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Tribe further defines term limits

economic base — if people have good jobs with good benefits, a lot of the social issues that can hurt communities melt away. That is why we care so much about creating jobs. Jobs are the best service the Cherokee Nation can provide for our citizens, not only because having a job helps each Cherokee, but also because Cherokees with good jobs keep their communities strong, and strong communities allow our language and culture to thrive. That's our formula for success, and what we have seen over the past years is that it works."

Patrick Barkman, a Cherokee trial attorney in Cleburn, Texas, believes the controversy surrounding the Cherokee Constitution — both the 1976 and 1999 versions — is murky."There is a lot of confusion about the various Cherokee Constitutions - the 1976 and the 1999 versions - and when they went into effect," said Barkman. "This is complicated by the Bureau of Indian Affairs taking a considerable amount of time to review the 1999 version and then initially rejecting a 2003 amendment to the 1999 Constitution that eliminated BIA approval. It wasn't until August of 2007 that the BIA finally signed off on the n o v e r s i g h t amendment."Barkman fully supports the amendment removing BIA approval."

The Cherokee Nation is sovereign and should not have to bow and scrape to bureaucrats in Washington for permission to amend its own constitution," said Barkman.

Barkman is opposed to term limits, but doesn't necessarily approve of Smith's track record as chief."This is another one of those instances where my personal preferences get in the way; I'm opposed to term limits in general, since they are based on the assumption that voters are too stupid to know who to vote for," said Barkman. "But what do you do when the people keep electing the wrong person? A person who will lead them to disaster? In the same way, I tend to be very militant in defense of tribal sovereignty, especially in the face of a new push by states and the federal government to restrict it even more with the BIA's odious, racist, condescending new land-into-trust standards. But what do you do when your tribe exerts its sovereignty to do something fundamentally wrong, like kicking out the Freedmen?"Briggs believes Smith is a master at working the masses, particularly when emotional issues are at stake."

The chief works best in an environment of chaos," said Briggs. "That is because he knows and understands that he can lead a majority of the 'crowd' along the path he wants, aided and abetted usually by the press. This is not a slam on the press, but merely an acknowledgment that the chief is very good at framing the issues and then feeding the press."Regardless of individual opinions on Smith's record, the Cherokee Nation has experienced exponential

growth in the past eight years, including the addition of its gaming industry, which includes sites in Claremore, Catoosa, Tahlequah, Fort Gibson, West Siloam Springs and Sallisaw; the addition of a number of health clinics, most recently the 90,000-square-foot Muskogee facility; as well as myriad employment opportunities."

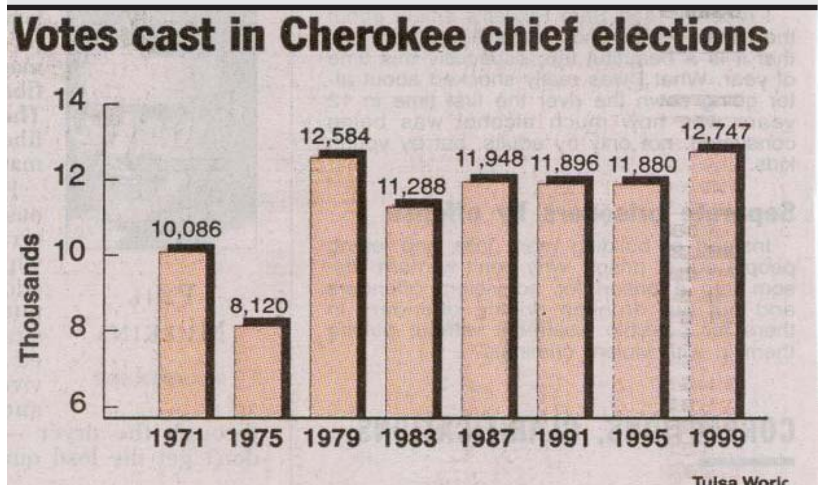
We now employ almost 4,000 more people than we did eight years ago, while our revenue from our businesses and our dollars spent on providing services like health care and education have gone up dramatically, as well," said Smith. Barkman believes the larger question isn't necessarily who's elected, but who votes." In a tribe of 260,000, it's just not healthy to have decisions made by at best 4 percent of the registered voters, especially when we have such a large outland [at-large] population who really don't get much information on tribal politics," said Barkman. "I spoke with a Cherokee citizen in Houston — a woman who is very well-educated and had served as a precinct chair for the local Democratic party, and a delegate to state and national Democratic conventions. She didn't even know outlanders were allowed to vote!"

