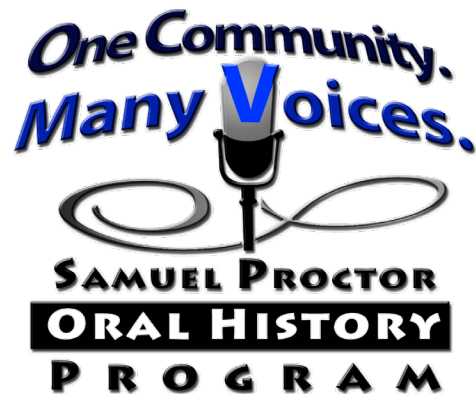


Frell Owl

**Southeastern Indian Oral History Project
CHER-001**

Speech by:

**Frell Owl
July 1972**



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CHER 001 Frell Owl
Southeastern Indian Oral History Project (SIOHP)
Speech by Frell Owl in July 1972
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Abstract: Frell Owl of the Eastern Cherokee Tribe gives a speech reflecting on the history of the relationship between Indian Tribes and the United States government. He discusses the different periods of history in terms of interaction between the Tribes and the government. He mentions laws and regulations that apply specifically to Native Americans, such as Resolution No. 108. Additionally, he discusses topics such as treaties, assimilation, and the Indian Reorganization Act. Individual Tribal governments are also mentioned, and he talks about the establishment of Tribal police and judiciary systems within Tribal communities. He also talks about his personal experiences with the Native American boarding school system.

Keywords: [Eastern Band of Cherokee Indians; North Carolina--Cherokee; Speeches; Politics and government]

ORAL HISTORY

P R O G R A M

University of Florida

CHER 001

Interviewee: Frell Owl

Date of Interview: July 19, 1972

U1: [inaudible 0:03] He retired as the superintendent of the Indian Agency in Idaho after thirty-three years with the Bureau of Indian Affairs. He was forty-eight years away from Cherokee, his native land right here. He left here after studying at the Cherokee Boarding School. He left here first to attend Hampton Institute, then to go on to Philips Andover Academy, and finally to graduate from Dartmouth and then a very distinguished career with the Bureau of Indian Affairs. We are very much honored to have you, Mr. Owl, as our speaker this afternoon.

O: Thank you, Mr. President. Ladies and gentlemen, I don't know of any group of people, minority, ethnic, or otherwise who have the same type of special relationship with the United States government than our Indian Tribes throughout the United States and Alaska. This relationship began even before our country was organized. How long this relationship with the United States government will continue is most problematical. The Indian people cherish this long-existing complicated relationship that they have with our government. Relationship involves, of course, the United States as guardian or trustee of the Indian, his property, his person, his rights, and so forth. The relationship is, I think, understood more readily if we would compare it with an ordinary family. The father in the family is responsible for his children until they become of age. We have designated legally when children become of age when they become competent to manage their own affairs. The relationship that the government has with Indians is comparable to the family. We call our president "the great White father." When I served among the Sioux Indians in South Dakota the older

Indians greeted me affectionately. They greeted all persons in charge of government agencies as fathers. I was regarded—they would come in and address me as "my father." So that the United States government as guardian has, let's say, more than two hundred different children who someday are going to become of age. And when I say children, I mean Tribes of Indians. Just when the Eastern Band will want to sever this relationship, I wouldn't attempt to even guess. The relationship is based on legal documents, and I want to quote one paragraph written by an authority on Indian law, Mr. Felix Cohen. This is what he says: "The federal law governing Indians is a mass of statutes, treaties, and judicial and administrative rulings that includes practically all the fields of law known to textbook writers. The law of real property, contracts, corporations, courts, domestic relations, procedure, criminal law, federal jurisdiction, constitutional law, conflict of laws and international law." This relationship that I am going to talk to you about for a few minutes is most complicated. We might spend a few minutes learning about the sources of this special relationship that Indian Tribes have with the United States government. First of all, we go to treaties, treaties that were enacted by England, by France, by Spain and by the United States government. We go to our constitution, the Constitution of the United States, and in one of the early articles there is a provision that the Congress of the United States shall have the right to regulate commerce among the various states, and with Indian Tribes. And so far as our national constitution is concerned, this is about the only source that our government has in continuing this relationship. Those of you who are familiar with bills that have been enacted

