



“Within the Limits of the Southern Confederacy”

The C.S.A.’s Interest in the Quapaw, Osage, and Cherokee Tribal Lands of Kansas

by Gary L. Cheatham

Much has been written about the participation of Indian tribes in the Civil War. Many Indians fought bravely on both sides of the conflict, and several tribes with ties predominately to Indian Territory signed treaties with the Confederacy. As a result, most Civil War histories addressing Confederate–Indian relations focus on these tribes, and little has been written about Confederate government interest in the tribes and tribal lands of neighboring southern Kansas. This interest was the product of the Confederate government’s desire to secure both Indian Territory and its people. By attaching the area and its tribes to the newly formed Southern nation, the western border of the Confederacy would become more militarily secure.¹ The potential success of this undertaking, encouraged by pro-Southerners in the area, appeared quite plausible to Confederate officials in 1861, due to the fact that many tribes in Indian Territory had longstanding social and cultural ties to the South, and some of the most influential whites among the tribes in the region were staunchly Confederate. Since much of southern Kansas was owned or inhabited by tribes with close ties to Indian Territory, southern Kansas was also readily drawn into the Confederacy’s evolving Indian policy. This policy led to one Kansas and two Indian Territory–Kansas tribes signing treaties with the Confederacy, and resulted in several Southern attempts to essentially append portions of Indian Kansas to Confederate Indian Territory.

While the Confederate States of America was being formed in early 1861, a series of proposals from pro-Southern citizens brought Indian Kansas to the attention of Confederate leaders. One of these proposals came

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1. Alvin M. Josephy, *The Civil War in the American West* (New York: Alfred A. Knopf, 1992), 324.

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from Archibald D. Payne, a native Kentuckian and farmer residing near Monticello, Johnson County, Kansas. On April 25, 1861, Payne wrote to a George N. Sanders at Montgomery, Alabama, requesting that the Confederacy finance a “force” of Kansans “to go South, and assist in repelling Old Abe’s cohorts.” Confederate Vice President Alexander H. Stephens endorsed Payne’s letter, demonstrating high-ranking government interest in the proposal.² A few weeks later, Philemon Thomas Herbert, the Texas state representative to Confederates in Arizona Territory, wrote to Jefferson Davis, president of the C.S.A. to encourage Southern interest in Kansas. Writing from El Paso on May 14, 1861, Herbert requested authorization to raise “an independent spy company” for use in “Kansas Territory,” which he later received. A few days later, on May 20, 1861, Frank J. Marshall, a native Virginian and merchant in Marysville, Kansas, also sent a letter to Davis, requesting assistance in helping pro-Confederate Kansans “throw off the yoke” of the “dominant [Northern] party” and making Kansas “a part of the Confederate States of America.” In addition, Marshall encouraged Davis to approach the Indian tribes in southern Kansas, which were reportedly “wholly with the South.”³

Although there is no evidence that Marshall received a reply, his statement regarding the pro-Southern loyalties of the tribes in southern Kansas would have appealed to

2. Payne’s letter was found among some “official” Confederate papers seized by Union troops at Fort Smith, Arkansas. See *Leavenworth Daily Conservative*, September 29, 1863. Not only was Payne a farmer in Johnson County, he was the president of the company that founded Monticello, Kansas, in 1857. See U.S. Bureau of the Census, *Eighth Census: Population, 1860*, vol. 2 (Washington, D.C.: Government Printing Office, 1864), Johnson County, 23; William G. Cutler and Alfred T. Andreas, *History of the State of Kansas* (Chicago: A. T. Andreas, 1883), 1:639; H. Miles Moore, *Early History of Leavenworth City and County* (Leavenworth, Kans.: Sam’l Dodsworth Book Co., 1906), 70–71. George N. Sanders was a well-known private Confederate government contractor and became the ranking civilian negotiator between the Southern and British governments for the construction of Confederate naval vessels in England. See U.S. Naval War Records Office, *Official Records of the Union and Confederate Navies in the War of the Rebellion*, ser. 2, vol. 2 (Washington, D.C.: Government Printing Office, 1921), 220–21. No evidence has been found that President Davis responded to Payne’s letter.

3. Recognizing the importance of gathering intelligence on affairs in Kansas, the Confederate War Department accepted Herbert’s proposal and on June 19, 1861, authorized the organization of the spy company. See P. T. Herbert to Jefferson Davis, May 14, 1861, Letters Received by the Confederate Secretary of War, M437, roll 3, file 1434 (WD) 1861, War Department Collection of Confederate Records, National Archives, Washington, D.C. Herbert later became a lieutenant colonel in the Confederate army and the commander of the Seventh Texas Cavalry Regiment. See U.S. War Department, *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, ser. 1, vol. 26, pt. 1 (Washington, D.C.: Government Printing Office, 1889), 215; U.S. Census, 1860, Kansas, Marshall County, 54; U.S. War Department, *The War of the Rebellion*, ser. 1, vol. 3 (1881), 578–79.

Davis, whose developing Indian policy can be traced to February 1861. Elements within the Confederate provisional government began looking at the tribes in Indian Territory before the war officially commenced. Given the tribal connections with the South, it is not surprising that Confederate authorities showed an early interest in the region. This interest expanded to include parts of southern Kansas, where lands belonging to three tribes had long been administered by the Southern-dominated U.S. Southern Superintendency of Indian Affairs office. The need to militarily protect the western flank of the Confederacy gave the Southern government an additional reason to be interested in the region’s tribes. This interest became institutionalized on March 15, 1861, when the Confederate Congress established the Bureau of Indian Affairs. Setting the stage for military interests, the Congress also passed, on May 21, 1861, the Act for the Protection of Certain Indian Tribes, that not only established military control over Indian Territory but also opened the door for negotiations with tribes holding lands along the Kansas–Indian Territory border. These negotiations culminated in a grand council of Confederate government representatives and tribal leaders, which was held at Tahlequah, Indian Territory, in the autumn of 1861. This council resulted in the Confederacy signing treaties with the Cherokees, Choctaws, Chickasaws, Comanches, Creeks, Osages, Quapaws, Seminoles, Senecas–Shawnees, and Wichitas.⁴

Albert Pike, a western Arkansas attorney who had served as legal counsel to the Creeks, Choctaws, and Cherokees, was appointed by President Davis in the spring of 1861 to coordinate Confederate negotiations with the tribes in Indian Territory and southern Kansas. Pike had not only served as an attorney for these three tribes, he was a well-known thirty-second-degree Mason among Masonic brothers in Indian Territory, which made him welcome in many leadership circles in the region. To assist him, Pike

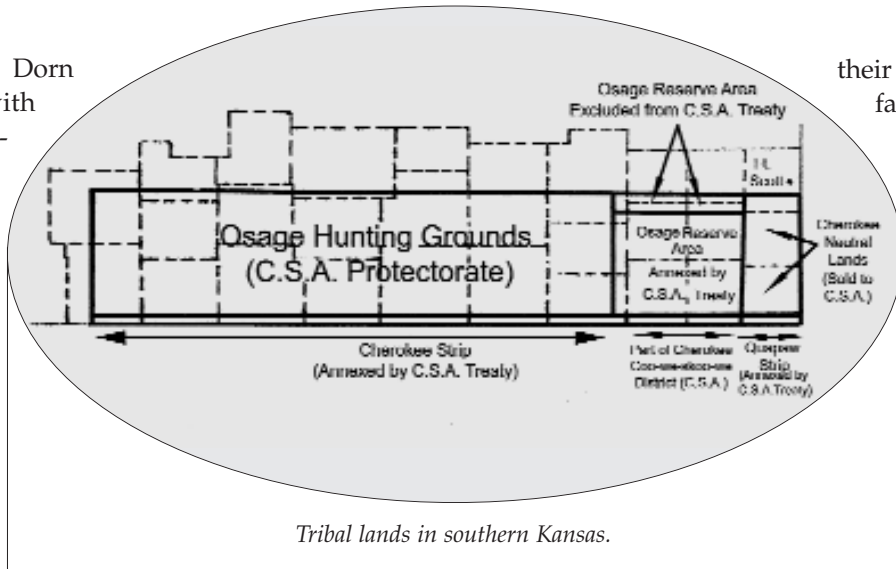
4. Annie Heloise Abel, *The American Indian as Slaveholder and Secessionist* (Lincoln: University of Nebraska Press, 1992), 127, 157–58; Clement Eaton, *A History of the Southern Confederacy* (New York: Macmillan Co., 1954), 40; William G. McLoughlin, *After the Trail of Tears: The Cherokees’ Struggle for Sovereignty, 1839–1880* (Chapel Hill: University of North Carolina Press, 1993), 172; “Report of the Acting Commissioner of Indian Affairs, March 8, 1862,” reel 15, no. 894R, Confederate Imprints, 1861–1865, National Archives; “An Act to Establish the Bureau of Indian Affairs,” C.S.A. Statutes (1864), ch. 52; *Message of the President, and Report of Albert Pike, Commissioner of the Confederate States to the Indian Nations West of Arkansas, of the Results of His Mission* (Richmond, Va.: Enquirer Book and Job Press, 1861), 3. The Shawnees, who signed a treaty with the Confederacy, belonged to the Seneca–Shawnee confederation in Indian Territory. The Shawnees living on their reserve in northeastern Kansas were not part of the Confederate treaty. See “Treaty with the Senecas and Senecas and Shawnees,” C.S.A. Statutes (1864), 374–85.

appointed Andrew J. Dorn to initiate contact with several tribes, including the Quapaws and Osages, along the Kansas-Indian Territory border. Dorn, a Confederate Missourian, was selected for this task because he was well respected by the Quapaws and Osages as their U.S. government agent.

