

## ROSS AND WATIE: THE RELATIONSHIP AND INFLUENCE OF CHEROKEE CHIEFS, FROM REMOVAL TO THE CIVIL WAR

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John Ross and Stand Watie were chiefs and leaders of the Cherokee people through a large part of the nineteenth century. Politically they differed in thought and action. Even though they maintained different political understanding, they both believed in the unity of the Cherokee Nation. Through their lives, their differences shaped each other and their nation. Their actions had major influences on one another. What started as a political divide became a personal grudge over decades. The decisions they made for themselves and the Cherokee people had great effect on each other. Their political movements were not only based on the Cherokee people, but on how the other would react. This relationship began in the early 19<sup>th</sup> century and went through the Civil War. They were a part of treaties, assassinations, peace, and war. They influenced and changed their nation, and influenced and changed each other.

In order to understand the relationship of Ross and Watie, one must understand the primitive law of the Cherokee. An outside observer may not see any structure or order to early Cherokee society, but even though their laws were not written down they were still understood by their people. Social harmony and popular consensus was the cornerstone of Cherokee order. Consensus did not have to come from vote, but often came when the opposition gave up their side or left the council. It was also custom for young men to defer to their elders, whose opinions held more weight than their young counterparts. Each year the Cherokee would hold a yearly festival where all sins were absolved, except for murder. That was unforgiveable.<sup>1</sup>

When a Cherokee killed another tribesman, intentionally or by accident, it was seen as a personal wrong. This in turn, created a personal right for the decessor's clan to take a life in order to balance the death of their loved one. Relatives of a murdered Cherokee had the duty of killing the manslayer or one of the manslayer's relatives.<sup>2</sup> The Cherokee believed their dead clansman's spirit must have blood spilt in revenge. The blood did not have to be that of the murderer for satisfaction to take place. This law of vengeance, or blood feud, was no concern to the Cherokee Nation; instead it was the responsibility of the deceased's tribal clan to uphold, often falling to the older male relative of the deceased.

After the American Revolution, Southern states began to pressure the Cherokee to cede land to their citizens. The North Carolina legislature granted parts of the Cherokee nation in present day Tennessee to any citizen who would move there. Georgia forced the Cherokee to give up large tracts of land for their citizens to develop. The Cherokee agreed to sign the Treaty of Hopewell in 1785, creating boundaries of their nation and ensuring friendliness among its people and the American citizens of the South. The Southern states did not abide by this treaty and continued to encroach on their land. The Southerners saw great value in the Cherokee lands to be exploited and wanted to use the land for farming and deer skin trapping. The Cherokee were quick to adapt and signed the Treaty of Holston in 1791, putting the tribe under the protection of the federal government, and it encouraged the Cherokees to take up an agrarian way of life like their white Southern neighbors. Treaties signed by the Cherokee National Council could only be upheld if the populace agreed to the terms; furthermore no Cherokee had the right to negotiate treaties without the consent of the National Council, nor could he make decisions on his own. All Cherokee were seen as equal and had a right to participate at the

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<sup>1</sup> John Phillip Reid, *A Law of Blood* (DeKalb, IL: Northern Illinois University Press, 2006), 50-54; Rennard Strickland, *Fire and the Spirits: Cherokee Law from Clan to Court* (Norman, OK: University of Oklahoma Press, 1975), 12, 22.

<sup>2</sup> Reid, *A Law of Blood*, 73-75; Robert M. Owens, "'Between Two Fires': Elusive Justice on the Cherokee-Tennessee Frontier, 1796-1814," *The American Indian Quarterly* 40, no. 1 (Winter 2016): 42, 47.

national council. The National Council was the beginning of a more centralized system for the Cherokee, but it still lacked authority to punish individual Cherokee for disobeying treaty law, and the Cherokee had no concept of treason. The Cherokee form of government began to take on parts of the U.S. federal government from consistent contact with them. The Cherokee government shifted from tribal councils to a more centralized national government. Even as the Cherokee nation developed, more conservative Cherokees still believed in primitive law such as the blood feud. The Cherokee hoped that by adopting the colonists' way of life they could end the encroachment and call for removal from the Southern states. For many decades this was the case, but the pressure was only relieved, not fully gone.<sup>3</sup>

The Cherokee adapted to the Southern way of life, creating farms in the English colonist fashion. Men spent more time in fields and less hunting; women became more adapt to maintaining the household. Successful and wealthy Cherokee farmers were able to expand into large plantations buying slaves, buildings, roads, and ferries. These wealthy Cherokee became the economic elite and had control over political affairs in the tribal nation. Most of these elites were of mixed-blood, being descendants of both Cherokee and white colonists. With the rise of developing land came the concept of personal property and the need to protect it. The Cherokee Nation developed a government similar to the U.S., in order to protect property rights as well as preserve their nation.<sup>4</sup>

The written law the National Council passed created regulators to enforce and judge punishment for criminal Cherokee. The second law abolished the blood revenge, or blood feud in 1818. Additionally, outlawry was made a capital offence; anyone who sold tribal land without the permission of the tribe was to be considered an outlaw and could be killed within tribal territory without recourse.<sup>5</sup> Stand Watie and his family were guilty of such charges by Ross supporters in the coming years.

The Cherokee Constitution of 1827 created a legislative, executive, and judicial system similar to the U.S. Constitution. The Cherokee Constitution set boundaries of the nation, and gave powers to each branch of government, created eight districts to be represented in the General Council, and it gave the right to vote to each free Cherokee male eighteen or older. The General Council would vote on the Principal Chief of the Executive Branch, similar to the electoral college of the U.S.<sup>6</sup> The Principal Chief would be similar to the president. The General Council, like the Electoral College, had the power to elect the Chief every four years; they would typically refer to the will of the Cherokee they represented in choosing the Principal Chief. John Ross, Principal Chief of the Cherokee, and Major Ridge, tribal council member, were both mix-blood Cherokees who had prominent political influence in the early nineteenth century. The large influence these men had in the Cherokee nation would shape future treaty policy and relations with the federal government. One of Major Ridge's supporters was his nephew, Stand Watie, whose relationship to Ross was shaped by politics and family tragedy. Even as a divide grew between the Ridge family and Ross family, they all did what they believed was the best to keep their people united.