into the Congress over the years know that on several occasions efforts have been made to delete this particular portion of the Constitution in order that this relationship that I am talking about may be suspended. Various efforts have been made to do away with this relationship. Another source would be agreements that our government has made with specific Indian Tribes. And our government does not make general agreements that cover all the Indian Tribes in the United States, but they make specific agreements with each individual Tribe with the Eastern Band, with the Pine Ridge Sioux or with the Nez Perce of Idaho, specific agreements dealing with specific Tribes. And in these agreements, there are many provisions that commit our government to continuing the relationship that I am talking about. There are special statutes. For instance, the Eastern Band originated after the removal of the main body of the Cherokees to the West. For about ten years the Eastern Band was without a home. It was not entitled to legally live in North Carolina and it was in 1868, after the Civil War and after the State of North Carolina had granted the Cherokee Indians permission to remain here, that our government in 1868 enacted legislation that provided that henceforth the Secretary of the Interior would deal with the Eastern Band of Cherokee Indians in the same manner that he dealt with other Indian Tribes in the United States. So, this is the source of our particular relationship with the United States. Another source of the relationship is the constitution of a specific Indian Tribe. Most constitutions have been prepared and adopted by Indian Tribes in accordance with federal legislation. So generally speaking, the origin of this relationship has a very definite legal basis. Our government, of course, because

of the dependency of our Indian Tribes on the government, our government has a moral obligation to protect our Indian people. There are certain pertinent factors that are involved in this federal-Indian relationship. I find, for instance, as I meet people in—I have a small business up the river here, I meet them—and one of the questions that so many people ask me, "Are Indians citizens? Are they citizens of the United States?" Of course, the answer is, "Yes, Indians are citizens. We have been citizens since 1924." Here is a statement I would like to read, again quoting Felix Cohen: "Indians are entitled to the rights of suffrage, guaranteed by the Fifteenth Amendment, and they are entitled to hold public office, to sue, to make contracts, and to enjoy all the civil liberties guaranteed to their fellow citizens." So, there is no question that even though we do have this special relationship, even though we are sometimes called, erroneously, "wards of the United States government." Despite these, we are full-fledged citizens. We always haven't been citizens, but we are, in this age, definitely citizens. One other interesting factor involving the Indians is that we have the authority of self-government, to govern ourselves to the exclusion of state laws, to the exclusion of certain federal laws. For instance, a Tribe has been described as an independent community under the protection of the United States government. Some of the Tribal powers that may be used by the Indians includes criminal law, civil law, Tribal membership—Tribal membership is determined entirely and exclusively by the officials of an Indian Tribe subject to approval of the guardian, the Secretary of the Interior. Inheritance of property—here at Cherokee, for instance, the possessory holding that I have a half a mile or so up the river—the