Additionally, Pike sent unidentified agents to Johnson County, Kansas, in an attempt to secure the loyalties of the Shawnees still living there, and he offered land in Indian Territory to the Shawnees, Kickapoos, and Delawares of northeastern Kansas. Pike's influence with these tribes was minimal, and he failed to lure them to Indian Territory, but the Confederacy experienced some success to the south.⁵

In all, the Confederacy signed treaties with three tribes holding lands in southern Kansas—the Quapaws, Osages, and Cherokees. Each of the three treaties contained language unique to its respective tribe. This was especially true of the Cherokee treaty. However, each of the three accords also contained many similarities and common language, including a pledge of military protection, the placement of tribal lands under the laws and judicial system of the Confederacy, allowances for the construction of military posts and transportation networks, assignment of government workers, and various promises of funds, goods, and services. Although these three tribes signed treaties with the South, it is important to note that not all tribal members supported the Confederacy.

Of the three accords, the Quapaw treaty affected the smallest tract of land in Kansas. In 1861 most Quapaws and



Tribal lands in southern Kansas.

their lands were found in the far northeastern corner of Indian Territory, but a small section of tribal land, known as the Quapaw Strip, ran the east-west length of present southern Cherokee County, Kansas, and extended one and a half miles into the southern portion of that county. The Confederate Bureau of Indian Affairs reported

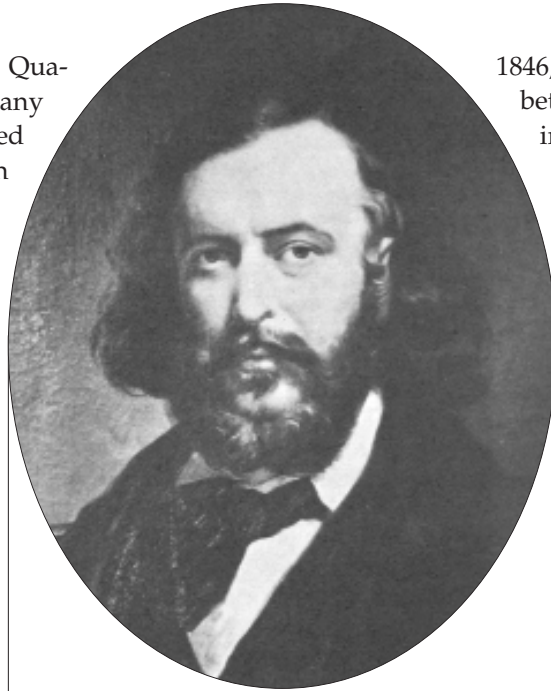
that the population of the Quapaw tribe numbered only 320 persons, which appears to have included a few Quapaws living in the Quapaw Strip. Speaking a dialect similar to the Osage language, the Quapaws kept close ties with the Osages, which included the joint education of Quapaw and Osage children at the Jesuits' Osage Mission school (present St. Paul, Kansas). When Dorn approached the tribe, he must have known that the Quapaws held little pro-Southern sentiment. Instead of playing upon any Southern loyalties, Dorn lured the tribal leadership by stating that the Osages would also be entering into negotiations. Reluctant to reject such an invitation, the Quapaw chiefs traveled to Tahlequah to negotiate with the Confederates. Once there, Confederate negotiators pledged to relieve the "utter poverty of the Quapaws" with promises of goods, services, and funds, and tribal chiefs signed a treaty on October 4, 1861. While the Quapaw chiefs expected relief for their tribe's destitute condition, Southern interest in the treaty centered on the fact that the agreement secured the far northeastern corner of Indian Territory. When the Southern Congress ratified the treaty on December 12, 1861, Quapaw lands, including the Kansas strip, became part of the Confederacy.⁶ In less than a year, however, when the South failed to institute a perennial governmental presence and the tribe's impover-

5. James D. Richardson, "Introduction: The Centenary Idea," in *Albert Pike: Centenary Souvenir of His Birth, 1809-1909*, by [Scottish Rite] Supreme Council of the Thirty-third Degree for the Southern Jurisdiction (Washington, D.C.: G. C. Howard, 1909?), 16; James D. Richardson, ed., *A Compilation of the Messages and Papers of the Confederacy, Including the Diplomatic Correspondence, 1861-1865*, vol. 1 (Nashville: United States Publishing Co., 1905), 149; *Report of the Commissioner of Indian Affairs, Accompanying the Annual Report of the Secretary of the Interior, 1860* (Washington, D.C.: George W. Bowman, 1860), 29; *ibid.*, 1862 (Washington, D.C.: Government Printing Office, 1863), 112; *Message of the President and Report of Albert Pike*, 9, 25; Abel, *The American Indian as Slaveholder and Secessionist*, 241.

6. *Report of the Commissioner of Indian Affairs, Accompanying the Annual Report of the Secretary of the Interior, 1861* (Washington, D.C.: Government Printing Office, 1861), 36-7, 40; "Treaty with the Quapaws, October 4, 1861," C.S.A. Statutes at Large (1864), 386-93; W. David Baird, *The Quapaw People* (Phoenix: Indian Tribal Series, 1975), 50-51; Vern E. Thompson, *Brief History of the Quapaw Tribe of Indians* (Pittsburg, Kans.: Mostly Books, 1994), 24; John W. Morris, ed., *Boundaries of Oklahoma* (Oklahoma City: Oklahoma Historical Society, 1980), 59-62; *Message of the President and Report of Albert Pike*, 35; W. David Baird, *The Quapaw Indians: A History of the Downstream People* (Norman: University of Oklahoma Press, 1980), 97.

ished state had not improved, most Quapaws abandoned the treaty, and many deserted the reserve. They either joined the Union army or became refugees in present Coffey County, Kansas. The few Quapaws remaining on the reserve suffered greatly from both the effects of war and increased poverty. One Quapaw woman who stayed on the reserve recalled, "When the Blue Coats came we gave them everything; when the Gray came, they took what we had that they wanted, and by the time that the war was over, no one had anything."⁷

The Osages had long held ties with the slaveholding tribes in Indian Territory and had welcomed both proslavery and antislavery whites to live among them. Slavery was rare among the Osages, with only a few tribal members of white–Osage ancestry actually holding slaves on their Kansas reserve.⁸ Reportedly numbering thirty-five hundred individuals shortly before the war began, the Osage tribe was divided first into the Great (or Big) and Little Osage, second into bands within these two groups, and third into towns or villages within the bands. Chiefs and sub-chiefs governed each level of the tribe within this hierarchy. As reported by the U.S. Office of Indian Affairs, the Osage tribe chose the names of "Great and Little Osages, in consequence of the Little Osages having formerly lived separate" from the Great Osages earlier in the tribe's history. In 1861 nearly all of the Osages lived in southeastern Kansas, centering around villages along the Neosho and Verdigris Rivers and their tributaries. Osage Mission, which was established by Jesuit missionaries in



ALBERT PIKE. Appointed by Jefferson Davis to negotiate with tribes in Indian Territory and southern Kansas.

1846, served as an early center of interaction between the Osages and whites. Located in present eastern Neosho County, Kansas, Osage Mission housed a respected Catholic school that was run by three antislavery Jesuits for the benefit of Osage, Quapaw, and Cherokee children. The Jesuits also regularly visited Osage villages where they held religious services. The antislavery influence of the Jesuits, however, was counterbalanced by proslavery whites in the area. This included wealthy merchant and native Virginian John Mathews and his wife, Sarah, a woman of Osage–white descent. Residing at the site of present Oswego, Kansas, since 1841, Mathews raised race horses and owned trading posts at both Osage Mission and Fort Gibson, Indian Territory.

