

Race, Politics, and the Fight for Tribal Sovereignty:  
The Memory of The Cherokee Nation in the Civil War

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History 495: Civil War Research Seminar  
May 26<sup>th</sup>, 2021

Indigenous Americans are often left out of the narrative in many important events in American history. Unless the event was solely based on Indigenous Involvement, like Indian Removal, many tribes and nations are not included in the dominant memory of major events. The Civil War is one of the most important events in American history. It is a critical moment in history because it decided what type of nation America was going to be: one with or without slavery. The war also determined the fate of slavery within the tribes and nations of Indigenous peoples. One of the Indigenous Nations that expands the narrative of the Civil War is the Cherokee Nation. Their involvement in the war complicates the racial narrative from being solely a Black and White issue.

The Cherokee Nation complicates the narrative of the Civil War because they owned slaves, assimilated to American racial ideologies, and also had influential nationalist groups who were against any involvement in American affairs. However, their involvement on the western front is not covered well by many historians. In the article “Lest We Remember” by historian Jeff Fortney, he discusses how memory was shaped in Oklahoma after the Civil War. Fortney makes the argument that Native Americans did not commemorate a war that represented an unjustified and unavoidable interference with American affairs.<sup>1</sup> Though many fought for the Union and the Confederacy, memorials are often not erected during wartime. He argues “public sentiment during the post-war period tends to be dictate commemorate endeavors”, which is why Indigenous people’s involvement in the war is frequently overlooked and forgotten.<sup>2</sup> The Cherokee Nation’s decision not to commemorate the war in an American way, with the raising of

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<sup>1</sup> Jeff Fortney, “Lest We Remember: Civil War Memory and Commemoration among the Five Tribes,” *The American Indian Quarterly* 36, no. 4 (2012): 525–44.

<sup>2</sup> Fortney, 527.

monuments and memorials, allowed for their memory to be lost in the dominant narrative.

Fortney also mentions how the lack of recognition or memorialization of the Civil War by the Cherokee led the memory to be written by white settlers from the South who “attempted to assimilate the Native story into their own narratives via public commemorative endeavors” to fit into their “lost cause”.<sup>3</sup> Thus the dominant memory of the Cherokee was they were slaveholders who supported the Confederacy. But newer scholarship, like Fortney’s, shows a different perspective as to why they fought in an American war that almost split the Cherokee into two nations.

The Cherokee story cannot be told without the inclusion of complex racial ideologies, religious influences, Cherokee Nationalism, political rivalries, and their relationship with the United States government. Encompassing all parts of the story allows for the memory of the Cherokee to break free from the notion that they were all supporters of the Confederacy. There is no place for the Civil War monuments that stand for the “lost cause” ideals or defense of the American Union on Native lands. The Cherokee fought in the war to guarantee their survival and protection from the American controversy. Similar to any time in history, they did what they thought was best for their survival. What is important to recognize in their history is they were both an oppressor and oppressed based on race. Their adoption of slavery and economic ties to the Southern economy made joining the Confederacy the more logical choice, however, many in their nation sided or deflected to the Union. But no matter what side they chose, their Nation suffered major consequences after the war as their land sovereignty was taken from them again. So the Cherokee Nation chose to rebuild and move on, instead of memorializing another

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<sup>3</sup> Fortney, 526.

ruination of their people. Unfortunately, it was at the expense of the freedmen in their nation, who are still fighting to be recognized as part of the Cherokee Nation.

The Cherokee's inevitable involvement with the struggle over slavery began before the Civil War. Their involvement with slavery dates back to the eighteenth century. In the article "The Cherokee Freedmen and the Color of Belonging" by legal historian Dr. Inniss, she mentions how slavery became fully intertwined into Cherokee society before the Trail of Tears. As early as the 1730's, members of the Cherokee operated as slave catchers for White Europeans.<sup>4</sup> She argues their participation as slave traders and reliance on market-based slavery allowed the Cherokee to gain a sense of status in the white society in the eighteenth and early nineteenth centuries. They did this to be recognized as reliable to have trade relations with. Adopting slavery was just one of the ways the Cherokee assimilated to American society to prove they were civilized and capable of being sovereign people. Their racial practices of enacting slave laws are what complicates the black and white racial narrative of the nineteenth century.

