THE ONGOING SLUR & SMEAR CAMPAIGNS AGAINST NATIVE AMERICAN TRIBES

By White Cloud Jay, Yamassee Muscogee Nation

~ There is no cure for the bite or sting of a false accuser ~

There are ghost writers whose livelihood depends on penning slur and smear campaigns, ostensibly hired by hidden hands and covert agendas, often writing damning articles without furnishing any proof or evidence knowing that lies have speed and not knowing that truth has endurance. They take great relief from the fact that a factually unsubstantiated printed article has a Delphic oracular effect resonating with screams of "doing the right thing by exposing those fakes and scammers" claiming to be tribal chiefs or tribal members with "fake" ID cards, "fake" license plates for their vehicles, and engaging in "fraudulent" insurance schemes.

The usual line of attack is to malign someone's educational credentials, attack their credibility, assassinate their character, pour scorn, contempt or hatred upon that hapless person, deem the tribe a fake, and nonchalantly walk away with the false sense of solace and comfort that they fell upon a minefield of truth and damning evidence. These unfortunate writers have done zero homework on the rights of the Native Americans often mischaracterized as American Indians, Redskins, Injuns, and other epithets.

These irreverent writers know nothing about what it is to be an Aboriginal with inherent rights predating the U.S. Constitution. These unsophisticated and cowardly writers of filthy falsehoods have no clue of what they writing about as long as they use words and phrases that run into six or seven pages of printable rubbish readily accepted by the publishers of both print and electronic ilk.

Native American tribes, clans, bands, and nations, and their leaders, that have had no treaty arrangement with the U.S. government, or secured "federal recognition" status, are usually the victims of such dastardly acts of yellow journalism. The truth of the matter is that most Native American tribes have chosen to do their own thing *by denying themselves* federal intrusion, intercession, aid and assistance requests. These tribes do not relish the federal government's insistence that they tow the line if they are to receive federal funds. It is not in the tribal communities' interests to be told

how to live and where to hunt, gather or fish now that these enclaves have become national parks and forests. The Reservations where they have been forced into breeds no enthusiasm, encouragement, empowerment, or other enabling elements of education.

One wonders what sort of visas or passports Columbus and his men carried when they wandered into the territorial waters of the Americas and landed on these shores. How about Cortez and Coronado? How about the Pilgrims when they arrived on the *Mayflower*? Did they have visas and valid travel documents? Yet, their ancestors have made laws, rules and regulations as to who qualifies for a visa, permanent residence, or naturalized citizen status. Politics and artificial borders make the difference with guns and prisons aplenty to house lawbreakers who decide to return to their ancient homelands (read: Texas, New Mexico and California) and seek meaningful employment un-enumerated under the Ninth Amendment of the U. S. Constitution. Such is the way of the paleface who speaks with forked-tongue.

The one great oft-repeated fact is that tribes that signed treaties of friendship and goodwill with the U.S. government in the early 1800s until 1871 had vast land resources greedily sought after by the U.S. government which laboriously ignored other tribes who were perpetually nomadic in their lifestyles, and who were thus labeled "landless." Even today, treaty tribes are only recognized as a distinct political body if they are "federally recognized." The treaty-making power in Article VI, section II, of the U.S. Constitution stipulates that Treaties are the supreme law of the land, as well, together with laws made pursuant to the U.S. Constitution. So, what's the love affair with "federal recognition" when a Treaty will do?

There is always a price to pay in this land of the fee and the home of the brief when it comes to filing a claim and ultimately getting compensated. It is all about the almighty dollar in every issue. Even when a Tribe wins an award, like Eloise Cobell of the Blackfeet Nation, they will have to wait for an inexorable period of time while Congress passes a law to pay the court awarded compensation.

The great expansion westward in the 1800s was driven by greed and motivated by the need to want more and more land at the expense of tribal communities whose nomadic lifestyles justified the compulsory taking of these tribal lands egged on and encouraged by the Takings Clause (Fifth

Amendment) of the U.S. Constitution which was inserted in place to prevent government abuse. The Tribes move on to hunt buffalo, the homesteader moves in with an ubiquitous Congress making all the necessary and proper laws to protect the land-grabber-land-taker. No laws were made to protect the unfortunate tribal communities that protected and preserved the land without resorting to carbon emissions, tin cans, paper, rubber, and plastic trash.

