Cherokee Freedmen Story as of May 7, 2006 by Marilyn Vann –

The Cherokee Freedmen people are citizens of the Cherokee nation based on treaties with the US government, and tribal constitutions. Cherokee people with African blood have been members of the Cherokee nation on some basis since the first people with African blood came into the Cherokee areas of the SE United States. The majority of the people with African blood living in the Cherokee nation prior to the Civil war lived there as slaves of Cherokee citizens or as free black non citizens, usually the descendants of Cherokee men and women with African blood. However, some people with African blood had citizenship rights originating prior to 1866 due to an adoption of themselves or their ancestor by tribal officials or having a Cherokee citizen mother. (Children of Cherokee women tribal members historically were tribal citizens regardless of race of the father – and this continued under the constitution of 1827 and 1839). The Henderson Roll of 1835 identifies several Cherokee families - which had at least 1 mixed African Cherokee citizen living in the Cherokee household. These include for example the household headed by JV Hilderbrand in Tennessee.

In 1863, the Cherokee government outlawed slavery. In 1866, the Treaty of July 19, 1866 (ratified July 27, 1866; proclaimed Aug. 11, 1866), 14 Stat. L. 799 (the "1866 Treaty") was signed with the US government in which the Cherokee government agreed to give citizenship to those people with African blood living in the Cherokee nations who were not already citizens. The national council amended the 1839 constitution to comply with the treaty in November 28 1866. The leader of the tribal officials who supported the rights of the freedmen by treaty and the revised constitution was WP Ross, a Princeton educated attorney who became the Chief after the death of his uncle John Ross in 1866. In the 1866 treaty, The Cherokee government also agreed to allow friendly tribes to settle on Cherokee lands and receive Cherokee citizenship based on subsequent agreements. Thus, bands of Delaware and Shawnee immigrated to the Cherokee nation and received Cherokee citizenship in 1867 and 1869 respectively based on separate treaties in conjunction with the 1866 treaty.. Between 1866 until the end of the end of tribal government, about 1907, colored Cherokee citizens participated as full citizens of that nation, holding office, voting, running businesses, etc. One leading Freedmen citizen was for example Zake Foreman who lived in what is now Sequoyah County. The following listed as "Negros" by Emmitt Stars book, History of the Cherokees served on the Cherokee Council: Tahlequah District: 1875 -Joseph Brown, 1893:Stick Ross:, 1895 – Ned Irons Illinois District: Frank Vann – 1887 , Samuel Stidham -1895; Coowescoowie District: Jerry Alberty – 1889. This was during a time period that Commissioner Henry Dawes stated that there were no paupers in the Cherokee nation. Various Supreme court cases dealing with tribal annuities such as *Cherokee nation Vs Journeycake*, 155, US 196 (1894) – upheld the right of adopted citizens including the Freedmen, Delaware,and Shawnees as full tribal citizens..

This time of tribal peace and harmony began to come to an end, however when the Dawes Commission, under Acts of Congress came to the Cherokee nation and began making lists (rolls) of tribal members in order to divide the tribal properties among the tribal members. The Dawes Commission used as its base the 1880 authenticated Cherokee census which the Cherokee national council had certified as including all people recognized as members of the tribe at that time. It must be emphasized that the 1880 authenticated Cherokee census had no degrees of blood for any citizen because there was no such concept among the Cherokee people or among any tribal nation. NO RECORDS OF "BLOOD QUANTUMS" WERE EVER KEPT BY CHEROKEE PEOPLE OR THE CHEROKEE GOVENRMENT. **NO** TRIBAL MEMBER RECEIVED AN ALLOTMENT AS "REPARATIONS" – BUT ONLY AS HIS RIGHT TO A SHARE OF PROPERTY OWNED BY ALL CITIZENS. . (Approximately 10% of the tribal citizenship base in 1880 were "adopted colored citizens" or "native colored citizens"). The Dawes Commission, beginning its work in the late 1890s listed separately those Delaware people who were original immigrants into the Cherokee nation in 1867 on a separate Delaware roll because they were entitled to an equivalent 160 acres of land based on the Delaware treaty rather than the equivalent of 110 acres of land for all other citizens of the nation. These Delaware Cherokees were listed with degrees of Delaware blood by the Dawes commission