The Cherokee Constitution also made treason a capital offense similar to outlawry. Section 268 states: "...every person who shall contrary to the will and consent of the National Council, enter into a treaty with the government of the United States, or with any department of officer thereof, or with any state of the United States, or officer thereof, and agree to cede, sell, exchange, or dispose of, in any manner the lands belonging to the Cherokees, or any part or portion thereof, shall be deemed guilty of treason, and on conviction thereof, suffer death by hanging."<sup>7</sup> A Cherokee who deliberately violated community interest for personal gain, was considered to have committed treason.<sup>8</sup> This is an important issue due to past attempts by Cherokee to negotiate treaties without national consent.

Even after adapting the southerner's way of life and becoming one of what is called, The Five Civilized Tribes, the Cherokee people were still being pressured for removal. The state of Georgia was most adamant for

<sup>3</sup> Theda Perdue and Michael D. Green, *The Cherokee Removal: A Brief History with Documents 2<sup>nd</sup> ed.* (Boston: St. Martin's Press, 2004), 8-11; Owens, "'Between Two Fires'..." 51; Reid, *A Law of Blood*, 60-66.

<sup>4</sup> Craig W. Gains, *The Confederate Cherokees* (Baton Rouge and London, The Louisiana University Press: 1989), 1; Perdue and Green, *The Cherokee Removal*, 13-14.

<sup>5</sup> Strickland, *Fire and the Spirits*, 58-60, 78.

<sup>6</sup> "Constitution of the Cherokee Nation," *Cherokee Phoenix*, February 21, 1828.

<sup>7</sup> Cherokee Constitution, art I, sec. 268.

<sup>8</sup> Strickland, *Fire and the Spirit*, 37.

removal since a large portion of the Cherokee Nation was in their state.<sup>9</sup> The Ridge party, headed by the son of Major Ridge, John; was in favor of creating a treaty with the U.S. in order to secure funds and land in the western Indian Territory. Their support came from many of the wealthy mixed-bloods in the nation.

The Ross party, headed by Principal Chief John Ross, wanted to remain in Georgia on their ancestral lands and was supported by the majority of the Cherokee people.<sup>10</sup> In 1835 The Cherokee leaders agreed to create a delegation to negotiate with the U.S. federal government. The delegation was made up of eighteen prominent men in the Cherokee Nation. The delegation included John Ross, his brother Lewis Ross, Stand Watie, and his cousin John Ridge. President Jackson sent John F. Schermerhorn to represent the federal government and obtain a treaty that would remove the Cherokee from the south. Even though John Ross was the Principal Chief, he would write in his papers that the whole delegation was to determine terms with the federal government over treaty policy. He considered all men at the formation of the delegation a part of the process even though he denies the Ridges and Watie as delegate members in future letters.<sup>11</sup>

Differences began to arise between Ross and Watie in August of 1835 when Watie and the Georgia Guard seized the printing press of the *Cherokee Phoenix*, the Cherokee national newspaper; from Elijah Hicks, another prominent member of the delegation. Ross wrote Schermerhorn in protest, stating that Watie had no right to the press because it belonged to the Cherokee people. However, his animosity pointed more towards the Georgia Guard and the state rather than Watie. Watie claimed he was seizing the press because it belonged to his brother Elias Boudinot, the founder of the *Cherokee Phoenix*. Boudinot purchased the press with public donations he acquired himself, mostly through churches and wealthy philanthropist who wanted a national paper. Ross claimed that Watie was never an editor to the *Cherokee Phoenix* and had no right or reason to take it. He also expressed his displeasure of the state in his letter to Schermerhorn, "... for the manner of the seizure of the public press could not have sanctioned for any other purpose than to stifle the voice of the Cherokee people, raised by their cries from the wounds inflicted upon them by the unsparing hand of their oppressors and that the ear of humanity might thereby be prevented from hearing them."<sup>12</sup> Watie explained that part of the reason he took the press was because he believed that Ross was trying to re-establish it for himself. Also, likely unknown to Ross, Watie had been the editor of the paper in his brother's absence, before Boudinot resigned his duties to Elijah Hicks. Regardless of who was in the right, Watie did not want Ross to re-establish the paper with Elijah Hicks, in fear that he would use it to promote himself to the Cherokee people. Consequentially the state of Georgia got what it desired in stifling the communication of the Cherokee nation, making it more difficult to spread important information regarding treaty and removal to all the Cherokee people.<sup>13</sup>

Stand Watie's desire for removal was somewhat influenced by his cousin, John Ridge; who had met with President Jackson hoping to dissuade him against removal. But after their conversation, John Ridge realized that Jackson would never support the Cherokee staying in Georgia, and Jackson sternly let it be known that removal was the only action. Watie understood that removal was going to happen no matter what, and he believed the best option for the Cherokee was to work with the federal government to ensure the best possible terms for removal. Even though Ridge and Ross supporters disagreed on removal, the delegation still stayed intact. Major Ridge joined the delegation in November of 1835 on the suggestion of John Ridge and agreement by Ross. One month later parts of the delegation, including John Ridge, Major Ridge, and Stand Watie, met in New Echota, the Cherokee capitol. There the Treaty of New Echota was signed by multiple Cherokee men including, Andrew Ross, John's younger brother. The Ridges and Watie were the only signatures of the original delegation. This was an extreme action by the signers, all aware that signing the treaty would be considered treason and they could be put to death for their actions. The treaty stripped the Cherokee of all their lands in the South and forced them all to move to Indian Territory within the next two years. The treaty was not binding until it was

<sup>9</sup> Perdue and Green, *The Cherokee Removal*, 71.

<sup>10</sup> Gaines, *The Confederate Cherokee*, 3.

<sup>11</sup> Ross Moulton, *The Papers of Chief John Ross*, Vol. I 1807-1839 (Norman: University of Oklahoma Press: 1984) 378, 457-458.

<sup>12</sup> *Ibid*, 358.

