CERF/CERA REPORT

MEMBER UPDATE

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From the Chairman: Darrel Smith

People and groups across America who believe in our Constitution and country have been supporting CERA and CERF for decades. We have been busy using those finances wisely. We think we are now making rapid progress at the Supreme Court, and we need that support more than ever. Let me share a little very brief history.

In the mid-80s to the mid-90s CERA went to Congress once a year with very little success. I suggested that we weren't likely to make progress with Congress and encouraged us to focus on the Supreme Court. We have filed amicus briefs with the Supreme Court ever since. Legal advisor and attorney Lana Marcussen was with us at that time and is still researching and writing briefs for CERA and CERF.

Atty. Marcussen and board members have spent months searching archive records. They have searched for records at the National Archives, the federal records center in Denver, the archives in Laguna Niguel, the College Park Archives, the NY State Archives, the Ford Presidential Library, Chicago Archives, Kansas City Archives, Minnesota Historical Facility the National Archives in Riverside CA, the DC Archives, at UC Davis, and the Truman Library. At one search there were about a dozen people involved. These searches have discovered many original documents that influenced the Justice Department, Federal Indian Policy, and water policy. The searches have discovered amazing things about our history that we are sharing with the Supreme Court.

We have been trying to discover and question where the government gets its authority for Federal Indian Policy.

Since the mid-90s, Atty. Marcussen has written at least 33 amicus briefs to the Supreme Court for CERA and CERF. She has been helped over the years by Gary Persian, James Devine and Lawrence (Larry) A. Kogan. We have been trying to discover and question where the government gets its authority for Federal Indian Policy. While we have been trying to discover where that policy is, the government has been trying to hide their authority from us. And not only from us, but from the Supreme Court, Congress, and the Executive Branch itself. We continue to need your support for the challenges that lie ahead. We have an amicus brief before the Supreme Court now. The following quote from that brief lists some of the progress that has been made from earlier Supreme Court decisions:

"Most importantly, the four new decisions directly counter the arguments made by [William H.] Veeder that the USDOJ has relied on to maintain that the territorial war powers can be applied to the People and States within the exterior boundaries of the United States. *Sackett* took out the unlimited federal jurisdiction over water. *Navajo Nation* effectively applied *Castro-Huerta* and redefined the Indian trust overruling *Worcester* and placing the Indian trust relationship within the constitutional and not international powers of the United States. *Brackeen* extended the Fourteenth Amendment into federal Indian law. And finally, *Students for Fair Admissions* extended the application of the Fourteenth Amendment against the authority of Congress to maintain or use preferences limiting its sovereign prerogative authority under Section Five of the Fourteenth Amendment.

"This Court is positioned to make the ruling to limit sovereignty of the United States government to the boundaries of the Constitution within the exterior boundaries of the United States to protect the liberty and rights of all the American People."

We would like you to read what is one of the most important briefs we have ever filed. It is available on the Supreme Court web site: Go to Case Documents; Docket Search; enter Trump; enter Trump v US (23-939); then Proceedings and Orders. The CERF brief is now the third from the last that is listed. If you have difficulty finding the brief, I can send it to you: dawsm12@gmail.com.

CERA and CERF have extended themselves with filing more briefs than normal and we need your support to continue. Thank You for your past support that has allowed us to make significant progress.

Darrel Smith

Why we wrote the amicus brief in the Trump Sovereign Immunity Case

By Attorney Lana Marcussen

For many years, CERA/CERF have been arguing that the 1871 Indian policy was intentionally adopted to preserve the territorial war powers unleashed by the infamous Dred Scott decision for the North after the Civil War. These arguments have always been presented in cases that involve Native Americans and Tribes. Eastern law professors and politicians have for the most part ignored the Indian law cases because they believe they have little effect on the Northeastern States where the federal government generally has not claimed reserved rights powers to water or land.

When Indian claims are made by the United States in the Eastern States the arguments are almost always based on the special Indian trust relationship from Worcester v. Georgia (1832). Even after litigating in New York and being credited for ending the federal land claims there, CERA/CERF could not convince county or state officials that the power being asserted under the special Indian trust was a major constitutional law problem. The Eastern states would not believe that the 1871 Indian policy was the real source of the federal power being used against them. The 1871 Indian policy according to them, was only used in the West and in the defeated Southern states against the Indian tribes that had fought for the Confederacy.

President Donald Trump on January 6, 2021, claimed he had the authority to question the certification of the electoral college votes done by each state. In his briefs defending his actions, he claims that the President has absolute sovereign immunity while acting as President without any exceptions. To claim absolute sovereign immunity the Presidency must have absolute sovereignty. In fact, Mr. Trump is right as we have been arguing for many years. The 1871 Indian policy deliberately preserved the powers declared to preserve slavery perpetually in the territories from the Dred Scott decision. That decision created absolute sovereign power in both the President and Congress by allowing the limited domestic powers of the Constitution to merge with what the English considered international territorial powers to create or discover new lands. According to the British, allowing the domestic and international war powers of the sovereign to be merged creates absolute sovereignty in the King.

Starting in 1066 with the Magna Charta the people of England began demanding the separation of these powers. In the English Civil War they succeeded in forcing the King to accept Parliament and beheaded the last King that refused to limit his sovereignty in 1649.