The Cherokee developed their own slave-code laws that resembled southern ones. In the article "Slave Revolt in Cherokee Nation 1842" by historian Daniel Littlefield, he articulates an argument different than Inniss. His article described the Cherokee Nation as no different from the surrounding slaveholding areas in the South and described how African slaves had "no increased freedoms under their Cherokee masters".<sup>5</sup> Littlefield's research analyzed how their

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<sup>4</sup> Lolita Buckner Inniss, "Cherokee Freedmen and the Color of Belonging," *Columbia Journal of Race and Law* 5, no. 2 (October 19, 2015): 100–118, <https://doi.org/10.7916/cjrl.v5i2.2308>.

<sup>5</sup> Daniel F. Littlefield and Lonnie E. Underhill, "Slave 'Revolt' in the Cherokee Nation, 1842," *American Indian Quarterly* 3, no. 2 (1977): 121–31, <https://doi.org/10.2307/1184177>.

slave code adopted the worst features of Southern black slave codes that included black freedmen. Some of the laws included:

An 1819 law stated that no contract or bargain could be entered into with a slave without the master's consent. A law passed in 1820 said that anyone who traded with a slave without his owner's permission was bound to the legal owner for the property or its value if the property traded proved to be stolen. The same law stipulated a fine of fifteen dollars for masters who allowed their slaves to buy or sell spirituous liquors; any slave found selling them without the consent of his owner was to "receive fifteen cobbles or paddles for each offence, from the hands of the patrolers [*sic*] of the settlement or neighborhood in which the offence was committed." The law permitted every settlement to organize "a patrolling [*sic*] company." A law of 1824 forbade the intermarriage of slaves and Indians or whites. An Indian or white male violating the law received fifty-nine lashes, and an Indian or white woman received twenty-five lashes. Finally, another law of that same year made it unlawful for slaves to own horses, cattle or hogs, and provided for the confiscation and sale of such property still held by slaves twelve months after the passage of the act. Such was the slave code of the eastern Cherokees before their removal to the West.<sup>6</sup>

Modeling their laws after the South allowed them to move up the racial hierarchy and have power over African slaves. The most severe punishments were equally given to anyone of African descent regardless if they were a slave. The most significant aspect of the slave laws was they did not just outline brutal treatment of slaves but also freedmen and "mulattos" not of Cherokee blood. Littlefield argues this was from the Cherokee's fear of how the Seminoles treated their freedmen as equal citizens and thought free Africans would want to be treated the same as their neighbors.<sup>7</sup> His argument supports the memory that the Cherokee fought in the war to defend slavery. Slavery became so important to their society that it shaped the laws in their Constitution.

Littlefield describes how Black slaves and freedmen were treated the same within Cherokee society. This is reflected in the laws of the 1839 Cherokee Constitution; established

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<sup>6</sup> Littlefield and Underhill, 124.

<sup>7</sup> Littlefield and Underhill, 127.

when they settle in Indian Territory after being forced from their eastern lands. The Cherokee Constitution was the agreement between all the factions after Indian Removal to unite as one nation. In an article from the modern-day *Cherokee Phoenix*, author Will Chavez describes the document as a “Formal Act of Union” whereby political groups were declared to be one body under the title of the Cherokee Nation.<sup>8</sup> This act of union brought together political factions, which included the followers of Principal Chief John Ross and his rivals from the Treaty Party: Major Ridge and Stand Watie. Though their leaders had many disagreements, both parties agreed to exclude those of African descent from being able to obtain citizenship within the new nation. Article III Section V stated:

The descendants of Cherokee men by all free women, except the African race whose parents may have been living- together as man and wife, according to the customs and laws of this Nation, shall be entitled to all the rights and privileges of this Nation as well as the posterity of Cherokee women by all free men. No person who is of negro or mulatto parentage, either by the father’s or mother’s side, shall be eligible to hold any office of profit, honor, or trust under this government <sup>9</sup>

Unlike the United States Constitution, the Cherokee Constitution explicitly stated that African slaves and freed blacks could not run for public office or vote. Individuals of African descent were the lowest minority in the Cherokee community. Littlefield’s argument finds that the Cherokee Nation’s willingness to assimilate to racist ideologies reflected their true beliefs. However, Inniss’s argument pushes against Littlefield’s and resembles Fortney’s newer

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<sup>8</sup> Will Chavez, “1839 Cherokee Constitution Born from Act of Union,” [cherokeephoenix.org](https://www.cherokeephoenix.org), accessed March 7, 2021, [https://www.cherokeephoenix.org/news/1839-cherokee-constitution-born-from-act-of-union/article\\_5621e3f8-f65c-5990-8af2-c889b21b0abc.html](https://www.cherokeephoenix.org/news/1839-cherokee-constitution-born-from-act-of-union/article_5621e3f8-f65c-5990-8af2-c889b21b0abc.html).