<sup>13</sup> *Ibid*, 352-353,358; Thurman Wilkins, *Cherokee Tragedy* (New York: The Macmillan Company: 1970) 189-190, 231.

ratified by Congress. Furthermore, without the signatures of the official delegation, it technically should not be upheld by the U.S. government.<sup>14</sup>

Major Ridge sent the copies of the treaty to each member of the delegation hoping they would sign it as well. John Ross did not agree with the treaty and did not sign it, but still considered the Ridges and Watie as part of the delegation, writing after the fact that he considered the delegation made up of eighteen men, which at the time consisted of the Ridges and Watie.<sup>15</sup> John Ridge and Elias Boudinot were scheduled to meet with Jackson in Washington after the creation, but before ratification of the New Echota treaty. Elias declined to go, and John Ridge pressed for Watie to accompany him, which Ross agreed to.<sup>16</sup> At this time Ross and Watie were still on familiar terms, since communication between the two was still ongoing on the removal issue. Ross was also under the assumption that the meeting was for working in more favorable terms for the Cherokee for he still did not want removal for his people. This meeting never occurred. Believing that the Treaty of New Echota was their best option, the Treaty Party pushed it through, and it was ratified by the U.S. Senate in March of 1836. The Treaty Party, including Watie, wrote on multiple occasions their belief that this was the best deal. The treaty also gave them the authority over the Cherokee Treasury and the funds to come to the Cherokee Nation from the ceding of the land in the South.<sup>17</sup> The ratification of the New Echota Treaty made Watie and the Treaty Party traitors and outlaws to the Cherokee Nation. This was the large turning point in Ross's feelings toward the Treaty Party and Watie, and he would publicly deny them being a part of the delegation on many writings to come.

Ross wrote the U.S. Senate in March of 1836 shortly after the ratification of the treaty. He insisted that Stand Watie and John Ridge had removed themselves from delegation and met with Schermerhorn on their own account. Ross wrote he considered this action to mean they were no longer apart of the delegation. This letter would contrast with the previous month when he still considered them a part of the delegation before the Treaty of New Echota was ratified. He also wrote the Senate that he recognized their involvement at the general council in October of 1835, but that their involvement did not constitute being a part of the delegation at the present time. After the ratification of the treaty the federal government no longer recognized Ross as part of the delegation unless he agreed to the new treaty and united himself with the Treaty Party.<sup>18</sup>

Watie and the Treaty Party wrote Ross on August 17, 1836 asking him to join the general council to discuss the treaty at New Echota. The treaty appointed Ross to the committee, but his appointment was contingent on him agreeing to the terms of the treaty. Ross was still in protest with the federal government on the legality of the treaty and the authority of the Treaty Party. The Treaty Party was still pushing forward with the terms of the treaty and hoping to get Ross's approval or cooperation. Ross did not attend the meeting in New Echota, instead he wrote the Senate again on his disdain for the Treaty Party, calling John Ridge and Elias Boudinot "repugnant;" and claimed they and their friends, including Watie, crafted this instrument to seize all power and funds of the Cherokee people. Furthermore, he writes that all involved are in violation of treaty law and have no real authority or office within the Cherokee nation, and that they should not be considered a part of the delegation.<sup>19</sup> Ross's protest had no effect. The federal government and the Treaty Party planned on moving forward with Cherokee removal. Ross continued his fight until the federal troops removed his people in the winter of 1838-39.

The majority of the Cherokee people did not agree with the Treaty of New Echota and they, like Ross, despised the Treaty Party and Watie for agreeing to such terms. Watie understood the unpopularity such a treaty would bring on him and that by signing it he was committing treason. He wrote Schermerhorn shortly after the ratification. He knew his life would be in jeopardy from "assassins" of Ross and friends, but believed in the long run it would bring "joy" and "prosperity" to his people. He thought that was more valuable than his life and if someone were to take his life or any of the other Treaty Party's, it would be worth it. He considered the current conditions in Georgia to be oppressive for his people and if they were to stay, they would be stripped of

<sup>14</sup> Moulton, *The Papers of John Ross*, 376, 385; Perdue and Green, *The Cherokee Removal*, 148-152; Wilkins, *Cherokee Tragedy*, 229.

<sup>15</sup> Moulton, *The Paper of John Ross*, 385-386.

<sup>16</sup> Wilkins, *Cherokee Tragedy*, 272.

<sup>17</sup> Moulton, *The Papers of Chief John Ross*, 1, 439.

<sup>18</sup> *Ibid*, 389, 411-412, 439.

<sup>19</sup> *Ibid*, 439, 457-458.

everything and be given nothing in return.<sup>20</sup> White Southerners saw the conditions of the poorer Cherokee as one of poverty and Watie may have agreed. Full blood Cherokees were more adapted to maintaining old customs; they fished, hunted, and cultivated small crop plots. Their lack of enthusiasm to develop land and property was seen as lazy by Southern Whites and some mixed-blood Cherokees such as Watie. Their 'poor' conditions were one of the arguments for removal. Boudinot protested these arguments years before removal was imminent in the *Cherokee Phoenix*. Boudinot believed even though their way of life may be considered "poor" by some, they had contented and happy lives.<sup>21</sup> Regardless of his true perspective of their conditions, Watie had little conception of what would happen to the poorest people of the Cherokee during emigration. At the time, he considered leaving for new territory the best option for the Cherokee.

At the beginning of the winter of 1838-39, the Cherokee were forced from their homes. Most were ill prepared for the journey to Indian Territory; believing that they still had a chance to repeal the treaty. The journey took the tribe through Tennessee, Arkansas, and the Southern parts of Kentucky and Missouri. It was a cold harsh winter, where over four thousand Cherokees died from hunger and disease. About one out of every four people died on the Trail of Tears. The difficult journey only increased the majority of the Cherokees hatred for the Treaty Party.