To make the American Indian matter gain popular or reputable political traction, government administrators, judges, lawyers and scholars constantly rely on history. Not on anthropology or paleontology, or ethnography. History is usually rife with inaccuracies and outright lies because it is almost always written by the victor. The American Indian history is a sad one considering the destiny of the tribal communities when the first European adventurers and settlers arrived. Armed with greed, the concept of "manifest destiny," and the doctrine of discovery, the newcomers swiftly made plans to occupy this continent, introduce European ides, concepts and doctrines generally aimed at displacing the "savage" Indians by domesticating them first.

The 1763 Royal Proclamation and the 1787 Northwest Ordinance specifically frowned upon the random taking of Indian lands. The 1790 Indian Trade & Non-Intercourse Act literally said the same thing. The War of 1812 changed the dynamics of Indian and U.S. government relations because of British support and endorsement of Indian tribal claims. With the rising political fortunes of Andrew Jackson, the Trail of Tears became the *sine qua non* of American expansionist policies at the terrible expense of tribal communities. As the Tribes became unwillingly acculturated and acclimated to European ideals with a big dose of Christian values, their vast homeland became smaller and cramped as Reservations became the norm.

Issues like tribal sovereignty have been reluctantly accepted by congressional fiat, executive action, and judicial pronouncements often exhibiting doublespeak, double standards and twisted logic.

Tribes are not represented in Congress. Article 1, section 8 of the U.S. Constitution mentions them expressly by giving Congress the power to regulate commerce with them *not* among them. The definition of "commerce" does not contemplate politics, manufacture or agriculture. The word "commerce" is a Latin derivate meaning "*com*" – together, and

"*mercium*" – merchandize to mean buying and selling. The U.S. Supreme Court played pucks with its own rendition and interpretation of the Commerce Clause to the utter detriment of Tribes.

Until the Civil Rights Act of 1968, Indian rights were spasmodic and ad hoc when and if they reached the United States Supreme Court where politicians in black robes throw the dice depending on the economic scoreboard and the political temperature at a material point in time.

Another variety of attack against Native American tribes begins with a "Report" that the Federal Bureau of Investigation (FBI) is investigating this or that tribe for issuing ID cards, driver licenses, license plates, fishing licenses, thinking licenses, or some such "terrible crimes." These are the psychos who have no idea what **18 U.S.C. Section 115**1 (Indian country) means, or what the **1924 Indian Citizenship Act** (43 U.S. Stats. At Large, Ch. 233, p. 253 (1924) "Snyder Act")) means.

Even if the FBI is investigating us FBI (Full-Blooded Indians), it does not mean anything. That's what the FBI does for a living. An investigation by the FBI does not imply someone or some tribe has gone bad or rancid in the public estimation.

Another load of rubbish unloaded in our front yards is the "federally recognized tribes" spin doctoring now in the form of a statute. The fact that a tribe had a valid and lasting treaty with the federal government in the 19th century is conveniently avoided for the sake of a political question. The fact that a particular treaty has not been voided, annulled, vacated or repealed till today is not taken into account.

Legislation is almost ALWAYS egged, encouraged and expedited into existence by special interests. The Federally Recognized Indian Tribes List Act is very much one such piece of legislation aimed at discrediting treaty tribes. Treaty-making powers emanates from the Supremacy Clause of the U.S. Constitution. But who is listening – not lawyers and judges, for sure. When you cite or raise a constitutional question, federal courts rely on the judge-made "constitutional-avoidance doctrine" where the plain language of an unambiguous statute renders the constitutional question or concern moot. When it comes to American Indian issues, any statute that favors special interests reigns and rules over the U.S. Constitution, supposedly the supreme law of the land.

It is high time these ghost writers graduated to peddlers of plausible, probable, possible propaganda, and wrote such articles dealing with the unpalatable truth of Indian genocide during the Trail of Tears, or about the wanton destruction of tribal communities who were forced to cede, surrender, give, barter, trade and sell their lands for pennies, whiskey, guns and fraudulent treaties.

WHO CRIES FOR THE TRIBES, AND WHO WILL MAKE MEANINGFUL REPARATIONS TO THEM?

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