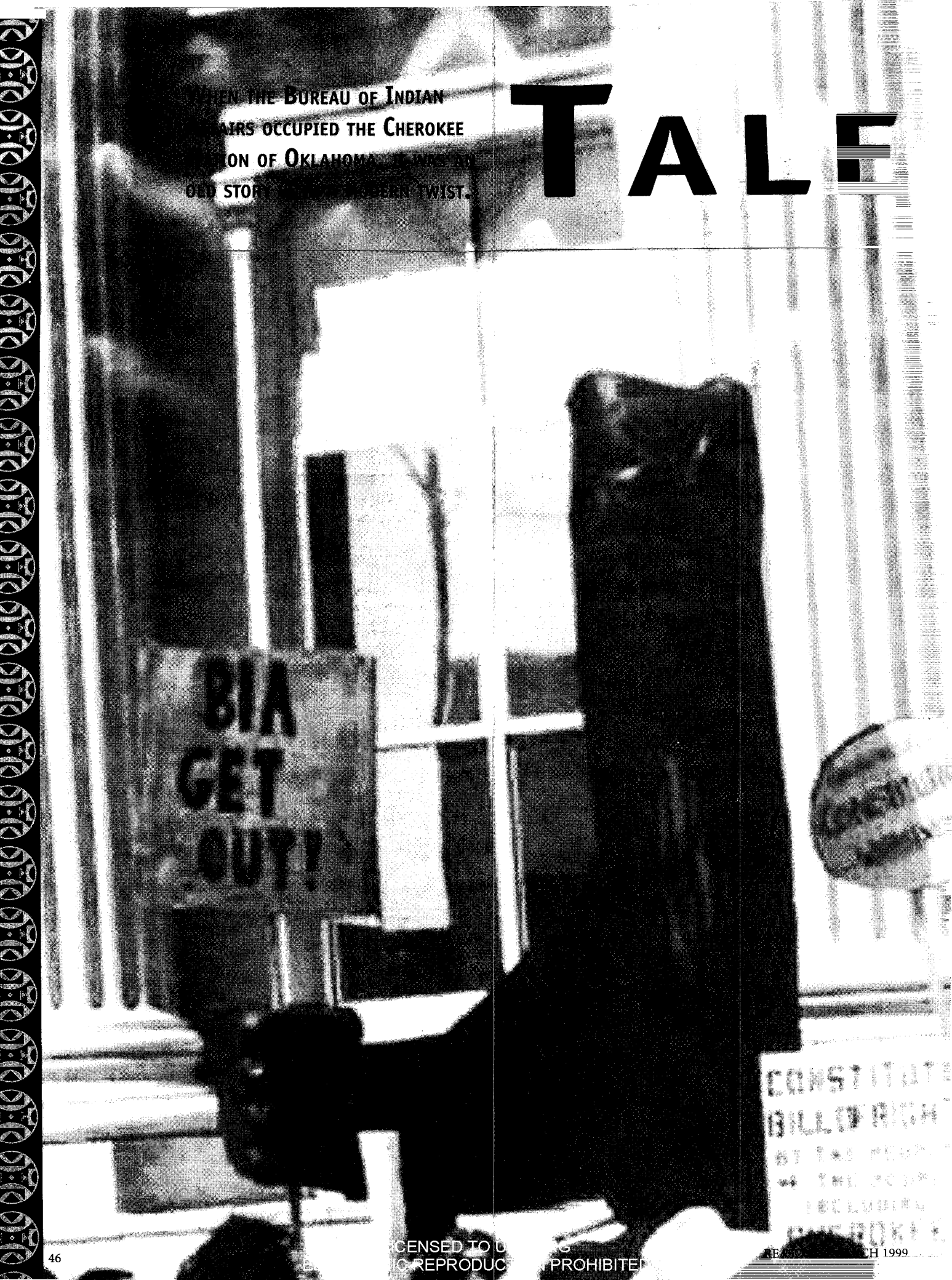
TALE

WHEN THE BUREAU OF INDIAN AIRS OCCUPIED THE CHEROKEE ION OF OKLAHOMA, IT WAS AN OLD STORY WITH A MODERN TWIST.



OF TEARS

By Amy H. Sturgis

An embattled chief executive, elected with less than half the vote, who refuses to turn over legal documents to official investigators. Capricious firings of public employees on spurious charges. Accusations of misused funds, dubious dealings with the Democratic National Committee, and subverting state power for personal ends. Surreptitiously taped phone calls. Allegations of abuse of power. Indictments for obstruction of justice. Fears that the standing of the highest office in the land—and faith in government—have been irrevocably damaged.