The Cherokee Nation was established in the northeast part of present-day Oklahoma. Early Cherokee migrants, known as the Old Settlers, from the Cherokee lands in the South, had already established a government and home there after migrating from the home land in the 1820s. The Cherokee had been migrating to parts of western Arkansas as early as 1763. Cherokee who allied themselves with the French during the Seven Years War, migrated west after the French defeat. Similarly, British allied Cherokees migrated west after British defeat during the American Revolutionary War. A third group also migrated west from Tennessee in the early nineteenth century. These three groups, in western Arkansas and northeast Oklahoma formed the large part of the Old Settlers. These large migrations of full blood Cherokees where one of the reasons mixed-bloods, such as the Ross and Ridge family, were able to gain such prominence and power in the eastern Cherokee nation. The new influx of Cherokees after forced removal in 1838, disturbed the Old Settlers. The new migration greatly outnumbered the old and the new migration wanted to establish a new government even though the Old Settlers already had one formed. Watie and his family allied themselves with the Old Settlers hoping to keep John Ross and his majority from controlling the nation.<sup>22</sup>

As the Cherokee rift grew wider, and unknown to Watie, a secret trial took place, where Ross supporters condemned the Treaty Party to death for the selling of their ancestors' land under the blood feud and outlawry act. John and Major Ridge, Elias Boudinot, John Bell, George Adair, and Stand Watie were all found guilty and would be put to death. On June 22 1839, over a dozen men surrounded John Ridge's house. Three men drug him from his bed and once outside, he was surrounded and stabbed to death. Major Ridge was riding down a road from Arkansas when multiple shots rang out, killing him in an ambush. Elias Boudinot was visited at his place of work. As he walked up to the visitors who were asking for medicine he was struck in the head with a tomahawk and stabbed multiple times while on the ground.<sup>23</sup> Stand Watie received warning of possible assassination attempts on his life. He and John Bell rode to Fort Gibson in Arkansas to seek protection with General Arbuckle, the commanding officer of the fort. Watie knew that these men who slayed his uncle, cousin, and brother were supporters of John Ross.

Ross claimed to be unaware of the conspiracy to commit murder. His son, Allen Ross, who was a confirmed conspirator, claimed it was his job to keep his father in the dark about planning for the assassination.<sup>24</sup> When Ross heard of the murders he sent out John G Ross, his brother, for additional information.<sup>25</sup> He was given a message from Elias Boudinot's wife that Watie could be out for revenge.<sup>26</sup> Ross wrote General Arbuckle

<sup>20</sup> Wilkins, *Cherokee Tragedy*, 281.

<sup>21</sup> *New Echota Letters*, Edited by Jack Fredrick Kilpatrick and Anna Gritts Kilpatrick, Elias Boudinot to the *Cherokee Phoenix* (Dallas: Southern Methodist University Press: 1968) 70-71.

<sup>22</sup> Georgia Rae Leeds, *The United Keetoowah Band of Cherokee Indians in Oklahoma* (New York: Peter Lang Publishing Inc.: 1996) 5; Perdue and Green, *The Cherokee Removal*, 129; Wilkins, *Cherokee Tragedy*, 318.

<sup>23</sup> Stand Watie and John Adair Bell to *Arkansas Gazette*, July 1839, *Voices from the Trail of Tears*, ebscohost.com.

<sup>24</sup> Wilkins, *The Cherokee Tragedy*, 321.

<sup>25</sup> John Ross to General Matthew Arbuckle, 22 June 1839, *Voices from the Trail of Tears*, ebscohost.com.

<sup>26</sup> Ross Moulton, *The Papers of Chief John Ross*, Vol. II 1807-1839 (Norman: University of Oklahoma Press: 1984), 25-26.

seeking protection, but it was unneeded. For once Ross supporters heard he was in danger, they took to guarding his house. In his letter to Arbuckle, Ross also expressed a great remorse for the loss of life and claimed, “No one will regret the circumstances more than myself.”<sup>27</sup>

Over the next few days one hundred to six hundred Cherokees gathered around Ross to protect him from any reprisals from Watie. Watie and Bell did not see these men as guards, they saw them as an army formed by Ross to wipe them off the map. This large gathering is what spooked Watie and Bell to Fort Gibson, the nearest establishment of federal government power. Watie claims these men were being paid by Ross, receiving twenty-five dollars a month from the national treasury.<sup>28</sup> The assassination of Watie’s family was a well-planned out attack, occurring at three different locations just hours apart. Whether John Ross was a part of the conspiracy is still debated to this day. Watie was convinced that Ross was, and believed Ross’s actions after the event only proved his disdain for Watie’s family.

On July 1, 1839, John Ross called for a general convention of the Cherokee people.<sup>29</sup> At this convention Ross pardoned all the men who took part in the murder of Watie’s family. He also required all remaining Treaty Party members to sign a pledge to not commit any acts of vengeance against the conspirators.<sup>30</sup> Watie and Bell did not attend the convention, but multiple other Treaty Party members did and signed the pledge in fear for their life.

This convention outlawed the old Cherokee ‘Blood Law’ which allowed Cherokee people to seek revenge against murderers and tribesmen who sold Cherokee land. Ironically, Major Ridge was the one to modernize the law in the early 19<sup>th</sup> century when he and other Cherokee took revenge on fellow Cherokees for selling Cherokee land to the U.S. government. Watie saw the convention as an instrument of “malice” towards him; pardoning the murderers of his family. He saw Ross as a “usurper”, doing his best to become the one and only power of the Nation. Ross’s open denial of the conspiracy and subsequent pardon of the conspirators was evidence of his involvement in the plot according to Watie.<sup>31</sup>

Ross saw the convention as a means to heal his nation, but he did benefit directly from removing the ‘Blood Law’ from his nation. Any reprisal against him would not be accepted by any law-abiding Cherokee. He also mentions that all Treaty Party members who accepted the terms of the convention had been welcomed back to the Nation “with open arms”, and any fear of harm they might perceive had dissipated. Furthermore, Ross claims all Cherokee should agree to the convention and abide by Cherokee law. Anyone who does not agree should leave the nation all together. Watie and Bell were the only remaining Treaty Party members in defiance of the convention.<sup>32</sup>

