their people to any group that had so recently evicted the tribe from its homeland. And, not surprisingly, even men like Watie who favored the South's proposal did not want to assimilate the tribe into the Confederacy. They wanted recognition as an autonomous polity, one with similar rights as the Southern states and independent in its own right. Again, these actions were also not mere mimicry of American political structures and traditions. Cherokee who adopted aspects of white culture certainly enjoyed economic benefits from their choice, and they genuinely wanted to continue developing the wealth and prestige that they had gained through acculturation. One should not assume they had only played along to keep American squatters off their land.[97]

These efforts produced rapid results in the early decades of the 19th century. By the late 1820s, the Cherokee Nation possessed a booming economy and regularly dispatched their best and brightest young men to schools in the Northeast, where they excelled in many subjects and

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95Ibid.

96Ibid., 47.

97Smith, "Nations Colliding," 284-285.

brought their knowledge back to the tribe. By the start of the Civil War the Cherokee shared a greater resemblance with the Southern planter class than with the tribes in the North and West. Cherokee society now included a robust economic system, a growing class of landowners, many of whom owned slaves. Acculturation appeared to have been successful for the Cherokee.[98]

One problem with this strategy was that the tribe did not unanimously agree on how best to maintain the delicate equilibrium between tribal identity and the benefits of white culture. Some within the Nation strictly adhered to the traditions of their ancestors; others embraced the economic and social advantages of adopting the white man's ways; and still others practiced a blend of the two extremes. The vast majority of Cherokee fell somewhere on this spectrum, but the disagreements about how to strike the proper balance became one of the most contentious, and violent, issues in the nation's politics. In a century full of questions about the nature of Americanness, the Cherokee debated how to best preserve an entirely different identity. Successful acculturation had produced one of the first serious divisions in the tribe.[99]

Another cause, and eventual consequence, of acculturation was the loss of territory. To maintain the peace with white settlers, Cherokee leaders ceded large sections of territory to the federal government. The most obvious example of these concessions was the Trail of Tears, but the tribe had given up territory in Tennessee, Kentucky, and North Carolina as early as the turn of the century.[100]

This effort to create and maintain tribal living space also heightened factional tensions within the tribe, as hostile groups suddenly lived in much closer proximity than before. The split over these issues widened with the advent of the Civil War, and other nations, like the Creek and

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98Sturm, *Blood Politics.*, 49.

99Higham, *The Civil War and the West*, 59-61.

100 Sturm, *Blood Politics*, 53.

Seminole, suffered the effects as well. The divisions accompanying acculturation had increased tensions for decades, but now all those groups had to find a way to live together despite their differences.[101]

The fact the Cherokee had made such drastic changes to their society and had adopted certain characteristics of white culture had made an impression on the Southern states. They recognized the similarities between the Five Civilized Tribes and themselves and acknowledged that the tribe's "progress" made an alliance possible. Regardless of their concerns regarding border security, it is doubtful the Confederacy would have established a pact with a tribe that failed to meet Southern standards for civilization. The fact that the Confederacy couched the language of their treaty with the Cherokee in terms of shared culture and common destiny demonstrates the success of acculturation. Whatever the white South might have felt about other tribes on the frontier, the Cherokee could be trusted to honor the terms of an agreement.[102]

At the end of the day, the main Cherokee reasons for joining the Confederate cause had little to do with slavery, states' rights, or even shared culture. The varied responses of the Five Tribes often came down to simple geography. The so-called Twin Tribes of the Choctaws and Chickasaws, who shared a common border with Texas, had allied with the South first, and the Creek and Seminole joined the Rebel cause only after Arkansas seceded. The Cherokee delayed their decision due to internal debates and because Ross did not want to provoke antislavery militias in Kansas by siding with the rebels. Having adopted the culture of the South, primarily to gain legitimacy with their white neighbors, the Cherokee were more concerned than the other tribes about how the white man's war would affect their sovereignty and nationhood. Claiming a

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[101]Ibid., 46.

[102]Smith, "Nations Colliding," 285; *OR* 4:1, 322-324.

shared culture with the Confederacy looked tidy on paper, but other factors would ultimately decide the issue.[103]

[103]Kerby, *Kirby Smith's Confederacy*, 38-39.

Chapter 6 - Benefits of a Southern Alliance

The South proposed generous terms in their treaties with the Five Tribes, tangible advantages which the federal government had never offered. These benefits fell under two main categories: military and political. On the one hand, the coalition would provide the Indian nations with the means to defend themselves and their sovereignty. They would also have direct access to the legislative process in Richmond with all the attendant privileges and responsibilities. Such unusual and liberal provisions eventually convinced most tribal leaders that allying with the South was an acceptable option.

Military Benefits

Despite assurances from Washington that their newly acquired homes in Indian Territory would be safe from encroachment and that the tribes would not have to endure another removal, white settlers continued to push into Indian Territory. The federal government intended the area west of the Mississippi River to serve as a place where the various Indian tribes could learn to blend with white society. To this end, Washington established a clear delineation between white and Indian territory. But the settlers failed to respect the line. With the discovery of gold in the 1840s and the end of the U.S. War with Mexico, the line blurred as white settlers continued flowing onto tribal lands. For years, government protection, however slight, was the only security the Cherokee and other Indians had against further property loss.[104]

Once Federal troops retreated from the area at the start of hostilities, the last layer of protection disappeared. The Cherokee feared that their new vulnerability would only increase the chances of conflict with settlers and endanger the integrity of tribal land claims. Many welcomed

[104]Higham, *The Civil War and the West*, 45.

the possibility of a treaty with the South because it offered a chance for the nation to hold on to its territory.

Additionally, remarks from members of the newly-formed Republican Party worried the Five Tribes. In a speech to a Chicago crowd during the 1860 election, William Seward, future Secretary of State in the Lincoln administration, said that "Indian Territory south of Kansas must be vacated by the Indian." Although this remark ultimately proved inconsistent with the administration's later actions, Seward's seemingly idle remark made the tribes exceedingly nervous.[105]

This chapter will examine the military benefits the Cherokee expected to derive from a partnership with the Confederacy and the issues making a Southern coalition seem safer than neutrality. When the Confederacy arrived with offers of alliance, many Cherokee recognized an opportunity to improve their own situation within the tribe. The South offered weapons and military support in exchange for cooperation, and minority factions such as Stand Watie's embraced the opportunity. The commissioners offered a chance for the Cherokee to defend themselves from enemies both internal and external.[106]

The Cherokee had a history of siding with groups that could help them protect their territorial sovereignty before the Confederate commissioners ever arrived. During the French and Indian War in the mid-18th century, the nation supported the French in order to check the encroachment of British settlers onto tribal lands. By the time of the Revolution, the trespassers were American colonists, so the Cherokee fought alongside the British.[107]

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[105]George E. Baker, ed., *The Works of W.H. Seward* (Redfield NY: Houghton, Mifflin and Co., 1853), 363; Abel, *Slaveholder and Secessionist*, 58-59.

[106]Wardell, *A Political History of the Cherokee Nation*, 123.

[107]Higham, *The Civil War and the West*, 46.

In neither instance was the tribe interested in adopting a foreign culture; the Cherokee had no desire to become French or British. Instead, the tribe wanted help to defend their own way of life. Their pragmatic choices had been survival tactics. The tribe faced a similar decision with the Confederacy, and many Cherokee leaders wanted to make another attempt at solidifying their borders and protecting their way of life against outside pressures.

In many ways, the Cherokee, and the rest of the Five Tribes, were even more concerned about the security of their borders than white pioneers had been in the early decades of the 19th century. Both groups recognized the correlation between a safe border and legitimate nationhood, and the tribes would go to great lengths to protect both.

For decades, the U.S. government had been the only defender of Cherokee rights, and even that protection had been unreliable. In exchange for their agreement to stay in designated areas of the country without resorting to violent resistance, Washington had offered the nation protection against white squatters and other attempts to seize tribal land. Despite these promises, the federal government had rarely sent troops to deter white settlers. During the 1850s, Washington had repeatedly established, and then abandoned, forts and smaller garrisons across the territory. In the 1857 annual report of the Office of Indian Affairs, the superintendent of the southern district admitted that after Federal troops left Fort Gibson, no U.S. military forces remained in Cherokee country.[108]

When the North abandoned the rest of the forts in Indian Territory at the start of the Civil War, the nation became even more vulnerable. The tribe considered this act a breach of treaty and an indication of how little the United States respected their nationhood. For many Cherokee,

[108] *Annual Report-1857*, 194.

the South at least professed to recognize tribal rights, and the Confederate commissioners offered better terms than any from Washington.[109]

In addition to the threat from outside encroachment, the Cherokee had to deal with the ongoing feud between the Ross and Watie factions. When the tribe still lived in Georgia, Watie and several members of his family had signed the Treaty of New Echota with the U.S. government in 1835, relinquishing all Cherokee land in the East and mandating the removal of the tribe to Indian Territory. This act, made without the knowledge or consent of the elected tribal council or the Principal Chief, John Ross, led to the forced relocation of the entire tribe. The Cherokee called their miserable journey to present-day Oklahoma *Nunna Daul Isunyi* or The Trail Where We Cried, also known as the Trail of Tears. Historians estimate over four thousand Cherokee died during the Removal period, nearly fifteen percent of the tribe's entire population.[110]

The signers of New Echota, thereafter known as the Treaty Party, consisted primarily of wealthier Cherokee who had either moved to Indian Territory before the Trail of Tears or had enough money to facilitate their own relocation. Those who had opposed the treaty and endured the march blamed the leaders of the Treaty Party for their suffering, with good reason. When the tribal council reconvened in their new home, the chiefs voted to charge the signers with fraudulent sale of tribal lands, an offense carrying the death penalty. In the following months, individuals loyal to Ross began assassinating Treaty Party leaders. Stand Watie alone survived the attempt on his life and became the leader of his family's faction by default. After these

109 Smith, "Nations Colliding," 287-288.

110 Langguth, *Driven West*, 166, 310-311. Other tribes, notably the Choctaw, also referred to their journey to Indian Territory as the Trail of Tears.

events, the two factions fought an off-and-on feud for over two decades, claiming dozens of lives and keeping the tribe in a perpetual state of heightened tension.

Although these strains had eased somewhat in the years before the war, each side still carefully watched the other. The offer of support from the Confederacy threatened to upset the balance. As the weaker of the two sides, Watie and his followers jumped at the chance to strengthen their position in the tribe with Southern arms and support. The Civil War was an opportunity for the tribe, as a whole, to solidify its independence, and a chance for the Treaty Party to gain an advantage against the Ross faction.

Watie and his nephew, Elias Boudinot, approached Pike separately and asked if the South would support them against Ross and his followers if they joined the Confederacy. Pike promised the Confederacy's support. After that conference, Watie was emboldened to join the Southern war effort, despite the official position of his elected government. Recognizing the Confederacy needed Cherokee help to win the fight in the West, Watie chose to take advantage of the offer before the Ross faction made the same move. From then on, the last Treaty Party leader was the primary figure in the pro-Southern faction and featured prominently in Confederate dealings with the tribe.[111]

Watie cemented his value to the South by organizing some of his followers into a cavalry unit and joining the command of General McCulloch, all while the Cherokee Nation was still officially neutral. This action was less a result of ardor for the Confederate cause and more an effort by a minority faction to take advantage of the proffered arms and supplies. As with the Treaty of New Echota, Watie assumed the tribe was set on a certain path and decided to get

[111]Brown, *A Life of Albert Pike*, 357.

ahead of the curve. His actions increased tensions within the tribe and forced Ross further from neutrality.[112]

The federal government had abandoned the Cherokee and, then, the Confederacy appeared with offers of protection. As leader of the minority party within the tribe, Watie jumped at the chance to arm his faction and gain an advantage over their rivals. Chief Ross might have wanted to avoid the entanglement of the white man's war at all costs, but Watie was willing to pay the price if it meant security for his followers.[113]

Fear was far from the only reason the Cherokee Nation joined the South. Many in the tribe saw opportunity in the partnership. The prospect of losing land after the Federal evacuation worried the Cherokee, but some believed that the solution was at hand. Rather than throwing themselves on the mercy of a government that had never respected their rights, some within the tribe's leadership wanted to make a change. Angering either the North or South might have invited extinction for the Cherokee Nation, but the Confederacy promised a more equal relationship than any offered by the United States. Watie favored the treaty mainly because of the possibility he and his followers would be able to defend themselves against their rivals. The treaty proposed by the commissioners contained many benefits and, given the similarities between their tribe and the Confederacy, some Cherokee considered a Southern alliance their people's best hope for survival.[114]

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[112]Ibid., 368-369; Thomas W. Cutrer, *Ben McCulloch and the Frontier Military Tradition* (Chapel Hill NC: The University of North Carolina Press, 1993) [hereafter *Ben McCulloch*], 205; Hauptman, *Between Two Fires*, 47.

[113]Reed, "The Ross-Watie Conflict," 280-281; Perdue, "Stand Watie's War," 35.

[114]Smith, "Nations Colliding," 310; Perdue, "Stand Watie's War," 35-36.

Political Benefits

On the political side of the proposed alliance, the Confederacy would recognize the sovereignty of certain Indian nations and treat them as independent countries. This recognition came with perpetual land rights, authority to define citizenship, legal jurisdiction on tribal land, fulfillment of Washington's financial promises, and even congressional representation in Richmond. Although the tribes would have to supply military units, those detachments would not be forced to fight outside Indian Territory without leave from tribal leadership. The military assistance mentioned earlier was largely implied, but the treaty clearly spelled out these political benefits. This chapter will explore those benefits and what pro-Southern Cherokee hoped to gain from joining the South.[115]

From the start, the treaty clearly established and defended tribal sovereignty, stating that the Nation alone had the authority to decide tribal membership qualifications:

> The Cherokee Nation may by act of its legislative authorities receive and incorporate in the nation as members thereof, or permit to reside and settle upon the national lands, such Indians of any other nation or tribe as to it may seem good . . . and the nation alone shall determine who are members and citizens of the nation entitled to vote at elections and share in annuities.[116]

As to legal rights, the treaty proposed the "Cherokee nation shall possess the otherwise unrestricted right of self-government and full jurisdiction, judicial and otherwise, over persons and property within its limit." Whereas the South required most of the plains tribes to "place themselves under the laws and protection of the Confederate States of America," the Cherokee

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[115]Smith, "Nations Colliding," 290.

[116]James M. Matthews, ed., *The Statutes at Large of the Provisional Government of the Confederate States of America* (Richmond VA: R.M. Smith, Printer to Congress, 1864), 397.

and others of the Five Tribes would have their own independent legal systems. The only exception to this authority would be any "white persons as are not by birth, adoption or otherwise, members of the Cherokee Nation." Furthermore, the treaty empowered Cherokee authorities to establish a judicial district so the tribe could try cases locally instead of "being further harassed by judicial proceedings had in foreign courts and before juries not of the vicinage."[117]

The treaty conferred legal rights upon the Cherokee in courts outside Indian Territory. According to article 35, "All persons, who are members of the Cherokee Nation, shall hereafter be competent as witnesses in all cases, civil and criminal, in the courts of the Confederate States, unless rendered incompetent from some other cause than their Indian blood or descent." This article, among others, clearly granted members of the Cherokee tribe equal legal status with white Confederate citizens.[118]

Land rights received special protection as well. Article 6 of the treaty guaranteed, with no equivocation, "the lands included within the boundaries defined in article four of this treaty; to be held by the people of the Cherokee Nation in common as they have heretofore been held." Furthermore, the Confederate agents promised, "None of the lands hereby guaranteed to the Cherokee Nation shall be sold, ceded or otherwise disposed of to any foreign nation or to any State or government whatever."[119]

The tribe's land rights received further protection in article twelve:

> All persons not members of the Cherokee Nation, as such membership is hereinbefore defined, who may be found in the Cherokee country, shall be

[117]Ibid., 347; 397-398; 400.

[118]Ibid., 402.

[119]Ibid., 397.

> considered as intruders, and be removed and kept out of the same either by the civil officers of the nation under the direction of the executive or legislature, or by the agent of the Confederate States for the nation.[120]

Additionally, the Cherokee had the option to demand Southern military aid to evict interlopers or repel invasion if necessary. With these clauses, the Confederacy granted and protected one of the most important of the Cherokee terms. The chiefs could not have been so naive as to discount their history with white promises and believe their rights safe forever, but many of them jumped at the chance to have any agreement at all.[121]

The commissioners also promised that the Cherokee Nation would be able to send delegates to Richmond to represent the tribe in the Confederate Congress. The Cherokee would not enjoy the same status as the Confederate states, but their representatives could interact with other elected officials and advocate in certain legislative capacities. This offer reinforced the impression that the Confederacy, unlike the United States, truly respected the tribe's sovereignty. The government in Washington consistently neglected Native American interests, but the South proposed a relationship respectful of Cherokee sovereignty, not as a ward of the state but as an independent country under Confederate protection.[122]

According to the treaty, the Cherokee were "entitled to a delegate to the House of Representatives of the Confederate States of America, who shall serve for the term of two years, and be a native born citizen of the Cherokee Nation . . . and each delegate shall be entitled to the same rights and privileges as may be enjoyed by delegates from any territories of the Confederate States to the said House of Representatives." Though not granted the same influence

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120 Ibid., 398.

121 Ibid.

122 Abel, *Slaveholder and Secessionist*, 14.

as a full-fledged Southern state, the Cherokee representatives would be able to participate in certain legislative activities "[in] order to enable the Cherokee Nation to claim its rights and secure its interests without the intervention of counsel or agents."[123]

After John Ross signed the treaty in October 1861, the South made good on its promise and accepted a delegation from each of the Five Tribes in Richmond. Among the Cherokee delegates was Elias Boudinot, Stand Watie's nephew and son of one of the assassinated leaders of the Treaty Party. Boudinot represented his people in the Confederate capital for the duration of the war, tirelessly advocating for the plight of Indian Territory, especially when supplies grew ever shorter in the later years of the conflict. One might argue these delegations had minimal impact on Southern policy in the West, but many Cherokee leaders such as Watie clearly believed that slight representation was better than none, which had always been the U.S. government's policy. Boudinot had participated in a failed attempt to gain admission into the Union for the Cherokee Nation several years earlier, and he rejoiced that such disappointment would not be repeated with the Confederacy.[124]

Some Southern states had advocated for tribal representation even before the Civil War. In 1857, Elias Rector, the superintendent of Indian affairs, had stated that the Five Tribes should receive permission to send delegates to Congress because their tribes' governments so closely resembled those of many southwestern states. Those states only tolerated this kind of measure because they counted on the tribes endorsing slavery and strengthening Southern power in Congress, but their support made the 1861 offer more credible. Many in the Five Tribes, albeit not all, were willing to give the Confederacy the benefit of the doubt. Chiefs such as Watie

[123]Matthews, *Statutes at Large*, 403-404.