<sup>9</sup> Cherokee Nation, “Constitution and Laws of the Cherokee Nation” (National Council, 1892), <https://www.loc.gov/law/help/american-indian-const/PDF/28014172.pdf>.

interpretation. Instead, she claims that the Cherokee Nation assimilated to the American view of race because they believed it would help them regain sovereignty over their new lands.

One of the key factors to survival for Indigenous Nations is regaining their sovereignty. After the Indian Removal Act of 1830, the Cherokee had gained some freedoms in Indian Territory under their new treaty with the United States. How the Cherokee gained some notion of sovereignty in the nineteenth century is discussed by Inniss's. Her argument discusses how the role of skin color bias played a major part in how Cherokee interacted with the American government from the Cherokee's attempt to speak their "language". She describes how "Native American sovereignty meant borrowings and compromises with the United States" and that racial power was at the heart of the negotiations.<sup>10</sup> Race was said to be the principal tool to exercise sovereign power in a country where skin color historically has been deeply intertwined with the shaping of the United States. Inniss describes how the Cherokee assimilation to the context of American sovereignty made them one of the wealthiest groups of Native Americans. They owned plantations and relied on African slaves to cultivate their fields. The Cherokee's relationship with African Americans broadens interracial interactions in the nineteenth century especially in the context where Indians were first "subordinated by a dominant white group, then attain some degree of power, social standing, and in turn subordinate black people".<sup>11</sup> Inniss' argument highlights that to survive the Cherokee needed to prove they were civilized by assimilating to American ideologies about race. Unfortunately, it was at the cost of African slaves in their tribes.

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<sup>10</sup> Inniss, "Cherokee Freedmen and the Color of Belonging," 105.

<sup>11</sup> Inniss, 107.

As mentioned before, post-war periods tend to dictate how memories are commemorated. Most remember the military campaigns but not the devastation of the land and people. The home front memory in the West is not as well known, especially the impact the war had within the Cherokee Nation. From the book *Between Two Fires: American Indians in the Civil War*, historian Laurence Hauptman told the story of the Cherokee during the Civil War Era. He covers how different tribes and nations fought for the Union or the Confederacy; “the two fires” that pinned Indigenous nations against one another.<sup>12</sup> In his chapter “The General: Western Cherokee and the Lost Cause” analyzed two Cherokee leaders, Chief John Ross, and General Stand Watie. Hauptman argued how their hatred for one another affected the Cherokee’s willingness to fight in the war. Their motivations to fight in the Civil War were not solely based on slavery but internal conflicts between the two political forces.<sup>13</sup> His argument gives a different perspective about how the Cherokee should be remembered during the Civil War; not as Confederate sympathizers, but as a group who had to pick a side in an unavoidable conflict.

Hauptman began his chapter detailing the devastation the war brought to the Cherokee Nation. From fighting in the war, economic displacement, refugee conditions, poverty, starvation, smallpox, and political violence, he believed that the Cherokee Nation suffered more than any other Indigenous nation. The war should be remembered as another ruination of the Cherokee people. Their population during the war went from twenty-one thousand to fifteen thousand, leaving many widows and orphans. Around three thousand served in the Confederacy and two thousand remained loyal to the Union.<sup>14</sup> This split in loyalties was from a long rivalry

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<sup>12</sup> Laurence M. Hauptman, *Between Two Fires* (Free Press, 1995), <http://archive.org/details/betweentwofiresa00haup>.

<sup>13</sup> Hauptman, “The General: The Western Cherokee and the Lost Cause,” 41.

between Chief Ross and General Watie. The rivalry dated back to the Trail of Tears and Indian Removal in the 1830s. Watie was part of the Treaty Party, a group that was advocated for removal based on dishonest motives and the hope for new opportunities in the West. Ross and his followers, the National Party, fought to protect their ancestral lands. Many from the National Party hated Watie and attempted many times to assassinate him and his circle of supporters. Hauptman describes how “for the next seven years the Cherokee in Indian Territory, failed tribal vendettas and bloodletting” tore through the Nation until Ross and Watie were able to “bury the hatchet” with the treaty of 1846.<sup>15</sup> The federal treaty recognized Ross as the Principal Chief of the Nation and the government systems. Under the treaty, the land flourished and by 1860 they had around four thousand slaves.<sup>16</sup> He argues that it was the Civil War that tore open old wounds between the two parties and caused the split as anti-Confederate and Cherokee abolitionists refused to join Watie's pro-Confederacy war efforts.