Though the above is unfolding within the borders of the United

States, this is not a story about Bill Clinton. It is about recent events in the Cherokee Nation of Oklahoma, the quasi-sovereign entity that covers more than 7,000 square miles in northeastern Oklahoma. In 1997, at the behest of Principal Chief Joe Byrd, who occupies a position analogous to Clinton's, federal Bureau of Indian Affairs agents occupied the CNO's courthouse and disrupted an ongoing investigation into the chief's alleged squandering of tribal monies and trampling of the Cherokee constitution. Two years later, the armed BIA agents are gone, but the controversy continues, playing out in CNO courts and legislative chambers.

Though sharing few specific details with Clinton's scandal, the four-month occupation and the events surrounding it illuminate what might be considered the deeper, structural issues of the Clinton impeachment by providing an object lesson in the necessity of the rule of law and separation of powers. The CNO controversy underscores that real damage is done to the political process when one branch of government refuses to recognize the constitutionally mandated authority of its counterparts.

The occupation also casts a harsh light on the Bureau of Indian Affairs, a bureaucracy that has been called "the worst federal agency" by *U.S. News & World Report* and characterized as "a multifaceted nightmare" by the inspector general of the Department of the Interior. Indeed, since its birth as part of the War Department in 1824, the BIA has evolved from an ill-conceived and brutal weapon used to eradicate and subjugate native Americans to one of the most widely and consistently criticized units of the federal government.

The Cherokees are the second largest tribe in the United States, and about 70,000 members live within the borders of the CNO. With the city of Tahlequah as its capital, the nation is a democracy with three branches of government—the Chiefdom, the Tribal Council, and the Judicial Appeals Tribunal—that perform roughly the same functions as the U.S. executive, legislative, and judicial branches. Like the U.S. federal government, the Cherokee government is designed to maintain a system of checks and balances among branches.

Joe Byrd was elected chief in 1995, in a race overshadowed by the news that popular incumbent Wilma Mankiller had developed lymphoma and would not run for office. In an election in which only 12 percent of eligible voters turned out, Byrd managed to get just 29 percent of the total. The genesis of the BIA occupation dates to 1996, when Byrd ignored requests by the Tribal Council to provide contracts and other financial records regarding public business. Even when the Cherokee Nation Judicial Appeals Tribunal ruled in late 1996 that Byrd had to surrender the papers for the public record, he refused to comply. After giving Byrd several months to obey the law, Tribal Prosecutor A. Diane Blalock asked Chief Justice Ralph Keen to issue a search warrant for Byrd's office on February 24, 1997.

Cherokee marshals served the warrant the next day and copied the financial records in question. Mere hours later, a furious Byrd publicly announced that he had done nothing wrong. He also fired Cherokee Marshal Service Director Pat Ragsdale and a lieutenant marshal, both of whom had helped execute the search. The battle of executive and judicial wills escalated: Cherokee Justice Dwight Birdwell immediately reinstated the two marshals and ordered that anyone interfering with the orders and investigation of the Judicial Appeals Tribunal would be in contempt of court.

Although Article X of the Cherokee constitution required that he turn over the documents, Byrd said there was "no need" for public scrutiny of the papers because, he promised at a press conference, "absolutely no money had been misused." Ignoring the inconvenient fact that the Cherokee courts had given him six months to comply with its request for financial documents, Byrd said, "I think Ralph Keen should have given me the opportunity to handle that situation myself...all he had to do was call me."

As those events were playing out, Cherokee Marshal Service Director Pat Ragsdale was investigating irregularities in the documents gathered from the chief's office. It seemed clear to Ragsdale that Byrd had illegally diverted Cherokee Nation funds, including some from the Bureau of Indian Affairs, beyond the CNO without proper authorization. Ragsdale informed the FBI, since federal money was involved. After reviewing Ragsdale's information, the FBI launched an investigation on March 6, 1997.

