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by Marilyn Vann (Special to the Observer)

The Cherokee Freedmen Story as of May 7, 2006

to***** stay in Georgia unmolested, however, President Andrew Jackson did what the voting white people wanted (ie push and remove the Cherokee people to less desirable lands) in spite of the previous promises made to the Cherokee people and a court decision which upheld the Cherokee people rights. Are the Cherokee people to now say that Jackson was right?

Perhaps you believe that the freedmen have been gone for 100 years. That is a patent falsehood. The Cherokee freedmen continue to live in the Cherokee nation; primarily in districts, 8, 9, 3, and 4. They came to participate in the new Cherokee government in the early 1970s at a time when there were no benefits such as car tags, and the few benefits available for Indian programs such as educational benefits were reserved primarily for those people with ¼ blood or higher. Some of the very elderly freedmen still speak Cherokee. Some of the Church services at the Antioch Baptist church in Tahlequah were held in Cherokee language for many years after statehood. The freedmen have continued to fight since 1983 to regain their rights raising their own moneys; while those who have opposed them, such as former Chief Swimmer have not needed to do so to oppose them. Some of the Freedmen people have attended Cherokee language classes, for example those held in my own home area – District 9. Others such as descendants of Stephen Hildebrand, whose daughter Francis was listed as a freedmen, are members of the Nancy Ward Society. Others such as my own half sister have taught at Indian schools such as Chilocco which have been attended by Cherokee youth for decades. Freedmen have worked at the BIA. Malcolm Ross, son of freedmen councilman Stick Ross, worked at the BIA offices in Muskogee at the same time as many Cherokee citizens until his retirement in the 1940s. Leslie Ross, the great grandson of Stick Ross served his country with distinction in the military in the same unit as Deputy Chief Joe Grayson.

I recently visited with an elder, a member of the freedmen Riley family who was a nurse to former Chief Mankiller. Indeed, freedmen people have continued to work at Indian clinics and hospitals in the past and the present. Freedmen assisted in building the recently constructed Cherokee community building in South Coffeyville. A Cherokee ceremonial ground, with mostly freedmen participation in Nowata County, shut down within the last 40 years. The majority of the freedmen are Christians, just like other Cherokees, not Buddhists or sun worshippers. Many freedmen have stayed in the communities and certainly have not been gone for 100 years by a long shot. Regarding the “gone for 100 years,” it was the old Cherokee way to remove people from the tribal rolls who left the tribal jurisdiction permanently. However, this was done on an individual basis and not a “group basis.” The tribe gives membership cards to people everyday whose ancestors left the state of Oklahoma 80 or 90 years ago who do not even know who the chief is much less the members of the tribal council. Yet no one on the council is challenging these people’s rights to tribal membership.

Also, regarding participation, only about 13,000 people voted in the last tribal election out of perhaps 230000 tribal members. Yet, none of the people who did

not vote in the last election are being threatened with the loss of their tribal membership rights due to lack of “participation”. Did not Chief Smith state in April 2006 in California that only 6,000 to 9,000 tribal members out of 250,000 people speak the Cherokee language? Yet, speaking the Cherokee language is not a requirement for tribal membership or even to hold office; as various Chiefs and council members have not been Cherokee speakers. You may say, don’t we Cherokees have the right to be an “Indian tribe?” The proposed disenrollment of the Cherokee freedmen will result in the removal of many Indian people with Cherokee (and in some cases Delaware and/or Shawnee) blood! The majority of the freedmen do not have to depend on “dna tests” to establish their Cherokee blood ancestry, but can look to US government and tribal records as their proof.