The majority of the Cherokee citizens were listed with a degree of Cherokee blood on either a Cherokee by blood roll or a Minor Cherokee by blood Roll. THESE BLOOD QUANTUMS WERE PRIMARILY GUESSES! A search of the Dawes Rolls will find in many cases adult siblings with varying blood degrees with the same parents.   Approximately 200 “intermarried whites” were separately registered on the Dawes Rolls who had been married to Cherokee citizens prior to 1875 and were widowers/widows and or still married to their Cherokee spouse. Almost all of the people with African blood who were Cherokee tribal citizens were listed on a separate roll as “Freedmen Cherokees” or Minor Cherokee Freedmen without a degree of “blood quantum recorded by their names for these citizens of the Cherokee nation. . Although a mixed African Cherokee tribal citizen could request to be identified with a degree of blood on the Cherokee by blood Roll almost all such requests even when litigation was instituted were unsuccessful – How any citizen was listed (as to whether a “freedmen” or a “Cherokee by blood” was solely the prerogative of the Dawes commission. Thus those individuals such as mixed African Cherokees Abbie Brown and Perry Ross – listed on the 1852 Drennan payment roll as tribal members having citizenship rights based on the 1827 and 1839 constitution because of their mother, a full blood Cherokee named Rachel Brown, were listed as “freedmen” in-spite of their efforts to be classified as citizens by blood (another brother, George Hammer Brown, who was also a son of Rachel Brown and listed on the 1852 Drennan Roll was finally able to keep his status as a ½ Cherokee by blood). These 2 individuals – Perry and Abbie   received the Guion Miller payment due to their Cherokee blood although they retained Freedmen status on the Dawes rolls. It must be emphasized that the story of this family is not an isolated case by far.

You may ask, why were blood degrees listed as all? Why was a separate freedman roll made if the freedmen land allotments were the same size as everyone else’s and were issued for the same reason – dividing the tribal property among its citizens. Was there an ulterior motive to list as many citizens as possible as “freedmen” when they could show that they had citizenship rights prior to 1866 and indeed had “Indian blood” ? .YES! Tribal officials, who had opposed the allotment of the tribal lands had requested that at least some of the tribal citizens have some protection from the US government from the white settlers who they feared would trick them out of their allotments. At the time that the Dawes Commission began its work, a Congressional bill was being considered that would make all Freedmen allotments and allotments for intermarried/adopted whites unrestricted; ie that no permission would need to be received from the Department of the Interior to sell the allotment or enter into a long term lease. IT suited the purposes of the Dawes Commission to class as many people as freedmen as possible to get the land into the hands of the whites quicker and easier.. The Cherokee freedmen roll was simply 1 section of the Dawes Rolls. Eventually this bill pertaining to unrestricted Freedmen allotments was passed as 33 Stat L 189. The Dawes Rolls of tribal members were made final as of March 7, 1907 pursuant to the Act of April 26, 1906. Later, Congress passed another law - the Act of May 27, 1908, 35 Stat 312 indicating tribal members with allotments who had lower blood degrees (less than ½) listed on the Dawes “final rolls” were completely unrestricted as well as the allotments for the intermarried whites and Freedmen. ALL TRIBAL OFFICIALS AND US GOVERNMENT OFFICIALS UNDERSTOOD AT THAT TIME THAT THE ROLLS WERE MADE SOLELY TO DISTRIBUTE LANDS AND WHETHER SUCH LANDS COULD BE EASILY SOLD AND THAT BEING LISTED AS A FREEDMEN DID NOT MEAN THAT YOU HAD NO “INDIAN BLOOD”. The Cherokee government was for all extensive purposes extinguished except for the rights of the US President to appoint a Principal Chief to conduct business transactions with the US government;   Between 1907 and 1975, the Cherokee Freedmen tribal members received the same per capita payments as other tribal members and intermittently accessed benefits as tribal members, including the per capita payment made in the 1960s to all tribal members authorized under US Code Title 25 section 991. In 1906, Freedmen represented about 10 to 12% of the tribe, according to the Dawes Roll breakdown into the various categories of tribal members based on land rights.

