

NOTES TO THE NATION AUGUST 26, 2008

HEARING ON PETITION FILED BY CHIEF GRAY WILL BE THURSDAY AUGUST 28 AT 2:00 PM

On July 14 Chief Gray filed a petition with the Trial Court of the Osage Nation seeking a review and interpretation of ONCA 08-07, the Independent Press Act of 2008.

This Act, ONCA 08-07, was passed by the Osage Congress in an effort to establish an independent press. The goal was to provide factual, unbiased and complete news to the Osage people. The news would be the truth—Not the truth according to the Executive Branch—Not the truth according to the Legislative Branch: Just the plain unvarnished truth, period.

The bill was passed by the Congress and vetoed by the Chief. The veto was overridden on April 17th and became law.

The Chief had claimed that the Act was unconstitutional as he has on several other bills. The Congress had overridden other vetoes where the Chief had made the same claim. Because this has come up with some regularity, I had discussed this issue with attorneys and judges before. I had formed a layman's opinion that, once the Chief's veto based on the objection of unconstitutionality was overridden, the issue was settled—No review of an Act would be accepted by the Tribal court except in the event someone were to claim an injury because of the Act. Now that opinion will be tested.

Legislative Counsel for the Congress, Loyed Gill, has prepared a brief, for Archie Mason, Speaker, which was filed August 21. The brief gives clear and established arguments against the review. Condensed to essential elements, the brief states: "It never was the thought that, by means of a friendly suit, a party beaten in the legislature could transfer to the courts an inquiry as to the constitutionality of the legislative act"; "The court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation."; "One can only imagine the destabilizing effect it would have on this government if each legislative act, once passed, were to be thrown into the Court system for appeal by officials who disagree with its enactment." It also says: "The principal Chief is violating his oath of office by refusing to execute and administer ONCA 08-07..."

The issue here, I believe, is important to all of us because the outcome can determine the future of laws passed by the Congress. The outcome will help determine the strength of our Judicial Branch as this new government seeks to establish three separate, but equal, branches of government for the Osage people.

I have attached a full copy of the brief if you wish to read it.

Kugee