James Foreman was a Cherokee Indian, and he was an avid supporter of John Ross. Foreman was one of the conspirators who shot Major Ridge from his horse. In May of 1842 he was stabbed to death by Stand Watie in and outside a grocery store in Benton County, Arkansas. According to Watie, he was riding through Marysville, Arkansas when he stopped at English’s Grocery to have a drink. James Foreman came into the store with his uncle. Foreman had a whip wrapped around his hand. Foreman, who was out hunting him, according to Watie; walked into grocery and sat next to him at the bar. Foreman offered Watie a drink. Watie agreed to drink saying, “I understood the other day that you were going to kill me and that you are the man who killed my uncle.” Foreman responded with agitation, “Say yourself,” meaning if that is what you believe. Foreman then struck Watie with the whip and the men scuffled in the store until spilling out the front door. Foreman reached for a board on the ground and try to use it to strike Watie, but instead was met with a knife in the side from Watie. Foreman was out to assassinate him according to Watie, he feared for his life, and acted in self-defense.<sup>33</sup>

Multiple witnesses testified Watie started the fight when he threw the whiskey in Foreman’s face. They also claimed Watie drew a pistol on Forman, some claiming he fired and missed; others claiming the pistol miss-

<sup>27</sup> Moulton, *The Papers of John Ross*, I, 718.

<sup>28</sup> Watie to *Arkansas Gazette*, July 1839.

<sup>29</sup> *Ibid*.

<sup>30</sup> *The Trial of Stand Watie*, 1, (Circuit Court of the County of Benton, Nov. 1842).

<sup>31</sup> Watie to *Arkansas Gazette*, July 1939.

<sup>32</sup> *The Trial of Stand Watie*, Extract from a Letter of John Ross, 11.

<sup>33</sup> *Ibid*, Speech of M.W. Arrington, Esq.

fired. Either way, Foreman had no bullet from any gun.<sup>34</sup> Watie rode off after the fight, and Foreman stumbled a hundred feet before collapsing and dying where he fell.

Ross was informed about the event by his brother, John G. Ross, who wrote of what he knew. The information given to Ross portrayed Watie as the instigator of the whole ordeal. Ross was determined to try Watie for the murder of Foreman. Ross learned that Watie would only agree to judgment if the trial was held in Benton County, Arkansas where the supposed crime occurred.<sup>35</sup> Ross calls the whole event an “unfortunate affair...”, and partially blames occurrence like these on the consumption of alcohol.<sup>36</sup> Watie knew his best chance at trial would be in Arkansas, where he had a good reputation with the citizens he often did business with. His popularity in the Cherokee nation was still very low. Even with low popularity, a minority of Cherokee still allied with Watie and he could still command some power and respect in his nation. Stand Watie was found not guilty by jury. The overall argument made by his defense was that Watie was in constant danger for his life since he did not agree to the convention of pardon after his family’s death. He was not considered protected by law and had a rightful fear of life when a known assassin of his uncles and a man deemed to be out to kill him, made contact with him.

Conflicts continued between the two sides in the following years. A rumor of Ross’s death spread through the nation during the election year of 1843. The rumors were unfounded, but multiple Ross men were attacked in the year by fellow Cherokees and one white man; Elijah Hicks, a friend of Ross, was one of the people attacked. The election continued as planned, and Ross was re-elected Principal Chief of the Cherokee nation by two thirds majority, receiving over eight hundred votes.<sup>37</sup>

Ross wished to end hostilities between him and Watie. He wrote President Polk on April 11<sup>th</sup>, 1846, complaining that General Arbuckle was allowing Watie to maintain a force of “lawless” men who could commit acts of “blood” and “plunder” across the Cherokee Nation. He wrote the President again in June of that same year, requesting the federal government to create a commission to settle all disputes. He got what he desired, and the federal government arbitrated the dispute between Ross and Watie. Prominent leaders of the Cherokee nation met in Washington, D.C. They all signed and agreed to the Treaty of 1846. The treaty gave pardon to all crimes committed by both sides, guaranteed the Cherokee Nation land was for all Cherokee people, and paid damages to Watie and his family for the death of their loved ones. Both men agreed to the terms and even shook each other’s hands at the signing in Washington. This settlement eased the tensions in the Cherokee Nation. The 1850s were seen as a prosperous time. The amicable treatment of each other at the treaty signing suggested the two had some interest in the welfare of the Cherokee people, but also an interest of protecting themselves. The two were no longer in open warfare with each other, but trust was never reestablished.<sup>38</sup>

Wilma Mankiller, Cherokee Chief in the late twentieth century, referred to the 1850s as a “golden era” for the nation. The Cherokee still had a divide, but it was not as prominent. Tensions flared up again, after the Kansas-Nebraska Act was passed, reigniting the slavery issue and creating popular sovereignty, allowing future states to choose if they would be a free-state or pro-slavery. The current slave population for the Cherokee in 1860 was 2500; only 2.3% of tribal citizens in the Indian Territory were slave holders. Many mixed-blood Cherokee slaveholders were affiliated with Southern Methodist churches and shared the same enthusiasm for state’s rights, or Indian nation’s rights from their perspective. Ross and Watie were both slaveholders, typical for men of their stature and wealth during the time. Many Cherokees were fearful of becoming part of the conflict between northern and southern states. Ross and Watie disagreed on many things, but they both understood the importance of keeping the Cherokee nation united against outside aggression. The Cherokee Nation was a separate entity that should rule itself without outside influence. Watie wrote his wife Sarah on September 22<sup>nd</sup>, 1859, while she was away in Texas. He shows empathy for many sick and dying Cherokee, he

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<sup>34</sup> *Ibid*, 1-6.

<sup>35</sup> Moulton, *The Papers of Chief John Ross*, 143-144.

<sup>36</sup> *Ibid*, 144.

<sup>37</sup> “Cherokee Indians,” *Niles’ National Register*, September 16, 1843, ebscohost.com.