Mathews also held two slaves at his residence in 1861. His zealous pro-Southern sentiments and prominent position among the Osages presented Confederate authorities with an important ally in Kansas.⁹

Most Osages held both the Jesuits and Mathews in high esteem. When the war began, however, it became increasingly difficult for the Osages to befriend both Mathews and the Jesuits. Mathews sided with the South, the Jesuits with the North. Mathews's efforts received a boost in May 1861 when Confederate "emissaries" arrived on the reserve to deliver a letter from Cherokee

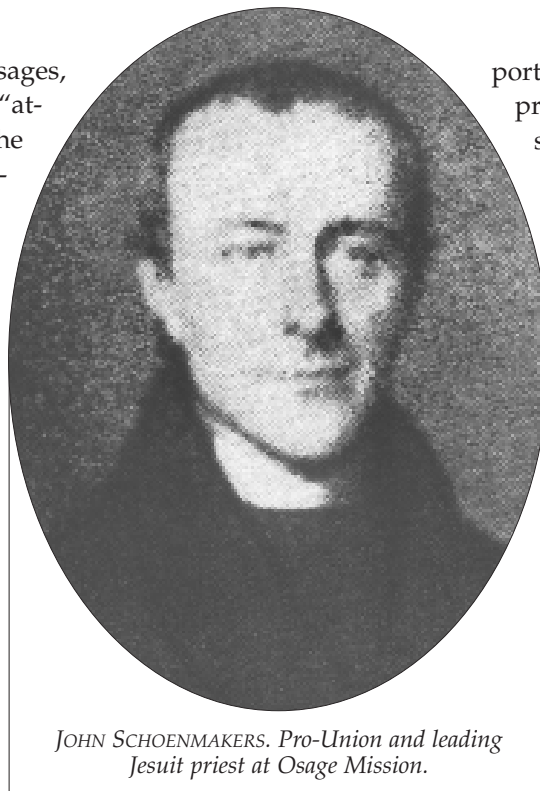
7. Baird, *The Quapaw Indians*, 97–99; Florence Wade, interview by Nannie Lee Burns, Baxter Springs, Kansas, July 31, 1937, in *Indian–Pioneer History Collection*, ed. Grant Foreman (Oklahoma City: Oklahoma Historical Society, 1978), 68: 397.

8. Philip Dickenson, *History of the Osage Nation: Its People, Resources and Prospects: The Last Reservation To Open in the New State* (Pawhuska, Okla.: 1906), 47. Baptismal records of slaves held by some members of the extended Chouteau family on the Osage Reserve in Kansas have been found. These Chouteau family members belonged to the Osage tribe and were white–Osage descent. These scattered records suggest that other Osage tribal members of white–Osage descent may also have owned slaves on the reserve in Kansas. See Louis F. Burns, *Osage Mission Baptisms, Marriages, and Interments, 1820–1886* (Fallbrook, Calif.: Ciga Press, 1986), 269, 276–77.

9. John Gilmary Shea, *History of the Catholic Missions Among the Indian Tribes of the United States, 1529–1854* (New York: Edward Dunigan and Brother, 1855), 464; James B. Kirker, *Dunigan's American Catholic Almanac, 1860* (New York: E. Dunigan and Brother, 1859), 232; *Metropolitan Catholic Almanac and Laity's Directory, for the United States, Canada, and British Provinces, 1861* (Baltimore: John Murphy & Co., 1860), 182; William Elsey Connelley, "Notes on the Early Indian Occupancy of the Great Plains," *Kansas Historical Collections, 1915–1918* 14 (1918): 467; Cutler and Andreas, *History of the State of Kansas*, 2:1473; *Report of the Commissioner of Indian Affairs for the Year 1865* (Washington, D.C.: Government Printing Office, 1865), 257–58; 292; John Joseph Mathews, *The Osages: Children of the Middle Waters* (Norman: University of Oklahoma Press, 1961), 627–28; W. W. Graves, *Annals of Osage Mission* (St. Paul, Kans.: 1934), 42; *Report of the Commissioner of Indian Affairs, Accompanying the Annual Report of the Secretary of the Interior, 1860*, 121; *ibid.*, 1861, 36, 40; Nelson Case, *History of Labette County, Kansas, From the First Settlement to the Close of 1892* (Topeka: Crane and Co., 1893), 21–22, 25; *Chetopa Advance*, February 4, 1954. Osage Mission was established in 1846, but the mission's school was first opened in 1847. See Cutler and Andreas, *History of the State of Kansas*, 1:830.

Chief John Ross. Addressed to the Osages, the letter invited the Osage chiefs to “attend a council [at Tahlequah] for the purpose of making a treaty with Albert Pike.” At about the same time, Mathews’s pro-Southern influence among the Osages was further enhanced when he received a colonel’s commission from General Ben McCulloch, the commander of Confederate forces in Indian Territory. Exercising his newly acquired authority, Mathews formed an irregular Confederate army company comprising white, Cherokee, and Osage recruits. Also promoting the appearance of Confederate dominance on the reserve, in the late spring of 1861 Dorn visited several Osage villages in present Montgomery County, Kansas. Relying upon his status as the former U.S. government agent, Dorn’s visit inferred that the Confederacy had replaced U.S. governance. The appearance of Confederate supremacy was further enhanced in July 1861 by the departure of John Schoenmakers, the leading Jesuit priest at Osage Mission.¹⁰

The influence of Dorn and Mathews encouraged the Great Osage chiefs to accept Ross’s invitation to attend the Tahlequah council in the autumn of 1861. The chiefs of the Little Osage bands, however, do not appear to have been approached by Southern emissaries and did not attend the council. Arriving at Tahlequah, the Great Osage chiefs joined leaders from other tribes who were also engaged in treaty negotiations with the Confederacy. At the council, the Osage chiefs were enticed with the promise of more sup-



JOHN SCHOENMAKERS. Pro-Union and leading Jesuit priest at Osage Mission.

10. Mathews, *The Osages: Children of the Middle Waters*, 627–28; *Emporia News*, September 21, 28, 1861; “Statement of Black Dog, Chief of the B.D. Band, Osage Indians, September 19, 1865, Fort Smith, Arkansas,” special file 125, M574, roll 24, 477, Office of Indian Affairs, 1807–1904, National Archives; Mary Paul Fitzgerald, *Beacon on the Plains* (Leavenworth, Kans.: Saint Mary College, 1939), 108; W. W. Graves, *Life and Letters of Fathers Ponziglione, Schoenmakers and Other Early Jesuits at Osage Mission* (St. Paul, Kans.: 1916), 154; Graves, *The Broken Treaty: A Story of the Osage Country* (St. Paul, Kans.: Journal Press, 1935), 129, 132, 135. John Schoenmakers’s self-imposed exile resulted from a threat he received after helping two U.S. government envoys travel to the Quapaw agency in Indian Territory. Although threatened by Confederate soldiers on at least one occasion, the two Jesuit priests remaining at Osage Mission adopted a position of neutrality in order to stay on the reserve. See Fitzgerald, *Beacon on the Plains*, 109–10. Case, *History of Labette County, Kansas*, 22.

port from the Confederacy than had been provided by the U.S. government. As a result, the Great Osage chiefs, representing the Clermont, White Hair, Big Hill, and Black Dog bands, eagerly finalized negotiations with Pike and Elias Rector, Confederate superintendent of Indian Affairs, and signed the Confederate compact on October 2, 1861. Despite the absence of the Little Osages, the treaty applied to the entire Osage tribe and left an open invitation for the Little Osage chiefs to later sign the accord. The treaty became legally binding when the Confederate Congress ratified the document on December 20, 1861.¹¹

The Osage treaty not only named the Great Osage bands as co-signers, it provided a description of the area that was annexed by the Confederacy. This included most of the Osage Reserve and all of the Great Osage villages. Even though the Little Osages had not signed the treaty, all but their northern most villages were also annexed. In addition, the treaty guaranteed that the Confederacy would protect the right of the “Great and Little Osage Tribes” to hunt “in all the unoccupied country.” This guarantee referred to the Osages’ traditional hunting grounds in south-central and southwestern Kansas, and northwestern Indian Territory, which had been excluded from the tribe’s land holdings by their 1825 treaty with the U.S. government. The importance of this area to the tribe is exemplified by the fact that two or three times each year the Osages would leave their reserve to go on hunting trips in this western tract.¹² Risking a potential jurisdictional dispute

11. Mathews, *The Osages: Children of the Middle Waters*, 636–37; *Report of the Commissioner of Indian Affairs, 1862*, 173–74; *ibid.*, 1863 (Washington, D.C.: Government Printing Office, 1864), 173; “Treaty with the Osages, October 2, 1861,” C.S.A. Statutes at Large (1864): 363–73. During the Civil War the Clermont band also was commonly known as Claremont, Claremore, Arrow-Going-Home, Clamos, and Grah-moie bands. See “The Osage Treaty with the Confederate States,” *Osage Magazine* (June 1910): 29; Louis F. Burns, *Osage Indian Bands and Clans* (Fallbrook, Calif.: Ciga Press, 1984), 13; *Report of the Commissioner of Indian Affairs, 1862*, 174.

12. “Treaty with the Osages, October 2, 1861,” 364; Wilcomb E. Washburn, *The American Indian and the United States: A Documentary History*, vol. 4 (New York: Random House, 1973), 2396. Confederate Indian Affairs officials were not alone in recognizing the Osage tribe’s right to hunt on the plains west of the Osage Reserve. Historian Edmund Jefferson Danziger points out that during the Civil War the U.S. Office of Indian Affairs acknowledged the tribe’s claim over the hunting grounds in the vicinity of

with the Cherokees, who claimed their own outlet in the southern portion of the “unoccupied country,” Southern negotiators knew that they had to guarantee Osages’ right to hunt in this area to secure tribal support for the treaty.¹³ For the Confederacy, however, the real object of the treaty was the annexation of the Osage Reserve. This is made clear by the expressed military protection of the reserve, attachment of the reserve to the Confederate Chalahki judicial district, legal protection of slavery, acceptance of financial responsibility for the Jesuit school at Osage Mission, assignment of a government agent, promise of a government interpreter who would “reside among either the Great or Little Osages,” offer of economic assistance, and pledge to send government workers to the reserve. Finally, in complete disregard of the state of Kansas, the treaty declared that the reserve was not included within the boundaries of any state. In exchange for these and other assurances, the Great Osages promised to allow the Confederacy to build roads and railroads on the reserve, supply “two sections of land” for a government agency, permit the construction of “forts and military posts,” and provide “five hundred warriors for the service of the Confederate States.” Adding that only the laws of the Osage tribe and Confederate government were in force on the reserve, the treaty served as a secession document and the Osage Reserve in Kansas became the new northwestern boundary of the Confederacy.¹⁴ Confederate Indian Territory now had a buffer.