According to CN Communications Director Mike Miller, Smith is working on ways to raise voter participation."

Chief Smith has advocated throughout his term in office, since 1999, for allowing greater participation in the election process," said Miller. "He has proposed 'blue card voting,' a process which would allow any citizen who is over 18 to vote simply by using their citizenship card, but those proposals have not been enacted into law by the legislative branch. Chief Smith is working with the council that has recently taken office on plans to make voting more accessible to more Cherokee people."

Miller believes the 4 percent participation analogy to be inaccurate. "That number is highly skewed, and is not a number used in other voting analyses," said Miller. "When you ask the Cherokee County election folks, they will tell you they got maybe 40 percent turnout, or whatever it is. That number is based on a percentage of registered people who went to the polls, not a percentage of every person who lives in Cherokee County."

When people say 4 percent of the Cherokees voted, they are saying 4 percent of the people who are alive and Cherokee citizens voted, whether they are registered to vote or not, and whether they are over 18 or not. About 30 to 40 percent of Cherokee Nation's registered voters went to the polls in 2007, and while we want to make that number far higher in the future, that number is comparable to a lot of elections."



It doesn't seem to matter how many tribal members register to vote, the votes cast for chief are always less than 14,000. Which has always raised many questions, but when you don't have working checks & balances. This is what you get, a dictatorship!.

1. In 2003, the Cherokee Nation Elections were held where Cherokee Freedmen were prevented from voting.

2. Within the 2003 Election two questions were placed on the ballot, one in the Primary the other in the Run Off.

3. First a question was presented in the Primary Election asking voters if they would remove Secretarial oversight of constitutional amendments.

4. Cherokee people were sold a bill of goods and urged to vote yes to remove Secretarial oversight. Word went out from the Administration a Yes vote would finally get the federal government out of the Cherokee peoples' business. But this was far from what real underlying issue.

An important long standing responsibility placed upon the Secretary of Indian Affairs years ago, was to review and approve all amendment to the Cherokee Constitution and assure an independent, objective legal opinion, that would be binding and the Office of the Sec. could be held liable in Federal Court should the Secretary err and the Cherokee peoples' constitutional or civil rights be damaged.

The Secretary of Indian Affairs has an arsenal of attorneys who are experts on Indian law. The federal government agreed to bear the responsibility to review all amendments and assure that any change affecting the Cherokee people constitutionally protected freedoms. Further any changes had to be meeting the guidelines of both Federal and Cherokee law. The bottom line is that the Secretarial oversight of constitutional amendments insures that no dictatorial administration could orchestrate a radical scam to erode the Cherokee peoples' rights.

5. The second question that was placed on the Run Off Election ballot is a perfect example of why Secretarial oversight is so critical and why it must be restored. In the first order of business the 1999 Constitutional Delegation made the decision to amend the 1975 Constitution rather than create a new constitution. The 1975 Constitution provides that constitutional amendments must be singular and if more than one area of change is involved, a separate question must be placed on the ballot so not to confuse the voter.

Ralph Keen Jr. served as Chairman, on the 1999 Constitutional Convention Commission. Just prior to the 2003 election Keen urged Commissioners to present the compilation of the 1999 Constitutional Amendment with over 100 significant separate modifications, to the Cherokee people as a single question on the 2003 ballot.

This was clearly unconstitutional according to the 1975 Constitution. Without a requirement for Secretarial approval this radical usurp of the peoples' constitutional rights might never be challenged. After all we have seen clear-cut cases be reframed in the tribal courtroom and forever lost through the cracks of injustice.