<sup>38</sup> Gaines, *The Confederate Cherokee*, 6; Moulton, *The Papers of John Ross*, Vol. II, 284,301; Wilkinson, *Cherokee Tragedy*, 327-328.

also asks about the demeanor of Texans, wanting to know if they are “friendly” people or only interested in money and self. At this time, Watie was well aware of Southern sympathies for slavery.<sup>39</sup>

In 1859 the Cherokee nation population was around twenty-two thousand, with four thousand males eligible to vote. John Ross was re-elected as Principal Chief that year.<sup>40</sup> Slavery and dissolution were large issues within the Cherokee nation, but the bigger divide still stemmed from past animosity over the Treaty of New Echota.<sup>41</sup> John Ross sent out an address to the Cherokee nation on October 4<sup>th</sup>, 1860, urging the people to stay united and not let outside interference disrupt order within the nation. He urged reliance on the Union to maintain order and justice. At this time he believed that the Northern and Southern conflict would be resolved by the federal government. As Principal Chief, Ross had to maintain a relationship with pro-slave Arkansas that shared a border with his nation. He also had to maintain treaty policy with the federal government for the Cherokee Nation agreed to come under no other sovereign nation than the U.S. He consistently rode the line of neutrality between the two. He squashed rumors that the Cherokee would invade Arkansas if they seceded from the Union. He also expressed that the Cherokee people have no intentions of allowing abolitionism on their soil. He assured the Arkansas Governor and his people that attacking them would never be in the interest of his people, since Arkansas was a partner in commerce with the Cherokee. He also tells Governor Henry Massey Rector, of Arkansas, that the Cherokee have no animosity toward the people of Arkansas, but will abide by the treaties with the U.S., not to ally with any other nation. He writes Cyrus Harris, Chief of the Chickasaw, a neighboring tribe, to maintain neutrality, believing that the hostilities between the North and South would be resolved and would not lead to war; again urging to uphold the current treaties. He expressed this same attitude in multiple letters to other Cherokee and family members in the first few months of 1861.<sup>42</sup>

The Southern states began reaching out to the Five Civilized Tribes, hoping for an alliance in the future conflicts to come. The Five Civilized Tribes, including the Cherokee, had a similar life style and economy with the Southern states they came from. Pro-Confederate agents were sent to the Cherokee nation to convince them to join the Southern states or lose slavery, their way of life. Ross was not anti-confederate, but he did not want outside agitators influencing his people. He contacted an Arkansas Judge, John B. Ogden, to remove all confederate agents from the Cherokee nation. He also urged his people not to fall victim to false reports of losing their property. A council meeting between the Five Civilized Tribes was called by the Creek nation, to determine how to respond to the North and South conflict. Again Ross urges neutrality believing the conflict will end soon without blood-shed. Ross’ main goal was to maintain friendly relations with both sides. His largest threat if war broke out would be from Arkansas to the east, who they did a large share of commerce with, as well as Texas to the south of the Five Civilized Tribes. Kansas to the north, was a new state and did not have as large a population near their border with the Cherokee. However, they did have to contend with Osage Indians in that same area who allied themselves with the Union. Pressure increased from both sides after Confederate troops fired on Fort Sumner on April 11<sup>th</sup>, 1861. Soon after Arkansas succeeded and joined the Confederacy on May 18<sup>th</sup>, 1861.<sup>43</sup>

Ross sent delegates to a council meeting of the Five Civilized Tribes. He was looking to take advantage of the conflict in order to bolster Indian sovereignty. Creeks, Chickasaws, Choctaws, and Seminoles were convinced to join the Confederacy leaving the Cherokee nation almost completely surrounded by confederate allies. Even after the other tribes joined the confederacy, many northern leaning Cherokees wanted to join pro-Union forces, or at least remain neutral.<sup>44</sup> Ross still agreed with neutrality in a proclamation written shortly after Arkansas joined the Confederacy; Ross also reaffirmed friendship with Arkansas, but maintained not to be brought into a dispute with them or their “Northern brethren.”<sup>45</sup>

<sup>39</sup> Brad Agnew, “Our Doom as a Nation Is Sealed,” *Lincoln: UNP-Nebraska*, (2015): 64-67, ProQuest Ebook Central; Edward Everett Dale and Gaston Litton, *Cherokee Cavaliers* (Norman: University of Oklahoma Press, 1940), 57, 95-96; Michael F. Doran, “Negro Slaves of the Five Civilized Tribes,” *Annals of the Association of American Geographers* 68, no. 3 (September 1978): 347, ebscohost.com.

<sup>40</sup> Perdue and Green, *The Cherokee Removal*, 1.

<sup>41</sup> Gaines, *The Confederate Cherokee*, 8.

<sup>42</sup> Moulton, *The Papers of Chief John Ross*, II, 451,460, 462, 464,469.

<sup>43</sup> *Ibid.*, 459, 466, 469.

<sup>44</sup> Gaines, *The Confederate Cherokee*, 7.

<sup>45</sup> Moulton, *The Papers of Chief John Ross*, II, 469-471.

General Benjamin McCulloch was put in charge by the Confederate States to oversee Indian Territory in order to keep Union forces out and to maintain the alliance with the Confederate Indians. McCulloch writes Ross, urging him to let pro-Confederate Cherokees form a militia in order to repel any aggression from Northern troops. Ross writes back, “Your demand that those people of the nation who are in favor of joining the Confederacy be allowed to organize into military companies as a home guard for the purpose of defending themselves in case of invasion from the North is most respectfully declined.”<sup>46</sup> He reminds McCulloch of the Cherokees position of neutrality as well as their ability to defend themselves from any “foreign invasion.”<sup>46</sup> Ross also received pressure from Albert Pike, The Commissioner of Indian Affairs for the Confederate States. Pike had successfully created treaties with the other Civilized Tribes of the Indian Territory and was pressuring Ross for a treaty with the Confederates. Ross again denies an alliance, and tells Pike the Cherokee will maintain their treaty with the U.S.<sup>47</sup>

Watie was pro-Confederate, he shared many friendships and business links with the people of Confederate Arkansas. Ross’s indecisiveness left Watie an opportunity to push the Cherokee towards the Confederacy. Watie was also in contact with Confederate agents, urging him to create a pro-Confederate Cherokee company. The agents agreed to supply the company arms and support from Arkansas Confederate troops. Watie stepped over the Principal-Chief Ross and created the 1<sup>st</sup> Cherokee Mounted Rifles company, made up of Confederate Cherokee.<sup>48</sup> Union troops left their Indian Territory post shortly after the Civil War began. Maintaining control of Indian Territory was not of major importance for the Union as large battles raged farther east. Confederate victories at Bull Run, and Wilson Creek, Missouri, where a contingent of Cherokee troops fought with McCulloch, made many Cherokee question their position of neutrality.<sup>49</sup> Watie’s company became the main militia of the Cherokee people during this time. Ross received a letter from fellow Cherokee and ally, John Drew, of Watie’s troops causing a commotion; trying to persuade other Cherokees of joining him and the Confederacy. Ross preached to Drew to impress “. . .harmony and good feeling and avoiding every cause of dissension.”<sup>50</sup> With the Confederate victories in the east, the other Civilized Tribes joining the South, and Watie roaming the territory with his company of troops, Cherokee enthusiasm for the Confederate States was at an all-time high. Even if he could not maintain neutrality, Ross wanted to maintain the unity of the Cherokee nation; Watie shared the same attitude of unity.

