

### There Is NO Constitution at the CNO Inc

The BIA told Chad there would not approve it without the Freedmen Voting. That is why Chad, Gourd, Hagerstrand have been up in DC the last few years trying to get it approved. Right now today in CNO Land they have NO CONSTITUTION.

### The BIA refused its approval

On Feb. 26, 1999, the opening day of the Constitutional Convention, the commissioners handed over to the other 72 delegates a rough draft of a new constitution. The delegates then broke the document down into separate elements. They went article-by-article, section-by-section, line-by-line and sometimes word-by-word, breaking it down and revising. "Once the delegation convened, it was their responsibility to either look at the language and retain or look at it and modify or rewrite it all together," Keen said.

Nine days later, the Cherokee Nation had a newly drafted constitution. "They (delegates) accepted almost everything we recommended, at least the concept of what we were recommending. It may have not been in the final form that we offered it, but they adopted almost all the concepts almost without exception. Plus they added a few

of their own," Keen said. "We really did what I felt to be a tremendous job in accomplishing all that we wanted. Except we overlooked one thing, and that was the BIA (Bureau of Indian Affairs) wouldn't approve what we came up with."

Ralph Keen, Jr. With new draft in hand, the commissioners turned it over to the BIA for approval. The BIA refused its approval, and the revised constitution is currently on hold, said Jay Hannah, Constitution Commission chairman. It remains just a draft because of Section 10, Article 15 of the 1976 Constitution, which states, "No amendment or new Constitution shall become effective without the approval of the President of the United States or his authorized representative."

Keen said the new constitution remains in limbo because of two sticking points with the BIA: the proposed elimination of Article 15, Section 10 requiring federal approval for amendments and the fact that the BIA has taken the position that Freedmen Cherokees must be allowed to vote and run for elected office in the Cherokee Nation.

continued from page 5  
have given Millions of dollars away

"It's a lot more than just writing a check," he said.

Linda O'Leary, chairman of the tribal Executive and Finance Committee, sponsored the legislation, saying the council, under the constitution, has a fiduciary responsibility to keep track of expenses paid with Cherokee money and have oversight of the nation's assets.

Some say the millions of dollars derived from tribal enterprises - mostly from Cherokee Nation Enterprises, the gaming and business arm of the tribe - should be helping more with tribal services.

Councilor Jackie Bob Martin of Stilwell, a staunch supporter of Cherokee Nation Chief Chad Smith, spoke several times against the motion, saying he didn't want to see the council getting into micro-managing the tribe's corporations, which have boards of their own.

Councilor Buel Anglin echoed Martin, as did Councilor Cara Cowan. "You don't have to tiptoe around - you're either for it or against it," Councilor Melvina Shotpouch said. "If we think CNE ought to run this council, vote it down. If you think this council needs to have oversight, then vote yes," O'Leary said.

"There's millions of dollars given out in the name of the Cherokee people, and we have no say over it (unless action is passed)," Councilor Chuck Hoskin argued.

But Councilor Bill John Baker argued that the rub in not having the law is that millions can be spent without the council or the Cherokee people even knowing it.

Councilors including Martin, who vigorously opposed the motion, said constituents called them in droves after reading in a state newspaper about one \$500,000 contribution to one of the state questions.

Martin said after the motion passed: "If I was a betting man, I'd bet the chief vetoes it."

O'Leary said after the meeting that she requested the amount given to the state questions on tobacco and gaming from CNE President Dave Stewart earlier and that he told her it was in excess of \$2 million.

Another planned vote on increasing CNE dividends to the tribe from 25 percent of the net profit to 35 percent was withdrawn by O'Leary, who said the council's CPA was out of town and she wanted to wait until he was there to make a presentation.

### American Idol or idle America?

By Gregg Simmons  
Staff Writer  
Cherokee Phoenix & Indian Advocate

On the semifinals of "American Idol" more than 37 million votes were tallied. I can't believe a contest that was ranked the No. 3 show in America received 37 million votes.