In 1971, the Federal government authorized the Cherokee people to once again elect a Principal Chief under the Principal Chiefs Act. The Cherokee nation under Chief WW Keeler began issuing “blue cards to Cherokee citizens, including freedmen that year. Cherokee Freedmen Dawes Enrollees and their descendants

voted in elections in 1971, 1975, and 1979. Some of the Cherokee freedmen citizens who received tribal membership/voting cards during the 1970s include Curtis Vann of Tahlequah (husband of recently deceased Ada Ross Vann), Evelyn Ross of Tahlequah , Reverend Roger Nero of Ft Gibson, Marion Gunter Wooten of Bartlesville, Robert Adair of Bartlesville, and Berniece Rogers Riggs of Tahlequah, . A constitution was voted on by the Cherokee people, including freedmen in 1975 which indicated in article III that all Dawes enrollees and their descendants were citizens of the Cherokee nation. The constitution made the tribe subject to all of the laws of the United States and required that the tribe receive the permission of the President or his designee before adopting new constitutions or constitutional amendments. However, the Cherokee Freedmen were blocked at the polls, beginning in 1983 under the orders of Chief Swimmer (now special trustee appointed by President George W. Bush) because they supported a rival candidate for Chief. The freedmen tribal members received letters from the tribal Registrar, Dora Mae Watie, saying that their tribal membership were being cancelled because the Registration department was requiring a tribal member to also have a certificates of Indian blood card; and telling them that they did not have Cherokee blood.

Subsequently, the tribal council, under the direction of chief Wilma Mankiller, later passed an Act requiring that all tribal members be able to provide a Certificate of Indian blood Card (CDIB), based on the Degree of blood listed on the Dawes Rolls for themselves or their ancestor. Since that roll did not list a degree of blood for Freedmen tribal members, this removed all Freedmen and their descendants from tribal membership, whether or not they could provide a degree of Indian blood from their Dawes testimony, Guion Miller payment roll testimony, Henderson payment Roll, death and heir ship documents of the US government , etc. This action of blocking the freedmen from tribal membership was <u>not</u> done under the direction of the Bureau of Indian Affairs (BIA), for BIA Muskogee officials Dennis Springwater and Joe Parker had met with tribal officials in 1983, and emphasized that the Cherokee constitution as well as the treaty of 1866 granted citizenship to the Cherokee Freedmen and their Descendants. The tribe was told the Freedmen should be allowed to vote.

The press took note of these matters, especially when a Reverend Nero and several other Freedmen filed a lawsuit against the Cherokee nation and the BIA in 1984. Then Chief Swimmer stated in the Oklahoma Eagle newspaper on July 12 1984 that it was “easier for the registration department to process tribal memberships of people with CDIB cards (at that time, the tribe did not have a contract with the BIA to process CDIB cards), which must raise the question of why Cherokee citizens must be deprived of their rights in order to make the job of registration easier for tribal employees on salary. Chief Wilma Mankiller in July 29 1984 told the Baltimore Sun newspaper that Cherokee Freedmen <u>should not</u> have tribal membership since such membership should be for “people with Cherokee blood”- which must clearly be seen as an effort to prejudice the Cherokee people as well as the general American people that people with African blood cannot document Cherokee blood and perpetrating those old “one drop of blood” standards that people with African blood have no other blood and must be kept as a people completely apart unlike any other people. Cherokee nation attorney Wilcoxen during the <u>Nero</u> case appears to have clearly attempted to prejudice the judge against the Cherokee freedmen plaintiffs by wrongly proclaiming that the “Freedmen did not have Cherokee blood”, and that the 1975 constitution only allowed “Cherokees, Delaware, and Shawnee” to be tribal members”; although the Constitution does not say that. The <u>Nero</u> lawsuit was dismissed by the judge in 1989 over jurisdictional issues; that for example the case should have been tried in the court of claims due to the amount of dollars the plaintiffs were requesting.