After the FBI probe began, however, Bob Powell, a former Oklahoma Bureau of Investigation agent who had been given the nebulous title "tribal inspector" by Byrd, called the marshals' office. According to a tape of that conversation later filed with the Cherokee courts, Powell suggested to five deputies that allegiance to Byrd would allow them to retain their jobs. Powell explained that Byrd had come into the possession of a wiretap tape supposedly exposing a con-

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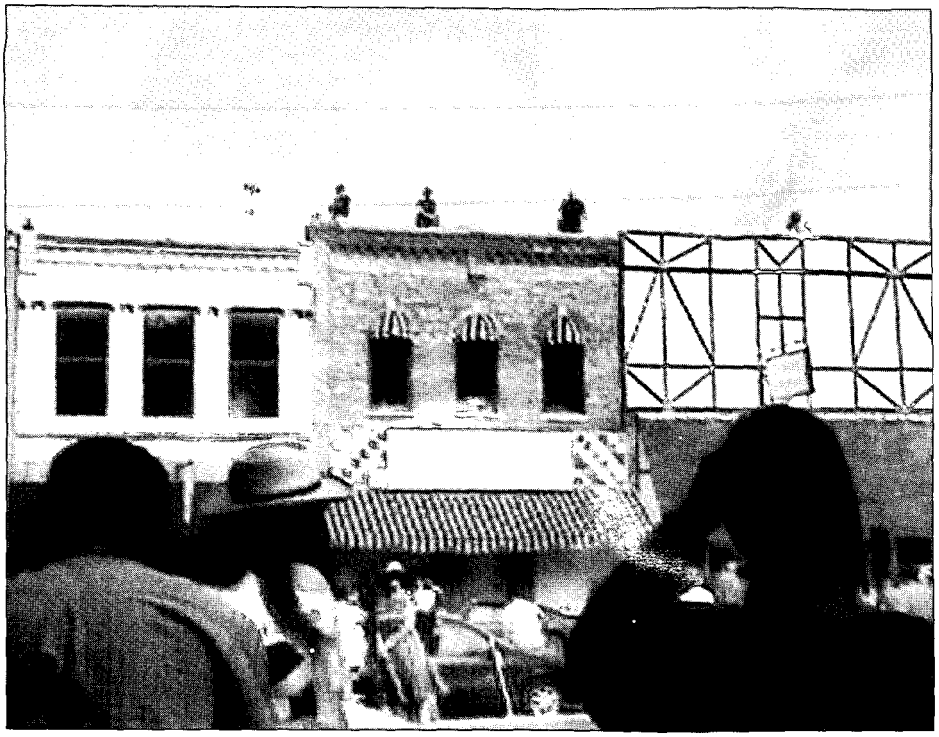


Watching the Watchers: In August 1997, BIA officers, Chief Byrd's Marshals, and members of the Oklahoma Highway Patrol reacted violently when CNO officers tried to reopen the Cherokee Courthouse.

spiracy to overthrow him. Powell told the marshals that Byrd was planning to give the tape to federal investigators. Such a ploy, said Powell, would simultaneously win the FBI's support and discredit Byrd's opponents in the Cherokee Nation.

It didn't work out that way. The tape, which included conversations among outspoken Cherokee leaders such as Marvin Summerfield, an editor of the *Cherokee Observer* newspaper, Justice Dwight Birdwell, and Tribal Councilwoman Barbara Starr-Scott, revealed criticism of the Byrd administration but no "conspiracy" against him. The FBI's questions ultimately centered not on the content of the tape but on the illegal nature of the wiretap that produced it. Far from winning over the FBI to Byrd's cause, the tape implicated the chief in yet more wrongdoing.

Byrd also drew heat for his use of Bob Powell to intimidate members of the Marshal Service. Members of the Tribal Council questioned Powell's appointment by Byrd, especially since the position of "tribal inspector" was not mentioned in the constitution and had never existed before. Tribal Prosecutor Blalock filed contempt and obstruction of justice charges against Powell for interfering with the marshals' investigation of Byrd. Powell responded with the ingenious though disingenuous argument that he did not have to recognize Cherokee national law—despite the fact that he worked for the chief of the nation—because he was not born an ethnic American Indian.

With his power apparently slipping away, Byrd scrambled for footing. On March 20, 1997, he stated that he would not follow orders from the Cherokee Judicial Appeals Tribunal that he considered to be illegal or unconstitutional. In effect, he had given his warning that he would pick and choose the laws he wished to obey. Such a posture would be disturbing in any elected official. But it struck a particularly harsh note among the Cherokees, who were forcibly relocated to Oklahoma after President Andrew Jackson refused to abide by an 1832 U.S. Supreme Court ruling guaranteeing the Cherokees' right to remain in the southeastern United States. An outraged Chief Justice Ralph Keen warned that Byrd had "set himself up as being above the law."

Byrd responded by firing more marshals involved in investigating him. When the court ordered the marshals reinstated, Byrd placed the officials responsible for restoring the marshals' paychecks on administrative leave. In the meantime, Byrd amassed his own private stock of tribal marshals, sworn in and armed by Byrd to protect him and his interests. With each step, the chief moved closer to making the CNO his own personal police state.

