

Many problems beset the newly reconstituted nation in the west, it took until July 1839 for the discordant parties to come together and write, and approve a new Constitution for the nation. Still the nation was in a state of civil war from 1839 to 1844. The government in Washington maintained support for the Treaty Party which had joined with those of the "Western" Party (sometimes called the "Old Settlers"), were pitted against the Ross Party. Penal laws were passed and yet the bloodshed continued: some 34 political killings took place during 1845-1846. The Federal Government agreed to a new treaty which affirmed a single Cherokee Nation and established new norms which enabled them to advance both in their own right, and to become the leaders of movements in the Indian Territory to settle inter-tribal incidents under law rather than by war.

The future had another great shock for the Indian nations; The Civil War of the United States saw a microcosm of the conflict within the Indian Territory. The Republic of Texas became a prominent player in the destiny of the five tribes as they solicited support for the Southern, or Confederate position. At first only the Choctaw and Chickasaw leaned to the southern side, soon the Creeks had an internal division with the "lower towns" supporting the Confederacy, and the "upper towns" supporting the Union. The Cherokee also split along somewhat traditional lines: the Ross government side and the "Western Cherokee" side. Finally, as the war became real, Fort Gibson, controlled by the Cherokees, was the one bastion of the Union that remained in the territory.

Finally the Ross government gave in to the "Southern Rights Party" led by Elias Boudinot and Stand Watie and all of the five tribes signed a treaty with the Confederacy. The last tribe to agree to the treaty were the Cherokee on August 7, 1861. The "upper" Creeks remained isolated from the others as well as many other tribal members who wanted no part of the war - only to escape to Kansas, to obtain protection by the Union forces. Carter Blue Clark, who has researched the Creek position thoroughly:

" Many of the Indian inhabitants of the region faced a common dilemma. They had ample reasons, like Opothleyahola, to dislike the Southerners. The Southeastern tribes bitterly recalled the Southerners' forcible eviction of Indians from their homelands in the Deep South. Furthermore, whatever their other disagreements, all Indians north of Texas agreed on one thing - they did not like Texans, and Texans were Southerners. None among the Indians in Indian Territory had any doubts where Texans stood on the Indian question."

Factually, the Indians had nowhere else to go, but to join the Confederacy.