

1999 CHEROKEE NATION CONSTITUTION CONVENTION

VOLUME VIII

TRANSCRIPT OF PROCEEDINGS, taken on the 5th day of March, 1999, at the Cherokee Nation Tribal Complex, Tahlequah, Oklahoma, County of Cherokee, State of Oklahoma, before Marla J. Cullison, a Certified Shorthand Reporter, in and for the State of Oklahoma, commencing at the hour of 8:00 a.m.

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THEREUPON, the following proceedings were had:

MR. HANNAH: Delegation will be called from recess. We are open for business. The interpreter for the convention, Ed Jumper, is called forward to give the invocation today. Ed.

MR. JUMPER: (Invocation in Cherokee and English dialect)

MR. HANNAH: Good morning to everyone.

THE DELEGATES: Good morning.

MR. HANNAH: It is good to see you all here in our seated government to take up the work of the people today. It is day eight of our convention. And we have at current forty-five of us registered. Therefore, the quorum has been met, and we are about the business. A few rules, housekeeping items, I should say, before we begin.

First off, our Vice-Chairman printed for us a copy of our work thus far. Mr. Keen, I assume that copies are being generated and will be disbursed?

MR. KEEN: Yes.

MR. HANNAH: The media has asked for a copy of our work product thus far. And the Chair would be at the direction of the delegates. Is there opposition to extending to the media a copy of our work product thus far?

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: Delegate Cornsilk. As a member of the media -- and I don't know how many people would agree with that -- but I would rise in opposition to that. And not in that I think that we're trying to hide anything from the people out in the community, but I really would, and just because I'm a delegate, like to see a final product handed to the media at the very end.

MR. SMITH: Comment.

MR HANNAH: Comment, Mr. Smith.

MR. SMITH: You're not going to keep this out of the hands of the media, period. It may not be an official copy from the Commission, so, therefore, it's almost a moot question. I would ask that in the future that any copies that are distributed clearly show that it's a draft or proposed revise, because if you haven't been here, it's a bit misleading. We know what it is, but once it gets out, it can be taken as this is the product.

MR. HANNAH: Very well. And we thank you for that reminder. So, therefore, and if nothing else, just for the record, the Chair would be directed by the delegation. What is the pleasure of the delegation with regard to the media's request for a copy of our work product thus far?

MR. GOURD: I would make a request, make in the form of a motion that the work in progress be made available to the media with the explicit statement on the front page that this is a

work in progress and subject to change.

MR. HANNAH: You've heard the motion. Is there a second?

DELEGATES: Second.

MR. HANNAH: All those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

DELEGATES: No.

MR. HANNAH: Motion carries and will be entered.

Today, these doors -- let's talk about these doors. There are members in the delegation here that are beginning to require of the Chair things that are beyond his physical ability, even with the assistance from Sergeant at Arms.

Now, the Chair would remind you all that at various times yesterday, members of this delegation brought concerns to the Chair that he should be in charge of pieces of paper that were being passed around, notes that were being passed around, conversations were had in the hallway, conversations that were coming in and out of the door, individuals in and out of the door, individuals on one side of the door or the other. And the Chair is limited in total scope to control the total universe and will attempt to control the deliberation of this body in these chambers undisturbed.

Now, by that, the Chair is prepared to hear any delegate, if you believe that you are being harassed, if you believe that you're being bothered, or if there is a level of distraction that prevents you from being able to focus on the work at hand. So we'll simply agree. And Mr. Sergeant at Arms, you have an assistant today, sir?

SERGEANT AT ARMS: Yes, sir.

MR. HANNAH: Where is he posted?

SERGEANT AT ARMS: He's right outside the door.

MR. HANNAH: He's right outside the door. If you would instruct him, now that we are here, that no one will enter those doors from this point until so directed, okay? Will you do that, sir? Let him know no one else comes in that door at this point in time.

SERGEANT AT ARMS: He already knows that.

MR. HANNAH: Thank you. The Chair thought that he had make himself clear yesterday, but just wanted to make sure. So with that, we'll deal with other scenarios as they arise. We're about the day and, Mr. Smith, you are recognized.

MR. SMITH: I move -- this is a administrative matter, but I would move the Commission to produce a red-line copy of the changes that we've progressed so far, red-lined against the present Constitution. Is that clear in the request?

MR. HANNAH: No, it is not, sir. There is a copy of the work product thus far is being handed out at this time. Will that suit your needs, sir?

MR. SMITH: No, sir, it won't. What I would

like is a present Cherokee Nation Constitution red-lined reflecting the changes that's been made in the revised document. That way, we and the public can see what substantive changes we're suggesting from the present Constitution.

MR. HANNAH: One moment and we'll look into the logistical element of this. Mr. Vice-Chairman.

MR. KEEN, JR.: That would take several hours to put together. We have that ability, but right now, we just don't have the resources to accomplish that.

MR. SMITH: I would amend that by saying as soon as practical. But we really need to see how they affect the status quo total once we get to the end today or whenever. It's very important.

MR. HANNAH: Chair agrees, and within the bounds of practicality, as soon as resources are available, that will be done so. Ms. Masters, you are recognized.

MS. MASTERS: We just got a copy, and I would suggest that we might want to just pass this back to the staff so they can just stamp it "draft." We just got a copy that doesn't have "draft" marked on it again. I think it would be an easy thing to do right now if there's a stamp in one of the offices here that could just stamp this "draft" on the front.

MS. MEREDITH: Can we just write "draft" on the front?

MR. KEEN, JR.: Point of clarification.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: I don't know what has happened, but that is not the document I sent out to be copied.

MR. HANNAH: Oh, really? That document will be recalled at this time. Let's do this in an orderly fashion here. Good doctor.

MR. ROBINSON: Ricky Robinson, delegate. I just wanted to make sure that we all -- all the delegates, that if we individually --

MR. HANNAH: Go to the microphone.

MR. ROBINSON: I just want to make sure all the delegates also understood part of the problem was caused by the delegates yesterday as far as us being distracted over here. I occasionally have to get up and go take care of something in relationship to my job or my bladder, and when I come back, we need to come back through here.

A lot of the delegates were leaving to do whatever, and then they wanted to come back through this. Of course, we still may have a problem with a delegate coming up that's late wanting to get through here. So it wasn't just all workers or visitors, we were making it part of the problem, too. So I just wanted to make sure everybody understood that. Now, breaks we'll probably have this open.

MR. HANNAH: Thank you, good doctor. So the Chair would instruct the delegates to not be a problem. And the

good lady from Tahlequah is recognized.

MS. HAMMONS: For your information, I didn't want to take up our valuable time, but I thought I would do it while we were gathering them up. There's a Plymouth Voyager van that has its lights on outside. If it's any of us, I'm trying to save us a jump. White.

MR. HANNAH: Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, point of information. Did you announce the dinner tonight?

MR. HANNAH: I did not yesterday and haven't --

MR. CORNSILK: I would make a correction to that, it is seven p.m.

MR. HANNAH: Mr. Cornsilk, would you go ahead. The Chair seems to have misplaced among his limited amount of papers up here, and if you would make that announcement.

MR. CORNSILK: I would be glad to do that.

MR. HANNAH: Thank you.

MR. CORNSILK: There is a young gentleman named Nick Nixon who is a resident of the Grace community just east of us here who is suffering from leukemia. And he and his mother are having a dinner tonight, a chili supper at seven o'clock, and I believe it runs until about nine or nine-thirty or when everybody gets through eating. And if those of you who will be around this evening could make your way over there, it would help them with their medical expenses.

THE DELEGATES: Where?

MR. CORNSILK: At the Community Building, which is over near Fourth Street, down Muskogee Avenue, it's on the street back behind here, College Street.

MR. HANNAH: Often referred to as the fairgrounds. Very well.

MR. KEEN, JR.: Just a report on the delegates. There was some administrative mixup. The document that we've been working on has now been sent to the copy service. It will be marked each page with "draft" and dated, and at the top it does say "work in progress," so it's in progress now.

MR. HANNAH: We are satisfied, Mr. Keen. Thank you. All right. We're about the day's work. Mr. Keen, would you be recognized or would Doctor Gourd be recognized?

MR. KEEN, JR.: I believe Doctor Gourd is going to take this.

MR. HANNAH: Doctor Gourd, you are recognized.

MR. GOURD: Thank you, Mr. Chairman. We are now to Article X, Removal From Office. Mr. Chairman, I make a motion that the language contained in Section 1 be approved and it shall read as follows:

"The Principal Chief and the Deputy Principal Chief shall be subject to removal from office for willful neglect of duty, corruption in office, habitual drunkenness, incompetency or any conviction involving moral turpitude committed while in office."

MR. HANNAH: Motion is before you. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. The floor is open for debate.

MR. SMITH: I'd offer a friendly amendment. We have earlier discussed and hashed out similar language in the judicial system. I propose that we carry that forth for consistency. Article VII, Section 7.

MR. JOHN KEEN: Second.

MR. HANNAH: We'll need no second for a friendly amendment. Thank you, Mr. Keen.

Friendly amendment has been proposed. As underlined, "of a felony, a crime under the laws of the Cherokee Nation that if committed in some other jurisdiction would be a felony or a misdemeanor involving," and in addition of the phrase "or offenses against the Cherokee Nation."

Any member of the Commission rise in opposition?

MR. KEEN, JR.: No, sir.

MR. HANNAH: Ms. Coon?

MS. COON: No.

MR. HANNAH: Everything fine? And the Chair will, at the indulgence of the Commission, will simply ask in the future on these types of friendly amendments if there is an objection from any member of the Commission. And hearing none, the language is entered and without objection from the second.

And the kind lady from California is recognized.

MS. MASTERS: Yes, I would like to suggest as a friendly amendment, I guess, that the Council also be placed in this section, or that we look at Section 2 and duplicate the language for the Council. Because I believe that elected officials should be held at the same standards.

We have the justices, the executive office and now I would like our legislative branch. So whether we want to put it in Section 1 or 2 doesn't matter, but I think we should have the same standard.

MR. HEMBREE: On order.

MR. HANNAH: On order, Mr. Hembree.

MR. HEMBREE: Mr. Chairman, I believe that friendly amendment would not be germane to the section. There is a Section 2 that deals with Council members. That probably should be taken up with Section 2.

MR. HANNAH: Very well. Your friendly amendment will not be accepted, and the floor is open for debate on Section 1.

MR. JOHN KEEN: Call for the question.

MR. HANNAH: Question has been called. Is there a second?

DELEGATES: Second.

MR. HANNAH: Without opposition, then, Section 1 of Article X would read:

"The Principal Chief and Deputy Principal Chief shall be subject to removal from office for willful neglect of duty, corruption in office, habitual drunkenness, incapacity, or any conviction of incompetency or any conviction of a felony, a crime under the laws of the Cherokee Nation, that if committed in some other jurisdiction would be a felony or a misdemeanor involving moral turpitude or offenses against the Cherokee Nation committed while in office."

All of those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no." Motion passes, language stands.

And Doctor Gourd, you are recognized.

MR. GOURD: Thank you, Mr. Chairman, I make a motion to approve the language contained in Section 2, which shall read as follows:

"All other elected or appointed officials shall be subject to removal from office in such manner and for such causes as may be provided by the laws passed by the Council."

And the only thing we've done different to the '75 Constitution was add "appointed officials." It used to say "elected," now it says "elected and appointed."

MR. HANNAH: Motion is before you. Is there a second?

MR. CORNSILK: Mr. Chairman, I second.

MR. HANNAH: Thank you, Mr. Cornsilk. The floor is open for debate. Do you wish to be recognized?

MR. CORNSILK: Mr. Chairman, I rise in opposition to this. I think I agree with Ms. Masters in that what we've got here is a section that gives the fox in charge of the hen house.

What we really need is to simply say that Council members can be removed in the same fashion as a Principal Chief and Deputy Chief, rather than relying on the Council to police itself, which over the last twenty years, I think experience speaks well to it that they have not done.

MR. SMITH: Point of information.

MR. HANNAH: Point of information, Mr. Smith.

MR. SMITH: May I ask the Commission what their interpretation is with Section 1? I understand this is how it goes in relationship to Section 2.

Section 1 limits the reasons for recall. It says, "shall be removed from office for the following reasons." Does that prevent later in this article the people from recalling or the Council from recalling for reasons that are not listed in Section 1?

And the way it appears is that you have to be able to establish due cause or just cause before you remove the Principal Chief or Deputy Principal Chief. Then that concept may go to Section 2, and I'm not sure if that's what we really are headed toward is that you limit the reasons for popular recall.

MR. HANNAH: Manager Keen, you are recognized.

MR. KEEN, JR.: I'm not sure if I clearly understand the gentleman's concern, but I can state this. The power of recall is the most completely independent power from the Council's power of removal and it so states down in Section 4, separate from the Council's removal powers. These standards that are set forth in Section 1 only apply to the Council's power of removal and would in no way affect --

MR. HANNAH: Section 2.

MR. KEEN, JR.: Exactly. Section 2 or the recall section as well.

MR. HANNAH: I stand corrected. Doctor Robinson, you are recognized.

MR. ROBINSON: Ricky Robinson. I agree with Mr. Cornsilk in that I think that the Council and appointed officials, such as the Supreme Court and the different secretaries that may come up should be held to the same standard as a Principal Chief and the Deputy Chief.

I really can't answer Mr. Smith's concerns because I'm not that learned in law, but I think this Section 2 should simply state that they are held at the same standard, so I'm opposed to Section 2 as it reads now.

MR. HANNAH: Mr. Mullon, you are recognized.

MR. MULLON: Thank you, Mr. Chairman. Delegate Mullon. I agree with the proposition that the standards for removal of the elected and appointed official should be stated in the Constitution.

As it reads right now, a Council could pass at any time a law as long as -- assuming there was a meeting with a quorum present, a majority of those present at the meeting, they could create a law that would effectively set out the provisions for removal of a Council member who has been popularly elected.

Any kind of law could be made that would be used to get rid of someone that they're not happy with or they find to be offensive on the Council. And it would take nothing more. Any kind of law whatsoever, this gives the Council complete discretion to create a system of laws that would say, "Okay, Council members who get ten speeding tickets on Highway 62 are subject to removal." I mean, that may sound ludicrous, but laws like that could be passed.

And that it just seems that you're giving the Council the power to prescribe the terms to upset an election with very little check on them. There really ought to be the standard for -- the basis or the causal for removal should be stated in the Constitution, and I can see no reason why they would not be any different than those set forth in Section 1.

MR. HANNAH: Mr. Hembree, you are recognized.

MR. HEMBREE: Mr. Chairman, I would like to make an amendment. Delegate Hembree from Greasy.

MR. HANNAH: You are recognized.

MR. HEMBREE: To add the language in Section 2

after the word "officials shall be subject to removal," right there at removal. Put in from office -- well, sorry, after "from office," put "for willful neglect of duties," the same language in Section 1.

Correct. That would be my amendment. And delete the words "as may be provided by law if passed by the Council."

MR. HANNAH: Motion to strike and substitute.

Is there a second?

DELEGATE: Second.

MR. HANNAH: Heard a second. Floor is open for debate.

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: If Mr. Hembree would entertain a friendly amendment, I would simply offer that we really desperately need to duplicate the language in Section 1.

MR. HEMBREE: That was my intent. Have I not done that?

MR. CORNSILK: Well, you didn't go far enough. I think there's lots of verbiage that came after that.

MR. HEMBREE: What other verbiage should I -- I thought I did.

MR. CORNSILK: Did you just say the whole section?

MR. HEMBREE: Yes, the whole section.

MR. CORNSILK: Then I stand down.

MR. HANNAH: Thank you, Mr. Cornsilk. Mr. Keen.

MR. JOHN KEEN: John Keen, delegate. I would speak against this as written. The only reason I'm against it is I don't think we need to put our appointed officials on the same level as our judges and Chief.

I'm afraid we're putting them on the same plain as our highest elected officials, and we don't need to do that. I would like to see the wording in there for the Council, but appointed officials should be removed as prescribed by law. That's what I would like to see. I don't know if it's proper to make that motion at this time or not.

MR. HANNAH: You move to strike the word "appointed," Mr. Keen?

MR. JOHN KEEN: Would they accept a friendly amendment to that, maybe?

MR. HEMBREE: Can you yield the microphone for a minute?

MR. HANNAH: Why don't you gentlemen step to the side there for a second.

MR. JOHN KEEN: I would move to strike the --

MR. HANNAH: Mr. Keen, before you make your motion, why don't you speak with the --

MR. STOPP: Point of information.

MR. HANNAH: Point of information.

MR. STOPP: Can you tell me who is included in

all appointed officials?

MR. HANNAH: Those officials that would be appointed. Mr. Keen, you are recognized.

MR. JOHN KEEN: I would make a -- can I make a motion to strike "appointed officials"?

MR. HANNAH: Do you make a motion to strike the word "appointed"?

MR. JOHN KEEN: Yes, I do.

MR. HANNAH: There's a motion on the floor to strike the word "appointed." Is there a second?

MR. SMITH: Point of order.

MR. HANNAH: Point of order.

MR. SMITH: It would have to be a friendly amendment because we've got one amendment pending right now.

MR. JOHN KEEN: Mr. Chairman, you've allowed this in the past. Can I divide the question?

MR. HANNAH: Now, folks, let's just slow down here just a second. Okay? We've been here for eight days. And Mr. Smith, the good man, is concerned about the word "appointed," and I believe that by allowing this fashion of amendment that these delegates can decide whether they'd like to have the word "appointed" in there or not without us having to divide this question, or to, in fact, go through and move through the behavior of voting on the first sets of information, and then returning to this gentleman again.

Because Chairman will point out the tenacity of Delegate Keen from Iowa, we'll in fact see him again here in the not too distant future. And the Chair believes that if you would yield that, Mr. Smith, that we could, in fact, deal with this issue. You are correct by procedure.

MR. SMITH: I yield.

MR. HANNAH: Thank you very much, sir. Mr. Keen, you have a motion to strike the word "appointed."

MR. JOHN KEEN: Yes, I do.

DELEGATE: Second.

MR. HANNAH: There is a second. The floor is open for debate.

MR. HOOK: Clarification.

MR. HANNAH: Clarification, Dr. Hook.

MR. HOOK: Mr. Keen, before we vote on this, could you provide a scenario or a little bit of amplification why you feel "appointed" needs to be deleted?

MR. JOHN KEEN: Well, it's my intention with this, that if what I want were carried through, I would like to see wording reinserted that appointed officials shall be removed for cause or as prescribed by law.

I just don't think that we need to hold our appointed officials to the same standards as we do our Chief, Deputy Chief and Council members. We don't need to make it that hard to get rid of them. People didn't elect them, so they're employees. They're not

elected people. They're not in those high positions.

We have those high positions, those high standards set for our highest elected officers. Do you want to make it so hard to remove the Secretary of Natural Resources? I understand there's some cause for concern for Attorney General and such.

Do you want to make it so hard to remove the Marshal? Do you want it so hard to remove the treasurer? We're holding those people to the highest standards we can come up with. I don't think we need to do that. I think we need to hold the Council, Chief and Deputy Chief to those high standards, but make it a little more easily removable for the appointed officials.

My intention would be to reinsert wording to say, these people may be removed as prescribed by law.

MR. HANNAH: The floor is open for debate on the striking of "or appointed." How do you stand, Mr. Stopp?

MR. STOOP: I stand in opposition of striking the word "appointed." And I state that because when you look at the laundry list of people that we have appointed at this one time, you've got your JT judges, your district court, your Marshal, your Attorney General, all of your cabinet level positions. And I think those positions are at a very, very high level in this organization.

And that if we go back to, I think it was the legislative -- or the judicial branch, we came back and actually said that they would be removed in our intent. They should be held to the same standards because they are so significant to the government of the Tribe and the Nation. That's all I have.

MR. HANNAH: Mr. Mullon, you are recognized.

MR. MULLON: Thank you. Delegate Mullon. I stand against striking the words "or appointed," and I would like to present a scenario. If we were to strike those words and then this were to happen: We have a Council meeting one day that there's a quorum, so they've got enough people there for a -- twelve people are present, or however many that ends up being when all is said and done here, and someone at that meeting produces legislation to remove all of the judges from the Judicial Appeals Tribunal, remove the Attorney General, remove the Marshal, and have a bill introduced on that basis.

People vote for it, and it goes to the Chief. He either signs it or his veto is overridden, and those people are out. We just totally removed all of the people in the government on the basis of a quorum of people that just passed a law one day to remove all the appointed officials.

I think it would be very dangerous to just leave it up to any given meeting of the Council to remove the top officials in the government.

MR. HANNAH: Mr. Hembree, you are recognized.

MR. HEMBREE: Thank you, Mr. Chairman. I would rise in opposition to strike the word "appointed." I would echo the reasoning of Delegate Mullon. Ladies and gentlemen, throughout this debate, throughout this conference, we have put forth appointed

officials and we've always -- there's been the argument, well, who are they going to answer to. And we always said, we're going to have a chance to remove them in Article X. We're at Article X.

We have to have this language in here, and we have to have good reasons for taking out an appointed official. It shouldn't be easy. I would respectfully disagree with my good friend and delegate. It shouldn't be easy to remove a high ranking appointed official, and that's what we're talking about. People who are going to be central to the running of this government, the Attorney General, the judges, all judges. The Marshal who would enforce this law. It should not be easy to remove these people.

And with that, ladies and gentlemen, I would move previous question on this motion, and let's put it to a vote.

MR. CORNSILK: Second.

MR. JOHN KEEN: Objection.

MR. HEMBREE: It's been seconded, sir.

MR. HANNAH: And as the Chair has done throughout the entire past eight days, he will hear objections. And, Mr. Keen, I will hear yours.

MR. JOHN KEEN: I got my points crossed, and I would like to have another chance to address the people.

MR. HANNAH: That is legitimate, and so, therefore, it will be a two-thirds vote to see whether debate is stopped or not. All of those in favor of stopping debate, please stand and the Secretary will count. It will take two-thirds majority. Mr. Vice-Chairman, you will assist in the counting. Vice-Chairman will count.

MR. KEEN, JR.: Twenty-four, sir.

MR. HANNAH: Those in opposition, please stand.

MR. KEEN, JR.: Thirty-two, sir.

MR. HANNAH: Motion does not carry, debate continues. Mr. Keen, you are recognized.

MR. JOHN KEEN: John Keen, delegate. I believe I heard talk about judges being subject to this. I'm not sure if I did or not, but if we did, we have already addressed judges in a different section. They're not going to be at the whim of the Council. They're already subject to that language. That's where we get this language from was the judicial article.

What I'm talking about is executive branch appointees. Now, I think we -- we fought this, I fought this at one level already. I wanted to have them elected. Well, couldn't get them elected. I want to have some check and balance in here. What we are doing is entrenching these executive branch appointees, making it so hard to remove them from office.

Article VII, Section 7: "All judicial officers shall be subject to removal from office for willful neglect --" the language that we have on the screen. We are not talking about our judges. We're talking about executive branch appointees.

What we're also doing here, if we make them subject to constitutional removal language, we're setting them above the

Tribe's personnel policies. They won't be subject to the personnel policies; they won't have to conduct themselves in the same manner other employees do. We're setting them above and beyond those measures. We're not making Gods out of these people. These are just employees. We aren't electing these people. They're just employees. Let's keep it at a reasonable level. Thank you.

MR. HANNAH: Good man from Black Gum is recognized.

MR. McCREARY: Ken McCreary in Black Gum. I understand what young Keen is saying, but I disagree in the aspect that we should not hold these people to a high accountability. Just by spelling out the aspects of what we can remove them for, does give them some assurances that they're just not going to be removed from office for just anything.

However, we still are setting in motion the ways that we can remove them. And I do think we have to hold them in high regard because they're in such influential appointed positions. I think we should hold them to the same standards as an elected official.

We're not talking about the ones that are employed underneath them. These are directors, people that have qualifications same as your elected officials, but they bring to this Nation, to any government or any company that standard that you pay for. And you just shouldn't be able to just drop them without having to have some sort of reason behind it, to be able to allow the Attorney General or the Marshal or a judge to be able to do their job without that fear of removal.

So they do have to be accountable to the people, and this is the way we're getting it, and we're getting that accountability.

I stand against removing "appointed."

MR. HANNAH: Mr. Lay, you are recognized.

MR. LAY: Delegate Lay. And I agree with Delegate Keen, and I would remind, especially Delegate Hembree, that if we had elected some of these officials to start with, we wouldn't be here now. I knew that we were going to get bogged down on this issue in this section, and that's part of the reason that a great many of us wanted some of these officials elected so that we would not be here.

I disagree with the delegate who just spoke that we don't want these people in fear of the people being able to recall them. I want those people scared to death of me being able to recall them.

We have had in the recent past an admitted embezzler continue on in a job, a very high level position for a long, long, long time, until so much pressure by the people was installed on the executive branch that finally she was allowed to resign. And she should have been sent out the door. Never should have been placed in that position to start with.

We've got to have some recall of the people to make this sort of decision. We should have elected these officials to start with and we wouldn't be bogged down here now. Thank you.

MR. HANNAH: Have we heard from you, Mr.

Cornsilk?

MR. CORNSILK: Not on this amendment, I don't believe.

MR. HANNAH: You are recognized, and thank you for helping the Chair to recall.

MR. CORNSILK: But I would defer to Mr. Mullon because he rose before I did.

MR. HANNAH: Thank you, once again, for being mindful of the cue. Mr. Mullon, you are recognized.

MR. MULLON: Thank you. Delegate Mullon here, once again. As to the argument that we are not making these people Gods. Well, I don't think that anybody, whether you're elected or Chief or anyone is going to be treated like a God. So I mean, to say to leave in "or appointed" would be that we're treating them like Gods is not a good argument.

There is a popular removal section that is below, so the people can remove officers that they don't like. And with respect to the mention before of the current controversy, the example that was brought up that arose in the context of the current controversy, I would point out that you also don't have an independent Attorney General at the present time, which would largely explain why that might not have happened.

On the other hand, again, I want to bring another scenario. I think that we should think of these terms in concrete possibilities. Suppose there's an elected official who commits a crime, and the Attorney General decides he's going to prosecute that person. And say that elected official -- not even elected, an appointed official is a part of the administration.

The Attorney General commences an action against the official, and halfway through trial, the Council meets, and they remove the Attorney General. That is what you're setting up here is that he who controls the Council can remove anybody they want from it, and that should not be possible. It should not be that simple.

And there is provisions in even this proposed Constitution for removing unpopular or nutty or crazy officials. It's not like there's no remedy there. But it should not be -- the official should not be subject to the Council meeting one day and removing him because they don't like a prosecution that's going on or some policy that he's promoted.

MR. HANNAH: Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, I rise in tentative support insofar as that I do believe that there needs to be some way for the Council, the voice of the people in our government, to remove an appointed official outside of the justice and judges.

I believe we've clearly shown that that is not the case in this question before us. And I think that a member of the cabinet of Principal Chief should be removed more easily than someone who is an elected official.

So I think what we're talking about here are apples and oranges, and if we mix them together, we've made it too difficult

for our elected officials to take out someone who may have committed a crime or who may have admitted that they have committed a crime, and we don't want that person to be serving in that office of honor and trust in our government.

And so I would rise in tentative support of it, if we could then at some point address it and kind of doctor it up a little bit.

MR. HANNAH: Thank you, sir. Mr. Scott, you are recognized.

MR. SCOTT: I am not sure to -- this has to be presented by our procedures here, but I would like, however we go about it, to have Section 1 to read, "All elected officials of the Cherokee Nation shall be subject to removal only by their constituent directorate according to the procedures set forth in Section 4 below." And we'll set it later.

"Or upon becoming ineligible to continue in office according to Article 4, Section 2, and whereby removal shall be immediate and automatic."

And in conjunction with that, we would remove the elected here and have this deal with appointed officials with all of the safeguards and so forth for them.

If that as an amendment is in order, I make that motion.

MR. HANNAH: Mr. Scott, the Chair believes that you are talking about Section 1, and the floor is open for debate on Section 2.

MR. SCOTT: It's in conjunction with.

MR. HANNAH: If you would hold that amendment, sir, I believe the Chair would like to conduct us through the remainder of the debate on Section 2 with regard to the striking of the words "or appointed." Would you do that, sir?

MR. SCOTT: Well, if this can be considered at some point, I would.

MR. HANNAH: Yes, sir. I assure you, the Chair will assure everyone that everything will be considered at some point. Mr. Dowty, you are recognized.

MS. MASTERS: Point of clarification.

MR. HANNAH: Ma'am.

MS. MASTERS: I would like to ask the gentleman who just spoke, I understood that you were speaking in regard to Section 2 and was making the suggestion that if we consider removing "elected" up into Section 1 and deal with appointed officers in Section 2; is that what you were asking that we do, which is what --

MR. SCOTT: Yes.

MS. MASTERS: -- would remedy this situation in 2, right? Is that what you're saying?

MR. SCOTT: Yes.

MS. MASTERS: And that would address a multitude of issues.

MR. HANNAH: Once again, Mr. Dowty, you are recognized.

MR. DOWTY: I thank the Chair. Delegate Dowty from Tahlequah. I would like to address the comments and points made by Delegate Lay. And first, let me say that with regard to the position of the judiciary, the court must be able to exercise independent judicial expression in being fair to the parties that come before the court.

I cannot make my decisions if I am in fear of any person who might want me to be removed from office. I have to be independent of that kind of influence if I'm going to be fair of the people and the parties who come before the court seeking justice.

Now, Delegate Mullon makes a good point with regard to your Attorney General. The Attorney General, among the other duties that we have prescribed in our Constitution, is responsible for the prosecution of criminal cases.

And I also have experience in that arena of criminal prosecution, and we have what is called prosecutorial discretion, and in many ways it is the same scenario as I just talked about as a judge. The prosecutor must be free and unfettered by influences or fears that he might be removed from office when the prosecutor is making decisions about who to prosecute.

The fears that someone might come against you to remove you from office must -- the prosecutor must be free of that to exercise independent prosecutorial discretion. And so I believe that this language should remain and that "appointed officials" should be held to the highest standard, and particularly as to your Attorney General.

MR. HANNAH: Thank you, sir. Star-Scott, you are recognized.

MS. STARR-SCOTT: Now I'm confused. I rise, I guess, in favor of striking the appointed for this reason. As I looked at this proposed constitution, that part stood out to me and it deviates from our old one. It was not -- "appointed" was not in there.

My concern is about the JAT. I agreed with what Mr. Dowty said one hundred percent about that and the prosecutor. And I'll give you a scenario we had during this term of office.

The judicial had never had a budget before, to speak of. It was very minimal. We funded them fully at their request. They, not too long after, made some decisions that some of the Council members didn't like. I had one Council member come to me twice and tell me, if these decisions continue as they are, we'll cut their budget. That was said in two meetings.

That same Council member held eight people in his home that decided to impeach the court. They impeached those three justices, and I don't believe that our justices -- someone, somewhere has to be the final arbitrator of the law, just like the prosecutor has to be free to prosecute.

So I think whatever we do this with language, we should consider that very carefully because I personally do not believe that the justices, whether I agree with Mr. Dowty on any of the

decisions or not, he is going to be the final arbitrator of law for us. I cannot be that.

Whatever he does, I may not agree with, but I have to respect his decisions in doing so. So I don't want us to tinker with this and lower these bars where they can't be taken out at whatever whim.

MR. HANNAH: The Chair will instruct all of the delegates to return their copies of the draft at this time. The clerical burden upon the convention is rather engrossed, as you all would imagine, and we simply updated this piece up to the election section.

And all of those who wish to hold a cue and debate, please stand. Just be patient, folks. And we, of course, moved through the election session yesterday, not wishing to revisit that, nor any subsequent articles. And we will get you an appropriate copy, but would like everyone to surrender your draft copy that you're holding at this time.

MR. LITTLEJOHN: Mr. Chairman, point of personal privilege. I was going to suggest that we take a five-minute recess for the purpose of people caucusing, who may -- I hear a lot of conversation that is not directed at the Chair or not arguing that is being made, and I think we will move ourselves closer to a resolution if we could take five minutes where the delegates could visit one with the other.

MR. HANNAH: Chair declares a five-minute recess. And by the way, folks, we do recycle, so there's not a problem here.

(recess taken)

MR. HANNAH: Let's take our seats. The young Mr. Keen is recognized as we return from our recess.

MR. JOHN KEEN: We've come up with an agreement, a compromise, and I'm comfortable with it, and I think everybody else who was involved in it was comfortable.

MR. HANNAH: Make your motion, Mr. Keen.

MR. JOHN KEEN: I would ask the Chair to help me. I'm not quite sure procedurally.

MR. HANNAH: You're going to move to table Section 2.

MR. JOHN KEEN: Move to table Section 2.

MR. HANNAH: Move to table Section 2. Is there a second?

DELEGATE: Second.

MR. HANNAH: Floor is open for debate. Hearing no opposition, all those in favor signify by saying -- Carl. Carl.

MR. DOWNING: I'm sorry, sir, but I would like to know for what purpose, briefly.

MR. HANNAH: That he wishes to table?

MR. DOWNING: Yes.

MR. HANNAH: Because we don't want to talk about it anymore. Is that good for you?

MR. JOHN KEEN: We're going to talk about it somewhere else.

MR. HANNAH: Stay with us, sir. All those in favor of tabling say "aye."

DELEGATES: Aye.

MR. HANNAH: Opposed say "no." And therefore, the floor is open for debate on this article. And the Chair will entertain Mr. Keen.

MR. JOHN KEEN: Section 1, please.

MR. HANNAH: As we return to Section 1.

MR. JOHN KEEN: Section 1, "The Principal Chief and the Deputy Principal Chief," comma --

MR. DOWTY: Point of order.

MR. HANNAH: Point of order, Mr. Dowty.

MR. DOWTY: Have we not approved the language of Section 1? Are we not going by section; therefore, do we not need to reconsider by motion?

MR. HANNAH: Very well.

MR. JOHN KEEN: I make a motion to reconsider Section 1.

DELEGATE: Second.

MR. HANNAH: There's a motion on the floor to reconsider Section 1; there is a second. Floor is open for debate.

DELEGATE: Call the question.

MR. HANNAH: Question been called. Is there a second?

DELEGATE: Second.

MR. HANNAH: Hearing no opposition, all those in favor signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no." Chair rules that motion passes. We are in the reconsideration of Section 1.

Continue, gentlemen. Thank you, Mr. Dowty.

MR. JOHN KEEN: After "Principal Chief, Deputy Chief" delete the "and the."

MR. MULLON: And then after the comma, "Attorney General, and Marshal." And then delete before "Deputy."

MS. MEREDITH: Mr. Chairman.

MR. HANNAH: Point of information for the kind lady from Oklahoma City.

MS. MEREDITH: If I'm not mistaken, Mr. Scott, wasn't it you who had language that you wanted to see put into Section 1, and that you were assured that you would be consulted? Have the gentlemen who are making this motion consulted you?

MR. HANNAH: Actually, ma'am, I would correct you in that Mr. Scott was given no assurances by these gentlemen, to the Chair's knowledge. The Chair gave assurances to Mr. Scott that he would be heard and he shall be.

MS. MEREDITH: Okay.

MR. HANNAH: The Chair would stand corrected from the kind delegates that are making their way through this motion, if that's not the case.

MR. JOHN KEEN: I would move to --

MR. HANNAH: Apparently not. Thank you, Mr. Keen, you're recognized.

MR. JOHN KEEN: I'm sorry. You are right. My mind is not as quick as yours, Mr. Chair.

I make the motion we accept this amended language in Section 1.

MR. HANNAH: There is a motion to strike and add. Strike the word "and," and including the phrase "Attorney General and Marshal." Is there a second?

DELEGATE: Second.

MR. HANNAH: There's a second. Floor is open for debate.

Mr. Smith, you are recognized.

MR. SMITH: For clarity purposes --

MR. CORNSILK: Mr. Chairman, point of order.

MR. HANNAH: Point of order, Mr. Cornsilk.

MR. CORNSILK: Would it be appropriate at this time to only have two for and two against?

MR. HANNAH: If you would like to make that motion, the Chair will entertain the motion, sir.

MR. CORNSILK: I would make that motion.

MR. HANNAH: Two for, two against. Do you wish for a time limit, sir?

MR. CORNSILK: Thirty seconds -- no. Three minutes, is that fine? I would say five minutes, I suppose. I don't know.

MR. HANNAH: Chair thought he heard you say three.

MR. CORNSILK: Three.

MR. HANNAH: Two for, two against, three minute limitations. Is there a second?

DELEGATE: Second.

MR. HANNAH: Second. Hearing no opposition, all those in favor signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Opposed "no."

DELEGATES: No.

MR. HANNAH: Motion passes, and we are at debate. And my timekeeper is there, and we will have two for, two against, for three.

And Mr. Smith how do you rise on the issue?

MR. SMITH: I have a point of information.

MR. HANNAH: The Chair had a feeling that would be.

MR. SMITH: It's in terms of construction of Article X. Just very briefly. The first three sections deal with

removals, removals by the Council. Section 4 deals with recall, recall by the people.

The problem now is when you read the article in its entirety, an argument can forcibly be made that the people's right to recall is limited by the grounds of removal in Section 1.

I say all of that to say this. If I wanted for my district to recall a Council -- recall a Deputy Chief, by referendum, I may have to argue that he has violated one of these conditions in Section 1. That be I would have to show that he's a habitual drunk, incompetent and been convicted. I wouldn't be able to ask that he be recalled for other reasons.

For that reason, either in this Section 1 or 2, or in Section 4, there needs to be very clear language that shows that one, two, three, and the provisions and reasons for removal are limited to the Council. And Section 4, the right of removal, the right of recall is not limited to those conditions appearing in Section 1. Does that make sense?

MR. HANNAH: It makes sense, and thank you, sir, for that point of information. How rise you, Mr. Mullon?

MR. MULLON: Well, by doing this, and following that with an appropriate amendment to Section 2, I would be satisfied because the most likely problem that would arise would be the removal of either the Marshal or the Attorney General when they're trying to prosecute the case and involves an administrative official that has popular support in the Council.

Or even for that matter, an action against a Council member who has got popular support and feels like he can get the support of his fellow members of Council in order to remove either the Marshal or the Attorney General.

As far as Mr. Smith's concern, to the effect that the removal, that is the right of the people to remove officials that is set out in Section 4, I think that concern could be addressed by appropriate wording of Section 4 when we get down there, and I wouldn't be opposed to that. Because as it reads right now, the removal power would be limited to elected officials, and that could be changed very easily.

Mr. Chairman, if I could just have a moment.

The other issue that Mr. Smith brought up is one that, again, I think that it requires action in another section. And I only bring it up here for purposes of clarifying what would happen under Section 1.

Section 1, nor Section 2, as written, really state who is going to be doing the removing of these people. How is that person going to be removed? Let's say we have someone who's a habitual drunk, and they feel the need to remove him. How is he going to get removed? Everyone agrees he's a habitual drunk, but there is no clear statement right now as to how that might happen. And the --

MR. KEEN, JR.: Point of clarification.

MR. HANNAH: Point of clarification, Mr. Keen.

MR. MULLON: Leave it open in Section 3, I

think.

MR. KEEN, JR.: No, sir, I think it is addressed. It's addressed in Article V, Section 9. The Council shall have --

Article V, Section 9: "The Council shall have the power to remove elected and appointed officials in the Cherokee Nation and said removal must be conducted in accordance with Article X in this Constitution."

MR. MULLON: Right. What you have created is a -- you have a sort of a Mobius circle there, I understand that. What I'm saying is, it's not clear how the removal process gets initiated under the constitution. It says they all have the power of removal.

Who's going to start a removal proceeding, and how many people on the Council must vote for removal in order to remove? As it's written right now, it doesn't say, and I think that's an issue that needs to be brought up.

MR. KEEN, JR.: A procedure for removal?

MR. MULLON: Right. At least the very bare bones of a procedure for removal. But again, that's a -- when we get down to Section 3, that's something that we could talk about more clearly. Again, I only bring it up here because some people have asked, how are we going to remove, and I think that the answer is in another section.

But I feel like this is fair enough because the scenario that I was talking about of a person being subject to -- an Attorney General or the Marshal who's investigating the crime, subject to removal in the middle of his investigation, is answered by that.

MR. HANNAH: Thank you, Mr. Mullon. How do you rise on this issue, good lady from California?

MS. MASTERS: Two points of clarification.

MR. HANNAH: Two points of clarification will be given.

MS. MASTERS: The first being that the way I understood Delegate Scott to suggest the addition of Council members here -- and we would have all of our elected officials, plus the two other that we would like to protect -- and that was the previous comment by Delegate Scott, and I think that should be considered.

And the second issue I have here is, in our language in Section 1, we don't have violation of the Constitution or violation of their oath of office. Wouldn't we want that in that particular section?

MR. HANNAH: Thank you, ma'am. Does anyone rise in opposition to the motion that's before us to strike and add?