But he could not do it alone; he needed outside help. Indeed, a majority of Cherokee legislative and judicial officials opposed him, and the wheels of the Cherokee justice system continued to turn against him with every new discovery in the ongoing investigation into his tenure as chief. Both Chief Byrd and Deputy Chief Garland Eagle were scheduled to appear before the Judicial Appeals Tribunal to show why they shouldn't be held in contempt for ignoring multiple court orders. Had they failed to attend, the marshals were prepared to arrest Byrd, and an impeachment inquiry would have followed. That legal process was aborted by the BIA's intervention.

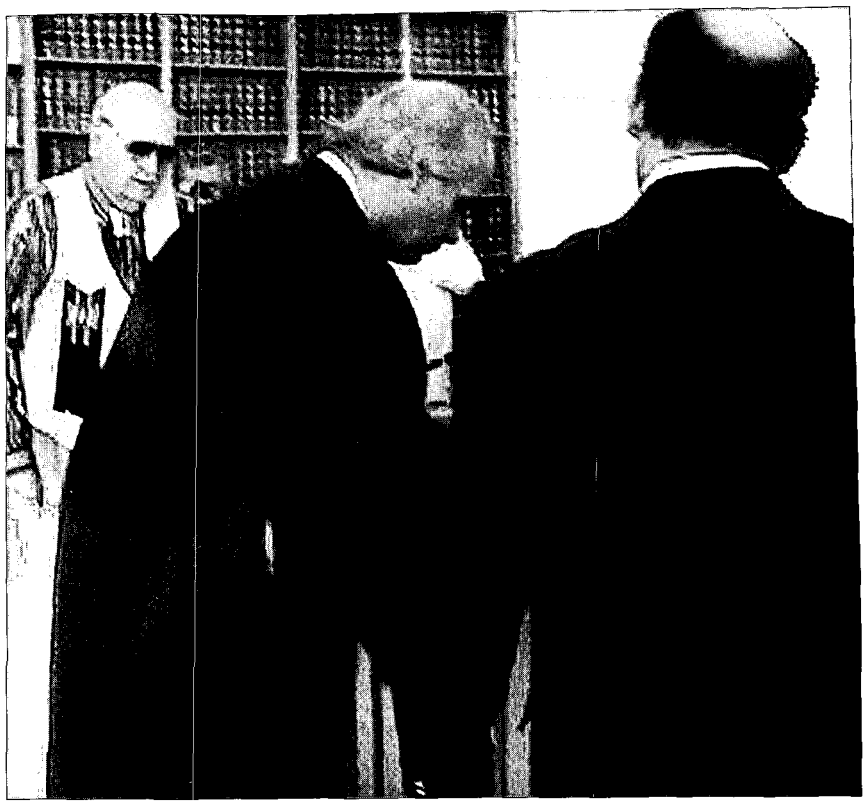
In April, 1997, after a quick trip to Washington, D.C., to meet with federal officials, Byrd engineered the occupation of his own nation by BIA agents. He did this by employing an unprecedented interpretation of the Cherokee constitution. Although Article V, Section 4 of the document unequivocally states that "no business shall be conducted by the Council unless at least two-thirds...of members

PHOTOS: FRANK McCLAIN / CHEROKEE OBSERVER

thereof regularly elected and qualified shall be in attendance," Byrd asserted that this quorum rule did not apply to "special meetings." On April 15, Byrd assembled the eight (out of a total of 15) council members who still supported him. Though short of a quorum—and in flagrant violation of a requirement that 10 days' notice be given prior to special sessions of the council—Byrd's allies voted unanimously to transfer the Cherokees' law enforcement responsibilities to the BIA.

By nightfall, about two dozen Cherokees, including former Principal Chief Wilma Mankiller, had filed a lawsuit in the Cherokee Nation's Court over the dubious council vote. On April 28, when Chad Smith, a Cherokee constitutional attorney and political opponent of Byrd's, explained the chief's legislative machinations to a fully reconvened Tribal Council, Byrd's armed security guards dragged him from the meeting. (Ironically, that scene prompted *The Tulsa World* to editorialize that "federal authorities obviously will have to intervene if the tribe is to be saved from its leaders.")

Still without a quorum, Byrd's supporters on the Tribal Council voted to impeach Chief Justice Keen and Justices Philip Viles and Dwight Birdwell. On June 20, with between four and 16 armed BIA agents assisting (sources vary), Byrd's men took control of the Cherokee Supreme Courthouse. The BIA claimed it "had to ensure the safety of the community and its property."



