

"This Person said CNO is the Cherokee Nation and they should be left alone"

I do not think He intentionally distorts the truth about the CNO, he, like so many Cherokees, has been misled. He and all of us, have been fed a gruel masquerading as historical fact about the CNO. The leadership of the CNO have depended upon the passage of time, the lack of information and the draw of the dominant culture upon our lives to give them free reign to control the affairs of the Cherokee people from an illegal perch.

Now for some facts:

1. The United States Congress passed the Dawes Act in the 1890s to dissolve the governments of the Five Civilized Tribes. Some tribes resisted, particularly the Cherokee Nation. The Dawes Act stated specifically that its purpose was to divide up the tribal assets and terminate the existence of the governments of the Five Civilized Tribes.

The governments of the Five Civilized Tribes were saved from oblivion by the 1906 FTA. Without it, there would be no Cherokee Nation today. Yes, there is a Cherokee Nation today, more on that later.

2. The United States Congress passed the Curtis Act in 1898 to force the resistant tribes to agree to the allotment of their lands and dissolution of their governments. The Cherokee Nation agreed in 1901 and the end result was the allotment of tribal lands and assets through the creation of the Dawes Roll.

5. The U.S. Congress passed the Indian Reorganization Act (IRA) in 1934 to restore Indian governments and provide for self-governance. However, the act specifically excluded the tribes in Oklahoma.

Analysis: In the latter part of the 19th Century, it was the intention of Congress to destroy the governments of the Five Civilized Tribes. All lands and moneys of the Nations were to be divided among the numerous citizens and the tribes would be no more. Everyone thought the Final Roll and the division of the assets was the end. It wasn't.

6. The U.S. Congress passed the Oklahoma Indian Welfare Act (OIWA) in 1936 to restore self-governance to Indian tribes in Oklahoma. This Act provided for the reorganization of tribal governments and repealed any disability Congress had imposed from past legislation, but only for tribes who reorganized under the authority of the OIWA.

3. In 1906, Congress was informed by the Dawes Commission that despite their best efforts, parcels of land remained to be allotted or sold and they could not finish their work if the governments of the Five Civilized Tribes terminated in 1906.

Analysis: It was the intent of Congress to right an historic wrong it had committed against the natives of this country. In so doing, it provided a mechanism by which tribes might be restored to their sovereignty and self-governance. Any tribe could reorganize and four of the Five Civilized Tribes have done so. The only tribe not taking advantage of the provisions of the OIWA is the Cherokee Nation.

4. The United States Congress passed the Five Civilized Tribes Act of 1906 which provided for the continuation of the governments of the Five Tribes in accordance with law and providing that the President of the United States or his designee could appoint a "chief" to carry out the unfinished business of their respective nations.

7. Thophlocco, Kialagee and Alabama/Quarsarte Tribal Towns are federally recognized local governments governing under charters obtained through the Oklahoma Indian Welfare Act.

Analysis: The lands of the tribe yet to sold or allotted were valuable assets that could not just be "taken" from the Indian people. The 1906 Five Tribes Act provided for only three things:

8. The United Keetoowah Band is a federally recognized local government governing under a charter obtained through the Oklahoma Indian Welfare Act.

- a. The continued existence of the governments of the Five Tribes until Congress deemed otherwise.
- b. Those governments would be controlled in their actions in accordance with existing law. Since Oklahoma was not a state yet and state law doesn't apply anyway, the only laws existing at that time were federal laws, ie the Dawes Act and the Curtis Act and Cherokee law, ie the 1839 Constitution.
- c. The U.S. President would have the authority to appoint the principal officer of the Five Tribes.

Analysis: Nothing in the recognition of either the tribal towns or the UKB affects or hinders the rights of individuals as citizens of their respective larger nations. In other words, UKB is an inseparable parts of the Cherokee Nation (notice I did not say CNO). And the Creek Tribal Towns are inseparable parts of the Creek Nation. This is so, even if they prohibit their members from 'enrolling' in the greater part of the whole nation. It is the policy of the BIA and infettered by Congress, that the United States, through the BIA, may develop government to government relationships with local governments within a greater tribe. The Creek Nation has provided in law that the government to government relationship between the Creek Nation and the Tribal Towns

is approved. The adversarial relationship developed between the Cherokee Nation of Oklahoma and the UKB does not change the relationship of the individual citizens to each other. The Earl Boyd Pierce letter and the actual participation of the UKB in Cherokee Nation affairs prior to 1976, all point to the fact that the UKB and the Cherokee Nation are connected. Since the creation of the CNO in 1976, the Cherokee Nation itself has remained silent regarding its relationship with the UKB or through its sole embodiment in the office of the Principal Chief has furthered the antagony.