Take this example one more level of examination. By the Commission presenting a multitude of amendments for either acceptance or rejection by a YES or NO vote, they actually created an impossible question for the majority to answer. No one could probably agree or disagree with every single change that the Delegation proposed. Yet Cherokees were given only a choice to approve everything or nothing with a simple yes or no. Could anything be more confusing?

6. Only after Secretarial oversight was removed could the 1999 Constitutional Amendment be considered. This was because of the significant language changes throughout the 1999 Constitution

**Abundant Evidence - Neglect of Duty - Impeachable Offense
Will Congress investigate CNO's radical state of out of compliance?
Who could be charged & prosecuted for these federal violations?**

removing all verbiage clarifying the rights afforded Cherokees under the United States Constitution as specified within the 1975 Constitution. Also all language had been deleted specifying the Secretary of Indian Affairs would review the legality of any future constitutional amendments. As the 1999 Amendment was written Secretarial oversight had to be approved or because of the deletions the 1999 Constitution would have been legally conflicted and declared invalid by the court.

7. Few voters had a good understanding of all the changes within the 1999 Constitution prior to voting. If more Resident Cherokee knew that the Amendment created two need Councilors to represent the "At Large" Cherokee and vote on services and laws that do not affect people living outside the jurisdiction, Cherokee voters living within the Nation would have voted the Amendment down.

8. Protest was filed in Tribal Court after the 2003 when lists of registered voters surfaced that had been given to Council Slate Candidates by Chief Smith a month prior to the election filing date. At that time it was a crime for one candidate to give another candidate a registered voter list and it was against the law for the receiving candidate to use such a list in their campaign. Compelling evidence was presented over a ten-day period that ended in a split (2-1) decision with the majority ruling that protesters had failed to meet the extreme burden of proof under the law that was the same burden as first-degree murder, "beyond a reasonable doubt."

No evidence was presented in the 2003 protest that Freedmen were prevented from voting. If that additional evidence had been included, the Tribal Court would have likely cast out the 2003 election. No further administrative remedy exists within the CNO process to question the validity of the 2003 candidates. Five single spaced pages of crimes and improprieties were discovered within the testimony and evidence of the trial. The AG has not investigated or prosecuted any of the crimes discovered. Yet she chose to file charges on the three Councilors who dared to investigate the election process and uncover more ruthless corruption within Cherokee elections than was ever dreamed.

Just after the 2003 election the Marilyn Vann founder and President of the Freedmen Association and other Freedmen filed a case protesting the 2003 election in Federal Court stating Freedmen were not allowed to vote and asked the Court to cast out that election as invalid and call another one ordering that the Freedmen should participate.

9. About two years later the 2003 Election the tribe's highest court ruled on the Lucy Allen case saying that Cherokee Freeman are and have been Cherokee citizens entitled to vote in all Cherokee elections. Furthermore the court ruled that the modification made within CNO in 1983 requiring a blood quantum to vote was unconstitutional. Ross Swimmer orchestrated these changes when he learned Freedmen would not support him as Chief in the 1983 election.

10. Immediately Jackie Bob Martin of Stilwell, one of Chief Smith's loyal political slate Council members brought forth in Council a Bill for a Constitutional Amendment to be placed on the ballot setting a blood quantum requirement to vote out the Freedmen. The Bill was tabled several times until Martin one day found a Committee with enough people absent that he had the majority vote required to send the Bill to full Council.

Former Deputy Chief John Ketcher subsequently filed a petition virtually verbatim to Martin's Amendment but also demanding that a Special Election be called to resolve the matter. During the same time Chief Chad Smith began attending Community Meetings throughout the

CNO telling Cherokees they could circulate a petition to hold a Special Election and the Cherokee people had the right to determine the criteria for tribal membership through the election process. Chief Smith said Cherokee people could legally vote out the Freedmen.