Cherokee Justice Dwight Birdwell (center): During the occupation, Chief Byrd's employees damaged and defaced the Silver Stars and Purple Heart he had earned during the Vietnam War, an action that prompted protests from tribe members.

Byrd refused to let Marshal Service Director Pat Ragsdale remove personal belongings for the justices, including the Silver Stars and Purple Heart Justice Birdwell had earned during the Vietnam War. A few days later, when Justice Philip Viles and Court Clerk Gina Waits went to the courthouse to continue their duties for the Judicial Appeals Tribunal investigation of Byrd, they were told that they would be arrested if they did not leave the premises at once. As bewildered Cherokees watched, the BIA removed files on the Byrd investigation from the courthouse and kept anti-Byrd tribe members from entering the building. The BIA had effectively halted a legal inquiry, enabling an embattled leader to ascend to the level of despot. As *Muskogee Daily Phoenix* editorial writer Derek Melot later commented, "The BIA...stepped beyond [a] 'neutral' position and...actively support[ed] Byrd's administration."

With their official investigation hampered by the BIA, the occupied Cherokees fought back in surreptitious ways. On June 22, under the guise of a hog fry, more than 700 Cherokees gathered at Whitaker Park in Pryor, Oklahoma, to raise money for the CNO marshals fired by Byrd. (Though reinstated by the court, they had been unpaid for several months.) The Cherokee Elders Council, a nonpartisan group of elder Cherokee activists that carries great advisory weight within the CNO, lodged a protest when it learned that Byrd's employees had damaged and defaced Justice Birdwell's war medals. Cherokees contacted members of the Oklahoma congressional delegation. Republican Sens. Jim Inhofe and Don Nickles both pledged to work against Byrd, whom Nickles labeled "a dictator."

Oblivious to or uninterested in the dubious legal maneuvers behind its authorization, the BIA continued to occupy the courthouse. The unpaid marshals filed a federal lawsuit against the agency, charging it with interfering in Cherokee national affairs. But even as BIA agents were keeping Cherokees from entering their own courthouse, a federal district court judge dismissed the suit, ruling that "any disposition by this court...would adversely impact and interfere with the internal governance of the Cherokee Nation of Oklahoma and its right to exercise sovereign authority."

In August, 1997, the displaced Judicial Appeals Tribu-

nal ordered the fired marshals to reopen the Cherokee Courthouse so that the investigation of Byrd could continue. But when the marshals approached the building, BIA officers and Byrd's new marshals, now joined by members of the Oklahoma Highway Patrol, reacted violently, injuring six people. A week later, 25 Cherokees filed suits in federal court against members of the BIA and the Oklahoma Highway Patrol, charging them with illegally barring tribal members from the courthouse.

Just when the situation seemed bleakest—and most likely to erupt into serious factional violence—a nonpartisan report on Byrd ordered by the Tribal Council back in 1996 appeared. Released in late August 1997, the Massad Report (named after its principal author, Anthony M. Massad), was the work of three non-Indian attorneys who had no ties to the CNO but were nonetheless conversant with native American political structures in Oklahoma.

In a thorough, generally evenhanded analysis of the situation, the report condemned Byrd's behavior, focusing especially on "the shocking revelations" regarding obstruction of justice and lack of disclosure of financial records. "The principal chief should ensure his assistants are sensitive to his constitutional duty and personal commitment to perform his duties in strict compliance with applicable laws, and that they understand this requires change in their patterns of work," the report said. "The principal chief should expect and encourage criticism as well as support from persons in the other two branches [of government]." The report also called for reinstatement of the "fired" marshals, a reopening of the "closed" courthouse, and a return of the "impeached" justices.

The highly visible—and highly credible—report shamed both Byrd's tribal allies and the BIA, which finally withdrew from the CNO. At last, the law and will of the Cherokee people was reasserted.

But the effect of the BIA's intervention on Byrd's behalf has lingered long after the last armed agents left the area and the immediate crisis passed. As one Cherokee has commented, "[It] looks like we will not enter the 21st century with our self-governance, self-sufficiency and sovereignty intact....In fact, we...have reverted back to the turn of the century."

Indeed, it will be some time before the CNO fully resolves the issues raised by recent events. Byrd continues to serve out his four-year term as principal chief, despite a late 1998 poll that put his approval rating in the single digits. If the BIA occupation he engineered failed to consolidate his power, it did effectively keep him from being impeached. With the next election for principal chief this May, Byrd's critics have decided to wait out his tenure in office rather than begin impeachment proceedings against him.