As the United States moved closer to the eve of southern secession, battles within the Cherokee Nation arose between two secret societies: the Keetoowah and the Knights of the Golden Circle. Both radical groups had their own vision of what type of American assimilation was beneficial to the wellbeing of the Cherokee people. In his book, Hauptman describes the details of how these two groups formed. Though Ross owned over one hundred slaves on his plantation, he gained the support of the abolitionist group the Keetoowah Society. The Keetoowah Society were influenced by Christian missionaries in their nation and gained a sympathetic view towards the abolitionist movement. They were an anti-Watie war group that

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<sup>14</sup> Hauptman, 44.

<sup>15</sup> Hauptman, 45.

<sup>16</sup> Hauptman, 46.

organized to cultivate a national feeling of full-blood Cherokees.<sup>17</sup> Their purpose was to maintain friendly relations with the United States, advocate for the abolition of slavery, and the rights of full blood Cherokee. How Hauptman described their meaning of “full-blood” was based on how he thought the Cherokee viewed race through an American lens. Their alliance with Ross was strictly based on his support of staying neutral because Ross was only one-eighth Cherokee, while Watie was full-blooded. His interpretation supports the narrative that many in the Nation were Confederate sympathizers and the Cherokee assimilated fully to southern ideologies about race. However, it does recognize another crucial part of the story, that there were many who opposed slavery and the war.

Another interpretation of the Keetoowah society by cultural historian Patrick Mingos describes how the anti-war group had roots in Freemasonry. In his book *Slavery in the Cherokee Nation: The Keetoowah Society and Defining of a People, 1855-1867*, he discusses an almost religious history of the Cherokee that contributed to the split of the Nation.<sup>18</sup> The chapter “The Birth and Growth of the Keetoowah Society: Indian Pioneers” argued that after removal from the East to Indian Territory, “another peculiar institution arose within the populace and began to spread more rapidly upon the arrival in the Indian Territory”.<sup>19</sup> This phenomenon, as he called it, was the story of Oklahoma Freemasonry. His interpretation adds another level of complexity to the memory of the Cherokee because he believed it was not race that created the Keetoowah

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<sup>17</sup> Hauptman, 47.

<sup>18</sup> Patrick Mingos, *Slavery in the Cherokee Nation: The Keetoowah Society and the Defining of a People, 1855-1867* (New York, New York: Routledge by Taylor and Francis Books, 2003),

<sup>19</sup> Mingos, “The Birth and Growth of the Keetoowah Society: Indian Pioneers”, 57.

movement, but the notion that they should return to their ancestor's beliefs before Europeans controlled their continent.

The outreach of the Masonic Brotherhood to the leadership of the Indian Nations, Minges argued, was as old as the country itself. Though the Freemasons have close associations with Judeo-Christian traditions, Freemasonry is not a religion. Their message of charity, brotherly love, and respect appealed to many of the tribes' leaders in the nineteenth century.<sup>20</sup> What is interesting is the Freemasons did not accept African American members, but they did accept Native American Chapters and lodges. This may be attributed to their relations with Ross, who was of mixed race, both white and Cherokee. Ross was known to be a Master Mason in the order, another reason why the Keetoowah sought him for leadership. Upon arrival into Indian Territory, former lodge members in the East began to reorganize the "craft" in their new home.<sup>21</sup> He described in 1848, the Grand Lodge of Arkansas granted them to formulate a "Blue Lodge" in the Cherokee capital. In 1852, "Cherokee Lodge #21 and the sons of temperance" shared a building where community services, lodge meetings, education instruction and church meetings took place.<sup>22</sup> The churches the Lodge was associated with were black dominations of the Baptist and Episcopalian. This is where Minges believes the origins of abolitionist influence on the Cherokee Nation began and why the Keetoowah formed their society within the Freemason lodges. As the dawn of the Civil War approached, the number of slaves within the Nation had grown immensely from ten percent of the population in 1839 to twenty-five percent in 1860.<sup>23</sup>

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<sup>20</sup> Minges, 60.

<sup>21</sup> Minges, 62.

<sup>22</sup> Minges, 63.

<sup>23</sup> Minges, 65.

As slavery spread, so did the black church's message of abolition. Eventually, the slaveholder progressives—as Minges had called them—did not represent the interest of the conservatives, the Keetoowah, who wanted to regain their sovereignty from before European contact.