If this constitutional amendment is adopted, the Descendants of Perry Ross and Abbie Brown, recognized prior to 1866 as Cherokees by blood people, as well as descendants of their sister Juno Ross (deceased at the time of the Dawes enrollment) will be ejected from the tribe once again, even though female descendants of Abbie Brown and Juno Ross will still be Wolf clan while the descendants of their brother George Hammer Brown, including his great Granddaughter Rosie Green of South Coffeyville, will remain as recognized tribal members, even though they have no clan. If this constitutional amendment passes, the descendants of William Starr, descendants of his daughter Vinnie Fields by his freedmen wife Rhoda Starr, who received the Guion Miller payment due to their Cherokee blood, will be cast out while the descendants of his son by his white wife Sallie Starr who also received the Guion miller payment will not be cast out. Descendants of Loyal Shawnee immigrant Nancy Barlow Baldrige (deceased at the time of Dawes) and her freedmen husband Jack (Talookie Vann) Baldrige living in District 9 will lose their restored rights to Cherokee tribal membership, while descendants of Dawes enrolled Shawnees who were not married to freedmen will retain their rights to Cherokee tribal membership. And this will be the case with family after family.

Perhaps you think that tribal membership should be reserved to those with “1/4 Cherokee blood” or higher. However, this was not the Cherokee way as Chief John Ross himself was only 1/8 degree of Cherokee blood, and the hundreds, perhaps thousands of his thin-blooded descendants remain members of the tribe, while the descendants of his freedmen children will be cast out. It was always the way to adopt others into the tribe and teach them the Cherokee way. Would it not be better to increase the language skills, cultural knowledge, and participation of all of the Cherokee people rather than to cast people out? And for those who say that the freedmen don’t look like “Indians,” most people in the Cherokee Nation do not look like “Indians.” Did not the white people of Georgia discriminate against the Cherokee people based on their appearance? Have not the full bloods of the Cherokee nation faced job discrimination and insults based on their appearance? Is it right and fair to be unjust to others who have caused no harm and committed no crimes because of their appearance and ignore

promises made to them and their ancestors? Are the rights of the Shawnee and Delaware to be upheld because of their less different appearance compared to the freedmen, even though all are adopted? The Delaware dances, language, etc are different than the Cherokee way? Is not the Cherokee nation a nation of people including adopted Creeks, Catawba, and Natchez, with inherited rights governed by law rather than a race? And remember, the US government only has government to government relationships with nations and not races or private clubs.

Some may ask, can we afford these people? I have heard rumors that some believe that whether the freedmen should retain their rights which were unjustly taken away for 23 years should be looked at from an economic standpoint only. Is this the way that the tribe wishes for the US government to consider treaties and contracts? Would the US Congress be justified in canceling its government to government relationship with the Cherokees, extinguishing judgment funds awarded by the court, and any contract fees awarded by the court solely on the fact that it does not want to honor them because it is too costly? Is it not the responsibility of the tribal officials to seek additional federal monies for additional tribal members and put into place economic development programs to raise tribal revenues? Isn’t that what the tribe has been doing all along?

Does anyone really believe that a very small tribe such as the Poncas receive the same amount of money for programs as the larger tribes such as the Cherokee nation? Aren’t the freedmen lawyers, doctors, nurses, accountants, laborers etc – people with valuable skills who can render service to their nation in one way or another of no value? Based on the 1880 census and the Dawes rolls, the freedmen would be approximately 25,000 people if all registered. All persons with a freedmen ancestor will not register in the future as some have already previously registered as a citizen by blood, using a roll number from a different ancestor or registered with another tribe which is using a different tribal base roll. Perhaps ½ of the freedmen people do not live in the tribal jurisdictional area and would not even qualify for any tribal benefits. Are we to understand that the Cherokee nation cannot absorb this small number of people, many of whom would not even qualify for services based on income or residency? Or who over the last 23 years, are accessing needed services thru other agencies – city housing authorities, VA health and educational benefits, job related health insurance, etc. And, if there are too many tribal members already, why did the tribal registrar go to California in April 2006 to register more tribal members?

Other troubling issues remain regarding the proposed vote on the constitutional amendment regarding the freedmen rights. Visiting with person after person, many longtime Cherokee voters are not familiar with the current membership requirements of the Cherokee nation, or why various groups have tribal membership. They do not even know that a change in membership requirement is being considered by the tribal council which is waiting for their “input.” Nor are the people being educated by

tribal officials going place to place passing along rumors and stereotypes rather than the true history of all of the Cherokee people. There is nothing in the tribal newspaper’s April or May 2006 issues to alert the citizens as to this important issue.