Key tribal records and files, including those removed by the BIA, are still missing, even as new leads appear in the ongoing investigation of Byrd's alleged misuse of power. Auditors from the U.S. Department of Interior uncovered, in *The Tulsa World*'s phrase, concerted efforts "to woo... federal officials using federal funds," with the goal of creating a personal political empire. Allegations against Byrd now include charges that he made illegal political contributions by "lending" a full-time, paid Cherokee tribal employee to the Democratic National Committee for months at a time, and that he diverted CNO funds to D.C.-based attorneys to secure favors for himself, family members, and supporters. At one point in late 1998, Byrd faced 11 active cases and four pending arrest warrants. In U.S. federal courts, he faces two criminal charges of diversion of federal funds.

However those cases ultimately play out, the experience of having a national leader refuse to comply with legitimate requests from other branches of government has seriously damaged the CNO's political process. The occupation effectively postponed a constitutional convention required by a 1995 law (the Cherokees periodically review their constitution). The convention, tentatively scheduled for 1998, did not take place due to the uproar. Even interest in the upcoming elections seems muted by the affair. As Robert A. Fairbanks, president of the Oklahoma-based native American College Preparatory Center, has observed, "The Cherokees are now wondering how to insure that elected officials henceforth conduct tribal affairs in accordance with the Cherokee National Constitution."

The partisan intervention of federal agents and an alleged relationship between the chief and the Democratic Party have also reinforced fears among the Cherokees that the BIA, far from helping to impartially adjudicate tribal problems, is either avaricious, incompetent, or some combination of the two. Accusations that the BIA is a "mercenary agency" are regularly voiced in public forums. Judicial Appeals Tribunal Justice Philip Viles has said that the agency's intervention was based on a nearly complete "lack of knowl-

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edge of facts." According to an October 1998 poll of the CNO conducted by Ohio State University researchers, the BIA has a 5 percent approval rating and 90 percent disapproval rating among tribe members.

While the occupation no doubt intensified such feelings, it's worth pointing out that the BIA has inspired similar hostility among native Americans—and non-Indian critics—for most of its 175 years. The agency has long been criticized for running roughshod over the very people it is supposed to serve. In a 1953 *Yale Law Journal* article, for instance, Felix S. Cohen, the author of the standard *Handbook of Federal Indian Law* that is still used today, compared the BIA to an extortion racket and detailed how agency officials threatened American Indian communities with losing their oil and natural gas rights, hospitals, and schools if they did not support the agency and its agenda. More recently, in *Stealing From Indians* (1994), David L. Henry, a certified public accountant and former BIA employee, exposed multiple cases of agency theft, embezzlement, and fraud against a number of American Indian nations by BIA agents. Tribal losses, according to Henry, amounted to billions of dollars.

Principal Chief Joe Byrd (left) and Deputy Chief Garland Eagle: They were scheduled to appear before the Judicial Appeals Tribunal, but the BIA occupation circumvented that legal process.

Such exposés have been matched by decades of official calls for reform. In 1948, the Hoover Commission, charged with evaluating the organization of the federal executive branch, suggested dismantling the BIA in favor of a more decentralized, state-based system. The "Declaration of Indian Purpose," the product of a meeting of more than 450 tribal leaders at the 1961 Voice of the American Indian Conference, called for an end to government "charity" and bureaucratic paternalism altogether in favor of complete self-determination. The 1966 *Presidential Task Force Report on the American Indian* advised a fundamental overhaul of the BIA, as did the 1969 report known as the Josephy Study. The 1975 Indian Self-Determination Act, which granted all tribes the right to manage programs and services formerly administered by the BIA, even apparently abolished the agency's raison d'être.

Somehow, though, 150 years after the removal era, the BIA manages to get along quite nicely. Its 1998 budget was $1.73 billion, up from $1.6 billion the previous year. As suggested by the lack of a federal investigation or reprimand after the CNO occupation, the agency continues to escape any real scrutiny and accountability. Questions about the BIA extend far beyond its police power: The agency has done little to address the new urban and technological realities of native American life. For instance, while Cherokees in Oklahoma and beyond have embraced Web-based entrepreneurship and designed software programs capable of transcribing traditional native languages, the BIA still focuses on early 20th-century concerns such as agricultural issues.

Indeed, even as the CNO struggles to move beyond the crisis in governing of the past few years, the status quo seems to be holding at the agency that played such a pivotal role. In late 1997, Kevin Gover, an attorney specializing in federal Indian law and a member of the Pawnee tribe, replaced Ada Deer as BIA director. But judging from Gover's address to the 55th Annual National Congress of American Indians last October, such change is cosmetic at best. In his speech, Gover did not talk about policing internal corruption or standardizing BIA procedures. Instead, he said his goal for the agency was "to rediscover and reinvigorate the Warrior spirit in each of us."