Minges' interpretation pushed against what Inniss argued in her article. The Keetoowah did not use race as their tool to back their fight for tribal sovereignty. Many of their ministers “expelled Cherokee slave owners from the church” and lodges.<sup>24</sup> They picked up similar rhetoric to northern ministers who preached against southern ideologies of race and slavery. The word Keetoowah was derived from the Cherokee term “Ani-Kituhwagi” which meant “the original people”.<sup>25</sup> Minges argued the purpose of the Keetoowah Society was to create unity of the full-blood race, but not in the American meaning of race. They sought to conserve the purity of the Cherokee people's customs and traditions. The Constitution of the Keetoowah society, approved on April 29<sup>th</sup>, 1859 stated:

Only full blood Cherokees uneducated, and no mixed blood friends shall be allowed to become a member... Under the Cherokee Constitution, after confidential conference, a number of honored men began to dis-cuss and deliberate and decide secretly among friends whom they love, to help each other in everything. Our secret society shall be named Keetoowah. All of the members of the Keetoowah Society shall be like one family. It should be our intention that we must abide with each other in love. Anything which derive from English or white, such as secret organizations, that the Keetoowahs shall not accept or recognize. Now all above described must be adopted same as under oath to be abided by. We must not surrender under any circumstance until we shall “fall to the ground united.” We must lead one another by the hand with all our strength. Our government is being destroyed. We must resort to bravery to stop it.<sup>26</sup>

Their notion of full blood as an interpretation by Hauptman meant racial differences. But according to the statement in their Constitution, they described full blood as those fluent in

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<sup>24</sup> Minges, 70.

<sup>25</sup> Minges, 74.

<sup>26</sup> Minges, 78.

Cherokee and uneducated in European languages and culture. Minges argued those who were intermarried with black slaves and freedmen could be classified as full blood based on this definition. It was not considered a race-based identity because their ancestors did not have a European understanding of race. The Keetoowah believed that the more the Cherokee Nation disestablished its ties with the institution of slavery, the better it could sustain its own national identity and control over sovereignty.

As the tensions grew around the issue of slavery, the Cherokee Nation could no longer be ignored as the topic of Southern rights among the slave owners in the Nation grew stronger. The growing militancy of Watie's society, The Knights of the Golden Circle, felt a strong need to respond to the anti-slavery influence of the Baptist churches. Ross's position of neutrality did more damage than good. When he did not denounce abolitionists, his opponents retaliated. The Nation Council passed a bill declaring the Cherokee to be a "slaveholding people" even though less than ten percent of the nation owned slaves.<sup>27</sup> This is when the Knights of the Golden Circle established its cause to expand the "superior Anglo-American civilization" and grow the slave empire through the West. The Constitution of the Knights, finalized on August 28<sup>th</sup>, 1860 stated:

We, a part of the people of the Cherokee Nation, in order to form a more perfect union and protect ourselves and property against the works of Abolitionists do establish this Constitution for the government of the Knights of the Golden Circle in this Nation... No person shall become a member of the Knights of the Golden Circle in the Cherokee Nation who is not a pro-slavery man... to compell [sic] each and every member of their Encampment to turn out and assist in capturing and punishing any and all abolitionists in their minds who are interfering with slavery.... You do solemnly swear that you will keep all the secrets of this order and that you will, to the best of your abilities protect and defend the interests of the Knights of the Golden Circle in this Nation, so help you God.<sup>28</sup>

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<sup>27</sup> Minges, 71.

<sup>28</sup> Minges, 73.

Watie's strong retaliation was also discussed in Hauptman's chapter. He agrees with Minges' argument that the Knight's purpose was to capture and punish abolitionists who interfered with slavery. It was Watie's aggressive commitment to defend slavery that landed him a commission in the Confederate army.

As the war broke out in the West in 1861, Ross feared removal from his position as Chief. The lack of financial support from the federal government combined with the Confederate border, left the neutral Cherokees to defend themselves or side with the Confederacy.<sup>29</sup> He broke his oath of neutrality and signed the Treaty in October of 1861 that sealed the fate of the Cherokee to the Confederacy.<sup>30</sup> With the promise of protection, the Confederacy assumed all of the treaty obligations and recognized the Cherokee's right to maintain the institution of slavery. They were also granted a delegate to represent them in the Richmond Congress.<sup>31</sup> This is the part of the story that Fortney argues is remembered due to how white settlers commemorated the Cherokee's part in the war. However, this internal conflict devastated the home front during the war and is why the Cherokee chose to move on rather than memorialize it.

Though Ross signed onto Watie's war cause, the commitment to the Confederacy wavered as the fighting continued within the ranks of the Cherokee regiment. Under the command of Brigadier General Ben McCulloch, two Cherokee colonels were recruited to lead the Native Confederates. One was Stand Watie and the other was John Drew, a Ross

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<sup>29</sup> Fortney, "Les We Remember", 528.