MR. MULLON: Point of clarification.

MR. HANNAH: Point of clarification, Mr. Mullon.

MR. MULLON: When I ran down that list there, I did overlook an important thing, and that is that, I believe, after the word "office of Deputy Principal Chief," add the words "members of Council." A little oversight on my part.

MR. HANNAH: Is there any opposition to the adding of the words to this particular section? It was a Scribner's error and has been corrected. Thank you, sir.

MR. MULLON: And as to the other suggestion about violation of oath of office or some action contrary to the Constitution, I wouldn't have a problem with adding that to the list of evil things that are set out there. I want to take the habitual drunkenness out, though -- no. I think that would be like coming after -- well, actually put it before willful neglect of duty.

MR. HANNAH: The Chair is very pleased that the kind delegate was not in charge of bringing down the Ten Commandments. And you will continue, sir.

MR. MULLON: On second thought, I would agree to part of that. The wise Delegate Smith has brought to my attention that you do not want to open the door to a lot of -- to something that is not quantifiable that you don't understand, like violation of your oath of office.

Well, someone may, which basically includes, among other things, upholding the Constitution. Someone may be saying, you're not upholding the Constitution because you do this, you did that; therefore, we want to remove you from office. But what you could do would be where it says, "a crime against the Constitution or under the laws of the Cherokee Nation," that's good. I would offer that as a friendly amendment.

MR. HANNAH: Friendly amendment has been offered. Mr. Keen, I believe this goes back to you, sir.

MR. JOHN KEEN: If this is my amendment, I would accept.

MR. HANNAH: The Chair admonishes all the delegates to continue to recognize their own amendments, if possible.

It is, and you have, and there's no objection by your second. Does anyone rise in opposition?

MR. JOHN KEEN: Can we have a moment for some cleanup language?

MR. HANNAH: The Chair will indulge you for exactly two-and-a-half minutes, sir.

Mr. Mullon.

MR. MULLON: What we would like to do would be to take the words "the Constitution" and strike -- no, first move that to -- put "the Constitution" after "the laws" -- probably would work better if you put it before "laws." Then I will put the word "under" before "Constitution." No, no. Okay. That's right. That's fine. And strike "against."

MR. HANNAH: Mr. Hembree, you are recognized.

MR. HEMBREE: I waive. I was going to do something else. Sorry, Mr. Chairman.

MR. HANNAH: Debate is closed.

DELEGATE: Call the question.

MR. HANNAH: Question has been asked for. Is

there a second?

MS. MASTERS: Second.

MR. HANNAH: If the motion passes, ladies and gentlemen, the words "and the" would be stricken, "members of the Council, Attorney General and Marshal" will be included. "Against" would be stricken, and "under the Constitution or" would be added.

All of those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Opposed said "no." Motion carries.
Language is deleted and added.

So therefore, debate is open for Section 1. Mr. Keen, you are recognized.

MR. JOHN KEEN: I make a motion we accept Section 1 as written.

MR. HANNAH: Motion has been made. Is there a second?

MR. KEEN, JR.: Point of order. I believe we may have one delegate that previously wanted to direct something.

MR. HANNAH: You are correct, sir. Mr. Scott, you wish to be recognized?

MR. SCOTT: Scott, delegate. My motion is to -- is this a discussion or motion?

MR. HANNAH: It would be a motion, sir.

MR. SCOTT: My motion would be to strike Section 1 as it appears there and replace it with -- can I give this to the scribe?

MR. HANNAH: Yes, sir, you may. Step forward.

MR. SCOTT: My rationale here is to have the elected offices only be voted out by the people that voted them in and to keep all of this business of elected officials trying to kick each other out.

MR. HANNAH: Mr. Scott, your motion is to strike the entirety of Section 1 as it appears and to substitute the language: "All elected officials of the Cherokee Nation shall be subjected to removal only by their constituent electorate, according to the procedures set forth in Section 4 below or upon becoming ineligible to continue in office, according to Article IV, Section 2, whereby removal shall be immediate and automatic."

Is there a second?

DELEGATE: Second.

MR. HANNAH: There's a second. The floor is open for debate. Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, I rise in qualified opposition to this amendment, and my reasoning being that the power of removal will, when we get to Section 4, rest with the people in one way.

And there are times in our government when we would need to have that power delegated to the -- their peers, their ability to recognize that someone needs to be removed immediately or upon due process when they violate the law or whenever the people of the

district refuse to act.

The electoral process is basically a popularity contest, and it has very little to do with when someone violates the law. And if we don't have both provisions in place, I think we lose our checks and balances. I really do believe that the people are the four frames of government, and we are going to recognize that in Section 4.

MR. HANNAH: Is there a delegate rising in support of the amendment? Would that be you, Billie?

MS. MASTERS: Yes. I am in support of this amendment, and I would ask if the good Delegate Scott would kindly withdraw this from Section 1 and allow us to consider it in Section 4. I think that this is very good, and I would really like to talk about it in Section 4.

MR. HANNAH: What say you, Mr. Scott? She rises in favor of your amendment, but asks you to withdraw, which is a novel approach.

MR. SCOTT: I'll have to look at Section 4.

MR. HANNAH: Delegates will be patient while the good delegate is preparing to respond to the request.

MR. DOWNING: May I ask a question?

MR. HANNAH: Point of information, Carl.

MR. DOWNING: Thank you. Carl Downing. It seems to me that what we're doing here is saying that elected officials can only be removed by recall. Is that a fair assessment of this?

MR. HANNAH: That would be correct, sir.

MR. DOWNING: Now can I debate it?

MR. HANNAH: No, sir. What say you, Mr. Scott?

MR. SCOTT: I still believe it should be in Section 1.

MR. HANNAH: Very well. Floor is open for debate. The good man, Mr. Clarke.

MR. CLARKE: Yes, William Clarke from Muskogee.

MR. HANNAH: How do you rise on the issue, Mr. Clarke?

MR. CLARKE: Opposition.

MR. HANNAH: Very well, let's hear from you.

MR. CLARKE: I believe that we need to have the checks and balances added to it, and that wasn't discussed before that was stricken, so based upon that, I oppose this.

MR. HANNAH: Very well, thank you, sir. Kind lady from Tahlequah is recognized.

MS. HAMMONS: Thank you, Mr. Chairman. Diane Hammons. I rise in opposition to Mr. Scott's proposal. I understand his concerns, and they're certainly valid. But the fact of the matter is, for example, if an elected official were committed of a crime, do we really want to wait for an election process before we can remove them? If they become incompetent, do we really want to go through an election process before we remove them?

Instead, I believe that that's properly addressed under these limited ways that you can remove somebody and left to the people that we have elected in office in the Council to deal with that and to do it under the procedures that I hope we are going to set forth later on.

So I'm in opposition to this. I don't think it gives us enough of a remedy quick enough.

MR. HANNAH: Very well. Would the two attorneys yield and allow Mr. Silversmith to ride a live horse to the microphone. Mr. Silversmith, you are recognized.

MR. SILVERSMITH: I am Mr. Silversmith from Kenwood-Salina. I don't suggest we put all of our money on a gray in the eleventh race. What I do want to speak out is that I would be in favor of what it is because sometimes these things that are suggested are a wake-up call for something to come in the hereafter and as soon as these things can get resolved in sequence, I think it should take precedence in the sense that the sooner the Cherokee people see this, rather than going down the line, because sometimes they get confused and it's issues up there and it's at an issue where they can understand it. That's what it should be.

And I would like to thank this gentleman for his proposal, and all who would consider this, because what this is, is to right wrongs that are being done. And we have found ourselves, especially, I speak myself, I found myself embarrassed and degraded and stuff because we have got people that represent some that's other than what it is official government, a efficient government that is of the people, for the people, by the people as Cherokees. Thank you.

MR. HANNAH: Thank you, Mr. Silversmith. Mr. Smith, you are recognized.

MR. SMITH: It was a friendly amendment to clean up some language of the previous section.

MR. HANNAH: All right, very well, sir. Mr. Mullon.

MR. MULLON: I respect the delegates proposal here. I do think that it is really germane to Section 4. And I think that that's where it would be best debated, but I would point out that as it reads right now, that would be the only way that we could remove an errant official from office would be to hold an election. There would be no other way to remove them.

I would suggest that it would probably mean that you will have that official in place for a long time before he could be removed for misbehavior in office. And depending on who that official is, he or she might be in a position to frustrate an election throughout the entire term of his office.

And I could see that scenario very easily occurring, so I would oppose this as it being too much limitation on the ability of the people to get somebody removed.

MR. HANNAH: Thank you, sir. Mr. Hembree, you are recognized.

MR. HEMBREE: I move previous question.

MR. HANNAH: I will accept that from you, sir.

Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. And without opposition, what we would be voting on, ladies and gentlemen, is the Scott proposal. The Scott proposal is to strike the entirety of the language that was previously debated on Section 1 and to insert the following sentences:

"All elected officials of Cherokee Nation shall be subject to removal only by their constituent electorate, according to the procedures set forth in Section 4 below, or upon becoming ineligible to continue in office according to Article IV, Section 2, whereby removal shall be immediate and automatic."

All those in favor signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And all those opposed said "no."

DELEGATES: No.

MR. HANNAH: Motion does not stand. We return to the discussion of Section 1. Mr. Keen, you are recognized.

MR. JOHN KEEN: Call the question.

MR. HANNAH: Question has been called. Is there a second?

DELEGATE: Second.

MS. HAMMONS: Point of order.

MR. HANNAH: Point of order.

MR. HAMMONS: I believe Mr. Smith had a correction to clean up some language before we called the question.

MR. HANNAH: Is that true, Mr. Smith?

MR. SMITH: It is. I think it's by agreement.

MR. HANNAH: By agreement, very well.

MR. SMITH: We haven't provided for a constitutional crime, therefore, where it says "a crime under the constitution," instead strike "crime," please. "A violation of" -- strike "under," and then go to the end of the Constitution, "or a crime under," then strike "or," and that is it.

MR. HANNAH: By consent of the authors, without opposition by the second, and with the question called and with the second heard, and no objection being noted by the Chair, we are prepared to vote on Section 1.

And the language would read:

"Principal Chief, Deputy Principal Chief, members of the Council, Attorney General and Marshal shall be subject to removal from office for willful neglect of duty, corruption in office, habitual drunkenness, incompetency, or any conviction of a felony.

A violation of the constitution or a crime under the laws of the Cherokee Nation, that if committed in some other jurisdiction would be a felony or a misdemeanor involving moral turpitude or offenses against the Cherokee Nation committed while in office."

All of those in favor please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

Motion carries; the language is admitted.

And we are here to recognize Mr. Mullon.

MR. MULLON: Yes, I'd move to take Section 2 off of the table.

MR. HANNAH: Motion to remove Section 2 from the table. Is there a second?

DELEGATE: Second.

MR. HANNAH: And hearing no opposition, all those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." Section 2 is off the table. Floor is open for debate.

Mr. Lay, you are recognized. Once again, gentlemen, let's all be reminded that what we are about here in Section 2 is the younger Keen's proposal to strike the two words "or appointed."

MR. MULLON: Mr. Chairman. Can I --

MR. HANNAH: One moment. Mr. Lay, you were recognized, sir.

MR. LAY: I'm sorry, Mr. Chairman. Is this at a time to make a motion for amendment? If we're talking about appointment only, it may not be. That's what I'm here for.

MR. HANNAH: We are on appointed at this time. We are on "or appointed" is what we are discussing.

MR. LAY: I'll stand down.

MR. JOHN KEEN: Mr. Chairman.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: As the maker of the motion to strike "appointed," I will withdraw that.

MR. HANNAH: Very well. And therefore, "or appointed" continues to stand.

And we are now in debate with regard to the Hembree proposal, which would include the language: "For willful neglect of duty, corruption in office, habitual drunkenness, incompetency or any conviction of a felony. A crime under the law of the Cherokee Nation, if committed in some other jurisdiction would be a felony or a misdemeanor involving moral turpitude or offenses against the Cherokee Nation committed while in office."

Mr. Mullon, you are recognized.

MR. MULLON: Yes. What we're on right now is the proposed amendment, the underlying language?

MR. HANNAH: Yes, sir.

MR. HEMBREE: And the striking of language.

MR. HANNAH: Oh, is there a strike? Okay. Did not see that. And the strike would be as indicated "in such manner and/or such causes as may be provided by laws passed by the Council."

MR. MULLON: Would I be in order to offer an amendment?

MR. HANNAH: Yes, sir, you would be. Mr. Hembree, draw close.

MR. MULLON: I would move to begin that sentence of Section 2, begin Section 2 with the language, "except as otherwise provided in this constitution, all other appointed officials shall be subject to removal in accordance with as prescribed by law." And delete the balance of that paragraph.

MR. HANNAH: Is that the scope of your amendment, Mr. Mullon?

MR. MULLON: I think that is, "prescribed by law." Not "the law," but "prescribed by law."

MR. HANNAH: What say you, Mr. Hembree?

MR. HEMBREE: Yes, Mr. Chairman. If I had gotten a chance to be recognized, I was going to withdraw my amendment. And since this language would supplant the amendment in toto, I would accept it as a friendly amendment, I guess. Let's do that.

MR. HANNAH: Let's see. Gentlemen, Mr. Mullon, Mr. Hembree, what we have here is you've made a motion, you're attempting to make corrections of such, you were about to withdraw. What would you gentlemen like to do here? Do you want to withdraw this or do you want to fix it?

MR. HEMBREE: We want to fix it, and I agree with Mr. Mullon's language; therefore, I would accept it as a friendly amendment.

MR. HANNAH: Excellent. Thank you very much. The language is entered, and without opposition by the second. And the floor is open for debate.

Young lady from Tahlequah is recognized.

MS. HAMMONS: Thank you, Mr. Chairman. At the risk of subjecting myself and other members of the Bar from being stoned by the rest of the delegation, I would propose a friendly amendment to Mr. Hembree and Mr. Mullon's joint amendments here. "Shall be subject to removal, for cause as prescribed by law," so that we are giving our appointed officials at least as much protection as all other employees.

MR. MULLON: I would definitely agree with that.

MR. HEMBREE: I would agree with that.

MR. HANNAH: Once again, I'm so sorry. We're still trying to figure out what the Hembree piece was. Let's get this in line, folks, okay, so we know where we are.

MS. HAMMONS: "Shall be subject to removal for cause," comma.

MR. MULLON: I'd debate that comma with you, but I really don't care.

MR. HANNAH: If Mr. Mullon had been here last evening, we took a vote on a comma at one point. The Chair would instruct the delegate that punctuation is in season.

MR. KEEN, JR.: Point of clarification.

MR. HANNAH: Yes, sir.

MR. KEEN, JR.: We've got three lawyers up here. I'm a lawyer, and I'm not sure what the language is supposed to be that we're going to consider.

MR. HEMBREE: Only the bold underlined language.

MR. HANNAH: Because we are still, under the Hembree proposal, wishing to strike the words that appear stricken. And now the Hembree proposal is to strike and to include the language that has been bolded. And we've made a couple of little tweaks along the way.

And, Mr. Keen, do you wish to be recognized? Mr. Mullon, do you wish to be recognized?

MR. MULLON: Yeah, just for a point of clarification from the delegates. The provision in the front of that, "except as otherwise provided in this Constitution" would make a reference back to the -- it operates to refer back to the judicial section to have their own removal thing. So, that's why that language is there.

MR. HANNAH: Mr. Cornsilk, what say you, sir?

MR. CORNSILK: Mr. Chairman, Delegate Cornsilk.

I would rise in favor of this amendment, but I would also like to share a little bit of my vast experience in dealing with the Cherokee Nation over the past twenty or so years, in that a petition was brought before the Principal Chief and the Council to bring a resolution passed by the Council to a vote of the people.

There were two reasons that was defeated. One of them I agreed with; the court ruled against us that a resolution is not a law and is, therefore, not a part of the people's ability to bring that to a vote.

The second portion of it was extremely alarming to me, and I see that happening again and again in how we're building this Constitution. And that is we're telling the Council to take action, but not giving them a time frame in which to do that.

The constitution was passed in 1975 and 1976, and in 1996, we did the petition, and the Supreme Court ruled against our petition based on that the Council had not taken action to implement that portion of the Constitution. They simply decided that they did not want to give the people the power to petition, even though it was in the Constitution.

By their inaction, they invalidated that section of the Constitution. Made it null and void. So I just simply, I guess, rise as a point of information or something to plead with this body to tell the Council when they must act. At some point, they have to do something.

MR. HANNAH: Mr. Hembree, you've been standing for a while. Do you wish to contribute to debate, or would you prefer that I recognize Mr. Keen here?

MR. HEMBREE: Recognize Mr. Keen, because I have a motion.

MR. HANNAH: Mr. Keen, you're recognized.

MR. JOHN KEEN: Just to address Delegate

Cornsilk's comment, and I hope I don't draw the fire of every lawyer in this room, but I intend to make a motion at the end of this Constitution directing the Council to implement this Constitution within one year of its gratification. Along with that time frame; that's debatable. That's my intent at the end is that we draft that issue in this Constitution.

MR. HANNAH: Thank you, Mr. Keen.

MR. HEMBREE: Mr. Chairman, I move previous question.

MR. HANNAH: The question has been called for. Is there a second?

MR. HOOK: Second.

MR. HANNAH: What we are voting on -- Mr. Keen, the intermediate, you will stay close to the Chair as we describe exactly what it is that we're voting on. We are voting in Section 2. And the language to be included would be:

"Except as otherwise provided in this Constitution, all other appointed officials shall be subject to removal for cause as prescribed by law." The remainder of the language would be stricken.

All of those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no." Motion passed, and the language is added.

Mr. Keen, you are recognized. Delegate Gourd, you are recognized.

MR. GOURD: Thank you, Mr. Chairman.

MR. HANNAH: Parliamentarian reminds us that we should, in fact, once again, vote to approve Section 2, so, therefore, without opposition, Section 2 would read:

"Except as otherwise provided in this Constitution, all other appointed officials shall be subject to removal for cause as prescribed by law."

All those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

DELEGATE: No.

MR. HANNAH: Motion passes and the section is approved.

Dr. Gourd, you are recognized.

MR. GOURD: Thank you, Mr. Chairman. I make a motion that we approve the language contained in Section 3, which shall read as follows:

"The Council shall pass such laws as are necessary for a period into effect the provisions of this article, ensuring therein that due process is afforded the accused."

MR. HANNAH: Motion is before you. Is there a second?

DELEGATE: Second.

MR. HANNAH: There's a second, and floor is open

for debate.

Mr. Mullon.

MR. MULLON: I have a concern with Section 3 in that it doesn't set any kind of standard for or threshold vote for -- and it also doesn't state -- basically it does not provide for -- it doesn't give any guidance as to how the removal process will unfold, and it doesn't state how many or what percentage of the Council is necessary in order to remove an official. It simply leaves it up to Council to pass such laws as are necessary. That could be a lot of things.

We've gone through a lot of hard work on the first two sections as to what it takes to remove a person, and then we just are walking away with Section 3 as merely -- we'll leave it up to Council to figure out how to carry this out, period. That's basically all it is, except for there's reference to due process.

MR. HANNAH: Mr. Lay, you are recognized.

MR. LAY: Delegate Lay. Thank you, Mr. Mullon, for reminding me of that. I'd like to propose an amendment to Section 3 after "article" including, "any and all removals by Council to be subject to a two-thirds majority vote by Council for such removal." And I'm open to some wordage help here.

MR. MULLON: Mr. Chairman, if I could meet with the delegate over here for just a second, I think maybe I could come up with -- we're going in the same direction.

MR. HANNAH: Please proceed.

MR. McCREARY: Point of personal privilege.
Recess for five minutes?

MR. HANNAH: Is that the interest of the delegates? Would you care for a five-minute recess? It will be five minutes then.

(recess taken)

MR. HANNAH: Chair is very appreciative to the delegates for being very patient this morning. And I recognize that we have worked through so many complicated pieces of our government, and by no means are the sections that we're working on any less complicated.

From time to time, we have had to stretch the rules of our procedure a little bit to be able to allow those who are thinking in a very focused way, so that we approach each of these items in an intelligent and in an informed perspective. So the Chair would remind our delegates that you are well appreciated for your patience.

Mr. Mullon, you are recognized, sir.

MR. MULLON: Yes. Thank you. I think if Delegate Lay has given me hand off here, I have a proposed language that I think we've discussed and I could do that. It would be pretty much a rewrite of Section 3.

MR. HANNAH: Very well. Mr. Mullon, you and Mr. Lay, thank you.

MR. MULLON: It would be to begin the section

with: "No official may be removed under Sections 1 or 2 of this article except after trial." I wouldn't put a comma there. "Except after trial before the Council, with the accused having been afforded due process and opportunity to be heard," period.

"Provided, removal under Sections 1 or 2 shall require a two-thirds vote of the members of the Council," period. And then I would continue with the rest of it with a strike-through all the way through the rest of the paragraph.

MR. HANNAH: Mr. Lay.

MR. LAY: Yes, I accept that.

MR. HANNAH: Very well, with no opposition from the second, the floor is open for debate.

MR. GOURD: Call for the question.

MR. HANNAH: The question has been called for.

MR. STOPP: Point of information.

MR. HANNAH: Point of information, Mr. Stopp.

MR. STOPP: When we say "no official," that's elected, appointed, this definition?

MR. MULLON: Yes.

MR. HAMMONS: That's not clearly stated that way.

MR. HEMBREE: It says "no official." What else?

MR. HANNAH: One moment. We're doing well. Mr. Mullon.

MR. MULLON: Yes. Mr. Hammons has brought something to my attention that is with the result of me not being here last night, not being completely aware of how the judicial business was handled. But I think this will require a reference back to Article VII, and so, but that, again, would require -- if I may just explain the problem.

MR. HANNAH: You may.

MR. MULLON: In my view, this would provide a very healthy threshold for removal. You're going to have to -- obviously, there's going to be a trial, and we're all familiar with what an impeachment trial is that we're talking about, impeachment.

And the vote of the two-thirds is required from the Council. I think that's good; it keeps people from being removed. But the Sections 1 and 2 do not involve the judiciary. I thought when I made this motion that the article that pertains to the judiciary was completely self-contained for purposes of removal, and it is, only the provision for removal there is that the judicial officers are subject to removal pursuant to the law enacted by the Council.

And then what we're doing is we're giving the judiciary less protection than we are here for these other elected and public officials that are subject to this.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Point of clarification, if I may.

MR. HANNAH: Please.

MR. MULLON: I would add right after the number two in the first instance there, I would add "or Section 7 of Article VII."

MR. HANNAH: Are you satisfied, Mr. Mullon?

MR. MULLON: Yes.

MR. HANNAH: Very well. Ladies and gentlemen, the language is before us and now complete. Mr. Lay, you concur with your co-author, Mr. Mullon?

MR. LAY: Yes, sir.

MR. HANNAH: Excellent. And hearing no objection from the second, with the exception of our fine lady from Tahlequah.

MS. HAMMONS: I'm sorry, and I thought we caucused and got this done, and then I realized that maybe we didn't. I apologize to the Chairman and to the delegation.

Mr. Mullon, shouldn't we carry that language down into the second sentence also, "provided removal under Sections 1 or 2"? "Or Section 7 of Article VII shall require a two-thirds vote"?

MR. MULLON: I agree with that.

MS. HAMMONS: A friendly amendment.

MR. HANNAH: Very well, Mr. Lay, you as well, sir?

MR. LAY: Yes, sir.

MR. HANNAH: No objection from the second. The language before us; the floor is open for debate.

DELEGATE: Call for the question.

MR. HANNAH: Question's been called for. Is there a second?

DELEGATE: Second.

MR. HANNAH: And what we are proposing is the Lay-Mullon proposal in Section 3. The language would read:

"No official may be removed under Sections 1 or 2 of this article or Section 7 of Article VII, except after trial, before the Council, with the accused having been afforded due process, an opportunity to be heard. Provided removal under Sections 1 or 2 of this article or Section 7 of Article VII shall require a two-third vote of the members of the Council."

The remaining language in the section would be stricken.

All of those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no." And the language stands. And with that, we would move for the approval -- we will consider the approval of Section 3 in its entirety.

"No official may be removed under Section 1 or 2 of this article or Section 7 of Article VII, except after trial before the Council with the accused having been afforded due process and opportunity to be heard. Provided removal under Sections 1 or 2 of this article or Section 7 of Article VII shall require a two-third vote of the members of Council."

All of those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no." And the section is approved. And Doctor Gourd, you are recognized.

MR. GOURD: Thank you, Mr. Chairman. I make a motion to approve the language in Section 4, which shall read as follows:

"Separate from the Council's removal powers, the people of the Cherokee Nation will reserve unto themselves the exclusive power to recall any elected official through petition and recall referendum. A petition must be signed by registered voters actually having voted for the office in question in the previous election and must total in number equally or exceeding thirty-three percent of the total number of votes cast for the office in question.

The signed petition shall be presented to the Council and filed with the Secretary of State for verification within thirty days. Upon verification of the requisite number of signatures, the Secretary of State shall certify the petition as valid and notify the Council.

Upon notification of a valid certified petition, the Council shall immediately call for and approve a special recall election for the office in question within sixty days. The special recall election shall be limited in scope to the voting populous for the elected office in question.

Votes cast shall be tabulated and the results certified in the same manner as in general elections. A majority vote to affirm the official shall retain the official in office. A majority vote to recall shall immediately remove the official from office.

In the event of a tie vote, the Council shall call a special meeting to conduct a tie-breaking vote. Elected offices vacated under this section shall be filled as otherwise provided in this Constitution."

MR. HANNAH: Motion is before you. Is there a second?

MR. HEMBREE: Second.

MR. HANNAH: There's a second. Floor is open for debate. Mr. Hoskin, you are identified.

MR. HOSKIN, JR.: Thank you, Mr. Chairman. Charles Hoskin, Jr. I rise to make an amendment to the proposed Section 4.

MR. HANNAH: Let it be heard, sir.

MR. HOSKIN, JR.: I would move to strike the words "votes cast," replacing the struck language with the words "voters registered at the time of the previous election for the office in question." And that actually -- "for the office in question" actually is already in there, was not struck. I'll bring this to the scribe.

MR. HANNAH: Very well, thank you, sir. Is that your language, Mr. Hoskin?

MR. HOSKIN, JR.: That's correct. I think we -- Mr. Chairman, I think we absolutely need a provision for recalling

our elected officials, I think that's appropriate for this Constitution. I think we ought to be mindful of what threshold we set for that.

And I think that we should allow folks who are going out to get the petitions to go out and get thirty-three percent of people that are actually registered to vote. I think that's going to set a higher number, but I think that's the way it ought to be.

And I think if you set it at thirty-three percent of the total number of voters registered at the time of the election, you'll get something that's more uniform across the district, and I think it will be more equitable across the district. Thank you.

MR. HANNAH: Is there a second?

MR. CORNSILK: Second.

MR. HANNAH: There is a second. Floor is open for debate.

MR. KEEN, JR.: Point of information.

MR. HANNAH: Point of information, Mr. Keen.

MR. KEEN, JR.: Thank you, Mr. Chairman. I would just like to point out what we're dealing with here is really -- it boils into a mathematical formula of the pool of people that you're going to require and the percentage of those people.

The thirty-three percent, the change that is proposed by Delegate Hoskin will obviously have a direct affect on that thirty-three percent. So if we are going to adjust one portion of the formula, we're going to have to examine the other portion of it.

MR. CORNSILK: Mr. Chairman, point of information.

MR. HANNAH: Point of information, Mr. Cornsilk.

MR. CORNSILK: That was my intent after we process this.

MR. HANNAH: Very well, sir. Mr. Mullon, you are recognized.

MR. MULLON: I believe Mr. Stopp is --

MR. HANNAH: Mr. Stopp, the indulgence of the Chair, thank you, sir. You are recognized.

MR. STOPP: Just going back to this, I don't know for sure if I'm in favor or not, but I guess I look at this from the standpoint, if we had -- I believe the last election we had relatively about 24,000 registered voters and we roughly had about 13,000 votes cast.

So this is a substantial difference in the way this reads. I guess I think that if you didn't vote for that elected official or did not vote in the last election, should you have a right to vote to recall? You gave your -- you didn't exercise your power in the beginning, so should be another 12,000 votes be exercised to remove? It's a question that I wanted to ask.

MR. HANNAH: Thank you, Mr. Stopp. Mr. Keen, you are recognized.

MR. KEEN, JR.: Yes, if I may help to explain the rationale that the Commission used when we put together this

section. In fact, we did think about those things, that should this right be exclusive to the voting body that put that officer or that official in office or should this be a right that's extended to all registered voters.

I really don't have an answer for that. It's really a policy consideration for this body to make. But we decided, at least for the purpose of this recommendation, that it should be a known right that only extends to the people that actually voted for that person.

And for that reason, these people made one choice to send that person up there, then these people should have the right to recall that person. And that was the basis of this rationale.

MR. HEMBREE: Point of information or clarification.

MR. HANNAH: Yes, sir.

MR. HEMBREE: Mr. Keen, the question would be directed to you. Could you explain to the body how one would prove that a person voted, actually did cast a ballot in the last election?

MR. KEEN, JR.: That would be a part of the certification process that the Election Commission would have to conduct. And I do believe there's been a lawsuit on this, but I think that information does exist, where they can identify the actual people who voted in a prior election. And so it would be a verification process of the petition, comparing it to that list of people who voted.

MR. HANNAH: Chair would call on Delegate Center. Would that statement made by Mr. Keen be true, sir?

MR. CENTER: Whether or not we could verify those that voted in the election?

MR. HANNAH: Yes, sir.

MR. CENTER: Yes, that is correct.

MR. HANNAH: Thank you, sir. I believe Mr. Mullon has been standing.

MR. MULLON: Thank you, Mr. Chairman. Delegate Mullon. I think that there are two issues here that I would like to address. One is the percentage, and the other is who is going to be participating in the recall election.

It seems to me at first blush it makes sense to limit it to the people who actually voted. But I wonder whether that really is fair in a number of circumstances. What essentially you're saying is that if you vote, you're the only person who may be subject to the bad work of an elected official.

Actually everybody -- if there's a problem with the elected official, everybody would be affected by that, and it may be bad enough that they're actually driven to go vote for recall. What is the fairness of limiting it to just those people?

It doesn't seem -- maybe it seems to make sense, but, really, what -- there may be a number of reasons that are beyond someone's control, but they were unable to vote. There may be many

people who at the time of election were too young to register to vote. Any number of different things could happen.

You could not vote because you were not old enough on election day, but three years down the line, we have an official that's gone off the deep end somehow. You're telling that person who had no right to vote that he cannot participate in a recall. I just don't see the logic of that.

MR. KEEN, JR.: Point of clarification.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Under this provision, this whole business of votes actually cast only goes to the petition. It would not in any way limit the actual vote, once that vote is called. Any registered voter can vote.

MR. MULLON: I understand that. All right. I guess I have a better sense of it then.

MR. HANNAH: Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, thank you.

Delegate Cornsilk. Even though our fine Delegate Mullon over here has realized the difference in what he was arguing, I would still echo his concerns in that a representative in the tribal government represents everybody in the district. Not just those people who voted for or against him, but everyone residing in that district from the smallest child to the oldest person.

And if everyone in that district chooses not to vote, or if half of them choose to vote, all of those people in that district must live under the rule of these people that we put into office.

And I would simply say that we have to be able to go to that district -- being someone who has carried three petitions in the last six years -- we have to be able to go to that district and ask for the support of a petition from everyone in that district because everyone in that district must live under these people and is affected by their actions. So I would say that we have to be able to go to everybody in that district.

MR. HANNAH: Delegate Masters, what say you?

MS. MASTERS: Two comments. One comment and one friendly amendment. I am opposed to votes cast and stand in favor of the original position.

I would like to have a friendly amendment that we strike "actually having voted." I believe that this puts an undue burden on the people to recall and enact. I would rather it say, "thirty-three percent of the total number of voters registered or who voted in the previous election."

And that would allow us to enact this legislation, and it would improve the chances for the people to recall an official who they thought needed to be recalled.

MR. HANNAH: Doctor Gourd, you are recognized.

MR. GOURD: Thank you.

MR. HOSKIN, JR.: Was that a friendly amendment?

MR. HANNAH: Well, just a moment here, folks. I don't know that --

MS. MASTERS: That was a friendly amendment to strike registered -- "actually having voted," those three words I would like to have stricken.

MR. KEEN, JR.: Point of order.

MR. HANNAH: The Chair will rule that we are at debate at this time on the striking of the votes cast and the inclusion of the phrase "voters registered at the time of the previous election." And we will continue that debate.

And Doctor Gourd, you are recognized.

MR. GOURD: Thank you, Mr. Chairman. As a point of clarification, in reference to the discussion of the Commission when we got to this point, there's also the whole issue, and we had a lot of fun with this about qualified voters.

We decided you have to draw the line somewhere of participation in the government because if you have everybody over the age of eighteen and those who have become eighteen from the time, you know, on and on and on. And what we arrived at, from our point of view, was a reasonable compromise, and this is where that line was drawn.

And I think we can talk about all kinds of extenuating, exceptional circumstances, but at the same time, our idea was to look at the process overall and how fair that was for the opportunity to participate. And that the opportunity is afforded, and then those who participate are the ones who are most essential to this process. Thank you.

MR. HANNAH: Mr. Silversmith, would you care to be recognized?

MR. SILVERSMITH: Yes, sir.

MR. HANNAH: Very well.

MR. SILVERSMITH: I'm Silversmith, a delegate from Kenwood-Salina. I express concern about this issue and speak against this thing about registered voters or the voting voter, principally because there are people out there that I know who live out in the fields that are behind locked gates from whence white people came in and built fences. And the old Indian person is still back out here in a field place and has to come through that gate with a key that was provided by the white person who bought the property there and had circumstances there before they were even thought about.

But what I'm getting at is, there are people out there who don't get to vote because this woman doesn't even have a car. She's got two dogs running out in the street. She's got the hole -- got a hole in the bottom of the screen so the dogs come in and out because she's getting too old to get up and go let the dogs out.

Now, when we talk about people who -- now, this is still a Cherokee. What I would like to solicit is the voice of the conscience in the people in this room, this is not to preclude or exclude anybody who's a legal nature in mind and tongue, but what it is, is I say, I'd like to remind the people of the preamble to this, it says, "We, the people of Cherokee Nation, in order to preserve

our sovereignty, enrich our culture, achieve and maintain a desirable measure of prosperity."

Those words include people not as a voting people, but what it pertains to is that you're Cherokee by blood. I seem to think we're forgetting about where in the hell we're coming from because what is happening here is those people who are learned are trying to dictate how this government is going to go.

This Constitution is supposed to be for those people who might not even understand what is written. So when we go to designate a -- I get a lot of discrimination in here that this is legal minded; I don't know what that word means. Thank you.

MR. HOSKIN, JR.: Point of clarification.

MR. HANNAH: Mr. Hoskin.

MR. HOSKIN, JR.: It may be that I followed close enough.

MS. MASTERS: Take the microphone, please.

MR. HANNAH: Thank you, Billie, for asking the kind gentleman to do so.

MR. HOSKIN, JR.: Thank you. Point of clarification. Let's make sure that it's clear that my amendment is designed to include more voters to sign petitions than was in the original language, so mine is more inclusive than exclusive. Thank you, Mr. Chairman.

MR. HANNAH: Thank you, Mr. Hoskin. Mr. Moore, you are recognized.

MR. MOORE: I have a question. I want to go ahead and clarify.

MR. HANNAH: Yes. You rise on the point of clarification.

MR. MOORE: "Thirty-three percent of the total original numbers of the total number of votes cast." Did somebody who did not cast a vote can still sign, or is it limited to only the voters who cast votes?

To me it would mean if you're going to limit it to only the voters who cast votes, it should say, "of the total number of voters who cast votes."

MR. HANNAH: One moment. Mr. Keen. You are recognized.

MR. KEEN, JR.: I will attempt to explain the intent of the Commission's recommendations here, even though it may be more artfully drafted. The intent is to set up a criteria for those people who can sign a petition to bring about a recall vote.

We're not talking about the people who can vote because obviously all registered voters would be able to vote once that recall vote is called. And the intent was to limit the ability to sign these petitions only to those people who actually voted in the previous election.

It doesn't matter who they voted for, but if they voted in the previous election, then they would be authorized to sign a recall petition. So I hope that clarifies some of this, even though

it could maybe have been a little better drafted.

MR. HANNAH: So, Mr. Keen, the Chair, by way of clarification, when we are speaking of the votes cast, voters registered at the time of the previous election, you're speaking of those individuals who would be eligible to initiate the petition?

MR. KEEN, JR.: That's correct.

MR. HANNAH: And if the petition were to in fact be accepted under the guidelines, then all registered voters would have an opportunity to rule on whether or not that individual would be removed; is that correct, sir?

MR. KEEN, JR.: That's absolutely correct.

MR. HANNAH: Very well, thank you, sir. Mr. Stopp, you are recognized.

MR. STOPP: I knew this would cause some controversy when we looked at this. I introduced this in the Cherokee Constitutional Convention in Cherokee County, I think it was in December. While it had the spirit in mind of a recall, but did not draft the language, so there are some real issues on the language, I think, that we need to look at.

But also, I think we need to keep in mind those percentages and numbers. When we look at the percentages and numbers again, we're looking at registered voters that number twenty to twenty-five thousand, in that area. Cast votes in the last election, again, was probably ten to twelve.

Now, when you jump into the councilor positions, it really changes. Maybe Mr. Baker could help me on this. I think there was about twelve hundred votes cast in the District 1 election for Council.

And the question becomes, because there's such a small number, now twelve hundred, three hundred fifty of those roughly would be thirty-three percent. Would that be enough in a Council election or district election versus a Chief election? Should they be separated in some aspect? That would be a question that we'd really need to hammer out.

But everything we've done over the last eight days revolves around the premise of having the ability to give the voice back to the people and coming back to Article X and looking at it very closely. So this may be something we need to take some time on and really look at very, very closely. It may not be on debate on the floor; it may need to be a recess to sit down and look at these numbers real close.

MR. HANNAH: In the meantime, the debate continues. And, Mr. Lay, you are recognized.

MR. LAY: Thank you, Mr. Chairman. Delegate Lay. I stand in opposition of this. One reason is for what Delegate Stopp has just said, that the numbers come way down on certain positions versus, let's say, the Principal Chief.

But under this ruling, we would go from like three thousand signatures, more or less, to recall the Principal Chief up to about nine thousand. And have you ever tried to get a petition

signed? Nine thousand signatures is real tough; I think it's impossible.

The other thing is, is that under the election laws, I believe we already had something in place that covered this. I'd like to know if the Commission looked at that and if we could put that portion of that election law up here so we could see what was already in place at one time for recall procedures. I think the numbers were much less than this on that particular --

MR. HANNAH: Thank you, Mr. Lay.

MR. KEEN, JR.: Why don't we step to the side here, and I'll consult with him on this.

MR. HANNAH: Excellent. And we will continue. And Mr. Baker, you are recognized.

MR. BILL BAKER: Thank you, sir. I tend to agree with Mr. Silversmith. Just because you voted in the last election, I don't think you give up your rights as being -- having a voice in the government of the Cherokee Nation. And I think that if you feel you've been wronged, whether you voted or not, you ought to have a voice to come forward, sign a petition and ask for recall.

And so if we're going to exclude the -- that the only one that can recall are people that voted, you're making a very, very narrow window of people, and that might not be the same people that are upset.

So I think we need to be very cautious about those who cast votes in the last election. Not to mention we still have not received a complete list of those who voted in the last election to even be able to verify and know who they are.

MR. HANNAH: Mr. Keen, yes, sir, point of information.

MR. KEEN, SR.: Are we saying -- let me give you a scenario, and then my question is, is this what we mean? The scenario being this: If there are thirty thousand eligible voters for Chief, and if only nine thousand of them vote, does this mean that we have to have ten thousand people, which is a third of thirty-three? Would that mean that we have to have more people to recall than actually vote?

MR. HANNAH: Mr. Hoskin, what say you?

MR. HOSKIN, JR.: Actually, under my oversight, Mr. Keen, you are correct. My amendment should have been more comprehensive, I guess. And I wanted to actually strike some language above that. Because if you leave in "the petition must be signed by registered voters actually having voted," and what you said is true, then that's a problem for me.

I didn't think it was in order for me to add on amendments to my amendments, so I wanted to finish this process. But let me just say that I would invite, if we want to continue with this amendment, I would invite a friendly amendment to effect the change. If not, we may want to call the question.

MS. MASTERS: I offered that friendly amendment already.

MR. HOSKIN, JR.: And I asked the Chair if it was, and I wasn't clear on the wording on where in it you wanted, so I had no way to say yes or no.

MR. HANNAH: You would accept that now, Mr. Hoskin?

MR. HOSKIN, JR.: If she will make it clear to me where she wants that change.

MR. HANNAH: Very well. The good lady is recognized.