Beyond invoking bland platitudes, Gover criticized those who protested the BIA's legacy of capricious actions by warning that "adversaries in Congress" could use "the bureau's shortcomings as an excuse for the refusal to appropriate needed dollars." Gover appears to view the BIA's "shortcomings" merely as political threats to his agency's turf and budget. Such an attitude is all too consistent with the BIA's history and offers little reason for native Americans—and U.S. taxpayers—to cheer. In this country, we are often accused of ignoring the past and refusing to learn from it. Recent events in northeastern Oklahoma suggest that there is substantial truth to such a charge. ◆

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Eliminate, Don't Reform the IRS

by Sheldon Richman

Yet again a taxpayer "bill of rights" has been enacted into law. And so, after all the recent revelations of Internal Revenue Service abuse, we can all now be confident the tax collector will respect the rights and dignity of every American.

Right. And pigs have started flying.

We've been here before. This is the third so-called bill of rights for taxpayers passed in recent years. Doesn't that strike you as strange? Do you think they got it right this time?

At first glance, the law might look like it will afford some protection for taxpayers. It will create a nine-member board to oversee operations, six of whose members will be from the private sector. The law will also shift the burden of proof from the taxpayer to the IRS in court cases. Currently, the taxpayer is guilty until he proves himself innocent. Other provisions will let citizens harmed by IRS negligence sue for damages and relieve taxpayers of liabilities of former spouses. Homes can no longer be seized without a court order. Some penalties will be reduced and IRS deadlines tightened.

But in the world of legislation, especially IRS "reform" legislation, things, as W.S. Gilbert wrote, "are seldom what they seem."

The oversight board and the shift in the burden of proof "are said to be the silver bullets that will end IRS abuse," writes Daniel J. Pilla, one of the great IRS watchers. "They are more likely to be blank cartridges."

Pilla writes that the oversight board is not what we have been led to believe it is. To judge by the news summaries, you'd think that this board of overseers will be able to come to the rescue of battered citizens. But that's not the case. The new body will be involved in planning for the future and in overseeing the IRS budget and commissioner. "In other words," writes Pilla, "the Board will function as a forum for thinking about the overall direction of the IRS." It won't have the power to prevent agents from treating taxpayers like child molesters. Pilla notes that the board is specifically denied authority over the agency's law-enforcement apparatus. Don't expect it to rectify the abuses associated with audits and other activities designed to wring more revenue of Americans. Pilla says the board could not avert the tyrannical conduct citizens reported at Senate Finance Committee hearings.

And what of the burden of proof? A clue to the bogus nature of the "reform" lies in the bill's command that Americans keep records and cooperate with the IRS during investigations. In other words, the IRS may have the nominal burden of proof, but you must furnish the records it will use against you. But there's even less to this provision than meets the eye. The burden is shifted only in court proceedings. "The problem," Pilla writes, "is that 97 percent of everything the IRS does involves no 'court proceeding.'" Most of the problems that citizens have with the IRS occur outside of the court. They involve, Pilla says, "its powers of lien, levy, and seizure." In other words, the shift in the burden will make no difference to most taxpayers who are hounded by the IRS.

Even in court, there is hardly real relief forthcoming. To shift the burden to the government, a taxpayer will have to make a "reasonable" case that the IRS position is defective. In otherwords, the citizen has the burden of showing that the burden should be shifted! Some protection.

Bills of rights have never restrained the IRS. In a sense, it's not the agency's fault. The fault lies with Congress, which has charged the IRS with extracting more than a trillion dollars from the hide of the American people. There's no way to do that while being nice. No amount of legislation will make the agency a "service provider." Taxpayers cannot be its customers.

There is one way — and only one way — to respect taxpayer rights: Repeal all income taxes, abolish the IRS, and repeal the outrageous spending that requires them.

Sheldon Richman is senior fellow at The Future of Freedom Foundation in Fairfax, Va., author of its forthcoming book *Your Money or Your Life: Why We Must Abolish the Income Tax*, and editor of *The Freeman* magazine.

Seizure Disorder

Seattle's "drug nuisance abatement" program is a menace to law-abiding property owners.

By Michelle Malkin

Etta Mae Franklin is 78 years old. The seventh and eighth decades of her life have not been easy. Her husband, a seaman and sandblaster, was killed on the job. One of her 10 children died of cancer. And three years ago, the city of Seattle came close to taking away her home.