In 1998, the Cherokee nation justices heard a citizenship case by a descendant of Cherokee Freedmen, Bernice Riggs. In 2001, the tribal justices determined from the testimony and records provided that Mrs Riggs indeed had Cherokee blood. However, they held that this Cherokee ancestor, a man named Rogers was deceased at the time of the Dawes enrollment, and had he been alive at the time of the Dawes enrollment, she would have been able to become a Cherokee citizen based on his degree of Cherokee blood. The tribal justices stated that they were a sovereign nation and could grant tribal membership to whomever they wished.

In 1999, the Cherokee nation prepared a new constitution to submit for BIA approval. The BIA, headed by Kevin Gover, rejected the new constitution, partially under the grounds that the Cherokee nation would not allow Cherokee Freedmen to vote on it. According to the official Cherokee Phoenix tribal newspaper (Spring 2001), the CNO attempted to take the new constitution directly to president Clinton, but he would not sign it either. According to the tribal newspaper, tribal officials determined to request instead that the BIA agree to remove requirements of federal government approval of constitutional amendments and new constitutions. A decision was made to wait for a "friendlier administration", in the words of the tribal newspaper.

In 2002, BIA head Neal McCaleb was approached with a request to allow a referendum by Cherokee voters on a constitutional amendment removing federal approval. Neal McCaleb wrote a letter in March 2002, stating that the Freedmen must be allowed to vote on the amendment and that no amendment of the Constitution could eliminate the Freedmen from tribal membership. In April 2002, another letter, with Neal McCalebs signature said he did not write the first letter; the second letter did not say anything about the Freedmen being required to vote on the constitutional amendment! Note that this second letter was completely opposite of all written BIA policy since the 1940s. The Cherokee nation government, under Chief Smith, held various meetings around the Cherokee nation, encouraging people to approve the referendum and also the proposed constitution, which has no provision for federal approval of constitutional amendments and did not make the Cherokee nation government subject to US law – including laws regarding age discrimination, etc. for tribal employees. .

In May 2003, a referendum was held regarding the constitutional amendment, and a vote was held in July 2003 on the proposed new constitution. Both were passed by those individuals who were allowed to vote. Descendants of Cherokee freedmen who tried to participate as voters were not given voting cards, or absentee ballots, and were given "challenged ballots" at the polls if they tried to vote in person.
In June, 2003; several descendants of Cherokee Freedmen, through the law firm Velie and Velie; contacted the Department of the Interior, 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 "having a bias against the self government rights 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.
In 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, The Cherokee nation officials made false statements to the press such as "Freedmen had never voted in the history of the Cherokee nation (made by spokesman Mike Miller – which is obviously not true as such men as Freedmen Councilman Stick Ross even now have 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 "the Cherokee constitution requires CDIB cards" - However an examination of Article 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 "sore losers" who were associated with the former Chief Byrd . When the Daily Oklahoman in August 2003 raised the issue of many descendants of Dawes enrolled Cherokee Freedmen being barred from tribal membership despite documentable Cherokee blood, tribal spokesman Miller stated that "perhaps some cases needed to be looked at again". (However, no actions were ever taken by the Cherokee nation government to change the tribal code to give tribal membership to such 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 all 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, as during the summer of 2004, the Velie law firm had made contacts with Cherokee nation chief and the general council through a Cherokee community leader; and indeed a phone conversation regarding the issues had taken place between Jon Velie and CNO general council Fite to set up plans for face to face meetings. After the single phone conversation, the general council Fite refused to take phone calls from the plaintiffs attorneys and did not contact 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 "A Resolution Ratifying Intervention in Litigation in the US District Court for the District of Columbia". This item was associated with a resolution to obtain council approval retroactively of the filing of the motions by the Sonowsky law firm to dismiss the freedmen lawsuit. Contacts made by various Cherokee citizens with tribal councilmen indicated that they had no idea that such a resolution was on the agenda, or that any motions had been already filed, or how much money was involved. The resolution indicated that the lawsuit was an attack on the sovereignty of the Cherokee nation, stated that the Cherokee nation had not been allowed to participate in negotiations between the Cherokee freedmen attorneys and the bia.