Last year less than 121.5 million Americans cast a ballot in the presidential race. This blows my mind. I was also shocked to learn that only 34,383 of the 202,114 eligible Cherokees were registered to vote in the 2003 tribal elections, and a mere 12,760 or 37 percent of the registered voters or 6 percent of potential Cherokees voters voted in the 2003 election. What does this say about our tribe or our country for that matter? Well, I'm not sure what to say. I know the amount of people that are affected by the outcome of "American Idol" seems far greater than the amount of people affected by the outcome of national or tribal elections. Does this mean we need to change the way we do things? I can see it now, a show where the primaries are conducted in a few weeks. The candidates do their best to try to impress commentators and the general public before begging for their vote by holding their fingers in the air. Ryan Seacrest will say, "To place your vote for Howard Dean call 1-800-IDOLS 01."

Each week the candidate that receives the smallest number of votes will leave the show until we have the final candidate for each party. I can see the big finale. The candidates get their last chance to impress America before the phone lines open. The next night America can tune in and see who will be the president of the United States. Or, we can record it. Apparently we don't think it is that important anyway. We can see a barrage of Ford commercials and then find out who will lead our country for the next four years.

Do we do the same thing with tribal elections? Maybe then we could get more than 12,760 voters.

I don't know what happened to people. Is it video games and fast food that have made us too lazy to be involved? Maybe we are overmedicated on antidepressants and everything seems just a little less important than it

should be. Maybe it's the ozone layer and that pesky global warming that is frying our brains. Maybe we are still trying to apply Dr. Phil's advice into our own lives. Maybe we are too busy camping out in front of the movie theater to watch Star Wars. Maybe it's Viagra. Or maybe we watch so much reality TV that we are not concerned with reality anymore. Maybe we just want to see Amber and Rob get married or find out if Carrie can beat Bo. Finding out who our next principal chief or president is just too unimportant.

I hear people say "Well, if we could vote on the Internet more people would vote."

I know a lot of things you can't do on the Internet that people do every day. Some of them you have to do and some of them you just want to.

That's the problem. It seems that people don't feel they need to vote or just don't want to. What are you thinking? Clear the cobwebs out of your head and try to be involved in your own future. There are important issues at stake and sitting on your couch eating chips is not going to get anything done!

This problem is easily fixed, though. You just have to do two things. First, register to vote. Next, vote. Of course I would hope that you would educate yourself on the issues and where each candidate stands on those issues, but in essence all you have to do is register and vote.

You can even get the information on the Internet. Crazy isn't it?

To register to vote in local, state and national elections, visit your post office to pick up a form or go to [www.rockthevote.com/rtv\\_register.php](http://www.rockthevote.com/rtv_register.php) to register on the Web.

To register to vote in tribal elections visit [www.cherokee.org](http://www.cherokee.org) to print a form to mail in or you can go to the Election Commission to fill out the form in person.

Isn't that easy? Let's try it, shall we?

[gregg-simmons@cherokee.org](mailto:gregg-simmons@cherokee.org) / (918) 456-0671, ext. 2351

### David C splains things on the tattler

Well Ponystar, if you take away our culture, the very essence of who we are as a people, distinct from everyone else, then what's the point anyway. Those stomp dances and hog feeds, along with playing fast pitch, horse shoes, and everything else that we as Cherokee Indians do, is what saved us from disappearance. But I understand your question and Euro-American culture from which it originates.

The Cherokee Nation had gone into a coma after statehood. Its head was there, in the name of the Principal Chief, but its body could not function because of limitations placed on it by the Federal Government (Curtis Act). With their government in a vegetative state, the Cherokee Indians did what they have done for thousands of years, took back their government and made it operate on a local level.

Chiefs of communities arose to lead the people. These men kept the political life of the Cherokees alive until a national government could be established again. It was the full bloods who maintained tribal relations among themselves. The thinbloods had totally abandoned tribal relations and assimilated into the mainstream of Oklahoma society (and often, moving away to assimilate elsewhere).