Once the Osage treaty was signed, Dorn was appointed the Confederate Osage agent and Louis P. Chouteau

was assigned to serve as the resident government interpreter. Both Dorn and Chouteau were well qualified to serve in their respective positions. Not only were they present at the treaty signing, both men were well respected within the Osage tribe. As the tribe’s former U.S. government agent, Dorn was the clear choice to administer the Osage agency in Kansas. Chouteau, who was a former student of the Jesuit school at Osage Mission and godfather to one of John Mathews’s children, was well acquainted with the pro-Union and pro-Confederate advocates on the reserve. Chouteau also was a staunch Confederate of white–Osage descent and was fluent in both the English and Osage languages. These factors, and because he had met the required period of residency, made Chouteau an excellent choice to serve as the Confederate government interpreter to the Osages.¹⁵

After signing the treaty, the Great Osage chiefs returned to their reserve in Kansas and enrolled the promised “500 Osages” for Confederate military service.¹⁶ The Osages also waited for the arrival of the promised government workers, who never came. Because the reserve was militarily contested during the war, the government workers could not safely enter it. Agent Dorn reportedly was prevented from establishing his office on the reserve and was forced to perform his wartime duties from Indian Territory and Arkansas. Although Chouteau briefly returned to the reserve and helped form the Confederate Osage battalion, from 1862 to 1865 he too was confined to the safety of Confederate held Indian Territory. There he served as both the Confederate government interpreter to the Osages and as adjutant and quartermaster of the Osage battalion.¹⁷

present Wichita, Kansas. See Edmund Jefferson Danziger, *Indians and Bureaucrats: Administering the Reservation Policy during the Civil War* (Urbana: University of Illinois Press, 1974), 132. The fact that the Osages frequented their established hunting camp sites in the “unoccupied country” of central and western Kansas shows that the tribe believed the area was theirs to use. Also, it was commonly accepted by whites in the area that the Osage tribe held hunting rights in the “vicinity” of the Cimarron and Arkansas Rivers in Kansas. See “Record of Missionary Stations and Churches Established by the Fathers of the Mission of St. Francis of Jerome Amongst the Osage Indians in the State of Kansas from the Year 1847 to 1870,” 1, III Osage Mission #96, Midwest Jesuit Archives, St. Louis; Paul M. Ponziglione, *Antecedents of Osage Mission, Kansas* (n.p.: 1897); Leslie A. White, ed., *The Indian Journals, 1859–62: Lewis Henry Morgan* (New York: Dover Publications, 1993), 91; *Conservative* (Leavenworth), April 25, 1861.

13. The Osages and Cherokees had been engaged in a periodic armed conflict for approximately forty years prior to the Civil War. These sporadic clashes centered on territorial claims and hunting disputes, primarily in Indian Territory. By the time of the Civil War the armed tension between these two tribes largely had subsided, and the Osages held the chief of the Cherokees, John Ross, in high esteem. See James Mooney, *Historical Sketch of the Cherokee* (Chicago: Aldine Publishing Co., 1975), 130–31; Diana Everett, *The Texas Cherokees: A People Between Two Fires, 1819–1840* (Norman: University of Oklahoma Press), 60; Mathews, *The Osages: Children of the Middle Waters*, 635.

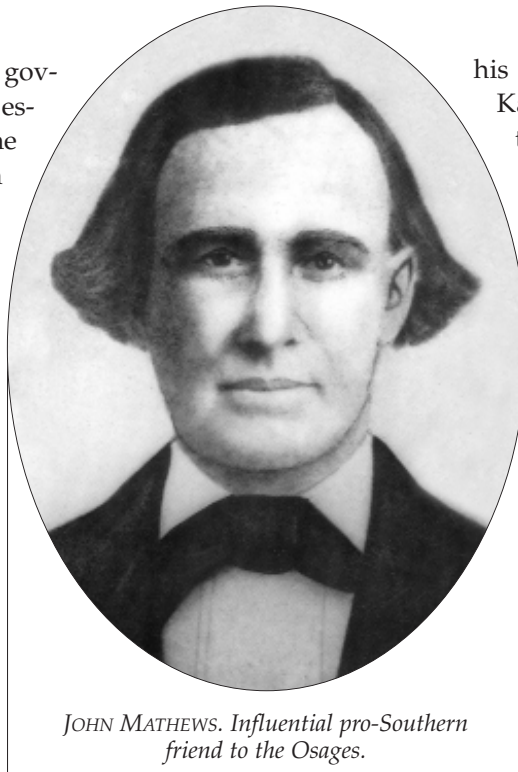
14. “Treaty with the Osages, October 2, 1861,” 363–73.

15. “Report of the Acting Commissioner of Indian Affairs, March 8, 1862,” 6; U.S. War Department, *The War of the Rebellion*, ser. 4, vol. 1 (1900), 646; Burns, *Osage Mission Baptisms, Marriages, and Interments, 1820–1886*, 198; Fitzgerald, *Beacon on the Plains*, 100; U.S. Office of Indian Affairs, *Approved Roll of Osage Indians in Oklahoma* (Washington, D.C.: Department of the Interior, 1921), 36. Andrew J. Dorn also was the Confederate government agent assigned to the Quapaw tribe.

16. *Mission Journal* (Osage Mission), September 29, 1870. Most of the “500 Osages” served the Confederacy in Indian Territory. These warriors were not the only Great Osages to leave their homes in Kansas during the war. According to S. S. Scott, Confederate commissioner of Indian Affairs, “150 families of the Great Osage tribe left their homes” in Kansas, and took refuge in the pro-Confederate Creek Nation in Indian Territory. See U.S. War Department, *The War of the Rebellion*, ser. 4, vol. 2 (1900), 354.

17. U.S. War Department, *The War of the Rebellion*, ser. 1, vol. 13 (1885), 964; L.P. Chouteau to James M. Bell, September 1, 1864, roll 42, folder 5167, Cherokee Nation Papers, Western History Collections, University of Oklahoma Libraries, Norman; L.P. Chouteau to James M. Bell, January 21, 1865, Cherokee Nation Papers; “L. P. Cheauteau,” Compiled Service Records of Confederate Soldiers Who Served in Organizations Raised Directly by the Confederate Government, M258, roll 88, 4, National Archives; Burns, *Osage Mission Baptisms, Marriages, and Interments*, 420; Chouteau returned to his home on the Osage Reserve in Kansas following the Civil War, where he served as the U.S. government interpreter

Any hope that the Confederate government might have had in establishing a presence on the Osage Reserve was thwarted when John Mathews was killed in September 1861. Before the treaty signing Mathews had been hunted down and dispatched by Union troops near Chetopa, Kansas, in retaliation for a raid on Humboldt, Kansas. His death was a serious blow to Confederate interests in Indian Kansas as he already had proven his military leadership abilities by recruiting Confederate soldiers in southeastern Kansas and Indian Territory. An indication of Confederate plans to expand Mathews's role in Kansas came shortly before his death when McCulloch had ordered Mathews to hire "Quappau [*sic*] Indian scouts at Fort Scott" for Confederate service



JOHN MATHEWS. Influential pro-Southern friend to the Osages.

"on the Kansas frontier." Mathews's death not only set back Confederate military interests in Kansas, the loss of his influence probably was a leading cause in the eventual withdrawal of all but two Great Osage bands from the treaty. Without Mathews's influence, only the Black Dog and Clermont bands remained loyal to the Confederacy for the duration of the war.¹⁸

The loss of Mathews, coupled with Dorn's inability to establish an agency in Kansas, left Indian Affairs officials frustrated as they attempted to obtain information about the Osage tribe. The office tried to implement the terms of the Osage treaty, first by attempting to survey the reserve in Kansas to legitimize the reserve's boundaries and establish the specific area that had been placed under Confederate jurisdiction. Lacking military occupation, however, their effort failed. In frustration S.S. Scott, Confederate commissioner of Indian affairs, reported in March 1862 that his office was unable to produce a map of the treaty-defined Osage territory. Even more troubling, Scott disclosed that

to the Osage tribe. "Official Roster of Kansas, 1854–1925," *Kansas Historical Collections*, 1923–1925 16 (1925): 737, 768. Louis P. Chouteau's last name was sometimes spelled Cheauteau.