[124]Dale and Litton, *Cherokee Cavaliers*, 143-144, 195, 87.

understood the offer of legislative representation in Richmond might carry less weight than promised, but they were willing to follow their ancestors' example and make the best of the tools available.[125]

In addition to offering representation, the Confederacy agreed to pay the debt and annuities owed the Cherokee Nation by the federal government. Article 45 stated that the "Confederate States of America do hereby guarantee to the said Cherokee Nation the final settlement and full payment . . . of any and all parts of the said several principal sums of money." The payments would be disbursed "under the exclusive direction of the legislative authority of the Cherokee Nation to the support of their Government, to the purposes of education, to the maintenance of orphans, and to such other objects for the promotion and advancement of the improvement, welfare and happiness of the Cherokee people and their descendants."[126]

Given Washington's violent history with Indian tribes, one must ask why the Confederacy offered such generous terms. The truth of the matter was that tRichmond acted under the influence of a simple motivation: desperation. Southern leaders' dire situation forced them to offer more generous terms than the tribal governments had ever encountered. The South badly needed help from the Cherokee, along with the rest of the Five Tribes, and were willing to offer unprecedented rights and recognition in exchange for that assistance. Many tribal leaders understood the situation and accepted the terms. The last remaining holdout was the government of the Cherokee Nation. Ross had his own people to protect, and he had no intention of jeopardizing their future in someone else's war. That said, his options were beginning to disappear.[127]

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125 Senate *Documents*, 35th Congress, 1st session, vol. 2, 485.

126 Matthews, *Statutes at Large*, 407.

127 Abel, *Slaveholder and Secessionist*, 18.

Chapter 7 - The End of Neutrality

Although Ross acknowledged the South's generosity in the proposed treaty and, although the Confederacy alone seemed to care at all for the future of the Cherokee Nation, the Principal Chief still hoped he could keep his people from having to fight. Joining the war on either side, he maintained, would end ruinously for the tribe and could cost their national and individual rights. In the end, however, events backed Ross into a corner and forced him to abandon neutrality.

This chapter explores Ross's reasons for trying to keep his people neutral and discusses the factors that finally convinced him and the rest of the Cherokee leaders to sign the Confederate treaty. The Battle of Wilson's Creek, General McCulloch's threats, and the prospect of a shattered nation all combined to eliminate any chance that the Cherokee could stay out of the white man's war. As much as he disliked the idea, Ross would have to commit his people to one side or the other.[128]

All the similarities between the Cherokee Nation and the South, not to mention the commissioners' generous treaty terms, might lead one to expect that an alliance would be generally welcomed by tribal leaders. However, Principal Chief Ross decided from the start to keep his people out of the looming war. Stating repeatedly that the tribe had no business meddling in a foreign conflict, he and the elected tribal council adopted an official policy of strict neutrality. The reason for this stance was simple: Ross cared more for his people's survival than for any superficial traits the tribe shared with one of the sectional belligerents. The goal of acculturation had always been establishing Cherokee independence, and Ross refused to hazard that freedom on a foreign conflict.[129]

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[128]Wardell, *A Political History of the Cherokee Nation*, 128, 133.

[129]Ibid., 138.

When General McCulloch and the other Southern commissioners began pressuring Ross to dismount the fence and join the South, the Principal Chief responded with a letter explaining his position and reasoning. "The determination to adopt that course," he wrote, "was the result of considerations of law and policy, and seeing no reasons to doubt its propriety, I shall adhere to it in good faith, and hope that the Cherokee people will not fail to follow my example." Ross claimed that his people had no reason to choose a side and that they had given no offense to either the North or the South. "Our country and institutions are our own," he stated. "However small and humble the others, they are as sacred and valuable to us as are those of your own populous and wealthy State to yourself."[130]

In maintaining his position, the Principal Chief was polite, but firm:

> We have done nothing to bring about the conflict in which you are engaged with your own people, and I am unwilling that my people shall become its victims, and I am determined to do no act that shall furnish any pretext to either of the contending parties to overrun our country and destroy our rights.

This issue was the sticking point for Ross. The Cherokee had struggled for decades to remake their culture into a society worthy of respect and sovereignty, and Ross had no interest in gambling that success on someone else's fight. The conclusion to his letter and the summation of his position were simple: "If we are destined to be overwhelmed, it shall not be through any agency of mine."[131]

Taking a Side

The first reason why Ross and the other holdouts within the Cherokee leadership abandoned their neutrality policy was the battle at Wilson's Creek in July 1861. Northern forces,

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[130] *OR* 1:3, 596.

[131] Ibid.

under General Nathaniel Lyon, had occupied Springfield, Missouri and begun heavily fortifying the city. McCulloch wanted to dislodge the Federal troops and push them out of the state to increase the likelihood of Missouri joining the Confederacy.

Technically, entering Arkansas or Missouri exceeded McCulloch's orders to protect Indian Territory. But as one Southern officer observed: "The consequence of failing to do so, was probably the loss to the Confederate cause of the great State of Missouri, at a time when its adhesion to the Southern side meant the success of the Southern cause." Obviously sharing this view, McCulloch connected with a detachment of Arkansas militia under the command of General Stirling Price and made for the Missouri border. Pike and his Indian troops, including Watie's regiment, accompanied McCulloch's command.[132]

On August 8, the combined Confederate forces camped on both sides of Wilson's Creek near the Springfield road, and McCulloch set his headquarters next to the heights of Oak Hill. After waiting nearly two days to rest and feed his troops, McCulloch received intelligence claiming that Lyon's army was smaller than previously reported. The Southern forces prepared to advance against the fortifications at Springfield. Bad weather threatened to dampen and spoil the Rebels' sparse ammunition, however, so Price and McCulloch agreed to delay the attack again. Lyon was not so patient.[133]

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[132]William Edward Woodruff, *With the Light Guns in '61-'65: Reminisces of Eleven Arkansas, Missouri, and Texas light batteries in the Civil War* (Little Rock AR: Eagle Press of Little Rock, 1903), 53; *Ben McCulloch*, 221.

[133]Cutrer, *Ben McCulloch*, 227-228.

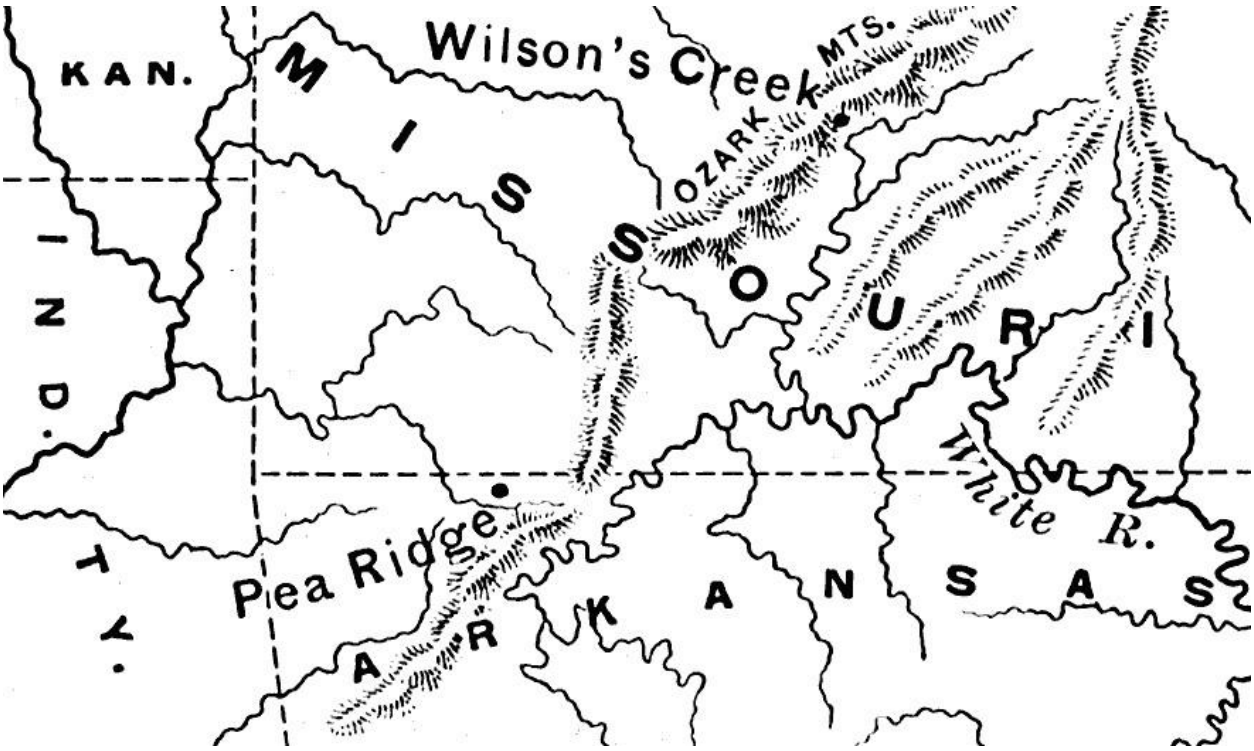

Figure 9: Battles of Wilson's Creek and Pea Ridge (University of South Florida)

In the early morning hours of August 10, a battery of Northern artillery opened fire on the Confederates camped on Oak Hill. As McCulloch and Price tried to organize their forces, a second Federal battery hit their camp from the south. Northern troops under the command of General Franz Sigel had come behind the Southern army and, together with Lyon's guns, proceeded to almost completely envelope the Confederates.[134]

As Price tried to rally his militia, McCulloch rearranged his lines and positioned his own batteries to meet the attack he assumed would follow the artillery barrage. The commander of McCulloch's guns, Captain William E. Woodruff, later claimed that the Federals might have won an easy victory if they had not first given away their positions with the artillery. In any case, the Rebels were able to muster themselves in time to meet the Northern advance.[135]

[134]Ibid., 229-231.

[135]Ibid., 232.

The fighting swirled back and forth across the area around the creek, both sides taking and losing positions in a confused melee. McCulloch and Lyon managed to keep their forces from splintering by riding from one unit to another, often personally leading charges to take enemy batteries or seize important ground. Around 9:00 AM, Lyon attempted to blunt a Confederate advance by rousing the Second Kansas Infantry into charging the enemy line, but he was shot in the chest and died immediately.[136]

After nearly seven hours of continuous fighting, Union forces finally withdrew toward Springfield around 11:00 AM, totally exhausted and nearly out of ammunition. McCulloch reported nearly 1,100 casualties for his command, including wounded and missing, and more than 2,000 losses for the enemy. The Confederacy had won an important victory that freed western Missouri from Federal control, at least for the time being. In addition, McCulloch's fearsome reputation as a frontier military genius continued to grow as a result of his performance in the engagement.[137]

The Southern victory at Wilson's Creek proved significant for the Cherokee Nation. In the first place, Ross and the rest of the chiefs were convinced the Confederacy was serious about its bid for independence and had the ability to win when it counted. They came to believe that the U.S. government did not possess the capability to help or punish the tribes of Indian Territory, regardless of their loyalty. Finally, Stand Watie had participated in the battle, thereby strengthening his position in both the Southern army and the Cherokee Nation. These facts greatly contributed to Chief Ross's eventual decision to abandon neutrality.[138]

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136 Ibid., 236.

137*OR* 1:3, 105.

138 Brown, *A Life of Albert Pike*, 369; Utley, *The Indian Frontier*, 74.

The second factor that eventually drove the Cherokee away from neutrality was increasingly aggressive action from General McCulloch. The Texan worried that the Ross faction's profession of neutrality was merely a ruse to stall the commissioners until the Principal Chief found a reason to turn his people against the South. In a report to the Confederate Secretary of War, L.P. Walker, McCulloch wrote that he was convinced that Ross was "only waiting for some favorable opportunity to put himself with the North," adding that "[his] neutrality is only a pretext to await the issue of events."[139]

To forestall this possibility and to provide further incentive for tribal leaders to accept Southern terms, McCulloch publicly ordered his troops to assemble to the north of the Cherokee Nation and prepare to subjugate the tribe, by force if necessary. The plan was straightforward:

> The Choctaw and Chickasaw regiment will be kept to the south of [the Cherokee]; Arkansas will be to the east; and with my force on the western border of Missouri no force will be able to march into the Cherokee Nation, and surrounded as they will be by Southern troops, they will have but one alternative at all events. From my position to the north of them, in any event, I will have a controlling power over them.

The South could not afford to allow the most powerful tribe in Indian Territory to threaten the Confederate frontier, and McCulloch would use any means available to protect Texas and the dream of a Southern empire.[140]

McCulloch was not the only Southern official to threaten the Cherokee Nation. David Hubbard, the Confederate Commissioner of Indian Affairs, penned a letter to Ross in which he reminded the chief that most of the money the government in Washington had invested for the

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[139] *OR* 1:3, 596.

[140] Ibid., 595-596.

tribe to fund the annuity payments was tied to the Southern economy. This money, Hubbard warned, would belong to the Confederacy if the Cherokee sided with the North. "And," Hubbard continued, "you have no right to believe that the Northern people would vote to pay you this forfeited debt." Although joining the Southern cause involved risk, Hubbard admitted, the opposite course held nothing but misery for the tribe. In addition, the situation was so dire that, according to Hubbard, "[neutrality] will scarcely be possible" for anyone, including the Cherokee.[141]

The third major factor which contributed to the decision to abandon neutrality was the immense strain on tribal unity. The fissures that had developed during the acculturation process and had grown during Removal became even more pronounced over the issue of a treaty with the Confederacy. Chief Ross's challenge of keeping the tribe together only grew harder as time passed.[142]

Some of the divisions continued to center around cultural traditions and assimilation with American society. The more liberal Cherokee factions tended toward pro-slavery sentiments and favored white institutions, while traditionalist groups opposed acculturation in any form. The same factions which had coalesced during earlier debates were still present in the 1860s, and every side believed they were fighting for the survival of their tribe and cultural heritage. Ross eventually decided he could not bridge those gaps with a neutral stance.[143]

Stand Watie and his followers only exacerbated these conflicts. Not only had the Treaty Party chief thrown his support behind the South while the official Cherokee position remained

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[141]Ibid. 1:13, 497-498.

[142]Higham, *The Civil War and the West*, 54.

[143]Gary L. Cheatham, "'If the Union Wins, We Won't Have Anything Left': The Rise and Fall of the Southern Cherokees of Kansas," *Kansas History* 30 (2007): [hereafter "If the Union Wins"] 168.

non-partisan, but Watie and his men were also among the soldiers McCulloch had gathered on the Nation's northern border. No one could mistake Watie's intention to cooperate with the South regardless of Ross's wishes or the tribe's official position. Watie's popularity with the Southerners suggested to Ross the commissioners might decide to forcibly replace him with his rival. Self-preservation certainly played a part in Ross's ultimate decision to ally with the Confederacy.[144]

One of the central elements of Ross's bid for avoiding the conflict had been his assertion that the whole Cherokee Nation would follow his example and avoid taking either side. The Confederacy would have no reason to fear Cherokee support for the federal government because the entire tribe would remain neutral. Watie's decision to preemptively join the Southern war effort and his support of McCulloch's aggressive maneuvers shattered that notion and threatened the effective collapse of the Cherokee Nation. Ross had forbidden any Cherokee citizen to provide military support for the South, but Watie had ignored the directive. Historian Theda Purdue writes that Watie and his followers spread rumors and incited anti-Union sentiment, eventually organizing a chapter of the pro-Confederate Knights of the Golden Circle.[145]

Since the Principal Chief's priority from the start had been unity and security for his people, not abolitionism or pro-Union sentiment, he ultimately conceded the tribe's neutrality and agreed to accept Richmond's offer. The Confederate commissioners agreed to add a clause in the treaty whereby the South would not "enter into any compact, treaty or agreement with any individuals or party in the Cherokee Nation, but only with the constitutional authorities of the same, that will in any way interfere with or affect any of the national rights of the Cherokee

[144]Hauptman, *Between Two Fires*, 47.

[145]*OR* 1:3, 597; Perdue, "Stand Watie's War," 35.

people." Whatever his opinion of the sectional debate, Ross valued the harmony of his people above all else, and he would even involve the tribe in a white man's war rather than see the Nation dissolve completely.[146]

The Beginning of a Coalition

On August 21, 1861, Ross called a general assembly of the whole tribe to explain his decision. Confederate observers reported that nearly 4,000 Cherokee men attended the meeting. In his address, Ross summarized America's sectional conflict and stated that, although he had come to believe the South would successfully establish a new government, he had believed the Cherokee had no reason to fight the federal government. "The United States have not asked us to engage in the war," Ross added, "and we could not do so without coming into collision with our friends and neighbors." Given these facts, the chief stated he had felt duty-bound to keep his people neutral.[147]

Subsequent events had convinced Ross that such a stance was unsustainable. He worried the sharp divisions within the Nation would lead to catastrophe. "The great object with me," he stated, "has been to have the Cherokee people harmonious and united in the full and free exercise and enjoyment of all their rights of person and property. Unity is strength; dissension is weakness, misery, and ruin." If the tribe could not remain unified and neutral, then he had concluded they must take a side.[148]

According to the Principal Chief, the choice of which side to support was simple. Since "the State on our border and the Indian nations about us have severed their connection from the

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[146]Smith, "Nations Colliding," 309; Matthews, *Statutes at Large*, 395.

[147]*OR* 1:3, 674.

[148]Ibid.

