

# DG WY D S 4 o d J

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Serving the Cherokee People Since 1992

## Cherokee's better be watching what Chief Smith & his rubber stamp tribal councilors are doing.

### Keep a candidate from being elected

Date: Saturday, May 21, 2005 08:00 AM

The rules committee of the Cherokee Nation Tribal Council voted Thursday to send changes in election laws to a vote of the full council in its June meeting, including a stricter campaign reporting requirement.

Failure to file campaign reports in a timely manner before elections and failing to pay any outstanding fine for late filing could keep a candidate from being elected under a proposed new Election Act.

Bill John Baker argued for an exception in case of extenuating circumstances (as determined by the Election Commission), such as a candidate having a heart attack just before the campaign report was due. The friendly amendment was accepted.

There was no discussion on the fact that if a candidate was deemed in violation of the new rule it would be too late to remove the candidate's name from the ballot and citizens might waste their vote on an illegal candidate.

The proposed act also calls for any voter who spoils the ballot given them to have the clerk destroy it and be issued a new ballot.

Also, previous campaign expenses reported in large categories would be more narrowly defined. Any vendor payment of more than \$500 would have to be identified.

### A proposal to eliminate runoff elections

Saturday, May 21, 2005 07:59 AM

The Cherokee Nation Rules Committee voted down a proposal to eliminate runoff elections by implementing instant runoff voting - voting on your first, second and third most favored candidate in the first election.

Under an instant runoff, if there were no clear winner - 50 percent plus one - the voting machine computers would tally the winner by eliminating the last-place candidate. Ballots of voters who ranked the eliminated candidate first are instead counted for the next-choice candidate.

Last-place candidates then would be successively eliminated and the ballots redistributed to next choices until one candidate remained or one candidate gained more than 50 percent of the votes.

Proponents of the instant runoff system contend voters have every incentive to vote for their favorite candidate rather than the "lesser of two evils" because their ballot can still count toward a winner if their first choice loses.

Council attorney Todd Hembree, asked to explain the benefits, said the instant runoff would mean a candidate only has the expense of campaigning one time. The system would be faster, safer and cheaper - saving about \$35,000, according to a pre-election committee that proposed the process to the council.

Councilor Melvina Shotpouch spoke against the measure, saying she believes many Cherokees would only be confused by such a voting system and it might keep citizens from the polls.

Fourteen councilors were present for the vote. The four who voted for the proposed system were Cara Cowan, Don Garvin, Bill Johnson and Meredith Frailey. Voting against it were Shotpouch, Joe Crittenden, Buel Anglin, Bill John Baker, Audra Connor, Chuck Hoskin, Johnnie Keener, Linda O'Leary, David Thornton and Phyllis Yargee.

**Note: It is good to see many of our tribal councilors are voting the right way for the Cherokee people & their district.**

## No Reports for 2 Years

Travel Expenses of Cherokee Nation Elected Officials

Date: Saturday, May 21, 2005 08:13 AM

goto URL: [http://www.cherokee.org/Phoenix/XXVIIIno2\\_Spring2003/TravelExpense.asp](http://www.cherokee.org/Phoenix/XXVIIIno2_Spring2003/TravelExpense.asp)

Travel Expenses of Cherokee Nation Elected Officials

When the Cherokee Independent Press Act of 2000 (Legislative Act 11-00) was approved by the Tribal Council and signed into law by Principal Chief Chad Smith in July 2000, Section 10 of that act superseded previous legislation requiring the publication of the council meeting minutes and the travel expenses of elected officials on the Cherokee Nation Web site and quarterly notification of Cherokee Phoenix readers that the information was posted on the Web site.

Section 10, titled Publications Requirements and Codification, states

On a quarterly basis a public service announcement will be published, stating that copies of council meeting minutes and travel expenses of elected officials will be posted on the Cherokee Nation Web Site and be available through the Internet to fulfill the intent of previous legislative acts requiring such publications. This act shall be codified in conformance with the format and the requirements of Cherokee Nation Code Annotation Title 25.

**Contact your tribal councilor and ask for these reports on the Travel Expenses of Cherokee Nation Elected Officials be brought up to date.**

## ALL SOVEREIGNTY RESTS WITH THE PEOPLE

From time immemorial. How many times have we heard that phrase in relation to the rights of sovereignty exercised by Indian tribes, particularly the Cherokee Nation. But not many people, politicians and lawyers included, really know what that means. ALL SOVEREIGNTY RESTS WITH THE PEOPLE

What this confusion boils down to is a lack of knowledge of the origin of sovereignty and an allowance by the people of improper usage and abuse by a rogue government.