Tribal Council serves as the probate court in the inheritance of this particular possessory holding, and the probate is not accomplished by the county or by any government court. If the Cherokee Tribe so desired under this provision of self-government—if the Cherokee Tribal Council so desired, it would have the authority to tax its members. Most of you know, I'm sure, that the land here on the reservation, because of this special relationship is not taxable by the state of North Carolina. Generally speaking, state authority does not hold on an Indian reservation. Situations differ. Here at Cherokee, from personal experience, I know that North Carolina is much more involved with the affairs of the Eastern Band than are the states—in South Dakota, for instance—where there are several reservations. Domestic relations is a factor that falls within the jurisdiction of Tribal self-government. The form of Tribal government, this is exclusively within the power of the Tribe. Here at Cherokee, we do not have Tribal courts or any type of Indian court as some reservations do in the west, but one of the privileges of an Indian Tribe is that it has the right, if it so desires, to set up its own judiciary, to adopt its own code of laws, to enforce its code through the employment of officers. Now here at Cherokee, I am sure that you may know that our Indian Tribal Council employs all the Indian policemen that you see when you come to Cherokee. The Tribal Council owns the automobiles that the Indian police drive. The Tribal Council sustains our police department, but, as we do not have our own Tribal court, we have an arrangement with the sheriff of Swain County or the sheriff of Jackson County, and so our police, our Indian police employed by the Tribe, are under the supervision of the sheriffs of Jackson County and Swain

County. Very recently, our Tribal Council has designated one of its policemen as a deputy marshal of the United States government, so that in the realm of self-government, we have the authority as an Indian Tribe, as do all Indian Tribes, to administer law and order problems. One item that I believe would be of interest is that all Indian Tribes in the United States that are organized, that are recognized, that generally live on Indian reservations, look to the United States government as the sovereign. There are some Indian groups, such as an Indian group in the eastern part of North Carolina, for instance, who do not have the relationship with the United States government that I am talking about. These Indian groups look to the state in which they live as the sovereign, but the great majority of Indian Tribes in the United States look to the United States government, as I said, as our father, as our guardian, and it's a relationship, I repeat, that's cherished by the Indian people. Let me briefly review periods of relationship in the history of our country. I have listed four or five periods I think that will be of interest. The first period is the treaty period, the period that began when our country was formed and terminated in 1871, a period of almost one hundred years. During this period during the treaty period, our government regarded individual Indian Tribes as Nation. We heard in the song: the Cherokee Nation, the Sioux Nation, the Catawba Nation. Our government dealt with the Indian Tribes by treaty as nations. Tribal groups were segregated, were isolated from the mainstream of American people. During this period, the various states maintained a laissez-faire attitude toward the Indian Tribes. There grew up a statement that among the states wherever there were Indians, that the Indian was the responsibility of the

federal government, and so the great majority of our states had no particular relationship with an Indian Tribe that lived within its borders. During this treaty period of almost a hundred years, the United States government had no educational facilities for Indians. If there were schools among the various Indian Tribes, generally these schools were administered by some religious organization. So, we have a period of a hundred years, the beginning of our country, when our Indian Tribes were regarded as separate and distinct nations. But during this period we gradually began to move into a dependency type of status. So many of our Indian Tribes, having lost their hunting grounds and being confined within boundaries that they could not leave without permission, so many of them lacked food, and in Indian terminology, "the feeding system" developed during this particular period: rationing, providing food for Indians, that they might exist. Going on to a second period: the allotment period. From about 1887 to about 1933, here was a period when it was the policy of our government to impose upon the Indians the White man's culture. I see my brother sitting here, I see Goingback sitting here and they could tell you as I am telling you that when we were youngsters, we were taken from our homes when we reached the age of six or seven years and we were moved over here into Cherokee, into a boarding school where we lived nine months in the year even though our parents might have a home just a half a mile away. And during the time that we were in the school we were not permitted to speak our Cherokee language, we were not permitted to perform our Indian dances or sing our Indian songs or to do anything that emanated from our Indian culture. The idea during this period was to impose

the White man's culture on the Indian, to send him from Cherokee far away to Pennsylvania to get him out of the Indian environment. Let him attend Carlisle Indian School, let him grow up in a white man's community and by that process he would return to Cherokee a "White Indian," as we call it. This allotment period—assimilation, I think, was one of the key notes in this particular period. Another tragic policy during this period was to break up Tribal land that was held in common by the Tribe and allot to each individual member of the Tribe a hundred and sixty acres or twenty acres or one hundred fifty acres, depending on the amount of land that was held. The idea again was that the Indian, although culturally generally in the west he was not a farmer, the idea was that he was going to be a farmer. So, the allotment period is characterized by great loss of land on the part of Indians throughout the United States. Through the establishment of the boarding school the effort to eradicate Indian culture. The next period that I am going to just mention is the one called the reorganization period, beginning about 1933 and continuing to about 1950. The Indian Reorganization Act was enacted in 1934. The terms of this act provided that Indian Tribes could reorganize their Tribal governments, that they could adopt constitutions and charters, that they could recreate their ceremonies, their language, that Indian culture was to be encouraged rather than discouraged.