MS. MASTERS: Three words, "actually having voted."

MR. HOSKIN, JR.: I accept that tentatively. Let me see it, just to make sure that the words are right. I think it will.

MR. HANNAH: Billie, yours is to strike this?

MS. MASTERS: Strike it.

MR. HEMBREE: Mr. Chairman.

MR. HANNAH: Mr. Hembree.

MR. HEMBREE: Just wanted to be recognized.

MR. HANNAH: The peripheral vision of the Chair is often times limited to somewhat less than three hundred sixty degrees. And you are recognized.

MR. HEMBREE: Thank you, Mr. Chairman. Delegate Hembree from Greasy. We had an amendment up here that has been changed on, basically, I believe, two distinct matters dealing with Section 4.

And debate that I've heard has gone from whether it should be voters having actually voted or the number of percentage, and what is that pool of the percentage that we're going to come from. So I know it's going to be time consuming, and I hate that.

MR. HANNAH: But you are about to ask to divide, aren't you?

MR. HEMBREE: But I am about to ask to divide.

MR. HANNAH: The Chair, once again, continues now on the eighth day to become clairvoyant and is reaching it. So prepare your motion to divide, sir, and we will hear you.

MR. HEMBREE: My motion is to divide the question into -- I'm going to try two parts, it may have to be three.

The first part would be to divide the question as to the language, "A petition must be signed by the registered voters actually having voted." That's the original language. I believe we should take up that issue.

And after we have voted on that issue, the second part of the divided question should be what the pool of that percentage is going to come from, i.e., "voters registered at the time of the previous election." I believe that's -- excuse me, the original language was "votes cast." That was the original language. I think that should be -- and I think we can do that into two sections. Please bear with me here.

MR. HANNAH: Let's bring some order to these chambers. Continue, Mr. Hembree.

MR. HEMBREE: The second part of the divided question should include the percentage also. I believe if we argue the percentage and what pool we are arguing from, we can take this, we can divide this into two parts, and it will be much clearer to the delegate. So that is my motion.

MR. HANNAH: Mr. Hembree, please clarify for the Chair. Your motion is to divide?

MR. HEMBREE: Motion is to divide.

MR. HANNAH: The first section, first serial would be "actually having voted"; is that correct, sir?

MR. HEMBREE: That's correct.

MR. HANNAH: And the second serial would be -- read it off, sir.

MR. HEMBREE: "Number equally or exceeding thirty-three percent of the total number of votes cast," and then you get to your amendment.

MR. HANNAH: Ending at "votes cast," correct?

MR. HEMBREE: Ending at "votes cast."

MR. HANNAH: Very well. Let's make sure we understand what we're doing. Mr. Hembree has moved to divide the question. The first serial would be "actually having voted." The second serial would be, "number equaling or exceeding thirty-three percent of the total number of votes cast." That's the motion that's before us, sir?

MR. HEMBREE: Could we add the words "for the office in question" on the first serial, "for the office in question." Yes.

MR. HANNAH: "In question." So the first serial would then read, "actually having voted for the office in question"; is that correct, sir?

MR. HEMBREE: Correct.

MR. HANNAH: Motion is before us. Is there a second?

DELEGATE: Second.

MR. SILVERSMITH: Question.

MR. HANNAH: Question, sir.

MR. SILVERSMITH: Rufus Silversmith, from Kenwood-Salina. I still am in opposition to subliminally putting it down to the legal aspect. And I see a legal war going on here.

MR. HANNAH: No war is going on here, sir.

MR. SILVERSMITH: It's going against people out here who don't understand law, and what it is that you're doing here in political correctness and statuting the line of what it is we're to understand to be governed by.

This is a Constitution of the Cherokee people, I might say that I'm reminded, and I would like to stay with that understanding that when we talk about who's going to recall our leaders, it should be all people. And I'm going to use this blood,

if it ain't by quorum, at least by Cherokee blood and not by whether or not you voted or not.

That's what my firm stand is, because I know veterans out here who haven't voted because they're out there trying to get a job because they're in the Vietnam war, fighting for their flag and all this stuff here. And all of you people out here haven't recognized a veteran from Vietnam or the wars.

We have people out here who don't get in here because they're into other business, like the man who stepped down here and went to his certified public accountant. He went back to take care of his business. If he was too busy to vote that day, he would be denied an opportunity to sign a petition of recall.

MR. HANNAH: Thank you, Mr. Silversmith.

MR. SILVERSMITH: That shows a discrimination.

MR. HANNAH: Just a moment here. The debate that we have before us, ladies and gentlemen -- now, folks, the Chair will remind you that we have been here for eight days, and we have done very well with our procedures here, and we're going to continue to continue with our procedure, and we're going to keep this room in order, and we're going to make sure that everyone understands exactly what we're talking about at what particular time.

And right now, we have a motion on the floor to divide the question.

MR. SCOTT: I have a question.

MR. HANNAH: Not yet.

And the question that is to be divided breaks out serial one and two, "actually having voted for the office in question."

The second serial that would be debated is, "number equally or exceeding thirty-three percent of the total number of votes cast."

And the floor is open for debate with regard to the dividing of the question. And that's what we are going to talk about.

MR. SCOTT: I have a question about that.

MR. HANNAH: You rise on point of information,

Mr. Scott?

MS. SCOTT: Yes, I do.

MR. HANNAH: And you will be heard.

MS. SCOTT: Are we trying to get to answering the question of whether the petition must be signed by the registered voters -- no, okay. For voters registered to vote in the election in question, is that what we're trying to say? The petition must be signed by voters registered to vote in the election for the office in question?

I mean, if it's a recall of councilor in a certain district, you don't want to have accountant people voted in -- or registered in some other district or something like that. So we're talking about the registered voters for the office in question? That's my question now. I wonder if you can answer that.

MR. HANNAH: Mr. Hembree.

MR. HEMBREE: Mr. Chairman, we're not debating the merits of the language out there. What my motion does is just divide it into two separate parts, and then we will argue about the merits.

MR. SCOTT: The way it's being divided seems to me like it is still leaving that question hanging.

MS. MASTERS: It does because the percentage counts. It's two parts in the same equation.

MR. HEMBREE: It can be divided into three parts, and I was trying, for expediency sake, to avoid that. But if that is the will of the body, I have no problem dividing it into three parts.

My reasoning is that you need to vote for actually having voted in the office in question. That gets to what pool of people you're going to get a signature from. The second part is the percentage of that pool, you see. If we vote one way --

MR. SCOTT: Wait.

MR. HEMBREE: That's as clear as I can make it, Mr. Chairman.

MR. HANNAH: Thank you, sir. We are sorry, sir, that we are unable to clarify this any further. Kind lady from Tahlequah is recognized.

MS. HAGERSTRAND: Marion Brown Hagerstrand. And I would like to just give you something to think about. We have thirty-three percent up there of voters who actually voted. Let's just say thirty-three percent of our voters in the thing, the election, and, you know, then they sign the -- anybody can sign the petition. They didn't have to vote.

If they're a registered voter, the number is thirty-three percent. If I want to sign a petition and I was sick that day and didn't get to go vote, I still want to sign the petition. Are you with me? And if we can get thirty-three percent of actual registered voters, whether they went to the poll or not, just the number thirty-three percent. Does that make sense?

MR. HANNAH: Mr. Mullon, you're recognized.

MR. MULLON: Thank you. Delegate Mullon here. So far the debate that has been coming forward is on the merits of one-half of this question or another. And I understand that the question that is before the delegates right now is whether or not we should consider these two parts of the language separately. It's not one way or another.

We're not talking about whether one is better than the other or we want thirty-three percent or eighty percent; that has nothing to do with it. The question is, should we vote on -- divide the question up into two separate questions, and then we debate on whether or not the two separate parts are good.

And that's how I understand it. And I rise in favor of dividing the question because we can focus on the two separate questions essentially because they deal with different issues.

MR. HANNAH: I tell you what, folks, and I'm very appreciative for the amount of caucusing that's going on here, but we're just about to get a little noisy here, okay.

The question has been called for. Is there a second?

DELEGATES: Second.

MR. HANNAH: And hearing no opposition, what we are voting on is to divide the question and, therefore, independently examine the two phrases that are before us highlighted.

The first phrase that would be debated on -- well, not first, would be debated on. One of the phrases to be debated on is actually having voted for the office in question.

The second item that we would take into debate is, "number equally or exceeding thirty-three percent of the total number of votes cast." All those in favor --

MR. STOPP: Point of personal privilege.

MR. HANNAH: Yes, sir.

MR. STOPP: Could you actually divide that for us, so I can get a visual aid of what you're talking about?

MR. HANNAH: No, sir. We have highlighted it, and please step forward, and we would allow you to see it. I really don't want to monkey with this any more than what we have. Just a moment, Mr. Stopp, we'll see if we can accommodate you. Does that help you, sir?

MR. STOPP: Can we divide it like the question

--

MR. HANNAH: One of our problems, Mr. Stopp, is we obviously have intermittent language, and the Chair doesn't wish to divide this to such a level that we somehow take the whole series out of contextual sequence.

MR. STOPP: Mr. Chair, if I vote yes --

MR. HANNAH: We will divide this question.

Thank you. That's a very good point that you raised. If you vote yes, we're going to divide this question, and we're going to debate effectively two series of words.

The first one of the series that we will debate is, "actually having voted for the office in question." And the second one we will debate is, "number equally or exceeding thirty-three percent of the total number of votes cast."

I believe that I'm going to ask the delegates to be in their chairs. We have visitors here, and we have folks in the gallery. And the Chair is going to ask for a voice vote, and he does not want to attempt to discern that voice vote all the way to the outer extremities of these chambers. And thank you all very much. Very appreciative. We are all in our seats.

And the question is before us. Does anyone not understand what we're about to vote on? I'd like to see your hand.

(indicating)

MR. HANNAH: All right. Mr. Silversmith, we'll

go through it for you, sir. We are voting to separate two issues in Section 4. In other words, we are going to take sentences apart, and then we will debate on one section, and then we will debate on the other section. That's all we're doing is voting to divide these issues.

If you vote in the affirmative, then one of the sections that we will debate on is, "actually having voted for the office in question"; that would be one section. The next section we would debate on is, "number equaling or exceeding thirty-three percent of the total number of votes cast."

Does that clarify, Mr. Silversmith?

MR. SILVERSMITH: Yes, sir.

MR. HANNAH: Thank you very much, sir, for being attentive.

All of those in favor of the division, signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And therefore, it is divided.

And, Mr. Keen, would it be your inclination that we would take up debate on the second series or the first series?

MR. KEEN, JR.: First series.

MR. HANNAH: First series, very well. The debate is open on the first series and that series is, "actually having voted for the office in question."

MR. GOURD: Mr. Chairman.

MR. HANNAH: Mr. Gourd, you are recognized.

MR. GOURD: Thank you, sir. Point of personal privilege. In light of the time at which we are in the day, and in light of having split this question and opening debate, as a point of personal privilege, I would like to make a motion that we, after a few minutes, that we would recess for lunch to allow people to discuss, as has been going on. But before we recess, I would like to bring in the reason I think we're here. So with the privilege and permission of the delegates, I'd like to bring in the Headstart kids.

MR. HANNAH: Doctor Gourd, the Chair will attend to the order of the day, which is for us to prepare for recess for the noon meal. The delegates will remember that upon returning at one o'clock today, that we will, once again, take up the debate on the first of the series of questions, first serial in Section 4.

MR. STOPP: Point of order.

MS. MASTERS: I challenge.

MR. STOPP: We have not done anything yet.

MS. MASTERS: We have not taken this into consideration.

MR. HANNAH: I understand that. Mr. Gourd, please hold this group just a moment, if you would, and ask them to retire for just a second.

Seeing that that's a challenge, then there is a motion by

Mr. Gourd on point of personal privilege that we allow the Headstart group to come in and perform for this body. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Floor is open for debate.

MS. MASTERS: Challenge.

MR. HANNAH: You are challenging the floor being open for debate, Billie?

MS. MASTERS: No.

MR. HANNAH: Then don't do that. The floor is open for debate.

MS. MASTERS: I would move that we would go ahead and recess for lunch and that this part of our lunchtime activity and it not be part of our official body.

MR. HANNAH: In actuality, the Chair was just about to say that, Billie. He was outlining what we were going to do for recess.

MR. LITTLEJOHN: Question, Mr. Chair. Is this citizens of the Cherokee Nation that are going to be coming in to join us, or is this outsiders?

MR. HANNAH: That's a good question. Would these be citizens of the Cherokee Nation, Mr. Gourd?

MR. GOURD: As I understand.

MS. MASTERS: Yes, sir. This is Cherokee Nation.

MR. HANNAH: The Chair asked Mr. Gourd. Thank you.

Now, folks, here is what we're going to do. The Chair is going to declare a recess for lunch. We are going to recess until one o'clock. You are very promptly going to return to these chambers, and we are going to return to this debate.

And each delegate in here will give some thought as to where we are in this process and the decorum of this chamber, and we're going to get back to exactly where we have been.

We're going to remember that there is a strong tradition in our Tribe, and in our Nation, among our blood, and among our people, that we are going to be about the process of working together. We've got very important issues to take up. The Chair does not diminish the importance of the debate, and let no individual in this room challenge that.

There is no diminishing of the debate that is here. And we will return to it, and we will do so adequately. But the Chair would ask that the proper demeanor be brought back to this room when we return at one o'clock. So with that --

DELEGATE: Move the question.

MR. HANNAH: Actually, there's no question. The Chair will rule that we are at recess, having reexamined the orders of day. Very proud of all the delegates. Very proud of you. Thank you very much.

Doctor Gourd, since we are at recess, please bring in our

young people, and we will hear from them.

(lunch recess taken)

MR. HANNAH: Everyone enjoy lunch?

THE DELEGATES: Yes.

MR. HANNAH: The restaurant has been very kind to us, and the food has been good, and I find that once that we have taken sustenance together and broken a little bread, that maybe we could sort of refocus here a little bit.

Be mindful of your cups. We have gone through eight cases of them out here. I think they're running short. So if you have a cup that you are using during the recess or during the break, kind of pencil your name on it there a little bit, and hang onto it so that we don't have to send out to find yet some additional supplies. If you don't have one, I would look around and see if I could steal one from somebody while they're not looking.

MR. ROBINSON: They still have a few.

MR. HANNAH: Okay. Thank you. They still have a few.

MR. ROBINSON: They're not putting them out on the table, though. They're rationing them out.

MR. HANNAH: All right. Where we are is that we're coming back to this article in this section with regard to recall and referendum. And short of someone introducing a motion for us to strike this entire section and to redevote the blood law in our Tribe, which might be a lot easier, but then we would most likely go into a debate on how many ceremonial warriors would be sent to dispense the justice by blood and qualified and registered.

MR. DOWNING: We could create a blank for that.

MR. HANNAH: Now, Carl. This is very true. But seeing as how we have left that behind in our history, perhaps we should be about a more civilized way of deciding this process.

So with that, we return to debate. The item that is before us is the discussion with regard to the division of this question. And Mr. Keen, the younger, you are recognized.

MR. KEEN, JR.: John Keen, delegate. I would make a motion to table the Hembree proposal.

MR. HANNAH: And the Hembree proposal, of course, is the division of this question, and so you would like to table the division?

MR. KEEN, JR.: Yes, sir.

DELEGATE: Second.

MR. HANNAH: And there's a second. Floor is open for debate, and hearing none -- and, yes, ma'am.

MS. SCOTT: Could you explain why?

MR. HANNAH: While this is obviously -- the Chair -- we just pushed a little bit on the outer limits on procedure. The kind lady asked a question that is well within the realm of common sense. Young Mr. Keen may be leading us someplace, and I will allow that.

MR. KEEN, JR.: I am attempting to place some language up there that we may agree on, but I think there's a lot of

sentiment, so at least we can try to debate a compromise. If that's -- I believe I said that right. But if the body would let me, I'd like to place some language up there.

MR. HANNAH: And the only way we're going to know, folks, is for us to go there for a little while. Let's do that. The question has been called for. It's been seconded.

Obviously, hearing no opposition, all those in favor of us tabling the division, signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And therefore, the division of the question is laid upon the table.

And, Mr. Keen, you are recognized.

MR. JOHN KEEN: I would like to go down just before the parenthesis, Hembree proposal tabled. Strike "the registered voters," and it would read, "a petition must be signed by Cherokee citizens eligible to vote." And then I will strike, "actually having voted."

MR. HANNAH: Continue.

MR. KEEN, JR.: She confused me, Mr. Chairman.

MS. SCOTT: I just want to keep your proposal on one line because otherwise, we'll get three different proposals on five different lines and --

MR. KEEN, JR.: Then you didn't accomplish what I wanted done.

MS. SCOTT: You wanted to strike that, right?

MR. KEEN, JR.: And line below it, "actually having voted."

MR. HANNAH: So, Mr. Keen, you're now at, "eligible to vote for the office in question in the previous election." Let's go together because I think if we hold hands, we can get there.

"A petition must be signed by Cherokee citizens eligible to vote in the previous election and must total a number," and you move into that phrase.

MR. KEEN, JR.: I believe I'm in agreement with that.

MR. HANNAH: Those are the words, and I think that's what you're wanting to say.

MR. KEEN, JR.: I believe that would be my proposal.

MR. HANNAH: The Chair would be so bold as to help the young delegate to point out that what he is doing is bringing a proposal that would allow Cherokee citizens --

MR. KEEN, JR.: Strike Keen and replace Silversmith.

MR. HANNAH: Very well, Mr. Silversmith raised this issue earlier for us. Is that all right with you, Mr. Silversmith? We'll show you as the author of this.

Let's all stay together here. "A petition must be signed by Cherokee citizens eligible to vote in the previous election and

must total A," and then the discussion on the numbers.

MR. SMITH: Point of information.

MR. HANNAH: Point of information, Mr. Smith.

MR. SMITH: What is the difference between "eligible to vote" and "registered voters"? The reason I asked, is that because we have a population of two hundred thousand. Probably sixty percent of those are of age, maybe eighty percent, say eighty thousand are of the age that they could go down to register to vote. And that could be argued as a different class of people than actual registered voters.

MR. HANNAH: I think that that --

MR. KEEN, JR.: I was distracted.

MR. HANNAH: What Mr. Smith raised is that out of our total population, and the Chair would use round numbers, of two hundred thousand, that there is a significant percentage of those individuals that would, in fact, be eligible to vote, but had not registered to do so.

And I believe it is the intent of the young delegate to, in fact, allow those individuals to be able to sign a petition to recall an elected official; is that correct, Mr. Keen?

MR. KEEN, JR.: If I could be left alone up here to articulate my point.

MR. HANNAH: Let's not muddle the good man's mind.

MR. KEEN, JR.: Let me explain what I am attempting to do, and then I will entertain comments and questions.

MR. HANNAH: Is this the extent, though, that we want to go at this point?

MR. KEEN, JR.: I believe so. And may I explain my motion?

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. And I will allow you to clarify before we open for debate.

MR. KEEN, JR.: What I am attempting to do here is, basically what I've been doing along, what I believe I've been doing all along, is give the people a voice. What I'm doing with this is not barring any citizen represented by their Council member, Chief or Deputy Chief from having a say in the way they are represented.

They should be able to sign a recall petition. They shouldn't be limited to the red tape and restrictions of registering to vote and jumping through the hoops that the law has provided.

Now, keep in mind that we're talking about a population that is seldom heard from, but it is part of our population. It is our people. I don't think that the Council members and comments of people that hold those offices need to worry about these people so much.

This is a good thing. This is something that gives the people a voice, and these are people that will not come out and sign

a petition. If they're not registered to vote, and they're not being active in the political activities in the political arena, they're not going to be heard from unless they believe a grievous wrong is being committed.

But we need to allow them that voice. If there is something so wrong, they shouldn't be precluded from being able to sign a petition and call that person in front of the voters. Now, I'm not saying that they can vote in the elections; I'm just saying that they would have a say in their representative. They could be called before the people.

Now, another thing I think we're looking at here is when we were getting into all the numbers and the offices and the different number of voters in the districts and all of that, I don't believe that we need to worry about the number of people, a small number of people it could take to bring a recall petition and get a recall election.

I'm not here to protect the Council members' jobs. I'm here to give the people a voice. These people should be able to, if it does just take one hundred, two hundred people to bring about a recall petition, then so be it. The people's voice outweighs the office holder's office in my mind, if you can following me on that.

MR. HANNAH: Thank you, Mr. Keen. Floor is open for debate, and the young lady from Texas is recognized.

MS. SCOTT: I have a question. Shouldn't we leave -- to Mr. Keen. Shouldn't we leave, "for the office in question" included in what we're considering so that it's relevant to the people living in that district? So I think that kind of got excluded.

MR. KEEN, JR.: It is in there

MS. SCOTT: But that isn't what was read when we read the proposal. So I'm just getting, I guess, clarification that we are including "for the office in question" in this discussion.

MR. KEEN, JR.: Yes, I believe, that was my intent for that to be in there.

MR. HANNAH: That, of course, was still a portion of Mr. Hembree's presentation earlier.

MR. KEEN, JR.: Just a point of clarification. It's my intent not to open this up for, you know, voters of one district to be able to sign a recall petition in another district. That's not my intent.

Just for the Cherokee citizens being represented in that district. They must reside within that district before they can sign a petition against the representative in that district. I think it's still equal; it just gives the people a voice.

MR. HANNAH: Mr. Hoskin, you are recognized.

MR. HOSKIN, JR.: Thank you, Mr. Chairman. Charles Hoskin, Jr. I rise in support of Delegate Keen's proposal.

One reason that I stand and talk is because I think that my proposal, when we get to it -- and I think Mr. Keen, I'm sure, anticipated this -- will have to be changed because if my proposal

stands as it is, which I know we haven't cleared it yet, obviously, it would be thirty-three percent of the total number of voters registered at the time.

I think we need to -- when we get to it, I just want to point this out; we will change it to reflect what Mr. Keen and Mr. Silversmith came up with to say that the percentage needs to be of people who were eligible to vote. That way we are still inclusive; we're not excluding people. Thank you, Mr. Chairman.

MR. HANNAH: Very well. Mr. Littlejohn, if you will indulge me, sir, I would recognize Mr. Scott first.

MR. LITTLEJOHN: Mr. Chairman, Delegate Littlejohn. I rise in opposition --

MR. HANNAH: I'm sorry, I didn't make myself clear. I said if you would indulge me, I would --

MR. LITTLEJOHN: Yes, I apologize.

MR. HANNAH: Be all right. And then we'll come right back to you. Mr. Scott.

MR. SCOTT: Mr. Chairman, Scott, delegate. I am fully in agreement with what I believe our young lawyer is trying to do at this time. And I think I can offer a friendly amendment, what will do more clearly, what I think he's trying to explain. If I don't lose my place. "Eligible to register to vote for the office in question." If he would take that as a friendly --

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: I don't believe I would because I believe that's addressed in the eligible portion.

MR. SCOTT: If they're eligible to vote, then they're eligible.

MR. KEEN, JR.: Well, that's my intent with the word "eligible" is that they would be eligible to register and meet all requirements of registering to vote. They would be of voting age and be eligible to vote, but not registered to vote.

I think that would almost be limiting the language a little bit. So I would be opposed to that as a friendly amendment. I believe we're after the same thing.

MR. SCOTT: May I offer that as an amendment then?

MR. HANNAH: Okay. There's an amendment before us. And, Mr. Scott, if you will help the scribe.

MR. KEEN, JR.: We're about to lose track of what we've got here.

MR. HANNAH: I think procedurally then, I'm going to do this. Mr. Scott, we have -- just everybody slow down here for just a second. We're just about to reach the limitations of our ability to be able to denote what it is that we're talking about.

It's not a mechanical delima, but the Chair will tell you that it would be a mental delima for him. Let's not get so many things up here that we are arguing. Because as you all know, on procedure, once we add yet another amendment, we then move to

discuss it. So this thing is like peeling an onion. Let's not pick one out that's too big for us.

So, Mr. Scott, I would ask, sir, that you would hold your amendment until we've had adequate time to be able to debate this particular piece. As you can see, there are other delegates that would like to address this particular issue before the introduction of your amendment. Would you do that, sir?

MR. SCOTT: Well, I've located the spot right quick here, and what I propose to do would be to insert the citizens eligible to register to vote for the office in question.

MR. HANNAH: "To register," is that your amendment, sir?

MR. SCOTT: Yes.

MR. HANNAH: There is an amendment put forth by Mr. Scott to include the words "to register." Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Floor is open for debate on only the two words "to register." And how would stand you, gentlemen? Doctor Hook, do you stand on this issue?

MR. HOOK: I just stand perplexed. Is the question still divided and --

MR. HANNAH: No, sir. Once again, the delegates will draw close here. And the Chair will bring us exactly to where we are. Stay with it.

Mr. Hembree, during our previous discussion, isolated the fact that we should be -- just one moment, Mr. Keen. We're going to get everybody in the room up to where we are, and then we'll allow you to take us to yet another level of the onion.

Mr. Hembree, and with the delegation's vote, allowed us to divide the question. And when we came back from lunch, we were prepared to divide the question. Young Mr. Keen asked if we could take the proposition to divide and to lay it to the table, which we did.

At that point, he made an amendment, which you see in the first -- listed as a Silversmith piece, and we have been about debate on that piece.

Now, Mr. Scott has taken to the floor to bring yet another amendment, which is to include the language, which is highlighted "to register." And that's exactly where we are.

And the floor is open for debate on the words "to register."

MR. KEEN, JR.: Mr. Chairman.

MR. HANNAH: Do you rise in support or in opposition of the words "to register"?

MR. KEEN, JR.: I rise to stand corrected. I would accept that as a friendly amendment, if I am able to do that.

MR. HANNAH: And you are able to do that, sir. It will be included. And with no opposition from the second, the floor is now at debate with regard to the Silversmith proposal.

And Mr. Littlejohn, you, sir, are recognized.

MR. LITTLEJOHN: I rise in opposition of this proposed amendment. I do thank Mr. Keen for the word that he has extended on behalf of all of the lawyers throughout the Cherokee Nation because I can assure you, we will be busy.

And those of us -- there is no way that the Election Commission, to my knowledge, can possibly identify those citizens eligible to register if they have not registered. This thing is just fraught with litigation, but that's good for lawyers. That's my position in opposition to it.

MR. HANNAH: Very well. Thank you, Mr. Littlejohn. Mr. Smith, you are recognized.

MS. MASTERS: Point of clarification.

MR. HANNAH: Yes, ma'am.

MS. MASTERS: Citizens eligible to register would be our membership roll, right?

MR. KEEN, JR.: If I can help that point of clarification.

MR. HANNAH: And you are prepared to speak to our membership rolls, Mr. Keen?

MR. KEEN, JR.: To the way I'm going to address this.

MR. HANNAH: Very well, that is the lady's question.

MR. KEEN, JR.: I intend at the end of this section to direct the Council to pass a law allowing access to the registration records for the purposes of completing this process.

MR. LITTLEJOHN: Mr. Chairman, may I have one additional comment?

MR. HANNAH: You may, Mr. Littlejohn.

MR. LITTLEJOHN: There is another issue that I see if this is permitted to extend. It would be very easy for me to gather up a boat load or a car load or a truck load of citizens eligible to register to vote in Adair County and run over to Mr. Hoskin's district in Miami and get them to sign a petition.

And it would be very, very difficult for him to prove or disprove that I did or did not do that. And again, that's good business for lawyers. But it's going to be so easy to do that if we do not have -- because the citizens eligible to register to vote are just too difficult to identify.

MR. HANNAH: Very well, sir. Mr. Smith, are you withdrawing?

MR. SMITH: I thought I was clear when I took the floor, but I'm less there now. This is what you're saying: Any person over eighteen would be eligible to sign a petition?

MR. HANNAH: Yes.

MR. SMITH: And in anticipation to making that work, opening the registration books to the Election Commission is opening ten cans of worms. And if that's this design that's anticipated, there's a very, very serious problem with that.

MR. KEEN, JR.: That's my intent.

MR. SMITH: Conceptually, it's great, but the scheme of your design is going to open lots and lots of problems.

MR. KEEN, JR.: Point of clarification. Mr. Smith, could you articulate some of those problems?

MR. SMITH: The registration rules are confidential. Nobody is supposed to be able to get to them. There are birth records, death records, Social Security numbers, all of those kind of things that are confidential. They are not released to the public. They shouldn't be released here. That's the whole design to having to force people to go to register, so that information, those names would be a problem.

So if you're going to compel for this limited purpose the registration to open their books, then you're creating tons and tons of work and opening lots of problems. If there's a way to index the part you want to do, I certainly would like to do it because conceptionally what you're doing, I concur with.

MR. HANNAH: Mr. Poteete, what say you, sir? How do you rise on the issue?

MR. POTEETE: Maybe I should say I rise against it. I want somebody to explain to me why would you want to let people who won't get around and vote and participate in selecting someone that is proper and good for the position, then turn around after they didn't do their duty as a Cherokee citizen and examine the candidates and register themselves, and vote and pick out somebody good, allow them to come back in after the fact and say, "We don't like everything."

They always told me, "If you don't vote, don't gripe." If you don't vote, why should you be able to pull people back out of office? I'm for broad participation, but that's at the ballot box.

Don't let some doofus get in office; vote him out to start with; you won't have to go through this. We don't want to be like some of the other tribes and constantly have a big rally going because two families over there are mad and there's a hundred of them.

MR. HANNAH: Mr. Clarke, you are recognized.

MR. CLARKE: Thank you, Mr. Chairman. William Clarke, delegate from Muskogee. I rise in favor of this because I believe that there's a whole lot of Cherokee people out there who are very intimidated whenever they look and see some of the rules and whatever that we have. And what we're doing, if we put in a whole lot of this legal jargon and all of that kind of stuff. That's just going to intimidate and confuse more.

I disagree with some of the things that Mr. Poteete said because I know that there's people out there that may not have adequate transportation or a way to get to somewhere where people are taking registrations to vote.

We've got a lot of people, and I've heard Ms. Starr-Scott talk a lot of times about the services to people. We've got a lot of people that don't have adequate transportation and whatever, that live so far out and whatever. So I think that this would allow, if

those people who choose to get up a petition, they then could go to the homes of these tribal citizens who have a membership card and that are eighteen and over, and then they could sign that.

So I rise totally in support of this.

MR. HANNAH: Doctor Gourd, you are recognized.

MR. GOURD: Thank you, Mr. Chairman. I rise in opposition to this because it is so broad in scope. Not only do I think it would invite lots of income for attorneys, but in all likelihood, we would lose our capacity to contract for the registration office.

The Bureau would pull that back in because of the Privacy Act under which we contracted it out and assured that that would be maintained. So it's a matter of practical reality of a situation within which we have to work.

MR. HANNAH: Thank you, sir. Ms. Silversmith, you are recognized.

MS. SILVERSMITH: I just have one question.

MR. HANNAH: Yes, ma'am, you rise on information.

MS. SILVERSMITH: If I did not vote for Joe Byrd, does that make him any less my Chief?

MR. HANNAH: Mr. Keen, you are recognized.

MR. JOHN KEEN: John Keen, delegate. In response to Dr. Gourd's statements regarding the Privacy Act, I would contend that the direction that I would hope to get Council out of this is to provide a citizenship list, not any vital information that would be subject to the Privacy Act.

While I don't believe that is a valid concern, but just a simple law directing a simple citizenship list to the Election Commission would accomplish what I am proposing and also not be in violation of the Privacy Act.

As with Mr. Poteete, I understand the concern there, but I'm talking about a period after the elections. We don't have a whole lot of time to decide things in an open court caucus and apply my debate of previous evening about our voters.

But there's a populous out there that does not vote. Those people are still represented by the people put in office. Just because they didn't vote doesn't mean they shouldn't have a say. I don't believe that you can just disregard them because they didn't vote. I don't believe that. I believe they need a say in it.

I believe that's all I have right now.

MR. HANNAH: Thank you, sir. Kind lady from California, you are recognized.

MS. MASTERS: Billie Masters, delegate. I rise in support of this amendment because I don't think it would violate anyone's Privacy Act to give a citizenship list by district to the Election Commission.

And I feel that when we have a means of doing something that will allow the broadest door to open up to the people, that

that's what we should be about. So I rise in support of this.

MR. HANNAH: Starr-Scott, you are recognized.

MS. STARR-SCOTT: I rise in support of this.

I'm not exactly sure about the language, if we have it quite right yet, but I know, as far as myself, I do not just represent the Cherokees who voted in the last election; I represent every Cherokee in my district, and I'm going to work just as hard for that little Cherokee that never goes and votes, that goes and catches crawdads on election day and waves at me as he goes by. I'm going to work just as hard to serve him as I am the people who voted for me.

Now, maybe some people will say, "Well, that's not right; we put you in office; they didn't." But I believe we're here to serve the whole of the Cherokee people, and I think this is trying to reach down and relate some of those folks.

MR. HANNAH: Thank you, ma'am. Mr. Dowty, you are recognized.

MR. DOWTY: Point of information.

MR. HANNAH: Yes, sir.

MR. DOWTY: And whoever can answer this question. Would this qualify any of the citizens living outside the historical boundaries, could that group, would they be eligible to vote? Excuse me, would they be eligible to sign such a petition in any district?

MR. JOHN KEEN: Could I address that?

MR. HANNAH: Please, do, Mr. Keen.

MR. JOHN KEEN: Judge, it was my intent -- now, I agree -- we may be able to work on the language; I don't know. I believe it's pretty well okay.

But what my intent is, with the way that we have set up the at-large seats and the direction of the at-large members to register in a district or at-large, that would -- by their registration at-large or within a district would decide where they would be able to sign a petition at. And maybe we do need to address the people who don't register in the at-large district.

MR. DOWTY: Yes, they haven't registered yet, and so they're not restricted to a particular district.

MR. JOHN KEEN: Well, if a friendly amendment were in order directing the at-large not registered, that they will only be able to sign the at-large recall petition.

MR. HANNAH: Mr. Dowty.

MR. DOWTY: That's good information, and I'm more confused than before.

MR. HANNAH: The onion is larger, sir. The good lady from Oklahoma City is recognized.

MS. MEREDITH: I'd like to ask a question. If we're trying to make things easier for the people who are outside the participating government, wouldn't it make sense to make the registration easier and have registrars go out and register them, rather than only allowing them to voice their opinion by recall? So I think I would like to see more registration rather than this pass.

MR. HANNAH: Mr. Keen, you are recognized.

MR. KEEN, JR.: I raise a point of information on clarification. I've got a question as well. I'm still trying to -- in reading this language, I'm still trying to understand whether or not the nonregistered Cherokees who will be eligible to sign this petition must live within the district that is being recalled, or can it be anywhere?

MR. JOHN KEEN: I believe for purposes of clarification, I would like to propose a change to my language.

MR. HANNAH: What might that be, Mr. Keen?

MR. JOHN KEEN: Cherokee "citizens eligible to register to vote" -- I'm sorry, "eligible to register and residing within the district" --

MR. HANNAH: Take a moment, Mr. Keen.

MR. JOHN KEEN: Wait a minute. I defer to Mr. Hoskin.

MR. HANNAH: Why don't you two gentlemen step over there next to one another and take just about sixty seconds, and everyone will take a deep breath, and we'll see what this onion looks like.

Mr. Keen, you are recognized. Let's have some order here, folks, and stay close.

MR. JOHN KEEN: After "for the office in question," I would like to add, "and domicile within the district of that office."

MR. HANNAH: In A or B?

MR. JOHN KEEN: B.

MR. HANNAH: B, okay. So it would read, "Cherokee citizens eligible to register to vote for the office in question and domicile within the district of that office in the previous election and must total a," and then we would be off to the number. Is that correct, Mr. Keen?

MR. JOHN KEEN: Yes.

MR. HANNAH: And, Doctor Gourd, you are recognized.

MR. GOURD: I still rise in opposition to this because if that is to be the language contained in this, we're going to have to entertain for reconsideration of Article V, Section 3, which goes about discussing how those domiciled and living outside, especially those under the age of twenty-five still haven't declared.

MR. HANNAH: Thank you, Doctor Gourd.

MS. MEREDITH: I think that was going to be my point, that any of those people living outside of the Nation who vote and chose to vote in one district would be ineligible to sign a petition.

MR. HANNAH: Thank you, Ms. Meredith.
Mr. Keen, what say you?

MR. JOHN KEEN: I don't believe so. If they're registered to vote in that district, then it says domiciled.

MS. MEREDITH: They're not domiciled.

MR. JOHN KEEN: Okay. Propose one more language change. After "to register," "or registered."

MR. HANNAH: "A petition must be signed by a Cherokee citizen eligible to register or registered to vote for the office in question and domiciled within the district of that office in the previous election and must total a."

MR. JOHN KEEN: I'm not quite happy yet. What I want to do is put "eligible to register" and "domiciled" together, "or register to vote." So that "eligible to register" and "domiciled" would be together. And then "register to vote" would be in a separate category.

So what my hopes in that are, is that we're addressing the citizens living within that district that are not registered, not active in the political arena, they would be able to sign a petition. And the at-large people registered to vote in that district would be able to sign the recall petition.

So I would like to put "eligible to register and domiciled within the district of that office."

I'm satisfied with that.

MR. HANNAH: "A petition must be signed by," and then the language would read, "Cherokee citizen eligible to register and domiciled within the district of that office or registered to vote for the office in question in the previous election and must total a."

MR. GOURD: Mr. Chairman.

MR. HANNAH: Doctor Gourd, you are recognized.

MR. GOURD: We still have the dysfunctional horse here, that eight year section of people from eighteen to twenty-five at-large who have not declared.

MR. HANNAH: Thank you, Doctor Gourd. What say you, Mr. Keen?

MR. JOHN KEEN: They would have to be registered.

MR. GOURD: You can't force them.

DELEGATE: Then they can't sign the petition.

MR. JOHN KEEN: Then they can't sign the petition. It's my contention here that this would be the lesser of two evils. We would be excluding a very small group, but we wouldn't be completely excluding them.

They would have an option to register; they wouldn't be completely excluded. But rather than excluding a vast majority of people, we would not be completely excluding a small group, but rather forcing them to make an option, to make a decision.

MR. HANNAH: Thank you, Mr. Keen.

MS. HAMMONS: Call the question.

MR. HANNAH: Floor is open. Mr. Dowty, do you rise on point of information?

MR. DOWTY: Not at the moment. I'll waive at the moment.

MR. HANNAH: Okay. Question has been called.
Chair would hear a second.

MS. MASTERS: Second.

MR. HANNAH: Now, let's all stay very close to where we are and what we're about to do. Okay? Everyone will pay close attention that we are voting on the Silversmith proposal.

And it would include the language: "Cherokee citizens eligible to register and domiciled within the district of that office or registered to vote for the office in question."

All of those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

DELEGATES: No.

MR. KEEN, JR.: Abstain.

MR. HANNAH: Chair could not discern and so, therefore, there will be a standing count, and all delegates will be in their seats. Mr. Silversmith, please take a seat. We're about to do a vote here.

The teller is prepared, and all those in favor of this motion, please stand.

MR. POTEETE: Are we calling on the question or voting on the main motion?

MR. HANNAH: We are voting on the main motion, sir. If you are in favor of the language change, please stand up right now. Begin the count.

MS. LONG: Forty-one.

MR. HANNAH: Chair would ask that while standing votes are being taken that those in the gallery would be seated, just so it's not to confuse the teller at any time. So we may need to find a chair a little bit later on.

The verification in the vote, though, is standing at forty-one in favor. And everyone is seated. And those who oppose the measure, please stand.

MS. LONG: Seven.

MR. HANNAH: Mr. Keen, do you wish to --

MR. KEEN, JR.: Abstain.

MR. HANNAH: Mr. Keen abstains, and obviously the Chair as well. Forty-one in favor, seven against. Motion passes, language stands.

Mr. Hoskin, you are recognized.

MR. HOSKIN, JR.: Thank you, Mr. Chairman.
Charles Hoskin, Jr. I'm not sure where we are as far as procedure goes, if you would direct me.

MR. HANNAH: I can help you, sir. Where we are is that we have Mr. Hembree's proposal to separate the question, which you now see underlined and stricken, has been tabled.

And so we have the Hoskin proposal, which if we'll scroll down to that, would most likely be the next viable set of debates for us, most likely.

MR. DOWNING: I don't think so.

MR. HANNAH: You don't think so, Carl?

MR. DOWNING: Point of information.

MR. HANNAH: Yes, sir.

MR. DOWNING: How will those of us who live outside the district recall our representatives?

MR. HANNAH: Now, Carl, I want to make sure that I understand exactly where you and I are, okay? You're standing on point of information, and you're wanting to know something about what we have just passed; is that correct?

MR. DOWNING: I want to know how that would apply.

MR. HANNAH: Let's scroll back up to that language. That's the language there that you want to talk about and be clear on.

MR. DOWNING: Right.