The government of a nation is not, in and of itself, sovereign. Sovereignty is a delegation from the people to the government of the right to govern. It is permission, either written or understood, that a government has some right to represent the people in matters of state and foreign affairs.

This is usually accomplished in one of two ways. First, it can be taken from the people, as in the case of dictatorships and other forms of totalitarian regimes. The second is for a valid delegation from the people to a form of government, usually through an election, which then, by consent, exercises sovereignty.

In the absence of a legitimate government, ALL SOVEREIGNTY RESTS WITH THE PEOPLE. As an example, when the Cherokee Nation existed east of the Mississippi River, intact and unmolested by foreign authority, the powers of sovereignty were exercised at various levels by the people or their designated leadership, priests, chiefs and other headmen.

When that form of government became burdensome and unresponsive to the needs of the people, another form of government was organized

whereby sovereignty was exercised through a centralized government. But prior to such an event occurring, it was necessary for there to be an interim period where no government existed at all. This was the case during the early 1700's, as the Cherokee people neither wanted, nor understood the concept of centralization.

As the appointed chief, then called an Emperor, became more normalized and acceptable, sovereignty was extended to the position from the people. Prior to that, it was not uncommon for the people to simply ignore the Emperor and his decisions. Sovereignty continued to rest with the people, inspite of what appeared to be an operating central government.

When this form of government became too autocratic and unresponsive to the people's needs, another period of non-government took place. During this time, the people met and withdrew the sovereignty they had extended to the Emperor, and re-delegated it to an elected Principal Chief. This was accomplished through a constitution passed in 1827.

During those terrible times for the Cherokees, many moved west and organized their own government. They had a primitive government based on a Principal Chief and his assistants. These Cherokees, commonly called Old Settlers, had retained sovereignty within themselves when they left the east and then delegated it to their government upon arrival in the west.

When the Cherokee Nation was forcibly removed from the Eastern homeland, the old government of the Cherokee Nation ceased to exist. All that remained were "leaders." John Ross

was no longer Principal Chief and the council no longer had legislative authority. The people followed Ross because of his charismatic leadership, not because they were required to by law.

The sovereignty of the Cherokee Nation, which had been delegated to the government in 1827 through a constitution, was now back in the hands of its rightful owners, the masses of Cherokee refugees. And by the same token, when the larger body of Eastern Cherokee emigrants arrived in the western territory, the Old Settlers lost their government as well. In the scheme of things, a representative government, elected by a minority, cannot exist in the face of majority opposition. In this way, no government existed in the Cherokee Nation west. All of the sovereignty which had been carefully delegated to both governments had unceremoniously reverted to its original owners, the Cherokee people.

Understanding this phenomenon, the leaders of the Cherokee people, both Old Settlers and emigrants, created a new government. This new government was given its credentials through the adoption of the 1839 Constitution. Thus, the restored sovereignty of the Cherokee people was once again delegated to a centralized government which could and would lead the people for nearly a century.

Now, we have a situation where no legitimate government exists for the Cherokee people. One would think that sovereignty, the hallmark of the people's right to govern themselves, has reverted into the hands of its rightful owners, the Cherokee people. This is not the case.

Remembering that in 1839, the Cherokee people delegated the right to govern from themselves to a legitimate government. And that delegation has never been rescinded. The institutions of government have remained vacant for many years. The exercise of sovereignty by any form of legitimate government has been lacking. Meanwhile, a usurper government has arisen.

This usurper government, missing the key ingredients of sovereignty, can do nothing but pretend to govern, which all the while, being supported and succored by foreign governments bent on destroying the Cherokee Nation and oppressing the Cherokee people. When the institutions of government, proscribed by a constitution, are missing, it is the duty and obligation of the people to fill them or reorganize. To do the former would restore the Cherokee Nation to its rightful position of self governance. To do the latter would subject the Cherokee people to whims of a paternalistic and domineering foreign government.

The Cherokee people have not, in this century, reorganized their government. Nor have they properly restored the institutions of government proscribed by their documented delegation to govern, the 1839 Constitution. Thus, on April 15th, 2000, the Cherokee people will assemble in convention at their capitol city of Tahlequah, to take the first step to re-establish their governmental institutions through their legitimate delegation of sovereign authority, the 1839 Constitution.