On February 17, 2005, the resolution was presented by Melody Knight of the Cherokee nation Justice Department. She stressed that the filing of the complaint was a direct attack on the Cherokee nation; and again, wrongly reiterated to the listeners that the Cherokee nation had been kept out of the negotiations, even though this had been refuted in the February 1, 2005 legal filing by the Velie law firm. A few questions were asked by a councilman, to clarify that the motions had already been filed, the validity of the expenditures, and the council's right to review the expenditures. Councilwoman Cowan said she wanted for a judge to make decisions and not the BIA. The resolution was approved in Committee.
Marilyn Vann, at the request of a councilman, was allowed to speak for 5 minutes after the vote. She called for the council to do the right, legal and moral thing for the good of all the Cherokee people and that the Cherokee nation did not need to file motions to dismiss the Cherokee freedmen litigation in order to be able to negotiate with the Freedmen attorneys and the department of the interior.
After discussion with Councilman Joe Crittenden on February 14, 2005, Vann contacted tribal employee Blackfox who advised her of how to structure a letter to be placed on the agenda for the March 14, 2005 council meeting. This letter was faxed to the council house on February 18, 2005 to Ms Blackfox. Marilyn Vann was later contacted by Councilman Crittenden, who indicated that the letter had been distributed to the council, as well as the tribal council attorney, Todd Hembree. Councilman Crittenden stated that Attorney Hembree had researched this issue and had stated that Marilyn Vann could address the council legally. Head of the tribal council, Deputy Chief Joe Grayson had been advised of this clearance and that Marilyn Vann would be addressing the council during the reports section. At the full council meeting on March 14, 2005 the resolution agenda item came up, Committee Chair Frailey began addressing the council regarding the reason to vote for the intervention (a key reason being the need for the tribe not being a part of the negotiations) and time was allowed for the council to discuss the issue, Mr Crittenden asked that Marilyn Vann be allowed to give a report. Councilwoman Cara Cowan objected, saying that Marilyn Vann was not a

member of the council, was not actually listed on the agenda, and had not given 10 days notice for the council to be allowed to speak. She Said that Marilyn Vann could not be allowed to go back and forth with the council since she was not a council member and had addressed the council before regarding the freedmen issues (this is an incorrect statement – Marilyn Vann had never addressed the full tribal council – and has never debated with any member of the tribal council on any issue , She said that Marilyn Vann had presented some information to the rules committee and that is where she should present her information she wanted to give the council. Joe Grayson said that Cowan was right and asked Marilyn Vann, what type of information she wanted to give the council. Vann said she wanted to address the litigation, the resolution, and the freedmen issue. Grayson said that the resolution was not about the freedmen and that Vann would not be allowed to speak. Since Vann was not allowed to speak, she was not able to present the council with written evidence that General Council Julian Fite and Principal Chad Smith had refused to meet with the freedmen attorneys for negotiation purposes after indicating interest in doing so by telephone and through emails and that there was no need to spend the Cherokee peoples money for a lawsuit.. A vote was taken on approving the resolution to intervene in the DC lawsuit filed by the Cherokee Freedmen descendants and the full Council voted 7 to 6 to support the resolution. Later on Vann, was contacted by several parties who told her that the streaming video had been turned off almost as soon as the discussion on the lawsuit resolution agenda item came on. One tribal councilman said that he saw the streaming video being turned off of both cameras with his own eyes. Discussion with tribal members over the age of 45 who have been present at many tribal council meetings since the tribal council first began meeting again back in the 1970s said that **NO** tribal council member in the history of the Cherokee nation had ever been barred from having a person speak to the council who they felt had information to present to the tribal council on an agenda item.

In fall of 2005, Judge Kennedy agreed to accept the initial motion to intervene filed by the Sonowsky law firm in January 2005. He is currently reviewing the Cherokee nation's motion to dismiss the federal lawsuit.