<sup>30</sup> Hauptman, "The General: The Western Cherokee and the Lost Cause", 47.

<sup>31</sup> Hauptman, 48.

supporter.<sup>32</sup> These two men represented the split nation, which would later determine how their men fought in the war. General McCulloch was weary of Drew's support due to his ties with Ross. Hauptman describes how Drew's forces were reluctant warriors and many began to desert as early as 1861, from their refusal to fight Creek Chief Opothleyahola's Union forces.<sup>33</sup> In 1862, the Cherokee fought in the Battle of Pea Ridge. In other sources, it is said that Colonel Drew fought for the Union in this battle.<sup>34</sup> Hauptman does mention numerous desertions in Drew's regiment to the Union, but he wrote how this was Drew's last battle for the Confederacy. This is just one example of how challenging it is to remember the exact accounts of the Battles that the Cherokee fought in: their soldiers did not keep journal accounts. And even if they did, they were often discarded after the war to forget the deadly encounters they had on the front lines for a war they did not believe in.

The Battle of Pea Ridge lasted three days and resulted in a major Union victory. This was the end of Drew's men in the Confederacy as they all deflected to the Union. The result of the battle made tensions grow on the home front as Watie's confidence in the war grew. Ross was captured by a Union invasion of the Cherokee capital, Tehlaquah in 1862 and he was brought to Washington where he would spend the remainder of the war on the side of the Union. Under Waite's control, the Cherokee Nation experienced a large amount of damage. Soon his followers "passed a conscription bill drafting all Cherokee men between eighteen-forty-five, later

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<sup>32</sup> Hauptman, 46.

<sup>33</sup> Hauptman, 48.

<sup>34</sup> The other account of battle can be found at the American Battlefield Trust, "Cherokees at Pea Ridge," American Battlefield Trust, February 4, 2009, <https://www.battlefields.org/learn/articles/cherokees-pea-ridge> .

amended to fifty into military service”.<sup>35</sup> However, a significant number of Keetoowah members continued to support the Union. Hauptman describes how Watie never accepted the existence of two Cherokee Nations and frequently attacked any Union sympathizers. He organized numerous attacks on Union supply lines to Cherokee refugees at Fort Gibson. The raids within the nation stole from their own people “carrying off horses, cattle, hogs, wagons, farm utensils, beds, bedding, and clothing, while at times capturing and killing [Union supporters]. Sometimes atrocities were committed by his men”.<sup>36</sup> In October 1863, Watie personally took part in taking over the capital by capturing all Union supporters and killing John Ross’ son by burning down his plantation home.<sup>37</sup> This personal vendetta backed by the Confederacy destroyed crops, families, and the Cherokee’s hopes for after the war. The devastation by Watie is something many after the war preferred to forget. He was not commemorated for his war crimes but was remembered by southern white settlers for his bravery in the Confederacy.

Historian Julie Reed discusses in her article “Family and Nation: Cherokee Orphan Care, 1835-1903” how the Civil War crisis re-opened old wounds, internal conflicts, and the destruction on the home front.<sup>38</sup> Her interpretation aligns with Forney’s argument that the Cherokee did not commemorate the war by describing the ruination of their people. In 1862, she describes how there were two thousand men, women and children left entirely barefoot and had nothing more than rags to hide their nakedness. She argued “soldiers were not the only

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<sup>35</sup> Hauptman, 49.

<sup>36</sup> Hauptman, 51.

<sup>37</sup> See note 51 above.

<sup>38</sup> Julie Reed, “Family and Nation: Cherokee Orphan Care, 1835–1903,” *University of Nebraska Press* 34, no. 3 (Summer 2010): 312–43, <https://www.jstor.org/stable/10.5250/amerindiquar.34.3.312>.

casualties; famine and disease as well as violence took a heavy toll on all noncombatants. The war left 1,200 children orphaned, ten times those served annually in the common schools between removal and the war”.<sup>39</sup> As the end of the war neared, many became weary of what would become of the nation. Reed described how before removal, the Cherokee cared for each other in clans; it was a kinship that held the tribes together.<sup>40</sup> But after removal, kinship transitioned to trusting political leaders and the National Council to take care of the people. The only way for the Nation to survive the aftermath of the war they needed to re-establish kinship with one another and reject the American politics that drove them apart.