9. The Creek Nation is a federally recognized government governing under a charter obtained through the Oklahoma Indian Welfare Act.

10. The Cherokee Nation is not a federally recognized government because it has not reorganized under the authority of the Oklahoma Indian Welfare Act. The CNO is recognized by the BIA for the purpose of social services delivery. Any further recognition of the CNO as a sovereign entity is at risk of being overturned in the federal courts.

A group of Cherokees, headed by then Principal Chief Ross O. Swimmer, developed what they called a "constitution" in 1976. Without authorization in the 1970 Five Tribes Act and definitely not under the authority of the 1839 Constitution, Swimmer did one of two things:

- a. He created an illegal institution known as the Cherokee Nation of Oklahoma (CNO) or,
- b. The CNO is nothing more than promulgated 'rules' to carry out the popular selection of the principal officer of the Cherokee Nation as provided for in the Act and its actions as a sovereign polity are an illegitimate usurping of the authority of the silent Cherokee Nation.

Either way, the 1976 Constitution, in spite of its language to the contrary, could not supercede the 1839 Constitution, as there was no law which provided for it. This means that the Cherokee Nation, as it existed in law between 1906 and 1976, continued unfettered except by limitation imposed by the Curtis Act and the 1970 FTA. After 1976, the Cherokee Nation became the silent twin of the CNO (man in the iron mask). While the sole embodiment of the Cherokee Nation resides in the office of the Principal Chief, he is aided in his work by a corporation he created which goes by the name Cherokee Nation of Oklahoma. We know this is so because of the Court case

of Harjo v. Kleppe in which the Creek citizens demanded reorganization of their government. The Harjo Court found that because of the limitation of the Curtis Act, 1906 and 1970 Five Tribes Act, the sole embodiment of the Creek Nation rested in the office of the Principal Chief. The so-called constitution created by then Creek Chief Claud Cox did not and could not replace the original Creek Constitution of 1867 and was, therefore a nullity. The situation of the Cherokee Nation is the same. Nothing has occurred in the law which removes the disabilities imposed upon the Cherokee Nation by the Curtis Act.

The rights of the Creek Nation were restored in 1979 when that tribe reorganized under the authority of the OIWA and all disabilities imposed upon it by the Curtis Act of 1898 were superceded. This fact is spelled out in detail in the federal court case of Creek Nation vs. Hodel in which the Court ruled that the Oklahoma Indian Welfare Act had repealed the destructive effect of the Curtis Act for those tribe organized under it. The Creek Nation is organized under the OIWA, the Cherokee Nation is not. The Cherokee Nation, as yet unorganized, remains under the disabling cloud of the Curtis Act which dismantled its legislature, took away the authority of its tribal courts and made Cherokee law unenforceable.

11. The Five Tribes Act of 1970 provided for the "popular selection" of the principal officers of the Five Civilized Tribes. Previous to that time, the principal officers were appointed by the president. Four of the Five tribes, Cherokees, Creeks, Chickasaws and Choctaws moved quickly to hold elections. The Seminoles had continued to popularly elect their principal officers after 1906 despite the language of the 1906 Five Tribes Act delegating the appointment to the U.S. president. While the BIA refused to recognize their elections, they worked with the elected chief so long as he did what they wanted. When he refused, they simply appointed someone to do their bidding.

12. The Five Tribes Act of 1970 provided for the promulgation of rules to carry out the "selection."

Analysis: The 1970 Five Tribes Act repealed that portion of the 1906 Five Tribes Act relative only to the appointment of the principal officers of the Five Civilized Tribes by the president. Nothing in the Act did or could be construed to repeal any of the disabilities imposed by the Curtis Act of

1898. In order for a federal law (relative to Indians) to do something, it must be specific and emphatic. The Courts of the United States have ruled that Congress must have its INTENT apparent in the wording of the law, to take away or restore the rights of an Indian tribe. OIWA is emphatic that its liberal provisions apply only to tribes organized under it. All others are excluded. The reason this language is there is to protect the rights of Indians in Oklahoma who did not want to retribalize, particularly mixed blooded Cherokees and some Creeks who had expressed their opposition to any bill which would provide for a restoration of the governments of the Five Civilized Tribes. The full bloods, however, wanted to reorganize and did so through the tribal towns and the UKB.