In the fall of 2004, Mrs Lucy Allen of Tulsa, whose ancestors were enrolled as Cherokee Freedmen despite their document able Cherokee blood (Her ancestors classed as Cherokees (as opposed to adopted coloreds by the 1880 authenticated Cherokee nation tribal roll were listed as 'freedmen" by the Dawes Commission) filed a lawsuit in the Cherokee nation tribal court to challenge whether or not the Cherokee nation tribal council has the authority to strip citizenship from descendants of Dawes enrollees who are citizens based on the 1975 tribal constitution especially since such individuals were not allowed to vote on those actions of the tribal court. . Despite the fact that former chief Ross Swimmer had called for the Cherokee Freedmen descendants to challenge all membership issues in the tribal courts, attorney for the current tribal council, Tod Hembree filed a motion to dismiss the lawsuit in December 2004 in the tribal court. The plaintiff, Mrs Allen was threatened with court costs for filing a "frivolous lawsuit". The Court held on March 7th 2006 that the Freedmen have citizenship rights in the Cherokee nation based on the treaty of 1866 as well as the 1975 constitution; and that the tribal council had exceeded its authority during the 1980s when it set up statutory bars to keep them from voting and obtaining tribal membership cards. The 30 page ruling cited legal cases which put to rest those myths set out by various tribal leaders that the freedmen citizenship had been "forced on the tribe."

On March 13, 2006, Principal Chief Smith addressed the Cherokee tribal council in his state of the nation address. He criticized the Allen tribal court decision of March 7, 2006 regarding the rights of the Cherokee freedmen stating that many people disagreed with the decision and that it should be put to a vote of the Cherokee people regarding the Freedmen peoples citizenship rights stating that "many people believed that the freedmen had been gone and had done nothing for the tribe in the last 100 years and that their ancestors had been paid off when they received their allotments as slave reparations". . Since that time, Chief Smith has gone from city to city, calling for a vote on the rights that the Freedmen tribal members have – rights promised by previous tribal leaders that all of them have had prior to the Delaware and Shawnee citizenship rights and for some people existing prior to 1866. On March 27, 2006 Councilman Jackie Bob Martin

introduced a proposed constitutional amendment for the council to approve which would remove the citizenship rights of the Cherokee freedmen people if approved by Cherokee voters. He further more requested that a constitutional amendment be approved by the tribal council which would require tribal members (or any one else) to have approval by the tribal council before suing the tribal council, tribal employees or tribal officials in tribal courts and take this amendment to the Cherokee voters for approval. Councilman martin requested that these items be approved by 2/3 of the council so that they could be voted on in a special election to be held on November 4 of 2006; rather than be placed on the May 2007 ballot. The rules committee defeated the proposed amendment to require council approval to sue in tribal court; but delayed any voting on the proposed constitutional amendment regarding the citizenship rights of the freedmen people for 60 days to get citizen input and for further study of the matter. Councilman martin, Cowan, Anglen, Johnson, and Garvin were opposed to tabling the issue.

A subcommittee met on May 11th to discuss Councilmans Martins freedmen removal bill. Councilman Martin said that the people in his district were united in demanding a vote on the freedmen peoples citizenship rights. Councilman Crittenden, also of district 2 said that he did not see that the people of that district were all united on this position at all. Councilman Buel Anglen of District 8 stated that the freedmen people did not oppose a vote on their citizenship rights as they did not come to his community meetings announcing their opposition to such a vote. A report was presented showing that African American people did not have exactly the same diseases as "Indian " people and that it would be more costly to the clinics to treat freedmen (note - this report presumed that the freedmen have no "Indian blood"). Marilyn Vann raised the issue that many of the freedmen people who last voted in 1979 are unfamiliar with the current members of the tribal council and have no information on who their council persons are much less where their monthly meetings are. She announced that the tribal paper is no longer going out to tribal members automatically which would have some information. Anglen said that he has a website and his meetings are on the internet and the freedmen have access also to this information. He said his website was posted on John Cornsilks board. Anglen said that all of the people in his district know who their council person is and Vann stated that some people do not always know who their council person is and commented on a person who she had met in April who thought their council person was deceased councilman Jiggs Phillips. Anglen said his having a website was sufficient. The Subcommittee voted to ask for funds to ask for a survey on whether they wanted to change the tribal citizenship through a constitutional amendment. Martin said that he thought it was a waste of money and his mind was made up; Martin did not have any comments on the cost of a special election however, when Jim Briggs of the election commission gave a report on the cost.