MR. HANNAH: "A petition must be signed by Cherokee citizens eligible to register," meaning they are not, but they are eligible to register, and domiciled. They must be living within the district, so an identified geographic location of that office. In other words, who they voted for, Council or whatever. "Or registered to vote for the office," so if you're not eligible and domiciled, then you are registered and you are to vote for that office in question.

MR. DOWNING: The problem that I perceive is the Cherokee citizens eligible to register. How in the world are we going to determine who they are, how many there are, why -- seriously, how many there are, because I assume that we're going to get a percentage or a number. Unless you just get a flat number, then this would be moot.

MR. HANNAH: The Chair would obviously be corrected, but that was, in fact, a big part of our discussion that took place over here earlier, I believe. Would the delegates -- is the Chair in error? He would be corrected. And we could certainly, by way of point of clarification, speak to that, if you would like. Mr. Keen.

MR. JOHN KEEN: The question was how are we going to identify those people?

MR. HANNAH: Yes, sir.

MR. DOWTY: Actually determine the number. Not the individual, but how many.

MR. JOHN KEEN: The numbers are irrelevant because we're going to preidentify that body of people. We're not going to try to preidentify. When they come out to sign the petition, we're going to verify their name, address by that little blue card they carry in their pocket.

MR. DOWTY: Okay. Incidentally, you are leaving some of the people outside the district out that you were eager to include inside. And I agree with everything that's been done, and quite frankly, I will accept any solution that is proposed and passed to this problem.

MR. JOHN KEEN: As a point of clarification, just to help me in my thinking, I'm getting now in different tangents myself.

MR. HANNAH: Be careful, Mr. Keen.

MR. JOHN KEEN: What group would you propose that I'm leaving out, so that we may be able to address it?

MR. DOWTY: Oh, okay.

MR. HANNAH: This is healthy and good, people. I need for you all to be very patient. Critical issues, healthy and good. There are two ways for us to do this. We can either go through and have stanch, stanch adherence to the rules and kill ourselves going through this, or we can allow some time to peel this onion. And the Chair is interested in us at least pursuing the peeling at this point.

Mr. Hoskin, what say you?

MR. HOSKIN, JR.: Mr. Chairman, I'm all for good and proper peeling of this onion, but I would -- but I was rising to help the process along. If I'm not helping the process along, then I will be seated.

MR. HANNAH: The Chair would have you in your chair if he thought that you were not here under the intent of helping this body. You stand right there, young man.

MR. HOSKIN, JR.: I wanted to -- and I didn't know if I was going to ask this in the floor of unanimous consent. But to change the language of my amendment to reflect what Mr. Keen changed, because if we go to anything, it's pretty much senseless to debate or even vote on my amendment because it simply doesn't reflect a change that's really necessary.

So I would like to change the "registered" in my amendment. I would change "registered" to "citizens eligible to register and domiciled within the district of that office or registered to vote for the office in question." I think that would --

MR. HANNAH: Without opposition, we would allow you to change that language, sir. And the Chair hears no opposite; therefore, the language is changed.

MR. HOSKIN, JR.: And I'll look to the Chair to direct us.

MR. HANNAH: So therefore, the floor would be open for debate with regard to Mr. Hoskin's proposal.

MS. MASTERS: Where does it fit? Where does it go?

MR. HANNAH: Would anyone wish to rise to --

MR. HOSKIN, JR.: Just by way of reintroduction.

MR. HANNAH: Please do, sir.

MR. HOSKIN, JR.: Basically, my amendment went to this pool of people that would have to be on the petitions. And so what my amendment says is that thirty-three percent of this pool of eligibility, which we're talking about those eligible and domiciled, and those simply registered and not domiciled is my

implication.

Thirty-three percent of that pool would have to be on any petition to remove a Council member or a Chief. And the reason I want that language changed is because if we're going to pass this -- and I'm not saying -- I think we should, but that's still up for debate.

If we're going to pass it, we should pass it in this way because you want to have thirty-three percent of the pool that we talked about before. And that's why. And I think that should be -- I rise to support that, obviously, but I think it should stay consistent. Thank you.

MR. HANNAH: Very well, thank you, Mr. Hoskin. The young lady from Oklahoma City, or are you yielding to the good man formerly of West Peavine?

MR. DOWTY: Mr. Hoskin, in your amendment, if we leave the language as you just inserted from the upper section, and we have "or" in between two classes, does that mean that would be thirty-three percent of those two classes or with either of them, one or the other; do you see my problem?

MR. HOSKIN, JR.: I understand your problem. On the face of it, I would think that it would be thirty-three percent of the entire pool, the entire pool being class one and class two, if we wanted to call them that. I don't think you could have thirty-three percent of folks who are simply registered. Or in the alternative, I don't think you could have thirty-three percent of those who are domiciled and eligible. I think the intent is to take the pool, being both classes. I don't know if that clears it up or muddies it.

MS. MASTERS: Point of clarification.

MR. HANNAH: Yes, ma'am.

MS. MASTERS: Can we put this together so we can really see how it reads now? I'm kind of at a loss of what the sentence is saying, what the area is saying.

MR. HANNAH: Does that help you, Billie?

MR. JOHN KEEN: Mr. Chairman.

MR. HANNAH: Just a moment. Mr. Dowty has the floor.

MR. DOWTY: I don't believe that the order standing is clear. And I guess I'm going to be one of the future interpreters of this. I think it's a problem.

MR. HANNAH: Thank you, Mr. Dowty.

MR. JOHN KEEN: May I be recognized, sir?

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: Mr. Dowty, would "and/or" alleviate some of the concern?

MR. DOWTY: No.

MR. JOHN KEEN: Would the record reflect that the author's intent that it is a collection of both to make the thirty-three percent?

MR. HANNAH: That statement was made by Mr.

Hoskin and was obviously entered into the record. Mr. Hoskin, you are recognized.

MR. DOWTY: Let me suggest.

MR. HANNAH: Mr. Dowty, if you would rise up here to give these kind gentlemen a hand.

MR. DOWTY: I think "and" would fix it.

MR. HOSKIN, JR.: Mr. Chair.

MR. HANNAH: Yes, sir.

MR. DOWTY: If it's a combined pool.

MR. HOSKIN, JR.: I think that what "and" might do is take folks who say live in the state of Kansas and who are registered, that might exclude them in that percentage because they would have to be domiciled and registered.

So my thinking is that if we want to make this an entire pool, is that we should say "must total a number equalling or exceeding thirty-three percent of the following category of citizens." And then we may signpost these as "once Cherokees citizens eligible to be registered and domiciled within the district of that office." And signpost two, "register to vote for the office in question." Well, then we have a problem with that very last clause. But you see, would something in that nature of a signpost, if we set it off with a colon, would that --

MR. HANNAH: Mr. Dowty, take the microphone.

MR. DOWTY: I think you're headed in the right direction. I don't know that I should be so specific as to recommend in my position. But I do believe that it's a problem. I would suggest to the delegate that you might want to table and caucus on this. This is getting very complex. And I'm wondering if it shouldn't be caucused and represented. These words particularly are extremely important.

MR. HOSKIN, JR.: Mr. Chairman, Delegate Dowty's point is well taken. I would be willing for a short recess or to caucus on my own with Delegate Keen.

MS. CRAWFORD: Point of clarification.

MR. HANNAH: The good lady from Nowata is recognized.

MS. CRAWFORD: Crawford, delegate. I have the question, how are we going to determine the number of citizens eligible to vote within the district, the number registered or that did vote, that's a known fact? The number eligible is going to be extremely difficult, and I believe there could be a lot of opposition that that percentage was never reached because we don't know. That's not a known number.

MR. HOSKIN, JR.: Mr. Chairman, may I respond?

MR. HANNAH: Yes, Mr. Hoskin.

MR. HOSKIN, JR.: My thoughts were that the pool of eligible voters within a district would be every man and woman who is a Cherokee citizen over the age of eighteen. And I believe that list either exists or could be compiled in some form. I think we have a capacity to do that. I may be mistaken, but that's my

understanding. Thank you, Mr. Chairman.

MR. JOHN KEEN: Mr. Chairman.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: As this is not styled as a Keen proposal, may I make a --

MR. HANNAH: Be careful, Mr. Keen. Be very careful.

MR. JOHN KEEN: May I request a five-minute recess?

MR. HANNAH: Yes, sir, there you go. Five-minute recess.

(recess taken)

MR. HANNAH: Before we call ourselves back to order, just to give you an idea about how long we've been here, folks, the Chair has just received his first piece of mail that has been forwarded to him. And it was postage due.

Chair will call us back in session. And, Mr. Hoskin, you are identified.

MR. HOSKIN, JR.: Thank you, Mr. Chairman. After consulting with a couple of my fellow delegates and being taught about what this second section is really talking about, I would like to move to withdraw my proposal, and to -- obviously, re-insert the Commission's original language.

And I also want to pass on what Delegate Scott and Delegate Moore hammered into my head over the recess, which was very helpful. It may be that I'm the only one in the room that didn't know this. If that's the case, I apologize. I'm going to say it anyway.

The second section, we should be mindful that it's talking about just a number. We're talking about the pool. We're not talking about where individuals live. We're just looking for a number. We're going to gauge that number against some sort of reasonable figure that reasonably reflects the district.

And so I would move to withdraw and I would yield to Mr. Keen.

MR. HANNAH: Mr. Hoskin, the Chair will accept your request to withdraw your proposal without objection from any delegate. And hearing no objection, your proposal is withdrawn, and by way of your explanation as well in the second serial that we'll be discussing. Thank you very much, because we need, obviously, all the help we can get.

Mr. Keen, you are recognized.

MR. JOHN KEEN: John Keen, delegate. After conferring with one of my learned delegate colleagues, we have come to a conclusion that after "domiciled," "within the district of that office and/or registered."

MR. HANNAH: The record will show that the computer gave the convention a small palpitation, but has now been restored. Mr. Keen.

MR. JOHN KEEN: I believe she has it up there.

MR. HANNAH: What would that be, sir?

MR. JOHN KEEN: "A petition must be signed by Cherokee citizens eligible to register and domiciled within the district of that office and/or registered to vote for that office in question." The "and/or" will allow either group of those people to sign a petition, the at-large or the domiciled or a combination of both. And I believe that was the objective of it in the beginning. I hope that I have accomplished that.

Now, moving on, I would like to --

MR. HANNAH: First off, sir, we'll see that the Chair will accept the language, and he will look about the room to see if there would be opposition. And hearing none, you will be allowed to continue, sir.

MR. JOHN KEEN: I would like to propose further along to address the numbers.

MR. HANNAH: Just one second.

MR. KEEN, JR.: Point of order. I believe we divided this question previously.

MR. HANNAH: That's what the Chair was just going to suggest. If someone would like to -- I'll caucus you, Mr. Keen, so as not to suggest to the delegation that perhaps if one were to bring this off the table, we could --

MR. KEEN, JR.: Mr. Chairman.

MR. HANNAH: We have the parliamentarian assisting us now. So what you're saying is that by us tabling the division, it was no longer divided?

MS. LANGLEY: As long as you leave that on the table.

MR. HANNAH: As long as we leave what on the table? So what have we left on the table if it's no longer divided? (discussion with parliamentarian)

Manager Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman, I would move that the proposal previously tabled be brought off the table and reconsolidated into one question.

MR. HANNAH: Is there a second?

DELEGATES: Second.

MR. HANNAH: Hearing no opposition, all those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

Very well, then it's off the table, and we are reconsolidated. And the Hembree proposal technically no longer exists, so we don't have to deal with it.

Ladies and gentlemen, the Chair will rule that the stricken language that you see as the Hembree proposal is rendered moot by the inclusion of the additional language; therefore, will be removed from the screen and debate will continue.

And the floor will be open for debate.

MR. JOHN KEEN: Mr. Chairman.

MR. HANNAH: Mr. Keen, you are recognized.

MR. JOHN KEEN: I believe two words were left out of my amendment.

MR. HANNAH: Very well. If you'll tell us what they are, we will --

MR. JOHN KEEN: "The petition must be signed by Cherokee citizens eligible to register to vote."

MR. HANNAH: Anyone object in here? Thank you.

MR. JOHN KEEN: After the percentage, thirty-three percent, goes on to say, "of the total number of votes cast for the office in question"; I would like to add after, at the end of that sentence, after "question," I would like to add "in the previous election."

MR. HANNAH: Motion on the floor to include the language "in the previous election." Is there a second?

DELEGATE: Second.

MR. HANNAH: There is. The floor is open for debate.

MR. JOHN KEEN: I would like as a point of clarification to have -- I believe we have a delegate here who has some numbers worked out in this scenario. Would that be acceptable, Mr. Chairman, for a point of clarification on what this would do, what type of numbers we will be talking about?

MR. HANNAH: By way of example, the Chair feels that this would help us to clarify exactly what we are looking at. Mr. Moore, how would you help us, sir?

MR. MOORE: With my little calculator.

MR. HANNAH: Excellent.

MR. MOORE: Thirty-three percent of the votes cast, it would work out to around between forty-three to forty-five hundred votes needed.

MR. HANNAH: Let's hold it just a second. Chair is going to ask you some questions, Mr. Moore.

MR. MOORE: Assuming earlier that they said thirteen thousand votes cast in the last election.

MR. HANNAH: First off, let's just not assume here. Mr. Center.

MR. CENTER: Yes, sir.

MR. HANNAH: You draw close to us here. We want to be able to set up a calculation by way of example that Mr. Moore, our delegation's mathematician, at least one of, will help us with.

What is the first element of your equation? You need to know the number of --

MR. MOORE: Approximately how many votes were cast in the last election.

MR. HANNAH: Total votes cast in the last election.

MR. MOORE: We're talking about for the Chief and Deputy Chief.

MR. HANNAH: Total votes cast in the last

election. What would that be, sir?

MR. CENTER: 1995 election, eleven thousand eight hundred eighty.

MR. MOORE: Eleven thousand eight hundred eighty?

MR. CENTER: Right.

MR. MOORE: Let me round that off to twelve thousand. Three thousand nine hundred sixty, so we'd say four thousand.

MR. HANNAH: Okay. So four thousand, it would require four thousand signatures.

MR. MOORE: Approximately.

MR. HANNAH: We understand, sir. Thank you for that example. That helped to clarify in people's minds the type of numbers we're looking at.

MS. MASTERS: Or the alternative --

MR. HANNAH: Mr. Dowty, do you wish to be recognized, sir?

MR. DOWTY: I'm seeking a vantage point from which to read.

MR. HANNAH: Feel free to get as close as you possibly can.

MS. MASTERS: I was wanting Mr. Moore to say --

MR. HANNAH: Wanting to say or wanting to ask him?

MS. MASTERS: I wanted to ask him.

MR. GOURD: Mr. Chairman, please come to the microphone.

MS. MASTERS: That chair is awfully low for this hip I purchased.

I was wondering if Mr. Moore would also give us the figure to the alternative that we had had on the screen before of total number of registered voters as opposed to number of votes cast.

MR. HANNAH: Okay. So, Mr. Center, now we've had a request to move through an equation that would start off with the total number of registered voters.

MR. CENTER: Total number of registered voters in 1995, thirty thousand four.

MR. MOORE: We will round that off to thirty thousand. Nine thousand nine hundred.

MR. HANNAH: Nine thousand nine hundred would be required. Thank you, Mr. Moore. Mr. Littlejohn.

MR. LITTLEJOHN: Point of information.

MR. HANNAH: Point of information, sir.

MR. LITTLEJOHN: Could Mr. Center tell us the number of people in the pool that would be eligible to sign the petition?

MR. HANNAH: Mr. Center, this good gentleman over here has asked us if we will be --

MR. LITTLEJOHN: Can you give me the number in the pool that would be eligible to sign the petition for removal of Principal Chief?

MS. MASTERS: That's what he just gave us.

MR. LITTLEJOHN: What is that number?

MS. MASTERS: Nine thousand nine hundred.

MR. CENTER: No, no. As of 1995? It's larger now. But as of 1995 election, I can give you the number.

MR. LITTLEJOHN: Yes.

MR. CENTER: One hundred ninety two thousand sixty. Are you ready to write?

MR. HANNAH: Let's clarify this number. What number are you telling us, Mr. Center?

MR. CENTER: That's the total number of membership, citizenship. Let's use the term citizenship.

MR. HANNAH: Eighteen or over?

MR. CENTER: Eighteen and over, female, under eighteen female, 21,038. Over eighteen, 76,636. Total female, 97,674. Male under eighteen, 22,551. Over eighteen, 71,835. Total male 94,386. Total under eighteen male and female, 43,589. Total over male and female, 148,471.

MR. HANNAH: So Mr. Littlejohn, the answer to your question is 148,471.

MR. LITTLEJOHN: Thank you. Now, could I ask one more question of our mathematician?

MR. HANNAH: Yes.

MR. LITTLEJOHN: What would thirty-three percent of that number be, Mr. Moore?

MR. MOORE: What was that number?

MR. LITTLEJOHN: What percentage would four thousand be of that number?

MR. MOORE: Four hundred forty.

MR. HANNAH: Eight thousand four hundred seventy-one.

MR. MOORE: We'll round that to one hundred forty eight thousand. Would be forty-eight thousand eight hundred forty.

MR. LITTLEJOHN: Let me re-ask the question. What percentage would four thousand be of that number?

MR. MOORE: What percentage would four thousand be of that number?

MR. LITTLEJOHN: Yes. Four thousand divided by one hundred forty-eight thousand, and you'll have that percentage.

MR. MOORE: It would be 2.7 percent.

MR. LITTLEJOHN: Thank you.

MR. HANNAH: Does that answer your question, Mr. Littlejohn?

MR. LITTLEJOHN: Yes, Mr. Chairman.

MR. HANNAH: Virginia, how are you?

MS. STROUD: I'm fine, thank you.

MR. HANNAH: What can we do for you?

MS. STROUD: If the Commission could explain how we arrived at the number of thirty-three percent? What was the thinking on that?

MR. HANNAH: We'll have Manager Keen to speak to that issue for you. Manager Keen, the question has been raised on point of information by Delegate Stroud of what rationale was used by the Commission on arriving at the thirty-three percent.

MR. KEEN, JR.: We had to try to find a number that would strike a balance between the people's right to recall an elected official, and we're talking, and bear in mind, we are talking about a minority of people compared to those who voted that person in office, and the minority's right to maintain that individual and also to prevent abuse of this process. That's a difficult number to find.

And under the balance that we had prior, I was comfortable with thirty-three percent. Now, I'm of the opinion that number needs to be higher because we now have expanded the base for the people who are eligible to sign the petition.

For example, Mr. Baker used his district as an example earlier. He said approximately fifteen hundred people voted in the last election in his district. Under this formula, five hundred people could sign a petition and force a recall vote.

Now, they may vote them in; they may retain them; they may vote them out of office; we don't know. But we know five hundred people can cause that vote to take place, obviously, being very disruptive to his term in office, and also costing the Cherokee Nation a considerable amount of money.

Now, I was comfortable with the fact that five hundred people originally had to have come from that same voting body, that same populous. But now we have expanded that and you could -- in fact, it would be very easy to get five hundred people that never even voted to force a recall election.

And so, you know, we need to try to find a balance here that would prevent abuse of the process, but still find a percentage that would be obtainable. And that's the competing factors that we're dealing with.

So I was just getting ready to get up and make a motion to strike out the percentage of thirty-three and increase it to fifty-one percent.

MR. HOOK: Point of clarification.

MR. HANNAH: Doctor Hook.

MR. HOOK: I'm sorry, this is nap time, and my powers of concentration are a little off. I would like to know about the language that's underlined and what we're doing that with. Is that -- has that been voted on? Is it pending? What's the status?

MR. HANNAH: That was language that was added by young Mr. Keen; is that correct, Mr. Keen, the underlined language?

MR. JOHN KEEN: Yes, yes, it was. That is my

motion on the floor right now.

MR. HANNAH: That's the motion that's on the floor, and it has been seconded, and we are at debate over allegedly those three words. But as you will recall, Doctor Hook, often times that's not a prerequisite for our debate.

MR. HOOK: Thank you.

MR. HANNAH: And the Chair has been willing to allow because obviously it's a complex issue and often times simply looking at three words is not the total scope of the scenario. Mr. Keen, you're recognized.

MR. KEEN, JR.: Yes. I believe that language, with the prior vote that we took, I think that language would be necessary to clarify the intent of the Commission's recommendation. And so if you all are amenable, I will accept that as a friendly amendment and we can move on to the larger question.

MR. HANNAH: And hearing no opposition from any of the commissioners -- if there is, we would hear it. And we do not. So, therefore, it is accepted as a friendly amendment, and the language stands, the line is removed, and we are at debate on the entirety of the section.

Thank you, Doctor Hook, for helping get us back to where we need to be.

Mr. Smith, you are recognized.

MR. SMITH: There will be a functional confusion when you index to the last -- to the number of voters, the number of votes cast for the office in the last election. Because, for example, the last election, we had a primary election and a runoff election. And so the numbers will change.

So David Mullon suggested that the index be the number of people registered to vote, and then after that, adjust the percentage to reflect pretty much the same consideration of what numbers were -- the body would really want to sign the petition before it was affected.

So I propose that for the Commission's consideration. I think it's a valid point. I can offer an amendment to get the thing square, or I could let you take an informal lobby on it.

MR. HANNAH: I think we'll move an informal piece on that as soon as I can locate Manager Keen. Manager Keen, what we have here is Mr. Smith raising an issue that you should hear. And, Mr. Smith, will you once again? Thank you very much.

MR. SMITH: There's a difference in the last election in the number of votes cast for a particular office between the primary election and the runoff election. And so the clarification that would have to be made there, an alternative to that is to index on the registered voters because there's a certain date registered voters will be calculated. And if you change the index to registered voters, then you could negotiate or you would change the thirty-three percent to be the equivalent of the former.

So in other words, to say it the best I can, you may want to consider, for clarification, say it would be ten or fifteen

percent of the voters who registered in the last election, then you would have an absolute undisputable number as to what the index of the registered voters were.

MR. GOURD: Point of clarification.

MR. HANNAH: Yes, Doctor Gourd.

MR. GOURD: If I can maybe. What is on the screen, we've already taken out registered voters, obviously. The intent of the Commission in drafting of this language was, number one, we believe in the recall. Let's get that clear.

Number two, we have to establish a finite number to start a process. You have to have the -- whole universe can't be there. You have to have a finite number based on something. Then you have a percentage of that to even start the recall process.

So our idea was in looking at this to talk about those who were registered and voted. If they're registered voters, that's fine. You have to have a finite number. And then in fairness to the majority of the citizens who put that person in office, you have to create a situation where a real small percentage of people cannot take them out of office.

So ours was a reasonable compromise to make sure that there's some provision for a recall. You cannot have the universe voting around out there and make a stab at it. So we need to create the finite number. I'm not going to suggest creating a blank, though.

And that was our sole reasoning, and I think we came up with more than a reasonable compromise which protects both the interest of the majority of the voters who put that person in that office, and at the same time retain for the citizens who did not vote for that person in office or even those who did vote for that person who is in that office, if they do something that is so egregious to the people that they can be recalled.

And I, for one, cannot think of a more fair system or process than that which we argued for, longer than we've been here, folks, I guarantee you, to arrive at that compromise. Thank you, sir.

MR. HANNAH: Thank you, Doctor Gourd. Ms. Masters, you are recognized.

MS. MASTERS: I would like to ask Mr. Keen if he would consider putting "general" between "previous" and "election" and use that as a baseline.

MR. KEEN, JR.: I would. Of course, I would need to pole my commissioners, but I think that would help clarify the intent.

MR. HANNAH: Is there any opposition from the commissioners?

MR. GOURD: Only, since staggering terms of office, will the Council seek in between the vote for Chief and Deputy Chief or those general elections?

MS. MASTERS: Yes.

MR. GOURD: Or regular elections? I just want

to make sure we're not --

MS. MASTERS: General.

MR. GOURD: Okay.

MS. MEREDITH: Mr. Chairman.

MR. HANNAH: Just one moment. And so hearing no opposition from Ms. Coon or from Mr. Gourd, the language is accepted and is amended.

MR. KEEN, JR.: I have a motion.

MR. HANNAH: We're going to hear this lady, and then we're going to return to you, sir. The kind lady from Oklahoma City is recognized.

MS. MEREDITH: The kind lady from Oklahoma City is very confused. I think I have made some assumptions that may not be correct. Would it be possible for me to ask Mr. Center a few questions or ask the Chair and have him ask him?

MR. HANNAH: That's the way we've been doing things. So if you will let the questions be known, we are fortunate to have Mr. Center here with us, and he is armed with information. What is your first question?

MS. MEREDITH: My first question was, did I understand that there is a difference between the registration office and the election office? And because of federal regulations, you all are kept separate? But you seem to have a list of how many voters there are and whether they're male, female or over or under eighteen. Do you have available to you a list of the voters of the Cherokee Nation over eighteen, their names, address and phone numbers?

MR. CENTER: That are not registered, no, ma'am. Registrar. Not possible.

MS. MEREDITH: Is the registrar permitted to turn over to anybody such a list?

MR. CENTER: I'm not qualified to answer that.

MR. HANNAH: Doctor Gourd, can you speak to that, sir?

MR. GOURD: Point of clarification. The only question that the registration office can answer in reference to those who are registered to be Cherokee is "yes" or "no." They cannot give out a list of names.

As a result of some other things that's gone on recently, we have, for not Cherokee Nation purposes, but for that tax thing that's floating around out there for accelerated depreciated -- jobs. You can give them a name and they can say "yes" or "no."

MR. HANNAH: The kind lady has other questions?

MS. MEREDITH: Well, it seems to me that what we're saying here, and according to what we've written in the Constitution and the way it works, the Election Committee would verify these names and --

MR. GOURD: Secretary of State.

MS. MEREDITH: Okay. The Secretary of State. Will the Secretary of State have available to him or her a list of

those registered people? No, the people who are eligible to vote, the citizens of Cherokee Nation. So what we're saying is we want to do something that there is no way to verify what we've done?

MR. HANNAH: That would be correct, ma'am.

MS. MEREDITH: Then you can't certify it.

MS. MASTERS: Point of clarification.

MR. CENTER: Mr. Chair.

MR. HANNAH: Mr. Center, you have my attention, sir, at the moment.

MR. CENTER: Seeing that the fine lady opened the door to something that I want to say in regards to the question in reference to me, the verification process -- and I know the concern of the delegation. I don't want to see one person left out.

I want everybody included. But the process that we're trying to initiate here will not, in my estimate, it will not work. It's going to create a lot of problems, legally and otherwise.

For instance, if we got a petition signed and got it into the Election Commission as this is written, those that voted for it or those that wanted to sign the petition in the registration, we could verify those over this. The citizen part of it would have to be verified here.

By the time your recall got verified and an election got called, and we appropriated the three hundred fifty thousand to have it, the person would more than likely be out of office anyway.

So if we increased the percentage, whatever that might be, and stayed with the older language and removed the citizenship part, but increase the small amount of people that could put a person out, and the persons that voted in the last election would participate in the petition, this does not mean that someone who wanted to vote that person out that did not sign to register couldn't vote.

When the petition was verified from the Election Commission's office, and the election was called, and the vote came about, Granny Jones or whoever we might want, that wanted him out, too, but didn't vote in the last election could vote to put him out.

They're not excluded.

MR. HANNAH: Thank you, Mr. Center. Ms. Masters, you're recognized.

MS. MASTERS: Point of information. And I look around here, and I notice we do have the councilman from District 1 here available to us. He can answer the question, possibly.

If the voters bring in a petition, if the citizens of Cherokee Nation bring a petition in, and I believe that our language before was that we would submit this to the Council and the Council would submit it to our Secretary of State, the Secretary of State then would have the ability to verify that through the registrar's office.

I believe that our Council could require a response to that at their next meeting, and I believe our Council has the right to write those kinds of laws. And I notice our District 1

councilman is here; possibly he could respond to that.

MR. KEEN, JR.: Point of information.

MR. HANNAH: Just a minute, we're in the middle of one. Thank you, sir. Mr. Baker, do you care to?

MR. BILL BAKER: As I understand it, the way that it's being proposed, that, yes, it would be presented to the Secretary of State, and at that point, he or she would take registration, and registration could go through the list and could say, yes, they are or, no, they're not. That could be done.

The problem I see -- and I'm not trying to find problems here -- but when they sign it, if they don't put a birth date -- I think a birth date would be enough. But there's a lot of John Smiths, and some of them live in Cherokee County, some of them live in Adair County, some of them live in other counties.

When you go to check at registration, without a birth date and preferably a Social Security number, you know -- and I don't know if people are going to want to sign these petitions with birth dates and Social Security numbers -- for ease and certifying that, yes, they are citizens of the Cherokee Nation.

MS. MASTERS: The last time we just had CDIB numbers.

MR. BILL BAKER: That's all the more better. And with that number, they could certify whether they were voters or not. They couldn't tell you anything else about it. It would not be an easy process, but the Election Commission could be asked by the Council to do the very same thing. So it's not a total impossibility.

MR. HANNAH: Would you kind delegates please have a seat? Mr. Herod, you are recognized, sir.

MR. HEROD: How about that CO number that is assigned to your blue card; wouldn't that verify it, Mr. Baker?

MR. BILL BAKER: Yes, sir. That's what I was going to tell you, if they would put that number on it, then registration could.

MR. HEROD: But each number is on each blue card.

MR. BILL BAKER: Right, but they're going to have to take the signature and that number to verify that these people are, that it's not a fictitious number and all that kind of stuff. I mean, they still have to go through the list.

MR. HEROD: That would give them something to look on the list to verify that you was or you wasn't.

MR. BILL BAKER: Absolutely.

MR. HEROD: Thank you.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: John Keen, delegate, with a point of information. I just come from the registration department and I talked with the director there. She said that the only reason she's precluded from doing anything like that now is by Cherokee law, and a simple Council enactment would change that. And she has

a list now, and she said she does it all the time. So I don't believe it would be much of a problem.

MS. MEREDITH: She does what all the time?

MR. JOHN KEEN: Verification. And she has a list compiled right now.

MR. HANNAH: Mary Ellen.

MR. MEREDITH: Mr. Keen, she has a list of the names of people who are Cherokee citizens?

MR. JOHN KEEN: Yes.

MS. MEREDITH: Does that include their addresses?

MR. JOHN KEEN: I asked her if she could verify name and address, and she said, yes, she does it all the time.

MS. MEREDITH: Okay. Thank you.

MR. HANNAH: Thank you. Mr. Center, you're recognized.

MR. CENTER: Mr. Chair, if it would be permissible, I would like to give the delegation an example. And it is a matter of record.

District 1 is the largest district of all nine districts. They, according to the apportionment that we were using, had three council persons. There was litigation -- anyway, we dropped back to the 1975 census.

Though they are the largest district, they lost a council person, so when you go to figuring these numbers, and go to figuring out what the percentage is, that percentage is not going to be consistent with district -- would not apply to District 1 because it would not be in balance with District 1 because of the number of people they got and the number of people they got serving as Council.

In other words, with the number of people they got serving, three council persons, but they only have two because they used the '75 census. So we've got to be careful when we go to locking in numbers if we don't want to give our people of any district under representation.

MR. HANNAH: Ricky, you are recognized.

MR. ROBINSON: Ricky Robinson, delegate. I'll try to follow the standing rules. I may be out of order, and tell me if I am. I'm wanting to make a statement that I think it should be based on the number of voters that actually voted in the last general election.

I deal with this all the time. I'm hassling my family and especially my wife's family all the time to vote. In spirit, I agree that everybody should be involved in the recall. And there are small instances that people cannot vote. But we have absentee ballots.

And I have a problem that someone that did not vote. Let's say I run for Council and got in. I would have a problem with someone that did not attempt to vote in the previous election that has a chance of kicking me out. I really feel like that if we do

this, it just encourages people not to vote.

If we were to do it the other way, and they had a gripe about the Chief and then they weren't allowed to be a part of the recall, maybe that will give them some incentive to start voting. Our voting totals in this Nation is just horrendous.

America, we're the number one democratic country in the world, but we probably have one of the lowest voter turnout. In the Cherokee Nation, we have less than ten percent of the people turn out to vote. Only twenty-five percent or less are registered to vote. So I feel this would not be good. Thank you.

MR. HANNAH: Thank you, Ricky. Mr. Herod, you are recognized.

MR. HEROD: Herod from Grove, Oklahoma, delegate. Wouldn't that make a difference of the amount of people that only for the Chief and the Deputy Chief? Because everybody can vote for them, and only by district you can vote for the Council. So wouldn't that make a difference in how much percentage to impeach them or recall them up, excuse me, for recall?

MR. HANNAH: Numbers would, in fact, be quite different, Joe.

MR. HEROD: Thank you.

MR. HANNAH: You raise an interesting point. Mr. Lay, you're recognized.

MR. LAY: Delegate Lay, and I think, you know, I'm in agreement to this generally, the idea of it and why we're talking about it. I think we've got a couple of very smart young people in our Tribe who are going to work it out.

One thing that the lady from Oklahoma City has asked a couple of times is about the list of the registration. People, this list thing is something that concerns me greatly, and I was talking to Councilman Hoskin about this.

We cannot -- and I don't want to ever see a list made and mailed out and sent out worldwide. I think that this list, when you sign the list to vote, you are giving up a certain amount of right.

People can contact you for voting purposes. Some people who are on that list over there don't want to be bothered. They don't want their name out on some list floating around the countryside. And we must protect that list at all cost.

And whatever we do here, do not turn that list lose to anybody, except that registration lady is the only person who should have that. I want to underline that a hundred times. Do not let this list out of this office here.

MR. HANNAH: Thank you, Mr. Lay. Doctor Hook, you are recognized.

MR. HOOK: Mr. Chairman, as I understand right now, there are no specific proposed amendments to this language.

MR. HANNAH: That is correct, sir. We are at debate with regard to the section.

MR. HOOK: Then, Mr. Chairman, I call the question.

MR. JOHN KEEN: I object.

MR. HANNAH: Just a moment here. Mr. Keen, you wish to object, and on what grounds?

MR. JOHN KEEN: I would like to make a motion to amend this language.

MR. HANNAH: Chair will rule that's appropriate. We will hear your amendment.

MR. HOOK: I will withdraw.

MR. JOHN KEEN: As I was rushed procedurally to this, you will bear with me.

MR. HANNAH: Mr. Keen, no one is rushing you procedurally, sir. Matter of fact, you have been given a great deal of latitude here this afternoon by the Chair and will remind you no one is rushing you, sir.

MR. JOHN KEEN: Thank you, I was just referring to calling the question.

MR. HANNAH: Well, the question -- Chair did not rule, sir. He recognized you, and you, sir, are before the microphone. So let's all be careful here. Let's all slow down. Ladies and gentlemen, let's all pay attention to what is going on here, okay? Chair is very proud of every delegate in here and very proud of exactly what we've been about, which is examining every possible facet of an issue that can be examined.

Because as Ms. Coon told us at the very beginning of this process, as Delegate Coon told us, this should be the greatest Constitution that the world has yet to see. And while there may be some of you in this room right now that would raise that in doubt, there is still time. You're doing a good job.

So, Mr. Keen, with a deep breath, sir, what would be your motion?

MR. JOHN KEEN: In the previous election and must total a number equaling or exceeding thirty-three percent for the district representatives -- no, I'm sorry. I would like to amend thirty-three percent to ten percent.

MR. HANNAH: Your motion is to strike and to substitute. You want to strike thirty-three and to insert ten; is that correct?

MR. JOHN KEEN: Yes, sir.

MR. HANNAH: Do you have any other additions or deletions?

MR. JOHN KEEN: Yes, I do. Ten percent for the at-large offices. And I would like to strike thirty-three percent and insert fifty-one percent for the district representative offices, district offices. See if the scribe/Vice-Chair would scroll down so we can read that. Scribe/Vice-Chair/delegate/manager.

MR. STOPP: Could we save this before going any farther? Can you hit save before you do anything else?

MR. KEEN, JR.: Absolutely.

MR. HANNAH: Thank you, Mr. Stopp.

MR. JOHN KEEN: My intent here is to lower the number of signatures required for the Chief and Deputy Chief, so we don't have to have such a high number of people sign the petitions for those offices.

And in raising the number for the district offices, since we've broadened the base so much by my amendment, that although, albeit, I still stand behind it as a fair one for the people, so it's right, we need to prevent frivolous petitions and subsequent frivolous recall elections and raise that number to fifty-one percent.

I still think it's a very attainable number with the broadened base that we have, but I think that would be a little bit more fair, and I believe that with my language of at-large, it's just applying to at-large throughout the whole Nation, all districts and at-large voters. I believe -- I need to read this myself, so I'll yield the floor.

MR. HANNAH: Is there a second?

MS. MASTERS: Second. And I would ask the maker of the amendment then, am I fair in assuming then that you would leave "and thirty-three percent of the total number of votes for the office of Chief and Deputy Chief," for the -- you've taken care of the district offices. Now I want to take care of the Chief and Deputy Chief office. And will the thirty-three percent be left in for the --

MR. HANNAH: No.

MR. JOHN KEEN: No, that would be ten percent.

MS. MASTERS: That's not what that says then.

MR. JOHN KEEN: By my wording of at-large, I am including Principal Chief and Deputy Chief.

MS. MASTERS: No, at-large now means the tenth district.

MR. JOHN KEEN: Well --

MS. MASTERS: Okay. A friendly amendment. Ten percent for nationwide or national, "Cherokee National Election" as opposed to "at-large." I thought you were preparing that one.

MR. JOHN KEEN: What my intent -- let me explain my intent here.

MS. MASTERS: Well, it's just the word "at-large" is what is throwing us off.

MR. JOHN KEEN: If I may explain my intent.

MR. HANNAH: Now, folks, the Chair is very pleased for you all to exchange information, but you're not going to argue. So, sir, you have a question, or do you wish to explain something?

MR. JOHN KEEN: I would like to explain my intent and invite thought through friendly amendments. My intent with the at-large wording is only to include the Chief and Deputy Chief. That is my intent of that. By "at-large," I mean at-large of all the districts, all the registered voters. That's my intent now.

MS. MASTERS: I understand that.

MR. JOHN KEEN: And by the district offices, what I am considering the at-large added council members, I am considering those at-large districts. So my intent is to cover those two council members by the word -- those two at-large council members in the fifty-one percent for district offices. That's my intent.

Now, I would be open to entertaining thought through friendly amendments on this wording.

MS. MASTERS: Consider replacing "at-large" with "national offices," "nationwide offices." Because "at-large" is now sort of the name of our tenth district.

MR. JOHN KEEN: I'm a little scared of "national."

MS. MASTERS: "Cherokee Nation-wide," I don't know, something like that.

MR. HANNAH: Mr. Keen does not accept your friendly amendment. Mr. Stopp, you are recognized.

MR. STOPP: Gary Stopp. As to Mr. Keen's point of information, going back to these numbers where it says "Cherokee citizens eligible to register to vote," I have dealt with Mr. Center here. He is going to have those copies made. That will give the example of ten percent.

I think that we're looking at huge numbers. I think they do need to be divided in two different areas. We're looking at a district that has twelve hundred to fourteen hundred votes cast versus Deputy Chief and the Chief, and the -- who may have twelve to fifteen thousand votes cast. That percentage changed quite a bit in those areas.

I'm not sure if I'm comfortable with the ten percent or the fifty-one percent until I see those numbers. May I ask how long it will be before we get those numbers copied?

MR. HANNAH: I believe those numbers are being passed out, now, Mr. Stopp. Take one to Mr. Stopp right now in case he needs it to further support his debate or inquiry.

MR. MCDANIEL: Mr. Chairman, I'd like to say a couple of things.

MR. HANNAH: Mr. Stopp, do you yield the floor, sir?

MR. STOPP: Yes, I do.

MR. HANNAH: Calvin, you're recognized.

MR. MCDANIEL: I'll just have to speak in plain English. I can't do this legal language stuff. Would the people here today consider sending out folders to the registered voters and trying to select the smaller percent of voters that were needed to go through the recall process? Did I make myself clear?

MR. HANNAH: Your question again, Calvin?

MR. MCDANIEL: Well, send a questionnaire to each registered voter and make a -- have them reply and make a -- if they would be willing to serve on a list of voters that would be

necessary to go through the recall process when -- if and when it occurs.

MR. HANNAH: So you're thinking out loud about the creation of a recall pool of voters that would, by contact through the mail, would be willing to serve in that pool of voters?

MR. MCDANIEL: Yes, sir.

MR. HANNAH: Why don't we let that steep in the minds here of our delegates and see how they think about that. Thank you, sir.

MR. GOURD: Mr. Chairman.

MR. HANNAH: Mr. Gourd.

MR. GOURD: Just for a point of clarification to Mr. Keen.

MR. HANNAH: Mr. Keen, the younger, sir?

MR. GOURD: Yes. Some of the districts have multiple seats within the district, and my assumption at present is that the top three vote-getters are in office, or top two, out of the total pool of those running, rather than numbered seats for which ones run.