The city had targeted Franklin's modest residence, one block from Garfield High School in a troubled Central District neighborhood, for "abatement," through which the government seizes private property in the name of public safety. Franklin herself was never accused of wrongdoing, but she had a delinquent, live-at-home son suspected of dealing drugs. On January 28, 1995, the Seattle Police Department obtained a search warrant and raided Franklin's home. They found no drugs and made no arrests. On October 13, 1995, the cops got a second search warrant and again made no arrests.

According to the police report, Etta Mae Franklin told the officers "that she did not want to lose her house." She agreed to evict her 41-year-old son, Edmund McNeil, who allegedly had sold drugs to a police informant. But the city proceeded with abatement anyway, and as it closed in on Franklin's home, her lawyer, James Kempton, saw the alarming implications:

"The city seems to wish to penalize Etta Mae Franklin for failing to stop an alleged activity which she is unaware of and over which she would have no control if she were aware. If the Court were to let the City have its way, we could easily resolve the entire drug problem in the Central Area, by telling every homeowner that drug activity is illegal, then abat[ing] their homes if accusations are made by neighbors of frequent pedestrian traffic, etc.

"This is obviously an unconstitutional overreaching by the City in an attempt to deter an alleged drug dealer without arresting him. While the City's petition and supporting affidavits create a lot of suspicion, the obvious answer would be to make an arrest and charge accordingly....Mrs. Franklin has done everything within her power to see that her home is maintained in a lawful manner."

Franklin's 730-pound son was eventually arrested for drug activity, but no jail would accept him, court records show, "because of his girth." In the meantime, Kempton won a court decision to set aside the abatement of the innocent mother's home. But it came too late to spare Etta Mae Franklin the grief and financial hardship that accompanied her three-year nightmare. Adding insult to outrage, the city billed Franklin for the cost of filing the civil action. Reflecting on the ordeal, Kempton says, "It was just cruel."

Etta Mae Franklin is not the sort of person legislators had in mind when they created the law enforcement tool known as drug nuisance abatement in 1988. At the height of public concern about crack cocaine, the Washington legislature approved a law enabling local governments and private citizens to go to court to condemn property tied to drug activity. During the legislative debate, then–state Sen. Janice Niemi (D-Seattle) identified who the primary targets should be: "Of course, these are crack houses we are talking about, particularly in the city of Seattle."

A model of the law's intended application was the February 1990 closure of a crack house operated by a Cuban gang in Tacoma's Hilltop neighborhood, which resulted in the arrest of 28 members of the infamous Marielitos crime ring. The King County Prosecutor's Office, which handles criminal cases in the unincorporated area outside of Seattle, has used the law sparingly. Almost all of the county's drug nuisance abatements since 1988 have resulted in arrests of property owners involved directly in drug-related activities. One case involved a home located north of Seattle that was under investigation for operating a drug ring and a U.S. Postal Service mail scam; the owners were arrested for multiple heroin sales. Another involved a methamphetamine lab run out of a Kent-area home and investigated by the U.S. Drug Enforcement Administration.

But critics charge that Seattle City Attorney Mark Sidran has applied the abatement law unfairly and inappropriately. The U.S. Department of Justice is reviewing a discrimination complaint filed against the city last summer by the National Black Chamber of Commerce. The main focus of the complaint is minority-owned businesses targeted for closure. But once investigators start digging, it will be hard to ignore the scores of other property owners whose rights may have been trampled in Sidran's war on drugs.

An examination of the city attorney's files raises troubling questions about Sidran's energetic and unscrutinized application of the law—and the willingness of the state Liquor Control Board and the judicial system to support him. I reviewed 28 drug abatement cases that were filed by the city during Sidran's tenure, from 1990 to the present. (Of about 100 total cases brought by Sidran's office, roughly two-thirds were inaccessible because of ongoing investigations or for administrative reasons. Of the remaining 36, eight are archived and could not be obtained in time for this article. I reviewed the remaining 28 at the City Attorney's Office or through the King County Courthouse.)

The files document several instances of apparent overreaching and misallocation of police resources. Sidran's targets have included:

- Rose Ervin, a grandmother described in police records as "an amputee confined to a wheelchair and over eighty years of age." Like Etta Mae Franklin, Ervin was never suspected of having engaged in or condoned illegal drug activity in her home.
- Mae Fosha, another elderly grandmother who had suffered a stroke and a heart attack and undergone two bypass surgeries. She was not accused of drug crimes and went out of her way to meet with police in the East Precinct to help solve a neighborhood crime problem that