18. Cutler and Andreas, *History of the State of Kansas*, 2:1454; *Daily True Delta* (New Orleans, La.), October 5, 1861; *Emporia News*, September 28, 1861; Augustus Wattles to William P. Dole, September 25, 1861, special file 201, M574, roll 59, 560–61, Office of Indian Affairs, 1807–1904; *Report of the Commissioner of Indian Affairs*, 1862, 174; *ibid.*, 1863, 173; *ibid.*, 1865, 293.

his office had lost all contact with the Kansas Osages, as "no information from the Osage agency is in the possession of this Bureau." This lack of information was due in part to agent Dorn's physical absence, but he should have had access to information about the tribe in Kansas nevertheless. For example, Ogeese Captain, one of the co-signers of the treaty and a commissioned Confederate army captain, "resided at Osage Mission" where he helped coordinate Confederate raids in southern Kansas until being exiled to Indian Territory in 1863. While in Kansas, Ogeese Captain kept in contact with Confederates in Indian Territory, where Dorn frequented. In addition, as late as 1864 Chouteau reported that "northern Osages" were bringing news from Kansas while visiting their Confed-

erate Osage brethren in Indian Territory.¹⁹ The use of the reserve as a conduit for the Southern flow of information, and as a gateway for Confederates entering Kansas, was no surprise to Unionists. In January 1863 James H. Lane, a U.S. senator from Kansas, requested that the Union remove the Osages from the state to prevent Confederate use of the Osage Reserve.²⁰

The Union army's aggressive moves in Indian Territory before and after Lane's initiative left the South with no hope

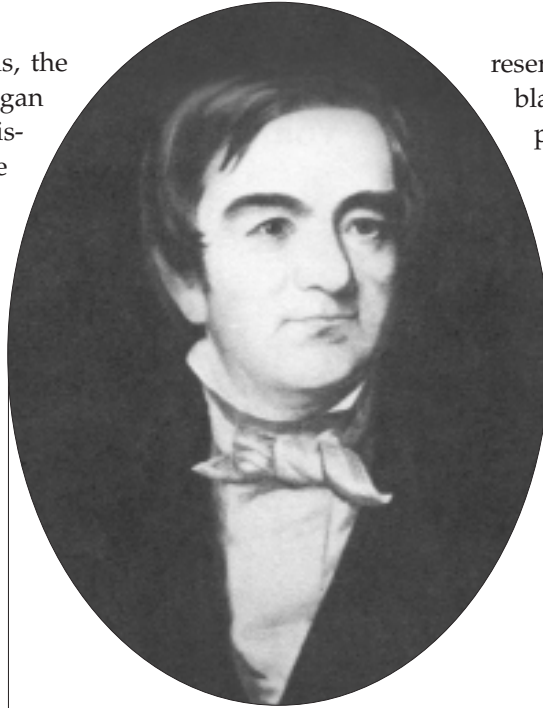
19. "Report of the Acting Commissioner of Indian Affairs, March 8, 1862," 7, 9; *Richmond (Va.) Examiner*, March 29, 1862; W. W. Graves, *Life and Letters of Rev. Father John Schoenmakers S. J.: Apostle to the Osages* (Parsons, Kans.: Commercial Publishers, 1928), 105; Louis F. Burns, *A History of the Osage People* (Fallbrook, Calif.: Ciga Press, 1989), 345; *Humboldt Union*, August 5, 1876; L. P. Chouteau to James M. Bell, September 1, 1864; "A. Captains," Compiled Service Records of Confederate Soldiers Who Served in Organizations Raised Directly by the Confederate Government, 3. Ogeese (Ogeese) Captain was also known as Augustus Captain. Ogeese Captain's last name was sometimes spelled Captain or Captans and predates his being commissioned an officer in the Confederate army. Although the precise origin of the name "Captain" is unclear, it may actually have had nothing to do with any prior military service. See Graves, *The Broken Treaty: The Story of the Osage Country*, 135; Tillie Karns Newman, *The Black Dog Trail* (Boston: Christopher Publishing House, 1957), 116; John Rydjord, *Kansas Place-Names* (Norman: University of Oklahoma Press, 1972), 114. Ogeese Captain is reported to have been of white descent and a member of the Osage tribe by marriage. See Ralph H. Records, "Recollections of the Osages in the 'Seventies," *Chronicles of Oklahoma* 22 (Spring 1944): 76.

20. *Congressional Globe*, 37th Cong., 3d sess., 1863, 505–6. Senator Lane's proposal that the U.S. government force the removal of the Osages from Kansas was part of a larger scheme to expel all Indians from the state.

of securing the Osage Reserve. Thus, the Confederate Indian Affairs office began to ignore the reserve, and Commissioner Scott barely mentioned the Kansas Osages in a January 1863 report to the Confederate War Department. Scott emphasized only that “a majority” of the Osages in Kansas were still loyal to the South but were afraid to act on their sympathies because the reserve was “under the control of the North.” With no report from agent Dorn, Scott added that “little [else] is known” about the Osages in Kansas.²¹

Despite the serious communication problem, the C.S.A.’s Bureau of Indian Affairs tried to fulfill some of its treaty obligations to the tribe. “Immediately upon ratification” the Confederate Congress approved its first annual appropriation to the Osages. In early 1862 the Confederate Treasury Department drew this appropriation, which amounted to \$22,568.44, for delivery to the Osage tribe through agent Dorn. Some of these funds were to be used to procure weapons for the Osages, both for hunting and defense. Following the treaty’s stipulations, but ignoring the true situation on the reserve, the Southern Congress also earmarked many of the appropriated funds for nonmilitary use on the reserve in Kansas. This included designating moneys for government building construction and the maintenance of the Jesuit school at Osage Mission. Dorn did receive most of the 1862 allocation, in the form of “\$17,000 in gold.” However, Nicholas B. Pearce, chief of the western Arkansas and Indian Territory Commissary Department, reported on July 5, 1862, that “Dorn has not been at his agency . . . in Kansas” and could not deliver the Confederate gold to the Osage Reserve.²²

Undeterred, the Indian Affairs office made one more attempt to distribute the next government allocation to the



JOHN ROSS. Cherokee chief, largely neutral in the Confederate and Union conflict.

reserve in the following year. However, blaming interference from “Kansas desperadoes,” Scott reported that none of the 1863 allocation could be delivered to the tribe in Kansas. Instead, Chouteau reported that Scott personally brought the “Osage money anxiety [sic]” to Sherman, Texas. The funds were then given to agent Dorn in Indian Territory, who was directed to “purchas [sic] goods with the money” for distribution among the Osage refugees in Indian Territory. The final Osage tribal appropriation, which amounted to only ten thousand dollars, was authorized in December 1864 for disbursement in 1865. Choosing humanitarian aid over weapons, the Confederate government designated the entire amount of this final appropriation for the “purchase of clothing and other articles to be distributed to the Osages.”

The funds were sent to the itinerant and long-exiled Osage agency, which theoretically had been moved from Kansas to Indian Territory and then moved again in 1864 from Indian Territory to Paris, Texas. With the funds in hand, J. J. Sturm, a Confederate government commissary, paid a Sherman, Texas, contractor to provide rations to the Osage refugees in southern Indian Territory through June 30, 1865.²³ This action ended Confederate government relations with the Osages.

Unlike Quapaws and Osages, Cherokees had a long-standing relationship with the U.S. government as a sovereign nation. Also unlike Quapaws and Osages, slavery was well rooted in Cherokee society. However, in the years

23. U.S. War Department, *The War of the Rebellion*, ser. 4, v. 2 (1900), 354; L. P. Chouteau to James M. Bell, September 1, 1864; C.S.A. Bureau of Indian Affairs, *Estimates of Appropriations Necessary to Comply, in Part, with the Treaty Stipulations Made with Certain Indian Tribes*, Message of the President, Richmond, Va., Dec. 7, 1864 (Richmond, Va.: 1864); S. S. Scott to S.B. Maxey, October 7, 1864, folder 142, Samuel Bell Maxey Papers, Gilcrease Museum, Tulsa, Okla.; “Osage Rations, April 1 to June 30, 1865” [typescript], oversize box 10, Ballenger Collection, NSU Archives, Northeastern State University, Tahlequah, Okla. The above mentioned “Osage Rations” typescript matches the format of the Confederate government “Provisions furnished Indians” form, which suggests authenticity. See C.S.A. War Department, *Regulations Adopted by the War Department, on the 15th of April 1862, for Carrying into Effect the Acts of Congress of the Confederate States Relating to Indian Affairs* (Richmond, Va.: Ritchie and Dunnivant, 1862), reel 26, no. 1388, 58, Confederate Imprints, 1861–1865.