Many thought that the JAT ruling ended the matter altogether and do not know that the council is waiting on them to have an opinion to set in motion overturning the court’s decision. The people clearly are not ready to vote on such a critical issue. A tribal member receiving a blue card is given a voting application but has no knowledge of his tribal councilman and of ongoing current issues. There is nothing telling them that there is a tribal newspaper or how to get it. Many people do not have internet access. To ask that the freedmen go from city to city, pleading their case all over the Cherokee nation on a 60 day timetable to protect their rights that have been theirs for more than 140 years is completely unreasonable, unjust, and unfair.

And why is this necessary? Because a few tribal officials who have taken negative positions on the freedmen do not wish to face them at the polls in 2007? It appears more and more as if these officeholders position is that the freedmen must be quickly removed so that they cannot vote in 2007. And the plan was to restrict them as well as all the other Cherokee people from challenging this election at the tribal court! I also point out that more than 1,500 citizens signed each of 4 petitions requesting constitutional amendments regarding the voting rights of people outside the Cherokee nation as well as revocation of the proposed 1999 constitution. These petitions were collected more than a year ago. However, the council has not proposed placing these items as well as other referendum items on a regular ballot much less on a fast track special election. Why, if the council has not had time to put these issues forward for a vote of the people are they to fast tracking the ouster of the freedmen? If the council spent more than one year deliberating and information gathering on election laws, why are they hurrying thru a decision which would take away citizenship rights of a small group of longtime tribal members?

You may ask what changes could occur if the council approves this constitutional amendment and the freedmen are stripped of their citizenship rights thru a vote of the people. Many things could potentially happen. Indian country could lose key support in Congress, as many things favorable to the tribes have been done because tribal peoples are seen as suffering from the greed of white Americans of past generations. However, if it is seen by all, including the Black Caucus in Congress, that the freedmen people are booted out against their will, led by officials now in power, this favorable vision of Indian people will quickly fade away and there may be more resistance to improvements or continuation of Indian programs.

Tribal leaders should consider the reputation of the nation. The amount of sovereignty that tribal nations can exercise is dependent on the will of the overwhelming white majority of the American people. White businessmen who now wish for the tribes to fall completely under the control of the state governments will be able to point to the situation in the Cherokee nation and use the

proposed freedmen disenrollment as evidence that the Cherokee people and perhaps all Indian people are unable to govern themselves and demand more federal and state controls than exist right now in tribal affairs. We must remember that the BIA took over the Seminole nation government and programs approximately 5 years ago for quite a while because they tried to remove their freedmen without due process. Also, if the disenrollment does occur the freedmen people will have grounds to form a separate Indian nation and sue to lay claim to Cherokee lands of the old Canadian District based on rights granted them in the treaty of 1866, which also gives the freedmen the right to sue in Federal Courts.

Although the current Chief has stated that the BIA should “get out of the affairs of the Cherokee nation”, Chief Smith, Deputy chief Grayson, and Chief Smith’s father Nelson Smith were involved in an election dispute as members of the United Keetoowah Band of Cherokees and called for the BIA to not recognize the election in 1991 when Nelson Smith and Grayson were barred on the eve of the election from running for office following a sudden change to UKB election laws (22 IBIA 075). Is it right for the Principal Chief to call on the BIA to uphold due process rights for himself and his father but wrong for the Freedmen to call for the BIA to uphold their treaty rights and ask for their citizenship rights according to the 1976 Cherokee constitution upon which all of Cherokee people’s right to vote originates.