Now, your calculations to arrive at that fifty-one percent where it says "the total number of votes cast for the office," are you assuming that within District 1 and 2, or whatever the numbers are where there are multiple Council seats?

If our good teller places second, is she still subject to a fifty-one percent of the person who got the highest number of votes, or the top fifty-one percent of the total number of votes that was cast for her, or some mathematical formula on the total number of people who ran for office?

MR. JOHN KEEN: Mr. Chairman, may I respond to this?

MR. HANNAH: Mr. Keen. Mr. Keen, you are recognized.

MR. JOHN KEEN: John Keen, delegate. My intent is that, say, John Doe number one, two and three are holding office.

John Doe number one is called and questioned by his constituency. I believe we would have the ability to identify the number of people who voted for John Doe number one, and that would set the standard for the office in question.

Not for all three offices, and not for both offices, but for the office in question. I tried to be as unambiguous as I could be in that wording. But "for the office in question" suggests one, and that was my intent, the one office in question.

MR. HANNAH: Thank you, sir. Ralph Keen, Jr., you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. We've already spent a considerable amount of time on this language, and I'm talking about this convention today. And obviously, we just keep raising more and more questions about it.

Might it be wise that we table this section and allow those that are very interested in it to try to work out all the

numbers, have the time to consider the statistics that have been delivered to them, and while the remainder move ahead onto other things?

MR. HANNAH: That is a --

MR. KEEN, JR.: That is a motion to table.

DELEGATE: Second.

MR. HANNAH: That is a motion that is in order.

There is a motion to table; it has been seconded. And hearing no opposition, all of those in favor of tabling this section, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

Motion carries. Section is tabled.

MS. MASTERS: Point of information.

MR. HANNAH: Yes, ma'am.

MS. MASTERS: If we're going to be considering this, would it be possible for us to get a printout of this in order that we can be really clear on what we're considering before we leave today? Just print this page out for us? It would be really helpful.

MR. HANNAH: Let's see the hands of those of you that would like a copy of this section so it may be contemplated. Let's just make copies for everybody. I think we're all going to suddenly decide that we want one. So therefore, Billie, we will do just that. We will make copies.

Folks, we are not at recess. The delegates will take their seats. We will be continuing with our agenda as of the order of the day. We simply took a moment to make sure we could generate copies. We are going to -- now, where we are -- do we have our delegates in our seats? We will continue, and not before.

We've now tabled Section 4 of the article on removal from office, which is, I believe, Section 11; is that correct? Is that Section 11 -- Article XI, I mean?

DELEGATE: Yes. Article X.

MR. HANNAH: Article X. And we are unable, therefore, to go back and approve any other sections because of the tabling. So the entire article is now set to the side. It's not tabled, but it's simply set to the side with regard to any vote to approve the language.

Doctor Gourd is recognized.

MR. GOURD: Thank you, Mr. Chairman. I make a motion that the language contained in Article XI, employee rights, be accepted as follows: "No employee who having served in a position at least one year shall be removed from the employment of the Cherokee Nation, except for cause."

And just by note, on the footnote in your copy, it says the language: "The employee shall be afforded a hearing by the Judicial Appeals Tribunal under such rules and procedures as may be prescribed by the Council. These rules and procedures, however, must follow as nearly as practicable the provisions of the Oklahoma

Administrative Procedures Act, Title 75, Oklahoma Statutes 301 has been omitted."

MR. HANNAH: Motion is before you. Is there a second?

DELEGATE: Second.

MR. HANNAH: Second. Floor is open for debate. Mr. Keen, what say you, sir?

MR. JOHN KEEN: I have an amendment.

MR. HANNAH: The Chair is not surprised, sir. Continue, Mr. Keen.

MR. JOHN KEEN: John Keen, delegate. Being the good union man that I am, I have an amendment to go following the last sentence, strike "period" and insert "comma," and "only after being afforded due process."

MR. HANNAH: Motion to include language. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is. The floor is open for debate. Mr. Lay, you are recognized.

MR. LAY: Just a point of information, sir. Delegate Lay. I would wonder from the Commission, why did we exclude this language? Was there a problem or what?

MR. HANNAH: Doctor Gourd, do you wish to respond?

MR. GOURD: Our intent on the revision of it was that the procedures involving employees of the Cherokee Nation would be governed by the laws of the Cherokee Nation, and if necessary, protected or provided for in the courts of the Cherokee Nation, and not be subject to the rules that the state of Oklahoma may change at any point in time or court system which could be structured different than ours. It's strictly to make it a Cherokee issue without reference to another jurisdiction or the rules another jurisdiction may have.

MR. HANNAH: Good lady from Tahlequah is recognized.

MS. HAMMONS: Thank you, Mr. Chairman. Diane Hammons. I would first propose a friendly amendment. If not accepted, I can wait until this motion is decided and then come back with a motion.

Following that sentence, "provided, or the right of such an employee to seek redress in the Cherokee Nation Court --"

I'm sorry, Mr. Chairman, I'm thinking on my feet, and my feet are tired.

"The right of such an employee to seek redress in the Cherokee Nation Court shall not be abridged."

MR. HANNAH: You would offer that as a friendly amendment to the?

MS. HAMMONS: Language of the Commission.

MR. HANNAH: Language of the Commission. And do any of our Commissioners --

MR. KEEN, JR.: I don't have any objection to it.

MR. HANNAH: How about you, Mr. Gourd? Ms. Coon, any problem with this? Is this okay?

MS. COON: Okay.

MR. HANNAH: The language, therefore, would be accepted. And without opposition to the second, it is before us. Floor is still open for debate. And Mr. Dowty.

MR. DOWTY: I don't rise on this issue. I would like to inform the Chair that I wish to revisit -- I wished to revisit an area in the previous article and would like to be heard on that at the earliest convenience.

MR. HANNAH: Earliest convenience. And the Chair's policy, sir, if you have been waiting for a while, and obviously we have that section tabled, and therefore, the article is to the side.

Ms. Masters, you are recognized.

MS. MASTERS: I believe this would be a friendly amendment. After "cause" and before "and," I would like to insert, "according to the laws of the Cherokee Nation," just to clarify what "cause" would entail there.

MR. HANNAH: Well, it's not his fault; it would be ours, on the Commission.

MR. GOURD: Could that be repeated? I listened and I understood it a couple of different ways.

MS. MASTERS: I almost said exactly what you explained to us that it meant according to the laws of the Cherokee Nation.

MR. GOURD: That may be even more restrictive than what we had in mind of doing there.

MR. HANNAH: The Commission does not accept as a friendly amendment. And so do you wish to place this as an amendment?

MS. MASTERS: No, I'll withdraw.

MR. HANNAH: Thank you very much. Language is withdrawn. Floor is open for debate, and I believe we're still back with Mr. Keen's language, "and only after being afforded due process." That would be what we're debating at this point in time.

Mr. Clarke, what say you, sir? How do you rise on this issue?

MR. CLARKE: I rise to give point of information to either Ralph Keen, Jr. or Mr. Gourd. In regards to this, it says, "no employee who having served any position at least one year shall be removed by the employment of Cherokee Nation without --" blah, blah, blah.

Charlie, as you well know, many of our proposals that we write for federal dollars, when we receive those grants, it may be a two-year grant, a three-year grant or a multi-year, maybe four or five. However, once that funding source has ended, I may have thirty or forty staff persons whose job technically is at risk

because I don't have money in my budget to pay those people's salary, let alone their friends.

So how did you all consider to deal with that issue?

MR. GOURD: There is no position because there is no money. That would be the cause. If there's no funding for that position, then it no longer exists. I think in reference to their employment, this is where we get into the whole thing on human resources and all of that when these persons are employed.

It needs to be further clarified, but that is an administrative function within Human Resources. I fully agree that because somebody has been employed within three years, that's not a permanent, full-time, lifetime position, but it's only so long as funding is available. But this was a --

MR. JOHN KEEN: That's not what this is.

MR. GOURD: Well, I just misunderstand it then.

I think that the cause would be, there is no funding, and that's a legitimate reason that the position no longer exists.

MR. CLARKE: So, Mr. Keen, if Human Resources Personnel Policies and Procedures addressed this, and that for cause may be, in fact, that there's no more money in that, would that pass the legal test for someone going to court and saying I want my job back, and they dismiss them because they say we don't have money?

MR. KEEN, JR.: Do you have a contract with this employee, or are you just talking about printed policies?

MR. CLARKE: We're talking about people who come in and they go through the hiring process; they're hired into a position, and that position is funded upon a grant that may last, say, thirty-six months. When that ends, we have to let them go.

If we had something in our Human Resources policy addressing this as being cause, would that lessen the likelihood of them running into court, and the court telling us to put them back to work when we don't have the money to pay them when we told them? Does that answer your question?

MR. HANNAH: Thank you, Mr. Clarke.
Chapman-Plumb, you are recognized.

MS. CHAPMAN-PLUMB: I think we need to be really careful here. It's nice to add language, but "for cause" is a really large term that encompasses a lot of people. And it's a good thing, but it has a specific legal meaning.

You have the right to due process already given to you in the Bill of Rights. So if you go into court with your case where you've been, you believe, wrongfully fired, you already have the right, we've already given you the right to due process as a citizen of the Cherokee Nation.

And as far as the right to seek redress in the courts, that's up to the judges. The judges get to decide whether your case is valid or not.

So I think my motion would be to strike everything after "except for cause." We don't need that language in there. It's already been given. This is a good and wonderful paragraph just the

way it is.

In Oklahoma you have what is called "employment at will," and in many other states. And what that means is, with the exception of certain narrow reasons, race, sex, those kinds of hot-button issues, you can be fired at any time for any reason.

This is already a big exception. It's already a big exception to the way things are. I don't think we need to add to it. We've already got those protections elsewhere in the Constitution.

MR. HANNAH: Chair did not hear an amendment.

MS. CHAPMAN-PLUMB: It was a motion to strike.

MR. HANNAH: A motion to strike. And would that be -- hold it just a second, folks. Now, let's be careful here, okay. We already had Mr. Keen who -- the younger, who is adding language. We now have the good lady from Tahlequah who has added language, and we have not voted on that language -- or has it, in fact, been -- there we go.

MR. JOHN KEEN: Point of order.

MR. HANNAH: Point of order, Mr. Keen.

MR. JOHN KEEN: The motion to strike all the language would be out of order. She can only move to strike the -- my language -- no, let's see.

MR. HANNAH: Mr. Keen, just a moment.

MS. CHAPMAN-PLUMB: I can clear it up. I would withdraw the motion, and I'm arguing against the addition of any of the language.

MR. HANNAH: I understand, thank you, ma'am. Thank you very much. Now, Ralph Keen, Jr., help the Chair to remember where we are with the kind lady from Tahlequah's addition, "provided the right of such and would seek the redress in the Cherokee Nation Court shall not be abridged." I believe that is on the floor for debate.

MR. KEEN, JR.: No, sir, we accepted that language.

MR. HANNAH: We accepted that language. So now we are back to the consideration of younger Mr. Keen, "and only after being afforded due process"; is that correct?

MR. KEEN, JR.: Yes.

MR. HANNAH: So there we have it. Mr. Smith, you are recognized.

MR. SMITH: Ms. Plumb said some of what I was going to say. In Oklahoma, which we pretty much adopted, there's two classes of employment. "At will," they can be fired for any reason, good reason or no reason. "For cause," it has to be a cause provided in the personnel manual or some other such.

What's of concern is it says, "only after being afforded due process." Seems like in some ways that's redundant because "for cause" implicitly requires due process as a state of term.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: I would like to change my

language to "and only after being afforded pre-termination due process."

MR. KEEN, JR.: I would like to offer a friendly amendment to his language, if we might, and try to simplify it. I think it would convey his intent if the language simply stated, "except for cause after a pre-termination hearing or pre-termination process," even.

MR. GOURD: Point of clarification. I am not an attorney; I've been accused of writing like one and sometimes speaking like one, but I'm not.

MR. HANNAH: Thank you, Mr. Gourd.

MR. GOURD: It seems you wouldn't have recourse to the courts until after you were terminated. So a pre-termination on and on and on, we're getting overly burdensome in this in a hurry. We cannot cover every possible whatever. So I just want to get real careful as we move on through here because now I got lost.

MR. SMITH: Mr. Chair.

MR. HANNAH: Mr. Smith.

MR. SMITH: I stand and object to the added language. We're back to the hammer and the nails. This is legislation that should be reserved for legislation to allow them to work out the details. You can't anticipate all the twists and turns this is going to lead you to.

MR. HANNAH: Mr. Dowty, you are recognized.

MR. DOWTY: There is such a thing as pre-termination due process. Due process does not just mean a court proceeding. An employee should have a right of due process in the termination proceeding. It encompasses two thoughts.

First, the employee must have notice of the allegations for which the employee is being terminated. And the second aspect of due process is that they must have a full and fair hearing of the grievance.

And so they must be afforded due process both in the termination process and then they can -- if they feel that they have not had that due process, they can seek the court's assistance for information.

MR. HANNAH: And thank you very much. What say you, Mr. Keen?

MR. JOHN KEEN: John Keen, delegate. The reason I put this in here is because with the deleted language that we took out, we have deleted archaic language that allowed the Judicial Appeals Tribunal to hear such employment disputes.

Now, by deleting that language, we deleted the due process that we had afforded the employees. And with this, I believe we're going to alleviate the court docket, is what I'm hoping, and go give the employee a fair shake prior to being fired.

But I believe it is necessary, and I don't think that we're legislating here -- I think we're talking about rights guaranteed in the Constitution, and so I'd like to see the language stand.

MR. HANNAH: Any delegate rise in opposition to the exclusion of the language, "and only after being afforded pre-termination due process"?

MS. MASTERS: Call the question.

MR. HANNAH: What would be the pleasure of the delegates? Question has been called; is there a second?

DELEGATE: Second.

MR. HANNAH: There is, and hearing no objections, we are voting on the inclusion of the phrase, "and only after being afforded pre-termination due process."

All of those in favor signify by say "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

DELEGATES: No.

MR. HANNAH: And the Chair is unable to determine the vote, and all delegates will be in their seats, and the teller will prepare to count.

MS. HAVENS: Mr. Chairman, may I ask a question?

MR. HANNAH: This good lady from Nowata County has always risen to ask very important questions, and the Chair has no doubt that that will be the case once again. Therefore, you are recognized.

MS. HAVENS: This is -- I'm not sure I understood right. I always understood that this "except for cause" covered all the facets of due process with it. Now, is that correct or incorrect?

MR. HANNAH: Manager Keen, would you speak to the issue?

MR. KEEN, JR.: I would disagree with that. "For cause" establishes the level or the reason for which you are being terminated. The due process gives the employee the right, just as Justice Dowty stated, the right to notice an opportunity to be heard to try to refute the allegation of cause. So that they really are two separate things.

MS. HAVENS: That's not in the due process -- the for cause section?

MR. KEEN, JR.: It is in there, but what this contemplates -- and this hadn't been brought up yet.

MR. HANNAH: Mr. Keen, step over there and help lead us out of this canyon.

MR. KEEN, JR.: One thing that this language would require, the due process language that appears in the judicial article obviously relates to the court system, our supreme court and our district courts.

This contemplates that there would have to be a minimum administrative review panel or committee or whatever you want to call them. But an administrative body put together that reviews these allegations of dismissal for any employee. They would have to hold an administrative hearing and determine whether or not just cause exists for termination. Now, that's one thing. It may be

less than that.

See, you could also read it as they received due process if they simply got a notice, a written notice by certified letter saying, "These allegations have been raised against you, we feel it's just cause for your termination. If you do not respond within thirty days, you will be terminated. If you do respond, you will be afforded a hearing."

So that's what we're talking about. A pre-termination due process, which guarantees them a right to step forward and defend the allegations against them.

MS. HAVENS: Thank you.

MR. HANNAH: Yes, ma'am. Yes, Mr. Keen, Sr.

MR. KEEN, SR.: If I may expand just a little bit on what my learned son just advised everyone. I just completed a long term as Chief Justice of the Tribunal, and we did have more than a few cases that came before us in which the employee complained that they never knew why they were being fired until after they got into the court.

Therefore, not knowing why they were fired, also meant that they never had an opportunity to tell their side of the story.

The Tribunal, over a period of years, during their annual state of the judiciary to the Tribal Council, has recommended to the Tribal Council that they remedy that.

And this is called pre-termination due process. The Council did, in fact, enact legislation to do that. But in my opinion, what they've done is simply duplicated the Tribunal process.

Pre-termination due process simply means two things. You must be informed of why you're being fired and be given an opportunity the talk to your supervisor ahead of time and to give your side of the story. It does not mean that you have to be afforded lawyers or anything else.

It can be an administrative procedure, and it should be an administrative procedure. But this is what I think pre-termination due process means, and I think that we need it very much.

MR. HANNAH: Thank you, Mr. Keen. We will move to the vote. And the teller will once again draw close, and the delegates are all in their seats, and the spectators will remain quiet. Ricky, you will be in your seat. Thank you, sir.

And all of those in favor of including the language, "and only after being afforded pre-termination due process," please stand. And teller will count.

MS. LONG: Forty-seven.

MR. HANNAH: Please be seated. All of those opposed, please stand.

MR. ROBINSON: Abstain.

MR. HANNAH: Thank you, Ricky. Forty-seven in favor of addition to the language; zero opposing. The motion carries. The language is added. Floor is open for debate.

Mr. Dowty, you are recognized.

MR. DOWTY: I think I have risen again too early. I didn't understand where we are.

MR. HANNAH: That's quite all right, sir. That is a prevalence here. And where we are is looking at this entire article of, "no employee who having served in a position --"

MR. DOWTY: Let me move to call the question.

MR. HANNAH: Thank you.

DELEGATES: Second.

MS. CHILSON: Point of order. I was waiting to comment.

MR. DOWTY: I withdraw.

MR. HANNAH: Thank you, sir. Thank you very much. And the kind lady that was horned out by the good man formally of West Peavine is now at the microphone, and you shall be heard.

MS. CHILSON: Chilson, Tahlequah. Yes, I'm not an attorney. I don't think like an attorney; I don't write like an attorney, but I have been an employee for years and years and years, and I think like an employee.

And going through applications myself, screening them, the word "for cause" sends up a red flag. You want to know everything about that person and there could be -- I would not want that on my application for employment because there could be construed that you've done something wrong and you wouldn't even be considered to be interviewed for a job.

So I would suggest that you put something in there that says, "as long as this position is available" or "as long as this position exists." Thank you.

MR. HOSKIN, JR.: On information.

MR. HANNAH: On information, Mr. Hoskin.

MR. HOSKIN, JR.: The last sentence beginning with "provided," I wasn't clear whether that was just something brought up as a amendment that was going to be posed later, and I didn't think that was ever accepted.

MR. HANNAH: Well, in actuality the good Chair sought counsel on that from the Vice-Chairman, and was recalled that it, in fact, had been, if the Chair recalls, provided by the kind lady from Tahlequah, and the language had, in fact, been accepted. Thank you, sir.

Ricky.

MR. ROBINSON: Ricky Robinson, delegate from Tahlequah. I had to leave for a while, and I've been told that this has already been brought up, but I want to bring it up again and feel comfortable about it. "Set for cause" bothers me.

One thing that I noticed when I first come to the Nation is that individuals would be hired -- it's very difficult to get rid of a person that's not performing very well. It can take two to five years to do it with keeping documentation on them.

And what's happened in the past is instead of going

through that, people have simply hired somebody else, and then let the other person play tiddlywink or whatever. And I've tried to eliminate that from happening.

We have even had individuals, we tell them, "You're being hired, but you don't have a job for life; this is a three-year grant." What has happened in the past, the Tribe has, for twenty some years, put itself in financial difficulty because it's simply too hard to get rid of someone.

I just hope that "for cause" doesn't eliminate me from letting twenty of Bill Clarke's employees go when the money runs out. It's very difficult. When I went to the University of Oklahoma, I had to agree that I knew when the funding was out, the job was gone. So I just need to feel a little better about that if anyone can help me.

MR. HANNAH: Fine lady from Tahlequah.

MS. HAMMONS: Thank you, Mr. Chair. Diane Hammons. Doctor Robinson, I don't know if I can help you or not because I don't know the answer to your question. But I rise in support of this article as written because I can tell you, ladies and gentlemen, that -- and I've represented people, and I've been one of them that have been fired by the Cherokee Nation, in my opinion, not for cause, without any sort of notice.

These are very real rights that have been abridged to our citizens. And I think this language is absolutely necessary. Doesn't guarantee you a job, but just guarantees if you're going to be fired, you have to know why, and you have to have an opportunity to address that. So I support this.

MR. HANNAH: How do you rise on the issue, Mr. Stopp. Are you in support?

MR. STOPP: In a justifiable nonsupport, but I need to justify my comments. I believe that only after being afforded pre-termination due process, that is actually a policy within the Nation. And the way the terminology is there, as Mr. Keen mentioned, pre-termination due process could be handing you your pink slip. So it's not real clear in this Constitution, though, I believe it is a policy of the Nation; however, it is not a practice, and that is the problem that we've got here. It is not a practice of doing things by the policy.

Until we get rid of the personal political agendas and we hold people accountable to following those policies, it doesn't make a difference what's in this Constitution because this is so broad. That's the problem that we have. But it's lower, it's not as broad.

If that terminology "pre-termination due process" was changed and defined, it might help, but again, we have to hold the managers and directors accountable. We must not be making those decisions based on local decisions.

And to answer Doctor Robinson, for cause, if the money is not there, that is for cause, but it's practice. It is a policy. Practice has to change, and I don't know if we can do that here.

MR. HANNAH: Thank you, sir. Mr. Keen you are

recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Ralph Keen, Jr., delegate. I rise in support of this article as drafted.

And I echo the things that were stated by the other lady lawyer over there.

If I'm hearing the comments that I just heard correctly, he's saying, "This doesn't need to be in our Constitution, trust us, it's already in our policies." I'm sorry, sir, but I cannot accept that. If I misinterpreted what you said, I'm sorry.

But anyway, to continue on, this is a right that we're guaranteeing our employees. These terms, "for cause," "pre-termination," these are legal terms of ours that are clearly defined in case law held in other jurisdictions that the courts have the ability to draw upon to render decisions whenever those cases come before them.

So all this does is set up a minimal protection and due process for employees prior to termination. That's what it does.

MR. HANNAH: Mr. Stopp, we see you again, sir.

MR. STOPP: Yes, sir, Gary Stopp, delegate, Cherokee County.

MR. HANNAH: How do you rise?

MR. STOPP: Same position. In spirit, I believe that it needs to be in there. But to clarify my statement, my statement is, "No, do not trust us because we are not practicing the right business practices." But is it a policy issue; yes. Is it a constitutional issue; I don't think it is. That's the issue that I have with it.

If the Constitution can assure accountability in the management styles of the operation, and that wording does that, then I'm one hundred percent behind it. But I don't know if that does that in the Constitution. I don't know how to do that.

So I am not saying, "Trust us, it will happen. Trust the administration, it will happen on the employment practices." I'm saying, in practice, it's not being followed. There is a policy there.

MR. HANNAH: Kind lady, would you wish to be recognized?

MS. CHILSON: Yes, I'd like to offer a friendly amend. I don't know who I would offer this to. Mr. Keen, Jr., would that be to you, to the Commission?

MR. KEEN, JR.: To the Commission.

MS. CHILSON: Yes, that after "for cause," leave the comma, "as long as the position exists."

MR. HANNAH: "As long as the position exists"?

MS. CHILSON: Correct.

MR. CORNSILK: Mr. Chairman, point of information.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: There is. And we will have it

entered in the screen as soon as our scribe is returned. Mr. Cornsilk, good to see you, sir.

MR. CORNSILK: Thank you. It's good to be back. Delegate Cornsilk. I think the debate that we are attempting to enter into about whether or not when a job ends because funding has ceased to exist is really a moot point.

The Cherokee Nation practice has been that whenever funding ends for a position, that person is either transferred or laid off, so I don't know that that's really a point that we need to belabor here. And that's really kind of a point of information question.

MR. SMITH: Reduction in force would be for cause. To address the concern over here, to put in there they have for cause for as long as the position exists, a remedy to that if you want to subterfuge the Constitution is just get rid of the position. So we can keep putting nickels and dimes in here, it's not going to fix the problem.

The general policy is very explicit there. It needs to be the Council and employment policies that would flush it out. So I would object to the proposed amendment.

MR. HANNAH: Let's all just wait here for just a second. Ms. Chilson, your friendly amendment is not accepted by the Commission. So do you wish to initiate an amendment?

MS. CHILSON: Yes.

MR. HANNAH: Kind lady has initiated an amendment because the friendly amendment was not accepted by the Commission. I asked for a second earlier; I don't know why. I got one.

So the floor is now open for debate on -- only the floor is open for debate, at this time only. I think the Chair is prepared to sort of get us back to focusing on what we should focus on.

"As long as the position exists," we will debate that particular phrase at this time, and the young lady from Tahlequah is recognized.

MS. HAMMONS: Thank you, Mr. Chairman. I understand the concern of the people within the employees now about funding. But I object to this language "as long as the position exists" because that underlines "for cause." And if a bad manager or bad administration or whatever got mad at an employee, not for cause, but just because maybe the employee drove the wrong kind of car or did something they did not like, they could just eliminate the position and wouldn't have to have for cause. So I stand in objection to that.

MR. HANNAH: Very well. Chair would hear a delegate rising in favor of the language.

DELEGATE: Call for the question.

MR. HANNAH: Question has been called for. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second, and hearing no objection, we will now vote on the inclusion of the language, "as long as the position exists." If you vote yes, the language will be added.

All those in favor please signify by saying "aye."

MR. JOHN KEEN: Point of personal privilege.

MR. HANNAH: Just a moment; we're in the middle of a vote.

MR. JOHN KEEN: Can we let my dad out?

MR. HANNAH: Yes, we can. Thank you, sir.

MR. LITTLEJOHN: Point of clarification. Was that Ralph, Jr. that was not letting Ralph, Sr. in?

MR. HANNAH: It was indeed. Thank you.

And those opposed said "no."

DELEGATES: No.

MR. HANNAH: And the language does not stand. And the floor is open for debate on the article.

MR. KEEN, JR.: Call the question.

MR. HANNAH: The question has been called. Is there a second?

DELEGATE: Second.

MR. HANNAH: And hearing no opposition, the article would read: "No employee who having served in a position at least one year shall be removed from the employment of the Cherokee Nation except for cause and only after being afforded pre-termination due process, provided the right of such an employee to seek redress in the Cherokee Nation courts shall not be abridged."

All of those in favor signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

DELEGATE: No.

MR. HANNAH: And the article is approved. And Doctor Gourd.

MR. DOWTY: Mr. Chairman.

MR. HANNAH: The kind delegate now currently of Tahlequah.

MR. DOWTY: I would ask leave of the Chair to address a concern that I have about the previous article, especially in light of the matter just discussed. One section of the article is tabled, but the article is otherwise open.

MR. HANNAH: That is correct, sir.

MR. DOWTY: I would ask the Chair to allow me to address the issue.

MR. HANNAH: The Chair, knowing that the kind and gentleman is wise, and hearing no objections from the floor, then we will return to that article, sir.

MR. DOWTY: I would ask the scribe to return to Article X, Section 1. And I apologize to the delegates, but I was called out during the last part of the debate upon Section I. It

was -- when I returned, it was in a form that it was not in when I left.

And I realize that you've considered this fully, but I would like to pose to you a concern by way of a motion. And I would pose a motion to strike the language in Section 1, "a violation of the Constitution."

DELEGATE: Second.

MR. HANNAH: We have a motion to strike; it's been seconded. Perhaps you would give us your --

MR. DOWTY: The benefit of my rationale?

MR. HANNAH: Yes, sir.

MR. DOWTY: I would like to pose a hypothetical for you. It is my belief that this language is too broad, that it causes interpretations to come into play that might cause grounds to arise for the removal of a person when the grounds would indeed be unjustified even for presentation to the Council.

In posing a hypothetical, I would like to refer you, and the scribe does not have to go to this, but in a previous article, Article VI, the executive branch, Section 10 says: "The Deputy Principal Chief shall, by virtue of the office, aid and advise the Principal Chief in the administration of government."

Now, as an example. What does that mean? And if the Deputy Chief violates that, may he or she be liable to be removed from office? If the Principal Chief should not have the Deputy Chief elected that he or she wished to have, the Principal Chief could go to the Council with a proper motion and say to them, "The Deputy Chief has not aided and advised me and has violated the Constitution." That is extremely vague, what that means.

And let's say that the Council should entertain that motion by the Principal Chief, and the Council should notify the accused Deputy Chief and bring the Deputy Chief to trial and find that the grounds were justified and remove the Deputy Principal Chief.

And the Deputy Principal Chief should take that issue to the court. And the court should find that the Council did not give proper notice to the Deputy Principal Chief in removing the Deputy Principal Chief, and the court should issue such an opinion.

And the Deputy Principal Chief would take that written opinion of the court and go back with that to the Council and say the Council, under Section 3 of Article X, has not afforded me due process, and therefore, the Council members have violated the Constitution, and they should be removed.

Do you see where I'm going with this? It is too broad. It is subject to too many interpretations and it is dangerous. And so my position is that that language should be stricken. I don't believe that I can offer any alternative to that.

MR. KEEN, JR.: Point of information.

MR. DOWTY: Yes.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: I have a question for Delegate

Dowty, and I must say, even though I approved of this section, that this language gave me a little pause, too.

Sir, would you agree that if someone, that an elected official, or appointed for that matter, that if they did not carry out some constitutional requirement that is connected with their office, that that could fall within the language of willful and neglected duty?

MR. DOWTY: I would certainly agree.

MR. KEEN, JR.: So that could address many of these problems.

MR. DOWTY: Now, let me say this, the word "willful" means that they had to have done that with the knowledge that they should be doing it and not do it. But to aid and advise the Principal Chief, a person could be removed from office for an offense they didn't even know they were committing.

What level of aid; what level of advice should you give to the Principal Chief? And so the criteria for finding that person in the Council's trial guilty and subject to removal, the criteria is not defined, and so I think it's too arbitrary. And that's why I recommend that this be stricken.

DELEGATE: Second.

MR. HANNAH: And we have had one, and we are now open for debate. Young Mr. Keen.

MR. JOHN KEEN: John Keen. This seems to be the proverbial hollow log; can I call the question?

MR. HANNAH: Oh, the Chair is shocked. The Chair was fearful that young Mr. Keen was about to fell a giant Sequoyah hollow log and see to it that we have an even larger one.

There is a motion before us to strike the language in Section 1 of Article X, I believe; is that correct, Mr. Keen?

MR. KEEN, JR.: Yes.

MR. HANNAH: And if you vote in the affirmative, we will strike the language, "a violation of the Constitution."

All those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

And the motion passes, and we have been reeled back from the abyss.

MR. HOOK: Point of personal privilege.

MR. HANNAH: Yes, Doctor Hook.

MR. HOOK: Can we take a five-minute recess?

MR. HANNAH: Yes, we can. Five minutes.

(recess taken)

MR. HANNAH: We still have some time to do some work here, folks. It's about twenty-three after the hour of four. The Chair would be so bold as to suggest that we take our evening meal around five o'clock, so we still have some good time to accomplish some things here.

And so where we are is, the good man formerly of West Peavine returned us to Article X to make that particular correction,

we still have a section that is tabled.

I don't know that those who tabled it, who did so based on the fact that they wanted to discuss with other individuals, have had time to do so. And if it's not appropriate for us to wade back into that water, then what we might wish to do is to continue in our seriatim process with regard to the other articles that are here.

And, Mr. Keen, I would call on you. And apparently we have two gentlemen here that wish to be heard. And the kind man from Black Gum, what say you?

MR. MCCREARY: Ken McCreary, Black Gum. I would like to bring a motion to reconsider to Article V, Section 4.

MR. HANNAH: Now, before you make that motion, kind sir, I'm going to ask as a favor of the Chair that you not do that at this time. And for this reason; it is well within your right to do so, and it would take a two-thirds vote of this body, and I'll be more than happy to officiate that vote, but here is what the Chair would ask. Now, folks, if we start this process of reconsidering --

MR. MCCREARY: Withdraw.

MR. HANNAH: Thank you, sir. But it is an opportunity. The good man from Black Gum always is helpful to the Chair, and the Chair is very thankful for that. We start this process of reconsidering and reconsidering and going back and going back, I am fearful that as a delegation, we will become a bit confused about where we are.

So the Chair, by way of friendly suggestion would suggest that we would, in fact, move right on through this Constitution and that we would work out this language as much as possible. There will be ample opportunity for us to revisit these issues, but at least make a first pass through this document.

Now, the Chair has no way of imposing his will on the delegation. He appeals to the common sense of the group.

Mr. Smith, you are recognized.

MR. SMITH: Just as a point of information for the Chair. At one time in the last few days we discussed the definition of boundaries, and at some point from here on out, it may be appropriate to put in, and the style may find it a more appropriate place.

We have consensus language for the boundary and I think -- and I stand to be corrected -- but that may be one of the lesser controversial items if we take it up at the appropriate time.

MR. HANNAH: Excellent. The Chair will make note, and Mr. Smith will make note, and several other delegates will make note. We have, in fact, had several discussions over boundaries, and we want to make sure that we have that handled appropriately. So hearing no objection, Manager Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Please help refresh my memory. Did we vote to approve Article XI?

MR. HANNAH: Well, I would ask the good

parliamentarian the process. We're just going to do this and make it out. This is an unusual animal in that as you all know, we usually do what -- we approve sections and we go back and approve the entire article.

In this case, the entire article is, in fact, what we approved earlier, but the Chair is always interested in making sure that the nail is all the way. So therefore, Mr. Keen, you would no doubt move for us to approve --

MR. KEEN, JR.: In toto, Article XI.

MR. HANNAH: -- Article XI. And there it is before you.

DELEGATE: Second.

MR. HANNAH: And there is a second, and question has been called. And there's another second.

And without any objections, all of those in favor of Article XI, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And the article is approved, and we are continuing with our review.

Mr. Keen.

MR. KEEN, JR.: Thank you, Mr. Chairman. Moving ahead to Article XII, Oath, Section 1. I will move the following language be approved by this convention:

"All officers elected or appointed shall before entering upon their duties of their respected offices and subscribe to the following oath or affirmation. I do solemnly swear or affirm that I will faithfully execute the duties of the, fill in the blank, of the Cherokee Nation and will to the best of my ability, preserve, protect and defend the Constitution of the Cherokee Nation and the United States of America. I swear or affirm further that I will do everything within my power to promote the culture, heritage and traditions of Cherokee Nation."

The Commission has made no changes from the original language appearing in the 1975 Constitution.

MR. HANNAH: Motion is before you. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Floor is open for debate.

Doctor Hook, you are recognized.

MR. HOOK: Mr. Chairman, thank you, Jonathan Hook. I move that language be stricken beginning with "protect and defend the Constitutions." Make that singular, "of the Cherokee Nation," delete the comma and delete the section, "and the United States of America." I do that for two reasons.

First of all, the sovereignty issue that we are and have been a sovereign Nation. Secondly, because we are frequently in an adversarial position vis-a-vis the United States government. I do not believe it would be appropriate, that it would often, in fact, be a conflict of interest.

MR. HANNAH: There's a motion on the floor to strike the "S" on constitutions and to strike the words "and the United States of America." Is there a second?

MR. CORNSILK: Second.

MR. HANNAH: There is a second. Floor is open for debate.

How stand you, sir, Mr. Hembree?

MR. HEMBREE: I stand in opposition to that amendment for a variety of reasons. Number one, if I've said it once, I've said it a hundred times to people of this delegation; if it ain't broke, don't fix it.

Ladies and gentlemen, this oath has served us well for well on more than twenty years. There is nothing wrong, and there is no waiver of sovereignty of requiring our public officials from asking them to defend the Constitution of the United States of America.

Ladies and gentlemen, we are a dependent sovereign Nation. We receive expenditures from the United States government.

This would not be a waiver of that sovereignty. I understand some of issues that people believe and feel that this would be a fractionalization of that; I don't believe so.

Ladies and gentlemen, the oath is fine. It's served us well. It's not necessary to change every section in this Constitution, especially when it works. We've had this oath for the last twenty years, and our sovereignty has grown, not diminished.

There's nothing in here that throws a red herring. And ladies and gentlemen, I would ask you to vote this down.

And, Mr. Chairman, I would ask that debate be limited in this matter to three speakers pro, three speakers con, three minutes apiece.

MR. HANNAH: There is motion.

MS. SCOTT: Second.

MR. HANNAH: Thank you. Any opposition?

All those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Opposed said "no." And we are still at debate, and the Chair will entertain three speakers for, three against, limitation of three minutes.

And how stand you on the issue, Mr. Cornsilk?

MR. CORNSILK: Mr. Chairman, Delegate Cornsilk.

And I rise in favor of this amendment. It is consistent with amendments that we have made to this Constitution previously.

And I also would like to point out that there are other sovereign dependent nations in the world. The Indian nations of the United States are not the only ones. And in their constitutions, they do not have provisions of swearing oaths to the government that they are dependent to.

I would offer the country of Angora, which is a sovereign dependent to the nation of Spain. And nowhere in their constitution do you find that they swear an oath to Spain. It is simply not

important that it be in here. It's not useful to the constitution.

It's not useful to the person swearing an oath. It doesn't bind them to the United States Constitution and their relationship to the Tribe. We are bound to the constitution by our citizenship separate from the Tribe.

And I would also like to encounter Mr. Hembree's assertion that, if it ain't broke, don't fix it, because what we are talking about here are words. And those are a matter of perception, and it is my perception that it is broke and that we need to fix it.

MR. HANNAH: Someone rise in opposition?

MR. KEEN, JR.: Yes, sir.

MR. HANNAH: Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Ralph Keen, Jr., delegate. And I do rise in opposition to the omission of this language. I don't see how my swearing to defend and uphold the Constitution of the United States of America is any different or any less than swearing to uphold the Constitution of this Cherokee Nation.

The veterans that are in this room, I think, can relate to what I'm speaking to. Mr. Littlejohn raised this issue once before, and if you'll remember, when we had our opening ceremonies, and our Honor Guard was allowed to address this delegation. He spoke of the hundreds of Cherokees that had went to war on behalf of this country, not this Nation, not this Cherokee Nation, but on behalf of the United States of America and gave their lives.

We honor that flag side by side with our Cherokee Nation flag at all of our events. Now, why do we -- because of this romantic idea that we are completely sovereign, which we are not, why should we extend that to removal of those words from this Constitution?

I mean, I'm American, I'm also a Cherokee citizen. I'm proud of both of those facts. And I, for one, am proud to take this oath each and every time I've taken it. And I think that whenever we start taking these words out, we do a dishonor to those Cherokees that have served our country well in battle and, in fact, given their lives. So for no other reason than that, this should remain.

MR. HANNAH: Chair will entertain a delegate in favor of the strike. Billie Masters, you are recognized.

MS. MASTERS: I rise in favor of the striking of this. This is the oath for the Cherokee Nation. This is only the oath that binds our leadership to our people. And you do not have to join the military to be a warrior for Cherokee rights. Those warriors are well respected and well attended, but there are many other warriors here that have fought in the boardrooms and congress and the state house and in the national house for the Cherokee Nation. So we have warriors of all types.

This language is only for the Cherokee Nation. This is our oath for our Tribe in relationship to our people. And I think that this understanding of our dependency status and our sovereignty, limited sovereignty within the United States, is well

understood. It doesn't have to be stated when our leadership is taking an oath to our people.

MR. HANNAH: Chair would see the hands of the delegates who would rise to oppose. And you are recognized, good doctor.

MR. ROBINSON: Delegate Rick Robinson, Tahlequah. I really understand Doctor Masters' and Mr. Cornsilk's position. And I'm just barely -- I'm trying to ride the fence, but I do want to say that as a veteran of the Vietnam era, I feel like that many other veterans in the country, in the Cherokee Nation, may have a problem with this. And as a veteran, I feel like that I have to oppose this or I fought for nothing. Thank you.

MR. HANNAH: Thank you, sir. It is seen the hands of a delegate that would rise in favor. You're not in the cue, Mr. Rider. In the cue is someone rising in favor of the strike. Then Mr. Rider, you are recognized.

MS. STROUD: I'm in favor. Virginia Stroud.

MR. HANNAH: Virginia, you are rising in favor of striking the language, correct?

MS. STROUD: I have in my hands again only Cherokee and Creek. This is the only other constitution that I do pay attention to, the Creek Constitution and I've brought it up a couple of times.

But they have in their article, and it doesn't mention the Constitution of the United States anymore, and they're doing just fine and growing leaps and bounds. So I don't accept the argument of leaving in those words.