21. U.S. War Department, *The War of the Rebellion*, ser. 4, vol. 2 (1900), 354.

22. C.S.A. Bureau of Indian Affairs, *Estimates of Appropriations Necessary to Comply, in Part, with the Treaty Stipulations Made with Certain Indian Tribes* (Richmond, Va.: Tyler, Wise, Allegrè and Smith, 1862), reel 15, no. 893, Confederate Imprints, 1861–1865; “Report of the Acting Commissioner of Indian Affairs, March 8, 1862,” 6; U.S. War Department, *The War of the Rebellion*, ser. 1, vol. 13 (1885), 964.

leading up to the Civil War, slavery had become a controversial issue within a broader tribal political struggle. This struggle was waged between the generally traditional, full-blood Cherokees, who tended to be antislavery, and tribal members of Cherokee–white descent, who tended either to own slaves or to be proslavery. When the U.S. Army abandoned Indian Territory in the summer of 1861, this power struggle shifted to favor the proslavery Cherokees. The additional departure of U.S. Indian affairs officials, followed by the appearance of eager Confederate negotiators, also swayed much of the tribal leadership to enter into negotiations with the South.²⁴

Confederate–Cherokee negotiations unofficially began in May 1861, when several prominent Cherokees secretly began talks with Southern agents. These early talks were conducted in secret because the principal tribal chief, John Ross, initially decided to avoid the war with a policy of neutrality. Between May and August, Ross’s neutrality policy abated as it became clear that this course would not protect the Cherokees from being drawn into the conflict. This policy shift particularly concerned Kansas Unionists, who feared that a Confederate–Cherokee treaty would bring the war to their doorsteps. Even though the Cherokee Nation encompassed much of northeastern Indian Territory, the northern portion of it extended into parts of southern Kansas. The largest section of Cherokee land in Kansas was known as the Cherokee Neutral Lands, which encompassed nearly eight hundred thousand acres of land in present Cherokee, Crawford, and Bourbon Counties. Recognizing the significance of this area, in May 1861 the *Fort Scott Democrat* expressed the fear that if the Cherokees joined the South, the Confederate army would take and “hold the Neutral Land[s] by force of arms.” This fear was heightened when, on August 24, 1861, Ross succumbed to pro-Southern tribal pressures and informed General McCulloch that the Cherokees had “abandoned our neutrality and espoused the cause of the Confederate States.” Although Ross had embraced the Southern cause he still was unwilling to sign a treaty with the Confederacy. Fearing that his hesitancy might invite a Union army invasion of Indian Territory, during the summer of 1861 Confederate Choctaws requested that the Confederate army set up a defensive

24. McLoughlin, *After the Trail of Tears*, 167, 177-78; David A. Nichols, *Lincoln and the Indians: Civil War Policy and Politics* (Columbia: University of Missouri Press, 1978), 30; Laurence M. Hauptman, *Between Two Fires: American Indians in the Civil War* (New York: Free Press, 1995), 45–46.

buffer in the northern Cherokee Nation. As a result, in August 1861 McCulloch ordered Colonel Stand Watie’s Confederate Cherokee regiment to take up defensive positions in the Neutral Lands. Anticipating an eventual withdrawal, in October 1861 McCulloch also ordered Watie to destroy anything of use to the Unionists in the Neutral Lands. While Watie’s force was only able to occupy the Neutral Lands until March 1862, the presence of these Cherokee troops demonstrated that the Confederate army viewed this portion of Kansas as Southern Cherokee territory. The Confederate Congress also made clear that the Neutral Lands were part of the Confederacy, when, on February 15, 1862, it passed an act placing all Cherokee lands “west of Missouri” under the jurisdiction of “Cha-la-ki judicial district.”²⁵

Satisfied that the Confederacy intended to fulfill its promises, and yielding to the dominant pro-Southern tribal leadership, Ross finally signed the Confederate treaty on October 7, 1861. Although somewhat similar in language and content to the Quapaw and Osage treaties, the Cherokee compact largely differed in that it treated the Cherokees as a sovereign nation. The 1861 treaty also offered more independence to the Cherokees than the 1835 U.S. treaty and awarded the Cherokees a nonvoting delegate seat in the Confederate Congress. Additionally, as reported by the Cherokee National Committee in 1861, the treaty obligated the Confederacy to provide a “guaranty” to the Cherokee Nation for the Neutral Lands. The guaranty stipulated that the Neutral Lands would exist as a protectorate of the South unless “the said tract of country should be ultimately lost by the chances of war.” If the Neutral Lands were

25. McLoughlin, *After the Trail of Tears*, 172–87; *Fort Scott Democrat*, May 11, 1861; Francis Paul Prucha, *American Indian Treaties: The History of a Political Anomaly* (Berkeley: University of California Press, 1994), 262–63; *Boggy Depot (Choctaw Nation, Indian Territory) National Register*, June 1, 1861; U.S. War Department, *The War of the Rebellion*, ser. 1, v. 3 (1881), 673, 690–92, 721; Evan Jones to W. P. Dole, October 31, 1861, Letters Received, 1824–1881, M234, roll 834, 1014, Southern Superintendency, U.S. Office of Indian Affairs; *Report of the Commissioner of Indian Affairs, 1862*, 174; C.S.A. Statutes (1864), ch. 79. Long frustrated by the failure of federal authorities to restrain white squatters from illegally settling in the Neutral Lands before the Civil War, Watie used McCulloch’s order to burn the homes of white settlers as far north as Lightning Creek in present Crawford County. See D. C. Gideon, *Indian Territory: Descriptive, Biographical and Genealogical, Including the Landed Estates, Country Seats, Etc., Etc., with a General History of the Territory* (New York: Lewis Publishing Co., 1901), 91. The fact that a small population of Cherokee citizens lived on the Cherokee Neutral Lands in Kansas resulted in the area being added to the Cherokee Nation’s Delaware District in 1846. Until that time the Cherokee Neutral Lands were treated by the Cherokees as a territory of the Nation. See *An Act Annexing a Tract Called 800,000 Acres of Land, to Delaware District, December 1, 1846*, in *The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839–1851* (Tahlequah: Cherokee Advocate Office, 1852), 149.

“lost” to the Cherokees, the area would be transferred to the Confederate States. Once transferred, the Cherokees would be paid a purchase price of \$500,000 with interest “from the time of [the original] purchase [from the U.S.] in 1835.” As a gesture of good will, the Confederate Congress authorized a down payment of \$150,000 to the Cherokees for the purchase of the Neutral Lands and an additional \$50,000 was promised for school construction there.²⁶ The Confederate–Cherokee treaty also annexed two other strips of land in Kansas. The first included the extreme northern portion of the Cherokee Nation’s Coo-We-Skoo-We (Cooweescoowee) District. Created in 1856 by the Cherokee Nation, the Coo-We-Skoo-We District extended two and a half miles into present southern Labette and Montgomery Counties. The second strip of annexed Cherokee land in Kansas included a portion of the Cherokee Outlet. Although most of the Cherokee Outlet existed in Indian Territory, the extreme northern portion of it extended two and a half miles into southern Kansas and ran the length of the southern border of Kansas from the Coo-We-Skoo-We District into present Clark County. Following the Civil War “that portion of the Outlet lying in Kansas” was commonly called the Cherokee Strip. Taken together, the annexed portions of the Coo-We-Skoo-We District and Cherokee Outlet in Kansas amounted to more than four hundred thousand acres.²⁷ Despite the Southern claim to portions of the Coo-We-Skoo-We District and Cherokee

26. “Treaty with the Cherokees, October 7, 1861,” C.S.A. Statutes at Large (1864), 394–411; Pruca, *American Indian Treaties*, 263; “Joint Meeting, Cherokee National Committee, October 9, 1861,” Journal of the Select Committee, November 15, 1859–May 2, 1861, MS 74–71, RG 50, NSU Archives; Albert Pike to John Ross, June 6, 1861, oversize box 10, Ballenger Collection; *Cherokee Neutral Lands in Kansas, To Accompany Bill H.R. No. 1074: Minority Report*, 41st Cong., 3d sess., 1871, H. Rpt. 12, 5; Gary E. Moulton, ed., *The Papers of Chief John Ross*, vol. 2 (Norman: University of Oklahoma Press, 1985), 494; Richardson, *A Compilation of the Messages and Papers of the Confederacy*, 151. Of the three Confederate congressional delegates seats awarded to the tribes, only the Cherokees were granted sole tribal representation in the Southern Congress. The other two tribal delegate seats were jointly shared between the Creeks and Seminoles, and the Choctaws and Chickasaws. See C.S.A. Statutes (1864), 297, 318.

27. *An Act Organizing Coo-We-Skoo-We District, in Laws of the Cherokee Nation, Passed During the Years 1839–1867* (St. Louis: Missouri Democrat Print, 1868), 73; Emmet Starr, *History of the Cherokee Indians and Their Legends and Folk Lore* (Oklahoma City: Warden Co., 1921), 80; George Rainey, *The Cherokee Strip* (Guthrie, Okla.: Co-Operative Publishing Co., 1933), 39–41; *Letter from the Secretary of the Interior in Response to Senate Resolution of March 16, 1892, Relative to the Title by which the Cherokee Nation Hold the Cherokee Outlet*, 52d Cong., 1st sess., 1892, Ex. Doc. 63. After the Civil War the portion of the Coo-We-Skoo-We District that extended into southern Labette and Montgomery Counties was commonly accepted as part of the Cherokee Strip. For example, an 1870 U.S. congressional report defined the boundaries of the Cherokee Strip in Kansas as “extending from the Neosho River to the west side of the State, and lying just north of our southern boundary.” See *Cherokee Neutral Lands of Kansas, To Accompany Bill H.R. No. 1074: Report of Arguments*, 41st Cong., 2d sess., 1870, H. Rpt. 53, 16.