The Freedmen call upon all of the Cherokee people for justice. The freedmen only ask to retain those rights promised to them. Please do not think that if the freedmen are cast out, future disenrollments will not follow for others who challenge the status quo. Disenrollment is a slippery slope and the next to be cast out may be you. Contact your council representatives and tell them to allow the Cherokee freedmen to continue working to rebuild the Cherokee nation and to not give assistance to those individuals who wish to take away the rights that the freedmen and their ancestors have been promised by treaty and law. Let your council people know that you support no changes in the membership clauses of the Cherokee nation constitution and that you wish for the council to focus on the important issues of housing, health care and education, and let the freedmen disenrollment resolution die in committee.

Marilyn Vann is a descendant of Dawes Enrolled Freedmen Citizens and a descendant of Cherokee by blood citizens listed on 1852 Drennan Roll. She is also President of the Descendants of Freedmen Association

Box 42221, Oklahoma City, Oklahoma 73123
www.freedmen5tribes.com
terior, challenging the 2003 elections, based on the rights of the freedmen in the 1866 treaty, the 1975 constitution, and the *Seminole nation versus Norton cases of 2001 and 2002* where Judge Kolar Kotelly had upheld the treaties of 1866 for the Seminole freedmen and their voting and membership rights in the Seminole nation. Several prominent Cherokee nation individuals such as then Deputy Chief Hastings Shade also sent a letter to the BIA questioning the validity of an election when the Cherokee freedmen were not allowed to vote. Various letters went from Chief

Smith to the BIA accusing the BIA officials of the Cherokee nation.

In late July 2003, the Muskogee BIA director wrote a letter, temporarily recognizing Chief Smith, but still withholding approval of the constitutional amendment, citing the Seminole nation cases. About 1 week later, another letter, written by the same Muskogee BIA official recognized Chief Smith as principal chief, but still not approving the constitutional amendment. On August 11, 2003, descendants of Cherokee Freedmen, thru the Velie and Velie law firm filed the lawsuit Vann et al Versus Norton (1:03 CV01711) in the District of Columbia Federal Courts to keep the US government from approving the constitutional amendment to remove the BIA approval requirements of new constitutions and constitutional amendments. After the initial complaint was filed, various stays were granted by Judge Kennedy for the parties to attempt a resolution. In an effort to downplay the legitimacy of the Freedmen cause, Cherokee nation officials made false statements to the press such as okeeanation (made by spokesman Mike Miller – which is obviously not true as such men as Freedmen Councilman Stick Ross even now has several streets, companies, etc named after him and there is even a plaque with his name on the grounds of the council house!). Even Chief Smith, an attorney, told the Muskogee Phoenix Newspaper on September 13, 2003 that requires CDIB cards. The III of the Constitution shows no such thing – the tribal constitution recognizes as citizens all Dawes enrollees and their descendants without reference to blood degrees or CDIB cards and does not exclude any person who was recognized on the Dawes Rolls as being ineligible for tribal membership. Other statements by tribal officials indicated that the supporters of the Freedmen were merely he former Chief Joe Byrd. When the Daily Oklahoman in August 2003 raised the issue of descendants of Dawes enrolled Cherokee Freedmen being barred from tribal membership despite proven Cherokee blood, tribal spokesman Miller stated that looked at againy Cherokee nation officials to change the tribal code to give tribal membership to Cherokee by blood Freedmen individuals or recommend issuing CDIB cards to them as of May 2006.

Due to fears that a resolution had been reached between the Department of the Interior and the Cherokee Freedmen plaintiffs, in January 2005, the Cherokee nation, through its Washington law firm, Sonowsky et al filed motions to intervene in the lawsuit for the sole purpose of filing a motion to dismiss the Freedmen lawsuit. One of the CNO complaints was that they had not been allowed to participate in any negotiations. However, this was untrue, because during the summer of 2004, the Velie law firm had made contact with Cherokee nation chief and the general council through a Cherokee community leader. Indeed a phone conversation regarding the issues had taken place between Jon Velie and CNO general council Fite to set up a face to face meeting. After the single phone conversation, Fite refused to take phone calls from the plaintiffs’ attorney.

On February 7, 2005, the agenda for the upcoming February 17, 2005 CNO rules committee was posted on the council house door, and contained an agenda item titled Resolution Ratifying Intervention in Litigation in the US . . .