United States," Ross reasoned, the Cherokee should join their neighbors. "Our general interests are inseparable from theirs," he argued, and besides, "it is not desirable that we should stand alone." Ross believed "the preservation of our rights and our existence are above every other consideration," and the best way to defend those possessions was to "consent for the authorities of the nation to adopt preliminary steps for an alliance with the Confederate States upon terms honorable and advantageous to the Cherokee Nation."[149]

After months of watching, waiting, and negotiating, Ross had been backed into a corner. Despite his desire to keep his people out of the white man's war, the battle at Wilson's Creek, the increasing aggressiveness of McCulloch, and the fever pitch of Cherokee discord eventually convinced the Principal Chief he had run out of options. The only remaining hope for preserving his people's unity and protecting their nationhood was an alliance with the South, and on October 7, 1861 he signed the treaty and issued a document later that month known as the Cherokee Declaration of Causes. This proclamation stated the Nation's grievances with the government in Washington and the tribe's resolution to join the Confederacy's fight to preserve their freedom and Constitutional rights. The Declaration mirrored not only the American Declaration of Independence but also the Southern secession statements. After that, the Cherokee Nation was attached to the Confederacy ideologically as well as legally.

One of the main reasons set forth in the Declaration of Causes for why the Cherokees and the South shared common goals was the threat to the institution of slavery. According to the Declaration, "The war now raging is a war of Northern cupidity and fanaticism against the institution of African servitude; against the commercial freedom of the South, and against the political freedom of the States, and its objects are to annihilate the sovereignty of those States

[149]Ibid., 675.

and utterly change the nature of the General Government." Once again, the Cherokee decided to pattern their political behavior after that of their white neighbors to defend the tribe's legitimacy as an independent nation.[150]

The Civil War would eventually devastate the inhabitants of Indian Territory. The Choctaws and Chickasaws supported the Confederate cause wholeheartedly, but the Creeks, Seminoles, and Cherokees nearly splintered over the issue. Specific groups benefited from joining the South's fight for independence, but the tribes could not be fully united while the war lasted. The fragile truce between the Ross and Watie factions that had held the Cherokee together in the years before the Civil War dissolved with the arrival of the commissioners from Richmond. Cooperation with the South offered exciting possibilities, to be sure, but taking sides against the United States would come with serious consequences.[151]

The question remains: why did the Cherokee sign the treaty and join the Confederacy? Citing protection of slavery would be too simplistic. After all, John Ross and many of his followers owned slaves yet favored neutrality because they did not want to endanger their chances of gaining tribal sovereignty by expressing anti-Union sentiment. In the end, the Cherokee Nation partnered with the South because the alternative was unbearable. Richmond offered the Cherokee security and weapons; Washington offered abandonment and vulnerability. Richmond offered national recognition and congressional representation; Washington offered reduced sovereignty and reservations. Richmond offered money and supplies; Washington

[150]Thomas Pegg, et al., "Cherokee Declaration of Causes," Cherokee Nation, 1861.

[151]Dale and Litton, *Cherokee Cavaliers*, xx; Wardell, *A Political History of the Cherokee Nation*, 175-176; Gibson, "Native Americans and the Civil War," 406.

offered empty claims. Faced with that choice, even given the possibility that the South would not fulfill every promise, many Cherokee took what they saw as their only real option.[152]

On the positive side, the Cherokee threw in with the Confederacy because the partnership offered exciting possibilities. Even if the South failed to keep all its promises, the Cherokee would fight for nationhood alongside partners who, at least officially, treated them more equally than the U.S. government ever had. True, the Nation had turned to the South out of desperation, but they jumped at the chance for the tribe to take control of its future.

This opportunity, coupled with McCulloch's threats and the success at Wilson's Creek, convinced even Chief Ross of the need to engage with the Confederacy. Through their experiences in the South and on the frontier in Texas, many Cherokee had learned to use tools, like diplomacy and alliances, to protect their sovereignty. Although many of their coalitions failed to achieve the intended goals, the tribe still recognized the worth, and often the necessity, of partnering with white groups in dangerous situations. Far from passive respondents to white colonial and imperial actions, the people of the Cherokee Nation repeatedly chose to make the best of difficult circumstances with concerted nation-building decisions.[153]

[152]Wardell, *A Political History of the Cherokee Nation*, 131, 135, 138, 141.

[153]Smith, "Nations Colliding," 309.

Chapter 8 - 1861-1862

This chapter chronicles the early years of the Cherokee-Confederate coalition, looking specifically at the interaction between certain white officers and the most important Indian commander, Stand Watie. Throughout his service in the Civil War, Watie interacted with white officers and civilians in several strata of the Confederate military organization. These relationships demonstrate the complexities of the partnership and represent a microcosm of the coalition itself.

In the first place, the relationship was respectful and courteous. Just as the official language of the Cherokee-Confederate treaty was polite and respectful so, too, was the interaction between Watie and his fellow officers. Every mention of the Cherokee general by Confederate authorities glowingly compliments his valiant efforts in the Southern cause, and in every instance, his command receives much the same treatment as his white counterparts.[154]

The two parties acted out of self-interest. The Confederacy wanted to succeed on the western frontier, so they needed help from Indian Territory. The Cherokee Nation was the key to Indian Territory, and Watie was the key to a partnership with the Cherokee. Maintaining a positive relationship with the chief was essential to Southern designs for the West, so the Confederacy would naturally avoid disparaging or insulting Watie under almost any circumstances.

Finally, the relationship depended on cultural compatibility. Even considering other factors, Southerners could not have so ardently approved of Watie and his men had their conduct fallen short of perceived social and military norms. When other Indian units received criticism

[154]This author has found no Southern sources that contain negative comments about Watie's performance as a commander.

for breaking the rules of so-called civilized warfare, Watie and his troops remained exempt. For example, in the aftermath of the alleged scalping incident after the battle of Pea Ridge, Watie's unit emerged without any blemish on their record. No officers on either side ever accused Watie of the savagery often attributed to Native American forces. Once again, though both Union and Confederate white troops may have been wary of Indian units, sometimes denouncing them as savages unfit for acceptable modes of warfare, Watie stands apart from the rest.[155]

One of the most important Confederate officers in the coalition was Albert Pike. An author, former lawyer, political activist, and soldier, Pike had served as a captain in the Mexican War and later spent several years living in the Creek and Choctaw nations. Pike did not agree with many of his fellow Southerners on the secession issue, but he had associated himself with his neighbors for so long that he decided to remain with the South. His persuasive oratorical skills and contacts in Indian Territory made Pike the ideal candidate for negotiating with the tribes, hence his appointment as co-leader of the 1861 commission along with General Benjamin McCulloch. After the Indian nations joined the Confederate cause, Pike received the dubious honor of leading the newly-raised Indian troops as part of McCulloch's command.[156]

Although Pike was initially enthusiastic about his roles as special commissioner from Richmond and officer in the Confederate Army, many accounts agree that Pike did not relish the idea of commanding exclusively native forces. In letters to colleagues, he remarked that only white troops were able to perform routine tasks such as constructing earthworks, although he admitted that Indian soldiers could be trusted to defend such emplacements once built. Contrast

[155]Utley, *The Indian Frontier*, 75.

[156]Brown, *A Life of Albert Pike*, 350.

these opinions with his praise of tribal chieftains as shrewd politicians and gallant warriors, and one can begin to see how complicated Pike's opinion of the South's new allies could be.

Pike made no secret of his opinion on his troops' limitations. He wrote that they were "of course entirely undisciplined, mounted chiefly on ponies, and armed very indifferently with common rifles and ordinary shot-guns." He pointed out that the tribes' agreement to furnish troops "invariably stipulated that they should be allowed to fight in their own fashion." Adhering to classic stereotypes about Native warriors, Pike stated that his force would "not face artillery and steady infantry on open ground and are only used to fighting as skirmishers when cover can be obtained." His experiences with the tribes had clearly prejudiced Pike's understanding of his allies.[157]

From the outset, Pike knew that this association with Native troops could damage his own reputation. "When I consented to accept the military command of this country," he wrote in a report in 1862, "while I knew that to command the Indians would make my name detestable in the Northern States, I was also well aware that I could not expect to gain by it any great reputation in our own country."[158]

His predictions proved correct in the aftermath of the Battle of Pea Ridge. Pike bore unofficial responsibility for the alleged scalping incident, receiving almost universal condemnation as an inciter of Indian violence. One newspaper equated him with the "meanest, the most rascally, the most malevolent of the rebels who are at war with the United States Government," claiming that never had "a more venomous reptile than Albert Pike ever crawled upon the face of the earth." Another paper lambasted him for "his efforts to induce a horde of

[157] *OR* 1:13, 819.

[158] Ibid.

savages to butcher brave men" and claimed, without evidence, that Pike had given his men liquor before the battle to whip them into a frenzy. The editor of the *New York Tribune* called Pike a "new Pontiac" and assumed that he had assimilated with his fighters' savage culture.[159]

The scandal reinforced Pike's earlier desire to leave the field and took command of a desk. After his first and only battle, Pike was relieved of commanding the Indian troops. He spent the rest of his energy at the headquarters of the Trans-Mississippi Department administrating for Indian Territory and squabbling with senior officers. Pike quarreled with his fellow commanders constantly, resigning and resuming his post several times and accusing several Confederate officials of incompetence and treachery. After some of these rivals accused Pike of embezzlement on two separate occasions, he resigned for good in November 1862, shortly before troopers arrived to arrest him. The eccentric general spent the remainder of his life traveling around the West, working as both a writer and a lawyer until his death in 1890.[160]

One person who had emerged in decent shape from Pea Ridge and the subsequent drama was Stand Watie. His troops had participated in the capture of a key battery of artillery and managed to defend their position against Federal attacks during the battle. And though the scalping incident cast a further pall over the Confederate defeat, every account agreed Watie's force was already too far away to have participated. In the subsequent investigations, the Cherokee chief's name never appeared. Instead, Watie's active leadership and tight control of his men earned him praise from Confederate authorities, and Pike wrote he thought the Cherokee deserved more credit for their accomplishments. Watie had proved capable of handling himself in dangerous situations and coordinating effectively with white officers and men. With Pike,

159 Brown, *A Life of Albert Pike*, 396-397.

160 Ibid., 401, 467-468; Kerby, *Kirby Smith's Confederacy*, 41.

Colonel Drew, and Chief Ross out of the picture, Watie was the best of the Confederacy's slim chances for stability in the Cherokee Nation.[161]

Another officer of importance in the coalition was General Benjamin McCulloch, the frontier explorer and one-time Indian fighter. McCulloch's position was unique because he was the first civilian to receive a commission as brigadier general in the Confederate States Army. Although he had no formal training or education, his new position meant that only four field officers outranked him: Albert Sidney Johnston, Joseph E. Johnston, P.G.T. Beauregard, and Braxton Bragg. Some of McCulloch's acquaintances remarked that he hated Indians, but his superiors agreed that his experience fighting on the frontier gave him a unique understanding of how to handle the tribes.[162]

McCulloch had initially suggested the idea of forming two separate Cherokee cavalry regiments, claiming that Watie was a true Southerner but his fellow Cherokee commander, John Drew, sympathized with Ross and the chief's pro-Union stance. Given the factional hostility within the tribe, McCulloch thought that permitting the Cherokee to form separate partisan regiments would be safer than forcing the feuding sides to serve together and then to figure out who would be in charge. McCulloch clearly preferred Watie to Drew, writing: "I hope our Government will continue this gallant man and true friend of our country in service, and attach him and his men (some 300) to my command." To this end, McCulloch approved the formation of two distinct regiments, the 1st Cherokee Mounted rifles under Drew's command and the 2nd Cherokee Mounted Rifles under Watie.[163]

161*OR* 1:13, 820; Kerby, *Kirby Smith's Confederacy*, 41.

162 Cutrer, *Ben McCulloch*, 195.

163*OR* 1:3, 692.

Drew and his men vindicated McCulloch's concerns almost from the start. A sizable portion of the 1st Mounted Rifles deserted after suffering heavy losses in pursuit of Chief Opothleyaholah and his pro-Union followers in early 1862. Many of Drew's officers defected soon thereafter. Chief Ross permitted these men to honorably resign their commissions without reprisal and granted amnesty to all the deserters from the 1st Mounted Rifles. As the war progressed, many former members of Drew's command joined Union regiments and sought to topple the pro-Confederate government within the Cherokee Nation. For the rest of the war, the divisions that McCulloch recognized in 1861 kept the tribe bitterly divided.[164]

During his tenure commanding Confederate forces in Indian Territory, McCulloch was energetic, some might say reckless, in his belief that aggressive attack was an effective strategy for defending the region. The Texan ventured into Arkansas and Missouri several times, often without permission and often with success. The McCulloch expedition of 1861 had led to the Battle of Wilson's Creek, a victory which kept southern Missouri out of Northern hands and contributed to the Cherokee Nation's entry into the conflict. Many tribal leaders, including Watie, respected the Texan commander's zeal in protecting their land, as evidenced by their willingness to exceed the terms of their treaties and fight outside Indian Territory on more than one occasion, including McCulloch's final campaign which ended at Pea Ridge.

In that engagement, McCulloch again displayed the energy and shrewd battlefield awareness that had marked his career. Many of McCulloch's veterans, including Watie and his men, had exhibited little regard for their overall commander, General Earl Van Dorn, who was a

[164]Perdue, "Stand Watie's War," 36.

polished West Point intellectual from Mississippi. But they valued the Texan's proven record and followed his lead without hesitation.[165]

General Pike and his Indian troops saw action at Pea Ridge, and McCulloch demonstrated again his ability to utilize their strengths. After a heavily-defended Northern artillery emplacement surprised his command, the general quickly organized his cavalry, including Pike's command, into a ragged charge to take the battery. The whooping, screaming mass of horsemen succeeded in driving away the defenders, allowing McCulloch's men to seize the guns and turn them on the enemy. The loose organization and fearsome reputation of the frontier cavalry, including the Indian units, had served as an advantage in that situation.[166]

Despite successful maneuvers such as this, the battle ended in defeat for the Confederacy. This failure was partially because the campaign cost McCulloch his life. During the battle at Pea Ridge, the former Texas Ranger separated from his men to scout the Northern position. He unexpectedly encountered a detachment of Federal skirmishers who fired a volley and killed McCulloch. His men recovered his body in a line of bushes where he had apparently tried to charge the equally surprised enemy.[167]

McCulloch's death dealt a serious blow to the trans-Mississippi theater of the Confederacy, the ambiguity surrounding his death notwithstanding. After his death, Southern commanders in the West no longer ventured beyond their own lines with any regularity. Without McCulloch, the Confederacy would remain on the defensive for the rest of the war. Although

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165 Cutrer, *Ben McCulloch*, 291.

166*OR* 1:8, 217.

167 Cutrer, *Ben McCulloch*, 302, 304-305.

McCulloch's aggressive strategy might not have worked in the end, the fact remains that no subsequent commander took the same initiative.[168]

A Change in Leadership

Although the Cherokee were irrevocably tied to the Confederacy after October 1861, Ross remained dissatisfied with the situation. His rival, Stand Watie, continued earning accolades from the Southern authorities and was clearly favored over the Principal Chief. In fact, Ross had only signed the treaty under duress. He would still pull his people out of the conflict if he could, a possibility many Confederates recognized.

Ross got his chance when Union forces from Kansas invaded the Cherokee Nation in the summer of 1862. Mainly comprised of fighters from the remnants of Chief Opothleyaholah's band, the expedition raided Tahlequah, the capital of the Cherokee Nation, and several nearby towns. Disagreements among the white officers forced the detachment to retreat north, however, and the Indian troops returned to spend another miserable winter with their families in refugee camps.[169]

While in Tahlequah, the Northern soldiers captured Ross and removed him from Indian Territory, although some historians have suggested that the chief had little objection. The venerable leader accepted a parole and took up residence in the East, first in Washington and, eventually, in Philadelphia. He never officially relinquished the position as Principal Chief, insisting that the government in the West was illegitimate and represented only the disloyal minority within the tribe.[170]

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168 Ibid., 310.

169 Dale and Litton, *Cherokee Cavaliers*, xx.

170 Ibid.; Hauptman, *Between Two Fires*, 49.

For the Confederacy, this change was beneficial because it simplified their relations with the Cherokee Nation. The South could deal directly with Watie in an official capacity without having to circumvent Ross. In addition, the Cherokee who had followed Ross's example and thrown themselves on the mercy of the U.S. government had never been as reliable as Watie and his men. S.S. Scott, Confederate Commissioner of Indian Affairs, wrote: "Of the Cherokees not less than one-half followed Ross when he deserted his country. Almost the whole of the worth and talent of the nation, however, was left behind him, and is now clustered about Stand Watie, its present gallant and patriotic principal chief." In the end, the developments simply made explicit what had previously only been implied.[171]

By the end of 1862, Indian Territory and the rest of the Confederate frontier had settled in for a long slog. The days of large-scale engagements, such as Pea Ridge and Wilson's Creek, were over, and imperialist dreams seemed to have evaporated. Southern forces had to focus on the persistent shortage of men and supplies, and they needed reliable allies, more than ever, to survive. No longer did Richmond soliloquize about a new Southern Empire, nor did Confederate leaders in the West spout expansionist rhetoric when communicating with their Indian allies. As 1863 began, the Confederacy shifted its focus from idealistic notions of empires and imperialist conquest to a handful of pragmatic priorities, the most important of which was the protection of Indian Territory.[172]

The South was so anxious to maintain the tribes' loyalty that even frontier expansion was put on hold. The Confederate Assistant Adjutant-General, S.S. Anderson, informed the Trans-Mississippi department in December 1862: "The civilized Indians of this territory are in great

[171]*OR* 4:2, 354.

[172]Frazier, *Blood and Treasure*, 295-297; Cutrer, *Theater of a Separate War*, 115.

fear and apprehension that their country will be invaded by the wild tribes of the West." Anderson instructed the "officer in command of the Indian frontier of Texas, on the north, to confine his operations entirely to the defense of the frontier settlements, and under no circumstances whatever is an aggressive war against the Indians to be inaugurated." Given the importance of "preserving peaceful relations with all the bordering Indian tribes," any actions that might weaken the tribes' commitment to the Confederacy were to be discouraged. Whatever imperialist ambitions remained, at least some Southerners recognized the practical importance of first securing Indian Territory.[173]

[173]Ibid., 905.