After the Emancipation Proclamation in 1863, Watie became weary of his southern alliance. Hauptman argued that Watie’s commitment to the Confederacy ended when he realized his nation was in shambles. His vision of what the Cherokee could be under Confederate rule was changed when his soldiers were discriminated against by white soldiers who called them a “mongrel force” of savages.<sup>41</sup> Hurt by the lack of effort to dislodge Union forces from their land, he saw their prejudiced nature as their soldiers were not paid for their services. Watie had no intention of abandoning the struggle but realized his struggle was different than the Confederates. He encouraged his followers to press on “for the preservation of Indian country” and carry on the war alone to save their lands.<sup>42</sup> In his newfound motivation for fighting, Watie would become the last general to surrender, two months after General Lee on June 3<sup>rd</sup>, 1865. But

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<sup>39</sup> Reed, 319.

<sup>40</sup> Reed, 315.

<sup>41</sup> Hauptman, “The General: The Western Cherokee and the Lost Cause”, 52.

<sup>42</sup> See note 41 above.

it was no longer the southern cause he was fighting for, but for the preservation of his people. He began to value the kinship of his people and sought to reunite the nation, together as one people. However, black freedmen were not considered kin, which would cause many issues in the years to come.

During Reconstruction, the United States government did not recognize the factionalism of the Cherokee Nation. There was no distinction made between those who fought for the Union or the Confederacy. In Dr. Inniss's article, she described how all legitimacy with the United States government was lost after the war because slavery was their source of negotiating power. She stated: "The Cherokee, having for the most part allied themselves with a vanquished enemy, were punished by the United States government seizure of some of their lands and the abrogation of some treaties".<sup>43</sup> The Cherokee suffered greatly after the war. They lost their political, economic, and social foothold in the white world. And in 1866, slavery was officially made illegal in the Cherokee Nation with the amending of the 1839 Constitution:

All native born Cherokees, all Indians, and whites legally members of the Nation by adoption, and all freedmen who have been liberated by voluntary act of their former owners or by law, as well as free colored persons who were in the country at the commencement of the rebellion, and are now residents herein, or who may return within six months from the 19th day of July, 1866, and their descendants, who reside within the limits of the Cherokee Nation, shall be taken, and deemed to be, citizens of the Cherokee Nation.<sup>44</sup>

Though slavery was abolished, hostility towards black freedmen created animosity in their society. Similar to the South, the society needed to rebuild, and race relations healed. But this was not a smooth process and black members of the tribes fought for many years to prove their citizenship was equal to those of full blood or mixed white descent. It was more than just a fight

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<sup>43</sup> Inniss, "Cherokee Freedmen and the Color of Belonging", 15.

<sup>44</sup> Cherokee Nation. "Constitution and Laws of the Cherokee Nation."

for citizenship, but a battle to claim to tribal heritage, lands, and payments given to the Cherokee in the treaties to come. Though many fought against the institution of slavery, after the war the full-blood message was used to deny rights and membership to freedmen and mixed-race Cherokee.

The Cherokee were forced to forfeit any rights that had been promised to them by any treaty from before the war. Their land was sold to white settlers, the southerner's version of the war supplanted Native Civil War and Reconstruction recollections. In the article "Blood Politics, Racial Classification, and Cherokee National Identity: The Trials and Tribulations of the Cherokee Freedmen" by anthropologist Circe Sturm, the relationship between the Cherokee and black freedmen during Reconstruction is discussed.<sup>45</sup> Despite the promises of the 1866 treaty, the freedmen were never fully accepted as citizens of the Cherokee. He argued that even into the late twentieth century, "Cherokee identity is socially and politically constructed around hegemonic notions of blood, color, race, and culture that permeate discourses of social belonging in the United States".<sup>46</sup> Their stance is contradictory because they resent discrimination based on race, yet they use race to legitimize their social identities and police their political boundaries throughout the nineteenth and twentieth century. Black slavery might have divided them before the war when they were generating wealth and prosperity, but after the war, they united over discriminating against black freedmen. Even those who had always resided within the nation were excluded from census rolls and allotment payments.<sup>47</sup> This part of the story is overlooked

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<sup>45</sup> Circe Sturm, "Blood Politics, Racial Classification, and Cherokee National Identity: The Trials and Tribulations of the Cherokee Freedmen," *American Indian Quarterly* 22, no. 1/2 (1998): 230–58.

<sup>46</sup> Sturm, 231.

<sup>47</sup> Sturm, 232.

when the focus is on the white memory constructed in Indian Territory. It is important to remember the racial history and the legacy of the Civil War in Indian Territory as the fight for tribal membership continues to this day.