Just as we were demanding the rights of Englishman in 1774, Lord Mansfield, the English Chief Justice, formally separated the internal or domestic powers of the English government, from the unlimited international powers of the King. In fact he used the claims of our colonists to describe why these powers needed to be separated and used the banning of slavery in England, to prove the limited sovereignty of the King within England's borders.

This limited domestic sovereign authority won by the people against the sovereign was only absolute authority in the English sovereign government when combined with the international unlimited powers of the King. Our Chief Justice Taney in 1857 literally reverse engineered what Lord Mansfield said in 1774 to forever allow the United States to preserve slavery in our territories, creating unlimited sovereignty in the federal government. President Lincoln, wanting to preserve constitutional rights and liberties took on the opposition of the Dred Scott decision. The Lincoln debates with Senator Stephen Douglas made Lincoln famous. The debates were all about the Dred Scott decision and Lincoln's solution to restoring our federal government of limited powers. Ending slavery forever was only one piece of Lincoln's solution.

Secretary of War Edwin Stanton deliberately preserved these absolute powers in the federal government in the Indian policy of 1871. Lincoln had successfully gotten the Thirteenth Amendment passed by Congress to end all slavery. Stanton needed another racial group with limited rights to take the place of the slaves, he used the Indians. But the debate in Congress about preserving these powers was still going on. Stanton created the Department of Justice to preserve these powers indefinitely in the federal government. Whether he knew anything about all this history or not, these are the powers President Trump chose to use to confront the 2020 election results.

> We need your help to continue to get this history out in the open. We can take back our government if we can get the Supreme Court to listen and separate these powers.

Mr. Trump gave us an opportunity to explain all of this long history in a major constitutional case. This was also our chance to reveal how the Department of Justice has been using these powers against individuals without ever disclosing they were going beyond the limited powers of the Constitution. It seems quite unfair that the same Department of Justice that is prosecuting the use of these powers against President Trump has never been required to admit they have been using these exact same powers for over 150 years against the Western States and people who thought they had water rights and property rights

conferred by state law. As most Westerners know, the Department of Justice could, and has, removed water and property rights from people claiming those rights were "federally reserved for the Indians."

President Trump, by openly using these unlimited powers and claiming absolute sovereign immunity in the Presidency, has now made these powers a major constitutional issue. CERA/CERF believe that these powers need to be forever curtailed: separating the limited constitutional powers forever from the international territorial war powers of the federal government permanently. This is what our Framers and President Lincoln wanted, knowing it was the only way to guarantee the people's rights and liberty.

This means ending the separation of the Indians created in the 1871 Indian policy. The Framers fully intended and adopted a policy for the Native Americans to become full American citizens. President Lincoln expanded on that assimilation policy. Not surprisingly, the new Department of Justice (1870) buried the Lincoln policy as it helped define the Indian policy of 1871. This unlimited power was what President Nixon massively expanded in 1970 by placing the promotion of tribal sovereignty ahead of all other federal government interests. Nixon set up a situation where we can all be treated like Indians instead of citizens without ever being informed that we have been deprived of our constitutional rights. And yet the Eastern law professors continue to speculate how President Nixon did such damage to the constitutional structure.

We need your help to continue to get this history out in the open. We can take back our government if we can get the Supreme Court to listen and separate these powers.

Hot Off the Press

Half-Breed *by Clare Fitz and Verna Begay*

A fascinating life story intertwined with the history of the Navajo tribe, this is the story of a woman born in an earthen floored hogan on the Navajo Reservation in northern Arizona, educated in government-run boarding schools, denied marriage to the man she loved in favor of tradition and denied her birthright by family.

Despite these roadblocks, she continued her education in the medical field. At times, she was sought out by the rich and famous people to provide care for their loved ones. Her hard work and dedication, plus the help of her common-law husband resulted in raising her family of nine children to become productive members of society.

Available from Amazon, Barnes & Noble or the authors.

Other books by Clare Fitz

"…and the Mille Lacs who have no reservation …" A history of the Chippewa Indians in Mille Lacs County, Minnesota up to 1934

The Pendulum…from Indian Removal to buying Mille Lacs. This narrative starts with Andrew Jackson before the original colonies declared independence from Great Britain, continues through Jackson's brilliant military career and through his becoming the 7th president of the United States. It continues through his promotion of the Indian Removal Act and the resulting tumultuous Trail of Tears.

The book then skips the period covered in the book *, … and the Mille Lacs who have no reservation…* and examines the lives of the principal actors who were responsible for the Indian Reorganization Act and the Indian New Deal in the FDR administration. It then delves into the passage of and the effects of the Indian Reorganization Act on Indian tribes across the country but specifically on the band of Chippewa who no longer had a reservation on the south shore of Mille Lacs Lake in central Minnesota but who refused to remove as they had agreed to do, and explains how parts of the area were purchased with taxpayer money for these homeless Mille Lacs Indians.

Ralph This is the story of the author's father, who homesteaded in Montana, served in the Navy in World War I until the war was over, and then purchased a farm in Iowa while surviving the Great Depression. Chapter 3 describes the struggle between the Indians and the settlers just prior to the author's ancestors arriving as settlers in Iowa and explains how the current tribal situation in Iowa occurred.

Clare Fitz is the chairman of Citizens Equal Rights Foundation (CERF)

CERA Membership Dues - $35/year
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YOUR SUPPORT WITH ANY AMOUNT IS VERY MUCH APPRECIATED!

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