Chapter 9 - The Maxey Administration

As was the case with many areas of the Confederacy, circumstances in the western theater grew more troubled and chaotic as the war continued. The Battle of Pea Ridge was one of the last major engagements in the region, and the Southern defeat dramatically changed the war in the West. After that battle, most Southern commanders had to rely on guerrilla tactics as the strategic situation in the West became more chaotic. In fact, by the end of 1863, only Rebel cavalry units were operating in Indian Territory, eliminating the possibility of further traditional engagements.[174]

Not every commander accepted this reality, of course. Many Southern generals attempted to reconnect to the rest of the Confederacy, and Richmond never officially abandoned the forces on the far side of the Mississippi. For all intents and purposes, however, the frontier remained cut off from the rest of the Confederacy after 1863. Communication with Richmond was rare, and actual aid was even rarer. For the most part, commanders and citizens in the Confederate West had to fend for themselves.[175]

The Army of Tennessee bore responsibility for operations between the Appalachian Mountains and the Mississippi River, and the Trans-Mississippi Department directed operations west of the river. The two commands separated in May 1862, isolating the Southern frontier even further, requiring the commanders west of the Mississippi to operate with an independence and isolation unknown in the East.[176]

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[174]Stephen B. Oates, *Confederate Cavalry West of the River* (Austin TX: University of Texas Press, 1961) [hereafter *Confederate Cavalry*], 87; L.W. Horton, "General Sam Bell Maxey: His Defense of North Texas and the Indian Territory," *The Southwestern Historical Quarterly* 74, no. 4 (1971): 509.

[175]Cutrer, *Theater of a Separate War*, 6.

[176]Ibid., 3.

The situation in Indian Territory continued to deteriorate as the region filled with starving refugees and poorly equipped militia, hardly becoming the bastion of frontier power the South had envisioned in 1861. The Cherokee Nation experienced a similarly acute crisis. With the capture of Chief Ross in the summer of 1862, the defection of Drew's regiment, and the exiled council's annulment of the Confederate Treaty, the tribe had split in two. Ross still led the portion of the tribe in the North while living in the East and advocating for his people for the rest of the war. The remaining Cherokee elected Stand Watie as Principal Chief in March 1863, thereby further cementing their loyalty to the South. Although the Cherokee predicament continued to worsen during this period, Watie's dedication to the Southern cause did not falter, nor did his ability to carry out his duties. Both sides claimed to be the true Cherokee government, confirming Ross's worst fears of a completely divided nation.[177]

This chapter will examine the general condition of the Cherokee-Confederate coalition in the final two and a half years of the war. The primary focus will be on General Sam Bell Maxey, who took command of the district in 1863, and his efforts to repair the strained relationship between the Cherokee Nation and the Confederacy.

By 1863, the situation of Southern forces in the West was bleak. On July 4, 1863, the conquest of the town of Vicksburg on the Mississippi River had cut the Confederacy in half, effectively isolating the remaining western Rebel states. Losing control of the Mississippi caused alarmed Southern leaders to scramble to protect their cities from the inevitable Federal advance. The northern border of Texas took priority, and crews erected strong fortifications and artillery defenses around Shreveport and nearby towns along the Red River in September 1863. Required

[177]Hauptman, *Between Two Fires*, 49.

to scrounge for resources and manpower with increasing desperation, the Confederacy valued the partnership with the Cherokee and other tribes more than ever.[178]

Indian Territory, however, had troubles of its own. The 1863 invasion of Union forces out of Kansas resulted in the occupation of almost all the Cherokee Nation, scattering thousands of homeless Indians southward toward the Texas border. The threat of further Northern encroachment, as well as the weakness and isolation of Confederate forces, kept the region in a constant state of uncertainty. Supplies were scarce, soldiers were deserting, and civilians were starving.

This period saw a shift in the goals of both the South and the Cherokee Nation. After General Sibley's fiasco in the Southwest and the continued failure of Rebel forces to push Northern troops out of the West, Richmond gradually traded its grand vision of a Confederate Empire for the a more pragmatic policy of survival. Circumstances also forced the pro-Southern Cherokee to adjust their expectations for the war. Leaders like Watie focused almost entirely on holding their units together and raiding Northern supply lines for as much food and clothing as they could find to support their starving and homeless people, the majority of whom were fleeing Cherokee territory for the dubious safety of neighboring nations and Texas. Confederate officials appeared unable to change the situation, and the weight of responsibility strained both the tribes' resolve and the patience of the individuals responsible for the region.[179]

Brigadier General William Steele, commander of the Confederate District of the Indian Territory, was pessimistic about the situation in the area he oversaw. In a series of terse reports to the headquarters of the Trans-Mississippi Department, Steele complained about rising

[178]Kerby, *Kirby Smith's Confederacy*, 253-254.

[179]Dale and Litton, *Cherokee Cavaliers*, xxi.

desertion among Arkansas troops and the general lack of support from other Confederate commands. According to these reports, hundreds of Southern troops were abandoning the fight every month, and even officers had deserted their posts with most of their command. One opening line was particularly bitter: "I have the honor to report the state of affairs in this region as being very unsatisfactory." In short, Steele believed the situation unsustainable.[180]

The general held a low opinion of most of his forces, claiming that the local Federal commander, General James Blunt, had better trained and better armed Indian troops than the South. The reason for the difference in quality, according to Steele, was the fact that white officers commanded the Northern units. Steele also worried that the proximity of Blunt's forces would persuade the Creek Nation to switch sides, since they were not "much interested in our cause." Steele constantly requested white reinforcements and moved unreliable Arkansas units away from Indian troops "to avoid the example." Whatever the general thought about the importance of the western theater, he clearly had little faith in his country's allies.[181]

Some Confederate officials tried to reassure their Cherokee allies. Confederate Commissioner of Indian Affairs S.S. Scott published a broadside expressing his government's sympathy for the plight of the refugees and reassuring them that the South, unlike the North, had not abandoned the Nation. Scott praised the tribe's "patience and fortitude" and said they knew how to be strong in service to a "righteous cause." Doubtless hoping to encourage the Cherokee to greater efforts, Scott closed by writing, "you have battled hopefully and nobly for the beautiful country, which belongs to you, and which the Confederate States have determined, under the blessings of Heaven, shall belong to you and your descendants forever." This sentiment hit again

[180]*OR* 1:22.2, 956.

[181]Ibid., 950-951, 957.

at the core issue for the Cherokee and the reason many had fought so hard for the Confederacy: protecting their land and preserving their sovereignty. At least some Southerners appeared to understand their partners.[182]

Steele, on the other hand, had angered the Indian nations with his sarcasm and lack of respect for native troops. Brigadier General Douglas Cooper, the former agent to the Choctaw and Chickasaw tribes and commander of the Southern Indian Brigade, wrote to General Kirby Smith, commander of the Confederate Trans-Mississippi Department, protesting the treatment of the tribes and warning that, if Steele remained in command, the South might well lose its allies and Indian Territory soon thereafter. Cooper wanted Steele's command, but in December 1863 his superiors chose another officer instead – General Sam Bell Maxey of Texas.[183]

A Kentucky-born politician and veteran of the Mexican War, Maxey was well respected in the South. In many ways, the Texan was the ideal partner for the Cherokee Nation, embodying an understanding of Southern goals for the region and an appreciation of his allies' needs and concerns. Unlike Steele, Maxey appeared to genuinely care about the tribes' welfare, and his energetic work on their behalf made a lasting impression.[184]

He faced a daunting task, to say the least. Maxey's army was battered, low on morale and supplies, and retreating into terrain that lacked natural defensive positions. In addition, he had to feed the refugees and keep the treaty agreements alive. These considerations made for a gloomy outlook. In 1863, Maxey wrote to his wife,

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182 Manuscript Collection: Samuel Bell Maxey. MC.1964.134. 1860-1862. (Tulsa OK: Gilcrease Museum), [hereafter Maxey Papers] Maxey Broadside, Sep 13, 1864.

183 John C. Waugh, *Sam Bell Maxey and the Confederate Indians* (Fort Worth TX: Ryan Place Publishers, 1995), [hereafter *Maxey and the Confederate Indians*] 36, 44.

184 Horton, "General Sam Bell Maxey," 507-508.

> Amongst other things I have to feed hundreds of indigent Indians. I have difficulties to settle amongst the Tribes. I have to draw all the supplies beyond the limits of this District in Texas. I am expected to defend and recover the lost Territory of the Nation, and keep the Federals out of Northern Texas. Truly this is a Herculean task. Even the troops I have are to a large extent Indians, and no infantry. It is the first Army I have ever heard of without infantry. If I do succeed, I think I ought to be entitled to some credit. Truly can Gen Smith and the President well say, it is the most difficult command in the Confederacy.[185]

Despite these misgivings, Maxey was determined to make the best of the situation and give his best effort in the new assignment.

Figure 10: General Sam Bell Maxey (Public Domain)

Part of the difficulty was that Maxey clearly understood how important Indian Territory was for the trans-Mississippi area. He claimed that losing the tribes' support would be worse than losing one of the Southern states. The latter could be retaken, he argued, but once the inhabitants of Indian Territory lost faith in the Confederacy, the coalition would fail. "The utter

[185]Waugh, *Maxey and the Confederate Indians*, 33-34; Maxey to Marilda Cass Denton Maxey, Dec. 29, 1863, Maxey Papers, File No. 94.

folly and shortsightedness of neglecting so great an interest, or ever endangering it in any way," Maxey claimed, "is too important to a man of sense to need elaboration."[186]

Maxey also comprehended the strengths and weaknesses of his primary source of manpower. He knew that the Cherokee and other tribes could not be expected to fight like trained regulars, but rather than disparage them, he chose to take full advantage of their abilities. Maxey worked closely with Watie to threaten Union troops in the region, sending the Indian force on raids and harassing actions to keep the Northern army on its toes and to provide much-needed supplies and weapons for Watie's men and their families.[187]

Maxey was never short of specific praise for Watie in the action reports. Characterizing Watie as "gallant" and "brave," Maxey stated he wished the white officers under his command had the chief's energetic dedication and lobbied for Watie's promotion to brigadier general, citing the chief's dedication and skill. No white troops ever followed Indian officers under Maxey's administration, but Watie and his soldiers certainly received more respect from the Texan who upheld the principle in Confederate law viewing white and Indian commanders as equals.[188]

Maxey also sympathized with the civilians whom the conflict had rendered homeless. Nearly all his reports mentioned the plight of either his men or the refugees and included desperate appeals for clothing and food. When these supplies were long in arriving, Maxey even published requests for aid in Texas newspapers, asking for clothes and help transporting supplies

[186]Report of Superintendent of Indian Affairs, Aug 23, 1864, Maxey Papers, File No. 130.

[187]Horton, "General Sam Bell Maxey," 511, 519; Waugh, *Maxey and the Confederate Indians*, 78-80.

[188]Maxey Papers, folder 210, item 24; Waugh, *Maxey and the Confederate Indians*, 39, 47.

to the troops in Indian Territory. These appeals produced some aid for the refugees, albeit not much, and morale among the Five Tribes pulled out of its downward plummet.[189]

Another factor that saved morale was a string of Confederate victories. Strategic gains by Federal troops had pushed Confederate forces out of northern Indian Territory, and Maxey, like many of his contemporaries, realized guerrilla warfare was the only way to make a difference in the region. In that spirit, Maxey had continued to deploy Watie and his men to raid supply lines, steal supplies and ammunition, and generally disrupt Northern forces. The Cherokee chief excelled at this type of warfare and conducted a series of raids into Federal-occupied territory that interrupted Northern movements and cost millions of dollars in lost supplies and weapons. The Native troops and their families were encouraged by Watie's prowess and Maxey's willingness to encourage the chief's exploits.[190]

Under Maxey's administration, the coalition gained new life. Many Indians still opposed the war, but some took inspiration from Maxey's efforts and Watie's successes and reenlisted. These two men had managed to pull the coalition out of its downward spiral, and even though the strategic situation in Indian Territory never improved, their efforts ensured that at least some of the Cherokee would continue fighting for the South right until the end of the war. Unfortunately for the Southern war effort, General D. H. Cooper, the former agent to the Choctaw and Chickasaw nations, replaced Maxey as commander of Indian Territory in February 1865, and the exceptionally successful partnership between Maxey and Watie ended.[191]

On the one hand, a string of successful raids during the war's final years greatly improved Confederate morale in Indian Territory. Many of the region's war-weary inhabitants

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189 Horton, "General Sam Bell Maxey," 520.

190 Waugh, *Maxey and the Confederate Indians*, 85-86.

191 Horton, "General Sam Bell Maxey," 519.

found inspiration in Watie's victories, and the number of reenlistments among the tribes increased, despite the desperate situation on the Confederate frontier. On the other hand, even these victories could not change the situation in Indian Territory. The North still controlled much of the region, Confederate war materials remained in short supply, and help from the rest of the South remained out of reach. Watie's finest moment had failed to turn the tide.[192]

[192]Waugh, *Maxey and the Confederate Indians*, 78-79.

Chapter 10 - The Coalition's Results

This chapter explores the impact of guerrilla warfare in the West, focusing specifically on the role Native American troops played in the region and contends that, since the Indians were a significant part of Confederate forces in the region, their effectiveness, or lack thereof, helped determine the conflict's outcome. The units under Watie's command acquitted themselves particularly well, despite stereotypical assumptions about their capabilities.[193]

The chapter will also discuss the Second Battle of Cabin Creek in September 1864, the most successful cavalry raid in Indian Territory, and explains why this clash was an example of guerrilla warfare at its finest. The battle signaled the culmination of Stand Watie's most effective partisan campaign and was the chief's last major engagement of the war. The victory raised morale among the suffering people of the Cherokee Nation, ensuring that many remained loyal to the Confederacy all the way to 1865.[194]

In some ways, the role of the guerrilla has assumed mythic status. One writer waxed eloquent on the brutal and confusing border conflicts stating that "the warfare of the Guerrilla was the warfare of the fox joined to that of the lion." In reality, the border fighting during the Civil War was brutally unromantic. Small bands of raiders, often attached loosely to regular military units, attacked wagon trains, burned supplies, and attempted to make enemy combatants and civilians miserable.[195]

Southern troops were especially effective in this arena. These units were the most effective mounted force the United States had ever assembled, and Federal units were never able

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[193]Oates, *Confederate Cavalry*, 54; Wardell, *A Political History of the Cherokee Nation,* 160; Cutrer, *Theater of a Separate War*, 323.

[194]Ibid., 327-328; Waugh, *Maxey and the Confederate Indians*, 78-79; Horton, "General Sam Bell Maxey," 524.

[195]John N. Edwards, *Noted Guerrillas, or the Warfare of the Border* (St. Louis MO: Bryan, Brand & Co., 1877), 14.

to challenge Confederate cavalry in the trans-Mississippi. Although technically part of the Army, some historians argue the cavalry should be considered a separate arm of the Confederate military because of the important strategic role they played in the West. Cavalry actions included traditional operations before, during, and after major engagements, and a myriad of specialized tasks such as law enforcement and strategic raids.[196]

Part of the frontier raider's tactical philosophy derived from experiences fighting Indians. In many ways, Americans equated guerrilla and Native American warfare, perpetually imbuing tribal fighters with an almost bestial repertoire of stealth and cunning. These kinds of stereotypes contributed to the notion that anyone who had survived any kind of warfare against Native Americans was qualified to handle all kinds of similar combat. As has been seen with commanders such as Pike and McCulloch, many Confederates presented their experience fighting Indians as credentials for command on the frontier.[197]

Some individuals even advocated disguising some of their soldiers as Indians to terrorize enemy soldiers, but this option was too extreme for some Southerners. Instead, they attempted to excuse their choice of allies by typecasting the tribes with a different stereotype: the noble savage. This idea admitted that the Indian guerrilla fought irregular and brutal wars but adhered to a strict code of conduct which prohibited certain barbarous practices. Most Confederate partisans, including Watie, attempted to distance themselves from the kind of terrorist activities perpetrated by less scrupulous raiders such as William Quantrill.[198]

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196 Oates, *Confederate Cavalry*, xv.

197 Daniel E. Sutherland, *A Savage Conflict: The Decisive Role of Guerrillas in the American Civil War* (Chapel Hill NC: The University of North Carolina Press, 2009), 28.

198 Ibid., 29.

This supposed connection between Native Americans and partisan conflict influenced the nature of the partnership between the South and the Five Tribes. As mentioned previously, Confederate leaders took care to distinguish between the "civilized" and "wild" tribes, accepting as allies only those tribes sufficiently different from the savages of the American frontier imagination. The South did not want perceptions of their conduct on the frontier colored with the wrong brush.[199]

With that caveat in mind, the Confederacy intended to make full use of the tribes' fighters. In a report to Jefferson Davis, Pike wrote that he supposed the tribal warriors "would be used along the frontier to harass the rear and right flank of the invading force, cut up his foraging parties, and render such service as their habits and manner of making war warranted us in expecting from them." Although desperately needing help from the Indian nations, Rebel commanders had clear assumptions about the limits of what they could demand, and not demand, from their new allies.[200]

When the Five Tribes initially joined the Confederacy in 1861, the Southern government clearly expected the nations to raise several cavalry regiments that Richmond would outfit and arm. The units would be allowed to elect their own commanders, and each detachment chose the leaders with whom they were already familiar. By October, the tribes had organized four regiments, three battalions, and several smaller companies. These included a battalion under Seminole chief John Jumper, a Creek regiment commanded jointly by Chilly and Daniel McIntosh a regiment of Choctaw and Chickasaw fighters under General D. H. Cooper, and two regiments of Cherokee mounted rifles commanded by John Drew and Stand Watie. General Pike

[199]Cutrer, *Theater of a Separate War*, 130, 326.

[200]*OR* 1:13, 819.

was appointed to command the combined force with orders to protect and maintain order in Indian Territory.[201]

Organization and cohesion were always a problem with these units. Many simply disintegrated as the war continued, but Cooper and Watie's regiments formed the backbone of the combined force, appearing as the principal element for most major engagements. Cooper received overall command of the detachment after Pike's removal, and the core continued to acquit itself with distinction under Watie's leadership. Even before Maxey promoted Watie and gave him full command of the Indian force, only hardened veterans remained in the Indian brigade.[202]

These units endured all manner of prejudiced preconceptions from their white comrades. The most common of these assumptions were that Indian troops were perpetually ill-disciplined and ill-equipped, unsuited to line combat and engaging artillery, and excelled only at guerrilla warfare. In a report to Richmond, General Pike asserted that he "knew that [General McCulloch] understood the Indian character and their mode of fighting and would not dream of using them as part of an army in the open field." Some of these stereotypes were generally true, while others were less accurate.[203]

On one hand, the supply situation in Indian Territory remained bleak throughout the war. Nearly every report from Southern commanders in the region described a chronic lack of weapons, food, and clothes for their men, white and Indian. However, these forces remained in the field despite these shortages and, somehow, managed to keep harassing the enemy for the

[201]Waugh, *Maxey and the Confederate Indians*, 32.