4 days later, the Rules Committee reconvened to discuss smoke shop issues on May 15 . . All of the committee members were not present. Councilman Martin received approval to change the Rules committee agenda to add Mrs Fishinghawk and former deputy chief John Ketcher were there and said they had a petition with signatures to demand a vote on the freedmen peoples citizenship rights. Councilman martins proposed constitutional amendment to take away the freedmen peoples citizenship rights held since 1866 (and in many instances before) was passed out of committee to be voted on by the council at the full council meeting. This vote will take place on June 12, 2006 at 6pm at the Council chambers of the Cherokee nation on Muskogee Street in Tahlequah. We ask that ALL persons who support the freedmen as well as all media outlets show up to see the tribal council in action .

Some may say, whats wrong with such a vote? Many things are wrong!. Current tribal officials are bound by previous treaties just as are the United States. How can the Cherokee officials demand that the united states government follow to the letter of the law every contract and treaty but yet say that they do not have to do the same thing when it comes to disenrolling those whom they believe to be "dissidents" for possibly supporting other candidates when those individuals have been promised citizenship rights? Would any Cherokee reading this article approve of a Senator, governor, or US President calling for a vote on the rights of Indians to vote to continue to hold US citizenship based on the fact that "many people believe that Indians don't pay taxes"?, The Cherokee government would call for an immediate halt to any such discussion in the

halls of Congress or a state legislature, would they not? Cries of Racism and Demands for the resignation of such an official from public office would fill the airways would they not? Discussion regarding the rights of citizenship almost always involve granting citizenship to people who have never exercised it – for example – new immigrants rather than to people who have held legal citizenship rights for 140 years or more in a nation. People holding longtime citizenship rights should not have to continually fight off challenges to their citizenship rights. Nations which come to mind which have stripped long time citizens of citizenship rights including Nazi Germany and the Pechanga nation – a gaming tribe in California which has removed many people from the citizenship rolls to increase gaming payments. This is definitely not the Cherokee way.

Breaking treaties should not be done by tribal officials as government officials and Caucasian businessmen most certainly will use this against the tribe in the future and may even call for tribal termination if the tribe says that the basis for its government to government relationship with the US government is null and void. It is not sovereignty to remove tribal members from the membership rolls because they may not support certain officeholders and to not allow the removed individuals to have any say so in the matter – or minimum say so in the matter. . And that is exactly what will be the case if the freedmen peoples citizenship rights are put up to a "vote of the people" in November 2006 or even next May 2007 if this proposed amendment is approved. Others who are descended from the Dawes rolls have been registering as voters for the past 35 years while even the freedmen people who were recognized as citizens prior to 1983 have had to reregister as tribal members and await their turn for their applications to be processed along with others whose citizenship rights are not being challenged. The tribal newspaper, the phoenix states that there is a 7 month backlog to process tribal membership cards as of May 2006. I ask anyone, how fair is to the freedmen people to not have a voice in this proposed critical vote? Is this not similar to the situation in the 1830s when Supreme Court Judges held for the Cherokee peoples rights 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 people 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 people 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, as 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, living right in Muskogee and Ft Gibson or of the Cherokee historical society. Others such as my own half sister have taught at Indian schools such as Chilocco which have been attended by Cherokee youths. Freedmen have worked at the BIA – The son of freedmen councilman Stick Ross, Malcolm 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 Freedmen Councilman 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 people assisted in building the recently constructed Cherokee community building in South Coffeyville A ceremonial ground with mostly freedmen participation in Nowata County only shut down within the last approximately 40 years,, this is the same situation however as many of the other ceremonial grounds. The majority of the freedmen people are Christians, just like other Cherokees, not Buddhists or sun worshippers. Many of The freedmen people 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 know who even 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 is 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, language speaking is not a requirement for tribal membership or even holding 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 of the removal of many Indian people with Cherokee (and in some cases Delaware or Shawnee) blood! – . The majority of the freedmen people 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 Cherokee 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). If this constitutional amendment passes, the Descendants of William Star – 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 although 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 Baldridge (deceased at the time of Dawes) and her freedmen husband Jack (Talookie Vann) Baldridge living in District 9 will lose their restored rights to Cherokee tribal membership although 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 less than “1/4 blood”. 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 some out? And for those who say that the freedmen don’t look like “Indians”, many people in the tribe 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 their Delaware dances, language, etc are different than the Cherokee way? Is not the Cherokee nation a nation of people including Creeks, Catawbas, and Natchez, with inherited rights governed by law rather than a race or a private club? And remember, the US government only has government to government relationship with nations and not races or private clubs.