The Dawes Act of 1887 allowed the federal government to break up and sell tribal lands. It converted tribal lands into individual ownership with the hope that white settlers would further assimilate Native Americans. The act also required a roll of citizens to account for the allotment payments due. Strum describes the controversial nature of the Cherokee as they listed only full-blood and mixed whites on the list.<sup>48</sup> Citizenship was granted to some freedmen if they were back in their tribal territory within six months after the Civil War. This meant “1,659 freedmen individuals did not meet the residency requirements set forth by the Dawes Commission. They were no longer citizens... they were ‘too late’”.<sup>49</sup> Blacks were not included due to the rhetoric of full blood, yet mixed whites were considered full blood. The legacy of this ruling lived on until this year. In an article from Nation Public Radio “Cherokee Nation Strikes Down Language That Limits Citizenship Rights ‘By Blood’” by Mary Kelley, discussed how the Cherokee supreme court rule in February of 2021, the words “by blood” from its Constitution and other legal doctrines.<sup>50</sup> The words have been used to exclude black people whose ancestors were enslaved by the tribe from obtaining full Cherokee citizenship and rights. The article reported there are currently “8,500 Cherokee Nation members descended from these Freedmen, thousands

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<sup>48</sup> Strum, 236.

<sup>49</sup> Strum, 237.

<sup>50</sup> Mary Kelley, “Cherokee Nation Strikes Down Language That Limits Citizenship Rights ‘By Blood,’” NPR.org, accessed March 1, 2021, <https://www.npr.org/2021/02/25/971084455/cherokee-nation-strikes-down-language-that-limits-citizenship-rights-by-blood>.

of whom were removed on the Trail of Tears”.<sup>51</sup> Removing this language now makes it possible that one day a freedman could be the Chief of the Nation. This illustrates the strength of the tribal sovereignty because now all the laws are not based on race, they are based on community belonging.

The memory formed in the West after the war neglects to include the story of the Cherokee freedmen. Fortney argues that the freedmen’s fight after the war was not recognized because it was memorialized similar to how the South remembered the war.<sup>52</sup> Post-war periods tend to dictate how memories are commemorated. The Cherokee rose to the overwhelming challenge of rebuilding their homes and forgiving their past grievances of members of their nation while resisting punishment for their unavoidable roles in the Civil War. And how the Cherokee were remembered should have been decided by them. Instead, Fortney argues the southern memory hijacked and whitewashed Natives, and “Indian men could be co-opted as symbols of white cause became preferred objects of commemoration”.<sup>53</sup> For example, the Cherokee General, Stand Watie, was recognized but not celebrated for his role in the war by the Cherokee Nation. However, in 1913, the Daughters of the Confederacy demonstrated how Native participation for either side could be molded into the white American dominant Civil War memory.<sup>54</sup> They dedicated a memorial statue in Watie’s honor that commemorated his service to

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<sup>51</sup> Kelley.

<sup>52</sup> Fortney, “Lest We Remember”.

<sup>53</sup> Fortney, 536.

<sup>54</sup> Recently, the memorial of Watie was removed by the Cherokee last summer. See the article, Lindsey Bark, “Cherokee Nation Removes 2 Confederate Monuments from Capitol Square,” The Cherokee Phoenix, June 16, 2020, [https://www.cherokeephoenix.org/news/cherokee-nation-removes-2-confederate-monuments-from-capitol-square/article\\_dec30c2c-52c2-5ff1-a837-c56158ff2f96.html](https://www.cherokeephoenix.org/news/cherokee-nation-removes-2-confederate-monuments-from-capitol-square/article_dec30c2c-52c2-5ff1-a837-c56158ff2f96.html).

defend slavery. Watie would become the most well know Indian soldier from the need to reshape Cherokee history to fit into one of the dominant versions of American memory.<sup>55</sup> Ultimately, this has allowed many to believe it was natural for the Cherokee to join the confederacy due to their roots in southern soil and ignores the efforts of those who resisted the war or joined the Union. It does not accurately represent who the Cherokees are and continue to draw the attention away from the current fight of the decedents of the freedmen.

The story of race relations within the Civil War can no longer be told without the inclusion of Native Americans. The exclusion of them in the main narrative has allowed the voices of the Cherokee freedmen to be ignored and forgotten. It is through their resilience and strength to continue the fight long after the Civil War era that their story lives on. The memory of the war in their Nation is unreliable when it is not theirs. There is no place for “lost cause” rhetoric or Union victories on Native lands. The war devastated their people no matter what side they were on. Their monuments were not traditional. Rather, the memorials are the rebuilding of houses and fields that were destroyed. It is how the foundation of their Nation was ripped apart and built up again that should be remembered. The story is one of tribal resilience and overcoming a legacy of assimilating to American racism. Yet there are no celebrations for Cherokee resiliency.

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<sup>55</sup> Fortney, 537.

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