[202]*OR* 1:34.1, 1012; Cutrer, *Theater of a Separate War*, 327.

[203]*OR* 1:13, 819.

entire war. Even the perpetual lack of weapons and supplies seemed unable to permanently deter the tribes from fighting.[204]

Native troops received none of the formal training given to many white soldiers. Again, however, this deficiency did not necessarily stymie Indian forces nor prevent their participation in the conflict. Since the formally organized Indian units could elect their own officers, they usually served under their own leaders. John Jumper, Chilly McIntosh, and Stand Watie were all respected chiefs within their tribes, and the soldiers trusted these men to lead them well in any circumstance. Unit cohesion and battlefield success depended on mutual respect, not the soldiers' level of formal education. Native troops repeatedly demonstrated their aptitude for partisan warfare by raiding Northern supply lines. They operated as traditional light cavalry units, specializing in mobility and stealth. They struck without warning against unprepared enemy forces, fading away before the arrival of reinforcements. As the South gradually lost the capability to field large forces against advancing Union troops, especially in the West, the small, independent units of militia cavalry became increasingly important as did their irregular mode of warfare.

These kinds of small-scale actions were the Indian troops' bread and butter, but they also served well in other capacities. White stereotypes held that Native warriors could not endure a prolonged battle or withstand sustained artillery fire, but during the Battle of Pea Ridge, a unit of General Pike's Indian Brigade took heavy fire from several Northern guns while attempting to capture an enemy battery. Unable to endure the barrage, the Choctaw, Creek, and Cherokee fighters retreated in what one Texan described as "a wild stampede to the rear." Another Confederate soldier remarked that the warriors were "worth nothing to our army," and that they

[204]Cutrer, *Theater of a Separate War*, 328; Waugh, *Maxey and the Confederate Indians*, 79.

had only come to loot fallen enemies. But this rush to judgment by white soldiers ignored the fact that concentrated artillery fire and entrenched infantry routinely blunted the effectiveness of white cavalry as well, and prolonged engagements wore down the discipline and cohesion of all units. Despite prevailing stereotypes, the tribal fighters proved that they could do more than hit and run.[205]

For example, one Rebel officer reported in 1863 during the battle of Honey Springs in Indian Territory that a band of Choctaw warriors had charged an entrenched Federal battery and covered the retreat of their fellow Confederates. "Too much praise cannot be awarded the troops," he wrote, "for the accomplishment of the most difficult of all military movements – an orderly and successful retreat, with little loss of life or property, in the face of superior numbers." And during the Battle of Pea Ridge, a Confederate sergeant observed Indian fighters under Watie's command capture an artillery emplacement that had effectively pinned down Confederate forces. "Our astonishment was still greater," he stated, "when we saw the whole battery with limber waggons and caissons of ammunition in flames." Raiding and skirmishing was certainly these units' forte, but they often demonstrated that they could fill other roles, if necessary, thereby countering some of the prevailing notions about their tactical usefulness.[206]

Watie as a Commander

In a theater where the guerrilla took on a special significance, Stand Watie ranked among the most effective leaders of irregular troops. When considering the lackluster successes from other Southern generals in the trans-Mississippi West, Watie's record deserves even greater

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[205]William D. Cater, ed., *"As It Was": Reminiscences of a Soldier of the Third Texas Cavalry and the Nineteenth Louisiana Infantry* (Austin TX: State House Press, 1990), 124, 129.

[206]*OR* 1:22.1, 460; William Watson, *Life in the Confederate Army, being the observations and experiences of an alien in the South during the American Civil War* (London: Chapman and Hall, 1887), 293-294.

credit. As the most famous war chief in Indian Territory, Watie was often the last line of defense against Northern armies and the best hope the Five Tribes had of regaining their homes and national status.[207]

Watie's reputation as the best partisan fighter on the frontier gained the attention of Southern officials. In 1862, General D. H. Cooper claimed that Indians "make the very best guerrillas," and that Watie's "patriotism, prudence, and courage" would gather many warriors to the defense of Indian Territory's northern border. Supporting Watie's efforts was essential, Cooper continued, because without the chief's presence, "a large majority of the Cherokees would go over to the Federals" because of the troubled situation within their nation.[208]

Another official praised the military exploits of the "chivalrous Stand Watie" in glowing terms, stating that his actions were "not only bright examples of Indian prowess and Indian patriotism, but also of a moderation in the hour of victory, and a regard for the usages of civilized warfare, which," he observed, "under the circumstances, can not be too highly commended." Although this kind of approval obviously depended on Watie's status as a "civilized" individual, his performance consistently earned commendations from his white counterparts, and the South relied on his forces more and more as the war ended.[209]

Watie's last major campaign was also his most famous. In May and June 1864, the Indian Brigade conducted a series of raids against Union forces in the Indian Territory, attacking pro-Union settlements and capturing supplies. On one occasion, Watie's forces occupied two bluffs on either side of the Arkansas River near Pleasant Bluff, Indian Territory and ambushed the steamer *J. R. Williams* as it ferried supplies to Northern forts. This brief engagement, technically

[207]Hauptman, *Between Two Fires*, 43.

[208]*OR* 1:13, 824.

[209]Maxey Papers, Broadside, 13 Sep 1864.

classified as the only naval battle in the state, ended with Watie and his men seizing "150 barrels of flour, 16,000 pounds of bacon, and [a] considerable quantity of store goods, which," Watie remarked, "was very acceptable to the boys." Some of the troops left without leave to take their spoils home, but the core of Watie's loyal followers remained to continue the mission. This battle dealt a serious blow to Union supply lines in the area and gave a much-needed boost to Confederate morale in the area.[210]

An even bigger prize presented itself shortly thereafter. Scouts reported that an unusually large wagon train was traveling to Fort Gibson with supplies and weapons, and Watie obtained clearance to intercept it. To increase the chance of success, Maxey ordered the Indian Brigade to join a detachment of Texas cavalry under the command of General Richard Gano. The two commanders agreed to keep their men separate but share all intelligence and "act together and harmoniously." Gano's force numbered roughly 1,200 and had six pieces of light artillery, and Watie's men amounted to about 2,000. The Confederates found the train near the Verdigris River, twelve to fifteen miles north of Fort Gibson.[211]

Along the way, the Rebels encountered several Northern units clearing and repairing the road in preparation for the arrival of the wagon train. Watie reported that the First Cherokee and the Thirtieth Texas regiments circled around behind the enemy, cutting off all escape routes and driving the Federals toward the rest of the Southern force. "General Gano moved his command directly to the front," Watie wrote, "and my brigade took the left, and in a short time the enemy were completely surrounded." After a brief fight, the Northern troops surrendered, and the

[210]*OR* 1:41.1, 785.

[211]Ibid.

Confederates continued toward their main objective. Gano took the lead with a small detachment and two artillery pieces, and Watie followed close behind with the rest of the troops.[212]

On June 18, the advance force reported the train had camped on the banks of Cabin Creek, guarded by 300 troops from the Second Indian Regiment, also known as the Cherokee Home Guards. These soldiers, many of whom had once served alongside Watie's men under John Drew, had taken up positions along the bank of the creek, fortified with "heavy timbers set upright in the ground, that rendered them complete protection against small-arms." The two Confederate forces linked after midnight and decided to "move on the enemy at once."[213]

Figure 11: Cabin Creek and Capture of J.R. Williams (Maxey and the Confederate Indians)

[212]Ibid., 786.

[213]Ibid.

The fighting started at 3:00 AM on June 19. The darkness obscured each side from the other, but the Confederates advanced steadily, forcibly shrinking the Northern lines. Watie reported that the firing was "heavy and incessant," and that "our left drove the enemy from his position, leaving in our possession a part of his train."[214]

When the sun came up, Watie and Gano were finally able to see their adversaries and descended on the enemy fortifications with their considerably larger force. "Soon the confusion became great in his ranks," Watie wrote, "and a general stampede ensued, leaving in our possession his train, stockade, hay, camp and garrison equipage." The Northern troops left so quickly that many of their dead and wounded remained where they had fallen.[215] Laurence Hauptman writes that, by the end of the campaign, Watie and his men had

> . . . traversed four hundred miles of Indian Territory, inflicted more than three hundred casualties on Union forces, burned five thousand tons of hay needed for Union steeds, captured or destroyed the largest wagon train ever to leave Fort Scott, seized hundreds of mules and horses, captured sizable quantities of quartermaster, commissary, and sutler supplies – ammunition, army boots, clothing and shoes, food and medical supplies, mowing machines, as well as cannon and other weapons – and inflicted what has been estimated as $1.5 million worth of damage on Union forces.[216]

The victory at the Second Battle of Cabin Creek caused excitement across Indian Territory. Southern accounts of the battle gushed praise for Watie's and Gano's commands, commending both their success on the field and their cooperation. General Cooper asserted that the raid was "as brilliant as any one of the war," and General Maxey claimed that, as one of the

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214 Ibid.

215 Ibid., 787.

216 Hauptman, *Between Two Fires*, 54.

"most brilliant cavalry achievements of War," it was without equal in the history of the conflict. Maxey highlighted the "perfect harmony between the war-worn veterans, Stand Watie, and the chivalrous Gano and their respective commands," expressing hope the two commands might "again participate in like enterprises."[217]

The campaign, including the capture of the *J. R. Williams* and other actions, lasted sixteen days and proved to be the most successful series of raids against Union forces in the West. Not only had Watie and Gano deprived the enemy of vast stores, they had also managed to save the bulk of the supplies for distribution to the desperate civilians and soldiers in the region.[218]

The Second Battle of Cabin Creek had displayed Watie's skills and the Cherokee-Confederate coalition at their finest. The respectful and professional coordination between Gano and Watie, the value of the acquired goods, and the minor loss of life all mark the battle as the peak of effective cooperation between the two nations. Yet even this operation had only incidental effects on the war in the West. True, the supplies had aided the starving tribes and kept Watie's command in the field, but the South remained unable to reverse Northern territorial gains or challenge Federal armies. The positive relationships between white Southerners and Stand Watie did not produce a different outcome either. Even though Indian troops managed to disprove some of the stereotypes about their mode of warfare and effectiveness on the battlefield, certain limitations remained. The light, mobile guerrilla units excelled at causing trouble for

[217]Maxey to J. J. Eakin, October 11, 1864, Maxey Papers, File No. 145; Maxey Papers, Broadside, Oct. 30, 1864; *OR* 1:41.1, 780, 783.

[218]Waugh, *Maxey and the Confederate Indians*, 78-79; Cutrer, *Theater of a Separate War*, 330; Perdue, "Stand Watie's War," 39-40.

infantry and other slow targets but could not easily take and hold territory. As long as success was measured in occupied ground, Watie and his men were destined to have minimal impact.[219]

[219]Ibid., 40.

Conclusion

In the allocation of manpower and material, the East took precedence over all other areas of the war. Although Jefferson Davis claimed to appreciate the West's significance, his actions never matched the rhetoric. After losing access to the Mississippi River in 1863, the two halves of the Confederacy grew even further apart.

The contest in the West had been unequal from the beginning, and the distance of that theater from the more famous and strategically prioritized Eastern Theater ensured that the frontier would never receive the same attention as the East. Even accepting the tactical limitations of forces such as Watie's, the West was ultimately a victim of Richmond's priorities. In the end, the fate of the frontier and the Confederacy's imperialist ambitions came down to simple math. The North had more soldiers, more weapons, more everything. Rebel forces were simply unable to keep up, even with expert help from their Indian allies.[220]

Throughout the entire war, the Confederacy professed to value its western frontier and appreciate the precarious situation on the far side of the Mississippi. In a statement to the Five Tribes in Indian Territory, Jefferson Davis had declared that the welfare of the tribes was "identical with those of all the Confederate States in the great struggle in which we are now engaged for Constitutional rights and Independence," and the Southern government considered those people "peculiarly entitled to its fostering care." Clearly, Confederate leaders understood the region's importance at least enough to talk about it.[221]

The U.S. government also recognized the importance of the West but was more able to act on that knowledge after they recognized the opportunity. The Lincoln administration

[220]Utley, *The Indian Frontier*, 71-72.

[221]Maxey Papers, Broadside, Feb. 22, 1864.

formulated an official strategy for securing the region, diverting thousands of Union troops to the West out of a desire for precious metals and political support for the war. Although Southern leaders, especially Jefferson Davis, claimed they also understood the significance of the West, most historians agree that, whether because of rhetorical duplicity or lack of resources, the Confederacy never capitalized on that knowledge.[222]

Whatever the Southern government claimed, the Trans-Mississippi Department remained under-manned and under-supplied for the entire war. Both the North and South knew that control of the Western territories would significantly impact the outcome of the war, but only the United States had enough men and material to take advantage of this realization. Richmond simply could not spare sufficient resources from the desperate fight in the East to make any headway on the frontier. As historian Thomas Cutrer notes, "the trans-Mississippi began and ended storm-cradled life as an orphan, both physically and psychologically far removed from the stirring events to the east." In the West, geography was confusing, cities were remote, armies were irregular, combat was disjointed, and casualties were fewer. Because the theater was so disjointed, many Southerners had difficulty grasping its significance.[223]

The men who fought in the western campaigns deserve credit for their fortitude and ingenuity in the face of challenging conditions, even though their efforts never stuck in the public mind as did the Eastern campaigns. One Confederate officer lamented: "The remoteness of the Trans-Mississippi Department from Richmond; the lack of all official information concerning it; and a foregone intention to abandon it as soon as possible made the merits of its officers little understood -- their service and their victories ignored and unappreciated." The

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[222]Utley, *The Indian Frontier*, 72; Cutrer, *Theater of a Separate War*, 6; Annie Abel Heloise, *The American Indian as Participant in the Civil War* (New York: Firework Press, 1947), 1.

[223]Cutrer, *Theater of a Separate War*, 6-7.

Trans-Mississippi Department was so removed from the rest of the Confederacy, some Southern officials began calling it the "Kirby-Smithdom" after the general who received command of the district in 1862, and the moniker proved apt. The commanders in the West, often frontiersmen and Indian fighters, operated with an independence unknown in other theaters, and the isolation cost them dearly.[224]

In the end, professions of concern about the value of the West could not overcome the South's chronic shortage of supplies and manpower. No matter how sincerely Davis and his peers sought to capitalize on the possibilities offered by the West, the preeminent concern with the conflict in the East demanded their attention and dominated all other priorities, ensuring the Confederacy would never be able to realize its vision for the West.[225]

This strategic disparity had a significant impact on the South's partnership with the nations of Indian Territory. In each treaty, the Confederacy made promises they could not completely fulfill, a failure that strained the relationship with every tribe, especially the Cherokee Nation. Severe factional divisions had delayed Cherokee entry into the war in the first place, and the South's promise to provide protection and supplies had been the linchpin on which the final decision to fight the U.S. government had rested. As the war dragged on, Richmond grew increasingly distant from its allies across the Mississippi, and the Cherokee felt the strain along with everyone else.[226]

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[224]John N. Edwards, *Shelby and his men; or, The war in the West* (Cincinnati OH: Miami Printing and Publishing Co., 1867), 252.

[225]Steven E. Woodworth, *Jefferson Davis and His Generals: The Failure of Confederate Command in the West* (Lawrence KS: University Press of Kansas, 1990), xi-xii.

[226]Cutrer, *Theater of a Separate War*, 334.

Despite these problems, however, certain factions within the tribe, including Watie's followers, remained faithful to the coalition. Even in the face of near starvation and Federal incursions, Watie and most of his troops continued to raid Northern supply trains and cooperate with local Confederate units, often with impressive results as in the case of Cabin Creek. This persistence raises the question, why did these Cherokee endure alongside their Southern allies? With desertions among white soldiers continuing to increase, what kept Watie's force in the field?[227]

The primary element of the answer was simple desperation. Even with the government in Richmond heading for certain doom, the Cherokees under Watie's command saw little choice but to keep fighting. If they abandoned the fight, they would have to face the wrath of the United States government and lose any support against rival factions, namely those following John Ross. Even though the Confederacy could not keep its promises, Watie had to persevere for any scraps he could find. The future of the people following him depended on his success, and a Southern victory remained his people's best hope of preserving their nation and protecting the tribe.[228]

After the end of the war, the United States became much more involved in the affairs of the Five Tribes, relieving them of almost all autonomy. For the most part, Washington concluded that enough of the tribe had participated in secession to warrant a monolithic postwar policy of intense federal oversight and censure. Rivalries like the Ross-Watie feud persisted but were much less a part of tribal government and therefore had a much reduced impact on the surviving Cherokee. Those in the tribe who had remained faithful to the Union or quickly repudiated the

[227]Dale and Litton, *Cherokee Cavaliers*, 192.

[228]Gibson, "Native Americans and the Civil War," 392-393; Wardell, *A Political History of the Cherokee Nation*, 165-166; Cheatham, "If the Union Wins," 174.

Confederate treaty received very little reward for their loyalty. Ironically, the pro-Southern wing of the tribe received better treatment than the pro-Union faction because they welcomed the expansion of railroads across Indian Territory.[229]

The federal government, at the urging of several Southern Cherokee leaders, attempted to reinforce the divisions within the Cherokee Nation in 1866 by ratifying a treaty that would permanently split the tribe into two entities. Both John Ross and Stand Watie, with several others, traveled to Washington to challenge the treaty. Watie eventually returned home, but Ross remained until the U. S. Congress ratified a different treaty that assured property rights for all Cherokee and established the tribe as a single entity for good. Ross died on August 1, 1866, five days after the treaty was signed. For his part, Stand Watie moved his family back to their home in Honey Creek after having lived several years in the Choctaw Nation for fear of reprisals from the pro-Union faction. The election of Lewis Downing and his platform of national reconciliation in 1867 seemed to signal the end of the feud. Watie died in 1871.[230]

The Cherokee Nation's participation in America's bloodiest conflict was part of a concerted attempt to attain statehood and full sovereignty. The pro-Southern leaders, like their Confederate allies, hoped to gain independence from the federal government and both saw the other as a means of achieving that goal. The Cherokee-Confederate coalition did not avert the Confederacy's downfall, nor did it achieve the Cherokee's nationalistic goals. It did, however, provide key assistance that allowed both parties to continue fighting far longer than they might have otherwise.[231]

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[229]Perdue, "Stand Watie's War," 40.