David Cornsilk

## CNO Official finally admits it

The Judicial Appeals Tribunal ordered that final briefs be submitted from both the plaintiff and defendants in the Freedmen citizenship case styled Lucy Allen vs. Council, JAT 04-09.

I submitted a brief on April 22, detailing our argument on behalf of the plaintiff and other members of the her citizenship class who have been denied their rights of citizenship in the CNO. The defendants were required to submit their response to my brief by May 2.

In a brief, prepared by CNO Tribal Council attorney, Todd Hembree, and submitted on May 5, the CNO Tribal Council has made several claims regarding the history of Freedmen citizenship and the status of the Cherokee Nation of Oklahoma.

While most of the filing is wild-eyed screeching and desperate attempts to rewrite history, one statement in the filing is of great interest to various parties in the Cherokee territory. On the last page of the filing, Hembree states:

"The subsequent approval by the United States of the Constitution of 1975 was tantamount to new recognition of tribal government and a reorganization of the Cherokee Nation." While it is well known that the whole Cherokee people could reorganize their government, to do so would require that it be done under the provisions of the Indian Reorganization Act (1934) and the subsequent Oklahoma Indian Welfare Act (1936). Neither the Cherokee Nation, nor the Cherokee Nation of Oklahoma is organized under the provisions of those acts.

What then is the Cherokee Nation of Oklahoma? It is exactly what we have said all along, a club made up of descendants of original enrollees on the Dawes Commission Rolls, in other words, a service population as originally noted in the Federal Register. Whether we like it or not, any reorganization of the Cherokee Nation would have to comply with federal law. The Cherokee Nation itself, with all of its citizenship classes, including the Freedmen, has never reorganized.

So where is the Cherokee Nation? The answer is a sad truth for those of us who love the Nation and struggle on her behalf every day. She is on her death bed. We are facing the death of the Cherokee Nation when we see the last of the citizens of the Cherokee Nation pass from this life.

All anyone need do to learn the sad truth facing our beloved mother is to read the membership article found in the 1975 Constitution, it says:

Article III, Section 1. All members of the Cherokee Nation must be citizens as proven by reference to the Dawes Commission Rolls, including the Delaware Cherokees of Article II of the Delaware Agreement dated the 8th day of May, 1867, and the Shawnee Cherokees as of Article III of the Shawnee Agreement dated the 9th day of June, 1869, and/or their descendants.

This section says that members of the organization created by the 1975 Constitution first must be citizens from the Dawes Rolls. The only people who are citizens as proven by reference to the

Dawes Rolls are the original enrollees, the youngest of whom is 99 years old. There are probably no more than 100 of them left. With that group gone, there will no longer be any citizens of the Cherokee Nation. The only group left will be their descendants, and those people will be "members" of the Cherokee Nation of Oklahoma, the club started by Ross O. Swimmer in 1975; and the Cherokee Nation will be dead.

I hope I am wrong. There are those who will say I am wrong. Someone please prove me wrong. The history of the Cherokee people is fraught with attacks on our existence as a polity by the state and federal government. Every time the tribe rises to a level which threatens the status quo, we are slapped down. The mushroom known as the Cherokee Nation of Oklahoma is growing a huge head on a tiny base and is bound to topple. And like a mushroom, growing in the moist dark room filled with manure, when the lights come on for the CNO, it will shrivel and disappear.

David Cornsilk

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Cherokee Owned Businesses have given Millions of dollars away, that are questionable giving of funds.

Cherokee Nation-owned corporations soon may have to get tribal council approval prior to making major contributions, like the more than \$2 million Cherokee Nation Enterprises pumped into state questions for casino gambling and raising the tobacco tax.

After the chief's stalwarts on the council were unable to convince the Rules Committee to table the issue, the vote was 8 to 4 for the new legislation to go before a vote of the full council in its March meeting.

Councilor Cara Cowan first asked if the motion applied only to campaign contributions. Council attorney Todd Hembree explained that corporations can't give to personal campaigns but are allowed to give to campaigns for state questions. Cowan then asked if the measure included anything but money.

It could mean everything from use of a car or the CNE plane to printing T-shirts, Hembree said.

continued on page 2

A SAD Fact

Estimated only 6 % of potential Cherokees voters voted!

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