Outlet lying in Kansas, the South failed to occupy these two strips of land. Any Confederate hope of occupying the Neutral Lands also was lost in 1862 when the Union army overran the area. According to the treaty, this technically triggered the transfer of the Neutral Lands to the Confederacy.²⁸ However, the Southern Cherokees did not acknowledge this transfer.

The first Union army incursion into the center of the Cherokee territory, during the summer of 1862, failed to establish a foothold in the Nation. Not until the following spring was the Union able to maintain a lasting presence in the heart of the Nation, which was initially limited to Fort Gibson. However, the 1862 invasion benefited Northern interests by dividing the Cherokee national government. This split occurred when principal chief John Ross allowed himself to be taken into Union custody in August 1862. The 1862 invasion also led Ross to demonstrate his true loyalty, which was to support the interests of the full-blood, and largely pro-Union, Cherokees. Leaving Indian Territory under U.S. protective custody, Ross spent the rest of the war attempting to rebuild the U.S.–Cherokee relationship. Cutting all ties to the Confederacy, in September 1862 Ross withdrew from the 1861 Confederate treaty, and reinstated the 1835 U.S. treaty. Ross also revoked the sale of the Neutral Lands to the Confederacy. Attempting to further augment U.S.–Cherokee relations, in February 1863 some pro-Union Cherokee leaders slipped into Cherokee territory to meet at Cowskin Prairie, near the Missouri state line. At Cowskin Prairie, the still exiled Ross was reaffirmed as the principal chief, and Thomas Pegg was elected as acting principal chief. Not dissuaded, the Confederate government abandoned Ross and turned to the Southern Cherokee leadership. Ross’s defection from the South also rekindled an old Cherokee family feud that had brewed for decades between the Ross and Watie clans and their respective supporters. As a result, the pro-Watie Cherokees affirmed their loyalty to the South by electing Watie as the principal chief

28. Following the Civil War an argument was presented before the U.S. Congress that the Cherokee Nation had indeed transferred ownership of the Cherokee Neutral Lands to the Confederate States. As a result, it was argued, the Cherokee Nation had relinquished its legal claim to the Neutral Lands. See *Cherokee Neutral Lands in Kansas, To Accompany Bill H.R. No. 1074: Minority Report*, 41st Cong., 3d sess., 1871, H. Rpt. 12, 5. Although the Cherokee Neutral Lands were in Kansas, the Southern government did not recognize the Neutral Lands as part of the state of Kansas. Illustrating this fact, Confederate government documents typically refer to the Neutral Lands as “between Missouri and Kansas.” For example, see “Report of the Acting Commissioner of Indian Affairs, March 8, 1862,” 9.

of the Southern Cherokees in March 1863. For the duration of the war, both the Ross and Watie factions claimed to represent the legitimate Cherokee governing authority.²⁹

Proceeding with the terms of the treaty, the Confederate government encouraged the Southern Cherokees to send a representative to Congress in Richmond, Virginia. The Southern Cherokees obliged by electing Elias Cornelius Boudinot to serve as their congressional delegate. Boudinot, who was a Fayetteville, Arkansas, attorney and member of the Cherokee Nation, had long been associated with the Watie faction. Watie also was Boudinot's uncle and close friend. Arriving in Richmond, Boudinot took his chair in the Confederate house of representatives on October 9, 1862. Throughout his tenure in the house, which ended with the Confederate surrender in 1865, Boudinot was highly respected by the members of Congress.³⁰ And Boudinot also was not afraid to use Cherokee lands in Kansas for the benefit of the South.

With all the tribal lands that were annexed or given protectorate status under the Quapaw, Osage, and Cherokee treaties, the Confederate government had appropriated a large portion of southern Kansas by the end of 1861. These treaties also theoretically extended Confederate civil, military, and judicial authority into southern Kansas.³¹ Even though the Confederacy was unable to occupy any portion of the state, elements within the Southern government continued to exploit Indian Kansas until mid-1863.

The first such exploitation was found with the passage of the Arkansas and Red River Superintendency of Indian Affairs Agency Act, which was signed into law by Presi-



WHITE HAIR. Great Osage chief, signed the Confederate compact in 1861 but subsequently withdrew from the treaty.

dent Davis on April 8, 1862. Briefly stated, this agency was designed to “regulate trade and intercourse with the Indians therein, and to preserve peace on the frontiers.” The area placed under the superintendency included “all the Indian country annexed to the Confederate States, that lies west of Arkansas and Missouri, north of Texas, and east of Texas and New Mexico.” The fact that the Confederate government intended this area to include tribal lands in Kansas is made clear when, on March 11, 1862, Congress struck the phrase “South of Kansas” from the superintendency’s original northern boundary description before the act was passed.³²

Another proposal relating to Kansas and its tribal lands was fostered by Charles Wells Russell, a Wheeling, (West) Virginia, attorney and member of the Confederate Congress. On August 21, 1862, Russell introduced a congressional bill entitled “An Act Relating to Kansas.” The bill declared that Kansas had been illegally admitted into the U.S., stated that the “so-called State of Kansas [was] within the limits of the Southern Confederacy,” and called for Kansas to be admitted as a “Territory of the Confederate States.” The bill’s passage would have placed all of the tribes in Kansas under the jurisdiction of the Confederate Bureau of Indian Affairs. However, on September 13, 1862, Congress dismissed the “Kansas bill” following a rejection by the congressional Committee on Public Lands and Territories.³³

29. Moulton, ed., *The Papers of Chief John Ross*, vol. 2, 516–18, 580; McLoughlin, *After the Trail of Tears*, 203–9; Annie Heloise Abel, *The American Indian in the Civil War, 1862–1865* (Lincoln: University of Nebraska Press, 1919), 193; Hauptman, *Between Two Fires*, 45, 49.

30. Edward Everett Dale, “The Cherokees in the Confederacy,” *Journal of Southern History* 13 (May 1947): 162; *Journal of the Congress of the Confederate States of America, 1861–1865*, vol. 5 (Washington, D.C.: Government Printing Office, 1905), 514; *In Memoriam: Elias Cornelius Boudinot, Born August 1, 1835, Died September 27, 1890* (Chicago: Rand, McNally and Co., 1890), 64.

31. William M. Robinson, *Justice in Grey: A History of the Judicial System of the Confederate States of America* (Cambridge: Harvard University Press, 1941), 332.

32. C.S.A. Statutes at Large (1862), ch. 19; *Journal of the Confederate States of America, 1861–1865*, vol. 2 (1904), 51. Even though the Confederate Congress struck the words “South of Kansas” from the bill before the statute was codified, this phrase still made its way into some later official Confederate government documents pertaining to Indian affairs. Also, the reference to preserving “peace on the frontiers” focused on protecting the region from hostile Plains Indians.

33. C.S.A. Congress, House of Representatives, *A Bill to be Entitled an Act Relating to Kansas* (Richmond, Va.: 1862), reel 6, no. 261, Confederate Imprints, 1861–1865; George W. Atkinson and Alvaro F. Gibbens, *Prominent Men of West Virginia* (Wheeling, W. Va.: W. L. Callin, 1890), 772; *Richmond (Va.) Whig*, August 22, 1862; *Journal of the Congress of the Confederate States of America, 1861–1865*, vol. 5 (1905), 307, 379. The reason for the congressional rejection of the “Kansas bill” is unknown. This is the only time that the Southern Congress ever considered admitting Kansas “Territory” into the Confederacy.

A third proposal relating to the tribal lands in Kansas centered on a Confederate government effort to help fill the ranks of the Southern army in the West. Specifically, to attract new recruits, congressional Cherokee delegate Boudinot proposed that the Confederacy authorize the enlistment of white recruits in Cherokee regiments. As an enticement, Boudinot advocated giving Cherokee citizenship and homesteads to the recruits. At a time when the South desperately needed more soldiers, Boudinot had no difficulty securing broad Confederate government endorsement. This included written "authority from the Secretary of War to raise [such] an additional force" and a letter given to Boudinot from President Davis for delivery to Stand Watie. The letter, dated April 1, 1863, authorized Watie to raise a "Brigade of three regiments for the defence [*sic*] of the Indian country." This new brigade would consist of whites but remain under Cherokee command, thus assuring the Cherokees that the Confederate army could not remove the force from Cherokee territory without tribal approval. With Davis's letter in hand, and with tacit congressional support, Boudinot left Richmond for Indian Territory to personally present the proposed measure to the Southern Cherokees. He was accompanied by Josiah Woodward Washbourne, a longtime friend and son of a Presbyterian missionary to the Cherokees. Described by Confederate Senator Robert W. Johnson as "a man of talent and capacity," Washbourne probably advised Boudinot as he fine-tuned the proposal.³⁴ More importantly, Boudinot also probably expected support for the proposal from his uncle Stand Watie, who had recruited whites for service in his Cherokee regiment in 1861.³⁵



STAND WATIE. Loyal to the South and elected principal chief of the Southern Cherokees.