[230]Ibid., 40-42; Dale and Litton, *Cherokee Cavaliers*, 231-233; Wardell, *A Political History of the Cherokee Nation*, 203-204.

[231]Hauptman, *Between Two Fires*, 42.

The coalition was also significant because it represents unique phenomenon in the annals of 19th century American military history. Two groups with a shared past of violence and mistrust managed to surmount those problems and unite, on and off the battlefield. To be sure, not every Cherokee wanted to join the Confederacy and not every Southerner accepted the Nation as an equal partner. But individuals from both camps, like Stand Watie and Sam Bell Maxey, worked tirelessly to keep the relationship afloat and victories like the Second Battle of Cabin Creek speak for themselves. The two drastically different sides cooperated out of desperation, often in the face of bitter opposition from their own people, and they deserve credit for keeping the alliance alive as long as they did.

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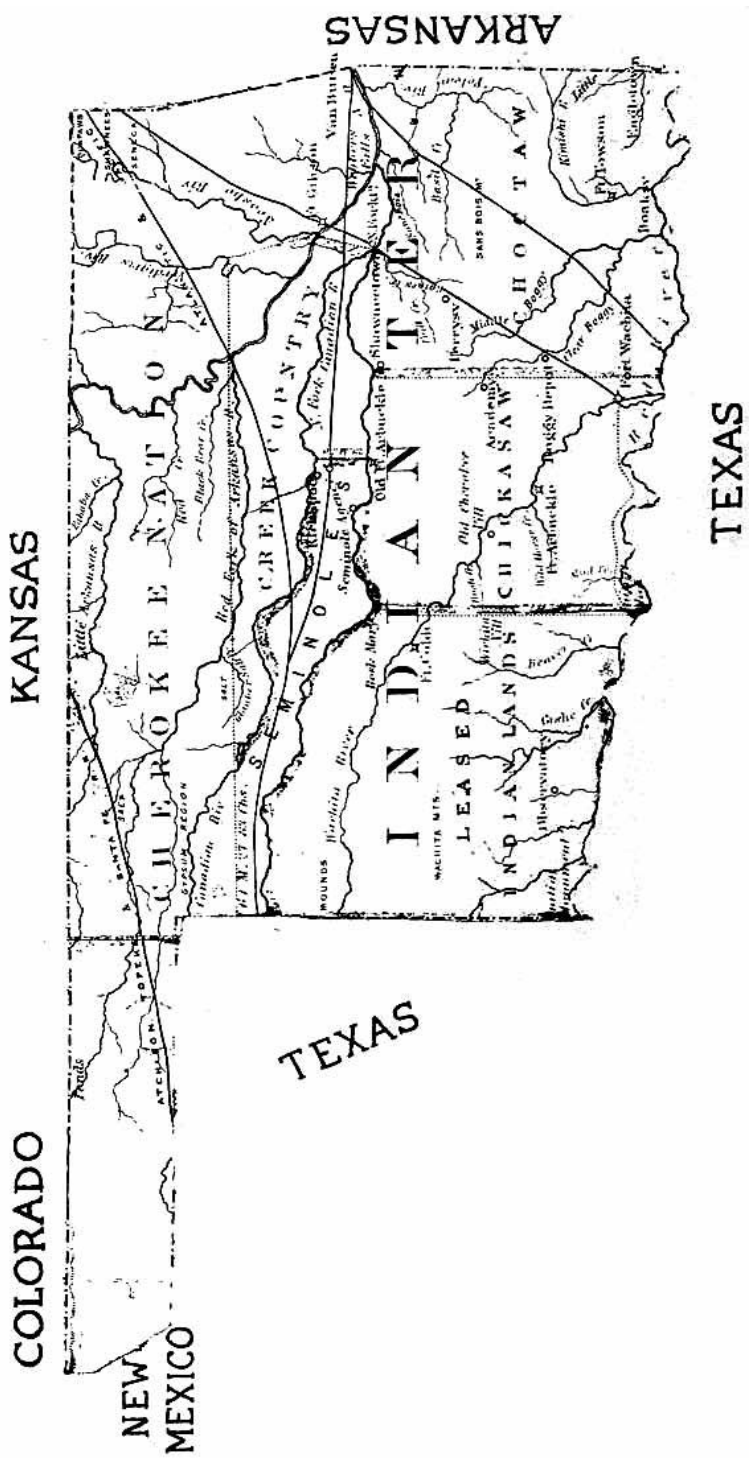
Appendix A - Indian Territory, 1861[232]



[232]Taken from Abel, *The American Indian as Slaveholder and Secessionist*.

Appendix B - Treaty with the Cherokees[233]

A TREATY OF FRIENDSHIP AND ALLIANCE,

Oct. 7, 1861.

Made and concluded at Tahlequah, in the Cherokee Nation, on the seventh day of October, in the year of our Lord, one thousand eight hundred and sixty-one, between the Confederate States of America, by Albert Pike, Commissioner with plenary powers, of the Confederate States, of the one part, and the Cherokee Nation of Indians, by John Ross, the Principal Chief, Joseph Verner, Assistant Principal Chief, James Brown, John Drew and William P. Ross, Executive Councillors, constituting with the Principal and Assistant Principal Chiefs the Executive Council of the Nation, and authorized to enter into this treaty by a General Convention of the Cherokee People, held at Tahlequah, the seat of Government of the Cherokee Nation, on the twenty-first day of August, in the year of our Lord, one thousand eight hundred and sixty-one; together with Lewis Ross, Thomas Pegg and Richard Fields, Commissioners selected and appointed by the Principal Chief with the advice and consent of the Executive Council to assist in negotiating the same, of the other part.

The Congress of the Confederate States of America, having by an "act for the protection of certain Indian tribes," approved the twenty-first day of May, in the year of our Lord, one thousand eight hundred and sixty-one, offered to assume and accept the protectorate of the several nations and tribes of Indians occupying the country west of Arkansas and Missouri, and to recognize them as their wards, subject to all the rights, privileges and immunities, titles and guarantees with each of said nations and tribes under treaties made with them by the United States of America; and the Cherokee Nation of Indians having assented thereto upon certain terms and conditions:

Now, therefore, the said Confederate States of America, by Albert Pike their Commissioner, constituted by the President, under authority of the act of Congress in that behalf, with plenary powers for these purposes, and the Cherokee Nation by the Principal Chief,

[233]Taken from J. M. Matthews, *The Statutes at Large of the Provisional Government of the Confederate States of America* (Richmond: R.M. Smith, Printer to Congress, 1864), pp. 394-411. Spelling preserved from the original document.

Executive Council and Commissioners aforesaid, has agreed to the following articles, that is to say:

ARTICLE I

There shall be perpetual peace and friendship, and an alliance offensive and defensive, between the Confederate States of America and all of their States and people, and the Cherokee Nation and all the people thereof.

ARTICLE II

The Cherokee Nation of Indians acknowledges itself to be under the protection of the Confederate States of America, and of no other power or sovereign whatever; and does hereby stipulate and agree with them that it will not hereafter contract any alliance, or enter into any compact, treaty or agreement with any individual, State or with a foreign power; and the said Confederate States do hereby assume and accept the said protectorate, and recognize the said Cherokee Nation as their ward; and by the consent of the said nation now here freely given, the country whereof it is proprietor in fee, as the same is hereinafter described, is annexed to the Confederate States in the same manner and to the same extent as it was annexed to the United States of America before that Government was dissolved, with such modifications, however, of the terms of annexation, and upon such conditions as are hereinafter expressed, in addition to all the rights, privileges, immunities, titles and guarantees with or in favor of the said nation, under treaties made with it, and under the statutes of the United States of America And in consequence of the obligations imposed on the Cherokee people by this article, it is agreed on the part of the Confederate States, that they will not at any time enter into any compact, treaty or agreement with any individuals or party in the Cherokee Nation, but only with the constitutional authorities of the same, that will in any way interfere with or affect any of the national rights of the Cherokee people.

ARTICLE III

The Confederate States of America, having accepted the said protectorate, hereby solemnly promise the said Cherokee Nation never to desert or to abandon it, and that under no circumstances will they permit the Northern States or any other enemy to overcome them and sever the Cherokees from the Confederacy; but that they will, at any cost and all hazards, protect and defend them and maintain unbroken the ties created by identity of interests and institutions, and strengthened and made perpetual by this treaty.

ARTICLE IV

The boundaries of the Cherokee country shall forever continue and remain the same as they are defined by letters patent therefor given by the United States to the Cherokee Nation on the thirty-first day of December, in the year of our Lord, one thousand eight hundred and thirty-eight; which boundaries are therein defined as follows:

Beginning at a mound of rocks four feet square at base, and four and a half feet high, from which another mound of rocks bears south one chain, and another mound of rocks bear west one chain, on what has been denominated the old western Territorial line of Arkansas Territory, twenty-five miles north of Arkansas river; thence south twenty one miles and twenty-eight chains, to a post on the northeast bank of the Verdigris river, from which a hackberry, fifteen inches diameter, bears south sixty one degrees thirty-one minutes east, forty-three links, marked C. H. L. and a cottonwood forty-two inches diameter, bears south twenty-one degrees, fifteen minutes, east, fifty links, marked C. R. R. L.; thence down the Verdigris river, on the north east bank, with its meanders to the junction of Verdigris and Arkansas rivers; thence from the lower bank of Verdigris river; on the north bank of Arkansas river, south, forty-four degrees, thirteen minutes, east, fifty-seven chains, to a post on the south bank of Arkansas, opposite the eastern bank of Neosho river, at its junction with Arkansas, from which a red oak thirty-six inches diameter, bears south seventy-five degrees, forty-five minutes, west, twenty-four links, and a hickory twenty-four inches diameter bears south eighty-nine degrees, east, four links; thence south fifty-three degrees west, one mile, to a post from which a rock bears north fifty-three degrees east, fifty links, and a rock bears south, eighteen degrees, eighteen minutes west, fifty links; thence south eighteen degrees, eighteen minutes west, thirty-three miles, twenty-eight chains, and eighty links, to a rock, from which another rock bears north eighteen degrees, eighteen minutes east, fifty links, and another rock bears south fifty links; thence south four miles, to a post on the lower bank of the north fork of Canadian river, at its junction with Canadian river, from which a cotton wood, twenty-four inches diameter bears north eighteen degrees east, forty links, and a cotton wood fifteen inches diameter, bears south nine degrees east, fourteen links; thence down the Canadian river on its north bank to its junction with Arkansas river; thence down the main channel of Arkansas river to the western boundary of the State of Arkansas at the northern extremity of the eastern boundary of the lands of the Choctaws, on the south bank of Arkansas river, four chains and fifty-four links east of Fort Smith; thence

north seven degrees twenty-five minutes west with the western boundary of the State of Arkansas, seventy-six miles, sixty-four chains and fifty links to the southeast corner of the State of Missouri; thence north, on the western boundary of the State of Missouri eight miles, forty-nine chains and fifty links, to the north bank of Cowskin or Seneca river, at a mound six feet square at base and five feet high, in which is a post marked on the south-side Cor. Ch. Ld.; thence west on the northern boundary of the lands of the Senecas, eleven miles and forty chains, to a post on the east bank of Neosho river, from which a maple eight eighteen inches diameter bears south thirty-one degrees east, seventy-two links; thence up Neosho river, with its meanders, on the east bank, to the southern boundary of Osage lands, thirty-six chains and fifty links, west of the southeast corner of the lands of the Osages, witnessed by a mound of rocks on the west bank of Neosho river; thence west on the southern boundary of the Osage lands to the line dividing the Territory of the United States from that of Mexico, two hundred and eighty-eight miles, thirteen chains and sixty-six links, to a mound of earth six feet square at base, and five and a half feet high in which is deposited a cylinder of charcoal, twelve inches long and four inches diameter; thence south along the line of the Territory of the United States and of Mexico, sixty miles and twelve chains to a mound of earth six feet square at base and five and a half feet high, in which is deposited a cylinder of charcoal, eighteen inches long and three inches diameter; thence east, along the northern boundary of Creek lands, two hundred and seventy-three miles, fifty-five chains and sixty-six links, to the beginning; containing within the survey thirteen millions five hundred and seventy-four thousand one hundred and thirty-five acres and fourteen hundredths of an acre.

ARTICLE V

The Cherokee Nation hereby gives its full, free and unqualified assent to those provisions of the act of Congress of the Confederate States of America, entitled "An act for the protection of certain Indian tribes," approved the twenty-fourth day of May, in the year of our Lord, one thousand eight hundred and sixty-one, whereby it was declared that all reversionary, and other interest, right, title and proprietorship of the United States in, unto and over the Indian country, in which that of the said Cherokee Nation is included, should pass to and vest in the Confederate States, and whereby the President of the Confederate States was authorized to take military possession and occupation of all said country; and whereby all the laws of the United States with the exception thereinafter made, applicable to and in force in said country, and not inconsistent

with the letter or spirit of any treaty stipulations entered into with the Cherokee Nation were enacted, continued in force, and declared to be in force in said country, as laws and statutes of the Confederate States: Provided, however, And it is hereby agreed between the said parties, that whatever in the said laws of the United States contained, is or may be contrary to or inconsistent with any article or provision of this treaty, is to be of none effect henceforward, and shall, upon the ratification hereof, be deemed and taken to have been repealed and annulled as of the present date, and this assent, as thus qualified and conditioned, shall relate to and be taken to have been given upon the said day of the approval of the said act of Congress.

ARTICLE VI

The Confederate States of America do hereby solemnly guarantee to the Cherokee Nation, to be held by it to its own use and behoof in fee simple forever, the lands included within the boundaries defined in article four of this treaty; to be held by the people of the Cherokee Nation in common as they have heretofore been held, if the said nation shall so please, but with power of making partition thereof and dispositions of parcels of the same by virtue of laws of said nation duly enacted, and approved by a majority of the Cherokee people in general convention assembled; by which partition or sale, title in fee simple absolute shall vest in parceners and purchasers whenever it shall please said nation, of its own free will and accord and without solicitation from any quarter, to do so; which solicitation the Confederate States hereby solemnly agree never to use; and the title and tenure hereby guaranteed to the said nation is and shall be subject to no other restrictions, reservations or conditions, whatever, than such as are hereinafter specially expressed.

ARTICLE VII

None of the lands hereby guaranteed to the Cherokee Nation shall be sold, ceded or otherwise disposed of to any foreign nation or to any State or government whatever; and in case any such sale, cession or disposition should be made without the consent of the Confederate State, all the said lands shall thereupon revert to the Confederate States.

ARTICLE VIII

The Confederate States of America do hereby solemnly agree and bind themselves that no State or Territory shall ever pass laws for the government of the Cherokee Nation; and that no portion of the lands guaranteed to it shall ever be embraced or included within or annexed to any Territory or Province; nor shall any attempt ever be made, except upon the free, voluntary and

unsolicited application of said nation, to erect its said country, by itself or with any other, into a State or any other territorial or political organization, or to incorporate it into any State previously created.

ARTICLE IX

All navigable streams of the Confederate States and of the Indian country shall be free to the people of the Cherokee Nation, who shall pay no higher toll or tonnage duty or other duty than the citizens of the Confederate States; and the citizens of that nation living upon the Arkansas river shall have, possess and enjoy upon that river, the same ferry privileges, to the same extent in all respects, as citizens of the Confederate States on the opposite side thereof, subject to no other or a different tax or charge than they.

ARTICLE X

The Cherokee Nation may by act of its legislative authorities receive and incorporate in the nation as members thereof, or permit to reside and settle upon the national lands, such Indians of any other nation or tribe as to it may seem good; and may sell them portions of its land, and receive to its own use the consideration therefor; and the nation alone shall determine who are members and citizens of the nation entitled to vote at elections and share in annuities: Provided, That when persons of another Indian nation or tribe shall once have been received as members of the nation, they shall not be disfranchised or subjected to any other restrictions upon the right of voting than such as shall apply to the Cherokees themselves. But no Indians not settled in the Cherokee country shall be permitted to come therein to reside, without the consent and permission of the legislative authority of the nation.

ARTICLE XI

So far as may be compatible with the Constitution of the Confederate States and with the laws made, enacted or adopted in conformity thereto, regulating trade and intercourse with the Indian tribes, as the same are modified by this treaty, the Cherokee nation shall possess the otherwise unrestricted right of self-government and full jurisdiction, judicial and otherwise, over persons and property within its limit, excepting only such white persons as are not by birth, adoption or otherwise, members of the Cherokee Nation; and that there may be no doubt as to the meaning of this exception, it is hereby declared that every white person who, having married a Cherokee woman, resides in said Cherokee country, or who, without intermarrying, is permanently domiciled therein with the consent of the authorities of the nation, and votes at

elections, is to be deemed and taken to be a member of the said nation within the true intent and meaning of this article; and that the exception contained in the laws for the punishment of offences committed in the Indian country, to the effect that they shall not extend or apply to offences committed by one Indian against the person or property of another Indian, shall be so extended and enlarged by virtue of this article when ratified and without further legislation, as that none of said laws shall extend and apply to any offence committed by any Indian, or negro, or mulatto, or by any white person, so by birth, adoption or otherwise a member of the Cherokee Nation against the person or property of any Indian, negro, or mulatto, or any such white person when the same shall be committed within the limits of the said Cherokee Nation as hereinbefore defined; but all such persons shall be subject to the laws of the Cherokee Nation, and to prosecution and trial before its tribunals, and punishment according to such laws, in all respects like native members of the said nation.

ARTICLE XII

All persons not members of the Cherokee Nation, as such membership is hereinbefore defined, who may be found in the Cherokee country, shall be considered as intruders, and be removed and kept out of the same either by the civil officers of the nation under the direction of the executive or legislature, or by the agent of the Confederate States for the nation, who shall be authorized to demand, if necessary, the aid of the military for that purpose; with the following exceptions only, that is to say: Such individuals with their families as may be in the employment of the Government of the Confederate States; all persons peaceably travelling, or temporarily sojourning in the country, or trading therein under license from the proper authority; and such persons as may be permitted by the legislative authority of the Cherokee Nation to reside within its limits without becoming members of the said nation.