My brother was the one who stood and planted the flag and spoke to the delegation. His name is Don Stroud. There are other ways that we have discriminated against our Color Guards and our veterans in the Cherokee Nation. The Cherokee Nation Color Guard is not even funded by the Cherokee Nation. They're not asked to come and do parades. They do it on their own. And so I don't think that words in the Constitution is a disservice to our veterans.

They didn't even have a Cherokee flag to march with in the parades. I purchased that flag that's standing right there for the Color Guard. So I think as a Nation, we can't even use that argument that we're dysing our veterans because we have not held them up in esteem.

The last holiday they weren't invited to come. We had Comanches come in and used the Color Guard in the Pow Wow. So I can't accept Mr. Keen's argument that we would be dishonoring our veterans that we have in our Nation in our Tribe that served.

And I think when my brother spoke, he was speaking to remember us as your Color Guard, that we have fought, not just in this Constitution and on paper. Thank you.

MR. HANNAH: Thank you. Chair will entertain a final speaker in opposition to the strike.

MR. RIDER: Delegate Rider, Seminole. First of all, I'd like to say that everybody has different opinions, and it

takes lots of people for the world to go around, and I have a different opinion than some of the veterans.

I'm retired from the Navy; I used to be a police officer, and I used to be a deputy sheriff, and I took that oath on all three of those, and I'm proud that I did. But I don't want to have to take that oath, be pressed into it for the Cherokee Nation.

I was a Cherokee before I did any of that stuff and, yes, I'm a romantic, I guess, because I would rather not have to take that oath. It wouldn't keep me from taking a job for the Nation if they give me one, but I'd rather not have to take it. That's all.

MR. HANNAH: Thank you, Mr. Rider. Debate is closed.

MR. LITTLEJOHN: Mr. Chairman, Ms. Hagerstrand was at the podium before the last speaker, and I'd respectfully request that the Chair recognize that.

MR. HANNAH: Mr. Littlejohn, we had agreed to three speakers, and the Chair attempted to find out in the cue who was speaking in favor and against. And with the indulgence of the delegates, the kind lady would be heard. And the Chair risking great criticism would allow the dangerous woman from Tahlequah to speak.

MS. HAGERSTRAND: You better believe I want to take an oath to the United States of America and also the Cherokee Constitution. I've been both for a long time, and I raised my hand and I took that oath and I went off to war. And I have two battle stars to prove it because I was in battle zones during World War II. And my brother gave his life. I want that oath.

MR. HANNAH: Debate is closed, and we will move to the vote. And what we are voting on is if you vote in the affirmative, we will strike the language, "and the United States of America." That would also strike the plural on "constitutions." All of those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

DELEGATES: No.

MR. HANNAH: And the strike is not upheld.

Therefore, the language will stand. And the floor is --

MR. HOOK: Call for a roll call.

MR. HANNAH: The Chair has had a request for a roll call vote and would need to see four additional hands in regard to that voice. One, two, three, four. Therefore, a roll call vote will be taken.

MS. BERRY: Chairman, can you repeat again what a "yes" means?

MR. HANNAH: Yes, ma'am. I will clarify what the vote will be. Delegates will be in your chairs or out of the chamber, whichever you're going to do here. You will be one place or the other. Okay. Mr. Stopp, select a chair, sir. Thank you. Very appreciative for you all being attentive.

Scribe is ready, and the teller is ready. And what we

are about to do is to vote on the question to strike the language, and if the Chair remembers, it would strike the "S" in plural form for "constitutions," and would also strike the words "and the United States of America." So if you vote in favor, the language will be stricken. Does everyone understand this?

Very well, then the teller will call the roll.

MS. LONG: Adair.

MS. ADAIR: No.

MS. LONG: Alberty. Baker, Bill. Baker, Don.

Baker, Jack.

MR. BAKER: No.

MS. LONG: Berry.

MS. BERRY: Yes.

MS. LONG: Birmingham. Burnett.

MS. BURNETT: Absolutely not, no.

MS. LONG: Center.

MR. CENTER: No.

MS. LONG: Chilson.

MS. CHILSON: No.

MS. LONG: Clarke.

MR. CLARKE: No.

MS. LONG: Colson.

MS. COLSON: No.

MS. LONG: Coon.

MS. COON: No.

MS. LONG: Cornsilk.

MR. CORNSILK: Yes.

MS. LONG: Crawford.

MS. CRAWFORD: No.

MS. LONG: Crittenden, D.

MR. DON CRITTENDEN: No.

MS. LONG: Crittenden, H.

MR. H. CRITTENDEN: No.

MS. LONG: Crouch. Davis. Downing, B.

Downing, Carl.

MR. DOWNING: No.

MS. LONG: Dowty.

MR. DOWTY: No.

MS. LONG: Foster.

MS. FOSTER: Yes.

MS. LONG: Gourd.

MR. GOURD: No.

MS. LONG: Gunter. Hagerstrand.

MS. HAGERSTRAND: No.

MS. LONG: Hammons. Hannah.

MR. HANNAH: Abstain.

MS. LONG: Herod. Hathaway. Havens.

MS. HAVENS: No.

MS. LONG: Hembree.

MR. HEMBREE: No.

MS. LONG: Hook.
MR. HOOK: Yes.
MS. LONG: Hoskin, Jr.
MR. HOSKIN, JR.: No.
MS. LONG: Senior.
MR. HOSKIN, SR.: No.
MS. LONG: Johnson. Jordan. Keen J.
MR. JOHN KEEN: Abstain.
MS. LONG: Keen, R., Jr.
MR. KEEN, JR.: No.
MS. LONG: Keen, Sr. Lay.
MR. LAY: No.
MS. LONG: Littlejohn.
MR. LITTLEJOHN: No.
MS. LONG: Linnenkohl.
MS. LINNENKOHL: Yes.
MS. LONG: Masters.
MS. MASTERS: Yes.
MS. LONG: McDaniel.
MR. MCDANIEL: No.
MS. LONG: McIntosh.
MS. MCINTOSH: No.
MS. LONG: McCreary.
MR. McCREARY: No.
MS. LONG: MacLemore. Melton. Meredith.
MS. MEREDITH: Yes.
MS. LONG: Miller.
MS. MILLER: Yes.
MS. LONG: Moore.
MR. MOORE: No.
MS. LONG: Mullon. Phillips.
MR. PHILLIPS: No.
MS. LONG: Pitts.
MS. PITTS: No.
MS. LONG: Plumb.
MS. CHAPMAN-PLUMB: No.
MS. LONG: Poteete. Raper. Rider.
MR. RIDER: Yes.
MS. LONG: Robinson.
MR. ROBINSON: No.
MS. LONG: Rutledge. Sanders. Scott, Barbara.
MS. STARR-SCOTT: No.
MS. LONG: Scott, D.
MS. SCOTT: No.
MS. LONG: Scott, Owen.
MR. O. SCOTT: No.
MS. LONG: Silversmith, M.
MS. SILVERSMITH: No.
MS. LONG: Silversmith, R.
MR. SILVERSMITH: Yeah.

MS. LONG: Smith.
MR. SMITH: No.
MS. LONG: Spencer.
MR. SPENCER: No.
MS. LONG: Starr. Stopp.
MR. STOPP: No.
MS. LONG: Stroud.
MS. STROUD: Yes.
MS. LONG: Twining.
MS. TWINING: No.
MS. LONG: Underwood. Viles. Wheeler.
MR. WHEELER: No.
MS. LONG: Whitfield.
MR. WHITFIELD: No.
MS. LONG: Wilson.
MR. WILSON: No.
MS. LONG: Mr. Peacock.

MR. HANNAH: Not here, but we always call his name. Vote is complete. Eleven yes; forty-one no; two abstentions. Motion does not carry to strike the language; the language stands, and we continue.

Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. I would call the question that we would approve Section 1.

MR. HEMBREE: Second.

MR. HANNAH: The question has been called on Section 1, and there is a second. Hearing no opposition, if approved, the section would read:

"All officers elected or appointed shall before entering upon the duties of their respective offices take and subscribe to the following oath or affirmation, I do solemnly swear or affirm that I will faithfully execute the duties of, blank, of the Cherokee Nation and will to the best of my ability preserve, protect and defend the Constitution of the Cherokee Nation and the United States of America. I swear or affirm further that I will do everything within my power to promote the culture, heritage and traditions of the Cherokee Nation."

All of those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

DELEGATES: No.

MR. HANNAH: And the motion carries, and the section is approved.

Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. I will move that this assembly approve the language found in Section 2 as recommended by the convention. And it states: "The foregoing oath shall be administered by any person authorized by the Council to administer oaths. The oath shall be filed in the office of the Secretary of State."

MR. HANNAH: Motion is before you. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Floor is open for debate.

DELEGATE: Call the question.

MR. HANNAH: Question has been called. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. And hearing no opposition, if approved, the section would read: "The foregoing oath shall be administered by any person authorized by the Council to administer oaths, the oath shall be filed in office of the Secretary of State."

All those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."
Motion carries and the section is accepted.

And, Mr. Keen, what say you, now?

MR. KEEN, Jr.: Mr. Chairman, I would move for the approval of Article XII, Oath, in its totality.

MR. HANNAH: There's a motion to approve Article XII in its totality. Is there a second?

DELEGATES: Second.

MR. HANNAH: Second. And hearing no objection, and having just read those two, everyone clear on what we're about to vote on?

All those in favor please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

DELEGATE: No.

MR. HANNAH: And the article is approved.

Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Moving ahead to Article XIII, Clans, which states, and this is a single-section article.

"Nothing in this Constitution shall be construed to prohibit the right of any Cherokee to belong to a recognized clan or organization in the Cherokee Nation."

MR. HANNAH: Motion is before you. Is there a second?

DELEGATE: Second.

MR. HANNAH: Floor is open for debate. Mr. Scott, you wish to be recognized?

MR. SCOTT: Scott, delegate. Yes, I would like to make a motion to strike the wording of this section here and put in its place, "the Cherokee Nation encourages and will assist its citizens to reestablish their ties to the seven traditional clans."

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: Second. Approach the scribe and allow her to enter the language, Mr. Scott. Good lady from Texas is recognized.

MS. SCOTT: I move to limit debate to two speakers, three minutes each.

MR. HEMBREE: Second.

MR. HANNAH: Motion to limit the debate to two speakers, three minutes each, and there is a second.

And all those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

Therefore, we will have only two speakers each, yes and no. So the language that is before us, is that your amendment, Mr. Scott, that, "The Cherokee Nation encourages and will assist its citizens to reestablish their ties to the seven traditional clans"; is that your amendment?

MR. SCOTT: That is my amendment. I've had a suggestion to rather than strike, to add that to the existing sentence, article or whatever it is.

MR. HANNAH: So therefore, we now have -- we're still going to talk about this. So therefore, the Chair will entertain speakers in favor of adding this language to this particular -- only thing you have done is withdrawn your strike; is that correct, sir?

So now we are including this language. And with that, who rises in favor of the additional language? Who rises in favor of the additional language? Who rises in opposition to the language? You are recognized, sir.

MR. ROBINSON: Delegate Rick Robinson, Tahlequah. I am not -- I understand the reason for Mr. Scott's concern here, but in my humble opinion, and I'm just a lay person at the ceremonial grounds, and maybe Mr. Cornsilk will help me, but I am not aware, and I've been going to the ceremonial grounds for thirty-seven years, and my grandmother taught me about the clan system.

I am not aware of any way that this could be implemented.

Once there is a mother in your line that does not have a clan, she can be six and three-sixty-fourths Cherokee and not have a clan. You can have somebody that's one over four thousand and ninety-six have a clan; it's according to how it falls.

And there's really no system to reestablish your clan except go hunt out a Cherokee woman that's got a clan, marry her and have kids, and your kids will have clans. That's what I would do. I had to go all the way to south Greasy to find one that wasn't my cousin.

MR. HANNAH: The Chair will instruct the delegate that I don't think I would have said that.

MR. ROBINSON: Twenty-six-and-a-half years, and it's been a wonderful half year, so far. There has been times in the past from a non-clan Cherokee to be given a clan by a medicine

man just for the purposes of medicine.

I do not have a clan; my mother is a little Cherokee and Choctaw, but she does not have a clan. But I use the war paint clan when I go to have water treatments or cedar or whatever, and that's the only way that I can have clan, and that's for just like ten minutes.

And we have things at -- (unaudible) -- Grounds, and there's a house for each clan. I have to, during official times, I have to sit in a lawn chair behind my wife, and that's where Cherokee men belong, behind the wives anyway. That's all. Thank you.

MR. HANNAH: Thank you very much. The Chair would entertain a speaker rising in support of the initial language. How stand you, Dr. Hook?

MR. HOOK: In support.

MR. HANNAH: Very well, you may be heard for three minutes.

MR. HOOK: Thank you, Mr. Chairman. Throughout this document, we have stated repeatedly that we wanted to encourage the maintaining support for our culture, for the people who practice traditional ways within our culture. I do not believe that this proposed amendment is encouraging the creation.

Some tribes like the Alabama Coushatta have actually created a no-clan plan to try and accommodate those whose mothers are not from that tradition. I don't believe that's what this proposed amendment attempts to do. It simply states that the Cherokee Nation will assist through perhaps research and resources.

If someone does have a clan and they are interested in locating what clan their family originated in, they will assist with that. And I think it is important that we include language such as this, at a minimum to encourage the maintaining of our culture and traditions.

MR. HANNAH: Thank you, sir. Who would rise in opposition?

MR. CENTER: Mr. Chair.

MR. HANNAH: We heard Ricky against; we heard Mr. Hook for, so now we go back to opposition. Mr. Center, you would be recognized.

MR. CENTER: I rise in opposition. If you look at the language there, it's all right for the Cherokee Nation to encourage, but I don't think we ought to say "and will assist."

If I'm a member of one clan and you know I'm being assisted and you come to be assisted, what are we talking about there? I don't think we need to get into that. The first part, the original says, "nothing in this Constitution shall be construed to prohibit"; I want that freedom for everybody.

MR. HANNAH: Chair would entertain a speaker in support.

MR. JOHN KEEN: Point of information.

MR. HANNAH: Make it quick, Mr. Keen.

MR. JOHN KEEN: We could do this by resolution at the end of the convention.

MR. HANNAH: Mr. Keen, we are in this debating process; we are not going to take up other suggested issues. Do you rise in favor -- or excuse me, you would need to rise in favor; do you, sir?

MR. JOHN KEEN: No, sir.

MR. HANNAH: Take your seat. What about you, Mr. Cornsilk?

MR. CORNSILK: Mr. Chair, I rise in favor if we can amend it to take out "shall," where it says "the Cherokee Nation shall assist."

MR. HANNAH: It says "will."

MR. CORNSILK: "Will assist." I can't see the board. I'm only trying to get at what he's -- I think we're giving orders to the tribal government to expend resources on something that should be a personal matter, and if we can say simply "encourage," rather than "will assist." That's a friendly amendment.

MR. HANNAH: Gentlemen, the Chair is going to entertain this line of discussion for exactly one minute and no longer because we are in debate. The debate has been limited, we have agreed to make this point, and we are down to the final piece.

And so, therefore, one minute will pass, and we will have this resolved. The friendly amendment is going to be accepted, and the Chair will allow that because it's good and it's right that we all get along together here with this. What say you, Mr. Scott?

MR. SCOTT: If it's going to endanger getting it out -- I think all the officials have already being asked to swear to help preserve the culture, but if it's going to be a sticking point, I'll take the amendment, friendly amendment.

MR. HANNAH: So now the language will read, "The Cherokee Nation encourages its citizens to reestablish their ties to the seven traditional clans."

MR. CORNSILK: Thank you, sir.

MS. SCOTT: Call the question.

MR. HANNAH: Since the debate is over, that would, in fact, be the obvious course of action for us. What we are voting on would be the inclusion of this language, "of the Cherokee Nation encourages its citizens to reestablish their ties to the seven traditional clans."

All those in favor, signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

DELEGATES: No.

MR. HANNAH: The Chair will instruct that he cannot determine the vote, and so, therefore, a standing count will be taken. And all delegates will be in their chairs. Mr. Stopp, please join us. Mr. Poteete, thank you very much. Delegates will be attentive. Delegates will be in their chairs. Mr. Dowty, thank

you, sir. And we'll see what it is that we're voting on.

And what we are voting on, once again, ladies and gentlemen, is the inclusion of the language, "the Cherokee Nation encourages its citizens to reestablish their ties to the seven traditional clans." If you vote in favor of this, the language will be included; if you vote no, the language will not be included. Does everyone understand?

Very well, the teller will conduct a count, and all those in favor will stand.

MS. LONG: Eighteen.

MR. HANNAH: Eighteen. Be seated.

Those in opposition, please stand. Teller, conduct the count.

MS. LONG: Thirty-four.

MR. HANNAH: Thirty-four against; would that be correct? Mr. Keen, if we have eighteen in favor of including the language, and we have thirty-four who do not wish to have the language, then, therefore, the motion did not pass, correct?

MR. KEEN, JR.: Correct.

MR. HANNAH: And the language is, therefore, not included.

And, Mr. Keen, you are recognized.

MR. KEEN, JR.: Mr. Chairman, I move this we approve in total Article VIII, please.

MR. HANNAH: Article VIII is before you, ladies and gentlemen.

MR. KEEN, JR.: I mean Article XIII.

MR. HANNAH: It didn't look like Article XIII to me.

Article XIII, if approved, would read:

"Nothing in this constitution shall be construed to prohibit the right of any Cherokee to belong to a recognized clan or organization in the Cherokee Nation."

All those in favor, signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And all those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: Chair was unable to distinguish the vote, and a standing count will be taken. Chambers will be in order. Ladies and gentlemen, once again, what we're about to vote on will be this article. And if you vote in the affirmative, this language will be added and will be approved; if you voted in the negative, then obviously it will not. Did I state that right, Mr. Keen?

MR. KEEN, JR.: Yes.

MR. HANNAH: All those in favor, please stand. Teller will take the count.

MS. LONG: Fifty-two.

MR. HANNAH: Fifty-two in favor, please be seated. And all of those opposed, please stand. Teller will count.

MS. LONG: One, two, three.

MR. HANNAH: Just a moment. The Chair is uncertain about the count because there were delegates moving at that time, so therefore, we will invalidate the final vote, and we will start this process all over again, so all of those that are opposed will stand at this time. And the teller will count.

MS. LONG: Three.

MR. HANNAH: Fifty-one in favor, three in opposition. And the article is approved. Mr. Keen, you are recognized.

MR. KEEN, JR.: Mr. Chairman, I would call for the orders of day.

MR. HANNAH: The orders of day, sir, at nine minutes after the hour of five on this eighth day of deliberation of this body would be for us to once again come together and break bread. And the Chair is very pleased to tell you that we have made it yet to another meal.

Now, folks, when we go to the meal tonight, I want you all to reflect on the people that are supporting each one of you. You all think that you are here, and you are tired, and it's been a long week, but I would dare to say from this chair that for every one of you that is seated here tonight, there are dozens, if not hundreds of individuals that pray for you, that have supported you. They think about you, and they are watchful over what you are doing.

I know personally I speak with my family some three hours away every night. And I know that that is small business compared to some of you, but the Chair has not seen them since a week ago Wednesday. And so the Chair understands individually what sacrifices are being made to be here. But we need to remember this evening what sacrifices have been made by our families and by our friends and by our fellow Cherokees that are supporting us. So be mindful of that as you take your meal this evening.

Also, the Chair would remind you that we've had good and spirited debate here today. That we have addressed issues that run deep and close to the core of passion that we all have over issues.

The Chair would remind you that we are Cherokee, and we are as John Ross said in his letter to those in the west, "We are of one blood."

So we will sit together, and we will take the meal. And we will, in fact, re-embrace that spirit of cooperation that we have had and that we have had throughout this entire convention, and that the Chair believes that we must maintain for us to move through and accomplish the charge that has been given to us.

The Chair is very proud of all the delegates. Thanking you very much for your attentiveness. We are at recess and we will return, what you say, Mr. Keen, at ten after six or at fifteen till?

MR. KEEN, JR.: Being ten after the hour, I would suggest six-fifteen.

MR. HANNAH: Six-fifteen, so it shall be. We will see you at that time.

(dinner recess)

MR. HANNAH: How was dinner, folks? Did everyone do well? Did you all follow your homework assignment? Remember, the Chair wanted you to think about those people that are supporting us while we're here. We needed to revisit those folks just a wee bit.

Now, those of you who have brought newspapers to find out what is really happening, which is a good sign that the fiction industry is still alive and well in the United States, you might begin to put those aside.

In the former exchange earlier with the regard to the question with regard to our oath, and the Chair recognizes that is obviously a very sensitive issue for all of us, as we move through that debate. And the good doctor, Doctor Hook introduced that question for us and we moved quickly to establish a great deal of procedural guidelines for our debate.

MS. COON: Everybody put their papers away.

MR. HANNAH: Thank you, Ms. Coon, asking those of you have your papers to put them away. I don't think you want to mess with Ms. Coon. Her maiden name, she's a Hummingbird; is that correct, Ms. Coon?

MS. COON: Yes.

MR. HANNAH: And she would be of the east Peavine. Just take it, for those of you who are saying, "Jay, where is this," I'll tell you it's in Adair County, and you don't want to mess with the Hummingbirds from east Peavine, okay. So if she asks you to put your papers away, you will.

Meanwhile, back at what we were saying. In the Chair's zeal to initiate the debate, he was remiss in not allowing the good Doctor Hook to be able to speak to the rationale for his interest in striking. If the delegates would entertain, my apologizes to Doctor Hook for that, sir. And the Chair always believes and was raised in a good solid Cherokee tradition in Adair County, the best thing you do is if you make a mistake, you say you're sorry for it and you make up for it the best you can.

So, sir, if you would like to be recognized at the microphone, the Chair would give you time to be able to speak to the rationale of why you, in fact, introduced that piece. Would you be so inclined?

MR. HOOK: Yes, sir. Delegates, Mr. Chair, thank you, I don't mean to monopolize time. I know time, we've spent a lot of it here, for a considerable number of days, but I do want to explain why I introduced that. I think that's important.

I would first like to respond to all the other comments.

I also lost several family members in World War II, in Vietnam. My dad is a veteran; he was injured in World War II, and every day of my life I saw him in pain because of that war injury to this day. I am a veteran, I was a Vietnam veteran, so I know what that's like.

But I've also spent the last ten years working with, not only history -- the whole reason I went back to college to get a

Ph.D. in Indian History was because the Indian community in Houston said we need someone to go to school. We need someone that can be accepted in academic arenas; that's why I did it. It took me ten years to get it. So I know what it means to sacrifice.

For three years we lived out by the Alabama Shaw reservation and for a considerable period of that time, without any income, living on venison and squirrel, and my wife and children having no heat sometimes, cooking outside on a wood fire, I know what it means to give up things.

But I also know that history of a relationship between the United States and Native Americans, no matter how far back you want to go, start with Columbus and come all the way through to today, but we're fighting issues with the U.S. government, still fighting issues of respect, still fighting issues of human dignity, still fighting issues over basic things likes mascots and being -- according our youth self-respect.

I work with kids all the time who have so little self-respect, and we get off a plane to go to a conference, and they look around themselves and see other kids, they say, "We're the ugliest kids here." Our kids can't go on with that kind of self-image. It deeply pains me to see how our children think of themselves.

The relationship with the United States is -- and I also work with the Justice Department. And one of my best friends was a mediator at Wounded Knee in 1973, and he and I worked diligently with police departments. He's been working in Jasper trying to bring some resolution of the conflict in that community. We're working right now with the Police Chief in Houston to try and deal with the way the police treat minorities in Houston.

I work every day with government issues. And I know the relationship. But my first allegiance, and this is only for myself, I always say, whenever I speak anywhere, I speak only for myself; I can't speak for any other person, any other nation, anyone except myself. But for myself, my first allegiance is to the Cherokee Nation, bottom line, and that that should be recorded and reflected in everything that I do, every statement, every oath that I take.

MR. HANNAH: Thank you, good doctor. Mr. Smith, how do you rise, sir?

MR. SMITH: I've got three questions. One is the order of the day, what are we going to take next, and then I've got a couple.

MR. HANNAH: The order of the day, sir, would be to recognize Manager Keen who will continue us with our consideration of items in seriatim. Question number two?

MR. SMITH: I proposed earlier the definition of boundaries, and if that's appropriate here, it's a real short sequence. And I understand the initiative referendum may take a little time, and I would ask to indulge to perhaps to look at Article XV out of sequence. I'm not sure if I can be here tomorrow. That's why I asked.

As that's drawn to your attention, I would like to say one point of information. In that, I'm not sure if I can be here tomorrow, I'd just like to say to my position; my faith in the Cherokee people is renewed. I've been a participant and an observer and an attorney in the last two years of controversy and have seen all of us, from different political candidates, to different areas, to work with together with supreme dedication and honest dedication because we want to make things better for our children, to set aside those personal differences and political differences.

It's really inspirational to me. It really tells me that the Cherokee Nation is not only going to live; it's going to live well to its people and its institution.

And I would like to say this in appreciation to the Chair. You've made it an enjoyable experience, a memorable experience. And on behalf of myself and the rest of the delegation, I'd like to present you a watch in Cherokee, so you can keep us on Indian time.

MR. HANNAH: Thank you. You had a third question, Mr. Smith.

MR. SMITH: I've lost count. I think that's the two. If we could address out of sequence the borders and the --

MR. HANNAH: What say you, Manager Keen?

MR. KEEN, JR.: I've got no objection.

MR. HANNAH: And I have no objection, so therefore --

MR. SMITH: Ralph, do you have the language of the borders I submitted to you? In several places in the Constitution, we talk about historical boundaries and so what I have prepared is some language, after consultation with David Mullon and several of the other attorneys.

Basically what the language there states is that in 18 -- a very brief history lesson, 1830, the federal government passed the Indian Removal Act, which will allow the exchange of lands in the old time and the exchange of land in Indian territory provided, unlike the tribes of western Oklahoma, that those lands be traded in a fee patent issue by the federal government, the highest property transferred of any sovereign.

In 1838 and in 1846, pursuant to treaties of 1828 and 1839, the federal government issued patents, the 1846 patents on display at the historical society. If you look at all the deeds, and here in eastern Oklahoma, when you open up your abstract, the first thing you'll see is a synopsis of the fee patent of 1838. So that is our outmost limits of property as of 1846. We memorialized the patent in 1846.

Since then, there's been two financial treaties that have diminished our territory. At that time, 1846, it included the Cherokee Nation Proper, which we know as the fourteen northeastern counties, the Cherokee outlet, which is the panhandle west, and the Cherokee Strip, the four-mile piece between Kansas to Oklahoma, and then No Man's Land, which is around six hundred thousand acres in

Kansas.

The treaty after the American Civil War in 1866, we ceded as a government to the United States government, No Man's Land and the Cherokee Strip. In 1893, by Congressional account, the Cherokee outfit was receded to the federal government; therefore, the language appearing in front of you says:

"The boundaries of the Cherokee Nation shall be those territories described by the patent of 1838 and 1846, diminished only by the treaty of July 19, 1866, which is No Man's Land and the Strip, and the act of March 3, 1893, for which we ceded the Cherokee outfit. Thereby, leaving the boundaries of the fourteen counties of Cherokee Proper as they are today." And we confirm that with overlays of Bureau of Indian Affairs.

Therefore, I propose that that language be included in the Constitution and the Style Committee replace any provision where it suggests "historical boundaries" with the word "boundaries" and use that as a definition.

MR. HANNAH: Very well, Mr. Keen, would you introduce the article, please?

MR. KEEN, JR.: If I understand Mr. Smith correctly, we're dealing with Article XV, supersedes Constitution of 1839 and 1976. And by way of introduction --

MR. SMITH: If I may interrupt, I would leave to the Style Committee wherever they want to put this paragraph in.

MR. KEEN, JR.: Very well. My motion is that we consider this article, which includes the Smith proposal.

MR. HANNAH: And so would you like to continue to --

MR. KEEN, JR.: The language which appears in your printed copies and up on the screen is:

"The provisions of this Constitution overrule, supersede and appeal in whole the provisions of the Cherokee Nation Constitution enacted the 6th day of September, 1839, and the provisions of the Constitution of the Cherokee Nation of Oklahoma enacted the 26th day of June, 1976."

And by way of explanation, the language is substantially that of the same that appeared in the 1975, except we have added the -- for clarification, we have added the Constitution of 1839 and, of course, if this document is submitted as a new Constitution in whole, then we will need to add the appealing language for our previous constitution, the one we have referred to as the 1975 Constitution.

MR. HANNAH: So we have that before us.

MR. KEEN, JR.: And, yes, and I move that language be approved.

MR. GOURD: Second.

MR. HANNAH: There was a second. The floor is open for debate.

MR. SMITH: Mr. Chair.

MR. HANNAH: Mr. Smith.

MR. SMITH: If possible, if we could address the boundary language first because I have some amendments to the language regarding the Constitution. Can we discuss only the boundary language, please?

MR. HANNAH: We will move at this time to the Smith proposal, which is the language that, if approved, would read: "The boundaries of Cherokee Nation territory shall be those described by the patents of 1838 and 1846, diminished only by the treaty of July 19th, 1866, and the act of March 3rd, 1893." Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. The floor is open for debate.

MR. GOURD: Call the question.

MR. HANNAH: Question has been called. Is there a second?

DELEGATE: Second.

MR. HANNAH: Hearing no opposition, all those in favor please signify --

MS. MASTERS: Point of clarification.

MR. HANNAH: Point of clarification.

MS. MASTERS: I would like to ask Mr. Smith, Delegate Smith if, primarily, would this leave us open to claims for the land, reclaim of land?

MR. SMITH: Would this?

MS. MASTERS: Would this open the door like to reclaim of lands?

MR. SMITH: All the claims against the federal government or claims against us?

MS. MASTERS: Claims against the federal government.

MR. SMITH: It would not preclude that.

MS. MASTERS: Would it strengthen it?

MR. SMITH: It wouldn't do anything to it.

MR. HANNAH: Question has been called. There is a second. Hearing no opposition, if approved, the language would include:

"The boundaries of Cherokee Nation Territory shall be those described by the patent of 1838 and 1846, diminished only by the treaty of July 19, 1866, the act of March 3rd, 1893."

All those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

DELEGATE: No.

MR. HANNAH: And motion passes. The language is added, and we are open for debate with regard to the article.

MR. SMITH: I propose an amendment. I'm not sure if it's friendly or hostile, so let me suggest it. I think we can, if we conform to our other earlier conversations where it says Cherokee Nation of Oklahoma, of course, strike "of Oklahoma."

But the substance of my amendment would be the second line, "repeal in whole," and move to strike "in whole," and at the last of the sentence, "which are hostile and irreconcilable."

If I may give the rationale, Mr. Chairman.

MR. HANNAH: So your amendment is to strike "in whole" and then to add "which are hostile and irreconcilable"; is that correct, sir?

MR. SMITH: It is.

MR. HANNAH: And your explanation.

MR. SMITH: There is an argument, and there's still a continuing argument that the Cherokee Nation today is a successor in interest or a separate entity from the Cherokee Nation before statehood. This amendment has several purposes.

One is to assure that there's no question on our legal theory that we are the same Cherokee Nation identified in the Constitution of 1839, and that legal continues through the Cherokee Nation which was identified in the Constitution of 1976.

Further, if we -- what this by operation does is that if this Constitution is passed as a total new Constitution, or submitted to the people as amendments to the current Constitution, in either regard, what it does is if there's anything that we've overlooked in the 1839 Constitution or the 1975 Constitution that's beneficial to us and not addressed in this 1999 one, it will still be available.

The last phrase is the word of art within the case law and the principle is, is that subsequent constitutions control over earlier constitutions only if the subsequent constitution provisions are hostile, which are in contradiction and irreconcilable.

I think that's very important because there may be things in the earlier constitutions that we may want to survive, and we may have overlooked. From a historical perspective, I think it provides the continuity and the identification that we are one in the same, a Cherokee Nation first identified in the active union of 1839.

MR. HANNAH: Thank you, Smith. Mr. Dowty, what say you, sir?

MR. DOWTY: Are we in debate?

MR. HANNAH: Yes, sir, we are.

MR. DOWTY: I believe I favor this language and

--

MR. KEEN, JR.: Point of order, Mr. Chairman.

MR. HANNAH: Yes, Mr. Keen.

MR. KEEN, JR.: I don't recall that you made this a motion. I think he offered it as a friendly amendment.

MR. HANNAH: Oh, I'm so very sorry.

MR. SMITH: I offer it as a friendly amendment; in the event it is not seconded, I move to amend.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Floor is open for debate and you are recognized.

MR. DOWTY: And I have felt this all the way through and, Mr. Smith, if you might help me on this. The reason I might favor this is that it would preserve our precedence of opinions from the court, which have interpreted the provisions particularly of the Constitution of 1976 where the language is consistent with the language of the present Constitution.

There have been interpretations by the court, and we have a history of opinions of court that create precedent. And so it is possible that -- it is possible that if you revoke the entire Constitution of 1976, that you might affect the precedence that have been established by the court in the past.

And so to the extent it helps the precedent of the court, I would favor this.

MR. HANNAH: Mr. Keen, you are recognized.

MR. KEEN, JR.: Delegate Ralph Keen, Jr., and I rise in opposition to this proposed amendment. And the reason is really, our high court has already taken this issue up and, in fact, has done that within the last six months.

This question came before the Commission, and the Judicial Appeals Tribunal weighed these arguments that the learned Mr. Smith made before that high court and was not persuaded by them.

The ruling of the court was that when the voters in 1975 or '76, in actuality, approved this document and ratified it, that it replaced and repealed in whole all prior constitutions.

I think I understand the rationale behind Mr. Smith's proposal here. But I also think we've got to be very careful because we are creating the organic document of our government. Now, do we want that document to state very clearly the structure of our government? Absolutely. That's why we've been here for eight days. Do you want it to clearly protect the right of the people? Absolutely. But do we want this document to become just known as a -- dare I say, amendment to the 1975 which was an amendment of the 1839? I don't think so. I'm sorry, but I don't.

That was a different generation of Cherokees; they voted on that document. They chose to be governed under it. 1975, again, that was not quite as far back in time, but still, that was a different voting populous who consented to be governed by that document.

Now we have this document, which very closely mirrors the 1975 with what I think are a number of improvements. And the voting populous of 1999 has to decide whether or not it will choose to be governed under this. If we're going to accept this proposal, we also need to put before the voting people, the 1975 and the 1839 Constitution.

So, you know, I have a real problem, even though I think some of his concerns have some merit, I have a real problem with having this continuing litany of constitutions where there's no clear division.

If I were on the court, I would have a very difficult time because you would be in a constant state of trying to check

every document to see if there was any inconsistency.

Let me make one more point. I might ask Mr. Smith, the Constitution of 1839 was not the first constitution adopted by the Cherokee people. Why haven't you included that one in the list?

MR. SMITH: In 1927 the Cherokees adopt a constitution. Six years, seven years before that, there's a treaty of 1817 and 1819, which the federal government ties the Cherokees to become settlers; we moved to the west of Arkansas. And the federal government recognized them as a separate tribe in many ways.

And then in 1839, after the infamous Trail of Tears, John Ross and Sequoyah Guess, George Guess Sequoyah held a convention, which resulted in the act of union. At that time, the old Cherokee Nation, the Cherokee Nation East and the old settlers, Cherokee Nation West, reunited to become the Cherokee Nation.

If we look at the style, it says the name of the style shall be the Cherokee Nation. This constitution is not our organic document, this 1999. The '75 Constitution is not an organic document. The 1839 is not our organic document. The document that created the life as the Cherokee Nation as a legal entity as we now know, it was the act of union in 1839.

It to us is like the Declaration of Independence, so that is our organic document. And these constitutions are subsequent mandates of the people on how we should hold our government. And that's a theory and that's why.

As to the earlier court cases, I have not appeared in the case of which the arguments were made, and I haven't participated in a case as an attorney or as a participant where we have argued the validity of the 1839 Constitution over and against the 1976. Somebody else may have.

Be that as it may, that doesn't mean in this 1999 Constitution we do not acknowledge a continuum in those early provisions, if they are carried forth.

MR. HANNAH: Mr. Hembree, you are recognized.

MR. HEMBREE: On a point of information, and this would probably be directed to Delegate Smith or any other learned delegate as to Cherokee history.

For those who are very familiar with the constitutions that are set up, especially the 1839 Constitution -- which I am not, and that's why I ask this point of information -- are there any obvious articles that are hostile and irreconcilable, or basically just give me some more information about -- I don't like to vote on something I don't know about, and that's why I want some more information on the 1839 one.

MR. HANNAH: Mr. Smith.

MR. SMITH: I'd be glad to give it to you. I don't believe there's anything good in the 1839 that would jump out at us. Mine is more of a theory in proposition form, rather than if there are substantive rights we need to carry forward.

I think it's very important for us to maintain in our constitution a continuum because it may affect some rights that have

been litigated in the past, the question if there's an old Cherokee Nation versus a new Cherokee Nation. And I think the Tenth Circuit in the northern district has laid much of that aside, that I would not want to jeopardize.

MR. HANNAH: Would any other delegates be heard? Would any other delegates -- Doctor Gourd.

MR. GOURD: Point of clarification. Are you suggesting then that there might be something in the 1839 or '75 Constitution that in the future may be interpreted to our benefit that at this point in time we're not aware?

MR. SMITH: For example, if there's something in the 1839 Constitution we have not addressed, it would still be available.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: If I may. To make a counterpoint, if there is something in there that we have not addressed that may work to the detriment of the Cherokee Nation in that proposal, we would also be bound by that. And unless we want to take time and go through that document and spend another eight days going through that document, I think this is an ill-advised idea.

I'm very leery of it, and I do not know what future ramifications it might have. As I said, I have some understanding, I think, of this theory of continuation of government through organic documents, but ladies and gentlemen, the Constitution does not make a Cherokee Nation. It's the people that make the Nation. And there has certainly been a continuation of our sovereign people since a time of memorial. So why do we need to try to establish that through this continuing link of documents that history establishes for us? The history is already in place.

MR. HANNAH: Mr. Dowty.

MR. DOWTY: Point of information, I would like Mr. Smith to address the concerns that Mr. Keen has just expressed. I'd like to hear the response on that.

MR. HANNAH: Mr. Smith.

MR. SMITH: The Curtis Act of 1898 and the subsequent acts of 1901 and 1906, there was a period by the federal government that the Cherokee Nation was like in probate, liquidating and exhausting. They had -- there was some saving language in the 1906 Act, the Five Tribes Act.

But there's been a prevailing argument by the United Keetoowah Band that there's an old Cherokee Nation, an effort to try to go and dissolve it back in, and then the creation of a new Cherokee Nation embellished in the 1975 Constitution.

And because that wasn't a firm linkage, it was an argument -- there still continues to be an argument, and I believe it's been laid to rest -- but there is a door still available to be opened.

But the United Keetoowah Band, which was recognized by the federal government in 1950, the United Keetoowah Band of the

Cherokee Nation of Oklahoma, is the successor in interest, the true successor in interest to the, quote, "old Cherokee Nation."

At times they claimed territory to claims of past of reparations, and such, and that's where I think the very serious question lies by not entertaining in strictness this continuum that the organic document, the Act of Union of 1839.

But to answer your question, I know of no provision of 1839 that would be necessarily harmful to us now because we've reformed the structure of the government. There may be some rights of procedures that may be.

MR. HANNAH: Mr. Dowty.

MR. DOWTY: Mr. Chair, I'm pretty comfortable with the Constitution of 1976 because we have had it paralleled with our discussion as we've gone through this new proposed Constitution.

I am not comfortable at all with the Treaty of 1839 and the provisions that might be contrary, but not hostile, or that may conflict with the Constitution we're working on, and I do have pretty strong concerns about that. And so that is certainly a reservation on my prior argument as to the precedent of the court cases.

MR. HANNAH: Thank you, Mr. Dowty. Any other delegates that would wish to be heard?

MS. MASTERS: Call for question.

MR. HANNAH: Question has been called. Is there a second?

DELEGATE: Second.

MR. HANNAH: And what we would be voting on would be the striking of the words "in whole" and inclusion of the language "which are hostile and irreconcilable." Striking of the words "in whole" and the inclusion of the words "which are hostile and irreconcilable."

All of those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

DELEGATES: No.

MS. COLSON: Abstain.

MR. HANNAH: Very well. A standing count will be taken and the teller will prepare, and the delegates will take their chairs.

All of those in favor of including this language, please stand. Let the count begin.

MS. LONG: Twenty-three.

MR. HANNAH: Twenty-three is the count. Be seated. Those opposed, please stand.

MS. LONG: Twenty-nine.

MR. HANNAH: Very well, twenty-three in favor; twenty-nine against. The language does not stand. And, Mr. Keen, you are recognized.

MR. KEEN, JR.: Mr. Chairman, can I call for a short conference of our commissioners here?

MR. HANNAH: Yes, sir.

Doctor Gourd.