Some may say, 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 situation 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, 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? 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? Is not what the tribe has been doing all along? Does anyone really believe that a very small tribe such as the Poncas receives the same amount of money for programs as the larger tribes such as the Cherokee nation? Are not the freedmen lawyers, doctors, nurses, accountants, etc – people with valuable skills who can render service to their nation in one way or another? 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 who over the last 23 years, are accessing needed services thru other agencies – city housing authorities, VA health and educational benefits, have 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 nor 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 newspapers neither April nor may 2006 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 as to set in motion the overturn of this decision. The people clearly are not ready to vote on such a critical issue. Also the knowledge of the freedmen people themselves. A freedmen tribal member receiving a blue card is giving 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 people go out from city to city, pleading their case all over the Cherokee nation on a 60 day timetable to protect rights that have been theirs for more than 140 years is completely unreasonable, unjust, and unfair. . And for what purpose 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 1500 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 1 year ago. However, the council has not proposed placing these items as well as other referendum items on a regular ballot much less at 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 track the rights of the freedmen people? If the council spent more than 1 year deliberating and information gathering on election law, 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, perhaps inadvertently. 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 the American white people of past generations. However, if it is seen by all that the freedmen people are booted out against their will, led by officials now in power, this favorable vision of Indian people will quickly go away and there may be more resistance to improvements or even continuation of Indian programs. The tribal leaders should consider the reputation of this 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 indeed all Indian people are unable to govern themselves and demand more federal and state controls than exist right now as to 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 the freedmen people 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 the treaty rights granted which treaty 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 Smiths father, when involved in an election dispute as members of the United Keetowah Band of Cherokees called for the BIA to not recognize the election in 1991 when Smith and Grayson were barred on the eve of the election from running for office when election law was suddenly changed. (22 IBIA 075). Why is it right for the Principal Chief to call for the BIA to uphold due process rights for himself and his father but wrong for the Freedmen people to call for the BIA to uphold their treaty rights and ask for their citizenship rights according to the 1976 Cherokee constitution on which all of the people had the right to vote on including the freedmen people .

The Freedmen people, both those with Cherokee blood and those without, call upon all of the Cherokee people for justice. The freedmen people only ask to retain those rights promised to their ancestors and those which continue to be held by the Shawnee and Delaware people who did not come over the trail and who came into the tribe after the freedmen people. Do not believe that if the freedmen are cast out, that future disenrollments will not follow for others who challenge the status quo.. Contact your council persons and tell them to allow the freedmen people to work to build up the Cherokee nation just as they wish to do and to not give assistance to those individuals who wish to vote to take away the rights that the freedmen people and their ancestors have been given by previous tribal leaders. 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 issues such as housing, and let discussion regarding placing the rights of the Cherokee freedmen on a ballot to die in the rules committee. .

Marilyn Vann
Descendant of Dawes Enrolled Freedmen Citizens
Descendant of Cherokee by blood citizens listed on 1852 Drennan Roll

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