ARTICLE XIII

A tract of two sections of land in the said nation, to be selected by the President of the Confederate States, or such officer or person as he may appoint, in conjunction with the authorities of the Cherokee Nation, at such a point as they may deem most proper, is hereby ceded to the Confederate States, for the purpose of an agency; and when selected shall be within their sole and exclusive jurisdiction, except as to offences committed therein by one member of the Cherokee Nation against the person or property of another member of the same: Provided, That whenever the agency shall be discontinued, the tract so selected therein

shall revert to the said nation, with all the buildings that may be thereupon: And provided also, That the President, conjointly with the authorities of the nation may at any time select in lieu of said reserve, any unoccupied tract of land in the nation, and in any other part thereof, not greater in extent than two sections, as a site for the agency of the nation, which shall in such case constitute the reserve, and that first selected shall thereupon revert to the Cherokee Nation.

ARTICLE XIV

The Confederate States shall have the right to build, establish and maintain such forts and military posts, temporary or permanent, and such military and post roads as the President may deem necessary in the Cherokee country; and the quantity of one mile square of land, including each fort or post, shall thereby vest as by cession in the Confederate States and be within their sole and exclusive jurisdiction, except as to offences committed therein by members of the Cherokee Nation against the persons or property of other members of the same, so long as such fort or post is occupied; but no greater quantity of land beyond one mile square shall be used or occupied, nor any greater quantity of timber felled than of each is actually requisite; and if in the establishment of such fort, post or road, or of the agency, the property of any individual member of the Choctaw Nation, other than land, timber, stone and earth, be taken, destroyed or impaired, just and adequate compensation shall be made by the Confederate States.

ARTICLE XV

No person shall settle or raise stock within the limits of any post or fort or of the agency reserve, except such as are or may be in the employment of the Confederate States, in some civil or military capacity; or such as, being subject to the jurisdiction and laws of the Cherokee Nation, are permitted by the commanding officer of the fort or post to do so thereat, or by the agent to do so upon the agency reserve.

ARTICLE XVI

An agent of the Confederate States for the Cherokee Nation, and an interpreter shall continue to be appointed, both of whom shall reside at the agency. And whenever a vacancy shall occur in either of the said offices, the authorities of the nation shall be consulted as to the person to be appointed to fill the same; and no one shall be appointed against whom they in good faith protest, and the agent may be removed, on petition and formal charges preferred by the constituted authorities of the nation, the President being satisfied, upon full investigation, that there is sufficient cause for such removal.

ARTICLE XVII

The Confederate States shall protect the Cherokees from hostile invasion and from aggression by other Indians and white persons, not subject to the laws and jurisdiction of the Cherokee Nation; and for all injuries resulting from such invasion or aggression, full indemnity is hereby guaranteed to the party or parties injured, out of the Treasury of the Confederate States, upon the same principle and according to the same rules upon which white persons are entitled to indemnity for injuries or aggressions upon them committed by Indians.

ARTICLE XVIII

It is further agreed between the parties that the agent of the Confederate States, upon the application of the authorities of the Cherokee Nation, will not only resort to every proper legal remedy, at the expense of the Confederate States, to prevent intrusion upon the lands of the Cherokees, and to remove dangerous or improper persons, but he shall call upon the military power if necessary; and to that end all commanders of military posts in the said country shall be required and directed to afford him, upon his requisition, whatever aid may be necessary to effect the purposes of this article.

ARTICLE XIX

If any property of any Cherokees be taken by citizens of the Confederate States, by stealth or force, the agent, on complaint made to him in due form by affidavit, shall use all proper legal means and remedies in any State where the offender may be found to regain the property or compel a just remuneration; and on failure to procure redress, payment shall be made for the loss sustained, by the Confederate States upon the report of the agent, who shall have power to take testimony and examine witnesses in regard to the wrong done and the extent of the injury.

ARTICLE XX

No person shall be licensed to trade with the Cherokees except by the agent, and with the advice and consent of the National Council. Every such trader shall execute bond to the Confederate States in such form and manner as was required by the United States, or as may be required by the bureau of Indian affairs. The authorities of the Cherokee Nation may, by a general law, duly enacted, levy and collect on all licensed traders in the nation, a tax of not more than one half of one per cent. on all goods, wares and merchandise brought by them into the Cherokee country for sale, to be collected whenever such goods, wares and merchandise are

introduced, and estimated upon the first cost of the same at the place of purchase, as the same shall be shown by the copies of the invoices filed with the agent. No appeal shall hereafter lie from the decision of the agent or council, refusing a license, to the Commissioner of Indian Affairs, or elsewhere, except only to the superintendent, in case of a refusal by the agent. And no license shall be required to authorize any member of the Cherokee Nation to trade in the Cherokee country; nor to authorize any person to sell flour, meats, fruits and other provisions, or stock, wagons, agricultural implements or arms brought from any of the Confederate States into the country; nor shall any tax be levied upon such articles or the proceeds of the sale thereof. And all other goods, wares and merchandise, exposed to sale by a person not qualified, without a license, shall be forfeited, and be delivered and given to the authorities of the nation, as also shall all wines and liquors illegally introduced.

ARTICLE XXI

All restrictions contained in any treaty made with the United States, or created by any law or regulation of the United States, upon the limited right of any member of the Cherokee Nation to sell and dispose of, to any person whatever, any chattel or other article of personal property, are hereby removed; and no such restrictions shall hereafter be imposed, except by their own legislation.

ARTICLE XXII

It is hereby further agreed by the Confederate States, that all the members of the Cherokee Nation, as hereinbefore defined, shall be henceforward competent to take, hold and pass, by purchase, or descent, lands in any of the Confederate States, heretofore or hereafter acquired by them.

ARTICLE XXIII

In order to secure the due enforcement of so much of the laws of the Confederate States in regard to criminal offences and misdemeanors as is or may be in force in the said Cherokee country, and to prevent the Cherokees from being further harrassed by judicial proceedings had in foreign courts and before juries not of the vicinage, the said country is hereby erected into and constituted a judicial district, to be called the Cha-lah-ki district, for the special purposes and jurisdiction hereinafter provided; and there shall be created and semi-annually held, within such district at Tah-le-quah, or in case of the removal of the seat of Government of the nation, then at

such place as may become the seat of Government, a district court of the Confederate States, with the powers of a circuit court, so far as the same shall be necessary to carry out the provisions of this treaty, and with jurisdiction co-extensive with the limits of such district, in such matters, civil and criminal, to such extent and between such parties as may be prescribed by law, and in conformity to the terms of this treaty.

ARTICLE XXIV

In addition to so much and such parts of the acts of Congress of the United States enacted to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers as have been re-enacted and continued in force by the Confederate States, and as are not inconsistent with the provisions of this treaty, so much of the laws of the Confederate States, as provides for the punishment of crimes amounting to felony at common law or by statute, against the laws, authority or treaties of the Confederate States, and over which the courts of the Confederate States have jurisdiction, including the counterfeiting the coin of the United States or of the Confederate States, or the securities of the Confederate States, and so much of the said laws as provides for punishing violators of the neutrality laws, and resistance to the process of the Confederate States, and all the acts of the provisional Congress, providing for the common defence and welfare, so far as the same are not locally inapplicable shall hereafter be in force in the Cherokee country, and the said district court shall have exclusive jurisdiction to try, condemn and punish offenders against any such laws, to adjudge and pronounce sentence, and cause execution thereof to be done in the same manner as is done in any other district court of the Confederate States.

ARTICLE XXV

The said district court of the Confederate States of America for the district of Cha-lah-ki shall also have the same admiralty jurisdiction as other district courts of the Confederate courts against any person or persons residing or found within the district; and in all civil suits at law or in equity when the matter in controversy is of greater value than five hundred dollars, between a citizen or citizens of any State or States of the Confederate States or any Territory of the same, or an alien or aliens and a citizen or citizens of the said district, or person or persons residing therein; and the Confederate States will, by suitable enactments, provide for the appointment of a judge and other proper officers of the said court, the clerk and marshal being members of the Cherokee Nation, and make all necessary enactments and regulations for the complete

establishment and organization of the same, and to give full effect to its proceedings and jurisdiction.

ARTICLE XXVI

The said district court shall have no jurisdiction to try and punish any person for any offence committed prior to the day of the signing of this treaty; nor shall any action in law or equity be maintained therein, except by the Confederate States or one of them, when the cause of action shall have accrued before the same day of the signing hereof.

ARTICLE XXVII

If any citizen of the Confederate States or any other person, not being permitted to do so by the authorities of said nation or authorized by the terms of this treaty, shall attempt to settle upon any lands of the Cherokee Nation, he shall forfeit the protection of the Confederate States, and such punishment may be inflicted upon him, not being cruel, unusual or excessive, as may have been previously prescribed by law of the nation.

ARTICLE XXVIII

No citizen or inhabitant of the Confederate States shall pasture stock on the lands of the Cherokee Nation, under the penalty of one dollar per head, for all so pastured, to be collected by the authorities of the Nation; but their citizens shall be at liberty at all times, and whether for business or pleasure, peaceably to travel the Cherokee country; and to drive their stock to market or otherwise through the same, and to halt such reasonable time on the way as may be necessary to recruit their stock, such delay being in good faith for that purpose.

ARTICLE XXIX

It is also further agreed that the members of the Cherokee Nation shall have the same right of travelling, driving stock and halting to recruit the same, in any of the Confederate States, as is given citizens of the Confederate States by the preceding article.

ARTICLE XXX

If any person hired or employed by the agent or by any other person whatever, within the agency reserve, or any post or fort, shall violate the laws of the nation in such manner as to become an unfit person to continue in the Cherokee country, he or she shall be removed by the superintendent, upon the application of the executive of the nation, the superintendent being satisfied of the truth and sufficiency of the charges preferred.

ARTICLE XXXI

Any person duly charged with a criminal offence against the laws of either the Creek, Seminole, Choctaw or Chickasaw Nations, and escaping into the jurisdiction of the Cherokee Nation, shall be promptly surrendered upon the demand of the proper authority of the nation within whose jurisdiction the offence shall be alleged to have been committed; and in like manner, any person duly charged with a criminal offence against the laws of the Cherokee Nation, and escaping into the jurisdiction of either of the said nations, shall be promptly surrendered upon the demand of the proper authority of the Cherokee Nation.

ARTICLE XXXII

The Cherokee Nation shall promptly apprehend and deliver up all persons duly charged with any crime against the laws of the Confederate States, or of any State thereof, who may be found within its limits, on demand of any proper officer of the State or of the Confederate States; and in like manner any person duly charged with a criminal offence against the laws of the Cherokee Nation, and escaping into the jurisdiction of a State, shall be promptly surrendered, on demand of the executive of the nation.

ARTICLE XXXIII

Whenever any person, who is a member of the Cherokee Nation, shall be indicted for any offence in any court of the Confederate States, or of a State, he shall be entitled, as of common right to subpoena, and, if necessary, to compulsory process for all such witnesses in his behalf as his counsel may think necessary for his defence; and the cost of process for such witnesses and of service thereof, and the fees and mileage of such witnesses shall be paid by the Confederate States, being afterwards made, if practicable, in case of conviction, of the property of the accused. And whenever the accused is not able to employ counsel the court shall assign him one experienced counsel for his defence, who shall be paid by the Confederate States a reasonable compensation for his services, to be fixed by the court, and paid upon the certificate of the judge.

ARTICLE XXXIV

The provisions of all such acts of the Congress of the Confederate States as may now be in force, or as may hereafter be enacted for the purpose of carrying into effect the provisions of the Constitution in regard to the redelivery or return of fugitive slaves, or fugitives from labor and service, shall extend to and be in full force within the said Cherokee Nation; and shall also apply to all cases of escape of fugitive slaves from the said Cherokee Nation into any other

Indian nation, or into one of the Confederate States; the obligation upon each such nation or State to redeliver such slaves being in every case as complete as if they had escaped from another State and the mode of procedure the same.

ARTICLE XXXV

All persons, who are members of the Cherokee Nation, shall hereafter be competent as witnesses in all cases, civil and criminal, in the courts of the Confederate States, unless rendered incompetent from some other cause than their Indian blood or descent.

ARTICLE XXXVI

The official acts of all judicial officers in the said nation shall have the same effect and be entitled to the like faith and credit everywhere, as the like acts of judicial officers of the same grade and jurisdiction in any of the Confederate States; and the proceedings of the courts and tribunals of the said nation and copies of the laws and judicial and other records of the said nation shall be authenticated like similar proceedings of the courts of the Confederate States, and the laws and office records of the same, and be entitled to like faith and credit.

ARTICLE XXXVII

It is hereby declared and agreed that the institution of slavery in the said nation is legal and has existed from time immemorial; that slaves are taken and esteemed to be personal property; that the title to slaves and other property having its origin in the said nation shall be determined by the laws and customs thereof; and that the slaves and other personal property of every person domiciled in said nation shall pass and be distributed at his or her death in accordance with the laws, usages and customs of the said nation, which may be proved like foreign laws, usages and customs, and shall everywhere be held binding within the scope of their operations.

ARTICLE XXXVIII

No ex post facto law, or law impairing the obligation of contracts shall ever be enacted by the legislative authority of the Cherokee Nation; nor shall any citizen of the Confederate States, or member of any other Indian [nation,] or tribe be disseized of his property or deprived or restrained of his liberty, or fine, penalty, or forfeiture be imposed on him in the said country, except by the law of the land, nor without due process of law; nor shall any such citizen be in any way deprived of any of the rights guaranteed to all citizens by the Constitution of the Confederate States.

ARTICLE XXXIX

It is further agreed that the Congress of the Confederate States shall establish and maintain post-offices at the most important places in the Cherokee Nation, and cause the mails to be regularly carried, at reasonable intervals, to and from the same, at the same rates of postages and in the same manner as in the Confederate States; and the postmasters shall be appointed from among the citizens of the Cherokee Nation.

ARTICLE XL

In consideration of the common interest of the Cherokee Nation and the Confederate States, and of the protection and rights guaranteed to the said nation by this treaty, the Cherokee Nation hereby agrees that it will raise and furnish a regiment of ten companies of mounted men, with two reserve companies, if allowed, to serve in the armies of the Confederate States for twelve months; the men shall be armed by the Confederate States, receive the same pay and allowances as other mounted troops in the service, and not be moved beyond the limits of the Indian country west of Arkansas without their consent.

ARTICLE LXI

The Cherokee Nation hereby agrees to raise and furnish, at any future time, upon the requisition of the President, such number of troops for the defence of the Indian country, and of the frontier of the Confederate States, as he may fix, not out of fair proportion to the number of its population, to be employed for such terms of service as the President may determine; and such troops shall receive the same pay and allowances as other troops of the same class in the service of the Confederate States.

ARTICLE XLII

It is further agreed by the said Confederate States that the said Cherokee Nation shall never be required or called upon to pay, in land or otherwise, any part of the expenses of the present war, or of any war waged by or against the Confederate States.

ARTICLE XLIII

It is further agreed that after the restoration of peace, the Government of the Confederate States will defend the frontiers of the Indian country, of which the Cherokee country is a part, and hold the forts and posts therein, with native troops, recruited among the several Indian nations included therein, under the command of officers of the Confederate States, in preference to other troops.

ARTICE XLIV

In order to enable the Cherokee Nation to claim its rights and secure its interests without the intervention of counsel or agents, it shall be entitled to a delegate to the House of Representatives of the Confederate States of America, who shall serve for the term of two years, and be a native born citizen of the Cherokee Nation, over twenty-one years of age, and laboring under no legal disability by the law of the said nation; and each delegate shall be entitled to the same rights and privileges as may be enjoyed by delegates from any territories of the Confederate States to the said House of Representatives. Each shall receive such pay and mileage as shall be fixed by the Congress of the Confederate States. The first election for delegate shall be held at such time and places, and shall be conducted in such manner as shall be prescribed by the Principal Chief of the Cherokee Nation, to whom returns of such elections shall be made, and who shall declare the person having the greatest number of votes to be duly elected, and give him a certificate of election accordingly, which shall entitle him to his seat. For all subsequent elections, the time, places and manner of holding them, and ascertaining and certifying the result, shall be prescribed by the Confederate States.

ARTICLE XLV

It is hereby ascertained and agreed between the parties to this treaty, that the United States of America, of which the Confederate States of America were heretofore a part, were, before the separation, indebted, and still continue to be indebted to the Cherokee Nation, and bound to the punctual payment to them of the following sums annually on the first day of [blank] in each year, that is to say: It was agreed by the tenth article of the treaty of the twenty-ninth day of December, A. D., one thousand eight hundred and thirty-five that the sum of two hundred thousand dollars should be invested by the President of the United States, in some safe and most productive public stocks of the country for the benefit of the whole Cherokee Nation, in addition to the annuities of the nation theretofore payable, to constitute a permanent general fund, and that the nett income of the same should be paid over by the President annually to such person or persons as should be authorized or appointed by the Cherokee Nation to receive the same, whose receipt should be a full discharge for the amount paid to them, the same interest to be applied annually by the council of the nation to such purposes as they might deem best for the general interests of their people; and it was agreed by the eleventh article of the same treaty, that the permanent annuity of ten thousand dollars of the Cherokee Nation should be commuted for the

sum of two hundred and fourteen thousand dollars, and that the same should be invested by the President of the United States, as a part of the said general fund of the nation, which thus became four hundred and fourteen thousand dollars. And it was agreed by the tenth article of the same treaty, that the President of the United States should invest in some safe and most productive public stocks of the country, the further sum of fifty thousand dollars, to constitute a permanent orphan's fund; and that he should pay over the nett income of the same annually to such person or persons as should be authorized or appointed by the Cherokee Nation to receive the same, whose receipt should be a full discharge for the amount paid to them; which nett annual income should be expended towards the support and education of such orphan children of the Cherokees as might be destitute of the means of subsistence. And it was agreed by the tenth article of the same treaty, that the further sum of one hundred and fifty thousand dollars should be invested by the President of the United States in some safe and most productive public stocks of the country for the benefit of the whole Cherokee Nation, which should constitute, in addition to the existing school fund of the nation, a permanent school fund, the nett income whereof the President should pay over annually to such person or persons as should be authorized or appointed by the Cherokee Nation to receive the same, whose receipt should be a full discharge for the amount paid to them; and that the interest should be applied annually by the council of the nation for the support of common schools and such a literary institution of a higher order as might be established in the Cherokee country; and it was estimated by the eleventh article of the same treaty that the then existing school fund of the nation amounted to about fifty thousand dollars which, it was thereby agreed, should constitute a part of the permanent school fund aforesaid. And it is also further agreed between the said parties to this treaty, that the United States of America while the said Confederate States were States of the said United States, did invest the whole of the said several principal sums of money, except the sum of five thousand dollars, in stocks of the States hereinafter named, and of the United States, to the amount hereinafter named in each, that is to say:

The Permanent General Fund of the Nation.