John Ross called a Great Cherokee Council which was held in the town square of Tahlequah, the Cherokee capital, on August 21<sup>st</sup>, 1861. Some four thousand Cherokee males convened there to discuss what the nation should do about joining a side in the Civil War. Stand Watie was also present at the council with fifty-six of his Confederate Cherokee troops. The majority of the men who spoke supported joining the Confederacy. Watie and his men were planning on declaring the Cherokee Nation as allies to the Confederate States if Ross would not make the call himself, essentially forcing Ross and his allies out of power within the nation.<sup>51</sup> Ross spoke of Arkansas joining the Confederacy, stating that their interest was intertwined with the Cherokees, and standing alone was not desirable.<sup>52</sup> Ross recommended an alliance with the Confederacy and all present agreed. At the time Ross saw this as the best option to uphold Cherokee unity.<sup>53</sup>

Watie would not gain complete control of the Cherokee Nation, but the decision to join the Confederacy would reassure his current stance, as well as give true legitimacy to his company of troops. After the council Ross wrote to the Creek Nation, “. . .with one voice we [Cherokee Nation] have proclaimed in favor of forming an alliance with the Confederate States. . . and shall maintain the Brotherhood of the Indian Nations.” He also wrote General McCulloch, telling him of the alliance and the immediate formation of another military company of Cherokee Troops to be commanded by his friend and ally, John Drew.<sup>54</sup>

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<sup>46</sup> *Ibid.*, 474-475.

<sup>47</sup> *Ibid.*, 476.

<sup>48</sup> Gaines, *The Confederate Cherokee*, 8.

<sup>49</sup> *Ibid.*, 9.

<sup>50</sup> Moulton, *The Papers of Chief John Ross*, II, 477.

<sup>51</sup> Gaines, *The Confederate Cherokee*, 11-13.

<sup>52</sup> Moulton, *The Papers of Chief John Ross*, 481.

<sup>53</sup> Gaines, *The Confederate Cherokee*, 12-13.

<sup>54</sup> Moulton, *The Papers of Chief John Ross*, 482-483.

Drew's new company was called the 1<sup>st</sup> Cherokee Mounted Rifles, same as Watie's, and both would refer to themselves as the 1<sup>st</sup>, other Confederate leaders would refer to the companies as either Watie's company or Drew's company to avoid confusion. Ross was able to maintain large control of his nation with his agreement to join the Confederacy; the company under Drew was made up pro-Ross Cherokees, creating a counter-balance to Watie's company.<sup>55</sup>

With the new alliance the Cherokee people sought a treaty with the Confederate States of America. Ross was in contact with Pike on the terms to be signed, but Watie's friends were quite upset with Ross dictating terms and begged Watie to meet with Pike himself. Pike responded by calling a meeting at Tahlequah on September 25<sup>th</sup>, 1861; both Watie and Drew attended. Watie was in contact with the Confederate agents, but with Ross commanding more of a majority of the Cherokee they referred to him on treaty matters.<sup>56</sup>

On October 7, 1861 John Ross signed the Confederate treaty with the Cherokees and other acting members of the Cherokee Nation. The treaty guaranteed no other state of territory would pass laws for the government of the Cherokee nation. It brought the Cherokee nation under the protection of the Confederate States of America, and guaranteed protection from invasion from white or Indian intruders. It required the Cherokee to raise ten companies of mounted men to protect the nation, guaranteeing the companies would not be used outside the borders of Indian Territory. The Confederate States also agreed to annual annuity payments. These were the same payments the federal government agreed to but discontinued at the start of the war.<sup>57</sup> The treaty had favorable terms for the Cherokee, guaranteeing sovereignty, protection, and support from the Confederate States. With no federal troops protecting Indian Territory and discontinuation of annuity payments, allying with the Union had little incentive. In Ross' annual message to the Cherokee, he wrote "...as to the purpose of the war waged against the Confederate States clearly pointed out the path of interest."<sup>58</sup> The "purpose" as the Cherokee saw it, was to diminish rights and abolish slavery. He continued, "...self-preservation fully justifies them in the course..."<sup>59</sup> Ross was fully for the alliance with the Confederates.

Col. Douglas H. Cooper was put in command of Indian Territory Troops. Watie referred to his command at military engagements. Watie and his troops were very active throughout the Civil War, taking part in over a dozen battles or skirmishes. He was a loyal ally to the Confederacy, any Indian with pro-Union or neutral leanings Watie considered a traitor to the cause. He defended his nephew, Charles Weber, in the slaying of a Pro-Ross Indian, Chunistootie. Watie claims Chunistootie was hostile to the Southern people and any judgement on his nephew should be postponed till after the war.<sup>60</sup> Murder and destruction of property were prevalent through the Indian Territory during the time. Most of these crimes went unpunished due to the disorder of the war. Watie also notes Ross' disdain for the killing of Chunistootie. He sarcastically writes Col. Cooper on the subject: "This is called a barbarous crime and shocks the sensitive nerves of Col. Drew, Mr. Ross and others, who of course have never participated in the shedding of innocent blood."<sup>61</sup> Watie's perception of Ross is still the "assassin chief" who orchestrated the murder of his family members decades earlier. Ross was most adamant on not being involved in the conspiracy till the day he died.