When a national government was finally reestablished for the Cherokee Indians through the United Keetoowah Band, a headquarters was established, a chief and council elected and a government to government relationship was reestablished with the federal government. At the same time, the Cherokee Nation, in its limited form, continued on, with the sole embodiment of the Nation being in the office of the Principal Chief.

The Cherokee Nation still had no body, only a head. It was not until the passage of the 1970 Five Tribes Act, that the whole Cherokee people, including the full bloods, thinbloods, freedmen, Delawares, Shawnees and intermarried whites were allowed to select the head of their own government. But the 1970 Act and the subsequent 1975 Constitution did not restore the Cherokee Nation's body. It only created an arm of the executive giving the illusion of a body, but with no real foundation in law.

You are right that there were no Cherokee courts prior to that time, there were no casinos, no gas stations, no smokeshops, very few programs operated by the Cherokee people themselves. All of those things have come to pass after the adoption of the 1975 Constitution. I do not dispute that what the Cherokee Nation of Oklahoma has created is doing some good. I think the CNO can do many more good things for the whole Cherokee people. But I also think the CNO is improperly constituted and is not the historic successor of the Cherokee Nation created by the 1839 Constitution.

To give you some idea of how I see the Cherokee Nation of Oklahoma, picture an inverted pyramid, standing on its apex rather than its original inherent sovereignty and constitutional foundation. The creation of the Cherokee Nation of Oklahoma rests solely upon a few words in the 1970 Five Tribes Act which says (paraphrase): The citizens of the Five Civilized Tribes are hereby authorized to popularly select their principal officers. The chiefs of said tribes are authorized to promulgate rules to carry into effect the election.

Keeler promulgated his rules and got himself elected in 1971. Swimmer used those same rules and got himself elected in 1975 with less than 20 percent of the votes cast. Swimmer then, in total disregard of the then existing constitution of the Nation (1839), promulgated a constitution, had less than 20 percent of the Cherokee population vote on it and set out to create the bureaucratic monster we know today as CNO.

It is my contention that the 1975 Constitution is nothing more than a new set of rules promulgated under the authority of the 1970 Five Tribes Act and is not the authentic Constitution of the Cherokee Nation. With that in mind, it makes little difference what good things come from an evil act. Even Al Capone used his ill-gotten gain to help orphans.

David Cornsilk

## Subscribe to the Cherokee Observer Today!

Date: Tuesday, May 03, 2005 08:14 AM  
Cherokee County's elected officials are being asked to enter an intertribal land squabble.

For years, the United Keetoowah Band of Cherokees has wanted the federal government to put small parcels into trust for the tribe.

The U.S. Interior Department has declined, saying the small tribe has no authority to have trust land within the Cherokee Nation's 14-county territory.

Now, the Keetoowah Band is asking the county's eight elected officers to sign a statement saying they support the tribe's land efforts.

County Clerk Marshal Bennett said a tribal representative recently delivered a letter to her and asked her to obtain signatures from her seven elected colleagues: the assessor, treasurer, sheriff, court clerk and three commissioners.

Bennett said the tribal representative told her the letter was for land on which the tribe's wellness center sits.

County commissioners were to vote on the matter Monday, but because the man never returned, it was postponed indefinitely, Bennett said.

Charles Locust, the Keetoowah Band's assistant chief,

said the U.S. Bureau of Indian Affairs submitted the letter, not the tribe. Having land in trust removes it from property tax rolls and gives the tribe domain over how it is used.

Locust said the letter pertains to his tribe's headquarters and to an 80-acre tract that contains the tribe's wellness center, senior citizen center and federal programs building.

The Keetoowah Band also owns a casino that both the state and federal governments want to close because it isn't on trust land. County officials aren't being asked to endorse trust status for that property, Locust said.

The Cherokee Nation claims its sovereignty would be diminished if the smaller tribe is granted any trust land.

"What this letter seems to do is to put elected officials in the middle of that dispute," Cherokee Nation spokesman Mike Miller said. "It's not their fight, and we certainly haven't asked them to be in the middle."