In seven per cent. stock of the State of Florida, seven thousand dollars, ($7,000.)

In six per cent. stock of the State of Georgia, one thousand and five hundred dollars, ($1,500.)

In five per cent. stock of the State of Kentucky, ninety-four thousand dollars, ($94,000.)

In six per cent. stock of the State of Louisiana, seven thousand dollars, ($7,000.)

In six per cent. stock of the State of Maryland, seven hundred and sixty-one [dollars] and thirty-nine cents, ($761.39.)

In six per cent. stock of the State of Missouri, fifty thousand dollars, ($50,000.)

In six per cent. stock of the State of North Carolina, twenty thousand dollars, ($20,000.)

In six per cent. stock of the State of South Carolina, one hundred and seventeen thousand dollars, ($117,000.)

In five per cent. stock of the State of Tennessee, one hundred and twenty-five thousand dollars, ($125,000.)

In six per cent. stock of the State of Tennessee, five thousand dollars, ($5,000.)

And in six per cent. stock of the State of Virginia, ninety thousand dollars, ($90,000.)

Making the whole capital so invested, five hundred and seventeen thousand two hundred and sixty-one dollars and twenty-nine cents; the nett annual income whereof was and is twenty-eight thousand nine hundred and fourteen dollars and ninety-one cents.

The Permanent Orphan Fund.

In six per cent. stock of the State of Virginia, forty-five thousand dollars, ($45,000.)

The nett annual income whereof was and is two thousand and seven hundred dollars; leaving the sum of five thousand dollars uninvested and which still so remains.

The Permanent School Fund.

In seven per cent. stock of the State of Florida, seven thousand dollars, ($7,000.)

In six per cent. stock of the State of Louisiana, two thousand dollars, ($2,000.)

In five and a half per cent. stock of the State of Missouri, ten thousand dollars, ($10,000.)

In six per cent. stock of the State of Missouri, five thousand dollars, ($5,000.)

In six per cent. stock of the State of North Carolina, twenty-one thousand dollars, ($21,000.)

In five per cent. stock of the State of Pennsylvania, four thousand dollars, ($4,000.)

In six per cent. stock of the State of the South Carolina, one thousand dollars, ($1,000.)

In six per cent. stock of the State of Tennessee, seven thousand dollars, ($7,000.)

In the United States six per cent. loan of 1847, five thousand eight hundred dollars, ($5,800.)

And in six per cent. stock of the State of Virginia, one hundred and thirty-five thousand dollars, ($135,000.)

Making the whole capital so invested, of the said permanent school fund, one hundred and ninety-seven thousand eight hundred dollars, the nett annual income of whereof was and is eleven thousand eight hundred and forty-eight dollars.

All of which stocks the said United States now and do still continue to hold, or ought to have, in their hands.

And it is also hereby ascertained and agreed between the parties to this treaty, that there will be due to the Cherokee Nation on the first day of January, in the year of our Lord, one thousand eight hundred and sixty-two, for and on account of the said annually accruing interest on the said principal sums, and of arrearages thereof, the sum of sixty-five thousand six hundred and forty-four dollars and thirty-six cents, as follows, that is to say:

For the instalments of interest on the permanent general fund, as invested, for July, 1860, and January and July, 1861, forty-three thousand three hundred and seventy-two dollars and thirty-six cents, ($43,372 36.)

For the instalments of interest on the permanent orphan fund, as invested and uninvested, for July, 1860, and January and July, 1861, four thousand five hundred dollars, ($4,500.)

For the instalments of interest on the permanent school fund, as invested, for July, 1860, and January and July, 1861, seventeen thousand seven hundred and seventy-two dollars, ($17,772.)

And it not being desired by the Confederate States that the Cherokee Nation should continue to receive these annual sums of interest or the said arrearages, from the Government of the United States or otherwise have any further connection with that Government: therefore, the said Confederate States of America do hereby assume the payment for the future of the annual interest on the said sum of five thousand dollars, part of the permanent orphan fund, which was never invested, and on so much and such parts of said principal sums as, having once been invested, may now be in the hands of the United States uninvested; and also of the annual interest on so much and such parts of the said several principal sums as may have been invested in stocks of the United States or in the bonds or stocks of any of the States other than the said Confederate States; and do agree and bind themselves regularly and punctually hereafter, on the first day of July in each and every year, to pay the same; and they do also agree and bind themselves to pay to the treasurer of the Cherokee Nation immediately upon the complete ratification of this treaty the said sum of sixty-five thousand six hundred and forty-four dollars

and thirty-six cents for such interest and arrearages now due and which will be due on the first day of January, A. D., one thousand eight hundred and sixty-two, as are above stated.

And the said Confederate States of America do hereby assume the duty and obligation of collecting and paying over as trustees to the said Cherokee Nation all sums of money not hereby agreed to be assumed and paid by them, accruing whether from interest or capital of the bonds of the several States of the Confederacy now held by the Government of the United States as trustee for the Cherokee Nation; and the said interest and capital, as collected, shall be paid over to the said Cherokee Nation.

And the said Confederate States will request the several States of the Confederacy whose bonds are so held, to provide by legislation or otherwise that the capital and interest of such bonds shall not be paid to the Government of the United States, but to the Government of the Confederate States in trust for the said Cherokee Nation.

And the said Confederate States of America do hereby guarantee to the said Cherokee Nation the final settlement and full payment, upon and after the restoration of peace and recognition of their independence, as of debts in good faith and conscience as well as in law due and owing on good and valuable consideration by the said Confederate States and other of the United States jointly before the secession of any of the States, of any and all parts of the said several principal sums of money which may have remained uninvested in the hands of the United States, or which may have been again received by them after investment and may now be held by them; and do also guarantee to the said Cherokee Nation the final settlement and full payment, at the same period, of the capital of any and all bonds or stocks of any State not a member of the Confederacy and of any and all stocks of the United States in which any of the Cherokee funds may have been invested.

ARTICLE XLVI

All the said annual payments of interest and the arrearages shall be applied under the exclusive direction of the legislative authority of the Cherokee Nation to the support of their Government, to the purposes of education, to the maintenance of orphans, and to such other objects for the promotion and advancement of the improvement, welfare and happiness of the Cherokee people and their descendants, as shall to the legislature seem good, the same being in accordance with treaty stipulations and maintaining unimpaired the good faith of the Cherokee Nation to those persons and in regard to those objects for whom and which it has become trustee.

And the capital sums aforesaid shall be invested or reinvested with any other moneys hereby guaranteed, after the restoration of peace, in stocks of the States of the Confederacy at their market price and in such as bear the highest rate of interest, or shall be paid over to the Cherokee Nation, after reasonable notice, to be invested by its authorities as its legislature may request. And no department or officer of the Government of the Confederate States shall hereafter have power to impose any conditions, limitations or restrictions on the payment to the said nation of any [of] said annual sums of interest, or of any arrearages, or in any wise to control or direct the mode in which such moneys when received by the authorities of the nation, shall be disposed of or expended.

ARTICLE XLVII

Whereas, by the treaty of the twenty-ninth day of December, A. D, one thousand eight hundred and thirty-five, the United States of America, in consideration of the sum of five hundred thousand dollars, part of the of the sum of five millions of dollars agreed by that treaty to be paid to the Cherokee Nation for the cession of all their lands and possessions east of the Mississippi river, did covenant and agree to convey to the Cherokees and their descendants by patent in fee simple the certain tract of land between the State of Missouri and the Osage reservation, the boundary line whereof it was provided should begin at the southeast corner of the said Osage reservation and run north along the east line of the Osage lands fifty miles to the northeast corner thereof; thence east to the west line of the State of Missouri; thence with that line south fifty miles; and thence west to the place of beginning: which tract of country was estimated to contain eight hundred thousand acres of land; and whereas, the same has been seized and settled upon by lawless intruders from the northern States and may become totally lost to the Cherokees:

Now, therefore, it is further hereby agreed between the parties to this treaty, that in case the said tract of country should be ultimately lost to the Cherokees by the chances of war, or the terms of a treaty of peace or otherwise, the Confederate States of America do assure and guaranty to the Cherokee Nation the payment therefor of the said sum of five hundred thousand dollars, with interest thereon at the rate of five per cent. per annum from the said twenty-ninth day of December, A. D., one thousand eight hundred and thirty-five, and will either procure the payment of the same by the United States, or pay the same out of their own treasury, after the restoration of peace.

ARTICLE XLVIII

At the request of the authorities of the Cherokee Nation, and in consideration of the unanimity and promptness of their people in responding to the call of the Confederate States for troops, and of their want of means to engage in any works of public utility and general benefit, or to maintain in successful operation their male and female seminaries of learning, the Confederate States do hereby agree to advance to the said Cherokee Nation, immediately after the ratification of this treaty, on account of the said sum to be paid for the said lands mentioned in the preceding article, the sum of one hundred and fifty thousand dollars, to be paid to the treasurer of the nation, and appropriated in such manner as the legislature may direct; and to hold in their hands as invested for the benefit of the said nation, the further sum of fifty thousand dollars, and to pay to the treasurer of said nation interest thereon, annually, on the first day of July in each year, at the rate of six per cent. per annum, which shall be sacredly devoted to the support of the said two seminaries of learning, and to no other purpose whatever.

ARTICLE XLIX

It is further ascertained and agreed by and between the Confederate States and the Cherokee Nation that the treaty of the sixth day of August, A. D., one thousand eight hundred and forty-six, was negotiated and concluded with the United States, by three several parties, that is to say, the Cherokee Nation, by delegates appointed by its constituted authorities; that portion of the nation known as "the treaty party," being those who made and those who agreed to the treaty of the year one thousand eight hundred and thirty-five; and "the western Cherokees," or "old settlers," being those who had removed west prior to the date of that treaty, and were then residing there. That the said three parties, by their delegates, after the making of the said treaty, of the year one thousand eight hundred and forty-six, borrowed from Corcoran and Riggs, bankers in the city of Washington, the sum of sixty thousand dollars, upon agreement endorsed by the Secretary of War, by which the same was to be repaid, with interest, when the moneys payable under said treaty should be appropriated, as follows, that is to say; twenty-five thousand dollars by the treaty party, twenty thousand dollars by the western Cherokees or old settler party, and fifteen thousand dollars by the Cherokee Nation. That at the session of Congress next after the making of that treaty, the sum of twenty-seven thousand dollars, for the Cherokee Nation, was appropriated under the eighth article of the same, and the sum of one hundred thousand dollars, under the sixth article, for the treaty party; but no appropriation was made for the

western Cherokees or old settler party, under the fourth article, (whereunder only any moneys were payable to them,) the amount due them, and which was to be wholly paid per capita, under that article, not having as yet been ascertained; that consequently the sum borrowed as aforesaid, with the accrued interest, was repaid out of the two appropriations aforesaid, one half of the principal and interest which should have been paid by the western Cherokee or old settler party, being deducted from and paid out of the appropriation made for each of the others; and there being thus paid, out of the moneys so appropriated under the eighth article, for various purposes, for the whole nation, over and above its proportion, the sum of ten thousand three hundred dollars; and out of the moneys appropriated under the sixth article, for those of the treaty party who had sustained losses and damage in consequence of the treaty of the year one thousand eight hundred and thirty-five, over and above the proportion of that party, a like sum of ten thousand three hundred dollars. That when afterwards the amount ascertained to be due to the western Cherokees or old settlers, under the fourth article, was appropriated, the whole amount was paid to and distributed among them per capita, and no part of the sum so advanced for them, out of the other and previous appropriations, was reserved, nor has any part thereof whatever hitherto been re-imbursed to those entitled to receive the same, by the western Cherokees, or by the United States, or otherwise howsoever.

Therefore, it is further hereby agreed that the Confederate States will pay, upon the ratification of this treaty, to the Cherokee Nation, the sum of ten thousand three hundred dollars; and will also appropriate and place in the hands of the agent for the Cherokees the further sum of ten thousand three hundred dollars, to be distributed among the claimants of the treaty party, provided for by the sixth article of the said treaty, or their legal representatives under the laws of the nation, in such proportions as it shall be certified to him by Stand Watie, the only surviving member of the committee of five, appointed under that article to audit such claims, that it ought, in accordance with the allowances made by the committee, to be distributed among them. And it was agreed by the said eighth article of the said treaty of the year one thousand eight hundred and forty-six, that of the sum of twenty-seven thousand dollars, provided thereby to be paid to the Cherokee Nation, the sum of five thousand dollars should be equally divided among all those whose arms were taken from them previous to their removal west, by order of an officer of the United States, and of that sum of five thousand dollars, three thousand three hundred dollars was applied to the payment in part of the proportion of the money borrowed as aforesaid, due by the

Western Cherokees or Old Settler party; and as the authorities of the nation declined to receive the residue of said sum of five thousand dollars, it being but one thousand seven hundred dollars, and that residue never was paid by the United States, and still remains due by them,--

Therefore, it is hereby further agreed, that the Confederate States will also pay, upon the ratification of this treaty, to the treasurer of the Cherokee Nation, the further sum of one thousand seven hundred dollars; making, with the said sum of ten thousand three hundred dollars, the sum of twelve thousand dollars; and that out of the same, the sum of five thousand dollars shall, by the authorities of the nation, be distributed among those persons, and their legal representatives, whose arms were taken from them as aforesaid: and that any part of that sum finally remaining undistributed, together with the residue of seven thousand dollars, shall be used and appropriated in such manner as the national council shall direct.

ARTICLE L

It is hereby further agreed that all claims and demands against the Government of the United States in favor of the Cherokee Nation or any part thereef, or of any individuals thereof, and which have not been satisfied, released or relinquished, arising or accruing under former treaties, shall be investigated upon the restoration of peace, and be paid by the Confederate States, which do hereby take the place of the United States and assume their obligations in that regard.

ARTICLE LI

It is further agreed between the parties that all provisions of the treaties of the Cherokee Nation with the United States, which secure or guarantee to the Cherokee Nation or individuals thereof any rights or privileges whatever, and the place whereof is not supplied by, and which are not contrary to the provisions of this treaty, and so far as the same are not obsolete or unnecessary, or repealed, annulled, changed or modified by subsequent treaties or laws, or by this treaty, are and shall be continued in force, as if made with the Confederate States.

ARTICLE LII

In further evidence of the desire of the Confederate States to advance the individual interests of the Cherokee people, it is further agreed, that the delegate in Congress from the Cherokee Nation may, with the approbation of the President, annually select one youth, a native of the nation, who shall be appointed to be educated at any military schaol that may be established by the Confederate States, upon the same terms as other cadets may be appointed.

And the Confederate States also agree that the same privilege shall be exercised by the delegate from the Choctaw and Chickasaw Nations, and the Creek and Seminole Nations, respectively.

ARTICLE LIII

A general amnesty of all past offences against the laws of the United States, and of the Confederate States, committed in the Indian country before the signing of this treaty, by any member of the Cherokee Nation, as such membership is defined by this treaty, is hereby declared; and all such persons, if any, whether convicted or not, imprisoned or at large, charged with any such offence, shall receive from the President full and free pardon, and be discharged.

ARTICLE LIV

A general amnesty is hereby declared in the Cherokee Nation; and all offences and crimes committed by a member or members of the Cherokee Nation against the Nation, or against an individual or individuals, are hereby pardoned; and this pardon and amnesty shall extend as well to members of the nation now beyond its limits, as to those now resident therein.

ARTICLE LV

This treaty shall take effect and be obligatory upon the contracting parties, from the seventh day of October, in the year of our Lord one thousand eight hundred and sixty-one, whenever it shall be ratified by the General Council of the Cherokee Nation, and by the provisional President and Congress, or the President and Senate of the Confederate States; and no amendment shall be made thereto by either, but it shall be wholly ratified or wholly rejected.

SEAL

In perpetual testimony whereof, the said Albert Pike, as Commissioner, with plenary powers, on the part of the Confederate States, doth now hereunto set his hand and affix the seal of his arms; and the said Principal and assistant Principal Chiefs, Executive Councillors and Special Commissioners, on the part of the Cherokee Nation, do hereunto set their hands and affix their seals.

Thus done and interchanged in duplicate, at the place, in the year and on the day in the beginning hereof mentioned.

ALBERT PIKE,

Commissioner of the Confederate States to the Indian Nations west of Arkansas.

JNO. ROSS,
Principal Chief.
J. VANN,
Assistant Chief.
JAMES BROWN,
Executive Councillor.
JOHN DREW,
Executive Councillor.
WILL. P. ROSS,
Executive Councillor.
LEWIS ROSS,
Commissioner C. N.
THOMAS PEGG,
Commissioner C. N.
RICHARD FIELDS,
Commissioner C. N.

Signed, sealed and delivered in presence of us.
WM. QUESENBURY,
Secretary to the Commissioner.
E. RECTOR,
Superintendent Indian Affairs Confederate States.
W. WARREN JOHNSON,
GEO. M. MURRELL,

RATIFICATION.

Dec. 11, 1861.

Resolved, (two-thirds of the Congress concurring,) That the Congress of the Confederate States of America do advise and consent to the ratification of the articles of a treaty made by Albert Pike, Commissioner of Confederate States to the Indian Nations west of Arkansas, in behalf of the Confederate States, of the one part, and the Cherokee Nation of Indians, by its Principal and Assistant Principal Chiefs, Executive Councillors and Commissioners, for that

purpose only, authorized and empowered, of the other part, concluded at Tahlequah, in the Cherokee Nation, on the seventh day of October, in the year of our Lord, one thousand eight hundred and sixty-one, with the following

AMENDMENTS:

I. Add at the end of article xxxv. the following words: "And the Confederate States will request the several States of the Confederacy to adopt and enact the provisions of this article, in respect to suits and proceedings in their respective courts."

II. Strike out from article xliv. the following words: "The same rights and privileges as may be enjoyed by delegates from any Territories of the Confederate States to the said House of Representatives," and insert in lieu thereof the following words: "A seat in the hall of the House of Representatives, to propose and introduce measures for the benefit of the said nation, and to be heard in regard thereto, and on other questions in which the nation is particularly interested; with such other rights and privileges as may be determined by the House of Representatives.

III. Strike out from article xxxiii. the following words: "or of a State," and insert in lieu thereof the following words: "or of a State, subject to the laws of the State."

NOTE.--The foregoing amendments were subsequently concurred in and adopted by the Cherokee Nation.