[Break in audio]

O: Boarding schools were scattered throughout the whole United States. I was the principal of a federal boarding school in Wisconsin in 1933 when this new policy came into being. The Congress, in 1953, enacted Concurrent Resolution No.

108, and there are Indians throughout the whole United States that can't speak English, but they can say "Resolution No. 108." Resolution No. 108 stated the policy of Congress and substantially this is what it was: "It is the policy of Congress to make Indians subject to the same laws, the same privileges, the same responsibilities as are enjoyed by our other citizens." In other words, the idea was that the time has come for us to terminate this special relationship that I am talking about, and there were a number of laws passed giving the states authority to take over law and order. The Menominee Tribe of Wisconsin was terminated, part of the Klamath Tribe in Oregon was terminated, the Little Catawba Tribe in South Carolina was terminated some years later. There were several small groups of Indians throughout the whole United States that had become of age, so to speak, and were terminated because of this policy of Congress. I'm sure as I stand here and as you think, that you can see that as the years have rolled by, policies of the Congress have changed again and again, just as we came into this termination period about 1950. But there are many good things happened; restrictive laws were repealed by the Congress. For instance, up to that point it was illegal for an Indian to go over into Silver or Cullowhee or Bryson City and buy a gun. This was illegal according to federal law and it was illegal for him to go and sit in a tavern and have a cocktail because of these. There was a federal law that prohibited the sale or giving or introducing of intoxicants to an Indian, whether he was on the reservation or off the reservation. So there were restrictive laws that were repealed. I'm not defending the action of Congress in repealing the Indian liquor law, I'm not

supporting it. I had hoped that the Congress would get the opinions of the Indian people on the matter. And now we have come into what we know as self-determination period. About two or three years ago, the Congress, the Secretary of the Interior, the President, President Johnson and President Nixon have all supported this self-determination period which provides that even though we have this relationship with the United States, that we as Indian Tribes are going to have the privilege of saying who is going to be employed, for instance, in the school at Cherokee. It's only two years that we have had a school board here at Cherokee. Some Indian Tribes still don't have school boards where we have federal schools as we have here at Cherokee and we are, as Tribal groups throughout the whole United States, are going to experience the privilege of local control over our affairs, of not having somebody else tell us what to do. The hope is that we will do these things ourselves. It's been very interesting to me the last ten years to note the number of government departments that have become involved in Indian affairs. It used to be just the Interior Department. At first it was the War Department, then the Interior Department, and then 1955 we got Health, Education, and Welfare and at the moment we have in Labor, Commerce, Agriculture, Housing, Justice, Transportation, practically every department of the government that has to do with Indian affairs is involved in helping the Indian people to manage their own affairs. I have talked longer than I planned to talk, but I want to tell you this: I was in Washington at the White House conference last November or December. I was chairman of the ninety-five or so Indian delegates from the whole United States, the elderly Indians, and when we got to

the point of making a recommendation, the very first recommendation that this group of Indians from throughout the whole United States—the first recommendation that they made was that we recommend that assurance be given the Indian Tribes in the United States that this long existing relationship that exists between the United States and Indian tribes, that this relationship be continued. Indian people are, as I said in the beginning, cherish this relationship. How long it's going to continue, we don't know, but I'm sure it's going to be for quite some time, and I thank you very much.

[End of interview]

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