MR. GOURD: Thank you. In reference to the definition of the boundaries that's been offered by Delegate Smith, the Commission stands fully in favor of its approval and incorporation into the Constitution.

In our little huddle here when we were deciding what play we were going to run, I had proposed that we actually formalize that and it can become Article II, and, of course, the Style Committee would handle the renumbering, which would define the territorial jurisdiction.

And from then on, in the Constitution, any reference to the word "boundaries" which can be depicted by the Style Committee, everyone knows exactly where that boundary is and to what it is referenced.

My brief comment with Mr. Smith, he agreed that placement -- he wasn't concerned on his placement within the Constitution; is that right? Just that the Style Committee could place it where it was most appropriate.

So I just feel personally that it would be, I think, a much stronger statement to actually give it an early article number, and then it would clarify every other reference to boundary for any other purpose from thereafter.

So I would make that in the form of a motion.

MR. HANNAH: There is a motion to take the boundary language, and to create an Article II for it to stand alone; is that correct, sir?

MR. KEEN, JR.: Yes, with an addition that it be titled Territorial Jurisdiction.

MR. HANNAH: Motion is on the floor; is there a second?

DELEGATE: Second.

MR. HANNAH: The floor is open for debate.

DELEGATE: Call the question.

MR. HANNAH: The question has been called; is there a second?

DELEGATE: Second.

MR. HANNAH: And hearing no opposition, all those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And the section or the article is created.

Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, sir. Moving back to Article XV, I believe the proper procedure would now be to move to the acceptance of that language, approval of that language in toto.

MR. HANNAH: There is a motion to approve Article XV in toto. There is a second. Hearing no opposition, we would move for acceptance of the article. And the Chair looks about; does everyone know what we're voting on? Do you want to see?

Would you like the Chair to read those for you?

MS. COLSON: If I abstain, then I need to abstain from voting on this, right?

MR. HANNAH: Beg your pardon?

MS. COLSON: My question is -- never mind, it was just answered.

MR. HANNAH: Thank you very much. What would be the pleasure of delegates with regard to review of the article before we vote to approve it?

MS. MEREDITH: Don't read it.

MR. HANNAH: Don't read it? The delegates are not making fun of the Chair's reading, or are they just growing weary of it? Very well.

All those in favor of Article XV, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no." And it is approved and added.

And Mr. Keen, you're recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman.

Returning to our seriatim process, we need to pick up with Article XIV, Initiative Referendum and Amendments. We begin with Section 1.

The language states: "Notwithstanding the provisions of Article V, the people of the Cherokee Nation reserve to themselves the power to propose laws and amendments to this Constitution and to enact and reject the same at the polls independent of the Council, and also reserve power at their own option to approve or reject at the polls any act of the Council."

This language is unchanged from the 1975 Constitution. I move that this body approve this language.

MR. HANNAH: Motion is before you; is there a second?

DELEGATE: Second.

MR. HANNAH: There is, and floor is open for debate.

Mr. Keen, are you rising, sir?

MR. JOHN KEEN: No.

DELEGATE: Call the question.

MR. HANNAH: The question has been called for. Is there a second?

DELEGATE: Second.

MR. HANNAH: And hearing no objection, the section would read: "Notwithstanding provisions of Article V, the people of the Cherokee Nation reserve for themselves the power to propose laws and amendments to this constitution and to enact or reject the same at the polls independent of the Council and also revoke the power at their own option to approve or reject at the polls any act of the Council."

All those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And the language is approved.

Mr. Keen, you are recognized for Section 2.

MR. KEEN, JR.: Thank you, Mr. Chairman. Moving on to Section 2.

Section states: "Any amendment or amendments to this Constitution may be proposed by the Council, and if the same shall be agreed to by the majority of all the members of Council, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered into the journal and referred by the Secretary of State to the people to be approved for their approval or rejection at the next regular general election, except when the Council, by two-thirds vote, shall order a special election for that purpose. If a majority of all registered voters voting at such election shall vote in favor of any amendment thereto, it shall thereby become a part of this Constitution."

By way of explanation, the only change the Commission made was the terminology "from Secretary of Treasurer" to the "Secretary of State." Other than that, the language is identical to the 1975 Constitution, and I move this body approve it.

MR. HANNAH: Motion is before you; is there a second?

DELEGATE: Second.

MR. HANNAH: And there is, and the floor is open for debate.

DELEGATE: Call the question.

MR. HANNAH: The question has been called for; is there a second?

DELEGATE: Second.

MR. HANNAH: There is, and hearing no opposition, Section 2, if accepted, would read:

"Any amendment or amendments to this constitution may be proposed by the Council, and if the same shall be agreed to by a majority of all the members of the Council, such proposed amendments or amendment shall with the yeas and nays thereon be entered into the journal and referred by the Secretary of State to the people for their approval or rejection at the next regular general election, except when the Council, by a two-third vote, shall order a special election for that purpose. If a majority of all the registered voters voting at such election shall vote in favor of any amendment thereto, it shall thereby become a part of this Constitution."

All of those in favor signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no.". Motion passes; the added language is added.

And, Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Moving on to Section 3, which states:

"The first power reserved by the people of the Cherokee Nation is the initiative and ten percent of the registered voters

shall have the right to propose any legislative measures by petition and fifteen percent of the registered voters shall have the right to propose amendments to the Constitution by petition, and every such petition shall include the full text of the measures so proposed.

The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of public peace, health or safety), either by a petition signed by five percent of the registered voters or by the Council as other enactments are effectuated.

The ratio and percent of registered voters hereinbefore stated shall be based upon the total number of votes cast at the last general election for the office receiving the highest number of votes at such election."

This language is unchanged from the 1975 Constitution, and I move that this body approve it.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: The floor is open for debate. The good lady from California is recognized. How do you rise in this issue?

MS. MASTERS: This section seems confusing to me. It says it recognizes the first power as reserved by the people, and then in the phrase, "except as those laws necessary for the immediately preservation for peace, public peace, health and safety," I think that all laws go under those three categories. So is it saying that it grants us the power of making laws, except for all laws that exist?

And the numbers bother me also, Mr. Moore. We're saying that to get an initiative, we have to have ten percent, but then to take that initiative to a referendum, we have to add five more percent. And then if an election -- but if it's a legislative nature, we have to start with fifteen percent, and if we get that, then to move it to the next step, we have to then again add five percent. So we have either requiring fifteen percent of all registered voters or twenty percent of all registered voters.

Now, we've looked at those numbers repeatedly, and this is in conflict, I believe, with what we have done before, as we've adjusted our numbers. So this particular piece, I believe we need to bring in line with what we had done earlier in looking at the figures and the things that we had done. Because, again, we're back to our percentages and --

MS. BERRY: Point of order.

MR. HANNAH: Point of order.

MS. BERRY: Excuse me. Are we making an amendment? Is that what we are doing? Is that what we're doing? Are we just discussing?

MS. MASTERS: I'm discussing where I think this is in conflict with what we've done.

MS. SCOTT: I move to table this section, and when Ms. Masters has got it worked out, then we can come back.

MR. HANNAH: Motion to table. Is there a second?

DELEGATE: Second.

MR. HANNAH: All those in favor of tabling, signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And therefore, the floor is still open for debate.

MR. JOHN KEEN: Mr. Chairman.

MR. HANNAH: Mr. Keen, you are recognized.

MR. JOHN KEEN: You didn't recognize me over here, did you?

MR. HANNAH: You know what, Mr. Keen, the Chair would recognize you, no matter where you will be. No matter what microphone, what room we're in, and for that matter, what state we would be in.

MR. DOWTY: This is the west Peavine microphone.

MR. HANNAH: I know. You will take great care of the west Peavine microphone.

MR. JOHN KEEN: The Cherokee County boy will respect the west Peavine microphone. Make a motion; we will debate two for, two against, three minutes each.

MR. HANNAH: There is a motion. Okay, people, just a moment, here, just a moment. Debate was open; there was a motion to table. It did not pass. Debate is still open, and motion has been made, two for and two against, and the time, Mr. Keen?

MR. JOHN KEEN: Three minutes.

MR. HANNAH: Three minutes. Is there a second?

DELEGATE: Second.

MR. LITTLEJOHN: I rise to object.

MR. HANNAH: Mr. Littlejohn, how do you object, sir?

MR. LITTLEJOHN: I object to the limiting of debate. I know we're tired; I know we want to go home, but this business of trying to shut people off from debating; is there a '79 delegate that came here to discuss the Constitution of the Cherokee Nation?

And when we limit this, number one is, we don't know who gets to talk, but the first people that jump up to talk, they've eliminated the right or the benefit of the other delegates to speak, and I stand in opposition to limiting debate, no matter how tired we may become.

MR. HANNAH: Very well. So, therefore, we will vote on the motion to limit debate.

All of those in favor to limit debate to two for, two against for three minutes, please signify by say "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And the ayes have it, and there will be two for and two against for three minutes. And how do you recognize on this issue, good doctor?

MR. HOOK: First of all, exactly rising on the issue of accepting this as stated; is that what we're discussing? There have been no proposed amendments at this time, correct?

MR. HANNAH: That is correct, sir. Manager Keen, once again, this language is language from the 1975 Constitution?

MR. KEEN, JR.: That is correct.

MR. HOOK: Then I would ask first for a point of information where it says, "shall be based upon total number of votes cast in the last general election for the office receiving the highest number." General location, does that designate the election for Principal Chief, or is that also the elections every other year?

MR. HANNAH: Mr. Center. Mr. Center will answer you, sir.

MR. CENTER: That's all elections.

MR. HOOK: Then my understanding would be that for the off year that every other year that number would be greatly reduced. So I would move that the language be stricken after "officer," or after "the officer receiving the highest number of votes as such election," and the substitution of "election for the Principal Chief." Maintain continuity of numbers.

MR. KEEN, JR.: Mr. Chairman.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: If I may, for example, this language -- and this is, by way of clarification. The language in the '75 Constitution did not contemplate off-year elections that we now have since we set up terms. I think you raise a valid point.

MR. HOOK: I make that a friendly amendment.

MR. KEEN, JR.: And I accept that as a friendly amendment.

MR. HANNAH: And I assume we hear no opposition from the other commissioners. And hearing none, the language will be added, and it will be stricken.

And the floor is open for debate, and we have yet to begin our sequel with two for, two against, three minutes. How rise you, ma'am?

MS. MASTERS: I would like to propose an amendment. I would like to begin in line two by changing ten percent to one percent. Moving down to the word where it says "Constitution by petition," right there, I'd like to strike the rest of that sentence.

MR. HEMBREE: After the word "petition"?

MS. MASTERS: Yes. The rest of that sentence after he -- it goes to down to -- wait a second, have they -- I didn't know it from the paper I have. No, there is a period after the word "proposed."

Because we're dealing with registered voters here, because we're dealing with registered voters as in this particular issue here, by changing it to one percent, we would empower the people to introduce an initiative. And that would be about three hundred people would be required to initiate an initiative.

And then if we move on down and we read along, it will say, "one percent can introduce an initiative, and they shall have the right to propose any legislative measures by petition, and fifteen percent," which is number would be the registered voters.

Now, we're getting to up to forty-five -- I didn't change that. I'm sorry, I'd like to change the fifteen percent to ten. About ten percent or three thousand, then marking out the "fifteen percent" of registered voters shall have the right to propose an amendment to the Constitution by petition.

And then the second power is the referendum may be ordered except by laws necessary. I still think all laws fit in those three categories. I would like to strike that "except to laws as" -- strike that.

That's my amendment. Thank you.

MR. HANNAH: Let's review. Ms. Masters has recommended we strike "ten percent" and reduce it to one percent. She has suggested that we strike "fifteen percent" and reduce it to ten percent. That we strike the language "and every such petition shall include the full text of the measure so proposed," and she has moved to strike "except as to laws necessary for the immediate preservation of the public peace, health and safety."

And the floor is -- well, first off, is there a second?

MR. DOWNING: Second.

MR. HANNAH: And there is. The floor is open for debate.

MR. HOSKIN, JR.: Thank you, Mr. Chairman, Charles Hoskin, Jr., Vinita.

I rise to oppose this amendment. The first red flag that really jumped out at me was the one percent provision. As I understood it, a good scenario would be that three hundred Cherokee registered voters could propose legislation to enact change in our law.

There's a reason why we cede a certain amount of our rights to a legislature, and that is because we want us to go around about our daily activities and allow our legislature to pass laws.

Now, the referendum provision, the provisions are necessary because there are times when a large number of citizens may want change, and they're representative body is not responsive to that need.

The key here is that we want a high enough threshold to where that isn't, in fact, the case. If we have one percent and three hundred people can enact change, then we really undermine the authority that we cede to our legislature. And I think this sort of undermines our idea of representative government.

We do want to have -- I think most of us want to have an

issue of petition, things of that nature, but we want to make sure and keep the threshold high enough that it reflects a great need in our Nation to make change.

And I oppose this, Mr. Chairman, thank you.

MR. HANNAH: Thank you, Mr. Hoskin. Mr. Rider.

MR. RIDER: I -- (yielding)

MR. HANNAH: Mr. Scott, how do you rise, sir?

What say you?

MR. SCOTT: Point of information.

MR. HANNAH: Point of information, Mr. Scott.

MR. SCOTT: I would like to hear a short definition of "initiative" and "referendum" so everybody in here will know what we're talking about.

MR. HANNAH: Mr. Keen, Manager Keen, would you be able to quote from Black?

MR. KEEN, JR.: No, sir, I cannot.

MR. HANNAH: Sit down then -- no.

MR. KEEN, JR.: In reference, I call on my legal colleagues out there to help me on this, but my understanding of the words, the initiative is the power of the people to legislate, exclusive of the Council. In other words, they can pass law and produce it, and through this process, have it enacted as a law.

The referendum is a process of challenging a law that's been passed by the Council. The Council has made an enactment; the people have disapproved of it, and through the petition process, they place that law before a vote of the people by a referendum vote.

That's my understanding. If I'm in error, I stand corrected.

MR. HANNAH: Chair believes you've done well. Thank you, sir. Delegate Rider, you are recognized.

How do you rise on this issue; for or against?

MR. RIDER: Opposed.

MR. HANNAH: You're opposed; very well, we'll hear you.

MR. RIDER: The way I understand this with only one percent, I could get on the telephone and as many relatives as I've got, I can probably get three hundred votes in one night. And I'm opposed to this to cost the Nation that much money for just a few people to want to start a ruckus. So I'm opposed to it.

MR. HANNAH: Thank you, Mr. Rider. Mr. Hembree, you are recognized.

MR. HEMBREE: Thank you, Mr. Chairman. Delegate Hembree from Greasy.

MR. HANNAH: How do you rise on the issue?

MR. HEMBREE: Stand in opposition.

MR. HANNAH: Does someone rise aside from the author in support?

MR. HEMBREE: I move previous question.

MR. HANNAH: The question has been called. Is

there a second?

DELEGATE: Second.

MR. HANNAH: And we're voting on the entirety of the strike and substitution that were provided by Delegate Masters of California. And that would be the -- you folks will -- the Chair reads this for an important reason; not because the Chair is interested in hearing his voice, but so that every delegate in this room at no time would be able to raise before the Chair that I did not understand what it was that we were voting on. And you all will be attentive.

And what has been placed before us, if you were to vote in favor, then "ten" would be stricken, "ten percent," and "one percent" would be added. Also, "fifteen percent" would be stricken and "ten percent" would be added. And the language, "and every substitution shall include the full text of the measures that are proposed" would be stricken. And "except as to laws necessary for immediate preservation of the public peace, health or safety" would be stricken.

All of those in favor, please signify by saying "aye."

DELEGATE: Aye.

MR. HANNAH: And all of those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: The motion does not carry. The language stands. Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. In light of the actions that this body has already taken in establishing elections every two years, I think we need to propose an amendment to the language as soon as the scribe gets there.

MR. HANNAH: Very well, we'll give the scribe time. This young woman has given a great deal of her life for us and we have, at times, placed her under undue strain. We have become very used to her skill. And, Billie, we will be patient.

MR. KEEN, JR.: Yes, we will.

MR. HANNAH: If there is anyone in the room that the Chair is very, very sensitive to not hacking off. As a matter of fact, the Chair would be so bold to say there is only one person in the room that he is sensitive to not hacking off, it would be this young woman who has come all the way from Germany to be here among the Cherokees. Mr. Keen.

MR. KEEN, JR.: The very last sentence, we've already inserted "the Principal Chief," but, of course, that draws some ambiguity whether or not that election is a runoff or the general, so I would like to strike and replace this language.

After the word "election," well, first we need to put the word "general" back before "election," and insert this language, "involving the office of Principal Chief."

And I would offer to that to the Commission by way of friendly amendment to help clarify the language.

MR. HANNAH: No objection from me, sir. Mr. Gourd, Ms. Coon, would you object if Ralph were to put this language

in?

MS. COON: No.

MR. HANNAH: Mr. Keen, proceed.

MR. KEEN, JR.: That brings us back in Section

3.

MS. MASTERS: A point of clarification.

MR. HANNAH: Yes, ma'am.

MS. MASTERS: So what this would do on the two-year elections, it would hold those people responsible in order to initiate any kind of initiative or referendum, they would be held to the larger number of votes that voted in the general election as opposed to the two-year election in the district, which would in effect just deny the people any activity?

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: In response, I would beg to differ. We're just simply trying to make this consistent with what we already have. Now, we implemented off-year elections where the Chief would only be involved once every four years; we don't need to have our voting, registered voting base being fluctuating up and down. We need to have some consistency.

So really, this is just an extension of what we already had.

MR. HANNAH: Thank you, Mr. Keen.

MR. MOORE: Point of clarification.

MR. HANNAH: Point of clarification.

MR. MOORE: Back up to the top. What we were debating earlier about letting citizens who are not registered sign petitions, they did bring initiatives, according to the way this reads.

MR. KEEN, JR.: No, they cannot.

MR. HEMBREE: I move previous question on Section 3 as a whole.

MR. HANNAH: Thank you, sir. Once again, I point out to you, sir, that that language that you are referring to is in a section that is tabled, I believe. Mr. Keen, is that correct?

MR. KEEN, JR.: That's correct.

MS. CRAWFORD: Point of clarification.

MR. HANNAH: Point of clarification. The fine lady from Nowata.

MS. CRAWFORD: At the end, after "office of Principal Chief," should that say "the officer receiving the highest number of votes at the election"? It kind of leaves it hanging there, if you'll look at it.

MR. HANNAH: I'm not going to touch that.

MR. KEEN, JR.: Let's read the language. "The ratio in percent of registered voters hereinbefore stated shall be based upon the total number of votes cast at the last general election involving the office of Principal Chief."

The former language, that language: "Of the office

receiving the highest number of votes at such election," and the problem that comes with that language is the runoff. Runoff election is not a general election, and therefore, the highest number of votes -- and this has actually happened -- may not be the Principal Chief; it may be a councilor.

MS. CRAWFORD: I understand now.

MR. HANNAH: Then hearing no opposition, we will move to consider -- let's scroll back to the top of this -- Section 3. And if approved -- sir.

MR. MOORE: I would like to put that in about the citizens, what I was talking about for clarification. Would it be out of line here?

MR. HANNAH: It would be out of order, sir. And the section, if approved, would read:

"The first power reserved by the people of the Cherokee Nation is the initiative and ten percent of the registered voters shall have the right to propose any legislative measures by petition and fifteen percent of the registered voters shall have the right to propose an amendment to the Constitution by petition, and every such petition shall include the full text of the measure so propose.

The section power is the referendum, and it may be ordered except as to laws necessary for the immediate preservation of all public peace, health and safety, either by the petition, signed by five percent of the registered voters or by the Council as other enactments are effectuated.

The ratio and percent of registered voters hereinbefore stated shall be based upon the total number of votes cast at the last general election involving the office of Principal Chief."

All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

DELEGATE: No.

MR. HANNAH: Motion passes, the language is accepted.

And, Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. We are up to Section 5, this article, and that section states -- 4, I'm sorry, Section 4.

MR. HANNAH: Quite all right, Mr. Keen.

MR. KEEN, JR.: And that section states:

"Referendum petitions shall be filed with the Secretary of State not more than ninety days after the final adjournment of the session or meeting of the Council which passes the bill on which with referendum is amended.

The veto power of the Principal Chief shall not extend to measures voted on by the people. All elections on measures referred to the people of the Cherokee Nation shall be had at the next regular general election, except when the Council or the Principal Chief shall order a special election for the express purpose of making such reference.

Any measure referred to the people by the initiative shall take effect and be in force when it shall have been approved by the majority of the votes cast thereon."

This language with the exception of the terminology, "Secretary of State," is unchanged from the 1975 version. Excuse me, I stand corrected. There is language that previously appeared at the end of this section that read, "and provided that no measure which is required and approved by the President of the United States or his authorized representative shall be effective until approved."

That language has been stricken from this paragraph.

And I move that this language be approved by this body.

MR. HANNAH: Motion is before you. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is. And the floor is open for debate. How rise you, good doctor?

MR. ROBINSON: I move for -- we need another amendment in there up in the previous section. Because once again, if it's one of these general elections that just has part of the district, you could have some people not be able to vote on these matters. Thank you.

MR. HANNAH: Chair is unclear. Approach the microphone and help us out here. That is unless there are other -- perhaps the Chair is the only one confused. I see some head nods. Are you confused? If you are confused, good doctor, you will explain.

MR. ROBINSON: I'll explain. Let's say 2001, we -- let's say we have a -- no, let's say 2003, we have an election and only half of the Council members are voted on. We do not know yet how the Council seats are going to be divided. The Council seats may be divided -- one election, it may be Adair, Cherokee, Bell, Sequoyah, Delaware and Mayes County that we vote on.

The next year election in two years, it may be the other four districts and the at-large people. So if you don't put it -- tie in to a Chief and Deputy Chief election, not all Cherokee citizens will have a chance to vote on that referendum, initiative, what all it is.

So we don't really know how the elections are going to be separated among the districts. And I hope we can separate them to where we're not spending four hundred thousand dollars every two years on election.

MR. HOOK: Point of information.

MR. HANNAH: Point of information, Dr. Hook.

MR. HOOK: With the way it's structured with the changes we made every year, the advantage to that would be that the people would not have to wait four years to bring something to the possible conclusion. Just that.

MR. HANNAH: Mr. Hembree, you are recognized.

MR. HEMBREE: Since this is not an amendment, I would ask that we limit debate on this section to two speakers in

favor, two speakers opposed, three minutes apiece. And I'd like to talk to you about your deal.

MR. HANNAH: Pardon?

MR. HEMBREE: Nothing. That's my motion.

MR. HANNAH: There is a motion to limit debate two for, two against, three minutes; is there a second?

DELEGATE: Second.

MR. HANNAH: All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And we are limited in our debate. And good doctor, do you wish to be in the fray?

MR. ROBINSON: I didn't think it would be quite this difficult to understand. But as it is now, we do not know how we are going to be electing our Council people. We are going to be electing them every two years. Right? We've got staggered terms.

Well, we don't know if every district will be voted on every two years. We staggered the terms. Council people are still in for four years. So half of them will be voted on. Let's say nine seats will be voted on one election; two years later, eight seats will be voted on.

We have nine districts. Well, if you vote on nine one time and eight one time, there ain't no way every district is involved in one election. Because we've got nine districts and an at-large district, we really have ten districts now, one way to look at it. And when you divide the territory in half, you have to elect nine one time and eight one time, or ten one time and seven one time. And there is not any way that all districts will be involved.

If we don't do the same thing we did the previous section, we're going to cost ourselves more money. If that's not a problem with everybody, that's fine. It's just every two years, we'll probably have an election everywhere. I really didn't know how to explain it any easier than that, unless I had a blackboard but --

DELEGATE: Can you just offer the language?

MR. ROBINSON: Oh, yeah, I could do that.

MR. HANNAH: That would be too common sensical.

That would make way too much sense for us.

MR. ROBINSON: I'd like to talk about this. Let me put the numbers in first.

MR. HANNAH: Wait a minute here, folks. The Chair apologizes; it just seemed like we had a debate going here, and the good man has the answer, but he's not going to tell us. We're going to have to go over, and we're going to have to get it out of him.

Wherever Mr. Hembree is, who started our limit on debate, the Chair is inclined to follow this line of reasoning for a while.

MR. ROBINSON: Let me insert the language, please, Chair. After "general election," where it says "regular

general election." I think that would be the right spot. The next general election. And the language we used on the other section, I don't have that language "where involving the office of Principal Chief." Sorry, everyone. I've been hacking my lungs out here for an hour. But if we do not do that, I think we're going to have some problems down the road.

MR. HANNAH: Okay. So we have --

MR. HOOK: Point of clarification.

MR. HANNAH: Just a moment. Let's find out if we're actually going to get this in. So that before we start clarifying and debating because if we're not going to get there, there's no sense in clarifying it.

So therefore, we have an amendment that is before us to include the phrase "involving the office of Principal Chief"; is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second, and the floor is open for debate, and we now may clarify for you, sir.

MR. HOOK: I just have a question for anyone that can answer it. This is language that's unchanged from the past Constitution, essentially unchanged.

MR. KEEN, JR.: That's correct.

MR. HOOK: I would like to know -- the implication is this would be a regular situation to be dealt with, according to the good doctor. How often has this actual arisen since the implication of the past Constitution?

MR. KEEN, JR.: I'm unqualified to answer that.

MR. HANNAH: The Chair cannot offer anything.

MS. SCOTT: Point of order.

MR. HANNAH: Point of order.

MS. SCOTT: Is that relevant to the discussion of how often it happens?

MR. HANNAH: Well, it is point of clarification.

And the Chair has bent over backwards, folks, to see to it that we all know exactly where we are.

Mr. Center, perhaps able to help us with this?

MR. CENTER: No.

MS. MASTERS: Point of clarification.

MR. HANNAH: Point of clarification.

MS. MASTERS: Because we're moving to the two-year elections is what is going to make from now on more than historical.

MR. HANNAH: That does not answer the lady's question, though. The Chair is still entertaining to answer her question.

That's okay, Doctor, I had a gender change earlier today, too, thanks to Mr. Hembree. Remember that Madam Chair thing? You are now known as the good lady. So sorry.

MR. JACK BAKER: Mr. Chair.

MR. HANNAH: The Bakers of Chewey.

MR. JACK BAKER: That's right, Jack Baker, Chewey. The problem is, if the item is put on the ballot, all voters can vote on it, not just the ones that are voting for councilors; that's all it is.

MR. HANNAH: And, Ricky, what say you?

MR. ROBINSON: I'm just looking at the cost. Because if we have only four districts that are voting, it's going to cost less than if all ten districts are voting.

MR. JACK BAKER: But that's not going to be relevant if it's an issue that's that important that the people have brought it out. They could have the right to vote on it every two years if they want to.

MR. ROBINSON: I just want everybody to know what the whole situation would be.

MR. HANNAH: Okay, folks. Let's settle down here, now, just a little bit. We've had a spirited exchange here.

MR. ROBINSON: Call for the question.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. And what we would be voting on would be the inclusion of the phrase "involving the office of Principal Chief." If you voted in favor, obviously, the language will be added.

All those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And the measure does not pass; the language is not added, and, Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. I think I am prepared to call the question on Section 4.

MR. HANNAH: The question has been called on Section 4; is there a second?

DELEGATE: Second.

MR. HANNAH: Hearing no opposition, if Section 4 were to be passed, it would read:

"Referendum petitions shall be filed with the Secretary of State not more than ninety days after the final adjournment of the session or meeting of the Council which passed the bill on which the referendum is demanded.

The veto power of the Principal Chief shall not extend to measures voted on by the people. All elections on measures referred to the people of the Cherokee Nation shall be had at the next regular general election, except when the Council or the Principal Chief shall order a special election for the express purpose of making such reference.

Any measure referred to the people by the initiative shall take effect and be in force when it shall have been approved by a majority of the votes cast thereon."

All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And the motion passes, and the section is approved.

And, Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Then we head to Section 5, which states:

"Petitions and orders for the initiative and for the referendum shall be filed with the Secretary of State and addressed to the Principal Chief of the Cherokee Nation, who shall submit the same to the people. The Council shall make suitable provisions for carrying into effect the provisions of this article."

This language with the exception of the reference to "the Secretary of State" is unchanged in the 1975 Constitution.

And my motion is this body approve it.

MR. HANNAH: Motion is before you; is there a second?

DELEGATE: Second.

MR. HANNAH: There is. The floor is open for debate.

MR. ROBINSON: Call the question.

MR. HANNAH: Question has been called. Is there a second?

DELEGATE: Second.

MR. HANNAH: Hearing no opposition, we would move or refer to Section 5. If you voted in the affirmative, then the language would read:

"Petitions and orders for the initiative or the referendum shall be filed with the Secretary of State, addressed to the Principal Chief of the Cherokee Nation who shall submit the same to the people. The Council shall make suitable provisions for carrying into effect the provisions of this article."

All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." The motion passes and the language is approved.

Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you Mr. Chairman. Section 6, this language states:

"The referendum may be granted by the people against one or more items, section, or parts of any enactment of the Council in the same manner in which such power may be exercised against a complete enactment. The filing of a referendum petition against one or more items, section or parts of an enactment shall not delay the remainder of such act from becoming operative."

This language is unchanged from the 1975 Constitution, and I move for its approval.

MR. HEMBREE: Second.

MR. HANNAH: There's a motion that's been

seconded. The floor is open for debate.

MS. MASTERS: Point of clarification.

MR. HANNAH: Point of clarification, Doctor Masters.

MS. MASTERS: That practical application of this, Mr. Keen, Delegate Keen, would mean that if -- the practical application of this would be that if there is a referendum which would be against an enactment of the Council, by the way, which all referendums are not, as you had stated before, but this one would be, so if there is a referendum, that the people get upset about something the Council passed, and the people file a referendum, petitioning against that item that was passed by the Council, the people filing the referendum would not delay the enactment of the Council action.

That's what that says, right?

MR. KEEN, JR.: That's correct. It's not?

MR. HANNAH: Here, here. Mr. Baker, you are recognized.

MR. BILL BAKER: Let's say that the Council passed an act that they were going to buy a fire truck, a bus, and a swimming pool. And all of a sudden, the people got upset about the swimming pool, so they come up and say, "We don't want a swimming pool," and they do a referendum, and that puts that at bay, but we could go ahead and get the bus and the fire truck.

MS. MASTERS: Okay.

MR. KEEN, JR.: I stand corrected on that. That word, "shall not delay the remainder of such act."

MR. HANNAH: Thank you, Mr. Baker. This will now be known as the swimming pool example. What is the pleasure of the delegates?

DELEGATE: Call the question.

MR. HANNAH: The question has been called; is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second, and hearing no opposition, Section 6, this document would read:

"The referendum may be demanded by the people against one or more items, sections or parts of any enactment of the Council in the same manner in which such power may be exercised against the complete enactment. The filing of a referendum petition against one or more items, sections or parts of an enactment shall not delay the remainder of such an act from becoming operative."

Language is before you, all those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And the language is passed.

And, Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman.

Section 7 states:

"If two or more amendments are proposed, they shall be submitted in such manner that electors may vote for or against them separately."

This language is unchanged from the '75 Constitution, and I move that it be approved.

MR. HANNAH: Motion is before you; is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Floor is open for debate.

DELEGATE: Call for the question.

MR. HANNAH: The question has been called, and hearing no opposition, if approved, Section 7 would read:

"If two or more amendments are proposed, they shall be submitted in such manner that electors may vote for or against them separately."

All those in favor, please signify by saying "aye."

THE DELEGATE: Aye.

MR. HANNAH: And those opposed said "no."

Language is passed; section is approved.

And, Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Moving to Section 8.

"No proposal for the amendment of this Constitution which is submitted to the voters shall embrace more than one general subject, and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the amendment of this Constitution by articles, which embrace a general subject, each proposed article shall be deemed a single proposal or proposition."

This language is unchanged from the 1975 Constitution, and I move for its approval.

MR. HANNAH: Motion is before you; is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second, and floor is open for debate.

DELEGATE: Call the question.

MR. HANNAH: Question has been called for, and hearing no opposition, the section, if approved, would read:

"No proposal for the amendment of this Constitution which is submitted to the voters shall embrace more than one general subject, and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the amendment of this constitution by articles, which embrace a general subject, each proposed article shall be deemed a single proposal or proposition."

All those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no." Motion

passes; language stands; section is approved.

Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Moving ahead to Section 9. The section states:

"No convention shall be called by the Council to propose a new Constitution, unless the law providing for such Constitution shall first be approved by the people on a referendum vote at a regular or special election.

Any amendments, alteration, revisions or new Constitution, proposed by such convention, shall be submitted to the electors of the Cherokee Nation at a general or special election and be approved by a majority of the electors voting thereon before the same shall become effective. The question of such proposed convention shall be submitted to the citizens of the Cherokee Nation at least once in every twenty years."

And continuing in the footnote 63, this language has been approved by the Commission.

"No amendment or new Constitution shall become effective without the approval of the President of the United States or his authorized representative."

With the exception of that deleted language, the language in Section 9 is identical to that of the '75 Constitution, and I move for its approval.

MR. HANNAH: Motion is before you; is there a second?

DELEGATE: Second.

MR. HANNAH: Thank you. And the floor is open for debate.

Good doctor, you are recognized. How do you rise on the issue, whichever good doctor.

MR. ROBINSON: I'll let Doctor Hook go first; I've been talking too much. If that's all right.

MR. HANNAH: Is this a harbinger of what we're looking for?

MR. ROBINSON: Probably not.

MR. HANNAH: Good Doctor Hook of Texas, you are recognized.

MR. HOOK: Thank you, Mr. Chair. I would just propose an amendment for consistency that electors -- that "registered voters" replace "electors."

MR. KEEN, JR.: I have no opposition to that.

MR. HANNAH: Ms. Coon.

MS. COON: I don't have.

MR. HANNAH: Doctor Gourd.

MR. GOURD: No.

MR. HANNAH: Neither does Mr. Hannah.

MR. KEEN, JR.: I think that's a matter we leave to the Style Committee.

MR. HANNAH: Doctor.

MR. ROBINSON: Rick Robinson, Delegate

Tahlequah. I'll pose this as a friendly motion, but if it's not accepted, I'll move it then.

But my friendly amendment is to drop the entire last sentence of this section. I feel we've provided for the people a way to propose in this Constitution by referendum vote. The problem that I have with voting on it every two years, it's a tendency for people to vote yes when they don't really have a good idea of what it entails.

So that's a friendly amendment that I'm proposing. If you accept it, fine; if not, I'll just move to have it struck. Is that blackmail or what?

MR. HANNAH: No, sir, it's not.

MR. ROBINSON: I'll make the motion to do that.

MR. HANNAH: So your motion, sir, is to strike the final sentence; is that correct?

MR. ROBINSON: Yes.

MR. HANNAH: Is there a second?

MR. HOSKIN, JR.: Second.

MR. HANNAH: Floor is open for debate. Mr. Poteete, you wish to rise on this issue?

MR. POTEETE: I'd like to speak on something --

MR. HANNAH: Totally different.

MR. POTEETE: No, not totally different. What I want to put to you is decide whether we should discuss it now or later. I would propose to this convention that we not leave the Council to wrestle about the convention. If the voters chose that one should be constituted, that one should be held, that we make a formula by which the convention would be constituted, and leave that as part of this Constitution.

It is very difficult matter to try to come up with a form by which delegates would be selected. If this is the point to talk about that, or if we have to dispose of this amendment first.

MR. HANNAH: We are going to, not necessarily dispose of, that would be a bit premature. But we are, in fact, going to debate the motion that is before us. And you might give some thought to the verbiage that you would wish to propose in an upcoming amendment that I'm sure we'll all hear.

MR. POTEETE: I could ask the Chair to indulge me. Would it be permissible, rather than come up with the exact language, to make a proposition generally which all could agree to how it would be constituted, and then let our learned attorneys who are present volunteer to couch it?

MR. HANNAH: I don't think that that's a smart idea. Not that the Chair has anything against learned attorneys.

MR. POTEETE: I will be advised.

MR. HANNAH: Is there any other debate with regard to the striking of the final sentence?

MR. KEEN, JR.: Mr. Chairman.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Yes, Delegate Ralph Keen, Jr.,

and I do rise in opposition of the strike-out of this language. I think one of the most important visionary things that the framers of the '75 Constitution did was put this language in there. If they didn't, obviously, we would not be here today. And that the problems that the Cherokee Nation have been suffering would continue to suffer indefinitely.

And it's just by -- I don't know if it's fate; I don't know what it was; maybe just dumb luck that this provision came into play at a critical period in Cherokee Nation history. And I am very thankful that it did. So I would like to leave the language.

MR. HANNAH: Star-Scott, how rise you on the issue?

MS. STARR-SCOTT: I would rise to speak against striking this. I think it's wonderful, like he said, that the Cherokee people every twenty years has the opportunity to look at this precious, precious document.

When this is passed, this is our Bible; this is the people's word to us. And I think it doesn't hurt anything to provide for the next twenty years that other Cherokees be able to come and do what we have done this week and look our work over. They may wish to change it.

MR. ROBINSON: Mr. Chairman, I'll withdraw my motion.

MR. HANNAH: Thank you. Mr. Keen, the work you were looking for was in fact "providence," sir, because the Chair believes that it was providence rather than luck that brought that verbiage there.

MS. MEREDITH: Mr. Chairman.

MR. HANNAH: Most likely Cherokees twenty years from now should have an opportunity to spend eight or nine or ten days.

MS. MEREDITH: Mr. Chairman.

MR. HANNAH: Perhaps being the -- if we can just visit that upon our children, might make them more appreciative of their law. The good lady from Oklahoma City.

MS. MEREDITH: Well, in line with that, I would like to add some language. I've tried to resist it, but I can't.

MR. HANNAH: The Chair will be interested to hear it.

MS. MEREDITH: "At least once every twenty years, unless the previous constitutional convention is still in session."

MR. HANNAH: Oh, the good lady, the good lady from Oklahoma City will not be recognized for the remainder of the session.

DELEGATE: Call the question.

MR. HANNAH: Question has been called. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is. Without opposition, the

language would read, if accepted:

"No convention shall be called by the Council to propose a new Constitution unless the law providing for such convention shall first be approved by the people on a referendum vote at a regular or special election.

Any amendments, alterations, revisions or new Constitution proposed by such convention shall be submitted to the electors of the Cherokee Nation" -- to be changed -- "registered voters of the Cherokee Nation, at a general or special election and be approved by a majority of the registered voters voting thereon before the same shall become effective. The question of such proposed convention shall be submitted to the citizens of Cherokee Nation at least once in every twenty years."

And all of those in favor said "aye."

THE DELEGATES: Aye.

MR. HANNAH: And all those opposed said "no."

And the motion passes, and the language is held, and the section is approved.

Mr. Keen, you are in your seat, the younger, and the good doctor, you are recognized.

MR. ROBINSON: Rick Robinson, delegate, Tahlequah. Point of personal privilege. I just didn't want to explain that I was asked by two individuals to put that in, and I told them I'd give it a shot, and I could see where it would going, so I withdraw.

MR. HANNAH: You will be able to go home, sir, and collect your meal. Thank you.

Mr. Keen, the intermediate, you are recognized.

MR. KEEN, JR.: Mr. Chairman, if we have no further business with Article XIV entitled Initiative, Referendum and Amendment, I would move for its approval in its totality.

MR. HANNAH: The motion is before you; is there a second?

DELEGATE: Second.

MR. HANNAH: Floor is open for debate.

MR. HOSKIN, JR.: Call the question.

MR. HANNAH: Question has been called; is there a second?

DELEGATE: Second.

MR. HANNAH: There is, and hearing no opposition, before --

MR. POTEETE: Mr. Chairman.

MR. HANNAH: Mr. Poteete.

MR. POTEETE: The matters I was discussing previous, do we have need to do those now?

MR. HANNAH: We can well do those now, sir.

MR. POTEETE: We might ought to do them now, as to wait. Here's what I -- I jotted some thoughts down I thought of over the last few days. As the Chair of the convention, maybe we can get some consensus to come back in a little while with the exact

wording.

The idea would be that we constitute the convention in the same way that we did this time. It would be each branch of the government nominate two people, made six, and then we'd have the good seventh member appointed by those six people, who would then be about the business of constituting the commission, as we would leave them the instructions.

The instructions would run something like this: From among the people who have vast experience in constitutional conventions -- that would be us -- we would direct that the registrar and the election service office, and such people as within the tribe twenty years from now who have access to names and addresses, assist the commission in contacting all of the people who might qualify for either cabinet or a membership.

And that would be, out of this group of seventy-nine delegates and alternate delegates, all of us would be contacted and asked to respond within a liberal amount of time, saying that we would and could -- and some of us won't be able to twenty-five years from now -- but those who are able and can commit the time that is projected by the commission that a convention might take, which we would suppose based on this one to go through a good review is going to take ten days or a couple of weeks, that they would respond and say that they would be available.