### The leader of the Senate Indian Affairs he would help secure passage of a resolution to apologize to Native peoples for their treatment by the United States.

Date: Friday, May 27, 2005 07:22 AM

The leader of the Senate Indian Affairs Committee said on Wednesday he would help secure passage of a resolution to apologize to Native peoples for their treatment by the United States.

Fresh off his role in securing a compromise on judicial nominations, Sen. John McCain (R-Arizona), the chairman of the committee, held the first-ever hearing on the apology resolution. He praised Sen. Sam Brownback, a conservative Republican from Kansas, for introducing the measure.

"Reviewing the history of this government's treatment of Native Americans makes painfully obvious that the government has repeatedly broken its promises and caused great harm to the nation's original inhabitants," McCain said.

McCain noted that the resolution was approved unanimously by the committee last year but never made it to a floor vote. He promised Brownback that the situation would change under his leadership.

"Maybe I could do what I can to assist you in get some floor consideration of this issue," McCain told his colleague. "I'd be glad to support you in whatever way I can."

Brownback welcomed the backing and said he was prompted to seek the apology after he encountered lingering feelings of bitterness among Native people his state, home to four federally recognized tribes. He pointed to a long history of "broken treaties, mistreatment, and dishonorable dealings" that demand reconciliation.

What this resolution does do is recognize and honor the importance of Native Americans to this land and to our nation -- in the past and today -- and offers an official apology to the

Native peoples for the poor and painful choices our government sometimes made to disregard its solemn word," he testified.

Two tribal witnesses welcomed the measure. Tex Hall, the president of the National Congress of American Indians, called it a "long-time coming."

"Passage of the apology resolution would mark the federal government's first effort to extend an official apology for the years of wrongdoing in interactions with Indian tribes," Hall told the committee.

Dr. Negiel Bigpond Sr., a member of the Euchee Tribe that is now part of the Creek Nation and president of the Rivers Native American Training Center in Oklahoma, said the resolution was an important step in the reconciliation process between Native and non-Native citizens of the country. "I believe that acknowledging past atrocities and asking the indigenous First Nations people of this land for forgiveness is needed as a first step for healing of this land," he testified.

But a prominent Alaska Native leader said was troubled. Ed Thomas, the president of the Tlingit and Haida Tribes of Alaska and a vice president of NCAI, recalled his "reluctant support" of the resolution when it was first introduced in the 108th Congress.

That feeling has since turned into serious doubt, Thomas continued. He cited major failings in the handling of billions of dollars in Indian trust funds, a lack of tribal consultation, cuts in federal funds to Indian programs and an erosion of tribal sovereignty in the courts.

"Things have deteriorated so much that it is a fact that federal prisoners get more health care funding per capita than Native Americans," he said. Any apology would be worth-

## The Cherokee Observer

The Only Independent Cherokee Newspaper

P.O. Box 487

Blackwell, OK 74631-0487

e-mail: [cwyobserver@yahoo.com](mailto:cwyobserver@yahoo.com)

[editors@cherokeeobserver.org](mailto:editors@cherokeeobserver.org)

Phone/Fax: 1-580-363-5438

PUBLISHER: Marvin J. Summerfield

OWNER: Cherokee Observer, Inc.

[www.cherokeeobserver.org](http://www.cherokeeobserver.org)

Purchase Rate per copy .....\$75

Yearly Mailing Rate (domestic).....\$20.00

Yearly Mailing Rate (foreign).....\$41.50

David Cornsilk.....Editor

Franklin McLain.....Online/Assistant Editor

Marvin J. Summerfield.....Language Editor

Thomas Fourkiller.....Religion Editor

The Cherokee Observer welcomes letters to the Editor. All letters must be signed and include the writer's address. Letters may be edited for space and or libelous content. Names may be withheld upon request. Letters will be published as space permits. Letters to the Editor express the views of the writer and do not necessarily reflect the view of the Cherokee Observer.