34. Elias C. Boudinot, "To the Citizens of the Cherokee Nation!" [1863], small broadside 186, Gilcrease Museum; *True Democrat* (Little Rock, Ark.), May 6, 1863; Edward E. Dale, "Some Letters of General Stand Watie," *Chronicles of Oklahoma* 1 (January 1921): 34; *History of Benton, Washington, Carroll, Madison, Crawford, Franklin, and Sebastian Counties, Arkansas* (Chicago: Goodspeed Publishing Co., 1889), 252; U.S. War Department, *The War of the Rebellion*, ser. 1, vol. 3 (1881), 598; *ibid.*, ser. 1, vol. 22, pt. 2 (1888), 810. Josiah W. Washbourne also helped negotiate the 1861 Confederate treaty with the Osages. See *ibid.*, ser. 4, vol. 1 (1900), 646.

35. Kenny A. Franks, *Stand Watie and the Agony of the Cherokee Nation* (Memphis: Memphis State University Press, 1979), 115; Mabel Washbourne Anderson, *Life of General Stand Watie* (Pryor, Okla.: Mayes County Republican, 1915), 14; Boudinot, "To the Citizens of the Cherokee Nation!"

Arriving in Indian Territory, Boudinot caught up with the gathering of the Cherokee Convention, the national legislature that comprised the elected members of the National Council and National Committee. Summoned by Watie, an unknown number of the forty-five convention members assembled in late May 1863 southwest of Fort Gibson.³⁶ Rising before the Cherokee Convention, Boudinot may have been unprepared for what awaited him. He surely knew that some Cherokees opposed opening their territory to white settlement, but he may not have known the extent of the personal bitterness that some convention members felt toward him. In part, this hostility was caused by the belief of some that Boudinot's loyalty was to the Con-

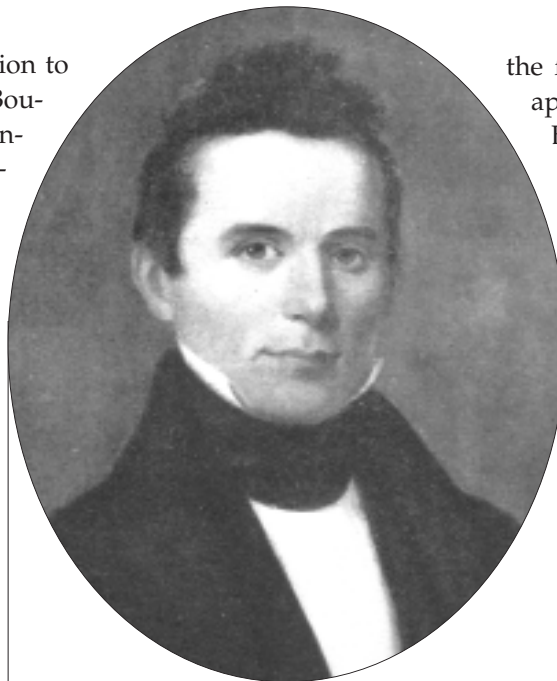
federacy, not to the Cherokees. Some Cherokees also resented Boudinot because they believed his father had betrayed the Nation by supporting the tribe's 1830s removal from its Appalachian homeland.³⁷

When Boudinot spoke before the convention, he first established Confederate authority for his proposal by reading the letter from Davis to Watie. In the letter Davis told the Cherokees that the "'privilege of residence' [for

36. "James M. Bell to Caroline Bell, Camp Coody's Creek, May 29, 1863," in Edward Everett Dale and Gaston Litton, *Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family* (Norman: University of Oklahoma Press, 1939), 126; Morris L. Wardell, *A Political History of the Cherokee Nation, 1838-1907* (Norman: University of Oklahoma Press, 1938), 162-63. The Cherokee Nation comprised nine political and judicial districts in Indian Territory and Kansas, which included the recently created Coo-We-Skoo-We District. Each district sent legislative representatives to the National Committee and National Council, which made up the National Convention. The Cherokee National Committee included eighteen elected members, and the Cherokee National Council comprised twenty-seven elected members. See *The Constitution and Laws, Cherokee Nation: Passed at Tah-Le-Quah, Cherokee Nation, 1839* (Washington, D.C.: Gales and Seaton, 1840), 6; Russell Thornton, *The Cherokees: A Population History* (Lincoln: University of Nebraska Press, 1990), 80.

37. McLoughlin, *After the Trail of Tears*, 214; Prucha, *American Indian Treaties*, 178; Thurman Wilkins, *Cherokee Tragedy: The Ridge Family and the Decimation of a People*, 2d ed. (Norman: University of Oklahoma Press, 1986), 328. Elias Cornelius Boudinot's father, Elias Boudinot, was murdered along with two other prominent pro-removal Cherokee leaders in 1839. These three murders were political assassinations by Cherokee militants belonging to the anti-removal movement. See Prucha, *American Indian Treaties*, 181.

the white recruits] is made a condition to raising of the additional force." Boudinot hoped that the president's endorsement of the plan would transcend any opposition to the land bounty portion of the proposal. Next, detailing how to fulfill the scheme, Boudinot proposed that "160 acres of [Cherokee] land" should be offered to the white recruits, with the first homesteads being taken from the unsettled "portion of the Neutral Land[s]" in Kansas. If additional homesteads were needed, he proposed that the white recruits be given land in the Cherokee Outlet. To bolster his proposal, Boudinot argued that the Southern Cherokee Nation might not survive without the white recruits and asserted that the settlement of the white veterans in the Nation would not compromise tribal sovereignty because "every foot of our beautiful country, even the Neutral Land[s]," would remain Cherokee territory. The proposal was met with brazen hostility by some convention members, who already were displeased with their delegate's failure to secure adequate Southern financial and military support. To make matters worse for Boudinot, Watie was unable to attend the meeting because of military duties.³⁸ This allowed the convention to solely determine



ELIAS CORNELIUS BOUDINOT. *The Southern Cherokees' representative to the Confederate Congress.*

38. Boudinot, "To the Citizens of the Cherokee Nation!" Watie actually may not have supported Boudinot's recruiting plan. In early August 1863 Watie wrote letters to various Confederate officials, including President Davis and Boudinot. However, Watie makes no mention of Boudinot's recruiting proposal. In his letter to Davis, Watie proudly states that the Cherokee people can defend "their [own] country" without any outside assistance. In his correspondence with Boudinot, Watie directs Boudinot's focus on civilian, rather than military matters. Watie primarily wanted Boudinot to "negotiate with the Confederate Govt." to obtain provisions for the "destitute refugees from the Nation." See Stand Watie to [Jefferson Davis], August 9, 1863, roll CHN 115, folder 460, Cherokee National Records, Oklahoma Historical Society, Oklahoma City; Stand Watie to Elias C. Boudinot, August 9, 1863, roll CHN 115, folder 461, *ibid.*

the fate of the proposal. The convention appointed a committee that studied Boudinot's proposal and presented it as a proposed bill. However, the "Convention by a majority of two votes" rejected the bill and instead agreed to support Davis's authorization for Watie to raise an additional force of Cherokees, not whites, with the use of a conscription law.³⁹ Boudinot's proposal was dead.

Boudinot's recruiting scheme served as the last time that the Confederate government sought to use Indian Kansas either for territorial gain or the war effort. Following this, Southern officials could no longer pretend that any portion of Kansas was under Confederate jurisdiction. Southern government attempts to extend

Confederate Indian Territory into southern Kansas primarily failed because the area could not be militarily secured, and the necessary tribal political support was not present. Indian Kansas remained beyond the Confederacy's reach.



39. "James M. Bell to Caroline Bell, May 29, 1863," in Dale and Litton, *Cherokee Cavaliers*, 126-27; Wardell, *A Political History of the Cherokee Nation*, 162-63; Boudinot, "To the Citizens of the Cherokee Nation!" Discouraged but not subdued by the convention's rejection, Boudinot took his recruiting proposal directly to the Cherokee people. Calling for a referendum, Boudinot told the Cherokee people that the convention had "refused to allow you an opportunity of saying whether you were in favor of it or not." In a letter to Watie in June 1863, Boudinot also condemned the conscription law as amounting to "nothing," because the convention refused to take away the property and citizenship of Cherokees who evaded the draft. Concerned that Boudinot might attempt to circumvent the convention's decision, in June 1863 several prominent Southern Cherokees sent a letter to President Davis rejecting Boudinot's proposal and stating, "We have no longer any confidence in our delegate." After this, Boudinot dropped the recruiting scheme and returned to Richmond. The confederate government also dropped the matter. In a letter to Davis in December 1863, Boudinot's final comment on the matter was made in the context of his disappointment that Watie was never able to raise the force that had been authorized by the president. See Boudinot, "To the Citizens of the Cherokee Nation!"; Elias Cornelius Boudinot to Stand Watie, June 27, 1863, roll 39, folder 3929, Cherokee Nation Papers; U.S. War Department, *The War of the Rebellion*, ser. 1, v. 22, pt. 2 (1888), 1103, 1120-22.