However Smith, who is a licensed attorney and once served as Prosecutor for the tribe, never disclosed all of the facts surrounding the Freedmen issue. Never did Smith tell Cherokee people that the Freedmen were awarded citizenship under the Federal Treaty of 1866 that reorganized the Cherokee Nation after the Civil War. Nor did he tell Cherokees that only Congress could legally modify such a treaty. No discussion was heard from the push of the Administration that federal funds were shut off and federal recognition was lost including the right to operate gaming when the Seminole tribe attempted the exact stunt as Smith was promoting.

By the time Martin's Amendments made it to Council the Smith Administration had created a racial hot potato throughout many of the Districts creating a racial wedge issue among Cherokee people. Councilors not in favor of the Bill began receiving threatening phone calls in a tactic that was much like when anthrax was mailed to Congress members initially against funding the Bush War in Iraq while the push was on trying to get enough Congressional

support to fund his first \$150 billion War Bill. Martin's Amendment to vote on the citizenship issue finally found the majority of Council support needed for the issue to be placed on ballot in the next General Election. However Martin's other Bill calling for a Special Election to resolve the issue did not garner the 2/3 Council support necessary.

11. During this period a case that had been filed earlier by Jay Hannah and Ralph Keen Jr. asking the highest court to rule that the 1999 Constitution was the valid governing document within the CNO finally rose to a ruling. The Court elaborated in the ruling that the 1999 Constitution had been valid since the 2003 election in effect using retroactive operations, which is unconstitutional. Within this ruling the Court created a Constitutional Crisis. The Court based the majority decision, in a (2-1) split decision, on an affidavit by former Sec. of Indian Affairs Neal McCallib which stated that he "intended to sign" the amendment to remove Secretary approval if the people approved it within an election. However McCallib had no authority because he was no longer Sec. Within that case no evidence was presented disclosing Freedmen were prevented from participating in the 2003 election. Keen has recently been appointed by CNO Attorney General to represent Freedmen in tribal court protesting revocation of their

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The Native American Journalists Association expresses grave concerns about the recent "involuntary transfer" of Joseph Martin, the editor of the Cherokee One Feather, the tribally owned newspaper of the Eastern Band of Cherokee Indians.

According to a Nov. 1, 2007, memorandum to Martin, the transfer was initiated due to an alleged violation of the tribe's Code of Ethical Conduct.

"By using your position you have been published in the Asheville Citizen-Times stating your personal opinion while citing your tribal position title along with your name on more than one occasion," the memo states.

"To say that an editor cannot express his opinion and put his name and title to it is antithetical to operating and honoring an independent press," Bryan Pollard, NAJA vice-president and editor of the Cherokee Phoenix, said. "One of the greatest responsibilities of an editor is to state an opinion about matters that affect your community, and to do so thoughtfully and judiciously. Being hired as an editor is not a gag order."

Tribally funded newspapers need the freedom of opinion and expression to cover issues important to their community, regardless of whether those papers are tribally owned and operated, said NAJA president Cristina Azocar (Upper Mattaponi).

"Tribal governments are not benefiting themselves or their people if they don't adhere to free press protection," Azocar added. "The more people are able to express themselves through their tribal media, the stronger our tribes and therefore our tribal governments are. When tribal governments take that freedom of expression away, our governments begin to break down – benefiting no one."

The National Congress of American Indians passed a resolution (ABQ-03-042) supporting a free and independent Native press during the 60th annual NCAI session in Albuquerque, N.M., which specifically resolved that:

"The NCAI encourages Tribal Nations to ensure Freedom of the Press and develop those Media Policies so the rights of the People will not be abridged."

Although Martin said he wasn't surprised by the administrative action, he is using this situation to start an independent newspaper for Eastern Band Cherokees. Martin can be contacted at This e-mail address is being protected from spam bots, you need JavaScript enabled to view it

Created in 1984, NAJA works to support a free press throughout Indian Country, and encourages officials at the Eastern Band of Cherokees to resolve the issue in a way that protects the freedom of the press and preserves the integrity of the Cherokee One Feather, which is an essential source of news to its citizens.

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