The Cherokee unity for the Confederacy did not last long, due to increased pressure from pro Union Cherokees. The majority of full blood Cherokees did not own slaves, believed in upholding the old way of life, and viewed the Confederacy to be opposed to Indian customs.<sup>62</sup> This conservative group was opposed to taking up the customs of the Whites.<sup>63</sup> A similar group of pro-Union Creeks formed and broke off from the Confederate allied Creek Nation. This group was led by Chief Opothleyahola of the Creek. He tried to move his people north to the Union friendly Kansas. Col. Cooper and the Confederate Indians, including the

<sup>55</sup> Gaines, *The Confederate Cherokee*, 13-15.

<sup>56</sup> Dale and Litton, *Cherokee Cavaliers*, 108-109; Moulton, *The Papers of Chief John Ross*, 488-489; Gaines, *The Confederate Cherokee*, 14.

<sup>57</sup> Treaty with the Cherokees, Cherokee Nation, C.S.A., Oct. 7, 1861, The Statutes at Large of the Provisional Government of the Confederate States of America, 394-400.

<sup>58</sup> Moulton, *The Papers of Chief John Ross*, Vol. II, 493.

<sup>59</sup> *Ibid*, 494.

<sup>60</sup> Dale and Litton, *Cherokee Cavaliers*, 113.

<sup>61</sup> *Ibid*.

<sup>62</sup> *Ibid*, xix.

<sup>63</sup> *Ibid*, 57.

Cherokee Regiments, were tasked with bringing these pro Union Creeks to heel. During their pursuit, four of John Drew's regiments of Cherokee actually left their company and joined Opothleyahola's group. Drew wrote Ross, telling him some of his Cherokee fought against the Confederacy at the battle of Bird Creek. Drew was also worried that these actions could lead to the Confederacy arresting Ross.<sup>64</sup> Even in wartime Ross preached of caution to all involved, possibly trying to salvage his reputation with the Confederates.<sup>65</sup>

As tensions grew between Union and Confederate Cherokees, they also grew between Ross and Watie. Ross wrote Agent Pike, asking him to "restrain" Watie and his regiment from "trampling on the rights of peaceable and unoffending citizens."<sup>66</sup> Ross also asks Pike to station Drew's regiment in the Cherokee Nation to protect citizens from federal troops, which Ross believes will be entering the territory soon. Pike agrees to the request. In early 1862 Ross writes multiple letters to Pike and Confederate President Jefferson Davis, asking for additional troops and supplies to defend his nation. Due to the major battles and conflicts in the East, the Confederates are unable to give the Cherokee sufficient troops or supplies. Feeling unsupported and with many Cherokee going to the other side, Ross official changed his allegiance to the Union. His communications with Confederate agents ceases and he begins writing letters to President Lincoln in mid-1862.<sup>67</sup>

Ross changed his mind and put his support for the Union. In 1862 he was re-elected Principal-Chief by pro-Union Cherokees. Watie was elected Principal-Chief by the pro-Confederate Cherokees. Both only recognized by their aligned governments. Ross fled east to Philadelphia and Washington, D.C. where he spent the remainder of the war. Watie continued his campaign in Indian Territory, battling and ambushing Union troops and pro-Union citizens. Watie had sent his family south to Texas to keep them out of harm's way during the war. He consistently wrote his wife Sarah on events taking place in Indian Territory. In a letter Watie received from Sarah, she tells Watie that she is sorry to hear their sons, Charles and Saladin had killed a prisoner. She wished they would have more mercy and told Watie if he ever caught William Ross, John's son who was still in Indian Territory, that he should show him mercy that would tell Ross he is not afraid of his influence.<sup>68</sup> Watie took the message from his wife to heart, and spared the life of one of Ross's children, also named John, after capturing him in Indian Territory. Watie contributes his mercy directly to the letter his wife sent him months earlier.<sup>69</sup> In a letter, Watie wrote to his wife in June of 1864, he speaks of being accused of having a Colonel killed and laments the accusation and claims, "...it still hurts my feelings. I am not a murderer."<sup>70</sup> Watie is a hardened man, who had survived multiple assassinations and fought on many civil war battlefields, but his feelings for his family and friends are shown in his letters to his wife. He often speaks of the love he has for his friends and family, and of trying to always do what is best; "If I commit an error I do it without bad intention."<sup>71</sup>

With the Confederates losing the war, Watie's position as chief was not recognized by the federal government. The federal government considered Ross Principal-Chief for the entire war. John Ross had to defend his original position of joining the Confederacy. He claimed it was the only option at the time to save his nation.<sup>72</sup> Even though he switched allegiance, the United States did not accept his excuse. The U.S. used the Cherokee alliance with the confederates to strip them of more rights, annuities due, and land. John Ross died shortly after the war in 1866; Stand Watie died not long after in 1871.

Both men were leaders of the Cherokee. The decisions they made shaped the Cherokee Nation. Ross was an ally to the conservative Cherokee and he did his best to maintain peace and stability for his people. Watie was ally to his family and other mixed-blood Cherokee; he signed away the Cherokee ancestral land and maintained that it was what he thought was best for his people. These men disagreed with each other's policies, the allies of these men fought and killed one another, yet they both wanted the Cherokee people to maintain unity, but also, they wanted to limit the power of one another. Their struggle went back and forth; neither one coming out on top. Watie considered Ross an "assassin" and a "usurper;" Ross considered Watie a "criminal"

<sup>64</sup> Moulton, *The Papers of Chief John Ross*, John Drew to John Ross, Dec. 16, 1861, 507.

<sup>65</sup> *Ibid.*, 506.

<sup>66</sup> *Ibid.*, John Ross to Albert Pike, Feb. 25, 1862, 509.

<sup>67</sup> *Ibid.*, 510-518.

<sup>68</sup> Dale and Litton, *Cherokee Cavaliers*, 128-129.

<sup>69</sup> *Ibid.*, 144.

<sup>70</sup> *Ibid.*, 156-157

<sup>71</sup> *Ibid.*, 157.

<sup>72</sup> *Ibid.*, 230.

out for “blood” and “plunder.” Though they differed in politics, thoughts, and the actions they took, Ross and Watie both wanted what they thought was best for their people and therefore were instrumental in the shaping of their people and the Cherokee Nation.