CONCLUSION:

So in closing, what do we have here? We have four of the Five Civilized Tribes organized under a law which removes all disabilities previously imposed by Congress. We have three Creek Tribal Towns organized under that same act as local governments who are working with the larger Creek Nation to assist their members. We have a group of Cherokees (UKB) organized under that same act, but who have been placed in an adversarial relationship with the corporate entity known as CNO and the sole embodiment of the Cherokee Nation, the Principal Chief, refuses to work with them. We have the Cherokee Nation catapulted forward in time by the 1906 FTA. We have the OIWA passed to restore tribal sovereignty for those tribe organized under it. We have the 1970 FTA providing for the popular selection of the principal officers of the Five Tribes as they existed under the law and repealing the appointment of the chief by the president and allowing the promulgation of rules to carry out the selection. We have the chief of the Creek Nation creating a constitution later found to be bogus and the courts restored the old Creek Constitution and allowed the Creeks to reorganize under OIWA. We have a Cherokee chief, Swimmer, operating under a bogus constitution that by his own admission created nothing more than a corporation that would assist him in governing. We have a federal court case (Harjo) which states emphatically that the

sole embodiment of the Creek Nation was the office of the Principal Chief. All things being equal, and they are, the same is true for the office of the Cherokee Principal Chief as well. We have a court (Hodel) case which says the Creeks, by reorganizing under OIWA have had all disabilities removed. And we have the CNO officials laying claim to that same court case trying to give legitimacy to their court systems when there is not a shred of evidence that it was the intent of Congress to remove the Curtis Act disabilities unless a tribe took steps to reorganize under OIWA and the Harjo court gave no indication that it meant by its ruling that a tribe not organized under OIWA could claim the benefit of its provisions.

Therefore, what we have in our tribe, the Cherokees, are two entities, one, what is left of the Cherokee Nation and represented solely by the office of the Principal Chief as popularly selected by the Cherokee people every four years. The second entity is the Cherokee Nation of Oklahoma, a corporation created by Swimmer to first carry out the popular selection of the principal chief and then to assist him in governing. The Cherokee Nation is the office of the Principal Chief in accordance with law. The CNO is the chief's corporate partner. Wrap your mind around the fact that there are two entities, Cherokee Nation and the CNO.

So why such an adversarial relationship between the UKB and the CNO? First, the UKB knows the CNO is not the legitimate government of the Cherokee Nation. Second, the Principal Chief (Chad), acting as the sole embodiment of the Cherokee Nation, refuses to allow the UKB to interact in a positive manner and has refused to permit the Cherokee Nation to reorganize under the OIWA.

I hope this bit of disorganized information helps everyone to understand the situation among the Cherokees and why it is so important for the Cherokee people to recognize the unlawful governance practiced by the CNO over the Cherokee people and against the UKB, the Delawares and the Freedmen.

David Cornsilk

DGWY ᏍᏓᏁᏍᏔ
THE CHEROKEE OBSERVER
"Serving the Cherokee People since 1992"
 P.O. BOX 487
 BLACKWELL, OK. 74631-0487
 E-mail: editors@cherokeeobserver.org
<http://www.cherokeeobserver.org>
 Phone/Fax (580) 363-5438
 Yearly Subscription Rates - **0606**
 Within USA -\$22.00/yr Outside USA-\$45.00/yr

NAME _____
 ADDRESS _____
 CITY _____ STATE _____ ZIP _____
 Phone #: (____) _____ - _____
 Email: _____

Send CHECK/ MONEY ORDER

Attention Class Of 1967
Sequoyah Alumni
 You are invited to participate in the planning of our Reunion for 2007. Please bring pictures or year books. Hope to see you.



At Our Next Class Planning meeting to be held at,
Place: Ryan's Family Steak House
 8110 E. 74th Place
 Tulsa, Oklahoma
 Phone: (918) 250-5502

Date: Sept 10, 2006 (Sunday)
Time: 2:00pm.

For more information Contact
 "Jack" @ (918) 227-1508 - Franklin @ (580) 363-6617
 If unable to attend, other meetings will be held please call and let the contact person know a more convenient Time & Date.

Sooner Roof & Restoration
Metal Roof Coatings
 HORSE TRAILERS BARNs MOBILE HOMES
 RV'S **Have a leaking roof?** SHEDS
 Elastomeric Coatings Can Protect Your Assets
 At About 1/2 the Cost You'd Expect While Reducing
 Buildings Temperature Up To 20 Degrees
FREE ESTIMATES
Phone: (918) 772-2884
 Regional Sales Mgr Barney Hawkins
 Regional Office: 113N. Sc hoolc t.C laremore, O K7 4441

Shade Web Design
www.shadewebdesign.com
 (918) 718-9100
Web Design - Hosting - Domain Names
Flash Design - E-commerce Sites - Email
Hosting - Custom Graphic Creation
webmaster@shadewebdesign.com
Keetoowah Indian Owned & Operated