And we would have that pool of people from which we would choose nineteen. We would do the same thing with people who were former elected officials, either Councilmen, Chief, Deputy Chief, judges, and people who had been members of Council. Another nineteen people to come in from that group.

Then thirty people to be chosen, three each from each of the districts. That would be the nine districts, plus we would be somehow one for the at-large people. We choose three people from each one of those districts, who offered some sort of testimony before the commission, which would constitute itself, as it did this time, and ask for public input by the -- the -- whatever, however we communicate twenty-five years from now. And people that would give testimony might even be on video or something.

But from among those group of people, that would give us a pool of people. We would do the same thing we did this time. Let the seven commissioners who were appointed be a part of the convention, and they can structure things so that they could take the leadership and bring something forward.

And at that time, it would be constituted in this manner, this manner, that we would have a great deal of documents from the public hearing, which would be available for people to think about.

But we wouldn't contemplate that the Commission would come forth with a Constitution, but the people would come forth with their various amendments and hope to have some sort of support for them.

I haven't made that into an amendment, but --

MR. HANNAH: Mr. Poteete, you left one thing out; sir, Chair will not be available. If we're going to put all

that language in there, I want that to be stated in there.

MR. POTEETE: Anyway --

MR. HANNAH: Mr. Keen.

MR. HEMBREE. Point of information.

MR. HANNAH: Mr. Keen has been recognized, Delegate Hembree, and you will relax.

MR. KEEN, JR.: Point of information. I agree with everything that Mr. Poteete just stated. When our Commission was formed, we actually had no guidance from our Constitution or from the statutes in how to go about this process, and we essentially had to invent it as we did.

But I do not agree with that -- that -- I agree it should be documented, contemporaneous to this convention, but I don't think it needs to be a part of our Constitution. I think that a law should be enacted by the Council with all of these things fresh in our minds and closely detailed, lay out a structure for the next convention. Until that law is repealed, it will remain on the books, and it would be there twenty years from now.

MR. POTEETE: But my response to that is, I'm all for a neat, tight document without legislating in it, however tempting that might be. But if you do that and for some reason the Tribe goes awry, there's something wrong, all you have to have is a Council and the Chief that say, we're going to change that way this convention is constituted, and you can make a convention of your own.

You can get the Chief and the Council together and say, "Well, we're going to change the law and appoint the people this way," and, yeah, you can go through the motions of having a convention, but it might not be what we have here.

You guys have done a superb job of constituting a diverse group of people with diverse views and so forth. And afraid not to protect the Constitution because of the political winds that might blow.

MR. HANNAH: Mr. Keen, the younger, you are recognized.

MR. JOHN KEEN: John Keen, delegate. While I agree with Mr. Poteete, also, I'm swayed by my thoughts of this current convention and current commission and how it came about in such fairness and such an equitable way for the people in some of our worst times that we've ever seen.

So I tend to think that rather than setting in stone what we should do in the future, maybe my kids can come up with a better way for it.

MR. POTEETE: Mr. Chairman.

MR. HANNAH: Mr. Poteete.

MR. POTEETE: I'm going to move that we lay this on the table and give time for a committee of people to draft something. If people are not in favor of this, of course, they'll vote not to lay it on the table. If they're in favor that we should bring this to a constitution level, if you should feel that way, you

will probably vote to lay it on the table.

And if that happens, if we do lay this on the table pursuant to my motion, I'm going to ask Stacy Leads and Judge Dowty and Todd Hembree to get together with any other attorneys that might be interested and see if we can bring this language together.

So with that, I would make a motion. Should we stand in recess a few minutes?

MR. HANNAH: No, sir, we will not stand in recess. We are about the people's business here, folks. And there is a motion on the floor to table, and it would in fact table the entire article. And is there a second?

MS. SILVERSMITH: Second.

MR. HANNAH: And there is. Or was that a hiccup?

MS. SILVERSMITH: Second.

MR. HANNAH: Oh, my good friend from Kenwood. There is a second, and floor is open for debate.

DELEGATE: Call the question.

MR. HANNAH: Question has been called. And the motion before us, would be to table Section 14 -- Article XIV, thank you. Thank you so much. Thank you.

All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

DELEGATES: No.

MR. HANNAH: And it is not laid upon the table.

And, Mr. Keen.

MR. KEEN, JR.: Call for the question on Article XIV.

MR. HEMBREE: Second.

MR. HANNAH: There's a motion to approve Article XIV, and it has been seconded. And the Chair will look and ask everybody to make eye contact with him. Do you all understand what we're about to do? Is there anyone here who is uncertain? The Chair would be pleased to read all of these sections to you. Don't make the Chair read to you. Because he can read very slowly.

All those in favor, signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

DELEGATE: No.

MR. HANNAH: And the article is approved. By way of personal note from the Chair, the Chair has had the honor on the Commission as serving as the custodian of records, which at the time that the Chair -- well, actually was out of the room during the Commission's deliberation when he was, in fact, appointed as custodian of records. And in many ways has been grappling to understand exactly what that means.

So just in case, the Chair has worked diligently to keep a studious record of all visitors, of all minutes, of all proposals, of all little pieces of papers and stickies, and all sorts of

things, inclusive of the Commission's strong stance that a court reporter appear at each and every of our public hearings. An exhaustive record of all of the comments of our people have been kept.

And it is the Chair's belief that the Commission will make every effort to construct both a paper and an electronic record of the activities that started, oddly enough, ladies and gentlemen, in March of 1998, and throughout the entirety of this process. And that they will be laid up in an appropriate archive so that in twenty years, Mr. Keen, your children will have an opportunity to pour through all of this information and perhaps draw their own conclusions about who we were and who they are and who they should be.

And, Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman.

MR. DOWTY: Mr. Chairman. I had omitted to make one motion with regard to the last article and that is that the honorable scribe shall keep this Commission or its successors informed of her whereabouts for the next twenty years.

MR. HANNAH: And I think that that motion would be appropriate. And we'll not even need to vote on it. You are hereby instructed, young woman.

Mr. Keen.

MR. KEEN, JR.: Yes, Mr. Chairman. We have previously considered and adopted Article XV, so we can advance to Article XVI, Seat of Government, which states:

"The seat of the government of the Cherokee Nation shall be at Tahlequah, Oklahoma."

This language has not been changed since 1975. And my motion is that we approve this language.

MS. STARR-SCOTT: Mr. Chairman.

MR. HANNAH: One moment. One moment, kind lady, we have a motion on the floor, and I'm about to ask for a second. And if you are about to suggest that the capital be moved to Oochey, the Chair would admonish you to be very careful about that.

There's a motion on the floor and, Mr. Baker, we'll hear nothing from Chewey. There's a motion on the floor and it has been seconded, and the floor is open for debate.

MS. MASTERS: Point of clarification.

MR. HANNAH: Yes, ma'am.

MS. MASTERS: Are we at Tahlequah, Oklahoma; near Tahlequah, Oklahoma?

MR. HEMBREE: Yes.

MR. HANNAH: Chair will instruct the delegates to disregard the good man from Greasy. He may speak as an expert on the city limits of Greasy; no more, no less.

DELEGATE: Call the question.

MR. HANNAH: The question has been called. And without opposition, the section would read:

"The seat of the government of the Cherokee Nation shall

be at Tahlequah, Oklahoma."

All of those in favor, signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: The record will show that the Oochey continued to -- held on to the very last. Mr. Keen -- oh, by the way, this is accepted and approved.

Mr. Keen, you are recognized.

MR. KEEN, JR.: Moving ahead to Article XVII, Adoption. This article states:

"This Constitution shall become effective when ratified by the registered voter of the Cherokee Nation. It shall be engrossed on parchment and signed by the Principal Chief and the Secretary of the Interior. It shall be filed in the office of the Cherokee Nation and sacredly preserved as fundamental law of the Cherokee Nation.

The Constitution shall be printed in both Cherokee and English, provided, however, that the English version shall be controlling for all governmental and legal purposes."

The Commission made an omission of some language, that which appears on footnote 68.

The language: "When approved by the President of the United States or his authorized representative" has been omitted. The language, "at an election conducted pursuant to rules and regulations promulgated by the Principal Chief" has been omitted. And the language, which is the final sentence, has been added, as a recommendation by the Commission that the "Constitution be printed in both English and Cherokee."

And my motion is that this language be approved by this body.

MR. HOOK: Second.

MR. HANNAH: Motion is before you and has been seconded. The floor is open for debate and, Mr. Keen, I believe you beat your fellow delegate to the microphone. You will be recognized first. What are you guys doing?

MR. JOHN KEEN: The business of the people.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: I would like to propose an amendment.

MR. HANNAH: Propose away, Mr. Keen.

MR. JOHN KEEN: Well, since we were moving at such speed, as far I got on paper was "the Council."

MR. HANNAH: Would you like me to recognize young Mr. Hoskin while you are perhaps doing something else?

Mr. Hoskin, you are recognized.

MR. HOSKIN, JR.: Thank you, Mr. Chairman. Charles Hoskin, Jr., Vinita. I rise on a point of information.

MR. HANNAH: Very well.

MR. HOSKIN, JR.: Mr. Chairman, the reason I

rise, several people have asked me this question, and that is whether -- and I didn't have an answer for them, so I wanted to bring it up to the Commissioners.

And that is that do we need to have language in here that says that this Constitution will not act retroactive. My gut reaction is that this language is not necessary, but I would be remiss if I did not pose this to you as it may be important information. Thank you, Mr. Chairman.

MR. HANNAH: Manager Keen, what say you?

MR. KEEN, JR.: I have not had that question posed to me before. A Constitution, my understanding, the constitutional law is never retroactive unless so stated right in the document someplace.

Of course, our '75 Constitution has a prohibition against retroactive laws, and so just based on that, I would have to say that this document would not be retroactive, but I would certainly invite the opinions of others.

MR. HANNAH: And the kind lady from Tahlequah is recognized. Do you rise to be a part of this discussion?

MS. HAMMONS: I rise to accept the invitation of my colleague, Mr. Keen, and would point to the first line in the Constitution, "shall become effective when ratified by the registered voters." I think that answers the question. The provision can't be effective prior to that point.

MR. KEEN, JR.: Yes.

MR. HANNAH: And the kind English major from Tahlequah is thanked.

Mr. Keen, how is the progress on your amendment?

MR. JOHN KEEN: It's coming along. "The Council shall --"

MR. HANNAH: "The Council shall." We now have three words.

MR. JOHN KEEN: I believe I'm ready, Mr. Chairman. "The Council shall make provisions to enact this Constitution within one year of its ratification."

Now, I say one year because we've made a lot of changes in here, and if we want good laws, we better give our legislature time to study. I'm not married to these numbers, "this year," and I just think we need -- we're not done yet. We need to address this, I believe.

MR. HANNAH: Mr. Keen, you are recognized.

MR. KEEN, JR.: Point of information to the other delegate, the younger Keen. I think I see your intent here, but your language has me a little confused. Are you suggesting that we mandate that the Council enact the appropriate laws as required by this Constitution within one year?

MR. JOHN KEEN: Yes.

MR. KEEN, JR.: Because the language you have there seems to be at odds with the ratification language at the beginning of the paragraph, so maybe we could adjust the verbiage

here.

MR. JOHN KEEN: That's why I have a brother that's an experienced lawyer.

MR. KEEN, JR.: "Shall enact laws in conformance with this Constitution within one year."

MR. HANNAH: Would that be your amendment, Mr. Keen?

MR. JOHN KEEN: If that's agreeable, I would accept it, yes.

MR. HANNAH: Motion is before you; is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second, and the floor is open for debate.

MR. JOHN KEEN: Mr. Chairman, may I propose just a little further language?

MR. HANNAH: Of course, sir, it would not be out of line for you or for the convention.

MR. JOHN KEEN: "Provided that the provisions for Article X be enacted within six months of its ratification."

MR. HANNAH: Is there opposition from the second?

MR. JOHN KEEN: I pose that question to the delegates. I hope we will consider this astutely.

MR. HANNAH: Is there an opposition from the second? If not, the language will be included. The floor is open for debate.

Doctor Gourd, how stand you on the issue?

MR. GOURD: I like the idea. I just have some concern about a new Council coming in, getting its housekeeping set up, and then enacting a whole bunch of legislation just in one year.

And I think we need to think about the legislative process that's required to write all of these, to review them in committee and get them out there for a vote.

So I think one year is probably too short to get good legislation; two years would probably be a little close to the mark; three years would be too long. I firmly agree with the idea. I would just like for us to think just for a minute about, while one year sounds like a long time, in the legislative process, as we've found out in eight days. And we've mandated a lot of stuff to happen. Thank you.

MR. HANNAH: Thank you, Doctor Gourd. Are there other delegates? And the kind lady from Tahlequah is recognized.

MS. HAMMONS: Thank you, Mr. Chairman. Diane Hammons. Point of information. Now I'm confused. Ratification of the Constitution by the electors is different than this enabling language here. Am I right, Mr. Keen?

MR. KEEN, JR.: Yes.

MS. HAMMONS: The voters would have had to ratify it, then after that point, the Council has to do stuff within

a year to make it work, like we cannot leave it sitting there for twenty years; am I correct?

MR. KEEN, JR.: Well, the Constitution takes legal effect. What this verbiage is designed to do is to prompt the Council to make the laws that we've told them to make through this Constitution.

MS. HAMMONS: Within a year.

MR. KEEN, JR.: The Constitution would be in effect within a year.

MS. HAMMONS: So the things we've told them to do, they have to do within a year, after ratification. So they've already gone through the process of getting it out to the electorate.

MR. KEEN, JR.: Yes.

MS. HAMMONS: Okay. Thank you.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: In response to Doctor Gourd's two year, three years, I think it all goes back to give an inch, take a mile. If we give them two years, they'll take two years; if we give them three years, they'll take three years. So I think we need to impose time limits on here.

MR. HANNAH: Mr. Hembree, you are recognized.

MR. HEMBREE: Yes, Mr. Chairman, Delegate Hembree. In response to the arguments that have been thrown back and forth, I do believe that a time limit is good thing.

Mr. Keen, would you accept as a friendly amendment, "The Council shall enact laws in conformance with this Constitution within eighteen months of its ratification"?

MR. JOHN KEEN: Yes, I would.

MR. HANNAH: With no objection from the second, the language is entered. And the floor is open for debate.

Mr. Poteete, you are recognized.

MR. STOPP: Point of information.

MR. HANNAH: Point of information by Mr. Stopp.

MR. STOPP: The Constitution in itself, what is the process from this point forward? We expect this on the main ballot? Are we expecting to do a review period, because when we go back to the argument, a new Council, it may be -- they may already be seated by the time this comes up from ratification.

MR. HANNAH: Chair will answer, and tell you that, by way of action of this body. This body voted some days ago to have a four-month, at least a four-month waiting period between the end production of this product and before it is presented to the voters. So there would be, obviously, a four-month period there.

This group has not debated the actions of what would happen in that four-month period of time, nor has this group directed who would carry them out, how those activities would be financed or to what scope and nature that they would take. We do know for certain, because of the mandate -- and, Manager Keen, you may stop the Chair at any time.

MR. KEEN, JR.: You're doing well.

MR. HANNAH: But we do know by our current Constitution that we are required -- by our Constitution; not by the Bureau of Indian Affairs or the United States government, but by our Constitution -- to put this document that we are creating, should we adopt it, to put it before the President of the United States or his designee, which we believe would be -- Doctor Gourd, the Secretary of the Interior, or perhaps as low as an Under Secretary?

MR. GOURD: Assistant Secretary.

MR. HANNAH: And that they would have the ability to look through our document and pass judgment on it. There's a contemplation there, which we should all be mindful of as we begin to hopefully close our deliberation, that if there would, in fact, be language, or there would be some supposition within the structure of our Constitution, that it is implied that the United States government, the President or his designee might, in fact, say no.

In that case, only this convention, as the Chair understands, would have the authority to once again take up an issue that the United States government would have a problem with or would raise in debate. Which means this group would need to come back again and consider the urging of the United States government and then, once again, make its changes and make our trip back to Washington D.C.

And if, in fact, accepted by that entity, then we would place this before the voters. Now, once again, that does not contemplate what would, in fact, be happening during this four-month period of time that we have allowed.

Now, obviously that has been passed, and there are items within it, Mr. Stopp. Chair apologizes for perhaps being vague, but then again, as the Chair has always said, he is not totally clairvoyant.

MR. STOPP: Point of information. When you say, the ratification from this delegation is the ending period and then four months from that point, meaning if we end tomorrow, is there a thirty-day preparation period, then four months?

MR. HANNAH: Well, first of all, the ratification.

MR. STOPP: Ratification from this group.

MR. HANNAH: Ratification from this group. Ratification from this group would be at the direction of this group. If this document -- by way of example, if this document were to be adopted tomorrow, then this group would need to direct some entity, officers, perhaps the Commission, to carry that document and to, A, make sure that it, in fact, moves through the approval process that's outlined in our 1975 Constitution.

It would need to, in fact, be taken before the United States government for approval. If it received that approval, then we believe -- is this true, Mr. Keen? That at that point, it would be placed before the voters of Cherokee people.

MR. KEEN, JR.: We base that on the precedent set in 1975, where it was submitted to the Secretary for approval prior to the vote of the people. And that's all we're basing that on.

MR. HANNAH: That is all we're basing that on. The protocol of the Bureau of Indian Affairs has been somewhat convoluted; Doctor Gourd, would that be the correct word?

MR. GOURD: It gets close.

MR. HANNAH: Okay. Thank you. Mr. Stopp, I hope that that explanation helped clarify it for you.

MR. STOPP: It did, but I think I was trying to get a time line here of eighteen months, you know.

MR. HANNAH: And the eighteen months, sir, would obviously -- as the language contemplates currently, the Chair believes that the eighteen-month meter would begin once the people would approve this at the polls. And that, once again, contemplates that, in fact, as I described, the process is mandated by the '75 Constitution by putting this document, should it be adopted, before the President or his designee, would have been done so prior to it going to a vote of the people.

Would that be correct, Mr. Keen?

MR. KEEN, JR.: Yes, sir.

MR. HANNAH: Mr. Poteete, what say you?

MR. POTEETE: I'll say that unless things change radically, that Council needs probably eighteen months to go over this. Good legislation, legislation to bring our laws in conformance of this Constitution, doesn't need to be hurried.

The Council's resources is that they've outdated themselves again, and I predict that they are going to have a little slow on the uptake getting themselves organized, and it would probably be a good idea to leave ample opportunity for debate and for the Council to move this through, particularly if it stays couched like it is, as a kind of a part-time body.

MR. HANNAH: Very well. Mr. Littlejohn, you are recognized, sir.

MR. LITTLEJOHN: Mr. Chairman, I recognize on a point of clarification as to who we are. As I understand the Chairman's explanation is, this body has passed a motion or a resolution to hold things up for four months.

MR. HANNAH: Very, very early in our deliberations. The Chair does not remember the exact date, but perhaps -- on Monday, last, the Chair recalls that Mr. Smith arose and began a debate stating that we should wait four months after the adoption of this document before it would be placed before the voters of the Cherokee Nation, and this body, the Chair recalls, passed that.

MR. LITTLEJOHN: My question is, if this body could reconsider that motion upon two-thirds vote at some appropriate time. And I understand this would not be the appropriate time to raise such a motion.

MR. HANNAH: Is that clear?

MR. KEEN, JR.: This is as appropriate as any time.

MR. HANNAH: It's appropriate, sir.

MR. LITTLEJOHN: If appropriate, I would move at this time that we reconsider that motion to delay this thing for four months.

MR. LAY: Objection.

MR. HANNAH: Just a moment here, folks. Mr. Lay, you rise on objection?

MR. LAY: Point of information. We've not yet

--

MR. HANNAH: That's very true, sir, take your seat. Mr. Littlejohn, if the Chair will -- if you will indulge the Chair, we will hold your kind suggestion, and we will continue with the --

And Ms. Long, thank you for helping. Thank you. We will continue to look at Mr. Keen's, the younger, proposal under the adoption article, and the floor is open for debate.

And the good man from Greasy arises.

MR. HEMBREE: I thought I would change microphones to help the Chairman's peripheral vision.

MR. HANNAH: Thank you very much, or lack thereof.

MR. HEMBREE: I have a comment and probably a question to Delegate Keen. He earlier stated in his argument about the additional language that it takes time to get good laws and good matters enacted. And then we've heard about eighteen months and new councilmen.

If you want good laws for everything else, wouldn't you really want good laws for Article X, also? Would you consider a friendly amendment to redact the language concerning Article X and let's give them all of this in eighteen months. Good laws are good laws. Good consideration is good consideration, is my point.

MR. JOHN KEEN: I would -- as we move the other number to eighteen months, I would go as far on a friendly amendment to nine months.

MR. HANNAH: Mr. Poteete.

MR. POTEETE: I would like to point out that these are only a couple of laws, not a whole series that have to be adjusted. Six months would be plenty of time for somebody to go back and do that. I say let's require them to get it done in six months. I encourage you not to accept the amendment.

MR. HANNAH: Floor is open for debate.

MS. STARR-SCOTT: Call the question.

MR. HANNAH: Question has been called. Is there a second?

DELEGATE: Second.

MR. HANNAH: Hearing no opposition, we look at young Mr. Keen's proposal to include the language:

"The Council shall enact laws in conformance with this Constitution within eighteen months of its ratification provided that the provisions for Article X be enacted within six months of its ratification."

And all of those in favor, signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And the motion passes; the language is added. And, Mr. Keen, would it be appropriate for us to then take a look at this entire article?

MR. KEEN, JR.: Yes, Mr. Chairman. And I would move that this article be approved in its entirety.

MR. HEMBREE: Second.

MR. HANNAH: And there is a second, and hearing no opposition, the article, if adopted would read, if accepted:

"This constitution shall become effective when ratified by registered voters of the Cherokee Nation. It shall be engrossed on parchment and signed by the Principal Chief and the Secretary of the Interior. It shall be filed in the office of the Cherokee Nation and sacredly preserved as fundamental law of the Cherokee Nation.

The Constitution shall be printed in both Cherokee and English, provided, however, that the English version shall be controlling for all governmental and legal purposes. The Council shall enact laws in conformance with this Constitution within eighteen months of its ratification, provided that the provisions of Article X be enacted within six months of its ratification."

All of those in favor, signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And the motion passes, and the language is accepted; the article is approved.

And, Mr. Keen.

MR. STOPP: Orders of the day.

MR. HANNAH: Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. We have now considered, either approved or at least considered every word in this document. I think we at least deserve a round of applause for that.

(applause)

MR. HANNAH: The Chair will remind the delegates that it ain't over until it's over. And he would be very pleased to join in with the feeling of good spirit that we have, but there is work before us, and we will continue until this convention has reviewed this document in its entirety.

Mr. Littlejohn, you are recognized.

MR. LITTLEJOHN: Mr. Chairman, I move for the body to reconsider the arbitrary period of four months and ask that

that be reopened and discussed by the body to determine how the approval and the process of the revised Constitution be included.

MR. HANNAH: There is a motion to reconsider. Since it has no reference of article or section, it is simply referred to as reconsideration of the Smith proposal, which, as the Chair recalls, this body passed a mandate-imposed time limit of no less than four months after the adoption of this document by this body, that it would be placed before a vote of the Cherokee people.

All of those in favor of reconsidering -- or first of all, is there a second?

DELEGATE: Second.

MR. HANNAH: Thank you very much. And all those in favor of reconsidering say "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

THE DELEGATES: No.

MR. ROBINSON: Standing vote.

MR. HANNAH: Standing vote is called for. The delegates will be in their seats.

Mr. Keen, how do you rise, sir?

MR. JOHN KEEN: Procedurally, is there a debate allowed on this?

MR. HANNAH: Debate on whether to reopen or not?

MR. JOHN KEEN: Yes.

MR. HANNAH: It would be appropriate.

MR. JOHN KEEN: I would like to move that we open debate before we make a decision on this.

MR. HANNAH: There's a motion to open debate. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is. And hearing no opposition, all of those in favor, signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And debate is therefore, reopened.

And the outstanding records that we have, the Chad Smith proposal written in his hand and marked as passed:

"The Commission shall provide a period of time no less than four months for public comment on Constitution revisions or amendments completed by the convention before submission to vote by the people."

The floor is open for debate, and who would care to be recognized? Mr. Keen, you, sir.

MR. JOHN KEEN: John Keen, delegate. I don't recall when we made this.

MR. HANNAH: On Monday, sir.

MR. JOHN KEEN: On Monday. This was a long time ago.

MR. HANNAH: Yes, sir, it was.

MR. JOHN KEEN: Well, it's Friday now, I believe.

MR. HANNAH: Perhaps.

MR. JOHN KEEN: We've made a lot of progress from Monday to Friday. So much so that I believe we're going to finish this thing. And I would have agreed on Monday that we might not have finished and we might have needed a period of time like that. But I see the barn; we're almost there. I believe we'll finish this thing tomorrow or Sunday for sure.

But as I argued against this the first time, I want to renew my arguments. We have come together as a body to produce a document to give to the people. I believe we can all see that we can do that now. We all know that we can give a document to the people.

What I think we need to do is do what we've been charged to do. As I said before, there's too many if's involved with this four-month waiting period. I've worked too hard to put my heart and soul into this thing to see it die after four months. And believe me, when I say that, there's a possibly this thing will die.

We don't know that the Council is going to enact legislation to allow it to be put on the ballot at a later time. We don't know that they're going to spend three hundred thousand dollars to call a special election to put this thing on the ballot.

Right now, we have a guaranteed right to place this before the people. I believe the Commission has the ability to produce this, to get it to the people, put it on the Internet, and give them reasonable time, two months or more. It's the 5th of March. The election is not until May 22nd. That's a lot of time. People can look at it. They can review it.

I wish we'd had four months before the election. I wish we did, but we don't. So for the lesser of two evils, I think we need to get this thing before the people. I don't think -- we've worked too hard. I don't think that we need to take the people's chance for a new Constitution away from them with this four-month waiting period.

It's a great thing in theory, just as a lot of things we've thrown up in the air have been great things in theory. But in reality, the practicality of it, it's not there. We need to get this thing before the people.

I'd like to hear from one of the commissioners on their ability and what -- before we make a decision, we need to know what the Commission's ability is to get this before the people. And beyond that, I know that I will spread the word that if there's anybody that has a question or wants to know anything about the Constitution, I will be there to answer their questions.

I know what is going on here. I've been here every day, all day, every day, participating, debating, listening, digesting everything. We all have. We can all go out there and spread this thing around. But let's do it while we have a chance. Let's hear what the options are before we let this thing go.

MR. HANNAH: Mr. Dowty, you would be heard, sir.

MR. DOWTY: Thank you, Mr. Chairman. I think it is important that the people have time to review this document that we're going to produce for them. But I think it's also important that we carry out the mandates of the people from 1995 and that this work be done.

I believe that we can shoot for, at the minimum, the July 24 runoff, and I believe there's a very good likelihood we're going to have a runoff. And I don't just look at the expense of a special election, but I certainly think we should look at that.

But I believe that there's time between now and that runoff election for us to get this out before the people and have them a fair review of this document. And we can still hit that deadline at the minimum.

But in order to do that, I think we need information. We need to know from Doctor Gourd or from the Commission, what are the logistics and how long will it take, in your best estimate, to get this before the federal government for signature. And from Mr. Center, what his logistics are in getting this in the hands of his Commission for the ballot, for the preparation, in preparation for the election.

And I think we need that kind of information before we make a firm decision on this. But I would ask us to shoot for that day.

MR. HANNAH: Thank you, Mr. Dowty. Mr. Hook.

MR. HOOK: Point of personal privilege. Can we take a five-minute break?

MR. HANNAH: We will take a five-minute recess.
(recess taken)

MR. HANNAH: This chamber will come to order. Delegates will take your seats. I'm having a problem remembering which of the two of you. And would you defer to Mr. Hoskin?

MS. HAMMONS: I certainly will.

MR. HANNAH: You are recognized, sir.

MR. HOSKIN, SR.: Thank you, Mr. Chairman, Charles Hoskin, Sr., delegate. First of all, I would like to say that this is an extremely important issue that we are about to consider at this late time. And it may be best served if we come refreshed tomorrow and take this up first thing.

With that being said, I'd like to say, ladies and gentlemen, when we talked about putting this off for a period of four months, it was not predicated on how long it would take us to do our job. We did not decide if we got finished on Wednesday, we would put it off three months; if we got finished on Thursday, we put it off predicated on what was best for the Cherokee people.

In 1975, the Cherokee people had one year in which they could review their document and make up their mind and get input. Since I've been going home periodically, the folks where I come from were very thrilled that they were going to have this period of time in which to look over this document. Now, that's not to say that we

could not lessen this time, but I would certainly be hesitant to lessen it less than the time of the runoff.

And, again, this debate is very serious. This decision was made with a lot more delegates in place than we have here this evening, so we might certainly consider the seriousness of this before we decide whether we want to open this tonight or not. Thank you.

MR. HANNAH: Thank you, sir. Good lady from Tahlequah.

MS. HAMMONS: Thank you, Mr. Chairman. Diane Hammons, Tahlequah. I agree that we owe it to the people of the Cherokee Nation for this to be considered very dutifully. We have, I vehemently believe, done our job, and I am very proud of the work that we have done and will defend the fairness of this process to anyone who asks me or to anyone who doesn't.

I think we owe it to the Cherokee people to allow them at least four months, and I still like that language, and I hope that would work with the runoff. We owe them at least that period of time so they can look it over.

I do not want -- after we have deliberated and cussed and discussed and got this product together, I do not want there to be any question in the Cherokee people that something was forced upon them. I want them to have the opportunity to fully see what we have done, to talk about it, to digest it, to ask any of us, what does this mean; what were you thinking; what was talked about. And I think that that's a fair period of time for them to do that.

I stand in opposition to reconsidering that amendment, or whatever we called it.

MR. HANNAH: Very well. Mr. Dowty, what say you, sir?

MR. DOWNING: I move to table this motion until in the morning, and may I give a rationale?

MR. HANNAH: Yes, in just one moment. The Chair wants to clear his head and make sure he knows exactly where we are.

MR. DOWNING: May I rephrase that? I want to table everything before the house.

MR. HANNAH: We are debating the reconsideration, and so you have made a motion to table the discussion on reconsideration of this piece; is that your motion, sir? Until in the morning, correct?

MR. DOWNING: Yes, until in the morning.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. And the floor is open for debate.

MR. DOWNING: May I explain?

MR. HANNAH: Yes, sir, you may give rationale.

MR. DOWNING: I hope the rest of you aren't as tired as me; however, I'm sure that we are making decisions that may be different than what we would make when we're fresh in the

morning.

The other thing is, when I voted on the last time line, I voted completely in the dark, frankly. Seemed like a good idea. If I vote on this time now, I will still be voting in the dark.

What I need is for somebody who understands how long it takes. How long does it take to get this in front of the President; how long does it take to get it back; how long before we can put it in front of people for whatever length of time? In other words, I'm a very visual person, and I'd like to see a time line. Thank you.

MR. HANNAH: Thank you, sir.

MR. ROBINSON: Mr. Chair.

MR. HANNAH: Good doctor, you are recognized.

MR. ROBINSON: Rick Robinson, delegate

Tahlequah. This is just a point of information. Wouldn't it be more appropriate to move to recess until the morning, that way we wouldn't have to untable everything in the morning? Am I right about that? Would you agree to that friendly amendment of your motion?

MR. DOWNING: Now that I've got to talk, yes.

MR. HANNAH: Carl has obviously learned the ways of debate. We were wondering when you'd catch on. The trick is, you get up and you talk about things, and then you kind of make your motion at the end of it there a little bit.

So now there has been a friendly suggestion that you would withdraw your motion to table and that you actually have put before us a motion to recess.

MR. DOWNING: With one caveat.

MR. HANNAH: With one caveat.

MR. DOWNING: That we have a time line tomorrow.

MR. HANNAH: What he means -- now I've got the parliamentarian asking me what's going on. What he means is that he is a visual learner, as many of us from Adair County would be.

MR. POTEETE: Northern Adair.

MR. HANNAH: The Chair would be corrected.

Those of us north of the Barren Fork. And he wants to see a time line that would move us from tomorrow until the general election, which is nine weeks.

MR. ROBINSON: Excuse me, Mr. Chair, I turned that eleven, eleven weeks and twenty.

MR. HANNAH: Eleven and twenty, okay, thank you.

I get ready to quote you, and here you've let me down, Doctor. Eleven weeks to the general election, and twenty weeks to the runoff.

And he would like to see, as best we possibly can, to pinpoint what would need to happen and how much time we speculate that it would take to do just that, inclusive of the Style Committee making final revisions, the Commission or the officers of the convention or whomever is directed to take this document before the president of the United States.

There is some general speculation about, do we sit there

and look at him at the table and say, we ain't leaving until you sign this, or whatever that process that would be. As well as, he also would like to see activities on that time line that would put the document before the Cherokee people, and in what fashion and in what form and through what medium. And those are the things that he's interested in seeing; would that be correct, Carl?

MR. DOWNING: That's right on target.

MR. HANNAH: Is the parliamentarian now clear?

The parliamentarian raises a point of information. Another first for the convention.

We have a motion to recess. Is there a second?

DELEGATE: Second.

MR. HOOK: Point of information.

MR. HANNAH: Point of information, Doctor Hook.

MR. HOOK: Where do we stand on Article X? Has anyone worked to get the language together for that?

MR. HANNAH: Article X is on the table, and I do believe that the original author of Article X has been in deep contemplation about that article. As a matter of fact, I think he may, in fact, go into a trance this evening. As if the delegates are not in one currently.

And most likely, the good man from Iowa would redress this group tomorrow and have us to, once again, take up the examination of that thorny path that we were walking on earlier today. Would be correct, Mr. Keen?

MR. JOHN KEEN: Yes, it would.

MR. HANNAH: Excellent, sir. You may take that as a homework assignment from the Chair.

MR. KEEN, JR.: Point of information.

MR. HANNAH: Point of information, Mr. Keen, the intermediate.

MR. KEEN, JR.: I've had several requests to get a copy of the work that we have done, including the work today. If you are willing to wait, even after we recess, I'll print that, and we'll have the copies probably within fifteen, twenty minutes.

MR. HANNAH: Your statement was true with one exception, and that is the word "willing" is not in your statement.

And the delegates will remain, and they will receive a copy of it, and they will go home, and whether it is before your bedtime or in your early risings, you will take the time to review that document.

I hope the Chair will. He has been every night, and he's always intrigued to have his fellow delegates joining him in deliberation even beyond these chambers. So we will do that.

Now, we are still about the productions of recess. And that has been seconded. And hearing no opposition, the vote will be called for. Would there be opposition?

MR. GOURD: Point of information.

MR. HANNAH: Point of information, Doctor Gourd.

MR. GOURD: Recess until when?

MR. HANNAH: Until eight --

MR. ROBINSON: Eleven o'clock.

MR. HANNAH: No, no, I don't think so.

MR. HOOK: Eight o'clock.

MR. HANNAH: Eight o'clock.

DELEGATE: Eight-thirty.

DELEGATE: Eight-thirty.

MR. HANNAH: Eight o'clock.

DELEGATE: Where?

MR. HANNAH: In these chambers. So the motion is to recess until tomorrow morning at eight o'clock in these chambers.

MR. RIDER: Does somebody have the key to get in?

MR. HANNAH: Do we have a key? Can we get in this building at eight o'clock?

MR. ROBINSON: I have a key. I won't be here until eleven, but I'll give it to you.

MR. HANNAH: Quite all right. The Chair has bolt cutters and a cordless drill in his truck.

MR. GOURD: I've agreed to be here by seven to let the guy in with doughnuts. If you have a hope of getting a doughnut, you better be here by seven-fifteen.

MR. HANNAH: Now, Doctor Gourd, there you go being optimistic that they will, in fact, vote to recess. They may not.

MR. DOWNING: Point of personal privilege, Mr. Chair. Before everybody leaves, I gave him this key. Anything missing, it's him, not me.

MR. MCDANIEL: Mr. Chairman, I've got one final question. When they mailed the list out to delegates to come to the meetings, it had a post office box number. Where that number was, I don't know, but it also said don't write "Cherokee Nation" on it.

MR. HANNAH: Yes, sir.

MR. MCDANIEL: Could somebody explain to me why that was?

MR. HANNAH: The Chair can do that, Calvin. The Commission -- and, Mr. Keen, you may keep closely attentive to these remarks, so that the Chair can be corrected. The Commission needed desperately to establish a post office box so as to receive written testimony, queries as to the structure of public hearings or this constitutional convention process.

And the Commission did so, under the auspices of the Chair, Doctor Gourd at P.O. Box 1931 in Tahlequah. And because of the United States Postal Department's often times confusion of oddly enough looking at the addressee, rather than the post office box, the Commission gave strict instructions to not use the phrase "Cherokee Nation" in regard to the address line, to keep it very succinctly to the Constitution Convention Commission, so that the postal officials would not become confused in their review of the mail and misroute any mail that should have gone to the Commission

and have it float around this complex for several many hours or perhaps even days attempting to find the proper addressee. And so therefore, that was the instruction, so that we could initiate mail in a direct path to the Commission.

MR. MCDANIEL: Well, okay. I'll accept that. But also somehow or another it wound up in the Cherokee Nation anyway, so.

MR. HANNAH: The Chair is not responsible for the United States Postal Service. And you're right, Calvin, there are some pieces of mail, I assume, Doctor Gourd, that were, in fact, were routed here to the Cherokee Nation.

MR. GOURD: I really don't know. I'm sorry, I didn't hear the question.

MR. HANNAH: The question was, Calvin raised the question that in correspondence to the delegates that he noted that the return mailing address was P.O. Box -- well, actually he didn't say this, but I'm assuming, P.O. Box 1931, and he said that he recalled that it was not to be addressed to the Cherokee Nation.

And the Chair was explaining that we established -- we, being the Commission -- our own mailbox, and that the United States Postal Service actually directed us to be sure and tell those who would be addressing to use specifically the titling of "Constitution Convention Commission" so as not to commingle it with Cherokee Nation mail.

MR. MCDANIEL: Well, that's my question. I guess you answered it all right.

MR. HANNAH: Okay. Thank you, Calvin. Now, we're back to the recess. Does anyone have any other questions?

MS. MASTERS: Personal observation.

MR. HANNAH: Personal objection, ma'am.

MS. MASTERS: I'm really delighted with the media coverage and the interest it has generated in our convention here. Everybody is really interested in it now. And we've achieved a lot of momentum, and I think it's just great, the media coverage and all of the things that have happened and the interest that's been generated.

MR. HANNAH: Any other information that would come before this body? Mr. Hoskin, you are recognized.

MR. HOSKIN, SR.: Friendly motion to reconsider eight-thirty.

MR. ROBINSON: Second.

MR. HANNAH: What about it, people, eight-thirty?

THE DELEGATES: Eight-thirty.

MR. HANNAH: Mr. Hoskin, your pleading has been heard by your fellow Cherokees.

MR. HOSKIN, SR.: One out of eight days; it's not bad.

MR. HOOK: I challenge that.

MR. HANNAH: Mr. Hembree -- he's already left

this evening. I was hoping he could come up that we could establish, four to debate, two in favor, two against, three minutes each.

MR. ROBINSON: I call the question.

MR. HANNAH: Question has been called. We're going to filibuster for another hour or two. Mr. Keen, the intermediate, we're making copies of this document for these people; is that correct?

MR. KEEN, JR.: We are.

MR. HANNAH: Where will those be available? Right out in the delegate area, near the fruit, so, remember, you have a homework assignment, to pick up a copy and then take it with you.

MR. McCREARY: Point of information.

MR. HANNAH: Point of information, Mr. Blackgum.

MR. McCREARY: For those folks who are going to Oak Hill or down to the other hotel, I do have space available in my vehicle, and I'll take them with me if the bus is not available and they want to go by the car.

MR. HANNAH: Mr. Gourd, I assume the bus will be available for the delegates going back tonight.

MR. GOURD: There's a van out here, yes.

MR. HANNAH: Van out here, yes. In that case, ladies and gentlemen, we are recessed.

(PROCEEDINGS ADJOURNED)

C E R T I F I C A T E

STATE OF OKLAHOMA)
) ss
COUNTY OF MUSKOGEE)

I, Marla J. Cullison, a Certified Shorthand Reporter, in and for the State of Oklahoma, DO HEREBY CERTIFY that the said Transcript of Proceedings was taken by me in stenograph on the 5th day of March, 1999, at the Cherokee Nation Tribal Complex, Tahlequah, Oklahoma, and that the foregoing Proceedings was later reduced to computer-aided transcription form under my supervision, and that the same is a full, true, correct, and complete transcript of said Proceedings.

I FURTHER CERTIFY, that I am not an attorney for, nor relative of any of the parties involved in this action or otherwise interested in the event of same.

WITNESS MY HAND AND SEAL this _____ day of July, 1999.
